

## Analysis

### District Attorneys and Their Deputies

#### Comprehensive Funding of District Attorney Offices Report

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**Analyst:** John Borden

**Request:** Acknowledge receipt of the report on the comprehensive funding of county district attorney offices.

**Analysis:** HB 5014 (2019), the District Attorneys and Their Deputies primary budget measure, included the following budget note:

The District Attorneys and Their Deputies, in consultation with the Oregon District Attorney Association, the Association of Oregon Counties, and the Oregon Department of Justice, is to submit a report that details the biennial revenues and expenditures supporting each county's District Attorney Office for the fiscal years that comprise the 2017-19 (actuals) and the 2019-21 (budgeted) biennia. The report is to be submitted to the Joint Committee on Ways and Means prior to the Legislative session in 2021.

For each district attorney office, the report is to identify sources of revenue for: state funding; county supplemental funding for district attorney salaries, if any; other state funding; county General Fund; federal grants; and any other material remaining source of revenue.

For each district attorney office, the report is to categorize expenditures by: criminal; civil or other; victims' assistance; child support; juvenile dependency; and any other material expenditure categories.

The genesis of this budget note was to request an update to a survey of district attorney offices that was last completed in 2000. The report submitted by the district attorneys and the Association of Oregon Counties (AOC), while a step in the right direction, is far from the detailed report requested by the Legislature. The report includes only high-level information for 32 of 36 counties and for a single fiscal year (2021).

The cover letter to the report offers the following qualification "...the requested report requires significant resources and staff that the District Attorneys and Their Deputies, ODAA [Oregon District Attorney Association], and AOC do not possess." This statement does not consider that the 36 district attorneys are state employees. In addition, the information requested should generally be available from each county's public budget documents for which district attorneys are presumed to be responsible for submitting to county commissions for approval each fiscal year. The COVID-19 pandemic, and a recent change in the ODAA Executive Director positions due to the former Executive Director's retirement, are two factors that hindered the comprehensiveness of the report.

This report was meant to be of mutual state, local, and ODAA benefit so as to develop a more complete understanding the revenues and expenditures required to fund district attorney offices on a statewide basis and how that responsibility is shared. ODAA and AOC should be encouraged to build upon the report that was submitted so as to eventually be able to provide more comprehensive information related to the funding of district attorney offices.

**Legislative Fiscal Office Recommendation:** Acknowledge receipt of the report.

## District Attorneys and Their Deputies Lisper

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**Request:** Report on the biennial revenues and expenditures supporting each county's District Attorney Office's 2019-21 budget and the actual expenditures for each fiscal year in the 2017-19 biennium.

**Recommendation:** Acknowledge receipt of report.

**Discussion:** The 2019-21 budget report for the District Attorneys (DAs) and Their Deputies included a budget note requesting detailed information from the District Attorneys identifying and quantifying each source of revenue from state funding, any supplemental funding for district attorney salaries, other forms of state funding supporting programs, county General Fund, federal grants, and any other material remaining source of revenue. Additionally, the budget note requested each district attorney office to categorize expenditures by criminal, civil or other, victims' assistance, child support, juvenile dependency and any other material expenditure categories.

The DAs have reported they are unable to provide the detail as outlined in the budget note, primarily due to the lack of resource staffing to coordinate and correlate the data.

The aggregated information provided by the DAs included state funding for the DAs 2019-21 Legislative Adopted Budget of \$12,839,916 General Fund. The 2019-21 Legislative Approved Budget through January 2021 is \$13,757,414 General Fund. This budget includes the DAs' salary selective and \$500,000 General Fund for grand jury transcription recordation, training, and storage. The additional \$500,000 General Fund was approved during the August 2020 Special Session.

The Department of Administrative Services (DAS), Chief Financial Office tracks the 36-county DAs' salaries, benefits, and Service and Supplies expenditures related to state government service charges and any additional allocations approved by the Legislature. DAS is not able to verify the additional county aggregated data provided in the report.

The Department of Justice (DOJ) provides administrative data entry into the state budget and accounting systems and a monthly expenditure report illustrating a straight-line projected ending balance based on actuals, at no cost to the DAs. DOJ does not provide support for budget development or other budgetary analysis.



February 1, 2021

Senator Betsy Johnson  
Senator Elizabeth Steiner Hayward  
Representative Dan Rayfield  
Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairs:

As part of the 2019-21 District Attorneys and Their Deputies budget, the Legislature requested that District Attorneys and Their Deputies, in consultation with the Oregon District Attorneys Association (ODAA), the Association of Oregon Counties (AOC) and the Oregon Department of Justice (DOJ), prepare a comprehensive report that would detail the biennial revenues and expenditures supporting all 36 county District Attorney Offices for the 2017-19 and 2019-21 fiscal years. The request was outlined in a budget note in the 2019-21 budget and specifically requested the following information and analysis:

1. For each of the 36 county offices the report was to identify state funding revenue, county General Fund revenue, federal grants, supplemental county funding for elected District Attorney salaries, and any other revenue.
2. For each of the 36 county offices the report is categorize expenditures by: criminal; civil or other; victims' assistance; child support; juvenile dependency; and any other material expenditure categories.

Unfortunately, the scope of work that the budget note outlined is beyond the resources and capabilities of District Attorneys and Their Deputies. District Attorneys and Their Deputies has no staff or executive management that is financially supported or resourced through state funding. When the Legislature requires action by District Attorneys and Their Deputies, such as budget information or emergency board submissions, the responsibility has fallen upon ODAA, a non-profit organization, along with crucial DOJ administrative support to provide this information. ODAA has a full-time contract Executive Director and a contract administrator, paid for by Association funds, and no other analysts or staff that could collect and collate the complex requested data.

Consequently, the requested report requires significant resources and staff that the District Attorneys and Their Deputies, ODAA, and AOC do not possess.



However, ODAA was able to produce the attached report that addresses the history of State funding for District Attorneys and a comparison of the 2019-21 District Attorneys and Their Deputies budget to the publicly available 2021 fiscal year county budgets that support District Attorney Offices. The report outlines the relative levels of support that the counties and the State are providing for District Attorney duties and functions.

Sincerely,

Michael Y. Wu  
Executive Director  
Oregon District Attorneys Association

Rob Bovett  
Legal Counsel and Legislative Director  
Association of Oregon Counties

c: Paige Clarkson  
Amanda Dalton



## **ODAA Report on Fiscal Year 2020-21 State v. County Budget Support for District Attorneys**

### Office of the District Attorney:

District Attorneys (DAs) are State Officers created by Article VII, section 17 of the Oregon Constitution. There are 36 DAs, one for each county, who are independently elected to four-year terms. A DA is the county chief law enforcement officer. DAs and their deputies prosecute state criminal offenses committed by juveniles and adults.

District Attorneys are primarily tasked with enforcing state criminal law. District attorney legal duties may also include enforcement of child support obligations in non-welfare cases, prosecuting civil forfeitures, presenting evidence at mental health hearings, ruling on public records requests, representing interests in child dependency cases, assisting juvenile courts, and advising and representing county officers as county counsel in civil matters. DAs and their deputies are also active in local public safety coordinating councils, child abuse prevention teams, and community outreach activities.

There are approximately 350 Deputy District Attorneys (DDA) serving in DA offices in Oregon. A wide range of office sizes and complexity are managed by DAs. Some larger DA offices may include close to a hundred DDAs, while some may only have the elected DA as the sole attorney in the office.

### Current State budget support for District Attorneys and Their Deputies:

The Legislatively Adopted Budget for District Attorneys and Their Deputies for the 2019-21 biennium is \$12,839,916. These funds provide for the salaries and benefits of the 36 elected DAs, centralized charges for the Department of Administrative Services and other statewide services, and funds appropriated to pay for Grand Jury recordation transcription and storage costs. Salaries and benefits of the 36 elected DAs comprise the majority of the budget. The budget does not include funding for any staff.

### Historical Review of State Funding for District Attorneys:

State funding of elected DA salaries was intended to eliminate potential conflicts with county officials. This shared a similar philosophy as the decision for the State to fund Circuit Court Judge salaries instead of the counties. Additionally, the State funding was intended to foster stable salaries that would attract and retain high quality candidates for the position of elected DA.



Historically, the State funded a more significant share of the costs of District Attorney Offices beyond elected DA compensation and benefits.

- In 1975 the State covered 19% of the total DA costs. The State provided funding for elected DA salaries, a portion of the DDA salaries, and witness fees.
- By 2000 State funding for DA Offices had dropped to 9%, in 2001 the State eliminated financial support for witness fees and in 2005 the State also eliminated financial support for DDA salaries.
- The 2007-09 budget restored \$444,392 for DDA salary support, but this support was eliminated in the biennium 2009-11 budget.
- Since 2011 the counties have had the sole responsibility of funding DDA salaries.

#### Current County budget support for DAs:

Counties currently provide the following budget support for DA Offices:

- Providing funding for the approximately 350 DDA positions.
- Administrative Support.
- Facility Space.
- Services and Supplies.
- Expert and other witness fees.

Additionally, 26 counties have elected to provide supplemental compensation for their elected DA in order to keep the overall compensation commensurate with the salary market in the county.

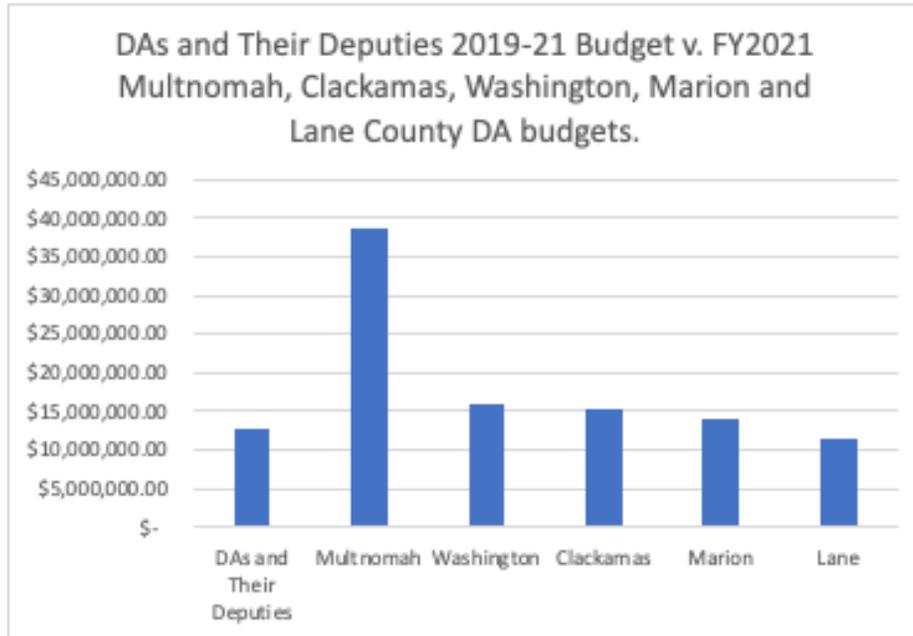
#### Comparison between District Attorneys and Their Deputies 2019-21 budget to FY 2021 County DA budgets:

Fiscal year 2021 county adopted DA budgets were available for 32 of 36 counties. Fiscal year 2020 information was available for one county, and three other counties either did not have available information or did not have information in a comparable format to the other counties.

While county DA offices receive some revenue from discovery fees, the significant majority of county DA offices budgets are funded by county general fund.



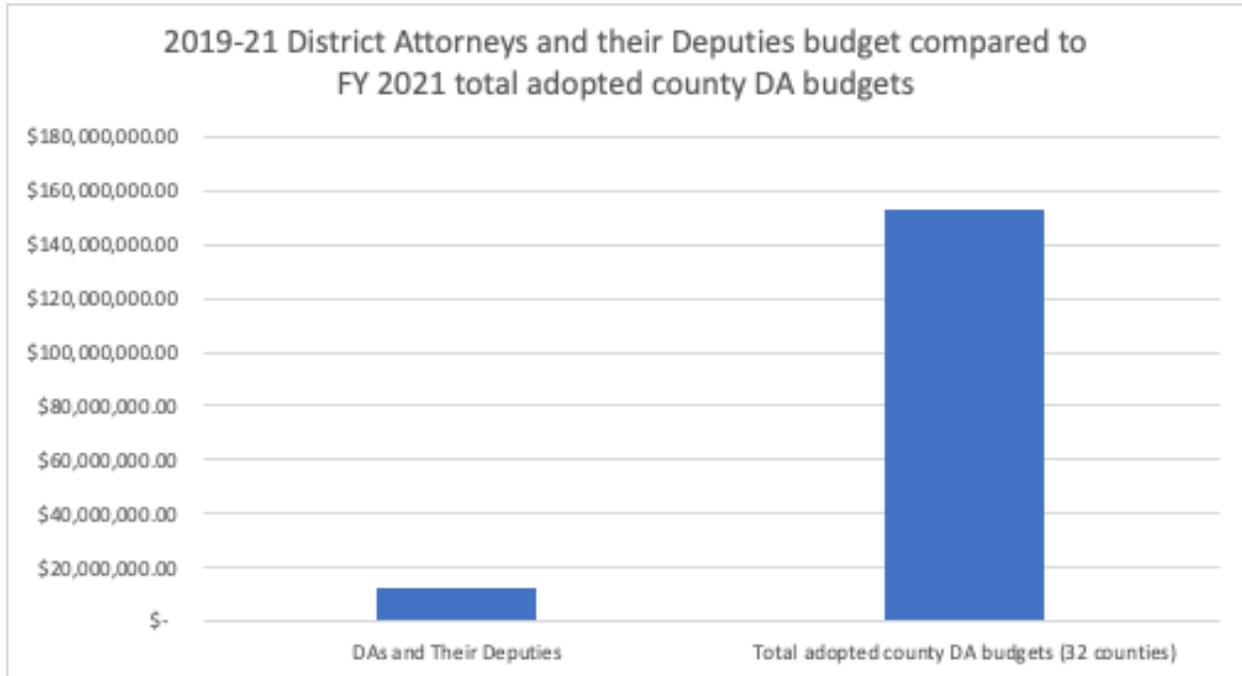
Five counties have fiscal year 2021 adopted DA budgets greater than the 2019-21 budget for DAs and Their Deputies



DAs and Their Deputies	\$	12,839,916.00
Multnomah	\$	38,678,464.00
Washington	\$	15,915,686.00
Clackamas	\$	15,182,445.00
Marion	\$	14,063,750.00
Lane	\$	11,541,127.00



The combined DA adopted budget for the 32 counties which FY 2021 information was available for is \$153,200,261.



Supplemental State Support to DAs:

District Attorneys do receive significant supplemental support through a variety of DOJ programs. DOJ provides direct administrative support to facilitate budget development and to coordinate training. DOJ’s administrative budget development and administration support is essential since District Attorneys and Their Deputies do not have any State funded staff to perform those functions.

On a routine basis, DOJ’s criminal division supports local DAs by providing, upon request, trial and investigative assistance advice and technical advice and services. This support extends to the assistance of DOJ attorneys to handle conflict cases and to assume the duties of an Elected DA as instructed by the Governor. The criminal division also provides a significant amount of training for DAs and will assist less resourced DA offices with complex prosecutions by assuming responsibility for the prosecution. Additionally, the Attorney General’s Crime Victim and Survivor Services Division provides significant training and support to DA Victim advocacy programs.



Additionally, DOJ's Appellate and Trial divisions may also defend the state in cases in which sentenced offenders challenge their sentences or convictions. DOJ also provides resource prosecutors for DUII prosecution, DV prosecution and Elder abuse.

DAs in 22 counties continue to have responsibility for state child support cases. The DOJ has responsibility in the remaining 14 counties. By statute, DOJ provides funding for a DA liaison position for the child support program in order to facilitate DOJ/DA cooperation.

Summary:

Direct State funding of DAs is limited to elected DA compensation and benefits and funding for Grand Jury recording costs. Current State funding for DAs does not include supplemental funding for DDA salaries, witness fees, facility costs or other administrative support staff.

Historically, the State had financially supported DAs as holders of a State office primarily engaged in the enforcement of state laws. As recently as 2011 the Legislature had included supplemental funding for DDA salaries. However, since then counties have absorbed the majority of the costs of DA offices and have done so by providing the majority of funds through their general funds.

The DOJ does supply a significant amount of vital supplemental support to DAs without which DAs and Their Deputies would not be able to engage in budget development or administration and DAs offices would not be able to discharge their duties to enforce Oregon's criminal laws.



### **Sources Cited**

1. 2019-21 Legislatively Adopted Budget, Detailed Analysis. Oregon Legislative Fiscal Office, 2019.
2. Public Safety Package for District Attorneys. Association of Oregon Counties, 2015.
3. District Attorneys and Their Deputies, 2015-2017 Budget Presentation. Oregon District Attorneys Association, 2015.