

**ACCESS, FAIRNESS, AND TRUST IN THE NORTH
DAKOTA COURT SYSTEM**

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ABSTRACT

Since 1995, the North Dakota court system has been evolving from a multi-tiered system of county and district courts to a unified state court system. The system currently consists of one supreme court with 5 justices, and 53 district courts, grouped into seven judicial districts, served by 42 judges. In addition, the supreme court has judicial oversight over 75 municipal courts, and the authority to convene a court of appeals as needed.

Administrative reorganization has evolved along with the structural changes. These include shifting clerks of court from elected officials to appointed officials, state funding of clerk operations, and realignment of the juvenile courts to more fully integrate them into the district court structure. In 2004, the court implemented the final phase of the evolution by consolidating the administrative functions of the judicial districts into four units managed by trial court administrators.

Throughout the on-going reorganization the North Dakota judiciary has been cognizant that:

“the public perceptions of courts in general are that they are too costly, too slow, unfair in the treatment of racial and ethnic minorities, out of touch with the public, and negatively influenced by political considerations... and that

“a positive image of the courts rests upon the perception of the courts as meeting constitutional obligations to protect rights, ensuring that litigants have adequate legal representation, that judges are honest, fair, and well-trained, and court staff are respectful.”¹

¹ Rottman, David , *Public Perceptions of the State Courts: A Primer*, National Center for State Courts, 2000. p. 1.

With this background and these thoughts in mind, this court undertook a survey in November, 2006, to answer the following five questions:

- **Are the North Dakota Courts perceived as being fair?**
- **Are the North Dakota Courts perceived as being accessible?**
- **Where do North Dakota Courts rank in the public perception of government entities?**
- **Has the amount of trust and confidence in the court system as expressed by court users improved since the last survey?**
- **How do North Dakota's scores on public trust and confidence compare to national data on these issues?**

The survey was a combination of two instruments: a measurement of access to justice and fairness developed by the National Center for State Courts (NCSC) referred to as *CourTool 1*, and large portions of a previous survey of public trust and confidence commissioned by the North Dakota courts in 1999.

The survey was distributed to a proportional sample of the number of people appearing at the court offices on November 1, 2006. The overall response rate was 53%.

The survey results indicate that the public views the North Dakota court system as accessible and fair. Results also indicated that public trust and confidence in the court system has increased over the years. The factors with the greatest increase in positive scores are those factors that the court can directly control: monitoring the progress of cases, availability of judicial services, helpfulness and behavior of court staff, ease of process, enforcement of orders, clarity of orders, and perception of judicial integrity.

Factors with the greatest increase of negative scores included representativeness of juries, media portrayal of the courts, and affordability of going to court.

Despite the high rankings in almost all categories, the data indicates some areas where the court does not appear to be meeting public expectations. The challenge this presents is to determine how to address increased public expectations of the courts without jeopardizing the already high ratings of the court system. While it may be tempting to do nothing, reacting too slowly or failing to advance changes consistent with public expectations will cause these ratings to drop precipitously.

The study concludes with six major recommendations for ways in which the court can begin to address community expectations.

ACCESS, FAIRNESS, AND TRUST IN THE NORTH DAKOTA COURT SYSTEM

I. INTRODUCTION

“The legal system resists outside scrutiny of the quality of its product but if this were any other consumer product it would have been out of business long ago for the shoddy quality of its services.”²

The comment above, although disturbing, is heard altogether too often about government. For the most part, the public believes that government, regardless of what service is being provided, is deliberately poor in its delivery, and resistant to the need to change.

Those of us how work within the court system often think that these blanket statements, such as the one above, do not apply to the judicial branch. However, results of national surveys have revealed that this is not accurate. While the opinion of courts has slowly risen to a point where it is ranked above some other entities, it is only by a small margin. In addition, the surveys

“revealed that people were poorly informed about the legal system, had a middling degree of confidence in the court and displayed a general, if not wholehearted, respect for judges.”³

Ingo Keilitz, former vice president of the National Center for State Courts, has identified four guiding principles and civic ideals of what court systems should be:

1. Courts, are first and foremost, accountable for their performance, for the benefits they achieve, not just the ways and means they use to achieve them.
2. The focus of court accountability is the result or outcome of their programs and services for the participants in the programs or recipients of the services – the

² Comment by Joe Smith, posted 8/11/2006, on the TechDirt website, found at: <http://techdirt.com/articles/20060810/1628334.shtml>

³Rottman, David , *Public Perceptions of the State Courts: A Primer*, National Center for State Courts, 2000, p.3.

citizens. Courts should be operated and managed with an orientation toward those served by the courts rather than those running the courts.

3. Courts are complex public organizations, not merely judges hearing cases, settling disputes and issuing orders.
4. Courts are crucial to the governance of the communities and the citizens in their jurisdiction.⁴

With these thoughts in mind, the North Dakota court system undertook a survey in November, 2006, to determine:

- if we are meeting our obligation to be fair and accessible;
- whether the public's opinion of the service North Dakota courts provide has improved since its last survey done in 1999;
- and, to determine how the data compares to national data.

The North Dakota Court System

The North Dakota court system is a unified state court system consisting of one supreme court, one intermediate appellate court, and 53 district courts with general jurisdiction. In addition, the supreme court has supervisory authority over 75 municipal courts.

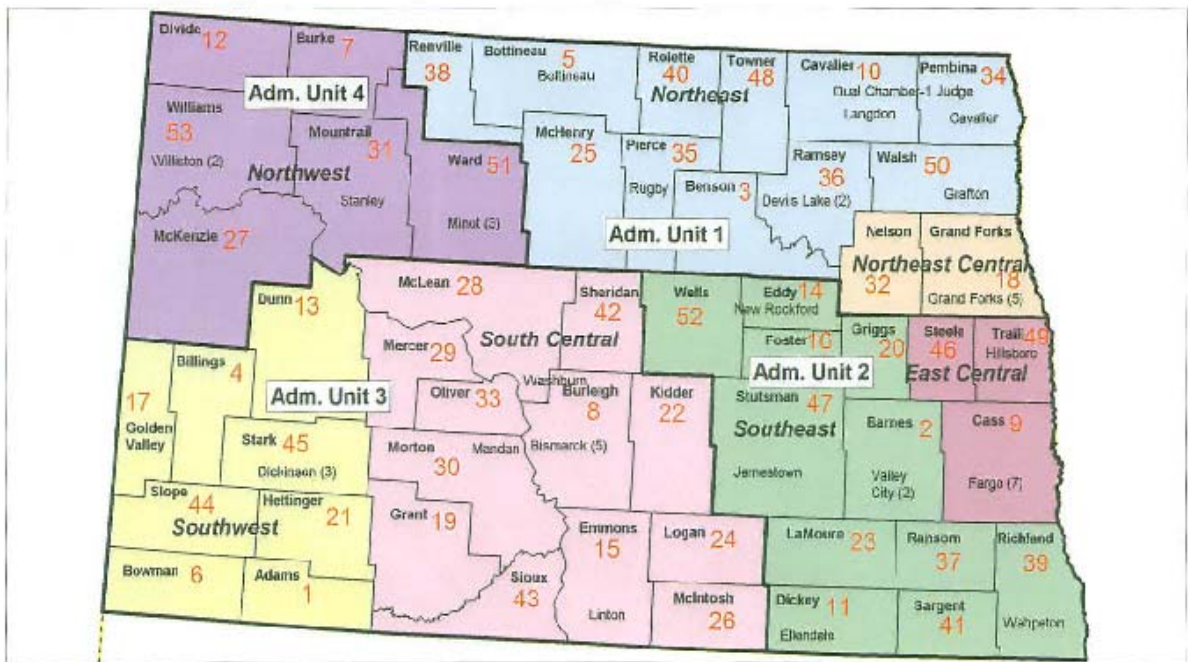
The district courts have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal cases and have general jurisdiction for civil cases. The district courts are the appellate courts of first instance for appeals from the decisions of many administrative agencies. The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived.⁵

⁴ Keilitz, Ingo, "Doing What Counts, Counting What Matters," *Manager's Briefcase*, National Association of State Judicial Educators, Spring, 2002, pp. 1-2.

⁵ North Dakota Courts Annual Report 2005, located at:
<http://www.ndcourts.gov/court/news/annualreport2005/districtcourts.htm>

Under the authority granted to the Supreme Court by Article VI, Section 3 of the Constitution of North Dakota the Supreme Court, N.D.Sup.Ct.Admin.Rule 6, has organized the district courts into seven judicial districts. Those districts consist of the Northeast Judicial District, the Northeast Central Judicial District, the Northwest Judicial District, the East Central Judicial District, the Southeast Judicial District, the South Central Judicial District and the Southwest Judicial District. A map of the state with the districts marked is shown below.

North Dakota Administrative Units & Chamber Cities - 2006



Printed from ArcView/Map by ESSB

Figure 1 - Map of North Dakota Judicial Districts

In each judicial district there is a presiding judge who oversees judicial services of courts within the geographical area of the judicial district. The duties of the presiding judge, as established by the Supreme Court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge.⁶

In 2004, the Supreme Court, under N.D.Sup.Ct.Admin.Rule 6.1, put an administrative unit structure in place over the seven judicial districts. The administrative structure does not change or diminish the district lines or authority, but instead consolidates the managerial and administrative functions of the business of running the court under one court administrator for every two districts, with the exception of the Northwest Judicial District. The units consist of:

- Unit One: Northeast and Northeast Central Judicial Districts
- Unit Two: East Central and Southeast Judicial Districts
- Unit Three: South Central and Southeast Judicial District
- Unit Four: Northwest Judicial District

Each unit is headed by a court administrator who is responsible for operational oversight of the clerks of district court and juvenile court personnel, as well as administrative personnel such as scheduling clerks, district secretaries, and accounting clerks. The court administrator performs as the local court's liaison to governmental agencies, and is responsible for the budget, facilities management, records management, personnel, and contract administration functions.⁷

There are 42 district judges in the state. Eight judges in four chamber city locations serve the South Central Judicial District. There are six judges in the Northwest Judicial District serving in three chamber city locations. Eight judges serve the East Central Judicial District in two chamber city locations, and five judges serve the Northeast Central Judicial District in one

⁶ *Loc. Cit.*

⁷ *Loc. Cit.*

chamber city location. Six judges serve the Northeast Judicial District in five chamber city locations. Six judges serve the Southeast Judicial District in five chamber city locations. Three judges serve the Southwest Judicial District in one chamber city location. All district court judges are required by the state constitution to be licensed North Dakota attorneys, citizens of the United States, and residents of North Dakota.⁸

The office of district court judge is an elected position which is filled every six years in a nonpartisan election held in the district in which the judge will serve. If a vacancy in the office of district judge occurs, the Supreme Court must determine whether the vacancy should be filled or whether the vacant office should be abolished or transferred. If the vacancy is to be filled, the governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by the Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge serves for a minimum of two years and then until the next general election, at which time the office is filled by election for the remainder of the term.⁹

The vision statement of the North Dakota court system, adopted in 2002, is: “To provide the people, through an independent judiciary, equal access to fair and timely resolution of disputes under law.”

To measure perceptions regarding the degree to which we have been able to achieve this vision, the court undertook a survey of public opinion in November, 2006.

The survey was a combination of two instruments: a measurement of access to justice and fairness developed by the National Center for State Courts referred to as *CourTool 1*, and large portions of a previous survey of public trust and confidence commissioned by the North Dakota

⁸ *Loc. Cit.*

⁹ *Loc. Cit.*

courts in 1999. This 1999 North Dakota survey was a measurement of public trust and confidence developed by the University of North Dakota's Bureau of Governmental Affairs and was largely based upon the survey instrument commissioned by the National Center for State Courts for its 1999e national survey on public trust and confidence.

The results of the 1999 North Dakota survey have been utilized as a benchmark for measuring the progress the court system has made in the area of public trust and confidence.

By using *CourTool 1* and questions taken from the 1999 North Dakota Survey on Public Trust and Confidence this paper seeks to answer the questions:

- 1. Are the North Dakota Courts perceived as being fair?**
- 2. Are the North Dakota Courts perceived as being accessible?**
- 3. Where do North Dakota Courts rank in the public perception of government entities?**
- 4. Has the amount of trust and confidence in the court system as expressed by court users improved since the last survey?**
- 5. How do North Dakota's scores on public trust and confidence compare to national data on these issues?**

II. LITERATURE REVIEW

Many people assume that it is not possible to make an objective determination of how well the courts do in the areas of access and fairness. Conventional wisdom holds that in every case, the losing side will have a lower opinion of the courts and the process used to reach a decision. However, national surveys going back to 1978 have shown that the actual outcome of a case has less to do with a litigant's perception of the court system than did their sense of how

they were treated by the court system while their case was pending.¹⁰ In other words, it is not an issue of due process or ultimate outcome, but the fairness of the process –did the judge pay attention, was the litigant allowed to speak, was court staff helpful – that ultimately determines the litigants opinion of the court system.¹¹

In addition, “studies of support for the court show that some support is contingent on agreement with specific policies and other support is based on affective, “mythical” views about the (Supreme) Court.”¹² It is difficult to determine how much of each of these factors can be captured by survey instrument and analyzed by statistics. It is known that personal experience effects evaluation of institution, and there exists some research that would indicate that those with firsthand knowledge of local courts rate them more positively than those without firsthand knowledge.¹³

The National Center for State Courts has created a set of performance measurement tools, called the *CourTools*, designed to capture and measure those factors that form perceptions about the court. The *CourTools* streamlined the trial court performance measurements which were originally published in 1996. In introducing the Trial Court Performance Standards, it has been stated that,

“The foundation of the Trial Court Performance Standards and Measurement system is the theme of the court as an organization accountable for its performance....A hallmark of the measurement system is its dual emphasis on the systemic assessment of a trial court’s performance as an organization that serves those who use the court and on the use of the assessment findings to improve that performance.”¹⁴

¹⁰ *How the Public Views the State Courts, A 1999 National Survey*, National Center for the State Courts, 1999, p. 14.

¹¹ Warren, Roger K., *Public Trust and Procedural Justice*, Court Review, Fall, 2000, p. 12.

¹² Olson, Susan M. and David A. Huth, “Explaining Public Attitudes Toward Local Courts,” *The Justice System Journal*, vol. 20, number 1, p. 42.

¹³ *Ibid*, p. 43, and throughout

¹⁴ *Trial Court Performance Standards with Commentary*, Commission on Trial Court Performance Standards; Joint Project of the National Center for State Courts and the Bureau of Justice Assistance, U.S. Dept. of Justice, 1990, pp. 1-2.

The Conference of Chief Justices and the Conference of State Court Administrators have issued a joint resolution in support of the use of the *Courtools* and other forms of performance measurement stating that “well-conceived and practical court performance measures are increasingly valued not only as tools for incremental quality improvements of court programs and services, but also as the means for major policy reform and organizational transformation.”¹⁵

The Commission on Trial Court Performance Standards states, “These (five performance areas) represent alternative ways of viewing the fundamental responsibilities or purposes of trial courts.”¹⁶ In his May 6, 2005, introductory letter to the *CourTools*, Daniel Hall, Vice President of Court Consulting Services for the National Center for State Courts, explains this concept further:

The judiciary has the constitutional privilege to independent governance, but with that entitlement comes the responsibility to effectively manage the courts. Developing a balanced and practical set of court performance measures provides the judiciary the potential to promote better understanding of the courts by the public, avoid micromanagement by other branches of government and enhance the judiciary’s ability to manager our own affairs.

“Standards in two of the performance areas – EXPEDITION AND TIMELINESS, and EQUALITY, FAIRNESS AND INTEGRITY – emphasize the courts’ fundamental dispute resolution functions. The standards in three performance areas, ACCESS TO JUSTICE, INDEPENDENCE AND ACCOUNTABILITY, and PUBLIC TRUST AND CONFIDENCE focus on the functions of trial courts as organizations and their relations with other organizations and the public.”¹⁷

CourTool 1, which was used in this research, is derived from the Trial Court Performance Standards developed by the National Center for State Courts, in particular, Standard

¹⁵ *Resolution 14 In Support of Measuring Court Performance*, Conference of Chief Justices and Conference of State Court Administrators, National Center for State Courts, August 3, 2005.

¹⁶ See Note 14, *supra*, p. 4.

¹⁷ *Loc. Cit.*

Area 5 PUBLIC TRUST AND CONFIDENCE. Standard Area 5 is “reflective” of the four preceding standard areas, especially:

- Standard Area 1 ACCESS TO JUSTICE
- Standard Area 3 EQUALITY, FAIRNESS, AND INTEGRITY

The Trial Court Performance Standards begin with the Access to Justice standard “because they address the initial entry of litigants and other court users into the judicial system – require that the structure and machinery of the courts be accessible to those they serve.”¹⁸

The Access to Justice standard includes eliminating geographic, architectural, language, procedure, and economic barriers to the courts.¹⁹ Included in Access to Justice is the need to eliminate “psychological barriers created by mysterious, remote, unduly complicated, and intimidating court procedures.”²⁰ The standard is also inclusive of “the respectful treatment of all persons coming before the court,”²¹ recognition of financial barriers and the importance of controlling those costs under the authority of the court system.²²

The Equality, Fairness, and Integrity standard has as its focus the responsibility of the trial courts to “provide due process and individual justice in each case, treat similar litigants equally, and ensure that their actions and the consequences thereof, are consistent with established law.”²³ This standard is achieved through fair and reliable procedures, representative juries, and individual attention to cases, similar disposition in similar cases, and clarity and enforcement of court orders.²⁴

“Compliance with the law is dependent to some degree upon public respect for the court.

Ideally, public trust and confidence in trial courts stems from the many contacts citizens have

¹⁸ *Ibid.*, p. 5 and throughout

¹⁹ *Loc. Cit.*

²⁰ *Ibid.*, p. 3

²¹ *Ibid.*, p. 9

²² *Ibid.*, p. 7

²³ *Ibid.*, p. 12

²⁴ *Ibid.*, pp. 12-16

with the courts.”²⁵ Studies have shown that the importance of procedural justice elements on an offender’s judgment are an indicator of an offender’s degree of acceptance of and compliance with even adverse judgments, and criminologists have speculated that if offenders felt they were mistreated, ignored or treated unfairly it can lead to a “defiance” effect of persistent, more frequent, or even more serious violations.”²⁶

The PUBLIC TRUST AND CONFIDENCE standard serves as an umbrella to all the trial court performance standards and their effect in achieving the goal of having justice not only done but perceived to have been done.²⁷ The standard relates to:

The three general constituencies served by the trial courts: (1) the general public, which includes court users and both the local community as a whole, and those persons who may never have used the court but who may need to use court services in the future; (2) the opinion leaders of a community such as the media, local legislators, and government officials and agencies that have power or influence over the courts; and (3) citizens who regularly appear before the court such as attorneys, expert witnesses, victim advocates and others who have “direct knowledge of routine court activities.”²⁸

Public trust and confidence rests on the court being held in the high esteem of all three of these constituencies.²⁹ The three standards encompassed under public trust and confidence include accessibility, expeditious, fair, and reliable court functions, and judicial independence and accountability.³⁰

In 1978, the National Center for State Courts undertook its first national survey designed to gauge the level of trust and respect that these three constituencies have in regard to the judicial branch. The survey found that courts were not well regarded and that:

²⁵ *Ibid.*, p. 19

²⁶ Wexler, David B. “Therapeutic Jurisprudence and Readiness for Rehabilitation,” *Arizona Legal Studies, University of Arizona*. Discussion Paper No. 06-32, September, 2006, pp. 3-4

²⁷ *Trial Court Performance Standards Desk Reference Manual*, National Center for State Courts, 2003. p 37.

²⁸ *Loc. Cit.*

²⁹ *Loc. Cit.*

³⁰ *Ibid.*, pp. 37-40.

“... the public’s concerns about courts stems from the feeling that three basic expectations have not been fulfilled. These are: protection of society, equality/fairness, and quality performance by court personnel.”³¹

The principal reasons listed for why respondents had an unfavorable reaction to their court experience were:

- Court handled case poorly
- Court took too long, too slow
- Poor lawyers
- Prejudiced/discrimination
- Poor judges
- Impersonal/no personal involvement
- Too expensive³²

The principal reasons listed for why respondents had a favorable reaction to their court experience were:

- Case competently handled
- Court showed concern, interest
- Good, conscientious judge
- Courts are doing a good job
- Good lawyers
- Quick, prompt action³³

Using this data, a second national survey was conducted in 1999. The results of that survey showed some improvement but, in general, the survey showed more continuity of opinion than positive change.³⁴

There is an assumption that “public opinion is less important to the judiciary than to the political branches of government.”³⁵ National surveys have also shown that judges consistently

³¹ *The Public Image of Courts: Highlights of a National Survey of the General Public, Judges, Lawyers and Community Leaders*, National Center for State Courts, 1978, Overview, p. ii.

³² *Ibid*, p. 19.

³³ *Ibid*, p. 20.

³⁴ See note 4, *Supra*, page 5.

³⁵ See note 12, *Supra*, p. 41.

rate the court system higher than litigants and most often believe that the status quo is not in need of any major adjustments.³⁶ Despite this prevailing attitude among individual judges, following the 1999 survey, the National Center for State Courts, in cooperation with the American Bar Association, the League of Women Voters, the Conference of Chief Judges and the Conference of State Court Administrators held a national conference on Public Trust and Confidence in the Justice System.

The top three priorities identified at the conference were:

- (1) unequal treatment in the justice system;
- (2) the high cost of access to the justice system; and
- (3) the lack of public understanding about the justice system.³⁷

The top three strategies for addressing those priorities were identified as:

- (1) improve education and training;
- (2) make the courts more inclusive and outreaching; and
- (3) improve external communication.³⁸

Following this national conference, many state courts, including North Dakota, conducted their own court surveys. It was found from the results of these local follow-up state surveys that only 22% to 48% of the public has high confidence in the judicial system.³⁹ State courts undertook a series of reforms based on these results including expanded public education, changes in jury management, and creating citizen advisory groups.

³⁶ See Note 27, *Supra*, p. ii.

³⁷ *National Action Plan: A Guide for State and National Organizations*, National Conference on Public Trust and Confidence in the Justice System. National Center for State Courts. 1999, p.16.

³⁸ *Ibid*, p. 21

³⁹ Rottman, David B., Hillery S. Ekfeman, and Pamela Casey, *A Guide to Court and Community Collaboration*, National Center for State Courts, 1998, p. 5.

North Dakota's survey results gave the courts higher marks for levels of trust and confidence than other state courts received from their local citizens, but the survey also showed areas where the courts could improve. The North Dakota Committee on Public Trust and Confidence in the Court reviewed the results and made several recommendations to address the concerns raised. Included among these recommendations were: creation of a speaker's bureau,⁴⁰ improved jury management⁴¹, creation of "an informal process to address minor issues of judge conduct or temperament"⁴² and the creation of a judicial improvement program "to encourage self-awareness on the part of judges".⁴³

The Committee report concludes with the statement, "Courts are being held accountable in new ways for the "services" they provide. Policymakers and the public are critically evaluating the effectiveness of the judicial process and are expecting continual improvement."⁴⁴

The survey that was just undertaken should give the court a clear indication of whether or not the reforms they initiated have had the desired impact and point to areas where the court may need to focus its efforts to improve.

III. METHODOLOGY AND ASSUMPTIONS

The court undertook a survey on November 1, 2006 by taking a proportional sample of the number of people appearing at the court on that date.

The formula for the proportional sample was developed by assuming approximately .001% of the general population over the age of 18 might have contact with the court on any given day during the year. Based on a population of 496,608 (636,677 total population minus

⁴⁰ See Note 5, *Supra*, p. 8.

⁴¹ *Ibid*, p. 17.

⁴² *Ibid*, p. 12.

⁴³ *Ibid*, p. 12.

⁴⁴ *Ibid*, p. 19.

22% population below age 18), it was determined that a total number of 497 surveys needed to be distributed statewide.

The next step was to determine the number of surveys each court should distribute based on the percentage of total cases filed. The total number of cases in 2005 was 152,125 cases filed across 53 counties.

The formula used to determine the number of surveys that each county should distribute was: If c is the percentage of cases as a proportion of state filings in a given county, and if n is the number of cases filed in that county, then the formula to determine the percentage of statewide cases is: $c=n/152,125$. If x is the number of surveys to be distributed by a county, the formula to determine the number to be distributed becomes: $x = 497*c$. See **Appendix A** for data on population and case filings, and the distribution of survey tables.

Because court schedules vary greatly by county size and geographic region there was no way to establish a “typical week” or even a “typical month” for distributing the surveys. Some courts have daily judicial services, some weekly, and some monthly. Court services in the smallest jurisdictions are often canceled, or the cases transferred to a more central location upon the agreement of the litigants. Since public trust and confidence seeks to measure the perceptions of all three constituency groups, the general public, regular court users, and opinion leaders, the survey need not, indeed should not, be limited to litigants appearing for hearing. Therefore it was decided to use a “typical day” whether or not that encompassed a “judicial services” day in some jurisdictions.

The survey instrument and instructions for distributing the survey were pre-screened with the trial court administrators prior to them being sent to the clerks of court.

The trial court administrators recommended changing the order of the Likert scale with the most favorable ranking listed first as it was confusing to think of the responses in the reverse. This change was adopted. The trial court administrators also suggested ways in which the survey should be distributed in larger counties. Following these discussions it was decided that clerks in those counties in which the courts were spread across multiple floors in the courthouse and those that do not use a central check-in or check-out system for litigants would be allowed to hire bailiffs to approach litigants as they left the courtrooms or clerk's office in order to distribute and collect surveys.

Collection of the surveys was an important part of designing the research project, especially for the smallest jurisdictions where it could be expected that anyone appearing at the court that day would be known to the clerk of court, and most likely the judge, as well. In order to avoid a "halo" effect created by respondents who may want to "boost" their local court or who feared reprisal for a negative response, the court needed to avoid any perception that local court staff would have access to the results. This was accomplished by attaching a self-addressed, stamped envelope to every survey.

In order to avoid having respondents take the survey home with the intention of "filling it out later," as they were handed the survey, they were told that "for their convenience, they could seal the completed survey in the envelope and the clerk would return it for them." This may be one factor that led to the high rate of response.

One major difference between the public trust and confidence survey that is the subject of this paper and those commissioned by the North Dakota court system in 1999, and the national surveys done in 1999 and 1978, is the method in which the surveys were administered. The former surveys were conducted as random telephone surveys, which necessarily included people

with no direct or with remote experience with the court system. In contrast, this survey was hand-delivered only to persons who were at the courthouse for immediate, court-related business. This is an important distinction to be considered when evaluating results, particularly when comparing the results between surveys.

The survey was administered on November 1, 2006, at the clerk of court office in all 53 district courts. Clerks were instructed to offer the survey to every person coming to the courthouse for court-related business, regardless of whether the person was employed by the county, an attorney, or otherwise known to the clerk. The survey was offered to all customers, including those defendants who were in custody. Surveys were offered to those who had pending cases, those appearing for a hearing, and those who were just looking for information or had questions about a court process.

If the survey was refused, clerks were instructed to write “refused” across the survey and return it. Thirty-two persons refused the survey. One-hundred and ninety surveys were distributed but were not returned. A total of 262 surveys were returned for a response rate of 53%.

The cover letter and suggested responses to questions regarding the survey were provided to the Clerks of Court and can be found at **Appendix B**. The survey instrument can be found at **Appendix D**.

Out of a total of 497 surveys distributed, 262 were returned, for an overall response rate of 53%. This rate of response is comparable to a 1995 consumer study done in Wisconsin. That study used a combination of exit surveys and mailed surveys. The exit survey response rate was 44.4%, compared to the mailed survey response rate of 32.7%.⁴⁵

⁴⁵ Kritzer, Herbert M. and John Voelker, “Familiarity Breeds Respect: How Wisconsin Citizens View Their Courts,” *Judicature*, vol. 82, number 2, pg. 61.

Unit Two had the highest response rate with 100 completed responses out of a total of 167 surveys distributed, for a 60% rate of response. Unit Four had the lowest response rate with only 25 surveys completed out of 79 distributed, for a 32% rate of response. The chart below contains the response rate for all units.

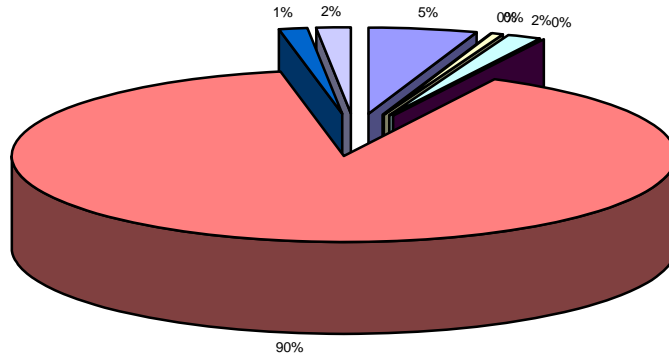
Response Rate for All Units			
Unit	Distributed	Returned	Response Rate
Unit One	122	71	58%
Unit Two	167	100	60%
Unit Three	129	66	51%
Unit Four	79	25	32%
Total Response Rate – All Units	497	262	53%

Table 1 - Response Rate for All Units

Two hundred and forty-one respondents identified their gender for a response rate of 55% female and 45% male.

Two hundred and twenty-four respondents identified their race for a response rate of 90% white and a combined non-white race of 10%. The number of non-white respondents was too small to determine if race was a significant factor in respondent’s perception of the court system. The chart on the following page shows the response rate by race.

Response Rate by Race



■ American Indian or Alaska Native ■ Asian ■ Black or African American ■ Hispanic or Latino ■ Native Hawaiian or Other Pacific Islander ■ White ■ Mixed Race ■ Other

Figure 2 - Response Rate by Race

Although the number of non-white respondents is small, it is proportional to the population of the state as reported by the U.S. Census Bureau in 2000.

Comparison By Race of Survey Respondents to Overall Population of North Dakota		
Race	Percentage of Population	Percentage of Survey Respondents
White	92.4%	89%
Native American	5.9%	5%
Hispanic/Latino	1.5%	2%
Mixed Race	.9%	1%
Black	.7%	.05%
Asian	.7%	0%
Native Hawaiian/Pacific Islander	0%	0%
Other	-----	2%

Table 2 - Comparison of Responses by Race to Percentage of N.D. Population by Race

Fifty four percent of respondents indicated that they were regularly at the courthouse. Thirty-two percent indicated that it was their first time in this courthouse or that they were typically in this courthouse once a year or less. The typical respondent was neither an attorney

nor someone who worked closely with the court system. The breakdown by constituency group is shown on the chart below.

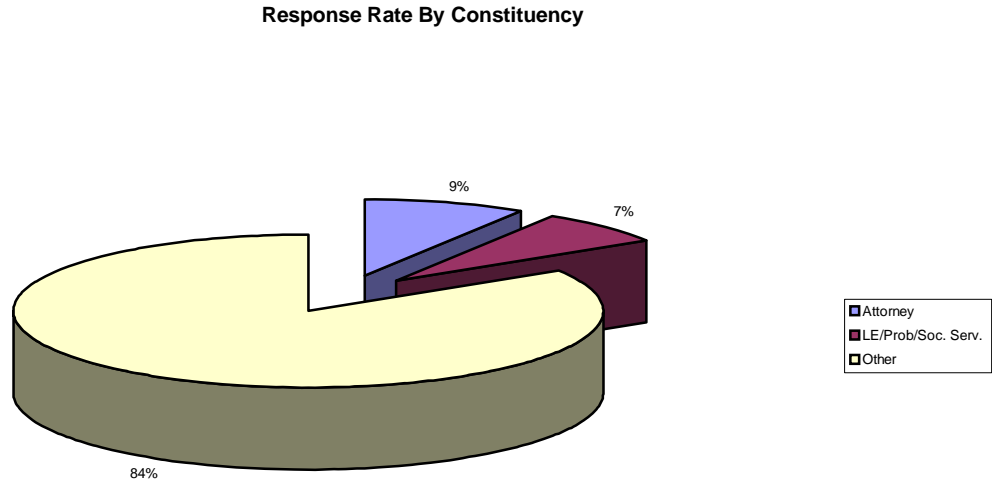


Figure 3 - Response Rate by Constituency

The most common reasons for being at the courthouse, given by 22% of respondents, was to search for or obtain documents. The other top four reasons for being at the courthouse were listed as:

- To get information 21%
- To attend a hearing 16%
- To file papers 14%
- To make a payment 11%

The chart below shows the percentage of respondents and the reason they gave for being at the courthouse. Some respondents listed more than one reason for their appearance.

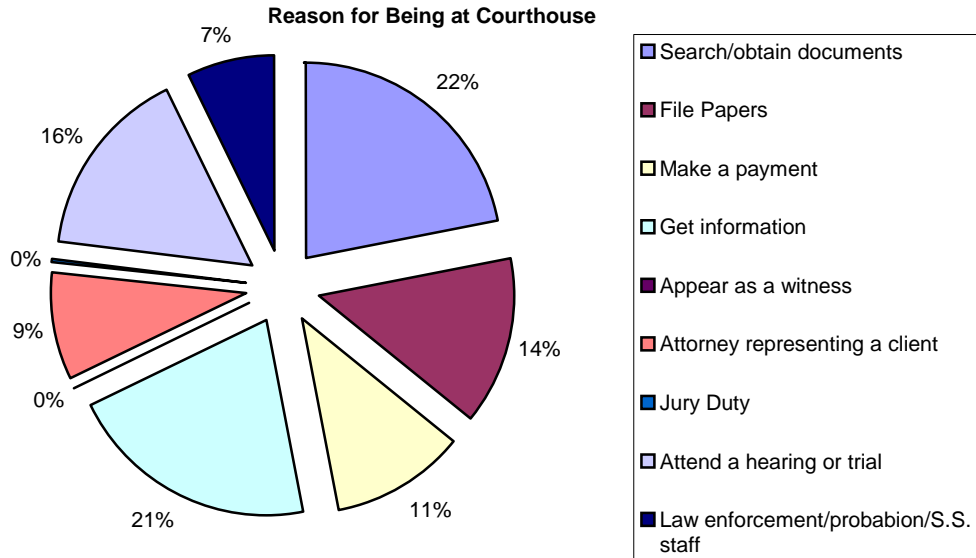


Figure 4 - Reason for Being at Courthouse

Respondents were most likely to be at the courthouse for a criminal case (35%), followed by civil (18%), or traffic case (13%). They were least likely to be at the courthouse for a juvenile or probate case. The chart on the next page shows the response rate for each case type.

Reason for Being at Courthouse by Case Type

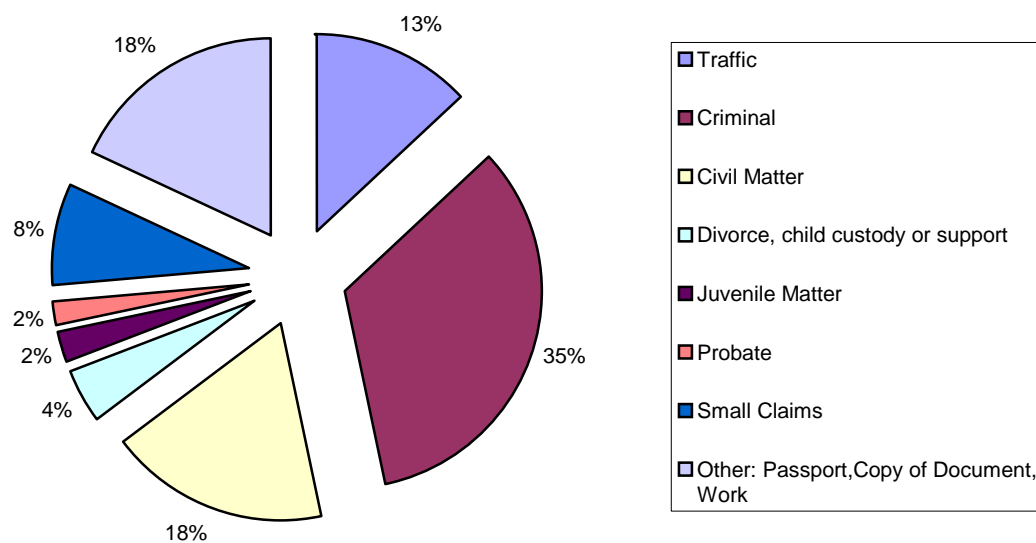


Figure 5 - Reason at Courthouse by Case Type

The question under each section of the survey that had the highest number of responses was:

Section 1: Access to Justice – Both Q. 1 **Finding the courthouse was easy** and Q3. **I felt safe in the courthouse** had a 100% response rate.

Section 2: Public Trust and Confidence – Part III of the Public Trust and Confidence section, which asked respondents to answer questions about the local courts had the most responses.

Section 3: Fairness – Q. 11 **The way my case was handled was fair** had a 100% response rate out of the 135 people completing this section of the survey.

The question under each section of the surveys that had the fewest responses was:

Section 1: Access to Justice - Q. 9. **The Court’s Web site was useful** had only 184 responses out of 262 completed surveys.

Section 2: Public Trust and Confidence – Part I of the Public Trust and Confidence section, which asked respondents to rank their degree of trust in different entities had the least number of responses.

Section 3: Fairness - Q. 12. **The Judge listened to my side of the story before he or she made a decision** had 131 responses out of 135 people completing this section of the survey.

IV. FINDINGS

This section of the report is divided into six sections:

- Section 1: Access to Justice;
- Section 2: Public Trust and Confidence (further broken down into three subparts);
- Section 3: Fairness;
- Section 4: Availability of Judicial Service;
- Section 5: Comparison to Past Findings, and
- Section 6: Benchmarks

Under the first four sections, key findings are reviewed first, followed by the results from each survey question. Section five compares the results of this survey with previous local and national surveys. Section six contains an explanation of the benchmark criteria established by the court, and the results of the benchmarking. The charts laying out the raw scores for each section can be found at **Appendix C**.

Section I. Access to Justice

“The ordinary administration of criminal and civil justice...contributes more than any other circumstance, to impressing upon the minds of the people affection, esteem, and reverence towards the government.” --- Alexander Hamilton

Section I of the survey asked respondents to rate a series of ten statements on a 4-point Likert scale that ranged from “strongly agree” to “strongly disagree”.

The overall index score for access was 3.72; Unit Four had the highest score for access to justice with an index number of 3.86; Unit Three had the lowest index number of 3.59.

The access to justice factor receiving the highest overall rating was **“I was treated with courtesy and respect”** with an index score of 3.89, followed by **“Finding the courthouse was easy”** and **“Staff paid attention to my needs”** with index scores of 3.88 and 3.84, respectively.

Ninety-seven percent of respondents believed that court staff paid attention to their needs, that the court makes reasonable efforts to remove barriers to access (95%), and that they were treated with courtesy and respect (98%).

Ninety-six percent of respondents believed that they were able to get their business done in a reasonable amount of time and 97% indicated that the forms they needed were clear and easy to understand.

Although a majority of respondents indicated that the court’s website was useful, the question had only a 70% response rate, and the lowest percentage of “strongly agree” responses.

The highest number of responses indicating disagreement was in response to the statements **the court’s hours of operation made it easy to do my business, the court’s website was useful, and the court makes reasonable efforts to remove physical and language barriers to service.**

The following chart shows how each factor was rated within each unit.

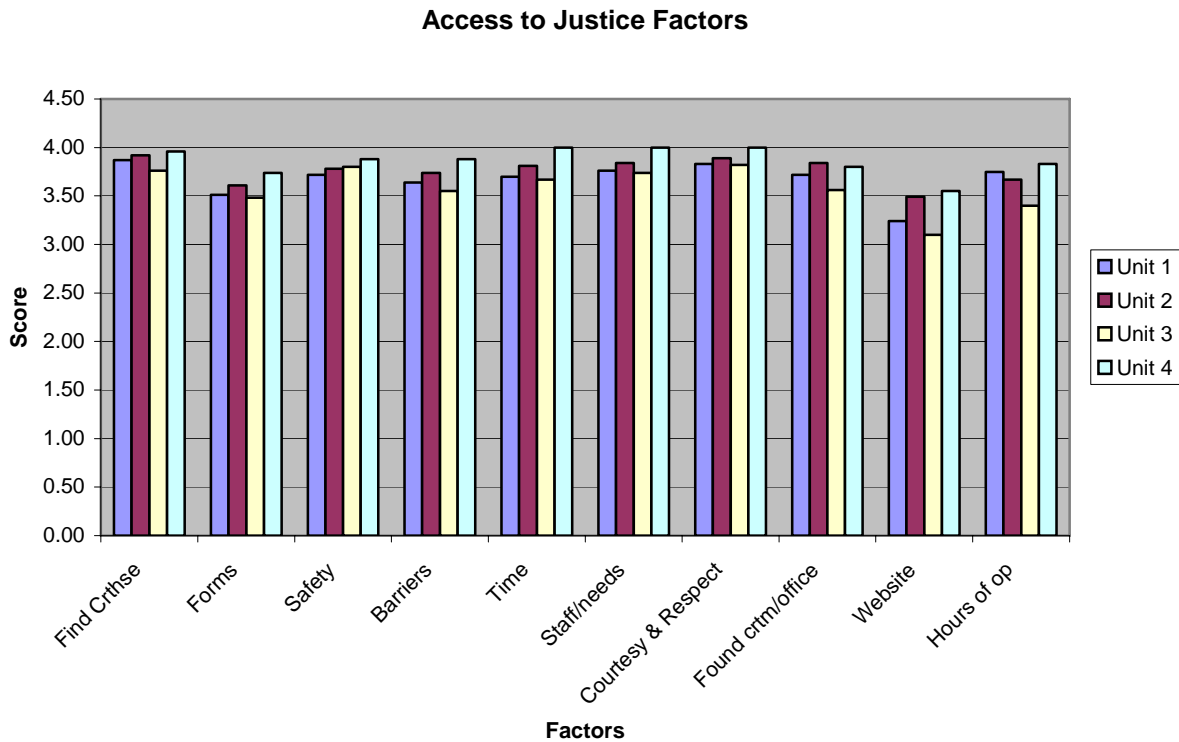


Figure 6 - Access to Justice Factors - Responses by Unit

Response rates for individual questions in this section of the survey were:

Q. 1. Finding the courthouse was easy – 262 total responses of which 257 agreed/strongly agreed compared to 5 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q.2. The forms I needed were clear and easy to understand – 241 total responses of which 233 agreed/strongly agreed compared to 8 who disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q3. I felt safe in the courthouse – 262 total responses of which 252 agreed/strongly agreed compared to 10 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q4. The court makes reasonable efforts to remove physical and language barriers to service – 253 total responses of which 240 agreed/strongly agreed compared to 13 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q5. I was able to get my court business done in a reasonable amount of time - 257 total responses of which 246 agreed/strongly agreed compared to 11 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q6. Court staff paid attention to my needs- 259 total responses of which 252 agreed/strongly agreed compared to 7 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q7. I was treated with courtesy and respect- 261 total responses of which 256 agreed/strongly agreed compared to 5 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q8. I easily found the courtroom or office I needed – 257 total responses of which 248 agreed/strongly agreed compared to 9 disagreed/strongly disagreed; Unit Two had the highest level of agreement and Unit Three had the lowest.

Q9. The court’s web site was useful – 184 total responses of which 158 agreed/strongly agreed compared to 26 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q10. The court’s hours of operation made it easy for me to do my business – 258 total responses of which 239 agreed/strongly agreed compared to 19 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Section II. Public Trust and Confidence – Part I

"Democracy can be only as great as the faith the people have in it."

James Gilmore, former Governor of Virginia

Part I of the section on Public Trust and Confidence asked respondents to rate their level of trust in the people running different entities on a scale ranging from “a great deal” to “no trust”.

The **United States Supreme Court** received the highest score for trust with an index number of 3.57, followed by the **North Dakota Supreme Court** and the **Courts in your area** with index scores of 3.55 and 3.50 respectively.

The media received the lowest score for trust with an index number of 2.70.

The institution with the most responses of “no trust” was **the media**, with 30 respondents choosing that response; the institution with the most responses of “a great deal” of trust was **the courts in your area**, with 140 respondents choosing that response.

Unit Four showed the greatest amount of trust in entities, with a combined index number of 3.57; Unit Three showed the least amount of trust, with a combined index number of 3.13.

The overall rating of trust for people running the institutions was:

Overall Ranking of Trust Level for Each Entity	
Entity	Score
The United States Supreme Court	3.57
The North Dakota Supreme Court	3.55
The courts in your area	3.50
The public schools	3.46
The office of the Governor	3.42
The medical profession	3.39
Local Law Enforcement	3.34
The North Dakota legislature	3.08
The media	2.70

Table 3 - Overall Trust Level

Response rates for each institution were:

Public schools – 250 total responses of which 124 indicated “a great deal of trust” compared to 18 who indicated “little” trust and 4 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in public schools.

Office of the Governor - 252 total responses of which 110 indicated “a great deal of trust” compared to 16 who indicated “little” trust and 3 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in the office of the governor.

Local law enforcement - 257 total responses of which 129 indicated “a great deal of trust” compared to 27 who indicated “little” trust and 9 who indicated “no trust”. Unit Two indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in local law enforcement.

Media - 253 total responses of which 47 indicated “a great deal of trust” and 104 who indicated “some” trust compared to 72 who indicated “little” trust and 30 who indicated “no trust”. Unit

Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in the media.

North Dakota Supreme Court - 247 total responses of which 136 indicated “a great deal of trust” compared to 15 who indicated “little” trust and 2 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in the North Dakota Supreme Court.

Medical profession - 253 total responses of which 119 indicated “a great deal of trust” compared to 17 who indicated “little” trust and 3 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit One indicated the lowest amount of trust in the medical profession.

State legislature - 244 total responses of which 65 indicated “a great deal of trust” and 139 who indicated “some” trust compared to 31 who indicated “little” trust and 9 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in the North Dakota legislature.

U.S. Supreme Court - 247 total responses of which 112 indicated “a great deal of trust” compared to 18 who indicated “little” trust and 4 who indicated “no trust”. Unit One indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in the United States Supreme Court.

Courts in your area - 252 total responses of which 140 indicated “a great deal of trust” compared to 13 who indicated “little” trust and 6 who indicated “no trust”. Unit Four indicated the highest amount of trust and Unit Three indicated the lowest amount of trust in public schools.

The chart on the following page shows the ranking of each institution by statewide score and by unit.

Trust Ranking by Statewide Average

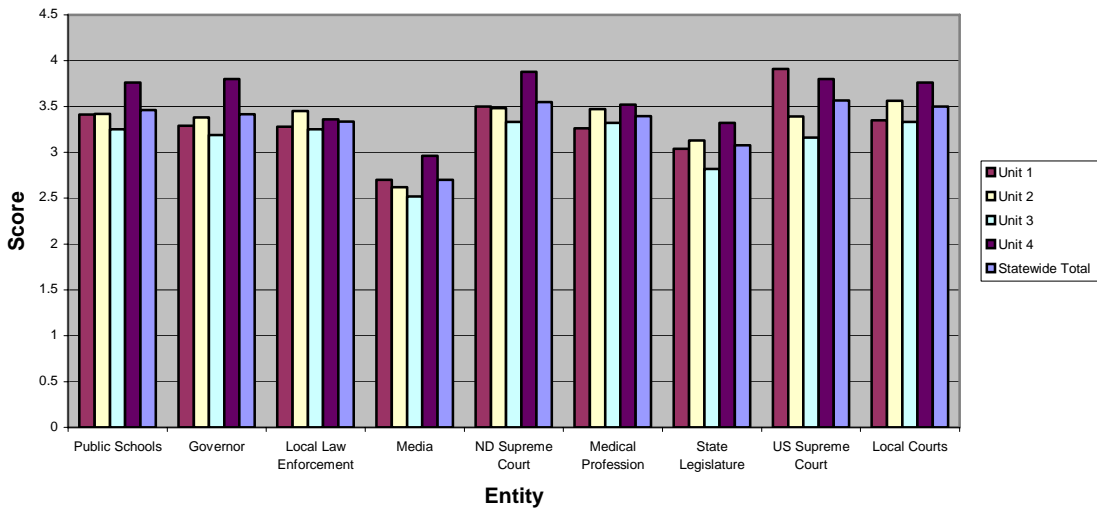


Figure 7 - Trust Ranking by Statewide Average

Section II. Public Trust and Confidence – Part II

Part II of the Public Trust and Confidence section asked respondents to indicate how they felt about issues related to courts in their area. Respondents rated a set of nine statements on a scale of 1 to 4, with 1 indicating “strongly agree” and 4 indicating “strongly disagree”.

The first seven questions can be grouped together as statements that describe judicial and court behavior. The chart below shows the response to these questions by unit.

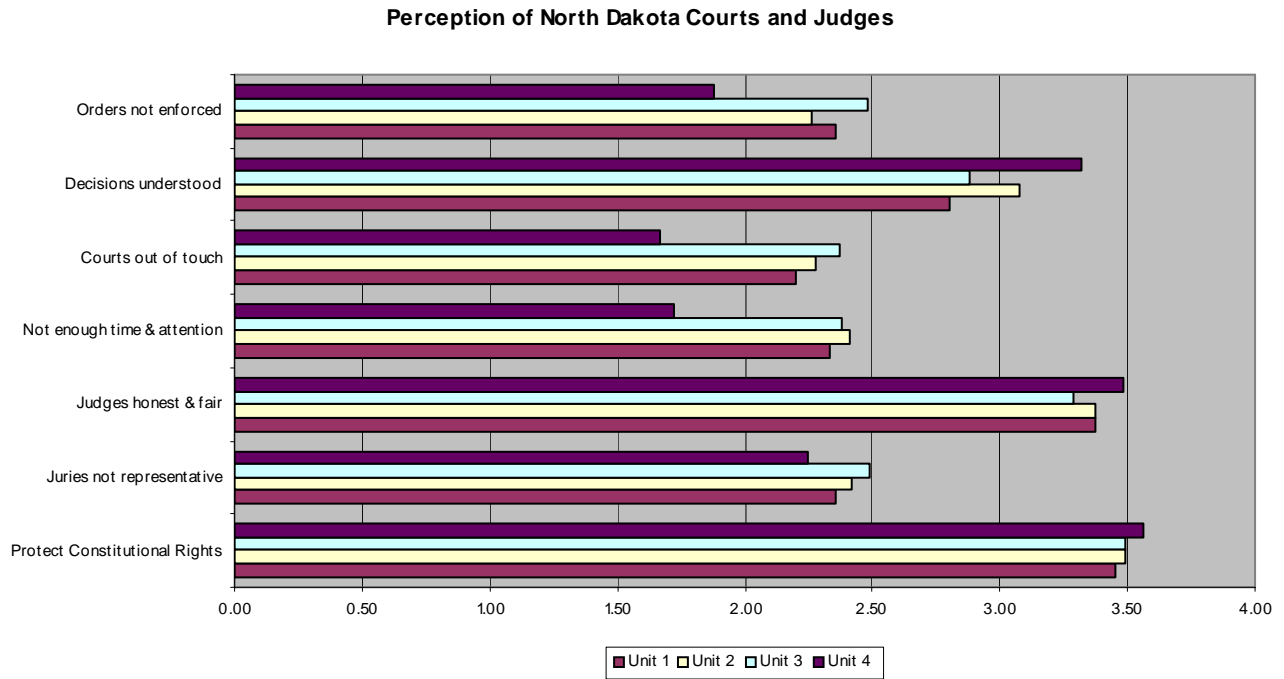


Figure 8 - Perception of ND Courts and Judges

Overall, Unit Three respondents showed the least amount of confidence in their local court, rating the court high in not having representative juries, not being in touch with the local community and not enforcing its orders, and rating it low on having judges that are honest and fair.

Overall Unit Four respondents showed the most confidence in their court rating it high on protecting constitutional rights and having judges that are honest and fair, and rating it low on juries not being representative, judges not paying enough time and attention to cases, and judges being out of touch with the community.

Unit Two received the highest rating for judges not paying enough time and attention to cases.

Unit One received the lowest ratings for protecting defendant's constitutional rights but also received the highest rating for making sure its decisions are understood and its orders are enforced.

The public overwhelmingly agreed that North Dakota courts are carrying out a fundamental duty of protecting the rights of litigants, with 93% agreeing with the statement **Courts protect defendant's constitutional rights.**

The public also gave the courts high marks for clarity with 76% agreeing with the statement **Court rulings and decisions are understood by the people involved in the cases.**

The public was closely divided on whether or not the courts give enough time and attention to cases, with 112 respondents indicating they agreed with the statement **Judges do not give adequate attention and time to each individual case** and 147 indicating they disagreed with the statement

The public was closely divided on whether or not the courts are accurately portrayed by the media with 140 respondents indicating they agreed with the statement **The media's portrayal of the courts is mostly accurate** and 108 indicating they disagreed with the statement.

The public was closely divided on whether or not the courts make sure they enforce their orders with 101 respondents indicating they agreed with the statement **Courts do not make sure their orders are enforced** and 147 indicating they disagreed with the statement.

The public was evenly split on whether or not North Dakota juries are representative of the people, with 123 respondents indicating they agreed with the statement **Most juries are not representative of the community** and 127 indicating they disagreed with the statement.

The public soundly rejected the idea that judges should ignore the law to ensure a guilty person is convicted, with 81% disagreeing with the statement **I would prefer that a judge ignore the law to ensure that a person who committed a crime is convicted.**

Factors in which Public Opinion was Split		
Statement	Agree	Disagree
Judges do not give adequate time and attention to each individual case	112	147
The media’s portrayal of the courts is mostly accurate	140	108
Courts do not make sure their orders are enforced	101	147
Most juries are not representative of the community	123	127

Table 4 - Factors in which public opinion is split

The response rates for individual statements in this section of the survey were:

Courts protect defendant’s constitutional rights - 257 total responses of which 240 indicated strongly or somewhat agree compared to 17 who indicated they disagreed or somewhat disagreed. Unit Four indicated the highest amount of agreement and Unit One indicated the highest amount of disagreement.

Most juries are not representative of the community - 250 total responses of which 123 indicated strongly or somewhat agree compared to 127 who indicated they disagreed or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

Judges are generally honest and fair in deciding cases - 257 total responses of which 230 indicated strongly or somewhat agree compared to 27 who indicated they disagreed or somewhat disagreed. Unit Four indicated the highest amount of agreement and Unit Three indicated the highest amount of disagreement.

Judges do not give adequate attention and time to each individual case – 259 total responses of which 112 indicated strongly or somewhat agree compared to 147 who indicated they disagreed or somewhat disagreed. Unit Two indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

Courts are out of touch with what is going on in their communities – 255 total responses of which 103 indicated strongly or somewhat agree compared to 152 who indicated they disagreed

or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

Court rulings and decisions are understood by the people involved in the cases - 256 total responses of which 195 indicated strongly or somewhat agree compared to 61 who indicated they disagreed or somewhat disagreed. Unit Four indicated the highest amount of agreement and Unit One indicated the highest amount of disagreement.

Courts do not make sure their orders are enforced - 248 total responses of which 101 indicated strongly or somewhat agree compared to 147 who indicated they disagreed or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit One indicated the highest amount of disagreement.

The media's portrayal of the courts is mostly accurate - 248 total responses of which 140 indicated strongly or somewhat agree compared to 108 who indicated they disagreed or somewhat disagreed. Unit Two indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

I would prefer that a judge ignore the law to ensure that a person who committed a crime is convicted - 254 total responses of which 47 indicated strongly or somewhat agree compared to 207 who indicated they disagreed or somewhat disagreed. The index scores for all four units were virtually identical at 1.61 (unit one), and 1.60, 1.60 and 1.60 for the remaining three units.

Section II. Public Trust and Confidence – Part III

Part III of the Public Trust and Confidence section asked respondents to indicate how they felt about issues related to courts in their area. Respondents rated a set of nine statements on a scale of 1 to 4, with 1 indicating “strongly agree” and 4 indicating “strongly disagree”.

An overwhelming number of respondents, 96%, found court staff to be helpful and courteous.

Most respondents, 92%, believe that the courts make an effort to ensure that litigants have lawyers.

Eighty percent of respondents agreed that courts adequately monitor the progress of cases.

Two-thirds of respondents (67%) agreed that it would be possible for them to represent themselves in court. However, only 60% agreed that it is affordable for an ordinary person to bring a case to court and 59% agreed that courts are slow in handling cases.

In general, the public is almost evenly divided on whether or not judges are influenced by political considerations (48% agreed they were influenced by political considerations and 52% disagreed) and having to raise campaign funds (47% agreed they were influenced by having to raise funds and 53% disagreed).

Sixty-three percent of respondents do not believe that courts favor corporations over individuals.

The following chart shows how each factor was rated within the units.

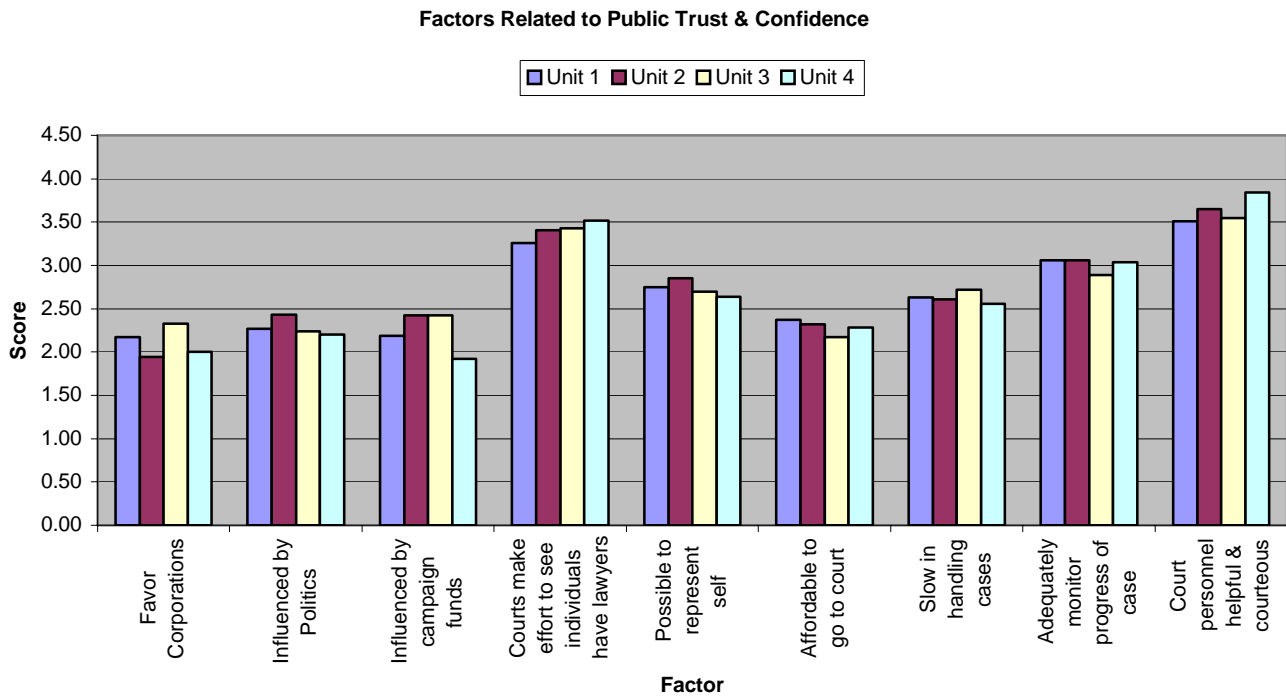


Figure 9 -Factors Related to Public Trust & Confidence by Unit

The response rates for individual statements in this section of the survey were:

Courts favor corporations over ordinary people - 254 total responses of which 93 indicated strongly or somewhat agree compared to 161 who indicated they disagreed or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit Two indicated the highest amount of disagreement.

Judges' decisions are influenced by political considerations – 253 total responses of which 121 indicated strongly or somewhat agree compared to 132 who indicated they disagreed or somewhat disagreed. Unit Two indicated the highest amount of agreement and Unit Three indicated the highest amount of disagreement.

Elected judges are influenced by having to raise campaign funds – 250 total responses of which 117 indicated strongly or somewhat agree compared to 133 who indicated they disagreed or somewhat disagreed. Unit Two and Three tied with the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

Courts make reasonable efforts to see that individuals have lawyers – 257 total responses of which 236 indicated strongly or somewhat agree compared to 21 who indicated they disagreed or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit One indicated the highest amount of disagreement.

It would be possible for me to represent myself in court if I wanted to – 256 total responses of which 171 indicated strongly or somewhat agree compared to 85 who indicated they disagreed or somewhat disagreed. Unit Two indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

It is affordable for ordinary people to bring cases to court - 257 total responses of which 108 indicated strongly or somewhat agree compared to 149 who indicated they disagreed or somewhat disagreed. Unit One indicated the highest amount of agreement and Unit Three indicated the highest amount of disagreement.

Courts are slow in handling cases – 257 total responses of which 146 indicated strongly or somewhat agree compared to 111 who indicated they disagreed or somewhat disagreed. Unit Three indicated the highest amount of agreement and Unit Four indicated the highest amount of disagreement.

Courts adequately monitor the progress of cases - 248 total responses of which 198 indicated strongly or somewhat agree compared to 50 who indicated they disagreed or somewhat disagreed. Unit One and Two tied for the highest amount of agreement and Unit Three indicated the highest amount of disagreement.

Court personnel are helpful and courteous - 258 total responses of which 248 indicated strongly or somewhat agree compared to 10 who indicated they disagreed or somewhat disagreed. Unit Four indicated the highest amount of agreement and Unit One indicated the highest amount of disagreement.

Section III. Fairness

We must never forget that the only real source of power that we as judges can tap is the respect of the people." ~ Justice Thurgood Marshall

Section III of the survey asked respondents to rate a series of five statements on a 4-point Likert scale ranging from “strongly agree” to “strongly disagree”.

The overall index score for fairness was 3.39; Unit One had the highest score for fairness with an index number of 3.50; Unit Three had the lowest index number of 3.19 .

The fairness factor receiving the highest overall rating was “**I was treated the same as everyone else**” with an index score of 3.49, followed by “**As I leave the court, I know what to do next about my case**” and “**The judge listened to my side of the story before he or she made a decision**” with index scores of 3.42 and 3.39 respectively.

Ninety percent of respondents thought that the judge had the necessary information to make a good decision, eighty-nine percent thought their case was handled fairly, eighty-seven percent said the judge listened to their side of the story before making a decision and ninety-two percent thought they were treated the same as everyone else.

Eighty-nine percent of respondents agreed that as they left the courthouse, they knew what to do next about their case.

The following chart shows how each factor was ranked by unit.

Factors in Determining Fairness

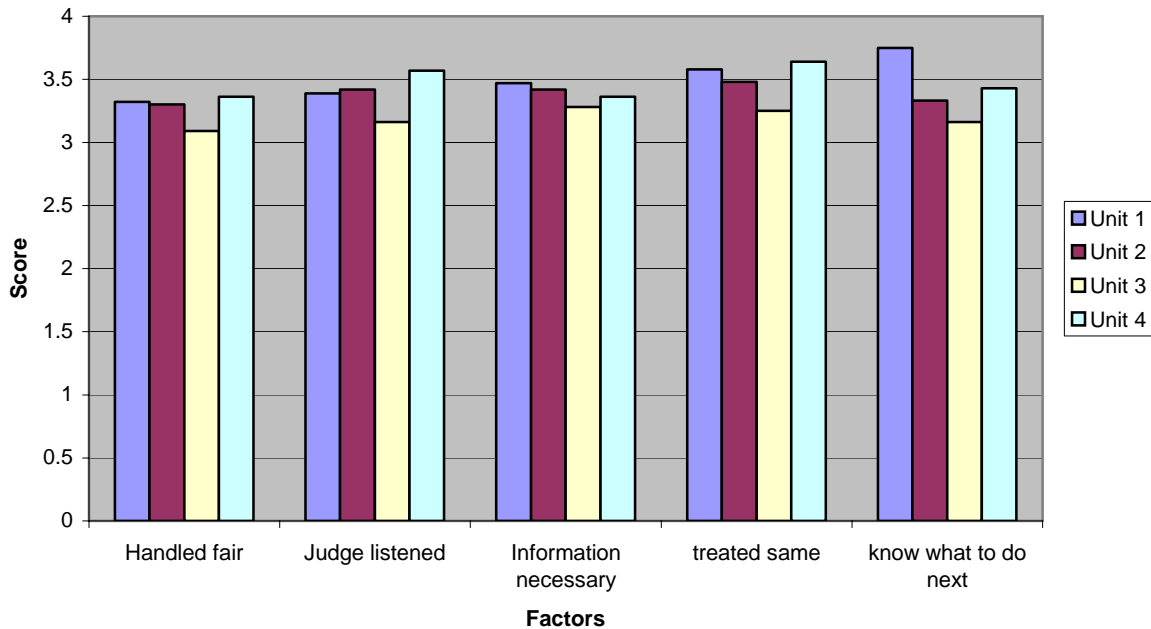


Figure 10- Factors in Determining Fairness

Response rates for individual questions in this section of the survey were:

Q. 11. The way my case was handled was fair – 135 total responses of which 120 agreed/strongly agreed compared to 15 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q. 12. The judge listened to my side of the story before he or she made a decision – 131 total responses of which 114 agreed/strongly agreed compared to 17 who disagreed/strongly disagreed Unit Four had the highest level of agreement and Unit Three had the lowest.

Q. 13. The judge had the information necessary to make good decisions about my case – 133 total responses of which 121 agreed/strongly agreed compared to 12 disagreed/strongly disagreed; Unit One had the highest level of agreement and Unit Three had the lowest.

Q. 14. I was treated the same as everyone else – 132 total responses of which 122 agreed/strongly agreed compared to 10 disagreed/strongly disagreed; Unit Four had the highest level of agreement and Unit Three had the lowest.

Q. 15. As I leave the court, I know what to do next about my case - 132 total responses of which 118 agreed/strongly agreed compared to 14 disagreed/strongly disagreed; Unit One had the highest level of agreement and Unit Three had the lowest.

Section IV. Availability of Judicial Services

The final section of the survey asked respondents to rate the availability of judicial services in their area. Respondents rated the service on a scale from excellent to poor.

The overall rating of availability of services statewide was 3.23 on a scale of 4. Thirty-six percent of respondents rated services in their area as “excellent” and fifty percent rated them as “good”. Only thirteen percent rated the availability of judicial services in their area as “fair” or “poor”.

Unit Four had the highest rating of availability with a score of 3.32. Unit Three had the lowest rating with a score of 3.12. The following chart shows how availability of judicial services was rated within each unit.

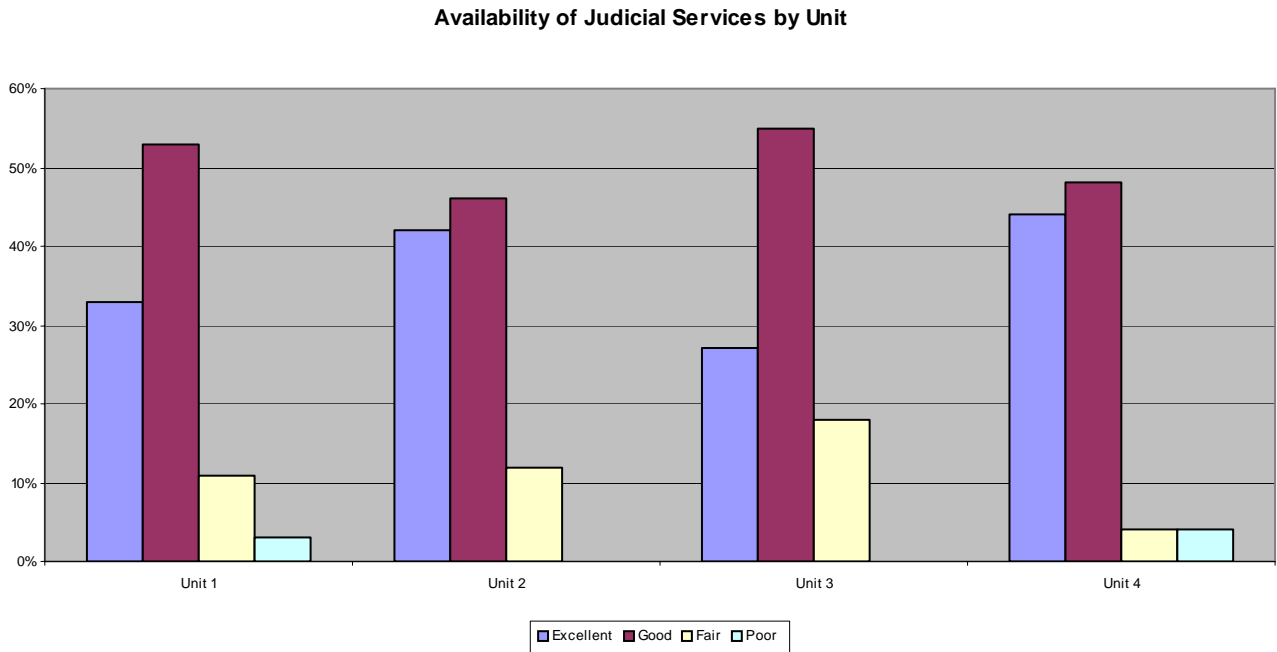


Figure 11 - Availability of Judicial Services by Unit

Section V. Comparison to Past Findings

The survey results show that North Dakota courts enjoy a high degree of respect from the general public and from persons with regular, direct contact with the court. The survey results did not provide enough information to determine whether the opinion of community leaders, as a distinct section of the population, was captured.

One factor that may have added to the positive results was the method in which the survey was distributed. The survey was given only to those with business before the court. It is unknown whether the responses would have been less glowing had the survey captured the opinions of persons without direct knowledge of the court or persons with distant knowledge of the courts. In a recent study, Rottman, *et. al.* found that “the fairness of procedures and other factors considered...proved stronger influences or opinions for those with recent court experience than for the general population.”⁴⁶ Notwithstanding other influences that may be unknown, the indications are clear that those persons who actually have direct knowledge of the North Dakota court system have a high opinion of it. This result is consistent with the results of the 1995 Wisconsin survey noted earlier. In that study, the exit surveys “were consistently more positive vis-à-vis the courts than were the respondents to the mail survey.”⁴⁷ That study concluded that,

“Going to court tends to result in at least a short-term improvement in people’s views of the courts. If what citizen’s encounter in the courthouse is considerably better than what they expect walking in the door, it is not surprising that they rate the experience in relative positive terms.”⁴⁸

Respondents from Unit Four indicated the highest degree of satisfaction with all aspects of the court. Unit Four encompasses the smallest geographic area, the least number of counties,

⁴⁶ Rottman, David B., et. al., *Perceptions of the Courts in Your Community: The Influence of Experience, Race and Ethnicity*, National Center for State Courts, 2003, p.6.

⁴⁷ See Note 45, *Supra*, p. 61.

⁴⁸ *Ibid*, p.63.

and has the smallest population. The courts and judges are familiar to most residents. Judges are actively involved as members of the community and enjoy high visibility as civic leaders.

Respondents from Unit Three indicated the greatest lack of trust in public entities and the greatest degree of dissatisfaction with all areas of the court. Although none of the responses was alarmingly low, the fact that the lowest numbers were registered in one unit is indicative of a vein of dissatisfaction that is particular to this area, rather than with the court system in general. Since this survey is constructed to measure the courts as an organization and is not intended to measure or evaluate the performance of individual courts it is not possible to use the results to determine the roots of the dissatisfaction.

Section V. Part I - Access and Fairness

Because respondents were not given a choice of “not aware of” or “didn’t use” it is difficult to reach a conclusion about the court’s website. The low response to the question regarding the court’s website could indicate that the respondent was familiar with the website but did not use it, the respondent was unfamiliar with the website, or that the website was used but the information it contained was not useful.

The response to the question regarding the accuracy of the media’s portrayal of the courts has not changed significantly since the last survey. Research points to an important role of mass media in forming opinions on a national level, however, some research seems to indicate that actual court experience can counteract negative media portrayals. The research on this issue is not conclusive in either direction.⁴⁹

Although the actual number of respondents disagreeing with the statements **the court’s hours of operation made it easy to do my business, the court’s website was useful, and the**

⁴⁹ *Ibid*, p. 2.

court makes reasonable efforts to remove physical and language barriers to service is small, it is significant that they were clustered in these three areas, clearly indicating the North Dakotan's are following the national trend of expecting public entities to operate in the same accessible and flexible manner as private industry.

Section V. Part II - Public Trust and Confidence

The amount of trust and confidence the public has in the North Dakota courts has increased significantly since the state's last public trust and confidence survey was conducted in 1999.

In the 1999 survey, the local courts were ranked number 5 with 79.2% of respondents stating that they had "a great deal" or "some" confidence in them. The North Dakota Supreme Court was ranked at number 7 with 74% of respondents stating that they had "a great deal" or "some" confidence in it.⁵⁰ Both of these ranking closely matched the findings from the 1999 national survey on public trust and confidence commissioned by the National Center for State Courts.

Going back even further to the 1978 national survey on trust and confidence commissioned by the National Center for State Courts, local courts placed at a dismal 8th place.

There is no doubt that public confidence and trust in North Dakota courts has increased over time. Since low public visibility tends to translate into substantial uncertainty about the quality of local courts,⁵¹ this increase is likely due to the court's efforts following its 1999 survey to improve its outreach efforts through its website, speaker's bureau and informational brochures about the court.

⁵⁰ See Note 5 *Supra*, Appendix A, p.1

⁵¹ See Note 31, *Supra*, p. 21.

Since the last North Dakota survey was taken, the court has expanded self-represented litigant resources, implemented Plain Language practices, continued its support for an adequate indigent defense system, and publicly committed to reducing gender bias in the courts. These activities are all likely to contribute to the courts higher ratings.

Given that, “courts do not weigh heavily on the public mind, and as a result...courts may have fewer supporters and fewer critics than other public institutions,”⁵² a general lack of negative publicity about the courts, judges, or court employees is likely to be a significant factor in its high ratings.

The following chart compares the current ranking of institutions with the 1999 and 1978 rankings.

Ranking	2006 North Dakota Court Survey	1999 North Dakota Court Survey⁵³	1999 National Survey – National Center for State Courts⁵⁴	1978 National Survey – National Center for State Courts⁵⁵
1	U.S. Supreme Court	Medical Profession	Medical Profession	Medical Profession
2	State Supreme Court	Local Law Enforcement	Local Law Enforcement	Local Law Enforcement
3	Local Courts	Public Schools	U.S. Supreme Court	Public Schools
4	Public Schools	Office of the Governor	Office of the Governor	Organized Religion
5	Office of the Governor	Local Courts	Public Schools	State and local executive branches of government
6	Medical Profession	State Legislature	Local Courts	U.S. Supreme Court
7	Local Law Enforcement	U.S. Supreme Court	State Legislature	Federal Courts
8	State Legislature	State Supreme Court	Media	State and Local Courts

⁵² See Note 46, *Supra.*, p. 8.

⁵³ See Note 5, *Supra.* Appendix A, p.1.

⁵⁴ See Note 10, *Supra.* p. 12.

⁵⁵ See Note 31, *Supra.* p. 46.

Ranking	2006 North Dakota Court Survey	1999 North Dakota Court Survey⁵³	1999 National Survey – National Center for State Courts⁵⁴	1978 National Survey – National Center for State Courts⁵⁵
9	Media	Media	----	Media
10	----	----	----	State Legislature and Federal executive branch of government

Table 5- Comparison of Ranking by Survey

Compared to the previous North Dakota survey, the court system has achieved considerable perceived improvement in most areas. The gains are particularly noteworthy in the degree to which judges are perceived to be honest and fair, that court rulings are understood, that courts monitor the progress of cases, and that court personnel are helpful and courteous. Over the past years, the court has made tremendous strides to strengthen its internal procedures and practices and the results of the survey seem to recognize this. In general, the results now seem to indicate that it is important that the court begin to “focus on court users rather than court insiders”⁵⁶

The degree to which respondents agreed that courts favor corporations, that decisions are influenced by political considerations, and that courts are slow in handling cases *decreased* substantially but still do not reach the level of trust and confidence the court would like to have.

And, in those areas that seem to contribute most to public perception about the courts, the North Dakota system has lost ground, with more respondents indicating that juries are not representative, that courts are out of touch with their communities, and that it is not affordable to bring a case to court.

⁵⁶ Casey, Pamela, “Defining Optimal Court Performance: The Trial Court Performance Standards,” *Court Review*, Winter, 1998, p. 28.

The chart below compares the results of the current survey to the 1999 North Dakota survey and the 1999 national survey.

Percent of Favorable Responses				
Question	2006 North Dakota Court Survey	1999 North Dakota Court Survey⁵⁷	1999 National Survey – National Center for State Courts⁵⁸	Percent change in North Dakota
Protect Const Rights	93%	84%	85%	Improved by 9%
Juries Not Representative	49%	37%	56%	Worse by 12%
Judges Fair & Honest	97%	82%	79%	Improved by 15%
Judges not enough attention	43%	46%	61%	Improved by 3%
Courts out of touch with Community	40%	34%	44%	Worse by 6%
Court rulings understood by people	76%	59%	60%	Improved by 17%
Courts enforce orders	41%	47%	59%	Improved by 6%
Media portrayal is accurate	56%	47%	48%	Worse by 9%
Prefer judge ignore law	19%	30%	18%	Improved by 11%
Courts favor corporations	37%	50%	66% *	Improved by 13%
Decisions influenced by politics	48%	70%	81%	Improved by 22%
Judges influenced by having to raise campaign funds	47%	57%	78%	Improved by 10%
Make reasonable efforts to see have lawyers	92%	83%	74%	Improved by 9%
Possible to represent myself	67%	51%	58%	Improved by 16%
Affordable for ordinary people to go to court	42%	34%	32% **	Worse by 8%

⁵⁷ See Note 5, *Supra*, Appendix B.

⁵⁸ See Note 10, *Supra*, pp. 19-37.

* Statement differed slightly from the ND survey. The statement in the national survey was: “When a person sues a corporation, the courts generally favor the corporation over the person.”

** Statement differed slightly from the ND survey. The statement in the national survey was: “It is affordable to bring a case to court.”

Courts slow in handling cases	59%	80%	80% ^{***}	Improved by 21%
Courts adequately monitor progress of case	80%	42%	62%	Improved by 38%
Court personnel helpful and courteous	96%	64%	74%	Improved by 22%
Availability of judicial services in your area	36% excellent	11% excellent	-----	Improved by 25%

Table 6 - Percentage change in Survey Responses

Section V. Part III - Availability of Judicial Services

The degree to which respondents indicated the availability of services in their local area was “excellent” is surprising. It is more than triple what it was in the 1999 survey, when only 11% of respondents rated the availability as “excellent”. The change may be attributable to two factors. First, this survey was administered only to those who were receiving judicial services, which may have skewed the survey toward a more positive result. Second, when the 1999 survey was administered, the court system was under a legislative mandate to reduce the number of judgeships from 53 to 42 by the year 2001. The fear of losing judgeships may have caused respondents to respond cautiously to the question and skewed the former survey toward a more negative result.

Section VI. Benchmarks

A score of 3 was chosen as the benchmark for measuring performance in each of the categories surveyed. Since 3 is 75% of the highest possible score any area that was between 3 and 4 is considered “good or excellent”. Any score that fell below a score of 3 and above a score

^{***} Statement differed slightly from the ND survey. The statement in the national survey was: “Cases are not resolved in a timely manner.”

of 2 is deemed to be “adequate”. Any score below 2 is deemed to be “inadequate or poor”.

There were no scores below 2 in any of the categories.

None of the scores under Access to Justice or Fairness fell below 3. Under Access to Justice the scores ranged from a low of 3.35 for the usefulness of the court’s website up to 3.89 for being treated with courtesy and respect. Under Fairness the scores ranged from a low of 3.27 for **the way my case was handled was fair** up to 3.42 for **as I leave the court, I know what to do next about my case**.

All median and low scores are found in the public trust and confidence category. There were five statements that received an average score ranging between 2 and 3 and one statement with a score of 3.01. The statements and scores are shown in the table below and represent the areas in which the court needs to make improvements.

Section	Survey Question	Score
Sec. III, Part 2	Judges do not give adequate attention and time to each individual case	2.21
Sec. III, Part 3	It is affordable for ordinary people to bring cases to court	2.29
Sec. III, Part 2	The media’s portrayal of the courts is mostly accurate	2.58
Sec. III, Part 3	Courts are slow in handling cases	2.63
Sec. III, Part 3	It would be possible for me to represent myself in court if I wanted to	2.74
Sec. III, Part 3	Courts adequately monitor the progress of cases	3.01

Table 7 - Survey Responses Falling Below Benchmark

VI. CONCLUSIONS AND RECOMMENDATIONS

“To reach the port we must sail, sometimes with the wind and sometimes against it – but we must sail and not drift nor lie at anchor”-- Oliver Wendell Holmes, Sr.

There are several specific conclusions, as well as some general conclusions that can be drawn from the survey data. This section first addresses the specific conclusions and recommendations particular to them. It then addresses the general conclusions and provides recommendations to enhance identified area within those conclusions.

1. The survey as administered was unable to capture the opinion of the general public, in particular, those whose opinion of the court is shaped by factors other than first-hand experience with the court. A follow-up survey would be useful in validating the results obtained by the current survey and contrasting those results with opinions of the public in general.

Recommendation 1A: The court should contract with an outside entity to administer this survey on a statewide basis that captures non-court user opinions.

2. Public trust and confidence issues have the highest impact on the court's validity as an institution and yet this area had the weakest scores. These weak scores strike at the foundation of the court system as a neutral forum for resolving conflict. While the survey can measure the opinion of respondents, it is unable to capture the basis upon which those opinions were formed.

Recommendation 2A: The court should convene a series of focus groups to explore the factors that shape opinions about the court and to make recommendations for enhancing already positive factors and addressing those underlying factors that cause negative opinions to form.

3. The construct of the survey captures opinion but cannot capture the basis for that opinion. Since the demographics of the state are largely homogenous, it follows that there must be some

factors unique to Unit Three that result in across-the-board scores lower than elsewhere in the state.

Recommendation 3A: A focus group should be convened to examine the results of the study, identify the unique factors affecting Unit Three scores, and make recommendations as to how to address the underlying factors identified.

4. Forty-six percent of respondents were engaged in business with the court that could conceivably be done remotely. This is an indication that the courts are not as advanced in web-based services as is technologically possible.

Recommendation 4A: The court should continue with its plans to enhance web-based services, including document imaging, e-filing, real-time calendar access and real-time account information.

Recommendation 4B: The court should continue with its plans to expand the public and media information areas of its website.

5. Twenty-one percent of respondents were at the courthouse to obtain information which is a possible indication of a lack of ready accessibility to information.

Recommendation 5A: The court should continue with its plan to develop flowcharts and informational brochures to explain the stages of cases and how they flow through the court.

Recommendation 5B: The court should continue its plans to reorganize its website to make information easier to locate.

Recommendation 5C: The court should consider purchasing toll-free numbers for the most rural courts.

Recommendation 5D: The court should ensure that court staff is adequately trained to offer effective assistance over the telephone or through written correspondence.

6. The need to remedy the lowest scores in public trust and confidence is paramount. The North Dakota courts must continue to keep public confidence as high as it is, while striving to increase it in a rapidly changing world. “A court that does not have the trust or confidence of the public cannot expect to function for long as an effective resolver of disputes, a respected issuer of punishments, or a valued deliberative body.”⁵⁹

Solutions to how to address these low scores can be found by looking once more toward the Trial Court Performance Standards. Under Standard Area 5 PUBLIC TRUST AND CONFIDENCE, there are three “reflective” subparts which are:

- Standard 5.1: Accessibility
- Standard 5.2: Expeditious, Fair and Reliable Court Functions
- Standard 5.3: Judicial Independence and Accountability⁶⁰

Using these as a guide, I divide the issues into subparts and make these additional recommendations:

Accessibility

Accessibility refers to removal of barriers to reaching the court, including physical, psychological, and financial barriers. To raise public trust and confidence in this area, the courts should:

- Carefully monitor its own fees to ensure that they do not exceed the cost of providing services

⁵⁹ Rottman, David B. and Alan J. Tomkins, “Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges,” *Court Review*, Fall , 1999, p. 1.

⁶⁰ See Note 14, *Supra*, pp. 37-40.

- Carefully monitor its own fees to ensure that they are not so high as to discourage litigants from pursuing appeals
- Discourage attempts by other agencies or other branches of government who wish to attach unrelated fees to court fees, fines, or costs
- Control third-party expenses of litigation by capping fees for expert witnesses, guardians, custody investigators and transcriptionists
- Provide referrals to pro bono or reduced fee legal services as appropriate
- Judges who mentor new members of the bar should encourage them to provide some pro bono or reduced fee services
- Expand the court's web capabilities to include real-time information about case status, provide on-line account access and payment options, and allow for e-filing of documents
- Provide simple forms written in plain English for the least complicated court procedures
- Encourage judges to use interactive television and telephone for procedural hearings as provided by current Rules of Court
- Allow counsel to provide unbundled or discrete services

Recommendation 6A: To implement the foregoing the court should regularly ascertain the costs of litigation for the average of each major case type and take measures to control those fees directly under its control. The court's technology committee should develop an IT plan that addresses the needs of the public, as well as the court's internal needs.

Expeditious, Fair, and Reliable Court Functions

Expeditious, fair, and reliable court functions refers to establishing and maintaining time standards to disposition, and processing cases in a consistent, predictable manner that is free from undue delay or bias. To raise public trust and confidence in this area, the courts should:

- Provide simple instructions explaining trial procedures and how to present evidence
- Provide simple instructions explaining appeal rights
- Continue to enact court rules requiring judges to take early and continuous control of cases

- Require clerks and juvenile officers to actively monitor all cases so hearing results and court decisions are recorded promptly and no case is ever without a pending activity until it reaches final disposition
- Expand the court's web processes to allow for interactive searches of court schedules and real-time schedule information, and automatic e-mail alerts to litigants when a hearing date, location or time has been modified
- Provide public information on the court's time standards, including its target ranges and its success in reaching them
- Enforce time standards with reasonable and timely penalties in those cases where the time standards are not met as a result of judicial indifference
- Provide online, on-demand reports for judges to monitor their own caseload on a frequent basis
- Provide information about the courts that goes beyond court structure and caseload by providing substantive information about how courts make decisions and the role courts play in interpreting law; for example – explain what bail is and what factors a judge considers in setting bail
- Use truth-in-sentencing by including information in judgments about time-served, credit for community service work, good behavior, or early release options
- Recognize the changing demographics of the state and the increased number of residents with limited English proficiency and take proactive efforts to educate, particularly in areas of administrative regulations that may be unfamiliar to some

Recommendation 6B: To implement the foregoing the court should hire a pro se coordinator to oversee the development of forms and instructional material. The court's new case management system should include standard case reports and statistical tools. Training should be provided to judges on how to access and use the reports.

Judicial Independence and Accountability

Judicial independence and accountability require the courts to maintain their status as an independent branch of government and to be seen as free from undue influence of outside interests. It requires the court to provide a fair and neutral forum for all parties to resolve grievances.

Accountability requires the courts to be good stewards of the resources entrusted to them, and to avoid patronage and waste. It requires that court practices be open for scrutiny and that the courts measure and report their own performance. Accountability also includes the court's responsibility to recognize emerging trends and the changing expectations of society.

To raise public trust and confidence in this area, the courts should:

- Include the court's strategic plan and measurements of achievement as part of its annual report
- Publish information on the court's website about the judicial selection process, including judicial appointments and judicial elections
- Publish guidelines on the court's website regarding acceptable campaign behavior and fundraising
- Collect race, ethnicity, and income data on jurors for internal monitoring of jury representativeness
- Regularly schedule performance measurements and publish the results
- Update materials for the Speakers Bureau and actively market the Bureau as a source of information about the courts
- Continue the civics education program with the North Dakota Teachers Association
- Create an interactive educational center at the Supreme Court to educate teens and adults about the role of the court system and the history and influence of the North Dakota Supreme Court
- Create a primer about the judicial branch and judicial process for distribution to new legislators
- Regularly solicit the perceptions of the three constituency groups by annual employee satisfaction surveys, continuing to include members of the bar in the judicial improvement program, and conducting a public trust and confidence survey every five years

Recommendation 6C: To implement the foregoing the court should develop an administrative schedule for conducting performance measurements on a regular basis. Results of measurements should be used to inform the strategic planning process. The court should expand its public relations function and use of technology to make its operations transparent and understandable to the general public.

Overall, North Dakotans deem their court system to be fair and accessible. While they express some reserve in the areas of public trust and confidence, they still exhibit a high degree of trust in their court system. The challenge for the North Dakota court system is not to raise public opinion as much as it is to understand and respond to the changing expectations of its citizens.

Courts today are expected to offer more than traditional adjudication. Courts are expected to partner with other agencies to address entrenched social problems such as homelessness, mental illness, and addiction. They are required to provide services for the physically disabled, the deaf and blind, and those who have limited English proficiency. They are expected to be accessible beyond normal work hours, and to provide information that is easily obtained and readily understood. As explained by Robert Tobin, a long time leader in court administration,

“citizen complaints stress the need for courts to end their absorption in the self-contained legal world, to play a more active and service-oriented role in the outside world, and to reexamine the whole adversarial system.”⁶¹

“The judicial system derives its power and legitimacy from the public’s trust. It is critical that the public see and know that justice is being done.”⁶² Today’s courts face numerous challenges. To function effectively, they must handle rapid caseload growth, accommodate increasingly diverse populations, keep pace with technology, coordinate with other agencies, and conduct community outreach and education.⁶³

⁶¹ Tobin, Robert W., *Creating the Judicial Branch: The Unfinished Reform*, National Center for State Courts, 2004, p. 197.

⁶² See Note 14, *Supra*, p. 26.

⁶³ Hartley, Roger E. and Kevin Bates. “Meeting the Challenge of Educating Court Managers,” *Judicature*, Volume 90, Number 2, 2006, p. 81.

President Thomas Jefferson once said, "Laws and institutions must go hand in hand with the progress of the human mind." As society changes we must be mindful of the need to respond to new expectations while continuing to preserve the integrity and neutrality of the court system.

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Appendix A

Case filing and distribution of surveys table

2005 Case Filings by County and Survey Distribution Table

<u>County</u>	<u>District</u>	<u>Civil Filings</u>	<u>Criminal Filings</u>	<u>Traffic Filings</u>	<u>Total Filings</u>	<u>Percent Total Filings</u>	<u>Number of Surveys/Court</u>
Cass	EC	7,561	5,081	12,051	24,693	16.23%	81
Steele	EC	80	103	269	452	0.30%	1
Traill	EC	379	481	1,575	2,435	1.60%	8
Benson	NE	266	172	613	1,051	0.69%	3
Bottineau	NE	293	365	1,240	1,898	1.25%	6
Cavalier	NE	203	167	374	744	0.49%	2
McHenry	NE	258	256	1,046	1,560	1.03%	5
Pembina	NE	456	469	771	1,696	1.11%	6
Pierce	NE	168	245	799	1,212	0.80%	4
Ramsey	NE	915	1,206	3,402	5,523	3.63%	18
Renville	NE	88	104	372	564	0.37%	2
Rolette	NE	437	506	813	1,756	1.15%	6
Towner	NE	141	174	313	628	0.41%	2
Walsh	NE	686	586	1,332	2,604	1.71%	9
Grand Forks	NEC	3,828	4,433	8,408	16,669	10.96%	54
Nelson	NEC	127	189	1,115	1,431	0.94%	5
Burke	NW	101	150	530	781	0.51%	3
Divide	NW	116	75	162	353	0.23%	1
McKenzie	NW	321	349	1,938	2,608	1.71%	9
Mountrail	NW	313	263	1,367	1,943	1.28%	6

Ward	NW	3,329	2,759	5,774	11,862	7.80%	39
Williams	NW	1,422	1,199	3,881	6,502	4.27%	21
Burleigh	SC	4,012	2,614	6,116	12,742	8.38%	42
Emmons	SC	197	101	319	617	0.41%	2
Grant	SC	88	43	599	730	0.48%	2
Kidder	SC	91	120	803	1,014	0.67%	3
Logan	SC	59	41	179	279	0.18%	1
McIntosh	SC	105	77	378	560	0.37%	2
McLean	SC	378	448	2,937	3,763	2.47%	12
Mercer	SC	376	297	800	1,473	0.97%	5
Morton	SC	1,508	1,338	4,528	7,374	4.85%	24
Oliver	SC	57	36	295	388	0.26%	1
Sheridan	SC	58	30	109	197	0.13%	1
Sioux	SC	87	20	80	187	0.12%	1
Barnes	SE	619	1,071	3,330	5,020	3.30%	16
Dickey	SE	266	305	682	1,253	0.82%	4
Eddy	SE	98	169	423	690	0.45%	2
Foster	SE	157	178	293	628	0.41%	2
Griggs	SE	116	114	349	579	0.38%	2
LaMoure	SE	128	173	1,063	1,364	0.90%	4
Ransom	SE	270	408	595	1,273	0.84%	4
Richland	SE	881	882	2,060	3,823	2.51%	12
Sargent	SE	145	194	404	743	0.49%	2
Stutsman	SE	1,529	1,143	4,870	7,542	4.96%	25
Wells	SE	218	168	355	741	0.49%	2
Adams	SW	120	103	502	725	0.48%	2
Billings	SW	34	74	589	697	0.46%	2
Bowman	SW	166	138	317	621	0.41%	2

Dunn	SW	129	119	657	905	0.59%	3
Golden Valley	SW	76	101	447	624	0.41%	2
Hettinger	SW	94	47	423	564	0.37%	2
Slope	SW	14	17	190	221	0.15%	1
Stark	SW	<u>1,315</u>	<u>1,560</u>	<u>2,948</u>	<u>5,823</u>	<u>3.83%</u>	<u>19</u>
		34,879	31,461	85,785	152,125	100.00%	497

Surveys/District

NCJD	59
NECJD	63
Unit 1 Total	122
ECJD	90
SEJD	77
Unit 2 Total	167
SCJD	96
SWJD	33
Unit 3 Total	129
NWJD	79
Unit 4 Total	79
Total/State	497

Appendix A

North Dakota Population Facts

From the U.S. Census Bureau

<http://quickfacts.census.gov/qfd/states/38000.html>

People QuickFacts	North Dakota
Population, 2005 estimate	636,677
Population, percent change, April 1, 2000 to July 1, 2005	-0.9%
Population, 2000	642,200
Persons under 5 years old, percent, 2005	5.8%
Persons under 18 years old, percent, 2005	21.4%
Persons 65 years old and over, percent, 2005	14.7%
Female persons, percent, 2005	50.1%
White persons, percent, 2005 (a)	92.3%
Black persons, percent, 2005 (a)	0.8%
American Indian and Alaska Native persons, percent, 2005 (a)	5.3%
Asian persons, percent, 2005 (a)	0.7%
Native Hawaiian and Other Pacific Islander, percent, 2005 (a)	0.0%
Persons reporting two or more races, percent, 2005	1.0%
Persons of Hispanic or Latino origin, percent, 2005 (b)	1.6%
White persons not Hispanic, percent, 2005	90.8%
Living in same house in 1995 and 2000, pct 5 yrs old & over	56.8%
Foreign born persons, percent, 2000	1.9%
Language other than English spoken at home, pct age 5+, 2000	6.3%
High school graduates, percent of persons age 25+, 2000	83.9%
Bachelor's degree or higher, pct of persons age 25+, 2000	22.0%
Persons with a disability, age 5+, 2000	97,817
Mean travel time to work (minutes), workers age 16+, 2000	
Housing units, 2005	304,458
Homeownership rate, 2000	66.6%
Housing units in multi-unit structures, percent, 2000	24.8%
Median value of owner-occupied housing units, 2000	\$74,400
Households, 2000	257,152
Persons per household, 2000	
Median household income, 2003	\$38,223

Per capita money income, 1999	\$17,769
Persons below poverty, percent, 2003	10.5%
Business QuickFacts	
	North Dakota
Private nonfarm establishments, 2004	20,822
Private nonfarm employment, 2004	265,663
Private nonfarm employment, percent change 2000-2004	4.1%
Nonemployer establishments, 2004	42,804
Total number of firms, 2002	
Black-owned firms, percent, 2002	0.1%
American Indian and Alaska Native owned firms, percent, 2002	1.5%
Asian-owned firms, percent, 2002	0.5%
Native Hawaiian and Other Pacific Islander owned firms, percent, 2002	0.0%
Hispanic-owned firms, percent, 2002	0.4%
Women-owned firms, percent, 2002	23.3%
Manufacturers shipments, 2002 (\$1000)	
Wholesale trade sales, 2002 (\$1000)	6,856,653
Retail sales, 2002 (\$1000)	8,806,340
Retail sales per capita, 2002	7,723,945
Accommodation and foodservices sales, 2002 (\$1000)	\$12,187
Building permits, 2005	854,656
Federal spending, 2004 (\$1000)	4,038
	6,034,799
Geography QuickFacts	
	North Dakota
Land area, 2000 (square miles)	68,975
Persons per square mile, 2000	
FIPS Code	

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

FN: Footnote on this item for this area in place of data

NA: Not available

D: Suppressed to avoid disclosure of confidential information

X: Not applicable

S: Suppressed; does not meet publication standards

Z: Value greater than zero but less than half unit of measure shown

F: Fewer than 100 firms

Source: US Census Bureau State & County QuickFacts

Appendix B

Survey Instrument and Cover Letter

Cover letter, including instructions for distributing survey

TO: Clerks of District Court

CC: District Court Judges
Trial Court Administrators and Managers

FROM: Sally Holewa, State Court Administrator

DATE: October 23, 2006

SUBJECT: Statewide Access and Fairness Survey

On Wednesday, November 1, 2006, we will be conducting our statewide access and fairness survey.

This survey is a tool designed by the National Center for State Courts and allows courts to obtain a snapshot of the opinions of those we serve. Since courts exist to meet the needs of both government and the public, the access and fairness survey is the first and most critical of the performance measures.

It is important to remember that this survey is designed to measure our performance as an institution. It is not designed to measure individual judge or clerk performance or even individual court performance. The end result is an overview of us as a system.

It may be tempting to dismiss the need for a survey by saying that everybody who loses is going to say that the system performs poorly. However, national surveys since 1977 have shown that the only consistent predictor of how someone will respond to a survey is their impression of how fair the process was. Fairness includes such things as whether the judge had the information he or she needed to decide the case and whether or not litigants felt like they were allowed to present their side of the case.

The national surveys also show that this sense of fairness begins long before someone reaches the courtroom and on how helpful or courteous court staff is perceived to be and how difficult or easy it is to find information about the courts.

Because of time and resource constraints, we will be using a proportional sample for the survey. Each county will distribute a number of surveys pre-determined based upon their case filings from 2005, for a total of 497 surveys statewide.

This survey will serve as an update to the Public Trust and Confidence Survey that was done in 2000 and also as a benchmark for measuring our progress as we strive to make our courts even more accessible and better respected in the future.

Distributing the Survey

Surveys are to be distributed to individuals in the order they check in at the clerk's office. It doesn't matter why they are there, if they are someone you know or from another agency you work with often.

Every person getting a survey should be given a self-addressed, postage paid envelope to seal and return it in. This protects their privacy and should eliminate any hesitancy they might have in being truthful about their experience. To discourage people from taking the survey home to fill out later, the person handing the survey should ask them to complete the survey before they leave today, seal it in the envelope, and then hand it in at the clerk's office to be mailed.

When distributing the survey, please stress that it is very important that we get as many responses as possible and the short amount of time it takes to complete the survey. In most cases, it should take them less than 5 minutes to fill out the form and seal it in the envelope.

If someone refuses a survey, mark it as "refused" and return it. Do not offer it to another individual. We need to do this so we can calculate an accurate response rate.

Common Objections and Responses

Objection: "You don't want to know what I think. It's bad."

Response: "Yes, we do, especially if it is bad. We need to know what we are doing wrong before we can correct it."

Objection: "This is my first time here. I don't really know anything about the courts."

Response: "As someone who is not normally involved with the courts, you bring an outside perspective that is very important to us."

Objection: "As an attorney (or law enforcement officer, or social worker) this doesn't pertain to me."

Response: "We're looking for the perspective of everyone who interacts with the court. We want to know how you view us, regardless of why you are coming to the courthouse today."

Objection: "I'm just here to ask questions or pick up some forms. I don't have a case (or I'm not seeing a judge today)."

Response: "That's okay,. That something that is a big part of what we do every day, so it's especially important to get your perspective."

Appendix C

Result Tables

- A. Access
- B. Fairness
- C. Public Trust
- D. Public Confidence
- E. Public Trust & Confidence
- F. Availability of Services
- G. Survey Response Rate

	A. Access Table				
	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total
Find Crthse	3.87	3.92	3.76	3.96	3.88
Forms	3.51	3.61	3.48	3.74	3.59
Safety	3.72	3.78	3.80	3.88	3.80
Barriers	3.64	3.74	3.55	3.88	3.70
Time	3.70	3.81	3.67	4.00	3.80
Staff/needs	3.76	3.84	3.74	4.00	3.84
Courtesy & Respect	3.83	3.89	3.82	4.00	3.89
Found crtm/office	3.72	3.84	3.56	3.80	3.73
Website	3.24	3.49	3.10	3.55	3.35
Hours of op	3.75	3.67	3.40	3.83	3.66
Overall Index Score	3.67	3.76	3.59	3.86	3.72

	B. Fairness Table				
	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total
Handled fair	3.32	3.3	3.09	3.36	3.27
Judge listened	3.39	3.42	3.16	3.57	3.39
Information necessary	3.47	3.42	3.28	3.36	3.38
Treated same	3.58	3.48	3.25	3.64	3.49
Know what to do next	3.75	3.33	3.16	3.43	3.42
Overall Index Score	3.50	3.39	3.19	3.47	3.39

C. Public Trust Table						
	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total	RANKING
Public Schools	3.41	3.42	3.25	3.76	3.46	#4
Governor	3.29	3.38	3.19	3.8	3.42	#5
Local Law Enforcement						#7
Media	3.28	3.45	3.25	3.36	3.34	
ND Supreme Court	2.7	2.62	2.52	2.96	2.70	#9
						#2
	3.5	3.48	3.33	3.88	3.55	
Medical Profession						#6
	3.26	3.47	3.32	3.52	3.39	
State Legislature						#8
	3.04	3.13	2.82	3.32	3.08	
US Supreme Court						#1
	3.91	3.39	3.16	3.8	3.57	
Local Courts	3.35	3.56	3.33	3.76	3.50	#3
	3.30	3.32	3.13	3.57		

D. Public Confidence Table					
	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total
Protect Constitutional Rights	3.45	3.49	3.49	3.56	3.50
Juries not representative	2.36	2.42	2.49	2.25	2.38
Judges honest & fair	3.37	3.37	3.29	3.48	3.38
Not enough time & attention	2.33	2.41	2.38	1.72	2.21
Courts out of touch	2.20	2.28	2.37	1.67	2.13
Decisions understood	2.80	3.08	2.88	3.32	3.02
Orders not enforced	2.36	2.26	2.48	1.88	2.25
Media portrayal accurate	2.59	2.68	2.53	2.50	2.58
Prefer judge to ignore law	1.61	1.60	1.60	1.60	1.60

E. Public Trust & Confidence Table

	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total
Favor Corporations	2.17	1.94	2.33	2.00	2.11
Influenced by Politics	2.27	2.43	2.24	2.20	2.29
Influenced by campaign funds	2.19	2.42	2.42	1.92	2.24
Courts make effort to see individuals have lawyers	3.26	3.41	3.43	3.52	3.41
Possible to represent self	2.75	2.85	2.70	2.64	2.74
Affordable to go to court	2.37	2.32	2.17	2.28	2.29
Slow in handling cases	2.63	2.61	2.72	2.56	2.63
Adequately monitor progress of case	3.06	3.06	2.89	3.04	3.01
Court personnel helpful & courteous	3.51	3.65	3.55	3.84	3.64

	Unit 1	Unit 2	Unit 3	Unit 4	Statewide Total
Availability of local Services	3.19	3.30	3.12	3.32	3.23

F. Availability of Judicial Services in Your Area

	Unit 1	Unit 2	Unit 3	Unit 4
Excellent	33%	42%	27%	44%
Good	53%	46%	55%	48%
Fair	11%	12%	18%	4%
Poor	3%	0%	0%	4%
Total	100%	100%	100%	100%

	G. Response Rate				
	Unit 1	Unit 2	Unit 3	Unit 4	Total
Number sent	122	167	129	79	497
Number returned	71	100	66	25	262
Rate of Response	58%	60%	51%	32%	53%

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Appendix C

NORTH DAKOTA JUDICIAL BRANCH SURVEY

**STRONGLY
AGREE**

**SOMEWHAT
AGREE**

**SOMEWHAT
DISAGREE**

**STRONGLY
DISAGREE**

Combined Scores - All Units

SECTION I: Access to the Court

A. Finding the courthouse was easy	236	21	4	1
B. Forms clear & easy to understand	150	83	6	2
C. I felt safe in the courthouse	220	32	6	4
D. Language barriers to service	187	53	10	3
E. Able to get court business done	210	36	7	4
F. Court Staff paid attention to needs	226	26	6	1
G. Treated with courtesy and respect	232	24	3	2
H. Easily found courtroom and office	199	49	7	2
I. Courts Website was useful	102	56	18	8
J. Courts hours easy for my business	192	47	11	8

Section II: Public Trust and Confidence

As far as people running the following institutions, how much trust do you have in each institution?

	<u>A GREAT DEAL</u>	<u>SOME</u>	<u>LITTLE</u>	<u>NO TRUST</u>
A. The public schools	124	104	18	4
B. The office of the Governor	110	123	16	3
C. Local law enforcement	129	92	27	9
D. The media	47	104	72	30
E. ND Supreme Court	136	94	15	2
F. Medical profession	119	114	17	3
G. State Legislature	65	139	31	9
H. U.S. Supreme Court	112	113	18	4
I. The courts in your area	140	93	13	6

Please indicate how you feel about the following statement:

How do you feel about some issues related to the courts in your area?

	<u>STRONGLY AGREE</u>	<u>SOMEWHAT AGREE</u>	<u>SOMEWHAT DISAGREE</u>	<u>STRONGLY DISAGREE</u>
A. Courts protect defendant's rights	146	94	13	4
B. Most juries are not represent. of comm.	39	84	71	56
C. Judges are honest and fair in decid. cases	123	107	22	5
D. Judges don't give time to each case	38	74	78	69
E. Courts are out of touch with community	34	69	78	74
F. Court rulings are understood by the people	64	131	44	17
G. Courts don't make sure orders enforced	29	72	74	73
H. Media's portrayal of courts is accurate	36	104	85	23
I. I would prefer Judge ignore law for conviction	15	32	42	165

Please indicate how you feel about the following statement:

How do you feel about some issues related to the courts in your area?

	<u>STRONGLY AGREE</u>	<u>SOMEWHAT AGREE</u>	<u>SOMEWHAT DISAGREE</u>	<u>STRONGLY DISAGREE</u>
A. Courts favor Corp. over ordinary people	16	77	89	72
B. Judges' decisions influenced by politics	20	101	69	63
C. Elected judges are influenced by political	28	89	64	69
D. Courts make efforts to see people have lawyers	129	107	14	7
E. It would be possible to represent myself in court	81	90	32	53
F. It is affordable for people to bring cases to court	29	79	89	60
G. Courts are slow in handling cases.	48	98	72	39
H. Courts adequately moitor the progress of cases	61	137	44	6
I. Court personnel are helpful and courteous.	185	63	8	2

How would you rate the availability of judicial services in your area?

	<u>EXCELLENT</u>	<u>GOOD</u>	<u>FAIR</u>	<u>POOR</u>
	87	122	30	3
Response Rate By Percent	36%	50%	12%	1%

	<u>STRONGLY AGREE</u>	<u>SOMEWHAT AGREE</u>	<u>SOMEWHAT DISAGREE</u>	<u>STRONGLY DISAGREE</u>
<u>Section III: Fairness</u>				
A. The way my case was handled was fair.	60	60	6	9
B. Judge listened to my side before his decision	68	46	14	3
C. Judge had info. Necessary to make good dec.	72	49	7	5
D. I was treated the same as everyone else.	78	44	9	1
E. As I leave court, I know what to do next	74	44	12	2

Section IV: Background Information

What did you do at the court today?

Search/obtain documents	70	22%
File Papers	44	14%
Make a payment	35	11%
Get information	66	21%
Appear as a witness	0	0%
Attorney representing a client	28	9%
Jury Duty	1	0%
Attend a hearing or trial	50	16%
Law enforcement/probation/S.S. staff	23	7%
Total Responses	317	100%

Response Rate by Constituency

Attorney	9%
LE/Prob/Soc. Serv.	7%
Other	84%
	100%

What type of case brought you to the courthouse today?

Traffic	33	13%
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Criminal	85	34%
Civil Matter	46	18%
Divorce, child custody or support	11	4%
Juvenile Matter	6	2%
Probate	5	2%
Small Claims	21	8%
Other: Passport, Copy of Document, Work	46	18%
Total Responses	253	100%

How often are you typically in the courthouse?

First time in the courthouse	22
Once a year or less	62
Several times a year	27
Regularly	130
Total Responses	241

How do you identify yourself?

American Indian or Alaska Native	12	Native Am. = 5.2% of ND population
Asian	0	Asian - .7% of ND population
Black or African American	1	Black = .7% of ND population
Hispanic or Latino	4	Hisp/Lat = 1.5% of ND population
Native Hawaiian or Other Pacific Islander	0	Haw/PI = 0% of ND population
White	200	White - 92.4% of ND population
Mixed Race	3	Mixed = .9% of population
Other	4	
Total Responses	224	

What is your gender?

Male	109
Female	132
Total Responses	241

# refused to take survey	32
Not returned	190

Overall Response Rate
Total number of responses - all units

53%
262

Appendix D

Survey Instrument

NORTH DAKOTA JUDICIAL BRANCH SURVEY

Instructions: Thank you for agreeing to take our survey. We appreciate the opportunity to hear from you. We want North Dakota Courts to be the best courts in the United States. Your input will help us achieve that goal. This survey has 4 sections – Access, Trust, Fairness, and Background Information. **The responses are ranked with 1 being the best and 4 being the worst.** The estimated time to take the survey is less than 5 minutes.

Section I: Access to the Court

Circle the Number:

- A. Finding the courthouse was easy.
- B. The forms I needed were clear and easy to understand.
- C. I felt safe in the courthouse.
- D. The court makes reasonable efforts to remove physical and language barriers to service.
- E. I was able to get my court business done in a reasonable amount of time.
- F. Court staff paid attention to my needs.
- G. I was treated with courtesy and respect.
- H. I easily found the courtroom or office I needed.
- I. The court's Web site was useful.
- J. The court's hours of operation made it easy for me to do my business.

STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE
----------------	----------------	-------------------	-------------------

1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4

Section II: Public Trust and Confidence

Circle the Number:

1. As far as people running the following institutions, how much trust do you have in each institution?

- A. The public schools
- B. The office of the Governor
- C. Local law enforcement
- D. The media
- E. North Dakota Supreme Court

A GREAT DEAL	SOME	LITTLE	NO TRUST
--------------	------	--------	----------

1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4

F. Medical profession	1	2	3	4
G. State legislature	1	2	3	4
H. U.S. Supreme Court	1	2	3	4
I. The courts in your area	1	2	3	4

Please indicate how you feel about the following statement:

2. How do you feel about some issues related to the courts in your area?

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE
A. Courts protect defendant's constitutional rights.	1	2	3	4
B. Most juries are not representative of the community.	1	2	3	4
C. Judges are generally honest and fair in deciding cases.	1	2	3	4
D. Judges do not give adequate attention and time to each individual case.	1	2	3	4
E. Courts are out of touch with what is going on in their communities.	1	2	3	4
F. Court rulings and decisions are understood by the people involved in the cases.	1	2	3	4
G. Courts do not make sure their orders are enforced.	1	2	3	4
H. The media's portrayal of the courts is mostly accurate.	1	2	3	4
I. I would prefer that a judge ignore the law to ensure that a person who committed a crime is convicted.	1	2	3	4

Please indicate how you feel about the following statement:

3. How do you feel about some issues related to the courts in your area?

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE
A. Courts favor corporations over ordinary people.	1	2	3	4
B. Judges' decisions are influenced by political considerations.	1	2	3	4
C. Elected judges are influenced by having to raise campaign funds.	1	2	3	4
D. Courts make reasonable efforts to see that individuals have lawyers.	1	2	3	4
E. It would be possible for me to represent myself in court if I wanted to.	1	2	3	4
F. It is affordable for ordinary people to bring cases to court.	1	2	3	4
G. Courts are slow in handling cases.	1	2	3	4
H. Courts adequately monitor the progress of cases.	1	2	3	4
I. Court personnel are helpful and courteous.	1	2	3	4

4. How would you rate the availability of judicial services in your area?: Excellent Good Fair Poor

If you did not see a Judge or Referee today, please skip to Section IV

Section III: Fairness

Circle the Number:

- A. The way my case was handled was fair.
- B. The judge listened to my side of the story before he or she made a decision.
- C. The judge had the information necessary to make good decisions about my case.
- D. I was treated the same as everyone else.
- E. As I leave the court, I know what to do next about my case.

STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE
----------------	----------------	-------------------	-------------------

1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4
1	2	3	4

Section IV: Background Information

What did you do at the court today?
(check all that apply)

- Search and court records/obtain documents
- File papers
- Make a payment
- Get information
- Appear as a witness
- Attorney representing a client
- Jury duty
- Attend a hearing or trial
- Law enforcement/probation/social services staff

What type of case brought you to the courthouse today?

- Traffic
- Criminal
- Civil matter
- Divorce, child custody or support
- Juvenile matter
- Probate
- Small Claims
- Other: _____

How do you identify yourself?

- American Indian or Alaska Native
- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian or Other Pacific Islander
- White
- Mixed Race
- Other: _____

How often are you typically in this courthouse?
(Choose the closest estimate)

- First time in this courthouse
- Once a year or less
- Several times a year
- Regularly

What is your gender?

- Male
- Female