

# U.S. MAGISTRATE JUDGES IN THE DISTRICT OF MAINE

## I. History

The history of U.S. Magistrate Judges began in 1793, when Congress authorized circuit courts to appoint individuals to handle bail in federal criminal cases. These individuals became known as U.S. Commissioners. Commissioners were paid fees for their services and generally performed their duties in addition to their regular employment. During the early 19<sup>th</sup> century, Congress authorized district courts to appoint commissioners and expanded the authorities of commissioners to include issuing arrest and search warrants, conducting initial proceedings in criminal cases and setting bail. The system of commissioners worked well; however, over time, the Judicial Conference determined that the commissioner system needed to be restructured to create a new type of judicial officer called a magistrate for the purpose of alleviating the demands of district judges' growing caseload and to establish statutory qualifications for magistrates. Therefore, in 1968, Congress passed the Federal Magistrates Act, 28 U.S.C. § 631 et seq., establishing the magistrate position which replaced the system of U.S. Commissioners, giving magistrates the same authorities granted to commissioners and expanding the magistrate's authority to handle pretrial matters. Throughout the late 20<sup>th</sup> century, Congress continued to expand the authorities of magistrates because they became vital to the court's ability to manage the growing demands of the court system's caseload. In 1990, Congress passed the Judicial Improvements Act, which among other things, changed the title of a United States magistrate to "United States Magistrate Judge" in order to reflect more accurately the responsibilities and duties of the office and to make the nomenclature consistent with that of other non-Article III federal judicial officers such as bankruptcy judges, tax court judges and claims court judges.

Unlike Article III district judges who are nominated by the President and confirmed by the U.S. Senate, magistrate judges are appointed by the district court on the recommendation of a court-appointed panel composed of lawyers and non-lawyers whose responsibility is to propose the names of the five best-qualified candidates for the magistrate judge position. Upon the panel's recommendation, the judges of the district court select a candidate by majority vote.

Full-time magistrate judges serve 8-year terms, while part-time magistrate judges serve 4-year terms. Both are often reappointed to subsequent terms; and, in fact, Judicial Conference policy recognizes that an incumbent magistrate judge who has performed well in the position should be reappointed to another term of office.

Magistrate judges are assigned to a court by location. In 1971, the Judicial Conference authorized two part-time magistrates to serve the District of Maine - one in Portland and one in Bangor. In 1972, a second part-time position was authorized to serve in Portland. In 1982, one magistrate position in Portland was converted to a full-time position; and, in 1989, the Bangor position was converted to full time. The second part-time magistrate position in Portland was discontinued in 2007. (That position was a clerk/magistrate

position and the incumbent was also the Clerk of the Court.) Today, the District of Maine employs two full-time magistrate judges – one in Portland and one in Bangor.

Magistrate judges are vital to the Court’s ability to efficiently adjudicate and resolve cases. Their contributions to the judiciary are significant; their duties are extensive and they are highly proficient in a broad range of judicial functions in a diverse and often complicated mix of cases. Their early involvement in most pretrial stages is essential to the district judges’ ability to perform their constitutional and statutory obligations. The pace of their work is demanding and challenging because of the expedited nature of the proceedings and because every case is unique. The individuals serving as magistrate judges possess a special judicial temperament comprised of patience, flexibility, adaptability, legal knowledge, integrity, experience, objectivity, ability to treat all litigants with dignity, and respect for the law.

In addition to their judicial duties, magistrate judges in the District of Maine participate in court governance alongside the district judges and their input is highly valued. Magistrate judges also serve on national and local committees that benefit the federal judiciary and the District of Maine.

## **II. Duties of the Magistrate Judges**

The jurisdiction and powers of magistrate judges are set forth in 28 U.S.C. § 636, and their principal role is to assist the district judges by handling a variety of pretrial matters in civil and criminal cases making them vital to the Court’s ability to effectively manage and timely resolve its caseload. Magistrate judges handle nearly all aspects of the Court’s docket in five expansive and significant categories of work including:

1. Pretrial matters and proceedings in criminal cases;
2. Pretrial matters and proceedings in civil cases;
3. Recommended decisions on motions for dispositive relief;
4. Trials in civil consent cases and misdemeanor criminal cases; and
5. Other duties.

### **A. Pretrial Matters in Criminal Cases**

Criminal matters, with the exception of felony trials and sentencings, constitute a substantial portion of the magistrate judges’ workload in the District of Maine. Magistrate judges routinely:

1. Issue warrants of arrest, search warrants and summonses;
2. Advise defendants of the right to counsel and the nature of the criminal charges;
3. Conduct initial appearances and preliminary exams;
4. Hold detention hearings and issue orders establishing conditions of release or orders detaining persons pending trial;
5. Determine eligibility and appoint counsel for indigent defendants;
6. Conduct arraignments on felony indictments;
7. Conduct evidentiary hearings and prepare recommended decisions on motions to suppress;
8. Enter orders on a variety of pretrial motions;

9. Conduct preliminary revocation proceedings; and
10. Take pleas and sentence defendants for petty offenses and misdemeanor offenses.

## **B. Pretrial Matters in Civil Cases**

Magistrate judges also serve a critical role in the Court's ability to achieve just and efficient resolution of civil cases because they are often the first judicial officer to review new civil cases. They craft scheduling orders that balance the needs of the case with the need to manage the progress of the case. Their early and active involvement benefits the district judges, the litigants and counsel in ensuring a timely and just resolution of the case, minimizing delays and helping the court avoid backlogs. Magistrate judges in the District of Maine are ordinarily responsible for the following civil case duties:

1. Screening civil cases;
2. Establishing and entering scheduling orders;
3. Conducting oral argument and motion hearings;
4. Deciding pretrial motions;
5. Triaging emergency motions for temporary restraining orders or *ex parte* motions for writ of attachment and trustee process;
6. Entering confidentiality orders and other procedural orders;
7. Resolving discovery disputes;
8. Conducting judicial settlement conferences; and
9. Conducting final pretrial conferences and trial management conferences.

## **C. Recommended Decisions on Dispositive Matters**

Pursuant to 28 U.S.C. § 636(b)(1)(B), district judges often designate magistrate judges to conduct hearings, review the record and submit to the district judge proposed findings of fact and recommendations for disposition in civil and criminal cases which are called "Report and Recommended Decisions." In Maine, district judges regularly refer motions to dismiss, motions for summary judgment, motions for injunctive relief, motions to suppress, and other motions that seek final adjudication of claims, parties, criminal charges or evidence to the magistrate judges for a report and recommended decision. The magistrate judge's report and recommended decision outlines the issues in dispute and recommends to the district judge the appropriate resolution of the issues. The parties are given an opportunity to respond to the recommended decision and then the report is submitted to the district judge for consideration and final decision. The work involved in issuing recommended decisions is complex, time-consuming and exacting because the magistrate judge's recommendation must set forth facts, interpret and apply the law to the facts of the case and recommend a particular adjudication of the issues to the district judge.

## **D. Trials**

Upon the consent of the parties, a magistrate judge may conduct any or all proceedings and order the entry of judgment in a civil case. Litigants in civil cases can benefit from consenting to trial before a magistrate judge because magistrate judges can often conduct civil trials earlier than the district judges who must conduct felony criminal trials first because criminal cases take priority over civil cases due to the statutory time periods within which criminal trials must commence. Magistrate judges can also schedule trial for

a date certain. In criminal cases, magistrate judges may conduct trials of persons charged with misdemeanor offenses pursuant to 18 U.S.C § 3401.

### **E. Other Duties and Responsibilities**

Title 28 U.S.C. § 636 provides that magistrate judges may be assigned “other duties” that are “not inconsistent with the Constitution and the laws of the United States.” Other duties often include presiding over jury selection, empaneling the grand jury and taking grand jury risings, miscellaneous matters such as IRS enforcement actions, post-judgment duties such as disclosure hearings or attorney fees awards and a variety of other duties that may be referred by the district judges.

While the District of Maine’s two magistrate judges perform all of these duties, the Court has allocated some of their workload to better balance the work between them.

The Magistrate Judge in Bangor is responsible for:

- All applications for post-trial relief filed by persons convicted of criminal offenses for preparation of reports and recommended decisions in accordance with 28 U.S.C. § 636(b)(1)(B);
- Prisoner petitions challenging conditions of confinement and to conduct hearings, if necessary, and submit reports and recommended decisions in accordance with 28 U.S.C. § 636(b)(1)(B). This portion of the Court’s caseload has grown 73% since 2008; and
- One-third of the Court’s Social Security caseload for reports and recommended decisions, when that caseload exceeds 16 cases per quarter.

The Magistrate Judge in Portland is responsible for:

- Two-thirds of all the Social Security Appeal cases that are filed in the District, which at times has accounted for as much as 24% of the Court’s civil caseload. Social Security cases are fact- and time-intensive.

### **III. Biographies of the District’s Magistrate Judges**

Since the Federal Magistrates Act was enacted in 1968, the District of Maine has enjoyed a fine roster of magistrate judges whose roots have been in Maine and who have been highly-regarded by the Court, the bar and the community, having served the District of Maine with distinction.



**United States Magistrate D. Brock Hornby**

December 23, 1982 – June 10, 1988

Bangor and Portland, Maine

Born in Brandon, Manitoba, Canada, Judge Hornby is a graduate of the University of Western Ontario and Harvard Law School. He was a law clerk to Fifth Circuit Court of Appeals Judge John Minor Wisdom. Judge Hornby was a professor of law at the University of Virginia School of Law from 1970 – 1974. He practiced law in Portland at Perkins, Thompson, Hinckley and Keddy from 1974 to 1982. Judge Hornby was the first full-time U.S. Magistrate in the District serving in Bangor and Portland from 1982 - 1988. He served as an Associate Justice of the Maine Supreme Judicial Court from 1988 - 1990. In 1990, Judge Hornby was appointed U.S. District Judge and was the Court's Chief Judge from 1996 – 2003.



**U.S. Magistrate Judge Edward H. Keith**

September 9, 1963 – June 3, 1991

Bangor, Maine

A native of Bangor, Maine, Edward Keith graduated from the University of Maine and Cornell Law School. He practiced law in Bangor with his father, Ballard Keith, who also served as U.S. Commissioner in the District of Maine. Before his appointment to U.S. Magistrate, Judge Keith served as a U.S. Commissioner in this District from September 9, 1963, until his appointment as a part-time U.S. Magistrate. On February 24, 1971, Chief U.S. District Judge Edward Thaxter Gignoux appointed Edward Keith part-time Magistrate and in March of 1989, Judge Keith's service as U.S. Magistrate Judge became full-time.



**U.S. Magistrate Judge Eugene W. Beaulieu**

January 21, 1992 – January 20, 2000

Bangor, Maine

A lifelong resident of the Old Town area and graduate of St. Joseph's Academy and St. Joseph's University in New Brunswick, Judge Beaulieu obtained his law degree from Suffolk University in Boston. He practiced law in the Old Town area for two decades and served as assistant county prosecutor for Penobscot and Piscataquis counties for eleven years. He was appointed Judge to the 3<sup>rd</sup> District Court in Bangor in 1980, and then elevated to Justice at the Penobscot County Superior Court in 1985, where he served until his appointment to United States Magistrate Judge on January 21, 1992.

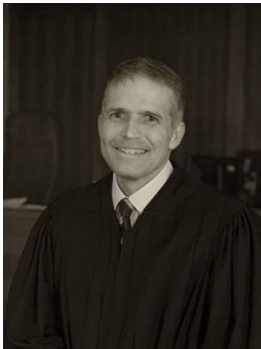


**U.S. Magistrate Judge Margaret J. Kravchuk**

January 21, 2000 – January 24, 2014

Bangor, Maine

Magistrate Judge Kravchuk is the District of Maine's first female U.S. Magistrate Judge. She is a Pennsylvania native, graduate of Bethany College and the University of Maine School of Law. She served as Penobscot County District Attorney for one year before being appointed to the Maine District Court bench, and then elevated to Superior Court Justice where she served as Chief Justice. Judge Kravchuk was appointed U.S. Magistrate Judge on January 21, 2000, and retired on January 24, 2014.



**U.S. Magistrate Judge John C. Nivison**

January 27, 2014 - Present

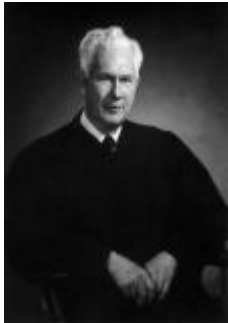
Bangor, Maine

Magistrate Judge Nivison is a Maine native, having grown up in Winslow, Maine. He is a graduate of Colby College and the University of Maine School of Law. Judge Nivison practiced law at Pierce Atwood from 1985 to 1999. In 1999, he was appointed judge of the Maine District Court by Governor Angus King. He was Chief Judge of the Maine District Court from 2005 to 2007. In 2007, Governor John Baldacci appointed Judge Nivison to the Maine Superior Court where he served until his appointment to U.S. Magistrate Judge in 2014.



**U.S. Magistrate Morris Cox**  
November 1, 1948 – June 28, 1974  
Portland, Maine

Morris Cox of Portland, Maine, graduated from Portland High School and attended Hebron Academy. He graduated from Suffolk Law School in Boston, and served in the U.S. Army during World War II. Morris Cox served the Court in several capacities. He served as the Clerk of the District Court from 1948 – 1974. During his term as Clerk, Mr. Cox served as a U.S. Commissioner in the District until his appointment as a part-time U.S. Magistrate in Portland from March 1, 1971 – June 28, 1974.



**U.S. Magistrate  
Millard E. Emanuelson**  
August 15, 1972 – November 3, 1974  
Portland, Maine

Born in Monson, Maine, Mr. Emanuelson graduated from Monson Academy, Colby College and Boston University Law School. Prior to his legal career, Millard Emanuelson taught at Coburn Classical Institute, Thornton Academy and Deering High School. He was a Navy veteran of World War II. He was an associate professor of business law at what is now known as the University of Southern Maine. He served as chairman of the Cumberland County Legal Aid Committee and as President of Pine Tree Legal Assistance. Millard Emanuelson served as U.S. Magistrate from 1972 – 1974. Following his service as U.S. Magistrate, he served as a Maine District Court Judge from 1974 until his retirement in 1984. He died on May 8, 1989.



**U.S. Magistrate Seymour Nathanson**  
August 25, 1974 – September 30, 1977  
Portland, Maine

Seymour Nathanson was born in Brooklyn, New York. He graduated from the University of Maine School of Law. Mr. Nathanson served in the U.S. Navy during World War II, and served as part-time U.S. Magistrate from 1974 – 1977. Seymour Nathanson died on August 12, 1997.



**U.S. Magistrate William K. Tyler**  
November 4, 1974 – September 15, 1976  
Portland, Maine

William Tyler was born in Fort Madison, Iowa. He attended the University of Denver where he earned his Bachelor's Degree and his LL.B. From 1963 – 1964, Mr. Tyler was an assistant county attorney. He held the position of part-time U.S. Magistrate from 1974 – 1976 and practiced law in Portland with the firm of Richardson, Hildreth, Tyler & Troubh. He was the President of the Cumberland County Bar Association in 1978 and a member of the Panel of Mediators, the Maine Labor Relations Board and the Grievance Commission of the Board of Bar Overseers.



**U.S. Magistrate Melvyn Zarr**  
October 1, 1977 – December 22, 1982  
Portland, Maine


Born in Worcester, Massachusetts, Mr. Zarr is a graduate of Clark University, Princeton University and Harvard Law School. He worked in New York City for the NAACP Legal Defense & Education Fund and then returned to Massachusetts to work at the Massachusetts Law Reform Institute where he supervised poverty law litigation. While also serving as a part-time U.S. Magistrate, Mr. Zarr taught at the University of Maine School of Law. He continues to maintain a full teaching load at the Law School while also serving as an elected member of the American Law Institute and the Maine Criminal Advisory Commission.





**U.S. Magistrate Judge William S. Brownell**  
January 8, 1979 – April 30, 2007  
Portland, Maine

Born in Plainfield, New Jersey, Mr. Brownell graduated from the University of Maine and, in 1971, he graduated from the University of Maine School of Law. His 33-year career with the U.S. District Court began in 1974 as courtroom deputy clerk for U.S. District Judge Edward T. Gignoux. He was promoted to the position of Chief Deputy Clerk in September, 1976. In 1979, Mr. Brownell was appointed part-time U.S. Magistrate, and he served simultaneously as Clerk of Court from February 4, 1980 until April 30, 2007, when he retired.



	<p style="text-align: center;"><b>U.S. Magistrate Judge David M. Cohen</b>  October 11, 1988 – April 1, 2008  Portland, Maine</p> <p>David M. Cohen was born in Manchester, New Hampshire, grew up in Lewiston, Maine, and lived in the Portland, Maine area, throughout his years of practice and active service on the bench. While in college, he interned for U.S. Senator Edmund S. Muskie. He is a graduate of Bowdoin College and Boston College Law School. He served as law clerk to U.S. Circuit Judge Frank Coffin (1967 - 1968) and practiced law in Portland at Berman, Berman, Wernick &amp; Flaherty (which later became Preti Flaherty) and then at the law firm of Petrucci, Cohen, Erler &amp; Cox prior to his appointment to U.S. Magistrate Judge.</p>
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	<p style="text-align: center;"><b>U.S. Magistrate Judge John H. Rich III</b>  April 8, 2008 – April 2, 2022  Portland, Maine</p> <p>Judge Rich graduated from Bowdoin College and the University of Pennsylvania Law School. He served as law clerk to U.S. District Judge Edward Thaxter Gignoux and later practiced law for 25 years at the Portland law firm of Perkins, Thompson, Hinckley and Keddy prior to his appointment to U.S. Magistrate Judge. In addition to his service to the federal judiciary, Judge Rich is Vice Chair of the Maine Justice Action Group.</p>
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	<p style="text-align: center;"><b>U.S. Magistrate Judge Karen Frink Wolf</b>  April 4, 2022 – Present  Portland, Maine</p> <p>Judge Wolf graduated from the University of New Hampshire and Syracuse University College of Law. Before her appointment to U.S. Magistrate Judge, she was a partner at the Verrill law firm in Portland, Maine. In addition to her practice as a litigator for thirty-six years, Judge Wolf is a Fellow of the American College of Trial Lawyers.</p>
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