



SUPREME COURT OF APPEALS OF WEST VIRGINIA

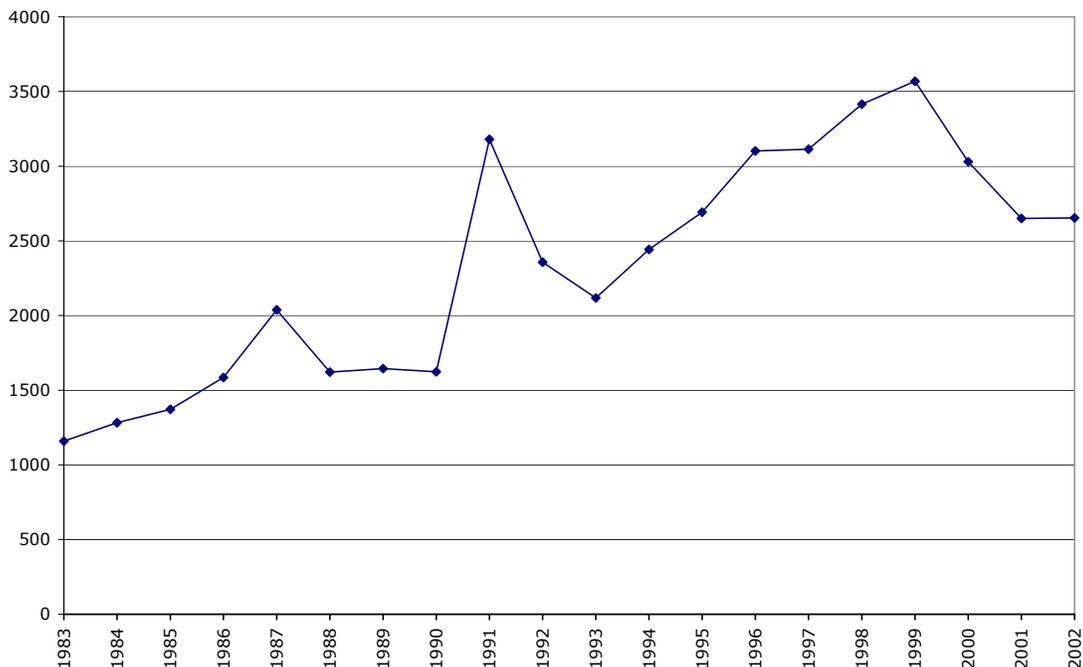
2002 Statistical Report

Case Filings

The total number of new petitions filed in 2002 remained relatively steady, increasing just **3** from the previous year, to **2653**. The number of filings in 2002 remained high in comparison to long-term trends. As the chart below illustrates, last year's filings more than double the number of cases filed as recently as 1983.

The small increase in the number new petitions filed in 2002 corresponds with a slight increase in the number of workers' compensation petitions, from **1380** to **1394**, reversing a two-year downward trend in compensation filings. The number of civil filings, at **605**, continues a five-year upward trend in that area. On the decrease were the number of petitions for writs of mandamus, which fell to **210**, a fall of **35** over last year's all-time high. That decrease was offset by an increase in the number of prohibition filings, which rose by **34** over the previous year for a total of **118**.

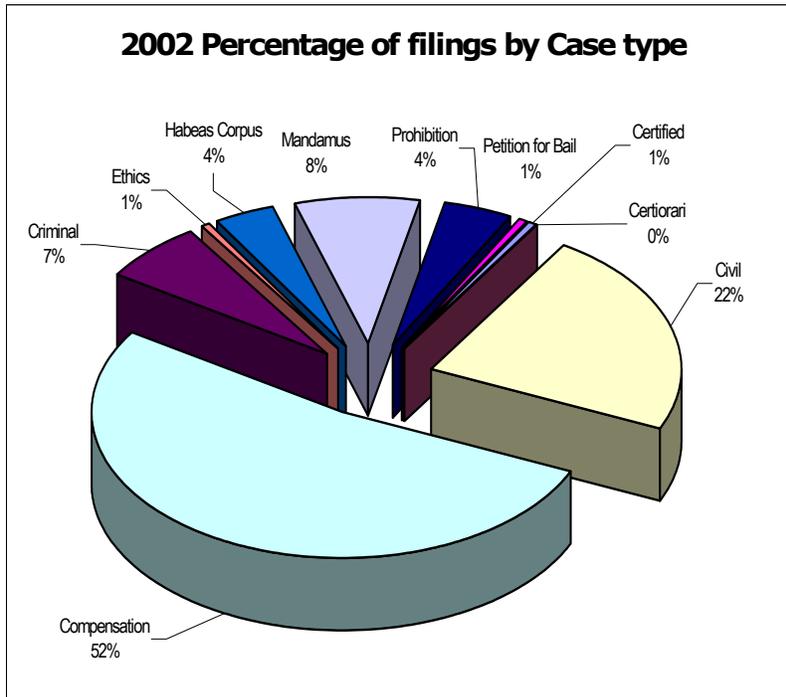
Case Filings 1983 - 2002



Case Filings by Case Type 1985 – 2002

Case Type	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Certified	12	17	23	21	28	29	35	43	34	46	27	30	27	15	19	7	15	14
Certiorari	10	6	4	2	7	5	4	2	2	7	8	4	5	3	5	3	3	2
Civil	332	376	422	394	419	426	524	538	536	575	642	646	571	556	519	578	606	605
Compensation	198	421	841	488	528	481	1947	1075	708	966	1220	1534	1708	2067	2306	1816	1380	1394
Criminal	157	182	176	182	168	183	181	168	165	178	209	234	203	207	232	203	189	173
Ethics	10	16	20	13	12	17	23	25	27	69	43	33	27	24	27	18	19	17
Habeas	367	240	200	195	186	171	149	192	319	239	218	265	253	230	118	100	96	102
Mandamus	181	196	214	183	141	149	179	184	187	173	172	180	164	162	177	199	245	210
Pet. Bail	24	30	52	47	39	40	20	12	21	30	39	30	24	20	16	19	13	18
Prohibition	81	101	85	96	116	122	118	118	118	159	114	146	132	131	120	86	84	118
TOTAL	1372	1585	2037	1621	1644	1623	3180	2357	2117	2442	2692	3102	3114	3415	3539	3029	2650	2653

The table above contains historical filing information by case type since 1985. The trends are toward an increase in civil filings over the coming years, with compensation filings expected to remain at current levels. An increasing trend is also seen in original jurisdiction filings.



The overall composition of cases filed in 2002 was consistent with the prior year. The chart at left breaks down the percentages of each case type filed last year. Workers' compensation appeals made up only 52% of all new petitions filed, down from levels in excess of 65% seen in prior years.

The increase in original jurisdiction petitions is consistent with a national trend toward an increase in these types of filings over the past ten years. Original jurisdiction petitions may consist of complex emergency challenges to a trial court ruling, or may be *pro se* challenges

to convictions, sentences or conditions of confinement. According to the National Center for State Courts, a likely reason for this increase is “growth in the state prisoner population during the 1990s and an increase in the number of prisoners serving sentences over five years.” B. Ostrom, N. Kauder, & R. LaFountain, *Examining the Work of State Courts, 2001: A National Perspective for the Court Statistics Project* (National Center for State Courts 2001) at 84. Indeed, many of the 245 mandamus filings received during 2001 were filed by state prisoners. Also of note is the uptick in prohibition filings in 2002, which may reflect an increasing attempt to use this mechanism as a means to seek interlocutory review of trial court rulings.

Case Disposition

In the past three years the number of case dispositions has far exceeded the number of filings, as the Court worked to clear the substantial increase in the compensation filings in recent years. In the past year, the number of case dispositions in 2002 kept pace with case filings, now that compensation filings have stabilized. The Court disposed of **2580** cases in 2002, using a variety of disposition methods. Although the number of dispositions is down from the **3703** cases disposed of in 2001, last year’s dispositions reflect a **97% clearance rate** for 2002.

Disposition Method	Number Disposed in 2002
Signed Opinion	88
Per Curiam Opinion	115
Petition Refused	1460
Memorandum Order	671
Dismissed	83
Withdrawn	29
Disposed by Order	134
TOTAL DISPOSITIONS	2580

Due to the stabilization in workers’ compensation filings, the number of granted workers’ compensation cases disposed by memorandum order fell to 671, slightly more than half of the **1323** cases disposed by memorandum order in 2001. Once again, this decreased disposition activity reflects the Court’s successful efforts over the prior years to clear the high number of compensation appeals filed.

The bulk of the Court's work falls within its appellate jurisdiction. Of the cases disposed in 2002, 10% involved the Court's original jurisdiction. Less than 1% involved disciplinary matters, leaving 89% of the cases disposed involving the Court's appellate jurisdiction. It should be noted, however, that the 10% figure is often not proportionate to the judicial work required in original jurisdiction matters, where the Court is often requested to act on an expedited basis to resolve complex questions of law and mass litigation procedure.

In addition to disposing of cases filed, the Court considered and disposed of 112 pre-petition matters in 2002, down slightly from 152 last year, but consistent with the 113 pre-petition matters disposed in 2000. Pre-petition matters often involve emergent questions for litigants, such as whether a stay should be granted pending appeal.

Another trend of increasing activity occurred in the number of petitions for rehearing filed. In 2000, 31 petitions for rehearing were filed. In 2001, that number more than doubled, to 63. In 2002, that number increased again, to 87, nearly three times the number filed in 2000.

Discretionary Petition Disposition

By narrowing the focus to the disposition of discretionary petitions, rather than the broader area of case disposition, it is possible to determine the percentage of cases granted in several categories. The grant rate is based upon the total number of petitions of a given type considered by the Court in a given year. The chart below sets forth these figures for the past three years: total number of discretionary petitions considered by the Court, and the percentage granted.

Case Type	1999		2000		2001		2002	
	Total	%Granted	Total	%Granted	Total	%Granted	Total	%Granted
Certified	17	35%	10	60%	16	68.75%	14	42.87%
Certiorari	6	67%	4	50%	0	0%	2	50%
Civil	456	30%	431	28.5%	378	38.62%	370	34.59%
Civil – Abuse & Neglect	96	11%	120	.025%	135	4.44%	118	11.02%
Compensation	1874	51%	2298	65%	2211	50.84%	1162	42.34%
Criminal	234	18%	194	20.6%	187	17.65%	144	22.22%
Habeas Corpus	108	.05%	91	.02%	62	3.23%	102	9.8%
Mandamus	132	30%	142	39%	165	15.15%	131	20.61%
Petition for Bail	16	0%	17	5.8%	14	0%	16	0%
Prohibition	113	27%	85	26%	69	26.09%	109	27.59%
TOTAL	3063	40.5%	3403	51.6%	3237	42.17%	2171	33.58%

Notable is a decrease in the percentage of compensation appeals granted, down to **42%**, reflecting a downward trend in that area. If compensation petitions are excluded, the Court’s overall percentage of petitions granted is **23%**. This is in contrast to the percentage granted in most other states. State supreme courts nationwide granted about **13%** of the discretionary petitions filed in 2001.

Caseload Comparison with Comparable Courts

The steady increase of filings in West Virginia is consistent with the increase of filings nationally over the second half of the twentieth century. In response to the steady increase in filings, the number of states with intermediate appellate courts (“IAC”) has tripled in the same time period; 13 states had IACs in 1950, compared with 40 states in 2000. In the past decade, Mississippi, Nebraska, North Dakota, and Utah have created IACs, despite having caseloads smaller than that of West Virginia.

No other comparable appellate court in the country handles as many cases as this Court. The most recent (2000) data from the National Center for State Courts confirms this Court’s position as the busiest appellate court of its type in the country. In 2000, West Virginia’s caseload was more than 1.5 times that of the next busiest state, Nevada, and more than the states of Delaware, Maine, North Dakota and Rhode Island combined.

The chart below illustrates the comparable caseload figures for 2000 across the states without an intermediate appellate court. Other measures appearing in the chart, such as the number of cases filed per judge and per 100,000 population, are used to compare judicial workloads across diverse jurisdictions. Current figures for West Virginia are included in brackets.

	Appeals per 100,000 population	Total Filings	Percent Mandatory	Percent Discretionary	Disposed by Opinion	Number of opinions/judge
Delaware	84	656	100	-	58	12
Maine	55	442	63	37	220	31
Montana	96	868	67	33	276	39
Nevada	90	1803	100	-	141	20
New Hampshire	67	834	-	100	124	25
North Dakota	55	350	95	5	246	49
Rhode Island	51	535	70	30	196	39
South Dakota	58	438	90	10	185	37
Vermont	94	572	95	5	168	34
West Virginia*	168 [147]	3029 [2653]	-	100	189 [203]	38 [41]
Wyoming	74	364	100	-	NA	NA

National court data obtained from B. Ostrom, N. Kauder, & R. LaFountain, *Examining the Work of State Courts, 2001: A National Perspective for the Court Statistics Project* (National Center for State Courts 2001).

* Figures for 2002 are shown in brackets.