

**MONTANA SUPREME COURT PERFORMANCE MEASURES**  
**2012 Bench and Bar Survey**  
Prepared by Office of Court Administrator  
January 2013

## ***Background***

In September 2012, the Supreme Court conducted its third 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 is 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 the National Center for State Courts and are derived from the Center's *CourTools*.

## ***Survey Results***

The bench and bar survey was sent to 707 individuals: District Court judges, law school faculty and adjunct faculty, and appellate attorneys involved in cases disposed of by opinion between July 1, 2010 and June 30, 2012.

The survey response rate was good – 46.1%. (The response rate was 39.6% in 2010.) Three-hundred twenty-six (326) people responded, including 37 District Court judges, 13 faculty members, and 273 attorneys. (Three 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, more than 86% of the respondents strongly agreed or agreed with the Court’s overall performance.
- Over 94% of the respondents believed that the Court does a good job in issuing opinions in adversarial cases in a timely manner.
- More than 96% said that the Court completed its overall workload in a timely manner.
- In regards to attorney discipline, more than 85% 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, 79% said that the opinions clearly state the appropriate rule of law, identify and apply standards of review, and provide instructions on remands while 68% believed that the Court’s published opinions explain deviations from the principle of *stare decisis* and the adoption of new developments of law. Approximately 75% 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, 2010 and 2012 and provides the percentage point change between the 2008 and 2012.

- In 2012, the Court’s overall average rating improved from 71.7% to 86.4%, an increase in 14.7 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 95% in 2012, an increase of over 60 percentage points. Similarly, in 2012 almost 97% said that the Court completes its overall workload in a timely manner compared to less than 38% in 2008, a difference of 59 percentage points.
- The generally high 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) rose slightly between 2008 and 2012.
- The satisfaction with the attorney discipline process saw an increase between 2008 and 2012. Respondents who believed the process is fair increased more than 8 percentage points while those who thought the disciplinary sanctions were proportionate increased by more than 6 percentage points.
- Change in satisfaction levels regarding treatment of judges and attorneys and provision of information about Court roles, procedures, and operations remained high (93% and 88% respectively).

**APPENDIX A**  
**2012 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.	75.0% (238)	94.0% (34)	71.4% (190)	91.6% (11)
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.	80.0% (251)	88.8% (32)	77.9% (205)	100.0% (12)
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.	68.6% (206)	91.2% (31)	64.4% (163)	100.0% (10)
4. The Montana Supreme Court issues opinions in adversarial cases in a timely manner.	94.9% (303)	100.0% (36)	94.0% (252)	100.0% (12)
5. The Montana Supreme Court completes its overall workload in a timely manner.	96.4% (297)	100.0% (35)	95.7% (248)	100.0% (11)
6. The Montana Supreme Court treats trial court judges with courtesy and respect in its opinions.	92.8% (261)	82.8% (29)	93.8% (230)	100.0% (11)
7. The Montana Supreme Court treats attorneys with courtesy and respect.	87.9% (271)	93.3% (28)	89.4% (229)	100.0% (11)
8. The Montana Supreme Court provides information about its roles, procedures, and operations.	96.3% (289)	96.8% (30)	96.0% (246)	100.0% (10)
9. The Montana Supreme Court's attorney disciplinary process is fair.	87.0% (189)	100.0% (27)	85.2% (150)	100.0% (9)
10. The Montana Supreme Court imposes disciplinary sanctions on attorneys that are proportionate to the attorneys' misconduct.	86.0% (191)	93.1% (27)	83.9% (152)	100.0% (9)

<b>Average Overall</b>	<b>86.4%</b>
------------------------	--------------

\* Excludes respondents who answered "Undecided or Unknown".

The Supreme Court conducted an electronic survey between September 10 and September 24, 2012. The survey was sent to 707 District Court judges, law school faculty and adjunct faculty, and appellate attorneys involved in cases disposed of by opinion between July 1, 2010 and June 30, 2012. Three hundred twenty-six (326) individuals responded to the survey -- 37 judges, 13 faculty members, and 273 attorneys (3 unspecified) -- for a response rate of 46.1%.

**Appendix B - MONTANA SUPREME COURT BENCH & BAR SURVEY COMPARISON: 2008 , 2010 and 2012**

**Percentage (& Number) of Respondents Who Strongly Agreed or Agreed\***

<b>Survey Question</b>	<b>2008</b>	<b>2010</b>	<b>2012</b>	<b>2008-2012 Change in Percentage Points</b>
1. The Montana Supreme Court's decisions are based on the facts and applicable law.	74.8% (320)	70.8% (243)	75.0% (238)	+0.2
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)	80.0% (251)	-1.0
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)	68.6% (206)	+2.0
4. The Montana Supreme Court issues opinions in adversarial cases in a timely manner.	31.4% (128)	81.8% (274)	94.9% (303)	+63.5
5. The Montana Supreme Court completes its overall workload in a timely manner.	37.7% (147)	85.9% (280)	96.4% (297)	+58.7
6. The Montana Supreme Court treats trial court judges with courtesy and respect in its opinions.	90.1% (373)	91.6% (305)	92.8% (273)	+2.7
7. The Montana Supreme Court treats attorneys with courtesy and respect.	84.9% (354)	85.0% (289)	87.9% (271)	+3.0
8. The Montana Supreme Court provides information about its roles, procedures, and operations.	92.4% (388)	92.0% (297)	96.3% (289)	+3.9
9. The Montana Supreme Court's attorney disciplinary process is fair.	78.6% (265)	75.5% (188)	87.0% (189)	+8.4
10. The Montana Supreme Court imposes disciplinary sanctions on attorneys that are proportionate to the attorneys' misconduct.	79.5% (268)	77.2% (183)	86.0% (191)	+6.5
<b>Average Overall</b>	<b>71.7%</b>	<b>79.8%</b>	<b>86.4%</b>	<b>+14.7</b>

\* Excludes respondents who answered "Undecided or Unknown".