

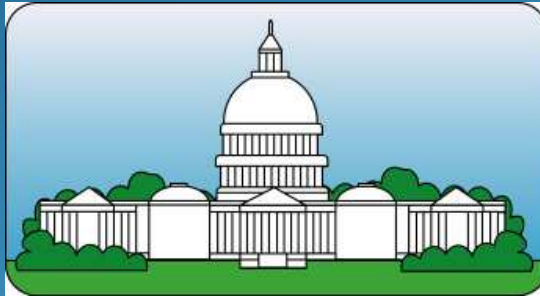
The Oregon Judicial Department: Building Healthy Courts

Chief Justice Tom Balmer

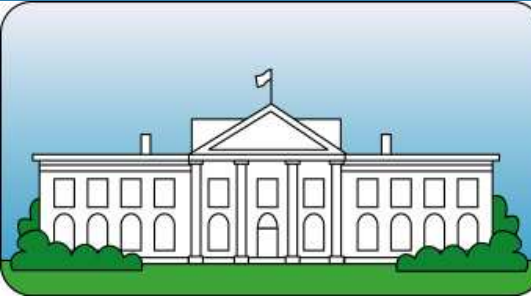
To the
Senate Judiciary Committees
February 2, 2015

Oregon

Branches of Government



Legislative Branch



Executive Branch



Judicial Branch

Oregon Judicial Department

- The purpose of OJD is to administer justice in a fair and timely manner.
- The OJD values and vision goals:
 - Ensure access
 - Administer cases effectively and timely
 - Resolve disputes
 - Build partnerships
 - Maintain public trust and confidence
- Meeting these goals requires adequate access to justice for Oregonians.

OJD Budget & Revenue

- OJD is less than 3 percent of State General Fund budget
- An increasing amount is passed through to others
 - Court facilities and security
 - Legal Aid, mediation
- Most of the OJD budget is for trial court operations
 - Most of trial court budget is for people – judges and staff
- The OJD collected \$277 million in fines/fees in 2011-13
 - Most goes to state General Fund and Criminal Fines Account
 - Also collected \$20 million for crime victims

Chief Justice Budget Priorities 2015-17 Biennium

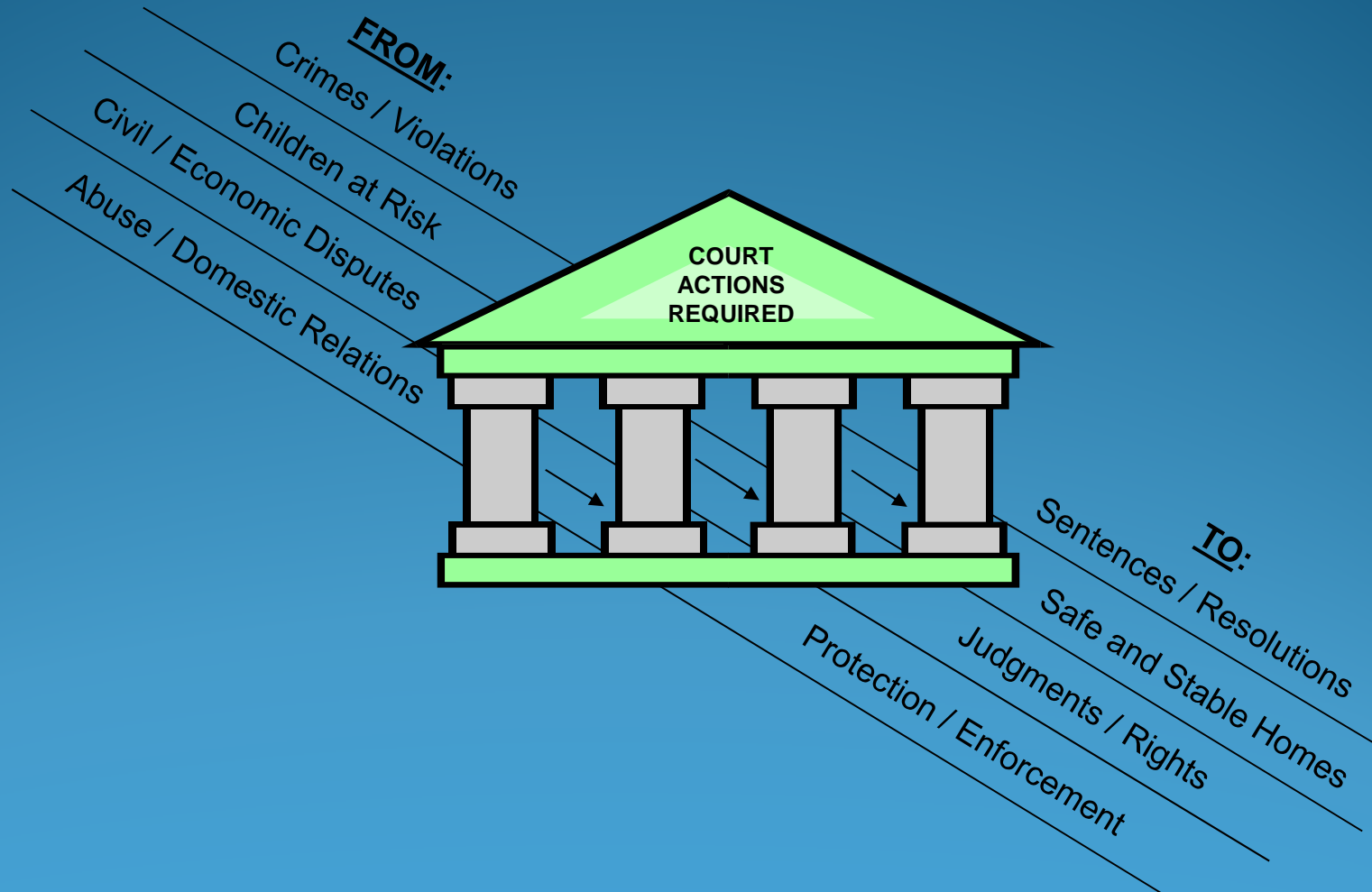
- Maintain Current Service Level budget
 - Accomplished in co-chair's budget framework
- Finish Implementing Oregon eCourt
 - Bond funding and training/maintenance
- Appropriate Judicial Compensation
- Safe and Suitable Court Facilities
- Improve Trial Court Services
- Help Families Access Justice
- Fund Treatment Courts

Strong Courts Build Strong Communities

- Courts use these resources to:
 - Enforce rules of the marketplace
 - Resolve disputes between and among businesses and consumers, establish debts and property rights
 - Foster public safety
 - Issue restraining orders, decide who goes to prison/jail and for how long
 - Protect vulnerable citizens
 - Kids in foster care, guardianships for seniors

COURTS ARE AT THE CORE

of the Critical Path to Preservation of Public Safety, Protection of Families in Crisis, and Economic Stability of Oregon



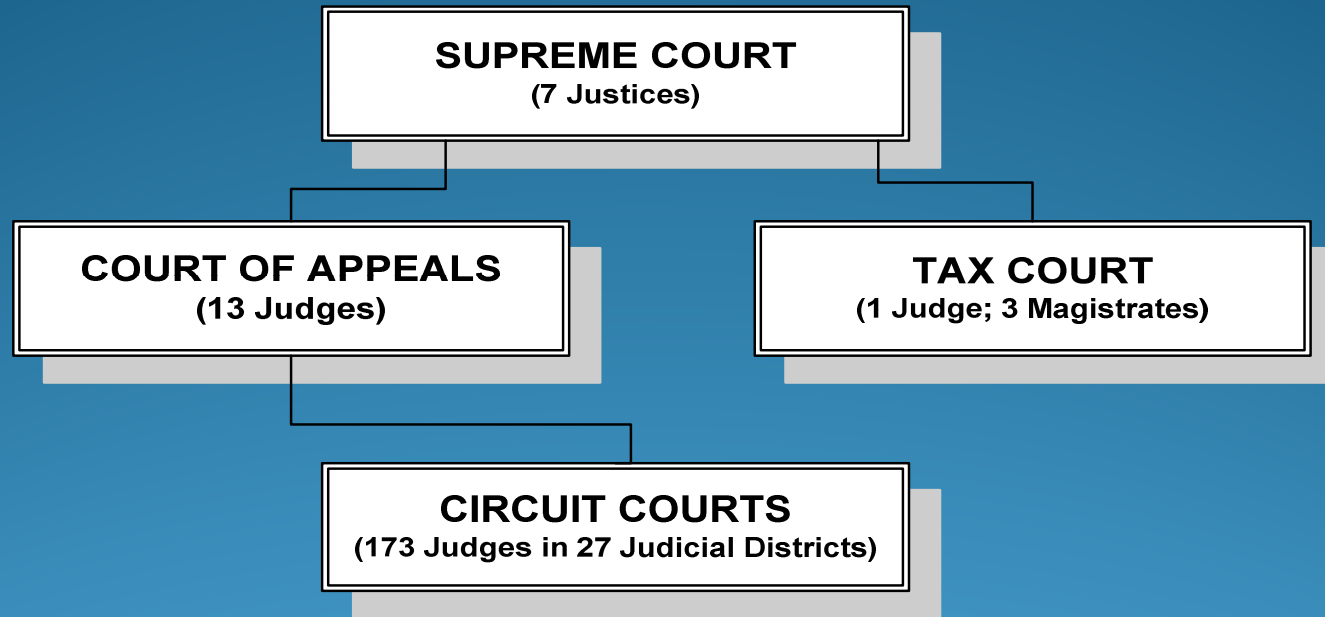
OJD at the Legislature

- Judges and staff should tell you whether they are representing OJD or themselves.
- OJD generally does not take positions on policy bills
 - We will provide information on how legislation might affect OJD or court proceedings.
- OJD has a limited policy agenda
 - Relating to court administration

Legislative Actions Affecting the Courts

- Establish crimes, penalties, criminal procedures
- Define rights of action, civil procedures
- Establish docket priorities/timelines
- Require court locations and establish number of judges
- Set court fees
- Set judicial salaries
- Establish the budget
 - Some items are non-reducible items

OJD Court Jurisdiction Structure



- Oregon's district, circuit, and appellate courts were consolidated into a unified, state-funded court system in 1983, known as the Oregon Judicial Department (OJD). Municipal, county, and justice courts continue outside of the state-funded court system and control.
- OJD has almost 200 independently-elected judges and 1,763.6 FTE positions

Oregon Supreme Court

- **Discretionary review of Court of Appeals decisions**
- **Required review**
 - Direct appeals in death penalty cases
 - Appeals from Tax Court decisions
 - Review of attorney discipline and judge discipline
 - Review of ballot measure titles
 - Prison-siting disputes
 - Other direct review cases
- **Permissive review**
 - Habeas corpus
 - Mandamus
 - Quo warranto

Court of Appeals

- Appeals from circuit courts (criminal, civil, domestic relations, juvenile)
 - Appeals from state agency rules and actions
 - Appeals from local government decisions
-

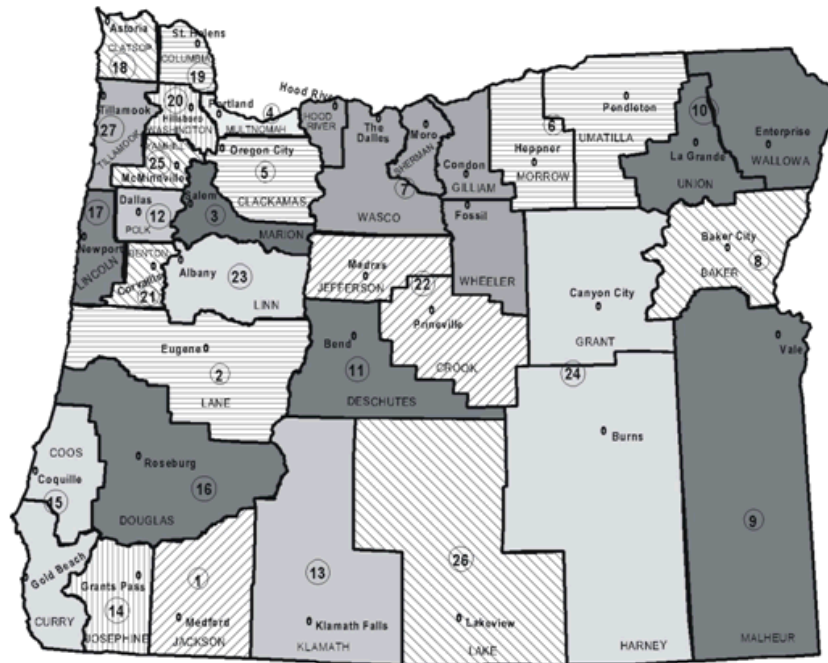
Tax Court

- Exclusive court jurisdiction on matters arising under state tax laws
- Regular Division: Tax Court judge presides over trials without a jury
- Magistrate Division: Magistrates conduct proceedings by telephone or in person

Oregon's Judicial Districts

Oregon Judicial Districts

- | | |
|------------------------------------|-----------------------------------------------------------|
| 1 st Judicial District | Jackson County |
| 2 nd Judicial District | Lane County |
| 3 rd Judicial District | Marion County |
| 4 th Judicial District | Multnomah County |
| 5 th Judicial District | Clackamas County |
| 6 th Judicial District | Morrow and Umatilla Counties |
| 7 th Judicial District | Gilliam, Hood River, Sherman, Wasco, and Wheeler Counties |
| 8 th Judicial District | Baker County |
| 9 th Judicial District | Malheur County |
| 10 th Judicial District | Union and Wallowa Counties |
| 11 th Judicial District | Deschutes County |
| 12 th Judicial District | Polk County |
| 13 th Judicial District | Klamath County |
| 14 th Judicial District | Josephine County |
| 15 th Judicial District | Coos and Curry Counties |
| 16 th Judicial District | Douglas County |
| 17 th Judicial District | Lincoln County |
| 18 th Judicial District | Clatsop County |
| 19 th Judicial District | Columbia County |
| 20 th Judicial District | Washington County |
| 21 st Judicial District | Benton County |
| 22 nd Judicial District | Crook and Jefferson Counties |
| 23 rd Judicial District | Linn County |
| 24 th Judicial District | Grant and Harney Counties |
| 25 th Judicial District | Yamhill County |
| 26 th Judicial District | Lake County |
| 27 th Judicial District | Tillamook County |



There are 27 judicial districts, with a circuit court in each county.

Circuit Courts

- "General" jurisdiction
- "Courts of record"
- 27 judicial districts

Public Safety

- Felonies and misdemeanors
- Violations
- Juvenile delinquency
- Protective orders (stalking, domestic violence)

Economic Functioning

- Establish and collect debts
- Foreclosures
- Interpret contracts
- Personal injury
- Landlord / tenant
- Consumer protection

Families in Crisis

- Dependency (child abuse and neglect)
- Child support
- Domestic relations (divorce, child custody, adoption)
- Termination of parental rights

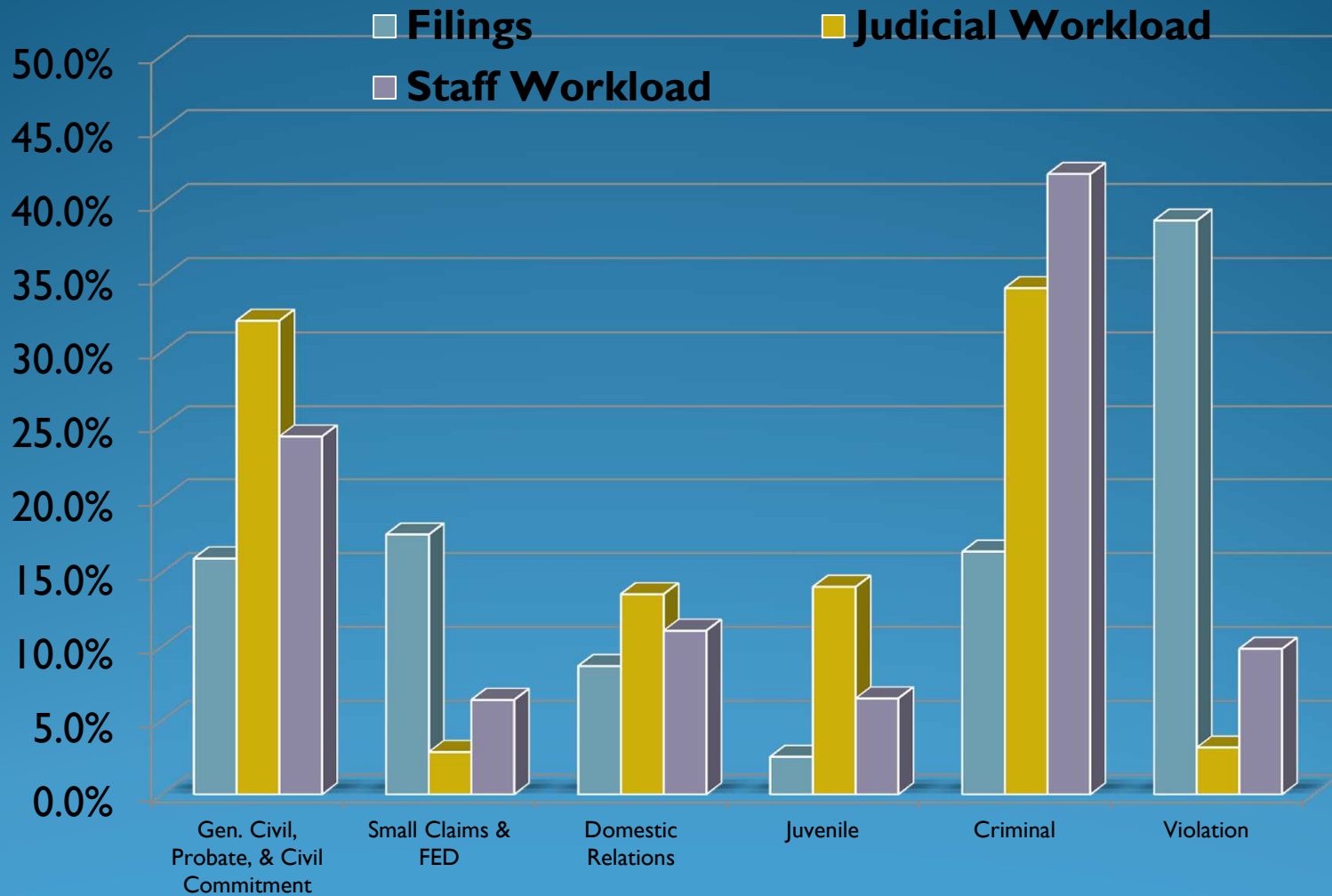
Other

- Civil commitment
- Post conviction
- Probate
- Guardianship / conservatorship

Caseload

- In 2013, there were 541,928 cases filed in Oregon's circuit courts.
- The work has changed
 - Number of violation cases is declining
 - The number of complex cases has increased
 - Includes civil cases, felonies, civil commitments

Caseload vs. Workload Not All Cases Are Created Equal



OJD Efforts to Improve Access

- Implement Oregon eCourt
 - 24/7 online access to court information
 - eFile documents with the court beyond business hours
 - Online payments – no waiting in line
 - Intelligent forms, a la Turbo Tax
- Safe courthouses
 - Upgrade security
 - Capital improvements
- Improve interpreter services
- Fee waiver/deferral
- Self-help centers for litigants who don't have a lawyer

OJD Efforts to Increase Efficiency

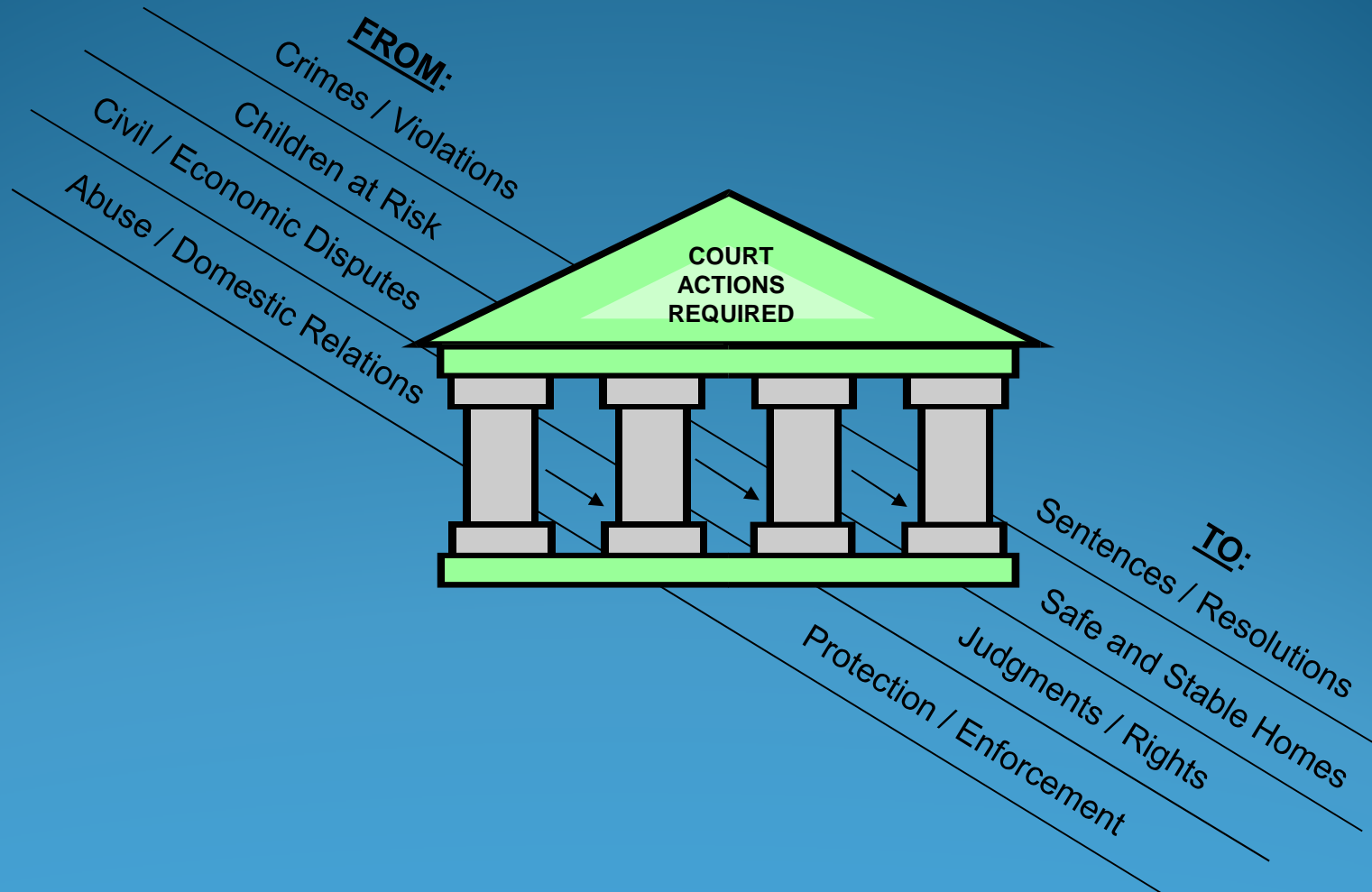
- Implementation of Oregon eCourt
 - eFiling
 - Online document access
 - Online payments
- Docket Management
 - Best practices in all case types
 - Specialty courts: drug, mental health, DV, DUI, Veteran's
 - Family courts
 - Complex Commercial Court
- Centralization
 - Debt collection

Future Issues and Challenges

- Stable resources
- Continued work on efficiency and court processes
- Improve access to justice
 - Language
 - Self represented litigants (no attorney)
- Impact of technology
- Court facilities

COURTS ARE AT THE CORE

of the Critical Path to Preservation of Public Safety, Protection of Families in Crisis, and Economic Stability of Oregon



So Why Are Courts Important?

“But there is one way in this country in which all men are created equal- there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution gentlemen, is a court. . . Our courts have their faults as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal” - Atticus Finch”

— Harper Lee, *To Kill a Mockingbird*, 1962

What Legislators Need to Know About How Courts Interpret the Law

Chief Justice Thomas A. Balmer
Justice Jack Landau
Oregon Supreme Court

Chief Judge Rick Haselton
Oregon Court of Appeals

January 14, 2015

Constitutional Principles in Lawmaking

- The Oregon Constitution . . .
 - Is adopted by the people to form a government
 - Allocates power to three branches of government
 - Legislative – create laws
 - Executive – execute laws
 - Judicial – interpret and enforce laws
 - Limits the powers of each branch
 - Separation of powers
 - Cannot unduly interfere with other branch's powers

Constitutional Principles / 2

- Role of the Legislature
 - Is shared by the people (to initiate and refer laws)
 - Has plenary power
 - In contrast to Congress
 - Limits of legislative authority
 - Federal Constitution and laws
 - Oregon Constitution
 - Procedural
 - Subject matter

Constitutional Principles / 3

- Examples of Procedural Limitations (Article IV)
 - Open deliberations, read bills three times
 - Bills raising revenue start in the House, need 3/5 majority
 - Contain only one subject (in the bill title)
- Examples of Subject-matter Limitations (Article I)
 - No titles of nobility
 - Free exercise of religion
 - Free speech
 - Equal privileges and immunities
 - No ex post facto laws

Constitutional Principles / 4

- Role of the Courts
 - Determine and enforce the meaning of the Constitution and laws
 - May invalidate laws passed in violation of procedural or substantive limitations
 - This rarely happens
- Courts do not second-guess policy choices made by the legislature

Statutory Interpretation / 1

- Courts interpret laws and apply them to disputes.
 - Apply laws to individual circumstances
 - Interpret ambiguous language
 - Resolve conflicts between statutes
- How do we do that?

Statutory Interpretation / 2

- Two sets of rules for interpreting statutes
 - Laws enacted by the legislature
 - ORS Chapter 174 – sets rules for statutory construction
 - Use of legislative history
 - Effect of repeals
 - Conflicts between general and specific enactments
 - Severability
 - Court-made rules
 - Developed over time
 - Applying constitution and statutes

Statutory Interpretation / 3

- How do courts determine meaning of laws?
 - Look at the words used by the legislature
 - The words used must match the intent
 - Courts cannot add or subtract words
 - Legislature can define the terms it uses
 - Or courts use common meaning (Webster's Dictionary)
 - Look at the context in which words are used
 - How used in that statute, other statutes
 - Look at legislative history

Statutory Interpretation / 4

- Legislative History
 - Is not a substitute for clear drafting
 - Generally does not mean lobbyist statements
 - Unless endorsed by legislators
 - Legislator statements in committee
 - Where detail often is discussed
 - Staff Measure Summaries
 - Floor statements
 - Heard by all legislators
 - Can use Q & A to establish clear intent

Summary

- Legislature has broad powers to make laws
- Constitution imposes some procedural and substantive limits
- Courts determine the meaning of laws you pass
- You can help us help you by:
 - Writing clear statutes – choose words carefully
 - Defining your terms
 - Make clear history when possible

The End

<http://courts.oregon.gov/OJD/Pages/index.aspx>