

**Critical Issues:  
Planning Priorities for the Wisconsin Court System  
2016 - 2018**

Submitted to the Wisconsin Supreme Court by the  
Planning and Policy Advisory Committee  
December 2015

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2016 – 2018**

<b>PPAC PLANNING SUBCOMMITTEE MEMBERSHIP 2015</b> .....	3
<b>EXECUTIVE SUMMARY</b> .....	4
<b>PPAC PLANNING BACKGROUND</b> .....	4
<b>REPORT METHODOLOGY</b> .....	5
<b>CRITICAL ISSUES AND PLANNING PRIORITIES</b>	
I. Substance Abuse.....	7
II. Judicial Independence, Selection, Compensation and Ethics.....	8
III. Juvenile Justice and Child Welfare .....	9
<b>OTHER ISSUES OF IMPORTANCE</b> .....	10
<b>APPENDIX A</b> .....	12

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**Ms. Ann Olson**  
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Office of Court Operations

***Mission of the Wisconsin Court System:***

*The mission of the Wisconsin Court System is to protect individuals' rights, privileges and liberties, to maintain the rule of law, and to provide a forum for the resolution of disputes that is fair, accessible, independent, and effective.*

## **EXECUTIVE SUMMARY**

The Planning and Policy Advisory Committee (PPAC) of the Wisconsin Supreme Court develops the biennial *Critical Issues Report* to identify key matters affecting the court system and set priorities for the court system to focus on during the biennium. The Supreme Court and Director of State Courts use this information to develop budget recommendations, priorities, and other initiatives.

For the 2016-2018 biennium, PPAC recommends that the Supreme Court and Director of State Courts give three critical issues top priority:

- Substance abuse;
- Judicial independence, selection, compensation and ethics; and
- Child welfare and juvenile justice.

This report includes recommended action steps that the PPAC Planning Subcommittee suggests PPAC consider when determining how to address each critical issue. The action steps are divided into categories to indicate whether they are short-term objectives, long-term objectives or training opportunities.

Finally, this report summarizes activities and initiatives already in progress that address priorities identified both in this report and prior reports. PPAC is responsible for monitoring the progress of each critical issue.

## **PPAC PLANNING BACKGROUND**

The Planning and Policy Advisory Committee (PPAC) was created to advise the Supreme Court and the Director of State Courts, in the Director's capacity as the judicial system's planner and policy advisor. Supreme Court Rule 70.14. PPAC developed the first court system strategic plan in 1994, entitled *Framework for Action*.

In order to strengthen the committee's overall planning function, PPAC established the Planning Subcommittee. The Planning Subcommittee has issued the *Critical Issues* report every other year since 2002. PPAC and the Director of State Courts have responded to the report's recommendations in a variety of ways, including creating subject matter subcommittees, adjusting staff workload, developing internal operating procedures and submitting biennial budget requests to the Governor and the Legislature.

## REPORT METHODOLOGY

The planning process for the 2016-2018 biennium began by reviewing articles and reports about trends affecting the state courts, written by the National Center for State Courts and others. In July 2015, an electronic survey was used to collect information from internal and external stakeholders, including Supreme Court justices, court of appeals judges, chief judges, circuit court judges, circuit court commissioners, clerks of court, registers in probate, juvenile court clerks, district court administrators, director of state courts staff, PPAC members, legislators, elected county officials, district attorneys, public defenders, corporation counsel, State Bar of Wisconsin members, the department of corrections and the department of justice.

The survey asked respondents to rate the importance of eleven different topics:

- Judicial independence
- Substance abuse
- Court security and facilities
- Juvenile justice and child welfare
- Technology
- Judicial compensation
- Evidence-based decision making
- Mental health
- Racial disparity
- Financial penalties
- Adult guardianship reform

Respondents were asked to rate each topic on a scale of 0-10, with 0 indicating that an issue was not at all important and 10 indicating that an issue was of high importance. For each question, respondents were also invited to include comments to clarify their numeric response. In addition to the 11 topics included in the survey, respondents could add one or two additional topics they thought the court system should consider. The most recent survey was shorter than in previous years and allowed respondents to rank each topic's importance independent of the other topics. This approach was developed with input from research staff at the State Bar of Wisconsin, whose assistance was greatly appreciated and resulted in improved response data. Four hundred and thirty-two (432) completed survey responses were received.

Survey results were tabulated separately for court respondents (judges, court commissioners, clerks, district court administrators, clerks and other court staff) and non-court respondents (private attorneys, district attorneys, public defenders, elected officials and others). Despite some differences in the ranking of issues, there was considerable overlap between both court and non-court responses. The three issues with the highest average rank across all respondents were selected for this report.

The Planning Subcommittee reviewed the survey results and selected three critical issues to recommend for emphasis during the 2016-2018 biennium. At the November 2015 Judicial Conference, Planning Subcommittee chair Judge Michael Rosborough presented the three

selected critical issues and suggested action steps. Additional questions were asked of conference attendees to further guide the priority planning process (see Appendix A).

For the 2014-2016 Critical Issues Report, two broad themes were used to help frame priorities: funding and training. The 2016-2018 report continues to recognize that courts struggle to obtain adequate resources to meet existing goals. PPAC's recommendations acknowledge that basic operations cannot be neglected in favor of new initiatives and that any proposed changes that depend on increased funding require strong justification.

With these limitations in mind, PPAC developed three categories for recommended action steps. These include short- and long-term objectives and training objectives. Short-term objectives acknowledge actions that are already taking place in the system and that PPAC should support. Long-term objectives are those that require more research or planning in order to move forward. PPAC also recognizes the critical role that training plays in continually improving the quality of service the court system provides, which is why some of the action steps also include a training objective. Judicial Education, the Judicial College and other conferences and trainings hosted throughout the year, such as the Court Safety and Security Conference, offer quality training opportunities. PPAC will continue to support these efforts and communicate suggestions for training sessions based on the feedback received through the Critical Issues survey.

**CRITICAL ISSUES AND PLANNING PRIORITIES OF THE WISCONSIN COURT SYSTEM**

PPAC recommends the Supreme Court and Director of State Courts Office focus on three critical issues over the next biennium.

*Critical Issue 1: Substance Abuse*

**Issue**

Substance abuse has been identified as a critical issue in several past reports and the topic continues to rank highly for respondents. Since 2004, the Effective Justice Strategies (EJS) subcommittee has addressed substance abuse issues by securing grants from various agencies and organizations to improve the operation of the state’s 74 treatment courts.

Members of EJS and other court officials and court staff have been actively involved in developing treatment court performance measures and training on their use. They are currently helping existing programs prepare for common data collection tools through the Wisconsin Department of Justice that are expected to be in place within the next year.

PPAC supported the addition of a Statewide Problem-Solving Court Coordinator position, which will be filled in early 2016. This staff position will facilitate expanded training and future evaluation of treatment court programs.

**Action Steps**

**Training objective:** PPAC, through the Effective Justice Strategies Subcommittee, will continue to support training on best practices standards for treatment courts.

**Training objective:** PPAC, through the Statewide Problem-Solving Court Coordinator, will work with newer treatment court programs and those working through implementation issues.

**Short-term objective:** PPAC, through the Statewide Problem-Solving Court Coordinator and the Effective Justice Strategies Subcommittee, will support standardized data collection methods and use of an integrated statewide database to monitor treatment court outcomes.

**Long-term objective:** PPAC, through the Statewide Problem-Solving Court Coordinator, will develop informational and training materials, including cost-benefit analyses, to support continued expansion of treatment court programs and assist the legislature and county boards in their consideration of such programs.

## ***Critical Issue 2: Judicial Independence, Selection, Compensation and Ethics***

### **Issue**

Judicial independence, selection, compensation and ethics has been identified as a priority issue for the courts once again. Wisconsin’s judicial branch is an independent, separate, and co-equal branch of state government charged with preserving the rule of law, upholding Wisconsin’s constitutional rights, and ensuring fair and impartial courts.

Action steps for this critical issue center on a combination of public outreach activities and initiatives to enhance public understanding of the role of the judiciary in the state. Judges have expressed interest in developing communication tools to educate others about court initiatives and activities.

Additional objectives focus on exploring alternatives for gathering feedback on court and judicial interaction with the public, including examining other states’ approaches to assessment. Any exploration of such tools would need to be mindful of Wisconsin’s current system for selecting judges.

### **Action Steps**

**Short-term objective:** PPAC should explore developing materials to aid judges and clerks in communicating about court system initiatives with legislators and county officials. This might include creating a communications plan or talking points.

**Short-term objective:** PPAC, through the court Legislative Committee and Legislative Liaison, should monitor and respond to legislation concerning judicial independence, selection and ethics as it relates to circuit court judges. This may include judicial compensation, term limits, court funding, and related issues.

**Short-term objective:** PPAC should explore ways to encourage judicial participation in established outreach programs such as the “Our Courts” program of the Wisconsin State Bar Association and local outreach events such as “Law Day” to help educate the public on the role of the third branch.

**Long-term objective:** PPAC should review how feedback on judicial interaction with the public is gathered in other states and how results are provided to the public and decision-makers. Review might include analyzing national and state-level mechanisms.



### *Critical Issue 3: Child Welfare and Juvenile Justice*

#### **Issue**

In the most recent critical issues survey, child welfare and juvenile justice emerged as one of the most important issues facing the courts. There is strong demand for education and training that reflect current research on how young people should be treated within the child welfare and juvenile justice systems.

A number of issues are important in the coming biennium. At the state level, legislative proposals are currently being considered that may change how 17-year-old offenders are treated in the courts. Judges also have expressed interest in continued training on a trauma-informed approach to child welfare and juvenile justice and how to implement these practices in the courtroom setting. On the national level, there is also an increasing focus on victims of human trafficking.

In addressing child welfare and juvenile justice, PPAC will work with entities such as the Wisconsin Commission on Children, Families and the Courts, the Governor's Juvenile Justice Commission and the Wisconsin Judicial Committee on Child Welfare.

#### **Action Steps**

**Training objective:** PPAC should collaborate with the Office of Judicial Education to provide education on alternatives to waiving older juvenile offenders into adult court and the implications and special considerations for including older juvenile offenders in the juvenile justice system.

**Short-term objective:** PPAC should work with Children's Court Improvement Program and the Office of Judicial Education to provide information on nationally recognized best practices and current research relating to child welfare and juvenile justice, including early family intervention, trauma-informed practices, and working with dual-status children and families.

**Short-term objective:** PPAC should support initiatives and training regarding child sex trafficking and using evidence-based practices to better address victim treatment needs, including trauma-informed approaches.

**OTHER ISSUES OF IMPORTANCE**

In addition to the topics outlined above, the following section highlights ongoing activities associated with previously identified critical issues, including court security, technology and access to justice. These areas continue to be of considerable importance, as they directly impact the courts' ability to operate effectively and efficiently.

***Court Security and Facilities***

PPAC recognized the need for safety in courthouses as a critical issue for 2014-2016 and in previous reports and this continues to be an area of great importance. Courts must have proper court security procedures, technology, personnel, and architectural features to not only protect the people and property within and around the courts, but also the integrity of the judicial process. PPAC and the PPAC Court Security Subcommittee were instrumental in creating Supreme Court Rule 68 on court security, facilities, and staffing, which assists counties and courts in making sound decisions about their facilities.

**Court security conference.** The Court Safety and Security Conference allows court security and facility teams to learn about current trends, best practices and opportunities for improvement. Working with the National Criminal Justice Training Center at Fox Valley Technical College, the Director of State Courts Office has received grants from the Wisconsin Department of Justice to enable judges and county court security teams to attend the conference. The response from this ongoing conference has been overwhelmingly positive and the next session is planned for 2016.

**Improving courthouse security and incident reporting.** PPAC and the Director of State Courts will continue to implement Chapter 68 to ensure that courts have the tools they need to report incidents and to examine the differing needs of urban and rural facilities. PPAC, through the Court Security Subcommittee, will update the court security manual, including a self-assessment tool for courts to determine their security needs. In addition, PPAC will support local court security committees, including providing information about the security incident reporting process, training opportunities and effectively advocating for additional security measures where needed.

***Technology***

PPAC identified technology as a critical issue in 2014-2016, recognizing the rapidly increasing role technology plays in fulfilling the court's mission. Public demand for online access to court information and services continues to grow, and judges and court staff rely on technological improvement to keep pace with their work.

**Electronic filing.** One of the most important developments in the technology area has been the expanded use of electronic case filing (eFiling). In 2015, the Committee of Chief Judges submitted a petition to the Supreme Court to make eFiling mandatory for attorneys and to require that clerks of court keep case files electronically. In late 2015, the Supreme Court granted a petition filed by the Clerk of the Supreme Court and Court of Appeals allowing clerks of circuit court to transmit the court record electronically to the Court of Appeals. PPAC will track the implementation of this new rule during the coming biennium.

**Videoconferencing.** During 2016-2018, the PPAC Videoconferencing Subcommittee will continue to meet and further explore creating technical standards for videoconferencing equipment and examine new developments in the area of videoconferencing. Findings will be incorporated into the existing “Bridging the Distance” videoconferencing manual.

## *Access to Justice*

PPAC identified Access to Justice or Self-Represented Litigants in several recent critical issues reports. In addition to changes in rules defining the role and responsibilities of attorneys working with self-represented litigants, issues such as courthouse security and technology directly impact the ability for Wisconsin’s residents to access justice services and information.

**Limited Scope Representation Rule Changes.** The issue of limited scope representation was also highlighted during the 2014-16 critical issues report, as amended rules based on the Limited Scope Representation Subcommittee’s recommendations were being considered. Those efforts resulted in a revised Supreme Court Rule that took effect January 1, 2015. The revised rules allow for citizens to represent themselves with the support of an attorney for limited functions and provide more clearly delineated duties on the part of attorneys involved in such cases.

**Public Library Partnership Initiative.** In April 2007, the Wisconsin Court System launched a public library initiative project to further assist people who are representing themselves in court proceedings. The project’s goal was to foster communication between local courts and public libraries in an effort to better meet the legal service needs of self-represented litigants. The Director of State Courts Office and the Wisconsin State Law Library revived this initiative and supported a training session for public librarians in Fitchburg in July, 2014. Future opportunities for this training are being planned with the Law Library.

## *Conclusion*

Through this report, the Planning and Policy Advisory Committee (PPAC) of the Wisconsin Supreme Court intends to highlight issues of importance for the court system to focus on during the coming biennium. The Supreme Court and Director of State Courts will continue to monitor these topics in order to address the highest-priority needs among the state’s judiciary.

*Appendix A: 2015 Judicial Conference PPAC Session Feedback*

<b>Substance Abuse</b>																						
<p>1. Do you feel that you understand the key components of an effective treatment court program?                      A. Yes                      B. No</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>65%</td> <td>68</td> </tr> <tr> <td>B</td> <td>35%</td> <td>36</td> </tr> <tr> <td>Total</td> <td></td> <td>104</td> </tr> </tbody> </table>		%	Number	A	65%	68	B	35%	36	Total		104									
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<p>2. How well informed and receptive is your county board to the need for additional substance abuse treatment options?                      A. Very well informed/receptive                      B. Somewhat well informed/receptive                      C. Not very well informed/receptive                      D. We have our work cut out for us</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>23%</td> <td>27</td> </tr> <tr> <td>B</td> <td>41%</td> <td>47</td> </tr> <tr> <td>C</td> <td>16%</td> <td>18</td> </tr> <tr> <td>D</td> <td>21%</td> <td>24</td> </tr> <tr> <td>Total</td> <td></td> <td>116</td> </tr> </tbody> </table>		%	Number	A	23%	27	B	41%	47	C	16%	18	D	21%	24	Total		116			
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<p>3. Which resources are most needed in your community to establish or maintain an effective treatment court program?                      A. Availability of treatment providers                      B. Resources for uninsured participants                      C. Transportation for participants                      D. Testing mechanisms/cost of monitoring                      E. All of the above (added during polling)</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>23%</td> <td>34</td> </tr> <tr> <td>B</td> <td>29%</td> <td>42</td> </tr> <tr> <td>C</td> <td>8%</td> <td>12</td> </tr> <tr> <td>D</td> <td>17%</td> <td>25</td> </tr> <tr> <td>E</td> <td>23%</td> <td>33</td> </tr> <tr> <td>Total</td> <td></td> <td>146</td> </tr> </tbody> </table>		%	Number	A	23%	34	B	29%	42	C	8%	12	D	17%	25	E	23%	33	Total		146
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<b>Judicial Independence, Selection, Compensation and Ethics</b>																						
<p>1. Would it be useful to have talking points or a template to better enable communication with legislators or county officials about court system initiatives?                      A. Yes, I would welcome suggestions                      B. No, I'm able to do this on my own                      C. No, I have never found these efforts useful                      D. I'm not sure</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>68%</td> <td>113</td> </tr> <tr> <td>B</td> <td>13%</td> <td>21</td> </tr> <tr> <td>C</td> <td>8%</td> <td>13</td> </tr> <tr> <td>D</td> <td>11%</td> <td>19</td> </tr> <tr> <td>Total</td> <td></td> <td>166</td> </tr> </tbody> </table>		%	Number	A	68%	113	B	13%	21	C	8%	13	D	11%	19	Total		166			
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<p>2. Do you think objective information regarding judicial performance would be useful to help voters in their selection of judges?                      A. Yes                      B. Maybe – but I would need more details                      C. Probably not                      D. No</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>11%</td> <td>20</td> </tr> <tr> <td>B</td> <td>38%</td> <td>66</td> </tr> <tr> <td>C</td> <td>19%</td> <td>33</td> </tr> <tr> <td>D</td> <td>30%</td> <td>53</td> </tr> <tr> <td>Total</td> <td></td> <td>172</td> </tr> </tbody> </table>		%	Number	A	11%	20	B	38%	66	C	19%	33	D	30%	53	Total		172			
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<b>Child Welfare and Juvenile Justice</b>																							
<p>1. Would you like more specific training on incorporating trauma-informed practices into your courtroom?</p> <p>A. No, I have already done this</p> <p>B. No, I don't see how this would be helpful</p> <p>C. Yes, I would like more training on how to apply it</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>10%</td> <td>15</td> </tr> <tr> <td>B</td> <td>8%</td> <td>12</td> </tr> <tr> <td>C</td> <td>83%</td> <td>128</td> </tr> <tr> <td>Total</td> <td></td> <td>155</td> </tr> </tbody> </table>			%	Number	A	10%	15	B	8%	12	C	83%	128	Total		155						
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<p>2. Would you support the return of most 17-year-olds to juvenile court?</p> <p>A. Yes, this system worked well in the past and research supports such a change</p> <p>B. No, the present cutoff is appropriate</p> <p>C. Only with additional resources for county services</p> <p>D. Unsure, I would need to see the details</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>49</td> <td>86</td> </tr> <tr> <td>B</td> <td>19</td> <td>33</td> </tr> <tr> <td>C</td> <td>17</td> <td>30</td> </tr> <tr> <td>D</td> <td>15</td> <td>26</td> </tr> <tr> <td>Total</td> <td></td> <td>175</td> </tr> </tbody> </table>			%	Number	A	49	86	B	19	33	C	17	30	D	15	26	Total		175			
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<b>Courthouse Security</b>																							
<p>1. Do you know approximately how many reportable courthouse security incidents take place in your courthouse each year?</p> <p>A. 0-2</p> <p>B. 3-5</p> <p>C. 6-10</p> <p>D. More than 10</p> <p>E. I don't know (added during polling)</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>8</td> <td>11</td> </tr> <tr> <td>B</td> <td>16</td> <td>22</td> </tr> <tr> <td>C</td> <td>12</td> <td>16</td> </tr> <tr> <td>D</td> <td>28</td> <td>38</td> </tr> <tr> <td>E</td> <td>36</td> <td>48</td> </tr> <tr> <td>Total</td> <td></td> <td>135</td> </tr> </tbody> </table>			%	Number	A	8	11	B	16	22	C	12	16	D	28	38	E	36	48	Total		135
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<p>2. What is the biggest barrier to your county submitting court security incident reports?</p> <p>A. No designated staff person is responsible</p> <p>B. Lack of a regular reminder (email, etc.)</p> <p>C. Don't know how or when to submit the reports</p> <p>D. Don't know what constitutes a reportable incident</p> <p>E. I don't know (added during polling)</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>6%</td> <td>7</td> </tr> <tr> <td>B</td> <td>9%</td> <td>10</td> </tr> <tr> <td>C</td> <td>3%</td> <td>3</td> </tr> <tr> <td>D</td> <td>5%</td> <td>6</td> </tr> <tr> <td>E</td> <td>77%</td> <td>88</td> </tr> <tr> <td>Total</td> <td></td> <td>114</td> </tr> </tbody> </table>			%	Number	A	6%	7	B	9%	10	C	3%	3	D	5%	6	E	77%	88	Total		114
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<b>Racial Disparities</b>																							
<p>1. On Wednesday, we heard presentations about implicit bias in the courtroom. How did this shift your understanding of your role as a judge?</p> <p>A. A great deal - it was good food for thought</p> <p>B. Somewhat - I will start paying more attention to this</p> <p>C. Not very much - I'm not sure how it applies to me</p> <p>D. Not at all - I don't see this as a problem</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>29%</td> <td>48</td> </tr> <tr> <td>B</td> <td>44%</td> <td>71</td> </tr> <tr> <td>C</td> <td>11%</td> <td>18</td> </tr> <tr> <td>D</td> <td>16%</td> <td>26</td> </tr> <tr> <td>Total</td> <td></td> <td>163</td> </tr> </tbody> </table>		%	Number	A	29%	48	B	44%	71	C	11%	18	D	16%	26	Total		163				
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<p>2. What additional resources would be useful to you as a judge regarding implicit bias?</p> <p>A. Nuts and bolts training</p> <p>B. Online resources or web-based training</p> <p>C. Workshops with justice partners on the impact of bias in my county</p> <p>D. I have adequate resources on this topic</p> <p>E. A, B and C (added during polling)</p>	<table border="1"> <thead> <tr> <th></th> <th>%</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>30%</td> <td>49</td> </tr> <tr> <td>B</td> <td>14%</td> <td>23</td> </tr> <tr> <td>C</td> <td>26%</td> <td>43</td> </tr> <tr> <td>D</td> <td>26%</td> <td>43</td> </tr> <tr> <td>E</td> <td>4%</td> <td>6</td> </tr> <tr> <td>Total</td> <td></td> <td>164</td> </tr> </tbody> </table>		%	Number	A	30%	49	B	14%	23	C	26%	43	D	26%	43	E	4%	6	Total		164	
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