

Oregon Earns 'D' Grade In National Judicial Review

April Baer | June 6, 2012 4:27 p.m. | Updated: June 7, 2012 6:10 a.m.

 [Discuss](#)

 [Download](#)

If you go before a judge for a traffic ticket, to get a divorce, or deal with a crime, you want to know the court system is clean. The Center for Public Integrity and Public Radio International have assembled a report card that rates judicial accountability. Oregon's grade was a "D."

No state west of the Mississippi received an "A." But that doesn't mean that state courts are rife with corruption. The project looks at mechanisms designed to catch problems in the system.

At Washington County's Circuit Court last week, a defendant came to answer multiple burglary charges.

Wrapped in a jail shift, his shackled arms and legs clanked as he performed a goofy dance across the courtroom. In the back row, a young woman holding a sleeping baby watched the defendant's antics, big tears rolling down her cheeks.

Washington County Circuit Court's presiding Judge Kirsten Thompson says being part of the judiciary means seeing people on their worst days.

"They've got a civil conflict or a family conflict," Thompson says. "They've been charged with a crime or a traffic offense. They're confused and angry. Often they're financially stressed. Very often they're in substance abuse issues," Thompson said.

And the system has to serve them all.

In her office, Thompson gestures to a picture of a craggy man in his 70s.

"That portrait there, that's my grandfather," she says. "He was a judge in Montana, 70 to 80 years ago."

Thor Thompson worked at a time when judging meant traveling around the circuit, with maybe a sheriff's deputy for protection.

The selection of people to handle judicial work hasn't changed much since the days of the old West. But in recent years, debate's been percolating about how the process plays out.

"Who sits on the bench is the fulcrum or centerpiece of the administration of justice," says Paul De Muniz, who until recently was chief justice of the Oregon State Supreme Court.

That job includes supervising the entire Judicial Department - appeals and circuit courts as well as Supreme Court business. De Muniz has chosen to retire at the end of the year, serving out the term to which voters elected him.

De Muniz notes that Oregon empowers voters to choose judges in non-partisan elections. That earned the state a 100 percent score for process in the State Integrity Investigation. But in recent years, most retiring judges have chosen to step down before their terms are over. When that happens, state law calls for the governor to choose a judge's replacement.

"I think that if I were to express some criticism it would be that people say in Oregon we elect our judges, but

"I think that if I were to express some criticism it would be that people say in Oregon we elect our judges, but the majority arrive by gubernatorial appointment, not by election," De Muniz says.

When the governor picks someone, the Legislature has no say over the appointment. Oregon lost points in the State Integrity Investigation for that, too.

Peter Bennett, a Boston attorney who chairs a committee on judicial independence for the American Bar Association, says most states don't let the governor appoint judges without oversight of some sort.

"The idea of having some type of confirmation process allows a candidate to be vetted publicly," Bennett says. "We all operate from the assumption that every judge has integrity, but this is a process that helps maintain the public's confidence in a fair and independent judiciary."

There are lots of ways to take politics and campaigning out of the judicial system. Bennett says in some states judges aren't allowed to know who their donors are. Others have rules limiting campaign donations. New York has a new rule that bars judges from hearing any case involving campaign donors who gave above a certain limit. Oregon has no such rules.

But many sources both in and outside the state say Oregon, through design or luck, has remained free of the big-money, partisan flavor that's infected state judicial elections or appointments in other states.

If attorneys have concerns about how judges might handle a certain case, Oregon law gives them the option of asking that the judge be removed.

And the state has a shielded body, completely separate from the judicial department, that investigates ethical complaints and questions of whether a judge is medically fit. It's called the Commission on Judicial Fitness and Disability.

Patricia Sullivan chairs that panel. She's a circuit court judge in Malheur County.

"I can't recall a complaint where somebody said a judge was corrupt, per se," Sullivan says. "There are complaints involving election activities, conflict of interest situations, complaints about demeanor and temperament."

The Commission on Judicial Fitness and Disability handles 30 to 40 complaints per meeting. The majority are from people who didn't like the outcome of a case, or who want to bring up a legal matter. Sullivan acknowledges the process is not particularly open. She says there's good reason not to let judges know who's been complaining. But if allegations have merit, the commission hires a prosecutor, the process goes public, and hearings are held. Such incidents are rare.

Beyond this process, there really isn't a codified performance evaluation for Oregon's judges. That's another reason for Oregon's "D" grade from the State Integrity Investigation.

The Judicial Department does write up internal performance reports. They show, for the last five years of available records, the courts met or exceeded their target range for case disposition. That's legal jargon for time spent resolving a case. Eighty percent of cases were resolved in a timely manner.

