

Department of Justice					
	2015-17 Actual	2017-19 Legislatively Adopted	2017-19 Legislatively Approved*	2019-21 Current Service Level	2019-21 Governor's Budget
General Fund	77,042,764	84,653,042	89,693,599	99,293,387	102,050,752
Other Funds	294,674,558	321,296,607	332,801,936	326,302,268	342,613,896
Other Funds (NL)	4,361,977	--	--	--	--
Federal Funds	154,388,574	179,004,039	201,118,887	138,497,693	214,728,819
Federal Funds (NL)	15,740,252	--	--	--	--
Total Funds	546,208,125	584,953,688	623,614,422	564,093,348	659,393,467
Positions	1,326	1,374	1,379	1,314	1,367
FTE	1,295.51	1,348.42	1,355.40	1,304.01	1,349.56
* Includes Emergency Board and administrative actions through December 2018.					

Program Description

The Department of Justice (DOJ) is responsible for general legal counsel and supervision of all civil actions and legal proceedings in which the state is a party or has an interest. DOJ is also responsible for a number of programs, including child support, district attorney assistance, crime victims' compensation, charitable activity enforcement, organized crime-related law enforcement, criminal investigations, criminal intelligence, elder abuse, criminal voter fraud, and consumer protection and education services.

CSL Summary and Issues

The 2019-21 current service level budget for the agency totals \$564 million total funds (1,314 positions/1,304.01 FTE). The CSL is \$60 million, or 9.5%, less than the \$623.6 million 2017-19 legislatively approved budget and there are 65 fewer positions (51.39 FTE). There are no noted differences between DAS and LFO CSL calculations and no technical adjustments; **however, the Governor's CSL includes a \$1.9 million General Fund reduction that is assumed to be based on a lower bond issuance in the spring of 2019 than the Legislature had originally authorized.** The modified CSL, which reduces the CSL by revenue shortfalls, is \$13.6 million (70 positions; 69.44 FTE) less than the CSL due to a projected shortfall in Temporary Assistance for Needy Families (TANF) recoveries for the Division of Child Support (see discussion below).

The CSL includes a phases-out of \$82.6 million in one-time investments and positions, primarily for the Child Support Enforcement Automated System(CSEAS)(\$57 million), federal funding for the Victims of Crime Act grant (\$15.6 million), Division of Child Support TANF revenue shortfall (\$4.2 million), various other one-time information technology projects (\$3.9 million), a supplemental appropriation for Child Medical Assessments (\$500,000 General Fund), the Sunshine Committee (\$212,831 General Fund), a supplemental appropriation for the Crime Victims Law Center (\$175,000 General Fund), and legal work with a statewide benefit (\$307,366 Other Funds).

The budget phased-in various previously approved positions, primarily juvenile dependency expansion positions, and \$200,000 for support costs for the Legal Tools information technology project for a budgeted total of \$400,000. There is a mandated caseload increase for the Defense of Criminal Convictions of \$1.1 million General Fund (1 positions; 1.27 FTE) plus inflation (\$4.3 million). There is a single fund shift of \$5.1 million Other Funds to General Fund reversing a 2017-19 budget savings action. General Fund Debt Service was increased by \$3.5 million for the roll-up costs of previously issued debt, bringing the total Governor's Budget CSL General Fund Debt Service cost to \$14.2 million for the CSEAS information technology project. Other CSL changes include standard adjustments for contractually approved compensation plans, vacancy factor, mass transit taxes, PERS, pension obligation bond assessments, inflation on services and supplies, Attorney General line-item, professional services, and rent. The Department of Administrative Risk Charge increased from \$645,380 to \$1.5 million or over \$890,070 and which will require further review.

Policy Issues

There are a number of preliminary budget issues that the Co-Chairs budget will need to consider beyond which the agency may have additional requests.

Establishment of the Attorney General Rate: The 2017-19 legal services rates rate is \$182 per hour and is estimated to generate an \$174.8 million. The 2019-21 AG rate for agency request budgets is \$223 per hour (+22.5%) and is estimated to generate \$207.5 million. This is a \$32.7 million, or 18.7 percent, increase in revenue. As in prior biennia, the AG rate needs to be re-calculated based upon the Co-Chair's budget decisions. The Legislature may also want to consider placing the AG rate in statute. ***The Governor's budget assumes an AG rate of \$208 per hour, which is a 13% increase from the prior biennium (\$4.8 million in statewide General/Lottery Fund savings from CSL).***

Proposed Attorney General Rate Model: DOJ has been proposing replacing the hourly billing model with a flat charge model beginning with the 2019-21 biennium. The shortcomings of this model are noted in a Legislative Fiscal Office analysis from the Legislative session in 2018.

Changes to legal Services Delivery Model: Legal service delivery could be enhanced with the expansion of DOJ's co-location of attorneys and non-attorney staff, such as paralegals, in select agencies as well as through the authorization of Special Assistant Attorney General positions.

Revenue Shortfall in the Division of Child Support (\$17.8 million, including \$6.2 million General Fund and \$11.6 million Federal Funds and 92 positions; 91.44 FTE). For the third biennium, the Division of Child Support is forecasting a revenue shortfall in Temporary Assistance for Needy Families revenue and is requesting General Fund backfill. A reforecasting of the need will be requested in May 2019 after most 2018 tax year data becomes available. ***This request was only partially funded in the Governor's budget.***

Child Support Enforcement Automated System (CSEAS or aka. "Origin")(\$3.4 million General Fund, \$2.8 million Other Funds; and \$11 million Federal Funds and 27 positions; 21.54 FTE): Since 2010, the Division of Child Support has been working on a multi-biennia plan to replace its current COBOL-based mainframe child support case management and financial system. The project is in its final phase and is

expected to be federally certified in the summer of 2019 and then fully completed by June 2021. The bond and General Fund requests will need to be updated, per the agency. ***This request was only partially funded in the Governor's budget; however, General Fund Debt Service was fully funded.***

CSEAS Data Center Hosting (\$1.4 million General Fund and \$2.8 million Federal Funds): The Child Support System Project is currently hosted with Atmosera rather than the State Data Center. The outsourcing of this service needs to be reassessed given the newly expanded capacity of the State Data Center. ***This request was funded in the Governor's budget.***

CSEAS Transition to Operations (\$1.4 million General Fund and \$2.7 million Federal Funds and 25 positions; 16.75 FTE): After implementation, CSEAS will replace legacy child support systems and transition to operations. The enhanced capability of the new system may increase staffing levels to maximize capabilities of the new system and provide ongoing operations and maintenance. ***No funding was provided in the Governor's budget for this request.***

Shift in Child Support Caseload from District Attorneys to State (\$718,206 General Fund, \$2.2 million Other Funds, \$1.4 million Federal Funds and eight positions; 7.02 FTE): In 2016, [2015-17 biennium] District Attorneys in Wasco, Josephine, Klamath, and Benton counties opted to discontinue operating child support programs and the caseload has been reassigned to DCS. This increased the caseloads of the DCS and the Civil Enforcement Division - Civil Recovery Section. ***This request was only partially funded in the Governor's budget.***

Reconciliation of Juvenile Dependency Representation Base Budget (\$1.6 million and six positions; 5.00 FTE): The Civil Enforcement Division - Child Advocacy Section is requesting an adjustment due to unbudgeted temporary and double-filled positions. ***This request may have been funded in the Governor's budget, but more research is required.***

Reconciliation of Juvenile Dependency Representation Expansion (Excluding Multnomah Co.) (\$1.9 million Other Funds plus additional position authority and reclassifications): The Legislature in 2017 provide funding for a three-phase implementation of DHS child welfare caseworkers in circuit court. Phase I and II have been completed for 30 counties. Implementation for the remaining six counties in Phase III (Clackamas, Clatsop, Marion, Multnomah, Union, and Washington) was delayed six months to July 1, 2019; however, DOJ may begin expending funds for this phase in the Spring of 2019 or during the 2017-19 biennium. The Phase III expansion is contingency upon a decision of the Legislature to approve funding for the 2019-21 biennium. The law authorizing DHS to appear as a party in a juvenile court proceeding without appearance of an AG will sunset on June 30, 2020. ***This request was added in the Governor's budget.***

Authorization for the Expansion of Juvenile Dependency Representation/Multnomah County (\$7 million Other Funds and 24 positions; 23.50 FTE for Multnomah Co.): Implementation of the Multnomah County representation of DHS child welfare caseworkers in circuit court rollout is scheduled to officially begin July 1, 2019; however, in however, DOJ may begin expending funds for this phase in the Spring of 2019 or during the 2017-19 biennium. Some 2019-21 costs are expected to be paid for by funding in the DHS budget previously used to cover the

intergovernmental agreements with counties' that supported court appearances or other services provided by district attorney offices. ***This request was added in the Governor's budget.***

Oregon Sunshine Committee (\$302,132 General Fund 2 positions; 1.00 FTE): The Legislative in 2017 enacted and in part established the Oregon Sunshine Committee, which is staffed by DOJ, and directed to establish a plan to review all exemptions from the disclosure for public records, with some exceptions, identify inefficiencies and inconsistencies in the application of public record law, and report recommended changes to the Public Records Subcommittee of the Legislative Counsel Committee. ***No funding was provided in the Governor's budget for this request.***

Federal Government Litigation ("Defend Oregon")(\$2 million General Fund and \$1 million Other Funds and 4 positions; 3.52 FTE): Attorney General has undertaken, at her imitative, a variety of legal actions against the federal government in purported defense of Oregon state statute and the Oregon Constitution for costs that are non-billable. DOJ would like a pool of funding "...without waiting for a meeting of the Legislative body to approve funding." ***This request was funded in the Governor's budget.***

Legal Tools Replacement ("Legal Tools")(\$250,000 Others Funds): DOJ may require ongoing funding for a replacement of the agency's legacy case, document, time capture, billing, eDiscovery, legal matter applications. The project is currently challenged by major scope, schedule, and budget issues. Costs, if approved, will far exceed the \$250,000 that has been requested and could be bondable. ***No funding was provided in the Governor's budget for this request.***

Staffing for General Counsel Division (\$5.2 million Other Funds and 17 positions; 16.06 FTE): The General Counsel Division is requesting positions, some previously approved as limited duration, for the Business Transactions; Business Activities; Government Services; Health and Human Services; Tax and Finance; Natural Resources; and Labor and Employment sections. ***This request was only partially funded in the Governor's budget.***

Evaluation Protection and Education Revolving Account: The Civil Enforcement Division - Financial Fraud/Consumer Protection section budget needs to be reconciled to planned expenditures. The current biennial budget is exceeding approved expenditures.

Evaluation Mortgage Mediation Program: DOJ operates a fee-for-service mediation program for a mediation conference with their lender after meeting with a housing counselor. The program, and its companion program at Housing, have been operating below approved budgets.

Re-Forecast Defense of Criminal Convictions Costs: Defense of Criminal Convictions is for the cost of defending the state in cases in which sentenced offenders challenge their convictions or sentences. The CSL budget of \$28.6 million General Fund is fully funded; however, the caseload will need to be re-forecast and updated based on the yet-to-be determined legislatively approved AG rate. ***The Governor's budget took a \$3.5 million reduction to DCC, which was not based upon updated caseload savings.***

Intra-Agency Charges (\$2.4 million General Fund, \$7.2 million Other Funds, and \$1.8 million Federal Funds): For the third biennium in a row, DOJ's intra-agency charge, an overhead charge to an operating program to fund agency-wide administration, need to be reconciled within each operating program. ***This request was only partially funded in the Governor's budget.***

Review Attorney Classifications (\$3.5 million Other Funds): DOJ has an unbudgeted overfilling of lower classification attorneys (Assistant AG) who are paid at the next higher classification (Senior AG) because cases are complicated. DOJ is requesting a budget adjustment to remedy this classification issue. ***No funding was provided in the Governor's budget for this request.***

Federal Data Security and Compliance Auditing (\$214,654 Other Funds; one position; 1.00 FTE): DOJ is requesting one position to track federal compliance requirements and perform system security audits. The requested position may be under-classified. ***No funding was provided in the Governor's budget for this request.***

Federal Grant Funding (\$569,430 Federal and Other Funds and \$58.1 million Federal Funds): There are several federal grants whose continuation requires expenditure limitation: (a) Victims of Crime Act assistance grant; (b) the Governor reassigned the administration of a competitive Child Justice Act grant from the Department of Human Services (Child Welfare); and (c) Urban Area Security Initiative grant and the State Homeland Security Programs. The VOCA investments should be closely scrutinized as one-time investments. ***This request was funded in the Governor's budget.***

Fee Increase for Child Support Fee (\$0): The federal budget act of 2018 increased the annual child support collection fee from \$25 to \$35. The fee will be effective as of October 1, 2019 and will generate an additional \$69,800.

Policy Packages: The above budget issues are not entirely inclusive of DOJ's agency request budget, which includes 42 policy packages totaling \$119.1 million total funds and 128 positions (108.05 FTE). The associated General Fund request is \$22 million and some of the \$16.6 million in Other Funds originates as General Funds. The remaining \$80.6 million is Federal Funds.

The Governor's budget funds DOJ at \$659.4 million total funds, or \$93.4 million and 53 positions above current service level. The Governor's adjustments, not previously noted, include: an internal auditor (\$205,792 General Fund), \$100,000 General Fund for a flat rate model review; and General Fund reductions to the Civil Enforcement Division (\$25,203), Criminal Justice Division (\$806,634), Crime Victim Support Services Division (\$66,091, and the Division of Child Support (\$702,009). The Governor's budget notes the following direction regarding the flat fee assessment model and potentially some contract services to effectuate the following:

The Governor's Budget supports the Department of Justice's transition away from hourly billing to assessing agencies a fixed amount each quarter based on an estimate of legal services. The new flat assessment model will increase stability and predictability of state agency expenses for legal services, as well as provide revenue predictability for DOJ. This new rate structure is designed to encourage

agencies to seek preventive legal advice to help avoid more costly legal problems that may arise. Governor Brown is committed to developing a methodology to transition from hourly billing to a flat assessment model during this biennium so it can be built into agency's 2021-23 Current Service Level Budget.

Other Significant Issues and Background

There are a few policy-type issues for the Co-Chairs to consider.

Evaluate Legal Service Fund and the Double-budgeting of Expenditures: The transparency of the Legal Services Fund and agency budgeting could be improved by eliminating the double-budgeting of expenditures in select divisions. ***This request for the Criminal Justice Division was partially funded in the Governor's budget (\$1.6 million General Fund vs. the \$2 million General Fund request).***

Evaluate Inordinate Attorney Compensation Increases: Compensation adjustments for attorneys regularly exceed the standard compensation adjustment for management service employees in the Executive Branch of state government and merits continued review.

Other Review: The Legislature would benefit from a review of the effectiveness of the agency's outsourcing of its internal audit function.