

AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2005*

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Like many appellate courts around the nation, the Indiana Supreme Court in 2005 continued to work through the implications of the new constitutional system for sentencing mandated by *Blakely v. Washington*.¹ *Blakely* in large part rewrote the manner in which the Sixth Amendment applies to sentencing decisions and called into question not only the sentencing statutes of many states, but hundreds of convictions that relied on those sentencing statutes. The Indiana Supreme Court plunged into these issues with full force in 2005. In all, the court addressed issues associated with *Blakely* in 22 opinions in 2005, which amounted to almost 20% of the Court's entire caseload. In fact, *Blakely* issues came up in almost a third of the criminal opinions handed down in 2005.

Many of the *Blakely* cases tracked a phenomenon first addressed in this Article last year. In 2004, the court issued a number of opinions that succinctly corrected discrete errors in the lower courts' opinions.² In lieu of a full discussion with the depth of analysis traditionally associated with the supreme court's opinions, these much narrower opinions focused like a laser on a single isolated issue in the case and chose to summarily affirm or not address the

* 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. 542 U.S. 296 (2004).

2. See Mark J. Crandley & P. Jason Stephenson, *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2004*, 38 IND. L. REV. 867, 868-69 (2005).

remaining issues.³ Obviously, the myriad of sentencing reviews necessitated by *Blakely*—and the supreme court’s retroactive application of it⁴—make for an ideal circumstance for these error-correction opinions. In all, at least 11—precisely half—of the court’s *Blakely* opinions easily fall into the category of this type of abbreviated opinion.⁵

Despite the demands created by *Blakely*, the court did not allow that case to entirely dominate its docket in 2005. The court addressed important areas of law and handed down several landmark cases. The most memorable of these will likely be the court’s analysis in dealing with a proposed state constitutional right to abortion and a custody dispute between same-sex partners.⁶ However, as displayed by Table F, the court handed down a diverse series of cases in 2005. These cases ranged over 16 topics and included everything from 17 opinions addressing Indiana constitutional law issues to a surprising 8 opinions concerning real property law.

Moreover, the raw number of *Blakely* cases did not prevent the court from issuing 132 opinions, a spike from the 92 opinions handed down in 2004. In fact, the court’s 132 opinions was the highest raw number since the 190 opinions handed down in 2002, a year when the court was still addressing many direct criminal appeals under its old jurisdictional rules. Moreover, the increase marks the first time that the raw number of opinions has risen since that jurisdictional change. The number of opinions dropped every year between 2000 and 2004, as the court handed down 263, 211, 190, 108, and 92 opinions, respectively. Although the increase to 132 opinions certainly reflects the court’s efforts to sort through the issues created by *Blakely*, it also likely indicates that the court’s docket has stabilized in the wake of the jurisdictional change.

Interestingly, this spike in the raw number of opinions was not spread evenly over the justices. Chief Justice Shepard handed down 32 opinions, almost a quarter of the court’s opinions in all of 2005. This sizeable total was more than Justice Rucker and Justice Dickson combined and five more opinions than the second most prolific justice, which was Justice Sullivan at 27 opinions. The chief justice’s 32 opinions are the most he has handed down since his 42 in 2002. Again, *Blakely* offers a partial explanation. The chief justice authored exactly half of the court’s 22 opinions addressing *Blakely* issues. In fact, of the 16 *Blakely* opinions that were not handed down per curiam, the chief justice wrote all but 5.

3. *Id.*

4. *Smylie v. State*, 823 N.E.2d 679, 689 (Ind. 2005).

5. *Knighen v. State*, 839 N.E.2d 1166 (Ind. 2005); *Kincaid v. State*, 837 N.E.2d 1008 (Ind. 2005); *Lichti v. State*, 835 N.E.2d 478 (Ind. 2005); *Young v. State*, 834 N.E.2d 1015 (Ind. 2005); *Sowders v. State*, 829 N.E.2d 18 (Ind. 2005); *Nesbitt v. State*, 827 N.E.2d 33 (Ind. 2005); *Aguilar v. State*, 827 N.E.2d 31 (Ind. 2005); *Patrick v. State*, 827 N.E.2d 30 (Ind. 2005); *Estes v. State*, 827 N.E.2d 27 (Ind. 2005); *Heath v. State*, 826 N.E.2d 650 (Ind. 2005); *Laux v. State*, 821 N.E.2d 816 (Ind. 2005).

6. *See Clinic for Women, Inc. v. Brizzi*, 837 N.E.2d 973 (Ind. 2005) (abortion); *King v. S.B.*, 837 N.E.2d 965 (Ind. 2005) (same-sex parenting issues).

Conversely, Justices Dickson and Rucker handed down only 17 and 13 opinions, respectively, in 2005. In fact, neither justice handed down as many opinions as the number of the court's per curiam opinions, of which there were 19. As one would expect, many of these per curiam decisions also arose in the context of *Blakely*. In fact, every one of the court's per curiam opinions in criminal cases dealt with sentencing issues created by *Blakely*.⁷

This difference between the number of opinions authored by the individual justices is explained at least in part by the continuing trend in split decisions among the justices. The justices were in complete agreement in only 64.3% of the opinions in 2005. This amount represents a drop from the 74.7% of unanimous opinions in 2004.

This lack of alignment almost certainly affected the raw number of opinions that Justices Dickson and Rucker handed down. Obviously, unless a justice is in the majority, the justice cannot author the majority opinion. In 2005, Justices Dickson and Rucker were often not in the majority. Justice Dickson had by far the largest number of dissenting opinions at 11. Similarly, Justice Rucker had the most concurring opinions at 7 and also drafted 8 dissents. In fact, Justice Rucker drafted more concurring and dissenting opinions (15) than majority opinions (13). Had either justice held the majority in these cases, the raw number of his opinions would radically change.

Indeed, even Justices Dickson and Rucker were themselves not aligned in many cases. No two judges were less aligned in 2005, as they agreed in only 74% of all cases. In the previous three years, they were or were among the most in agreement at 81.6%, 82.4%, and 88%.

Finally, despite all of these uncertainties, two truisms about the court continued to be accurate in 2005. First, it continued to be true that the court will almost always reverse the lower courts in cases where it has granted transfer. In the 45 opinions handed down after a grant of transfer in 2005, *only a single opinion* actually affirmed the result reached in the lower courts. Second, it continued to be true that transfer is exceedingly difficult to obtain. In 2005, the court granted transfer in only 12% of its cases. In criminal cases, this number dropped to 9.9%, while the court granted transfer in 15.9% of civil cases.

Table A. Chief Justice Shepard led the court in authoring criminal decisions with 27. Justice Sullivan was a distant second in this category with 15. Justice Rucker authored the least with 6. As for civil cases, Justice Boehm authored the most with 16, followed by Justice Sullivan with 12. Chief Justice Shepard authored the least with 5.

Table B-1. For civil cases, Chief Justice Shepard and Justice Sullivan were the two justices most aligned at 88.5%. This is a decrease in alignment from 2004, where the Chief Justice and Justice Boehm, as well as the Chief Justice and Justice Sullivan, were aligned more than 90% of the time. This year is more

7. *Lichti*, 835 N.E.2d 478; *Nesbitt*, 827 N.E.2d 33; *Aguilar*, 827 N.E.2d 31; *Patrick*, 827 N.E.2d 30; *Estes*, 827 N.E.2d 27; *Laux*, 821 N.E.2d 816.

similar to 2003 and 2002, when no two justices agreed in more than 90% of the civil cases.

Conversely, Justices Rucker and Dickson and Chief Justice Shepard and Justice Dickson were least aligned with 75.5%. By contrast, the two justices least aligned in civil cases in 2004 were Justices Sullivan and Dickson, who were aligned in 81.8% of the cases.

Table B-2. Chief Justice Shepard and Justice Dickson, as well as Chief Justice Shepard and Justice Sullivan, were the most aligned in criminal cases, as they were in agreement in 88.6% of those cases. Justice Dickson and Justice Rucker were in agreement in only 72.9% of the court's criminal cases, the lowest of any two justices.

Table B-3. For all cases, Justice Sullivan and Chief Justice Shepard were aligned 88.5% of the time, the most of any justices. Justice Rucker agreed with Justice Dickson in 74% of all cases, which was the least. The same was true in 2004 and 2003, as in each of those years Justice Rucker agreed with Justice Sullivan (and Chief Justice Shepard) less than any other pairing of justices.

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

Table C. The percentage of unanimous opinions decreased in 2005. In all, 64.3% of the court's opinions were unanimous, compared to 72.5% in 2004 and 66.1% in 2003. The percentage of cases with at least one dissent rose sharply. In 2005, 26.2% of all cases drew at least one dissent. In 2004, 2003, 2002, and 2001, the percentage of cases with at least one dissent was 15.4%, 27.8%, 23.2%, and 18.5%, respectively.

Table D. Both the raw number and percentage of 3-2 decisions rose in 2005. The court issued 21 3-2 decisions in 2005. In 2004, 2003, 2002, and 2001, the court handed down 10, 18, 26, and 27 split decisions.

In a departure from previous years, Justice Boehm was the pivotal justice, being in the majority 13 times. This is a departure from previous years, when Chief Justice Shepard held this role. Justice Sullivan and Chief Justice Shepard's votes were also pivotal in recent 3-2 cases. In 2005, they each were in the majority 12 times.

Table E-1. Overall, the court affirmed cases only 21.1% of the time. Civil transfer appeals were affirmed only 2.8% of the time and nonmandatory criminal appeals were affirmed 35.2% of the time.

Table E-2. In 2005, the court continued its trend of granting fewer petitions for transfer in civil cases. The court granted transfer in 15.9% of the civil cases. This is a decrease from 2004, 2003, and 2002, where the court granted transfer 16.4%, 21.2%, and 23.4% of the time, respectively.

The percentage of transfer petitions granted in criminal cases rose from previous years. In 2004, the court granted 9.9% of all petitions to transfer in

criminal cases. In 2004, 2003, 2002, and 2001, the court granted 7.7%, 9.8%, 7.5%, and 6.6% of transfer petitions in criminal cases, respectively.

Table F. The court continued to hear a diverse spectrum of cases in 2005.

As previously mentioned, sentencing issues dominated the docket with 22 opinions related to Blakely. These are reflected in the table both in the criminal and Indiana Constitution sections. In keeping with the docket change since the Indiana Constitution's amendment, the court also focused significantly on various civil issues, including an emphasis on administrative law and real property cases. The court also clarified family law issues, doubling the number of opinions from the prior year on this topic.

TABLE A
OPINIONS^a

	OPINIONS OF COURT ^b			CONCURRENCES ^c			DISSENTS ^d		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	27	5	32	1	2	3	2	3	5
Dickson, J. ^e	8	9	17	2	1	3	4	7	11
Sullivan, J. ^e	15	12	27	1	0	1	3	6	9
Boehm, J. ^e	8	16	24	2	1	3	3	4	7
Rucker, J.	6	7	13	5	2	7	6	2	8
Per Curiam	6	13	19						
Total	70	62	132	11	6	17	18	22	40

^a These are opinions and votes on opinions by each justice and in per curiam in the 2005 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.

^c This category includes both written concurrences, joining in written concurrence, 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 Justices declined to participate in the following cases: *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143 (Ind. 2005) (Sullivan, J.); *Associated Med. Networks, Ltd. v. Lewis*, 824 N.E.2d 679 (Ind. 2005) (Boehm, J.).

TABLE B-1
VOTING ALIGNMENTS FOR CIVIL CASES^f

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		40	45	44	41
	S		0	1	0	1
	D	---	40	46	44	41
	N		53	52	52	53
	P		75.5%	88.5%	84.6%	77.4%
Dickson, J.	O	40		40	42	39
	S	0		0	1	1
	D	40	---	40	43	40
	N	53		52	52	53
	P	75.5%		76.9%	82.7%	75.5%
Sullivan, J.	O	45	40		43	41
	S	1	0		0	1
	D	46	40	---	43	42
	N	52	52		51	52
	P	88.5%	76.9%		84.3%	80.8%
Boehm, J.	O	44	42	43		43
	S	0	1	0		2
	D	44	43	43	---	45
	N	52	52	51		52
	P	84.6%	82.7%	84.3%		86.5%
Rucker, J.	O	41	39	41	43	
	S	1	1	1	2	
	D	41	40	42	45	---
	N	53	53	52	52	
	P	77.4%	75.5%	80.8%	86.5%	

^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, 40 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 CASES⁸

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		62	62	61	55
	S		0	0 0	0	
	D	---	62	62	61	55
	N		70	70	70	70
	P		88.6%	88.6%	87.1%	78.6%
Dickson, J.	O	62		58	58	51
	S	0		0	1	0
	D	62	---	58	59	51
	N	70		70	70	70
	P	88.6%		82.9%	84.3%	72.9%
Sullivan, J.	O	62	58		60	55
	S	0	0		0	0
	D	62	58	---	60	55
	N	70	70		70	70
	P	88.6%	82.9%		85.7%	82.6%
Boehm, J.	O	61	58	60		53
	S	0	1	0		1
	D	61	59	60	---	54
	N	70	70	70		70
	P	87.1%	84.3%	85.7%		77.1%
Rucker, J.	O	55	51	55	53	
	S	0	0	0	1	
	D	55	51	55	54	---
	N	70	70	70	70	
	P	78.6%	72.9%	78.6%	77.1%	

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, 62 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^h

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		102	107	105	96
	S		0	1	0	1
	D	---	102	108	105	97
	N		123	122	122	123
	P		82.9%	88.5%	86.1 %	78.9 %
Dickson, J.	O	102		98	100	90
	S	0		0	2	1
	D	102	---	98	102	91
	N	123		122	122	123
	P	82.9%		80.3%	83.6 %	74.0 %
Sullivan, J.	O	107	98		103	96
	S	1	0		0	1
	D	108	98	---	103	97
	N	122	122		121	122
	P	88.5%	80.3%		85.1 %	79.5 %
Boehm, J.	O	105	100	103		96
	S	0	2	0		3
	D	105	102	103	---	99
	N	122	122	121		122
	P	86.1%	83.6 %	85.1%		81.1 %
Rucker, J.	O	96	90	96	96	
	S	1	1	1	3	
	D	97	91	97	99	--
	N	123	123	122	122	
	P	78.9%	74.0%	79.5 %	81.1%	

^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, 102 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 2005. 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 ⁱ			Unanimous with Concurrence ^k			Opinions with Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
48	33	81 (64.3%)	8	4	12 (9.5%)	14	19	33 (26.2%)	126

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 percentage 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., Sullivan, J., Boehm, J.	3
2. Shepard, C.J., Dickson, J., Sullivan, J.	3
3. Shepard, C.J., Rucker, J., Sullivan, J.	3
4. Shepard, C.J., Dickson, J., Boehm, J.	2
5. Shepard, C.J., Boehm, J., Rucker, J.	1
6. Dickson, J., Sullivan, J., Rucker, J.	1
7. Dickson, J., Boehm, J., Rucker, J.	2
8. Sullivan, J., Boehm, J., Rucker, J.	2
9. Dickson, J., Boehm, J.	1
10. Sullivan, J., Boehm, J.	2
11. Sullivan, J., Rucker, J.	1
Total ⁿ	21

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 2005 term's 3-2 decisions were:

1. Shepard, C.J., Sullivan, J., Boehm, J.: *Ind. Dep't of Env'tl. Mgmt. v. West*, 838 N.E.2d 408 (Ind. 2005) (Sullivan, J.); *New Welton Homes. v. Eckman*, 830 N.E.2d 32 (Ind. 2005) (Shepard, C.J.); *PSI Energy, Inc. v. Roberts*, 829 N.E.2d 943 (Ind. 2005) (Boehm, J.).

2. Shepard, C.J., Dickson, J., Sullivan, J.: *Baird v. State*, 833 N.E.2d 28 (Ind. 2005) (Shepard, C.J.); *Blanck v. Ind. Dep't of Corr.*, 829 N.E.2d 505 (Ind. 2005) (Sullivan, J.); *Lambert v. State*, 825 N.E.2d 1261 (Ind. 2005) (Shepard, C.J.).

3. Shepard, C.J., Rucker, J., Sullivan, J.: *Fackler v. Powell*, 839 N.E.2d 165 (Ind. 2005) (Sullivan, J.); *Clinic for Women, Inc. v. Brizzi*, 837 N.E.2d 973 (Ind. 2005) (Rucker, J.); *Cotto v. State*, 829 N.E.2d 520 (Ind. 2005) (Rucker, J.).

4. Shepard, C.J., Dickson, J., Boehm, J.: *Myers v. State*, 839 N.E.2d 1146 (Ind. 2005) (Dickson, J.); *Fraley v. Minger*, 829 N.E.2d 476 (Ind. 2005) (Dickson, J.).

5. Shepard, C.J., Boehm, J., Rucker, J.: *Crabtree ex rel. Kemp v. Estate of Crabtree*, 837 N.E.2d 135 (Ind. 2005) (Boehm, J.).

6. Dickson, J., Sullivan, J., Rucker, J.: *Sees v. Bank One Ind., N.A.*, 839 N.E.2d 154 (Ind. 2005) (Rucker, J.).

7. Dickson, J., Boehm, J., Rucker, J.: *Booth v. Wiley*, 839 N.E.2d 1168 (Ind. 2005) (Dickson, J.); *Tippecanoe Assoc. II v. Kinco Lafayette 671, Inc.*, 829 N.E.2d 512 (Ind. 2005) (Boehm, J.).

8. Sullivan, J., Boehm, J., Rucker, J.: *King v. S.B.*, 837 N.E.2d 965 (Ind. 2005) (Sullivan, J.); *Halsema v. State*, 823 N.E.2d 668 (Ind. 2005) (Rucker, J.).

9. Dickson, J., Boehm, J.: *State ex rel. Att'y Gen. v. Lake Superior Court*, 820 N.E.2d 1240 (Ind. 2005) (Boehm, J.).

10. Sullivan, J., Boehm, J.: *Pruitt v. State*, 834 N.E.2d 90 (Ind. 2005) (Boehm, J.); *Houser v. State*, 823 N.E.2d 693 (Ind. 2005) (Sullivan, J.).

11. Sullivan, J., Rucker, J.: *Haltom v. State*, 832 N.E.2d 969 (Ind. 2005) (Sullivan, 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	44 (97.8%)	1 (2.8%)	45
Direct Civil Appeals	3 (75%)	1 (25%)	4
Criminal Appeals Accepted for Transfer	35 (64.8%)	19 (35.2%)	54
Direct Criminal Appeals	4 (66.7%)	2 (33.3%)	6
Total	86 (78.9%)	23 (21.1%)	109 ^a

^o 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, 63 (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.

^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. 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.

^a This does not include 6 attorney discipline opinions, 3 judicial discipline opinions, or 1 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 2005^r

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil ^s	260 (84.1%)	49 (15.9%)	309
Criminal ^t	502 (90.1%)	55 (9.9%)	557
Juvenile	36 (87.8%)	5 (12.2%)	41
Total	798 (88.0%)	109 (12.0%)	907

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

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

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

TABLE F
SUBJECT AREAS OF SELECTED DISPOSITIONS
WITH FULL OPINIONS^u

Original Actions	Number
• Certified Questions	1 ^v
• Writs of Mandamus or Prohibition	1 ^w
• Attorney Discipline	6 ^x
• Judicial Discipline	3 ^y
Criminal	
• Death Penalty	9 ^z
• Fourth Amendment or Search and Seizure	5 ^{aa}
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	0
Trusts, Estates, or Probate	0
Real Estate or Real Property	8 ^{bb}
Personal Property	2 ^{cc}
Landlord-Tenant	0
Divorce or Child Support	4 ^{dd}
Children in Need of Services (CHINS)	0
Paternity	0
Product Liability or Strict Liability	3 ^{ee}
Negligence or Personal Injury	4 ^{ff}
Invasion of Privacy	0
Medical Malpractice	3 ^{gg}
Indiana Tort Claims Act	0
Statute of Limitations or Statute of Repose	0
Tax, Department of State Revenue, or State Board of Tax Commissioners	4 ^{hh}
Contracts	5 ⁱⁱ
Corporate Law or the Indiana Business Corporation Law	0
Uniform Commercial Code	0
Banking Law	0
Employment Law	4 ^{jj}
Insurance Law	1 ^{kk}
Environmental Law	0
Consumer Law	2 ^{ll}
Workers' Compensation	1 ^{mm}
Arbitration	0
Administrative Law	6 ⁿⁿ
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	0
Eleventh Amendment	0
Civil Rights	0
Indiana Constitution	17 ^{oo}

^u 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 2005. 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.

^v Gribben v. Wal-Mart Stores, Inc., 824 N.E.2d 349 (Ind. 2005).

^w State *ex rel.* Bramley v. Tipton Circuit Court, 835 N.E.2d 479 (Ind. 2005).

^x *In re* Thomsen, 837 N.E.2d 1011 (Ind. 2005); *In re* Freeman, 835 N.E.2d 494 (Ind. 2005); *In re* Clark, 834 N.E.2d 653 (Ind. 2005); *In re* Winkler, 834 N.E.2d 85 (Ind. 2005); *In re* Hughes, 833 N.E.2d 459 (Ind. 2005); *In re* Ryan, 824 N.E.2d 687 (Ind. 2005).

^y *In re* Pfaff, 838 N.E.2d 1022 (Ind. 2005); *In re* Danikolas, 838 N.E.2d 422 (Ind. 2005); *In re* Pfaff, 837 N.E.2d 497 (Ind. 2005).

^z Pruitt v. State, 834 N.E.2d 90 (Ind. 2005); Conner v. State, 829 N.E.2d 21 (Ind. 2005); Johnson v. State, 827 N.E.2d 547 (Ind. 2005); Corcoran v. State, 827 N.E.2d 542 (Ind. 2005); State v. Barker, 826 N.E.2d 648 (Ind. 2005); Lambert v. State, 825 N.E.2d 1261 (Ind. 2005); Wallace v. State, 820 N.E.2d 1261 (Ind. 2005); Corcoran v. State, 820 N.E.2d 655 (Ind. 2005); Holmes v. State, 820 N.E.2d 136 (Ind. 2005).

^{aa} Myers v. State, 839 N.E.2d 1146 (Ind. 2005); Litchfield v. State, 824 N.E.2d 356 (Ind. 2005); Halsema v. State, 823 N.E.2d 668 (Ind. 2005); Guy v. State, 823 N.E.2d 274 (Ind. 2005).

^{bb} Wilfong v. Cessna Corp., 838 N.E.2d 403 (Ind. 2005); Metro. Dev. Comm'n of Marion County v. Pinnacle Media, 836 N.E.2d 422 (Ind. 2005); Burd Mgmt. v. State, 831 N.E.2d 104 (Ind. 2005); PSI Energy, Inc. v. Roberts, 829 N.E.2d 943 (Ind. 2005); Tippecanoe Assoc. II v. Kimco Lafayette 671, Inc., 829 N.E.2d 512 (Ind. 2005); Fraley v. Minger, 829 N.E.2d 476 (Ind. 2005); Bank of New York v. Nally, 820 N.E.2d 644 (Ind. 2005); Borsuk v. Town of St. John, 820 N.E.2d 118 (Ind. 2005).

^{cc} Kocher v. Getz, 824 N.E.2d 671 (Ind. 2005); Beckley v. Beckley, 822 N.E.2d 158 (Ind. 2005).

^{dd} Severs v. Severs, 837 N.E.2d 498 (Ind. 2005); MacLafferty v. MacLafferty, 829 N.E.2d 938 (Ind. 2005); Haville v. Haville, 825 N.E.2d 375 (Ind. 2005); Beckley v. Beckley, 822 N.E.2d 158 (Ind. 2005).

^{ee} Crabtree *ex rel.* v. Estate of Crabtree, 837 N.E.2d 135 (Ind. 2005); Sumbry v. Boklund, 836 N.E.2d 430 (Ind. 2005); Gunkel v. Renovations, Inc., 822 N.E.2d 150 (Ind. 2005).

^{ff} Crabtree *ex rel.* v. Estate of Crabtree, 837 N.E.2d 135 (Ind. 2005); Sumbry v. Boklund, 836 N.E.2d 430 (Ind. 2005); Kocher v. Getz, 824 N.E.2d 671 (Ind. 2005); Witte v. Mundy *ex rel.* Mundy, 820 N.E.2d 128 (Ind. 2005).

^{gg} Booth v. Wiley, 839 N.E.2d 1168 (Ind. 2005); Cox v. Paul, 828 N.E.2d 907 (Ind. 2005); Chamberlain v. Walpole, 822 N.E.2d 959 (Ind. 2005).

^{hh} State *ex rel.* Att'y Gen. v. Lake Superior Court, 820 N.E.2d 1240 (Ind. 2005); Lake County Prop. Tax Assessment Bd. of Appeals v. U.S. Steel Corp., 820 N.E.2d 1237 (Ind. 2005); Lake County Prop. Tax Assessment Bd. of Appeals v. BP Amoco Corp., 820 N.E.2d 1231 (Ind. 2005); Dep't of Local Gov't Fin. v. Commonwealth Edison Co. of Ind., 820 N.E.2d 1222 (Ind. 2005).

ⁱⁱ Dunn v. Meridian Mut. Ins. Co., 836 N.E.2d 249 (Ind. 2005); Allgood v. Meridian Sec. Ins. Co., 836 N.E.2d 243 (Ind. 2005); New Welton Homes v. Eckman, 830 N.E.2d 32 (Ind. 2005); Hyundai Motor Am., Inc. v. Goodin, 822 N.E.2d 947 (Ind. 2005); Bank of New York v. Nally, 820 N.E.2d 644 (Ind. 2005).

^{jj} Ind. Dep't of Env'tl. Mgmt. v. West, 838 N.E.2d 408 (Ind. 2005); Prentoski v. Five Star Painting, Inc., 837 N.E.2d 972 (Ind. 2005).

^{kk} Dunn v. Meridian Mut. Ins. Co., 836 N.E.2d 249 (Ind. 2005); Allgood v. Meridian Sec. Ins. Co., 836 N.E.2d 243 (Ind. 2005); Monroe Guar. Ins. Co. v. Magwerks Corp., 829 N.E.2d 968 (Ind. 2005); Associated Med. Networks, Ltd. v. Lewis, 824 N.E.2d 679 (Ind. 2005).

^{ll} New Welton Homes v. Eckman, 830 N.E.2d 32 (Ind. 2005); Hyundai Motor Am., Inc. v. Goodin, 822 N.E.2d 947 (Ind. 2005).

^{mm} Dial X-Automated Equip. v. Caskey, 826 N.E.2d 642 (Ind. 2005).

ⁿⁿ Bd. of Dirs. of the Bass Lake Conservancy Dist. v. Brewer, 839 N.E.2d 699 (Ind. 2005); Ind. Ass'n of Beverage Retailers v. Ind. Alcohol & Tobacco Comm'n, 836 N.E.2d 255 (Ind. 2005); Roger v. Celebration Fireworks, Inc., 829 N.E.2d 979 (Ind. 2005); Advantage Home Health Care, Inc. v. Ind. State Dep't of Health, 829 N.E.2d 499 (Ind. 2005); Louisville & Ind. R.R. Co. v. Ind. Gas Co., 829 N.E.2d 7 (Ind. 2005); Dial X-Automated Equip. v. Caskey, 826 N.E.2d 642 (Ind. 2005).

^{oo} Clinic for Women v. Brizzi, 837 N.E.2d 973 (Ind. 2005); King v. S.B., 837 N.E.2d 965 (Ind. 2005); SMDFund, Inc. v. Fort Wayne-Allen County Airport Auth., 831 N.E.2d 725 (Ind. 2005); Cotto v. State, 829 N.E.2d 520 (Ind. 2005); Blanck v. Ind. Dep't of Corr., 829 N.E.2d 505 (Ind. 2005); Williams v. State, 827 N.E.2d 1127 (Ind. 2005); Johnson v. State, 827 N.E.2d 547 (Ind. 2005); Corcoran v. State, 827 N.E.2d 542 (Ind. 2005); Estes v. State, 827 N.E.2d 27 (Ind. 2005); State v. Barker, 826 N.E.2d 648 (Ind. 2005); Neale v. State, 826 N.E.2d 635 (Ind. 2005); Smith v. State, 825 N.E.2d 783 (Ind. 2005); Litchfield v. State, 824 N.E.2d 356 (Ind. 2005); Graves v. State, 823 N.E.2d 1193 (Ind. 2005); Houser v. State, 823 N.E.2d 693 (Ind. 2005); Debro v. State, 821 N.E.2d 367 (Ind. 2005); State *ex rel.* Att'y Gen. v. Lake Superior Court, 820 N.E.2d 1240 (Ind. 2005).