

Department of Justice					
	2019-21 Actual	2021-23 Legislatively Adopted	2023-25 Legislatively Approved *	2023-2025 Current Service Level	2023-25 Governor's Budget
General Fund	116,871,167	153,050,242	186,074,285	147,343,272	153,963,853
Other Funds	345,893,848	379,645,656	425,222,528	425,243,185	470,206,887
Federal Funds	189,408,773	185,198,126	224,501,233	169,084,534	220,823,033
Total Funds	652,173,788	717,894,024	835,798,046	741,670,991	844,993,773
Positions	1,460	1,482	1,505	1,470	1,552
FTE	1,424.80	1,463.05	1,469.16	1,460.21	1,536.35
* Includes Emergency Board and administrative actions through December 2022					

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.

The budget is organized into the following divisions or program areas: Office of the Attorney General/Administration, Appellate, Civil Enforcement, Criminal Justice, Crime Victims and Survivor Services, General Counsel, Trial, Defense of Criminal Conviction, Child Support, and Debt Service and Related Costs.

DOJ is funded with General, Other, and Federal Funds. General Fund accounts is used primarily for the Child Support Program, Defense of Criminal Convictions, crime victim programs, legal work for which no state agency can be billed directly (e.g., ballot measure related), law enforcement activities, and debt service. Indirect General Fund (i.e., Other Funds) is received in the form of an allocation from the Criminal Fines Account for crime victim programs and the payment of some legal service costs by General Funded agencies. Other Funds include charges to agencies for legal services, Tobacco Master Settlement and other legal settlements, license and other fees, charges, and fines. Federal Funds include the federal share of the Child Support program, the Child Support Enforcement Automated System information technology project, the Medicaid Fraud program, Internet Crimes Against Children, and grants to support victims of crime, among others.

CSL Summary

The 2023-25 current service level budget for the agency totals \$741.7 million total funds, including \$147.3 million General Fund, \$425.2 million Other Funds, and \$169.1 million Federal Funds. The budget includes 1,470 positions/1,460.21 FTE. The CSL is \$94.1 million, or 11.3%,

less than the 2021-23 legislatively approved budget of \$835.8 million. There are 35 fewer positions and 8.95 less FTE. The CSL budget is comprised of \$424.4 (or 57.2%) personal services, \$231.8 (or 31.3%) services and supplies, \$84.5 million (or 11.4%) special payments, and \$1 million (or 0.1%) debt service.

Modified Current Service Level - The 2023-25 modified current service level budget for the agency includes a Division of Child Support federal grant reduction for the Governor's Office Arrest and Return/extradition Program (\$20,000 Federal Funds), which no backfill was requested. No revenue shortfall was reported associated with the federal Victims of Crime Act grant.

Understatement of Current Service Level/Modified Current Service Level - The following issues potentially understate both the CSL and the modified CSL budgets: (1) Trial Division - the Department of Administrative Services phased out the ongoing costs for the state's defense against wrongful convictions (SB 1584, 2022) resulting in a revenue shortfall for DOJ (\$2.2 million Other Funds, based on current estimates); and (2) Criminal Justice Division - a General Fund backfill of a federal grant for Internet Crimes Against Children was incorrectly budgeted as one-time expense (\$172,135 General Fund).

Base Budget Adjustment (\$17.2 million Total Funds; <33 positions>/<9.04 FTE>) - offsetting adjustments to the base budget include standard personal service adjustments, the phase-in of permanent full-time positions, and phase-out of limited duration positions. DOJ's base budget reflected a debt service adjustment for Division of Child Supports - Child Support Enforcement Automated System has declined from \$8.3 million to \$908,250 (or less 89%) due to the retirement of debt issuances. Debt service for Legal Tools Replacement Project 3.0 is eliminated from the budget, as DOJ requested that the spring of 2023 bond sale be postponed.

Phase-Outs (\$95.5 million) - Major phase-outs of the budget, excluding corresponding base budget roll-out costs, include: (1) Legal Tools 3.0 information technology program (\$6.4 million Total Funds); (2) grand jury recordation (\$481,000 General as Other Funds); (3) Urban Area Security Initiative/ State Homeland Security Program (\$673,173 Federal as Other Funds); (4) General Fund for a Victim of Crime Act (VOCA) revenue shortfall (\$11.3 million General Fund); (4) VOCA grants (\$22.4 million Federal Funds); (4) Child Abuse Intervention Centers (\$6 million General Fund); (5) assist victims of domestic violence and sexual assault with housing needs (\$5 million General Fund) (6) violence prevention grants (\$15 million Other Funds/American Rescue Plan Act); (7) Oregon Domestic and Sexual Violence Services Fund (\$10 million General Fund); (8) emergency housing (\$2 million Other Funds/American Rescue Plan Act); (9) Court Appointed Special Advocates (\$2.8 million); (10) Oregon Crime Victims Law Center (\$1.3 million General Fund); and (11) Child Support Enforcement Automated System implementation shortfalls (\$4.6 million Total Funds). The CSL neglected to phase-out the cost of bond issuance (\$105,000 Other Funds) and the fiscal impact of SB 817 (2021)(\$170,848 Total Funds).

Phase-In (\$1.2 million) - Major phase-ins, excluding base budget roll-up costs, include: (1) wrongful conviction (revenue shortfall); (2) nonunanimous jury appeals - Appellate and Trial Divisions; (4) workload adjustments for General Counsel Division; (5) Civil Rights Unit Bias Crimes Response; (6) Civil Rights Unit Sanctuary Hotline; (6) Fair Housing Initiative; (7) Family Treatment Court program; (8) Appellate Court

Coordinator; (9) Appellate Advocate position; (10) General Fund backfill of punitive damage awards; and the (10) Commission on Statewide Law Enforcement (HB 2930 (2021)).

Inflation Adjustment (\$23.4 million) - DOJ's CSL includes standard inflation adjustments totaled \$23.4 million Total Funds with no above standard inflation adjustment.

Mandated Caseload Adjustment (\$362,968) - DOJ's mandated caseload adjustment under the Defense of Criminal Convictions Division totals \$362,968 Other Funds and two Legal Secretary positions/1.76 FTE.

Policy Issues

The Legislature in 2023 may be considering public safety system legislation including the codification of Ballot Measure 114 (2022). DOJ will be impacted by the recent Oregon Supreme Court ruling in *Watkins v. Ackley* that held that the requirement of unanimous jury verdicts in serious criminal cases applies to older criminal cases as well as those still on appeal. The ruling applies to cases where a criminal conviction was final and the appeals, if any, were over before the U.S. Supreme Court ruling decision that was issued in April 2020. At least hundreds of convictions are involved and may end up going back to circuit courts for new trials. Various executive actions of Governor Brown will need to be incorporated into the budget, including, but not limited to, the commutation of the sentences of the 17 individuals on Oregon's death row to life imprisonment without the possibility of parole.

DOJ may be proposing approximately 12 to 13 legislative concepts that may have a revenue or budgetary impact; however, DOJ has no associated policy packages for any of the LCs. Other agency and/or legislatively introduced concepts could have a budgetary impact to DOJ.

Governor's Budget Summary

The 2023-25 Governor's budget totals \$845 million total funds, which includes \$154 million General Fund, \$470.2 million Other Funds, and \$220.8 million Federal Funds. The budget includes 1,552 positions and 1,536.35 FTE. The budget is \$103.3 million (or 13.9%), more than the 2023-25 current service budget of \$741.7 million and includes 82 additional positions (76.14 FTE). The budget includes the following policy package requests categorized by division within DOJ:

Office of the Attorney General/Administration Division

- Package #100 - Reconcile Intra-Agency Charges (\$3.2 million Total Funds)(Agency Priority #12)
- Package #101 - Hardware Lifecycle Replacement (\$1.2 million Total Funds)(Agency Priority #5)
- Package #104 - Budget Shift: Civil Rights Unit (net zero)(Agency Priority - unassigned)
- Package #110 -- Office of the Attorney General (\$1.1 million Other Funds; four positions/3.52 FTE)(Agency Priority #6)
- Package #115 - Core Agency Support Services Staffing (\$1.6 million Other Funds; six positions/5.40 FTE) (Agency Priority #4)
- Package #135 - Legal Tools Program Funding (\$20.6 million Other Funds; 22 positions/22.00 FTE) (Agency Priority #10)

- Package #138 - Increase Information Services Staffing (\$1.9 million Other Funds; 7 positions/6.886 FTE) (Agency Priority #11)

Appellate Division

- Package #450 - Appellate Civil Paralegal (\$230,679 Other Funds; one position/0.88 FTE)(Agency Priority #19)

Civil Enforcement Division

- Package #201 - Budget Shift: Child Advocacy Program (net zero)(Agency Priority - unassigned)

Child Advocacy Division

- Package #201 - Budget Shift: Child Advocacy Program (net zero)(Agency Priority - unassigned)
- Package #210 - Organizational Structure Realignment (\$7 million Other Funds; 19 positions/16.72 FTE)(Agency Priority #13)

Criminal Justice Division

- Package #251 - Compliance with State Labor Agreement (net zero) (Agency Priority unassigned)
- Package #252 - Ongoing Grants (\$1 million Other Funds/three positions/3.00 FTE)(Agency Priority - unassigned)
- Package #253 - ICAC Positions Due to Workload (\$3.9 million General Fund; 14 positions/12.32 FTE)(Agency Priority #20)
- Package #255 - Anti-Poaching Prosecutor Fund Shift (Net zero) (Agency Priority - unassigned)
- Package #256 - Position Funding Correction (\$172,135 /General Fund; one position/1.00 FTE) (Agency Priority #8)
- Package #258 - Gun Violence Resource Prosecutor (\$750,947 General Fund; two positions/1.76 FTE) (Agency Priority #9)

Crime Victims and Survivor Services Division

- Package #301 - Victims of Crime Act Grant Budget (\$44.8 million Federal Funds; three positions/2.76 FTE) (Agency Priority - unassigned)
- Package #302 - Human Trafficking Intervention Grant (\$1.1 million Federal; Funds; three positions/2.88 FTE) (Agency Priority - unassigned)
- Package #303 - Bias Response Hotline Advocate (\$238,108 Other Funds; one position/0.88 FTE) (Agency Priority #27)
- Package #305 - Community Based Violence Prevention (\$13.4 million; three positions/3.00 FTE)(Agency Priority #28)

General Counsel Division

- Package #350 - Legal Training for Oregon State Government (\$387,359 Other Funds; one position/1.00 FTE)(Agency Priority #7)

Trial Division

- Package #082 - September 2022 Emergency Board (\$414,292 Other Funds; one position/1.00 FTE) for a family treatment court governance committee staff; however, this adjustment should have been made under the Civil Enforcement/Child Advocacy Division.

- Package #400 - Reduced Need for Outsourced Legal Counsel (\$1.1 million Other Funds; four positions/3.52 FTE)(Agency Priority #18)

Child Support Division/Child Support Enforcement Automated System

- Package #070 - Revenue Shortfall (\$20,639 Federal Funds)(Agency Priority - N/A)
- Package #472 - CSEAS/Origin Framework Refactoring (\$7.4 million Total Funds)(Agency Priority #15)
- Package #473 - CSEAS/Origin Hosting and Software Licensing (\$2.2 million Total Funds)(Agency Priority #16)

The Governor’s budget made reductions totaling \$3.9 million General Fund, \$105,000 Other Funds, and \$786,019 Federal Funds and 13 positions/12.38 FTE. The reductions by division include: (1) Office of AG/Administration (\$720,446 reduction; two positions/2.00 FTE); (2) Criminal Justice (\$272,314 General Fund); (3) Crime Victim and Survivor Services (\$589,139 General Fund; two positions/1.38 FTE); (4) Division of Child Support (\$3.2 million; nine positions/9.00 FTE). The Governor’s budget included agency-wide adjustments to the Attorney General line-item (\$3 million reduction) and the Department of Administrative Services assessments (\$1.3 million reduction).

Other Significant Issues and Background

Attorney General Rate/Hourly Legal Service Billing Rate

DOJ’s hourly legal services rate to state agencies and entities (also known as the Attorney General rate) is established as part of the legislative budget process. The 2021-23 legislatively approved hourly rate is \$242 per hour and is estimated to generate \$272.1 million. The 2023-25 proposed hourly rate that was used to develop current service level costs across all agencies is \$293 and is estimated to generate \$319.1 million. The Governor’s budget hourly rate is \$278 (+14.9% from 2021-23 rate) and is expected to generate \$325 million in Other Funds revenue, according to the Governor’s published budget. The hourly billing rate will need to be re-calculated based upon the Co-Chair’s budget decisions. The Legal Service Fund needs a statutory review and completion of a comprehensive audit, as noted below. DOJ’s flat rate or flat charge billing model was discontinued due to inherent deficiencies with the model on June 30, 2021 and all agencies transitioned to the hourly rate billing model.

Defense of Criminal Convictions (\$42.9 million General Fund) a budgetary unit used to track the cost of defending the state in cases in which sentenced offenders challenge their convictions or sentence. The DCC is fully resourced at the CSL with a budget of \$42.9 million General Fund. DCC caseload will need to be re-forecasted based upon updated caseload figures as well as the legislatively adopted Attorney General hourly legal rate.

Caseload Information - DOJ is currently not utilizing a caseload to develop the agency’s budget other than for the Defense of Criminal Convictions. There is little, if any management reporting to external stakeholder of DOJ’s actual caseloads and limited effort is undertaken by DOJ in ascertaining the quality of the legal services provided to agencies and entities even though the agency receives much of its revenue through hourly legal service billings to client agencies. The issue of state habeas cases related to COVID and proper medical care have subsided, according to the Division.

Major Legal Settlements - DOJ has reached a number of legal settlements, including some multi-state settlements, resulting in moneys be made available to the state. More material settlements include: (a) national opioid-related settlements (Oregon stands to receive up to \$270.4 million over time); (b) national JUUL Labs settlement (\$18.8 million); (c) national Google privacy settlement (\$14.8 million); among others.

Juvenile Dependency Representation Study (2022) - The Legislature in 2017 provided funding for a three-phase implementation of Department of Human Services (DHS) child welfare caseworkers in circuit court. This effort was fully implemented on July 1, 2019 and the law authorizing DHS to appear as a party in a juvenile court proceeding without appearance of an DOJ attorney general sunset on June 30, 2020. DOJ recently commissioned an independent study of the agency's child welfare legal services and whose findings noted the need for process improvements, including billing, determining caseload weighting, increased need for coordination between support staff and attorneys, and general supervision.

Information Technology - Two DOJ's information technology efforts are of note.

- Legal Tools Replacement Project 3.0 is DOJ's third attempt to begin the process to replace the agency's legacy case, document, time capture, billing, and legal matter applications (a decision to remove discovery from the project requires further evaluation). The project continues to be challenged by scope, schedule, budget, and governance issues. DOJ project status report, as of December 2022, list the project in "Red" status. The project has miss key information technology deadlines and therefore will likely miss 2023 legislative funding deadlines.
- Child Support Enforcement Automated System - After the \$140 million implementation of CSEAS, in the spring of 2021, DOJ-DCS notified the Legislature and Legislative Fiscal Office of a number of outstanding issues with CSEAS, which included: (1) the need to refactor (replace) some of the existing software code that was transferred from other states, and which later drove an Internal Revenue Service security finding; (2) the need to re-host or move CSEAS from a private vendor, on contract with the State Data Center, to handle overflow services, to an alternative hosting site; and (3) the need to extend for a second year, an existing vendor contract to continue external operations and maintenance support of CSEAS.

Continuation of 2021-23 Legislation/Investments - Key legislative initiatives will continue into the 2023-25 biennium, including, but not limited to:

- Statutory Investments: staffing for a sanctuary violation hotline and to develop and implement processes for collecting and reporting information; program for awarding grants to law enforcement agencies and local governments to fund training for groups and agencies that interact with persons who have experienced trauma (HB 3265, 2021); Hope Card program (HB 2746, 2021); state's defense against wrongful convictions (SB 1584, 2022); and the Commission on Statewide Law Enforcement (HB 2930 (2021)).
- Budgetary Investments: Ramos v. Louisiana that the Sixth Amendment Advocate position for the U.S. Supreme Court's Ramos v. Louisiana decision; Fair Housing Enforcement initiative (The revenue source is from legal service billings to the Bureau of Labor and

Industries); close out of Community Based Violence Prevention Community-based violence prevention grants funded from ARPA moneys; and Criminal Justice Division’s withdraw from the High Intensity Drug Trafficking Area program.

Concern continues to exist with the Crime Victim and Survivor Services Division’s federal grant processes and procedures, which have continued to be challenged by the inaccurate reporting of expenditure limitation requests to the legislature and the Emergency Board due to the program’s difficulty in differentiating state from federal fiscal year grants and expenditures.

Budget Note and Other Anticipated Reports

The 2023 Legislature is expecting to receive the following reports: activities of the Environmental Crimes and Cultural Resources Enforcement Unit, prior biennia crime victim investments and outcomes, the Legal Tools Replacement project, legal support for high risk agencies, and the agency’s internal audit function, the General Counsel Division proposed pilot program detailing how the department can more effectively and directly support state agencies that incur high legal costs and that pose heightened litigation risk to the state, and a comprehensive plan, schedule, and budget that addresses all outstanding Child Support Enforcement Automated System issues, including the resolution of the federal Internal Revenue Service audit findings.

Internal and External Audits

In 2019-21, after an attempt to use contract services to perform internal audits, the Legislature decided to add back an internal auditor position to the agency, which then remained vacant. Joint Legislative Audit Committee report.

- Internal Audit - DOJ has completed no internal financial or performance audits as of the date of this analysis during the 2021-23 biennium. DOJ’s internal audit function completed an agencywide risk assessment (July 2022) and is currently in process of completing an audit of the Legal Services Fund, based on concerns with the Legal Services Fund brought to the attention of the Legislature in 2021 (est. December/January 2023). A budget note directed that DOJ report to the Joint Legislative Audit Committee during the Legislative Session in 2022 on the agency’s internal audit function, including the reporting structure to the Attorney General, and the hiring of the legislatively authorized Internal Auditor positions. The report is to include, but is not limited to, the internal audit plans for the 2021-23 biennium and the 2023-25 biennium. The audit plans are to include the auditing of the revenues and expenditures related to the legal service charges under Oregon Revised Statute 180.
- External Audit - DOJ has undergone five external financial and performance audits during the 2021-23 biennium: (1) federal Internal Revenue Services - Office of Safeguards (Federal Tax Information Security) Audit of the Division of Child Support Division (September 2021); (2) Secretary of State 2021 Statewide Single Audit - agencywide (September 2021); (3) federal Office of Justice Programs’ Victim Assistance Grants audit - Crime Victim and Survivor Services Division (September 2022); (4) Secretary of State Child Support Enforcement Audit – Internal Control over Compliance audit - Division of Child Support Division (April 2022); and (5) Secretary of State annual financial audit for fiscal year 2021-22.

2021-23 Biennium Adjustment

At the present time, DOJ may require various 2021-23 Other Funds expenditure limitation adjustments to reconcile expenditure limitations with anticipated operational expenses.

Key Performance Measures

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

[https://www.oregonlegislature.gov/lfo/APPR/APPRProposed DOJ 2022-09-23%20-%20FINAL.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPRProposed_DOJ_2022-09-23%20-%20FINAL.pdf)

Over the last two biennia, the Legislature has directed DOJ to undertake a concerted effort to update and modernize the agency's Key Performance Measures. While DOJ has made progress to update the agency's KPMs for select divisions, additional work is needed, per the agency's report to the 2022 Legislature.