

COURT OF CRIMINAL APPEALS

Analysis of Activity for the Year Ending August 31, 1992

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 Section 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.

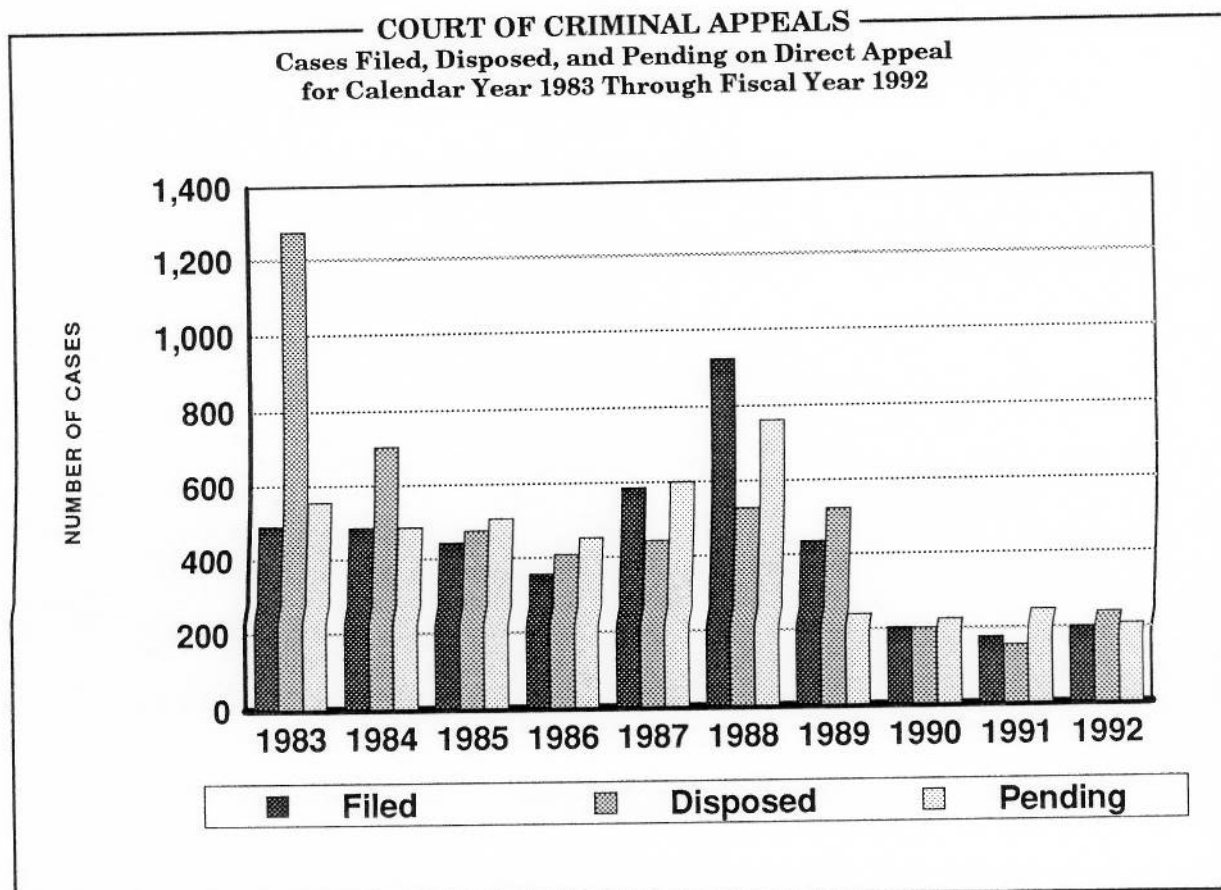
Decisions of the Courts of Appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review, filed

either by the State, or the defendant, or both. In addition, the Court may review a decision on its own motion.

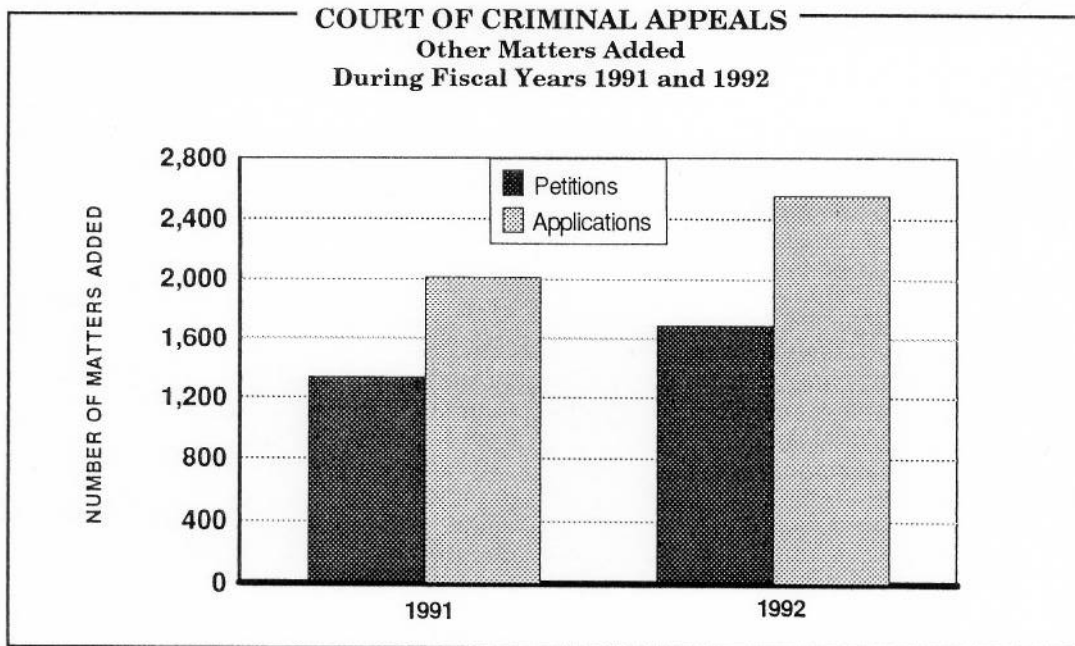
MATTERS ADDED TO THE DOCKET

During the State fiscal year 1992 which ended August 31, 1992, 400 cases were added to the docket of the Court of Criminal Appeals, of which 199 were cases where discretionary review was granted by the Court and 201 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal year 1992 numbered 45, compared to 39 in fiscal year 1991.

The 400 cases added in fiscal year 1992 represent an increase of 3.6 percent from the 386 cases added during fiscal year 1991.



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



OTHER MATTERS ADDED

The Court had 1,691 petitions for discretionary review filed during fiscal year 1992, 26 percent more than the 1,340 filed during the previous year. Petitions for discretionary review were received from 122 counties, with 47 percent of them originating from Harris or Dallas Counties. Applications for writs of habeas corpus filed during the year totalled 2,550, a 27 percent increase over the 2,013 filed in fiscal year 1991. Also, 1,427 other motions or applications were handled by the Court, a 2.4 percent decrease from the 1,462 considered the previous year.

RATE OF DISPOSITIONS INCREASES

During fiscal year 1992, the Court disposed of 238 cases on direct appeal, compared to 154 such dispositions in fiscal year 1991. In 1992, those 238 dispositions represented 53.2 percent of all cases on the docket on direct appeal, that is, cases filed during the year or carried over from previous years. In fiscal year 1991, this disposition rate was 38.5 percent.

In fiscal year 1992, 1,526 petitions for discretionary review were disposed, 199 (or 13 percent) of which were granted. The remainder were refused or dismissed. In fiscal year 1991, 1,382 petitions for discretionary review were disposed, 210 (or 15 percent) of which were granted.

There were 2,244 applications for writs of habeas corpus disposed in fiscal year 1992, compared to 2,119 in 1991, an increase of 6.2 percent.

Judges of the Court of Criminal Appeals wrote 642 opinions during fiscal year 1992, of which 493 (77 percent) were "deciding" opinions disposing of cases. The remainder were dissents, concurrences, and opinions on rehearings. Of the deciding opinions, 206 were signed and 287 were per curiam. During 1991, members of the Court wrote 592 opinions, 74 percent of which were deciding opinions.

TOTAL PENDING CASELOAD DECREASES

On August 31, 1992, 1,553 total matters (excluding miscellaneous motions and applications) were pending in the Court of Criminal Appeals. This represented an increase of 29.2 percent from the 1,202 matters pending on August 31, 1991.

Of these 1,553 matters, 209 were direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs, 196 were granted discretionary review cases, 630 were petitions for discretionary review, and 518 were applications for writs of habeas corpus.

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1992

SUMMARY OF DOCKET ACTIVITY

Cases Disposed of During the Year Ending August 31, 1992:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court	238
Cases disposed of after granting petitions for discretionary review	270
Petitions for discretionary review disposed of by the Court	1,526
Applications for writs of habeas corpus, etc., disposed of by the Court	<u>2,244</u>
TOTAL CASES DISPOSED OF BY THE COURT	4,278

**Motions and Applications Disposed of During
the Year Ending August 31, 1992:**

Untimely filed petitions for discretionary review	41
Applications for extensions of time to file transcriptions of court reporter's notes, bills of exceptions, briefs, and petitions for discretionary review	<u>1,427</u>
TOTAL MOTIONS AND APPLICATIONS DISPOSED OF BY THE COURT	<u>1,468</u>

GRAND TOTAL OF MATTERS DISPOSED OF BY THE COURT 5,746

Matters Pending August 31, 1992:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	209
Cases on granted petitions for discretionary review pending	196
Petitions for discretionary review pending	630
Applications for writs of habeas corpus, etc., pending	<u>518</u>
TOTAL MATTERS PENDING AUGUST 31, 1992	<u><u>1,553</u></u>

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1992
(Continued)

On Direct Appeal

Cases pending September 1, 1991	246
Cases Filed for the year ending August 31, 1992	<u>201</u>
TOTAL ON DOCKET	447

Disposition of direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:

Affirmed	30
Appeals abated	4
Appeals dismissed	8
Habeas Corpus relief granted in part and denied in part	6
Habeas Corpus applications abated	1
Habeas Corpus applications dismissed	5
Habeas Corpus relief denied	27
Habeas Corpus relief granted	105
Habeas Corpus remanded for evidentiary hearing	2
Reversed and remanded	3
Mandamus relief granted	1
Mandamus relief denied	2
Out of time appeals granted	37
Reversed and acquittal ordered	1
Rehearings denied with written opinions	3
Rehearings granted with written opinions	<u>3</u>
TOTAL CASES DISPOSED	238

Cases Pending August 31, 1992:

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

Under original submission (Rehearings Included)	105
Pending on motions for rehearing	17
Unsubmitted	76
Waiting to become final or a motion for rehearing to be filed	5
Cases reinstated on the docket	<u>6</u>
TOTAL CASES PENDING	209

On Petitions for Discretionary Review

Petitions for Discretionary Review Pending September 1, 1991	465
Petitions for Discretionary Review Filed During the year ending August 31, 1992	<u>1,691</u>
TOTAL PETITIONS ON DOCKET	2,156

Disposition of Petitions for Discretionary Review:

Granted	199
Refused	1,314
Dismissed	<u>13</u>
TOTAL PETITIONS DISPOSED	<u>1,526</u>

Pending Petitions for Discretionary Review on August 31, 1992 630

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1992

(Continued)

On Granted Petitions for Discretionary Review

Cases disposed on granted petitions for discretionary review for the year ending August 31, 1992:

Court of Appeals affirmed	56	
Court of Appeals reversed and remanded to the Court of Appeals	33	
Court of Appeals affirmed and remanded to the trial court	2	
Court of Appeals and the trial court reversed and remanded to the trial court	10	
Court of Appeals and trial court affirmed	4	
Court of Appeals reversed and remanded to the trial court	25	
Court of Appeals reversed and trial court affirmed	12	
Court of Appeals vacated, remanded to trial court	2	
Court of Appeals reversed and reformed to show acquittal	2	
Court of Appeals reformed; trial court reinstated	1	
Court of Appeals affirmed as reformed	5	
Court of Appeals modified, affirmed	1	
Habeas Corpus applications abated	2	
Court of Appeals vacated, remanded to Court of Appeals	27	
Dismissed and refused as improvidently granted	23	
Dismissed	5	
Remanded to Court of Appeals	29	
Reformed and affirmed	4	
Rehearings denied with written opinions	4	
Rehearings granted with written opinions	5	
Refused with written opinions	18	
TOTAL CASES DISPOSED		270

Cases on granted petitions for discretionary review for year ending August 31, 1992:

Petitions under consideration (rehearings included)	163	
Petitions unsubmitted	33	
TOTAL CASES PENDING		196

Motions for Rehearing on Direct Appeal

Dispositions of Motions for Rehearing on Direct Appeal:

Motions granted with written opinions	3	
Motions denied with written opinions	3	
Motions denied without written opinions	46	
Motions dismissed without written opinions	1	
TOTAL MOTIONS DISPOSED		53

Motions for Rehearing on Petition for Discretionary Review

Dispositions of Motions for Rehearing on Discretionary Review Cases:

Motions for Rehearing granted with written opinions	5	
Motions for Rehearing denied with written opinions	4	
Motions for Rehearing denied without written opinions	233	
Motions for Rehearing granted, PDRs previously refused	4	
Motions for Rehearing dismissed without written opinions	5	
TOTAL MOTIONS DISPOSED		251

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1992
(Continued)

Opinions Written by the Court for Year Ending August 31, 1992 On Direct Appeals and Petitions for Discretionary Review

Original opinions	493	
Concurring opinions	43	
Dissenting opinions	82	
Opinions concurring in part and dissenting in part	9	
Opinions granting rehearing	5	
Opinions denying rehearing	<u>9</u>	
 TOTAL		 642

Applications for Writ of Habeas Corpus, etc.

Applications Pending September 1, 1991	212	
Applications Filed During the Year Ending August 31, 1992	<u>2,550</u>	
 TOTAL APPLICATIONS ON DOCKET		 2,762

**Disposition of Applications for Writ of Habeas Corpus, etc:
(Motions for Rehearing Included)**

Applications ordered filed and set for submission	152	
Hearings ordered on applications	116	
Applications granted with written order	8	
Applications denied with written order	56	
Applications denied without written order	1,812	
Applications dismissed	46	
Applications marked "no action"	2	
Abuse of the Writ	43	
Dismissed as moot	<u>9</u>	
 TOTAL APPLICATIONS DISPOSED		 <u>2,244</u>

Applications for Writ of Habeas Corpus Pending on August 31, 1992		<u><u>518</u></u>
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COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1992
(Continued)

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

JUDGES	DECIDING OPINIONS				Concurring in Part & Dissenting in Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
	Per Curiam Opinions	Signed Opinions	Concurring Opinions	Dissenting Opinions				
Michael J. McCormick, Presiding Judge	42	16	0	16	0	4	0	78
Sam Houston Clinton, Judge	34	14	13	21	0	0	0	82
Chuck Miller, Judge	30	35	4	5	0	0	2	76
Charles F. (Chuck) Campbell, Judge	45	34	3	3	2	0	0	87
Bill White, Judge	38	20	0	3	0	0	1	62
Charles F. (Charlie) Baird Judge	42	24	13	17	3	0	2	101
Morris L. Overstreet Judge	14	22	6	8	4	1	1	56
Frank Maloney Judge	19	19	1	4	0	0	3	46
Fortunato P. Benavides Judge	<u>22</u>	<u>24</u>	<u>3</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>54</u>
TOTAL	286	208	43	82	9	5	9	642

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1992
(Continued)

**COUNTIES FROM WHICH PETITIONS FOR
DISCRETIONARY REVIEW WERE FILED**

<u>NAME OF COUNTY</u>	<u>NO. OF CASES</u>	<u>NAME OF COUNTY</u>	<u>NO. OF CASES</u>	<u>NAME OF COUNTY</u>	<u>NO. OF CASES</u>	<u>NAME OF COUNTY</u>	<u>NO. OF CASES</u>
Harris	500	Nacogdoches	7	Hamilton	3	Webb	2
Dallas	303	Orange	7	Howard	3	Yoakum	2
Tarrant	136	Scurry	7	Jim Wells	3	Young	2
Bexar	56	Walker	7	Kendall	3	Aransas	1
Travis	53	Wilson	7	Madison	3	Brooks	1
McLennan	35	Bee	6	Rusk	3	Burleson	1
Brazos	29	Bosque	6	Sabine	3	Chambers	1
Nueces	27	Lamar	6	Tyler	3	Colorado	1
El Paso	26	Midland	6	Wilbarger	3	Cooke	1
Denton	24	Calhoun	5	Anderson	2	Delta	1
Lubbock	24	Comal	5	Archer	2	Falls	1
Bell	20	Ellis	5	Eastland	2	Franklin	1
Brazoria	16	Hale	5	Edwards	2	Gray	1
Collin	16	Hays	5	Fayette	2	Harrison	1
Galveston	16	Hopkins	5	Freestone	2	Hutchinson	1
Taylor	16	Kerr	5	Hill	2	Karnes	1
Potter	15	Liberty	5	Jasper	2	Kaufman	1
Wichita	13	Randall	5	Jones	2	Lamb	1
Fort Bend	12	Tom Green	5	Kimble	2	Leon	1
Cameron	11	Ector	4	Limestone	2	Marion	1
Smith	10	Johnson	4	Llano	2	Maverick	1
Gregg	9	Polk	4	Matagorda	2	Mitchell	1
Jefferson	9	Stephens	4	Medina	2	Navarro	1
Montgomery	9	Val Verde	4	Panola	2	Robertson	1
Palo Pinto	9	Angelina	3	Pecos	2	San Augustine	1
Williamson	9	Bastrop	3	Reeves	2	San Patricio	1
Bowie	8	Coryell	3	San Saba	2	Shackelford	1
Caldwell	7	Frio	3	Stonewall	2	Terrell	1
Erath	7	Grayson	3	Victoria	2	Terry	1
Hidalgo	7	Grimes	3	Washington	2	Walker	1
Hood	7	Guadalupe	3				

**COURTS OF APPEALS FROM WHICH PETITIONS
FOR DISCRETIONARY REVIEW WERE FILED**

FIRST, Houston	258	EIGHTH, El Paso	44
SECOND, Fort Worth	186	NINTH, Beaumont	42
THIRD, Austin	113	TENTH, Waco	88
FOURTH, San Antonio	95	ELEVENTH, Eastland	98
FIFTH, Dallas	319	TWELFTH, Tyler	33
SIXTH, Texarkana	35	THIRTEENTH, Corpus Christi	84
SEVENTH, Amarillo	58	FOURTEENTH, Houston	238

PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS

Appellant	1,243	State	226
Appellee	20	State Prosecuting Attorney	22
Pro Se	180		

