

2011

INDIANA JUDICIAL SERVICE REPORT Volume II



The Supreme Court of Indiana

The Honorable Randall T. Shepard, Chief Justice (retired March 2012)

The Honorable Brent E. Dickson, Assoc. Justice (appointed Chief Justice May 2012)

The Honorable Frank Sullivan, Jr., Assoc. Justice

The Honorable Robert D. Rucker, Assoc. Justice

The Honorable Steven H. David, Assoc. Justice

The Honorable Mark S. Massa, Assoc. Justice (appointed April 2012)

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2011 Indiana Judicial Service Report

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INTRODUCTION TO VOLUME II CASELOAD STATISTICS

CASELOAD INFORMATION

Volume II of the *Indiana Judicial Service Report* consists of caseload information for every trial court in Indiana, with subtotals for each county. This volume is produced with the assistance of the trial court staff, which must file quarterly reports on case statistics with the Division of State Court Administration.

For a description of the Indiana judicial system, data on Indiana's appellate-level courts, statewide totals, and comparison tables and trends, please refer to Volume I – *Judicial Year in Review*. Volume III of this report contains data on the expenditures and revenues of every court in Indiana. The Probation Report contains data on adult felony, adult misdemeanor, and juvenile probation activity in Indiana.

CASELOAD REPORTS AND CASE TYPE DESCRIPTIONS

Each quarter, Indiana's trial courts report their caseloads to the Division by filing a Quarterly Case Status Report (QCSR). This report contains summary information, by case type, on the number of cases filed and pending, the movement of cases between

courts via transfer or venue, and the method by which cases were disposed during a reporting period. All courts report these statistics online using the Indiana Courts Online Reports (ICOR) system, through INcite, the judicial system's secure extranet for court information.

In addition to the cases that are handled by a specific court, the Quarterly Case Status Report tracks the amount of judicial resources available to a court and when a judge hears cases in another court. The QCSR also captures other case-related information that is used to administer and improve court performance, projects, and initiatives. For example, data is collected tracking the number of cases referred to alternative dispute resolution or for which pauper counsel was appointed, the number of cases that required the service of a court interpreter, and the number of juvenile cases in which a guardian *ad litem* or court appointed special advocate was appointed.

Case information is grouped into three categories: criminal, juvenile, and civil, and is tracked using the case type classification code outlined in Indiana Administrative Rule 8(B)(3). An administrative case type called "court business record" is also recorded but is not counted in a court's weighted caseload.

Case type designations and categories are as follows:

CRIMINAL CASE TYPES

If a defendant is charged with multiple offenses, the case is counted only one time under the most serious charge, combining the rest of the charges within the case. Even if the prosecutor later amends the charges, for administrative purposes, a case continues to be counted under its initial case designation in the statistical reports. Each defendant constitutes a single case with a distinct case number.

1. **MR - Murder:** All murder cases are filed under this category. If the State seeks either the death penalty or life without parole, that information is also collected and reported in the Quarterly Case Status Report.
2. **CF - Criminal Felony:** This category includes all cases filed prior to January 1, 2002 as Murder or Class A, B, and C felonies. Although no new filings are permitted in this category, existing cases with a CF designation are still reported and disposed of in this category.
3. **FA - Class A Felony:** Cases in which the defendant is charged with a crime defined as a Class A felony are filed under the FA category. Examples include kidnapping, voluntary manslaughter with a deadly weapon, and arson involving bodily injury.
4. **FB - Class B Felony:** Examples include aggravated battery, rape, child molesting, carjacking, and armed robbery.
5. **FC - Class C Felony:** Examples include involuntary manslaughter, robbery, burglary, and reckless homicide.
6. **FD - Class D Felony:** All Class D felonies filed on or after January 1, 2002 plus all Class D felonies filed before January 1, 2002 that have the case type DF are filed under the FD category. Examples of crimes in this category include theft, receiving stolen property, computer tampering, and fraud.
7. **CM - Criminal Misdemeanor:** This category includes all criminal cases filed as misdemeanors. Examples of crimes in this category are criminal trespass, check deception, harassment, and battery.
8. **PC - Post-Conviction Petition:** This category includes all petitions for post-conviction relief filed under the Post-Conviction Rules.
9. **MC - Miscellaneous Criminal:** This category includes all criminal matters which are not easily classified as felony or misdemeanor and which are not part of an ongoing proceeding for which a criminal case type has already been assigned. An example of a case falling into this category would be a probable cause hearing in a case not yet filed. When a search warrant is issued before charges are filed, an MC case number is assigned for the search warrant and should be disposed of via a bench disposition. If charges are filed, then a case in the appropriate category should be filed.

CIVIL VIOLATIONS

Infractions and Ordinance Violations are civil case types. They are listed after the criminal case types on the QCSR and are listed in this same order for the purposes of this report.

1. **IF - Infractions:** Infractions are typically traffic-related offenses. Similar to other criminal cases and ordinance violations, multiple offenses (i.e., multiple tickets or citations issued to the same individual or arising from the same circumstances) result in only one case filing.
2. **OV/OE - Ordinance Violations:** Local ordinance violations may be enforced through court proceedings or a municipal corporation may enforce some local ordinance violations by establishing a municipal ordinance violations bureau. All moving traffic violations must be enforced through a court proceeding. If a local ordinance violation is heard in court, it is assigned the OV case type. Local ordinance violations enforced by municipal ordinance violations bureaus are not court cases and therefore are not assigned a case type/case number. The OE case type is not currently used.

JUVENILE CASE TYPES

Each child considered by the court system receives a separate case number, regardless of his or her familial relationship to another child. Cases of related children and other related cases can be linked and tried together.

1. **JC - Juvenile CHINS:** This category reflects those cases before the court where a child is alleged to be a child in need of services as defined by Indiana Code 31-34-1-1 *et. seq.* Examples include circumstances where the child is not receiving and is unlikely to receive care, treatment or rehabilitation without court intervention.
2. **JD - Juvenile Delinquency:** Cases in which a child is alleged to be a delinquent are filed in this category. Indiana Code 31-37-1-2 defines a delinquent act as one that is committed by a child before becoming eighteen (18) years of age and that would be a criminal offense if committed by an adult. The case is recorded as a new filing when a petition for detention hearing or a petition alleging delinquency is filed.
3. **JS - Juvenile Status:** Cases in which a child is charged with committing an offense which would not be a crime if committed by an adult are filed in this category. Examples include curfew violations, school truancy and underage alcohol purchase or consumption.
4. **JP - Juvenile Paternity:** This includes paternity actions filed by any of the parties specified by statute, including the prosecutor. (Indiana Code 31-14-4-1 identifies who may file paternity actions.)
5. **JM - Juvenile Miscellaneous:** This category applies to juvenile matters which are not specifically listed in the previous juvenile case type categories including court approval of informal

adjustments. An informal adjustment is a disposition by a court order approving an agreement signed by parties that would otherwise be filed as a juvenile delinquency or a CHINS case.

6. **JT - Termination of Parental Rights:** This category includes all proceedings for termination of parental rights. In termination of parental rights cases involving multiple children, a separate case number must be assigned to each child.

CIVIL CASE TYPES

Civil cases are filed when the plaintiff or petitioner seeks monetary damages or court redress.

1. **CP - Civil Plenary:** All Civil Plenary cases filed before January 1, 2002 have the CP case type designation. Although no new filings are permitted for this category, existing cases with a CP designation are still reported and disposed in this category.
2. **PL - Civil Plenary:** All Civil Plenary cases filed on or after January 1, 2002 receive the PL designation. Basic civil cases not otherwise specifically included as separate categories are filed with this designation. Generally, these cases may be more complex cases not involving a mortgage foreclosure or the collection of an outstanding debt. Frequently cases involving contract disputes and actions seeking equitable or injunctive relief are assigned this case type.

3. **MF - Mortgage Foreclosure:** All Mortgage Foreclosure cases filed after January 1, 2002 are reported in this category.

4. **CC - Civil Collection:** All Civil Collections filed after January 1, 2002 are reported in this category, and may include the following: suits on notes and accounts, general collection suits, landlord/tenant suits for collection, ejectment, and tax warrants. If these cases are filed on the small claims docket of a court or the small claims division of a multi-division court, the SC case type should be used.

5. **CT - Civil Tort:** Cases founded in tort and filed on the regular civil docket of the court are included in this category. Small claims, which also could be founded in tort, are included in a separate category.

6. **SC - Small Claims:** This category includes cases filed on the small claims docket of Circuit or Superior courts, as well as cases filed in the nine Marion County Small Claims Courts. While city and town courts may have cases that fall within the monetary limits of small claims jurisdiction, those cases are not defined as small claims by statute and must be counted as PL – Plenary or CC – Civil Collection, depending upon the nature of the action. Small claims actions include cases where the amount in dispute is \$6000 or less, landlord-tenant ejectment actions, and landlord-tenant disputes.

7. **DR - Domestic Relations:** Actions involving petitions for dissolution of marriage, legal separation, and petitions to establish child support are filed in this category.
8. **RS - Reciprocal Support:** Actions for reciprocal enforcement of child support and petitions for modification of support or custody and/or support under the 2007 Amended Uniform Child Custody Jurisdiction Act are counted in this category.
9. **MH - Mental Health:** Proceedings involving mental health commitments including temporary commitments, an extension of temporary commitment, regular commitment, or termination of a commitment are filed under this category.
10. **AD - Adoption:** Petitions for adoption are filed under this category. Additionally, on or after January 1, 2002, petitions seeking release of adoption records are filed in this category.
11. **AH - Adoption History:** All petitions seeking release of adoption records filed prior to January 1, 2002 are still reported and disposed in this category even though no new filings are permitted. The AH case type is no longer included in Indiana Administrative Rule 8.
12. **ES/EU/EM - Estates:** This category includes both supervised and unsupervised probate of estates. Claims against the estate that are transferred for trial are listed as civil, or CT matters. EM, a new category effective January 1, 2009, includes all matters related to estates that do not require payment of filing fees. Examples include filing an inheritance tax return, petition to open a safety deposit box, and “spreading of a will upon the record.” In the examples given, no court costs are assessed unless proceedings beyond the court’s approval of the tax return or admitting a will to probate become necessary. Indiana Code 33-37-4-7(c).
13. **GU - Guardianship:** Petitions for appointment of guardians are filed under this category. A guardianship case is considered “closed” when the court enters an order appointing and approving the guardianship.
14. **TR - Trusts:** This category includes trust matters before the court. This case type includes trusts that have been created through an estate and are separately reported from the estate.
15. **PO - Protective Order:** New petitions for protective orders which are not part of an ongoing process (such as marriage dissolution) are filed in this category. However, if the parties subsequently file a petition for dissolution, the cases remain separate for reporting, enforcement and retention purposes.
16. **MI - Civil Miscellaneous:** Routine civil matters which are not easily categorized in other areas and which are not part of any other pending litigation may be included in this category. Examples are petitions for name change, appointments of appraisers, petitions for emancipation, a proceeding to reinstate

a driver's license that has been administratively suspended, a Habeas Corpus case from DOC, and marriage waivers.

COURT BUSINESS RECORD

1. **CB - Court Business Record:** This category is intended for non-case specific matters, such as the appointment of a judge *pro tem*, drawing the jury, adopting or amending local rules, or recording a foreign protective order. This designation provides a way to number and locate records that do not pertain to any specific case. These matters are not counted as cases and do not affect the court's weighted caseload.

METHODS OF DISPOSITION

The Quarterly Case Status Reports also include summary dispositional information. A brief description of the methods of disposition is as follows:

1. **Jury Trial:** This category reflects cases that have been decided by a jury or have gone to the jury. This type of disposition is limited to cases where the jury is seated and sworn and the court has received evidence.
2. **Bench Trial:** Cases are disposed in this category by the court after a trial without a jury in which a witness has been sworn in to testify. Until 1999, cases in which a trial did not take place were also counted as disposed by bench trial. After 1999, such cases have been included under "bench disposition."
3. **Bench Disposition:** Cases that are disposed by final judicial determination of an issue, but where no witnesses are sworn and no evidence is introduced, should be counted in this category. These dispositions include decisions on motions for summary judgment, hearings on other dispositive motions, and settled cases in which the parties tender an agreed judgment to the court for approval, which can then be enforced through proceedings supplemental to execution. Approval of informal adjustments in juvenile matters and issuance of search warrants unrelated to any pending case also generally fall into this category.
4. **Dismissed:** This applies to cases which are dismissed either by the court on its own motion (Indiana Trial Rule 41(E)), upon the motion of a party, or upon an agreed entry as the result of settlement between the parties.
5. **Default:** This category is applicable only in civil cases, infractions and ordinance violations where the defendant fails to comply with the trial rules and a judgment of default is entered by the court.
6. **Deferred/Diverted:** This category was added in January 2002. If a prosecutor and defendant agree to defer prosecution or for the defendant to enter a diversion program, the case is disposed in this category. Even though the case is not formally dismissed until the completion of the deferral obligations, this category permits the criminal courts to reduce their pending caseloads by the number of cases where the cases will eventually be dismissed. Likewise, even though

diversion programs are generally part of a guilty plea, they fall into this category as a way for the state to track the number of defendants consenting to the diversion programs.

7. **Guilty Plea/Admission:** Cases in which the defendant pleads guilty to an offense or admits to the commission of an infraction or ordinance violation are counted under this category. Infraction and ordinance violation cases are only reflected in this disposition category if the case actually comes before the court for decision. An admission by mail or through a court clerk or violations bureau clerk is counted as being disposed by Traffic Violations Bureau. Also included in this category are dispositions of juvenile cases where the juvenile admits the claims, or the father admits paternity; and in protective order cases where a party admits to the claims in the protective order.

8. **Traffic Violations Bureau:** This disposition category only applies to infraction and ordinance violations. Indiana Code 34-28-5-7 permits any court to establish a traffic violations bureau and to appoint a violations clerk to serve under the direction of the court. The court must designate the traffic violations that are within the authority of the violations clerk. This category should be used when the defendant elects to pay the penalty for the violation by mailing or delivering payment to the violations clerk or by making payment online and without going to court.

9. **Closed:** Routine closing of an estate or adoption proceeding, as well as the routine termination of a trust or guardianship are counted in this disposition type. Also included in this category are cases where the defendant has filed bankruptcy or the case is removed to federal court.

10. **FTA/FTP:** This category includes ordinance violation cases and infraction cases in which the defendants fail to appear or fail to pay. Once counted in this category, the case is not recounted even if the defendant later appears, pays, or proceeds to a full trial.

11. **Other:** Any case disposition that is not otherwise accounted for in the preceding categories may be included here. Examples would be a case resolved by the death of the defendant or if the case was opened in error.

MOVEMENT OF CASES

In addition to cases being filed and disposed, cases may be venued or transferred between courts.

1. **Venued In/Out:** Cases that have been filed in a court but are moved to another county for any reason should be listed in this category.
2. **Transferred In/Out:** Cases that are transferred from one court to another within the same county, or from one court docket to another (such as a move from small claims docket to the civil plenary docket), should be recorded here. In the event a motion for change of venue from

the judge results in a transfer of the case to another court in the same county, the case should also be counted in this category.

COURT SERVICES INFORMATION

The cases filed in the courts are assigned to a particular court according to the county's local caseload allocation plan. Various court services are provided based on the individual needs of the litigants and the judges. The following are services and judicial provisions the courts track on the quarterly statistical forms.

1. **Special Judge Service:** Pursuant to Indiana Rules of Trial Procedures 76, 79 and 79.1, and Criminal Rule 13, a special judge can assume jurisdiction on a case under certain circumstances. The courts report cases where the reporting judge serves as a special judge on other court's cases and reports cases where a special judge is serving in the reporting court. The assignment of a special judge is reported in the quarter in which the special judge is assigned.
2. **Cases with Self-Represented (Pro Se) Litigants:** The courts report cases in each case type category in the first quarter in which any party has proceeded without attorney representation at any point in the case while the case remains open. A case is only reported **once**, however, even if many parties have proceeded *pro se*, or if the status of the litigants changes one or more times during the course of the case. The criminal and juvenile courts count a criminal or juvenile case as *pro se* if, after

the hearing in which the defendant is offered an attorney, the defendant refuses one and acts on his/her own behalf thereafter. For a civil case, the courts determine *pro se* status starting from the moment the complaint or petition is filed. If a plaintiff files a civil case without the assistance of an attorney, the court counts that case as *pro se*. If a defendant files a document or attends a hearing without an attorney, the court counts the case as *pro se*, unless the plaintiff's *pro se* status was already included. Frequently, those courts that exercise small claims jurisdiction and/or handle infractions and ordinance violations will have multiple cases falling into this category. Litigants who are defaulted are not to be counted as *pro se*, since no information about representation was obtained. A case may be counted *pro se* at any time the court believes at least one party is acting on his or her behalf without the assistance of counsel. **Each case may be counted a maximum of one time as *pro se* in the life of the case and should be reported in the quarter that the Court first determines a litigant's *pro se* status.** Courts may look to appearance forms, filings (if a person files something or appears without an attorney), attendance at hearings *pro se*, or any other factor for this determination. The Indiana Supreme Court uses the statistics reported on this line to provide enhanced resources for *pro se* litigants, frequently tailored to the case type. *Pro Se* litigants are now referred to as Self-Represented Litigants.

3. **Cases Referred to Alternative Dispute Resolution:** As defined by Indiana Rules of Alternative Dispute Resolution Rule 1.1, recognized alternative dispute resolution (ADR) methods include arbitration, mediation, conciliation, facilitation, mini-trials, summary jury trials, private judges and judging, convening or conflict assessment, neutral evaluation and fact-finding, multi-door case allocations, and negotiated rulemaking. A court may order any covered case to proceed with a form of ADR prior to conducting further court proceedings. If ADR is successful on all issues before the court, then the court will report the case dismissed as the disposition type. Regardless of whether ADR is successful, though, the first quarter in which the case is referred to ADR, the courts report the referral on the quarterly statistical report. The statistics are used by the Indiana Supreme Court to encourage ADR plans and other services for the courts in resolving the cases outside of the courtrooms. Currently, the Indiana Judicial Center and State Court Administration administer Family Court ADR plans for domestic relations cases and juvenile paternity cases.
4. **Appointment of Public Defenders:** The courts report the cases where a public defender has been appointed at county expense or partial county expense.
5. **Appointment of GAL/CASA:** Guardians *Ad Litem* (GAL) and Court Appointed Special Advocates (CASA) are reported in certain case type categories and the reported numbers should correspond with the related GAL/CASA program for

that county. The Indiana Supreme Court uses the statistics to track the appointments to support grant proposals as well as identify counties needing more resources. The courts report the case in the first quarter in which a guardian or advocate is appointed during the life of the case.

6. **Use of Court Interpreters:** The courts report the appointment of a court interpreter as well as the language interpreted in the first quarter an interpreter was used in the case. Currently, the interpreter certification program can offer candidates the opportunity to become certified in more than 19 languages, including Spanish, Russian, Chinese (Mandarin and Cantonese), Polish, Vietnamese, Arabic, Chuukese, Somali, and Korean.

For more detailed information regarding case assignment and case disposition, three resources are available. Please refer to the instructions for reporting requirements (QCSR Application Guide), the Case Type Quick Reference and the Administrative Manual at: www.courts.in.gov.

CASE TYPES AND ABBREVIATIONS

	Case Type	Abbreviation
Criminal	Murder	MR
	Life without Parole**	LP**
	Death Penalty**	DP**
	Felony (Prior to 1/1/02)*	CF*
	A Felony	FA
	B Felony	FB
	C Felony	FC
	D Felony	FD
	Post Conviction Relief	PC
	Criminal Misdemeanor	CM
	Miscellaneous Criminal	MC
	Infractions	IF
	Ordinance Violations	OV/OE
Juvenile	Juvenile CHINS	JC
	Juvenile Delinquency	JD
	Juvenile Status	JS
	Juvenile Paternity	JP
	Juvenile Miscellaneous	JM
	Juvenile Termination of Parental Rights	JT
Civil	Civil Plenary (Prior to 1/1/02)*	CP*
	Civil Plenary (Filed after 1/1/02)	PL
	Mortgage Foreclosure	MF
	Civil Collections	CC
	Civil Tort	CT
	Small Claims	SC
	Domestic Relations	DR
	Reciprocal Support	RS
	Mental Health	MH
	Adoption	AD
	Adoption Histories (Prior to 1/1/02)*	AH*
	Estate	ES/EU/EM
	Guardianship	GU
	Trusts	TR
	Protective Orders	PO
	Civil Miscellaneous	MI
Court Business (Administrative Case Type)	CB	

*These case types are no longer used for new filings

**These case types are subtypes of Murder and are used for statistical reporting purposes only.

APPOINTED JUDICIAL OFFICERS

Appointed judicial officers assist the elected judge with the court's caseload. Frequently courts share appointed officers based on case types, caseload, extended absences, etc. Magistrates, Commissioners, Referees and Hearing Officers are considered "regularly assigned" judicial officers and are thus considered when the Division of State Court Administration compiles the Weighted Caseload Report. The following describes each type of appointed officer.

MAGISTRATES – Magistrates are full time employees who serve in one or more courts. A magistrate must be an attorney, is appointed by the county judges, and is paid by the state. A magistrate has most of the powers of a judge; however, they may not issue judicial mandates and their power to issue final orders is limited to small claims and protective order cases plus cases in which the magistrate is sitting as a judge pro tempore or special judge. A magistrate may also issue a final order, conduct a sentencing hearing and impose a sentence in a criminal case if the magistrate is sitting as the judge. The presiding judge must countersign all other final appealable orders.

Juvenile court magistrates may be appointed in judicial circuits with a population of at least 50,000. A juvenile court magistrate is paid partially by the state and partially by the county.

COMMISSIONERS/MASTER

COMMISSIONERS – All counties with a voting population over 7,000 may appoint a probate commissioner. The titles "Commissioner" and "Master Commissioner"

appear to be interchangeable. Specific statutes permit commissioners or master commissioners to be appointed, such as:

- Indiana Code 33-33-5-4 – Blackford County;
- Indiana Code 33-33-15-4 – Dearborn County;
- Indiana Code 33-33-49-16 – Marion County;
- Indiana Code 33-33-59-4 – Orange County;
- Indiana Code 33-33-84-9 – Vigo County; and
- Indiana Code 33-33-89.3-6 – Wayne County.

Commissioners generally have the same jurisdiction as magistrates, but are paid by the county. The presiding judge must countersign all final appealable orders.

REFEREES – A referee is appointed by a circuit or superior court judge and serves at the pleasure of the judge and performs the duties assigned by the judge. Referees can be appointed to serve in various courts including special courts such as domestic relations courts (Indiana Code 31-12-1-9), certain juvenile courts (Indiana Code 31-31-3-6), and small claims divisions of superior and circuit courts (Indiana Code 33-29-3-3). Based on assignments, the referee will make recommendations to the presiding judge for rulings but does not enter rulings independently.

HEARING OFFICERS – Indiana Code 33-33-2-4 authorizes the Allen Circuit Court to appoint a hearing officer who has the same powers and salary as a magistrate under Indiana Code 33-23-5, but is paid by the county.