



City of Tigard Memorandum

To: Honorable Mayor and City Council

From: Michael J. O'Brien, Presiding Judge *[Signature]*
Brenda Annis, Court Operations Supervisor

Re: **20th Annual Report from Tigard Municipal Court**

Date: April 23, 2019

We are pleased to submit our 20th annual review of Tigard Municipal Court operations to Council and the City Manager.

1. Highlights of 2018:

- Caseload increased 22% compared to CY 2017. As in past years, the caseload largely consists of citations for traffic violations under state statute.
- In coordination with the Tigard Police Department and a vendor, the court developed and implemented plans to accommodate the projected large increase in caseload from photo enforcement at traffic lights during 2019. Court offices and customer-service windows were relocated to the remodeled Utility Billing area in City Hall.
- Recruitment and staffing additions: Recruitment efforts in 2018 resulted in filling a Clerk II position in February 2019, with a second position to be filled in May. Both new members of court staff are bilingual in English and Spanish.

2. Caseload: The court's total caseload increased by 22% in 2018, reversing a slow decline in recent years.

Annual Court Caseloads CY 2014-18	
2018	6,015
2017	4,927
2016	5,672
2015	5,990
2014	6,675

3. Four most common types of traffic violations:

Violation types	2018	2017
Speeding	2,401	1,530
Cellphones	653	225
Traffic control*	402	622
Driver's licenses**	685	638
Total	4,141	3,015
% of caseload	69%	61%

*Traffic signals and stop signs

**Driving While Suspended and No Operator's License

Cellphone violations increased by nearly 200% following the latest revisions to Oregon's cellphone statute (ORS 811.507). Depending on the implementation schedule, the court's 2019 caseload is expected to triple or quadruple when red-light photo enforcement begins. Photo enforcement of speed limits at intersections would also result in an increase in the court's annual workload.

4. Traffic safety programs: Diversion continues to be a popular option for eligible defendants. Those who enroll in the program are required to complete a class and pay the relevant fees within 120 days. Upon completion, the citation is dismissed and no record of a conviction will appear on the driving record.

Standard Diversions Total Participants		Compliance Rate
2018	1,094	90.3%
2017	1,156	91.5%
2016	1,314	86.6%

Due to changes in Oregon's cellphone law as previously mentioned, cellphone offenders are no longer eligible for any form of diversion that would result in dismissal of the citation. Instead, a Distracted Driver Avoidance Course (DDAC) is now being offered to defendants statewide. The \$265 presumptive fine is discharged for those who successfully complete the course at their own expense, within 120 days. The program has been very popular in our court: 427 defendants elected to participate and 88% successfully completed its requirements last year.

5. Legislative update: In Oregon and other states, litigation has been filed to challenge policies and practices of local jurisdictions concerning fines and fees for traffic violations and misdemeanors. In *Timbs v. Indiana* (2019), the U.S. Supreme Court recently upheld one such challenge to a civil forfeiture statute, ruling that the 8th Amendment's prohibition on "excessive fines" applies to the states.

In response to concerns about disproportionate financial penalties for minor offenses, Oregon legislators are considering two bills (SB 776 and HB 2614) that would eliminate the ability of state and local courts to suspend drivers' licenses for failure to appear or pay fines on low-level traffic citations.¹

¹ ORS 137.286(3)(a) already requires courts to consider, in imposing penalties, the "financial resources of the defendant and the burden that payment of the minimum fine will impose, with due regard to the other obligations of the defendant." Courts routinely offer payment agreements under the same statute.

These bills, if enacted, could restrict judicial enforcement of judgments for various fines and fees. On the other hand, the statutory changes could reduce hardships for low-income defendants and place more licensed and insured drivers on Oregon's highways.

Based on a 2018 measure, persons whose right to drive has been suspended for failure to appear or comply may now be eligible for hardship permits that would allow them to drive to work and for other specified purposes.

6. Case dispositions

Disposition types	Percent
Guilty by judge	23
Guilty by clerk	32
Guilty by default	16
Acquit/Dismiss*	24
Pending/Deferred*	3
Other	2

**Includes diversions*

7. Staff development: The judge and court operations supervisor attended the annual judicial education program sponsored by ODOT in March. The judge also attended the annual judicial education conference sponsored by the Oregon Justices of the Peace Association in September. He now serves as Vice President of the Oregon Municipal Judges Association and a member of its Board of Directors.

Each court clerk was able to attend an OACA (Oregon Association of Court Administrators) conference during 2018.

Last year's recruitment efforts resulted in the appointment in February of an experienced Court Clerk II who is bilingual in English and Spanish. An additional bilingual Clerk II will be added in May. This will enable the court to provide a higher level of service to Spanish-speaking customers.

Finally, we wish to acknowledge the hard work and professionalism of court staff in responding to the challenges of relocation and planning for large increases in our caseload during 2019. We are pleased that the court continues to offer a high level of service to its customers, witnesses, police officers, and others who utilize court processes.

We are available to respond to your questions concerning court policies and operations.

