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June 10, 2014

The Honorable Ricky Polston
Chief Justice
Florida Supreme Court
500 South Duval Street
Tallahassee, FL 32399-1925

RE: Postconviction Data in the District Courts of Appeal

Dear Chief Justice Polston:

The Commission on District Court of Appeal Performance and Accountability (DCAP&A) was established in 2002 with a mandate to propose policies and procedures on matters related to the efficient and effective functioning of Florida's district courts of appeal. Accordingly, in Administrative Order 12-26, the Supreme Court tasked the DCAP&A with monitoring the management of postconviction cases. In response to this directive, the DCAP&A has conducted several reviews of postconviction data at various meetings held on December 14, 2009, April 26, 2010, and again on October 3, 2013. The DCAP&A submits this letter to you with our findings.

In monitoring postconviction cases, the DCAP&A reviews several data sets, including:

- Postconviction Filings by District (FY 1993-94 thru FY 2012-13), included as Attachment A;
- Postconviction Filings as a Percent of Total Filings by District (FY 1993-94 thru FY 2012-13), included as Attachment B;
- Prison Admissions by District (FY 1992-93 thru FY 2011-12), included as Attachment C;
- Prison Population by District (FY 1992-93 thru FY 2011-12), included as Attachment D; and
- Circuit Court Postconviction Relief Motions Filed by District (FY 1993-94 thru FY 2012-13), included as Attachment E.

During the DCAP&A's most recent assessment, it was noted that there is a discrepancy in the data between prison admissions and prison population and the number of circuit court postconviction relief motions filed by district, specifically for the Third District Court of Appeal. Previous reviews also showed a discrepancy for the Fourth District Court of Appeal, but a correction by the trial court clerk of Broward County brought the data into conformity.

As a result of the discrepancy for the Third DCA, the DCAP&A requested that the Office of the State Courts Administrator (OSCA) audit the data for Eleventh Judicial Circuit. In May 2014, the OSCA conducted a special audit of that circuit's Summary Reporting System (SRS) data for felony and misdemeanor postconviction relief motions filed. A sample of 615 cases were reviewed (368 felony cases and 247 misdemeanor cases). Significant over-reporting of postconviction relief motions filings were identified in both divisions of the trial courts.

In felony, the OSCA discovered multiple motions to modify rule 3.800 motions which were improperly reported as postconviction relief motions. In addition, several postconviction relief motions were being reported as a new filing each time the motion is continued and set for another hearing date. In misdemeanor, the over-reporting appears to be caused by a pro se motion form which was created by the county. In most cases, pro se defendants are selecting the "vacate judgment and sentence" option in error, which are then being reported as postconviction relief motions once received by the circuit court clerk's office.

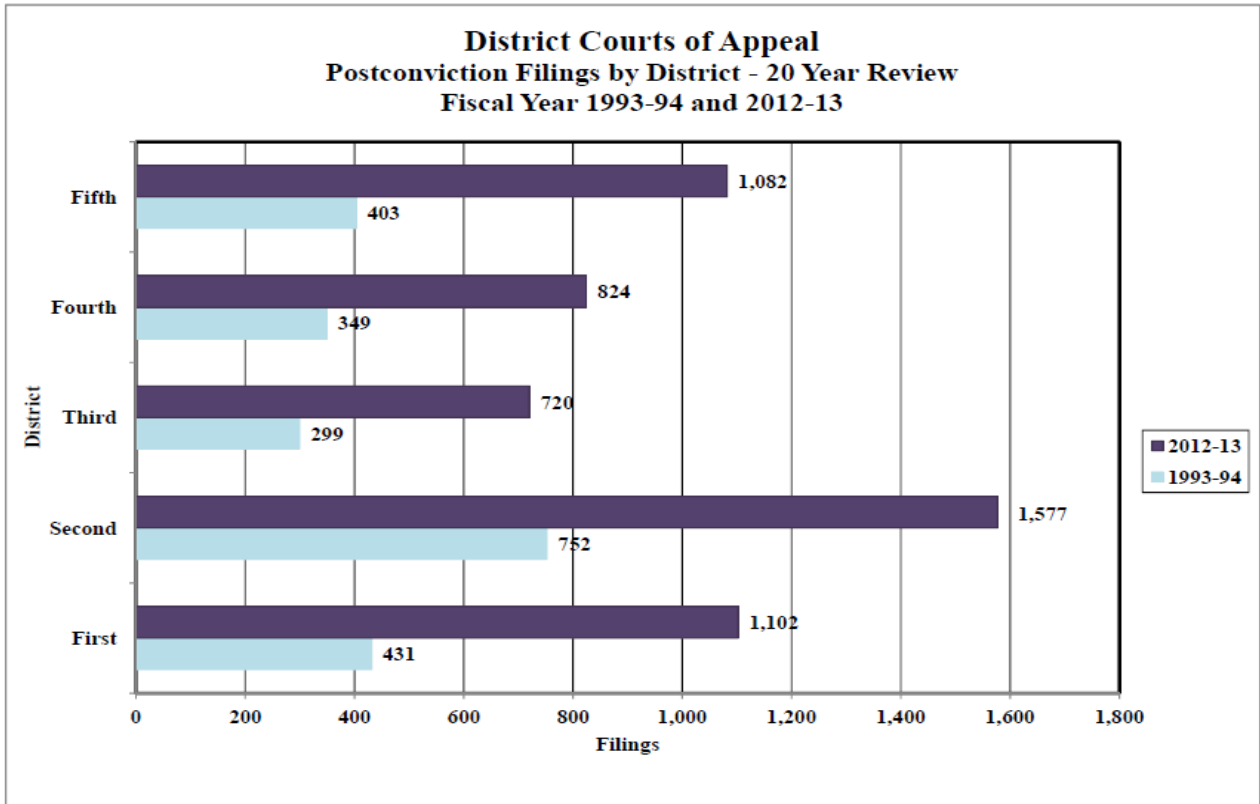
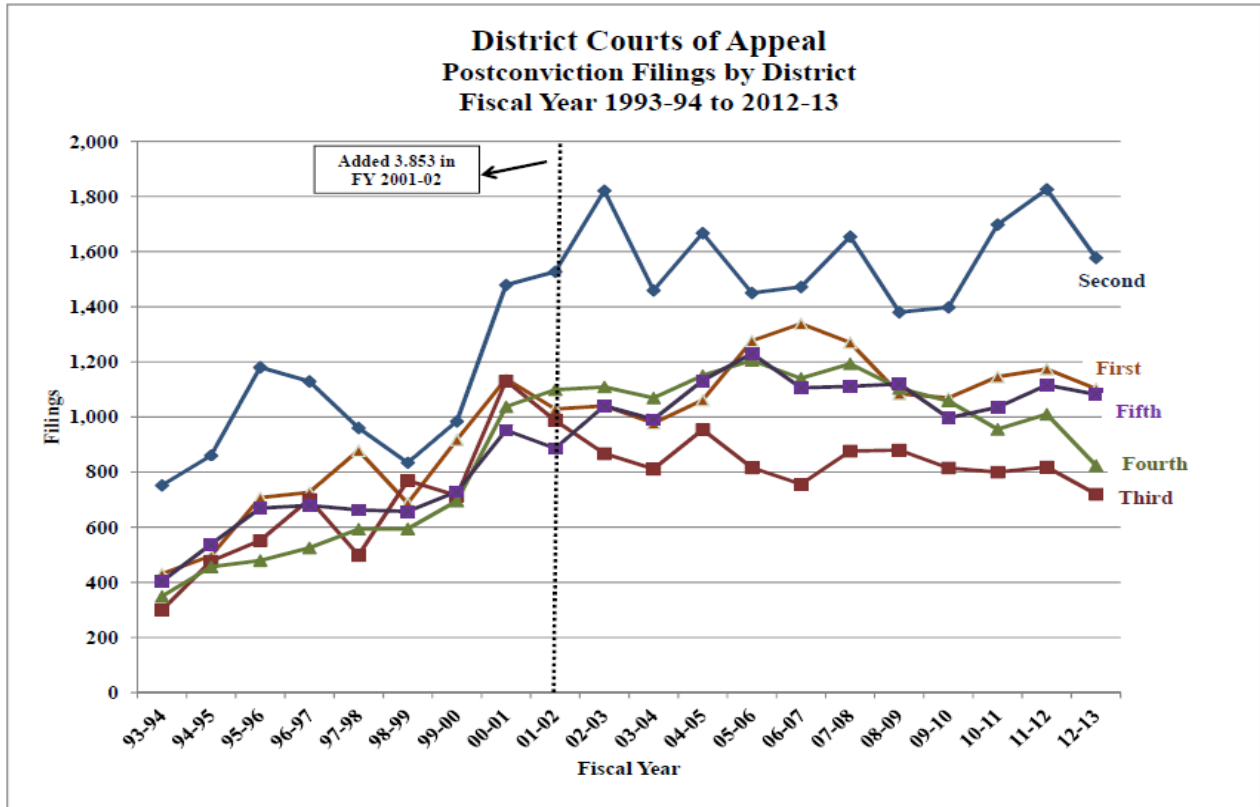
As a result of the audit, pursuant to F.S. 25.075 and the SRS reporting instructions, the OSCA will ask the Miami-Dade Clerk of Court to amend its SRS reporting from 2010 forward. The DCAP&A anticipates that the next review of postconviction data will show the Third DCA's data as more consistent with the other districts. Additionally, as part of the next review, the DCAP&A intends to study whether the postconviction data is affected by the filing of frivolous pro se motions. In turn, the commission hopes to develop recommendations that will provide uniformity and efficiency in handling frequent filers throughout the state.

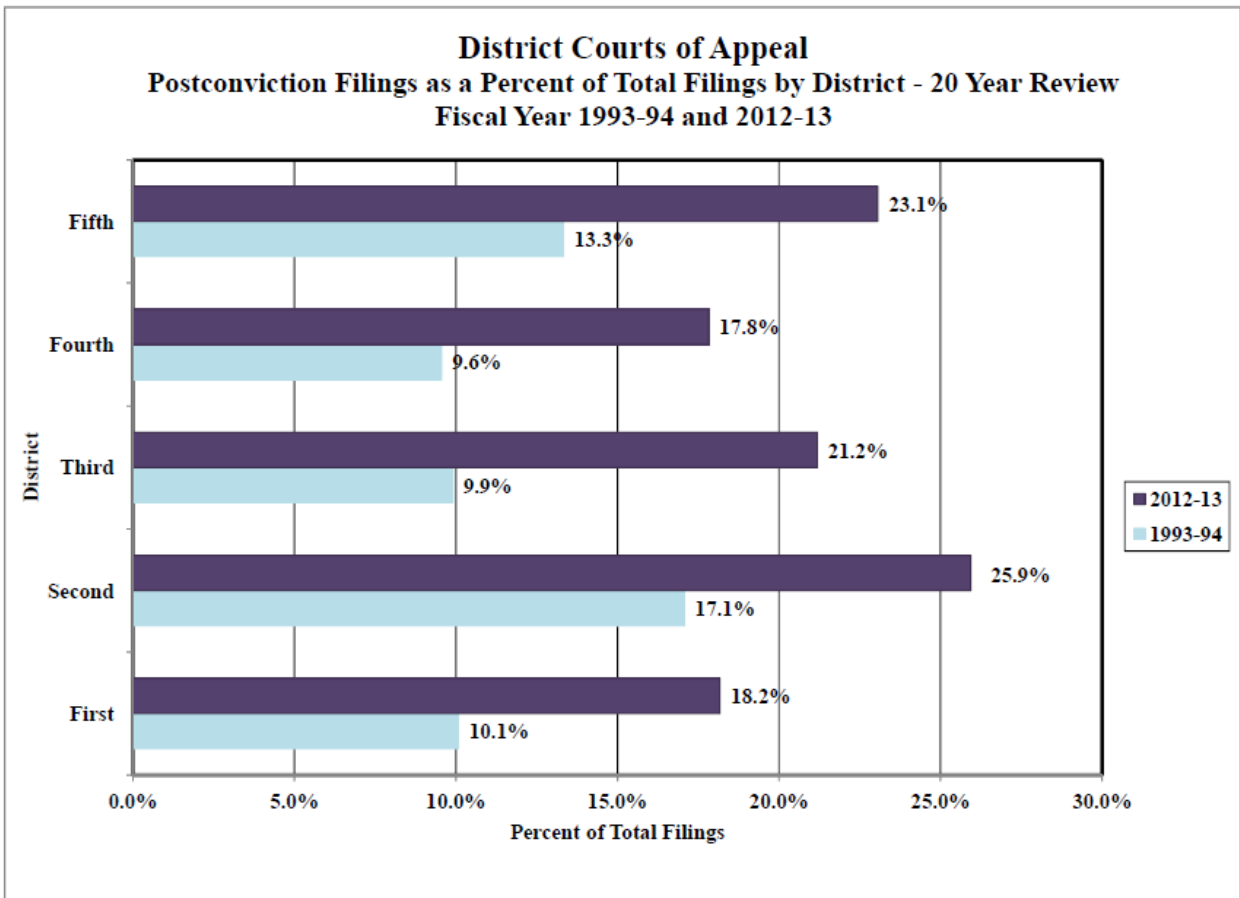
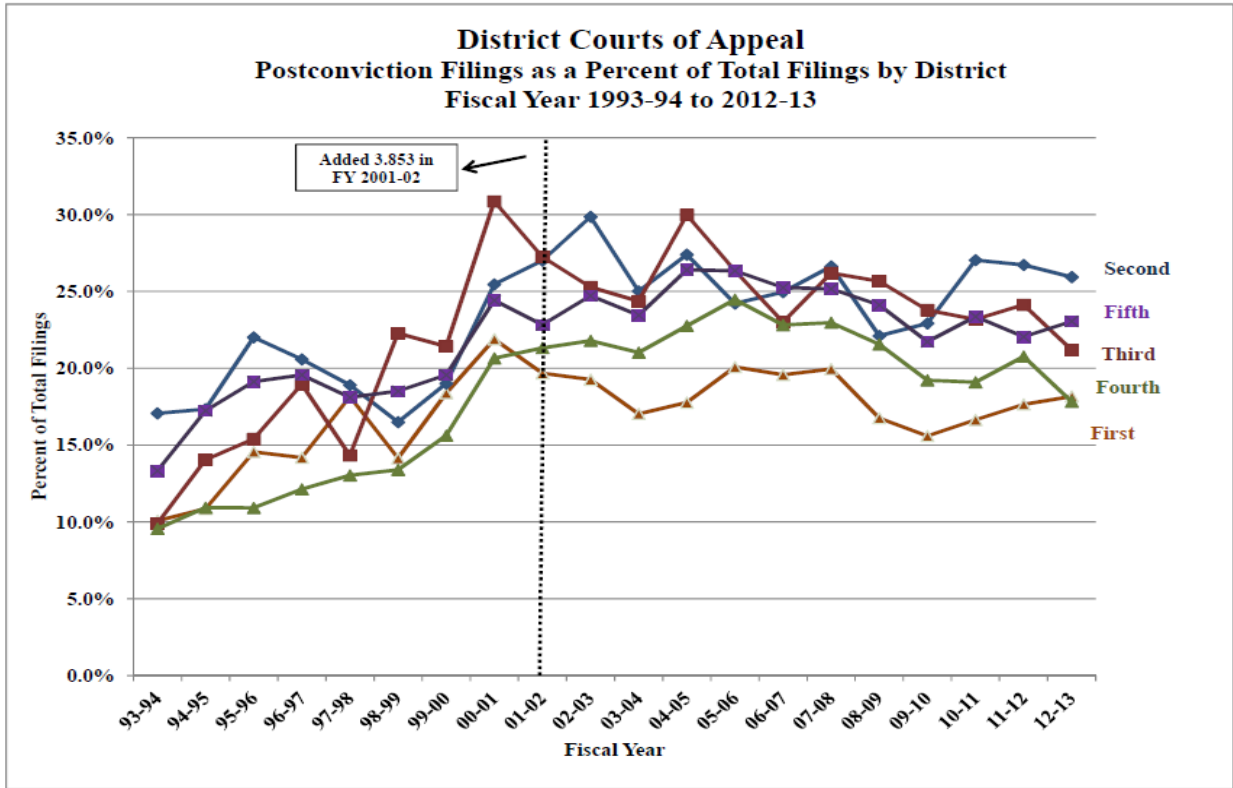
The DCAP&A thanks you for the opportunity to submit this information. Should you have any questions or if the commission may be of further assistance, please do not hesitate to contact me.

Sincerely,



William A. Van Nortwick





Attachment C

