

## ANALYSIS

### Item 29: Department of Justice Internet Crimes Against Children

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**Analyst:** John Borden

**Request:** Appropriate \$2,670,217 General Fund and authorize the establishment of 14 permanent full-time positions (6.50 FTE) to supplement the Internet Crimes Against Children Program.

**Analysis:** The Department of Justice - Criminal Justice Division is requesting a supplemental funding increase of 14 permanent full-time positions (6.50 FTE) for the Internet Crimes Against Children Program (ICAC). The 2025-27 biennium roll-up cost of the request is estimated to be \$4.8 million General Fund and 14 positions (14.00 FTE).

The Criminal Justice Division provides investigation, prosecution, and analysis to a broad spectrum of public safety programs. The Division has a 2023-25 legislatively adopted budget of \$34.5 million and includes 74 positions (73.51 FTE). Within the Division, the ICAC program has a 2023-25 legislatively adopted budget of \$2.1 million, which includes \$1.2 million General Fund (or 56%) and \$918,681 Federal Funds (or 44%) and five positions (5.00 FTE).

In September 1988, the U.S. Department of Justice created a National ICAC Task Force program to counter the emerging threat of offenders using the internet or other online technology to sexually exploit children. The program encompasses forensic and investigative components, training and technical assistance, victim services, and community education. While the organization and funding of task forces vary across the nation, the general framework is that each state has an assigned “lead [state] agency,” with “affiliate” support from primarily local law enforcement agencies who have agreed to support the task force. This support may also include non-profit entities. Federal fiscal year funding for the Missing and Exploited Children appropriation totals an estimated \$40.8 million.

Originally established in 1998, Oregon’s ICAC program (aka “Task Force”) is one of 61 such task forces across the nation charged with investigating “cybertips” from the National Center for Missing and Exploited Children (NCMEC). When a service provider (e.g., internet company) discovers suspected child sex abuse or child sexual exploitive materials, the provider, under federal law, is required to report to the NCMEC, who then refers the matter as a cybertip to the appropriate state ICAC task force.

In Oregon, DOJ serves as the state’s lead agency and is supported by an estimated 114 affiliate law enforcement agencies. DOJ processes each cybertip received from NCMEC by conducting an initial investigation, which may turn into a forensic examination of the cybertip evidence. The cybertip is then referred to the local law enforcement affiliate agency with jurisdiction over the suspected child exploitation for further investigation and possible prosecution. DOJ undertakes few, if any actual prosecutions, which instead are handled by local district attorney offices.

DOJ reports receiving 7,247 cybertips in calendar year 2022 and an estimated 9,711 in calendar year 2023 to-date (December 22, 2023). DOJ performs limited tracking of cybertip data; however, what data is available for calendar year 2023 shows that of the 9,711 cybertips received, 9,661 (or 99.5%) are associated with the following activities: 9,097 (or 93.7%) of cybertips are related to the possession,

manufacture, distribution of child pornography; 402 (or 4.1%) for the online enticement of child for sexual acts; 89 (or 0.9%) for child sexual molestation; 46 (or 0.5%) for child sex trafficking; and 27 (or 0.3%) for unsolicited obscene materials sent to a child.

DOJ reports that of the cybertips received, only 13% merit investigation by affiliate entities. This is because upon the initial review of the cybertip, a determination is made that either a criminal act has not been committed, the suspected offender resides outside the state’s jurisdiction, or the cybertip involves a single suspected offender resulting in the consolidation of multiple cybertips into a single investigation. DOJ reports that only 50% of referrals to affiliates are investigated.

Funding for Oregon’s ICAC has been a combination of a federal grant, renewed on a three-year re-application cycle, and state General Fund. The federal grant is a weighted formula grant based on the state’s overall population, the number of registered sex offenders, the number of cybertips received, the number of peer-to-peer file-sharing users associated with files containing child sexual abuse material; and other monthly data elements. The grant does not have a matching funds requirement. The need for supplemental state funding of ICAC task forces appears, in at least one instance (Idaho), to becoming more prevalent as federal funding has proven insufficient to meet the demands of state task forces and thus precipitating a shift from Federal Funds to General Fund.

Oregon’s ICAC program is currently staffed by two permanent full-time special agents that are funded with Federal Funds and two special agents and one criminal analyst funded with state General Fund. DOJ-CJ reports that a legal secretary supports the unit on a part-time basis but is funded outside of the ICAC program.

This request, if approved, would expand the ICAC program by \$2.7 million, or 127%, General Fund resources by 224%, and authorized position authority by 280%, as summarized in the following table.

2023-25 Biennium	Adopted	Request	Total	% Chg.
General Fund	\$ 1,189,648	\$ 2,670,217	\$ 3,859,865	224%
Federal Fund	\$ 918,681		\$ 918,681	0%
<b>Total Funds</b>	<b>\$ 2,108,329</b>	<b>\$ 2,670,217</b>	<b>\$ 4,778,546</b>	<b>127%</b>
Positions	5	14	19	280%
FTE	5.00	6.50	11.50	130%

DOJ’s request includes adding the following 14 permanent full-time positions over the course of the biennium: one Senior Assistant Attorney General (0.46 FTE) with a August 2024 start date; one Law Enforcement Manager 3 (0.58 FTE) with a May 2024 start date; two Criminal Investigators (1.17 FTE) with May 2024 start dates; three Criminal Investigators (1.38 FTE) with August 2024 start dates; three Criminal Investigators (1.13 FTE) with October 2024 start dates; one Research Analyst 1 (0.58 FTE) with a May 2024 start date; one Research Analyst 1 (0.38 FTE) with an October 2024 start date; one Legal Secretary (0.46 FTE) with an August 2024 start date; and one Legal Secretary (0.38 FTE) with an October 2024 start date. The associated services and supplies totals \$560,097 General Fund and includes DOJ’s administrative overhead cost rate of 14.8%.

Outcomes from such an investment may include clearing the investigation backlog, clearing the backlog on forensic investigations, increasing the number of in-house cybertip investigations by 12%, additional follow-up on referrals to affiliates, doubling the number of law enforcement trainings, and adding additional educational presentations at schools. The federal grant appears to have more stringent performance reporting requirements that include progress measured by the number of children and adults trained, the number of investigations conducted, the number of related arrests, the size of related evidence forensically examined, and the number of agencies coordinated in the effort.

Such a dramatic programmatic expansion will be important to monitor, and in particular, how the expansion will be implemented over the course of the remainder biennium. One specific concern with this request is the ability of local law enforcement (“affiliates”) to undertake an increase in the volume of referrals that would be generated by increased ICAC staffing. In addition, such a material investment merits scrutiny of actual performance or return on investment. DOJ has confirmed that the ICAC program is part of the Legal Tools Replacement information technology project, and therefore, more robust data reporting should be expected in the future.

**Recommendation:** The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend appropriating \$2,670,217 General Fund and authorizing the establishment of 14 permanent full-time positions (6.50 FTE) for the Department of Justice, Criminal Justice Division, in a budget reconciliation bill during the 2024 legislative session for the expansion of the Internet Crimes Against Children Program.

**Request:** Appropriate \$2,670,217 from the General Fund and establish 14 permanent, full-time positions (6.50 FTE) for the Oregon Internet Crimes Against Children (ICAC) task force program.

**Recommendation:** Approve the request during the 2024 Legislative Session.

**Discussion:** The Department of Justice (DOJ) requests \$2,670,217 General Fund and 14 positions (6.50 FTE) to increase the capacity of the team administering Oregon ICAC to address a backlog of cyber-tips as well as attain a level of staffing that meets ongoing demands and more closely matches Oregon's regional peer ICACs.

The national ICAC Task Force Program, started by the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) in 1998, is a national network of 61 coordinated task forces, representing over 5,400 federal, state, and local law enforcement, dedicated to investigating, prosecuting, and developing effective responses to internet crimes against children.

As Oregon's task force, Oregon ICAC focuses on investigating, prosecuting, and preventing the sexual exploitation of children on the internet. The Oregon DOJ Criminal Justice Division acts as Oregon's "lead agency", and employee responsibilities include conducting investigations and forensic examinations, providing technical assistance and trainings, and giving presentations to schools and community members.

As lead agency, the Oregon ICAC is supported by affiliates, which are law enforcement agencies that have agreed to support the work of the task force on an as-needed basis. Affiliates support the ICAC by conducting child exploitation investigations within their jurisdictions. Oregon ICAC has 114 affiliate law enforcement agencies who conduct child exploitation investigations which are referred by the Criminal Justice Division.

In 2022, the Oregon ICAC task force received 7,247 cyber-tips, which represents more than a 350 percent increase in cyber-tips since 2017. The team conducting ICAC work consists of five positions and is supported part time by a legal secretary; the team has not grown at a pace to keep up with this demand. In their materials DOJ presents, teams with comparable work, number of total affiliates and cyber-tip volume in neighboring states range from 18 to 25 FTE. Because DOJ does not have more dedicated staff for these tips beyond the vetting stage, the Criminal Justice Division refers more than 99 percent the Oregon ICAC investigations to its affiliate agencies.

DOJ is asking for the following positions to increase the capacity to investigate cyber-tips regarding internet crimes against children:

<b>Classification / Positions (#)</b>	<b>2023-25 FTE</b>	<b>2023-25 Cost (\$)</b>
Senior Assistant Attorney General (1)	0.46	292,764
Law Enforcement Manager 3 (1)	0.58	276,117
Criminal Investigator (8)	3.67	1,557,940
Research Analyst (2)	0.96	293,323
Legal Secretary (2)	0.83	250,073
		<b>\$ 2,670,217</b>

With this additional staffing, DOJ plans to eliminate the backlog of cyber-tips and reduce the backlog on forensic examinations to 2-3 months and have capacity to follow-up on each cyber-tip referral, which is expected to increase by approximately 12 percent. DOJ estimates the cost for increased capacity in the program to be \$4.8 million during the 2025-27 biennium.

**Legal Reference:** Appropriate \$2,670,217 from the General Fund to supplement the appropriation made by chapter 382, section 1(3), Oregon Laws 2023, for the Department of Justice, Criminal Justice Division, for the 2023-25 biennium.



DEPARTMENT OF JUSTICE

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December 4, 2023

Senator Elizabeth Steiner, Co-Chair  
Representative Tawna Sanchez, Co-Chair  
Interim Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairs Steiner and Sanchez:

**Nature of the Request**

The Department of Justice – Criminal Justice Division requests \$2,670,217 General Fund and position authorization for the establishment of 14 permanent positions (6.50 FTE) as follows:

Senior Assistant Attorney General Position – 1 position / (0.46 FTE)  
Law Enforcement Manager 3 Position – 1 position / (0.58 FTE)  
Criminal Investigator Positions – 8 positions / 3.67 FTE  
Research Analyst Positions – 2 positions / 0.96 FTE  
Legal Secretary Positions – 2 positions / (0.83 FTE)

**Agency Action**

The Oregon Internet Crimes Against Children (ICAC) task force is one of 61 such task forces across the nation. The role of the ICAC Task Force Program is to develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. That encompasses forensic and investigative components (including proactive investigations), training and technical assistance, and prevention and community education.

Each task force includes a “lead agency,” which in Oregon is the Criminal Justice Division of the Department of Justice. The lead agency is supported by employees of the lead agency or another agency who are dedicated full time to the work of the task force. Those employees are responsible for, among other things, conducting investigations and forensic examinations, providing technical assistance and trainings, and giving presentations to schools and community

members. In addition to lead agencies, each ICAC is supported by “affiliates,” which are law enforcement agencies that have agreed to support the work of the task force on an as-needed basis. Most typically, affiliates support the ICAC by conducting child exploitation investigations in the affiliates’ jurisdiction.

Currently, the Criminal Justice Division, as Oregon’s lead agency, is staffed with five full-time positions. Two of those positions are funded through a grant issued by the U.S. Department of Justice (two special agent positions) and the remaining three positions are funded through the General Fund (two special agents and one criminal analyst). A legal secretary supports the unit on a part-time basis. In Oregon, there are 114 affiliate law enforcement agencies who conduct child exploitation investigations that are referred by the Criminal Justice Division.

Each ICAC is charged with investigating “cyber-tips” from the National Center for Missing and Exploited Children (NCMEC). When a service provider, such as Google or Facebook, discovers that its services have been used to exploit a child, which most commonly occurs when the services are used to transfer or download sexually explicit recordings of children, the provider is federally mandated to report it to NCMEC. NCMEC then refers the matter as a cyber-tip to the appropriate ICAC taskforce.

In 2022, the Oregon ICAC task force received 7,247 cyber-tips, which represents more than a 350% increase in cyber-tips since 2017. Despite the dramatic increase in cyber-tips, the division’s staffing level has remained unchanged. Unfortunately, the upward trend in cyber-tips is likely to increase. According to NCMEC, the number of service providers reporting cyber-tips has increased and many of the larger service providers have enhanced their ability to detect exploitative conduct occurring on their servers.

The division’s staffing level as the lead agency is far lower than the ICAC task forces in our neighboring states. For instance, the Idaho ICAC, which is operated by the Idaho Attorney General, currently has 24 full-time positions.<sup>1</sup> The Idaho ICAC received approximately 2,109 cyber-tips in 2022. The Utah ICAC, which is also run by the state attorney general’s office, has a total of 18 full-time positions, including four prosecutors. The Utah ICAC received 5,600 cyber-tips last year. The Washington ICAC, which is run by the Seattle Police Department, is staffed with 25 positions and received 7,987 cyber-tips in 2022.<sup>2</sup>

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<sup>1</sup> As the lead agency, the Idaho Attorney General’s office funds all 24 positions, which includes positions in the attorney general’s office and positions in various law enforcement agencies in the state.

<sup>2</sup> The Seattle Police Department is the lead agency for the ICAC task force, however, the Washington State Patrol also receives state funding for positions dedicated full time to the work of the task force. The Seattle Police Department has funding for 16 positions and the Washington State Patrol has funding for nine. The total number of employees identified here does not include employees from federal agencies who are assigned full time to the task force.

The chart below illustrates the staffing differences:

ICAC Task Force	Cyber-tips	Full-Time Positions	Cyber-tips /FTE
Oregon	7,247	5	1449
Washington	7,987	25	319
Utah	5,600	18	311
Idaho	2,109	24	88

After receiving a cyber-tip, each ICAC task force must review the information provided to determine if an investigation is necessary. For various reasons, not all cyber-tips result in separate investigations. That could be because a task force determines the information contained in the cyber-tip does not constitute a crime, the suspect is outside the jurisdiction of the task force (e.g., the suspect is in another state or country), or, as is often the case, the task force receives multiple cyber-tips related to a single suspect and initiates a single investigation related to that suspect. For example, in 2022, the Oregon ICAC task force initiated 915 separate investigations, which represented about 13% of the total cyber-tips it received. The Washington ICAC, which had a similar number of cyber-tips, initiated about 914 separate investigations, which represented about 11% of the total cyber-tips it received.

Given the volume of cyber-tip investigations, each task force refers ICAC investigations to affiliate agencies.<sup>3</sup> The percentage of cases referred depends largely on the resources of each ICAC task force. For example, the commander of the Idaho ICAC task force estimates that the task force refers only around 10% to 15% of the ICAC investigations to affiliate agencies, whereas the Washington ICAC task force referred about 86% of the ICAC investigations to affiliate agencies. Due to a lack of resources, the Criminal Justice Division referred more than 99% the Oregon ICAC investigations to affiliate agencies.

The low staffing levels in the Oregon ICAC also means that the division has limited ability to provide training to affiliate agencies or to follow up on investigations that have been referred to those agencies. Moreover, the task force has been unable to engage in preventative measures, such as outreach to schools and community groups, and has been unable to perform proactive investigations, such as investigating the use of file sharing programs to exchange sexually explicit files and engaging in undercover operations to catch predators trying to lure children into sexual activities.

Simply put, the division cannot keep up with the influx of cyber-tips with our limited number of staff. This is of special concern because investigations have identified many children who are the victims of unreported sexual abuse as well as children who have previously reported abuse, but their offenders were not arrested or charged with a crime. Without adequate resources to timely evaluate and investigate cyber-tips, we know there are children who will continue to be

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<sup>3</sup> The Oregon ICAC has 114 affiliates, the Idaho ICAC has 144 affiliates, the Washington ICAC has 135 affiliates, and the Utah ICAC has 75 affiliates.



Senator Elizabeth Steiner, Co-Chair  
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abused until we are able to intervene. We need the requested resources to be able to timely process cyber-tips, actively investigate sex offenders, assist and follow up with our affiliate agencies, and teach children and community groups how to recognize and avoid on-line predators.

With full funding, we will eliminate our backlog for processing cyber-tips, which is currently 3 months behind, and reduce our backlog on forensic examinations to 2-3 months (the current backlog is from six months up to a year). We will also have the capacity to follow up on each cyber-tip referral and expect the number of cyber-tip investigations statewide to increase by approximately 12 percent. Moreover, we will double the number of law enforcement trainings we present and will begin giving 3-4 educational presentations at schools each year.

### **Action Requested**

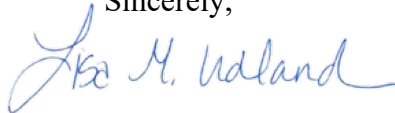
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### **Legislation Affected**

Oregon Laws 2023, Chapter 382, section 1(3).

Sincerely,



LISA M. UDLAND  
Deputy Attorney General

cc: Michael Slason, Chief Counsel, Criminal Justice Division DOJ  
William O'Donnell, Chief Financial Officer, DOJ  
Emily Windedahl, Budget Analyst, DOJ  
John Borden, Principal Legislative Analyst, LFO  
Zachary Gehringer, Policy and Budget Analyst, DAS Chief Financial Office