Maurer School of Law: Indiana University
Digital Repository @ Maurer Law

Indiana Law Journal

Volume 44 | Issue 1 Article 3

Fall 1968

# The Indiana Judicial System: An Analysis and Some Renewed Proposals for Reform

Malcolm L. Morris
*Indiana University - Bloomington*

A. James Barnes
*Indiana University - Bloomington*

# THE INDIANA JUDICIAL SYSTEM: AN ANALYSIS AND SOME RENEWED PROPOSALS FOR REFORM

MALCOLM L. MORRIS†
A. JAMES BARNES††

"In state after state too many courts flounder in mismanagement, ineptitude, and archaic organization."[1]

## I. INTRODUCTION

By now it is fairly common knowledge that courts throughout the country are in difficulty. The news media—ranging from nationwide publications[2] to local newspapers[3]—have devoted columns and series to the state of judicial administration throughout the United States. The problems are those of too many cases and too few personnel to process them rapidly, of outmoded procedural and substantive law, and of inefficiencies and inconsistencies.

The calls for change in the judicial system are not merely recent phenomena; they are as old as man's efforts to provide justice for mankind. Within the development of the Anglo-Saxon legal system dissatisfaction with the common law courts and their narrow reliance on technicalities and precedents helped give birth to the Court of Chancery, characterized by informal procedure and decisions based on fairness or natural justice.[4] Today, the roles of Charles Dickens and David Dudley Field have been assumed by men the likes of Howard James and by the Presidential Commissions on Law Enforcement and The Administration of Justice. But the message that emanates is the same: they find the present situation short of the ideal and short of what clearly appears achievable at this point in time.

To oppose meaningful judicial reform today is, or at least should be, sheer heresy. However, conceiving and enacting appropriate reform measures requires more than hearsay knowledge and objections to current conditions in the courts. Reliable information about the past and present

---

†Assistant Professor of Business Administration, Indiana University.
†† Assistant Professor of Business Law, Indiana University.

1. Banks, *The Crisis in the Courts,* 64 FORTUNE, Dec. 1961, at 86.

2. James, *Crisis in Courts,* Christian Science Monitor, April 12, 19, 26, May 3, 10, 17, 24, 31, June 7, 14, 21, 28, July 5, 1967. See also James, *Crisis in the Courts,* 51 JUDICATURE 283-87 (1968). TIME, March 22, 1968, at 52.

3. See, *e.g.,* Bloomington (Indiana) Herald Telephone, March 18, 19, 20, 21, 22, 25, 26, and 27, 1968.

4. See generally M. KNAPPEN, CONSTITUTIONAL AND LEGAL HISTORY OF ENGLAND 286-87, 291-93 (1942).

is needed if reform measures are to be effective. Indeed, the time lag between proposal, legislative approval and adoption by the judiciary makes an accurate forecast of future conditions imperative.

## II. The Indiana Study

The Judicial Study Commission of the State of Indiana recognized the need for a thorough study of the Indiana courts, and commissioned such a study by the Bureau of Business Research of Indiana University.[5] A research team was organized in the spring of 1967, and plans were formalized so that data gathering could be accomplished during the summer of that year.

The depth of the study, the large number of courts in the state, and the limitations of time and resources made it necessary to design a statistical sample of circuits to represent the state as a whole. This sample consisted of twenty circuits involving twenty-two counties, including all the major population centers as well as other circuits randomly selected over the entire state.[6] Within each circuit of the sample, data were collected from each trial court with the exception of town and justice of the peace courts.[7]

Information on some 670,000 cases filed in the years 1955, 1960, and 1965 was recorded. The 1955 and 1960 data on cases from the courts of general jurisdiction[8] consisted of type of case,[9] date of filing, method of

5. The results of this study are presented in A. Barnes, I. Horowitz and M. Morris, An Analysis of the Indiana Judicial Process (1968) which should be published prior to January 1, 1969, by the Bureau of Business Research, Indiana University.

6. The counties and courts (as of 1965) included in the sample are indicated in Appendix A.

7. Preliminary study of the problems involved, principally the availability of adequate records, led to this decision before data collection began.

8. For purposes of the study and this article, the category of courts of general jurisdiction includes the circuit, superior, probate, criminal and juvenile courts.

9. For this purpose eighteen categories were created: (1) civil-commercial actions (mortgage foreclosures, bad debt collections, and other commercial actions); (2) civil-uncontested divorce; (3) civil-contested divorce; (4) civil-negligence (primarily personal injury and auto accident claims); (5) civil-condemnation of property, (6) civil-ex parte (primarily commitment for insanity and alcoholism); (7) civil-other (cases not falling in the foregoing civil categories); (8) criminal-persons 1 (such as murder, rape, and other major crimes against persons); (9) criminal-property (includes theft, trespass); (10) criminal-persons 2 (includes lesser crimes against persons, such as incest, bigamy, blackmail); (11) criminal-society (includes offenses against society such as gambling, public disorder); (12) criminal-traffic; (13) criminal-other (cases not falling into the foregoing criminal categories); (14) probate-wills (estates involving appointment of executors and administrators, guardianships, trusts); (15) probate-other (wills spread of record, adoptions); (16) juvenile-delinquency (stealing and other crimes committed by a juvenile); (17) juvenile-dependency and neglect (wardships); and (18) juvenile-adult offenses (includes paternity and child neglect).

arrival,[10] and date and method of termination.[11] The data collected on cases filed in these courts during 1965 included the foregoing information plus many other details involving the handling of each case which were derived from separate examination of docket sheets.[12]

For cases filed in the courts of limited jurisdiction,[13] a more summary method was used. Cases filed in these courts during 1955, 1960, and 1965 were categorized into the eighteen types used for the circuit courts,[14] and each category was then totaled for those years.

An overall picture of the judicial business in each of the sample counties (exclusive of the town and justice of the peace courts) was then formed by combining the information gathered from the courts of general jurisdiction with that from the courts of limited jurisdiction. While the field researchers were at work in the sample counties, the other courts in the state were contacted by mail and requested to provide some summary information on the number of cases filed in their court during 1965 and 1966. The purpose of this step was to obtain some limited information on the judicial business of the entire state to form a check on projections that might be made from the sampled to the nonsampled counties.

In addition to summarizing and analyzing the data from court records, an additional step was taken to convert case loads to work loads for courts of general jurisdiction. The courtroom activity *directly involving the judge* was measured in the various types of cases using the detailed

10. The term "method of arrival" refers to the manner in which the case got into court; for example, by change of venue from another county, by transfer from an inferior or an equal court in the same county, or, if a criminal case, whether it was initiated by a prosecutor's affidavit or by grand jury indictment.

11. The term "method of termination" pertains, for example, to whether a case was dismissed with or without prejudice, by granting a judgment for plaintiff or defendant, or change of venue or transfer.

12. Additional information included: (1) the number of motions* before the answer was filed; (2) the number of hearings* before the answer was filed; (3) the day, month, and year the answer was filed; (4) the number of motions* after the answer and before the trial; (5) the number of hearings* after the answer and before the trial; (6) the day, month and year on which the trial date was originally set; (7) the number of times the trial date was continued, and the number of times the trial date was postponed; (8) the day, month and year of the trial; (9) whether it was a judge or jury trial; (10) whether there was a default or summary judgment; (11) if the case was a criminal case, whether the defendant pleaded guilty, not guilty, or changed his plea after originally pleading not guilty to the charge; (12) also in criminal cases, whether the defendant had public counsel or not; (13) the money judgment, if any, in civil cases that went to trial.

*The terms "motions" and "hearings" were not used in the same technical sense as they would be used by a lawyer. Rather, they were used to distinguish between those preliminary proceedings that involved small amounts of judicial time and those involving more significant amounts of time.

13. For purposes of this article, the term "courts of limited jurisdiction" includes the city, magistrate and municipal courts which were included in the study as well as the town and justice of the peace courts which were not included.

14. See note 9, *supra*.

data gathered on cases filed in 1965. Such activity included arraignments, motions, hearings, continuances, court trials, jury trials, summary judgments, default judgments, juvenile hearings, sentencings, probates of wills, appointments of executors, appointments of administrators or guardians, and scores of other legal actions that were incorporated into one of the foregoing categories. Fractions of hours[15] were assigned to each activity which when multiplied by the measured number of times the activity occurred, approximated the total hours spent on the particular activity in each of the sample circuits. Thus, the case load for each circuit was converted to work load.

Using multiple correlation techniques, case loads were then projected to 1980 on the basis of expected changes in demographic variables such as total population, births, composition and density of population, marriage, and other factors. Work load was also projected by assuming that the time courts will spend on the various individual types of legal actions will remain fairly constant in future years.

An analysis of the data over the ten-year period from 1955 to 1965 presented some interesting and often startling facts about the Indiana court system. The projections of both case load and work load indicated that the problems existing in the system today will likely intensify if major changes are not designed and implemented in the future.

## III. Conditions in the Courts of General Jurisdiction

A brief summary of the major trends, current conditions, and expected problems which analysis of data on fifty-four circuit, superior, criminal, probate, and juvenile courts revealed is presented in the following paragraphs.

a) *Case Filings.* The filing of cases in these courts has been increasing at a more rapid rate than population growth. While twenty-two cases were filed per 1,000 persons in 1955, the rate of filing increased to twenty-four per 1,000 in 1965. By 1980, it is expected that twenty-seven cases will be filed for every 1,000 persons.

The increases have been heaviest in juvenile cases, where the increase is primarily attributable to delinquency, and in probate cases. Civil cases have increased about in proportion to population gains except in such types of cases as condemnation of property and negligence (personal injury), both of which, however, absorb comparatively large blocks of judicial time. The total number of criminal cases filed in these courts has

15. Hourly units for each activity were derived by a panel of judges of varied backgrounds and experience. The units were considered to be a fair standard or average for both rural and urban courts.

shown only a minor increase. However, cases involving major crimes have increased substantially while more and more minor criminal actions are being handled by the courts of limited jurisdiction (city, magistrate, and municipal courts).

Because the number of filings of certain types of cases is increasing at a faster rate than that of other types the mixture of cases filed in future years will change somewhat from the mixture recorded since 1955 (see Appendix B). Juvenile cases are expected to constitute a substantially larger proportion of the total case load, while probate cases should make only modest gains. The criminal case load will likely be more heavily composed of cases involving major crimes and will show a considerable increase in the frequency of all types of criminal actions. The total number of civil cases should continue to increase roughly in proportion to population growth, but commercial, divorce and negligence cases—the three types of cases that absorb almost half of all courtroom time—will account for an increasingly greater percentage of the total. This expected shift in the mixture of cases is most significant since it will require an increase in the judicial time expended to dispose of civil cases in addition to that required by the projected increase in the number of cases.

b) *Change of Venue.* Surprisingly, almost all changes of venue involve civil cases. Negligence cases alone accounted for sixty-five per cent of all venue changes recorded in 1965. As anticipated, the practice of change of venue was found to be concentrated in the heavily populated circuits of the state where the case loads per court are relatively high. The major recipients of venue are, by statute, the circuits near the population centers. The incidence of change of venue is minor relative to the large number of cases filed annually, but since venued cases frequently go to trial —many to jury trials—the number of cases is not nearly as important as the potential work load that is being placed upon a relatively small number of courts.

Currently, change of venue does not appear to be a pressing problem, although it might perhaps be a source of concern in a few selected circuits which did not chance to be included in this study. However, change of venue showed definite signs of increasing in frequency, which indicates that it may become a serious, although localized, problem in the near future. In addition, the liberal change of venue rules make prediction of future work loads for any county likely to be a frequent recipient of venue transfers difficult since unquantifiable and unpredictable factors, such as the attitude of that county's judges and jurors, influence the amount of venue business the county attracts.

c) *Negligence—A Special Case.* Special note must be taken of neg-

ligence cases because of the increasing frequency and unusual processing patterns developing for this type of case. In 1965, there were more jury trials for negligence cases than for any other type of case. Also, there were more changes of venue for negligence cases than for all other types of cases combined. The work load for negligence cases comprised over thirteen per cent of the total judicial work load in 1965, and the rapidly increasing number of cases combined with the work load involved with each case will undoubtedly cause enormous increases in future work load. The projections used in this study indicate that the negligence work load will more than double between 1965 and 1980 and will comprise over eighteen per cent of total judicial work load by the year 1980.

d) *Judicial Work Load.* Work load as defined and measured in this study varied greatly by type of case, as can be seen in Appendix C. *On the average,* each case filed in 1965 absorbed about fifty-two minutes of the judge's time, but variations among categories and types of cases were substantial, with criminal cases involving the greatest and probate cases involving the least amount of time per case. Average work load per case also varied among circuits in the sample. The only major variation which correlated to size of circuit was that larger circuits appeared to spend more time on criminal cases than did the smaller circuits.

The causes of variation in work load were numerous, but variation in the method of termination appeared to explain much of the difference. Criminal, negligence, and condemnation cases showed a heavier work load per case primarily because of the frequency of time-consuming jury trials, while cases that seldom involved a trial involved relatively low work loads per case. Dismissal or change of venue also affected average work load substantially, as would be expected. For example, the average work load of negligence cases, with their numerous trials, was moderated somewhat by the high frequency of dismissals and changes in venue.

Total work load is expected to increase at an even greater rate than is the number of case filings, as is shown in Appendix B. This differential is primarily attributable to the projected changes in the mixture of cases, with greater growth expected in the types of cases that absorb substantial amounts of judicial time (see section (a) above). From 1965 to 1980, total case filings are forecast to increase by 41.7 per cent, while work load is projected to increase by 52.7 per cent over the same time period. Work load per case filed is projected to increase from an average of fifty-two to fifty-six minutes (see Appendix B).

e) *Inequity Among Circuits.* By using work load rather than case load as a measure of judicial activity, a more meaningful comparison of the circuits is possible. Work load is essentially nothing more than a

"weighted case load," which serves to present a truer picture of the potential problems or imbalance within the judicial system, and the work loads measured among the twenty circuits in the sample showed wide ranges of activity connected with the various types of cases.

Much of the variation among circuits and among the courts within the circuits can be attributed, at least in part, to the autonomous nature of the courts throughout the state. Courts within a system which contains no incentive for efficiency, such as review by qualified superiors, cannot be expected to move eagerly toward procedural changes that would speed the process or lower the cost of justice.

An analysis of work load by circuits shows that courts in the multiple-court circuits had predominantly heavier work loads than courts in single-court circuits. Some smaller circuits, in fact, had less than one-fifth the work load per court of the larger circuits. The problem of imbalance, unfortunately, can multipy in the future. As large multiple-court circuits reach a work load at which assistance is needed, the addition of one court can easily be absorbed into the system with enough work to make the addition feasible. However, when a small single-court circuit reaches the maximum work load that can be efficiently and effectively performed by one court, it may be many years beyond that time before a full-time additional court can be justified.

In viewing the large variations among circuit work loads, it must be remembered that work load as defined in this study includes only judicial activities in the courtroom proper. No attempt was made to compute or even consider the other necessary and often vital duties of the court. The results of a judge's questionnaire, interviews, and discussions repeatedly underline the numerous civic, political, and humanitarian duties thrust upon local judges by the tradition of the circuit. In addition to these duties, judges must hold conferences, read, and review in order to prepare for and conduct the business of the court, and all of these tasks are quite time-consuming.

f) *Conclusions.* The 136 courts of general jurisdiction averaged 986 cases each during the year 1965. To maintain the same average, fifty-one courts (a 37.5 per cent increase) would need to be added to handle the cases which will be filed in 1980. The problem, however, is even more acute than these statistics indicate because work load per case will be heavier because of the expected changes in the mixture of cases and the majority of increases in cases will be concentrated in population centers.

In 1965, the average court took 856 hours of courtroom time to handle its 986 cases. By 1980, the same number of hours will be needed to dispose of only 912 cases. Therefore, to maintain the average *work*

load in 1980, an increase of sixty-six courts would be necessary—or a 48.5 per cent increase in number of courts.

Without procedural or organizational changes in the court system, the heavily populated circuits receiving the greater share of the increased case and work loads will need numerous additional courts by 1980. The present courts in these circuits are typically overburdened and show little or no slack capacity. Nonetheless, many single-court circuits are also presently pushing full capacity, indicating that they will require an additional court in the near future. The addition of a court in many of these single-court circuits would create slack capacity which would not be fully utilized for many years to come because of the slow rate of increase in case and work loads in many of these circuits.

In 1965, eighteen single-court and seventeen multiple-court circuits recorded over 800 cases filed. If present trends continue, each of these thirty-five circuits will need assistance within the next few years. However, each of the single-court circuits will double its judicial capacity by the addition of one court. The excess capacity created in small circuits by the addition of another full-time court is underscored by the fact that in 1965, four two-court circuits recorded less than 600 cases per court—with one recording only 422 and another only 430 cases per court.

## IV. Conditions in the Courts of Limited Jurisdiction

The Indiana judicial system also contains a group of courts whose jurisdiction is more limited than that of the circuit and superior courts and whose purpose it is to provide an easily accessible forum for efficiently handling minor traffic, criminal and civil cases. The number of cases handled by these courts is substantial, and the average citizen who comes into contact with the judicial system is most likely to do so at this level.

Among the courts of limited jurisdiction are municipal, magistrate, city, town and justice of the peace courts. Marion County is the only county in Indiana serviced by a system of municipal courts; four such courts hear civil cases while another four are devoted to criminal matters. The Marion County communities of Beech Grove, Speedway, Maywood and Lawrence are each serviced by a magistrate court which has limited criminal jurisdiction. City courts are found in second-, third-, fourth- and fifth-class cities. In 1965 there were eighty-two such city courts. Under Indiana law, towns in counties of less than 200,000 population may establish courts of very limited jurisdiction[17] but the number of such courts

16. See Ind. Ann. Stat. §§ 4-6026-28 (Burns 1968 Repl.). At the present time the exact number of town courts is not known.

17. This figure was supplied by the Indiana Judicial Study Commission and will be included in their 1967-68 report.

is currently unknown. In 1965 Indiana had some 357 justice of the peace courts.[18]

These courts of limited jurisdiction range from full-time, well-staffed courts with excellent facilities to courts which operate only several hours a week and which are housed in the judge's home or in converted store buildings. Likewise, court records vary from fairly detailed, well-kept files located in public facilities to records kept at the clerk's or judge's home which are incomplete and in no apparent order or have been lost or destroyed. Several of the smaller city courts noted the difficulty of finding someone to serve as judge and indicated that for some periods of time in the past there had been no city judge available.

Data collected from these courts showed that about 254,000 cases were filed in 1965, about twice as many cases as were filed in the courts of general jurisdiction. Approximately ninety per cent of these cases involved minor criminal prosecutions, traffic offenses, and violations of municipal ordinances. The remaining ten per cent were civil cases and tended to be concentrated in a few courts in Marion, Lake and St. Joseph counties.

The data showed significant differences among courts in cities of the same class or size with respect to case load, the salary received by the judge, and the judge's salary apportioned on a per case basis. These differences are detailed in Appendix D. For example, in fifth-class city courts the case load range was between fourteen and 1,181 cases, the judge's salary ranged between 800 dollars and 2,500 dollars, and the judges' salaries apportioned on a per case basis ranged from approximately one dollar to forty-two dollars per case.

While the study made of the courts of limited jurisdiction was to some extent a superficial one, the picture presented is not particularly attractive. Moreover, the picture does not improve when one consults law enforcement officers and other persons who have frequent contact with justice of the peace courts which were not formally covered by this study. There is room for substantial doubt that Indiana's present system of courts of limited jurisdiction is the most satisfactory means for efficiently, equitably and uniformly handling minor civil and criminal cases.[19]

## V. Proposals for Reform

The 1969 session of the Indiana legislature can well be expected to

18. For an article which deals specifically with the problems of the Indiana city courts, see Davidson, *Indiana City Courts*, 10 Res Gestae, Dec. 1966, at 9-14. Professor Davidson discusses nonuniformity of procedure and inconsistencies of results as well as of judicial compensation.

19. See 1 Ind. Ann. Stat. 43-46 (Burns Cum. Supp. 1968) for the proposed amendments of Article 7, § 1 of the Indiana Constitution.

look at the state's judicial system. It will probably act on the proposed constitutional amendments passed first by the 1967 session;[20] several persons or groups have indicated plans to push for adoption of legislation affecting the judicial system;[21] and it will probably face requests from several counties to create additional courts.

This study points to several major problems which should be kept in mind by the legislators as they examine the judicial system. These problems include: widely disparate case loads and work loads among courts both now and in the foreseeable future; the lack of any effective machinery for shifting work load from overloaded courts to those operating at less than capacity so as to make more efficient use of existing judicial resources; a system of courts of limited jurisdiction which appears not to be an efficient and effective system for dispensing justice in relatively minor matters; and substantial differences in record maintenance and preservation as well as the absence of any centrally maintained reservoir of data on the Indiana judicial system.

To a large extent these deficiencies are a result of the autonomous nature of the courts following their creation by the legislature. The clerk and the judge supposedly remain primarily responsible to the local electorate and the state is not likely to become involved again until the court itself signifies that it needs aid and that an additional court should be created in the county. The autonomous nature of the courts has deep historical roots traceable to the era when a single court was sufficient for any given county or circuit and when travel to a court beyond the local county seat was indeed a significant problem. The rationale of having the court responsible to a local electorate perhaps cannot be ignored, even today.

Nonetheless, it now seems apparent that the present system of autonomous courts operating coextensively with county or municipal limits is not an efficient method of structuring the court system for the last third of the twentieth century. A preferable system of structuring the courts would be to group the trial courts into jurisdictional areas larger than a single county. This might be on a district, a regional, or even a statewide basis. Such an organization would not necessarily mean that

20. For example, Attorney General John Dillion discussed his proposal for a Court of Common Pleas at the May 27, 1968, meeting of the Indiana Judicial Study Commission. Minutes, Judicial Study Commission (May 27, 1968). Also, some members of the Evansville (Indiana) Bar Association are seeking creation of a first judicial circuit for a four county area in southwestern Indiana.

21. See note 20, *supra*. The Dillon proposal has been incorporated into a proposed bill which was given limited distribution by his office. The proposal is entitled "A BILL FOR AN ACT to create a Court of Common Pleas in the State of Indiana, to abolish municipal, magistrate, city and town courts in the State and to limit the jurisdiction of Justice of the Peace Courts."

trials and other acts of judicial business could not be held in those communities where they now take place. It would mean, however, that if a county's work load provides only two-thirds of a normal work load for a particular judge he could devote one-third of his time to the work load of a second county. It would mean also that when an additional judge is needed he could be given a full load by virtue of relieving a number of other judges of portions of their work loads.

There appears to be real merit in consolidating the entire court system under a single organizational umbrella. Major advantages would derive from centralized planning and coordination of the courts' efforts. Centralized gathering of information on a continuing basis would allow recognition and analysis of problems in the system—such as archaic procedures, excessive backlogs, and even substandard performances by individuals.

Sound principles of administration also suggest a divisioning of the courts of general jurisdiction into several geographic regions. Each region should be large enough to justify specialized courts—particularly in the areas of juvenile offenses and domestic relations which require specialized staffs of social workers and probation officers. Each region should encompass at least ten existing courts so that the addition of one court would not reduce the current work load of any single court by more than ten percent. Also, centers of major population growth should be included in the same region with counties of lesser growth potential. In that way, underutilized judges could be located near courts with excessive work loads, which would reduce commuting time and expense of such judges in assisting the overburdened courts.

Although a complete geographical division of courts is beyond the scope of this paper, it may be noted that for purposes of the present study the state was arbitrarily divided into eight regions, each of which fit the criteria mentioned in the foregoing paragraph. For illustrative purposes a description of one such region follows:

> The counties in northeastern Indiana, including Lagrange, Steuben, Noble, De Kalb, Whitley, Huntington, Wells, and Adams, surround Allen County—a major population center of the state. In 1965, these nine countries recorded 10,819 cases in twelve courts of general jurisdiction, or about 902 cases per court. The range, however, was from 317 cases to 1,742 cases per court. Only two of eight counties outside Allen County had in excess of 750 cases per court. A general observation that six of the twelve courts were underutilized, and six were carrying an excessive burden would appear accurate. By consolidating the nine county area into a semi-autonomous region, the under-

> utilized courts could assist the over-burdened courts, thus reducing all dockets in the region to a reasonable size and eliminating unnessary backlogs. In addition, this area could well support a juvenile court, since over 1,000 juvenile cases were filed throughout the nine counties in 1965.

The problems in the courts of limited jurisdiction, some of which parallel those in the courts of general jurisdiction and some of which are unique to that system, also merit attention and efforts at solution by the coming session of the legislature. A possible solution would be to integrate the courts of limited jurisdiction with the courts of general jurisdiction in a unified trial court system. A second and perhaps more politically feasible solution would be to continue with a separate system of trial courts of limited jurisdiction, but to unify that system and organize it on a district, regional or statewide basis. Concomitant features should include putting these courts on a regular full-time basis and requiring that the judges have legal training. Such a proposal has been advanced by the Indiana Attorney General.[22]

Increased standardization of judicial record keeping and record preservation should follow from any movement away from the autonomous court structure and toward a unified system. Consequently, the ideal functions of record maintenance—preservation of historical data, facilitation of present control over court operations, and indication of future needs—would be fostered. Some recordation and periodic reporting of summary statistics by each court to a central agency is necessary for performance of these functions. At a minimum such statistics should include, broken down by type of case: cases filed during the period, cases terminated during the period, cases currently open on the court's books, cases venued in and out of the court during the period, and cases which involved jury trials held during the period.

## VI. Conclusion

Suggestions for reform of the Indiana judicial system are not new; they have been advanced before many individuals and many groups. For example, the Indiana Judicial Council Report of 1939 refers to some of the shortcomings of inferior courts and to the problems of coordinating the trial court system.[23] But the calls for substantial change have not been heeded in the past. Perhaps the proposed changes were not wise, perhaps they were unwisely defeated, or perhaps they were ideas whose

22. See Fourth Annual Report of the Judicial Council of Indiana (1939), at 13-135 (especially 104-19) and 138-71.

23. See note 9, *supra*.

time had not yet come. Regardless of the situation in past years, the data obtained in the course of our study point toward the conclusion that a unified court system should indeed be considered an idea whose time has come in the state of Indiana.

## APPENDIX A

COUNTIES AND COURTS INCLUDED IN SAMPLE

| Class | County | Circuit | Superior | Probate | Criminal | Juvenile | City | Municipal | Magistrate | Total |
|---|---|---|---|---|---|---|---|---|---|---|
| HIGHLY URBAN | Marion | 1 | 7 | 1 | 2 | 1 | | 8 | 4 | 24 |
| | Lake | 1 | 5 | | 1 | 1 | 7 | | | 15 |
| | St. Joseph | 1 | 1 | 1 | | | 2 | | | 5 |
| | Vanderburgh | 1 | 2 | 1 | | | 1 | | | 5 |
| URBAN | Allen | 1 | 3 | | | | 1 | | | 5 |
| | Madison | 1 | 2 | | | | 3 | | | 6 |
| | Elkhart | 1 | 1 | | | | 2 | | | 4 |
| | Johnson-Brown | 1 | 1 | | | | | | | 2 |
| | Vigo | 1 | 2 | | | | 1 | | | 4 |
| MODERATELY URBAN | Bartholomew | 1 | 1 | | | | 1 | | | 3 |
| | Monroe | 1 | 1 | | | | 1 | | | 3 |
| | Cass | 1 | | | | | 1 | | | 2 |
| | Clinton | 1 | | | | | 1 | | | 2 |
| | Adams | 1 | | | | | 1 | | | 2 |
| | Wells | 1 | | | | | 1 | | | 2 |
| | Gibson | 1 | | | | | 1 | | | 2 |
| NON-URBAN | Washington-Orange | 1 | | | | | | | | 1 |
| | Jasper | 1 | | | | | 1 | | | 2 |
| | Whitley | 1 | | | | | 1 | | | 2 |
| | Carroll | 1 | | | | | 1 | | | 2 |
| | Total in Sample | 20 | 26 | 3 | 3 | 2 | 27 | 8 | 4 | 93 |
| | Total in State | 84 | 44 | 3 | 3 | 2 | 82 | 8 | 4 | 230 |

## APPENDIX B

CASES AND WORK LOAD BY CATEGORY AS A PERCENT OF THE TOTAL OF ALL CASES FILED, PROJECTED THROUGH 1980 AND GROWTH INDEX

| | Case Category | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | *Juvenile* | | *Criminal* | | *Civil* | | *Probate* | | | |
| *Recorded* | Percent of total of all cases (1) | Percent of total work load (2) | Percent of total of all cases (3) | Percent of total work load (4) | Percent of total of all cases (5) | Percent of total work load (6) | Percent of total of all cases (7) | Percent of total work load (8) | Work load per case in hours total | Growth of case filings Total of columns (1), (3), (5), (7) |
| 1955 | 9.7% | N.A.* | 9.2% | N.A.* | 65.4% | N.A.* | 15.7% | N.A.* | N.A.* | 100% |
| 1960 | 12.4 | N.A.* | 9.1 | N.A.* | 62.7 | N.A.* | 15.8 | N.A.* | N.A.* | 112.4% |
| 1965 | 12.2 | 13.9% | 7.7 | 18.8% | 61.1 | 57.1% | 18.4 | 10.2% | .8672 hrs. | 126.3% |
| *Projected* | | | | | | | | | | |
| 1970 | 15.1 | 15.9 | 8.5 | 20.0 | 58.7 | 55.3 | 17.7 | 8.8 | .9215 hrs. | 142.5% |
| 1975 | 15.2 | 16.0 | 8.9 | 20.8 | 57.6 | 54.4 | 18.3 | 8.8 | .9266 hrs. | 158.9% |
| 1980 | 15.8 | 16.5 | 9.3 | 21.3 | 56.0 | 53.6 | 18.9 | 8.6 | .9355 hrs. | 175.1% |

*Not Available

## APPENDIX C

WORK LOAD IN HOURS FOR VARIOUS TYPES OF CASES FILED IN SAMPLE CIRCUITS IN 1965

| Category | Type of Case[23] | Work Load as Percent of Category | Cases as Percent of Category | Work Load per Case Filed (hours) |
|---|---|---|---|---|
| Juvenile | Delinquency | 54.0% | 50.9% | 1.000 |
| | Dependency and Neglect | 18.1 | 17.1 | 1.000 |
| | Adult offenses | 27.9 | 32.0 | .837 |
| | TOTAL | 100.0 | 100.0 | .938 |
| Criminal | Persons[23] | 30.6 | 15.4 | 4.228 |
| | Property | 40.2 | 44.6 | 1.921 |
| | Persons[23] | 3.1 | 2.3 | 2.882 |
| | Society | 19.7 | 24.5 | 1.706 |
| | Other | 2.5 | 3.2 | 1.669 |
| | Traffic | 4.0 | 10.0 | .845 |
| | TOTAL | 100.0 | 100.0 | 2.128 |
| Civil | Commercial | 26.5 | 31.8 | .677 |
| | Divorce | 34.3 | 42.9 | .647 |
| | Negligence | 23.4 | 13.5 | 1.401 |
| | Condemnation | 4.2 | .7 | 5.172 |
| | Ex parte | 3.2 | 9.0 | .283 |
| | Other | 8.4 | 2.1 | 3.260 |
| | TOTAL | 100.0 | 100.0 | .811 |
| Probate | Will | 82.4 | 69.7 | .574 |
| | Other | 17.6 | 30.3 | .286 |
| | TOTAL | 100.0 | 100.0 | .480 |
| All Case Types | | — | — | .868 |

## APPENDIX D

SUMMARY OF 1965 DATA ON COURTS OF LIMITED JURISDICTION

| Court | Number of Courts Included | Total Cases Filed | Mean Case Load | Range of Case Loads | Range of Judge's Salary | Range of Judge's Salary Per Case |
|---|---|---|---|---|---|---|
| Marion County Municipal Courts | 8 of 8 | 91,933 | 11,491 | 1337-26,054 | $16,266.65 | $ .65-7.00 |
| Marion County Magistrate Courts | 4 of 4 | 10,419 | 2,605 | 1000-3,407 | 4,800 | 1.40-4.80 |
| Second Class City Courts (35,000-250,000) | 16 of 16 | 107,246 | 6,703 | 1366-27,020 | 4,000-14,500 | .46-2.93 |
| Third Class City Courts (20,000-35,000) | 6 of 6 | 13,116 | 2,351 | 1104-4116 | 5,000-6,000 | 1.46-5.43 |
| Fourth Class City Courts (10,000-20,000) | 18 of 18 | 18,134 | 1,007 | 154-2148 | 2,400-4,500 | 1.86-15.58 |
| Fifth Class City Courts (2,000-10,000) | 35 of 42 | 13,613 | 389 | 19-1056 | 800-2,500 | .94-42.10 |
| TOTAL | | 253,690 | | | | |

# INDIANA LAW JOURNAL

Volume 44 FALL 1968 Number 1



## CONTRIBUTORS TO THIS ISSUE

ALBERT JAMES BARNES: A.B. 1964, Michigan State Univ.; LL.B. 1967, Harvard Univ.; Assistant Professor of Business Law, Indiana Univ.

ARTHUR M. FELL: B.S. 1957, Indiana Univ.; J.D. 1966, Indiana Univ.; Member of Indiana and New York Bars, Jervy Fellow of Law at Columbia Univ.

THOMAS HALPER: A.B. 1963, St. Lawrence Univ.; M.A. 1967, Vanderbilt Univ.; currently completing dissertation and teaching at Coe College.

PHILLIPE KAHN: Charge de recherche, Centre National de la Recherche Scientifique, Paris, France.

MALCOLM L. MORRIS: B.B.A. 1952, M.B.A. 1959, Univ. of Oklahoma; D.B.A. 1963, Indiana Univ.; Assistant Professor of Business Administration, Indiana Univ.

F. THOMAS SCHORNHORST: A.B. 1956, Univ. of Iowa; J.D. 1963, George Washington Univ.; Assistant Professor of Law, Indiana Univ.