

JUSTICE OF THE PEACE COURTS

Prepared by Hon. Jad Lemhouse

In the United States, the office of Justice of the Peace is as old as the colonies established on the Atlantic coast by English settlers in the 17th Century. The author of the Declaration of Independence, Thomas Jefferson, served as justice of the peace in colonial Virginia as did the first President of the United States, George Washington. Affidavits taken by justices of the peace in Massachusetts colony in 1775 recorded contemporary narratives of the battles of Lexington and Concord.

In the year 1818, the “Oregon Country,” which extended from California to Alaska and from the Rocky Mountain summit to the Pacific Ocean, became jointly administered by Great Britain and the United States. Justices of peace were constituted in the Oregon Country first by an act of Parliament, then by a group of Methodist missionaries, finally by Territorial statutes and the original statutes enacted by the Oregon Legislature. Those statutes provided for the appointment or election of a justice of the peace in every precinct in the Territory and State respectively.

Although once the most numerous class of judges in this State, presently there are 24¹ justices of the peace holding court in 33 communities in 21 counties in Oregon.² Justices of the peace are “judges” and justice courts are “courts” as those terms are used in Article VII (Amended) of the Oregon Constitution.³ Justices of the peace are state officers in the judicial department [branch] of this state.⁴ However, justices of the peace and justice courts are not part of the Oregon Judicial Department.⁵

Justices of the peace are elected to 6-year terms by the electors within each justice of the peace district⁶; each justice of the peace district may have only one justice of the peace.⁷ There may be up to 6 justice of the peace districts in any county, provided that a justice of the peace district may not include any part of the city that is the county seat, except for Tillamook County in western Oregon and 7 counties in central and eastern Oregon, or any city where a circuit court holds regular sessions.⁸ When establishing a justice of the peace district, a county may require that a justice of the peace be a member of the Oregon State Bar.⁹

The criminal jurisdiction of justice courts extends to all offenses that are committed or triable in their respective counties, except the trial of any felony; such jurisdiction is concurrent with jurisdiction that may be exercised by a circuit court or a municipal court.¹⁰ The civil jurisdiction of justice courts includes actions at law for the recovery of money, damages, personal property, and penalties or forfeitures where the amount or value claimed does not exceed \$10,000.¹¹

¹ There are 24 Justices of the Peace; 11 JP's are lawyers, 3 women, 8 men; 13 JP's are not lawyers, 10 women, and 3 men. A listing of each Justice of the Peace and their principal office is attached.

² Although the number of Justices of the Peace has declined, the number of counties with justice courts has increased in recent years. Three counties, Clackamas, Deschutes, and Union, have re-established justice courts since 2001.

³ *Webster v. Boyer*, 81 Or 485 (1916)

⁴ *Kuhnhausen v. Stadelman*, 174 Or 290, 305 (1944)

⁵ ORS 174.113

⁶ Or Const, Art VII (Amended), sec. 1.

⁷ ORS 51.210

⁸ ORS 51.020

⁹ ORS 51.020(2)

¹⁰ ORS 51.050

¹¹ ORS 51.080

Such actions may be commenced as a standard civil action or as a Small Claim.¹² Justice court civil jurisdiction does not include any action involving question to the title to real property, any action for false imprisonment, libel, slander or malicious prosecution, or an action brought by an inmate.¹³ Justice courts have concurrent jurisdiction within their respective counties with circuit courts over Forcible Entry and Wrongful Detainer (landlord/tenant) actions.¹⁴

Since enactment of motor vehicle laws early in the 20th Century, traffic offenses have constituted a very high percentage of cases filed in Justice Courts while crimes and civil actions have formed a small percentage of the cases filed in Justice Courts. It should come as no surprise that traffic offenses *continue* to be by far the largest part of cases filed in justice courts.

According to a survey of justice courts taken in 1973¹⁵, the 49 justices of the peace then in Oregon handled 82,849 cases of all types; 82% of these cases (67,947) were traffic offenses. In Fiscal Year 2014, the 24 justices of the peace reported handling 119,480 traffic violation offenses, 14,166 other violation offenses, 1,527 crimes, and 5,673 civil actions.¹⁶ In FY 2014, the justice courts processed 140,346 cases filed;¹⁷ 85% of those cases were traffic violations.

Crimes and violation offenses are filed in courts by law enforcement officers, district attorneys or their assistants, and, in a very few cases, by private parties. Law enforcement agencies and district attorney's offices follow their agency guidelines as to the court in which crimes and violations will be filed. Although justice courts are state courts in which the District Attorney appears and controls criminal actions on behalf of the State,¹⁸ the State does not pay for indigent defense or other expenses for crimes filed in justice courts, the county in which the court is located pays all such costs.¹⁹

In a civil action, the party Plaintiff chooses the court in which to file the action. Since Justice Courts are barred from county seats in all but Tillamook County and 7 rural counties in central and eastern Oregon,²⁰ and since the county seat is usually the most populous city in the county, most civil actions of all kinds will be filed in the circuit court in the county seat rather than in a rural justice court located some distance away.

Circuit courts and justice courts located in the same city may agree, formally or informally, to assign particular cases to one court or the other; circuit courts may assign particular cases or types of cases to justice courts as a matter of convenience to the public, to service agencies or to law enforcement agencies or in the interests of judicial economy.²¹

Counties pay all costs of operating justice courts; justice courts receive no state funds. Through December 2014, the 24 justices of the peace paid \$10,961,800 to the Criminal Fine Account. Every case filed in a justice court, civil or criminal, is one less case that must be filed in a circuit court, one less case that must be paid for by the State of Oregon.

¹² ORS 51.080, 55.011

¹³ ORS 51.090

¹⁴ ORS 105.110

¹⁵ Justice Courts in Oregon, *Oregon Law Review*, Vol. 53 (Summer 1974) p. 420.

¹⁶ Local Court Report Questionnaire – 2014 (Rev. 1/23/15)(Summary).

¹⁷ Ibid.

¹⁸ ORS 156.520

¹⁹ ORS 135.055(1)

²⁰ ORS 51.020(1)

²¹ See, for example, ORS 46.405(6), 55.011(8), 419C.370.

MUNICIPAL COURTS

Prepared by Hon. Jad Lemhouse

Municipal courts are created by the charter or ordinances of a city and have jurisdiction of offenses created by the charter or ordinances of a city.¹ Municipal courts also have jurisdiction of all violations and misdemeanors committed within a city, but are not required to exercise jurisdiction of misdemeanors.² Municipal court jurisdiction of charter and ordinance offenses is concurrent with circuit courts.³ Municipal court jurisdiction of state law violation and misdemeanor offenses is concurrent with circuit courts and justice courts.⁴

Generally, municipal courts do not exercise civil jurisdiction. However, the Recorders of cities incorporated by statute before 1911⁵ or cities incorporated under the Incorporation Act of 1893⁶ before 1999 were granted justice of the peace jurisdiction, both civil and criminal, within the city limits. That justice of the peace power, civil and criminal, resides in the municipal judge of the cities granted that power.⁷

Cities are not required to have municipal courts.⁸ One city in Oregon is barred by law from having a municipal court; by law, the Multnomah County Circuit Court exercises the powers, duties and jurisdiction of the municipal court and the judges thereof for the City of Portland.⁹ Except for 4 cities that elect a municipal judge,¹⁰ municipal judges serve at the pleasure of the City Council of the city they serve.¹¹

Municipal judges and municipal courts are not “judges” or “courts” as those terms are defined by Article VII (Amended), Sec. 1 of the Oregon Constitution.¹² Municipal judges are not subject to proceedings before the Oregon Commission on Judicial Fitness and Disability,¹³ but they are subject to the Oregon Code of Judicial Conduct.¹⁴ Municipal judges are not deemed to be part of the judicial branch of state government;¹⁵ however, municipal judges are “judicial officers”¹⁶ and “magistrates”¹⁷ as those terms are defined by statute and have the power to issue warrants of arrest for persons charged with committing crimes.¹⁸

Municipal courts can have and do have substantial impact upon public safety in the counties in which they are located. For example, in Linn County, 60% of all misdemeanors filed in a court are filed in a municipal court. In Lane County, the municipal courts of the cities of Eugene and Springfield together process 12,000 to 14,000 misdemeanor cases each year. Add to that number the filings in the municipal courts in most of the cities in this State and it is clear that municipal courts remove a significant case load burden from circuit courts and provide significant savings to the Public Defense Services Commission.

Through December 2014, municipal courts paid \$13,126,864 to the State of Oregon Criminal Fine Account in the current 13-15 biennium. Municipal courts receive no funds from the State of Oregon. All municipal court operating costs are paid from the city general fund; those costs include the costs of a judge or judges, court staff, court facilities, city prosecutors, indigent defense counsel, jurors, witnesses (including expert witnesses) and all the equipment, materials and supplies necessary to support court operations.

In addition to the cost of operating the municipal court, cities must often pay the cost of incarceration of persons sentenced to jail, either by purchase of bed space in the county jail, by operation of a city jail, or both.¹⁹

¹ Or Const. Art VII (Original), sec 1; ORS 221.336.

² ORS 221.339

³ ORS 3.132

⁴ ORS 221.339

⁵ See, for example, 1866 Or Laws 51 (An Act to Incorporate the City of Harrisburg) at 55, Sec. 8.

⁶ 1893 Or Laws 119, at 130, Sec 27.

⁷ *Grayson; Heer v. State*, 249 Or 92, 95-96 (1968).

⁸ ORS 221.336 (A city of this state *may* establish a municipal court by charter or by ordinance.) (Emphasis added)

⁹ ORS 3.136 (1).

¹⁰ The cities of Ashland, Hermiston, Salem and West Linn, by charter provision, elect municipal judges to 4-year terms.

¹¹ ORS 221.140

¹² *In re Application of Boalt*, 123 Or 1, 18 (1927).

¹³ *Kaino v. Oregon Commission on Judicial Fitness and Disability*, 335 OR 633 (2003).

¹⁴ JR 5-101, Oregon Code of Judicial Conduct.

¹⁵ See, *In re Application of Boalt, Id.*, and *Kaino v. Oregon Commission on Judicial Fitness and Disability, Id.*

¹⁶ ORS 1.210

¹⁷ ORS 133.030(5)

¹⁸ ORS 133.020

¹⁹ See, generally, ORS 169.030

HISTORICAL COMPARISON OF FILINGS
AND FINANCIAL DATA IN JUSTICE COURTS
1973 COMPARED TO 2014

	1973 ¹	2014 ²
No. of Justices of the Peace	48	24
No. of Counties with Justice Courts	28	21
Total Filings	82,849	119,480
Civil Filings (% of total)	4,411 (5.3)	5,646 (4.0)
Misdemeanor Crimes	10,491 (12.6)	1,525 (1.1)
Traffic Violations/Infractions	67,947 (82.0)	119,431 (85.4)
Other Violations ³	n/a	14,162 (10.1)
Other Offenses	n/a	107 (<.001)
Payments to State of Oregon (% of total revenue)	\$772,052 (46.9)	\$7,792,539 (32.0)
Payments to Counties (% of total revenue)	\$818,217 (53.1)	\$14,918,272 (61.2)
Payments to Cities (% of total revenue)	n/a	\$677,834 (2.8)

¹“Justice Courts in Oregon” *Oregon Law Review*, Summer 1974, pgs 443-445.

² *Local Court Report Questionnaire – 2014*.

³ “Other Violations” include misdemeanor offenses that have been reduced to violations, fish & game, boating, park and other state law violations, county ordinance offenses not punishable by incarceration and, by agreement between a city and a county, city charter and ordinance violations not punishable by incarceration.

CIVIL ACTION FILINGS IN JUSTICE COURT

FY 2013, FY 2014

FY 2014 Filings Range	Court	Total Filings in FY 2013	Total Filings in FY 2014
1,000 or more	Marion	1826	1361
	Deschutes	844	1012
501 to 1,000	Clackamas	188	601
	Linn	432	559
	Washington	622	553
301 to 500	Baker	254	394
	Malheur	390	353
	Tillamook	349	357
101 to 300	Harney	202	181
51 to 100	Grant	66	68
	Lane	14	64
26 to 50	Canyonville ¹	28	44
	Reedsport ¹	31	37
1 to 25	Glendale ¹	25	25
	Gilliam	15	19
	Drain ¹	19	17
	Sherman	9	14
	Wheeler	12	14
No Filings	Cascade Locks (Hood River), Columbia, Klamath, Jackson, Morrow ² , Union		
	Total Civil Action filings - All Courts	5326	5673

¹The four Douglas County Justice Courts handled a total of 122 civil action filings. Douglas County is presently the only county with more than one Justice of the Peace.

²The Morrow County Justice Court had one (1) civil action filing in FY 2013.

MISDEMEANOR FILINGS IN JUSTICE COURTS

FY 2013, FY 2014

FY 2014 Filings Range	Court	Total Filings in FY 2013	Total Filings in FY 2014
301 or more	Linn	363	504
	Canyonville ¹	349	351
101 to 300	Morrow	149	158
	Grant	56	148
	Reedsport ¹	148	125
	Gilliam	99	93
51 to 100	Drain ¹	67	44
26 to 50	Glendale ¹	27	37
	Columbia	28	28
1 to 25	Baker	5	13
	Harney	15	9
	Wheeler	14	17
No Filings	Cascade Locks (Hood River), Clackamas, Deschutes, Jackson, Klamath, Lane, Malheur, Marion, Sherman, Tillamook, Union, Washington		
	Total Misdemeanor filings - All Courts	1320	1527

¹The four Douglas County Justice Courts handled a total of 584 misdemeanor filings in FY 13 and 573 in FY 14. Douglas County is presently the only county with more than one Justice of the Peace.

(Rev 1/30/15)

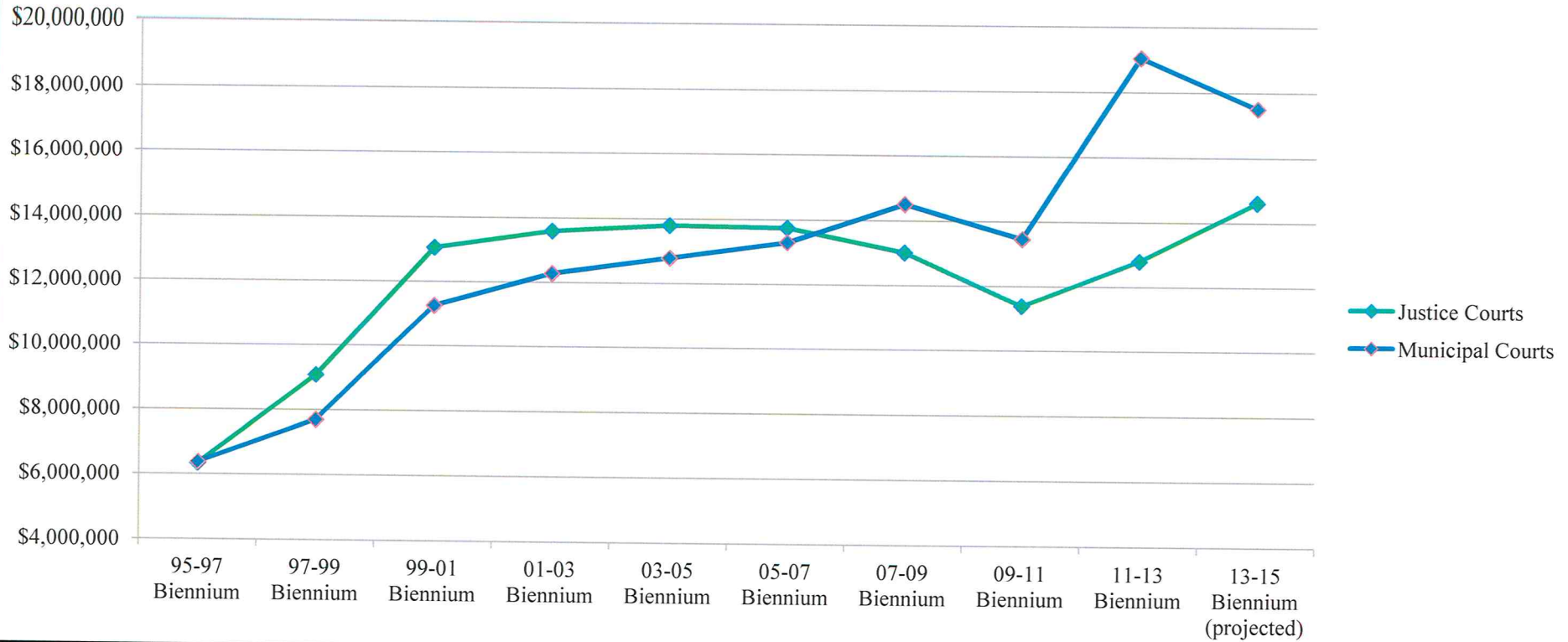
TRAFFIC/OTHER VIOLATION ACTION FILINGS IN JUSTICE COURT

FY 2013, FY 2014

FY 2014 Filings Range	Court	Total Filings in FY 2013		Total Filings in FY 2014	
		Traffic	Other	Traffic	Other
20,000 +	Marion	27892	81	21780	110
	Washington	22661	3430	20213	3257
10,000 - 19,999	Clackamas	18950	1632	18676	1892
	Jackson	14426	1539	13641	2593
5,000 - 9,999	Malheur	7665	687	9113	530
3,000 - 4,999	Canyonville ¹	3042	10	3423	15
	Cascade Locks	2918	967	3048	941
	Deschutes	3190	925	3820	944
	Sherman	2168	157	3124	197
	Tillamook	4818	62	4574	94
1,500 - 2,999	Baker	2121	367	2121	363
	Gilliam	2892	88	2465	92
	Linn	2808	458	2712	475
	Reedsport ¹	1295	61	2176	44
500 - 1,499	Columbia	1331	410	1289	582
	Grant	504	123	678	122
	Harney	1102	109	945	85
	Klamath	1482	618	1518	1151
	Morrow	1055	70	1112	80
	Lane	319	233	850	407
	Union	939	116	1184	101
0 - 499	Drain ¹	252	42	590	42
	Glendale ¹	255	33	381	49
	Wheeler	35	8	47	13
	Total Traffic/Other Violation Action filings - All Courts	124120	12226	119480	14179

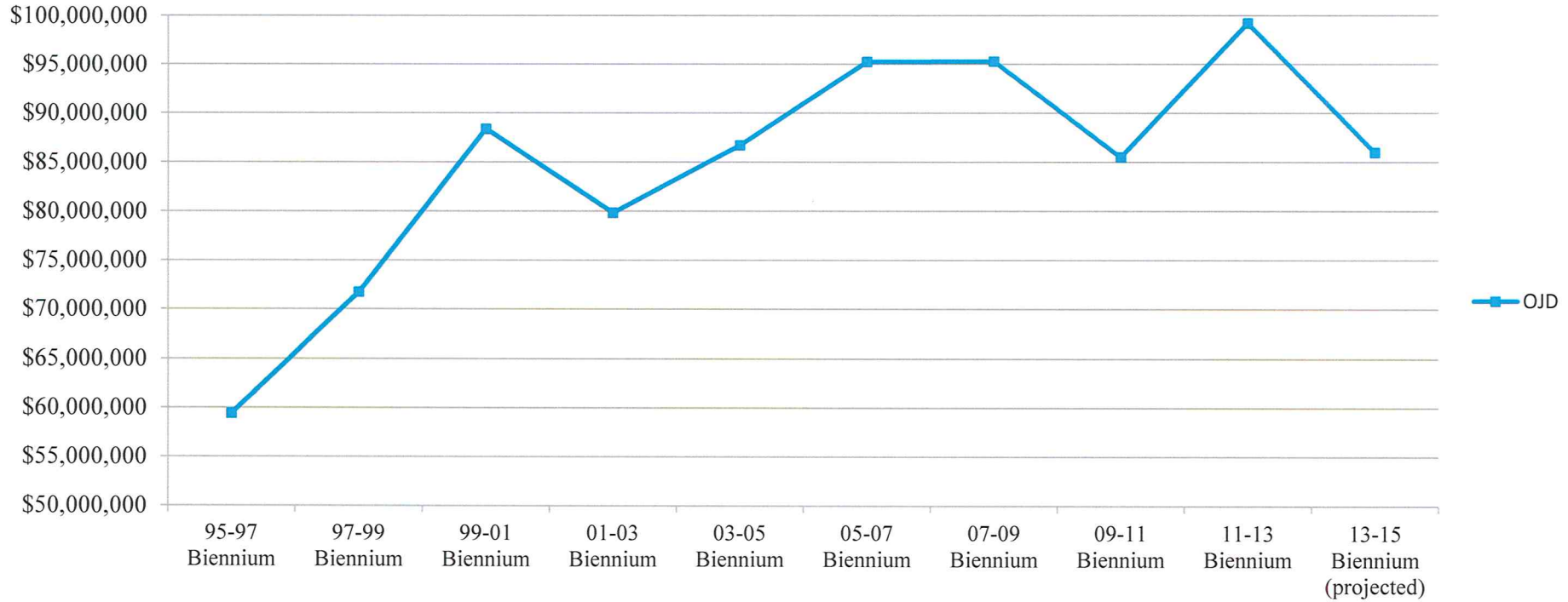
¹ The four Douglas County Justice Courts handled a total of 6,570 traffic violation filings and 150 Other Violation filings. Douglas County is presently the only county with more than one Justice of the Peace.

LOCAL COURT PAYMENTS TO THE CFA ACCOUNT



Year	Justice Courts	Municipal Courts
95-97 Biennium	\$6,351,279	\$6,384,957
97-99 Biennium	\$9,079,910	\$7,706,734
99-01 Biennium	\$13,052,873	\$11,261,790
01-03 Biennium	\$13,592,195	\$12,281,351
03-05 Biennium	\$13,798,778	\$12,786,169
05-07 Biennium	\$13,747,947	\$13,295,646
07-09 Biennium	\$13,009,972	\$14,511,536
09-11 Biennium	\$11,390,159	\$13,457,013
11-13 Biennium	\$12,791,920	\$19,054,267
13-15 Biennium (projected)	\$14,615,735	\$17,502,487

OJD PAYMENTS TO THE CFA ACCOUNT



Year	OJD
95-97 Biennium	\$59,419,860
97-99 Biennium	\$71,736,713
99-01 Biennium	\$88,378,762
01-03 Biennium	\$79,853,307
03-05 Biennium	\$86,721,314
05-07 Biennium	\$95,243,855
07-09 Biennium	\$95,290,047
09-11 Biennium	\$85,500,179
11-13 Biennium	\$99,195,667
13-15 Biennium (projected)	\$85,973,409

Oregon Justices of the Peace - 2015
24 Justices of the Peace in 21 Counties
13 Lay Judges (10 Women, 3 Men);
11 Lawyer Judges (8 Men, 3 Women) (Bar No.)

Honorable **Karen Brisbin** (810236)
Clackamas County Justice Court
11750 SE 82nd Ave, Suite D
Happy Valley, OR 97068

Honorable **Cindy Cable**
Lane County Justice Court
900 Greenwood Street
P O Box N
Florence, OR 97439

Honorable **Joseph M. Charter** (911581)
Jackson County Justice Court
505 Oak St.
Central Point, OR 97502

Honorable **Richard Dall** (922728)
Union County Justice Court
10605 Island City Avenue
Island City, OR 97850

Honorable **Charles Fadeley** (812194)
Deschutes County Justice Court
777 SW Deschutes Avenue.
PO Box 1750
Redmond, OR 97756

Honorable **Candace Hissong**
Douglas County Justice Court, Glendale District
PO Box 325
Glendale, OR 97442

Honorable **Jad Lemhouse** (892899)
Linn County Justice Court
PO Box 286
Harrisburg, OR 97446

Honorable **Ron McDermid**
Sherman County Justice Court
PO Box 282
Moro, OR 97039

Honorable **Margie Mahony**
Malheur County Justice Court
1178 SW Fourth Street, Suite 1
Ontario, OR 97914

Honorable **Stephen H. Miller** (691189)
Douglas County Justice Court, Reedsport District
680 Fir Street
Reedsport, OR 97467

Honorable **Cynthia E. Mitchell**
Cascade Locks Justice Court (Hood River County)
PO Box 536
Cascade Locks, OR 97014

Honorable **Karen M. Oakes** (984631)
Klamath County Justice Court
6500 S. 6th Street
Klamath Falls, OR 97603

Honorable **Robin Ordway**
Wheeler County Justice Court
PO Box 447
Fossil, OR 97830

Honorable **Cris Patnode**
Gilliam County Justice Court
PO Box 308
Arlington, OR 97812

Honorable **Carol Roberts**
Douglas County Justice Court, Canyonville District
PO Box 376
Canyonville, OR 97417

Honorable **Jim Shartel** (742949)
Washington County Justice Court
3700 SW Murray Blvd Ste #150
Beaverton, OR 97005

Honorable **Annetta Spicer**
Morrow County Justice Court
PO Box 1125
Heppner, OR 97836

Honorable **Joel W. Stevens** (075380)
Tillamook County Justice Court
201 Laurel Avenue
Tillamook, OR 97141

Honorable **Kathy Stinnett**
Grant County Justice Court
201 S Humboldt, 2nd Floor South
Canyon City, OR 97820

Honorable **Donna J. Thomas**
Harney County Justice Court
450 N. Buena Vista Ave. #9
Burns, OR 97720

Honorable **Wally Thompson**
Columbia County Justice Court
1001 Bridge Street
PO Box 128
Vernonia, OR 97064

Honorable **Russell Trump** (843660)
Douglas County Justice Court, Drain District
PO Box 513
Drain, OR 97435

Honorable **Don Williams**
Baker County Justice Court
1995 Third Street, Suite 170
Baker City, OR 97814

Honorable **Janice D. Zyryanoff** (791235)
Marion County Justice Court
4660 Portland Road, Suite #7
Salem, OR 97305