

Addie Smith: All right, great. I think I formally have to call us together or call us to order or some such thing, so I appreciate everyone's patience as I was in back-to-back meetings. We're obviously mostly here today to discuss the response to the Governor's letter and the request for sort of a plan for the individuals who are currently unrepresented. So, Lisa has sent us a little bit of a draft to take a look at, and I think it might be best to start, Lisa, with you just walking us through the structure, the thoughts, etc., and then we can open it up for further conversation. Does that feel like an okay way to do this to you?

Lisa Taylor: Yeah, that sounds great.

Addie Smith: All right, super. I'm going to let you take over with a little bit of a walkthrough. I think for me, sharing screen is always really helpful, but I'll defer to your preference.

Lisa Taylor: Yeah, yeah. I'm happy to share screen. If people could just speak up if they have questions because I won't be able to see. Just a moment. I'll zoom in here. So, just to kind of orient everyone to this work, this is the unrepresented crisis plan that the Governor requested in her letter she sent the commission on the 23rd of May. We responded to her letter just acknowledging it back on June 4th, and we've been working on a draft and things of this since then.

I've also included in the document some just relevant documentation. The CJC Unrepresented Crisis Report, which is back from October of '23, this is the report that was done by the presiding judges who convened crisis plans, and then CJC looked at all of those plans and kind of did a summary report here. We also provided Crisis Guidelines for that report and for those crisis plans that the presiding judges did, and that's linked here as well. And then I also just linked to the general Public Safety Subcommittee from November of 2023 because that's when all of this was kind of heard. We also have a general timeline for how we're going to get this to the Governor. Again, it's due August 1st. That means that it needs to be approved by the full commission at our July meeting on the 24th. Meeting materials are due for that meeting on the 17th. And then, of course, we're having our Legislative Committee today to talk about this report.

And then these are just some highlights from the Governor's letter. She's asking us to create a crisis plan to eliminate Oregon's unrepresented client crisis in both the near and long term, and that plan should be based on the realities of the current fiscal and legislative environment. I think that sense particularly is important to the Governor's letter. So, the unrepresented plan that we've outlined is kind of a look at what we're doing today, what we can do in the next 60 days, which is from August 1st through the next 60 days, which would be before the September E Board. So, that's going to be things that can be done

within current resources because we won't have the opportunity to go ask for additional resources before then. Then the 150 days or five months, that would incorporate the September and December E Board, but it would be before January, so before session and also before we move to the executive branch.

Then we're looking at the two years, so the next biennium, which would incorporate our POPs and any legislative action that happens in 2025. And then a brief summary of the six-year plan. I think we've talked about the six-year plan quite a lot, and I'm not sure if this report is the place to kind of rehash some of that. Data requests have been, well, requested, and we're going to input that data at the last possible moment. So, in the July meeting, you'll see data numbers in here, but then we'll actually refresh those before we turn them in, so we'll have end of July data as well. So, that's some of the X's that you're going to see here.

And then finally, our goal for this report is to be about five pages. We want this to be a pretty digestible document, but we can also definitely create an appendix for all the additional documents, like the CJC report or any policies that we want to direct people to. So, my hope for this was that we would go through the report and that we would get more direction from this committee about either what's missing from this report or additional avenues you'd like us to go down to talk about potential solutions. Anything about layout, if you think it needs to be in a different order, or if you think different things need to be highlighted, all of that information would be helpful.

So, the current outline that we have is, again, action to date. We talk about our hourly providers and how THIP has been working. We're trying to highlight here that THIP has been a successful program for bringing in new attorneys and to get cases off the unrepresented list, and then really highlighting the fact that these THIP attorneys are kind of the initial version of the panel that 337 directs us to establish by July 2025. And so we're bringing a pop in '25 to stabilize that hourly rate for all cases so that we can be sure to maintain the current hourly providers and then potentially grow that panel.

Because really what we're seeing in the data, and I know the actual numbers aren't here, but prior to THIP, we were doing about 1% of our case assignments through hourly providers, and that number's grown substantially under THIP, and that's because we're paying people more, right? People aren't willing to take those cases under our standard hourly rate, especially what it was prior to THIP, but even now it's still pretty low. And so we want to kind of highlight the need for that stable hourly rate. Then we move into our State Trial Division. So, we're talking about our state trial offices. We'll have data in here about how many cases they've taken, and the fact that they're taking these in-custody cases. That's kind of their main focus. Then also the fact that we're going to be

getting new attorneys starting in July through the 4002, and those attorneys are going to be low-level felony and misdemeanor qualified.

And I've written this paragraph because it's going to be submitted in August. So, it is a forward-looking paragraph for things that haven't happened yet. But the idea there is that, especially since 4002, the possession cases aren't going to come on until September. That means we're going to have a couple of months where these attorneys can really focus on the misdemeanor and C felony in-custody unrepresented case, and those cases make up the majority of both the in-custody and out-of-custody list. So, we're really hoping that these new attorneys will be able to make a substantial impact on that list because they'll have come in, they won't have caseload, so they'll be able to take cases. And then the fact that we have a POP to grow the Trial Division.

[Crosstalk 00:08:23]

Lisa Taylor: Then we move... Yep?

Sen. Floyd Prozanski: It's Floyd. So, I apologize first for getting on late. I didn't have a good connection, I had to find it. But this document that you have up, did you actually send it out to us? Because I'm looking for it and didn't see it.

Lisa Taylor: Yes, I sent it to you yesterday, probably around four o'clock.

Sen. Floyd Prozanski: Okay. Thank you.

Lisa Taylor: Maybe Addie can forward it.

Sen. Floyd Prozanski: No, if it's there, okay. I was looking before that and I thought it would have been coming maybe through Mona, not you. So, okay. Thank you.

Lisa Taylor: Yep.

Addie Smith: Senator, if you can't find it, just shout and I'll forward it.

Sen. Floyd Prozanski: Okay.

Lisa Taylor: Yeah. And then we move on to just a discussion about our contract providers here. We want to talk about how we've increased MAC in the system overall, specifically since the start of the new contracts, but also since session ended and how we've increased with investments from session. And then we also discuss how we are better allocating our vacancies, which I think is making a difference. I had a typo in here – it's not 90 days, it's 60 days. But we're getting a lot better about taking vacancies and reallocating them to places that, A, have

the capacity, and say, "Yeah, I've got somebody who I can go hire." But also B, are in need of more capacity.

And finally, we are monitoring MAC utilization, and we're working with our contract administrators to kind of identify – are there barriers that are preventing people from taking MAC in your jurisdiction? Are those things that we can help with as an agency? Is it something we can work with the courts on? Obviously, there's just ethical limits, which we're not going to have an impact on, but there's always things that we could try and improve. And then we're going to move into or talk a little bit about what we're doing with the Betschart cases. These are the seven-day release cases. This is kind of a microcosm of what we're already doing with unrepresented. We're prioritizing based on offense, but then we're also adding in this layer of whether or not they're subject to Betschart. So, if they're subject to Betschart, obviously they're the top priority. And then within that category, it's how many days have they been unrepresented, and then what is that crime level? So, Measure 11, sex cases, domestic violence, those are going to be prioritized over misdemeanors and things that are subject to the ruling.

And then in the next 60 days, and I think this is really the area where additional direction from folks would be helpful, some of the ideas that we've put in here are our case resolution dockets. We've seen those be successful. Washington County had a pretty successful one a while ago. Our Trial Division just participated in a vehicle or driving docket down in Medford, and they were able to clear a large backlog of misdemeanors in Jackson County. They could have a significant impact on the unrepresented list. I was looking at the list as of yesterday, 11% of the out-of-custody misdemeanors are driving charges, 34% of those out-of-custody are DUII charges. So, depending on the jurisdiction and what these resolution dockets look like, they have the opportunity to make an impact. Of course, this will depend on how much it's going to cost and where those funds come from. So, if they're hourly, which is likely what they would be, we have hourly funds available. We also have state trial offices, so we can direct those folks. And that wouldn't have an impact on MAC.

This is also an idea is redirecting the 4002 state attorney resources. So, 4002 provides us with eight additional attorneys that I talked about who are coming on. The budget note makes it clear that those attorneys are supposed to be divided amongst our offices based on where we think those drug charges are going to come. So, we're looking at historical data. And the assumption that follows that is obviously that those attorneys are supposed to be taking 4002 cases. I think that's a pretty logical connection. But if we were to redirect those folks to just the unrepresented list, that could have an impact. Of course, that's something that we would want to talk to the Legislature and the Governor's office about and make sure that they were comfortable with us reallocating

those resources. But I think this is really a question of priority. And I think most people, including other public safety partners, would agree that in-custody unrepresented person, especially if they were to be subject to Bergdahl [Phonetic 00:13:17], is going to take priority over a personal-use possession case. And then finally, our training and recruitment. OCDLA has that request for recruitment and retention of about \$30,000, which would provide various things, and we'll attach the memo, but including stipends for law students in underserved areas and increasing outreach to minority communities and things.

Sen. Floyd Prozanski: Lisa, before you go to the next section, on that section that you have, you have the different type of crimes that make up that 11%.

Lisa Taylor: Yeah.

Sen. Floyd Prozanski: You should check because you have listed here driving without a license. I don't believe that's a crime. That's a violation. There is a crime for failure to present and carry. I believe it can be criminal.

Lisa Taylor: Perhaps that's what I meant. I will make a note of that.

Sen. Floyd Prozanski: Yeah. I just want to make sure that we have the correct language.

Lisa Taylor: Yeah. I'll make a note down here.

Peter Buckley: While we're stopped, on the 30,000, can we not have this be a proposal anymore? Can we just do it? Doesn't the agency have \$30,000 you could just dedicate to this, so we can tell the Governor we're doing it?

Lisa Taylor: Yes.

Addie Smith: I actually think that's a really great point, Peter, is that the tense that this is written in, I would suggest, although I am open to feedback from, obviously, the whole committee, the Governor appears to want us to have a very solid clear plan, and I have a couple more comments on that later. So I think writing the whole report as, "These are the things that we are doing," as opposed to "These are the things we can do," is really the tone the Governor's looking for. I think, again, I can be corrected, but I think changing it to sort of like this is how we're doing it, while we're stopped and at that, I would move the whole first section of sort of ongoing efforts, which are important, to the end because the tone of the Governor's letter to me is saying, "What are you doing? Make it very clear." I would like us to lead with, "In the next 60 days, these are the immediate action steps we are taking to address this." Then the next five months between now and when the Governor takes over, and then continue with all the great information about, "We also have a long-term plan in addition to what we're

triaging right now." I think that structurally might better address her concerns, but I will hold off on my substantive comments, but since there was an interruption, I just couldn't hold back. Sorry, and thank you.

Lisa Taylor: Appreciate that. Chair Nash, I see your hand.

Jennifer Nash: Yes, thank you. I actually had a question and talked to Jessie earlier today, specifically about 4002 and also about the \$30,000. Jessie told me that, yes, there is the 30,350 in the training budget, but what they're trying to do is match up the proposal to the budget note and make sure that it fits in with the budget note and can fit into the money that we've already been allocated for training. So, my thought was that it should be funded immediately if it does fit in that, and then just put this section in what we've already done, because by the time we send it off, we will have already done it. Because some of the OCDLA proposals were for summer stipends, so they obviously need to know that immediately.

Addie Smith: Great point. Thanks.

Lisa Taylor: Should we move on to the next five months?

Addie Smith: Sounds great.

Lisa Taylor: Okay. So, these are actions that, again, would take Legislative Emergency Board or just potentially would take more time to establish. So, in the next five months, we can ask for an extension of THIP through June of 2025. I know the commission discussed this, and this relates back to the hourly that we were talking about and the importance of continuing that hourly program. We can request more state trial attorneys, either in September or December. We think a Roseburg office would be really beneficial because it would serve Douglas and Coos, which are having issues right now. We also would like to get some office supervisors. So, we have kind of regional supervisors there and OPAs, although some of that could be a request in the POP. This would likely have to be a General Fund ask because we don't have enough money left in our SPAs to sting it up a whole another office.

We also have talked about additional OPDC staff, including assignment coordinators in the courts. Right now, we have three people within OPDC who are solely dedicated to assignment of counsel on these unrepresented cases. I mean, obviously, we have lots of people working on unrepresented, but three people solely dedicated to connecting an attorney to a case. And if we were able to expand that through more staff and eventually, if we were able to locate those staff specifically in the courtroom so that they would be kind of a direct connection to the courts and be there on the ground, that would be incredibly

beneficial. Then just additional AP and PAE staff for the increase in hourly rates or hourly time. Then we talk about the next biennium. I didn't include all the POPs here because I wanted to try and focus on just the POPs that are going to be directly beneficial to the unrepresented crisis. I recognize that all of them are beneficial and creating a workload plan and all of that will keep and retain attorneys, but I really wanted to focus on the ones that are kind of a direct nexus. So, that is stabilizing the hourly rate and then increasing state trial attorneys. And then, of course, some of the OPD staffing related to, again, the AP and PAE and unrepresented. And then, a brief overview of the six-year plan.

Addie Smith: I have a couple questions. I see, Peter, you maybe just came off mute also, if you want to jump in with your questions first.

Peter Buckley: Sure. Just some general feedback on it. Number one, I don't think we should worry whether it's five pages or eight pages. The Governor's very detail-oriented and what she's going to want to see is, particularly at the start, to say, "You're about to read the following. Here's our short term. Here's what we're doing in the next 90 days, the next five months, the 2025 session, etc., the 2027 session, the 2029 session. She's going to want to see how that lays out, Addie mentioned this before, but she's going to need numbers. She's going to need to say, "When we do this, the result, we're at..." whatever it is, "3,000 unrepresented now. By this date, we'll be down to this number. We do this, and by this date, we'll be down to this number. We do this..." That's what she's going to want to see. She's going to want to see, how do we get that number down to zero? Right now, this is just reading as, "These are things that we think will work, and here's why we think they'll work." So, that's my just overall impression to it. We got a long way to go to actually be able to put it together to say, "This step equals this result, this step equals this result." To the greatest extent.

Addie Smith: I couldn't agree more. The only thing that I might add that was sort of in my commentary is the way I read her letter is, and the questions that I continue to get as a member of this board or commission, there are 100 to 150 people in custody unrepresented. That's not an insurmountable number. Why aren't we taking some triage action for at least the... Why aren't we hiring two attorneys or assigning two trial attorneys or contracting with two attorneys whose whole job for the next six months is to take half of that caseload and go enter appearances and begin to work on those cases. And as those cases close, picking up whoever else is unrepresented. Not as a long-term solution because we know that we're doing all these important long-term functions, so we don't have this problem. But at very least because there aren't 3000 rather in-custody, a lot of people are saying to me, "It seems like there's an obvious answer here for those folks. Why can't we triage that while we continue the longer-term plan?" And it doesn't have to be the plan I just suggested, we can, or your staff can brainstorm something so much better than any of those ideas.

But I think what the Governor wants to see is before she takes over responsibility, that we are taking at very least the in-custody unrepresented folks seriously enough that we are thinking way outside the box to triage them while we continue these long-term solutions, while we continue to chip away at the out-of-custody and the future. That's how I would sort of like to see the report read, just as Peter said. Here, what we can tell you is in the next three months because we have these new folks coming on in the trial department, like you mentioned, they're each going to take 22 of the 107 cases that are unrepresented or whatever. And so by the time they're onboarded, we can tell you those 100 will be gone. And as they close those cases, they'll be picking up anyone else. And we'll divide the state in sevenths [Phonetic 00:23:23] and they each have a zone that they're covering, whatever it looks like, here's how we're going to triage. And then here are the things we're going to do in the next 60 days that are sort of already in this report in terms of reallocating attorneys, etc., and we can talk about those details. And then here's the next five months.

So, by the time you come in January, just like Peter said, there won't be anyone in custody who's unrepresented, and we will have decreased the number of out of custody by X amount that we're tracking really closely. And by 2026, if I'm doing my math correct, something like that is what I hope we can work towards collectively. Because I keep getting a lot of questions, particularly about the in-custody, where folks are not wanting to eschew the MAC or take on bad practices or raise caseloads. But people are like, "Can't we just hire someone to handle the peak of the crisis?" So, I don't know if others agree or disagree, but I'd like to at least have the conversation, and I think it would be responsive to the Governor's letter. Jennifer?

Jennifer Nash:

Thanks. Yes, I have a number of thoughts and comments that are related to that. I mean, I agree 100, 1,000%. We have to have numbers. This is how much it's going to cost, and this is what the outcome is going to be. And I realize, Lisa, you put a ton of work into this and I really, really appreciate it. And I know you're relying from the notes on other people to get you information to be able to fully develop this report, but I remain frustrated that here we are at a committee meeting, the only one we're going to have before our commission meeting, and we have essentially a first draft. Those numbers should be in there so that we can evaluate whether or not it's going to make a dent or not. So, anyway, that's just an overall comment about that.

The other thing is that we have this ability in the state Trial Division to pretty easily hire people in. And these numbers, although we do have a backlog, we know that there's still a need. So, it's not like you're going to hire a lawyer and then say, "Oh, great. Now we don't have anybody unrepresented. So, we have to fire you." That's not going to happen. There's still cases. So, it seems to me

that the low-hanging fruit here is to hire people into the state Trial Division. And as I've said a couple times, if we have to temporarily increase the THIP rates to get more people off the bench, then we need to do that, and we need to figure out... Because there are lawyers like Steve Sherlag, like whoever, I can name a whole bunch of Portland lawyers who had some number, I don't know what that is, that gets closer to their regular hourly rate would take one or two of these cases. And as Addie said, there aren't that many. So, if we can get those cases dealt with, then we can get them off the unrepresented list.

If we've saturated the market at \$200 an hour, then we need to increase the rate. So, I really think that we need to look at what that looks like and try to figure out if we did that, how many more people we could get. And it doesn't seem like it would be that hard to figure that out because somebody could pick up the phone and start calling lawyers and asking them, what's that number? But your hourly rates for 450 an hour? Okay, what would you be willing to take an OBTC case for? And just see what that number ends up being. I mean, you could call 20 people and get a rough idea of what that would be. And we also, as we heard in our last commission meeting, have a ton of... Most of the cases on the unrepresented list that are out of custody are misdemeanor cases. And so we have a ton of people who want to do this Supervised Practice Portfolio.

So, let's figure out what that number is, how many supervisors that are specifically Supervised Practice Portfolio supervisors for the statewide Trial Division that we need to hire in, and then get lawyers in to do that, to hire that backlog of cases on the unrepresented list. That seems like an "easy," I put easy in quotes, an easy thing to figure out math wise. If the ratio is 1 supervisor to 10 lawyers, and we know based on our caseload model that we just adopted how many misdemeanor cases a new lawyer can take, it's math. And this is math that all of us could do, so it's certainly math, I think, that the agency could do. And that seems to me that has to go in the – I mean, we know how long it takes to hire a state employee – so it needs to go in the medium range, but in terms of execution, it could go in the short-range plan.

And so, I mean, I think it needs to be that kind of specificity with those kinds of numbers, that the Governor wants to see. And I think the other thing that we need are what barriers there are to implementing the things that we need. We need to call that out in our documents, so if she can help with those barriers, she will. Specifically, I mean, one of the things that I thought about was it's great to do a resolution docket, but we have no control over that. The DA's office has to do it, the court has to do it, and then there have to be lawyers. So, I think calling out those barriers that this relies on outside partners is also really important so that we can identify what other political pressure or help that she could put on other people. So, those are my general and specific thoughts.

Addie Smith: Yeah, I really appreciate those, Jennifer. I think that all makes a lot of sense. And I think those are some really good tangible ideas of what we can do. And I think we should set an internal sort of personal goal of like within 60 to 90 days, we've handled the in-custody problem. Not problem, that's the wrong word, but the in-custody individuals who are unrepresented, that we're really all prioritizing that as the tip of the iceberg here that we're no longer going to see as acceptable. I don't want that to stop our forward progress on all of the long-term solutions, but I do think... I don't know what the caseloads of our current state employee Trial Division folks are, but if they're not at the highest of their caseload, then they should each be getting assigned some of these cases as soon as possible.

And similarly, as you're saying, if there are ways that sort of we can have the Governor help us leverage or the Chief Justice help us leverage in terms of sort of calling and saying, "Can we do some of these hearings virtually? Can we enter appearances virtually and show up for a re...?" Whatever it's going to look like that would make those puzzle pieces easier, I agree that those should be in here. In terms of the 4002 state resources and the E Board and sort of getting some more attorneys on board in general, I think we've sort of talked about the training and recruitment and retention. We all agree that we should push that contract out as soon as possible, and that hopefully by the time we submit this, that can be in the past tense. At least that's what I was hearing. I don't want to speak for others. I think that sounds good. I'm not sure that that magically fixes things up, to me as one of the longer term... Yeah, Jessie, jump in with your thoughts on some of this, please.

Jessica Kampfe: Well, I just wanted to touch base on the state employee piece of it and the in-custody list. So, what we're seeing now that we've started doing the Betschart cases and you can look at who is in custody and potentially subject to Betschart, there's a lot of people on that list that really have no business being in custody on the cases that they're in custody on. So, you'll see criminal trespass in the second degree, theft too. We saw somebody who was in custody on a violation. And so what I suspect is happening is that those people are probably serving a probation violation sanction. And so they're getting credit for time served on their other misdemeanor case. So, they're booked in on both cases. But as soon as they're done serving their sentence on something else, they're going to get population released from the jail. And so then they would be out of custody.

So, when we think about eliminating the in-custody list, I think we have to think about how we define that list a little bit more carefully, like people that would be held in custody on this particular charge because there's a lot of people that would typically be on our out of custody list, whose physical body is in jail right now because of another reason. So, I do think there's some definition work to do there. And then in terms of using state employees to narrow that list, like

that, that it's kind of been stubbornly at about 100 people in custody. So, it's not like if you take all 100 people, it's not like you're one and done, there's another 100 people that are coming down the pipe. So, it's not as simple as like, just take 100 cases, and you've eliminated the issue. And then the folks that are in custody for truly in custody on these cases tend to be our most serious person to person felonies, which means that you can, you need actually a lot more people to take those cases because they are the most serious cases. So, it's not like everybody can take...you can't, you can't ask everybody on your team to take 10 rape cases in a week to eliminate the problem because those cases are so serious, you really need to make sure that you have enough capacity to take them. And the in-custody folks are spread throughout the state.

So, if we use state employees, there's a lot of travel time, for example, we're seeing like an uptick in coups right now, that is not near anything. So, if I use my Salem State employees to take cases and coups, it really reduces the number of cases they can take overall because they've got all that travel time. So, that's, that's just to say, it's actually a pretty complex dynamic to work out how we would use the state employees to really address this problem. And we can do that. But it's not as simple as saying like, everybody can take 10, and then the problem is gone.

Addie Smith:

Appreciate that. And I especially appreciate that travel is going to require a difference in caseloads, you're going to have to be accounting for the travel. I'm really open to thinking about how we define in custody, the problem we're up against is, it would be great for us to define it. And then for us to be really clear about what that definition is because I think the Governor doesn't know these nuances, the public doesn't know these nuances, all everyone is seeing on the chart is there are 100 people who are in custody. So, I'm really open to thinking of a definition that makes sense. But then we need to do some communication around that with the Governor's office, with the public, with our board, with everyone to say there actually aren't any individuals who are in custody due to the charge at hand and unrepresented so that people can start to understand those nuances. Because that will immediately start to decrease our numbers.

And I didn't mean to make it sound like it was as easy as sort of assigning attorneys. I do think though that part of what we're dealing with from the public perception problem is we have state attorneys who maybe aren't maxing out their caseloads, and we have people who are unrepresented. That's a sort of mismatch. So, what are we doing to kind of tackle that? And I'm really open to the expertise of the agency helping us formulate what these solutions are, whether it be contractors with a higher THIP [Phonetic 00:35:53] as Jennifer was talking about, or it is going to be folks from Salem, but the travel is going to be accounted for in some way. So, it's not... Each case is a two count to their case

because we're taking into account the fact that they're driving to Salem [Inaudible 00:36:04]. That might not be the best use of resources anyway.

I just feel like a little concerned. And it might just be me and others can talk me down. We've sort of been dealing with this intractable 100 for years now, at this point, and we've been saying, "Here are all the long-term things we're doing that are going to solve this." We're now at the long term, and it hasn't been solved, and I think it's hurting our credibility with the Legislature. And it's certainly come to the attention of the Governor, so much so that she's sort of sent a letter that's like, "What are you doing?" So, I just want to make sure that we're being responsive, and I want it to be clear that we're taking this really seriously and not just sort of saying, "We'll get there," or "Here are the reasons why it's hard." And I want to have a lot of empathy about those reasons, but also be really trying to think outside the box and tackle it.

Similarly, and I just want to acknowledge, I totally agree that these 100 will go away, and there will be a new 100. So, it's not sort of a magic solution. But putting something in place for a while, trying something different for a while, as we continue the long-term things to get there, or as we request new attorneys are some of my thoughts. And I would always defer to sort of your agency experts on what the details of this might look like to make it actually viable. I don't know if others have thoughts, and people should feel free to tell me I'm off base, [Laughter] it wouldn't be the first time, or Pollyanna-ish, I often get that one.

Sen. Floyd Prozanski: I'll raise my hand on that. I think everything I've heard is actually right on point. I mean, clearly the Governor's letter, I was taken back by the tone of it and how focused it was not hearing anything from that office as to any of those concerns. It just seemed like everything was gunny sacked into one letter to just kind of drop it on us. And what Peter suggested, and Addie, I totally agree. And Jennifer, totally in agreement as to how we need to move forward. And it is, I understand, a lot of work, Lisa and the team to kind of revamp this, but we have to be much, much more aggressive. And the response of being very affirmative, "This is what we're doing." And it's not to say you didn't know this, or you should have known this, but it is something that we need to be able to demonstrate. And then the numbers themselves. I mean, we can give it our best guesstimation as to what we think those numbers are and all like that, and just have these are what we are striving for. I mean, these are our goals, and this is how we expect we will be able to meet it. And then having everything that's kind of as the backdrop to support all of that at the end of the letter, so they can go into more fine-toothed details if they want. But having that snapshot overview at the front, I think, will be much more favorable for us because it will show that we are being very direct.

Tom Lininger: So, I would jump in too. I agree with all the things people have said up to this point. When I first heard Peter's comments, I was enthusiastic about including more detail about the likely effect of our reforms and new direction. But it also seemed hard, putting myself in Lisa's shoes, it seems sort of speculative because there's so many degrees of attenuation, and there's so many exogenous factors. I'm not sure we can say confidently this package results in this particular reduction of the unrepresented population. So, I wonder if we could just use a little more tentative language. This near-term package of changes has the potential to reduce the unrepresented population by this amount, or perhaps specify a range. But I sure agree that translating our ideas into results is called for, given the tone of the Governor's letter. And I really agree with all the other things people have said up to this point. Good insights.

Addie Smith: Jennifer, jump right in.

Jennifer Nash: Thanks. I think that one of the things in terms of what we've done that would be relatively easy to put together would be just a chart of every single action that the commission has taken to address the unrepresented persons crisis in every iteration since this started in 2022. Because there is also a perception that we're doing nothing, that we've done nothing. And so it's fine to put it in paragraph form with this, "Oh, we've taken steps to increase rates," but if you actually had a table that said, "In July 2022, we did this, and this was..." If we can figure out an outcome, I realize that's difficult, that would be helpful as well. But every single iteration of every... Because what I tell people all the time, and I know other commissioners do too, that this is our highest priority as a commission. So, let's demonstrate that and show that every commission meeting, or nearly every commission meeting, we're trying to do something to address this issue. We did pull back a bit on the THIP program at one point because it covered everyone who was unrepresented, and then we narrowed it to people in custody. So we can add an explanation as to why we narrowed it. That's important. But I think it's really important to spell that out in specific terms that are really, really easy to see. And then someone can take that chart, and they can go back and look at the meeting minutes if they want to.

Sen. Floyd Prozanski: I've got one other comment.

Addie Smith: Senator, jump in.

Sen. Floyd Prozanski: Yeah, I just want to follow up with what Jennifer said earlier. I really do think we really want to highlight and really focus on all the variables we have no control over, specifically the DA charging. There are so many variables, and so I think we just want to put there that this is our best shot at what we think we can do and how we can do it, based on how things are being handed to us. Because we are more reactive as to what is being brought forward, in other words, the number

of cases and how things are actually getting charged. Because what I think I've taken away from one of our more recent meetings, and it might have been the one in Bend, was that you definitely have a scenario that, depending on how someone is charged, is how many attorney resources we need and team resources we need for that case, based on how they're charged. Because that's one of the areas that I think we're going to be looking at in the future, and for the Legislature to be considering, are there things that we need to be changing to help modify some of those intakes coming in?

Peter Buckley: Jumping off that, I think that's good, Floyd. I really think that if we can, I know it's hard because of the complexities, but I think we need to spell that out. She's going to want to see numbers. I can't emphasize that enough. I worked with her for many years. She's going to want to see the numbers. She's going to want to see that if we do this, even if it says our goal is to reduce unrepresented by this, by doing this action. And then we can list these are the challenges we face, here's what the Legislature could do to help us reach this goal. Here's what the executive branch could do to help us reach this goal. But I think she wants to be able to see a roadmap that says if we go down this roadmap, we have that goal here at 30 days, goal here, and these are how we're trying to reach that goal. I can't emphasize that enough. She's going to want to see the numbers that show that over time, how those numbers are coming down, at least that we have a goal for each one, and list what the challenges are, and what the Legislature could do to help, and what the executive branch could do to help. And the judicial branch, for goodness sakes.

Addie Smith: Yes, and the judicial branch, I think, definitely. [Laughter] And I like the idea of goals because I think that we can track that, work towards that, and it's not an overpromise, it's an attempt to meet a goal. So, I think that's a really nice framing of how we can present some numbers. And I think, as the Senator and Peter have also said, money next to the goal, next to the idea is all really good. Lisa, I think you had a couple sort of more specific questions as you were walking through in terms of sort of... And Jennifer has thrown some ideas in the chat around 4002 funds, and some of the other more detailed pieces of the plan. I want to make sure you can get some answers to that, in addition to this general feedback.

Lisa Taylor: Yeah, with regards to the 4002, I think that's definitely a question of whether or not asking for that to be redirected or reallocated is the right move. In conversations I have had with the courts and other stakeholders, I think it does come down to prioritization. And people are more interested in making sure that we're getting attorneys for people who are in custody, or for even out-of-custody crimes that might have a victim, rather than making sure that we have an attorney for a possession case. It really just comes down to prioritization, and people for the most part agree with that general prioritization ranking. That

said, we were given positions for a specific reason, and I would probably not advise redirecting those resources without a conversation with the Legislature and the Governor's office about that prioritization.

Jennifer Nash: Yeah, I feel like that's...

[Crosstalk 00:46:32]

Jennifer Nash: ...them tell us.

Addie Smith: Oh, go ahead.

Jennifer Nash: Sorry, [Inaudible 00:46:36], I feel like that's something that we should let them tell us. We shouldn't be saying, "Oh, you should be prioritizing those other cases," because this is a value judgment from their side of things, right? We're saying, "This is how much it costs to do everything you want us to do. If you want to triage this and prioritize this, then you triage it and prioritize it." And they did that. They provided us with money. It's not just possession cases, it's also delivery cases and all the other things that are going to go along with that. And if that's their idea of here's how we can get you some money, we'll just reclassify that. I feel like that's not something we should ask for. But I'm one person, and I know a little bit more than I did about politics when I started this, but I still don't know the right move, but it just seems like it's a... We went and said, A, you shouldn't do this at all. And if you're going to do it, we need money. And they gave us some of the money that we said we needed. And now we're saying, "Oh, never mind, we just want to take it and put it someplace else," instead of asking for new money. I feel like we should ask for new money, not reallocate what we already have.

Peter Buckley: It's not easy either way. I do think transparency is the key on it. I do think that we could say, "Here's something the Legislature could do. They could work with us on these new positions," which [Inaudible 00:48:00] until we get the unrepresented in-custody crisis handled can, is it workable for us to use this resource for that as the priority? If not, just tell us and that's fine. So, I think transparency is really the key there.

Addie Smith: And I think along with that, to sort of reiterate what we've been saying, we just want to be really clear with them what exactly we're doing with that money that's going to sort of directly address the problem. I think that's what the Legislature wants more and more from us is drawing that clear line between what we're doing and how it's solving, whatever the problem is, whether it's this current problem or other concerns. I think the word transparency has come up a couple times and I think being direct and being transparent are only going to help us. Because that's what has been a challenge for the Legislature with this

agency in the past five years is direct, clear communication and transparency about how things are going and what's working and not working. So, we really need to keep building that type of rapport and communication. I know a lot of work is already going into that, and I'm not trying to minimize all of the effort on that. I just think this should be a continuation of those pieces. Are there other questions specific that we can help you with, Lisa, or ideas you wanted to run by us?

Peter Buckley: Or have we depressed you enough?

Addie Smith: [Laughter]

Lisa Taylor: No, not at all. I think that the action-oriented is an important part of this report, and I think it definitely should be more direct. We can work with folks to try and get goals at least in there, even if they're estimates of what the effect might be.

Addie Smith: I think, Jessica, I'm really open just to sort of more directly address if the next iteration wants to start to define what in-custody means, so we can start having that conversation around who is unrepresented in-custody and start to promote a new understanding of what that data point means, both to the Governor's office and otherwise. And really, I think you're best suited, like you and your staff, of course, are best suited to help us create that definition, create that term, and then obviously work with whoever we need to work with to make sure that the data is being tracked in a meaningful way, so the data reflects that term. I know that's one of the barriers we're up against is we're not always getting numbers that we have control over, and so they're not always an accurate reflection. And so, to the extent that we can start to redefine or clarify and then work with partners or provide information to the Governor's office that, "Oh, we can't get the actual data on this because the data being collected by our partners is different," that's exactly what I think can be helpful to highlight here, if that makes any sense.

Jessica Kampfe: Sure. And I think that's going to be important if we're going to tell the Governor that we have a goal of reducing by this amount by this date. We need to be able to tell her how we're defining that goal because I think that we will continue to see in-custody unrepresented reflected in other people's dashboards that may not be the goal that we're looking at. So, like when I'm looking right now at the Betschart list, I see folks that are in custody on driving while suspended, giving false information to a police officer, criminal trespass in the second degree. These are charges that we wouldn't normally expect somebody to be held on. So, the reason that they're in custody is because of something unrelated that they may very well have counsel on. So, we will continue to see, unless we want to prioritize representation on those low-level cases, we're going to continue to see some amount of in-custody exist. And so maybe we define it by... So, I do

think we need to come up with a really clear definition on it. It would be helpful for me to hear from this commission. I heard clearly state the actions you're going to take, the cost, the goal, the challenges, and then what would be needed to mitigate those challenges by different partners. But I think I also heard to focus the plan on the state employees, and sort of next steps of the plan on state employees and THIP. Is that correct? Is that where the commission wants us to put the primary push in terms of things to accomplish in the next five months?

Addie Smith: Peter, you look like you have thoughts.

Peter Buckley: Well, I was going to say recruitment and retention. We have to sustain and then expand the workforce with every tool we have available to us currently, and then ask for additional tools in the next session as needed or in the E Board as needed.

Jessica Kampfe: So, with the recruitment piece of it, are you saying at the law school level, get people interested in public defense? Or if we're recruiting them, we have to hire them into positions. So, are we also asking to create the position authority to hire them in, either into the state offices or within our contracts?

Peter Buckley: Yes, to all the above. And what Jennifer was talking about too, what's the name of the program? It's in lieu of the bar exam.

Jennifer Nash: The Supervised Practice Portfolio.

Addie Smith: SPPE.

Jennifer Nash: Jessie, I don't think you had joined at that point. What I said is that maybe we know that on the out-of-custody unrepresented list, that most of those cases are misdemeanor cases and that maybe what we should be doing is asking for money to hire supervisors specifically within the Trial Division. And when I say supervisors, I also mean all the core staff that you would need, right? So, all the core staff, including supervisors for SPPE lawyers to handle that caseload. Because misdemeanor cases, how many supervisors would we need? What other core staff would we need? How many lawyers? Where would we put them? And that that might be... Because we heard at the last commission meeting, all of those... Marion County said all those 38 or whatever number they had of people who applied for a single position, who were all SPPE people, if we could bring those people in with the infrastructure in place in the Trial Division, then we could make a dent on the out-of-custody unrepresented list too. That was my thought.

Addie Smith: And I would just say, Jessie, too, to the extent that you have other sort of ideas that kind of triage the most immediate problem, I wouldn't claim to be the expert. I think I was just throwing out as someone who's not an expert, and if I'm in the Governor's office getting this plan, these are the questions I'm going to have. Why aren't we using the trial? Why aren't we bringing on [Inaudible 00:55:16]. I'm not saying those are the right solutions. I'm really open, if you have better or feasible solutions, to what those are.

Jessica Kampfe: With the SPPE in particular, we know there are a lot of entities out there that have strong training programs that are already established in their entity, that they've used those training and supervision dollars to build out those programs that are now stood up and pretty high functioning. For Trial Division, we would be building a new program. And building a new program is more of a mid-term thing than a short-term thing. So, I actually think if you're talking about better utilizing SPPE, we need to be reaching out to our contracted partners to see how many people they could bring in if we invested in further training supervision within their entities because they've got a lot more framework that's already pre-existing that we could plug into. And then if we're talking about doing it with our state employees, that's probably something that we would be looking at really robustly rolling out in 6 to 12 months as opposed to 60 to 90 days.

Jennifer Nash: Yeah, I mean, that's a good point. Except the only thing I'd say about that is it's going to be large population center focused, right? Portland and Eugene. And there we don't have that. And maybe we have it in Southern Oregon. I don't know if Jackson County has that kind of infrastructure in their PD's office. I don't think they really do. And that's where there's a huge need. And then the other piece of it is pay. Recruiting someone into the state Trial Division's going to be, in terms of retention, a lot more likely they're going to stay in a job like that where the pay...well, let's say compensation overall is so much greater. So, that's my only thought about that. But I hear you. I mean, you're building a whole new... Well, as I said yesterday, you're taking apart the airplane, building it again while it's going down the runway. So, that's what we're doing. We're dismantling, building again, and the plane is taking off. So, I get it.

Addie Smith: But I do wonder, Jessie, if there's a creative way to think about utilizing the already existing programs. So, if it is MPD... Again, I'm way out there and I don't know the technical details, but it won't hurt my feelings if you shoot it down. But using the SPPE to bring on two new attorneys at MPD, that is huge, that can start to take over lower-level caseloads. So, they can shift one of their higher-level attorneys out to take some of those rape cases that you were describing that are across the state that are unrepresented. That's sort of thinking outside the box in a way that, for a while, we can start to reallocate things imperfectly as we build towards other things, right? Because we know there are attorneys

at many practices, not just MPD, who can handle those cases. Certainly not 10 of them all at once, like you said, but who can start to chip away at however we redefine unrepresented in-custody.

And so we have the new attorneys coming in, taking on a bunch of misdemeanors. That allows caseloads to shift down and someone to have a portion of their time where, sure, they're driving to Pendleton, which is not ideal, but we're accounting for that. And we're starting to just handle some of this, or at least try something new and be able to say to the Governor's office, "We've hit the emergency button. We're trying something new here. It's not a long-term solution, but it'll hopefully help tide us over for six or seven more months while we rebalance things." Again, take it or leave it or come up with a way better idea, I would love that. But those are the types of thinking I'm interested in seeing us move towards to show that we're really trying to tackle this, even if it's sort of without their solutions for a moment. So, to tackle a little bit of the elephant in the room, which is the due date for this report, which as I understand it is July 1st. Is that correct, Lisa? Oh, you're on mute.

Lisa Taylor: August 1st.

Addie Smith: Okay.

Lisa Taylor: Yes. Yeah.

Addie Smith: Got it.

Lisa Taylor: It's not due next week.

Addie Smith: Okay. I'm glad that I was very wrong.

Lisa Taylor: Yes.

Addie Smith: Never more glad to be wrong.

Lisa Taylor: But we are trying to get it so we can do commission materials posted by the 17th of July.

Addie Smith: Okay.

Lisa Taylor: Yeah.

Addie Smith: The sense I'm getting from this committee, although I don't want to volunteer people for more meetings, is that we may want to see a revision and re-meet before this is sent to the larger commission or am I... Tom's nodding. Okay, I'm

getting thumbs up. So, not to increase your workload, hopefully it will be helpful to you because it'll give another chance for feedback. [Laughter]

Lisa Taylor: No, this is...

Addie Smith: ...I think may be what we want to do.

Lisa Taylor: Yeah, this is very helpful, and I think we can definitely do that. And that actually connects up to Mona sent out a Doodle poll where we were trying to schedule this committee in perpetuity for at least the next year.

Addie Smith: Yes.

Lisa Taylor: And we haven't gotten a lot of responses. So, if you guys can check your inbox and respond to that, that would be very helpful. And we can probably use that to do an additional July meeting, unless you just want to schedule that live right now.

Addie Smith: I don't think live scheduling usually goes very well. But if you really want to, we can tackle that.

Lisa Taylor: No, that's fine.

Addie Smith: [Laughter]

Lisa Taylor: Yeah.

Addie Smith: Do you feel like you...

Lisa Taylor: Will...

Addie Smith: Go ahead. I'm sorry.

Lisa Taylor: We'll just get an additional email out to get something scheduled probably the week of the 8th, July 8th.

Addie Smith: Senator, did you come off mute? Did you have some input?

Sen. Floyd Prozanski: Well, I guess I'm going to wait and see what the dates are. I was going to ask Lisa, you said to look at the email and respond to it. There's a lot of emails, please tell me which one again it was.

Lisa Taylor: Yeah. Mona sent an email. I don't know the date of that, but it was a Doodle poll to select the standing dates for this committee in the next year or so.

Sen. Floyd Prozanski: Okay.

Lisa Taylor: I can probably have her reforward that.

Sen. Floyd Prozanski: Yeah.

Addie Smith: All right. I know we still have more time if we want it, but I get the sense we've sort of hit the highlights. Is there any other guidance, Jessie, you or Lisa need from us at this point?

[Crosstalk 01:01:47]

Jessica Kampfe: No, this is great. This is super helpful. I think we've got good direction from this body to be able to move this forward and give you something that's more aligned with what you're looking for and will be helpful to the Governor. So, I think we're good for next steps.

Addie Smith: Great. We'll work on getting everyone responded to the Doodle and getting something scheduled in July so that you have some time to turn it around for the 17th. I really appreciate everyone making time and everyone's really great comments and thoughts today and attention to detail.

Lisa Taylor: Thank you.

Addie Smith: We'll see you all in July.

Sen. Floyd Prozanski: Thank you.

Peter Buckley: Thanks, everybody.

Lisa Taylor: Thank you.

Addie Smith: Have a nice holiday.

Sen. Floyd Prozanski: You too. Bye-bye.