



**Oregon Health Authority – Addictions and Mental Health Division, Oregon State Hospital  
Responses to Joint Committee on Ways and Means, Human Services Subcommittee  
April 15, 2015**

**Senator Winters – Is there one particular part of the state where you’re getting more .370 patients than other parts of the state?**

This chart shows the counties with 10 or more .370 admissions between April 2014 and March 2015.

|                  | County Population<br>(2010 census) | .370 admissions | Rate per 100,000<br>population |
|------------------|------------------------------------|-----------------|--------------------------------|
| Clatsop          | 37,039                             | 15              | 40.50                          |
| Tillamook        | 25,250                             | 10              | 39.60                          |
| Lincoln          | 46,034                             | 17              | 36.93                          |
| Klamath          | 66,380                             | 18              | 27.12                          |
| Marion           | 315,335                            | 67              | 21.25                          |
| Douglas          | 107,667                            | 20              | 18.58                          |
| Lane             | 351,715                            | 54              | 15.35                          |
| Linn             | 116,672                            | 16              | 13.71                          |
| Benton           | 85,579                             | 10              | 11.69                          |
| Multnomah        | 735,334                            | 84              | 11.42                          |
| Washington       | 529,710                            | 48              | 9.06                           |
| Deschutes        | 157,733                            | 14              | 8.88                           |
| Jackson          | 203,206                            | 17              | 8.37                           |
| Clackamas        | 375,992                            | 12              | 3.19                           |
| <b>Statewide</b> | <b>3,831,074</b>                   | <b>467</b>      | <b>12.9</b>                    |

**Senator Winters – Is there any policy that was changed that would have resulted in this increase?**

The increase in the number of people who need Aid and Assist services is a nation-wide phenomenon. Please see Appendix A from *The Wall Street Journal*, an article entitled, “Mental-Health Treatment for Defendants Dogged by Delays.”

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There is no one factor we can point to with the data. However, there are several factors that can impact how many people are sent to Oregon State Hospital for Aid & Assist:

- Level of mental health services and resources available (e.g., mobile crisis) in each county and how they are used;
- Socio-economic status – counties with higher socio-economic status tend to send fewer Aid and Assist patients to OSH;
- Availability of qualified certified evaluators – These are often not available in smaller, predominantly rural counties; therefore, the quality of evaluations is lower and the threshold from the courts to send someone to Oregon State Hospital is much lower;
- Individual courts' approach to this statute – some counties are very rigorous in screening out those people who do not appear to have a mental illness; in these courts, especially the district attorneys, are less inclined to stipulate to and order for Aid and Assist.

Oregon State Hospital's Forensic and Legal Services has endeavored to better educate the officials at the county level about the Aid and Assist process. Staff have:

- Started an education campaign in 2012, including county judges, district attorneys, defense attorneys, county sheriffs and the county mental health programs;
- Developed an OSH Forensic and Legal Services web site which contains information and links to statutes, available programs, resources and templates for court orders;
- Provided direct feedback to the committee overseeing the certification of psychiatrists and psychologist performing forensic evaluations in order to improve the quality of these evaluations and to ensure that these evaluations meet the proper standards.

**Senator Bates – Please provide a breakdown of where the people under .370 orders are coming from and the population of that county, per 10,000.**

Please see the table in Appendix B – Aid and Assist admissions by county.

**Senator Bates – What is the average length of stay for people under .370 orders?**

The median length of stay for people under a .370 order is 73 days, based on discharges from July 2013 through March 2015.

**Senator Bates – Has OSH completed a root cause analysis for the increase in people under .370 orders?**

Again, while this is a nation-wide issue (see Senator Winter's previous question), the "root cause" of the number of .370 patients is the lack of sufficient community behavioral health resources, which has led to the criminalization of the mentally ill, and in turn has led to, not only the rising need for restorative services, but also the increasing number of people with mental illness who are incarcerated in our jails and prisons.

Many times, law enforcement professionals arrest people with mental illness, especially on low-level misdemeanor charges, because they are trying to help them get access to services they need. Often, these individuals cannot be civilly committed because they do not meet the legal criteria. If they are arrested, it leads to a stay at the state hospital, even though they may do not require hospital-level of care and restoration services to meet their treatment needs.

The big-picture solution is not just to find a way to provide "competency restoration services" in the community, but to provide the community mental health services that prevent people with mental illness from being arrested in the first place.

The 2013-15 Legislature made a good start with its investments in services such as mobile crisis, crisis respite, jail diversion, assertive community treatment and housing. These services help prevent unnecessary hospitalization or incarceration in the communities that received the funding. However, the state needs more of these types of services to truly begin to address affect the number of people who come to OSH under a .370 order.

**Senator Winters – How many people under .370 orders have public defender vs. private counsel?**

The state does not track this information. The system does not indicate whether a patient's attorney is public or private.

**Senator Bates – Do people under .370 orders come through mental health courts before coming to the state hospital?**

No. Mental health courts generally only take people who have capacity to agree to participate, which means they must be well enough to make that decision with their attorney.

**Senator Bates – What is the plan to address the .370 crisis?**

In the immediate future, the plan is to open the last remaining unit in Salem campus to serve people under .370 orders, instead of opening a fourth unit in the Junction City to serve people who have been found guilty except for insanity, as funded through the \$9.9 million Governor's Budget. If the current trend continues, Oregon State Hospital will need to open yet another unit to serve people under .370 orders in July 2016, which is not currently funded in the Governor's Budget.

HB 2420 and Policy Option Package 401-1 will help by reducing the population of people under .370 orders. HB 2420 requires judges to consult with community mental health programs to see if restoration services can be provided in the community before sending defendants to Oregon State Hospital. Policy Option Package 401-1 invests \$4.1 million to target the four counties with the highest number of people under .370 orders so they can provide restoration services in the community, when appropriate, rather than sending them to the Oregon State Hospital.

But the real long-term solution is to invest more resources in the community behavioral health system, especially in those services that divert people from being arrested in the first place, such as mobile crisis, crisis respite, and assertive community treatment.

**Senator Steiner-Hayward – Clarify how compensation works for OHSU doctors? What percentage of the time are they at OSH, what percentage of the time are they at OHSU? Are there medical students included in the contract?**

Please allow a preface to this question to state that, the issue is not about compensation, but about the hospital's ability to provide the best care and treatment for our patients. The partnership between OSH and OHSU enables the hospital to recruit the highly skilled doctors it needs to care for patients with some of the most complex challenges.

All of the OHSU doctors are board certified, many with the forensic specialty needed patients who are under .370 orders or who have pled guilty except for insanity. Their forensic expertise is essential for effectively treating patients and releasing them in a timely manner.

A recently completed analysis, comparing all state-employed and OHSU-contracted psychiatrists actually employed in 2014 reveals that the OHSU psychiatrists were more expensive (including salary and benefits) than the state-employed doctors by an average of \$4700 per doctor. However, it is important to note that all of the OHSU doctors are board-certified (some "double-boarded,"

and the majority are forensically certified), while four of the state-employed doctors are not board-certified, and thus earn a lower salary.

The staffing plan for OSH calls for a total of 49 psychiatrists, of which no more than 21 can be obtained through the OHSU affiliation, per the agreement.

Compensation for OHSU psychiatrists is as follows:

| Class   | Annual Amount* | Annual Variance |
|---|----------------|-----------------|
| OHSU supervising physician salary/benefits      | \$348,275      | \$12,147        |
| OSH supervising physician salary/benefits       | \$336,128      |                 |
| OHSU physician contract salary/benefits         | \$316,719      | \$(8,634)       |
| OSH physician salary/benefits                   | \$325,354      |                 |
| Locum Tenens (contract) physician contract cost | \$438,880      |                 |

\*These numbers represent total compensation, including salary and benefits, assuming all doctors are at the 9<sup>th</sup> step of salary range, plus benefits. The OHSU contract does not include compensation for vacation, holiday or sick leave. Per the contract, in addition to the cost of the physician’s salary and benefits, OSH pays OHSU an additional \$30 per hour for administrative costs.

**Re: Schedules** – Please see the next question.

**Re: Medical Students** – The affiliation between Oregon State Hospital and OHSU enables OSH to benefit from medical students at no cost. Medical students, physician assistants , psychiatric residents, and geriatric psychiatry fellows complete rotations under the supervision of OHSU faculty supervisors who also are on the staff of OSH via the affiliation.

In addition, the agreement provides two forensic psychiatry fellows (each is a six-month rotation) who complete evaluations of guilty except for insanity (GEI) cases and Aid and Assist patients, as part of our Forensic Evaluation Services program. The total annual cost of the two half-time forensic psychiatry fellows is \$77,220 each, for a total of \$154,440.

All of the aforementioned trainees benefit from the very unique opportunity that OSH provides. The number of and diversity of the patient population are regarded as huge assets for their education as the generally longer-term stays of the patients allow for longitudinal observations and the development of patient rapport.

The Senior Associate Dean for Education at the OHSU medical school visited the OSH program last year and was tremendously impressed with the training environment that OSH provides.

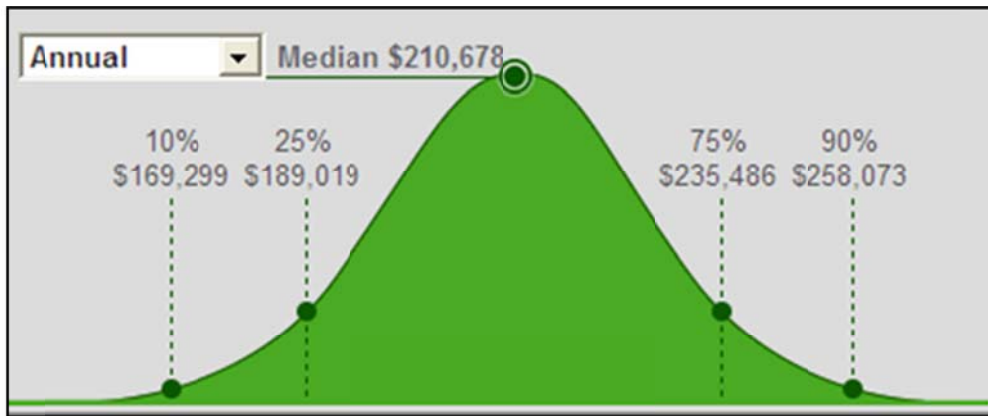
**Representative Keny-Guyer – OHSU doctors work four days and OSH doctors work five days. Can you give us a sense of how often they work that fifth day?**

Nearly all of the psychiatrists (state-employed and OHSU) spend only four days a week at OSH. The state-employed doctors work four 10-hour days, while the OHSU doctors are physically present at OSH for four eight-hour days. For OHSU doctors, the fifth day of the workweek is spent:

1. At OSH, if necessary, to complete work or to cover another doctor's assignments during vacation or other leave;
2. Teaching at the OHSU medical school;
3. Engaged in academic research;
4. Supervising interns/residents/physician assistants;
5. Preparing journal articles on books; or
6. Engaged in the work of the Oregon Psychiatric Association (OPA) – committees include resident training, education, executive council, program committee and Legislative; the current OPA president is an OHSU-contract psychiatrist works at OSH.

**Senator Winters – Please share the salaries of psychiatrists at our neighboring hospitals.**

The following chart describes median base salary (no benefits or other incentives) for psychiatrists in Portland, according to human resources data as of April 2015 as reported by Salary.com. Comparatively, the median base salary for psychiatrists employed by Oregon State Hospital is \$204,006 per year.



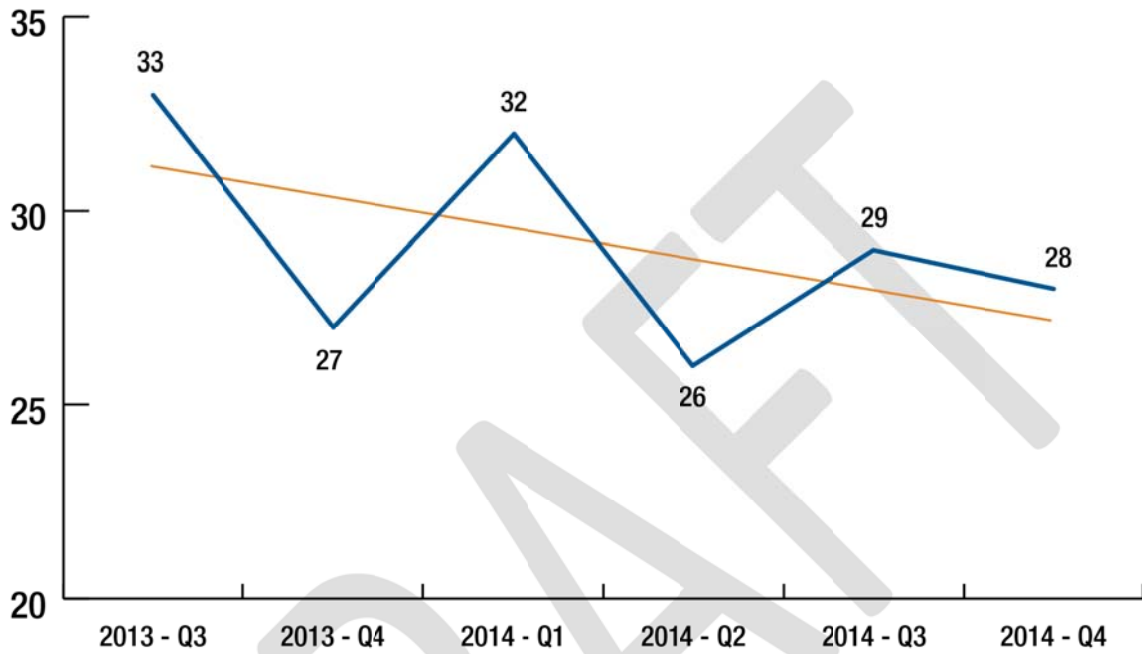
However, it should be emphasized that these are base salaries. For OSH doctors, they do not include the psych duty differential of \$10,000 per year (per the union contract), the 7.5% differential for certification in general psychiatry, or on-call compensation. For psychiatrists working in the Portland metropolitan area, the base salary does not include any signing bonuses, loan reimbursements, licensure reimbursements, payments for continuing medical education, compensation for extra work on weekends, or up to \$30,000 per year for pay for performance. Because of the competitive market, other hospitals are reluctant to share this information.

**Senator Bates – What does the caseload look like for a doctor on a daily basis? How many patients are they interacting with?**

There is no difference in caseload between OSH and OSHU doctors. Individual caseloads for psychiatrists vary, according to the nature of the unit they serve (ie, admissions, civil, neurogeriatric, guilty except for insanity, transitional or Aid and Assist) and the acuity of its patients. Unit capacity at OSH ranges from 20 (forensic admissions) to 30 (transitional).

**Senator Winters – What are the worker’s comp rates and the amount of time people are off because of workers’ comp injuries?**

**Staff injuries related to patient aggression – Accepted SAIF claims since July 2013**



**Workers’ Comp Claims – Patient assault/control days lost and cost**

| Year | Lost work days | Change from prior year | Total incurred costs | Change from prior year |
|------|----------------|------------------------|----------------------|------------------------|
| 2012 | 1,857          | -                      | \$182,204.61         | -                      |
| 2013 | 1,757          | -5%                    | \$150,844.86         | -17.2%                 |
| 2014 | 1,023          | -42%                   | \$127,376.71         | -15.5%                 |

*\*Data as of Feb. 20, 2015, days lost and incurred costs will continue to accrue for open claims*



**Senator Steiner-Hayward – In the GB, there's no increase in FTE for regular full time staff? The GB just assumed OSH would cut the OT in half?**

The Governor's Budget increases the current OSH overtime budget by inflation. OSH came out of the 2013 session with \$3,761,305 in the 2013-15 budget for overtime. In the December rebalance, the Legislature added an additional \$7,213,232 to bring the total overtime budgeted for 2013-15 to \$10,974,537. However, the actual projected expenditure for the biennium is \$18,969,263. OSH will find the remaining \$8 million elsewhere in the budget. This continues a trend of significant differences between budgeted and actual expenditures for overtime at the hospital.

| Biennium   | Budgeted OT  | Actual OT Expenditures                     | Difference     |
|--|--------------|--|----------------|
| 2009-11  | \$6,172,469  | \$19,874,401                               | (\$13,701,932) |
| 2011-13  | \$1,715,302  | \$18,273,802                               | (\$16,558,500) |
| 2013-15<br>(Note: \$7.2 added in rebalance to bring 2013-15 budget to \$10.9M) | \$10,974,537 | \$18,969,263<br>(Projected)                | (\$7,994,726)  |
| 2015-17 GB   | \$11,404,381 | \$17,000,000<br>(Aggressive Target for OT) | (\$5,595,619)  |

The 2015-17 Governor's Budget has \$11,404,381 allotted for total overtime. With very aggressive efforts, we think we can reduce overtime costs to \$17,000,000. OSH will continue to keep LFO and DAS CFO staff informed of operational budget projections throughout the biennium and propose budget adjustments or re-aligning the hospital's budget to closer match actual expenditures if necessary.

## U.S. NEWS

# Mental-Health Treatment for Defendants Dogged by Delays

Many people deemed incompetent to stand trial are waiting months in jail for services



Family photos featuring Marilyn Roberts's son, who spent 97 days in a Washington state jail before receiving treatment at a state hospital. *PHOTO: FOR THE WALL STREET JOURNAL*

By **JOE PALAZZOLO**

April 19, 2015 7:54 p.m. ET

Marilyn Roberts's son was arrested last year on assault charges after he allegedly flicked a cigarette at a police officer in Olympia, Wash., hitting the rim of his hat. He spent 97 days in a county jail, most of them alone in a cell 23 hours a day.

He quickly deteriorated. He refused his medication for bipolar disorder, his mother said, because he believed jail staff were trying to poison him. He lost 30 pounds as he rejected most food. A note in his file, written by a jail employee in September, described his behavior as "bizarre."

In most states, mentally ill people deemed incompetent to stand trial, like Ms. Roberts's son, are transferred to a state hospital, where they are given limited treatment that may include medication and therapy. The goal is to bring their mental state to a point where they can be taught about the legal system and their rights, so they eventually can be tried—a process known as restoration.

The U.S. Supreme Court has ruled it is unconstitutional to try a person who fails to grasp the consequences of the proceedings against him and is unable to participate in his own defense.

But demand for such treatment services now exceeds the capacity to deliver them, as scores of state mental institutions have closed since the 1970s and the number of mentally ill people in the criminal-justice system has risen, driven in part by more-aggressive policing of minor offenses.

In many states, defendants charged with misdemeanors and low-level felonies who show signs of mental illness can spend months in jail awaiting evaluations or bed space at hospitals, say mental-health experts and judges.

Often, they say, the competency system seems self-defeating. After mentally ill patients are restored to competency, “they come back to court, and the crimes for which they were charged have penalties that were far less than or equal to the time they served [awaiting a spot in a mental hospital], and then they are released,” said Fred Osher, a psychiatrist who directs health programs at the Council of State Governments Justice Center.

In a 2014 report of 42 states and the District of Columbia, 90% of the states reported that demand for defendant mental-health services had risen in recent years.

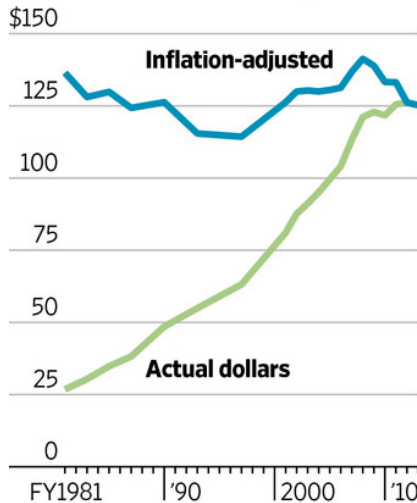
W. Lawrence Fitch, a law professor at University of Maryland who wrote the report for the National Association of State Mental Health Program Directors, attributed the increase in part to lawyers and courts improperly substituting competency services to treat mentally ill people already incarcerated. “It’s sort of a misuse of the competency system to address larger problems,” he said.

In Washington state, where a federal judge ruled this month that long wait times for treatment violate the U.S. Constitution, demand for competency evaluations rose 82% from 2001 to 2011. “Jails are not hospitals, they are not designed as therapeutic environments, and they are not equipped to manage mental illness,” wrote Chief U.S.

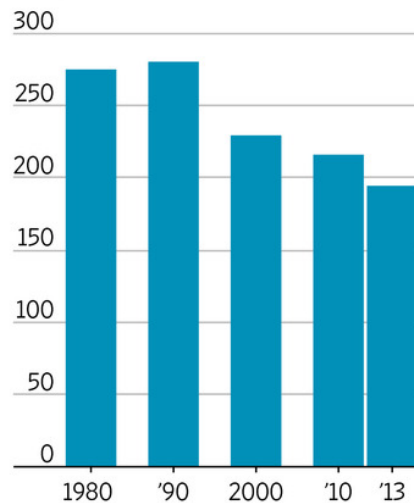
## Lower Spending, Fewer Hospitals

States are spending less on mental-health services today than in 1981 when adjusted for population and inflation, and the number of state psychiatric hospitals has declined.

**Per capita spending on mental-health services by states**



**Number of state psychiatric hospitals**



Note: Fiscal year ends June 30.

Source: National Association of State Mental Health Program Directors Research Institute

THE WALL STREET JOURNAL.

District Judge Marsha J. Pechman in her ruling that included Ms. Roberts's son.

The Seattle-based judge ordered the state Department of Social and Health Services to provide mentally ill defendants a competency evaluation within seven days of a judge's order for one. Those deemed incompetent must begin receiving restoration services within seven days of the court finding.

“We share the court's concerns about the well-

being of people with mental illness who are charged with a crime,” said Jane Beyer, an assistant secretary at the department. She said the Legislature earmarked \$27 million for evaluators and beds, but cautioned that a seven-day deadline may lead to hasty evaluations and false findings of mental illness. The state set a 14-day time frame in a March law.

Ms. Roberts's son, according to the Thurston County prosecutor's office, was arrested last June and charged with third-degree assault after he allegedly flicked the cigarette outside a bus station. Ms. Roberts said he inadvertently hit the officer.

After his time in jail he was sent to a state hospital. Back on his medicine, he participated in therapy and took restoration classes until his release 45 days later, in November. He is free while his case is pending, Ms. Roberts said.

The maximum incarceration Ms. Roberts's son faces is three months—about a week less than he has already served.

Mentally ill people have successfully challenged wait times in Louisiana and Oregon in recent years. In California, public defenders in at least four counties are challenging long wait periods, said Stephanie Regular, a deputy public defender in Contra Costa



Marilyn Roberts at her home in Olympia, Wash. Her son was deemed incompetent to stand trial after he was arrested last June and charged with third-degree assault. *PHOTO: DAVID RYDER FOR THE WALL STREET JOURNAL*

## County.

Ken Paglia, a spokesman for the California Department of State Hospitals, said the average wait time for a hospital bed statewide is about 41 days. The number of patients waiting for competency services in California hospitals jumped to 426 in December 2014 from 168 in December 2012, he said.

The state has tried to improve wait times by creating jail-based restoration programs in two counties and adding beds to hospitals, Mr. Paglia said.

Public defenders and advocates for patients with mental illness are largely unsympathetic to states using lack of resources to justify delays. “It’s as if a person has a coronary and has to wait for weeks and months,” said Linda Rosenberg, chief executive of the National Council for Behavioral Health.

Florida diverts some mentally ill defendants facing low-level charges to a treatment center designed to prepare them to return to their communities, where they continue to receive treatment, as part of a five-year-old pilot project. There are more than 300 similar mental-health courts and diversion programs like it around the country, according to Council of State Governments Justice Center.

If defendants follow their treatment plan the charges are usually dismissed after a year, said Miami-Dade County Judge Steve Leifman, who heads a Florida Supreme Court task force on substance abuse and mental-health. Very few graduates have been arrested on new charges, he said.

Until recently, Florida was spending almost one-third of its public mental health dollars each year to restore competency to about 2,500 defendants, Mr. Leifman said. The new system is “much cheaper, much faster and the outcomes are so much better.”

**Write to Joe Palazzolo at [joe.palazzolo@wsj.com](mailto:joe.palazzolo@wsj.com)**

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**Appendix B – Total Aid and Assist Admissions since the start of the current biennium (July 2013) through the end of March 2015**

| County             | Population<br>(2010<br>Census) | Felony     |                    | Misdemeanor |                    | Total      |                    |
|--------------------|--------------------------------|------------|--------------------|-------------|--------------------|------------|--------------------|
|                    |                                | Admits     | Rate per<br>10,000 | Admits      | Rate per<br>10,000 | Admits     | Rate per<br>10,000 |
| Tillamook          | 25,250                         | 5          | 1.98               | 13          | 5.15               | <b>18</b>  | <b>7.13</b>        |
| Klamath            | 66,380                         | 30         | 4.52               | 14          | 2.11               | <b>45</b>  | <b>6.78</b>        |
| Lincoln            | 46,034                         | 10         | 2.17               | 15          | 3.26               | <b>25</b>  | <b>5.43</b>        |
| Clatsop            | 37,039                         | 13         | 3.51               | 5           | 1.35               | <b>19</b>  | <b>5.13</b>        |
| Marion             | 315,335                        | 69         | 2.19               | 56          | 1.78               | <b>127</b> | <b>4.03</b>        |
| Lake               | 7,895                          | 3          | 3.80               |             |                    | <b>3</b>   | <b>3.80</b>        |
| Douglas            | 107,667                        | 20         | 1.86               | 18          | 1.67               | <b>39</b>  | <b>3.62</b>        |
| Coos               | 63,043                         | 14         | 2.22               | 5           | 0.79               | <b>19</b>  | <b>3.01</b>        |
| Wasco              | 25,213                         | 4          | 1.59               | 3           | 1.19               | <b>7</b>   | <b>2.78</b>        |
| Hood River         | 22,346                         | 2          | 0.90               | 4           | 1.79               | <b>6</b>   | <b>2.69</b>        |
| Morrow             | 11,173                         | 1          | 0.90               | 2           | 1.79               | <b>3</b>   | <b>2.69</b>        |
| Lane               | 351,715                        | 50         | 1.42               | 29          | 0.82               | <b>84</b>  | <b>2.39</b>        |
| Multnomah          | 735,334                        | 93         | 1.26               | 77          | 1.05               | <b>171</b> | <b>2.33</b>        |
| Polk               | 75,403                         | 11         | 1.46               | 6           | 0.80               | <b>17</b>  | <b>2.25</b>        |
| Linn               | 116,672                        | 17         | 1.46               | 6           | 0.51               | <b>24</b>  | <b>2.06</b>        |
| Benton             | 85,579                         | 7          | 0.82               | 8           | 0.93               | <b>16</b>  | <b>1.87</b>        |
| Josephine          | 82,713                         | 7          | 0.85               | 4           | 0.48               | <b>12</b>  | <b>1.45</b>        |
| Umatilla           | 75,889                         | 6          | 0.79               | 4           | 0.53               | <b>11</b>  | <b>1.45</b>        |
| Crook              | 20,978                         | 2          | 0.95               | 1           | 0.48               | <b>3</b>   | <b>1.43</b>        |
| Jefferson          | 21,720                         | 3          | 1.38               |             |                    | <b>3</b>   | <b>1.38</b>        |
| Grant              | 7,445                          | 1          | 1.34               |             |                    | <b>1</b>   | <b>1.34</b>        |
| Washington         | 529,710                        | 38         | 0.72               | 32          | 0.60               | <b>70</b>  | <b>1.32</b>        |
| Baker              | 16,134                         | 1          | 0.62               | 1           | 0.62               | <b>2</b>   | <b>1.24</b>        |
| Deschutes          | 157,733                        | 13         | 0.82               | 6           | 0.38               | <b>19</b>  | <b>1.20</b>        |
| Jackson            | 203,206                        | 17         | 0.84               | 4           | 0.20               | <b>21</b>  | <b>1.03</b>        |
| Yamhill            | 99,193                         | 7          | 0.71               | 3           | 0.30               | <b>10</b>  | <b>1.01</b>        |
| Malheur            | 31,313                         | 2          | 0.64               |             |                    | <b>3</b>   | <b>0.96</b>        |
| Curry              | 22,364                         | 2          | 0.89               |             |                    | <b>2</b>   | <b>0.89</b>        |
| Union              | 25,748                         | 2          | 0.78               |             |                    | <b>2</b>   | <b>0.78</b>        |
| Clackamas          | 375,992                        | 6          | 0.16               | 10          | 0.27               | <b>17</b>  | <b>0.45</b>        |
| Columbia           | 49,351                         | 1          | 0.20               |             |                    | <b>1</b>   | <b>0.20</b>        |
| Gilliam            | 1,871                          |            |                    |             |                    |            |                    |
| Harney             | 7,422                          |            |                    |             |                    |            |                    |
| Sherman            | 1,765                          |            |                    |             |                    |            |                    |
| Wallowa            | 7,008                          |            |                    |             |                    |            |                    |
| Wheeler            | 1,441                          |            |                    |             |                    |            |                    |
| <i>None Listed</i> |                                | 3          |                    | 3           |                    | <b>6</b>   |                    |
| <b>Total</b>       | <b>3,831,074</b>               | <b>460</b> | <b>1.20</b>        | <b>329</b>  | <b>0.86</b>        | <b>806</b> | <b>2.10</b>        |