

## Oregon Judicial Department Responses

### Questions from Public Safety Subcommittee Members

March 2-4, 2015

Q1. *Sen. Shields asked how courts know whether batterer intervention programs (BIPs) for domestic violence offenders are effective, and how courts select which programs offenders get referred to.*

OJD asked courts in Marion, Multnomah, Washington and Clackamas Counties to respond to the questions. Although the circumstances in the counties are somewhat different, some common themes emerge.

- Judges are aware of the advisory standards for BIPs adopted by the Department of Justice as an administrative rule pursuant to ORS 180.700-.710.
- OJD participated in the advisory committee that developed those standards as part of a grant under the federal Violence Against Women Act (VAWA). Those standards authorize the Local Supervisory Authority (LSA) to review BIPs for compliance with the DOJ rules, which we understand occurs in at least two of the responding counties.
- Judges are actively interested in understanding the effectiveness of BIPs, and several judges from around the state convened a one-day session in October 2014 to learn more about the types of interventions and the research supporting them.
- In some courts, judges sentence offenders to specific BIPs. In others, offenders are sentenced to participate in a BIP, but the program is specified by the LSA or other means. If sentenced to a specific BIP, it can be by recommendation of counsel or at the court's direction.
- There does not appear to be any clearly-established treatment or intervention methodology that has been proven effective for all types of batterers, at the state or national level. Regardless of methodology, there appears to be consensus from this limited survey that careful assessment, individualized intervention strategies, and a coordinated community response are important elements in all counties.

Q2. *Sen. Bates noted that some counties refer defendants to the Oregon State Hospital for 'aid and assist' evaluations at higher rates than other counties, and asked whether OJD had looked at this issue.*

For background, persons charged with a crime have a constitutional right to assist in their defense. If a judge finds that the person currently is not able to aid and assist in their defense by reason of incapacity as a result of a mental disease or defect, the judge can order that the person receive treatment necessary to gain or regain fitness to proceed. That treatment can be provided locally, or at the Oregon State Hospital. Just as with criminal sentencing issues, where the level and type of crimes varies by jurisdiction and sentencing practices reflect local policies, resources and priorities, how different jurisdictions utilize aid and assist resources also varies.

OJD has worked with the Oregon Health Authority and the Oregon State Hospital during the 2014-15 legislative interim to share information on procedures and policies where we can work together to reduce the time and cost involved in these matters. The OJD developed training on the 2013 legislation concerning Assisted Outpatient Treatment for judges and court staff with the assistance and participation of OHA staff.

OJD currently is participating in a legislative work group convened by the House and Senate Judiciary Committees. That work group is focused on a package of six bills introduced in the 2015 Legislative Assembly. These bills each address a different part of the policy and procedures involved in criminal cases with aid and assist issues. The focus of the work group is how to facilitate a community conversation promoting the use of local resources in order to divert persons with mental health issues at every touch point in the criminal justice system to the most cost effective programming available.

OJD has not been invited to participate in any of the budget-related legislative discussions on this issue.

The court does not have a preference for where an individual receives the treatment necessary to regain the ability to aid and assist, and recognizes that utilizing the state hospital is the most expensive option to be used as the last resort for those who cannot be appropriately treated in the community. Some communities already are engaged in developing productive strategies for local mental health systems to develop the resources necessary to and avoid the use of the state hospital for aid and assist clients when possible. Local circuit courts are engaged in these conversations.

*Q3. Rep. Whisnant asked for information about the impact of the new panel of judges at the Court of Appeals.*

Three new judges joined the Court of Appeals on November 12, 2013. Since that time, the time between cases being "at issue" (that is, fully briefed) and being argued (or otherwise submitted for decision) has been dramatically reduced in all categories of cases. Most significantly, that "backlog" for criminal cases has been reduced from 9-10 months in the fall of 2013 to roughly 3-4 months now. Comparable reductions have been realized for general civil cases and domestic relations cases. These three case types constitute roughly half of the court's caseload. The court continues to consistently meet statutory timelines for the consideration and decision of land use matters, as well as self-imposed standards for the consideration and disposition of juvenile dependency appeals.

In 2014, the Court of Appeals issued approximately 500 published opinions, matching its all-time high achieved in 2009. It achieved that level of production with five new judges on the court (the new panel, and two others appointed following the retirement of two very experienced judges). The Chief Judge of the Court of Appeals expects continued improvement in the Court's production, even as the issues it addresses become increasingly complex.

Having an additional panel also supports the Court's ability to support an outreach program and conduct oral arguments in schools and communities throughout the state. During the 2014-15 school year, the Court has heard arguments at high schools in Portland (Roosevelt and Central Catholic), Molalla, Salem (McKay), and will be sitting in Grants Pass and Madras later this spring.

*Q4. Sen. Winters asked whether having 'intelligent' Family Abuse Prevention Act (FAPA) restraining order request forms would expedite processing those cases.*

OJD has made the 'intelligent,' interview-based FAPA forms available on-line statewide. These forms make the application process easier for the requestor and help ensure that all required information is provided. At this time, forms can be completed online but still must be printed and filed with the court, and then receive expedited hearings. OJD does not expect significant improvements in case processing times solely from making these forms available online, although court and staff time reviewing the forms will be reduced by having more legible and complete forms. OJD expects some additional time reductions when the next generation of these forms (built with the new Odyssey system tools) not only can be automatically created but automatically eFiled into the court. That updated process which will automate the filing, as well as court review, acceptance and hearing scheduling processes, which will reduce the time from filing to hearing.

*Q5. Sen. Bates asked for additional information relating to the weighted caseload study that support Policy Option Packages #306 and #316 (new judicial positions and pro tem/referee support).*

We have attached a spreadsheet charting how the weighted caseload study identifies the need the need for judicial officers in Marion, Multnomah and Washington Counties over the past 14 years, and a document listing the additional, subjective questions asked of the courts to request new judicial officers in the 2015-17 biennium. A detailed description of the original development of the Oregon judicial weighted caseload study methodology used by the National Center For State Courts is available at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/770> Each biennium, the formula is updated with current information to populate an analysis. OJD will be updating both the judicial and staff weighted caseload studies in the 2015-17 biennium that will be based on case processing times used in the new Odyssey (Oregon eCourt) system.

Oregon Judicial Department  
 Judicial Workload Model  
 Predicted Need for Additional Judicial Positions  
 Marion, Multnomah, and Washing Counties

<b>Marion</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Judges	13	13	13	13	14	14	14	14	14	14	14	14	14	14	14
Predicted Need	3.71	3.91	3.75	3.88	3.10	4.32	4.71	3.24	3.86	4.45	3.25	2.96	2.44	2.38	1.84
% Increase	29%	31%	29%	30%	22%	31%	34%	23%	28%	32%	24%	21%	18%	17%	13%
<b>Multnomah</b>															
Judges	37	37	37	37	38	38	38	38	38	38	38	38	38	38	38
Predicted Need	9.00	7.54	6.81	6.41	9.84	7.12	7.79	7.02	6.82	7.45	6.11	5.04	4.19	5.31	6.12
% Increase	25%	21%	19%	17%	26%	19%	21%	19%	18%	20%	16%	13%	11%	14%	16%
<b>Washington</b>															
Judges	13	13	13	13	14	14	14	14	14	14	14	14	14	14	14
Predicted Need	2.91	2.65	2.76	2.32	2.92	3.18	4.17	3.32	4.05	5.05	5.29	5.44	4.33	5.01	4.60
% Increase	23%	21%	22%	17%	21%	23%	30%	24%	29%	37%	38%	39%	31%	36%	33%

## **Trial Court Judicial Resources 2015 Requests Supplemental Information/Questions**

**A. Statistics --Please provide information:**

1. Your judicial district's filing/pending/closed by case type statistics for past three calendar years (2011-13).
2. Your trial statistics, including the number of court and jury trials in the case types for the past three years and the average time to trial in felony, misdemeanor, civil, and domestic relations cases.
3. Your judicial district's population (latest published figures), growth projection and any particular demographic traits or trends affecting the judicial resource needs for future.

**B. Case Assignment and Specialty Programs--Please provide brief explanations:**

1. Your district's judicial case-assignment and calendaring system.
2. The availability and formalized use of ADR programs for specific case types (mediation, arbitration, settlement conferences).
3. Criminal: The availability and formalized use of and early disposition programs
4. Other specialized "courts", dockets, programs and procedures in use (e.g. drug court, MH court, etc.)

**C. Facilities and Support --Please briefly address:**

1. Number of different buildings housing court facilities used by the judges in your district (and any anticipated change in the number or space of these facilities)
2. What is the current or anticipated availability of space for a new judge(s), referee or regular pro tem schedule, staff, and support services.
3. The level or anticipated level of support from local bar, DA, Defense Counsel, and county commissioners to support the requested judicial need (and if required – to provide additional courtroom and other space) ?

**D. Resource Costs-- We have put together a standard judicial officer and support request package on the spreadsheet attached to our email for each type of resource you originally requested. Since your court may have different resource needs based upon local conditions, please review that spreadsheet in answering the following:**

1. Are the assumed Personnel Resources in the spreadsheet consistent with your court's needs/original request, or what modifications are needed in terms of number of personnel or classification level.
2. Are the assumed Service and Supply resources adequate for your needs.
3. If space is not available for the new resources, what facility changes will need to take place and what Capital will be required for the new resources (this should correspond with C.2 above)

**E. Additional Local Community Factors--Please briefly indicate if any of the following factors in the community that affect the past 3 years data of case filings, or trends for 2014 and 2015-17? (May just address those noteworthy)**

1. Any increase or decrease in the number of deputy district attorneys
2. Unique DA charging practices or plea policies that affect caseload matters
3. Any major increase or decrease in the number of law enforcement officers
4. The opening or closing of any municipal or justice courts in your district

5. Any increase or decrease in the number of jail or prison beds in your district
6. Availability of or lack of probation, or other community services or referral programs.

**F. Outcome / Other**

1. Your district's plans for using any new judicial resources if the legislature authorizes new resources. Include the anticipated benefits if new resources are authorized and the projected impact on the operation of your district if additional resources are not authorized.
2. Any other circumstances to note or comments?