

Indiana Law Blog Newsletter

Several special editions of the Indiana Law Blog Newsletter are being published today and tomorrow, featuring the reporting of Professor Joel Schumm, IU-McKinney School of Law, on the Marion County judicial selection process.

Monday Afternoon Retention Interviews for Existing Marion County Judges

Monday's Wrap-Up

The afternoon was similar to the morning with friendly questioning and no embarrassing moments. One surprising answer: A defendant who had waived jury told a judge at sentencing that he had waived jury because he thought the judge would be fair but that the sentence imposed was unduly harsh. The judge reconsidered the sentence that evening and reduced the sentence the following day.

Changing the Current Structure

As noted in the early afternoon newsletter, many of the Committee's questions were about possible reforms of the judiciary, especially in light of the expected move to a new judicial building.

Specialization, Status Quo, and Practical Concerns

Some judges clearly prefer the current system with a number of specialized courts—or what others would call “silos.”

Judge Rogers serves in a Level 6 felony court and chose to focus on drug cases after noting the thefts and other offenses in his court were often heroin related. Seniority would have allowed him to go to any other court, but he felt called to work on drug cases and started a Heroin Prevention Committee in his court. He said he hoped the new building would allow continuation of the specialty courts, which allow for therapeutic justice.

Judge Salinas believes he is an expert in drug treatment; he would not feel like an expert in other areas. He is a better judge because he sees the same kind of cases on a regular basis.

He does not believe the current system is broken, but if it does need improvement he supports it.

Judge Hanley noted the building is still in the planning stages, and judges “need to try to

work with each other.”

Judge Hawkins noted some practical issues for the new building and that “everyone is doing some self-preservation and self-protection” and is not going to get a bathroom in their office or staff right next to them. That said, inmates should not walk through the public area or use the same elevator as judges. He noted some judges feel limited by their jurisdiction and would like to do more; other judges are comfortable with some types of cases but not others. “Thankfully the building is quite a bit off” and time still allows for planning.

Reason for Change

Judge Carlisle emphasized changing times, noting what worked twenty years ago may not work today. Courts must be mindful of the needs of community and find common goals and work together to address them. She sees value in some change but courts must consider the impact on others, such as the prosecutors and public defenders.

Some judges discussed the potential reorganization into criminal, civil, and family divisions. The criminal judges might hear all levels and types of offenses.

Judge Welch noted that litigants may be ordered to go to three or four different courts, which is challenging when they may be poor, unemployed, have addiction issues. A family court that addresses all those issues in one place would help ease that burden.

Judge Stoner’s answers were especially enlightening on court reforms, which is arguably more relevant for new judges than current ones, who are unlikely to be forced to do something they do not want to do. He co-chairs the committee for the new building, which has discussed both the building and court organizational structure. The structure should allow courts to provide more holistic solutions for families. For example he discussed a defendant with a no contact order in a criminal case who also has a CHINS case where the judge is trying to reunite the family. He stressed the importance of judges who can address many different issues and do it simultaneously. Silos are probably not healthy for the judge or judiciary. He thinks he would be a better judge if he had done what Judge Bradford did, serving in both criminal and civil courts. The judges are discussing the possibility of rotating judges to different courts but have not made decisions.

New Judges

As some Committee members were openly discussing during a break, the process of moving to a new building offers an opportunity to reform the courts; with change it becomes important to consider how much of a team player people will be.

No one knows exactly how the new system will look. Candidates who appear well-rounded and flexible will likely do best in the selection process.

Diversity

The statute requires the Committee consider the following in making nominations or

recommending retention: “Whether the candidate reflects the diversity and makeup of Marion County.”

Some questions on diversity were broad or general. Others were more specific. For example, Mr. Johnson asked Judge Hanley how he views diversity, and what he has done in his court to promote diversity. He asked Judge Marchal specifically about diversity of her staff. Sen. Breaux similarly asked what Judge Stoner had done in promoting diversity on his staff.

What should the Committee be looking for in new judges?

Several judges were asked what types of people or traits are important in new judges, a task the Committee will take up in filling three vacancies in the coming weeks. Responses included:

- Judge Rogers: Judges should be open to anything and have a passion for helping people—people who are committed and want to help their community.
- Judge Brown: The Committee should look for those with diverse backgrounds, who have done a multitude of things and have come in contact with all sorts of people (black, white, homeless, educated, etc.).
- Judge Chavis: Judges should be “active learners of the law.” A person “can’t be a good judge if they are not a good person.” They should have a good heart, work hard, be decisive and compassionate. Cultural diversity is important but so is professional diversity, which includes people from prosecutor, public defender, and private practice track.
- Judge Stoner: As discussed above regarding the importance of flexibility with a new and changing system, new judges should be well-rounded and diversified people who have been in the courtroom.
- Judge Carlisle: new judges should want to dig in and do hard work. They need to work “in the courtroom and behind the scenes”—helping the system through work for committees that further work of court and out in the community involved in activities that show a different side of the court.

Wide range of questions

Although Committee members asked a wide range of questions, Sen. Breaux appeared to have the most breadth, including the question of Judge Brown about elections versus merit selection, discussed in the earlier entry. In addition, Sen. Breaux asked:

- Judge Welch: what “fairness and equity means” to her and how she works to achieve it.
- Judge Salinas: about his responsibility to the individual and family when deciding cases
- Judge Hawkins: what should judges’ role in community be and what will it be when he’s no longer on the bench.
- Judge Marchal: the essential elements for operating a successful court—and her areas of strength and weakness.
- And a compliment: she loved Judge Marchal’s shoes. Judge Marchal thanked her and noted she had bought them for the interview today.

Other topics and tidbits

Many interesting and sometimes troubling topics were discussed today. I leave you with two.

Most people don't show up for jury duty in Marion County, and some judges face additional challenges in holding jury trials because their current courtrooms do not have jury facilities.

Judge Marchal noted the appearance rate for juries is about 20%. She recently had only twelve prospective jurors for a trial in which she needs six jurors plus an alternate. When she does have a jury, she needs to find a courtroom with jury facilities because her courtroom does not have a jury box or jury room; Judge Brown faces the same challenge.

Some days they cannot start until 10:30 or 11:00 because they do not have a courtroom. One time Judge Marchal could not have a jury trial because they could not secure a courtroom.

Judge Stoner noted the unrepresentative nature of the jury pool. Of the 28 jurors questioned in his courtroom that morning, 17 were college graduates. He rarely gets minority jurors who are not at least high school graduates; we stressed the need to reach out to community to emphasize the importance of participating.

Finally, in the category of walking in the shoes of others, Judge Borges spent a week with an ankle monitor on home detention, an experience apparently discussed in her writing sample. This provided her a better understanding of its functioning, a topic defendants often raise, and its limitations. She was ready to get rid of it at the end of the week.

1/ Do you enjoy this Newsletter? Do you miss the ILB? I'm looking for support for an all-new and even better Indiana Law Blog.

2/ Could your organization or firm use some help with a challenging short or long-term project? Then let's talk.



Copyright © 2018 The Indiana Law Blog, All rights reserved.

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe from this list](#).

This email was sent to <<Email Address>>
[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)
The Indiana Law Blog · 1319 N Alabama St · Indianapolis, In 46202 · USA

MailChimp