

MONTANA SUPREME COURT PERFORMANCE MEASURES
2010 Bench and Bar Survey
Prepared by Office of Court Administrator
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Background

In September 2010, the Supreme Court conducted its second bench and bar survey. The purpose of the anonymous on-line survey, which is conducted every other year, is to ask District Court judges, appellate attorneys, and law school faculty how they think the Court was performing. Respondents rated the Court's performance in several core areas, including whether the Court's decisions are based on facts and applicable law, whether the Court's published opinions explain deviations from established law and the adoption of new developments in law, and whether the Court treats judges and attorneys with courtesy and respect. The survey also asked about the Court's timeliness in completing its work and about the attorney disciplinary process.

This "consumer" satisfaction survey is one of several performance measures adopted by the Court in 2008. In addition to the survey, the Court has implemented an employee satisfaction survey and case flow measures involving on-time case processing, case clearance, and age of pending caseload. These performance measures were developed with assistance from National Center for State Courts and are derived from the Center's *CourTools*.

Survey Results

The bench and bar survey was sent to 960 individuals: District Court judges, law school faculty and adjunct faculty, and appellate attorneys involved in cases disposed of by opinion between July 1, 2008 and June 30, 2010.

The survey response rate was good – 39.6%. Three-hundred seventy-two (372) people responded, including 34 District Court judges, 7 faculty members, and 321 attorneys. (Ten respondents did not identify their occupation.)

Appendix A provides a summary of the survey results. The percentage and number of respondents who said that they “strongly agreed” or “agreed” to each of the 10 statements are provided for all respondents and by respondent occupation.

- Averaging the responses to all statements, nearly 80% of the respondents strongly agreed or agreed with the Court’s overall performance.
- Over 90% of the respondents believed that the Court does a good job in providing information about its roles, procedures, and operations.
- Eight out of ten said that the Court completed its overall workload in a timely manner, that opinions are issued on time, and that the Court treats attorneys with courtesy and respect.
- In regards to attorney discipline, about three-fourths of the respondents agreed that the Court’s attorney disciplinary process is fair and that sanctions imposed on attorneys are proportionate to the misconduct.
- When asked about the Court’s published opinions, 76% said that the opinions clearly state the appropriate rule of law, identify and apply standards of review, and provide instructions on remands while 62% believed that the Court’s published opinions explain deviations from the principle of *stare decisis* and the adoption of new developments of law. Approximately 70% of the respondents agreed that the Court’s decisions are based on facts and applicable law.

Comparisons to Baseline Data (2008)

The first bench and bar survey was conducted in 2008. **Appendix B** presents the percentage and number of “strongly agree” and “agree” responses for 2008 and 2010 and provides the percentage point change between the two years.

- In 2010, the Court’s overall average rating improved from 71.7% to 79.8%, an increase in 8.1 percentage points.
- The biggest change by far in the satisfaction levels occurred in the area of timeliness. In 2008, less than 32% of respondents believed that the Court issued opinions in adversarial cases in a timely manner. This number soared to nearly 82% in 2010, an increase in over 50 percentage points. Similarly, in 2010 almost 86% said that the Court completes its overall workload in a timely manner compared to less than 38% in 2008, a difference of 48 percentage points.
- The satisfaction level regarding the nature of the Court’s decisions and opinions (i.e., decisions are based on facts and applicable law; opinions clearly state the appropriate rule of law, identify and apply standards of review, and provide instructions on remands; and opinions explain deviations from the principle of *stare decisis* and the adoption of new developments in law) dropped somewhat between 2008 and 2010, although the decline was less than 5 percentage points.
- Likewise, a small drop in the satisfaction level related to the attorney disciplinary process occurred between 2008 and 2010. Respondents who believed the process is fair dropped 3.1 percentage points while those who thought the disciplinary sanctions were proportionate declined by 2.3 percentage points.
- Change in satisfaction levels regarding treatment of judges and attorneys and provision of information about Court roles, procedures, and operations remained high (85% to 92%) and virtually unchanged between 2008 and 2010.

APPENDIX A
2010 MONTANA SUPREME COURT BENCH & BAR SURVEY
Percentage (& Number) of Respondents Who Strongly Agreed or Agreed*

Survey Question	Overall	Judges	Attorneys	Faculty
1. The Montana Supreme Court's decisions are based on the facts and applicable law.	70.8% (243)	82.8% (24)	69.6% (208)	80.0% (4)
2. The Montana Supreme Court's published opinions clearly state the appropriate rule of law, identify and apply standards of review, and provide instructions on remands.	76.1% (261)	85.7% (24)	74.8% (226)	100.0% (5)
3. The Montana Supreme Court's published opinions explain deviations from the principle of <i>stare decisis</i> and the adoption of new developments in the law.	62.5% (208)	75.9% (22)	61.2% (178)	66.7% (4)
4. The Montana Supreme Court issues opinions in adversarial cases in a timely manner.	81.8% (274)	100.0% (28)	80.7% (238)	83.3% (5)
5. The Montana Supreme Court completes its overall workload in a timely manner.	85.9% (280)	100.0% (29)	84.8% (245)	100.0% (3)
6. The Montana Supreme Court treats trial court judges with courtesy and respect in its opinions.	91.6% (305)	82.8% (24)	92.4% (269)	83.3% (5)
7. The Montana Supreme Court treats attorneys with courtesy and respect.	85.0% (289)	92.6% (25)	84.4% (254)	100.0% (6)
8. The Montana Supreme Court provides information about its roles, procedures, and operations.	92.0% (297)	96.7% (29)	91.4% (256)	85.7% (6)
9. The Montana Supreme Court's attorney disciplinary process is fair.	75.5% (188)	96.2% (25)	74.0% (159)	66.7% (2)
10. The Montana Supreme Court imposes disciplinary sanctions on attorneys that are proportionate to the attorneys' misconduct.	77.2% (183)	91.7% (22)	76.3% (158)	50.0% (1)

Average Overall	79.8%
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* Excludes respondents who answered "Undecided or Unknown".

The Supreme Court conducted an electronic survey between September 7 and September 21, 2010. The survey was sent to 960 District Court judges, law school faculty and adjunct faculty, and appellate attorneys involved in cases disposed of by opinion between July 1, 2008 and June 30, 2010. Three hundred seventy-two (372) individuals responded to the survey -- 34 judges, 7 faculty members, and 321 attorneys (10 unspecified) -- for a response rate of 39.6%.

NOTE: Summing the number of responses from judges, attorneys, and faculty members will not equal the overall numbers because not all respondents identified their occupation.

APPENDIX B

MONTANA SUPREME COURT BENCH & BAR SURVEY COMPARISON: 2008 AND 2010 Percentage (& Number) of Respondents Who Strongly Agreed or Agreed*

Survey Question	2008	2010	Change in Percentage Points
1. The Montana Supreme Court's decisions are based on the facts and applicable law.	74.8% (320)	70.8% (243)	- 4.0
2. The Montana Supreme Court's published opinions clearly state the appropriate rule of law, identify and apply standards of review, and provide instructions on remands.	81.0% (349)	76.1% (261)	- 4.9
3. The Montana Supreme Court's published opinions explain deviations from the principle of <i>stare decisis</i> and the adoption of new developments in the law.	66.6% (277)	62.5% (208)	- 4.1
4. The Montana Supreme Court issues opinions in adversarial cases in a timely manner.	31.4% (128)	81.8% (274)	+ 50.4
5. The Montana Supreme Court completes its overall workload in a timely manner.	37.7% (147)	85.9% (280)	+ 48.2
6. The Montana Supreme Court treats trial court judges with courtesy and respect in its opinions.	90.1% (373)	91.6% (305)	+ 1.5
7. The Montana Supreme Court treats attorneys with courtesy and respect.	84.9% (354)	85.0% (289)	+ 0.1
8. The Montana Supreme Court provides information about its roles, procedures, and operations.	92.4% (388)	92.0% (297)	- 0.4
9. The Montana Supreme Court's attorney disciplinary process is fair.	78.6% (265)	75.5% (188)	- 3.1
10. The Montana Supreme Court imposes disciplinary sanctions on attorneys that are proportionate to the attorneys' misconduct.	79.5% (268)	77.2% (183)	- 2.3
Average Overall	71.7%	79.8%	+ 8.1

* Excludes respondents who answered "Undecided or Unknown".