

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call January 30, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on January 30, 2015, at 3:30 p.m. Eastern Standard Time.

1. **Members participating.** Jon Cleary, Chair, Nick Barry, George Brown, and Stan Kroh participated in the call.
2. **Staff participating.** Mike McMahon provided the Committee with staff assistance.
3. **December call minutes.** The Committee approved the minutes of the December 5, 2014 conference call.
4. **Initial hearing change on scheduling trial date.** The Committee approved a new entry for the Initial Hearing Chapter quoting *Logan v. State*, 16 N.E.3d 953, 965 (Ind. 2014) and an addition to the Initial Hearing Checklist both reflecting the *Logan* suggestion that a trial date be scheduled at the initial hearing.
5. **Index hyperlink model.** The Committee approved the design of the Index revision, which will utilize a reduced list of topics and have hyperlinks to guide users to the appropriate hyperlink entries in the pertinent chapter table of contents. Mike McMahon will draft a comprehensive list of index entries over the next few months for Committee approval.
6. **Chapter monitoring.** Members volunteered to take chapter groups for the chapter monitoring initiative. Jon Cleary agreed to take Group 8, Nick Barry volunteered to take Group 7, and Stand Kroh took Group 9. Prior to the call, Tom Hakes had agreed to take Group 10, on probation. The monitoring initiative volunteers accordingly are as follows:

Group 1:	Search and Arrest, Ch. 10 Confessions, Ch. 13 Motion to Suppress, Ch. 53	Mike Kramer
Group 2	Extradition and Detainers, Ch. 16 Initial Hearing, Ch. 19 Bail, Ch. 22	George Brown
Group 3	Grand Jury, Ch. 25 Informations, Ch. 28	Keith Meier
Group 4	Judges, Prosecutors, Venue, Ch. 31 Defense Counsel, Ch. 34 Interpreters, Ch. 35	Elizabeth Hurley (added 2-23-15)
Group 5	Discovery, Ch. 40 Speedy Trial, Ch. 43 Competence to Stand Trial, Ch. 47	Clayton Graham
Group 6	Guilty Pleas, Ch. 50	Leo Burns

Group 7	Jury Right and Demand, Ch. 39 Jury Lists, Ch. 56 Voir Dire, Ch. 57 Trial, Ch. 59 Mistrials, Ch. 58	Nick Barry
Group 8	Penalty Enhancements, Ch. 62 Sentencing, Ch. 68	Jon Cleary
Group 9	Appeals and Retrials, Ch. 71 Post-Trial, Ch. 77 Post-Conviction Relief, Ch. 80	Stan Kroh
Group 10	Probation, Ch. 74	Tom Hakes
Group 11	Capital Cases, Ch. 83	Volunteer needed

7. **Advice of habitual traffic offender consequences.** The Committee discussed Judge Keith Meier’s note on the new statutory requirements that the court advise persons convicted of specified crimes involving motor vehicles on the convicted person’s potential status as a habitual traffic violator. Members noted that the present dialogue for misdemeanor guilty pleas includes a paragraph advising that, if the conviction offense involves operation of a motor vehicle, it may have habitual traffic offender consequences. It was agreed that the Committee should check the felony conviction dialogues to add a similar paragraph.
8. **Ramirez case on presumption of prejudice from contact with juror.** The Committee decided it would cite *Ramirez v. State*, 7 N.E.3d 933 (Ind. 2014), in the mistrial chapter. Mike McMahon will draft an entry for the Committee’s consideration. Here is the holding in *Ramirez*:
- Every accused has a constitutionally protected right to an impartial jury. We have long recognized that even one juror's unauthorized contacts and communications may poison the entire jury, but we rely upon trial courts to decide whether a mistrial is the cure. Unfortunately, we have given trial courts inconsistent guidance on both how to make this determination and whether the accused must prove prejudice. Today we clarify our precedent: Defendants are entitled to a rebuttable presumption of prejudice when they can show by a preponderance of the evidence that an unauthorized, extra-judicial contact or communication with jurors occurred, and that the contact or communication pertained to the matter before the jury.
9. **Oswalt case on exhaustion rule for peremptories.** The Committee agreed that a paragraph on the *Oswalt v. State* opinion by Chief Justice Rush would be appropriate for the Appeals and Retrials Chapter, Ch. 71. Mike McMahon will look for an appropriate place for a reference to the decision. Here’s the holding from the case:
- Under Indiana's "exhaustion rule," parties may seek appellate review of for-cause challenges to prospective jurors only if they have exhausted their peremptory challenges. But what if they use their last peremptory challenge for its traditional purpose of striking a candidate they consider undesirable, instead of using it to cure the trial court's refusal to strike an allegedly incompetent one for cause? The State argues that doing so violates the exhaustion rule, thus waiving appellate review. We disagree and hold as a matter of first impression that parties satisfy the exhaustion rule the moment they use their final peremptory challenge—regardless of whom they strike. We also hold that if parties fully comply with the exhaustion rule and demonstrate they were unable to remove any prospective juror for lack of peremptories, appellate courts may review denial of any motion to strike for cause, regardless of whether a challenged juror actually served on the jury. Our holding preserves the fundamental policy of the exhaustion rule while recognizing the cherished status of peremptory challenges. Here, Defendant

preserved appellate review of three for-cause challenges, but because the trial court was within its discretion to deny all of them, we affirm his conviction.

*Oswalt v. State*, 19 N.E.3d 241 (Ind. 2014).

10. **Next conference call.** Members selected 3:30 p.m. Eastern Standard Time, Friday, February 27, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call March 20, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on March 20, 2015, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Jon Cleary, Chair, Kelli Fink, Clayton Graham, David Hooper, Elizabeth Hurley, Stan Kroh, and Keith Meier participated in the call.
2. **Staff participating.** Mike McMahon provided the Committee with staff assistance.
3. **January call minutes.** The Committee approved the minutes of the January 30, 2015 conference call.
4. **Chapter 62 Penalty Enhancements draft.** The Committee received from Mike McMahon the first draft of a revised Chapter 62 on Penalty Enhancements. It was agreed to defer review of the draft until the next conference call.
5. **Advice of habitual traffic offender consequences.** The Committee reviewed drafts of the felony guilty plea dialogues revised to include advice that, if the offense being pled guilty to involves operation or use of a motor vehicle, conviction of the offense may affect the defendant's potential status as a habitual traffic violator. The drafts incorporated the advice used in the misdemeanor guilty plea dialogue. Members approved the drafts' language, but agreed that the drafts should be modified, as Judge Meier suggested, to include a parenthetical citation to the 2014 legislation mandating the HTV impact advice. Mike McMahon will insert the citation in the felony drafts and also place the citation in the misdemeanor dialogue.
6. **Ramirez case on mistrial presumption of prejudice from contact with juror.** The Committee reviewed a draft comment for the mistrial chapter on the recent *Ramirez v. State*, 7 N.E.3d 933 (Ind. 2014). *Ramirez* held that "[d]efendants are entitled to a rebuttable presumption of prejudice when they can show by a preponderance of the evidence that an unauthorized, extra-judicial contact or communication with jurors occurred, and that the contact or communication pertained to the matter before the jury." The Committee approved the language in the draft comment. Subsequent discussion focused on the practical considerations for resolution of the rebuttable presumption. It was agreed that the evidence of the "contact or communication with jurors" establishes the presumption and that statements of the jurors made during examination by the court and the parties about the contact or communication and its effect would be the basis for finding the presumption's rebuttal. Members asked what substantive burden of proof is required for a rebuttal. The question was raised as to whether the court could supply the rebuttal evidence, through questioning of the jurors in the parties' presence, as contemplated in *Ramirez*. For the next conference call Mike McMahon will review *Ramirez* and draft a revised proposal for it.
7. **Oswalt case on exhaustion rule for peremptories.** The Committee approved a new entry to the Voir Dire chapter for *Oswalt v. State*, 19 N.E.3d 241 (Ind. 2014), which addresses the Indiana rule requiring exhaustion of peremptory challenges in order to be able to preserve for appeal objections to trial judge rulings on challenges for cause.
8. **Next conference call.** Members selected 3:30 p.m. Eastern Daylight Savings Time, Friday, April 17, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call April 17, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on April 17, 2015, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Jon Cleary, Chair, Nick Barry, George Brown, Mike Kramer, and Keith Meier participated in the call.
2. **Staff participating.** Mike McMahon provided the Committee with staff assistance.
3. **March call minutes.** The Committee approved the minutes of the March 20, 2015 conference call.
4. **Advice of habitual traffic offender consequences.** The Committee approved drafts of the felony and misdemeanor guilty plea dialogues revised, with a corrected statutory citation, to advise that conviction may count towards the defendant's being found to be a habitual traffic offender.
5. **Ramirez case on mistrial presumption of prejudice from contact with juror.** The Committee approved both a comment and a checklist for the mistrial chapter reciting the procedures to be taken with a mistrial motion based on extra-judicial contact or communication with jurors as addressed in *Ramirez v. State*, 7 N.E.3d 933 (Ind. 2014).
6. **Revised Chapter 62 on penalty enhancements.** The Committee reviewed and approved the draft of a revised Chapter 62, Penalty Enhancements. It was determined that a chart listing the principle sentencing enhancements should be placed in the Sentencing section of the chapter, 62.08.000.
7. **Next conference call.** Members selected 3:30 p.m. Eastern Daylight Savings Time, Friday, July 31, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call July 31, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on July 31, 2015, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Jon Cleary, Chair, George Brown, Kelli Fink, Clayton Graham, Stan Kroh, and Keith Meier participated in the call.
2. **Staff participating.** Mike McMahon and Jason Bennett provided the Committee with staff assistance.
3. **April call minutes.** The Committee approved the minutes of the April 17, 2015 conference call.
4. **Sentence modification issues.** The Committee discussed issues posed by the 2014 and 2015 amendments of the sentence modification statute, I.C. 35-38-1-17. In discussion, members indicated that trial courts may have more than a few modification petitions
  - (1) which were filed between 7-01-14 and 5-05-15, the effective dates of the 2014 and 2015 amendments, and
  - (2) which request modification of sentences for crimes committed before 7-01-14, and
  - (3) which remain pending.These petitions raise the question whether the savings statute I.C. 1-1-5.5-21 requires the modification statute as in effect prior to 7-01-14 to apply or instead permits application of the 7-01-14 version of the modification statute (which removed the requirement of prosecutorial consent to petitions filed more than 365 days after sentencing). They also raise the question whether the version of the statute effective 5-05-15 should apply to them, as it would allow a petition without prosecutorial consent unless the petitioner is a “violent criminal” as defined by the new 35-38-1-17. The Committee agreed that it would be useful to have a brief summary of the changes to the modification statute as well as a brief note on the issues the changes raise, as indicated above. Staff counsel are to draft a summary and a note on the issues raised. The Committee also discussed the appropriate procedure for applying the statute’s limitations on the number of petitions which can be filed. It was suggested that the trial court accept excessive petitions for filing and then enter orders disposing of them on the basis that the court lacks authority to address them due to the statutory limit.
5. **Credit time terminology.** Committee members discussed the 2015 legislation on sentence credit terminology. I.C. 35-50-6-0.5 effective July 1, 2015 provides that “credit time” will mean “the sum of a person’s accrued time, good time credit, and educational credit.” “Accrued time” “means the amount of time that a person is imprisoned or confined.” “Educational credit” is a reduction in imprisonment or confinement awarded for participation “in an educational, vocational, rehabilitative, or other program.” “Good time credit” “means a reduction in a person’s term of imprisonment or confinement awarded for the person’s good behavior while imprisoned or confined.” The Benchbook contains a number of references to “credit time,” which formerly meant “good time credit” as defined by the new statute; some references are purely Benchbook text, which can be changed to reflect the new statutory terminology, but other references are to caselaw in which the old terminology was used. For the caselaw references, Committee members agreed it would be preferable to insert a parenthetical reference to the new statutory terms wherever a reference to “credit time” as good behavior credit appears. Staff counsel are to draft the required changes.
6. **Limits on Level 6 felon commitments to the DOC.** The Committee discussed whether to add references in the

sentencing charts and other materials to the limits on commitment of Level 6 felons to the DOC. Presently such offenders may not be committed to the DOC if their earliest possible release date is less than ninety-one days from the date of sentencing, unless the commitment is for a violation of probation, parole, or community corrections by committing a new criminal offense. Effective January 1, 2016, the earliest possible release date is increased to less than three hundred sixty-five days unless the person is being revoked for a new crime or, in newly added language, the individual's sentence was enhanced and has more than three hundred sixty-five days from sentencing before their earliest possible release date. Members agreed these limitations should be added to sentencing charts, and staff counsel are to draft proposed language. It was agreed that there should be a separate Benchbook section on the Level 6 commitment limits. It was also questioned whether there would continue to be a need on sentencing to the DOC in order to get the DOC reimbursement for keeping Level 6 prisoners locally – staff counsel will research the question.

7. **Presentence query on availability of community corrections.** The Committee agreed that language should be inserted in 68.01.025 on the new statutory requirement that the probation officer drafting the presentence report must consult with community corrections on the possibility of a community corrections placement for the offender.
8. **Next conference call.** Members selected 3:30 p.m. Eastern Daylight Savings Time, Friday, August 28, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call August 28, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on August 28, 2015, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Jon Cleary, Chair, Elizabeth Hurley, Mike Kramer, and Keith Meier participated in the call.
2. **Staff participating.** Mike McMahon and Jason Bennett provided the Committee with staff assistance.
3. **July call minutes.** The Committee approved the minutes of the July 31, 2015 conference call.
4. **Sentence modification waiver and Goldsmith rule.** The Committee discussed an issue posed in a research request to the Indiana Judicial Center as to whether the I.C. 35-38-1-17(l) prohibition of any waivers of the sentence modification remedy supersedes plea agreement modification waivers entered into prior to the adoption of the prohibition. The question appears to require a decision as to whether the no-waiver legislation supersedes the caselaw rule against modifying sentences called for by plea agreements in *State ex rel. Goldsmith v. Superior Court*, 275 Ind. 545, 419 N.E.2d 109 (1981) and *Pannarale v. State*, 638 N.E.2d 1247 (Ind. 1994). Participants differed as to whether the General Assembly's prohibition of sentence modification waivers was intended to override the *Goldsmith - Pannarale* rule, but all agreed that the issue should be mentioned in the Benchbook sentence modification material.
5. **Sentence modification sections.** The Committee reviewed the sentence modification sections distributed for the conference call. A clerical error was corrected in 77.02.207, and it was agreed that a citation to the modification statute should be added to 77.02.225. It was also agreed that a note would be added that there are no cases, apparently, as to whether a sentence modification may be sought after the sentence has been served. A question was raised as to whether a Class B robbery conviction confers "violent criminal" status as defined in subsection (d)(12) ("violent criminal" if a conviction of "[r]obbery as a Level 2 felony or a Level 3 felony" - Mike McMahon and Jason Bennett agreed to check). Members did agree that the modification sections do not require a list of offenses which make an offender a "violent criminal" subject to the 365-day limit on seeking a modification without the state's consent. It was agreed to move 77.02.207, on the anti-waiver provision of the modification statute, so that it immediately follows 77.02.000.
6. **Credit time terminology.** The Committee approved the credit time terminology changes distributed for the call.
6. **Limits on Level 6 felon commitments to the DOC.** The Committee reviewed and approved the proposed sections 68.55.010 and 68.55.011 addressing the statutory limits on commitment of Level 6 felons to the DOC. In the July call it had been questioned whether there would continue to be a need to sentence to the DOC in order to get the DOC reimbursement for keeping Level 6 prisoners locally – for the August call an e-mail was distributed from State Court Administration's electronic abstract project manager Lisa Thompson announcing the termination, with DOC, of the policy requiring a sentencing order DOC commitment to receive local funding even if the person sentenced is not eligible for DOC commitment and is not in fact sent to DOC. Ms. Thompson indicated that no extra language in the sentencing order would be required for funding eligibility; it is not clear how it will be determined which cases are eligible for funding, but apparently nothing is now necessary for the trial judge to include in the sentence.

7. **Presentence query on availability of community corrections.** The Committee approved language added to 68.01.025 on the new statutory requirement that the probation officer drafting the presentence report must consult with community corrections on the possibility of a community corrections placement for the offender.
8. **Next conference call.** Members selected 3:30 p.m. Eastern Daylight Savings Time, Friday, October 23, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call October 23, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on October 23, 2015, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Clayton Graham, Chair, Nick Barry, George Brown, Leo Burns, David Happe, David Seiter, and Jeff Sharp participated in the call.
2. **Staff participating.** Mike McMahon and Jason Bennett provided the Committee with staff assistance.
3. **August call minutes.** The Committee approved the minutes of the August 28, 2015 conference call.
4. **Sentence modification waiver and pre- and post-sentence modification.** The Committee reviewed the latest draft of the Chapter 77 sentence modification materials. The draft of 77.02.101 on waiver of modification was approved without changes. The draft of 77.02.100 on modification petitions before sentence starts or after sentence has been served was approved after it was decided that the last sentence should be underlined.
5. **Defendant's presence at modification hearing.** Members discussed whether it was necessary for defendant and defense counsel to be present at a sentence modification hearing. Commissioner Seiter noted that it would be useful to be able to modify without defendant having to be present when the sentence was to DOC's "Purposeful Incarceration" program, particularly when there was an express provision in the plea agreement and/or the sentence that defendant would have a modification if he successfully completes the "Purposeful Incarceration" program.

Members decided that 77.02.210, .250, and .315 on defendant's presence at a modification hearing and waivers of hearings should be consolidated into a single section; Mike McMahon and Jason Bennett were asked to draft the consolidated version. Members also agreed to have the following sections appear in the order below, with appropriate renumbering:

77.02.255 (deny w/o findings) first

77.02.225 (notice to victim by prosecutor) second

Consolidated sections 77.02.210, .250, and .315 afterward

6. **"Violent criminal" sentence modification issue.** The Committee discussed the new "violent criminal" statutory issue raised in the August call by Judge Meier, who said he had received a sentence modification petition from a person who had been convicted of Class B armed robbery. The petitioner relied on this year's statutory change making the modification statute's no-prosecutor-consent provisions retroactive, to apply to crimes committed before July 1, 2014. This petitioner's armed robbery would have made him a "violent criminal" required to get State consent to file his modification petition had his crime been committed on or after July 1, 2014, when it would have been a Level 3 robbery offense. The "violent criminal" definition is silent, however, on armed robbery as a Class B felony. Must the petitioner here obtain consent even though he is not literally a "violent criminal?" Members agreed it would be appropriate to note the issue in the Benchbook but did not feel that any particular resolution of the question ought to be recommended. Mike McMahon and Jason Bennett are to draft language consistent with the Committee's conclusions about the issue. Judge Burns suggested that the following language from the material distributed for the conference call be used as a starting point for the Benchbook entry:

I.C. 35-38-1-17(d), printed below, refers to a number of offenses by name without referring to their Levels or former Class. Those offenses would thus appear to make the offender a “violent criminal” whether, e.g., the rape was committed before July 1, 2014 and hence was a Class B felony or instead was committed on or after July 1, 2014 and accordingly was a Level 3 felony.

The “violent criminal” offenses listed in 35-38-1-17(d)(11) to (13), in contrast, are identified by their “Level”, which would, at least literally, confine them to crimes committed on or after July 1, 2014.

7. **First sentence modification section changes.** Members agreed to change the first sentence modification section, 77.02.000, by putting its “caveat” items into new, separate sections, so that there will be separate sections for:
  - the caselaw on the applicability of the 2014 version of the modification statute to crimes committed before July 1, 2014
  - the unresolved question of the effect of the May 5, 2015 amendment for retroactive application of the new modification statute on pending petitions for modification filed before the May 5 effective date
  - the “violent criminal” issue in item 6. above.The relocation of the “caveat” items to separate sections will move the present last three sentences of 77.02.000 so that they appear immediately after the chart in that section.
8. **Index.** The Committee discussed the need to revise the Benchbook index. Members decided it would be best to wait until the December call to decide whether to use the “hyperlink” indexing approach contained in the Speedy Trial index model distributed for the October call or to use instead a more traditional topical index which would contain section numbers.
9. **Next conference call.** Members selected 3:30 p.m. Eastern Standard Time, Friday, December 11, 2015, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel

**CRIMINAL BENCHBOOK COMMITTEE  
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES  
Conference Call December 11, 2015**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on December 11, 2015, at 3:30 p.m. Eastern Standard Time.

1. **Members participating.** Clayton Graham, Chair, George Brown, Elizabeth Hurley, Stan Kroh, and Keith Meier participated in the call.
2. **Staff participating.** Mike McMahon provided the Committee with staff assistance.
3. **October call minutes.** The Committee approved the minutes of the October 23, 2015 conference call.
4. **Sentence modification material – Draft of 12-03-15.** The Committee reviewed the 12-03-15 draft of the Chapter 77 sentence modification materials. Judge Meier noted that the *Johnson* citation in 77.02.005 needed to be changed from N.E.2d to N.E.3d. The Committee decided to change “State” to “State’s” in the second sentence of 77.02.007. With those changes, the Committee approved the sentence modification draft and Mike McMahon is to post the revised modification material in the online Benchbook.
5. **Index.** The Committee discussed the two index “models” distributed for the call. The first “model” was the exclusively hyperlink index system sent out for the October call. The second “model” combined the hyperlink approach and a conventional index listing of the Benchbook section for the index topic. Members agreed that the second “hybrid” approach was superior, as it would make the index usable for both electronic and paper versions of the Benchbook. Mike McMahon is to work on a full index employing the “hybrid” model. It was also agreed that McMahon would draft for Committee review a header for the index section which would advise a reader using a paper version of the Benchbook to go to the chapter table of contents to see the listed section and related sections.
6. **Sentencing abstract and merged counts.** The Committee discussed the appropriate description to put into the JTAC electronic sentencing abstract for a count on which a guilty plea or guilty verdict was received but on which no judgment of conviction can be entered due to double jeopardy protections. The current “conviction merged” description in the abstract needs to be modified, since a judge employing the “merger” device must not enter a judgment on the count being merged, according to *Green v. State*, 856 N.E.2d 703 (Ind. 2006). Judge Hurley said it is her practice when double jeopardy requires a “merger” to enter for the merged count the following statement: “guilty verdict accepted, count merged, judgment of conviction entered on Count \_\_\_.” Committee members thought this would be appropriate language for JTAC to substitute for its present “conviction merged” language. Mike McMahon will transmit the Committee’s suggestion to JTAC’s Lisa Thompson, the manager for the electronic abstract.
7. **Next conference call.** Members selected 3:30 p.m. Eastern Standard Time, Friday, January 29, 2016, for the next Committee conference call.

Respectfully submitted,

Mike McMahon  
Staff Counsel