

# UNDERSTANDING OUR JUDICIAL SYSTEM



Developed for Oregon State FCE by Kerry Mauk

Leader's Guide

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ADDITIONAL HELP = HF 37

# UNDERSTANDING OUR CRIMINAL JUSTICIAL SYSTEM

## Leaders Guide

- Hand out a copy of the National Hearth Fire # 37 along with the member handout.
- Interactive Scenario: add a name of a member of your group for each character in the scenario.
- This scenario has 16 people in it, in order to include every member in your group, add the names of the jury or add more police officers. If you have less than 16 members use the same names for all the detectives or judges.
- It may be helpful for the group to follow along with the flow charts.
- This lesson can be used for any state, but you will need to check court procedures for your state as they can differ.

[www.judicialcourtsystems.com](http://www.judicialcourtsystems.com)

## LESSON

Throughout history people discovered that in order to live harmoniously with each other, they needed to agree on a set of rules to live by. These rules were called “Common Law”. As populations grew, it became impractical for every person in the population to participate in creating laws. In the United States, we elect a Legislator. That Legislator creates Laws and relies on a Judicial System to uphold the laws and deliver consequences if the laws are not obeyed.

The United States Judicial System is based on the U.S. Constitution and it’s Amendments. The highest Court in the U.S. is the United States Supreme Court. These nine judges choose to review some court cases that may violate the Constitutional Rights if the convicted person.

The highest court in Oregon is the Oregon Supreme Court. They review court cases that they believe may be in violation of the U.S. Constitution and/or the Oregon State Constitution. They also review all Oregon death penalty cases.

## CRIMINAL SCENERIO

**Crime committed:** Stolen 2007 Lamborghini, value \$400,000 stolen from \_\_\_\_\_  
This criminal \_\_\_\_\_ could be indicted one of three ways.

- A) \_\_\_\_\_ was driving \_\_\_\_\_ Lamborghini at 120 mph on Highway \_\_\_\_\_  
\_\_\_\_\_ was stopped by Deputies \_\_\_\_\_ and \_\_\_\_\_ who discovered the car was stolen  
and she is in possession of the car, \_\_\_\_\_ was arrested.
- B) The Lamborghini is in \_\_\_\_\_'s garage, Landlord \_\_\_\_\_, who \_\_\_\_\_ owes three months  
rent to calls the police to report it  
Detectives \_\_\_\_\_ and \_\_\_\_\_ get the case and find out \_\_\_\_\_ is unemployed, when  
questioned \_\_\_\_\_ says the car was won in a raffle put on by the City of \_\_\_\_\_. The  
detectives find out there was no raffle, they take the evidence to Judge \_\_\_\_\_.  
The Judge signs the warrant and \_\_\_\_\_ is arrested.
- C) \_\_\_\_\_'s Landlord \_\_\_\_\_ sees the Lamborghini, but she knows that \_\_\_\_\_ belongs to the  
notorious \_\_\_\_\_ gang and calls the police but being afraid of the gang, she does not give her  
name. This time Detectives \_\_\_\_\_ and \_\_\_\_\_ get the case. They observe  
\_\_\_\_\_ driving the car and find out she is not the registered owner take the evidence to the  
Grand Jury. The Grand Jury looks at the evidence and directs District Attorney \_\_\_\_\_ to  
issue an arrest warrant for \_\_\_\_\_'s arrest for grand theft and \_\_\_\_\_ is arrested and sent to  
jail.

Under Oregon's revised statutes, \_\_\_\_\_'s bail was set at \$200,000, since Oregon has no bail bonds  
men, she has to come up with 10% of the bail, \$20,000, she calls her friend \_\_\_\_\_ to borrow the  
money, \_\_\_\_\_ tells her to forget it "you already owe me money and you will run and I will  
lose my money"

**Arraignment:** Within 72 hours of arrest, \_\_\_\_\_ appears before Judge \_\_\_\_\_.  
Judge \_\_\_\_\_ decides there is enough evidence to charge \_\_\_\_\_.  
\_\_\_\_\_ cannot afford an Attorney so Attorney \_\_\_\_\_ is appointed by the court.

**Court trial:** Attorney \_\_\_\_\_ and \_\_\_\_\_ decide to have a jury trial instead of only the  
Judge deciding the outcome.

They appear before Judge \_\_\_\_\_, the DA is the famous \_\_\_\_\_.  
The trial lasts two days, and the jury deliberates for only 20 minutes. The jury foreman  
\_\_\_\_\_ announces the jury has found \_\_\_\_\_ guilty.

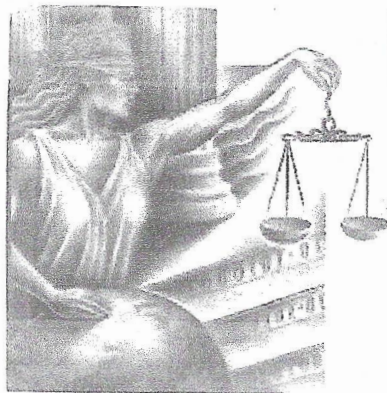
Judge \_\_\_\_\_ says that \_\_\_\_\_ has been convicted of grand theft in 1986 and also 1993  
and this grand theft makes three strikes. The Habitual Offender Law applies, she will serve 30 years.

\_\_\_\_\_ gets mad and starts to throw furniture around the court room until she is restrained by Deputy  
\_\_\_\_\_.

Attorney \_\_\_\_\_ takes the case to the Appeals Court. The Appeals Court Judge \_\_\_\_\_ denies  
the appeal and \_\_\_\_\_ goes to prison for 30 years.

(By the way, the owner of the Lamborghini will now be investigated as to how she can afford a \$400,000 car  
with no visible means to afford it.)

# UNDERSTANDING OUR JUDICIAL SYSTEM



# AN INTRODUCTION TO THE COURTS OF OREGON

As in other states, Oregon law has two broad branches: **civil law** and **criminal law**, each with origins in the common law and each now governed primarily by statute.

- **Civil law** includes statutes and “case law” that define or interpret individuals’ and organizations’ private rights in their relationship disputes that involve property, contracts, personal injury, family relationships, tax, or government rules and regulations.
- Criminal law is the body of laws that define a person’s basic rights and duties to preserve a peaceful and safe society. A person who violates the duties to preserve social peace and safety may be guilty of a crime “against the people” and so face jail, prison, or some other punishment. In addition, if the lawbreaker’s act injured another victim, the victim may have a right to a private, civil law claim of damages.
- The legislature can change the common law by enacting a statute, so long as the governor does not veto the new law. The courts must follow this so long as it does not conflict with the state or federal constitution. However, if no statute “governs” the issue in a particular case, the court may look to the common law rules for guidance.

## Courts of Oregon

Within its borders, Oregon has four types of courts in the judicial branch.

- A unified system of state trial and appellate courts, called the Civil Judicial Departments.
- Locally funded limited jurisdiction municipal courts, county courts and justice of the peace courts.
- Federal courts
- Tribal courts

## Oregon State Courts

- Supreme court ( 7 judges )
- Court of Appeals (10 judges)
- Tax court ( 1 judge, 6 tax magistrates)
- 36 circuit courts in 27 judicial districts ( 173 judges)

## Oregon State Trial Courts

- Circuit courts, which are “general jurisdiction” courts
- Tax court , whose jurisdiction is limited to cases involving taxes

## Justice System Definitions

Probable Cause: the reasonable belief that a crime has been committed and that this person is linked  
To the crime

Indicted: Three ways to be charged with a crime

1. Arrested by police with Probable Cause
2. Grand Jury takes testimony and looks at evidence and decides there is Probable Cause  
And issues a warrant
3. Judge reviews evidence and decided there is Probable Cause and issues a warrant

Arraignment: At arraignment, the judge reviews evidence and police reports and decides if there  
Is Probable Cause to officially charge the defendant or change the charges or  
Drop the charges.  
The Judge may also change the bail to what she considers fair do to the  
Circumstances

Bail: Oregon has no bail bondsmen. The bail for each crime is stated in a book called the  
Oregon Criminal Statutes. To get out on bail one must pay 10% of the bail.  
They can be held responsible for the rest of the bail.

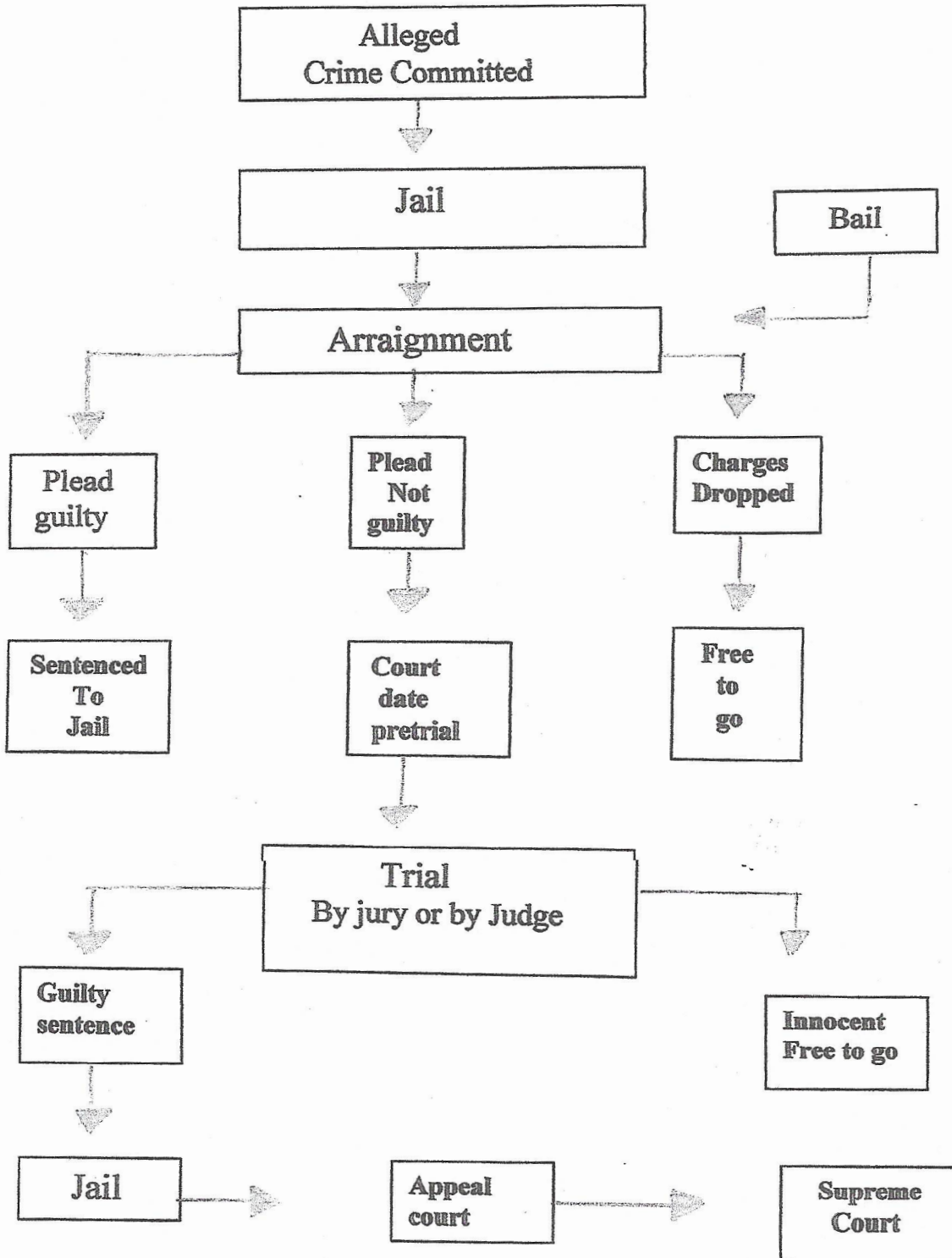
Oregon Criminal Statutes: List of all the Oregon laws, what constitutes breaking that law and  
And the bail for that crime

Grand Jury: group of citizens drawn from the jury pool, who have this duty.  
They go over evidence and interview witnesses to decide if there is enough Probable  
Cause to charge a suspect. If so they issue a warrant for their arrest

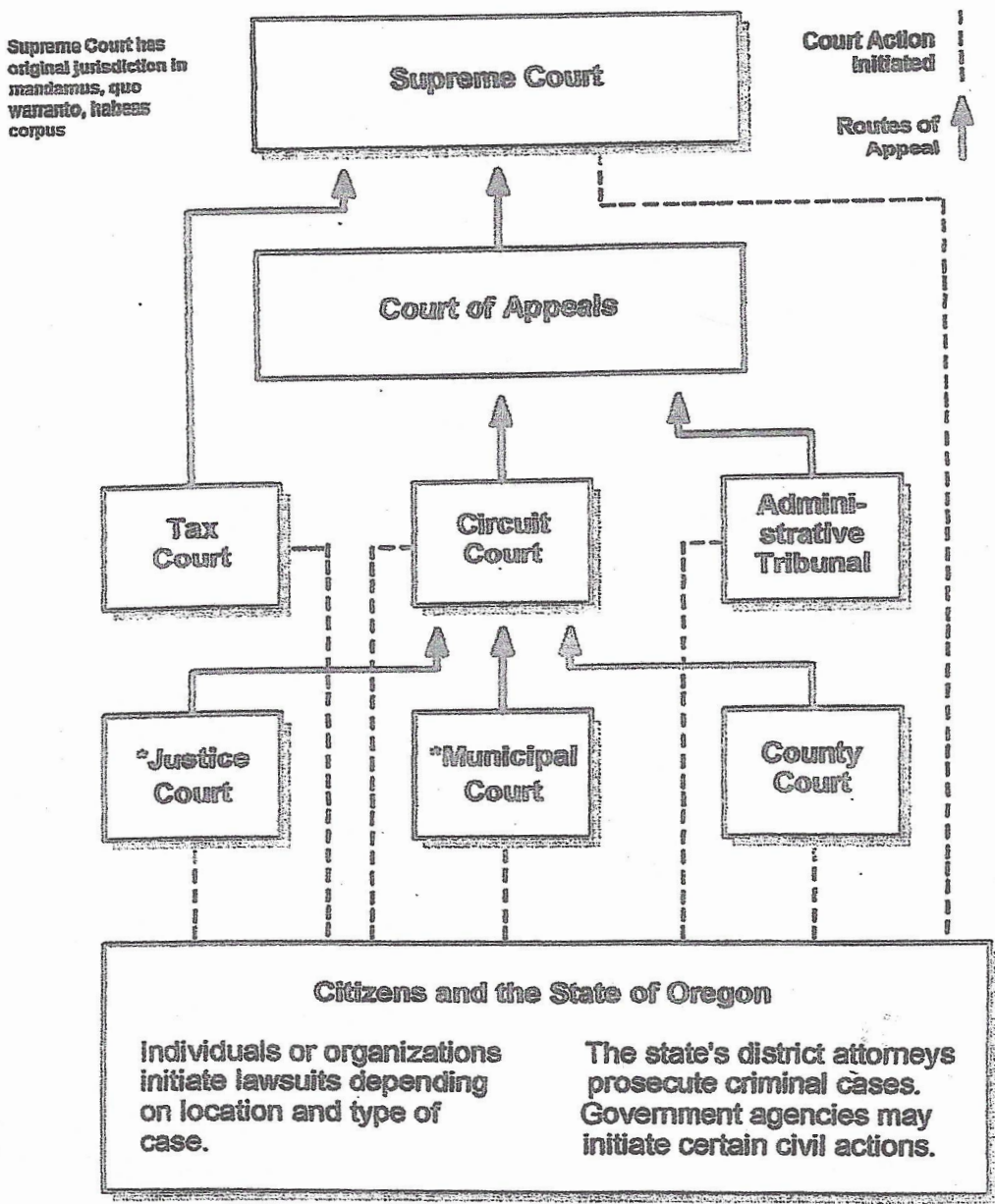
Court of Appeals: reviews court cases to determine if the outcome was just. They don't review  
Death penalty cases. Only the Oregon Supreme Court reviews those

Three Strikes Law: Habitual Offender Law. Initiated in 1993. U. S. Government enables State  
Government to hand down a mandatory and extended period of jail time to  
Persons convicted of a serious crime on three of more separate occasions

# CRIMINAL JUSTICE SYSTEM OREGON



# APPEALS IN OREGON COURTS



\* If a justice court or municipal court becomes a court of record, appeals go directly to the Court of Appeals. To be a court of record, the justice of the peace or municipal court judge must be a licensed lawyer, and the court must have a court reporter who records the court's proceeding.