

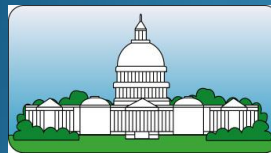
The Oregon Judicial Department: Building Healthy Courts

Chief Justice Tom Balmer

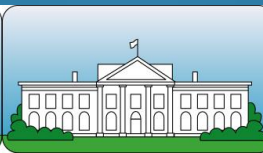
To the
House Judiciary Committees
February 9, 2015

1

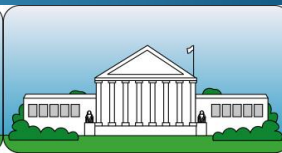
Oregon Branches of Government



Legislative Branch



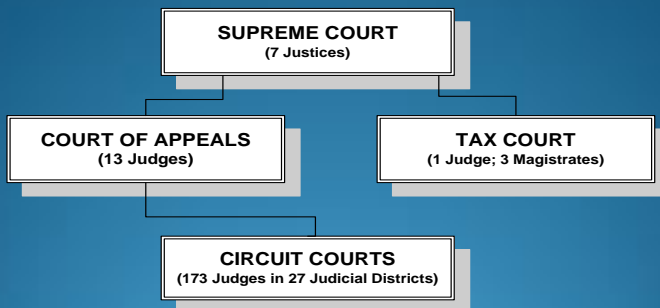
Executive Branch



Judicial Branch

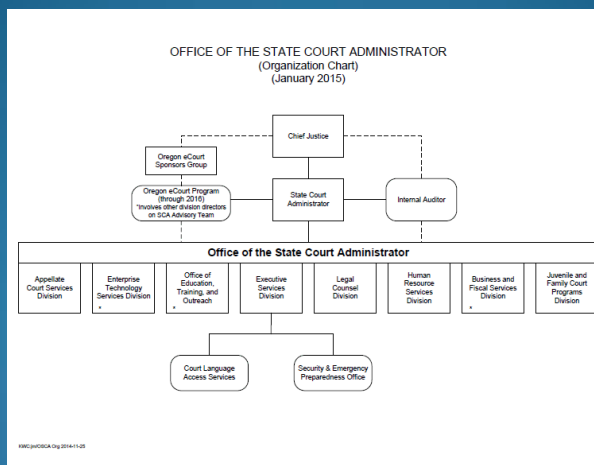
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OJD Court Jurisdiction Structure



- 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

OJD Administrative Structure



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

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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

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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

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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

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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

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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

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Court of Appeals

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

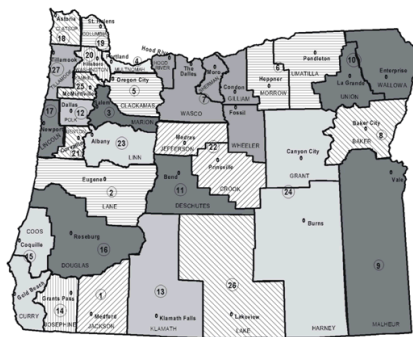
Tax Court

- 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

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

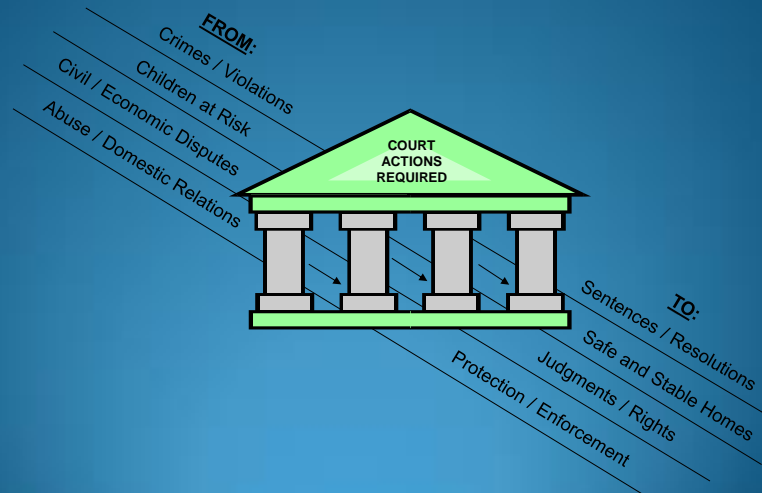
Other

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

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COURTS ARE AT THE CORE

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



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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

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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

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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

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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

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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

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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?

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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

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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

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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

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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

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The End

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

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