

Chair Jennifer Nash: Good morning and welcome to the November 13, 2024, meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, chair of the commission. We have a quorum present by video today, and we have several items for discussion and action on today's agenda. Action items include approving the Comprehensive Public Defense Report that will be submitted to the Legislature, the organizational chart, and we will have some updates and briefings on other matters. First, we have one person who's requested public comment. There were no written comments that were submitted. If Mr. Macpherson, yes, I see Mr. Macpherson, if you are ready, you can begin your public comment. Thank you.

Carl Macpherson: Thank you, Chair Nash, members of the commission. My name is Carl Macpherson, I'm executive director of Metropolitan Public Defender. I appreciate the time to give you public comment today. I really wanted to focus on one main topic that I think's important just to highlight for the commission during these times, and that is attrition in public defense across the state. So, as part of the Governor's Workgroup on Public Defense, OPDC presented data that I presume you all have on attrition. This is extremely important data, indicating that since July 1st of 2023, there have been 118 attorneys that have departed public defense contracts across the state. That's roughly a quarter of your workforce, and that's presuming that I think it's roughly 490 people that do full-time public defense in Oregon. If I'm wrong on the number, I apologize, but presuming that's accurate, that's my recollection. One-hundred and 18 is about a quarter of your workforce. Seventy-five of those individuals left public defense altogether, so that's 64% of the people who left. Twenty-nine percent are now hourly; I'm going to come back to that as to why that's really concerning.

The other data that I think is extremely important, particularly when you look at the counties that have unrepresented individuals, is that a significant percentage of the people who left are felony qualified and a significant percentage of them left public defense altogether. So, if you look at Multnomah County through the same relevant time period, July 2023 to October 2024, you had 20 people leave public defense contractors. Sixteen of them were felony qualified, and 15 of those 20 left public defense altogether. Attrition and retention is a huge driver of the problems that we're having. I know you know that, and I appreciate all the hard work all of you are doing. I just believe it needs to be highlighted, particularly at this time when it's very apparent that other people who are not public defense providers and probably have never represented a client are very focused on the idea that you should potentially reopen these contracts and force us to take more cases and that you should increase MAC.

People are actually putting that out there as an idea. I don't know how they can possibly think that's a good idea when you see the attrition that we have, and

we know that MAC violates the National Workload Study that this commission adopted. So, we're violating the statute by adhering to MAC because the statute 151.216 requires us as a state to have caseloads that don't violate national standards. It violates the ABA Ten Principles of a Public Defense Delivery System, which says you can never violate national workload standards if you have one, and this commission has essentially adopted that. So, I know you all know this, but I think it's really important to continue to message this, particularly given some of what I find to be really irresponsible responses from outsiders. And the idea that we have brought and continue to have solutions that would help the unrepresented that do not involve trying to squeeze blood from a turnip. So, I wanted to say that.

And the other aspect I want to talk about a little bit was the hourly. I am gravely concerned about the THIP program and the hourly program. I'm concerned because of the data that's on page 61 of your materials today that appears as though 90 of the THIP attorneys are currently active attorneys on contracts. And the report on 61 says, "Attorneys under contract must reach their monthly maximum attorney caseload before they are able to take on a THIP case." That's concerning. The Sixth Amendment Center in 2019, so five years ago, indicated in its executive summary, point two, that one of the issues we have as a state is that we have a complex bureaucracy, but that at its root is a fixed fee contract system that pits appointed lawyers' financial self-interest against the due process rights of their clients and is prohibited by national public defense standards. I have grave concerns, as do others, about what the THIP program is doing, particularly with current providers, as I've received data from the agency that appears on its face, and, again, it needs further investigation, that there are contractors in the state that are taking above their MAC and taking hundreds and, in one case, thousands of hours, or billing hundreds or, in at least one case, thousands of hours on THIP in the last two years.

I have grave concerns about the clients that those providers are representing on their contract and the level of representation they are receiving in comparison to the hours that are being billed and the clients that are receiving services being billed hourly. It also goes against the statute 151.216 (2)(b), as it says the work in establishing minimum policies, procedures, and standards and guidelines, the commission shall adhere to these principles, and one of those principles that is a national best practice is that the workload of appointed counsel must be controlled to permit effective representation. Economic disincentives, or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. I've heard comments from providers where they are clearly talking about their economic self-interest rather than their duty to their clients. I've heard providers say things about qualification standards in the state and being concerned about getting their attorneys paid rather than ensuring that the qualification standards in the state

actually adhere to the statute and national best practice to ensure effective representation.

So, given that the THIP program is already over budget, and according to the materials today, it looks like it's on par for about \$47 million for the biennium, that is really concerning to a provider like MPD that does hundreds of hours of recruitment every year. The state and the commission, which we greatly appreciate and think's extremely important based on the Sixth Amendment Center report and national best practices, funds the public defenders to provide training and supervision, which is desperately needed. And we provide training and supervision on a level that the state or other providers simply could not or should not be able to do, which is really important for our ecosystem. And in conjunction with that, the fact that the state has done that and is ensuring oversight in that way and supervision in that way, it concerns us when we know that on the hourly program, there is no oversight set up. It's a complaint-based system, which requires an attorney, a client, excuse me, to actually complain, which is asking quite a bit of a client, particularly in those circumstances when they might not even understand that there's a complaint available. And so I would ask you to really reconsider what was supposed to be a temporary hourly program in consideration of what I've said. And the last point I want to make, I know I'm over time, but you said I'm the only public [Laughter] commenter, so I guess I figured I'd have a few more minutes.

Chair Jennifer Nash: All out of public comment time, sorry. Just briefly.

Carl Macpherson: No, no, I'll wrap up. I really appreciate it, Chair. But I do want to point out one other thing in relation to this. In June of 2024, the Sixth Amendment Center released a report on Colorado and indicated that Colorado has banned fixed-fee contracts. In that report, it has a chart about attorney compensation rates across the United States for public defense. Seventeen states don't have hourly programs, according to this document. Thirty-three do. So, of the 33 states that have hourly programs, Oregon currently has the second highest hourly rate in the United States of America. That is concerning, given that the hourly rates Oregon has right now are anywhere from three to five times what public defenders can pay their attorneys hourly. And I believe that this high hourly rate is contributing to people leaving full-time providers to go to hourly programs.

This is happening at our office, and it didn't happen until the last year or so. It's happening now, where people are being induced, sometimes by the State Trial Division attorneys who are reaching out to them, saying, "You can come to the State Trial Division, get paid more, and have less cases," but also believing that they can go to the hourly program, have less cases, which is true, and make comparable or more money with less cases and having more control [Laughter] over your workload. That is an economic incentive that has been created, which

is really problematic because you're taking full-time providers out of full-time work and putting them into less work, which will continue to exacerbate the unrepresented crisis.

So, I thank you for your time. I appreciate you giving me extra time, Chair Nash, and allowing me to speak on this. And of course, I'm always happy to answer questions and talk about this more fully. And I really appreciate, I do want to say this publicly, I really greatly appreciate, Chair Nash in particular, and all the work you've put in on engaging with other people in the state on public defense. And I know the commission's very involved as well. It's extremely important. As you all know, public defenders and criminal defense attorneys are always seen as the lowest in the system, and we don't have the same voice or the same authority as a judge does or a prosecutor, and we need all the support we can to actually get the state moving towards short- and long-term solutions that will help the unrepresented crisis rather than exacerbate it. So, thank you very much.

Chair Jennifer Nash: Thank you. And thank you for your comments. All right. Moving next to the Unrepresented Persons in Oregon Courts presentation, Director Kampfe, and I believe Ms. Roeser is also going to present some information, but I'll turn it over to Director Kampfe. Jessie, if you're talking, we cannot hear you.

Jessica Kampfe: I had to exit full screen so I could unmute myself. Thank you. Good morning. I am joined in this presentation by Harry Noone, our research analyst, as well as by Jessica Roeser from the Oregon Judicial Department, and we are looking to cover three areas during the presentation. We want to talk to you about the current trends for unrepresented, and that's what the slide presentation is about. We want to briefly touch on the Public Defense Workgroup that has been happening, including stakeholders from a number of different areas. And the materials from our last Public Defense Workgroup were included in the commission meeting packet, I don't have slides about them today. And then the last thing that I want to talk with you all about is OJD has created a new dashboard that is an unrepresented analysis dashboard, and I think Jessica is going to walk us through that dashboard. It is a really useful tool for us in having local conversations about the public defense crisis in each community. So, those are the three main topics we're going to cover this morning. And with that, Mara, if you could switch to the next slide.

So, this is looking at the public defense population, sorry, the unrepresented population trends. And we can see that the in-custody unrepresented numbers are largely stable across the state, and we attribute that to a number of things. First, we've really taken a targeted approach to identifying lawyers for folks who are in custody without counsel within the first seven days. So, implementing that Betschart ruling, our team has created new business practices. We've

implemented the Nintex form, which you all heard about in the spring, and you're going to see a slide on soon. We also have added assignment coordinators, and we are really efficiently using the THIP program in order to target this population. So, those efforts have paid off in stabilizing the in-custody unrepresented numbers.

You can see that the out-of-custody unrepresented numbers continue to trend up, although they have leveled out a bit. I'm not 100% sure why they've leveled out, but I think one contributing factor is actually Deschutes County. In the spring, we saw a big spike in unrepresented numbers in Deschutes County associated with attrition. We had five public defenders leave their public defense practice in Deschutes County in a very short period of time. Those positions have all been filled now. In September, there were 200 unrepresented people in Deschutes County, and now we're down to about 75 unrepresented people in Deschutes County. So, we've been able to turn that trend around in that county by filling the positions and not having those vacancies there anymore. Next slide, please.

This is a different view of the same information you all have seen before regarding the THIP program. So, Harry did a dive into the data and helped us break it out month by month, so you can see what our spending has been each month in this program, the total spending, as well as what we're spending on, and what we're spending on identifies which budget buckets we're spending out of for you. The investigator fees are coming out, and all other fees are coming out of our preauthorized expense budget bucket, and the attorney fees are coming out of our court mandated expense budget bucket. We've had 254 attorneys participate in the THIP program, and they have provided representation on 7,117 cases. To date, the cost of that has been about \$41 million, and that is bills paid. That's checks we have cut. That's not stuff that's in the queue, so we expect those costs to continue to rise as we have ongoing billing on the cases on which people currently are represented. I will note that that 7,117 cases is more than double the number of the cases on the unrepresented list, so this program has significantly mitigated the crisis. We have a total of, I think, 3,600 unrepresented persons in Oregon, and you can see that this program alone has provided representation for almost twice that number. Commissioner Harris? Oh, we can't hear you. You're muted.

Robert Harris:

Sorry about that. So, this is quite a bit of data on the unrepresented. The THIP program, I'm sorry. Is there a breakout, like you could show how much was spent on attorney's fees and investigative expenses, for instance, per case? Like if you could say, well, minor felonies, 1,416 clients, whatever how many cases that is, and that averages, whatever, \$1,800 per case or something, so we could sort of get an idea of what the average cost is per case type. Do you have that data, or is that something we could take a look at?

- Jessica Kampfe: I will kick that question to Harry. Harry, can we figure out price per case based on the data we're collecting on THIP?
- Harry Noone: Good morning, Commissioner Harris. Yes, that is a data point we could provide. It's sort of a moving target. As you can see, we're processing more bills on these cases recently than we have in the past. So, I can tell you, at one point in time, the number I would report at one point in time may significantly change given three or four months of additional bills that get paid.
- Robert Harris: Yeah, I would only be... Sorry, go ahead.
- Harry Noone: I was just going to finish my thought and say that is something we could provide.
- Robert Harris: And I would only be interested in the closed cases, not the open cases. And I don't know how many that is, but I'm assuming that's 60 or 70 percent of the cases we're looking at here. And also those are hourly, so we could actually also take a look at how many hours the lawyer spent on client communicate. I don't know how you have your hourly breakdown here, the four or five factors that we're really interested in tracking the data. Seems like this would be a really good piece of information for us to have. Thanks.
- Harry Noone: Just to answer that quickly, we do not collect the specific type of time the attorney bills. So, when I see an attorney bill, it tells me attorney's fees. It doesn't tell me what the attorney spent their time doing. And the question about whether a case is closed and how that lines up with the billing patterns is, I think, probably a longer discussion, but generally we still see bills come in that get paid after the case is closed. So, it's not as cut and dry as we might hope.
- Robert Harris: Yeah, thanks. One of the reasons I would like to get this information is because it was mentioned that the program costs \$42 million. It does, but these people still would have to be represented, even if they're under contract. So, it's not like extra spending. It's in place of spending that we would have if we had more contract capacity, I guess. Anyway, that's all I have. I think this is really good data. I'd like to flesh this out a little bit more. Thanks.
- Chair Jennifer Nash: I just wanted to jump in and add something that's a point of clarification so it doesn't get lost. So, I believe, and Mr. Noone, you can correct me if I'm wrong, when Mr. Noone says he doesn't know how the attorney time was spent, Mr. Noone, in his part of work, looks at the bill. The accounts payable people do know because it's line item, although we're not tracking it by line item, how each attorney spends their time. So, I don't want there to be some notion out there that the agency, that it's just paying people without knowing how they're

spending their time. Because that's not what's happening, but I just want to make sure that we clear that up. But Mr. Noone's just looking at the, okay, here's a check that was cut for this case type. This is the data I'm extrapolating from that. So, that's all I had to add. Go ahead, Director Kampfe.

Jessica Kampfe:

Oh, thank you. This has been a good discussion on this slide, and I'm glad to see that you all are getting something out of displaying the data in this fashion. So, we can continue to present it this way for you. And then next slide, please, Mara. This is a really interesting slide, this is something that's new for you all, and this shows our hourly assignments. So, you'll recall that in May, the commission talked with the agency about the adoption of a Nintex form, and that was a form that was going to allow both courts and lawyers, really anybody, but largely courts, to identify cases that were on the unrepresented list so that our assignment coordinators, it sort of automatically fed into our system, and then our assignment coordinators would have a more smooth business practice in identifying counsel.

Well, through that Nintex form, we've been able to do a lot better tracking of the cases that are being assigned hourly, and so the reason this chart only goes back to June is because that's when the Nintex form came into practice. So, what we're showing here is cases that came through our office on those Nintex forms. And so what we've seen is a huge amount of growth in hourly assignments, and we attribute this to sort of the ease of use of the hourly program. We're getting more efficient in assigning cases hourly. We have been investing in staff within the agency to support the program. The Nintex form is something that courts and practitioners are getting used to using. And the THIP program, the Betschart decision, so all of those things have kind of come together in a way where we're seeing a big increase in hourly work across the state.

The orange bar graph shows you in-custody cases, so these are THIP cases that are being taken at that increased hourly rate for in-custody unrepresented persons. The blue bar is showing you our regular hourly rate cases because these are out-of-custody cases that don't qualify for the THIP program. So, for a long time, the agency had been seeing that people were really only taking the THIP cases and not taking cases at our standard hourly rates of 130 and 145 dollars an hour. And now we're seeing that that is changing. And in fact, lawyers are taking both THIP cases and cases at the standard hourly rate, which is not something that we were expecting, so this is a surprise in terms of the way that the program is playing out. And I think we're going to see impacts when we get to the budget slide for our court mandated and preauthorized expenses. Do commissioners have questions about this information? This is new for you all.

Peter Buckley: Jessica, I just have a question. The concerns that Mr. Macpherson brought up, am I understanding correctly that if we do continue THIP to June 30th and then that is replaced by an hourly program at a similar rate to THIP, do you share that concern that it might decrease the number of public defenders that would be willing to work for a nonprofit, etc.?

Jessica Kampfe: Thank you for the question. We have seen a migration of some contracted providers to the hourly program. So, I'm looking at numbers that may be a little less recent than the ones that Mr. Macpherson was referencing. So, the numbers that I'm looking at, I think, are through September of this year, and we saw that 118 lawyers had departed criminal contracts in public defense. And of those 118 who left criminal contracts, 9 moved to our State Trial Division, 34 are now doing hourly work, and 75 left public defense altogether. So, the majority of folks that are leaving contracts are leaving public defense altogether. There is a portion that's moving to hourly. I don't know that I could say this is somebody who would have left public defense altogether but wanted to continue to keep their toe in this type of work and continue working with these clients. So, they're taking a few cases hourly while they start their family law practice, or these are people that move from a full-time contract to full-time hourly. I don't know the answer to that, how that sort of nuance plays out, but we have seen some migration of people leaving contracts and starting to do hourly work. It's also the case that we have a number of providers that are contracted and taking THIP cases on top of their contracts. Some of those contractors have full-time or nearly full-time contracts and are taking THIP cases. Some of them are more like 50% contract, and they have 50% of their professional time they sell on the private market regardless, and they're selling that time to us. So, that's a blend as well.

Peter Buckley: Thank you. Then when MAC goes away, that concern will go away, correct? We won't have MAC plus hourly, we'll just have hourly, correct?

Jessica Kampfe: The current transition plan for the public defense workforce is that by 2027, we would have state employees, contract providers who worked under a workload model, and a panel of hourly attorneys. And that's more detailed in our Comprehensive Public Defense Report that you'll hear about later today.

Peter Buckley: Thank you.

Chair Jennifer Nash: And I think I would just add to that too, that under the current system, there is a disparity with the rate, meaning that if you're under contract or taking cases under THIP or taking cases not under THIP, those are paid at different rates. Or you're a public defender. And we've known that, and that's been something that we've identified as a risk to the agency or risk to public defense overall. And the idea, I mean, when we put our policy option packages in the commission, one of



those to go forward to the Legislature is to make that uniform so that we don't have this mismatch of different types of rates, depending on what it is that you're doing. Because Mr. Macpherson is partially correct, it does create a disincentive in some cases to be employed as a public defender, and we're hoping to not have that be the case. Some people always want to just collect a paycheck, have a job, get a paycheck. Some people will want to be on their own and be paid hourly. There's always going to be that, but we're trying to limit the disparity regarding pay for depending on what kind of work you're doing.

Peter Buckley: Thank you.

Jessica Kampfe: All right, thank you. Next slide, please, Mara. So, this is a reflection of the work that our assignment coordinators are doing to assign Betschart cases. So, the Betschart decision came into effect in the early summer. Since that time, our assignment coordinators have assigned 754 cases. This is cases that were assigned within the first seven days of the person being in custody, thereby preventing them from being released based on not having a lawyer, as opposed to released based on public safety considerations. And you can see sort of where those cases, which counties they're being assigned out of, who's taking the cases, and what case types. We are focusing on our Tier 1 cases in terms of preventing the Betschart releases from happening.

And you will see a number of misdemeanors. The reason you see misdemeanors in those Tier 1 cases is because they're domestic violence cases, and so we have ranked domestic violence cases as a Tier 1 case, regardless of whether it's a misdemeanor or felony status. We can see that the assignment coordinators have facilitated the assignment of 92 cases to contracted attorneys. So, they're taking them under their regular public defense contract. Five-hundred and eighty-five cases have been appointed hourly. And then our Trial Division has been serving as a backstop to prevent Betschart releases, and so 77 of those cases have been appointed to our Trial Division. Next slide, please. These are the data sources that Harry pulled together in pulling this information in these slides, creating them for you all and for your review. All right, you can take the slides down. Thank you, Mara.

The agency has also been participating in a Public Defense Workgroup. There's a number of commissioners on our commission that have been part of that workgroup. That workgroup is meeting once a month, and we have started to move to a phase where we are really trying to think about solution-oriented conversations, about ways in which we could triage the existing unrepresented persons population, and really start to try to bring those numbers down. As we've approached this, we've learned a lot, and one of the things that we've learned is that every county is different in the things that are driving the unrepresented population in their county and in the way that the practices and

procedures work for that county, so we need to tailor our solutions to the county-specific trends that are happening.

Our team went down to Jackson County last month. We had a really great conversation with judges, district attorneys, public defenders in Jackson County, and came out of that meeting with some great ideas. One of the things we came away from that meeting with was that it would be really helpful to be able to see the unrepresented population in each county by crime type. So, that would be by the most serious charge that the individual has in each community so that we could work with the public safety partners and think about ways in which we could target that population. We communicated with OJD, and they were actually able to develop a unrepresented analysis dashboard that does just that and that can be used as a tool for these local conversations, and Jessica Roeser has very nicely agreed to join us today to share with us about that OJD dashboard. Jessica, are you ready to go?

Jessica Roeser:

Yes, I am. I'm sorry, I'm having trouble turning my video on, but I can share my screen, so I will go ahead and do that now. Okay, everyone can see the dashboard? Okay, great. So, as Director Kampfe mentioned, we've put together this dashboard to look at both the unrepresented population by the most serious offense on the case and also looking at case filing trends. So, what's happening now with new case filings and how is that changing from the same period last year? So, on the left, you can see the unrepresented cases, and this is statewide, by the most serious offense. And you can see the number of cases and then the ranking in terms of the frequency that they appear in the unrepresented data. We can also hover over the cases and see how long these people have been unrepresented. Okay? So, you can do that for each offense and see what the distribution of the unrepresented population is in terms of how long they've been unrepresented.

On the right, you can see case filings in this fiscal year, fiscal 2025, and how many cases have been filed by the most serious offense, and the percent change year to date. So, statewide, the most frequent type of case that's filed is DUIs, and that is a 9.4% increase over the same period last year. Okay? And we can also look at fiscal 2024 and see how those filings have changed from fiscal 2023. So, you can see in fiscal 2024, filings were up by 6%, and this fiscal year, filings are trending up 14% to date. Okay, so this data will continue to change daily, and we'll be able to track what's happening with our filings and how that's impacting the unrepresented population.

There are other ways to filter this data. So, we can filter the data by the days unrepresented. So, if you want to see those people that have been unrepresented for more than a year, for example, we can kind of see what those are. Okay? And then that will filter the data on the right for those charges.

And we can also filter by custody status. So, we can look at all the different flavors of in-custody. So, people who are in custody and then people who are in custody but have been released on that unrepresented case. So, they have more than one thing going on at the same time. And you can see, these are cases, not people, so the total is 224 cases where the person is in custody, not necessarily on that unrepresented case, that's just physically where they are. You can also search for an offense and filter the data that way, and then you can also filter the data for single or multiple charge cases.

Same types of filters on the right for filings – single charge, multiple charge, or you can search for a particular offense. So, you can do a text search to pull up all charges with, say, possession in the description. We presented this to the Public Defense Workgroup a few weeks ago, and they have some requests for additions to this data. Those requests were identifying if the offense on the unrepresented cases list is a first offense or not. Also, identifying the percent of cases by their representation status. So, for example, DUIs. Break those out by the percent that have a court-appointed attorney and the percent that's unrepresented and privately retained. The other addition that we were going to make is adding an identifier for a domestic violence-related offense. Any questions? Okay, plans for this... Yes.

Peter Buckley: Just to clarify, and you can do this county by county, correct?

Jessica Roeser: Yeah, you'll notice at the bottom, if you look here at the bottom, you have a tab for each county. So, right now, we're looking at Jackson. We see up here the title changes to Jackson, so you can look at a specific county. We'll probably just add a filter so we don't have all these different tabs at the bottom. So, on this page, you can just filter by county. And most likely we will link this to the unrepresented dashboard, so you just go to one place on the public website, and you can also access this data.

Peter Buckley: Two quick comments. One, thank you so much. This is incredible work. It's fantastic to have the data in this form for us to be able to go through. Second comment is if we could convince our fellow Oregonians to not drive under the influence, we would not have a public defense crisis in our state.

Jessica Roeser: That's a great point. Thank you. And thank you to the OPDC data team and Director Kampfe for coming up with these great ideas for us to dig into this data. Okay, I will stop sharing my screen here if I can figure that out.

Jessica Kampfe: Thank you so much, Jessica, and I think that brings us to the end of our presentation on unrepresented persons crisis.

Chair Jennifer Nash: Thank you. And thank you very much, Ms. Roeser. I echo Commissioner Buckley's comments. This is really, really helpful, really wonderful. I know that our public safety partners have also asked for this data to be able to have an idea about what things look like in various different counties. And having it linked to the public dashboard so that anyone can access it, I think, will be very helpful and very helpful to the Governor's workgroup. It's just really, really very, very helpful. So, thank you so much for all the hard work that you did on this, and thank you to the OPDC data team for also cooperating in that process too. This is great work on everyone's part. Thank you very much.

Jessica Roeser: You're welcome. Happy to help with anything else.

Chair Jennifer Nash: Thank you. All right. Unless there's other comments or questions on that, we can move on to the update regarding the budget, which Ms. Kampfe is going to do because Mr. Amador has jury duty today.

Jessica Kampfe: That's right. He is being a good civil participant in our democracy and doing his jury duty, so you all are stuck with me for the budget presentation today. All right, next slide. So, looking at our criminal budget, this is the budget largely for our contracted lawyers in nonprofits and in consortia doing criminal contracts. What we can see in this budget is that after we look at what we spent, what we've planned to spend, it appears that we have a balance of about \$13 million. That is actually an over-reflection of what our balance is. We have obligated 4.75 million for attorney/case manager capacity increases. I believe that the child support and development team processed something like 31 contract amendments this month, filling vacancies in contracts and adding more lawyers and case managers to those contracts. So, we can reduce that 13 million by 4.75 million. Of the remaining balance, and you're going to hear more about our legislative activities for December in a few minutes, but we have allocated \$8.15 million in our hourly programs to our December rebalance to fill the deficit in our preauthorized and court mandated expenses. Next slide, please.

We can see that our Juvenile is plugging along all right. We are predicting a slight deficit in Juvenile, so we're continuing to keep an eye on this number. Next slide. This is our Parent Child Representation Program. We have a little bit of savings that's being reflected here, and this will be contributing about \$500,000 to the December rebalance. So, we are going to take this program down pretty close to the margins with the rebalance. Next slide, please. Here we can see where that rebalance is needed because we've got a pretty significant deficit in our preauthorized expenses. Preauthorized expenses include things like investigator fees, also fees for interpreters, psychologists, all of those types of things.

So, the main drivers for the increase have been the psychological services and also travel expenses for all services. We are also now using a rolling six-month average to forecast, so we've gotten better at forecasting what our planned spending is going to be in this category. This has changed a lot since our September E Board presentation where we actually were reflecting some savings. We have been signaling to the commission that we thought that that would change as a number of activities have happened. Those activities include all of that increased hourly case assignment that we showed you earlier during the summer months. Also, the faster processing for both preauthorized expenses and accounts payable. Attorneys are billing us every 30 days now, for the most part, instead of waiting till the end of a case to bill. We have put into place some measures with PAE to keep those bills moving faster. And so sort of the compounding of all of that has been that we are now projecting a significant deficit in the preauthorized expenses that we are hoping to mediate with the rebalance request. Next slide, please.

We are also projecting a significant deficit in our court mandated expenses. Court mandated is where our hourly attorneys hit. And so for the same reasons that we're looking at a deficit in preauthorized, we're also looking at a deficit in the court mandated. We are assigning more cases, and due to those staffing improvements, we're getting more efficient at assigning those cases, and we're seeing it hit this particular budget bucket pretty hard. Next slide. This is our pilot project, Trial Services. These are our three trial offices, one located in Multnomah County, one in Jackson County, and one in Marion County. Due to sort of how long it takes to hire people, we have accrued some natural savings in this area. We are looking at maintaining some of that savings in order to make a request to the Emergency Board to open a Southwest office, a small office of two lawyers and one staff person located in Coquille, Oregon, serving Coos and Curry County. But the majority of this money, 1.2 million, would go into our rebalance to offset the deficits in court mandated and preauthorized expenses. Next slide.

This is the Appellate Division. Appellate is usually pretty steady, and so they are performing as expected, and they will be contributing \$500,000 to our rebalance. Next slide, please. CAP is also performing as expected. We have some savings within the agency. This is largely due to vacancies and the time it takes to hire people, so we will be moving \$500,000 from this division to cover the deficit in the rebalance. We will be asking the Legislature to do that for us, so it's a request on our behalf, not a given. Next slide, please. The Administrative and Executive Divisions of the agency are also showing some savings, and some of this is positions that we received in the E Board request in September, so we are recruiting for and hiring for those particular positions. We are looking at providing \$500,000 of this projected savings to the rebalance for... So, the Administrative Division is looking at providing 500,000 to the

rebalance, and the Exec Division is looking at providing 300,000. So, in total, \$800,000 towards the rebalance. Next slide, please.

This is our Financial and Case Management System. You're going to hear more from David Martin at the end of our commission meeting about the progress that's being made there, and we're really, really proud of all of the hard work that our IT department is doing and just the light speed at which they've gotten this program back on track and going again. It's really impressive. We have spent – we were budgeted for about 8.6 million – we have spent 1 million of that. We have planning to spend by the end of this biennium about 3.2 more, and that's because we are now in the process of being out to RFPs, so proposals will be coming in, and then we'll be selecting a vendor. And that's kind of when things get expensive, when you have to actually start paying that vendor and starting to do the process of fitting that service.

We are still projecting a savings of about \$4 million this biennium in the Financial and Case Management System budget, and we are looking at 2.4 million of that being unallocated and being included as part of our rebalance. That is a bit of a controversial decision to take money from the Financial and Case Management System project and contribute it to the rebalance, so we are looking at 2.4 million from this project to go to the rebalance. Next, this is our Special Programs. This budget bucket has really two things in it, so the Legislature allocated funding for guardianship, which was a statute that they passed in, I want to say, 2021 or 2022, providing public defense on guardianship cases. The agency contracts with a provider to do that public defense. The majority of this budget bucket is actually discovery costs. So, when the counties bill for discovery, the Legislature has allocated funding to the agency in order to pay back those discovery costs, so most of this money is money that goes out the door from the agency to district attorneys' offices to cover the discovery costs. We can see that we were given \$12 million. We have spent \$8 million. It's very difficult to predict the billing on discovery costs because there isn't really a rhyme or reason to them. We get these bills whenever we get them. Different counties have different discovery schedules. Some of them publish their schedules, some of them don't publish their schedules.

So, this is a really difficult area for us to do forecasting in. We have forecasted about \$5 million, and we are looking at probably running out of money to pay discovery to district attorneys' offices before the end of the biennium. We are not asking to address this in our rebalance. So, the Legislature allocated \$12 million to the agency to pass through for discovery costs. At some point, we think that might run out, and it might run out before the end of the biennium. Next. This is an overall view of the agency's budget. It does show some savings, but I wouldn't count on that because it's not reflecting the obligated 4.75 million in the criminal contracts. So, this should really be a deficit number, even

though it shows up as a savings. Next slide, please. That's it. I think we are done with the budget report. I'm happy to do my very best to answer your questions about budget.

Chair Jennifer Nash: Commissioner Harris.

Robert Harris: Thank you, and this is more of maybe a comment or a suggestion on this, and we talked about this years ago, I know. At least I was talking to somebody about it. Has the State or the Legislature considered passing a statute mandating what discovery costs should be or are or what the agency will pay to these counties? Because I remember getting discovery bills from police agencies that were wildly out of line with what I knew it took them to produce this discovery, and this would give our agency more assurance, we would be better able to determine what that budget should be. We wouldn't be \$1.5 billion underwater. Has that ever been discussed?

Jessica Kampfe: I have not participated in discovery workgroups, although it is my understanding that this is an issue that has come up in workgroup for the Legislature in previous sessions, and I don't know if it is on the legislative agenda for this biennium.

Chair Jennifer Nash: There's also oral argument at the Supreme Court on November 19th about whether or not public defense, or I'm sorry, whether or not defendants are obligated to pay for discovery at all because the argument is it's a state obligation, so the cost of that should not be borne by the defendant. It should be borne by the prosecutors and the counties. But the Supreme Court will weigh in on that, and then this issue may become moot unless the Legislature changes the discovery statute again. Commissioner Reinhard.

Brook Reinhard: Thank you. I just wanted to comment very briefly on the discovery issue as well. I've been in private practice about six weeks now, and I've been in six different counties. Every county does this wildly differently on discovery. I just had a Linn County case where they charged me 200 bucks for discovery with no relationship of what that is. And every county charges too much is really the short answer. But the other thing that's really concerning to me, and this is why I would like OPDC to think about having a policy on this, is OPDC has stopped paying for funding requests to redact body cams in some cases. Actually, in most cases, I think.

And, Director Kampfe, please correct me if I'm wrong about when and whether the agency does this, but it used to be when a public defender would get, say, I don't know, 30 hours' worth of body cam videos, we would apply for funding so that an expert could go through and redact the confidential identifiers. That is,

the addresses and confidential information of witnesses and victims because we can't give that to clients per statute.

Honestly, that is a cost that should be borne by DA's offices. And so I understand why the agency is saying, "Look, I'm not sure if we should pay this." But as it is right now, I cannot give body cams to my clients unless they're redacted. So, instead, I'm playing them with my clients. And that's okay, but that means the agency is spending far more money on attorney costs for reviewing all these with the clients as opposed to giving them a copy. And so it would be more cost-effective to have the redactions done by a provider at the 30 bucks or whatever they're charging.

But beyond that, there's no reason in my mind that DAs shouldn't be required to give a redacted copy that can then go to defendants or clarify the statute. Because when I get body cams, there's very rarely anything that my clients could use, even if they wanted to, to find people. But I don't want to take that risk. So, I'm obviously going to pay for it to be done. I just wanted those comments on discovery, and I guess my question to Director Kampfe is, has there been a total policy shift of not paying for it, or is it just usually not paid for now? You're muted, Jessie.

Jessica Kampfe: Thank you, Commissioner Reinhard. My understanding is that we are still paying for body cam redaction, but we are limiting the amount of time that can be requested for those.

Brook Reinhard: Okay. What is the time limitation?

Jessica Kampfe: You'll have to let me check and get back to you.

Chair Jennifer Nash: All right. Thank you. Are there any other comments or questions regarding the budget or discovery? All right. This dovetails very nicely into the discussion regarding the update for the E Board requests. Director Kampfe.

Jessica Kampfe: Thank you. And before we move on, our preauthorized expense manager has let me know that the limitation on body cam depends on the circumstances and case type. So, it is not a bright-line rule. Thank you. Moving on to Legislative. Before Mara pulls up the slide for me, I would like to take a moment to introduce you all to Anna Braun. Anna, are you able to turn your camera on and say hi?

Anna Braun: Yes. Just a second. [Laughter] It's not going on. I'm clicking it. There you go. Hi. Hi, everyone. I'm Anna Braun. I'm replacing Lisa Taylor while she's on maternity leave. So, I'm here for three months and very nice to meet you all, if I haven't met you already.



Chair Jennifer Nash: Anna, could you give a little bit of your background so that people have some context for why you're replacing Lisa and who you are?

[Laughter]

Anna Braun: Thank you. Sure. I've spent like the last 20 years at the Legislature doing various things. The last 10 years, I worked for Senate President Courtney as his legislative director and his chief of staff and then a policy position in Housing and Behavioral Health. And the last two years I've been a lobbyist and more recently, a lawyer and consumer law. So, I have consumer law cases right now. So, I'm very excited to be working on this issue and thank you.

Chair Jennifer Nash: Thank you.

Floyd Prozanski: I'd like to just take a moment, Madam Chair, and just out Anna a little bit more than she has. She's also worked for me in the Legislature. She was a Judiciary Council individual. So, she has a lot of understanding and detail around these areas that we work on. So, Anna, thank you very much for being willing to sub in.

Anna Braun: Thank you, Senator. Sorry, I didn't mention my judiciary experience. Very important. [Laughter]

Chair Jennifer Nash: I appreciate it. Thank you so much. All right, Director Kampfe.

Jessica Kampfe: Thank you. So, Mara has let me know that she actually doesn't have slides other than just our placeholder side. So, if you'd put that up just to timestamp for folks that are maybe watching this on YouTube. Okay. So, Legislative Days update. You all have now met Anna, and I think we can take the slide down. We are invited to both the Public Safety Subcommittee of Ways and Means as well as to Judiciary in December. When we go to the Public Safety Subcommittee on Ways and Means, we'll be there for a number of items. The first is the Remediation Report. You all approved the Remediation Report at our October commission meeting, and we have already submitted that to the Legislature. The next is for a number of sort of action items or requests with the subcommittee.

So, the things that we have pending in terms of requests with the subcommittee are, first, our rebalance. So, we just walked through the budget presentation. As you can see, there is a significant deficit, about \$19 million between our preauthorized and court mandated expenses. Some of that is just normal spending that would happen in those programs, and some of it is the temporary increased hourly rate program. So, we are asking to rebalance basically from all

parts of the agency where we can identify savings and move it to shift in to cover those two deficits. It's not going to fully cover the two deficits. So, it gets us a lot closer, but there is a little bit remaining in there. And so that brings us to what our requests are for the Legislature beyond the rebalance. Commissioner Lininger?

Tom Lininger: Thank you. This seems like a very reasonable idea, and yet, I think you referred to it earlier as controversial, and I wonder if you could explain why you believe it's controversial.

Jessica Kampfe: Thank you. The piece that I referred to as controversial specifically was the Financial Case Management System project. So, the Legislature allocated about \$8 million to the agency for the biennium for a particular project. That project is critical infrastructure for the agency. It's critical infrastructure for us for a number of reasons. One, we're moving to the Executive Branch. Currently the Judicial Branch supports our IT function, including our billing function, which is largely done on Nintex forms. Our financial piece of our financial management system would stand up that new billing system, and so it's really important for us to be able to move that forward so that we've got a good place to land.

Right now, our contract with the Oregon Judicial Department goes through the end of this biennium, so it doesn't turn off right when we go to the Executive Branch. It goes through the end of the fiscal biennium, but we really want to have our financial management system stood up so that we've got a good place to transition people and that we're not transitioning people twice, right? We're not moving them to a temporary measure and then to the new financial management system. The financial management system is really critical also for providing oversight for our hourly attorneys, and so we heard a bit from one of our public commenters about oversight for the hourly panel. A lot of that oversight will come from the improved billing software because lawyers will be saying how many hours they're working on cases and for what type of activity they're doing. And so we'll be able to have a lot better pulling that data and being able to extrapolate and give information about sort of the ways in which attorneys are spending their time representing clients. We also have the case management system piece of it, which will support case management within the agency, and which we hope to eventually move to supporting case management for public defenders outside of the agency.

So, taking any funding from such a critical project and moving it to rebalance a deficit is what I referred to as a pretty controversial decision. We have left enough money in the project to cover our anticipated expenses for the rest of this biennium and a little bit of a buffer in there. So, we were anticipating about \$4 million in savings and we're looking at moving about 2 million of it to the rebalance, so keeping a bit of a buffer. But I think that's something I want to flag

for you all as a choice that we're making and one that has some controversy. The other piece is rebalances aren't something that the Legislature enters into lightly. They really want us to be able to really control our spending so that we're spending appropriately out of each budget bucket and be able to forecast spending out of each budget bucket. Our hope is that this rebalance is really going to set us up well for our current service level conversation with the Legislature during the legislative session. So, if we are able to say this is exactly how much we need in this budget bucket, that helps us predict, forecast for next session, what that current service level budget should look like in that budget bucket. So, it is a really important function. It's not something that the Legislature does lightly and it's something that they really take a really close scrutiny of whenever they embark on. I hope that answers the question. Okay.

So, the first piece of our request is to complete that rebalance with the Public Safety Subcommittee of Ways and Means, and then the next piece of the request is to ask for permission to extend THIP for the end of the biennium. And so the THIP extension, largely those expenses are actually roll-up costs for next biennium, and that is because of the way that the billing happens. So, cases that are appointed, say, in January, we would expect about 120, 140 days out before we really start seeing the bills coming in on those cases. So, those expenses will hit us late in the spring, which means that the majority of expenses from the six-month extension will actually hit in the '25-'27 biennium. So, we are asking for a smaller amount of money, but also identifying the significant roll-up costs for extending that program to the end of the biennium.

We are requesting money to cover the deficit in court mandated and preauthorized expenses. We are making a general fund request for that money. That's going to be a really challenging conversation to have with the Public Safety Subcommittee of Ways and Means. There's not a lot of general fund available. Wildfire will continue to be their top priority in allocating that funding. It may be the case that they decide that we don't actually need that money right now, that we can cover expenses for a few more months, and that it makes more sense to try to deal with it as an early session spending bill instead of in Ways and Means. So, there's definitely some uncertainty around how that request will be received and how the Public Safety Subcommittee for Ways and Means will want to deal with it.

And then the last request that we have is to stand up a small State Trial Office in Coquille. We've identified an ongoing need in Coos County. We have taken steps to mitigate the ongoing need in Coos County. So, the public defender's office there has now filled all of their vacancies, but they largely filled those vacancies with SPPE lawyers. So, that is very exciting, but those lawyers are limited in the cases they can do. So, they're going to be handling mostly a misdemeanor caseload, which means there's still a need for felony-qualified lawyers in that

community. We have relocated one of our Salem-based lawyers to Coos County, and so she is an office of one taking cases in Coos County to try to mitigate that, but we're also asking the Legislature to invest in allowing us to open an office in Coos County. That is a community that continues to be underserved year over year. It's been an ongoing problem with recruiting and retaining lawyers into the Southern Coast area. We are proposing to fund that with savings that exists within that Trial Division, and we reviewed that earlier, but there would be rollup costs for next biennium because these are full-time permanent positions that we're asking for. So, the Legislature would need to fund them next biennium as part of our budget, and so I think that's where the rub and the real discussion is going to be is whether or not the Emergency Board wants to make that type of a commitment that would bind to the Legislature for next biennium.

So, that is a summary of our legislative requests that will be in front of the Emergency Board in December, the rebalance, the request for general fund to cover the deficit, the request to extend THIP till the end of the biennium, and the Southwest Trial Office. The other place we're going in December is to Judiciary, and we will be visiting Judiciary to present on the Comprehensive Public Defense Report, which you all have coming up in your agenda. I will also note that I get to go visit the Legislature in December with two new faces. So, Anna won't be new to the legislators, they'll know her well, but she'll be new to us. And then Vice Chair Mandiberg will be joining me and supporting the agency for the presentations. That's all I have unless folks have questions.

Chair Jennifer Nash: Are there any questions by any commissioners regarding the upcoming legislative requests or anything related to what Director Kampfe's talked about already? All right.

Paul Evans: This is Rep Evans, I have a comment.

Chair Jennifer Nash: Sure. Go ahead.

Paul Evans: I'm sorry, I've been having technical issues. I wanted to actually say something a little bit earlier, but since it's now back to this, two things I think are important. One I want on the record so everybody can hear it. While the Public Safety co-chairs right now don't have a lot of say over our own agenda, which I hope will change soon, I will do everything I can to ensure that we fight to make that commitment to Coos Bay because I think that that actually should have been done in September. I think it is important. And while I'm only one vote, that's what I'm going to be pushing for. I also want to briefly comment as we enter budgets. It almost wraps up to what was said at the very beginning of the meeting by Mr. Macpherson, and I want to say this with as much respect as I can provide. The entire system is in crisis. And when I say system, I don't mean

just attorneys. And while I know if your job is to sell nails, every problem needs a hammer. But the point is we are not going to meet national standards in any category – lawyers, doctors, emergency responders, firefighters, police officers per thousand – we're not going to get there as long as two things continue.

The first is our budgeting approach, where we continue to pay for only the things we have to right now and have not really had a strategic investment strategy for a decade or so because of our property tax and income tax imbalance. And the second thing is everybody in the system needs to recognize that, as was said by one of the commissioners earlier, it is a county-by-county issue. Until we have more standardization among the courts so we can be both predictive as well as planning and benefiting from economies of scale, we're not going to be making as fast a progress as we want to. You push in on one part of a balloon, the other parts get pushed out. So, we have to do this thoughtfully. If we try to do it fast, we'll screw it up again. It took us three decades to get here. So, let's take whatever we have to in terms of people from other states doing this, that, or the other, and recognize we want to get to a place where we're maybe not at the national average in terms of salaries, but we're close. We want to get to a point where we're not violating anybody's rights, but at the same time, we have flexibility so that we can actually do things in an appropriate manner with the money we have. Just want to set expectations.

Every part of government right now is in crisis. Every field thinks that they're the most important, COVID and other things, have to first learn the soft skills before they can do anything else. So, this is not a time for panic. Progress is being made slowly. But I want people to understand we're not going to get where everybody wants to get in one or two cycles. But thank you for the folks that are working on it, and I just want to emphasize at the Legislature, we want to try to get where we need to go, but we're not going to make anybody happy in terms of timing. That said, as long as we continue to make progress, and I think the office in Coos Bay is an important piece of that long-term progress, I think we'll get there. So, thank you. Just wanted to put that down there so we have clear expectations going into both the E Board as well as the '25 session. Thank you.

Chair Jennifer Nash: Thank you, Representative Evans. This is Jennifer Nash. I really appreciate your comments, and I've always really appreciated your comments and your frankness and your just very straightforward approach kind of laying things out, and especially regarding the structural problems that the system is facing. None of that is new to Oregon or Oregonians, and I just really appreciate you reminding us of that while we work through these really complex issues. All right. Are there any other questions or comments before we move on to the presentation of the Comprehensive Public Defense Report? All right. So, we'll move on then to approval of the Comprehensive Public Defense Report, Director Kampfe.

Jessica Kampfe: Excellent. Thank you. So, this is our Comprehensive Public Defense Report, which pending the commission's approval, we will be submitting to the Legislature for the December Judiciary Committee to hear. This is largely a report about how the agency is implementing the service delivery changes mandated by Senate Bill 337. So, it shows a lot of the work that we have done. It also shows the approach that the agency is taking transitioning the workforce from our current service delivery model to the service delivery model that is required to be in place by 2027. Next slide. So, as we can see, the Senate bill has required us to submit this report. The first one was submitted by the agency in May. During that time, we told Judiciary, "Hey, there's a lot of work that we're going to be doing between now and December of 2025. Can we come back and talk to you about this again before that December 2025 date?" And they have invited us to come back. And so the report that we're submitting this time around is actually something that we asked to be able to submit to Judiciary, and so you can see our next report after this isn't due for another year from now. Next slide.

The report is required to provide the Legislature with financial projections based on our anticipated workload, our proposed method for providing public defense based on workload, the establishment of training and supervision requirements, steps taken to determine an hourly rate, and steps taken to improve overall oversight and enforcement of the statewide objective standards. Next slide. So, the standard and workforce setting, a lot of this stuff is stuff that you all took on this summer by adopting the six-year plan and adopting the economic survey. So, we're going to be able to pull that stuff together, and you'll see a lot of this work reflected in the agency's policy option packages, particularly the Policy Option Package 102, which deals with criminal representation in our contracts, and Policy Option Package 105, which is for juvenile. So, when we're looking at the standard setting and the workforce, these are the pieces that we use. So, it is the public defense forecast. So, Senate Bill 337 directed us to work with the state, and we now are using DAS forecasting services, and we worked with DAS and OJD to come up with a public defense forecast.

We're looking at the caseload and workload standards. So, here we're really looking at the six-year plan that this commission adopted, core staff ratios, which is part of our six-year plan as well, and then compensation, which comes from the economic survey. Next slide. So, the caseload and workload standards, we have the National Public Defense Workload Standard for criminal cases, which the commission adopted, the Oregon Project for juvenile cases, which was not covered by the National Public Defense Workload Standard, and so the commission adopted that separately. The commission asked us to set those workload standards at 1,578 billable hours annually, and to phase it in over a six-year period starting in July of 2025. Next slide. The core staff ratios that are

in that workload plan and built into our policy option packages come from the National Association for Public Defense. So, they recommend a 1-to-3 ratio for investigators, 1-to-3 for either a case manager or a social worker, 1-to-10 for supervision, and 1-to-4 for legal assistant/paralegal. Next slide. The compensation comes from the economic survey this commission adopted. First, this commission directed the agency to do the economic survey, and that came up with a proposed formula for compensation and market data, and the commission adopted the market match rate at 1,578 billable hours. Next slide.

So, the next piece of the report deals with how we transition our workforce. Right now, what our workforce looks like for public defense is we have a Trial Division. Those are State employees that are doing trial level advocacy. There's 20 lawyers that are currently in three offices. This is definitely a small portion of the public defense workforce at this point in time. We have about 279 MAC worth of lawyers, FTE worth of lawyers that are working as full-time public defenders in nonprofit public defense offices. We have 410 FTE of lawyers that are working in consortia and law firms. And we also have lawyers who are paid an hourly rate to accept appointments. We know that about 250 lawyers have participated in those hourly rate programs, and some of those lawyers are going to overlap with the private bar attorneys that are working in our consortia and law firms. Next slide please.

So, in terms of the timing to transition our workforce, we have one deadline that comes up in July of this year, and that is that flat fee contracting is prohibited and that public defense needs to be provided by our Trial Office, nonprofit public defender offices working under a workload contract, which is different than our MAC contract, and private bar attorneys pursuant to workload contracts, as well as a panel of qualified counsel who are paid hourly for their legal services. In 2027, we have a significant transition that we're anticipating with the private bar public defenders moving to a panel of qualified counsel. And in 2031, we have to increase the footprint of our Trial Division so that at least 20% of public defense workforce will be State employees, and then by 2035, 30% State employment. We will be back in December of 2025 talking about where we're at on building out this transition, including the attorney caseload and workload, the core staff ratios, compensation, nonprofit public defender offices, standing up our panel of qualified lawyers, including updates on how we're working on transitioning the private bar to the panel, the work that our Trial Division is doing, including plans for expansion and the training and oversight component. Next slide, please. That's it. Mara, you can take that down.

I think probably the biggest piece of this report that is of interest first, the commission's done a ton of work in order to move this forward. It's amazing to me, the work that you have done to create a workload plan to set market rates.

And we continue to move forward and to hit benchmarks and on-time benchmarks for the legislative expectations with regard to implementing this statute. I think there is a lot of concern and uncertainty in the community about how the agency will support the transition of our private bar public defenders to an hourly model, and there's a lot of questions about whether or not this timeline is too aggressive to do that, or whether or not something else needs to be done to mitigate that risk. And so I expect those are conversations that the commission will continue to have, that the Legislature will continue to have, and that the agency will continue to have with folks.

We are working on that transition. We've been working with the support of Moss Adams to help us do project management for that transition. So, some of the things that we are working through right now are updating our qualification standards and our performance standards. The agency has created workgroups that involve providers in order to move that work forward. We are updating policies and procedures for our online billing and our processes for the assignment of counsel. We have started to do an investigative stage of that piece of work. We need to do work around updating our policies for complaints and investigations, policies for financial audit, setting up a mentorship program, supervising attorney program and training program. So, there's a lot to do between now and 2027. We do have the benefit of having experienced project management support to help us make sure that we're staying on track with all of the tasks that we need to accomplish to be able to get there. And we are expecting that we'll be engaging with members of our community about whether or not this is the correct timeline to put this work on and whether or not there would be any changes or legislation that impacted the transition. That's all I have on the Comprehensive Public Defense Report. This is an action item, so we are requesting that the commission move to adopt this report and that we be directed to submit it to the Legislature.

Chair Jennifer Nash: Are there any comments or any questions about the Comprehensive Public Defense Report that will be submitted to the Judiciary? Commissioner Harris?

Robert Harris: I just have a question for Director Kampfe. What is the agency's definition of flat fee contracting?

Jessica Kampfe: I don't have a handy one-line answer for you, but I can get you an answer to that question.

Robert Harris: I think that it's important for the commissioners to understand what that transition means because a lot of people like workload model and I ask them, and they don't really have a good definition for workload model. Then I say flat fee contracting, I think people have different ideas of what flat fee contracting means. I mean, are we just talking about if you get a monthly flat check, that's



flat fee contracting? Or is it you have to take this many cases to get the fee? Or what is it exactly? And I think that's a key piece of knowledge that we need to have as a commission to understand what this transition means. Because this is supposed to happen, what is it? July 1, right?

Chair Jennifer Nash: No.

Robert Harris: Isn't it? In seventh months. Not only that, but you got to get the contracts done, and I'm assuming you're working on the new contracts now, maybe not, but they have to be out there. I don't know. Do you have a date on when the RFPs are going to be issued on that or the RFQs are going to be issued on that? I mean, usually it's March or so or April, hopefully March, not April. So, I'm assuming those have to be worked on. So, it's a key point of understanding because this is the major transition going on next year, and so I think the commission maybe needs to be briefed on what this means, at some point. Thanks.

Chair Jennifer Nash: Thank you. I think, I mean, from the ABA report, their definition of flat fee contracting was you get paid X amount of dollars for X amount of cases. And when we switched to the MAC model, that's been the tension is that a lot of public safety partners believe that the MAC model is a flat fee contracting model, which it is not specifically. That's why maximum attorney caseload, so you get paid X number of dollars, and you cannot take more than this many cases for X number of dollars. But your point is well taken. And that is that in order for us overall to be able to have these discussions, we need to all agree on common language and common understandings of what we're talking about. So, when someone uses a term, everyone across the board knows what that term means, and I think that that has been a significant barrier. And I know that in our last Governor's workgroup, one of the things that the Criminal Justice Commission, their role and what they're going to be taking on is doing some of that definitional work so that we're all operating from the same lexicon when we have discussions about things, what that means, and I think that will be enormously helpful. And I think that this commission has a role, and a leadership role, frankly, in defining what those terms are so that all of our partners can know what everyone's talking about when we use specific terms.

Robert Harris: Yeah, I agree. And that was sort of part of my point because also when people talk about workload model, I ask them, and people have different ideas of what workload model means. I think I have my definition of what I think it means, but I think when we say no flat fee contract, we're going to change to a workload model. You're right. I mean, the MAC is the maximum. It's too high, as we all agree, but it is the maximum, but we have the ethical cutoff clause in there, which sort of makes it not a paper case, right? It's paper workload because the lawyer gets to decide their workload or their law firm or whoever. So, I think

understanding what these definitions are is going to help us a lot as we go through this transition. So, I agree with you, that's why I asked the question, but I'd like to have a real understanding, and the commissioners to all have an understanding of what this means instead of just saying workload model or flat fee model. I think it's important to understand how that applies or how that changes the current system. Thanks.

Chair Jennifer Nash: I agree. And I think that that's really something that this commission should try to do. That's some of the work that the commission should try to do and as quickly as possible because we're having these ongoing meetings. As I said, I think there's a role for us to be in a leadership position rather than a, yes, we agree with someone else's definition. We need to be defining those, and I think your point is very well taken and I agree. Are there other comments or questions? All right. With that, I will ask for a motion to approve the Comprehensive Public Defense Report to submit to the Judiciary Committee.

Robert Harris: So moved, Commissioner Harris.

Chair Jennifer Nash: And is there a second?

Peter Buckley: Second.

Chair Jennifer Nash: Commissioner Buckley, I heard maybe. [Laughter] I saw Commissioner Mandiberg raise her hand. Okay, Commissioner Buckley seconds, and we will need a roll call vote.

Mara Hoaglin: Thank you, commissioners. Can you hear me okay?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Okay. Commissioner Nash.

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg.

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith.

Addie Smith: Yes.

Mara Hoaglin: Commissioner Harvey.

Alton Harvey, Jr.: Yes.

Mara Hoaglin: Commissioner Parrish Taylor.

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley.

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander.

Robert Selander: Yes.

Mara Hoaglin: Commissioner Harris.

Robert Harris: Yes.

Mara Hoaglin: Commissioner Lininger.

Tom Lininger: Yes.

Mara Hoaglin: Thank you. Motion has passed.

Chair Jennifer Nash: Thank you. All right. Moving on next to the organizational chart. Director Kampfe.

Jessica Kampfe: And it looks like this is a presentation I was expecting Mr. Henderson to do. Mara or Cody, can you check and see if he has the wrong link? Because I don't see Chris...

Chair Jennifer Nash: We're running about 20 minutes early, for a change. Yay. That may be why.

Mara Hoaglin: He's getting on in just a moment.

Jessica Kampfe: Thank you, Mara.

Chair Jennifer Nash: In the meantime, Director Kampfe, I know you're pressed for time later on in the meeting. Would this be a time where you could give your director's update?

Jessica Kampfe: Oh, I see Chris is with us now.

Chair Jennifer Nash: Oh, all right.

Jessica Roeser: I will not keep him waiting.

Chair Jennifer Nash: All right.

Jessica Kampfe: Thank you though.

Chris Henderson: Good morning, everyone. Happy Wednesday. Thank you for making time for me to come to today's meeting. Oh, my video went away. Now we're back. [Laughter] So, I am here to talk to you all today about another organizational chart for the agency. So, organizational charts have been an ongoing conversation here at OPDC for some time. I believe it was just a couple of months ago Director Kampfe presented an organizational chart that we had made that was very budget focused, that really broke down sort of where our positions exist based purely on budget buckets. But the organizational chart that we are looking at today is really kind of a hybrid organizational chart that presents the agency's operational structure in combination with its budgetary funding breakdowns. So, this was an effort, a collaborative effort between HR and Budget based off of feedback that we had received in working with the CHRO over at the Department of Administrative Services.

Chair Jennifer Nash: Mr. Henderson?

Chris Henderson: Yes?

Chair Jennifer Nash: I'm sorry. A couple things. Can you introduce yourself and who you are in relation?

Chris Henderson: Oh, sure.

Chair Jennifer Nash: And also when you give your presentation, try not to use acronyms because a lot of people don't know what you're talking about when you use the acronyms, at least the first time anyway.

Chris Henderson: Sure.

Chair Jennifer Nash: Thank you.

Chris Henderson: No worries. So, my name is Christopher Henderson. I am a senior HR business analyst here at Oregon Public Defense Commission. Does everyone have a copy of the org chart that was shared out? Excellent. So, really what we want to look at here today is just the general format of what is included in this organizational chart. So, give me one moment here. Like I say, this chart was a collaborative effort between Human Resources, Budget, and then feedback that we received from the chief human resources officer at the Department of Administrative

Services over in the Executive Branch. So, what we were looking to do was create an organizational chart that really represented the agency's operational structure, and one that was also very manageable and sustainable as we move forward. Particularly as we consider the projected growth of this agency, we want to make sure that any organizational chart that we have is going to be able to easily adapt to those ongoing changes to avoid the administrative burden that can come with creating and maintaining an organizational chart.

So, the chart that you all see, I believe in PDF format, is really just an export from an Excel document, and the nice thing about that document is that it is semi-automated. So, as we continue to move forward with changes and growth, we'll be able to just input some updated data into a single area and the visual aspect of that organizational chart will update for us automatically. We wanted to make sure that the chart includes the agency's budgetary information, particularly for positions, so that there's a lot of transparency for understanding the very particular budget buckets that our positions are being funded by. We included working titles for all the positions where applicable. Some of our positions don't necessarily have a distinct or unique working title that is separate from the title of the position's budgeted classification. I think as we consider like our senior deputy defenders, that's a good example of where we may not see distinction.

We wanted to include employees names so that there is, again, that clear visibility of exactly who is reporting where and who is responsible for what. We have employee job classifications. So, what the employee is actually working at in terms of our classification and compensation system. We have job codes for workers. Job codes refer to the sort of administrative coding system that we have for classifications. So, it's just a numerical means of being able to refer to a specific classification. We also have job codes for positions. It's the same concept there, but rather than looking at the classification that an employee may be working in, that is actually looking at the job code that the position itself is funded at, the classification that position is funded at. And the reason we included both of those is to easily be able to identify where we may have positions where we have hired someone into a classification that differs from the way that the position is currently budgeted.

So, we have three different ways that we refer to those scenarios where we have what's known as an underfill, a crossfill, or an overfill. An underfill is whenever we fill a position at a lower classification than what that position is budgeted as, which technically gives us a little bit of savings. And then a crossfill is when we fill a position with a classification that's at the exact same salary range at what that position is funded as, but just in a different classification itself. And then we have an overfill, which is where we fill a position at a higher salary range than what a position is funded at which costs us money. So, we

have those on there for easy callouts and identification of places where in future budgetary packages we have the option to sort of fix those because in the ideal state, all positions are funded at how they are budgeted.

We also have position and personnel database and Workday identification numbers. We refer to those as PPDB and Workday IDs. So, those are the two systems where position data exists. The real primary location is within the PPDB side. That is the sort of core of where a lot of our actual personnel data is stored. Workday is our human resource information system. That's where we actually do the majority of our operational work, but it relies on a data feed between that other system. We included that just for ease of reference whenever sort of cross-referencing those two systems. We also have color coding to denote the different budgetary sources. So, in trying to think about the sort of general budget buckets that we have, and then looking at the more specific funds, we wanted to, as best as we could, really create a visual distinction between where each position is really receiving its funding. And then we also included position full-time equivalencies for that biennium so that we can see the actual count, usually of how many months we have a position for, though we do have a few positions that actually are funded on a part-time basis. But that's everything that we built within the org chart itself.

It is broken down by division, so we consider the Executive Division, which would be Director Kampfe and Deputy Director Perfecto. We have our Appellate Division, we have our Trial Division, Administrative Services, and so on. So, like I say, this org chart, we have presented it to the chief human resource office over the Department of Administrative Services. We have gotten their sign off on it. They think that it is in good alignment with what most other agencies within the Executive Branch do, and we have also received [Laughter] I'll say a seal of approval, maybe, from our Legislative Fiscal Office in being able to present an org chart that really makes sense for them and the work that they need to do on their side of the house. So, we are bringing that to you all today in hopes that this organizational chart is something that works for the commission, in hopes that you all can approve this item for adoption.

Chair Jennifer Nash: Thank you. And before I ask for comments or questions, I just want to say thank you for all of the hard work. Everybody who has spent months and months and months and months putting this together and revising it and making it very easy to understand. This version with the color coding was way easier to visualize and be able to understand where everybody lived [Laughter] in the budget bucket and what divisions, very helpful to have the distinctive Workday codes that I don't understand, but I know that's what those are. And super, super, super helpful, and very, very excellent work. And everybody is saying, "Yes," I see everyone thumbs-up. So, any questions or comments before we take a vote on this? All right. Oh, Commissioner Harris.

Robert Harris: Thanks. This is probably because I'm on the Audit Committee, so I do have the one question. It looks like you have the internal auditor, it looks like maybe a direct report to the executive, I'm not sure if I'm reading this right. But then on the right side, you're color-coded, it looks like they're under the CAP team, which is under the deputy director. So, who is the internal auditors... Who do they report to, I guess?

Jessica Kampfe: I think I could probably take that question. So, currently the internal auditor does direct report to me. I meet with him probably twice a month, talk about the work that he's doing on internal audit. He is budgeted as part of our CAP Division. So, you will see that the budget bucket that is associated with that position is the CAP budget bucket. In terms of reporting structure, we have had him direct reporting to me. And then he also works with the Audit Committee and ultimately needs to be able to report to the commission directly.

Robert Harris: Okay. Got it. Thanks. The color coding confused me a little bit. I understand that now, I think. Thanks.

Jessica Kampfe: Yeah. We really wanted to use the color coding to help make it jump off the page if a particular position is budgeted maybe differently than where it sits within our reporting structure so that we had a lot of transparency around that. And I will note that in conversations with our Legislative Fiscal Officer, they would really like to see us work towards a future state where we have greater alignment between where positions sit functionally within the agency and where the budget buckets are. So, this org chart is a good step to sort of having transparency around where those differences are, and as we move into the next biennium, we'll want to work really closely with our Legislative Fiscal Officer to align budget better with the organizational structure.

Chair Jennifer Nash: Thank you for that additional information. Any other questions or comments? All right. Is there a motion to adopt this organizational chart as presented?

Robert Harris: So moved, Commissioner Harris.

Chair Jennifer Nash: And is there a...

[Crosstalk 01:43:27]

Susan Mandiberg: Second.

Chair Jennifer Nash: Okay. And we have a second from...? I'm sorry.

Susan Mandiberg: Commissioner Parrish Taylor and I both seconded it.

Chair Jennifer Nash: Yes. Sorry, I got distracted because I saw Commissioner Harvey messaged at exactly the same time, he said at 11 o'clock he has to leave. So, my attention got drawn to the shiny thing that popped up. [Laughter] So, all right. With a motion and a second, we will need a roll call vote.

Mara Hoaglin: Okay. Commissioner Nash.

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg.

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith.

Addie Smith: Yes.

Mara Hoaglin: Commissioner Harvey.

Alton Harvey, Jr.: Yepper.

Mara Hoaglin: Commissioner Parrish Taylor.

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley.

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander.

Robert Selander: Yes.

Mara Hoaglin: Commissioner Harris.

Robert Harris: Yes.

Mara Hoaglin: And Commissioner Lininger.

Tom Lininger: Yes.

Mara Hoaglin: Thank you very much. Motion has passed.



Chair Jennifer Nash: Thank you. All right. And I wanted to back up just a second. I meant to say something about the quality of the Comprehensive Public Defense Report when we were talking about that, and I neglected to do so. That was written very well, very clear, really easily understood, really aligned with our discussions and our values and our vision for moving forward based on the current Senate Bill 337 landscape, and please pass on to all the people involved with writing it, that we really, really appreciate it. All right. Vice Chair Mandiberg, are you ready to present regarding the Audit Committee Charter, even though we're quite a bit ahead of schedule?

Susan Mandiberg: Yes. I'm good.

Chair Jennifer Nash: All right. Then I will turn it over to you.

Susan Mandiberg: Thank you. So, the Governance Subcommittee has been working with the Audit Committee since June on revising the Audit Committee Charter. The charter that exists now was written in 2022. And I want to, before I get into any details, give a shout out to Rob Harris, who is the commission's representative to the Audit Committee and who has put in an amazing amount of time helping work on revising this charter and liaising with the Audit Committee. And also a shout out to Scott Martin, our internal auditor, who has put in an amazing amount of work on this as well. And I would invite either or both of them to chime in if they have anything they want to add to what I say.

So, we've been working on it since June. It's gone through a number of iterations and the iteration or the draft that was in the materials for today is the most current draft. It has been approved basically by the Governance Subcommittee and the Audit Committee as a draft that we could present to the commission, and our hope is that between now and the December commission meeting, you all will have a chance to look at it carefully, and then in December we can vote on whether or not we want to adopt it. The one thing we need to do between now and December that we haven't been able to do yet is have someone in the Executive Branch, probably someone in the Judicial Department, take a look at it and make sure that it comports with other sorts of Audit Committee charters for commissions in the Executive Branch, and that there's nothing that we need to add or take out, and if in fact there are changes that need to be made.

We will not have time for another subcommittee meeting between now and the December commission meeting. And so we'll either need to put that over till January, or we'll have to ask the commission, especially if the changes are minor, if it's willing to consider an amended draft in December without it going through the subcommittee. There's nothing I could find in our bylaws that require this to go through the subcommittee before being presented to the

entire commission. So, I think that's a possibility. We'll have to see what feedback we get.

What this draft does is break the Audit Committee Charter down into six different divisions. There's one on the authority and purpose of the committee. There's one setting out the duties of the committee, both generally and in terms of when specific duties need to be carried out. There's a portion on the composition of the Audit Committee, includes the number of committee members, breaks down voting versus non-voting members, talks about the chair, how the chair is selected, what the chair's duties are, talks about terms of office. There's a fourth part, a division on the appointment process and conflicts of interest. A fifth division addresses how committee members can be removed, and a final division addresses meetings, agendas, and minutes, and includes a provision for staffing and for public records. I don't think the combined subcommittee and Audit Committee has missed anything that needs to be in there. But if we have, I'm sure someone from the Justice Department will point it out to us. I'm happy to answer any questions. I'm sure Rob is happy to answer any questions. It's not a hugely long document, so it should be readable between now and December, but if people have questions now, please feel free.

Chair Jennifer Nash: Does anyone have any questions or comments? Commissioner Buckley.

Peter Buckley: Yeah, just a comment. If there is a purgatory, I believe members of the Audit Committee get 12 years off for participating in the committee. I just want to thank them for their efforts.

Chair Jennifer Nash: Agreed. And thank you so much to the Governance Subcommittee, and particularly Commissioners Mandiberg and Harris for all the time you put into this to get this. I know this has been a lot of work and a lot of sometimes frustration, and I really appreciate all of the work that you've put into this and just the Governance Committee overall. Commissioner Harris.

Robert Harris: Thanks. I don't usually give shout-outs to committee members because I don't like patting ourselves on the back too much, but I think Susan Mandiberg deserves a lot of credit here for putting in the time and effort, and she really improved the product. For like me and Scott and John Hutzler, who's the chair of the Audit Committee, we sort of got down in the weeds, and Susan was able to take a look at it in its entirety and really improve the structure, and it allowed us then to get back and do a better job. So, really the work she did was really extremely invaluable. Thanks, Susan.

Susan Mandiberg: Well, you're welcome. But I have to say it's a mutual admiration society. [Laughter] So, thank you as well.

Chair Jennifer Nash: Yay. All right. So, thank you for this. And after we are able to... I guess I'd say I don't know if there's a rush to have this done in December, but I think getting it through the legal – I'm calling it legal sufficiency – but the legal review through DOJ. Once that's done, then we present it to the commission for approval. So, hopefully we can get that done before December, but if not, I think it's okay, unless someone strongly disagrees with me, to take this up in January. But thank you again for your hard work. Any other questions or comments? All right. All right. Let's see, we are far ahead of schedule, which is wonderful. So, I don't know if...

Jessica Kampfe: David Martin is here and ready to go...

Chair Jennifer Nash: Oh, perfect.

Jessica Kampfe: ...if the commission's ready to hear about FCMS.

Chair Jennifer Nash: Yes. That'd be great.

Jessica Kampfe: I said that, but then he didn't turn his camera on. David, are you sitting at your desk and ready to go? Not hearing from him. We can pivot and do the director's report first, if that works for the commission.

Chair Jennifer Nash: Yes, that would be just fine. Thank you. Bye, Alton. Thank you.

Jessica Kampfe: All right. Thank you. Mara, if you could help me in pulling up the slides for the director's report? So, here we're looking at really doing an overview of some upcoming dates and then just talking through some of the work that we have been moving forward. So, next slide, please. Upcoming events. We are in the final portion of our strategic planning and adopting a strategic plan. We have provided a copy of that strategic plan to commissioners and asked for feedback this week. We've gotten feedback from at least three commissioners, which has all been super helpful, and we have been able to pass that along to our team. We are planning on sending out a public survey tomorrow. So, commissioners, if you have stuff you want to get to us before the public survey goes out, that would be great. But want to let you know that we are intending on sending it out for a public survey on November 14th, so that we can get public comment on our strategic plan and be able to integrate both the commission feedback and the public comment into the final product that you all will see.

Our upcoming December commission meeting is in person and in Portland. It will be at the Benson Hotel and align with Oregon Criminal Defense Lawyers Association training event, and so we hope that we'll have a lot of public defense practitioners that are able to be there in person as well, and to have

really good interaction with the commission. We will do this as a hybrid meeting, so for folks that are not able to be there in person, there will be a remote option available. The OCDLA does have a dinner that night, which is an event that they host, and the commission is welcome to attend and to join. And then as discussed earlier, we are preparing for the December Legislative Days which will be December 10th through 12th. Next slide, please.

I wanted to just highlight some of the workgroups and activities that the commission has been working on. So, there is an ongoing Public Defense Workgroup. This was organized by the Governor's office, and it includes a bunch of policy leaders in the Governor's office, in the Legislature, a number of our commissioners, representatives from the public defense community, the district attorneys, the Oregon Judicial Department, and I'm sure people that I'm forgetting. We are really trying to work on short-term solutions to the unrepresented crisis. We have a small workgroup that is convening later this week. The next large workgroup meeting is November 20th, and then we'll have, I think, a final meeting of this workgroup in December. We are hoping to work through some potential solutions in small group that we could then build consensus and priority around when we come to the November 20th meeting.

We are working on our transition to the Executive Branch. We land in the Executive Branch on January 1st, which is really, really fast approaching. The Governor sent us a letter outlining some of her expectations for work that we will accomplish by the time that we are in the Executive Branch. The first deadline for that work was November 1st. So, the expectation was that we would be able to provide the Governor with an organizational chart. You all have just approved that organizational chart. We did send a draft of it to the Governor to meet that November 1st deadline, and we will let the Governor's office know that the commission has adopted and approved it. They wanted an update on where we're at on provider payments because the Governor's office had heard from a number of providers about the lengthy payment times as very consistent critique of the agency's performance. We were happy to be able to report that those payment times have improved and have been able to maintain steady for a few months now.

We also reported to her office on our House Bill 4002 staffing updates. So, the Governor's office wanted to know with the positions that were allocated to the agency in the spring when the Legislature passed House Bill 4002, how's it going hiring those positions. We have hired all the attorney positions for the State Trial Division. We are working on recruiting and hiring for case managers and legal assistants. There was also a number of contract positions that were available for hiring, both for lawyers and for case managers, and so we updated the Governor on where all that hiring was at. And the Governor was looking for a summary of cases handled by the Oregon Public Defense Commission State

offices, and a comparative summary that showed how that compared to cases being handled under our contracts by nonprofits and private bar public defenders. So, we were able to provide a comparative analysis of caseload for the Governor's office.

Our next deadline is coming up December 1st, and what the Governor's office has asked for is a report on whether or not the agency is adopting the Department of Administrative Services information technology enterprise services, so Executive Branch IT support is what that is, or if we were going to be doing things in-house, and also an explanation for aspects that don't suit our particular business needs and why we might want to do some things in-house. So, really, a comprehensive overview of our IT transition, where we're at on adopting OregonBuys as our procurement and contracting service and establishing contracts for legal services to public defense clients. And I think Commissioner Harris asked about where we're at on that earlier in the presentation, so a summary of where we're at on that is going to be part of the documents provided to the Governor in two weeks to meet that December 1st deadline.

And then the last thing that's coming up for December 1st is an overview of our human resources policies. So, what are areas where our human resource policies differ from the Department of Administrative Services' Chief Human Resource Office, as well as any negative impacts to operations or compensation associated with adopting the Department of Administrative Services policies, and an explanation of the benefits of keeping the Oregon Public Defense Commission policies as is, or whether we should transition them to Department of Administrative Services policies. This is an interesting area because although we are transitioning to the Executive Branch, Senate Bill 377 carved out an exemption for human resources. So, we're exempt from something called 240, and so she is really asking for an analysis of where we are going to align and where we are planning to exercise that exemption and why we would make that choice. So, our IT team, our procurement team, and our human resources team are working on those deliverables to be able to get them to the Governor's office.

The next thing I wanted to touch base on is the Accounts Payable Workgroup. That workgroup is ongoing, and we most recently met on November 7th. We're planning to meet again in December and then every other month moving forward. We've accomplished a number of tasks associated with assisting to process to have clear processes and better communication. And so far, participants have expressed that it's been a positive experience to work in that workgroup. Some of the specific feedback that we've incorporated into changes is we've updated forms that may have been lacking information. We've made some changes to our internal policies. We've shared more information via our

weekly newsletters so that we're increasing our communication. We've discussed improvements to general communications to providers to relay any upcoming changes, like how we might communicate about upcoming policy changes. And overall, people seem to be having a positive experience, having a voice in the process and a space where they can identify those concerns.

We are updating our public records request policy. So, this commission saw, I believe in March, an updated public records request policy. We have since hired a new team member who comes to us with like 20 years of experience in this area with Executive Branch experience. She's had an opportunity to review our existing policy track, what's happening with statutory changes at a statewide level, and help us to expand and update this policy. So, we are expanding. As we move to the Executive Branch, we are approving a public records request policy that will add clarity regarding the process to request and receive public records. The main items that are updated are expanding the policy to cover more records request process than just fees and costs. The policy now outlines statutory timelines and date requirements, as updated. And we're removing confusing language about waiving the first \$25 dollars or first 30 minutes from the policy, and now it's going to state that there is a flat fee of \$25 and not a variable depending on the employee who does the work. We're adding language about needing to pay before records are processed and released, and we're adding language about possible redactions and exemptions that might be covered in a cover letter on public records requests. So, hopefully that will clarify our public records request process for people who are seeking public records from the agency.

We had office hours for our Public Service Loan Forgiveness new policy to talk with people who might be interested. On October 29th, we had 24 participants. On October 30th, we had 14 participants. We have been following up on the questions that folks are asking and updating our Frequently Asked Questions page. The sessions were recorded and are available on our website for anybody that couldn't attend but may want access to that information. We had a Financial Case Management Services open house on Wednesday, November 6th. That was in person at our Commercial Street office and there was virtual attendance on Zoom. We had 46 people, 15 of whom were in person. So, that was a really good showing. The recording is up on our YouTube channel, and I would just note that we got a lot of great questions, and it was a really good learning experience for us to participate in that. So, a big thank you to everybody that attended that open house. Next slide, please.

Wanted to let you all know that we were down in Jackson County on October 21st and 22nd to talk to folks there about the unrepresented crisis in their community. And while we were visiting, we met with public defenders, district attorney, presiding judge, trial court administrator. We got to go watch the

assignment process in court. And out of that, we came up with some ideas about ways in which we can triage the unrepresented problem, and I've been moving forward with implementing those ideas. One of them was an early disposition court, and so we're thinking about ways in which our Trial Division can help support and staff an early disposition court for Jackson County to keep the unrepresented out-of-custody numbers from growing. We're also talking to the district attorney's office about using that database that the Oregon Judicial Department previewed for you all to think about ways in which we could do targeted resolutions for particular case types, and maybe work down some of the backlog of those cases on the unrepresented list. So, a big thank you to everybody who met with us when we were down in Jackson County and donated your time and energy in talking with us. It was a really good and fruitful trip for our team. I think that is it for my director's report.

Chair Jennifer Nash: Thank you. Does anyone have any questions? Commissioner Buckley.

Peter Buckley: Yeah, just a comment. Jessica, I think you've been doing this job for two years, and I just want to express my appreciation. You stepped into a very dysfunctional situation and now we're seeing here in November of 2024 and receiving just comprehensive reports that the work your team is doing is outstanding, and the outreach and communication is night and day as well. So, I just want to express my appreciation.

Jessica Kampfe: Thank you very much, Commissioner Buckley. Two years this week, so thank you.

Chair Jennifer Nash: Yeah. Agreed. As you were giving your presentation, what I was thinking about is how we had no policies or next to no policies when you started two years ago, and how much work you and the staff have put in to make this a professional agency, and an agency that's transitioning to the Executive Branch with policies in place that are in line with other Executive Branch agencies. And especially given some of the difficulties that we have had in the feedback that we've heard regarding different treatment for different entities based on varying/no criteria, having policies put in place to address issues to make sure that people know what to expect, are dealt with uniformly, have uniform policies is just tremendous change and very, very much needed and really appreciated, and all of your hard work and your team's hard work. All right. Any other questions or comments or concerns about that? Okay. Fantastic. Let's move on.

Here's what my plan is. We have one more thing on the agenda, which is the FCMS, and then we have the Local Court Spotlight. We have a break that's scheduled for 11:15, but I think what I'm going to do is have the FCMS report. Then we're going to take a break and it's going to be a long break until noon because we can't move up the judge who's presenting because he's doing that

during a break. So, we'll take a break after the FCMS report, and then we'll come back at 12 o'clock to hear from Judge Peterson from Clatsop County, and then we'll adjourn.

Mara Hoaglin: Chair Nash, can I interject very quickly? I reached out and Judge Peterson is available to join early. If you would prefer that he join at 11:25, he can do that.

Chair Jennifer Nash: All right. Well, let me ask commissioners, would you rather just work through and not take a break? All right. Everyone's saying yes. All right. Let's do that. So, yes, let's have him join at 11:25 and then let's hear our FCMS update now. And thank you for doing that, Mara, I really appreciate it.

David Martin: Thank you, Chair Nash, Director Kampfe. My sincerest apologies for my tardiness. It has been a crazy morning, so this is not how I like to start things with this presentation, but here we are, nonetheless. So, yes, Mara, next slide. Just high level, this presentation will be a high-level presentation. To Director Kampfe's comment, we had a successful open house. I feel like I'm YouTube famous, this is a new thing for me. That was a neat engagement. I really appreciate the engagement from our providers. We had great questions, great conversation. I look forward to doing it again as we move through the phases of this project. But again, I'm just here to highlight where we are today and you're going to probably see some repeat from last month.

So, onto the Accomplishments. A lot of this is around procurement. We have the first one, Moss Adams, they're concluding those interviews, but the RFP, the Budget/Scope/Schedule, and number four, the Procurement, those are largely procurement activities. On the topic, and I know that there's a lot of interest around where are we on our RFP and who's asking, who's showing interest, I'm going to be unable to answer those questions. If there is a question from the commission, I will be happy to take those questions, but I'll be directing them to our procurement officer here at the agency for really any sort of circle back to those questions. But the short takeaway from this this slide is, at least from a procurement standpoint, is that we are on track. There is that last piece there, the procurement addendum. We do have an addendum that we're going to be resubmitting out to OregonBuys that I'm closely tracking that is being managed and is being directed by our procurement officer here at the agency. And really, it's just around cleaning up some language. She came onto the agency a few months ago, and so she's just getting her arms around some of the language, but it's nothing that's of significance other than just want to make sure that I'm being transparent on what's happening out in that space. Next slide.

Next Steps. We're actively, like I said, receiving bids from vendors. Change management is still running through the end of November, and I think probably the one change that you're going to see from this presentation from previous



ones is I'm now beginning to talk about Stage 3, which really is around producing the project artifacts. That when we submit to our IT governance or our project governance group from the State of Oregon, they're the ones that are tracking and vetting and validating that we have a good implementation plan, that we're tracking things around budget, that we are addressing project risks, project schedules, project resourcing. But this is the next phase, and so we're already actively underway in Stage 3. And again, there's no risks that I'm tracking at this time around Stage 3 things. We're moving at a healthy click and pace. Next slide.

Risk Governance. This is largely a repeat from my last time I got to present to you folks. The same risks remain. We are continuing to mitigate Stage Gate 3 review with our Legislative Fiscal Officer, DAS, and EIS. And again, I think I got feedback from last time, use a lot of acronyms. So, EIS, that's enterprise information services. That is the umbrella IT organization within the State of Oregon that serves all State agencies for which we are under. So, EIS is that main portion for which we are working through the project governance portion of FCMS. So, we're still working with them. Bond funding – nothing new to report other than what I shared last time. We have submitted the things we've needed to submit, and we will wait to see what comes out in the Governor's budget.

From the schedule standpoint, the one thing that I'm tracking just because it's topical for where we are in the year is we have subject matter experts. That's what SME stands for – subject matter experts. We are in the season of Thanksgivings and Christmases and times away from the office, and so we're just managing making sure that we have the right people in the right place at the right time. Next slide. Schedule – Critical Path. We don't have a lot of meat on this schedule. There's not a lot of buffer. But that said, we continue to be moving at the rate and the click we need to. The one thing that I would probably circle as notable for something to be watching for, unfortunately, it won't be done by the time I get to present in December, but really it's going to be that December 20 date line. That's the final date in which all vendors that are interested in providing this project a solution, that is the final date in which vendors have to have everything that be submitted by. So, that's what we're really working towards. I don't have really anything more to add to this slide other than just that color analysis there. Next slide.

Procurement Timeline. It really just follows the things that I've been talking about for the last number of months. Here we are in November. We're in the process of managing solicitations from vendors, as I previously said. Jana Hart, our procurement officer, she is the one that's largely taking a lot of the leadership there, but we're continuing to still work with our procurement contractor who's been with us from the very beginning. So, we have resourcing

at procurement well in hand, and again, you can see that that milestone around December 20 is when we're really going to be looking to make sure we finish this section of the timeline well. Next slide.

Status. This is, I think, a rinse and repeat from last month. Again, we're a bit in a holding pattern until we get through the vendor proposals, right? So, we're kind of in a holding pattern. So, from a project status perspective, nothing has changed. As I mentioned previously, the schedule has very little buffer around tasks and milestones, but we continue to be meeting the schedule at the time we need to meet it. Budget status until our bond funding has been approved, it's going to remain yellow. Schedule status, we have multiple milestones and just a number of vendors and activities in play, and it's going to remain yellow until we have some of those or all of them completed. So, as I mentioned, that last piece there, the Stage 3 work, that is in process. No risks to mention at this time. But again, I'm watching very closely the schedule. And then the resourcing, as I previously mentioned, we are just working very closely with the resources that we have. We have enough, we don't have an abundance, but enough is enough. So, we're moving in that space. The scope status, low risk. I want to call this out. We completed our Stage Gate 2 last month. This will be the last time you'll see that mentioned. In the next commission report, we'll be talking about where we are in Stage Gate 3. Next slide. And I'll happily open myself up to questions.

Chair Jennifer Nash: Are there any questions or comments, concerns? All right. Well, once again, Mr. Martin, thank you very much for your presentation and your hard work on this. This is a huge success for the agency and the timeline is just rocket. And you've done, just you and your team, a wonderful job making sure that we stay on track. Thank you. You have our deepest appreciation and gratitude.

David Martin: Thank you, Chair Nash. It's my pleasure.

Chair Jennifer Nash: Thank you. All right. We have Judge Peterson coming at 11:25. Let's take a little break until then, just a quick six-minute break. Please be back at 11:25 and we'll start up again. Thank you.

[No dialogue 02:19:30 to 02:24:00]

Chair Jennifer Nash: Hi, Judge Peterson. We took a quick little break. Everyone's going to come back at 11:25, so any minute, and we will be ready for you for your presentation. Thank you for joining us.

Judge Beau Peterson: Sure. Happy to do it.

[No dialogue 02:24:15 to 02:24:54]

Chair Jennifer Nash: All right. It's 11:25. If I could have commission members turn their cameras on so I can make sure we have a quorum so we can get started. Soon as we have one more voting member, we can get started.

Floyd Prozanski: Madam Chair, I'm just going to suggest that I believe you can actually go ahead and start meeting because this is not an action item. This is informational only.

Chair Jennifer Nash: Thank you.

Floyd Prozanski: If you need to.

Chair Jennifer Nash: I will remember that next time. You've told me that before and I've forgotten. So, thank you for reminding me. All right. It is 11:26, so we will go ahead and get started. And Judge Peterson is here from Clatsop County to provide us with a Local Court Spotlight for Clatsop County. Judge Peterson.

Judge Beau Peterson: All right. Well, thank you. And thank you, everyone, for giving me a few moments to chat with you about how things are going out here. Don't think I know too many folks in the meeting. So, as Chair Nash said, I am Judge Peterson. I've been on the bench out here for almost five years, it'll be five years in January. To give a little bit of background for those who may not know a whole lot about Clatsop County, we are the very northwest corner of the state. County seat is Astoria. So, if you think about where the Columbia River hits the Pacific Ocean, that's us. We're about 40,000 people, we're about two hours from Portland, sort of a little bit of a basic background. Our case counts do generally run higher than other counties our size because of tourism. We've got Astoria, obviously, draws people, but so does Seaside...is in our county, as is Cannon Beach. And so Cannon Beach is a town where your full-time population might be 2,000 people, and on a busy day in the summer, there might be 25,000 people. So, our statistics will look a little odd for a county of our size, but that's kind of just what we live with and deal with.

Our current situation, to give a little bit of a status of where we're at with the unrepresented issue, as of today, we're doing better. I'm not optimistic that that's going to continue, and I want to give sort of an explanation about that, unfortunately. So, as of today, I think there's about 50 unrepresented people on our unrepresented list, somewhere in that range. We added a couple of attorneys about a month ago, I want to say beginning of October, but we're losing one at the end of the year. He got elected to be the district attorney of Lake County, so he'll be on his way down to Lakeview in mid-January...or mid-December. That has helped us clear a lot off of our backlog. We were able to clear a lot of probation violations that were sitting on the unrepresented list out of there. He's been able to take those and cases that the DA's office agreed

were diversion eligible and other charges would either be dismissed or subject to a conditional discharge. I've got, I think, tomorrow afternoon scheduled to do 10 or so cases of those with him to try and get those resolved.

And so at the moment, we're looking better. Like I said, about 50. Our average has been closer to 100 to 120. And to put that in a little bit of context, I think per capita numbers can help. Obviously, we run, like I said, more than our population, but if we're at 120, where we've been and where I think even the September number was, that is 1 unrepresented case for every 340-odd residents of Clatsop County. Multnomah County, at the moment, is 1 unrepresented case for every 927 unrepresented residents of the county. So, in a per capita basis, although the raw numbers aren't near as bad as Multnomah, per capita not so great. We don't come close to Jackson. Jackson still leads, I think, the whole state, I'm sure you guys all know that. They've got their own issues, and so we're not going to hit them. But we've been struggling, I guess, would be the best way to put it.

Even with Mr. Charas here, I'm probably short one attorney. I don't appoint counsel at out-of-custody arraignments at the moment. They get put on the list and taken off the list based on our own priorities, which at the moment prioritize for out-of-custodies which are primarily misdemeanors, some felonies. So, we're prioritizing restrictive release conditions. So, if it's a domestic violence case and the victim has written a letter saying, "Hey, I want to have contact with my husband," we try and get that person an attorney first so that we can hold that hearing with that person represented. DUIs, other person misdemeanors are going to be up on our misdemeanor list. B and C misdemeanors are not, and I've made sure the DA's office is aware of that to hopefully counsel them to at least think carefully if they're going to file a standalone B misdemeanor, a disorderly conduct, or a harassment, or something of that nature. When Mr. Charas leaves, I could probably use two attorneys. Realistically to cover everything, that's what I would need.

As far as sort of how we're set up currently, we are a consortium model. We don't have a nonprofit. We don't have a PD's office. And if everyone, or if the plan that I've heard is ultimately to move to state-funded PD's offices as a smaller county, my guess is we're going to be further down the list as far as getting one out here and getting it staffed. I don't know what the plan is for that, but we've been a consortium model for a while, and we've got good providers. They're dedicated, maybe a little too dedicated, which is going to lead to some of the future concerns that I've got, and I just kind of want to highlight a few things here. But that's kind of where we're at as far as how we've managed. So, it's getting better, but I expect when Mr. Charas leaves, that the list will stop shrinking and will probably go back to growing or grow slower than it was. We've had some challenges with health issues for some of our attorneys.

Colette Cameron was out here, and I don't know if everyone knows, but she suffered a major health issue and is not practicing. We've had a few things like that that have taken folks off of our provider list. So, let's see here, I've got notes to make sure I don't miss anything.

Managing the crisis has resulted in roughly a halftime position for court staff, as far as what we need to deal with that. We're talking about scheduling extra hearings. We're talking about extra work for our pre-trial release officers to make sure that folks are making it back to court for attorney status checks. We were for a while running closer to 60 or 90 days with folks not getting a lawyer, and so we were setting an attorney status date out that far. That's a long time to not lose track of somebody, and so our pre-trial release staff was trying to stay in touch with them. That was extra staff time to coordinate the appointments, to find attorneys for folks that are unrepresented that our local bar would never be able to take, which can occasionally be an issue. And then also, just frankly, data keeping, submitting data, making sure that you guys have good data to help with the problem. That takes staff time. So, I guess my current concerns are there.

Talking a little more long range, like I said, I think my list is going to start growing again, probably not until after the first of the year. Maybe February, you'll start to see it start ticking up would be my guess. And recruitment out here is difficult. I guess I'm going to get a little personal. I don't understand why it's difficult. I love Clatsop County. I can't imagine why people wouldn't want to come live here. It's beautiful. It's a very nice pace of life, but ultimately recruitment has been a challenge. When we've had empty spots, it is difficult to find someone who wants to come out here. I think there are some reasons for that, and I'm going to highlight a few of those. To be fair, I've talked with our local provider a lot. I've known...head of our consortium is Kris Kaino. I don't know if anyone knows Mr. Kaino, I've known him for almost 20 years now. We get along pretty well. And so we've talked about what he thinks some of the issues are, and I've watched what I think some of the issues are. Pay is always going to be an issue. If you can make more in private practice, drawing someone to more public interest work can be a challenge. But even with that, as you raise pay and try and fill the openings in the Valley, those are usually going to be where folks fresh out of law school want to go. Young folks seem to prefer the Valley, where there's more going on in Portland and that type of thing. So, that is always going to be an issue.

And getting a more established attorney out here has been very difficult. In part, it seems to me – and I've talked to some attorneys as to why maybe they're not interested in it – because of the uncertainty of what's going to come next, I guess, is how I'd put it. I understand that ultimately the goal is to move to some extent away from the consortium model, but when Kris can only tell

people, "Yeah, I can guarantee that contract for the next year or two years," that's really hard to ask someone to uproot their life and move out here and cover some cases, not knowing what the next model looks like. I don't know that you're ever going to get away from some private providers, frankly, just because of conflict issues. And so I know that you can say that, but not knowing, yes, there's going to be a contract that'll cover these things or pay these things for this kind of time, I think, makes recruitment really difficult.

I also was a little surprised to find out that there's help with recruitment, but there's not financial help with recruitment. So, if Kris is recruiting someone, he's out of pocket for those postings, for the ads. I know he paid one, one of our more recent folks came from Montana. Apparently they love the area, vacationed out here, and were excited to move out here, but he still wound up paying moving expenses, and I think at least initially out of pocket. I don't know if OPDC eventually kicked them back, some have not kicked back, but helped with some of that, but I know he was out of pocket at least initially on that. So, I know that those are things that can make it difficult for him to recruit. That uncertainty also, frankly, factors into the stress level for the attorneys out here. I can tell that they're very stressed. We do our best to make practice easy. Even out of the pandemic, we've left a lot of remote hearings available, especially because we've got so many folks that pick up a DUI when they're here on vacation and live in Portland. We try not to make them drive out unless it's a truly substantive hearing. And even if they're [Inaudible 02:35:27] conversion, frankly, you do most of those remotely. So, we try and make it as easy as we can, but I see the stress level on the attorneys just because they are running at capacity or actually slightly over, and I'll get to that in a moment, and they don't know what comes next.

I know that their contract is up in June. Kris tells me there's some discussions...or maybe it's July, but this summer. So, I know there's some discussions of a short extension, but no one's really sure what comes after this run of the contract, and I know that's increasing their stress level. As far as that capacity, the attorneys who've been here for a while, there's three attorneys who've been here practicing long term, and then Kris has one who's been here about six months, and then two have been here about two months. The ones who've been here for a while have really stepped up when we've had folks who needed an attorney, but that means that they're over capacity. Most of them are over by at least a month. Kris tells me he's over by four, give or take. And one of the things that keeps me up at night is I don't know what the plan is as we transition into the next contract, or as we even approach the end of this contract.

And I understand that the idea was to keep them to their monthly MAC, but I'm going to tell you now, they're dedicated public defenders, and if no one else was

going to step up and take that Rape I that was in custody, they did it. And Kris has taken some hourly, but I know he's over because he's taken some of the Jessica's Law cases that came in that weren't going to get covered otherwise. And so I'm curious what comes next. I don't know if the idea is moving straight to hourly, if as they finish their contracts, it's going to be just hourly, or if there's going to be more fee-for-service type work. I can tell you if you go straight to hourly, that they're not going to be particularly interested in misdemeanors. I've talked to them about that. The administrative load of tracking hours and billing on a misdemeanor is not going to entice them when you're talking hourly. Measure 11s, where there's real work to do, Burglary I's, sure. But I don't think they're going to be real keen on taking Assault IVs or misdemeanors if it goes straight hourly. So, that keeps me up at night a little bit.

And I don't expect full answers today. I just wanted to highlight some of the things out here in Clatsop County we are dealing with and worried about and wondering where we go next. Because not knowing is stressful, I guess, is what it comes down to. I know it's stressful for the attorneys. It's stressful for me. And then, I'm sure it is stressful for the folks who are on our unrepresented list, wondering when they're going to get a lawyer, and that's been tough. I do want to say that it did take some time, but the folks that our local folks could not cover it all, OPDC did ultimately help us, and we found attorneys for all of them. We've been sending weekly emails of a list of about six or seven folks that due to whatever reason, either conflicts or had already had a relationship breakdown completely with the only attorney that they could have in the county, were just on a list that we were never going to be able to cover, and we did ultimately get all of those covered, which has been a load off my mind, and so I do want to say thank you for that. That was very useful. My staff calls around, but those are folks that we weren't going to be able to get covered without some help. So, I don't want to just come complain. [Laughter] I know that it's a big problem. I know that we're not the biggest county, but those are kind of the concerns that I've got. With that, I'd be happy to answer questions if anybody has any.

Chair Jennifer Nash: Does anyone have any questions for Judge Peterson? Commissioner Lininger.

Tom Lininger: First, your former evidence and legal profession professor is proud of all you've accomplished.

Judge Beau Peterson: I appreciate it. I saw your name on the list, and I was thinking, "I haven't seen Professor Lininger in a long time." [Laughter]

Tom Lininger: Well, I was really fascinated to hear you talk about the difficulty of recruiting to Clatsop, and we recently heard a presentation by a judge who said the same thing about Coos and Curry Counties. And you began to discuss what incentives

might possibly help, but I wonder if you could go into more detail. I mean, what's it going to take? Is it loan forgiveness? And then do you worry that that'd be recruiting people at the younger end of the spectrum, so they might not be able to handle the full range of cases? What do you think? If we or the Legislature were trying to come up with a comprehensive plan for adequate staffing on the coast, what do you think it would take?

Judge Beau Peterson: Sure. I think loan forgiveness would help. Yes, you're probably going to start with folks who are at the younger end of that spectrum, but the programs that are out there primarily require quite a few years of service, so they're going to get the experience fairly quickly to be able to move up. It's obviously not a perfect solution, but I think that would help. As judges, we have talked about trying to put on a little bit of a traveling roadshow to the law schools to try and convince people that living outside of the metro core in Oregon is not near as bad as they may think it is. I don't know how effective that would be.

As far as incentives, it's really tough because you've got to have someone who's willing to move to a smaller area. Depending on how small, the dating pool may be very, very shallow. And that matters. I mean, if they're not attached, moving somewhere where there's far fewer options for nights out and ways to meet people is a challenge. And so I don't know all of the answers. That's what we've talked about. I do think that coming and doing presentations at the law schools may be helpful, at least opening people's eyes to it. Judge Hung out in Malheur County, when they get people out, when they get an intern out, they try and put on a nice little show to show them that there really is a lot going on, introduce them to a lot of folks. I haven't had an extern in several years. I externed out here. Well, volunteered, frankly, for Judge Brownhill back in law school. But it's hard to even get folks to want to come out to do that, so I'm not entirely sure where those answers are, but you're hitting the right questions at least.

Chair Jennifer Nash: Thank you. Commissioner Reinhard.

Brook Reinhard: Thank you. And thank you for this presentation, Judge, I appreciate it. So, with your court, what would be your recommendation if OPDC was trying to set up a trial office and the thought was maybe they can hit more than one county at the same time? In other words, how do you feel about sharing resources with Columbia or Lincoln or counties... I know they're not actually nearby, but as far as what else is out there, it's nearish. I lived in Astoria for a summer, so I'm somewhat familiar with the geography.

Judge Beau Peterson: Sure. Well, closest next county seat's Tillamook, you can be there in about an hour and 20. St. Helen's, Scappoose area takes more like an hour and 30, depending on log trucks out on 30. I don't think there's an issue necessarily with sharing resources, but if you're having people cover more counties, that's just



physically more time, right? We do our best to make things easy. I've got Washington County attorneys that are helping us out, and so they do a lot remotely and I'm happy to let them do it remotely. But I don't think there's an issue with sharing resources. Just you've got to put enough resources in place if you're going to ask people to drive from here to Tillamook for hearings now and again. You're talking about an hour and a half out of their day each way, and that's not a small amount of time. We don't have the traffic issues that the Portland metro area does. It's just more of a distance issue, I guess. But I don't think there'd be an issue with sharing. I think it's just you're going to have to put enough resources out there to cover.

Brook Reinhard: Sure, thank you.

Judge Beau Peterson: Yeah.

Chair Jennifer Nash: Thank you. Commissioner Mandiberg.

Susan Mandiberg: Hi, Judge Peterson. Thank you for your presentation. I noted what you said about if we move to hourly basis, lawyers won't want to do misdemeanors, and I assume that's because the hourly pay for misdemeanors would be less than for felonies?

Judge Beau Peterson: I think that's part of it. I also think just the most folks that I know that went into criminal practice, and I'll own it, I was a prosecutor for the most part. After law school, I did spend about six months at a family law firm. One of the appeals of going into criminal practice is you don't have to do hourly billing on a regular basis. Prosecutors never really track their time except in child support. Even private retained attorneys are mostly earned on receipt. The ones that I know, they take the retainer, and it's earned on receipt. And yes, there's some record keeping. In case you don't finish the case, you have to return some. And then indigent defense, yes, there's things they have to do paperwork wise, but if you're asking them to fill out sheets to track hours for billing on a DUI, I think the administrative load is just going to make it not seem worth it to them. I've heard that certainly from some of the older attorneys who are qualified to do Measure 11s, and they say, "I'll take the Measure 11s. I don't want to do a misdemeanor for hourly because it's just too much paperwork to get three or four hours' worth of time paid back."

Susan Mandiberg: Yeah. And of course, there'll be hourlies for felonies and Measure 11s also.

Judge Beau Peterson: Mm-hmm.

Susan Mandiberg: So, if there were some support provided for the administrative tasks, if there was an easy way to keep track of hours. I mean, I worked for a very short period

of time at a private law firm after I had been a public defender, and I also hated keeping track of hours. But if there was an easy way to keep track of hours and some administrative support, whether in person or financial support for doing that, do you think that would make a difference to people's willingness to take misdemeanors?

Judge Beau Peterson: I think it would help. The easier you make it to bill your time and get paid for it, the more likely you're going to get people willing to do it. And certainly administrative help would not be unwelcome because they've got legal assistants, but for the most part, their legal assistants are preparing files, they're organizing a discovery, they're organizing time with the folks. I'm sure they're filling out the paperwork for the investigator approvals and expert approvals and all of that. But if you want to add tracking time and filling out the billing time to that load, you're probably talking about an extra, I don't know, it's hard for me to guess because I wasn't really in that world except for my six months in family law, but you're talking about a pretty substantial extra chunk of time for someone to fill that out and send it in, at least the way things are done now. So, the more support you offer, I think the more likely you'll get folks to do it. The younger the attorney, probably the more likely they'll be willing to change. Old dogs and new tricks and all of that.

Susan Mandiberg: So, support could be secretarial support, not something as high as a trial system. But one more question. So, we've been talking about demand side.

Judge Beau Peterson: Mm-hmm.

Susan Mandiberg: And there's also the supply side.

Judge Beau Peterson: Mm-hmm.

Susan Mandiberg: And so is there any discussion at all, or could there be discussion in Clatsop County with the district attorney's office to exercise more discretion on which or how many misdemeanors are charged? I mean, the other way to deal with the misdemeanor problem is the supply side of that problem.

Judge Beau Peterson: Yeah. And so I talk to them regularly. The current elected was my chief deputy for 10 or 11 years, I've got a good working relationship with him, and he does talk to his deputies about using that discretion. I can tell you, I look at our list and my directive to my staff is if it's a standalone B or C misdemeanor, that's bottom of the list. There are not that many of them. So, what we're talking about are a lot of Theft IIs – frankly, we do have a lot of shoplifting that happens at our Walmart and at our Fred Meyer's – and domestic assaults and DUIs and Hit and Runs and Reckless Drives, and those are hard to ask them not to file. If they're there. Do you know what I mean? If it's a Domestic Assault IV, that's a

tough one to say, "Don't file that." If it's a DUI and they're a 0.15, that's a tough one to say, "Why are you coming to court on this?"

Susan Mandiberg: So, I'm going to excuse my ignorance of the system in Clatsop County, although I love spending time in Astoria, so I agree with you, it's a great place, but any possibility for special courts or diversions or things that, again, mitigate that pressure on misdemeanors?

Judge Beau Peterson: Yeah. We have specialty courts, but they're primarily post disposition. I don't know that with the current DA, you're going to sell a predispositional court. I don't know how much longer Ron has, but it's not a big push for him. He's been involved with... We do have a deflection program that is stood up. I don't know how many people have gone to it yet. He's been supportive of that, and I think it's in part because he knows there's not likely to be attorneys for a standalone PCS at this point. But predisposition would be a tough sell with him, I think. If it was real tightly structured, maybe we could do a little bit more of that. We've tried a little, this was years ago. We tried a little bit of predisposition. I run our mental health court, and when Judge Matyas ran it, we tried a couple of predispositions, but those get so difficult because they probably should still be represented. You don't want them talking about the charges in case they don't actually make it through. There's a lot of hurdles to some of that, at least with a specialty court model.

Susan Mandiberg: Thank you very much. Appreciate your answers.

Judge Beau Peterson: Yeah.

Chair Jennifer Nash: Any other questions? Oh, Director Kampfe.

Jessica Kampfe: Not a question. I just wanted to share some information. I know we talked about rebalancing money out of the contracts, and I just wanted to flag that we have set aside the ability to hire one more position in the Clatsop County consortia, so that is money that we're holding for that recruitment, and I know that the consortia administrator is actively trying to recruit for that position, so we hope that he is successful.

Judge Beau Peterson: I appreciate that. I know we know we need one more. I was pretty sure you guys would fund it if we could find one, so I appreciate hearing that for sure.

Chair Jennifer Nash: And Judge Peterson, would it be helpful for you to have Director Kampfe and some of her staff make a trip out there to kind of have a more nuts-and-bolts discussion about operations and plans going forward and those types of things?

Judge Beau Peterson: You know, we had a pretty productive Zoom meeting, I want to say 60 days ago, somewhere in that range. I could see an in-person being useful at some point, but I would say when we have some idea of what is coming next, maybe that would be when it makes sense. Yeah, I've been enjoying the breath of having the extra attorneys than seeing the list dwindle at the moment, but I know that that's not going to stick. So, yeah, I could see it being useful at some point, but the Zoom meeting was very helpful.

Chair Jennifer Nash: All right. Well, thank you. Any other questions, comments? All right. Commissioner Harris.

Robert Harris: Thanks. I just had a comment on finding misdemeanor lawyers and they prefer to do felonies. And for my 20-plus years of experience doing both flat fees, earned on receipts, and hourlies, I can tell you that in talking to the consortia lawyers in my group who, when it came down to hourlies, said, "I prefer a Jessica Law case to a misdemeanor." And then Commissioner Mandiberg's question about extra staff, I would say that from a lawyer's perspective, it's a couple of things. Number one, you have to open a file for each client, and you have to go through all the steps, and that takes administrative work. And if you're opening 150 files versus 30 files a year, that's a big difference. The other thing is for many cases, you have many of the same tasks, but for misdemeanors, quite often it's a 20-minute task, not a two-hour task. And so if you have to keep 20 time entries every day because you have a huge misdemeanor caseload, there's no staff that can do that. It's the lawyer. The lawyer has to do all that timekeeping. Versus if you have a major felony caseload, you've got two-hour chunks or four-hour chunks, and the timekeeping becomes a real burden when you have a large misdemeanor caseload – on the lawyer.

I mean, even if you have a good FCMS system, it's going to be time on the lawyer, and so you have lawyers who just say, "I'd rather just have big chunks of time and have more interesting cases," then that's what's going to happen. So, I think from a lawyer's perspective who has done various types of billing processes, I guess I would say you're going to have many of the more experienced lawyers are going to much prefer the more serious cases. So, you are going to be faced with this issue if you go to complete hourly of lawyers not wanting to pick up a lot of misdemeanor cases. They'll pick up some, but they may not want to pick up a large caseload. Thanks.

Chair Jennifer Nash: Okay. Thank you. Well, thank you, Judge Peterson. Thank you for your time. And please, if you have questions, concerns, operational questions, please reach out to Director Kampfe or your analyst for your county, and we will provide whatever information we can as quickly as possible so that we can make sure that any issues that are coming up are taken care of. And we really appreciate

the long-term concerns that you have and flagging the ongoing uncertainty. You're...will not be surprised to hear the only person who has that concern. And it is a big challenge transitioning, following a legislative mandate to transition this system to the model that the Legislature has fashioned for us. But your point is very well taken about communicating that out to providers so that they know what to expect, and I have been thinking about that as you've been talking. So, we really appreciate your time and appreciate your presentation and please reach out if you have any questions or concerns.

Judge Beau Peterson: Mm-hmm. Well, thank you very much for letting me speak.

Chair Jennifer Nash: Thank you.

Judge Beau Peterson: Have a good rest of your day.

Chair Jennifer Nash: Thank you. All right. Okay. And with that, there is nothing else on our agenda. It is 11:55, yes, unless there are questions or concerns, we'll plan to see you all in December in person at the Benson Hotel, if you can make it. It didn't come up, but I'll flag it for Mara, if you need accommodations, overnight accommodations, and you have not already communicated that to her, please do that. If you're going to appear virtually, if you could just please let her know if your plan is to appear virtually or in person, that would be helpful. All right. With that, I'm not going to ask for a motion. I'm just going to adjourn the meeting. So, thank you very much. All right. Take care.