

COURT OF CRIMINAL APPEALS

Texas is one of only two states with two courts of final appellate jurisdiction. The Court of Criminal Appeals is the highest state court for criminal appeals and is composed of a Presiding Judge, four judges and two permanent commissioners. In addition, pursuant to Art. 1811e, V.A.T.S., ten special commissioners served the court at various times during the year. These special commissioners included three retired judges and seven justices of the courts of civil appeals.

The Court of Criminal Appeals for the first time in six years experienced a caseload smaller than the previous year. The 1,546 new cases docketed in the court were 5 per cent lower than the 1,628 cases docketed in 1973, but 11 per cent higher than the five-year average (1970-1974).

Undocketed habeas corpus and mandamus cases showed an increase from 790 in 1973 to 812 in 1974, and were 10 per cent higher than the five-year average. The court handled 436 motions for rehearing in 1974, compared to 468 in 1973.

Twelve per cent of the cases appealed to the Court in 1974 involved sentences of less than two years imprisonment. Fifteen per cent of the cases arose from marijuana, heroin and other drug-related offenses, lower than the 18 per cent in 1973.

Three decisions invoking the death penalty were reviewed, as compared to seven in 1973. Life imprisonment had been imposed in 145 cases, compared to 156 the previous year.

In 1974, the Court of Criminal Appeals disposed of 80 per cent of the cases docketed during the year or carried over from 1973, a 9 per cent increase over the previous year. Fifty-nine per cent were disposed of by per curiam opinions, up from 39 per cent in 1973.

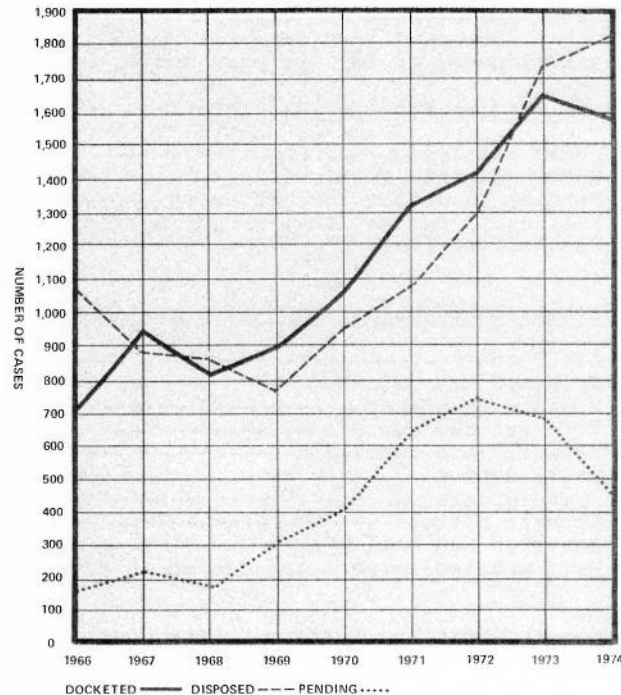
One thousand nine hundred thirty-three opinions (including dissents and concurrences) were written in 1974, 5 per cent more than the 1973 total of 1,839. Forty-four per cent of these were authored opinions.

The Court of Criminal Appeals affirmed the trial courts decision in 83 per cent of the cases reviewed and dismissed the appeal in an additional 5 per cent. The other 12 per cent were disposed of in various ways.

Four hundred sixty-four docketed cases were pending at the end of 1974—34 per cent less than a year ago and 22 per cent less than the five-year average of 597.

Based on the service of five judges and four full-time commissioners, the caseload per judge in the Court of Criminal Appeals was higher than that of the other appellate courts. (Figure 6) The number of cases docketed per judge or commissioner decreased to 176 in 1974 from 185 in 1973.

Figure 2. COURT OF CRIMINAL APPEALS
Cases docketed, disposed and pending 1966-1974



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. Awarding of criminal jurisdiction to the Courts of Civil Appeals is a frequently suggested solution to easing the workload of the Court of Criminal Appeals and is embodied in the new Constitution to be voted on November 4, 1975.

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 in each case it decides. While many of these opinions are short and perfunctory, this rule resulted in the five judges and four commissioners of the court each writing an average of 215 opinions during 1974. In 1973, the five judges and four commissioners wrote an average of 204 opinions each.

COURT OF CRIMINAL APPEALS
Statistics--1974

| | | |
|--|------|------|
| Cases pending January 1, 1974----- | 695 | |
| Cases filed for the year ending December 31, 1974----- | 1546 | |
| Cases reinstated on the docket----- | 42 | 2283 |

| | | |
|--|--|------|
| Cases disposed of for the year ending December 31, 1974----- | | 1819 |
|--|--|------|

Cases pending December 31, 1974:

| | | |
|--|-----|------|
| Under submission on rehearing----- | 13 | |
| Under original submission----- | 72 | |
| Pending on motion for rehearing----- | 23 | |
| Waiting to become final or for motion for rehearing----- | 73 | |
| Unsubmitted cases----- | 283 | 464 |
| Total----- | | 2283 |

Disposition of cases for period mentioned:

| | | |
|--|------|------|
| Affirmed----- | 1472 | |
| Reformed and affirmed----- | 30 | |
| Appeals dismissed----- | 87 | |
| Reversed and remanded----- | 134 | |
| Reversed and dismissed----- | 8 | |
| Writs denied----- | 17 | |
| Writs granted----- | 21 | |
| Appeals abated----- | 46 | |
| Reversed and bail granted----- | 3 | |
| Writ granted in part and denied in part----- | 1 | |
| Total----- | | 1819 |

Number of opinions written by the Court:

| | | |
|---|------|------|
| Original opinions----- | 1804 | |
| Concurring opinions----- | 29 | |
| Dissenting opinions----- | 68 | |
| Opinions dissenting in part and concurring in part----- | 9 | |
| Opinions granting rehearings----- | 13 | |
| Opinions denying rehearings----- | 10 | |
| Total----- | | 1933 |

Motions for rehearing disposed of by the Court:

| | | |
|--|-----|-----|
| Motions overruled without written opinion----- | 11 | |
| Motions overruled with written opinion----- | 12 | |
| Motions granted----- | 49 | |
| Leave to file motions denied----- | 364 | |
| Total----- | | 436 |

Disposition of writs of habeas corpus, etc. for the year ending December 31, 1974:

| | | |
|--|-----|-----|
| Applications for writ of habeas corpus, etc. denied with written order----- | 6 | |
| Applications for writ of habeas corpus, etc. and motions for rehearings denied without written order----- | 737 | |
| Applications for writ of habeas corpus dismissed----- | 2 | |
| Applications for writ of habeas corpus ordered filed and set for submission----- | 29 | |
| Applications for writ of habeas corpus, etc. marked "No Action"----- | 30 | |
| Hearings ordered on applications for writs of habeas corpus----- | 8 | |
| Total----- | | 812 |
| Applications for writ of habeas corpus, etc. under consideration of the Court----- | 11 | |
| Total----- | | 823 |

| | | |
|---|--|------|
| Appealed cases disposed of for the year ending December 31, 1974----- | | 1819 |
|---|--|------|

| | | |
|--|-----|------|
| Applications for writ of habeas corpus, etc. disposed of for the year ending December 31, 1974----- | 812 | |
| Total----- | | 2631 |

OPINIONS WRITTEN BY THE COURT OF CRIMINAL APPEALS IN 1974

| Judge | Signed Opinions | Concurring Opinions | Dissenting Opinions | Opinions Concurring In Part & Dissenting In Part | Opinions Denying Rehearing | Opinions Granting Rehearing | Per Curiam Opinions | Total |
|--|-----------------|---------------------|---------------------|--|----------------------------|-----------------------------|---------------------|-------|
| John F. Onion, Jr., Presiding Judge | 81 | 7 | 9 | 2 | 2 | 0 | 119 | 220 |
| W. A. Morrison, Judge | 67 | 7 | 17 | 5 | 0 | 2 | 120 | 218 |
| Leon Douglas, Judge | 72 | 5 | 24 | 1 | 1 | 0 | 123 | 226 |
| Truman Roberts, Judge | 68 | 4 | 12 | 1 | 1 | 2 | 103 | 191 |
| Wendell Odom, Judge | 73 | 6 | 6 | 0 | 2 | 6 | 108 | 201 |
| Tom G. Davis, Commissioner | 68 | 0 | 0 | 0 | 0 | 1 | 99 | 168 |
| Carl E. F. Dally, Commissioner | 86 | 0 | 0 | 0 | 1 | 0 | 89 | 176 |
| Howard P. Green, Commissioner | 68 | 0 | 0 | 0 | 2 | 2 | 137 | 209 |
| Penn J. Jackson, Commissioner | 55 | 0 | 0 | 0 | 1 | 0 | 103 | 159 |
| Wesley Dice, Commissioner | 9 | 0 | 0 | 0 | 0 | 0 | 7 | 16 |
| *Quentin Keith, Commissioner | 27 | 0 | 0 | 0 | 0 | 0 | 9 | 36 |
| *Charles Reynolds, Commissioner | 13 | 0 | 0 | 0 | 0 | 0 | 5 | 18 |
| *T. C. Chadick, Commissioner | 7 | 0 | 0 | 0 | 0 | 0 | 17 | 24 |
| *Bill Cornelius, Commissioner | 14 | 0 | 0 | 0 | 0 | 0 | 8 | 22 |
| *C. L. Ray, Commissioner | 1 | 0 | 0 | 0 | 0 | 0 | 5 | 6 |
| *Austin McCloud, Commissioner | 11 | 0 | 0 | 0 | 0 | 0 | 11 | 22 |
| *Raleigh Brown, Commissioner | 10 | 0 | 0 | 0 | 0 | 0 | 11 | 21 |
| Total | 730 | 29 | 68 | 9 | 10 | 13 | 1,074 | 1,933 |

* Justices of Courts of Civil Appeals.

CASES FILED IN COURT OF CRIMINAL APPEALS

| OFFENSE | SENTENCE | | | | | | | | | | | TOTALS | | |
|--|----------|------|-------------------|-------------|-----------|-----------|--------------|---------------------|-----------|-----------|------------------|--------|--|--|
| | Death | Life | 20 Years and Over | 10-19 Years | 5-9 Years | 2-4 Years | 12-23 Months | Less Than 12 Months | Fine Only | Sub-Total | Percent of Total | | | |
| Murder | 3 | 46 | 41 | 25 | 18 | 13 | 0 | 0 | 0 | 146 | 9.77 | | | |
| Assault to Murder | 0 | 2 | 9 | 11 | 3 | 5 | 2 | 0 | 0 | 32 | 2.14 | | | |
| Rape | 0 | 6 | 32 | 5 | 4 | 1 | 0 | 0 | 0 | 48 | 3.21 | | | |
| Other Sex Offenses | 0 | 1 | 0 | 9 | 7 | 6 | 0 | 2 | 0 | 25 | 1.67 | | | |
| Robbery | 0 | 41 | 105 | 71 | 50 | 2 | 0 | 0 | 0 | 269 | 18.01 | | | |
| Theft | 0 | 8 | 0 | 19 | 41 | 32 | 1 | 2 | 0 | 103 | 6.89 | | | |
| Burglary | 0 | 18 | 2 | 35 | 51 | 31 | 1 | 0 | 0 | 138 | 9.24 | | | |
| Arson | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | .07 | | | |
| Embezzlement | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | .13 | | | |
| Forgery | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 3 | .20 | | | |
| Heroin Offenses | 0 | 15 | 43 | 45 | 13 | 3 | 0 | 0 | 0 | 119 | 7.97 | | | |
| Marijuana--Possession | 0 | 0 | 3 | 9 | 16 | 12 | 0 | 5 | 2 | 47 | 3.15 | | | |
| Marijuana--Sale | 0 | 0 | 1 | 4 | 8 | 4 | 0 | 0 | 0 | 17 | 1.14 | | | |
| Other Drug Offenses | 0 | 1 | 4 | 7 | 9 | 14 | 1 | 1 | 0 | 37 | 2.48 | | | |
| DWI | 0 | 0 | 0 | 0 | 3 | 5 | 4 | 78 | 1 | 91 | 6.09 | | | |
| Swindling | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | .07 | | | |
| Shoplifting | 0 | 0 | 0 | 1 | 4 | 1 | 3 | 6 | 1 | 16 | 1.07 | | | |
| VLL | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 | 4 | .27 | | | |
| Aggravated Assault | 0 | 2 | 3 | 2 | 8 | 4 | 4 | 8 | 4 | 35 | 2.34 | | | |
| DWLS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | |
| Other Felonies | 0 | 4 | 0 | 6 | 13 | 23 | 2 | 1 | 0 | 49 | 3.28 | | | |
| Other Misdemeanors | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 13 | 29 | 45 | 3.01 | | | |
| Habeas Corpus, Extradition, Bond Forfeitures | | | | | | | | | | 266 | 17.80 | | | |
| SUB TOTAL | 3 | 145 | 243 | 250 | 249 | 160 | 21 | 118 | 39 | 1,494 | | | | |

PERCENT OF TOTAL .20 9.71 16.27 16.73 16.67 10.71 1.41 7.90 2.61
 The categories include several distinct, though related offenses. For example, "robbery" includes robbery with fire arms and assault with intent to rob.