

# **Metropolitan Court Backlog Reduction Program 2000-2001 Biennium Report on Activities and Accomplishments**

In April 1998, the appellate courts began to develop their 2000-2001 biennium budget priorities for the upcoming Regular Session of the 76th Legislature scheduled to begin in January 1999. With the support of Supreme Court Chief Justice Tom Phillips, the Council of Chief Justices of the 14 intermediate appellate courts unanimously adopted, as their collective top funding priority, an initiative to reduce the backlog of cases on appeal which had developed at the 1<sup>st</sup> (Houston), 5<sup>th</sup> (Dallas), and 14<sup>th</sup> (Houston) courts of appeals. In response to this proposal, the 76th Legislature appropriated \$1.9 million to the Supreme Court to allocate to these three courts for the Metropolitan Court Backlog Reduction Program.

With the program's conclusion at the end of the two-year biennium on August 31, 2001, the three metropolitan courts had disposed of almost 100 percent of the total targeted backlog of 3,790 cases (all but 47 cases) filed prior to January 1, 1999.

## **The Problem**

In general, a "backlog" occurs when the number of new cases filed in a court exceeds the number of cases disposed by the court. Up to 1998, a backlog of pending cases had accumulated and was growing at a pace exceeding acceptable levels in the three largest intermediate appellate courts located in Houston and Dallas. Without immediate action, many cases would remain pending for five to ten years. In 1998, the courts estimated that, with their current workload and resources, they would begin the 2000-2001 biennium with approximately 3,000 cases which had been pending for more than two years.

A constant number of judgeships and rapidly increasing caseloads were the conditions that produced the burgeoning backlogs. Effective September 1981, jurisdiction of the courts of appeals was expanded to include criminal cases, effectively more than doubling the courts' dockets. Since the early 1980's, however, the number of justices has remained constant at 80 judges. In the last two decades, the numbers of new filings have grown dramatically, especially in the Dallas and Houston courts, and particularly recently where new case filings in fiscal year 1998 were 28.5 percent greater than new case filings in fiscal year 1994.

Also, because appeals in the intermediate appellate courts are mandatory, in that the courts do not have discretion to accept or deny filings and must issue a written opinion in every case, an increasing number of filings translates into a proportional increase in judicial workload. These circumstances were most acute for the Dallas and Houston courts where the caseload growth was most dramatic.

Although the disposition rate of the three largest courts was consistently high, and continued to increase, as it was in all other appellate courts, the disposition rate was not sufficient to dispose of the growing number of new case filings and pending caseloads grew dramatically. Thus, the three largest courts were unable to aggressively reduce the backlog.

While no additional judgeships have been established in the courts of appeals since 1980, the

## **Metropolitan Court Backlog Reduction Program**

legislature did provide additional funds to the courts to achieve a 2-to-1 staff attorney-to-judge ratio during the mid-to-late 1990s. This was in response to the courts' requests based on numerous research studies, including one by the American Bar Association, proffering that the one factor which most increases a court's disposition rate is the addition of staff attorneys.

While the large number of backlogged cases was a burden on the productivity of the courts themselves, the ultimate negative effects of the backlog served as an impediment to timely and efficient justice due to, and expected by, the citizens of Texas. Properly convicted criminal defendants may remain free on an appeal bond pending a decision by the intermediate appellate courts. Conversely, those persons deserving a new trial are delayed justice because their appeals cannot be timely heard. Civil litigants are likewise denied timely access to the courts because of the escalating increase in the criminal dockets. The result is that the fate of citizens is often unresolved for years.

### **The Courts' Proposal**

The courts' proposal consisted of three basic components. The first and most critical component targeted additional funds for staff attorneys at the three metropolitan courts. To this end, each of the three courts requested an 'exceptional (budget) item' for additional non-judge personnel, to consist of six attorneys and two administrative staff (e.g., a secretary and a deputy clerk). With a higher attorney-to-judge ratio, the disposition rate for these courts could be increased to address and reduce the backlog of accumulated cases. The courts estimated that, with the additional personnel, each of the courts could dispose of a minimum of two hundred additional cases per year. Assuming a constant rate of growth, an equal distribution of the new cases filed on a per-judge basis, and the addition of the new personnel, the three metropolitan courts projected the backlog could be eliminated in the two Houston courts and could be substantially reduced in Dallas within five years. Based on the progress of the program in 2000-2001, the need for continued legislative support of the program could be reviewed by the 77th Legislature in 2001.

As the second component, the Supreme Court Chief Justice committed to recruiting a larger pool of visiting judges and to assign at least three judges, to each of the three metropolitan courts to work with the additional staff attorneys. These additional judge resources could augment existing panels of sitting judges, or could serve as stand-alone panels, to address backlog cases. Funding for the visiting judges would be provided by a separate existing appropriation at the Comptroller's Office.

Finally, as the third component, the Supreme Court agreed to pursue a more aggressive docket equalization policy to achieve a more equitable distribution of new cases filed on a per-judge basis.

Taken in total, the courts envisioned that-all these resources and efforts would combine to serve as a metropolitan court backlog reduction "task force" in each court.

After numerous legislative hearings before the House and Senate budget committees, the Conference Committee on Appropriations responded favorably to the courts' request by providing \$1,980,000 in additional appropriations to the Supreme Court for the program at the three metropolitan courts during 2000-2001.

## **Metropolitan Court Backlog Reduction Program**

### **Program Implementation**

Since the appropriations were made directly to the Supreme Court, that court assumed the administrative responsibilities for allocating the funds to the three metropolitan courts. Supreme Court staff worked with the three courts to inventory the pending cases in the respective courts which had been filed prior to January 1, 1999. That number for all three courts initially totaled 3,383 cases on the 'target docket.' As cases aged, additional cases were added to the 'target docket.'

The Supreme Court entered into an interagency contract with each of the three courts, providing for an annual allocation of \$330,000 to each court. Pursuant to the terms of the contract, funds were transferred to each of the metropolitan courts on a quarterly basis; in turn, each of the courts provided a quarterly report to the Supreme Court on the progress made in reducing the target backlog of cases and in the expenditure of the funds. Periodic progress reports were made to the Legislative Budget Board and the Governor's Budget and Planning Office, as well as the Office of Court Administration.

### **Program Accomplishments**

A combined total of 3,743 target cases were disposed by the three metropolitan courts: 1<sup>st</sup> Court of Appeals - 1,107 cases; 5<sup>th</sup> Court of Appeals - 1,588 cases; and, 14<sup>th</sup> Court of Appeals - 1,048 cases. This represents 98.8 percent of the 3,790 pre-1999 cases on the target docket during the biennium.

The courts' three task forces were substantially integrated within the operations of the courts. Task force attorneys played key roles in assisting visiting judges in authoring 1,058 opinions, and in assisting in 1,325 dispositions or 40 percent of the cases in the original inventory of pre-1999 cases. Sitting judges and permanent staff attorneys retained key roles in the remaining 60 percent of the cases.

In conclusion, the targeted backlog was almost entirely eliminated during the two-year biennium, exceeding all expectations. With the program's success, it is acknowledged that the additional resources were essential to that success. Further, the success of the program served as justification for 2002-2003 funding by the 77th Legislature for additional permanent staff attorneys at the three metropolitan courts to continue to address the growing caseload of those courts.