

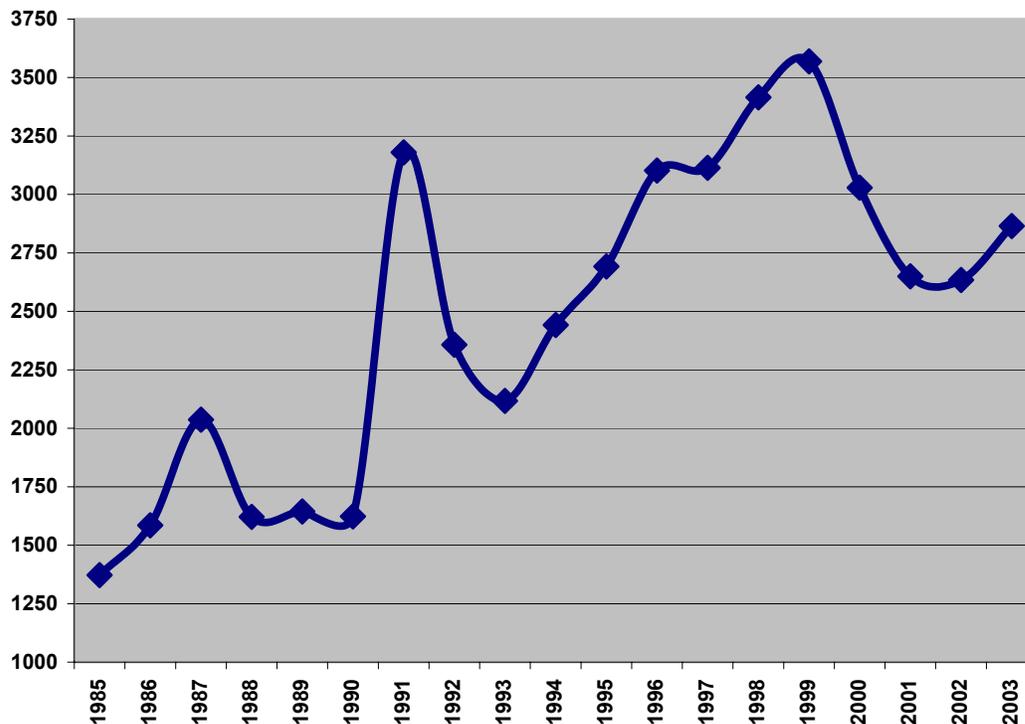


SUPREME COURT OF APPEALS OF WEST VIRGINIA

2003 Statistical Report

Case Filings

The total number of new petitions filed in 2003 increased 8% over the previous year, rising 212 for a total of 2865. This slight increase reverses a three-year decline in new petitions filed. Filing rates remain high when compared to the longer term. As the chart below illustrates, the number of petitions filed last year was more than double the number of petitions filed as recently as 1985.

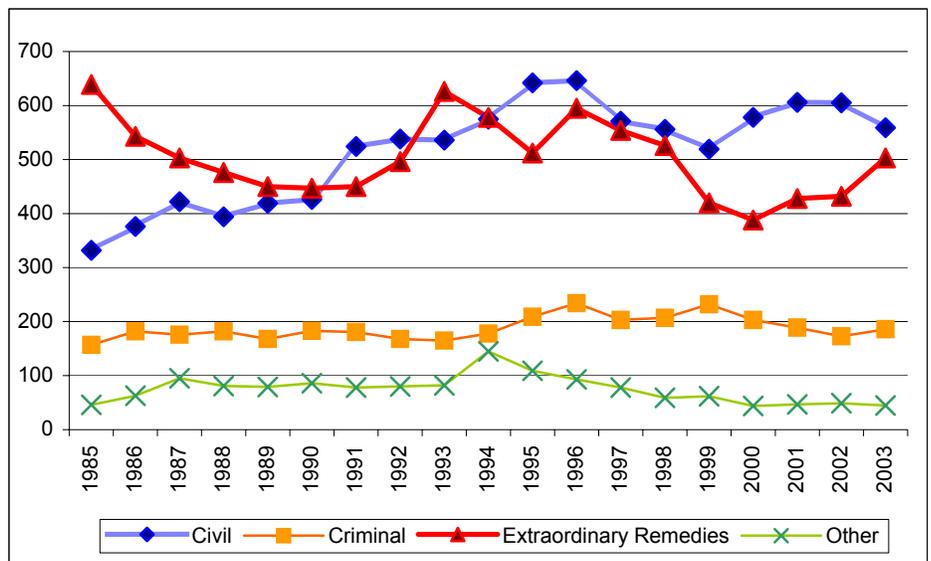


The increase in the number of new petitions filed in 2003 corresponds with an 11% rise in the number of workers' compensation petitions over the previous year, from 1394 to 1572. Despite this one-year increase, compensation filings are down overall -- 32% less from the all-time high in 1999. The number of civil filings, at 559, fell 46 from the previous year's total of 605. On the increase were the number of petitions for writs of

mandamus, which rose to **236**, an increase of **26** cases, and nearly equal to the 2001 all-time high of **245**. The increase in mandamus filings was offset by a decrease in the number of prohibition filings, which fell by **24** over the previous year to **94**. Up sharply were petitions for habeas corpus relief, which showed a **66%** increase over the previous year, from **102** to **170**, reflecting the largest percentage change among all case types.

Case Type	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Certified	12	17	23	21	28	29	35	43	34	46	27	30	27	15	19	7	15	14	17
Certiorari	10	6	4	2	7	5	4	2	2	7	8	4	5	3	5	3	3	2	3
Civil	332	376	422	394	419	426	524	538	536	575	642	646	571	556	519	578	606	605	559
Compensation	198	421	841	488	528	481	1947	1075	708	966	1220	1534	1708	2067	2306	1816	1380	1394	1572
Criminal	157	182	176	182	168	183	181	168	165	178	209	234	203	207	232	203	189	173	186
Ethics	10	16	20	13	12	17	23	25	27	69	43	33	27	24	27	18	19	17	16
Habeas	367	240	200	195	186	171	149	192	319	239	218	265	253	230	118	100	96	102	170
Mandamus	181	196	214	183	141	149	179	184	187	173	172	180	164	162	177	199	245	210	236
Pet. Bail	24	30	52	47	39	40	20	12	21	30	39	30	24	20	16	19	13	18	12
Prohibition	81	101	85	96	116	122	118	118	118	159	114	146	132	131	120	86	84	118	94
TOTAL	1372	1585	2037	1621	1644	1623	3180	2357	2117	2442	2692	3102	3114	3415	3539	3029	2650	2653	2865

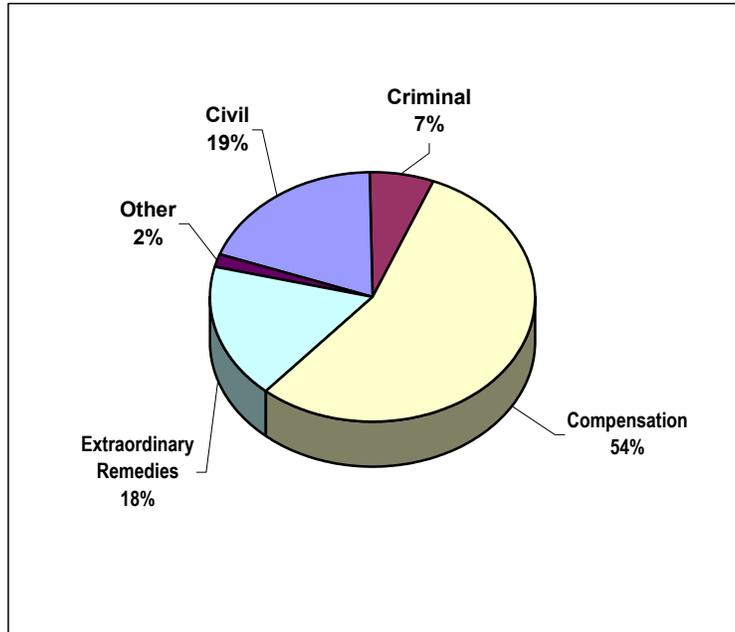
Filing Trends: For non-compensation cases, filing levels have been steady in certain areas, while fluctuating in other areas, as seen in the chart below. Criminal filings have remained largely steady since 1985, while civil filings and requests for extraordinary remedies have fluctuated. The general trend in civil filings is upward for the entire period, though civil filings have fallen off considerably since 1996. The number of extraordinary remedies sought, (including mandamus, prohibition, habeas corpus, and certiorari), changes from year to year, sometimes according to issues such as prison conditions. The category "Other" includes ethics cases, certified questions, and petitions for bail. This category has been largely steady since 1985, apart from a spike in ethics filings in 1994.



The recent 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 236 mandamus filings and most of the 170 habeas corpus filings received during 2003 were filed by state prisoners.

The overall composition of cases filed in 2003, as shown in the chart at right, was consistent with the prior year. Workers’ compensation appeals made up only **54%** of all new petitions filed, down from levels in excess of **65%** seen in prior years.



Case Disposition

The Court can dispose of cases by a variety of methods, resulting in opinions and orders. Because all petitions are discretionary (except for ethics cases), some cases are disposed by entry of a refusal order. Other cases are granted and set for argument, but later withdrawn, dismissed, or otherwise disposed by order. Most non-compensation cases that persist after being granted are disposed by written opinion. Most compensation appeals are disposed by memorandum order.

In each of the past three years, the number of case dispositions has far exceeded the number of filings because the Court worked to clear a substantial increase in the compensation filings in recent years. However, because dispositions in workers’ compensation cases were held in abeyance beginning in late October 2003, the clearance rate was less than 100% last year. In 2003, the Court disposed of a total of **2245** cases, or **78%** of same-year filings.

For a breakdown of the number of cases by disposition method, please refer to the following chart:

Disposition Method	Number Disposed in 2003
Signed Opinion	68
Per Curiam Opinion	114
Petition Refused	1534
Memorandum Order	374*
Dismissed	58
Withdrawn	55
Disposed by Order	42
TOTAL DISPOSITIONS	2245
<i>*The time for issuance of the mandate in 39 of these cases was extended by order dated October 26, 2003.</i>	

Due to the stabilization in workers' compensation filings, the number of granted workers' compensation cases disposed by memorandum order fell to **374**, less than a third 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.

In addition to disposing of cases filed, the Court considered and disposed of **106** pre-petition matters in 2003, which is generally consistent with prior years. Pre-petition matters often involve emergent questions for litigants, such as whether a stay should be granted pending appeal.

The number of petitions for rehearing filed decreased in 2003. 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. Last year, **43** petitions for rehearing were filed, less than half the number filed in the prior year.

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 petitions for appeal in several categories that were granted full review by the Court last year. The petition grant rate is based upon the total number of petitions of a given type *actually considered* by the Court in a given year (which will differ from the number of petitions *filed* in a given year). The chart on the next page sets forth the total number of petitions considered over the past five years in each category, along with a percentage of the petitions that were granted for full briefing and argument.

Case Type	1999		2000		2001		2002		2003	
	Petitions Considered	% Granted								
Certified	17	35%	10	60%	16	69%	14	43%	14	86%
Certiorari	6	67%	4	50%	0	0%	2	50%	2	50%
Civil	456	30%	431	29%	378	39%	370	35%	479	32%
Abuse & Neglect	96	11%	120	.025%	135	4%	118	11%	84	8%
Compensation	1874	51%	2298	65%	2211	51%	1162	42%	1011	34%
Criminal	234	18%	194	21%	187	18%	144	22%	195	17%
Habeas Corpus	108	.05%	91	.02%	62	3%	102	10%	132	7%
Mandamus	132	30%	142	39%	165	15%	131	21%	146	27%
Petition for Bail	16	0%	17	6%	14	0%	16	0%	13	0%
Prohibition	113	27%	85	26%	69	26%	109	28%	83	37%
TOTAL	3063	41%	3403	52%	3237	42%	2171	34%	2159	29%

Notable is a decrease in the percentage of workers' compensation petitions granted, down to **34%**, reflecting a continuing downward trend in that area. If compensation petitions are excluded, the Court's overall percentage of petitions granted is **25%**. 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 39 states in 2001. 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 (2001) 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 nearly 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 on the following page illustrates the comparable caseload figures for 2001 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.

States Without Intermediate Appellate Courts	Appeals per 100,000 population	Total Filings	Percent Mandatory	Percent Discretionary	Disposed by Signed Opinion	Number of Signed Opinions/Judge
Delaware	73	582	100	-	53	11
Maine	56	721	73	27	181	26
Montana	101	909	62	38	250	36
Nevada	86	1803	100	-	85	12
New Hampshire	61	766	-	100	229	46
North Dakota	48	307	93	7	182	36
Rhode Island	62	654	52	48	96	19
South Dakota	65	494	88	12	184	37
Vermont	101	618	96	4	64	13
West Virginia	147*	2650	-	100	94	19
Wyoming	57	283	100	-	149	30

National court data obtained from B. Ostrom, N. Kauder, & R. LaFountain, *Examining the Work of State Courts, 2002: A National Perspective for the Court Statistics Project* (National Center for State Courts 2002).

* West Virginia ranks third in the nation in the number of appeals filed per 100,000 population, behind Louisiana with **294** and Oregon with **154**.