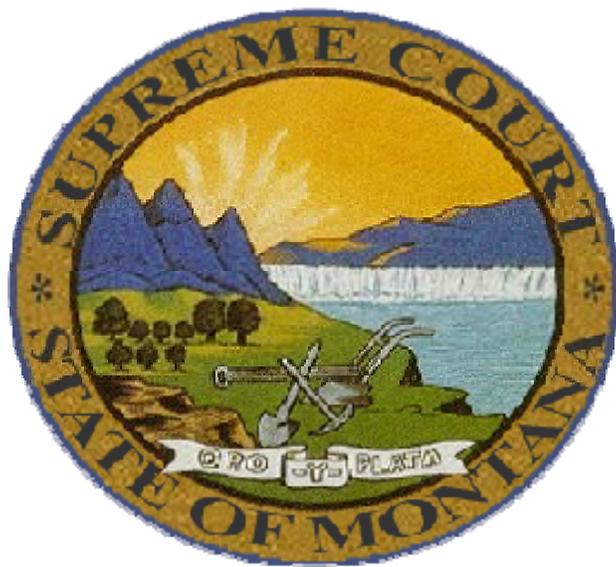


*Montana's
Judicial Branch*



2007
Annual Report

A message from Chief Justice Karla M. Gray

As I reflect on 2007 in preparing this report to the citizens of Montana, I am delighted by the progress in Montana's Judicial Branch. The Judicial Branch – at all levels – continued to do an extraordinary job of adjudicating cases and providing a place for Montanans to resolve their disputes, especially given available resources. The Branch also is rising to meet even newer challenges. Courts and individual judges are taking leadership roles in addressing serious issues that go to the heart of the system of government we all hold so dear. I am pleased to bring these matters to your attention.

Equal access to the justice system is one such issue. An ever-increasing number of litigants are representing themselves in all Montana courts each year. For most of these citizens, it is not truly a “choice” to self-represent, but a decision driven by economic factors. Montana's judges, clerks of court and many other partners recognize this, and have attempted to assist these litigants in opening the doors of justice to all. In 2007, the Legislature and Governor Brian Schweitzer stepped up to join the movement toward equal access by providing state funding for a self-help law program. Because of the commitment to access to justice by judges, clerks of court, equal access organizations, Judicial Branch staff and many others, we are establishing a self-help program that is Montana-specific and provides Montanans with meaningful access to the courts. The funding was provided on a one-time only basis, however, which presents both a challenge and an opportunity. We must – and will – prove to the funders during the 2009 legislative session that this program is worthy of continuation and, indeed, modest expansion so our courts are truly accessible.



The rights of children in our court system also has remained an issue close to my heart. In 2007, the Judicial Branch's commitment to what I fondly call “kid cases” continued to be a priority. The Supreme Court co-hosted the second annual children's summit, bringing together the various participants—judges, lawyers, social workers and others—involved in child abuse and neglect cases. The changes resulting from the summit have been significant. As one example, the Supreme Court has dramatically reduced decision-making time in abused and neglected “kid cases” so that both children and parents can know what their futures hold as quickly as possible. Our Youth Courts also have undertaken creative approaches to managing juvenile offenders, including children, who have committed offenses and also have mental health issues. Finally, the Judicial Branch was successful in securing additional funding for the Court Appointed Special Advocate programs that provide essential services to abused and neglected children and to the judges who face the difficult decisions of determining what is best for the children's future.

The Judicial Branch also took the unprecedented step of systematically analyzing the workload in the District Courts. What we found was not unexpected: Montana's trial court judges are facing caseloads that are overwhelming in number and increasingly complex. We simply must add judges and staff to meet the caseload demands in a timely fashion for Montanans. While adding judicial resources is critical, we also must examine the way we do our work. To that end, both the Supreme Court and the District Courts embarked on court performance measurement projects, which will help us identify ways to manage the work we do for Montana's citizens even better. The Montana Judicial Branch is the first in the nation to tackle performance measurement projects for both the appellate and trial courts. I am proud of this effort, and believe it will produce improvements in an already very solid judicial system.

This Annual Report provides you with additional information about our successes and about the challenges that remain. I recommend the 2007 Annual Report of the Judiciary of the State of Montana to you.

Montana Supreme Court

The Montana Supreme Court consists of six justices and one chief justice. All seven justices are elected via non-partisan statewide elections. The Montana Constitution grants the Supreme Court the authority to hear appeals from all District Courts. It also authorizes the Supreme Court to exercise original jurisdiction over some legal actions.

Members of the Montana Supreme Court



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

Major Initiatives and Successes:

- ◆ The Supreme Court disposed of 713 cases in 2007. The number of actions filed before the court was down slightly from 2006 but still remained at high levels. A full breakdown of Supreme Court statistics is available at [Montana Supreme Court Caseload Statistics](#).

- ◆ The Supreme Court completed the lengthy project of updating the Rules of Appellate Procedure. The members of the Supreme Court do the actual preparation of updating of the Rules in addition to regular casework. The new Rules are available at: [Supreme Court Rules](#)
- ◆ The task force appointed to develop access rules for court records completed its draft rules, which were approved by the Supreme Court. Access to electronic court records has become an increasingly complex area as more and more court records become available electronically. The rules address the very important issue of balancing the protection of privacy rights with the public's right to know. The rules are available at: [Montana Judicial Branch - Public's Right to Know](#)



- ◆ The State Law Library, under the leadership of the Supreme Court, continued to improve its electronic resources and efforts to make information available throughout the state. State Law Librarian Judy Meadows continues to provide extraordinary leadership in the on-going effort to provide legal research resources to the public and the increasing number of pro se litigants in all courts. Information about the Law Library is available at [State Law Library of Montana](#).

Judicial Branch Profile - Justice W. William Leaphart

Justice W. William Leaphart was born in Butte, Montana, on December 3, 1946. He attended Whitman College, 1965-1966, and the University of Montana 1966-1969, where he received a B.A. in Liberal Arts. He attended the University of Montana Law School where he served as an associate editor of the Montana Law Review. He received a J.D. from the University of Montana School of Law in 1972. He then served as a Law Clerk to Senior United States District Court Judge W. D. Murray in Butte, Montana, 1972-1974.



Justice Leaphart engaged in the general practice of law for 21 years with his father, C. W. Leaphart, in Helena where he worked as a public defender and represented individuals and small businesses. As a practitioner, he had extensive experience in handling appeals with more than 50 appeals to the state and federal courts-- including two oral arguments before the United States Supreme Court.

He was elected to the Montana Supreme Court in 1994 and was re-elected to a second term in November, 2002. He is a judicial member of the American Academy of Appellate Lawyers and a member of the American Law Institute. Justice Leaphart and his wife, Babs, are the parents of three daughters. Full profiles of the Supreme Court Justices can be found at [Supreme Court Profiles](#).

- ◆ The Supreme Court co-hosted the second Children’s Summit, which focused attention on child abuse and neglect cases in the courts. The summit brought together more than 125 people from the various disciplines involved in these “kid cases”. In addition, to planning improvements on a local level, summit participants heard from former foster children.



- ◆ Under the leadership of Clerk of the Supreme Court Ed Smith ([Clerk of the Supreme Court](#)), a modern case management has been operational in the Clerk’s Office for a second full year permitting the efficient tracking of cases from filing to disposition.

- ◆ The Supreme Court’s lawyer discipline system continued to manage a high volume of complaints against lawyers from members of the public. The Office of Disciplinary Counsel processes all complaints against Montana attorneys. Complaints deemed valid are moved forward to the Supreme Court’s Commission on Practice, which makes disciplinary decisions or recommendations to the Supreme Court. Full statistics about attorney discipline are available at [MT Supreme Court-Office of Disciplinary Counsel](#).
- ◆ Other commissions operating under the supervision of the Supreme Court continued to process hundreds of complaints and petitions and perform other important work. A full overview of the boards and commissions is available at [MT Supreme Court Boards & Commissions](#).
- ◆ The Supreme Court added a law clerk position specifically to review petitions filed by self-represented litigants. Like courts at all level, the state’s highest court is struggling with a significant self-represented litigant caseload. A dedicated law clerk was added to focus solely on those actions pending before the Court in effort to manage that workload.
- ◆ The Supreme Court received funding to implement a self-help law program to assist those litigants acting pro se in court. The program, funded on a one-time only basis, includes funding for two self-help law centers in Montana, several mini-grant programs and a legal forms development contract.

Montana District Courts

District Courts in Montana are courts of general jurisdiction with authority over felony criminal cases and a huge variety of civil cases, including domestic relations matters. The District Courts also serve as Montana's Youth Courts. Montana has 43 district court judges in 22 judicial districts. The District Courts serve citizens in all 56 Montana counties. District Court judges have more than 400 years of combined experience on the bench.

Major Initiatives and Successes:

- ◆ Caseloads continue to grow throughout the District Courts. Rural areas are not immune to this growth with multi-county districts experiencing caseload growth as well. It is clear that the District Courts will need additional judges to manage the trial court caseload. In 2007, more than 41,500 cases were filed in the general jurisdiction courts. About 20% were criminal cases. Full statistics are available at [MT - District Court Statistics](#)
- ◆ Under the direction of the District Court Council, the judges completed a workload study. The study demonstrated that additional judges were needed throughout Montana to manage increasing caseloads. The full report with 2007 case filings is available at [District Court Workload Study](#)
- ◆ Three new judges joined the District Courts in 2007. Judge Brad Newman (2nd Judicial District), Judge Ray Dayton (3rd Judicial District) and Judge Laurie McKinnon (9th Judicial District) took office in January. A map of the District Courts and information about other judges is available at [MT - District Court](#)
- ◆ The District Courts continued on the path toward deployment of a modern case management system in the 56 Offices of the Clerks of District Court. The 2007 Legislature provided the funding to allow the Judicial Branch to deploy the system on a statewide basis. In addition, the Branch also received funding for additional videoconference sites, courtroom technology improvements and an e-filing pilot project. Technology continues to be increasingly important in meeting the demands placed on trial courts in a large state such as Montana.
- ◆ The second Youth Court report card with a variety of statistics and information about youth served through the Youth Court was completed. The report was made possible because the web-based youth court case management system is now fully operational. The report can be viewed at [Youth Court Report Card - 2007](#)

Judicial Branch Profiles
Judge Thomas McKittrick

Judge Thomas M. McKittrick was born on January 7, 1944, and raised in Anaconda, Montana. He attended Carroll College and Gonzaga University School of Law. His first job after law school was as a copyright examiner at the Library of Congress, Washington, D.C. He then served as Assistant Commonwealth Attorney for the Commonwealth of Virginia followed by private practice in Arlington, Virginia.

Upon return to served as Chief Deputy Cascade County. appointed to the bench Ted Schwinden. He times since his

Judge past member of the Control, appointed by Montana Supreme Judge McKittrick to Instruction Guidelines Sentence Review

Supreme Court. He was elected by his fellow judges to the District Court Council, which oversees the state assumption of the cost of all District Courts in Montana. Judge McKittrick is a member of the Court Assessment Committee and the past President of the Montana Judges' Association. He is also the founder of an Adult Treatment Court in Cascade County.

Judge McKittrick and his wife, Lisa, have been married for 38 years. They are the parents of a son, Matthew, who is a lawyer and a daughter, Marissa, who is a pharmacist.



Montana in 1978, he County Attorney for Judge McKittrick was in 1983 by Governor has been re-elected five appointment.

McKittrick is also a Board of Crime the Governor. The Court has appointed the Civil Jury Commission and the Board of the Montana

◆ The Legislature provided \$300,000 for security infrastructure in courtrooms throughout Montana. The Judicial Branch requested the funding after completing an in-depth analysis of security needs in the 56 District Courts. The funding has been used to purchase items such as metal detectors, duress buttons and other courtroom security items.

◆ District Court judges continued to demonstrate leadership in maintaining and increasing local drug courts. The Legislature appropriated – for the first time – general fund dollars to support the problem solving courts that are located throughout Montana. The Judicial Branch hired a statewide drug court coordinator to oversee the distribution of the dollars and to provide technical assistance to local courts. A brief description of these courts is located at [MT- Treatment Court](#)

◆ District Courts continued to make use of video conferencing capabilities. A cost benefit analysis of the video network completed in 2005 supported the theory that the use of video technologies, when appropriate, could lower costs in the court and criminal justice systems. The 2007 Legislature supported the expansion of video conferencing by funding additional sites in the District Courts. More information about video capabilities is available at [Montana Supreme Court - Information Technology](#).

◆ The Montana Water Court, under the leadership of Chief Water Judge C. Bruce Loble, continued the herculean task of adjudicating water rights claims in Montana. More information about the Water Court is available at: [Montana Water Court](#)

Montana Courts of Limited Jurisdiction

Major Initiatives and Successes:

The Montana Courts of Limited Jurisdiction include 158 justice, city and municipal courts. Limited jurisdiction courts are the courts most often accessed by citizens of the state. These courts handle a variety of matters both criminal and civil in nature.

- ◆ Limited jurisdiction court judges continued to manage huge caseloads in 2007. A detailed summary and breakdown of court statistics is available at: [Montana - Courts of Limited Jurisdiction](#)

Judicial Branch Profiles

Judge Scott Wyckman

Judge Scott Wyckman was raised in Missoula where he attended local schools and the University of Montana. He moved to Bozeman in 1968 as a trooper with the Montana Highway Patrol. After 23 years with MHP serving as a detachment commander, Judge Wyckman was elected Justice of the Peace in 1991. He has been reelected for subsequent four-year terms. Judge Wyckman is a non-lawyer judge who is a graduate of the National Judicial Academy and the Montana Judicial Institute at the University of Montana School of Law and has attended multiple judicial trainings.

Judge Wyckman has served on the Montana Supreme Court's Automation Committee since 1996 and the Commission on Courts of Limited Jurisdiction since 1998.



- ◆ The Commission on Courts of Limited Jurisdiction continued to manage the twice-yearly judges training sessions. Limited jurisdiction judges are required to attend the schools each year in order to remain certified. Every four years all judges in the limited jurisdiction courts are required to pass a comprehensive exam covering their jurisdictional areas. Newly elected or appointed judges must pass the test within six months of taking office. More information about Montana's Courts of Limited Jurisdiction and the judicial training program is available at [Montana - Courts of Limited Jurisdiction](#).
- ◆ Judge Mary Jane Knisely, with financial support from a federal grant, started Montana's first municipal court drug court. The court, part of the Billings Municipal Court, addresses the substance abuse issues present in some criminal defendants. Judge Wanda James in Mineral County also operates a successful adult drug court. Judge Karen Orzech continued her activities with a mental health court in Missoula County.
- ◆ All but the smallest limited jurisdiction courts were equipped with an automated case management system. In addition, the courts began reporting data to a central court repository. The repository provides a back-up site for courts and also permits appropriate information exchanges between the courts and other partners such as the Department of Justice.
- ◆ Judges in the courts of limited jurisdiction continued to take an active role in court-related projects by serving on various commissions and task forces. A full list of court-related commissions is available at: [MT Supreme Court Boards & Commissions](#)

Montana's Judiciary Quick Facts

- ◆ Most judges and officials within Montana's Judicial Branch are elected. The chief justice, justices and the clerk of the Supreme Court are statewide elected officials. District Court judges are elected within a judicial district while clerks of the District Courts and justices of the peace are elected on a county basis. Municipal court judges and some city court judges also are elected.
- ◆ In Montana's limited jurisdiction courts, approximately 15% of the judges are attorneys; 85% are lay judges. Further, 45% of the limited jurisdiction court judges are women. Many judges (about 35%) in the limited jurisdiction courts serve as both a justice of the peace and as city court judge or a city court judge in multiple locations. More information about the location of limited jurisdiction court judges can be found at [Montana Court Locator](#).
- ◆ Montana has 43 District Court judges who serve citizens in all 56 counties. These judges have more than 400 years of combined experience. The current longest serving judge, the Honorable Douglas Harkin has been on the bench since 1981. Three new District Court Judges assumed the bench in 2007. More information about the location of District Court judges can be found at [Montana Court Locator](#).
- ◆ Montana's 22 Judicial Districts – established by statute - are quite different in size and scope much like the rural and urban make-up of the state. For instance, the 16th Judicial District has two judges covering seven counties stretching across eastern Montana. Other Judicial Districts have multiple judges located in one county. A map of the judicial districts is available at [Montana Court Locator](#).
- ◆ State-funded Judicial Branch expenditures in fiscal year 2007 (July 2006 - June 2007) amounted to \$30,396,062. The District Court program, which includes the variable budget for costs such as juror and witness fees, transcript fees, etc. accounted for nearly 72% of the total Judiciary state expenditures.
- ◆ The state funds the District Courts including judges, judicial staff and programs. In 2007, the state court system had about 350 District Court employees located throughout Montana. The Clerks of the District Courts are county-funded elected officials located in all 56 counties. Local governments fund the limited jurisdiction courts.

Montana's Judiciary - Looking Ahead

Montana's Judiciary continues to mature in extraordinary ways thanks to the efforts of many dedicated judges, employees and partners in the justice system. New methods of gathering statistics and data about court caseloads and processes will allow Montana's Judicial Branch to make informed decisions about resources and services. Taking a fresh look at what we do is crucial in this era of increasing demands on the court system at all levels. What will not change, though, is the commitment to meeting the constitutional requirements of access to courts for the state's citizens. This will continue to be our primary challenge and overriding goal.

For those who are interested in learning more about Montana's courts, the Judicial Branch website is available at [Montana Courts](#).