
**HOUSE COMMITTEE ON REDISTRICTING
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2004**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
79TH TEXAS LEGISLATURE**

**JOE CRABB
CHAIRMAN**

**COMMITTEE CLERK
SUZANNA CHAPMAN**



House Committee
on Redistricting

December 3, 2004

Joe Crabb
Chairman

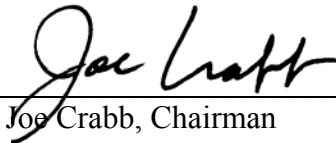
P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

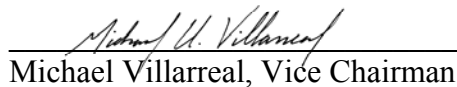
Dear Mr. Speaker and Fellow Members:

The Committee on Redistricting of the Seventy-Eighth Legislature hereby submits its interim report including recommendations for consideration by the Seventy-Ninth Legislature.

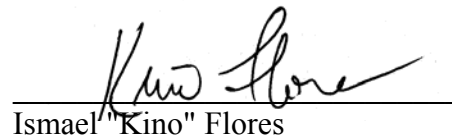
Respectfully submitted,



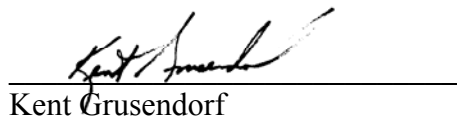
Joe Crabb, Chairman



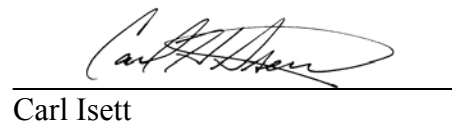
Michael Villarreal, Vice Chairman



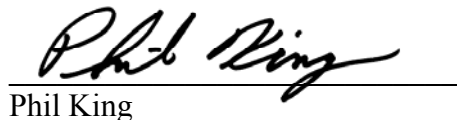
Ismael "Kino" Flores



Kent Grusendorf



Carl Isett



Phil King



Mike Krusee

Michael Villarreal
Vice-Chairman

Members: Ismael "Kino" Flores, Kent Grusendorf, Carl Isett, Phil King, Mike Krusee, Vilma Luna, Kenny Marchant, Ruth Jones McClendon, Geanie Morrison, Jim Pitts, Richard Raymond, Robert Talton

Vilma Luna

Vilma Luna

Kenny Marchant

Kenny Marchant

Ruth Jones McClendon

Ruth Jones McClendon

Geanie M. Morrison

Geanie Morrison

Jim Pitts

Jim Pitts

Richard Raymond

Richard Raymond

Robert E. Talton

Robert Talton

TABLE OF CONTENTS

INTRODUCTION	1
INTERIM STUDY CHARGES	2
FIRST CHARGE	3
BACKGROUND	4
THE 78TH LEGISLATURE	5
SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS	5
ISSUES ADDRESSED IN TESTIMONY	6
CONCURRENT (OVERLAPPING) JURISDICTION	6
MANDATORY TRANSFERS OF CASES	7
FUNDING FOR THE JUDICIARY	7
JUDICIAL COMPENSATION	8
COTERMINOUS DISTRICTS	8
COMPREHENSIVE, STATE-WIDE REDISTRICTING	9
PROPOSALS OF THE COUNCIL OF CHIEF JUSTICES	9
COMMITTEE RECOMMENDATIONS	10
SECOND CHARGE	12
BACKGROUND	13
SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS	14
ISSUES ADDRESSED IN TESTIMONY	14
OVERLAP OF ADMINISTRATIVE JUDICIAL REGIONS IN DISTRICT COURTS	14
THE VISITING JUDGE PROGRAM	15
COMMITTEE RECOMMENDATIONS	15
THIRD CHARGE	16
BACKGROUND	17
SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS	17
ISSUES ADDRESSED IN TESTIMONY	17
CONSOLIDATION OF OFFICES	18
OVERLAPPING DISTRICTS OF DISTRICT ATTORNEYS	18
CLERKS OF COUNTY COURTS	18
COMMITTEE FINDINGS	18
APPENDIX A	20
APPENDIX B	22
APPENDIX C	27
APPENDIX D	30
APPENDIX E	32
APPENDIX F	34
ENDNOTES	40

INTRODUCTION

At the beginning of the 78th Legislature, The Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed fifteen members to the House Committee on Redistricting. Pursuant to House Rule 3, Section 29, the Committee has jurisdiction over all matters pertaining to:

- (1) legislative districts, both house and senate, and any changes or amendments;
- (2) congressional districts, their creation, and any changes or amendments;
- (3) establishing districts for the election of judicial officers or of governing bodies or representatives of political subdivisions or state agencies as required by law; and
- (4) preparations for the redistricting process.

The Committee membership includes: Chairman Joe Crabb, Vice-Chairman Michael Villarreal, Ismael "Kino" Flores, Kent Grusendorf, Carl Isett, Phil King, Mike Krusee, Vilma Luna, Kenny Marchant, Ruth Jones McClendon, Geanie Morrison, Jim Pitts, Richard Raymond, and Robert Talton. Representative Ron Wilson, also a member of the Committee, retired from the House of Representatives prior to the submission of this report.

During the interim, Speaker Craddick issued the following charges to the Committee:

- (1) Develop a plan to redistrict the Court of Appeals districts.
- (2) Consider changes to the structure and nomenclature of the various levels of courts below the Court of Appeals level with specific attention to how they can be smoothly integrated into the new Court of Appeals districts.
- (3) Consider modifications to the districts of district and county attorneys.

The Committee held three public hearings in Austin to take invited and public testimony on the interim charges. The hearings took place on April 27, 2004, May 17, 2004, and June 16, 2004.

The Committee issues the following findings and recommendations for the consideration of the 79th Legislature.

HOUSE COMMITTEE ON REDISTRICTING

INTERIM STUDY CHARGES

- (1) Develop a plan to redistrict the Court of Appeals districts.
- (2) Consider changes to the structure and nomenclature of the various levels of courts below the Court of Appeals level with specific attention to how they can be smoothly integrated into the new Court of Appeals districts.
- (3) Consider modifications to the districts of district and county attorneys.

FIRST CHARGE

**DEVELOP A PLAN TO REDISTRIBUTE THE COURT OF APPEALS
DISTRICTS.**

BACKGROUND

The Courts of Appeals were established in Texas by a constitutional amendment adopted in September 1891, followed by legislation approved in April 1892, which established three Courts of Civil Appeals as intermediate appellate courts. These courts were established to decrease the number of appeals to the Texas Supreme Court.¹ Subsequent legislation established eleven Courts of Civil Appeals by 1925.² These courts are located in Houston, Fort Worth, Austin, San Antonio, Dallas, Texarkana, Amarillo, El Paso, Beaumont, Waco, and Eastland.

In 1963, two additional Courts of Civil Appeals were established in Tyler and Corpus Christi. In 1967, the Fourteenth Court of Civil Appeals was established in Houston with coterminous jurisdiction with the First Court of Civil Appeals. Thus, by 1967 the Texas judicial system had evolved into its current structure of fourteen intermediate appellate courts presiding over thirteen distinct geographic regions.

In 1981, the Courts of Civil Appeals were given criminal jurisdiction and were therefore renamed the Courts of Appeals.³ Since that time, the Courts of Appeals have maintained intermediate appellate jurisdiction in civil and criminal cases. Each court has jurisdiction over appeals from the trial courts in its respective district and limited original writ jurisdiction.⁴ Maps of the current districts of the Texas Courts of Appeals may be found in Appendix A of this report.

Statewide, there are eighty Appellate Court Justices. Three justices preside over each of the smallest courts, which are the Sixth Court in Texarkana, the Eighth Court in El Paso, the Tenth Court in Waco, the Eleventh Court in Eastland, and the Twelfth Court in Tyler. Four justices preside over the Seventh Court in Amarillo, as well as the Ninth Court in Beaumont. Six justices preside over the Third Court in Austin and the Thirteenth Court, which is divided with three justices in Corpus Christi and three in Edinburg. The Second Court in Fort Worth has seven justices, and the First and Fourteenth Courts in Houston each have nine justices. The largest of the intermediate appellate courts is the Fifth Court of Appeals in Dallas with thirteen justices.⁵

Since the establishment of the last judgeship in 1983, the intermediate appellate courts have served the citizens of Texas without the addition of any new courts or justices by the Legislature. However, the number of appeals filed in these courts each year has increased dramatically. According to the *Annual Report of the Texas Judicial System*, in 1983 there was a total of 6,962 new cases filed in the Courts of Appeals.⁶ In 2003, there were 10,559 new cases filed.⁷ The majority of this growth in case filings has occurred in urban areas of the state, causing an imbalance in the number of new cases filed per justice in the fourteen courts.

In order to equalize the dockets of the various Courts of Appeals, the 76th Legislature attached a rider to Article IV of the General Appropriations Act for the 2000-2001 Biennium that states, "It is the intent of the Legislature that the Supreme Court equalize the dockets of the fourteen Courts of Appeals. Equalization shall be considered achieved if the new cases filed each year per justice are equalized by ten percent or less among all the Courts of Appeals."⁸ The rider directs the Supreme Court to implement its authority to equalize court dockets given by the Texas Government Code § 73.001.

The 77th and 78th Legislatures have continued this mandate by adding identical riders to the General Appropriations Bills for the 2002-2003 and 2004-2005 biennium.⁹ As a result of the Docket Equalization Program, there were 863 cases transferred in fiscal year 2003.¹⁰

THE 78TH LEGISLATURE

In addition to extending the Docket Equalization Program, the 78th Legislature made important changes to the districts of the Courts of Appeals. Specifically, five counties were removed from the district of the Eighth Court of Appeals. These counties, Ector, Gaines, Glasscock, Martin, and Midland, were placed in the district of the Eleventh Court of Appeals. The purpose of redistricting was to reduce the number of case filings per justice in the Eighth Court of Appeals by redistributing the cases from those five counties to the Eleventh Court of Appeals.¹¹

One justice was removed from the Eighth Court of Appeals, so that the court now has three justices. One justice was added to the Ninth Court of Appeals, so that the court now operates with four justices.¹² An additional act removed Brazos County from the districts of First and Fourteenth Court of Appeals. Prior to the 78th Legislature, Brazos County had concurrent jurisdiction with the First, Tenth, and Fourteenth Courts of Appeals. Brazos County now remains solely in the district of the Tenth Court of Appeals.¹³

SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS

The Committee heard testimony on the first interim charge during the three scheduled hearings. Those who testified and their representation were:

April 27, 2004, in Austin, TX

Tom Gray, *Tenth District Texas Court of Appeals*
Adele Hedges, *Fourteenth District Texas Court of Appeals*
Phillip Johnson, *Council of Chief Justices and the Seventh District Texas Court of Appeals*
Ken Law, *Third District Texas Court of Appeals*
Steve McKeithen, *Council of Chief Justices and the Ninth District Texas Court of Appeals*
Josh R. Morriss, III, *Sixth District Texas Court of Appeals*
Rogelio Valdez, *Thirteenth District Texas Court of Appeals*
James Worthen, *Twelfth District Texas Court of Appeals*

May 17, 2004, in Austin, TX

Guy Choate, *Texas Trial Lawyers Association*
George Scott Christian, *Texas Association of Defense Council*
Alma L. Lopez, *Self*
Sherry Radack, *First District Texas Court of Appeals*

June 16, 2004, in Austin, TX

Bud Arnot, *Eleventh District Texas Court of Appeals*
Richard Barajas, *Eighth District Texas Court of Appeals*
Jerry Bullard, *Self*
John Cayce, *Second District Texas Court of Appeals*

Michelle Hunter, *State Bar of Texas*
Lawrence Meyers, *Texas Court of Criminal Appeals*
Tom Phillips, *Self*
Linda Thomas, *Fifth District Texas Court of Appeals*

ISSUES ADDRESSED IN TESTIMONY

Two issues were discussed by a large majority of the invited and public testimony seen before the Committee: concurrent jurisdiction of appellate courts and mandatory transfers of cases. Chief Justice Phillip Johnson of the Seventh Court of Appeals began his testimony on behalf of the Council of Chief Justices by discussing these two primary issues, which were also highlighted by Chief Justice Tom Phillips of the Supreme Court of Texas. The testimony of the other thirteen Chief Justices of the Texas Courts of Appeals included reference to these issues, as did the public testimony of Jerry Bullard, a practicing civil trial and appellate practitioner.

In addition, current levels of funding for the judiciary, as well as salaries and retirement benefits for justices, were addressed in a majority of the testimony heard before the Committee. These issues, although not directly under the scope of the Redistricting Committee, prove relevant to a redistricting proposal for the Courts of Appeals. Therefore, funding and judicial compensation are also addressed to a limited extent in this report.

Differing testimony was submitted to the Committee on the topic of merging the First and Fourteenth Courts of Appeals in the Houston area. The reasons for and against such a merger are discussed. Finally, comprehensive, state-wide redistricting of the Courts of Appeals was not supported by the majority of the witnesses. A brief summary of this testimony is included at the end of this section.

CONCURRENT (OVERLAPPING) JURISDICTION

Currently there are twenty-two counties in the state that fall under concurrent appellate court jurisdiction. Thirteen of the counties make up the coterminous districts of the First and Fourteenth Courts of Appeals. The other nine counties are in East Texas and fall in the overlapping areas between the Fifth, Sixth, and Twelfth District Courts of Appeals.¹⁴

Two issues may arise in counties that fall under the jurisdiction of more than one Court of Appeals. The first is commonly referred to as "forum shopping," a phrase that refers to the ability of appellants to choose the court in which they will file an appeal. In certain cases one Court of Appeals may appear more favorable to an appellant, but this choice does not exist in counties that fall under the jurisdiction of a single Court of Appeals.¹⁵

The Legislature has eliminated the potential for forum shopping in the coterminous districts of the First and Fourteenth Courts of Appeals by §22.202(h) of the Texas Government Code, which established a randomized process of assigning cases between the courts so that the choice of venue is removed. It was recommended by the Council of Chief Justices that a similar system be put into place in all counties of concurrent jurisdiction.

The second issue that arises as a result of concurrent jurisdiction was referred to in testimony by the Council of Chief Justices as "conflicts of law." For the purpose of this report, "conflicts of law"

will maintain the definition given in the written testimony of the Council, which describes it as an "instance in which the intermediate appellate courts with concurrent jurisdiction of a county had conflicting decisions on an issue which would determine the outcome of a case (in a lower court)."¹⁶ A trial court judge does not know which decision to follow when ruling on such a case unless the Supreme Court or Court of Criminal Appeals has previously resolved the conflict.

Chief Justice Tom Phillips recommended that all concurrent jurisdictions be eliminated, as Texas is the only state with overlapping intermediate appellate court districts. Testimony by various Chief Justices of the Courts of Appeals gave evidence in favor of concurrent jurisdictions for reasons unique to certain communities of interest.

MANDATORY TRANSFERS OF CASES

Since 2000, the Supreme Court has received a mandate from the Legislature to transfer cases among the intermediate appellate courts from those receiving a relatively high number of new cases per justice to courts receiving a relatively low number of new cases per justice. Statute specifies that the range of variance among courts must fall within ten percent.¹⁷

Mandatory transfer of cases does achieve its goal of a more equal distribution of cases among the fourteen courts. However, it was the opinion of the Council of Chief Justices that docket equalization should not be a primary goal. Transferring cases out of a district causes additional cost to tax payers and an inconvenience of travel for the parties involved. In addition, a transferred case will be ruled upon by justices that were not elected by the parties involved. Instead, it is preferable to keep cases in the district in which they originate.

An issue similar to the "conflicts of law" issue also results from case transfers. A ruling by a district court judge may have been based on a decision by the Court of Appeals for the district in which the case originated. However, when the case is transferred to a new district there is some ambiguity over what legal precedent will actually apply to the appeal. The court that receives the transfer usually will apply its own legal precedent to the ruling, although others claim that it should be the law for the district in which the case originated.¹⁸

It was suggested during the testimony of Chief Justice Tom Phillips that this ambiguity might be clarified by the Legislature through statute or by giving rulemaking authority to the Supreme Court. Chief Justice John Cayce of the Second Court of Appeals made the recommendation on behalf of the Council that the law of the district in which the case originates should apply. Chief Justice Tom Phillips suggested that this would be his inclination as well.

FUNDING FOR THE JUDICIARY

Two relevant aspects of funding for the judiciary were emphasized in testimony before the Committee: funding for additional legal staff in courts with relatively high numbers of case filings per justice and funding for judicial compensation.

The Council of Chief Justices recommended increased funding for the First, Fifth, and Fourteenth District Courts of Appeals to allow for hiring additional legal staff. These three courts received over forty-three percent of all new cases filed in the intermediate appellate courts in 2003. These districts are also the sending district of over seventy percent of the cases transferred through the Docket

Equalization Program in 2003. The Chief Justices testified that increased funding for additional legal support staff in these three districts would allow these courts to handle their case loads without having to transfer cases to other courts.¹⁹ The amount of funding requested will be addressed in the proposals made by the Council of Chief Justices.

JUDICIAL COMPENSATION

According to the most recent data provided by the State Bar Association's Department of Research and Analysis (see Appendix B), the median salaries for justices of the Courts of Appeals were consistently lower than median salaries for private practitioners from 1991 to 2000. During that time period, the median salary for justices of the Courts of Appeals has increased by twenty-four percent while the median salary for private practitioners has increased by twenty-nine percent. When compared nation-wide in the National Center for State Court's annual *Survey of Judicial Salaries*, Texas ranked twenty-seventh in the nation in the "real salary" provided to intermediate appellate court justices in 2003. When adjusted for "cost of living," Texas ranked fourteenth in the nation in 2003.²⁰

These numbers do not account for retirement benefits. The *Retirement Benefits for Judicial Officers: JRS Plan I* of the Employees Retirement System of Texas states that the "base Service Retirement Annuity (SRA) will be 50 percent of the state salary being paid for a judge of a court of the same classification as the court on which last served. This is increased by 10 percent if (a judge) has not been out of office for more than one year at retirement or if (a judge) accepted an assignment as a visiting judge within one year prior to (his or her) effective date of retirement."²¹ The maximum cap of the SRA at sixty percent of the state salary for a justice of the Courts of Appeals was a common concern addressed in testimony.

The problem of retaining justices was addressed in relation to judicial compensation. Chief Justice Richard Barajas of the Eighth District Court of Appeals stated that there is, on average, a complete turn over of all eighty justice positions in the Courts of Appeals every eight years. Possible causes for the high turnover rate are the higher salaries in the private sector and the negative incentives created by the sixty percent retirement cap.

Chief Justice John Cayce of the Second District Court of Appeals recommended that the salaries for the justices of the Texas Supreme Court be tied to an average of the compensation received by Supreme Court Justices in the five most populous states. The judicial compensation for all of the courts below the Supreme Court would then be linked to those adjustments.

COTERMINOUS DISTRICTS

Chief Justice Tom Phillips of the Texas Supreme Court made the recommendation that the Legislature work towards eliminating all overlapping districts of the intermediate appellate courts, including the coterminous districts of the First and Fourteenth Courts of Appeals. In his testimony, Justice Phillips elaborated on the ambiguity caused by "conflicts of law" issues in these counties. These problems would be resolved in the Houston area by a merger of the First and Fourteenth Courts of Appeals.

Reasons were also presented against such a merger of courts by the Chief Justices of the Courts of Appeals. Both Chief Justices for the First and Fourteenth Courts of Appeals spoke against a merger,

as did the Council as a whole in their written testimony. The major reason not to merge the two courts related to the importance of maintaining a "manageable" court size. The example of the Ninth Federal District Court with twenty-eight judges was used to portray the reverse economies of scale that a large court may suffer.

COMPREHENSIVE, STATE-WIDE REDISTRICTING

Very little support for a comprehensive state-wide redistricting of the Courts of Appeals was heard in testimony before the Committee. Chief Justice Tom Gray of the Tenth Court of Appeals addressed many issues to be considered prior to undertaking such a task. It was suggested to the Committee that a comprehensive state-wide redistricting plan would require in-depth study into the local complexities of each region of the state. In addition, it was recommended that docket equalization not be the sole priority in designing such a plan. The proximity of intermediate appellate courts to citizens and communities of interest should be maintained.²²

PROPOSALS OF THE COUNCIL OF CHIEF JUSTICES

The fourteen Chief Justices of the Courts of Appeals of Texas worked together as a Council of Chief Justices to draft a plan for redistricting the Courts of Appeals districts. Their proposal was presented before the Committee by Chief Justice Phillip Johnson, and it was supported in later testimony by each of the thirteen other Chief Justices. In addition to the unanimous support for the proposal by the Chief Justices of the Courts of Appeals, there was additional favorable testimony by representatives from the Texas Court of Criminal Appeals, the State Bar Association, and the Texas Association of Defense Council, among others.

The proposals made by the Council of Chief Justices, if implemented by the Legislature, would do the following: eliminate transfers for equalization purposes, reduce the number of counties in the state under concurrent jurisdiction from twenty-two to fifteen, and remove the ability to "forum shop" in those that remain under concurrent jurisdiction. Appendix C of this report contains written testimony submitted by the Council of Chief Justices, including a summary of their proposals and maps of the proposed Courts of Appeals districts.

Several of the proposals working together would eliminate the need for mandatory case transfers for docket equalization. The first of these proposals is the removal of three counties, Burtleson, Walker, and Trinity, from the coterminous districts of the First and Fourteenth Courts of Appeals. It was recommended that Burtleson and Walker Counties be added to the district of the Tenth Court of Appeals and that Trinity County be added to the Twelfth Court of Appeals. This would reduce the number of new cases filed in the Houston courts. In addition, it is proposed that Angelina County be removed from the Ninth Court of Appeals and be placed into the district of the Twelfth Court of Appeals.

The transfer of these four counties would reduce the disparity in new case filings among the courts; however, these changes alone are not sufficient to eliminate the need for mandatory transfers of cases. Therefore, the Council of Chief Justices recommends that additional funding in the amount of \$870,000 be allocated annually to the First, Fifth, and Fourteenth District Courts of Appeals. This funding, divided so that half is allocated to the Fifth Court of Appeals and the remainder split between the First and Fourteenth Courts, would allow the hiring of additional legal staff needed to manage the larger case dockets of these courts.

Additional redistricting proposals would reduce the number of counties under concurrent jurisdiction in East Texas from nine to five. The recommended changes are that Hopkins and Panola Counties be removed from the district of the Twelfth Court of Appeals and be under the sole jurisdiction of the Sixth Court of Appeals. Kaufman County would be removed from the Twelfth Court of Appeals and remain in the district of the Fifth Court of Appeals, and Van Zandt County would be removed from the district of the Fifth Court of Appeals and remain in that of the Twelfth Court of Appeals.

Under the proposals of the Chief Justices, Wood, Upshur, Gregg, Rusk, and Hunt Counties would remain under concurrent jurisdiction. In order to remove the potential for "forum shopping," the Chiefs propose that the Legislature assign a randomized court selection procedure such as that given to the coterminous districts of the First and Fourteenth Courts of Appeals in the Texas Government Code §22.202(h).

COMMITTEE RECOMMENDATIONS

The Committee supports the proposals presented by the Council of the Chief Justices of the Courts of Appeals and has incorporated much of their testimony into the recommendations listed below. It is the opinion of the Committee that these recommendations create a feasible and efficient plan that will facilitate the administration of justice by the intermediate appellate courts. The unanimous support by all fourteen of the Chief Justices for their submitted recommendations speaks well for future implementation of such a plan.

It is important for the Legislature to continue its efforts to maintain an effective and efficient judicial system for the citizens of Texas. This or any other plan to redistrict the Courts of Appeals should not be considered a final solution, but instead a necessary adjustment to meet the needs of the growing population of Texas.

Recommendation 1: Hopkins and Panola Counties should be removed from the district of the Twelfth Court of Appeals.

Recommendation 2: Kaufman County should be removed from the district of the Twelfth Court of Appeals.

Recommendation 3: Van Zandt County should be removed from the district of the Fifth Court of Appeals.

Recommendation 4: Angelina County should be removed from the district of the Ninth Court of Appeals. It should be added to the district of the Twelfth Court of Appeals.

Recommendation 5: Burlison, Walker, and Trinity Counties should be removed from the districts of the First and Fourteenth Courts of Appeals. Burlison and Walker Counties should be added to the district of the Tenth Court of Appeals. Trinity County should be added to the Twelfth Court of Appeals.

Recommendation 6: A randomized system of assigning cases to the appellate courts, such as that outlined in the Texas Government Code § 22.202 (h) for the coterminous districts of the First and Fourteenth Courts of Appeals, should be established by statute for appeals filed in counties

remaining under concurrent jurisdiction.

Recommendation 7: The First and Fourteenth Courts of Appeals should continue to have coterminous districts at this time. However, the Legislature should work towards a solution to the "conflicts of law" problem that will persist for lower courts in these districts.

Recommendation 8: Additional funding for the hiring of legal support staff in the First, Fifth, and Fourteenth District Courts of Appeals should be considered by the Appropriations Committee. If sufficient annual funding can be allocated for this purpose, the Committee recommends that the Legislature consider the impact on and continued need for the Docket Equalization Program.

Recommendation 9: While not within the parameters of the charges given to this Committee, the issue of the legal precedent to be applied in transfer cases should be clarified and authority needs to be established as to which precedent to follow.

Recommendation 10: Although not under the Committee's jurisdiction, following the recommendation of the Chief Justices, the Legislature should consider increasing the salaries and retirement benefits provided to justices in order to improve retention rates and to continue to attract high quality candidates for the administration of justice in our state.

SECOND CHARGE

CONSIDER CHANGES TO THE STRUCTURE AND NOMENCLATURE OF THE VARIOUS LEVELS OF COURTS BELOW THE COURT OF APPEALS LEVEL WITH SPECIFIC ATTENTION TO HOW THEY CAN BE SMOOTHLY INTEGRATED INTO THE NEW COURT OF APPEALS DISTRICTS.

BACKGROUND

According to Article 5, Section 7a of the Texas Constitution, the task of reapportioning the judicial districts shall be undertaken by the Legislature during each session following the decennial U.S. Census. If the districts are not reapportioned by the Legislature, the Texas Constitution instructs the Judicial Districts Board to develop a plan for the reapportionment of districts by no later than the first Monday in June of the third year following the year in which the census was taken. If no such plan is filed by the Judicial Districts Board by August 31 of that year, the Constitution requires that the task become the responsibility of the Legislative Redistricting Board. The Legislative Redistricting Board must act within 150 days, and the action it takes carries the power of law.

In § 24.945 of the Texas Government Code, the Legislature has clarified by statute that the purpose of reapportionment of the judicial districts be to “promote efficiency and promptness of the administration of justice.” The statute includes the following list of topics to be considered:

- (1) the numbers and types of cases filed in the district courts of the counties to be affected by the reapportionment;
- (2) the numbers and types of cases disposed of by dismissal or judgment in the district courts of those counties;
- (3) the numbers and types of cases pending in the district courts of those counties;
- (4) the number of district courts in those counties;
- (5) the population of the counties;
- (6) the area to be covered by a judicial district; and
- (7) the actual growth or decline of population and district court case load in the counties to be affected.

Despite the Constitutional mandate for the process to occur, Texas has not implemented state-wide redistricting of the judicial districts of the courts below the Courts of Appeals since the comprehensive reapportionment of the district courts in 1876. Instead, the Legislature has taken an incremental approach to judicial redistricting and new court creation. As problems arise, measures are passed and new courts created to meet the immediate needs of the locality. The result of this approach, combined with the unique size and diversity of Texas, is a complex system of lower courts with overlapping districts and jurisdictions that is confusing to citizens and professionals working in the system.

Following the 2000 Census, the Legislature did not enact a plan to reapportion the judicial districts. The Judicial Districts Board did not file a plan with the Secretary of State by August 31, 2003, so the task of judicial redistricting was assigned to the Legislative Redistricting Board. On January 26, 2004, the Legislative Redistricting Board met and adopted the incremental changes to judicial districts made by the 78th Legislature, with no further action taken. A copy of the proclamation, issued by the Legislative Redistricting Board on January 26, 2004, is included in Appendix D of this report.

SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS

The Committee heard testimony on the second interim charge during the three scheduled hearings. Those who testified and their representation were:

April 27, 2004, in Austin, TX

Tom Gray, *Tenth District Texas Court of Appeals*

May 17, 2004, in Austin, TX

Guy Choate, *Texas Trial Lawyers Association*

Kelly G. Moore, *Self*

John Ovard, *First Administrative Judicial Region of Texas*

June 16, 2004, in Austin, TX

Keith Hampton, *Texas Criminal Defense Lawyers Association*

Michelle Hunter, *State Bar of Texas*

Lawrence Meyers, *Texas Court of Criminal Appeals*

Tom Phillips, *Self*

ISSUES ADDRESSED IN TESTIMONY

The Committee was not informed of any adverse effects to the lower courts that would be caused by a reapportionment of the Courts of Appeals districts as suggested by this report. All witnesses addressing the issue emphasized the need for any plan to redistrict the lower courts to be well-researched at the local level to account for the diversity of issues facing courts across the state. It was suggested that the Presiding Judges of the Administrative Judicial Regions would be a good resource for this type of information.²³ Several references were made to the Interim Report by the Senate Committee on Jurisprudence of the 77th Legislature, which includes a detailed analysis of the issues facing the district courts.

Two issues relating to the second interim charge were brought to the attention of the Committee. It was suggested by Chief Justice Tom Phillips of the Texas Supreme Court that a greater problem lies in the current overlaps that exist between the districts of the district courts and the regions of the Administrative Judicial Regions of Texas. In addition, Judge John Ovard of the First Administrative Judicial Region emphasized the importance of the Visiting Judge Program. Judge Ovard's written testimony is attached in Appendix E.

OVERLAP OF ADMINISTRATIVE JUDICIAL REGIONS IN DISTRICT COURTS

There are currently five district courts that include counties assigned to different administrative judicial regions. Judges of these courts are required to attend to twice as many administrative duties in order to report to two regions. Appendix F contains maps from the *Annual Report of the Texas Judicial System* for fiscal year 2003, which display these overlaps. The courts affected by these overlaps are the 82nd, 87th, 155th, 198th, and 273rd District Courts.

The counties that would be affected by a redistricting of the Administrative Judicial Regions of Texas for this purpose are as follows²⁴:

Falls County in the Third Administrative Judicial Region (AJR) shares the 82nd District Court with Robertson County in the Second AJR.

Freeston, Leon, and Limestone Counties in the Second AJR share the 87th District Court with Anderson County, which is in the First AJR.

Austin and Fayette Counties in the Third AJR share the 155th District Court with Waller County in the Second AJR.

Mason, McCulloch, and Menard Counties in the Seventh AJR share the 198th District Court with Kemble and Kerr Counties in the Sixth AJR.

San Augustine and Sabine Counties are in the Second AJR and share the 273rd District Court with Shelby County in the First AJR.

THE VISITING JUDGE PROGRAM

The Visiting Judge Program allows the use of retired and former judges to meet current demands of heavy dockets and judicial vacancies. According to figures provided by the Legislative Budget Board, funding for the program was reduced by 67% between the 2003-2004 and 2004-2005 biennium.²⁵ This reduction in funding for the Visiting Judge Program makes more urgent a redistricting plan that will address the relatively high case loads of certain courts. Judge Ovard gave examples of how visiting judges can be a more flexible tool than redistricting in meeting immediate needs of courts. Appendix F contains written testimony submitted by Judge Ovard on this topic.

COMMITTEE RECOMMENDATIONS

The Committee does not anticipate problems integrating the various levels of courts below the Courts of Appeals into the new Court of Appeals districts recommended in this report. It is anticipated that the resolution of “conflicts of law” issues will improve the administration of justice in the lower courts. Therefore, no recommendations have been made to modify the districts of the lower courts. However, in light of testimony presented to the Committee relating to the complexities of the current structure of the lower courts, the Committee issues the following recommendations:

Recommendation 11: The Legislature should request from the Office of Court Administration an analysis of the inefficiencies caused by the overlap of administrative judicial regions within the 82nd, 87th, 155th, 198th, and 273rd District Courts. If appropriate, a proposal should be included for a reapportionment of the Administrative Judicial Regions of Texas that would eliminate the problem of overlapping regions within these courts.

Recommendation 12: The Legislature should invest the necessary effort to obtain a thorough analysis of how the courts below the Courts of Appeals level might be made into a more logical and efficient system. The Committee respectfully agrees with the call for careful consideration of localities and the impact that any comprehensive plan to redistrict the state trial courts would have on existing communities of interest.

THIRD CHARGE

**CONSIDER MODIFICATIONS TO THE DISTRICTS OF DISTRICT AND
COUNTY ATTORNEYS.**

BACKGROUND

District attorneys, county attorneys, county and district attorneys, and criminal district attorneys are prosecutors elected by the citizens of their district to represent the state of Texas in all criminal cases in the courts below the Courts of Appeals level. Beyond this primary role, these prosecutors may represent the state in appeal cases up to direct appeals to the U.S. Supreme Court.²⁶ They also represent the state in all juvenile law proceedings. Their offices were established by Article V, Section 21 of the Texas Constitution.

Currently, there are seventy-nine district attorneys that generally prosecute felony cases in district courts. These prosecutors represent districts established in Chapter 43 of the Texas Government Code, which may contain more than one county. There are one hundred sixty-nine county attorneys who, for the most part, prosecute misdemeanor offenses in county courts. The county attorney is elected by the county in which he serves, as outlined in Chapter 45 of the Texas Government Code. Most counties in the state of Texas have both a district attorney and a county attorney.

There are, however, some counties that do not have a district attorney. Instead, these counties elect a county and district attorney that handles both felony and misdemeanor offenses in his or her district. There are also counties that do not have a county attorney. These counties elect a criminal district attorney, as established in Chapter 44 of the Texas Government Code, with a similar role. There are twenty-nine county and district attorneys and forty-six criminal district attorney offices. These sum to a total of three hundred twenty-three prosecuting officials representing the state of Texas in criminal cases in the lower courts.²⁷

District attorneys, county attorneys, county and district attorneys and criminal district attorneys are mostly funded at the local level. The state primarily contributes funding for the salaries and pay supplements to elected officials, as well as for travel and office supply expenses. For fiscal year 2004, total state contributions to district and county attorneys were \$30,257,978, which is less than one-fifth of the funding provided to these offices by the ten largest counties in Texas.²⁸

SUMMARY OF TESTIMONY FROM PUBLIC HEARINGS

The Committee heard testimony on the third interim charge during two of the three scheduled hearings. Those who testified and their representation were:

May 17, 2004, in Austin, TX:

Robert Kepple, *Texas District and County Attorneys Association*

June 16, 2004, in Austin, TX:

Shannon Edmonds, *Texas District and County Attorneys Association*

Michelle Hunter, *State Bar of Texas*

Lawrence Meyers, *Texas Court of Criminal Appeals*

Tom Phillips, *Self*

ISSUES ADDRESSED IN TESTIMONY

Rob Kepple, the Executive Director of the Texas District and County Attorneys Association, addressed in his testimony two trends that have occurred over the past twenty years relating to the districts of these officials. These trends are the consolidation of offices and the virtual elimination of overlapping districts of district attorneys. Chief Justice Tom Phillips of the Texas Supreme Court also provided testimony to the Committee on the topic of how clerks of county courts might be standardized to make more efficient communication between these offices.

CONSOLIDATION OF OFFICES

There has been a trend in recent years of localities requesting the Legislature to combine offices of district and county attorney in order to make more efficient use of funds. The Legislature has acted by addressing these individual cases, without comprehensive state-wide redistricting. Districts of large size and high population density are a greater expense to localities because of the large number of cases filed in these areas. Therefore, there is a related trend of reducing the size of districts, which may allow further consolidation.

OVERLAPPING DISTRICTS OF DISTRICT ATTORNEYS

The second trend addressed in Kepple's testimony was that of counties which fall under the jurisdiction of more than one district attorney. Currently, only three counties in the state remain in overlapping districts, and they are Tom Green, Pecos, and Kerr Counties. Kepple testified that, "Each of these counties are the most populous counties in the district attorney's districts and serve as a kind of 'home base' from which the district attorneys travel to individually serve the less-populous surrounding areas." The inclusion of a more populous county in the districts of these district attorneys increases available funding to their offices.

CLERKS OF COUNTY COURTS

Tom Phillips addressed inconsistencies in the function and organization of the offices of clerks of county courts across the state. These offices often have differing duties and even differing computer systems, making communication and transfers of records difficult between the county courts. Phillips suggested that Texas follow the example of other states by establishing a "Clerk of Records" and a separate "Clerk of Court" for each county court. These offices would be standardized in function and would maintain similar computing systems, thereby increasing efficiency in day-to-day transactions between courts.

COMMITTEE FINDINGS

The current trends affecting the districts of district and county attorneys are the result of the Legislature responding to requests for change by individual districts. Because funding is provided largely at the local level, it is in the interest of localities to request that offices be merged when it will be more cost-efficient. Kepple's testimony reveals that consolidation is in fact occurring, which indicates that Legislature is already effective in addressing these local requests.

The issue of overlapping districts of district attorneys has been virtually eliminated. The remaining three counties affected by overlapping districts have not provided testimony to request changes in their current system, and so the Committee does not consider redistricting of these counties to be

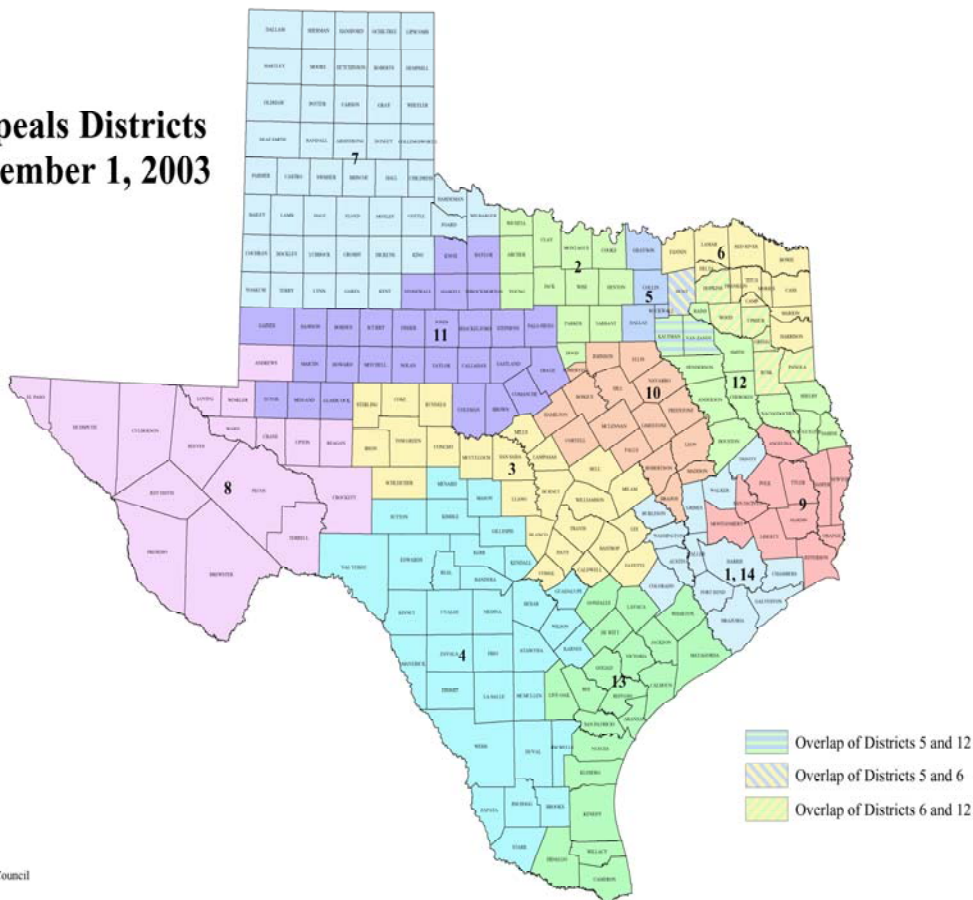
necessary at this time.

Testimony of Tom Phillips revealed how the Legislature might bring about comprehensive improvements in efficiency of courts in which these officials serve by standardizing the offices of the clerks of county courts. Although not under the Committee's jurisdiction, it is suggested that further consideration be given to this issue by the Legislature.

In summary, the Committee received the least amount of testimony relating to this charge, and there appears to be little concern among citizens and professionals working in the judicial system relating to the districts of district and county attorneys. Therefore, the Committee makes no recommendations in response to the third interim charge.

APPENDIX A

Courts of Appeals Districts Effective September 1, 2003

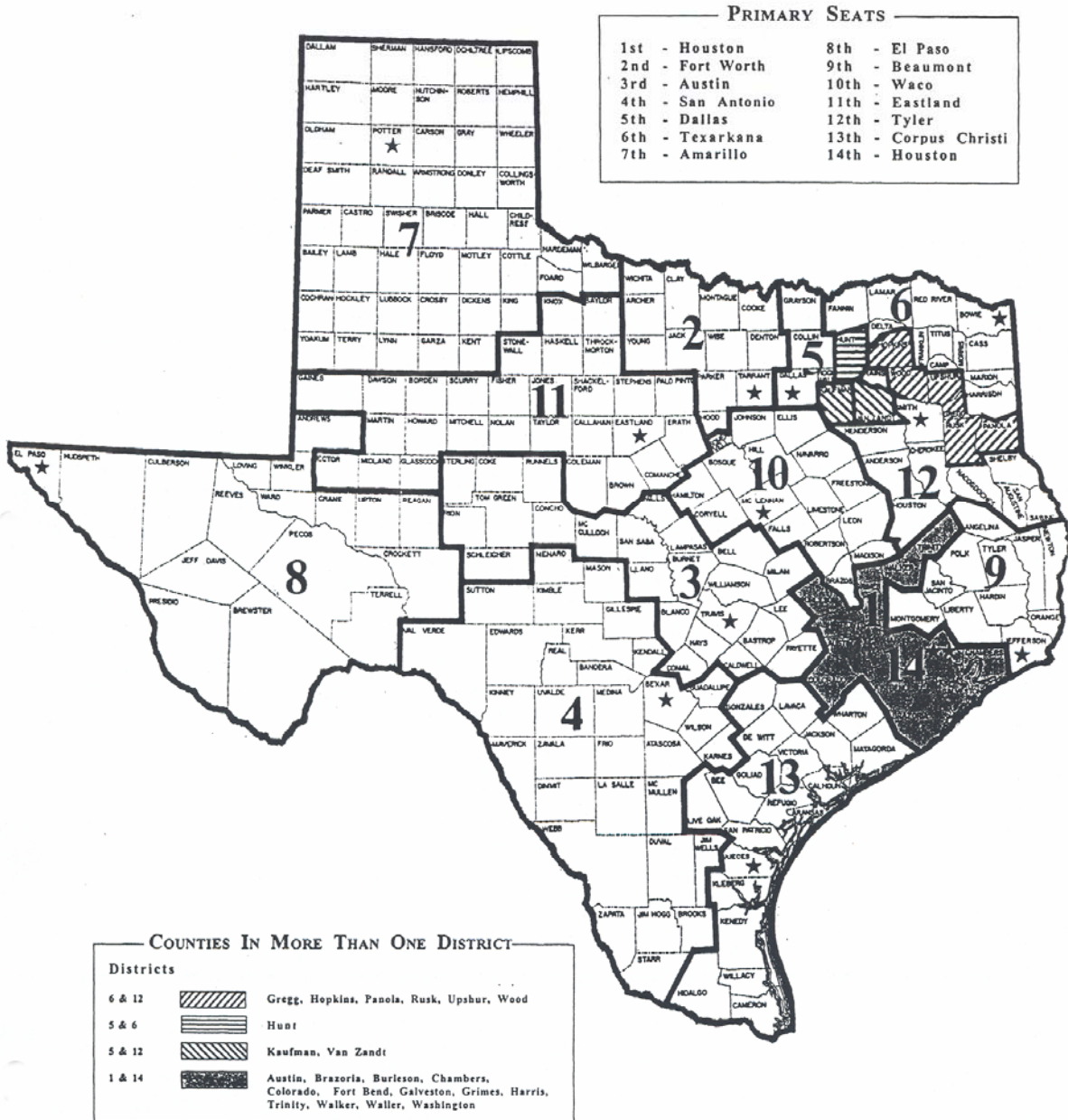


Texas Legislative Council
12/11/2003

COURTS OF APPEALS

COUNTIES IN EACH COURT OF APEALS DISTRICT

AS OF SEPTEMBER 1, 2003



Source: *Texas Judicial System Annual Report Fiscal Year 2003*

APPENDIX B

STATE BAR OF TEXAS



June 16, 2004

The Honorable Joe Crabb
Chairman
House Redistricting Committee
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Crabb:

Thank you for the opportunity to appear before the House Redistricting Committee today. During the hearing, you asked that I provide you with any survey material that the Bar might have on the topics in your charges or other topics that were raised in the committee today.

One of the topics discussed several times today was judicial compensation. In 2002, our Research & Analysis Department did a comparison of judicial compensation and the income of attorneys in private practice. A copy of that report is enclosed for your information.

I hope this information is helpful to you.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Hunter".

Michelle Hunter
Chief of Staff
State Bar of Texas

P.O. Box 12487 / Austin, Texas 78711

3/20/2002



Summary

The following tables have been compiled to compare judicial compensation and the income of attorneys in private practice. Courts selected for comparison were the Supreme Court of Texas, the Court of Criminal Appeals, The Courts of Appeal, and the District Courts (both civil and criminal). Data on private practitioner income was compiled from surveys conducted by the State Bar of Texas in 1987, 1992, 1995, 1997, and 2001.¹ Data on judicial salaries, judicial years licensed, and length of service on the court was obtained from Annual Reports of the Texas Judicial System for the years that matched data collected on private practitioner income.² Due to some variation in the collection and availability of data, not every table shows information from each of these years.

- **Table 1:** Table 1 shows overall median salaries for private practitioners in the years 1986, 1991, 1994, 1996, and 2000, and median salaries for attorneys with four, eight, and ten years of experience in 1994, 1996, and 2000.
- **Table 2:** Table 2 compares the percentage of increase in median private practitioner income between the years 1991 and 2000 with judicial salaries during the same time period.
- **Table 3:** Table 3 compares judicial salaries (by type of court and by year) with comparable private practitioner salaries for those years, with the median years licensed for judges on each court factored in. For example, in 1991, Supreme Court Justices had been licensed to practice law for a median of 23 years and received an annual salary of \$91,035. In that same year, private practitioners with 23 years of experience earned a median income of \$149,323.
- **Table 4:** Table 4 shows judges' years licensed and length of service on the court, by year and by court type, with the median years licensed and median years of service calculated.

¹ Sources: State Bar of Texas 1987 PEER Committee Membership Survey, State Bar of Texas 1992 Attorney Billing and Compensation Survey, State Bar of Texas 1995 Attorney Billing and Compensation Survey, State Bar of Texas 1997 Attorney Economic Survey, and State Bar of Texas 2001 Lawyer Technology Survey.

² Sources: Annual Report of the Texas Judicial System, Fiscal Years 1991, 1994, 1996, and 2000, Office of Court Administration, Texas Judicial Council.

Table 1
Private Practitioner Median Income

	1986 ³	1991	1994	1996	2000
4 years experience			\$58,671	\$61,029	\$74,999
8 years experience			\$86,000	\$82,386	\$91,071
10 years experience			\$108,088	\$105,833	\$114,772
Overall median	\$63,200	\$84,607	\$86,694	\$87,374	\$109,282

Table 2
Private Practitioner Income and Judges' Salaries: Percentage of Increase⁴ (1991-2000)

Year	Private Practitioner Median Income	Supreme Court		Court of Criminal Appeals		Courts of Appeals		District Courts
		Chief Justice	Justices	Presiding Judge	Justices	Chief Justices	Justices	
1991	\$84,607	\$93,713	\$91,035	\$93,713	\$91,035	\$86,994	\$86,484	\$81,932
1994	\$86,694	\$97,470	\$94,686	\$97,470	\$94,686	\$90,482	\$89,952	\$85,217
1996	\$87,374	\$97,470	\$94,686	\$97,470	\$94,686	\$90,482	\$89,952	\$85,217
2000	\$109,282	\$115,000	\$113,000	\$115,000	\$113,000	\$107,850	\$107,350	\$101,700
Percentage increase 1991-2000	29%	23%	24%	25%	24%	24%	24%	24%

³ Note that detailed income data (by 4, 8, and 10 years of experience) is not available for the years 1986 and 1991.

⁴ Note that the salaries listed above for Justices of the Courts of Appeal and judges serving on District Courts do not include additional supplementary income provided by local districts.

Table 3
Private Practitioner Income and Judicial Salaries Compared by Judges' Median Years Licensed⁵

Supreme Court

	1991 (Median years licensed: 23)	1994 (Median years licensed: 23)	1996 (Median years licensed: 23)	2000 (Median years licensed: 23)
Supreme Court Justices' Salary⁶	\$91,035	\$94,686	\$94,686	\$113,000
Comparable Private Practitioner Salary	\$149,323	\$124,999	\$149,999	\$118,749

Court of Criminal Appeals

	1991 (Median years licensed: 20)	1994 (Median years licensed: 23)	1996 (Median years licensed: 23)	2000 (Median years licensed: 27)
Court of Criminal Appeals Justices' Salary	\$91,035	\$94,686	\$94,686	\$113,000
Comparable Private Practitioner Salary	\$123,051	\$124,999	\$149,999	\$120,832

⁵ Insufficient data was available to calculate 1991 private practitioner salaries for the exact median year; 1991 salaries quoted here are the medians for a range of years. For example, the median salary for 20 years of experience in 1991 is the median for 16 to 20 years; the median salary for 23 years is the median for over 20 years.

⁶ For the purposes of this comparison, salaries listed for the Supreme Court, Court of Criminal Appeals, and Courts of Appeals are for Justices, not for Chief Justices or Presiding Judge.

Courts of Appeals

	1991 (Median years licensed: 29)	1994 (Median years licensed: 27)	1996 (Median years licensed: 24)	2000 (Median years licensed: 26)
Courts of Appeals Justices' Salary ⁷	\$86,484	\$89,952	\$89,952	\$107,350
Comparable Private Practitioner Salary	\$149,323	\$204,167	\$114,422	\$127,083

District Courts

	1991 (Median years licensed: 22)	1994 (Median years licensed: 23)	1996 (Median years licensed: 23)	2000 (Median years licensed: 24)
District Court Judges' Salary	\$81,932	\$85,217	\$85,217	\$101,700
Comparable Private Practitioner Salary	\$149,323	\$124,999	\$149,999	\$164,583

⁷ Note that salaries listed for Justices of the Courts of Appeals and judges serving on District Courts do not include additional supplementary income provided by local districts.

APPENDIX C

D. SUMMARY OF PROPOSALS OF THE COUNCIL OF CHIEF JUSTICES

The Council recommends the following to the House Redistricting Committee as to the issues noted:

1. Overlapping/concurrent jurisdiction

- a. Houston/1st and 14th Courts retain coterminous concurrent jurisdictions.
- b. Hopkins County be transferred from concurrent jurisdiction in Tyler/12th and Texarkana/6th to sole jurisdiction in Texarkana/6th.
- c. Panola County be transferred from concurrent jurisdiction in Tyler/12th and Texarkana/6th to Texarkana/6th.
- d. Kaufman County be transferred from concurrent jurisdiction in Tyler/12th and Dallas/5th to Dallas/5th.
- e. Van Zandt County be transferred from concurrent jurisdiction in Tyler/12th and Dallas/5th to Tyler/12th.
- f. Tyler/12th and Texarkana/6th will retain concurrent jurisdiction in Gregg, Rusk, Upshur and Wood Counties.
- g. Dallas/5th and Texarkana/6th will retain concurrent jurisdiction in Hunt County.
- h. Appeals filed from the five East Texas counties remaining with concurrent appellate jurisdiction (Wood, Upshur, Gregg, Rusk and Hunt) be assigned to an appellate court via a procedure like that specified for the Houston 1st and 14th Courts in Texas Government Code 22.202(f).

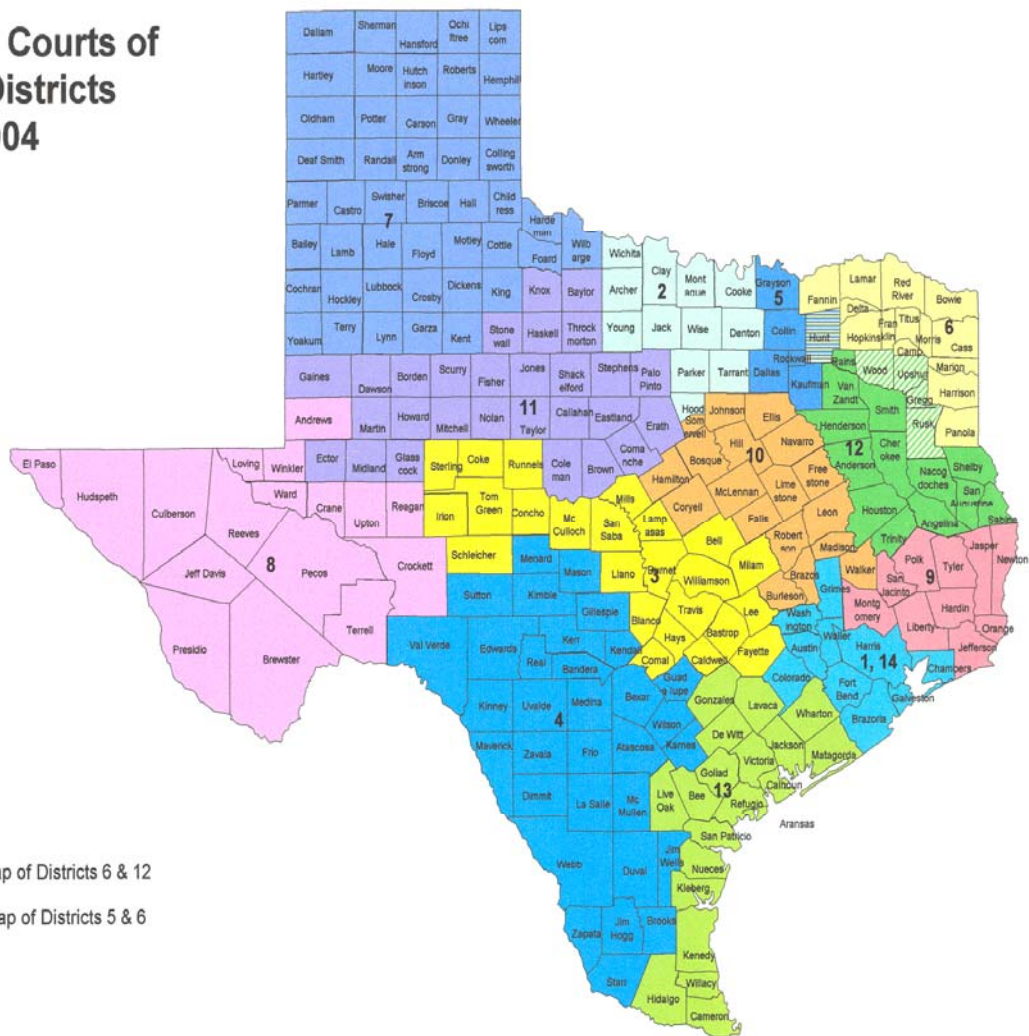
2. Transfers of appeals for docket equalization

- a. The following counties be moved from the Houston 1st and 14th as

follows: Burleson to Waco/10th; Walker to Waco/10th; Trinity to Tyler/12th.

- b. Angelina County be transferred from Beaumont/9th to Tyler/12th.
- c. In addition to ordinary budget funding, extra funds be allocated to Dallas/5th and Houston/1st and 14th Courts in the amount of \$870,000 per year to retain additional staff to work on newly-filed appeals which exceed the statewide average per justice for newly-filed appeals. It is recommended that \$435,000 of such funds be allocated to Dallas/5th and \$217,500 per court be allocated to Houston/1st and Houston/14th. If the recommended funding is authorized, then no cases will be transferred from the 5th, 1st or 14th courts for docket equalization purposes.
- d. If the recommended funding referenced above is authorized, then no mandatory docket equalization statute or appropriations rider be enacted.
- e. In the rare instance that an appeal is transferred from one court to another, the Supreme Court shall determine which law is to be applied in addressing potential conflicts between outcome-determinative precedent in the transferring and transferee courts, and include such determination in the transferring order. It is proposed that the precedent to be used be that of the transferring court/jurisdiction.

Proposed Courts of Appeals Districts April 5, 2004



APPENDIX D

1 AN ACT OF THE
2 LEGISLATIVE REDISTRICTING BOARD OF TEXAS
3 making a statewide reapportionment of judicial districts.
4 BE IT ENACTED BY THE LEGISLATIVE REDISTRICTING BOARD OF THE
5 STATE OF TEXAS:
6 SECTION 1. (a) The Legislative Redistricting Board finds
7 that:
8 (1) the legislature has failed to enact a statewide
9 reapportionment of the judicial districts following the federal
10 decennial census of 2000;
11 (2) the Judicial Districts Board has failed to make a
12 statewide reapportionment of the judicial districts of this state
13 and file the order containing its reapportionment with the
14 secretary of state by August 31, 2003, as required by Section 7a(e),
15 Article V, Texas Constitution; and
16 (3) under Section 7a(e), Article V, Texas
17 Constitution, the Legislative Redistricting Board is required to
18 make a statewide reapportionment of the judicial districts of this
19 state not later than January 28, 2004.
20 (b) In exercising its duty to make a statewide
21 reapportionment of judicial districts under Section 7a(e), Article
22 V, Texas Constitution, the Legislative Redistricting Board adopts
23 without change the judicial districts established by:
24 (1) Chapter 24, Government Code, as of the effective

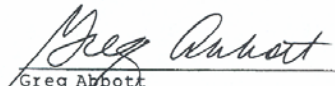
1 date of this Act; and

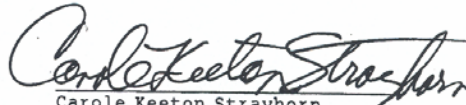
2 (2) enactments of the legislature to amend Chapter 24,
3 Government Code, adopted before the effective date of this Act that
4 take effect after the effective date of this Act.

5 (c) The reapportionment made by this Act does not affect in
6 any manner a proceeding of a court of a judicial district included
7 in the reapportionment.

8 SECTION 2. This Act takes effect immediately.


9 WE, THE UNDERSIGNED, hereby acknowledge the foregoing
10 instrument to be the act and deed of the Legislative Redistricting
11 Board of Texas, executed on this 26th day of January 2004.

12 
13 _____
14 Greg Abbott
15 Attorney General of Texas
16


Carole Keeton Strayhorn
Comptroller of Public Accounts
of Texas

17 _____
18 Tom Craddick
19 Speaker of the Texas House
20 of Representatives
21


David Dewhurst
Lieutenant Governor of Texas

22 
23 _____
24 Jerry Patterson
25 Commissioner of the General
26 Land Office of Texas

APPENDIX E



First Administrative Judicial Region

JOHN OVARD
Presiding Judge

133 N. Industrial Blvd., LB 50
Dallas, Texas 75207

Telephone
(214) 653-2943
Fax (214) 653-2957
www.firstadmin.com

Administrative Assistant
SANDY HUGHES
Office Manager
GEORGE COWART

JUDICIAL REDISTRICTING

The Subject of judicial redistricting has been compared with the complexity of re-writing the Texas Constitution. Previous legislative studies and attempts to do so have recognized the present Texas State court system has evolved as the need for additional courts became apparent. The unique features of counties within various regions, as well as the variety of the different types of courts, revealed the task would be problematic.

In the First AJR the judges believe the continued increased case loads can be and have been reasonably controlled by an effective use of the assigned judges program combined with some additional courts in the more rapid population growth counties. With severe fiscal cuts, however, the program cannot keep up with the problem.

The primary reason for this is that assigned judges are the most cost effective flexible tool for coping with specific judicial needs and problems as they arise. Further it utilizes judges with vast experience using facilities and staff that are already provided.

New courts or redistricting courts lack the flexibility aspect necessary to deal with the many complexities that arise daily throughout the region.

Factors that makes it so difficult in some districts are travel distances to different counties, too many cases for one court or judge, but not enough to justify a newly created court. A court in a county where a judge has many conflicts with the subject matter of citizens involved in the cases.

ANDERSON BOWIE CAMP CASS CHEROKEE COLLIN DALLAS DELTA ELLIS FANNIN FRANKLIN GRAYSON GREGG HARRISON
HENDERSON HOPKINS HOUSTON HUNT KAUFMAN LAMAR MARION MORRIS NACOGDOCHES PANOLA RAINS RED RIVER
ROCKWALL RUSK SHELBY SMITH TITUS UPSHUR VAN ZANDT AND WOOD COUNTIES

Examples of judicial needs include counties that do not need an additional district court due to smaller populations but do need some judicial assistance.

1. Marion County, Jefferson, Tx.
Judges Lauren Parish and Bill Porter.

Judge Porter has 4 counties including Marion. Judge Parish has Upshur County with a heavy docket.

2. Harrison County, Marshall, TX.
Judge Bonnie Legatt

This is a single district county. However the case load is especially heavy and they need an assigned judge during lengthy trials or capitol murder cases.

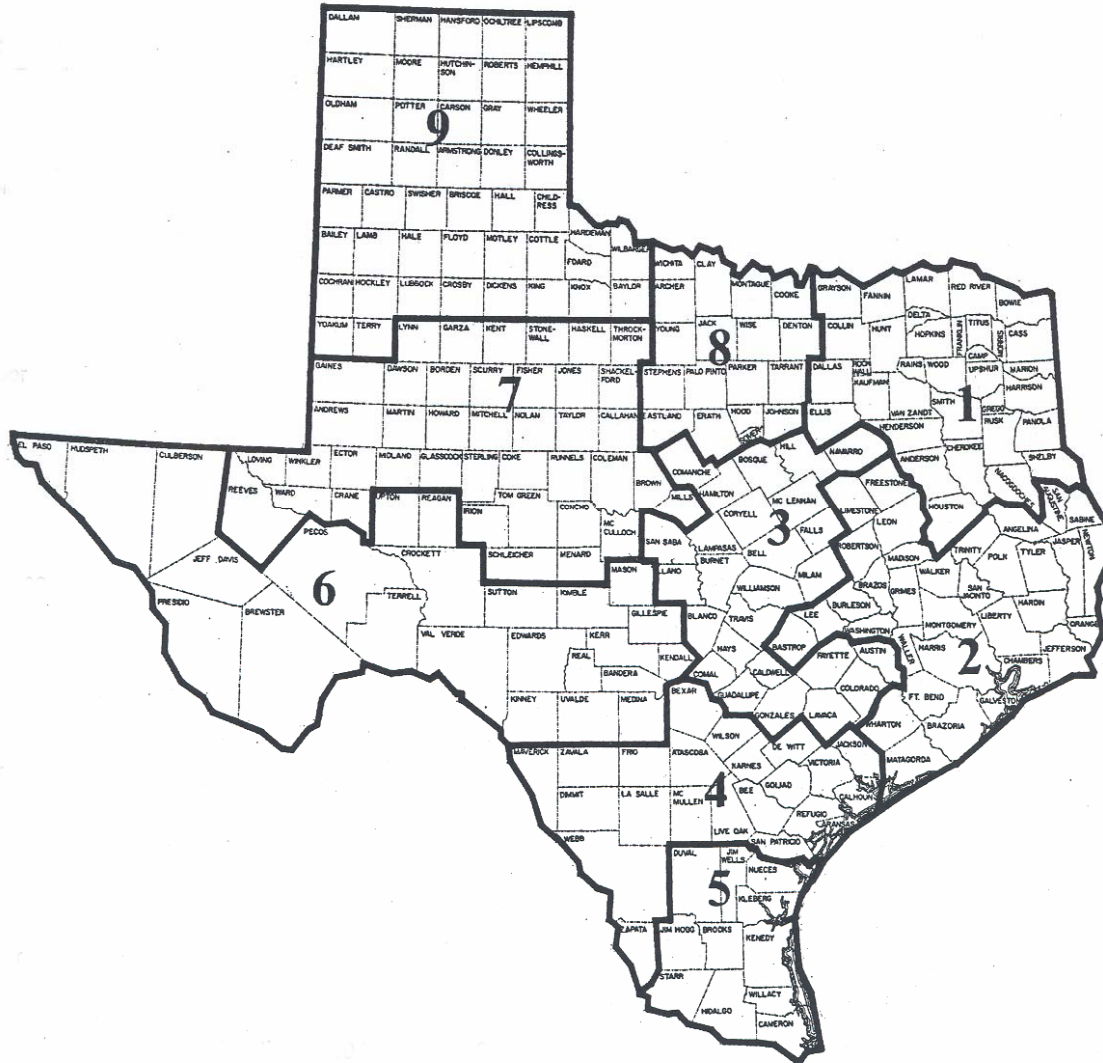
3. Grayson County, Sherman, TX.
Judges Jim Fray, Ray Grisham and Rim Nall.

These courts dockets are so heavy they cannot get to their juvenile cases which requires an assigned judge.

When judges have multiple counties in their district and are in trial in one county and a judicial crisis occurs in another, they simply cannot be in two places at one time.

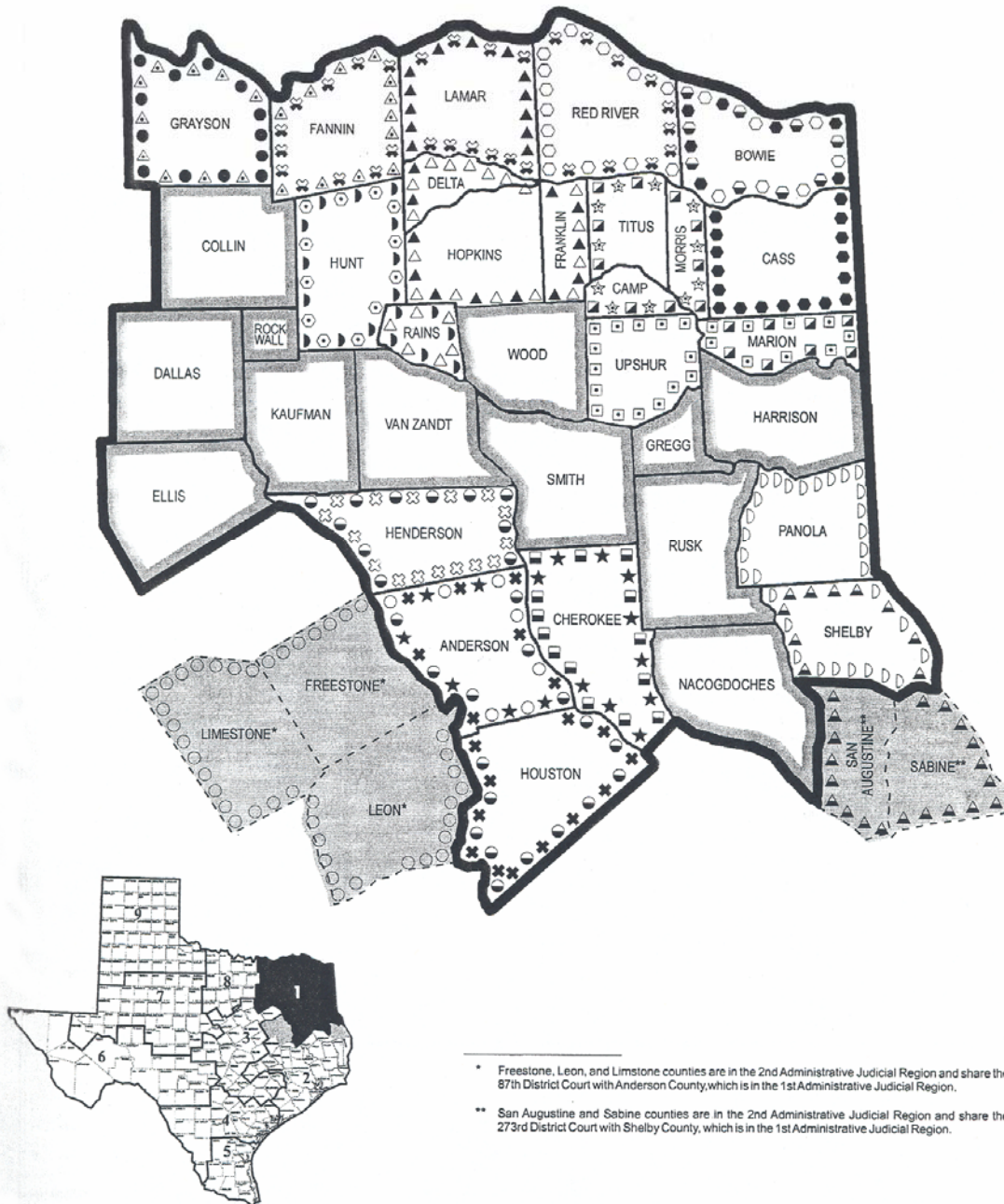
APPENDIX F

THE ADMINISTRATIVE JUDICIAL REGIONS OF TEXAS



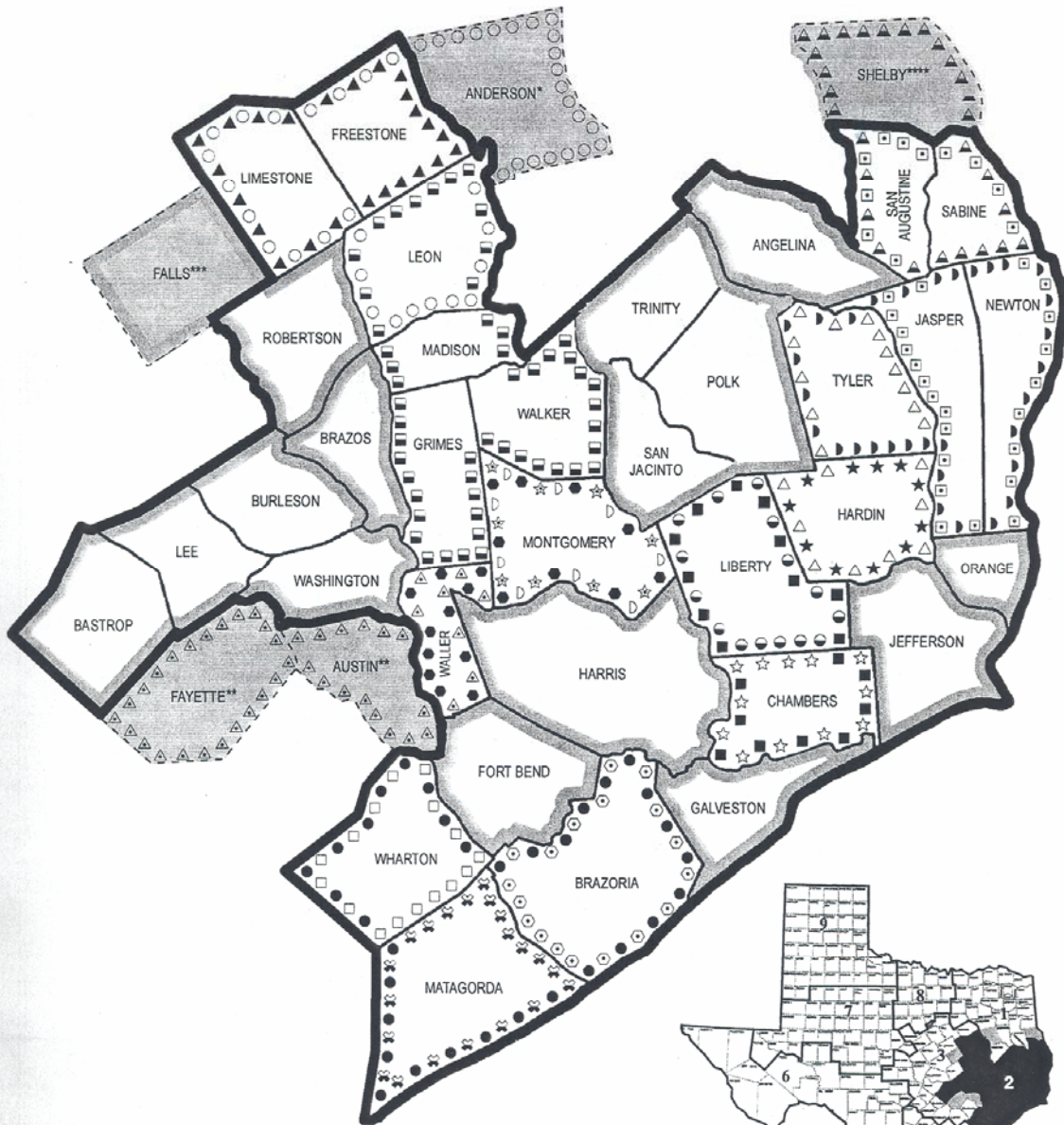
Source: *Texas Judicial System Annual Report 2003*

FIRST ADMINISTRATIVE JUDICIAL REGION



Source: *Texas Judicial System Annual Report Fiscal Year 2003*

SECOND ADMINISTRATIVE JUDICIAL REGION



¹ Anderson County is in the 1st Administrative Judicial Region and shares the 87th District Court with Freestone, Leon, and Limestone counties, which are in the 2nd Administrative Judicial Region.

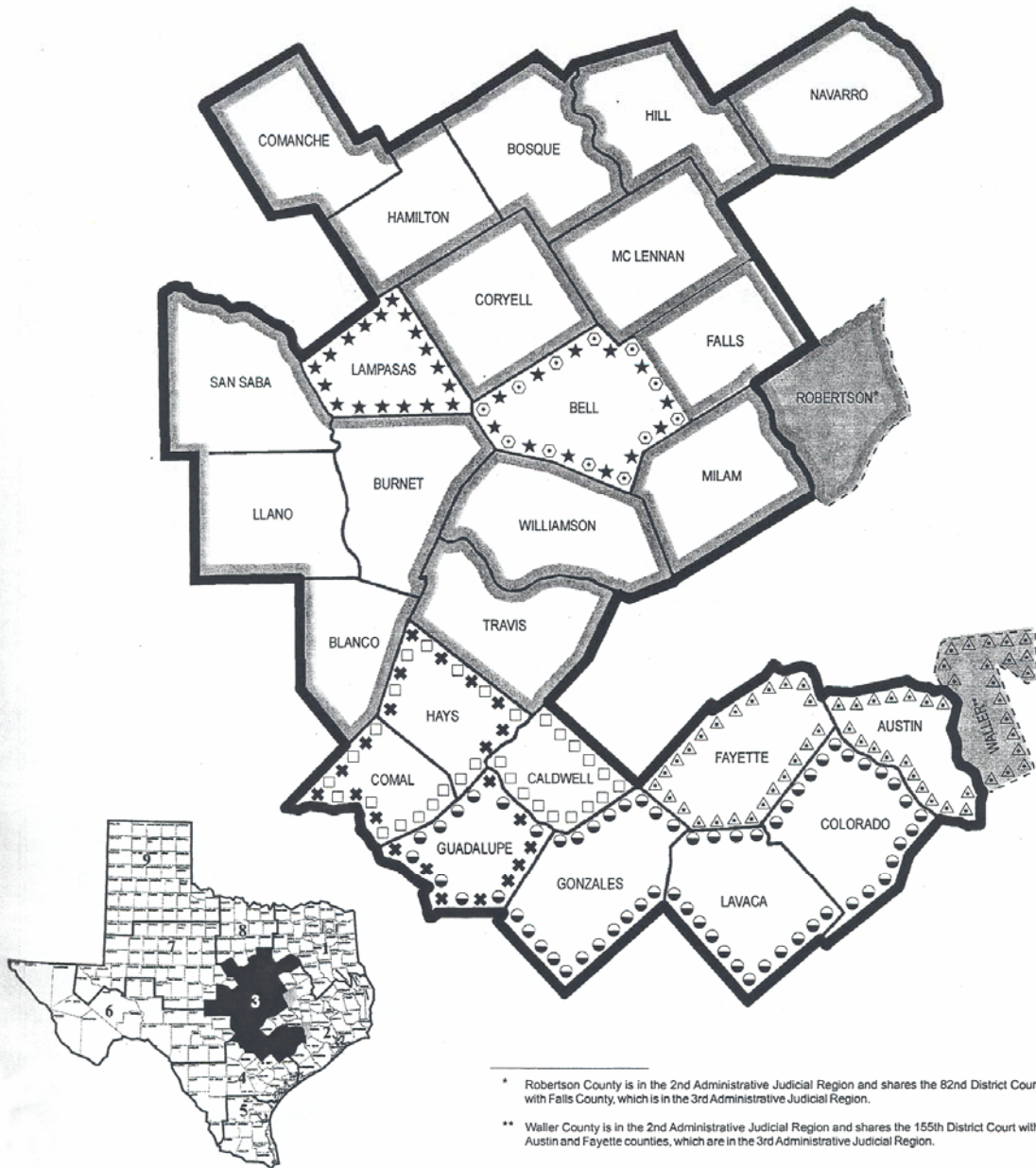
² Austin and Fayette counties are in the 3rd Administrative Judicial Region and share the 155th District Court with Waller County, which is in the 2nd Administrative Judicial Region.

³ Falls County is in the 3rd Administrative Judicial Region and shares the 82nd District Court with Robertson County, which is in the 2nd Administrative Judicial Region.

⁴ Shelby County is in the 1st Administrative Judicial Region and shares the 273rd District Court with San Augustine and Sabine counties, which are in the 2nd Administrative Judicial Region.

Source: *Texas Judicial System Annual Report Fiscal Year 2003*

THIRD ADMINISTRATIVE JUDICIAL REGION

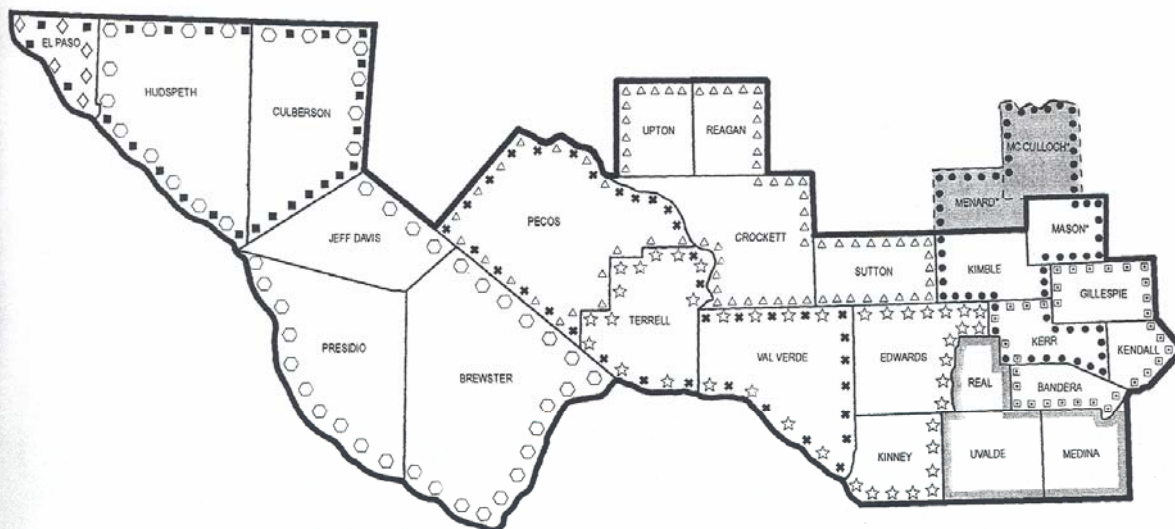


* Robertson County is in the 2nd Administrative Judicial Region and shares the 82nd District Court with Falls County, which is in the 3rd Administrative Judicial Region.

** Waller County is in the 2nd Administrative Judicial Region and shares the 155th District Court with Austin and Fayette counties, which are in the 3rd Administrative Judicial Region.

Source: *Texas Judicial System Annual Report Fiscal Year 2003*

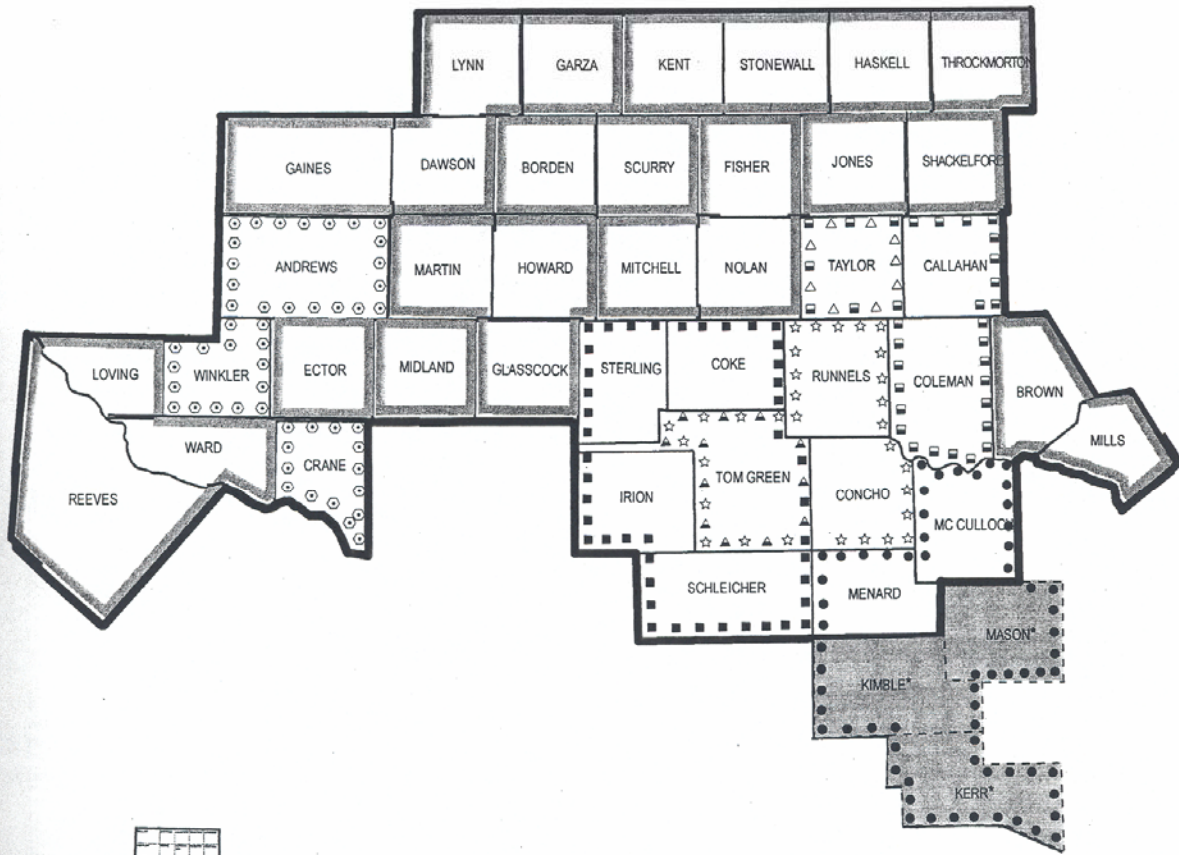
SIXTH ADMINISTRATIVE JUDICIAL REGION



* Mason, McCulloch, and Menard counties are in the 7th Administrative Judicial Region and share the 198th District Court with Kimble and Kerr counties, which are in the 6th Administrative Judicial Region.

Source: *Texas Judicial System Annual Report Fiscal Year 2003*

SEVENTH ADMINISTRATIVE JUDICIAL REGION



* Kerr, Kimble, and Mason counties are in the 6th Administrative Judicial Region and share the 198th District Court with McCulloch and Menard counties, which are in the 7th Administrative Judicial Region.

Source: *Texas Judicial System Annual Report Fiscal Year 2003*

ENDNOTES

- ¹ Tex. Const. Art. V, Sec. 6.
- ² Ch. 36, 40th Leg., Reg. Session, 1927 Tex. Gen. and Special Laws 50, 56.
- ³ Tex. Const. Art. V, Sec. 6.
- ⁴ *Annual Report of the Texas Judicial System Fiscal Year 2003*, published by the Office of Court Administration.
- ⁵ *Annual Report of the Texas Judicial System Fiscal Year 2003*.
- ⁶ *Annual Report of the Texas Judicial System Fiscal Year 1983*, published by the Office of Court Administration..
- ⁷ *Annual Report of the Texas Judicial System Fiscal Year 2003*.
- ⁸ Art. IV, Sec. 1 of the General Appropriations Act for the 2001-2002 Biennium, Legislative Budget Board.
- ⁹ Art. IV, Sec. 1 of the General Appropriations Act for the 2002-2003 Biennium, Legislative Budget Board.
Art. IV, Sec. 1 of the General Appropriations Act for the 2004-2005 Biennium, Legislative Budget Board.
- ¹⁰ *Annual Report of the Texas Judicial System Fiscal Year 2003*.
- ¹¹ Tex. H.B. 2261, 78th Leg., R.S. (2003).
- ¹² Tex. H.B. 2261, 78th Leg., R.S. (2003).
- ¹³ Tex. H.B. 988, 78th Leg., R.S. (2003).
- ¹⁴ *Annual Report of the Texas Judicial System Fiscal Year 2003*.
- ¹⁵ Testimony of Phillip Johnson, Council of Chief Justices and the Seventh District Texas Court of Appeals, April 27, 2004.
- ¹⁶ Written testimony the Council of Chief Justices, April 26, 2004.
- ¹⁷ Art. IV, Sec. 1 of the General Appropriations Act for the 2004-2005 Biennium, Legislative Budget Board.
- ¹⁸ Testimony of John Cayce, Second District Texas Court of Appeals, June 16, 2004.
- ¹⁹ Testimony of Adele Hedges, Fourteenth District Texas Court of Appeals, April 27, 2004
Testimony of Linda Thomas, Fifth District Texas Court of Appeals, June 16, 2004.
Testimony of Sherry Radack, First District Texas Court of Appeals, May 17, 2004.
- ²⁰ *Survey of Judicial Salaries*, National Center for State Courts. 2003. Available online:
http://www.ncsconline.org/D_KIS/Salary_Survey/Index.html
- ²¹ *Retirement Benefits for Judicial Officers: JRS Plan I*, Employees Retirement System of Texas, 2003. Available Online: <http://www.ers.state.tx.us/Publications/JRS1-booklet.pdf>
- ²² Testimony of John Cayce, Second District Texas Court of Appeals, June 16, 2004.
- ²³ Testimony of Kelly G. Moore, May 17, 2004.
- ²⁴ *Annual Report of the Texas Judicial System Fiscal Year 2003*.
- ²⁵ Memo from Tina Beck, Legislative Budget Board, July 14, 2004.
- ²⁶ Written testimony submitted by Rob Kepple, District and County Attorneys Association, May 5, 2004.
- ²⁷ Written testimony submitted by Rob Kepple, District and County Attorneys Association, May 5, 2004.
- ²⁸ Written testimony submitted by Rob Kepple, District and County Attorneys Association, May 5, 2004.