



DEPARTMENT OF JUSTICE

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April 17, 2025

Senator Anthony Broadman, Co-Chair
Representative Paul Evans, Co-Chair
Joint Committee on Ways and Means
Subcommittee on Public Safety
900 Court Street NE
Salem, OR 97301

Dear Co-Chairpersons and Member of the Committee:

In DOJ's budget hearing on April 15, 2025, Representative Chotzen asked how often the state concedes error in criminal appeals and how often the state's legal position prevails. The Appellate Division does not track concessions as a category in our current case-management system. We do track outcomes. Our most recent data from 2024 reflects that in criminal appeals the state's position prevailed 82 percent of the time and did not prevail 18 percent of the time.

In addition, Representative Lewis asked about the distinction between Legislative Counsel and DOJ. In general, Legislative Counsel represents the Legislative Assembly and members and committees of the Legislative Assembly. Legislative Counsel only assists state agencies with respect to bill drafting. On the other hand, DOJ represents "the state" through providing legal advice to client agencies in the Executive Branch.

There are some circumstances in which DOJ does provide services to the Legislature, including when a legislator asks for an opinion of the Attorney General or when a legislator is sued in their capacity as a public official. In the case of Attorney General Opinions, Chief Clerk of the House house-rules 16.05 outlines the procedure for a legislator to seek such an opinion, including addressing payment for such services. (See, [Chief Clerk of the House house-rules](#)). In the case of litigation against a legislative member, these are often governed by Department of Administrative Service policies regarding costs of coverage for defense. (See, <https://www.oregon.gov/das/Risk/Documents/SelfInsPolEmpLiab.pdf>).

Sincerely,

LISA M. UDLAND
Deputy Attorney General