

Department of Corrections

	2017-19 Actual	2019-21 Legislatively Adopted	2019-21 Legislatively Approved *	2021-23 Current Service Level	2021-23 Governor's Budget
General Fund	1,749,079,552	1,853,930,976	1,925,643,660	1,928,608,522	1,864,488,400
Other Funds	76,635,479	95,327,375	117,771,125	50,090,113	132,304,434
Other Funds (NL)	--	--	214,566,937	--	--
Federal Funds	2,650,377	4,533,582	4,533,582	4,734,976	4,533,582
Federal Funds (NL)	1,040,976	940,120	940,120	--	--
Total Funds	1,829,406,384	1,954,732,053	2,263,455,424	1,983,433,611	2,001,326,416
Positions	4,589	4,731	4,731	4,702	4,515
FTE	4,566.73	4,699.06	4,699.06	4,678.34	4,488.67

* Includes Emergency Board and administrative actions through January 2021.

Program Description

The Department of Corrections (DOC) has two primary functions – the operation of prisons and the state responsibility for the community corrections system. The Department operates 14 institutions for the incarceration of adult and certain juvenile felons sentenced to prison for more than twelve months by the courts. The 2019-21 legislatively approved budget is based on the April 2019 prison population forecast and other legislative changes that affected the prison population. The community corrections system is based on SB 1145 (1995) which transferred management of offenders sentenced or sanctioned for incarceration for 12 months or less, and all felony offenders under community supervision, to the counties. Funds are provided to counties through the DOC budget for the costs of supervising these offenders. The Department operates community corrections directly in Linn and Douglas counties after they opted out of the “local control” system in 2004.

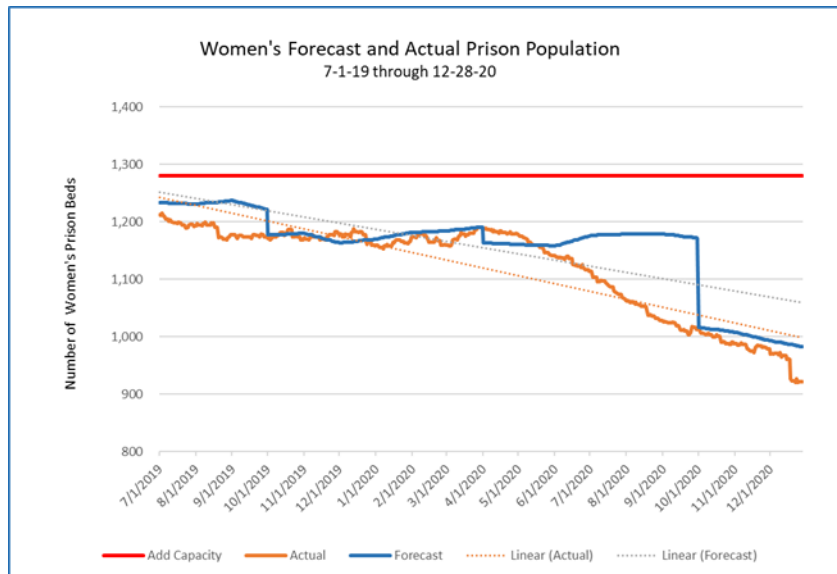
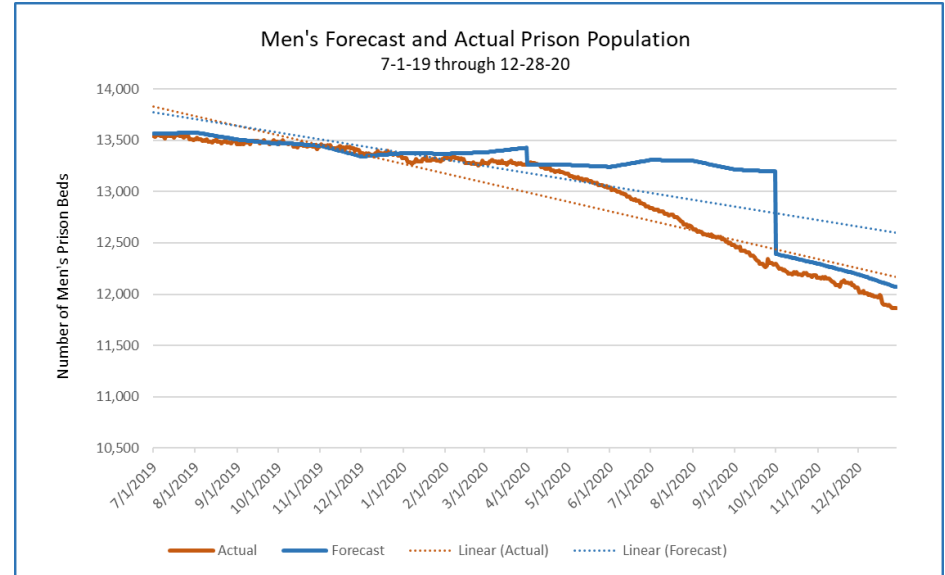
CSL Summary and Issues

The General Fund CSL is 1.3%, or \$23.8 million, greater than the 2019-21 legislatively approved budget, excluding debt service. The all funds CSL is just 0.1%, or \$2.6 million, more than 2019-21, with the removal of capital construction expenditure limitation from the current service level calculation, and with the removal of the one-time nonlimited increase of \$214.6 million in the current biennium. The 2021-23 General Fund current service level is reduced by \$21 million in the Governor’s Budget for mandated caseload changes based on the most recent (October 2020) prison population forecast.

Policy Issues

Prisons

As of December 28, 2020, the population of men in prison in Oregon is smaller than it was in 2005. The women’s prison population was last at its current number (922) in May 2004. A large part of this reduction can be attributed to the COVID-19 pandemic (*see below*), but policy changes made over the past several biennia have steadily decreased the corrections population, by increasing the length of short-term transitional leave from prison from 30 to 120 days, allowing earned discharge from community supervision, and eliminating two types of crimes from Measure 57 sentencing. The dynamic policy environment in which corrections finds itself is anticipated to continue in the upcoming biennium and may drive both operational and budget changes for the Department of Corrections.



Even before the pandemic, the declining prison population suggested the possibility of prison closures, three of which are included in the Governor’s Budget (*see below*). Anticipating the interest in this topic, the budget report for SB 5723 (2nd Special Session, 2020) included a budget note directing the agency to assess the state’s prison system and to make recommendations, based on best practices for correctional programming and other factors, for re-shaping Oregon’s prison footprint, including recommendations for prison closures. In light of the Governor’s budget, the agency chose to report first on those prisons chosen for closure by the Governor. An additional report anticipated mid-February 2021 will provide the agency’s professional assessment of the way in which prison closures will affect correctional services, programming, and costs going forward.

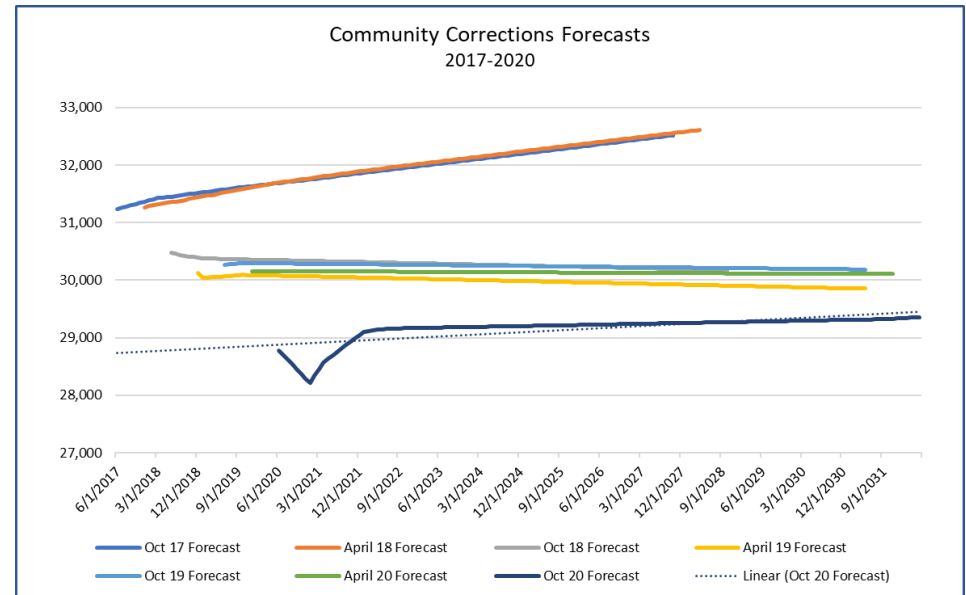
The effect of the COVID-19 pandemic on every aspect of the criminal justice system and the passage of Ballot Measure 110, coupled with reforms being implemented in policing and contemplated for other aspects of the public safety system make forecasting the future prison

population more complicated than usual. This uncertainty about the future compounds difficulties with prison management in the present, further straining the ability of the agency to both provide adequate health care, behavioral health treatment, and work and educational programs to adults in custody, and to address deferred maintenance in its facilities.

Community Corrections

On any given day, up to 29,000 Oregonians are supervised by county and state-operated Community Corrections programs. This population, too, has seen a sharp decrease due to the COVID-19 pandemic, and the chart to the right shows the expected rebound in the population by the end of 2021.

County community corrections programs remain concerned about the adequacy of funding for their work after proposed budget increases were not passed during the 2019 and 2020 legislative sessions. The agency and the Department of Administrative Services (DAS) Chief Financial Office worked to develop a “hybrid” inflationary factor for Community Corrections, to reflect the fact that state funding primarily supports personnel costs at the county level. This proposal was included as a policy option package in the agency request budget but was not included in the Governor’s Budget.



Not shown in the chart above is the likely effect that Ballot Measure 110 (2020) will have on the community corrections population. Measure 110 changes the sentencing for unlawful possession of a controlled substance (PCS) statutes, reducing most PCS crimes from felonies or misdemeanors to violations, which would not be supervised in Community Corrections programs. The Governor’s budget assumes a reduction of \$24.5 million to reflect the estimated reduction in caseload in 2021-23 resulting from these sentencing changes. As this is a caseload reduction, it does not trigger the community corrections “opt-out” provision of ORS 423.483.

Pandemic

The COVID-19 pandemic has had a significant impact on the Department, with more than 3,300 infections and 41 deaths of adults in custody, and nearly 800 staff infections¹. The agency has implemented a “tiered” system of managing the disease in the prisons, from Tier 1 (no known COVID-19 infections) to Tier 5 (multiple institutions quarantined for 14 days), which limits movements between prisons, visitation, and programming. Additionally, DOC has added emergency bed capacity in an effort to increase social distancing within the prisons, and has

¹ As of January 28, 2021.

limited visitors to the institutions, including attorneys and contracted program staff. The Governor has commuted the sentences of hundreds of adults in custody, and regularly reviews lists of eligible inmates for further commutations and releases from custody. To date, the agency has requested reimbursement of \$24 million of expenses attributable to COVID-19 from FEMA and from the federal Coronavirus Relief Fund (CRF) administered by DAS.

In November, the agency notified the Emergency Board of a nearly threefold increase in habeas corpus filings and requested \$1.7 million and temporary staff to address the workload associated with these lawsuits for the remainder of the biennium. Habeas corpus cases are civil actions brought against the state by incarcerated persons challenging the conditions of their confinement. Almost all of the current cases are related to the COVID-19 pandemic, and ask that judges across the state implement safety measures (such as social distancing) in the prisons, or release adults in custody from prison. The agency estimates that work associated with habeas corpus cases may continue for another year and anticipates returning to the Legislature during the 2021 session to request funding for the as-yet-undetermined amount of legal and medical records research work that will fall into the 2021-23 biennium. Additionally, a class action lawsuit (*Maney v. DOC*) has been filed on behalf of those who have contracted COVID-19 in the prison system and who are now suing for damages. The Department of Justice estimates that the damages component of that lawsuit could be litigated for four to five years, during which time DOC would require resources yet to be determined for medical records research and support.

Other Significant Issues and Background

The 2019-21 budget for the Department of Corrections was the first budget in a decade that did not include an “unspecified reduction.” Nevertheless, in February 2020 the Department reported an estimated \$60 million General Fund budget shortfall in the 2019-21 biennium caused in large part by health care and pharmaceutical costs. Management actions taken in the second quarter of the biennium and thereafter closed approximately half the gap, and the Legislature closed the other half with a \$29.5 million General Fund appropriation in SB 5723 (2nd Special Session, 2020). This budget hole can be expected to re-assert itself in future biennia if prison health care costs are not addressed.

Agency Request Budget

The DOC’s agency request budget for 2021-23 includes sixty policy option packages totaling \$442 million (\$320.1 million General Fund) and 417 positions (397.39 FTE), a comprehensive catalogue of programs and services that might better be provided had services and supplies reductions over the years not taken their toll. Sixteen General Fund POPs comprise a \$93.3 million “foundational” funding request and include both currently-unbudgeted expenditures for health services and pharmaceuticals, and underbudgeted ongoing expenses for such necessities as food, utilities, overtime, and IT services. A second group of 31 POPs totaling \$202.6 million (\$207.9 million General Fund - one of these packages requests a \$9.3 million fund shift from Other Funds to General Fund) and 402 positions (382.39 FTE) request funding for services and items ranging from needs to wants, from \$87.8 million General Fund for non-bondable deferred maintenance projects, \$23.9 million and 86 positions to address unmet health care needs for an aging prison population, and \$11.8 million to cover inflationary costs in the Community Corrections program, to \$1.0 million for a Patient Safety Organization, \$51,000 for a fingerprinting contract, and additional

positions in almost every DOC operational area. The remaining POPs make up the agency's capital construction request, and total \$146.1 million (\$18.8 million General Fund) for projects ranging from capital renewal throughout the prison system to mail scanners, IT modernization projects, and renovation of the Oregon State Penitentiary-Minimum facility into a new staff recruitment and training center.

Governor's Budget

The Governor's budget for the Department of Corrections is 0.9% more than current service level overall, but the General Fund budget is 3.3% less, revealing operational reductions obscured by capital construction and debt service increases. The net General Fund reduction of \$64.1 million from CSL includes \$144.8 million in reductions and \$80.7 million in increases. Reductions include:

- \$42.7 million and 243 positions (237.62 FTE) from the closure of three prisons: Mill Creek (Salem) on July 1, 2021; Shutter Creek (North Bend) on January 1, 2022; and Warner Creek (Lakeview) on July 1, 2022. These closures will eliminate 948 of the state's 14,463 permanent prison beds, reducing total prison capacity in the state to 13,715 beds.
- \$3.8 million from jail reimbursements provided to counties for detaining repeat DUII offenders (SB 395, 2011).
- \$24.5 million from Community Corrections, to capture budgetary savings per Ballot Measure 110 (2020). These estimated savings result from fewer offenders on supervision, so would not trigger the "opt out" provision (ORS 423.483).
- \$19.6 million from inflation provided in the base budget on services & supplies, a statewide reduction.
- \$35 million from a 5% vacancy factor assumed on salaries, a statewide reduction.
- \$19.1 million in reduced statewide charges for the Attorney General and other state government service charges, a statewide reduction.

Increases/new spending include:

- \$28.8 million for Hepatitis C treatment (POP 102).
- \$19.1 million for other health care costs, including treatment for hemophiliac adults in custody, newly available supplemental diabetes medications, offsite health care costs, and professional services contracts (POP 103). It should be noted that the implementation of POPs 102 and 103 would be hindered by the \$54.6 million in "across the board" reductions to personnel and services and supplies, above.
- \$18.4 million and 25 positions (16.95 FTE) for the next phase of the Electronic Health Records (EHR) implementation (POP 225). It should be noted that the agency is currently evaluating IT solutions for its EHR system and, depending on the solution that best fits requirements, may be able to bond for the procurement and implementation, thereby freeing a substantial portion of this General Fund request.
- \$14.4 million and 13 positions (13.00 FTE) for debt service on new bond issues and for other costs associated with capital projects.

DOC requested \$125.6 million in bond funds in nine policy option packages; the Governor's budget funded all of these requests, albeit at a lower level for POP 215, Capital Renewal; this \$112.3 million request was funded at \$70.7 million in the Governor's budget. Some of these requests are too small to qualify as capital construction projects, and one of them (POP 206, OSPM Training and Recruitment Center) may be ill-timed relative to the Governor's proposed prison closures.

Key Performance Measures

A copy of the DOC Annual Performance Progress Report can be found on the LFO website

https://www.oregonlegislature.gov/lfo/APPR/APPR_DOC_2020-09-30.pdf