

COURT OF CRIMINAL APPEALS

Analysis of Activity for the Year Ending August 31, 1990

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.

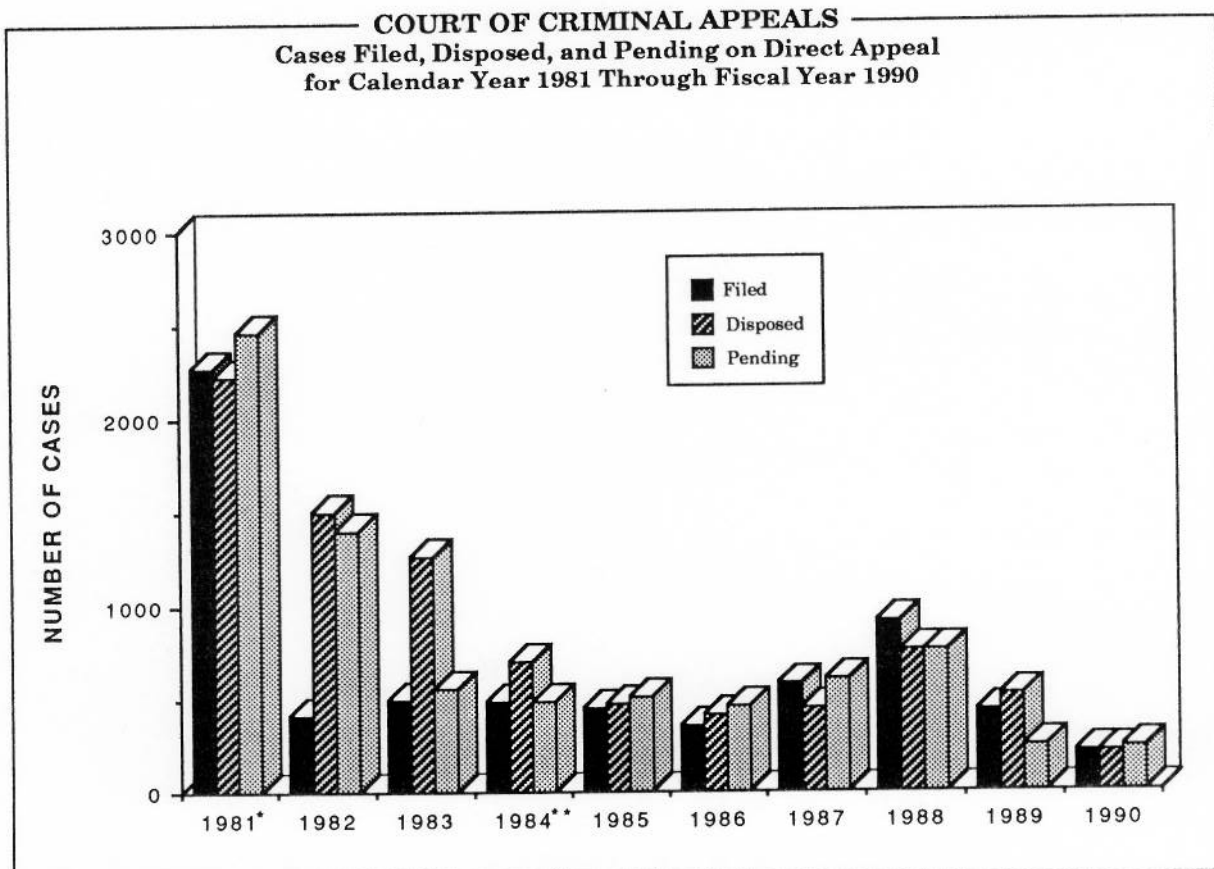
Decisions of the Courts of Appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review, filed either by the State, or the defendant, or both. In addition, the Court may review a decision on its own motion.

MATTERS ADDED TO THE DOCKET

During the State fiscal year 1990 which ended August 31, 1990, 405 cases were added to the docket of the Court of Criminal Appeals, of which 202 were cases where discretionary review was granted by the Court and 203 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty

appeals in fiscal year 1990 numbered 42, compared to 33 in fiscal year 1989.

The 405 cases added in fiscal year 1990 represent a decrease of 42 percent from the 696 cases added during fiscal year 1989.



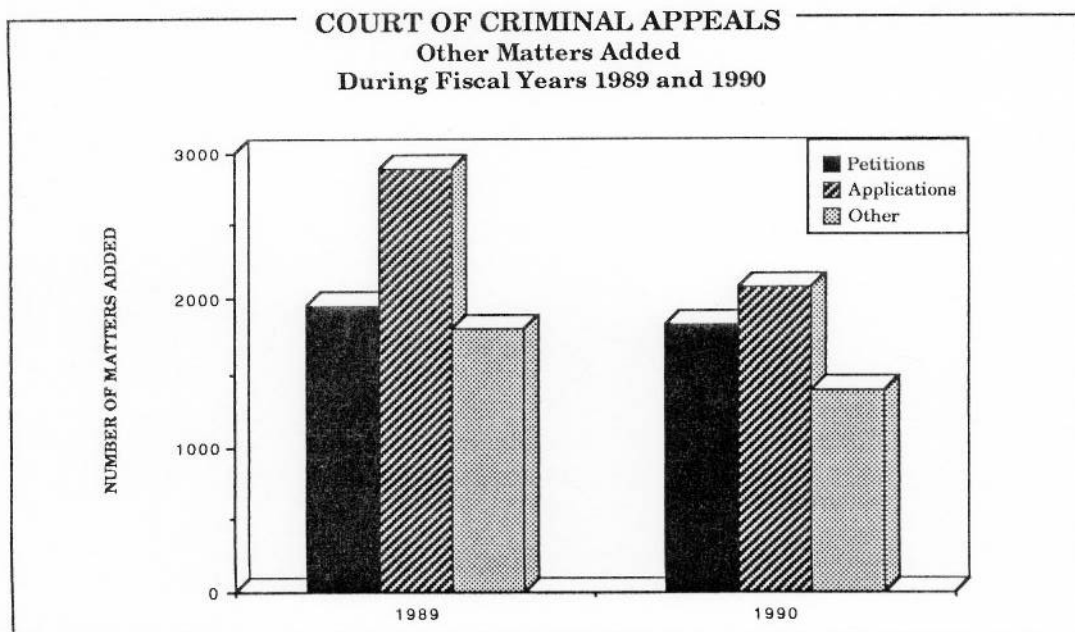
* Includes cases transferred to the Courts of Appeals which acquired intermediate appellate criminal jurisdiction in 1981.

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

OTHER MATTERS ADDED

The Court had 1,380 petitions for discretionary review filed during fiscal year 1990, 412 less than the number filed during the previous year. Petitions for discretionary review were received from 125 counties, with 48 percent of them originating from Harris or Dallas Counties.

Applications for writs of habeas corpus filed during the year totalled 2,078, a 30 percent decrease from the 2,985 filed in fiscal year 1989. Also, 1,824 other motions or applications were handled by the Court, a 7 percent decrease from the 1,955 considered the previous year.



RATE OF DISPOSITIONS INCREASES

During fiscal year 1990, the Court disposed of 202 cases on direct appeal, compared to 525 such dispositions in fiscal year 1989. In 1990, those 202 dispositions represented 48 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 1989, this disposition rate was 69 percent.

In fiscal year 1990, 1,352 petitions for discretionary review were disposed, 202 (or 15 percent) of which were granted. The remainder were refused or dismissed. In fiscal year 1989, 2,107 petitions for discretionary review were disposed, 246 (or 12 percent) of which were granted.

There were 2,285 applications for writs of habeas corpus disposed in fiscal year 1990, compared to 3,281 in 1989, a decrease of 30 percent.

Judges of the Court of Criminal Appeals wrote 561 opinions during fiscal year 1990, of which 440 (76 percent) were "deciding" opinions disposing of cases. The remainder were dissents, concurrences, and opinions on rehearings. Of the deciding opinions, 170 were signed and 270 were per curiam. During 1989, members of the Court wrote 1,133 opinions, 87 percent of which were deciding opinions.

TOTAL PENDING CASELOAD DECREASES

On August 31, 1990, 1,278 total matters (excluding miscellaneous motions and applications) were pending in the Court of Criminal Appeals. This represented a decrease of 21 percent from the 1,615 matters pending on August 31, 1989.

Of these 1,278 matters, 224 were direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs, 270 were granted discretionary review cases, 466 were petitions for discretionary review, and 318 were applications for writs of habeas corpus

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1990

SUMMARY OF DOCKET ACTIVITY

Cases Disposed of During the Year Ending August 31, 1990:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court	202
Cases disposed of after granting petitions for discretionary review	255
Petitions for discretionary review disposed of by the Court	1,352
Applications for writs of habeas corpus, etc., disposed of by the Court	<u>2,285</u>
TOTAL CASES DISPOSED OF BY THE COURT	4,094

**Motions and Applications Disposed of During
the Year Ending August 31, 1990:**

Motions for rehearing on direct appeals	65
Motions for rehearing on petitions for discretionary review	269
Untimely filed petitions for discretionary review	27
Applications for extensions of time to file transcriptions of court reporter's notes, bills of exceptions, briefs, and petitions for discretionary review	<u>1,463</u>
TOTAL MOTIONS AND APPLICATIONS DISPOSED OF BY THE COURT	<u>1,824</u>

GRAND TOTAL OF MATTERS DISPOSED OF BY THE COURT 5,918

Matters Pending August 31, 1990:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	224
Cases on granted petitions for discretionary review pending	270
Petitions for discretionary review pending	466
Applications for writs of habeas corpus, etc., pending	<u>318</u>
TOTAL MATTERS PENDING AUGUST 31, 1990	<u><u>1,278</u></u>

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1990
(Continued)

On Direct Appeal

Cases pending September 1, 1989	223
Cases Filed for the year ending August 31, 1990	<u>203</u>
TOTAL ON DOCKET	426

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

Affirmed	19
Appeals abated	3
Appeals dismissed	8
Habeas Corpus relief granted in part and denied in part	5
Habeas Corpus applications dismissed	10
Habeas Corpus relief denied	25
Habeas Corpus relief granted	86
Habeas Corpus remanded for evidentiary hearing	2
Reformed and affirmed	1
Reversed and remanded	6
Mandamus relief granted	2
Out of time appeal granted	30
Order denying bail set aside	3
Reversed and reformed to show an acquittal	1
Mandamus/Prohibition granted	<u>1</u>
TOTAL CASES DISPOSED	202

Cases Pending August 31, 1990:

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

Under original submission (Rehearings Included)	111
Pending on motions for rehearing	10
Unsubmitted	95
On appeal to United States Supreme Court	1
Cases reinstated on the docket	<u>7</u>
TOTAL CASES PENDING	224

On Petitions for Discretionary Review

Petitions for Discretionary Review Pending September 1, 1989	438
Petitions for Discretionary Review Filed During the year ending August 31, 1990	<u>1,380</u>
TOTAL PETITIONS ON DOCKET	1,818

Disposition of Petitions for Discretionary Review:

Granted	202
Refused	1,145
Dismissed	<u>5</u>
TOTAL PETITIONS DISPOSED	<u>1,352</u>

Pending Petitions for Discretionary Review on August 31, 1990 466

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1990

(Continued)

On Granted Petitions for Discretionary Review

Cases disposed on granted petitions for discretionary review for the year ending August 31, 1990:

Court of Appeals affirmed	55
Court of Appeals reversed and remanded to the Court of Appeals	42
Court of Appeals affirmed and remanded to the trial court	1
Court of Appeals and the trial court reversed and remanded to the trial court	19
Court of Appeals and trial court affirmed	5
Court of Appeals reversed and remanded to the trial court	22
Court of Appeals reversed and trial court affirmed	20
Court of Appeals reversed and abated	1
Court of Appeals reversed and trial court reinstated	2
Court of Appeals reversed and remanded, trial court to show an acquittal	2
Dismissed and refused as improvidently granted	31
Dismissed	10
Refused	29
Remanded to Court of Appeals	10
Rehearing denied	4
Reformed and affirmed	1
Abated	1
TOTAL CASES DISPOSED	255

Cases on granted discretionary review pending on August 31, 1990:

Petitions under consideration (rehearings included)	155
Petitions unsubmitted	62
Petitions granted; unsubmitted	53
TOTAL CASES PENDING	270

Motions for Rehearing on Direct Appeal

Dispositions of Motions for Rehearing of Direct Appeals:

Motions granted with written opinions	14
Motions overruled/denied with written opinions	3
Motions overruled/dismissed without written opinions	2
Motions for rehearing granted	9
Motions for rehearing denied	37
TOTAL MOTIONS DISPOSED	65

Motions for Rehearing on Petition for Discretionary Review

Dispositions of Motions for Rehearing on Discretionary Review Cases:

Motions for Rehearing denied	254
Motions for Rehearing granted	10
Motions for Rehearing dismissed	3
Motions for Rehearing granted; previously refused	2
TOTAL MOTIONS DISPOSED	269

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

Opinions Written by the Court for Year Ending August 31, 1990 On Direct Appeals and Petitions for Discretionary Review

Original opinions.....	440
Concurring opinions.....	33
Dissenting opinions.....	60
Opinions concurring in part and dissenting in part.....	11
Opinions granting rehearing.....	14
Opinions denying rehearing.....	<u>3</u>
 TOTAL	 561

Applications for Writ of Habeas Corpus, Etc

Applications Pending September 1, 1989.....	525
Applications Filed During the Year Ending August 31, 1990.....	<u>2,078</u>
 TOTAL APPLICATIONS ON DOCKET	 2,603

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

Applications ordered filed and set for submission.....	142
Hearings ordered on applications.....	105
Applications granted with written order.....	7
Applications denied with written order.....	28
Applications denied without written order.....	1,846
Applications dismissed.....	79
Application marked "no action".....	43
Abuse of the Writ.....	32
Moot.....	<u>3</u>
 TOTAL APPLICATIONS DISPOSED	 <u>2,285</u>

Applications for Writ of Habeas Corpus Pending on August 31, 1990	<u>318</u>
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COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1990
(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						
Michael J. McCormick, Presiding Judge	35	19	0	5	6	2	0	67
W. C. Davis, Judge	43	14	0	0	1	0	1	59
Sam Houston Clinton, Judge	33	26	11	28	0	1	0	99
Marvin O. Teague, Judge	33	9	7	14	2	3	2	70
Chuck Miller, Judge	19	33	3	4	0	2	0	61
Charles F. Campbell, Judge	32	22	7	4	1	1	0	67
Bill White, Judge	27	22	0	1	0	2	0	52
¹ M. P. Duncan III, Judge	18	13	1	0	1	2	0	35
David A. Berchelmann, Judge	27	11	3	4	0	1	0	46
² Louis E. Sturns, Judge	<u>3</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
TOTAL	270	170	33	60	11	14	3	561

¹M. P. Duncan III died February 28, 1990.

²Louis E. Sturns was appointed March 10, 1990, to replace M. P. Duncan III.

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1990

(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	378	Grayson	6	San Patricio	3	Guadalupe	1
Dallas	252	Johnson	6	Tom Green	3	Henderson	1
Tarrant	109	Walker	6	Wheeler	3	Howard	1
Travis	44	Caldwell	5	Cherokee	2	Hutchinson	1
Bexar	40	Gillespie	5	Dallam	2	Jack	1
Cameron	24	Hale	5	Eastland	2	Kaufman	1
Brazos	21	Hopkins	5	Falls	2	Kleberg	1
Denton	20	Lamar	5	Franklin	2	Lavaca	1
Ector	20	Midland	5	Gonzales	2	Llano	1
Collin	19	Navarro	5	Grimes	2	Montague	1
Lubbock	19	Orange	5	Jackson	2	Nacogdoches	1
Nueces	17	Robertson	5	Jones	2	Newton	1
El Paso	16	Bee	4	Karnes	2	Polk	1
Bell	15	Bowie	4	Kimble	2	Red River	1
Williamson	13	Cooke	4	Leon	2	Reeves	1
Brazoria	12	Freestone	4	Limestone	2	Rockwall	1
McLennan	12	Jim Wells	4	McCulloch	2	Scurry	1
Galveston	11	Lampasas	4	Medina	2	Somervell	1
Jefferson	11	Liberty	4	Morris	2	Terry	1
Potter	11	Madison	4	Ward	2	Titus	1
Gregg	10	Parker	4	Washington	2	Upshur	1
Hidalgo	10	Tyler	4	Brooks	1	Val Verde	1
Montgomery	10	Angelina	3	Burnet	1	Waller	1
Webb	9	Atascosa	3	Camp	1	Wharton	1
Hood	8	Bastrop	3	Childress	1	Willacy	1
Smith	8	Brown	3	Coleman	1	Wise	1
Wichita	8	Dickens	3	Comal	1	Wood	1
Fort Bend	7	Hill	3	Deaf Smith	1	Yoakum	1
Palo Pinto	7	Hunt	3	Erath	1	Zapata	1
Taylor	7	Kerr	3	Fayette	1		
Victoria	7	Randall	3	Gaines	1		
Wilson	7	Refugio	3	Goliad	1		

COURTS OF APPEALS FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED

FIRST, Houston	158	EIGHTH, El Paso	52
SECOND, Fort Worth	157	NINTH, Beaumont	39
THIRD, Austin	93	TENTH, Waco	64
FOURTH, San Antonio	81	ELEVENTH, Eastland	50
FIFTH, Dallas	265	TWELFTH, Tyler	23
SIXTH, Texarkana	42	THIRTEENTH, Corpus Christi	107
SEVENTH, Amarillo	59	FOURTEENTH, Houston	190

PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS

Appellant	1,043	State	194
Pro Se	124	State Prosecuting Attorney	19