

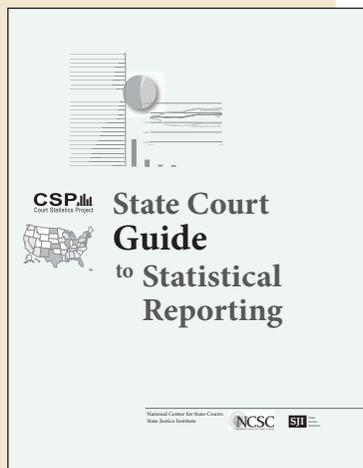
# CASELOAD HIGHLIGHTS

EXAMINING THE WORK OF  
THE STATE COURTS

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• *State Court Guide to Statistical Reporting*



## The New Appellate Section of the *State Court Guide to Statistical Reporting*

“The goal of an appellate court statistical system is to portray what has occurred, what is occurring, and what is likely to occur in appellate courts, objectively and accurately and in terms that can be analyzed, evaluated and compared.” — *Proposed Standards for Appellate Court Statistics, Appellate Statistics Committee of the Appellate Judges Conference of the American Bar Association (ABA), July 1973*

In the 35 years since the ABA first called for the collection of comparable state appellate court statistics the Court Statistics Project (CSP) has been gathering appellate caseload data, using the *State Court Model Statistical Dictionary, 1989* as the primary reporting format. With this issue of Caseload Highlights, we are pleased to introduce a new national reporting framework for appellate court caseloads: the Appellate Section of the *State Court Guide to Statistical Reporting*.

The Appellate Section of the *Guide* is the result of a collaboration with the National Conference of Appellate Court Clerks (NCACC). With its enhanced set of case types and expanded disposition options, the new model will give court leaders, policy makers, and others a more detailed, objective, and accurate picture of the caseloads of the nation’s state appellate courts. As part of the *Guide*, the Appellate Section recommends a model approach for defining and counting historically difficult elements of appellate court caseloads such as reactivated and inactive pending proceedings.

### Appellate Court Caseload Data is Divided into Four Categories

The Appellate Section of the *Guide* contains equivalent sections for each of the four major appellate categories:

- Appeal by Right,
- Appeal by Permission,
- Death Penalty, and
- Original Proceeding/Other Appellate Matter.

Each section includes:

1. **Introduction** - outlining the various changes implemented since the 1989 Dictionary.
2. **Unit of Count** - explaining how appellate proceedings should be counted, followed by situational examples involving issues that might arise in an appeal or original proceeding before the court.

The Appellate Reporting Model includes:

1. **Caseload Summary** - for incoming, outgoing, and pending caseloads.
2. **Manner of Disposition** - for how proceedings before the court were disposed.
4. **Type of Court Opinion** - for the function of the opinion the court used to dispose of a proceeding.
5. **Case Outcome** - for how the court ruled in disposing of a particular proceeding.

The following pages illustrate the use of the appellate model by featuring examples from each of the major appellate categories.

# Caseload Summary

The figure below shows an example of the new Caseload Summary section for Appeals by Right. Here, case subcategories (Criminal, Civil, and Administrative Agency) and case types (Misdemeanor, Probate, etc.) are noted and defined, and total incoming, outgoing, and pending caseloads are reported. The Incoming caseload consists of those appeals that are Filed for the first time within the reporting period as well as those appeals that are Reactivated, or returned to an active pending

status, during the reporting period. The Outgoing caseload includes those appeals that have been Disposed during the reporting period and those appeals that have been Placed Inactive (i.e., appeals that are removed from the court's active pending caseload, often through the use of stays). Finally, the Pending caseload reports those appeals that are still awaiting disposition, divided by Active Pending and Inactive Pending appeals at both the beginning and end of the reporting period.

The Caseload Summary matrix also provides for the reporting of Interlocutory appeals, or those appeals that are filed with the appellate court before the trial court has disposed of the case at hand. Interlocutory appeals generally concern a procedural aspect of the trial court process, and resolutions of an interlocutory appeal are not dispositive of the trial court proceeding.

Case Type	Caseload Summary								
	Begin Pending		Incoming		Outgoing		End Pending		Interlocutory
	Active	Inactive	Filed	Reactivated	Disposed	Placed Inactive	Active	Inactive	
<b>Appeal by Right</b>									
<b>Criminal</b>									
Felony (non-Death Penalty)									
Misdemeanor									
Other Criminal									
Total Criminal									
<b>Civil</b>									
Tort, Contract, and Real Property									
Probate	0	5	50	5	35	0	20	0	0
Family									
Juvenile									
Other Civil									
Total Civil	0	5	50	5	35	0	20	0	0
<b>Administrative Agency</b>									
Workers' Compensation									
Revenue (Tax)									
Other Administrative Agency									
Total Administrative Agency									
Other Appeal by Right									
Total Appeal by Right	0	5	50	5	35	0	20	0	0

## Example

At the beginning of the reporting period, 5 Probate Appeals by Right had previously been classified as Begin Pending-Inactive. During the reporting period, an additional 50 Probate Appeals by Right were Filed with the court (none of which were Interlocutory appeals), and the 5

Begin Pending-Inactive appeals were Reactivated. Thirty-five (35) appeals were then Disposed of during the reporting period. The remaining 20 appeals were still awaiting disposition at the end of the reporting period and were recorded as End Pending-Active.

# Manner of Disposition

The figure below shows the Manner of Disposition section for Appeals by Permission. Decided appeals are those in which the appellate court has deliberated the merits of the case and has issued an opinion. Appeals Dismissed Prior to Decision are often due to some defect in the filings or a failure of one or both of the parties to file the next series of

documents in the appellate process. Withdrawn/Settled is used for those appeals in which the appellant alone or all parties together terminate the case. Court ADR reflects the use of court-annexed alternative dispute resolution. Transferred appeals include “lateral” transfers (e.g., a civil appeal accidentally filed in the court of criminal appeals) and “assignment”

transfers (e.g., an appeal filed in the court of last resort is sent by that court to the intermediate appellate court for first review). Other Resolution is used when the resolution is not attributable to one of the other previously defined manners of disposition or when all resolutions are reported as a single manner of disposition.

Case Type	Manner of Disposition					
	Decided	Dismissed Prior to Decision	Withdrawn/Settled	Court ADR	Transferred	Other Resolution
<b>Appeal by Permission</b>						
<b>Criminal</b>						
Felony (non-Death Penalty)	15	1	8	0	1	2
Misdemeanor						
Other Criminal						
Total Criminal	15	1	8	0	1	2
<b>Civil</b>						
Tort, Contract, and Real Property						
Probate						
Family						
Juvenile						
Other Civil						
Total Civil						
<b>Administrative Agency</b>						
Workers' Compensation						
Revenue (Tax)						
Administrative Agency						
Total Administrative Agency						
Other Appeal by Permission						
Total Appeal by Permission	15	1	8	0	1	2

## Example

Twenty-seven (27) Felony (non-Death Penalty) appeals were disposed of by this appellate court during the reporting period. In 15 appeals, the court Decided the appeal (i.e., issued an opinion). In one appeal, the appellant failed to file the record on appeal and the case was Dismissed Prior to Decision. In 8 appeals, the appel-

lant withdrew the appeal. One appeal was misfiled in the wrong part of the state and was Transferred to the appropriate division of the appellate court elsewhere in the state. Finally, in two appeals, the court was unable to specify exactly how the cases were disposed and reported them as Other Resolution.

# Type of Court Opinion

Decided appellate cases result in one of four possible opinion types, as illustrated below, using the major appellate category of Death Penalty as an example. A Full Opinion is one in which there is an expansive discussion and elaboration of the merits of

the case or the defect or procedural error. A Memorandum opinion has only a limited discussion of the merits of the case or the procedural determination. A Summary/Dispositional Order has little, or more typically, no discussion or comment on the

cases (e.g., “Affirmed; no opinion.” or “Denied.”). Lastly, a residual Other Opinion is available for opinions of unknown specificity or when the court cannot differentiate between full opinions, memorandum opinions, and summary/dispositional orders.

Case Type	Type of Court Opinion			
	Full Opinion	Memorandum	Summary/Dispositional Order	Other Opinion
<b>Death Penalty</b>				
<b>Appeal</b>				
Appeal by Right	1	0	0	0
Appeal by Permission				
Total Death Penalty Appeals	1	0	0	0
<b>Application for Writ</b>				
Habeas Corpus Writ	0	2	15	0
Other Writ				
Total Death Penalty Application for Writ	0	2	15	0
<b>Other Death Penalty Matter</b>				
Total Death Penalty	1	2	15	0

## Example

During the reporting period, a court of last resort issued a Full Opinion in an appeal filed directly from a trial court that had found a person guilty of a capital crime and sentenced the offender to

death. An additional 17 petitions for writs of habeas corpus were filed by offenders already on death row. Of these, the court issued 2 Memorandum opinions and 15 Summary/Dispositional Orders.

# Case Outcome

The figure below shows the possible outcomes for those appeals/proceedings that have been decided by the court. When a court exercises its discretion and opts not to review a By Permission appeal, the outcome is categorized as Permission Denied. When the appellate court upholds the result of the lower court or administrative agency or when the court grants the relief requested in original proceedings, the outcome is Affirmed/Granted. Similarly, when

the court decides not to uphold the result of the lower court or administrative agency or refuses to grant the requested relief, the outcome is Reversed/Denied. The Modified/Granted in Part outcome is used in those instances where the court changes the result of the lower court or administrative agency, only upholds some of the lower court/administrative agency decision, or grants some of the relief requested in an original proceeding. Whereas the

previously discussed outcomes contend with the merits of the appeal/proceeding, the Dismissed outcome is applied to those appeals/proceedings that the appellate court finds should never have been accepted or those in which, at some point in the review process, a procedural defect was detected. Lastly there is the residual Other Outcome available for outcomes of unknown specificity or when the court cannot differentiate between outcomes.

Case Type	Case Outcome					
	Permission Denied	Affirmed/Granted	Reverse/Denied	Modified/Granted in Part	Dismissed	Other Outcome
<b>Original Proceeding/Other Appellate Matter</b>						
<b>Application for Writ</b>						
Habeas Corpus						
Other Writ Application						
Total Application for Writ						
<b>Bar/Judiciary Proceeding</b>						
Bar Admission						
Bar Discipline/Eligibility	0	14	0	4	0	0
Judicial Qualification						
Other Bar/Judiciary Proceeding						
TOTAL Bar/Judiciary Proceeding	0	14	0	4	0	0
<b>Additional Original Proceeding</b>						
Certified Question						
Advisory Opinion						
Total Additional Original Proceeding						
<b>Other Original Proceeding/Appellate Matter</b>						
Total Original/Other Appellate Matter	0	14	0	4	0	0

## Example

During the reporting period, 18 proceedings involving bar discipline or eligibility to remain a member of the bar were decided by the court. In 14 proceedings the court affirmed the determination of the bar association, bar disciplinary committee of the court, or special master

appointed to determine the appropriate discipline of the attorneys at issue. In 4 proceedings the court modified the determination, either increasing or decreasing the length of disbarment or amount of fines or punishment to be meted out.

## • Modeling Court Rules/Practice

It is generally recognized that courts are not consistent in the naming of their documents and processes. For example, a “petition” may signal an Appeal by Permission in one court, but signal an Original Proceeding in another. In an effort to eliminate confusion and enhance consistency, the terms and definitions included in the new Appellate Section of the *Guide* are derived from terms and definitions that appear within existing court rules and practices.

The result of studying courts’ terms and definitions is the ability to

map the phrases currently used by a court to those used in the *Guide*. This innovative approach has led to the creation of a thesaurus of appellate court terms, thus increasing the clarity and comparability of court terminology.

Below, the map for the Type of Court Opinion section of the *Guide* is illustrated for three different courts. In each of the courts, the specific document name varies; however, for national reporting purposes, they are all referenced using standardized terminology. While the Illinois

Appellate Court uses the phrase “concise written order,” it is the functional equivalent of a Memorandum opinion rather than a Summary/ Dispositional Order. By examining the function of the document rather than its name, it can be matched to the “memorandum opinion” used by the appellate courts in Kansas and the “unpublished opinion” described in Minnesota’s Rules of Civil Appellate Procedure.

Type of Court Opinion						
Court	Full Opinion	Full Opinion Rule	Memorandum	Memorandum Rule	Summary/ Dispositional Order	Summary/ Dispositional Order Rule
Illinois Appellate Court	The decision of the Court may be expressed in one of the following forms: a <b>full opinion</b> , a concise written order, or a summary order.	Supreme Court Rule 23	The decision of the Court may be expressed in one of the following forms: a full opinion, a <b>concise written order</b> , or a summary order.	Supreme Court Rule 23	The decision of the Court may be expressed in one of the following forms: a full opinion, a concise written order, or a <b>summary order</b> .	Supreme Court Rule 23
Kansas Supreme Court and Court of Appeals	Opinions of the courts, whether signed or per curium, shall be memorandum opinions or <b>formal opinions</b> .	Supreme Court Rule 7.04	Opinions of the courts, whether signed or per curium, shall be <b>memorandum opinions</b> or formal opinions.	Supreme Court Rule 7.04	The court may summarily affirm or reverse through an <b>order of summary disposition</b> .	Supreme Court Rule 7.041
Minnesota Court of Appeals	Each Court of Appeals disposition shall be written in the form of a <b>published opinion</b> , unpublished opinion, or an order opinion.	Rules of Civil Appellate Procedure 136.01	Each Court of Appeals disposition shall be written in the form of a published opinion, <b>unpublished opinion</b> , or an order opinion.	Rules of Civil Appellate Procedure 136.01	Each Court of Appeals disposition shall be written in the form of a published opinion, unpublished opinion, or an <b>order opinion</b> .	Rules of Civil Appellate Procedure 136.01

## • Unit of Count/Point of Filing

Two important components in the analysis of appellate court caseloads are the identification of the document being counted at filing and the point at which the appeal or action is considered filed. The Unit of Count codes name the document that is counted at filing while the Point of Filing codes describe the time at which the appeal or action is considered to be under the control of the appellate court.

The Point of Filing information is critical in comparing appellate court caseloads. A court that does not count an appeal until the trial court record has been filed with the appellate court would appear to have a comparably lower caseload than one that counts an appeal when the notice/applica-

tion is filed with the appellate clerk. Moreover, this helps to focus the data collection on caseloads rather than motion practice or other similar hearings that appellate courts engage in but that are not “proceedings.”

The Unit of Count and Point of Filing codes also provide another example of how the new Appellate Section of the *Guide* has used existing court rules to describe court processes. To illustrate, the table below shows select court rules that describe the process through which an Appeal by Right will be considered filed. As can be seen, Florida counts an appeal when a notice of appeal is filed with the trial court. This contrasts with Michigan’s Court of Appeals, which counts the appeal when the notice

of appeal is filed with the appellate court. For the purpose of national reporting, the Unit of Count for the Michigan Court of Appeals is a notice of appeal despite the fact that their rule uses the phrase “claim of appeal.” That phrase is the functional equivalent to the more common “notice of appeal.”

The Georgia Court of Appeals is unique among the three courts featured in that an appeal is not considered to be within the control of the court until both the notice of appeal and the trial record have been filed with the appellate court. So, while the Unit of Count is still a “notice of appeal,” that notice is not counted until the trial record is filed.

Appeal by Right Unit of Count and Point of Filing				
Court	Rule	Rule Language	Unit of Count	Point of Filing
Florida Supreme Court and District Courts of Appeal	Rules of Appellate Procedure, Rule 9.110(b): Appeal Proceeding to Review Final Orders of Lower Tribunals	Commencement. Jurisdiction of the court under this rule shall be invoked by filing 2 copies of a <b>notice</b> , accompanied by filing fees prescribed by law, with the <b>clerk of the lower tribunal</b> within 30 days of rendition of the order to be reviewed.	Notice of Appeal	At the filing of the notice/application with the trial court.
Georgia Court of Appeals	Rules of the Court of Appeals, Rule 11(a): Appeals, How Entered.	Docketing. No appeal shall be docketed until the <b>notice of appeal</b> and a record, and transcript, if requested, are <b>filed in the Clerk’s office</b> .	Notice of Appeal	At the filing of the trial record with the appellate court.
Michigan Court of Appeals	Appellate Rules, Rule 7.204 (B)1: Filing Appeal of Right; Appearance	Manner of Filing. To vest the Court of Appeals with jurisdiction in an appeal of right, an appellant shall <b>file with the clerk</b> within the time for taking an appeal (1) the <b>claim of appeal</b> , and (2) the entry fee.	Notice of Appeal	At the filing of the notice/application with the appellate court.

# • The Court Statistics Project (CSP) [www.courtstatistics.org](http://www.courtstatistics.org)

Since 1975, the Court Statistics Project (CSP) has provided a comprehensive analysis of the work of state courts by gathering caseload data and creating meaningful comparisons for identifying trends, comparing caseloads, and highlighting policy issues. The CSP is sup-

ported by the Bureau of Justice Statistics and obtains policy direction from the Conference of State Court Administrators. A complete annual analysis of the work of the state trial and appellate courts will be found in *Examining the Work of State Courts, 2007*.



## CASELOAD HIGHLIGHTS

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