

SUPREME COURT OF MISSISSIPPI



2008

ANNUAL REPORT



SUPREME COURT OF MISSISSIPPI

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DEPUTY COURT
ADMINISTRATOR
AND COUNSEL

A MESSAGE FROM CHIEF JUSTICE WILLIAM L. WALLER JR.

IN 2008, 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 provide expeditious disposition of matters brought before the courts.

The Judiciary recognizes that as a separate 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 1142 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 have decided 105,361 civil and criminal cases. More than \$782,000 has been distributed to provide access to the courts by the underprivileged. All of this has been accomplished using less than one per-cent of the states general fund appropriations.

Recognizing that the cost of litigation too often bars those with limited means from bringing matters before the courts, we have, in addition to distributing funds for services to the underprivileged, 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.

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

IN 2009, I begin my first year as Chief Justice of the Mississippi Supreme Court. In that capacity, I will do all within my power, with the assistance of my colleagues on the Court, to continue 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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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. These 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 to county or circuit courts and the cases appealed are tried de novo in the appellate court.

The towns and cities have 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 to county or circuit courts and the cases appealed are tried de novo in the appellate court.

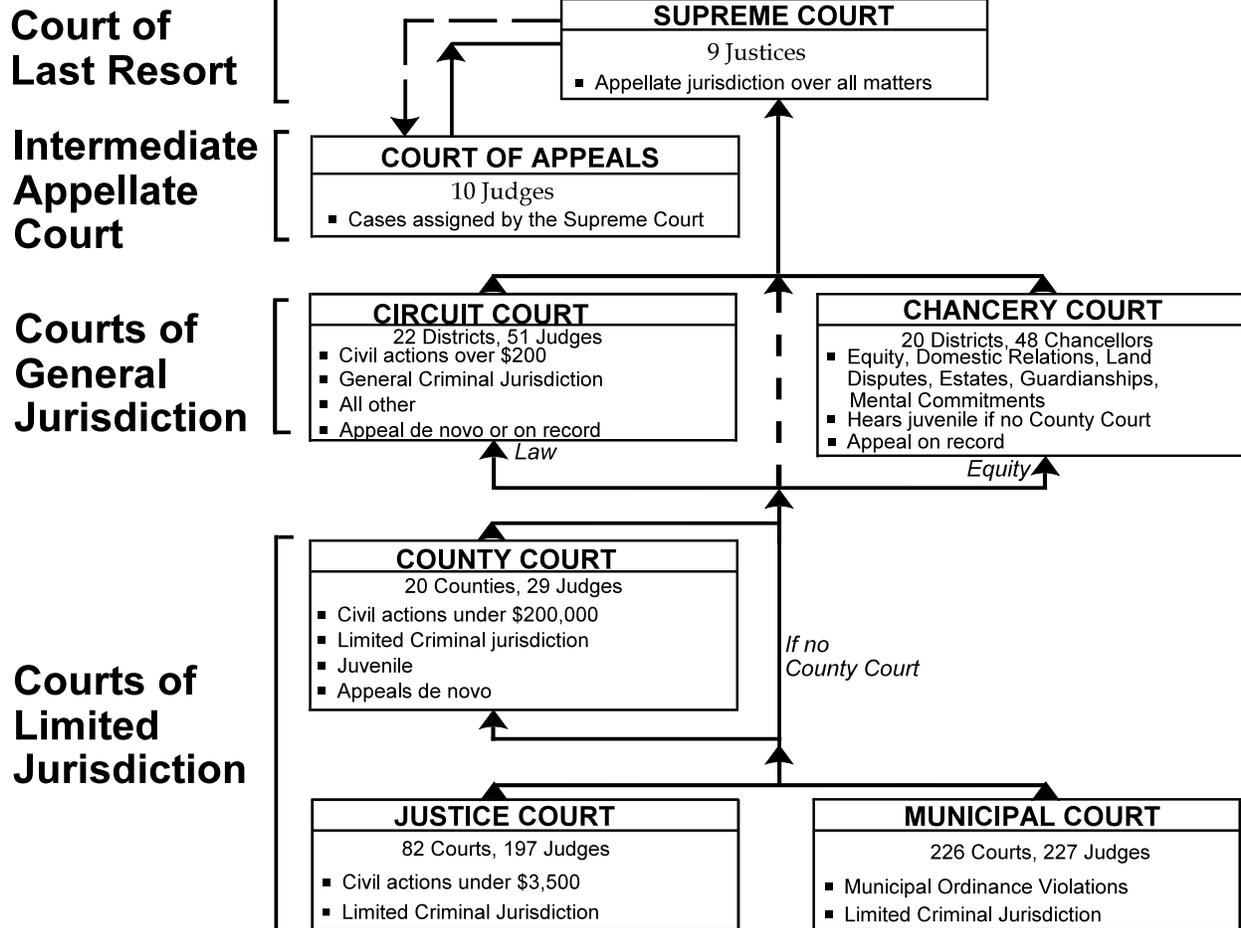
There are 20 County Courts with 29 judges. These courts have concurrent civil jurisdiction with the Chancery and Circuit Courts in suits seeking \$200,000 or less. They also have limited criminal jurisdiction and appellate jurisdiction from the Justice Courts and Municipal Courts. In counties with County 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 as specified by the constitution over, generally concerning matters of equity, domestic relations, land disputes, estates, guardianships, and mental commitments. In counties without County Courts, they handle Youth Court functions. They also receive appeals on the record from County Courts in matters over which they have concurrent subject matter jurisdiction.

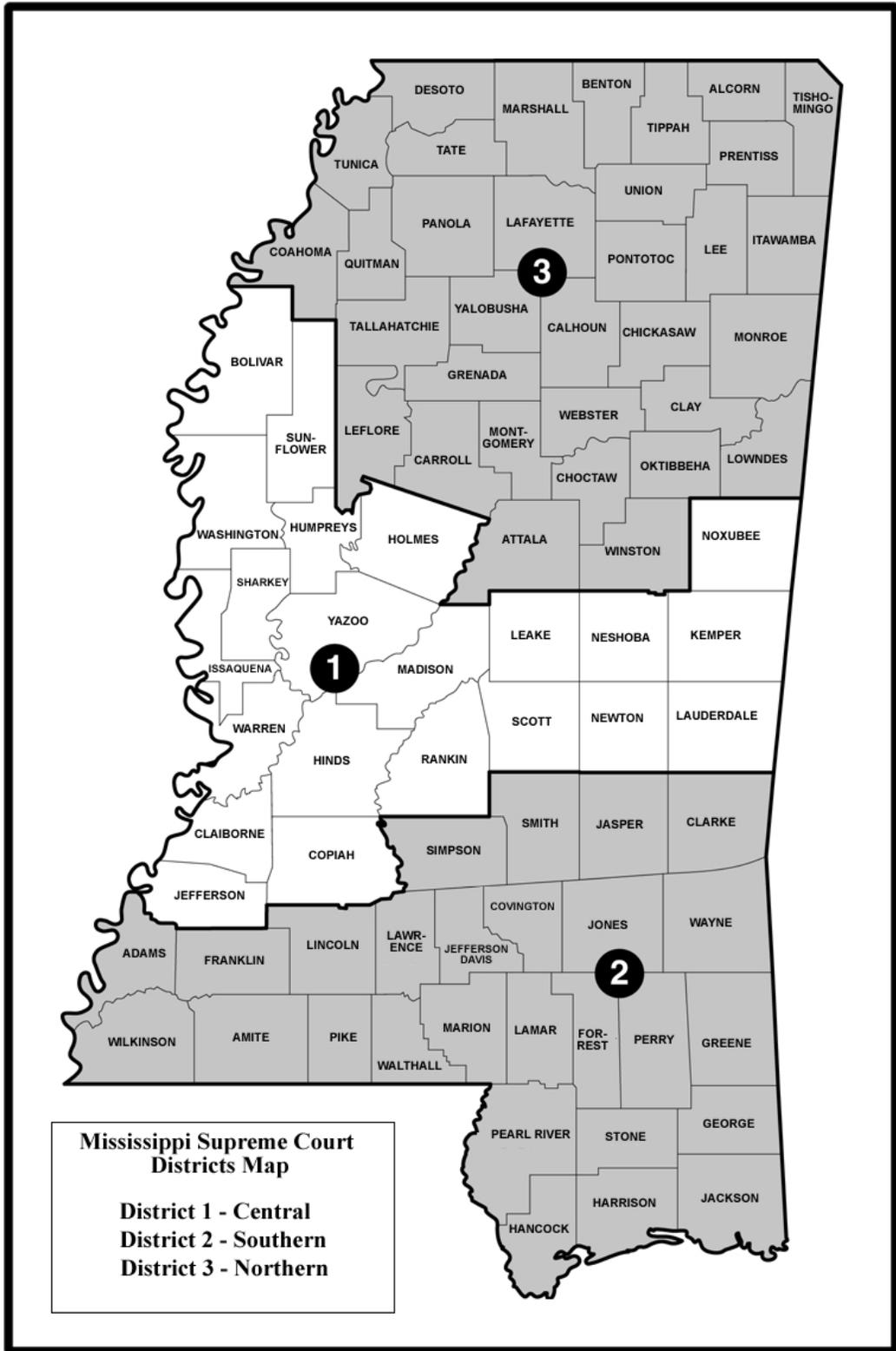
The Circuit Courts are the general jurisdiction trial courts in Mississippi. There are Circuit Courts in each county organized into 22 districts with 51 judges. They have jurisdiction of all civil actions at law seeking recovery in excess of \$200 and of all criminal cases under state law. They receive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

Appeals from the Chancery, Circuit, and Youth Courts are to the Supreme Court. With the exception of certain appeals which must be retained by the Supreme Court (e.g. Death Penalty, Utility Rate, Annexation Cases, 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.

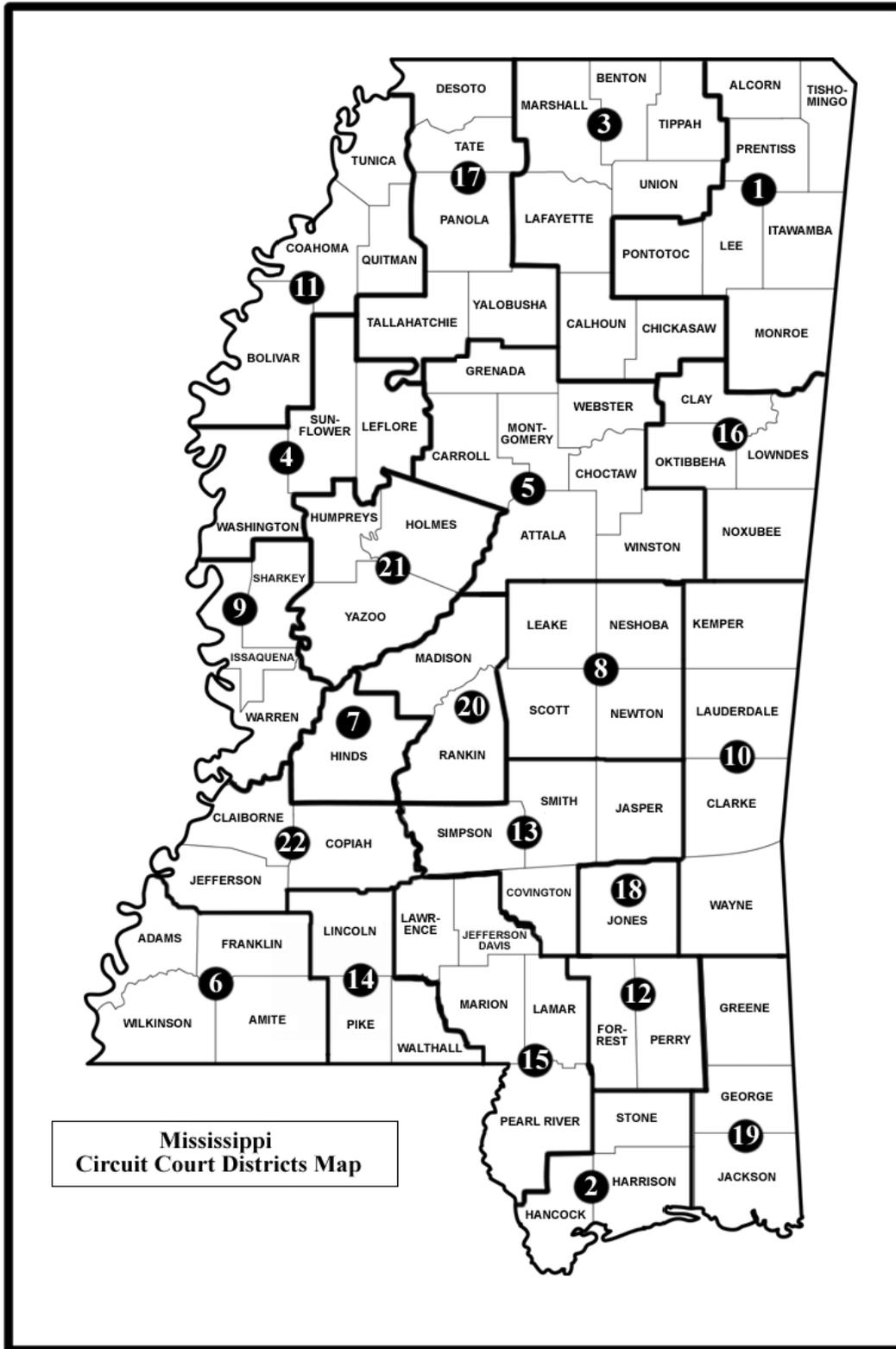
ORGANIZATIONAL CHART



SUPREME COURT DISTRICTS

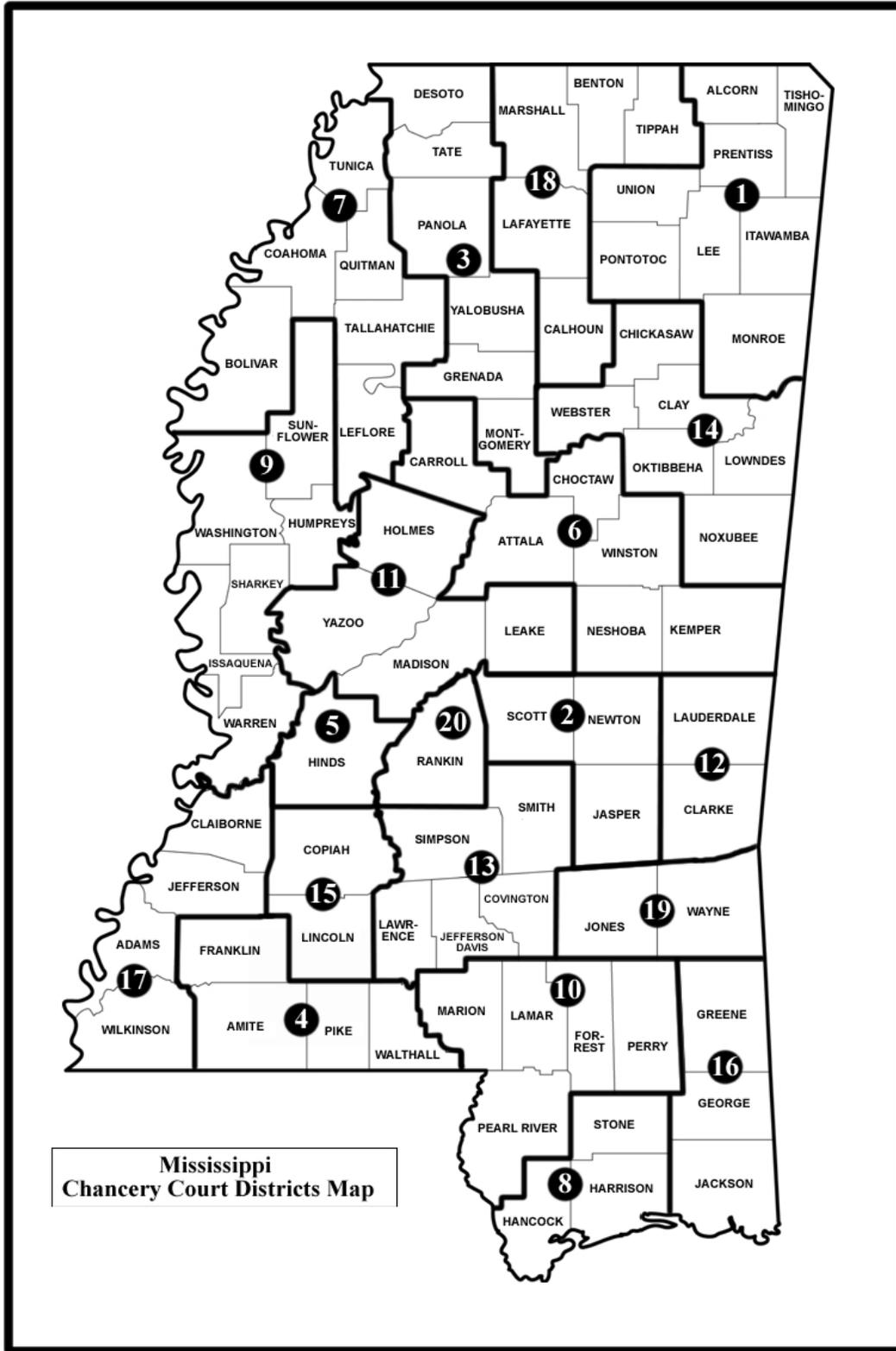


CIRCUIT COURT DISTRICTS



Mississippi
Circuit Court Districts Map

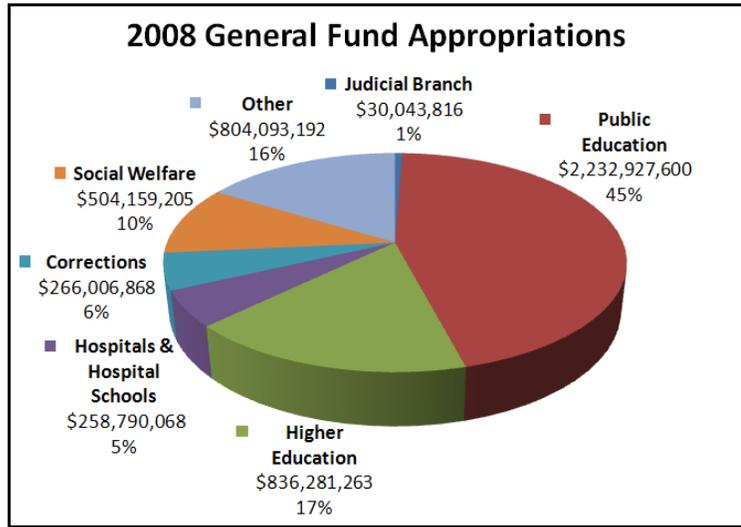
CHANCERY COURT DISTRICTS



FUNDING AND ADMINISTRATION OF THE COURTS

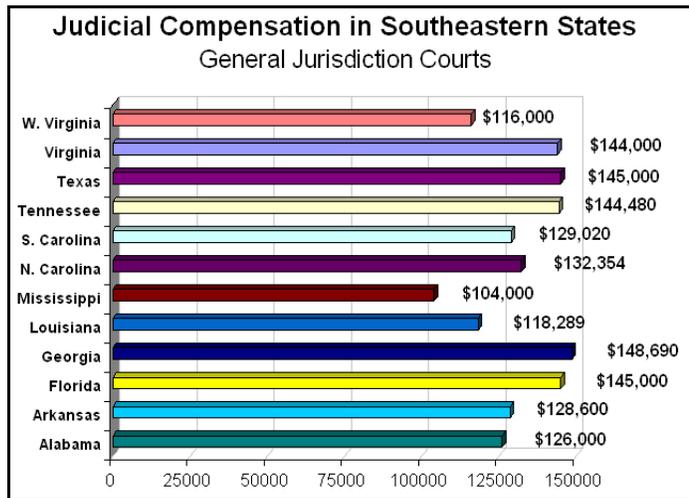
The state judiciary is funded primarily by general fund appropriations with additional funding for specific mandates by way of grants and special funds. In August, the Supreme Court submitted to the Legislature the judiciary’s annual detailed report of spending for fiscal year 2008 with its appropriations request for 2010.

For fiscal year 2008, 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 17 county court), was \$30,043,816. This represents performance of all judicial functions by these courts for only six tenths per cent of the general fund expenditure.



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 \$134,000. In contrast, Mississippi chancery and circuit judges receive \$104,000. Unlike other states which complement judges salaries by 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. In order to retain the best of our judges and recruit lawyers from the upper ranks of the profession, we must address this pay disparity now.

OUTREACH AND INNOVATION

Throughout 2008, the Supreme Court has continued its efforts to make the courts and justice more accessible to the public and to enhance the ability of the courts to effectively use the technological developments available. 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, and evaluates, develops and recommends policies, programs and initiatives which will 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 2008, the Supreme Court made a record distribution of \$782,000 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 3,500 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 28 certified drug courts and an additional 6 programs in the planning stages. The increase in the number of certified drug court programs operating in this state reflects a growing trend that started 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 nearly three times that number currently enrolled in drug court, the cost effectiveness of the drug court program versus incarceration is clearly obvious. However, there are other financial incentives to further promote drug court creation and expansion efforts.

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. As 2009 progresses, the pilot testing of this program will allow such modification and testing of the system as will be needed to establish it as the standard for court operations in Mississippi.

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 36 youth courts, is scheduled for installation in nine more, and additional 18 youth courts have requested it. 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, three systems administrators, two project managers, and three programmer/analysts. 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), maintain the Judicial Branch web site, and advise the court on future technology initiatives. Although the Court has not sought expansion of this office for FY 2008, it will be necessary to address its needs in the near future.

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.

Currently, and for some time now, both appellate courts are 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	937
Death Penalty PCR Applications	4
Bar Discipline Cases	7
Bar Discipline Appeals	3
Bar Reinstatement Cases	5
Judicial Performance Cases	7
Election Contests	3
Interlocutory Appeals Granted	37
Certiorari Petitions Granted	43
Workers Comp Appeals	26
Total New Cases Filed	1072

Case Dispositions	Supreme Court	Court of Appeals	Courts Combined
Dismissed by Clerk's Rule 2	106	54	160
Dismissed by Order of Court	129	18	147
Certiorari Petitions Dismissed as Improvidently Granted	14	0	14
Decided by Published Opinion	204	540	744
Per Curiam Affirmed	21	0	21
Decided by Order	5	0	5
Total Case Dispositions	479	612	1091

The Supreme Court heard oral arguments in 18 cases in 2008; the Court of Appeals heard 74 cases argued.

In addition, the appellate courts addressed 7,146 motions, 3963 by the Supreme Court and 3183 by the Court of Appeals. These included:

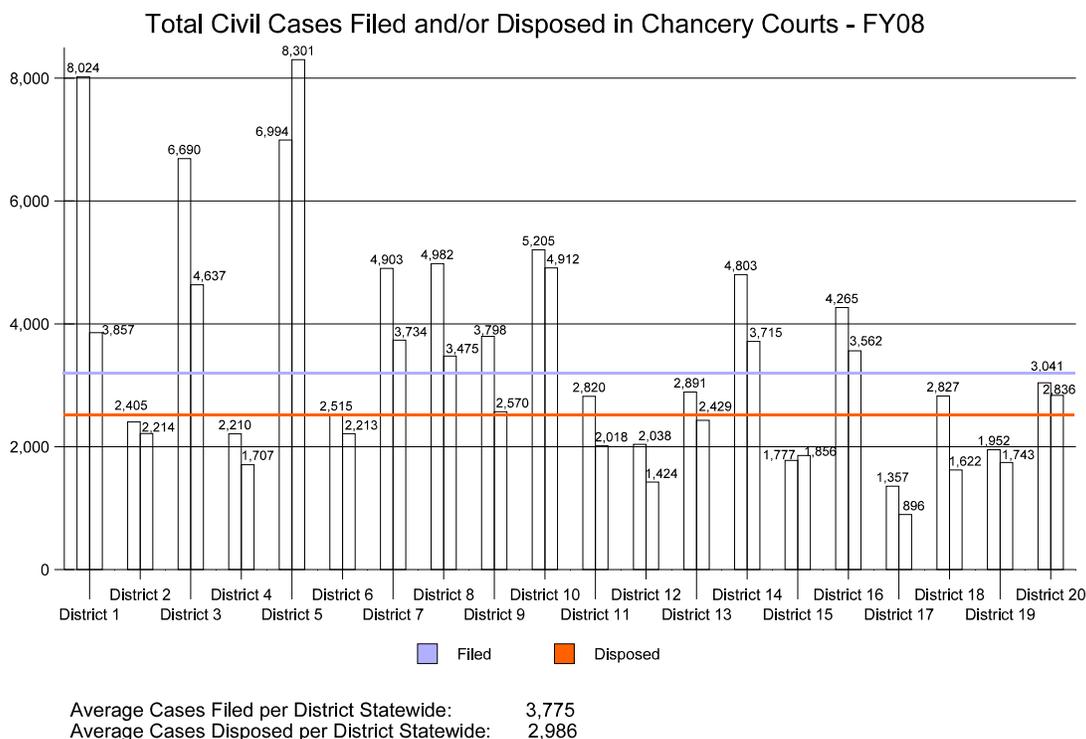
	Supreme Court	Court of Appeals	Courts Combined
Motions for Rehearing	87	286	373
Petitions for Interlocutory Appeal	224	1	225
Petitions for Certiorari	195	0	195

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.

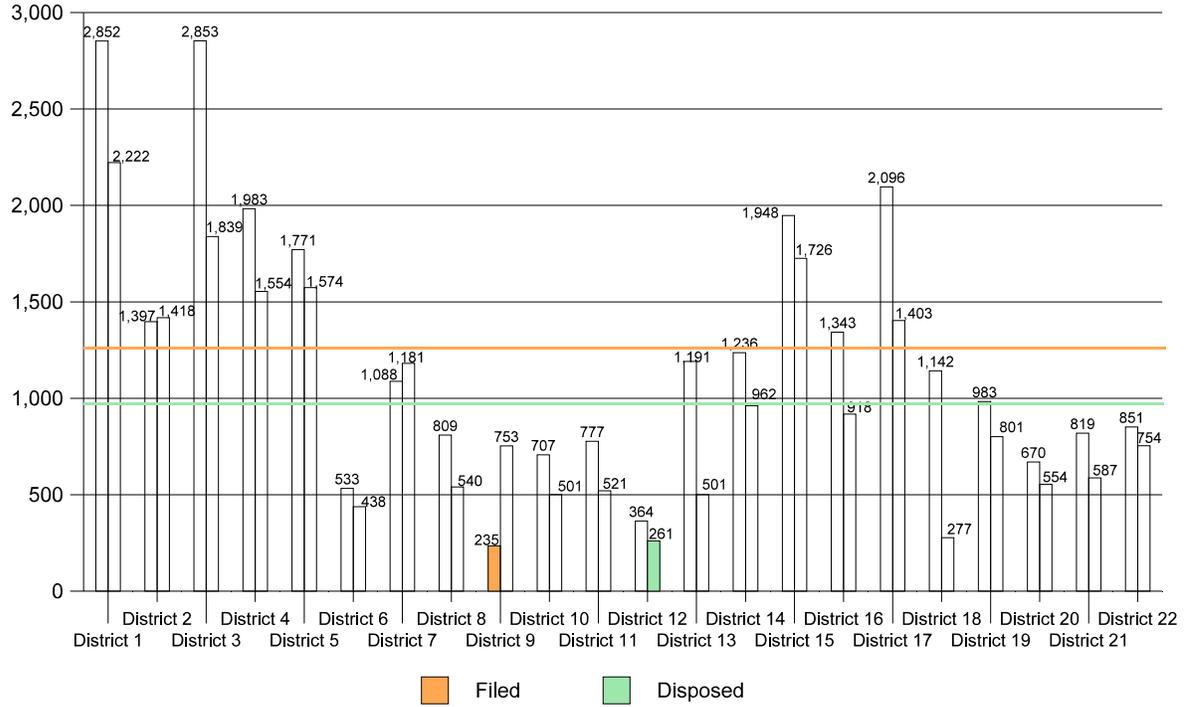
The chancery and circuit clerks for each district are required by law to report the activities of the courts to the Administrative Office of Courts. The data, as reported, reflect the following.

CHANCERY COURTS



CIRCUIT COURTS

Total Civil Cases Filed and/or Disposed in Circuit Courts - FY08

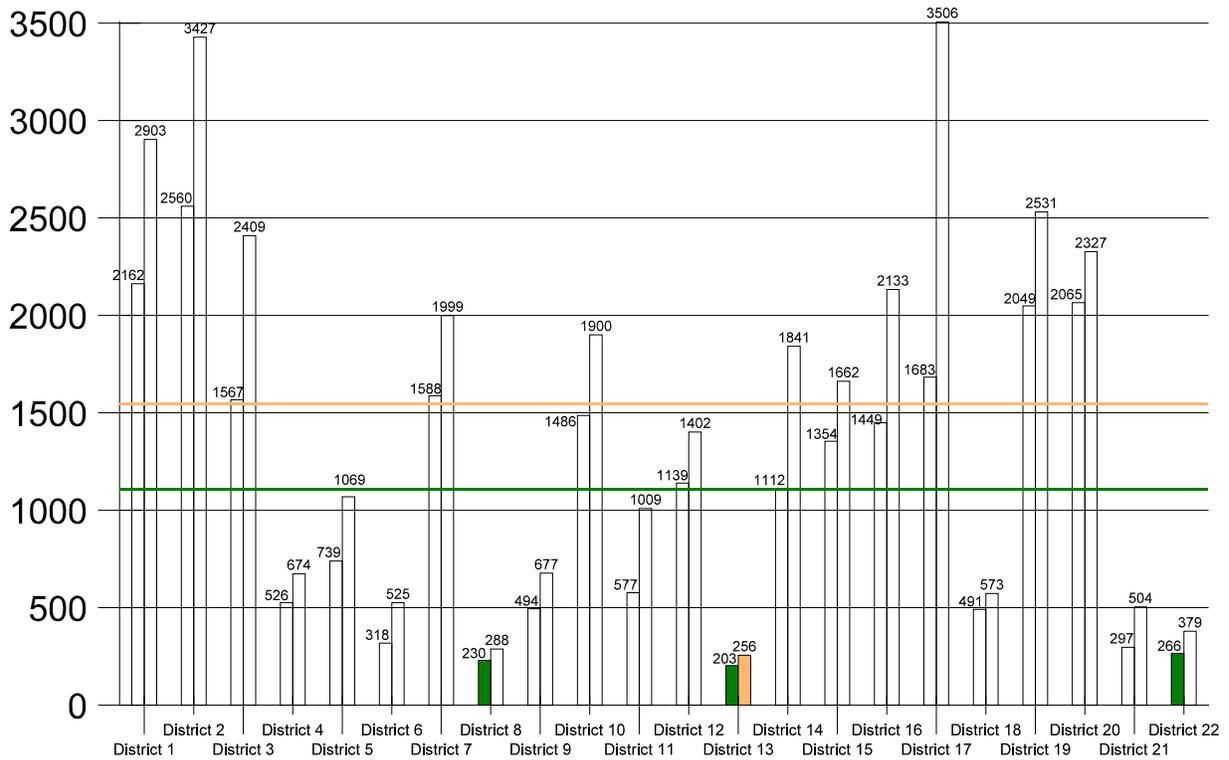


Average cases filed per district statewide: 1,257
 Average cases disposed per district statewide: 968

Note: No data received from Neshoba (Dist. 8) since 2005
 No data received from Wilkinson (Dist. 6) since May 2007

Last updated 1/26/09

Criminal Cases/Counts Cases Disposed - Fiscal 2008



Average cases disposed per district: 1,107
 Average counts disposed per district: 1,545

■ Cases
 ■ Counts

Last updated 2/6/09

COUNTY AND YOUTH COURTS

Please contact the Administrative Office of Courts for statistics for the County Courts 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 at the new 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 handles 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. In 2007, the committee approved resolutions supporting the increased funding of support staff and office allowances for the trial judges and legislation that would enable counties to establish an Office of Public Guardian.

- The State Drug Court Advisory Committee oversees the development and operation of Mississippi's drug courts. In 2007, the number of drug court participants grew approximately 28%. 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 Commission on Children's Justice is charged with improving child welfare. In 2007, the commission set out to accomplish the following objectives: (1) improving as well as expediting the Termination of Parental Rights (TPR) process in order to comply with the requirements of the Court Improvement Program grant; (2) the securing of additional federal grant funds; (3) utilizing funding to implement agency cross-training to improve quality of the overall youth court process; (4) providing a resource which clarifies and creates new Uniform Youth Court Rules for the state of Mississippi; (5) expansion of MYCIDS (Mississippi Youth Court Information Delivery System) into twenty-one (21) counties; (6) building a strong collaboration with MDHS in the development of a Permanency Module in addition to completing the implementation into MYCIDS software; (7) planning the development and implementation of statewide cross-training of MDHS social workers, youth court counselors and other youth court related staff; and (8) implementing a collaboration with Tribal Courts including the review of Tribal Codes.

- 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 begun planning hearings to be held in 2008 to help educate lawmakers and city and state leaders about the plight of the poor in Mississippi and the legal services available to them. A DVD is also being produced to further spotlight the positive effects legal services corporations can have on poor citizens. Also, the Commission is taking a number of steps to encourage responsible and effective pro bono and pro se representation.
- 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 Task Force is currently meeting to discuss what the next steps of the Task Force will be in light of the legislation the Task Force successfully submitted to the Mississippi Legislature in 2007, including the extension of the repealer of the Task Force by four years; the inclusion of a representative from the Mississippi Bar and a representative from the Magnolia Bar to the Task Force; and approval of a public defender training component.

The AOC continues to strive in its efforts 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 be 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 2008, the Board received and processed the following number of applications:

Applications for Registration as a Law Student -109

Applications for Examination - 457

The total applications processed/being processed in 2008 were 566

In 2008, the Board tested the following number of applicants:

February 2008 bar exam - 123

July 2007 bar exam - 254

The total number of applicants tested in 2008 - 377

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 meet the mandatory CLE requirements in a timely and efficient manner.

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.

In 2008, the Mississippi Commission on CLE approved for credit 480 programs that were held in the state of Mississippi, 4200 programs held outside the state of Mississippi and 2430 programs that were given by teleconference or online through live webcasts and on-demand programs.