

AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2003*

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The Indiana Supreme Court continued its march to become “a marketplace of reasoned, scholarly judgment” in 2003.¹ As in 2002, this process was greatly aided by the constitutional change in the court’s jurisdiction that gave the court the power to select almost all of the cases it hears and freed the court from the mandatory criminal appeals that had flooded its docket. The jurisdictional change was intended to allow the court to serve its role as a true court of last resort. In 2002, the court’s docket showed the obvious effects of this jurisdictional change, as the court decided more civil cases and was more willing to grant transfer petitions than in previous years. In 2003, the jurisdictional change had some more subtle effects on the court’s workload.

First, the court handed down a remarkable number of difficult, lengthy and sophisticated opinions that were fitting for a “marketplace of reasoned, scholarly judgment.” For instance, the court handed down noteworthy and high-profile opinions addressing issues such as the ability of Indiana cities to sue gun manufacturers;² the interplay between Medicaid health benefits, the right to an

* 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 Barnes & Thornburg for its gracious willingness to devote the time, energy, and resources of its law firm to allow a project such 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.

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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, 1108 (2000) (quoting *Proposition 2*, INDIANAPOLIS STAR, Oct. 2, 1988, at F2).

2. *City of Gary ex rel. King v. Smith & Wesson Corp.*, 801 N.E.2d 1222 (Ind. 2003).

abortion, and the Indiana constitution;³ the constitutionality of Indiana's punitive damages statute under the Indiana constitution's takings clauses;⁴ and the effect of the governor's failure to properly return a veto.⁵ An example of the sophistication of the court's workload in 2003 is its opinion in *Peterson v. Borst*, which addressed the lawfulness of the redistricting of Marion County.⁶ The court handed down its opinion on March 19, 2003 and did so under the pressure of a May primary that would have been affected by the redistricting.⁷ After the per curiam opinion announced it would reverse the redistricting plan, the court set out to provide a remedy under the press of the May primary date by actually "redrawing the district lines" itself.⁸ A hint of the amount of effort the court put into the case is provided by the fact that the *Borst* opinion includes five appendixes tabulating different aspects of the redistricting.⁹ The court's ability to deal with these issues in a rich and sophisticated manner is precisely why the court pressed for a change in its jurisdiction.

Second, as one would expect from a true court of last resort, fractures in the court's voting patterns are becoming more apparent. For instance, the number of unanimous (5-0) opinions dropped from 74.2% in 2002 to 61.1% in 2003. Moreover, the number of opinions drawing at least one dissent rose for the fourth straight year and at least one justice dissented in 27.8% of the court's cases. This dissonance can be seen even among individual justices. For instance, the Chief Justice and Justice Rucker agreed in only 69.2% of the court's opinions and in only 61.5% of civil cases, while Justices Rucker and Sullivan agreed in only 68.9% of all opinions and 64.2% in civil cases. By contrast, the least amount of agreement in all cases for 2002 was shared by Justices Sullivan and Dickson at 76.1%. In fact, three pairs of justices agreed in less than 70% of the court's civil cases: Chief Justice Shepard and Justice Rucker; Justice Sullivan and Justice Rucker; and Justice Sullivan and Justice Dickson.

Third, as the court has taken on an increasingly challenging workload, it has become less likely to affirm the cases that come before it. The rate by which the court affirms opinions has dropped for the third straight year. In 2001, the court affirmed in 55.8% of the cases. In 2002 and 2003, the court did not have a significant number of mandatory criminal appeals and affirmed in only 40.4% and 27% of its cases, respectively. It goes without saying that as the court has a greater say in which cases to take, it is more likely to take those in which it sees error.

Finally, the change in the court's jurisdiction is apparently also having an affect on the legal profession's perception of the petition to transfer, as the number of petitions to transfer skyrocketed from 655 in 2002 to 871 in 2003.

3. *Humphreys v. Clinic for Women, Inc.*, 796 N.E.2d 247 (Ind. 2003).

4. *Cheatham v. Pohle*, 789 N.E.2d 467 (Ind. 2003).

5. *D&M Healthcare, Inc. v. Kernan*, 800 N.E.2d 898, 909 (Ind. 2003).

6. 786 N.E.2d 668 (Ind. 2003).

7. *Id.*

8. *Id.* at 677.

9. *Id.*

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

Table A. In 2003, the Indiana Supreme Court issued 88 opinions that were authored by an individual justice. The number of cases decided by the court has decreased dramatically. The court decided only 108 cases during the 2003 term. In 2002, 2001 and 2000, the court issued 190, 187 and 192 opinions, respectively. This drop occurred at least in part because of the sophistication and sheer girth of many of the cases the court handed down in 2003. Drafting opinions like the court's 32-page slip opinion in the *City of Gary* gun control case or the unique efforts in *Peterson v. Borst* undoubtedly commands a great deal of the court's attention. Another possible explanation for the drop in the number of opinions is the court's commitment to hearing oral argument in virtually every case.¹⁰ This commitment also commands the court's attention in both the argument and in the preparation for argument.

The impact of the amendment to Indiana's constitution changing the court's mandatory review of criminal cases to only those in which the death penalty is imposed was abundantly clear this year. The court, freed from numerous mandatory criminal appeals, considered a much greater percentage of civil cases. Of the 108 opinions issued in 2003, 63.9% (69) were civil opinions. In previous years, only 25% to 35% of the opinions issued by the court dealt with civil issues. The number of criminal appeals dropped this year from 106 in 2002 to 39 in 2003. The total number of discretionary appeals declined to 28% in 2004 from 55% in 2003.

Chief Justice Shepard issued the most opinions again this year, issuing 24 opinions. The court as a whole issued 20 per curiam opinions, all of which dealt with civil issues. In a change from previous years, nearly one quarter of these opinions dealt with matters other than attorney discipline decisions. The number of per curiam opinions is about the same as in previous years (24 in 2002 and 23 in 2001).

The number of dissents issued this year declined from 61 in 2002 to 47 in 2003. However, the decrease in the number of dissents from 2002 to 2003 does not demonstrate a change in the trend towards an increase in dissents first noted by this Article in 2001 because the percentage of opinions issued with dissents actually increased for 2003. In 2002, 32% of the opinions were issued with dissenting decisions. In 2003, that percentage increased to 43%. Justice Rucker, the newest member of the court, issued the greatest number of dissents, drafting 15 dissents. Justice Dickson was close behind Justice Rucker with 14 dissents.

Table B-1. For civil cases, Justices Boehm and Sullivan were the two justices most aligned at 85.3%. Justices Rucker and Dickson were next at 82.4%. Chief Justice Shepard and Justice Rucker were the least aligned at 61.5%. Justice Boehm was the most aligned with all other justices, and Justice Rucker was the least aligned.

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

Table B-2. For criminal cases, Chief Justice Shepard and Justice Dickson were the most aligned pair of justices and were in agreement 92.3% of the time. Interestingly, Justice Rucker agreed with Justices Sullivan and Dickson in only 76.9% of the court's criminal cases, which tied for the least agreement. That is to say, not only did Justice Rucker lead the category for least agreement in criminal cases, but he did so with two other justices. As for criminal cases, Chief Justice Shepard was the most aligned with his fellow justices, while Justice Rucker was the least.

Table B-3. For all cases, Justices Boehm and Sullivan were the most aligned at 85%, which was down from the high of 90.5% shared by Chief Justice Shepard and Justice Sullivan in 2002. The two least aligned justices were Justices Sullivan and Rucker at 68.9%, followed closely by Chief Justice Shepard and Justice Rucker at 69.2%. Both of these numbers are decreases from the lowest level of agreement in 2002, which was the 76.1% disagreement between Justices Sullivan and Dickson.

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

Table C. The court issued a smaller percentage of unanimous opinions in 2003 than either of the previous two years. In 2003, the court was unanimous in 66.1% of its cases. The court issued unanimous opinions in 69.1% of its cases in 2001 and 74.2% in 2002. This drop is directly attributable to the absence of mandatory direct criminal appeals. As mentioned, the number of opinions drawing at least one dissent continued to rise. In 2003, the number of cases with at least one dissent rose to 27.8%, up from 23.2% in 2002 and 18.5% in 2001. Cases decided in 2000 and 1999 drew dissents in only 12.4% of the decisions.

Table D. The court continues to issue a relatively high number of 3-2 split decisions. In 2003, the raw number of 3-2 split decisions actually dropped to 18, which was down from the 26 split decisions in 2002 and the 27 split decisions in 2001. However, as previously mentioned, the overall number of cases decided dropped noticeably in 2003, and as such the raw number of 3-2 decisions dropped in turn. As was the case in 2002, Chief Justice Shepard continues to be in the majority for almost all of the court's split opinions. In fact, the Chief Justice was in the majority in all but three of the 3-2 opinions. He was in the majority in 19 of the 26 split opinions in 2002. Chief Justice Shepard is clearly a pivotal "swing vote."

Table E-1. Overall, the court affirmed cases only 27% of the time. This percentage dropped from 2002 in large part because of the virtual absence of mandatory criminal appeals affirmed. Civil appeals were affirmed only 14.9% of the time and nonmandatory criminal appeals were affirmed only 17.6% of the time.

Table E-2. The number of civil petitions granted transfer by the court continued to rise in 2003. The court granted 63 civil petitions in 2003, an increase from the

59 in 2002 and 34 in 2001. In 2003, a civil petition to transfer stood a 21.2% chance of being granted, and a criminal petition stood about a 7.5% chance of being granted. Juvenile petitions to transfer stood a 10% chance of being granted.

Table F. The emphasis on civil opinion is also demonstrated by Table F. Table F categorizes the subject matter of decisions addressed by the court. The majority of the categories in Table F track civil issues. In 2003, despite a dramatic decrease in the number of total decisions, the number of cases addressing discrete civil issues remained roughly the same or increased. For example, the number of decisions addressing negligence or personal injury issues increased in 2003 to 13 from 7 in 2002. There were some decreases in the civil issues addressed—the number of decisions addressing contract issues declined to 2 in 2003 from 6 in 2002. The court also decided 5 death penalty cases, affirming 3 and reversing 2.

TABLE A
OPINIONS^a

	OPINIONS OF COURT ^b			CONCURRENCES ^c			DISSENTS ^d		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	16	8	24	3	6	9	0	3	3
Dickson, J. ^e	7	10	17	0	2	2	2	12	14
Sullivan, J. ^e	9	13	22	1	2	3	1	7	8
Boehm, J. ^e	4	14	18	1	1	2	3	4	7
Rucker, J. ^e	3	4	7	1	3	4	4	11	15
Per Curiam	0	20	20						
Total	39	69	108	6	14	20	10	37	47

^a These are opinions and votes on opinions by each justice and in per curiam in the 2003 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, 213 (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 causes: *D&M Healthcare, Inc. v. Kernan*, 800 N.E.2d 898 (Ind. 2003) (Sullivan, J., not participating); *Murray v. Conseco, Inc.*, 795 N.E.2d 454 (Ind. 2003) (Shepard, C.J., not participating); *In re Hailey*, 792 N.E.2d 851 (Ind. 2003) (Shepard, C.J., not participating); *In re Keller*, 792 N.E.2d 865 (Ind. 2003) (Shepard, C.J., not participating); *In re Wilkins*, 782 N.E.2d 985 (Ind. 2003) (Rucker, J., not participating).

TABLE B-1
VOTING ALIGNMENTS FOR CIVIL CASES^f

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		46	51	53	40
	S		2	2	1	0
	D	---	48	53	54	40
	N		66	65	66	65
	P		72.7%	81.5%	81.8%	61.5%
Dickson, J.	O	46		47	52	48
	S	2		0	0	8
	D	48	---	47	52	56
	N	66		68	69	68
	P	72.7%		69.1%	75.4%	82.4%
Sullivan, J.	O	51	47		56	43
	S	2	0		2	0
	D	53	47	---	58	43
	N	65	68		68	67
	P	81.5%	69.1%		85.3%	64.2%
Boehm, J.	O	53	52	56		47
	S	1	0	2		1
	D	54	52	58	---	48
	N	66	69	68		68
	P	81.8%	75.4%	85.3%		70.6%
Rucker, J.	O	40	48	43	47	
	S	0	8	0	1	
	D	40	56	43	48	---
	N	65	68	67	68	
	P	61.5%	82.4%	64.2%	70.6%	

^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, 46 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		36	35	35	32
	S		0	0	0	0
	D	---	36	35	35	32
	N		39	39	39	39
	P		92.3%	89.7%	89.7%	82.1%
Dickson, J.	O	36		34	33	30
	S	0		0	0	0
	D	36	---	34	33	30
	N	39		39	39	39
	P	92.3%		87.2%	84.6%	76.9%
Sullivan, J.	O	35	34		33	31
	S	0	0		0	0
	D	35	34	---	33	31
	N	39	39		39	39
	P	89.7%	87.2%		84.6%	79.5%
Boehm, J.	O	35	33	33		31
	S	0	0	0		2
	D	35	33	33	---	33
	N	39	39	39		39
	P	89.7%	84.6%	84.6%		84.6%
Rucker, J.	O	32	30	31	31	
	S	0	0	0	2	
	D	32	30	31	33	---
	N	39	39	39	39	
	P	82.1%	76.9%	79.5%	84.6%	

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, 36 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		82	86	88	72
	S		2	2	1	0
	D	---	84	88	89	72
	N		105	104	105	104
	P		80.0%	84.6%	84.8 %	69.2 %
Dickson, J.	O	82		81	85	80
	S	2		0	0	10
	D	84	---	81	85	90
	N	105		107	108	107
	P	80.0%		75.7%	78.7 %	84.1 %
Sullivan, J.	O	86	81		89	73
	S	2	0		2	0
	D	88	81	---	91	73
	N	104	107		107	106
	P	84.6%	75.7%		85.0 %	68.9 %
Boehm, J.	O	88	85	89		78
	S	1	0	2		3
	D	89	85	91	---	81
	N	105	108	107		107
	P	84.8%	78.7%	85.0%		75.7 %
Rucker, J.	O	72	80	73	78	
	S	0	10	0	3	
	D	72	90	73	81	--
	N	104	107	106	107	
	P	69.2%	84.1%	68.9 %	75.7%	

^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, 82 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 2003. 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	
29	37	66 (61.1%)	3	9	12 (11.1%)	7	23	30 (27.8%)	108

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., Dickson, J., Boehm, J.	1
2. Shepard, C.J., Dickson, J., Rucker, J.	1
3. Shepard, C.J., Sullivan, J., Boehm, J.	10
4. Shepard, C.J., Dickson, J., Sullivan, J.	1
5. Shepard, C.J., Boehm, J., Dickson, J., Rucker, J., Sullivan, J.	1
6. Shepard, C.J., Dickson, J.	1
7. Boehm, J., Dickson, J., Rucker, J.	1
8. Dickson, J., Sullivan, J., Rucker, J.	2
Totalⁿ	18

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 2003 term's 3-2 decisions were:

1. Shepard, C.J., Dickson, J., Boehm, J.: *Chaffee v. Seslar*, 786 N.E.2d 705 (Ind. 2003) (Dickson, J.).
2. Shepard, C.J., Dickson, J., Rucker, J.: *Neal v. DeKalb County Div. of Family & Children*, 796 N.E.2d 280 (Ind. 2003) (Rucker, J.).
3. Shepard, C.J., Sullivan, J., Boehm, J.: *Springer v. State*, 798 N.E.2d 431 (Ind. 2003) (Sullivan, J.); *Morgen v. Ford Motor Co.*, 797 N.E.2d 1146 (Ind. 2003) (Sullivan, J.); *State v. Dugan*, 793 N.E.2d 1034 (Ind. 2003) (Shepard, C.J.); *Tankersley v. Parkview Hosp., Inc.*, 791 N.E.2d 201 (Ind. 2003) (Shepard, C.J.); *Cheatham v. Pohle*, 789 N.E.2d 467 (Ind. 2003) (Boehm, J.); *AlliedSignal, Inc. v. Herring*, 785 N.E.2d 1090 (Ind. 2003) (Sullivan, J.); *AlliedSignal, Inc. v. Ott*, 785 N.E.2d 1068 (Ind. 2003) (Sullivan, J.); *Black v. A.C. & S., Inc.*, 785 N.E.2d 1084 (Ind. 2003) (Sullivan, J.); *Harris v. A.C. & S., Inc.*, 785 N.E.2d 1087 (Ind. 2003) (Sullivan, J.); *Jurich v. Garlock, Inc.*, 785 N.E.2d 1093 (Ind. 2003) (Sullivan, J.).
4. Shepard, C.J., Dickson, J., Sullivan, J.: *Williams v. State*, 793 N.E.2d 1019 (Ind. 2003) (Sullivan, J.).
5. Shepard, C.J., Boehm, J., Dickson, J., Rucker, J., Sullivan, J.: *Humphreys v. Clinic for Women, Inc.*, 796 N.E.2d 247 (Ind. 2003) (Sullivan, J.) (Shepard, C.J. and Dickson, J. concurring in Part I; Boehm, J. and Rucker, J. concurring in Part II).
6. Shepard, C.J., Dickson, J.: *In re Wilkins*, 782 N.E.2d 985 (Ind. 2003) (Dickson, J.).
7. Boehm, J., Dickson, J., Rucker, J.: *Ind. Dep't of Env'tl. Mgmt. v. Twin Eagle L.L.C.*, 798 N.E.2d 839 (Ind. 2003) (Boehm, J.).
8. Dickson, J., Sullivan, J., Rucker, J.: *Embry v. O'Bannon*, 798 N.E.2d 157 (Ind. 2003) (Dickson, J.); *Reeder v. Harper*, 788 N.E.2d 1236 (Ind. 2003) (Rucker, 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	40 (85.1%)	7 (14.9%)	47
Direct Civil Appeals	8 (88.9%)	1 (11.1%)	9
Criminal Appeals Accepted for Transfer	14 (82.4%)	3 (17.6%)	17
Direct Criminal Appeals	3 (18.8%)	13 (81.2%)	16
Total	65 (73%)	24 (27%)	89^q

^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.

^q This does not include 11 attorney and judicial discipline opinions or three opinions related to certified questions. These opinions did not reverse, vacate, or affirm any other court's decision. This also does not include six opinions which considered petitions for post-conviction relief.

TABLE E-2
DISPOSITION OF PETITIONS TO TRANSFER
TO SUPREME COURT IN 2003^r

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil ^s	234 (78.8%)	63 (21.2%)	297
Criminal ^t	494 (92.5%)	40 (7.5%)	534
Juvenile	36 (90.0%)	4 (10.0%)	40
Total	764 (87.7%)	107 (12.3%)	871

^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	3 ^v
• Writs of Mandamus or Prohibition	0
• Attorney Discipline	10 ^w
• Judicial Discipline	2 ^x
Criminal	
• Death Penalty	5 ^y
• Fourth Amendment or Search and Seizure	2 ^z
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	1 ^{aa}
Trusts, Estates, or Probate	0
Real Estate or Real Property	3 ^{bb}
Personal Property	0
Landlord-Tenant	1 ^{cc}
Divorce or Child Support	7 ^{dd}
Children in Need of Services (CHINS)	0
Paternity	2 ^{ee}
Product Liability or Strict Liability	2 ^{ff}
Negligence or Personal Injury	13 ^{gg}
Invasion of Privacy	0
Medical Malpractice	1 ^{hh}
Indiana Tort Claims Act	2 ⁱⁱ
Statute of Limitations or Statute of Repose	4 ^{jj}
Tax, Department of State Revenue, or State Board of Tax Commissioners	5 ^{kk}
Contracts	2 ^{ll}
Corporate Law or the Indiana Business Corporation Law	3 ^{mm}
Uniform Commercial Code	0
Banking Law	0
Employment Law	0
Insurance Law	3 ⁿⁿ
Environmental Law	3 ^{oo}
Consumer Law	0
Worker's Compensation	3 ^{pp}
Arbitration	0
Administrative Law	1 ^{qq}
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	0
Eleventh Amendment	0
Civil Rights	3 ^{rr}
Indiana Constitution	20 ^{ss}

^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 2003. 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 Simon v. United States, 794 N.E.2d 1087 (Ind. 2003); Majors v. Abell, 792 N.E.2d 22 (Ind. 2003); Majors v. Abell, 785 N.E.2d 226 (Ind. 2003).

^w In re Caputi, 798 N.E.2d 850 (Ind. 2003); In re Contempt of Fox, 796 N.E.2d 1186 (Ind. 2003); In re Stochel, 792 N.E.2d 874 (Ind. 2003); In re Richardson, 792 N.E.2d 871 (Ind. 2003); In re Keller, 792 N.E.2d 865 (Ind. 2003); In re Haile, 792 N.E.2d 851 (Ind. 2003); In re Anonymous, 787 N.E.2d 883 (Ind. 2003); In re Anonymous, 786 N.E.2d 1185 (Ind. 2003); In re Anonymous, 783 N.E.2d 1130 (Ind. 2003); In re Wilkins, 782 N.E.2d 985 (Ind. 2003).

^x In re Spencer, 798 N.E.2d 175 (Ind. 2003); In re Danikolas, 783 N.E.2d 687 (Ind. 2003).

^y Allen v. State, Case No. 49S00-0303-SD-122, 2003 Ind. LEXIS 581 (Ind. July 15, 2003) (affirming); Williams v. State, 793 N.E.2d 1019 (Ind. 2003) (affirming); Kubsch v. State, 784 N.E.2d 905 (Ind. 2003) (reversing); State v. Dye, 784 N.E.2d 469 (Ind. 2003) (affirming); Overstreet v. State, 783 N.E.2d 1140 (Ind. 2003) (affirming).

^z Kubsch v. State, 784 N.E.2d 905 (Ind. 2003); Jones v. State, 783 N.E.2d 1132 (Ind. 2003).

^{aa} Peterson v. Borst, 786 N.E.2d 668 (Ind. 2003).

^{bb} State v. Bishop, 800 N.E.2d 918 (Ind. 2003); Dvorak v. City of Bloomington, 796 N.E.2d 236 (Ind. 2003); Mun. South Bend v. Kimsey, 781 N.E.2d 683 (Ind. 2003).

^{cc} Lae v. Householder, 789 N.E.2d 481 (Ind. 2003).

^{dd} Cohoon v. Cohoon, 784 N.E.2d 904 (Ind. 2003).

^{ee} In re Adoption of Infant Child Baxter, 799 N.E.2d 1057 (Ind. 2003); Neal v. DeKalb County Div. Family & Children, 796 N.E.2d 280 (Ind. 2003).

^{ff} Morgan v. Ford Motor Co., 797 N.E.2d 1146 (Ind. 2003); King v. Northeast Sec., Inc., 790 N.E.2d 474 (Ind. 2003).

^{gg} City of Gary *ex rel.* King v. Smith & Wesson, Corp., 801 N.E.2d 1222 (Ind. 2003); Paragon Family Rest. v. Bartolini, 799 N.E.2d 1048 (Ind. 2003); Coslett v. Weddle Bros. Constr. Co., Inc., 798 N.E.2d 859 (Ind. 2003); Cook v. Whitsell-Sherman, 796 N.E.2d 271 (Ind. 2003); Brazauskas v. Fort Wayne-South Bend Diocese, Inc., 796 N.E.2d 286 (Ind. 2003); Smith v. Baxter, 796 N.E.2d 242 (Ind. 2003); Young v. Tri-etch, Inc., 790 N.E.2d 456 (Ind. 2003); Chaffee v. Seslar, 786 N.E.2d 705 (Ind. 2003); Jurich v. Garlock, Inc., 785 N.E.2d 1093 (Ind. 2003); AlliedSignal, Inc. v. Herring, 785 N.E.2d 1090 (Ind. 2003); Harris v. A.C.&S., Inc., 785 N.E.2d 1087 (Ind. 2003); AlliedSignal, Inc. v. Ott, 785 N.E.2d 1068 (Ind. 2003); Bourbon Mini-Mart, Inc. v. Gast Fuel & Servs., Inc., 783 N.E.2d 253 (Ind. 2003).

^{hh} Chaffee v. Seslar, 786 N.E.2d 705 (Ind. 2003).

ⁱⁱ King v. Northeast Sec., Inc., 790 N.E.2d 474 (Ind. 2003); Bushong v. Williamson, 790 N.E.2d 467 (Ind. 2003).

^{jj} Jurich v. Garlock, Inc., 785 N.E.2d 1093 (Ind. 2003); AlliedSignal, Inc. v. Herring, 785 N.E.2d 1090 (Ind. 2003); Harris v. A.C.&S., Inc., 785 N.E.2d 1087 (Ind. 2003); AlliedSignal, Inc. v. Ott, 785 N.E.2d 1068 (Ind. 2003).

^{kk} State Bd. of Tax Comm'rs v. Inland Container Corp., 785 N.E.2d 227 (Ind. 2003); Apple Glen Crossing, L.L.C. v. Trademark Retail, Inc., 784 N.E.2d 484 (Ind. 2003); State Bd. of Tax Comm'rs v. Ispat Inland, Inc., 784 N.E.2d 477 (Ind. 2003); Tippacanoe County v. Ind. Mfr's Ass'n, 784 N.E.2d 463 (Ind. 2003); Ind. Dep't of Revenue v. Interstate Warehousing, Inc., 783 N.E.2d 248 (Ind. 2003).

^{ll} Young v. Tri-etch, Inc., 790 N.E.2d 456 (Ind. 2003); Apple Glen Crossing, Inc. v. Trademark Retail, L.L.C., 784 N.E.2d 484 (Ind. 2003).

^{mm} F.B.I. Farms, Inc. v. Moore, 798 N.E.2d 440 (Ind. 2003); Murray v. Conseco, Inc., 795 N.E.2d 454 (Ind. 2003); Apple Glen Crossing, Inc. v. Trademark Retail, Inc., 784 N.E.2d 484 (Ind. 2003).

ⁿⁿ Humphreys v. Clinic for Women, Inc., 796 N.E.2d 247 (Ind. 2003); Tankersley v. Parkview Hosp., Inc., 791 N.E.2d 201 (Ind. 2003); Smith v. Cincinnati Ins. Co., 790 N.E.2d 460 (Ind. 2003).

^{oo} Ind. Dep't of Env'tl. Mgmt. v. Twin Eagle L.L.C., 798 N.E.2d 839 (Ind. 2003); AlliedSignal, Inc. v. Ott, 785 N.E.2d 1068 (Ind. 2003); Bourbon Mini-Mart, Inc. v. Gast Fuel and Servs., Inc., 783 N.E.2d 253 (Ind. 2003).

^{pp} Wernle, Ristine & Ayers v. Yund, 790 N.E.2d 992 (Ind. 2003); Milledge v. The Oaks, 784 N.E.2d 926 (Ind. 2003); Sims v. U.S. Fid. & Guar. Co., 782 N.E.2d 345 (Ind. 2003).

^{qq} Ind. Dep't of Envtl. Mgmt. v. Twin Eagle L.L.C., 798 N.E.2d 839 (Ind. 2003).

^{rr} Finger v. State, 799 N.E.2d 528 (Ind. 2003); Smith v. Cincinnati Ins. Co., 790 N.E.2d 460 (Ind. 2003); Peterson v. Borst, 786 N.E.2d 668 (Ind. 2003).

^{ss} City of Gary *ex rel.* King v. Smith & Wesson, Corp., 801 N.E.2d 1222 (Ind. 2003); D&M Healthcare, Inc. v. Kernan, 800 N.E.2d 898 (Ind. 2003); Finger v. State, 799 N.E.2d 528 (Ind. 2003); Embry v. O'Bannon, 798 N.E.2d 157 (Ind. 2003); Humphreys v. Clinic for Women, Inc., 796 N.E.2d 247 (Ind. 2003); Dvorak v. City of Bloomington, 796 N.E.2d 236 (Ind. 2003); Malinski v. State, 794 N.E.2d 1071 (Ind. 2003); Doe v. O'Connor, 790 N.E.2d 985 (Ind. 2003); Miller v. State, 790 N.E.2d 437 (Ind. 2003); Cheatham v. Pohle, 789 N.E.2d 467 (Ind. 2003); Holden v. State, 788 N.E.2d 1253 (Ind. 2003); Peterson v. Borst, 786 N.E.2d 668 (Ind. 2003); Estate of Heck *ex rel.* Heck v. Stoffer, 786 N.E.2d 265 (Ind. 2003); Jurich v. Garlock, Inc., 785 N.E.2d 1093 (Ind. 2003); AlliedSignal, Inc. v. Herring, 785 N.E.2d 1090 (Ind. 2003); Harris v. A.C.&S., Inc., 785 N.E.2d 1087 (Ind. 2003); AlliedSignal, Inc. v. Ott, 785 N.E.2d 1068 (Ind. 2003); Dep't of Local Gov't Fin. v. Griffin, 784 N.E.2d 448 (Ind. 2003); Overstreet v. State, 783 N.E.2d 1140 (Ind. 2003); Sims v. U.S. Fid. & Guar. Co., 782 N.E.2d 345 (Ind. 2003).