

DAs and Their Deputies Written Reference Materials
2021-23 Joint Ways and Means Committee

Office of the District Attorney:

District Attorneys (DAs) are State Officers created by Article VII, section 17 of the Oregon Constitution. There are 36 DAs, one for each county, who are independently elected to four-year terms. A DA is the county chief law enforcement officer. DAs and their deputies prosecute state criminal offenses committed by juveniles and adults.

District Attorneys are primarily tasked with enforcing state criminal law. District attorney legal duties may also include enforcement of child support obligations in non-welfare cases, prosecuting civil forfeitures, presenting evidence at mental health hearings, ruling on public records requests, representing interests in child dependency cases, assisting juvenile courts, and advising and representing county officers as county counsel in civil matters. DAs and their deputies are also active in local public safety coordinating councils, child abuse prevention teams, and community outreach activities.

There are approximately 350 Deputy District Attorneys (DDA) serving in DA offices in Oregon. A wide range of office sizes and complexity are managed by DAs. Some larger DA offices may include close to a hundred DDAs, while some may only have the elected DA as the sole attorney in the office.

DA Response to COVID Pandemic:

The criminal justice system, like all government services, have faced unprecedented challenges during the pandemic. A key challenge has been how to continue to provide access to justice through the trial process and continue to maintain health safety protocols.

Our experience has been that providing continued access to justice during the pandemic is possible only through the close collaboration of DAs, the defense bar, the Courts and courthouse staff. We are especially grateful for the work of the Chief Justice of the Oregon Supreme Court in supporting these collaborations.

DAs have been a key partner in finding solutions on how to continue to safely have trials during the pandemic. These solutions have included:

1. Increased use of virtual hearing options when constitutionally permissible.
2. Use of non-courthouse sites that are more conducive to social distancing than traditional courtrooms. For example, some jurisdictions have held trials in spaces designed for convention and conference use and some jurisdictions have conducted jury selection at similar locations since jury selection requires larger groups of people congregating together.

3. Some jurisdictions, like Marion County, have worked on establishing special dockets to address both pandemic access issues and pandemic court docket issues. Marion County identified cases that were part of the pandemic caused court backlog and used an offsite location to bring together a DA, defendants, defense attorneys and Judges to try to resolve the cases in an efficient and safe process that did not compromise criminal justice integrity.

DA Participation in Treatment and Specialty Courts and Diversion Programs:

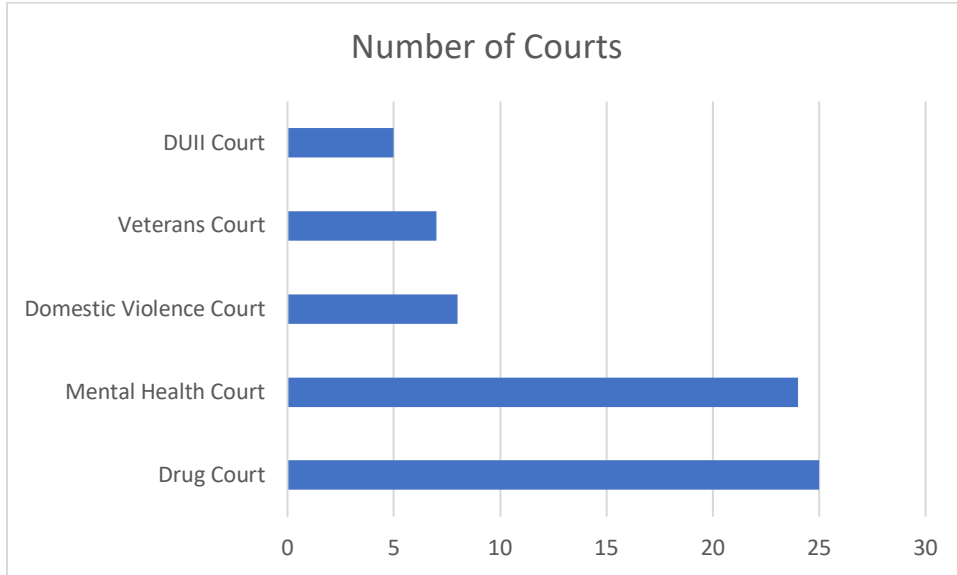
Oregon has long been a leader in the development and utilization of treatment and specialty courts and diversion programs. District Attorney participation in these courts and programs have been vital to their success.

Treatment and specialty courts are courts that are designed to address the root cause of a person's continued involvement with the criminal justice system. The courts are designed to give people a chance to address the driver of their criminal conduct, which enhances both long-term community safety and quality of life for the court participant, while providing short-term community safety by placing the participant under the court's authority. A common example of a treatment or specialty court in Oregon are Drug Courts. Drug Courts will identify participants whose substance abuse issues are a primary factor in their criminal behavior and will make their good-faith effort to participate in substance abuse treatment a condition of their enrollment in the court. These courts may also work on helping a participant with housing, vocational or educational services, and other community support services. Other examples of treatment and specialty courts include mental health, veterans, domestic violence, community and DUII courts.

A diversion program is a process by which a person can avoid a criminal conviction and penalties if they comply with certain programs. The philosophy behind a diversion program is to incentivize a person's participation in programs by allowing them to avoid a criminal conviction if they are successful in the program. Some diversion programs are based out of court, but other programs are based in the community. For example, Law Enforcement Assisted Diversion (LEAD) is a program where law enforcement takes the initiative in diverting a person from the criminal justice system if they have been found to criminally possess a controlled substance. Instead of arresting that person the officer will offer the person an opportunity to engage in substance abuse treatment and other community programs. If the person is successful than law enforcement takes no further action, but if they are not making a good faith effort in the program the officer can refer the arrest to the courts.

Exhibit one of these materials is a chart that contains data about the number and the types of programs DAs are participating in statewide.

Five Most Common Treatment and Specialty Courts:



Key Performance Measure Report (KPM):

Exhibit two of these materials is our KPM report as contained in the Governor’s recommended budget.

5% and 10% Budget Reduction Options:

Reduction Options

Required Reductions ORS 291.216 (House Bill 3182, 1999)

ACTIVITY OR PROGRAM	DESCRIBE REDUCTION	FUND & AMOUNT	RANK & JUSTIFICATION
District Attorneys and Their Deputies	The District Attorneys and their Deputies budget contains Personal Services costs for District Attorneys, State Government Service Charges (SGSC), and a small amount of Other S&S for DAS rate-based charges. The salaries of the elected District Attorneys are mandated by statute. We are unaware of any way to reduce the salaries without violating the statutorily established salary amount. Likewise, the SGSC payment is required by statute. Given the above,		
	Effect of a 5% reduction		
	This reduction would have to be taken out the salaries and benefits of the District Attorneys which represents approximately 28 working days.	5.0% \$724,300 GF	
	Effect of a 2nd 5% reduction		
	This reduction would have to be taken out the salaries and benefits of the District Attorneys which represents approximately 28 working days.	5.0% \$724,300 GF	

Exhibit List:

1. Chart of statewide treatment and specialty courts and early resolution programs with DA participation.
2. Key Performance Measure Report.
3. 2021-23 District Attorneys Program Prioritization.
4. Hyperlink to Governor's Recommended Budget: https://f089a6f3-e440-4f12-9600-0d9903293503.filesusr.com/ugd/818f22_704a0d2971914e268e0f252d1019e405.pdf

Exhibit One: Specialty Courts and Programs Chart

Statewide Specialty Courts and Programs Currently Operational in Oregon Counties								
County	Drug Court	Mental Health Court	Domestic Violence Court	Family Dependency Court	Veterans Court	Community Court	DUII Court	Family Drug Court
Baker		X						
Benton	X							
Clackamas ¹	X	X	X			X	X	
Clatsop	X	X						X
Columbia	X	X		X	X			
Coos		X		X				
Crook	X	X						
Curry								
Deschutes		X	X					X
Douglas	X	X	X					
Gilliam								
Grant								
Harney ²	X							
Hood River							X	
Jackson ³	X	X	X					X
Jefferson ⁴	X	X						
Josephine	X	X						
Klamath ⁵	X	X			X			
Lake ⁶	X							
Lane ⁷	X	X			X			
Lincoln ⁸	X	X	X					
Linn ⁹	X	X	X					X
Malheur	X	X			X			
Marion ¹⁰	X	X			X			
Morrow								
Multnomah ¹¹	X	X	X	X	X	X	X	
Polk	X	X						
Sherman								
Tillamook		X						
Umatilla	X	X						
Union	X	X						
Wallowa	X						X	
Wasco	X			X				
Washington ¹²	X	X	X		X		X	
Wheeler								
Yamhill ¹³	X	X						

¹ Community Prosecution Program.

² Reentry Court.

³ Recovery Opportunity Court

⁴ Diversion Program

⁵ Family Court for individuals who have both DHS matter and pending criminal matter. Not a Family Dependency Court.

⁶ Non-Statutory Intense Supervision Court

⁷ Low Risk Diversion Program

⁸ HOPE

⁹ Juvenile Accountability Court, Juvenile Peer Court, Mental Health Court is a specialty track system.

¹⁰ LEAD, Juvenile Drug Court

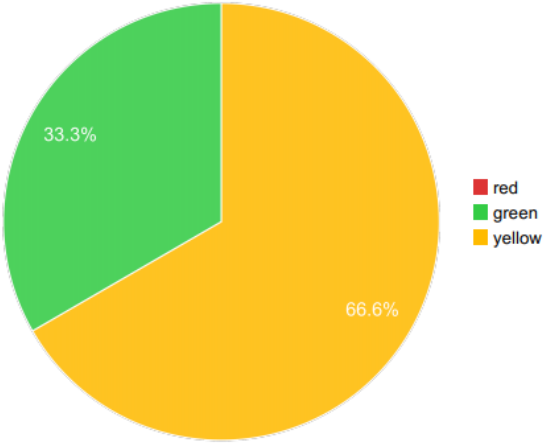
¹¹ MCJRP, LEAD, First offenders Program, Firearm Disposition Program, Expedited DUII Plea Program, Lifeworks New Options for Women Treatment Supervision, Sex Buyers Accountability and Diversion

¹² FSAP, IRISS, Juvenile Drug Court, Early Case Resolution, Diversion Early Case Resolution, DUII Diversion, Reckless Driving Diversion

¹³ Women's Recovery, Youth Drug Court, Restitution Court

Exhibit Two: Governor’s Budget

KPM #	Approved Key Performance Measures (KPMs)
1	Child Support Collections - Percentage of current child support collected relative to total child support owed.
2	Services to Victims - Percentage of adult criminal cases where the named victim(s) are provided "prompt notice" of their rights as crime victims.
3	Early and Special Resolution Programs - Percentage of District Attorney offices resolving cases through early and special resolution, number of cases resolved.

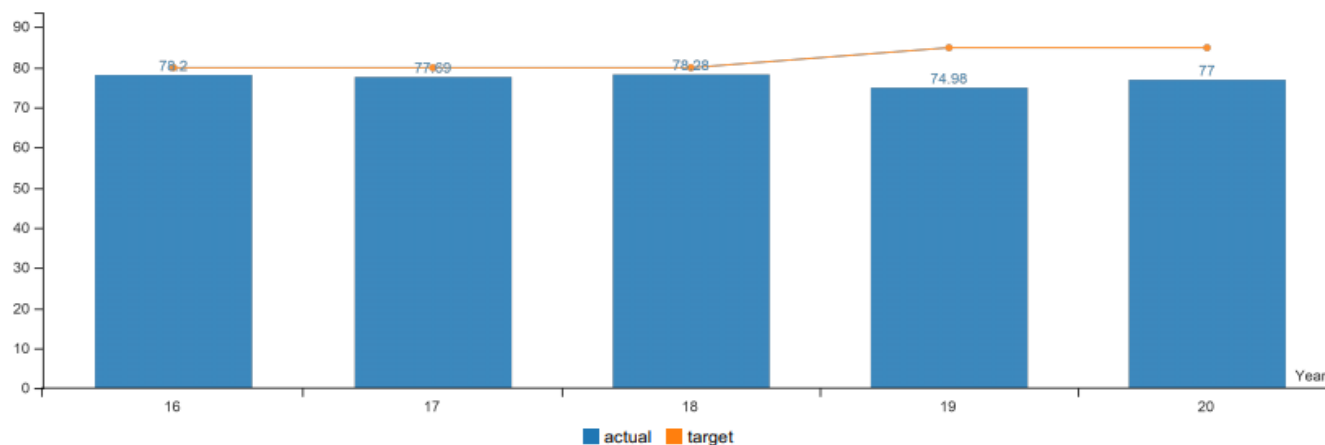


Performance Summary	Green	Yellow	Red
	= Target to -5%	= Target -5% to -15%	= Target > -15%
Summary Stats:	33.33%	66.67%	0%

Governor's Budget

KPM #1	Child Support Collections - Percentage of current child support collected relative to total child support owed.
	Data Collection Period: Oct 01 - Sep 30

* Upward Trend = positive result



Report Year	2016	2017	2018	2019	2020
Percentage of current child support collected relative to total child support owed					
Actual	78.20%	77.69%	78.28%	74.98%	77%
Target	80%	80%	80%	85%	85%

How Are We Doing

This KPM is on a federal fiscal year basis. Actual data for the KPM will not be available until November 2020. For reporting purposes, estimated data is being used and will be updated in November.

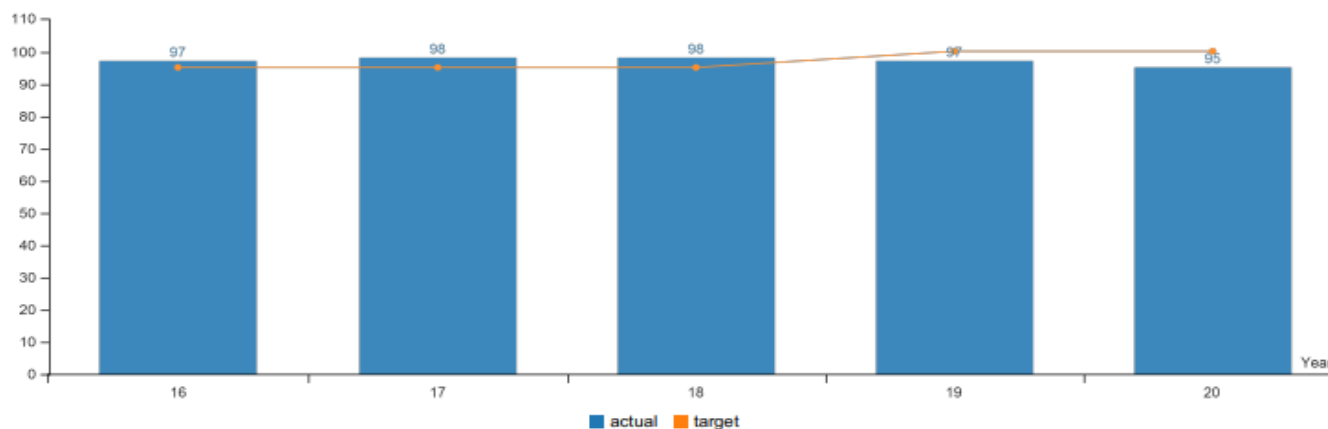
Factors Affecting Results

The amount collected depends in part on the effectiveness and efficiency of the tools available under state and federal law to collect from non-custodial parents who are able but unwilling to meet their obligations. This measure also depends on court ordered amounts being set at a level that allows non-custodial parents to pay the full amount each month. In order to receive full credit for a collection on current support due, the entire monthly court-ordered amount must be received. The number of non-custodial parents paying on support may increase, but this measure only increases if the amount of money collected increases. Economic factors impact this measure as lower incomes make collections more difficult and higher incomes make collecting easier. The Program's effectiveness in collecting funds from non-custodial parents who have the ability to pay depends to a great extent on the resources invested to carry out collection activities. Timing of payments is also a factor. Payments received even one day into the following month do not count as a current support payment in the month the payment was due. Therefore, individuals on a 26 paycheck cycle (every other week) have months where the final payment on COA comes after the end of the month. The individual may be current on support payments at the end of the year, but the collections on current will not reach 100%.

Governor's Budget

KPM #2	Services to Victims - Percentage of adult criminal cases where the named victim(s) are provided "prompt notice" of their rights as crime victims.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2016	2017	2018	2019	2020
% of cases where victim was provided notice of victims' rights w/in 5 business days of defendant's arraignment					
Actual	97%	98%	98%	97%	95%
Target	95%	95%	95%	100%	100%

How Are We Doing

Our performance for the state fiscal year ending June 30, 2020 was 95% (35 of 36 counties responding to survey). Since the addition of the victims' rights enforcement provisions in the Oregon Constitution in 2008, the District Attorneys have been changing their practices to ensure a better response rate for this measure. Of all the groups providing services to victims, only District Attorneys are responsible for the Constitutional rights of victims. District Attorneys' offices have varying practices of delivering prompt notice, due to size and county resource capabilities. D.A. offices are experimenting with different ways and times to provide this notice. Many District Attorney offices give victims of felonies the required information on Grand Jury day. Most counties rely on mailing or emailing notices to victims of misdemeanors within five days of arraignment, which aligns with the time period required by Grand Jury. Other smaller counties rely on phoning each victim or notifying the victims in person.

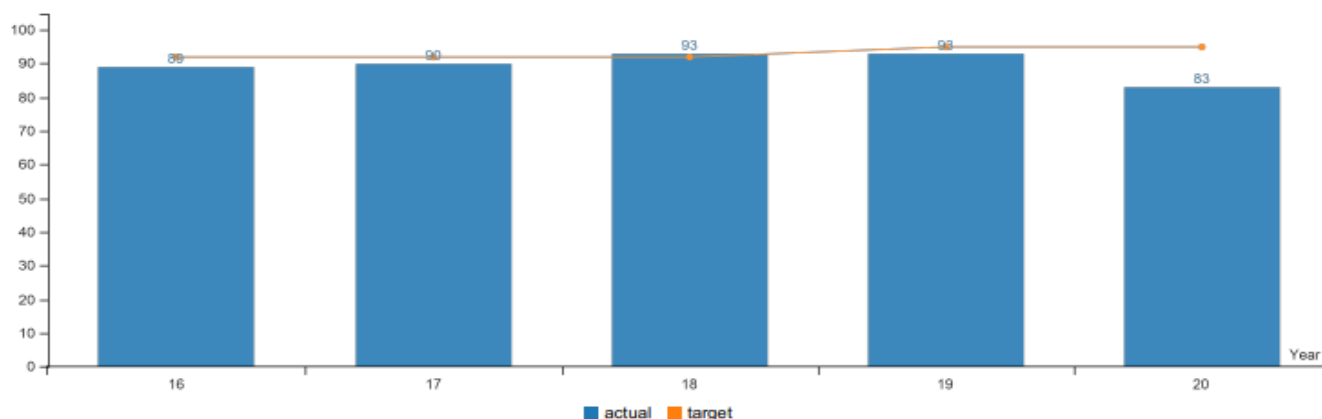
Factors Affecting Results

While the compliance rate for this measure is high, the number of victims notified is affected by factors that are common to all programs that provide services to a diverse population. First, victims may be difficult to locate because: 1) They don't want law enforcement contact because they are aligned with the suspect or are wanted themselves; 2) They are afraid for their safety; 3) There is incomplete or incorrect contact information for the victims; and 4) Logistical and budgetary restrictions. Multnomah and Marion counties, for example, have automated systems which send rights letters out in the appropriate time period and those systems make tracking this measure much easier. Several other counties across the state have switched to automated, email based systems to increase their ability to track these notifications. Some counties still call or write each victim individually or provide the information to victims when they appear for Grand Jury. Depending on the size and available technology of each county office, the ability to track this information can either be simple or onerous. This lack of uniformity impacts the net results.

Governor's Budget

KPM #3	Early and Special Resolution Programs - Percentage of District Attorney offices resolving cases through early and special resolution, number of cases resolved.
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2016	2017	2018	2019	2020
Percentage of District Attorney Offices resolving cases through early resolution and specialty courts					
Actual	89%	90%	93%	93%	83%
Target	92%	92%	92%	95%	95%

How Are We Doing

In Fiscal Year 2020, 30 of 36 counties surveyed (83%), reported having early or special resolution programs or courts. 10 counties reported either adding new programs or starting their first program. A National Institute of Justice report determined that drug court participants were less likely to test positive for drug use, had fewer arrests, reported less criminal activity, and experienced less recidivism. Incarceration of drug-using offenders costs county taxpayers and appropriately \$21,000 per person per year, according to figures from Douglas County Corrections. In contrast the Drug Court treatment program costs approximately \$2,500 per offender. Recidivism rates are dramatically reduced through the Drug Court treatment program, thus resulting in lowering crime and building safer communities while saving tax dollars. Types of specialty courts operating during Fiscal Year 2020 include the following: Family Drug, Adult Drug/Treatment, Juvenile Drug, Women's Recovery, Mental Health, Domestic Violence, DUII, Veteran's, Restitution, Downward Dispositional Departure and Family Dependency. Statewide, drug courts are the most prevalent type of specialty court with Mental Health courts being the second most prevalent.

Factors Affecting Results

The two main factors that affect a greater result in this performance measure are the lack of participation by one or more of the necessary justice system participants and the lack of financial and/or staff support to expand these courts. Available court/judge time is beginning to become a problem in some counties. Finally, small counties have difficulty maintaining a caseload that justifies the cost and time necessary to operate a specialty court.

Exhibit Three

PROGRAM PRIORITIZATION FOR 2021-23

Agency Name: District Attorneys and Their Deputies			Agency Number: 19600																		
Program 1																					
Program/Division Priorities for 2021-23 Biennium																					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
Priority (ranked with highest priority first)	Agency Initials	Program or Activity Initials	Program Unit/Activity Description	Identify Key Performance Measure(s)	Primary Purpose Program- Activity Code	GF	LF	OF	NL-OF	FF	NL-FF	TOTAL FUNDS	Pos.	FTE	New or Enhanced Program (Y/N)	Included as Reduction Option (Y/N)	Legal Req. Code (C, D, FM, FO, S)	Legal Citation	Explain What is Mandatory (for C, FM, and FO Only)	Comments on Proposed Changes to CSL included in Agency Request	
1	1	DAs	District Attorney salaries and benefits	5		13,608,851						\$ 13,608,851	36	36.00	Y	Y	S	ORS 8.610-8.852			
			State Government Service charges and Admin	5		879,201						\$ 879,201									
			Other S&S	5		62,927						\$ 62,927									
			Data Processing	5		150,000						\$ 150,000									
			Professional Services	5		635,000						\$ 635,000									
						15,335,979							36	36.00							

- 7. Primary Purpose Program/Activity Exists**
- 1 Civil Justice
 - 2 Community Development
 - 3 Consumer Protection
 - 4 Administrative Function
 - 5 Criminal Justice
 - 6 Economic Development
 - 7 Education & Skill Development
 - 8 Emergency Services
 - 9 Environmental Protection
 - 10 Public Health
 - 11 Recreation, Heritage, or Cultural
 - 12 Social Support

- 19. Legal Requirement Code**
- C Constitutional
 - D Debt Service
 - FM Federal - Mandatory
 - FO Federal - Optional (once you choose to participate, certain requirements exist)
 - S Statutory

Within each Program/Division area, prioritize each Budget Program Unit (Activities) by detail budget level in ORBITS

Document criteria used to prioritize activities: