

AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 1996*

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In 1996, the Indiana Supreme Court again became limited by a huge increase in its mandatory docket, and—perhaps because of this increase—also became an even more aligned court. These are the primary themes from this sixth annual study of the Indiana Supreme Court's docket, dispositions and voting.

The most significant result from this year's study is that the court again is becoming overwhelmed by its docket of mandatory cases. The court fought this battle in 1988 when it won approval from the electorate for a constitutional amendment, which in effect decreased its load of mandatory cases and allowed the court to fulfill its role as a court of last resort.¹ Beginning in 1992, the court had at least a 10% larger docket load of discretionary cases than mandatory cases. This trend, however, was reversed in 1996. From 1995 to 1996 the court's mandatory docket jumped from 46 to 68 cases, while discretionary cases that the court decided declined from 76 to only 48. This is the least number and lowest percent of discretionary cases decided by the court in at least six years, and this is

* The Tables presented in this Article are patterned after the annual statistics of the U.S. Supreme Court published in the *Harvard Law Review*. An explanation of the origin of these Tables can be found at Louis Henkin, *The Supreme Court, 1967 Term*, 82 HARV. L. REV. 63, 301, (1968). The *Harvard Law Review* granted permission for the use of these Tables by the *Indiana Law Review* this year; however, permission for any further reproduction of these Tables must be obtained from the *Harvard Law Review*.

We thank Krieg DeVault Alexander & Capehart for its gracious willingness to devote the time, energy, and resources of its law firm to allow such a project as this to be accomplished. As is appropriate, credit for the idea for this project goes to Chief Justice Shepard; but, of course, any errors or omissions belong to his former law clerk. We also thank WESTLAW® for its kind willingness to allow us free access to its computer resources and assistance in preparing these Tables.

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1. See Randall T. Shepard, *Changing the Constitutional Jurisdiction of the Indiana Supreme Court: Letting a Court of Last Resort Act Like One*, 63 IND. L.J. 669 (1988); Randall T. Shepard, *Foreword: Indiana Law, the Supreme Court, and a New Decade*, 24 IND. L. REV. 499 (1991).

the highest number and highest percent of mandatory cases since 1991.²

This increase in mandatory appeals and decline in the court's discretionary caseload also comes at a time, ironically, when the court is receiving record levels of petitions to transfer. Last year the court received 793 petitions, which was a record high at the time. This year the court received a new record high of 807 petitions.³ Thus, although demand is at an all-time high for discretionary cases to be heard by the court, the room on the court's docket for such cases has diminished to at least a six-year low.

Perhaps due to a docket loaded with typically less divisive mandatory appeals, the court is also a more aligned court. Last year, it was first noted in this study that the court displayed an increasing consensus. This was derived from the court's dramatic decrease in both split opinions and dissents as well as the court handing down the highest percentage of unanimous opinions since the beginning of the study in 1990. In 1996, the number of split opinions and dissents decreased again, and the percentage of opinions decided by a unanimous court also rose again. The reasons underlying this shift to greater consensus are likely because of a less discretionary docket and changes in personnel. Justices Givan and DeBruler, two of the most prolific dissenters in recent court history, have been replaced by Justices Selby and Boehm, who thus far seem to be more moderate voices on the court.

The following is a description of the highlights from each Table.

Table A. In 1996, the supreme court issued 120 opinions that were authored by an individual justice. The court also issued 41 per curiam opinions, largely devoted to attorney discipline matters. Seventy-nine of the 120 opinions analyzed criminal cases and 41 analyzed civil matters, which is a decrease from 52 opinions on civil matters in 1995. This drop in the court's docket of civil matters is also a consequence of the increase in mandatory cases which are predominantly criminal cases while civil matters reach the court largely through the discretionary process of transfer.

Chief Justice Shepard authored the most opinions with 33, and Justice Sullivan was next with 27. Justice Sullivan dissented more than any of his fellow

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	MANDATORY	DISCRETIONARY	TOTAL
1991	109 (53%)	98 (47%)	207
1992	64 (41%)	93 (59%)	157
1993	60 (44%)	77 (56%)	137
1994	60 (45%)	73 (55%)	133
1995	46 (38%)	76 (62%)	122
1996	68 (59%)	48 (41%)	116

The court's increased caseload in 1996 of mandatory criminal appeals, i.e. appeals of cases involving a sentence of more than 50 years for a single offense, is likely linked to the Indiana General Assembly recently increasing the presumptive sentence for murder from 50 years to 55 years. See IND. CODE § 35-50-2-3 (Supp. 1996).

3. INDIANA SUPREME COURT ANNUAL REPORT (1996).

justices with 10, and he also was the leader in separate concurrences with 14. Justice Dickson had the next highest number of dissents with eight. Overall, the number of dissents dropped from a five-year low of 51 in 1995 to a new record low of only 33 last year.

Justice Boehm, who replaced Justice DeBruler, joined the court on August 8, 1996 and participated in 64 cases. He authored eight criminal opinions, four civil opinions and one dissent.

Table B-1. For civil cases, Justices Dickson and Selby were the most aligned at 86.8%, while Justices Dickson and DeBruler were next at 85.7%. Justices DeBruler and Sullivan were the least aligned at 71.4%. Justices Sullivan and Shepard were aligned in 72.5% of cases. Justice Dickson was the most aligned overall in civil cases, and Justice Sullivan was the least aligned overall. Justice Boehm was involved in only 11 civil cases in 1996 and was aligned with all justices in all of those opinions.

Table B-2. For criminal cases, the two most aligned justices were Shepard and Selby at 92.4%. The two least aligned justices in criminal cases were Dickson and DeBruler at 73.3%. Chief Justice Shepard and Justice DeBruler were right behind at 75.5%. The most aligned with all of the justices in criminal cases was Chief Justice Shepard with Justice Selby close behind, while the least aligned overall was Justice DeBruler.

Justice Boehm was involved in only 34 criminal cases in 1996, but showed a high-level of alignment in these cases with Justice Dickson at 97% and Chief Justice Shepard at 94.1%.

Table B-3. For all cases, the two most aligned justices were Selby and Dickson at 88.1%. Justices Dickson and Shepard were close behind at 87.5%, while Chief Justice Shepard and Justice Selby were at 87.2%. The two least aligned was a tie between Justices Dickson and Sullivan at 76.6% and Justices Shepard and Sullivan at 76.6%. The least aligned members of the court were Justice DeBruler and Justice Sullivan, who also had the highest number of dissents and separate concurrences. The most aligned justice overall was Justice Selby. For the 45 cases in which Justice Boehm participated, he showed an extremely high degree of alignment with the rest of the court.

Table C. In 1995, the court showed its highest degree of unanimity in the five years of this study at 69.6%, but in 1996 the level of unanimity became even greater. Last year, the court was either unanimous or unanimous with a concurrence in 78% of its opinions.

Table D. In 1995, the court also had its fewest number of 3-2 decisions in the five years of this study at 12, but that number dropped again in 1996 to only seven. Justice Dickson was in the three-justice majority in all seven, and Chief Justice Shepard was in the majority in six of the seven. The three-justice majority that collaborated the most was Chief Justice Shepard, and Justices Dickson and Selby in four of the split opinions, which were all criminal opinions. (This is a

continuation of the dominant three-justice majority in 1995. Justices Shepard, Dickson and Selby collaborated in five of the 12 split opinions in 1995.) Justice Sullivan was not included in any three-justice majority in 1996.

Table E-1. As discussed earlier, the court's mandatory caseload has again dominated the court's docket, which reverses a four-year trend that started in 1992. Interestingly, in 1996 the court affirmed the highest percent of cases since 1991 when it affirmed 59% of its cases. In 1996, 56.8% of the cases were affirmed and 43.1% were reversed. This is likely because in 1996 the court's docket had such a high percentage of non-divisive mandatory cases in which the court affirmed the trial court's decision. In cases the court accepts for transfer, which are discretionary, the court has a much higher reversal rate. In 1996, the reversal rate was 74.1% for civil transfer cases and 61.9% for criminal transfer cases. The court's affirmance rate for direct-mandatory criminal appeals jumped from 66% in 1995 to 82.7% in 1996.

Table E-2. This is a new Table for this study. It examines the disposition of petitions to transfer by the court each year. This is the portion of the court's docket that is totally discretionary. In 1996, the court disposed of 807 petitions to transfer; 364 civil, 423 criminal and 20 juvenile. The court granted 32 (8.8%) of the civil petitions, 21 (5.0%) of the criminal petitions and one (5.0%) of the juvenile petitions. A total of 54 (6.7%) petitions were granted and 753 (93.3%) were denied or dismissed. In addition, of the petitions that were denied (753), 129 (5.8%) of those petitions received at least one or two votes by members of the court to grant transfer even though the petition was ultimately denied by vote of the other members.

Table F. As for selected subject areas, the court continued its strong interest in the Indiana Constitution with nine opinions in this area of law, after dropping to only three last year. The court also showed an interest in environmental law, disposing of four such cases. The court ruled upon five death penalty cases, affirming four and reversing one.

TABLE A
OPINIONS^a

	OPINIONS OF COURT ^b			CONCURRENCES ^c			DISSENTS ^d		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	23	10	33	2	2	4	1	3	4
DeBruler, J. ^e	4	4	8	2	1	3	5	1	6
Dickson, J.	11	8	19	0	2	2	4	4	8
Sullivan, J. ^e	16	11	27	10	4	14	4	6	10
Selby, J. ^e	17	4	21	3	0	3	2	2	4
Boehm, J. ^e	8	4	12	0	0	0	1	0	1
Per Curiam	0	41	41						
Total	79	82	161	17	9	26	17	16	33

^a These are opinions and votes on opinions by each justice and in per curiam in the 1996 term. The Indiana Supreme Court is unique because it is the only supreme court to assign each case to a justice by a consensus method. Cases are distributed by a consensus of the justices in the majority on each case either by volunteering or nominating writers. The chief justice does not have any power to control the assignments other than as a member of the majority. See Melinda Gann Hall, *Opinion Assignment Procedures and Conference Practices in State Supreme Courts*, 73 JUDICATURE 209 (1990). The order of discussion and voting is started by the most junior member of the court and follows reverse seniority. See *id.* at 210.

^b This is only a counting of full opinions written by each justice. Plurality opinions that announce the judgment of the court are counted as opinions of the court. It includes opinions on civil, criminal, and original actions. It does not include rehearing opinions nor 20 orders handed down on disciplinary matters. The court handed down 59 orders or opinions on attorney disciplinary matters and one opinion or order on a judicial disciplinary matter. Of those 60 orders or opinions, 38 were handed down as per curiam opinions and 12 were signed by individual justices. Also, the following six miscellaneous cases are not included in this Table: *Bryant v. State*, 1996 WL 274119 (Ind. 1996) (misc. order clarifying prior opinion); *Walker v. State*, 1996 WL 367638 (Ind. 1996) (unpublished memorandum opinion); *Meyer v. Bierdon*, 667 N.E.2d 752 (Ind. 1996) (appeal dismissed because parties settled litigation); *Ross v. Delaware County Dep't of Pub. Welfare*, 667 N.E.2d 182 (Ind. 1996) (tie vote on petition to transfer); *Childers v. State*, 668 N.E.2d 1216 (Ind. 1996) (dissent from denial of transfer); *In re Appointment of Temp. Prosecuting Attorney in Knox County*, 671 N.E.2d 420 (Ind. 1996) (appointment of Temporary Prosecuting Attorney in Knox County).

^c This category includes both written concurrences and votes to concur in result only.

^d This category includes both written dissents and votes to dissent without opinion. Opinions concurring in part and dissenting in part or opinions concurring in part only and differing on another issue are counted as dissents.

^e While a member of the court in 1996, Justice DeBruler did not participate in one decision: *Bell v. Clark*, 670 N.E.2d 1290 (Ind. 1996). Justice Sullivan did not participate in one decision: *Ross v. Delaware County Dep't of Pub. Welfare*, 667 N.E.2d 182 (Ind. 1996). Justice Selby did not participate in six decisions: *Town Board of Orland v. Greenfield Mills, Inc.*, 663 N.E.2d 523 (Ind. 1996), *Medical Licensing Bd. v. Provisor*, 669 N.E.2d 406 (Ind. 1996), *In re Danks*, 669 N.E.2d 992 (Ind. 1996), *In re Brown*, 669 N.E.2d 989 (Ind. 1996), *In re Colman*, 669 N.E.2d 1390 (Ind. 1996) and *In re Whitesell*, 670 N.E.2d 890 (Ind. 1996). Justice Boehm did not participate in two decisions: *City of Lawrence v. State ex rel. IHT Capital*, 670 N.E.2d 8 (Ind. 1996) and *Boehm v. Town of St. John*, 675 N.E.2d 318 (Ind. 1996). Justice Boehm became a member of the court on August 8, 1996, taking the place of Justice DeBruler who retired. In 1996, Justice Boehm participated in 64 opinions or orders.

TABLE B-1
VOTING ALIGNMENTS FOR CIVIL CASES^f
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES

		Shepard	DeBruler	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		23	31	28	29	11
	S		0	1	1	0	0
	D	---	23	32	29	29	11
	N		28	40	40	38	11
	P		82.1%	80.0%	72.5%	76.3%	100%
DeBruler, J.	O	23		24	19	20	
	S	0		0	1	0	
	D	23	---	24	20	20	---
	N	28		28	28	26	
	P	82.1%		85.7%	71.4%	76.9%	
Dickson, J.	O	31	24		30	33	11
	S	1	0		0	0	0
	D	32	24	---	30	33	11
	N	40	28		40	38	11
	P	80.0%	85.7%		75.0%	86.8%	100%
Sullivan, J.	O	28	19	30		28	11
	S	1	1	0		1	0
	D	29	20	30	---	29	11
	N	40	28	40		38	11
	P	72.5%	71.4%	75.0%		76.3%	100%
Selby, J.	O	29	20	33	28		11
	S	0	0	0	1		0
	D	29	20	33	29	---	11
	N	38	26	38	38		11
	P	76.3%	76.9%	86.8%	76.3%		100%
Boehm, J.	O	11		11	11	11	
	S	0		0	0	0	
	D	11	---	11	11	11	---
	N	11		11	11	11	
	P	100%		100%	100%	100%	

^f This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only civil cases. For example, in the top set of numbers for Chief Justice Shepard, 23 is the number of times Chief Justice Shepard and Justice DeBruler agreed in a full majority opinion in a civil case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice

TABLE B-2
VOTING ALIGNMENTS FOR CRIMINAL CASES
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES⁸

		Shepard	DeBruler	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		34	72	62	72	32
	S		0	0	0	1	0
	D	---	34	72	62	73	32
	N		45	79	79	79	34
	P		75.5%	91.1%	78.4%	92.4%	94.1%
DeBruler, J.	O	34		33	35	35	
	S	0		0	4	0	
	D	34	---	33	39	35	---
	N	45		45	45	45	
	P	75.5%		73.3%	86.6%	77.7%	
Dickson, J.	O	72	33		61	70	33
	S	0	0		0	0	0
	D	72	33	---	61	70	33
	N	79	45		79	79	34
	P	91.1%	73.3%		77.2%	88.6%	97.0%
Sullivan, J.	O	62	35	61		62	26
	S	0	4	0		2	0
	D	62	39	61	---	64	26
	N	79	45	79		79	34
	P	78.4%	86.6%	77.2%		81.0%	76.4%
Selby, J.	O	72	35	70	62		30
	S	1	0	0	2		0
	D	73	35	70	64	---	30
	N	79	45	79	79		34
	P	92.4%	77.7%	88.6%	81.0%		88.2%
Boehm, J.	O	32		33	26	30	
	S	0		0	0	0	
	D	32	---	33	26	30	---
	N	34		34	34	34	
	P	94.1%		97.0%	76.4%	88.2%	

⁸ This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only criminal cases. For example, in the top set of numbers for Chief Justice Shepard, 34 is the number of times Chief Justice Shepard and Justice DeBruler agreed in a full majority opinion in a criminal case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE B-3
VOTING ALIGNMENTS FOR ALL CASES
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES^h

		Shepard	DeBruler	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		57	104	91	102	43
	S		0	1	1	1	0
	D	---	57	105	92	103	43
	N		73	120	120	118	45
	P		78.0%	87.5%	76.6%	87.2%	95.5%
DeBruler, J.	O	57		57	54	55	
	S	0		0	5	0	
	D	57	---	57	59	55	---
	N	73		73	73	71	
	P	78.0%		78.0%	80.8%	77.4%	
Dickson, J.	O	104	57		92	104	44
	S	1	0		0	0	0
	D	105	57	---	92	104	44
	N	120	73		120	118	45
	P	87.5%	78.0%		76.6%	88.1%	97.7%
Sullivan, J.	O	91	54	92		91	37
	S	1	5	0		3	0
	D	92	59	92	---	94	37
	N	120	73	120		118	45
	P	76.6%	80.8%	76.6%		79.6%	82.2%
Selby, J.	O	102	55	104	91		41
	S	1	0	0	3		0
	D	103	55	104	94	---	41
	N	118	71	118	118		45
	P	87.2%	77.4%	88.1%	79.6%		91.1%
Boehm, J.	O	43		44	37	41	
	S	0		0	0	0	
	D	43	---	44	37	41	---
	N	45		45	45	45	
	P	95.5%		97.7%	82.2%	91.1%	

^h This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for all cases. For example, in the top set of numbers for Chief Justice Shepard, 57 is the total number of times Chief Justice Shepard and Justice DeBruler agreed in all full majority opinions written by the court in 1996. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice,

calculated by dividing “D” by “N.”

TABLE C

**UNANIMITY
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASESⁱ**

Unanimous ^j			Unanimous			Opinions			Total
			With Concurrence ^k			With Dissent			
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
49	25	74(64.9%)	12	3	15(13.2%)	14	11	25(21.9%)	114

ⁱ This Table tracks the number and percent of unanimous opinions among all opinions written. If, for example, only four justices participate and all concur, it is still considered unanimous. It also tracks the percent of overall opinions with concurrence and overall opinions with dissent.

^j A decision is considered unanimous only when all justices participating in the case voted to concur in the court's opinion as well as its judgment. When one or more justices concurred in the result but not in the opinion, the case is not considered unanimous.

^k A decision is listed in this column if one or more justices concurred in the result but not in the opinion of the court or wrote a concurrence, and there were no dissents.

TABLE D

3-2 DECISIONS¹

Justices Constituting the Majority	Number of Opinions ^m
1. Shepard, C.J., Dickson, J., Selby, J.	4
2. Shepard, C.J., DeBruler, J., Dickson, J.	1
3. Shepard, C.J., Dickson, J., Boehm, J.	1
4. DeBruler, J., Dickson, J., Selby, J.	1
Total ⁿ	7

¹ This Table concerns only decisions rendered by full opinion. An opinion is counted as a 3-2 decision if two justices voted to decide the case in a manner different from that of the majority of the court.

^m This column lists the number of times each three-justice group constituted the majority in a 3-2 decision.

ⁿ The 1996 term's 3-2 decisions were:

1. Shepard, C.J., Dickson, J., Selby, J.: *Fassinger v. State*, 666 N.E.2d 58 (Ind. 1996) (Shepard, C.J.); *Brown v. State*, 667 N.E.2d 1115 (Ind. 1996) (Shepard, C.J.); *Schnitz v. State*, 666 N.E.2d 919 (Ind. 1996) (Shepard, C.J.); *David v. State*, 669 N.E.2d 390 (Ind. 1996) (Selby, J.)

2. Shepard, C.J., DeBruler, J., Dickson, J.: *A Woman's Choice-East Side Women's Clinic v. Newman*, 671 N.E.2d 104 (Ind. 1996) (Shepard, C.J.)

3. Shepard, C.J., Dickson, J., Boehm, J.: *Spurlock v. State*, 675 N.E.2d 312 (Ind. 1996) (Boehm, J.)

4. DeBruler, J., Dickson, J., Selby, J.: *American States Ins. Co. v. Kiger*, 662 N.E.2d 945 (Ind. 1996) (DeBruler, J.)

TABLE E-1

DISPOSITION OF CASES REVIEWED BY TRANSFER
AND DIRECT APPEALS^o

	Reversed or Vacated ^p	Affirmed	Total
Civil Appeals Accepted for Transfer	20 (74.1%)	7 (25.9%)	27
Direct Civil Appeals	7 (70.0%)	3 (30.0%)	10
Criminal Appeals Accepted for Transfer	13 (61.9%)	8 (38.1%)	21
Direct Criminal Appeals	10 (17.2%)	48 (82.8%)	58
Total	50 (43.1%)	66 (56.8%)	116^q

^o Direct criminal appeals are cases in which the trial court imposed a sentence of greater than 50 years. See IND. CONST. art. 7, § 4. Thus, direct criminal appeals are those directly from the trial court. A civil appeal may also be direct from the trial court. See IND. APP. R. 4(A) and also pursuant to Rules of Procedure for Original Actions. All other Indiana Supreme Court opinions are accepted for transfer from the Indiana Court of Appeals. See IND. APP. R. 11(B). The court's transfer docket, especially civil cases, has substantially increased in the past five years, but declined significantly last year. See Chief Justice Randall T. Shepard, *Indiana Law, the Supreme Court, and a New Decade*, 24 IND. L. REV. 499 (1991).

^p Generally, the term "vacate" is used by the Indiana Supreme Court when it is reviewing a court of appeals opinion, and the term "reverse" is used when the court overrules a trial court decision. A point to consider in reviewing this Table is that the court technically "vacates" every court of appeals opinion that is accepted for transfer, but may only disagree with a small portion of the reasoning and still agree with the result. See IND. APP. R. 11(B)(3). As a practical matter, "reverse" or "vacate" simply represents any action by the court that does not affirm the trial court or court of appeals opinion.

^q This does not include 60 attorney and judicial discipline opinions; one writ of mandamus or prohibition; four opinions related to certified questions; nor six miscellaneous cases. These opinions did not reverse, vacate or affirm any other court's decision.

TABLE E-2

DISPOSITION OF PETITIONS TO TRANSFER
TO SUPREME COURT IN 1996^r

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil ^s	332 (91.2%)	32 (8.8%)	364
Criminal ^t	402 (95.0%)	21 (5.0%)	423
Juvenile ^u	19 (95.0%)	1 (5.0%)	20
Total	753 (93.3%)	54 (6.7%)	807

^r This Table analyzes the disposition of petitions to transfer by the court. See IND. APP. R. 11(B). This Table is compiled from information provided by the Indiana Supreme Court in a report entitled, "Grant and Denial of Cases in Which Transfer to the Indiana Supreme Court Has Been Sought."

^s This also includes petitions to transfer in tax cases and worker's compensation cases.

^t This also includes petitions to transfer in post-conviction relief cases.

^u This includes civil and criminal cases involving juveniles.

TABLE F

SUBJECT AREAS OF SELECTED DISPOSITIONS
WITH FULL OPINIONS^v

Original Actions	Number
• Certified Questions	4 ^w
• Writs of Mandamus or Prohibition	1 ^x
• Attorney and Judicial Discipline	60 ^y
Criminal	
• Death Penalty	5 ^z
• Fourth Amendment or Search and Seizure	1 ^{aa}
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	1 ^{bb}
Trusts, Estates or Probate	1 ^{cc}
Real Estate or Real Property	4 ^{dd}
Landlord-Tenant	0
Divorce or Child Support	3 ^{ee}
Children in Need of Services (CHINS)	0
Paternity	2 ^{ff}
Product Liability or Strict Liability	1 ^{gg}
Negligence or Personal Injury	5 ^{hh}
Indiana Tort Claims Act	1 ⁱⁱ
Statute of Limitations or Statute of Repose	0
Tax, Department of State Revenue, or State Board of Tax Commissioners	4 ^{jj}
Contracts	7 ^{kk}
Corporate Law or the Indiana Business Corporation Law	1 ^{ll}
Uniform Commercial Code	0
Banking Law	0
Employment Law	4 ^{mn}
Environmental Law	4 ⁿⁿ
First Amendment, Open Door Law, or Public Records Law	0
Indiana Constitution	9 ^{oo}

^v This Table is designed to provide a general idea of the specific subject areas upon which the court ruled or discussed and how many times it did so in 1996. It is also a quick-reference guide to court rulings for practitioners in specific areas of the law. The numbers corresponding to the areas of law reflect the number of cases in which the court substantively discussed legal issues about these subject areas. A citation list is provided in a footnote for each area.

^w *Shirley v. Russell*, 663 N.E.2d 532 (Ind.1996); *A Woman's Choice-East Side Women's Clinic v. Newman*, 671 N.E.2d 104 (Ind. 1996); *Citizens Nat'l Bank v. Foster*, 668 N.E.2d 1236 (Ind. 1996); *Cox v. Worker's Compensation Bd.*, 675 N.E.2d 1053 (Ind. 1996).

^x *In re Mandate of Funds in the Harrison Superior Court*, 674 N.E.2d 555 (Ind. 1996).

^y *In re Vested*, 660 N.E.2d 1024 (Ind. 1996); *In re Sanders*, 674 N.E.2d 165 (Ind. 1996); *In re Bibbins*, 661 N.E.2d 825 (Ind. 1996); *In re Cohen*, 669 N.E.2d 986 (Ind. 1996); *In re Danks*, 669 N.E.2d 992 (Ind. 1996); *In re Colman*, 669 N.E.2d 1390 (Ind. 1996); *In re Kinney*, 670 N.E.2d 1294 (Ind. 1996); *In re Contempt of the Supreme Court*, 673 N.E.2d 755 (Ind. 1996); *In re Burton*, 674 N.E.2d 1319 (Ind. 1996); *In re Lahey*, 660 N.E.2d 1022 (Ind. 1996); *In re Thrasher*, 661 N.E.2d 546 (Ind. 1996); *In re Skozen*, 660 N.E.2d 1377 (Ind. 1996); *In re Kinkead*, 661 N.E.2d 823 (Ind. 1996); *In re Horine*, 661 N.E.2d 1206 (Ind. 1996); *In re Lakin*, 662 N.E.2d 185 (Ind. 1996); *In re Barratt*, 663 N.E.2d 536 (Ind. 1996); *In re Dinius*, 663 N.E.2d 770 (Ind. 1996); *In re Myers*, 663 N.E.2d 771 (Ind. 1996); *In re McBride*, 663 N.E.2d 775 (Ind. 1996); *In re Cushing*, 663 N.E.2d 776 (Ind. 1996); *In re Behrmann*, 664 N.E.2d 730 (Ind. 1996); *In re Comstock*, 664 N.E.2d 1165 (Ind. 1996); *In re Higginson*, 664 N.E.2d 732 (Ind. 1996); *In re Moore*, 665 N.E.2d 40 (Ind. 1996); *In re Stanton*, 664 N.E.2d 1175 (Ind. 1996); *In re Makin*, 664 N.E.2d 1175 (Ind. 1996); *In re Haecker*, 664 N.E.2d 1176 (Ind. 1996); *In re Sims*, 665 N.E.2d 584 (Ind. 1996); *In re Clifford*, 665 N.E.2d 907 (Ind. 1996); *In re Chavez*, 666 N.E.2d 399 (Ind. 1996); *In re Sexson*, 666 N.E.2d 402 (Ind. 1996); *In re Brown*, 669 N.E.2d 989 (Ind. 1996); *In re Kight*, 672 N.E.2d 411 (Ind. 1996); *In re Catt*, 672 N.E.2d 410 (Ind. 1996); *In re Redding*, 672 N.E.2d 76 (Ind. 1996); *In re Woolbert*, 672 N.E.2d 412 (Ind. 1996); *In re Wilson*, 672 N.E.2d 931 (Ind. 1996); *In re Lucas*, 672 N.E.2d 934 (Ind. 1996); *In re Jordan*, 673 N.E.2d 471 (Ind. 1996); *In re Stanley*, 673 N.E.2d 755 (Ind. 1996); *In re Toth*, 672 N.E.2d 1362 (Ind. 1996); *In re Whitesell*, 670 N.E.2d 890 (Ind. 1996); *In re Brodeur*, 674 N.E.2d 164 (Ind. 1996); *In re Maternowski*, 674 N.E.2d 1287 (Ind. 1996); *In re Martenet*, 674 N.E.2d 549 (Ind. 1996); *In re Grimm*, 674 N.E.2d 551 (Ind. 1996); *In re Maley*, 674 N.E.2d 544 (Ind. 1996); *In re Love*, 674 N.E.2d 547 (Ind. 1996); *In re Everitt*, 667 N.E.2d 183 (Ind. 1996); *In re Kristoff*, 667 N.E.2d 183 (Ind. 1996); *In re McCarthy*, 668 N.E.2d 256 (Ind. 1996); *In re Weir*, 668 N.E.2d 679 (Ind. 1996); *In re Pope*, 667 N.E.2d 1117 (Ind. 1996); *In re Nienaber*, 667 N.E.2d 751 (Ind. 1996); *In re McKinney*, 666 N.E.2d 919 (Ind. 1996); *In re Wray*, 666 N.E.2d 920 (Ind. 1996); *In re Newman*, 666 N.E.2d 1236 (Ind. 1996); *In re Woods*, 660 N.E.2d 340 (Ind. 1996); *In re Norman*, 659 N.E.2d 1046 (Ind. 1996).

^z *Holmes v. State*, 671 N.E.2d 841 (Ind. 1996), affirming (direct appeal); *Schiro v. State*, 669 N.E.2d 1357 (Ind. 1996), overruling (post conviction relief); *Williams v. State*, 669 N.E.2d 1372 (Ind. 1996), affirming (direct appeal); *Peterson v. State*, 674 N.E.2d 528 (Ind. 1996), affirming (direct appeal); *Lambert v. State*, 675 N.E.2d 1060 (Ind. 1996), affirming (petition for rehearing).

^{aa} *Peterson v. State*, 674 N.E.2d 528 (Ind. 1996).

^{bb} *American States Ins. Co. v. Kiger*, 662 N.E.2d 945 (Ind. 1996).

^{cc} *Hayworth v. Schilli Leasing, Inc.*, 669 N.E.2d 165 (Ind. 1996).

^{dd} *Town Bd. of Orland v. Greenfield Mills, Inc.*, 663 N.E.2d 523 (Ind. 1996); *American States Ins. v. Kiger*, 662 N.E.2d 945 (Ind. 1996); *Wolvos v. Meyer*, 668 N.E.2d 671 (Ind. 1996); *Noblesville Redev. v. Noblesville Assoc. Ltd. Partnership*, 674 N.E.2d 558 (Ind. 1996).

^{ee} *Carmichael v. Siegel*, 670 N.E.2d 890 (Ind. 1996); *Voigt v. Voigt*, 670 N.E.2d 1271 (Ind. 1996); *Quillen v. Quillen*, 671 N.E.2d 98 (Ind. 1996).

^{ff} *Humbert v. Smith*, 664 N.E.2d 356 (Ind. 1996); *K.S. v. R.S.*, 669 N.E.2d 399 (Ind. 1996).

^{gg} *Hayworth v. Schilli Leasing, Inc.*, 669 N.E.2d 165 (Ind. 1996).

^{hh} *Shirley v. Russell*, 663 N.E.2d 532 (Ind. 1996); *Tibbs v. Huber, Hunt & Nichols, Inc.*, 668 N.E.2d 248 (Ind. 1996); *Butler v. City of Indianapolis*, 668 N.E.2d 1227 (Ind. 1996); *Polick v. Indiana Dep't of Highways*, 668 N.E.2d 682 (Ind. 1996); *Blake v. Calumet Constr. Corp.*, 674 N.E.2d 167 (Ind. 1996).

ⁱⁱ *Polick v. Indiana Dep't of Highways*, 668 N.E.2d 682 (Ind. 1996).

^{jj} *Fassinger v. State*, 666 N.E.2d 58 (Ind. 1996); *State v. Hoovler*, 668 N.E.2d 1229 (Ind. 1996); *State v. Sproles*, 672 N.E.2d 1353 (Ind. 1996); *Boehm v. Town of St. John*, 676 N.E.2d 318 (Ind. 1996).

^{kk} *American States Ins. v. Kiger.*, 662 N.E.2d 945 (Ind. 1996); *Seymour Mfg. Co. v. Commercial Union Ins. Co.*, 665 N.E.2d 891 (Ind. 1996); *Wolvos v. Meyer*, 668 N.E.2d 671 (Ind. 1996); *Rider v. Rider*, 669 N.E.2d 160 (Ind. 1996); *Wior v. Anchor Indus., Inc.*, 669 N.E.2d 172 (Ind. 1996); *Noblesville Redev. Comm'n v. Noblesville Assoc. Ltd. Partnership*, 674 N.E.2d 558 (Ind. 1996); *OEC-Diasonics, Inc. v. Major*, 674 N.E.2d 1312 (Ind. 1996).

^{ll} *Continental Basketball Ass'n v. Ellenstein Enters., Inc.*, 669 N.E.2d 134 (Ind. 1996).

^{mm} *Howard v. Incorporated Town of N. Judson*, 661 N.E.2d 549 (Ind. 1996); *Indiana Civil Rights Comm'n v. Delaware County Circuit Court*, 668 N.E.2d 1219 (Ind. 1996); *Rynerson v. City of Franklin*, 669 N.E.2d 964 (Ind. 1996); *Wior v. Anchor Indus. Inc.*, 669 N.E.2d 172 (Ind. 1996).

ⁿⁿ *American States Ins. Co. v. Kiger*, 662 N.E.2d 945 (Ind. 1996); *Seymour Mfg. Co. v. Commercial Union Ins. Co.*, 665 N.E.2d 891 (Ind. 1996); *Town Bd. of Orland v. Greenfield Mills, Inc.*, 663 N.E.2d 523 (Ind. 1996); *Peabody Coal Co. v. Indiana Dep't of Natural Resources*, 664 N.E.2d 1171 (Ind. 1996).

^{oo} *Howard v. Incorporated Town of N. Judson*, 661 N.E.2d 549 (Ind. 1996); *Whittington v. State*, 669 N.E.2d 1363 (Ind. 1996); *Rynerson v. City of Franklin*, 669 N.E.2d 964 (Ind. 1996); *Brown v. State*, 671 N.E.2d 401 (Ind. 1996); *State v. Hoovler*, 668 N.E.2d 1229 (Ind. 1996); *Citizens Nat'l Bank of Evansville v. Foster*, 668 N.E.2d 1236 (Ind. 1996); *State v. Sproles*, 672 N.E.2d 1353 (Ind. 1996); *Boehm v. Town of St. John*, 675 N.E.2d 318 (Ind. 1996); *Bayh v. Indiana State Bldg. & Constr. Trades Council*, 674 N.E.2d 176 (Ind. 1996).

