

# AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2002\*

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The constitutional change that occurred in 2001 in the court's jurisdiction over mandatory criminal appeals fulfilled its purpose in 2002. It was expected that this change would open the court to "people with ordinary family and business legal problems" and allow the court to take a more significant role in providing law-giving criminal opinions.<sup>1</sup> For the first time in six years, mandatory criminal appeals did not constitute the majority of the court's docket.<sup>2</sup> The court's docket was freed to consider more family and business legal

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\* 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*.

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1. Randall T. Shepard, *Why Changing the Supreme Court's Mandatory Jurisdiction Is Critical to Lawyers and Clients*, 33 IND. L. REV. 1101, 1104 (2001).

2.

	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
1997	100 (58%)	71 (42%)	171
1998	84 (63%)	50 (37%)	134
1999	101 (59%)	69 (41%)	170
2000	132 (69%)	60 (31%)	192
2001	97 (62%)	59 (38%)	156
2002	76 (45%)	92 (55%)	168

problems in 2002. Generally, the number of civil appeals granted transfer increased to 53 in 2002. In 2001 and 2000, only 34 and 43 civil appeals were granted transfer, respectively. In fact, the court decided a record number of divorce, child support, and paternity actions in 2002.

The court adopted new procedures in 2002 likely intended to help open the court to “people with ordinary family and business legal problems.”<sup>3</sup> First, the court began scheduling oral arguments in all civil cases granted transfer in 2002.<sup>4</sup> This signals a new focus on civil issues that previously were crowded-out of the court’s docket by the large number of mandatory appeals. Civil appeals granted transfer by the court generally involve novel and/or significant questions of law. The court has also adopted the use of published orders to correct lower courts’ decisions without a full opinion. The court issued a published order reversing the court of appeals’ decision upholding a criminal sentence noting that decision was inconsistent with prior jurisprudence.<sup>5</sup> Similarly, in *Fight v. State*,<sup>6</sup> the court issued an order reversing a court of appeals opinion for upholding a sentence that was inconsistent with the statutory limitation on consecutive sentences.<sup>7</sup> Finally, the court issued an order reversing the court of appeals decision in *Oxley v. Matillo*,<sup>8</sup> based on the court’s decision in *Ray-Hayes v. Heinemann*.<sup>9</sup> The use of orders allows the court to correct legal errors made by lower courts without the necessity of the attention required of a full opinion thereby reserving more time to focus on cases with novel and/or significant legal questions.

The trend identified in last year’s Article toward less consensus among the justices continued this year. Although the percentage of unanimous decisions was higher than in 2001, the number of justices dissenting from the majority position increased to 23.3% of all decisions. The number of split (3-2) decisions by the court remained at the high levels experienced in 2001. The court issued only 9 split decisions in 1999, 15 split decisions in 2000, but 26 split decisions in 2002 and 27 split decisions in 2001.

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

**Table A.** In 2002, the supreme court issued 165 opinions that were authored by an individual justice. This is a sharp decrease from previous years. In 2001, the court issued 187 opinions authored by an individual justice and in 2000 it issued 192 opinions. Those who predicted the change in the court’s mandatory jurisdiction over criminal appeals would allow more civil cases to be heard by

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3. See *supra* note 1.

4. George T. Patton, Jr., *Appellate Civil Case Law Update*, RES GESTAE, Nov. 2002, at 19.

5. *Hancock v. State*, 768 N.E.2d 880 (Ind. 2002).

6. 768 N.E.2d 881 (Ind. 2002).

7. The court of appeals decided that the limitation on consecutive sentences did not apply because the defendant’s crime resulted in “serious bodily injury,” relying on *Greer v. State*, 684 N.E.2d 1140 (1997). The court, however, reversed, noting that the “serious bodily injury” language was repealed and replaced with a statutory list which did not include the defendant’s crime.

8. 747 N.E.2d 1179 (Ind. Ct. App. 2001).

9. 760 N.E.2d 172 (Ind. 2002).

the court were vindicated in 2002. Of the 165 opinions issued in 2002, 31.6% (60) were civil opinions. This is an increase from 2001 when only 23% (49) of the opinions issued by individual justices were civil cases. Opinions resolving direct criminal appeals initiated before the Indiana Constitution was amended (to require direct appeals only in death penalty cases) tapered to a trickle by the last quarter of 2002. Next year will be the first full year reflecting the full impact of the amendment to the Indiana Constitution.

Chief Justice Shepard, issuing 42 opinions, authored the most opinions, beating out even Justice Boehm (authoring 36 opinions) who has held this distinction for the 3 previous years. The court as a whole issued 25 per curiam opinions—24 civil and 1 criminal. Almost all 24 civil opinions were attorney discipline matters. This is about the same as the 23 civil per curiam opinions decided in 2001.

Continuing the trend of increases in dissents identified by this Article in 2001, the court again increased its dissents to 61. For comparison purposes, the court issued 56 dissents in 2001, 42 dissents in 2000 and 38 dissents in 1999. Justice Sullivan returned as the justice with the greatest number of dissents, drafting 16 dissents. Justice Sullivan had the least total dissents in 2001 but led the court with the highest number of dissents in 2000, 1999, 1998 and 1997.

**Table B-1.** For 2002, the authors of this Article opted to amend this table. In previous years, attorney discipline cases were not counted. As a result of the court's shift to resolve more attorney discipline cases by orders, the attorney discipline cases the court is resolving in opinions tend to involve more significant and/or controversial decisions that provide significant insight into the agreement of the justices. For this reason, Table B-1 now incorporates all attorney discipline cases not resolved by order.

For civil cases, Justices Shepard and Sullivan were the two justices most aligned at 85.4%. Justices Shepard and Boehm were next at 82.5%. Justices Dickson and Boehm were the least aligned at 67.5%. Chief Justice Shepard was the most aligned with other justices, and Justice Dickson was the least aligned.

**Table B-2.** For criminal cases, Chief Justice Shepard and Justice Sullivan are the most aligned pair of justices—in agreement 92.1% of the time. Justices Sullivan and Dickson were the least aligned at 78.4%. As for criminal cases, Justice Shepard was the most aligned with his fellow justices.

**Table B-3.** For all cases, Chief Justice Shepard and Justice Sullivan were the two justices most aligned at 90.5%. The two least aligned justices, the same as last year, were Justices Sullivan and Dickson at 76.1%.

Overall, Chief Justice Shepard was the most aligned with his fellow justices, and Justice Dickson was the least aligned.

**Table C.** The court's unanimity increased from 69.1% in 2001 to 74.2% in 2002. The percentage of unanimous cases in 2002 compares similarly with that of 2000 and 1999 (81.3% and 72.8%, respectively). However, the percentage of dissents increased substantially again in 2002 to 23.2%. The percentage of

dissents in 2001 was 18.5%. Cases decided in 2000 and 1999 drew dissents in only 12.4% of the decisions. This continues to suggest that as the justices are freed from mandatory criminal appeals (which often involve similar questions that have previously been decided by the court) they are facing issues involving more controversy and novel questions in Indiana law.

**Table D.** Table D, more than any other table, again demonstrates the increased divisions among the justices. The number of 3-2 split decisions remained at the high level experienced in 2001. This year, the court issued 26 split decisions. Last year there were 27 split decisions. By comparison, the court issued only 15 and 9 split decisions in 2000 and 1999, respectively. Chief Justice Shepard was in the majority in the most number of split opinions. He was in the majority in 19 of the 26 split opinions.

**Table E-1.** The court accepted substantially more civil appeals for review in 2002. In 2001, 34 civil appeals were granted transfer. In 2002, 53 civil appeals were granted transfer. Similarly, more non-mandatory criminal appeals were granted this year—39 versus 25 in 2001. The statistics in Table E-1 vindicate the change in the court's jurisdiction over direct criminal appeals. At least one purpose of a "court of last resort" is to ensure that the important legal issues confronted by litigants are correctly resolved by lower courts. The court's authority to determine whether to accept non-mandatory appeals helps promote this goal. For example, non-mandatory civil appeals were reversed 86.7% and non-mandatory criminal appeals were reversed 74.4% of the time in 2002. In marked contrast, direct criminal appeals were reversed only 30% of the time in 2002. The change in the court's mandatory jurisdiction over direct criminal appeals (now limited only to cases where the sentence is death) is reducing the number of mandatory appeals, therefore, freeing the court's docket to address cases requiring the court's guidance. For the first time in many years, mandatory criminal appeals did not constitute more than half of the court's docket.

Overall, the court affirmed cases 40.4% of the time. This high percentage was driven by the large percentage of mandatory criminal appeals affirmed. In contrast, civil appeals were affirmed only 13.3% of the time and nonmandatory criminal appeals were affirmed only 25.6% of the time. The percentage of cases affirmed by the court declined this year from 2001 where the court affirmed 55.8% of the time. This is directly attributable to the decrease in mandatory criminal appeals on the court's docket.

**Table E-2.** Expectations were high that the change in the court's mandatory jurisdiction would lead to an increase in the number of civil petitions granted transfer. Those expectations were borne out this year. The number of civil petitions granted transfer by the court increased to 59 in 2002, as compared to 34 in 2001. However, this increase should be kept in perspective. In 2000, 61 cases were accepted for transfer. A civil petition to transfer stood about a 23.4% chance of being granted, and a criminal petition stood about a 23% chance of being granted. Juvenile petitions to transfer stood a 7.4% chance of being granted.

**Table F.** Table F demonstrates that the change in the court's mandatory jurisdiction over direct criminal appeals has opened the doors to a wider variety of civil actions being brought before the court. This is particularly true in the areas of divorce, child support, and paternity, where the court decided 7 and 2 cases, respectively. In 2000, the court issued no decisions involving divorce or paternity, and in 2001 there were only 3 decisions involving divorce or child support questions. The court continues its vigorous interest in the Indiana Constitution with 29 opinions involving such issues. The court also decided 7 death penalty cases, affirming 6 and reversing 1 such case.

**TABLE A**  
**OPINIONS<sup>a</sup>**

	OPINIONS OF COURT <sup>b</sup>			CONCURRENCES <sup>c</sup>			DISSENTS <sup>d</sup>		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	22	20	42	4	2	6	2	3	5
Dickson, J. <sup>e</sup>	28	8	36	3	0	3	4	9	13
Sullivan, J. <sup>e</sup>	22	6	28	3	1	4	9	7	16
Boehm, J. <sup>e</sup>	18	19	36	4	2	6	5	8	13
Rucker, J. <sup>e</sup>	15	7	22	3	1	4	8	6	14
Per Curiam	1	24	25						
Total	106	84	190	17	6	23	28	33	61

<sup>a</sup> These are opinions and votes on opinions by each justice and in per curiam in the 2002 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.

<sup>b</sup> 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.

<sup>c</sup> This category includes both written concurrences, joining in written concurrence and votes to concur in result only.

<sup>d</sup> 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.

<sup>e</sup> Justices declined to participate in the following causes: *State Bd. of Tax Comm'rs v. New Castle Lodge # 147*, 765 N.E.2d 1257 (Ind. 2002) (Boehm, J. not participating); *Koorsen Protective Servs., Inc. v. Carlisle*, 762 N.E.2d 459 (Ind. 2002) (Sullivan, J. not participating); and *Swaynie v. State*, 762 N.E.2d 112 (Ind. 2002) (Dickson, J. not participating).

**TABLE B-1**  
**VOTING ALIGNMENTS FOR CIVIL CASES<sup>f</sup>**

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		67	67	65	68
	S		2	3	0	0
	D	---	69	70	65	68
	N		83	83	82	83
	P		83.1%	83.1%	79.3%	81.9%
Dickson, J.	O	67		63	65	70
	S	2		0	1	3
	D	69	---	63	66	73
	N	83		83	82	83
	P	83.1%		75.7%	80.5%	88.0%
Sullivan, J.	O	67	63		60	65
	S	3	0		2	2
	D	70	63	---	62	67
	N	83	83		81	82
	P	83.1%	75.7%		76.5%	81.7%
Boehm, J.	O	65	65	60		66
	S	0	1	2		2
	D	65	66	62	---	68
	N	82	82	81		82
	P	79.3%	80.5%	76.5%		82.9%
Rucker, J.	O	68	70	65	66	
	S	0	3	2	2	
	D	68	73	67	68	---
	N	83	83	82	82	
	P	81.9%	88.0%	81.7%	82.9%	

<sup>f</sup> 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, 67 is the number of times Chief Justice Shepard and Justice Dickson 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 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-2**  
**VOTING ALIGNMENTS FOR CRIMINAL CASES<sup>§</sup>**

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		96	93	97	95
	S		1	0	0	0
	D	—	97	93	98	95
	N		102	103	103	103
	P		95.1%	90.3%	95.1%	92.2%
Dickson, J.	O	96		88	91	90
	S	1		0	1	2
	D	97	---	88	92	92
	N	102		103	102	102
	P	95.1%		85.4%	90.2%	90.2%
Sullivan, J.	O	93	88		91	89
	S	0	0		1	2
	D	93	88	---	92	91
	N	103	103		103	103
	P	90.3%	85.4%		89.3%	88.3%
Boehm, J.	O	97	91	91		91
	S	0	1	1		1
	D	98	92	92	—	92
	N	103	102	103		103
	P	95.1%	90.2%	89.3%		89.3%
Rucker, J.	O	95	90	89	91	
	S	0	2	2	1	
	D	95	92	91	92	---
	N	103	102	103	103	
	P	92.2%	90.2%	88.3%	89.3%	

<sup>§</sup> 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, 96 is the number of times Chief Justice Shepard and Justice Dickson 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<sup>h</sup>**

	Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O	143	158	150	152
	S	4	5	3	1
	D	---	163	153	153
	N	182	180	180	180
	P	80.7%	90.5%	85.0 %	85.0 %
Dickson, J.	O	143	137	137	139
	S	4	0	8	5
	D	147	---	145	144
	N	182	180	180	180
	P	80.7 %	76.1%	80.5 %	80.0 %
Sullivan, J.	O	158	137	141	146
	S	5	0	3	3
	D	163	137	---	149
	N	179	180	178	178
	P	90.5%	76.1 %	80.9 %	83.7 %
Boehm, J.	O	150	137	141	140
	S	3	8	3	5
	D	153	145	---	145
	N	180	180	178	178
	P	85.0%	80.5 %	80.9%	81.5 %
Rucker, J.	O	152	139	146	150
	S	1	5	3	5
	D	153	144	145	--
	N	180	180	178	
	P	85.0%	80.0%	83.7 %	81.5%

<sup>h</sup> 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, 143 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 2002. 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 CASES<sup>i</sup>**

Unanimous <sup>j</sup>			Unanimous with Concurrence <sup>k</sup>			Opinions with Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
82	60	144 (74.2%)	5	0	5 (2.6%)	22	23	45 (23.2%)	194

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<sup>i</sup> 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.

<sup>j</sup> 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.

<sup>k</sup> 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 DECISIONS<sup>1</sup>**

<b>Justices Constituting the Majority</b>	<b>Number of Opinions<sup>m</sup></b>
1. Shepard, C.J., Dickson, J., Boehm, J.	4
2. Shepard, C.J., Dickson, J., Rucker, J.	5
3. Shepard, C.J., Sullivan, J., Boehm, J.	4
4. Shepard, C.J., Sullivan, J., Rucker, J.	2
5. Shepard, C.J., Dickson, J., Sullivan, J.	3
6. Shepard, C.J., Boehm, J., Rucker, J.	1
7. Boehm, J., Sullivan, J., Rucker, J.	1
8. Boehm, J., Dickson, J., Rucker, J.	2
9. Dickson, J., Sullivan, J., Rucker, J.	2
10. Boehm, J., Rucker, J.	1
11. Sullivan, J., Rucker, J.	1
Total <sup>n</sup>	26

<sup>1</sup> 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.

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

<sup>n</sup> The 2001 term's 3-2 decisions were:

1. Shepard, C. J., Dickson, J., Boehm, J.: *French v. State*, 778 N.E.2d 816 (Ind. 2002) (Boehm, J.); *In re Williams*, 764 N.E.2d 613 (Ind. 2002) (per curiam); *Tincher v. Davidson*, 762 N.E.2d 1221 (Ind. 2002) (Dickson, J.); and *Spivey v. State*, 761 N.E.2d 831 (Ind. 2002) (Dickson, J.).

2. Shepard, C.J., Dickson, J., Rucker, J.: *In re Wilkins*, 777 N.E.2d 714 (Ind. 2002) (per curiam); *Saylor v. State*, 765 N.E.2d 535 (Ind. 2002) (Rucker, J.); *Vestal v. State*, 773 N.E.2d 805 (Ind. 2002) (Dickson, J.); *Bostick v. State*, 773 N.E.2d 266 (Ind. 2002) (Dickson, J.); and *Vadas v. Vadas*, 762 N.E.2d 1234 (Ind. 2002) (Shepard, C.J.).

3. Shepard, C.J., Sullivan, J., Boehm, J.: *In re Allen*, Cause No. 64S00-9907-DI-401, 2002 WL 31053870 (Ind. 2002) (per curiam); *Turley v. Hyten*, 772 N.E.2d 993 (Ind. 2002) (Sullivan, J.); *Ind. High Sch. Athletic Assoc., Inc. v. Martin*, 765 N.E.2d 1238 (Ind. 2002) (Sullivan, J.); and *Love v. State*, 761 N.E.2d 806 (Ind. 2002) (Sullivan, J.).

4. Shepard, C.J., Sullivan, J., Rucker, J.: *Guyton v. State*, 771 N.E.2d 1141 (Ind. 2002) (Shepard, C.J.); and *State v. Adams*, 762 N.E.2d 728 (Ind. 2002) (Sullivan, J.).

5. Shepard, C.J., Dickson, J., Sullivan, J.: *In re Webster*, 776 N.E.2d 1210 (Ind. 2002) (per curiam); *Healthscript, Inc. v. State*, 770 N.E.2d 810 (Ind. 2002) (Sullivan, J.); and *Linke v. Northwestern Sch. Corp.*, 763 N.E.2d 972 (Ind. 2002) (Sullivan, J.).

6. Shepard, C.J., Boehm, J., Rucker, J.: *Hernandez v. State*, 761 N.E.2d 845 (Ind. 2002) (Boehm, J.)

7. Boehm, J., Sullivan, J., Rucker, J.: *Azania v. State*, 778 N.E.2d 1253 (Ind. 2002) (Boehm, J.).

8. Boehm, J., Dickson, J., Rucker, J.: *Ray-Hayes v. Heinemann*, 768 N.E.2d 899 (Ind. 2002) (Boehm, J.); and *Davidson v. State*, 763 N.E.2d 441 (Ind. 2002) (Boehm, J.).

9. Dickson, J., Sullivan, J., Rucker, J.: *In re Loosemore*, 771 N.E.2d 1154 (Ind. 2002) (per curiam); and *Smith v. State*, 770 N.E.2d 818 (Ind. 2002) (Rucker, J.).

10. Boehm, J., Rucker, J.: *State ex. rel. Ind. State Bar Assoc. v. Miller*, 770 N.E.2d 328 (Ind. 2002) (Boehm, J.) (Sullivan, J., concurring in result).

11. Sullivan, J., Rucker, J.: *St. Vincent Hosp. v. Steele*, 766 N.E.2d 699 (Ind. 2002) (Rucker, J.) (Shepard, C.J., and Boehm, J., concurring in separate opinions).

**TABLE E-1**  
**DISPOSITION OF CASES REVIEWED BY TRANSFER**  
**AND DIRECT APPEALS<sup>o</sup>**

	Reversed or Vacated <sup>p</sup>	Affirmed	Total
Civil Appeals Accepted for Transfer	46 (86.7%)	7 (13.3%)	53
Direct Civil Appeals	4 (66.7%)	2 (33.3%)	6
Criminal Appeals Accepted for Transfer	29 (74.4%)	10 (25.6%)	39
Direct Criminal Appeals	21 (30.0%)	49 (70.0%)	70
Total	100 (59.5%)	68 (40.4%)	168 <sup>a</sup>

<sup>o</sup> Direct criminal appeals are cases in which the trial court imposed a death sentence. *See* IND. CONST. art. VII, § 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. 56 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. 57.

<sup>p</sup> 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. 58(A). 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.

<sup>a</sup> This does not include 23 attorney and judicial discipline opinions or one opinion related to certified questions. These opinions did not reverse, vacate, or affirm any other court’s decision. This also does not include 10 opinions which considered petitions for post conviction relief.

**TABLE E-2**  
**DISPOSITION OF PETITIONS TO TRANSFER**  
**TO SUPREME COURT IN 2002<sup>r</sup>**

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil <sup>s</sup>	193 (76.6%)	59 (23.4%)	252
Criminal <sup>t</sup>	339 (90.2%)	37 (9.8%)	376
Juvenile	25 (92.6%)	2 (7.4%)	27
Total	557 (85.0%)	98 (15.0%)	655

<sup>r</sup> This Table analyzes the disposition of petitions to transfer by the court. *See* IND. APP. R. 58(A).

<sup>s</sup> This also includes petitions to transfer in tax cases and worker's compensation cases.

<sup>t</sup> This also includes petitions to transfer in post-conviction relief cases.

**TABLE F**  
**SUBJECT AREAS OF SELECTED DISPOSITIONS**  
**WITH FULL OPINIONS<sup>u</sup>**

<b>Original Actions</b>	<b>Number</b>
• Certified Questions	0
• Writs of Mandamus or Prohibition	1 <sup>v</sup>
• Attorney Discipline	20 <sup>w</sup>
• Judicial Discipline	3 <sup>x</sup>
<b>Criminal</b>	
• Death Penalty	7 <sup>y</sup>
• Fourth Amendment or Search and Seizure	10 <sup>z</sup>
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	0
Trusts, Estates, or Probate	0
Real Estate or Real Property	4 <sup>aa</sup>
Personal Property	0
Landlord-Tenant	1 <sup>bb</sup>
Divorce or Child Support	7 <sup>cc</sup>
Children in Need of Services (CHINS)	0
Paternity	2 <sup>dd</sup>
Product Liability or Strict Liability	4 <sup>ee</sup>
Negligence or Personal Injury	7 <sup>ff</sup>
Invasion of Privacy	0
Medical Malpractice	2 <sup>gg</sup>
Indiana Tort Claims Act	2 <sup>hh</sup>
Statute of Limitations or Statute of Repose	0
Tax, Department of State Revenue, or State Board of Tax Commissioners	4 <sup>ii</sup>
Contracts	6 <sup>jj</sup>
Corporate Law or the Indiana Business Corporation Law	1 <sup>kk</sup>
Uniform Commercial Code	0
Banking Law	0
Employment Law	1 <sup>ll</sup>
Insurance Law	7 <sup>mm</sup>
Environmental Law	0
Consumer Law	1 <sup>nn</sup>
Worker's Compensation	2 <sup>oo</sup>
Arbitration	0
Administrative Law	3 <sup>pp</sup>
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	0
Eleventh Amendment	0
Civil Rights	3 <sup>qq</sup>
Indiana Constitution	29 <sup>rr</sup>

<sup>u</sup> 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 2002. 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. Also, any attorney discipline case resolved by order (as opposed to an opinion) was not considered in preparing this table.

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<sup>v</sup> State *ex. rel.* Kaufman v. Lake Cir. Ct., 768 N.E.2d 431 (Ind. 2002).

<sup>w</sup> *In re* Beckner, 778 N.E.2d 806 (Ind. 2002); *In re* Clayton, 778 N.E.2d 404 (Ind. 2002); *In re* Fairchild, 777 N.E.2d 726 (Ind. 2002); *In re* Wilkins, 777 N.E.2d 714 (Ind. 2002); *In re* Webster, 776 N.E.2d 1210 (Ind. 2002); *In re* Anonymous, 775 N.E.2d 1094 (Ind. 2002); *In re* Gariepy, 775 N.E.2d 1091 (Ind. 2002); *In re* Allen, Case No. 64S00-9907-DI-401, 2002 WL 31053870 (Ind. 2002); *In re* Page, 774 N.E.2d 49 (Ind. 2002); *In re* Loosemore, 771 N.E.2d 1154 (Ind. 2002); *In re* Hefron, 771 N.E.2d 1157 (Ind. 2002); *In re* Coale, 775 N.E.2d 1079 (Ind. 2002); *In re* Foos, 770 N.E.2d 335 (Ind. 2002); *In re* Pacior, 770 N.E.2d 273 (Ind. 2002); *In re* Utermohlen, 768 N.E.2d 449 (Ind. 2002); *In re* Scahill, 767 N.E.2d 976 (Ind. 2002); *In re* Brown, 766 N.E.2d 363 (Ind. 2002); *In re* Wilder, 764 N.E.2d 617 (Ind. 2002); *In re* Williams, 764 N.E.2d 613 (Ind. 2002); and *In re* Davidson, 761 N.E.2d 854 (Ind. 2002).

<sup>x</sup> *In re* Kern, 774 N.E.2d 878 (Ind. 2002); *In re* Kern, 775 N.E.2d 676 (Ind. 2002); and *In re* Morton, 770 N.E.2d 827 (Ind. 2002).

<sup>y</sup> Azania v. State, 778 N.E.2d 1253 (Ind. 2002) (reversing); Wrinkles v. State, 776 N.E.2d 905 (Ind. 2002) (affirming); Corcoran v. State, 774 N.E.2d 495 (Ind. 2002) (affirming); Moore v. State, 771 N.E.2d 46 (Ind. 2002) (affirming); Stevens v. State, 770 N.E.2d 739 (Ind. 2002) (affirming); State v. Barker, 768 N.E.2d 425 (Ind. 2002) (affirming); and Saylor v. State, 765 N.E.2d 535 (Ind. 2002) (affirming).

<sup>z</sup> Warren v. State, 760 N.E.2d 608 (Ind. 2002); Adams v. State, 762 N.E.2d 737 (Ind. 2002); State v. Adams, 762 N.E.2d 728 (Ind. 2002); Lander v. State, 762 N.E.2d 1208 (Ind. 2002); Linke v. Northwestern Sch. Corp., 769 N.E.2d 972 (Ind. 2002); State v. Gerschoffer, 763 N.E.2d 960 (Ind. 2002); Ratiff v. State, 770 N.E.2d 807 (Ind. 2002); Abel v. State, 773 N.E.2d 276 (Ind. 2002); Warner v. State, 773 N.E.2d 239 (Ind. 2002); and White v. State, 772 N.E.2d 408 (Ind. 2002).

<sup>aa</sup> Hall Drive Ins., Inc. v. City of Fort Wayne, 773 N.E.2d 259 (Ind. 2002); City of Fort Wayne v. Certain Southwest Annexation Area Landowners, 764 N.E.2d 221 (Ind. 2002); Bradley v. City of New Castle, 764 N.E.2d 212 (Ind. 2002); and Harrison v. Thomas, 761 N.E.2d 816 (Ind. 2002).

<sup>bb</sup> Turley v. Hyten, 772 N.E.2d 993 (Ind. 2002).

<sup>cc</sup> Stronger v. Sorrell, 776 N.E.2d 363 (Ind. 2002); Fobar v. Vonderahe, 771 N.E.2d 57 (Ind. 2002); Kirk v. Kirk, 770 N.E.2d 304 (Ind. 2002); *In re* Guardianship of B.H., 770 N.E.2d 283 (Ind. 2002); Dunson v. Dunson, 769 N.E.2d 1120 (Ind. 2002); Vadas v. Vadas, 762 N.E.2d 1234 (Ind. 2002); and *In re* Hambright v. Hambright, 762 N.E.2d 98 (Ind. 2002).

<sup>dd</sup> *In re* Guardianship of B.H., 770 N.E.2d 283 (Ind. 2002); and Vadas v. Vadas, 762 N.E.2d 1234 (Ind. 2002).

<sup>ee</sup> Camplin v. ACandS, Inc., 768 N.E.2d 428 (Ind. 2002); Martin v. ACandS, Inc., 768 N.E.2d 426 (Ind. 2002); Stegemoller v. ACandS, 767 N.E.2d 974 (Ind. 2002).

<sup>ff</sup> Wal-Mart Stores, Inc. v. Wright, 774 N.E.2d 891 (Ind. 2002); Sears v. Griffin, 771 N.E.2d 1136 (Ind. 2002); R.L. McCoy, Inc., v. Jack, 772 N.E.2d 987 (Ind. 2002); Becker v. Kreilein, 770 N.E.2d 315 (Ind. 2002); Robins v. Harris, 769 N.E.2d 586 (Ind. 2002); Corr v. Am. Family Ins., 767 N.E.2d 535 (Ind. 2002); and Ray-Hayes v. Heinemann, 760 N.E.2d 172 (Ind. 2002).

<sup>gg</sup> Jordan v. Deery, 778 N.E.2d 1264 (Ind. 2002); and Goleski v. Fritz, 768 N.E.2d 889 (Ind. 2002).

<sup>hh</sup> Catt v. Bd. of Comm'rs, 779 N.E.2d 1 (Ind. 2002); and State v. Willits, 773 N.E.2d 808 (Ind. 2002).

<sup>i</sup> Marshall County Tax Awareness Comm. v. Quivey, 780 N.E.2d 380 (Ind. 2002); State Bd. Of Tax Comm'r. v. Garcia, 766 N.E.2d 341 (Ind. 2002); State Bd. Of Tax Comm'r. v. New Castle Lodge # 147, 765 N.E.2d 1257 (Ind. 2002); and State v. Adams, 762 N.E.2d 728 (Ind. 2002).

<sup>jj</sup> Mercantile Nat'l Bank of Ind. v. First Builders of Ind., Inc., 774 N.E.2d 488 (Ind. 2002); R.L. McCoy, Inc., v. Jack, 772 N.E.2d 987 (Ind. 2002); Green v. Hendrickson Publishers, Inc., 770 N.E.2d 784 (Ind. 2002); Allen v. Great Am. Reserve Ins. Co., 766 N.E.2d 1157 (Ind. 2002); Beam v. Wausau Ins. Co., 765 N.E.2d 524 (Ind. 2002); and Harrison v. Thomas, 761 N.E.2d 816 (Ind. 2002).

<sup>kk</sup> Young v. Gen. Acceptance Corp., 770 N.E.2d 298 (Ind. 2002).

<sup>ll</sup> St. Vincent Hosp. & Health Care Ctr., Inc. v. Steele, 766 N.E.2d 699 (Ind. 2002).

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<sup>mm</sup> Bowers v. Kushnick, 774 N.E.2d 884 (Ind. 2002); Freidline v. Shelby Ins. Co., 774 N.E.2d 37 (Ind. 2002); Corr v. Shultz, 767 N.E.2d 541 (Ind. 2002); Corr v. Am. Family Ins., 767 N.E.2d 535 (Ind. 2002); Allen v. Great Am. Reserve Insurance Co., 766 N.E.2d 1157 (Ind. 2002); State Farm Fire & Cas. Comp. v. T.B., 762 N.E.2d 1227 (Ind. 2002); and Beam v. Wausau Insurance Co., 765 N.E.2d 524 (Ind. 2002).

<sup>nn</sup> Bowers v. Kushnick, 774 N.E.2d 884 (Ind. 2002).

<sup>oo</sup> Sims v. U.S. Fid. & Guar. Co., 782 N.E.2d 345 (Ind. 2002); City of South Bend v. Kimsey, 781 N.E.2d 683 (Ind. 2002).

<sup>pp</sup> South Gibson Sch. Bd. v. Sollman, 768 N.E.2d 437 (Ind. 2002); Family & Soc. Servs. Admin. v. Schluttenhofer, 768 N.E.2d 885 (Ind. 2002); and Ind. Fireworks Distribs. Ass'n v. Boatwright, 764 N.E.2d 208 (Ind. 2002).

<sup>qq</sup> Ind. Fireworks Distribs. Ass'n v. Boatwright, 764 N.E.2d 208 (Ind. 2002); South Gibson Sch. Bd. v. Sollman, 768 N.E.2d 437 (Ind. 2002); and Family & Soc. Servs. Admin. v. Schluttenhofer, 768 N.E.2d 885 (Ind. 2002).

<sup>rr</sup> Jordan v. Deery, 778 N.E.2d 1264 (Ind. 2002); Warner v. State, 773 N.E.2d 239 (Ind. 2002); White v. State, 772 N.E.2d 408 (Ind. 2002); Garner v. State, 777 N.E.2d 721 (Ind. 2002); Bush v. State, 775 N.E.2d 309 (Ind. 2002); Robinson v. State, 775 N.E.2d 316 (Ind. 2002); Corcoran v. State, 774 N.E.2d 495 (Ind. 2002); Vestal v. State, 773 N.E.2d 805 (Ind. 2002); Guyton v. State, 771 N.E.2d 1141 (Ind. 2002); Williams v. State, 771 N.E.2d 70 (Ind. 2002); McAbee v. State, 770 N.E.2d 802 (Ind. 2002); Healthscript, Inc. v. State, 770 N.E.2d 810 (Ind. 2002); Moore v. State, 771 N.E.2d 46 (Ind. 2002); Davis v. State, 770 N.E.2d 319 (Ind. 2002); Gross v. State, 769 N.E.2d 1136 (Ind. 2002); Henderson v. State, 769 N.E.2d 172 (Ind. 2002); Buchanan v. State, 767 N.E.2d 967 (Ind. 2002); Tyson v. State, 766 N.E.2d 715 (Ind. 2002); Bald v. State, 766 N.E.2d 1170 (Ind. 2002); Lake County Clerk's Office v. Smith, 766 N.E.2d 707 (Ind. 2002); Corbett v. State, 764 N.E.2d 622 (Ind. 2002); State v. Gerschoffer, 763 N.E.2d 960 (Ind. 2002); Linke v. Northwestern Sch. Corp., 763 N.E.2d 972 (Ind. 2002); Lander v. State, 762 N.E.2d 1208 (Ind. 2002); Swaynie v. State, 762 N.E.2d 112 (Ind. 2002); Hernandez v. State, 761 N.E.2d 845 (Ind. 2002); Spivey v. State, 761 N.E.2d 831 (Ind. 2002); Pierce v. State, 761 N.E.2d 826 (Ind. 2002); and Murray v. State, 761 N.E.2d 406 (Ind. 2002).