

COURT OF CRIMINAL APPEALS

Analysis of Activity for the Year Ending August 31, 1988

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.

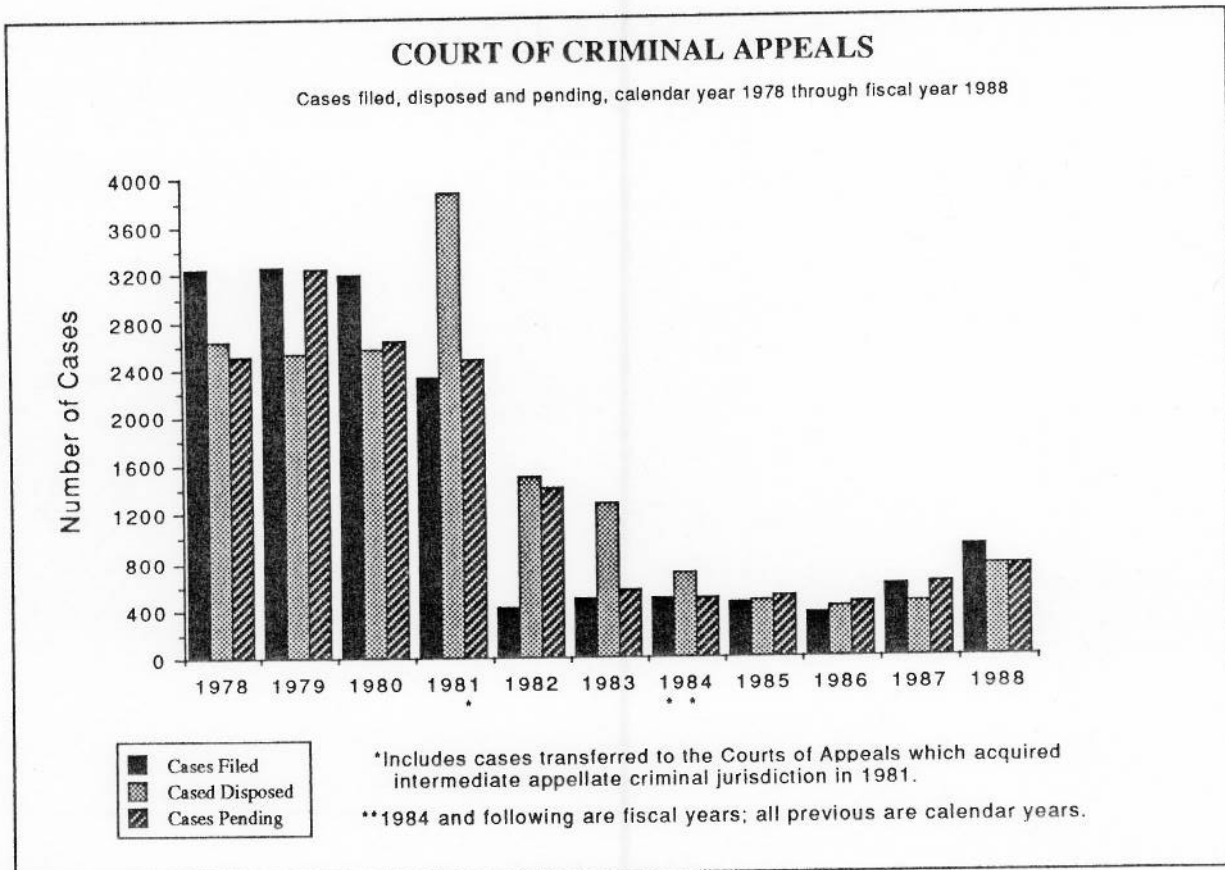
Matters Added to the Docket

During the state fiscal year 1988 which ended August 31, 1988, there was a total of 924 cases added to the docket of the Court of Criminal Appeals. Three hundred and one of these were cases where discretionary review was granted by the Court and 605 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal 1988 numbered 44, compared to 52 in fiscal 1987.

The 924 cases added in fiscal year 1988 represent an increase of 63.5 percent from the 586 cases added during fiscal year 1987, which ended August 31, 1987.

In addition to the cases added:

- (1) The Court had 1,416 petitions for discretionary review filed during fiscal year 1988, 77 more than the number filed during the previous year. Petitions for discretionary review were



received from 142 counties during 1988, with 44 percent of them originating from Harris or Dallas Counties;

(2) There were 2,897 applications for writs of habeas corpus filed during fiscal 1988 (a 23 percent increase over the 2,231 filed in fiscal 1987); and

(3) 1,739 other motions or applications were handled by the Court (a 5.25 percent increase over the 1,653 considered the previous year).

Rate of Dispositions Decreases

During the fiscal year 1988, the Court disposed of 760 cases considered on their merits, compared to 443 such dispositions in fiscal 1987. In 1988 those 760 dispositions represented 50 percent of all cases on the docket (that is, cases filed during the year or carried over from previous years). In fiscal 1987, this disposition rate was 42.5 percent.

In fiscal 1988, 1,437 petitions for discretionary review were disposed of 301 (or 21 percent) of which were granted and the remainder were refused or dismissed. In fiscal 1987, 1,672 petitions for discretionary review were disposed of, 342 (or 20.05 percent) of which were granted.

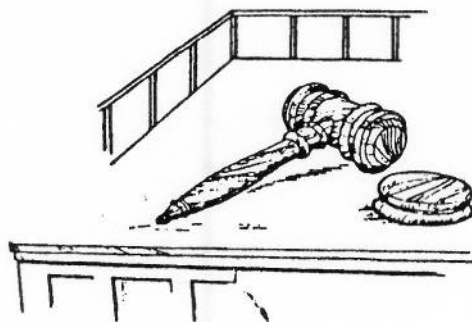
There were 3,020 applications for writs of habeas corpus disposed of in fiscal 1988, compared to 2,242 in 1987, an increase of 34.7 percent.

Judges of the Court of Criminal Appeals wrote 1,007 opinions during fiscal 1988, 817 (81.2 percent) of which were "deciding" opinions which disposed of cases. The remainder were dissents, concurrences, and opinions on rehearing. Of the deciding opinions, 235 were signed and 582 were per curiam. During 1987, members of the Court wrote 647 opinions, 67 percent of which were deciding opinions.

Total Pending Caseload Increases

On August 31, 1988, there were 2,252 total matters (excluding miscellaneous motions and applications) pending in the Court. This represented an increase of 3.9 percent over the 2,168 matters pending on September 1, 1987.

On August 31, 1988, there were pending 444 granted discretionary review cases, 747 applications for writs of habeas corpus, 744 petitions for discretionary review, and 317 direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.



COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1988

SUMMARY OF DOCKET ACTIVITY DURING THE YEAR ENDING AUGUST 31, 1988

A. Cases Passed on During the Year Ending August 31, 1988:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court	527
Cases disposed of after granting petitions for discretionary review	233
Petitions for discretionary review disposed of by the	1,437
Applications for writs of habeas corpus, etc., disposed of by the Court	<u>3,020</u>
TOTAL CASES PASSED ON BY THE COURT	<u>5,217</u>

B. Motions and Applications Passed on During Year Ending August 31, 1988:

Motions for rehearing on direct appeals	43
Motions for rehearing on petitions for discretionary review	301
Petitions for discretionary review refused as untimely filed and applications for extensions of time to file transcriptions of court reporter's notes, bills of exceptions, briefs, and petitions for discretionary review considered and disposed of	<u>1,361</u>
TOTAL MOTIONS AND APPLICATIONS PASSED ON BY THE COURT	<u>1,705</u>

GRAND TOTAL OF MATTERS PASSED ON BY THE COURT 6,922

C. Matters Pending August 31, 1988:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	317
Cases on granted discretionary review pending	444
Petitions for discretionary review pending	744
Applications for writs of habeas corpus, etc., pending	<u>747</u>
TOTAL MATTERS PENDING AUGUST 31, 1988	<u>2,252</u>

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

CASES

A. Cases Pending September 1, 1987:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	227
2. Cases with granted petitions for discretionary review	<u>370</u>
SUB-TOTAL CASES PENDING SEPTEMBER 1, 1987	<u>597</u>

B. Cases Added to Docket During the Year Ending August 31, 1988:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs filed	605
2. Direct appeals reinstated on docket	12
3. Granted petitions for discretionary review	301
4. Rehearings granted on cases considered under discretionary review	<u>6</u>
SUB-TOTAL CASES ADDED	<u>924</u>

TOTAL CASES ON DOCKET

1,521

C. Disposition of Cases During the Year Ending August 31, 1988:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Affirmed	38
Appeals Abated	9
Appeals Dismissed	8
Habeas Corpus Relief Granted in Part and Denied in Part	6
Habeas Corpus applications dismissed	17
Habeas Corpus relief denied	36
Habeas Corpus relief granted	346
Habeas Corpus remanded to trial court	4
Habeas Corpus abated	3
Reformed and affirmed	6
Reversed and Remanded	7
Mandamus relief granted	3
Judgment of contempt set aside	1
Out of Time appeal granted	39
Order denying bail set aside	<u>3</u>
SUB-TOTAL	<u>527</u>

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

CASES (Cont'd)

2. On granted petition for discretionary review:

Court of Appeals affirmed	44	
Court of Appeals affirmed, remanded to the trial court	2	
Court of Appeals and the trial court reversed, remanded to the trial court.....	18	
Court of Appeals and trial court affirmed	5	
Court of Appeals reversed, remanded to the Court of Appeals	30	
Court of Appeals reversed, remanded to the trial court	15	
Court of Appeals reversed, trial court affirmed	20	
Court of Appeals vacated, remanded to Court of Appeals	30	
Dismissed and refused as improvidently granted	14	
Dismissed and remanded to the Court of Appeals	1	
Dismissed	14	
Habeas Corpus relief granted on discretionary review	1	
Reformed and affirmed	8	
Remanded to Court of Appeals	26	
Rehearing denied	2	
Abated	2	
Other	1	
	233	
SUB-TOTAL		233
TOTAL		760

D. Cases Pending August 31, 1988:

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

Under original submission	103	
Under submission on rehearing	23	
Pending on motions for rehearing	9	
Pending on motions for leave to file motions for rehearing	1	
Waiting to become final or on appeal to the U.S. Supreme Court	49	
Unsubmitted	132	
	317	
SUB-TOTAL		317

2. Pending on granted discretionary review:

Under original submission; unsubmitted and pending on motions for rehearing	444	
	444	
SUB-TOTAL		444
TOTAL CASES PENDING AUGUST 31, 1988		761

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

PETITIONS FOR DISCRETIONARY REVIEW

A. Petitions for Discretionary Review Pending September 1, 1988	765
B. Petitions for Discretionary Review Filed During Year	1,416
TOTAL PETITIONS ON DOCKET	<u>2,181</u>
C. Disposition of Petitions for Discretionary Review:	
Granted	301
Refused	1,112
Refused with opinion	10
Dismissed	12
Abated	<u>2</u>
TOTAL PETITIONS DISPOSED	<u>1,437</u>
D. Petitions for Discretionary Review Pending August 31, 1988	<u>744</u>

APPLICATIONS FOR WRITS OF HABEAS CORPUS

A. Applications Pending September 1, 1988	806
B. Applications Filed During Year Ending August 31, 1988	2,897
C. Reinstated	<u>64</u>
TOTAL APPLICATIONS ON DOCKET	<u>3,767</u>
D. Disposition of Applications for Writs of Habeas Corpus, etc.:	
Applications ordered filed and set for submission	561
Hearings ordered on applications	112
Applications granted with written orders	1
Applications denied with written orders	53
Applications denied without written orders	2,108
Applications dismissed	98
Applications marked "no action"	66
Out of time appeals granted	2
Abated	3
Other	<u>16</u>
TOTAL APPLICATIONS DISPOSED	<u>3,020</u>
D. Applications for Writ of Habeas Corpus Pending August 31, 1988	<u>747</u>

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

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

A. Motions for Rehearing of Direct Appeals:

Motions granted with written opinions	7
Motions overruled/denied with written opinions	4
Motions overruled/denied without written opinions	2
Leave to file motions for rehearing granted	5
Leave to file motions for rehearing denied	<u>53</u>
SUB-TOTAL	<u>71</u>

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

Motions denied	292
Motions granted	10
Motions dismissed	5
Motions marked "Moot"	<u>0</u>
SUB-TOTAL	<u>307</u>

C. Petitions for Discretionary Review refused as untimely filed 41

**D. Applications for Extension of Time to File Transaction of
Court Reporter's Notes, Bills of Exception, Briefs, and Petitions
for Discretionary Review Considered and Disposed of by the Court ..** 1,320

TOTAL MOTIONS FOR REHEARING AND APPLICATIONS

1,739

**OPINIONS DELIVERED BY THE COURT
DURING YEAR ENDING AUGUST 31, 1988**

Original opinions	(Per curiam) 582
.....	(Signed) 235
Concurring opinions	59
Dissenting opinions	104
Opinions concurring in part, dissenting in part	16
Opinions granting rehearing	7
Opinions denying rehearing	<u>4</u>

TOTAL OPINIONS DELIVERED

1,007

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

**OPINIONS WRITTEN BY JUDGES OF THE
COURT OF CRIMINAL APPEALS**

JUDGES	<u>DECIDING OPINIONS</u>		Concurring <u>Opinions</u>	Dissenting <u>Opinions</u>	Concurring in Part & Dissenting in Part	Opinions Granting <u>Rehearing</u>	Opinions Denying <u>Rehearing</u>	<u>TOTAL</u>
	<u>Per Curiam Opinions</u>	<u>Signed Opinions</u>						
John F. Onion, Presiding Judge	61	45	3	13	3	2	1	128
W. C. Davis, Judge	68	17	1	4	0	0	0	90
Sam Houston Clinton, Judge	58	19	25	32	2	0	0	136
Michael J. McCormick, Judge	63	42	2	15	1	1	0	124
Marvin O. Teague, Judge	81	33	15	25	8	2	0	164
Chuck Miller, Judge	56	27	8	2	1	0	2	96
Charles F. Campbell, Judge	57	14	0	2	0	1	0	74
Bill White, Judge	65	15	1	2	0	0	0	83
M. P. Duncan, Judge	<u>73</u>	<u>23</u>	<u>4</u>	<u>9</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>112</u>
TOTAL	582	235	59	104	16	7	4	1007

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1988
(Continued)

**COUNTIES FROM WHICH PETITIONS FOR
DISCRETIONARY REVIEW WERE FILED DURING
YEAR ENDING AUGUST 31, 1988**

COUNTY	CASES	COUNTY	CASES	COUNTY	CASES	COUNTY	CASES
Harris	386	Falls	5	Burnet	2	Hockley	1
Dallas	231	Lamar	5	Camp	2	Hopkins	1
Caldwell	115	Liberty	5	Chambers	2	Hunt	1
Tarrant	74	Nacogdoches	5	Eastland	2	Jackson	1
Bexar	55	Scurry	5	Freestone	2	Kaufman	1
Travis	37	Anderson	4	Frio	2	Knox	1
El Paso	35	Aransas	4	Gray	2	Lee	1
Montgomery	25	Grayson	4	Henderson	2	Live Oak	1
Hidalgo	24	Guadalupe	4	Hill	2	Llano	1
Taylor	24	Hale	4	Kerr	2	Marion	1
Cameron	22	Hamilton	4	Kleberg	2	Mason	1
Brazos	21	Johnson	4	Milam	2	Pecos	1
Nueces	21	Midland	4	Montague	2	Presidio	1
Smith	20	Robertson	4	Moore	2	Randall	1
Jefferson	19	San Patricio	4	Navarro	2	Reagan	1
Lubbock	18	Val Verde	4	Ochiltree	2	Red River	1
Collin	16	Atascosa	3	Parker	2	Reeves	1
Fort Bend	16	Bee	3	Rains	2	Rockwall	1
McLennan	14	Comanche	3	San Saba	2	Rusk	1
Coma	13	Gillespie	3	Shackelford	2	Sabine	1
Galveston	13	Hardin	3	Van Zandt	2	San Jacinto	1
Gregg	13	Hays	3	Washington	2	Schleicher	1
Bell	12	Hood	3	Wilson	2	Somervell	1
Coryell	12	Houston	3	Wise	2	Starr	1
Witchita	11	Jim Wells	3	Archer	1	Swisher	1
Brazoria	9	Lampasas	3	Brown	1	Terry	1
Ector	9	Matagorda	3	Cass	1	Tyler	1
Erath	9	Maverick	3	Cherokee	1	Uvalde	1
Denton	7	Nolan	3	Childress	1	Walker	1
Potter	7	Orange	3	Colorado	1	Waller	1
Webb	7	Palo Pinto	3	Dawson	1	Wilbarger	1
Williamson	7	Refugio	3	DeWitt	1	Winkler	1
Austin	6	Shelby	3	Dimmit	1	Wood	1
Bastrop	6	Victoria	3	Duval	1	Young	1
Jack	6	Bosque	2	Fayette	1		
Bowie	5	Brooks	2	Gonzales	1		

**CASES IN WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED AS RECEIVED
FROM COURTS OF APPEALS DURING THE YEAR ENDING AUGUST 31, 1988**

FIRST, Houston	262	EIGHTH, El Paso	52
SECOND, Fort Worth	109	NINTH, Beaumont	57
THIRD, Austin	86	TENTH, Waco	54
FOURTH, San Antonio	95	ELEVENTH, Eastland	68
FIFTH, Dallas	244	TWELFTH, Tyler	55
SIXTH, Texarkana	19	THIRTEENTH, Corpus Christi	92
SEVENTH, Amarillo	41	FOURTEENTH, Houston	182

**PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS
DURING YEAR ENDING AUGUST 31, 1988**

Appellant Counsel	1,087	Local Prosecuting Attorney	205
Appellant Pro Se	102	State Prosecuting Attorney	22