

JUSTICE 2020



The New Oregon Trail

Future of the Courts Committee • Oregon Judicial Department

Envisioning Oregon's Courts in the 21st Century

Looking at past developments and current trends, the Oregon Judicial Department anticipates the future of the state court system

In March 1992, the Oregon state courts embarked on a journey that extends well into the next century. At a two-day workshop sponsored by the National Center for State Courts and the State Justice Institute, members of the state court judiciary and administration met with representatives of the Legislature, the Oregon State Bar, police, corrections, social service agencies, and other justice system stakeholders to consider the future of justice in Oregon.

Despite the success of this event, participants agreed that planning for the future of justice would

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involve a much more elaborate effort. As a result, the Oregon Judicial Department (OJD) decided to conduct a comprehensive, long-range planning process for the state court system — the first ever in the history of the Oregon courts. It's mission: to develop a vision for Oregon's courts in the year 2020 and to begin planning for the implementation of this vision in the coming years.

The **Future of the Courts Committee**, a standing committee of the Oregon Judicial Conference, was charged with spearheading this effort. Comprised of judges and administrators from every level of the state court system, the Committee met over the next two years, gathering and analyzing information and, ultimately, developing a vision to guide OJD's ongoing planning, budgeting and legislative activities. The Committee was assisted in this considerable task by OJD's Office of the State Court Administrator, the Trial Court Programs Division, court employees from around the state, and outside experts.

Justice 2020: The New Oregon Trail is the formal result of the Future of the Courts Committee's efforts. In addition to the Committee's vision for the future of the state court system, this report presents a summary of key findings, a statement of values for the state courts, and the "Justice 2020 Scenarios" — a series of narrative snapshots illustrating the Committee's vision of justice in Oregon.

Why a Vision for the Courts?

Why did Oregon's state court system — an institution bound by tradition and governed by precedent — create a vision for the future? The answer, in a word, is change.

As the 21st century rapidly approaches, American society has entered a period of accelerated, unrelenting change. Daily headlines are dominated by stories of economic restructuring, new technological advances, population growth and migrations, pressing new social issues and changing public attitudes. Rapidly disappearing is the postwar society, with its traditional industrial economy, hierarchical institutions and homogeneous culture. Futurists and forecasters believe that

the nation is moving into an entirely new era in its history.

Today's courts are a mirror of the change that has engulfed our society — and that change is clearly visible at the state and local level. In 1995, the courts of Oregon face an expanding volume of disputes requiring resolution, increasingly complex cases, and changing public expectations regarding the judicial process. Compounding this burden are aging court facilities, dated technology, growing security concerns, and continued uncertainty over the long-term funding of the courts.

If such challenges are taken on in an unplanned, uncoordinated fashion, the outcome is likely to be a court system in decline. The Future of the Courts Committee believes that such a reactive approach to change is not an option. The state court system must become more proactive if it is to address critical issues currently challenging this institution, create

a larger context for its day-to-day activities and decisions, and develop greater consensus for preferred future directions.

A vision for the courts is a starting point. By articulating a positive image of where we would like the courts to be, we can begin to create that reality.

A vision can serve both as a framework for future directions and a yardstick against which to measure current decisions. This may represent an entirely new perspective on the part of the courts, but in the opinion of the Committee, it has never been more important.



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Where Have We Been?

A Legacy of Change in Oregon's Courts

The Future of the Courts Committee's first step in envisioning the future of the Oregon state court system was to look into its past — where the courts have been and how they have changed. This provided a valuable context for discussing where the courts are today and where they might be headed. To make this task manageable, the Committee focused on the past 25 years — the exact amount of time it intended to look into the future.

The Last 25 Years: Judicial Reform and Major Developments

Since Oregon's earliest days, the state court system has worked to fairly and reliably settle the civil, criminal and other disputes of Oregonians. While the purpose of the state court system has remained constant over the years, its structure and functions have not. In the last quarter century alone, the courts of Oregon have probably undergone more significant changes than in all the previous years combined. These changes have been reinforced by a number of concurrent developments in the wider justice system.

Change in the state courts has its roots in a national reform movement dating back to the early part of this century. In Oregon, judicial reform took hold only in recent times, culminating in official "unification" of the state courts in 1981. While such reforms resulted in major improvements in the efficiency and effectiveness of the courts, they also significantly altered state court roles, responsibilities and day-to-day activities. The end result is a court system dramatically different from that of only 25 years ago.

Among the many major developments experienced by the state court system over the last quarter century (1969–94), the Future of the Courts Committee identified those that have had the most significant and lasting impact on the courts. In chronological order, they include:

- **Creation of the Oregon Court of Appeals (1969).** The first of a series of major structural changes in the state court system was the creation of the Court of Appeals in 1969. As the intermediate appellate court, the Court of Appeals was required to hear all cases appealed to it, handling the vast majority of appeals in the state and serving as the principal gatekeeper for the Oregon Supreme Court. Since its creation, the Court of Appeals has become one of the busiest appellate courts in the nation, known for its efficient handling of a large number of appeals.
- **Creation of State Court Administrator Position (1971).** Oregon's first state court administrator was appointed in 1971, effectively establishing a professional management system for the courts. The state court administrator was charged with responsibility for the day-to-day management of the court system, including budgeting, personnel, and interagency relations. In 1981, the administrator also became the official responsible for implementing state court system unification. This, in turn, led to further reforms and professionalization of the courts.
- **Designation of District Courts as Courts of Record (1974).** When Oregon's 28 district courts were designated as courts of record in 1974, certain types of cases were no longer required to originate in the state's circuit courts. Appeals initiated as a result of district court action were routed directly to the Oregon Court of Appeals for review. These changes significantly

enhanced the stature of district courts, as well as that of district court judges.

- **Changing State Court Judiciary (1970s).** In the late 1970s, a noticeable shift began to occur in the composition of the state court judiciary reflecting a number of larger societal trends. Women and minorities began to enter the judicial profession in greater numbers. New judges also came to the bench earlier in their legal careers — sometimes as part of long-term career plans that included post-judicial employment. During the same period, continuing legal education became a greater priority for the bench, and the emphasis on judicial professionalism was enhanced.
- **State Funding of Trial Courts (1983).** A change of far-reaching implications, state funding of the trial courts, was launched in 1983. For the first time, the State of Oregon — not the counties — paid the cost of operating both district and circuit courts out of its General Fund. Under this arrangement, the counties remained responsible for the operation and maintenance of trial court facilities, while personnel, supplies and travel became state expenses. In addition, county trial court staff officially became employees of the Oregon Judicial Department. As a result, common job descriptions, salaries, and benefits were put into effect. Standard policies and procedures were developed for application in every court regardless of its size or location.
- **Professional Management in Trial Courts (1983).** An outgrowth of state funding was the establishment of professional management in the trial courts in 1983.

provide legal representation for indigent persons were handled at the state level. Attorneys serving as indigent defense counsel were required to meet state eligibility requirements, and uniform policies and procedures for payment of counsel and expenses were implemented statewide. Uniform guidelines to determine a person's eligibility for counsel at state expense were implemented statewide. At the same time, an unintended consequence of this change was growing de facto competition for funding between the indigent defense program and the rest of the state court system.

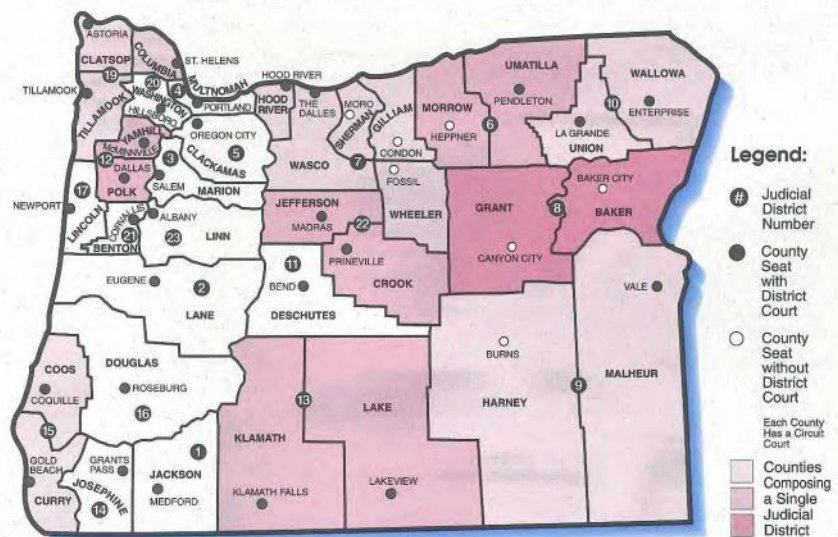
- **Computerized Information and Accounting (1986).** The Oregon Judicial Information Network (OJIN), yet another outgrowth of state funding, first became operational in 1986. A computerized case tracking system,

In Oregon, judicial reform took hold only in recent times, culminating in formal "unification" of the state courts in 1981.

OJIN provided a statewide register of case actions, calendaring, and automated notices. In 1992, the Financial Integrated Accounting System (FIAS) was added to the system, allowing the tracking of all funds received or distributed by the courts. With OJIN/FIAS, all civil and criminal cases were managed and tracked in a similar manner, and uniform case information became available to multiple users statewide. (A similar system for juvenile cases is currently under development.) OJIN/FIAS helped to establish a sophisticated state court database.

- **Growing Specialization of the Bar (1980s).** A wider justice system trend affecting the state courts that emerged in the 1980s was the growing specialization of the bar. With major changes occurring in society and the legal profession, and the increasing dominance of certain types of court cases, more attorneys began to focus exclusively on specific aspects of the law. Particularly evident was the advent of a professional, highly

Oregon Courts: Counties and Judicial Districts



Trial court administrators (TCAs) — or in smaller courts, trial court clerks (TCCs) — became responsible for the day-to-day management of the courts, including budgeting, personnel, records, management and support services for judges. With the introduction of professional management in the trial courts, judges were freer to focus on their judicial responsibilities.

- **State Funding of Indigent Defense (1983).** Indigent defense is the constitutionally and statutorily mandated legal representation of persons — including those accused of crimes — who cannot afford to hire attorney. In 1983, the cost and administration of indigent defense was removed from counties and assigned to the state. Under this new system, negotiations and contracts to

organized criminal defense bar, with a growing number of criminal law specialists providing legal assistance to indigent criminal defendants. Growth of the criminal defense bar, among other factors, contributed to the complexity of criminal cases, including greater reliance on expert testimony and increased attention on jury selection.

- **Rise of Alternative Dispute Resolution (1980s).** The rise of non-adversarial approaches to dispute resolution was another important justice system trend of the 1980s. Collectively known as "alternative dispute resolution" or ADR, the use of mediation, arbitration, case settlement practices and related non-adversarial techniques became more common both inside and outside the

formal court system. Gradually, many justice system participants began to acknowledge that traditional adversarial approaches to justice — including jury trials — were not the most appropriate first step in resolving certain types of disputes, including domestic relations, small claims and other civil matters. ADR also demonstrated promise in helping to reduce the growing number of potential court cases.

- **Administrative Consolidation of Trial Courts and Growing Influence of Presiding Judges (1980s).** Building on state funding and professional management, the 1980s

policy issues facing the courts. They also developed closer working relationships with their counterparts in other counties and at the state level.

- **Other Developments.** In addition to the above changes, a number of other developments over the past 25 years added to the impacts of a rapidly changing state court system: authorization of **audio recording** for use in the courtroom and court records foreshadowed the rise of information technology in the courts; establishment of **pre-trial release and indigent defense verification** functions further expanded trial court roles and

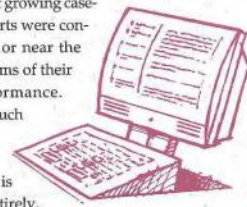
the phenomenon of change. However, during the same timeframe that the courts were undergoing the major reforms described above, the justice system and society-at-large were undergoing even more dramatic changes. These, in turn, had a major impact on the courts.

The Last Ten Years: Growing Caseloads and Greater Demands

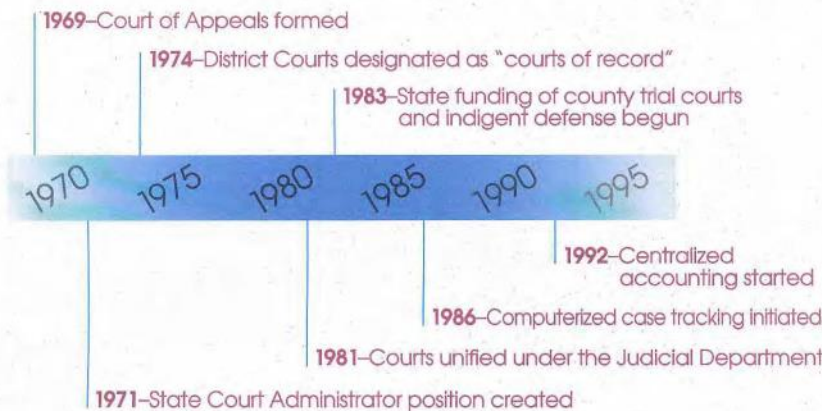
During the last decade, in particular, Oregon's growing population and a changing society began to place new demands on the courts. Increasingly, state court judges, employees and administrators, as well as legislators, elected officials and other justice system participants recognized the signs of a court system straining under the pressure. This was most visible in the form of more complex cases and increasing caseloads.

During the ten-year period from 1983 to 1992, case filings in Oregon's trial courts (district and circuit) grew from 538,300 in 1983 to an estimated 673,500 in 1992. After adjusting for changes in case reporting that occurred during the decade, this represents an increase of more than 22 percent — compared to the 13 percent increase in the state's population during the same period. Case filings in the Court of Appeals increased by 39 percent. With the number of court cases increasing faster than the population as a whole, Oregonians were clearly turning to the courts in greater numbers.

Fortunately, the above-mentioned reforms — along with moderate increases in state court funding, the addition of new employees, and a dedicated, hard-working judiciary and staff — all contributed in helping the courts meet the challenge of growing case-loads. Oregon's courts were consistently ranked at or near the top nationally in terms of their comparative performance. However, whether such exceptional performance can be sustained in the future is another question entirely.



Time Line of Recent Oregon Courts' Milestones



saw accelerated administrative consolidation of the trial courts. The elimination of redundant functions, such as separate clerks for district and circuit courts, resulted in greater court uniformity and efficiency. At the same time, the role of presiding judges expanded considerably. With greater administrative authority in their respective judicial circuits, presiding judges became more involved in larger judicial, administrative and

responsibilities; introduction of **cameras in the courtroom** allowed greater public access to court actions and decisions; and, establishment of a state court program for **juvenile foster care placement reviews** broadened the involvement of the state courts in larger social issues affecting the justice system.

In sum, all its judicial history and traditions notwithstanding, the Oregon state court system is no stranger to

Oregon Courts Statement of Values

The Oregon state court system is a part of the governmental structure of a democratic society. The values it holds are common to all democracies, but these values also reflect the unique and pivotal role that the courts play in the political, cultural, social and economic life of the nation. The following are the core values of Oregon's state courts:

Promotion of the Public Welfare. The survival and progress of a democratic society depends on its ability to resolve internal disputes peacefully, fairly, rationally and credibly. As every democratic government exists to serve the governed, so the Oregon courts exist to serve the people of Oregon. The state courts are dedicated to promoting the public welfare by resolving disputes in a manner that reliably applies society's laws.

Protection of the Individual. In a democratic society, the individual rights of every person within the society have value. The Oregon courts are dedicated to safeguarding the rights and privileges of every person against unlawful encroachment by government or others.

Fair and Consistent Application of the Law. Progress in a democratic society occurs when people can rely on the present to provide a stable foundation upon which to plan for the future. This requires the application of laws in a manner that is both fair and consistent. The Oregon courts are committed to fair and consistent application of the law today so that citizens can plan and dream for tomorrow.

Equality Before the Law. A democratic society should be dedicated to the idea that each of its members is equal in right. More importantly, it should provide dispute resolution for all of its members without regard to any of the personal characteristics of disputing parties. The Oregon courts are a place where racial, ethnic, religious, gender or other social and cultural differences are irrelevant to the rights of litigants before the law.

Accessibility of Justice. A democratic society cannot maintain its legitimacy simply by promising equality before the law to all of its

citizens. That promise must be fulfilled by justice that is available, affordable and understandable to any person who seeks it. The Oregon courts are accessible to all who need and seek their aid.

Independence of the Courts. An independent judiciary is a cornerstone of a democratic system of government. Members of a democracy expect judicial decisions, whatever their outcome, to be governed solely by a judge's interpretation of and adherence to the law. The Oregon courts are a place where all persons receive unbiased judgment free of influence from outside forces or pressures.

Integrity of the Courts. In a democratic society, the integrity of the judiciary is as essential as its independence. Members of a democracy expect public officials and employees to perform their duties in a manner that serves the interests of the public, rather than their own personal or private interests. The Oregon courts are a place in which judges and staff are uninfluenced by any interest in personal gain or advancement through their decisions or actions.

Public Service. In a democratic society, the government addresses the legitimate needs and concerns of its citizens. Members of a democracy should reasonably expect the government to respond to their needs and concerns promptly, fairly and efficiently, recognizing the dignity of every individual. Ultimately, justice is the standard by which the courts are judged. To that end, the Oregon courts are committed to providing superior public service.

Employee Excellence. In a democratic society, public interests are best served by competent public servants joined together in the pursuit of a common goal. The Oregon courts are committed to attracting and retaining superior employees dedicated to quality dispute resolution services. The state court system respects the dignity of its individual employees, fosters their stability and growth, promotes personal excellence, and holds all employees accountable to the highest standards of performance.

Where Are We Now?

Values, Strengths & Weaknesses, and Strategic Issues

The Future of the Courts Committee's second step in envisioning the future of the state court system was to consider the present — or where the courts are today. Significantly, the Committee began this process by articulating the core values of the courts. Next, it identified the major strengths and weaknesses of the court system. Finally, it attempted to identify the key strategic issues currently confronting the state court system.

Core Values: Shared Principles and Ideals

Values can be defined as those shared beliefs that express an institution's most deeply held principles and ideals. An institution's values may spring from its history, traditions and past accomplishments, but they also reflect its current mission, roles and responsibilities, day-to-day activities, the way it relates to the public, or the type of environment it provides for its members or employees. Values also represent the basic beliefs against which any vision for the future must be measured.

In order to create a vision for courts, the Future of the Courts Committee created a statement that summarized the core values of Oregon's courts. Working from earlier efforts of the judiciary, courts staff and other justice system stakeholders, the Committee articulated nine core values addressing all aspects of the life of the courts. These nine values are:

- Promotion of the Public Welfare
- Protection of the Individual
- Fair and Consistent Application of the Law
- Equality Before the Law
- Accessibility of Justice
- Independence of the Courts
- Integrity of the Courts
- Public Service
- Employee Excellence

While these values seek to capture the essence of the today's courts, they also provide the foundation for envisioning a preferred future. (For the full text of these values, see "Oregon Courts Statement of Values" on page 3.)

Strengths & Weaknesses: Opportunities and Threats for the Future

Next, the Committee examined the state court system in light of its current performance, *i.e.*, its major strengths and weaknesses, revealing those aspects of the courts that point to significant opportunities for the future — as well as those that point to possible threats.

The ten key court system strengths identified by the Committee include:

- A unified statewide court system
- A high quality of justice for court users
- The apolitical nature of Oregon's courts
- The high ethical standards of the state court judiciary
- Positive attitude regarding change and innovation
- Professional administrators and competent, hard-working personnel
- Effective use of case management practices
- High efficiencies compared to other state court systems

- Expanding use of information technology
- Increasing use of ADR techniques in the courts

Not surprisingly, this list emphasized aspects of the court system that reflect its history and traditions, as well as more recent reforms and restructuring. Some of these strengths are qualities for which the Oregon state courts are known and respected nationally; others reflect an understanding and appreciation that come only from working inside the institution.

The ten key weaknesses of the state court system identified by the Committee include:

- Crowded court dockets; reduced attention paid to individual cases
- Lack of attention focused on juvenile justice
- Lack of security in courtrooms and courthouses
- Ineffective use of available sanctions in criminal cases
- Inadequate service to the state's minority language groups
- Inadequate training of judges
- Low judicial morale
- Encroachment of indigent defense into state court resources
- Lack of trust between the Office of State Court Administrator and trial courts
- Lack of communication with the Legislature, bar, and the public-at-large

This list of weaknesses revealed numerous aspects of the state court system that make it highly vulnerable to an environment of rapid change. Such weaknesses would appear even more problematic when the Committee later examined the courts from the perspective of emerging trends.

Strategic Issues: A Preview of the "Probable" Future

After considering state court strengths and weaknesses, the Committee identified seven strategic issues — key issues currently challenging the institution. Some of these issues are largely internal to the state court system, while others are clearly external to the courts and arguably beyond the courts' ability to address them. All, however, challenge the effectiveness of today's state court system in fulfilling its mission. The seven strategic issues include:

- **Budgetary Constraints.** In an era of accelerated constraints on public spending, the inevitable pressure to limit the state court budget clashes with a court system that has been asked to assume much broader roles and responsibilities while serving more people. The rising number of disputes requiring resolution and increasing volume of court caseloads alone demand more funding for the courts. Budgetary constraints have a pervasive, undermining influence on all other issues and challenges facing the state court system — salaries, staffing, public access to justice, and more.
- **Low Judicial Morale.** Judicial morale in today's court system is low, in large measure because judges are being asked to cope with larger caseloads, increasingly complex cases and more stressful working conditions — without corresponding increases in staffing, salaries, benefits or public recognition. Competition with better compensated judicial positions in the federal court system and better financial opportunities in private legal practice mean that the state courts are at a disadvantage in recruiting and retaining the most highly qualified judiciary.
- **Unclear Identity of the Courts.** While the Oregon state court system is the third branch of state government, it is not typically viewed as such. Instead, the common perception of the Oregon Judicial Department as an

agency — as opposed to a separate branch of government — undermines the independence, autonomy and effectiveness of the institution. A related problem is a lack of public understanding of state court roles, responsibilities and day-to-day functions.

- **Public Misunderstanding of Judicial Power.** Both the courts and the judiciary in particular have constitutional, statutory and administrative constraints on what they are allowed to do. With the increased attention focused on crime in society, public expectations often exceed what the courts authorized or able to accomplish. Some believe that the courts can solve every problem in society; *i.e.*, when no one else can fix a problem, it becomes the role of the courts to do so. Such expectations cannot be satisfied.
- **Responsibility for Indigent Defense.** State responsibility for indigent defense was transferred to the Oregon court system in 1983. Since that time, Oregon's population has grown, more cases have been filed, more attorney appointments have been made, and the complexity of indigent defense cases has increased. As a result, the cost of indigent defense has grown steadily with each passing biennium. Inflation has added to the cost of providing indigent defense services. Today, a burgeoning indigent defense program accounts for roughly one-third of the entire state court budget. This has placed heavy demands on the state court system's limited resources and created tension with the Legislature and other criminal justice stakeholders.

• Drugs and Alcohol in Society

The epidemic of drugs and alcohol in society is part of a larger cycle of poverty, violence and crime (see "Justice Megatrends," page 13). It lurks behind many of the cases that have flooded the court dockets and has begun to dominate the entire justice system. Although the abuse of drugs and alcohol represents a problem far greater than the ability of any single institution to solve, it is a dilemma that must be addressed if the state court system is to remain effective in serving the public.

Our society is entering a period of accelerated social, demographic and technological change.

- **Instability of the American Family.** Another component of the cycle of poverty, violence and crime, is the growing instability of the American family. A host of factors — including a restructuring economy, poverty and lack of education — contribute to unstable families. The ultimate outcome of these conditions are disputes that end up in the courts. Not surprisingly, the single fastest growing type of cases in the state court system is domestic relations. Increasingly, the courts are being called upon to address the root causes of family instability, and to support alternative means for managing the conflicts it produces.

In sum, the Future of the Courts Committee's investigation of today's state court system revealed an institution striving to uphold its traditional values and standards of service in the face of enormous changes and challenging new issues. At the same time, our society is entering a period of accelerated social, demographic and technological change. Such changes will further complicate the issues that already challenge the mission of the courts.

Continued on page 13





A
Vision
 FOR THE
**Oregon
 State
 Courts**
 IN THE
Year 2020

The Oregon state court system is responsible for assuring stability and predictability in applying society's laws, while preserving and protecting the rights of individuals. The Oregon Judicial Department is the reactive branch of state government; *i.e.*, it interprets and implements the principles and ideals in rules that have already been made, including the state and federal constitutions. The court system rightly insists on being given good reason before it will allow changes to be made in the rules it fosters and protects.

But the fact that the state court system respects today's rules does not mean it cannot change the way it serves the public in the future. In fact, a rapidly changing world demands that

A rapidly changing world demands that the courts be more proactive in anticipating and preparing for the future.

the courts be more proactive in anticipating and preparing for the future. To that end, the Future of the Courts Committee has investigated the probable future of this state and its justice system. It has also drafted a vision for a better future and has identified ideas and tools for achieving it.

A few key points about the vision: First, it should be viewed as an integrated whole, not merely the sum of its parts. The vision contains

a number of concepts that may be challenging or controversial. These ideas are best evaluated in the context of the full document.

Second, the vision represents a broad, long-term direction for the state court system, not a short-term strategic or operational plan. It is intended to provide a framework for future state court planning, budgeting and legislative activities, rather than dictating specific strategies for change or immediate courses of action.

Finally, the Committee and the Oregon Judicial Conference, the collective body of state court judges, caution the reader that the examples of change or restructuring in the state courts or overall justice system that are cited here are only a few of the possibilities. The inclusion of a given example does not mean it will or should be implemented, nor does the exclusion of another example mean it should not be considered.

This vision is the result of intensive study, discussion and debate. It is an open document, to be periodically revisited and revised, in order to guide the courts into a dynamic future.

About the Justice 2020 Scenarios

As part of its vision for the state court system, the Future of the Courts Committee wanted to create tangible, real-life images of how people might actually use the courts in the future. The result was the *Justice 2020 Scenarios* — a series of short narratives depicting fictional events and situations that take place both inside and outside the formal court system in the year 2020.

Although the *Justice 2020 Scenarios* do not claim to predict the future, they do offer insights into some of the major concepts that form the basis of the Committee's vision. As depicted in these stories, Oregon's justice system in 2020 is both proactive and productive — a place where the state court judiciary, court administrators and employees, members of the bar, criminal justice and corrections agencies, social service providers, educational institutions, and citizens in general work together to resolve disputes in new, positive and creative ways.

The *Justice 2020 Scenarios* are fiction — any resemblance to real persons living or dead is purely coincidental. However, it is the hope of the Committee that these stories will someday reflect the real-world justice system — and that this will happen much sooner than the year 2020.

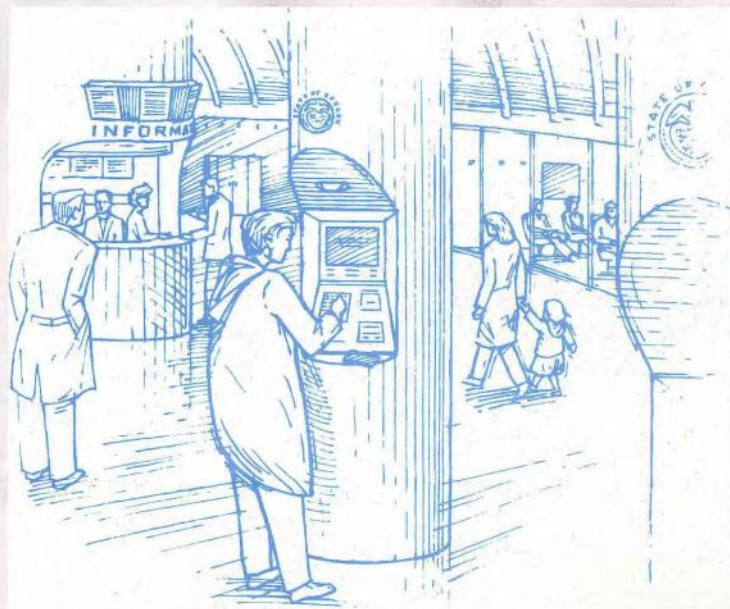


Community-Based, User-Friendly Justice

It's nine o'clock Monday morning at the Corvallis Community Dispute Resolution Center, just across the new civic center mall from the Benton County Courthouse. Jennifer Swenson hops off the neighborhood shuttle and makes her way across the crowded plaza to the Corvallis CDRC. Her mind is full of the busy week that lies ahead. First, however, she must attend to a small but pressing matter...

Rushing home from a weekend at the coast with her husband Grant, the Swensons' Electric Transport Vehicle was pulled over outside Waldport for speeding. Unfortunately, Jennifer was at the controls. Had she been willing, Jennifer could have accepted a fine and paid it on the spot. Instead, she decided to gather her composure and consider her options back home. So the officer issued a citation on his Personal Digital Assistant and transmitted it to the Lincoln County Court.

Walking through the doors of the CDRC, Jennifer finds a busy scene...



Electronic kiosks with interactive video displays dispense information on Oregon's multi-option justice system, advising citizens how to appropriately resolve their disputes. Customer service representatives provide in-person information to people with more detailed questions. In a glass-walled room, a conflict resolution class for high school students is just getting under way. And behind closed doors, a local dispute resolution specialist is conducting the first round of victim/offender mediation sessions.

Jennifer's business should be easier to transact. Stepping up to an Automated Justice Machine — "AJM" to most folks — Jennifer states her name, then enters her driver license and personal ID numbers. "Good morning, Jennifer L. Swenson," a female voice speaks in clear, measured tones. "Please choose a language for our conversation: English, Español, Russky Yozyk, Tleng Viet-Nam..." "English," repeats Jennifer, before the AJM can continue its list. "Thank you. Please hold while we review your records."

Jennifer scans the room. She could have easily accessed the state court computer system from home via her TV's InfoExpress channel, but she was headed this direction anyway. Beside, if she has more detailed questions about her ticket, there's a real, live human to help out. When they say customer service here, they really mean it...

Within seconds, the AJM has accessed state court files to locate Jennifer's driving record and Lincoln County traffic infraction. It correctly notes the exact date, time, location, vehicle type, amount in excess of the speed limit the Swenson ETV was traveling, and — adding a little insult to injury — the fact that Jennifer was not wearing her required prescription lenses. "These machines are too accurate," Jennifer thinks.

The AJM then asks Jennifer if she would like to request a hearing, plead guilty and pay a stiff fine, or receive more information on the facts of her case and available legal options. For such simple offenses, the AJM's expert system software is programmed to adjudicate the case on the spot, if requested.

Jennifer winces. "Well...I was way over the limit and I didn't have my glasses," she thinks. She inserts her bank card into the AJM and enters her bank ID number. The AJM automatically debits her bank account, issues a judicial transaction receipt, and immediately updates the Lincoln County Court records.

"Thanks for using the Corvallis CDRC," says the AJM. "Please remember to wear your prescription lenses when driving." It adds politely, as Jennifer rushes out the door. It's 9:07 a.m.

"Next time," she thinks, "Grant is going to drive."

Structure of the Courts

Integrated Dispute Resolution System

In the year 2020, the state courts are part of an integrated, statewide system of dispute resolution. This system is commonly referred to as "multi-option" justice because it offers the public a variety of choices. In Oregon, integrated dispute resolution includes the formal court system as well as Community Dispute Resolution Centers (CDRCs) in local communities; court-annexed appropriate (formerly "alternative") dispute resolution venues (ADR); and an expansion of ADR techniques (such as settlement conferences, mediation and arbitration) in the state court system.

- The state court system oversees the integrated dispute resolution system, including some dispute resolution venues outside the courts. It also oversees all disputes except those where the parties have contracted in advance to resolve potential disputes outside the court system.
- As an overseer, the courts educate the public on the available options for dispute resolution, set uniform dispute resolution standards and personnel standards where appropriate and ensure that those standards are met. Court oversight also includes the training and education of professional providers of ADR services.

The state courts are part of an integrated dispute resolution system known as "multi-option" justice because of the variety of choices it offers.

- Jury trials continue to be the centerpiece of the court system. However, the courts have reduced the public's reliance on jury trials as a dispute resolution method in order to reduce the volume of cases and prevent lengthy delays.

Comprehensive Court Restructuring

After a comprehensive assessment of the structure of the state court system, the Oregon Judicial Department has changed or eliminated a number of outmoded, redundant or unnecessary court functions. The result is a more streamlined, efficient court system.

- In the appellate courts, changes in procedure and law have created a more manageable workload. For example, in the Court of Appeals, "appeals of right" have been modified and, in some cases, eliminated. Summary determination of appeals, where appropriate, is now common. In the Supreme Court, certain categories of cases are handled through streamlined, direct review.
- District and Circuit courts have been reorganized under a statutorily empowered Presiding Judge. Judicial districts routinely share trial court judges who have expertise in particular types of cases or legal issues.
- Municipal and justice courts have been gradually phased out and replaced by Community Dispute Resolution Centers (CDRCs). Instead of municipal and justice court judges, dispute resolution specialists at the CDRCs now provide dispute resolution services.
- The state court judiciary has been de-politicized through various reforms, including creation of a merit system for judicial selection and retention. Additionally, judicial working conditions and compensation have been distanced from the political/legislative arena.
- The Oregon Judicial Department (OJD) has strengthened its standing as a third and separate branch of state government. It now owns or leases all state court facilities and controls their maintenance and improvement. Facilities have been updated to accommodate the needs of an integrated dispute resolution system.
- In order to reduce inherent conflicts of interest, OJD is no longer responsible for indigent defense. Instead, a state Public Defender Office, which is budgeted, funded and managed by the Executive Department, provides high quality, low-cost representation for indigent criminal defendants by contracting with local, independent offices across the state.

Reform of Court Operations and Procedures

OJD has reformed state court operations and procedures to improve efficiency, enhance court restructuring, and allow the courts to better handle increased caseloads.

- In the appellate courts, **advanced information technologies** have permanently changed the nature of the record so the bench can quickly and accurately access only relevant portions of the record on appeal. Opinions can therefore be issued more quickly.
- In trial courts, a **case assessment system** now identifies potential cases the court would formerly have processed and routes many of them to more appropriate dispute resolution venues. The court system has set up new ways to docket and arrange cases, especially those involving criminal offenses. It has also placed **standardized time limitations** for court resolution on certain classes of disputes.
- New technologies have changed the **nature of admissible evidence**, especially in criminal proceedings, by enhancing the accuracy and sophistication of information.
- The Judicial Department has worked with the Bar to reduce abuses of pre-trial practice. While motion practice still occurs, the justice system places greater emphasis on the **speedy determination of the facts** and proper application of the law.

Administration of the Courts

Coordinated Statewide Administration

The Oregon Judicial Department has put into place a **coordinated system of statewide court administration** to help the state court system operate more efficiently and effectively and, at the same time, encourage local courts to be flexible and innovative. For example, OJD coordinates the sharing of judges and other court resources among districts to take full advantage of judicial interests and expertise.

- The Judicial Department promotes a **spirit of cooperation with the other branches of state government, as well as other justice system stakeholders**. For example, communication with the Executive and Legislative branches has been improved so the government as a whole can address key problems affecting the courts, such as prison overcrowding, the juvenile justice system, and social problems that have increased the need for dispute resolution services. Advanced information technology promotes the easy exchange of appropriate data and information among state agencies and other justice stakeholders.
- OJD has also **maintained a high profile in the Legislature**, partly to assure support for the constitutional and statutory changes necessary to restructure the court system.
- OJD has also placed **increased emphasis on long-range planning**. The focus of this planning is tracking emerging trends and issues in justice, developing new court policy and procedures, and improving relations with other parts of state government and other justice stakeholders.

Quality Management

The Oregon Judicial Department adheres to the principles of quality management in administering the state court system. Its **work environment reflects a constancy of purpose** and a commitment to continually improve dispute resolution services. OJD recognizes court users as customers, and has increased its attention to customer satisfaction. It regularly assesses public perceptions and, where appropriate, the satisfaction of court users.

- Judges, administrators, supervisors and court personnel acknowledge that every person and activity is interdependent, contributing to the value of the institution. Administration is not conducted in a top-down manner; rather, **employees actively participate in decision-making**. Court administrators play a leading role in

The Virtual Courthouse in the Year 2020



"Judge Garcia?" inquires a digital-sounding voice. "Judge Garcia?" Judge Garcia turns his attention from the notes on his computer screen to the Personal Digital Assistant on his wrist. "What, now?" says the judge. "It is 9:55 a.m.," the PDA continues. "You are scheduled to appear in court in exactly five minutes. Would you like to cancel or re-schedule this hearing?"

"No," replies the Judge. "I'm just finishing...I'll be ready in a minute." And then, under his breath: "Computers. Never leave you in peace..."

Widely known and respected for his extensive background in water resources law in the Columbia Basin, Judge Luis J. Garcia of Umatilla County Court is frequently called upon these days to try water cases throughout Oregon. Today, he will hear a case — electronically — for the Jackson County Court in Medford, over 450 miles away.

The Judge adjusts his robes and positions himself in front of the computer screen in his private chambers. Within seconds, the logo of the OJD interactive court network appears on the screen. After a digital voice print verifying the judge's identity, Jarrod Smith, clerk of the Jackson County Court appears. "Good morning, Judge Garcia," he says. "We've been expecting you. We'll begin our proceedings momentarily. Please stand by..."

Since the establishment of the interactive court network — based on computers, video and fiber optics — "telepresence" in Oregon's courts has become quite common. Judges, attorneys, litigants and witnesses all use the network to appear electronically in various court venues around the state. On occasion, all parties to a hearing — even juries — are brought together electronically, capable of viewing, listening and interacting remotely. A veritable "virtual" courthouse.

At today's hearing "in" Medford, attorneys and witnesses will beam in from Portland, Bend and San Francisco. Computerized, three-dimensional maps of the Rogue River system from the Department of Land Conservation and Development in Salem will be downloaded and displayed. And Judge Garcia will preside from Pendleton. At the end of the hearing, the Jackson County Court's voice-activated computer system will produce transcripts that are electronically transmitted to all parties and attorneys, and downloaded into the state's computer system.



Telepresence has generated enormous benefits for the courts. Judges and administrators across the state are better able to meet and share their expertise. Attorneys and litigants save considerable time and travel expenses. Because dangerous offenders are often arraigned and even tried via video, the courts are safer, more secure places. Best of all, the cost savings for the courts and taxpayers are significant.

Following the hearing, Judge Garcia turns away from his computer screen. Things went smoothly today, although there will be more hearings before the matter is resolved. The Jackson County Court's computer calendaring software will automatically schedule the next hearing, notify participants, and arrange for both physical — and virtual — courthouse space. And Judge Garcia's PDA will be duly programmed to remind him in advance.

"Judge Garcia?" the digital voice re-appears. "Please remember your lunch with Judge Myrna White is scheduled to begin in 15 minutes. She would like to discuss your talk on community involvement at the Pendleton CDRC. Then, at two o'clock..."

Suddenly, the voice stops. Judge Garcia smiles wryly. "Thank heavens for mute buttons. Now, where was I?"

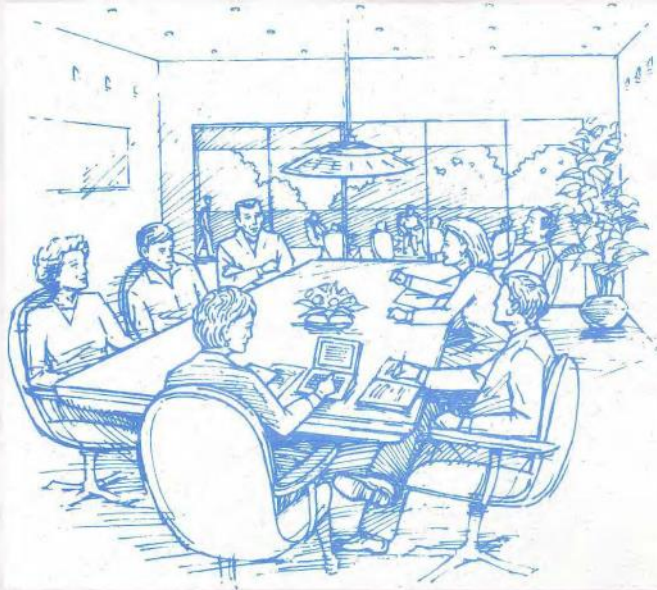


A Tale of Two Juveniles

It's the regular Tuesday afternoon session of the Community Hearings Panel at the Grants Pass Community Dispute Resolution Center. Jason Welty looks up from his seat to see Gregg Boyle entering the room. "Well..." says Gregg as he steps through the security scanner. "If it isn't the Jaz Man." "Boyle!" says Jason. "What are you doing here?"

"What do you think?" Gregg's got a point. Like every Tuesday afternoon, today's schedule is dedicated exclusively to juvenile dependency and delinquency matters: those who are at risk in society because of neglect or abuse they have suffered at home, those who are risks to society because of the harm they've done — or might do — to others, or, as is often the case, those who fall into both categories.

"Jaz" Welty and Gregg Boyle were classmates and best of friends. The two boys shared a love of sports and good times. Once, after a raucous party in the summer of their freshman year, they even had a brief run-in with the law. Nothing serious, but not long after that, everything started to change.



Life at home for Jaz became difficult — especially with an alcoholic step-father. First, Jaz started showing up late for school, then not at all. Friends suspected he was being physically abused — although no one could say for sure. Jaz had always been a bright student with a talent for math and science. He'd even won second place in the Grants Pass Science Fair with his project on nanotechnology. But, lately, his attitude had become belligerent and his grades had plunged.

Gregg, whose home life had always been bad, headed down a different path. It started when he began sneaking into Holodrome, the over-18 holographic rave club, and fell in with a bad crowd. Not long after, he was into drugs, betaphasers — the latest in cheap, disposable weapons — and crime. Gregg dropped out of school his sophomore year. Jaz sensed that he was headed over the edge.

"Mr. Jason Welty," announces the chair of the Community Hearings Panel. Jaz and his parents move into an enclosed conference area for the last of several hearings in his case. Jaz's step-dad initially resisted attending these sessions, but Lynette DeCeasar, the court-appointed juvenile case officer, had reminded him that more serious court proceedings involving child abuse might be in order. So, Jaz and his parents agreed to seek a mediated settlement.

After the panel chair again reminds the family of their legal rights, Ms. DeCeasar, a family therapist and attorney, summarizes the facts of the Welty case and progress to date. It's familiar material: declining school attendance; comments from Jaz's advisor regarding truancy and antagonistic behavior; and a school nurse's report outlining suspect injuries. Ultimately, Jaz's step-dad admitted to the charges of abuse and that he was an alcoholic. Jaz acknowledged his own anger and the desire to strike out at his parents or anyone who got in his way.

Together, the Welty family and members of the panel work out the details of a settlement in which all parties have a stake. Jaz will be put on a probationary school attendance program, including counseling and computerized reminder calls. His parents will undergo mandatory family therapy and attend a parenting class. Jaz's step-dad will resume treatment for alcohol abuse. And the whole family will be assigned to a CDRC Family Support Team, which includes community members who have been through similar experiences. Ms. DeCeasar brings the case to a successful close, satisfied that everyone has accepted his or her responsibilities.

As his parents leave the CDRC, Jaz decides to wait outside for word of Gregg. When it comes, there's no surprise. Gregg's escalating criminal behavior — vandalism, drug abuse, burglaries, and now, a senseless act of assault — have prompted the panel to recommend that his case be remanded to adult court for resolution. It's clear that he has finally stepped over the edge. Whatever happens, it probably will be a long time before Jaz next sees his old friend.

facilitating employee training, education and decision-making.

- Employees are an integral and valued component of the Judicial Department. Judges and employees continue their work together with a greater emphasis on quality management principles that define, communicate and guide the management process.
- All employees are highly educated and well-trained. They learn the basic skills of group facilitation, efficient use of technology, and interpersonal job skills through on-the-job training. They are also cross-trained to learn about other jobs. Training is designed to empower employees and encourage ideas for improvement from those who have first-hand experience with a particular process.
- OJD regularly monitors and evaluates innovations in court administration to determine their effectiveness. It uses the results to continually improve existing programs and services. Innovations that prove unsuccessful or ineffective are dropped.

Advanced Technology

The state courts now use advanced computer, telecommunication and information technologies. These allow appropriate information to be exchanged quickly and easily between the courts and other justice-related agencies. These information systems also contribute to improved administration and record-keeping.

- Technology has had a major impact on the delivery of justice, though not at the expense of human contact when necessary and appropriate. By using the fiber optic "information highway," the state courts have achieved total interactive capability in their own system and with court-annexed dispute resolution venues.
- Technology has helped minimize the impact of an increasing volume of potential court cases. Electronic imaging and voice-activated computer systems are used to create and reference documents, making the "paperless courthouse" a reality. Few administrative functions are now performed in the courtroom. Judges can devote less time to case management and more time to adjudication.
- Instead of people being physically moved around the venues in the justice system, information and video images are more commonly moved. Judges with specialized expertise can hear cases from any court or court-annexed venue in the state via video and fiber optics or satellite. Litigants and witnesses can also take advantage of these features. Video-based and remote courtroom testimony have completely changed courtroom calendaring and motion practice.
- Anyone can access the Judicial Department's advanced computerized state court database for a modest fee. This arrangement not only generates revenue for the courts, but also contributes to faster case resolution. Case settlement has become more common because people are able to determine the statistical probability of a certain legal course of action succeeding in a given venue. This has helped reduce court caseloads.

The totally interactive, paperless courthouse is a reality.

Enhanced Security

The Oregon Judicial Department has strengthened its commitment to assuring the security and safety of all persons involved in the judicial process. Working with other stakeholders, the state courts have taken both preventive and responsive actions to ensure that public disputes are safely resolved for all concerned.

- Although there is still a need for enhanced security in the courthouse, the state courts have become far more effective in managing potential conflicts. The heightened emphasis on non-adversarial approaches to justice has reduced some of the state courts' most challenging security problems. For example, far fewer domestic relations cases are litigated in the courts. Potential anger and violence by litigants in the courtroom have been diffused with the shift toward ADR.
- Security issues that have not been diffused are handled by highly effective technologies and security

measures. Entering a courthouse is now similar to boarding an airplane. Security has been enhanced by metal detectors and other security devices, electronic identification systems, more secure judicial chambers, and other advanced technologies. Court personnel and court users are also more protected from exposure to communicable diseases.

- Security measures put in place at Community Dispute Resolution Centers (CRDCs) and other ADR venues have also addressed potentially violent disputes formerly litigated in the courts. The CRDCs generally provide a non-adversarial, user-friendly atmosphere that helps diffuse violent conflict.

Non-adversarial approaches and new security measures have enhanced the safety of all persons involved in the judicial process.

- Beyond the courthouse and CDRCs, new technologies are used to monitor, supervise, control and treat probationers. Technologies once considered highly experimental are now used for the control and treatment of high-risk criminal offenders or those with addictive behaviors. They have greatly reduced the need for post-conviction criminal proceedings in the courts.

Improved Jury Selection & Education

- Juries are assembled and used far more effectively than in the past. Through expanded jury lists and other efforts, the state courts have begun creating juries that more accurately reflect the full population.
- The courts use computerized jury selection, coordinated courtroom calendaring and improved docket management to provide potential jurors with more certainty regarding when they will serve and for how long. The courts maintain a conscious effort to treat jurors with greater respect, dignity and sophistication.
- OJD's public education and outreach efforts have underscored to the public the important role of juries, as well as citizens' rights and responsibilities regarding jury duty. Consequently, jurors have become more willing to serve than in the past.

Access to Justice

Multi-Option Justice

In an integrated system of dispute resolution, citizens can choose from a number of judicial options and legal services available to the public. This multi-option approach has created more satisfied customers. The national pattern of delays in trials, appeals, lack of control, and lack of responsiveness does not exist in Oregon.

- The courts actively encourage citizens to use the multi-option justice system at the most appropriate level. Community Dispute Resolution Centers are the simplest, most direct and least expensive option for resolving disputes. Users retain the right to select the dispute resolution venue of their choice. However, as has always been the case, they must pay more for those dispute resolution venues that require more time or resources. The cost assessment mechanism accommodates the needs of low-income litigants.
- The state, the courts and the Oregon State Bar work together to assure that no one is denied access to the most appropriate dispute resolution venue because of inadequate resources. They have also worked together to eliminate social, cultural and linguistic barriers to the delivery of justice and to make justice services available to all persons with disabilities.

Community Dispute Resolution Centers

Community Dispute Resolution Centers are the "front door" of the multi-option justice system. These community-based centers throughout the state provide access to justice for all persons. They bring the justice system to the community level and vastly improve the state court system's ability to handle an increasing volume of cases.

A Day in the Life of a Problem-Solver



"Dana? Are you ready to review today's calendar?" Well, not quite. Lawyer Dana Green is recalling the incredible vistas from her recent Himalayan trekking adventure when her voice-activated computer interrupts. That was the most exciting vacation she's had in a long time, she thinks. Well...actually, the only vacation. But it's 8:00 a.m. Monday, there's a pile of work that's been building up in her absence, and a very insistent computer ready to roll.

"At least I don't have to be in the office for a few days," Green thinks as she enters the den of her Parrett Mountain condo outside Newberg.

"I'm here, Maude..." says Green, speaking in the direction of the computer she's named after a feisty old aunt. "Let's start." Accessing data from the main computer at the firm of Bryson, Briggs & Nathanson in McMinnville, Green's computer begins laying out her busy schedule for the week.

As a bright and talented young attorney in booming Yamhill County, Dana Green's calendar is rarely open these days — even when she's on vacation. But, it's her success across the meeting table — not in front of the bench — that has earned her such a large and satisfied clientele. Green's legal training focused almost exclusively on non-adversarial dispute resolution techniques, and today, she's part of a new generation of attorneys that rarely sees the inside of a courtroom. Her calendar confirms this fact...

"At nine o'clock, you are scheduled to meet with David and Caitlin Weston about their mediation session with neighbors at the Newberg CDRC. It's about a damaged fence," says Maude. "You need to describe the process, what they can expect, and options for appeal." "Right," says Green. "Hopefully they'll see that mending their friendship is more important than fixing fences. Please route them directly to my terminal here for a teleconference. Continue calendar..."

"At 10:00, you've reserved time to review the facts in the Garrison winery case to determine what will be presented at the case assessment conference next week," Maude continues. "Your client is suing and would like to take the case to a jury." "Yes," replies Green, "and I'm sure that's not what the court will recommend. The amount in contest is significant, but the facts don't argue for a trial. Just the same, please compile all the relevant information, download it here, and I'll take another look. And schedule a call to Mr. Garrison. I'll see if I can talk him into some mediation."

Green glances at her watch. If she were in Nepal right now, she'd probably been taking in the spectacular late afternoon view of the massive Annapurna Range... "Dana?" Maude interrupts again. "Oh, sorry...what's next?"



Maude runs down the rest of Green's ambitious day. After lunch, she'll be reviewing information downloaded from the state court database to determine average awards in slip and fall cases to advise a client on accepting a settlement offer. At two, she's scheduled to chair an electronic mediation session for two fellow attorneys locked in a bitter conflict over pre-trial discovery issues in a criminal case. A great opportunity, she thinks, to model some non-adversarial approaches for members of the criminal bar. Finally, there will be more mediation in a domestic relations case.

Having cleared all this work out, Green may even have a little time to prepare for the week's big event: an in-person review in McMinnville for a potential partnership in the firm. Among the established promotion criteria they'll be addressing: the number of cases Green has successfully resolved out of court and the satisfaction of her mediation and settlement clients. "How far we've come..." Green thinks, "...and how far away I'd still like to be."

Obviously, this is one trip Dana Green isn't going to shake off any time soon. Maybe if she makes partner, the next adventure won't be so far in the future...

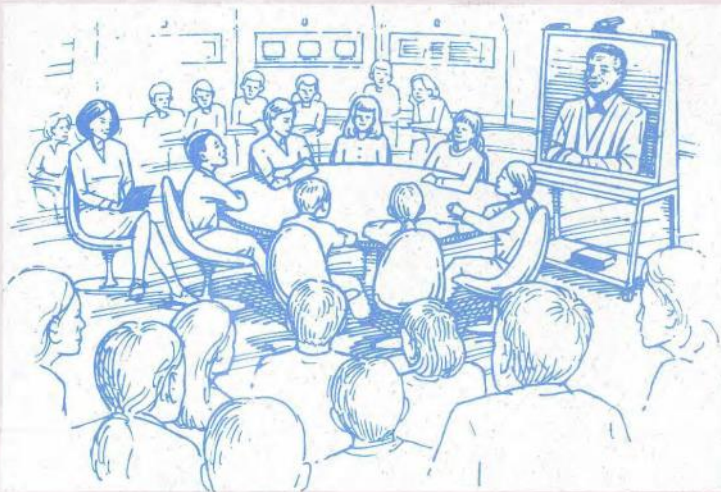


Our Single, Wisest Investment

"Children...children?!" School counselor Geri Shimano surveys her gregarious young audience. Slowly, the group of fourth and fifth graders selected to participate in today's meeting of the Conflict Management Team at Ponderosa Elementary School in Bend quiet down.

"Children...you've all learned in class how we can manage our conflicts without resorting to violence," says Ms. Shimano. "Well, the Conflict Management Team helps students resolve disputes they can't seem to settle by themselves. Today, we'll be hearing from several of your classmates — and you'll learn how we can find solutions to their problems."

"But first," says Ms. Shimano, "we have a special visitor joining us who I'd like to introduce. Please say hello to Judge Jackson Avery of the Oregon Court of Appeals," she says, gesturing in the direction of the two-way video screen. "He's beamed in from Salem today to see how we manage conflicts at Ponderosa School — and later, he's going to take us on an interactive tour of the state court system." An audible wave of anticipation sweeps over the room.



Black-robed, silver-haired Jackson L. Avery Jr. clears his throat from the OJD's Division of Public Education and Outreach in Salem. Today is his first appearance as judicial educator emeritus — a voluntary role often filled by retired judges. During his 25 years of service on the bench, Judge Avery, along with his colleagues on the bench, has participated in numerous judicial education efforts. He's long looked forward to the day when he could devote more attention to this special role.

Judge Avery's participation today is a reflection of the Oregon courts' established tradition of community education and commitment to young people. Comprehensive justice education at an early age is seen as the single, wisest, most cost-effective investment the courts can make in resolving disputes, preventing criminal behavior, and enhancing the delivery of justice.

At Ponderosa School, resolution of disputes begins when children in fights or other conflicts are approached by a volunteer member of the CM Team, a kind of roaming Safety Patrol for conflict management that tries to mediate disputes. If disputing children can't — or won't — resolve their conflicts, the team member invites them to the next CM Team meeting, where they can iron out their differences with the help of other children.

"Thanks, Ms. Shimano," says Judge Avery. "Hi, kids. Now, I know that you know the basic steps for resolving a conflict — but can someone tell me what they are?" Eight or nine hands shoot up into the air. Ten-year-old Zara Leighton repeats what everyone seems to know: "You...um, share information, then define the problem, then...evaluate the options, and finally you try to agree on a solution!" she says, sitting down before she barely finishes her sentence. "Great!" says the judge. "Well, now that I know there's not much I can teach you, I think I'll just sit back here and see what you can teach me..."

Geri Shimano moves the group into a formal dispute resolution session. The CM Team sits in an inner-circle, surrounded by the rest of the children. Today, three sets of children will come forward. Guided by Ms. Shimano, the CM Team helps the students talk to each other, clear up misunderstandings, and come up with solutions to their problems — all while students in the outside circle observe intently. Open communication and creative problem-solving are key. Two disputes are successfully resolved. Ms. Shimano suggests that the third be continued as a private mediation session.

Ponderosa School's professionally facilitated, student-run, parent-assisted conflict management system has generated many benefits for the school, just as it has around the state — encouraging children to take responsibility for their actions, promoting non-adversarial dispute resolution, and saving time and resources that might otherwise be diverted into disciplinary programs. Dreaded visits to the principal's office, by and large, are a thing of the past.

To the distinguished adjudicator beaming in from Salem, the proceedings are impressive indeed. "The future of justice," he thinks, "is in good hands." Judge Avery turns to his young audience. "Now...how about that tour of the courts?"

Community-based dispute resolution has helped to re-integrate society back into the justice system.

- CDRCs provide a number of judicial services, including **simple, accessible information** on the state's integrated dispute resolution system. Anyone who comes to a CDRC can use electronic information kiosks or talk with on-site customer service representatives to learn which venue is most appropriate for resolving their dispute and how to access it.
- CDRCs provide **dispute resolution services** in the form of trained, community-based adjudicators, mediators and counselors. In addition, they offer **user-activated systems** for the adjudication, assessment and payment of infractions. Users can also access this service from their homes and offices via information highway channels.
- Local businesses, community groups, volunteer organizations and citizen volunteers are actively involved in establishing and operating CDRCs. Their donation of time and resources encourages **community involvement in the delivery of justice** at the local level.

User-Friendly Dispute Processing

Technology has become a major factor in assuring the prompt, reliable and efficient resolution of disputes. Without advanced technology, the large increases in caseloads could not be processed by the court system, even with additional dispute resolution options. The public expects **technologically sophisticated, user-friendly service** from the judicial system, just as it expects elsewhere. At the same time, people want human beings — whether mediators, judges or juries — to control the justice process and exercise final judgment.

- The public and potential users of the justice system can learn about the multi-option justice system through a **judicial information hotline, public access cable programming, and electronic kiosks** in CDRCs and major public buildings throughout the state.
- Questions can be answered via **voice-activated "expert systems"** — computers with advanced problem-solving capabilities. These systems can also explain dispute resolution options, estimated time for resolution and probable costs of adjudication. Minor infractions can be quickly processed through automated systems that handle adjudication, fine assessment and payment.
- **User fees are attached to all technology-based services** for dispute resolution to help pay for the services. These fees are far less than the costs of using the court system itself.

Resolution of Disputes

Non-Adversarial, Preventive Justice

Adversarial modes of dispute resolution are on the decline. More and more disputes are initially addressed through such measures as counseling, facilitated dialogue

and mediation. This **preventive approach to dispute resolution** emphasizes conciliation over confrontation.

More and more of society's disputes are addressed through counseling, facilitated dialogue and mediation.

• Dispute resolution approaches that the courts once viewed as alternative are now considered mainstream. For example, **settlement conferences** are used in almost all cases, including those on

appeal. As a result, jury trials are used for a much smaller percentage of cases.

Multiple Dispute Resolution Options

- The multi-option justice system gives the public a **menu of dispute resolution options**. Those options include Community Dispute Resolution Centers, other court-annexed appropriate dispute resolution venues, and the state court system itself. Both court and court-annexed dispute resolution venues and services are operated under the aegis of the Oregon Judicial Department to

ensure a process that results in fairness, equity and quality of justice. OJD monitors court-annexed dispute resolution venues to ensure that proper procedures are followed.

Case Assessment Centers

Potential cases entering the court system are first brought to case assessment centers for a **pre-trial, comprehensive screening**, where a determination is made regarding the most appropriate venue for resolving the dispute. This critical process, considered a judicial function, is sophisticated, consistent and valid. Case assessment occurs before any case is actually filed.

- Potential litigants have the **right to select a dispute resolution venue** not recommended by the case assessment center. However, they must pay more if greater time and resources are involved; taxpayers are not solely responsible for these additional costs. Court fees are

structured to reflect the actual costs of non-recommended court uses.

Potential cases undergo a comprehensive, pre-trial screening process where a determination is made regarding the most appropriate dispute resolution venue.

- Through the case assessment process, many potential cases are routed to court-annexed dispute resolution venues, reducing the overall volume of court cases and saving taxpayers considerable money. Trial courts rarely process small claims, landlord/tenant actions, or traffic infractions. For example, traffic infractions are usually handled by CDRCs or the Department of Motor Vehicles.

• The Bar, state legislators, police, corrections and other justice system stakeholders have been actively involved in developing the case assessment system. The Bar is also involved in the actual case assessment process. Lawyers still represent clients during case assessment, but act as problem-solvers first and litigators second only if non-adversarial options are not appropriate.

Criminal ADR

Appropriate dispute resolution is now used throughout the criminal justice system following **established standards and guidelines**. A menu of criminal ADR options is available statewide. This non-traditional approach to criminal justice has helped mitigate the continual increase in criminal cases facing the courts.

- Stakeholders in the system (the courts, district and defense attorneys, probation and parole officers, corrections personnel, etc.) act as problem-solvers. They **work more collaboratively** than in the past, using criminal ADR methods and techniques.
- ADR methods and techniques are used at **every stage of the criminal process**. For example, if an offender chooses and it is appropriate, law enforcement officers are authorized to determine and impose a sanction immediately, or refer the matter directly to a CDRC or other venue for further action. At the time of sentencing, offenders in cases of alcohol, sex, drug and spousal abuse may receive technological, biological or chemical restraints in lieu of other criminal sanctions.
- Criminal ADR focuses resources on the **victims of crime, their families and communities**. Most criminal cases are titled in a new manner; e.g., the Victim and the People vs. the Offender. Victim or community advocates are active participants in the criminal ADR process.

Juvenile Justice

The state courts have profoundly changed the way they approach juvenile justice. **Juvenile justice now involves the entire community**, not just the formal court system. Two major areas are emphasized: children who are considered at risk in society and those considered to be a risk to society.

- CDRCs focus community resources on **children at risk in society** — those who may become serious offenders or those who have been abused or neglected. For example, in dealing with offenders in delinquency matters, CDRCs may use creative methods to hold children

Changing Sentences, Changing Lives



Portland Police Officer Jack Pratt looks up from his holographic monitor to the young, first-time offender sitting in front of him. The image on the screen and the young man across his desk are one and the same.

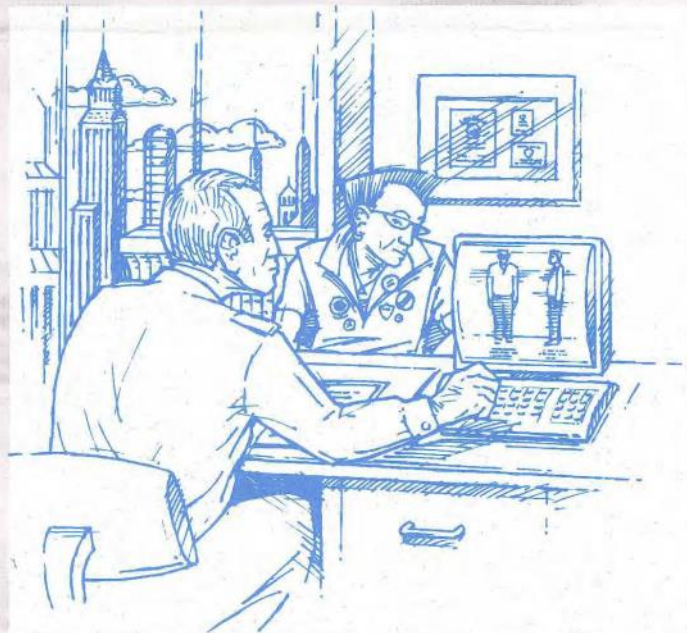
Officer Pratt is all business. "I guess you know why we've asked you down here Mr. Bender," he says sternly. Milo Bender, a university drop-out and member of the Cybergenes, one of the slickest hacker gangs to hang out in the electronic world of computer cyberspace, swallows hard.

"Look, Bender," says Pratt after reading Milo his rights, "we've been tracking your digital graffiti all over the internet for weeks. We've got evidence on you from BizNet to CompuWorld. And we've got witnesses. You've done a lot of damage. Now, do you want to talk?"

Milo's mind races. He knows he doesn't have to say anything, but Pratt is on to him. He could be charged with Computer Mischief in the Second Degree. If convicted, the sentence would be tough. He also knows there might be alternatives to sentencing and conviction if he cops to his crime now. The options would definitely be fewer and tougher next time. He only has to think of his former gang mate, Ron "Mega" Hertz...

Mega was just a small-time hacker until he was introduced to Nirvana, the highly addictive — and illegal — designer drug. Soon enough he was hooked and deep into computer crime to support his habit. After arrest on his third major data heist, Mega volunteered for an alternative criminal sanction on the advice of his attorney. A court-appointed physician concurred and the judge agreed. The prescription: genetic therapy to correct his chemical addiction dysfunction — the real cause of his criminal behavior. Following successful treatment, Mega had completely kicked his habit and disappeared from the back alleys of cyberspace.

But Mega got off easy compared to some people. Milo recalls the recent news item concerning Mike Nifer, a long-time criminal charged with Assault in the First Degree. Nifer's assault victim had suffered severe bodily injuries. For the rest of his life he would be confined to an Impaired Movement Support Vehicle. In lieu of the maximum sentence, the judge accepted a plea bargain in which Nifer agreed to one day a week of Virtual Reality therapy, both during and after incarceration. Through interactive VR software, Nifer would live the computer-simulated life of his victim in vivid detail for years to come. Tougher than jail, some people said...and very effective.



Milo decides to come clean. He's too young and too smart not to realize there are better things to be doing with his life. After a quick computer search confirms Milo's otherwise untainted record, Officer Pratt decides not to press criminal charges. Instead, he recommends Milo for community-based corrections.

Within a week, Milo and his attorney appear before a volunteer community corrections panel at the Southwest Portland CDRC. After a short hearing, he consents to 150 hours of community service sharing his extensive computer skills with disadvantaged school children, a \$2,500 contribution to the non-profit ADR Community Fund which assists low-income justice system users, and the stipulation that his offense will be referred immediately for prosecution in the event of non-payment or repeat violations. Milo's family is party to the agreement.

"No trial, no time, nothing on my record," Milo thinks as they leave the hearing. "Man...this could have been a lot worse. Besides...I can show those kids some pretty hip programming tricks."

accountable to their community and provide education or training. In dependency matters, CDRCs may offer family therapy or provide referrals to other treatment providers.

- The formal court system is used as the venue for resolution of serious crimes committed by juveniles; *i.e.*, children who are a significant risk to society. Although these matters are resolved in adult courts, the court considers the age of the offender in sentencing. The formal court system is also used as necessary to protect children at serious risk in society when the preventive measures of CDRCs have failed.
- The state court system has also broadened its involvement in addressing juvenile needs and issues. The courts actively promote and support community education efforts aimed at early childhood prevention, treatment and counseling programs that help keep children out of trouble.

Use of Juries

Jury trials are still seen as the anchor of the state court system, providing the fundamental assurance of justice in criminal and civil cases. The state court system is committed to preserving and protecting the right to a jury trial, but it is also dedicated to reducing the public's reliance on jury trials to resolve disputes. While the absolute number of jury trials has not declined substantially due to an increasing population, the percentage of cases resolved by juries has dropped significantly due to the rise of new approaches to dispute resolution.

- The state courts have worked to reduce inappropriate uses of jury trials. In addition to introduction of the case assessment process, the state constitution and statutes have been revised to establish much stricter requirements for the use of a jury trial. For example, the minimum amount in controversy in a civil dispute has been raised to \$5,000 (in 1994 dollars). For amounts higher than this statutory minimum, access to a jury trial is not determined by the amount in controversy, but by the issues at stake and/or the rights of the parties involved. In addition, the need for jury trials in criminal cases has been reduced through other dispute resolution methods.
- The state courts have also worked to make those jury trials that are appropriate more affordable. Smaller juries are commonly used (six as opposed to 12 jurors), reducing the time and expense of empaneling a jury.

A Changing Legal Profession

The role of attorneys has changed substantially in the multi-option justice system. This is mainly due to

Attorneys increasingly serve as facilitators and problem-solvers, guiding clients through the multi-option justice system.

the decline of the adversarial model and the rise of new approaches to dispute resolution. And while attorneys still maintain a highly visible role as litigators, those who successfully settle matters

out of court or without a jury trial are highly regarded by their clients and peers.

- In working as problem-solvers, attorneys have developed new ways of defining and resolving discovery and pleading issues without direct court intervention.
- The high volume of disputes now processed out of court and the growing demand for new kinds of legal services has broadened the scope of the legal profession. Attorneys increasingly serve as facilitators and problem-solvers to guide clients through the venues of an integrated dispute resolution system. They also act as professional counselors, mediators, arbitrators and private judges.
- The formal system of legal education, including continuing legal education, reflects these changes in the profession. Legal curricula reflect a broader range of inquiry and provide training in psychology, counseling, group process and facilitation, mediation, arbitration and conflict resolution. More law students have begun to specialize in these areas.
- The Oregon State Bar has been encouraged and supported by the judiciary to take a leadership role in long-

range planning. The Bar has developed and implemented a vision for the legal profession in an integrated dispute resolution system.

Public Education and Outreach

Multi-Option Justice Education

As overseer of the integrated system of dispute resolution, the Oregon Judicial Department has assumed an aggressive role in educating the public. OJD wants to enhance

Outreach and education are the cornerstone of the multi-option justice system. Education begins at an early age with the teaching of conflict resolution.

public awareness and understanding of both the judicial process and the integral role of courts in society. These efforts are considered important long-term investments in the future health of society and delivery of justice.

Outreach and education are the cornerstone of the multi-option justice system. The state courts actively support efforts to help people understand and exercise their options for resolving disputes. Educational efforts begin at an early age with the teaching of conflict resolution in schools. Information is widely distributed through a variety of channels. On-site community education and outreach services are available through Community Dispute Resolution Centers statewide.

- OJD's Division of Public Education and Outreach facilitates these public education and outreach activities. It oversees all of the department's community outreach and education efforts and coordinates all employee training and education.
- OJD also contributes to the operation of the Oregon Judicial Channel, a public access cable channel. The Judicial Channel gives consumers continuous access to information on the multi-option justice system, provides coverage of important local, regional and statewide court proceedings and legal matters, and features special programs on emerging social and legal issues that affect the delivery of justice.

Legislative Education and Involvement

- The state courts recognize the Legislature's critical role in the funding of the multi-option justice system. The courts have not only maintained their traditional liaison with lawmakers during legislative sessions, but have also developed a comprehensive, ongoing program to inform and educate state legislators on the court system and involve them in finding new solutions to judicial problems. Legislators are often invited to serve as advisors in the administration of the courts; *e.g.*, they assist in the development of Case Assessment Centers.

Community Leadership

Sentencing and Court Conduct

- Judges have taken a stronger role in enforcing their sentences. They supervise individuals on bench probation, oversee educational efforts to break the vicious cycle of poverty and violence, and use video and other educational tools to help offenders understand the financial and emotional impacts of crime.
- With the cooperation of the Oregon State Bar, judges also work directly with attorneys to curb overzealous advocacy, including argumentative conduct, refusals to negotiate and frivolous motions.

Community Educators

Education of the public is imperative for the integrated dispute resolution system to work. The judiciary as well as OJD administrators and employees are involved in community education as much as possible given limited resources, the constraints of judicial ethics and the need for judicial independence. The judicial code of ethics has also been broadened to recognize the changing role of judges in society.

- The OJD Division of Public Education and Outreach helps judges, administrators and employees carry out their role as community educators. Some judges and administrators, especially recent retirees, focus almost exclusively on public education. Judges, administrators and employees are encouraged to become involved in social issues that affect the court system while still maintaining their independence. They are especially involved in advocating the protection and nurturing of children in society.

Quality of Justice

Career-Oriented Employees

The state court system strongly promotes the concept of career employees. Judges, administrators and employees see their positions as long-term commitments, beginning with their education and training. Career flexibility and other workplace enhancements make careers in the Oregon Judicial Department even more attractive.

Judicial Expertise

Most judges are distinguished by specialized expertise in a certain aspect of law. They can tailor their caseloads to match their specific skills and interests by taking advantage of more choice and flexibility in case assignments. Trial court judges with specialized expertise act as resource persons for the entire court system. These judges travel physically or electronically to other districts where their skills are needed.



Lifelong Learning

OJD has significantly improved training and education for its employees. The department encourages and helps employees expand their knowledge base. Employees attend advanced educational seminars and receive regular training in areas related to on-the-job performance, including quality management and new information technologies. Employees are given a certain amount of time to stay current with legal issues related to their positions. Judges and administrators are encouraged to take advantage of periodic, career-oriented sabbaticals.

Job Satisfaction

The work environment for OJD employees has become more positive and productive due to increased career flexibility, advanced training and education, quality management, more opportunities to solve problems, appropriate compensation, and improved working conditions. These changes have made the state court system a less stressful and more enjoyable place to work. Despite new demands on judges, administrators and employees, job satisfaction is high. The employee turnover rate has declined significantly.

- Even though judges earn less than highly paid attorneys or business managers, judicial compensation and working conditions are desirable enough to attract and retain a dedicated, highly competent judiciary.

High Performance Workplaces

As a result of quality management, the Judicial Department has instituted vigorous educational and retraining programs. Barriers between departments have been largely eliminated. There is a commitment to quality and a constancy of purpose. The result is high performance teams that foster employee accountability and the delivery of quality dispute resolution services.

Where Are We Going?

Megatrends, Forecasts, and the "Probable" Future

The Future of the Courts Committee's third step in envisioning the future state court system was to consider the probable future — or where the courts are currently headed. It began by identifying major societal trends driving the justice system in general and the courts in particular. Next, the Committee developed a series of forecasts for future state court use. Finally, it created a probable scenario for the state court system in the year 2020 based on these trends and forecasts.

Justice Megatrends: Eight Trends Driving the Future of the Courts

In order to determine where the state court system is headed, the Future of the Courts Committee identified eight overarching trends that it believes will have a sustained impact on the Oregon state courts between now and 2020. These justice "megatrends," as they were called, fell into three broad categories:

- Trends reflecting a changing society
- Trends affecting court dockets and caseloads
- Trends affecting the administration of the courts

These trends shared several common features: First, they are largely national in scope. Virtually every state court system in the country faces a similar set of challenges. Second, many of these trends are driven by powerful, long-term demographic, economic and technological forces. Absent the emergence of countervailing forces, there is every reason to believe that these trends will continue. Third, while some of these trends have positive implications, most pose serious challenges for the courts.

The eight justice megatrends are described in greater detail below:

- **Increasing Societal Disintegration.** American society is entering a period of increasing disintegration. This trend has two elements. First is an on-going cycle of **poverty, violence and crime**, driven by a number of factors,

Our nation is moving out of a waning industrial era and into an emerging communications era.

including discrimination, unemployment, illiteracy, lack of education, increased mobility and rootlessness, weakened family structure, drug and alcohol abuse, child neglect, and more. In recent years, this vicious cycle has also been exacerbated by a restructuring economy, declining family-wage jobs in traditional manufacturing industries, and diminished funding for education and social services.

The cycle of poverty, violence and crime has enormous implications for the future of the state court system. Domestic violence and the resulting number of requests for restraining orders have inundated state court dockets. Criminal cases with multiple defendants are becoming much more complex and time-consuming to adjudicate. Juvenile cases are also becoming more complicated.

The second element of this trend is an **atmosphere of social alienation and mistrust**. This can be seen in a general decline of societal involvement and adherence to

society's established norms, ethics and values. A number of related indicators tend to support this thesis: decreased voter turnout, declining charitable contributions, shrinking membership in religious institutions, and lowered response rate to the census, for example.

Given such an atmosphere, two distinct attitudes regarding the courts appear to be emerging. Some people believe that the courts should solve most if not all of society's problems, and are frustrated or angry when they do not. Others believe that the courts *cannot* solve their problems and simply resort to other means. Anecdotal evidence abounds in which the justice system has been by-passed by people who feel compelled to take the law into their own hands or seek "instant resolution" of their disputes. Such attitudes, if they continue to grow, have serious implications for the future of justice.

- **Growing Racial, Ethnic and Cultural Diversity.** The second megatrend is growing racial, ethnic and cultural diversity. Although Oregon has a relatively small minority population compared to many parts of the country, it is swiftly moving toward the national multicultural norm. Population growth driven by in-migration, the arrival of new minority groups, religious and ethnic enclaves, and the growth of other cultural minority groups among the general population is visibly changing the face of Oregon.

Oregon's growing diversity is likely to affect the courts in two ways. First, there will be increased **pressure on the courts to recognize the needs of minority populations**. Persons of minority ethnic, religious or cultural backgrounds often have different behavioral norms and expectations regarding the justice system. The need for greater understanding and sensitivity on the part of the courts will become more pronounced. In turn, these new groups will be expected to learn about the American system of justice and to abide by its basic standards of conduct. Second, there will be increased **pressure on the courts to reflect the diversity of the general population** in the composition of the judiciary and court staff.

- **Increasing Volume of Litigation.** A trend of major consequence for the courts is the increasing volume of litigation. Most indicators show that caseloads in Oregon's courts have been expanding and will continue to expand in the future. Caseload statistics from the last 10 years of available state court data provide the most concrete evidence. From 1983 to 1992, the rate of increase for case filings in district, circuit and appellate courts increased significantly faster than the rate of increase in the state's population. Domestic relations cases represented the fastest growing case type. Given the trend of increasing societal disintegration, it is probable that the number of potential court cases will continue to surge. Whether all of these potential cases actually end up in the courts is difficult to predict. If they do, however, the long-term impact on every aspect of the state court system could be overwhelming.

- **Increasing Reliance on Alternative Dispute Resolution (ADR).** At the same time that state court caseloads have been growing, there has been a significant countertrend toward greater reliance on the use of alternative methods of dispute resolution (ADR) — both inside and outside the formal court system. The rise of ADR may become a significant mitigating force in the uncontrolled increase in state court caseloads. Although it has yet to demonstrate its full potential in this regard, there is

every reason to believe that use of ADR will continue to accelerate. The growth of ADR within the formal court system, establishment of the Oregon Commission on Dispute Resolution, and activities of the ADR section of the Oregon State Bar are signs of ADR's growing acceptance within the wider justice system.

- **Increasing Legal Impact of the Elderly.** One of the most powerful demographic trends affecting the courts is the aging of the population. This trend is driven by the sheer size of the baby boom generation — or those Americans born between 1946 and 1964. The majority of baby boomers will turn 65 between 2010 and 2020. Thus, elderly Americans will represent a larger portion of the population, with enormous implications for housing, health care and related concerns. An aging population will have a major impact on court dockets and caseloads, not only in the increasing amount of probate work, but also in conflicts over family assets, pension disputes, suits on age discrimination, elder abuse and right-to-die cases, litigation over the use of life-sustaining technologies, and more.

Many of these trends are driven by powerful, long-term demographic, economic and technological forces.

- **Growing Impact of Science and Technology.** Another megatrend affecting the courts are ongoing scientific and technological advances in society. As advanced research and development progress in such fields as computers, electronics and biotechnology, a host of innovations promise to revolutionize our society. The courts, in turn, will be affected by these innovations in two significant ways.

First, technology will introduce entirely **new sources and types of information** into the legal fact-finding process. Examples include increasing access to information from the computerized databases of other legal or scientific institutions; the enhanced ability to measure and interpret scientific or technological evidence; and new chemical, biological and medical tests for determining human identity, analyzing genetic traits, or measuring predisposition to disease.



Secondly, there will be an increase in court cases involved in the **social impact of science and technology**. Genetics and

bioengineering alone are likely to create a host of new legal issues that end up in the courts. Other possible areas of litigation that may be affected include insurance and employment rights, parenting and adoption, civil rights and privacy, employment displacement, and toxic torts.

Science- and technology-related litigation will increase the length and complexity of many court cases. It will also involve multiple parties and interests in major suits that take years to resolve. Juries and judges are likely to be asked to decide increasingly more complex scientific and technical questions in matters that currently have no clear legal precedent, requiring higher levels of understanding and sophistication.

- **Expanding Use of Information Technology.** The rise of new information technology is one of the major driving forces in the United States today. Our nation is moving out of a waning industrial era and into an emerging communications era, driven by microprocessors, computers, software, satellites, fiber optics and more. The emergence of the "information highway" promises to accelerate the flow of data and information. Other innovations portend even more dramatic changes in the use of information.

The state court system is already highly involved in computerized case-tracking and accounting systems. The courts and other justice agencies are also experimenting with video arraignment, document imaging systems and the use of hand-held computers. However, these developments represent only the beginning of a potential revolution in the way the justice system uses

information. The advent of new technologies will offer exciting opportunities to streamline, upgrade and democratize the use of information and, thereby, the delivery of justice.

However, adoption of such technologies in the courts is by no means a given. Possible opposing forces include legitimate questions concerning the impact of technology on the quality of justice, pockets of institutional resistance and, above all, the availability of adequate funding.

Perhaps the most difficult megatrend to measure or predict is the level of funding for the state court system.

In the final analysis, the expanding influence of information technology on the courts is probably inevitable: it's not so much a question of whether the courts will adopt such innovations, but how quickly and to what degree.

• Growing Inadequacy of Funding and Facilities. Perhaps the most

difficult megatrend to measure or predict is the level of funding for the state court system. Despite increases in the state court budget over the last decade, the courts have had greater difficulty maintaining their traditional quality of justice in the face of growing caseloads and declining facilities. Staffing of the courts has barely kept pace with increasing court caseloads. Inadequate, outmoded, overcrowded facilities have begun to impede access to justice and encroach on public safety.

Given a long-term trend of increasing caseloads and barring the identification of new sources of funding or other forms of intervention, it is likely that adequate funding will not be available to sustain current levels of performance, and the quality of justice in the state court system will suffer. Inadequate compensation will lead to higher levels of judicial turnover, with more people deciding against service on the bench. Staffing of the courts will face a similar challenge.

Funding concerns are not exclusively limited to the courts; other aspects of the justice system in Oregon are equally threatened by the debilitating impacts of inadequate funding. If courts are to punish and rehabilitate, there must be sufficient law enforcement personnel, prison beds, treatment programs, and parole and probation officers. Inability to adequately fund these services will, in turn, have damaging implications for the functioning of the courts.

The number of cases filed represents a rate of increase of 178 percent — roughly four times greater than the estimated rate of increase in the state's population.

Reviewing these eight justice megatrends, the Committee foresees major changes for the state court system in the coming years. Three of these trends in particular — increasing societal disintegration, increasing volume of litigation, and the growing inadequacy of court funding and facilities — may join

forces to have a powerful, synergistic affect, creating a virtually unstoppable force that literally drives the future of the entire state court system.

State Court Forecasts: Putting Numbers on the Trends

In order to develop a more complete understanding of increasing caseloads in the future, the Future of the Courts Committee developed a series of long-range forecasts based on several key indicators: case filings, number of judges and employees relative to total cases filed, and average months of pending cases awaiting termination. These "what if" forecasts were based on actual trial court performance from the last ten-year period of available data (1983-92), but also assumed there would be little if any change in the way the courts are currently structured, staffed or administered. The results were alarming:

- If cases filings in the trial courts continue to expand at the same rate they have over the last decade (1983-92),

then the number of cases filed will increase from an estimated 351,000 cases in 1995 to 978,000 in 2020 (excluding district court felony and infraction cases). This represents a rate of increase of 178 percent — roughly four times greater than the estimated rate of increase in the state's population during the same period. (See Figure 1, "Projected Number of Case Filings in Oregon Trial Courts.")

- Based on the projected increase in case filings above, the number of state court judges would need to increase from 154 to 489 simply to maintain current judge-to-case ratios. Similarly, the number of court employees would have to grow from 1,395 to 3,153 just to maintain current employee-to-case ratios.
- However, assuming no change in the rate at which new judges are currently added to the system or in current per-judge case termination rates, the number of cases pending in the trial courts would literally skyrocket from an estimated seven months average backlog in 1995 to 113 months backlog — or more than nine years — in 2020. (See Figure 2, "Projected Months of Pending Cases in Oregon Trial Courts.")

While the Committee's forecasts were based on assumptions that may or may not prove to be accurate predictions of what will actually happen, these forecasts dramatically underscore the potential impact of rising caseloads on the state court system absent any preemptive action.

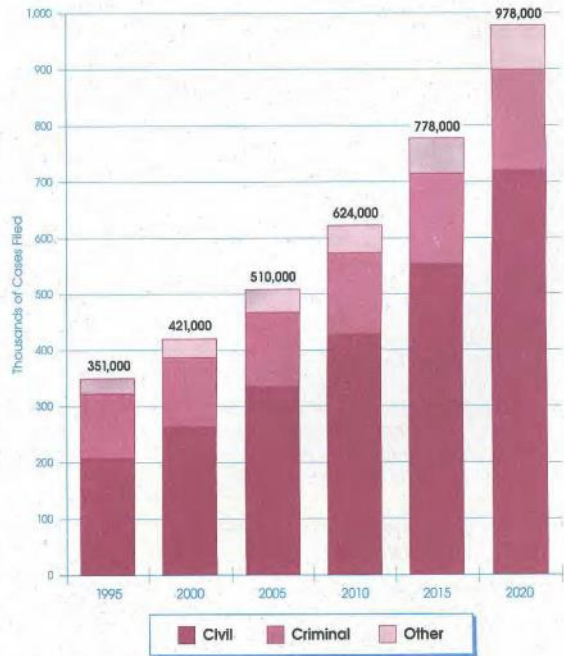
The Probable Future: Business-as-Usual

Based on the above trends and forecasts, the Future of the Courts Committee developed a "probable" future scenario; i.e., what the state court system would look like in 2020 if current trends persist and no major new initiatives or changes in direction are taken. The resulting scenario painted an uninviting picture of what may happen if the state courts continue on a "business-as-usual" course.

According to this scenario, Oregon's state court system in the year 2020 will have moved falteringly into an uncertain future, driven by the three most powerful trends described above. This scenario includes a number of negative prospects:

- Forced consolidation of the state court system into specialized divisions
- Top-down, hierarchical court administration
- Institution of centralized case management practices
- Dated, inadequate information technology
- Overcrowded, deteriorating court facilities
- Backlogged court dockets and declining customer service
- Compromised courthouse security
- Reluctant jurors and increasingly expensive jury trials
- An uncoordinated system of ADR
- Unequal access to justice for the public
- Marginal court involvement in public education or community affairs
- Decreased judicial pay and prestige
- Compromised quality of the bench

Figure 1
Projected Number of Case Filings in Oregon Trial Courts

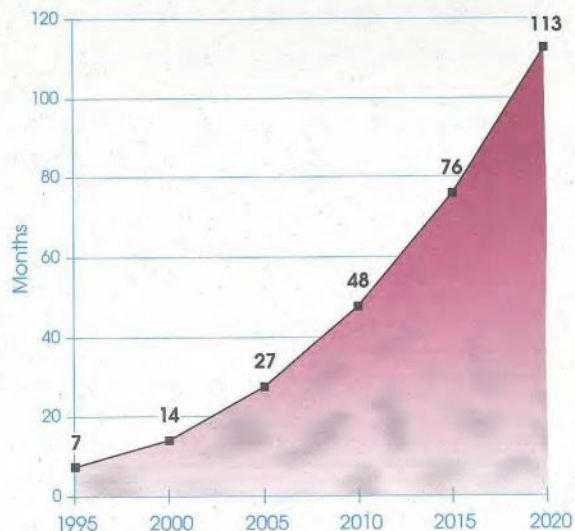


Annual projections based on historic rate of growth in case filings; other category represents juvenile, mental health and adoption cases. Figures exclude infractions and district court felonies.

Given the Committee's assumption that no major changes in the courts' direction would be undertaken, the probable future as business-as-usual represented a kind of judicial "worst-case" scenario. In short, this depicted a picture of the state court system in 2020 that was totally unacceptable.

Although no Committee member believed that the probable future scenario will actually occur because preventive action would be taken, its disturbing images were not impossible to imagine. These images reinforced the consequences of acting in a disjointed, unplanned or uncoordinated fashion — or simply not acting at all. They also underscored the need for a positive, compelling vision for the state courts that can effectively guide them through the challenging times ahead.

Figure 2
Projected Months of Pending Cases in Oregon Trial Courts



Annual projections based on historic rate of growth in case filings and new judge positions and on the current termination rate per judge.

Where Do We Want To Be?

Charting New Directions for the Courts

The Future of the Courts Committee's fourth and final step in envisioning the future state court system was to create a preferred future scenario — the basis of its vision for the future.

The Preferred Scenario: A Realistically Idealistic Future

Based on both articulated values and identified trends, the Future of the Courts Committee developed a preferred future scenario; i.e., what the court system would look like if it responds proactively to emerging trends in a manner that is consistent with its most fundamental values. The resulting scenario presented a "realistically idealistic" image of the future — blending pragmatism and common sense with innovative concepts and leading edge tools and

Never before has the judicial branch of this state embarked on such a far-sighted planning process.

techniques. This scenario became the basis of the Committee's final vision.

As envisioned by the Committee, Oregon's state courts in 2020 will rise to the challenges of the new century by building on major changes of the last 25 years and taking advantage of new management approaches, advanced

technologies, and a highly skilled and motivated workforce. Working within the formal court system and the wider system of justice, the state courts will help transform the delivery of justice in the 21st century.

Major elements of this vision of the future for Oregon's courts include:

- **Integrated dispute resolution.** A "multi-option" system of justice linking the formal courts and an extended network of court-annexed and community-based "appropriate" dispute resolution (ADR) venues.
- **Comprehensive court restructuring.** Streamlining of the state court system at all levels, eliminating outmoded, redundant or unnecessary court functions.
- **Coordinated statewide administration.** Coordination of common functions at the state level, while encouraging flexibility and innovation at the local level.
- **Quality management.** Professional management practices that empower court employees, improve the quality of justice and enhance customer service.
- **Advanced information technology.** New technology promoting the seamless flow of data and information while reducing paper consumption and physical travel.
- **Community dispute resolution centers.** Decentralized, community-based centers that promote simple, direct, low-cost access to justice at the local level.
- **Case assessment centers.** Comprehensive, pre-trial screening in the courts reducing caseloads and promoting non-adversarial dispute resolution.

- **Comprehensive criminal ADR.** The complete integration of ADR methods and techniques into the criminal justice system.
- **Multi-option justice education.** The state courts and the bench take a leading role in educating the public in the use of the multi-door justice system.

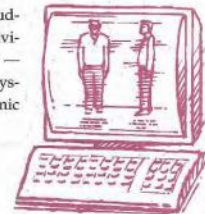
• **Enhanced state court workforce.** Greater career development opportunities, expanded training and education, and improved working conditions combine to enhance the state court judiciary and workforce.

These elements are described in much greater detail in the center section of this document, "A Vision for the Oregon State Courts in the Year 2020," on pages 5-12.

Decentralized, community-based centers promote simple, direct, low-cost access to justice at the local level.

Attempting to envision the future of the state courts has been an eye-opening experience for the Future of the Courts Committee and the entire state court system. Never before has the judicial branch of this state embarked on such a far-sighted planning process. And while the effort has been long and involved, it is just the beginning of what promises to become an ongoing process of anticipating and planning for change.

In the meantime, the Committee's vision exists to provide direction and guidance for the long-term future of the courts. While it was never intended to dictate specific strategies for change or authorize immediate courses of action, it will most certainly be used to inform the planning, budgeting and legislative activities of the courts as they — indeed the entire justice system — move into a dynamic and changing future.



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Acknowledgments

- Tom Carter, U.S. Court of Appeals, Ninth Circuit
- Nori J. McCann Cross, Office of the State Court Administrator
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- Hon. Otto R. Skopil, Jr., U.S. Court of Appeals, Ninth Circuit
- Steve Wilhite, Oregon Criminal Justice Council
- Duncan Wyse, Oregon Progress Board

Special Assistance

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Envisioning Oregon's Courts in the 21st Century

Continued from page 1

How Was the Vision Created?

In order to create a vision for the Oregon state courts, the Future of the Courts Committee conducted a "visioning" process based on four simple questions:

- 1) Where have we been?
- 2) Where are we now?
- 3) Where are we going?
- 4) Where do we want to be?

To answer these questions, the Committee undertook a number of activities:

- Identifying major state court/justice system developments of the last 25 years
- Profiling court system strengths/weakness, strategic issues, and core values
- Studying emerging trends that will affect the courts over the next 25 years
- Preparing forecasts for trial court caseloads and other key indicators

The vision of the Oregon Judicial Department represents a broad, long-term direction for the courts, not a short-term strategic or operational plan.

- Developing "probable" and "preferred" future scenarios for the courts

The results of these activities are summarized in the background section of this report, "Oregon's Courts Past, Present and Future," on pages 2-4 and 13-15.

Next, the Committee created a draft vision and initiated an ambitious input process, soliciting comments and feedback from state court judges, administrators, employees and other justice system stakeholders. Over a six-month period, the vision was discussed in a series of meetings, focus groups and workshops. As a result, the Committee incorporated literally hundreds of changes, refinements and new ideas. In April 1994, more than two years after the original workshop on the future of justice, the vision was unanimously endorsed by members of the Oregon Judicial Conference, the collective body of judges serving in the state court system.

This final vision, along with the Justice 2020 Scenarios, is presented in the section of this report entitled "A Vision for Oregon State Courts in the Year 2020," on pages 5-12. The vision of the Oregon Judicial Department represents a broad, long-term direction for the courts, not a short-term strategic or operational plan. Whether any given concept is implemented will be up to the Judicial Department, the Legislature, the justice system and the public at large. Ultimately, the vision is an open document to be periodically revisited and revised.

How Will the Vision be Achieved?

With finalization of the vision for Oregon's courts, the next phase of OJD's long-range planning process has begun. This effort involves the development of

a strategic plan for implementation of selected vision elements over the next several years.

To carry out the strategic planning effort, OJD has formed a new working committee called the **Transition Action Team**. This group, comprised of state court judges, administrators and employees, has been involved in scanning the vision, identifying key vision components, selecting priority elements, and developing detailed strategies and action agendas for implementation over the next five years (1995-99).

The first phase of the Transition Action Team's strategic plan is expected to be completed early in 1995. Certain strategies included in the plan may be reflected in proposals submitted by Oregon Judicial Department for consideration by the 1995 Legislature. All implementation activities will be regularly monitored and evaluated for their effectiveness. Like the vision, the strategic plan will be periodically reviewed and updated.

Completion of the vision and strategic plan does not mark the end of the long-range planning process initiated by the Oregon Judicial Department. Because the justice system represents a changing environment, planning for the future of the state courts is never truly done. As such, the Future of the Courts Committee and the Transition Action Team are expected to continue to be involved in vision advocacy and implementation activities.

The Committee is interested in keeping the public involved in this process and invites your input. Send comments or requests for copies of Justice 2020: The New Oregon Trail to:

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