SUPREME COURT OF MISSISSIPPI

2009

ANNUAL REPORT

SUPREME COURT OF MISSISSIPPI
POST OFFICE BOX 117
JACKSON, MISSISSIPPI 39205
TELEPHONE (601) 359-3697
FAX (601) 359-2443

WILLIAM L. WALLER, JR.
CHIEF JUSTICE

GEORGE C. CARLSON, JR.
JAMES E. GRAVES, JR.
PRESIDING JUSTICES

JESS H. DICKINSON
MICHAEL K. RANDOLPH
ANN H. LAMAR
JAMES W. KITCHENS
DAVID A. CHANDLER
RANDY G. PIERCE
JUSTICES

JACK E. POOL
COURT ADMINISTRATOR
AND COUNSEL

HUBBARD T. SAUNDERS, IV
DEPUTY COURT
ADMINISTRATOR
AND COUNSEL

A MESSAGE FROM CHIEF JUSTICE WILLIAM L. WALLER, JR.

IN 2009, the Mississippi Judiciary faced many new challenges, not the least of which is an economic downturn of historic proportions. In spite of this, we have continued making major technological advancements and improving our ability to expeditiously dispose of matters brought before the courts.

The Judiciary recognizes that, as a separate, co-equal branch of state government, it must perform its distinct functions while at the same time cooperating with the Legislative and Executive Branches, each acting within its distinct sphere providing justice and good government for the state and its people.

This year the appellate courts decided 1,021 appeals and numerous petitions for certiorari, petitions for interlocutory appeal, petitions for mandamus and motions of various types, all within the time limits previously established for efficient responsiveness. The circuit and chancery courts decided 110,795 civil and criminal cases in FY 2009. All of this has been accomplished using less than one percent of the state's general fund appropriations.

Recognizing that the cost of litigation too often bars those with limited means from bringing matters before the courts, we have distributed almost $600,000 raised from special assessments to provide access to civil legal assistance to the underprivileged. In addition, we have put in place a pilot program aimed at streamlining litigation for those with disputes which, while important to the parties, involve relatively small dollar amounts.

We continue our development of the Mississippi Electronic Courts, a statewide system allowing electronic filing, improved case management, and internet access to our trial court records, relying on experience underpinning the existing federal system. A revision of the Code of Judicial Conduct is underway. Several committees are working to draft Uniform Rules for Criminal Practice and Procedure, Rules for Municipal Courts, and new model jury instructions.

Much of our success is due to the dedication of judges, attorneys, and career staff who have devoted themselves to the only reason for a judiciary to exist--to provide a forum for the fair and efficient administration of justice. To all of these, I give my personal thanks.

As Chief Justice of the Mississippi Supreme Court I will do all within my power, with the assistance of my colleagues on the Court, to continue to improve our courts and their ability to provide the citizens of Mississippi with a system of justice that can be relied on as fair, impartial, and effective.

William L. Waller, Jr.
Chief Justice
Supreme Court of Mississippi

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TABLE OF CONTENTS

Message from the Chief Justice i

Mississippi Judicial System 1

Funding and Administration of the Courts 7

Outreach and Innovation 9

The Appellate Courts 12

The Trial Courts 15

Administrative Office of Courts 19

Judicial Advisory Study Committee 22

Board of Bar Admissions 23

Commission on Continuing Legal Education 24

MISSISSIPPI JUDICIAL SYSTEM

The Mississippi Judiciary is made up of Justice and Municipal Courts at the most basic level; County, Chancery, and Circuit Courts composing the trial courts of record; and two appellate courts, the Court of Appeals, and, at the top of the pyramid, the Supreme Court.

There are 82 Justice Courts with 197 judges. Justice Courts are not courts of record and have jurisdiction over civil actions involving sums of $3,500 or less and misdemeanors. They also hold preliminary hearings in felony cases. Appeals from the Justice Courts may be taken to county or circuit courts, and the cases appealed are tried de novo in the appellate court.

There are 242 Municipal Courts with 223 judges. They have limited criminal jurisdiction and jurisdiction over violations of municipal ordinances. Appeals from the Municipal Courts may be taken to county or circuit courts, and the cases appealed are tried de novo in the appellate court.

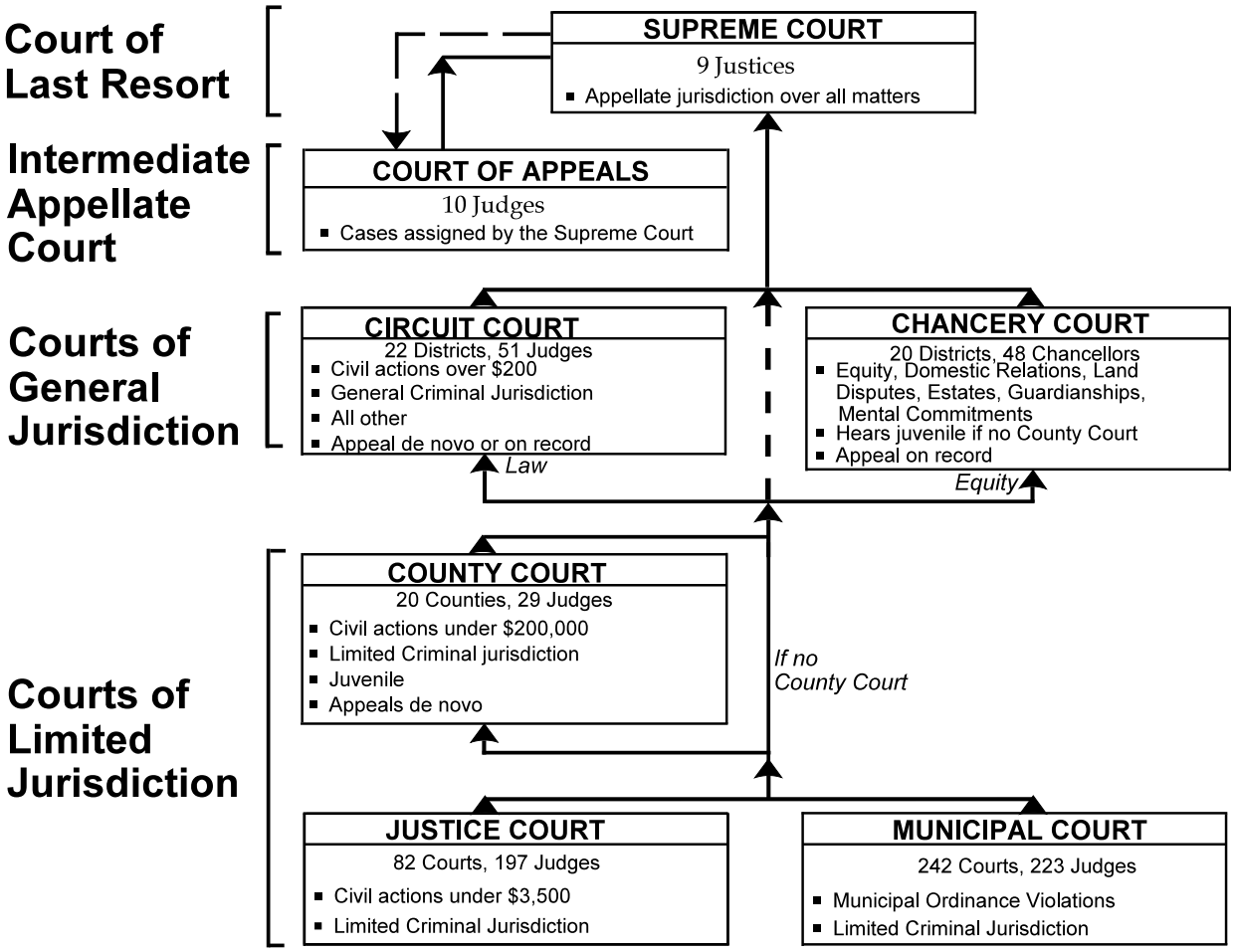
There are 20 County Courts with 29 judges. These courts have concurrent civil jurisdiction with the Chancery and Circuit Courts in suits involving $200,000 or less. They also have limited criminal jurisdiction and appellate jurisdiction from the Justice Courts and Municipal Courts. In counties with County Courts, the Youth Courts function as a division of the County Courts handling juvenile matters.

There are Chancery Courts in each county which are organized into 20 districts with 48 chancellors. They have jurisdiction over matters of equity, domestic relations, land disputes, estates, guardianships, and mental commitments. In counties without County Courts, the Chancery Courts handle Youth Court functions. They also receive appeals on the record from County Courts in matters over which the two courts have concurrent subject matter jurisdiction.

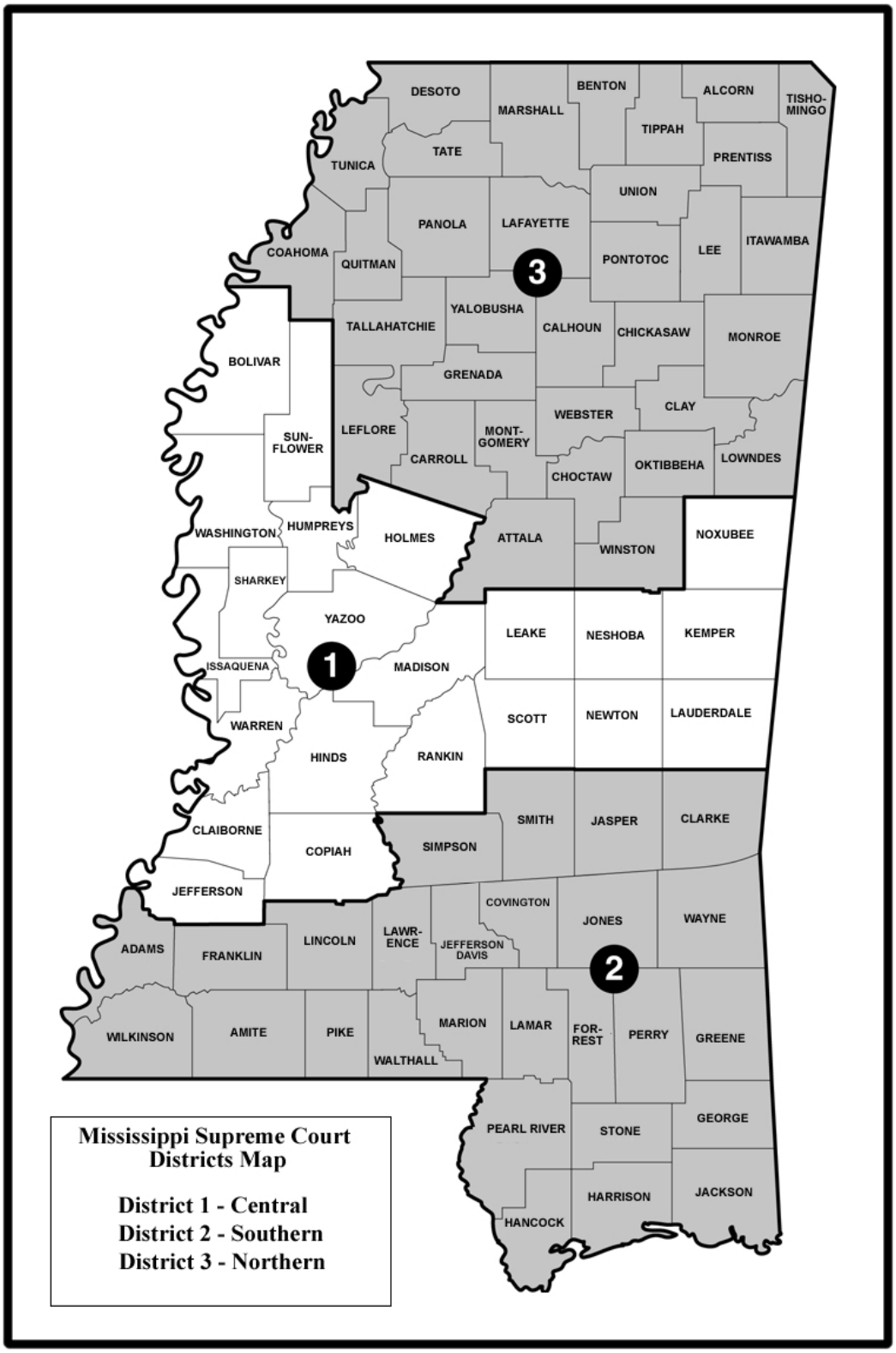
The Circuit Courts are the general jurisdiction trial courts in Mississippi. There are Circuit Courts in each county, organized into 22 districts with 51 judges. They have jurisdiction of all civil actions at law seeking recovery in excess of $200 and of all criminal cases under state law. They receive appeals de novo from the Justice Courts and on the record from County Courts.

Appeals from the Chancery, Circuit, and Youth Courts are taken to the Supreme Court. With the exception of certain appeals which must be retained by the Supreme Court (e.g., death penalties, utility rates, annexations, etc.) the Supreme Court may either retain the cases or assign them to the Court of Appeals. All decisions of the Court of Appeals are subject to discretionary review by the Supreme Court on petition for writ of certiorari. There are nine justices on the Supreme Court and ten judges on the Court of Appeals.

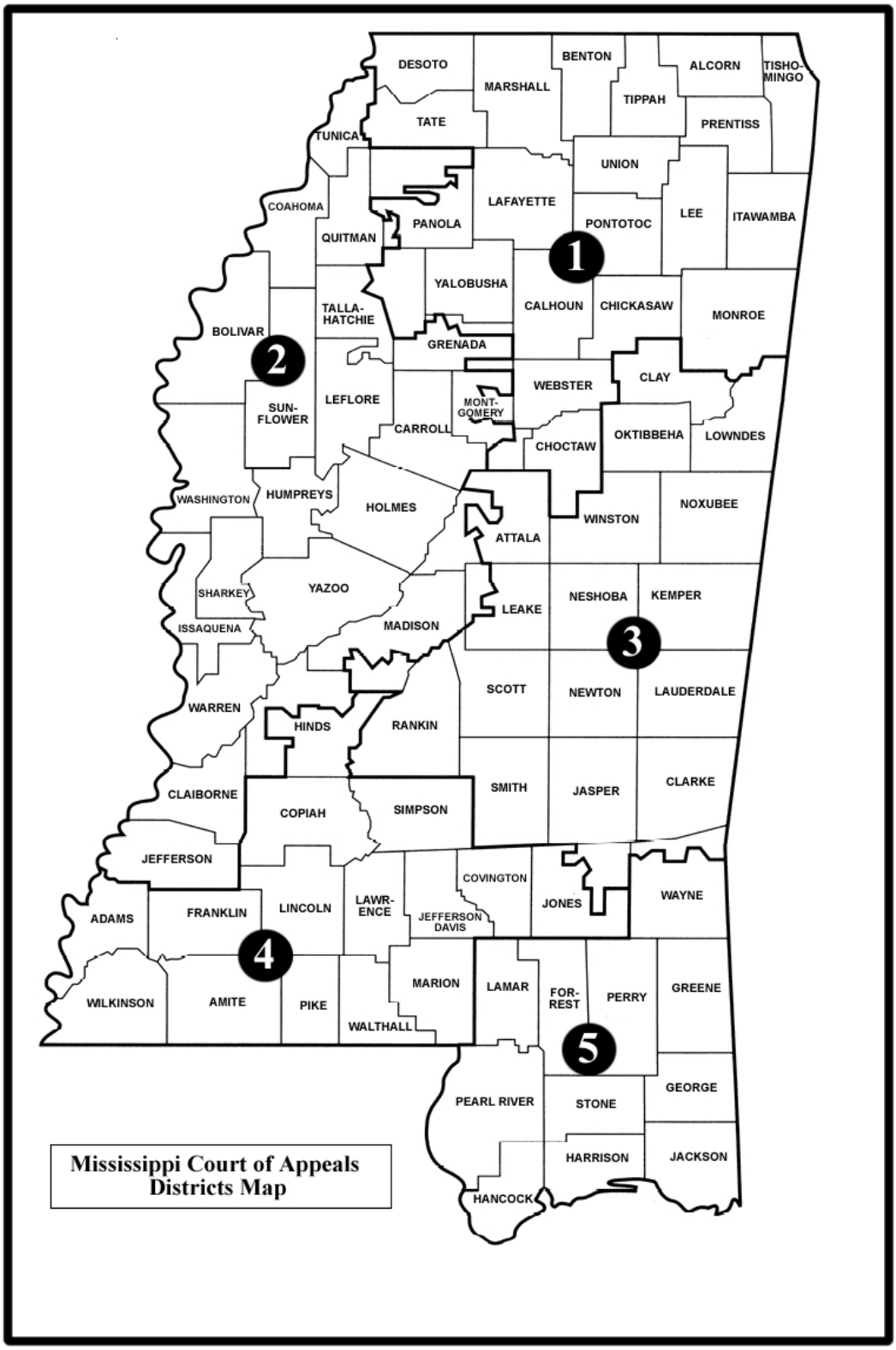
ORGANIZATIONAL CHART



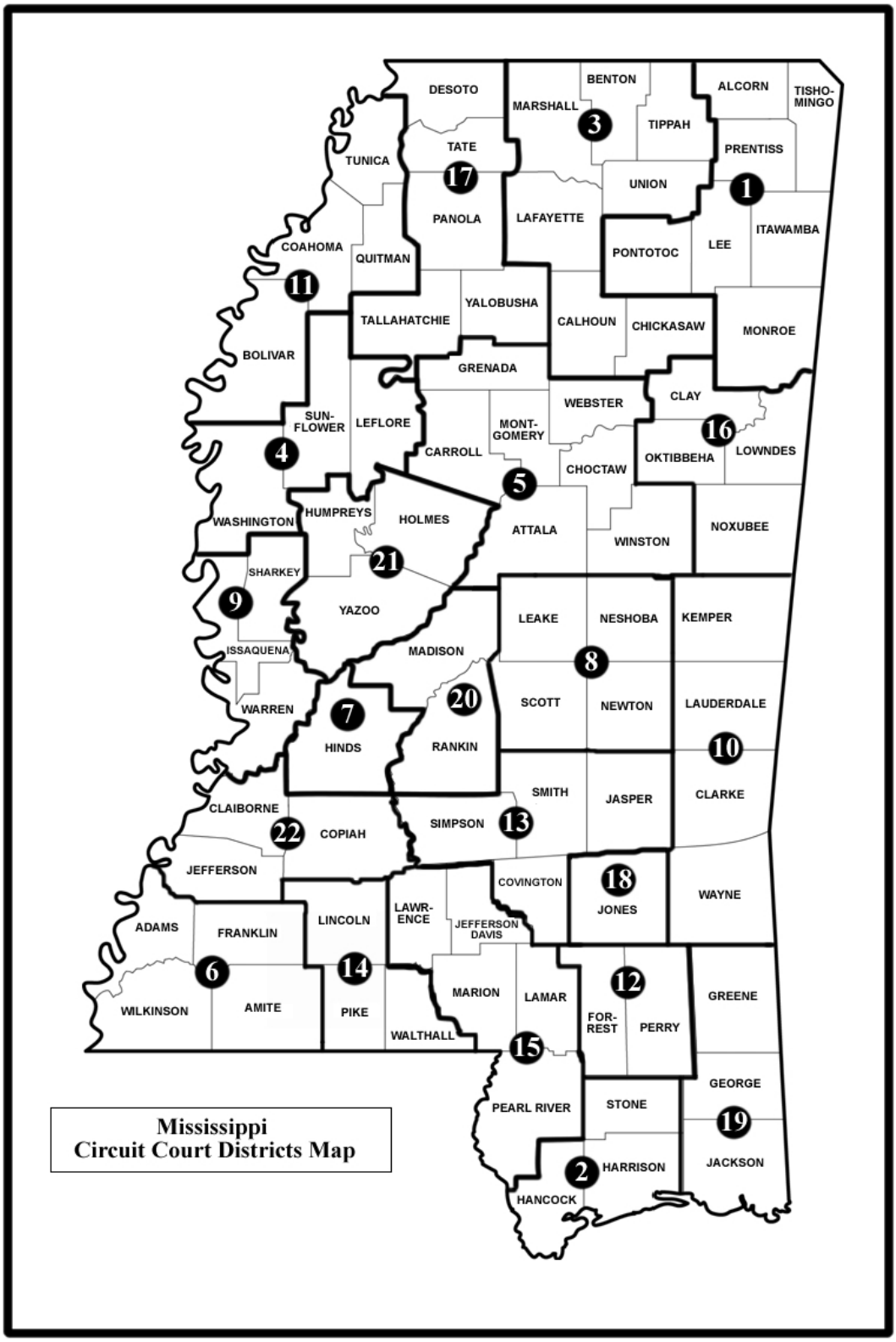
SUPREME COURT DISTRICTS



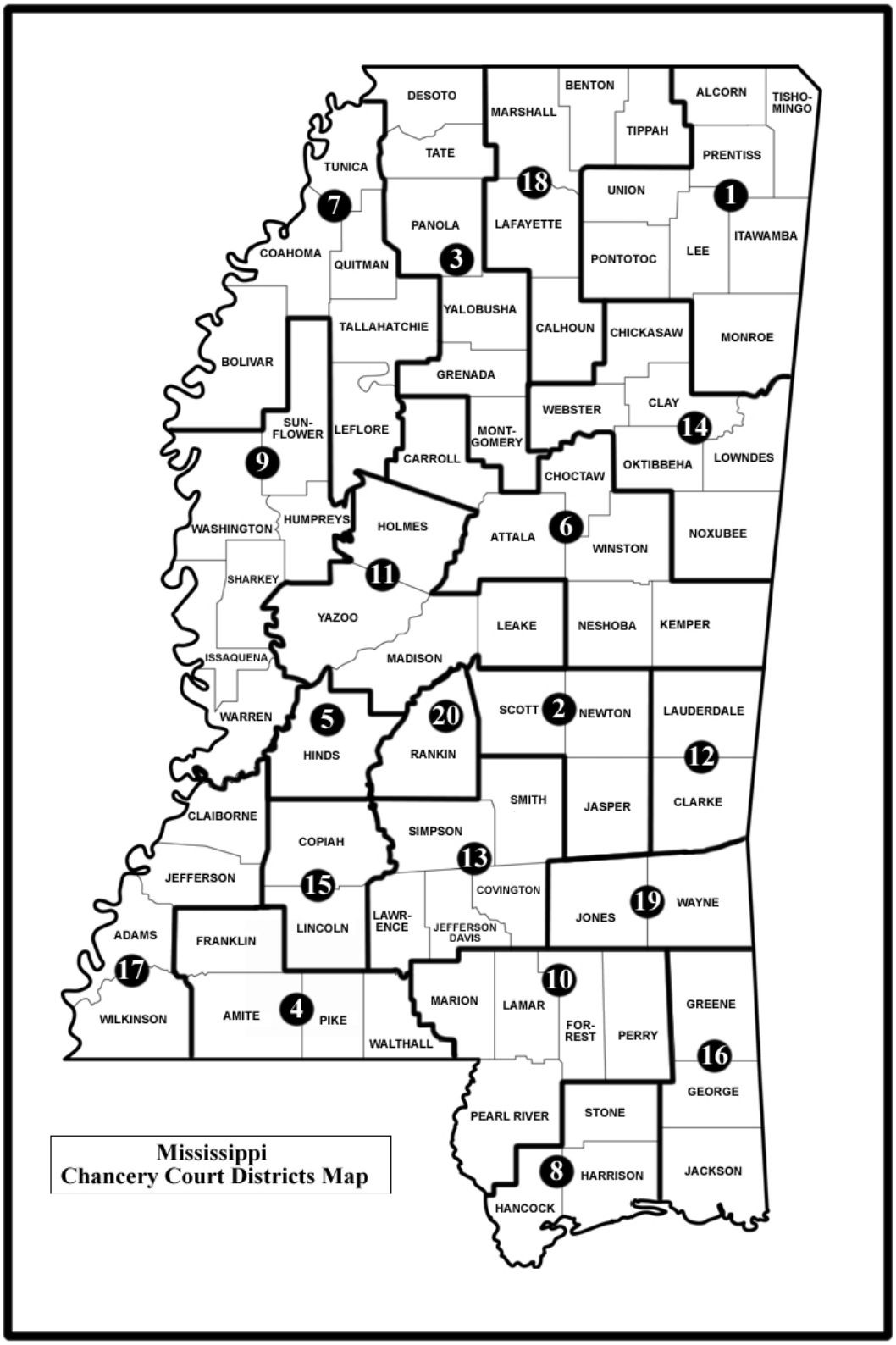
COURT OF APPEALS DISTRICTS



CIRCUIT COURT DISTRICTS



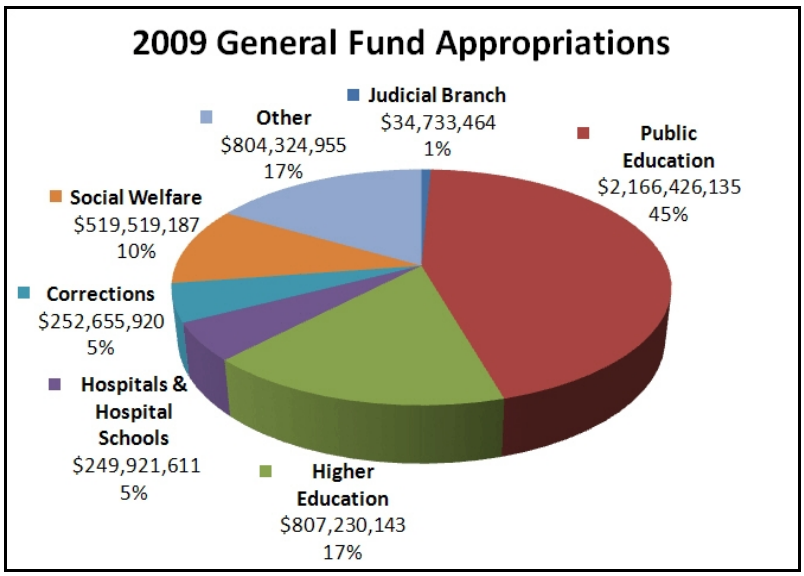
CHANCERY COURT DISTRICTS



FUNDING AND ADMINISTRATION OF THE COURTS

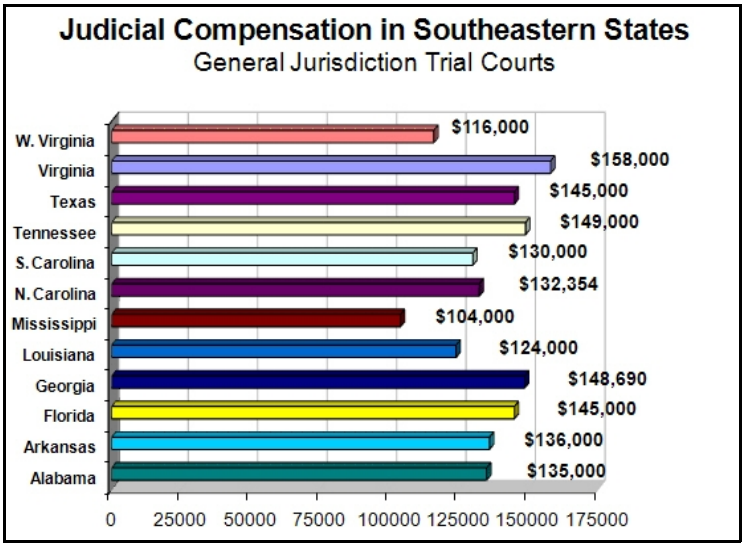
The state judiciary is funded primarily by general fund appropriations with additional funding for specific mandates by way of grants and special funds. In August, the Supreme Court submitted to the Legislature the judiciary's annual detailed report of spending for fiscal year 2009 with its appropriations request for 2011.

For fiscal year 2009, the entire general fund appropriations for all three branches of state government was $4,932,302,012. The appropriation for the Administrative Office of Courts and all courts of record in the state (the Supreme Court, the Court of Appeals, the 82 circuit courts, the 82 chancery courts, and the 19 county courts), was $34,733,464. This represents performance of all judicial functions by these courts for less than one per cent of the general fund expenditures.



Judicial Compensation

The judges of our state have not received an increase in compensation in six years. At this writing, it is clear that, due to national economic circumstances, this cannot be remedied during this fiscal year. Currently, the average pay of general jurisdiction trial judges in the eleven surrounding states is over $135,500. In contrast, Mississippi chancery and circuit judges receive $104,000.



Unlike other states which complement judges salaries by cost-of-living adjustments (COLAs), longevity pay, and local supplements, Mississippi judges salaries are limited to the state appropriation. In present-value terms, this 2003 salary scale pays these Mississippi judges the equivalent of $83,606.

According to the latest survey of judicial salaries compiled by the National Center for State Courts, Mississippi ranked last in its compensation of both its appellate judges of the appellate court of last resort and the judges of the general-jurisdiction trial courts and 39th in its compensation of its appellate judges of the intermediate court of appeals.

In order to retain our best judges and to attract new judges from the upper ranks of the legal profession, we must address this pay disparity.

OUTREACH AND INNOVATION

Throughout 2009, the Supreme Court has continued its efforts to make the courts more accessible to the public and to enhance the ability of the courts to effectively use technological advancements. Several initiatives have been put in place in this regard.

Access to Justice

The Access to Justice Commission was created by the Mississippi Supreme Court in 2006, to develop a unified strategy to improve access to the civil courts for the poor. The Commission draws together those organizations particularly concerned with providing legal services to the poor in Mississippi. It then develops and recommends policies, programs, and initiatives to assist the judiciary in meeting needs for civil legal services to the poor. Co-Chairs are Chancery Judge Denise Owens and former Mississippi Bar President Joy Lambert Phillips. The Commission includes members of the judiciary, a representative of the Governor, legislators, business and community leaders, and members of the clergy. Representatives of entities which provide legal services to the poor are ex-officio members. The Commission's activities are funded through fees charged to out-of-state attorneys seeking to use the Mississippi courts.

In addition, during 2009, the Supreme Court distributed $595,000 for civil legal assistance to the underprivileged. This distribution was from special assessments on court filings and from fees charged to out-of-state attorneys appearing *pro hac vice* and does not come from general fund appropriations.

Drug Courts

In 2003, the Mississippi Legislature adopted the "Alyce Griffin Clarke Drug Court Act." The act created the necessary framework for expansion of the drug court model throughout Mississippi. Since its passage, over 4,000 Mississippians have benefited from this effective alternative in dealing with the problems of substance abuse. The State Drug Court Advisory Committee deserves special recognition for its leadership and commitment to meaningful solutions to the problems of the criminal justice system.

Drug court programs offer a collaborative effort from the court, probation officers, substance abuse treatment providers, and others. This "team" approach is used to provide the drug court participants with the most effective plan in dealing with their addiction. The program involves court-ordered treatment, random and frequent drug testing, intensive supervision, the use of sanctions and incentives and numerous face-to-face appearances before

the judge. The philosophy of drug court programs is that this model will result in higher recovery rates from addiction, reduced criminal behaviour, lower recidivism rates, and an overall return to productive citizenship.

Mississippi currently has 34 certified drug courts. The increase in the number of certified drug court programs operating in this state reflects a growing trend that was started by Judge Keith Starrett in the 14th Circuit Court District in 1999. The drug court model offers an alternative to the drain on resources of the criminal justice system posed by expensive incarceration of non-violent drug addicted defendants.

In a report released by the Joint Committee on Performance Evaluation and Expenditure Review (PEER), during fiscal year 2008, the average cost per inmate day in the Mississippi Department of Corrections was $41.56 and $15,169.40 annually. The average cost of participation in drug court is approximately $2,500 annually. In 2003, the State Auditor's office reported that Mississippi could save $5.4 million annually based on 500 people enrolled in drug court. With more than five times that number currently enrolled in drug court, the cost effectiveness of the drug court program versus incarceration is clearly obvious.

Court Administration–Electronic Filing and Case Management

The Supreme Court, working with the Administrative Office of Courts and the State Department of Information Technology Services, has embarked on a major long range initiative to develop a uniform electronic case filing and court management system for distribution to the chancery and circuit courts and their respective clerk's offices. Strategic goals and policy standards have been adopted, and, with the assistance of ITS, the Court has completed a needs analysis based on interviews with representative judges and clerks. AOC has entered into an agreement with the Administrative Office of United States Courts and, with a federal grant, is adapting the electronic filing and case management system now used in the federal district courts for use in the state court system. As 2008 ended, the Supreme Court approved the Administrative Procedures for Mississippi Electronic Court System.

During 2009, Mississippi Electronic Courts (MEC) continued pilot testing in Madison Chancery Court and began pilot testing in Scott County and Warren County Chancery Courts. The pilot testing in Madison County Chancery included the beginning of mandatory attorney e-filing in September of 2009. As 2010 begins, attorney e-filing has been added in the Scott County Chancery Court with mandatory e-filing scheduled for April 1, 2010, in that court. The Warren County Chancery Court and the Madison County Circuit Court will begin pilot testing in January 2010.

The Supreme Court continues to disseminate the Mississippi Youth Court

Information Delivery System (MYCIDS) to the youth courts in the various counties. At this writing, the system is being used in fifty-three (53) county sites, while seventeen (17) are scheduled for training and five (5) for demonstrations in 2010. The only limitation on the Court's ability to distribute the system statewide is the personnel available to the Court's Information Technology Department to perform the installation and train the youth court personnel in its use. This most successful case management system is highly regarded nationally.

The Supreme Court and the Administrative Office of Courts function with a technology staff of a director, two systems administrators, two software development project managers, three programmer/analysts, one web master/support specialist, and one business systems analyst. These staff members distribute and maintain all computer hardware and software to the trial courts and appellate courts, distribute and install MYCIDS and train, develop and maintain the appellate court case management system (CITS) and the AOC Statistical System (SCATS), maintain the Judicial Branch web site, and advise the Court on future technology initiatives.

THE APPELLATE COURTS OF MISSISSIPPI

All appeals from the circuit, chancery and youth courts of the state come to the Supreme Court. Appeals from the justice courts go to either the county courts or the circuit courts. County court appeals are to either the circuit or chancery courts depending on the subject matter and type of case.

Certain appeals are, as a class, retained in and decided by the Supreme Court; others may be assigned by the Supreme Court to the Court of Appeals. Retained cases include those which involve:

(a) the imposition of the death penalty;
(b) utility rates;
(c) annexations;
(d) bond issues;
(e) election contests;
(f) a trial court's holding a statute unconstitutional;
(g) bar discipline matters;
(h) judicial performance matters; and
(i) certified questions from federal court.

In deciding whether other cases should be assigned to the Court of Appeals, the Supreme Court considers the uniqueness of the case, the likelihood that its decision will be of important precedential value, whether it raises issues of first impression, and the relative workloads of the two appellate courts.

While the Supreme Court does consider the overall workload in assigning cases , there can be no valid comparison of the workload of the two courts just by examining the raw numbers of cases decided. The Supreme Court's retention of all death penalty cases and other particularly complex matters such as annexation and bond issue appeals, its handling of virtually all interlocutory appeals and all petitions for writ of certiorari from the Court of Appeals, and its unique judicial administration responsibilities give it heavy responsibilities that cannot be measured by a simple examination of the number of appeals decided.

Since July, 2004, both appellate courts have been deciding cases within 270 days following the completion of briefing, and, in most cases, the decisions are made even more expeditiously. All petitions for writ of certiorari from the Court of Appeals are either granted, denied or dismissed by the Supreme Court within 90 days following the filing of the responses to the petitions, and all cases on review by certiorari are decided within 180 days after the

petitions are granted. Petitions for interlocutory appeal are generally granted, denied, or dismissed within 45 days after the responses are filed.

STATISTICAL SUMMARY FOR APPELLATE COURTS

Case Filings

Notices of Appeal, General	893
Death Penalty PCR Applications	2
Bar Discipline Cases	6
Bar Discipline Appeals	0
Bar Reinstatement Cases	2
Judicial Performance Cases	5
Election Contests	7
Interlocutory Appeals Granted	30
Certiorari Petitions Granted	32
Workers' Comp Appeals	29
Utility Rate Cases	2
Total New Cases Filed	1008

Case Dispositions		**Supreme Court**	**Court of Appeals**	**Courts Combined**
Dismissed by Clerk's Rule 2		92	50	142
Dismissed by Order of Court		102	17	119
Certiorari Petitions Dismissed as				
Improvidently Granted		6	0	6
Decided by Published Opinion		157	572	729
Per Curiam Affirmed		23	0	23
Decided by Order		2	0	2
Total Case Dispositions		382	639	1021

In 2009, the Supreme Court heard oral arguments in 20 cases, while the Court of Appeals heard oral arguments in 58 cases.

In addition, the appellate courts addressed 7,397 motions, 5,117 by the Supreme Court and 2,280 by the Court of Appeals. These included:

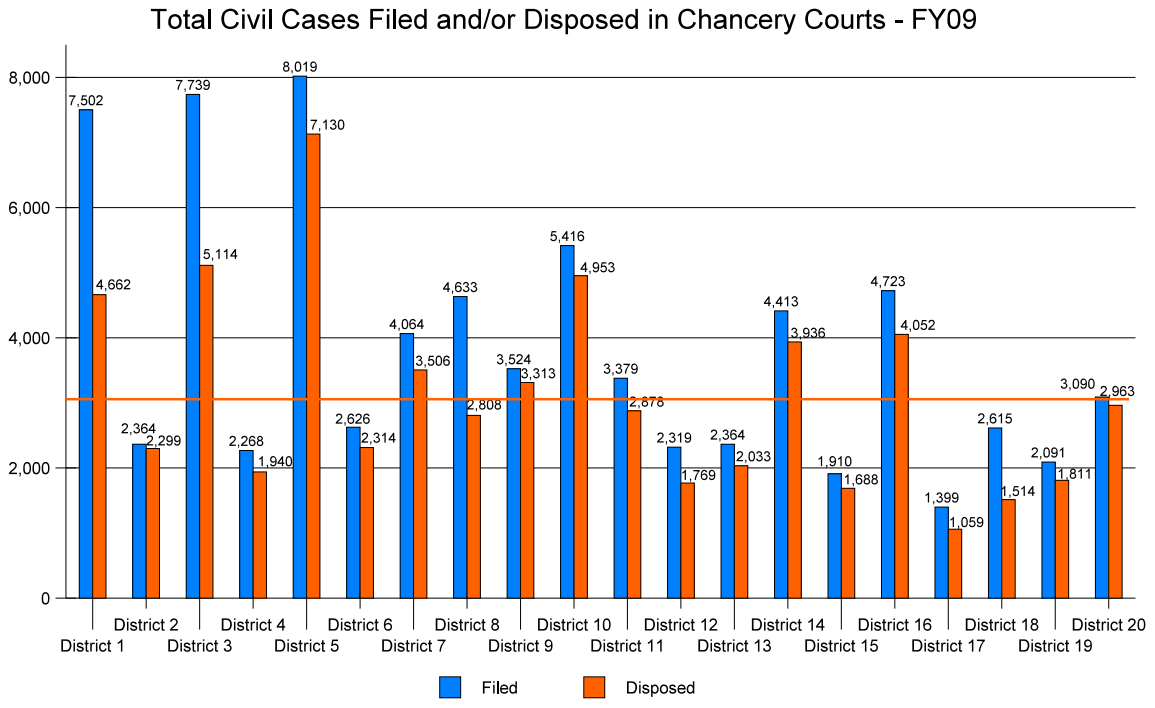
		Supreme Court	**Court of Appeals**	**Courts Combined**
Motions for Rehearing		73	285	358
Petitions for Interlocutory Appeal		158	0	158
Petitions for Certiorari		226	0	226

THE MISSISSIPPI TRIAL COURTS OF RECORD

The trial courts in Mississippi without jurisdictional limits on the amounts in controversy are the Chancery and Circuit Courts. The state is divided into twenty Chancery Court Districts and twenty-two Circuit Court Districts. Each district has from one to four judges, depending on the size of the district and its case load. The courts are served by independently elected chancery and circuit clerks in each county.

The chancery and circuit clerks for each district are required by law to report the activities of the courts to the Administrative Office of Courts. The data, as reported, reflect the following.

CHANCERY COURTS

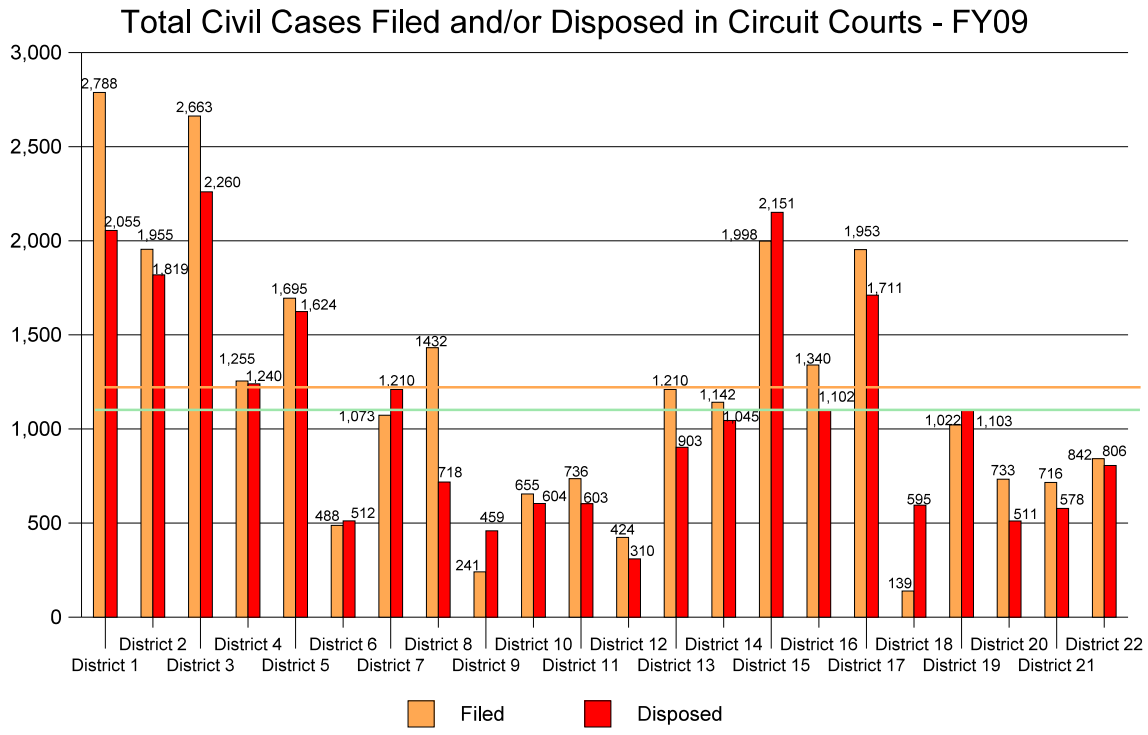


Average Cases Filed per District Statewide: 3,823
Average Cases Disposed per District Statewide: 3,087

Last updated12/10/09

Note: Nothing received from Wilkinson Chancery (Dist. 17) since 2002

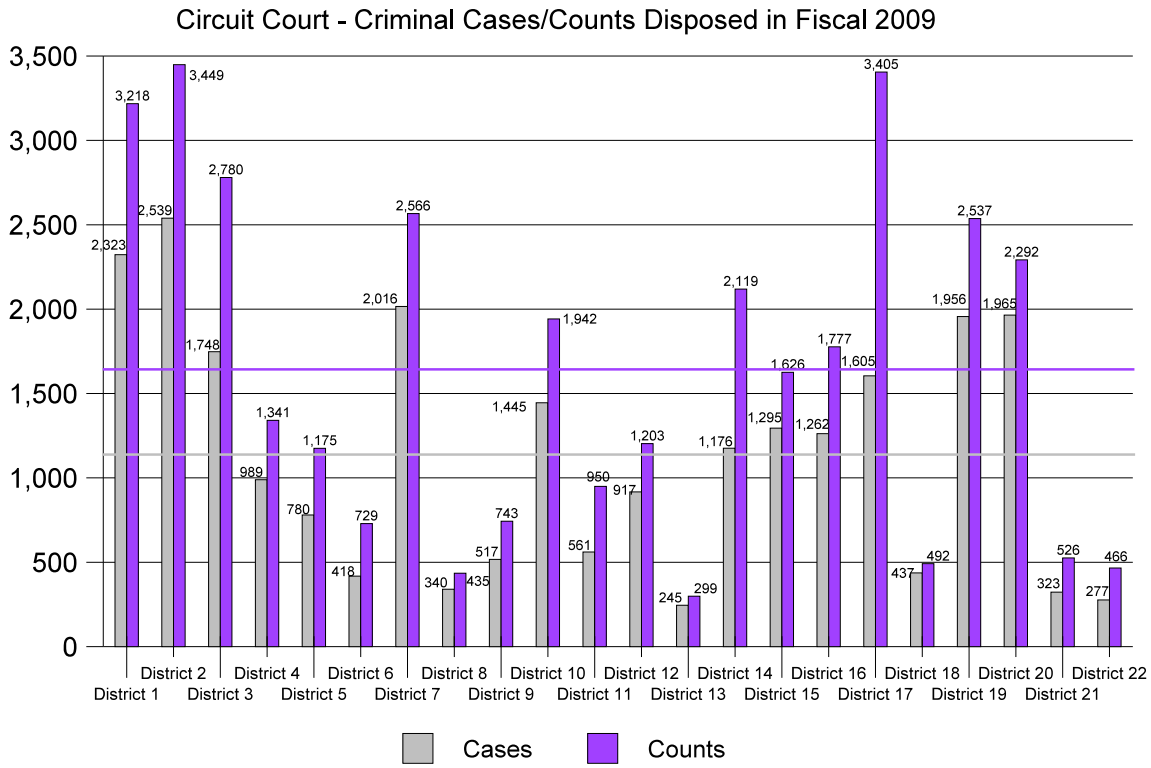
CIRCUIT COURTS



Average cases filed per district statewide: 1205
Average cases disposed per district statewide: 1087

Note: No data received from Wilkinson (Dist. 6) since May 2007

Last Update 12/10/09

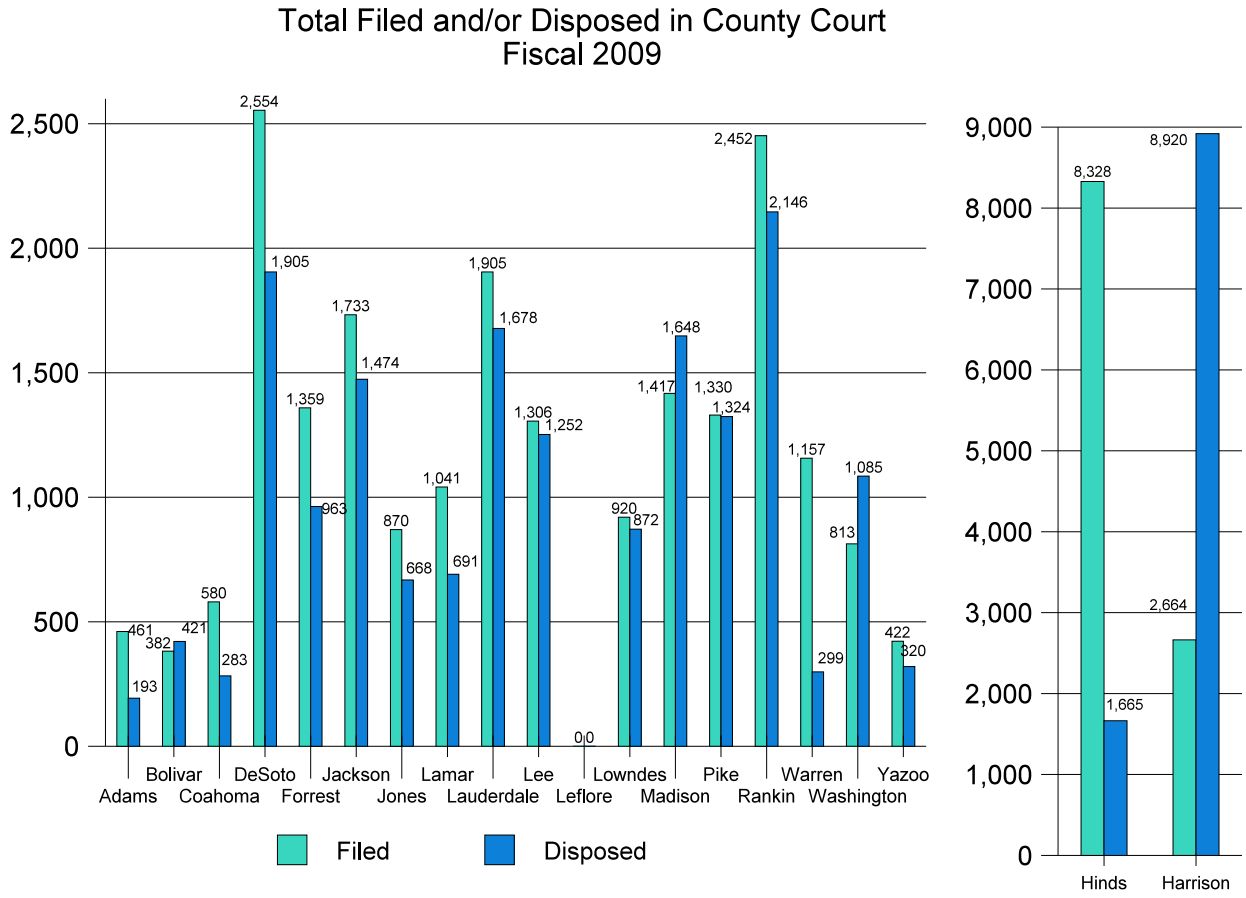


Statewide Average Cases 1,142
Statewide Average Counts 1,640

F:\AOC\Users\JYM\@Charts and Tablesfor Annual Report\bar chart fy09 circuit criminal cases and counts by district.wpg

Last updated 2/8/10

COUNTY AND YOUTH COURTS



ADMINISTRATIVE OFFICE OF COURTS

The Administrative Office of Courts was created on July 1, 1993, to support the judicial system by providing efficient administration of the non-judicial business of the State's courts. The AOC offices are located in Jackson in the Carroll Gartin Justice Building at 450 High Street. The duties of the AOC, specified in Miss. Code Ann. §§ 9-21-1, -3, -9, -29 (Rev. 2002), are:

- To assist the Chief Justice of the Supreme Court with his duties as the chief administrative officer of all of the courts in the state;
- To assist in the prevention of unnecessary delay in the conduct of trials of the state courts;
- To promulgate standards, rules and regulations for computer and/or electronic filing and storage of all court records and court-related records maintained throughout the state in courts and in offices of circuit and chancery clerks;
- To collect case statistics from all civil, criminal and youth courts in the state;
- To coordinate and conduct studies and projects to improve the administration of justice;
- To support the Judicial Advisory Study Committee, including research and clerical assistance;
- To require the filing of reports and the collection and compilation of statistical data and financial information;
- To make recommendations regarding the state of the dockets and the effective number of judges and other court personnel;
- To prescribe uniform administrative and business records, forms, systems and records;
- To devise and promulgate youth court tracking forms;
- To prepare and submit budget recommendations necessary for the maintenance and operation of the judicial system;
- To develop and implement personnel policies for non-judicial court employees;
- To procure, distribute, exchange, transfer and assign equipment, books, forms, and supplies as are acquired for the court system;
- To prepare and submit an annual report on the work of the judicial system;
- To take necessary steps in the collection of unpaid fines and court costs; and
- To perform any additional administrative duties assigned by the Supreme Court.

The AOC processes payroll for the support staff of the chancery and circuit judges, as well as the official court reporters; administers the office and rent allowances for the trial judges; maintains inventory records for equipment purchased with state funds; approves the trial judges' travel reimbursements for in-state and out-of-state travel; collects statistical data from the chancery, circuit, county, and youth courts; collects data on cases handled by family masters; administers special funds for civil legal assistance, comprehensive electronic court

systems, drug courts, and the Board of Certified Court Reporters; and oversees several federal grants awarded to the AOC for the benefit of the judiciary.

The AOC also works closely with several study groups created to improve the administration of justice:

• The Mississippi Judicial Advisory Study Committee is a statutory body that meets quarterly. It makes policy recommendations to promote the administration of justice and the operation of the courts to both the Supreme Court and the Mississippi Legislature.

• The State Drug Court Advisory Committee oversees the development and operation of Mississippi's drug courts. In 2009, the number of drug court participants grew approximately 25%. The AOC also released the Drug Court Case Management system (DCCM) to all operational drug court programs. The DCCM is a state of the art case management system that allows drug courts to track individuals from the initial screening process to completion of the program. The DCCM will allow for uniform data collection statewide thus allowing state and local evaluators quick and easy access for data analysis.

• The Administrative Office of Courts' Court Improvement Program Workgroup was established in 2007 as a collaborative effort with the Department of Human Services-Division of Family and Children's Services to provide judicial and child protection as well as cross-training for government entities, or individuals involved in providing services to children, youth and families.

In 2009, The Court Improvement Workgroup produced a second curriculum with an accompanying training video for workers and court personnel. One of the major components of training involved the Uniform Rules of Youth Court Practice.

The purpose of this training was to develop an understanding of the unified strategy for consistency in youth court practice statewide; demonstrate knowledge of the parameters within which youth court judges must operate; identify specific language required in court petitions and orders for a child to be eligible for Title IV-E funding; and distinguish between state statutes, federal regulations, rules and comments.

• In 2009, the Mississippi Youth Court Information Delivery System (MYCIDS) was expanded to a total of fifty-three (53) county sites, while seventeen (17) are scheduled for training and five (5) for demonstrations in 2010. It is the goal of

the Court Improvement Program through the technical assistance of the Supreme Court's Information Technology Department to have the system installed in every county and referee court by the end of the year.

• The Mississippi Access to Justice Commission is charged with finding ways to provide economically disadvantaged Mississippians access to legal help. In the past year, the Commission has finished its statewide public hearings and has begun work on a final report which will outline some of the legal needs of economically disadvantaged Mississippians and offer suggestions to make access to justice a reality for all citizens of the state. The Commission has also completed a strategic plan for the next two years and has begun developing an interactive Commission website. Additionally, the Commission remains committed to encouraging responsible and effective pro bono and pro se representation throughout the state.

• The Uniform Criminal Rules Study Committee continues to examine the procedural rules of criminal cases that direct Mississippi's Bar and the bench. The Committee meets monthly to discuss the rules of Mississippi and other states. It is preparing a draft of suggested rules that the Committee feels will address the issues that prosecutors, defense counsel and judges currently face.

• The Public Defenders Task Force continues to encourage productive conversations between prosecutors and defenders as the Task Force considers possible legislative measures that will assist in the creation of an adequately funded and well-trained public defender system.

The AOC continues to assist the Chief Justice in the efficient and effective administration of the non-judicial business of the state courts.

MISSISSIPPI JUDICIAL ADVISORY STUDY COMMITTEE

The same legislation which created the Administrative Office of Courts also created the twenty-one member Mississippi Judicial Advisory Study Committee. Its members have been appointed by various entities as directed by statute. The chairs of the Senate and House Judiciary Committee are designated by statute as non-voting members of the Committee. The Committee is required by statute to meet not less than quarterly and has appointed consulting groups in areas of particular concern, including both civil and criminal law, to develop recommendations as required by statute to te made to the Legislature, the Supreme Court, and the Administrative Office of Courts.

The Committee is submitting its detailed, mandated report to the Legislature by a separate document.

BOARD OF BAR ADMISSIONS

The Board of Bar Admissions has the primary obligation to administer the laws and rules governing admission to practice law in the State of Mississippi. The Board's efforts are primarily directed at the preparation, administration and evaluation of Bar Admission examinations in February and July of each year and the investigation and evaluation of the character and fitness of each person seeking admission to practice law in the State of Mississippi.

In 2009, the Board received and processed the following number of applications:

Applications for Registration as a Law Student - 71

Applications for Examination - 401

The total applications processed/being processed in 2009 were 472.

In 2009, the Board tested the following number of applicants:

February 2009 bar exam - 102

July 2009 bar exam - 245

The total number of applicants tested in 2009 - 347

Overall passing percentage for the two 2009 bar examinations: 77.5%

MISSISSIPPI COMMISSION ON CONTINUING LEGAL EDUCATION

The Mississippi Commission on Continuing Legal Education (CLE) has the primary responsibility to exercise general supervisory authority over the administration of the "Rules for Mandatory Continuing Legal Education" and to adopt, repeal, and amend regulations consistent with these rules. The objective of the Mississippi Commission on CLE is to ensure that each member of the Bar complies with the rules and regulations established by the Commission and meets the mandatory CLE requirements in a timely and efficient manner. Twelve (12) hours of approved instruction are required annually of every attorney licensed to practice law in the State of Mississippi.

The Commission strives to meet the needs of the members of the Mississippi Bar regarding continuing legal education by keeping abreast of national changes in programming formats and topics. Members of the Commission and its administrator are active in the national organization of regulatory CLE boards, CLEreg.

In 2009 the Mississippi Commission on CLE approved for credit 439 programs that were held in the state of Mississippi, 2460 programs held outside the state of Mississippi and 3661 programs that were given by teleconference or online through live webcasts and on-demand programs.