



# DIRECTOR'S REPORT

September 2020



## Texas Judicial Council

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## TECHNOLOGY & DATA

### COVID RESPONSE WITH TECHNOLOGY

In early March, due to the increase of COVID cases in Texas, OCA started preparations for the supported workforce to be remote. This included:

- Increasing the Internet bandwidth at the Austin datacenter to support additional remote connections.
- Repurposing more than 70 laptops that had returned from the refresh project into loaner laptops for staff use when personal computing equipment at home was either absent or inadequate.
- Increased movement to Teams, OneDrive, and SharePoint.

To assist trial courts, OCA made Zoom licenses available to every judge in Texas. To date, almost 1,900 licenses for Zoom have been distributed. For this reporting period, there had been almost 127,291 Zoom meetings representing an estimated 509,164 remote hearings, with more than 1.5 million participants, using approximately 68.7 million minutes of conferencing.

Additionally, with a grant from the National Center for State Courts, OCA Information Services bought and provided iPads for use in the first electronic jury trials for those jurors with technology needs. These iPads were secured so that only applications approved by the judge were available for use. They come with cellular service so that no additional technology is needed.

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 six judicial branch state agencies – more than 1000 users. The division also provides staff to coordinate and facilitate the work of the Judicial Committee on Information Technology (JCIT).



### RANSOMWARE ATTACK

In the early morning hours of May 8, OCA was hit with a ransomware attack. The attack destroyed 85% of servers and approximately 45% of workstations in use. The attack had varying levels of impact to every organization that OCA supports. Indicators show the attack was done with a Hacking-As-A-Service platform sold on the dark web. OCA chose not to pay the ransom to the attackers. Cloud-based services that had been procured by OCA were not impacted in the attack. Since the established backups were impacted, data loss varied at each court.

Recovering from the attack was comprised in three phases – investigation, remediation, and recovery. For the investigation, OCA leveraged assistance from DIR cybersecurity vendors as well as DPS and the FBI. The investigation identified the point of entry and confirmed that the ransomware was not persistent and that no data was exfiltrated from the network.

During remediation, OCA worked with Microsoft to further harden our security posture to make re-entry even more difficult. These changes shift the culture from one of convenience to one of security.

Finally, as part of recovery, OCA reconstituted impacted systems on fully upgraded machinery, implementing the hardened security structures recommended by Microsoft. This included upgrades to the underlying operating systems and processes to the new security model. As of today, almost all systems have been recovered, with most being recovered within the first six weeks of the attack.

## E-FILING

The e-Filing system supports more than 312,000 users and handles 35,000 filings each day across all district, county, justice, and appellate courts. More than half of the courts are integrated with the e-filing system which allows them to accept a document and automatically transmit to the local case management system.

eFiling is mandatory for attorneys in all criminal, civil, family, and probate cases at the district/county level and above. Currently there are 134 JPs across 31 counties that accept eFilings on a permissive basis. JCIT is working with JP courts to further expand eFiling.

Last year, OCA entered into a contract with Gartner Inc. to assist OCA in the procurement of a new eFiling contract (currently set to expire on August 31, 2022) to provide eFiling, redaction, document access, and forms assembly services that are at least at the same level of functionality as is available today in eFileTexas.

OCA published the RFO earlier this year and has received responses. The evaluation team has concluded their efforts and will soon make recommendations to negotiate. Once negotiations are complete, the new eFiling contract is anticipated to be executed this fall, allowing more than a year of transition time to the new eFiling contract.

## JUDICIAL ACCESS TO COURT RECORDS (RE:SEARCHTX)



As part of the eFiling contract, Tyler Technologies is contracted to provide document access (called Re:SearchTX). The tool is in use by Texas judges, clerks, attorneys on the case, and other registered users (general public). It allows users to filter eFiled documents down by county, court, case, party, or a combination of those criteria. Since the last meeting, the number of users on the system has increased to more than 48,000 – of which 25,123 are the general public. The system houses more than 71,000,000 electronic court documents.

Tyler has completed work with 32 clerks, including several of the largest counties, to integrate local case management systems with re:SearchTX. Work is under way to integrate with 15 additional clerks. Integration allows clerks to control access to documents locally and have re:SearchTX respect those security settings. This also allows those clerks to put additional document such as orders and judgments, as well as documents from well before re:SearchTX existed. In addition to these counties, 5 additional counties are in the pipeline to be integrated.

Last fall, the Supreme Court adopted the Judicial Committee on Information Technology's recommendations to change the definition of "Attorney on the Case" to include all staff in that attorney's firm, effectively making it "Firm on the Case." This expands access to no-cost documents to all attorneys and staff in associated with the law firm as an attorney on the case.

At its December meeting, JCIT adopted recommendations to allow criminal case filings on re:SearchTX. These recommendations have been forwarded to the high courts for review and possible action.

## OTHER INFORMATION SERVICES PROJECTS

Citation by Publication – Citation by publication was completed on time for a June 1 launch earlier this summer. This website allows eligible persons to have the clerk serve citation by publication by posting direct to the website. This provides an additional avenue to provide citation by publication in addition to the local newspaper. This system implements SB 891 (Huffman/Leach) that was passed during the last legislative session.

Protective Order Registry – While the establishment of the protective order registry was delayed due to COVID-19 and the ransomware attack, the pilot program for the protective order registry went live on schedule on September 1. The pilot project is expected to last until October 15, when the system is rolled out statewide. This system implements SB 325 (Huffman/Landgraf) that was passed during the last legislative session.

Workstation Refresh – OCA Information Services has completed approximately 85% the workstation refresh for Fiscal Year 2020. This effort will replace older computing equipment at all the appellate courts, as well as at many of the judicial branch state agencies. All but two appellate courts have their new equipment deployed. The project is expected to be completed by November.

HB 3834 Compliance – OCA provided many webinars and offered training remotely to all users on cybersecurity. This project was completed in June.

## COURT SERVICES

The Court Services Section includes the agency’s court security, children’s courts, specialty courts oversight, consulting, language access, judicial information, and research programs.

## COURT SECURITY

The purpose of the Court Security Division is to:

- Support the establishment of court security committees through training and technical assistance;
- Assist courts with conducting and reviewing security and emergency preparedness assessments and developing improvement plans;
- Support the implementation of privacy protections for judges by facilitating the restriction of public access to the residential address of a judge or judge's spouse; and
- Serve as a clearinghouse of information regarding judicial and court security best practices.

The Court Security Division is assisting the Texas Courts in facilitating the acquisition of needed Personal Protective Equipment (PPE) to comply with suggested guidance to resume operations in courts across the state. In coordination with the Texas Department of Emergency Management (TDEM) and County Emergency Management Coordinators, the courts can secure access to the PPE inventory to aid in resuming operations efforts across the state.

In addition, the Court Security Division is collaborating with the National Center for State Courts (NCSC), State Office of Risk Management (SORM), and FEMA to facilitate training in the fall to assist county planners, judges and emergency management personnel in developing Continuity of Operations Plans (COOP) focused on Texas Courthouses.

The Court Security Division:

- Conducted 51 courthouse assessments to date (with approximately 26 pending scheduling) and 5 judicial residential assessments.
- Administratively processed and reported several judicial threats to DPS.
- Attended judicial training conferences.
- Conducted presentations before various county and municipal court security committees, law enforcement, judicial training entities; and
- Continues to report judicial threats and inappropriate communication to [www.iwatchtx.com](http://www.iwatchtx.com), a DPS managed, community reporting system designed to capture suspicious activities or behaviors that may indicate criminal, or terroristic related threats towards the judiciary or courthouses.

## JUDICIAL INFORMATION

OCA's Judicial Information program is the repository for a variety of information regarding courts in Texas. It collects and maintains information from courts at all levels, analyzes court data, and produces or assists in the production of reports regarding the state's courts and the officials who work in them. Staff provide data support to Office of Court Administration, the Texas Judicial Council, the Supreme Court for its courts of appeals [docket equalization program](#), the Council of Chief Justices, the Council of Presiding Judges, and other entities as necessary. A large amount of time is also devoted to providing support to the trial courts and clerks and their information technology staff or case management vendors on reporting issues to promote data quality and completeness.

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 470,000 statistical and other reports were received in FY2019.

During the last period, program staff were involved in the following activities:

- Completed the annual update of the judicial [directory database](#) and produced the 2020 Texas Judicial System [Directory](#)
- Compiled and published information on the [Information on Texas Judges](#) webpage concerning the new salary structure for appellate, district and statutory county court judges [established](#) September 2019
- Updated the [Court Structure Chart](#) and [Profile of Judges](#) report as of September 1, 2020
- Worked on several judicial turnover projects required by Section 72.030 of the Texas Government Code
  - Finalized and analyzed the FY 18/19 turnover statistics, compiled and analyzed responses from the FY 18 and 19 judicial turnover surveys, and completed significant work on the Judicial Salaries and Turnover Report for FY 18 & 19
  - Prepared the base list of appellate and district judges for the FY 20/21 turnover spreadsheet to track which current judges chose not to run for reelection, lost an election, or won reelection
- Compiled and submitted Texas appellate and district court statistics to the National Center for State Courts' [Court Statistics Project](#)
- Met with and provided all available and relevant data to the Governor's Sexual Assault Survivors' Task Force research team
- Produced 6 data analyses for new district courts or county courts at law
- Provided guidance and compiled data for the upcoming weighted caseload study for the district and statutory county courts
- Drafted 2 quarterly proposals for transfer of cases among the courts of appeals
- Developed various internal reports and dashboards to monitor caseload trends and identify data quality issues
- Working on data quality checks and improving data completeness in preparation for the 2020 annual statistical report
- Developing requirements for a new data warehouse and business intelligence tool and on identifying data elements to collect for case level data
- Running numerous queries and compiling statistics for internal and external stakeholders/requestors on the effects of the COVID pandemic on filings, dispositions, clearance rates and backlogs by case type, case category, county, court, etc.

## LANGUAGE ACCESS

OCA's licensed court interpreters provide interpreting services via telephone and videoconference through the Texas Court Remote Interpreter Service (TCRIS). These services are available to our Texas Courts in all case types, for short, non-contested hearings that involve limited or no evidence. The Language Access Department staff also provides translation services as directed by OCA's management.

In ensuring that justice continues to be served to all Texans in the current pandemic situation and with OCA's introduction of the remote proceedings capability through Zoom, the Language Access staff interpreters began providing services through this platform as well as other videoconference systems that courts are using at this time such as Cisco, LifeSize, Skype, Teams and WebEx.

From February 1 through August 31, 2020, TCRIS staff provided interpreting services in 750 hearings of which 325 were via Zoom, in 57 counties. This is an increase of over 85% since 2018 and by 50% since the transition to remote hearings in March 2020 compared to the same period in 2019.

## OTHER COURT SERVICES

Since the last Judicial Council meeting:

An in-depth study of multidistrict litigation (MDL) processes and cases was conducted, and the following findings made:

- The MDL process is for complex litigation, involving multiple courts.
- There is no continuity in following cases through the process.
- Through the MDL process a case can be filed in three different jurisdictions, charged three different filings fees, and assigned three different case numbers.
- Tag-along cases are especially difficult to trace back to the original MDL Master case, with over 15,000 tag-along cases reported and reviewed from just Harris and Hidalgo Counties.
- There is scant ability to gather and report data under the current procedures of cases through the entire process.
- Recommended changes would require modifying the OCA Monthly report by:
  - creating additional new case categories;
  - establishing an MDL transfer status;
  - reporting additional court activity at the MDL Pretrial level; and
  - developing a way to relate a disposition to an MDL case category.

If these changes and additions are made to the OCA Monthly report, MDL case filings and actions would be reported in aggregate, with detailed information available at the various courts.

By establishing and outlining a process for the courts to collect and report the data, these complex cases will be identified and available for litigants and researchers. This promotes transparency of courts, while establishing standards that other states can follow as an example for data collection of MDL cases.

### **Court Studies Performed:**

#### **Tom Green County**

- Feb 21, 2020 was a day full of appointments with judges, attorneys, and key court personnel, gathering information related to the District Courts in Tom Green County. Interviews were conducted and data gathered to assist in recommendations to remedy issues cause by the new jail being relocated away from the courthouse and the difficulties for conducting hearings in person.

Additional court related discussions included:

1. Civil and Family Dockets
2. Multi-county jurisdiction schedules for judges and their dockets
3. Jury Trial solutions
4. Indigent Defense solutions

A weighted caseload study was provided and recommendations are being formulated to assist the courts.

Additional Studies are being conducted for:

- McLennan County
- 212<sup>th</sup> District Court in Galveston County

#### **National Instant Criminal Background Check System (NICS) Reporting:**

The Court Service department receives numerous inquiries from clerks and courts requesting assistance with reporting and correcting data for NICS reporting. In an effort to provide a training tool, a webinar was developed and broadcast in August to approximately 300 attendees. The webinar was provided in addition to the publication, **Texas NICS Mental Health Reporting Manual**.

The Centers of Excellence program is still active and improving. Onsite and ongoing evaluations are on hold while courts address operating and holding hearings during COVID-19. New courts are still showing interest in becoming recognized, and the Research and Court Services Division is working to meet the needs of courts looking to become recognized when appropriate.

The Public Engagement Pilot Project held its focus group in Houston, Texas, which concluded the project in its entirety. An overview of the findings was scheduled to be held at the Conference of Chief Justices annual meeting in Portland, OR, but due to the pandemic, the conference was moved to a virtual setting. In July, the project group presented a high-level summary.

Court Services staff also continued work on the Pretrial Risk Assessment Information System (PRAISTX), with the plans to kickoff work on an enhanced and modified system that is automated.

## SPECIALTY COURTS

### CHILDREN'S COURTS PROGRAM

The Children's Courts program is comprised of 73 operational courts - 30 child protection and 43 child support courts. Each court has an associate judge appointed by the Presiding Judges of the Administrative Judicial Regions and a court coordinator who are employed by the OCA.

Since the last report, two associate judges and two court coordinators were hired for the two new Child Protection Courts located in the Eighth Administrative Judicial Region – Eighth Region Child Protection Court North and Eighth

Region Child Protection South. Both courts are now operational. The associate judge for the Child Protection Court of South Texas retired the end of February. The replacement judge was hired the beginning of March 2020.

In March 2020, the COVID-19 pandemic reached Texas resulting in OCA headquarters and field staff working remotely including the Children's Courts judges and staff. The Supreme Court issued Orders extending court deadlines in CPS cases and authorized remote hearings. OCA issued guidance on the Supreme Court Orders' relevant provisions and secured Zoom licenses for courts to conduct remote hearings. Research and Court Services staff began holding monthly check-in meetings with the Children's Courts to provide a forum for open discussion and to help with the transition to remote hearings. Staff has also had ongoing meetings with the Office of Attorney General Child Support Division leadership regarding remote hearings and child support dockets.

Due to COVID-19, the 2020 Child Welfare Judicial Conference, co-sponsored by the Texas Center for the Judiciary and the Supreme Court's Permanent Commission for Children, Youth, and Families (Children's Commission) has been changed to a virtual, one-day conference to be held on October 27 instead of the originally scheduled dates of October 26-28, 2020. There will be no separate pre-conference meeting for the child protection courts as in past years. OCA will hold a separate training for the court coordinators on October 27. Planning is underway for the 2<sup>nd</sup> CPC Convening to be held in July 2021. The Children's Commission and OCA will work together on content and format.

The Research and Court Services Division (RCS D) Director and Children's Courts Program Manager serve on the Children's Commission Dual Status Task Force and participate in the Task Force's Judicial Practices Workgroup. One of the initiatives is to pilot implementation of SB 1887, which authorizes child protection courts to hear any juvenile matter. Three child protection courts have volunteered and have been approved to serve as pilot sites. The courts represent small, mid-size, and urban areas.

In August 2020, the RCS D Director and Children's Courts Program Manager participated in the virtual follow-up event to the National Judicial Leadership Summit IV on Child Welfare that took place in Minneapolis, Minnesota, September 24-25, 2019. The event entitled "Ensuring Justice in Child Welfare" took place via Zoom. The convening allowed teams to revisit the action plans they developed over the course of the Summit's presentations and discussions, which centered around five themes: 1) Incorporating the Voice of Families in the Court Process; 2) Delivering High Quality Legal Representation to Families in Child Welfare; 3) Safely Preventing the Unnecessary Entry of Children into Foster Care Through Meaningful Initial Hearings; 4) Courts Ensuring Procedural Fairness, Equity, and Access to Justice for All Families; and 5) Leading Child Welfare Reform from the Supreme Court and AOC. The Texas team will hold a follow-up meeting in September.

## SPECIALTY/PROBLEM-SOLVING COURTS

In early March 2020, the RCS D Director and Specialty Courts Program Manager attended the Executive Forum of Criminal Justice Planners to provide updates on the Judicial Council Committees, Specialty Courts, Pretrial Risk Assessment, and the "Courts of Excellence" program. Criminal Justice Planners from Bexar, Dallas, El Paso, Harris, Lubbock, Tarrant and Travis and Court Administrators from El Paso, Harris, Lubbock and Tarrant were also in attendance. The meeting was hosted by the Correctional Management Institute at Sam Houston State University.

The Specialty Courts Program Manager, serving as the Statewide Problem-Solving Court Coordinator (SPCC), continued representing OCA by attending and participating in specialty court-related meetings sponsored by a diverse body of state government agencies and other stakeholders.

There are 50 Statewide Problem-Solving Court Coordinators who meet twice a year to discuss trends in the specialty court field. As a result of the pandemic, the group began holding weekly meetings hosted by the Center for Court Innovation, who serves as the Secretariat for the group, to discuss ways each state's courts are responding to the pandemic and to share ideas on how to operate moving forward. The SPCC has participated on each call.

The Specialty Courts Program Manager continued to serve as the Specialty Court Ombudsman, the single point-of-contact for specialty court participants and team members to report complaints/concerns about program operations, processes, and individual team members, including the specialty court judge.

## ENTERPRISE PLANNING AND REGULATORY SERVICES

### REGULATORY SERVICES-JUDICIAL BRANCH CERTIFICATION COMMISSION (JBCC)

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 nine-member commission is appointed by the Supreme Court of Texas. The core responsibility of the JBCC is the oversight of the certification, registration, and licensing of approximately **7,497** court reporters and court reporting firms, guardians and guardianship programs, process servers, and licensed court interpreters. The JBCC also registers all guardianships throughout Texas and provides training and criminal histories to the courts for the proposed guardians. On March 16, 2020, the JBCC team was assigned to work remotely to support the Commission's objectives.

Profession	Type	Number of Certifications, Registrations, Licenses
Court Reporters	Certification	2,198
Court Reporting Firms	Registration	324
Guardians	Certification	487
Guardianship Program	Registration	27
Process Servers	Certification	3,969
Court Interpreters	License	492
<b>TOTAL</b>		<b>7,497</b>

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### REGISTRATION OF GUARDIANSHIPS

**SB 1096 (Zaffirini/Smithee)** created a safety net to ensure guardians are registered, properly trained, receive a criminal history background check, and guardian contact data is provided to DPS and its Law Enforcement Terminal System (TLETS) to identify persons under guardianship if law enforcement contact is made with them.

On June 1, 2018, OCA developed a database to be filled with a registry of every guardianship in the state. As a registration prerequisite, the OCA conducts a criminal history background check and provides online training to proposed guardians. To date **42,493** proposed guardians have submitted data for registration, **16,600** have completed the training in English and Spanish, and over **11,334** criminal histories have been provided to the courts.

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### RECENT MEETINGS OF THE JBCC AND ADVISORY BOARDS AND UPCOMING EVENTS

JBCC meetings are conducted quarterly throughout the year. The Commission met on November 1, 2019, February 7, 2020, May 1, 2020, and August 7, 2020. The next meeting of the Commission is November 6, 2020.

Court Reporters Stakeholder Workgroup Committee to implement provisions of SB 891 on apprentice and provisional certification met on August 30, 2019, October 11, 2019, and November 22, 2019.

The Court Reporters Advisory Board met on December 20, 2019, to consider input from the Court Reporters Stakeholder Workgroup Committee on implementation of SB 891 relating to apprentice and provisional certifications.

On May 21, 2020, JBCC staff members Jeff Rinard, Scott Gibson, Michele Henricks and Sheryl Jones attended a virtual meeting of the Court Reporters Board of California to discuss reciprocity between Texas and California court reporters. The California Board voted to form a task force with representatives from both states to work out the details of a reciprocity agreement.

On June 26, 2020, the first joint meeting of the California/Texas task force on reciprocity for court reporters between the two states was held. The JBCC team along with the court reporter associations discussed issues relating to implementing reciprocity between Texas and California. We anticipate additional meetings soon.

**The agendas for all JBCC meetings can be found at <http://www.txcourts.gov/jbcc/meetings-agendas/>.**

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#### JBCC COMPLIANCE SECTION COMPLAINT INVESTIGATION AND RESOLUTION

In FY 2020, 86 complaints were filed with the JBCC Compliance team and are in process or resolved:

- **27 court reporters**
- **8 court reporting firms**
- **39 process servers**
- **9 guardians**
- **3 licensed court interpreters**

The following JBCC Complaint Review Committees met:

- Licensed Court Interpreter Complaint Review Committee - June 5, 2020
- Process Server Complaint Review Committee - June 11, 2020

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#### COURT REPORTER ADVISORY BOARD TO ADDRESS COURT REPORTER SHORTAGE AND DEVELOPMENT OF UNIFORM FORMAT MANUAL FOR TEXAS COURT REPORTERS' RECORDS BY THE JBCC

SB 891, passed last session, requires that the JBCC establish a stakeholder workgroup committee to address development of apprenticeship and provisional certifications for court reporters. Other provisions of the bill require the JBCC to develop and maintain a list of states that have certification requirements substantially equivalent to Texas, and requirements relating to Reciprocity/Endorsement are also set out in the bill. The committee is also tasked with establishing criteria for disciplinary action against firms for failure to fulfill commitments to provide court reporting services. The committee met three times on August 30, 2019, October 11, 2019, and November 22, 2019.

Another provision in SB 891 requires the JBCC to contact other states regarding establishing reciprocity agreements with Texas if states are interested. Approximately 30 states have been contacted. A report on the results of the inquiry was sent to the Supreme Court on April 1, 2020. The new JBCC proposed rules have also been provided to the Court.

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#### EXAMINATIONS FOR THE JBCC

The JBCC certification staff administers the examinations for the Guardianship Certification written examination and the Licensed Court Interpreter written and oral examinations. A vendor administers the written and skills examination for the Court Reporters Certification.

- JBCC staff administered 16 guardianship certification written examinations on January 22, 2020.
- JBCC staff administered 29 oral Licensed Court Interpreter examinations on February 18-20, 2020.
- JBCC staff administered 34 written Licensed Court Interpreter examinations on February 25, 2020.

## GUARDIANSHIP ABUSE, FRAUD EXPLOITATION DETERRENCE PROGRAM (GAFEDP)

On September 1, 2019, pursuant to SB 31 (Zaffirini/Smithee), the Office of Court Administration initiated the Guardianship Abuse, Fraud, and Exploitation Deterrence Program (GAFEDP) to aid the Courts relating to guardianship matters. Guardianship compliance specialists will assist in reviewing guardianship files to identify reporting deficiencies by guardians; auditing annual accountings and report their findings back to the Judge; and report to the courts any concerns of potential abuse, fraud or financial exploitation being committed against a ward under guardianship. The program is offered at no expense to the county.

- OCA will also maintain an electronic database to monitor filings of inventories, guardian of the person reports, and annual accountings.
- Courts are required to participate in the program if selected. Courts may apply to OCA to participate.
- The OCA director may notify the Judicial Conduct Commission of any concerns with judges who fail to act upon concerns raised by compliance specialists.

OCA will file annual reports on January 1 of each year including number of courts involved, number of guardianships reviewed, number of cases out of statutory compliance, number of cases reported to courts concerning potential issues, and status of technology developed to monitor guardianship cases.

## IMPLEMENTATION OF THE GUARDIANSHIP ABUSE FRAUD AND EXPLOITATION DETERRENCE PROGRAM (GAFEDP)

While the reforms implemented to date have improved the guardianship system in Texas, a key to the reforms' success is ensuring compliance with the laws and reviewing guardianship activities to spot potential abuse, fraud, and exploitation. To provide a safety net for all vulnerable persons under the care of guardians, the Judicial Council proposed expanding the GCP statewide as proposed in OCA's legislative appropriations request and **SB 31 (86th R.S., Zaffirini et al)**. OCA is in the process of implementing the program and hiring the personnel necessary to monitor cases throughout the state.

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### MONITORING AND AUDITS

The annual reports of the well-being and the financial annual accounts should be monitored, and a sample of the reports should be audited to ensure that the data submitted is complete and accurate. Monitoring and auditing would also create a deterrence against theft and fraud.

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### DEVELOPMENT OF A STATEWIDE ONLINE GUARDIANSHIP REPORTING PORTAL

The OCA has been developing an automated, electronic tool for filing required reports, annual accountings and other documents in guardianship cases. This system will provide a method to notify courts when required reports are delinquent and to review annual accounting reports for potentially fraudulent activities.

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### TRAINING AND RESOURCES FOR COURTS AND CLERKS

Only by proactively training court personnel and proposed guardians on the fiduciary duties of guardianship, as well as auditing reports and accountings to detect and deter fraud and exploitation, will Texas be adequately braced to ensure the safety and well-being of this vulnerable and growing population. In addition to our online training of guardians on fiduciary record-maintenance and reporting duties, ongoing training and professional development is recommended for court and clerk staff on the collection and reporting of required guardianship data, as well as training on the fiduciary duties of guardians to inform the direction and guidance of proposed guardians.

*Our mission is to assist the courts in protecting our most vulnerable citizens and their assets.*

<b>Guardianship Compliance Project (GCP) Data Findings</b>	<b>as of August 15, 2020</b>
Courts and Counties Involved in the GCP	<b>64/78</b>
Total Number of Guardianship Cases Reviewed by the GCP	<b>43,293</b>
Total Number of Cases Recommended for Closure	<b>21,369</b>
Total Number of Active Guardianships Identified	<b>21,924</b>
<i>Percentage of Cases Missing Annual Reports</i>	<b>34%</b>
<i>Percentage of Cases Missing Annual Accountings</i>	<b>47%</b>
<i>Percentage of Cases Missing Inventories</i>	<b>40%</b>
<i>Percentage of Cases Out of Compliance</i>	<b>41%</b>
Total Number of Deceased Wards Identified	<b>4,410</b>

#### GAFEDP RECENT DEVELOPMENTS:

- We continue the implementation of Senate Bill 31 statewide by coordinating the ongoing management of program implementation, training and procedures development, financial workbook development and data collection.
- The GAFEDP now has 16 team members of the total 23 personnel appropriated. We currently have a hiring freeze on for the additional positions due to the state budget cuts. OCA has requested as part of its legislative appropriations request restoration of the funding for these critical positions.
- Currently working in numerous counties in various stages.
- Recently completed the initial reviews in Upshur and Andrews Counties.
- Planning for implementation in Webb County and Leon for annual accounting processes.
- Developed the GAFEDP organizational chart and workflow process chart
- Developing GAFEDP procedures, process and training including the financial workbook and report of findings to the courts.
- Continuing to develop the GAFEDP guardianship online reporting system. Planning pilot project in Cameron and Montgomery Counties.

#### PROJECT UPDATE-ENTERPRISE PLANNING OFFICE (EPO)

The Enterprise Planning Office (EPO) within OCA manages our diverse internal and external portfolio of projects. The goal of our EPO and our project management team is to assist the OCA in properly planning, executing, and delivering projects throughout the agency. Below are the Legislatively Mandated Projects currently managed by the EPO.

The EPO team has implemented the following legislatively mandated projects and have assigned a project manager and project sponsor. The project managers work with the project teams and create user/subject matter expert lists and build system functional and non-functional requirements to implement the projects in a timely manner.

##### **Uniform Case Management – HB 1 (Zerwas/Nelson)**

The legislature allocated funding to OCA to procure a cloud-based uniform case management system. OCA intends the system to be of no-cost to counties and will be targeted at counties with less than 20,000 in population. The system would be standards-based and would automate the transmission of data to various state and national databases. The system would be opt-in (rather than mandatory). The project manager has been assigned and a

user/SME group formed to work on this project. Project team is currently working with the vendor, user groups and subject matter experts and have developed user stories and system requirements. The team is also in the process of creating the Texas Framework Documents for DIR review. We anticipate posting the RFO later this year.

#### **Service of Citation by Publication On-line - SB 891 (Huffman/Leach)**

Currently, service of citation by publication occurs in local newspapers. This method is becoming more expensive and questions have arisen about the utility of such service. Under SB 891, OCA is required to establish a website that allows for service of citation by publication to occur via a website (in addition to service by publication in a newspaper or as an alternative to service by publication in certain circumstances where the cost is prohibitive or a newspaper is not available). The site is intended to be no additional cost to individuals or to the counties. On **June 1, 2020, this project went live on OCA's website and is located at <https://www.txcourts.gov/judicial-data/citation-by-publication/>.**

#### **Protective Order Registry - SB 325 (Huffman/Landgraf)**

OCA is required to create a family violence protective order registry to allow law enforcement and the public to have a single source of protective order applications (viewable only to law enforcement) and granted final family violence protective orders (viewable by law enforcement and public). The orders will be available to the public when the victim opts-in to providing the order to the public. On **September 1, 2020, this project went live in four counties with full implementation on October 15, 2020. The registry is located on the OCA website at <https://www.txcourts.gov/judicial-data/protective-order-registry/>.**

#### **Settlement Agreement Database - HB 770 (S. Davis/Zaffirini)**

OCA is required to create a settlement agreement database to house a copy of settlement agreements involving minors or incapacitated persons for safe keeping. OCA is authorized to charge a fee to cover the cost of this service. A project manager has been assigned and working with the sponsor and user group to implement this project. The database is expected to be live in fiscal year 2021. The project team is currently working with the project sponsor and users to develop and implement the requirements of this project.

### **TEXAS FORENSIC SCIENCE COMMISSION (TFSC)**

The Texas Legislature created the Texas Forensic Science Commission ("TFSC") during the 79<sup>th</sup> Legislative Session by passing House Bill 1068 (the "Act"). The Act amended the Texas Code of Criminal Procedure to add Article 38.01, which describes the composition and authority of the TFSC. During subsequent legislative sessions, the Legislature further amended the Code of Criminal Procedure to clarify and expand the TFSC's jurisdictional responsibilities and authority.

The TFSC has nine members appointed by the Governor of Texas. Seven of the nine commissioners are scientists and two are attorneys (one prosecutor and one defense attorney).

The TFSC has four main areas of responsibility:

- accreditation of crime laboratories and other entities that perform forensic analysis;
- designation of forensic disciplines for accreditation or exemption;
- investigation of allegations regarding professional negligence and misconduct; and
- the licensing of forensic analysts.

The TFSC's most recent quarterly meeting was held virtually on July 24, 2020. Commissioners considered a variety of matters including complaints against laboratories, laboratory self-disclosures of internal non-conformities, accreditation reports, licenses issued pursuant to the forensic analyst licensing program, statewide resolution of emerging issues in DNA mixture interpretation, and collaboration with the Standards Coordination Office at the National Institute of Standards and Technology regarding pathways for improving accreditation for forensic service providers in Texas. The Commission is also working with national subject matter experts at the National Institute of

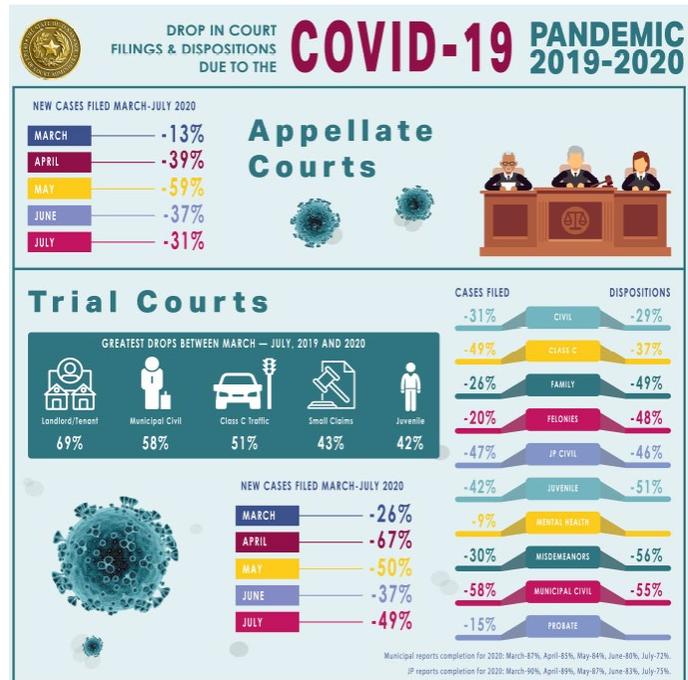
Standards and Technology in the development of a Forensic Bench Book that will be available to judges and other stakeholders as a reference guide to forensics in criminal cases. In the past year, the Commission facilitated the validation of a statewide qualitative method to distinguish hemp from marihuana. Several laboratories that participated in the validation study recently began offering the service. In the next month, staff will launch an interactive mandatory Legal and Professional Responsibility Training developed for forensic analysts in the state. All Commission quarterly meetings are open to the public and livestreamed with the support of OCA's IT division.

## THE TEXAS JUDICIARY'S RESPONSE TO COVID-19

As many Texans were celebrating the dawn of a new decade on December 31, 2019, the original cluster of cases of the COVID-19 disease ("COVID-19") was identified in China. Less than three weeks later, the first diagnosed case of COVID-19 was identified in the United States. While Texas would not see its first diagnosed case of COVID-19 until March 4, the Texas judiciary began its involvement with the state's COVID-19 response by participating in a preparedness briefing to Governor Greg Abbott on February 27. Based upon the information gathered at that briefing, the Texas Judiciary activated its response plan, and the Supreme Court, joined by the Court of Criminal Appeals issued its first emergency order on March 13, just hours after gaining that power when Governor Abbott declared a state of disaster.

### Impact on Filings, Dispositions, and Clearance Rates

The pandemic has resulted in significant shifts in the workload of the courts, with both filing and dispositions declining significantly during the pandemic. As shown in the graphic, the change in filing volume from the previous year has dropped in every case category, with some categories dropping more significantly than others. Overall, the filing volume in the Texas courts dropped by almost 50% from the previous year. Disposition rates have dropped in some case categories more than others, with some casetypes, including civil and fine-only criminal offenses, exceeding clearance rates in previous years.





## Remote Hearings

After the Supreme Court’s First Emergency Order was issued, OCA explored various technology platforms to enable judges to conduct proceedings remotely with all participants. Key to this decision was the user-friendliness of the platform, features to promote participation by all participants, and security. After evaluating several platforms, OCA determined that Zoom would be the best platform for the Texas judiciary. To test this determination, OCA requested twenty judges test the platform with remote hearings during the week of March 16-20. Almost 100 proceedings were conducted during that week, with judges providing very positive feedback about the platform’s utility for remote hearings. With this feedback, OCA procured enough licenses for every judge in Texas to have a license so that the full features and security of the Zoom platform would be available to those judges. Texas judges quickly embraced the technology as shown in the graphs below, with an estimated 500,000 remote hearings in every case type and type of proceeding, including bench and jury trials, with 1.5 million participants lasting over 1 million hours held in the 6-month period.

## Limited Jury Trial Approval Process

In its Seventeenth Emergency Order Regarding the COVID-19 State of Disaster issued on May 27, the Supreme Court prohibited courts from holding jury proceedings, including jury selection or a jury trial, prior to August 1. In addition, the Court required OCA to coordinate with the Regional Presiding Judges and local administrative judges to assist trial courts in conducting a limited number of jury proceedings. In the May 27 order, the Court required consent from all parties to proceed with the limit jury trials, but the consent requirement was removed in the Eighteenth Emergency Order on June 29. The Court required OCA to submit a report to the Court outlining its observations regarding those jury proceedings and making

# Jury Trials

## During COVID-19



**186**  
Typical number of trials held per week pre COVID 19

**5,400**  
Number of trials that should have been held between March and September

**30**  
Actual number of trials held between March and September

recommendations regarding procedures for jury proceedings. In subsequent emergency orders, the Court further delayed jury proceedings until October 1. Prior to reviewing any jury proceeding requests, OCA consulted with infectious disease experts at the Texas Department of State Health Services (DSHS). Those meetings resulted in several best practices and answered questions that greatly assisted OCA in its efforts. DSHS staff have remained available to OCA staff throughout the spring and summer to assist with providing advice on matters affecting public health. This includes reviewing the local COVID case data in each county several days before the trial is scheduled to begin and relaying any concerns about moving forward. In order to assist trial courts in conducting a limited number of jury proceedings, OCA requested that courts interested in conducting either in-person or remote jury proceedings coordinate with their local administrative judges and regional presiding judges and to make a request to proceed to OCA. OCA would then schedule a remote webconference meeting to discuss the judge's plan for the jury proceeding. At those meetings, the various aspects of the trial were reviewed and feedback was provided. When issues arose about certain protocols of the trial that might affect public health, OCA consulted with infectious disease experts at DSHS. Since the Supreme Court's Seventeenth Order was issued, OCA has reviewed 98 requests to conduct a jury trial. Of those requests, OCA approved 97 requests, and one request was withdrawn.

Between June and September 18, a total of 30 jury trials were conducted where the jury was qualified. The outcome of those jury selections is listed below:

- twenty-seven reached a verdict;
- one resulted in a mistrial;
- two resulted in a plea/settled after the jury was qualified.

Of the other jury proceedings that have been approved to proceed:

- twenty-two were continued;
- fourteen settled or pled before trial; and
- thirty are scheduled to occur between now and the end of September.

It should be noted that during the last fiscal year, Texas courts tried an average of 186 jury trials per week. Jury trials represented 0.11% of all dispositions, meaning that 99.89% of all cases were disposed in a method other than jury trial. The primary use of jury trials is in criminal cases involving jailable offenses (42%). Last fiscal year, an average of 78 jury trials were conducted each week in these cases, meaning that Texas courts would typically have tried almost 2,300 jailable criminal cases since the jury trial suspension in March. Because of the inability to conduct widespread jury trials since March, a significant population of criminal defendants are awaiting trial, many of whom are still in jail. OCA saw the primary source of requests for jury trials coming from these cases, and OCA expects there to be a significant backlog of criminal jury trials in jailable criminal cases.