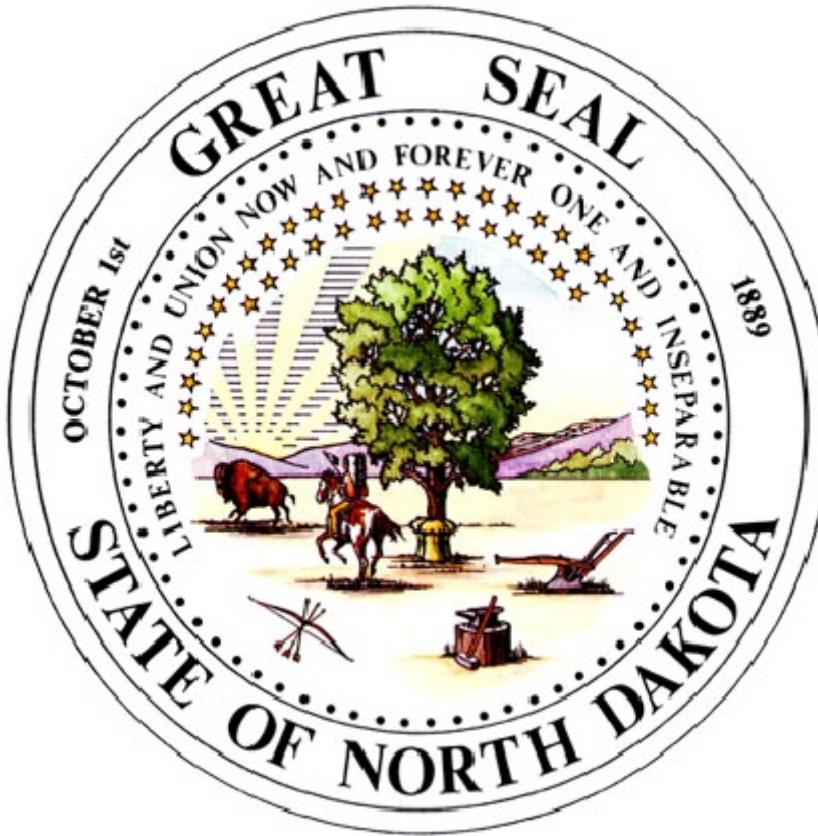


# **NORTH DAKOTA COURTS**



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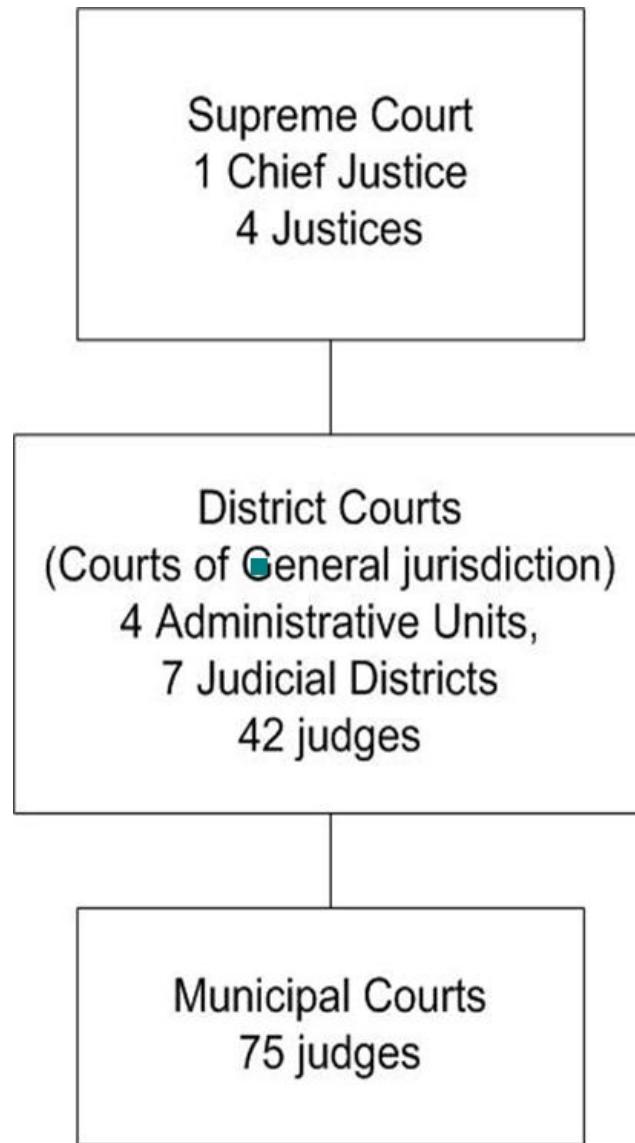
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## **ANNUAL REPORT 2005**

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## The Structure of the North Dakota Judicial System



# **Profile of the North Dakota Judicial System**

## **Structure of the Court System**

The original constitution of the state of North Dakota created a judicial system consisting of the Supreme Court, district courts, county courts, and such municipal courts as provided by the law. This judicial structure remained intact until 1959 when the Legislative Assembly abolished the justice of peace courts in the state.

The adoption of a new judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a Supreme Court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the Supreme Court and the district courts retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislative Assembly further altered the structure of the judicial system by enacting legislation that replaced the multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure became effective on January 1, 1983.

With the county court system in place, the judicial system of the state consisted of the Supreme Court, district courts, county courts, and municipal courts.

This changed again as the county courts were abolished by 1991 House Bill 1517, effective January 1, 1995. The Bill, with a final completion date of January 1, 2001, also transferred the jurisdictional workload to an expanded number of district judges. The 1991 total of 26 county judges and 27 district court judges had been reduced to 42 district court judges on January 1, 2001, as provided by statute.

## **Administrative Authority**

The 1976 constitutional judicial article clarified the administrative responsibilities of the Supreme Court by designating the chief justice as the administrative head of the judicial system and by granting the chief justice the authority to assign judges for temporary duty in any non-federal or tribal court in the state. It also acknowledged the Supreme Court's rule making authority in such areas as court procedure and attorney supervision.

## **Selection and Removal of Judges**

All judges in North Dakota are elected in nonpartisan elections. Justices of the Supreme Court are elected for ten-year terms; district court judges for six-year terms; and municipal court judges for four-year terms.

Vacancies in the Supreme Court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the appointed judge serves for a minimum of two years and then until the next general election, at which time the office is filled by election for the remainder of the term.

If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only Supreme Court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the Supreme Court upon the recommendation of the Judicial Conduct Commission. Other methods for the retirement, removal and discipline of judges can be established by the Legislative Assembly.

## North Dakota Supreme Court



Left to right: (Sitting) Justice Dale V. Sandstrom; Chief Justice Gerald W. VandeWalle;  
Justice Mary Muehlen Maring;  
(Standing) Justice Carol Ronning Kapsner; Justice Daniel J. Crothers

The North Dakota Supreme Court has five Justices. Each Justice is elected for a ten-year term in a nonpartisan election. The terms of the Justices are staggered so that only one judgeship is scheduled for election every two years. Each Justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the Supreme Court is selected as Chief Justice by the Justices of the Supreme Court and the District Court Judges. The Chief Justice's term is for five years or until the Justice's elected term on the court expires. The Chief Justice's duties include presiding over Supreme Court and conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the Supreme Court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts. All appeals from these courts must be ripe for review by the Court. In addition, the Court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a majority of the Justices is necessary before the Court can conduct its adjudicative business. In addition, the Court cannot declare a legislative enactment unconstitutional unless four of the Justices so decide. When the Court reverses, modifies, or affirms a trial court judgment or order, it is required to issue a written opinion stating the reasons for its decision. Any Justice disagreeing with the majority opinion may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the Supreme Court has major responsibilities for ensuring the efficient and effective operation of all non-federal courts in the state, maintaining high standards of judicial conduct, supervising the legal profession, and promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility the Court has general rule-making authority.

The Court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Board of Law Examiners. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Conduct Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided

through five advisory committees - the Joint Procedure Committee, the Joint Committee on Attorney Standards, the Judiciary Standards Committee, the Court Services Administration Committee, and the Judicial Planning Committee. Other committees, such as the Juvenile Policy Board, Personnel Policy Board and Continuing Judicial Education Commission also provide valuable assistance to the Supreme Court in important administrative areas.

Administrative personnel of the Supreme Court also play a vital role in helping the court fulfill its administrative functions. The clerk of the Supreme Court supervises the calendaring and assignment of cases, oversees the distribution and publication of Supreme Court opinions, administrative rules and orders, decides certain procedural motions filed with the Court, and serves as an ex-officio member to the State Board of Law Examiners and the Disciplinary Board. The state court administrator is responsible for the budgetary oversight of the judicial system, prepares statistical reports on the workload of the state's courts, provides judicial educational services, and performs such other administrative duties that are assigned by the Supreme Court. The state law librarian supervises the operation of the state law library.

## **North Dakota Supreme Court**

Increased filings and change impacted the North Dakota Supreme Court's workload in 2005. In March, Justice William Neumann resigned from the Court. In April, Justice Daniel Crothers was appointed to the Court by Governor John Hoeven. Justice Crothers assumed his place on the Court in July and will serve two years before he will run for election.

Even though appeals of drug-related offenses decreased last year, the prior trend of increasing numbers of drug-related appeals continues. In 2005, appeals of drug-related offenses increased 160% and comprised in 37% of the new criminal filings caseload. While appeals of post-conviction relief proceedings are civil in nature, and are reflected in civil filings, many of them involve underlying drug offenses. Appeals arising from these matters increased 176%. In the criminal area, there were also significant increases in appeals of driving under the influence, sexual crimes, theft and other felony convictions.

Appeals in family related cases accounted for 27% of the civil caseload in 2005, which is a slightly higher percentage than last year. The number of administrative agency appeals decreased, comprising 8% of the civil caseload. Appeals in corporations, debtor/creditor, attorney discipline, mental health, real property and tort proceedings also increased more than other civil case filings.

The Justices each authored an average of 44 majority opinions, with 33 separate concurrences and/or dissents. Oral arguments were scheduled in 229 cases, with approximately 18% of those arguments being waived by the court or submitted on the briefs by the parties.

The most appeals originated from the South Central Judicial District, followed by the East Central, Southeast, Northeast Central, Northeast, Northwest, and Southwest Districts.

In addition to preparing for and attending oral arguments, and researching and writing decisions, the Justices attend weekly motions conferences to consider case related motions the Chief Justice or the Clerk of the Supreme Court do not act on. There were 773 motions filed in 2005, the Clerk acted on 46% of those under the authority of North Dakota Supreme Court Administrative Rule 5 and the Chief Justice.

The Court continued hearing cases "on the road" in Beulah and Garrison, and at the University of North Dakota School of Law, and looks forward to meeting more students in 2006.

### **CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 2004 AND 2005 CALENDAR YEARS**

	2004	2005	Percent Difference
New Filings	357	449	25.77
Civil	251	286	13.94
Criminal	106	163	53.77
Transferred to Court of Appeals	0	11	1100.00
Civil	0	7	700.00
Criminal	0	4	400.00
Filings Carried Over From Previous Calendar Year	199	183	-8.04
Total Cases Docketed	556	621	11.69
Dispositions	373	370	-8.04
Civil	238	251	5.46
Criminal	135	119	-11.56
Cases Pending as of December 31	183	251	37.16

**CASE DISPOSITIONS - 2005**

	Civil	Criminal
BY OPINION:		
Affirmed; Affirmed & Modified	73	23
Reversed; Reversed & Remanded;		
Reversed in Part & Remanded	41	15
Affirmed in Part & Reversed in Part;		
Affirmed in Part & Vacated in		
Part; Affirmed in Part &		
Dismissed in Part	22	1
Affirmed by Summary Disposition	28	27
Dismissed	4	0
Discipline Imposed	18	-
Original Jurisdiction--Denied	1	0
Original Jurisdiction--Granted	0	0
Certified Question Answered	1	0
Dispositions by Opinion	188	66
BY ORDER:		
Dismissed	24	25
Dismissed After Conference	31	20
Original Jurisdiction--Denied	6	8
Original Jurisdiction--Granted	1	0
No Court Action Necessary	1	0
Dispositions by Order	63	53
Total Dispositions for 2005	251	119

**CASELOAD OVERVIEW OF NORTH DAKOTA COURTS  
FOR 2004 AND 2005**

Level of Court	Filings		Dispositions	
	2004	2005	2004	2005
Supreme Court	357	449	373	370
District Court	157,318	155,176	183,074	174,786

## **North Dakota Court of Appeals**

The Court of Appeals was established in 1987 to assist the Supreme Court in managing its workload. In calendar year 2005, five 2004 cases were transferred to the Court of Appeals together with six 2005 cases.

Judges serving on the Court of Appeals were: the Honorable Norman J. Backes, the Honorable Bruce E. Bohlman, the Honorable Benny A. Graff, the Honorable William F. Hodny, and the Honorable Everett Nels Olson, Surrogate Judges.

Since it was established, the Court of Appeals has disposed of 86 appeals by opinions.

Cases assigned to the Court of Appeals under Administrative Rule 27 may include family law issues, appeals from administrative agency decisions, appeals from trial court orders on motions for summary judgment, appeals involving cases originating under the Uniform Juvenile Court Act, and appeals from misdemeanor convictions.

Authorization for the Court of Appeals extends to January 1, 2008.

### **CASELOAD SYNOPSIS OF THE COURT OF APPEALS FOR THE 2005 CALENDAR YEAR**

	<b>200 5</b>
2005 Cases Assigned	6
Civil	5
Criminal	1
2004 Cases Assigned	5
Civil	2
Criminal	3
Total Cases Docketed	11
Dispositions	11
Civil	7
Criminal	4
Cases Pending as of December 31	0

<b>2005 DISPOSITIONS</b>	<b>Civil</b>	<b>Criminal</b>
Affirmed	4	1
Affirmed in Part & Reversed in Part	0	1
Affirmed By Summary Disposition	2	1
Reversed and Remanded	1	1
<b>TOTAL 2005 DISPOSITIONS</b>	<b>7</b>	<b>4</b>

## **District Courts**

There are district court services in each of the state's fifty-three counties. The district courts are funded by the state of North Dakota. The district courts have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal cases and have general jurisdiction for civil cases.

The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction includes cases in which a female minor is seeking judicial authorization to obtain an abortion without parental consent. Unlike a majority of other states, the responsibility for supervising and counseling juveniles who have been brought into court lies with the judicial branch of government in North Dakota. To meet these responsibilities, the presiding judge, in consultation with the district court judges of each judicial district, has the authority to employ appropriate juvenile court personnel. In addition to these personnel, the presiding judge, on behalf of the district court judges of the judicial district, may also appoint judicial referees to preside over juvenile proceedings, judgment enforcement proceedings, and domestic relations proceedings other than contested divorces.

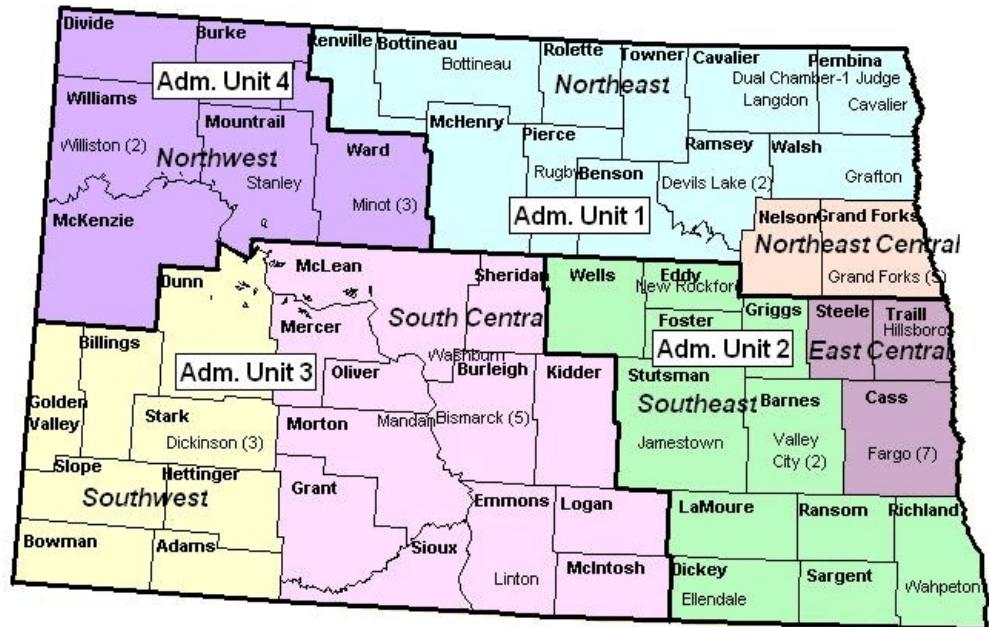
The district courts are also the appellate courts of first instance for appeals from the decisions of many administrative agencies. Acting in this appellate capacity, district courts do not conduct a retrial of the case. Their decisions are based on a review of the record of the administrative proceeding conducted by the administrative agency.

In 1979 the Supreme Court divided the state into seven judicial districts. In each judicial district there is a presiding judge who oversees judicial services of courts in the geographical area of the judicial district. The duties of the presiding judge, as established by the Supreme Court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge. In 2004, the Supreme Court consolidated the seven judicial districts into four administrative units. Each administrative unit is headed by a court administrator who is responsible for operational oversight of the clerks of district court, juvenile court personnel, as well as administrative personnel. The court administrator has the responsibility for liaison with governmental agencies, budget, facilities, records management, personnel, and contract administration.

There are forty-two district judges in the state. Eight judges in four chamber city locations serve the South Central Judicial District, the largest geographically and most populous district in the state. There are six judges in the Northwest Judicial District serving in three chamber city locations. Eight judges serve the East Central Judicial District in two chamber city locations, and five judges serve the Northeast Central Judicial District in one chamber city location. Six judges serve the Northeast Judicial District in five chamber city locations. Six judges serve the Southeast Judicial District in five chamber city locations. Three judges serve the Southwest Judicial District in one chamber city locations. All district court judges are required by the state constitution to be licensed North Dakota attorneys, citizens of the United States, and residents of North Dakota.

The office of district court judge is an elected position which is filled every six years in a nonpartisan election held in the district in which the judge will serve. If a vacancy in the office of district judge occurs, the Supreme Court must determine whether the vacancy should be filled or whether the vacant office should be abolished or transferred. If the vacancy is to be filled, the governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by the Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge serves for a minimum of two years and then until the next general election, at which time the office is filled by election for the remainder of the term.

## North Dakota Administrative Units, Judicial Districts & Chamber Cities - 2005



## District Court Caseload

District court filings decreased slightly in 2005, showing a 3.30% decrease over 2004 filings.

Civil filings were up 1.89% from 2004 and small claims filings decreased 8.42%. Criminal filings reflect a decrease of 1.32% from 2004 levels. Formal juvenile filings show a 1.73% decrease.

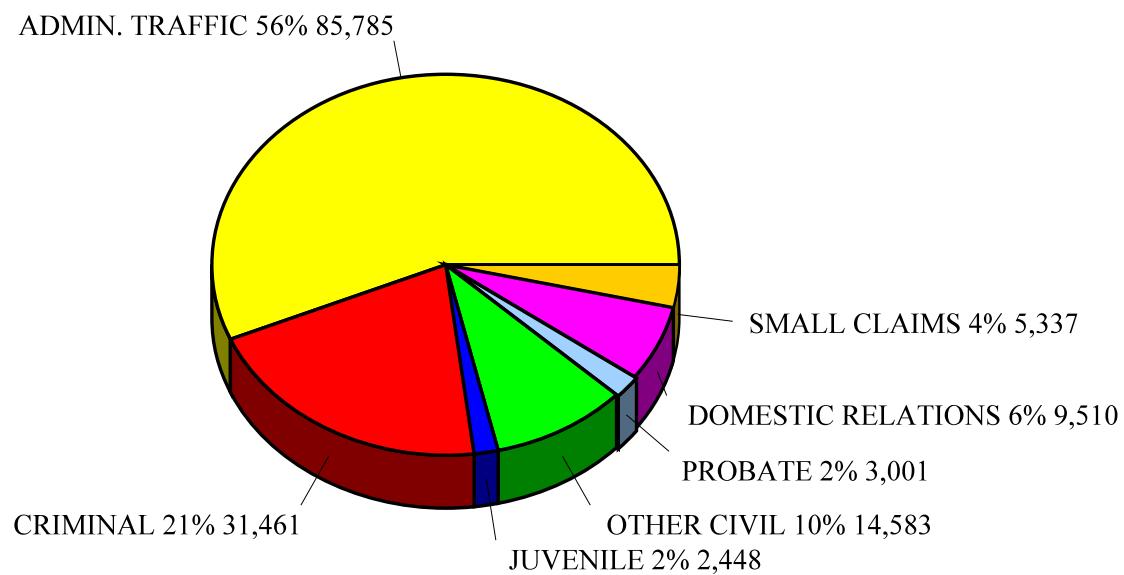
**District Court Caseload  
for Calendar Year 2004 and 2005**

<b>Case Filings</b>	<b>2004</b>	<b>2005</b>	<b>Change in Filings 2004/2005</b>
New Filings Total	157,318	152,125	-3.30
Civil	26,591	27,094	1.89
Small Claims	5,828	5,337	-8.42
Criminal	31,882	31,461	-1.32
Juvenile	2,491	2,448	-1.73
Admin. Traffic	90,526	85,785	-5.24
<b>Case Dispositions</b>	<b>2004</b>	<b>2005</b>	
Dispositions Total	183,074	175,295	-4.25
Civil	38,460	39,452	2.58
Small Claims	6,125	5,459	-10.87
Criminal	42,488	39,360	07.36
Juvenile	4,098	4,364	6.49
Admin. Traffic	91,903	86,660	-5.70

**District Court Case Filings by Type - 2005**

<b>CIVIL</b>		<b>CRIMINAL</b>	
<b>Case Type</b>	<b>Filings</b>	<b>Case Type</b>	<b>Filings</b>
Property Damage	114	Felony	4,859
Personal Injury	235	Misdemeanor	23,370
Malpractice	32	Infraction	3,232
Divorce	2,202		
Adult Prot. Order	920		
Custody	112		
Support Proceedings	4,487		
Adoption	301		
Paternity	705		
Termination of Parental Rights	23		
Disord. Cond.			
Restr. Order	760		
Administrative			
Appeal	163		
Appeal Other	13		
Contract/Collect	10,237		
Quiet Title	100		
Condemnation	30		
Forcible Detain	722		
Foreclosure	491		
Change of Name	187		
Special Proceedings	45		
Trust	116		
Foreign Judgment	224		
Other	806		
Conservator/ Guardianship			
Protective Proceedings	466		
Probate	31		
Mental Health	2,388		
Small Claims	1,184		
	5,337		
<b>State Total</b>	<b>32,431</b>	<b>State Total</b>	<b>31,461</b>

## **TYPES OF CASES FILED IN DISTRICT COURT DURING 2005**



The following is a chart that shows the number of jury trials held in each judicial district for 2005.

District	2005
East Central	45
Northeast	17
Northeast Central	22
Northwest	48
South Central	103
Southeast	28
Southwest	14
<b>Total</b>	<b>277</b>

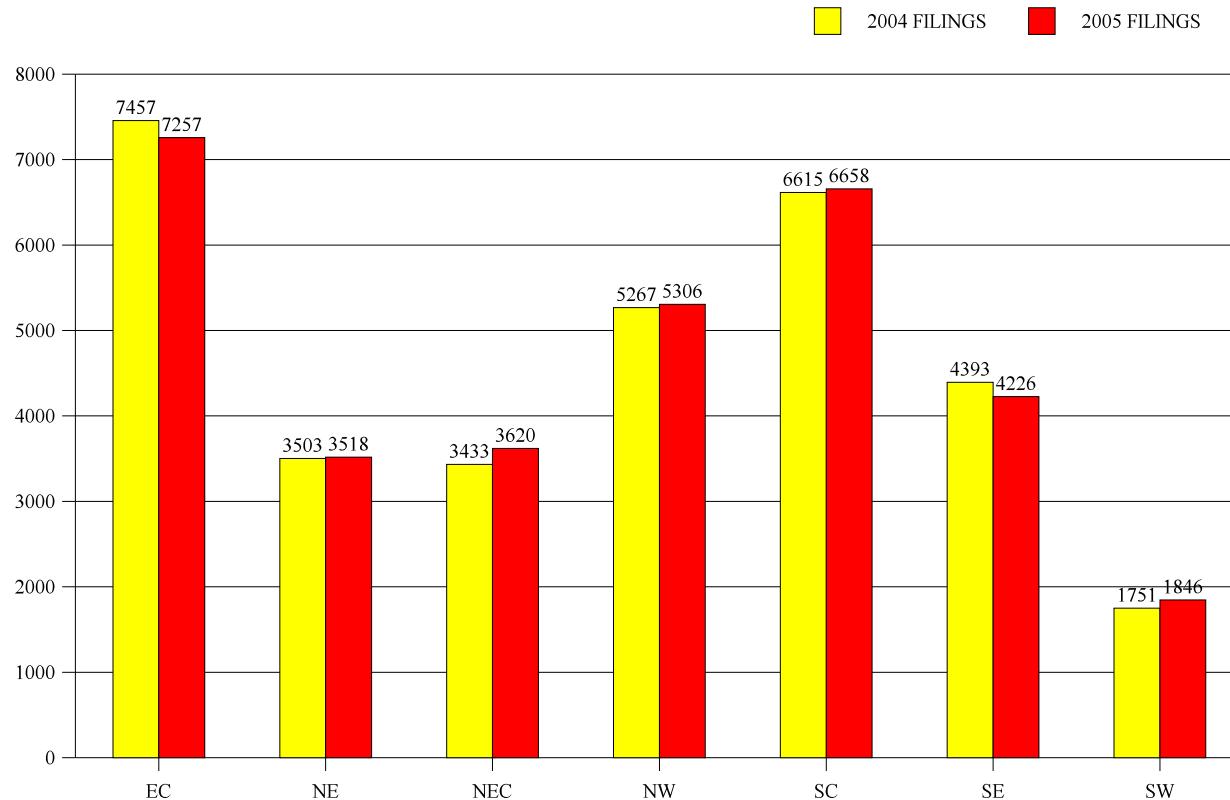
## Civil Caseload

Civil filings increased slightly during 2005. Small claims and probate cases decreased while domestic relations and other civil increased.

Domestic relations case filings decreased 2%. Support proceedings make up 47.2% of all domestic relations case filings. Divorce filings account for 23.1%, protection/restraining orders 9.2%, custody filings 1.2%, adoption 3.2%, paternity 7.4%, and termination of parental rights account for .2% of the domestic caseload.

Divorce filings were down 6.3% to 2,202 cases in 2005. Protection/restraining order filings increased 9.2% to 1,680. Paternity case filings were up 7% with 705 cases filed, while support proceedings decreased 5.5% with 4,487 cases filed, compared to 4,750 cases in 2004.

ND CIVIL CASELOAD FOR DISTRICT COURTS FOR 2004 AND 2005

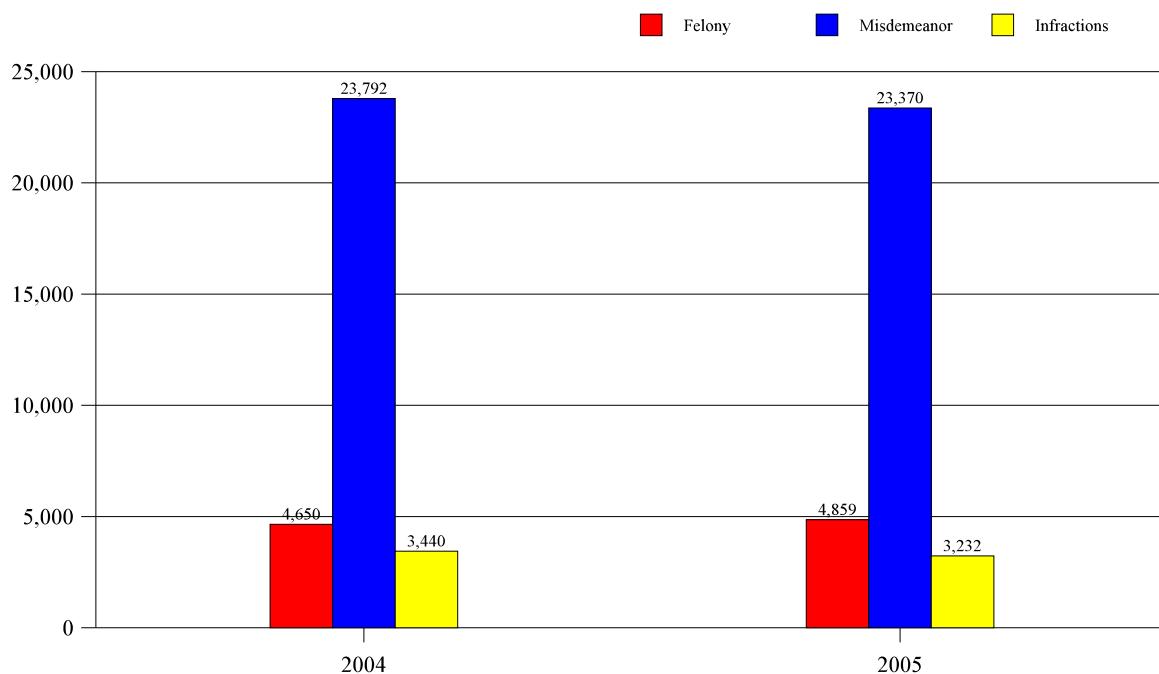


## Criminal Caseload

Criminal case filing data for 2005 reflects a slight decrease in filings from 2004. The 2005 felony filings increased by 209 cases over 2004. Misdemeanor filings decreased 422 cases to 23,370.

Consistent with previous years, misdemeanors and infractions represent 85% of the criminal filings and felonies represent 15% of the overall criminal filings.

ND CRIMINAL CASELOAD FOR DISTRICT COURT FOR 2004 AND 2005

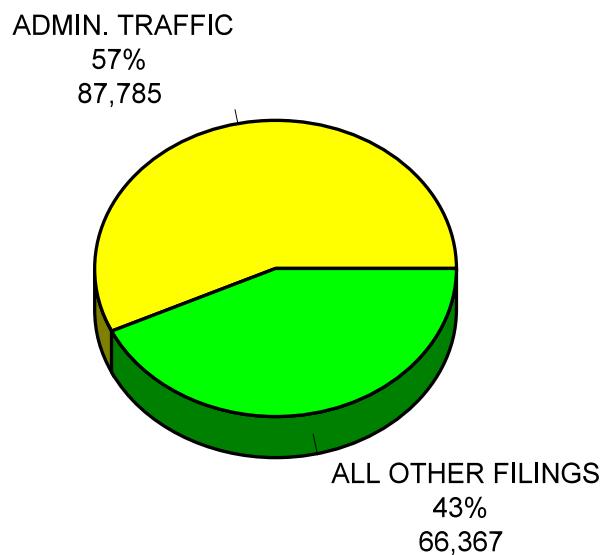


## **Administrative Traffic Case Processing**

Administrative traffic filings during 2005 decreased 5.2% from 2004 levels. These cases make up 56% of the overall caseload; however, they require little judicial involvement. The processing time required impacts court clerk personnel almost exclusively. Dispositions are higher than filings due to the timing of when cases are disposed.

<b>Case Filings</b>	<b>2004</b>	<b>2005</b>
Admin. Traffic	90,526	85,785
<b>Case Dispositions</b>	<b>2004</b>	<b>2005</b>
Admin. Traffic	91,903	86,660

### **TOTAL CASES FILED IN DISTRICT COURT INCLUDING ADMIN TRAFFIC 2005**



## Juvenile Caseload

This year's data shows a slight increase in juvenile offenses. Overall referrals (see chart on pages 18-19) showed an increase of 1% between 2004 and 2005 after a decrease of 7% from 2003 to 2004.

As with the criminal caseload, the low violent crime rate in North Dakota is reflected in its juvenile court statistics. Offenses against persons made up 8% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 20% of the caseload. Property offenses comprise 19%; traffic offenses, 4%; deprivation, 12%; and other delinquency, 37% of the juvenile caseload.

The method by which cases were disposed shows a continued reliance on adjusted/diverted proceedings. Of the cases heard, 59% were disposed of through adjusted/diverted proceedings in 2005, compared to 56% in 2004 and 57% in 2002. The use of informal probation adjustments increased in 2005. The formal juvenile court caseload also reflects an increase over previous years. Tables comparing the types of dispositions and reasons for referral to the juvenile court in 2004 and 2005 follow. As in previous years, the illegal possession or purchase of alcoholic beverages continues to be the most common single reason for referral to the juvenile court.

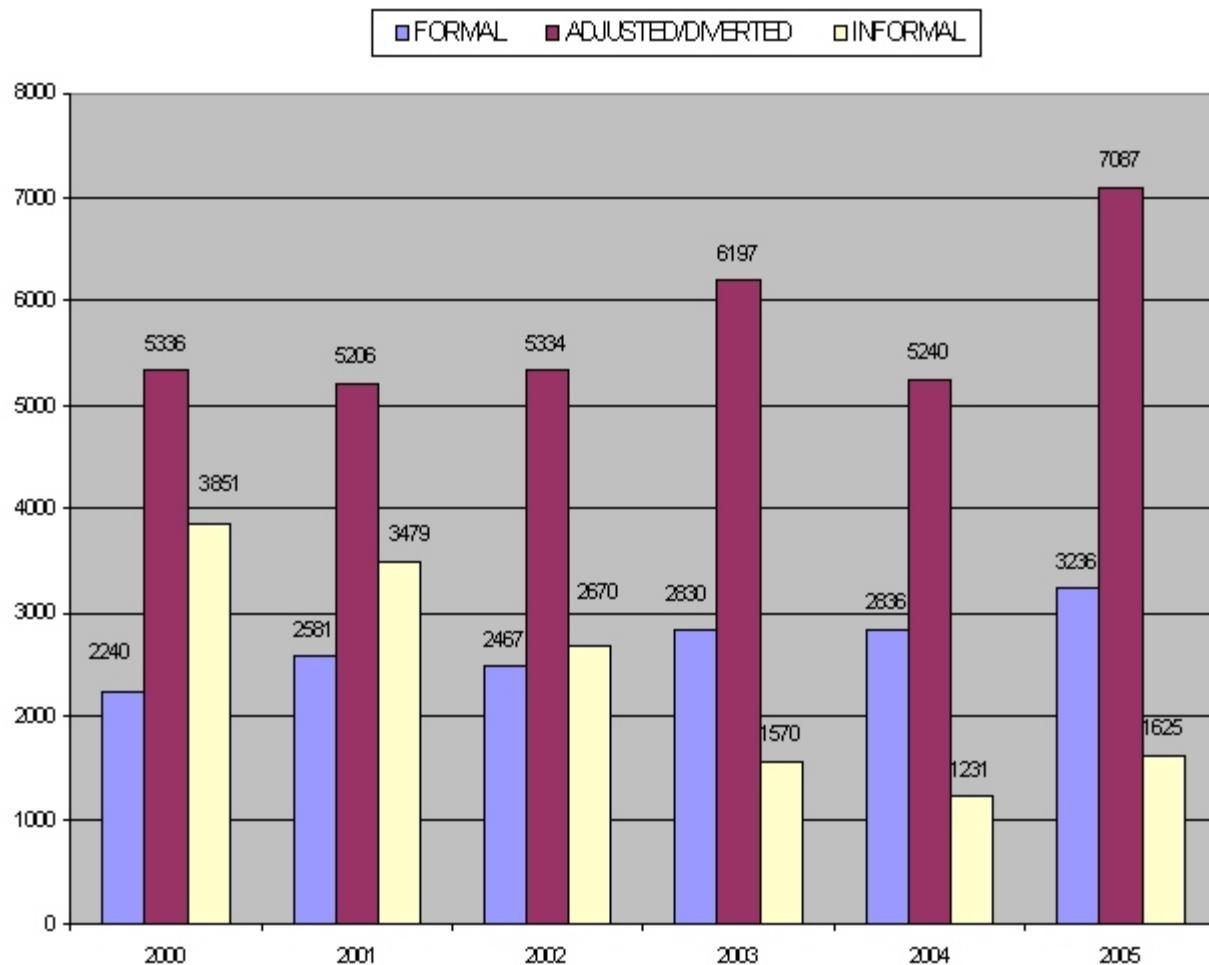
### Types of Juvenile Court Dispositions for 2004 and 2005

Judicial District	Formal		Informal/Probation		Adjusted/Diverted		Total Dispositions		Percent Diff.
	2004	2005	2004	2005	2004	2005	2004	2005	
East Central	600	952	275	452	851	1,580	1,726	2,984	72.9%
Northeast	433	398	68	143	778	900	1,279	1,441	12.7%
NE Central	269	409	261	297	428	584	958	1,290	34.7%
Northwest	573	387	234	340	746	992	1,553	1,719	10.7%
South Central	410	649	118	199	1,373	1,716	1,901	2,564	34.9%
Southeast	378	260	209	126	782	964	1,369	1,350	-1.4%
Southwest	173	181	66	68	282	351	521	600	15.2%
<b>TOTAL</b>	<b>2,836</b>	<b>3,236</b>	<b>1,231</b>	<b>1,625</b>	<b>5,240</b>	<b>7,087</b>	<b>9,307</b>	<b>11,948</b>	<b>28.4%</b>

\*Cases that are referred to the juvenile court are processed in one of three ways:

1. Diversion - referred to a private agency or program.
2. Informal adjustment - juvenile court intervention with no formal charge or conviction entered.
3. Formal - charges are filed in the district court and the case proceeds through the court system.

### COMPARISON OF JUVENILE DISPOSITIONS FOR 2000-2005



**Reasons for Referral to Juvenile Court Services  
in 2004 and 2005**

		2004	2005	% change	% Diff.
<b>FAMILY</b>		<b>1,881</b>	<b>1,936</b>	<b>2.9%</b>	<b>19.9%</b>
	Runaway (instate resident)	554	612		
	Runaway (out-of-state resident)	13	17		
	Truancy	292	353		
	Ungovernable Behavior	639	590		
	Curfew	324	311		
	Other Unruly	59	53		
<b>DELINQUENCY</b>		<b>6,738</b>	<b>6,658</b>	<b>-1.2%</b>	<b>68.4%</b>
	Offenses Against Persons	<b>646</b>	<b>735</b>	<b>13.8%</b>	
	Assault	436	512		
	Terrorizing-Stalking-Menacing	138	140		
	Homicide (negligent)	0	0		
	Kidnapping	0	0		
	Other Offenses Against Persons	14	6		
	Sex Offenses	58	77		
	Offenses Against Property	<b>1,963</b>	<b>1,813</b>	<b>-7.6%</b>	
	Arson/Fire Related	21	11		
	Burglary	180	168		
	Criminal Mischief/Vandalism	467	388		
	Criminal Trespass	126	128		
	Forgery	20	29		
	Other Property Offenses	50	44		
	Possession of Stolen Property	57	63		
	Robbery	6	2		
	Shoplifting	526	479		
	Theft	510	501		
	Traffic Offenses	<b>410</b>	<b>380</b>	<b>-7.3%</b>	
	DUI/Physical Control	112	107		
	Driving without License	242	212		
	Other Traffic	56	61		
	Other Offenses (56%)	<b>3,719</b>	<b>3,730</b>	<b>0.3%</b>	
	Check Offenses	19	25		
	City Ordinances	25	44		
	Disorderly Conduct	698	724		
	Weapons	55	57		
	Game and Fish	68	56		
	Obstruction	2	2		
	Other Public Order	200	247		
	Possession/Purchase Alcohol	2,086	1,937		
	Controlled Substance - Possession	483	527		
	Controlled Substance - Delivery	35	30		
	Tobacco	48	81		

		<b>2004</b>	<b>2005</b>	<b>% change</b>	<b>% Diff.</b>
<b>DEPRIVATION</b>		<b>931</b>	<b>1,035</b>	<b>11.2%</b>	<b>10.6%</b>
	Abandonment	6	3		
	Abuse/Neglect	138	163		
	Deprived	787	869		
<b>SPEC. PROCEEDING</b>		<b>118</b>	<b>103</b>	<b>-12.7%</b>	<b>1.1%</b>
	Termination of Parental Rights (Involuntary)	93	65		
	Termination of Parental Rights (Voluntary)	21	26		
	Other Special Proceeding	4	12		
<b>TOTAL</b>		<b>9,668</b>	<b>9,732</b>	<b>0.7%</b>	<b>100.0%</b>

## Administrative Unit 1

### **Report of the Northeast Judicial District**

The Honorable M. Richard Geiger, Presiding Judge  
Chris Bleuenstein, Trial Court Administrator

District Court Judges: M. Richard Geiger, Presiding Judge; Lee A. Christofferson; Laurie A. Fontaine; Donovan Foughty; Lester S. Ketterling; and John C. McClintock, Jr.

Judicial Referee: Dale Thompson

Number of Counties: 11

Chambered Locations: Bottineau, Devils Lake, Grafton, Langdon/Cavalier, and Rugby.

**Northeast Judicial District Caseload  
for Calendar Years 2004 and 2005**



Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	2,846	4,074	2,797	4,040
Small Claims	657	689	721	736
Admin Traffic	14,339	14,686	11,075	11,191
Criminal	4,854	6,013	4,250	5,804
Juvenile	431	587	393	654

#### **District Court**

The Northeast Judicial District is served by six judges and one referee located in six chamber cities within the district to serve its citizens effectively relative to population and geography. Two chambers in the east, Grafton and Cavalier/Langdon, serve the eastern section of the district. The two-judge chamber in Devils Lake serves the central section of the district. The chambers in Rugby and Bottineau serve the western section of the district. In addition, the judges are regularly assigned to other cases throughout the district as the need arises. The district is also served by one judicial referee who travels throughout the counties of the district on a regular basis, handling all child support enforcement proceedings and some juvenile proceedings. The district maintains a budget of approximately \$5.6 million for the biennium. Including county clerk employees, it has approximately 50 personnel. The year ended with the retirement of Judge Lester Ketterling who had served the courts of North Dakota for over 30 years.

Because of its rural character, the district puts special effort towards maintaining a strong communication network among its personnel and to structure its administration of cases among the judges and referee in a manner that best serves the citizens of the judicial district.

The Northeast Judicial District together with the Northeast Central Judicial District make up Administrative Unit 1. The two districts maintain regular unit meetings of court personnel to develop uniform procedures where appropriate for its court personnel and judicial officers. This is an ongoing process designed to improve the ability of the Northeast Judicial District and the Northeast Central Judicial District to provide efficient and

quality services to the citizens of the two districts. During the past year the judges and referees of Unit One attended a retreat to establish goals and plans for improving the court's performance and service.

The district continues to adopt and/or maintain programs that make the court system more user friendly to the citizens. In addition to small claims court, more citizens are making use of Administrative Rule 8.5 summary divorce proceedings. The district continues to work towards improving its docket currency as well as maintaining its commitment to collections of fines, costs and fees in criminal actions.

Through grant funds available from the collection of fees from criminal defendants, several courthouses in the district have experienced remodeling and improvements during the year. Unfortunately, during the past year the Pembina County Courthouse in Cavalier experienced significant fire damage from a litigant. This has caused the district to review its security needs for court facilities.

The total caseload filings for the district have experienced a small decrease. Small claims proceedings saw a slight increase in case filings while civil remained stable. All other categories saw a slight decrease. The continued abuse of controlled substances, particularly methamphetamine, has together with the rural character of the district, continued to create challenges within the district.

### **Juvenile Court**

The Juvenile Court for the Northeast Judicial District, operates out of three primary sites: Bottineau, Devils Lake and Grafton. It is part of Administrative Unit 1.

The Juvenile Court of the Northeast Judicial District continues to adhere to the Balanced Approach Philosophy, whereby juveniles are held accountable for their actions and to their victims, as well as provided opportunity to learn new skills to prevent their return to juvenile court, and to make their communities a safer place to live. This is accomplished through various programs such as Keys to Innervision, Youth Accountability, conferences, tracking, alcohol and drug testing, electronic monitoring, community service, and restitution. On behalf of crime victims, our restitution program has collected \$30,311.00 in restitution. In addition, juvenile offenders completed 3,900 hours of community service with a total value of \$3,207.25.

The Juvenile Court of the Northeast District is now fully implementing the Youth Assessment Screening Inventory (YASI) which allows Juvenile Court Officers to determine risk as well as protective factors on Juveniles who are placed on probation.

## **Report of the Northeast Central Judicial District**

The Honorable Karen Braaten, Presiding Judge  
Chris Bleuenstein, Trial Court Administrator

District Court Judges: Karen Braaten, Presiding Judge; Bruce E. Bohlman; Lawrence E. Jahnke; Debbie Kleven; and Joel D. Medd

Judicial Referees: Harlan Dyrud and David Vigeland.

Number of Counties in District: 2

District Court Chambers: Grand Forks

**Northeast Central  
Judicial District Caseload  
for Calendar Years 2004 and 2005**



Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	2,796	4,630	2,851	1,963
Small Claims	637	727	769	746
Admin Traffic	7,768	7,770	9,523	9,737
Criminal	4,056	5,865	4,622	6,389
Juvenile	273	483	335	540

### **District Court**

The Northeast Central Judicial District is served by five Judges and two Judicial Referees. Grand Forks is our chamber city with the judges traveling to Lakota, the county seat of Nelson County, a minimum of one day every other week to hear cases pending there.

2005 was the first full year of consolidation of the Northeast Central Judicial District with the Northeast Judicial District as Administrative Unit 1. A retreat, using a professional facilitator, Dick Gross, and involving the NEC and NE District Judges and Referees, was held in Devil Lake October 13 through 14, 2005. The primary purpose of the retreat was the identification and prioritization of issues facing Unit 1 Courts and the development of objectives and strategies to address the priority issues we face. The retreat was successful at bringing the two separate districts together, opening lines of communication and providing an avenue for both districts to be involved in planning for the unit as a whole. Unit judges meetings are held regularly and we continue to implement the strategies developed at the retreat. Plans are to continue in future years with this retreat format planning process.

The Family Court pilot project continues in the NEC. Thirteen (13) new families were added to the Family Court case load in 2005, bringing the total number of Family Court cases to 51 as of December 31, 2005. 47 of these cases are active cases with 30 of those families being under a current court order for services or treatment. Funding was obtained for the Family Court project to undergo a formal evaluation process which is to begin early 2006. The two part evaluation, which will be completed by the National Center for State Courts, is expected to not only provide recommendations for improvements to the Family Court process, but to assist in measuring the effectiveness of the process.

As noted below, Grand Forks Juvenile Drug Court continues. In the last quarter of 2005, there were eleven (11) participants in Juvenile Drug Court of which 6 were male and 5 were female and 9 were White, 1

Hispanic, and 1 Native American. Throughout that 4th quarter, only one participant was terminated for failure to comply with drug court rules. We had good compliance with drug and alcohol testing with no positive alcohol tests after completing 278 tests and 10 positive drug tests after completing 115 tests on our participants.

In addition to the above special projects, the NEC continues to handle its regular caseload in an efficient and timely manner. Three judges are assigned civil cases and two judges are assigned criminal cases on a three year (civil) and two year (criminal) rotation. We are continuing to work on improvement of our case assignment, judge assignment, and case management procedures to assure equitable assignment of cases, consistency and efficiency in case management, and good service to the consumer of our services throughout the district.

### **Juvenile Court**

2005 saw the first full year of Unit Consolidation and much of what was accomplished in the Northeast Central Judicial District was done with the Northeast as a part of the Unit One.

Since the inception of Rule 6.1, much effort has been made to combine with the Northeast District in order to deliver consistent services. Juvenile Court staff and Administration meet as a Unit on a regular basis in order to improve services to families and provide consistent and uniform judicial procedure. We believe we have made excellent strides in our efforts to operate in a more uniform fashion.

Implementation of the Youth Assessment Screening Inventory began in October of 2005. Our approach in the unit and statewide has been to make this a useful and important part of our decision making process.

Our court officers continue to be involved in many organizations and activities in our community. Some of these include: Keys to Innervisions, The Encore Advisory Board, The ACT Team, Drug Free Schools Advisory Board, The Answer, the CVIC Domestic Violence Task Force, Nelson County Network Team, and Diversified Occupations Advisory Committee. Our unit is also active in participating in the Best Practices committee, and working toward implementation of those guidelines. We have also started a Creative Arts program for our probationers and are looking to further expand it. These activities help to establish a cooperative spirit with the other agencies and makes Juvenile Court more visible and accessible to the public.

Drug Court is in its seventh year and continues to be a positive and motivating program. Drug Court has shown itself to be meaningful and effective in statistically critical evaluations. We currently serve around 15-20 probationers a year in the Drug Court program. We find it to be a very rewarding program for both staff and kids.

## Administrative Unit 2

### **Report of the East Central Judicial District**

The Honorable Georgia Dawson, Presiding Judge  
Rodney Olson, Trial Court Administrator

District Court Judges: Georgia Dawson, Presiding Judge; Douglas R. Herman; John C. Irby;  
Steven L. Marquart; Steven E. McCullough; Frank L. Racek; Cynthia A. Rothe-Seeger; Wade L. Webb

District Court Referees: Scott A. Griffeth and Janice Benson Johnson.

Number of Counties in District: 3

District Court Chambers: Fargo, Hillsboro



**East Central  
Judicial District Caseload  
for Calendar Years 2004 and 2005**

Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	5,993	8,631	5,985	9,210
Small Claims	1,464	1,541	1,272	1,307
Admin Traffic	15,445	15,589	13,895	14,232
Criminal	5,567	6,136	5,665	6,131
Juvenile	848	1,299	763	1,352

#### **District Court**

The East Central Judicial District is served by eight judges and two judicial referees. The judges are divided into criminal and civil divisions with four judges assigned to each division. One judge in each division rotates every 32 months. The judicial referees continue to hear most juvenile cases, small claims cases and certain types of domestic relations cases such as child support enforcement, paternity and divorce motions. In addition to Cass County, a judge routinely travels to Traill County one day per week and to Steele County at least one day every five weeks to handle the business of the court in those counties.

The District has two Interactive Television Systems which are used to conduct mental health hearings wherein patients and/or doctors may testify in court without having to leave the State Hospital. In addition, arraignments are held using the ITV system connected to the Cass County Jail. The use of these systems has resulted in savings of taxpayer dollars by eliminating the cost of transports and freeing up time for doctors to spend with their patients as well as reducing security risks during transports and hearings. An ITV system is also available through Steele County and has been used in inclement weather or emergencies which have enabled the court proceedings to take place as scheduled.

The East Central Judicial District and its sister district, the Southeast Judicial District have formed a Unit II Caseflow Management Committee which is working on drafting case flow procedures and standardizing docket currency practices within the unit. In addition, the Clerks of Court (both state-funded and contract clerks) continue to meet on a regular basis to address issues related to case processing and standardizing procedures wherever possible. They also participate in hands-on training regarding the proper use of UCIS, the clerk's computerized information system. The meetings are held throughout the unit providing clerks the opportunity to observe other work environments and procedures first-hand.

## **Juvenile Court**

Juvenile Court has, in effect, erased the borders between the districts and utilizes staff from throughout the Unit to meet the needs of both districts. This has involved sharing staff in border areas to avoid duplication of travel from each office as well as temporary assignments to assist other areas in times of need.

Cass County continues to operate a juvenile drug court program and in 2005 twenty-one youth participated in drug court. We continue to be dedicated to the restorative justice model, positively empowering parents, victims and youth. Programs such as Offender Accountability Conferencing, Life Management, Tracking, Keys to Innervisions, Victim Impact Panel and Victim Empathy are some of the programs used in reaching this goal.

Unit II has worked diligently to develop consistency in the use of CMS (our case management system) and YASI (Youth Assessment Screening Instrument). The Unit managers meet every other month and all court officers and managers meet twice a year to maintain the flow of communication and work on uniform procedures. With this in mind, we have developed a system on internal audits to ensure the program and the assessment tool are being used properly.

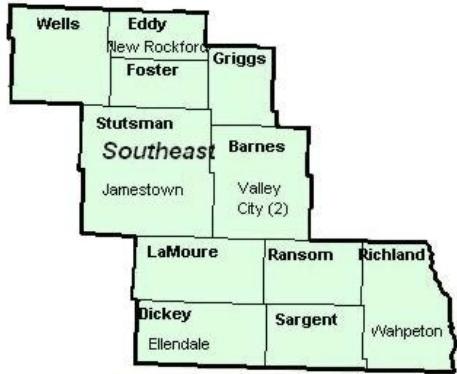
## **Report of the Southeast Judicial District**

The Honorable John T. Paulson, Presiding Judge  
Rodney Olson, Trial Court Administrator

District Court Judges: John T. Paulson, Presiding Judge; James M. Bekken; Ronald E. Goodman; John E. Greenwood; Richard W. Grosz; and Mikal Simonson.

Number of Counties in District: 11

District Court Chambers: Ellendale, Jamestown, New Rockford, Valley City, and Wahpeton.



**Southeast  
Judicial District Caseload  
for Calendar Years 2004 and 2005**

Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	3,598	2,099	3,481	5,005
Small Claims	795	331	745	788
Admin Traffic	17,067	6,303	14,424	14,616
Criminal	4,985	2,868	4,805	5,808
Juvenile	236	196	201	304

### **District Court**

The Southeast Judicial District is served by six judges who are located throughout the eleven county district. There are five chambers which serve the citizens based on geography and population. The New Rockford chamber serves the northern portion of the district and the Ellendale and Wahpeton chambers serve the southern portion of the district. The center portion of the district is served by the Jamestown chambers and the two-judge chamber in Valley City. Judges as assigned outside their area of concentration as the need arises.

The District continues to use an Interactive Television System for many mental health hearings wherein patients and/or doctors may testify in court without having to leave the State Hospital. The use of this system has resulted in savings of taxpayer dollars by eliminating the cost of transports and freeing up time for doctors to spend with their patients.

The Southeast Judicial District and its sister district, the East Central Judicial District have formed a Unit II Caseflow Management Committee which is working on drafting case flow procedures and standardizing docket currency practices within the unit. In addition, the Clerks of Court (both state-employed and contract clerks) continue to meet on a regular basis to address issues related to case processing and standardizing procedures wherever possible. They also participate in hands-on training regarding the proper use of UCIS, the clerk's computerized information system. The meetings are held throughout the unit, providing clerks the opportunity to observe other work environments and procedures first-hand.

## **Juvenile Court**

Juvenile Court has, in effect, erased the borders between the districts and utilizes staff from throughout the Unit to meet the needs of both districts. This has involved sharing staff in border areas to avoid duplication of travel from each office as well as temporary assignments to assist other areas in times of need.

Staff continue to be dedicated to the restorative justice model, positively empowering parents, victims and youth. Programs such as Offender Accountability Conferencing, Life Management, Tracking, Keys to Innervisions, Victim Impact Panel and Victim Empathy are some of the programs used in reaching this goal. Some of these programs are facilitated by contract agencies and were recently expanded into the Southeast District from the East Central District.

Unit II has worked diligently to develop consistency in the use of CMS (our case management system) and YASI (Youth Assessment Screening Instrument). The Unit managers meet every other month and all court officers and managers meet twice a year to maintain the flow of communication and work on uniform procedures. With this in mind, we have developed a system on internal audits to ensure the program and the assessment tool are being used properly.

## Administrative Unit 3

### **Report of the South Central Judicial District**

The Honorable Gail Hagerty, Presiding Judge  
Donna Fair, Trial Court Administrator

District Court Judges: Gail Hagerty, Presiding Judge; Sonna Anderson; Bruce Haskell; Donald Jorgensen; Burt Riskedahl; Bruce Romanick; Thomas Schneider; and Robert O. Wefald.

Judicial Referees: Robert Freed and John Grinsteiner.

Number of Counties in District: 12

District Court Chambers: Bismarck, Mandan, Linton and Washburn.



**South Central  
Judicial District Caseload  
for Calendar Years 2004 and 2005**

Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	5,478	7,601	5,759	7,583
Small Claims	1,137	1,194	899	926
Admin. Traffic	18,571	19,012	17,143	17,060
Criminal	5,339	7,445	5,165	7,098
Juvenile	324	564	358	625

### **District Court**

The South Central Judicial District is served by eight judges and 1.5 referees. Using a master calendar and individual calendar system, the judges each hear an equal share of the district's civil and criminal caseload. All judges are assigned cases throughout the district's twelve counties to promote fair and expeditious disposition of all cases in compliance with docket currency standards. The referees hear juvenile, small claims, and child support cases.

Using technology to improve efficiency of the courts, Burleigh County will begin an electronic records program during 2006 by electronically scanning all documents into a file storage program that is linked to the case management system. Interactive video continues to be a standard format for timely hearings, reducing travel costs for private citizens, county employees and judges.

The 2005 case filings were consistent with filings from 2004. A notable shift within the criminal caseload involves a greater percentage of felony filings. The civil caseload has increased with the largest shift in contract / collection cases filed.

The district continues to offer drug courts as an alternative to traditional sentencing in both the adult and juvenile courts. The intensive supervision allows defendants to learn to live drug-free, productive and healthy lives. The adult drug court had 38 participants during 2005. Juvenile drug court had 19 participants during 2005.

## **Juvenile Court**

The juvenile court continues to follow the restorative justice philosophy of using diversion and sentencing sanctions to teach juvenile offenders how to make better choices and contributions to the community.

A Youth Assessment and Screening Instrument (YASI) has been implemented and will be used by juvenile court officers in case management. The YASI is more than a "risk" assessment instrument. Typically, risk assessments consist of two components: Static (unchangeable characteristics like legal history) or Dynamic (changeable characteristics like substance abuse problems and attitudes). The YASI has a third component which includes "protective factors" or strengths which refer to characteristics and resources of the youth and their families. These are strengths because they focus on resilience and prevention elements in the family that need "building up". Ultimately, the YASI will provide better case management for court officers.

## **Report of the Southwest Judicial District**

The Honorable Allan L. Schmalenberger, Presiding Judge  
Donna Fair, Trial Court Administrator

District Court Judges: Allan L. Schmalenberger, Presiding Judge; Ronald L. Hilden; and Zane Anderson.

Number of Counties in District: 8

District Court Chambers: Dickinson



**Southwest Judicial District Caseload  
for Calendar Years 2004 and 2005**

Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	1,438	2,099	1,616	616
Small Claims	313	331	230	244
Admin Traffic	6,282	6,303	6,073	6,154
Criminal	2,351	2,868	2,159	2,730
Juvenile	106	196	102	218

### **District Court**

Case filings are shown in the chart on the right. The Southwest judicial district continues to use a master and individual calendar assignment plan. Starting January 1, 2006, the judges will be rotating weekly on the master calendar. Also, Unit 3 is working on a unit caseflow management plan.

All the district judges are assigned throughout the district to assure an equitable distribution of the caseload and to promote a fair, expeditious disposition of all cases in compliance with the docket currency standards. During 2005, the district was in compliance with the docket currency standards.

### **Juvenile Court**

The Southwest district juvenile court continues to work in conjunction with the South Central district juvenile court in providing services for Unit 3. The Southwest district continues to serve its eight counties and the county of Mercer.

Alcohol and drug related offenses remain the most frequently received referrals. There is a need in this district for shelter care or crisis beds. Staff response and intervention in crisis situations in our district remains challenging due to the continuous shortage of beds. Our district is currently working with human service center staff to access funding to provide this emergency resource in the district.

The Southwest juvenile court staff have been involved as members of the statewide CMS Committee and the Best Practices Committee. Staff has also been actively involved in a multi-agency regional community task force called Project Ace. Community forums are presented bi-annually throughout the region on the topics of alcohol, drugs, suicide, violence, gambling and sexuality. Members of the group will respond to requests from schools, business and community groups who would like further information or presentations.

## Administrative Unit 4

### **Report of the Northwest Judicial District**

The Honorable William W. McLees, Presiding Judge  
Dixie Knoebel, Trial Court Administrator

District Court Judges: William W. McLees, Presiding Judge; Robert W. Holte; Gary H. Lee; Douglas L. Mattson; David W. Nelson; and Gerald Rustad.

Judicial Referee: Connie S. Portscheller

Number of Counties in District: 6

District Court Chambers: Minot, Stanley, and Williston.



**Northwest Judicial District Caseload  
for Calendar Years 2004 and 2005**

Case Filings/ Dispositions	2004		2005	
	(F)	(D)	(F)	(D)
Civil	4,442	6,434	4,605	6,428
Small Claims	825	826	701	712
Admin Traffic	11,054	11,385	13,652	13,670
Criminal	4,730	8,282	4,795	5,400
Juvenile	273	603	296	671

#### **District Court**

Courthouse remodeling in Ward County was completed, primarily through a Courthouse Facilities Grant. Space was created for a fourth judge's chamber, secretary's office, and second jury room/conference area. Court administration and scheduling offices moved to a floor below, which provides more privacy and space, as well as being in closer proximity to the clerk's office.

Improvements and upgrades were also made within court- and hearing-rooms. Sound systems, coordinated with recording equipment, were greatly enhanced in the Ward County Courthouse (two courtrooms and three hearing rooms). Videoconferencing equipment was also installed in the Ward County District Court, allowing for remote hearings and various meetings to be held. In Williams County, reinstallation of the IVN/ITV system upon completion of remodeling of the Courthouse should result in greater use of that system. Williams County Courthouse was in the throes of its remodeling project for much of the year, as a result of flooding to that building the previous year.

In late December 2005 the North Dakota Supreme Court ordered that effective January 1, 2007, Judgeship No. 7 in Stanley (Mountrail County) be transferred to Minot (Ward County), upon Judge Robert Holte's retirement, to enhance effective judicial administration. The Court is committed to the continued provision of judicial services in the four non-chambered counties (Burke, Divide, McKenzie, and Mountrail) through regularly scheduled court dates.

The Northwest District Court also began a series of “judicial ride-alongs” in 2005. Hosting first a breakfast and then a luncheon, the meetings between judges and local legislators provide an opportunity to discuss issues of mutual interest and concern. More meetings in Minot and Williston will be held in the coming months.

Ongoing projects begun in 2005 include:

Williams County: Addressing space needs for the juvenile court and clerk of courts office as the County proceeds towards remodeling and renovation of the existing Courthouse.

Ward County: Given recent breaches of security both nationally and statewide, attention once again focused on courthouse security at the Ward County Courthouse. The Court is working closely with law enforcement and local decision-makers to institute front-door security, to include staffing a magnetometer and x-ray machine.

The Ward County District Court and other key partners made a commitment to create a Juvenile Drug Court in 2006. Application for federal funding was made; if unavailable, funding will be accessible through the State.

A Case Management Committee was also created in Ward County in 2005. Meeting on a regular basis to address issues and concerns surrounding caseload management, the Committee is comprised of representatives from the District Court, law enforcement, state's attorney, local bar, court administration, and probation and parole.

Overall, case clearance rates for 2005 approached 98%.

Overall case filings in the following categories showed an increase from 2004 to 2005: civil, 9%; felonies, 11%; traffic, 24%; juvenile, 8%; and probate, 11%.

Other notable increases from 2004 to 2005 included: Williams County: juvenile cases (up 19%) and misdemeanor cases (up 17%); and Ward County: felony cases, primarily Class C, up 35%.

Jury trials in 2005 numbered 47, down 16% from 2004.

The Williams County Juvenile Court collected \$9,290.44 in restitution in 2005 (up 36% from 2004), and \$10,276.71 was collected in restitution in the Ward County Juvenile Court for 2005 (up 5% from 2004).

## **Municipal Courts**

There are approximately 363 incorporated cities in North Dakota. Currently, there are 75 municipal judges. State law permits an individual to serve more than one city as a municipal judge.

Each municipality under 5,000 population has the option of deciding whether or not to have a municipal court. Municipalities may contract with the state to provide municipal ordinance violation court services so that district judges may hear municipal ordinance violations.

Municipal judges have jurisdiction over all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. The judge must be a qualified elector of the city, except in cities with a population below 5,000. In cities with a population of 5,000 or more, the municipal judge is required to be a licensed attorney, unless an attorney is unavailable or not interested in serving. At present, there are approximately 27 legally-trained and 51 lay municipal judges in the state. Vacancies that occur between elections are filled by the executive officer of the municipality with the consent of the governing body of the municipality.

State law requires that each new municipal judge attend two educational seminars and all others attend one course conducted by the Supreme Court in each calendar year. If a municipal judge fails to meet this requirement without an excused absence from the Continuing Judicial Education Commission, the judge's name is referred to the Judicial Conduct Commission for disciplinary action.

Municipal courts have jurisdiction over municipal ordinance violations, which are either traffic or criminal cases. Most of the traffic caseload of the municipal courts consists of noncriminal or administrative traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is a lesser burden of proof in noncriminal traffic cases than in criminal cases and most noncriminal traffic cases are disposed of by bond forfeitures. While judges are not needed to process bond forfeitures, support personnel in the clerk's office must account for every citation received by the court.

Municipal criminal ordinance violations that may be heard by a municipal court are either infractions or Class B misdemeanors; and are, in large part, similar or identical to many of the criminal cases heard in the district courts. A large share of the criminal violations are those involving traffic, but many are unique to each city and based on the particular ordinances. The North Dakota Rules of Criminal Procedure and the Rules of Evidence are applicable to municipal court criminal proceedings. Jury trials are available to persons charged in municipal court with Class B misdemeanors upon a request for transfer to district court; otherwise, trials in municipal court are to the judge without a jury. As in all criminal cases, the city must prove beyond a reasonable doubt that the defendant committed the alleged criminal offense. Appeal from a criminal conviction in municipal court is to the district court.

**Selected Municipal Court Case Dispositions  
for Calendar Year 2005**

Municipalities	Criminal	Noncriminal	Total
Bismarck	3,772	12,828	16,600
Devils Lake	1,126	1,045	2,171
Dickinson	726	1,975	2,701
Fargo	6,462	14,678	21,140
Grand Forks	3,296	4,102	7,398
Jamestown	968	2,608	3,576
Mandan	824	1,260	2,084
Minot	3,608	4,612	8,220
West Fargo	1,019	1,183	2,202
Williston	1,271	1,564	2,835
TOTAL	23,072	45,855	68,927

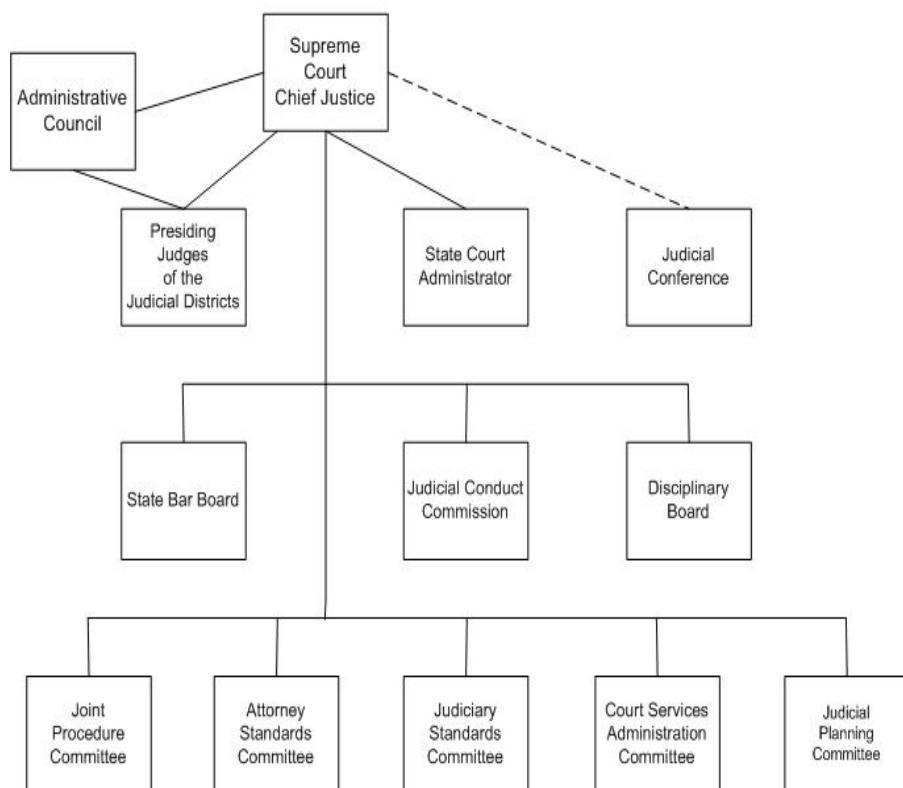
## **Administration of the Judicial System**

Ultimate responsibility for the efficient and effective operation of the judicial system resides with the Supreme Court. The Constitution establishes the Supreme Court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the Supreme Court supervisory authority over the legal profession. Article VI, Section 3, states that the Supreme Court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the Supreme Court relies upon the state court administrator, presiding judges, and various advisory committees, commissions, and boards. The functions and activities of these various bodies during 2003 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided below.

**ADMINISTRATIVE ORGANIZATION  
OF THE NORTH DAKOTA JUDICIAL SYSTEM**



## **Office of State Court Administrator**

Article VI, Section 3, of the North Dakota Constitution authorizes the chief justice of the Supreme Court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the Supreme Court has outlined the powers, duties, qualifications, and term of the state court administrator in Administrative Rule 1. The duties delegated to the state court administrator include assisting the Supreme Court in the preparation and administration of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, planning for statewide judicial needs, and administering a personnel system.

### **Judicial Education**

The Office of State Court Administrator, under the guidance of the Commission on Judicial Education and through the Education and Special Projects Coordinator, develops and implements education programs for all judicial and non-judicial personnel. To supplement the education programs presently being offered, an audio and video library has been established and is housed in the Supreme Court Law Library. To compliment this library, the UND Law School provides materials upon request.

### **Research and Planning**

Staff services are provided to the Judicial Planning Committee and other advisory committees of the Supreme Court by staff in the office of state court administrator. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and any other tasks assigned by various committees. Specific activities and projects of the Supreme Court standing committees are provided in a latter section of this report.

### **Personnel Management**

To ensure uniformity in personnel administration across districts, personnel policies and a pay and classification plan for district court employees were developed under the direction of the state court administrator. This program is administered by the director of human resources. The Personnel Policy Board provides policy direction.

### **Fiscal Responsibilities**

One of the primary functions of the Office of State Court Administrator is to obtain adequate financial resources for judicial operations and to manage these resources. These functions are met with fiscal personnel consisting of a director of finance, supervisor of accounting, and technical staff. With the assistance of fiscal staff, the various judicial budgets are developed for funding consideration by the Legislative Assembly. The Supreme Court budget request is developed with input from Supreme Court department heads. The Judicial Conduct Commission and Disciplinary Board budget request is developed by their staff. The district court budget is coordinated by fiscal staff and prepared by each of the four administrative units with a joint recommendation of approval from the Administrative Council.

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. Guidance for approval of various expenditures is found in budgetary policies.

In viewing the judicial budget, it should be noted that the state funds the Supreme Court, the Judicial Conduct Commission, approximately one-half of the expenses of the Disciplinary Board, and district court expenses including 11 of the largest clerk of district court offices. The remaining clerk offices are funded by the state with a service contract. Municipal courts are funded by the municipalities they serve.

## **Information Technology**

The State Court Administrator's Office is responsible for providing information technology services to the judicial branch. These services are provided through the judicial branch Information Technology Department.

In addition to supporting the many standard off-the-shelf office productivity tools in use within the judicial branch, the Information Technology Department is responsible for development and support of the case management system for the district court, the unified court information system (UCIS), support of the juvenile court information system, support of the jury management system, as well as development and support of the other various custom software systems in use within the judiciary.

The Information Technology Department provides email services and anti-spam filter services to all judicial employees and contract employees, web site hosting for the state court web site ([www.ndcourts.com](http://www.ndcourts.com)), data server hosting for all judicial employees, and server operations and maintenance for the information system.

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

The Information Technology Department offers standard and custom technology training to judicial branch employees.

Through the unified court information system and the Data Warehouse, the Information Technology Department provides access to district court case information to over 725 court and non-judicial personnel.

**JUDICIAL PORTION OF THE STATE'S BUDGET**

**2005-2007 BIENNIUM**

July 1, 2005 - June 30, 2007

Total State General and Special Funds Appropriation

\$5,752,673,790

Executive and Legislative Branch General and Special Funds Appropriation

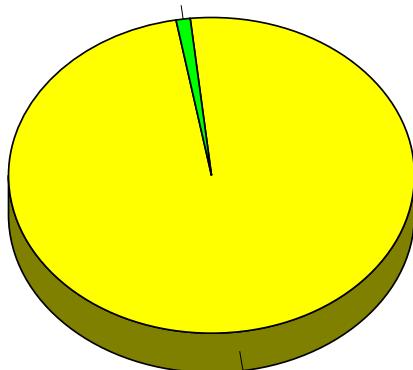
\$5,684,775,450 (99%)

Judicial Branch General and Special Funds Appropriation

\$ 67,898,340 ( 1%)

STATE JUDICIAL SYSTEM

1%

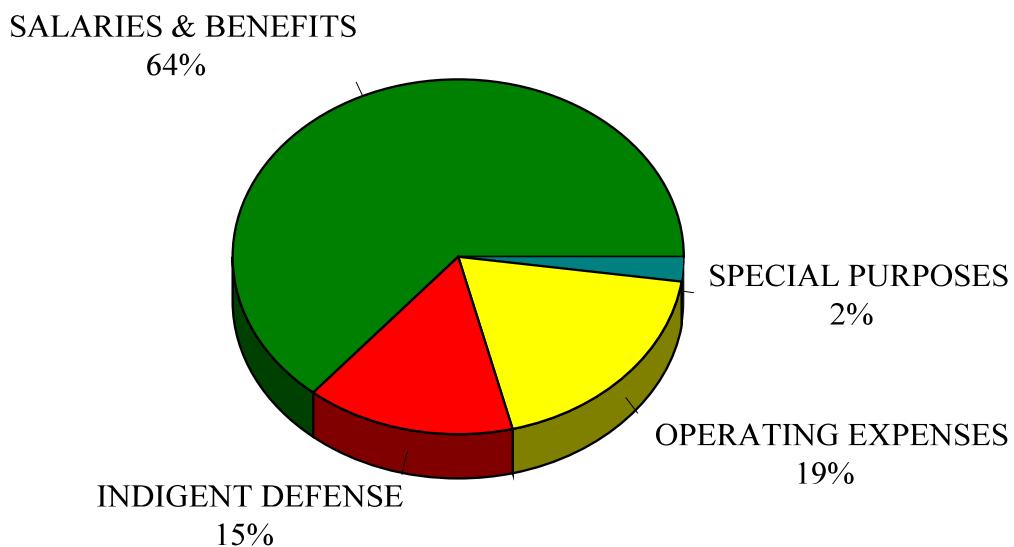


NON-JUDICIAL GEN & SPEC FUNDS APPROP

99%

**STATE JUDICIAL BRANCH APPROPRIATION  
BY APPROPRIATED LINE ITEM  
2005-2007 BIENNIUM**

Total Judicial Branch General and Special	
Funds Appropriation	\$67,898,340
Salaries and Benefits	\$43,475,199 (64%)
Operating Expenses	\$12,622,041 (19%)
Indigent Defense	\$10,058,368 (15%)
Capital Assets	\$ 193,500 ( 0%)
Special Purposes	\$ 1,549,232 ( 2%)



**STATE JUDICIAL BRANCH APPROPRIATION  
BY TYPE OF ACTIVITY  
2005-2007 BIENNIUM**

**Supreme Court**

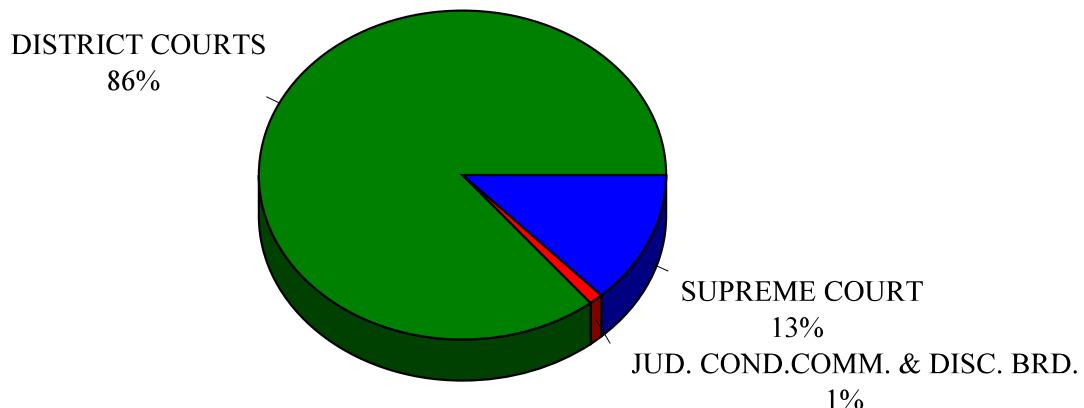
General Fund	\$ 8,590,603
Special Funds	2,500
TOTAL	\$ 8,593,103 (13%)

**District Courts**

General Fund	\$56,257,750
Federal Funds	1,219,957
Special Funds	1,220,000
TOTAL	\$58,697,707 (86%)

**Judicial Conduct Commission & Disciplinary Board**

General Fund	\$ 320,009
Special Funds	287,521
TOTAL	\$ 607,530 ( 1%)



## **Advisory Committees of the North Dakota Judicial System**

In the North Dakota judicial system, a system of committees has been established to develop new ideas and evaluate proposals for improving public services. These advisory committees include citizen members, legislators, lawyers, and judges. The activities of these advisory committees are summarized here:

### ***Committees Under the Rule on Procedural Rules, Administrative Rules, and Administrative Orders***

#### **Joint Procedure Committee**

The Joint Procedure Committee is the standing committee of the Supreme Court responsible for proposing adoption, amendment, or repeal of rules of civil procedure, criminal procedure, appellate procedure, evidence, and specialized court procedure.

Justice Dale V. Sandstrom chairs the Committee. The Committee membership of ten judges and ten attorneys is appointed by the Supreme Court, except for one liaison member appointed by the State Bar Association.

In 2005, the Committee completed work on a multi-year project to update and revise the North Dakota Rules of Criminal Procedure. The Committee also prepared a new rule on electronic service and filing of documents for the District Courts and contributed to development of a new rule on public access to court records.

#### **Judiciary Standards Committee**

The Judiciary Standards Committee, chaired by Judge Douglas Mattson, studies and reviews all rules relating to the supervision of the judiciary, including judicial discipline, judicial ethics, and the judicial nominating process. During 2005, the Committee reviewed federal court decisions affecting the constitutionality of ethical provisions governing election activities by candidates for judicial office. The Committee reviewed the central holdings of the U.S. Supreme Court's decision in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), which found unconstitutional Minnesota's "announce" clause, and more particularly reviewed the federal district court decision in *North Dakota Family Alliance v. Bader*, 361 F. Supp.2d 1021 (D.N.D. 2005), which found unconstitutional the "pledges and promises" clauses in North Dakota's Code of Judicial Conduct. In response to *Bader* decision, the Committee recommended several amendments to Canon 5 of the Code of Judicial Conduct. The Committee continued to review the impact of an 8th Circuit Court of Appeals decision in *Republican Party of Minnesota v. White*, 416 F.3d 738 (August 2005). The decision invalidated additional provisions in the Minnesota Code of Judicial Conduct, some of which are similar to those found in Canon 5 of North Dakota's Code.

#### **Court Services Administration Committee**

The Court Services Administration Committee, chaired by Justice Carol Ronning Kapsner, is responsible for the study and review of all rules and orders relating to the administrative supervision of the judicial system. During 2005, the Committee developed and recommended to the Supreme Court a court interpreter handbook to be used in support of Administrative Rule 50, which governs court interpreter qualifications and procedures. The Committee also initiated reviews, through subcommittees, of issues concerning rules and process governing the appointment and responsibilities of custody investigators and the development of additional forms to assist pro se litigants.

### *Committees of the North Dakota Judicial Conference*

#### **Judicial Ethics Advisory Committee**

The Judicial Ethics Advisory Committee, chaired by District Judge Ronald E. Goodman of Ellendale, provides advisory services for judges relating to judicial ethics issues. The Committee has provided all judges with an ethics manual and responds to inquiries by judges on ethics questions. The Committee also documents responses for use by all members of the judiciary.

#### **Jury Standards Committee**

The Jury Standards Committee, chaired by District Judge Joel D. Medd of Grand Forks, studies and oversees the operation of North Dakota's jury system. During 2005, the Committee continued its review of the contents of current juror qualification forms and how to most effectively balance the concern for juror privacy with the desire of lawyers and others to obtain information, often personal in nature, concerning prospective jurors. The Committee closed the year with a survey of lawyers, judges, and court personnel about methods of acquiring juror information.

### *Committees Established by Administrative Rule*

#### **Judicial Planning Committee**

The Judicial Planning Committee is chaired by Justice Daniel J. Crothers. The Committee studies the judicial system and makes recommendations concerning long-range and strategic planning and future improvements for the system.

#### **North Dakota Legal Counsel for Indigents Commission**

The North Dakota Legal Counsel for Indigents Commission was chaired by District Judge Laurie Fontaine, Cavalier, in 2005. The Commission, as provided under Administrative Rule 18, was responsible for identifying and reviewing issues concerning the operation of the indigent defense contract system.

Administrative Rule 18 was repealed effective January 1, 2006, and the Commission disbanded. This action by the Supreme Court reflected the enactment in 2005 of N.D.C.C. Ch. 54-61, which created a new executive branch Commission on Legal Counsel for Indigents and transferred responsibility for indigent defense services from the judiciary to the new Commission.

#### **Administrative Council**

The Administrative Council convened their first meeting in August replacing the Council of Presiding Judges as the policy making body charged with the responsibility to provide uniform and efficient delivery of administrative support to the trial courts. The council consists of the presiding judge of each judicial district, three elected judges from administrative units made up of two judicial districts, and one bar representative selected by the State Bar Association's Board of Governors. The Chief Justice of the Supreme Court serves as presiding officer of the council. Duties of the council include the responsibility to develop administrative policies for the trial courts and provide the mechanism to ensure implementation. The Administrative Council meets at the call of the chair.

### **Juvenile Policy Board**

The Juvenile Policy Board has continued its discussion of N.D.C.C. Ch. 27-20, the Uniform Juvenile Court Act. Progress has been made with regard to a comprehensive review of the entire Act to determine whether it adequately meets the needs of an effective juvenile justice system. The Board expects to finish its review of the Act by the summer of 2006 and make appropriate recommendations to suggested language and rules, if applicable.

The Board is made up of judges, referees, and juvenile court officers, and chaired by District Judge Debbie Kleven. In reviewing the Act, the Chief Justice has added representatives of other agencies and departments to participate in the discussions: Department of Human Services, county welfare directors, State's Attorney's Association, public defenders, and the Department of Juvenile Services.

The Juvenile Policy Board has adopted a Best Practices Manual for district court juvenile court officers as recommended by a subcommittee of the Board.

### **Commission on Judicial Education**

The Commission is made up of five judges of courts of record in North Dakota, one member each from the juvenile court personnel, support staff of courts of record, faculty of the UND Law School, and one judge from a court not of record. The current chair of the Commission is Justice Mary Muehlen Maring.

The Commission develops policies and procedures concerning the implementation of statewide continuing judicial education programs for judges and personnel of the unified judicial system of North Dakota.

### **Committee on Tribal and State Court Affairs**

The Committee on Tribal and State Court Affairs was established following adoption of Administrative Rule 37 by the Supreme Court. The Committee is chaired by District Judge Donovan Foughty, Devils Lake, and is comprised of tribal and state court judges, tribal and state court support services representatives, and public members. It provides a vehicle for expanding awareness about the operation of tribal and state court systems; identifying and discussing issues regarding court practices, procedures, and administration which are of common concern to members of the two court systems; and for cultivating mutual respect for, and cooperation between, tribal and state courts.

### **Joint Committee on Attorney Standards**

The Joint Committee on Attorney Standards was established following adoption of Administrative Rule 38 by the Supreme Court. The Committee, chaired in 2005 by Alice Senechal, Grand Forks, is comprised of members appointed by the Chief Justice and the Board of Governors of the State Bar Association. During 2005, the Joint Committee continued and completed its review of North Dakota's Rules of Professional Conduct in light of amendments to the Model Rules of Professional Conduct recently adopted by the American Bar Association. In October 2005, the Joint Committee recommended to the Supreme Court numerous amendments to the Rules of Professional Conduct.

### *Committees Established by Administrative Order*

#### **Gender Fairness Implementation Committee**

The Gender Fairness Implementation Committee, chaired by Justice Mary Muehlen Maring, was established by Supreme Court Administrative Order 7 to oversee implementation of the recommendations of the Supreme Court's Commission on Gender Fairness in the Courts. It is further charged with monitoring the progress of the judicial branch in eliminating gender bias in the courts. During 2005, the Committee initiated several regional meetings with lawyers, court users, and judicial system employees as part of a focus group process to aid in assessing the judicial system's progress in addressing bias-related issues in the courts. Surveys of judges will also be conducted and a report will be issued in mid-2006.

#### **Court Technology Committee**

The Court Technology Committee, chaired by Judge Allan Schmalenberger, is comprised of representatives from the supreme court, district courts, clerks of court, and state court administrator's office. The committee is responsible for general oversight and direction of technology for the judicial branch.

The unified court information systems (UCIS) continued its growth in 2005 by being installed in West Fargo Municipal Court. UCIS is used in the district courts in all 53 counties and in municipal courts in 8 cities. There are currently nearly 600 enrolled users in the UCIS system.

Throughout 2005, the judicial branch continued its cooperative electronic citation effort with the Highway Patrol. During 2005, nearly 65,000 citations were received from the Highway Patrol. Of that total, 78 percent were received electronically. Additionally, dispositions for all traffic citations were reported electronically to the Department of Transportation. These electronic workflows result in significant efficiencies through reduced data entry and reduction of data entry errors.

We continue to provide access to district court case information to other criminal justice related personnel. Currently, web-based access is provided to over 300 non-judicial personnel, and UCIS access is provided to over 125 non-judicial personnel.

The district court in Cass County began using interactive television for appearances of in-custody participants from the newly constructed jail in Cass County. Future plans include increasing the use of interactive television throughout the state.

Digital recording, the practice of taking the court record digitally and storing it to a computer server, was expanded to include district court in Grand Forks County. This involved placing a digital recording server in the courthouse for audio storage and placing a computer in each courtroom for digital encoding of the audio tracks. Future plans include adding additional digital recording systems to other courthouses.

The North Dakota judicial branch continues its work with the state's criminal justice information system (CJIS) initiative. This initiative is a joint, multi-branch of government effort to facilitate sharing of criminal justice information.

The judicial branch's Help Desk provides technical support to all judicial branch employees, judges, clerk of court personnel and others using and accessing our information systems. Over 5,100 calls for assistance were placed to the help desk in 2005.

The judicial branch IT Department continues to provide email and anti-spam services for judicial personnel. In 2005, the anti-spam server received 4,240,157 email messages and blocked 88.2% of those as spam.

In 2005, we continued our technology training efforts by having our technology coordinator provide on-site computer training for various topics, including email usage, word processor training, UCIS training, and jury system training.

The Court Technology Committee, with assistance from several temporary members, created a draft rule that would allow electronic access to court records. The results of the months-long project are included in a new, draft version of Administrative Rule 41, which was then sent to the Supreme Court for approval.

Throughout 2005 planning efforts continued on an enhanced records management system (ERMS). Such a system provides a method of capturing all court case related documents electronically and storing them within an imaging system. Implementation of a pilot phase is set to begin in 2005 with statewide implementation beginning in 2006.

The biennial judicial branch IT plan was approved by the Court Technology Committee in 2004 and submitted as required by statute.

#### ***Committees Established by Administrative Policy***

#### **Personnel Policy Board**

The Personnel Policy Board was established following adoption of Administrative Policy 106 by the Supreme Court. The board is chaired by District Judge M. Richard Geiger and is comprised of a supreme court justice, district court judges, supreme court department heads, and employees of the supreme and district courts. The board is tasked with the responsibility of reviewing and implementing the personnel system and continued developing a salary administration plan for the judiciary. In 2005 the board's primary focus centered around implementation of the pay and classification system.

#### **Trial Court Legal Research Assistance Committee**

The Trial Court Legal Research Assistance Committee, chaired by District Judge David Nelson, was created in 1999. The committee provides technical assistance and management assistance to trial courts in the state. The contract for computer assisted legal research (CALR) was awarded to Westlaw after a thorough review and bidding process. The Committee continues to look at library holdings between districts and encourages group purchasing when appropriate.

#### **Committee on Caseflow Management**

The Committee on Caseflow Management, chaired by District Judge Allan Schmalenberger, has been established to review district and administrative unit case management plans and practices, as prescribed by the Administrative Council. During this past year, each Administrative Unit has established Caseflow Management Committees to discuss case management issues in their respective units.

Also, the State Court Administrator's Office sought some technical assistance on case management issues in the Southeast and Northwest judicial districts. Adam Fleischman, a law student at the UND School of Law, and former employee of the National Center for State Courts, provided that technical assistance.

Ensuring early court monitoring and continuous control over case progress is essential in caseflow

management. Caseflow management also includes developing strategies for differentiated case management, creation of realistic and credible trial dates, and the development of strategies to ensure oversight of all court related case events.

The Committee is made up of judges from each judicial district, bar association members, court administrative personnel, public defenders, and state's attorney representatives. The Committee meets at the call of the chair.

### **Committee on Trial Court Operations**

The Committee on Trial Court Operations, chaired by District Judge David Nelson, develops and maintains a current clerk of court procedures manual; reviews various clerk of court operations for consistent application of statutes, rules, and policies; develops and maintains forms for use statewide; and reviews matters assigned by the Administrative Council. During 2005, the Committee submitted numerous revisions of the Clerk of Court Manual to the Administrative Council for consideration. The Committee also submitted proposals regarding the expungement of court records.

The seven member committee, appointed by the chief justice, includes two district judges, two trial court a administrative representatives, and three clerks of district court.

## **Disciplinary Board**

The Disciplinary Board was established to provide a procedure for investigating, evaluating and acting upon complaints alleging unethical conduct by attorneys licensed in North Dakota. The Rules of Professional Conduct are the primary guide for lawyer conduct, and the North Dakota Rules for Lawyer Discipline provide the procedural framework for the handling and disposition of complaints. By Supreme Court rule, the Joint Committee on Attorney Standards provides the vehicle for the coordinated, complementary, and continuing study and review of the range of issues concerning attorney conduct and discipline.

When a written complaint alleging attorney misconduct is received, it is filed with the Board's secretary and referred to the District Inquiry Committee Northeast, Southeast or West of the State Bar Association. The chair of the respective committee reviews the complaint and, if appropriate, assigns the complaint for investigation to a member of the committee or staff counsel. If the complaint, on its face, does not indicate misconduct, an investigation will not be initiated and the matter will be referred to the committee for summary dismissal. Actions available to district inquiry committees include dismissal, issuing an admonition, probation with the consent of the respondent attorney, or directing that formal proceedings be instituted.

Formal proceedings are instituted when a petition for discipline is filed which outlines the charges against the attorney. A hearing panel is appointed by the chair of the Disciplinary Board to consider the petition and other evidence regarding it, make findings and a recommendation, and enter appropriate orders. Present and past members of the Board may serve as hearing panel members. Recommendations of the hearing panel which do not result in dismissal, consent probation, or reprimand are filed directly with the Court. The hearing panel may enter orders of dismissal, consent probation or reprimand; however, they are subject to a petition for review that is filed with the Court. This petition must show that the panel's action was arbitrary, capricious or unreasonable.

Non-lawyer citizens are members of the District Inquiry Committees and the Disciplinary Board. All members of the Board and the Inquiry Committees are volunteers. While many complaints are dismissed as groundless, the amount of volunteer time needed to run the system is significant.

Ronald F. Fischer, Grand Forks, served as chair of the Disciplinary Board in 2005. Paul Jacobson, Bismarck, serves as Disciplinary Counsel, and Brent Edison, Bismarck, serves as Assistant Disciplinary Counsel.

Following is a summary of complaint files under consideration in 2005.

New Complaint Files Opened in 2005	222
General Nature of Complaints:	
Client Funds & Property	8
Conflict of Interest	12
Criminal Convictions	1
Disability/Incapacity to Practice Law	1
Excessive Fees	7
Failure to Communicate/Cooperate with Client	7
Improper Conduct	110
Incompetent Representation	58
Misappropriation/Fraud	2
Neglect/Delay	7
Petition for Reinstatement	2
Unauthorized Practice of Law	5
Reciprocal Discipline	3
TOTAL	222
Formal Proceedings Pending From Prior Years	31
Other Complaint Files Pending From Prior Years	81
Appeals Filed with Disciplinary Board in 2005	26
Appeals Filed with Supreme Court in 2005	0
Total Files for Consideration in 2005	360
Disposition of Complaint Files:	
Dismissed by Inquiry Committees	97
Dismissed Without Prejudice by Inquiry Committees	0
Summary Dismissals by Inquiry Committees	60
Admonitions Issued by Inquiry Committees	14
Consent Probation by Inquiry Committees	5
Referred to Lawyer Assistance Program By Inquiry Committee	1
Disciplinary Board Approves IC Dismissal	24
Disciplinary Board Disapproves IC Disposition	3
Disciplinary Board Approves IC Admonition	1
Disciplinary Board Approves Consent Probation	1
Dismissal by Hearing Panel	2
Reprimand by Hearing Panel	1
Reprimand by Supreme Court	4
Reinstatement by Supreme Court	0
Suspensions by Supreme Court	11*
Disbarments by Supreme Court	2
Dismissal of Petition for Discipline by Supreme Court	1
No Discipline/Disability Recommendation Accepted by Supreme Court	1
Transfer to Disability Status by Supreme Court	0
Interim Suspensions by Supreme Court	1
Formal Proceedings Pending 12/31/05	28
Other Complaint Files Pending 12/31/05	106
TOTAL	364**

\*11 files resulted in the suspension of 4 attorneys.

\*\*Number reflects multiple dispositions and an interim suspension.

## **Judicial Conduct Commission**

The Judicial Conduct Commission was established in 1975 to receive, investigate, and evaluate complaints against any judges or officers of the judicial system in this state and, when necessary, conduct hearings concerning the discipline, removal or retirement of any judge.

The procedures of the Commission are set forth in the North Dakota Rules of the Judicial Conduct Commission. Significant procedural changes effective August 1, 1997, included evaluation of the complaint and summary dismissal by Disciplinary Counsel, after providing an opportunity for Commission members to request further consideration. An admonition (formerly a private censure) requires the consent of the judge. Complaints are filed with Disciplinary Counsel for the Commission. The Supreme Court must take final action on public censure, removal, suspension, retirement, or other public discipline against a judge.

The number of complaints against judges in 2005 was up by one from those filed in 2004. The majority were dismissed as being without merit because complainants frequently believe the Commission has the authority to change a judge's decision or influence trial proceedings in some way.

The table, which follows, includes a summary of the nature and the disposition of complaints filed with the Judicial Conduct Commission in 2005.

<b>New Complaints Opened in 2005</b>	61
General Nature of Complaints:	
Administrative irregularity	1
Bias, discrimination/partiality	5
Corruption/bribery	1
Conflict of interest	2
Delay court business	1
Ex parte communications	1
Improper conduct on bench	5
Improper decision/ruling	39
Incompetence as judge	2
No specific allegation	1
Political activity	1
Reputation of judicial office	1
Other	1
<b>TOTAL</b>	61
Complaint Files Carried Over from 2004	20
<b>Total Files Pending Consideration in 2005</b>	81
<b>Disposition of Complaints:</b>	
Dismissed	2
Summarily Dismissed	57
Admonition	2
<b>Total 2005 Dispositions</b>	61
<b>Complaint Files Pending as of 12/31/05</b>	20

Of the new complaints filed in 2005:

- 10 were against 6 Supreme Court Judges
- 46 were against 32 District Court Judges
- 1 was against an Alternate Municipal Court Judge
- 3 were against Judicial Referees
- 1 was against a Municipal Judge

## **State Board of Law Examiners**

The State Board of Law Examiners assists the Supreme Court in its constitutional responsibility to regulate the admission to practice.

In 2005, Board members were Rebecca S. Thiem of the Bismarck firm of Zuger, Kirmis & Smith; Mark L. Stenehjem of the Williston firm of Winkjer, McKennett, Stenehjem, Reierson & Forsberg; and Paul F. Richard of MeritCare Health System in Fargo. Thiem has served on the Board since January 1, 1991; Stenehjem since January 1, 1993; and Richard since January 1, 1996.

Carla Kolling, Assistant Bar Admissions Administrator for the Board, retired at the end of December after 20 years of service. Kolling was the only full-time employee of the Board, and the only person to hold that position. The Board hired Courtney Koebele, a Bismarck attorney, to replace Kolling.

In February and July, the Board administered a two-day bar examination. The examination consisted of the Multistate Performance Test (MPT), a written three-hour examination consisting of two ninety-minute tasks that examine fundamental lawyering skills, including, problem solving, legal analysis and reasoning, factual analysis, communication, organization and management of a legal task, and recognizing and resolving ethical dilemmas; the Multistate Essay Examination (MEE), a written three-hour examination consisting of six questions from pre-selected topic areas; and the Multistate Bar Examination (MBE), an objective six-hour multiple choice exam.

For the first time in a number of years, a February bar exam was offered in 2005. After consulting with the National Conference of Bar Examiners, the Board decided that future February bar exams will be dependent on at least 10 applicants sitting for the exam.

Passage rates for the 2005 examination:

<b>Exam</b>	<b># Apps.</b>	<b># Pass/ % Pass</b>	<b># UND Grads</b>	<b># Pass/ % Pass</b>
2/05	21	16/76%	15	10/67%
7/05	44	38/86%	36	32/89%

Admission to the practice of law in North Dakota can be based not only on the results of the written bar examination, but on five years of admission with at least four years of practice in another jurisdiction, or, upon achieving a score of 150 on the Multistate Bar Examination (MBE) and admission in another jurisdiction within two years of application. Every applicant for admission must also be at least 18 years old, of good moral character, fit to practice law, and been awarded a juris doctor or equivalent degree from a law school, approved or provisionally approved, for accreditation by the ABA. The Character and Fitness Committee assists the Board in investigating applicants' character, fitness and moral qualifications. In 2005, members of the Committee were: Charles S. Miller, Malcolm H. Brown, Luella Dunn, Reverend Robert Nordvall, and Dr. Al Samuelson, all of Bismarck. Patricia Monson, Fargo, was appointed in February following the resignation of Charles Miller.

Of the 83 attorneys admitted in 2005, 54 were by bar examination; 14 by achieving the 150 MBE score and admission in another state; and 14 by having the requisite years of practice in another state.

In 2005, the Board, in its licensing capacity, issued licenses to 1,866 lawyers and judges, 430, or 23%, of whom were women.

As a part of its licensing and admission responsibilities, the Board monitors the *pro hac vice* admission of attorneys who are not licensed in North Dakota. During 2005, 157 nonresident attorneys filed motions under Rule 3, Admission to Practice Rules, with \$36,010 in fees collected. Approximately one-third of the fees go to fund the attorney disciplinary system, and the remainder is split between the State Bar Association (80%) and the State Board of Law Examiners (20%).

## **North Dakota Judicial Conference**

The North Dakota Judicial Conference was originally established as an arm of the judicial branch of state government in 1927. At that time, the organization was known as the North Dakota Judicial Council. Present statutory language covering the Judicial Conference is found in N.D.C.C. Ch. 27-15.

There are currently sixty-six members of the Judicial Conference. The conference consists of all Supreme Court justices and district court judges. Other members are the attorney general; the dean of the University of North Dakota School of Law; the clerk of the Supreme Court; two judges of the municipal courts, as appointed by the Municipal Judges Association; and five members of the North Dakota Bar Association, who are appointed by the Bar Association. All surrogate judges, as appointed by the Supreme Court under N.D.C.C. §27-17-03, are also conference members.

The members of the conference serve during the time they occupy their respective official positions. The term of office of the two municipal judges is two years. The term of office for the five members of the bar is five years. Vacancies on the Judicial Conference are filled by the authority originally selecting the members.

The state court administrator serves as the executive secretary of the Judicial Conference.

The officers of the Judicial Conference consist of the chair and chair-elect, who are selected for a term of two years by the members of the conference. In addition, there is an executive committee consisting of the chair, chair-elect, a justice of the Supreme Court elected by the Supreme Court, and two district judges elected by the Association of District Judges.

Under North Dakota law, the Judicial Conference is required to meet twice each year. These meetings are usually held in June and November. Special meetings, however, may be called by the chair. While members of the Judicial Conference are not compensated for their services, they are reimbursed for their expenses while discharging their conference duties.

The Judicial Conference has four major duties:

1. Solicit, receive, and evaluate suggestions relating to the improvement of the administration of justice.
2. Consider and make recommendations to the Supreme Court for changes in rules, procedures, or any matter pertaining to the judicial system.
3. Coordinate continuing judicial education efforts for judges and support staff.
4. Establish methods for review of proposed legislation which may affect the operation of the judicial branch.

Several committees have been established to support the activities of the full conference. The committees and respective committee chairs during 2005 were as follows:

1. Judicial Ethics Advisory Committee, Judge Ronald Goodman, Chair.
2. Committee on Legislation, Judge Robert O. Wefald, Chair.
3. Committee on Judicial Compensation, co-chairs Justice Carol Ronning Kapsner and Judge Douglas Herman.
4. Jury Standards Committee, Judge Joel D. Medd, Chair.

Committee membership results from appointment by the chair after consultation with the Executive Committee of the Judicial Conference. The bylaws provide that non-conference members can serve on either standing or special committees.

The officers and Executive Committee of the Judicial Conference during 2005 were as follows:

Justice Mary Muehlen Maring, Chair

Justice Douglas Herman, Chair-Elect

Judge John T. Paulson, Past Chair

Justice Carol Ronning Kapsner, Executive Committee

Judge Gail Hagerty, Executive Committee

Judge Bruce Romanick, Executive Committee

## ***North Dakota Judicial Conference***

### **Judges of the Supreme Court**

Gerald W. VandeWalle  
Dale V. Sandstrom

Mary Muehlen Maring

Carol Ronning Kapsner  
Daniel J. Crothers

### **Judges of the District Court**

\*Indicates Presiding Judge

#### East Central District

\*Georgia Dawson  
Douglas R. Herman  
John C. Irby  
Steven L. Marquart  
Steven E. McCullough  
Frank L. Racek  
Cynthia Rothe-Seeger  
Wade Webb

#### Northeast District

\*M. Richard Geiger  
Lee A. Christofferson  
Laurie A. Fontaine  
Donovan Foughty  
Lester Ketterling  
John C. McClintock, Jr.

#### Northeast Central District

\*Karen K. Braaten  
Sonja Clapp  
Lawrence E. Jahnke  
Debbie Kleven  
Joel D. Medd

#### Northwest District

\*William W. McLees  
Robert W. Holte  
Gary H. Lee  
Douglas L. Mattson  
David W. Nelson  
Gerald H. Rustad

#### South Central District

\*Gail Hagerty  
Sonna M. Anderson  
Bruce B. Haskell  
Donald L. Jorgensen  
Burt L. Riskedahl  
Bruce Romanick  
Thomas J. Schneider  
Robert O. Wefald

#### Southeast District

\*John T. Paulson  
James M. Bekken  
Ronald E. Goodman  
John E. Greenwood  
Richard W. Grosz  
Mikal Simonson

#### Southwest District

\*Allan L. Schmalenberger  
Zane Anderson  
Ronald L. Hilden

### **Judges of the Municipal Courts**

Robert A. Keogh  
Julie Evans

### **Surrogate Judges of the Supreme and District Courts**

Norman J. Backes  
Bruce E. Bohlman  
Benny A. Graff

Gordon O. Hoberg  
William F. Hodny  
Jon R. Kerian

Lawrence A. Leclerc  
Everett Nels Olson  
Kirk Smith

Attorney General Wayne K. Stenehjem  
Clerk of the Supreme Court Penny Miller  
Dean of the UND School of Law Paul A. LeBel

### **Members of the Bar**

Michael F. Daley  
Dennis E. Johnson

Steven J. Lies

Sherry Mills Moore  
Michael D. Sturdevant

Executive Secretary Sally Holewa

66 Members