

COURT OF CRIMINAL APPEALS

Analysis of Activity for the Year Ending August 31, 1989

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.

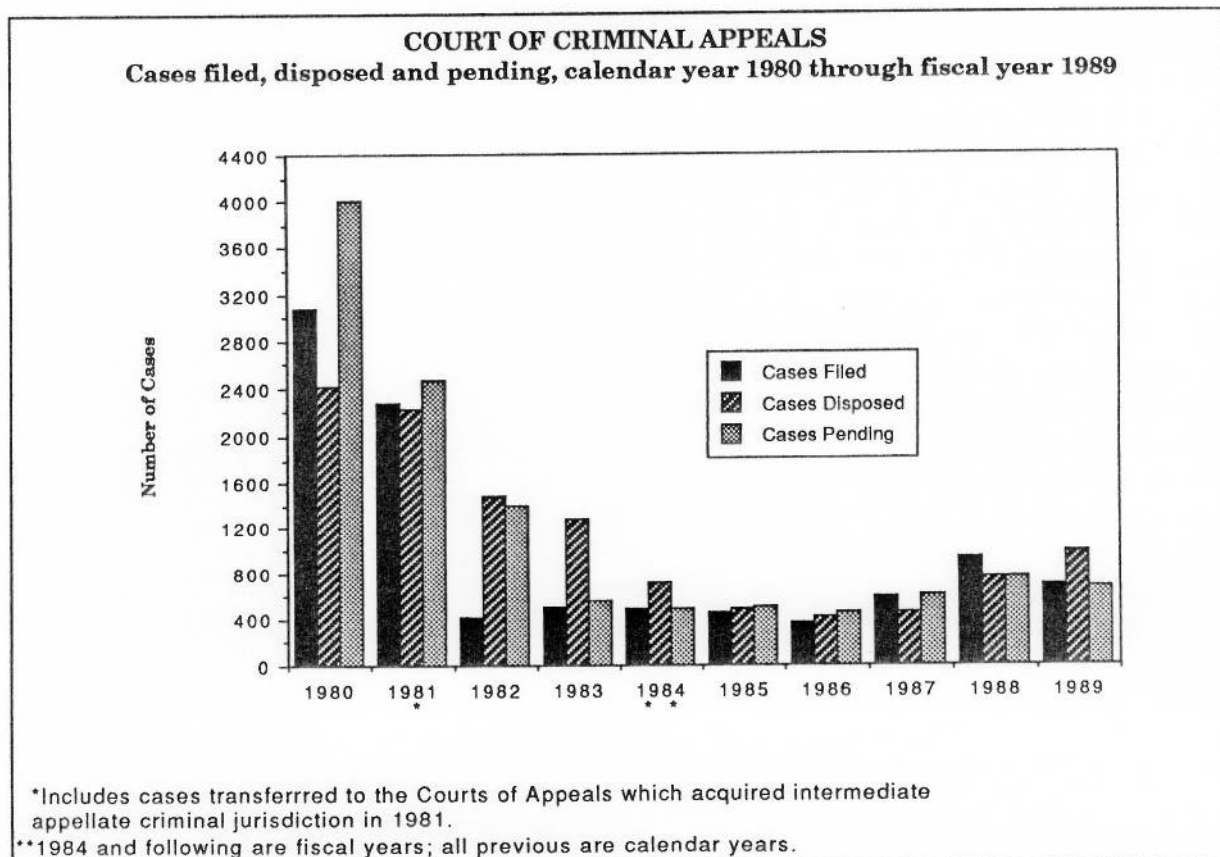
Matters Added to the Docket

During the state fiscal year 1989 which ended August 31, 1989, there was a total of 696 cases added to the docket of the Court of Criminal Appeals, of which 246 were cases where discretionary review was granted by the Court and 437 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal year 1989 numbered 33, compared to 44 in fiscal year 1988.

The 696 cases added in fiscal year 1989 represent a decrease of 25 percent from the 924 cases added during fiscal year 1988, which ended August 31, 1988.

In addition to the cases added:

(1) The Court had 1,792 petitions for discretionary review filed during fiscal year 1989, 376 more than the number filed during the previous year. Petitions for discretionary review were received from 143 counties during 1989,



with 50 percent of them originating from Harris or Dallas Counties;

(2) There were 2,985 applications for writs of habeas corpus filed during fiscal year 1989 (a 3 percent increase over the 2,897 filed in fiscal year 1988); and

(3) 1,955 other motions or applications were handled by the Court (a 15 percent increase over the 1,705 considered the previous year).

Rate of Dispositions Increases

During the fiscal year 1989, the Court disposed of 981 cases considered on their merits, compared to 760 such dispositions in fiscal year 1988. In 1989, those 981 dispositions represented 56 percent of all cases on the docket (that is, cases filed during the year or carried over from previous years). In fiscal year 1988, this disposition rate was 50 percent.

In fiscal year 1989, 2,107 petitions for discretionary review were disposed of, 246 (or 12 percent) of which were granted and the remainder were refused or dismissed. In fiscal year 1988, 1,437 petitions for discretionary review were disposed of, 301 (or 21 percent) of which were granted.

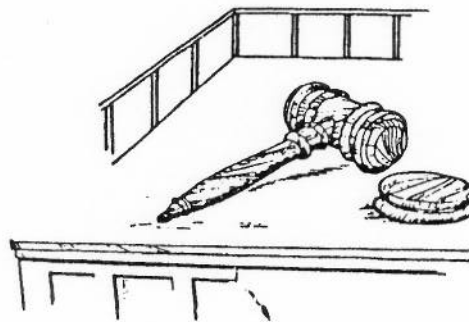
There were 3,281 applications for writs of habeas corpus disposed of in fiscal year 1989, compared to 3,020 in 1988, an increase of 9 percent.

Judges of the Court of Criminal Appeals wrote 1,133 opinions during fiscal year 1989, 981 (87 percent) of which were "deciding" opinions which disposed of cases. The remainder were dissents, concurrences, and opinions on rehearing. Of the deciding opinions, 163 were signed and 818 were per curiam. During 1988, members of the Court wrote 1,007 opinions, 81 percent of which were deciding opinions.

Total Pending Caseload Decreases

On August 31, 1989, there were 1,615 total matters (excluding miscellaneous motions and applications) pending in the Court. This represented a decrease of 28 percent from the 2,252 matters pending on September 1, 1988.

Of these 1,615 matters, there were 415 granted discretionary review cases, 525 applications for writs of habeas corpus, 438 petitions for discretionary review, and 237 direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.



COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1989

SUMMARY OF DOCKET ACTIVITY DURING THE YEAR ENDING AUGUST 31, 1989

Cases Disposed of During the Year Ending August 31, 1989:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court	525
Cases disposed of after granting petitions for discretionary review	456
Petitions for discretionary review disposed of by the Court	2,107
Applications for writs of habeas corpus, etc., disposed of by the Court	<u>3,281</u>
TOTAL CASES DISPOSED OF BY THE COURT	<u>6,369</u>

Motions and Applications Disposed of During Year Ending August 31, 1989:

Motions for rehearing on direct appeals	75
Motions for rehearing on petitions for discretionary review	476
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>1,404</u>
TOTAL MOTIONS AND APPLICATIONS DISPOSED OF BY THE COURT	<u>1,955</u>

GRAND TOTAL OF MATTERS DISPOSED OF BY THE COURT 8,324

Matters Pending August 31, 1989:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	237
Cases on granted discretionary review pending	415
Petitions for discretionary review pending	438
Applications for writs of habeas corpus, etc., pending	<u>525</u>
TOTAL MATTERS PENDING AUGUST 31, 1989	<u>1,615</u>

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1989

(Continued)

On Direct Appeal

Cases pending September 1, 1988	317
Cases Filed for the year ending August 31, 1989	437
Cases reinstated on the docket	8
TOTAL ON DOCKET	762

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

Affirmed	46
Reversed and Remanded	5
Appeals Abated	4
Appeals Dismissed	18
Habeas Corpus Relief Granted in Part and Denied in Part	5
Habeas Corpus relief denied	213
Habeas Corpus relief granted	207
Mandamus relief granted	1
Mandamus dismissed	1
Out of time appeal granted	25
TOTAL CASES DISPOSED	525

Cases Pending August 31, 1989:

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

Under original submission (Rehearings Included)	108
Pending on motions for rehearing	19
Waiting to become final or on motion for rehearing	3
Unsubmitted	106
On appeal to United States Supreme Court	1
TOTAL CASES PENDING	237

On Petitions for Discretionary Review

Petitions for Discretionary Review Pending September 1, 1988	744
Petitions for Discretionary Review Filed During the year ending August 31, 1989	1,792
Multiple Petitions for Discretionary Review	9
TOTAL PETITIONS ON DOCKET	2,545

Disposition of Petitions for Discretionary Review:

Granted	246
Refused	1,846
Dismissed	15
TOTAL PETITIONS DISPOSED	2107

Pending Petitions for Discretionary Review year ending August 31, 1989

438

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1989

(Continued)

On Granted Petitions for Discretionary Review

Cases disposed on granted petitions for discretionary review
year ending August 31, 1989:

Court of Appeals affirmed	35	
Court of Appeals affirmed, remanded to the trial court	1	
Court of Appeals affirmed and reform and affirm trial court	1	
Court of Appeals and TC reversed, remanded to the trial court	3	
Court of Appeals and trial court affirmed	2	
Court of Appeals reversed, remanded to the Court of Appeals	16	
Court of Appeals reversed, remanded to the trial court	13	
Court of Appeals reversed, trial court affirmed	8	
Court of Appeals reversed, acquittal ordered	1	
Court of Appeals reversed, TC reformed to show an acquittal	1	
Court of Appeals vacated, remanded to Court of Appeals	264	
Dismissed and refused as improvidently granted	32	
Petitions Dismissed	15	
Petitions Refused with opinion	22	
Reformed and affirmed	3	
Remanded to Court of Appeals	34	
Remanded to Trial Court	2	
Rehearing denied	2	
Rehearing granted	1	
TOTAL DISPOSED		456

Cases on granted discretionary review pending year ending August 31, 1989:

Petitions under consideration (rehearings included)	203	
Petitions unsubmitted	172	
Petitions granted; unsubmitted	40	
TOTAL PENDING		415

Motions for Rehearing on Direct Appeal

Dispositions of Motions for Rehearing of Direct Appeals:

Motions granted with written opinions	10	
Motions overruled/denied with written opinions	6	
Motions overruled/denied without written opinions	51	
Motions for rehearing granted	7	
Motions for rehearing dismissed	1	
TOTAL DISPOSED		75

Motions for Rehearing on Petition for Discretionary Review

Dispositions of Motions for Rehearing on Discretionary Review Cases:

Motions for Rehearing denied	450	
Motions for Rehearing granted	17	
Motions for Rehearing dismissed	4	
Motions for Rehearing granted; previously refused	5	
TOTAL DISPOSED		476

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1989
(Continued)

Opinions Written by the Court for Year Ending August 31, 1989 On Direct Appeals and Petitions for Discretionary Review

Original opinions	981
Concurring opinions	30
Dissenting opinions	87
Opinions concurring in part and dissenting in part	12
Opinions granting rehearing	17
Opinions denying rehearing	6
 TOTAL	 1,133

Applications for Writ of Habeas Corpus, Etc

Applications Pending September 1, 1988	747
Applications Filed During the Year Ending August 31, 1989	2,985
Reinstated	74
 TOTAL APPLICATIONS ON DOCKET	 3,806

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

Applications ordered filed and set for submission	376
Hearings ordered on applications	131
Applications granted with written order	7
Applications denied with written order	35
Applications denied without written order	2,545
Applications dismissed	86
Application marked "no action"	59
Out of time appeals granted	4
Abuse of the Writ	38
 TOTAL APPLICATIONS DISPOSED	 3,281

Applications for Writ of Habeas Corpus Pending August 31, 1989	525
--	-----

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1989
(Continued)

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

JUDGES	DECIDING OPINIONS		Concurring Opinions	Dissenting Opinions	Concurring in Part & Dissenting in Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
	Per Curiam Opinions	Signed Opinions						
¹ John F. Onion Jr., Presiding Judge	54	12	0	1	3	2	0	72
² Michael J. McCormick, Presiding Judge	101	30	1	11	0	1	0	144
W. C. Davis, Judge	60	12	0	1	0	3	1	77
Sam Houston Clinton, Judge	102	28	16	31	1	2	0	180
Marvin O. Teague, Judge	123	11	7	32	7	1	1	182
Chuck Miller, Judge	79	24	0	3	0	4	1	111
Charles F. Campbell, Judge	111	13	1	1	0	0	1	127
Bill White, Judge	95	14	1	4	0	3	1	118
M. P. Duncan III, Judge	79	15	4	1	1	1	0	101
³ David A. Berchelmann, Judge	<u>14</u>	<u>4</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>21</u>
TOTAL	818	163	30	87	12	17	6	1133

¹Retired December 31, 1988

²Elected Presiding Judge January 1, 1989

³Appointed to Court January 1, 1989

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1989
(Continued)

**COUNTIES FROM WHICH PETITIONS FOR
DISCRETIONARY REVIEW WERE FILED DURING
YEAR ENDING AUGUST 31, 1989**

COUNTY	CASES	COUNTY	CASES	COUNTY	CASES	COUNTY	CASES
Harris	608	Walker	7	Ellis	2	Guadalupe	1
Dallas	296	Caldwell	6	Gray	2	Hardin	1
Tarrant	75	Comal	6	Harrison	2	Hockley	1
Bexar	69	Kerr	6	Henderson	2	Howard	1
Travis	69	Randall	6	Hill	2	Hutchinson	1
El Paso	35	Bowie	5	Hopkins	2	Kleberg	1
Nueces	28	Hale	5	Jackson	2	Lamb	1
Lubbock	23	Midland	5	Kimble	2	Leon	1
McLennan	21	Webb	5	Madison	2	Llano	1
Ector	20	Angelina	4	Milam	2	Marion	1
Galveston	19	Freestone	4	Mitchell	2	Mason	1
Denton	17	Gonzales	4	Orange	2	Matagorda	1
Johnson	17	Jones	4	Polk	2	Morris	1
Brazoria	16	Lampasas	4	Reeves	2	Nolan	1
Jefferson	16	Liberty	4	Refugio	2	Rains	1
Smith	16	Nacogdoches	4	Scurry	2	Real	1
Montgomery	15	Parker	4	Tyler	2	Rockwall	1
Bastrop	14	Robertson	4	Upshur	2	Sabine	1
Hidalgo	14	Titus	4	Wharton	2	San Augustine	1
Potter	14	Anderson	3	Winkler	2	San Saba	1
Taylor	14	Austin	3	Atascosa	1	Shackelford	1
Brazos	12	Bee	3	Bailey	1	Shelby	1
Fort Bend	12	Camp	3	Bosque	1	Stephens	1
Gregg	12	Deaf Smith	3	Brown	1	Swisher	1
Hood	12	Grayson	3	Burleson	1	Terry	1
Hunt	11	Hays	3	Cass	1	Uvalde	1
Bell	10	Houston	3	Chambers	1	Victoria	1
Cameron	10	Rusk	3	Cherokee	1	Waller	1
Lamar	10	San Patricio	3	Childress	1	Washington	1
Collin	9	Tom Green	3	Cooke	1	Wheeler	1
Val Verde	9	Andrews	2	Coryell	1	Wilbarger	1
Erath	8	Calhoun	2	DeWitt	1	Wise	1
Live Oak	8	Carson	2	Duval	1	Wood	1
Wichita	8	Comanche	2	Falls	1	Young	1
Williamson	8	Dimmit	2	Fisher	1	Zavala	1
Navarro	7	Eastland	2	Franklin	1		

**COURTS OF APPEALS FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE
FILED DURING THE YEAR ENDING AUGUST 31, 1989**

FIRST, Houston	304	EIGHTH, El Paso	76
SECOND, Fort Worth	118	NINTH, Beaumont	46
THIRD, Austin	126	TENTH, Waco	68
FOURTH, San Antonio	101	ELEVENTH, Eastland	65
FIFTH, Dallas	310	TWELFTH, Tyler	48
SIXTH, Texarkana	47	THIRTEENTH, Corpus Christi	90
SEVENTH, Amarillo	68	FOURTEENTH, Houston	325

**PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS
DURING YEAR ENDING AUGUST 31, 1989**

Appellant	1,399	State	245
Pro Se	131	State Prosecuting Attorney	17