

**2011 HOUSE APPROPRIATIONS**

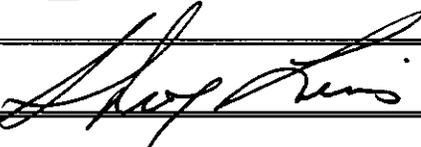
**HB 1002**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
January 17, 2011  
Recorder Job# 12931

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

## Minutes:

Chairman Thoreson opened the hearing on HB1002. Roll call was taken.

Jerry VandeWalle, Chief Justice, North Dakota Supreme Court: Introduced the members of the Supreme Court.

Sally Holewa, State Court Administrator, North Dakota Supreme Court: See attached testimony 1002.1.17.11A.

Chairman Thoreson: What is the data processing fee?

Sally Holewa: The data processing fees are for some kind of switch and for some servers that we have. About 10 years ago, the court these switches; and we had an agreement with ITD. Because we had funded those switches, they would only for our Bismarck employees. Those switches are now being replaced. They'll provide the switches; and in turn, they're going to charge us for all of our employees across the state.

Testimony continued.

Representative Dahl: If we take that 5% increase and modify it to a 3% increase, do you know what that equates to?

Sally Holewa: I will have to have you ask our Director of Finance.

Don Wolf: I actually do not have that with me.

Testimony continued.

Chairman Thoreson: What would the research analyst position do?

Sally Holewa: The research analyst would work with the court improvement project. The court improvement project is a federally funded project. All 50 states get a base formula of

money; and the purpose of that is to improve the outcome for children who are victims of dependency and neglect. The money comes in and is directly tied to the money that social services gets to reimburse counties. The research analyst would be collecting the data for us and helping us to meet those objectives.

Chairman Thoreson: So the program is federally funded; but, this position would have to be funded by the state?

Sally Holewa: The position would be 75% funded by the grant and the state would fund the 25% match on that.

Testimony continued.

Chairman Thoreson: What is the most recent you've made a move such as that?

Sally Holewa: The most recent time we made it was about 2 ½ years ago when we moved a position from Williston to Minot.

Chairman Thoreson: And are you actively looking at this seeing if people need to be moved? How often is this reviewed?

Sally Holewa: We review this every March; when we get our annual case load data. We look at a combined 2 year average and we make the assessment. We also look at it when there's a vacancy.

Testimony continued.

Chairman Thoreson: How's the weighted case load study performed?

Sally Holewa: The weighted case load study is a study that was put together by the National Center for State Court. What they do is a time and motion study. They come through and they assess how long it takes to do the average case; then they assign a weight to it. Then you take weighted number and multiply it by the number of cases that you have in a given year.

Chairman Thoreson: When was this study, that you're basing those numbers on, performed?

Sally Holewa: The last time this study was reviewed by the National Center and reweighted was in 2004. But we do run the numbers every year.

Chairman Thoreson: Do you expect that there will be another one coming at any time in the near future?

Sally Holewa: We're asking for funding to update both that study and the deputy clerk's study.

Testimony continued

Representative Dahl: If I could ask the process behind deciding a law clerk is the best position to seek; rather than a full judgeship.

Sally Holewa: It's never an easy choice for us to decide what we should be asking for. We rely heavily on the district court judges to ask for that. It's also part of our process; we try to go with the minimal cost or adjustment before we ask. We know that judges and law clerks have different functions. Judges need to be on the bench, writing decisions and taking testimony, and reviewing files. The law clerk can fill for a lot of judges; they can do a lot of background research, draft part of a decision to get them started.

Testimony continued.

Chairman Thoreson: With the increased technology, where do you expect that to go in the next 2 to 4 years? Are there pieces that are going to be added that will additionally make their jobs easier to do or take away some of the things they're currently doing now?

Sally Holewa: It's a difficult question to answer. I think the answer is probably, if we introduce a little more technology, it might help a little more. Our big efficiencies were gained in the '80's when we went from paper to computer. No matter the technology, the clerks still have almost the same function. I don't see a lot of gains in efficiency for the clerk's office.

Testimony continued.

Representative Klein: The total number of juvenile court officers you have and how many, on an average, people do they typically serve?

Sally Holewa: I can answer in the abstract about the cases. I know in our highest volume areas like Fargo and Bismarck, we're talking about 40 or 50 active cases at a time per officer. As we get into the smaller areas that number drops. If you get into Dickinson or some of those other areas that are a lot smaller, 15 or 20 cases that is active at a time.

Representative Klein: And how many total juvenile court officers do you have?

Don Wolf: There are 43 juvenile court officers in North Dakota; that includes the 4 directors of juvenile court.

Testimony continued.

Representative Klein: Going back to these juvenile court officers, how often do they meet on the average with each individual case?

Sally Holewa: That depends on the severity of the case and the child's level of risk to reoffend. We have a tool that we use, the name for it is YASI that gives us an indication of what their level of risk of reoffending is; so, if it's a high risk child, the juvenile court officer will meet with them quite frequently, usually weekly if not more than that. If it tends to be a very low risk child, it would be much more informal; it might be just meeting once or twice with the child and parent and then monitoring conditions of probation.

Representative Dahl: Are you seeing an increase case load in the juvenile system or are these just shortages that have always been present?

Sally Holewa: I think the answer is both. We've had a perpetual shortage that we tried alleviating by having juvenile court officers travel outside their districts. We are seeing in different areas of the state an increase in juvenile court cases.

Testimony continued.

Chairman Thoreson: Are these federal funds that we have in hand or are these dollars which are promised to the state but not here?

Sally Holewa: This is grant funding that we've had for several years.

Chairman Thoreson: But we are in line to receive this once again?

Sally Holewa: Absolutely.

Chairman Thoreson: You said there is penalty if we do not match the federal guidelines on child welfare cases. Have there been any instances of that in our state or has that been reviewed?

Sally Holewa: The feds have not penalized the state yet. They do have an ongoing process where they come in and they evaluate the state; and the state is given an improvement plan. We have been through that process; it's a process that happens on the DHS side, but, we do participate in that. We have had instances where our department of human services has denied funding to the counties because they did not follow the proper processes.

Testimony continued.

Chairman Thoreson: So walk me through the process, if you could please, what happens in the situation when somebody, say newly divorced parents, where do they go to start this process and who contacts them? What are the first steps to the end?

Sally Holewa: What happens with the mediation program is it's triggered by the filing of the case. When they're filed, within a matter of a few weeks, our mediation coordinator assigns a mediator; who then contacts the parties. The mediator is as close to their region as we can get. They will go and meet with mediator one on one. We provide up to 6 hours of mediation for the families; and generally, they're settling within 4 hours.

Chairman Thoreson: What happens if they pass those 6 hours? It just ended at that point or where do they go from there?

Sally Holewa: In general, it will end; although, they can make an application for additional time. We've had that happen; and it would be an unusual circumstance where we would

grant that. They would have to first show that very close to settling; also, that they were indigent and had no other way to continue with mediation.

Testimony continued.

Representative Dahl: If I could just back up one section. For the family mediation program, if we extend funding to all those cases, family law or probate cases that are appealed to the Supreme Court; how many additional cases will that add?

Sally Holewa: I'm going to have to ask Penny Miller.

Penny Miller, Clerk, Supreme Court: Based on my calculation, that would be 53 cases at the Supreme Court level.

Representative Dahl: And what would be the estimate cost for expanding to those cases?

Sally Holewa: We're asking for \$10,000.00 for that expansion. That's based on the idea that we would continue to use the mediators that we have; so, the only additional cost is the cost per additional cases.

Chairman Thoreson: With the drug courts, both juvenile and adult, what level of increase are we seeing there? Has it tapered off any or are there still an increased number of people coming to that program?

Sally Holewa: My impression is that the numbers have stayed pretty much the same.

Mary Maring, Justice, North Dakota Supreme Court: I think that's correct. I think is pretty much stabilized in terms of the numbers in the court. At this time, we don't have any plans the courts to any other location.

Don Wolf: Director of Finance, North Dakota Supreme Court: See testimony 1002.1.17.11B.

Representative Kempenich: That court improvement; is that a full time position?

Don Wolf: This would be a full time temporary position.

Representative Kroeber: What is the amount of that grant now? If you add this person are you going to receive additional dollars?

Don Wolf: No, we'll reallocate the grants. Some of this money had been contracted out before for research analysts to the work; instead, we'll be having somebody in house doing the research work. So, it would be within our current appropriation amount; I believe, that was \$861,000.00 that we received for that.

Testimony continued.

Chairman Thoreson: Do you have any background on that task force: who serves on it, how often do they meet?

Don Wolf: I do have some information on it, but, the statistical data varies.

Carol Kapsner, Justice, North Dakota Supreme Court: I'm co-chair of the commission to study racial and ethnic bias. We'd be happy to provide you with some background information. We've recently issued our interim report and I will provide the committee with a copy of that.

Mr. Wolf's testimony continued.

Representative Dahl: Did this commission begin this last biennium? If you could give us a broad overview?

Justice Kapsner : Actually the commission was started in December 2009, became active in February 2010. We've been meeting on a quarterly basis. Our first effort has been public meetings to get information on their perception of whether there's bias in the courts. We have conducted several studies; namely a jury study about participation and perception of bias in the juries. We are doing other studies; we have conducted a sampler, as we're doing these public meetings, we will be doing studies of our court system employees, the users of our system to determine whether they perceive bias within the court. There are several ongoing studies; that's why what we've completed is our jury study. There will be more meetings conducted in the following year.

Representative Dahl: The budget is requesting a position to go from part time to full time temporary; and I'm wondering this person will be in charge of doing? What are the additional needs for this position?

Justice Kapsner: The staff person does all of the coordinating of the commission meetings, all of the analysis, all of the organizational work, all of the interaction between the various agencies that we're working with; and the person who is responsible for producing all of the reports and the reporting. It's a person who has to have a strong background in sociology and also a jd degree. We've found that it is a full time job.

Representative Dahl: Why was this commission culminated in December 2009?

Justice Kapsner: We are the 40<sup>th</sup> state to do such a study; many other states had engaged in such a study for a long time.

Don Wolf continued with his testimony.

Chairman Thoreson: Who would you expect to be doing that study? Will you contract for somebody outside to do it or will this be done internally?

Don Wolf: I believe that would be something that we would contract with.

Testimony continued.

Representative Kempenich: Is ITD involved in this at all?

Don Wolf: We have been contracting out with Tyler Technologies. They have developed a product for other states; but, with each state there's specific ways of doing things. There's a lot of enhancements they have to work in. ITD has been overseeing the project to lead us in the right direction. It's not an information technology project.

Representative Kempenich: Is this one time or is this on going?

Don Wolf: That will be an annual budget that we will have to continue to pay for product support, anytime there's a product update that we need to do. That will cover that cost.

Representative Kempenich: And that's Supreme's budget and the district budget?

Don Wolf: That would be primarily in the District court budget.

Testimony continued.

Representative Kempenich: Is that to ITD then?

Don Wolf: Yes.

Representative Dahl: Are all the judicial districts on this new Odyssey system? Has everyone transitioned on to this system?

Don Wolf: We're currently in the process now. We have half the state, the entire eastern part of the state, has transitioned on to the Odyssey project. The go live date for the western half of the state is April 11.

Representative Dahl: Is everything on track to go live with those counties and districts?

Don Wolf: That's correct.

Representative Klein: This ITD technology feed, if before you just having the Bismarck people on, how were the rest of them handled?

Don Wolf: Sally had mentioned this earlier in her testimony. There was an agreement that we had previously with ITD; where we covered the cost of switches. Because of that they exempted the nonemployees from this network access charge. Now the switches have to be updated and ITD wants us to use their switches. So, we're going to have to end up paying for these additional state employees.

Representative Klein: So you were paying a fee, but, it was just not included in the ITD fee?

Don Wolf: We were paying a fee; but, we weren't paying a fee for the non Bismarck area employees. So all the district court employees in Fargo and Grand Forks; we weren't paying a fee for those positions.

Representative Kempenich: That would be the processing parts in the district courts where the increases showed up?

Don Wolf: That's correct.

Representative Kempenich: You have increases in the Supreme Court and IT, what's that?

Don Wolf: The next section shows what that is.

Testimony continued.

Chairman Thoreson: Would you be able to the committee? The breakdown of that?

Don Wolf: We can do that.

Testimony continued.

Representative Kempenich: For the disciplinary board and mediation, you're adding benefits?

Don Wolf: There are salaries and wages for the mediation program director. Her salaries are included within the mediation program line item. The judicial conduct disciplinary board there are 4 employees; so there salaries and wages are part of that line item.

Representative Kempenich: I see you have benefit and health increases. What were you doing before?

Don Wolf: I'm not sure how was referenced; but, they received the same salary and benefit increases as the rest of the state employees do.

Testimony continued.

Chairman Thoreson: When is the final completion date for that?

Don Wolf: The go live date for the remaining of the state is April 11; and I'd give it another month after that to make sure the information is working properly.

Chairman Thoreson: Is it running now where people are using it, testing, and evaluating it?

Don Wolf: It is currently running in the eastern half of the state.

Chairman Thoreson: Anyone in the other part of the state, where it's not the sole system, accessing it yet or is that just going to happen on April 11?

Don Wolf: There's been training going on for that. We're in the process of doing that right now.

Testimony continued

Representative Glassheim: The 5% salary increase, is that for all staff or is that for judges only?

Don Wolf: That's for the judges only.

Representative Glassheim: I think we need to get some comparative figures with other states. I assume the reason for that is that they're underpaid relative to other states?

Don Wolf: We can do that.

Chairman Thoreson: I think it also deals when the budgets were built? Were you given guidelines to do a 5% rather than 3% at that time?

Don Wolf: We weren't given any guidelines; so what we did was, we decided that we would base it upon the same percentage that was granted last biennium.

Representative Kempenich: On that turn back, did you do like other agencies? Did you roll that forward into your budget?

Don Wolf: No. That will be turned back to the state general fund.

Representative Dahl: Is my understanding correct that most clerks of court are state employees; and there are some that are still county?

Don Wolf: That's correct. There are 12 counties, primarily the larger counties in the state, where they are state employees. There are 42 counties where they are county employees.

Representative Dahl: I'm just looking at the green sheet, it indicates that those payments to the counties for the clerk of court services has increased \$445,900.00. Could you talk about what those increases are for? Is that for salary, other expenses?

Don Wolf: That's what we have the WAPSI formula; that part of the request that we increase to redo the WAPSI study. We use a combination, we type in what the case load is for each of the counties into a formula based upon the WAPSI; and then we factor in the salaries that the counties pay for their clerks. We provide for some benefits to those positions also. Once we process those numbers in, we come up with the formula based upon how many positions that each county will meet. So, based upon what their salaries are and the total FTE needs, that's how the total contract payments were determined.

Representative Kroeber: On the judge retirement system, when you talk about the old system. Were they then classified employees? Now they're all nonclassified, the judges, were they under the old classified system?

Chief Justice VandeWalle: I was not under the old judges system. It was phased out sometime in the '70's. All the new judges became members of PERS; the old judges stayed under their old retirement program. It was an unfunded program and it ended and applied only to those judges that were on the bench at that time. The people that are left are primarily spouses of those judges.

Don Wolf: See attached testimony 1002.1.17.11C.

Chairman Thoreson: So, looking at the information you provided, there's quite a few states that are above rather than below North Dakota?

Justice Kapsner: These are the states that were used to compare elected positions. Yes, there are quite a few states within the area that are above our judge's pay.

Chairman Thoreson: When was this taken place? Do you know the dates?

Justice Kapsner: These are salaries as of July 1, 2010; including our salary as of July 1, 2010.

Chairman Thoreson: When we look at this, does this take into account any benefits or is this just the salary for your people?

Justice Kapsner: These are straight salaries.

Chairman Thoreson: Do we have anything that shows a comparison with benefits packages also? Is that something that you have been provided?

Justice Kapsner: We have not. We've taken the numbers from those numbers that are compiled by the national center.

Chief Justice VandeWalle: Speaking to the last issue, I think that chart was done modeling after they HAY study. One the drug court issue, Justice Mary and I have been talking about a model for rural drug courts. These courts work in the state judiciary, primarily because of the cooperation among all the people that are involved. If you don't have a treatment program, drug courts won't work. You need the treatment, probation, and you need the hammer of the judge. In some of our rural areas, we don't have the treatment programs that are available.

Representative Dahl asked about the bias study; I'm not sure if you were asking why it took so late for us to do the study or whether it was in the biennium. The mediation program was started in other states before we did. Until the study was authorized, we didn't start to put the committee together and it took some time to put the task force together.

Chairman Thoreson: How are those members chosen?

Chief Justice VandeWalle: Justice Kapsner, Judge Foughty and myself talked about it and tried to get representative groups; there's no formula for doing it.

Chairman Thoreson: Once the report is available, have you already looked at a process to implement changes based on what comes forward? Will that be reviewed after the report is finalized?

Chief Justice: I take nothing for granted. I don't know what's going to be in that report; so, I'm not going to provide solutions until I know what the problems are. I expect that the report may recommend some solutions in some areas.

Chief Justice VandeWalle: Referenced testimony 1002.1.17.11A.

Wayne Sandstrom, Justice, North Dakota Supreme Court: I just want to offer a couple comments on the technology area and the new case management system. This system, going forward, is going to offer significant efficiency for the court system. As of April 11, the North Dakota trial court system will be the first trial court system in the United States to be entirely on an electronic record. I think the efficiency is going to grow as we have e-filing in the future.

Chairman Thoreson: Are you aware of any other state that is close to what we're doing in this endeavor?

Justice Sandstrom: Other states are moving ahead; they have different courts on. I do have some statistics about how in the next few years other states are looking to go into this direction. There is no other state that is entirely on it; New Mexico is the closest behind us.

Representative Dahl: Justice Sandstrom, my understanding is, this system is voluntary at this time? Are there plans to take it towards more of a mandatory file?

Justice Sandstrom: We are presently doing it on a voluntary basis by providing additional access for lawyers who use it. We may look in the future, because of the efficiency, reassess that. Federal courts have been ahead of the state courts in electronic records; they started off being voluntary and are requiring e-filing.

William Newman, Executive Director, North Dakota State Bar Association: Without a fair and impartial effective system of justice, our society and our economy would collapse into chaos. Our legislative branch has done very good job of providing reasonable support to our judicial system in past years; as our judicial systems become much more organized and has it has adapted to a rapidly changing world. The bar association thanks you for your leadership and with your support our judicial system is a good job. The bar association supports HB1002.

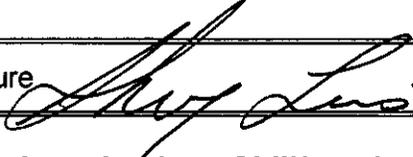
Chairman Thoreson closed the hearing.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
February 2, 2011  
Recorder Job# 13832

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

## Minutes:

Representative Dahl opened the hearing on HB1002.

Representative Dahl: If I could ask a few questions on the racial and ethnic study that the court has begun work on. Can you give us a little more information about where the Supreme Court wants to go with the study?

Jerry VandeWalle, Chief Justice, North Dakota Supreme Court: The first year we organized; so, the work of the committee did not get underway until we had assembled the committee. I didn't try to assemble the committee before there was an authorization to do so. Since that time, the committee has held several hearings; it's really in a listening mode. We'll start looking at this report and it's recommendations. I haven't seen the report yet; so, I'm not going to predict where we're going until I see what the report is. There is an interpreter issue in the courts; and we're dealing with several more languages than we used to deal with. We all got letters from the US Attorney General; there's a law out there that they enforce on interpreters. We've just revised our interpreter plan. I expect we're going to have an education issue. I think we're going to be told that there areas in which we are not acting properly; perhaps, because, we don't know we're not acting properly. The report should be due the end of next year.

Representative Dahl: How long did it take you to conduct the gender bias?

Recorder malfunction.

Chief Justice VandeWalle: That's North Dakota with the racial bias issue.

Recorder malfunction.

Don Wolf, Finance Director, North Dakota Supreme Court: The Supreme Court has a request for \$27,500.00 for office equipment furniture. That includes a copy machine for

\$12,500.00, an air filter system for \$5,000.00, and some front conference room furniture for \$10,000.00. For the district court we're requesting 9 copy machines throughout the state and the total cost would be \$89,000.00, a micro fiche machine for \$9,000.00.

Representative Dahl: Is there not a micro fiche machine or it's broken and needs to be replaced?

Don Wolf: It's over 15 years old to my understanding.

Representative Klein: Could you give us a list of the equipment you're talking about?

Don Wolf: I certainly can.

Don Wolf: For Cass county they're putting a new addition on to their courthouse. They're requesting some furniture and desks for the new addition; that would be for the judges and some referees for \$47,000.00. They're also requesting 2 folding machines that's \$15,000.00.

Representative Dahl: What's a folding machine?

Don Wolf: It's a machine to fold checks and things that go in the mail.

Representative Dahl: And what was the cost of that?

Don Wolf: \$15,000.00

Don Wolf: For the IT equipment, the Supreme Court isn't requesting any IT equipment over \$5,000.00. For the district court, we're requesting 4 servers that is \$40,000.00. Eight digital recording systems for the courthouses; these will be either to replace some outdated systems or where they're using an analog machine to record. The cost is \$171,480.00. We're requesting some monitors for evidence presentation in Cass County; there's 3 monitors, which includes the whole system.

Representative Dahl: Just to clarify, just bigger displays?

Don Wolf: Right. The cost of those monitors are \$18,000.00.

Representative Dahl: And they're all for Cass county?

Don Wolf: They are all for Cass County.

Representative Dahl: Why just Cass County? Are they pilots?

Don Wolf: I believe so.

Representative Klein: I'm looking at item 11 on the green sheet; which adds funding increases in various information technology fees, software costs, maintenance costs, and license fees.

Don Wolf: Did you want to go through?

Representative Dahl: Could you review that information briefly?

Don Wolf: There is one item that is a big ITD increase. That's item #10; what had happened, a number of years ago, our former ITD director had negotiated a deal with ITD that the judicial branch would supply the switches to run the computer systems within the district courts. They weren't charging this technology fee; which is basically, an access fee to the internet and other various computer systems that ITD provides. These switches need to be updated; and they want us to get the switches through ITD. They're reinstating the technology fee for the court systems outside of the Bismarck area. Within the Bismarck area we are already paying this technology fee.

Representative Dahl: Is there another way to do it other than going back through ITD with regard to the switches?

Don Wolf: We could purchase the switches ourselves.

Representative Dahl: What would that cost?

Sally Holewa, State Court Administrator, North Dakota Supreme Court: ITD came to us in 2008 and told us the switches needed to be replaced; at that time, I think they quoted us \$400,000.00.

Representative Dahl: Now they need updating; and this is what ITD is telling you it will cost to go through them?

Sally Holewa: Yes, that's correct. I don't believe by statute we can go through another provider.

Representative Klein: Where you have \$404,000.00 for various technology fees; then you have some \$45,000.00 in other funds. Where does that come out of?

Sally Holewa: The \$45,000.00 is a federal offset for the court improvement project. There's particular software for tracking cases where children are placed out of home. So, the cost of that software is \$60,000.00; the \$45,000.00 is a federal offset for that. Those other funding increases are we had to add T1 lines to some of the rural counties; because they didn't have enough digital line to be able to operate the case management system; so there was significant cost in that. We also had to add citrix boxes or computers into the courtrooms; so when we did that, we had to buy licenses for those.

Don Wolf: Item 11 is really IT costs outside of the information technology department.

Representative Klein: Which ties all your district courts into the system and updates that.

Don Wolf: Correct.

Representative Dahl: To clarify between what's listed in 11 and ITD software costs, etc; that's also separate from the unified case management system or auditing? Can you break that out a little further for the committee?

Sally Holewa: The Odyssey system includes the maintenance and support; which is part of our contract. That's the vast majority which is \$640,000.00. It includes \$107,000.00 for enhancements; we don't own the source code for the system. If we make changes, we have to go back to the company and purchase it; it's not part of maintenance and support. Our intention with that money, so to integrate with the CJIS system; and also integrate with the states attorneys case management system.

Representative Dahl: Once you accomplish that integration, who exactly will have access. Will that still be limited to law enforcement, prosecutors, etc.

Sally Holewa: CJIS is would be available statewide to the prisons, probation, law enforcement and prosecuting attorneys. We integrate with the STAR system, which is states attorneys records management system. Right now there are 6 states attorneys that have that system. We know from CJIS that there are 12 more that have expressed interest. At the time that we integrated, our intention is for any states attorneys to be able to file their documents and their case information directly into Odyssey.

Representative Dahl: And can that happen now? Are there some systems where that can't be accomplished; because not everyone is online?

Sally Holewa: Right now, if we went individually, we'd have to go to each county and write a separate integration.

Don Wolf: Item 11 is operating also where #5 is all capital assets.

Representative Dahl: I know that the Supreme Court had a bill with regard to Indigent Defense; for those that are not competent but also not indigent.

Representative Dahl: Where is that bill and what is the status of that bill?

Sally Holewa: Unfortunately, that bill went down in flames. An unanimous do not pass when the defense commission added an appropriation to it.

Representative Kroeber: Was that the sex offender bill?

Sally Holewa: No. It would have required Indigent Defense to represent those people who are found to be incompetent to assist in their own defense; but are not indigent. Occasionally, we get people who have a little money; so they're not indigent and otherwise do not qualify for indigent defense. They're also not mentally capable of representing themselves.

Representative Dahl: If I could follow up on the 4 FTE's that are added into this budget. Are able to provide a ranking in terms of priority?

Sally Holewa: On those 4 FTE's, our ranking on that would be first the law clerk for the South Central Judicial district, second would be the juvenile court officers for Bismarck and Fargo, third would be the deputy clerk of court in Bismarck.

Representative Dahl: In regard to the law clerk position that would be for the South Central District Court?

Sally Holewa: Right.

Representative Dahl: How many law clerks and judges do they have right now?

Sally Holewa: Right now they have 8 judges and 2 referees, and 1 law clerk. The comparable district would be Fargo which has 3 law clerks.

Representative Dahl: How many judges are in Fargo?

Sally Holewa: Eight judges and 2 referees.

Representative Dahl: With regard to the disaster recovery study; perhaps this is a project that should be done on a statewide level?

Sally Holewa: Back in 2005 the Governor issued a proclamation on the continuance of government. Part of that was the urging of every agency and branch of government to do a disaster recovery study. We have approached ITD about this and we were told we should put out an RFP; because they didn't have the manpower. I agree it should be done on a statewide basis; but, as far as I know, there's no plan for that.

Representative Dahl: How long was your system down?

Sally Holewa: Our system was down all day.

Representative Dahl: You said all 53 counties are integrated with your system. Did they also have to close for the day or were there some that still went forward with the day business?

Sally Holewa: Some of them went partially forward; it just depended on whether you were already in court; because, you could keep going. Some of them stayed and did paperwork until they ran out of that. For the most part, people went home.

Representative Dahl: This \$100,000.00 can you break it down specifically what that includes?

Sally Holewa: I can't break it down specifically. That was the initial quote that we received from IBM.

Representative Dahl: Do you have that information anywhere?

Sally Holewa: We have it at the ITD department, I can get it for you.

Representative Dahl: With regard to the WAPSI study; how did you arrive at the \$300,000.00?

Sally Holewa: That was an informal quote from the national center for state courts. They developed the tool and we have in the past, the last 2 times we updated it, it went to the national center. We asked them what they would charge to do it statewide for us.

Representative Dahl: When was the last time a full analysis was done?

Sally Holewa: A full analysis was last done in 2002.

Representative Dahl: In what way do you mean by that?

Sally Holewa: What the study does is, when they come they capture what the judges and clerks are doing all day long. We do think there's going to be a difference between how much travel time there is; or how much time people spend retrieving files, locating materials.

Representative Dahl: Is there a way to do this? Do you have to fully start over or can you take your data from 2002 and work from that?

Sally Holewa: I believe to have a valid study you have to start over.

Representative Dahl: You said that was an informal quote?

Sally Holewa: It was, it would need to go for an RFP.

Representative Kempenich: We had a little discussion yesterday of where they're going with the back up.

Sally Holewa: We did approach ITD about moving some of our equipment to their redundancy site and we were told that there's no room.

Representative Dahl: We're still talking about information and data recovery with the disaster study. We're not looking at anything else?

Sally Holewa: No.

Representative Kempenich: You're working on ITD with this?

Sally Holewa: We anticipate working very closely with ITD.

Representative Klein: I'm looking at item 9 on the green sheet; does that include the pay raises that you provide the county clerks?

Sally Holewa: The county clerks don't get the pay raises that the state employees do. This is what their counties gave them for pay raises. I would say it's the increase in insurance costs.

Representative Klein: Increase in what?

Sally Holewa: Insurance and benefits.

Representative Klein: How did you arrive at the \$445,000.00? Was that presented by the counties to you?

Sally Holewa: Every 2 years, we contact the county auditors and we get that information; so we're using exact dollar figures.

Representative Kempenich: Do you have any retirements coming up that you're foreseeing?

Sally Holewa: I do believe we have more retirements coming or folks that are eligible to retire.

Representative Kempenich: I was just wondering if you had heard something.

Sally Holewa: Nothing I can confirm.

Representative Dahl: Going back to #9; there are some counties that didn't put their clerks under the state system; so, the counties are setting their salaries and this contract amount is to determine what's between negotiations?

Sally Holewa: There are 41 counties that chose not to transfer their employees to the state or else they weren't eligible to. By statute, the county sets the rates and we pay that rate; it's substantially less than what state employees are paid.

Don Wolf: The payments are based on the WAPSI formula.

Sally Holewa: That weighted clerks assessment study that's how we determine what percentage of an FTE we pay for these counties.

Representative Dahl: Between all the counties there are 30 positions; even though, some of those are divided?

Sally Holewa: Right.

Representative Kempenich: Your technology fees are increasing?

Sally Holewa: The first is the actual fees from ITD; they changed our billing structure so now we're paying for all our employees and contract clerks. Before we just paid for those located in Bismarck. The licensing fees in the software; we had to get more t1 lines to some of our rural counties because they didn't have enough bandwidth to run the equipment. There was also substantial licensing fees because we have to put citrix boxes or computers on the public counters. We also had to put them on all the benches; and we have 90 courtrooms in the state. As we add these, we have to buy licensing for them.

Representative Dahl: I did have one other question; we were adding money for the mediation program. It's now being extended to cases on appeal; both family law and probate?

Sally Holewa: We added about \$70,000.00 into Cass County; which was the last big county to be rolled into that program. We did add \$10,000.00 so that we could start a mediation project at the appellate level; that would be family probate. We're anticipating that we'll use our current attorney mediators and provide them some additional training and start sometime probably in the second half of the biennium; introducing the service.

Representative Dahl: Would that be mandatory? Would they have to attempt to mediate before the Supreme Court would hear their case?

Sally Holewa: We haven't gone that far yet; it is mandatory in the district courts. We don't know if we would mandate it at the appellate court.

Representative Dahl: If one side prevails in the District Court, and the standard of review clearly has something wrong, which makes it hard to overturn what their incentive is to come to the mediation table.

Sally Holewa: I asked that question of the Chief; doesn't it have to be a question of law interpretation or clearly erroneous error? The real incentive for most people is the cost.

Representative Dahl: What would happen if they hadn't attempted mediation at the district court level? Do they have to? I know it's there if they want to.

Sally Holewa: At the district court level they're mandated to go through mediation; unless, there's domestic violence involved. We see a great success rate there. Many states have it at the appellate level and they have about a 53% settlement rate.

Representative Dahl: It's mandatory for family law?

Sally Holewa: Right.

Representative Dahl: It's not mandatory for probate?

Sally Holewa: We don't operate in probate except as guardians of the conservatorship.

Representative Dahl: So the first time you need to mediate is on appeal.

Sally Holewa: Right.

Representative Dahl: The \$100.00 fee charged in criminal cases; part of that goes to Indigent Defense and part to the Supreme Court? How much is derived from that?

Sally Holewa: I'm not sure on the Indigent Defense side how much they get; they get the initial \$750,000.00. What we've been getting for the court facility improvement fund is

generally close to \$1 million every biennium. We work to give most of that away back to the counties.

Representative Dahl: How are those costs shared?

Sally Holewa: We cover anything related to the clerk's job; whether a county or state employee. So all the equipment, software, jury related expenses, everything related to the judges, including, their chamber furniture, equipment, paper, supplies.

Representative Dahl closed the hearing on

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
February 10, 2011  
Recorder Job# 14297

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

## Minutes:

Chairman Thoreson opened the hearing on HB1002. Roll call was taken.

Representative Dahl: There was an increase in several places on the green sheet on the Supreme Court's budget. In particular, they had to do with technology fees that came through ITD the explanation for that was; you used to only charge their employees in Bismarck, and have since then you're charging for each employee. If you could just go over with the committee.

Mike Ressler, Deputy CIO, North Dakota Information Technology Department: That's correct. The increase that we've asked the courts into their budget is substantial. I think it's about \$290,000.00. We recover network connectivity through 2 fees. One is called the technology fee or an FTE fee; the other one is for all those entities that have connections out to rural locations. The fee you're talking about is the FTE or technology fee. The way we've designed that is every state employee, based on what they've been appropriated, gets assessed this fee. The courts, I believe, before were county employees; and then, last session, they became state employees. To be consistent, what we've said, is that we're going to assess that fee to all of those new employees.

Representative Kempenich: Where the discussion gets into is there a doubling up on some of these fees?

Mike Ressler: I'm not aware of any doubling up of fees. Are we charging for the same thing twice? No, there's a double up concept that gets in there sometimes when you appropriate dollars to an agency; then, you give ITD that special fund authority. That looks like it's a double up; but it's really only one set of dollars that get funded, then of course, they pass those dollars on to us. We aren't charging for the same thing twice.

Representative Dahl: Do you know roughly what that FTE fee is? Is it consistent all across state government?

Mike Ressler: Yes, it is the same fee. It's roughly 49.00 for the next biennium per employee per month. That is consistent for all state employees.

Chairman Thoreson: I see there's maintenance contract and licensing fees. Is that something that ITD assesses to the courts? I'm not certain where the \$92,467.00 comes from.

Sally Holewa, Court Administrator, North Dakota Supreme Court: As far as those maintenance fees that are increased; they are related to a couple of different things. One of the main things is we had purchased more computers and Citrix boxes; so that we could put them on the benches.

Chairman Thoreson: What kind of boxes?

Sally Holewa: Citrix boxes, they're little tiny computers; we put those on all the public counters, so the public now can see the electronic documents. We also had put those all on the benches and they included licensing for that. The other thing is we took a close look at our licensing for programs we're using and found that in some instances we were using them without enough licenses.

Chairman Thoreson: Once you buy a copy, there is a licensing fee involved.

Sally Holewa: We went for the first in years; we went through everything that we had.

Chairman Thoreson: Do you know how many instances you found where you weren't covering the license for a user?

Don Wolf, Finance Director, North Dakota Supreme Court: There were some situations where we had a software system that we'd use for awhile and we had to renew the license for that. That was some of the bigger cost in that also.

Chairman Thoreson: Mike, do you know throughout state government; is that something we're looking at; to see if we're using unlicensed versions or having more users than licenses available?

Mike Ressler: There's a group called Enterprise Architecture Group, it's where state agencies participate and talk about technology. It's a conversation we have periodically. There's a lot of software that's based on the honor system. I don't believe any state agencies are intentionally trying to steal; but, it's not uncommon for growth. It's so easy to take software and copy it. I do believe agencies have that issue; but, I know the IT people go back and trim it up.

Chairman Thoreson: I don't like the idea of paying more for stuff; but, if we're using it be like driving someone's car from a different state agency.

Representative Kroeber: Have you seen the list of proposed amendments that we just received from Legislative Council? See attached testimony 1002.2.10.11A, 1002.2.10.11B.

Sally Holewa: Yes, we've just seen them.

Representative Kroeber: Do you have any comments on it?

Sally Holewa: We don't have any serious issues with it except for the race and ethnic commission. That is something that is very important to us as a court and particularly to the Chief. He would like to see that fully funded if possible.

Chairman Thoreson closed the hearing on HB1002.

## 2011 General Discussion

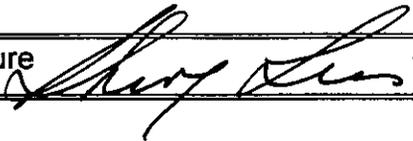
(Check appropriate box)

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date of meeting/discussion: February 11, 2011

Recorder Job Number: 14430

Committee Clerk Signature



Minutes:

Chairman Thoreson opened general discussion on HB1002.

Representative Dahl: Just to begin with the supreme court they had additional one time funding for equipment over \$5,000.00; basically that's an air filter system and some office furniture. In the supreme court itself I reduced it to a flat \$25,000.00. With regard to item #2 that talks about the ITD fees. Basically, when I went over that with court, that's just maintaining what they have and the expansion of the ITD coverage. They used to just charge for the employees in Bismarck; but, like Mike Ressler said, they now started charging every employee as a matter of fairness. But, that's what the supreme court gets tagged for; so that's maintaining what they have plus the expansion of ITD fees for supreme court. Additionally, you'll see on item #3 talks about a racial and ethnic bias in the courts. If you quickly skip down to item #7 there's a WAPSI study; that's relating to the payments the state makes to the counties to maintain some of those court services, since part of it is under the state uniform system. There's also a weighted case load study. Basically, there's 3 intense studies with \$340,000.00 budgeted as a increase to study those items. What we did, instead of breaking out, we just said they have priority to study what they want to study. They've indicated to us that they want to do the WAPSI study which is \$150,000.00 and the ethnic bias study is very important to them with the \$200,000.00 they would effectively have \$50,000.00 instead of \$40,000.00; so we gave them a more generous amount to work with there. We did prioritize 2 of the 3 studies and took out about \$140,000.00 regarding that.

Representative Kroeber: I know on the email we received they were very concerned about the \$40,000.00. They will definitely be able to do the ethnic study.

Representative Dahl: Yes, in fact they have more to work with in our amendment.

Chairman Thoreson: Are you referring to an email from Justice Kapsner?

Representative Kempenich: We went up and talked to her yesterday. They figure they'll have that study done and do the implementation. They figure they might need another \$50,000.00 on top of that.

Representative Kempenich: They're trying to use other states on this ethnic bias study. She indicated that it's a 3 to 5 year process and she also indicated that it isn't something that's done in one biennium. She was going to bring some information down because there's going to be another amount for the same thing; but it won't be the study part.

Chairman Thoreson: In her email she indicated that there was discussion this in the previous biennium. Did that come up in your discussion yesterday?

Representative Kempenich: Yes.

Chairman Thoreson: Because I did go back yesterday and review the testimony and associated committee minutes from the 2009 session for SB2002. I didn't find any reference through there; so I was just wondering.

Representative Kempenich: I know it was in there and I think it was \$60,000.00 that we had. It might not have been that session it might have been the session before that the money was budgeted and they didn't get going with it until this last biennium.

Chairman Thoreson: The point I'm getting to is we giving the flexibility to do this? They actually the resources, maybe a little bit extra if they chose to us it for this purpose, correct Representative Dahl?

Representative Dahl: Exactly. We're just appropriating the money and they can decide how they want to spend it. They've indicated that's an important study to them; my expectation is that they'll do that. Item #4 talks about equipment over \$5,000.00 for the district courts; mostly, it's replacing equipment that isn't working. There are a couple of items in there that Fargo wants for their expanded courthouse and new furniture for that expansion project; that's new stuff and totals about \$20,000.00 to \$30,000.00 and then there's a folding machine.

Representative Klein: That \$300,000.00 they wanted that study? That was important to them so you left that in?

Representative Dahl: It's almost like we're combining lines 3 & 7; so that's a total of \$340,000.00. We're basically giving them \$200,000.00 and they've indicated they'll do the WAPSI study and the ethnic bias study and that's more than enough to cover those studies; but we are removing funding from one of those studies.

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Chairman Thoreson: Back to the Fargo situation; this is where there's new areas that are being constructed that they didn't originally have dollars appropriated for furnishings. Is that correct?

Representative Dahl: That's correct. They indicated that one of the judges is using surplus furniture.

Representative Klein: They've had some problems with space; did they finally get that resolved?

Representative Dahl: They did build an expansion and that's why you see some of those costs coming in for those additional pieces of furniture.

Chairman Thoreson: They're building an annex to the west side of the Cass County Courthouse on 10<sup>th</sup> Street South. The steel structure is up but they're not starting to frame in; but they're progressing on that. I would guess by the end of summer they'll be towards finishing that project.

Representative Dahl: That \$160,000.00 was not adjusted. Moving on to item #5 that \$534,000.00 that's for the IT stuff for the district court. The only thing we really took out from there in the amendments is Cass County wanted \$18,000.00 for large monitors; I think for outside of their courtroom. We took out that; but that's all that really came out. I was looking at taking out some of the sound systems but apparently those go hand in hand with the digital recording systems that they're putting and those are hard to separate from each other. So I left the funding in for that. Item #6 is removed; that's the disaster study. My understanding is there's consensus that we should do a statewide study to talk about disaster recovery of information technology; that we should do a comprehensive study instead of just the judicial branch.

Chairman Thoreson: I think it goes maybe beyond just information technology. There's discussion of doing some kind of a comprehensive study. There has been some of this done I think through emergency services; but, looking at all levels of government what needs to be done if an emergency does occur.

Representative Kroeber: What was their idea on the use of the \$100,000.00 specifically?

Representative Dahl: That was an informal quote they got from IBM to do an information and data type study; just recovering lost information and data and that's what IBM quoted to do that study.

Representative Kroeber: These weren't dollars to take and back up their systems? I'm assuming they already have dollars to take and have their systems backed up. Is that correct?

Representative Dahl: I would assume that's in their existing budget. That's not something they're asking for additionally. I think they have those mechanisms built in;

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but no this is just to do a study. Item #7 we talked about; again, we folded that in with item #3 and the total is \$200,000.00. Item #8 leaves in 1 FTE, they indicated there's a significant need for a law clerk in the south central judicial district which is Bismarck. That \$150,000.00 was left in and all the other FTE's have come out. Item #9 those are the payments that go to the counties; and that's not negotiable. In our state statute we provide that the state can't negotiate with the counties; so that item was left as is, that's \$445,000.00. Item #10 is very similar to what you see in line 2; again that's just the ITD expanded fees and all the new people that they're covering. I think if we have issues with that number, that's more of a question for ITD than it is the judicial branch. With regard to item #11 that is maintaining their system; replacing some of their computers \$386,000.00 is the number they gave me, which is maintenance and technology fees and that wasn't changed. Item #12 talks about maintenance support and enhancements for Odyssey, that's their new case management system, when it says enhancements that's not really what that is; it's integrating their Odyssey system with CJIS and the state's attorney's office so that can all be connected to Odyssey. The only other big item is that we reduced the judges salaries from the 5% and 5% to a 3% and 3%; that took out about \$460,000.00.

Chairman Thoreson: That would match what we're seeing throughout the agencies in government?

Representative Dahl: Correct. There's a total of almost \$1.2 million in reductions on some of these amendments.

Representative Klein: Their 3% and 3% is a full 3% and 3% because their retirement is separate. So it isn't like with state employees that they have to put 1% in. Are you familiar with what I'm talking about?

Representative Dahl: My understanding is they're treated the same way as all other state employees; but I don't know that I can answer the details.

Unintelligible.

Representative Dahl: They added a 3% on to the retirement as well; so that was about \$17,000.00.

Representative Kroeber: They have a completely different retirement system.

Chairman Thoreson: This companion sheet we've had along with the actual amendment; is this something you had requested Representative Dahl or was it something prepared by council?

Becky Keller, North Dakota Legislative Council: That is a form we've been using the last couple bienniums to list out all the amendments before we draft the final one. It's a little clearer for the committee to follow.

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Chairman Thoreson: It's something you've used internally within legislative council, is that correct?

Becky Keller: Yes.

Chairman Thoreson: Has it been provided before like this to the committee?

Becky Keller: Yes, it has.

Chairman Thoreson: I don't recall seeing it exactly like this. It makes it easier for the floor also to go through and see where the changes are. The amendments are fine because they do have the comments at the end showing what's an increase or reduction.

Becky Keller: It was handed out to everybody and we can do this type of format for any budget that you wish.

Chairman Thoreson: I would appreciate having it for the budgets as we go through them to bring it to full committee and especially if we have questions from other members on the floor. Is this posted anywhere on the website or are just the amendments posted there?

Becky Keller: Just the amendments. We keep this just on a private site.

Chairman Thoreson: Representative Dahl I do have one additional question. When you discussed with the courts or when you went down and visited with them, was there any discussion about the situation that happened in Hettinger County with security in the courts or do they have any issues with that?

Representative Dahl: The Chief Justice made a vague reference. He said security really isn't addressed in this bill; but I think there were some big enhancements made a few bienniums ago for their security. My understanding is the counties were in charge of that security process.

Chairman Thoreson: I think in that situation they had a metal detector that was not being used that day. I just wondered if the discussion came up; because, it was kind of a shocking situation.

Representative Kempenich: After that fine bill passed yesterday, they'll have some more money to hire more law enforcement officers.

Representative Klein: Representative Dahl are you ready to move the amendments?

Representative Dahl: Yes, I was just looking at one item on page 2 of the amendments where it says page 4 replace lines 5 & 6 with case load studies. I'm wondering if we can put some language in there to make it something more broad.

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Chairman Thoreson: Do we need to broaden it or can we just put studies? They just have 3 that they were looking at and they'll probably do 2 of 3, is that correct?

Representative Dahl: Correct.

Chairman Thoreson: So do we want to name those?

Representative Kempenich: I think they'd be comfortable if we just name them.

Chairman Thoreson: I think we can go ahead and adopt these amendments if we chose to do so and then you can go ahead and make that change. Will it still say version 01001 and would that have to be updated?

Becky Keller: The 001 will change.

Representative Dahl made a motion to adopt the amendments with the corrections.

Representative Klein seconded the motion.

Becky Keller: .01002

Chairman Thoreson: The motion will be to adopt amendment 11.8117.01002.

A voice vote was made and the amendment was adopted.

Representative Dahl made a motion for a "do pass as amended".

Representative Brandenburg seconded the motion.

A roll call vote was taken 6 Yea's 0 Nay's 1 Absent.

Chairman Thoreson closed the general discussion.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1002  
February 17, 2011  
Recorder Job# 14656

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

### Minutes:

**Chairman Delzer:** Opened the discussion of HB1002.

**Representative Dahl:** Introduced the bill and discussed the green sheet.

**Representative Dahl:** made a motion to move the amendment.

**Representative Thoreson:** seconded the motion.

**Chairman Delzer:** When you go through the amendment, it basically does all the things you talked about in reference to the green sheet?

**Representative Dahl:** Yes.

**Chairman Delzer:** With your changes, the overall budget will go from \$76,367,000.00 to \$85,594,000.00?

**Representative Dahl:** I think that's right; we took out about \$1.8 million total in increases.

**Chairman Delzer:** There was quite a removal on the one time funding. That's still a pretty large increase.

**Representative Dahl:** The bulk of these increases were for the salary enhancements; in line with the Governor's recommendation, but, also all of those technology projects that I discussed with the committee.

**Representative Thoreson:** In the case of the technology, that's something we tried to take a look at. A lot of these are issues where it's licensing of software and the maintenance contracts. Once you start using these software packages, the annual maintenance contracts tend to go up; and costs involved with that that aren't negotiable because once you buy the package from them, they pretty much set that price.

**Chairman Delzer:** Do you have any answer on what the IT costs for the Supreme Court are, to the IT Department?

**Vice Chairman Kempenich:** It's blended, there's \$24 per terminal, so their direct IT costs gets tough.

**Chairman Delzer:** What about computer replacement? I would guess they're on a 4 year cycle?

**Representative Dahl:** Correct, I think there were 300 computers slated for replacement.

**Representative Skarphol:** Supreme Court is a hybrid as far as technology; they manage their own system for the most part and buy some services from ITD.

A voice vote was made to approve the amendment. The motion carried.

**Representative Dahl:** Made a motion for a "Do Pass as Amended".

**Representative Thoreson:** Seconded the motion.

A roll call vote was made for a "Do Pass as Amended". 20 Yea's 1 Absent.

**Chairman Delzer:** Closed the discussion.

VK  
2/18/11  
1065

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1002

Page 1, replace line 14 with:

"Salaries and wages \$8,189,996 \$926,655 \$9,116,651"

Page 1, replace line 15 with:

"Operating expenses 2,197,376 117,742 2,315,118"

Page 1, replace line 16 with:

"Capital assets 0 25,000 25,000"

Page 1, replace line 17 with:

"Judges retirement 127,021 11,084 138,105"

Page 1, replace line 18 with:

"Total general fund \$10,514,393 \$1,080,481 \$11,594,874"

Page 1, replace line 23 with:

"Salaries and wages \$48,980,255 \$5,071,847 \$54,052,102"

Page 1, replace line 24 with:

"Operating expenses 14,633,423 2,225,099 16,858,522"

Page 2, replace line 1 with:

"Capital assets 0 676,480 676,480"

Page 2, replace line 2 with:

"Judges retirement 533,705 (54,708) 478,997"

Page 2, replace line 6 with:

"Total all funds \$65,039,419 \$7,976,346 \$73,015,765"

Page 2, replace line 8 with:

"Total general fund \$63,268,958 \$7,890,032 \$71,158,990"

Page 2, replace line 22 with:

"Grand total general fund \$74,282,634 \$9,035,686 \$83,318,320"

Page 2, replace line 24 with:

"Grand total all funds \$76,367,441 \$9,133,153 \$85,500,594"

Page 2, replace line 25 with:

285

"Full-time equivalent positions 342.00 1.00 343.00"

Page 3, line 9, replace "thirty-six" with "thirty-four"

Page 3, line 10, replace "seven" with "one"

Page 3, line 10, replace "thirty-nine" with "thirty-five"

Page 3, line 11, replace "forty-three" with "thirty-eight"

Page 3, line 11, replace "five" with "one"

Page 3, line 11, replace "seventy-six" with "fifty-nine"

Page 3, line 12, replace "nine" with "eight"

Page 3, line 13, replace "twenty-seven" with "fifty-two"

Page 3, line 13, remove the overstrike over "three"

Page 3, line 13, remove "four"

Page 3, line 14, replace "one" with "nine"

Page 3, line 14, replace "twenty-three" with "sixty-eight"

Page 3, line 18, replace "twenty-five" with "twenty-two"

Page 3, line 18, replace "two" with "nine"

Page 3, line 19, replace "ninety-seven" with "ten"

Page 3, line 20, replace "thirty-one" with "twenty-six"

Page 3, line 20, replace "sixty-two" with "ninety-seven"

Page 3, line 24, replace "six" with "five"

Page 3, line 25, replace "nineteen" with "fifty"

Page 3, line 26, replace "eight" with "six"

Page 3, line 26, after "forty-seven" insert "fifty-seven"

Page 4, replace lines 5 and 6 with:

"Studies on work assessment and	0	200,000"
racial and ethical bias in the courts		

Page 4, replace line 7 with:

"Office equipment and furniture	288,124	185,000"
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Page 4, replace line 8 with:

"Information technology equipment	<u>109,088</u>	<u>516,480</u> "
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Page 4, replace line 9 with:

"Total general fund	\$8,307,381	\$901,480"
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of House Action**

	Executive Budget	House Changes	House Version
<b>Supreme Court</b>			
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
<b>District Courts</b>			
Total all funds	\$74,102,085	(\$1,086,320)	\$73,015,765
Less estimated income	1,856,775	0	1,856,775
General fund	\$72,245,310	(\$1,086,320)	\$71,158,990
<b>Judicial Conduct Commission</b>			
Total all funds	\$889,955	\$0	\$889,955
Less estimated income	325,499	0	325,499
General fund	\$564,456	\$0	\$564,456
<b>Bill total</b>			
Total all funds	\$86,681,547	(\$1,180,953)	\$85,500,594
Less estimated income	2,182,274	0	2,182,274
General fund	\$84,499,273	(\$1,180,953)	\$83,318,320

**House Bill No. 1002 - Supreme Court - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
FTE	45.00	0.00	45.00

**Department No. 181 - Supreme Court - Detail of House Changes**

	Reduces Funding for Justices' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Equipment <sup>3</sup>	Reduces Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	(\$49,276)				(\$49,276)
Operating expenses				(40,000)	(40,000)
Capital assets			(2,500)		(2,500)
Judges retirement		(2,857)			(2,857)
Total all funds	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
Less estimated income	0	0	0	0	0
General fund	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding included in the executive budget for salary increases for justices is reduced from 5 percent to 3 percent.

4085

<sup>2</sup> Funding included in the executive budget for retirement increases for judges' retirement is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for equipment over \$5,000 is reduced.

<sup>4</sup> Funding included in the executive budget for operating expenses of the Commission to Study Racial and Ethical Bias in Courts is reduced.

**House Bill No. 1002 - District Courts - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>(\$1,086,320)</b>	<b>\$73,015,765</b>
Less estimated income	1,856,775	0	1,856,775
<b>General fund</b>	<b>\$72,245,310</b>	<b>(\$1,086,320)</b>	<b>\$71,158,990</b>
FTE	297.00	(3.00)	294.00

**Department No. 182 - District Courts - Detail of House Changes**

	Reduces Funding for Judges' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Studies <sup>3</sup>	Reduces Funding for Information Technology Equipment <sup>4</sup>	Removes Funding for Recovery Study <sup>5</sup>	Removes 3 FTE Positions <sup>6</sup>
Salaries and wages	(\$396,891)					(\$457,234)
Operating expenses			(100,000)		(100,000)	
Capital assets				(18,000)		
Judges retirement		(14,195)				
UND central legal research						
Mediation						
<b>Total all funds</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
Less estimated income	0	0	0	0	0	0
<b>General fund</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
FTE	0.00	0.00	0.00	0.00	0.00	(3.00)

	Total House Changes
Salaries and wages	(\$854,125)
Operating expenses	(200,000)
Capital assets	(18,000)
Judges retirement	(14,195)
UND central legal research	
Mediation	
<b>Total all funds</b>	<b>(\$1,086,320)</b>
Less estimated income	0
<b>General fund</b>	<b>(\$1,086,320)</b>
FTE	(3.00)

<sup>1</sup> Funding included in the executive budget for salary increases for judges is reduced from 5 percent to

3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for work assessment and weighted caseload studies is reduced to \$200,000.

<sup>4</sup> One-time funding included in the executive budget for information technology equipment is reduced to \$516,480.

<sup>5</sup> One-time funding included in the executive budget for a disaster recovery study is removed.

<sup>6</sup> This amendment removes 1 FTE deputy clerk position and 2 FTE juvenile court officer positions included in the executive budget.

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1002

House Appropriations Government Operations Division Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8117.01002

Action Taken Do Pass as Amended

Motion Made By Representative Dahl Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	✓		Representative Glassheim		
Vice Chairman Klein	✓		Representative Kroeber	✓	
Representative Brandenburg	✓				
Representative Dahl	✓				
Representative Kempenich	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Representative Dahl

If the vote is on an amendment, briefly indicate intent:

*To reduce the appropriation of the budget for the Supreme Court.*

Date: 2/17  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1002

House Appropriations Committee

Legislative Council Amendment Number -01002

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Dahl Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

voice vote carries

Date: 2/17  
 Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1002

House Appropriations Committee

Legislative Council Amendment Number 01002

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Dahl Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson		
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 20 No 0

Absent 1

Floor Assignment Rep. Dahl

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1002: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1002 was placed on the Sixth order on the calendar.

Page 1, replace line 14 with:

"Salaries and wages	\$8,189,996	\$926,655	\$9,116,651"
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Page 1, replace line 15 with:

"Operating expenses	2,197,376	117,742	2,315,118"
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Page 1, replace line 16 with:

"Capital assets 0	25,000	25,000"
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Page 1, replace line 17 with:

"Judges retirement	<u>127,021</u>	<u>11,084</u>	<u>138,105"</u>
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Page 1, replace line 18 with:

"Total general fund	\$10,514,393	\$1,080,481	\$11,594,874"
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Page 1, replace line 23 with:

"Salaries and wages	\$48,980,255	\$5,071,847	\$54,052,102"
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Page 1, replace line 24 with:

"Operating expenses	14,633,423	2,225,099	16,858,522"
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Page 2, replace line 1 with:

"Capital assets 0	676,480	676,480"
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Page 2, replace line 2 with:

"Judges retirement	533,705	(54,708)	478,997"
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Page 2, replace line 6 with:

"Total all funds	\$65,039,419	\$7,976,346	\$73,015,765"
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Page 2, replace line 8 with:

"Total general fund	\$63,268,958	\$7,890,032	\$71,158,990"
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Page 2, replace line 22 with:

"Grand total general fund	\$74,282,634	\$9,035,686	\$83,318,320"
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Page 2, replace line 24 with:

"Grand total all funds	\$76,367,441	\$9,133,153	\$85,500,594"
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Page 2, replace line 25 with:

"Full-time equivalent positions	342.00	1.00	343.00"
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Page 3, line 9, replace "thirty-six" with "thirty-four"

Page 3, line 10, replace "seven" with "one"

Page 3, line 10, replace "thirty-nine" with "thirty-five"

Page 3, line 11, replace "forty-three" with "thirty-eight"

Page 3, line 11, replace "five" with "one"

Page 3, line 11, replace "seventy-six" with "fifty-nine"

Page 3, line 12, replace "nine" with "eight"

Page 3, line 13, replace "twenty-seven" with "fifty-two"

Page 3, line 13, remove the overstrike over "~~three~~"

Page 3, line 13, remove "four"

Page 3, line 14, replace "one" with "nine"

Page 3, line 14, replace "twenty-three" with "sixty-eight"

Page 3, line 18, replace "twenty-five" with "twenty-two"

Page 3, line 18, replace "two" with "nine"

Page 3, line 19, replace "ninety-seven" with "ten"

Page 3, line 20, replace "thirty-one" with "twenty-six"

Page 3, line 20, replace "sixty-two" with "ninety-seven"

Page 3, line 24, replace "six" with "five"

Page 3, line 25, replace "nineteen" with "fifty"

Page 3, line 26, replace "eight" with "six"

Page 3, line 26, after "~~forty-seven~~" insert "fifty-seven"

Page 4, replace lines 5 and 6 with:

"Studies on work assessment and                    0        200,000"  
racial and ethical bias in the courts

Page 4, replace line 7 with:

"Office equipment and furniture   288,124   185,000"

Page 4, replace line 8 with:

"Information technology equipment            109,088        516,480"

Page 4, replace line 9 with:

"Total general fund                                \$8,307,381   \$901,480"

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of House Action**

	Executive Budget	House Changes	House Version
<b>Supreme Court</b>			
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
<b>District Courts</b>			
Total all funds	\$74,102,085	(\$1,086,320)	\$73,015,765
Less estimated income	1,856,775	0	1,856,775
General fund	\$72,245,310	(\$1,086,320)	\$71,158,990
<b>Judicial Conduct Commission</b>			
Total all funds	\$889,955	\$0	\$889,955
Less estimated income	325,499	0	325,499
General fund	\$564,456	\$0	\$564,456
<b>Bill total</b>			
Total all funds	\$86,681,547	(\$1,180,953)	\$85,500,594
Less estimated income	2,182,274	0	2,182,274
General fund	\$84,499,273	(\$1,180,953)	\$83,318,320

**House Bill No. 1002 - Supreme Court - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
	\$11,689,507	(\$94,633)	\$11,594,874
Total all funds			
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
FTE	45.00	0.00	45.00

**Department No. 181 - Supreme Court - Detail of House Changes**

	Reduces Funding for Justices' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Equipment <sup>3</sup>	Reduces Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	(\$49,276)				(\$49,276)
Operating expenses				(40,000)	(40,000)
Capital assets			(2,500)		(2,500)
Judges retirement		(2,857)			(2,857)
	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
Total all funds					
Less estimated income	0	0	0	0	0
General fund	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding included in the executive budget for salary increases for justices is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges' retirement is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for equipment over \$5,000 is reduced.

<sup>4</sup> Funding included in the executive budget for operating expenses of the Commission to Study Racial and Ethical Bias in Courts is reduced.

**House Bill No. 1002 - District Courts - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
	\$74,102,085	(\$1,086,320)	\$73,015,765
Total all funds			
Less estimated income	1,856,775	0	1,856,775
	\$72,245,310	(\$1,086,320)	\$71,158,990
General fund			
FTE	297.00	(3.00)	294.00

**Department No. 182 - District Courts - Detail of House Changes**

	Reduces Funding for Judges' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Studies <sup>3</sup>	Reduces Funding for Information Technology Equipment <sup>4</sup>	Removes Funding for Recovery Study <sup>5</sup>	Removes 3 FTE Positions <sup>6</sup>
Salaries and wages	(\$396,891)					(\$457,234)
Operating expenses			(100,000)		(100,000)	
Capital assets				(18,000)		
Judges retirement		(14,195)				
UND central legal research						
Mediation	(\$396,891)	(\$14,195)	(\$100,000)	(\$18,000)	(\$100,000)	(\$457,234)
Total all funds						
Less estimated income	0	0	0	0	0	0
General fund	(\$396,891)	(\$14,195)	(\$100,000)	(\$18,000)	(\$100,000)	(\$457,234)
FTE	0.00	0.00	0.00	0.00	0.00	(3.00)

Total House Changes

Salaries and wages	(\$854,125)
Operating expenses	(200,000)
Capital assets	(18,000)
Judges retirement	(14,195)
UND central legal research	
Mediation	
	(\$1,086,320)
Total all funds	
Less estimated income	0
	(\$1,086,320)
General fund	
	(3.00)
FTE	

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<sup>1</sup> Funding included in the executive budget for salary increases for judges is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for work assessment and weighted caseload studies is reduced to \$200,000.

<sup>4</sup> One-time funding included in the executive budget for information technology equipment is reduced to \$516,480.

<sup>5</sup> One-time funding included in the executive budget for a disaster recovery study is removed.

<sup>6</sup> This amendment removes 1 FTE deputy clerk position and 2 FTE juvenile court officer positions included in the executive budget.

2011 SENATE APPROPRIATIONS

HB 1002

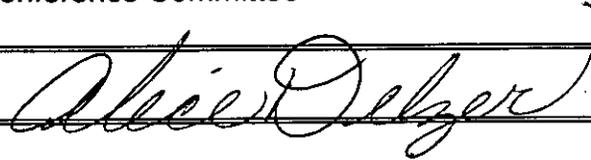
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1002  
03-02-2011  
Job # 14848

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Appropriation for defraying the expenses of the Judicial Branch and to amend and reenact sections of NDCC relating to salaries of supreme and district court judges.

### Minutes:

See attached testimony."

**Chairman Holmberg** called the committee to order on Wednesday, March 2, 2011 at 1:30 pm in reference to HB 1002. All committee members were present. **Becky J. Keller**, Legislative Council and **Tad H. Torgerson**, OMB were also present. He thanked the members of the Court who made adjustments in their schedule because some of them have to leave so we will start right away.

**Gerald VandeWalle, Chief Justice of Supreme Court:** Sally Holewa and Don Wolf will explain the budget to you. Thank-you for allowing us to appear. The Court does have oral argument at 2:45 pm. This is a rather ordinary budget you are getting. There are no big new programs in it or anything like that. We did ask for some new FTE's in this budget. The House left some in and took some out. We're asking for partial restoration. Most of the budget is now minus the case management system appropriation which is underway and will be implemented. There are no new programs and money to continue the programs that are in there. The Justices are here, I am here, so if you have any questions, particularly ones that concern policy I hope you will address them to us.

**Chairman Holmberg** We will have a subcommittee that will look at this. They will be in contact with your people.

**Sally Holewa, State Court Administrator** testified in favor of HB 1002 and provided Testimony attached # 1. I will provide a general overview of our budget request.

**Chairman Holmberg:** For the new members of the committee this is very traditional because the executive budget does not touch the budget you submit, that is sent directly to us so that if there are adjustments in the governor had said 6 and 6, the House likely would have increased it to 6 and 6 so this is not new or uncommon.

**Sally Holewa** continued her testimony on page 1. The bulk of our requested increase for the next biennium comes in just two areas: salaries and technology. Highlights of her testimony

are captioned as follows: New Employees; Temporary Employees, Juvenile Court Officers, Juvenile Court Secretaries, Research analyst, Technology, Technology, Increased Data Processing Fees Charged by ITD, IT Capital Assets; (Meter 12.28)

**Chairman Holmberg** When you are saying "we are requesting" is that in addition to what the House passed? Make it clear to us.

**Sally Holewa:** Actually, I can simplify it. The only thing we are asking you to give for us is to restore the 2 Juvenile Court officer positions and we are not asking those as FTE's we are asking for those as temporaries. Other than that, I wouldn't say satisfied with the House cuts but we are willing to live with the House cuts. She continued on page 6 of testimony (Meter 13.22) Maintenance & Support for the Trail court Case Management Computer, Consultation & Enhancements for Trial Court computer System, Licenses & Support for Other computer Systems and Software,

**Senator Warner:** A couple of unrelated questions. Can you speak towards the amount of redundancy that you build into your data collection systems so you have backup for emergencies or a building fire? Do you manage the Register of Deeds System in the different counties?

**Sally Holewa:** As to the first question, basically we are doing backup tapes of the systems, the actual data is run on backup tapes. As for the Register of Deeds that's run by the Secretary of State.

**Larry Zubke, Director of Technology for the Judicial Branch:** We do daily backups, we have a very elaborate storage network disc drive system that creates images on the fly as well, so we have duplicate sets of back up. They are stored away from the DOT building, they are stored in the capitol building and we also have a set of them at our IT location on 4<sup>th</sup> Street in Bismarck.

**Sally Holewa:** continued on page 7 (Meter 17.17) Studies, Racial and Ethnic Bias Study, Workload Studies, Disaster Recovery Study. House Appropriations indicated to us that they were eliminating the funding for our disaster recovery study because they anticipate ITD will be doing a comprehensive state-wide disaster recovery study that would include all there branches of government.

**Chairman Holmberg:** We had discussions when we had the OMB budget regarding the disaster recovery and that is certainly on our radar screen. There were some numbers that needed to be put together that there was not time to do so we passed it over to the House with the suggestion that something needs further work and also we have IT budget here coming up in the next week or so. It won't be forgotten, it will be addressed in some manner.

**Sally Holewa:** Excellent. I am glad to hear that we are so intertwined that It makes sense to do it as a state wide study. She continued her testimony on page 9. Family Mediation Program, Drug Courts, and Conclusion. This concludes my testimony.

**Don Wolf, Director of Finance for the Judicial Branch** testified in favor of HB 1002 and provided Testimony attached # 2. (Meter 24.52) His testimony provided the details regarding

the judicial budget request. His testimony gives the details of the difference between the original request and how the House acted on these requests which include Salaries and Wages, Operating, Capital Assets, Mediation Pilot Project, Judge Retirement and Turn back. (Meter 40.27)

**Chairman Holmberg:** Are there any questions? There were none. Is there anyone else testifying in favor or in opposition of HB 1002?

**Bill Neumann, Executive Director of the State Bar Association of ND** stated we support HB 1002, and the judicial branches requested budget including the requests for reinstatements.

**Chairman Holmberg:** Anyone else to testify. We will close the hearing. I do not know who the subcommittee will be on 1002, but they will be announced within a day or two and we will get in touch with you. The hearing was closed on HB 1002.

(After the hearing **Chairman Holmberg** announced that **Senator Kilzer** will be the chair of the subcommittee. Other members of the subcommittee are **Senator Wanzek** and **Senator Warner**.)

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1002  
March 18, 2011  
Job # 15689

Conference Committee

Committee Clerk Signature

*J.M. for Rose Lanning*

### Explanation or reason for introduction of bill/resolution:

This is a subcommittee on the Judiciary committee

### Minutes:

See attached testimony # A .

Subcommittee **Chairman Senator Kilzer** called the subcommittee hearing to order on HB 1002. Other members are: **Senator Wanzek** and **Senator Warner** (absent) Senator Robinson will be filling.

**Sara Chamberlin**, Legislative Council;

**Tad H. Torgerson**, OMB.

**Sally Holewa**, State Court Administrator

**Gerald VandeWalle**, Chief Justice of Supreme Court

**Don Wolf**, Director of Finance for the Judicial Branch

**Senator Kilzer:** Go thru Green sheet to summarize the highlights of the budget. (Attachment # A)

**Sally:** We proposed a 13.9% increase over base budget a 2% over the last biennium appropriation. The House decided to take out a few things out. Adjusted the salary ...we asked for 5-5 – reduced to 3-3. FTE – left one (law clerk) took 3 out. Cut funding for studies and also furniture and equipment and brought it down a little over a million dollars. That is where we are today.

**Don:** A big portion of that is the reduction of judge's salaries. We have to submit before recommendations. We had put judge's salaries at 5-5 same as last, but recommendation from OMB was 3-3, same as state employees.

**Sally:** Senate Side. House cut 2 juvenile or probation officers. We are asking for you to reinstate as fulltime temporaries. Major change we are asking you to look at that the House took out.

**Senator Kilzer:** What is standing as full time temporary, please define. I think of seasonal as sugar beets, tax dept. custom combiners. What is it on these people that you are describing that make them temporary?

**Sally:** That is what legislature is allowing. We believe they should be regular employees. We see a time when we won't need them. We have found much more palatable to the legislature to put them temporary.

**Senator Kilzer:** Not palatable to me because you're denying benefits.

**Sally:** If you are favorable to that, so are we.

**Senator Robinson:** I agree with you. If we justify FTE, we should pay benefits. Question: Ability for you to hire quality people when you advertise full time temporary.

**Sally:** We typically get applications for juvenile probation officers. They often come from other positions. When we advertise for PT, we usually get people with no experience.

**Senator Robinson:** Without benefit package, they move on to other jobs for FT with benefits.

**Senator Kilzer:** Additional FTES – legislature frowns on growing governments. Is there any place where you can reduce FTES? Particularly with the modernization of IT, increases efficiencies may allow some space.

**Sally:** We made our efficiency when we moved off of paper into IT in 80s when we went to computer system. Now we're just going from 1 computer system to another computer system, it doesn't really change system. Our judges can get to electronically filed documents. On the front end, we've increased the workload of the clerk to build that efficiency on the back side. As far as juvenile court side, they work directly with the person.

**Senator Wanzek:** We gain efficiencies, but with technology, we need more experienced and qualified persons to run a \$3,000 sprayer.

**VanderWalle:** We do use assessment studies in our employment. We're not asking for that. We're still several judges short. Our work assessment shows greater need for positions we ask for. Not asking to restore clerk of court, but he two positions we are asking for is boots on the ground. It gets to be one on one situation. That is why this is therapeutic courts because it is a one on one situation.

**Senator Kilzer:** Checking on efficiency on each occupation. Each judge has a way of being more efficient. I do the big cases early in the morning and if there is time and workers, we move on to the next case. Same as the judges, their help means everything.....before granting help, we can be sure that all else is in order.

**Senator Robinson:** I have tried to follow; if you track the success of that program has been outstanding. It's been successful and intervention early on. We've intervened and stopped it from becoming more serious. Time and reasonable caseloads, your efficiency is so important and diminished so quickly. Following juvenile, the parents agree how important that case worker is. So important for case worker to stay on top of things.

**Sally:** Broken down by Supreme Court and district court. (Budget for 2 entities)

Equipment of \$5000, looking for a copy machine, air filters for Supreme Court clerk's office, and conference room furniture. IT fees increase is a fee they are going to charge– service contracts IT rental for services.....rent from server room from DOT and maintenance for supreme court equipment and soft ware they are using.

**Don:** The base budget for all IT costs - \$3.5M and \$2M for salaries.

**Sally:** We asked for additional \$40,000 to continue our race and ethnic bias study, something the House took out. House also took out \$40,000 plus another \$100,000 off two other studies we wanted to do and said we could use the balance is any study/combination we wanted to do. Weighted caseload to look for judge and referee needs and the other was workload for clerk's office to determine what the need for clerks was.

**VanderWalle:** We already have studies, but need to upgrade the format we are using to submit to. Need to implement our case management study. I think we can wait on that one. We want to finish the ethnic bias racial studies.

**Sally:** Under district court, we have a one time funding for equipment over \$5,000. We are looking for copy machines, office furniture, court room furniture, micro-fish machine. We have offices in all 53 counties.

**Senator Kilzer:** Discussed copy machines, bulk discount.

**Sally:** One time funding for IT equipment. Digital audio equipment for court rooms. Disc and servers for imagining for electronic documents, and evidence projectors in Fargo

**Senator Wanzek:** What is that?

**Sally:** Old transparencies. Put disc and CD and can interact...all projected out.

**Sally:** We asked for \$100,000 to do disaster recovery study – all tied into central servers here in Bismarck. (Most of our telephones are tied into the state's phone system.) What do we do if emergency? Happens and puts us in black out for several hours. What back-up we need. House took this out and wants to do a statewide comprehensive study. If they decide not to do that, we'd like we would like our money back to go forward.

**Senator Robinson:** Did they find the money to do that? (Sara Chamberlin & Sheila M. Sandness said no.)

**VanderWalle:** OMB bill at the end.

**Senator Kilzer:** Would that be a study you would contract out? How do you know for it to be \$100,000?

**Sally:** That was an informal bid we got. Started to look at this and IT director contacted national firm to find what it would cost for a backup or a study on it or what it might cost. (\$100,000 said would be the charge for an on sight assessment.)

**Sally:** Number 7 is the work assessment policy and case load study where we are checking how many judges and clerks are needed. It is important we use these as a protective measure ...we want to look across the state and how many do we need per city. How has it affected the needs?

**Senator Kilzer:** When was the last one done?

**Sally:** Update every year. It's made to upload new numbers and see if anything has changed.

In 2005, new case, domestic violence were the two focuses.

**VanderWalle:** Judges and employees?

**Sally:** Judges. WOPC – most important one. Decide what we pay counties for clerk services. Those are not actually state employees. They're reimbursed by the county off those studies numbers.

**Don:** Determines FTE need per county based on a 2 year average what the case load has been? There are other figures here and we need fair level for all counties.

**VanderWalle:** Compensate at a fair level – the county commissioners set their compensation level.

**Sally:** # 8, the law clerk position located BIS-MAN. Deputy clerk put in Mandan. Two full time court officers, probation clerks, 2 PT secretaries, and Research analyst (temporary positions)

**Senator Wanzek:** Were they in Governor's Executive Budget?

**Sally:** The budget we submitted.

**VanderWalle:** Our governor doesn't change our budget.

**Sally:** # 9) We are looking for an increase payment for the clerks that work for county and not state. Based on FTE, almost 50 positions throughout the state, but what we actually pay for is 27 FTEs.

#10) ITD fee, a few years ago, we bought network switches for all counties so we could put on computers and hook them up. ITD billed for monthly fees for the 101 people in the Bismarck area, billing not for the switches for counties. Now the switches have to be updated and ITD would like to put them all on the same system the rest of the state has so ITD purchases the switches and everyone billed.

**Don:** These switches have to be updated so they want to use their own? (Maintenance agreement)

**Sally:** #11) increase for software costs and maintenance costs and licensing fees

**Don:** Relates to the same as #2 for green sheet

**Senator Wanzek:** Those are increases? IT is expensive.

**Sally:** Helpless to negotiate, say to everyone who uses their machines we'll increase 3% - we have no bargaining power. Would have to convert data and it costs too much.

**Sally:** #12) funding and maintenance for our new case management system. The maintenance is \$641,920 which is 18% of base contract. Purchase price was \$3.5 M the rest was all implement and training costs. Asked for \$108,500 for enhancements, which are ND specific components for the program. We will use these enhancements for integrations of connecting case management to CJIS and States Attorney's system called STARS.

**Sally:** # 13) 8.3 million purchase and implement the case management system which is backing it out.

**Don:** This was removed by the House?

**Sally:** No

**Don:** We had original costs of the case management system plus with the portion for the current biennium, one time item. Contingency fund that ITD wanted set up, incurred so in case there was something we didn't expect. It will get turned back to general fund.

**Senator Robinson;** Why listed here?

**Don:** Those items are not part of our base budget, they are a one time. It's not reduction; it's requested to 2011-13 base budget.

**Senator Kilzer:** Similar to Senator Wanzek's question, looking at budget they submitted, not Governor's Executive Budget. Appreciate explanations.

**Sally:** These are standard things. The Supreme Court has authority to accept grants and have authority to transfer line items. Judges and Justices salaries. Continuing appropriation are standard.

**Senator Robinson:** Priority 2 Juvenile Court Officers  
And study for disaster to be restored.

**VanderWalle:** State needs to do a comprehensive study. Explained problems last month when system went down. If state isn't going to do a study, we need to do one.

**Senator Robinson:** Space, ITD subcommittee said they need to bring in a number of positions and there is no place to put them. That is short term. Beyond that, there is need in judiciary. We have crunch coming for space.

**VanderWalle:** Sally wants new building. I'm pragmatic, there is space freed up in judicial wing and we should be at top to move into some of that space.

**Senator Kilzer:** I live in Bismarck. So I keep a keen eye out for space. BND said they have space. There are considerations about it being the Commerce Center. It's larger but triangular shape.

**Senator Kilzer:** Would you like to stay in the capitol or elsewhere.

**VanderWalle:** Ralph Erickstand had eye across from... I told him my clients are in the capital. Realistically, I think we need to stay in capital. ITD people are not with us anymore. We added employees when the legislature gave us the counties. I'd like to have new building, but will take additional space in judicial wing if it becomes available.

**Senator Kilzer:** Do you have less square footage before new people moved in?

**Vander Walle:** Judiciary didn't have any say in the building. It was for Health and Human Services and ITD. We got our space because legislature wanted this space for Legislative Council. I went to facility management and said we needed this, but did they give us some.

**Sally:** 1974 study – only got 22,000 feet.

**Senator Kilzer:** Those numbers are similar to crime lab which was 1/3 of what they needed.

**Senator Kilzer:** We didn't talk about indigents – part of bias study?

**VanderWalle:** They have their own agency. Had a bill to ask indigent that insist on representing themselves. That is fine. I don't know where we are in the study. There are a lot of problems in bias issues. Not just Native Americans, but Fargo has substantial amount of immigrants. US Attorney General is threatening us on use of interpreters. Sent letter that said they'd hold federal funds. We have some issues.

**Senator Kilzer:** Closed the hearing on HB 1002.

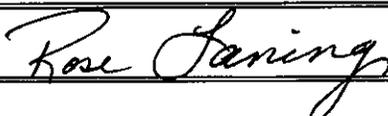
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1002 subcommittee  
March 24, 2011  
Job # 15989

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a subcommittee on HB 1002 - the Judicial branch.

### Minutes:

See attached testimony # A.

**Chairman Kilzer** called the subcommittee hearing to order on HB 1002.  
Other members are: **Senator Wanzek** and **Senator Warner**.

**Becky J. Keller** - Legislative Council; **Lori Laschkewitsch** - OMB

**Senator Kilzer** previously asked **Sally Holewa** to bring case load numbers to justify the request of two juvenile court officers and also asked committee members if they had any requests of any concerns they had about this budget.

**Senator Warner** said he was interested in the time study and asked for more description of what that was in regards to the budget.

**Sally Holewa, State Court Administrator:** We had two time studies in the budget request. It's #7 on green sheet- see attachment # A. The work assessment policy committee – that was a work study, a time and motion study for the clerks of court to determine how many we need. We track how long it takes them to do certain tasks and then give it a weighted number and then we times that by the case load in order to determine what our clerk staff need is. We also use that study to determine what the reimbursement for counties is – the 41 counties that are still county employed.

Also handed out: 2010 Juvenile Referrals by Office Region – see attached # B  
2010 Caseload Averages by Office – see attached # C  
YASI High/Mod Caseload Only – see attached # D  
Appendix D: JCO Resource Need Model by Unit – see attached # E  
North Dakota Juvenile Court Annual Report 2010 – see attached # F

**Senator Warner** asked if there were performance standards.

**Sally Holewa:** They have a set of standards and they are such things like documents filed – scanned and documented within two days of receipt. Text have to be receipted the same day. Locating files if they are in the office, you should have a standard of 15 minutes from the time

it's requested to being able to physically locate that file. If the file is off site, there is a 4 day standards. We have those types of standards that clerks work towards. Administrators go out and check for those sorts of things. The Workload Assessments should be picking up those standards that we set.

**Senator Wanzek:** Explain importance of the two juvenile court officer positions.

**Louie Hentzen – Assist. State Court Administrator also Juvenile Court Coordinator**

Handed out 2010 Juvenile Referrals by Office Region – see attachment # A.

Wanted them to understand what happens when a juvenile is referred to them and discussion was held on the attachment as they went over the caseloads, referrals and FTEs in the various sites around the state. There are 12 offices with 39.5 FTEs.

**Senator Kilzer** asked **Becky J. Keller** to draw up amendments to replace the two juvenile court officers that the House removed.

**Senator Kilzer:** We will meet again on Tuesday.

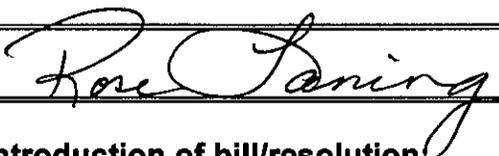
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1002 subcommittee  
March 29, 2011  
Job # 16117

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing of the Judicial branch – HB 1002.

### Minutes:

See attached testimony # B.

**Senator Kilzer** called the subcommittee hearing to order on HB 1002. Subcommittee members **Senator Wanzek** and **Senator Warner** were present.

**Becky J. Keller** - Legislative Council; **Tad H. Torgerson** - OMB.

**Sally Holewa**, State Court Administrator

**Louie Hentzen** – Assist. State Court Administrator/Juvenile Court Coordinator

**Don Wolf**, Director of Finance for the Judicial Branch

**Senator Kilzer** handed out amendment 11.8117.02002 – see attached # B

He commended Sally and appreciated the information she put together particularly about the juvenile courts around the state. He also asked for the number of existing juvenile court officers.

**Louie Hentzen:** 39.5. Those are the ones that are doing specific work and also for juvenile court directors that don't do casework. They manage the offices.

**Senator Kilzer:** I can see by the caseloads why you would want one more in Bismarck and one more in Fargo. How many juvenile court officers are in those places now.

**Louie Hentzen:** There are 7 including the supervisor – not the director. There are actually only six people that do the probation supervision. The supervisor does all the intake work and all the referrals that come in their office and we count them in that 39.5 and **Sally Holewa** replied that each office has six.

**Senator Wanzek** moved amendments 11.8177.02002

**Senator Warner** seconded.

**Voice vote - Unanimously adopted.**

**Senator Kilzer:** If I remember correctly, the chief justices asked for 4 FTEs and this is the 2<sup>nd</sup> and 3<sup>rd</sup>. The House left one on – the law enforcement, but this will probably go to conference committee. Hearing adjourned.

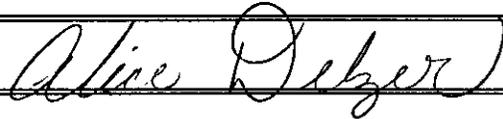
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

HB 1002  
03-30-2011  
Job # 16159

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE FOR A DO PASS AS AMENDED ON THE BUDGET FOR THE JUDICIARY BRANCH

## Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Wednesday, March 30, 2011 in reference to HB 1002. Tad H. Torgerson, OMB and Becky J. Keller, Legislative Council were present. Roll call was taken. All committee members were present. This morning we have a few bills to look at.

**Senator Kilzer:** You have before the amendment on the judiciary which is HB 1002. The amendment has only one item and that is to put in 2 juvenile court officers that the House had removed. The chief Justice had asked for an increase of 4 FTE's; one was a law clerk, one was a deputy clerk of a District Court, and 2 were for the additional juvenile court officers, and that was his first priority was to add one in Bismarck and one in Fargo. They have a total of 39 around the state but their case load is markedly increasing all across the state, especially in the two cities and so your subcommittee did chose to put in the 2 FTE juvenile court officers. The House had removed some studies and we agreed with not putting those back in so your only amendment before you is the 2 juvenile court officers

**Senator Kilzer: Moved the amendment # .02002. Seconded by Senator Wanzek.**

**Senator Christmann:** When this was introduced there were like 5% salary increases, I don't remember if the House addressed that or not but are they going to get the same salary increases as other state people?

**Senator Kilzer:** The judges' request was based upon the present biennium and they did have an increase in salary of 5% and 5%. This budget, of course, does not go through the governor but the House did lower that to 3 and 3 and we agreed with that

**Chairman Holmberg:** Good question. Any other questions? Call the roll on the amendment # .02002.

Senate Appropriations Committee

HB 1002

03-30-11

Page 2

**A roll call vote was taken on the amendment #.02002. Yea: 13; Nay: 0; Absent: 0. Motion carried.**

**Chairman Holmberg:** Now can we have a motion on the bill?

**Senator Kilzer moved A Do Pass as Amended. Seconded by Senator Wanzek.**

**A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1002. YEA: 13; NAY: 0; ABSENT: 0. MOTION CARRIED. Senator Warner will carry the bill.**

The hearing was closed on HB 1002.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1002

Page 1, replace line 23 with:

"Salaries and wages \$48,980,255 \$5,399,931 \$54,380,186"

Page 2, replace line 6 with:

"Total all funds \$65,039,419 \$8,304,430 \$73,343,849"

Page 2, replace line 8 with:

"Total general fund \$63,268,958 \$8,218,116 \$71,487,074"

Page 2, replace line 22 with:

"Grand total general fund \$74,282,634 \$9,363,770 \$83,646,404"

Page 2, replace lines 24 and 25 with:

"Grand total all funds \$76,367,441 \$9,461,237 \$85,828,678"

Full-time equivalent positions 342.00 3.00 345.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1002 - Summary of Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Supreme Court				
Total all funds	\$11,689,507	\$11,594,874	\$0	\$11,594,874
Less estimated income	0	0	0	0
General fund	\$11,689,507	\$11,594,874	\$0	\$11,594,874
District Courts				
Total all funds	\$74,102,085	\$73,015,765	\$328,084	\$73,343,849
Less estimated income	1,856,775	1,856,775	0	1,856,775
General fund	\$72,245,310	\$71,158,990	\$328,084	\$71,487,074
Judicial Conduct Commission				
Total all funds	\$889,955	\$889,955	\$0	\$889,955
Less estimated income	325,499	325,499	0	325,499
General fund	\$564,456	\$564,456	\$0	\$564,456
Bill total				
Total all funds	\$86,681,547	\$85,500,594	\$328,084	\$85,828,678
Less estimated income	2,182,274	2,182,274	0	2,182,274
General fund	\$84,499,273	\$83,318,320	\$328,084	\$83,646,404

House Bill No. 1002 - District Courts - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$54,906,227	\$54,052,102	\$328,084	\$54,380,186

Operating expenses	17,058,522	16,858,522		16,858,522
Capital assets	694,480	676,480		676,480
Judges retirement	493,192	478,997		478,997
UND central legal research	80,000	80,000		80,000
Mediation	869,664	869,664		869,664
Total all funds	\$74,102,085	\$73,015,765	\$328,084	\$73,343,849
Less estimated income	1,856,775	1,856,775	0	1,856,775
General fund	\$72,245,310	\$71,158,990	\$328,084	\$71,487,074
FTE	297.00	294.00	2.00	296.00

**Department No. 182 - District Courts - Detail of Senate Changes**

	Restores Funding for 2 FTE Positions <sup>1</sup>	Total Senate Changes
Salaries and wages	\$328,084	\$328,084
Operating expenses		
Capital assets		
Judges retirement		
UND central legal research		
Mediation		
Total all funds	\$328,084	\$328,084
Less estimated income	0	0
General fund	\$328,084	\$328,084
FTE	2.00	2.00

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<sup>1</sup> This amendment restores 2 FTE juvenile court officer positions removed by the House.

Date: 3.30.01  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1002

Senate App Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8117.02002

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Kilzer Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-30-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1002

Senate App Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Kilzer Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Warner

If the vote is on an amendment, briefly indicate intent:



Mediation	869,664	869,664		869,664
Total all funds	\$74,102,085	\$73,015,765	\$328,084	\$73,343,849
Less estimated income	1,856,775	1,856,775	0	1,856,775
General fund	\$72,245,310	\$71,158,990	\$328,084	\$71,487,074
FTE	297.00	294.00	2.00	296.00

**Department No. 182 - District Courts - Detail of Senate Changes**

	Restores Funding for 2 FTE Positions <sup>1</sup>	Total Senate Changes
Salaries and wages	\$328,084	\$328,084
Operating expenses		
Capital assets		
Judges retirement		
UND central legal research		
Mediation		
Total all funds	\$328,084	\$328,084
Less estimated income	0	0
General fund	\$328,084	\$328,084
FTE	2.00	2.00

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<sup>1</sup> This amendment restores 2 FTE juvenile court officer positions removed by the House.

**2011 HOUSE APPROPRIATIONS**

**CONFERENCE COMMITTEE**

**HB 1002**

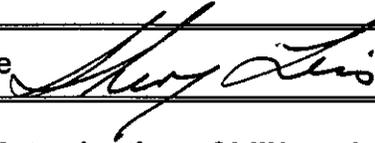
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
April 11, 2011  
Recorder Job# 16486

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

## Minutes:

**Chairman Dahl:** Opened the conference committee on HB1002. We've made several changes to the budget as it was submitted to the assembly and from my understanding the senate didn't make any changes to the budget; except, they added in 2 FTE's. The house removed the 3 FTE's from the executive budget. If I could request of the senate so we could have a discussion on the 2 FTE's; because, that is the difference between the 2 chambers.

**Senator Kilzer:** There was a request for 4 FTE's and the house removed 3 and the senate requested that 2 of the 4 be reinstated back in the budget. Those 2 were juvenile court officers and at the present time, as you know, there are 39.5 FTE's who are juvenile court officers in the whole state. The request is for one additional juvenile court officer in Fargo. The reason for that was that there are quite a few new Americans. When there's involvement in juvenile court officers, not only is there a large increase in the number of cases, but each case does take longer in time; because, of the difficulties in communication. So that's the reason for the request for one FTE in Fargo. The additional FTE in Bismarck is also because of an increased case load and that's largely because Bismarck does have a youth bureau and that attracts many more cases that have to be handled. We have a document that was given to us by the court system showing us the case load and for that reason we're pretty supportive of the request of the 2 additional FTE's in the juvenile court system; raising it up from 39.5 to 41.5.

**Senator Wanzek:** I can't add much more to that and that does appear to be the only differences that we have for us. I felt the data and documentation that was presented to us seemed to indicate that there was some need and we were supportive of it.

**Representative Dahl:** I don't recall receiving that document during our review of the budget. Could you briefly describe where their case load has been and where it's going?

**Representative Kilzer:** I do have the nicely bound one called North Dakota Juvenile Court Annual Report for 2010 and I also do have the Juvenile Referrals by Office Region. It goes through all the district offices and the months of the year last year. For example, in the Grand Forks area, they were having 1,211 cases or 100 a month and for the Fargo area it was 1,875 for a monthly average of 156 and for Bismarck it was 2,419 for the year, for an average over 202 a month. The present number of officers in the Fargo and Bismarck areas it was a higher number of cases per officer in those 2 districts. I'm not sure if we have those here.

**Representative Dahl:** If I could get a copy of the shorter document that you have? I don't think the house side has that copy.

**Representative Kilzer:** I'd be glad to give it to the clerk.

**Senator Wanzek:** We have 2 different summaries that summarize the case load. One summarizes the total case load per site and per regional area. The other one brings it down to moderate to high risk case loads; which are the ones that really result in a higher amount of time spent and attention given. I think that's the critical one. When you look at that one, based on the average per juvenile court officer, it's considerably higher in Bismarck and Fargo; when you look at the whole statewide as an average.

**Chairman Dahl:** Closed the conference committee.

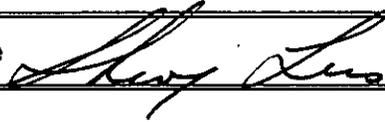
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
April 13, 2011  
Recorder Job# 16530

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch

## Minutes:

**Chairman Dahl:** Opened the conference committee on HB1002.

**Chairman Dahl:** The house gave 1 FTE of the 4 requested and the senate agreed to do 3 of the 4 requested. If you look at the green sheet in your folder, if you look from the 2005 biennium on, there have been increases afforded to the judicial branch. To look at the history from the 2005-2007 there were 6 added, in 2007-2009 there were another 6 added and in 2009-2011 biennium there were 4 added. An increase of about 16 FTE's since 2005. We just want to be careful on how we proceed in the future, that we don't over extend ourselves. Just looking at some of the numbers that the senate gave us on the case load averages for these juvenile services offices, it seems perhaps there's an disparity in that Fargo and Bismarck do seem to be more overwhelmed; taking on more cases that are difficult. It also seems that maybe there needs to be a conversation about reorganization

**Senator Kilzer:** Some of these have just one FTE with what looks like a small number of cases. It's pretty hard to have a case worker far away or having to work in 2 different regions. I think there is justification when you have a region with just one officer. The obvious cases where the demand is greatest for additional officers is the 2 the senate granted. I don't think a person can fault.

**Chairman Dahl:** One thing I had asked for from the last hearing was if we could get a trend since 2005 for the number of cases that these offices are dealing with. Does the court have that additional information?

**Sally Holewa, State Court Administrator, North Dakota Supreme Court:** We do not have that information. We have different various information from our juvenile court units and they were turning in case load information; but, counting cases differently. We do have 2009 and 2010. Our research analyst is looking at that today.

**Chairman Dahl:** If you could get that to us as soon as you can.

**Sally Holewa:** As I look at that FTE growth I can see 2 things. In the last session we had 4 FTE's, 2 judges, 2 court reporters; in the session before we had 6, but that was 2 folks from Rolette county exercising their option to come over as clerks of court. One law clerk, 1 referee; we did have 1 juvenile court officer added back to Fargo, and the mediation coordinator. One of the things that I hope the committee will keep in mind, is these jobs maybe FTE's; but they aren't necessarily able to do somebody else's job. A judge isn't going to do juvenile court officer work and a juvenile court officer with a social work background isn't going to be doing clerk of court work.

**Chairman Dahl:** I didn't mean to suggest that a judge is going to do juvenile officer work.

**Senator Wanzek:** I do respect and understand where the house is coming from. I would share that view. I think on the senate side we felt that given the data that they convinced us that the need is there. I know there's been some talk about consolidating; maybe, the juvenile court officers with another site. In a lot of these there's only one juvenile officer there. I don't see where I would want to cut them to zero or even thought about if you consolidate Fargo and Valley City and put the two together and see if they can't do some work together. It still leaves a pretty high average per juvenile court officer case load. The senate feels pretty strongly about the justification for those 2 juvenile officers. There is some effort to try to reduce duplicate efforts. I would move that the house accede to the senate amendments.

**Senator Kilzer:** Seconded the motion.

**Senator Warner:** I don't see how you could transfer anybody within the system to cover the excess load. These are jobs where there's a high degree of interaction between the clients and the officer. There's constant monitoring, checkups and calls, and face to face visits. I think that the senate made a good judgment call. There's only been one juvenile court officer added within the time period since the 2005 biennium. That's the discussion we've been having and feel very comfortable with the senate's position.

A roll call vote was taken to "accede from the senate's amendments". 4 Yea's 2 Nay's 0 Absent.

The motion failed.

**Chairman Dahl:** What I'd like is to make sure we get that information from the court.

**Chairman Dahl:** Closed the conference committee.

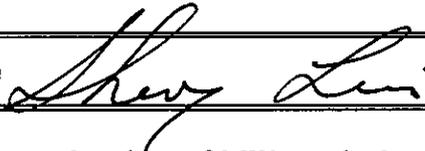
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
April 15, 2011  
Recorder Job# 16625

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch

## Minutes:

**Chairman Dahl:** Opened the conference committee on HB1002.

**Chairman Dahl:** The court wasn't able to pull together the exact information that we requested; but, they did the best they could with the numbers that they had. What could get to us was the referral numbers. If you look on page 2 of the document, you can see some of the referral numbers; which will be different than the actual case load numbers. The issue here are Fargo and Bismarck. If you look at the numbers, the court went back to 2004 and in 2004 they had approximately 2,700 referrals. Last year, they had 1,875; so, there is a decrease in the number of referrals. That's not to say directly the case load; but those are the referrals. If you look at the Bismarck line, they have approximately 2,100 in 2004; and are now at 2,400, so there is an increase in the number of referrals to Bismarck.

**Representative Thoreson:** Sat in on the conference committee for Representative Kempenich. I have reviewed the information and we had a discussion about this also to the meeting today to kind of get up to speed. I know there's an issue about 2 additional FTE's. I'm not certain that there's a need for the 2 additional persons. Perhaps with the information maybe there would some merit at looking at having 1 additional person; if there was a way to find the dollars within the agency to go ahead and fund that position.

**Representative Thoreson:** Made a motion to add one additional FTE if the money could be found in the agency's budget.

**Representative Kroeber:** Seconded the motion.

**Representative Dahl:** I've had a chance to review the supreme court testimony from January when we first heard this budget. It's estimated that there's approximately \$2 million in turnback and some of those were for technology projects. So some of that is not applicable; but, there was about \$400,000.00 in turnback from vacant positions and I believe as in 2007-2009 there was some turnback as well.

**Senator Kilzer:** The compromise would be if someone could just appear from Bismarck to Fargo; because, that's the 2 locations of the need. Our officers are handling twice as many cases as the national average. I think it was an honest request and to say that we're going to compromise on one isn't facing reality very well. So, I will not support the motion.

**Senator Warner:** I might be inclined if we opened that discussion to allow 2 FTE's; and funding one of them and allowing the second one to be funded out of current revenues. That might be an acceptable decision.

**Chairman Dahl:** This is the motion in front of us and we'll deal with the motion and see where that takes us.

**Senator Wanzek:** I know there's the referrals; but, it wasn't so much the referrals as the high to moderate case load work that they do. Some of the referrals can be settled in a matter of minutes. It's the case load that I think is more applicable to their need. Some of these cases get to be quite more complex. I might be willing to look at a compromise with using some of the turnback.

**Representative Dahl:** I was trying to be careful in how I depicted these referrals. These are the only trend numbers we have. We couldn't get the case load averages beyond the 2009 numbers; as was my understanding from the court.

A roll call vote was made and failed. 3 Yea's 3 Nay's 0 Absent.

**Chairman Dahl:** Closed the conference committee.

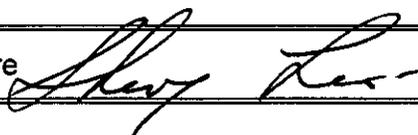
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1002  
April 18, 2011  
Recorder Job# 16737

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the judicial branch.

## Minutes:

**Chairman Dahl:** Opened the conference committee on HB1002.

It was noted all members were present except for Representative Kempenich.

**Chairman Dahl:** Explained the amendments for HB1002. See attached 1002.4.18.11A.

**Senator Kilzer:** I'd like to thank you for getting out the information for the trend in case loads in the Bismarck and Fargo areas. I would like to also point out the numbers. If you look at page 10 of the North Dakota Juvenile Court Annual Report for the year 2010, it says the national average of cases per officer per month is to be at 35. If I look at the average for Fargo it's been 61 and for Bismarck it's been 56. I'm not sure if these are real cases or referrals; but, I think they'd be much the same thing. Looking at Fargo and Bismarck, they each have 6 officers at the present time and if they each have 55 cases per month, those folks are pretty over worked. Even adding one in each city would reduce that by maybe 3 or 4; but it would still be above 50 cases per month. The consequences of that of course are that the involvement with the officer in the case can't be as intense as what the national office would like to be. In the spirit of compromise I will support your amendment.

**Representative Dahl:** I think we have 2 sets of numbers and there is no question in those particular cities they do have a heavier case load than other districts. So I agree with your comments there.

**Senator Wanzek:** I, too, in the spirit of compromise support this amendment.

**Senator Warner:** I move that the senate recede from it's amendments and adopt these amendments.

**Representative Kroeber:** Seconded the motion.

House Appropriations Government Operations Division

HB1002

April 18, 2011

Page 2

A roll call vote was made. 5 Yea's 0 Nay's 1 Absent.

**Chairman Dahl:** Closed the conference committee.

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriative Government Operations

Bill/Resolution No. HB1002 as (re) engrossed

Date: 4/3-11

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) \_\_\_\_\_

Unable to agree, recommends that the committee be discharged and a new committee be appointed. Motion that House accede to Senate amendments failed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Senator Wangek Seconded by: Senator Kibee

Representatives	4/11/11	4/13	Yes	No		Senators	4/11/11	4/13	Yes	No
<u>Stacy Dahl</u>	✓	✓		✓		<u>Ralph Kibee</u>	✓	✓		
<u>Keith Thompson</u>	✓	✓		✓		<u>Sen. Wangek</u>	✓	✓		
<u>Joe Kroeber</u>	✓	✓	✓			<u>Sen. Warner</u>	✓	✓		

Vote Count      Yes: 4      No: 2      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriations Government Operations

Bill/Resolution No. HB 1002 as (re) engrossed

Date: 4-15-11

Roll Call Vote #: 2

**Action Taken**

- HOUSE accede to Senate amendments
- HOUSE accede to Senate amendments and further amend
- SENATE recede from Senate amendments
- SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) \_\_\_\_\_

Unable to agree, recommends that the committee be discharged and a new committee be appointed Motion that one FTE be added

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives			Yes	No			Yes	No
<u>Steven Dahl</u>	<u>4/15</u>		<input checked="" type="checkbox"/>		<u>Ralph Kilian</u>	<u>4/15</u>		<input checked="" type="checkbox"/>
<u>Blaine Brown</u>			<input checked="" type="checkbox"/>		<u>Thom Wengel</u>			<input checked="" type="checkbox"/>
<u>Greg Weber</u>			<input checked="" type="checkbox"/>		<u>Don Warner</u>			<input checked="" type="checkbox"/>

Vote Count      Yes: 3      No: 3      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment



**House Bill No. 1002 - Supreme Court - Conference Committee Action**

The conference committee did not change the House version for the Supreme Court. The Senate also did not change the House version.

**House Bill No. 1002 - District Courts - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$54,906,227	\$54,052,102	\$164,042	\$54,216,144	\$54,380,186	(\$164,042)
Operating expenses	17,058,522	16,858,522		16,858,522	16,858,522	
Capital assets	694,480	676,480		676,480	676,480	
Judges retirement	493,192	478,997		478,997	478,997	
UND central legal research	80,000	80,000		80,000	80,000	
Mediation	869,664	869,664		869,664	869,664	
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>\$73,015,765</b>	<b>\$164,042</b>	<b>\$73,179,807</b>	<b>\$73,343,849</b>	<b>(\$164,042)</b>
Less estimated income	1,856,775	1,856,775	0	1,856,775	1,856,775	0
<b>General fund</b>	<b>\$72,245,310</b>	<b>\$71,158,990</b>	<b>\$164,042</b>	<b>\$71,323,032</b>	<b>\$71,487,074</b>	<b>(\$164,042)</b>
FTE	297.00	294.00	1.00	295.00	296.00	(1.00)

**Department No. 182 - District Courts - Detail of Conference Committee Changes**

	Restores Funding for 1 FTE Position <sup>1</sup>	Total Conference Committee Changes
Salaries and wages	\$164,042	\$164,042
Operating expenses		
Capital assets		
Judges retirement		
UND central legal research		
Mediation		
<b>Total all funds</b>	<b>\$164,042</b>	<b>\$164,042</b>
Less estimated income	0	0
<b>General fund</b>	<b>\$164,042</b>	<b>\$164,042</b>
FTE	1.00	1.00

<sup>1</sup> This amendment restores 1 of the 2 FTE juvenile court officer positions removed by the House. The location of the juvenile court officer is to be determined by the judicial branch. The Senate restored 2 FTE juvenile court officer positions.

**House Bill No. 1002 - Judicial Conduct Commission - Conference Committee Action**

The conference committee did not change the House version for the Judicial Conduct Commission. The Senate also did not change the House version.

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriations Government Operations

Bill/Resolution No. HB 1002 as (re) engrossed

Date: 4-18-11

Roll Call Vote #: 3

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments or (H)S/J page(s) 1298 - 1300

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1002 was placed on the Seventh order of business on the calendar

Motion Made by Senator Warner Seconded by: Representative Krober

Representatives				Senators			
	Y	N	A		Y	N	A
<u>Steve Dahl</u>	✓			<u>Ralph Kibben</u>	✓		
<u>Keith Karpovich</u>				<u>Terry Wenzel</u>	✓		
<u>Joe Krober</u>	✓			<u>John Warner</u>	✓		

Vote Count Yes: 5 No: 0 Absent: 1

House Carrier Representative Dahl Senate Carrier Senator Warner

LC Number 11.8117.02003 of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment to add FTE's & funding

**REPORT OF CONFERENCE COMMITTEE**

**HB 1002, as engrossed:** Your conference committee (Sens. Kilzer, Wanzek, Warner and Reps. Dahl, Kempenich, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1298-1300, adopt amendments as follows, and place HB 1002 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1298-1300 of the House Journal and pages 1029 and 1030 of the Senate Journal and that Engrossed House Bill No. 1002 be amended as follows:

Page 1, replace line 23 with:

"Salaries and wages                      \$48,980,255                      \$5,235,889                      \$54,216,144"

Page 2, replace line 6 with:

"Total all funds                              \$65,039,419                      \$8,140,388                      \$73,179,807"

Page 2, replace line 8 with:

"Total general fund                          \$63,268,958                      \$8,054,074                      \$71,323,032"

Page 2, replace line 22 with:

"Grand total general fund                  \$74,282,634                      \$9,199,728                      \$83,482,362"

Page 2, replace lines 24 and 25 with:

"Grand total all funds                      \$76,367,441                      \$9,297,195                      \$85,664,636

Full-time equivalent positions              342.00                              2.00                              344.00"

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Supreme Court						
Total all funds	\$11,689,507	\$11,594,874	\$0	\$11,594,874	\$11,594,874	\$0
Less estimated income	0	0	0	0	0	0
General fund	\$11,689,507	\$11,594,874	\$0	\$11,594,874	\$11,594,874	\$0
District Courts						
Total all funds	\$74,102,085	\$73,015,765	\$164,042	\$73,179,807	\$73,343,849	(\$164,042)
Less estimated income	1,856,775	1,856,775	0	1,856,775	1,856,775	0
General fund	\$72,245,310	\$71,158,990	\$164,042	\$71,323,032	\$71,487,074	(\$164,042)
Judicial Conduct Commission						
Total all funds	\$889,955	\$889,955	\$0	\$889,955	\$889,955	\$0
Less estimated income	325,499	325,499	0	325,499	325,499	0
General fund	\$564,456	\$564,456	\$0	\$564,456	\$564,456	\$0
Bill total						
Total all funds	\$86,681,547	\$85,500,594	\$164,042	\$85,664,636	\$85,828,678	(\$164,042)
Less estimated income	2,182,274	2,182,274	0	2,182,274	2,182,274	0
General fund	\$84,499,273	\$83,318,320	\$164,042	\$83,482,362	\$83,646,404	(\$164,042)

**House Bill No. 1002 - Supreme Court - Conference Committee Action**

The conference committee did not change the House version for the Supreme Court. The Senate also did not change the House version.

**House Bill No. 1002 - District Courts - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$54,906,227	\$54,052,102	\$164,042	\$54,216,144	\$54,380,186	(\$164,042)
Operating expenses	17,058,522	16,858,522		16,858,522	16,858,522	
Capital assets	694,480	676,480		676,480	676,480	
Judges retirement	493,192	478,997		478,997	478,997	
UND central legal research	80,000	80,000		80,000	80,000	
Mediation	869,664	869,664		869,664	869,664	
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>\$73,015,765</b>	<b>\$164,042</b>	<b>\$73,179,807</b>	<b>\$73,343,849</b>	<b>(\$164,042)</b>
Less estimated income	1,856,775	1,856,775	0	1,856,775	1,856,775	0
<b>General fund</b>	<b>\$72,245,310</b>	<b>\$71,158,990</b>	<b>\$164,042</b>	<b>\$71,323,032</b>	<b>\$71,487,074</b>	<b>(\$164,042)</b>
FTE	297.00	294.00	1.00	295.00	296.00	(1.00)

**Department No. 182 - District Courts - Detail of Conference Committee Changes**

	Restores Funding for 1 FTE Position <sup>1</sup>	Total Conference Committee Changes
Salaries and wages	\$164,042	\$164,042
Operating expenses		
Capital assets		
Judges retirement		
UND central legal research		
Mediation		
<b>Total all funds</b>	<b>\$164,042</b>	<b>\$164,042</b>
Less estimated income	0	0
<b>General fund</b>	<b>\$164,042</b>	<b>\$164,042</b>
FTE	1.00	1.00

<sup>1</sup> This amendment restores 1 of the 2 FTE juvenile court officer positions removed by the House. The location of the juvenile court officer is to be determined by the judicial branch. The Senate restored 2 FTE juvenile court officer positions.

**House Bill No. 1002 - Judicial Conduct Commission - Conference Committee Action**

The conference committee did not change the House version for the Judicial Conduct Commission. The Senate also did not change the House version.

Engrossed HB 1002 was placed on the Seventh order of business on the calendar.

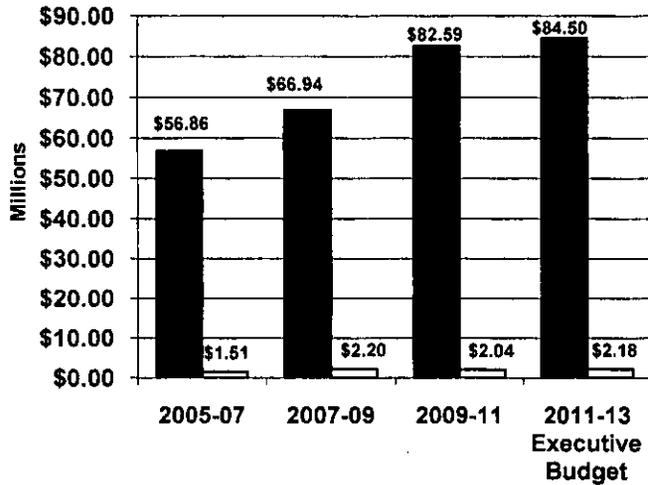
2011 TESTIMONY

HB 1002

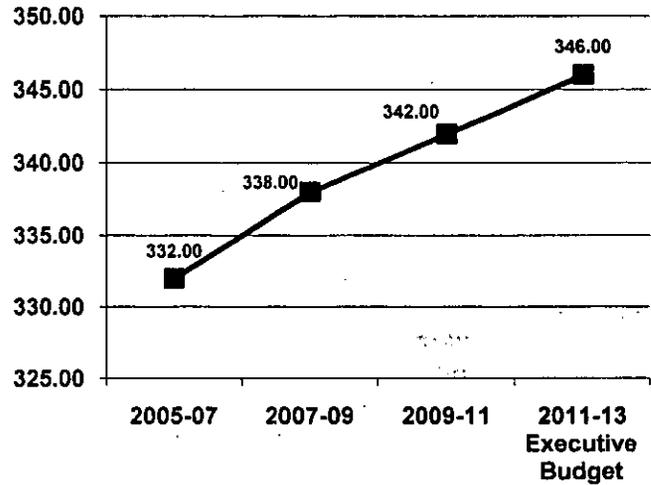
**Department 180 - Judicial Branch  
 House Bill No. 1002**

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	346.00	\$84,499,273	\$2,182,274	\$86,681,547
2009-11 Legislative Appropriations	342.00	82,590,015	2,044,807	84,634,822
Increase (Decrease)	4.00	\$1,909,258	\$137,467	\$2,046,725

**Agency Funding**



**FTE Positions**



■ General Fund □ Other Funds

**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$83,377,293	\$1,121,980	\$84,499,273
2009-11 Legislative Appropriations	74,282,634	8,307,381	82,590,015
Increase (Decrease)	\$9,094,659	(\$7,185,401)	\$1,909,258

**Executive Budget Highlights**

	General Fund	Other Funds	Total
<b>Supreme Court</b>			
1. Adds one-time funding for equipment over \$5,000	\$27,500		\$27,500
2. Adds funding for increases in information technology fees and maintenance contracts and licensing fees	\$92,467		\$92,467
3. Increases funding for operating expenses for the Commission to Study Racial and Ethical Bias in the Courts	\$40,000		\$40,000
<b>District Court</b>			
4. Adds one-time funding for equipment over \$5,000	\$160,000		\$160,000
5. Adds one-time funding for information technology equipment	\$534,480		\$534,480
6. Adds one-time funding for a disaster recovery study	\$100,000		\$100,000
7. Adds one-time funding to update the Work Assessment Policy Committee study and the weighted caseload study	\$300,000		\$300,000
8. Adds 1 FTE law clerk position (\$149,992), 1 FTE deputy clerk of district court position (\$129,150), and 2 FTE juvenile court officer positions (\$328,084) (One juvenile court officer will be located in Fargo, and the remaining positions will be located in Bismarck.)	\$607,226		\$607,226
9. Increases funding for payments to contract counties for clerk of court services to provide total funding of \$3,432,492	\$445,909		\$445,909

10. Increases funding due to a change in the technology fees charged by the Information Technology Department to account for judicial branch computer servers utilized and employees located in county courthouses	\$381,660		\$381,660
11. Adds funding for increases in various information technology fees, software costs, maintenance contracts, and licensing fees	\$404,912	\$45,698	\$450,610
12. Adds funding for maintenance support and enhancements for the new unified case management system (Odyssey)	\$750,420		\$750,420
13. Removes one-time funding provided in the 2009-11 biennium for the unified case management system replacement project, capital assets, and parenting coordinator training	(\$8,307,381)		(\$8,307,381)

### Other Sections in Bill

**Gifts, grants, and donations** - Section 2 provides that, in addition to the amount appropriated as special funds, any other income received from gifts, grants, and donations received by the Supreme Court, district courts, and Judicial Conduct Commission and Disciplinary Board is appropriated for the purposes designated for the 2011-13 biennium.

**Line item transfers** - Section 3 provides that the director of the Office of Management and Budget and the State Treasurer may transfer funds between line items of appropriation for the judicial branch of government as requested by the Supreme Court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

**Supreme Court justices' salaries** - Section 4 provides the statutory changes increasing Supreme Court justices' salaries by 5 percent each year of the biennium, the same as the previous biennium. Supreme Court justices' annual salaries are increased from the current level of \$130,228 to \$136,739, effective July 1, 2011, and to \$143,576, effective July 1, 2012. The Chief Justice of the Supreme Court is entitled to receive an additional \$3,927 per annum effective July 1, 2011, and \$4,123 per annum effective July 1, 2012, an increase from the current additional amount for the Chief Justice of \$3,740 per annum.

**District judges' salaries** - Section 5 provides the statutory changes increasing district court judges' salaries by 5 percent each year of the biennium, the same as the previous biennium. District court judges' annual salaries are increased from the current level of \$119,330 to \$125,297, effective July 1, 2011, and \$131,562, effective July 1, 2012. A presiding judge of a judicial district is entitled to receive an additional \$3,619 per annum effective July 1, 2011, and \$3,800 per annum effective July 1, 2012, an increase from the current additional amount for presiding judges of \$3,447.

### Continuing Appropriations

**Restitution collection assistance fund** - North Dakota Century Code Section 12.1-32-08 - This fund is used for defraying expenses incident to the collection of restitution through imposing a fee equal to the greater of \$10 or 25 percent of the amount of restitution ordered, not to exceed \$1,000.

**Court facilities improvement and maintenance fund** - Sections 27-05.2-08 and 29-26-22 - Funding from this fund may be used by the Court Facilities Improvement Advisory Committee to make grants to counties to provide funds for court facilities and improvement and maintenance projects. The source of these funds is a \$100 fee charged in all criminal cases except infractions. The first \$750,000 collected is used for indigent defense services, the next \$460,000 is used for court facilities, and additional collections are deposited equally into the two funds.

**Court receivables fund** - Section 27-05.2-04 - Any money received by the clerk which is not required to be deposited in the state general fund, a different special fund, or the county treasury, and which is received as bail or restitution, or otherwise received pursuant to an order of the court is deposited in this fund. Amounts are used for refunding bail, forwarding restitution amounts to entitled recipients, or otherwise making payments as directed by the court.

### Significant Audit Findings

The operational audit for the judicial branch conducted by the State Auditor's office during the 2009-10 interim identified no significant audit findings.

### Major Related Legislation

At this time, no major legislation has been introduced affecting this agency.

**House Bill 1002**  
**House Appropriations - Government Operations**  
Presented by Sally Holewa, State Court Administrator  
January 17, 2011

Good morning, Chairman Thoreson and members of the Committee:

For the record, my name is Sally Holewa. I am the State Court Administrator, and I will be providing a general overview of the Judicial Branch budget request. After my presentation, I will be calling upon Don Wolf, our Director of Finance, to provide further details on our 2011-2013 budget request.

The Judicial Branch appropriation funds the personnel, programs, and operating costs for the supreme court, the district courts, and the Judicial Conduct Commission and Disciplinary Board. Our budget request for the 2011-2013 biennium is \$86,681,547. We are requesting an additional \$10,314,106 over our current base budget appropriation. This represents a 2.4% increase over our 2009-2011 appropriation and a 13.5% increase over our base budget. The bulk of the increase comes in just two areas: technology and salaries. Taken together, these two items account for 89% of the increased funding we are requesting.

We are requesting an increase of \$2.2 million in technology costs. These costs include funding for:

- Increased data processing fees charged by ITD - \$381,660

- IT equipment - \$534,480
- Maintenance & support for the trial court computer system - \$641,920
- Consultation & enhancements for trial court computer system - \$108,500
- Licenses & support for other computer system - \$543,077

### **Salaries and Wages**

We are requesting approximately \$6.9 million to maintain the salary increases from the last biennium, to cover the governor's recommended salary increase for employees, a 5% per year increase in judicial salaries, and funding to add 4 permanent and 3 temporary positions for the trial courts.

### **New Employees**

The 4 permanent positions we are requesting are:

- 1 FTE Law Clerk for the South Central Judicial District, to be located in Mandan
- 1 FTE Deputy Clerk for Burleigh County, to be located in Bismarck
- 2 FTE Juvenile Court Officers, one to be located in Bismarck and the other to be located in Fargo

The 3 temporary positions we are requesting are:

- 2 half-time juvenile court secretaries, one to be located in Bismarck and the other to be located in Fargo

- 1 full-time temporary Research Analyst

The Judicial Branch has always been frugal in requesting new staff. We utilize a number of different performance measures to review workloads and staffing levels. Our docket currency standards, weighted caseload standards for district court judges, and weighted workload standards for clerk of court personnel and juvenile court personnel all provide guidelines which we use to monitor judicial and staffing needs in the trial courts.

All of these studies show some shortages in staffing levels, but we do not rely solely on them when making the decision to request additional staff. We go through an extensive justification process for refilling every vacancy which includes an analysis of how staff assignments and duties can be shifted to make the office more efficient.

We also share some types of deputy clerk and juvenile court officer work between offices. Shared duties performed by deputy clerks of court include fine collection, jury management, and temporary assistance with records retention. Juvenile court officers share work by covering juvenile cases across district boundaries. While these efforts to share work have allowed us to alleviate some of the shortages, it has not eliminated the shortages altogether. In addition, although it has caused considerable opposition from our staff and the communities

they reside in, we have moved positions from one division or district to another if the need is greater elsewhere. However, even taking into consideration the three deputy clerk and four subject matter expert temporary positions, which were authorized during the last legislative session, we have reached a point where work can no longer be shifted and there are no longer positions that can be moved.

**Law Clerk:** Our weighted caseload study shows a 3 judge shortage in both the East Central Judicial District and the South Central Judicial District and a 2 judge shortage in the Northwest Judicial District. While we are not asking for additional judgeships at this time, we are asking for 1 additional law clerk to be located in Mandan. Burleigh and Morton Counties are the two largest counties in the South Central Judicial District. There are 6 judges chambered in Bismarck and 2 in Mandan. Over the past two years, these two counties have seen an across-the-board increase in filings for all case types. They are both high volume courts where judges spend much of their time on the bench hearing cases. Law clerks can help alleviate the judgeship shortage by doing legal research. This frees up judge time for hearing cases and writing decisions. Currently, there is only 1 law clerk to assist the 8 judges in Bismarck and Mandan. This compares to 3 law clerks in Fargo to assist 8 judges, and 2 law clerks in Minot to assist the 7 judges in the Northwest.

**Deputy Clerk of Court:** Our workload study for the clerk of court offices show a statewide shortage of deputy clerks. Our most serious shortage is in Bismarck, with a shortage of 2 deputy clerks. We are requesting 1 full-time permanent position be added to this office.

This is a front-line customer service position, as well as the primary position for data entry and case management. An adequate number of deputy clerks is essential to the court being able to operate on a day-to-day basis. This is truly the place where the rubber meets the road as far as assisting the public and ensuring that information on hearing dates, sentences, and judgments is accurate and up to date. Much of what they do is already automated. The new case management system has introduced some efficiencies, primarily in how files are stored and accessed, but it will not eliminate the need for clerks to continue to accept, review and handle case documents, update case information, and assist litigants.

**Juvenile Court Officers:** Our juvenile staffing study shows an overall staffing shortage of 7 juvenile court officers and 2 juvenile court secretaries. Cass County has a shortage of 4 juvenile court officers and 1 juvenile court secretary; Bismarck has a shortage of 3 juvenile court officers and 1 secretary.

Juvenile court officers are probation officers who work one-on-one with children who have been brought into the juvenile court system. They receive

referrals, handle informal adjustments, meet with parents and victims, monitor compliance with conditions of probation, set up shelter care hearings, and work with community agencies to ensure that services are available for educating, rehabilitating, and assisting children.

**Juvenile Court Secretaries:** Juvenile court secretaries provide receptionist and standard secretarial duties for the entire office. They also draft petitions and orders, schedule hearings, and do the data entry into the juvenile case management system necessary to record what happens in cases. Depending on the needs of the office, they may also do school attendance checks, perform some of the informal supervision monitoring, or run the digital recording system for hearings. We are requesting 2 temporary half-time secretaries, to be located in Cass and Burleigh Counties.

**Research Analyst:** The court receives substantial funding from the federal government in the form of a Court Improvement Project grant. The purpose of the Court Improvement Project is to evaluate and monitor how the court responds to child welfare cases and to develop ways to improve that response. Failure to follow federal guidelines on child welfare cases has a direct impact on the amount of federal IV-E dollars the state receives. The IV-E dollars are used by the state to reimburse counties for foster care and other out-of-home placement costs. We are

requesting 1 temporary full-time research analyst position to gather and analyze data on child welfare cases. Seventy-five percent of the salary for the position would be paid for with a federal grant and the remaining 25% would come from the general fund.

### **Family Mediation Program**

Four years ago, we began a family mediation program. The mediation program provides up to six hours of mediation services to newly divorcing parents, never-married parents, parents returning to court over parenting time and residential issues, and guardianship cases. Over the past biennium, we expanded the program from the Northeast Central and South Central Judicial Districts to all areas of the state. The program has consistently had a satisfaction rate of more than 80%. More than 50% of the cases that go through mediation result in a settlement of all issues and another 17% settle at least some issues. Another 13% of cases are settling in full within a few weeks of the mediation. This is important for two reasons: first, it brings the uncertainty of separation and the angst of a pending trial to a close. Rather than living through a year or more of uncertainty wondering what is going to happen, the parties are getting a final decision within a matter of months of filing their case. Second, the parties are reaching agreements that they have

actively participated in. They are the ones making choices, and this means they are more satisfied with the outcome of their case.

This program has extended mediation services to people in rural areas of the state and to low income people who would not have had access to it before. Mediation not only gives people a voice in their case, but it teaches them skills for how to settle disagreements that may arise in the future.

Everyone benefits when parents can agree on how to handle issues without involving lawyers or the courts.

During the coming biennium, we have requested additional funding to continue covering the entire state for the full biennium and to expand the mediation program to family and probate cases that are appealed to the Supreme Court. A drawn out court battle over mom's or dad's estate or custody of children can destroy a family forever. Mediation at this stage may lessen some of the toll caused by family members suing each other. Our initial research indicates that similar mediation programs in other states have an average settlement rate of 53%. This saves the parties time and money, but more importantly, it gives families another chance to work together to reach a solution they can all agree on.

## **Drug Courts**

We continue to provide juvenile drug courts in Bismarck, Fargo, Grand Forks, Devils Lake, Minot, and Williston. Juvenile drug courts are included in the court's budget. The cost to operate a juvenile drug court is \$65,000 per court per year. We are also operating adult drug courts in Fargo, Bismarck, Grand Forks, and Minot. Funds for adult drug courts are included in the Corrections and Human Services budgets.

Drug courts have proven successful in making permanent, positive changes in the lives of those who come before them. We are requesting your continued support of these programs. Justice Mary Muehlen Maring has been instrumental in bringing juvenile drug courts to North Dakota and nurturing their growth and success. She is present today and is available to answer any questions you may have.

## **Conclusion**

The rest of the increases in the budget are attributable to incremental increases across a wide array of operating costs which Don Wolf, our Director of Finance, will cover in his presentation, as well as the information the Committee has requested regarding our actual revenues and expenditures over the past two bienniums and our anticipated turnback.

Our budget has been prepared recognizing that we have been fortunate in North Dakota compared to financial circumstances in many other states. Our budget is a responsible budget. It represents a thoughtful, conservative approach to fund all operations within the courts of the state, assuring there will be no reduction in service delivery to the citizens in any of the 53 counties of our state. Thank you.

**House Bill 1002**  
**House Appropriations - Government Operations**  
Don Wolf, Director of Finance  
January 17, 2011

Mr. Chairman, members of the committee, good morning. For the record my name is Don Wolf, and I am the Director of Finance for the Judiciary. I will be providing you with the details regarding the judicial budget request.

<b>JUDICIAL BRANCH</b>	<b>2009-11 Biennium</b>	<b>2011-13 Biennium</b>	<b>Increase (Decrease)</b>
Total appropriation	\$84,634,822	\$86,681,547	\$2,046,725
2009-11 Biennium one-time funding items	(8,307,381)	0	8,307,381
Special funds authority	40,000	0	(40,000)
<b>Total base budget</b>	<b>\$76,367,441</b>	<b>\$86,681,547</b>	<b>\$10,314,106</b>

The total **2009-11 biennium** appropriation for the judicial branch is \$84,634,822. Pursuant to Section 6 of 2009 Senate Bill No. 2002, the 2009-11 biennium one-time funding amounts were not included as part of the base budget for the 2011-13 biennium. The 2009-11 biennium one-time items included the Odyssey case management project (\$7,258,129), management reserve relating to the Odyssey project (\$600,000), parenting coordinator program (\$52,040) and capital assets (\$397,212).

Section 2 of 2009 Senate Bill No. 2002 allows the Judicial Branch to adjust the total appropriation for any additional federal or special funds received during the biennium. Pursuant to this section, the total appropriation was increased by \$40,000 of special funds authority from an Otto Bremer grant for the Family Court Project in Grand Forks. The total 2009-11 biennium judicial branch base budget is **\$76,367,441**.

The **2011-13 biennium** Judicial Branch budget request is **\$86,681,547**, which is an increase of \$10,314,106 or 13.5 percent over the 2009-11 biennium base budget. The appropriation includes funding for the Supreme Court, District Courts and the Judicial Conduct Commission and Disciplinary Board.

Subdivision	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
Supreme Court	\$10,514,393	\$11,689,507	\$ 1,175,114
District Court	65,039,419	74,102,085	9,062,666
JCC/DB	813,629	889,955	76,326
<b>Total</b>	<b>\$76,367,441</b>	<b>\$86,681,547</b>	<b>\$10,314,106</b>

Line Item	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
Salaries and Wages	\$57,170,251	\$64,072,154	\$ 6,901,903
Operating	16,830,799	19,413,640	2,582,841
Capital Assets	0	721,980	721,980
Mediation	792,036	869,664	77,628
Judges Retirement	660,726	634,154	(26,572)
UND – Central	80,000	80,000	0
Legal Research			
Alternative Dispute Resolution	20,000	0	(20,000)
JCC/DB	813,629	889,955	76,326
<b>Total</b>	<b>\$76,367,441</b>	<b>\$86,681,547</b>	<b>\$10,314,106</b>

The budget per funding source is as follows:

	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
General fund	\$74,282,634	\$84,499,273	\$10,216,639
Special funds	354,346	325,499	(28,847)
Federal funds	<u>1,730,461</u>	<u>1,856,775</u>	<u>126,314</u>
<b>Total</b>	<b>\$76,367,441</b>	<b>\$86,681,547</b>	<b>\$10,314,106</b>

The 2011-13 biennium special funds budget includes \$325,499 of funding from the State Bar Association. Seventy-five dollars of each license issued is allocated for the attorney discipline system. The 2011-13 biennium federal funds budget includes \$1,276,057 from a federal child support grant and \$580,718 from Court Improvement Project grants. The child support funds are received as a pass-through from the Department of Human Services as a reimbursement for the time referees and clerks spend on child support cases. The federal Court Improvement Project grants provide assistance to state courts in the processing of child welfare cases.

### Salaries and Benefits

Salaries and benefits are 74% of the total judicial request. The proposed increase of \$6.9 million for salaries and wages accounts for 67 percent of the total budget request increase. Details of the increase are as follows:

- The judiciary is requesting increases of 5 percent per year for judges and justices. The cost of this increase, including retirement, is **\$1,095,141**.
- The total cost to provide employee salary and benefit increases per the executive recommendation (\$2,622,102) and cost to continue the second year of the 2009-11 biennium salary increase (\$2,297,043) is **\$4,919,145**.
- The judiciary is requesting four new FTE positions. The new positions include a law clerk and deputy clerk of court for the South Central Judicial District and two juvenile court officers. One juvenile court officer will be located in Bismarck and the second will be located in Fargo. The total funding request for these new positions is \$626,960, including **\$607,226** for salaries and benefits and \$19,734 for related operating costs.
- The budget request includes **\$219,296** for temporary salaries and \$8,700 for related operating costs for three new temporary positions. This funding would provide for two part-time temporary juvenile court secretaries and a court improvement program research analyst. Seventy-five percent of the funding for the research analyst position is funded with a federal court improvement grant with a twenty-five percent general fund match.
- The budget request for temporary salaries includes an increase of **\$92,400** for the temporary position overseeing the race and ethnicity task force. The budget increase would allow the position to go from part-time to full-time temporary. The total temporary salaries and benefits request for the position is \$114,400.

### Operating

Operating expenses are 22% of the total judicial budget request. The 2011-13 biennium operating budget is **\$19,413,640**, which is an increase **\$2,582,841** as compared to the current biennium budget. The increase in operating costs accounts for 25 percent of the total budget request increase. Details of the increase are as follows:

- **Race and ethnicity task force** – Operating costs are increased by **\$40,000** and temporary salaries by \$92,400 for the Commission to Study Racial and Ethnic Bias in the Courts. The commission is studying whether racial and ethnic bias exists within current court processes by gathering various statistical data and receiving testimonials. The Supreme Court budget request for the commission includes \$60,000 for operating fees and \$114,400 for temporary salaries.
- **Disaster recovery study** – The District Court budget includes one-time funding of **\$100,000** for an information technology disaster recovery study. The primary purpose of the study would be to develop in-depth plans for continuity of business operations in case of a disaster.
- **WAPC and WCL studies** – The District Court budget includes one-time funding of **\$300,000** to update the Work Assessment Policy Committee study to assess clerk of court staffing standards and the weighted caseload study of judicial resources and workload. These studies need to be updated to reflect variances in the way cases are counted under the new Odyssey case management system as compared to UCIS.
- **Payments to county clerks** – After surveying county auditors for salary information and applying the WAPC formula based on cases filed in each county, the amount budgeted for contract payments for clerk services increased by \$416,354. This increase reflects salary increases given to county employees from January 2008 to January 2010. Currently, 41 counties contract with the Supreme Court to provide for clerk of court services. Pursuant to North Dakota Century Code Section 27-05.2-02, county board of commissioners may elect to have their county's clerk of district court and staff to become employees of the state judicial system. The county is required to have a need for a minimum of one full-time court employee based on the WAPC formula to make the election. A total of 12 counties have made this election. No additional counties made the election for the 2011-13 biennium. Total contract payments to counties for the 2011-13 biennium will be \$3,396,492. In addition, payments to counties for travel, technology and operating costs are estimated to be \$165,132. The total budget for contract clerks is **\$3,561,624** or **\$445,909** more than the 2009-11 biennium.

- **Odyssey support and enhancements** – The proposed budget includes **\$641,920** for Odyssey maintenance support and system updates and **\$108,500** for North Dakota specific Odyssey system enhancements. The maintenance support and system updates are per the contract with Odyssey and the funding for enhancements would allow for the Judicial Branch to contract with Tyler Technologies, the company that developed Odyssey, for North Dakota specific system needs.
- **ITD technology fee** – The Information Technology Department will be changing the formula for determining the technology fee charged to the Judicial Branch. The fee is based on the number of employees and a per server charge. We are currently paying for 101 FTE positions located in the Bismarck area; however this will increase to include all 342 Judicial Branch FTE positions and 70 servers. The total increase in the technology fee is anticipated to be **\$381,660** for the biennium.
- **Miscellaneous information technology costs** – Other miscellaneous increases in information technology costs of **\$543,077** relate to fees to store servers within the Highway Department building (\$40,800), charges for fiber and T-1 lines (\$82,068), Court Improvement Project child welfare software (\$60,931), human resource software (\$16,530) and maintenance contracts and license fees (\$342,748).

### **Capital Assets**

The budget request for capital assets is **\$721,980**, of which \$27,500 is for the Supreme Court and \$694,480 is for district courts. The total request for equipment over \$5,000 of **\$187,500** includes workstations/desks (\$47,000), copy machines (\$101,500), folding machines (\$15,000) and other miscellaneous furniture and office equipment (\$24,000).

The total budget request for IT capital assets over \$5,000 is **\$534,480**. This includes evidence presentation equipment for Cass County (\$31,000), disk and server expansion to house Odyssey document images (\$292,000), server upgrades (\$40,000) and digital audio recording equipment for various district courts (\$171,480).

### **Mediation Pilot Project**

In March 2008, the North Dakota Judicial Branch began offering a new court-administered family law mediation program for civil proceedings involving custody and visitation disputes. The purpose of this program is not to divert cases out of the court, but to alleviate the emotional distress caused by the adversarial process.

The mediation program was initially piloted during the 2007-09 biennium in the South Central Judicial District and the Northeast Central Judicial District. During the 2009-11 biennium the program has been expanded statewide.

The budget request for the mediation program is **\$869,664**, which is \$77,628 more than the 2009-11 biennium appropriation for the program. The budget increase is for costs associated with continuing the program statewide during the 2011-13 biennium.

### **Judge Retirement (NDCC Chapter 27-17 Old Retirement System)**

The judges' retirement line item provides for the state's general fund portion of retirement payments to eligible retirees under the old retirement system. There are 2 remaining participants within the Supreme Court budget and 9 participants within the district court budget. The budget request for judges' retirement is **\$634,154**, of which \$140,962 is for the Supreme Court and \$493,192 is for District Court. The average age of the recipients as of December 2010 was 86.

### **Judicial Conduct Commission and Disciplinary Board (JCC/DB)**

The Judicial Conduct Commission and Disciplinary Board is responsible for investigating complaints against North Dakota judges and attorneys. Total funding of **\$889,955** is requested for the operations of JCC/DB. This is an increase of \$76,326 as compared to the current biennium. The increase is primarily due to salary increases per the governor's recommendation. No capital assets are being requested.

### **Turnback**

The 2009-11 biennium estimated general fund turnback for the Judicial Branch is \$2.1 million. The estimated turnback consists of the following:

- The total appropriation authority for the Odyssey case management system project was \$8,633,129. The Legislative Assembly appropriated \$1,375,000 during the 2007-09 biennium for preliminary planning and implementation and \$7,258,129 during the 2009-11 biennium to complete the project. After receiving authority to complete the project, the Judicial Branch moved ahead with the project. Actual project expenses incurred during the 2007-09 biennium project were \$2,500,155. The total 2007-09 biennium prepayment of project expenses of **\$1,125,155** will be turned back at the end of the 2009-11 biennium. The Odyssey project is anticipated to be completed within budget and on time.
- The 2009 Legislative Assembly appropriated \$600,000 for a management reserve or contingency fund for unexpected Odyssey project costs, per recommendation from the Information Technology Department. It is anticipated that approximately **\$575,000** of the management reserve will be turned back.
- The remaining **\$400,000** turnback relates to savings from vacant positions and general operations, which accounts for only 0.5 percent of the total 2009-11 biennium general fund appropriation.

### Conclusion

In conclusion, I would be happy to answer any questions.

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Judicial Salaries - 10 State Comparison

State	District Judges General Jurisdiction	Presiding Judges General Jurisdiction	Supreme Court Justices	Supreme Court Chief Justice
Montana	\$106,870	\$106,870	\$113,964	\$115,160
South Dakota	\$110,377	\$112,377	\$118,173	\$120,173
Wyoming	\$125,200	\$125,200	\$131,500	\$131,500
Kansas	\$120,037	\$121,254	\$135,905	\$139,310
Missouri	\$120,484	\$120,484	\$137,034	\$139,534
Colorado	\$128,598	\$128,598	\$139,660	\$142,708
Nebraska	\$132,053	\$132,053	\$142,760	\$142,760
Oklahoma	\$124,373	\$124,373	\$137,655	\$147,000
Minnesota	\$129,124	\$135,580	\$145,981	\$160,579
Iowa	\$137,700	\$142,800	\$163,200	\$170,850
<b>10-state Average</b>	<b>\$123,482</b>	<b>\$124,959</b>	<b>\$136,583</b>	<b>\$140,957</b>
<b>10-State Median</b>	<b>\$124,787</b>	<b>\$124,787</b>	<b>\$136,780</b>	<b>\$141,121</b>
<b>North Dakota 07/01/2010</b>	<b>\$119,330</b>	<b>\$122,777</b>	<b>\$130,228</b>	<b>\$133,968</b>
% below 10-State Average	3.5%	1.8%	4.9%	5.2%
% below 10 State Median	4.6%	1.6%	5.0%	5.3%
\$\$ to Average (yearly salary)	\$4,152	\$2,182	\$6,355	\$6,989
\$\$ to Median (yearly salary)	\$5,457	\$2,010	\$6,552	\$7,153

States currently above North Dakota Salaries:

Kansas	Oklahoma	Wyoming	Kansas
Missouri	Wyoming	Kansas	Colorado
Oklahoma	Colorado	Missouri	Nebraska
Wyoming	Nebraska	Oklahoma	Oklahoma
Colorado	Minnesota	Colorado	Minnesota
Minnesota	Iowa	Nebraska	Iowa
Nebraska		Minnesota	
Iowa		Iowa	

States currently below North Dakota Salaries:

Montana	Montana	Montana	Montana
South Dakota	South Dakota	South Dakota	South Dakota
	Missouri		Wyoming
	Kansas		

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2010

# Interim Report of the Commission to Study Racial and Ethnic Bias in the Courts

## Report Summary

This Summary contains an outline of the Interim Report of the Commission to Study Racial and Ethnic Bias in the Courts with page references to the full Interim Report explaining Commission activities.

12/16/2010



# OUTLINE

## **Introduction .....1**

- Since the 1980's most states have created bodies to study the issue of racial and ethnic bias in state courts.
- The Commission was formed in late 2009 following the Chief Justice's approval of a Resolution on October 10, 2009 and has held bi-monthly meetings since 4 March, 2010.
- The Commission created Committees to address certain tasks: Meetings, Research, Criminal Justice, and Civil Justice.
- Discussion included in this report does not contain conclusions of the Commission, but only indicates the initial direction of ongoing study.

## **Studying Racial and Ethnic Bias in Courts .....4**

- Many state and national studies have shown that members of the public perceive that racial bias exists in state courts, with greater proportions of minorities tending to perceive bias more strongly.
- Bias tends to be subtle, yet pervasive, and implicit bias may play a large role, but evidence exists that courts can take steps to mitigate the effects of implicit bias.
- The subtle nature of racial and ethnic bias makes it naturally difficult to study. Other states have encountered problems in systematic data collection and difficulty gathering public testimony about experiences with bias.
- The Commission is following previous states by combining statistical analysis with individual testimony regarding experiences in the court system, approaching the problem from multiple angles with the intention of generating an overview despite inherent difficulties.

## **Committee Activities.....6**

### ***Meetings Committee .....6***

- The Meetings Committee concentrated on planning and executing public listening sessions designed to allow public testimony regarding racial and ethnic bias in the courts.
- Meetings have been held in Fargo, in Bismarck during the 2010 Annual Tribal Leaders Summit, and at all of the Tribal Colleges, including: United Tribes Technical College in Bismarck, Fort Berthold Community College, Sitting Bull College at Fort Yates, Turtle Mountain Community College, and Cankdeska Cikana Community College at Spirit Lake.
- Public attendance has grown as more people have been informed of the Commission's activities and additional methods for sharing testimony, such as one-on-one interviews and means for giving written testimony have been provided.
- Meetings have produced useful experiential data similar to that found in other state reports.
- Future meetings are planned for Spring 2011 at North Dakota State University in Fargo, University of North Dakota in Grand Forks, Minot State and in the Williston/ Trenton Service Area.

### ***Research Committee .....7***

- The Research Committee was created to design original instruments for data collection and analyze data gathered through those instruments and other data collection methods.

- The Committee has designed and implemented a two-part jury survey looking at jury pools and jury panels.
- The Committee has designed and implemented a perceptions survey that supplemented testimony from public meetings.
- An attorney survey and court employee survey, measuring demographics and perceptions, are currently being developed for implementation in 2011.
- Following other state studies, the Research Committee is currently working with the University of North Dakota Bureau of Government Affairs to create and implement a ‘court user survey’ to gather perceptions and other data from defendants that have gone through the system.
- Future activities will include study design for areas of the court system lacking systematic data tracking.

***Criminal Justice Committee* .....8**

- The Criminal Justice Committee has concentrated on gathering available statistics from the Department of Corrections and the North Dakota Association of Counties.
- Analysis of arrests thus far has utilized Unified Crime Reports data, but the Committee plans to get more detailed state-level data in order to facilitate a greater range of comparisons.
- Members of the Criminal Justice Committee have contributed to development of the ‘court user survey’ in association with the University of North Dakota and the Research Committee and will further aid in sampling and implementing for the project.
- The Committee will work with the Research Committee to design strategies and instruments to gather county-level data within its subject area where such data is absent or incomplete.
- The Committee is awaiting information from a court watch program run by Domestic Violence Advocates from the North Dakota Council on Abused Women, providing observations and experiences relating to racial and ethnic bias in the courtroom.

***Civil Justice Committee* .....10**

- The subject of minority use of the civil courts is particularly difficult to reach in studies because of limited contact between courts and parties.
- The Civil Committee has focused on studying disproportionate minority use of Legal Services of North Dakota, including applications, geographic trends, and related factors.
- Members of the Civil Committee facilitated the inclusion of a race question on the State Bar of North Dakota (SBAND) Survey to ascertain minority representation within the Bar and to allow analysis of job level, area of practice, age, and any other trends in the Bar, by race.
- The Civil Committee will continue to study issues such as disproportionate use of self-representation, unbundling of legal services, differences in civil court outcomes, and poverty issues related to court use.

**Commission Study Areas .....11**

***Access to Courts* .....11**

- Analysis in this area concentrates on potential disparities between minority and majority participation in the court system, including differences in ability to participate and understand court proceedings.
- Disproportion could be caused by direct systematic bias or indirectly, through policies that appear facially neutral.
- The two-part North Dakota Jury Survey has been completed, but is still undergoing analysis. The survey has returned 4079 Jury Pool Surveys and 213 Jury Panel Surveys, each from about a dozen North Dakota Counties. (12)

- Preliminary data from jury samples shows under representation of some minority groups at the jury pool stage, though Asians appear proportional and Multi-racial individuals are slightly higher when compared to numbers in the general population.
- The Jury Panel Survey found greater representation of Native Americans (7.2%) on jury panels than the group's proportion in the general population (about 5.5%), but other minority groups appeared under represented. (12)
- Analysis will continue for data from both parts of this survey.
- North Dakota has an interpreter policy in place and provides guidelines and some resources, but experiential evidence suggests that courts do not always follow the policy to ensure interpreter services. Testimony also suggests that some law firms may not be properly equipped to handle limited-English speakers. (14)
- Because of such evidence, the Commission will continue to study the areas of interpreters and juries.

*Criminal Justice* .....15

- Vastly disproportionate arrest and incarceration statistics have been perceived as evidence of bias against minorities on the part of law enforcement and courts on both a national and state levels.
- North Dakota is somewhat rare in that its largest minority population consists of Native Americans. National studies regarding Native American populations show certain distinct issues may be present with Native American groups that are not present in other minority groups. (15)
- Preliminary Unified Crime Reports Arrest Data shows that minorities are vastly over represented in arrests compared to their proportion in North Dakota's general population. (16)
- Public testimony has shown a perception of disproportionate police stops and arrest rates for minorities.
- Preliminary corrections data shows a general over representation of incarceration rates for minority groups, with Asians being the only group under represented, and public comments have voiced a similar perception. (19)
- The Committee is currently working with the Department of Corrections to gather more detailed data.
- Statistical data will be complemented with experiential information from the 'court user survey'.
- Preliminary 2008 figures in the area of juvenile justice show considerable disparities by race in the areas of arrests and detention, as well as disparities in commitment for certain minority groups. (20)
- Most activity for minority groups in the juvenile system comes from Burleigh, Cass and Grand Forks counties, and of these Burleigh has completed a study concentrating on Native American Youth. A similar study is in progress for Cass County and will be available for the Commission's final report.

*Civil Justice* .....22

- There appears to be a substantial correlation between minority status and poverty in North Dakota.
- The rate of minority use of Legal Services of North Dakota shows a substantially disproportionate use of these services by members of minority groups, and total minority application over an extended period of time also appears disproportionate. (22)
- The majority of applications come from five counties where Legal Services of North Dakota offices are physically located. (23)
- The Civil Justice Committee has studied unbundling of legal services as it relates to its impact on minorities using the judicial system and will continue to study the issue. (24)
- The Committee has received a number of comments and written statements regarding minority use of self-representation, but the area requires further study and will be described in the final report.

***Court Personnel*.....24**

- The Commission studied Court Personnel data as a whole - no committee was created to cover it.
- Employee data was provided by the Court Administrator’s office. (25)
- Data shows every employment category at least 98% white.
- Testimony has pointed to the need for diversity in courtrooms, especially with regards to court employees.
- Further study in this area will concentrate on hiring, retention, and promotion within the court system and will also incorporate perceptual data from the Court Employees survey.

***Legal Profession* .....26**

- Perception questions regarding lawyers were included on previous surveys and a forthcoming attorney survey will also attempt to gather more detailed perceptions from the Bar.
- Addition of a race question on the SBAND Survey was intended to provide data to analyze trends within the rest of the survey by race, but there were so few minority responses that data cannot be generalized. (27)
- At least a few minorities are active in every professional category indicated on the survey.
- General public perception, including the perceptions of some within the legal community who shared testimony, combined with the low survey response rate, might indicate a very low number of minority attorneys practicing in North Dakota.
- The law school appears to graduate minorities in numbers somewhat proportional to minority numbers in the general population. (28)
- If initial perceptions and information are accurate, minority law students appear to choose not to join the North Dakota Bar.
- The Commission will include a more thorough examination of this area in its final report, including analysis of Bar exam participation and Bar passage rates for North Dakota by race.

***Public Perception* .....29**

- Previous surveys on perceptions of the court system appear to have under represented minorities.
- The Commission’s perceptions survey, though not scientific, appears at least to indicate that minority opinion differs substantially from previous survey results. (31)
- Public testimony indicates negative minority opinions are more widespread than in the general population. (34)

***Conclusions* .....34**

- Minority population in North Dakota is growing quickly and substantially.
- There has been considerable positive feedback from members of minority groups for the Commission’s efforts.
- The Commission intends to continue studying multiple levels of the court system, working to a greater level of detail in all areas, in order to complete a final report containing its findings and recommendations.

2010

# Interim Report of the Commission to Study Racial and Ethnic Bias in the Courts

## A Report on Commission Activities and Preliminary Overview

This Interim Report discusses activities of the Commission to Study Racial and Ethnic Bias in the Courts that are in progress, completed, and planned. The Report also discusses some of the preliminary, broad-level data on potential areas of bias in North Dakota Courts, providing a rough overview of the areas being examined by the Commission.



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## INTRODUCTION

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Many U.S. states have recognized the necessity of ensuring that state judicial systems operate in a manner free from racial or ethnic bias in order to ensure equal and effective court services to all citizens. Starting in the 1980's, a majority of states have researched and published reports regarding racial and ethnic bias in the courts in efforts to identify and remedy areas containing disparity.<sup>1</sup> Reports have dealt with subjects such as: perceived and actual bias in court procedures, statistical disparities throughout multiple levels of the system, hiring practices in the legal community and government, and treatment of minority citizens who have contact with the court system. Final recommendations from these reports were generally designed to ensure:

- A level of minority representation within the state bar, judiciary, law schools, court officials, and the rest of the judicial workforce comparable to the minority population of the state;
- Fair and unbiased treatment of minority individuals by representatives of the judicial system, including judges, attorneys, court staff, and others in court;
- The availability of court interpreters or other sufficient means of communication for those individuals with limited English proficiency; and
- Systemic improvements to reduce racial and ethnic disparities in criminal and civil cases, including improvements in the development of jury source lists, jury selection procedures, juvenile cases, and family law.
- A public perception that the courts are fair to racial and ethnic minorities

The North Dakota Commission to Study Racial and Ethnic Bias in the Courts ('Commission') began its study to ascertain whether the State court system successfully meets the needs of minority populations in late 2009, after the Legislature appropriated funds requested for the project.<sup>2</sup> The Commission was tasked with a similar charge as previous states, to examine actual and perceived racial and ethnic bias with the goal of recommending remedies for actual bias. The Commission held its first meeting on December 11, 2009.

Commission members include a multicultural group of academics, attorneys, administrators, judges and leaders from across the state, including many minority communities within North Dakota. Supreme Court Justice Carol Ronning Kapsner and District Judge Donovan Foughty serve as Co-Chairs for the Commission. Chief Justice Gerald W. VandeWalle approved the following resolution to create the Commission and outline its purpose.

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<sup>1</sup> A full list of published reports available at [http://www.ncsconline.org/Projects\\_Initiatives/REFI/SearchState.asp](http://www.ncsconline.org/Projects_Initiatives/REFI/SearchState.asp).

<sup>2</sup> North Dakota Court System, *2009 Annual Report*, 5, available at [www.ndcourts.gov/court/News/ndcourtsar2009.pdf](http://www.ndcourts.gov/court/News/ndcourtsar2009.pdf).

**RESOLUTION  
FOR A  
COMMISSION TO STUDY RACIAL AND ETHNIC BIAS IN THE COURTS**

**WHEREAS**, equal access to the judicial process and impartial resolution of disputes in accordance with governing law are critical components of securing and maintaining public trust and confidence in North Dakota's judicial system;

**WHEREAS**, North Dakota's judicial system must ensure that the rule of law is applied fairly and equally to all who seek redress in the courts and must ensure that the system and its procedures and processes are administered to ensure equality of treatment, free of any racial or ethnic bias, for all persons; and

**WHEREAS**, bias based on race or ethnicity strikes at the heart of a judicial system that promises fairness and impartiality.

**THEREFORE**, the North Dakota Commission to Study Racial and Ethnic Bias in the Courts is hereby established. The Commission consists of members appointed by the Chief Justice, with the concurrence of the other Justices of the Supreme Court. The Commission has the following responsibilities:

1. Identify areas in the judicial system in which there is a perception of unfairness based on race, ethnicity, or minority status;
2. If perceptions of unfairness are discovered, consider whether processes, procedures, or attitudes within the judicial system contribute to the creation and perpetuation of such perceptions;
3. Review judicial system processes, procedures, rules, and policies to determine whether their operation or application may contribute to an actual or perceived bias based on race, ethnicity, or minority status;
4. Gather and review information concerning the courtroom treatment of litigants, witnesses, and attorneys to determine whether there is disparate treatment based on race, ethnicity, or minority status;
5. To the extent possible, review various case types to determine whether race, ethnicity, or minority status was a factor in the disposition of cases;
6. Review hiring and general employment practices to determine whether the judicial system is viewed as a welcoming environment for minority applicants; and
7. Through public meetings, surveys, focus group discussions, and any other data collection efforts identified by the Commission, gather and analyze information related to the identified responsibilities.

Based on information gathered and assessed by the Commission, the Commission shall submit a report identifying any issues discovered regarding the fairness of the judicial system with respect to race, ethnicity, or minority status.

Based on its findings, the Commission shall make recommendations to the Chief Justice and Supreme Court regarding actions to be taken to ensure the North Dakota judicial system fulfills its institutional responsibility to provide the fair, equitable, and impartial resolution of disputes without regard to race, ethnicity, or minority status.

October 30, 2009

Date

/s/ Gerald W. VandeWalle

Gerald W. VandeWalle, Chief Justice

The Commission has run regular, bi-monthly meetings since December 11, 2009, and, after several months of preparation, discussion, and development, has begun to implement studies, some currently ongoing, to shed light on the question of whether racial and ethnic bias is perceived or exists within the State court system and how to remedy any bias found.

Realizing the broad and complex task before it, the Commission created several committees at the March 4, 2010 meeting to work in coordination while dividing a number of the Commission's study areas in a manageable manner. The Commission divided its wide study area and tasked some of the committees with overseeing data collection and analysis within each subject area. Such division was intended to facilitate easier data collection and development of analytical frameworks. Committees have since met on an ad hoc basis, depending on current and upcoming projects and priorities set within the regular meetings. Committees were divided as follows:

- Meetings
- Research
- Criminal Justice
- Civil Justice

The Commission contributed as a whole to study in areas lacking a specific committee, including access to courts, court employment, and minority representation within the North Dakota Bar. Members also reviewed more than 20 other state reports to gain useful information regarding successful study methods, general trends in bias found among states, and models for potential recommendations.

The majority of the Commission's data gathering and study design has been accomplished through the Research Committee. The Research Committee also worked in conjunction with other committees, providing study design, instrument design, and data analysis. The Commission created the Meetings Committee to oversee public meetings held throughout the state to gather perceptual data from members of minority groups and to help advertise upcoming meetings. The Criminal Justice and Civil Justice Committees have overseen data gathering in each respective area. Because of the wide availability of data in its study area, the Criminal Justice Committee has concentrated primarily on gathering and reporting data already available from multiple sources.

The following report provides initial, broad level data and potential areas of bias within the North Dakota court system, as well as ongoing and planned Commission activities in these areas. The report will first suggest general issues related to studying racial and ethnic bias in the courts. This discussion will also describe methods other states undertook that acted as models for the Commission's study and provided examples for the Commission's final goal of producing a report that includes both experiential and statistical data. The following section will outline the committees in more detail, describing activities and studies planned, in progress, and completed by each. The report will then describe the broader study areas the Commission is examining, and provide broad-level data to illustrate potential areas of bias. These sections will also describe future areas that the Commission may examine, goals and current study plans within each area, and work accomplished to date. Discussion included in this report does not contain firm conclusions of the Commission, but only indicates the initial direction of ongoing study.

## STUDYING RACIAL AND ETHNIC BIAS IN COURTS

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This section outlines issues related to studying racial and ethnic bias in the courts and describes some methods undertaken by other states that the Commission has used as models for its study. Other state activities also provided examples for the Commission's task of producing a report that includes both experiential and statistical data.

State and national studies have shown that members of the public, especially African Americans and members of other minority groups, tend to perceive that a racial bias exists in state courts to a greater degree than whites.<sup>3</sup> Many previous state reports and scholarly studies have acknowledged that racial and ethnic bias in courts tends to occur not overtly, but in a pervasive yet subtle manner.<sup>4</sup> Overt bias is generally noticeable, attributable and correctable, so strong incentives exist tending to dissuade individuals with that particular inclination from expressing it in a blatant manner, but other, more subtle forms of bias make it difficult to isolate and root out.<sup>5</sup>

One component contributing to difficulty in detecting bias lies with the phenomenon of widespread implicit bias.<sup>6</sup> Scholars have described this kind of bias as an inclination or preference for one race over another that is rooted in persistent cultural stereotypes learned in youth and usually continuing throughout the rest of life.<sup>7</sup> Having absorbed a cultural stereotype, individuals generally lack conscious awareness of the bias and of the intent to engage in biased behavior.<sup>8</sup> However, limited evidence suggests that implicit bias may be consciously addressed and mitigated with knowledge that a proclivity toward certain biased judgments exists.<sup>9</sup> Evidence also exists showing that altering environmental factors may lower implicit bias against members of minority groups.<sup>10</sup> According to this evidence, increasing diversity in the workplace provides employees with experiences that run contrary to prevalent racial stereotypes, allowing them a greater range of mental references and considerations than reliance on stereotypes.<sup>11</sup> In the interest of providing justice for members of every race, states have suggested that those working within the court systems must find and address any issues of bias, including implicit bias, to ensure fair treatment of all people having contact with those systems.

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<sup>3</sup> National Center for State Courts, *How the Public Views the State Courts, A 1999 National Survey*, 13, 29-30, 37-39, available at [www.flcourts.org/gen\\_public/family/diversity/bin/publicop\\_natl.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/publicop_natl.pdf) (Showing substantial perceptual differences of State court treatment of minorities that varied according to respondents' own minority status); Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, 2003; Report of the Alaska Supreme Court Advisory Committee on Fairness and Access, 1997, 49; Minnesota Supreme Court Task Force On Racial Bias in the Judicial System, Final Report, 1993; but see Hinderaker, John H. & Scott W. Johnson, *Is Minnesota's Judicial System Really Guilty of Racism?*, *American Experiment Quarterly* (Fall, 2001) (Presenting an alternate view of the Minnesota study calling popular perceptions regarding racial bias into question).

<sup>4</sup> Final Report of the Penn. Sup. Ct., 2003, 14; Minn., Final Report, 1993, S-2-3, 1, 3; Greenwald, Anthony G. & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 Cal. Law Rev., 945, 965-67 (2006).

<sup>5</sup> Greenwald & Krieger, 94 Cal. L. Rev., 945, 961, 965-67 (Suggesting that implicit attitudinal biases influence non-deliberate or spontaneous discriminatory behaviors).

<sup>6</sup> Greenwald & Krieger, 94 Cal. Law Rev., 945; Levinson, Justin D., *Forgotten Racial Equality: Implicit Bias, Decisionmaking, and Misremembering*, 57 Duke L. Journal, 346 (2007).

<sup>7</sup> Levinson, 57 Duke L. Journal, 346, 363; citing Page, Anthony, *Batson's Blind-Spot: Unconscious Stereotyping and the Peremptory Challenge*, 85 B.U.L. Rev. 155, 193-98 (2005); Wilson, Timothy D., et al., *A Model of Dual Attitudes*, 107 Psychol. Rev. 101, 103-104 (2000).

<sup>8</sup> Levinson, 57 Duke L. Journal, 354-55.

<sup>9</sup> Rachlinski, Johnson & Guthrie Wistrich, *Does Unconscious Racial Bias Affect Trial Judges?*, 84 Notre Dame L. Rev., 1195, 1223-26 (2009).

<sup>10</sup> Jolls, Christine & Cass R. Sunstein, *The Law of Implicit Bias*, Harvard Law School John M. Olin Center for Law, Economics and Business Discussion Paper Series, Discussion Paper 552, 18-20 (2006), available at [http://lsr.nellco.org/harvard\\_olin/552](http://lsr.nellco.org/harvard_olin/552).

<sup>11</sup> *Id.*, 18-20.

Previous Commissions in other States have faced difficulties studying racial bias in court systems, including inadequate systematic data collection or lack of public participation in listening sessions. States have sought to remedy such difficulties by approaching the subject from two ends, utilizing two different methods. The first end looks at statistical disparities in arrests, jury composition, incarceration, and other areas of the system while acknowledging that statistics do not necessarily prove the existence of racial and ethnic bias within state court systems to the exclusion of other possible causes of disparity that happen to correlate with race.<sup>12</sup> Most states have encountered at least some difficulty tracking statistical data at certain levels of the system, usually counties that either failed to keep racial and ethnic data or categorized it differently.<sup>13</sup> Many states have sought to remedy these blind areas by running original studies and data gathering projects and other original studies.

At the other end of analysis, states have attempted to collect and record public perceptions of bias within the system, especially minority perceptions, through methods that have included public meetings or listening sessions, surveys, focus groups and providing the public with contact information for the submission of anonymous, written testimony.<sup>14</sup> Though success in such efforts has varied from state to state, the detailed accounts from members of the public have proved instructive, providing the perspective of those individuals who have directly experienced bias and suggesting potential areas of study. But States have recognized that individual anecdotes and experiences, taken alone, are insufficient to prove systematic racial and ethnic bias in courts, especially in cases when few members of minority groups are willing to share experiences and perceptions with researchers.

To help overcome inherent obstacles in each of the two methods, most states have attempted to combine them to provide experiential evidence gathered from the public supported by statistical information from every level of the system. Taken together, these two ends may allow at least some conclusions regarding the existence and extent of racial and ethnic bias in the courts. The North Dakota Commission to Study Racial and Ethnic Bias in Courts is following this two-pronged approach, collecting both experiences from the public and statistical data to generate a fuller picture of potential areas of bias in the system.

On the statistical side, the Commission is gathering general population data from the 2000 Census, subsequent data estimates from the Census Bureau and the North Dakota State Data Center,<sup>15</sup> and data from North Dakota KidsCount<sup>16</sup> to provide a basis for finding and analyzing disparities within the system. The final report will utilize data from the 2010 Census, due to be released beginning in December, 2010.<sup>17</sup> Accurate population data provides an important baseline to compare representation of minority groups within various stages of the court process with each group's representation in North Dakota's general population.<sup>18</sup> This kind of comparison supplements the analysis of relative rates, which compares a particular group within a sub-population to other groups within the same sub-population to determine over or under representation.<sup>19</sup> Both of these methods

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<sup>12</sup> This is an especially important consideration for a state like North Dakota, which, though it has a substantial and growing minority population, still deals substantially in very small numbers of people, limiting the usefulness of statistical analysis. North Dakota State Data Center, *Population by Race and Hispanic Origin in North Dakota: Census 2000 and July 1, 2008 Estimates*, Population Bulletin, Vol. 25, No. 10 (2009).

<sup>13</sup> Final Report of the Penn. Sup. Ct., 2003, 169; The Nebraska Minority and Justice Task Force, Final Report, 2003, 35; Minn. Final Report, 1993, 10.

<sup>14</sup> Nebraska, Final Report, 2003, 1-10; Final Report of the Penn. Sup. Ct., 2003, 12-13; Report of the Alaska Sup. Ct., 1997, 11; Minn., Final Report, 1993, Appendix A.

<sup>15</sup> <http://www.ndsu.edu/sdc/>.

<sup>16</sup> <http://www.ndkidscount.org/>.

<sup>17</sup> <http://www.census.gov/population/www/cen2010/glance/index.html>.

<sup>18</sup> For example, if there are X number of Y race in the general population, one would also expect to find close to X number of Y race in the prison population, with all other factors being equal.

<sup>19</sup> In looking at the subgroup 'prisoners incarcerated in X prison,' for instance, the number of prisoners of each race would be compared to the total number of prisoners in X prison rather than the outside population.

complement each other to provide a statistical picture of racial and ethnic disparity within various areas of the system, though, as noted above, a statistical picture, without more, does not explain causes of disparity. Different groups of the population may show disparate rates because of complex social and individual factors manifesting themselves within the court system but originating elsewhere.

## COMMITTEE ACTIVITIES

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To address different Commission tasks and areas of study, the Commission created four committees. This section describes committee activities in detail and studies planned, in progress, and completed by each. All four committees have worked on various tasks simultaneously, some concentrating primarily on data gathering and others developing or implementing study instruments. Work accomplished by the four committees will continue to constitute the heart of the Commission's study and will ultimately facilitate the Commission's conclusions and recommendations in its final report.

- **MEETINGS COMMITTEE**

One important element of the final report will be experiential testimony gathered from individuals who have experienced or observed racial and ethnic bias in the North Dakota State Court System. Information from experiential testimony has already helped the Commission direct its efforts and determine how much focus to place on certain areas of study. If multiple individual experiences consistently point to certain problematic areas, those areas demand closer analysis. To help gather testimony, the Commission created the Meetings Committee to run a series of public listening sessions. These meetings were designed to gather input directly from members of minority communities. Members of the Meetings Committee include: Mike Swallow, El Marie Conklin, Scott Davis, Sinisa Milovanovic.

The first public meetings were held in Fargo on June 22<sup>nd</sup> and 23<sup>rd</sup>, 2010. Another public meeting was held Sept. 10<sup>th</sup> at the Bismarck Civic Center during the 2010 Annual Tribal Leaders Summit. In addition to these first two meetings, panels of Commission members also traveled to Tribal Colleges throughout the state to attempt to solicit opinions, experiences and recommendations regarding the North Dakota State Courts. The Commission held meetings at United Tribes Technical College in Bismarck, Fort Berthold Community College, Sitting Bull College at Fort Yates, Turtle Mountain Community College, and Cankdeska Cikana Community College at Spirit Lake.

Despite considerable advertising efforts for these listening sessions, public reluctance to testify remains an obstacle for the Commission, though willingness appears to have grown over time, the later meetings providing more testimony and a greater amount of data for examination. To compensate for the initial public reticence, the Commission modified its methods of information gathering to encourage more sharing of information by allowing panel members to take testimony on an individual basis and by expanding efforts to gather written testimony and recommendations through materials and contact information made available at the meeting locations. Several open-ended questions included on a survey distributed at meeting locations have been successful in supplementing data by gathering opinions of many individuals who were unwilling to share experiences with the Commission in person. These initial meetings have been a learning experience for the Commission, but have gathered a steady amount of useful information while helping inform the public about the Commission's activities.

The Commission intends to continue public meetings in the spring with appropriate changes in response to results and comments received thus far, hoping for greater public participation as contacts and public awareness grow within minority communities. The next round of meetings will take place at locations throughout the state, including: North Dakota State University in Fargo, University of North Dakota in Grand Forks, Minot State University and in the Williston/ Trenton Service Area. The Commission is also considering running additional meetings on the reservations to take advantage of the greater public awareness that has been generated from the first round of meetings at the Tribal Colleges.

- **RESEARCH COMMITTEE**

The primary tasks of the Research Committee are creating original instruments for data collection and analyzing data gathered through those instruments or collected through other means. Members of this Committee include Mike Nason, Keith Richotte, Rod Olson, Judge Sonna Anderson, and Sandi Tabor.

The Research Committee has already designed and implemented a survey project studying potential bias on juries and a second study on minority perceptions of the court system to supplement information from the Commission's public meetings. The two-part jury survey was designed to capture representation of minorities in jury pools and on jury panels, and also to gather experiential information from those individuals empanelled on juries. The Jury Qualification Survey was distributed along with the Jury Qualification Form and consisted of a single question asking for individuals to identify their race. The Commission distributed both parts of this survey state-wide. Further stages in the jury research project are discussed on pages 12-13.

Members of the Research Committee initially designed a perception survey to supplement general perception data with the intention of in-person distribution at the 2011 United Tribes Pow wow in Bismarck. Unfortunately, time constraints prevented implementation of a 2010 test. The survey was instead edited and expanded to supplement testimony at public meetings taking place at the Tribal Colleges with considerable success in drawing comments from individuals uncomfortable testifying and from others present near the meeting locations but not attending the meetings themselves. The survey asked a number of general questions regarding trust in public institutions and court perceptions using a scaled response, included demographic questions inquiring about race and ethnicity, and asked several open-ended questions to elicit perceptions and general experiences of the State court system. The results of this survey, directed specifically at Native Americans, North Dakota's largest minority group, and combined with perceptions gathered from public testimony, may be compared to past data from other studies, such as those run by the North Dakota Committee on Public Trust and Confidence in the Courts or the National Center for State Courts,<sup>20</sup> to suggest whether North Dakota Native American opinions differ significantly from the North Dakota majority or national trends, and whether such opinion should be further and more thoroughly studied.<sup>21</sup>

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<sup>20</sup> National Center for State Courts, 1999. The North Dakota Committee on Public Trust and Confidence in the Courts Survey results are available at <http://www.court.state.nd.us/court/committees/Trust/committee.asp>.

<sup>21</sup> One intention of this survey was to see how the opinions of members of Native American groups' might differ from the conclusions reached in the North Dakota Committee on Public Trust and Confidence in the Courts survey, which generally under represented minorities. Staff, with the assistance of Samantha Miller, distributed these surveys primarily to individuals not in attendance at the public meetings, so the sample went beyond those individuals who might have had a vested interest in showing bias within the system on the survey. Attendees who filled out the survey in addition to speaking were a minority in the sample.

The Research Committee is currently designing several surveys to assess general perceptions of bias in the courts to be distributed among the North Dakota Bar, court employees, and court users. The court personnel and attorney surveys are being designed to ascertain the participants' perceptions of bias in hiring, daily courtroom activities, and other areas. These instruments will collect data from people who deal within the system regularly and are situated to observe continuing patterns and practices that may result in racial and ethnic bias. Previous State reports have tended to rely heavily on court employee perceptions to generate information, since these individuals have a long-term view of processes that is unlikely to be captured by studying individuals without comparable experience.<sup>22</sup>

The court user study is being developed in conjunction with the Criminal Justice Committee with the intention of implementing the instrument in the spring of 2011 with the aid of the University of North Dakota Bureau of Government Affairs (UNDBGA).<sup>23</sup> To date, UNDBGA has reviewed several survey drafts and will provide further support using statistical tools for analysis of the results gathered from the survey. The user study will concentrate on gathering perceptions and other data from individual defendants that have gone through the system and have unique perspectives regarding real or potential points of racial and ethnic bias within the process. Similar user studies have been implemented to gather perception data in other states that have already issued reports.<sup>24</sup>

Future Research Committee activities will include focus on designing instruments to gather statistical data from the state system in areas that do not currently track data relevant to the Commission's study, such as detention rates within county jails or use of peremptory challenges. These instruments will allow the Commission to look for disparate treatment at many levels and within multiple processes.

- **CRIMINAL JUSTICE COMMITTEE**

The Commission grouped criminal and juvenile justice issues into one study area, overseen by the Criminal Justice Committee. This area covered all issues pertaining to criminal justice concerns within the state justice system, both adult and juvenile, and focused heavily on data gathering over multiple steps of the criminal process.

The Criminal Justice Committee took advantage of members' knowledge of the system to pinpoint potential areas for further study. Members possessed a great deal of knowledge regarding existing data collection, allowing for wide access to existing measures of statistics and trends. Members of the Criminal Justice Committee include: Judge William McLees, Leann Bertsch, Robin Huseby, Tom Trenbeath, Troy Morley, and Lisa Jahner. The Criminal Justice committee was designed to consider a wide variety of topics, such as:

- Racial disparity within the court system and as a function of initial disparities in arrests
- Racial disparity in incarceration, after having been through the system
- Disproportionate representation and program use throughout juvenile corrections
- Bond issues and reservations
- Jail issues, especially pre-sentence detention
- Disparate sentences by race for same crimes

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<sup>22</sup> National Center for State Courts, *Establishing and Operating a Task Force or Commission on Racial and Ethnic Bias*, 42 (1995) (Providing a table of surveys given by other states to various groups).

<sup>23</sup> <http://business.und.edu/bga/>.

<sup>24</sup> Report of the Alaska Sup. Ct., 1997, Appendix B-1; Minn., Final Report, 1993, Appendix C.

- Different likelihoods of guilty pleas depending on race

Useful data covering these and other topics within the criminal and juvenile study area is often available through previously implemented data programs which are extensive in reach, especially programs that track corrections and juvenile justice data. Because of this advantage, the Committee's primary activities have been in the area of detailed statistical data gathering. Incarceration data is being gathered using North Dakota Department of Corrections (DOCR) data tracking tools to obtain objective information on the proportions and rates of incarceration for several minority groups as compared to the white majority. Likewise, the North Dakota Association of Counties is gathering juvenile justice data, including relative rates by race, normally tracked pursuant to the federal Juvenile Justice and Delinquency Prevention (JJDP) Act.<sup>25</sup>

It is also important for the Commission to gain an understanding of disparities occurring at the arrest level, since these initial disparities may be carried through the rest of the criminal process. Arrest data for this report relies primarily on the Unified Crime Reports (UCR) for preliminary, general level data, but the Criminal Committee is currently investigating the possibility of gathering more detailed data from state level tracking systems such as the Criminal Justice Information System (CJIS). Looking at raw data on this level will allow for a greater range of comparisons than simply looking at national data that has already been broken down according to predefined categories.

The Committee will also participate in developing strategies and instruments to gather county-level data at various stages in the judicial process across the state. County level data, such as information on pretrial detention in jails, tends to be kept in an unsystematic manner, and may be tracked differently depending on each county. Members of the Criminal Committee have proposed developing a several month survey targeting this difficult area. Once developed, this survey would act as a model for future instruments developed to study other subjects in areas with unsystematic data collection.

The Criminal Justice Committee has already contributed in the development of the survey instrument designed in cooperation with the Research Committee and the UNDBGA to gather perception data among court system users. The Committee will consider sampling methods for the implementation of this survey throughout the prison population, and it will distribute the instrument accordingly.

To help gather perception data, the Criminal Committee has been working with the Domestic Violence Advocates from the North Dakota Council on Abused Women Services (NDCAWS)<sup>26</sup> to obtain information from a long-term court observer program the organization ran until 2006. NDCAWS has agreed to provide access to recorded observations and experiences from the Domestic Violence Advocates relating to racial and ethnic bias in the courtroom. This data is currently undergoing analysis through a Minot State University research project and will be sent to the Committee upon completion of that project. Future analysis of data from this program will supplement the Commission's experiential data gathering with input from individuals with firsthand experience as court observers.

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<sup>25</sup> <http://www.ndaco.org/?id=91>.

<sup>26</sup> <http://www.ndcaws.org/>.

- **CIVIL JUSTICE COMMITTEE**

The Commission created the Civil Justice Committee to study civil justice issues, such as minority under representation in use of the courts for civil cases, disproportionate minority use of Legal Services programs, and disparate results in similar cases between minority plaintiffs and defendants as opposed to non-minorities. Members of the Civil Justice Committee include: Jim Fitzsimmons, Judge Wickham Corwin, Ulysses Jones, and William Neumann. Judge Wickham Corwin chairs the Committee.

The Civil Justice Committee has considered a number of issues in discussion, but data gathering thus far has focused around disproportionate use of North Dakota Legal Services by members of minority groups, poverty issues as related to racial and ethnic bias in the courts,<sup>27</sup> the facilitation of self representation for certain legal areas, and possible effects of unbundling legal services to allow impoverished individuals greater access to courts. Problems inherent in tracking actual minority use of the civil system constitute a large part of the reason for such focus. Difficulty arises because the level of direct interaction between parties and the courts is substantially lower in civil cases than that between the court and defendants in the criminal system, with attorneys often acting as the only point of contact between civil clients and the courts. The Civil Committee considered implementing a user study to examine civil court use by race, but was forced to reject the idea because of difficulties tracking racial and ethnic data created by the multiple filing methods available. The lack of contact between courts and clients precludes most reliable statistical data gathering strategies focusing on minority use in this area.

Study of minority representation in Legal Services of North Dakota has focused on numbers of applications for legal services, locations from which applications are generally received, and levels of access to information regarding Legal Services programs for members of minority groups and Native Americans who live on reservations. The Committee looked for racial disparity among these applications and discussed the role of disproportionate poverty levels as a factor in such disparity. Preliminary data on Legal Service applications by race is included in the Civil Justice section later in this report.

Public comments have suggested substantial use of self-representation by members of minority groups, but have also pointed to a lack of resources available for individuals seeking to represent themselves. To address this, the Civil Justice Committee plans to review other state efforts to facilitate self-representation and efforts that have taken place within North Dakota, such as making forms and aids available online and with clerks. The Committee has also analyzed the unbundling of legal services as a component in addressing potential racial disparities in access to civil courts. The ability of court users to purchase a few separate attorney services rather than having to retain an attorney for an entire case would make the system more accessible to members of minority groups less able to afford full representation and to those engaged in self-representation but still requiring an attorney to perform specific functions.

Members of the Civil Committee facilitated the inclusion of a question asking members of the North Dakota Bar to self-identify their race or ethnicity on the State Bar of North Dakota (SBAND) Survey, an instrument distributed by the State Bar Association. The additional question was intended to allow study of minority

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<sup>27</sup> Of North Dakota residents living at less than 100% of the poverty level, 39.2% are American or Alaskan Natives, 22.8% are African American, while 10.1% are White. At less than 125% of the poverty level, the numbers jump to 45.3% for American or Alaskan Natives, 37.2% for African Americans, and 14.0% for Whites. U.S. Census Bureau, *Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months, 2006-2008 American Community Survey*.

representation within the Bar and analysis of other factors with reference to race, factors such as job level, area of practice, age, and similar variables captured in the rest of the survey. Results derived from this question are discussed in the 'Legal Profession' section of this report.

The Civil Justice Committee will continue its study of self-representation, Legal Services, and unbundling in North Dakota. Future study plans may include a focus on whether differences correlated with race and ethnicity exist in outcomes or awards when comparing similar civil cases, if the Committee finds such an analysis workable. The Committee has also already begun to examine issues of poverty as related to race and court use.

## COMMISSION STUDY AREAS

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Dividing a study of any subject as complex as racial and ethnic bias in the court system is difficult since there are numerous ways to categorize study areas and substantial overlap between different possible categories. The Commission has divided areas of investigation under the following categories: Access to Courts, Criminal Justice, Civil Justice, Court Personnel, Legal Profession, and Public Perceptions of the Courts. The Criminal Justice Committee and the Civil Justice Committee dealt specifically with information falling under the same subjects. Areas not fitting within a particular committee were instead covered by the Commission itself, with all members contributing, delegating suitable research and study design tasks to the Research Committee.

The following section will define and describe these study areas while presenting some general, broad-level information that has been examined thus far in the Commission's study. Sub-sections will also describe future goals and ongoing activities for each study area. The information found in this section is tentative and any final conclusions require further investigation, but the data provided does provide a starting snapshot of disproportion and potential areas of racial and ethnic bias.

### ACCESS TO COURTS

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The Commission classified several topics, including: juror selection, racial representation in jury pools, the use of peremptory strikes, and court interpreters, as Access to Courts issues. Analysis in this area concentrates on disparities between minority and majority participation in the system and differences in ability to participate and understand court proceedings based on race or ethnicity. Racial disparities at process points such as the initial jury pool or the jury panel are determined by comparing a certain group's proportion at the particular process point to that group's representation in the general population. A second method used by the Commission for comparisons finds the relative rate of each racial group by comparing its proportion at each process point to other groups at the same point rather than to the general population. The relative rates analysis used by the Commission generally sets the majority (white) population as equal to 1 and expresses rates for other groups as fractions or multiples of that number, so a group that numbers twice the majority population would have a relative rate value of 2, and half, a value of .5. Disproportionate participation found with either method could result from direct systematic bias, such as bias in the use of peremptory strikes against minorities, or from indirect factors brought about by policies appearing facially neutral, such as minority under representation in jury pool lists because of fewer minority voters or driver's license holders.

Among the questions that the Commission is considering in the area of Access to Courts are:

- Do Minority members of the North Dakota general public have substantially less trust in the North Dakota court system than white members?
- Does a general lack of trust among minority groups in North Dakota contribute to less participation within the system and more of an effort on the part of minority individuals to avoid contact with the court system?
- Does lack of trust affect pleading in minority individuals when faced with charges in State courts?
- Is current policy for language interpreters effective at providing adequate services to non-English speaking minorities within the state?
- Is there a shortage of competent language interpreters in the state, especially given the increasing language diversity among the state's new immigrants?
- Is there evidence to suggest that North Dakota juries are not reflective of the racial and ethnic diversity found in the state's communities?
- If North Dakota juries are not reflective of the racial and ethnic diversity found in the state's communities, is lack of minority representation on jury panels caused by a skewed jury pool, bias in the jury selection process, or both?
- Is there experiential or hard evidence that peremptory strikes are used disproportionately against minorities?

The Commission has studied access to courts issues as a whole rather than delegating the task to a committee, since the subjects related to access to courts affect both the criminal and civil sides of the courts. The Research Committee has developed tools required for information gathering, the jury survey instruments, in consultation with the Commission as a whole and these have been implemented over the course of several months.

- **JURY SURVEYS**

One aspect of the Commission's work regarding access to courts has been an examination of minority representation within the jury pool and on jury panels. The Commission undertook a two-part survey targeting the jury pool and jury selection process during fall 2010. The Research Committee designed survey instruments to gather self-identified racial data, both at the qualification stage and at trials' end, in order to generate a racial and ethnic snapshot of the group of individuals selected randomly from the jury pool and of the jurors at the end of the process who actually served on a panel. Race data was self-identified so that court personnel or other jurors would not have to make judgments regarding the race of another juror.

The first survey, containing a single question asking respondents to identify their race, ran from August 20, 2010 to November 30, 2010 and was distributed with the standard juror qualification forms. This Jury Pool Survey was designed to gather a snapshot of racial composition within the North Dakota jury pool. The extended length helped ensure that the Jury Pool Survey would gather a large number of responses, minimizing variations in random selection that might occur over a shorter period of time, and ensuring inclusion of jury pools used for jury selection in the October 1 to November 30 period during which the second instrument, the Jury Panel Survey, was distributed.

The Jury Panel Survey, the second half of this study that was distributed at trial's end to those who served on a panel, gathered both self-identified race data and perceptions. These surveys reached any minorities that

served on the jury panels within the entire state for the 2 month period they were administered. One advantage of the Jury Panel Survey was its ability to gather perception data from jurors about the process from a point of view *within the process*. The instrument presented questions about the entire jury selection process and the trial, including: fairness of judges, behavior of attorneys, exclusion of minorities from the panel, levels of respect within the courtroom, and other areas. Since the survey instrument included both self-identified racial data as well as perceptions, the Commission could compare minority panel member perceptions to those of the majority gathered during the same study period.

The combined effect of these two surveys, in addition to providing a picture of the jury pool and juror panel perceptions viewed by race, was a rough picture of the jury selection process as a whole. In the event that data showed an unbiased pool at the qualification stage, but a numerical bias in the final jury panels, the Commission would have evidence of bias within the selection process itself and could seek to design further studies to reach the difficult areas between the pool and panel. In any case, depending on the outcome of the two surveys, the Commission would gain insight into future areas of study.

About 4079 Jury Pool Survey instruments were returned to the Commission, along with 213 Jury Panel Surveys. These instruments are currently in the process of being analyzed, but some initial demographic data is available. For the first component, the Jury Pool Survey, 69.4% of the survey instruments were returned from Cass and Burleigh Counties, with 24.2% for Cass and 45.2% for Burleigh, followed by Stark at 9.9% and Richland at 6.8%. Remaining counties were all under 5% of total returns.<sup>28</sup> In this sample, 94.4% of respondents identified themselves as white, 2.3% as Native American and 1.5% as multi-racial. Remaining categories: Asian, Black, Hispanic/Latino(a) and Other, each consisted of less than 1% of the total.<sup>29</sup> When compared to overall state population data from 2008-2009 estimates,<sup>30</sup> most numbers do not appear to adequately represent North Dakota minority populations, with the exception of the Asian population, which is in proportion at .8%, and multi-racial individuals, who are over their 1.1% proportion, consisting of 1.5% of the pool sample. The lack of representation in other groups could be caused by an unrepresentative sample or the length of the survey distribution time and the level of returns by county. If certain areas with considerable minority populations did not pull from the jury pool during the survey period, this fact would contribute to minority under representation in the survey data. Other factors potentially influencing the disparities include differences in self-identification for Census purposes and on the survey.

The Jury Panel Survey collected more complete demographic information than the Jury Pool Survey while measuring those who actually completed the jury selection process and sat on a panel.<sup>31</sup> Respondents to this survey were 7.2% Native American and 90.9% white, with the categories Black, Hispanic/Latino(a), Other, and

<sup>28</sup> Only 12 counties were captured during the course of this survey: Cass, Burleigh, Eddy, Stutsman, Richland, Wells, Barnes, Traill, Stark, Logan, McKenzie, and Kidder.

<sup>29</sup> Asian: .8%, Black: .3%, Hispanic/Latino(a): .4%, Other: .3%. Only a single individual answered Native Hawaiian/Pacific Islander.

<sup>30</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009. See 'LS Chart 2' on page 22 for percentages of each race in the general population.

<sup>31</sup> Gender was 53.3% female and 43.9% male and Age was as follows:

18-25	7%
26-35	22%
36-45	19.6%
46-55	21.5%
56-65	15.9%
Over 65	19.7%
No Answer	2.8%

Multiple each at .5% of the total respondents.<sup>32</sup> No one returned surveys indicating Asian or Native Hawaiian/Pacific Islander as their race. Returns came from eleven North Dakota Counties.<sup>33</sup> The numbers for this survey appear to over represent Native Americans when comparing to 2008-2009 population data estimates,<sup>34</sup> though use of these estimates does not consider demographic changes occurring since they were produced. A more accurate comparison, using currently unreleased 2010 Census data, will be included in the final report. In contrast to the considerable percentage of Native Americans serving on juries in the counties responding to the survey, the remaining minority populations are all under represented by at least half when compared to the 2008-2009 estimates.<sup>35</sup> Again, the numbers within each minority groups have most likely grown since the estimate period, further increasing the disparity.<sup>36</sup> Analysis of Jury Survey Data regarding both jury pools and panels is ongoing and will be considered at greater length in the Commission's final report. The final report will also include discussion of perception data collected on the Jury Panel Survey.

- **INTERPRETERS**

Another Access to Courts issue involves interpreter availability for individuals, especially defendants, with limited English proficiency. Testimony received by the Commission during public meetings has pointed out that lack of ability to communicate with individuals involved in court processes is an obstacle to providing a fair trial. The North Dakota Courts have also recognized this need.<sup>37</sup> North Dakota, especially Cass County, has investigated the need, use, effectiveness and procedures regarding the use of foreign language interpreters in the court system.<sup>38</sup> North Dakota has developed a Court Interpreter's Handbook as a reference guide for implementing Supreme Court Administrative Rule 50,<sup>39</sup> dealing with interpreter qualifications and procedures. The handbook includes a Model Code of Professional Responsibility for interpreters, qualification questions and a judges' checklist for management, as well as some guidelines on methods of interpreting for persons who speak a foreign language, including instructions for proper interpreting technique.<sup>40</sup>

In February, 2010, the Court Administrator recommended adoption of a rule to provide for court-appointed interpreters paid for by the courts in proceedings where an inability to speak English may interfere with either a

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<sup>32</sup> Those returning the Jury Panel Survey without a response to the race identification question totaled .5% of all returns.

<sup>33</sup> The percentage breakdown for the responding counties is as follows:

Cass	20.1%
Burleigh	42.5%
Barnes	2.8%
Ward	11.7%
Bowman	2.3%
Stark	.5%
Mountrail	4.2%
Grand Forks	2.8%
Morton	5.1%
Divide	4.7%
Nelson	2.3%

<sup>34</sup> Assuming the Native American population is at 5.5% of the total North Dakota Population. U.S. Census Bureau Population Division, Table 3. Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009, 2010. See 'LS Chart 2' on page 22 for percentages of each race in the general population.

<sup>35</sup> With Asian at .8%, Black at 1.1%, Hispanic at 2.2-2.3%, and Two or More Races at 1.1-1.2%. U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009. See 'LS Chart 2' on page 23 for percentages of each race in the general population.

<sup>36</sup> North Dakota State Data Center, *Population by Race and Hispanic Origin in North Dakota: Census 2000 and July 1, 2008 Estimates*, Population Bulletin, Vol. 25, No. 10 (2009).

<sup>37</sup> Trial Court Administration, *Limited English Proficiency Plan*, Policy 522, June 11, 2010.

<sup>38</sup> Olson, Rodney, *An Analysis of Foreign Language Interpreter Services Provided for the District Court in Cass County, North Dakota and Improvement Recommendations*, Institute for Court Management Court Executive Development Program Phase III Project (2009). Previous North Dakota studies on this subject will be discussed in more detail in the Commission's Final Report.

<sup>39</sup> N.D. Sup. Ct. Admin. R. 50, Effective March 1, 2005, available at <http://www.ndcourts.com/rules/Administrative/frameset.htm>.

<sup>40</sup> Available at <http://www.ndcourts.com/court/interpreter.htm>.

litigant or witness's full participation in a case.<sup>41</sup> As of June 11, 2010, this plan was implemented as Policy 522, Limited English Proficiency Plan (LEPP),<sup>42</sup> setting out guidelines and including a list of cases for which interpreters would be available at government expense.<sup>43</sup> The North Dakota court system does not have a specific state qualification process but instead will accept certain certifications through programs in other jurisdictions and presence on a statewide roster of interpreters, if one exists, as qualifying.<sup>44</sup> If a non-certified interpreter is used, the judge should inquire into that individual's skill level, or, may utilize telephone translation or other electronic means.<sup>45</sup> The Limited English Proficiency Plan references a limited number of available translated documents as well as a short overview on training for court employees<sup>46</sup>. Resources available outside of court primarily include hotlines and "I need an Interpreter" cards available for non-English speakers.

Written testimony received by the Commission suggests that courts do not always follow the policy to ensure interpreter services. For example, one experience, related by an employee familiar with court processes, involved a judge relying on a defendant's girlfriend for translation in a case that judge later stated was not important or big enough to warrant calling an AT&T language line or finding a proper interpreter.<sup>47</sup> Testimony received during the Commission's Fargo meetings also suggested that some law firms may not be properly equipped to handle limited-English speakers to ensure effective communication, an important factor, especially at early stages of a case.<sup>48</sup> Because of such indications, the Commission will continue gathering testimony and other information regarding the use of interpreters.

## **CRIMINAL JUSTICE**

National and other state data have pointed to several consistent, disproportionate racial statistics as evidence of potential bias in state and federal systems, especially within the areas of arrest, incarceration, and juvenile justice.<sup>49</sup> Many national and state studies concentrate on analysis of African American and Hispanic populations to the exclusion of other minority groups because these groups have larger national populations and tend to be the largest minority populations in most states.<sup>50</sup> The State of North Dakota falls into an atypical category since its largest minority group consists of Native Americans.<sup>51</sup> Studies do exist, however, analyzing Native Americans as a specific minority group.<sup>52</sup>

In 1999, the Bureau of Justice Statistics generated a study on American Indians and Crime from a compilation of statistics that included data from the National Victimization Survey, Uniform Crime Reports, the National Incident-Based Reporting System, and other data collection programs.<sup>53</sup> Among other findings, the report

<sup>41</sup> Holewa, Sally, Limited English Proficiency Plan Memorandum, February 8, 2010.

<sup>42</sup> Trial Court Administration, *Limited English Proficiency Plan (LEPP)*, Policy 522, June 11, 2010.

<sup>43</sup> LEPP, Policy 522, 3. The plan includes some guidelines for determining the need for an interpreter. *Id.*, 4.

<sup>44</sup> LEPP, Policy 522, 4; N.D. Sup. Ct. Admin. R. 50, available at <http://www.ndcourts.com/rules/Administrative/frameset.htm>.

<sup>45</sup> LEPP, Policy 522, 5-6.

<sup>46</sup> *Id.*, 6-7.

<sup>47</sup> North Dakota Commission to Study Racial and Ethnic Bias in the Courts, Written Testimony Received 9/29/2010.

<sup>48</sup> Transcript of Hearing, Fargo Public Library, June 22, 2010, 9.

<sup>49</sup> Mauer, Marc & Ryan S. King, *Uneven Justice: State Rates of Incarceration By Race and Ethnicity*, 1-2 (2007); Bureau of Justice Statistics, *Prison Inmates at Midyear 2009 – Statistical Tables*, 2, 21-2 (2010) (Showing statistics from 2000-2009 and by race in state and federal prisons and local jails).

<sup>50</sup> Mauer & King, 2007 (Including information only on African American and Hispanic populations); Bureau of Justice Statistics, *Prison Inmates at Midyear 2009 – Statistical Tables*, 2, 21-2 (2010) (Failing to include information on Native Americans).

<sup>51</sup> North Dakota State Data Center, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009; Ogunwole, Stella U., *The American Indian and Alaska Native Population: 2000*, Census 2000 Brief (2002).

<sup>52</sup> Greenfeld, Lawrence A., & Stephen K. Smith, *American Indians and Crime*, Bureau of Justice Statistics (1999); Report of the Alaska Sup. Ct., 1997.

<sup>53</sup> Greenfeld & Smith, 1999, 35-37.

identified unique Native American issues from both the victimization and arrest perspectives.<sup>54</sup> Among the disturbing findings in this report was that the Native Americans victimization rate for violent crimes was more than twice the national average and Native Americans were more likely than other groups to be victimized by a member of another race.<sup>55</sup> Arrests of Native Americans were more than double the national rate in the area of alcohol violations, though the rates were comparable to the national average for violent offenses.<sup>56</sup> These national-level factors illustrate the importance of recognizing the distinct nature of Native Americans as a minority group and the particular problems facing the group.

#### ● **ARREST DATA**

Though not directly controlled by the courts, the area of arrests act as a gateway to the criminal system, and any disparities within this stage of the process may have a substantial effect on subsequent stages of the process. Because of this gateway function, the Commission has begun to examine arrests throughout North Dakota, considering race and other relevant variables. Testimony has reinforced the need to study the area of arrests as a gateway to the court system. One individual testified:

“I think that if you’re really studying, if you really want to study whether or not there’s racial bias in the state and in our justice system, you have to look at what the root of that is, and again I think that the police and unchecked authority at that level leads to a lot of problems that once it gets into court you can no longer correct, because the person has already been wronged. They’ve already been scared. They’ve already been terrorized by the situation that they’ve been in.”<sup>57</sup>

Preliminary arrest data is general in nature, derived primarily from North Dakota’s reporting to the Unified Crime Reports (UCR) program, which provides data on race compared to offense classification.<sup>58</sup> The data is replicated on the table below, but neither the table nor UCR data includes figures for reservations in North Dakota since they do not participate in the state UCR program.<sup>59</sup> The Commission is currently in the process of gathering more detailed information for analysis using data reported by law enforcement agencies rather than relying solely on data reported in national publications. Collecting data directly from state sources should allow a greater range of comparisons between variables than simply looking at data locked into UCR data categories. UCR data does, however, allow for initial comparisons. The following table, Arrest Chart 1, includes the raw UCR data count from 2008. Race categories used in the UCR data are not the same as census data, and the UCR does not show ‘Hispanic/Latino(a)’ as an additional group in its charts.

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<sup>54</sup> Id., v-viii.

<sup>55</sup> Id., iii., 7.

<sup>56</sup> Id., vii, 25.

<sup>57</sup> Transcript of Hearing, Fargo Public Library, June 22, 2010, 16.

<sup>58</sup> Stenehjem, Wayne & Colleen Wertz, *Crime in North Dakota 2008: A Summary of Uniform Crime Report Data*, 42 (2009). More than 79% of total arrests for 2008 were white and over 16% were Native American. Id., 37.

<sup>59</sup> Id., 37.

Offense Classification	White	Black	Native American	Asian	Total
Murder/Non-Negligent Manslaughter	1	-	3	-	4
Negligent Manslaughter	5	-	1	-	6
Forcible Rape	38	3	4	-	45
Robbery	13	5	5	-	23
Aggravated Assault	210	33	77	-	320
Burglary	206	14	44	-	264
Larceny/Theft	1,676	132	549	9	2,366
Motor Vehicle Theft	127	7	47	1	182
Other Assaults	1,406	172	360	9	1,947
Arson	18	2	2	-	22
Forgery and Counterfeiting	54	6	11	-	71
Fraud	568	25	52	1	646
Embezzlement	27	1	2	-	30
Stolen Property Offenses	88	10	37	-	135
Vandalism	439	29	88	1	557
Weapons Offenses	187	12	24	-	223
Prostitution	2	-	1	-	3
Other Sex Offenses	64	5	12	1	82
Drug Abuse Violations	1,723	108	317	10	2,158
Gambling	-	1	-	-	1
Offenses Against Family and Children	123	9	31	-	163
Driving Under the Influence	5,038	96	672	9	5,815
Liquor Law Violations	4,656	107	812	17	5,592
Disorderly Conduct	1,349	116	367	3	1,835
Vagrancy	-	-	-	-	-
All Other Offenses	4,563	313	1,103	7	5,986
Suspicion	-	-	-	-	-
Curfew and Loitering	204	6	38	-	248
Runaways	453	38	116	3	610
<b>Arrest Total</b>	<b>23,238</b>	<b>1,250</b>	<b>4,775</b>	<b>71</b>	<b>29,334</b>

Arrest Chart 1 UCR Raw Numbers

Arrest Chart 2, provided below, compares percentages of arrests by race within each offense category according to the 2008 UCR data. The number of arrests for each racial category was divided by the total arrests for the same category, rendering the percentage. Offense categories with small numbers of total arrests were omitted based upon the misleading nature of such percentages.<sup>60</sup> This view provides a better sense of representation than raw numbers.

<sup>60</sup> For instance, 3 out of a total of 4 individuals arrested for Murders/Non-negligent manslaughters were Native Americans with the remaining Murders/Non-negligent manslaughter being white. This would render a 75% v. 25% ratio of Native Americans arrested for Murders/Non-negligent manslaughter compared to Whites arrested for the same out of only four total arrests. Stenehjem & Weltz, 2009, 37.

Offense Classification	White	Black	Native American	Asian
Forcible Rape	84.4%	6.7%	8.9%	0%
Aggravated Assault	65.6%	10.3%	24%	0%
Burglary	78%	5.3%	16.6%	0%
Larceny/Theft	70.8%	5.6%	23.2%	.38%
Motor Vehicle Theft	69.8%	3.8%	25.8%	.5%
Other Assaults	72.2%	8.8%	18.5%	.46%
Forgery and Counterfeiting	76%	8.5%	15.5%	0%
Fraud	87.9%	3.9%	8%	.15%
Stolen Property Offenses	65.2%	7.4%	27.4%	0%
Vandalism	78.8%	5.2%	15.8%	.17%
Weapons Offenses	83.9%	5.4%	10.8%	0%
Other Sex Offenses	78%	6.1%	14.6%	1.2%
Drug Abuse Violations	79.8%	5%	14.7%	.46%
Offenses Against Family and Children	75.5%	5.5%	19%	0%
Driving Under the Influence	86.6%	1.7%	11.6%	.15%
Liquor Law Violations	83.3%	1.9%	14.5%	.3%
Disorderly Conduct	73.5%	6.3%	20%	.16%
All Other Offenses	76.2%	5.2%	18.4%	.11%
Curfew and Loitering	82.3%	2.4%	15.3%	0%
Runaways	74.3%	6.2%	19%	.49%
<b>Arrest Total</b>	<b>79.2%</b>	<b>4.3%</b>	<b>16.3%</b>	<b>.2%</b>

Arrest Chart 2 Selected UCR Percentages

This data suggests that, though whites make up the vast majority of arrests within the state of North Dakota, African Americans and American Natives do appear to be arrested across most categories at a higher proportion when compared with each groups' proportion within the general population.<sup>61</sup>

Public comments reinforce this data, suggesting disproportionate arrest rates for minorities, especially Native Americans, even, at times, suggesting violations of tribal sovereignty through disrespect of tribal jurisdiction by the State Highway Patrol or courts. Some testimony suggested that police stops are more common in areas of North Dakota if vehicle occupants are visibly Native American, a phenomenon many referred to as 'DWI' or 'Driving While Indian.' Some comments suggested greater bias exists in courts that border reservations and even suggested that racial profiling is actively used in these areas.

Preliminary evidence, both statistical and testimonial, suggests disparity in patterns of arrest. The Commission will further investigate this important area, the 'front end' of the criminal process, gathering and analyzing detailed state-level data. The Commission will also attempt to find rates of arrest for Hispanic/Latino(a) individuals in addition to the categories present in the Unified Crime Reports data.

<sup>61</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

• **CORRECTIONS DATA**

Turning from the gateway to an end point of the court system, the Commission is in the process of gathering detailed data from the North Dakota Department of Corrections (DOCR). Like the arrest data, preliminary incarceration data gathered during the Commission’s first few months of study has been general in nature, but the Commission expects far greater detail as it works with the Department of Corrections officials to gather and analyze additional raw data. The following basic data is intended to give a snapshot of DOCR representation.

<b>DOCR One day count for January 2009 - Inmate Demographics<sup>62</sup></b>		
Total Inmates	1,453	
Male	1,298	89.3%
Female	155	10.7%
White	966	66.5%
Black	81	5.6%
American/ Alaskan Native	317	21.8%
Hispanic/ Latino(a)	79	5.4%
Asian	5	.3%
Other Race/Ethnicity	5	.3%
Non- Citizens <sup>63</sup>	9	.6%

The DOCR publishes a one day count of all Department of Corrections inmates in North Dakota. The table at the left presents the count for January, 2009.<sup>64</sup> The counts are for the last day of the month.<sup>65</sup> This data consists of a demographic snapshot of all inmates and can provide a sense of the racial proportions of incarcerated individuals. Since individuals enter and exit DOCR at various times, the data may vary slightly over time and thus is tracked by month, but the numbers are relatively stable.<sup>66</sup>

The majority of the inmate population, 66.5%, are White, 21.8% are Native American, 5.6% are Black, and 5.4% are Hispanic/Latino(a). These minority populations are all over-represented when compared to each group’s numbers in the general population.<sup>67</sup> The .3% value for Asians incarcerated appears to under represent Asians by more than half compared to that group’s percentage, .8%, in the 2009 general population estimate.<sup>68</sup>

Public comments regarding incarceration have almost unanimously voiced the perception that minorities, especially Native Americans, constitute a disproportionately large number of those incarcerated and that court decisions to incarcerate are more likely when the

defendant is minority. A perception exists that courts tend to require members of minority groups to serve longer sentences than non-minorities. For example, when asked whether the state courts were fair or unfair, one individual answered:

<sup>62</sup> Data for the categories “Native Hawaiian or Pacific Islander” and “Inmates with Unknown/Missing Race/Ethnicity” has been left out since the values for both were zero for the entire span of one day counts from March 2008 to January 2009. North Dakota Department of Corrections, *DOCR One Day Count for January, 2009*, The Insider, April 2009, 4.

<sup>63</sup> Non-citizens on this chart may be of any race.

<sup>64</sup> The Insider, April 2009, 4.

<sup>65</sup> Id., 4.

<sup>66</sup> Data indicates, for instance, that from the month of March 2008 to January 2009, the population of American/ Alaskan Natives varied between a low of 317 inmates and a high of 332, the black population varied between 80 and 86 inmates, and the white prison population varied between 921 and 972. The Insider, April 2009, 4.

<sup>67</sup> Individuals self-identifying as Native Americans are estimated to account for 5.5% of the general population, African Americans at 1.1%, Hispanic/Latino(a) at 2.3%. These totals do not include the Census Category “Two or More Races,” which accounts for 1.2%. U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>68</sup> Percentage derived from U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

“Generally fair to a point. We do get a court appointed attorney and timely manner of court dates. But unfair when sentencing gets handed down. Between a person who is Native and a white person the Native like myself would get harsher and longer sentences than a white person who would get more lenient sentence for the same charges. I feel same charges should get same sentences but it doesn’t go like that.”<sup>69</sup>

Department of Corrections employees involved in statistical gathering and tracking are in the process of compiling further, more detailed, data regarding multiple levels of the DOCR system, including the areas of parole and probation. The final report will include a more extensive analysis of any racial disparities found within the corrections process and how the court system interacts with the corrections system. For example, the Commission hopes to learn whether disparities exist within the revocation of probation process. To complement these numbers, the Commission will also be gathering experiential information from individuals within the corrections system in its Court User Survey, run in cooperation with the UNDBGA.

- **JUVENILE JUSTICE DATA**

Another aspect of the Criminal Justice Committee’s study includes examining juvenile justice issues. During public meetings, the Commission heard a considerable amount of testimony noting the importance of reaching juveniles early and the dangers of failing to establish a pattern of consequences for delinquent behavior taking place before adulthood.<sup>70</sup> The public, especially members of minority groups, appears to harbor substantial concerns regarding juvenile justice. Fortunately, North Dakota tracks statistics related to juvenile justice programs quite extensively, calculating relative rates of representation in various stages of the juvenile process by race, though a number of tracking categories consistently involve such low numbers for certain races that statistical analysis is not possible. The relative rates at various points in the juvenile process for 2008 are represented on Juvenile Chart 1 and are broken down by race. These figures are for the entire state of North Dakota. The rates are compared with whites juveniles equal to 1, so a rate of 2.00 on the chart below would indicate a rate twice that of white juveniles for the same processing point while a rate of .5 would be half that of white juveniles.

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<sup>69</sup> North Dakota Commission to Study Racial and Ethnic Bias in the Courts, Public Survey Comments.

<sup>70</sup> Transcript of Hearing, Bismarck Civic Center Exhibition Hall, September 10, 2010, 71-75.

**Summary: Relative Rate Index Compared with White Juveniles  
Statewide Reporting Period: 1/1/2008-12/31/2008<sup>71</sup>**

	Black or African American	Hispanic or Latino(a)	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaskan Native	Other/ Mixed	All Minorities
Juvenile Arrests	<b>2.91</b>	<b>.70</b>	<b>.15</b>	*	<b>2.04</b>	*	<b>1.75</b>
Refer to Juvenile Court	<b>.94</b>	<b>1.51</b>	<b>**</b>	*	<b>1.08</b>	*	<b>1.11</b>
Cases Diverted	<b>.76</b>	<b>.77</b>	<b>**</b>	*	<b>.90</b>	*	<b>.86</b>
Cases Involving Secure Detention	<b>1.58</b>	<b>2.38</b>	<b>**</b>	*	<b>1.77</b>	*	<b>1.79</b>
Cases Petitioned	<b>1.44</b>	<b>1.42</b>	<b>**</b>	*	<b>1.18</b>	*	<b>1.25</b>
Cases Resulting in Delinquent Findings	.98	.95	<b>**</b>	*	1.03	*	<b>.52</b>
Cases Resulting in Probation Placement	1.15	1.17	<b>**</b>	*	.93	*	1.98
Cases Resulting in Commitment to the Division of Juvenile Services	.70	1.14	<b>**</b>	*	<b>1.32</b>	*	<b>2.20</b>
Cases Transferred to Adult Court	<b>**</b>	<b>**</b>	<b>**</b>	*	1.25	*	.91
Group meets 1% Threshold for separate analysis	Yes	Yes	Yes	No	Yes	No	

Juvenile Chart 1

As can be determined from this chart, the most statistically significant disparate minority rates statewide are in the areas of arrests and detention, with minority youth at almost double the rate for whites. Commitment data shows a rate for minorities more than twice that of whites. Juvenile arrests were twice the rate for Native Americans as whites, and almost three times the rate for African Americans. Cases for Native Americans, Hispanics/ Latino(a)s, and African Americans were all at least one and a half times more likely to involve secure detention, and all three groups were also slightly to significantly less likely to have their cases diverted. More recent and detailed county-level data for Burleigh, Cass, and Grand Forks counties, the three areas with the largest minority youth populations, will be included in the Commission's final report, though it must be noted that within the statewide data replicated above, Burleigh and Cass counties are the only counties with statistically significant rates for processing points other than arrest and detention, and this will most likely remain the case for future data.<sup>72</sup> The greatest amount of activity for Native American juveniles is in Burleigh County and the greatest amount for both Black and Hispanic juveniles are in Cass.<sup>73</sup> Burleigh County completed a detailed assessment of Native American Youth in 2002, studying over representation of the county's Native

<sup>71</sup> Chart Key: **Bold** (Statistically significant results); \* (Group is less than 1% of the youth population); \*\* (Insufficient number of cases for analysis); --- (Missing data for some element of calculation). North Dakota Association of Counties, *2008 Relative Rate Index* (2010).

<sup>72</sup> North Dakota Association of Counties, *Plan for Compliance with the Disproportionate Minority Contact (DMC) Core Requirement of the JDP Act (FY2010 Update)*, 4.

<sup>73</sup> *Id.*, 5.

American juvenile population.<sup>74</sup> A similar study for Cass County is currently underway and discussion of both will be included in the Commission’s final report.

## CIVIL JUSTICE

Study of issues in Civil Justice has concentrated substantially on minority use of the civil court system and so have much in common with the Access to Courts study area, but have related more closely to financial and geographic factors as well as legal services availability. Previous perception surveys, implemented in North Dakota and nationally, show that most of the public perceives a link between ability to pay and ability to receive justice in the legal system.<sup>75</sup> If members of minority groups fall disproportionately in poorer demographic categories, then use of legal services by minorities is also likely to be disproportionate. Census data indicates that members of minority groups do make up a significant, disproportionate percentage of those falling within 100% or 125% of the poverty level.<sup>76</sup> The Civil Committee looked at Legal Services of North Dakota data to confirm that minorities disproportionately rely on legal services programs.

- **LEGAL SERVICES APPLICATIONS**

Legal Services of North Dakota provides legal advice, education, and legal representation to low-income residents of North Dakota and to disadvantaged elderly in the State.<sup>77</sup> The organization focuses on areas of civil law, and, in 2009 closed cases primarily in the areas of family law, employment law, consumer and housing law.<sup>78</sup> Legal Services generally provides assistance with roughly two-thirds of received applications.<sup>79</sup>

LS Chart 1

Use and Number of Minority group in General Population		
Race	2008 Legal Services Use <sup>80</sup>	2008 Population Data (One Race) <sup>81</sup>
Asian/Native Hawaiian or Pacific Islander <sup>82</sup>	53	5286
Black	224	6,803
Hispanic	184	13,950
Native American	1,924	34,716
White	4,966	573,360
Other	511	7,306 (two or more races)
<b>Totals</b>	<b>7,862</b>	<b>641, 421</b>

Sufficient data exists to compare Legal Services Applications and population estimates for 2008. The following tables compare use of legal services by race against the overall proportion of the population each racial category represents. The first table, LS Chart 1, presents raw numbers for 2008 legal services use and 2008 populations. This chart also includes 2008 population data from the ‘One Race’ Census category. It is worthwhile to keep in mind that the

<sup>74</sup> Martin, Mark, *Assessment of Over-Representation of Native American Youth in the North Dakota Juvenile Justice System*, 2002.

<sup>75</sup> Available at <http://www.ndcourts.com/court/committees/trust/Survey.htm>.

<sup>76</sup> As discussed, minorities in North Dakota do appear to be disproportionately represented among those in poverty. Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months, 2006-2008 American Community Survey 3-Year estimates, North Dakota.

<sup>77</sup> Legal Services of North Dakota (LSND), *2009 Annual Report*, 1.

<sup>78</sup> *Id.*, 1, 14.

<sup>79</sup> *Id.*, 1.

<sup>80</sup> *Id.*, 15.

<sup>81</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>82</sup> 2008 Population Data reflects the sum of the categories ‘Asian’ and ‘Native Hawaiian or Pacific Islander’ from Census Table 3, cited in note 79.

trend from the year 2000 to 2008, minority populations showed a 21.4% increase with the white population decreasing by 1.8%.<sup>83</sup>

The next table, LS Chart 2, shows percentage of legal services use by racial category as derived from the recorded number of each category in the Legal Services 2009 Annual Report and the total number of applications for the year examined.

LS Chart 2

Race	% 2008 Legal Services Use	% 2008 Population Data (One Race Only)	% of Legal Services Clients v. % of General Population
Asian/ Pacific Islander	.7%	.8%	- .1 (.875)
Black	2.8%	1.1%	+ 1.7 (2.55)
Hispanic	2.3%	2.2%	+ .1 (1.05)
Native American	24.5%	5.4%	+ 19.1 (4.54)
White	63.2%	89.4%	- 26.2 (.71)
Other	6.5%	1.1%	- 5.4 (5.91)

Population percentages were calculated from Census estimates for the year 2008.<sup>85</sup> The column, “% of Legal Services Clients v. % of General Population,” shows the difference between each racial category’s percent as users of Legal Services and the group’s percent within the general population, with the rate, as compared to 2008 population data, in parentheses.<sup>86</sup>

LS Chart 3

Race	Totals	Percentage
Asian/ Pacific Islander	226	.5%
Black	913	2%
Hispanic	868	2%
Native American	12,611	27%
White	29,568	63.3%
Other	2,467	5.2%
<b>Totals</b>	<b>46,653</b>	<b>100%</b>

Total applications for legal services during the period from 2004 to 2009, found in LS Chart 3, show a similar percentage breakdown for the combined years, with minorities accounting for approximately 31.5% of total applications for legal services.<sup>88</sup> The largest single group, Native Americans, accounted for 27% of all applications, while Blacks and Hispanics each constituted about 2% of the total applications over this time period.<sup>89</sup> Asian-Pacific Islanders

accounted for the smallest percentage, at .5%, and whites accounted for 63.3% of the total.<sup>90</sup> A strict, statistical comparison between total applications for Legal Services and percentage of minorities in the population cannot be derived from the 2004-2009 total applications data since that data is not disaggregated by year.

This analysis does not suggest that overt racial bias within the legal system is the reason for disproportionate minority use of legal services, but the correlation between minority status and number of legal services applications indicates a substantial, disproportionate use of these services intended to benefit those unable to

<sup>83</sup> North Dakota State Data Center, *Population Bulletin*, Vol. 25, No. 10 (2009).

<sup>84</sup> Percents may not total 100% because of rounding.

<sup>85</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>86</sup> The rate was calculated by dividing the percentage of Legal Services Use by the 2008 population for each racial category.

<sup>87</sup> Legal Services of North Dakota, *Total Applications for Legal Services Report 2004-2009* (2010). Around 65% to 70% of applications receive some form of assistance. LSND, *2009 Annual Report*, 3 (2010); Legal Services of North Dakota (LSND), *2008 Annual Report*, 1 (2009).

<sup>88</sup> LSND, *Total Applications for Legal Services Report 2004-2009* (2010).

<sup>89</sup> Id.

<sup>90</sup> Id.

afford to take other legal avenues. In addition to the disproportionate use of legal services, the vast majority of applications for legal services come from 5 counties: Cass Burleigh, Ward, Montrail, and Rolette.<sup>91</sup> No common denominator exists for differences in application numbers across counties except that a Legal Services Office is located physically within each of the five counties that account for the majority. Such disparity in applications suggests that members of minority groups residing in counties without a legal services office may be unaware or logistically unable to attempt to take advantage of services provided.

- **UNBUNDLING AND SELF-REPRESENTATION**

In addition to analyzing access to Legal Services of North Dakota, the Civil Justice Committee has discussed unbundling of legal services in relation to minority groups throughout the state. The Pro Bono Task Force of the State Bar Association of North Dakota has been engaged in continuing work with unbundled legal services, or allowing a lawyer to perform a limited number of tasks for a client, such as ‘ghostwriting’ documents for certain cases, rather than acting as an attorney for the entire case.<sup>92</sup> Obstacles to unbundled legal services exist in the form of certain procedural rules, especially regarding ghostwriting, but the Pro Bono Task Force has asked the Joint Procedures Committee to propose changes to those rules. The Civil Committee will continue to study the issue of unbundling with an eye toward ensuring that relevant information will be accessible by members of minority groups and that minorities will be aware of existence of the unbundled services and are able to take advantage of the processes required for its use.

In a similar vein, the Committee has studied issues surrounding self-representation, including minority use and court facilitation of this option. The Commission has received a number of comments and written statements indicating minority use of self-representation, but the area requires further study. The Civil Committee will also continue to study the potential expansion of online forms, instructions, and other resources to facilitate minority self-representation in certain appropriate areas if it finds that minorities engage in self-representation at a substantial or disproportionate rate, or if it is found that minorities are hampered in self-representation by lack of awareness of these resources.

## ***COURT PERSONNEL***

The Commission did not establish a specific committee to analyze Court Personnel issues, but instead has been gathering data through the work of Commission members, the Research Committee, and the Court Administrator’s Office. Court Personnel issues include disparities between minority and majority representation within the state workforce, hiring practices, and minority advancement within the court system compared to the majority. Methods of study have concentrated on gathering both perception data and objective statistical data in these areas. Among the questions that the Commission has been considering in the area of Court Personnel are:

- Are North Dakota’s racial and ethnic minorities substantially under represented in the state’s court system?
- Are North Dakota’s racial and ethnic minorities substantially under represented at management and senior levels of the state’s court system?

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<sup>91</sup> LSND, 2009 Annual Report, 16; North Dakota Commission to Study Racial and Ethnic Bias, 17 September Minutes, 2010, available at [http://www.ndcourts.gov/court/committees/bias\\_commission/MinutesSept2010.htm](http://www.ndcourts.gov/court/committees/bias_commission/MinutesSept2010.htm).

<sup>92</sup> For additional resources on the subject of unbundling of legal services, see <http://www.abanet.org/legalservices/delivery/delunbundhistory.html>.

- Have minority and white court personnel, lawyers and members of the public witnessed or been made aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities?

The Commission is currently gathering data regarding behavior of court personnel from jury surveys and will be gathering perception data from other general surveys directed at the Bar and at court employees. The Court Administrator's Office was able to provide hard data regarding numbers and rates of under representation of minorities within the state system.

- **EMPLOYEE DATA**

The following table, Employee Chart 1, contains data on court system employees as of June, 2010.<sup>93</sup> Data received was broken down by areas of employment: Non-Elected Regular Employees, Administrative Support, Technicians, Professionals, and Officials and Administrators, but was not broken down with regards to levels of seniority within each area. Employee data was taken from PeopleSoft, the information system used by the courts to track human resource and payroll data.

Employee Chart 1

	Non-Elected Regular Employees		Administrative Support		Technicians		Professionals		Officials and Administrators	
Full Time Employees	294		174		10		80		30	
Race/Ethnicity	Count	%	Count	%	Count	%	Count	%	Count	%
White	290	99%	172	99%	10	100%	78	98%	30	100%
Black	0	0%	0	0%	0	0%	0	0%	0	0%
Hispanic	1	0%	0	0%	0	0%	1	1%	0	0%
Asian/PI	0	0%	0	0%	0	0%	0	0%	0	0%
AI/AN	3	1%	2	1%	0	0%	1	1%	0	0%
Other	0	0%	0	0%	0	0%	0	0%	0	0%

As can be easily ascertained from the data, the North Dakota State Court System appears overwhelmingly white, with the lowest percentage of whites in any employment category at 98%. Even comparing this level of minority representation to Census estimates from 2008<sup>94</sup> without consideration of growth of minority groups during the intervening years, 0% to 2% total minority representation comes up drastically short when measured against the 9.5% (10.6% counting the 'Other' category) proportion of minorities within North Dakota's 2008 general population.<sup>95</sup>

Existing racial disparity does not prove overt bias on the part of the court system in hiring because that task must be viewed relative to the qualified individuals who apply for positions. The North Dakota court system relies on North Dakota Job Service for the majority of its recruitments.<sup>96</sup> This service includes America's Job

<sup>93</sup> Klein, Amy, *Memorandum on Requested Workforce Data*, 7/12/2010, 5.

<sup>94</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009, 2010. See 'LS Chart 2' on page 22 for percentages of each race in the general population.

<sup>95</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009, 2010. Minority percentage increases even from 2008 to the 2009 estimates. The 2010 Census will likely show a more substantial increase yet.

<sup>96</sup> Klein, Workforce Memo, 2010, 1.

Exchange, general circulation newspapers, and the state and court system websites. The court system also uses university and other associations representing required fields of study depending on the position to be filled. Hiring processes do not include gathering data on race or any other protected characteristic.<sup>97</sup> A shortage of interested or aware applicants may also contribute to the under representation, but, since the court system cannot gather race data for applicants, there is no way to measure how many minorities actually do apply.

Court system data provided by the Court Administrator's Office included a utilization analysis that compared percent of individuals within the workforce population by race to community labor statistics from the 2000 U.S. Census report on North Dakota.<sup>98</sup> This analysis showed very little under representation of minority groups within each job area compared to the community workforce statistics,<sup>99</sup> but, since the comparison took place between court workforce data from 2010 and Census data from a decade before, the chart may provide a misleading picture and so has not been replicated here. Forthcoming 2010 Census data will provide a basis for completion of an updated utilization analysis for minority state court employees, to be included in the Commission's final report.

Further study in the area of Court Employees will attempt to focus more closely on hiring, retention, and promotion within the court system. Additional study will most likely rely primarily on data from multiple surveys and information on public perceptions of diversity in the court system. A number of written comments have already pointed to the need for diversity within the court system to ensure that those interacting with it are able to identify representatives of similar racial background working within the system, and others pointed to the need for outreach to tribal areas in hiring.<sup>100</sup> The Commission's final report will likely contain recommendations for expanding diversity within the court system.

## **LEGAL PROFESSION**

The Commission is investigating minority representation in the North Dakota Bar and legal profession and perceptions of Bar members regarding racial and ethnic bias. Once again, the Commission did not establish a specific committee analyze issues in the legal profession, but is gathering information through the work of Commission members, especially the Civil Justice Committee, and through original surveys designed by the Research Committee. In a manner similar to the subject of Court Personnel, analysis of the Bar and legal profession includes examination of disparities between minority and majority representation throughout all levels as well as hiring and advancement issues. Some of the questions that the Commission is considering in the area of the Bar and Legal Profession are:

- Is North Dakota's legal profession reflective of the state's racial and ethnic diversity?
- Do too few North Dakota minorities and minorities from other states apply to and matriculate at North Dakota's law schools?
- Do minority and white lawyers have noticeably different perceptions of career opportunities in the state, including those related to mentoring, retention, and promotion?
- Do Judges treat minority attorneys differently from white attorneys?
- Are racial and ethnic minorities underrepresented in North Dakota as judges?

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<sup>97</sup> Klein, Workforce Memo, 2010, 1.

<sup>98</sup> Klein, Workforce Memo, 2010, 10.

<sup>99</sup> The difference was less than 2% for all categories. Klein, Workforce Memo, 2010, 9-10.

<sup>100</sup> North Dakota Commission to Study Racial and Ethnic Bias in Courts, Written Testimony received 11/2/10.

The Commission has only begun to address the area of the legal profession by analyzing the judiciary and the North Dakota State Bar through statistical and survey instruments. Despite the limited nature of information accumulated thus far, the Commission has already run into some incongruities in data. According to North Dakota State employment data received from the Court Administrator, for instance, not a single judge employed full time by the State self-identifies as a member of a minority group.<sup>101</sup> Data from the State Bar Association of North Dakota Membership (SBAND) Survey, however, does indicate one self-identified “Other” response for individuals also identifying themselves as Judges.<sup>102</sup> Partially because of such irregularities, the Commission is developing an attorney perception survey to gather more accurate information on minority representation in the profession, including information on career opportunities for minorities, judge and attorney treatment of minorities, and hiring, retention, and promotion issues. Perception questions touching on judges and other members of the Bar were included on Jury Panel Survey, and these questions asked for information on treatment of racial minorities by both judges and attorneys, but the Commission hopes for a broader sampling of opinions in this regard through both the attorney and court employee surveys in the interest of generating information from a wide sample.

- **SBAND SURVEY**

Members of the Commission hoped that the survey conducted in 2010 by the State Bar Association of North Dakota (SBAND) would allow an accurate glimpse of the racial composition of the North Dakota. The question asking for self-identification of race, included on the survey at the Commission’s request, received 523<sup>103</sup> responses out of a state bar of roughly 2100 members, or from around a quarter of the total state bar members at the time of the survey.<sup>104</sup> Of these respondents, 0.8% identified themselves as Asian, 0.2% as Hispanic/Latino(a), and 0.8% as American/Alaskan Native. The remainder of respondents, 97%, indicated they were White. No one identified himself or herself as Black or Native Hawaiian or Pacific Islander, and 1.3% of respondents identified themselves as “Other.”

Given the proportion of minorities in North Dakota’s general population, about 10.6-10.9%,<sup>105</sup> and the number of total responses to the race question included on the SBAND Survey, 523, one would expect the number of minorities answering the question to be in the neighborhood of 50 respondents for a level of proportionality to the general population. The actual number identified in the survey was 16 respondents.<sup>106</sup> Of these, only eleven indicated that they were actively practicing within the state.<sup>107</sup> Minority respondents make up such a small proportion of the response total that attempting to look for patterns in minority answers to the other questions from the survey becomes problematic. Since data may be skewed by only a single response, percentages obtained cannot be taken as indicative of group attitudes and opinions regarding those questions. Because of this effect, the Commission did not rely on correlations between race and answers to additional questions given in the survey. It is possible that the survey did manage to capture either a representative proportion or even the entire population of minorities practicing within the state if the actual population of minority members of the North Dakota Bar is minuscule. Perception data from public meetings and surveys

<sup>101</sup> Klein, Workforce Memo, 2010, 6. The data excludes one seat that was not filled at the time of data collection.

<sup>102</sup> State Bar of North Dakota (SBAND) Membership Survey 2010, Summary Data, 6.

<sup>103</sup> SBAND Membership Survey 2010, Detailed Findings, 10.

<sup>104</sup> The total number of Bar members and their proportions are rough estimates since the true number of members is constantly in flux.

<sup>105</sup> See U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009. The 10.6% figure is from 2008 Estimates, 10.9% is for 2009.

<sup>106</sup> SBAND Membership Survey 2010, Summary Data, 3.

<sup>107</sup> Id., 3.

supports the argument that the low numbers of minorities answering the survey may be attributable not to a low response rate, but instead to a low actual number of minorities in the North Dakota State Bar. Even if this theory had merit, uncertainty still precludes generalizations based on minority opinions given in the survey.

Though non-generalized information is of limited value, the SBAND data does provide characteristics for the specific minority respondents. For those minorities responding, the survey showed a slightly greater proportion of females to males than the white majority, a tendency to be slightly younger than the majority and a shorter time admitted to the ND bar, though generally still longer than 5-15 years. Minorities who answered the survey were not as likely to be actively practicing in ND, while white respondents were unanimous in answering that they were actively practicing in North Dakota.

Employment positions for the minorities answering the survey were scattered throughout all available categories rather than concentrated in any one area, the categories spanning from sole practitioner, partner in firm or PC shareholder, to government attorney, though more than half of survey respondents indicated they were government attorneys or sole practitioners.<sup>108</sup> The minority respondents also indicated participation in every survey category measuring different activities performed in the court system within the previous year.<sup>109</sup> Participation was comparable to non-minorities in most categories, with the exception of fewer trials and Supreme Court Appeals, though minority respondents indicated greater participation in mediations and the 'Other' category than whites. In short, despite some differences in numbers, there was no glaring data showing a complete lack of minorities in any single job category, and no data showing that the minorities who responded are uniformly channeled toward or away from certain jobs. The most significant element in the SBAND survey was the small number of minority respondents itself.

The Commission hopes to gain complementary data to create a more complete picture of the North Dakota Bar through additional research methods, such as an attorney perceptions survey and through the use of focus groups. Future study will attempt to examine perceptions of minority attorneys, measures and perceptions of access to senior level jobs for qualified minorities, and additional related data.

- **LAW SCHOOL**

Another aspect of analysis regarding the North Dakota legal profession is measuring the effectiveness of North Dakota's only law school in attracting, graduating, and placing members of minority groups throughout the state. Effectiveness in all of these areas would establish a strong entry point for members of minority groups to the legal profession in North Dakota. Self-reported law school data<sup>110</sup> reveals a roughly proportional percentage of minority law students overall to minority proportions in the general population. Race classifications in the table UND Law Chart 1 are as they appear within reported data rather than in the Census classifications.

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<sup>108</sup> Categories included: Sole Practitioner, Partner in firm or shareholder in PC, Salaried Associate or contract Atty, Judge, Sole practitioner, Full-time Gov. Atty, Corporate Counsel, Retired or inactive, Referee or Law clerk, and Other. SBAND Membership Survey 2010, Summary Data, 6.

<sup>109</sup> Categories included Jury Trial, Court Trial, Administrative Trial, Arbitration, Supreme Court Appeal, Mediation, and Other. SBAND Membership Survey 2010, Summary Data, 32.

<sup>110</sup> Data was compiled from 2000-2010 eds., American Bar Association, *ABA - LSAC Official Guide to ABA-Approved Law Schools*.

Year	African American	Amer. Indian	Asian American	Mex. American	Puerto Rican	Hispanic	Total Minority
2010	.8%	3.7%	2.1%	0	0	2.9%	9.5%
2009	1.2%	4.4%	3.6%	.4%	0	2.8%	12.4%
2008	.8%	2.5%	3.8%	0	0	3%	10.2%
2007	1.8%	2.7%	3.6%	1.3%	0	.4%	9.8%
2006	1.5%	2.0%	.5%	2.0%	0	0	5.9%
2005	1.0%	7.0%	1.0%	2.0%	0	0	11.0%

Comparisons between this data and Census numbers are difficult because of different methods of racial classification, but some information

does stand out. The percentage of total minorities appears to hover close to 10% for all years except 2006. The percentage within each minority group seems to fluctuate substantially from year to year, most likely because the low actual numbers cause percentage calculations to be affected by only one or two individuals graduating or entering. Asians appear over represented in most years when compared to population of Asians in the general North Dakota population.<sup>112</sup> The number of students identifying as Hispanic, though defined differently from Census data, appears at least near to the proportion of Hispanics within the North Dakota population, if not above, especially during the years since 2008.<sup>113</sup> If the Mexican American, Puerto Rican, and Hispanic categories above were combined and compared to the 'Hispanic' category in Census data, then the number of Hispanics falls closer to the proportion in North Dakota's population in most years. Native American proportions seem to fluctuate substantially, with the highest percentage in 2005 falling off dramatically in 2006, but appearing to rebound closer to a proportional representation in more recent years.

Unfortunately, this data does not capture in state and out of state differences and so sheds no light on whether minority University of North Dakota Law students are actually native to the state. Nor does this data capture the number of students intending to practice in North Dakota courts. The low percentage of minority attorneys who appear to be members of the North Dakota Bar<sup>114</sup> compared to the more proportional presence of minorities at UND Law School would seem to indicate that either minorities are not joining the North Dakota Bar, that the law school pulls minority students from other states and, on graduating, these students return to their homes, that graduating minorities, native or not, tend move out of North Dakota and practice elsewhere, or some combination of these factors. The Commission will seek to further study this issue for inclusion in its final report, in part by studying Bar exam participation and passage rates for North Dakota by race.

## **PUBLIC PERCEPTION**

Commission Members undertook an extensive literature review, relying on the results of previous North Dakota surveys and other national and state surveys studying perceptions of courts for general information on the subject of bias and to guide design and execution of original studies. Previous survey results included an instrument designed by the Committee on Public Trust and Confidence in the Courts and administered in

<sup>111</sup> See id.

<sup>112</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>113</sup> 2.3% as of July 1, 2009. U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>114</sup> SBAND Membership Survey 2010, Summary Data, 3.

October 1999<sup>115</sup> as well as the 1999 National Center for State Courts “How the Public Views The State Courts”<sup>116</sup> national survey, among others. The Commission relied on the state and national surveys as a kind of baseline from which to begin analyzing community perceptions of North Dakota court processes in greater detail. National and state reports also provided potential methods and general results or trends for comparison. For instance, data from previous surveys indicates that members of minority groups tend to perceive that courts treat minorities worse than other groups where the majority was substantially less inclined to such a view.<sup>117</sup> The previous North Dakota survey provided an example for instrument development in addition to previous data for comparison.

Comparison of the racial breakdown of respondents from the previous Committee on Public Trust and Confidence in the Courts survey with data from the 2000 Census<sup>118</sup> reveals that the survey may have under represented certain minority groups in its sample set.<sup>119</sup> For instance, .3% of the respondents to the survey identified themselves as Hispanic/Latino, but the proportion of Hispanics within North Dakota’s population in 2000 was four times that amount, at 1.2%. Likewise, African Americans, with a 2000 census percentage of .65%, were not represented at all within the sample. Most obviously, however, Native Americans, consisting of 4.9% of the population in the Census data, accounted for only 2% of the sample taken in the survey. Overall, the 1999 Survey identified roughly 4% of its respondents as belonging to minority groups, including the “other” category as minorities, while the 2000 Census identified around 7% of North Dakotans as members of minority groups at that time.<sup>120</sup>

Despite the relatively low number of minority respondents to the Public Trust and Confidence in the Courts survey,<sup>121</sup> a considerable number of respondents nevertheless answered that North Dakota courts treat minorities either worse or far worse, including 26.2% believing African Americans are treated worse, 27% for Hispanics, 31.3% for Native Americans, and 24.8% for Non-English speaking peoples. Judging from consistent patterns over a wide number of state and other reports on bias, a greater number of minority respondents in the Public Trust and Confidence survey would most likely have decreased the proportion of “Same” responses while increasing the proportion of “Worse” to “Far Worse” responses for the minority categories, with regard to treatment by the courts. Considering the growth of minority populations relative to the white majority since 2000<sup>122</sup> and the demonstrated tendency of minorities to rate court treatment of their own and other minority groups significantly lower than whites,<sup>123</sup> a similar survey to the Public Trust and Confidence instrument would likely generate different results, especially if it managed to include accurate proportions of each minority group.

<sup>115</sup> Available at <http://www.ndcourts.com/court/committees/trust/survey.htm>.

<sup>116</sup> Available at [www.flcourts.org/gen\\_public/family/diversity/bin/publicop\\_natl.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/publicop_natl.pdf).

<sup>117</sup> National Center for State Courts, 1999, available at [www.flcourts.org/gen\\_public/family/diversity/bin/publicop\\_natl.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/publicop_natl.pdf).

<sup>118</sup> North Dakota State Data Center, Population Bulletin, V. 25, No. 10, October 2009.

<sup>119</sup> This comparison is not wholly certain, since the ND data included an “other” option, where the census did not. This “other” section could contain multi-racial individuals who felt uncomfortable assigning themselves a single race from the selection of choices. Also, the “Hispanic” option could have been subsumed within other category choices within the survey, since individuals may identify themselves as fitting one of the other racial categories, but having a Hispanic ethnicity. The 2000 Census data allowed selection of the “Hispanic” ethnicity separately from their race identification where the survey did not.

<sup>120</sup> <http://www.ndcourts.com/court/committees/trust/survey.htm>. Even counting the ‘Other’ group as entirely minority, which is by no means certain, the sample under represents minority opinion by almost half.

<sup>121</sup> Respondents answered the question “[w]hat do you consider to be your racial or ethnic identity[...]” as follows: Hispanic/Latino (.3); White/Caucasian (93.5); African American (0); Native American (2.0); Asian or Pacific Islander (.5); Other (1.3); NA/Ref (2.3).

<sup>122</sup> U.S. Census Bureau Population Division, Table 3. 2010 Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for North Dakota: April 1, 2000 to July 1, 2009.

<sup>123</sup> National Center for State Courts, 1999, available at [www.flcourts.org/gen\\_public/family/diversity/bin/publicop\\_natl.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/publicop_natl.pdf).

- **PUBLIC MEETING PERCEPTION SURVEY DATA**

Results from perception surveys distributed in conjunction with the Commission's public meetings indicate a substantial opinion on the part of at least some Native Americans that is consistent with the national trend. Many who answered the survey's open ended questions, including many indicating positive personal perceptions, acknowledged that the prevailing opinion of the State court system among their communities was negative, one of suspicion and mistrust. Unfortunately, because of the nature of this survey, designed primarily to supplement individual perceptions, and its execution, the results are not scientific and numbers and percentages should not be generalized according to sociological methods to represent all Native American populations in North Dakota, or even a sub-group of that population. However, combined with the feedback given in the public meetings and written in the survey's open-ended comments section regarding a pervasive sense of mistrust for the courts, this survey supports the notion that a representative inclusion of members of Native and minority populations in an instrument similar to the Committee on Public Trust and Confidence in the Courts Survey could have a significant effect on the data, especially on perceptions of minority treatment.

Though surveys were distributed at the same time as the public listening sessions, they were distributed around the meeting locations in addition to the meetings themselves, reaching many individuals who did not attend or did not plan to do so.<sup>124</sup> Still, the survey response could have been skewed if those with a specific interest in indicating bias felt more incentive to complete and return the surveys than those who did not recognize a problem. Since the surveys were distributed around Tribal College campuses, the level of education for respondents was skewed toward higher education, respondents generally having some college, an Associate's Degree or above. Women also outnumbered men in the sample, consisting of about 61% of total responses, with men at about 39%. The age range, however, was more balanced, with at least 20% within each of the first three age ranges, 18-25, 25-35, 35-45, gradually decreasing from 16.25% in the 45-55 category to 12.5% in the 55-65 category, to 3.75 in the 'Over 65' category. Over 50% of respondents were employed either full time or part time, and over one third were full-time students. About 12.5% of those answering the survey indicated that they were unemployed and were not students. Court use statistics for this sample show that 35% of respondents claimed involvement in the North Dakota State Court System, 22.5% in the North Dakota Juvenile system, 23.75% involvement in family issues, and 3.75% and 11.25% in mental health or probate issues in the State court system, respectively.

Survey respondents were asked three questions regarding their perceptions of the courts. These questions were the same as some of those appearing on the Public Trust and Confidence in the Courts survey.<sup>125</sup> The charts below include the percentage breakdown for the sample of 80 respondents for each of the questions. As can be ascertained from the first chart, most of the sample 71.25% of those responding indicated 'a little' or 'None' when asked to share the level of trust in 'the courts in your area.'<sup>126</sup> It should be noted that answers within this category could have been influenced by opinions of tribal and federal courts rather than only state courts, though the survey instrument and the survey distributors specifically indicated to all potential respondents that answers should refer to the state courts. Those answering the survey had a comparable level of mistrust for local law enforcement, with 62.5% answering only 'a little, or less.

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<sup>124</sup> 80 surveys were returned from the five Tribal Colleges.

<sup>125</sup> The North Dakota Public Trust and Confidence Survey itself followed the National Center for State Courts Survey in constructing at least some of its questions. National Center for State Courts, 1999, available at [www.flcourts.org/gen\\_public/family/diversity/bin/publicop\\_natl.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/publicop_natl.pdf).

<sup>126</sup> The rate for the Public Perception of the Courts Survey was 79.2% for the same. <http://www.ndcourts.com/court/committees/trust/survey.htm>.

As far as people running the following institutions, how much trust do you have in each institution: a great deal, some, little, or no trust?

	A great deal	Some	A Little	None	Don't Know	NA/Ref	No Answer
a. The public schools	25%	37.5%	25%	6.25%	3.75%	2.5%	0
b. The office of Governor	17.5%	31.25%	18.75%	16.25%	12.5%	1.25	2.5%
c. Local law enforcement <sup>127</sup>	11.25%	17.5%	27.5%	35%	3.75%	0	2.5%
d. The media <sup>128</sup>	6.25%	22.5%	37.5%	16.25%	11.25%	1.25%	2.5%
e. North Dakota Supreme Court	18.75%	22.5%	16.25%	15%	23.75%	2.5%	1.25%
f. Medical profession	17.5%	38.75%	23.75%	10%	8.75%	0	1.25%
g. State legislature	8.75%	30%	22.5%	16.25%	18.75%	1.25%	2.5%
h. U.S. Supreme Court	18.75%	27.5%	17.5%	10%	21.25%	2.5%	2.5%
i. The courts in your area <sup>129</sup>	6.25%	15%	27.5%	43.75%	6.25%	0	0

Perception Chart 1

The North Dakota Supreme Court saw 41.25% of survey respondents with at least some trust, as opposed to 31.25% with 'a little' or less, a measure of mistrust less than the office of the Governor, the media, the medical profession, and comparable to trust in public schools.<sup>130</sup> However, almost a quarter of the respondents answered that they did not know how much trust they had in the North Dakota Supreme Court. Respondents also indicated a substantial level of trust for the U.S. Supreme Court, with a similar rate answering 'don't know'.

Perception chart 2 includes percentages from a survey question focusing on court treatment of different groups.

Some people say that the courts treat everyone equally, while others say that district courts favor certain people over others. How do you think the following groups are treated: better, somewhat better, the same, somewhat worse, or far worse?

	Better	Somewhat Better	Same	Somewhat Worse	Far Worse	Don't Know	NA/ Ref	No Answer
a. People like you	5%	11.25%	17.5%	27.5%	18.75%	17.5%	1.25%	1.25%
b. Men <sup>131</sup>	2.5%	15%	25%	26.25%	13.75	12.5%	2.5%	1.25%
c. Women <sup>132</sup>	5%	17.5%	32.5%	16.25%	6.25%	15%	5%	1.25%
d. African-Americans	1.25%	3.75%	16.25%	35%	16.25%	21.25%	5%	1.25%
e. Hispanics	1.25%	5%	11.25%	37.5%	18.75%	21.25%	3.75%	1.25%
f. Native-Americans <sup>133</sup>	2.5%	3.75%	11.25%	26.25%	43.75%	7.5%	1.25%	2.5%
g. Non-English speaking people	1.25%	8.75%	13.75%	20%	27.5%	22.5%	5%	1.25%
h. Middle class people	13.75%	28.75%	26.25%	7.5%	8.75%	10%	2.5%	1.25%
i. Working class people <sup>134</sup>	15%	28.75%	26.25%	8.75%	6.25%	10%	2.5%	1.25%
j. Wealthy people <sup>135</sup>	63.75%	15%	2.5%	1.25%	2.5%	8.75%	2.5%	2.5%

Perception Chart 2

<sup>127</sup> 1 answer indicated both 'A Little' and 'None'; 1 answer indicated 'Same' and 'A Little'.

<sup>128</sup> 1 answer indicated both 'None' and 'Don't Know'; 1 answer indicated 'A Little' and 'None'.

<sup>129</sup> 1 answer indicated both 'A Little' and 'None'.

<sup>130</sup> The rates for the North Dakota Public Trust and Confidence Survey were 74% with 'Some' or 'A Great Deal' of trust for the 'ND Supreme Court' and over 85% for public schools, the governor's office, and the medical profession. Answers indicating more than 'Some' trust consisted of 57.2% of the sample.

<http://www.ndcourts.com/court/committees/trust/survey.htm>.

<sup>131</sup> 1 answer indicated both 'Same' and 'Don't Know'.

<sup>132</sup> 1 answer indicated both 'Better' and 'Same'.

<sup>133</sup> 1 answer indicated both 'Same' and 'Somewhat Worse'.

<sup>134</sup> 1 answer indicated both 'Same' and 'Don't Know'.

<sup>135</sup> 1 answer indicated both 'Better' and 'Somewhat Better'.

Most respondents indicated a perception that members of minority groups tend to be treated either ‘Somewhat Worse’ or ‘Far Worse,’ generally. It is useful to keep in mind while reading the chart that nearly all respondents to this survey, 97.5%, identified themselves as members of minority groups. This high minority perception of mistreatment of members of minority groups is expected based on previous studies as well as national and state trends. The rate is generally double that of the same questions asked in the Public Trust and Confidence in the Courts survey, which hovered between 20% and 30%, depending on the racial category.<sup>136</sup> A high proportion of respondents suggested that wealthy people are better treated in courts than those with less wealth. This trend appears to be strong in both surveys, regardless of race.<sup>137</sup>

Perception chart 3 includes three questions, asking individuals to indicate how strongly they agree or disagree with a given statement.

*How strongly do you agree or disagree with the following statement?*

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	Don't Know	NA	No Answer
a. Most juries are not representative of the community <sup>138</sup>	10%	40%	11.25%	10%	25%	1.25%	1.25%
b. Judges are generally honest and fair in deciding cases	6.25%	33.75%	26.25%	20%	11.25%	1.25%	1.25%
c. I would prefer that a judge ignore the law to ensure that a person who committed a crime is convicted	3.75%	16.25%	16.25%	47.5%	12.5%	2.5%	1.25%

Perception Chart 3

50% of respondents agreed that juries are not representative of the community, though a high proportion, 25%, indicated they did not know.<sup>139</sup> Slightly fewer respondents, 40%, indicated that judges are honest and fair with cases. Slightly more, 46.25%, disagreed that judges are generally honest and fair.<sup>140</sup> All of these percentages are significantly lower than those in the previous state survey.

Though not scientific, these responses, combined with widespread testimony regarding a general mistrust of State Courts, suggest that substantial differences exist in minority and majority opinion, and it is necessary to capture representative samples of minority opinions on these subjects for an accurate assessment of North Dakota public opinion.

<sup>136</sup> Answering ‘Worse,’ or ‘Far Worse’: African Americans: 26.2, Hispanics: 27, Native Americans: 31.3, Non-English speaking people: 24.8.

<sup>137</sup> Rates for the North Dakota Public Trust and Confidence Survey were at a comparable 59% answering ‘Better’ or ‘Somewhat Better’ for this question, though 30.2% indicated ‘Somewhat Better’ rather than ‘Better’. <http://www.ndcourts.com/court/committees/trust/survey.htm>.

<sup>138</sup> 1 answer indicated both ‘Strongly Agree’ and ‘Don’t Know’.

<sup>139</sup> The North Dakota Public Trust and Confidence Survey showed 51.1% of respondents disagreeing. <http://www.ndcourts.com/court/committees/trust/survey.htm>.

<sup>140</sup> The North Dakota Public Trust and Confidence Survey showed 82% respondents indicating ‘fair’. <http://www.ndcourts.com/court/committees/trust/survey.htm>.

## • PUBLIC COMMENTS

Testimony from public hearings and from the survey instrument was similar in content to that found in many previous state reports.<sup>141</sup> Some of most common perceptions, both written and spoken, included:

- A sense of disparate treatment when compared to majority white population; disparate sentencing and verdicts in instances where the only clear difference between cases is race
- Inability to deal fairly within the system because of poverty and unaffordability of counsel and other financial factors
- Non-cooperation or careless handling by some court personnel in cases involving recent immigrants
- Recognition of 'ingrained bias' that may not actually be consciously carried out
- Court personnel treating minorities differently by ignoring them or by treating them in an unfriendly manner
- Lack of a diverse court staff to make minority individuals feel adequately represented in the system in which they participate

Some public comments have been cited in this report to support various statistical data and provide specific examples. Since a large portion of the perception data gathered thus far is still being transcribed, the subject of public perceptions will be presented in a far more complete and exhaustive manner in the final report.

## CONCLUSIONS

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The timing for a Commission to Study Racial and Ethnic Bias in the Courts is appropriate given current circumstances in North Dakota, where a strong economic position relative to the rest of the country is attracting many people from various racial and ethnic backgrounds, and where the minority population has been quickly growing relative to the majority population over the last several years. The Commission seeks to find and address racial and ethnic bias in the face of such changes rather than continuing business as usual without knowledge of its extent, and rather than having to face the consequences of such ignorance once damage has already been done.

For Native Americans, who continue to make up the State's largest minority group, a comprehensive study of racial and ethnic bias in the Courts is long overdue. Despite this fact, the Commission has received a great deal of positive feedback regarding its efforts from Native Americans attending public hearings, from open ended comments on surveys, and from other members of the general public.

As can be gleaned from the foregoing description of each Committee and subject area, the Commission is well underway studying a wide variety of processes simultaneously, and many studies are in progress. The Commission intends to continue its overall study, working to a greater level of detail in every subject area in order to generate a complete and substantial final report with its findings and recommendations for change.

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<sup>141</sup> Final Report of the Penn. Sup. Ct., 2003; Nebraska, Final Report, 2003; Report of the Alaska Sup. Ct, 1997, Appendix B-1; Minn., Final Report, 1993. Apart from Alaska, which included a specific appendix covering testimony, states integrated testimony throughout their reports.

11.8117.01001  
Title.

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations

Fiscal No.1

February 9, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1002

Page 1, replace line 14 with:

"Salaries and wages \$8,189,996 \$926,655 \$9,116,651"

Page 1, replace line 15 with:

"Operating expenses 2,197,376 117,742 2,315,118"

Page 1, replace line 16 with:

"Capital assets 0 25,000 25,000"

Page 1, replace line 17 with:

"Judges retirement 127,021 11,084 138,105"

Page 1, replace line 18 with:

"Total general fund \$10,514,393 \$1,080,481 \$11,594,874"

Page 1, replace line 23 with:

"Salaries and wages \$48,980,255 \$5,071,847 \$54,052,102"

Page 1, replace line 24 with:

"Operating expenses 14,633,423 2,225,099 16,858,522"

Page 2, replace line 1 with:

"Capital assets 0 676,480 676,480"

Page 2, replace line 2 with:

"Judges retirement 533,705 (54,708) 478,997"

Page 2, replace line 6 with:

"Total all funds \$65,039,419 \$7,976,346 \$73,015,765"

Page 2, replace line 8 with:

"Total general fund \$63,268,958 \$7,890,032 \$71,158,990"

Page 2, replace line 22 with:

"Grand total general fund \$74,282,634 \$9,035,686 \$83,318,320"

Page 2, replace line 24 with:

"Grand total all funds \$76,367,441 \$9,133,153 \$85,500,594"

Page 2, replace line 25 with:

"Full-time equivalent positions	342.00	1.00	343.00"
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Page 3, line 9, replace "thirty-six" with "thirty-four"

Page 3, line 10, replace "seven" with "one"

Page 3, line 10, replace "thirty-nine" with "thirty-five"

Page 3, line 11, replace "forty-three" with "thirty-eight"

Page 3, line 11, replace "five" with "one"

Page 3, line 11, replace "seventy-six" with "fifty-nine"

Page 3, line 12, replace "nine" with "eight"

Page 3, line 13, replace "twenty-seven" with "fifty-two"

Page 3, line 13, remove the overstrike over "~~three~~"

Page 3, line 13, remove "four"

Page 3, line 14, replace "one" with "nine"

Page 3, line 14, replace "twenty-three" with "sixty-eight"

Page 3, line 18, replace "twenty-five" with "twenty-two"

Page 3, line 18, replace "two" with "nine"

Page 3, line 19, replace "ninety-seven" with "ten"

Page 3, line 20, replace "thirty-one" with "twenty-six"

Page 3, line 20, replace "sixty-two" with "ninety-seven"

Page 3, line 24, replace "six" with "five"

Page 3, line 25, replace "nineteen" with "fifty"

Page 3, line 26, replace "eight" with "six"

Page 3, line 26, after "~~forty seven~~" insert "fifty-seven"

Page 4, replace lines 5 and 6 with:

"Caseload studies	0	200,000"
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Page 4, replace line 7 with:

"Office equipment and furniture	288,124	185,000"
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Page 4, replace line 8 with:

"Information technology equipment	<u>109,088</u>	<u>516,480</u> "
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Page 4, replace line 9 with:

"Total general fund	\$8,307,381	\$901,480"
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of House Action**

	Executive Budget	House Changes	House Version
Supreme Court			
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
District Courts			
Total all funds	\$74,102,085	(\$1,086,320)	\$73,015,765
Less estimated income	1,856,775	0	1,856,775
General fund	\$72,245,310	(\$1,086,320)	\$71,158,990
Judicial Conduct Commission			
Total all funds	\$889,955	\$0	\$889,955
Less estimated income	325,499	0	325,499
General fund	\$564,456	\$0	\$564,456
Bill total			
Total all funds	\$86,681,547	(\$1,180,953)	\$85,500,594
Less estimated income	2,182,274	0	2,182,274
General fund	\$84,499,273	(\$1,180,953)	\$83,318,320

**House Bill No. 1002 - Supreme Court - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
FTE	45.00	0.00	45.00

**Department No. 181 - Supreme Court - Detail of House Changes**

	Reduces Funding for Justices' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Equipment <sup>3</sup>	Reduces Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	(\$49,276)				(\$49,276)
Operating expenses				(40,000)	(40,000)
Capital assets			(2,500)		(2,500)
Judges retirement		(2,857)			(2,857)
Total all funds	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
Less estimated income	0	0	0	0	0
General fund	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding included in the executive budget for salary increases for justices is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges' retirement is reduced from

5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for equipment over \$5,000 is reduced.

<sup>4</sup> Funding included in the executive budget for operating expenses of the Commission to Study Racial and Ethical Bias in Courts is reduced.

**House Bill No. 1002 - District Courts - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>(\$1,086,320)</b>	<b>\$73,015,765</b>
Less estimated income	1,856,775	0	1,856,775
<b>General fund</b>	<b>\$72,245,310</b>	<b>(\$1,086,320)</b>	<b>\$71,158,990</b>
FTE	297.00	(3.00)	294.00

**Department No. 182 - District Courts - Detail of House Changes**

	Reduces Funding for Judges' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Studies <sup>3</sup>	Reduces Funding for Information Technology Equipment <sup>4</sup>	Removes Funding for Recovery Study <sup>5</sup>	Removes 3 FTE Positions <sup>6</sup>
Salaries and wages	(\$396,891)					(\$457,234)
Operating expenses			(100,000)		(100,000)	
Capital assets				(18,000)		
Judges retirement		(14,195)				
UND central legal research						
Mediation						
<b>Total all funds</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
Less estimated income	0	0	0	0	0	0
<b>General fund</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
FTE	0.00	0.00	0.00	0.00	0.00	(3.00)

	Total House Changes
Salaries and wages	(\$854,125)
Operating expenses	(200,000)
Capital assets	(18,000)
Judges retirement	(14,195)
UND central legal research	
Mediation	
<b>Total all funds</b>	<b>(\$1,086,320)</b>
Less estimated income	0
<b>General fund</b>	<b>(\$1,086,320)</b>
FTE	(3.00)

<sup>1</sup> Funding included in the executive budget for salary increases for judges is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for work assessment and weighted caseload studies is reduced to \$200,000.

<sup>4</sup> One-time funding included in the executive budget for information technology equipment is reduced to \$516,480.

<sup>5</sup> One-time funding included in the executive budget for a disaster recovery study is removed.

<sup>6</sup> This amendment removes 1 FTE deputy clerk position and 2 FTE juvenile court officer positions included in the executive budget.

1002.2.10.11E

Prepared by the Legislative Council staff  
for Government Operations  
February 9, 2011

**LISTING OF PROPOSED CHANGES TO HOUSE BILL NO. 1002**

**Judicial Branch**

**Proposed funding changes:**

Description	FTE	General Fund	Special Funds	Total
<b>Supreme Court</b>				
1 Reduce judges' and justices' salary increases from 5 percent to 3 percent		(\$49,276)		(\$49,276)
2 Reduce judges' retirements		(\$2,857)		(\$2,857)
3 Decrease <b>one-time funding</b> for equipment over \$5,000		(\$2,500)		(\$2,500)
4 Decrease funding for operating expenses for the Commission to Study Racial and Ethical Bias in Courts		(\$40,000)		(\$40,000)
Subtotal Supreme Court		<u>(\$94,633)</u>		<u>(\$94,633)</u>
<b>District Courts</b>				
1 Reduce judges' and justices' salary increases from 5 percent to 3 percent		(\$396,891)		(\$396,891)
2 Reduce judges' retirements		(\$14,195)		(\$14,195)
4 Decrease funding for work assessment and weighted caseload studies		(\$100,000)		(\$100,000)
5 Decrease <b>one-time funding</b> for information technology equipment		(\$18,000)		(\$18,000)
6 Remove <b>one-time funding</b> for disaster recovery study		(\$100,000)		(\$100,000)
7 Remove funding for 1 FTE deputy clerk of district court position and 2 FTE juvenile court officer positions included in the executive recommendation	(3.00)	(\$457,234)		(\$457,234)
Subtotal District Courts	<u>(3.00)</u>	<u>(\$1,086,320)</u>		<u>(\$1,086,320)</u>
Total proposed changes	<u>(3.00)</u>	<u>(\$1,180,953)</u>		<u>(\$1,180,953)</u>

**Other proposed changes:**  
None

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1002

Page 1, replace line 14 with:

"Salaries and wages \$8,189,996 \$926,655 \$9,116,651"

Page 1, replace line 15 with:

"Operating expenses 2,197,376 117,742 2,315,118"

Page 1, replace line 16 with:

"Capital assets 0 25,000 25,000"

Page 1, replace line 17 with:

"Judges retirement 127,021 11,084 138,105"

Page 1, replace line 18 with:

"Total general fund \$10,514,393 \$1,080,481 \$11,594,874"

Page 1, replace line 23 with:

"Salaries and wages \$48,980,255 \$5,071,847 \$54,052,102"

Page 1, replace line 24 with:

"Operating expenses 14,633,423 2,225,099 16,858,522"

Page 2, replace line 1 with:

"Capital assets 0 676,480 676,480"

Page 2, replace line 2 with:

"Judges retirement 533,705 (54,708) 478,997"

Page 2, replace line 6 with:

"Total all funds \$65,039,419 \$7,976,346 \$73,015,765"

Page 2, replace line 8 with:

"Total general fund \$63,268,958 \$7,890,032 \$71,158,990"

Page 2, replace line 22 with:

"Grand total general fund \$74,282,634 \$9,035,686 \$83,318,320"

Page 2, replace line 24 with:

"Grand total all funds \$76,367,441 \$9,133,153 \$85,500,594"

Page 2, replace line 25 with:

"Full-time equivalent positions 342.00 1.00 343.00"

Page 3, line 9, replace "thirty-six" with "thirty-four"

Page 3, line 10, replace "seven" with "one"

Page 3, line 10, replace "thirty-nine" with "thirty-five"

Page 3, line 11, replace "forty-three" with "thirty-eight"

Page 3, line 11, replace "five" with "one"

Page 3, line 11, replace "seventy-six" with "fifty-nine"

Page 3, line 12, replace "nine" with "eight"

Page 3, line 13, replace "twenty-seven" with "fifty-two"

Page 3, line 13, remove the overstrike over "three"

Page 3, line 13, remove "four"

Page 3, line 14, replace "one" with "nine"

Page 3, line 14, replace "twenty-three" with "sixty-eight"

Page 3, line 18, replace "twenty-five" with "twenty-two"

Page 3, line 18, replace "two" with "nine"

Page 3, line 19, replace "ninety-seven" with "ten"

Page 3, line 20, replace "thirty-one" with "twenty-six"

Page 3, line 20, replace "sixty-two" with "ninety-seven"

Page 3, line 24, replace "six" with "five"

Page 3, line 25, replace "nineteen" with "fifty"

Page 3, line 26, replace "eight" with "six"

Page 3, line 26, after "~~forty-seven~~" insert "fifty-seven"

Page 4, replace lines 5 and 6 with:

"Studies on work assessment and racial and ethical bias in the courts	0	200,000"
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Page 4, replace line 7 with:

"Office equipment and furniture	288,124	185,000"
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Page 4, replace line 8 with:

"Information technology equipment	<u>109,088</u>	<u>516,480</u> "
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Page 4, replace line 9 with:

"Total general fund	\$8,307,381	\$901,480"
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of House Action**

	Executive Budget	House Changes	House Version
<b>Supreme Court</b>			
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
<b>District Courts</b>			
Total all funds	\$74,102,085	(\$1,086,320)	\$73,015,765
Less estimated income	1,856,775	0	1,856,775
General fund	\$72,245,310	(\$1,086,320)	\$71,158,990
<b>Judicial Conduct Commission</b>			
Total all funds	\$889,955	\$0	\$889,955
Less estimated income	325,499	0	325,499
General fund	\$564,456	\$0	\$564,456
<b>Bill total</b>			
Total all funds	\$86,681,547	(\$1,180,953)	\$85,500,594
Less estimated income	2,182,274	0	2,182,274
General fund	\$84,499,273	(\$1,180,953)	\$83,318,320

**House Bill No. 1002 - Supreme Court - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
Total all funds	\$11,689,507	(\$94,633)	\$11,594,874
Less estimated income	0	0	0
General fund	\$11,689,507	(\$94,633)	\$11,594,874
FTE	45.00	0.00	45.00

**Department No. 181 - Supreme Court - Detail of House Changes**

	Reduces Funding for Justices' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Equipment <sup>3</sup>	Reduces Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	(\$49,276)				(\$49,276)
Operating expenses				(40,000)	(40,000)
Capital assets			(2,500)		(2,500)
Judges retirement		(2,857)			(2,857)
Total all funds	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
Less estimated income	0	0	0	0	0
General fund	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding included in the executive budget for salary increases for justices is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges' retirement is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for equipment over \$5,000 is reduced.

<sup>4</sup> Funding included in the executive budget for operating expenses of the Commission to Study Racial and Ethical Bias in Courts is reduced.

**House Bill No. 1002 - District Courts - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>(\$1,086,320)</b>	<b>\$73,015,765</b>
Less estimated income	1,856,775	0	1,856,775
<b>General fund</b>	<b>\$72,245,310</b>	<b>(\$1,086,320)</b>	<b>\$71,158,990</b>
FTE	297.00	(3.00)	294.00

**Department No. 182 - District Courts - Detail of House Changes**

	Reduces Funding for Judges' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Studies <sup>3</sup>	Reduces Funding for Information Technology Equipment <sup>4</sup>	Removes Funding for Recovery Study <sup>5</sup>	Removes 3 FTE Positions <sup>6</sup>
Salaries and wages	(\$396,891)					
Operating expenses			(100,000)		(100,000)	(\$457,234)
Capital assets				(18,000)		
Judges retirement		(14,195)				
UND central legal research						
Mediation						
<b>Total all funds</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
Less estimated income	0	0	0	0	0	0
<b>General fund</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
FTE	0.00	0.00	0.00	0.00	0.00	(3.00)

	Total House Changes
Salaries and wages	(\$854,125)
Operating expenses	(200,000)
Capital assets	(18,000)
Judges retirement	(14,195)
UND central legal research	
Mediation	
<b>Total all funds</b>	<b>(\$1,086,320)</b>
Less estimated income	0
<b>General fund</b>	<b>(\$1,086,320)</b>
FTE	(3.00)

<sup>1</sup> Funding included in the executive budget for salary increases for judges is reduced from 5 percent to

3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for work assessment and weighted caseload studies is reduced to \$200,000.

<sup>4</sup> One-time funding included in the executive budget for information technology equipment is reduced to \$516,480.

<sup>5</sup> One-time funding included in the executive budget for a disaster recovery study is removed.

<sup>6</sup> This amendment removes 1 FTE deputy clerk position and 2 FTE juvenile court officer positions included in the executive budget.

**House Bill 1002**  
**Senate Appropriations**  
Presented by Sally Holewa, State Court Administrator  
March 2, 2011

Good afternoon, Chairman Holmberg and members of the Committee:

For the record, my name is Sally Holewa. I am the State Court Administrator. I will be providing a general overview of our budget request. Don Wolf, our Director of Finance, will provide the details contained in our 2011- 2013 budget request.

The Judicial Branch appropriation funds the personnel, programs, and operating costs for the supreme court, the district courts, and the Judicial Conduct Commission and Disciplinary Board. Our initial budget request for the 2011-2013 biennium was \$86,681,547.

House Appropriations made cuts to the budget request totaling \$1,180,953. The original budget request included a 5% per year increase for judicial salaries. The House reduced this to a 3% per year increase consistent with the recommendation for state employee compensation. Other cuts included funding for three FTE positions, operating expenses for our Commission to Study Racial and Ethnic Bias in the Courts, elimination of funding for a disaster recovery study, and cuts to our furniture and equipment line items. These changes brought our appropriation request down to \$85,500,594.

The bulk of our requested increase for the next biennium comes in just two areas: salaries and technology. Taken together, these two line items account for 90% of the increases in our budget.

Salaries and wages comprise 66% of the increase. We are requesting \$6 million to

maintain the salary increases from the last biennium, to cover the anticipated employee salary increase of 3% per year for the coming biennium, and a 3% per year increase in judicial salaries.

### **New Employees**

We are requesting 1 full-time FTE, a law clerk who would be located in Mandan and provide services for the 8 judges in the South Central Judicial District.

Our weighted caseload study shows a 3 judge shortage in both the East Central Judicial District and the South Central Judicial District and a 2 judge shortage in the Northwest Judicial District. While we are not asking for additional judgeships at this time, we are asking for 1 additional law clerk to be located in Mandan. Burleigh and Morton Counties are the two largest counties in the South Central Judicial District. There are 6 judges chambered in Bismarck and 2 in Mandan. Over the past few years, these two counties have seen an across-the-board increase in filings for all case types. They are both high volume courts where judges spend much of their time on the bench hearing cases. Law clerks can help alleviate the judgeship shortage by doing legal research. This frees up judge time for hearing cases and writing decisions. Currently, there is only 1 law clerk to assist the 8 judges in Bismarck and Mandan. This compares to 3 law clerks in Fargo to assist 8 judges, and 2 law clerks in Minot to assist the 7 judges in the Northwest.

### **Temporary Employees**

We are asking for 5 temporary employees.

Our original budget request included a request for 4 FTEs -- 1 law clerk, 1 deputy

clerk of court, and 2 juvenile court officers. House Appropriations left the law clerk position in the budget but removed the other three positions. We are not asking the Senate Appropriations Committee to reinstate these three positions as FTEs but we would like you to consider approving the 2 juvenile court officer positions as full-time temporary positions. The cost to fund these two positions as temporary positions is \$265,504 for the biennium. The difference in salaries and wages between filling them as temporary positions rather than FTEs is \$62,582:

**Juvenile Court Officers:** Our juvenile staffing study shows an overall staffing shortage of 7 juvenile court officers and 2 juvenile court secretaries. Cass County has a shortage of 4 juvenile court officers and 1 juvenile court secretary; Bismarck has a shortage of 3 juvenile court officers and 1 secretary.

Juvenile court officers are probation officers who work one-on-one with children who have been brought into the juvenile court system. They receive referrals, handle informal adjustments, meet with parents and victims, monitor compliance with conditions of probation, set up shelter care hearings, and work with community agencies to ensure that services are available for educating, rehabilitating and assisting children.

In addition to the 2 juvenile court officers, we are also requesting 2 half-time juvenile court secretaries and 1 full-time research analyst.

**Juvenile Court Secretaries:** Juvenile court secretaries provide receptionist and standard secretarial duties for the entire office. They also draft petitions and orders, schedule hearings, and do the data entry into the juvenile case management system necessary to record

what happens in cases. Depending on the needs of the office, they may also do school attendance checks, perform some of the informal supervision monitoring, or run the digital recording system for hearings. We are requesting 2 temporary half-time secretaries, to be located in Cass and Burleigh Counties.

**Research Analyst:** The court receives substantial funding from the federal government in the form of a Court Improvement Project grant. The purpose of the Court Improvement Project is to evaluate and monitor how the court responds to child welfare cases and to develop ways to improve that response. Failure to follow federal guidelines on child welfare cases has a direct impact on the amount of federal IV-E dollars the state receives. The IV-E dollars are used by the state to reimburse counties for foster care and other out-of-home placement costs. We are requesting 1 temporary full-time research analyst position to gather and analyze data on child welfare cases. Seventy-five percent of the salary for the position would be paid for with a federal grant and the remaining 25% would come from the general fund.

The Judicial Branch has always been frugal in requesting new staff. We utilize a number of different performance measures to review workloads and staffing levels. Our docket currency standards, weighted caseload standards for district court judges, and weighted workload standards for clerk of court personnel and juvenile court personnel all provide guidelines which we use to monitor judicial and staffing needs in the trial courts.

All of these studies show some shortages in staffing levels, but we do not rely solely on them when making the decision to request additional staff. We go through an extensive

justification process for refilling every vacancy, which includes an analysis of how staff assignments and duties can be shifted to make the office more efficient.

We also share some types of deputy clerk and juvenile court officer work between offices. Shared duties performed by deputy clerks of court include fine collection, jury management, and temporary assistance with records retention. Juvenile court officers share work by covering juvenile cases across district boundaries. While these efforts to share work have allowed us to alleviate some of the shortages, it has not eliminated the shortages altogether. In addition, although it has caused considerable opposition from our staff and the communities they reside in, we have moved positions from one division or district to another if the need is greater elsewhere. However, even taking into consideration the temporary positions that were authorized during the last legislative session, we have reached a point where work can no longer be shifted and there are no longer positions that can be moved. For these reasons, we are asking for your support of these temporary positions.

### **Technology**

Technology comprises 24% of the increase in our budget. We are requesting an increase of \$2.2 million in technology costs.

**Increased Data Processing Fees Charged by ITD:** We are requesting \$381,660 to cover increased fees charged by ITD. Several years ago, we made an arrangement with ITD to purchase network switches. In exchange for purchasing and maintaining the switches, ITD agreed to bill us only for the 101 FTE positions located in the Bismarck area. The network switches are in need of replacement. Rather than continue with our prior arrangement, ITD

would like to move us to the same billing model they use for the legislative and the executive branch. This would mean charging us a flat, per-employee fee for all Judicial Branch employees.

**IT Capital Assets:** We are requesting \$516,480 to purchase IT equipment over \$5,000. Fifty-seven percent of that increase, or \$292,000, is for disk and server expansion to house electronic documents. We are requesting \$171,480 for 8 digital audio systems for courtrooms, and \$40,000 for digital audio servers to store the recordings. We are also requesting \$13,000 for evidence presentation equipment for the 3 new courtrooms that are included in the Cass County Courthouse addition.

**Maintenance & Support for the Trial Court Case Management Computer System:** We are requesting \$641,920 maintenance and support for the new trial court computer system. Maintenance and support are set at 18% of the original purchase price.

**Consultation & Enhancements for Trial Court Computer System:** We are requesting \$108,500 to purchase consulting and enhancement services from the vendor for our trial court case management computer system. "Enhancement" is the word used by the vendor to indicate state-specific changes to their software. In our case, it would be more accurate to use the term "integrations". It is our intention to integrate the trial court computer system with CJIS and with the State's Attorney record system, STARS.

**Licenses & Support for Other Computer Systems and Software:** We are requesting \$543,077 for increased costs for licenses and support of computer systems and software. In addition to the trial court case management system, the court has a juvenile case

management system and a jury management system. We also pay license and support for numerous software and hardware applications.

### **Studies**

Our budget request includes funding to continue one study -- the Race and Ethnic Bias Study; to update two workload studies, and to fund a new study -- a Disaster Recovery Study. The total request for all four studies was \$460,000. House Appropriations eliminated the \$100,000 request for funding for the Disaster Recovery Study and reduced the appropriation for the remaining three studies by \$140,000.

**Racial and Ethnic Bias Study:** The court system is in the midst of a study of racial and ethnic bias in the courts. This is a comprehensive study that is looking at our jury system, Judicial Branch employment, the legal profession, and incarceration and sentencing practices in both the criminal and juvenile areas. It is incumbent upon the court system to self-monitor and ensure that we are meeting our obligation to provide fair and impartial services to all who come before us.

**Workload Studies:** The court uses two primary workload studies to assess the need for judges and staff and to reassign the positions to another location. The Weighted Caseload study (WCL) is used to analyze judge need. The Workload Assessment study (WAPC) is used to analyze clerk of court need. A primary purpose of the Workload Assessment study is to determine the reimbursement rate for counties that provide clerk of court services. Currently, 41 counties provide these services.

An update of both studies is necessary due to the introduction of the new case

management system in the district court. The new case management system counts cases differently than the former system did and requires different business processes. These are time-and-motion studies and to be accurate they need to be calibrated to reflect current practices.

The Workload Assessment study is of pivotal importance to ensure that the counties are fairly compensated for the services they provide. Given the cuts made by the House, it is our intention to carry out the Workload Assessment study and continue on with the Race and Ethnic Bias study. We will put out a Request for Proposal that includes both the Workload Assessment study and the Weighted Caseload study, but if we are not able to attract an affordable bid for both, we will postpone the Weighted Caseload study for another biennium.

**Disaster Recovery Study:** The Judicial Branch operates in all 53 counties, but our computer systems all tie back to our main servers in Bismarck. All of our offices operate off the state's network. Several of the counties have moved court system employees off their county phone system, so they are tied into the state phone system, as is the Supreme Court and our administrative offices in Bismarck. We are cognizant that we are very vulnerable in the event of a natural or manmade disaster and would like to put a plan in place that would allow us to recover from a disaster and resume services as quickly as possible.

House Appropriations indicated to us that they were eliminating the funding for our disaster recovery study because they anticipate ITD will be doing a comprehensive state-wide disaster recovery study that would include all three branches of government. We are very much in support of a comprehensive study. However, in the event that such a study is not

going to proceed in the coming biennium, we are requesting that the Senate reinstate the \$100,000 funding for a Judicial Branch disaster recovery study.

### **Family Mediation Program**

Four years ago, we began a family mediation program. The mediation program provides up to six hours of mediation services to newly divorcing parents, never-married parents, parents returning to court over parenting time and residential issues, and guardianship cases. Over the past biennium, we expanded the program from the Northeast Central and South Central Judicial Districts to all areas of the state. The program has consistently had a satisfaction rate of more than 80%. More than 50% of the cases that go through mediation result in a settlement of all issues and another 17% settle at least some issues. Another 13% of cases are settling in full within a few weeks of the mediation. This is important for two reasons: first, it brings the uncertainty of separation and the angst of a pending trial to a close. Rather than living through a year or more of uncertainty, wondering what is going to happen, the parties are getting a final decision within a matter of months of filing their case. Second, the parties are reaching agreements that they have actively participated in. They are the ones making choices and this means they are more satisfied with the outcome of their case.

This program has extended mediation services to people in rural areas of the state and to low income people who would not have had access to it before. Mediation not only gives people a voice in their case, but it teaches them skills for how to settle disagreements that may arise in the future. Everyone benefits when parents can agree on how to handle issues

without involving lawyers or the courts.

We have requested additional funding to continue covering the entire state for the full biennium and to expand the mediation program to family and probate cases that are appealed to the Supreme Court. A drawn out court battle over mom's or dad's estate or custody of children can destroy a family forever. Mediation at this stage may lesson some of the toll caused by family members suing each other. Our initial research indicates that similar mediation programs in other states have an average settlement rate of 53%. This saves the parties time and money, but more importantly, it gives families another chance to work together to reach a solution they can all agree on.

### **Drug Courts**

We continue to provide juvenile drug courts in Bismarck, Fargo, Grand Forks, Devils Lake, Minot and Williston. Juvenile drug courts are included in the court's budget. The cost to operate a juvenile drug court is \$65,000 per court per year. We are also operating adult drug courts in Fargo, Bismarck, Grand Forks and Minot. Funds for adult drug courts are included in the Corrections and Human Services budgets.

Drug courts have proven successful in making permanent, positive changes in the lives of those who come before them. We are requesting your continued support of these programs.

### **Conclusion**

The rest of the increases in the budget are attributable to incremental increases across a wide array of operating costs which Don Wolf, our Director of Finance, will cover in his

presentation, as well as information regarding our anticipated turnback.

Our budget has been prepared recognizing that we have been fortunate in North Dakota compared to financial circumstances in many other states. Our budget is a responsible budget. It represents a thoughtful, conservative approach to fund all operations within the courts of the state, assuring there will be no reduction in service delivery to the citizens in any of the 53 counties of our state.

Thank you.

**House Bill 1002**  
**Senate Appropriations - Government Operations**  
 Don Wolf, Director of Finance  
 March 2, 2011

Mr. Chairman, members of the committee, good afternoon. For the record my name is Don Wolf and I am the Director of Finance for the Judiciary. I will be providing you with the details regarding the judicial budget request.

<b>JUDICIAL BRANCH</b>	<b>2009-11 Biennium</b>	<b>2011-13 Biennium</b>	<b>Increase (Decrease)</b>
Total appropriation	\$84,634,822	\$86,681,547	\$2,046,725
2009-11 Biennium one-time funding items	(8,307,381)	0	8,307,381
Special funds authority	<u>40,000</u>	<u>0</u>	<u>(40,000)</u>
<b>Total base budget</b>	<b>\$76,367,441</b>	<b>\$86,681,547</b>	<b>\$10,314,106</b>
House changes	<u>0</u>	<u>(1,180,953)</u>	<u>(1,180,953)</u>
<b>Engrossed HB 1002</b>	<b>\$76,367,441</b>	<b>\$85,500,594</b>	<b>\$9,133,153</b>

The total **2009-11 biennium** appropriation for the judicial branch is \$84,634,822. Pursuant to Section 6 of 2009 Senate Bill No. 2002, the 2009-11 biennium one-time funding amounts were not included as part of the base budget for the 2011-13 biennium. The 2009-11 biennium one-time items included the Odyssey case management project (\$7,258,129), management reserve relating to the Odyssey project (\$600,000), parenting coordinator program (\$52,040) and capital assets (\$397,212).

Section 2 of 2009 Senate Bill No. 2002 allows the Judicial Branch to adjust the total appropriation for any additional federal or special funds received during the biennium. Pursuant to this section, the total appropriation was increased by \$40,000 of special funds authority from an Otto Bremer grant for the Family Court Project in Grand Forks. The total 2009-11 biennium judicial branch base budget is **\$76,367,441**.

The **2011-13 biennium** Judicial Branch budget request is **\$86,681,547**, which is an increase of \$10,314,106 or 13.5 percent over the 2009-11 biennium base budget. The House reduced the budget by \$1,180,953, for a total adjusted appropriation of

\$85,500,594. The appropriation includes funding for the Supreme Court, District Courts and the Judicial Conduct Commission and Disciplinary Board.

Subdivision	2009-11 Biennium	2011-13 Biennium (with House changes)	Increase (Decrease)
Supreme Court	\$10,514,393	\$11,594,874	\$ 1,080,481
District Court	65,039,419	73,015,765	7,976,346
JCC/DB	<u>813,629</u>	<u>889,955</u>	<u>76,326</u>
<b>Total</b>	<b>\$76,367,441</b>	<b>\$85,500,594</b>	<b>\$9,133,153</b>

Line Item	2009-11 Biennium	2011-13 Biennium (with House changes)	Increase (Decrease)
Salaries and Wages	\$57,170,251	\$63,168,753	\$ 5,998,502
Operating	16,830,799	19,173,640	2,342,841
Capital Assets	0	701,480	701,480
Mediation	792,036	869,664	77,628
Judges Retirement	660,726	617,102	(43,624)
UND – Central Legal Research	80,000	80,000	0
Alternative Dispute Resolution	20,000	0	(20,000)
JCC/DB	<u>813,629</u>	<u>889,955</u>	<u>76,326</u>
<b>Total</b>	<b>\$76,367,441</b>	<b>\$85,500,594</b>	<b>\$9,133,153</b>

The budget per funding source is as follows:

	2009-11 Biennium	2011-13 Biennium (with House changes)	Increase (Decrease)
General fund	\$74,282,634	\$83,318,320	\$9,035,686
Special funds	354,346	325,499	(28,847)
Federal funds	<u>1,730,461</u>	<u>1,856,775</u>	<u>126,314</u>
<b>Total</b>	<b>\$76,367,441</b>	<b>\$85,500,594</b>	<b>\$9,133,153</b>

The 2011-13 biennium special funds budget includes \$325,499 of funding from the State Bar Association. Seventy-five dollars of each license issued is allocated for the attorney discipline system. The 2011-13 biennium federal funds budget includes \$1,276,057 from a federal child support grant and \$580,718 from Court Improvement

Project grants. The child support funds are received as a pass-through from the Department of Human Services as a reimbursement for the time referees and clerks spend on child support cases. The federal Court Improvement Project grants provide assistance to state courts in the processing of child welfare cases.

**Salaries and Wages:**

2011-13 Budget Request	House Amendments	Engrossed HB 1002
\$64,072,154	(\$903,401)	\$63,168,753

Salaries and wages are 74 percent of the total judicial budget with House changes. The increase of \$6 million for salaries and wages accounts for 66 percent of the total budget request increase. Details of the increase are as follows:

- The judiciary budget request included salary increases of 5 percent per year for judges and justices. The cost of this proposed increase, including retirement, is \$1,095,141. The House reduced the judges and justices salary increase to 3 percent per year, the same as state employees. The net reduction to the salaries and wages line item from this adjustment is **\$446,167**.
- The total cost to provide employee salary and benefit increases per the executive recommendation (\$2,622,102) and cost to continue the second year of the 2009-11 biennium salary increase (\$2,297,043) is \$4,919,145.
- The judiciary is requesting four new FTE positions. The new positions include a law clerk and deputy clerk of court for the South Central Judicial District and two juvenile court officers. One juvenile court officer would be located in Bismarck and the second would be located in Fargo. The total funding request for these new positions is \$607,226. The House reduced this request by **\$457,234** and removed the deputy clerk and two juvenile court officer FTE positions. We are asking the Senate to consider increasing our budget by \$265,504 and reinstating the two juvenile court officers as temporary positions.
- The budget request includes \$219,296 for temporary salaries and \$8,700 for related operating costs for three new temporary positions. This funding would provide for

two part-time temporary juvenile court secretaries and a court improvement program research analyst. Seventy-five percent of the funding for the research analyst position is funded with a federal court improvement grant with a twenty-five percent general fund match.

- The budget request for temporary salaries includes an increase of \$92,400 for the temporary position overseeing the race and ethnicity task force. The budget increase would allow the position to go from part-time to full-time temporary. The total temporary salaries and benefits request for the position is \$114,400.

**Operating:**

2011-13 Budget Request	House Amendments	Engrossed HB 1002
\$19,413,640	(\$240,000)	\$19,173,640

Operating expenses are 22 percent of the total judicial budget with House changes. The increase in operating costs accounts for 26 percent of the total budget request increase. Details of the increase are as follows:

- **Disaster recovery study** – The District Court budget request included one-time funding of **\$100,000** for an information technology disaster recovery study. The primary purpose of the study would be to develop in-depth plans for continuity of business operations in case of a disaster. The House removed the **\$100,000** of funding for the Disaster recovery study.
- **Race and ethnicity task force** – Operating costs are increased by **\$40,000** for the Commission to Study Racial and Ethnic Bias in the Courts. The commission is studying whether racial and ethnic bias exists within current court processes by gathering various statistical data and receiving testimonials. The Supreme Court budget request for the commission includes \$60,000 for operating fees and \$114,400 for temporary salaries.
- **WAPC and WCL studies** – The District Court budget request included one-time funding of **\$300,000** to update the Work Assessment Policy Committee study to assess clerk of court staffing standards and the weighted caseload study of judicial

resources and workload. These studies need to be updated to reflect variances in the way cases are counted under the new Odyssey case management system as compared to UCIS. The House reduced the funding for the race and ethnicity task force and WAPC/WCL studies by a combined **\$140,000**. The Judicial Branch may use its discretion to reallocate the remaining funding for these studies.

- **Payments to county clerks** – After surveying county auditors for salary information and applying the WAPC formula based on cases filed in each county, the amount budgeted for contract payments for clerk services increased by \$416,354. This increase reflects salary increases given to county employees from January 2008 to January 2010. Currently, 41 counties contract with the Supreme Court to provide for clerk of court services. Pursuant to North Dakota Century Code Section 27-05.2-02, county board of commissioners may elect to have their county's clerk of district court and staff to become employees of the state judicial system. The county is required to have a need for a minimum of one full-time court employee based on the WAPC formula to make the election. A total of 12 counties have made this election. No additional counties made the election for the 2011-13 biennium. Total contract payments to counties for the 2011-13 biennium will be \$3,396,492. In addition, payments to counties for travel, technology and operating costs are estimated to be \$165,132. The total budget for contract clerks is **\$3,561,624** or \$445,909 more than the 2009-11 biennium.
- **Odyssey support and enhancements** – The proposed budget includes **\$641,920** for Odyssey maintenance support and system updates and **\$108,500** for North Dakota specific Odyssey system enhancements. The maintenance support and system updates are per the contract with Odyssey and the funding for enhancements would allow for the Judicial Branch to contract with Tyler Technologies, the company that developed Odyssey, for North Dakota specific system needs.
- **ITD technology fee** – The Information Technology Department will be changing the formula for determining the technology fee charged to the Judicial Branch. The fee is based on the number of employees and a per server charge. We are currently paying for 101 FTE positions located in the Bismarck area; however this will

increase to include all 342 Judicial Branch FTE positions and 70 servers. The total increase in the technology fee is anticipated to be **\$381,660** for the biennium.

- **Miscellaneous information technology costs** – Other miscellaneous increases in information technology costs of **\$543,077** relate to fees to store servers within the Highway Department building (\$40,800), charges for fiber and T-1 lines (\$82,068), Court Improvement Project child welfare software (\$60,931), human resource software (\$16,530) and increases in various software and hardware support and license fees (\$342,748).

**Capital Assets:**

<b>2011-13 Budget Request</b>	<b>House Amendments</b>	<b>Engrossed HB 1002</b>
\$721,980	(\$20,500)	\$701,480

The judicial budget for capital assets is **\$701,480**, of which \$25,000 is for the Supreme Court and \$676,480 is for district courts. The total budget for equipment over \$5,000 is \$185,000. The budget request includes funding for workstations/desks (\$47,000), copy machines (\$101,500), folding machines (\$15,000) and other miscellaneous furniture and office equipment (\$24,000). The House reduced the Supreme Court budget request for conference room furniture by **\$2,500**, from \$10,000 to \$7,500.

The total budget for IT capital assets over \$5,000 is \$516,480. The budget request includes funding for evidence presentation equipment for the new Cass County courthouse (\$31,000), disk and server expansion to house Odyssey document images (\$292,000), server upgrades (\$40,000) and digital audio recording equipment for various district courts (\$171,480). The House reduced the funding for Cass County evidence presentation equipment by **\$18,000**. The funding was to purchase three large monitors for the new courtrooms.

**Mediation Pilot Project:**

<b>2011-13 Budget Request</b>	<b>House Amendments</b>	<b>Engrossed HB 1002</b>
\$869,664	\$0	\$869,664

In March 2008, the North Dakota Judicial Branch began offering a new court-administered family law mediation program for civil proceedings involving custody and visitation disputes. The purpose of this program is not to divert cases out of the court, but to alleviate the emotional distress caused by the adversarial process.

The mediation program was initially piloted during the 2007-09 biennium in the South Central Judicial District and the Northeast Central Judicial District. During the 2009-11 biennium the program has been expanded statewide.

The budget request for the mediation program is **\$869,664**, which is \$77,628 more than the 2009-11 biennium appropriation for the program. The budget increase is for costs associated with continuing the program statewide during the 2011-13 biennium.

**Judge Retirement (NDCC Chapter 27-17 Old Retirement System):**

<b>2011-13 Budget Request</b>	<b>House Amendments</b>	<b>Engrossed HB 1002</b>
\$634,154	(\$17,052)	\$617,102

The judges' retirement line item provides for the state's general fund portion of retirement payments to eligible retirees under the old retirement system. There are 2 remaining participants within the Supreme Court budget and 9 participants within the district court budget. The budget for judges' retirement is **\$617,102**, of which \$138,105 is for the Supreme Court and \$478,997 is for District Court. The average age of the recipients as of December 2010 was 86. The House reduced the funding for the judges' retirement line item by **\$17,052**, which is the difference from a 5 percent annual increase to a 3 percent annual increase.

**Judicial Conduct Commission and Disciplinary Board (JCC/DB):**

<b>2011-13 Budget Request</b>	<b>House Amendments</b>	<b>Engrossed HB 1002</b>
\$889,955	\$0	\$889,955

The Judicial Conduct Commission and Disciplinary Board is responsible for investigating complaints against North Dakota judges and attorneys. Total funding of **\$889,955** is requested for the operations of JCC/DB. This is an increase of \$76,326 as compared to the current biennium. The increase is primarily due to salary increases per the governor's recommendation. No capital assets are being requested.

**Turnback**

The 2009-11 biennium estimated general fund turnback for the Judicial Branch is \$2.1 million. The estimated turnback consists of the following:

- The total appropriation authority for the Odyssey case management system project was \$8,633,129. The Legislative Assembly appropriated \$1,375,000 during the 2007-09 biennium for preliminary planning and implementation and \$7,258,129 during the 2009-11 biennium to complete the project. After receiving authority to complete the project, the Judicial Branch moved ahead with the project. Actual project expenses incurred during the 2007-09 biennium project were \$2,500,155. The total 2007-09 biennium prepayment of project expenses of **\$1,125,155** will be turned back at the end of the 2009-11 biennium. The Odyssey project is anticipated to be completed within budget and on time.
- The 2009 Legislative Assembly appropriated \$600,000 for a management reserve or contingency fund for unexpected Odyssey project costs, per recommendation from the Information Technology Department. It is anticipated that approximately **\$575,000** of the management reserve will be turned back.

- The remaining **\$400,000** turnback, which primarily relates to salary savings from turnover and efficiencies in general operations, accounts for only 0.5 percent of the total 2009-11 biennium general fund appropriation.

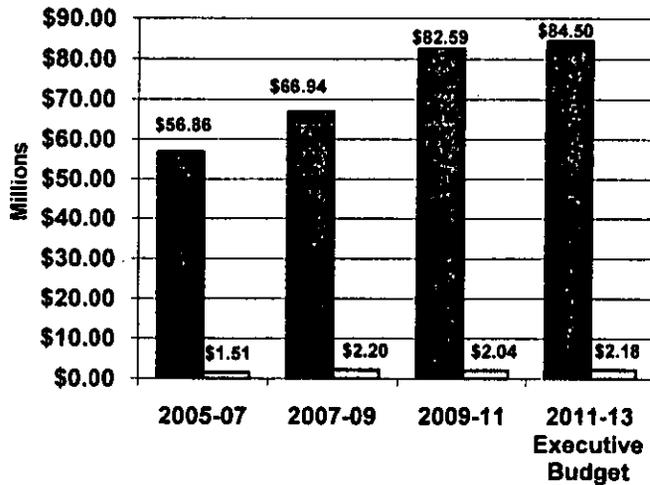
In conclusion, I would be happy to answer any questions.

A

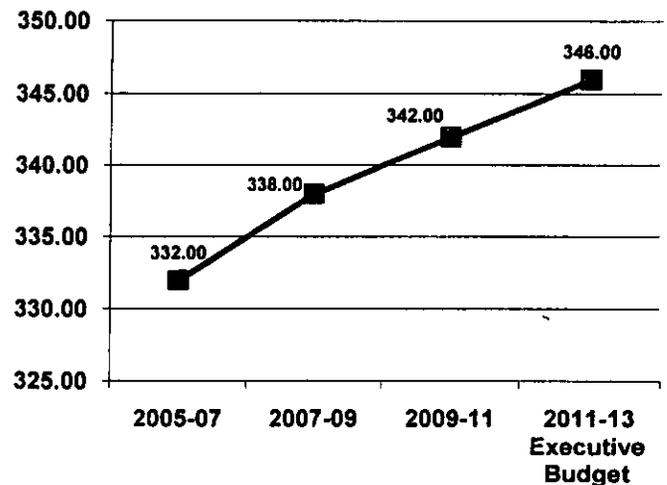
Department 180 - Judicial Branch  
 House Bill No. 1002

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	346.00	\$84,499,273	\$2,182,274	\$86,681,547
2009-11 Legislative Appropriations	342.00	82,590,015	2,044,807	84,634,822
Increase (Decrease)	4.00	\$1,909,258	\$137,467	\$2,046,725

Agency Funding



FTE Positions



■ General Fund □ Other Funds

Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$83,377,293	\$1,121,980	\$84,499,273
2009-11 Legislative Appropriations	74,282,634	8,307,381	82,590,015
Increase (Decrease)	\$9,094,659	(\$7,185,401)	\$1,909,258

First House Action

Attached is a summary of first house changes.

Executive Budget Highlights  
 (With First House Changes in Bold)

	General Fund	Other Funds	Total
<b>Supreme Court</b>			
1. Adds one-time funding for equipment over \$5,000. <b>The House removed \$2,500.</b>	\$27,500		\$27,500
2. Adds funding for increases in information technology fees and maintenance contracts and licensing fees	\$92,467		\$92,467
3. Increases funding for operating expenses for the Commission to Study Racial and Ethnic Bias in the Courts. <b>The House removed this funding.</b>	\$40,000		\$40,000
<b>District Court</b>			
4. Adds one-time funding for equipment over \$5,000	\$160,000		\$160,000
5. Adds one-time funding for information technology equipment. <b>The House reduced this funding by \$18,000.</b>	\$534,480		\$534,480
6. Adds one-time funding for a disaster recovery study. <b>The House removed this funding.</b>	\$100,000		\$100,000

7. Adds one-time funding to update the Work Assessment Policy Committee study and the weighted caseload study. <b>The House reduced this funding by \$100,000.</b>	\$300,000		\$300,000
8. Adds 1 FTE law clerk position (\$149,992), 1 FTE deputy clerk of district court position (\$129,150), and 2 FTE juvenile court officer positions (\$328,084) (One juvenile court officer will be located in Fargo, and the remaining positions will be located in Bismarck.). <b>The House removed the deputy clerk of district court position and the juvenile court officer positions.</b>	\$607,226		\$607,226
9. Increases funding for payments to contract counties for clerk of court services to provide total funding of \$3,432,492	\$445,909		\$445,909
10. Increases funding due to a change in the technology fees charged by the Information Technology Department to account for judicial branch computer servers utilized and employees located in county courthouses	\$381,660		\$381,660
11. Adds funding for increases in various information technology fees, software costs, maintenance contracts, and licensing fees	\$404,912	\$45,698	\$450,610
12. Adds funding for maintenance support and enhancements for the new unified case management system (Odyssey)	\$750,420		\$750,420
13. Removes one-time funding provided in the 2009-11 biennium for the unified case management system replacement project, capital assets, and parenting coordinator training	(\$8,307,381)		(\$8,307,381)

#### Other Sections in Bill

**Gifts, grants, and donations** - Section 2 provides that, in addition to the amount appropriated as special funds, any other income received from gifts, grants, and donations received by the Supreme Court, district courts, and Judicial Conduct Commission and Disciplinary Board is appropriated for the purposes designated for the 2011-13 biennium.

**Line item transfers** - Section 3 provides that the director of the Office of Management and Budget and the State Treasurer may transfer funds between line items of appropriation for the judicial branch of government as requested by the Supreme Court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

**Supreme Court justices' salaries** - Section 4 provides the statutory changes increasing Supreme Court justices' salaries by 5 percent each year of the biennium, the same as the previous biennium. Supreme Court justices' annual salaries are increased from the current level of \$130,228 to \$136,739, effective July 1, 2011, and to \$143,576, effective July 1, 2012. The Chief Justice of the Supreme Court is entitled to receive an additional \$3,927 per annum effective July 1, 2011, and \$4,123 per annum effective July 1, 2012, an increase from the current additional amount for the Chief Justice of \$3,740 per annum. **The House reduced the increase in Supreme Court justices' salaries from 5 percent to 3 percent.**

**District judges' salaries** - Section 5 provides the statutory changes increasing district court judges' salaries by 5 percent each year of the biennium, the same as the previous biennium. District court judges' annual salaries are increased from the current level of \$119,330 to \$125,297, effective July 1, 2011, and \$131,562, effective July 1, 2012. A presiding judge of a judicial district is entitled to receive an additional \$3,619 per annum effective July 1, 2011, and \$3,800 per annum effective July 1, 2012, an increase from the current additional amount for presiding judges of \$3,447. **The House reduced the increase in judges' salaries from 5 percent to 3 percent.**

#### Continuing Appropriations

**Restitution collection assistance fund** - North Dakota Century Code Section 12.1-32-08 - This fund is used for defraying expenses incident to the collection of restitution through imposing a fee equal to the greater of \$10 or 25 percent of the amount of restitution ordered, not to exceed \$1,000.

**Court facilities improvement and maintenance fund** - Sections 27-05.2-08 and 29-26-22 - Funding from this fund may be used by the Court Facilities Improvement Advisory Committee to make grants to counties to provide funds for court facilities and improvement and maintenance projects. The source of these funds is a \$100 fee charged in all criminal cases except infractions. The first \$750,000 collected is used for indigent defense services, the next \$460,000 is used for court facilities, and additional collections are deposited equally into the two funds.

**Court receivables fund** - Section 27-05.2-04 - Any money received by the clerk which is not required to be deposited in the state general fund, a different special fund, or the county treasury, and which is received as bail or restitution, or otherwise received pursuant to an order of the court is deposited in this fund. Amounts are used for refunding bail, forwarding restitution amounts to entitled recipients, or otherwise making payments as directed by the court.

#### Significant Audit Findings

The operational audit for the judicial branch conducted by the State Auditor's office during the 2009-10 interim identified no significant audit findings.

**Major Related Legislation**

**House Bill No. 1269** - Information regarding civil commitment proceedings - This bill allows state courts to provide certain information regarding civil commitment proceedings to the Bureau of Criminal Investigation.

ATTACH:1



**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1002 - Funding Summary**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
<b>Supreme Court</b>			
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
<b>Total all funds</b>	<b>\$11,689,507</b>	<b>(\$94,633)</b>	<b>\$11,594,874</b>
Less estimated income	0	0	0
<b>General fund</b>	<b>\$11,689,507</b>	<b>(\$94,633)</b>	<b>\$11,594,874</b>
<b>FTE</b>	<b>45.00</b>	<b>0.00</b>	<b>45.00</b>
<b>District Courts</b>			
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>(\$1,086,320)</b>	<b>\$73,015,765</b>
Less estimated income	1,856,775	0	1,856,775
<b>General fund</b>	<b>\$72,245,310</b>	<b>(\$1,086,320)</b>	<b>\$71,158,990</b>
<b>FTE</b>	<b>297.00</b>	<b>(3.00)</b>	<b>294.00</b>
<b>Judicial Conduct Commission</b>			
Judicial Conduct Commission	\$889,955		\$889,955
<b>Total all funds</b>	<b>\$889,955</b>	<b>\$0</b>	<b>\$889,955</b>
Less estimated income	325,499	0	325,499
<b>General fund</b>	<b>\$564,456</b>	<b>\$0</b>	<b>\$564,456</b>
<b>FTE</b>	<b>4.00</b>	<b>0.00</b>	<b>4.00</b>
<b>Bill Total</b>			
<b>Total all funds</b>	<b>\$86,681,547</b>	<b>(\$1,180,953)</b>	<b>\$85,500,594</b>
Less estimated income	2,182,274	0	2,182,274
<b>General fund</b>	<b>\$84,499,273</b>	<b>(\$1,180,953)</b>	<b>\$83,318,320</b>
<b>FTE</b>	<b>346.00</b>	<b>(3.00)</b>	<b>343.00</b>

**House Bill No. 1002 - Supreme Court - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$9,165,927	(\$49,276)	\$9,116,651
Operating expenses	2,355,118	(40,000)	2,315,118
Capital assets	27,500	(2,500)	25,000
Judges retirement	140,962	(2,857)	138,105
<b>Total all funds</b>	<b>\$11,689,507</b>	<b>(\$94,633)</b>	<b>\$11,594,874</b>
Less estimated income	0	0	0
<b>General fund</b>	<b>\$11,689,507</b>	<b>(\$94,633)</b>	<b>\$11,594,874</b>
<b>FTE</b>	<b>45.00</b>	<b>0.00</b>	<b>45.00</b>

### Department 181 - Supreme Court - Detail of House Changes

	Reduces Funding for Justices' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Equipment <sup>3</sup>	Reduces Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	(49,276)				(49,276)
Operating expenses				(40,000)	(40,000)
Capital assets			(2,500)		(2,500)
Judges retirement		(2,857)			(2,857)
<b>Total all funds</b>	<b>(\$49,276)</b>	<b>(\$2,857)</b>	<b>(\$2,500)</b>	<b>(\$40,000)</b>	<b>(\$94,633)</b>
Less estimated income	0	0	0	0	0
General fund	(\$49,276)	(\$2,857)	(\$2,500)	(\$40,000)	(\$94,633)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding included in the executive budget for salary increases for justices is reduced from 5 percent to 3 percent.

<sup>2</sup> Funding included in the executive budget for retirement increases for judges' retirement is reduced from 5 percent to 3 percent.

<sup>3</sup> One-time funding included in the executive budget for equipment over \$5,000 is reduced.

<sup>4</sup> Funding included in the executive budget for operating expenses of the Commission to Study Racial and Ethnic Bias in the Courts is reduced.

### House Bill No. 1002 - District Courts - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$54,906,227	(\$854,125)	\$54,052,102
Operating expenses	17,058,522	(200,000)	16,858,522
Capital assets	694,480	(18,000)	676,480
Judges retirement	493,192	(14,195)	478,997
UND central legal research	80,000		80,000
Mediation	869,664		869,664
<b>Total all funds</b>	<b>\$74,102,085</b>	<b>(\$1,086,320)</b>	<b>\$73,015,765</b>
Less estimated income	1,856,775	0	1,856,775
General fund	\$72,245,310	(\$1,086,320)	\$71,158,990
FTE	297.00	(3.00)	294.00

### Department 182 - District Courts - Detail of House Changes

	Reduces Funding for Judges' Salary Increases <sup>1</sup>	Reduces Funding for Judges' Retirement Increases <sup>2</sup>	Reduces Funding for Studies <sup>3</sup>	Reduces Funding for Information Technology Equipment <sup>4</sup>	Removes Funding for Recovery Study <sup>5</sup>	Removes 3 FTE Positions <sup>6</sup>
Salaries and wages	(396,891)					(457,234)
Operating expenses			(100,000)		(100,000)	
Capital assets				(18,000)		
Judges retirement		(14,195)				
UND central legal research						
Mediation						
<b>Total all funds</b>	<b>(\$396,891)</b>	<b>(\$14,195)</b>	<b>(\$100,000)</b>	<b>(\$18,000)</b>	<b>(\$100,000)</b>	<b>(\$457,234)</b>
Less estimated income	0	0	0	0	0	0
General fund	(\$396,891)	(\$14,195)	(\$100,000)	(\$18,000)	(\$100,000)	(\$457,234)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	<b>Total House Changes</b>
Salaries and wages	(854,125)
Operating expenses	(200,000)
Capital assets	(18,000)
Judges retirement	(14,195)
UND central legal research Mediation	
<b>Total all funds</b>	<b>(\$1,086,320)</b>
Less estimated income	0
<b>General fund</b>	<b>(\$1,086,320)</b>
 FTE	 (3.00)

- <sup>1</sup> Reduces funding included in the executive recommendation for salary increases for judges from 5 percent to 3 percent.
- <sup>2</sup> Funding included in the executive budget for retirement increases for judges is reduced from 5 percent to 3 percent.
- <sup>3</sup> One-time funding included in the executive budget for work assessment and weighted caseload studies is reduced to \$200,000.
- <sup>4</sup> One-time funding included in the executive budget for information technology equipment is reduced to \$516,480.
- <sup>5</sup> One-time funding included in the executive budget for a disaster recovery study is removed.
- <sup>6</sup> This amendment removes 1 FTE deputy clerk position and 2 FTE juvenile court officer positions included in the executive budget.

**House Bill No. 1002 - Judicial Conduct Commission - House Action**

The House did not change the executive recommendation for the Judicial Conduct Commission.



B

## 2010 Juvenile Referrals by Office Region

Offices	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Referrals 2010	Monthly Average
Grand Forks	72	64	190	127	93	98	80	114	104	102	85	82	1211	100
Grafton	17	25	42	17	21	29	25	39	29	41	26	20	331	26
Devils Lake	35	23	19	29	48	29	31	32	28	33	20	25	352	29
Bottineau	23	10	20	30	23	34	26	27	14	22	20	31	280	23
Fargo	135	122	176	205	177	160	172	153	145	162	154	114	1875	156
Valley City	19	17	22	17	19	31	17	19	*	*	*	*	161	20
Jamestown	28	36	40	54	55	44	52	49	*	*	*	*	358	48
Wahpeton	16	9	11	22	25	11	15	16	32	17	8	12	194	16
Bismarck	150	150	242	205	209	233	214	195	243	195	215	168	2419	202
Dickinson	37	37	69	64	65	35	31	34	45	53	46	48	564	47
Minot	65	65	117	122	68	99	130	122	121	89	102	92	1192	99
Williston	54	54	56	75	51	58	76	66	59	55	60	57	721	60

\* Office statistics were combined for reporting purposes

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2010 Caseload Averages by Office

Office (FTE)	UNIT ONE				UNIT TWO				UNIT THREE		UNIT FOUR	
	GF (4)	Grafton (1.5)	DL (1)	Bottineau (1)	Fargo (6)	Jamestown (1)	VC (1)	Wahp (1)	Bismarck (6)	Dickinson (2)	Minot (3)	Williston (1)
Jan	145	49	34	39	422	76	73	71	295	68	105	36
Feb	148	52	33	41	420	72	68	65	295	68	84	36
Mar	154	38	42	37	413	76	105	54	316	75	73	35
Apr	162	48	28	39	383	51	66	78	330	79	72	34
May	177	50	38	36	382	49	65	73	317	81	81	28
June	147	51	35	34	345	45	57	71	348	75	76	38
Jul	132	49	30	34	326	61	60	49	364	58	78	39
Aug	134	44	31	36	312	73	59	62	362	60	84	39
Sep	0	44	35	26	332	59	67	54	343	64	77	45
Oct	64	47	33	35	344	53	75	61	345	72	82	65
Nov	72	48	32	34	337	50	81	54	350	76	74	42
Dec	76	45	34	32	339	55	86	51	329	73	81	45
Yearly Average by Office	118	47	34	35	363	60	72	62	333	71	81	40
Average by JCO 1 & 2	30	31	34	35	61	60	72	62	56	36	27	40

D

YASI HIGH/MOD CASELOAD ONLY

Office (FTE)	UNIT ONE				UNIT TWO				UNIT THREE		UNIT FOUR	
	GF (4)	Grafton (1.5)	DL (1)	Bottineau (1)	Fargo (6)	Jamestown (1)	VC (1)	Wahp (1)	Bismarck (6)	Dickinson (2)	Minot (3)	Williston (1)
Jan	55	15	15	13	150	19	9	17	135	22	23	12
Feb	65	16	14	13	146	18	7	19	135	22	24	12
Mar	62	13	17	13	142	16	7	16	143	29	32	12
Apr	62	14	15	10	141	18	9	19	149	29	36	13
May	71	17	13	11	151	16	7	16	123	27	48	16
Jun	66	17	13	9	132	16	5	18	142	24	49	19
July	64	15	9	7	124	10	5	17	142	19	45	19
Aug	59	15	10	6	118	9	6	20	127	20	46	18
Sept	63	15	9	7	126	10	6	16	124	20	49	20
Oct	69	17	10	8	136	9	7	19	121	20	49	17
Nov	77	15	10	9	136	11	10	18	131	23	47	15
Dec	71	14	11	10	132	14	8	19	126	20	42	17
Yearly Average	65	15	12	10	136	14	7	18	133	23	41	16
Average per JCO	16	10	12	10	23	14	7	18	22	12	14	16

**APPENDIX D: JCO RESOURCE NEED MODEL BY UNIT**

CASE TYPE	JCO CASE WEIGHT	UNIT 1 ADA	UNIT 2 ADA	UNIT 3 ADA	UNIT 4 ADA	State ADA
Referral Intake	260	149	261	215	195	820
Emergency Intake	756	32	36	29	30	127
Diversion	147	28	85	107	45	264
Formal Court Processing - JCO Activities	1,952	30	75	66	30	201
Informal Adjustment Hearings	876	83	116	63	51	313
Unsupervised Probation	197	113	209	103	81	506
TCO/Shelter Care/Detention	959	23	37	24	31	115
Pending YASI	1,911	35	27	16	15	92
Supervised Probation - High Risk	1,713	28	69	63	7	168
Supervised Probation - Moderate Risk	3,065	58	103	100	23	283
Supervised Probation - Low Risk	1,132	101	82	64	51	298
Supervised Probation - Waived Risk	632	22	10	15	9	56
Supervised Probation - ICJ	668	11	51	2	3	67
Drug Court	4,157	9	7	6	5	27
<b>Total Cases</b>	<b>18,425</b>	<b>721</b>	<b>1,167</b>	<b>872</b>	<b>576</b>	<b>3,336</b>
<b>Case Specific Work x Filings (weights x filings)</b>	<b>3,083,177</b>	<b>705,791</b>	<b>1,079,243</b>	<b>872,547</b>	<b>425,596</b>	<b>3,083,177</b>
JCO Annual Availability: 214 days		96,300	96,300	96,300	96,300	96,300
Work related travel per year		14,766	14,766	14,766	14,766	14,766
Non-case specific time		14,766	14,766	14,766	14,766	14,766
Availability for Case Specific Work		66,768	66,768	66,768	66,768	66,768
<b>Juvenile Court Officer Demand</b>		<b>10.57</b>	<b>16.16</b>	<b>13.07</b>	<b>6.37</b>	<b>46.18</b>

Unit ADA - figures represent Average Daily Attendance per Unit

JCO CURRENT STAFFING : 11.5 12 10 6 39.5  
 NET : +0.93 -4.16 -3.07 -.37 -6.68

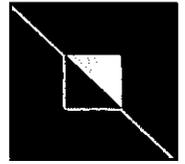
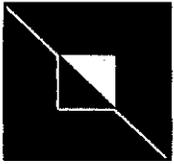
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# North Dakota Juvenile Court Annual Report 2010

Prepared by the Directors of Juvenile Court:

- Deborah Carlson—Unit One
- Karen Kringlie—Unit Two
- Cory Pedersen—Unit Three
- Scott Hopwood—Unit Four



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# Balanced and Restorative Justice

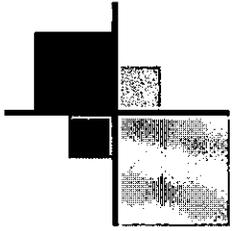
*In carrying out the mission of Balanced and Restorative Justice, North Dakota Juvenile Court is to promote public safety, hold juvenile offenders accountable and increase the capacity of juveniles to contribute productively to their community. In carrying out this mission, the courts will empower victims and encourage community participation and parental responsibility.*



In 2010, nearly 12,000 total charges (10,065 delinquent/unruly and 1,526 child deprivation) were handled by the Juvenile Courts of North Dakota. Virtually every single case has contact with a juvenile court officer at some point in the process. Juvenile Court Officers screen law enforcement, school and agency referrals determining how they should be processed, making detention or emergency shelter care decisions on some of them, preparing court recommendations on those that proceed to the formal courts, and processing the vast majority of the cases (75%) via an informal adjustment conference. Juvenile probation is one of the most widely used tools to ensure court requirements are met. Court goals often include repairing the harm to the victim, compliance with programming geared at reducing the risk of the offender while increasing the overall competency of the offender to contribute to society.

Using the guiding mission of Balanced and Restorative Justice, North Dakota Juvenile Court officers improve and impact the lives of the youth, families and communities in which they work.

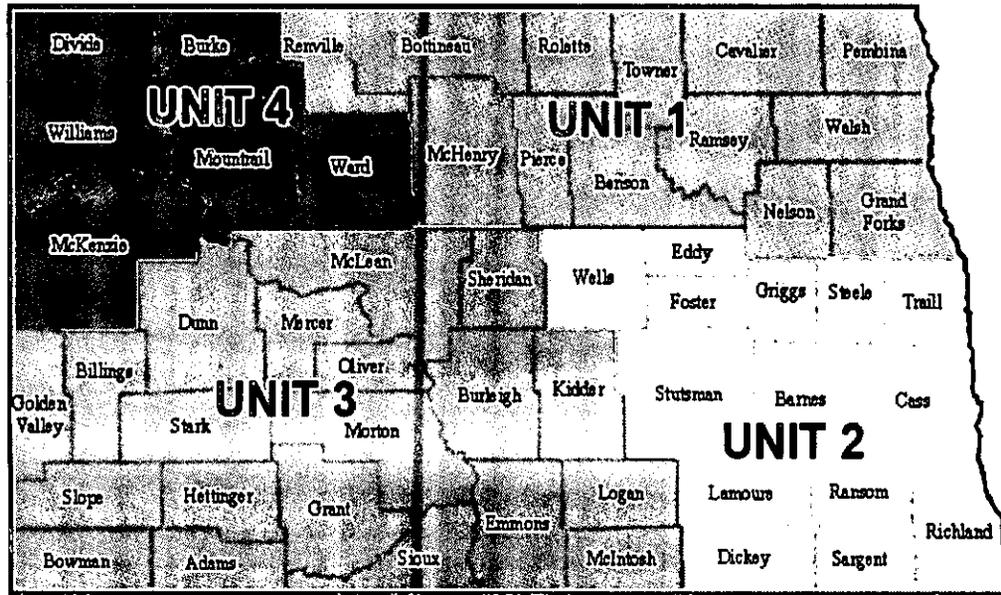
**Repairing Harm, Reducing Risk and  
Creating Opportunities**



# North Dakota Court Administration

Since 2004, the administration of the Juvenile Court of North Dakota has been divided into four administrative units, each under the supervision of a Unit Court Administrator. Within each unit, there is a Director of Juvenile Court who supervises the juvenile court staff and is responsible for the planning and directing of all juvenile court services in the unit.

The geographical areas of these administrative units are as follows:



## Unit One: Northeast and Northeast Central Judicial Districts

Juvenile Offices: Grand Forks, Devils Lake, Bottineau, Grafton

## Unit Two: East Central and Southeast Judicial Districts

Juvenile Offices: Fargo, Jamestown, Valley City, Wahpeton

## Unit Three: Southwest and South Central Judicial Districts

Juvenile Offices: Bismarck and Dickinson

## Unit Four: Northwest Judicial District

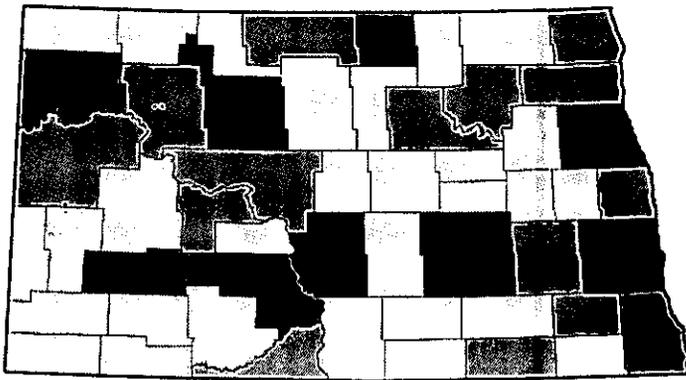
Juvenile Offices: Minot and Williston



# N.D. Juvenile Court Jurisdiction

**Delinquent or Unruly Youth:** North Dakota Juvenile Court has exclusive jurisdiction over youth ages seven to seventeen who are alleged to have committed a delinquent act, an act which would be a crime if committed by an adult, or youth who have violated laws that only apply to them based on their age such as truancy, runaway, ungovernable behavior or minor consuming.

**Deprived Children:** The Juvenile Court also has exclusive jurisdiction over children from birth until age seventeen who are alleged to be deprived of proper care or control by their parent, guardian or other custodian. This would be more commonly known as child abuse and neglect cases and they are referred to the courts by the county social service agencies after a child abuse and neglect investigation.



118 - 1,008
  1,009 - 2,575
  2,576 - 6,164
  6,165 - 31,914

## ND Kids Count Data:

In 2008, children ages 0 to 17 comprised 22 percent of North Dakota's total population, compared to 25 percent in 2000 and 28 percent in 1990.

Due to a consistent increase in births during the past few years, the number of children ages 0 to 5 in N.D. has grown each year since 2003. The number of children ages 6 and older continues to decrease statewide, with the exception of Cass County.

The number of children living in foster care totaled 2,105 in 2009, representing 1 percent of all children ages 0 to 18 statewide.

(See [www.ndkidscount.org](http://www.ndkidscount.org))

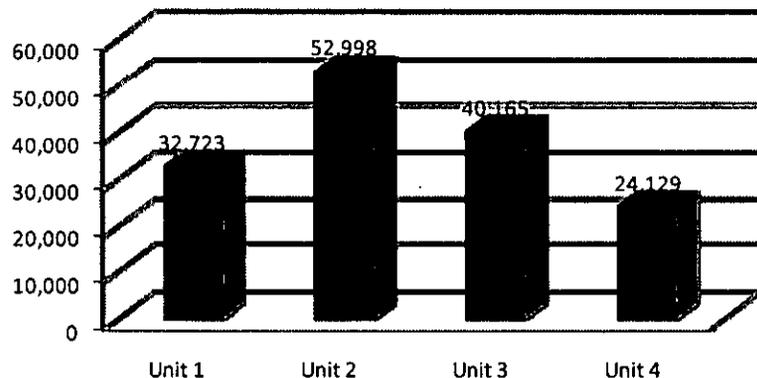
## Children by Age Group: Ages 0-17 (Number) - 2008

North Dakota KIDS COUNT  
 KIDS COUNT Data Center, [www.kidscount.org/kidscntcenter](http://www.kidscount.org/kidscntcenter)  
 A Project of the Annie E. Casey Foundation



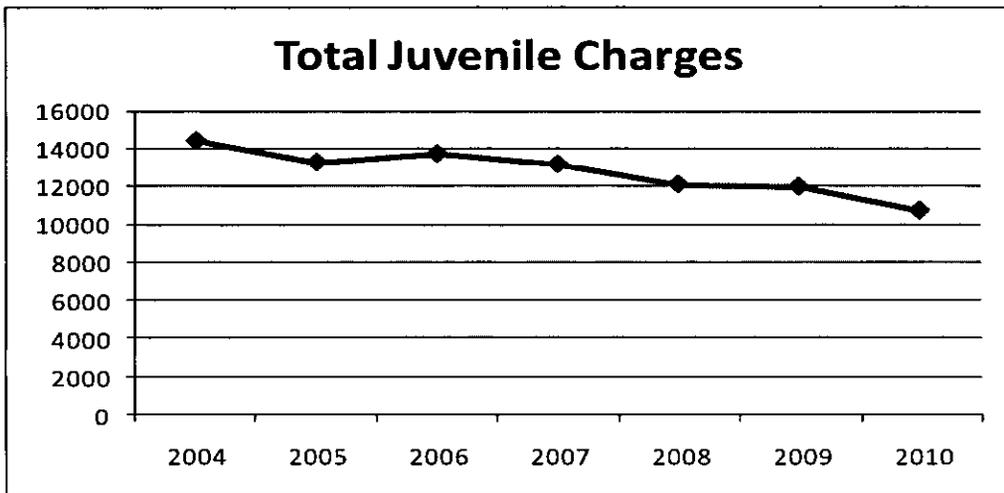
## Children Ages 0-17

(2008 NDKidsCount)

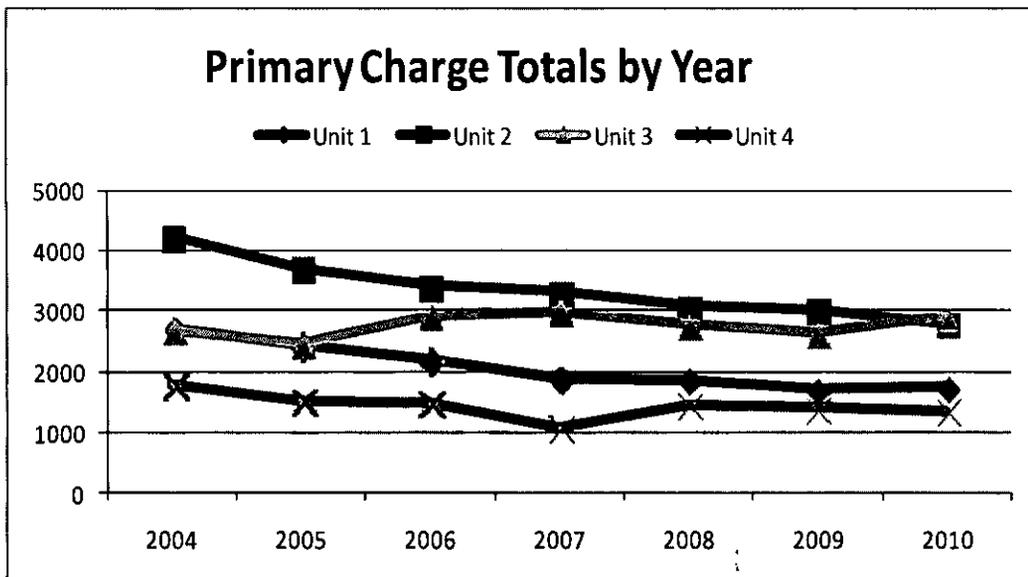


# 2010 Juvenile Court Referrals

**Total Charges, Statewide:** Juvenile Court referrals are received from law enforcement, schools, social services agencies and parents. The following chart indicates the total number of charges referred to the juvenile courts over the past seven years.

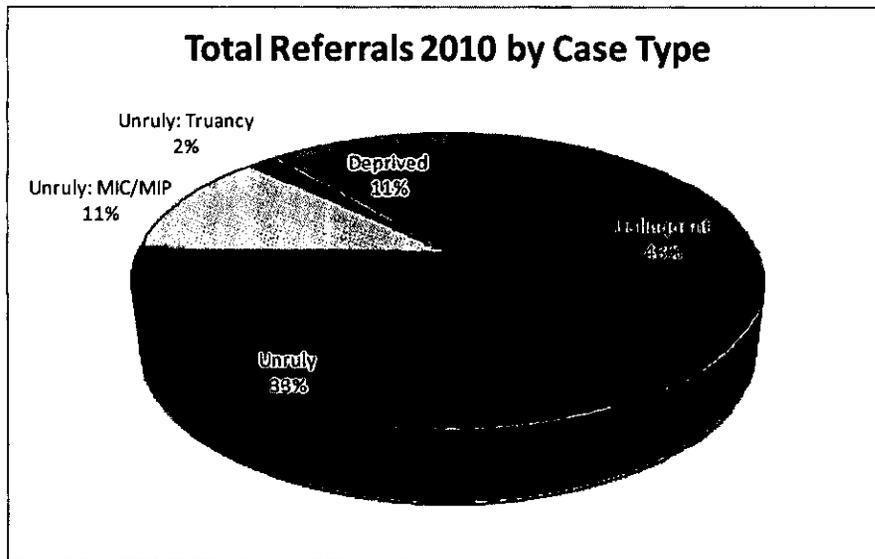


**Primary Charges:** Another way to look at the total number of cases referred to the Juvenile Courts is to examine the number of primary charge referrals received. In other words, counting the cases by the most serious offense in an event, which excludes any lesser charges that occurred at that same event and which will be handled together as one case.



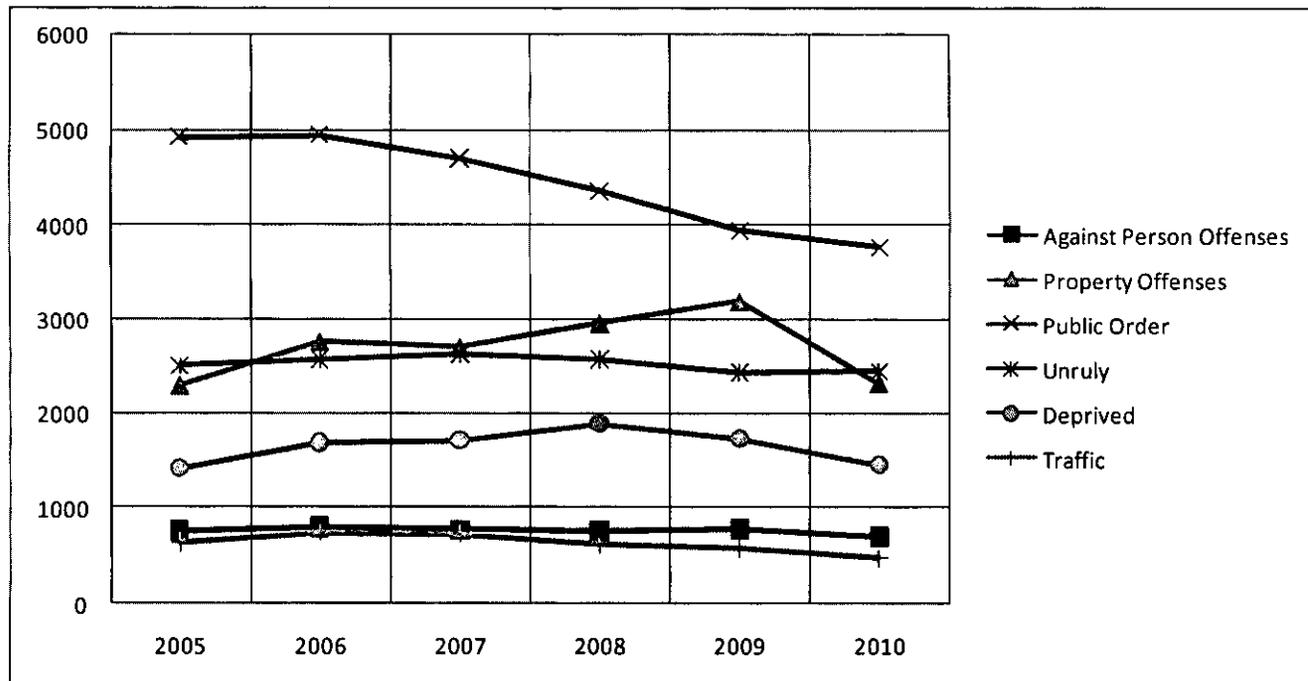
# Analysis of 2010 Juvenile Referrals by Case Type

In 2010, a total of 46 % of all referrals received had an unruly case type as the most serious charge with 11% of all cases having to do only with minors consuming or possessing alcohol. 43% had a delinquent charge and only 11% of all cases received fell under the deprived (child abuse and neglect) category.



Of the delinquent referrals, 84% would be misdemeanors if committed by an adult, 14% are felony level offenses and 2% consist of infractions.

As noted in the chart to the left, only 2% of all referrals are school truancies, 11% are alcohol offense as the primary charge and the remaining 33% are ungovernable behavior or runaway referrals.



The chart above shows juvenile court referrals case types over the past five years.

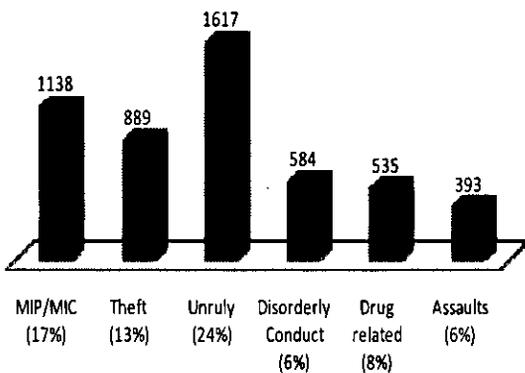
### Total Unruly/Delinquent Charges



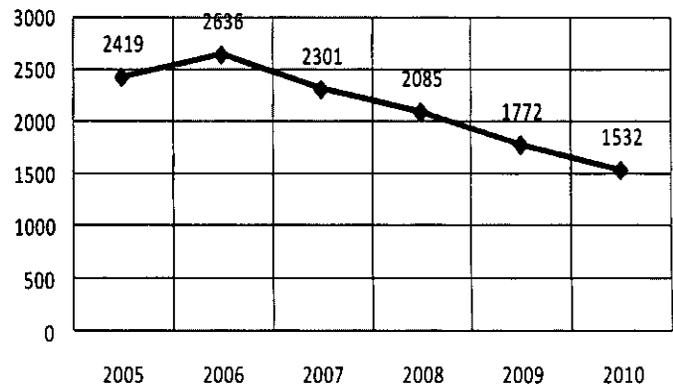
More boys are referred to the juvenile courts than girls but the number of adolescent girls referred continues to rise. It is not known if this is a true rise in girl delinquency or rather a change in societal response to girl behavior. Studies indicate that most juvenile girls referred to the courts have been victims of abuse, physical or sexual.

Note the decrease in total alcohol charges since 2006 in the chart below.

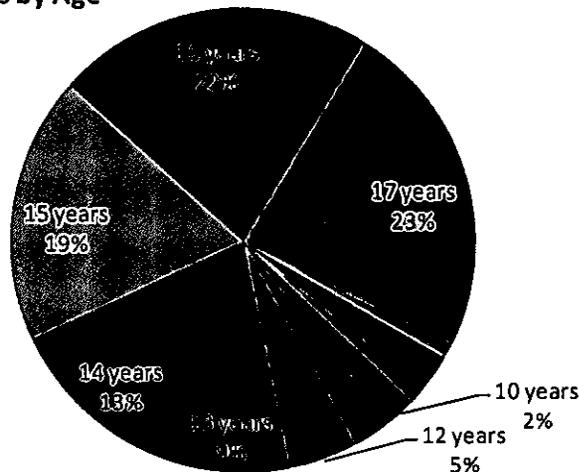
### 2010 Most Common Referral Types



### Alcohol Offenses



### Referrals by Age

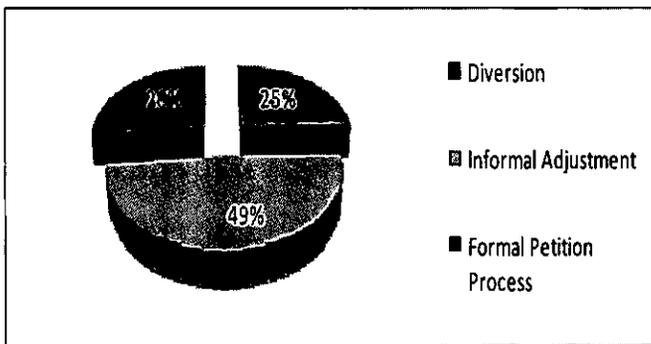


By North Dakota law, only children who have reached the age of seven can be referred to the juvenile courts for delinquent or unruly behavior.

In 2010, the most common age of youth referred to the juvenile courts for delinquent or unruly behavior was 17 years of age.

## 2010 Juvenile Court Dispositions

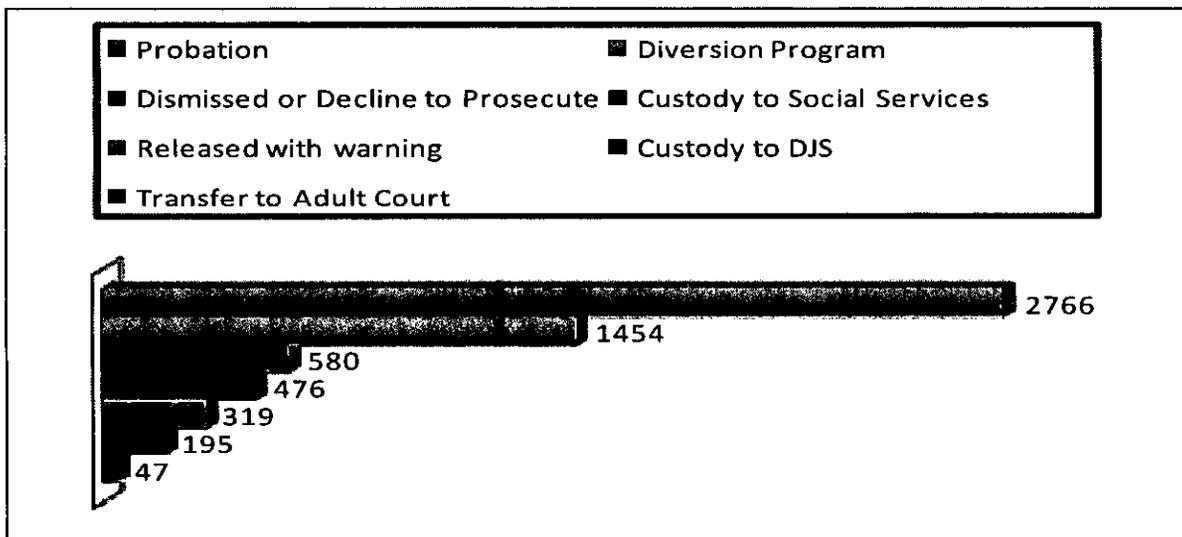
North Dakota law wisely provides a system whereby the vast majority of juvenile cases are handled quickly and efficiently by juvenile court officers. All juvenile referrals are screened by a juvenile court officer for possible diversion to a program such as a class or counseling, the holding of an informal adjustment (a meeting of the youth, parents, court officer and victim, if the victim so chooses) or by accessing the formal court process by referring the matter to the States Attorney for the filing of a petition and hearing of the matter before a judge or judicial referee. In 2010, 74% of all juvenile cases were handled outside of the courtroom through either a diversion to programming or an informal adjustment confer-



Most low-level offenses and early offenders are handled via diversion or informal adjustment.

Typically felony-level cases, youth requiring placement or contested matter appear before a judge in the formal petition process.

**Disposition Types:** North Dakota law allows a great deal of flexibility in outcomes once a juvenile has admitted or been found to have committed a delinquent or unruly offense which allows individual justice to be administered on an individual basis depending on the child's needs and risks as well as the needs of the victim and community.



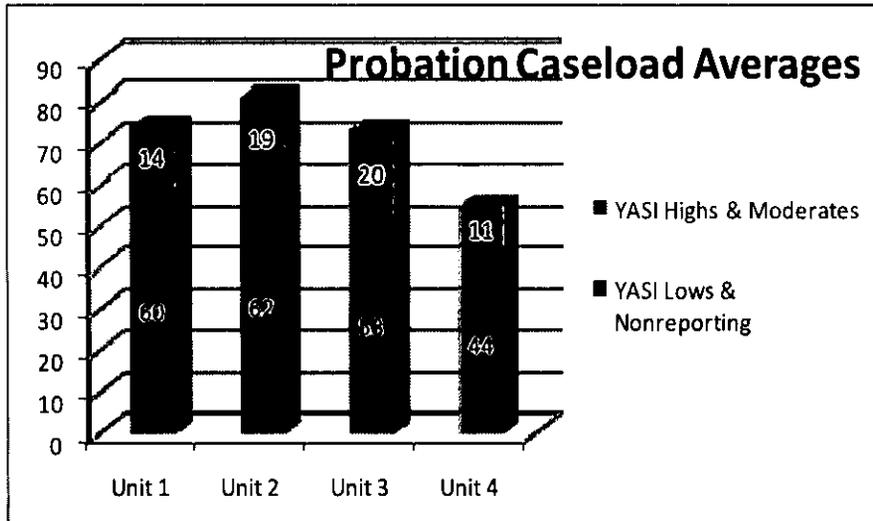
## Probation Supervision

*Making smart choices means providing the right sanctions and services to the right juveniles at the right time without regard to biases or prejudices but based upon each child's unique risks and needs.*

**Probation** is the most widely-used community-based juvenile court program. During the period of probation supervision, a juvenile offender remains in the community and continues normal activities such as school and work while complying with individualized probation rules such as curfew, community service, payment of restitution and attendance at classes or counseling. The supervision of offenders in their communities enhances community safety and prevents the need for costly out-of-home placement.

**Risk and Needs Assessments:** Juvenile Court Officers use a risk assessment instrument called the YASI to assess the likelihood of recidivism and the specific needs of each child. By using the YASI, court officers make decisions about supervision levels, program and treatment needs. A mental health assessment called the MAYSI-II is used to assess a broad scope of possible mental health needs.

The most current national caseload standards for juvenile probation officers recommends 35 juveniles per probation officer. (National Center for Juvenile Justice) North Dakota Juvenile Best Practices Manual recommends that a court officer have no more than 30 YASI high and moderate risk youth but does not limit the low risk caseload. For many ND juvenile staff a significant amount of time is spent traveling rural roads in order to supervise youth.



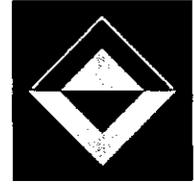
**Transfer to Adult Court:** Studies have shown that transferred youth quickly reoffend and at much higher rates than juvenile kept in the juvenile system. Further, nationally, studies have shown that transferred youth detained pretrial in adult jails are at serious risk of rape, assault, death or suicide. Transfer is an option of last resort but some youth do request transfer as a means to elude the rehabilitative work that would be required of them in the juvenile system.

In North Dakota in 2010, 11 youth were transferred to adult court involuntarily and 36 youth voluntarily requested transfer.



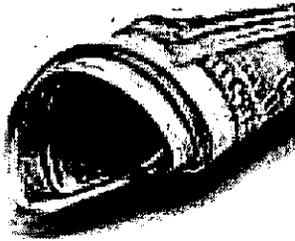
Jordan Brown, who in February of 2009, in the State of Pennsylvania was transferred to adult court at the age of 11. If convicted he will become the youngest person in U.S. history sentenced to life without the possibility of parole.

## Restoring Justice to Victims



Despite the fact that Juvenile Court cases are closed to the public in North Dakota, state law allows victims of juvenile crime the same rights as victims of adult crimes. In a petitioned proceedings via the formal process it is the states attorney who is tasked with giving all victims notice of the charges filed, hearings scheduled and their ability to give input as to the disposition.

Non-petitioned proceedings result in the juvenile court staff contacting victims, informing them of their rights and seeking their active input in the resolution of a case. Victims are invited to attend Informal Adjustment conference and some do choose to do that. Some cases are referred to an offender accountability conference for resolution.



**Restitution:** Offenders are required by the Court to pay for the harm they have caused their victims. In 2010 \$366,174.41 was ordered in restitution and of that amount ordered, the total amount of restitution collected by juvenile court staff and returned to the victims at of the end of the calendar year was \$218,904.26.

**Community Service:** Offenders may also be required to perform community service as a way to repay the victims and the community for any harm suffered because of the youth's behavior. The amount of community service hours and completed as of January 1, 2011 was 33,308 hours.

**Victim Empathy Seminars and Offender Accountability Conferences:** In support of the balanced and restorative justice mission, the courts contract with Lutheran Social Services of North Dakota to provide victim empathy classes and offender accountability conference state-wide. The 4-hour victim empathy class is educational and intended to help the juvenile and their parents understand how their behavior impacts others. The Accountability Conferences bring together the offender, victim and key supporters to discuss the impact of the juvenile's behavior and ways to repair the harm caused with the assistance of a trained facilitator.



In 2010, 272 juveniles participated in an Offender Accountability Conference and 305 juveniles completed the Victim Empathy Seminar in their community.

*In carrying out the mission of Balanced and Restorative Justice, North Dakota Juvenile Court is to promote public safety, hold juvenile offenders accountable and increase the capacity of juveniles to contribute productively to their community. In carrying out this mission, the courts will empower victims and encourage community participation and parental responsibility.*

<b>Intervention</b>	<b>Accountability Benefits</b>	<b>Competency Benefits</b>	<b>Community Safety Benefits</b>
Community Service	Makes amends to the community	Develops Skills, including work skills	Structures time, involves community in supervision
Offender Accountability Conferencing	Answers personally to the one harmed and makes amends	Develops communication and conflict resolution skills and empathy	Reduces victim fear in most cases and increases understanding of crime
Victim Empathy Classes	Increases understanding of impact of own behavior	Increases interpersonal skills	Structures youth's time
Cognitive Restructuring Classes or Groups	Increases understanding of responsibility for behavior and the impact of behavior	Improves decision-making and critical thinking skills	Structures youth's time
Educational Classes	Increases understanding of the impact of the offense	Increases understanding of the topic and the associated law	Structures youth's time
Employment	Generates revenue to pay restitution	Teaches work and social skills	Structures time under adult supervision
Drug Court	High level of supervision and weekly appearance before Judge	High level of treatment and addiction education	Reduces likelihood of behavior associated with substance abuse
Traditional tracking	Youth develops relationship with a positive adult which enhances accountability	Develops social and study skills	Structures time and provides appropriate adult supervision
Secure Detention	---	----	Removes youth from opportunity to offend
Residential Placement	---	May address skills	High level of supervision

# Unit One

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In 2010, Unit One experienced the start-up of the Odyssey computer system. This was a major focus of much training and effort to make this a smooth transition. The system has worked very smoothly thanks to a great team working diligently to make it happen. It has also been an opportunity to work more closely with the clerks of court, giving both offices a better understanding of each others' role in the court system.

**Grand Forks** again participated in helping to train the police department in a series of workshops about what the Juvenile Court does, and to improve working relationships between the two agencies. A program has been started utilizing police officers as mentors to juveniles on probation. Mentoring is research based, with a positive-outcome, and a good relationship with law enforcement will have a far-reaching impact on each juvenile in the program.

Also starting in the Grand Forks office, a girls group is being developed to assist young girls age 14-17 with self-esteem and life skills such as: resiliency, communication and goal achievement, using the GREAT model. Juvenile Staff teach the class. This program is also done in the Fargo Juvenile Court.

Drug Court in Grand Forks celebrated its 10<sup>th</sup> anniversary in May, 2010. A celebration was held in Grand Forks with Judges and Justice Maring, and current and former participants and team members. We also welcomed a new drug court coordinator, Bridget Hill.

**Devils Lake** is in year two of its Juvenile Drug Court. Judge Foughty is still the Juvenile Drug Court Judge and has been very committed to its success. We have a new Juvenile Drug Court coordinator, Trudy Dick. Drug Court is always a learning curve for a team, but they are very supportive and dedicated to its success. Devils Lake region has so many extra challenges with the population that they serve. Tracking is particularly difficult on the reservation, and the generational poverty families are an extra challenge. They have had six in the program in 2010, and have one graduate from the program so far.

Devils Lake has a new attendant care program, and the plan is to try to extend that program into an assessment center as well. A meeting was held on the project, and research is being done by the Director, community members, and the Center for Solutions for furthering this project.

Devils Lake had an extra honor this year, by having Karen Olson, Court Officer III, named as Outstanding Employee of the Year for the state by the North Dakota Juvenile Court Association.

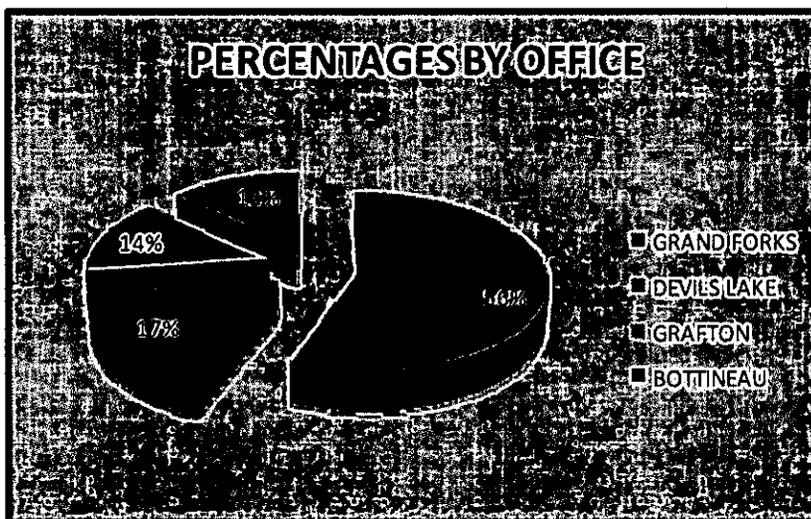
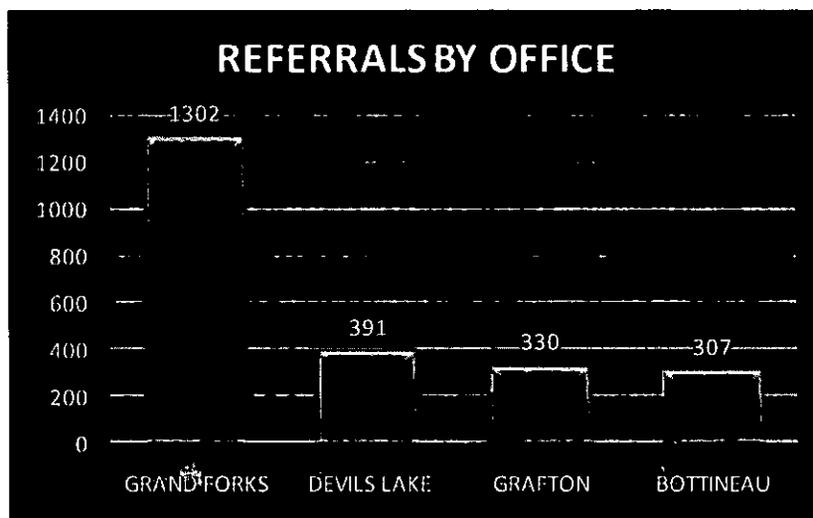
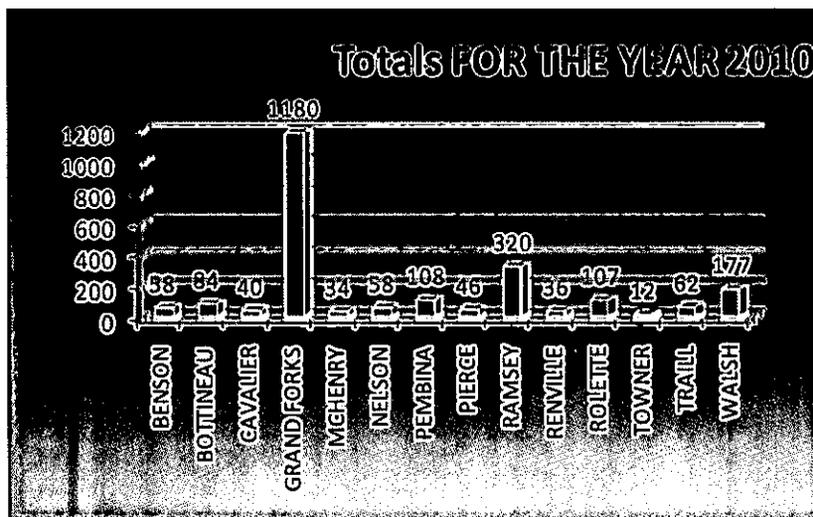
**Grafton** is continuing with its unique Victim Impact Program where victims from drunk-driving accidents speak to juveniles with alcohol related or high risk driving offenses. Along with its other programs, Grafton is utilizing an on-line education program called 3<sup>rd</sup> Millennium. The program can cover one of three areas: Alcohol, Marijuana, or Shoplifting. This is a huge leap forward for rural areas, as the rural community often is at a disadvantage for services either by distance or availability. The concept of utilizing the internet for education will be an expanding area of planning in Unit One. We will be seeking ways to expand this method of service delivery.

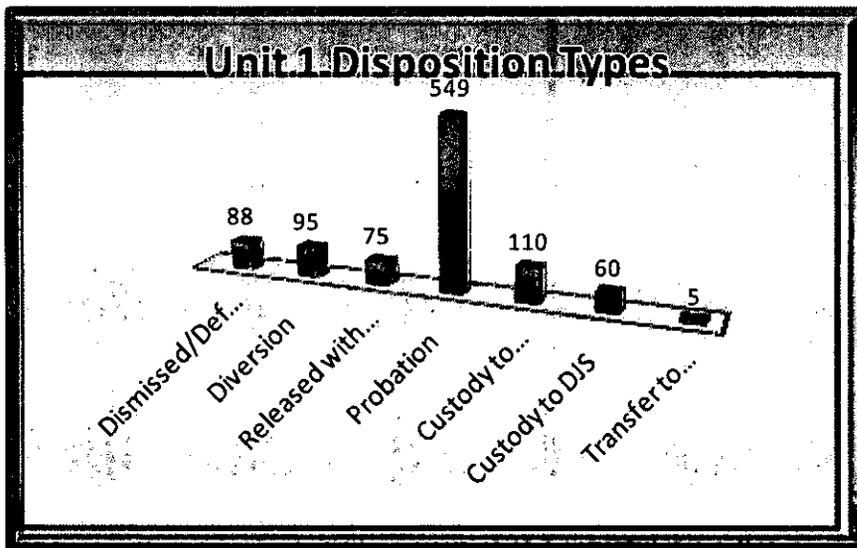
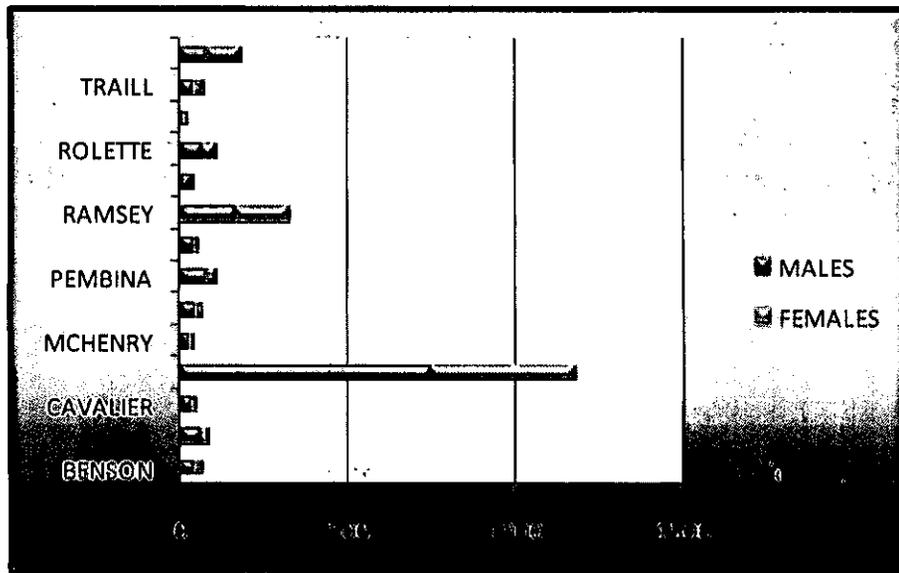
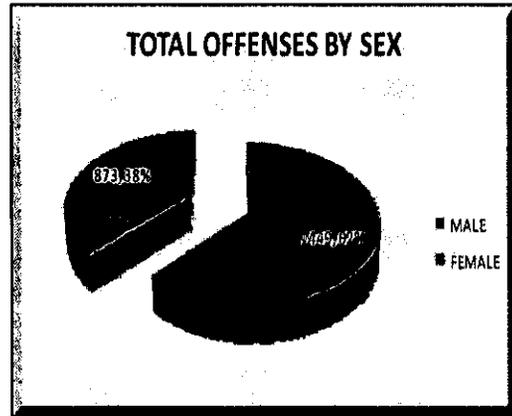
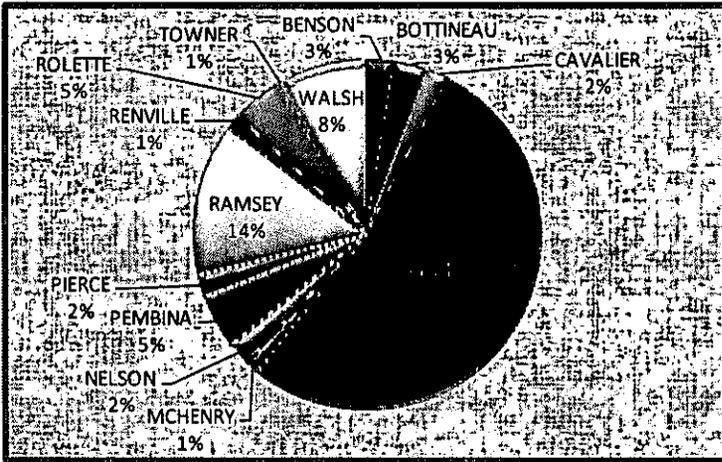
In the Bottineau office, the court has a new program available to it. The Human Service center is delivering the SPARCS program in Rolette. This program provides group counseling to youth who may be traumatized with chronic stress and are acting out that stress. An expansion of programming in a rural office is a positive event for both Juvenile Court and the community.

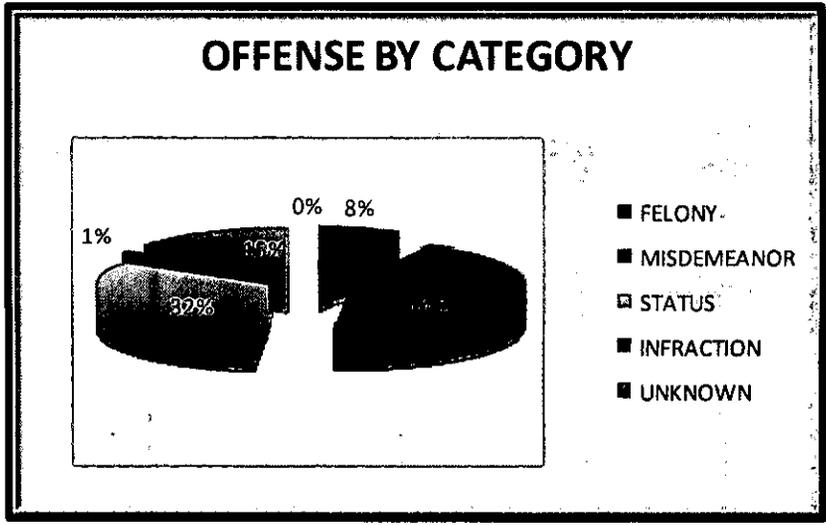
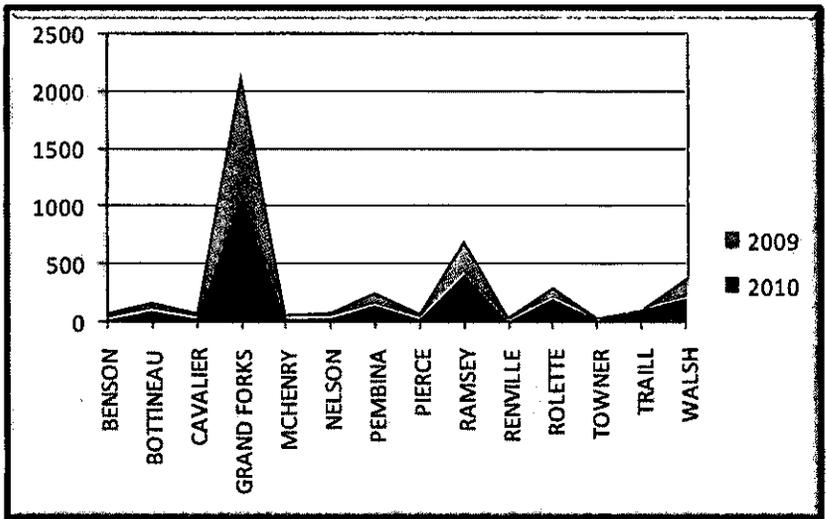
The Bottineau office is also working on a Teen Activity group. There are activity trunks that have all the tools needed for implementing a particular activity (GPS, digital photography, etc.) The activity trunks allow kids to learn new ways to utilize their free time in a positive way.

It is an ever expanding challenge to keep up with all of the information regarding programming that is being done across the country. All of the Directors are working together to insure that all of the staff in North Dakota have the best tools, the latest information, and the ability to innovate to keep our Juvenile Courts in the forefront of juvenile justice.

Deborah Carlson  
 Director of Juvenile Court  
 Administrative Unit One



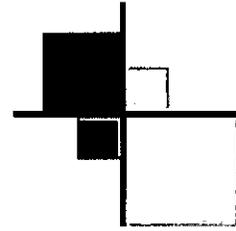




### HIGHEST REFERRALS

	GRAND FORKS	DEVILS LAKE	BOTTINEAU	GRAFTON
■ MIC/MIP	173	113	72	62
■ UNRULY	155	60	11	29
■ THEFT CURFEW	94	3	10	7
■ CRIMINAL T & M	95	19	24	28

## Goals for Unit One



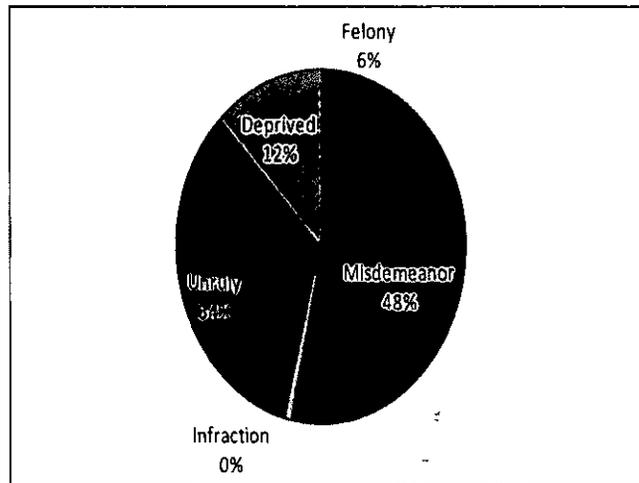
1. To continue to review and refine our protocols and procedures regarding Odyssey, and provide continuing training for all support and line staff.
2. To implement and monitor a new detention screening tool to provide appropriate and research- based care to all juveniles in secure detention within the Unit.
3. To develop a plan for expansion for dealing with New Americans in the unit, and to examine other programs of merit in other places in the country who deal with these special cultural issues.
4. To continue to review our operating business practices, and to renew our commitment to finding the best programming and training available for staff for benefit of the youth in our charge.



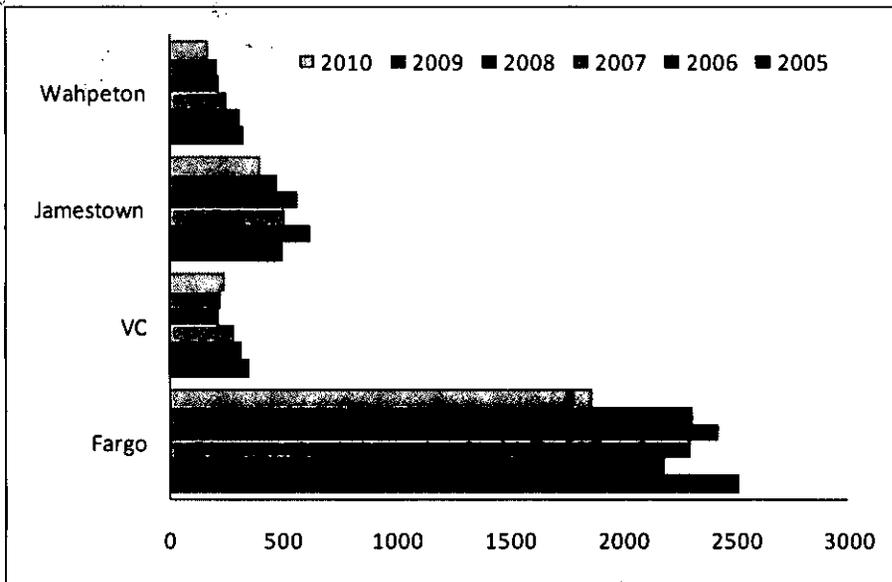
# Unit Two

In 2010, a total of 3,027 juvenile charges were handled by the staff of the Unit Two Juvenile Court. Every referral received is screened by a juvenile court officer in order to make intake, detention and shelter care decisions. Of the total number of referrals received 72% were handled via the nonpetitioned process (diversion or informal adjustment) and 28% (547 cases) resulted in formal hearings before a Judicial Referee or District Court Judge via the petitioned process. The Chart below shows that the vast majority of referrals are misdemeanors.

The most common age of referral is 17 years of age and more boys (61%) are referred than girls (39%); however, each year the percentage of girls referred has grown. Whether this reflects a change in girl behavior or a change in societal reaction to girl behavior is debatable. However, to respond to this trend, the Fargo juvenile court officers now teach classes and run groups that are specifically geared for girl offenders. In the Southeast Judicial District a girls delinquent group will be offered if enough delinquent girls to form a group arises.

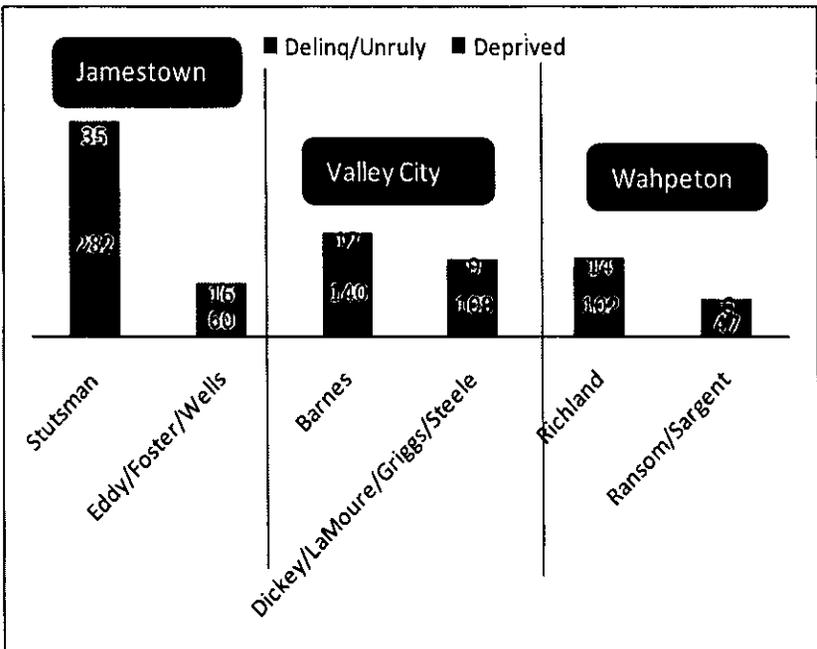
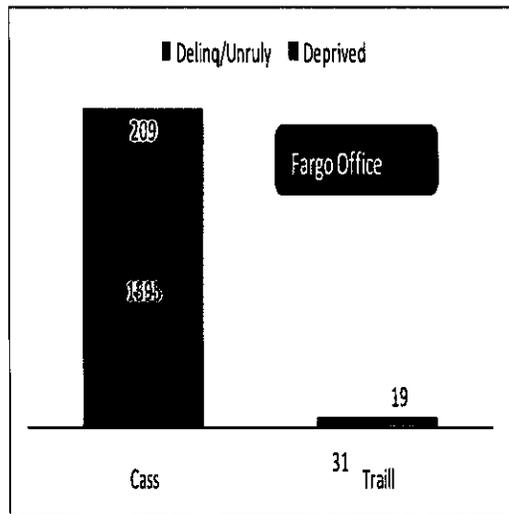


**Trends over Time:** Statewide, as well as locally, referrals to juvenile court have recently declined. This can be attributed to an enhanced array of community-based services which research supports as having a greater



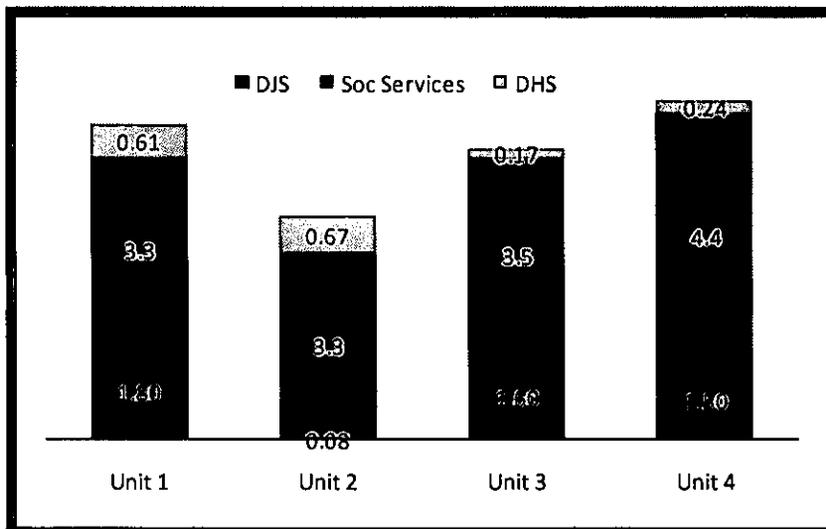
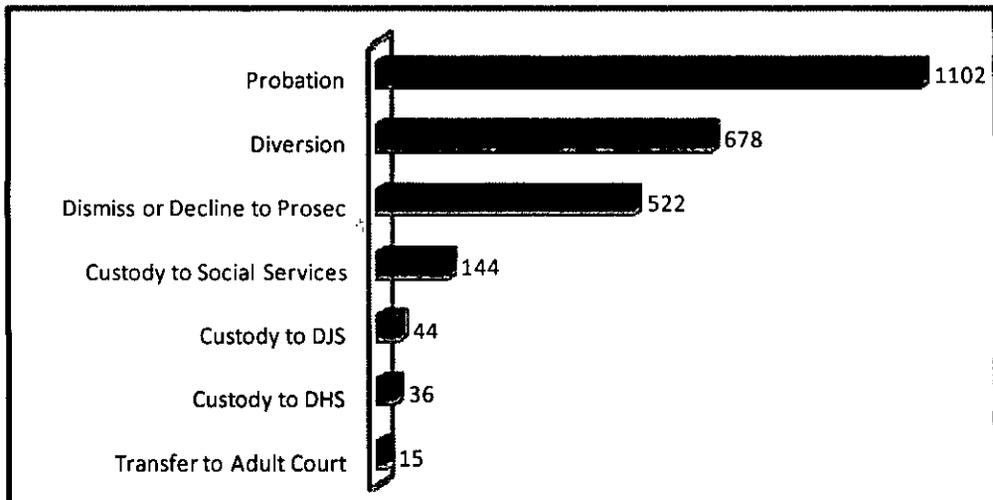
impact on recidivism reduction than traditional methods and perhaps also to several successive years of extreme winters and historic spring flooding which both reduces crime as well as law enforcement's time to respond to crime. Juvenile cases are complex and often involve family dysfunction, addiction and mental health issues in addition to the offense which brings the matter before the Court.

### Juvenile Referrals 2010 by Office Region and by Case Type



### Juvenile Court Dispositions: North Dakota law allows a great deal of flexibility in outcomes once a juvenile

has admitted or been found to have committed a delinquent or unruly offense which allows individual justice to be administered on an individual basis depending on the child's needs and risks as well as the needs of the victim and community.



### Rate of Custodial Placements per 1000 Youth Population

Unit Two strives to advance public safety and reduce delinquency by keeping youth supervised within their community settings if at all possible. Research encourages appropriate community placement for youth because positive assets such as family life, schooling and friends can continue uninterrupted.



## Unit Two—Enhancing Offender Competency

**Cognitive Restructuring Programs:** Unit Two juvenile staff are committed to providing the most comprehensive array of juvenile cognitive restructuring programs in the State. Here is the description of the programs offered by staff and the number of youth completing each program in 2010.

**DECISION-MAKING 101** - A cognitive restructuring program designed to help one make better decisions through group activities, and to provide tools and support for effective long term change in behavior. (144 youth, 164 parents in Fargo and 90 youth and parents in the Jamestown/Valley City region)

**GAP GIRLS GROUP- (GIRLS ASSERTING POWER)** A therapeutic group designed to promote self esteem, assertiveness, and to gain self awareness for their potential to succeed. This is free, and taught by Juvenile Court Staff. (19 girls)

**GREAT GIRLS GROUP** –(GIRLS RESPECTING EACH OTHER AND THEMSELVES) A free weekly group for girls to obtain tools for positive peer relationships, and respecting themselves and the prevention of bullying. This group is for younger girls and was just created in 2010. The first group started in January 2011.

**Life Management**—A free weekly group that leads participants to examine habits and provides a safe place to practice and reinforce good habit and good decision-making. (32 youth in the Fargo region)

**SPARCS-** (Structured Psychotherapy for Adolescents Responding to Chronic Stress). This is a group counseling setting for youth who may be traumatized with chronic stress and are acting out in the community. (6 girls in the Fargo region)

**EQUIP**— This is a free group taught jointly by juvenile court and DJS staff which examines criminal thinking patterns and reinforces accountability in thoughts, words and actions. (7 youth in the Fargo Region and a class is beginning in the Jamestown/Valley City region in 2011)



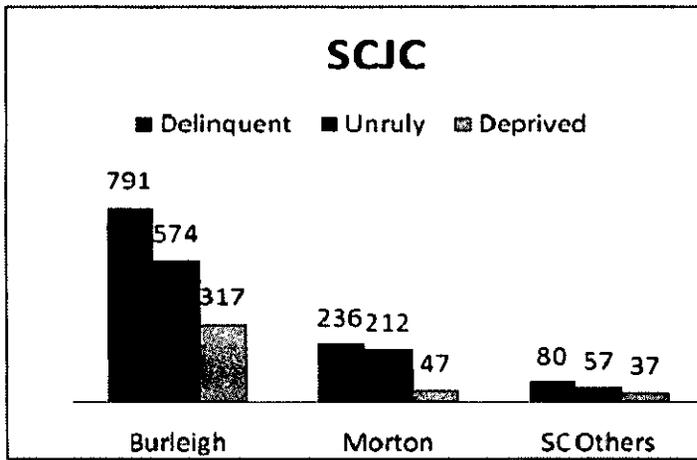
## Unit Two—Goals for 2011

1. Study and analysis of the juvenile court offered cognitive programs and groups to evaluate effectiveness and maintain program integrity.
2. Develop a collateral consequences of a juvenile adjudication brochure in order to increase the public's understanding of the system and also increase the number of youth who choose to utilize legal representation in the petitioned proceedings.
3. Develop a protocol and practice to utilize the YASI assessment prior to formal disposition in order to better address in court recommendations the unique criminogenic risks and needs of each youth.
4. Begin the use a detention screening tool on each youth within 24 hours of entry into secure detention in order to study the appropriateness of placement and monitor for disproportionate minority contact.

Respectfully submitted,  
Karen Kringlie, Esq.  
Director of Juvenile Court  
Unit Two

# Unit Three

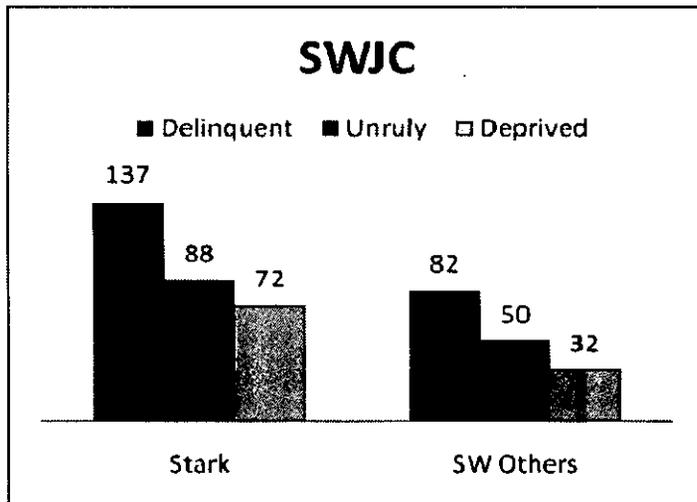
Challenges came in many waves in Unit 3 during 2010. As the only Unit with an overall increase in referrals, juvenile court staff stretched and strengthened as they functioned without both Court Officer IIIs for a large part of the year, and transitioned to change with a new director. Staff filled in where they were needed, developed new skills, and transitioned through change with a new director. As the Unit moves forward in 2011, we will look through a different windshield and carry a new torch of building on kids' strengths, following evidence based practices, reducing risks, and teaching skills.



The two graphs to the left show the case types received in 2010. While males account for 70% of the delinquent referrals for Unit 3 unruly and deprived referrals are split evenly between males and females.

In Unit 3, the average age of delinquent referrals for both males and females is 17 years old. The average age for unruly referrals for boys was 17 and for girls was 16.

SC other = Emmons, Grant, Kidder, Logan, McIntosh, McLean, Oliver, Sheridan, Sioux



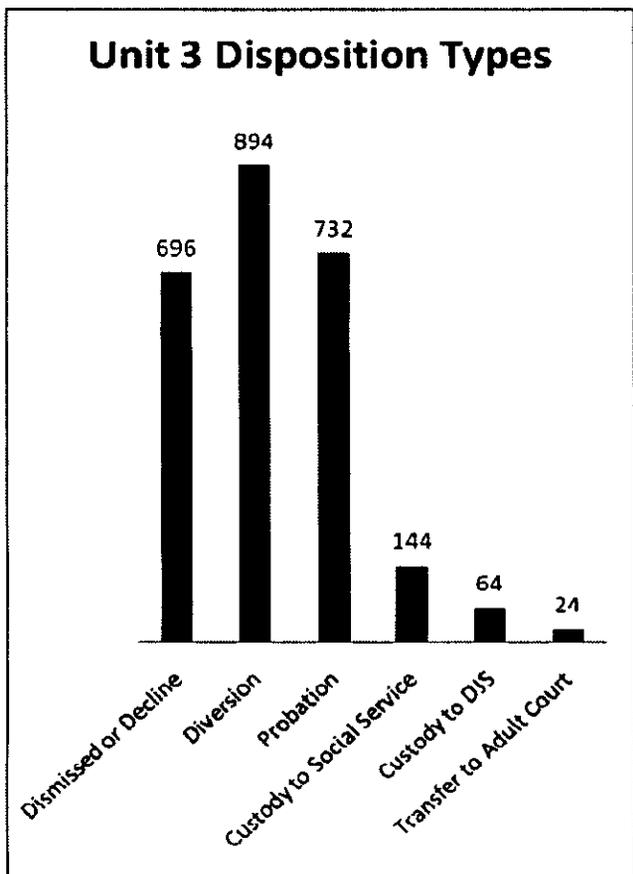
SW other = Adams, Billings, Bowman, Dunn, Golden Valley, Hettlinger, \*Mercer\*, Slope.

\*Note: Mercer County is within the jurisdiction of the SCJD but for juvenile case assignments is covered by the Dickinson, SWJD, office staff.

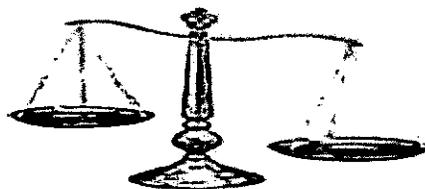
# KIDS



In Unit 3, diversion programs were utilized in approximately 35% of the juvenile court referrals for 2010. Juvenile Court Officers understand that new evidence-based research suggests locking up young people ultimately increases crime. These diversion programs keep a large number of youth out of the probation services, which helps prevent youth from going deeper into the juvenile justice universe. Staff will continue to intake and divert low risk and first time juveniles by following best practices and evidence based research. Courts officers understanding the latest juvenile justice research on what works with kids ultimately serves the interest of justice for all involved including the juveniles, families, victims, and communities.

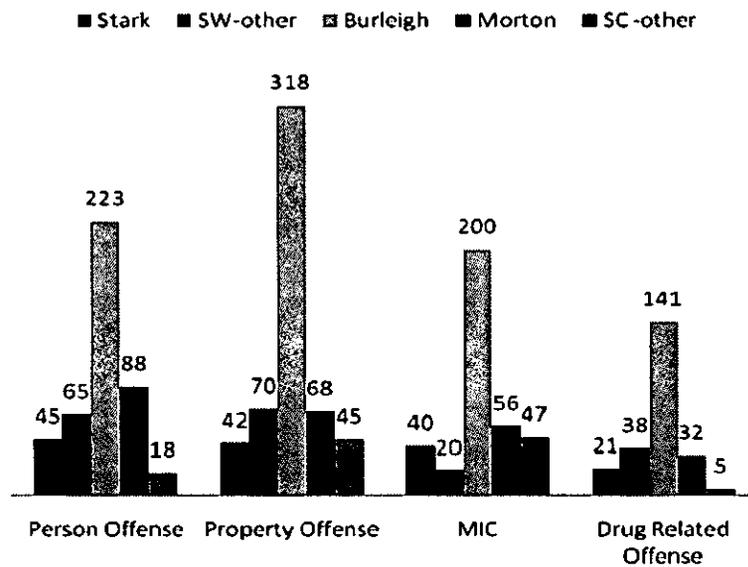


The graph above shows common dispositions in Unit 3 for 2010.



**Drug Court** is in its ninth year of operation in Bismarck and continues to be a highly effective means of supporting positive behavior change in youth struggling with abuse/addiction. The South Central Juvenile Drug Court leads the way in technology regarding monitoring of its participants. In 2010, Drug Court switched from urine testing to oral saliva samples which are then tested by a certified lab in Michigan. In addition, the implementation of the MEMS unit in every participant home allows the Court to monitor alcohol use 24/7 by method of deep lung breath samples and positive picture ID. Drug Court had four (4) graduations, four (4) terminations and one (1) transfer due to moving out of state in 2010. These participants were given the opportunity to remain in the parental home as opposed to being placed with a custodial agency at the time of adjudication/disposition. Referee John Grinsteiner and the Drug Court team continue to be creative with rewards and sanction for participants and are active in community projects which bring team members together with youth. Drug Court projects include regular community service support for Carrie's Kids, which helps homeless youth and families with basic everyday needs. Other projects include the Red Ribbon Carnival, Trinity Lutheran Church Banquet, Christmas Angel Tree program, Pizza for Parents, and several Dakota Zoo projects in the summer time. These programs encourage participants to spend time with team members doing manual labor for city and state agencies.

## UNIT 3 REFERRAL TYPES



The graph to the left breaks out the referral types for 2010 in Unit 3 with the three larger counties separated out. Felony referrals are seen as a higher risk behavior in juveniles, however, only 8.5% of all referrals received in Unit 3 were felonies.

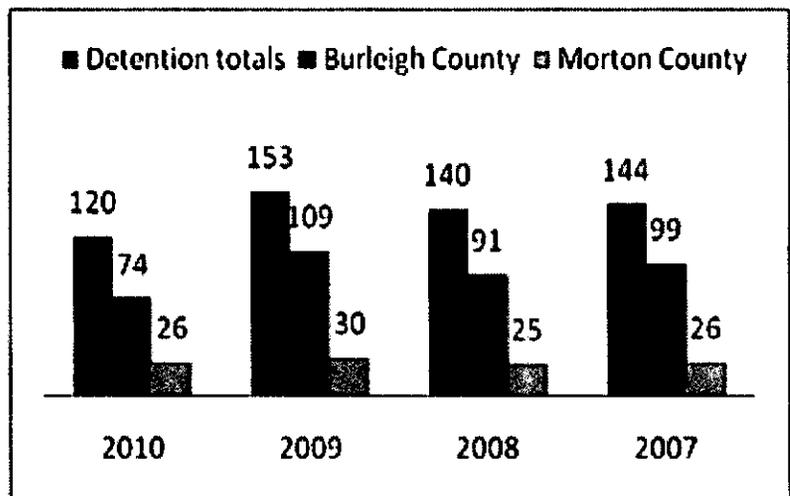
- 10% of all person offenses were felonies
- 5% of property offenses were felonies
- 8% of all drug related offenses were felonies.



In 2010, court officers organized projects with the Dakota Zoo and the Chamber of Commerce. Court officers will continue to promote meaningful relationships for juveniles to people outside their usual peer group, and will begin looking for cognitive programming and groups, and teach skills to the juvenile to be productive members of our communities. Court Officers will continue to be active in both rural and urban school programs such as Teen Maze, Youth Activity Day, and the Stay in School Project in addition to serving on advisory boards and committees of child serving agencies. Court staff will provide information on the court's role and represent the court in a positive manner in hope to pass on the research and philosophy of the best practices of the juvenile court.

### 2010 Detention Pilot

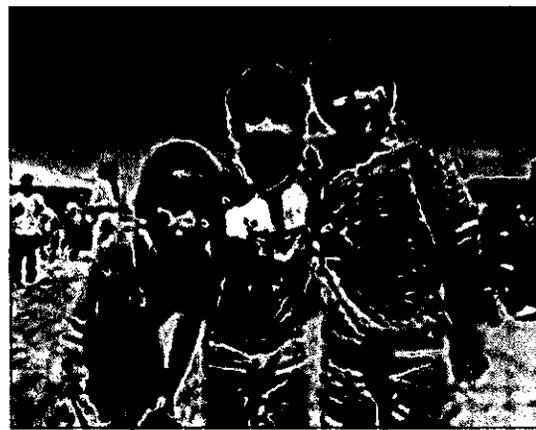
A new detention screening tool was piloted in Bismarck/Mandan during 2010 in order to ensure consistent detention practices across juvenile cases. Juvenile court received the screening tool on 66 of the 100 juveniles detained in the piloted area. To the right is the detention totals for Unit 3 over time and a majority of juveniles detained are from Burleigh County. The detention screening instrument will continue to be a pilot project in 2011 and it will include all youth from Unit 3 placed in detention. Court officers will continue to promote consistency in juvenile detention practices, which will reduce disproportionate detention placements from our minority population.



The Youth Cultural Awareness Program (YCAP) – continues to be supported by the court, to help Native American/American Indian youth and families navigate the system and provide prevention programs. The YCAP provides Native American/American Indian youth:

- 1)peer and cross-age mentorship,
- 2)culturally-relevant psychological assessment,
- 3)therapy (individual and groups),
- 4)cultural based activities,
- 5) case management,
- 6)wrap-around services.

YCAP Groups include : Job Club, Girls Group, Summer STOMP, and Keeping the Culture Alive.



Over 65 Native American/American Indian youth participated in the program in 2010. Referrals for the program came from the juvenile court, schools, social services, Police Youth Bureau, parent and families.

- 31% of the juveniles referred to the program have at-risk siblings for whom services were also utilized.
- 82% of the juveniles in the program had juvenile referrals pending.
- 31% of juveniles in the program were cited with another offense while in the program .
- 8% of juveniles in the in the program went on to long term placement.

**UNIT 3 GOALS for 2011:**

- Reduce out-of-home removals by better matching of unruly and delinquent youth needs with effective services within their community;
- Implement and support evidence-based programming in both judicial districts in Unit 3 to increase juveniles’ skills and help them to become productive in their communities;
- Reduce reliance on detention and shelter care by increasing the use of community-based alternative sanctions and completing a detention screening tool on 100% of all youth placed in detention within Unit 3; and
- Improve cross-system coordination and collaboration to improve the juvenile justice system by ensuring that the structural components of the YASI risk and needs assessment and graduated sanctions are fully implemented as a platform for evidence-based program improvements and reduction of recidivism.

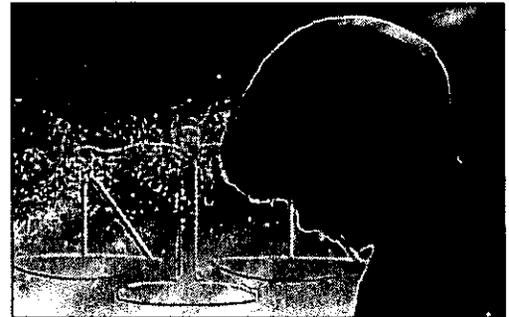
Respectfully Submitted,

Cory T. Pedersen  
Director of Juvenile Court  
Unit Three

# Unit Four

A priority for Unit 4 Juvenile Court offices in 2010 pertained to the review of current services available to our youth and maximizing utilization of these services. Unit 4 currently contracts with a variety of entities to provide services to youth to address the issues that lead to their referral to the Court system. Staff throughout the unit has maintained a positive working relationship with collateral agencies to meet the needs of our youth.

**Sunrise Youth Bureau** – In 2009, Sunrise Youth Bureau was contracted to provide diversion services to youth and families in McKenzie County. The Sunrise Youth Bureau works with young people who have had involvement with law enforcement and are experiencing issues in personal, family, and/or school relationships. The goal being to provide early intervention services to youth through assessment and accountability. The agency provides education and cognitive thinking exercises to youth and families in order to change attitudes, thus diverting youth from further legal and social difficulties. Data from 2010 indicated that the top referrals in this area of the unit involved unruly behavior. As a result, in November 2010 this service was expanded to provide coverage to include Divide and Williams counties in addition to McKenzie County. Staff spends a considerable amount of time attending to these low level offenders.



**Meaningful Community Service** - Throughout 2010 the Minot Juvenile Court staff worked on developing more meaningful community service opportunities for youth that have come into contact with the Court. As a condition of probation, youth are required to perform community service hours as a way to repay the victim and the community for any harm suffered as a result of the youth's actions. The Juvenile Court partnered with the Northern Lights Habitat for Humanity Chapter, A Brush With Kindness program. This program assists low income home owners and provides assistance with exterior repairs to their property that due to financial, physical or other limitations, they are unable to perform on their own. The program is designed to revitalize the appearance of the neighborhood, and encourage connections with the community. The court officers and youth participated in several projects that ranged from scraping and priming a home, property clean up, and dismantling and cleanup following the Norsk Hostfest. There were several other opportunities for youth to participate in positive projects this year that included the City-wide cleanup, Painting project with the Minot Park District, Salvation Army Fill the Truck back to school project, and Community Action-Santa Store project.

**Drug Court** - The *Ward County Juvenile Drug Court (JDC)* is approaching its four year anniversary in January of 2011. During 2010, there were 13 active juveniles who participated in JDC. Nine of those juveniles were male and four were female. From the 13 active juveniles who were in the program in 2010, four were terminated and two graduated from the program. The remaining seven juveniles are currently still in the program with our next graduation scheduled for January 2011. A total of 26 juveniles have participated in JDC since its inception in January 2007. The number of juveniles who were admitted in JDC increased by 44.4% in 2010 compared to the previous year.



Juvenile Drug Court participants were involved in a variety of community service projects throughout the year. They continued with the backyard garden constructed at Roosevelt Park Zoo. This involved ongoing maintenance of the garden as well as new construction of a nature path at the front entrance of the zoo.

Youth were involved in projects with Habitat for Humanity-A Brush with Kindness, the Kiwanis pancake breakfast, cookie project with the Chamber of Commerce, and toy wrapping with the Salvation Army. Juveniles were also given opportunities for skill development throughout the year. All drug court youth attended a class pre-

sented by Scott Weston focusing on making better decisions in life. Additionally, the youth completed CPR and First Aide certification. Parents of the Drug Court participants attended a presentation by the Ward County Drug Task Force informing them of signs to look for when dealing with drug and alcohol problems among youth.

The *Williams County Juvenile Drug Court* continued to focus on program development, which included obtaining incentives and identifying special projects for the participants. The participants are involved in community service and are rewarded with incentives for positive behavior that can be of monetary value, or in the form of adjustment to their current probation conditions. In 2010 the Williams County Juvenile Drug Court had 2 referrals, one male and one female. The male candidate was released from JDC due to his ongoing substance abuse. He was on Path 4. The female was released due to non-compliance. She was in Path 2. There had been other potential candidates screened for the program, however due to ongoing legal issues were not accepted into the program. The program had an additional set back which involved one of the participants committing suicide. This had a great impact on the other participants as well as the team members.

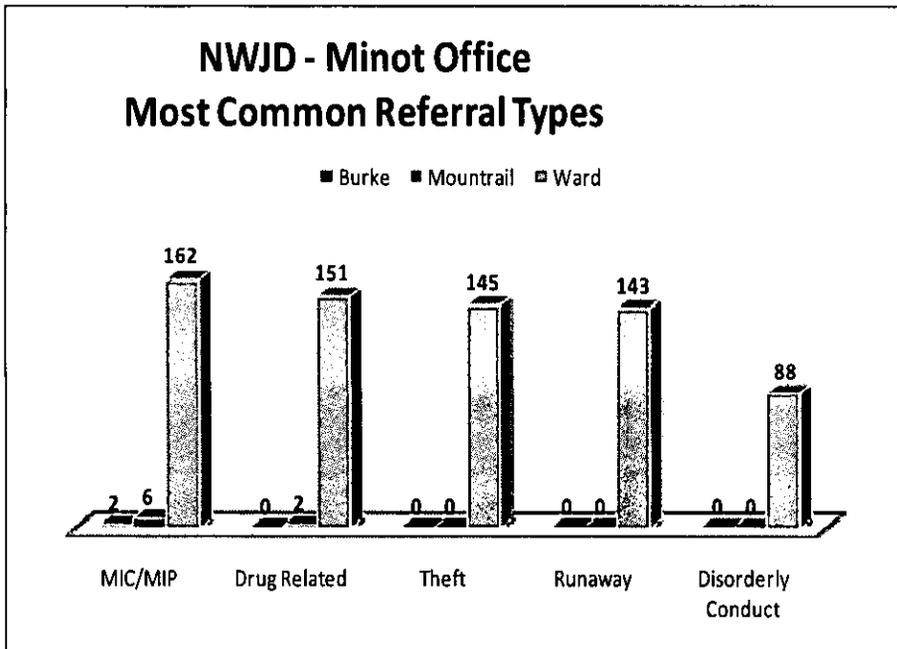
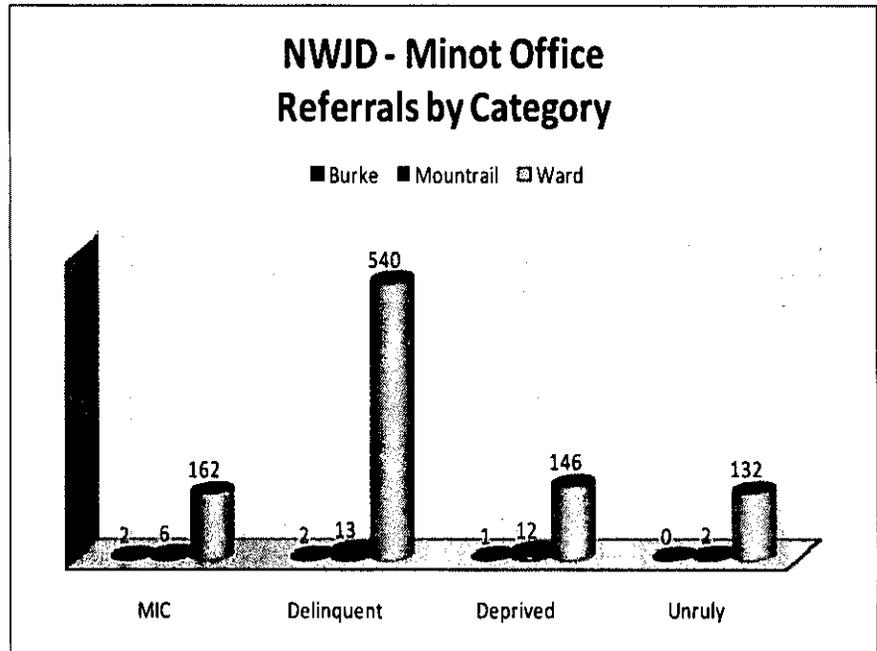
In October the decision was made to forego referrals into the Williams County Juvenile Drug Court program. This determination came as a result of the absence of key team members out for extended periods of leave. The intention is to regroup and resume the program in early 2011.

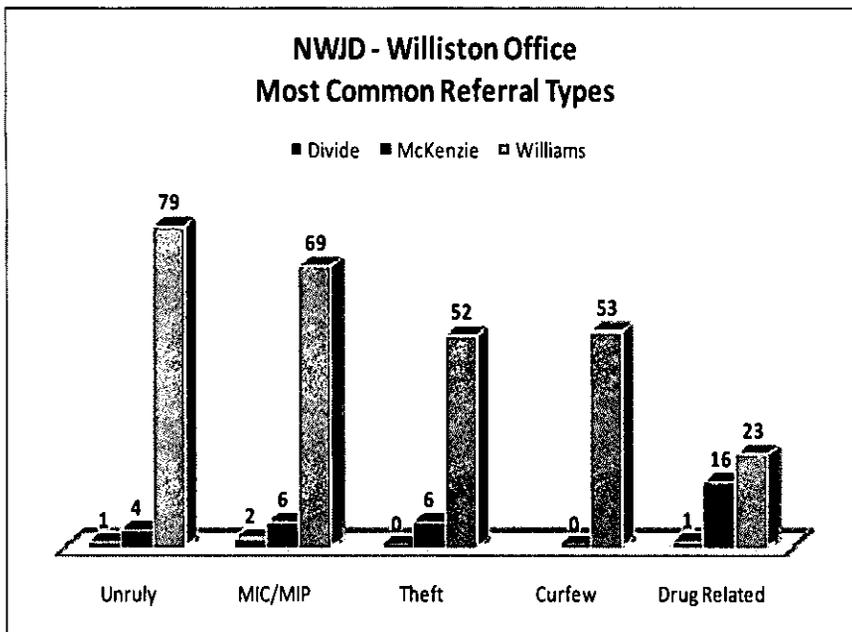
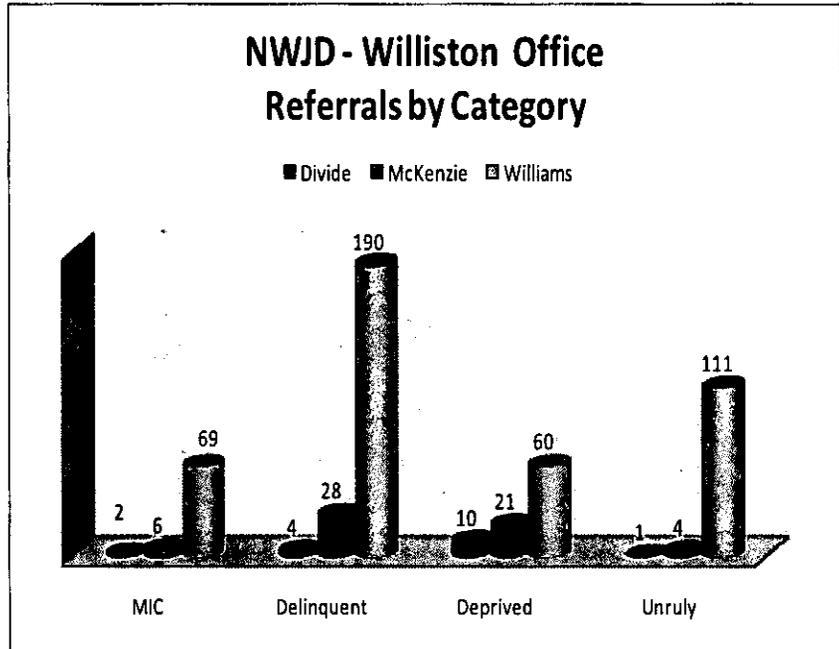
**Goals:**

- Continue to monitor and evaluate existing contracts and services.
  - Consistent staff meetings to enhance collaboration of needs, resources available, and case planning. Continued education of new staff and re-educating experienced staff on services available and utilizing these services.
  - Establish process for tracking utilization of resources consistently throughout the unit on a monthly and quarterly basis. Address gaps in service coverage throughout the Unit.
- Enhance community interaction and support through consistent communication with local schools, and community partners in order to improve knowledge, understanding and needs of youth in the community.

Submitted by:

Scott Hopwood  
Director of Juvenile Court  
Administrative Unit 4

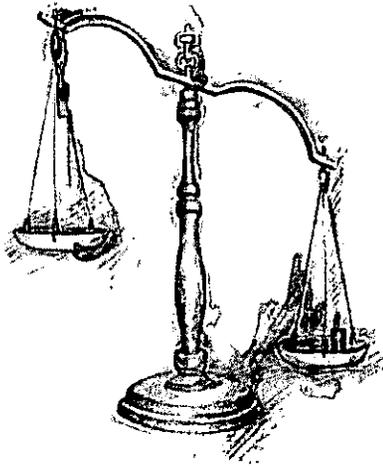
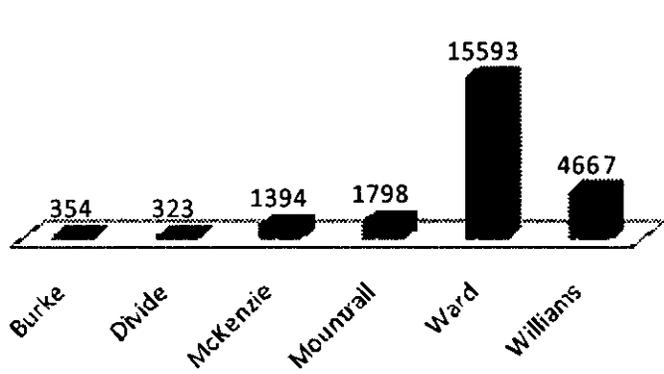




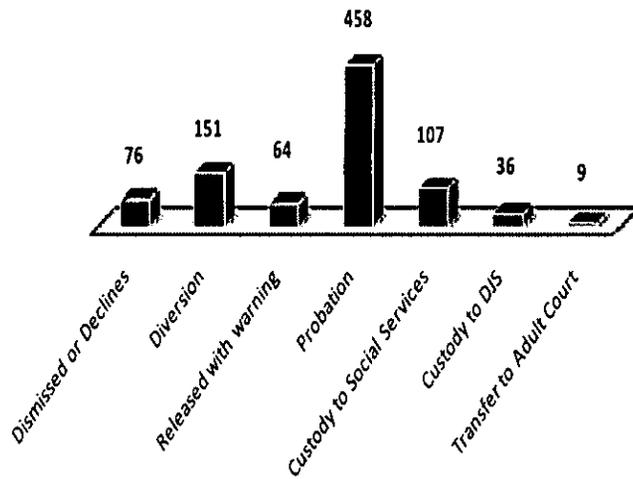
## Unit 4 Youth Population

Ages 0-17

2008 NDKidsCount



## Unit 4 Disposition Types



## Director's Summary & Goals for 2011

The Juvenile Courts of North Dakota have a strategic plan written by the four Directors of Juvenile Court. The top goals are:

1. Develop and improved probation programming.
2. Improve access to mental health screening, evaluation and treatment for youth.
3. Improve custodial placements.
4. Enhance court staff professional development.
5. Ensure relevant data capture and analysis.

The goals for the Juvenile Courts are outlined in that plan, but there are other goals as well that have been discussed and will be implemented in the upcoming years in the court system.

Philosophically speaking, the Directors have looked at the national research and literature, and have taken that information to create even more goals and a philosophy in keeping with the state of the art in juvenile justice.

We are currently beginning a study of the detention facilities in the state to determine criteria and rules regarding juveniles in detention. The study evolved from a Drug Court study to expand into the whole state detention network. We are trying to determine recidivism in light of detention commitments.

The second issue of merit is transfer to adult court. In light of all of the current research, it is clear that only in the most extreme cases, should a child be transferred to the adult court. An adolescent's brain will not become fully developed until age 25, which holds huge implications for the court doing transfers at the age of 14, even for a murder case. To stay ahead of the national curve, we are clearly encouraging our staff, the States Attorneys, and Defense counsel to consider this information when making decisions for a child's life and their future.

The Directors are working hard to insure geographic equity in terms of the services available. Opportunities for rehabilitation should not be limited to the urban areas. Therefore, utilization of such technologies as web education, expansion of service contracts, and advanced training for all Juvenile Court staff are imperatives for now and the future.



***Children are  
100% of our  
future***

## GLOSSARY OF PROGRAMS

**ACT TEAM-** Referrals made to the ACT team involve families with complex issues involving their child/children. Identification of needed services and who can provide it are the goal of the first meeting. Representatives from many different agencies sit at the referral meeting and offer services to the family on the spot. A plan is constructed and a follow-up is scheduled to monitor progress. Also case management is available to families in need.

**ADULT COURT OBSERVATION PROGRAM-** Juveniles attend adult hearings to observe and report back on the types of offenses and sentences received in Adult Court.

**ADULT MIP CLASS-** An education class on alcohol and other drugs for juvenile court offenders who have reached the age of 18.

**ALIVE AT 25-** A series of classes designed to educate juveniles on the dangers of drinking and driving. Provided by the North Dakota Safety Council.

**AMACHI MENTORSHIP-** Provides Adult Retired Senior volunteer mentors for youth. The program is designed primarily for children with an incarcerated parent, but all youth are considered if a mentor is available.

**ANGER MANAGEMENT-** This is a program to assist juveniles in recognizing anger issues, and learning skills to cope with and diffuse inappropriately expressed anger.

**ACCOUNTABILITY AND SANCTION PROGRAMS-** There are several educational and/or accountability programs utilized by the Juvenile Court to allow the child to gain insight into their behavior, and to allow them an opportunity to take responsibility for their behavior. These include: Letter of apology, Community Service, Research or Report Paper, Video Report, House Arrest, Robocuff or Electronic Monitoring (EMS).

**CAPH-** This program is a partial hospitalization program designed for children and adolescents age 17 and under who have a variety of behavioral and emotional difficulties. The program is highly structured and allows the child to participate in a hospital program without actually being hospitalized.

**CAREBED PROGRAM-** A low intensity residential CD treatment provided by Path Foster Homes.

**CD SERVICES-** Chemical dependency services includes: Screening, Evaluation, Education, Outpatient, Inpatient, and Aftercare. A child would be referred if it is suspected that he/she has a problem, or an alcohol or other drug charge that would indicate an involvement with chemicals.

**COGNITIVE RESTRUCTURING-** These are educational programs which have been shown to be one of the most effective programs in working with at-risk youth. These programs address decision-making from our experiential perspective to providing tools and skills to change behavior and follow through with that change. Some of the cognitive programs offered throughout the state include: KEYS to Innervation, Youth Cog Program, Decision-Making 101, GREAT Girls Group, GAP Girls Group, STRIKE TWO, Life Management and EQUIP.

**COMMUNITY COUNCIL (a.k.a. COMMUNITY RESTORATIVE JUSTICE COUNCIL)-** An accountability conference where the victim is not present or the victim is the community or a business rather than an individual. Panels of community members sit in place of the victim, and represent their interests at the meeting. A mutually acceptable agreement is developed on ways to repair the harm caused.

**COMMUNITY SERVICE-** Imposed as a condition of probation, community service requires the offender to work a certain number of hours as reparation to the community. Many different sites are utilized. Some courts have their own program, and others contract or network with community agencies for work sites.

**COUNSELING-** An array of services that range from individual to family counseling. This may include individual evaluation, treatment and/or counseling for a specific problem area. This could also be for the entire family, to include assessment, treatment, Intensive In-Home counseling or even just support.

**DAY TREATMENT-** A program in the schools developed for students who have behavioral and/or emotional problems in the classrooms who are referred by Juvenile Court, and who need to be away from the mainstream classroom, but do not meet other special needs criteria. Special staff is assigned who include not only academic services, but also social work methodologies as well. Care is taken to include family as well as the student in addressing student needs.

**DAY REPORT-** A program provided by Lutheran Social Services in Grand Forks or by the Juvenile Court in Valley City, to attend to the needs of Juveniles in the hours after school, when they would otherwise be unsupervised. This program runs from about 2-8:00 pm. Dinner is provided as well as after-school tutoring, and life skill training.

**DD SERVICES-** Services provided by the Human Service Centers for the Developmentally Disabled.

**DECISION-MAKING 101** - An entry level cognitive restructuring program for youth and their parents designed to help one make better decisions through group activities, and to provide tools and support for effective long term change in behavior.

**DRIVING PROGRAMS**- Referrals are made to local law enforcement and private providers when a juvenile has a driving or related offense which shows a need for more driving education. These are occasionally alcohol related events as well. The programs available are: ALIVE @ 25, Drivers Safety, YIELD, DUI Seminars and Defensive Driving.

**DRUG COURT**- Juvenile Drug Court is a decade long program in the state which addresses the needs of chemically dependent children for whom other forms of treatment have been ineffective. The program is from 9-12 month in duration, and monitors every aspect of the child's life over a long period time. The program includes weekly court sessions with the JDC judge and team, rewards and sanctions for behavior, and upon successful completion, may be eligible to have offenses dismissed. This is considered one of the most promising programs for drug addicted youth with chronic chemical issues.

**DRUG TESTING**- Juveniles on probation may be randomly screened by urinalysis or mouth swab for use of illegal substances. Drug kits are purchased and available to parents as well who request them for home use or parents are referred to a local drug testing agency.

**ELECTRONIC MONITORING- (EMS)** A home electronic "bracelet" system that allows for restricting and monitoring an offender within the home as an alternative to incarceration.

**EQUIP**- A cognitive restructuring program designed to help one make better decisions through group activities, and to provide tools and support for effective long term change in behavior.

**FAMILY GROUP DECISION MAKING**- The Village Family Services provides this program for utilizing nuclear and extended family for determining the best potential placement for a child who is to be placed out of the home. Extensive research and meetings help to determine a collaborative decision.

**FAMILY ASSESSMENT**-To assess and recommend services to families with juveniles at risk of out of home placement. The assessment is based on a session with the family in their home and includes current life situations and stressors, and a psycho-social history. Upon completion, an assessment report and recommendations are given to Juvenile Court.

**FETAL ALCOHOL SCREENING**- In conjunction with Dr. Larry Burd from the University of North Dakota, the state has access to a questionnaire that is filled out by the probation officer in cooperation with the juveniles family to ascertain any fetal alcohol issues that a juvenile may have. Follow-up is provided by Dr. Burd in the event of any issues discovered.

**GAP GIRLS GROUP- (GIRLS ASSERTING POWER)** A therapeutic group designed to promote self esteem, assertiveness, and to gain self awareness for their potential to succeed. This is free, and taught by Juvenile Court Staff.

**GREAT GIRLS GROUP -(GIRLS RESPECTING EACH OTHER AND THEMSELVES)** A free weekly group provided by Juvenile Court staff for girls to obtain tools for positive peer relationships, and respecting themselves and the prevention of bullying. This group is for younger girls.

**HUNTER SAFETY**- Provided by the North Dakota Game and Fish Department in the area of gun and hunting safety, with testing at the conclusion for a satisfactory passing grade. Juveniles are referred for hunting or hunting-related gun violations.

**INTENSIVE IN-HOME**- Counseling provided for families in the home setting allowing for more flexibility around family work schedules. The sessions may be several times a week for a period of several months.

**JOB CORPS**- Job Corps is a program administered by the United States Department of Labor that offers free-of-charge education and vocational training to youth ages 16 to 24. The Quentin Burdick Job Corps located in Minot is the main referral source for North Dakota courts.

**KEEPING LIFE IN BALANCE** - The "Keeping Life In Balance" Program is a diversion program developed for unruly youth referred to the court for first time runaway and curfew violations.

**KEYS TO INNERVISION**- A cognitive restructuring program designed to help one make better decisions through group activities, and to provide tools and support for effective long term change in behavior.

**LIFE MANAGEMENT**- A cognitive restructuring group designed to help one make better decisions through group activities, and to provide tools and support for effective long term change in behavior.

**MAYSI 2**- The Juvenile Court standardized initial mental health screening tool for juveniles placed on probation to determine indicators of mental health issues. Follow up is done when there are red flags for immediate risk to self or others.

**MEMS UNIT**- A deep lung breath monitor used to detect alcohol 24/7 by use of breath sample and picture ID for high surveillance drug court participants.

**MERCER COUNTY YOUTH BUREAU- (MCYB)** - A diversion agency with programming to work with low level/low risk youth to keep them out of Juvenile Court.

**OFFENDER ACCOUNTABILITY CONFERENCES-** (or **YOUTH ACCOUNTABILITY CONFERENCES**) Provided by Lutheran Social Services, a trained mediator sets up a face-to-face contact with the victim of the offense and the offender. The victim and offender attempt to gain closure, and come up with a mutually signed agreement that satisfies the victim, while allowing the offender to make reparations, both for himself and the victim. This may either be a court ordered referral, or a diversion program.

**POLICE YOUTH BUREAU-(BISMARCK)** - A diversion program provided by the Bismarck Police Department designed to work with low level/low risk youth to keep them out of Juvenile Court.

**PRIME FOR LIFE-** A drug and alcohol *education* program. (SEE CD SERVICE)

**PSYCHOLOGICAL SERVICES-** The Juvenile Courts have an array of services provided by the state Human Service Centers. These would include: Psychological Evaluations, Treatment, Psychosexual Evaluation, Sex Offender Education (CAR), Psychiatric Evaluations, Treatment, Family Evaluations, Counseling, and Addiction Services. There are also private providers, such as the local medical facilities or private therapists as well.

**ROBOCUFF-** A computerized voice recognition system designed to randomly contact a juvenile who is on home restrictions. When called by the computer, the juvenile must repeat a set of numbers back to the computer when called at home, and the computer can recognize the juvenile's voice. If it does not recognize the appropriate voice, a message is sent to the probation officer via email to alert them of the failed cases.

**SPARCS-** (Structured Psychotherapy for Adolescents Responding to Chronic Stress). This is a group counseling setting for youth who may be traumatized with chronic stress and are acting out in the community and is taught either by Human Service Center staff or trained juvenile court officers.

**STRIKE TWO-** A cognitive program that is geared toward first time minor delinquency referral or second time unruly offenders. This is a diversion program that alerts the participant that they have reached the point in the juvenile system where one more "strike" could lead to them to falling deeper into the system.

**SUNRISE YOUTH BUREAU [SYB]** - A diversion agency with programming to work with low level/low risk youth to keep them out of Juvenile Court.

**THEFT AWARENESS CLASS- (TAP)-** A diversion awareness class for shoplifters or other theft offenders.

**THIRD MILLENIUM-** An education program that is done online. It is four hours of online education relating to one of four areas: 1) Alcohol 2) Marijuana 3) Shoplifting. This concept will be expanding in the future as the rural areas are a site of huge potential growth for this type of online program.

**TRACKING-** *Traditional:* This type of tracking would be a mentoring "Big Brother" or "Big Sister" type program. The child and tracker develop a relationship through positive recreational activities and relationship building experiences. *Intensive:* This type of tracking is an accountability type of tracking where the tracking is mainly checking for drug activities through drug testing, curfew checks, and behavior monitoring.

**VICTIM IMPACT PANEL-** The Victim Impact Program is meant to provide juveniles the opportunity to hear real stories on impaired driving and the effects it has on people. Speakers talk from experience and share how their life was before the crash, immediately after and how their life has changed since. The goal is for juveniles to think before they get into a car or get behind the wheel after their or the driver's judgment is impaired.

**VICTIM EMPATHY CLASS-** This class is designed to teach juvenile offenders about the human consequences of crime, with the goal of the juvenile offender accepting responsibility for their past harmful actions. These classes are done when the victim chooses not to participate in an accountability conference, or circumstances would preclude holding a face to face meeting.

**YASI- (YOUTH ASSESSMENT SCREENING TOOL)-** The Juvenile Court standardized screening tool for juveniles placed on probation to determine their risk level and area of risk, and also to identify strengths and needs for program planning.

**YCAP (BISMARCK) -**

**YCAP (Bismarck)** - Youth Cultural Achievement Program for Native American youth offered by Youthworks. The programs include youth mentoring, wraparound family services and individual counseling.

**YCAP- (Williston)** A program offered by Human Services for adolescents receiving their first alcohol offense. It is offered every other month, for period of six to eight hours.

**YES PROGRAM-** A "correspondence" education program for first time juvenile shoplifters.

**YIELD-** A traffic diversion program designed to educate juveniles who have driving or traffic related offenses.

**YOUTH SERVICES BUREAU [YSB] (MANDAN)-** A diversion agency with programming to work with low level/low risk youth to keep them out of Juvenile Court.

**YOUTHWORKS-** A diversion agency with programming to work with unruly and low level/low risk youth experiencing family dysfunction with the aim to keep them out of Juvenile Court. Youthworks also provides an evaluation program from Attendant Care in Bismarck and a short-term shelter in both Bismarck and Fargo.















Family Assessment	√									√	√									
Family Focus	√									√	√									
Family Support	√									√	√									
Group Counseling	√									√	√									
House Arrest	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Hunters Safety	√									√	√									
Keys to Innervation/social skills	√									√	√									
MIP Class	√	√							√	√										
MAYSI II	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Offender Accountability Conferences	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Parent aid	√								√	√										
Partnership Program	√									√	√								√	
Prime for Life	√									√	√									
Psych Evaluation	√									√	√									
Psychiatric Inpatient										√	√									
Psychiatric Outpatient	√									√	√									
Report or Research Paper	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
RoboCUFF	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
SPARCS Group	√									√	√									
Psychosexual evaluation	√									√	√									
Sex Offender Education (CAR)	√									√	√									
Tracking Traditional	√								√	√										
Tracking Intensive	√								√	√								√	√	
Theft Awareness Class (TAP)	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Victim Impact Panel (VIP)	√									√	√									
Victim Empathy Class	√									√	√							√	√	
Youth Court/Teen Court										√	√									
MEMS - Alcohol Monitoring										√	√									
Attendant Care	√									√	√									
PYB										√										
SYB	√																			
MCYB									√								√			
YSD											√									

\*\* Note that most programs are offered in the larger areas or county seats but are available to rural youth when they can travel to the site of the program, class or treatment.

UNIT 4

	NWJD WILLISTON			NWJD MINOT		
	Divide	McKenzie	Williams	Burke	Mountrail	Ward
<b>Juvenile Court Programming</b>						
Adult Court Observation/Report						
Adult MIP Class						√
Alive at 25	√	√	√	√	√	√
Anger Management			√			√
Apology Letter	√	√	√	√	√	√
CAPH						√
Carebed Program						
CD Aftercare			√			√
CD Counseling			√			√
CD Outpatient			√			√
CD Day Treatment						
CD Education			√			√
CD Evaluation			√			√
CD I.O.P (Intensive Outpatient)			√			√
CD Inpatient						√
Community Council						
Community Service	√	√	√			√
Counseling-Intensive In-Home				√	√	√
Counseling- Family			√			√
Counseling-Individual			√			√
Day Treatment						
Day Report						
DD Services			√			√
DecisionMaking 101						
Defensive Driving			√			√
Divert						
Drivers Safety						

Driving Restrictions	√	√	√	√	√	√
Drug Court			√			√
Drug Testing	√	√	√	√	√	√
DUI Program						
DUI Seminar			√			√
EMS	√	√	√	√	√	√
EQUIP						
Family Group Decision Making						√
Family Assessment						
Family Focus						
Family Support						
GAP Girls Group						
GREAT Girls Group						
Group Counseling						
House Arrest	√	√	√	√	√	√
Hunters Safety			√		√	√
Keys to Innervation						
Life Management						
MIP Class			√			√
MAYSI II	√	√	√	√	√	√
Offender Accountability Conferences	√	√	√	√	√	√
Parent aid		√	√			√
Partnership Program			√	√	√	√
Prime for Life						
Psych Evaluation			√			√
Psychiatric Inpatient						√
Psychiatric Outpatient			√			√
Report or Research Paper	√	√	√	√	√	√
RoboCUFF	√	√	√	√	√	√
SPARCS Group			√			√
Psychosexual evaluation						√
Sex Offender Education						√
Tracking Traditional		√	√			√

Tracking Intensive		√	√			√
Theft Awareness Class (TAP)						
Victim Impact Panel (VIP)						
Victim Empathy Class	√	√	√	√	√	√
Video Report						√
YIELD						
Youth Court						
ACCI Cog Lifeskills Workbooks						
Keeping Life In Balance						√
Strike Two						√
Sunrise Youth Bureau	√	√	√			
Youth Cog Program			√			√
NW Youth Assessment Center			√			
Juvenile Detention Center						√
Attendant Care						√
Transition Program						√
Stay In School Project						√
Sheltercare						√

**\*\* Note - Many of the programs are located in Williston and Minot, however are available to youth throughout the entire unit.**