

JUDICIAL BRANCH

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Council on Court Procedures – Agency Totals

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Governor's Recommended	2003-05 Legislatively Adopted
General Fund	87,469	83,136	103,396	0
Other Funds	8,000	8,000	8,000	8,000
Total	95,469	91,136	111,396	8,000
FTE	0.71	0.71	0.71	0.0

Program Description

The Council on Court Procedures is responsible for reviewing and amending the Oregon Rules of Civil Procedure. The 23-member Council consists of judges, attorneys and a public member. The Council meets at least 6 days during the interim to consider revisions to civil procedure law and to adopt changes as needed. At the beginning of each legislative session, the Council submits the report on adopted rule changes to the Legislative Assembly. Unless the Legislature acts to modify the rules, adopted changes take effect on January 1 of the following even year.

Revenue Sources and Relationships

The General Fund has been the primary source of support for the Council. The 1993 Legislature changed the funding for the Council to include up to \$8,000 Other Funds for Council members' travel reimbursements.

Budget Environment

The Council was staffed by a 0.21 FTE Executive Director and a 0.5 FTE Executive Assistant. In addition to staffing costs, the budget had provided for a minimal level of office expenses and state government service charges. The University of Oregon provides workspace and some office expenses for the Council. The Oregon State Bar provides a conference room for the Council's meetings and reimburses the Council up to \$8,000 for travel expenditures of members.

Legislative actions during 2001-03 through the 2002 third special session resulted in an increase to the Council's budget by a total of \$1,100 General Fund; a \$7,067 increase for cost-of-living adjustments, and a \$5,967 across-the-board reduction. The Council's budget was further reduced during the 2002 fifth special session in the amount of \$3,304 General Fund. The Council was able to absorb the across-the-board reduction with savings accrued from using a temporary employee as the Executive Assistant. In April 2003, the operations of the Council were suspended pending further statewide budget balancing decisions.

Legislatively Adopted Budget

The 2003-05 legislatively adopted budget eliminates all General Fund support for this agency. In lieu of suspending operations, Council members and the current executive director have agreed to staff the Council on a volunteer basis. The Oregon State Bar will continue to provide funding to reimburse members for their travel expenses, and the University of Oregon has agreed to continue providing office space and minimal support for supplies.

Oregon Judicial Department (OJD) – Agency Totals

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Chief Justice Recommended	2003-05 Legislatively Adopted
General Fund	219,156,597	226,333,703	298,377,126	250,670,922
Other Funds	7,272,046	20,062,964	22,756,426	30,367,366
Federal Funds	599,100	2,105,926	1,556,977	2,333,247
Nonlimited	0	0	5,949,864	5,949,864
Total	227,027,743	248,502,593	328,640,393	289,321,399
FTE	1749.02	1746.17	1965.66	1836.83

The Indigent Defense program is responsible for providing legal counsel to indigent persons at the trial court level. This program, which was part of the Judicial Department, was transferred to the Public Defense Services Commission on July 1, 2003. In order to accurately reflect changes to the Judicial Department budget over time, the table above excludes all indigent defense expenditures, including administrative and support services.

The Judicial Department includes:

- **Appellate Courts**, which are the Supreme Court, Court of Appeals, Tax Court, and legal support cost.
- **Administration and Support Services**, that includes the Office of the State Court Administrator, information systems management, and fiscal and human resources management.
- **Trial Courts**, which are the courts of general jurisdiction. District courts were abolished effective January 15, 1998 and circuit courts assumed jurisdiction for all state trial court functions.
- **Mandated Payments**, that includes the cost of providing trial and grand jurors, court interpreters, civil appellate transcript costs for indigent persons, and Americans with Disabilities Act accommodation services.

Indigent Defense Services, with responsibility for providing legal counsel to indigent persons at the trial court level, was transferred to the Public Defense Services Commission on July 1, 2003.

Revenue Sources and Relationships

The 2003 Legislature, in HB 2759, created a temporary 30% surcharge on filing fees for the circuit and appellate courts; established the Judicial Department Operating Account and continuously appropriated funds in the Account to the Department for operating expenses; established and increased various court fees; increased the maximum fines for felonies, misdemeanors, and violations; increased the unitary assessment; and increased the base fine and reduced judicial discretion to waive the base fee. The 30% surcharge is expected to generate \$6.6 million in revenue that is used to offset General Fund operating expenses. Beginning July 1, 2005, the surcharge is repealed and filing fees are increased by 10% and accrue to the General Fund.

HB 2759 is expected to generate over \$27 million in additional revenue for the biennium. This revenue is in addition to the \$178.3 million in fines, forfeitures, filing fees, and indigent defense partial payments projected to be collected in the 2003-05 biennium. OJD will retain approximately 8% of these revenues to fund revenue administration and collection costs, including credit card fees and amounts paid to the Department of Revenue and private collection agencies for collection of delinquent debt. Compensatory fines and restitution are also collected by the courts and distributed to individual victims. Because these are trust funds, they are not accounted for in the Department budget.

Other sources of operating Other Funds revenue include the sale and distribution of court publications (\$1.8 million); fees charged for public access to the Oregon Judicial Information Network (\$2.4 million); State Law Library fees (\$1.5 million); fees charged for the interpreter and shorthand reporter certification programs (\$.3 million); fees from the 30% surcharge approved in HB 2759 (\$6.6 million); fees from the dispute resolution surcharge for mediation and arbitration activities (\$0.8 million); grants from the Department of Human Services for the Citizen Review Board (\$0.7 million); and various grants from other state agencies (\$1.3 million). Federal Funds of \$2.4 million support assessments of state foster care and adoption laws and judicial processes (\$0.4 million) and drug courts in Marion, Malheur, and Benton counties (\$2.0 million).

Budget Environment

Excluding indigent defense reductions, OJD had a 2001-03 budget reduction of \$13,151,201 net General Fund, based on special session actions during the interim. To manage the reductions, the agency took one-time

actions to delay filling vacant positions and reduce programs and services, including the elimination of court services on Fridays.

The 2001 Legislature established six additional judicial positions to support caseload increases, and provided funding for salary increases for elected positions, including judges. The Legislature subsequently deferred the effective date for three of the six of judgeships, from January 1, 2003 to June 30, 2003, and used the savings from the deferred cost for the 2001-03 budget shortfall. In the 2002 third special session, the Legislature eliminated the second-year salary adjustment for all elected officials except judges. However, the Legislature did not provide any additional funding for the second-year judicial salary adjustment and required the Judicial Department to use existing resources to fund the \$1.2 million cost in the 2001-03 biennium and the \$2.4 million cost for the 2003-05 biennium.

The Department had several budget notes for 2001-03, including direction to work with the Public Defense Services Commission to prepare for the transition of indigent defense services; reports on collections and integration of criminal justice information; and development of a staffing plan not directly tied to new judicial positions.

Legislatively Adopted Budget

The Legislature approved a budget of \$289.3 million total funds and 1,836.83 full-time equivalent positions (FTE) for the Oregon Judicial Department. The budget includes reductions in inflation, assessment rates, and compensation, and \$4.95 million in services and supplies and unspecified savings. It also includes the elimination of 5.86 vacant positions. The budget has an increase of \$2.1 million in Federal and Other Funds and 7.2 FTE from a variety of grants, including family and drug court services. The total budget is increased by 7.7% above the Governor's budget of \$268.5 million total funds, and by 232.36 FTE (14.5%) above the Governor's budget staffing level of 1,604.47 FTE. However, the legislatively adopted budget is 12% below the Chief Justice's recommended budget of \$328.6 million total funds and is 6.6% below the Chief Justice's recommended staffing level of 1,965.66 FTE.

The Department has several budget notes for 2003-05, including requests to:

- report on the use of pro tem judges;
- report on a plan to improve automated accounting;
- report on person-based access to court information;
- develop and report on performance standards for the trial courts and central administration, including reporting on individual trial court and administrative unit performance; and
- develop an intergovernmental agreement and report on the application contribution program that provides Other Funds support for indigent defense eligibility verification.

The Department is requested to report its 2003-05 budget in the categories of Appellate Courts, Administration and Support Services, Trial Courts and Mandated Payments. The Department will distribute the 2003-05 Legislatively Adopted Budget into these categories when it has completed reconciliation of the 2003-05 budget. The Department is also requested to prepare its 2005-07 budget in those categories, including providing for General Fund appropriations at that level of detail.

If the temporary graduated income tax assessments adopted by the Legislature as part of HB 2152 are rescinded through a referral, then \$13,015,940 (which is the agency share of \$544.6 million) will be disappropriated from Judicial Department operations. The Chief Justice will be responsible for determining how the General Fund disappropriation will be allocated among the Judicial Department programs. The Judicial Department is exempt from the Executive Branch allotment process and will not be subject to allotment reductions if the statewide disappropriation amount of \$544.6 million is insufficient to balance the budget.

OJD – Appellate and Administration

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Chief Justice Recommended	2003-05 Legislatively Adopted
General Fund	49,616,018	52,508,469	72,422,341	54,216,238
Other Funds	5,901,373	9,879,371	9,514,935	16,703,496
Federal Funds	272,183	677,737	306,977	374,836
Nonlimited	0	0	5,699,864	5,699,864
Total	55,789,574	63,065,577	87,944,117	76,994,434

FTE	281.93	280.09	315.81	290.83
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Program Description

The Appellate Courts and Administrative Operations program includes the Oregon Supreme Court, the Court of Appeals, the Tax Court, and the Office of the State Court Administrator. The Chief Justice is responsible for the administration of the Judicial Department within the Judicial Branch of state government. The Supreme Court consists of 7 justices elected to serve 6-year terms. The Court of Appeals consists of 10 judges who hear appeals from trial courts, agencies, and boards. Currently, there is one Tax Court judge who hears matters arising from Oregon tax law. A Tax Magistrate Division was created in 1997 to replace the informal administrative tax appeals process conducted by the Department of Revenue. In 2001-03, the Tax Magistrate Division had six magistrates.

The State Court Administrator serves under the direction of the Chief Justice. The State Court Administrator is responsible for certain centralized functions of the Oregon courts system, including legal counsel, internal audit, judicial and staff education, information systems, budget and finance, trial court program statistics, and personnel management. Education and training for Citizens Review Boards, and the Supreme Court library are also funded within the Office.

Revenue Sources and Relationship

Estimates of 2003-05 Other Funds revenue include grants from the Department of Human Services for the Citizen Review Board (\$722,000), revenue from the sale and distribution of court publications (\$1.8 million), fees charged for public access to the Oregon Judicial Information Network (\$2.4 million), fees charged for the interpreters and short hand reporter certification programs (\$266,930), reimbursement of costs for administration of the court revenue administration and collection activity (\$0.8 million), fees from the 30% civil filing fee surcharge approved in HB 2759 (\$6.6 million), fees from the dispute resolution surcharge for court mediation and arbitration services (\$116,200) and payments made to the Department of Revenue and private collection agencies for the cost of collecting delinquent debt (\$5.7 million). Federal Funds are used for assessments of state foster care and adoption laws and judicial processes.

Budget Environment

The number of cases filed in the Court of Appeals for calendar years 2001-02 decreased by 573 cases over calendar years 1999-00. The 1999-00 case filings were 8,018 compared to 7,445 for 2001-02. The Tax Magistrate Division had 1,348 cases filed in 2002, which is down from the high of 1,983 cases filed in 1999. Regular Tax Court filings were 38 in 2002, down from a high of 111 filed in 1998. The number of direct review cases filed in the Supreme Court in 2001-02 was 301, down from a high of 448 cases in 1999-00 and 362 cases in 2000-01. However, mandatory direct review cases have increased significantly, from 156 in 1999-00 and 110 in 2000-01 to 182 in 2001-02.

Legislatively Adopted Budget

The Legislature adopted a budget of \$76,994,434 and 290.83 FTE for Appellate and Administration. The budget is reduced by \$1,938,088 General Fund and \$250,509 Other Funds for inflation, merit increases, Attorney General rate, and Department of Administrative Services charges, and a reduction of \$495,528 from PERS and Secretary of State Audits Division assessment reductions. Other General Fund adjustments include fund shifts of \$6.6 million and \$116,200 to Other Funds as a result of the filing fee surcharge offset and the transfer of court related alternative dispute resolution functions onto the dispute resolution filing fee surcharge. In addition, five positions (2.66 FTE) were eliminated after a review of all vacant positions in Appellate and Administration. The budget includes \$909,011 Other Funds, \$67,859 Federal Funds, and 5.70 FTE for several anticipated grant awards.

OJD – Trial Court Operations

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Chief Justice Recommended	2003-05 Legislatively Adopted
General Fund	160,887,324	161,518,557	210,480,998	184,344,015
Other Funds	1,370,673	10,183,593	13,241,491	13,663,870
Federal Funds	326,917	1,428,189	1,250,000	1,958,411
Total	162,584,914	173,130,339	224,972,489	199,966,296
FTE	1467.09	1453.08	1632.28	1528.43

Program Description

Trial Court Operations includes the funding and operations of all state trial courts, which effective in 1998, are the circuit courts. The program also includes staff to verify the indigency of applicants for representation at state expense. There are circuit courts in each of the 36 counties, served by 169 judges. These courts adjudicate matters and disputes in criminal, civil, domestic relations, traffic, juvenile, small claims, violations, abuse prevention act, probate, mental commitments, adoption, and guardianship cases.

Revenue Sources and Relationships

The 2001 Legislature provided funding and limited duration staff to facilitate the collection of a large backlog of accounts receivable in Multnomah County Circuit Court. This backlog has been eliminated. Federal grant revenue is also included for drug courts in Marion, Malheur, and Benton counties (\$1.25 million). Other Funds revenue includes fees from the dispute resolution surcharge for court mediation and arbitration services.

Budget Environment

Case filings in 2001 show a slight increase of 1,455 compared to 2000 and an increase of 19,321 compared to 1999. Overall filings have increased from a low of 555,141 in 1994 to 654,822 in 2001, an increase of 18.0%. However, 50% of current case filings are violations, primarily traffic violations. More serious felony filings have increased from 30,725 in 1994 to 37,646 in 2001 (22.5%). Misdemeanor cases increased from 61,794 in 1994 to 62,803 in 2001 (1.6%). Civil cases increased from 68,469 in 1994 to 69,329 in 2001 (1.3%). Domestic Relations filings declined by 10,169 cases during that same period (16.4%), primarily in administrative order and judgment-related matters, while dissolution cases declined by 5.1%. Other Funds revenue includes \$0.7 million from the dispute resolution surcharge for court mediation and arbitration services.

There is increasing need to use technology for case management to increase productivity of limited support staff. Increased flexibility is also needed in automated systems to meet the changing data requirements, especially for innovative programs such as therapeutic drug or family courts.

OJD has also been active in developing new methodologies for resolving disputes, including alternative dispute resolution programs, family law courts, drug courts, and improvements in the jury system and use of interpreters.

The 1997 Legislature created three new judgeships effective January 1, 1999 for Polk, Marion and Multnomah Counties. The 1999-01 roll-up cost for these new judgeships was approximately \$1.8 million. The 2001 Legislature approved the creation of six new judgeships, effective January 1, 2003. These new judgeships are located in Jackson, Marion, Yamhill, Multnomah, Washington, and Deschutes Counties. As noted above, three of these judgeships were deferred until June 30, 2003.

Legislatively Adopted Budget

The Legislature approved a budget of \$199,966,296 and 1,528.43 FTE for Trial Court Operations. Adjustments include a reduction of \$1,966,076 General Fund and \$217,094 Other Funds for inflation, merit increases, and cost-of-living expenses. Other General Fund adjustments include a fund shift of \$683,800 to Other Funds as a result of the transfer of court related alternative dispute resolution functions onto the dispute resolution filing fee surcharge, and a reduction of \$735,026 from PERS and Secretary of State Audits Division assessment reductions. In addition, the approved budget includes \$390,000 Other Funds, \$725,897 Federal Funds and 1.50 FTE for several anticipated grant awards. Seven positions (3.20 FTE) were eliminated from Trial Court Operations after a review of all vacant positions.

OJD – Mandated Payments

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Chief Justice Recommended	2003-05 Legislatively Adopted
General Fund	8,653,255	12,306,677	15,473,787	12,110,669
Nonlimited	0	0	250,000	250,000
Total	8,653,255	12,306,677	15,723,787	12,360,669
FTE	0.00	13.00	17.57	17.57

Program Description

The mandated payments category funds the cost of providing trial and grand jurors, court interpreters, civil appellate transcript costs for indigent persons, and Americans with Disabilities Act accommodation services.

Budget Environment

The 1999 Legislature approved a requirement that certified interpreters be provided for all judicial and administrative proceedings. The Judicial Department was given responsibility for the certification process. Staff costs for this activity, which is paid through the Appellate and Administration budget, is approximately \$513,000.

Juror payment increases approved by the 1999 Legislature in SB 1304 were to change the per diem and mileage rates effective July 1, 2001, with an estimated roll-up cost of \$5.8 million for the 2001-03 biennium. The 2001 Legislature deferred implementation of these changes for six months, to enable OJD to provide jury services within the adopted budget. In the 2002 second special session, the Legislature reduced juror per diem from \$50 to \$25 for the third and subsequent days of service and reduced the mileage reimbursement to 20 cents per mile. The 2001 Legislature also approved the transfer of contractual interpreter services to permanent staff and approved 13 positions to be funded out of existing General Fund resources that had been used for these contracts.

Legislatively Adopted Budget

The Legislature approved a budget of \$12,110,669 General Fund, \$250,000 Non-limited Other Funds, and 17.57 FTE for Mandated Payments. The budget is reduced \$207,247 General Fund for inflation, merit, and cost-of-living increases. Other General Fund adjustments include a reduction of \$62,737 from PERS rate reductions.

Commission on Judicial Fitness and Disability – Agency Totals

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Governor's Recommended	2003-05 Legislatively Adopted
General Fund	181,816	185,580	209,654	161,762
FTE	0.75	0.75	0.75	0.5

Program Description

The nine-member Commission on Judicial Fitness and Disability receives and investigates complaints concerning the conduct of Oregon judges. If an initial investigation reveals a judge's conduct may warrant censure, suspension, or removal, the Commission will notify the judge of its intent to issue a formal complaint. Following a formal hearing, the Commission will make a recommendation concerning discipline to the Supreme Court. If a judge's conduct is determined to be the result of a disability, the Commission may refer the matter to the Chief Justice.

Revenue Sources and Relationships

The General Fund supports the Commission.

Budget Environment

The Commission is co-located with the Executive Director's private law office. In addition to staffing costs, the budget provides for meeting accommodations, travel reimbursements, and disciplinary proceeding expenses. Expenses associated with disciplinary proceeding generally include investigator, attorney, and court reporter costs which will fluctuate depending on the number of complaints that are filed. The 2001 Legislature provided \$39,000 to cover these variable costs with the understanding that the Commission could appear before the Emergency Board if an extraordinary number of complaints required investigation and formal action resulting in higher costs. In recent biennia, prosecution costs have exceeded \$100,000 for one case.

Legislative actions during 2001-03 through the 2002 third special session resulted in a decrease to the Commission's budget by a total of \$5,870; a \$7,225 increase for cost-of-living and state government service charge adjustments, and an across-the-board reduction of \$13,095. An additional across-the-board reduction of \$6,957 was applied to this budget during the 2002 fifth special session. Given a relatively low number of formal complaints, the reductions had a minimal effect on services.

Legislatively Adopted Budget

The 2003-05 legislatively adopted budget (LAB) reduces General Fund support for the agency by 12.8% from the prior biennium and eliminated the Administrative Specialist position (0.25 FTE). The LAB also eliminates the inflation factor for most services and supplies line-items and projected increases for employee merit increases scheduled to occur after July 1, 2003, and reduces the Public Employees Retirement System contribution to 14.6% from 20.3% of salaries. The Commission may need to request funding from the Emergency Board if there are extraordinary expenses associated with investigation and prosecution of cases.

Public Defense Services Commission (PDSC) – Agency Totals

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Judicial Branch Recommendation	2003-05 Legislatively Adopted
General Fund	146,850,208	151,737,761	182,776,408	168,333,318
Other Funds	55,430	1,002,588	1,147,263	1,107,063
Total	146,905,638	152,740,349	183,923,671	169,440,381
FTE	61.21	62.02	62.02	58.45

Program Description

The 1999 Legislature approved a temporary Public Defense Services Commission to evaluate the delivery of trial and appellate indigent defense services, and to make recommendations to the 2001 Legislature. The Commission's recommendations, which included establishment of a trial and appellate defender office separate from the Judicial Department, was adopted by the Legislature in SB 145 (2001). SB 145 created a Public Defense Services Commission, transferred the Office of the Public Defender to the Public Defense Services Commission effective October 1, 2001, and transferred the Judicial Department Indigent Defense Account and indigent defense support staff to the Public Defense Services Commission effective July 1, 2003. With these actions, the Legislature created a unified program to provide trial court and appellate level services to indigent defendants.

This budget reflects the consolidation of the Indigent Defense Account and Administration from the Judicial Department, and the existing Office of Public Defense Services, within the Public Defense Services Commission. The organizational structure has been revised to include three sections: Public Defense Direct Services, which provides appellate representation; Public Defense Contract Services, primarily trial representation; and Public Defense Administration, which includes contract and business administration.

Budget Environment

During the 2001-03 biennium, in the several special legislative sessions, the budget for the Indigent Defense Account was reduced by \$27.5 million (17%) from the legislatively adopted budget. The program was then housed in the Judicial Department, which managed the first reduction of \$12.4 million primarily through the implementation of Early Disposition Programs in some counties, and because of slowing caseload growth. At its January 2003 meeting, the Emergency Board allocated \$5 million from the Emergency Fund to partially restore the 2002 third special session reductions. Even with the Emergency Fund restoration of \$5 million, the Judicial Department ceased funding for the majority of misdemeanor and probation violation cases by early March 2003. This resulted in a bulge of cases being deferred into the 2003-05 biennium.

The Judicial Branch budget recommended \$161,168 for salary parity with the Department of Justice for its appellate attorneys, and \$10 million for compensation adjustments for investigators, hourly rate paid attorneys and public defense contractors. This will continue to be an ongoing issue for the Commission, as compensation for contractors has not been adjusted in a decade. The Commission will also continue to deal with issues related to caseload and cost management.

Legislatively Adopted Budget

The Legislature approved a budget of \$169.4 million total funds for the Public Defense Services Commission, which includes a \$7 million special purpose appropriation to the Emergency Board for public defense caseload growth. This level of funding is \$3 million below the 2001-03 legislatively adopted close-of-session budget, but is equivalent to the level of General Fund support requested by the Governor. However, the budget is \$14.5 million (8%) below the level of funding recommended by the Judicial Branch.

Reductions include inflation and pay adjustments, the elimination of 5 vacant positions, and the elimination of adjustments for any caseload growth and provider compensation increases. Other adjustments reflect a revised transfer date of July 1, 2003 for the Judicial Department public defense program to the Commission (from the original date of October 1, 2003), and the cost of representation for defendants whose cases were deferred into the 2003-05 biennium due to funding constraints in the 2001-03 biennium. This estimated cost was used as the basis for the special purpose appropriation.

Budget notes direct the Commission to report on:

- Workload, including deferred cases; PDSC can request release of the special purpose appropriation based on this workload report.

- The application contribution program, including an intergovernmental agreement with the Judicial Department to expand the indigent defense verification program with revenues from these contributions.

If the temporary graduated income tax assessments adopted by the Legislature, as part of HB 2152, are rescinded through a referral, then \$9,911,720 (which is the agency share of \$544.6 million) will be disappropriated from Public Defense Services Commission operations. The agency will be responsible for determining how the General Fund disappropriation will be allocated between the appellate and trial court programs. However, this reduction will affect the availability of legal representation of indigents, which could result in the dismissal of some cases. The Judicial Branch is exempt from the Executive Branch allotment process and will not be subject to allotment reductions, if the statewide disappropriation amount of \$544.6 million is insufficient to balance the budget.

**PDSC – Public Defense Direct Services
(formerly Office of Public Defense Services)**

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Judicial Branch Recommendation	2003-05 Legislatively Adopted
General Fund	5,757,599	5,854,598	7,288,894	5,071,836
Other Funds	4,089	0	0	0
Total	5,761,688	5,854,598	7,288,894	5,071,836
FTE	41.00	40.20	40.20	40.20

Program Description

The Public Defense Direct Services program is currently responsible for providing legal representation on criminal matters for indigent persons at the appellate court level. The Commission will restructure the program, and anticipates using the expertise of its legal staff for both appellate and complex trial work.

Revenue Sources and Relationships

The General Fund supports the program. The Office of the Public Defender has occasionally had Other Funds revenue from the sale of surplus property. These funds are used for attorney education costs.

Budget Environment

The workload is driven by the number of criminal and parole appeals filed by indigents and the legal complexity of the appealed cases. Statutory changes and ballot initiatives also affect the number of appeals that are filed. After experiencing significant workload growth as a result of statutory and ballot initiative changes in the late 1990's, the workload has stabilized, and no significant changes are projected. The 1999 Legislature added 6.25 FTE to deal with this workload, including converting limited duration attorney and clerical support positions to permanent funding, and financing three new attorney positions and two clerical positions. The agency also received additional funding from the Emergency Board in the 1999-2001 interim to deal with workload and agency management problems.

The 2001 Legislature adopted HB 2348 that restructured appeals of orders by the Board of Parole and Post-Prison Supervision. While reducing appellate workload overall, it added workload for the Public Defender. The Legislature appropriated \$174,088 General Fund and added 2 positions (1.07 FTE) to handle this workload. Other issues include addressing time limits for extensions on appeal established by the Court of Appeals.

Legislatively Adopted Budget

The Legislature approved a budget of \$5.1 million General Fund. Reductions of \$1,053,456 taken during the 2002 fifth special session were restored, in order to meet constitutional mandates for appellate defense services. Technical adjustments include reductions for the salary freeze, elimination of services and supplies inflation, lower Department of Administrative Services assessments, and reduced PERS and Secretary of State Audits Division charges.

PDSC – Public Defense Contract Services
(formerly Indigent Defense Account, Oregon Judicial Department)

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Judicial Branch Recommendation	2003-05 Legislatively Adopted
General Fund	139,599,793	144,121,905	173,414,999	160,694,576
FTE	0.00	0.00	0.00	0.00

Program Description

The Public Defense Contract Services program pays the cost of legal representation for indigent persons at trial, and for persons who are entitled to state paid legal representation if they are indigent and are facing involuntary civil commitment proceedings; contempt; probation violation; juvenile court matters involving allegations of delinquency and child abuse or neglect (including termination of parental rights cases); and other limited civil proceedings. Both the U.S. and Oregon Constitutions guarantee the right to legal representation, at state expense, to indigent persons facing criminal prosecutions. This program also is responsible for the costs of all transcripts and the cost of appellate legal representation for cases not represented by Public Defense Direct Services.

The Public Defense Services Commission will continue to primarily contract with nonprofit public defenders, law firms, consortia, or individual attorneys to provide services to indigents.

Revenue Sources and Relationships

The General Fund supports the program.

Budget Environment

The indigent defense cost increases are primarily due to caseload increases. The primary drivers of caseloads are the levels of resources available to law enforcement, prosecution, juvenile departments, mental health and alcohol/drug treatment, parole and probation services, and jail and prison space.

The 1999-2001 legislatively adopted budget was based on caseload growth projections of 4% per year. The caseload growth between fiscal years 1998 and 1999 had slowed to 4%. However, caseload growth between fiscal years 1999 and 2000 was actually 7.2%. Because of the restrictions on appointments during the 2001-03 biennium, more current caseload data is not available. However, raw caseload projections do not take into account the increasing complexity of cases arising from new laws and ballot measures.

The Commission is committed to work with contractors to implement cost and quality control.

Legislatively Adopted Budget

The Legislature approved a budget of \$153.7 million General Fund for the Public Defense Contract Services Program. This appropriation, combined with the \$7 million special purpose appropriation to the Emergency Fund for caseload growth, provides a total budget of \$160.7 million.

PDSC – Public Defense Administration
(formerly Indigent Defense Services Division, Oregon Judicial Department)

	1999-2001 Actual	2001-03 Legislatively Approved	2003-05 Judicial Branch Recommendation	2003-05 Legislatively Adopted
General Fund	1,492,816	1,761,258	2,072,515	2,566,906
Other Funds	51,341	1,002,588	1,147,263	1,107,063
Total	1,544,157	2,763,846	3,219,778	3,673,969
FTE	20.21	21.82	21.82	18.25

Program Description

The Public Defense Administration program is responsible for administering the public defense contracts that provide legal representation for indigent persons, and for processing requests and payments for non-contract fees and expenses.

Budget Environment

This program administers 90 contracts, receives and verifies invoices for payment on contractual services, and issues over 20,000 payments per year.

The program will receive \$1.1 million in the 2003-05 biennium from an application fee (\$20) and a contribution amount that is paid by defendants seeking representation at state expense. The fees are used to offset the General Fund cost of indigent defense verification staff in the Judicial Department and for operating expenses for indigent defense administration. The Commission will enter into an intergovernmental agreement with the Judicial Department regarding use of these fees for indigent defense verification staffing.

Legislatively Adopted Budget

The Legislature approved a budget of \$2.6 million General Fund, \$1.1 million Other Funds, and 18.25 FTE. Adjustments included reductions for the salary freeze, elimination of services and supplies inflation, lower Department of Administrative Services assessments, and reduced PERS and Secretary of State Audits Division charges.