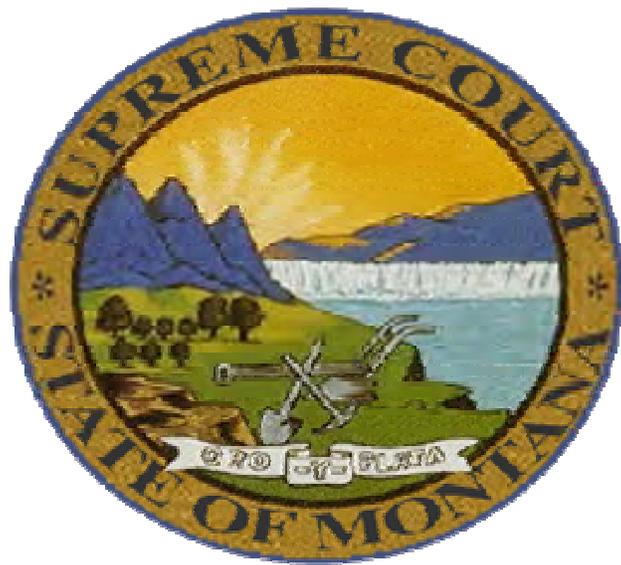


Judiciary
of the
State of
Montana



2003
Annual Report

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A message from Chief Justice Karla M. Gray

Calendar year 2003 was a remarkably challenging time for Montana's Judiciary as judicial leaders continued their work ensuring that the Montana court system addresses the judicial needs of our citizens. This Annual Report details many of our activities during the past year and much of our vision for the future.

As I reported to you last year, Montana's judicial branch faces a number of challenges, not the least of which has been to make a smooth transition from a primarily county-funded district court system to one that is fully state funded. I can report to you this year that the transition – notwithstanding some “bumps” along the way – has been relatively smooth. Much of what seemed overwhelming in 2002 has been conquered. Judicial leaders developed and ultimately adopted a variety of statewide policies and procedures for the Branch that moved district courts well beyond the early stages of what we have called “state assumption” into a period where, for the most part, we can all get back to the normal business of courts.

Overall, much of 2003 was devoted to making Montana's judicial system more accessible to all Montanans, using technology for maximum efficiency, improving the public's trust and confidence in the judicial system and ensuring that children and families are treated with compassion and respect. You will find in the 2003 Annual Report concrete examples of what we have done in each of these areas to ensure Montana Courts deliver quality service to the public.

It is with great pleasure and obvious gratitude to the Judicial Branch's many dedicated and hard working judges and staff that I recommend the 2003 Annual Report to you.



Members of the Montana Supreme Court – 2003



From left to right: Justice Patricia Cotter, Justice W. William Leaphart, Justice Jim Regnier, Chief Justice Karla M. Gray, Justice James C. Nelson, Justice Jim Rice, Justice John Warner

PART 1: Highlights and Priorities for 2003

THE DISTRICT COURT COUNCIL

The 2001 Legislature shifted the funding of district court personnel (law clerks, court reporters, juvenile probation officers and judicial assistants) and operations from a county-funded system to one that is wholly funded by the state. As part of the “state assumption” of district courts, the Legislature established the [District Court Council \(DCC\)](#) – a nine-member body charged with the responsibility of developing and adopting, subject to Supreme Court review, policies and procedures to administer the state funding of district courts.

The 2003 Legislature made significant changes in the payment of district court expenses for indigent defense, civil juries and other costs. Because of the legislative policy changes by the 2003 Legislature, the DCC’s work focused

primarily around policy development in the area of public defender payment and reimbursement policies aimed at creating uniformity in administrative practices across the 22 judicial districts and ensuring a high level of accountability for administrative practices.

In addition, the Council began the process of examining issues related to statewide resource reallocation processes in district courts. The initial phase of this effort began with an examination of the filing of cases in district courts. A survey of district court clerks determined that case filing policy and procedures differ between counties and judicial districts. The Council’s examination of uniform case filing standards will be a major focus of activities in 2004.

ENSURING EQUAL ACCESS TO JUSTICE

Ensuring equal access to justice for all Montana citizens continued to be a major priority in 2003. This broad-based initiative is making progress on several fronts. The work of three groups is highlighted here.

The [Commission on Self-Represented Litigants](#) worked to ensure that those who are compelled or chose to go it alone in the judicial system are not denied the opportunity to succeed. Members of the Commission worked on guidelines for Montana court personnel that would explicitly detail the type of information that should be given to litigants representing themselves. The Commission also began the process of identifying which district courts would benefit from a pro bono advocate who could respond to questions that would be inappropriate for court

personnel to answer. In addition, the Commission examined:

- Formally approving marriage dissolution forms for pro se litigants, with an accompanying explanation of the divorce process and what to expect in, and by, the district court;
- Providing electronic pro se forms;
- Compiling an accurate and current directory of all pro se assistance and pro bono programs throughout the state; and
- Coordinating the Commission’s work with other equal justice entities to both enhance educational programs for those who represent themselves and eliminate duplication.

The [Supreme Court's Equal Justice Task Force](#) made major strides in 2003 to make sure every citizen has equal access to the courts.

The Task Force sponsored and helped coordinate Montana's first legal needs study which is intended to provide an accurate assessment of which communities (such as the disabled, the elderly, immigrants, low and moderate income, domestic abuse victims, etc.) have difficulty finding adequate and competent legal advice.

The task force played an important role in 2003 as an umbrella organization for equal justice issues by providing a forum for discussion and coordinating closely with the Montana Legal Services Association, the State Bar of Montana, the Montana Justice Foundation, the Commission on Self-Represented Litigants, the Montana School of Law, and Montana's courts.

Projects in 2003 included the following endeavors:

- Provided oversight for a new statewide web site that provides assistance to pro se litigants. Montana Legal Services funded the web site, www.montanalawhelp.com, through a federal grant. It provides individuals seeking answers to legal questions with a valuable information resource. The Task Force advised on the creation of the site and continues to contribute to the on-going development of content.
- Established a parenting plan class in the First Judicial District Court. Individuals seeking court approval of their parenting plans must attend a class that consists of information from family therapists, judges and mediators. Other courts around the state are anticipated to use the Helena pilot program as a model.
- Sponsored four Equal Justice Conferences in four different cities around the state. These were planned to promote pro bono volunteerism and to provide training in family law and consumer law for attorneys whose practices do not regularly cover those subjects.

In addition, the [State Law Library](#) makes available an impressive array of resources to

those seeking legal information or assistance. Library staff members help self-represented litigants obtain the legal information they require. Montanans can call, e-mail or fax their questions or simply walk in the door to get their questions answered.

As part of its continuing mission to ensure equal access to justice, the Montana Supreme Court Law Library in 2003

(<http://www.lawlibrary.state.mt.us/>) :

- Sponsored a Self-Help Legal Clinic that matches state agency attorneys with pro se clients who have substantive legal needs;
- Hosted a Website that has hundreds of legal forms and definitions;
- Invested substantial staff time and financial resources in digitizing and posting on the Internet, appellate briefs, the Supreme Court's opinions and orders so that Montanans have access to this information without having to pay commercial providers;
- Taught court personnel about best practices for customer service in the courts; and
- Taught students, state agency personnel and laypersons how to conduct legal research and the best ways for accessing the law.

Finally, the Judicial Branch initiated a bold initiative that is expected to greatly improve access to the state's district courts. This project was made possible in large part by federal funding secured by Montana's Congressional Delegation.

In 2002 and 2003, the Office of the Court Administrator oversaw the installation of video conferencing capabilities in 30 district courts around the state.

This initiative serves two goals: To enhance access to justice by providing state-of-the-art, cost effective video conferencing systems for use in hearings, trials and other judicial business; and to reduce the cost and inefficiencies created by the vast distances between courthouses in Montana.

There are many advantages to using video conferencing technology in courts. Some of the

more obvious are that video technology allows judges to conduct court business in a wide variety of ways and makes them more accessible where distance is a significant problem. In addition, it allows low-income legal assistance

organizations and other attorneys to overcome the costs of distance and travel time to better represent their clients.

BUILDING PUBLIC TRUST AND CONFIDENCE

By using a number of programs tailored for both the public and legal professionals, we are continuing one of our most important tasks - Building public trust and confidence in the judiciary.

The Supreme Court has several specific programs that seek to increase public understanding of the role courts play in our society and to ensure that judicial officers and legal professionals are properly trained and held accountable for a high-level of professional conduct. In addition, there are programs to make sure the district court system is administered in a cost-effective and uniform manner.

The following is a brief description of each program and some of its activities in 2003.

Outreach to Schools and the Public

The Supreme Court takes to the road as part of its public education outreach program. Justices leave the formal court setting in Helena to hear oral arguments in a real case at a public facility – typically in a public school or other public facility. This program lets the public see the Supreme Court in action – and it allows the justices to discuss the judicial system with Montanan citizens. In 2003, the Court traveled to Missoula, Bozeman, Billings and the historic Washoe Theatre in Anaconda as part of this outreach program and visited with hundreds of Montanans.

Professional Training

All Supreme Court justices and District Court judges are required to complete 15 hours of continuing judicial education each year – three hours of which must be in judicial ethics. While this requirement can be met in several ways, the core training that justices and judges receive each year is during biannual judicial conferences.

In 2003, 25 hours of judicial training were conducted under the supervision of the Supreme Court.

Justices of the Peace and City and Municipal Judges also must complete mandatory education requirements to ensure a high level of professionalism in Courts of Limited Jurisdiction. In 2003, limited jurisdiction judges received 45 hours of judicial education training in a wide range of topics that ensures the judges are up-to-date on legal requirements and court procedures.

Regulation and Discipline

Montana has a comprehensive regulatory and discipline system for judicial officers and attorneys to help protect the public from inappropriate conduct by judges and lawyers.

The [Judicial Standards Commission](#) investigates complaints against judges and, where appropriate, recommends discipline to the Supreme Court. In 2003, the Commission began with a backlog of 26 complaints, received 41 new complaints and closed 38 cases.

Both the [Office of Disciplinary Counsel](#) (ODC) and the [Commission on Practice](#) handle a complaint against an attorney. 2003 marked the first full year of operations for the ODC, which was established in 2002. The ODC performs central intake functions and processes and investigates and prosecutes complaints against lawyers within the jurisdiction of the Supreme Court. In 2003, the ODC received 320 new complaints. (See [Appendix B](#) for the 2003 Annual Report of the ODC)

The Commission on Practice reviews complaints against attorneys. The Commission hears and decides the complaints filed with the ODC and in

appropriate cases makes recommendations to the

Supreme Court for discipline.

MONTANA'S YOUTH AND FAMILIES

Montana's youth and families are among our most precious resources. In 2003, Montana's judicial system placed a great deal of emphasis on making sure that both our young people and our families received cost-effective and appropriate services from courts.

Montana's youngest citizens deserve the full resources of the Judicial Branch to give them the best chance of succeeding in a sometimes-perilous world. In 2003, the Judicial Branch continued its strong commitment to Montana's youth through a number of successful and effective programs.

Youth Courts

A juvenile's first contact with the court system often begins in youth court – a special division of each district court dedicated to preserving the unity and welfare of the family, and preventing and reducing youth delinquency.

In 2003, youth courts in Montana handled 16,801 offenses. Juvenile probation, an integral part of Montana's youth court handled the vast majority of these cases in 2003. Only 1,386 cases originating in youth court were sent before a youth court judge for further judicial action.

Youth court juvenile probation staff work with juvenile offenders and their parents to resolve most cases without a formal hearing. These efforts help reduce judicial involvement in cases, which leads to greater efficiency and lower costs for the judiciary. And, just as importantly, these efforts help to achieve legislatively-mandated state policy regarding the treatment of youth – which generally recognizes the importance of the “balanced and restorative justice model”. This model requires a youth to be held accountable for criminal actions, ensures community safety, and provides for the skill development of the youth.

Montana youth courts worked very hard in 2003 to create innovative approaches to reduce the number of out-of-home placements of youth. Through the state-funded Juvenile Delinquency Intervention Act, many youth courts have created early intervention programs that are targeted to youths at high risk of committing crimes. These early intervention programs assist in reducing the number of out-of-home placements, allow youth to be treated and served within their home communities, and also help to reduce the long-term budget needs within judicial districts.



A staff person in the 13th Judicial District Youth Court in Billings works on the office's new on-line risk assessment program. The program, which will roll out into the youth courts statewide in 2005, determines risk and protective factors for youth involved in the juvenile justice system. The 13th Judicial District uses the program in an on-site assessment center.

Treatment Courts

Montana courts also continued to try innovative approaches to dealing with people who have drug and alcohol problems, which lead to criminal behavior as well as child abuse and neglect. Montana's youth and families benefited from the creation of five specialty courts designed to more holistically address youth and family offender issues. Using federal funding, family drug/treatment courts are operating in the 10th and 13th Judicial Districts; the 4th Judicial District hosts two Youth Drug Courts (one in Missoula and one in Superior); and an Adult Drug Court is operating in the 18th Judicial District.

The Yellowstone County Family Treatment Drug Court, started in 2002, is the largest in the state, with a capacity of 20 clients. Clients are referred to the drug court program by child protection services when their children are placed in the custody of the state. Statistics from this court show that children whose parents are

involved in drug court are reaching permanency in about one-third the time as children whose parents are not involved with the treatment court. Data to date suggests that participants in drug court show significantly higher rates of maintaining sobriety, staying employed and of obtaining adequate housing.

The Gallatin County Treatment Court in Bozeman has a capacity of 18 clients. The program has successfully channeled clients into drug court, secured alcohol and drug treatment for them, and assisted with their search for employment, training and housing. The program is moving from grant funding to permanent county funding based on its success in dealing with chemically dependent repeat offenders. Since November of 2000, the treatment court has graduated 30 participants.

The Youth Drug Courts in Superior and Missoula continue to serve clients and have good success with juvenile offenders.

Child Advocacy Programs

In addition to the drug court and youth court programs, the Office of the Court Administrator manages two other programs for children in the court systems.



The [Court Appointed Special Advocate/Guardian ad Litem \(CASA/GAL\)](#) program provides support to statewide non-profit groups that train volunteer advocates. These advocates are appointed by judges to provide information and advice about a child to the courts.

State statutes require the appointment of a Guardian ad Litem (GAL) in abuse and neglect proceedings. CASA volunteers go through an intensive 30-hour training program to become a Guardian ad Litem before being appointed by a district court judge.

The CASA/GAL network continued to grow in 2003, adding more children, volunteers and programs. The network currently includes 18

programs, including two satellite offices and three tribal programs.

Montana's CASA programs served 866 children in 39 counties, according to 2003 statistics compiled by the national CASA organization. 274 volunteers gave more than 18,000 hours of their time to the program in 2003.

The programs still serve less than 50 percent of the children in foster care, according to statistics from the Department of Public Health and Services. The ultimate goal for this program is to provide a CASA worker for every child involved in an abuse and neglect case.

New CASA programs started in the 5th, 6th and 20th Judicial Districts in the last 15 months.

Finally, the [Court Assessment Program \(CAP\)](#) is preparing for its reassessment in 2005. The review will measure the progress of abused and neglected children in the court system in the areas of child safety, permanency, and child and family well-being. CAP continues to fund various projects, such as CASA programs, a parents' educational program in Great Falls, and training for the judiciary, all of which are instrumental in decreasing a child's stay in foster care. CAP also continues to provide oversight for many of the drug courts operating in the state.

IMPROVING INFORMATION TECHNOLOGY IN THE COURTS

The application and management of appropriate information technology resources is absolutely critical to the Montana Judiciary. Court technology plays an important supporting role in the mission to provide an independent, accessible, responsive, impartial and timely forum to resolve disputes; to preserve the rule of law; and to protect the rights and liberties guaranteed by the Constitutions of the United States and the State of Montana.

In March 2003, the Supreme Court's [Commission on Technology](#), with membership from various parts of the judiciary, the Legislature and the public, published the [Montana Judicial Branch Information Technology Strategic Plan](#). The Strategic Plan, and subsequent updates, provides a long-term vision of the needs and uses of Information Technology (IT) in the Judicial Branch and will guide information technology initiatives in the future.

Case management systems are one of the primary tools used by courts to move disputes in a timely and effective manner from filing to closure. These systems encompass many aspects of judicial activities. When done best, the systems integrate many different but interrelated activities. Some examples of these activities include case intake, filing, tracking, calendaring, jury selection, word processing, accounting and, finally, sharing of information inside and outside of judicial offices.

In the IT area, 2003 was primarily devoted to supporting, expanding and improving court case management and ancillary applications.

Accomplishments in 2003 included:

- Establishing a Help Desk to support judicial branch employees with application, hardware, software and networking problems. The Help Desk staff logged 1,441 calls in 2003.
- Installing and training the FullCourt case management system in 49 courts of limited jurisdiction.
- Continuing to support and enhance the Judicial Case Management System used by 56 county Clerks of the District Courts.
- Providing on-going support and maintenance for the hardware, software and computer networks used by judicial branch employees, including 907 personal computers, 33 local area networks and file servers, 85 laptop computers and other computing peripherals.

Funding for Judicial Branch IT is derived from a court automation surcharge on certain court case filings and, when available, from limited federal grants. In 2003 the Legislature increased the surcharge from \$5 to \$10. The money is used to staff judicial IT efforts, buy and support the networks, hardware and software used by almost 1,000 judicial branch users located in city, county and state offices throughout the state. In calendar year 2003, the surcharge generated approximately \$1.2 million dollars.

Part 2: The Courts and Their Workload

MONTANA SUPREME COURT

The Montana Supreme Court is comprised of the Chief Justice and six Justices. All are elected on a statewide, nonpartisan basis for eight-year terms. Pursuant to the Montana Constitution, the Supreme Court has jurisdiction over appeals from all of Montana's District Courts. By statute, appeals from the Workers' Compensation Court and the Water Court also proceed directly to the Supreme Court. The Supreme Court is the final arbiter on questions of Montana law.



The Montana Supreme Court

Justice Jim Regnier * Justice Jim Rice * Justice James C. Nelson

Chief Justice Karla M. Gray

Justice Patricia Cotter * Justice W. William Leaphart * Justice John Warner

The Montana Constitution also gives the Supreme Court original jurisdiction to hear and determine writs, such as for habeas corpus, and applications for supervisory control over District Court actions not yet final or ready for a regular appeal. The Supreme Court's jurisdiction extends to attorney discipline, rules governing appellate procedure and practice, procedure for the state's other courts, and other matters.



Clerk of the Supreme Court

Ed Smith

The Clerk of the Supreme Court is one of Montana’s statewide elected officials in the Judicial Branch of government. The current clerk, Ed Smith of Helena is serving his third term. He is the nineteenth person to hold the office. Established in 1865, the office conducts the business of the Court, and serves as the liaison between the public, attorneys and the Supreme Court. By statutory authority, the Clerk controls the docket and filings, facilitates the appellate process, and is the custodian of all legal records for the public and the Court. Additionally the Clerk administers appellate mediation, maintains the official roll of Montana attorneys, and is responsible for licensing Montana’s 3,700 attorneys.

2003 Supreme Court Caseload Statistics

Filings carried over from 2002	582	Dispositions by Remittitur	375
New Civil Filings	684	Dispositions by Dismissal	169
New Criminal Filings	<u>176</u>	Dispositions - Writ Denied	250
		Dispositions - Writ Granted	20
		Dispositions - Other	<u>64</u>
<u>Total New Filings</u>	<u>860</u>	<u>Total Dispositions</u>	<u>878</u>

Supreme Court Law Library

Judy Meadows, Law Librarian

The Supreme Court Law Library provides bibliographical and physical or remote access to recorded legal knowledge and information consistent with the present and anticipated research needs, responsibilities and concerns of Montana’s courts, the Legislature, state officers and employees, attorneys and the general public. A Board of Trustees comprised of the seven members of the Supreme Court governs the Law Library. The Annual Report for 2003 of the Law Library can be found in Appendix A of this document.





Office of the Court Administrator

Jim Oppedahl, Court Administrator

In 1977, the Legislature created the Office of the Court Administrator and authorized the Supreme Court to appoint a court administrator who serves at the pleasure of the Court.

Under the direction of the Supreme Court, the court administrator is charged with performing the following duties:

- (1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;
- (2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;
- (3) recommend to the supreme court improvements in the judiciary;
- (4) administer legal assistance for indigent victims of domestic violence, as provided in [3-2-714](#);
- (5) administer state funding for district courts, as provided in chapter 5, part 9;
- (6) administer the judicial branch personnel plan; and
- (7) perform other duties that the supreme court may assign.

The Office of the Court Administrator is organized into three Divisions as follows:

Court Services

The Court Services Division provides a variety of services to the judicial branch. The division provides policy and support to youth courts throughout the state. Other programs include children's services provided through the Court Assessment Program and the Court Appointed Special Advocate program.

In addition, a judicial educator manages education for district court judges under the guidance of the judges' curriculum committee and for limited court judges under the guidance of the [Commission on Courts of Limited Jurisdiction](#). The staff organizes two annual training conferences for Supreme Court Justices and District Court Judges and two annual training sessions for courts of limited jurisdiction judges.

Court services also provides a variety of ancillary services in the area of payroll and human resource management. To ensure uniformity in personnel administration across the state, the Supreme Court adopted personnel policies and a pay and classification plan for judicial branch employees. The District Court Council also reviewed these policies. Both the Supreme Court and the District Court Council continue to provide oversight and guidance.

Information Technology

Court Administration is responsible for providing information technology services to the judicial branch. These services are provided through the judicial branch Information Technology Division. Funding for these services is derived from a \$10 surcharge imposed under section 3-1-317, MCA on certain court filings, upon conviction for any conduct made criminal by state statute and upon forfeiture of bond or bail.

In addition to supporting the many standard off-the-shelf office productivity tools in use within the judicial branch, the Information Technology Division is responsible for development and support of the judicial case management system (JCMS) for the district court, the FullCourt case management system in Courts of Limited Jurisdiction, support of the juvenile risk assessment system, support of jury management systems, as well as development and support of the other various custom software systems in use within the judiciary.

The Division, in cooperation with the Montana Department of Administration, provides e-mail services and anti-spam filter services to all judicial employees and contract employees and server operations and maintenance for the information system. The State Law Library provides web site hosting for the state court web site.

Through the Division's help desk, judicial employees can receive support, ask questions, and get problems resolved related to the information systems, software, and hardware they use.

Budget and Finance Division

Primary functions of the Office of Court Administrator are to obtain adequate financial resources for judicial operations and to manage these resources. These functions are met through fiscal personnel consisting of a director of budget and finance and accounting and technical staff. With the assistance of fiscal staff, the judicial budget is developed for funding consideration by the Legislature. The Supreme Court budget request is developed with input from judicial staff and district court judges and approved by the Supreme Court

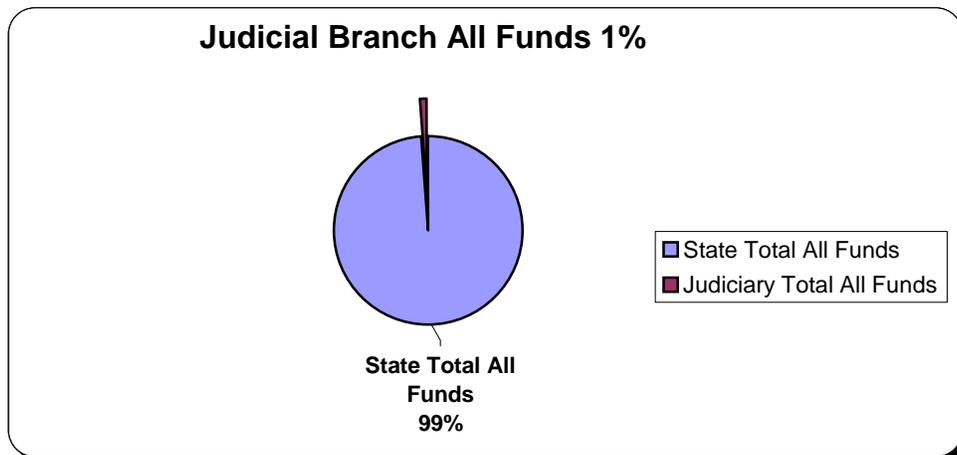
A monitoring function is carried out on a monthly basis with an analysis of the budget and preparation of status reports after the monthly payroll and other expenditures have been processed. The Budget and Finance Division also provides oversight for approval of various expenditures based on budgetary policies.

The state general fund supports the Supreme Court, the District Court Council, most district court expenses in the 22 judicial districts, expenses for indigent defense and some civil jury expenses in the clerk of district court offices. The Workers' Compensation Court is state funded outside of the Supreme Court's budget. The counties and municipalities fund courts of limited jurisdiction.

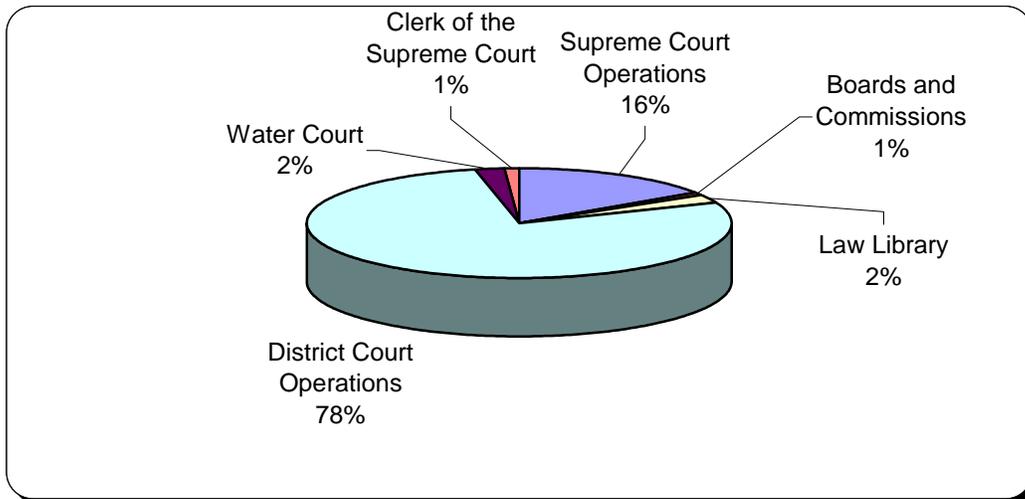
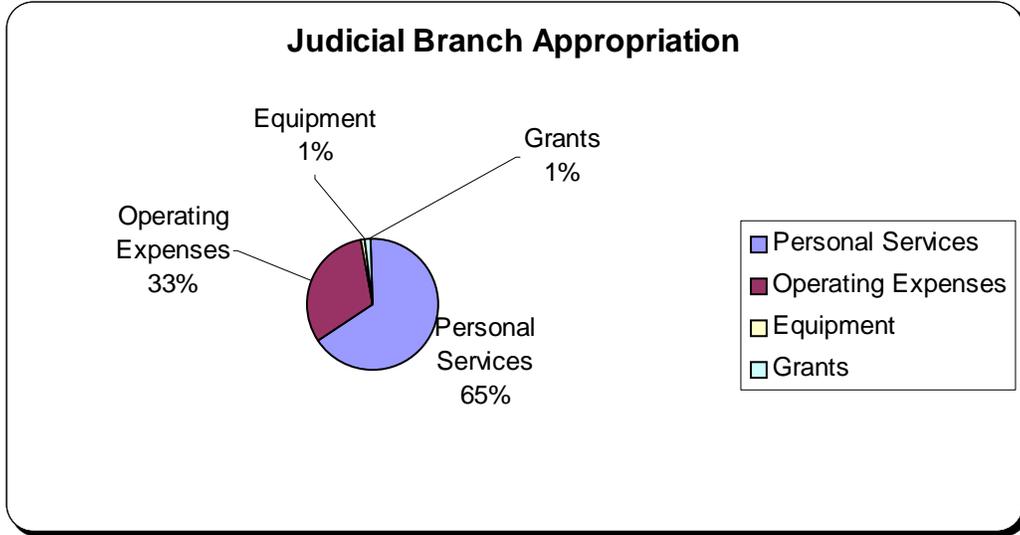
JUDICIAL PORTION OF THE STATE'S BUDGET 2003-2005 BIENNIUM

July 1, 2003 - June 30, 2005

Total State General and Special Funds Appropriation
\$5,059,439,396
Executive and Legislative Branch General and Special Funds Appropriation
\$5,002,308,491 (99%)
Judicial Branch General and Special Funds Appropriation
\$ 57,130,905 (1%)



Judicial Branch Budget Detail



Boards and Commissions

The Supreme Court is responsible for a variety of matters involving rule-making and oversight of the administration of justice in Montana. These obligations are met, in part, through the work of various Boards and Commissions. These groups include the Sentence Review Division, Commission on Practice, Commission on Courts of Limited Jurisdiction, Judicial Standards Commission, Commission on Unauthorized Practice, Commission on Self-Represented Litigants and the Gender Fairness Commission.

The Supreme Court also has established other Commissions and Committees including the Board of Bar Examiners, Commission on Character and Fitness, Commission on Rules of Evidence, Commission on Civil Jury Instruction Guidelines, Commission on Criminal Jury Instructions, Commission on Continuing Legal Education, and the Equal Justice Task Force.

Sentence Review Division

The Sentence Review Division (Division) of the Supreme Court is comprised of three District Court judges appointed by the Chief Justice of the Supreme Court for three-year terms.

Individuals sentenced to the Montana State Prison, the Montana Women's Prison or to the Department of Corrections (DOC) for one year or more, who are actually taken into custody, may request a review of the sentence they received from a District Court.

The Division meets four times a year in Deer Lodge at the Montana State Prison and twice a year in Billings at the Montana Women's Prison. The 2003 members were: Honorable Katherine R. Curtis, Chairwoman; Honorable Marc G. Buyske; and Honorable Gary L. Day.

In 2003, the Division received a total of 107 Applications for Review of Sentence. Of the sentences reviewed, 50 were affirmed; 10 were decreased; and 0 were increased.

Of the remaining applications, 34 were dismissed upon request of the defendant; 11 were continued; and 2 were held in abeyance pending the outcome of an appeal.

Commission on Practice

The Supreme Court established the Commission on Practice in 1965 to review complaints alleging unethical conduct by Montana attorneys. This Commission also is responsible for reporting on the merits of any petition for reinstatement to the practice of law.

The Commission is comprised of eleven members. The Supreme Court appoints eight attorney members and three non-attorney citizens, who serve four-year terms. Members of the Commission in 2003 were John Warren, Esq., Chairman; Gary L. Davis, Esq. Vice-Chairman; Bruce Fredrickson, Esq., Executive Secretary; Stephen R. Brown, Jr., Esq., Patricia DeVries, W.A. Groff, James A. Hubble, Esq., Thomas W. Hughes, Carey E. Matovich, Esq., Mary Jo Ridgeway, Esq. and Milton Wordal, Esq.

<u>2003 COP Caseload Statistics</u>		<u>Disposition of Complaints:</u>	
Complaints Pending as of December 31, 2002	58	Complaints Dismissed	20
New Complaints Filed	***	Written Private Admonishment	3
	0	Private Oral Admonishment	5
		Probation	3
		Public Censure	3
		Suspension of License	1
	<u>58</u>	Disbarment	9*
		Reinstatement Hearings	0
		Formal Complaints Dismissed	0
**ODC began operations in 2002		*Nine separate complaints resulted in the disbarment of one attorney	
		Complaints Pending as of December 31,2003	<u>14</u>
			<u>58</u>
		Total	

Commission on Courts of Limited Jurisdiction

The Commission on Courts of Limited Jurisdiction was created by order of the Montana Supreme Court. The Commission identifies educational needs and supervises programs that result in limited jurisdiction court judge’s certification.

Membership is comprised of six limited jurisdiction court judges, a district court judge, a representative of a city and a county government, the president of the limited jurisdiction court clerks’ association, and a member of the State Bar of Montana. Members are appointed by the

Supreme Court and serve staggered four-year terms. Members may serve more than one term. The OCA provides staff support to the Commission. A Supreme Court Justice acts as the liaison between the Court and Commission.

The Commission provides two mandatory education conferences each year for the Judges of the Courts of Limited Jurisdiction. It also provides certification testing every four years and judges must receive a passing score to remain in office.

Finally, the Commission plans and supervises an annual conference for clerks of limited jurisdiction courts and publishes a clerks’ manual.

Judicial Standards Commission



Montana’s Judicial Standards Commission was created by the Legislature pursuant to a 1973 amendment to the State Constitution to provide for the censure, suspension, or removal of a judicial officer. The

Commission is composed of two district court judges elected by the district court judges; one attorney appointed by the Supreme Court, and two members of the public appointed by the Governor.

Members of the Commission in 2003 were: The Hon. Ed McLean, Chairman; Victor Valgenti, Esq., Vice Chairman; Barbara Evans, Patty Jo Henthorn, and the Hon. John Warner. On May 19, 2003, District Court Judge Gary L. Day was appointed by the Montana Supreme Court to complete the term of Judge John Warner ending June 30, 2005. All members serve a four-year term.

<u>2003 JSC Caseload Statistics</u>		<u>Disposition of Complaints:</u>	
Complaints Pending as of December 31, 2002	26	Complaints Dismissed	37
New Complaints Filed	<u>41</u>	Admonition	0
		Private Reprimand	1
		Public Reprimand	0
Total	<u>67</u>	Censure	0
		Suspension	0
		Removed from Bench	0
		Permanent Removal	0
		Closed w/o action – retirement	0
		Closed	0
		Complaints Pending as of December 31, 2003	29

Commission on Unauthorized Practice

The Commission on Unauthorized Practice investigates complaints filed against a person who is allegedly practicing law without a license. The Commission has been directed by the Supreme Court to make recommendations which will eliminate the problems associated with the unauthorized practice of law. It is comprised of four attorneys, four lay people and one who may be either an attorney or a layperson. The Supreme Court appoints all members for three-year terms.

Commission on Self-Represented Litigants

The Commission on Self-Represented Litigants was created in April of 2000 by order of the Supreme Court. The Commission was created to develop and implement effective ways to assist self-represented litigants.

The Commission is working to develop court-approved forms that are user friendly and accessible to the public. This process is an effort to ensure that citizens have meaningful access and an opportunity to be heard in Montana

courts. The Commission focuses on ways to provide assistance to litigants so that no one is denied justice.

Gender Fairness Commission

In 1990, the Montana Supreme Court created a Gender Fairness Task Force to research and report issues of gender fairness in the legal and court communities. The Task Force issued its final report, containing recommendations to promote gender fairness in the justice system.

In 2000, the Supreme Court established a Gender Fairness Commission to implement the recommendations in the Task Force Report. The members are Judge Dorothy McCarter; Michael S. Lahr, Esq.; Shelly A. Hopkins, University of Montana Law School; Justice of the Peace Audrey Brown; Elizabeth Nedrow, Esq.; and Bonnie Bowler and Carol Graham, lay members.

Judicial Nomination Commission

The Judicial Nomination Commission provides the Governor a list of qualified candidates for appointment to fill vacancies on the Supreme Court, District Courts and the Workers'

Compensation Court. The Commission also provides the Chief Justice a list of qualified candidates for appointment to fill the position of Chief Water Court Judge.

In 2003, the Judicial Nominations Commission was involved in the appointment of one vacant Supreme Court Justice Position and District Court judge vacancies in the 12th Judicial District (Hill County) and the 13th Judicial District (Yellowstone County).

The Commission is comprised of seven members, which include four lay people appointed by the Governor, two attorneys appointed by the Supreme Court and one District Court Judge elected by the District Court Judges. Commission members serve four-year terms and are not eligible to apply for judicial office during their terms or for one year thereafter.

Office of Disciplinary Counsel

The Office of Disciplinary Counsel (ODC) is part of a comprehensive lawyer regulation system established by the Montana Supreme Court. Effective July 1, 2002, the system consists of ODC and the Commission on Practice (COP). ODC performs central intake functions and processes, investigates and prosecutes complaints against lawyers that are within the jurisdiction of the Court. COP hears and decides the complaints and, in appropriate cases, makes recommendations to the Court for discipline. COP and ODC operate under the supervision of the Montana Supreme Court. There are nine lawyers and five non-lawyers on the COP. The Court appoints both the lawyer and the non-lawyer members of COP.

Number of Complaints

From July 1 through December 31, 2003, the ODC received a total of 320 new complaints. ODC opened 279 cases on matters involving allegations of attorney misconduct, or where the complainant appealed a dismissal by ODC.

Based upon the fact that there are about 2,600 active in-state lawyers, and while some lawyers were subject to multiple complaints, complaints

averaged about one for every 8 lawyers over the twelve-month period.

By comparison, the number of complaints received in 2003 represents an increase of about 20 percent over the number of complaints received in 2002 (133 in the second half of 2002).

Number of Lawyers Disciplined

In 2003, 16 formal disciplinary sanctions (permanent public records) were imposed on Montana lawyers, including 11 disbarments (two ODC matters), two suspensions (one ODC matter), and three public censures. COP placed five attorneys prosecuted on probation (two ODC matters). COP placed two attorneys on disability/inactive status (1 ODC matter). In addition, COP privately admonished 21 attorneys (13 ODC matters).

About one in every 163 lawyers was formally sanctioned, and one in every 124 was admonished. Alternatively, 68 of 70 Montana lawyers (about 98.6 percent) were not subject to any disciplinary sanction last year. Montana lawyers continue overwhelmingly to represent their clients ethically.

DISTRICT COURTS

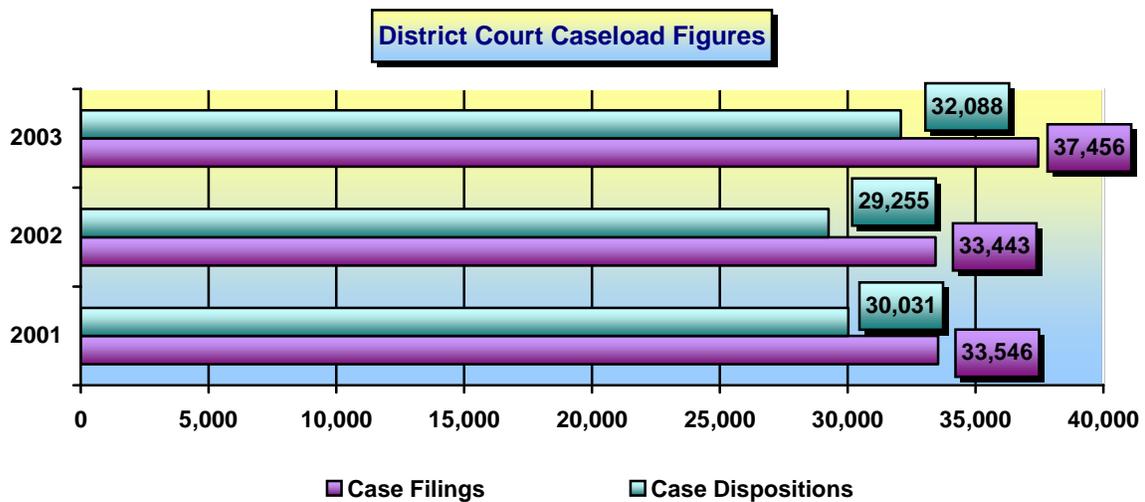
There are 56 District Courts in Montana. These courts are administratively structured into 22 judicial districts and were served by 42 District Court Judges in 2003.

The District Courts are courts of general jurisdiction. General jurisdiction courts process all felony cases, all probate cases, most civil cases at law and in equity, certain special actions and proceedings, all civil actions that may result in a finding against the state for the payment of money, naturalization proceedings, various writs, and some narrowly-defined ballot issues. The District Courts also have limited appellate jurisdiction over cases arising in the Courts of Limited Jurisdiction in their respective districts as may be prescribed by law and consistent with the Constitution.

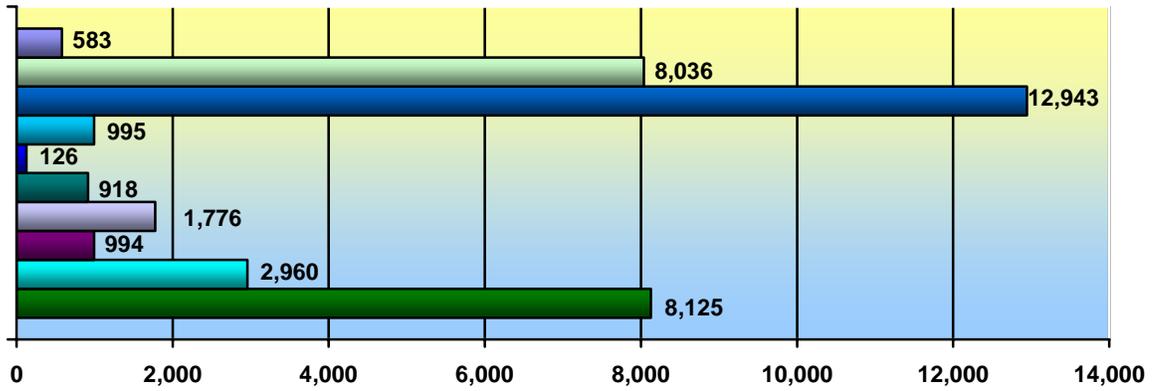
Judicial District	District Judges	District Court Clerks	Counties In District	Area in Sq. Miles	*Pop.
1	Thomas C. Honzel Dorothy McCarter Jeffrey M. Sherlock	Valerie Middlemas Nancy Sweeney	Broadwater Lewis & Clark	4,669	61,567
2	Kurt Krueger John W. Whelan	Lori Maloney	Silver Bow	715	33,208
3	Ted L. Mizner	Susan McNeil Beverly L. Kulaski Sharon Applegate	Deer Lodge Granite Powell	4,888	18,853
4	Douglas G. Harkin John S. Henson John W. Larson Edward P. McLean	Cheryle L. Demmon Shirley Faust	Mineral Missoula	3,834	102,500
5	Loren Tucker	Sheila Brunkhorst Marilyn Craft Bundy K. Bailey	Beaverhead Jefferson Madison	10,731	26,385
6	William Nels Swandal	June Little Deanna Novotny	Park Sweet Grass	4,466	19,444
7	Katherine Irigoien Richard A. Simonton	Ardelle Adams Trudy Kirkegard Lisa Kimmet Arlene Riggs Michael W. Schneider	Dawson McCone Prairie Richland Wibaux	9,676	21,880
8	Julie Macek Thomas M. McKittrick Kenneth R. Neill Dirk M. Sandefur	Nancy J. Morton	Cascade	2,661	79,561
9	Marc G. Buyske	Diane D. Anderson Anita Vandolah Emile Kimmet Sandra Peers	Glacier Pondera Teton Toole	8,853	31,112
10	E. Wayne Phillips	Phyllis D. Smith Julie Anderson Mary Brindley	Fergus Judith Basin Petroleum	7,777	14,378
11	Katherine R. Curtis Ted O. Lympus Stewart Stadler	Peg L. Allison	Flathead	5,137	79,485
12	David Rice	Larry R. Stollfuss Dena Tippetts Anne Seidlitz-Melton	Chouteau Hill Liberty	8,293	16,350

13	Diane G. Barz G. Todd Baugh Russell C. Fagg Gregory R. Todd Susan P. Watters	Jean A. Thompson	Yellowstone	2,642	133,191
14	Randal I. Spaulding	Kathleen Ott Donna Morris Connie Mattfield Janet Hill	Golden Valley Meagher Musselshell Wheatland	6,837	9,584
15	David Cybulski	Patricia McDonnell Patricia A. Stennes Cheryl A. Olson	Daniels Roosevelt Sheridan	5,501	16,059
16	Joe L. Hegel Gary L. Day	Carole Carey Bernice Matthews Jerrie Newell Connie Nielsen Aletta Shannon Marilyn Hollister Ruth Baker	Carter Custer Fallon Garfield Powder River Rosebud Treasure	22,480	28,559
17	John C. McKeon	Kay O'Brien Johnson Iris Robinson Patricia A. Hill	Blaine Phillips Valley	14,499	18,349
18	Michael Salvagni Mark Guenther	Lorraine Van Ausdol	Gallatin	2,517	73,243
19	Michael C. Prezeau	Nadine Pival	Lincoln	3,714	18,835
20	C.B. McNeil Deborah Kim Christopher	Katherine E. Pedersen Dianne Rummel	Lake Sanders	4,268	37,652
21	Jeffrey H. Langton James A. Haynes	Debbie Harmon	Ravalli	2,382	38,662
22	Blair Jones	Michelle Massine Gayle M. Strausburg Jean Bare	Big Horn Carbon Stillwater	8,883	31,123

*Population Estimates by District as of July 1, 2003.



District Court Case Filings - 2003



- Domestic Relations
- Abused/Neglected Children
- Guardianship/Conservatorship
- Mentally Ill/Developmentally Disabled
- Criminal
- Probate
- Juvenile
- Paternity
- Civil
- Adoption

SPECIAL JURISDICTION COURTS

Workers' Compensation Court

The Legislature created the Workers' Compensation Court (WCC) in 1975 to provide an efficient and effective forum for the resolution of disputes arising under the Workers' Compensation Act and the Occupational Disease Act. Subsequent Legislatures have increased the WCC's exclusive jurisdiction to include matters such as disputes involving independent contractor exemptions and reemployment preferences. The WCC conducts trials statewide and decides requests for judicial review from final orders of the Montana Department of Labor and Industry. Decisions of the WCC may be appealed directly to the Supreme Court.

The WCC Judge, the Hon. Mike McCarter, serves a six-year term and is appointed by the Governor from a list of applicants submitted by the Judicial Nomination Commission. The qualifications for a WCC Judge are the same as those for District Court Judges. The WCC is attached to the Montana Department of Labor and Industry for administrative purposes only.

Water Court

Montana's Water Court was created by the 1979 Legislature to expedite and facilitate the statewide adjudication of over 219,000 state law-based water rights (generally rights with a pre-July 1973 priority date) and federal and Indian reserved water rights claims. The Water Court

has exclusive jurisdiction over the adjudication of water rights claims.

A Chief Water Judge, the Hon. C. Bruce Loble, is appointed by the Chief Justice of the Supreme Court from a list of nominees submitted by the Judicial Nomination Commission. A water judge is also designated for each of Montana's four major water divisions by a majority vote of a committee composed of the District Court Judge from each single-judge judicial district and the Chief District Judge from each multiple-judge judicial district, wholly or partly within each division. Special Masters are appointed by the Chief Water Judge to assist the water judges.

The adjudication of federal and Indian reserved water rights claims is suspended until July 1, 2009, while the State of Montana and federal and tribal authorities negotiate reserved water right compacts. Nine compacts have been negotiated and approved by the Montana Legislature.

The Water Court's most active basins are in the (1) Clark Fork River above the Blackfoot River; (2) Ruby River; (3) Bitterroot River, North, South and West side; (4) Missouri River above Holter Dam; (5) Yellowstone River between the Clarks Fork of the Yellowstone and the Big Horn Rivers; and (6) Clarks Fork of the Yellowstone River.

The Water Court is also assisting the District Courts in the 14th and 18th Judicial Districts to enforce portions of the Water Court decrees.

COURTS OF LIMITED JURISDICTION

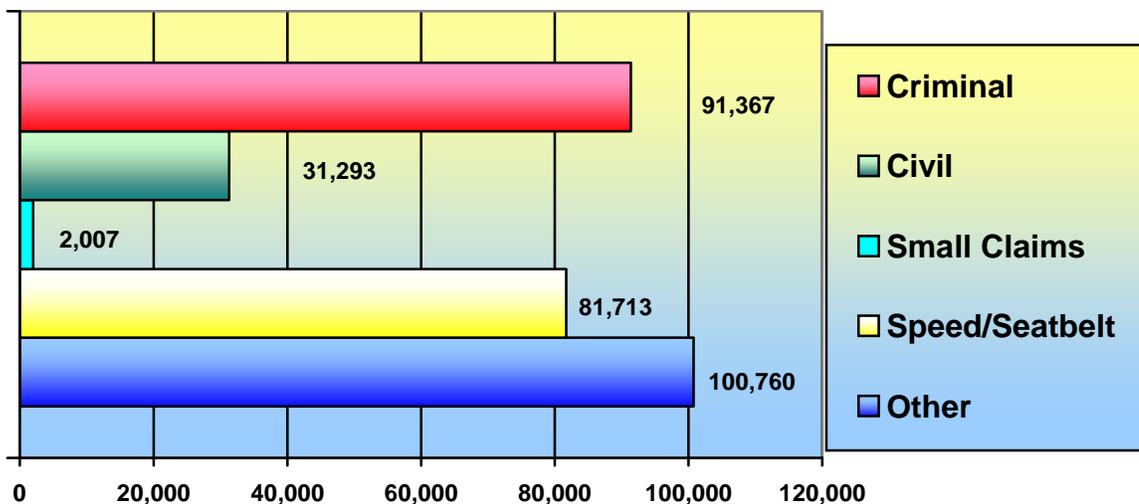
Courts of Limited Jurisdiction in Montana are Justice Courts, City Courts and Municipal Courts. There are 66 Justice Courts, 81 City Courts and 5 Municipal Courts. Although the jurisdiction of these courts differs slightly, collectively they address cases involving misdemeanor offenses, civil cases for amounts up to \$7,000, small claims valued up to \$3,000, landlord/tenant disputes, local ordinances, forcible entry and detainer, protection orders, certain issues involving juveniles, and other matters. The total caseload of these courts is nearly 10 times greater than that of the District Courts in Montana. Courts of Limited Jurisdiction are the courts in which most Montanans will encounter the justice system.

Justice and Municipal Court Judges are elected, unless appointed to fill a vacated position.

Judges appointed to fill a vacated position must run for the position at the end of the term to which they were appointed. City Court Judges may be elected or appointed. All Limited Jurisdiction Court Judges serve four-year terms. Justice Court and City Court Judges are not required to be attorneys; Municipal Court Judges must be attorneys. In 2003, there were 115 Limited Jurisdiction Court Judges. Numerous judges serve as both Justice of the Peace and City Judges.

All Limited Jurisdiction Court Judges must attend two Supreme Court supervised training conferences each year and pass a Certification Examination each term. Failure to attend a training conference or pass the examination creates a vacancy in the Judge's office.

Courts of Limited Jurisdiction Caseload Figures
Total Cases Filed in 2003 - 307,140



Part 3: Statistics

District Courts

New Case Filings and Dispositions



DistrictCourtStats2
003.xls

Average Number of Case Filings Per Judge



csflgjdjg.xls

Courts of Limited Jurisdiction

Case Filings by County



Coljtab2003.xls

Part 4: Appendices

APPENDIX A

Annual Report: State Law Library 2003

The Montana State Law Library continues to strive to improve its performance in pursuit of its mission of providing access to legal information at the time and in the format that best serves the research needs, responsibilities and concerns of its constituencies. Having a user base that includes the entire state – the judiciary and all of state government, all of the practicing bar, and the general public – makes this a perennial challenge.

It is no secret that today most people want their information delivered electronically. The drop in the number of law library books used (measured by adding the number of books checked out and the number of books reshelfed) has been 23% over the past 5 years. The number of copy requests has also dropped, by 54%, although the number of pages copied has only decreased 4%. Fax transmissions, which had grown incrementally since the 1980's, dropped by 15% in the past year.

In recognition of this paradigm shift, we have revised our systems to support different ways of learning and doing legal research, as well as the growing number of self-represented litigants we assist. The Montana Law Library adds approximately 16,000 pages to its website each month. In addition to the Supreme Court's opinions and the appellate briefs that are filed with the court, other legal materials that are in the public domain are also added. Court rules, legal forms, Attorney General's opinions, and Constitutional Convention materials are examples. *In 2002 we averaged 5,000 visits to our web site each month; now the number of unique visitors is over 6,300. That is a 27% rise in only one year.*

The library's website has an "Ask the Librarian" button, which generates a significant number of requests. Some are simple copy requests or queries that five years ago people would have phoned in. Most, however, are reference and research requests. The ones from public and private legal offices are generally no different than the traditional ones we answer.

Requests for legislative histories, other state statutes, dates for limitations of actions, effective dates of statutes, and law journal articles are typical.

The biggest change we have seen has been the volume and variety of questions received from pro se litigants and the general public. Legal definitions, such as "what does 'right to work state' mean?" are common. Requests for legal forms for divorces, names changes and stepparent adoptions are frequent. We get a few requests from students each month, asking for extensive research for their academic work. We also receive requests for legal advice constantly. To both of these categories our response is usually to send links to sections of the Montana Code or other parts of our website. We also give referrals to a number of other offices, such as Montana Legal Services and the Lawyer Referral Service operated by the State Bar of Montana.

The library added two public access Westlaw computer stations this year. Our public computers are in constant use. Clients use them for legal research, to locate law journal titles, and to do Internet research. We know that *reports and documents on the average government website are there* for only 44 days. We also know that 60% of all Internet searching done by professionals does not yield the information sought. Consequently our reference staff spends a lot of time helping people negotiate the Internet. The common belief that everything is available for free on the World Wide Web leaves many people quite frustrated. We generally find that in these cases the material that is sought is too old (generally published before 1998) or is a commercial source that will never be free on the Internet, or that the search techniques were flawed.

Our staff of eight people now spends half of its time on digital information – either in digitizing print sources, arranging them on our Web site, or assisting others in searching the Internet. This is a significant change over past years. We continue to migrate from print titles to

electronic licenses so that we can e-mail people the information they are seeking. This gives them their information faster, and diminishes the amount of copying and mailing or faxing that we need to do. When taking requests for information, we used to give the client the option of having something sent through the U.S. mail, Federal Express or U.P.S, or faxed. Now we will digitize a print source and e-mail it to the customer.

Despite this dramatic change in how we do business, we still have an excellent book collection which we are quite proud of. As we are the law library of last resort for the entire State of Montana, we cannot prune it more than we already have. We also must be able to anticipate the research needs of the bench and bar. Our collection now has 165,000 volumes, which is large enough for us to fulfill most requests. Without appropriations to accommodate inflation we are forced to cut back each year. Sometimes we are fortunate to find titles that are less expensive than those we already have, but usually when we have to cancel something it means there is no coverage for that topic in Montana.

The law library staff is stable, and each member excels at his or her job. All are committed to providing the best possible service to the citizens of Montana. We feel the library is the Equalizer – the first rung of the ladder of justice. By offering our resources, we know that the Attorney General’s office will have the same quality of information available as the largest law firm in the West. Similarly, a pro se patron who cannot afford paid legal counsel has a place to come, in person or virtually, to begin to understand legal processes and systems. We strive to understand and anticipate what keeps our stakeholders up at night, so that we will be ready to serve them when they contact us.

Appendix B

Office of Disciplinary Counsel – Annual Report for 2003

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Number of Complaints

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Based upon the fact that there are about 2,600 active in-state lawyers, and while some lawyers were subject to multiple complaints, complaints averaged about one for every 8 lawyers over the twelve-month period.

By comparison, the number of complaints received in 2003 represents an increase of about 20 percent over the number of complaints received in 2002 (133 in the second half of 2002).

Number of Lawyers Disciplined

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About one for every 163 lawyers was formally sanctioned, and one in every 124 was admonished. Or, collectively, one in every 70 Montana lawyers (less than two percent) was either sanctioned or admonished.

Alternatively, 68 of 70 Montana lawyers (about 98.6 percent) were not subject to any disciplinary sanction last year. Montana lawyers continue overwhelmingly to represent their clients ethically.

Cases in Inventory

Effective July 7, 2003, the Montana Supreme Court amended the Rules for Lawyer to Disciplinary Enforcement to allow ODC to dismiss cases under very limited circumstances. Of the 320 new complaints that were received, ODC opened 65 “pencil files” in those cases that did not appear to state a disciplinary complaint. ODC dismissed 29 of those 65 cases. Complainants appealed in only 2 of those dismissals. ODC believes the relatively low appeal ratio is a reflection on the requirement in the rule that ODC provide the complainant with an explanation for the dismissal. In most cases, the explanation is sufficient to satisfy the complainant’s inquiry or concerns.

Ultimately, ODC opened new files in 24 of the 65 pencil files, either because the complainant sent in additional information involving allegations of attorney misconduct or because the complainant appealed a dismissal by ODC. Twelve of the pencil files were referred to other agencies or simply required no further action because the complainant never provided additional information requested by ODC.

Of the 279 new files which were opened in 2003 and 89 cases carried over from 2002 (368 total cases), ODC completed intake and investigation and made reports and recommendations on 296 cases (including supplemental reviews or appeals) to the COP over the course of the six COP meetings held during the year (compared with 57 case reports in the second half of 2002).

In all, ODC prepared reports or dismissal letters on a total of 325 cases last year.

72 cases were in inventory and carried over to 2004, nearly all of them less than 120 days old (compared with 89 cases carried over from 2002 to 2003).

At the end of 2003, there were 20 open formal cases. In eight cases, there were pending Rule 26 consents to discipline prior to any formal charges being filed. There were seven pending formal actions before the Montana Supreme Court. ODC had five additional formal complaints to file pursuant to COP's recommendation.

In addition to the ODC's handling of complaint investigations and prosecutions, in 2003 its staff received 562 telephone, 139 written, and 7 walk-in inquiries from the public about potential complaints (compared with 303 telephone, 92 written and seven walk-in inquiries in the second half of 2002). ODC mailed 655 complaint packets and information forms (compared with 368 packets sent in the second half of 2002).

Case Prosecutions

Disciplinary Counsel appeared at four formal hearings, 17 Rule 26 consent hearings (both formal and informal), and 16 show cause hearings over the course of the six COP meetings held during the year (37 total hearings).

Nature of Grievants

Clients or ex-clients filed about 54 percent of all complaints in which ODC opened case files (compared with 75 percent in 2002). Opposing counsel filed about nine percent (compared with eight percent in 2002), while opposing parties filed about 18 percent (compared with seven percent last year). Third parties or other non-categorized complainants made up the remaining 19 percent (compared with ten percent last year).

The increase in complaints by opposing parties and third parties is an alarming trend. If disciplinary complaints are being used as a litigation tactic, new measures may be required to address the trend.

Practice Areas Involved in ODC Case Files

Most grievances were filed against lawyers practicing in criminal law (about 29 percent, compared with 36 percent in 2002), then civil litigation (18 percent, up from eight percent last year), family law (14 percent, compared with 16 percent last year), personal injury law (ten percent, down from 13 percent last year), probate law (six percent, compared with five percent in 2002), business matters (six percent, up from less than three percent last year), and bankruptcy (four percent, up from less than three percent in 2002). Lawyers practicing in other areas of the law including real estate, contract and other matters comprised lesser percentages.

Types of Allegations in ODC Case Files

About 30 percent of complaints allege that the lawyer did not act competently or did not perform promised legal services at all, delayed performance beyond what was expected, or failed to adequately communicate with the client (compared with 45 percent in 2002). Another 16 percent of complaints allege interference with justice by the lawyer by, for example, communicating with represented adversaries, making misrepresentations to a court, disobeying court orders, or filing non-meritorious claims (up from 10 percent

last year). About 15 percent of all cases allege failure by the lawyer to satisfy duties to the client, including misrepresentations to the client, disregarding conflicts of interest, improperly withdrawing from representation, failing to turn over files to the client, or settling cases without authority (compared with 12 percent in 2002). Another four percent relate to the lawyer's personal conduct, including dishonesty and misrepresentations to non-clients (down from 13 percent last year). Another two percent allege the lawyer charged excessive fees, or failed to return unearned fees (down from nine percent in 2002). About two percent alleged unauthorized practice of law by suspended or disbarred attorneys (no statistic in 2002). One percent of the cases alleged breach of confidentiality (no statistic in 2002). Less than one percent in each category allege trust account violations, criminal misconduct, misconduct in dealing with disciplinary authority, and other violations.

Reasons for File Closures

Of the 296 cases reviewed, the COP dismissed 65 percent after a Review Panel determined that either the complaint was outside the disciplinary jurisdiction of the Court or there was no evidence or insufficient evidence that a violation had occurred (same as 2002). The Review Panel recommended further ODC investigation in only about two percent of the cases reviewed (down from nine percent in 2002). It recommended discipline in about 17 percent of the cases reviewed (up from nine percent in 2002). Eleven percent (33 cases) of the cases reviewed resulted in a recommendation for formal discipline (up from four and one-half percent in 2002). Six percent (18 cases) of the cases reviewed resulted in a recommendation for informal discipline (up from four and one-half percent in 2002). No cases were deferred due to the lawyer's disability inactive status. Sixteen show cause orders were issued due to a lawyer's failure to respond to an ODC inquiry.

Supreme Court Opinions

During 2003, the Supreme Court issued 16 opinions in lawyer disciplinary cases. Three of those public decisions were ODC matters:

In re John S. Yoder, Supreme Court Cause No. 02-753.

Attorney reported himself for stealing client funds and Yellowstone County Bar Association funds, and allowing statute of limitations to expire on several cases. Formal charges brought for violations of MRPC 1.1, 1.3, 1.4, 1.15 and 8.4(c). Respondent filed a conditional admission and consent to indefinite suspension. COP held a Rule 26 hearing in March 2003. On April 14, 2003, COP issued its Recommendation to Approve Rule 26 Tendered Admission. On April 22, 2003, the Supreme Court issued its Order adopting COP's Recommendation. Respondent was suspended indefinitely for a period of not less than four years, ordered to pay restitution, continue therapy and pay costs and expenses.

In re Patrick M. Springer, Supreme Court Cause No. 03-113.

Complainant alleges that Attorney stole money from his trust account and acted in bad faith, as Complainant's attorney-in-fact. Formal charges were brought for violations of MRPC 1.8, 1.15 and 8.4(c). Respondent failed to file a timely answer. COP held a formal hearing in July 2003. ODC recommended disbarment. COP issued its Findings of Fact, Conclusions of Law, and Recommendations to the Supreme Court for disbarment. The Supreme Court disbarred Springer.

In re James A. Johnstone, Supreme Court Cause No. 03-115.

Complainant alleges that Attorney continually lied to her and her husband about their bankruptcy case, which was in fact never filed. Formal charges were brought for violations of MRPC 1.1, 1.3, 1.4, 4.1, 8.1 and 8.4(c). Respondent failed to file an answer. COP held a formal hearing in July 2003. ODC recommended disbarment. COP issued its Findings of Fact, Conclusions of Law, and Recommendations to the Supreme Court for disbarment. The Supreme Court disbarred Johnstone.

Suggested Rule Revisions and Related Matters

July 7, 2003 revisions

The Montana Supreme Court adopted a number of revisions to the Rules for Lawyer Disciplinary Enforcement including Rules 3, 5, and 10 (limited screening authority); 13 (consideration of prior private admonitions); 20 (confidentiality); and 26 (approval of tendered admissions).

Retirement Status

The State Bar adopted a new category of former members who resigned from the practice of law while in the lawyer disciplinary system, including certain readmission requirements.

New Diversion Program

ODC is working with the State Bar to propose a new diversionary program as an alternative to formal discipline in cases involving less serious misconduct and some form of a treatable disability.

Ethics Presentations

Disciplinary Counsel made nine ethics presentations to lawyers for CLE credits in 2003, including the Criminal Defense Lawyers, Montana Defense Trial Lawyers, Annual Bench-Bar Conference, Yellowstone County Bar Association, Montana County Attorney's Association, State Bar Annual Convention, Montana Judges' Association, Western Montana Bar Association, and Current Issues for State Lawyers CLE.

Annotation Project

Disciplinary Counsel, in conjunction with the University of Montana School of Law, Professor David Patterson continues to work in developing a comprehensive set of all Supreme Court decisions and COP recommendations in formal disciplinary matters since 1992. The ultimate objective will be to produce and distribute the final work product in the form of annotations to the Montana Rules of Professional Conduct.