

COURT OF CRIMINAL APPEALS

Analysis of 1982 Activity

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 article 1811e, V.T.C.S., special commissioners may be designated to serve as needed to aid and assist the Court.

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 together with 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 these death penalty cases remains direct to the Court of Criminal Appeals. Decisions by the Courts of Appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review by the State or defendant, or the Court may review a decision on its own motion.

Jurisdiction Change Reduces Filings

Conferring of criminal jurisdiction on the Courts of Appeals has greatly reduced the number of new cases being filed in the Court of Criminal Appeals. There was a total of 414 cases added to the Court's docket during calendar year , 200 of these cases being added by petition for discretionary review granted by the Court. The 414 new cases represents a decrease of 88 percent from an annualized filing of 3,412 cases from the preceding year. In addition to those cases which were added to the docket, the Court also reviewed 860 other petitions for discretionary review which were refused. This reduction in the number of cases presented to the Court of Criminal Appeals has enabled the Court to make a substantial reduction of the backlog of pending cases. There were 2,471 cases pending with the Court at the beginning of 1982, whereas this number had been reduced to 1,400 pending cases at the end of the

Figure 4.

TOTAL WORKLOAD, COURT OF CRIMINAL APPEALS
1982

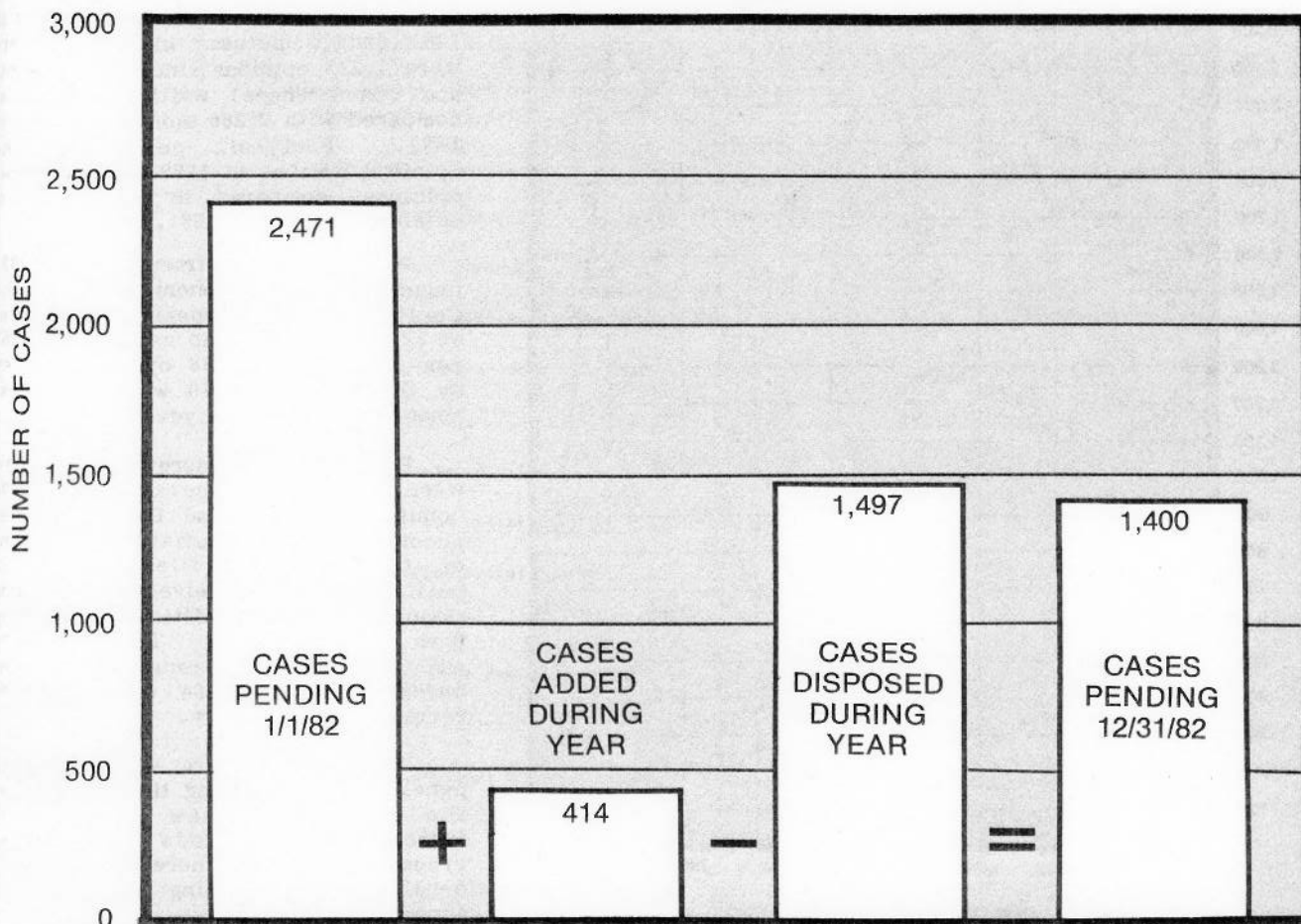
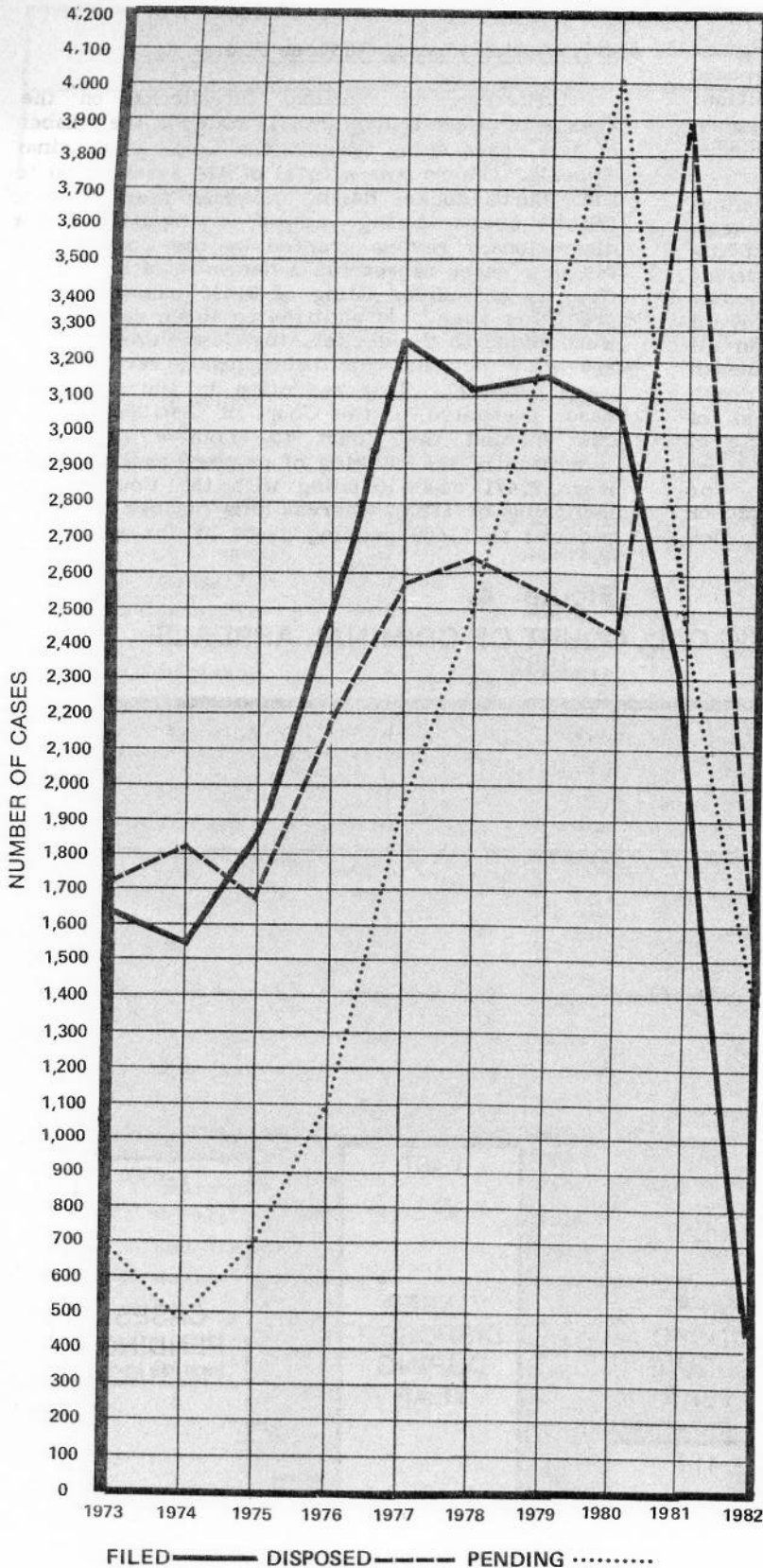


Figure 5.
COURT OF CRIMINAL APPEALS
Cases filed, disposed and pending 1973-1982



year, representing a decrease in the backlog of 44 percent.

The number of applications for writs of habeas corpus and mandamus also reflected the effects of the grant of criminal jurisdiction to the Courts of Appeals. There was a total of 1,745 applications filed during 1982 as compared with 2,365 applications filed in the preceding year, for a decrease of 27 percent.

The impact of conferring of criminal jurisdiction on the Courts of Appeals can be further demonstrated by comparing the disposition rate for new cases and cases carried over from preceding years for 1982 with the rate for previous years. The Court of Criminal Appeals was able to dispose of 52 percent of the cases filed during the year or carried over from 1981. The disposition rate for 1981 was 35 percent and the rate for 1980 was 38 percent of the cases filed and carried over from preceding years.

Percent of Authored Opinions Rises

Of the total dispositions, 54 percent were disposed of by per curiam opinion, as compared with 76 percent in 1981 and 83 percent in 1980. There were 1,397 opinions (including dissents and concurrences) written in 1982 as compared with 2,266 opinions written in 1981. Forty-six percent of the opinions written in 1982 were authored opinions, compared to 24 percent of opinions written in 1981.

In the 10 years from 1973 to 1982, judges and commissioners serving on the Court of Criminal Appeals wrote a total of 22,669 opinions--an average of 2,267 per year. The 2,878 opinions written by the Court in 1978 was the largest number in any single year.

Petitions for discretionary review were received by the Court from 104 counties. Harris and Dallas Counties accounted for approximately 50 percent of the petitions filed, with 258 petitions being received from Harris County and 243 petitions originating from Dallas County. Tarrant County with 81 petitions represented eight percent of the 1,054 total petitions received by the Court.

During 1982 there were 46 death penalty cases reaching the Court under the automatic review provisions of article 37.071, Code of Criminal Procedure. In 1981 there were 44 death penalty cases reaching the Court on appeal.

COURT OF CRIMINAL APPEALS

1982 Statistics

I. CASES

A. Cases Pending January 1, 1982:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	2,470
2. Cases with granted petitions for discretionary review	1
TOTAL CASES PENDING	<u>2,471</u>

B. Cases Added to Docket During 1982:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	156
2. Granted petitions for discretionary review	200
3. Cases reinstated on docket.	58
TOTAL CASES ADDED	<u>414</u>

TOTAL CASES ON DOCKET WITHIN THE YEAR 1982. 2,885

C. Disposition of Cases During Year 1982:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Affirmed.	795
Reformed and affirmed	18
Reversed and remanded	102
Reversed and dismissed or acquitted	47
Remanded to trial court for hearing	7
Appeal abated	20
Appeal dismissed.	42
Habeas corpus relief granted.	82
Habeas corpus relief denied	31
Mandamus relief granted	2
Mandamus relief denied.	1
Prohibition relief denied	1
Original contempt proceedings set aside	1
SUB-TOTAL	1,149

COURT OF CRIMINAL APPEALS

1982 Statistics (continued)

2. On granted petition for discretionary review:	
Affirmed.	12
Reversed and remanded to court of appeals	7
Remanded to court of appeals.	18
Reversed and remanded to trial court.	3
Court of appeals reversed, trial court affirmed	1
Dismissed or acquittal ordered.	8
Petition refused as Improvidently granted	<u>1</u>
SUB-TOTAL.	50
3. Direct appeals transferred to Courts of Appeals.	<u>298</u>
TOTAL DISPOSITIONS	<u>1,497</u>

D. Cases Pending December 31, 1982:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Under original submission.	403
Under submission on rehearing.	58
Pending on motion for rehearing.	1
Pending on motion for leave to file motion for rehearing	40
Waiting for issuance of mandate or for motion for leave to file motion for rehearing	70
On appeal to U.S. Supreme Court.	1
Unsubmitted.	<u>664</u>
SUB-TOTAL.	1,237
2. Pending on granted discretionary review:	
Under original submission.	71
Unsubmitted.	80
Pending on motion for rehearing:	
Submitted.	3
Unsubmitted.	<u>9</u>
SUB-TOTAL.	<u>163</u>
TOTAL PENDING END OF YEAR.	<u>1,400</u>

COURT OF CRIMINAL APPEALS

1982 Statistics (Continued)

II. PETITIONS FOR DISCRETIONARY REVIEW (PDR):

A. PDRs pending January 1, 1982	27
B. PDRs filed within the year 1982.	<u>1,060</u> *
TOTAL PDRs ON DOCKET WITHIN THE YEAR 1982.	<u>1,087</u>

C. Disposition of PDRs:

Granted.	200
Refused.	<u>724</u>
TOTAL DISPOSED	<u>924</u>

D. PDRs Pending December 31, 1982:

Pending in clerk's office or administrative office	<u>154</u>
TOTAL PENDING.	<u>154</u>

III. APPLICATIONS FOR WRIT OF HABEAS CORPUS:

A. Applications pending January 1, 1982	311
B. Applications filed within the year 1982.	1,745
TOTAL APPLICATIONS ON DOCKET WITHIN THE YEAR 1982.	<u>2,056</u>

C. Disposition of Applications for Writ of Habeas Corpus:

Application ordered filed and set for submission	81
Hearing ordered on application	36
Application denied with written order.	142
Application denied without written order	1,478
Application dismissed.	5
Application marked "no action"	88
Out of time appeal granted	<u>10</u>
TOTAL APPLICATIONS DISPOSED.	<u>1,840</u>

* Because more than one PDR may be filed in a case, this figure is higher than the actual number of cases brought to the court on PDR, which is 1,054.

COURT OF CRIMINAL APPEALS

1982 Statistics (Continued)

D. Applications for Writ of Habeas Corpus Pending December 31, 1982. 216

IV. MOTIONS FOR REHEARING AND APPLICATIONS FOR EXTENSION OF TIME:

A. Motions for Rehearing:

Motion granted with written opinion 39

Motions granted without written opinion 15

Motions denied with written opinion 23

Motions denied without written opinion. 107

Leave to file motion for rehearing granted. 67

Leave to file motion for rehearing denied 203

TOTAL MOTIONS CONSIDERED 454

B. Applications for Extension of Time to file transcriptions of court reporter's notes, bills of exceptions, and briefs considered and disposed of by the Court 291

OPINIONS WRITTEN DURING 1982

Original opinions 1,169

Concurring opinions 52

Dissenting opinions 96

Opinions concurring in part, dissenting in part 18

Opinions granting rehearing 39

Opinions denying rehearing. 23

TOTAL OPINIONS WRITTEN. 1,397

COURT OF CRIMINAL APPEALS

1982 Statistics (Continued)

RECAPITULATION

Matters Passed on by the Court During 1982:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court in 1982	1,497
Petitions for discretionary review disposed of by the Court in 1982	924
Applications for writ of habeas corpus disposed of by the Court in 1982	<u>1,840</u>
TOTAL CASES PASSED ON	<u>4,261</u>

Matters Pending December 31, 1982:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.	1,237
Cases on granted discretionary review pending.	154
Petitions for discretionary review pending	154
Applications for writ of habeas corpus pending	<u>216</u>
TOTAL MATTERS PENDING.	<u>1,770</u>

COURT OF CRIMINAL APPEALS

1982 Statistics (Continued)

OPINIONS WRITTEN BY JUDGES OF THE COURT OF CRIMINAL APPEALS

JUDGE	Per Curiam Opinions	Signed Opinions	Concurring Opinions	Dissenting Opinions	Concurring In Part & Dissenting In Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
John F. Onion, Jr., Presiding Judge	71	49	6	4	0	4	1	135
Truman Roberts, Judge	88	50	6	4	0	3	5	156
Wendell A. Odom, Judge	104	40	6	5	3	7	6	171
Tom G. Davis, Judge	91	37	1	4	0	0	4	137
Carl E. F. Dally, Judge	114	42	0	6	1	6	0	169
W. C. Davis, Judge	87	30	2	2	0	2	1	124
Sam Houston Clinton, Judge	95	52	26	36	3	6	4	222
Michael J. McCormick, Judge	77	40	3	15	7	10	1	153
Marvin O. Teague, Judge	69	33	2	20	4	1	1	130
TOTAL	796	373	52	96	18	39	23	1,397

COURT OF CRIMINAL APPEALS

1982 Statistics (Continued)

COUNTIES FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW
WERE FILED DURING 1982

<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>
Harris	258	Bell	5	McCulloch	2	Jack	1
Dallas	243	Parker	5	Montgomery	2	Jackson	1
Tarrant	81	Brown	4	Morris	2	Jasper	1
Bexar	47	Denton	4	Navarro	2	Karnes	1
Nueces	28	Fort Bend	4	Nolan	2	Kerr	1
El Paso	25	Freestone	4	Ochiltree	2	Kimble	1
Jefferson	21	Hale	4	San Patricio	2	Kleberg	1
McLennan	18	Randall	4	Shelby	2	Lamar	1
Travis	18	Williamson	4	Tom Green	2	Liberty	1
Potter	17	Fayette	3	Upshur	2	Lipscomb	1
Deaf Smith	14	Hill	3	Waller	2	Madison	1
Victoria	14	Hunt	3	Wise	2	Marion	1
Wichita	14	Angelina	2	Bastrop	1	Palo Pinto	1
Cameron	11	Austin	2	Bee	1	Panola	1
Collin	11	Balliey	2	Cass	1	Pecos	1
Galveston	11	Bowie	2	Clay	1	Red River	1
Hidalgo	11	Calhoun	2	Colorado	1	Reeves	1
Nacogdoches	11	Comal	2	Dimmit	1	Rusk	1
Brazos	9	Coryell	2	Erath	1	Scurry	1
Midland	9	Dawson	2	Falls	1	Stonewall	1
Taylor	9	Eastland	2	Franklin	1	Uvalde	1
Orange	8	Ector	2	Grayson	1	Val Verde	1
Brazoria	7	Fannin	2	Grimes	1	Van Zandt	1
Lubbock	7	Hood	2	Guadalupe	1	Wharton	1
Smith	7	Houston	2	Hockley	1	Willbarger	1
Gregg	6	Limestone	2	Hutchinson	1	Willacy	1

CASES IN WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED IN 1982
AS RECEIVED FROM THE COURTS OF APPEALS, BY COURT AND MONTH

<u>Courts of Appeals</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug</u>	<u>Sept</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Total</u>
1st	4	9	11	12	16	5	12	10	13	7	12	6	117
2nd	2	3	9	15	10	13	8	8	18	9	4	11	110
3rd	3	3	0	0	2	1	8	4	1	0	3	10	35
4th	9	4	10	3	5	2	2	4	3	8	1	3	54
5th	22	14	25	19	23	19	22	17	23	10	7	15	216
6th	1	2	3	2	2	8	5	5	1	2	3	3	37
7th	3	1	21	5	1	5	2	3	3	3	4	3	54
8th	3	2	1	1	7	7	9	9	4	2	6	6	57
9th	3	2	9	1	2	6	1	1	3	4	3	6	41
10th	2	1	3	4	5	4	3	6	3	4	7	5	47
11th	5	4	6	4	5	8	4	3	0	2	0	6	47
12th	0	0	4	6	3	1	3	2	4	3	2	0	28
13th	4	6	10	2	4	5	13	1	10	20	9	6	90
14th	7	6	8	11	16	9	21	16	13	8	0	6	121
<u>Total</u>	<u>68</u>	<u>57</u>	<u>120</u>	<u>85</u>	<u>101</u>	<u>93</u>	<u>113</u>	<u>89</u>	<u>99</u>	<u>82</u>	<u>61</u>	<u>86</u>	<u>1054</u>