

# COURT OF CRIMINAL APPEALS

## Analysis of Activity for the Year Ending August 31, 1987

The Court of Criminal Appeals is the highest state court for criminal appeals and is composed of a Presiding Judge and eight judges. Additionally, pursuant to Sec. 22.106 of the Texas Government Code, special commissioners may be designated to aid and assist the court as needed.

Until September 1, 1981, the Court of Criminal Appeals received all criminal cases appealed from the district and county-level trial courts of the State. On that date, a constitutional amendment and implementing legislation became effective which conferred on the 14 Courts of Appeals intermediate appellate jurisdiction in all criminal cases except those in which the death penalty was assessed. Appeal of death penalty cases remains direct to the Court of Criminal Appeals.

Decisions of the Courts of Appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review, filed either by the State, or the defendant, or both. In addition, the Court may review a decision on its own motion.

### Matters Added to the Docket

During the state fiscal year 1987 which ended August 31, 1987, there was a total of 586 cases added to the docket of the Court of Criminal Appeals. Two hundred and one of these were cases where discretionary review was granted by the Court and 213 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal 1987 numbered 52, compared to 35 in fiscal 1986.

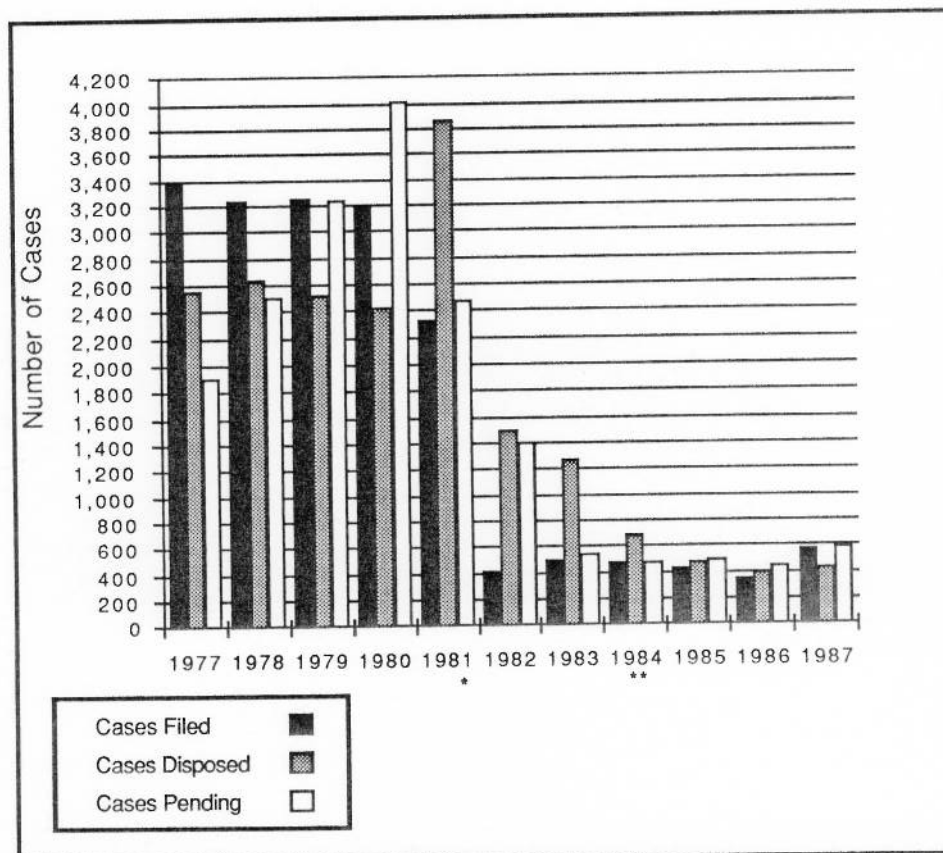
The 586 cases added in fiscal year 1987 represent an increase of 64.6 percent from the 356 cases added during fiscal year 1986, which ended August 31, 1986.

In addition to the cases added:

(1) The Court had 1,339 petitions for discretionary review filed during fiscal 1987, 21 fewer than the number filed during the previous year. Petitions for discretionary review were

**Figure 3.**  
**COURT OF CRIMINAL APPEALS**

Cases filed, disposed and pending, calendar year 1977 through fiscal year 1987



\* Includes cases transferred to the Courts of Appeals which acquired intermediate appellate criminal jurisdiction in 1981.

\*\* 1984 and following are fiscal years; all previous are calendar years.

received from 135 counties during 1987, with 46 percent of them originating from Harris or Dallas Counties;

(2) There were 2,231 applications for writs of habeas corpus filed during fiscal 1987 (a 7.5 percent increase over the 2,074 filed in fiscal 1986); and

(3) 1,653 other motions or applications were handled by the Court (a 38.6 percent increase over the 1,193 considered the previous year).

#### Rate of Dispositions Decreases

During fiscal year 1987, the Court disposed of 443 cases considered on their merits, compared to 409 such dispositions in fiscal 1986. In 1987 those 443 dispositions represented 42.5 percent of all cases on the docket (that is, cases filed during the year or carried over from previous years). In fiscal 1986, this disposition rate was 47 percent.

In fiscal 1987, 1,672 petitions for discretionary review were disposed of, 342 (or 20.05 percent) of which were granted and the remainder were refused or dismissed. In fiscal 1986, 1,100 petitions for discretionary review were disposed of, 201 (or 18 percent) of which were granted.

There were 2,242 applications for writs of habeas corpus disposed of in fiscal 1987, compared to 1,809 in 1986, an increase of 24 percent.

Judges of the Court of Criminal Appeals wrote 647 opinions during fiscal 1987, 435 (67 per cent) of which were "deciding" opinions which disposed of cases. The remainder were dissents, concurrences, and opinions on rehearing. Of the deciding opinions, 221 were signed and 214 were per curiam. During 1986, members of the Court wrote 663 opinions, 70 percent of which were deciding opinions.

#### Total Pending Caseload Increases

On August 31, 1987, there were 2,168 total matters (excluding miscellaneous motions and applications) pending in the Court. This represented a decrease of 8 percent over the 2,369 matters pending on September 1, 1986.

On August 31, 1987, there were pending 370 granted discretionary review cases, 806 applications for writs of habeas corpus, 765 petitions for discretionary review, and 227 direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.



# COURT OF CRIMINAL APPEALS

## Activity for the Year Ending August 31, 1987

### SUMMARY OF DOCKET ACTIVITY DURING THE YEAR ENDING AUGUST 31, 1987

A. Cases Passed on During the Year Ending August 31, 1987:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court . . . . .	206
Cases disposed of after granting petitions for discretionary review . . . . .	237
Petitions for discretionary review disposed of by the Court . . . . .	1,672
Applications for writs of habeas corpus, etc., disposed of by the Court . . . . .	<u>2,242</u>
TOTAL CASES PASSED ON BY THE COURT. . . . .	<u>4,357</u>

B. Motions and Applications Passed on During Year Ending August 31, 1987:

Motions for leave to file motions for rehearing on direct appeal. . . . .	63
Motions for rehearing on direct appeals . . . . .	15
Motions for rehearing on petitions for discretionary review . . . . .	338
Petitions for discretionary review refused as untimely filed an applications for extensions of time to file transcriptions of court reporters' notes, bills of exceptions, briefs, and petitions for discretionary review considered and disposed of . . . . .	<u>1,237</u>
TOTAL MOTIONS AND APPLICATIONS PASSED ON BY THE COURT . . . . .	<u>1,653</u>

GRAND TOTAL OF MATTERS PASSED ON BY THE COURT. . . . . 6,010

C. Matters Pending August 31, 1987:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs . . . . .	227
Cases on granted discretionary review pending . . . . .	370
Petitions for discretionary review pending. . . . .	765
Applications for writ of habeas corpus, etc., pending . . . . .	<u>806</u>
TOTAL MATTERS PENDING AUGUST 31, 1987 . . . . .	<u>2,168</u>

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

**CASES**

A. Cases Pending September 1, 1986:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs . . . . .	214
2. Cases with granted petitions for discretionary review . . . . .	240
SUB-TOTAL CASES PENDING SEPTEMBER 1, 1986 . . . . .	<u>454</u>

B. Cases Added to Docket During the Year Ending August 31, 1987:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs filed . . . . .	213
2. Direct appeals reinstated on docket . . . . .	6
3. Granted petitions for discretionary review . . . . .	342
4. Rehearings granted on cases considered under discretionary review . . . . .	25
SUB-TOTAL CASES ADDED . . . . .	<u>586</u>
TOTAL CASES ON DOCKET . . . . .	<u>1,040</u>

C. Disposition of Cases During the Year Ending August 31, 1987:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Affirmed . . . . .	32
Reformed and affirmed . . . . .	3
Reversed and remanded . . . . .	6
Appeals abated . . . . .	5
Appeals dismissed . . . . .	11
Habeas corpus relief granted . . . . .	93
Habeas corpus relief denied . . . . .	29
Habeas corpus applications dismissed . . . . .	6
Mandamus relief granted . . . . .	6
Habeas corpus relief granted in part and denied in part . . . . .	3
Habeas corpus remanded for evidentiary hearing . . . . .	2
Habeas corpus remanded . . . . .	3
Habeas corpus abated . . . . .	4
Appeal bond set . . . . .	1
Out of time appeal granted . . . . .	1
Order denying bail set aside . . . . .	1
SUB-TOTAL . . . . .	<u>206</u>

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

2. On granted petition for discretionary review:

Court of Appeals affirmed . . . . .	63
Court of Appeals and trial court affirmed . . . . .	4
Court of Appeals affirmed; remanded to trial court. . . . .	2
Court of Appeals reversed; remanded to Court of Appeals . . . . .	24
Court of Appeals reversed; remanded to trial court. . . . .	12
Court of Appeals reversed; habeas corpus denied . . . . .	2
Court of Appeals and trial court reversed; remanded to trial court. . . . .	17
Dismissed and remanded to Court of Appeals. . . . .	1
Court of Appeals reformed, reversed and remanded to trial court. . . . .	1
Remanded to trial court . . . . .	1
Petition refused. . . . .	1
Court of Appeals vacated; remanded to Court of Appeals. . . . .	24
Reversed and dismissed . . . . .	2
Reformed and affirmed . . . . .	6
Dismissed . . . . .	13
Dismissed/refused as Improvidently granted. . . . .	7
Habeas corpus relief granted on discretionary review. . . . .	3
Remanded to Courts of Appeals . . . . .	25
Refused as untimely . . . . .	1
Rehearing denied with opinion after rehearing was granted and submitted to the Court on motion for rehearing . . . . .	4
 SUB-TOTAL . . . . .	 237
 TOTAL DISPOSITIONS . . . . .	 443

D. Cases Pending August 31, 1987:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:

Under original submission . . . . .	107
Under submission on rehearing . . . . .	10
Pending on motions for rehearing. . . . .	7
Pending on motions for leave to file motions for rehearing . . . . .	1
Waiting to become final or on appeal to the U.S. Supreme Court . . . . .	8
Unsubmitted . . . . .	97
 SUB-TOTAL . . . . .	 230

2. Pending on granted discretionary review:

Under original submission; unsubmitted and pending on motions for rehearing . . . . .	370
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SUB-TOTAL . . . . .	370
 TOTAL CASES PENDING AUGUST 31, 1987 . . . . .	 600

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

**PETITIONS FOR DISCRETIONARY REVIEW**

A. <u>Petitions for Discretionary Review Pending September 1, 1986</u> . . . . .	1,098
B. <u>Petitions for Discretionary Review Filed During Year</u> . . . . .	1,339*
TOTAL PETITIONS ON DOCKET . . . . .	2,437
C. <u>Disposition of Petitions for Discretionary Review:</u>	
Granted . . . . .	342
Refused . . . . .	1,315
Dismissed . . . . .	15
Abated . . . . .	0
TOTAL PETITIONS DISPOSED . . . . .	1,672
D. <u>Petitions for Discretionary Review Pending August 31, 1987</u> . . . . .	765

**APPLICATIONS FOR WRITS OF HABEAS CORPUS**

A. <u>Applications Pending September 1, 1986</u> . . . . .	817
B. <u>Applications Filed During Year Ending August 31, 1987</u> . . . . .	2,231
TOTAL APPLICATIONS ON DOCKET . . . . .	3,048
C. <u>Disposition of Applications for Writs of Habeas Corpus, etc.:</u>	
Applications ordered filed and set for submission . . . . .	150
Hearings ordered on applications . . . . .	70
Applications granted with written orders . . . . .	11
Applications denied with written orders . . . . .	66
Applications denied without written orders . . . . .	1,779
Applications dismissed . . . . .	47
Applications marked "no action" . . . . .	83
Applications marked "abuse of Writ Order previously entered, no action" . . . . .	18
Out of time appeals granted . . . . .	16
Motion for bond denied . . . . .	1
Rehearings on applications denied . . . . .	1
TOTAL APPLICATIONS DISPOSED . . . . .	2,242
D. <u>Applications for Writ of Habeas Corpus Pending August 31, 1987</u> . . . . .	806

\*Because more than one petition for discretionary review may be filed in a case, this figure is higher than the actual number of cases brought to the court on petition for discretionary review.

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

**MOTIONS FOR REHEARING AND APPLICATIONS FOR EXTENSION OF TIME**

A. Motions for Rehearing of Direct Appeals:

Motions granted with written opinions . . . . .	10
Motions overruled/denied with written opinions. . . . .	5
Motions overruled/denied without written opinions . . . . .	0
Leave to file motions for rehearing granted . . . . .	11
Leave to file motions for rehearing denied. . . . .	<u>52</u>

SUB-TOTAL . . . . . 78

B. Motions for Rehearing of Discretionary Review Cases or Petitions:

Motions denied. . . . .	313
Motions granted . . . . .	25
Motions dismissed . . . . .	0
Motions marked "Moot" . . . . .	<u>0</u>

SUB-TOTAL . . . . . 338

C. Petitions for Discretionaries Review refused as untimely filed. . . . . 77

D. Applications for Extension of Time to File Transcriptions of Court Reporters' Notes, Bills of Exceptions, Briefs, and Petitions for Discretionary Review Considered and Disposed of by the Court. . . . . 1,160

TOTAL MOTIONS FOR REHEARING AND APPLICATIONS. . . . . 1,653

**OPINIONS DELIVERED BY THE COURT DURING YEAR ENDING AUGUST 31, 1987**

Original opinions . . . . . (Per curiam). . . . .	221
(Signed). . . . .	214
Concurring opinions . . . . .	54
Dissenting opinions . . . . .	117
Opinions concurring in part, dissenting in part . . . . .	24
Opinions granting rehearing . . . . .	13
Opinions denying rehearing. . . . .	<u>4</u>

TOTAL OPINIONS DELIVERED . . . . . 647

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

OPINIONS WRITTEN BY JUDGES OF THE COURT OF CRIMINAL APPEALS

JUDGES	DECIDING OPINIONS		Concurring Dissenting Opinions	Dissenting Opinions	Concurring In Part & Dissenting In Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
	Per Curiam Opinions	Signed Opinions						
JOHN F. ONION, JR. Presiding Judge	9	33	12	23	6	2	1	86
<sup>1</sup> TOM G. DAVIS Judge	14	17	0	0	0	0	1	32
W. C. DAVIS Judge	31	45	0	3	0	1	0	80
SAM HOUSTON CLINTON Judge	28	23	24	45	2	0	1	123
MICHAEL J. McCORMICK Judge	36	18	0	8	0	4	0	66
MARVIN O. TEAGUE Judge	32	7	11	30	13	0	0	93
CHUCK MILLER Judge	26	21	6	6	0	3	1	63
CHARLES F. CAMPBELL Judge	18	26	1	0	2	0	0	47
BILL WHITE Judge	25	14	0	2	0	0	0	41
<sup>2</sup> M. P. DUNCAN, III Judge	2	10	0	0	1	3	0	16
TOTAL	221	214	54	117	24	13	4	647

1. Retired 12-31-86  
2. Took office 1-1-87



**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1987**  
**(Continued)**

COUNTIES FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED  
DURING YEAR ENDING AUGUST 31, 1987

County	Cases	County	Cases	County	Cases	County	Cases
Harris	364	Parker	6	Fannin	2	Gaines	1
Dallas	257	Bastrop	5	Gray	2	Hall	1
Tarrant	55	Bee	5	Grimes	2	Hardin	1
Travis	45	Caldwell	5	Hockley	2	Hays	1
Bexar	41	Houston	5	Hunt	2	Howard	1
El Paso	29	Randall	5	Jasper	2	Hudspeth	1
Smith	24	Webb	5	Jim Wells	2	Hutchinson	1
Brazos	22	Williamson	5	Leon	2	Jack	1
McLennan	22	Collin	4	Liberty	2	Jackson	1
Taylor	19	Cooke	4	Live Oak	2	Jones	1
Jefferson	18	DeWitt	4	Mills	2	Kenedy	1
Hidalgo	17	Eastland	4	Morris	2	Kleberg	1
Nueces	17	Walker	4	Orange	2	Limestone	1
Cameron	16	Wichita	4	San Patricio	2	Madison	1
Galveston	16	Anderson	3	Somervell	2	Marion	1
Lubbock	15	Brown	3	Tom Green	2	Matagorda	1
Montgomery	13	Camp	3	Upton	2	Maverick	1
Potter	13	Comal	3	Van Zandt	2	Medina	1
Denton	12	Erath	3	Wilson	2	Milam	1
Ector	12	Gillespie	3	Wood	2	Montague	1
Hood	12	Hale	3	Aransas	1	Moore	1
Guadalupe	10	Hill	3	Atascosa	1	Panola	1
Gregg	9	Hopkins	3	Brewster	1	Refugio	1
Bell	8	Kerr	3	Burnet	1	Robertson	1
Bowie	7	Lampasas	3	Cass	1	Rusk	1
Brazoria	7	Pecos	3	Castro	1	Scurry	1
Fort Bend	7	Rains	3	Chambers	1	Shelby	1
Henderson	7	Stephens	3	Coleman	1	Terry	1
Palo Pinto	7	Victoria	3	Comanche	1	Titus	1
Grayson	6	Wise	3	Coryell	1	Tyler	1
Johnson	6	Austin	2	DeWitt	1	Val Verde	1
Lamar	6	Brooks	2	Duval	1	Wilbarger	1
Midland	6	Burleson	2	Ellis	1	Winkler	1
Nacogdoches	6	Cherokee	2	Falls	1		

CASES IN WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED AS RECEIVED FROM COURTS OF APPEALS  
DURING YEAR ENDING AUGUST 31, 1987

FIRST, Houston	205	EIGHTH, El Paso	55
SECOND, Fort Worth	99	NINTH, Beaumont	39
THIRD, Austin	81	TENTH, Waco	49
FOURTH, San Antonio	68	ELEVENTH, Eastland	54
FIFTH, Dallas	262	TWELFTH, Tyler	54
SIXTH, Texarkana	36	THIRTEENTH, Corpus Christi	71
SEVENTH, Amarillo	51	FOURTEENTH, Houston	215

PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS  
DURING YEAR ENDING AUGUST 31, 1987

Appellant Counsel . . . . .	1,038	State . . . . .	165
Appellant Pro Se . . . . .	98	State Prosecuting Attorney . . . . .	36
		Court . . . . .	2