



OREGON DEPARTMENT OF JUSTICE

TO: Ways and Means Public Safety Sub-Committee
FROM: Alicia Temple, Legislative Director to Attorney General Rayfield, Oregon DOJ
DATE: 2/7/2025
SUBJECT: Response to committee question during 2/6 presentation

Co-Chairs Evans and Broadman, and members of the committee,

In DOJ' hearing about the Defense of Criminal Convictions on February 6, 2025, Rep. Lewis asked whether the right to a court-appointed attorney in direct criminal appeals is statutory or constitutional. The answer is both, at least in part. ORS 138.500 confers a statutory right to appointed counsel on appeal for indigent defendants. And the United States Supreme Court has held that indigent defendants have a constitutional right to appointed counsel during the “first-tier appeal”—which, in Oregon, would generally be an appeal to the Oregon Court of Appeals—although not for subsequent levels of discretionary appellate review, such as petitions for review by a state supreme court or the United States Supreme Court. *Halbert v. Michigan*, 545 U.S. 605 (2005).