



TEXAS JUDICIAL COUNCIL

205 WEST 14TH STREET, SUITE 600 - TOM C. CLARK BUILDING - (512) 463-1625 - FAX (512) 936-2423
P. O. BOX 12066 - AUSTIN, TEXAS 78711-2066

CHAIR:
HON. NATHAN L. HECHT
Chief Justice, Supreme Court

EXECUTIVE DIRECTOR:
DAVID SLAYTON

VICE CHAIR:
HON. SHARON KELLER
Presiding Judge, Court of Criminal Appeals

AGENDA

August 19, 2016

10:00 A.M.

Supreme Court of Texas
201 W. 14th Street
AUSTIN, TEXAS

Action and Discussion Items:

- I. Commencement of Meeting** – *Chief Justice Nathan L. Hecht*
- II. Attendance of Members** – *David Slayton*
- III. Minutes of Previous Meeting** – *Chief Justice Nathan L. Hecht*
- IV. Reports and Action Items**
 - a. Texas Indigent Defense Commission Report – Presiding Judge Sharon Keller/Jim Bethke*
 - b. Court Security Committee Report – Judge Scott Jenkins*
 - c. Mental Health Committee Report – Justice Bill Boyce*
 - d. Elders Committee Report – Judge Polly Spencer*
 - e. Criminal Justice Committee Report – Judge Kelly Moore*
 - f. Review Public Comments from proposed amendments to the Texas Judicial Council Collections Improvement Program Rules and consider final approval of amendments – David Slayton*
- V. New Business**
 - a. Review and discussion of potential legislative proposals by the Texas Judicial Council – David Slayton*
- VI. Next Meeting** – **October 28, 2016 – 10 AM**
- VII. Adjournment** – *Chief Justice Nathan L. Hecht*



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TEXAS JUDICIAL COUNCIL

MINUTES OF MEETING

June 3, 2016

10:00 AM

SUPREME COURT OF TEXAS
Supreme Court Building
201 W. 14th Street, Room 104
Austin, Texas

COMMENCEMENT OF MEETING

On June 3, 2016, Chief Justice Nathan L. Hecht called the meeting¹ of the [Texas Judicial Council](#) ("Council") to order at approximately 10:00 AM in the courtroom of the [Supreme Court of Texas](#) ("SCOT") in Austin, Texas.

The following members of the Council were present:

Hon. Nathan L. Hecht, Chief Justice, Supreme Court of Texas
Hon. Sharon Keller, Presiding Judge, Court of Criminal Appeals
Mr. Richard Battle, Key Trak, College Station
Hon. Gary Bellair, Presiding Judge, Ransom Canyon Municipal Court
Hon. Bill Boyce, Justice, 14th Court of Appeals, Houston
Mr. Richard S. Figueroa, UBS Advisory & Brokerage Services, Houston
Hon. Bill Gravell Jr., Justice of the Peace Pct. 3, Williamson County
Hon. Scott Jenkins, Judge, 53rd District Court, Travis County
Ms. Ashley Johnson, Gibson Dunn & Crutcher LLP, Dallas
Hon. Kelly Moore, Judge, 121st Judicial District, Terry & Yoakum
Hon. Andrew Murr, Representative, Junction
Mr. Henry Nuss, Welder Leshin, Corpus Christi
Hon. Sherry Radack, Chief Justice, 1st Court of Appeals, Houston
Hon. Linda A. Rodriguez, Judge (Ret.), County Court at Law No. 2, Hays County
Hon. John T. Smithee, Representative, Amarillo
Hon. Polly Spencer, Judge (Ret.), Probate Court #1, Bexar County
Hon. Judith Zaffirini, Senator, Laredo

¹ The meeting may be viewed on the State Bar of Texas website <http://www.texasbarcle.com/CLE/TSCSearch2.asp>

Members attending by phone were Ms. Allyson Ho and Judge Valencia Nash.

Members not in attendance were Mr. Carlos Z. Amaral, Judge Glenn D. Phillips, and Senator Brandon Creighton.

MINUTES

The [February 26, 2016](#) meeting minutes were approved.

REPORTS AND ACTION ITEMS

Texas Indigent Defense Commission

Mr. Wesley Shackelford, Deputy Director/Special Counsel, reported that the [Texas Indigent Defense Commission](#) (“Commission”) had three meetings since April; Strategic Planning, Grants & Reporting Committee, and the full Commission. The Commission awarded a discretionary grant to Travis County to add additional support services to their managed assigned counsel program.

In May, the Commission cosponsored the Texas Fair Defense Act 15th Anniversary Symposium Celebration with United States Department of Justice Access to Justice Director Lisa Foster, Senator Rodney Ellis, Senator Juan Hinojosa, Texas Appleseed, The Texas Fair Defense Project, The Texas Criminal Justice Coalition, The University of Texas School of Law, George J. Beto Criminal Justice Center at Sam Houston State University, and Texas Defender Service attending the event.

Additionally, the House Committee on Criminal Jurisprudence held a public hearing in March about indigent defense and innocence projects.

Court Security Committee

Judge Scott Jenkins, Committee Chair, reported that the Court Security Committee (“CSC”) had its first meeting in May to discuss the charge, court security efforts in other states, and recent developments in courthouse security in Texas. The CSC will continue to collect information from states identified as having best practices: Arizona, Arkansas, and Florida. The CSC is also researching issues such as training, reporting, and funding. The CSC may consider recommending the appointment of a court security expert to the Office of Court Administration that would be available to assist local courts, a position that exists in other states.

Criminal Justice Committee

Judge Kelly Moore, Committee Chair, reported that the Criminal Justice Committee (“CJC”) met on June 2 and received a status update on the Public Policy Research Institute’s (“PPRI”) study, results of which should be ready this fall. The CJC will meet again in July by phone, and again prior to the August Council meeting to finalize its recommendations. Other items discussed include potential legislation, funding for counties, and judicial education.

Judicial Statistical Trends

Mrs. Angela Garcia, Judicial Information Manager, gave a presentation, [Caseload Trends – Relating to Motor Vehicles](#).

Update on Judicial Centers of Excellence Initiative

Mr. Rick Figueroa provided an overview on the pathway to becoming a judicial center of excellence. Mr. Scott Griffith, Director Research & Court Services, additionally gave a presentation, [Framework for Judicial Centers of Excellence](#).

Review Public Comments from proposed amendments to the Texas Judicial Council Reporting Requirements Rules

Mr. Griffith reported no public comments were received for the proposed amendments to the Texas Judicial Council Reporting Requirement Rules (1 TAC 171). After request for approval, a motion was put forth by Senator Zaffirini. With a second from Mr. Figueroa, the request was approved by acclamation.

Review Public Comments from proposed amendments to the Texas Judicial Council Collection Improvement Program Rules

At the February meeting, the Council approved adopting and publishing notice of proposed amendments to the CIP Rules in the Texas Register. Since publication, the CIP Committee has met several times and have proposed changes to the entire set of rules. Chief Justice Hecht discussed withdrawal of the recent changes in favor of consideration of the new complete changes.

Mrs. Mena Ramón, General Counsel, reviewed the one [public comment](#) received on the formerly [proposed](#) Collection Improvement Program (“CIP”) rule changes.

Chief Justice Hecht then requested a motion to withdraw the emergency rules adopted at the last meeting. With motion from Judge Bellair and second from Chief Justice Radack, the emergency rules were withdrawn.

NEW BUSINESS

Consider Amendments to the TJC CIP Rules and Authorize Notice in Texas Register

Mrs. Mena Ramón, General Counsel, then discussed the new proposed amendments and the Office of Court Administration (“OCA”) [memo](#) related to the new changes. Chief Justice Hecht recognized Judge Bill Gravell who chaired the CIP Committee who, in turn, recognized Mr. Slayton, Mr. Griffith, and Mrs. Ramón for their work on the committee as well. Judge Gravell noted the need for more funding for judicial education. Mr. Slayton noted the Council would need to decide an effective date for the rules at its August meeting, likely with delayed implementation. Chief Justice Hecht requested a motion to approve and publish. With motion from Judge Gravell and second from Judge Rodriguez, the motion carried.

Consider approval of programmatic best practices for adult drug courts recommended by the Specialty Courts Advisory Council

Ms. Anissa Johnson, Specialty Courts Program Coordinator, reported that the Governor’s Criminal Justice Division (“CJD”) and the Specialty Court Advisory Committee (“SCAC”) had submitted [clarification](#) of their [recommendations](#). Chief Justice Hecht requested a motion to approve the adult drug court best practice standards recommended by the SCAC to require implementation by August 31, 2019, and authorize the CJD, with advice and consent of the SCAC, to waive and extend time for compliance of certain practices in certain situations. With motion from Chief Justice Radack and second from Judge Bellair, the motion carried.

Consider appointment and charge of a Mental Health Committee

Chief Justice Hecht discussed the increased need for improvement in the administration of justice for people with mental illness within the criminal and civil justice systems. To explore these issues further, he proposed a [Mental Health Committee](#) of the Council. With a motion from Chief Justice Radack and a second from Mr. Figueroa, the motion carried.

Next, Mr. Slayton updated the Council on truancy cases stating that there has been a 91.5% drop in filings since the legislative changes recommended by Council took effect.

NEXT MEETING

Chief Justice Hecht announced that the next meeting of the Council would be August 19.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at approximately 12:20 PM.

Nathan L. Hecht
Chair



Chair:
The Honorable Sharon Keller
Presiding Judge, Court of Criminal Appeals

Vice Chair:
The Honorable Olen Underwood

Ex Officio Members:
Honorable Sharon Keller
Honorable Nathan Hecht
Honorable Sherry Radack
Honorable Brandon Creighton
Honorable John Whitmire
Honorable Abel Herrero
Honorable Andrew Murr

Members Appointed by Governor:
Honorable Olen Underwood
Honorable Jon Burrows
Honorable Linda Rodriguez
Mr. Anthony Odiorne
Mr. Don Hase

Executive Director:
James D. Bethke

Report from the Texas Indigent Defense Commission for August 19, 2016 Texas Judicial Council Meeting

The next Texas Indigent Defense Commission meeting is scheduled for Tuesday, August 30th. The Commission has had several meetings since its last report to the Judicial Council. At a July 12th meeting of the Grants and Reporting Committee, the Committee recommended to award a FY 17 discretionary grant of \$262,215 for one year to Bell County on behalf of the Conference of Urban Counties TechShare program to assist in transition to participant county funding. Commission staff will present the recommendation to the Commission at its August 30th meeting. A Policies and Standards Committee meeting was held on August 17th to discuss several agenda items including a report on the TIDC Legislative Workgroup and its proposals to improve indigent defense. Those items that received consensus will be presented to the full Commission at its August 30th meeting for adoption. What is adopted by the Commission will then be presented to the Judicial Council for its support.

Fifteen-year Anniversary Annual Report: 2001-2016

The Commission will publish its fifteen-year anniversary Annual Report for FY 2016 in September, to be followed by a separate Annual Expenditure Report to be published in early January 2017. In May, the Commission held a [Symposium](#) in Houston commemorating the 15-year anniversary of the Fair Defense Act.

Legislative Appropriations Request

The [Legislative Appropriations Request for Fiscal Years 2018 and 2019 \(LAR\)](#) was submitted on August 5th.

The Commission directed staff to submit the following requests as “exceptional items” or requests over and above its baseline budget.

- Restoration of 4 Percent Reduction in Funding
- Support 50/50 State-County Funding for Statewide Regional Public Defender Office for Capital Cases
- Support Statewide Funding for Early Identification and Representation of Defendants with Mental Illness
- Increase State Support for Texas Counties to Share Indigent Defense Costs More Equally

TIDC's Legislative Workgroup

In preparation for the upcoming 85th legislative session, the Commission convened a legislative workgroup composed of a broad range of stakeholders to assist in developing recommendations per our statutory directive in Government Code Section 79.035(b). The workgroup plays a vital role in vetting various proposals to improve indigent defense for the Commission. The workgroup met June 23rd and July 15th with more than 20 participants at each meeting. The following proposals will be considered by the Commission's Policies and Standards Committee on August 17th:

- Repeal the requirement that public defender attorneys must inform the court of the results of any investigation into a defendant's financial circumstances.
- Permit courts and counties to withhold payments for indigent defense services to attorneys who have failed to report their required indigent defense representation caseload percentage. Require these reports to be made directly to the Texas Indigent Defense Commission, rather than to the counties that must then forward these to the Commission.
- Require local indigent defense plans to establish attorney caseload limits.
- Potential clarifying revisions to Article 15.17, Code of Criminal Procedure, dealing with magistrate warning hearings for people arrested.

The Commission is also developing two additional legislative proposals. The first would provide a statutory framework for the operation of the Regional Public Defender Office for Capital Cases (RPDO), which is operated by Lubbock County and serving 179 counties. The proposal will likely include a succession process to transfer the coordinating county role to another county or the Commission should Lubbock County decide at some future point to withdraw from this role, as well as a request for the state to fund Lubbock County's long-term unfunded liabilities such as pensions, retirement, and health care. The second proposal would be to consider changing the terms of Commission board members to six years from two years. The proposal was suggested by the Office of the Governor as a means to provide greater stability and to alleviate the need to make appointments so frequently.

Remembering Robert (Bob) Spangenberg

The 'father of modern indigent defense reform' Mr. Bob Spangenberg passed away on June 22, 2016, at age 83. Bob always began his speeches at TIDC events with "I love Texas!" He was truly a great friend to the Commission and will be deeply missed. Bob was a major contributor to the *Fair Defense Report: Analysis of Indigent Defense Practices in Texas*, issued by Texas Appleseed in 2000. This report cataloged, for the first time ever, information on indigent defense practices throughout Texas's 254 counties and offered concrete findings and recommendations. In 2001, the year Governor Rick Perry signed into law the Fair Defense Act, Bob worked with our Commission and local governments sharing his expertise and passion to improve the delivery of indigent defense services for the poor in our state. In December 2008, the Task Force on Indigent Defense (now the Commission) honored Bob with the Robert O. Dawson Indigent Defense Distinguished Service Award for his efforts to improve indigent defense in Texas over the previous decade. Earlier this year, Bob was awarded the [ABA SCLAID Lifetime Achievement Award](#) by the Standing Committee on Legal Aid and Indigent Defendants at the ABA mid-year meeting in San Diego. Highlights of Bob's work done in whole or in part in Texas can be seen [here](#). Mr. Spangenberg's [obituary](#) was published in *The Boston Globe*.



New Leadership at the Regional Public Defender for Capital Cases (RPDO)

Mr. Ray Keith, former Assistant Chief Public Defender at the RPDO, was named the new Chief Public Defender after Mr. Jack Stoffregen retired in June. Mr. Stoffregen led the RPDO since it was created with funds from a discretionary grant from the Commission in 2007. Some highlights of his career and his tenure at the RPDO are available in this local [news story](#). Mr. Keith has been working with TIDC staff and meeting with leaders of the capital defense bar on ways to improve office operations. Jim Bethke gave a presentation to RPDO staff at its Annual Staff Development Retreat in early August. He reported on the findings of an employee satisfaction survey administered by OCA and also gave a preview of the upcoming 85th legislative session.

New Discretionary Grant Awarded to Travis County for Holistic Defense Initiative

At its June 2nd meeting, the Commission awarded a discretionary grant to Travis County to add additional support services to their managed assigned counsel program. Beginning in FY 2017 the Capital Area Private Defender Service (CAPDS) will have two full-time social workers working with defense counsel to improve outcomes for defendants with mental illness. In addition, a full-time attorney specializing in immigration and criminal law will join the team to ensure compliance with the U.S. Supreme Court's ruling in *Padilla vs. Kentucky*. An essential part of an effective defense is advising clients of the collateral consequences they may face if convicted. In *Padilla*, the court held that defense attorneys have a duty to fully advise clients of possible immigration consequences resulting from a criminal case. Many criminal defense lawyers lack expertise in this complex area of law to effectively comply with this requirement.

Recent Commission Publications

[2016 Spring/Summer Edition e-newsletter](#) (July 2016)



Indigent Defense Trainings and Events

Public Defender Training: Texas Criminal Defense Lawyers Association (June 2016)

Harris County Statutory County Court at Law Judges – Strategic Planning Session (August 2016)

RPDO Employee Satisfaction Survey and RPDO Funding & Governance (August 2016)

Recent Articles and Media

Across the State

[Bexar County Seeks Greater Financial Assistance from the State](#) (Bexar County - June 2016)

[Bexar County Asks State to Pay for Indigent Defense](#) (Bexar County - June 2016)

[\\$1.3 million in presumed costs savings in Kaufman County in \\$1.9 million Brownlow defense](#) (Kaufman County – June 2016)

[Indigent defense costs rise 202 percent since 2001](#) (Wichita County - June 2016)

[New White Paper on pretrial release and bail reform in Texas](#) (June 2016)

[Unexpected career: Stoffregen steps down from public defender's office after 42 years as lawyer](#) (June 2016)

Around the Nation

State of New York:

[State Legislature Passes Measure to Address Disparities in New York's Justice System](#) (NY State Assembly - June 2016)

[A Big Victory for Public Defense in New York](#) (*The New York Times*- June 2016)

[Indigent Defense Proponents Hail 'Historic Moment' in NY](#) (Sixth Amendment Center - June 2016)

[Letter from ABA President Urging Gov. Cuomo to Sign Public Defense Bill](#) (American Bar Association - August 2016)

The Wall Street Journal:

[Reining in Prosecutorial Misconduct](#) (By John Hollway, Executive Director of the Quattrone Center for the Fair Administration of Justice – July 2016)

Mental Health Committee Report

August 19, 2016

Charge: The Mental Health Committee was created in June 2016 to address (1) the administration of civil and criminal justice for those suffering from or affected by mental illness; (2) systemic approaches for diversion of individuals with mental illness from entering the criminal justice system; (3) recommendations to the Judicial Council on (a) systemic approaches for improving the administration of justice in cases involving mental health issues, (b) strategies to foster meaningful multi-disciplinary collaboration, enhance judicial leadership, develop and implement technology solutions, and explore potential funding sources, and (c) whether a permanent judicial commission on mental health should be created; (4) recommended legislative changes for consideration by the 85th Texas Legislature commencing in January 2017.

Members: Hon. Bill Boyce, Chair, Fourteenth Court of Appeals; Hon. Gary Bellair, Presiding Judge, Ransom Canyon; Ashley Johnson, Gibson Dunn & Crutcher LLP; Rep. Andrew Murr, Texas House of Representatives, District 53; Hon. Valencia Nash, Dallas County, Precinct 1, Place 2; Hon. Polly Spencer, Ret.; Sen. Judith Zaffirini, Texas Senate, District 21.

Advisory Members: Dr. Tony Fabelo, Council of State Governments Justice Center; Hon. Barbara Hervey, Court of Criminal Appeals; Adrienne Kennedy, National Alliance for Mental Illness; Beth Ann Lawson, StarCare Specialty Health System; Hon. Harriet O'Neill, Law Office of Harriet O'Neill; Dr. William B. Schnapp, Mental Health Policy Advisor to Harris County Judge Ed Emmett.

Potential Areas of Focus

Committee members met on July 1 and August 5 with OCA Administrative Director David Slayton to identify the following potential areas of focus with assistance from advisory members and representatives from the Meadows Mental Health Policy Institute. The committee will meet again in late September or early October to prioritize specific recommendations in anticipation of the October 28 Council meeting and the upcoming legislative session.

- Screening protocols for mentally ill defendants under CCP art. 16.22 and bond requirements under CCP art. 17.032.

- Improve transmission of art. 16.22 screening information to magistrates.
- Evaluate effectiveness of art. 16.22, compliance, feasibility of standardized forms, and statewide reporting; consider adjusting time requirements.
- Evaluate possible amendments to art. 17.032 to increase flexibility.
- Coordinate with Criminal Justice Committee recommendations on bonds.
- Mechanisms for competency restoration.
 - An appropriate medical environment is necessary for psychiatric stabilization, but education regarding pending charges, legal rights, and court process potentially can be accomplished in a non-medical environment after stabilization has been achieved.
 - Evaluate different phases of restoration; whether CCP art. 46B.071 should be amended to provide greater flexibility and more options for trial judges; availability and utility of treatment options in addition to in-patient hospitalization in a state hospital, including outpatient competency restoration, residential programs, and jail-based competency restoration.
- Requirements of contracts with Department of State Health Services to promote coordination among local mental health agencies, courts, and service providers; effect of contract provisions on options for preventive mental health treatment; contractual waiver to address payment if treatment is refused.
- Continuation and possible expansion of SB 1185 jail diversion pilot program based upon upcoming evaluation, tailored to local needs, resources, and conditions.
 - Expansion of judicial education on best practices for addressing needs of mentally ill individuals in the court system; promote use of appropriate terminology to avoid outmoded and disrespectful labels.
- Mandates for consistent data collection across all specialty courts to allow measurement of key factors including outcomes and recidivism.

- Suspension rather than termination of housing and benefits for mentally ill offenders during incarceration to reduce risk of recidivism upon release.
- Availability of services for juveniles and screening mechanisms to diminish delays in addressing first onset of psychosis between ages 15-25; options for requiring parental participation in counseling under Family Code §§ 54.041(a)(3), 61.002(a)(8).
- Mental health programs in rural areas.
 - Funding; flexibility in requiring local funding matches.
 - Impediments to care based on factors including distance, lack of local mental health professionals.
- Coordination with OCA guardianship compliance pilot program and guardianship reforms recommended by the Elders Committee.
- Establishment of permanent judicial commission on mental health.
 - Examples based on existing commissions including the following.
 - Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families.
 - Texas Access to Justice Commission.
 - Texas Indigent Defense Commission.
 - Mission, structure, funding.



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August 12, 2016

To Members of the Texas Judicial Council:

At its June 3, 2016, meeting, the Texas Judicial Council (Council) approved amending the rules that govern the implementation and operation of programs operated by counties and municipalities to improve the collections of court costs, fees, and fines (Title 1, Chapter 175, Texas Administrative Code). The proposed revisions to Chapter 175 were published for comment in the Texas Register on July 1, 2016.

The Council received 143 comments from judges, local programs, community supervision and corrections departments, and other interested stakeholders. In an effort to ease your review of the comments that have been received, this memo categorizes them into 5 general areas and provides responses/recommendations for each area. As you will see below, it appears that the Council can make revisions to satisfy almost all of the concerns raised in the public comment period. Several commenters objected to any change to the current rules arguing that change was unnecessary. These commenters did not provide any recommendations or suggested changes to the proposed rules.

Workload Increase and Associated Costs

Issue: Many commenters expressed concern that the proposed rules could result in a workload increase for the courts and for local programs that will ultimately require adding staff. These concerns appear to be based on the misunderstanding that the proposed Sec. 175.e(a)(6)(A) requirement that local program staff refer a case back to the court if the payment ability information they collect demonstrates that a defendant is unable to pay any portion of the court costs, fees, and fines without undue hardship to the defendant or the defendant's dependents. This section was intended to codify the local program staff's ability to flag cases when it is evident from the payment ability information defendant has submitted that the defendant cannot pay any part of the court costs, fees, and fines, or that the defendant can pay some of the costs but perhaps not all of them within a reasonable time. This would allow the court the opportunity to consider whether alternative enforcement options are available or whether the amounts should

be reduced. In most cases, it would only require the court's review of a proposed plan or approval of suggested alternative enforcement options. Some programs have indicated that they already have this practice. This provision would codify it. In some instances, the defendant may in fact have to appear in court, but in most cases that would not be necessary. Whether a defendant must return to court is a decision to be made by the judge.

Response: OCA recommends that the proposed provision clarify that the defendant is not required to appear.

Issue: Many commenters also objected to the new requirement that staff obtain a statement from defendants who have judge set payment plans stating that the defendant has the ability to pay the court costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to defendant or defendant's dependents. If the defendant is unable to make the statement, staff must obtain payment ability information and determine whether the defendant's information needs to be reviewed by the judge. Under the current rules, local program staff are only required to obtain contact information from the defendants who have payment plans set by the judge.

Response: Based on the assumption that a court will have considered a defendant's payment ability information prior to referring the defendant to the local program, OCA recommends that this proposed provision be eliminated and the current rule provisions for these types of payment plans remain in place.

Presumption of Inability to Pay/Waiver of Court Costs, Fines and Fees

Issue: Several commenters objected to Sec. 175.3(a)(6)(B) which lists instances in which a defendant is presumed to be unable to pay the court costs, fees, and fines without undue hardship to defendant or defendant's dependents. Examples of those instances are if a defendant household income does not exceed 125% of the federal poverty guideline or if the defendant receives certain assistance under certain federal programs. Based on the comments, it appears that the commenters believe that this is an irrebuttable presumption when in fact it is only intended to be a trigger for the purpose of determining whether the judge needs to be made aware of the defendant's payment ability information. It is not an irrebuttable presumption nor is it mandatory that the court find that the defendant is unable to pay because the defendant meets the criteria. Whether a defendant is in fact unable to pay is a decision to be made by the judge.

Response: OCA recommends that the proposed rule be clarified to state that the criteria are intended to assist local program staff in identifying which cases require additional

judicial review and do not establish an irrebutable presumption regarding a defendant's ability to pay.

Issue: Several commenters also interpreted Sec. 175.3(a)(6)(B) to mean that when a person falls under one of the categories that raises the presumption that the defendant is unable to pay court costs, fees, and fines without undue hardship to the defendant or defendant's dependents that this would result in the waiver of all court costs. This is not what the proposed rule states nor is it the intent behind the proposed provision. The rule only requires that the defendant's case be brought to the attention of the judge so that the judge can determine if a waiver of financial obligations, or the reduction or conversion of them to a non-monetary option is appropriate.

Response: OCA recommends that the proposed rule be revised to clarify that the fact that a person meets the criteria requiring the local program staff to provide the judge information regarding the defendant's ability to pay does not mean that the defendant's court costs, fees, and fines are automatically waived or that they must be waived.

Definition of Discretionary Income and Household Income

Issue: Several commenters objected to the new definition of discretionary income and the provision in the rule that monthly payments generally should not exceed 20% of a defendant's income.

Response: This provision was added to provide guidance regarding best practices and was not intended to be mandatory. However, in order to avoid confusion, OCA recommends that the suggestion that monthly payments not exceed 20% of a defendant's discretionary income be deleted. Without the provision in the rule, the definition of discretionary income is no longer necessary and will also be deleted.

Issue: Several commenters also objected to the definition of household income. The proposed definition includes the defendant's income and the defendant's spouse's income. Commenters want the rules to also include income from any other person living in a household as part of the household's income.

Response: Persons other than a spouse who reside in a household are not legally obligated to pay a defendant's courts costs, fines and fees. Even if one were to assume another member of the defendant's household is liable for the defendant's court costs, fines, and fees, local program staff would then be required to ask about all of those individuals' payment ability information including their debt, monthly expenses, etc. OCA recommends leaving the proposed definition unchanged.

Applicability of Rule

Issue: Several commenters expressed concern that the programs in which they work are too small to be covered by the expansion of the rules. Others stated that the rules should apply to every jurisdiction, not only the ones required to participate under Art. 103.0033 of the Code of Criminal Procedure.

Response: OCA recommends adding language to the rule to clarify that the revisions to the rule are not intended to expand the program to entities not already covered under the rules. The Judicial Council cannot expand the coverage of the rules to all entities as suggested by some of the commenters. This would require a change in the Art. 103.0033 of the Code of Criminal Procedure. Such a change is solely within the authority of the Texas Legislature.

Issue: Several commenters expressed concern that they thought that the rules would apply to the collection of community supervision (probation) fees assessed when a defendant is placed on community supervision.

Response: The current rules do not apply to probation fees, nor were the proposed revisions intended to apply to probation fees. OCA recommends clarifying that the rules do not apply to probation fees.

Reduction in Revenue Collected

Issue: Several commenters expressed concern that the new rules would result in a revenue reduction for the jurisdictions that are subject to the rule.

Response: Some of the reason for these comments was the understanding that the proposed rules required waiver of costs, fines and fees when a defendant met the presumption of inability to pay. The general limitation of 20% of the defendant's discretionary income provision also contributed to this perception. The recommended removal of the 20% limitation and the clarification of the presumption of inability to pay provisions should alleviate these concerns. OCA does not believe that the provisions in the proposed rule will result in decrease revenue.

TEXAS ADMINISTRATIVE CODE

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

SUBCHAPTER A. GENERAL COLLECTION IMPROVEMENT PROGRAM PROVISIONS

§175.1. Purpose and Scope.

- (a) The purpose of this ~~rule chapter~~ is to provide notice to counties and municipalities that are subject to Article 103.0033 of the Code of Criminal Procedure of the scope and components of the Collection Improvement Program (CIP) model developed by the Office of Court Administration pursuant to ~~Article 103.0033 of the Code of Criminal Procedure~~ and the standards that will be used to determine whether a county or municipality is complying with the CIP requirements.
- (b) Article 103.0033 and this chapter apply to counties with a population of 50,000 or greater and cities with a population of 100,000 or greater based on the last decennial census. Counties that have been granted a waiver under §175.6(b) of this chapter are not required to comply with the requirements in this chapter.
- ~~(c)~~ The CIP is designed to improve the enforcement of a defendant's compliance with the payment of costs, fees, and fines that have been ordered by a court, without imposing an undue hardship on the defendant or the defendant's dependents. The CIP components should not be interpreted to conflict with or undermine the provision to defendants of full procedural and substantive rights under the constitution and laws of this state and of the United States.
- ~~(d)~~ The CIP does not alter a judge's legal authority or discretion to design payment plans of any amount or length of time; to convert costs, fees, and fines into community service or other non-monetary compliance options as prescribed by law; to waive costs, fees, and fines; or to reduce the total amount a defendant owes at any time after the assessment date; or to adjudicate a case for non-compliance at any time.
- ~~(e)~~ The CIP applies to criminal cases in which the defendant is ordered to pay costs, fees, and fines under a payment plan.
- ~~(f)~~ The CIP does not apply to cases in which: 1) the court has waived all-determined that court costs, fees, and fines the defendant is unable to pay any portion of the costs, fees, and fines without undue hardship to the defendant or the defendant's dependents; 2) the court , at the time of assessment, authorizes discharge of the costs, fees, and fines through non-monetary compliance options; or 3) the defendant has been placed on deferred disposition or has elected to take a driving safety course. The CIP does not apply to the collection of community supervision fees assessed under Sec. 19a, Article 42.12 of the Code of Criminal Procedure.
- ~~(g)~~ Although cases in which the court has ordered a defendant to satisfy his or her obligation regarding costs, fees, and fines through community service or other non-monetary compliance options are not subject to the CIP requirements, a judge may use local program staff to assist the court with monitoring a defendant's compliance with these court orders.

§175.2. Definitions.

- (a) "Assessment date" is the date on which a defendant is ordered or otherwise obligated to pay costs, fees, and fines. When a defendant remits partial payment of a citation without appearing in person, the assessment date is the date the partial payment is received.

- (b) "Collection Improvement Program" or "CIP" means the program described in this subchapter.
- (c) "Contact information" means the defendant's home address and home or primary contact telephone number, and email address, if any; at least two personal contacts and their telephone number, mailing address or email address; and the date the information is obtained.
- ~~(d) "Discretionary income" means the amount of a defendant's net (after tax) household income minus the amount of all required payments and the cost of items that are essential for the defendant and the defendant's dependents. Required payments are those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to, loan, credit card, and car and health insurance payments; court mandated payments, such as child support and victim restitution payments; and fees for drug testing, rehabilitation programs, and community supervision. Items that are essential for the defendant and the defendant's dependents are those which are necessary to ensure the well-being of the defendant and defendant's dependents, including, but not limited to, transportation, food, medicine and medical services or supplies, housing, child care, and clothing.~~
- (de) "Household income" means the defendant's income and the defendant's spouse's income that is available to the defendant.
- (ef) "Jurisdiction" means a county or municipality that is subject to this chapter.
- (fg) "Local program" means a program implemented by a jurisdiction pursuant to Art. 103.0033 of the Code of Criminal Procedure.
- (gh) "Non-monetary compliance option" means an alternative method of satisfying the assessment of costs, fees, and fines other than through the payment of money. This includes those methods provided in Arts. 43.09 and 45.049 of the Code of Criminal Procedure, and any other alternative within the judge's discretion.
- (hi) "OCA" means the Office of Court Administration of the Texas Judicial System.
- ~~(ij) "Payment ability information" means the defendant's household income, expenses, account balances in financial institutions, debt balances and payment amounts, number of dependents, and any other information local program staff require to establish a payment plan that the defendant can successfully make without undue hardship to the defendant or the defendant's dependents necessary to calculate the defendant's discretionary income. The payment ability information provided by the defendant to local program staff is presumed to be current unless the defendant notifies the court or local program staff that resources or circumstances have changed and a review is requested.~~
- (jk) "Payment plan" means a schedule of one or more payment(s) to be made at designated interval(s) by the defendant who does not pay all costs, fees, and fines at the time they are assessed and payment is requested. A judge's order that payment of costs, fees, and fines is due at a future date (an extension) constitutes a payment plan regardless of whether the order requires one payment in full or several payments at designated intervals.
- (kl) "Spouse" means the person to whom the defendant is married, including a person who is a party to an informal marriage.

§175.3. Collection Improvement Program Components.

(a) Components for Local Program Operations.

- (1) Dedicated Local Program Staff. Each program must designate at least one employee whose job description contains an essential job function of CIP program activities. The local program activities may be assigned to one individual employee or distributed among two or more employees. The local program activities need not require 40 hours per week of an employee's time, but must be a priority.

(2) Payment Plan Compliance Monitoring. Local program staff must monitor the defendants' compliance with the terms of their payment plans and document the ongoing monitoring by either an updated payment due list or a manual or electronic tickler system.

(3) Application or Contact Information.

(A) Payment Plans Set by Judge Prior to Referral to the Local Program and Standard Payment Plans Accepted by the Defendant. If the judge has established a payment plan for the defendant prior to referring the case to the local program or the defendant has agreed to a standard payment plan under §175.3(a)(7)(A), local program staff must obtain contact information from the defendant. ~~a statement on a form provided by local program staff whether the defendant has the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without financial hardship to the defendant or the defendant's dependents. If the defendant states that the defendant has the ability to pay without undue hardship to the defendant and the defendant's dependents, the defendant must provide contact information and local program staff must document it. If the defendant does not state that the defendant has the ability to pay without undue hardship, local program staff must also collect payment ability information from the defendant. All required statements, e~~Contact information documentation, and payment ability information must be signed and dated and obtained within one month of the assessment date.

(B) Other Cases. For all other cases, the local program must collect from the defendant a signed and dated application for a payment plan that includes both contact information and payment ability information. The required information must be obtained within one month of the assessment date.

(4) Verification of Contact Information. Within five days of receiving the contact information, local program staff must verify both the home and primary contact telephone number. Verification may be conducted by reviewing written proof of the contact information, by telephoning the personal contacts, or by using a verification service. Verification must be documented by identifying the person conducting it and the date of the verification.

(5) Defendant Interviews.

(A) Within 14 days of receiving an application ~~or receiving a case in which the judge has set a payment plan before referring the case to the program and the defendant has indicated that the defendant does not have the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents,~~ local program staff must conduct an in-person or telephone interview with the defendant to review payment ability information. Interviews must be documented by indicating the ~~name of the~~ interviewer and date of the interview.

(B) Within 14 days of receiving a case in which the judge has set a payment plan before referring the case to the program or the defendant has agreed to a standard payment plan under §175.3(a)(7)(A) and the defendant has indicated that the defendant has the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents, local program staff must conduct an in-person or telephone interview with the defendant to review the terms of the defendant's payment plan set by the judge. Interviews must be documented by indicating the ~~name of the~~ interviewer and date of the interview.

(6) Referral to Court for Review of the Defendant's Ability to Pay Information.

(A) Court Review. Referral to Court. ~~If a defendant interview or other information collected by local program staff indicates that the defendant may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents, or that the defendant may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents,~~ Local program staff must provide the court the defendant's payment ability information collected under §175.3(a)(3)(B) for the court to review and refer the case to the court for the judge to determine ~~consider~~ if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate when the defendant meets one or more of the following criteria: -

(B) Presumption of Inability to Pay. ~~For purposes of local program staff determining whether a defendant's case needs to be referred back to the court under §175.3(a)(6)(A), a defendant is presumed to be unable to pay any portion of the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents if:~~

- (i) the defendant is required to attend school pursuant to the compulsory school attendance law in Sec. 25.085 of the Texas Education Code;
- (ii) the defendant's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or
- (iii) the defendant ~~or the defendant's dependent~~ receives assistance under the following:
 - (1) a food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;
 - (2) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;
 - (3) the medical assistance program under Chapter 32, Human Resources Code; or
 - (4) the child health plan program under Chapter 62, Health and Safety Code.

(~~BE~~) Other Cases. ~~Local program staff must also~~ provide for the court's review the payment ability information of a defendant that does not meet the criteria listed in refer to the court cases in which the defendant is not presumed to be unable to pay under §175.3(a)(6)(A) if but that ~~local program staff have received information that has not already been considered by the court indicating that the payment of the assessed court costs, fees, and fines would cause the defendant may not have the ability to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents.~~ Local program staff may also provide for the court's review the payment ability information of a defendant that local program staff determine should be reviewed by the court. ~~or may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents.~~

(~~CD~~) Information Regarding Non-Monetary Compliance Options. ~~When~~ If local program staff provide a defendant's payment ability information for the court's review ~~determines that a case must be referred to the court~~ under §175.3(a)(6)(A), local program staff should collect and provide to the court information regarding non-monetary compliance options that may be available, if any, that may enable the defendant to discharge all or part of the defendant's costs, fees, and fines.

~~(DE)~~ Judicial Discretion. ~~None of these provisions should bind judges or influence Judges retain judicial discretion regarding the determinations of whether to waive or reduce costs, fees, and fines for any defendant; to impose non-monetary compliance options to satisfy costs, fees or fines; or the assessment of costs, fees or fines, sentencing, or other disposition decisions. Once a judge reviews a defendant's payment ability information in a case provided for review under §§175.3(a)(6)(A) or (B), the local program is not required to provide the judge the defendant's payment ability information again unless the defendant provides additional payment ability information that was not previously provided to the judge.~~

(7) Payment Plans.

(A) Standard Payment Plan. A judge may adopt standard payment plans that include a payment range and time range based on amounts owed that can be made available to defendants when they are referred to the local program. Prior to agreeing to a standard payment plan the defendant must agree in writing that the defendant: 1) understands the payment plan terms, 2) believes that the defendant has the ability to successfully meet the payment plan terms, and 3) declines the opportunity for local program staff to review the defendant's payment ability information to consider lower monthly payments or a longer term than those provided in the standard payment plan. ~~Documentation. Payment plans must be documented by notation in the judgment or court order, on a docket sheet, by written or electronic record, or by other means enabling later review.~~

(B) Other Payment Plans Guidelines. If a defendant declines a jurisdiction's standard payment plan or the jurisdiction has not adopted a standard payment plan, local program staff must review the payment ability information provided by the defendant and establish ~~The following are guidelines for local program staff to use in cases referred to the local program by the court for review and establishment of appropriate payment terms based on the defendant's ability to pay that will not cause undue hardship to the defendant or the defendant's dependents. A judge is not required to follow these guidelines in setting a payment plan.~~

(C) Payment Plan Elements. ~~(i)~~ Payment plans should include the payment amount, the designated interval, and the number of payments that the defendant will make to pay the defendant's court-ordered costs, fees, and fines.

~~(ii) Generally, payment plans should not require the defendant to pay more than 20 percent of the defendant's discretionary income per month.~~

(D) Documentation. Payment plans must be documented by notation in the judgment or court order, on a docket sheet, by written or electronic record, or by other means enabling later review.

(8) Telephone Contact for Past-Due Payments. Within one month of a missed payment, a telephone call must be made to the defendant who has not been in ~~contacted with~~ local program staff. In every telephone contact for past due payment, local program staff must provide the defendant with instructions about what to do if the defendant is unable to make payments. This telephone contact must also include information about ~~the availability of non-monetary compliance options and~~ how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. Telephone calls may be made by an automated system, but an electronic report or manual documentation of the telephone contact must be available on request.

(9) Written Notice for Past-Due Payments. Within one month of a missed payment, a written notice must be sent to the defendant who has not been in ~~contact with~~ ~~ed the~~ local program ~~staff~~. Written notice may be made by regular or certified mail, e-mail, text message or other electronic means. Every written notice for past due payment must provide the defendant with instructions about what to do if the defendant is

unable to make payments. The written notice must also include information about ~~the availability of non-monetary compliance options and~~ how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. Written notice may be sent by an automated system, but an electronic report or manual documentation of the written notice must be available on request. Notice under this paragraph is not required if local program staff make contact with the defendant under paragraph (8) of this subsection and the defendant makes payment or other payment arrangements.

- (10) Final Contact Attempt. Local program staff must send a final written notice by regular or certified mail to the defendant within one month of the written notice described in paragraph (9) of this subsection prior to reporting the case to the court as non-compliant. The written notice must include the same information required in paragraph (9) of this subsection and include reasonable steps the defendant can take to avoid the defendant's case being reported to the court as non-compliant. The written notice must also notify the defendant of the defendant's right to avoid jail time for nonpayment if the defendant is unable to pay the amount owed without undue hardship to the defendant and the defendant's dependents. An electronic report or manual documentation of the written notice must be available on request. The local program should not report the case back to the court as non-compliant until at least one month after the final contact attempt to provide the defendant time to discuss with local program staff new payment plan terms or alternative non-monetary compliance options, if any are available, for the court to consider. This paragraph does not interfere or alter the judge's authority to adjudicate a case for non-compliance at any time.
 - (11) Delinquent Cases. Each local program must have a component designed to improve collection of balances more than 60 days past due.
 - (12) Proper Reporting. The local program must report its collection activity data to OCA at least annually in a format approved by OCA, as described in §175.4.
- (b) Exceptions to Defendant Communications Rules. Exceptions to the defendant communications rules described in this subsection are limited to those cases in which timely access to the defendant in order to obtain the required application or contact information is not possible, and efforts to obtain an application or contact information are documented, as provided in paragraphs (1) and (2) of this subsection.
- (1) Attempt to Obtain Application or Contact Information. An attempt to obtain an application or contact information described in §175.3(a)(3) is made ~~either~~ by taking one of the following actions within one week of the assessment date: (1) mailing a notice requesting the defendant contact local program staff to make arrangements to complete an application and provide contact information; (2) mailing an application or contact information form; or (3) by obtaining the information via the telephone ~~within one week of the assessment date~~. An electronic report or manual documentation of the attempt must be available on request. Should the defendant ~~not fail to contact local program staff or~~ return a completed application or contact information form and the post office not return the notice or application or contact information form as undeliverable, the local program must make a second attempt to contact the defendant with any existing available information within one month of the first attempt. An electronic report or manual documentation of the second attempt must be made available on request.
 - (2) Application or Contact Information Is Obtained. Should a completed application or contact information form be returned to the local program by the defendant as the result of an attempt described in paragraph (1) of this subsection, it will be considered timely and all other communication timing requirements described in §175.3(a)(4) and (5) are based on the date the local program receives the application or contact information form.
- (c) Computation of Time. In computing any period of time under these rules, when the last day of the period falls on a Saturday, Sunday, legal holiday, or other day on which the office is not open for business, then the period runs until the end of the next day on which the office is open for business.

§175.4. Content and Form of Local Government Reports.

- (a) General Scope. Article 103.0033(i) of the Code of Criminal Procedure requires that each local program submit a written report to OCA at least annually that includes updated information regarding the local program, with the content and form to be determined by OCA. Reporting under Art.103.0033 of the Code of Criminal Procedure and this subchapter is not the same as reporting of judicial statistics under Sec. 71.035 of the Government Code and different rules for reporting and waiver apply.
- (b) Reporting Format and Account Setup. OCA has implemented a web-based ~~Online~~ Court Collection Reporting System for local programs or jurisdictions to enter information into the system. For good cause shown by a jurisdiction, OCA may grant a temporary waiver from timely online reporting. Local program participants or jurisdictions must provide OCA with information for the online reporting system to enable OCA to establish the local program reporting system account. The information must include the local program name, program start date, start-up costs, the type of collection and case management software programs used by the local program, the entity to which the local program reports (e.g., judge, district clerk's office, sheriff, etc.), the name and title of the person who manages the daily operations of the local program, the mail and e-mail addresses and telephone and fax numbers of the local program, the courts serviced by the local program, and contact information for the local program staff with access to the system so user identifications and passwords can be assigned.
- (c) Content and Timing of Reports.
- (1) Annual Report. By the 60th day following the fiscal year end, each local program or jurisdiction must report the following information:
- (A) Number of full-time and part-time local program employees;
 - (B) Total local program expenditures;
 - (C) Salary expenditures for the local program;
 - (D) Fringe benefit expenditures for the local program;
 - (E) Areas other than court collections for which the local program provides services;
 - (F) Local and contract jail statistics and average cost per day to house a defendant; and
 - (G) A compilation of 12 months of the monthly reporting information described in paragraph (23) of this subsection, if not reported each month as requested.
- (2) Monthly Reports. By the 20th day of the following month, each local program or jurisdiction is requested to provide the following information regarding the previous month's local program activities:
- (A) Number of cases in which costs, fees, and fines were assessed;
 - (B) Number of cases in which local program staff ~~referred the~~ provided the court a defendant's ability to pay information in a case to the court under §175.3(a)(6) for review of the defendant's ability to pay;
 - (E) For assessed court costs and fees: the dollar amount assessed and collected; the dollar amount of credit given for jail time served; the dollar amount of credit given for community service performed or other non-monetary compliance options; the dollar amount waived because of the defendant's inability to pay, and the dollar amount waived for reasons other than the defendant's inability to pay;

(F) For fines: the dollar amount assessed, collected, or waived; the dollar amount of credit given for jail time served; and the dollar amount of credit given for community service performed or other non-monetary compliance options; and

(G) Aging information consisting of the time span from date of assessment through the date of payment, in 30-day increments up to 120 days, and for more than 120 days.

§175.5. Compliance Review Standards.

- (a) Statutory Basis. In accordance with Art. 103.0033(j) of the Code of Criminal Procedure, OCA must periodically review local jurisdictions' compliance with the components described in §175.3(a).
- (b) Cases Eligible for Compliance Review. For purposes of this section, "eligible case" means a criminal case in which a judgment has been entered by a trial court. The term does not include cases in which: 1) the court has ~~waived all court determined that the defendant is unable to pay any portion of the~~ costs, fees, and fines ~~without undue hardship to the defendant or the defendant's dependents~~; 2) the court, ~~at the time of assessment~~, authorizes discharge of the costs, fees, and fines through non-monetary compliance options; 3) the defendant has been placed on deferred disposition or has elected to take a driving safety course; or 4) the defendant is incarcerated, unless the defendant is released and payment is requested.
- (c) Compliance Review Methods. OCA must use random selection to generate an adequate sample of eligible cases to be reviewed, and must use the same sampling methodology as used for local programs with similar automation capabilities.
- (d) Compliance Review Standards. OCA must use the following standards in the compliance review:
 - (1) Standards for Components in §175.3(a)(1), (2), (11), and (12). A county is in compliance with these components when either 90% of all courts in the county, or all courts in the county except one court, have satisfied all four requirements. Partial percentages are rounded in favor of the county. A municipality must satisfy all four requirements in order to be in compliance.
 - (2) Standards for Components in §175.3(a)(3)-(10). A jurisdiction is in substantial compliance with a component when at least 80% of the eligible cases at that stage of collection have satisfied the requirements of the component. A jurisdiction is in partial compliance with a component when at least 50% of the eligible cases at that stage of collection have satisfied the requirements of the component. In order for a jurisdiction to be in compliance with these components, the jurisdiction cannot be in less than partial compliance with any component, may be in partial compliance with a maximum of one component, and must be in substantial compliance with all of the other applicable components.

SUBCHAPTER B. IMPLEMENTATION WAIVERS

§175.6. Waivers.

- (a) Statutory Basis. Article 103.0033 of the Code of Criminal Procedure provides that OCA may determine that it is not cost-effective to implement a local program in a county or municipality and grant a waiver to the requesting entity.
- (b) Criteria for Granting Waivers. OCA will grant a blanket waiver from implementation when the requesting entity demonstrates that:
 - (1) The estimated costs of implementing the local program are greater than the estimated additional revenue that would be generated by implementing the local program, and a compelling reason exists for submitting the waiver request after the entity's implementation deadline. The requesting jurisdiction and CIP staff

must each submit documentation supporting the cost and revenue projections to the Administrative Director of OCA for determination; or

- (2) The county contains within its borders a correctional facility operated by or under contract with the Texas Department of Criminal Justice; and has a population of 50,000 or more only because the inmate population of all correctional facilities is included in that population.

(c) Temporary Waivers. OCA will consider a request to grant a temporary waiver for good cause that could not have been reasonably anticipated. Such temporary waivers may be granted after a compliance review to allow a local program to correct deficiencies discovered during the compliance review.

PROPOSED

Proposed Texas Judicial Council Legislative Proposals – 85th Legislative Session

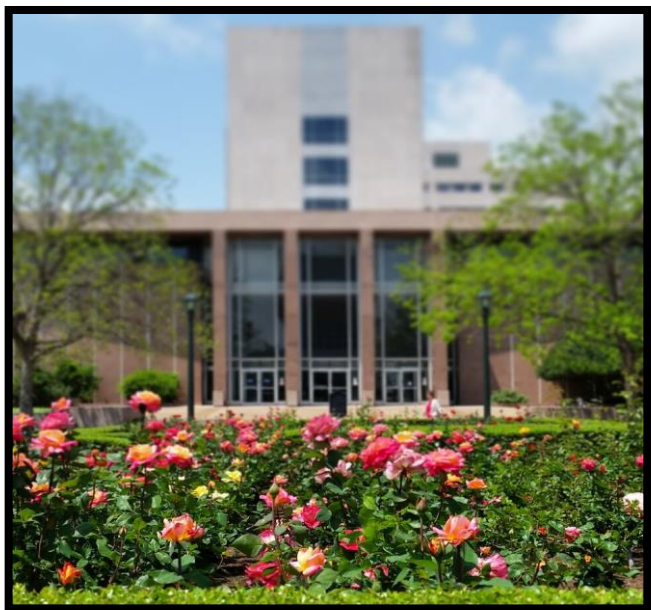
The Texas Judicial Council is a statutorily created judicial body responsible for the continuous study of “the organization, rules, procedures and practice, work accomplished, results, and uniformity of the discretionary powers of the state courts and methods for their improvement.”¹ The council is required to “receive and consider advice from judges, public officials, members of the bar, and citizens concerning remedies for faults in the administration of justice.”² To receive this advice, Chief Justice Nathan Hecht requested that numerous entities provide their legislative proposals to the Council for consideration at its August 19th meeting. While many of the proposals that were received have substantial merit, the Council is asked to consider those with significant policy implications in the administration of justice pursuant to the Council’s charge.³ The following proposals are forwarded for consideration by the Council (in no particular order):

1. A resolution advocating for adequate funding of the courts, with a special focus on funding for judicial education.
2. A resolution encouraging additional funding by the state for the increased cost of indigent defense since the passage of the Fair Defense Act.
3. A resolution in support of adequate funding for civil legal aid in Texas.
4. A resolution supporting an increase in judicial compensation and the recommendations of the Judicial Compensation Commission.
5. A resolution encouraging modification of the procedural statutes governing the assessment and satisfaction of criminal court costs.
6. A resolution supporting the recommendations of the Criminal Justice Committee regarding pretrial release.
7. A resolution supporting the recommendations of the Mental Health Committee.
8. A resolution supporting the recommendations of the Court Security Committee.
9. A resolution supporting the Elders Committee recommendations.
10. A resolution encouraging consolidation of civil filing fees and standardization of certain service fees, along with the standardization of costs for electronic copies of certain court documents.
11. A resolution encouraging repeal or modification of statutes requiring sensitive data in court filings.
12. A resolution supporting the recommendations of the Timothy Cole Exoneration Review Commission.
13. A resolution supporting recommended revisions to the reconstitution of the jury wheel.

¹ Texas Government Code 71.031

² Texas Government Code 71.032

³ A full list of the proposals received is attached.



DIRECTOR'S REPORT

August 2016



Texas Judicial Council

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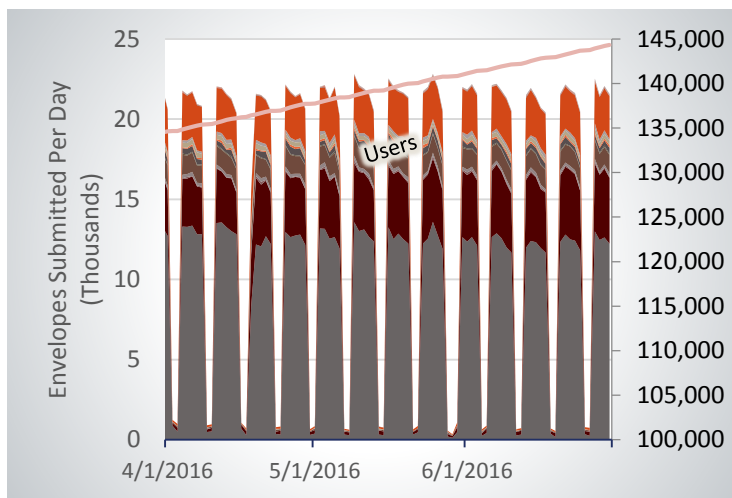
CONTENTS

Technology & Data.....	1
Information Services Division	1
Criminal e-Filing	1
Judicial Access to Court Records.....	1
Other Information Services Projects.....	2
Research & Court Services	3
Court Services	3
Consulting	3
Language Access Services	3
Research.....	4
Domestic Violence Training	4
Data Collection.....	5
Judicial Information Program.....	5
Data on Case Filing Trends.....	5
Legislative Changes affecting Data	5
Technical Assistance and Training	5
Collection Improvement Program	5
Technical Support	5
Collection Improvement Program Audit.....	6
Childrens' Courts.....	6
Child Protection Courts/Child Support Courts Program	6
Problem Solving Court Coordinator	6
Regulatory Services.....	7
JBCC Certifications, Registrations, and Licenses	7
Recent Meetings of the JBCC and Advisory Boards	7
Compliance Section Complaint Investigation and Resolution	7
Development of the new Codes of Ethics and Standards.....	7
Examinations Administered for the JBCC.....	8
Additional Projects for the JBCC	8
Guardianship Compliance Pilot Project	9
Conservatorship Accountability Project (CAP).....	9
Pilot Project Activities	10
Timothy Cole Exoneration Review Committee	12

TECHNOLOGY & DATA

Information Services Division

Civil e-Filing is now mandatory for attorneys in all 254 Texas counties! OCA appreciates and thanks the Supreme Court, the Judicial Committee on Information Technology and the District and County clerks for their leadership in the eFiling arena. Texas remains an example model for other states with a decentralized system. Today, the system handles around 30,000 documents each day with nearly 150,000 users on the system.



OCA's Information Services Division (ISD) is instructed by the Legislature to directly provide staff and information technology equipment and services to the two high courts, the 14 intermediate appellate courts and five judicial branch state agencies. The division also provides staff to coordinate and facilitate the work of the Judicial Committee on Information Technology (JCIT).

Criminal e-Filing

At the end of June, the Court of Criminal Appeals ordered that criminal eFiling be mandatory for attorneys in district and county courts. The implementation of the mandate will be similar to the civil mandate, with the top 10 most populous counties becoming mandatory in July 2017 and other counties becoming mandatory every six months according to their population. JCIT has already passed eFiling standard codes last year in support of permissive criminal eFiling but will review them again for any necessary additions for mandatory criminal eFiling. The statewide eFiling rules will also be reviewed by JCIT and recommendations given to the Court.

Judicial Access to Court Records

As part of the eFiling contract, Tyler Technologies is contracted to provide document access. The new tool is currently being beta-tested by Texas judges and is called Re:SearchTX (formerly RACER). The tool is now available to all judges. OCA will have a table at the Annual Judicial Conference in September to ensure judges know that this tool exists. Only documents eFiled will be available in the system going back to January 2016.

re:SearchTX

The tool allows judges to filter eFiled documents down by county, court, case, party or a combination of those criteria. Judges can then save those results to “folders” for later viewing. It is expected that this tool will have big benefits to judges that hear cases in multiple jurisdictions that do not share case management systems.

OCA expects to open access to attorneys of record on cases at the end of 2016. The Judicial Committee on Information Technology is also beginning meetings with clerks, judges and attorneys regarding the provision of remote access to court documents to attorneys generally and other members of the public.

Other Information Services Projects

- Implementation of online self-represented litigant (SRL) form preparation tool – As part of the eFiling platform, OCA has made available to the Texas Legal Services Center (TLSC) the ability to implement the Guide and File System. This system provides online interviews using plain language to assist SRLs in completing forms. The system is available for use at <http://selfhelp.efiletexas.gov>. Six interviews have been implemented including one that generates the Supreme Court approved forms for divorce with no children. TLSC projects that more than 50 forms will be available with this tool. Once completed, the forms can be electronically filed directly with the court.
- Guardianship Compliance Tool – This tool will support the Guardianship Compliance Project being piloted by OCA. The tool will allow judges to require that guardians electronically file their initial inventories, annual reports, and annual accountings. The system will then use a series of checks to look for potential abuse and alert the judge or other judicial staff reviewing these filings. Adaptations from the Minnesota system have been identified, and OCA has hired a contract programmer to work on the Texas tool. OCA expects to have the tool involved in a pilot county no later than December 2016.
- Replacing licensing database – OCA’s software that manages the licensing provided by the Judicial Branch Certification Commission is outdated and in need of several modern features including the ability for licensees to review their records and renew/pay for licenses online. A request for offers is currently out for bid and a decision is anticipated prior to the next Judicial Council meeting.
- Replacing court activity database – Over the last several legislative sessions, there has been an increased need for court data in order to satisfy court personnel, public, media, and legislator requests. Frequently the data collected is not granular enough to answer the questions of those individuals. The database is also archaic and in need of modern features. The new system would work to ease the reporting burden of local clerks, as well as enhance the ability for OCA research staff and the public to look at data about the courts.
- Infrastructure Upgrades – OCA has completed the workstation upgrades for judicial branch organizations supported by OCA Information Services. OCA also completed a WAN upgrade, giving the appellate courts a 10X upgrade in speed between the court and OCA. Additional cybersecurity upgrades, server upgrades, and software upgrades are planned for the fall. This includes the deployment of Office365 to interested entities supported by OCA.

RESEARCH & COURT SERVICES

Since the last Judicial Council meeting, the Research and Court Services Director and Court Services Manager presented on data quality issues and provided an update on Judicial Council activities at the County and District Court Clerks' Annual Conference in Galveston. The Director also gave a presentation on court performance measurement and management and the Judicial Council's Centers of Excellence initiative at the Texas Center for the Judiciary's Professional Development Program (PDP). PDP is an intensive week-long educational program for court coordinators.

Court Services

OCA has reorganized its Research and Court Services Division to now include a new Court Services section. Amanda Stites, who has been with the Research and Court Services Division since 2009, will be the manager of the new section, which includes OCA's consulting, language access, research, and grant-funded programs.

Consulting

The Court Services Consultant assisted the 212th District Court, Galveston County, in the development and implementation of a Differentiated Case Management (DCM) policy for all criminal cases. The implementation of the DCM policy is expected to result in a decrease in the time to disposition of lesser degree felonies and help the court better manage events related to complex felonies. The Court Services Consultant is now assisting the court in developing a DCM policy for civil cases.

In June, the Court Services Consultant served as faculty member for the Professional Development Program.

Language Access Services

Since the last Council meeting, TCRIS staff engaged in the following:

- Continued managing the Interpreter Locator Listserv, which allows court personnel from around the state to search for interpreters fluent in exotic and rare languages. The exotic language requested during the period was Nepali.
- Provided interpreting services in 236 hearings held in 44 counties to 43 judges in a variety of criminal and civil cases, including magistrations, plea hearings, sentencing hearings, arraignments and prove-ups.
- Enrolled eight new TCRIS users.
- Continued translating the Supreme Court Children's Commission's Parent Resource Guide into Spanish.
- Provided an overview of the language access resources available on OCA's website for the Appellate Clerks' Meeting in San Antonio.

Language Access Program staff provide Spanish interpreting services via speakerphone or videoconference through the Texas Court Remote Interpreter Service (TCRIS). TCRIS services are available for all case types, for short, non-contested hearings involving limited or no evidence. In addition, OCA's Language Access staff provides training on language access issues and best practices.

Research

OCA research staff continue to work with researchers at Texas A&M's Public Policy Research Institute on a pretrial release research project, which is being conducted under the charge of the Council's Criminal Justice Committee. The study, which will look at the pretrial release practices in jurisdictions around the state, is expected to inform judges and others about pretrial program planning, design, and operations issues.

OCA research staff continue to work with researchers at the National Center for State Courts (NCSC) on the Texas Child Protective Services Judicial Workload assessment project funded by a grant from the Texas Children's Commission. The project will result in a method to objectively determine the number of judges necessary to process the CPS-filed caseload. An interim report was issued by NCSC in June and the final draft is due in August.

Domestic Violence Training

OCA's Domestic Violence Training Attorney (DVTA), funded through a grant from the Criminal Justice Division of the Office of the Governor, continued as the Presiding Officer of the HB 2455 Task Force to Promote Uniformity in the Collection and Reporting of Information Relating to Family Violence, Sexual Assault, Stalking, and Human Trafficking. OCA must deliver a report with recommendations on issues of data quality and uniformity to the Governor and Legislature by September 1, 2016.

The DVTA also began working with members of the University of California Berkley's Hague Domestic Violence Project to assemble a committee to create a bench guide to assist Texas judges in managing processes and substantive law applied in Hague Convention child abduction cases in which domestic violence is a factor. In addition, the DVTA is working with representatives of the Texas Victim Services Association to plan a symposium on victims' issues to be held this fall.

The DVTA conducted training sessions on family violence, Magistrate's Orders of Emergency Protection, and Texas Crime Information Center reporting to the following organizations:

- Texas Rio Grande Legal Aid in Eagle Pass;
- County and District Clerks Association of Texas Education Seminar in Round Rock;
- Texas Criminal Justice Information Users Group Annual Conference in Galveston; and
- Texas Municipal Courts Education Center's Bailiffs and Warrant Officers Conference in Dallas.

Data Collection

Judicial Information Program

The Judicial Information Program collects, reports and analyzes court activity statistics, judicial directory information, and other information from the approximately 2,700 courts in the state; produces the Annual Statistical Report for the Texas Judiciary, the Texas Judicial System Directory, and other publications; and provides statistical and other information about the judicial branch to the legislature, state and federal agencies, local governments, private associations and public interest groups, and others. More than 150,000 statistical and other reports were received in FY2015.

Data on Case Filing Trends

Staff developed a presentation for Judicial Council on filing trends in cases related to motor vehicles for its meeting in June.

Legislative Changes affecting Data

SB 1369, related to mandatory reporting of appointments and fees paid to attorneys ad litem, guardians, guardians ad litem, mediators and competency evaluators, goes into effect September 1, 2016.

Staff have developed forms, instructions, frequently asked questions ("FAQ"), checklists, presentations, webinars and other resources related to the reporting requirements of the bill. Staff also worked with a programmer to make changes to the current appointments and fees reporting database.

Technical Assistance and Training

A significant amount of time of the Judicial Information Program's staff continues to be devoted to providing ongoing support to the trial courts and clerks and their information technology staff or case management vendors on reporting issues. Since the last Council meeting, staff made presentations at clerk education seminars held by the Texas Municipal Courts Education Center and the Texas Justice Courts Training Center.

Collection Improvement Program

Technical Support

Since the last Council meeting, CIP staff continued to:

- Conduct "spot checks" of programs required to implement a program to ensure continuing compliance with program components;
- Compile data for Return on Expenditure reports;
- Work on policies and establishing procedures for training and managing compliance with data verification audits;
- Provide training;
- Conduct corrective strategy meetings designed to assist jurisdictions that have failed a compliance audit.

Through its Collection Improvement Program (CIP), OCA continues to provide technical assistance counties and cities required by law to have a collection improvement program. This assistance is designed to promote local program compliance with key program components.

Collection Improvement Program Audit

Since the beginning of FY16, the CIP – Audit Section has issued reports for 15 Compliance Audits. Of the 15 jurisdictions audited, 12 passed the audit (including five jurisdictions undergoing a follow-up audit), and 3 jurisdictions failed the compliance audit. All three jurisdictions that failed have completed the 180-day grace period and are awaiting the beginning of a follow-up audit. Audit staff are currently working on 14 Compliance Audits and 2 Post-implementation Rate Reviews.

Article 103.0033(j) of the Code of Criminal Procedure also requires OCA to periodically review mandatory local jurisdictions to ensure the data reported to the CIP Court Collection Report system is reliable. The CIP – Audit Section completed fieldwork for the first pilot of the Data Verification Audit and is currently working on the second pilot of this project type. The CIP – Audit Section plans to perform several pilot audits of this project type during FY17.

Article 103.0033(j) of the Code of Criminal Procedure requires OCA to periodically review mandatory local jurisdictions' compliance with the components of the Collection Improvement Program (CIP).

CHILDRENS' COURTS

Child Protection Courts/Child Support Courts Program

In May 2016, the Specialty Courts Program Coordinator (SCPC) and Legal Manager began efforts to secure input from persons who regularly appear before child protection and child support associate court judges to assist the Presiding Judges in conducting performance evaluations of the associate judges. The SCPC and Legal Manager reached out to child protection and child support court associate judges, the Office of the Attorney General (OAG), the Department of Family Protective Services (DFPS) Legal and Child Protective Services (CPS), and Texas CASA (Court Appointed Special Advocates) to obtain contact information for attorneys, both agency and private, and their respective staff. In turn, electronic surveys were emailed to these individuals and the referring courts soliciting input on their perspective of the associate judges' performance. Between June 23 and July 11, hundreds of emails were sent. The participants were given an average of two weeks to respond. On July 21, the results were distributed to the Presiding Judges for consideration.

Problem Solving Court Coordinator

On July 1 and August 5, the Specialty Courts Program Coordinator (SCPC) attended the Judicial Council's Mental Health Committee along with other OCA staff. OCA will support the committee's work and the SCPC has been selected as staff to assist.

The SCPC attended the National Association of Drug Court Professionals (NADCP) Adult Drug Court Best Practice Implementation Standards meeting in Arlington, VA, on July 29. The advisory group discussed a list of suggested activities for NADCP to implement to encourage local problem-solving court program adherence to relevant national best practice standards and evidence-based best practices. After robust discussion, the group identified and prioritized standards recommendations assigning importance weights

to standards components. Next steps include NADCP staff developing an implementation plan guided by the advisory group's recommendations.

REGULATORY SERVICES

JBCC Certifications, Registrations, and Licenses

Profession	Number of Certifications, Registrations, Licenses
Court Reporters	2,272 individuals and 343 firms
Guardians	463 individuals
Process Servers	3,515 individuals
Court Interpreters	453 individuals
TOTAL	7,046 individuals and firms

Recent Meetings of the JBCC and Advisory Boards

On August 5, 2016, the JBCC held its ninth meeting of the Commission. The agenda can be viewed at

<http://www.txcourts.gov/media/1435639/jbcc-agenda-final-august-5-2016.pdf>

Compliance Section Complaint Investigation and Resolution

There have been three recent complaint review committee meetings.

- Process Server Certification Complaint Review Committee meeting – June 2, 2016
- Court Reporter Certification Complaint Review Committee meeting – June 3, 2016
- Licensed Court Interpreter Complaint Review Committee meeting – July 15, 2016

In FY 2016, the JBCC compliance team has opened 78 complaints that were filed with the Commission. There are currently 26 complaints open in various stages of the complaint process:

- 5 court reporter, 14 process server, 6 guardian, and 1 court interpreter complaints.
- Agendas for all meetings are posted on the JBCC website at <http://www.txcourts.gov/jbcc/meetings-agendas.aspx>.

Development of the new Codes of Ethics and Standards

The JBCC continues to prepare the Codes of Ethics for each profession to submit to the Supreme Court. The Code of Ethics and Minimum Standards was recently adopted by the Supreme Court for Guardianship Services for private professional guardians, guardianship programs, and the Department of Aging and Disability Services. The Code and Minimum Standards were developed by the Guardianship Certification Advisory Board and approved by the Judicial Branch Certification Commission. The Code and Minimum

On September 1, 2014, the Judicial Branch Certification Commission (JBCC) was established by the Texas Legislature, during the 83rd Regular Session, to promote government efficiency and create consistency across the regulated judicial professions. The core responsibility of the JBCC is the oversight of the certification, registration, and licensing of 7,046 court reporters and court reporting firms, guardians, process servers, and licensed court interpreters. The nine-member commission is appointed by the Supreme Court of Texas.

Standards incorporate the recent Legislative requirements from Senate Bill 1882, House Bills 39, 1438 and 2665, as well as comments from the public. The Code and Minimum Standards are effective immediately and located on the JBCC webpage at <http://www.txcourts.gov/media/1400622/169103.pdf>.

The new Process Server Certification Code of Conduct and the Licensed Court Interpreter Code of Ethics have also been adopted by the Supreme Court and are posted on the JBCC website.

Revisions to the Court Reporter Code of Professional Conduct is in progress.

Best Practices for Licensed Court Interpreters are currently in development and staff are also drafting updates to the Court Reporter Certification Uniform Format Manual (UFM).

Examinations Administered for the JBCC

The JBCC certification staff administers and proctors the examinations for the Guardianship Certification written examination and the Licensed Court Interpreter (LCI) written and oral examinations. A vendor administers the written and skills examination for the Court Reporters Certification. An examination for process servers is currently being developed.

EXAMS ADMINISTERED			
Fiscal Year	Written - Guardianship	Written - Licensed Court Interpreters	Oral - Licensed Court Interpreters
FY16	98	129	86
FY15	111	123	79

Additional Projects for the JBCC

- On May 9, 2016, OCA posted a Request for Proposal (RFP) to replace the current certification licensing database. June 16 was the deadline for the submission of offers for the system. OCA is currently scheduling demonstrations by potential vendors.
- OCA staff reviewed and revised performance measures for JBCC as part of the Strategic Plan that accurately reflects workload of JBCC (e.g. adding non-jurisdictional complaints that were excluded previously).
- As part of OCA's Legislative Appropriations Request (LAR) to be submitted to the Legislature for upcoming session, prepared a five-year overview of performance measures and revenue projections for FY 2015 – FY 2019 (2018-2019 biennium included).
- OCA staff are also working with certification advisory boards to develop a penalty matrix to create consistency relating to the complaint penalties and sanctions.

GUARDIANSHIP COMPLIANCE PILOT PROJECT

Through this project, guardianship compliance specialists will be available to:

- Review adult guardianship cases to identify reporting deficiencies by the guardian.
- Audit annual accountings and report findings back to the court.
- Work with courts to develop best practices in managing guardianship cases.

Assistance is available to counties without a statutory probate court that have a significant number of guardianship cases reported at no cost to the county. OCA will also develop an electronic database to monitor guardianship filings of initial inventory, annual reports, and annual accountings. Auditors are working with Anderson, Bexar, Comal, Guadalupe, Hays, Orange, and Webb Counties on this project.

The Office of Court Administration will report on the performance of the Guardianship Compliance Project in a study to the Legislature no later than January 1, 2017. The report will include at least the following data elements:

- The number of courts involved in the guardianship compliance project.
- The number of guardianship cases reviewed by the guardianship compliance project.
- The number of reviewed guardianship cases found to be out of compliance with statutorily required reporting.
- The number of cases reported to the court for ward well-being or financial exploitation concerns.
- The status of technology developed to monitor guardianship filings.

The Guardianship Compliance Project adapting Minnesota's Conservator Account Auditing Program (CAAP).

- Minnesota uses an online conservator account reporting application called "MyMNConservator" (MMC).
- Minnesota operates statewide to audit conservator accounts and provide information and recommendations to the district courts and to conservators.
- The mission of the Conservator Account Auditing Program (CAAP) is to safeguard the assets of protected persons through the oversight of conservators by conducting professional compliance audits.

Conservatorship Accountability Project (CAP)

Texas has also received an implementation award to receive technical assistance to implement the Conservatorship Accountability Project (CAP). Indiana, Iowa, and Texas were selected to receive

Pursuant to the Judicial Council recommendation from the Elders Committee, OCA obtained funding from the legislature to establish a pilot program to improve guardianship compliance. The Office of Court Administration has launched the Guardianship Compliance Project to provide additional resources to courts handling guardianship cases. The goal of this project is to help courts protect our most vulnerable citizens and their assets.

implementation awards; New Mexico and Nevada were provided planning awards. This project will use the extensive expertise and experience of the National Center for State Courts to support Texas' efforts in adapting the Minnesota "MMC" software, which allows conservators (known as guardians of the estate in Texas) to file their inventory, annual reports, and annual accountings electronically, integrating the software with our statewide eFiling system. The red flag validation and implementation, standardized reports and alerts, and judicial response protocols in the system will greatly improve Texas judges' ability to protect assets and modernize and improve guardianship accounting with limited resources. This project complements the Office of Court Administration's Guardianship Compliance Pilot Project.

Pilot Project Activities

- Met with Judges, court staff, and county clerks on details of project.
- Conducted an Initial Assessment and Program Survey.
- Conducted Review and audit of guardianship files for overall reporting compliance
 - Reviewing files for missing inventories, missing annual report of the persons, and missing annual accountings
 - Completing audit sheet for each active case file
 - Compiling our findings on a spreadsheet to report
- Conducting financial audit of estates using Initial Inventories and Annual Accountings
- Working with the courts to develop notices to request missing reports and information
- Maintaining a list to recommend best practices for the courts and clerks

Hays County Information

- Sent out 238 standard and customized letters from the court on missing reports and red flags
 - Receiving responses and conducting audits of annual accountings

Guadalupe County Information

- Sent out standard and customized letters from the court on missing reports and red flags
 - Receiving responses and conducting audits of annual accountings

Webb County Information

- Received the templates from the CCL1 and working to prepare letters to send to guardians requesting missing reports and information.
- 122 Annual Report Request Letters have now been completed.
- 100 Initial Inventory Request Letters have also now been completed. Annual Accounting Request letters pending.
- Working on preparing addresses for CCL2 to send out letters for the missing reports and information.

Comal County Information

- May 31, 2016 - the team initiated the project in Comal County.

Anderson County Information

- June 15, 2016 - the team initiated the project in Anderson County.

Montgomery County Information

- July 5, 2016 - initiated the project in Montgomery County.

Orange County Information

- August 1, 2016, initiated the project in Orange County

Bexar County Information

- August 8, 2016, initiated the project in Bexar County

Participating County	Bexar	Orange	Anderson	Comal	Guadalupe	Hays	Montgomery	Webb
Total Guardianship Cases Reported to OCA	8,399	844	83	403	205	228	508	1139
Total Case Files Reviewed (as of August 15)	171	719	83	403	205	656	508	677
<i>Closures: Recommended for Inactive Status (deceased ward, temporary guardianship, minor emancipated)</i>			17	231	46	435	35	851
Total Active Cases	unknown	unknown	66	172	159	221	473	288
Total Guardianships of the Person			14	86	84	66	377	49
Total Guardian of the Estate			0	8	10	13	19	8
Total Guardianships of Both Person & Estate			52	78	65	142	77	231
<i>Missing Annual Reports of the Person</i>			37% 25/66	22% 36/164	23% 34/149	39% 82/208	7% 31/454	79% 220/280
<i>Missing Annual Accountings</i>			46% 24/52	24% 21/86	27% 20/75	47% 73/155	10% 10/96	77% 183/239
<i>Missing Initial Inventories</i>			57% 30/52	14% 12/86	24% 18/75	39% 61/155	3% 3/96	80% 192/239
<i>Guardianships with Bonds Waived</i>			12% 8/66	17% 30/172	35% 56/159	42% 92/221	7% 34/473	41% 118/288
Total estate value from inventories under guardianship	In process	In process	\$6,058,976	\$15,479,192	\$9,439,432	\$10,088,171	\$25,418,089	\$6,484,401
Average estate value per case (from available inventories)			\$275,408	\$208,178	\$165,604	\$107,320	\$273,313	\$137,965

Additional Information and Observations

- Late or lack of required reporting of inventories, annual report of the person and annual accountings
- No backup bank statements, checks, or invoices for the annual accountings
- Unauthorized or unexplained ATM withdrawals
- Unauthorized or unexplained transfers
- Unauthorized or unexplained gifts to family members
- Payments to credit card accounts not listed on annual accounting
- Unauthorized or unexplained purchases
- No criminal background checks, no policy or procedures

TIMOTHY COLE EXONERATION REVIEW COMMITTEE

The Timothy Cole Exoneration Review Commission met again on June 28 in the Supreme Court courtroom.

At this meeting the following items were discussed:

- Follow up information from law enforcement agencies on electronic recording of interrogations, requested by the Commission at the March 22nd meeting, was gathered and presented to the Commission.
- Results from Commission members' opinions poll on potential policy recommendations about electronic recording were presented along with a potential policy recommendation for the Commission based on the results of the poll.
- Members voted on which policy items regarding electronic recording of interrogations would be recommended in the Commission's report.
- Staff presented new material and potential policy recommendations on the following research topics:
 - Informant Regulation
 - False Accusation
 - Mistaken Eyewitness Identification
- Commission members requested to be sent all information gathered by staff on these new topics as well as a poll on the potential policy recommendations.
 - Staff has drafted a poll with different potential policy recommendations about informant regulation, false accusation and mistaken eyewitness identification to gather the opinions of Commission members. This poll is in the process of being distributed.
- Next and final research topic for the Commission is on Forensic Science practices across the state.
 - Staff will soon be meeting with the Director of the Texas Forensic Science Commission, also a member of this Commission, and General Counsel to discuss this research topic and the collaboration between the two Commissions.
- Staff met with Dr. Sandra Thompson, expert on mistaken eyewitness identification, and discussed various potential policy recommendations that the Commission could make in this regard.