

Funding Remains a Critical Concern for Safety, Accessibility

Updating Our Courts

By David Rosen



This September, Oregon State Bar CEO Helen Hierschbiel and I had the opportunity to travel through southwestern Oregon on a bar tour through Polk, Lincoln, Lane, Douglas, Coos and Curry counties. As with our eastern bar tour, we met with attorneys and judges, visited courthouses and broke bread with local bar associations. We shared in collaborative conversations regarding the current state of the legal system and what we can all do to prioritize access to justice, diversity, equity and inclusion, and well-being.

Like their eastern Oregon counterparts, lawyers in the southwest part of Oregon generally love practicing law in this region and have created deep and meaningful connections to the communities they serve. Like eastern Oregon, practicing along the coast seems to be one of Oregon's best-kept secrets (one I hope current law students are starting to uncover). Unfortunately, also like eastern Oregon, we saw too many courthouses are lacking essential (minimal)

security, in a great deal of disrepair (and a host of accessibility issues) and have inadequate technological infrastructure. These are disturbing common themes throughout the state that warrant further discussion and — I hope — a collective inquiry for their remedy.

Barriers to Access to Justice and Respect for the Rule of Law

Safety

With the exception of Lane County, one of the most pressing issues from our visit was the lack of security. Many courts noted that they are not able to maintain a regular law enforcement presence. Many sheriffs' offices do not have the staff or tools for basic weapon screenings. This includes the many counties where judges walk back to chambers through families of people they've just sentenced. Some courts can notify their sheriff what hearings may be a risk, to coordinate coverage by the sheriff who accommodates if possible.

Security concerns are not limited to being held by the court itself — this goes all the way to jurors. We heard from multiple counties where jurors do not feel at ease with the complete lack of security and have provided consistent feedback that they would like to see more safety protocols in place.

Disrepair and Accessibility

While most of the southwestern Oregon courthouses were once beautiful buildings, the unfortunate reality is that several are now in a state of decay ... the impacts of which go far beyond the aesthetics. Many of these buildings have already undergone multiple additions/remodels, which — while a best fit at the time it was done — as time goes on, leaves the courthouse trying to reconfigure its current day needs in a maze of outdated construction and failing infrastructure.

Another common theme among courthouses in the east and southwest were that many construction projects, including retrofits, were done at a time where construction used asbestos. Today, this means that project upgrades as simple as cutting into the ceiling for technology wiring or replacing outdated florescent light fixtures require a time and expense that is far from economical, including downtime for asbestos abatement.

Outdated remodels and construction have also led to some courts being fundamentally not accessible to community members who have a disability. Layouts were notably hard to navigate for folks with mobility limitations. One administrator told us that citizens in wheelchairs must be directed to enter through the loading dock. Design failures such as these are unacceptable in 2024 and undermine commitments to ensuring equitable access to our public spaces. Basic ADA compliance is essential.

The problems we saw run from big to small, including coastal courthouses with failing seals on single-pane windows (not ideal for a place with extreme winds and downpours) and defunct HVAC systems, the latter of which has resulted in at least one juror being transferred to the hospital for heatstroke.

Beyond basic health concerns, there is also the issue of space needed for proper functioning. At one stop, an administrator informed us there are no rooms available for private meetings between attorneys and clients. Staff have made do by directing these meetings to be held in the wheelchair-accessible bathroom.

Technology

The lack of adequate technology in our courthouses is another all-too-common barrier to creating equitable access. When courts can offer more opportunities for remote hearings, it means fewer lost work hours for both attorneys and clients. It saves

families from the costs of additional child-care. For Oregonians with certain disabilities or medical concerns, remote hearings can make it possible to attend when it otherwise might have been impossible.

As we noted after our eastern Oregon tour, technology also provides significant opportunities for addressing the lack of available representation in legal deserts. However, remote participation is entirely dependent upon infrastructure and connectivity. This can be a significant barrier for some rural courts where maintaining reliable internet access and bandwidth are at issue.

In today's age, four years from the technological lessons we all had to quickly learn about and implement in COVID — and faced with the rural legal desert issues, it is time for us to adopt and set a new floor for access to justice. A big part of that — and the low-hanging fruit — is the development of minimum required standards for the use of technology and making sure our courts have what they need.

Scope of the Problem

Oregon has struggled to adequately fund county courthouses for longer than most of us can remember. In 2006, the Oregon State Bar published the "Report on Courthouse Facilities" that opined, "A solution to the court facility problem in Oregon is decades overdue." While important progress has been made in the last 18 years, that statement remains true to this day.

At a basic level, courthouse funding remains challenging because the primary responsibility to provide court facilities rests with the individual counties. This problem was partially addressed by the Legislature's increased willingness to provide cash grants for improvements and matching bond funds for courthouse replacements, but the availability of that collaboration is limited. Many counties outside the metro area struggle to fund basic public services and have little left over to put toward courthouse maintenance or renovations.

Each of the facilities we visited had its own challenges, but with a common and critical theme to bring back to our bar — the courts need our help. Safe and functional courthouses are essential and are directly aligned with the Oregon State Bar's mission. Courts are the primary interface between the public and the justice system. These are the buildings where constitutional rights are weighed, custody disputes



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are resolved and due process is provided. And when we talk about fostering trust in the rule of law, that includes the places where individuals are not only heard but also felt heard. We want every Oregonian who enters a courthouse to be confident they receive a fair hearing and are treated justly. This much-needed trust in our institutions is eroded when health and safety are called into question.

The problems highlighted by our tour are all solvable, but doing so requires a meaningful commitment to access to justice that goes beyond the steps we have taken in the last two decades.

Moving Forward

I want to be emphatically clear that the current state is not for a lack of effort. The Oregon Judicial Department (OJD) has advocated to address these issues for years, but the needs across the state have greatly outpaced available funds. OJD's top funding ask for the 2025 legislative session will be focused on implementing security measures, such as weapons screening statewide.

The Oregon State Bar will continue to support the OJD's funding requests to build out these basic systems and looks forward to partnering with the courts during the upcoming legislative session. Additionally, the bar has drafted a legislative concept on behalf of the Council of Court Procedures that gives judges greater flexibility to consider motions for remote location testimony filed less than 30 days in advance of an appearance. It will be introduced as a priority for the 2025 legislative session.

Although 2025 is likely to be a difficult year for the state budget, the needs of our courts cannot be overlooked. Funding basic security for all courts must be a priority. It may also be time for the Legislature to reconsider the so-called "Grand Bargain" that assigned courthouse funding responsibility to counties decades ago.

Providing true access to justice requires acknowledging that there is a fundamental floor for ensuring fair legal processes. It is not the same floor that existed when these courthouses were built, nor is it the same floor that existed in 2006. Justice, equitable access to justice, and trust and respect for our legal system are all living and evolving principles subject to our changing circumstances and values. Adequate court funding is the foundation upon which these principles are put into action. Public confidence in the legal



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system is weakened when courthouses are underfunded to the point that security, access and health are called into question. My hope is that our state leaders will invest in these institutions so that they are welcoming and safe for all Oregonians. ■



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