

PUBLIC DEFENSE SERVICES COMMISSION

The Public Defense Services Commission is charged with establishing and maintaining a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution, and Oregon and national standards of justice.

PUBLIC DEFENSE SERVICES COMMISSION	2009-11 Actuals	2011-13 Leg. Approved	2013-15 Current Service Level	2013-15 Governor's Budget	2013-15 Co-Chairs' Budget (1.0)	% Change 2011-13 LAB to 2013-15 CSL
General Fund	211,374,802	224,541,855	251,420,300	243,961,605	0	12.0%
Other Funds	12,144,671	3,830,055	3,218,844	3,207,042	0	-16.0%
TOTAL FUNDS	\$223,519,473	\$228,371,910	\$254,639,144	\$247,168,647	\$0	11.5%
Positions	69	76	76	76	0	0.0%
FTE	68.96	75.40	75.79	75.79	0.00	0.5%

Major Revenues	Budget Environment	Comparison by Fund Type																				
<ul style="list-style-type: none"> Agency expenditures are almost exclusively paid by the General Fund (99%). At the current service level, approximately \$233 million of the agency's total \$251 million General Fund (or 93%) is paid under contract to public defense service providers who are not state employees. The remaining General Fund supports agency operating costs, including compensation for the agency's employees. Other Funds in the budget consist of fees paid by individuals who apply for court-appointed counsel, plus payments by individuals who are required to pay a portion of their defense costs through the Application/Contribution Program (ACP). Approximately \$4.4 million in such payments are projected for the 2013-15 biennium. PDSC transfers \$2.7 million to the Oregon Judicial Department to support 	<ul style="list-style-type: none"> The Commission has no legal authority to control the number of public defense cases it receives nor does it have the authority to prioritize case-types. Eligible persons are entitled to adequate legal representation in court, at state expense, under provisions of the Oregon and federal constitutions and Oregon statutes. Public defense representation is not limited to criminal cases. Other statutory and constitutional provisions include: the right to appointed counsel in court proceedings involving life, liberty, and property, including habeas corpus; post-conviction relief; contempt; juvenile dependency, delinquency, and termination of parental rights; civil commitments for the mentally ill or developmentally disabled; and parole and probation violation proceedings. 	<p>PUBLIC DEFENSE SERVICES COMMISSION</p> <table border="1"> <caption>Revenue Breakdown (Millions of Dollars)</caption> <thead> <tr> <th>Year</th> <th>General Fund/Lottery</th> <th>Other Funds</th> <th>Federal Funds</th> </tr> </thead> <tbody> <tr> <td>2009-11</td> <td>\$211.4</td> <td>\$12.1</td> <td>\$0.0</td> </tr> <tr> <td>2011-13</td> <td>\$224.5</td> <td>\$3.8</td> <td>\$0.0</td> </tr> <tr> <td>2013-15 CSL</td> <td>\$251.4</td> <td>\$3.2</td> <td>\$0.0</td> </tr> <tr> <td>2013-15 GB</td> <td>\$244.0</td> <td>\$3.2</td> <td>\$0.0</td> </tr> </tbody> </table>	Year	General Fund/Lottery	Other Funds	Federal Funds	2009-11	\$211.4	\$12.1	\$0.0	2011-13	\$224.5	\$3.8	\$0.0	2013-15 CSL	\$251.4	\$3.2	\$0.0	2013-15 GB	\$244.0	\$3.2	\$0.0
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<p>the costs of the verification program. PDSC spends approximately \$500,000 of the revenues in-house.</p>	<ul style="list-style-type: none"> • Oregon statute broadly defines who is financially eligible for public defense. Each applicant for state-paid representation is required to provide a verified financial statement detailing income, assets, debts, and dependents. This process is administered by Verification Specialists employed by the Oregon Judicial Department. Verification Specialists assist judges in their decision whether to appoint state-paid counsel. A person is presumed eligible for services if the applicant’s income is less than or equal to the eligibility level for the federal food stamp program unless the applicant has liquid assets that could be used to hire an attorney. • Public defense at the trial court level is accomplished primarily through a state-funded and state-administered competitive contracting system that is on a two-year cycle (January to December). The Commission contracts with approximately 120 nonprofit public defense offices, private law firms, consortia of attorneys or law firms, or individual attorneys. Legal representation on criminal matters for eligible persons at the appellate court level is primarily handled by attorneys who are employees of the Commission. • Total caseloads have remained basically flat since the 2003-05 biennium. Public defense representation is provided in approximately 170,000 cases each year. 	

Major Revenues	Budget Environment	Comparison by Fund Type
	<p>Costs for death penalty cases are significantly higher than for other cases, however. The budget assumes no increase in cost for non-death penalty cases, but includes \$4.2 million for increased death penalty cases.</p>	

MAJOR CHALLENGES AND DECISION POINTS

1. The agency provides support to public defender organizations that pay their attorneys on a salary basis. The agency is requesting \$2,329,729 General Fund to fund increases for these contractors' salary-paid attorneys. The funding level is estimated to support salary increases to eliminate one-third of the differential between public defender salaries and the salaries paid by the local district attorney's office.
2. The agency also pays for public defense services on an hourly basis. Hourly payment rates for contract providers were last increased in 2007, and the current rates are shown below:

Category	1991 to July 2007 Guidelines/Budget		Current PDSC Guidelines/Budget		Difference/(percent)	
	Non-Death Penalty	Death penalty	Non-Death Penalty	Death Penalty	Non-Death Penalty	Death Penalty
Hourly Rates						
Attorney	\$40	\$55	\$45	\$60	\$5 (+13%)	\$5 (+9%)
Investigator	\$25	\$35	\$28	\$39	\$3 (+12%)	\$4 (+11%)

3. The agency is requesting \$1.8 million General Fund to increase the hourly rate paid to attorneys from \$45 to \$53 per hour (and from \$60 to \$72 per hour for death penalty cases). These are equivalent to 17.8% and 20% increases, respectively.
4. The agency is requesting approximately \$733,000 General Fund to increase the hourly rate paid to investigators from \$28 to \$30 per hour (and from \$39 to \$41 per hour for death penalty cases). These are equivalent to 7.1% and 5.1% increases, respectively.
5. The agency is requesting approximately \$279,000 General Fund to fund salary increases for its in-house Appellate Division attorneys. The funding request amount is estimated to provide one-third of the funding needed to increase salary levels to those paid in the Department of Justice's Appellate Division.

6. The agency is requesting an additional \$3.8 million of General Fund for public defender contractors to hire additional staff that would reduce average juvenile dependency caseloads by approximately 7%. The agency estimates that existing caseloads exceed acceptable levels by approximately 20%. The funding would therefore eliminate approximately one-third of the excess caseload level.
7. The Governor included a \$16 million unspecified General Fund reduction to the PDSC as part of his overall recommended budget. If all the agency's requested policy option packages were approved, the \$16 million reduction would leave the agency with total General Fund support 3% below CSL.
8. The agency needs additional General Fund to meet its 2011-13 biennium contractor costs. The Emergency Board did not allocate approximately \$1.5 million from a special purpose appropriation approved during the 2012 session budget rebalance. Funding of \$1.5 million would likely allow the PDSC to pay contractors without interruption. However, the total amount of unfinanced 2011-13 biennium expenditures could end up being as high as \$4.7 million. The 2013-15 biennium General Fund appropriation would have to be applied to pay any remaining 2011-13 biennium expenditures, before being applied to costs actually incurred in 2013-15.
9. The fiscal impacts to the PDSC of implementing the recommendations of the Governor's Commission on Public Safety are still undetermined at this time. Other legislation that affects sentences or judicial processes could also impact the agency budget.