

Judicial Administration Committee
Judicial Conference of Indiana

Minutes
March 14, 2014

The Judicial Administration Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, March 14, 2014 from 10:00 a.m. – 2:00 p.m.

1. Members present. Thomas J. Alevizos, David R. Bolk, Nancy Eshcoff Boyer, Stanley A. Levine, Peggy Quint Lohorn, William C. Menges, Timothy P. Spahr and Richard A. Maughmer, Chair.
2. Staff present. Jeffrey Bercovitz, Indiana Judicial Center; James Diller, Court Analyst, Tom Jones and Jeff Wiess, Division of State Court Administration provided the committee with staff assistance.
3. Minutes approved. The minutes for the committee on October 10, 2013 were reviewed by Mr. Bercovitz. They were approved by the committee.
4. Weighted caseload measures.
 - a. Committee members discussed completion of the weighted caseload study. The committee discussed the time delays already encountered because of the loss of the original contractor, the additional delays to get confidential CCSs of the MH, PO and AD case types, and the need for full-time personnel to continuously update the study. The committee decided the need for a final report and to complete the study without looking at these case types outweighed the benefit of getting new times for these case types and agreed to finish the study without them.
 - b. Members of the committee discussed charts distributed by Mr. Bercovitz and Mr. Diller of the judicial non-case related times spent by judicial officers. This included the number of actions judicial officers spent on judicial non case related activities, and the average amount of time spent on those activities. They noted the increase of time spent on judicial non case related activities since the 1996 study. This includes administration of federal and state rules, more administrative responsibilities generally, more administration related to the increase in the number of case filings since 1996 and an increase in the number of cases without more court staff or the loss of court staff. The committee agreed by consensus to use the combined judicial non case related time of all full-time judicial officers of 72,743 minutes per year rather than the 80,640 minutes from the 1996 study.
 - c. Committee members reviewed a chart showing the numbers of court actions counted in JS cases for the study. They also reviewed a chart showing the comparison of the current study to the 2002 and 1996 studies. They agreed by consensus to use the new average time of 42 minutes for each JS case.
 - d. Members of the committee reviewed a chart showing the numbers of court actions counted in JP cases for the study. Jeff Bercovitz and Jim Diller reported the new weighted caseload number of 81 minutes was within one minute of the last study of this

case type. Judge Levine moved to adopt 81 minutes as the new amount of minutes for the JP case type. The motion was seconded by Judge Lohorn. The motion was passed.

e. Committee members reviewed a preliminary chart of juvenile case times together, including JS, JD, JC, JT, JP and JM. JM was from a previous study. They did note less judicial time availability (72,743 vs. 80,640 minutes), which ameliorated the effect of less time for certain juvenile case types.

f. Members of the committee discussed revisions to the .40 rule.

(1) The committee noted the current rule may force specialized courts to run afoul of this rule. In addition, the rule forces local courts to conduct business which is not efficient or not conducted in an effective manner. It also forces artificial divisions of cases which would not otherwise exist (e.g. some D felonies go to a court not set up to administer them.) Jim Diller agreed to look at other states to see how they allocate cases within a county or district.

(2) Committee members agreed to review a revised proposal on the .40 which includes: (a) the discussion at the October 2013 meeting, (b) an opportunity for a court to request a hearing, (c) information indicating which person(s) or entity who reviews the proposed county plan, (d) the opportunity for the person(s) or entity who reviews the proposed plan to meet the .40 rule to contact the county submitting the plan to resolve any perceived variances from the .40 rule, and (e) the reason a request to vary from the .40 rule in the county plan was denied.

g. Committee members discussed various tasks for the next meeting, including looking at the JM, SCC and proposed SCO case types, time charts of each case type, viewing all juvenile case types together, determination of the need for the NCSC to write the final report, and the need for additional charts and information.

5. Next meeting. Members of the committee agreed to meet on Friday, May 9, July 11, August 8, and October 10, 2014 from 10:00 a.m. - 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Judicial Administration Committee
Judicial Conference of Indiana

Minutes
May 9, 2014

The Judicial Administration Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, May 9, 2014 from 10:00 a.m. – 2:00 p.m.

1. Members present. Thomas J. Alevizos, David R. Bolk, Nancy Eshcoff Boyer, John F. Hanley, Stanley A. Levine, Timothy P. Spahr, Thomas P. Stefaniak and Richard A. Maughmer, Chair.
2. Staff present. Jeffrey Bercovitz, Indiana Judicial Center; James Diller, Court Analyst, Angela James, Tom Jones and Jeff Wiess, Division of State Court Administration provided the committee with staff assistance.
3. Minutes approved. The minutes for the committee on March 14, 2014 were reviewed by Mr. Bercovitz. They were approved by the committee.
4. Weighted caseload measures.
 - a. Committee members reviewed a chart showing the numbers of judicial actions counted in JM cases. They also reviewed a chart showing the comparison of the current study to the 1996 study. It was reported Allen County JM times were still missing, but over 319 cases were reviewed and times were not expected to change. Judge Bolk moved to use the new average time of 19 minutes for each JM case. Judge Alevizos seconded the motion. The motion was passed.
 - b. Members of the committee reviewed a chart of the impact of new juvenile minutes on judicial need on all juvenile case types – JC, JD, JT, JS, JP and JM. It was noted the new number of minutes each judge has to hear cases (approx. 72,000 rather than 80,000 minutes) should be used on this chart.
 - c. Committee members reviewed a chart showing the numbers of judge actions counted in the proposed new Small Claims Other (SCO) and Small Claims Collection (SCC) case types. They reviewed a chart showing comparisons of the current study to the 1996 study. The SCO was 29 minutes and the SCC was 24 minutes. There was no data on the frequency of each proposed case type.

Members of the committee and staff discussed the difficulty clerks may have distinguishing these two case types at filing, there was no knowledge of the frequency of each case type, and there is some error rate in these numbers. Committee members agreed by consensus to combine the numbers above for an average of 25 minutes. Members of the committee expressed concern that the post judgment hearings and orders noted in the CCS may be illusory. For example, many hearings were scheduled at once, it would be noted and counted has a hearing, but the litigants only appeared in a few of them. Judge Alevizos moved to reconsider the number of minutes above. Judge Levine seconded the motion. The motion was passed 8 yes, 0 no. The motion was tabled until

the next meeting. Staff agreed to check with NCSC, explore Delphi methodology, and explore backing out post judgment hearings and orders.

d. Members of the committee reviewed infractions and ordinance violation times. They agreed by consensus to look at the results of differing methods to determine the times in this area. One method was to apply the problem-solving court methodology. Another method was to have Odyssey select only infractions and ordinance violation cases with judicial disposition actions and count them. They also noted many counties have ordinance violation bureaus, which reduces the number of ordinance violation cases filed. Staff agreed to bring numbers back under both methodologies for consideration by the committee.

e. (1) Committee members reviewed a chart prepared by Jim Diller which listed weighted caseload and whether the state had a .40 rule. The 10 states surveyed had a presiding or chief district judge, no state had a .40 rule, and almost every state had a method to equalize caseloads.

(2) A history and explanation of Indiana's .40 rule from Lilia Judson was distributed.

(3) Jeff Weiss reported Marion County recently requested a variance from the .40 which would permit 3 judicial officers in traffic court, rather than the 7 required under weighted caseload. The Supreme Court did not grant a variance, but gave Marion County time to get into compliance with the rule.

(4) Committee members discussed revisions to the proposed draft revised .40 rule. They noted there is no state has a rule of this nature, the rule is not based on any empirical evidence, but that all states had a method to equalize caseloads. Judge Alevizos and Judge Bolk agreed to revise the proposed draft .40 rule. They agreed to develop a lead of cover letter for the rule, keep provisions requiring a reason to be given if a proposal for a variance was rejected and a provision to provide for a hearing if a variance was rejected. They agreed to add a provision listing reasons for variance as a rebuttable presumption, and to permit a local court to attend a hearing to discuss the reasons for the variance.

(5) Judge Alevizos and Judge Bolk agreed to get the revised rule to Jeffrey Bercovitz by the end of June to circulate the proposed revisions to the rule to the committee.

5. Next meeting.

a. Committee members discussed various tasks for the next meeting, including looking at the SCO and proposed SCC case types, IF and OV case types, another proposed .40 rule draft, and all the charts needed for the final report. They agreed to submit the charts and minutes to the NCSC to write a draft report after the July meeting. They also agreed by consensus to have the Chair, committee members selected by the chair and staff review this first draft from NCSC, have revisions made and then have the full committee review the report. It was expected the August meeting would be cancelled, but the October meeting would be a review of the Judicial Weighted Caseload report. Committee members agreed to attend the meeting for this final review even if their term as a member on the committee was ended.

6. Next meeting. Members of the committee agreed to meet on Friday, July 11, August 8, and October 10, 2014 from 10:00 a.m. - 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Judicial Administration Committee
Judicial Conference of Indiana

Minutes
July 11, 2014

The Judicial Administration Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, July 11, 2014 from 10:00 a.m. – 2:00 p.m.

1. Members present. Thomas J. Alevizos, Nancy Eshcoff Boyer, John F. Hanley, Stanley A. Levine, Timothy P. Spahr, Thomas P. Stefaniak and David R. Bolk, Chair Pro Tem.
2. Staff present. Jeffrey Bercovitz, Indiana Judicial Center; James Diller, Court Analyst, Angela James, Tom Jones and Jeff Wiess, Division of State Court Administration provided the committee with staff assistance.
3. Guest present. Magistrate Jennifer DeGroot, Allen Superior Court was also present.
4. Minutes approved. The minutes for the meeting on May 9, 2014 were approved by the committee.
5. Weighted caseload measures.
 - a. Trusts. Members of the committee reviewed a chart of only 106 time sheet entries for the Trust case type. They agreed by consensus this was not enough entries to get a new time in minutes for the average Trust case. They agreed to keep the current time of 40 minutes per case.
 - b. Infractions. Committee members reviewed infractions cases. Jim Diller will use Odyssey to select only infractions with bench trials and jury trials in 2010 and count them. He also agreed to try to get the same information from Courtview for Lake County. He also agreed to prepare a list of Odyssey and Courtview cases and forward it to the National Center for State Courts (NCSC) so they could randomly select chronological case summaries (CCS) to review. He will forward these CCS's to NCSC to count the number of judicial actions. The proposed weighted caseload time for these cases should be ready by the next meeting of the committee in October. The committee agreed by consensus to only permit courts to get time for infractions if they actually handle the case, or if the judge was required to do something by law for the case.
 - c. Ordinance Violations. Members of the committee reviewed Ordinance Violations cases. Although fewer ordinance violations time sheet entries than infractions, there were more than in the original 1996 weighted caseload study. Jim Diller agreed to get Odyssey and Courtview lists of cases from 2010. He also agreed to get a list of these cases to the NCSC so they could randomly select chronological case summaries to review. This review should be ready by the next meeting of the committee in October.
 - d. Small claims.
 - (1) Mag. Jennifer DeGroot distributed materials recording the times of post judgment actions in Allen County small claims cases of the three magistrates (May 27 – July 3, 2014). She reported the time spent on post judgment matters

increased when the jurisdictional limit increased from \$3,000 to \$6,000 in the late 1990's. Committee members thanked her for her efforts.

(2) Jim Diller reported that Small Claims Collection (SCC) judge times outweighed Small Claims Other (SCO) times by a margin of over 2 to 1. He recommended combining the SCC and SCO times in accordance with the materials he distributed. Committee members agreed by consensus to combine the times for 23 minutes for each case, and to keep post judgment entries as part of the case times. Jim Diller also looked at the post judgment actions in the Chronological Case Summaries, as counted by the NCSC, for the 10 cases with the highest number of judicial actions. He reported he agreed generally with the number of orders counted, but not the number of hearings. Jim Diller and Jeff Bercovitz agreed to contact the NCSC to discuss the discrepancy in the count of judicial actions post disposition. Judge Boyer moved to use grant monies to recount the number of judicial actions in small claims cases if needed. Judge Levine seconded the motion. The motion was passed.

- e. Juvenile judicial need chart. Members of the committee reviewed a revised chart of the impact of new juvenile minutes on judicial need on all juvenile case types – JC, JD, JT, JS, JP and JM. It was noted the new number of minutes each judge has to hear cases (approx. 72,000 rather than 80,000 minutes) was used on this chart. Jeffrey Bercovitz proposed to prepare a chart of a similar nature for civil cases.
- f. Draft Report. Committee members reviewed a very rough draft of materials for a final report on Judicial Weighted Caseload Project for Indiana. These materials included a chronology of the project, new judge availability times, case type times, case and non case related time sheet instructions, case and non case related time sheets, memorandums on participation in the weighted caseload study, and other information. Members of the committee agreed to (1) revise the chart of comparing times from the 1996, 2002, 2009 and 2014 studies to more clearly delineate what case types were studied and current case type times; (2) call this the 2014 study, and (3) revise the list of counties used for civil, criminal, and juvenile case file reviews. They also agreed one audience for the report was Legislative Services Agency and legislators to determine the need for new courts and another was judges. Judge Boyer moved to add recommendations for a full-time staff person for weighted caseload at the Division of State Court Administration; and an examination of the weighted caseload methodology used by the National Center for State Courts and other states for the next study. Judge Levine seconded the motion. The motion was passed.
- g. Administrative Rule 1 (E). Judge Bolk drafted a cover letter and revised proposed Administrative Rule 1 (E) or the .40 rule.
 - (1) Committee members reviewed the cover letter, the revised proposed rule, and current Administrative Rule 1 (E) and the attached “First Amended Schedule and Format for Adoption of County Caseload Allocation Plans” which is part of the current rule. Members of the committee agreed to revisions in the cover letter, the revised proposed rule and review of the “First Amended Schedule” to see if additional revisions are needed based on it.
 - (2) Committee members agreed to add a recommendation in the Final Report on Judicial Caseload measures on the .40 rule. They also agreed to add the chart

prepared by Jim Diller which listed which listed weighted caseload and whether the state had a .40 rule.

6. Next meeting.

- a. Committee members discussed various tasks for the next meeting, including (1) having the NCSC randomly select Odyssey IF and OV chronological case summaries for review and having Jim Diller send the selected summaries; (2) having Jim Diller look at getting IF and OV information from Courtview; (3) talking with the NCSC about recounting the number of post disposition small claims actions and revising the average minutes for this case type after review of revised numbers by the committee; and (4) getting information on the final report to the NCSC for preparation for a draft by the next meeting. In light of these tasks, the committee members agreed by consensus to cancel the August meeting of the committee. They also agreed to look at another draft of the cover letter, revised proposed rule and other materials in connection with a recommendation to the .40 rule at the October meeting.
- b. Committee members agreed to review a draft NCSC final report of the Judicial Weighed Caseload Study at the October meeting and schedule a November meeting for final approval of the report. Once approved, the report would be transmitted to the Board of Directors of the Judicial Conference of Indiana. Committee members agreed to attend the October and November meetings for this final review even if their term as a member on the committee was ended.
- c. Members of the committee agreed to meet on Friday, October 10, 2014 and Friday, November 14, 2014 from 10:00 a.m. - 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Judicial Administration Committee
Judicial Conference of Indiana

Minutes
October 10, 2014

The Judicial Administration Committee of the Judicial Conference of Indiana met at the Indiana Judicial Center on Friday, October 10, 2014 from 10:00 a.m. – 2:15 p.m.

1. Members present. Thomas J. Alevizos, Robert R. Aylsworth, Craig J. Bobay, David R. Bolk, J. Richard Campbell, John F. Hanley, William C. Menges, Robert Tornatta, Robert G. Vann, and Rick Maughmer, Chair.
2. Staff present. Jeffrey Bercovitz, Indiana Judicial Center; James Diller, Court Analyst, Angela James, Tom Jones and Jeff Wiese, Division of State Court Administration provided the committee with staff assistance.
3. Guest present. Judge Stanley Levine, Allen Superior Court was also present.
4. Minutes approved. The minutes for the meeting on July 11, 2014 were approved by the committee.
5. New members. Judge Robert R. Aylsworth, Judge Craig J. Bobay, Judge J. Richard Campbell, Judge Robert Tornatta and Magistrate Robert G. Vann were introduced to the committee.
6. Weighted caseload measures.
 - a. Jeffrey Bercovitz gave a brief overview of Indiana's judicial weighted caseload measures for new members.
 - b. Committee members reviewed infractions and ordinance violation cases. Members of the committee reviewed a chart of each which only gave case times for Jury or Bench trials. They noted spending time on admit/deny hearings and in other areas. They agreed time should not be assigned based on filing, when judges administer infractions cases. Judge Alevizos moved to continue to give 2 minutes to each infraction or ordinance violation case not disposed of by deferrals, dismissals or by the Violations Bureau. Judge Bolk seconded the motion. The motion passed.
 - c. Members of the committee discussed small claims. Jeffrey Bercovitz explained the National Center for State Courts was contacted after the last meeting and asked to recount the number of post disposition actions in Small Claims Collection (SCC) and Small Claims Other (SCO) cases again, with removal of actions in which it was obvious no judicial action occurred. In addition, the case types were combined in the same ratio as these cases were being filed, about 2-1 SCC to SCO. Judge Menges moved to accept the new time for Small Claims of 20 minutes. Judge Alevizos seconded the motion. The motion passed with one opposed.
 - d. Committee members discussed the .40 rule. Jeffrey Bercovitz gave background and history about Administrative Rule 1 (E). Judge Menges moved to recommend to the Indiana Supreme Court abolish the rule. Judge Alevizos seconded the motion. Committee members agreed with the goal of equalizing caseloads within a county. They

discussed having a rule which would have a counties submit a plan to equalize caseloads, signed by each judge in the county. They agreed the Division of State Court Administration would prepare a plan if the judges in the county could not agree with the plan. In addition, they agreed to the possible use of judicial weighted caseload numbers as a factor when preparing the plan. They also agreed to use any leftover monies in the court reform grant to have the National Center for State Courts explore potential factors from other states to use for equalization plans. The motion was passed unanimously.

e. Members of the committee reviewed the draft Indiana Judicial Weighted Caseload Measures report and made revisions. They also reviewed the impact on counties of draft new weighted caseload numbers and the Administrative Rule 1 (E) if it remains unchanged. They agreed more counties would be impacted by Administrative Rule 1 (E) than before with new draft numbers.

7. Next meeting.

- a. Committee members agreed to review comments on a revised draft NCSC final report of the Judicial Weighed Caseload Study at the November meeting. Once revised in accordance with the comments, the report would be transmitted to the Board of Directors of the Judicial Conference of Indiana.
- b. Members of the committee agreed to meet on Friday, November 14, 2014 from 10:00 a.m. - 4:00 p.m. at the Indiana Judicial Center.
- c. Future meeting dates of January 16, March 13, May 8 and July 10, 2015 were proposed all from 10:00 a.m. – 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law