

JUDICIAL CONFERENCE OF INDIANA BOARD OF DIRECTORS

March 18, 2016

Minutes

The Judicial Conference of Indiana Board of Directors met at the Indiana Judicial Center in Indianapolis, Indiana, on March 18, 2016. Chief Justice Loretta Rush presided and Jennifer Bauer acted as Secretary.

- 1. Members Present.** The following members of the Board were present: Craig J. Bobay, Dean A. Colvin, William E. Davis, Darrin M. Dolehanty, Cynthia S. Emkes, John T. Evans, Paul A. Felix, Thomas J. Felts, Peter R. Foley, Kurtis G. Fouts, Christopher M. Goff, Michael G. Gotsch, Clayton A. Graham, Maria D. Granger, Steven L. Hostetler, Matthew C. Kincaid, Michael J. Kramer, Jeryl F. Leach, Sally A. McLaughlin, Sheila M. Moss, Michael A. Shurn, Gregory A. Smith, Timothy P. Spahr, Mark D. Stoner, Nancy Harris Vaidik, Marianne Vorhees, Mary G. Willis, and Bob A. Witham.
- 2. Staff Present.** The following Judicial Center staff members were present: Jane Seigel, Jennifer Bauer, Jeff Bercovitz, Mary Kay Hudson, Michelle Goodman, Amanda Wishin, Angela Reid-Brown, Matt Guyer, Chris Biehn, and Julie McDonald. Lilia Judson, David Remondini, and Kathryn Dolan from State Court Administration also attended.
- 3. Guests.** Judge James Ahler attended on behalf of the Community Relations Committee, Judge Diane Schneider attended on behalf of the Probate Committee, and Judge James Humphrey attended on behalf of the DMC Definitions Committee. Also attending were Justice Steven David and Hannah Cowles from the Indiana Criminal Justice Institute.
- 4. Welcome.** Chief Justice Rush welcomed the board members and began the meeting by saying she was proud to watch so many trial court judges interview for the opening on the Indiana Supreme Court. She congratulated Judge Kincaid and Judge Hostetler for making the “final three” names sent to the governor. She encouraged judges to talk to the current justices if they are interested in applying for future openings on the Court. Chief Justice Rush reported that she had good news for judges, as she approved a 3.1% salary increase which will take trial court salaries from \$137,000 to \$141,300. She distributed a handout with details on the Supreme Court’s organizational structure and explained that the Court began the process of reviewing the structure two years ago with pending retirements at the top of the structure and growth to over 200 employees. The Court worked with the National Center for State Courts on a new, more efficient organizational structure. She reported that the Court has created a new Office of Judicial Administration and will hire a new chief administrative officer. Chief Justice Rush also reported that the departments under the Office of Judicial Administration are Personnel Management and Operations (headed by Brenda Rodeheffer), Judicial Center and Court Administration (looking at one executive director with several deputies), Fiscal, Supreme Court Services, Boards and Commissions, Court Technology, and Communication, Education, Outreach (headed by Kathryn Dolan). Chief Justice Rush announced that the Court created a Task Force on Remote Access to and Privacy of Electronic Court Records, which had its first meeting on February 26th. The task force recommended that the Court make all non-confidential

appellate briefs available online as of April 1st. Chief Justice Rush also announced that Justice Dickson's last day with the Court is April 29th, with a celebration in the Senate chamber. In honor of Justice Dickson's last oral argument in Corydon, Chief Justice Rush encouraged judges to be part of the celebration events and visit schools to discuss the oral argument. Chief Justice Rush also mentioned that she is proud of the judicial attendance at outside trainings. She ended her welcome remarks by noting that she will meet with Marion County's judges along with Justice Massa and Judge Altice to discuss judicial selection since the legislature did not pass any bills to change the selection process.

5. **Approval of minutes.** A motion was made by Judge Vorhees, and seconded by Judge Granger, to approve the minutes of the meeting held December 3, 2015. The minutes, as submitted, were unanimously approved.
6. **Indiana Judges Association report.** Judge Mary Willis reported that the IJA website launched since the last Board meeting. The website includes the civil and criminal jury instructions which are available unannotated for viewing and also for purchase through West and Lexis. Judge Willis also reported that the IJA was actively engaged in the legislation session to eliminate distinctions in filings between circuit and superior courts and advocated for judicial discretion in criminal sentencing. Judge Willis further reported that the IJA hosted a dinner in January for the House and Senate Judiciary Committees to foster good working relationships. She also stated that IJA has actively supported the weighted caseload study and focus group sessions.
7. **Indiana Council of Juvenile and Family Court Judges report.** Judge Willis made the report on behalf of ICJFCJ president Vicki Carmichael. Judge Willis reported that the Council formed the "KD Workgroup" to draft legislation for a registry for notice purposes to non-custodial parents similar to the putative father registry. She also reported that the Council successfully supported legislation that would provide alternatives to detention to support the JDAI philosophy for children released from detention with specific conditions imposed by an intake officer. Judge Willis further reported that the Council approved the hiring of an appellate attorney to write an amicus brief in the case of *In Re JT*, which involves the delivery of mental health services in Indiana.
8. **Court Technology report.** Judge Michael Gotsch distributed a handout showing courts using Odyssey and courts using the e-filing system. He reported that the 2016 deployments for Odyssey are Starke County, Delaware County, Tippecanoe County, Perry County, Crawford County, and Bartholomew County, and will bring the percentage of covered cases to 80% once the deployments are complete. Judge Gotsch also reported that the Guardianship Registry continues to be deployed to additional courts, the abstract of judgment is paperless as of January 1st, Court Technology developed an interface between Odyssey and Optima (the GAL/CASA case management system), and that Court Technology deployed a new version of the Odyssey public portal. Judge Gotsch also reported that the e-filing initiative is on-going, with Hamilton, Clark, Shelby, Harrison and Madison Counties participating as Odyssey counties. Wells County has volunteered to deploy e-filing as a CSI county and St. Joseph County has been identified as a site to deploy as a Quest county. Judge Gotsch further reported that the next JTOC meeting is scheduled for June 20th.

9. **Dual Status Amendments to Preliminary Inquiry proposal.** Judge Willis reported that the Dual Status legislation on youth that cross over between the delinquency system and CHINS system went in to effect July 1, 2015. The Dual Status Youth Implementation Team recommends changes to the juvenile preliminary inquiry forms that will conform to the statutory changes made last year. The changes include a drop down menu with dual status options and adding a “dual status screening tool” in the PI recommendation screen, Judge Willis reported that the proposed changes have been recommended by the Juvenile Benchbook Committee, the Probation Committee and the Probation Officers Advisory Board and requested approval from the Board. Judge Gotsch made a motion to approve the proposed changes to the preliminary inquiry forms and Judge Graham seconded the motion. The Board approved the motion unanimously.
10. **DMC Definitions Committee rule proposal.** Judge Humphrey reported that the Disproportionate Minority Contact Definitions Committee drafted a proposed amendment to Administrative Rule 1 to ensure collection of juvenile delinquency data for Indiana’s courts. He explained that the proposed rule seeks to collect data based on a number of critical decision points throughout the delinquency system and will satisfy federal reporting requirements and answer requests from the Indiana General Assembly regarding juvenile waivers. The committee seeks approval by July 1st so that the Indiana Criminal Justice Institute does not lose federal funding. Judge Humphrey added that the Juvenile Justice Improvement Committee and the Indiana Council of Juvenile and Family Court Judges both support the proposed amendment. Judge Gotsch made a motion to approve the proposed Administrative Rule 1(G) and Judge Granger seconded the motion. The Board approved the motion unanimously.
11. **Community Relations Committee.** Judge Ahler distributed a copy of proposed new Administrative Rule 20 on use of electronic devices in the courtroom and reported that the Community Relations Committee drafted the rule after discussions with the Hoosier State Press Association. He explained that the idea behind the rule is to help judges who face a request from a reporter to use electronic devices to report on courtroom proceedings and the rule is discretionary. He also noted that the rule is modeled after the Supreme Court’s order on use of electronic devices during oral arguments and Administrative Rule 14. Judge Ahler further noted that the committee struggled with finding the right “home” for the rule and seeks input from the Board. Chief Justice Rush lead the Board in a lengthy discussion of the proposed rule, where Board members discussed concerns about bloggers, real-time transcripts from hearings, a possible model local rule, and the need for judicial education on this issue. Judge Gotsch made a motion to table the proposed rule for further consideration and Judge Willis seconded the motion. The Board approved the motion to table unanimously. Chief Justice Rush thanked Judge Ahler for bringing the issue to the Board and asked the committee to look at local rules and national models. Chief Justice Rush also asked Kathryn Dolan to work with the committee on this issue.
12. **Probate Committee report.** Judge Diane Schneider reported that Indiana is the only state that has a guardianship registry. She stated that 38 counties currently use the registry and the committee is proposing a new administrative rule that would make use of the registry mandatory by all counties. Judge Schneider distributed a draft rule that would require mandatory implementation of the registry by July 1, 2017. Chief Justice Rush asked if Court Technology has the capacity to go live with state-wide implementation of the registry by the date proposed and also asked if it would make sense to do a messaging

campaign to judges before making mandatory. Judge Granger made a motion for the Probate Committee to promote the guardianship registry to judges through a messaging campaign and Judge Felix seconded the motion. The Board approved the motion unanimously.

13. **Legislative Report.** Amanda Wishin distributed a summary of bills from the 2016 Legislative Update and reported that the deadline for the governor to sign bills is March 24th. Julie McDonald reported that HEA 1047 establishes a court motion clerk pilot project run by the Judicial Center to help courts with preparing orders on motions in complex business cases. The pilot counties will contract with senior judges and third year law students to review motions and draft orders. Chief Justice Rush stated that Title IV-D funds will be used by commercial courts in this project.
14. **State Court Administration report.** Dave Remondini reported that 2016 is the year of the court reporter because of the new rule requiring preparation of transcripts in 45 days. He stated that State Court Administration is working to help speed up the process, has grants for training, and will post the court reporter handbook online to help retired court reporters helping to prepare transcripts.
15. **Staff Agency report.** Jane Seigel introduced the Judicial Center’s two new employees— Matt Guyer is a new trainer, is a University of Louisville graduate, and comes from DOC; Chris Biehn is a new court services specialist, is a graduate of Indiana State University, and comes from Howard County probation. Michelle Goodman reported that workplace Spanish is available through a partnership with Ivy Tech, is available to all court staff, and is now available online. Julie McDonald reported that the Judicial Center developed a judicial candidates “eSchool”, with technical support from the National Center for State Courts, for the 2016 election cycle. She explained that the goal of the program is to provide information on the ethical and legal requirements judicial candidates are subject to during the election process. Jane Seigel reported that the Justice Reinvestment Advisory Council (JRAC) is a very active group, meeting ten times since July 1, 2015. She stated that the 2017 grant cycle is in process right now and that the Judicial Center will work with DOC to review grant applications. Ms. Seigel also stated that JRAC will meet on April 14 and April 22 to recommended grant funding to the DOC commissioner.
16. **Other Business.** Judge Vaidik reported that the Court of Appeals is looking forward to e-filing and noted that the new rule for 45 day transcripts in appeals should expedite the appellate process. Judge Vaidik also reported that the Court of Appeals is continuing with its “Appeals on Wheels” program and would like to do more oral arguments in schools for the bi-centennial.
17. **Next meeting.** The next meeting of the Judicial Conference Board of Directors is scheduled for June 24, 2016, Indiana Judicial Center —1:30 p.m. in the 8th floor meeting room.

Respectfully submitted,

Jennifer A. Bauer
Staff Attorney

JUDICIAL CONFERENCE OF INDIANA BOARD OF DIRECTORS

June 24, 2016
Minutes

The Judicial Conference of Indiana Board of Directors met at the Indiana Judicial Center in Indianapolis, Indiana, on June 24, 2016. Chief Justice Loretta Rush presided and Jennifer Weber acted as Secretary.

- 1. Members Present.** The following members of the Board were present: S. Brent Almon, Darrin M. Dolehanty, Paul A. Felix, Thomas J. Felts, Peter R. Foley, Kurtis G. Fouts, Christopher M. Goff, Clayton A. Graham, Maria D. Granger, Matthew C. Kincaid, Michael J. Kramer, Jeryl F. Leach, Rick Maughmer, Sally A. McLaughlin, Gary L. Miller, Sheila M. Moss, John A. Rader, Jose D. Salinas, Terry C. Shewmaker, Michael A. Shurn, Gregory A. Smith, Timothy P. Spahr, Thomas A. Stefaniak, John G. Baker (proxy for Nancy Harris Vaidik), Marianne L. Vorhees, Mary G. Willis, Bob A. Witham,
- 2. Staff Present.** The following Judicial Center and State Court Administration staff members were present: Jane Seigel, Lilia Judson, Vicki Davis, Mary Kay Hudson, Justin Forkner, Jeff Wiese, Brenda Rodeheffer, Jason Bennett, Michelle Tennell, Kathryn Dolan, Mary DePrez, Donna Edgar, Anne Jordan, Julie McDonald, Amanda Wishin, Bob Rath, Aaron Hood, and Michelle Goodman.
- 3. Guests.** Steven H. David from the Indiana Supreme Court attended the meeting. Also attending the meeting was Ronald Gilbert, law student ICLEO intern for the Indiana Judicial Center.
- 4. Welcome.** Chief Justice Rush welcomed the board members and the meeting commenced. Chief Justice Rush announced that after a national search, Henry Circuit Court judge Mary G. Willis was selected as the Chief Administrative Officer for the Indiana Supreme Court. The Chief Justice also reported the new CAO office will be located at the state house to assist with the Indiana Supreme Court administrative functions and welcomed judicial officers to stop in and see the new location. The Chief Justice next thanked the local courts for their continued work as she noted the beginning of her third year as Chief Justice. The Chief Justice then noted her discussion with the strategic planning committee, where she detailed goals to assist local courts with expenses related to obtaining and upgrading technology hardware and servers. The Chief Justice also commented on the continuing justice reinvestment initiatives and local reforms which include adding probation officers and examining probation caseloads; statewide initiatives she noted include access and funding for interpreters. Justice David then announced the recent creation of the Coalition for Court Access – a 17 member coalition that will examine access to civil legal aid programs to those with limited financial means. He noted the first meeting would be in August and encouraged local courts to provide recommendations to the Coalition. The Chief Justice concluded opening remarks noting that the Court recently traveled to a drug court and veterans court graduation and would encourage courts to notify it of opportunities to share successful local court events.

5. **Approval of minutes.** A motion was made by Judge Terry Shewmaker, and seconded by Judge John Rader, to approve the minutes of the meeting held March 18, 2016. The minutes, as submitted, were unanimously approved.
6. **Indiana Judges Association report.** Judge Mary Willis reported that all contracts are completed for West, for unannotated, and Lexis, for annotated, Criminal and Civil Jury instructions. She further noted there has been no reduction in income and unannotated instructions are available to the public on the IJA website. Judge Willis said the IJA negotiated a recovery of attorney fees from Lexis for their improper application for a copyright. She then stated that the IJA is represented on the Judicial Technology Oversight Committee and Pretrial Release Committee and working on juvenile justice and pretrial service initiatives. There is work being done on the Smart on Juvenile Justice: Juvenile Defense project and to increase the funding for pretrial release services. Judge Willis said the IJA lobbyists anticipate it could be a very active legislative session with high legislative turnover anticipated and the Marion County judicial selection issue. She closed stating that the IJA executive board will meet in August for succession planning and to fill liaison assignments and encouraged all judges to be involved on the board and the association.
7. **Indiana Council of Juvenile and Family Court Judges report.** Judge Dolehanty reported that the ICJFCJ met during the recent juvenile judges conference. He reported that Judge Andrea McCord will be succeeding Judge John Potter and Magistrate Deborah Domine will succeed Judge Mary Willis. Judge Dolehanty then reported that the “KD Workgroup” continued to work on legislation for a registry for notice purposes to non-custodial parents similar to the putative father registry, and is also working on possible amendments to Trial Rule 4.1 to permit service of process on individuals electronically via email. He also stated that Judge Petit is working on juvenile expungement issues, particularly related to how information must be preserved for necessary data collection. Judge Dolehanty commented that the ICJFCJ received a report from Angela Reid Brown, Court Improvement Program Administrator, detailing how probation cases are going to meet the IVD-requirements. Lastly, Judge Dolehanty reported that all 100 members of the council met (65 are on the national council), and Judge Willis was recognized for her service.
8. **Court Technology report.** Justice David reported for Judicial Technology, noting that Judge Gotsch would be leaving to join the federal bench. Justice David began reporting that e-filing Odyssey county courts by the end of 2016 would include Hamilton, Clark, Shelby, Harrison, Madison, Henry, Floyd, Hendricks, Wells (a CSI county), Cass, Elkhart, Franklin, Rush, Union, Morgan, Johnson, Huntington, Marion, Monroe, Greene, Owen, Steuben, and Knox. The Supreme Court, Court of Appeals, and Tax Court will also require e-filing by July 1, 2016. Justice David stated that Court Technology would be preparing a statewide message for all trial courts and clerks with the tentative roll out schedule for all 92 counties. Justice David next explained that there are five e-filing service providers for filers to choose from: Efile, GreenFiling, NeatFiling, Filetime, and Doxpop. Justice David then reported that Odyssey deployments for 2016 include: Delaware, Starke, Tippecanoe, Perry, Crawford, and Bartholomew counties. He invited judges to contact him with questions or concerns.

Donna Edgar from Judicial Technology then provided an overview of the e-filing process, explaining how e-filing is intended to take paper out of the filing process. She proceeded to explain the distinctions between the federal e-filing process and the state e-filing system, and how the state system electronically files, signs, stamps, and sends filings through the case management system. Ms. Edgar also clarified that the prosecutor INPCMS (Indiana Prosecutor Case Management System) will be a certified e-filing vendor, and explained that when an e-filing county goes live all local attorneys can receive an hour of free technical assistance on e-filing. She explained that by the end of 2018 all counties should be e-filing. She also explained some of the technical distinctions related to filing confidential information and how Trial Rule 86 was amended with respect to service of process.

Justice David then explained that from November 10-13, 2016, the Appellate Judges Education Institute would be in Philadelphia, Pennsylvania. Justice David explained that the AJEI is not just for appellate judges, and encouraged all judges to attend – he noted that trial judges from across the state, appellate judges, lawyers, and foreign judges attend. Chief Justice Rush stated that scholarship money can be applied for this educational event that she believes stimulating due to the constitutional subject matters discussed. The Chief Justice also followed up on the e-filing comments reminding trial judges that the Supreme Court is adjusting to electronic filing too. She also notified board members of the eighteen (18) member Advisory Task Force on Remote Access to and Privacy of Electronic Court Records, which is examining best practices and policies for public internet access to electronic court records and encouraged trial court judges to provide their input on the subject.

9. **Judicial Administration Committee.** Judge Maughmer provided an update on the Judicial Weighted Caseload Study. He stated that members were very disappointed with the preliminary seventy-eight (78) page report received from the National Center for State Courts. Judge Maughmer specified that while substantively the report contained the necessary data and statistics, it was organizationally deficient and contained several grammatical and format errors. He continued by stating that members of the Judicial Administration Committee and the Indiana Judicial Center submitted several recommendations to NCSC and he believed those changes, once incorporated, would make the report acceptable and reliable. Furthermore, Judge Maughmer explained the report should be available by the September annual Judicial Conference.
10. **Complex Motion Clerk pilot program proposal.** Julie McDonald and Amanda Wishin, Indiana Judicial Center attorneys, explained that the Commercial Court Pilot program is currently working with four senior judges and four law schools: Notre Dame Law School, Maurer School of Law, McKinney School of Law, and Valparaiso University Law School. The goal is to have 3L law students and senior judges work on orders for complex civil motions in each county participating in the pilot program – St. Joseph, Vanderburgh, Owen, and Tippecanoe. The Chief Justice remarked that she supported the idea of collaborating with the law schools in this manner. Board members reviewed a proposal adopting Guidelines governing the establishment of a pilot program for the research and drafting of orders for complex motions; authorize the use of motion clerks; and collect data for purposes of the project. Judge Rader made a motion to approve the Guidelines as submitted; Judge Granger seconded the motion. The motion was approved unanimously.

11. **Strategic Planning Committee.** Judge Shewmaker reported that the Strategic Planning Committee (Planning Committee) wanted to remind judges that they need to ensure that all districts maintain their records up-to-date concerning the process and timing of election cycles. He also noted that districts need to keep the Indiana Judicial Center advised of elections and new representatives, when changes or vacancies occur. Judge Shewmaker commented that his term will be concluding on the Planning Committee upon his retirement. He next explained that the Planning Committee would recommend establishing a Senior Judge committee consisting of trial judges and senior judges to examine issues pertinent to senior judges for consideration by the Court. The committee will assemble a directory of senior judges that will reference senior judge qualifications to assist trial judges in selection of senior judges for their court. The Chief Justice explained that the Court is considering increasing the per diem for senior judges.

12. **Staff Agency report.** Ms. Lilia Judson, interim Chief Administrative Officer, reported on reorganization efforts ongoing throughout the several agencies within the Court. She summarized that efforts examining the governance and reorganization of the Court and Judicial Conference began in 2007 with the assistance of a professional facilitator. Ms. Judson continued that this resulted in the development of the Strategic Planning Committee, as well as internal agency reviews and the beginning of succession planning as several retirements began to take place. She continued by stating that by 2013, then Justice Dickson learned of the opportunity to partner with the National Center for State Courts to examine judicial governance – who would also provide funding. Indiana applied and the NCSC began that process. Ms. Judson noted that the NCSC report found that the Court agencies had a family spirit consisting of a strong working relationship with the trial courts (not always present with other court systems). Some of the challenges noted were that personal relationships form the basis for much of the work, and there are not a lot of formal policies and procedures written in place. She continued, saying that a goal is to minimize the direct reports to the Chief Justice for purpose of administrative functions, and streamline and centralize several agency tasks such as fiscal responsibilities, human resources, contracts and technology needs. Jane Seigel, Executive Director Indiana Judicial Center/State Court Administration (IJC/STAD), then said that the Court would have a centralized administration office, where the Chief Administrative Officer will conduct business and actively advocate for the courts. She then continued that the search for the CAO was nationally, and they were pleased to select Mary Willis from Henry County – who will begin in July. Ms. Seigel stated that technical assistance was provided by the NCSC during the CAO search process, and that Ms. Lilia Judson had been the interim CAO.

The Chief Justice complimented the work of Ms. Seigel and Ms. Judson, explained how the NCSC assisted with the reorganization but Indiana adapted their own ideas, and emphasized her belief that the changes will not impact how courts interact with the agencies. She then referred to an organization chart distributed at the meeting to explain the personnel changes and introduce new or existing staff members and assignments: Katheryn Dolan - Chief Public Information Officer, Office of Communication, Education and Outreach; Brenda Rodeheffer – General Counsel, Office of Personnel Management and Operations; Aaron Hood – Chief Financial Officer; Jane Seigel – Executive Director, IJC/STAD; Justin Forkner, Jeff Wiese, Vicki Davis, and Mary Kay Hudson – Deputy Directors, IJC/STAD; Mary DePrez – Director and Counsel for Trial Court Technology; Bob Rath – Director of Appellate Court Technology; Jason Bennett – Supervisor,

Supreme Court Services; Greg Pachmayr – Supreme Court Clerk; Brad Skolnik – Executive Secretary, Board of Law Examiners & Commission for Continuing Legal Education; Terry Harrell – Executive Secretary, Judges and Lawyers Assistance Program; G. Michael Witte – Executive Secretary, Disciplinary Commission.

Ms. Seigel concluded these remarks by stressing that the agency mission is still to provide research, education and support to trial judges and they will remain centrally focused on that. She believes these changes will make those services streamlined and easier.

13. **Other Business.** Judge Baker reported from the Court of Appeals that due to the bicentennial celebration they will be expanding their “appeals on wheels” programming and invite local courts to contact him or Judge Vaidik if they are interested in having an oral argument in their community. He announced that Lauren Rochefort will be joining the court in July as the new communications director, and judges may contact her as well at that time

Jane Seigel, Executive Director IJC/STAD, introduced their summer Indiana Conference for Legal Education Opportunity (ICLEO) intern – Ronald Gilbert. She explained Mr. Gilbert is a 2L at McKinney School of Law in Indianapolis and the Vice President of The Student Bar Association.

Judge Felix raised a question pertaining to Hamilton county and its involvement with dual status youth and the pretrial/EBDM projects. Specifically, he explained difficulties with Administrative Rule 9 compliance with filing confidential information in several of those generally non-confidential cases, and believed a rule change might be necessary to ensure that confidential information is protected. There was discussion of the pending pretrial evidence rule being considered by the Court, and Ms. Lilia Judson agreed to follow-up with Judge Felix to learn more specifically of his concerns.

14. **Next meeting.** The next meeting of the Judicial Conference Board of Directors is scheduled for September 15, 2016, French Lick, IN —4:00 p.m.

Respectfully submitted,

Jennifer L. Weber
Staff Attorney

JUDICIAL CONFERENCE OF INDIANA BOARD OF DIRECTORS

September 15, 2016

Minutes

The Judicial Conference of Indiana Board of Directors met at the French Lick Resort in French Lick, Indiana, on September 15, 2016. Chief Justice Loretta Rush presided and Jennifer Weber acted as Secretary.

- 1. Members Present.** The following members of the Board were present: Craig J. Bobay, Vicki L. Carmichael, Dean A. Colvin, William E. Davis, Mary Ellen Diekhoff, Darrin M. Dolehanty, Cynthia S. Emkes, Paul A. Felix, Thomas J. Felts, Peter R. Foley, Kurtis G. Fouts, Robert W. Freese, Christopher M. Goff, Clayton A. Graham, Maria D. Granger, Steven L. Hostetler, Robert E. Hunley, Matthew C. Kincaid, Michael J. Kramer, Jeryl F. Leach, Peggy Quint Lohorn, Rick Maughmer, Gary L. Miller, John A. Rader, Jose D. Salinas, Terry C. Shewmaker, Michael A. Shurn, William G. Sleva, Gary L. Smith, Gregory A. Smith, Timothy P. Spahr, Teresa K. Hollandsworth (proxy for Thomas A. Stefaniak), Gary L. Miller (proxy for Mark D. Stoner), Nancy Harris Vaidik, Marianne L. Vorhees, and Bob A. Witham.
- 2. Staff Present.** The following Office of Judicial Administration and Indiana Office of Court Services staff members were present: Lilia Judson, Jane Seigel, Mary Willis, Jennifer Bauer, Jeffrey Bercovitz, Vicki Davis, Katheryn Dolan, Michelle Goodman, Mary Kay Hudson, Anne Jordan, and Jeffrey Wiese.
- 3. Guests.** Steven H. David, Mark S. Massa, and Geoffrey G. Slaughter from the Indiana Supreme Court attended the meeting. Also attending the meeting were Judge James R. Ahler and Sheryl L. Lynch on behalf of the Community Relations Committee and Judge Dean A. Sobocki on behalf of the Criminal Law Policy Committee.
- 4. Welcome.** Chief Justice Rush welcomed the board members and the meeting commenced. Chief Justice Rush commented court technology will be a legislative issue this session to sustain funding. She also explained the changes to the NPLEx (National Precursor Log Exchange) reporting statute concerning ephedrine and pseudoephedrine when into effect in July, which further place limits on their sale. The Chief Justice then remarked on the recent adoption of Criminal Rule 26 concerning Pretrial Release and explained how the purpose of the rule is to preserve judicial discretion. She concluded by noting all funding requests from the Court would be tied to the every-day needs of trial court judges such as increasing language line interpreter services, supporting civil access to justice initiatives, or expanding funding for veterans programming offered through districts.
- 5. Approval of minutes.** A motion was made by Judge John Rader, and seconded by Judge William Davis, to approve the minutes of the meeting held June 24, 2016. The minutes, as submitted at the meeting, were unanimously approved.

6. **Remarks from the Court of Appeals.** Judge Nancy Vaidik reminded members on July 1, 2016, the appellate rule concerning the time to file transcripts reduced by half (from 90 to 45 days). She reported now that e-filing is mandatory in the appellate court, lawyers are learning through experience, and the court is giving some latitude in correcting mistakes. Judge Vaidik additionally noted one apparent issue with e-filing is the erroneous public filing of confidential information, and she would appreciate assistance with cautioning attorneys on that issue. She concluded by inviting judges to always contact her directly if she can be of assistance.
7. **Indiana Judges Association report.** Judge Robert Freese reported the IJA Board of Managers convened during a luncheon meeting at the annual Judicial Conference earlier in the week. He then reported that Judge Darrin Dolehanty had been selected as the new Secretary/Treasurer, and ten new members had joined. Judge Freese next remarked issues recently discussed included the preventative detention bill and the continuing learning process involved with paying court reporters for transcripts. He also stated the IJA does not anticipate pursuing specific legislative agenda items this upcoming legislative session, but its lobbyists will be prepared to defend its positions on any legislation proposed, as necessary.
8. **Indiana Council of Juvenile and Family Court Judges report.** Judge Vicki Carmichael reported the ICJFCJ is continuing to work with the “KD Workgroup” on a registry for notice purposes to non-custodial parents similar to the putative father registry. She stated the Council is continuing to work with DCS on potential legislation, specifically related to CHINS, for the next legislative session.
9. **Court Technology report.** Justice Steven David began his report by thanking Court of Appeals Judge Paul Mathias for his good partnership with leading and integrating the Court’s technology efforts. Justice David then began his report stating as of July of 2015 there were approximately 6,800 users e-filing and over 145,000 filings submitted by 2,600 attorneys. In the appellate courts, as of November 2015, there were approximately 11,500 e-filed documents. He encouraged judges to refer to the statewide e-filing website for updates and information. Justice David then explained that the Odyssey CMS system is available for 65% of Indiana caseloads in some capacity, with 18 counties having e-filing, and 251 CMS courts. He reported the committee will seek funding to sustain technology to complete its initiative and future projects.

Justice David lastly reported an Advisory Task Force on Remote Access to and Privacy of Electronic Court Records met to discuss and provide guidance to the Court on confidentiality and public access issues to electronic court records. Justice Rush commented those recommendations will likely be released in the weekly Wednesday compiled message sent to judicial officers.

10. **Community Relations Committee.** Judge James Ahler began his report by reminding members of a rule the committee proposed last year concerning electronic devices and what may constitute “broadcasting” for purposes of complying with Rule 2.17 of the Code of Judicial Conduct. He stated the proposal was tabled at that time for further consideration. During the intervening period, *Compton v. State of Indiana* was decided by the Court of Appeals and discussed (without deciding) whether “Tweeting” live updates of a criminal trial would be considered broadcasting. The committee determined it would

seek an advisory opinion from the Indiana Commission on Judicial Qualifications addressing whether the use of electronic devices to communicate from the courtroom via Twitter, Instagram, or email would be considered “broadcasting” and violate Rule 2.17; the committee awaits its opinion.

11. Caseload Allocation (CAPTURE) and Administrative Rule 1 & 8 Amendments.

Judge Rick Maughmer, on behalf of the Judicial Administration Committee, reported the Caseload Assessment Plan To Utilize Resources Efficiently (CAPTURE) report is complete, after being improved and revised by the National Center for State Courts. Judge Mary Willis, Chief Administrative Officer of the Office of Judicial Administration, complimented Judge Maughmer and the committee for their excellent work on the CAPTURE report. Discussion then turned to what to do with the recommendations in the report. Judge Maughmer explained that the Strategic Planning Committee worked with the Judicial Administration Committee on two amendments to Administrative Rules 1 & 8. Rule 8 will include new case types, and Rule 1 will address local district plans to promote improved strategic district planning. He stated October 28, 2016, is the deadline to return the rule proposals for feedback from the districts. At that time the Strategic Planning Committee will review and incorporate district feedback into final rules. Judge Terry Shewmaker thanked Judges Maughmer, Fouts, and Voorhees for presenting the proposals at the Judicial Conference and encouraged members to coordinate with districts and problem-solve with improved district planning to avoid potentially losing judges due to underutilization concerns. Chief Justice Rush commented that the rule proposals were drafted by the Strategic Planning Committee and encouraged members to fully evaluate them with their district colleagues.

12. Pretrial Pilot Project and EBDM Updates. Mary Kay Hudson, Deputy Director of the Indiana Office of Court Services (IOCS), reported in June 2016 the Indiana EBDM Policy team completed 15 months of technical assistance provided by the National Institute of Corrections (NIC) Evidence Based Decision Making Initiative. She further explained the policy team, chaired by Justice David, consisted of six local county teams participating: Bartholomew, Hamilton, Hendricks, Jefferson, Porter, and Tipton. Ms. Hudson stated the Policy team identified a series of strategies to improve efficiencies in six areas across the criminal justice system: 1) improved availability of criminal justice data and its comprehensiveness; 2) increase EBDM and EBP in professional development opportunities for criminal justice stakeholders; 3) increase programming to target offender risks and needs; 4) use evidence based responses to compliance and non-compliance in pretrial, community supervision and correctional settings; 5) increase evidence-based mental health services, including MAT; and, 6) develop and implement evidence-based strategies to improve pretrial outcomes. She noted all six local teams selected pretrial as a change target.

Ms. Hudson next explained that in July 2016, a subsequent NIC application was submitted by the state and local teams for continued technical assistance to assist with implementation of the six identified strategies. The policy team anticipates receiving notice of NIC’s award decision soon.

Turning to the Pretrial Pilot Project, Ms. Hudson explained that in coordination with the EBDM Policy team, the Supreme Court Committee to Study Evidence-Based Pretrial Release developed a pretrial pilot project with nine counties. She stated all nine counties

have submitted an implementation plan and will focus on use of a risk assessment to inform release decisions, differentiated supervision (including court notification), and data collection. Ms. Hudson said pilot sites have either commenced operations or will commence operations by the end of the year. She explained all pilot sites received funding to support project activities from DOC under HEA 1006 grants or from the IOCS. She also noted IOCS has contracted with IUPUI's School of Public and Environmental Affairs to evaluate the pilot projects and will provide periodic reports to the committee; the projected length of the pilot is three years.

13. **Criminal Law Policy Proposals.** Judge Dean Sobecki presented three legislative proposals for consideration: authorizing the amendment of Indiana Code § 35-35-3-3(b) concerning the public accessibility of tendered plea agreements; repealing Indiana Code § 35-38-1-1 which requires advising persons when sentenced that the person is sentenced “for not less than the earliest release date and not for more than the maximum possible release date;” and, amendments to Indiana Code § 35-38-1-1(b) on commitment of Level 6 felons to the Department of Correction in certain circumstances. Members reviewed a memo summarizing the proposed amendments distributed prior to the meeting, and several raised issues and had questions and concerns addressed during discussion of the proposal and each specific amendment. Judge Marianne Voorhees moved that the proposed amendment repealing the statutory “official record” language in Indiana Code § 35-33-3-3(b) be approved; Judge Maria Granger seconded the motion and it passed by a majority voice vote of the members. Judge John Rader moved that the proposal to repeal Indiana Code § 35-38-1-1(b) be approved; Judge Paul Felix seconded the motion and it passed by a majority voice vote of the members. Judge Gregory Smith moved to support the amendments to Indiana Code § 35-38-3-3 addressing commitment of Level 6 felons to the Department of Corrections in certain circumstances. Judge Thomas Felts seconded the motion and it passed unanimously.

14. **Staff Agency report.** Judge Mary Willis encouraged members to attend Lilia Judson’s retirement reception after the meeting. Jane Seigel, Executive Director – Indiana Office of Court Services (IOCS), reported on the progress on the establishment of IOCS with the merger of the Office of State Court Administration (STAD) and Indiana Judicial Center. She noted that several former STAD attorneys were attending the Judicial Conference Annual Meeting for the first time. Ms. Seigel also thanked members on behalf of the Justice Reinvestment Advisory Council for supporting the legislative proposal concerning Level 6 felons sentenced to DOC – commenting the Council also supports the legislation, and Representative Steuerwald will sponsor it next session. She noted Representative Washburne would be willing to sponsor legislation, if necessary. Concerning justice reinvestment funding, Ms. Seigel explained \$2 million in funding is being re-issued (that was not being spent on work release programming). She announced funding applications to the Council will be due September 23, 2016. Ms. Seigel concluded her remarks by recognizing IOCS education division attorney Anne Jordan who will be retiring later in the month.

15. **Other Business.** No other business was reported and the meeting adjourned.

16. **Next meeting.** The next meeting of the Judicial Conference Board of Directors is scheduled for December 1, 2016, Carmel, IN —3:00 p.m. at the Renaissance Hotel.

Respectfully submitted,

Jennifer L. Weber
Staff Attorney