

## Appellate Caseloads

The primary function of state appellate courts is to review lower court decisions and thus provide overall direction in the law. In 39 states and Puerto Rico there are two possible levels of appellate review: an intermediate appellate court (IAC) that analyzes the actions of **trial courts**; and, a court of last resort (COLR) that can scrutinize the determinations of the IAC. In some cases (such as those involving the death penalty) the COLR will review the decision of the trial court directly. Eleven states and the District of Columbia have no IAC; their court of last resort provides the only level of appellate review.

A secondary function of these courts is their ability to entertain proceedings directly. These cases, referred to as *original jurisdiction* proceedings, allow the appellate court initial examination of a case or controversy. Habeas corpus, the examination by a court as to the purpose and right of one person to detain or imprison another, is perhaps the most well known of these original jurisdiction case types.

Appellate caseloads can be further divided into *mandatory* and *discretionary* jurisdiction cases. Mandatory cases are those in which the court *must* examine the merits of the case. Discretionary cases are those in which the court *may* examine the merits of the case if it chooses.

States with larger populations have higher trial court caseloads and hence a larger number of appeals. However, after adjusting for population, not all large states have high rates of appeals filed.

CSP Resource

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Court Statistics Project

National Center for State Courts

Caseload Highlights,  
Taxonomy of Appellate Court  
Organization

## Total Appellate Caseloads, 2005

State	Total	Percent Mandatory	Percent Discretionary	Per 100,000 Population	Population Rank
<b>With an Intermediate Appellate Court</b>					
Louisiana	10,465	26%	74%	231	24
Florida	28,680	69	31	161	4
Puerto Rico	5,708	49	51	146	27
Alaska	917	76	24	138	48
Oregon	4,863	83	17	134	28
Alabama	5,697	85	15	125	23
Pennsylvania	15,371	81	19	124	6
Ohio	14,120	87	13	123	7
New Jersey	10,344	71	29	119	10
Nebraska	1,906	83	17	108	39
Kansas	2,880	74	26	105	34
Washington	6,365	67	33	101	14
Michigan	10,112	41	59	100	8
Mississippi	2,769	75	25	95	32
Colorado	4,232	68	32	91	22
Idaho	1,295	83	17	91	40
Kentucky	3,773	79	21	90	26
Illinois	11,478	81	19	90	5
Hawaii	1,131	91	9	89	43
Texas	20,025	86	14	88	2
Arizona	5,198	77	23	88	17
New York	16,531	77	23	86	3
California	30,891	43	57	85	1
Arkansas	2,257	74	26	81	33
Missouri	4,672	88	12	81	18
Virginia	5,881	12	88	78	12
New Mexico	1,486	61	39	77	37
Wisconsin	4,139	74	26	75	20
North Dakota	470	100	0	74	49
Iowa	2,147	100	0	72	31
South Carolina	2,850	62	38	67	25
Tennessee	3,810	62	38	64	16
Minnesota	3,248	76	24	63	21
Utah	1,553	97	3	63	35
Indiana	3,690	75	25	59	15
Maryland	3,252	69	31	58	19
Georgia	5,138	61	39	57	9
Massachusetts	3,413	61	39	53	13
North Carolina	3,465	55	45	40	11
Connecticut	1,376	83	17	39	30
<b>Median</b>		<b>75</b>	<b>25</b>	<b>88</b>	
<b>Without an Intermediate Appellate Court</b>					
District of Columbia	1,648	99	1	299	51
West Virginia	3,031		100	167	38
Vermont	532	96	4	85	50
Nevada	2,058	100		85	36
Montana	738	77	23	79	45
New Hampshire	939		100	72	42
Delaware	583	100	0	69	46
Maine	629	79	21	48	41
South Dakota	369	84	16	48	47
Rhode Island	345	70	30	32	44
<b>Median</b>		<b>90</b>	<b>21</b>	<b>75</b>	

Oklahoma and Wyoming did not report data for 2005.  
Blank cells indicate no jurisdiction.

This distinction between number and rate of appeals appears most clearly in states such as Louisiana, which ranks at the top of the list in terms of appeals per 100,000 people yet only eighth in terms of total number of appeals. In this case, the higher per capita rate of appeals may be explained by the automatic right of appeal to which each case from the Louisiana District Court is entitled.

Four of the five most populous states, (California, Texas, Illinois, and New York) are all near the median of appeals per 100,000 residents for states with an intermediate appellate court. The fifth, Florida, has nearly double the median.

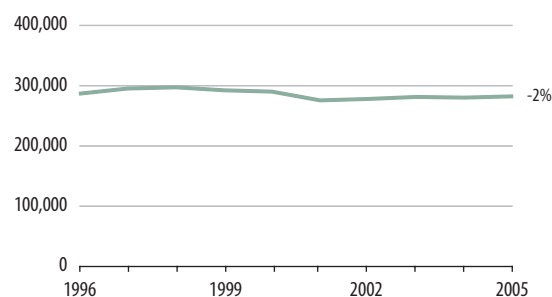
The high levels of appeal per 100,000 residents seen in the District of Columbia may be explained by its unique circumstances. D.C. is functionally more like a city than a state, thus this rate is not necessarily comparable to any other state.

With only several exceptions (California, Louisiana, Michigan, Puerto Rico, New Hampshire, Virginia, West Virginia), the majority of states' appellate court caseloads fall under mandatory jurisdiction. States with no intermediate appellate court generate median mandatory jurisdiction rates

higher than other states. This lack of discretionary jurisdiction is due to the absence of any appellate recourse other than to the state's court of last resort.

Over the last decade appellate court caseloads appear to have decreased by 2 percent. Much of the decline between 2000 and 2001 can be attributed to changes in the mandatory jurisdiction in many courts in the late 1990s. Despite this overall decrease, in the last five years appellate filings rose almost 3 percent. Thus, the small change observed over this ten-year period is difficult to interpret, particularly since some of the change is due simply to improved ability of appellate courts to accurately count, classify, and report their caseloads.

**Total Appellate Filings, 1996-2005**



The table below disaggregates the 10-year trend line, separating states whose caseloads increased from those whose caseloads decreased. Some of these changes can be attributed to improved reporting practices, while others represent changes in patterns of litigation.

South Carolina's increase over the last decade is the result of a surge in post-conviction relief requests as well as improved counting practices in their appellate courts. Mississippi's ability to provide more complete data from its appellate courts accounts for the rise in its reported caseload.

West Virginia's large growth between 2004 and 2005 is largely due to a rise in the number of workers' compensation petitions, the possible result of administrative transitions in the decision-making body at the agency level. Alaska's increase during the same time period stems from the impact of the U.S. Supreme Court decision in *Blakley v. Washington*, which addressed the constitutionality of sentencing guidelines. North Dakota's increase is attributed to drug-related appeals. Changes in the handling of *pro hac vice* admission petitions in Rhode Island caused caseloads to rise in the late 1990s only to fall sharply in the last five years.

#### Percentage Change in Appellate Caseloads

States with <b>INCREASED</b> Caseload	Percentage Change		States with <b>DECREASED</b> Caseload	Percentage Change	
	1996-2005	2004-2005		1996-2005	2004-2005
South Carolina	132%	-6%	Rhode Island	-49%	-12%
Puerto Rico	67	4	Maine	-25	-7
Mississippi	54	-7	South Dakota	-21	-9
Arkansas	39	-2	Kentucky	-20	-3
North Carolina	37	-2	Vermont	-19	-4
Idaho	31	-1	District of Columbia	-19	-6
Hawaii	24	2	Louisiana	-17	-17
Nebraska	21	4	Wisconsin	-15	-6
North Dakota	19	24	<b>Michigan</b>	-15	9
Washington	17	5	New Mexico	-14	-6
<b>Florida</b>	16	8	Connecticut	-14	-17
Colorado	15	9	Missouri	-14	10
Utah	11	1	<b>New York</b>	-13	1
Delaware	10	3	Massachusetts	-13	1
Indiana	8	9	Oregon	-12	4
Nevada	8	9	Montana	-11	-16
<b>Texas</b>	6	-3	Kansas	-10	11
New Hampshire	5	5	<b>New Jersey</b>	-10	-4
<b>California</b>	1	-2	Tennessee	-10	2
Alabama	1	7	<b>Illinois</b>	-9	-1
Virginia	<1	-2	<b>Pennsylvania</b>	-9	-2
			<b>Ohio</b>	-8	7
			Iowa	-7	3
			<b>Georgia</b>	-5	-1
			Maryland	-5	-1
			Arizona	-5	9
			Minnesota	-4	1
			Alaska	-3	45
			West Virginia	-2	25

States in **boldface** are the 10 most populous.  
Oklahoma and Wyoming did not provide data for 2005.

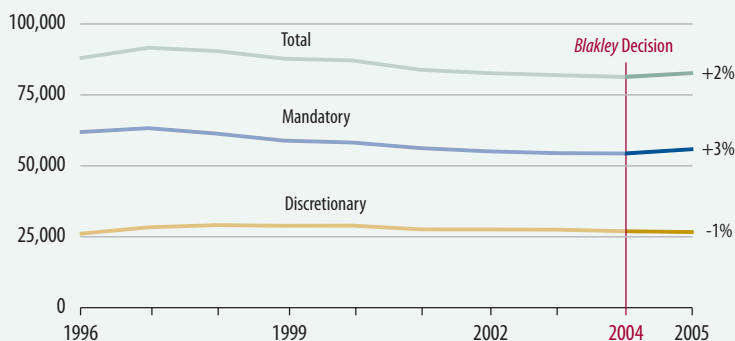
## The Impact of *Blakely v. Washington* on State Appellate Court Caseloads

On June 24, 2004, the United States Supreme Court rendered its decision in the case of *Blakely v. Washington* (542 U.S. 296). The high court held that the right to a jury trial prohibited judges from enhancing criminal sentences based on facts other than those decided by the jury or admitted by the defendant. The result was an influx of cases involving the re-sentencing of criminals found guilty in previous state proceedings. While some of these defendants returned to the trial court for re-sentencing, many used *Blakely* as the basis for direct appellate review. The “*Blakely* bounce” appeared as a 3 percent increase in mandatory jurisdiction criminal appellate filings. In some courts, such as Alaska, the “bounce” was more apparent; much of the 56 percent increase of that state’s appellate caseload has been attributed to *Blakely*.

The *Blakely* decision reversed, perhaps only temporarily, a downward trend that had started in the mid-1990s in filings for appellate review in criminal cases. As noted in an extensive discussion of the issue in *Examining the Work of State Courts, 1999-2000*, the pre-*Blakely* decline was attributable to several key factors:

- Limiting the ability of defendants to appeal their convictions;
- Changing such requests for review from mandatory jurisdiction cases that the appellate courts were required to hear into discretionary jurisdiction cases the appellate court could opt not to entertain; and
- New processes by which a defendant’s sentence alone could be appealed.

Total Criminal Appeals Filed, 1996-2005



Note: Percentages shown represent the change from year 2004 - 2005.



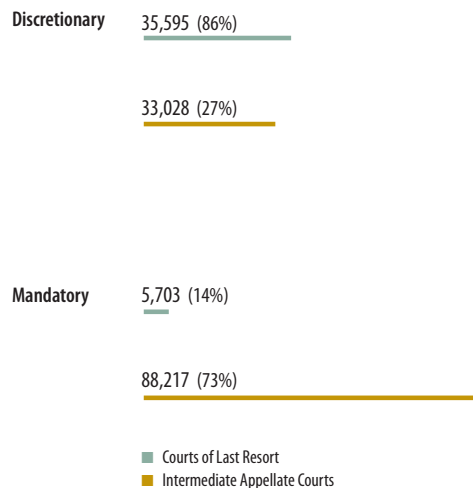
The ways in which cases are disposed in appellate courts include six discrete manners of disposition plus a residual "other" category. *Signed opinions* are typically longer and may be cited to as precedent. *Per curiam* opinions are not identified as having been written by any particular judge or justice. *Memoranda/orders* are shorter and tend to dispose of a case with little discussion of the facts or the law involved. *Pre-argument dismissals* are those in which the case is withdrawn or dismissed. *Transfers* to another court can be either removal of the case to a higher court, a different division or location of the same court, or the mov-

ing of the case from a higher court to a lower one. Many courts report the *denial of discretionary petitions* as a separate category, while others include them within the memo/order category of disposition. Finally, about half of the states listed in this table do not report a complete breakdown of their manner of disposition, and thus a large percentage of their dispositions are reported in the "other" category.

Courts of last resort tend to issue fewer signed or *per curiam* opinions; IACs may issue more opinions because they are often the only court to which the aggrieved party has a right of appeal. Moreover, because an IAC's opinion may later be examined by a COLR, judges in IACs are more inclined to explain their interpretation of the law for later review by the higher court.

While jurisdiction changes in the 1990s meant COLRs had more discretion in terms of the cases they took, the IACs found their mandatory jurisdiction

#### Total Mandatory and Discretionary Caseloads in COLRs and IACs in 21 States, 2005



increasing to compensate. In the 21 states included here, mandatory appeals filed in the IACs outnumber all other appeals in both IACs and COLRs combined.

Discretionary jurisdiction cases are those that IACs and COLRs may choose to hear. Discretionary cases often involve a two-step process. First, one party must

**Manner of Disposition in COLRs and IACs in 20 States, 2005**

State	Number of Justices	Total Dispositions	Opinions		Non-Opinion Dispositions					
			Signed	Per Curiam	Memo/Order	Pre-Argument Dismissals	Transferred	Denial of Discretionary Petitions	Other	
<b>Courts of Last Resort</b>										
Texas (Ct. of Crim. Appeals)	9	9,436	3%	2%			0%	15%	80%	
Virginia	7	2,990	5		3%	1%	0	90	2	
Louisiana	7	2,735	2	6	3	2	2	84	1	
Nevada	7	2,641	2	1	72	24				
Michigan	7	2,569	2		8	90				0
West Virginia	5	2,396	4	4	24	9	0	58	2	
Georgia	7	1,871	21		62	15	2			0
Colorado	7	1,451	6	0	94		0			
Tennessee	5	1,281	15	0	0	2		73	10	
Texas (Supreme Court)	9	1,142	8	4		4	0	75	8	
Indiana	5	1,125	10	7	83					
Oregon	7	1,015	7	0	24			69		
Hawaii	5	875	8		14	24	35			18
Arkansas	7	785	26	11		12	2	35	14	
Idaho	5	704	22	0	18	36	0			25
Utah	5	683	13	0	0	15	4			69
Delaware	5	554	11	2	76	10				1
Vermont	5	531	10	42	18	30	0			0
Alaska	5	432	23	12		29	0	32	4	
Rhode Island	5	323	24	21	5	48	0			2
Minnesota	7	230	46		25					29
<b>Intermediate Appellate Courts</b>										
Texas	80	12,058				28				72
Louisiana	53	7,883	30		10			52	8	
Michigan	28	7,853	2	1	44	22		29	2	
Oregon	10	3,267	12	5	34	40	0		9	
Virginia	11	2,936	17		14	69			0	
Georgia	12	2,839	56		23		1		20	
Colorado	16	2,542	68	0	0	32	0			
Indiana (Court of Appeals)	15	2,373	99		1		0		0	
Minnesota	16	2,230	62	0	5	29	0		4	
Arkansas	12	1,468	51	0	26	10	5	8	0	
Tennessee (Ct. of Crim. Appeals)	12	1,442	77	0	14	2		7	0	
Tennessee (Ct. of Appeals)	12	1,362	55	0	33	0		12	0	
Utah	7	1,028	13	9	41	33	3		1	
Idaho	3	512	39	57	0	1	0		4	
Hawaii	6	284	21		77	2	0		0	
Alaska	3	262	19		43	21	0	15	1	
Indiana (Tax Court)	1	127	43	0		56	1		1	

Note: Blank cells indicate that not all courts use the same categories.

NCS Resource



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try to persuade the court to hear the case. If successful, the merits of the case are then examined by the court in much the same fashion as in a mandatory

jurisdiction case. However, most of the discretionary petitions filed in both IACs and COLRs are denied.

#### Total Discretionary Jurisdiction Petitions Filed and Granted in 20 States, 2005



COURTS OF LAST RESORT	Petitions Filed	Percent of Petitions Granted
MISSISSIPPI Supreme Court	423	30%
ARKANSAS Supreme Court	442	25
MINNESOTA Supreme Court	669	18
MARYLAND Court of Appeals	604	17
WEST VIRGINIA Supreme Court of Appeals	3,031	16
NEBRASKA Supreme Court	333	14
TEXAS Supreme Court	1,124	13
GEORGIA Supreme Court	1,243	11
MISSOURI Supreme Court	548	11
VIRGINIA Supreme Court	2,679	10
ALASKA Supreme Court	170	9
IDAHO Supreme Court	222	8
WISCONSIN Supreme Court	1,083	8
MONTANA Supreme Court	173	8
TENNESSEE Supreme Court	1,052	7
TEXAS Court of Criminal Appeals	1,639	7
OHIO Supreme Court	1,820	6
NORTH CAROLINA Supreme Court	547	6
LOUISIANA Supreme Court	2,392	5
ILLINOIS Supreme Court	2,234	4
CALIFORNIA Supreme Court	8,972	1
<b>INTERMEDIATE APPELLATE COURTS</b>		
TENNESSEE Court of Appeals	238	18%
LOUISIANA Courts of Appeal	5,324	16
TENNESSEE Court of Criminal Appeals	169	15
ARKANSAS Court of Appeals	135	12
VIRGINIA Court of Appeals	2,505	10
NORTH CAROLINA Court of Appeals	1,012	9
ALASKA Court of Appeals	51	6
MISSISSIPPI Court of Appeals	266	3
MARYLAND Court of Special Appeals	399	1