

**Topline Data**  
**Statewide Survey of 504 Likely Voters in Oregon**

*prepared for*  
**The Federalist Society**  
*by the polling company™, inc.*

**October 2006**

Field Dates: October 24-26, 2006

Margin of Error:  $\pm 4.38\%$

***Introduction***

- A. Are you 18 years of age or older and currently registered to vote here in Oregon, registered in a different state, or not registered at all?

100% REGISTERED TO VOTE IN OREGON

- B. Thinking ahead to the November 2006 Election for U.S. Congress, and other state and local races, would you say that you will: (READ CHOICES)

94% DEFINITELY VOTE

6% PROBABLY VOTE

## **IMPRESSION OF OREGON COURTS**

1. Could you tell me what one or two things spring to mind when you think about the Oregon State Supreme Court? Can you think of any specific decisions they have issued? (PROBED: "What else comes to mind when I say "Oregon State Supreme Court?") (OPEN ENDED)

### **10% ISSUES/ CASES (NET)**

- 2% GAY MARRIAGE
- 1% ILLEGAL IMMIGRATION
- 1% LAND USE
- 1% PRESCRIPTION DRUGS
- 1% ECONOMY
- 1% RIGHT TO DIE/ DEATH WITH DIGNITY
- 1% ABORTION
- 1% RETIREMENT
- 1% MEASURE 37
- \* CIVIL LIBERTIES
- \* SEXUAL PREDATORS
- \* CRIME
- \* PUBLIC RIGHTS
- \* INSURANCE LAW
- \* MEASURE 67
- \* MEASURE 40
- \* MEDICAL LIABILITY
- \* SCHOOL FUNDING
- \* TIMBER
- \* WAR IN IRAQ
- \* WOMEN'S RIGHTS
- \* FREEDOM OF SPEECH
- \* TAXES
- \* CAMPAIGN FINANCE
- \* MORAL VALUES

### **7% NEGATIVE CHARACTERIZATIONS (NET)**

- 4% TOO LIBERAL
- 1% TOO LENIENT
- 1% DOING A BAD JOB
- 1% CONTROVERSY
- \* UNFAIR
- \* TOO POLITICAL
- \* NEEDS IMPROVEMENT
- \* LAZY
- \* DON'T LIKE THEM

### **3% POSITIVE CHARACTERIZATIONS (NET)**

- 2% DOING A GOOD JOB
- 1% BALANCED
- \* FAIR
- \* HONEST
- \* IMPARTIAL
- \* EXPERIENCE

### **3% COURT MAKE-UP/ STRUCTURE (NET)**

- 1% OVERTURN DECISIONS
- 1% NO WOMEN ON THE PANEL
- 1% SHOULD BE APPOINTED
- \* NON-PARTISAN
- \* JUDGES
- \* UP FOR REELECTION
- \* ROBES
- \* VOTERS GUIDE
- \* SHOULD BE ELECTED

### **\* IDEOLOGY/ AFFILIATION (NET)**

- \* REPUBLICAN
- \* CONSERVATIVE
- \* BUSH ADMINISTRATION

### **\* MISCELLANEOUS (NET)**

- \* WELL PAID
- \* POWERFUL
- \* JAIL

**73% DON'T KNOW/ NO ANSWER**

2. How much trust and confidence do you have in the Oregon State Supreme Court to make fair decisions? (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

**70% TOTAL TRUST (NET)**

27% A GREAT DEAL  
43% SOME

**22% TOTAL LACK OF TRUST (NET)**

16% JUST A LITTLE BIT  
6% NONE AT ALL  
  
7% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

**KNOWLEDGE OF THE OREGON SUPREME COURT**

3. To the best of your knowledge, how many Justices serve on the Oregon Supreme Court at any given time? [OPEN ENDED]

**30% TOTAL LESS THAN 7 (NET)**

\* 1  
1% 2  
4% 3  
4% 4  
14% 5  
7% 6

**20% 7<sup>1</sup>**

**20% TOTAL MORE THAN 7 (NET)**

3% 8  
9% 9  
1% 10  
4% 12  
2% 13  
\* 14  
\* 15  
1% MORE THAN 15  
  
1% OTHER  
**26% HARD DO NOT KNOW<sup>2</sup>**  
2% REFUSED

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<sup>1</sup> The correct answer is 7.

<sup>2</sup> Respondents who initially said "I don't know" were encouraged to take a guess. Those who again said they were unsure were recorded as "hard" do not knows.

4. Which of the following best describes how Justices are chosen to serve on the Oregon Supreme Court? [READ AN ROTATED]

- 55% JUSTICES ARE ELECTED BY THE VOTERS IN OREGON
- 31% JUSTICES ARE APPOINTED BY THE GOVERNOR OF OREGON
  
- 7% BOTH (VOLUNTEERED)
- \* NEITHER (VOLUNTEERED)
- \* OTHER (VOLUNTEERED)
- 7% DO NOT KNOW (VOLUNTEERED)
- \* REFUSED (VOLUNTEERED)

As you may know, there are seven Justices on the Oregon Supreme Court. They are elected by Oregon voters in non-partisan elections (meaning the Justices do not identify as Republican or Democrat) for staggered six year terms. After serving for six years, the Justices must either run for re-election or retire. If there is a vacancy in between elections, the Governor of Oregon appoints a Justice to serve out the rest of that term. Two Oregon Supreme Court Justices are up for re-election and there is one open seat up for election this November.

5. Can you name any of the Justices currently sitting on the State Supreme Court of Oregon or any of the people who are running for that office this year? [OPEN ENDED]

- 13% JACK ROBERTS
- 7% VIRGINIA LINDER
- 2% PAUL DE MUNIZ
- 1% WALLACE CARSON, JR.
- 1% ROBERT DURHAM
- 1% MARTHA LEE WALTERS
- \* THOMAS BALMER
- \* RIVES KISTLER
- \* W. MICHAEL GILLETTE
- WILLIAM RIGGS
  
- 77% DO NOT KNOW
- 2% REFUSED

**OREGON SUPREME COURT ELECTIONS**

6. Which of the following will be MOST important to you in deciding how to vote for Oregon State Supreme Court in November? (READ AND ROTATED. ACCEPTED ONE RESPONSE.)

- 44% CANDIDATE WHO WILL INTERPRET THE LAW AS IT IS WRITTEN
- 22% CANDIDATE WHO SHARES MY MORAL AND POLITICAL VALUES
- 8% CANDIDATE WHO IS ENDORSED BY THE OREGON STATE BAR ASSOCIATION (AN ASSOCIATION OF LAWYERS)
- 8% CANDIDATE'S PAST RULINGS AND LEGAL DECISIONS
- 7% CANDIDATE WHO HAS PREVIOUSLY SERVED AS A JUDGE
- 4% CANDIDATE WHO WILL TAKE INTO ACCOUNT HIS OR HER PERSONAL VIEWS AND EXPERIENCES
  
- 3% OTHER (VOLUNTEERED)
- 5% DO NOT KNOW (VOLUNTEERED)
- \* REFUSED (VOLUNTEERED)

7. As I mentioned previously, judicial elections here in Oregon are non-partisan, meaning candidates do not identify themselves as Republican or Democrat and generally do not talk about their political views. Do you think that judicial elections in Oregon should be non-partisan or do you believe people running for Supreme Court in Oregon should reveal whether they are Republicans and Democrats and their views on particular issues?

- 63% NON-PARTISAN
- 31% REVEAL POLITICAL PARTY
  
- 5% DON'T KNOW (VOLUNTEERED)
- 1% REFUSED (VOLUNTEERED)

8. I am now going to read you the opinions of two people. Please tell me which one comes closest to your view. (ROTATED)

PERSON 1: Supreme Court Justices should be elected by voters because elections hold Justices accountable for their decisions and rulings.

PERSON 2: Supreme Court Justices should not be elected by voters because elections put pressure on Justices to make certain decisions and rulings based on public opinion.

**76% TOTAL AGREE PERSON 1 (NET)**

- 54% STRONGLY AGREE PERSON 1
- 22% SOMEWHAT AGREE PERSON 1

**17% TOTAL AGREE PERSON 2 (NET)**

- 9% SOMEWHAT AGREE PERSON 2
- 8% STRONGLY AGREE PERSON 2
  
- 6% DON'T KNOW (VOLUNTEERED)
- 2% REFUSED (VOLUNTEERED)

## **FINAL SAY ON OREGON LAWS**

9. Who do you think should have the final say on laws passed here in Oregon? (ROTATED. ACCEPTED ONLY ONE RESPONSE)

- 53% STATE VOTERS
- 30% STATE SUPREME COURT
- 7% STATE LEGISLATORS
- 4% STATE GOVERNOR
  
- \* OTHER (VOLUNTEERED)
- 2% ALL OF THE ABOVE (VOLUNTEERED)
- \* NONE OF THE ABOVE (VOLUNTEERED)
- 3% DO NOT KNOW (VOLUNTEERED)
- 1% REFUSED (VOLUNTEERED)

## **ROLE OF PERSONAL VIEWPOINTS**

10. I am again going to read you the opinions of two people. Please tell me which one comes closest to your view. (ROTATED)

PERSON 1: Judges should interpret and apply the law as it is written and not take into account their own viewpoints and experiences.

PERSON 2: Judges should go beyond interpreting and applying the law and take into account their own viewpoints and experiences.

**84% TOTAL AGREE PERSON 1 (NET)**

- 69% STRONGLY AGREE PERSON 1
- 15% SOMEWHAT AGREE PERSON 1

**11% TOTAL AGREE PERSON 2 (NET)**

- 7% SOMEWHAT AGREE PERSON 2
- 4% STRONGLY AGREE PERSON 2
  
- 4% DON'T KNOW (VOLUNTEERED)
- 1% REFUSED (VOLUNTEERED)

### **JUDICIAL ACTIVISM/ RESTRAINT<sup>3</sup>**

11. How familiar are you with the concept of “judicial activism”? Would you say you are...  
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

**35% TOTAL FAMILIAR (NET)**

13% VERY FAMILIAR  
22% SOMEWHAT FAMILIAR

**59% TOTAL UNFAMILIAR (NET)**

16% JUST A LITTLE BIT FAMILIAR  
43% NOT AT ALL FAMILIAR  
  
5% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

“Judicial activism” is the term used to describe when a judge bases a decision on his or her own personal views instead of the law like the State Constitution or statute.

12. How much do you think the Justices on the Oregon State Supreme Court engage in judicial activism? [READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

**44% TOTAL ENGAGE IN JUDICIAL ACTIVISM (NET)**

13% A GREAT DEAL  
31% SOMEWHAT

**26% TOTAL DON'T ENGAGE IN JUDICIAL ACTIVISM (NET)**

18% JUST A LITTLE BIT  
8% NOT AT ALL  
  
29% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

13. Do you think judicial activism is a (ROTATED) mostly positive or mostly negative thing for the Oregon State Supreme Court?

60% MOSTLY NEGATIVE  
20% MOSTLY POSITIVE  
  
17% DO NOT KNOW (VOLUNTEERED)  
3% REFUSED (VOLUNTEERED)

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<sup>3</sup> Question sets 11-13 and 14-16 were rotated so that some voters were asked about “judicial activism” first and others were asked about “judicial restraint” first.

14. And how familiar are you with the concept of “judicial restraint”? Would you say you are...  
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

**30% TOTAL FAMILIAR (NET)**

7% VERY FAMILIAR  
23% SOMEWHAT FAMILIAR

**66% TOTAL UNFAMILIAR (NET)**

22% JUST A LITTLE BIT FAMILIAR  
44% NOT AT ALL FAMILIAR

4% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

“Judicial restraint” is the term used to describe a limited exercise of power by court justices and a strict interpretation of the law based on the State Constitution or statute.

15. How much do you think the Justices on the Oregon State Supreme Court exercise judicial restraint? (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

**54% TOTAL EXERCISE JUDICIAL RESTRAINT (NET)**

16% A GREAT DEAL  
38% SOMEWHAT

**15% TOTAL DON'T EXERCISE JUDICIAL RESTRAINT (NET)**

11% JUST A LITTLE BIT  
4% NOT AT ALL

30% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

16. Do you think judicial restraint is a (ROTATED) mostly positive or mostly negative thing for the Oregon State Supreme Court?

63% MOSTLY POSITIVE  
12% MOSTLY NEGATIVE

22% DO NOT KNOW (VOLUNTEERED)  
3% REFUSED (VOLUNTEERED)

17. Based on the definitions I gave you, would you rather the Oregon Supreme Court practice (ROTATED) judicial activism or judicial restraint?

73% JUDICIAL RESTRAINT  
12% JUDICIAL ACTIVISM

4% BOTH (VOLUNTEERED)  
2% NEITHER (VOLUNTEERED)  
8% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

**MESSAGE TESTING**

***SPLIT SAMPLED QUESTION 18***

18. A. Some people have said Oregon’s Supreme Court Justices are acting like “legislators in robes,” meaning they are essentially rewriting laws and writing new ones rather than interpreting existing laws. Do you agree or disagree with that statement? [N=248]

**41% TOTAL AGREE (NET)**

23% STRONGLY AGREE  
18% SOMEWHAT AGREE

**34% TOTAL DISAGREE (NET)**

16% SOMEWHAT DISAGREE  
18% STRONGLY DISAGREE

24% DON’T KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

18. B. Some people have said Oregon’s Supreme Court Justices are acting like “super legislators,” meaning they are essentially rewriting laws and writing new ones rather than interpreting existing laws. Do you agree or disagree with that statement? [N=256]

**43% TOTAL AGREE (NET)**

21% STRONGLY AGREE  
22% SOMEWHAT AGREE

**30% TOTAL DISAGREE (NET)**

13% SOMEWHAT DISAGREE  
17% STRONGLY DISAGREE

26% DON’T KNOW (VOLUNTEERED)  
2% REFUSED (VOLUNTEERED)

19. Some people have said that Supreme Court Justices in Oregon should not be elected by voters because it puts political pressure on justices to rule a certain way in order to sway voters. Do you agree or disagree with this statement?

**30% TOTAL AGREE (NET)**

15% STRONGLY AGREE  
15% SOMEWHAT AGREE

**60% TOTAL DISAGREE (NET)**

24% SOMEWHAT DISAGREE  
36% STRONGLY DISAGREE

9% DON’T KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

## **OREGON SUPREME COURT DECISIONS**

I am now going to read you some of the rulings made by the Supreme Court in Oregon. For each one, please tell me if you agree or disagree with the ruling of the Court. (ROTATED 20-22)

20. In *City of Nyssa v. Dufloth*, the Oregon Supreme Court held that Oregon's free speech protection extends to live sex acts on stage, meaning these live sex acts are allowed under the Oregon State Constitution.

**28% TOTAL AGREE (NET)**

15% STRONGLY AGREE  
13% SOMEWHAT AGREE

**60% TOTAL DISAGREE (NET)**

11% SOMEWHAT DISAGREE  
49% STRONGLY DISAGREE  
  
9% DON'T KNOW (VOLUNTEERED)  
3% REFUSED (VOLUNTEERED)

21. In *League of Oregon Cities et al v. State of Oregon*, the Oregon Supreme Court invalidated a ballot initiative approved by voters that would have required the government to compensate property owners when government regulations limited property owners' ability to use or build on their own property or reduced the value of it.

**39% TOTAL AGREE (NET)**

26% STRONGLY AGREE  
13% SOMEWHAT AGREE

**49% TOTAL DISAGREE (NET)**

13% SOMEWHAT DISAGREE  
36% STRONGLY DISAGREE  
  
11% DON'T KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

22. In *Strunk v. Public Employees Retirement Board*, the Oregon Supreme Court invalidated reforms to the Public Employment Retirement System, which would have, among other things, stopped allowing some state employees to retire with pension payments that were more than they were making when they were actually working.

**46% TOTAL AGREE (NET)**

31% STRONGLY AGREE  
15% SOMEWHAT AGREE

**42% TOTAL DISAGREE (NET)**

14% SOMEWHAT DISAGREE  
28% STRONGLY DISAGREE  
  
11% DON'T KNOW (VOLUNTEERED)  
3% REFUSED (VOLUNTEERED)

## **DEMOGRAPHICS**

23. Which of the following categories best describes your age?

8% 18-24  
12% 25-34  
17% 35-44  
23% 45-54  
16% 55-64  
22% 65+

2% REFUSED (VOLUNTEERED)

24. Would you describe your racial or ethnic background as...(READ LIST)?

85% WHITE/CAUCASIAN  
2% BLACK/AFRICAN-AMERICAN  
3% HISPANIC/LATINO  
2% ASIAN  
1% NATIVE AMERICAN  
1% MIDDLE EASTERN

2% OTHER (VOLUNTEERED)  
1% DON'T KNOW (VOLUNTEERED)  
3% REFUSED (VOLUNTEERED)

25. In politics today, do you consider yourself to be a (ROTATE) Republican, Independent, or Democrat?

**39% TOTAL REPUBLICAN (NET)**  
23% STRONG REPUBLICAN  
11% NOT-SO-STRONG REPUBLICAN  
5% INDEPENDENT LEANING REPUBLICAN

**14% INDEPENDENT**

**40% TOTAL DEMOCRAT (NET)**  
6% INDEPENDENT LEANING DEMOCRAT  
9% NOT-SO-STRONG DEMOCRAT  
25% STRONG DEMOCRAT  
1% OTHER VOLUNTEERED)  
5% DON'T KNOW/REFUSED (VOLUNTEERED)

26. Thinking for a moment about your political views...Do you consider yourself to be...?

**39% TOTAL CONSERVATIVE (NET)**

20% VERY CONSERVATIVE  
19% SOMEWHAT CONSERVATIVE

**31% MODERATE**

**24% TOTAL LIBERAL (NET)**

12% SOMEWHAT LIBERAL  
12% VERY LIBERAL  
  
2% LIBERTARIAN  
  
5% DON'T KNOW/REFUSED (VOLUNTEERED)

27. And regarding your family's annual income...Please tell me which of the following categories best describes your family's annual income. I don't need a specific amount, a broad range will be fine.

10% BELOW \$20,000  
7% \$20,000 TO \$24,999  
6% \$25,000 TO \$29,999  
10% \$30,000 TO \$39,999  
11% \$40,000 TO \$49,999  
8% \$50,000 TO \$59,999  
6% \$60,000 TO \$69,999  
7% \$70,000 TO \$79,999  
3% \$80,000 TO \$89,999  
13% \$90,000 AND ABOVE  
  
19% REFUSED (VOLUNTEERED)

28. Are you...? (READ CATEGORIES)

12% CATHOLIC  
49% PROTESTANT  
1% JEWISH  
9% AGNOSTIC/ATHEIST  
- MUSLIM  
2% MORMON  
  
8% OTHER (VOLUNTEERED)  
13% NONE/UNAFFILIATED (VOLUNTEERED)  
6% REFUSED (VOLUNTEERED)

29. How often do you attend religious services?

- 1% EVERY DAY
- 8% A FEW TIMES PER WEEK
- 29% ONCE A WEEK
- 9% A FEW TIMES PER MONTH
- 13% A FEW TIMES PER YEAR
- 32% SELDOM/NEVER
  
- 8% DON'T KNOW/REFUSED (VOLUNTEERED)

30. Gender

- 48% MALE
- 52% FEMALE

31. Region<sup>4</sup>

- 20% MULTNOMAH COUNTY (PORTLAND)
- 45% PACIFIC NORTHWEST
- 21% SOUTHWEST
- 14% EAST/ CENTRAL

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<sup>4</sup> *Pacific Northwest Oregon* includes Clatsop, Columbia, Tillamook, Washington, Clackamas, Yamhill, Lincoln, Polk, Benton, Marion, and Linn Counties. *Southwest Oregon* includes Lane, Coos, Douglas, Curry, Josephine and Jackson Counties. *East/Central Oregon* includes Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Union, Wallowa, Jefferson, Wheeler, Grant, Baker, Deschutes, Crook, Klamath, Lake, Harney, and Malheur Counties.