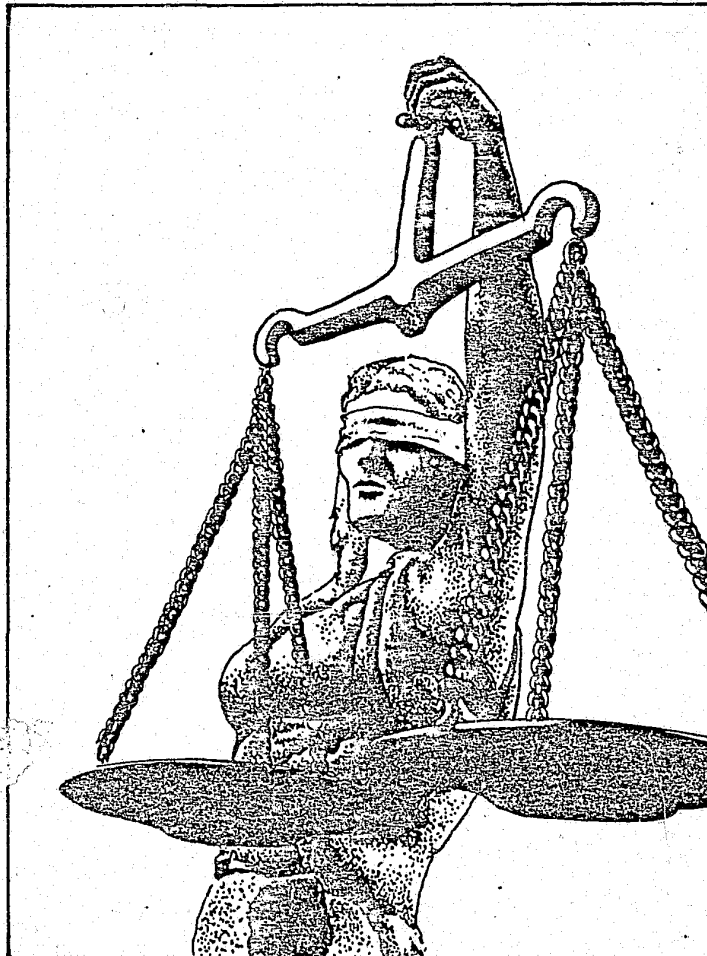


The Report From the  
JUDICIAL PLANNING COMMITTEE

# SWIFT JUSTICE



## N TEXAS COURTS

JANUARY 1979

61489

FOR IMPROVING THE ADMINISTRATION OF JUSTICE

SWIFT JUSTICE IN TEXAS COURTS:

A Plan for Improving the  
Administration of Justice

**NCJRS**

**AUG 28 1979**

**ACQUISITIONS**

Prepared by the

Judicial Planning Committee

January 1979

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## JUDICIAL PLANNING COMMITTEE

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January 31, 1979

TO: The Governor, Members of the 66th Legislature, Members of the Judiciary, and County Commissioners

We are pleased to present the Judicial Planning Committee's first plan for improving the administration of justice. The plan recommends statutory changes, resource needs, administrative procedures, and new management techniques to help the courts dispose of mounting caseloads without sacrificing the quality of justice. It represents almost two years of work by representatives of the Supreme Court, Court of Criminal Appeals, courts of civil appeals, district courts, county courts, justice courts, municipal courts, prosecutors, defense attorneys, general practitioners, clerks, administrators, and law professors. As such, this plan represents a cooperative effort by the judiciary to plan for the resolution of its own needs and problems.

This report is but the beginning of a formal planning process for the judiciary. For the judicial branch to continue the high standards set for it by the people of Texas, a close partnership between the Governor, the Legislature, the judiciary and the county commissioners is required. We respectfully solicit your ideas, your support, and your commitment to the continued improvement of the administration of justice in Texas.

Respectfully submitted,

A handwritten signature in cursive script, reading "Joe R. Greenhill".

Joe R. Greenhill,  
Chairman

A handwritten signature in cursive script, reading "Charles W. Barrow".

Charles W. Barrow,  
Project Director

Chairman  
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INTRODUCTION AND

SUMMARY OF RECOMMENDATIONS

## INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

### THE JUDICIAL PLANNING COMMITTEE

#### 1. Authorization

The 1976 amendments to the Omnibus Crime Control Act of 1968 (Public Law 94-503) give each state the option of establishing a judicial planning committee. The purposes of such a committee are 1) to provide a long-range planning capability for the courts of the state, and 2) to work with the Criminal Justice Division in the administration of grants for court projects.

In accordance with that act, the Supreme Court of Texas, by court order, created a Judicial Planning Committee in May of 1977. The committee is chaired by Joe R. Greenhill, Chief Justice of the Supreme Court; and its staff operations are supervised by Charles W. Barrow, Justice, Supreme Court of Texas. It has 21 members representing trial and appellate, criminal, civil and juvenile judges, prosecutors and defenders, legislators, general practitioners, and law professors.

#### 2. Responsibilities

The committee is organized around its two purposes of 1) planning for the courts, and 2) working with the Criminal Justice Division in the administration of grants for court projects. Grants are reviewed by a standing

subcommittee. The long-range planning effort is conducted through three task forces: criminal, civil and juvenile. These task forces have designated several planning issues for special consideration, including court administration, criminal appeals, juvenile probation, criteria for the creation of new courts, and court resources. Public meetings were held on all of these topics.

## RECOMMENDATIONS

The recommendations of the committee are all geared toward one basic objective: to help the courts meet growing caseloads efficiently, and without sacrificing quality. Chapter One is an overview of the problem of the increasing caseloads. It suggests some of the reasons for the litigation "explosion" and describes some of the past and present efforts to help the courts meet the new demands that are being placed upon them.

Chapters Two through Six suggest specific programs to help the courts meet the growing caseload demands. One chapter is devoted to each of the following strategies:

- |                |  |
|----------------|--|
| Chapter Two:   | Expand the resources of courts to help them meet new demands;  |
| Chapter Three: | Change the criminal appellate structure to promote more efficient disposition of cases;                    |
| Chapter Four:  | Redistribute cases and judges on a voluntary basis through administrative procedures;                      |
| Chapter Five:  | Improve the efficiency of court operations so the courts can dispose of more cases on a more timely basis; |
| Chapter Six:   | Insure that proper auxiliary services, such as juvenile probation, are available.                          |



Although a wide range of recommendations is offered in the following six chapters, those recommendations requiring legislative consideration can be summarized as follows:

#### I. Court Appellate Structure

- A. The courts of civil appeals should be given criminal jurisdiction; review of these cases should be taken to the Court of Criminal Appeals on the basis of writs of certiorari.
- B. Appeals de novo from municipal and justice courts should be eliminated in traffic cases. This may be accomplished through amendment to Article V, Sections 3, 6, and 16 of the Texas Constitution and minor changes in the Code of Criminal Procedure.

#### II. Court Administration

The following plan is suggested for the implementation of Article 200a and Article 2328b:

- A. The Chief Justice should be the head of the administrative judicial system in Texas.
- B. Court administration in Texas should be continued primarily on a regional basis.
- C. The Chief Justice should be given the power to appoint the presiding judges of the administrative districts, subject to confirmation by the Senate.
- D. The state should provide the compensation for the presiding judges of the administrative judicial districts.
- E. The state should provide administrative support for the presiding judges.
- F. Administrative matters should be coordinated through a council of presiding judges.
- G. Each district judge should be provided state funds to hire a staff aide.

### III. Juvenile Probation

- A. The Texas Adult Probation Commission should be given jurisdiction over juveniles as well as adults, thereby establishing statewide coordination and funding of juvenile probation services.
- B. Each county currently without a juvenile board should be required to create one to handle disbursements of state funds in the same manner adult probation offices accept adult funds. This will insure continued local autonomy in the juvenile area.

### ACKNOWLEDGMENTS

The Judicial Planning Committee is grateful to the many organizations and individuals who have offered their viewpoints, time, insights, and information to help plan for the needs of the courts. Appreciation is expressed to:

Criminal Justice Division, Office of the Governor, for its continual support and cooperation, technical assistance, information, and assistance in making computer projections;

Office of Court Administration, for its invaluable statistics on court caseloads and juvenile probation, and for technical assistance;

Texas Center for the Judiciary, for assistance in editing the report, for the use of conference rooms, and for assistance in communicating the work of the Judicial Planning Committee to the judges;

Juvenile Judges and Probation Officers, for advice, technical assistance and support for the juvenile probation legislation.

## CHAPTER ONE:

### STATUS OF THE COURTS

- A. The Litigation Explosion
- B. Recent Changes
- C. Coping with New Demands

## STATUS OF THE COURTS

### A. The Litigation Explosion

Texas, like most states, has experienced a litigation explosion in recent years. While the population of the state increased by nine percent from 1972 to 1977 (see Chart 1), the caseloads of the courts have increased at substantially higher rates during the same period, as Figures 1 and 2 demonstrate:<sup>1,2</sup>

Figure 1  
(Caseload Growth 1972-1977)

Supreme Court	28%
Court of Criminal Appeals	134%
Courts of Civil Appeals	41%
District Courts	27%
County Courts	30%

Figure 2  
(Caseload Growth 1974-1977)

Justice of the Peace Courts	42%
Municipal Courts	34%

These statistics indicate both an increase in population and, to a larger extent, court use. A number of reasons have been suggested for this growth in demand for court services.

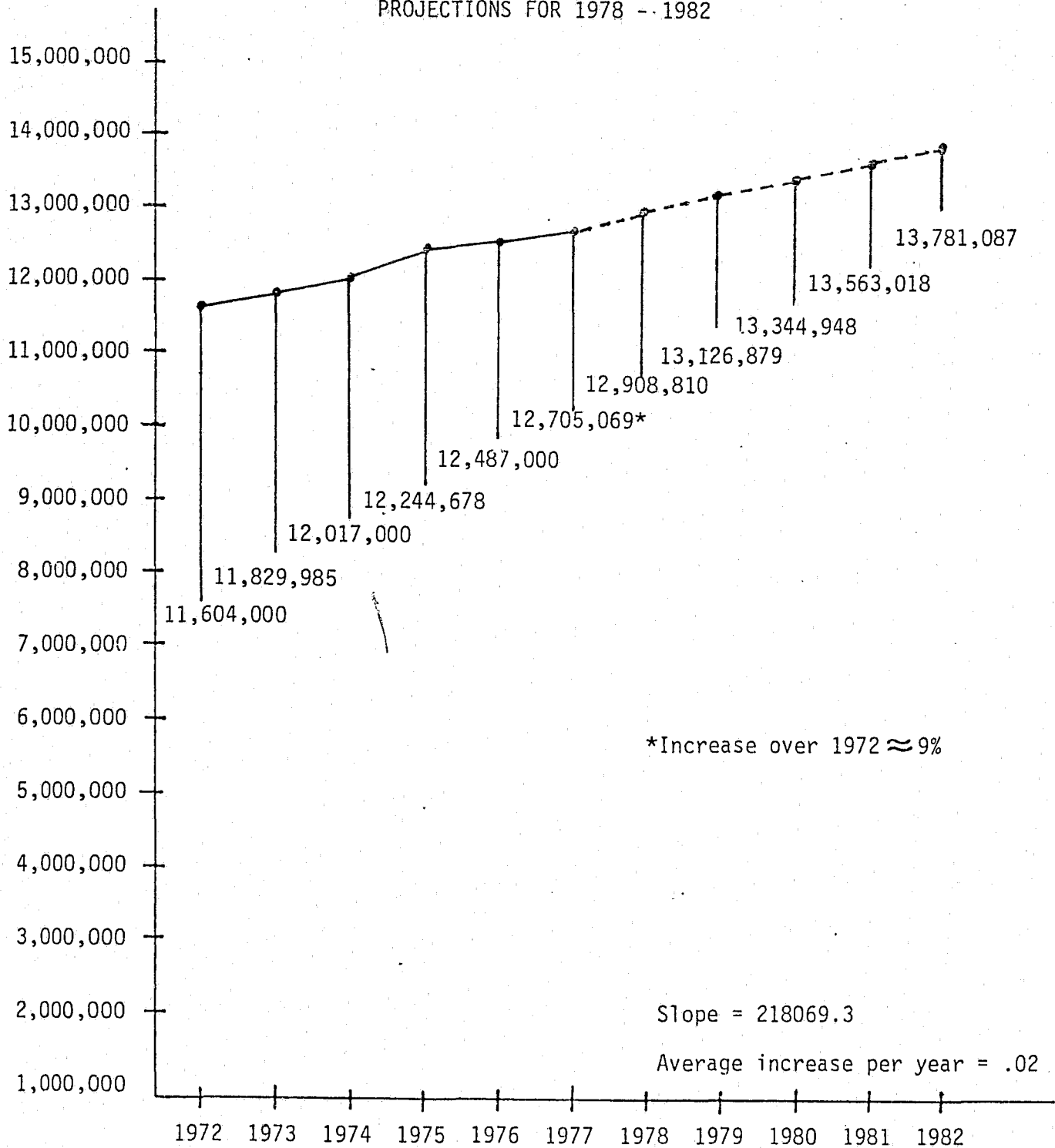
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<sup>1</sup> Texas Judicial Council, Annual Reports 1972-1977.

<sup>2</sup> Ibid.

Chart 1

TEXAS POPULATION GROWTH  
PROJECTIONS FOR 1978 -- 1982



Source: Bureau of the Census

Projections made with the assistance of the Criminal Justice Division

Population and urbanization are major factors in court workloads. According to computer analysis, there is substantial correlation between population and number of cases filed, especially in lower courts. As shown in Figure 3 the closer the correlation is to 1.00, the greater the effect population has on court workloads.

Figure 3  
Correlation Between Population and Number of Cases Filed

<u>Court</u>	<u>1972-76 Correlation</u>
Supreme Court	0.81
Court of Criminal Appeals	0.91
Courts of Civil Appeals	0.92
District Courts	0.96
County Courts	0.99
Justice Courts <sup>3</sup>	1.00
Municipal Courts <sup>4</sup>	0.99

Source: Bureau of Census, Circular Series; Pearson Correlation Coefficient, Population v. Cases Filed

As Figure 3 shows, those courts most accessible to the people -- justice and municipal courts -- have the highest correlation of caseload to population. Population, therefore, appears to be one factor in the increase of cases filed; but it does not in itself explain the surge in case filings.

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<sup>3,4</sup> Figures represent years 1974-1976 only; no date available for years 1972-1973.

Social changes have contributed to court congestion. For example, the divorce rate, attendant with child custody problems, has greatly increased caseloads. Forty-five percent of all civil cases filed in the district courts in 1977 were divorce cases<sup>5</sup>. Similarly, the high crime rate and attendant efforts to improve the criminal justice system, especially those which have been required to afford "due process", have placed greater demands on the courts. Police services have been expanded, resulting in more arrests; prosecution of these arrests has been intensified, producing a greater need for courts in which to try these cases.

New areas of law that have emerged in recent years have also augmented court workloads. They include:

- new causes of action for truth in lending and deceptive trade practices
- environmental protection laws
- consumer protection laws and litigation
- new concepts of strict liability in tort
- implied warranties of fitness of product and dwellings

Not only is the volume of cases filed increased as a result of these new areas, but the length of time required to try these types of cases is increased. The new cases are more complex, requiring more time for consideration by the court.

So many factors can influence the workload of the courts that it is difficult to isolate the causes of docket congestion, much less predict them.

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<sup>5</sup> Office of Court Administration, 1977 Annual Report.

Better data on court caseloads are needed before more sophisticated analysis of the courts can be made. For the immediate future, there appear to be no changes forthcoming which would reduce court caseloads. A computer projection, based on the trends of recent years, predicts that court workloads will grow as shown in Charts 2-8. A summary of these predictions is as follows:

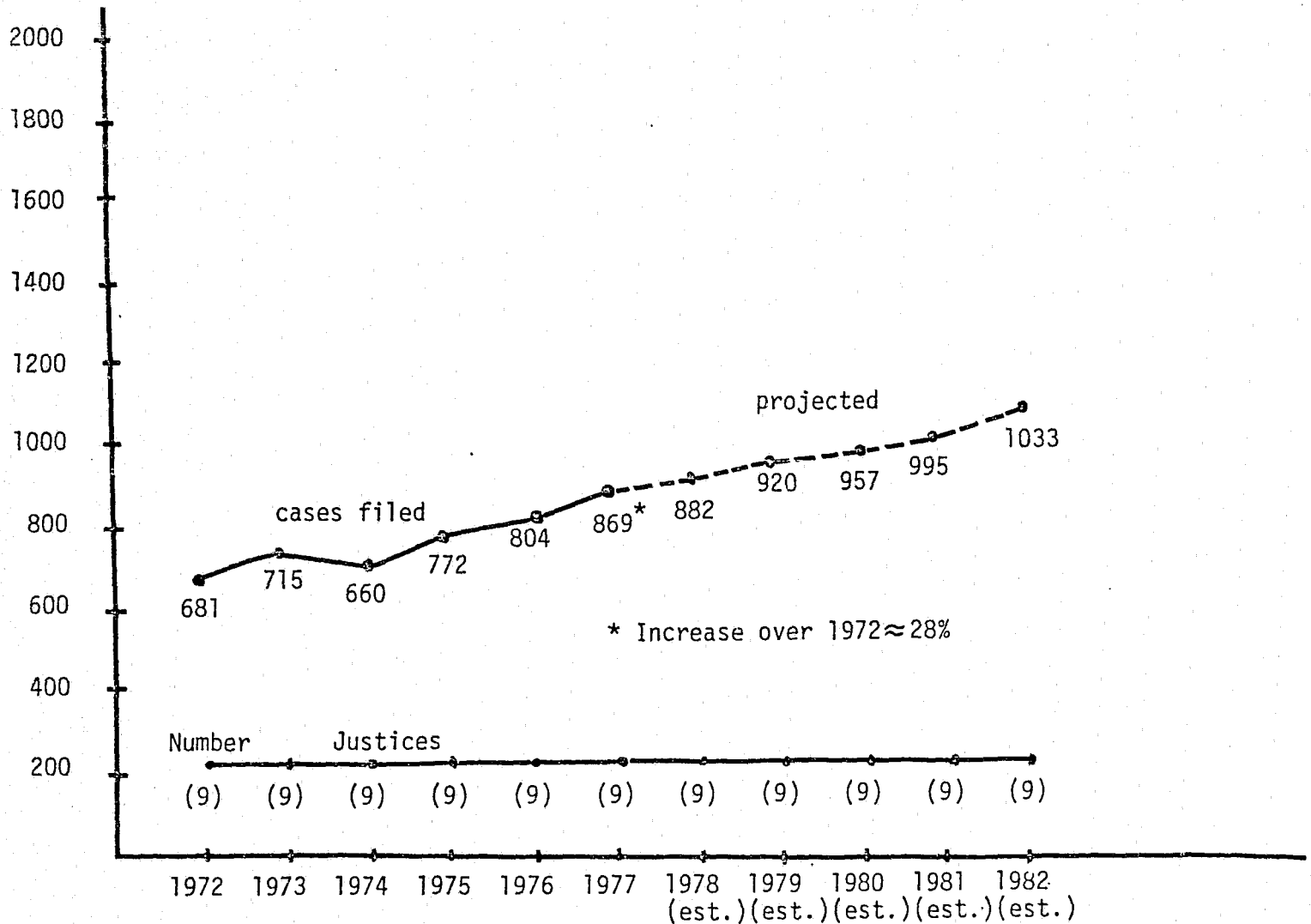
1. Supreme Court - An increase in the number of cases filed is expected as a result of the new civil appeals courts that have been authorized. Additional administrative support may be required.
2. Court of Criminal Appeals - The overwhelming growth in appeals to this court is expected to continue. Major revisions in the criminal appellate structure will probably be needed to dispose of these cases without delay (see Chapter Three).
3. Courts of Civil Appeals - Continued growth in case filings is projected; but approval of the constitutional amendment to increase the number of judges to these courts should enable them to absorb this increase.
4. District Courts - Continued growth of district court caseloads is expected. Approximately 27 additional judges (14 for FY 1980 and 13 for FY 1981) will be needed if the current size of the caseload per judge is to be maintained. Additional administrative support is needed for many courts (see Chapter 4).
5. County Courts - Continued growth in the number of cases filed in these courts is projected. Insufficient data are available to determine the number of courts that will be needed.
6. Justice and Municipal Courts - Major increases in the number of cases filed in these courts is expected. Training of the justice and municipal judges will help them dispose of cases more efficiently. Making these courts courts of records will alleviate major increases in the number of appeals from these courts to the county courts.



CHART 2

CASES FILED

SUPREME COURT



Correlation coefficient = .886

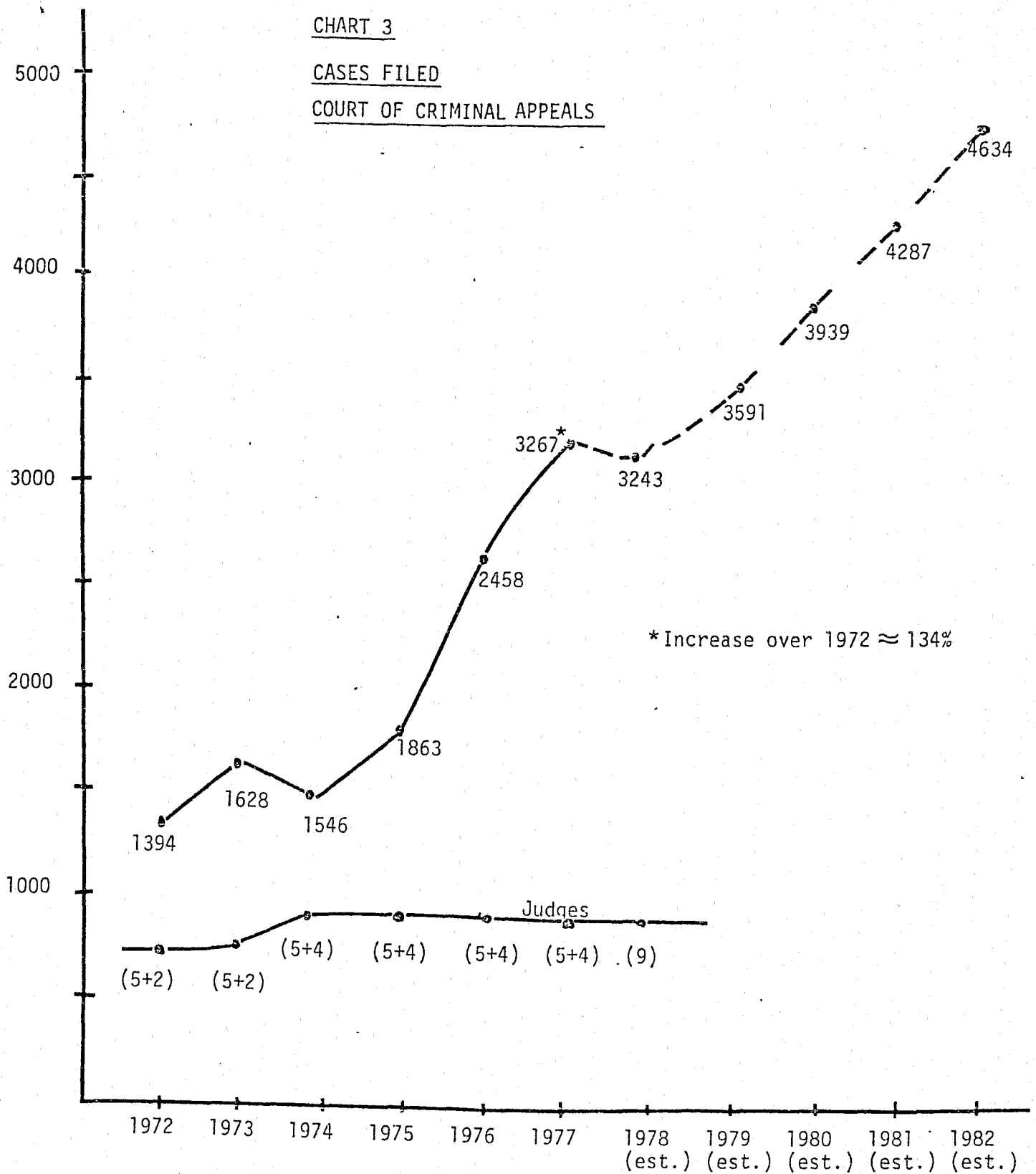
Source: Texas Judicial Council Annual Reports, 1972-1977

Projections made with the assistance of the Criminal Justice Division

CHART 3

CASES FILED

COURT OF CRIMINAL APPEALS



Correlation coefficient = .913

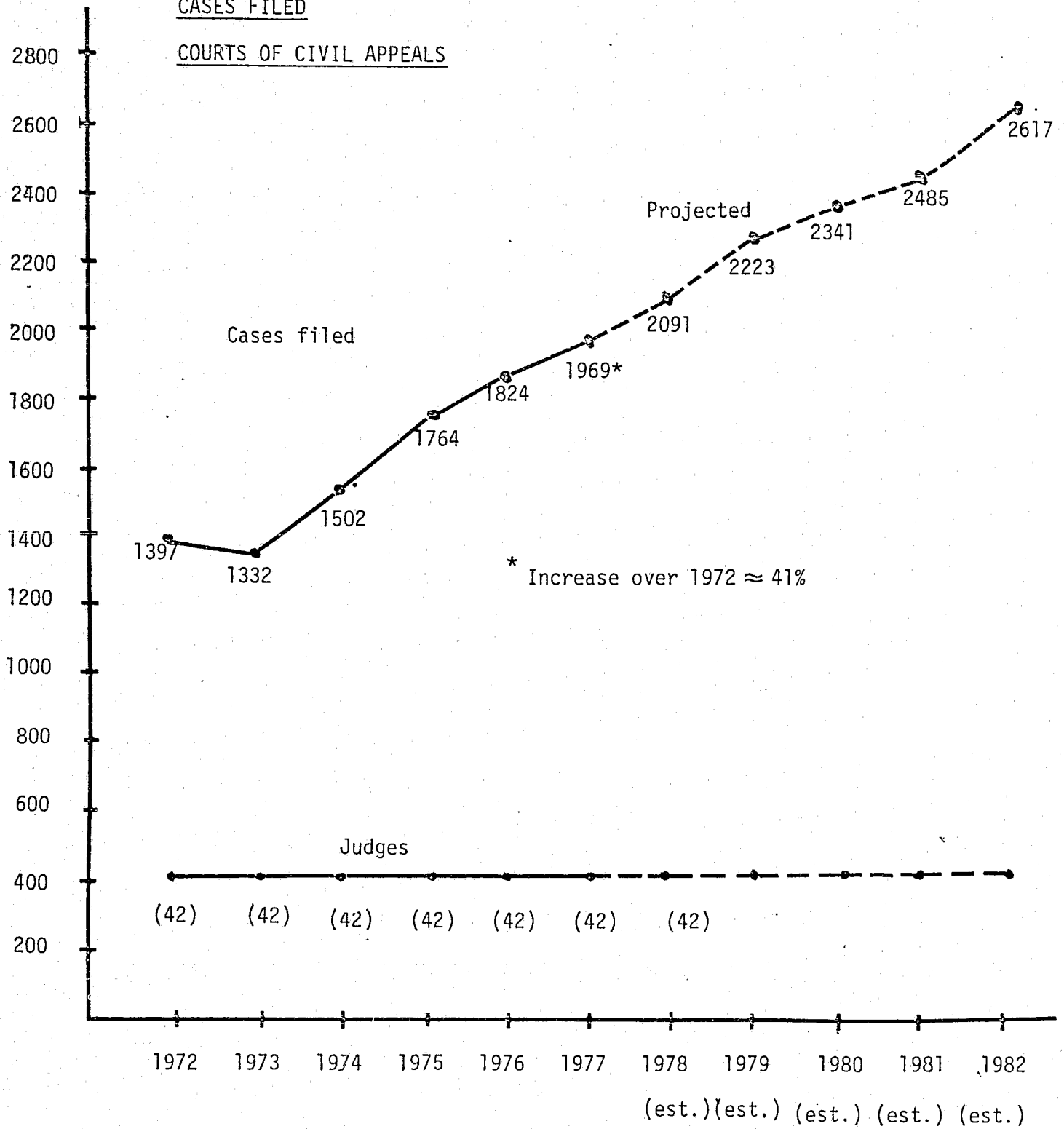
Source: Texas Judicial Council, Annual Reports 1972-1977

Projections made with the assistance of the Criminal Justice Division

CHART 4

CASES FILED

COURTS OF CIVIL APPEALS



Correlation coefficient = .957

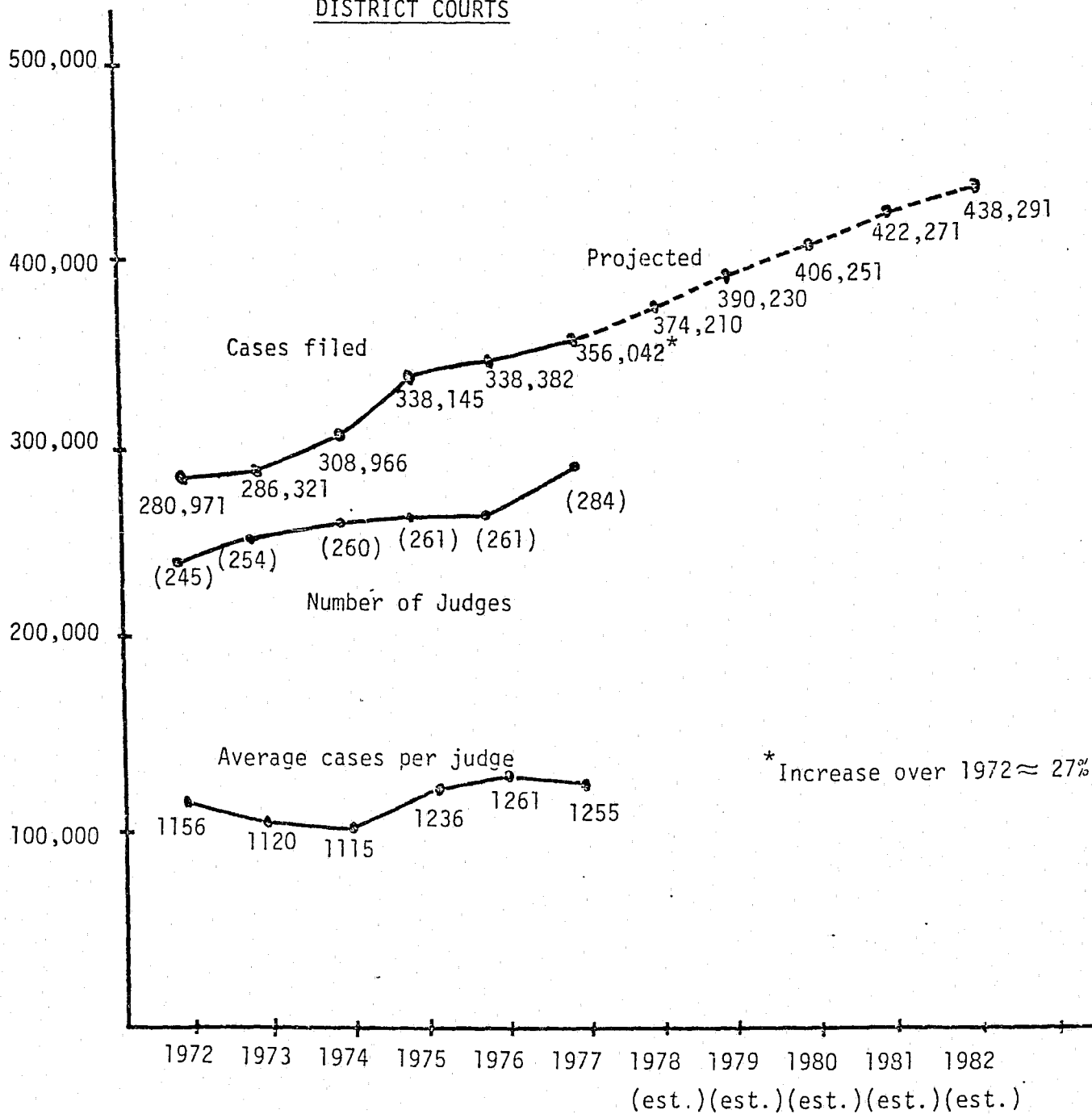
Source: Texas Judicial Council Annual Report 1972 - 1977

Projections made with the assistance of the Criminal Justice Division

# CHART 5

## CASES FILED

## DISTRICT COURTS



Correlation coefficient = .975

Source: Texas Judicial Council Annual Reports, 1972 - 1977

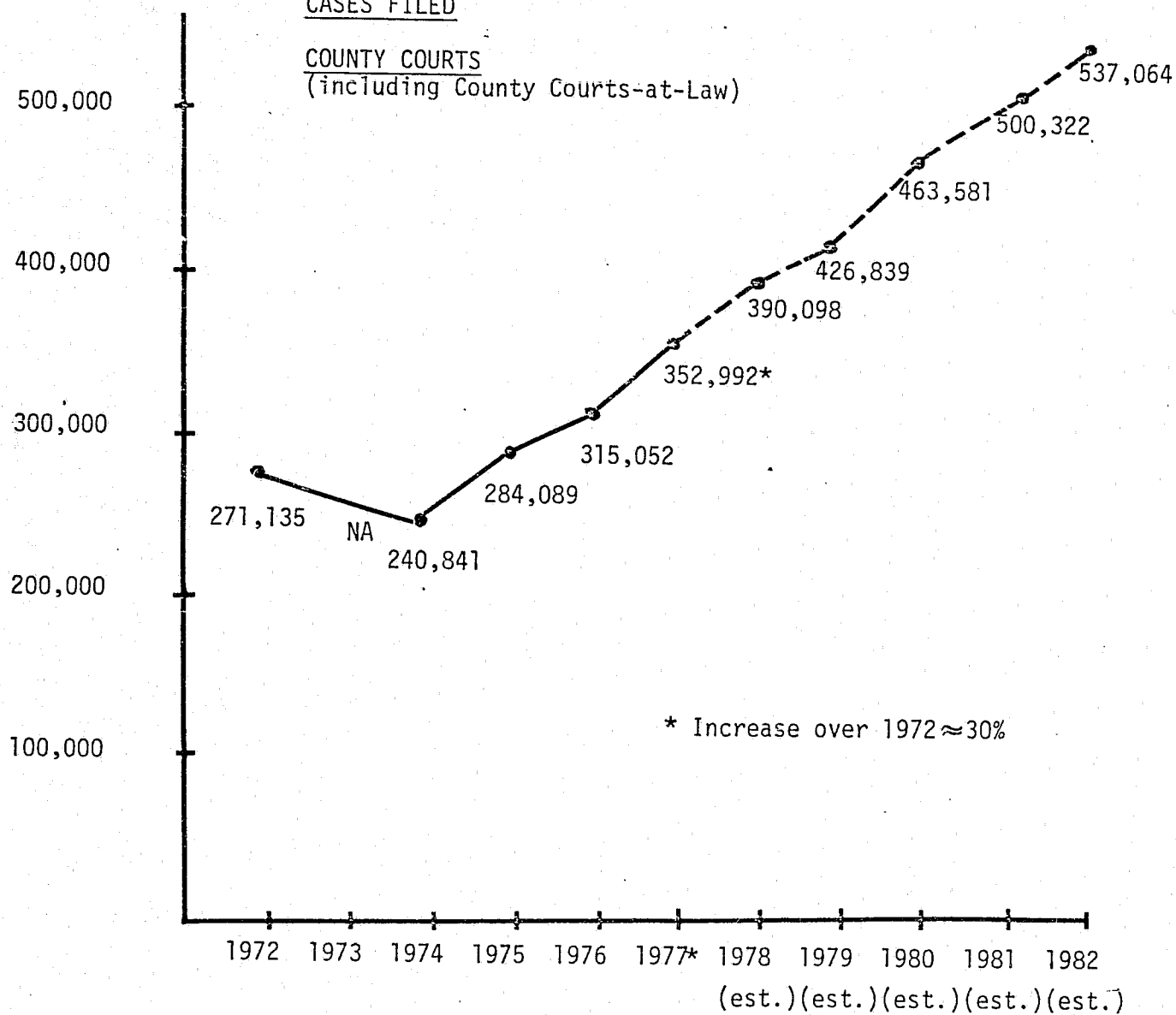
Projections made with the assistance of the Criminal Justice Division

CHART 6

CASES FILED

COUNTY COURTS

(including County Courts-at-Law)



Correlation coefficient = .998

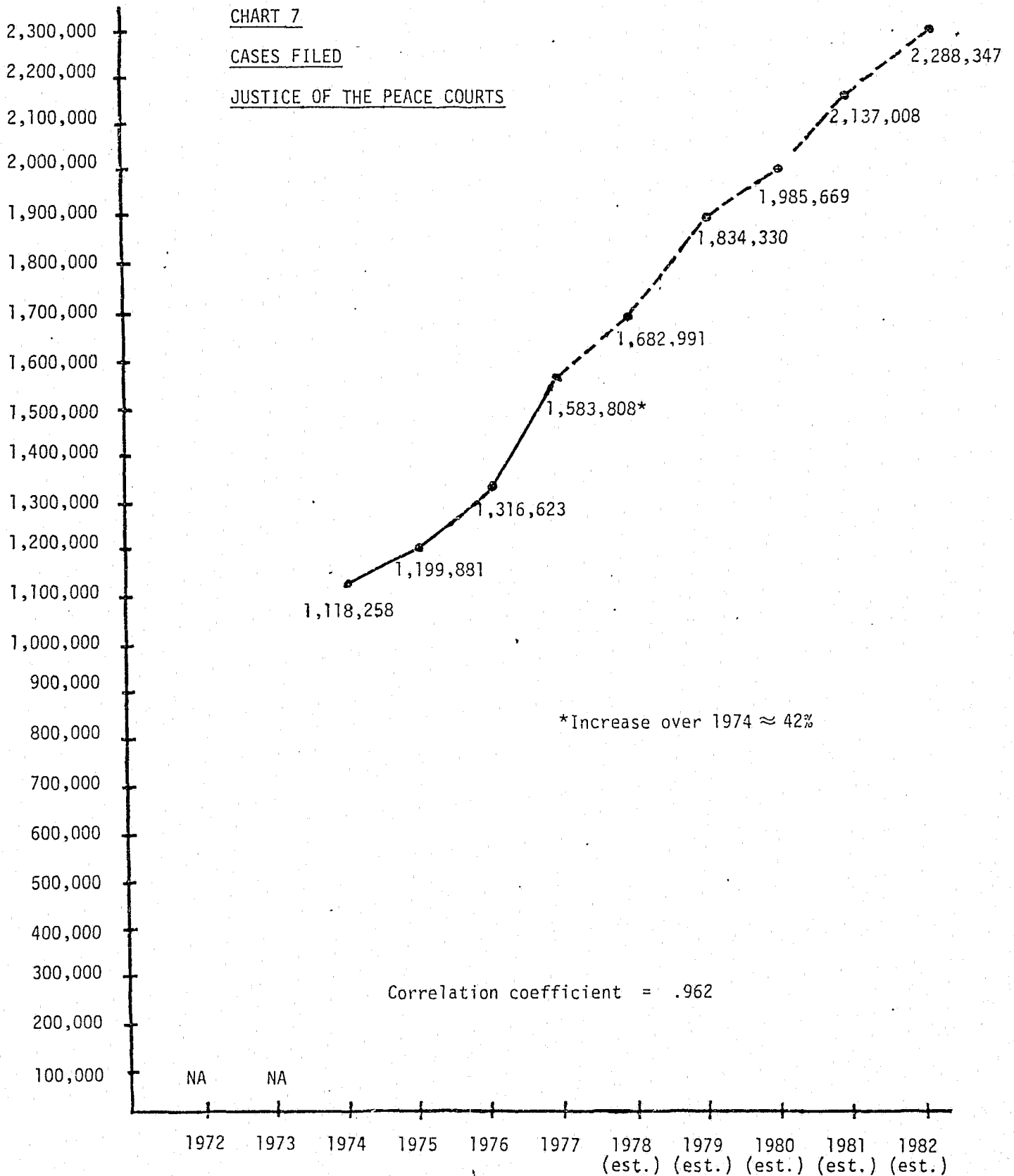
Source: Texas Judicial Council Annual Reports, 1974-1977

Projections made with the assistance of Criminal Justice Division

CHART 7

CASES FILED

JUSTICE OF THE PEACE COURTS

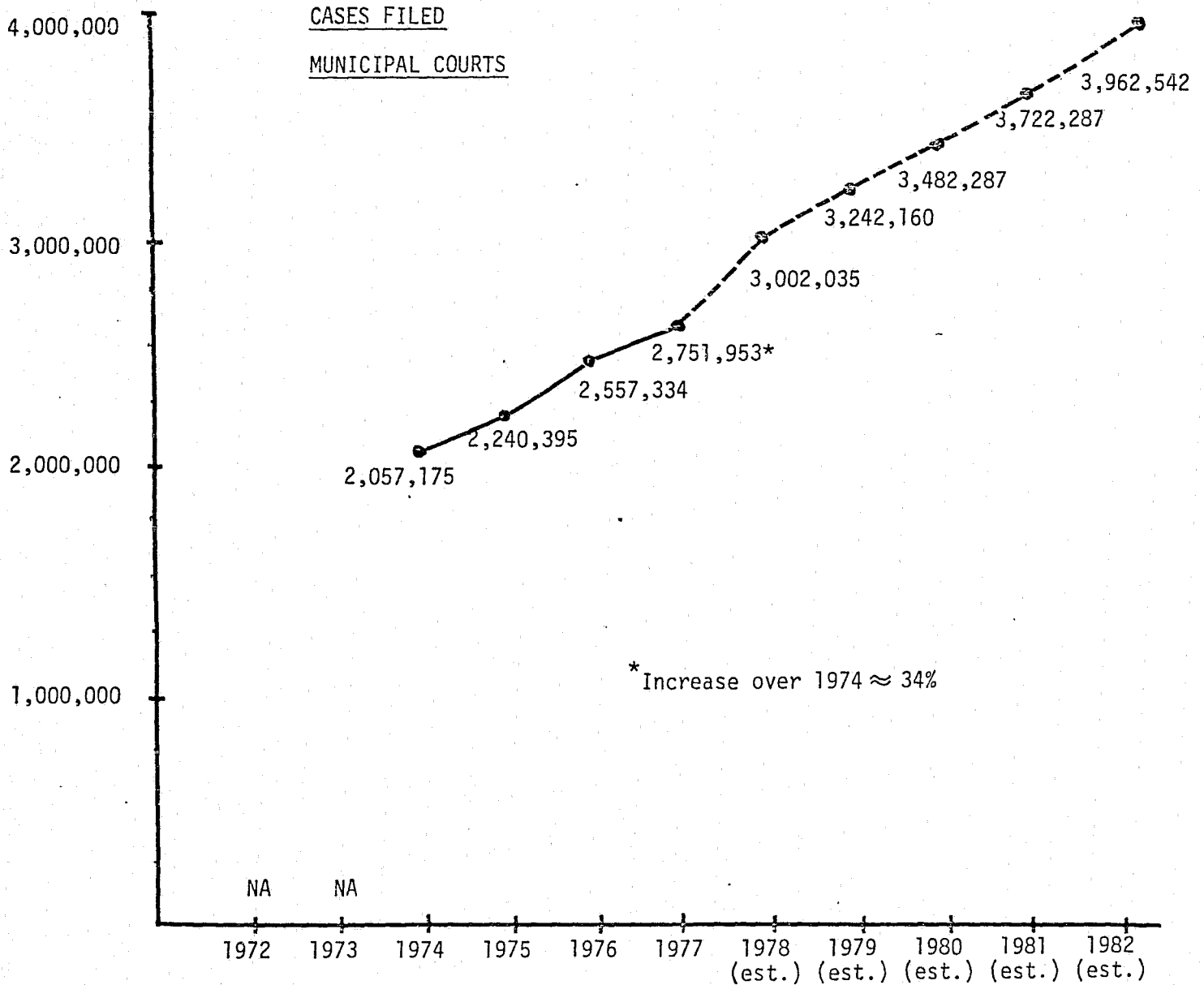


Source: Texas Judicial Council Annual Reports, 1974 - 1977  
Projections made with the assistance of the Criminal Justice Division

CHART 8

CASES FILED

MUNICIPAL COURTS



Correlation coefficient = .994

Source: Texas Judicial Council Annual Reports, 1972-1977

Projections made with the assistance of the Criminal Justice Division

## B. Recent Changes

In addition to regular growth, several factors can be expected to have a major impact on court caseloads in Texas, including the Speedy Trial Act (already in effect) and federal diversity cases (currently awaiting Congressional action).

### 1. Speedy Trial

The Sixty Fifth Session of the Texas Legislature passed S.B. 1043, relating to the speedy trial of criminal cases and popularly known as the Speedy Trial Act. This act, with certain exceptions contained in the act, requires that all criminal cases be ready for trial within a specific time limit, depending on the type of offense, as shown in Figure 4:

Figure 4

<u>Offense</u>	<u>Must Be Ready for Trial Within</u>
Felony cases	120 days
Misdemeanor cases punishable by at least 180 days imprisonment	90 days
Misdemeanor cases punishable by less than 180 days imprisonment	60 days
Misdemeanor cases punishable by fine only	30 days

The Governor established the Special Task Force on Speedy Trial Cases to help implement the act, which became effective July 1, 1978. It is probably still too soon to evaluate the effects of the act, but its purpose was to require the courts to dispose of a growing workload without further delay



to the individual case. Some judges expressed concern that the act would give priority to criminal dockets at the expense of civil cases, feeling the act would shift court resources from civil to criminal cases, with a corresponding delay in civil cases. This has been the result in a corresponding federal speedy trial act according to Texas federal judges<sup>6</sup>

For the Speedy Trial Act of Texas to be effective, it is obvious that there must be an improved record-keeping system. Such record keeping is necessary to measure the effects of the act and to assure compliance with it. Each court must determine its elapsed time between arrest and trial for each case so that it can determine what steps -- legal, administrative, and financial -- should be taken to insure compliance with the act. Once better information and more experience is available, it may be possible to assess more accurately the impact of this law on the courts.

## 2. Federal Diversity Cases

The most significant impact of caseloads expected to occur in the near future is a shift of cases from federal courts to the state court system through diversity of citizenship, i.e., suits by persons or corporations of one state against those of another state. While some diversity jurisdiction may be retained, at least those involving in-state plaintiffs will be left to the state courts.

The number of difficult and time consuming cases that would have to be absorbed into the state court system is important -- approximately 1300 cases for Texas from June 1976 to June 1977. The length and complexity

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<sup>6</sup>Task Force on Speedy Trial in Criminal Cases, Committee #2, "Report On Federal Experience in Texas in Speedy Trial Act of 1976," November 18, 1977.

of these major cases make this a potentially significant increase in workload for the state courts.

### C. Coping with New Demands

How are the Texas courts geared to handle this continued increase in demand for court services? The State Legislature has sought to keep pace with growing caseloads by creating new courts. In the last legislative session alone, the Legislature authorized the creation of 48 new district courts, 16 new county courts-at-law, and the addition of 13 new appellate judges (pending approval of a constitutional amendment). This brings the total number of judges in Texas to 69 appellate, 309 district, 254 county, and 101 county court-at-law judges -- among the highest totals in the country.<sup>7</sup> Yet even these increases do not enable the courts to keep pace with the growing caseloads. As Figure 5 shows, the average caseload per judge has risen over the past six years:

Figure 5

<u>Court</u>	<u>1972</u>	<u>1977</u>
Supreme Court	76	97
Court of Criminal Appeals	199	363
Courts of Civil Appeals	33	47
District Courts	1156	1255
County Courts	NA	NA
Justice of the Peace Courts	NA	NA
Municipal Courts	NA	NA

Source: Texas Judicial Council, Annual Reports 1972-1977

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<sup>7</sup> The Council of State Governments, Lexington, KY, "State Court Systems," revised 1978. Revision of Texas statistics from Office of Court Administration, January, 1979.

Comparisons between courts cannot be made since the time required to dispose of a case varies significantly between the type of case and the jurisdiction of the court. The average time to dispose of cases within each court, however, is assumed to remain fairly constant. From this chart, it can be seen that the average workload per judge for almost all courts has increased, despite the fact there are more judges in more jurisdictions. Substantial increases in judicial resources will be required if the courts' resources are to keep pace with the courts' workload.

This raises one of the more pressing questions about planning for the courts. Should the number of judges be increased as the caseload increases? A more fundamental question is what should be done to help courts keep pace with the caseload? Are resources the only answer? Are other options available? While there are no easy answers to these questions, most recommendations addressing them appear to be variations of one of five strategies:

1. Expand the size of the court system to meet the increase in caseload, e.g.,
  - create more courts
  - hire more judges
  - hire more staff to help the judges with their work
2. Divert cases to different courts or new forums
  - change the appellate structure to avoid bottlenecks
  - change the jurisdiction of trial courts
  - redistrict the trial courts
  - provide for alternative resolution of disputes (e.g., arbitration, neighborhood courts, family dispute centers)
  - change the laws to restrict the entry of cases to courts
3. Increase the efficiency of the court system
  - transfer judicial manpower resources administratively

4. Increase the efficiency of the operations of each court
  - provide more efficient docketing procedures
  - produce court transcripts more rapidly
  - reduce the time required to select juries
5. Insure proper ancillary court services
  - provide adequate juvenile probation officers
  - insure adequate standards for juvenile probation services

The Judicial Planning Committee of Texas, like those of most states, has made recommendations under each of these strategies, rather than employing a single option. The following chapters will identify more specific elements of this problem and suggest recommendations to deal with the central question of how to meet the growing demand for court services without a reduction in the standards of justice.

## CHAPTER TWO:

### EXPANDING COURT RESOURCES

A. Court Resources in Texas

B. The Need for State Appropriations

-- Planning for New Courts

-- Reducing the Need for New Courts

-- State Appropriation Requests

## EXPANDING COURT RESOURCES

One means of helping the judicial branch keep pace with the growing caseloads is to expand the size of the court system, i.e., give the judiciary more resources to do its work. More courts should be able to dispose of more cases. This chapter will describe the current resources available to the courts and make recommendations as to what resources the courts will need in the next two years to meet the projected caseloads.

### A. Court Resources in Texas

Court financing in Texas is a decentralized process in which all three levels of government share responsibility. A typical example of appropriations to the courts of Texas from each level of government can be seen in Figure 6:

Figure 6  
1976 Appropriations to Courts by Level of Government<sup>8</sup>

<u>Level of Government</u>	<u>Appropriations</u>	<u>Percent of Total Appropriations</u>
Federal	\$ 6,463,000	4
State	18,907,000	12
County	111,166,000	72
City Funds	<u>18,668,000</u>	<u>12</u>
TOTAL	\$ 155,204,000	100

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<sup>8</sup> Office of Court Administration, "Texas Judicial System Expenditures and Revenue for FY 1976."

Federal appropriations to the courts account for only four percent of all court funds and are made available through the Law Enforcement Assistance Agency (LEAA). The Judicial Planning Committee plans for, and budgets for, the use of these funds for court projects, in conjunction with the Criminal Justice Division, Office of the Governor. Federal funds are intended for use primarily as "seed money" to start new projects, as supplemental funds to existing projects under emergency conditions, and to implement experimental or innovative projects.

Court projects funded with LEAA funds in Texas usually fall into one of the following categories:<sup>9</sup>

1. Administrative personnel
  - court coordinators and administrators
2. Management improvement
  - computer-aided transcription
  - annex courts
  - management information systems
  - pre-trial release programs
  - jury management
3. Training
  - Texas Center for the Judiciary
  - Justice of the Peace Training Center
  - municipal judge training
4. Court administration
  - Court of Criminal Appeals
  - Judicial Council/Office of Court Administration

A summary of these projects is given in Chapter Five of this report.

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<sup>9</sup> Criminal Justice Division, Office of the Governor, November 1977.

State appropriations are generally used to support those courts or agencies with statewide jurisdiction. The state provides funding for:

1. The Supreme Court of Texas
2. The Court of Criminal Appeals
3. The Courts of Civil Appeals
4. The Commission on Judicial Conduct
5. The State Law Library
6. The Texas Judicial Council/Office of Court Administration
7. Salaries and expenses of district judges
8. Salaries and expenses of district attorneys

State appropriations for all court-related activities account for approximately 0.39 percent of the total state budget.<sup>10</sup> When compared with other state agencies with similar appropriations, the entire judiciary ranks with:

- San Antonio State Hospital and State School
- Committee on Aging
- Support Services Department, Department of Public Safety
- General Administration Division, Texas Education Agency
- Texas A & M Agricultural Extension Service
- Texas State Technical Institute
- Adult Probation Commission
- One-fourth of the appropriations allocated to the Department of Corrections<sup>11</sup>

County funds are used to fund all state courts and supplemental services not funded by the state or subsidized by the federal government. Accounting for 72 percent of court appropriations,<sup>12</sup> county expenditures for courts include salaries for county judges, county court-at-law judges, and

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<sup>10</sup> Supplement to House Journal, Sixty Fifth Regular Session, 1977, Text of Conference Committee Report, H.B. 510.

<sup>11</sup> Ibid.

<sup>12</sup> Office of Court Administration, "Texas Judicial System Expenditures and Revenue for FY 1976."



justices of the peace; provision of courtrooms, judges' chambers, and other facilities; operating expenses including jury expenses, equipment, law libraries, furniture, and utilities; and support staff such as court reporters, administrators, secretaries, bailiffs, juvenile referees, clerks, etc. The level of resources allocated for these essential expenditures varies from county to county, but statewide are estimated to comprise 29 percent of county budgets.<sup>13</sup>

Municipal courts are funded entirely by the municipality. This includes the salaries for judges, facilities, and the costs of operating the courts.<sup>14</sup>

Some general observations should be made about court financing in Texas. First, the judge is dependent on his or her county commissioner's court (of courts) for the daily operating needs of such court. Counties allocate approximately 29 percent of their budget to provide 72 percent of all funds that are spent on the courts. Second, the justice of the peace and municipal courts produce substantial revenues for the operations of counties and cities, as Figure 7 demonstrates:

Figure 7  
Revenue from Courts to Each Level of Government

State level	\$ 53,000
County level	56,231,000
City level	66,781,000

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<sup>13</sup> Office of Court Administration, 1976 Annual Report

<sup>14</sup> Office of Court Administration, "Texas Judicial System Expenditures and Revenue for FY 1976."

From a review of the actual appropriations to, and revenues from, Texas courts, it can be seen that the state courts must work closely with the Legislature, the Governor, and the county commissioners if the courts are to be efficiently and effectively financed. The Judicial Planning Committee supports a continued partnership between these parties but recommends that the state assume a larger portion of the costs of operating state courts. The specific items recommended for funding by the state are listed in the next section.

In general, however, the Judicial Planning Committee recommends that federal, state and local funds be used for the courts as follows:

Federal

1. To initiate new programs that will later be funded with state and local funds
2. To assist courts under emergency conditions
3. To promote innovative or experimental programs

State

1. To provide salaries and related costs for all court personnel

Local

1. To provide facilities for the operation of the courts

B. The Need for State Appropriations

The last session of the Legislature created 48 new district courts. It has been estimated that each court costs between \$200,000 and \$250,000 a year to operate.<sup>15</sup> This means that in the current biennium alone, the

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<sup>15</sup> Office of Court Administration, 1977 Annual Report.

costs of these new courts to the taxpayers will be between \$9,600,000 and \$12,000,000 in state and local funds. Texans also voted by constitutional amendment to expand the number of judges for the courts of civil appeals from 42 to 51, with provision to add three more judges at a later date. This would bring the total number of appellate judges to 72 in 1983.

Texas now has more appellate judges than any other state in the Union. With 309 district judges, Texas has more major trial court judges than any state except California (542), Illinois (650), and Ohio (313).<sup>16</sup> The continual growth in caseloads, coupled with the high costs of operating courts, has prompted the Judicial Planning Committee to question the feasibility of constantly creating courts as a means of meeting caseload demands. The committee recommends two alternatives with regard to resources:

1. New courts should be established selectively, according to specific criteria.
2. The need for new courts should be reduced through more efficient operation of the courts.

#### 1. Planning for New Courts

Because of the high cost of operating a court, planning for the creation of courts is needed. Courts should be established selectively according to specific criteria. Various criteria have been used. In Florida, a new court is created for every 50,000 increase in the population. In Texas, however, the caseloads of courts have grown at a much faster rate than the population, as described in Chapter One. Furthermore, Texas is such a large

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<sup>16</sup>

The Council of State Governments, Lexington, KY, "State Court Systems," revised 1978.

state that geographical access to the courts needs to be taken into consideration. The Judicial Planning Committee therefore recommends the following criteria for creating new courts:

1. Caseload
2. Geography
3. Population

For these criteria to be implemented, better information on court caseloads may be required. Staff support to the courts, assisted by modern computer technology, will enable the judicial branch to provide the Legislature with better information for use in determining the need for new courts.

## 2. Reducing the Need for New Courts

Even with close scrutiny of the use of resources, efforts must be made to reduce the need for new courts. One strategy for doing this is to make changes in the laws and court jurisdiction that will restrict or redistribute the cases in the court system, as will be discussed in Chapter Three. Another strategy for reducing the need for new courts is to provide staff support to the judges so that their time can be freed from administrative matters and devoted to judicial duties. In addition, administrative staff would be responsible for monitoring administrative procedures of the court and making recommendations for their more efficient operation. These ideas will be discussed more fully in Chapters Four (Court Administration) and Five (Court Management). The Judicial Planning Committee believes that the cost of improved administration and management of courts on a statewide

basis is substantially less than the cost of continually creating and operating new courts.

### 3. State Appropriation Requests

The following resource needs have therefore been suggested to help the courts alleviate the need for new courts through more efficient administration:

- a. The State of Texas should make available funds to each district judge for the purpose of hiring an administrative aide. The judge would determine the type of staff support most needed for his court (secretary, court coordinator, bailiff, etc.). The staff would free the time of the judge for judicial duties.
- b. The State of Texas should provide each presiding judge of an administrative judicial district with an administrative assistant. This aide would assist the judge as he or she assigns judges to other courts to help with their dockets. By transferring judicial resources as they are needed, it is possible to make more effective use of existing manpower resources, rather than adding new courts.
- c. The State of Texas should assume full funding for the Courts of Criminal Appeals. State funds currently support a staff to help screen cases for the Supreme Court. A similar section in the Court of Criminal Appeals, however, is funded through an L.E.A.A. grant. With constant reductions in grant funds and a revision in the L.E.A.A. law forthcoming, the Court of Criminal Appeals should not be dependent on grant funds for its daily operation. The Court of Criminal Appeals is currently dependent upon L.E.A.A. funds for approximately 40 percent of its operating expenses.
- d. The State of Texas should provide at least partial funding for the Office of Court Administration. This office is mandated by state law and should not be dependent on federal funds for the same reasons stated above. The Office of Court Administration is currently dependent upon L.E.A.A. funds for approximately 85 percent of its operating expenses.

### CHAPTER THREE:

#### CHANGING THE APPELLATE STRUCTURE

A. Criminal Appellate Structure

B. De Novo Appeals

## CHANGING THE APPELLATE STRUCTURE

Chapter One discussed many of the causes of court congestion, listing such factors as the development of new areas of law, social changes, and population growth. In some trial and appellate courts, however, congestion is due to the large volume of appeals from lower courts. This appears to be the case in at least two Texas courts -- the Court of Criminal Appeals and the county courts -- as Chart 9 reveals. This chapter will discuss these two problem areas and make recommendations to alleviate court congestion.

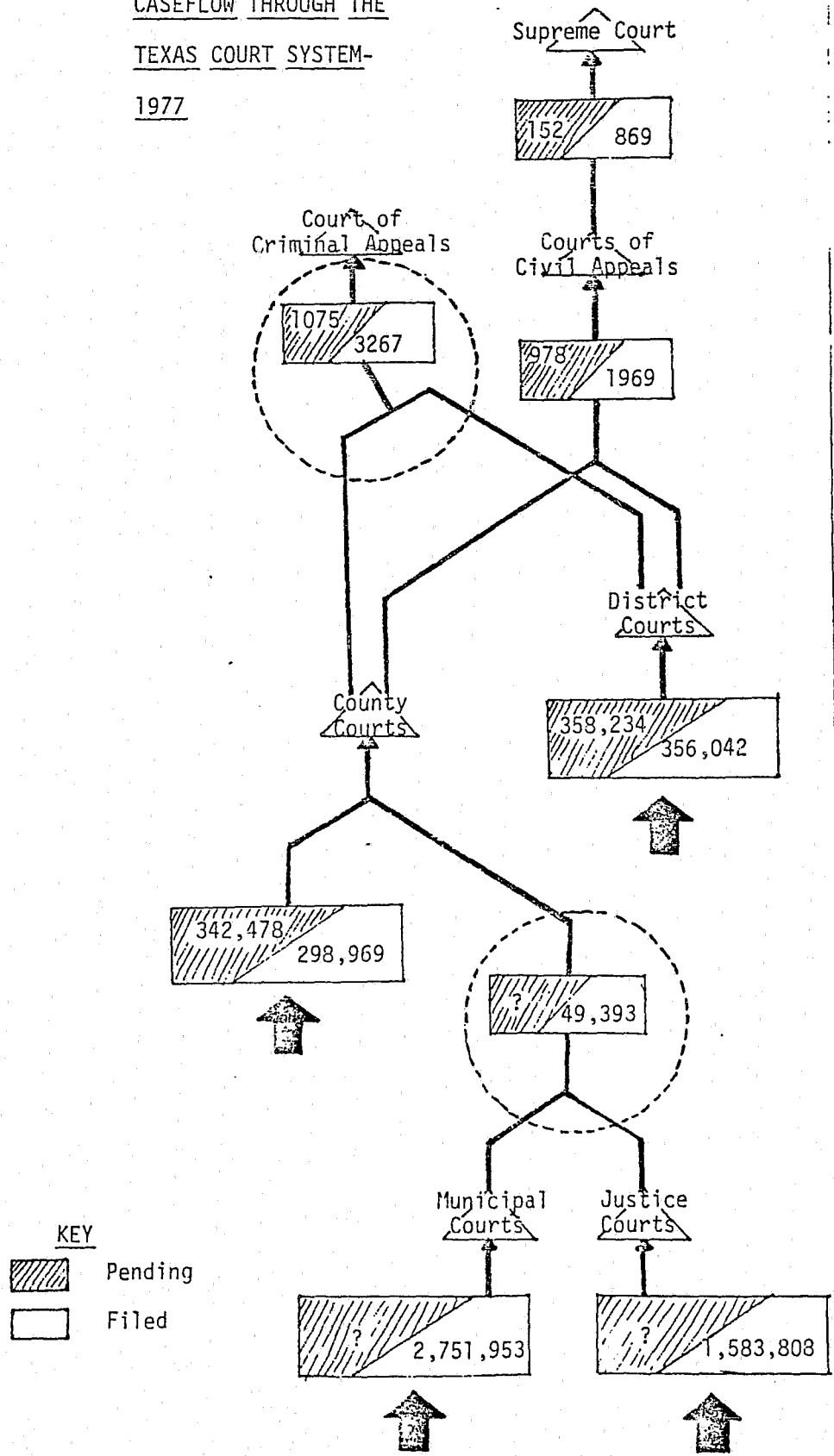
### A. Criminal Appellate Structure

The greatest bottleneck in the Texas court system is found in the Court of Criminal Appeals. Since 1972, the caseload of this court has increased by 134 percent. Unlike the civil court system, there is no appellate court located between the trial level and the Court of Criminal Appeals. All criminal convictions with a fine of over \$100 may be appealed directly to that court.<sup>17</sup> As a result, many appellate cases which would never be heard by a court of the highest jurisdiction in other states are heard here in Texas.

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<sup>17</sup> C.C.P., Art. 4.03

CHART 9  
CASEFLOW THROUGH THE  
TEXAS COURT SYSTEM-  
1977





The increase in the number of appeals to that court is so great that neither administrative staff nor additional judges will be able to keep pace with the docket. Consequently, a more fundamental change in the criminal appellate system is needed to stabilize and reduce the rate of growth of case filings in the Court of Criminal Appeals.

It is the recommendation of the Judicial Planning Committee that the courts of civil appeals be given jurisdiction to decide criminal cases. This will establish intermediate courts for criminal cases to reduce the volume of appeals to the Court of Criminal Appeals. The Court of Criminal Appeals should then be given the authority to grant or deny writs of certiorari taken from the courts of civil appeals. This proposal would not only reduce the caseload of the Court of Criminal Appeals, but would have the additional advantage of speeding the disposition of most criminal cases.

The courts of civil appeals, to be renamed the courts of appeals, should have final jurisdiction in the overwhelming number of cases, certainly including all misdemeanors. The Legislature, in its wisdom, could and should make the judgment of the courts of appeals final in certain other crimes as well. The Court of Criminal Appeals would be authorized to take jurisdiction in cases where there may be conflicting opinions of the courts of appeals. The Legislature might also provide for a direct appeal from the district courts in the case of death penalties or life imprisonment. These cases would probably reach the Court of Criminal Appeals in any event; and it might be a saving of time to take such cases directly to the Court of Criminal Appeals.

This recommendation is not expected to overburden the courts of civil appeals. Presently, six of these 14 courts are under-docketed. Three of

these courts have filings of six or fewer cases a month.<sup>18</sup> The recently passed constitutional amendment to Article V, Section 16, authorized the Legislature to add two or more judges to the courts of civil appeals in Houston and Dallas, and permits them to sit in sections.<sup>19</sup> This gives the Legislature the flexibility to add more judges to the courts of civil appeals if necessary.

The Judicial Planning Committee feels that this proposal is the best solution to a problem that requires immediate attention. Use of the current courts of civil appeals in this manner would result in several distinct advantages to the state:

1. Reduces congestion in the Court of Criminal Appeals, thereby speeding the disposition of criminal appeals.
2. Provides a more efficient use of the state's judicial resources in those areas where the courts of civil appeals are underdocketed.
3. Saves large expenditures of time and money which would be necessary in creating a completely separate criminal appellate system.
4. Promotes a more unified judiciary under the present constitution.

Implementation of the recommendation to give the courts of civil appeals criminal jurisdiction can be accomplished through amendment of Article V, Sections 3, 6, and 16 of the Texas Constitution.

#### B. De Novo Appeals

At the initial level of the judicial system in Texas, another criminal appellate problem has developed. Section 19 of Article V of the Texas

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<sup>18</sup> Texas Judicial Council/Office of Court Administration, 1977 Annual Report p. 136.

<sup>19</sup> V.A.C.S., Article 1812

Constitution allows appeals of all criminal convictions in justice court to be appealed to county court (statute allows for the same procedure in most municipal courts). Section 16 of Article V requires that these appeals be by trial de novo. As a result of this system, many counties have experienced a glut of appeals at the county court level, tying up the dockets in those courts and ultimately resulting in wholesale dismissals of cases in some areas.

At least part of the problem seems to be a result of increases in insurance premiums for persons convicted of traffic misdemeanors. After a trial in the justice or municipal court (or even a guilty plea), a defendant will, or may, appeal his conviction to county court for a second jury trial of the same issue. If the county docket is crowded, the charge against the defendant may be changed to one which will not affect the defendant's insurance premium, such as driving with faulty lights on a license plate. This situation has had the effect of creating two classes of traffic misdemeanants in Texas -- those who can afford an attorney to help them through this complex maze, and those who must pay their fines initially and take the consequences of conviction.

Perhaps as unfortunate as the anomalous system mentioned above is the effect of the appeals on the county court docket. Hundreds, even thousands, of unnecessary appeals result from this system. Dallas County, in an attempt to alleviate the problem, created county courts of appeal to handle nothing but appeals. This measure has not succeeded in stemming the number of appeals (12,969 last year from municipal courts alone).<sup>20</sup>

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<sup>20</sup> Texas Judicial Council/Office of Court Administration, Annual Report, 1978, p. 176.

One of the task forces of the Judicial Planning Committee has studied this problem extensively and made the proposal that appeals de novo should be eliminated from the Texas judicial system, at least with regard to traffic misdemeanors. Two recommendations were suggested by the task force. The first was to propose legislation establishing municipal courts of record. This would allow appeals of municipal cases to be taken "on the record" to county courts. This would have two beneficial effects:

1. It would cut down on the time of the appeals themselves as the time-consuming jury trials would be avoided.
2. It would cut down on the number of appeals. In cities where municipal courts of record have been established, the number of appeals has dropped dramatically. In Houston, for example, out of 519,244 traffic filings, only 46 were appealed.<sup>21</sup> Dallas, without municipal courts of record, had about half the filings of Houston, but almost 13,000 more appeals. Wichita Falls and Midland, cities which also have adopted municipal counts of record, have seen the number of appeals dropped to nine and one respectively as of 1977.

The second recommendation made by the Judicial Planning Committee calls for the adoption of a constitutional amendment to Article V, Section 16, which would abolish trials de novo in appeals from justice to county courts and replace them with appeals on the record. This would be supplemented by legislation providing appeals on the record in municipal cases as well. This way, offenses of the same status will be provided the same type of appellate procedure. It is felt that a constitutional amendment would bring about the beneficial reduction in appeals that municipal courts of record have provided in the cities where they have been instituted.

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<sup>21</sup> Texas Judicial Council/Office of Court Administration, Annual Report, 1977, p. 176.

In 1977, appeals made up about 16 percent of the dockets of the county courts.<sup>22</sup> In those areas where municipal courts of record have been established, appeals from those courts made up less than one percent of the county court docket. Extension of courts of record to all municipal and justice courts could go a long way in alleviating the docket pressures faced by our county judges today.

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<sup>22</sup> Texas Judicial Council/Office of Court Administration, Annual Report, 1977, p. 155.

## CHAPTER FOUR:

### A PLAN FOR COURT ADMINISTRATION

- A. Statements of Policy
- B. Presiding Judges of the  
Administrative Judicial Districts
- C. Council of Presiding Judges
- D. Trial Courts
- E. Office of Court Administration

## A PLAN FOR COURT ADMINISTRATION

One of the most widely discussed measures for helping the courts to keep pace with growing caseloads is better administration of the business of the courts. With caseloads outstripping the availability of resources, more efficient means of operating the courts are being sought. The Judicial Planning Committee feels that administration is one of the best means of addressing the judiciary's needs of any strategy available. Improved administration has several advantages:

1. Through administration, judges can offer the use of their services where they are most needed. This reduces the need for new judges.
2. With the information made available through administration, better planning for resources is possible. New courts can be created where they will do the most good for the state.
3. Administrative staff can be used to allow the judges to spend full time on judicial duties, instead of administrative tasks. This is a more cost-effective use of manpower since judicial time is more expensive than administrative staff time.
4. Better support of courts is possible through a coordinated administrative effort. Judges have access to training, technical assistance, legislative liaison, and management information that would not be otherwise available.

The Judicial Planning Committee has therefore developed a short-range plan for court administration in Texas. As a first step in planning for this area, the Judicial Planning Committee has focused on the implementation of Articles 200a and 2328b. These recommendations suggest both policy changes and legislative changes and require the concerted action and cooperation of the Governor, the Legislature and the judiciary.

A. Statements of Policy

1. The Chief Justice should be the head of the administrative judicial system in Texas. Both Articles 200a and 2328b give the Chief Justice the central role in administration for the courts. This role should be continued and strengthened.

2. Court administration in Texas should continue to be regionalized, i.e., supervised by the Chief Justice through the presiding judges of the administrative judicial districts. Due to the vastness of the state, the Supreme Court's duty to promulgate rules under 2328b can best be handled by a regional approach consistent with the provision of the basic statewide rules promulgated by the Supreme Court. The Office of Court Administration should perform certain staff duties (outlined below), and a regional structure, supervised by the Chief Justice through the presiding judges, should be perpetuated.



B. Presiding Judges of the Administrative Judicial Districts

The role of the presiding judges should be strengthened. The following recommendations would serve to meet this end:

1. The Chief Justice should appoint the presiding judges of the administrative judicial districts, subject to confirmation by the senate. The terms of office for the presiding judges should be four years. It is felt that greater responsiveness and coordination would exist if the presiding judges were appointed by the Chief Justice.

2. The state should provide the compensation for the presiding judges. This should include salaries and travel. Because the administrative judicial districts include so many counties, it is difficult to allocate funding responsibilities among the jurisdictions. State funding of the administrative judicial district activities alleviates this problem. State funding of travel for the presiding judge will enable him or her to meet with other presiding judges, the administrative council, and the Chief Justice more frequently, and to meet with the district judges as required.

The state should provide the administrative support to the presiding judge required to help him or her fulfill the responsibilities under Article 200a. This should include a full-time administrative assistant and all of the necessary office expenses. A full-time assistant is needed to perform the following duties:

- 1) monitor the availability of judges for assignment;
- 2) find and communicate with judges who are needed for assignments;
- 3) keep the presiding judges informed of the presence or absence of his or her judges, and the reasons for the assignment necessary to the courts in his or her jurisdiction;
- 4) prepare statistical reports and studies on caseloads and backlogs;
- 5) assist the presiding judge with correspondence;
- 6) assist with the preparation for the council of judges meetings;
- 7) assist in the development of better management information reports.

#### C. Administrative Council

1. The presiding judges should act, with the Chief Justice as chairman, as an administrative council. The council should review the status of dockets in Texas courts and make recommendations to the Supreme Court on the formulation of statewide administrative rules and procedures.

2. The Office of Court Administration should serve as the secretariat to the administrative council. This office should provide the statistical information relative to the status of dockets of the state and each administrative judicial district, and assist with the preparation of statewide administrative rules and procedures. Local administrative rules and procedures should not be inconsistent with these statewide rules.<sup>23</sup> Interpretation of 200a and 2328b in relation to each other makes it possible to assign the Office of Court Administration to act as the staff of the administrative council.

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<sup>23</sup> See also Rule 817, Texas Rules of Civil Procedure.

#### D. Trial Courts

1. The Office of Court Administration should coordinate its efforts through the presiding judges of the administrative judicial districts as much as possible when dealing with the trial courts, rather than working independently with individual trial courts.

2. Each district judge should be provided state funds to hire a staff aide. The district judge should determine the type of support needed in his or her court (secretary, court coordinator or administrative assistant). Many judges, especially those with multi-county districts, are severely hampered by lack of staff support. It is not uncommon for district judges with busy dockets to have the added duties of letter-typing and answering the telephone. To expedite the administration of justice in Texas, funds should be provided to relieve the judges of these duties.

#### E. Office of Court Administration

The Office of Court Administration should perform the following duties, as mandated in Article 2328b:

- 1) provide statistical and other information to the Chief Justice and presiding judges of the administrative districts on the status of court dockets;
- 2) assist the Supreme Court and the administrative council in the preparation of statewide administrative rules and procedures;
- 3) coordinate with the Chief Justice and presiding judges of the administrative judicial districts to provide technical assistance to trial courts;

- 4) provide research and development for the state court system;
- 5) examine the dockets, forms, procedures, etc., of the district courts (as provided in Article 2328b) at the request of the presiding judge of the administrative judicial district;
- 6) prepare budget estimates of state appropriations under the direction of the Supreme Court;
- 7) assist the Supreme Court with other administrative duties.

## CHAPTER FIVE:

### IMPROVING COURT MANAGEMENT

- A. Caseflow Management
- B. Jury Management
- C. Court Transcripts
- D. Pre-Trial Investigation
- E. Annex Courts
- F. Training
- G. Special Assistance

## IMPROVING COURT MANAGEMENT

In the search for means of keeping pace with growing caseloads, greater emphasis is being placed on improving the internal operating procedures or management of the courts. This section will present a summary of the major techniques now being used in Texas to dispose of cases, especially criminal cases, more efficiently. Almost all of these efforts are presently funded or have previously been funded through federal Criminal Justice Division grants. Seven major types of projects have been employed:

- 1) caseflow management;
- 2) jury management;
- 3) court transcripts;
- 4) pre-trial investigation;
- 5) annex courts;
- 6) training; and
- 7) special assistance.

### A. Caseflow Management

One of the main duties of court coordinators and administrators is to help the judge manage his or her docket. The coordinator usually serves as liaison for the judge to the clerk's office, district or county attorney's office, attorneys, sheriff's office or police department, or other

court-related offices to make sure all documents are available and all participants are ready to proceed with the case. The coordinator may assist the judge in scheduling cases for hearing, coordinate witness schedules, assist with juror coordination, and assist the judge with his or her correspondence. Those who are more experienced in their field usually document and recommend improvements in caseflow procedures. They may suggest how documents should be routed to various offices, recommend time limits, and monitor the impact of these procedures on the time required to dispose of cases. The coordinators also maintain statistics on the caseload, times from arrest or filing to disposition, and other information of use to the judge in managing his or her court. The purpose of caseload management is to insure that all cases are individually monitored and all defendants tried promptly, especially when they are held in jail as they await trial, and that all of these administrative matters are handled without interruption of the judge's judicial duties.

#### B. Jury Management

Jury selection: Serving on a jury is the only contact that most citizens have with the courts. It is important that their time be used efficiently and that they be properly instructed in their duties. There is a need for sharing information about jury management options, so that courts can better select a system to best fit their particular needs. Several

Texas courts have developed innovative jury selection systems. Some courts have begun working with the clerks' offices to define the number of jurors needed in a given week to meet the scheduled caseload. This avoids calling more jurors than are needed. Some courts are developing brochures to help instruct jurors; others have expressed an interest in developing an orientation film. Such efforts reduce the frustration of citizens that may be caused by lack of knowledge of their duties and the court's procedures.

Voir dire: A topic of concern to many Texas citizens and judges is the excessive length of time often required to select a jury for a trial. While it is recognized that attorneys should have the right to interrogate prospective jurors, many judges feel that the jury selection process can and should be shortened. It has been recommended that greater efforts be made to improve the voir dire process, including the development of new jury selection procedures and training of judges in expediting voir dire procedures.

#### C. Court Transcripts

The process of obtaining a transcript of court proceedings is often one of the more time-consuming parts of the appellate court process. Records may have hundreds or thousands of pages, and the expense and time required to produce them using traditional methods is extremely high. More advanced technology is now available which can, hopefully, save both time and money.



Computer-assisted transcription is available in Dallas and San Antonio and will be available shortly in Houston. A pilot project to tie rural areas into the urban computer transcription equipment is scheduled for implementation in Del Rio. This equipment transcribes the court reporter's symbols into words and displays the text on a computer terminal for easy editing by the reporter. Once edited, the computer can print the transcript in one-sixth the time required by traditional methods.

A Corpus Christi court will begin a pilot project to test the efficiency of tape-recording equipment as a means of speeding court transcripts. Statistics will be kept to determine whether or not such equipment expedites the production of court transcripts.

#### D. Pre-Trial Investigation

Another project being tested in several Texas cities is the establishment of a staff to investigate the characteristics of defendants in criminal cases to determine whether they can be released on personal recognizance while awaiting trial. By interviewing defendants and investigating their backgrounds, the court can be aided in establishing bond, unnecessary detention of the defendant can be avoided, and overcrowding of jails can be alleviated. The information collected by these projects is useful to the judge in sentencing as well.

Some of the pre-trial investigation units are operated in conjunction with night magistrate courts. Provision of night magistrates and

pre-trial release programs enables the courts to transact court business as the need arises. This eliminates the need to hold defendants until regular court working hours, an especially important factor on weekends and holidays.

#### E. Annex Courts

One of the most innovative projects developed in Texas courts is the temporary or annex court. This court is presided over by a visiting or retired judge and has its own staff of prosecutors, clerks, bailiffs and reporters. The court usually does not have a docket of its own, but is available to try any case that cannot be heard in a regular court. It affords the accused a speedy hearing, and it may reduce dilatory tactics on the parts of the defendants. It especially aids jurisdictions in disposing of cases within the time limits established in the Speedy Trial Act. Annex courts are currently operating in Houston, Dallas and San Antonio.

The use of these annex courts has greatly reduced the jail populations in the areas where they have been used. The federal courts are presently hearing suits dealing with overcrowding of jails. The annex courts, in Houston for example, by giving persons a speedy hearing in trial, initially reduced the jail population by approximately 25 percent in two months and has since kept the jail population from expanding.<sup>24</sup> These annex courts were begun with federal funds made available through the Criminal Justice Division and should be encouraged.

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<sup>24</sup> Honorable Max Rogers, Presiding Judge of the Second Administrative Judicial District.

#### F. Training

Training for judges and court personnel is available through a variety of agencies and associations. Orientation and in-service training for appellate, district, county and municipal judges is available through the Texas Center for the Judiciary, Jack Dillard, Executive Director (512/475-7087). Training for justices of the peace is available through the Justice of the Peace Training Center, Ron Champion, Executive Director (512/245-2349). Training for court personnel is also available through the Texas Center for the Judiciary. Municipal judges may also obtain information about training through the Texas Judicial Council, C. Raymond Judice, Executive Director (512/475-2421). All of these programs seek to make the courts more effective and efficient through better skilled and trained manpower resources. They are funded with L.E.A.A. funds through the Criminal Justice Division.

#### G. Special Assistance

Should courts need special assistance in any area of their operations, a variety of resources are available:

The Office of Court Administration  
Texas Law Center  
Austin 78701

Texas Center for the Judiciary  
Texas Law Center  
Austin 78701

Texas Justice of the Peace and  
Constables Association  
Southwest Texas State University  
San Marcos 78666

Texas Association for Court  
Administration  
1801 Lavaca  
Austin 78701

Assistance in contacting the appropriate source may be obtained by  
contacting:

Dave West  
Judicial Planning Committee  
P.O. Box 13071  
Capitol Station  
Austin TX 78711  
512/475-1545

or

Larry Craddock  
Criminal Justice Division  
Office of the Governor  
411 W. 13th Street  
Austin TX 78701  
512/475-6026

CHAPTER SIX:

JUVENILE PROBATION

- A. Provisions of the Amended Adult Probation Commission Bill
- B. Provisions of the Juvenile Board Act

## JUVENILE PROBATION

When the Juvenile Task Force of the Judicial Planning Committee began discussions on ways to improve the juvenile justice system in Texas, it was quickly discovered that initially its work should focus on probation. Juvenile probation in Texas is a county function, and several counties have done an admirable job in providing services. It is fair to say, however, that many counties have not done as much in this area as is needed. Thirty-nine counties have no juvenile probation services at all. Many counties may eventually lose what services they do have since an important source of funding was recently cut off. Prior to September of 1978, money from adult probation fees was used to fund juvenile as well as adult services in some counties. It has been determined, under the new adult probation act, that this money must be used solely for adult services. If those areas which have relied on the adult fees do not find ways to finance their programs, up to 25 percent of all Texas counties will have no juvenile probation services.

Denial of juvenile probation services could well result in increased commitments to the Texas Youth Council. For some children, this could be a most unfortunate alternative. Many children are simply not in need of institutional services and could come out much the worse for the experience. Beyond this, institutions are expensive. It can cost up to \$12,000 per

child for a one-year commitment at a Youth Council facility.<sup>25</sup> The same child can receive probation services in a much less restrictive environment for a fraction of the cost. The juvenile judges of this state should be able to provide the type disposition deemed most appropriate in any given case. They should not be put to the choice of committing an offender or turning him loose when neither alternative is in the best interest of the child or the community.

While lack of juvenile services was the main concern of the task force, the quality of established services was also questioned. There are no statewide educational requirements, training standards, or codes of conduct for juvenile officers. As a consequence, the quality of services varies greatly from county to county. The task force felt that something should be done to promote uniformity in this important area.

In order to assure juvenile probation services for each county, and to provide greater uniformity of quality in those services, the Judicial Planning Committee believes that a statewide system for juvenile probation services should be established. The Juvenile Task Force of the committee investigated three possible methods of administering such a system. They were:

1. Set up an independent Juvenile Probation Commission.
2. Administer the funding through the Texas Youth Council.
3. Amend the Adult Probation Commission Act to provide for both adult and juvenile probation officers.

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<sup>25</sup> John Albach, Executive Director of the National Council on Crime and Delinquency, "Juvenile Justice: A Problem for Parents, Teachers and Communities," PTA Forum, June 1977.

After much discussion and deliberation, the task force decided that the Adult Probation Commission option was the best option. Placing juvenile probation under the Adult Probation Commission provides the following advantages over the other possible choices:

1. It reduces administrative costs.
2. It is more politically expedient than creating a new agency.
3. The Adult Probation Commission has not suffered from the same image problems that the Youth Council has had in the past.

With the input of many juvenile judges and probation officers, the staff of the Judicial Planning Committee and the Texas Legislative Council drafted two bills. The first bill amends the Adult Probation Commission statute to include jurisdiction for juvenile probation. The second bill requires all counties to establish juvenile boards or to join with other counties in establishing a juvenile board, if they do not already have one. These boards will be used as a conduit for the distribution of funds to the probation offices. The boards will enable the counties to maintain local autonomy for juvenile probation offices. The two acts are described below:

A. Provisions of the Amended Adult Probation Commission Bill

There are few substantive changes in this act:

1. Changes the name of the commission to the Texas Probation Commission.
2. Membership:
  - a. Changes membership from six judges and three citizens to eight judges and four citizens.
  - b. Requires that four of the judges shall, at all times, be presiding judges over courts designated by at least one county in their district as a juvenile court.



### 3. Staff

- a. The commission shall employ an executive director as provided under the present act.
- b. The executive director, with the approval of the commission, appoints a director of juvenile and a director of adult probation.
- c. The commission may delegate authority to the executive director to select employees of the commission.

### 4. Funding

- a. The commission shall develop funding formulas that will recognize the differences in the nature of services to adults and juveniles.
- b. Funding for juvenile services shall be based on juvenile population
- c. Payment of state aid is conditioned on compliance with standards set by the commission.
- d. The juvenile boards will be responsible for providing data to the commission.

### B. Provisions of the Juvenile Board Act

This is a new bill which provides the conduit by which the state funds can be distributed:

- 1. Establishes a juvenile board in each county in Texas which does not already have one under a special act.
  - a. A county can tailor a juvenile board to its own liking with a later special act.
  - b. Authorizes juvenile boards in neighboring counties to work together.

2. Make-Up of Juvenile Board

- a. County judge
- b. Judge of each statutory court in the county with jurisdiction of matters under Title 3 of the Family Code

3. Duties of Juvenile Board

- a. Employ personnel necessary to conduct probation services to youth within the juvenile justice system.
- b. Designate courts as juvenile courts and appoint referees.
- c. Inspect and certify detention facilities.
- d. Recommend improvements in the facilities of the juvenile court.
- e. Operate or supervise juvenile services at the county level, including the making of recommendations as to the need for and purchase of services.

4. Standards for Probation Officers

- a. Be a probation officer on the effective date of the act; or
- b. Have a bachelor's degree and
  - i. One year of graduate study in a related field; or
  - ii. One year of experience in a related field
- c. A probation officer cannot concurrently serve in law enforcement.
- d. A juvenile probation officer cannot be required to serve simultaneously as an adult probation officer.

5. Compensation and Benefits for Probation Officers

- a. Personnel of the juvenile boards shall be employees of the boards and not state employees.
- b. The pay scale of the probation officer shall be set by the juvenile boards and not by the counties.

- c. The compensation of the probation officers shall be paid by the state into a special county fund. The fund shall be administered by the financial officer of the juvenile board.
- d. The juvenile board shall contract with the county, or with the most populous county if two or more juvenile boards function together, for staff to participate in the county's group insurance program, retirement plan, and personnel policies.
- e. Juvenile probation officers shall be furnished transportation or be entitled to an automobile allowance.

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