

# COURT OF CRIMINAL APPEALS

## 1978

The Court of Criminal Appeals is the highest State court for criminal appeals and is composed of a Presiding Judge and eight judges. In addition, pursuant to Article 1811e, V.T.C.S., four special commissioners served the Court at various times during the year.

The recent trend of greatly increased filings slackened somewhat in 1978. The 3,104 new cases docketed in the Court were five percent less than the 3,267 cases docketed during 1977, but were still 67 percent higher than the ten-year average of 1,854.

A total of 1,734 applications for writs of habeas corpus and mandamus were filed during 1978. One thousand five hundred forty-two matters were disposed of in 1978, an increase of 13 percent over the 1977 total of 1,361 and 70 percent higher than the ten-year average.

An amendment to Article 40.09, sec. 16, C.C.P., effective May 25, 1977, gave the Court exclusive power to grant extensions of time for the filing of transcriptions of court reporters' notes, bills of exception and briefs in criminal cases. The Court heard and disposed of 2,434 such applications, compared to 1,887 during the last seven months of 1977.

In 1978, the Court of Criminal Appeals disposed of 51 percent of the cases docketed during the year or carried over from 1977, compared to 57 percent the previous year. Eighty-four percent were disposed of by per curiam opinions, compared to 82 percent in 1977.

Two thousand eight hundred seventy-eight opinions (including dissents and concurrences) were written in 1978, four percent more than the 1977 total of 2,778. Twenty-four percent of these were authored opinions.

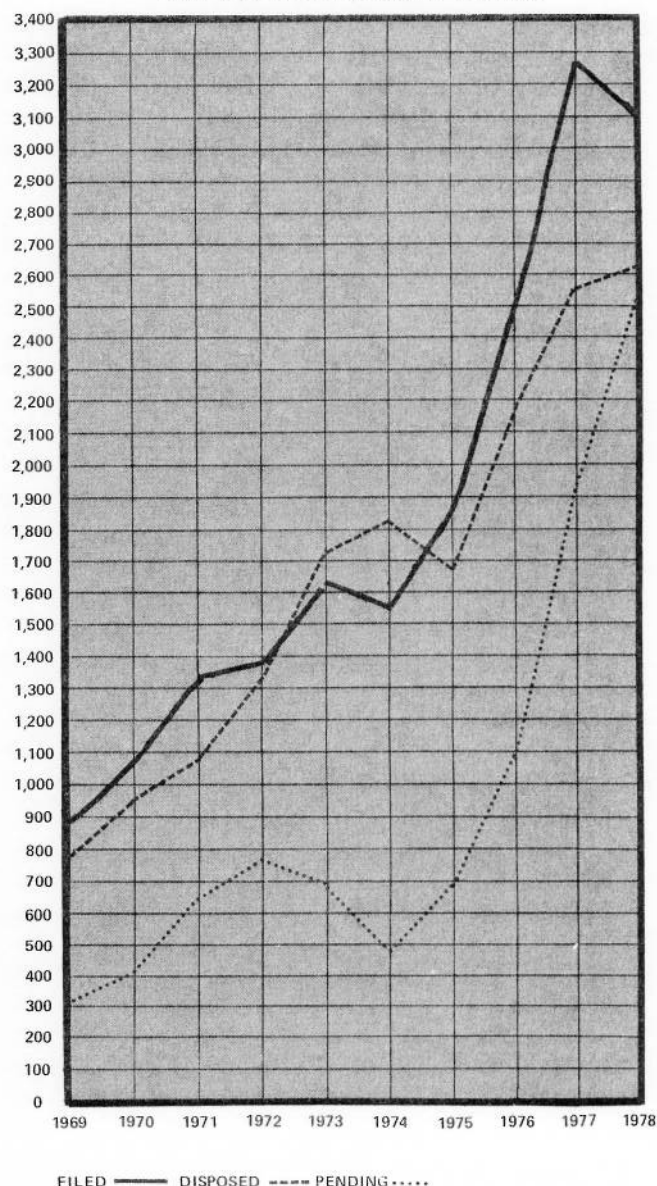
The Court of Criminal Appeals affirmed the trial court's decision in 77 percent of the cases reviewed and dismissed or abated the appeal in an additional 12 percent.

Two thousand five hundred seven docketed cases were pending at the end of 1978 — 32 percent higher than a year earlier and 165 percent higher than the ten-year average of 947.

Based on the service of nine judges, the caseload per judge in the Court of Criminal Appeals remained higher than that of the other appellate courts. The number of cases filed per judge or commissioner decreased slightly to 345 in 1978 from 363 in 1977.

The intermediate State appellate courts in Texas do not have criminal jurisdiction. As a result, appeals in criminal cases are directly to the Court of Criminal Appeals from the district and county courts. Due to the absence of an intermediate appellate court system for criminal cases, the Court of Criminal Appeals hears cases which in other states would be heard by one or more intermediate courts.

Figure 2. COURT OF CRIMINAL APPEALS  
Cases filed, disposed and pending 1969-1978



The Court of Criminal Appeals is also burdened by the provision of Article 44.24 of the Code of Criminal Procedure which requires the Court to deliver a written opinion or certificate with citation of supporting authorities in each case it decides. This rule resulted in the nine judges of the Court writing an average of 316 opinions each during 1978. In 1977, the average was 308.

# COURT OF CRIMINAL APPEALS

## 1978 Statistics

Cases pending January 1, 1978 .....	1,904
Cases filed for the year ending December 31, 1978 .....	3,104
Cases reinstated on the docket .....	133
	5,141
Cases disposed of for the year ending December 31, 1978 .....	2,634
<u>Cases pending December 31, 1978:</u>	
Under submission on rehearing .....	21
Under original submission .....	409
Pending on motion for leave to file motion for rehearing .....	44
Waiting to become final or for motion for leave to file motion for rehearing .....	111
Pending on motion for rehearing .....	13
Unsubmitted cases .....	1,903
On appeal to the United States Supreme Court .....	6
Total .....	2,507
	5,141

Disposition of cases for period mentioned:

Affirmed .....	1,958
Reformed and affirmed .....	60
Appeals dismissed .....	187
Appeals abated .....	123
Reversed and remanded .....	122
Reversed and dismissed .....	43
Reversed .....	9
Remanded to the trial court for hearings on punishment .....	6
Habeas corpus relief granted .....	66
Habeas corpus relief denied .....	47
Applications for writ of mandamus granted .....	8
Application for writ of mandamus dismissed .....	1
Habeas corpus relief granted in part and denied in part .....	3
Habeas corpus relief and mandamus denied .....	1
Total .....	2,634

Disposition of motions for leave to file motions for rehearing:

Leave to file motions for rehearing denied .....	66
Leave to file motions for rehearing granted .....	8
Motions for rehearing en banc denied .....	258
Motions for rehearing en banc granted .....	42
Total .....	374

Motions for rehearing disposed of by the Court:

Motions overruled without written opinion .....	8
Motions overruled with written opinion .....	14
Motions granted with written opinion .....	19
Total .....	41

**COURT OF CRIMINAL APPEALS**  
**1978 Statistics (Continued)**

Number of opinions written by the Court:

Original opinions .....	2,714
Concurring opinions .....	26
Dissenting opinions .....	90
Opinions concurring in part and dissenting in part .....	18
Opinions granting rehearing .....	19
Opinions denying rehearing .....	11
Total .....	<u>2,878</u>

Applications for writ of habeas corpus, etc. received for the year ending December 31, 1978: 1,734

Applications for writ of habeas corpus, etc. pending January 1, 1978: 35

Disposition of applications for writ of habeas corpus, etc. for the year ending December 31, 1978:

Applications for writ of habeas corpus, etc. denied with written order (rehearings included) .....	60
Applications for writ of habeas corpus, etc. denied without written order (rehearings included) .....	1,252
Applications for writ of habeas corpus dismissed .....	30
Applications for writ of habeas corpus, etc. ordered filed and set for submission .....	99
Applications for writ of habeas corpus, etc. marked "no action" .....	55
Hearings ordered on applications for writ of habeas corpus, etc. ....	28
Out of time appeals granted .....	10
Applications for writ of habeas corpus, etc. granted with written order .....	8
Total .....	<u>1,542</u>

Applications for writ of habeas corpus, etc. under consideration of the Court ..... 91

Applications for extensions of time to file transcriptions of court reporter's notes, bills of exception  
and briefs considered and disposed of by the Court ..... 2,434  
**APPEALED CASES DISPOSED OF FOR THE YEAR ENDING DECEMBER 31, 1978: 2,634**

**APPLICATIONS FOR WRIT OF HABEAS CORPUS, ETC. DISPOSED OF FOR THE YEAR ENDING  
DECEMBER 31, 1978:**

	<u>1,542</u>
TOTAL .....	<u>4,176</u>

**COURT OF CRIMINAL APPEALS**  
**1978 Statistics (Continued)**

JUDGE	Per Curiam Opinions	Signed Opinions	OPINIONS WRITTEN BY THE COURT			Opinions Concurring In Part & Dissenting In Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
			Concurring Opinions	Dissenting Opinions					
John F. Onion, Jr., Presiding Judge	291	68	8	9	0	4	4	384	
Leon Douglas, Judge	201	45	3	22	1	1	4	277	
Truman Roberts, Judge	187	63	3	14	5	1	0	273	
Wendell A. Odom, Judge	283	82	3	7	0	2	2	379	
W. T. Phillips, Judge	229	63	2	15	1	1	1	312	
Tom G. Davis, Judge	291	59	0	2	1	0	2	355	
Carl E. F. Dally, Judge	279	59	4	7	1	0	5	355	
Jim Vollers, Judge	196	30	2	13	2	1	1	235	
W. C. Davis, Judge	226	41	0	1	7	1	0	276	
Quentin Keith, Commissioner	22	3	0	0	0	0	0	25	
William Cornelius, Commissioner	2	3	0	0	0	0	0	5	
Archie S. Brown, Commissioner	1	0	0	0	0	0	0	1	
Thomas M. Reavley, Special Judge	0	0	1	0	0	0	0	1	
<b>TOTAL</b>	<b>2,208</b>	<b>516</b>	<b>26</b>	<b>90</b>	<b>18</b>	<b>11</b>	<b>19</b>	<b>2,878</b>	