

Jessie Lenhardt: ...did a preliminary remapping based on NPDWS case type definitions. It's the most straightforward way to do some of that remapping of those case charges. Then what we did is we conducted a series of work sessions in order to refine how those case charges are mapped based on sentencing and based on kind of what's understood to be the attorney time involved in these cases. Really, again, to think about making the information as useful as possible and getting some good data around the number of public defense attorney providers that would actually be needed in order to manage these different types of cases. And then we're in the process of updating the report.

So, I covered at a very high level NPDWS has three different helpful criteria that can be used to map case charges to those case types. So, one is based on a description of what does this case charge include. One is based on sentencing. And another one is based on kind of a charge example. So, those case charges like theft, arson, robbery, those kinds of things. So, like I mentioned, the first round was made just kind of based on that descriptive understanding of how cases could be categorized in those case types. Then what we wanted to do is turn this over to kind of trial support personnel and OPDC folks in order to refine that mapping to take into consideration sentencing links and then the expected attorney effort to manage these different case types.

So, because we're internal auditors, we like to rely on a couple of different reference points and pieces of information. So, we provided a preliminary round of remapping, and then we also included, like I said, agency representatives, trial folks who have experience managing these types of cases and these case charges. And then we also brought in kind of Malia Brink, who was part of working on the Oregon project and has been really involved in the six-year plan and with the agency for several years. So, that is to just give you an update on the activities that were part of what has been involved in updating the six-year plan and then kind of give you an idea of where we're at and what's coming next. So, brief update. Any questions?

Chair Jennifer Nash: I don't see any questions. Well, thank you. That's very helpful. I know it's been a lot of work over the last few months, so we really appreciate it.

Jessie Lenhardt: Yeah, thank you so much.

Chair Jennifer Nash: We look forward to seeing the final report. All right.

Jessie Lenhardt: All right. Appreciate it.

Chair Jennifer Nash: Well, thank you. Okay. The update regarding the financial case management system.

David Martin:

Hey, good afternoon, Chair Nash, commission. My name again is David Martin, I'm the chief information officer here. I'm here to provide the update on FCMS. Next slide. Can we move on to the accomplishments slide, Mara? Thank you. Awesome. Perfect. So, the things that we've accomplished since I've last been able to meet with all of you folks, we've submitted our bond funding for the \$13 million. We are engaging, we had a kickoff meeting with Moss Adams on September 9th for change management. I do expect that we're going to have increased engagement come October as we get through this project into the next phase. So, I don't think I got to present last month. So, we completed Stage Gate 1 in, I believe, August. So, we are tracking right now, we are into Stage Gate 2, and that's very positive. At the time that we submitted slides, this data is accurate. Obviously, this is moving very quickly. And so it's crazy how information changes even between the submission of these slides and when I'm talking to you now.

So, looking at the round one, round two. So, we are in round two of edits right now, and it should be noted, round two is the final round. There's not a round three, there's not a round four. We are in the final days of Stage Gate 2. This is very exciting. And of the 18 artifacts that we have submitted to DAS for this process and Stage Gate 2, we have 12 of 18 approved already. So, we are tracking only six artifacts or project documents. So, again, very exciting to have that in route. I also wanted to call out, this was a significant lift in a notable thing that we completed legal sufficiency with DOJ for our RFP. I think there was some question around whether that was going to be 2 weeks or 4 weeks or 16 weeks. And we were able to really optimize and engage and partner with DOJ and see that done quickly. Yeah. And then the last item five, budget/scope/schedule alignment, we are on track. We wouldn't be in the final round of Stage Gate 2 if we weren't aligned. So, move on to the next slide.

Stage Gate approval, 10-3; RFP 10-4. Again, there's a little bit of a diff between this slide submitting and kind of reality. We did have a delta of five days adding to this timeline. So, I think I'd like to maybe re-articulate that Stage Gate approval will be completed first week of October; RFP will be posting the second week of October. And it was due to some resourcing around our IQMS vendor. It was just something that was outside of our control. But procurement activities start in October, and I'd also like to maybe restate that to say we're starting right now. Here we are in September. We are working with procurement right now to be strategizing, to be positioned and postured so that once RFP goes, we go. We are ready to go.

As I mentioned in the previous slide, we had a kickoff meeting with our change management vendor, Moss Adams, on the 9th. Once RFP goes out, we will be engaging. That's going to be a ramping-up activity. Governance meetings with our executive steering committee, we will now, once RFP goes out to the street,

we're going to have something to talk about. So, just be ready for that engagement, that re-engagement on an ongoing basis, on an ongoing cadence once RFP hits the road. And you're going to maybe hear this a few times in this presentation, but we submitted for bond funding, but we are still awaiting bond funding, and that will be a critical path item for posting RFP. So, we will be back-channeling that to make sure that we are in alignment with making sure that that's a successful activity. Next slide.

First one, EIS Stage Gate approvals, I think the main takeaway here is I wish I could bold the words "on path timeline." We are on the timeline. We are on the path timeline. We're doing it, we are tracking, and so that's exciting. Bond funding, again, we're going to continue tracking that as a risk. Until it's done, it's not done. So, we are watching that. The schedule, there's no slack in the schedule right now, but again, we're on the path timeline. I want to also call out how proud I am of my staff. We have two project managers and two VAs. They are professional. They are committed. They are passionate about this project. And when we get feedback from DAS on these project artifacts in terms of what needs to be changed or edited, they are committed to see that done extremely quickly. And we are as successful as we are because of the people that we've brought into this agency. So, super, super proud about that.

And then the LFO concerns around schedule, scope, and budget, just to call out again, we as an agency engaged the Stage Gate process in general, right, because we wanted to have that additional project governance oversight to make sure that we had all the things in place, we were moving in the right direction, that we weren't off in left field doing something that was not of value, or we were missing something that should not be missed. And so we have regular engagement with the Stage Gate team on DAS. And we wouldn't be talking about a September 26 executing of that final step of Stage Gate 2 if we weren't aligned. So, I feel we have strong alignment and I'm very excited about where we are. Next slide.

Critical, there's a lot on this slide. I think probably just the key takeaways, again, just to reiterate a few of these main talking points is we are on the critical path. And the RFP posting is happening. We are on track to have this done starting the RFP out to the street on the second week of October. And there are, like I said, I think we are looking at a delta of five days on this schedule between the posting of these slides and today, just again, based on some unforeseen, unplanned resourcing with IQMS. But I came to this agency six months ago, and to be talking in front of all of you folks about where we are on this project, to be able to say we're going to be hitting the RFP next month, is super exciting. So, I'm really pleased. So, next slide.

This, just another restatement of the same information. A red rectangle shows that we are currently in Stage Gate 2. The solicitation of RFP should begin early October. And then you can see kind of out into February in that body of work. And so, I mean, here we are, we're at that watershed moment here very soon where we get to really begin what I would consider the fun or the exciting or the important part of this project, where we get to engage vendors, where we get to vet solutioning, where we get to address the challenges of this agency, how we support our external partners, how we address the unrepresented crisis through this technology solutioning. So, I very much look forward to presenting where we are next month at this time. Next slide.

Our status, as I mentioned, we are on a critical path with no slack in the timeline, so for that reason, we're yellow. Until bond funding is completed, we're yellow. As I mentioned, we had some unplanned resourcing with IQMS that pushed out our timelines by about five days. That's why we've called out that red. But we've since course corrected, right? And then from a resourcing standpoint, I think since the last time I got a chance to talk with you folks, I've hired a second business analyst and a second project manager, as well as we've engaged Moss Adams on the change management side. So, we are really clicking on all cylinders moving and addressing things, pivoting very quickly to the nuances of where we are in the project. And in terms of scope status, just to reiterate a few things, we are aligned with DAS, we are aligned with the Stage Gate process. We have 18 project artifacts or project documents of which 12 are approved, so we're tracking 6 right now, and we are looking to have that well in hand by end of month. Next slide. Oh, look at that. We're done. What questions, if any, are there for me?

Chair Jennifer Nash: No questions from me, but just a general comment. I can't even begin to say how impressed I am with all the work that you've done and just how you've kept us informed. And it is a hundred miles an hour all the time, and your staff, you've hired the right people. They're doing a fantastic job and we really, really appreciate this. As you know, of course, this is critical to the success of the agency, and it's been one of our biggest risk factors, and we are very appreciative of all the work that you've done.

David Martin: Thank you, Chair Nash.

Chair Jennifer Nash: Are there other comments or questions from people? Okay. Well, I'm speaking for everybody, not just me. So, we really appreciate it. Thank you very much.

David Martin: Yep.

Chair Jennifer Nash: All right. Moving on to talking about provider contract extensions, Director Kampfe.

Jessica Kampfe: Thank you, Chair Nash. And this is very much an introductory conversation. We want to begin having this conversation with the commission so that we can engage in a process that really works with providers, puts the information out there early so that people sort of know that this conversation is coming. And so this is very much a preliminary conversation, and I plan to be back in October talking to you about this again. Next slide, please. So, to start with in terms of our framework, a large portion of our public defense trial-level services that are provided in Oregon are provided pursuant to contracts, and we have hundreds of contracts with public defenders. Those contracts all are currently set to expire on June 30th of 2025. The agency is tasked with doing a number of things between now and when we sign our new contracts that are going to have implications on whether or not we can really successfully meet that deadline.

And so the first thing I want to talk about is that we're moving to the executive branch, and when we move to the executive branch, we are subject to different procurement rules than we have been previously. And the next piece that I want to just bring out for folks is that Senate Bill 337 from 2023 changed some of the requirements for what would need to be in our contracts moving forward. And so that legislation requires that the agency ensure that compensation resources and caseloads are in accordance with national and regional best practices. The commission has done great work around that in adopting a six-year plan to implement the National Public Defense Workload standards. We're required to make sure that the workload of appointed counsel is controlled to permit effective representation, and this commission can develop workload controls to enhance the appointment of counsel's ability to provide effective representation. And finally, we are required to establish a system of policies and procedures for the mandatory collection of data, and quite frankly, we need the infrastructure for that, which is part of what David Martin's presentation to you was about. So, those are sort of high level some of the factors that we're looking at. Mara, could you go to the next slide? Thank you.

So, speaking in more detail about the procurement expectations, our contracts have to adhere to a standard procurement process moving forward. And so part of this is in process. We started it. So, the Department of Justice and the Oregon Public Defense Commission worked together to draft some pretty standard boilerplate language around contracting, and this language really removes a lot of information that's historically been in our contracts about qualification, performance standards, and special terms. So, it's really just boilerplate language around we're purchasing legal services, and these are the sort of bare bones expectations. Now we are engaged in a process with the Department of Justice to review those contracts for legal sufficiency review, and those boilerplate language that is currently with the Department of Justice for that

legal sufficiency review. Once it passes legal sufficiency review, we would be able to move forward with securing those contracts.

At the same time, we have some parallel work that needs to happen. We're seeking advice from the Department of Justice about whether or not we fall under the Department of Administrative Services procurement authority for contracts for legal services, or if we can use a special procurement request. That's going to make a big difference in our timelines. If we have to go through the full DAS process, that can add months to a procurement. Thankfully, the Emergency Board is authorizing us to create positions within the agency that will allow us to develop a more robust internal procurement team, and we're going to get moving on that this fall, and that's going to be a big help to getting us in line with executive branch expectations for procurement.

Additionally, we are working to develop qualification standards, performance standards, and special terms that would be part of policies adopted by this commission and incorporated into our contracts. And so this is work that you're going to hear a fair amount about in October. It is necessary for us to have a strong compliance, audit, and performance function within the agency. It's necessary for us to build out our assigned counsel program and for us to embed in our new contracts moving forward. Finally, we are looking at collapsing our payment rates under contracts from four tiers down to one tier to reduce the number of contract amendments and normalize our procurement activity. Currently, the agency spends a lot of resources amending contracts every time a lawyer up qualifies, and so we would be looking at a system that reduced the number of up qualifications to normalize that procurement activity. Next slide.

We talked a little bit about the statutory mandates that we're under to adopt caseload and workload standards, and so this commission has started down that path with adopting the six-year plan, and that's coming back in front of you all in October. Fully implemented, that six-year plan would replace our maximum attorney caseload model with the new National Public Defense Workload Study annual caseload, so that's a new unit in which we would be buying resources. It's different than what we've done historically. We would be implementing hourly timekeeping for contracted public defenders, we'd be adding more public defenders to the system, and we'd also be adding core staff to the system in terms of legal assistants, legal secretaries, paralegals, case managers, investigators, and line-iteming those staff positions within contracts so that we can be compensating providers for the staff. Next slide, please.

So, when looking at all of the work that we have to do to get new contracts in place, there are a number of timeline constraints that we are anticipating. So, the first is that the Oregon's legislative session is scheduled through June of 2025, and our current contracts expire on June 30th of 2025. So, if we don't get

our budget until the middle of June and then two weeks later we're turning around signing all of these contracts, that's a very short timeline for contractors and for the agency to be able to execute all of that work. During that legislative session, we've got a lot of unknowns. We don't know what the Legislature is going to decide about in terms of investments into key aspects of our workload model. So, that is both the annual caseload standards that we're asking for in the Legislature as well as the investments in those core staff positions that we would be asking for, and just overall compensation for attorneys within our contract models.

The next piece is that we're looking at having our financial case management system implemented in the spring, and that system's going to be critical for people to be able to do timekeeping. And so if we don't have the system until the spring, that's not a lot of time for contractors to do any sort of training on how to use the system and for us to create standard processes and procedures. And historically, the funding from a legislative session is not available on June 30th. At the earliest, it would be available on August 31st. The Legislature typically early in the session signs something called a continuing resolution. That continuing resolution extends current service level funding from the previous biennium for the first three months of the next biennium. So, October 1st is usually when the continuing resolutions extend to. Next slide, Mara.

I think that takes us out of all of the sort of background information that I wanted to share with you, but I'm bringing this to your attention now to say that I think that we would have a lot of challenges in being able to execute new two-year contracts with providers on June 30th. I know that the reason we have the June 30th expiration and July 1st start date for new contracts is to align our contracts with the fiscal biennium schedule, and that has been something that the Legislature has wanted us to do. With that in mind, I think it's very likely that we won't be successful in executing all of those contracts in a meaningful way on that timeline, and so the agency is going to be proposing an extension of the current contracts, and I think that October 1st might be a good extension date to consider because it aligns with the continuing resolution that the Legislature is likely to pass.

There's a lot of unknowns in what an extension would look like, and there's really going to be a need to have conversation with this commission and with providers that are contracted with us about how we could effectively extend those contracts in a way that properly resources folks to do the work and that continues to collect the data that the agency needs to collect. And so I wanted to introduce this conversation with you all here today and to get an opportunity to hear some initial feedback from the commission, and we'll be continuing to talk with you about this in the months to come.

Chair Jennifer Nash: All right, any comments or questions, feedback, concerns? Commissioner Harris? You're muted, Rob.

Robert Harris: Sorry, I had to hop off for a bit for another meeting, so I may have missed some of the information presented. So, I was listening to your presentation, Director Kampfe, and are you saying that the agency intends to, on hourly rates, just reduce everyone to one pay amount, one hourly rate?

Jessica Kampfe: Thank you, Commissioner Harris. I was not talking about hourly rates. I was talking about contracts. So, no, we are still looking at a two-tiered hourly rate system.

Robert Harris: Okay, all right. Secondly, you mentioned, and I think this may be just a term that's been used, but you said that time keeping for contract public defenders, but everyone will be doing time keeping, right? Even state-level, they're already doing it, so I'm assuming that's why you're going to impose it for everybody is what you're saying. Is that correct?

Jessica Kampfe: That's right. Our state trial-level public defenders are doing time keeping. Our hourly folks will be doing time keeping because they're going to be billing us for all their time. And so we're talking about extending that time keeping to contracted providers in order to move to a workload model.

Robert Harris: Right, so we're going to be doing it for every provider, basically, from what I'm understanding. Okay.

Jessica Kampfe: That's right, and I mean, that is a decision for the commission to make. We're going to be bringing policies in front of the commission for you all to adopt, so I think that that's an important conversation for you guys to have, but that is the agency's intention to bring a policy around time keeping.

Robert Harris: Right, and finally, just an idea on this, and I know you can't contract, an agency can't contract for somebody for time beyond the biennium, but would it make sense to contract for 21 months with an expectation that it would be a 3-month extension every year? I know that's a weird way to do it, but it seems like in this really dynamic situation where we're changing things a lot, right now it's going to be a 27-month contract, and so some of the provisions like we did last time were we're going to pro-rate any increase back to July 1 as long as the funding comes from the Legislature. We did that last time, which I think worked out okay, but at least we're not getting three months behind the inflation curve when you do something like that, so that's my only concern about these extensions. Thanks.

Chair Jennifer Nash: Some of the feedback...

Jessica Kampfe: Thank you, Commissioner.

Chair Jennifer Nash: Sorry, I was just going to say some of the feedback we got about that specifically is to look to other agencies and see what other agencies do because we're not unique in this regard, and so I think that's probably...and that's the direction the agency is going to go in, is just see what other people are doing and then bring that before the commission. Sorry, Director Kampfe, I jumped in there.

Jessica Kampfe: No, thank you very much, Chair Nash. We will definitely be looking at how other agencies do that. We did do sort of that balloon payment in October. We had some lesson learned from that experience too, in terms of what our extension documents looked like, and how difficult we made those balloon payments to get accurate, and so we'll be thinking about how we can incorporate and do better this go-around.

Chair Jennifer Nash: Commissioner Buckley.

Peter Buckley: Yes, thank you. I just want to say I'm very glad you're bringing this forward now in September. I appreciate that very much, and I just want to encourage to continue to be transparent about this, make sure LFO is in the loop on how this is going because they will have opinions, I'm sure, the timing of the budgets, etc. So, appreciate the early notice and I hope we can continue to have a very transparent process with this.

Chair Jennifer Nash: Thank you. Commissioner Wright.

Jasmine Wright: I just hope that we can, as we transition towards this because this will be a change in process for some of the contractors, that the agency can communicate this well in advance to the contractors, this change in process and place. And that maybe even OPDC can have on-the-ground conversations with maybe the contract administrators that this is happening well in advance. And maybe even a little bit in terms of trainings, in terms of what that billing process is going to look like, so that on top of their normal day-to-day and their overburdened sense of responsibilities, that they're not also taking on a brand-new process as well. I just hope that the agency is going to communicate that well in advance, so that it's not sort of dropped on their lap in the same month in which they have to bill.

Chair Jennifer Nash: Thank you. Commissioner Reinhard.

Brook Reinhard: Two things very briefly. First of all, it sounds like the commission's already acknowledging that there would be a hit in terms of lack of inflation pay because the second year of the contract is already a hit for most providers. So, it

sounds like that's already on the radar. And then the other thing is I think the principal thing that kept these contracts from being voted no for the non-profit public defenders was having the ethical provision in there that we would not take beyond ethical level of caseload. And that helped with what many considered some agency instability at the time, knowing that no matter what else happens, we can still use our ethical provisions to make sure we're not taking unethical caseloads. I have real concerns if DOJ is doing that. I'm not saying DOJ is unethical. I think that there's a wide degree in difference of how a DOJ attorney would interpret public defense and how I would. I'm not saying I'm right, but I don't want a DA telling me how to do my job. So, that's my concern.

Jessica Kampfe: Thank you. And so with that concern, and that's well taken, what we're looking at from DOJ is really normalizing our contracts, so they look like any other contract that the state executes to buy legal services. And they wouldn't be very specific in terms of public defense services. And where we would see all that specificity would be in the policies that this commission adopts. And so we need to develop a policy manual and have this commission adopt those policies, and then those policies would be published. The contract would then just reference back to the policy. So, provide services in accordance with OPDC's commission adopted policies.

Brook Reinhard: Okay, fair enough. But my concern here is there's already a specific example of a chief justice entirely gutting this agency, and the commission starting over. So, if the contracts instead refer to what the commission's doing, nothing stops the chief justice or governor, depending on what they were talking about, from starting over mid-contract if the policies are commission set and not in the contract, correct?

Jessica Kampfe: I think you're flagging really great issues. I don't have the answer for them off the top of my head, but this is an early sort of preliminary conversation. So, I appreciate you raising them.

Brook Reinhard: Cool. All right. Yeah, okay. Fair enough, thanks.

Chair Jennifer Nash: Commissioner Smith.

Addie Smith: I would just say with regard to some of Brook's questions in an effort to be not controversial, I think we want to look to the role of DOJ versus our own general counsel who can represent us and have a public defense perspective on some of these issues, whether that be through guidance on the policies and procedures or to get answers for some of these questions from an attorney who is representing the Office of Public Defense.

Chair Jennifer Nash: All right. Thank you. Any other comments or questions? All right. With that, we will move on to Director Kampfe's update.

Jessica Kampfe: Thank you all. I will be brief in my update to you. So, this is just the director's report. I want to put on your radar some upcoming activities and events. The first is, we talked about earlier, I emailed you all today with the strategic planning survey. The agency's been doing really great work on strategic planning. And so the survey that we're sending you all will take you about 10 to 20 minutes to complete, and we're hoping you can have it back to us by September 24th. The next is we have an upcoming public defense meeting on September 20th at 2 p.m. Four members of this commission are participating in that meeting – Commissioners Nash, Buckley, Prozanski, and Evans. We had some earlier conversation about it, so I'm not going to dive in now, but that meeting will be on September 20th.

We have an upcoming commission meeting on October 16th. There's going to be some big stuff in that meeting, including approval of our six-year plan. And so you heard a briefing from Jesse about that today, and you'll be receiving that updated plan for approval for next go-around. We'll also be briefing you on a Compliance, Audit and Performance plan and seeking approval of our legislative reports for the December Public Safety Ways and Means. And that is just the way the timing works out on those reports. They are due on November 4th for December Legislative Days. We will have a commission meeting on November 13th.

We've had some back and forth previously about whether or not we'd have executive session during that commission meeting to do executive director performance review. But with the commission making a decision to not move that forward as an action item now, we're going to have a regular commission meeting on November 13th. And I would expect that the commission will be asked to approve the Comprehensive Public Defense Report, which will be given to Judiciary in December. The filing deadlines for Judiciary are a little bit later than the filing deadlines for Ways and Means. And so we can use that November date to review that Comprehensive Public Defense Report. That report includes a ton of information about changes to our service delivery model. So, the creation of an assigned counsel program, changes in terms of workload implementation. So, it'll be a really meaty report and something that I hope we can have a robust conversation around.

I want to remind folks that the December commission meeting is wonky. It is on a Friday, not on a Wednesday. It's Friday, December 6th. So, it's early in the month and it's in person. We're having an in-person meeting in Portland at the Benson Hotel. This aligns with OCDLA's winter conference. So, we are having an in-person at the Benson Hotel because we think there will be a lot of providers

that will be able to attend in person and we're hoping to get a really high level of engagement. So, we are able to work with the Benson to provide accommodation for commissioners that are traveling. Please contact Mara about accommodation. And then OCDLA on that Friday night hosts a dinner, a gala dinner, and it's from 6 to 9 p.m., and it's at the Benson. So, you all are invited to purchase tickets to go to their event. It's not something that the agency can purchase for you, but if you are able to attend, I'm sure they would love to see you all there. And that's it for my director's report. Thank you very much.

Chair Jennifer Nash: Thank you. Regarding the Benson dinner, traditionally, this will be the third time that I've tried to herd cats to get people to go. If you buy the tickets in bulk, I mean, you can buy a table, right? So, our firm has typically sponsored a table, and then people who aren't able, who want to go, who aren't able to afford the tickets, can go. And also, if you can, you can reimburse me for your seat if you want to. But we'll have at least one table, and as that information comes out from OCDLA, I will disseminate that information to commissioners.

And then the other thing I just want to put on your radar is that in the October meeting, we're most likely going to be publishing and approving the commission's schedule for 2025 for meetings because people like me who are trial lawyers and people who plan ahead need that. I'm already having the court trying to schedule me trials in January and February. And I'm like, "I don't want to do that right now." So, we need to get those dates set. So, is there anything that any commissioners want to add or flag or bring up before we adjourn today? But at 12:57, I will note. All right. Okay. And with that, I won't take a vote or a motion. I'll just adjourn the meeting. Thank you, everyone. See some of you Friday. Bye.