

# COURT OF CRIMINAL APPEALS

## Analysis of Activity for the Year Ending August 31, 1986

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 1986 which ended August 31, 1986, there was a total of 356 cases

added to the docket of the Court of Criminal Appeals. Two hundred and nine of these were cases where discretionary review was granted by the Court and 147 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal 1986 numbered 35, compared to 42 in fiscal 1985.

The 356 cases added in fiscal year 1986 represent a decrease of 19.6 percent from the 443 cases added during fiscal year 1985, which ended August 31, 1985.

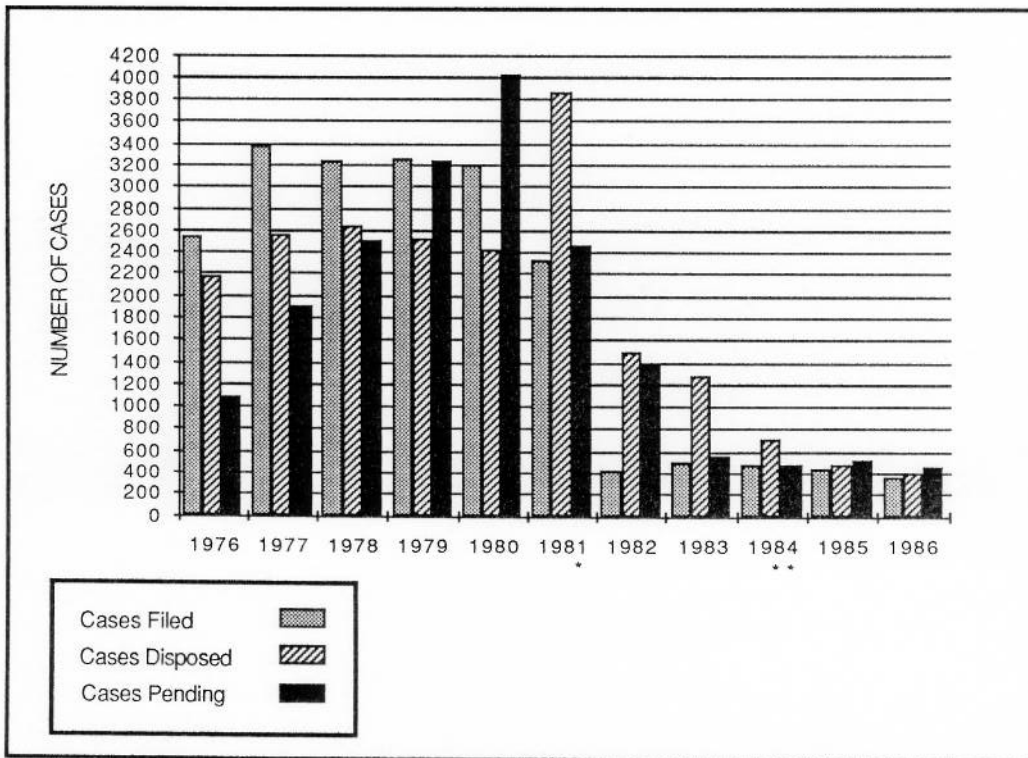
In addition to the cases added:

(1) The Court had 1,360 petitions for discretionary review filed during fiscal 1986, the same number filed during the previous year. Petitions for discretionary review were received from 123 counties during 1986, with 50 percent of them originating from Harris or Dallas Counties;

(2) There were 2,074 applications for writs of habeas corpus filed during fiscal 1986 (a 14.3 percent increase over the 1,815 filed in fiscal 1985); and

(3) 1,193 other motions or applications were handled by the Court (a 4.2 percent increase over 1,145 considered the previous year).

**Figure 3.**  
**COURT OF CRIMINAL APPEALS**  
Cases filed, disposed and pending, calendar year 1976 through fiscal year 1986



\* 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.

### Rate of Dispositions Decreases

During fiscal year 1986, the Court disposed of 409 cases considered on their merits, compared to 476 such dispositions in fiscal 1985. In 1986 those 409 dispositions represented 47 percent of all cases on the docket (that is, cases filed during the year or carried over from previous years). In fiscal 1985, this disposition rate was 49 percent.

In fiscal 1986, 1,100 petitions for discretionary review were disposed of, 201 (or 18 percent) of which were granted and the remainder were refused or dismissed. In fiscal 1985, 1,046 petitions for discretionary review were disposed of, 228 (or 22 percent) of which were granted.

There were 1,809 applications for writs of habeas corpus disposed of in fiscal 1986, compared to 1,891 in 1985, a decrease of 4 percent.

Judges of the Court of Criminal Appeals wrote 663 opinions during fiscal 1986, 467 (70 per cent) of which were "deciding" opinions which disposed

of cases. The remainder were dissents, concurrences, and opinions on rehearing. Of the deciding opinions, 229 were signed and 238 were per curiam. During 1985, members of the Court wrote 833 opinions, 68 percent of which were deciding opinions.

### Total Pending Caseload Increases

On August 31, 1986, there were 2,369 total matters (excluding miscellaneous motions and applications) pending in the Court. This represented an increase of 40 percent over the 1,682 matters pending on September 1, 1985.

On August 31, 1986, there were pending 240 granted discretionary review cases, 817 applications for writs of habeas corpus, 1,098 petitions for discretionary review, and 214 direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.



# COURT OF CRIMINAL APPEALS

## Activity for the Year Ending August 31, 1986

### SUMMARY OF DOCKET ACTIVITY DURING THE YEAR ENDING AUGUST 31, 1986

A. Cases Passed on During the Year Ending August 31, 1986:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court . . . . .	148
Cases disposed of after granting petitions for discretionary review . . . . .	261
Petitions for discretionary review disposed of by the . . . . .	1,809
Applications for writs of habeas corpus, etc., disposed of by the Court In. . . . .	<u>1,100</u>
TOTAL CASES PASSED ON BY THE COURT. . . . .	<u>3,318</u>

B. Motions and Applications Passed on During Year Ending August 31, 1986:

Motions for leave to file motions for rehearing on direct appeal. . . . .	45
Motions for rehearing of direct appeals . . . . .	23
Motions for rehearing of petitions for discretionary review . . . . .	218
Applications for extensions of time to file transcriptions of court reporters' notes, bills of exceptions, briefs, and petitions for discretionary review considered and disposed of . . . . .	<u>907</u>
TOTAL MOTIONS AND APPLICATIONS PASSED ON BY THE COURT . . . . .	<u>1,193</u>
GRAND TOTAL OF MATTERS PASSED ON BY THE COURT. . . . .	<u><u>4,511</u></u>

C. Matters Pending August 31, 1986:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs . . . . .	214
Cases on granted discretionary review pending . . . . .	240
Petitions for discretionary review pending. . . . .	1,098
Applications for writ of habeas corpus, etc., pending . . . . .	<u>817</u>
TOTAL MATTERS PENDING AUGUST 31, 1986 . . . . .	<u><u>2,369</u></u>

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1986**  
**(Continued)**

**CASES**

A. Cases Pending September 1, 1986:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs . . . . .	276
2. Cases with granted petitions for discretionary review (including rehearings granted) . . . . .	<u>231</u>
SUB-TOTAL CASES PENDING SEPTEMBER 1, 1986 . . . . .	<u>507</u>

B. Cases Added to Docket During the Year Ending August 31, 1986:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs filed . . . . .	143
2. Direct appeals reinstated on docket . . . . .	4
3. Granted petitions for discretionary review . . . . .	201
4. Rehearings granted on cases considered under discretionary review . . . . .	<u>8</u>
SUB-TOTAL CASES ADDED . . . . .	<u>356</u>
TOTAL CASES ON DOCKET . . . . .	<u><u>863</u></u>

C. Disposition of Cases During the Year Ending August 31, 1986:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Affirmed . . . . .	27
Reformed and affirmed . . . . .	2
Reversed and remanded . . . . .	9
Reversed and dismissed or reformed to show acquittal . . . . .	2
Remanded to trial courts . . . . .	2
Appeals abated . . . . .	3
Appeals dismissed . . . . .	4
Habeas corpus relief granted . . . . .	64
Habeas corpus relief denied . . . . .	23
Habeas corpus applications dismissed . . . . .	5
Mandamus relief granted . . . . .	1
Mandamus relief denied . . . . .	1
Prohibition relief denied . . . . .	1
Mandamus and prohibition relief granted . . . . .	1
Habeas corpus relief granted in part and denied in part . . . . .	3
SUB-TOTAL . . . . .	<u>148</u>

2. On granted petition for discretionary review:

Court of Appeals affirmed . . . . .	61
Court of Appeals and trial court affirmed . . . . .	17
Court of Appeals affirmed; remanded to trial court . . . . .	4
Court of Appeals affirmed; trial court reformed and affirmed . . . . .	1
Court of Appeals reversed; remanded to Court of Appeals . . . . .	44

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1986**  
**(Continued)**

2. On granted petition for discretionary review (continued):

Court of Appeals reversed; remanded to trial court. . . . .	19
Court of Appeals reversed; trial court reformed to show acquittal . . . . .	4
Court of Appeals and trial court reversed; remanded to trial court. . . . .	19
Court of Appeals and trial court reversed; remanded to Court of Appeals . . . . .	1
Court of Appeals reversed, trial court reformed . . . . .	1
Remanded to Court of Appeals. . . . .	24
Court of Appeals reversed; trial court affirmed . . . . .	15
Court of Appeals reformed and affirmed . . . . .	7
Court of Appeals reformed to show acquittal . . . . .	2
Court of Appeals reversed and prosecution ordered dismissed . . . . .	1
Court of Appeals reversed; abated . . . . .	1
Court of Appeals reversed, judgment and sentence reformed to show an acquittal . . . . .	1
Remanded to trial court . . . . .	1
Petition denied . . . . .	1
Court of Appeals vacated; remanded to Court of Appeals. . . . .	13
Reversed in part; affirmed in part; trial court affirmed . . . . .	2
Reversed and affirmed in part; remanded to trial court to show an acquittal . . . . .	2
Reversed and dismissed . . . . .	1
Reversed and reformed to show an acquittal . . . . .	2
Reversed in part and affirmed in part; remanded . . . . .	2
Trial court affirmed . . . . .	2
Dismissed . . . . .	3
Dismissed/refused as improvidently granted. . . . .	7
Abated. . . . .	1
Ball set . . . . .	<u>2</u>
 SUB-TOTAL . . . . .	 261
 TOTAL DISPOSITIONS . . . . .	 <u>409</u>

D. Cases Pending August 31, 1986:

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

Under original submission . . . . .	111
Under submission on rehearing . . . . .	10
Pending on motions for rehearing. . . . .	12
Pending on motions for leave to file motions for rehearing . . . . .	5
Waiting to become final or on appeal to the U.S. Supreme Court . . . . .	9
Unsubmitted . . . . .	<u>67</u>
 SUB-TOTAL . . . . .	 214

2. Pending on granted discretionary review:

Under original submission; unsubmitted and pending on motions for rehearing . . . . .	<u>240</u>
 SUB-TOTAL . . . . .	 240
 TOTAL CASES PENDING AUGUST 31, 1986 . . . . .	 <u>454</u>

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1986**  
**(Continued)**

**PETITIONS FOR DISCRETIONARY REVIEW**

A. <u>Petitions for Discretionary Review Pending September 1, 1985</u> . . . . .	838*
B. <u>Petitions for Discretionary Review Filed During Year</u> . . . . .	<u>1,360**</u>
TOTAL PETITIONS ON DOCKET . . . . .	2,198
<u>C. Disposition of Petitions for Discretionary Review:</u>	
Granted. . . . .	201
Refused. . . . .	889
Dismissed. . . . .	8
Abated . . . . .	<u>2</u>
TOTAL PETITIONS DISPOSED . . . . .	1,100
D. <u>Petitions for Discretionary Review Pending August 31, 1986</u> . . . . .	1,098

**APPLICATIONS FOR WRITS OF HABEAS CORPUS**

A. <u>Applications Pending September 1, 1985</u> . . . . .	552*
B. <u>Applications Filed During Year Ending August 31, 1986</u> . . . . .	<u>2,074</u>
TOTAL APPLICATIONS ON DOCKET . . . . .	2,626
<u>C. Disposition of Applications for Writs of Habeas Corpus, etc.:</u>	
Applications ordered filed and set for submission. . . . .	92
Hearings ordered on applications . . . . .	57
Applications granted with written orders . . . . .	30
Applications denied with written orders. . . . .	40
Applications denied without written orders . . . . .	1,462
Applications dismissed . . . . .	28
Applications marked "no action". . . . .	40
Abuse of Writ Order previously entered . . . . .	45
Out of time appeals granted. . . . .	<u>15</u>
TOTAL APPLICATIONS DISPOSED. . . . .	1,809
D. <u>Applications for Writ of Habeas Corpus Pending August 31, 1986</u> . . . . .	817

\*Number of pending cases increased due to inventory by Court.

\*\*Because more than one petition for discretionary review may be filed in a case, this figure is higher than the actual number of cases brought to the court on petition for discretionary review.

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1986**  
**(Continued)**

**MOTIONS FOR REHEARING AND APPLICATIONS FOR EXTENSION OF TIME**

A. Motions for Rehearing of Direct Appeals:

Motions granted with written opinions . . . . .	7
Motions overruled/denied with written opinions. . . . .	8
Motions overruled/denied without written opinions . . . . .	8
Leave to file motions for rehearing granted . . . . .	5
Leave to file motions for rehearing denied. . . . .	<u>40</u>
SUB-TOTAL . . . . .	<u>68</u>

B. Motions for Rehearing of Discretionary Review Cases or Petitions:

Motions denied. . . . .	197
Motions granted . . . . .	18
Motions dismissed . . . . .	2
Motions marked "Moot" . . . . .	<u>1</u>
SUB-TOTAL . . . . .	<u>218</u>

C. Applications for Extension of Time to File Transcriptions of

Court Reporters' Notes, Bills of Exceptions, Briefs, and Petitions  
for Discretionary Review Considered and Disposed of by the Court. . . . .

907

TOTAL MOTIONS FOR REHEARING AND APPLICATIONS. . . . . 1,193

**OPINIONS DELIVERED BY THE COURT DURING YEAR ENDING AUGUST 31, 1986**

Original opinions . . . . . (Per curiam). . . . .	229
(Signed). . . . .	238
Concurring opinions . . . . .	55
Dissenting opinions . . . . .	107
Opinions concurring in part, dissenting in part . . . . .	14
Opinions granting rehearing . . . . .	13
Opinions denying rehearing. . . . .	<u>7</u>
TOTAL OPINIONS DELIVERED . . . . .	<u><u>663</u></u>

**COURT OF CRIMINAL APPEALS**  
**Activity for the Year Ending August 31, 1986**  
**(Continued)**

OPINIONS WRITTEN BY JUDGES OF THE COURT OF CRIMINAL APPEALS

JUDGES	DECIDING OPINIONS				Concurring Dissenting In Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
	Per Curiam Opinions	Signed Opinions	Concurring Opinions	Dissenting Opinions				
JOHN F. ONION, JR. Presiding Judge	20	25	4	7	2	3	0	61
TOM G. DAVIS Judge	22	20	0	1	0	2	0	45
W. C. DAVIS Judge	32	57	0	2	0	2	3	96
SAM HOUSTON CLINTON Judge	27	24	26	45	2	1	0	125
MICHAEL J. McCORMICK Judge	18	16	1	3	0	2	0	40
MARVIN O. TEAGUE Judge	31	18	17	43	9	0	0	118
CHUCK MILLER Judge	21	25	6	4	0	1	1	58
CHARLES F. CAMPBELL Judge	31	29	1	2	1	2	1	67
BILL WHITE Judge	25	24	0	0	0	0	2	51
<sup>1</sup> WENDELL A. ODOM Judge	2	0	0	0	0	0	0	2
TOTAL	229	238	55	107	14	13	7	663

<sup>1</sup>. Retired 12-31-84



# COURT OF CRIMINAL APPEALS

## Activity for the Year Ending August 31, 1986

(Continued)

### COUNTIES FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED DURING YEAR ENDING AUGUST 31, 1986

County	Cases	County	Cases	County	Cases	County	Cases
Dallas	357	Denton	5	Chambers	2	Falls	1
Harris	328	Ector	5	Cherokee	2	Fannin	1
Bexar	80	Hopkins	5	Deaf Smith	2	Gray	1
Tarrant	50	Kerr	5	Dickens	2	Grayson	1
Travis	42	Midland	5	Eastland	2	Guadalupe	1
El Paso	38	Milam	5	Gillespie	2	Hamilton	1
Jefferson	33	Randall	5	Harrison	2	Hays	1
Galveston	16	San Patricio	5	Hill	2	Henderson	1
Taylor	16	Young	5	Liberty	2	Hockley	1
Brazoria	15	Cameron	4	Palo Pinto	2	Howard	1
Nueces	15	Freestone	4	Parker	2	Jim Wells	1
Bell	13	Hood	4	Rains	2	Johnson	1
Collin	13	Jack	4	Red River	2	Limestone	1
Montgomery	12	Lamar	4	Scurry	2	Live Oak	1
Potter	12	Lampasas	4	Somervell	2	Madison	1
Brazos	11	Tyler	4	Van Zandt	2	Maverick	1
McLennan	11	Atascosa	3	Walker	2	Montague	1
Williamson	10	Gonzales	3	Wichita	2	Navarro	1
Orange	9	Hale	3	Wise	2	Newton	1
Erath	8	Houston	3	Anderson	1	Nolan	1
Fort Bend	8	Hutchinson	3	Andrews	1	Pecos	1
Gregg	8	Jackson	3	Austin	1	Rockwall	1
Hidalgo	8	Kleberg	3	Bailey	1	Titus	1
Lubbock	8	Nacogdoches	3	Bastrop	1	Upton	1
Smith	8	Tom Green	3	Clay	1	Washington	1
Burleson	7	Val Verde	3	Cochran	1	Webb	1
Comal	7	Victoria	3	Comanche	1	Wharton	1
Ellis	6	Angelina	2	Cooke	1	Wood	1
Hunt	6	Bee	2	Crosby	1		
Bowie	5	Bosque	2	Dawson	1		
Brown	5	Burnet	2	Delta	1		
		Caldwell	2	DeWitt	1		

### CASES IN WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED AS RECEIVED FROM COURTS OF APPEALS DURING YEAR ENDING AUGUST 31, 1986

FIRST, Houston	201	EIGHTH, El Paso	48
SECOND, Fort Worth	119	NINTH, Beaumont	64
THIRD, Austin	89	TENTH, Waco	48
FOURTH, San Antonio	88	ELEVENTH, Eastland	57
FIFTH, Dallas	290	TWELFTH, Tyler	28
SIXTH, Texarkana	46	THIRTEENTH, Corpus Christi	61
SEVENTH, Amarillo	41	FOURTEENTH, Houston	180

### PETITIONING PARTIES TO COURT OF CRIMINAL APPEALS DURING YEAR ENDING AUGUST 31, 1986

Appellant Counsel . . . . .	1,107	State . . . . .	192
Appellant Pro Se . . . . .	110	State Prosecuting Attorney . . . . .	41