



Oregon

Theodore R. Kulongoski, Governor

Department of State Police

Identification Services Section

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To Our Valued Customers,

As you are aware, the Public Safety Subcommittee of the Ways and Means Committee of the 2009 Oregon Legislature directed the Oregon State Police (OSP) to review the current fees for the Identification Services Section (ISS). Specifically, a budget note directed OSP to review current fees and "*include the estimate of what a specific fee must be to support its share of the costs for the total programs.*"

As an early step to completing the requirements of the budget note, a review of the full time employee (FTE) allocation among the ISS's nine existing fee categories was completed. The results of that review are attached. It should be emphasized that this report is **just one part of the information** that the 2011 Legislature will consider.

Many different options and a wide variety of information will, no doubt, be considered by the Legislature. Some of the additional information considered may include, but certainly is not limited to:

- Available revenues;
- Any alternative revenue sources;
- Continuation of certain waived fees; and
- Constituent support for adjusting existing fees

OSP is committed to providing its customers with as much information as possible to help them determine the potential impacts of any fee changes. However, it should be understood that, until the legislature makes a final decision, the information OSP is able to provide is only an estimate.

OSP continues to work on completing the requirements of the budget note, and additional information will be gathered before the final report is presented to the 2011 Legislature. Your input is appreciated, and the time taken to provide OSP with your comments in writing, via email, phone and in person will become an important part of the record.

Sincerely,

David C. Yandell, Director
Criminal Justice Information Services Division

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Executive Summary

The Identification Services Section (ISS) has units within its structure that have been primarily supported by fees, and for the purpose of this report will be referred to as fee units. The fee units have been supported by a fee structure that was originally intended to support any incremental costs accompanying their addition to the ISS. Past fee analysis had not been calculated with the intent to absorb all other costs of the ISS.

Though fee units have been categorized in this report as separate from each other and separate from the Automated Fingerprint Identification System (AFIS) and Computerized Criminal History (CCH) units; the reality of day-to-day processing of each unit's work may involve the commingling of personnel between some units to best accomplish work that must be done.

This report is not an audit of the ISS program and should not be viewed as such. This report has been an attempt to separate fee unit personnel from the AFIS/CCH units and each other, so as to better equate the individual full-time equivalent (FTE) that would be needed if each unit were to stand alone. Stated differently, what would be the FTE requirement of each fee unit if they were viewed as separate entities or businesses? Analysis was based on individual meetings with management, staff, and personal observations of processes.

For the purpose of this report Core Services are defined as the AFIS and CCH units that do not currently have direct fee funding.

All of the samples in the review process were of manual fingerprint cards. The ISS has and is currently implementing a "direct submit" electronic process for their arrest fingerprint card workload using Livescan technology for agencies that have this capability. In the near future most arrest cards will be submitted via a Livescan device that will eliminate the need to manually scan fingerprint cards into AFIS; leaving only a small percentage of print cards arriving through the mail. As the direct submit system becomes more fully utilized there will continue to be shrinkage of process time that needs to be allocated to AFIS and CCH. This gain in processing time associated with fee units using the AFIS system will offset some of the projected FTE needs linked to expected growth. Meaning those units using AFIS that would have normally been expected to grow in FTE due to an increased volume in number of transactions, may in fact experience minimal growth in FTE during the 09/11 biennium due to efficiency gains realized via the direct submit and other process improvements.

All FTE calculations within the report were based on a 2,080 hour work year that was then adjusted for vacation, holiday, sick days, and personal days to arrive at actual annual work hours available of 1,650.

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Objective:

Review the FTE allocation among Identification Services Section's nine existing fee categories. These analyses will be just some of the information that aids the department in determining a range of potential fees.

Scope:

Review Identification Services Section's fee categories as directed by the Oregon Legislature.

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AFIS & CCH Unit

ISS is made up of two non-fee units that consist of the Automated Fingerprint Identification System (AFIS) unit, and the Computerized Criminal History (CCH) unit, and nine fee units (Open Records, Clearinghouse, Firearms, Set Aside Arrest/Conviction, Regulatory, Concealed Handgun License, Copy of Own Record, Public Fingerprinting, & Agency Records Check).

The Automated Fingerprint Identification System is a computer system that is used for electronically searching, retrieving and maintaining fingerprint files. The Oregon State Police is a member of the Western Identification Network (WIN) which consists of eight western states sharing one electronic fingerprint database for use in processing criminal and applicant fingerprint cards. The participating states of WIN are Oregon, Alaska, Idaho, Montana, Nevada, Utah, Washington and Wyoming. Interface Members include the state of California. Federal Members include the Federal Bureau of Investigation.

The Computerized Criminal History unit is responsible for maintaining criminal history information through the Law Enforcement Data System (LEDS). The computerized criminal history is established based on fingerprints and includes arrest information, court information, and custody information received from the Department of Corrections. Law enforcement agencies are required by statute to submit a fingerprint card to ISS for all felony crimes as well as all sex and drug misdemeanor crimes.

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Firearms Unit

Existing Statute/Rule:

ORS 166.414 Fees for conducting criminal history record checks. (1) The Department of State Police may adopt a fee schedule for criminal history record checks required under ORS 166.412 and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks required under ORS 166.412, but may not exceed \$10 per record check.

ORS 166.434 (4)(b) The department shall establish a reduced fee for subsequent criminal background checks on the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m. [2001 c.1 §5]

The current reduced fee for subsequent purchases on same day is \$5.

OAR 257-010-0055 (7) The OSP may adopt a fee schedule for criminal history record checks and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks, but may not exceed \$10 per record check.

ORS 166.412 (4) (a) Identification required of the purchaser under subsection (2) of this section shall include one piece of **current** identification bearing a photograph and the date of birth of the purchaser that.

ORS 166.412 (5) The department shall establish a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

ORS 166.434 (3) Notwithstanding ORS 166.412 (5), the department is not required to operate the telephone number established under ORS 166.412 (5) on Thanksgiving Day or Christmas Day.

Current FTE Allocation:

13- Public Service Representative 3's (PSR3)
2- Public Service Representative 4's (PSR4)
1- Support Service Supervisor 3 (SSS3)
1- Principal Executive Manager B (PEMB)
3- Office Specialist 2's (OS2), which are shared with the Computerized Criminal History unit (CCH)

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Job Duties:

PSR3 – Consists of receiving incoming firearm sale calls, and stolen weapon inquiries, and the inputting of accurate and complete purchaser/firearm information into system regarding the sale/purchase of weapon that enables a complete record check. Query and retrieve information from multiple databases that include Oregon and federal computerized criminal history files, Oregon and federal wanted and missing person files, Oregon mental health records, Oregon restraining order files, NICS index, department of motor vehicles records, and stolen weapons files. Based on state and federal law make approval or denial of purchaser determinations from information gathered during records check, and then notify dealer of decision. Make appropriate notification to law enforcement regarding warrants or other pertinent prohibiting data found during record check of purchaser.

Conduct research of pended files, which are calls that have been identified as requiring additional research before final determination can be made. This research can be for incomplete information or to determine if a conviction meets criteria that prohibit purchase of a firearm. Research may consist of contacting criminal justice agencies via phone/fax/email to confirm the disposition of arrest cycle information in support of firearms instant check and CCH file that could not be completed at the time of originating call. Request fingerprint/thumbprint impressions of subject faxed to ID Services when individual's identification is in question. Have the tentatively identified subject's thumbprint sent by fax for comparison by AFIS staff to existing fingerprint records for positive ID using Master fingerprint card file, microfilm, or AFIS image. There are additional duties involving quality assurance checks of work being processed, and imaging of any transaction data or research that has been conducted.

PSR4 – Are resource leaders that complete many of the same tasks described in the PSR3 duties, but have the additional responsibilities of performing quality assurance of paper and computer file work generated by both PSR3's and OS2's. They assist in the monthly billing of dealers using the instant background check system. Respond to challenges and complaints from individuals denied purchase of firearms. Other duties would involve the training and being available for answering firearm staff questions.

OS2 – Are staff that are shared between Firearms and CCH. The OS2 positions are utilized by Firearms in months where there is increased phone call activity. These positions work mostly with the firearm sale calls, and stolen weapon inquiries.

PEMB & SSS3 – Supervise and manage all aspects of the Firearms unit.

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Findings:

Listed below is a 2001-2009 spreadsheet comparison showing total transactions by month and year that were processed in the Firearms unit.

Historical Total Transactions												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2001	8,535	9,574	11,282	9,493	7,773	8,946	7,364	9,706	14,597	12,305	10,917	14,262
2002	8,697	9,211	11,081	10,024	8,277	8,129	7,038	9,489	12,363	10,114	9,937	13,474
2003	8,871	9,729	11,770	10,170	9,080	8,020	7,425	9,757	12,718	10,971	10,213	14,443
2004	9,242	10,160	11,610	10,134	9,090	8,609	8,019	9,092	13,436	11,253	11,114	16,576
2005	9,838	11,438	12,561	12,226	9,672	9,699	8,328	9,975	14,067	11,645	12,384	17,964
2006	11,009	12,158	14,229	12,497	10,102	10,372	9,140	10,601	14,076	11,264	12,471	17,855
2007	10,680	12,179	13,756	12,281	10,358	10,745	9,132	10,823	13,525	11,362	12,615	18,319
2008	11,271	12,726	15,313	13,108	11,854	11,446	9,920	10,912	13,282	13,270	20,811	19,190
2009	15,168	16,255	18,818	15,208	12,605	10,900	9,922	11,010	13,126	13,141	13,596	17,124
Total	93,311	103,430	120,420	105,141	88,811	86,866	76,288	91,365	121,190	105,325	114,058	149,207
Ave	10,368	11,492	13,380	11,682	9,868	9,652	8,476	10,152	13,466	11,703	12,673	16,579

When compared to prior monthly averages, October and November of 2008 and January through April of 2009, the Firearms unit received an unusual increase in transactions. It is rationalized that these increases in transactions may be attributed to an election year political environment.

In order to account for political anomaly and more accurately forecast future FTE needs, the October and November of 2008 and January through April of 2009 data below were replaced with prior year's monthly transactions.

Adjusted Historical Total Transactions												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2001	8,535	9,574	11,282	9,493	7,773	8,946	7,364	9,706	14,597	12,305	10,917	14,262
2002	8,697	9,211	11,081	10,024	8,277	8,129	7,038	9,489	12,363	10,114	9,937	13,474
2003	8,871	9,729	11,770	10,170	9,080	8,020	7,425	9,757	12,718	10,971	10,213	14,443
2004	9,242	10,160	11,610	10,134	9,090	8,609	8,019	9,092	13,436	11,253	11,114	16,576
2005	9,838	11,438	12,561	12,226	9,672	9,699	8,328	9,975	14,067	11,645	12,384	17,964
2006	11,009	12,158	14,229	12,496	10,102	10,372	9,140	10,601	14,076	11,264	12,471	17,855
2007	10,680	12,179	13,756	12,281	10,358	10,745	9,132	10,823	13,525	11,362	12,615	18,319
2008	11,271	12,726	15,313	13,108	11,854	11,446	9,920	10,912	13,282	11,362	12,615	19,190
2009	11,271	12,726	15,313	13,108	12,605	10,900	9,922	11,010	13,126	13,141	13,596	17,124
Total	89,414	99,901	116,915	103,040	88,811	86,866	76,288	91,365	121,190	103,417	105,862	149,207
Ave	9,935	11,100	12,991	11,449	9,868	9,652	8,476	10,152	13,466	11,491	11,762	16,579

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Based on 2009 time activity reports it was calculated that approximately 16 FTE, not including line management, was needed to process 2009 transactions (13 PSR3, 2 PSR4, and 1 OS2 Equivalent). The spreadsheet below uses 2009's 16 FTE (2 management FTE not included) as a baseline for sufficiently staffed and then factors in a calculated expected annual growth rate of 2.74%. The projections below show that with all else being equal that an additional position would need to be added in both 2011/2012 and 2013/2014 to maintain the same level of service as 2009.

Forecasted FTE Needs

Year			Transactions		# FTE	
2010	Based on 2.7% increase over 2009 total transactions	=	171,445	=	16.44	FTE Needed
2011	Based on 2.7% increase over 2010 total transactions	=	176,143	=	16.89	FTE Needed
2012	Based on 2.7% increase over 2011 total transactions	=	180,969	=	17.35	FTE Needed
2013	Based on 2.7% increase over 2012 total transactions	=	185,928	=	17.83	FTE Needed
2014	Based on 2.7% increase over 2013 total transactions	=	191,022	=	18.32	FTE Needed

It is important to establish a baseline of current minimum staffing levels and be able to project into future years what the growth in work load may be so as to ensure the Firearms unit is sufficiently staffed to give its customers the same prompt and quality responses. I have attempted to find correlations between firearms transactions and other indicators such as, population, employment, and income, but could not find an individual indicator that would explain historical trends. It is most likely a combination of many indicators that I am unable to quantify. Therefore I have relied on a historical average over the last eight years to arrive at an annual predicted growth rate of 2.74%. The growth rate for specific months in 2008/2009 as previously mentioned were adjusted to account for what was perceived as an anomaly due to political elections. If the 2008/2009 data had not been adjusted downward, the growth rate would have been 3.82%.

The Firearms unit will be exploring an "E-Check" process which could enhance the background service of customers that have both an interest and capability of participating. While the entire impact and potential benefit of this enhancement is not yet known, it is geared to automate the background check process for those transactions that will meet a criterion for completion without human intervention.

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Set Aside Arrest/Convictions & Granted Relief

Existing Statute/Rule:

ORS 137.225 Order setting aside conviction or record of arrest; fees; prerequisites; limitations. (1)(a) At any time after the lapse of three years from the date of pronouncement of judgment, any defendant who has fully complied with and performed the sentence of the court and whose **conviction** is described in subsection (5) of this section by motion may apply to the court where the conviction was entered for entry of an order setting aside the conviction; or

(b) At any time after the lapse of one year from the date of any **arrest**, if no accusatory instrument was filed, or at any time after an acquittal or a dismissal of the charge, the arrested person may apply to the court that would have jurisdiction over the crime for which the person was arrested, for entry of an order setting aside the record of the arrest. For the purpose of computing the one-year period, time during which the arrested person has secreted himself or herself within or without the state is not included.

ORS 137.225 (2)(c) When a person makes a motion under subsection (1) (a) of this section, the person must pay a fee of \$80. The person shall attach a certified check payable to the Department of State Police in the amount of \$80 to the fingerprint card that is served upon the prosecuting attorney. The office of the prosecuting attorney shall forward the check with the fingerprint card to the Department of State Police bureau of criminal identification.

ORS 419A.260 Expunction; definitions. (1) As used in this section and ORS 419A.262:

(a) "Contact" means any instance in which a person's act or behavior, or alleged act or behavior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this subsection.

(b) "Expunction" means:

(A) The removal and destruction or sealing of a judgment or order related to a contact and all records and references;

(c) "Person" includes a person under 18 years of age.

(d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which contains information relating to a person's contact with any law enforcement agency or juvenile court or juvenile department and is kept manually, through the use of electronic data processing equipment, or by any other means by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon.

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ORS 419A.262 Expunction proceeding; notice to victim; effect of expunction; confidentiality; penalties. (16) The juvenile court or juvenile department shall send a copy of an expunction judgment to each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile department with an endorsement indicating compliance.

Current FTE Allocation:

1 Office Specialist 2 (OS2).

Job Duties:

Perform set aside (arrest/conviction cycle set aside) process for updating CCH records in compliance with ORS 137.225, and ORS 419A.262.

Findings:

ISS currently charges an \$80.00 fee to all applicants requesting set aside of **convictions** as allowed under ORS 137.225 (2)(c), but does not charge a fee for set aside of **arrests** as it is not included in ORS 137.225 (2)(c). Though ISS is not allowed to charge a fee for the set aside of arrests, ISS is still obligated to perform the set aside process required under ORS 137.225 (1) (b).

ISS must also perform expunction involving juveniles as required under ORS 419A.262, but does not currently charge a fee as it is not included under ORS 137.225 (2)(c) as a set aside that can be charged for.

The following spreadsheet is a projection of FTE that will be needed based on an average of historical set aside completion data percentage increases multiplied times an average set aside completion time of 25 minutes. The historical completion data includes convictions, arrests, and a 7% allowance for juvenile processing. The arrests and convictions take the same amount of time to process, but a juvenile is mostly a name check that would take approximately 1/8th of the time as that of an arrest or conviction.

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Year	Arrests & Convictions Plus 7% for Juvenile Completed	Percentage Increase Over Prior Year	Completions Based on 9.9% Ave Increase	Historical Percentage Of Increase	Minutes Per Set Aside	Annual Working Hours	Projected FTE Needed
2013			6,731.35	9.9% Increase	25	2,805	1.70
2012			6,122.53	9.9% Increase	25	2,551	1.55
2011			5,568.78	9.9% Increase	25	2,320	1.41
2010			5,065.11	9.9% Increase	25	2,110	1.28
2009	4,607	15.4%			25	1,920	1.16
2008	3,991	9.1%			25	1,663	1.01
2007	3,658	7.6%			25	1,524	0.92
2006	3,400	11.1%			25	1,417	0.86
2005	3,060	-19.2%			25	1,275	0.77
2004	3,785	38.6%			25	1,577	0.96
2003	2,731	6.9%			25	1,138	0.69
2002	2,554				25	1,064	0.64
	27,786	9.9%	Average				

Effective January 1, 2010 House Bill 2318 has revised ORS 137.225 to allow previously excluded traffic arrests to now be set aside in certain circumstances. This could have an increase on set aside workload, but would not increase the revenue because arrests are not charged a fee to be set aside.

In addition to set asides duties there are a small number of orders granting relief from firearm prohibition, referred to as "Granted Relief" completions that are also done in this unit. The numbers are currently insignificant, but it is important to mention that the Granted Relief process and the set aside process are very similar in that approximately the same amount of time is expended to complete each request. Per ORS 137.225 (2) (c) OSP is charging a fee of \$80 to complete set aside request, yet charges \$12 per request for Granted Relief. It would seem that the few Granted Relief requests that are processed annually should follow the same pricing structure as set asides. The following are existing statute and rule that ISS uses as guidelines in the Granted Relief process.

ORS 166.274 Relief from prohibition against possessing or purchasing firearm. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for relief from the bar in:

- (a) A justice court in the petitioner's county of residence that is reasonably accessible to the petitioner; or
- (b) If no justice court is reasonably accessible, the circuit court.

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(4)(a) When a petition is denied, the judge shall cause that information to be entered into the Department of State Police computerized criminal history files.

(b) When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

OAR 257-010-0025(10) Fee for relief from the bar of purchasing/possessing a firearm. When a person barred from possessing a firearm under ORS 166.250(1)(c)(A), (B), (D) or (E) or barred from purchasing a firearm under ORS 166.470 and is granted relief from the bar by a court under ORS 166.274, a fee of \$12 will be charged to enter and maintain this information in the CCH File as authorized under ORS 166.274(4)(c).

The Granted Relief would need a modification to current OAR 257-010-0025(10) so as to align Granted Relief fees with set aside fees.

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Name Check for Designated Agency

Existing Statute/Rule:

ORS 181.560 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

OAR 257-010-0025 (1)(b) Designated Agencies upon Executive Order of the Governor, where the information is required to implement a federal or state statute, Executive Order, or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, or licensing purposes, or other demonstrated and legitimate needs.

OAR 257-010-0025 (1)(b)(B) When an authorized agency or organization requests, in written form, criminal offender information about an individual from OSP under ORS 181.555(1), that agency will be charged a fee of \$4 for each individual checked (fee does not apply when check is made by agency using their LEADS terminal).

Current FTE Allocation:

1 Public Service Representative 2 (PSR2)

Job Duties:

Conduct a computer based CCH query on all letter requests for all authorized criminal and non-criminal justice agencies based on the name and date of birth supplied to determine if a criminal history exists. Print copies of records found or note "No Records" and mail responses to the authorized requester.

Findings:

Because the Secretary of State Notary Public Section now has the ability to run background checks via LEADS access, it has not used ISS CCH query services since February 2009, which has created a large drop in completions for this unit. The following spreadsheet projects the number of FTE that will be needed by multiplying actual or projected completions times a 4 minute process time.

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Year	Completions	Projected			Projected FTE
		Completions Based on 2009	Minutes per Check	Annual Working Hours	
2013		2,584	4	172	0.10
2012		2,584	4	172	0.10
2011		2,584	4	172	0.10
2010		2,584	4	172	0.10
2009	2,584		4	172	0.10
2008	13,059		4	871	0.53
2007	6,640		4	443	0.27
2006	1,777		4	118	0.07
2005	2,174		4	145	0.09
2004	4,275		4	285	0.17
2003	6,567		4	438	0.27
2002	7,604		4	507	0.31

More and more authorized agencies have access to CCH via LEDS and are choosing to run their own background checks. It does not appear likely that completion numbers will grow significantly in future years. Because of the economic benefit to themselves, agencies with CCH access that have a large number of names to process are likely to choose to do their own background checks. This will leave ISS with a customer base of small agencies (small completions) that do not have direct LEDS access, or find that they have so few that it is more economically feasible to use ISS's services.

ID Services continues to work with these agencies to phase out this service due to lack of volume and overall cost of providing a service to such few users. Agencies are being encouraged to obtain their own LEDS workstation and/or share the use through an agency agreement with other users.

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Clearinghouse

Existing Statute/Rule:

ORS 181.533 Criminal records check; qualified entities; rules. (9) The authorized agency shall adopt rules to implement this section. The rules may include but are not limited to:

(a) Criteria to be used by the authorized agency to determine whether an entity is a qualified entity; and

(b) Fees to be charged for conducting criminal records checks under this section in amounts not to exceed the actual costs of acquiring and furnishing criminal offender information. [2001 c.871 §1]

ORS 181.556 (1) When the Department of State Police is asked to provide criminal offender information under ORS 181.533 or 181.555 (2), the department shall **waive** any fee otherwise charged by the department for providing the information if:

(a) The request is made by an organization; and

(b) The individual about whom the criminal offender information is sought is a volunteer or prospective volunteer, of the organization.

(2) In addition to waiving any fee otherwise charged by the department, **the department may not charge the individual or organization the fee** charged by the Federal Bureau of Investigation for conducting nationwide criminal records checks.

OAR 257-010-0025 (13) Fee for conducting applicant and regulatory fingerprint based criminal record background check for qualified entity based on criteria established by the qualified entity. A fee of \$52 will be charged to conduct a fingerprint based criminal record background check and fitness determination. The fingerprint card and results of the fitness determination will be returned to the contributor. This fee will be waived as provided in ORS 181.556 (1) & (2).

Current FTE Allocation:

1 Public Service Representative 4 (PSR4)

Job duties:

The purpose of the Clearinghouse unit (CHU) is to conduct fingerprint-based, criminal record background checks on employees and volunteers for a business or organization not governed by a state regulatory or licensing agency.

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Findings:

Initial processing is split between two Fingerprint Technicians. A PSR4 then does mostly all research beyond the initial processing performed by the Fingerprint Technicians.

The following table shows the actual number of fingerprint-based criminal record background checks conducted by year, which has then been multiplied times an average process time to arrive at the number of annual hours and FTE that would be needed. For years 2010 through 2013 the number of completions used was 3,832, which was based on the average number of completions from 2006 through 2009.

Year	Fee Waived	Fee Paid	Total Completions	Increase/ Decrease	Projected Completions	Minutes Per Card	Actual & Projected Completions	Annual Hours Needed	FTE Needed For 1650 Work Year
				Over Prior Year	Based On 2006-2009 Average	Process Time	X Proc/Time	Per Year	Year
2013					3,832	17	65,136	1,086	0.66
2012					3,832	17	65,136	1,086	0.66
2011					3,832	17	65,136	1,086	0.66
2010					3,832	17	65,136	1,086	0.66
2009	2,088	1,634	3,722	-5.12%		17	63,274	1,055	0.64
2008	2,102	1,821	3,923	-0.63%		17	66,691	1,112	0.67
2007	2,108	1,840	3,948	5.76%		17	67,116	1,119	0.68
2006	1,558	2,175	3,733			17	63,461	1,058	0.64
	1,964	1,868	3,832	0.00%	Average				

As shown in the table above, more than half the fingerprint based criminal record background checks conducted each year have their fee waived per ORS 181.556 (1). In addition to waiving the \$52.00 OSP processing fee, ORS 181.556 (2) does not allow OSP to recoup the \$13.25 fee charged by the Federal Bureau of Investigation for conducting nationwide criminal records checks.

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Because OSP is not allowed to pass along the associated FBI fees of each completion, the rate to project revenue for each year would not be \$52.00. The actual net revenue per charged customer to cover costs is shown below in the Net Revenue Per Completion column. The rate changes because the ratio between waived fees to charged fees changes from year to year. In order to cover program costs, the fee charged must be able to absorb the internal cost of waived completions and the additional FBI charges associated with waived completions.

Year	Fee Waived Completions	\$13.25 Fee Waived	Fee Collected Completions	\$52 Fee Collected	Collected Fee (Less) Waived Fee	Net Revenue Per Completion
2009	2,088	\$27,666	1,634	\$84,968	\$57,302	\$35.07
2008	2,102	\$27,852	1,821	\$94,692	\$66,841	\$36.71
2007	2,108	\$27,931	1,840	\$95,680	\$67,749	\$36.82
2006	1,558	\$20,644	2,175	\$113,100	\$92,457	\$42.51

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Regulatory

Existing Statute/Rule:

ORS 181.534 Criminal records check; authorized agencies; rules. (2) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes. If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

ORS 181.534 (9) Each authorized agency, in consultation with the Department of State Police, shall adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules shall include but need not be limited to: (g) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

ORS 181.560(4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

EO 90-05 AUTHORIZATION FOR ACCESS TO LAW ENFORCEMENT DATA SYSTEM. ORS 181.010 (6) and OAR 257-010-0025 (1)(b) authorize the Governor to allow Law Enforcement Data System access to designated state and local agencies which require such information "for agency employment purposes, licensing purposes or other demonstrated needs when designated by order of the Governor." Executive Order No. 90-05 grants such access to a number of state agencies and establishes the conditions under which such access is authorized. Subsequent Executive Orders have authorized access for additional state and local agencies for various purposes.

OAR 257-010-0025 (1)(b) Designated Agencies upon Executive Order of the Governor, where the information is required to implement a federal or state statute, Executive Order, or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, or licensing purposes, or other demonstrated and legitimate needs.

OAR 257-010-0025 (11) Fee for conducting applicant and regulatory fingerprint based criminal record background check when fingerprint card is retained in the CCH File. A fee of \$27 will be charged to conduct a fingerprint based criminal record background check when the fingerprint card and related information is entered and maintained in the CCH File.

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OAR 257-010-0025 (12) Fee for conducting applicant and regulatory fingerprint based criminal record background check when fingerprint card is not retained in the CCH File. A fee of \$28 will be charged to conduct a fingerprint based criminal record background check when the fingerprint card and related information is returned to the contributor or destroyed by the ISS.

Current FTE Allocation:

8- Fingerprint Technicians
1- Support Service Supervisor 3 (SSS3)
1- Principal Executive Manager B (PEM-B)

Job Duties:

The Regulatory unit provides fingerprint based background check services for agencies having authority through Oregon statute, Federal Law or by Governor's Executive Order to perform such checks for regulatory purposes to include: licensing, certification, permits, employment. The Regulatory unit conducts a statewide check, and an FBI nationwide check for agencies granted that authority. The funding for this Unit is based on user fees of \$28.00 for non-retained and \$27.00 if the fingerprint card is retained at Oregon State Police.

Findings:

The following table shows the actual number of fingerprint based criminal background checks completed by year, which has then been multiplied times an average process time to arrive at the number of annual hours and FTE that would be needed.

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Year	Non Retained		Non Retained & Retained Combined	Increase/Decrease Over Prior Year	Projected Completed Based On 8.06% Increase	Minutes Per Card Process Time	Annual Hours Needed Per Year	FTE Needed Based On 1650 Hr Work Yr
	Completed	Completed	Completed	%				
2013					90,876	12	18,175	11.02
2012					84,096	12	16,819	10.19
2011					77,821	12	15,564	9.43
2010					72,015	12	14,403	8.73
2009	3,730	62,912	66,642	13.86%		12	13,328	8.08
2008	3,814	54,717	58,531	18.43%		12	11,706	7.09
2007	3,651	45,770	49,421	-6.26%		12	9,884	5.99
2006	3,985	48,737	52,722	31.57%		12	10,544	6.39
2005	2,617	37,453	40,070	-18.70%		12	8,014	4.86
2004	3,506	45,779	49,285	40.67%		12	9,857	5.97
2003	2,777	32,260	35,037	-23.13%		12	7,007	4.25
2002	3,763	41,819	45,582			12	9,116	5.53
Average	3,480	46,181	49,661	8.06%				

The above does not include the one PEM B & one SSS3 assigned

The average historical increase in completions over the last seven years has been 8.06% for the Regulatory unit. This percentage is used to project completions into years 2010 through 2013.

Regulatory is one of the larger fee units within ID Services, and would be expected to continue to gain efficiencies through the ongoing implementation of Livescan technology that uses an electronic "direct submit" process for their fingerprint card workload. Expected growth to this unit should be offset, as customers are able to use Livescan for "direct submit", instead of mailing in their fingerprint cards to be processed.

In talking with management and staff it was determined that there was no material basis for charging separate fee amounts for retained and non-retained. The newly calculated rate should be simplified by charging the same fee for both retained and non-retained. This would require current OAR's to be modified to reflect a single fee.

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Open Records

Existing Statute/Rule:

ORS 181.560 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

ORS 181.556 (1) When the Department of State Police is asked to provide criminal offender information under ORS 181.533 or 181.555 (2), the department shall waive any fee otherwise charged by the department for providing the information if:

- (a) The request is made by an organization; and
- (b) The individual about whom the criminal offender information is sought is a volunteer, or prospective volunteer, of the organization.

OAR 257-010-0025 (1)(d) A person or agency not defined as a Criminal Justice, Designated Agency, or Qualified Entity has access only through the OSP Identification Services Section pursuant to ORS 181.555 and 181.560. The request must be submitted in writing and may be hand carried or mailed to the OSP Identification Services Section. A fee of \$10 will be charged for each check.

Current FTE Allocation:

2 Office Specialist 2 (OS2).

Job Duties:

Provides criminal history reports that contain any record of a conviction and any record of an arrest less than one year old in which there has been no acquittal or dismissal. Receive, document and process open record requests received through the mail, by fax and OSP website.

Findings:

There are two individuals that work in Open Records unit that consist of a primary and secondary. The secondary starts many of the processes that are completed by the primary. The secondary has an Open Records workload that is about half that of the primary. The secondary devotes the remainder of their time to other ISS duties.

The following spreadsheet shows the actual number of Open Records requests completed by year, which has then been multiplied times an average combined processing time of 4.6 minutes to arrive at the number of annual hours and FTE that would be needed.

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Year	Completions	Projected Completions	% Increase Decrease From Prior Year	Minutes Per Completion	Annual Hours Needed	FTE Needed Based On 1650 Hr Work Yr
2013		29,059		4.6	2,228	1.35
2012		29,059		4.6	2,228	1.35
2011		29,059		4.6	2,228	1.35
2010		29,059		4.6	2,228	1.35
2009	25,210		-9.11%	4.6	1,933	1.17
2008	27,738		-15.21%	4.6	2,127	1.29
2007	32,715		3.39%	4.6	2,508	1.52
2006	31,643		6.57%	4.6	2,426	1.47
2005	29,693		3.84%	4.6	2,276	1.38
2004	28,596		-1.43%	4.6	2,192	1.33
2003	29,012		4.12%	4.6	2,224	1.35
2002	27,865			4.6	2,136	1.29
	29,059	Average				

The above downward trend of completions over the last two years would appear to coincide with the economy, so an average of completions over the last eight years (29,059) will be used as a baseline for calculations.

Included in the above spreadsheet are a small percentage of completions that are waived per ORS 181.556 (1). The following spreadsheet gives a breakdown of waived fees and their percentage of total completions for years 2002 through 2009.

Year	Total Completions	Waived	% of Waived Fees
2009	25,210	1331	5%
2008	27,738	1406	5%
2007	32,715	1215	4%
2006	31,643	1375	4%
2005	29,693	745	3%
2004	28,596	328	1%
2003	29,012	269	1%
2002	27,865	444	2%
Average	29,059	889	3%

The spreadsheet does indicate that there is a percentage increase in waived fees in recent years, though overall percentage of total waived fees to total completions is still small. The costs of these waived fees are currently being absorbed by Open Record's paying customers.

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Public Fingerprinting

Existing Statute/Rule:

ORS 181.560 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

OAR 257-010-0035 (7) All individuals desiring to obtain a set of their inked fingerprints for purposes other than review, challenge or correction specified in section (1) of this rule will be charged a fee of \$20 for each fingerprint card provided.

Current FTE Allocation:

1 Office Specialist 2 (OS2)

Job Duties:

Record fingerprint impressions of persons physically applying their fingerprints to the appropriate fingerprint card form using both Livescan technology and printing ink. Collect and receipt appropriate fees for fingerprinting

Findings:

The Fingerprinting unit is staffed primarily by one individual during normal business hours from 8:00 a.m. to 4:30 p.m. Monday-Friday. There is other staff trained as backup for lunch hour, vacation, and sick time.

A review of 2006 through 2009 yearly completions show there has been an average increase in Public Fingerprint completions of 4.78%. There was an expected decrease in the number of completions from 2004 to 2005 due to a fee increase in March of 2005, which is why 2005 and earlier data was not included in the calculated average. The following spreadsheet uses a 4.78% increase over the prior year to project 2010 through 2013 completions.

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Year	Completions	Projected Completions	Percentage of Increase Decrease From P/Y
2013 Projected		4,915	
2012 Projected		4,691	
2011 Projected		4,477	
2010 Projected		4,273	
2009 Completed	4,078		12.96%
2008 Completed	3,610		-5.32%
2007 Completed	3,813		19.94%
2006 Completed	3,179		-8.47%
2005 Completed	3,473		
2004 Completed	4,504		
Total	22,657		4.78% Average Increase 2006-2009

The following calculations use a projected annual completion number multiplied times an average fingerprinting time of 12 minutes to arrive at annual working hours and FTE that would be needed.

Year	Actual & Projected Completions	Times	12 Minute Completion Time	Annual Working Hours Needed	Projected FTE Needed
2013	4,915	X	12	983	0.60
2012	4,691	X	12	938	0.57
2011	4,477	X	12	895	0.54
2010	4,273	X	12	855	0.52
2009	4,078	X	12	816	0.49
2008	3,610	X	12	722	0.44
2007	3,813	X	12	763	0.46
2006	3,179	X	12	636	0.39
2005	3,473	X	12	695	0.42
2004	4,504	X	12	901	0.55

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Concealed Handgun License

Existing Statute/Rule:

ORS 166.291 (5)(a)(A) Fees for concealed handgun licenses are: (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

Current FTE Allocation:

1 Fingerprint Technician

Job Duties:

Concealed Handgun License applicant fingerprint cards are processed and established in the Computerized Criminal History records of Oregon's Criminal Offender Information system to assist the county Sheriff's in their background investigation process.

Findings:

The ISS Concealed Handgun License (CHL) unit has been absorbed by the ISS Regulatory unit. Cards are not done by one CHL individual, but are instead assigned to individuals in the AFIS and Regulatory Units to process.

The following spreadsheet uses 2002 through 2009's historical average increase of 18.74% in annual completions to project 2010 through 2013 completions.

<u>Year</u>	<u>Actual Annual Completions</u>	<u>Projected Annual Submissions</u>	<u>% Increase/Decrease</u>	<u>Projected Increase</u>
2013		38,511		18.74%
2012		32,433		18.74%
2011		27,314		18.74%
2010		23,004		18.74%
2009	19,373		39.90%	
2008	13,848		36.25%	
2007	10,164		21.77%	
2006	8,347		31.55%	
2005	6,345		11.55%	
2004	5,688		-15.07%	
2003	6,697		5.23%	
2002	6,364			
	9,603		18.74%	Average

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The following spreadsheet uses the above actual and projected completions multiplied times a 12 minutes per completion process time to project the number of working hours and FTE requirements.

Year	Actual Annual Completions	Projected Annual Submissions	Times	Process Time	Hours	FTE Based on 1650 Annual Work/Hrs
2013		38,511	X	12	7,702	4.67
2012		32,433	X	12	6,487	3.93
2011		27,314	X	12	5,463	3.31
2010		23,004	X	12	4,601	2.79
2009	19,373		X	12	3,875	2.35
2008	13,848		X	12	2,770	1.68
2007	10,164		X	12	2,033	1.23
2006	8,347		X	12	1,669	1.01
2005	6,345		X	12	1,269	0.77
2004	5,688		X	12	1,138	0.69
2003	6,697		X	12	1,339	0.81
2002	6,364		X	12	1,273	0.77

Concealed Handgun License unit is another unit within ID Services that would be expected to continue to gain efficiencies through the ongoing implementation of Livescan technology that uses an electronic “direct submit” process for their fingerprint card workload. Expected growth to this unit should be offset, as customers are able to use Livescan for “direct submit” instead of mailing in their fingerprint cards to be processed.

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Copy of Own Record

Existing Statute/Rule:

ORS 181.560 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

OAR 257-010-0035 (6) All individuals desiring to obtain a police clearance or documentation of no record maintained in the OSP Criminal Offender Information System for purposes other than review, challenge or correction specified in (1) will be charged a fee of \$33 for each request. Verification of the requesting individual's identity shall only be effected through submission and positive identification of the person's fingerprints.

ORS 194.164 (1)(d), 194.164 Maximum fees for notarial acts; exception; rules. (1) The Secretary of State shall adopt by rule a schedule fixing the maximum fees that a notary public may charge for performing notarial acts. The schedule shall include, but not be limited to, maximum fees for the following notarial acts:

- (a) Acknowledgments.
- (b) Oaths or affirmations without a signature.
- (c) Verifications upon oath or affirmation.
- (d) Copy certifications.

OAR 160-100-0400 (3) & (4) Maximum Amount of Notary Fees Permitted to be Charged

- (4) \$10 for certifying a copy of a document;
- (5) \$10 for witnessing or attesting a signature;

Current FTE Allocation:

1 Fingerprint Technician

Job Duties:

Involves the processing of fingerprints for persons requesting copies of their own Oregon criminal history information, and the mailing out of report or clearance letter to requester.

Findings:

The Copy of Own Records unit does not utilize any one position within ISS, but instead uses a portion of services from many individuals.

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The following is a spreadsheet of actual and projected completions for both a request for copy of own record and notary services that often accompany request.

Year	Copy of Record Completions	Copy of Record Projected Completions	12 Minute Process			FTE Based on 1650 Annual Work/Hrs	Notary Services Completions	Notary Services Projected
			Times	Time	Hours			
2013		4,080	X	12	816	0.49	1,274	
2012		4,080	X	12	816	0.49	1,274	
2011		4,080	X	12	816	0.49	1,274	
2010		4,080	X	12	816	0.49	1,274	
2009	3,726		X	12	745	0.45	1,279	
2008	4,302		X	12	860	0.52	1,628	
2007	4,340		X	12	868	0.53	1,578	
2006	3,051		X	12	610	0.37	1,388	
2005	4,166		X	12	833	0.50	1,237	
2004	5,089		X	12	1,018	0.62	1,232	
2003	4,121		X	12	824	0.50	1,011	
2002	3,848		X	12	770	0.47	837	
	4,080	Average					1,274	Average

Because historical data does not show a clear trend as to an increase or decrease in completions, the above spreadsheet used projections based on the average historical completions of 4,080. The actual and projected completions have been multiplied times a process time of 12 minutes to project working hours and FTE that would be needed.