

## Department of Corrections

	2019-21 Actual	2021-23 Legislatively Adopted	2021-23 Legislatively Approved *	2023-25 Current Service Level	2023-25 Governor's Budget
General Fund	1,917,054,868	1,140,155,032	1,108,497,939	2,127,692,664	2,046,404,280
Other Funds	96,222,527	1,024,510,416	1,131,106,616	44,951,455	183,800,887
Other Funds (NL)	214,566,936	--	--	--	--
Federal Funds	2,629,078	4,734,976	4,734,976	5,171,280	300,000
Federal Funds (NL)	242,755	--	--	--	--
<b>Total Funds</b>	<b>2,230,716,164</b>	<b>2,169,400,424</b>	<b>2,244,339,531</b>	<b>2,177,815,399</b>	<b>2,230,505,167</b>
Positions	4,718	4,781	4,791	4,760	4,806
FTE	4,690.24	4,688.65	4,691.44	4,702.36	4,748.36

\* Includes Emergency Board and administrative actions through December 2022.

### 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 12 institutions for the incarceration of adult felons sentenced to prison for more than twelve months by the courts. The 2021-23 legislatively approved budget was based on the April 2021 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.

The Department is primarily supported with General Fund, however the 2021-23 legislatively approved budget included significant fund shifts to account for one-time American Rescue Plan Act (ARPA), CARES Act, and Coronavirus Relief Funding (CRF) monies available for maintaining public safety services in prisons. Typical Other Funds in the Department’s budget include revenues from state agencies for inmate work crews, fines and forfeitures, and sales income. Federal Funds had primarily come from the State Criminal Alien Assistance Program (SCAAP); however, HB 3265 (2021) restricts DOC from applying for these funds.

### CSL Summary

The General Fund CSL is 88.5%, or \$980.5 million, greater than the 2021-23 legislatively approved budget due to fund shifting the one-time ARPA, CRF, and CARES Act funding back onto General Fund. The all funds CSL is 4.7%, or \$105.1 million, less than 2021-23, with the removal of capital construction expenditure limitation from the current service level calculation, and with the removal of other one-time funding in the current biennium. The 2023-25 General Fund current service level includes a net change of \$38.7 million for mandated caseload changes

based on the most recent (October 2022) prison population forecast. This reflects gradual increases for both Operations and Community Corrections over the prior forecast.

Community Corrections funding provided by the state, called grant-in-aid, primarily supports personnel costs at the county level. As a result, the budget would not keep up with the differing inflation factors between personnel and services and supplies. The 2021-23 budget included an adjustment to the way CSL is calculated, using a weighted average of inflation, which will more closely match state funding to county expenses. The 2023-25 biennium is the first time this new calculation has been applied to the current service level.

As mentioned above, DOC can no longer apply for SCAAP funding from the U.S. Department of Justice, Bureau of Justice Assistance. A revenue shortfall package is included at CSL to reflect this and reduces Federal Funds expenditure limitation by \$4.9 million. DOC's requested budget includes a package to backfill this funding with General Fund, which was not approved in the Governor's Budget.

### Policy Issues

The decline in the prison population over the past few years led to the closure of two minimum-security prisons in 2021-23. The most recent forecast anticipates the population will begin to gradually increase again, enough that DOC anticipates needing to open a housing unit at Deer Ridge near the end of the 2021-23 biennium, earlier than previously anticipated. This forecast change is the \$38.7 million increase mentioned above.

The effect of the COVID-19 pandemic on every aspect of the criminal justice system and the passage of Ballot Measure 110 (2020), 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 compound's 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.

Another impact of the pandemic has been the habeas corpus and class-action lawsuits filed by adults in custody against DOC. Habeas corpus cases are civil actions brought against the state by incarcerated persons challenging the conditions of their confinement. Almost all the current cases are related to the COVID-19 pandemic. The agency estimates that work associated with habeas corpus cases may continue for another year with increased costs related for legal and medical records research work and Department of Justice charges. 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 DOJ 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. One-time funding and positions were provided in 2021-23 for the habeas corpus workload, but DOC reports that costs have already exceeded the amount provided for this specific purpose and DOJ anticipates that these types of cases will continue, especially as it relates to complex medical care.

Despite receiving additional positions for security and health services in the 2021-23 budget, the current economic conditions have led to recruitment challenges for DOC, which in turn has led to the increased use of mandatory overtime and significant workforce burnout. A budget note was included in HB 5004 (2021) requiring DOC to return and report on its overtime usage. In the reports provided very little overall progress has been made, although much of it is due to circumstances beyond DOC's control. Job markets have changed in areas where DOC employment may have once been the most reliable option, and the demand for nurses is a nationwide issue that has impacted DOC and hospitals everywhere. DOC's turnover rate in its most recent report had increased to 15.3% and 17.6% of existing staff were retirement eligible.

The prison system facilities themselves are difficult to maintain, with roughly 350 buildings and five million square feet of space. The estimated current replacement value is around \$3.5 billion with an estimated inventory of \$260 million in capital improvement projects. The 2021-23 legislatively approved budget included \$73.5 million in Article XI-Q bond proceeds for deferred maintenance and capital construction projects. DOC has another \$70 million request for bond funding in its 2023-25 ARB.

The Community Corrections population has seen a sharp decrease due to the COVID-19 pandemic and Ballot Measure 110 (2020) had a large impact on the parole, probation, and post-prison supervision forecast by reducing possession of a controlled substance felony and misdemeanor crimes to violations. However, like the prison forecast, the county caseload is expected to slowly increase over the next several years, reaching a total caseload of about 26,924 by the end of the 2023-25 biennium. For context, the April 2021 forecast had a projection of 25,675.

#### Governor's Budget Summary

The DOC's Governor's budget for 2023-25 totals \$2.23 billion with \$2.05 billion in General Fund, \$138.8 million Other Funds, and \$300,000 Federal Funds with 4,806 positions (4,748.36 FTE). The General Fund is 3.8% below the current service level, which is achieved by assuming \$99.4 million in General Fund savings through a 12% vacancy rate applied to all programs except for Community Corrections. An additional reduction of \$2.5 million to the exceptional inflation attributable to health care costs is also included in the Governor's budget.

Investments within the Governor's budget include funding for 8 policy option packages totaling \$158 million (\$19.3 million General Fund) and 46 positions (46.00 FTE). These investments include \$5.9 million and 9 positions (9.00 FTE) for the operation and maintenance of the Electronic Health Records system, \$8.7 million and 33 positions (33.00 FTE) to establish a substance use disorder program at Snake River and the Oregon State Penitentiary to provide case management, counseling, and group facilitation or individuals with substance abuse. The remainder of the General Fund investments are tied to bonding requests for additional cameras, an upgrade to the wireless communications system, and a new transport headquarters in Salem. Additionally, \$70.7 million was included for deferred maintenance and capital renewal projects.

None of the “foundational” funding request in the Agency Request Budget were included, such as currently unbudgeted expenditures for things like habeas corpus cases, Microsoft 365 licensing, the Oregon Workers Training and Education Fund, and underbudgeted ongoing expenses for such necessities as food, fuels and utilities, clothing and personal supplies, and cell phones.

#### Other Significant Issues and Background

The 2021-23 budget for the Department of Corrections contained significant General Fund investments, including attempting to address issues that were fundamental problems in prior biennia. Investments included adding 107 positions (87 in Operations and 20 in Health Services) to address long-term staffing and overtime issues; providing additional funding for increased medical costs related to hemophiliac patients, diabetes medication, hepatitis C vaccinations, and offsite healthcare costs and professional services contracts. Nevertheless, with the difficulties in recruitment and retention of personnel and recent inflation factors, the agency has had to request shifting available ARPA funding originally earmarked for deferred maintenance to cover a current biennial budget hole. This is anticipated to be an ongoing problem into 2023-25 for the inflationary costs of food, fuels and utilities, and personal supplies without funding beyond current service level.

DOC continues to make progress on Electronic Health Records project, which recently entered the execution phase. The 2021-23 budget included \$18.4 million in funding and DOC believes this funding is sufficient to implement the system, but the timing will require funding to be carried forward into 2023-25. The project is currently anticipated to be completed by June 2025.

#### Key Performance Measures

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

[https://www.oregonlegislature.gov/lfo/APPR/APPRProposed\\_DOC\\_2022-09-30.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPRProposed_DOC_2022-09-30.pdf)