



TEXAS JUDICIAL COUNCIL

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DIRECTOR’S REPORT

FEBRUARY 2012

	<u>Page</u>
COMMITTEE ON COURT RESOURCES – SHARED SOLUTIONS	<u>2</u>
COMMITTEE ON JUVENILE JUSTICE	<u>8</u>
INDIGENT DEFENSE	<u>10</u>
TECHNOLOGY & DATA	<u>15</u>
COURT SERVICES	<u>20</u>
SPECIALTY COURTS	<u>25</u>
REGULATORY SERVICES	<u>25</u>
NATIONAL REPORT	<u>27</u>
LEGISLATIVE ISSUES	<u>28</u>



COMMITTEE ON COURT RESOURCES

The first Shared Solutions Summit was convened on January 8-10, 2012. This was a collaborative project started by Chief Justice Jefferson and the Texas Judicial Council, working in partnership with the Texas Conference of Urban Counties, with support (financial or in-kind) from the Court of Criminal Appeals, the Supreme Court Children's Commission, the Texas



Indigent Defense Commission, the Judicial Committee on Information Technology, the Texas Municipal Courts Education Center, the Texas Center for the Judiciary, the Texas Association of Counties, the Texas Access to Justice Commission, the National Center for State Courts, the National Council of Juvenile and Family Court Judges, and the State Justice Institute. It is a program that we anticipate offering every couple of years, to new groups of attendees.

The agenda was loosely based on annual workshops put on by the Task Force on Indigent Defense (now the TIDC). The idea was to convene local teams of judges, district attorneys, private lawyers, clerks, and other actors in five key program areas that the local courts operate: criminal courts, mental health courts, child protection courts, civil courts handling self-represented litigants, and limited jurisdiction courts handling juvenile Class C cases. Teams were asked to formulate action plans, and sketch out those ideas in the final session; notes from that session are reproduced below, and then selected excerpts from some more detailed actions plans are provided.

Anderson County Team – CPS

- Fast tracking cases
- Less adversarial – program that parents can participate in for three months
- Concerns about attorney expense and training
- Concern that different judges handle cases differently

Atascosa County Team – CPS

- Challenges with transition from cluster court
- Support from OCA for training on CPCMS
- Give judges updated Family Code
- Follow-up with judges on how it is working
- Monitor statistics

Bell County Team – SRL

- High volume of cases with large military population – want fast divorces
- 2010 – 45% divorces are pro se; 2011 – 52%

- Shared solutions from Lubbock
- Self-help video tailored to Bell County
- Make referrals to Texas Law Help automated forms – put in SRL resource room at courthouse
- Use students and volunteers to assist SRLs
- Explore having dedicated docket

Fannin County Team – MH

- Have one but want to enhance
- Make sure to get information from sheriff's office and that they (sheriff) give 72 hour notice
- Use forms
- Explore TCOOMI funding
- Observe Judge Hawk's court
- Use videoconferencing in criminal cases and tie into CPS cases

Hill County Team – MH

- Expand admonishment docket they already have
- Explore teaming with surrounding counties
- 40% of Hill County inmates have mental health issues
- Check with TLETS on incoming inmates – improve this
- Get better handle on 72-hour requirement

Temple/Lubbock/Dallas Area Municipal Teams – Juvenile

- Juvenile case manager – unique position – can be used by cities, counties, SDs
- Working with different entities/partners
- Utilize probation departments as a resource
- Similar software needs
- Look at stakeholders – use them

Medina/Real/Uvalde Counties Team

- Reduce pretrial detention rates
- Expand pretrial release services

- Implement regional magistration system to include recommended bond parameters and pretrial release conditions
- Expand into digital direct filing between law enforcement and district attorney
- Create criminal justice task force to include stakeholders to further refine and implement indigent defense pretrial services and cost saving measures
- Address jurisdictional issues
- Look at dollar savings and processes
- Start building case with players
- Approach foundations for funding

Tom Green County Team – CPS/SRL

CPS

- Large CPS caseloads
- Distribution of attorney caseload problematic with large area
- Implement parent advocate office

SRL

- Training on information vs. advice
- Look at Bell County forms and processes
- Tech Law School clinic help with pro ses in Tom Green

Wharton County Team – Criminal Justice

- Make system more efficient
- Reduce population
- Begin collecting data
- Take control of dockets
- Getting information and solutions with others

Williamson County Team – CPS

- Data was helpful
- Focus on getting cases thru system faster
- Re-tool timeline for cases
- Involve department to help get cases done faster
- Work on how long it takes to get kids adopted – convene roundtable

- Look at other data
- No good funding source for litigation – will work on pro bono and community organizations

Fannin County Team – Mental Health Court

- a. Communicate with Sheriff’s Office to ensure jail is performing the criminal history check at time of book-in so that any previous mental health clients are “flagged” and the proper court notified offender is in jail so that within the 72 hours offender incarcerated, court can take appropriate action to release offender with conditions to include mental health services.
- b. Frequency of meetings before the judge.
- c. Increase amount of time judge visits with offender during court appearance.
- d. Maintain number of participants in program to 12 – 18 for synergy.
- e. Scrutinize needs of offender with mental health illness without automatically excluding from consideration due to nature of offense.
- f. Continue to build resources in community to better service the mentally ill. This includes collaborating with current providers of services for the mentally ill.
- g. Continue to seek funding sources to augment local services, including appropriate number of probation officers, treatment services, training for team members, etc.

We have already increased the number of appearances before the judge and expanded the amount of time and detailed interview with the mental health court participant. Issues regarding the need for the Sheriff’s Office to perform a criminal history check in the jail during book-in was raised at a Criminal Justice Meeting, and will be addressed in a one-on-one meeting between the Sheriff and District Judge. Additionally, a Law Enforcement Roundtable meeting is being established between leaders of all law enforcement within the county, the District Attorney’s Office, the District Court. Other entities may be included as necessary for topics addressed, including Magistrates, Texoma Community Centers (formerly MHMR), Wardens from local TDC prison units, etc.

Regarding the number of probationers in the program, the team is more actively reviewing the current population of probationers who would be appropriate to include in our program. This review includes reviewing candidates with offenses which previously excluded the probationer from consideration. Additionally, a meeting with local bar members will include distribution of mental health court participant handbook and reminder to the defense bar to consider mental health court as an option for their clients when negotiating case.

Also need to ensure representative from District Attorney’s Office regularly attends team meetings.

Municipal Court Teams

In the last decade municipal and justice courts (local trial courts of limited jurisdiction) have become the primary venue for adjudicating criminal offenses committed by children. Such offenses primarily consist of Class C Misdemeanor status offenses (e.g., underage possession of alcohol, underage possession of tobacco, and failure to attend school) and disruptive behavior (e.g., disorderly conduct, disruption of class, disruption

of transportation). The escalating number of cases filed in local trial courts consumes substantial judicial resources and, debatably, stigmatizes youthful defendants, many of whom are already “at risk.” Unlike children in juvenile court, children in local trial courts rarely have the assistance of counsel and potentially face the imposition of high fines and permanent criminal records.

Delegations consisting primarily of municipal court personnel from three different regions of the state were invited to S3 by the Texas Municipal Courts Education Center (TMCEC) to formulate, focus and refine local plans and initiatives aimed at decreasing the number of children being criminally adjudicated in local trial courts.

In North Texas, Royce City is collaborating with Leadership Rockwall County to create a teen court program which will give minors between the ages of 10 and 17 a chance to avoid the imposition of a final conviction in municipal court. With the support of the public sector non-profits and municipal courts, Royce City is exploring the possibility of strategic partnerships with the City of Princeton and the City of Rowlett.

In Central Texas, the City of Temple and the Temple Municipal Court are similarly attempting to reduce recidivism among status offender and referrals to local trial courts through the implementation of a juvenile case manager (JCM) program. JCM programs are relatively new in Texas. JCM programs aim to reduce juvenile crime by serving as a case manager, compliance officer, and court clerk in cases pertaining to juveniles. The City of Temple and the Temple Municipal Court are working to implement a JCM program through collaboration with the Bell County Juvenile Probation Services and the Temple ISD.

In West Texas, the City of Lubbock and Lubbock County are negotiating the details of an interlocal agreement to operate a JCM program through the Texas Dispute Resolution Center in Lubbock. Perhaps one of the best examples of shared services featured at this year’s S3; this city-county partnership with the Dispute Resolution Center will provide JCM services to children facing criminal charges in justice courts in Lubbock County and in the Lubbock Municipal Court. Big Spring Municipal Court was also invited to explore the possibility of how such services can potentially be shared with rural municipal courts in the west Texas region.

Medina/Real/Uvalde County Team – Criminal Cases

1. Regional Magistration System is to be implemented to include recommended Bond parameters and pre-trial release conditions.
2. Expand Pre-Trial Release services.
3. Expand into digital direct filing between law enforcement and District Attorney.
4. Create a Criminal Justice Task Force to convene and further refine and implement indigent defense, pre-trial services and cost saving measures related thereto.

Wharton County Team – Criminal Cases

They held their first stakeholders meeting on February 3rd, which included the county judge, district judge, district attorney, county attorney, probation chief, defense attorney, jail superintendent, and court coordinator. They initially focused on data collection by reviewing the worksheet that we started for them prior to the summit and by making assignments to gather many of the remaining elements for future discussions. They also established a process for the district attorney to routinely share with the judges a jail list and the status of each inmate's case. The district judge, district attorney and probation chief have all been speaking to their counterparts in other areas to gather information on establishing a pre-trial release program. They have set their next meeting for March 30th.

Williamson County Team – CPS Cases

Following the Shared Solutions Summit, members of the Williamson County team determined the following action items would be pursued:

1. At each court setting, review with parents what specific impediments they may have to participating in the service plan. For example, if lack of transportation from a rural part of the county to another area to attend therapy appointments is an issue, collaborate with local nonprofits to determine if resources are available.
2. Department to provide accurate statistics for parents that reside in more rural areas of county to determine if it may be cost-effective to bring a therapist to a satellite office one or two days a week to provide counseling services.
3. At each hearing, the caseworker will be available to spend time with each parent and assist with scheduling intake appointments for services. The caseworker will provide to each parent a written resource form that includes names, addresses and phone numbers for each type of service provider referenced in the service plan and/or court orders.
4. Each court to provide space for caseworkers and attorneys to obtain forms or other documents needed for parents to obtain social services through different county agencies and nonprofit agencies. Consider having resource forms in District Clerk's office and the County law library. Often times the only contact a caseworker or attorney for the parent may have with them is at the court setting therefore having all resource forms available at the courthouse would significantly increase the parent's ability to obtain appropriate services.
5. Judges will discuss with local bar association the need for pro bono mediators to assist courts and litigants prior to final hearings in light of the reduction in funds available through the Department to pay for mediations.
6. Judges will schedule more frequent permanency hearings in an attempt to keep parties focused on permanency goals. Judges will utilize docket control orders in an attempt to set realistic expectations for permanency within 12 months.
7. Department will include specific information in the court report as to what family/fictive kinship have been contacted or specific attempts to contact them as potential placements for the child(ren).

8. Department will schedule more frequent roundtable meetings with caseworkers, supervisors, attorneys, judges and child placement agencies to review cases of child(ren) that are in permanent care of the department. The primary goals of the reviews are to find adoptive homes and reduce the amount of time the child(ren) are in foster care.
9. Caseworkers from conservatorship and adoption units will work more closely to transfer cases more punctually and reduce the amount of time it takes to consummate adoptions for children in adoptive placements.

JUVENILE JUSTICE COMMITTEE

The committee's charge is to "[a]ssess the impact of school discipline and school-based policing on referrals to the municipal, justice, and juvenile courts and identify judicial policies or initiatives that: work to reduce referrals without having a negative impact on school safety; limit recidivism; and preserve judicial resources for students who are in need of this type of intervention."¹

The committee had its first meeting on February 2² to hear and discuss presentations from Ryan Turner, Texas Municipal Courts Education Center; Dr. Tony Fabelo, Council of State Governments Justice Center; and Deborah Fowler, Texas Appleseed. Ryan presented the history leading up to the 1991 adoption by the Legislature of Chapter 37, Education Code, entitled "Discipline; Law and Order." That chapter provides for, among other things: school district codes of conduct; various disciplinary alternatives; serious student misconduct that triggers mandatory expulsion; employment of school security personnel and commissioned peace officers; and jurisdiction of municipal and justice of the peace courts to hear Class C "criminal cases involving violations of this subchapter or rules adopted under this subchapter."³

Now there are two juvenile justice systems in Texas. The traditional one under the Family Code is civil and involves right to counsel, statutory diversion from court, no fines, and confidential records. The Class C misdemeanor system under the Code of Criminal Procedure (Chapter 45) is criminal and does not give the juvenile a right to an appointed counsel, children appearing in open court with no diversion possibility or prosecutorial review to winnow cases, the potential for fines and court costs, and only conditional confidentiality of records.

In the last fiscal year the traditional system had 86,548 referrals to juvenile probation departments from schools, probation departments, municipal courts, and TYC and from the arrests of juveniles who were not warned and released, not handled in municipal or justice courts, and not diverted. There were 30,257 new petitions filed in district and county civil juvenile courts alleging delinquent conduct or conduct indicating a need for supervision. In the Class C system, there were 240,868 criminal cases filed against

¹ See <http://www.courts.state.tx.us/tjc/cte-active.asp> for committee charge, membership, and further resources.

² The meeting was webcast and can be accessed at: <http://stmarytxlaw.mediasite.com/mediasite/SilverlightPlayer/Default.aspx?peid=1133c5b9bf4844039005a720ef86e9a01d>,

³ Section 37.104, Education Code.

children in municipal and justice courts.⁴ Another 4,471 cases were referred to juvenile courts from municipal courts.⁵ Of the cases referred to juvenile probation departments, 5,286 were referred from schools (roughly 7% of all referrals to juvenile probation). Of the reported criminal cases filed in municipal and justice courts, 122,385 cases alleged a failure to attend school or other Education Code offense (roughly 51% of all non-traffic Class C misdemeanors against child filed in municipal and justice courts).

Dr. Fabelo presented an overview of “[Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement.](#)”

This was a major longitudinal study of all (almost one million) seventh-grade public students in Texas for three graduating classes, with a six-year analysis period. School discipline data was matched with juvenile justice system data, and the datasets were sufficiently large to enable multivariate analysis to isolate the impact of particular variables on the likelihood of different disciplinary actions. Major findings of the study include:

- Almost 60 percent of students were removed from their classes between seventh and twelfth grade; 15 percent of students had 11 or more suspensions or expulsions.
- Of about 85,000 annual referrals to juvenile probation, only about 6 percent came from schools.
- Less than 3 percent of the students who were suspended or expelled were for behavior for which state law mandates expulsion or removal.
- A student’s discretionary suspension or expulsion nearly tripled (2.85 times) the likelihood that the student would have contact with the juvenile justice system in the subsequent academic year.
- African-American students were more likely than Hispanic or white students to be suspended or expelled for rule violations when school officials had discretion as to how to respond, while the opposite was true for offenses in which state law mandate removal.

Deborah discussed the three reports she has written for Texas Appleseed, but in particular the first one listed here: “[Ticketing, Arrest & Use of Force in Schools,](#)” “[Texas’ School-to-Prison Pipeline – School Expulsion, The Path from Lockout to Dropout,](#)” and “[Texas’ School to Prison Pipeline, Dropout to Incarceration: The Impact of School Discipline.](#)”

She estimates (based on OCA data) that at least 275,000 non-traffic tickets are issued to juveniles in Texas each year. The growth in ticketing has coincided with the growth in school-based policing, an unintended consequence as districts strive to ensure that their students and staff are safe. Her study of ticketing was conducted by surveying all school districts that have their own police departments; only 26 districts had any responsive data, and only 22 could provide data for a two- to five-year period, but those districts

⁴ This number includes all reported non-traffic cases filed in municipal courts (36,047 non-driving alcoholic beverage code cases; 2,595 DUI cases; 7,717 Health and Safety Code cases; 18,252 failure to attend school cases; 9,315 Education Code cases; and 72,127 other non-traffic cases) and just failure to attend school cases (94,818) filed in justice courts. There is no reported breakdown of other cases filed against juveniles from justice courts.

⁵ Similar figures are not available from justice courts.

represented almost a quarter of Texas students. She found that most tickets are for Disruption of Class or Transportation, Disorderly Conduct, and curfew violations (leaving campus without permission). She also found that African-American and special education students are quite disproportionately represented in ticketing.

There followed a lively discussion, with some members taking issue with the research, some expressing concern about racial disproportionality, some expressing concern about criminal ticketing of juveniles, and some voicing concern that the group not lose sight of the school personnel and students (and their parents) who want to be safe in schools. The group identified several speakers and topics to consider for the next meeting, probably at the end of March:

- San Antonio ISD program – Chief Jeff Ward
- Educator preparation on behavior management – Carolyn Counce
- Positive Behavior Intervention Supports – Dr. Brenda Scheuermann
- Addressing Systemic Disproportionality – Joyce James

INDIGENT DEFENSE

Last TFID meeting held August 25

The Task Force on Indigent Defense held its final meeting on August 25th and celebrated the 10-year anniversary of the Texas Fair Defense Act by hosting a reception following the meeting and to also thank all those who have worked on the mission to improve indigent defense in Texas. At its final meeting, the Task Force voted to award more than \$8.1 million dollars through several funding programs to help Texas counties improve their indigent defense efforts. This included increasing the Equalization Disbursements by \$3 million to \$11 million total. Following the 2011 Legislative Session, the Commission took action to ensure that all funds appropriated for indigent defense would be used for indigent defense. Hence, additional funds were moved into the Formula Grant budget. This action was required because carry-forward provisions were removed from the Commission's appropriation during session. Commission funds come from a number of sources including court cost collections; many of the deposits arrive late in the fiscal year and, in previous years, the Commission has rolled these funds forward. Without a carry-forward provision, however, the Commission voted to move all unobligated or unexpended funds (about \$2 million) into the Formula Grant Program. This made the funds available for those counties who experienced the greatest increases in indigent defense expenditures last year and resulted in 211 Texas counties receiving an increase in their final Formula Grant payments for FY2011. The additional Formula Grant funds will help to offset increased costs, which have averaged a 124% increase over FY2001 indigent defense expenditures.

In addition to the Formula Grant and Equalization increases, the Commission voted to award about \$650,000 to six counties to help offset extraordinary indigent defense costs. Counties awarded extraordinary funding include: Burleson, Cass, Harrison, Palo Pinto, Ward, and Wood. Cass County Judge Charles McMichael stated, "I am proud of the work the [Commission] does in helping poor rural counties in bearing indigent defense costs. It really makes a difference."

Additional improvements to indigent defense processes will be made through Discretionary Grant programs in Bell and Hidalgo Counties. Discretionary Grants are competitive grants that help counties implement new and innovative programs to help improve the quality of indigent defense in Texas counties. The new programs began on October 1, 2011.

The specific programs approved for new funding were:

Bell County: Awarded \$233,200 to create a Mental Health Defense Campaign that would train attorneys specialized to represent defendants with mental health issues, provide social worker support to those attorneys, and develop specialized case management software.

Hidalgo County: Awarded \$243,033 to create a juvenile division in the existing Hidalgo County Public Defender Office. The division will employ two new attorneys and a social worker to assist in case management.

The Commission has distributed funds since 2002 to help counties meet the statutory and constitutional requirements to provide access to counsel for the poor.

Symposium/Workshop Oct. 27-28: [videos online to view](#)

In October, the Texas Indigent Defense Commission and Senator Rodney Ellis joined with Texas judicial, county, and bar leaders and experts from across the country to celebrate the significant strides Texas has made since the passage of the Fair Defense Act a decade ago. Measurable improvements have been documented in the timing of appointment, methods of appointment, compensation for appointment, and level of State funding over the last ten years. Although much has been accomplished, all speakers illuminated the importance of the work that lies ahead. Senator Ellis, who authored the Fair Defense Act, and Dr. Tony Fabelo combined forces to set the tone for the symposium by delivering a lively history lesson on the evolution of the right to counsel, as well as thoughts for an agenda as we look to the future. Next, author Amy Bach shared how she came to write her book *Ordinary Injustice* and how that work led to her current criminal justice improvement project called Measures for Justice. With this new non-profit organization Bach “seeks to design, create and deploy a broad-based Justice Index to objectively assess the performance of local criminal trial courts throughout the United States and enable continuous improvement in the ways fundamental legal services are delivered nationally.”

Following Bach, Bell County Judge Jon Burrows moderated a panel discussion with other Bell County officials on the development of the innovative new Bell indigent defense web portal. By streamlining appointments and payments and documenting how well the county and its court appointed attorneys are satisfying the requirements of the Fair Defense Act, the web-based system adds transparency that can lead to further system improvements.

Next, Alex Bunin highlighted the new Harris County Public Defender Office and Jessica Tyler discussed how the office is going to serve as a national learning site. Finishing out the morning section, President-Elect of the State Bar, Buck Files gave an inspirational presentation on the meaning of being a defense lawyer. After lunch, Jeff Blackburn, Andrea Marsh, and Chief Justice Brian Quinn discussed the State Bar’s new guidelines

and how to get court appointed lawyers to do better. Tim Murray gave an excellent presentation on the high costs of shoddy pre-trial practices. John Gross provided a thorough summary of the indigent defense-related lawsuits pending in a number of states around the country.

Later in the day, we heard from Norm Lefstein, Professor of Law and Dean Emeritus of the Indiana University School of Law—Indianapolis. He provided a preview to his new book published by the ABA, [Securing Reasonable Caseloads: Ethics and Law in Public Defense](#). This is no ordinary book. “For all those committed to justice, which I hope includes all Americans, this is a vital book by the nation’s leading scholar on indigent defense systems. . . His book is truly the first of its kind in a sorely understudied field.” (Quote by William S. Sessions in the Foreword of the book.) [Links to all presentations](#) are available on the Commission’s website—I encourage you to watch them all—you will not be disappointed!

New office space/move: took place Thanksgiving week

Staff knew of the upcoming move months in advance but had to wait several months on carpet, new cubicle components to reconfigure existing cubes for the new space (recycling/utilizing what we had). Unexpectedly, a month ahead of schedule, Texas Correctional Industries (TCI) called to say that the components were ready to be delivered (and would be arriving in three days!). Staff scrambled to get the office packed, relocated, data and phone lines put in to get 10 new work spaces furnished and up and running within a matter of days and just a few days before the first board meeting of TIDC was to take place on December 1. OCA’s IT department assisted in getting computers and printers installed. The new office space is much more spacious and staff appreciates the State Prosecuting Attorney (SPA) for graciously making room and sharing its space. A former library is being converted into a conference room which is currently being designed. Terri Tuttle has been the project manager over this working with OCA, Texas Facilities Commission, TCI and SPA. The new space is located on the 2nd floor of the Price Daniel Building adjacent to the Supreme Court Building.

Indigent Defense Expenses Level Off in FY11

Statewide indigent defense expenses increased less than two percent in FY2011, showing a leveling of overall expenses. The main reason for the stabilization seems to be tied to an overall drop in cases added to local dockets rather than a decrease in appointment rates. According to the annual Indigent Defense Expenditure Reports (IDER) submitted to the Commission on November 1, Texas counties spent more than \$198 million on indigent defense expenses in FY2011, compared to an FY2010 total of slightly more than \$195 million. Spending between FY2009 and FY2010 increased by 4.38%. Another important fiscal consideration revealed by the IDERs is that counties collected over \$11.7 million from defendants in attorney fee recoupment. This represents about a 40% increase in the last five years.

Discretionary Grant RFA issued and impact of such grants

TIDC released the FY2013 Discretionary Grant Request for Applications (RFA) in December. Discretionary grants are awarded on a competitive basis to help local government create and develop new programs or processes that improve the delivery of indigent defense services. Priority programs are direct services to indigent defendants and establishment of public defender offices, including regional, mental health and juvenile, as well as programs in rural or mid-sized counties. The Discretionary Grant application consists of a two-step process: an Intent to Submit Application and a full application. The Intent to Submit Application outlines the county's general ideal for a grant program and is due February 24, 2012. Full applications provide greater detail regarding the counties current challenges and proposed programs to address those challenges. The final application is due April 27, 2012. Commission staff members are available to assist counties in every stage of the process from the first step (needs assessments, development of programmatic solutions) to the actual application. Staff can help counties conduct stakeholder meetings and provide information on successful models to help guide new program applications. Additional information about the Discretionary Grant Program is available on the TIDC website (see the [Request for Applications here](#)).

A growing emphasis has also been placed on programs that put into place an evaluation plan that can determine the impact of the program on the county. Program evaluations help the Commission set priorities for funding each year and provide valuable feedback to counties who are awarded Discretionary Grants. This year the RFA includes language that asks counties to obtain cooperation agreements from county offices or departments that collect, store, and/or maintain data that will be essential to the impact evaluation.

Recent Publications:

- [FY11 Annual and Expenditure Report](#)
- Bethke articles published in Texas Center for the Judiciary *In Chambers*, Part one [“Ten Things You Need to Know about the Texas Fair Defense law”](#) and Part two [“Changes to the Texas Fair Defense Law and the New Attorney Performance Guidelines”](#)
- [Fair Defense Law: A Primer for Texas Officials](#)
- 2 e-newsletters: September and December ([link to all newsletters](#))
- [2011 Fair Defense Law](#) compiling relevant indigent defense related statutes, commentary and Commission rules
- [Materials regarding Attorney Fee Recoupment Procedures/Orders](#)

At the December 1st meeting, the Commission promulgated a set of materials to assist courts in recouping from eligible defendants the costs of providing them legal representation. These were developed with input from a diverse group of stakeholders working towards the goals of protecting defendants who do not have the ability to pay from invalid reimbursement orders while also assisting county collection efforts where defendants are able to pay back some or all of the costs of representation. The issue arose because of a large amount of recent litigation in the appellate courts beginning with the Court of Criminal Appeals decision in *Mayer v. State* where the court found “[T]he defendant’s financial resources and ability to pay are explicit critical elements in the trial court’s determination of the

propriety of ordering reimbursement of costs and fees.” Mayer v. State, 309 S.W.3d 552, 556 (Tex. Crim. App. 2010). The materials include discussion about the case law, recommendations on effective procedures, and sample court orders that may be customized to fit your jurisdictions circumstances.

Recent Presentations:

- Shared Solutions Summit, Office of Court Administration/Conference of Urban Counties held Jan. 8-10, Executive Director presents on **Containing the Costs of Criminal Justice**
- Texas Tech Conference re Judicial Update on Indigent Appointments, Lubbock, Jan. 13; Executive Director presents on **Benefits of Appointing Counsel regarding the Cap Rock Defender Program**
- **Texas Association of County Auditors**, Jan 13, Grants Administrator, Fiscal Monitor present
- **Criminal Defense Lawyers Association Meeting**, Amarillo, Deputy Director presents Indigent Defense Update to Panhandle Criminal Defense Lawyers Association, Nov. 3
- Texas Municipal Courts Education Center Regional Judges’ Seminar, Tyler, Oct. 25; Executive Director presented on **Art. 15.17 Hearings**

Lubbock Special Needs Defender Office recognized

This summer, The Texas Association of Counties (TAC) presented its Innovation Award to the Lubbock County Special Needs Defenders’ Office. The September/October 2011 edition of County (TAC’s magazine) featured the work of the LSNDO as a part of its coverage of the 2011 Best Practices Awards. The program was funded with grant awards by the Commission. There is also a [video on YouTube](#) about the program. People with mental illness benefit from specialized representation paired with case management services. Research has shown counties and courts also benefit with advantages of reduced recidivism and reduced court appearances (see study here). The LSNDO developed Texas’ first Managed Assigned Counsel System. The process for Managed Assigned Counsel systems is now codified in Texas Code of Criminal Procedure Article 26.047. The program provides: 1) close upfront screening and assessment to identify offenders shortly after arrest; 2) close to immediate contact with the client once identified as a special needs offender; 3) special team approach between attorneys and case managers; 4) cooperative strategies in resolving complex problems for the county justice system and the special needs individuals.

Harris County PDO began taking noncapital felonies in October and juvenile in December

The felony trial division began taking noncapital felonies on October 1. The division is staffed by a chief (Mark Hochglaube) and 12 assistant public defenders. The cases are assigned to the Public Defender on the wheel and caseloads are consistent with ABA standards. The juvenile division began taking cases on December 1, 2011. The division will consist of a chief and 8 assistant public defenders.

Burnet County hires Chief PD for new PDO

Burnet County began the first year of a Multi-Year Discretionary Grant from the Commission to operate the Burnet County Public Defender Office. The office will provide representation in criminal misdemeanor and felony, as well as juvenile, cases for those defendants who cannot afford to retain private counsel. The County developed an oversight board for the program, and the Chief Defender, Michelle Moore, assumed her new position on November 4. Moore is a 16-year veteran of the Dallas County Public Defender Office and served as a DNA specialist with the office starting in 2007. The Commission will continue to work with Burnet County to help measure the impact of the program on the county of the lifetime of the grant.

Ongoing:

- Harris PDO study; Executive Director, numerous meetings in Harris County
- Expansion of Regional Capital PDO

Other activities:

- National Association of Criminal Defense Lawyers (NACDL) 10th Annual State Criminal Justice Network Conference (SCJNC), Denver, Executive Director Presents on “Responses to Attacks on Indigent Defense” August, 2011
- 2011 Center for the Advancement of Leadership Skills (CALs) Myrtle Beach, South Carolina Executive Director was awarded a scholarship to attend the 2011 Center for the Advancement of Leadership Skills (CALs). The Center is an intensive three and one-half day program of leadership and policy training. (sept 24-28)
- NLADA Centennial Conference (also ABA IDAG) Executive Director and Deputy Director (who received a scholarship) to attend NLADA conference and ABA IDAG meeting on 12/10 (dec 7-10)

TECHNOLOGY & DATA

Information Services Division

OCA’s Information Services Division (ISD) is instructed by the Legislature to directly provide staff and information technology equipment and services to the following entities:

- Supreme Court;
- Court of Criminal Appeals;
- The 14 courts of appeals;
- The State Law Library;
- The State Prosecuting Attorney's Office;
- The Office of Capital Writs; and
- State Commission on Judicial Conduct.

The services provided by ISD to the entities mentioned above include the following:

Routine desktop computer support;
Maintenance of the local networks, wide area network, email, and Internet connections;
Ongoing updates of security safeguards;
Management of the computer servers;
Management of enterprise backups and offsite archiving; and,
Provision of unique court application software.

Projects

Electronic Filing

The current statewide electronic filing vendor (NIC USA, Inc.) notified OCA that upon the completion of the current agreement (through 8/31/2012) they would not continue under the same terms. Based on responses received from an earlier Request for Information, OCA (with input from the Judicial Committee on Information Technology) has assembled a Request for Offer (RFO) to solicit offers for a statewide electronic filing system. Included is a new statewide access to court records system (much like the Federal PACER system). OCA will constitute a committee to evaluate the offers and make a recommendation to the Supreme Court on a vendor and funding model to proceed.

Due to the short timeline, OCA has also engaged the Department of Information Resources (DIR) to work with the existing vendor to extend the current agreement for up to 18 months beyond its expiration this August. DIR and NIC have committed to work with OCA to ensure that electronic filing continues beyond the end of the agreement until a permanent solution is found.

The Supreme Court, the 1st, 3rd, 4th, 5th, 6th, 11th and 14th Court of Appeals all accept electronic filings from attorneys, clerks, and court reporters. In 2011, the appellate courts received 9,300 filings electronically.

In September 2011, the Supreme Court mandated that all filings to the court be done electronically. On January 1st, 2012, the 14th Court of Appeals mandated that all civil filings be done electronically. Several of the other appellate courts that accept electronic filings are also exploring the mandate electronic filing for civil cases.

At the trial court level, there were 489,373 electronic filings in 2011, an increase of 7.1% over the previous year.

Texas Appeals Management and E-filing System (TAMES)

In September of 2011, OCA deployed TAMES to the 14th Court of Appeals (Houston). The court is actively using the case management functions and is expanding the system's opinion circulation component. OCA staff is working closely with the Supreme Court to complete the conferencing functions that apply only to the court. Once completed, OCA will deploy TAMES to the Supreme Court and then to the other 13 courts of appeals and the Court of Criminal Appeals.

In preparation, OCA staff have deployed a "virtual server" with TAMES encapsulated into the 13 remaining Courts of Appeals. Staff are now working to do preliminary data

conversions from the existing case management system to ensure that all data will be carried forward to TAMES.

TAMES integrates several appellate court functions to maximize the efficiency of operations. In preparation for TAMES, all appellate courts are encouraged to begin the process of scanning paper documents and accepting electronic filings from attorneys, clerks and court reporters. Many of the Courts of Appeals scan inbound filings and attach them electronically to their case management system today.

OCA staff continues to work with appellate courts not currently engaged in electronic filing and/or document scanning to ensure a smooth transition once TAMES goes into production in their court.

CIP Technology (formerly TexDECK)

OCA continues to work with the Permanent Judicial Commission for Children, Youth and Families to improve IT systems for child protection courts. At the February 10th Commission meeting, OCA proposed (and was given approval) to hire two state staff to support the Children Commission's technology efforts. This change reduces the amount of money spent on technology resources by almost 50%. This change also provides the Commission with greater flexibility as it relates to IT projects. Priorities can be revised by commission staff as needed so that CIP Technology staff are always in a position to further the Commission's goals.

OCA is currently working on the final enhancement release of CPCMS. Additionally, OCA is starting to offer CPCMS at no cost to counties as a hosted solution. Three counties have already started the service and several others have expressed interest.

OCA completed a pilot video conferencing project that allows more children to participate in their hearings despite long distances between the child and the court. The next phase of the project will expand services to Dallas, Tarrant, Harris and Bexar county courts as well as group homes that have sufficient Internet connectivity to support video conferencing. The system would ultimately allow a multitude of video conference endpoints (including iPhones, Android phones, Macs and PCs) to conference through an OCA supported video conferencing bridge.

Judicial Data Management Rewrite

In support of the Judicial Council's decision to update the reporting categories for case statistics from trial courts, OCA has completed updates to information systems to implement the revised categories starting with the September, 2010 reporting period.

Last May, the contractor (Buchanan and Associates) successfully launched phase 1 of the project (District Courts and County Courts). Phase 2 (Justice of the Peace and Municipal Courts and system reports) was successfully launched in October 2011.

Judicial Emergency Data Infrastructure (JEDI)

In order to provide continued availability of critical computing resources to the appellate courts after a disaster, OCA installed secondary computer servers at the Austin location to provide a backup (hot site) for appellate courts located outside of Austin. These remote servers continually receive data updates from the primary servers at the court locations and keep the remote servers only a few seconds behind the primary servers. These

secondary, continually-updated, remote servers constitute a “hot site,” a server site that is always ready (hence “hot”) to take over the function of the primary site in case it goes offline. This advanced capability allows appellate court personnel to work from home or other remote locations in the event the court is closed due to hurricane or other type of outage or disaster.

The Austin data center currently provides secondary services to the appellate courts located outside of the Austin area. This data center was completed last summer and all appellate courts outside of Austin are currently synchronizing with the Austin data center.

OCA staff continues to work with the Waco data center to synchronize the courts and judicial agencies within the Austin area to the Waco data center. We expect to begin our synchronization efforts during this spring.

Growing Needs for Information Technology

Use of information technology is growing in all sectors of the American workplace, and this applies equally to courts. Apart from the major projects noted above, the OCA information technology professionals also lend their support to many less-visible, incremental IT needs. Over time, judicial stakeholders are becoming more comfortable with technology advances. OCA staff are working to ensure that secure, efficient solutions are in place to allow for mobile devices (iOS devices and Android devices) as well as video conference and social media (Facebook, Twitter, LinkedIn).

OCA continues to provide basic staffing and research services to the Judicial Committee on Information Technology (JCIT). OCA’s chief information officer has continued OCA’s relationships with the national Court Information Technology Officers Consortium (CITOC) as well as Conference of Urban Counties (CUC) and the Texas Association of Counties (TAC). OCA also maintains compliance with the Texas Administrative Code with regards to information technology security and accessibility.

Data Collection

Reports

- Produced the biennial Report on Judicial Salaries and Turnover (<http://www.courts.state.tx.us/pubs/jud-turnover-reports.asp>);
- Produced a summary of security incident reports received from the trial courts for FY 2011 (<http://www.courts.state.tx.us/oca/security-incidents.asp>); and
- Developed and posted most of the Texas Judicial System Annual Report documents for FY 2011 at <http://www.courts.state.tx.us/pubs/AR2011/toc.htm>. Information for the county-level and district courts is currently being processed.

Implementation of New District and County Court Monthly Case Activity Reports

OCA has continued to engage in numerous activities to facilitate the implementation of the new reports, which were effective September 1, 2010:

- Spent a considerable amount of time providing technical assistance to clerks and case management software vendors or county information technology staff since the new Court Activity Reporting and Directory System went live in May 2011;

- Made a presentation at the Region 8 meeting of the County and District Clerks' Association in Eagle Pass, and at the V.G. Young Institute's School for County and District Clerks in College Station; and
- Made a presentation on Judicial Council monthly probate and mental health reports, Supreme Court appointments and fees reports, and NICS reporting at the Texas College of Probate Judges' meeting in San Antonio.

Implementation of New Justice and Municipal Court Monthly Case Activity Reports

OCA has continued to engage in numerous activities to facilitate the implementation of the new reports, which were effective September 1, 2011:

- Spent a very considerable amount of time working with the vendor producing the new reporting system to document requirements, answer questions, and review and test the vendor's products;
- Updated the reporting instructions and frequently asked questions with additional information based on questions received from the courts;
- Made 9 presentations at seminars through the Texas Municipal Courts Education Center, Texas Justice Court Training Center and Gulf Coast Chapter of the Municipal Court Clerks' Association;
- Made 1 webinar presentation through the Texas Municipal Courts Education Center; and
- Provided other frequent technical assistance to clerks and case management software vendors or local information technology staff.

Online Reporting of Appointments and Fees

All counties were asked to begin reporting online with their September 2009 report, if not before. For FY 2012 to date, out of the 10 largest counties:

- Harris, Dallas, Denton, Fort Bend, Harris, Hidalgo and Tarrant counties appear to be fully reporting.
- Bexar district and probate courts reporting. **No reports received from county courts at law.**
- Travis district courts and probate court reporting. **No reports received from county courts at law.**
- Collin probate courts reporting. A few reports received from county courts at law. **No reports received from Collin district courts.**
- El Paso probate courts reporting. **No reports received from El Paso district courts and county courts at law.**

Reports are posted for public view on OCA's [Appointment and Fees](#) website and are updated on a monthly basis.

National Instant Criminal Background Check System (NICS) Improvements Act

OCA is the representative for the Texas judicial branch for the federal NICS Improvement Act and must complete an annual estimate of court records (due each May) related to provisions of the NICS Improvement Act. [The NICS Act requires states to make electronically available to the U.S. Attorney General (for use in background checks

performed by the FBI) records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm.]

OCA has also taken a leading role in providing assistance to district and county clerks and other parties on the implementation of HB 3352, which passed in 2009 and requires clerks to report information to the Crime Justice Information System (CJIS) site maintained by the Texas Department of Public Safety on individuals who have been found incompetent to handle their own affairs, thus ineligible to purchase a handgun. OCA has engaged in numerous activities to provide assistance to the district and county clerks:

- Continued to provide frequent assistance to clerks by answering questions over the phone and by email; and
- Received a federal grant in the amount of \$545,414, under the FY 2011 NICS Act Record Improvement Program, to hire OCA staff to assist the district and county clerks in researching their case files for all eligible historical mental health and other cases required to be entered into NICS. The grant project is called the “Texas NICS Record Improvement Project” The grant period is October 1, 2011 through September 31, 2012. Since receiving the grant, OCA has:
 - Hired and trained the NICS project staff (project supervisor, 5 project clerks, and one half-time accounting technician);
 - Created 5 project regions and assigned a project clerk to each region (Amarillo, Austin, Corpus Christi, Dallas/Tyler, and Houston);
 - Provided records research assistance to the county clerk or district clerk in Bell, Caldwell, Guadalupe, Hardin, Nueces, Randall, and Travis counties; and
 - Established a NICS Record Improvement Task Force (a grant requirement), which met on November 1, 2011 and December 9, 2011.

COURT SERVICES

Self-Represented Litigants

As reported in April and August, we partnered with Lone Star Legal Aid on an application for a \$71,000 Technology Initiative Grant (TIG) from the Legal Services Corporation. We heard in September that we got the grant and have just begun to work on the project. The project, *Texas Court Help*, also includes Texas Legal Services Center (TLSC) through www.TexasLawHelp.org. The primary goal of the project is to enhance and improve low-income self-represented litigants’ access to the court system, with a special emphasis on access for limited English proficient (LEP) populations. With this project, a virtual statewide self-help center will be created using both Texas Law Help and OCA’s website, Texas Courts Online (www.txcourts.gov). Texas Law Help is an existing website that provides legal resources and legal education materials. Texas Courts Online is the portal to Texas judicial information with a broad range of information about the entire court system. Content will be created specifically for the virtual self-help center, including information about how to find an attorney or get help at a legal clinic, as

well as step-by-step guides about basic procedures such as filing a lawsuit, service of process, preparing for court, and courtroom conduct. Guides will also be created for specific topics, such as protective orders, affidavits of inability to pay, and mediation. The guides will be produced in plain language in English and Spanish. For the most popular content, videos will be created to accompany the guides.

We have also continued to work with our SRL partners, including the Access to Justice Commission, Access to Justice Foundation, and Texas Legal Services Center, on presentations to justice system stakeholders about some of the strategies that are available to help courts deal more effectively with SRLs. Since the last Judicial Council meeting, we have made presentations to regional district and county clerk meetings, the annual clerk school held at Texas A & M, and the Shared Solutions Summit hosted by the Judicial Council and OCA in January. We have plans to address more clerk meetings, the Texas Center for the Judiciary's annual judicial conference in September, and the Texas Association of Court Administrators conference in October.

OCA has participated on the Supreme Court's Uniform Forms Task Force, which has generated much controversy, and the director of OCA has now been targeted in particular. The Task Force was created by the Supreme Court to develop standard forms for simple cases which, with Court approval, courts will be required to accept. Some of the institutional entities involved in the current controversy are the Texas Supreme Court, the Supreme Court Advisory Committee, the Uniform Forms Task Force, the Board of Directors of the State Bar of Texas, the State Bar of Texas' "Solutions 2012" task force, the Council of the Family Law Section of the State Bar of Texas, the Texas Family Law Foundation, the Texas Access to Justice Commission, and the Office of Court Administration. Much of the material relevant to this issue is collected on the Access to Justice Commission's website at <http://www.texasatj.org/SRL>.

Domestic Violence Resources Program

OCA's Domestic Violence Resources Program consists of the Domestic Violence Resource Attorney and the Texas Remote Interpreter Project.

Domestic Violence Resource Attorney (DVRA)

The DVRA engaged in the following activities:

- Was a presenter at four webinars on the Texas Remote Interpreter Project and judicial ethics in selecting an interpreter, which were conducted in November and December 2011;
- Was a presenter at two webinars, held in December 2011 and February 2012, for legal aid groups on the Texas Remote Interpreter Project and attorney ethical issues when the attorney interprets for the courts;
- In December 2011, prepared and distributed a memorandum to all courts handling protective orders regarding the need to increase the entry of protective orders into the statewide law enforcement database and answered inquiries from judges, court staff, and clerks regarding that issue;
- Completed revisions of the *Texas Family Violence Benchbook* to incorporate changes made in the last legislative session;

- Helped obtain scholarships for two persons of a three-person team (a district court judge, a victim's advocate, and the DVRA) to attend a 2.5 day training sponsored by the U.S. Department of Justice's Office on Violence Against Women. At this training, the attendees learned how to develop a training curriculum for judges who wish to create a process for firearms surrender in their jurisdictions;
- Supervised the Texas Remote Interpreter Project;
- Participated in the Supreme Court's Protective Order Task Force's revision of the Protective Order Kit;
- Drafted articles on the new types of protective orders in the Texas Code of Criminal Procedure and on judicial ethics in the selection of court interpreters; these articles will be submitted for publication in the Texas Center for the Judiciary's *In Chambers* publication; and
- Prepared and distributed material (webpages, brochures, letters) on the TRIP program to interested groups, including judges, victim advocates, and legal counsel for parties in domestic violence cases.

Remote Interpreter Services in Domestic Violence Cases

In fall 2010, OCA received a three-year, \$300,000 grant from the U.S. Department of Justice Office on Violence Against Women, to hire two licensed Spanish court interpreters to provide interpretation services, via telephone or videoconferencing, to courts handling civil cases involving intimate partner violence. Limited grant funds are also available for non-Spanish language interpretation services from a private vendor. The focus of the grant is to improve access to and the quality of interpretation services in rural counties.

Twenty courts have now enrolled in the program. Five judges have used the service so far, and feedback has been positive. All five judges have said that they will use the Texas Remote Interpreter Project (TRIP) again.

In an effort to continue to promote the use of the TRIP services statewide, OCA:

- Hired a former County Court at Law Judge to assist in promoting TRIP. The judge:
 - Developed a promotional campaign to market TRIP to judges and court staff. In this campaign, the judge identified judges in different regions who handle family law protective order cases and invited those judges to attend a webinar on how to use TRIP. The webinar also included a segment on judicial ethics in selecting an interpreter. He obtained the Texas Center for the Judiciary's approval of an hour of continuing judicial education for webinar attendees. The four webinars were attended by a total of 12 judges and court staff.
 - Traveled to courthouses to discuss and demonstrate TRIP to judges and court coordinators;
 - Educated court coordinators about TRIP by making a presentation at the annual Texas Association for Court Administration (TACA) conference in fall 2011; and

- Arranged to have the speaker on domestic violence at the annual Judicial Conference in September 2011 include a segment on TRIP in her presentation.
- Made hundreds of calls to judges and court coordinators to offer TRIP interpretation and other language access resources (e.g., Spanish-English domestic violence glossary and protective order warnings translated into Spanish);
- Conducted two webinars on TRIP and attorney ethics relating to court interpreters, which were attended by legal aid attorneys;
- Was invited by the TACA Board of Directors to make a presentation on TRIP at TACA's annual conference, in October 2012;
- Contributed to an article on TRIP and other legal issues of interest to Spanish-speaking immigrants, which was published in the Austin-American Statesman's *Ahora sí* edition; and
- Prepared two articles on TRIP and other interpretation issues, one will be published in the January 2012 *TACA Journal* and the other will be submitted to the Texas Center for the Judiciary for publication in *In Chambers*.

Also, OCA worked on a variety of improvements to TRIP, including:

- Transitioning to a new, improved version of the video conferencing system used by TRIP, which cancels out echoes heard with the original version;
- Simplifying and standardizing data collection procedures through the online calendaring system used by TRIP;
- Testing technology that uses two phone lines to provide both simultaneous and consecutive interpretation during a single trial, greatly reducing the time required for the judge and parties present; and
- Researching commercial providers of telephonic interpretation in languages other than Spanish, and preparing a proposal for the state Department of Information Resources to allow use of a vendor that specializes in court interpretation.

Collection Improvement Program

Technical Support

OCA continued to assist counties and cities required to implement a collection improvement program (CIP) with implementing their respective programs. 77 of the 78 counties and cities required to implement a CIP have either fully or partially implemented a program. Harris County previously received a waiver.

The focus of the assistance provided to counties and cities by OCA's CIP technical support staff is to ensure their compliance with the critical components of the CIP. OCA's goal is to ensure each jurisdiction passes the statutorily-required compliance audit. [The compliance audits were formerly conducted by the Comptroller of Public Accounts (CPA). During the 2011 legislative session, responsibility for conducting the compliance audits was transferred to OCA.] The OCA CIP technical support staff works with each jurisdiction using a format designed to simulate the compliance audit to identify problem areas and recommend corrections prior to the official audit.

Through January 2012, OCA completed a total of 77 preliminary, simulated audits. If a jurisdiction does not “pass” the preliminary, simulated audit, OCA’s CIP technical support staff will work with the jurisdiction to make the necessary corrections. Of the 77 jurisdictions in which a preliminary, simulated audit has been conducted, 65 jurisdictions have ultimately “passed” their simulated audits or taken steps to ensure passage. OCA has forwarded those 77 simulated audit evaluations to the new OCA CIP audit section, so that they may be scheduled for an official compliance audit. The CPA previously audited 19 of the 77 jurisdictions, and all of those either passed their initial or subsequent audit.

Thirteen additional jurisdictions are required to implement CIPs based on the 2010 federal decennial census. They are the following cities: Denton, Frisco, Killeen, McKinney, and Midland; and the following counties: Cherokee, Hardin, Hood, Maverick, Rockwall, Rusk, Wise, and Van Zandt. To assist these counties and cities in preparing for the implementation of their mandatory programs, OCA’s CIP technical support staff have held meetings with officials from each jurisdiction and conducted CIP training workshops in Decatur, Denton, and Kountze.

OCA’s CIP technical support staff assisted the following five cities with developing and implementing voluntary CIPs: Baytown, Friendswood, Leon, Missouri City, and South Padre Island.

OCA’s CIP technical support staff conducted regional collections training workshops in Cleveland, Denton, and Wharton.

Audit

The 83rd Texas Legislature provided funding and authority for OCA to assume the audit duties that were previously assigned to the Comptroller. Management of this program is separate from management of the technical assistance program, to maintain independence of the auditing function.

OCA hired the manager for the CIP Audit department on October 17, 2011. In January and February of 2012, OCA completed its staffing of the audit department, hiring four auditors, a financial analyst, and an administrative assistant. The audit team is in the process of gaining an understanding of the requirements of the CIP and developing the audit process they will use in performing compliance reviews.

In addition, the auditors are developing a methodology for post-implementation collection rate reviews. Initially, the auditors will perform rate reviews on programs that have already passed a compliance review. Later, they will perform these reviews on programs that became mandatory due to the 2010 census. The financial analyst is becoming familiar with the CIP in order to review program financial data and offer assistance to counties and cities in developing cost-benefit analyses in support of their programs.

SPECIALTY COURTS PROGRAM

Child Protection Courts

In the first part of this fiscal year, the Child Protection Courts Attorney, Simi Denson, together with the OCA technical team redesigned the outcome measure reports from the Child Protection Case Management System (CPCMS) to more accurately reflect federal reporting guidelines and to provide more accessible output to the judges and coordinators in the child protection courts. The child protection courts' annual meeting in March will have a collaborative format focused on defining future goals for the CPC system and identifying promising case practices. The direction of the meeting will be informed both by CPCMS data and by data analyzed by Dr. Jane Burstain at the Center for Public Policy Priorities, whose initial analysis shows that the child protection courts are the top performers in the state for moving cases to permanency in a timely manner.

REGULATORY SERVICES

The Office of Court Administration currently supports three regulatory boards: [Court Reporters Certification Board](#), [Guardianship Certification Board](#) and [Process Server Review Board](#). Although each board's structure is unique, many regulatory practices and staff functions are common to all three. All three share the mission to protect and serve the public.

Board	Regulated Population (as of December 31, 2011)
CRCB	2599 individuals & 326 firms
GCB	359 individuals
PSRB	6,419 individuals

All Certification Division staff members for the three boards continue to meet biweekly, moving to monthly in February 2012, to review and discuss regulatory practices, to share information on each program's processes, and to streamline and standardize procedures and day-to-day operations. A Judicial Regulatory Assistant provides administrative support for all three boards.

In 2010 the PSRB submitted recommendations to the Supreme Court regarding introductory and advanced civil process course curriculum, and also recommendations for instructor qualifications. Last year the Court agreed that the Board could go forward with its first recommendation; devising a standard curriculum for process server education. The PSRB Curriculum Committee has met twice since September 2011 with plans to have a curriculum draft for the Board's consideration before the end of 2012.

Legislation was passed during the 82nd Legislative Regular and 1st Called Sessions authorizing the PSRB, with approval from the Court, to collect fees for process server certification and renewal of certification and also providing for the proration of fees for those who held a process server certification on the effective date of the Act (September 1, 2011). The Board met July 15, 2011, and approved its fee recommendation for the Court's consideration and the Court approved those fees September 1, 2011. Although

HB 1614 became effective September 1, 2011, the Board did not plan to begin collecting fees until January 1, 2012. This legislation also allows that these fees may be appropriated to the office to support the certification division.

The OCA workgroup delegated to establish the administrative processes for implementation of the collection of process server fees has been meeting weekly since late August and will continue to meet until mid-March. During that time, the workgroup considered using both TexasOnline and the Comptroller's office for collection of fees and ultimately decided the best option would be for OCA to collect the fees in-house. Procedures for in-house collection are currently in place.

OCA was able to employ an administrative FTE to assist with processing applications. That person is also responsible for tracking and reconciling certification fees within the program database. Additionally, two temporary employees were contracted to assist with the data entry of fees between December 2011 and February 2012. The total amount of certification and prorated fees collected as of February 6 is \$422,368.98.

Amendments to the Rules Governing Guardianship Certification were adopted by the Supreme Court of Texas in October 2011. The GCB considered further changes to the Rules at its November 2011 meeting. The changes were posted for public comment, and the comments were considered by the Board in January 2012. Additional changes have been proposed; in particular, changes to clarify procedures at each phase of a disciplinary action: Review Committee, Board, and formal hearing, if any. The changes are currently posted for public comment, and any comments will be considered by the Board at its April 2012 meeting.

In October 2011, the vendor who administers the guardianship certification exam contacted the program director regarding changes in its exam administration. In response to a study done by the General Accounting Office, the vendor will now require verification of education and employment. It will also conduct a criminal background check for all examinees, despite the fact that the GCB has its own, more stringent requirement. In addition, the vendor will move to exams being given at testing centers. These changes will result in increased costs to examinees. The vendor will not make changes to exam administration during the current contract period, which expires at the end of FY 2012, and the vendor has been approached about continuing under the current terms through FY 2013. Depending on the vendor's response, a Request for Proposals may be posted for a new exam contract for FY 2013 and beyond.

Effective September 1, 2011, the CRCB requires fingerprint submissions from court reporter renewal applicants to obtain state and national criminal histories electronically from DPS and the FBI. Previously, applicants self-reported their criminal histories. Once an applicant's fingerprints are on file, the Board will rely on automated notices from DPS of any arrests made for staff to follow up with the applicant on the disposition of a case. New applicants and renewal applicants who live out of state will still be required to submit their fingerprints for the purpose of conducting criminal history checks. The CRCB only considers convictions pursuant to §52.0211, Texas Government Code.

The revisions to the Figures section of the Uniform Format Manual (UFM) is close to completion following changes made to incorporate public comments received during the

public comment period ending October 5, 2011. The entire manual with updates is tentatively scheduled to be submitted to the Supreme Court for approval in FY 2012.

The new and modified database applications that allow court reporting firms to renew online and extends the online renewal window for court reporters from 4 months to 10 months (now ending on June 30th), became effective on September 1, 2011 and January 1, 2012, respectively.

Pursuant to new rules adopted by the Supreme Court on April 26, 2011, five members were appointed by the Board Chair to the new Review Panel in the Fall of 2011. The function of the Panel is to review new complaints, previously handled by the full Board, and make recommendations to the Board. The Panel may set a complaint for a formal hearing or recommend dismissal of a complaint considered to be without merit or not within the Board's jurisdiction.

The Board's Rules Committee is in the process of drafting proposed rules to address concerns related to contracting by court reporting firms. Drafts of proposed rules addressing legislation relating to military members and exams are also in process.

A request for an Attorney General's Opinion was filed by the Board's Chair in August 2011 relating to a conflict between the Texas Rules of Civil Procedure, Section 199.1, that allows for oral depositions to be recorded by non-stenographic means, and §52.021(f), Texas Government Code, that requires oral depositions be recorded by a certified shorthand reporter. A response is pending.

NATIONAL REPORT

As reported in August, the Conference of Chief Judges and COSCA opposed passage of proposed ABA standards for language access in the courts based on several concerns. After several months of negotiations with the ABA task force, substantial changes were made to the proposed standards that CCJ and COSCA believe address their major concerns. The following concerns were addressed in the revised standards:

1. The revised standards now apply to all adjudicatory bodies that deal with LEP persons, including federal courts, state courts, territorial courts, administrative tribunals at the federal, state, and local level, military courts and commissions, and tribal courts. The original standards applied only to state courts.
2. The revised standards recognize the fiscal challenges facing courts and provide that courts may assess or recoup costs in a manner that does not have a chilling effect on the rights of the LEP person to access the court system.
3. Language has been added limiting the applicability of the standards to those entities over which the courts have authority by recognizing requirements of separation of powers and limitations of state court authority over state agencies and others that function outside of the control of the courts.
4. One major issue was whether the standards are mandatory or aspirational. Language was added to make it clear that they are aspirational.

5. Language has been added to the revised standards acknowledging that the goal of fully maximizing access to justice cannot be met without the assistance of federal and state executive and legislative branches of government.
6. In the revised standards, requirements for the provision of interpreters by courts have been narrowed to proceedings “under or by the authority of a judicial officer.”

The proposed standards were adopted at the ABA’s midyear meeting in Toronto, February 16-18, 2012.

Throughout the negotiations, the Conferences affirmed their commitment to access to justice for LEP individuals and urged their members to take a leadership role to identify and address gaps in language access services in their jurisdictions. OCA’s LEP activities include the remote interpreter programs for domestic violence and child protection cases and the self-help website that is being developed with Legal Services Corporation grant funds.

In other news from COSCA and the Conference of Chief Justices:

- Regarding the Report of the COSCA Special Committee on the Consortium for Language Access in the Courts: the CCJ Midyear meeting, the Conference was provided the report with the Testing Assessment options. While the COSCA Board approved the assessment that would keep the base at \$5,000 and increase the per LEP rate at \$4.50, CCJ voted to approve the option that would raise the base to \$7,000 and retain the \$2.25 per LEP rate. There was a great deal of discussion regarding the two options. CCJ also approved the reorganization of the Consortium.
- The Language Access Advisory Committee has been established to begin work on the transition plan for the Consortium. The Committee is chaired by Pat Griffin and the members are Dan Becker, Sue Dosal, Steve Canterbury, Marla Moore, and Jeff Hall.
- CCJ acknowledged and commended the work of COSCA in producing the Policy Paper – Courts Are Not Revenue Centers. In particular, Carl Reynolds and the Policy & Liaison subcommittee members were commended for producing the substantive document that will be very useful as courts interact with legislative and executive bodies regarding budget issues. I can personally attest that my Chief Justice used the Policy Paper as a point of discussion in her budget presentation and provided copies to legislators as a point of reference.

LEGISLATIVE ISSUES

Interim Charges of Interest

Senate Jurisprudence

Examine the process for the creation of powers of attorney in Texas. Review methods to protect consumers, particularly older Texans and those with disabilities, from power of attorney abuse perpetrated by agents or co-agents. Examine provisions that can prevent, detect, and redress power of attorney abuse, including:

- ways to harmonize current Texas law with national standards for accountability, such as those embodied in the Uniform Power of Attorney Act;
- the inclusion of provisions that provide safeguards for the protection of the principal, the agent, and persons who are asked to rely on the agent's authority.

Study the laws governing the transfer of judges and exchange of benches in district courts. Review the jurisdiction and qualifications of special judges. Monitor the implementation of legislation by the Supreme Court, Office of Court Administration, and State Bar of Texas to make changes in the courts and make recommendations for any needed improvements.

Study the current array of criminal court costs and civil filing fees in light of the following suggested standards:

- levels of financial funding from general governmental revenue;
- whether fees and miscellaneous charges should be set by the Legislature with recommendations provided by the appropriate judicial body and reviewed periodically to determine if they should be adjusted;
- whether fees and miscellaneous charges should be waived under certain conditions;
- whether fees and miscellaneous charges are easy to understand, with fee schedules based on fixed or flat rates;
- whether fees are earmarked and controlled by the court or deposited into the account of the governmental source providing the court's funding.

Examine court processes in child protection cases, in Texas and in other jurisdictions, and identify any legislative changes that would create better outcomes for children. Specifically, consider whether the Family Code should be amended to:

- enhance the effectiveness and use of court-ordered and monitored family services to keep the child safe at home, and to increase the alternatives available to courts;
- broaden the focus of Status Hearings to promote the participation of extended family and potential relative caregivers in the hearings and assess the potential impact on the foster care system;
- require more frequent placement review hearings in some or all cases and whether this change would increase permanency and the timeliness of permanency for children who are in the managing conservatorship of the state indefinitely.

Study and make recommendations on the recent impact of foreign law, specifically Sharia law, in court decisions in cases arising under the Texas Family Code.

Senate Criminal Justice

Study and evaluate the long-term stability of the Crime Victims Compensation Fund (CVC) including: the original statutory purpose of the fund; the definition of "crime victim"; the current funding streams; the current ability to pay claims; and impact of

the fund on victim organizations supported by the fund. Make recommendations to increase collection rates for effective and efficient use of the fund and resources.

Study the law governing the Texas bail bond industry and determine local practices for the pretrial release of the accused. Determine the financial impact of various pretrial release options for the accused and the financial impact on counties for the failure to release pretrial.

Evaluate existing comprehensive diversion and treatment systems within the state, including mental health treatment, to determine cost effectiveness, reductions in correctional populations, impact on healthcare systems, and the overall number of people treated effectively. Examine federal, state and local collaborations and make recommendations for best practices to maximize effective use of funding and resources.

Conduct a comprehensive review of school discipline practices. Specifically, review and make recommendations on:

- The effectiveness of Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP) in reducing students' involvement in further disciplinary infractions and in promoting positive educational achievement;
- Disproportionate school discipline referrals, including suspension, expulsion and Class C misdemeanor citations;
- The issue of "Zero Tolerance" in secondary education school discipline, their use of alternative education campuses, and the barriers they create toward graduation. Also include the role that specialized school police departments play in these systems. Consider the impact on the juvenile justice system and the adult prison system;
- The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care;
- Evidence-based models used for addressing juvenile delinquency prevention that are targeted to non-adjudicated, but at-risk youth, in the school disciplinary system. (Joint with Senate Committee Education Committee)

House Corrections

Monitor the implementation of SB 653 (82R), which created the Texas Juvenile Justice Department. Make any recommendations needed to enhance the integration of the Texas Youth Commission and the Texas Juvenile Probation Commission.

Study ways to reduce the number of youth referred to the juvenile justice system. Consider the availability of mental health services, diversion and early intervention programs, and other prevention methods.

Study and make recommendations about issues related to the certification of juveniles as adults.

House Homeland Security & Public Safety

Examine the role of law enforcement personnel assigned to school district campuses and postsecondary education campuses and determine whether any changes to laws concerning the enforcement of safety and discipline are necessary. Determine whether additional training of law enforcement personnel assigned to school district and secondary education campuses is necessary.

House Judiciary & Civil Jurisprudence

Study the potential effects on victims of family and domestic violence in the judicial process if courts are allowed to issue agreed protective orders without a finding of violence.

House Licensing & Administrative Procedures

Study the feasibility of streamlining the process to obtain an occupational license. Consider consolidating all occupational licenses under one state agency and whether such a move would increase efficiency and effectiveness. Analyze the process being used in other states.

House Public Education

Review and make recommendations on the effectiveness of Disciplinary Alternative Education Programs (DAEPs) and Juvenile Justice Alternative Education Programs (JJAEPs) in reducing students' involvement in further disciplinary infractions. Determine the appropriate role of disciplinary alternative placements in promoting education achievement and how technology could be used to supplement education services. Consider appropriate placements in DAEPs or JJAEPs and consistent funding models for those programs. Consider options for counties without a JJAEP or inefficiently few placements in a JJAEP. Identify positive behavioral models that promote a learning environment for teachers to appropriately instruct while addressing any behavioral issues and enforcing student discipline.