



# Texas Judicial Council

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## **DIRECTOR'S REPORT**

JUNE 2012



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## 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.

The agenda was loosely based on the annual Task Force on Indigent Defense (now the TIDC) workshop. The idea was to convene local teams of judges, district attorneys, private lawyers, clerks, and other actors in five key program areas: criminal courts, mental health courts, child protection courts, civil courts handling self-represented litigants (SRL), and limited jurisdiction courts handling juvenile Class C cases. Notes from the teams' action plans presented in the final session, as well as selected excerpts from some more detailed actions plans, and updates on the implementation of the action plans during the period February 1 through April 30, 2012, are provided below.

### County Teams

#### Anderson County Team - CPS

##### Plan

- 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

##### Status Update

The Anderson County summit team continues to follow the plan that was outlined during the Summit with good results. During the last two meetings of Anderson County judges, Judge Brendan Doran, Anderson County Court at Law Judge, explained the summit team's plan and offered to assist in implementing it in the other courts. Judge Doran has received reports that the Department of Family and Protective Services and the lawyers are bringing the attitudes of cooperative problem solving that the summit team has been fostering into cases in the other courts with some improved results. The local Investigative Supervisor and new Conservatorship Supervisor are planning a local training and Judge Doran has asked that the District Attorney's office and local lawyers be included in the planning and implementation of the training.

## **Atascosa County Team - CPS**

### **Plan**

- 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

### **Status Update**

Atascosa County continues its transition from being served by a child protection specialty court to hearing child protection cases independently, at the county level. Judge Tom Lee began hearing cases in January, with administrative assistance from Court Coordinator DeAnn Belicek. Atascosa County became one of the first independent counties to utilize the child protection case management system (CPCMS) developed by OCA. In April, Tim Kennedy from OCA trained both Judge Lee and Ms. Belicek on CPCMS, and OCA has been available for ongoing technical support. In follow-ups after training, Judge Lee expressed satisfaction with the system and its ability to aid the judge by highlighting issues that might otherwise stall a case, but identified some concerns about whether the next judge assigned to the child protection docket would be able to maintain the data entry requirements without more administrative assistance. Judge Lee purchased a Family Code. By using CPCMS, Atascosa County now has access to a large number of outcome measure and workload reports, which allow the county to monitor its outcomes and statistics in real time.

## **Bell County Team - SRL**

### **Plan**

- 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

### **Status Update**

One of the most useful tools from the Summit was learning that TEXASLAWHELP.ORG was available for the deputy district clerks to use to refer SRLs. We are steadily referring SRL callers and walk-in SRL individuals to the website. The website has allowed us to provide assistance to the sometimes frustrated SRL. We also posted the TEXASLAWHELP.ORG website on the Bell County District Clerk website and in our SRL service area.

Our district courts do have a dedicated date and time for SRLs and a clinic for SRLs where Lone Star Legal Aid reviews the SRL documents before going to court.

In the future, we would like to provide a self-help video for SRLs much like Lubbock County.

### **Fannin County Team – Mental Health Court**

#### **Plan**

- 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.
- Frequency of meetings before the judge.
- Increase amount of time judge visits with offender during court appearance.
- Maintain number of participants in program to 12-18 for synergy.
- Scrutinize needs of offender with mental health illness without automatically excluding from consideration due to nature of offense.
- Continue to build resources in community to better service the mentally ill. This includes collaborating with current providers of services for the mentally ill.
- Continue to seek funding sources to augment local services, including appropriate number of probation officers, treatment services, training for team members, etc.

#### **Status Update**

- This issue was addressed at a Criminal Justice Committee meeting around March - April 2012 and the Sheriff indicated he would follow up on the issue. Judge Blake also met with Sheriff and Jail Warden on another occasion and learned the Jail Warden was aware of ability to check mental health history. Legal requirements were discussed, and the Sheriff and Jail Warden indicated they would follow-up on the issue. To date, additional information is not available and the issue needs to be pursued. Suggested additional action includes reducing to writing a protocol and plan of action that complies with law on this issue.
- The Judge has implemented twice monthly, in-court meetings with mental health court probationers. The increased visits have created more accountability for probationers, as well as more timely responses to probationer conduct, positive and negative. Anecdotally speaking, compliance with conditions of probation and success overall for probationers is improved.
- The Judge has implemented a practice of spending at least 3 minutes per probationer during court reports to receive updates directly from the probationer and interaction with the Court. This practice has been incorporated as a standard of conduct for Judge in Mental Health Court.
- The Mental Health Court Team continues to actively review prospective participants for the program. Previously, funding sources for mental health treatment excluded from consideration into the program probationers with assaultive offense or assaultive prior criminal record. Probation Department is

presently funded by CJAD only, and therefore no exclusion of assaultive offenders in program. Inclusion of probationers who may have some assaultive history will be considered on a case by case basis for appropriateness. These efforts should increase the number of program participants to 12-18. It should be noted that the only "case manager" handling the Mental Health Court docket is a probation officer with a full caseload of probationers.

- The Fannin County Mental Health Court Team learned of a couple of resources that were previously existing, but unknown to the team, including S.C.O.R.E program administered in Collin County but available to Fannin County. The program is not specific to Mentally Ill Probationers, but does not automatically exclude this category of probationer. S.C.O.R.E. does exclude offenders with assaultive criminal history.
- Secondly, D.A.P.A is an outreach program based out of Dallas County that provides counseling and treatment opportunities with a housing program component located in Harris County which will assist in placing homeless, mentally ill probationers from Fannin County. Limits on this program include exclusion of violent offenders, offenders with substance abuse problems, and sex offenders. Though the program will be limited in availability, it is a new option to be used in an appropriate situation.
- Cultivating a current community support, the Veteran's Administration recently assigned a Veterans Justice Outreach Specialist, Melissa Kale, LCSW to the Mental Health Court. Though a previous representative from the VA was involved, her time became limited to her volunteering time over lunch break. The new representative will transition into our Mental Health Court as part of her job duties.
- One request for funding is pending from Probation Department to CJAD specifically for Mental Health Court. A similar request has been submitted to CJAD three (3) previous years and denied. Probation reports that due to funding cuts, they anticipate CJAD will again deny the requested Mental Health Court funding.
- Investigation of funding through TCOG (Texoma Council of Governments) was completed by Probation Department without success. Any available grant opportunities were either expired, or too soon to meaningfully complete the grant request. Additionally, funding in the past through TCOG has been "competitive" as between Cooke, Fannin, and Grayson Counties. Because Grayson County is larger, they have more votes to apply to the funding requests, resulting in Grayson County receiving more funds granted.
- Training for the Mental Health Court Team was held on May 21, 2012. The training entailed observation of another Mental Health Court Team, 291st District Judge Susan Hawk and team in action, followed-up with an opportunity for the counterparts to converse and share ideas and information. The Fannin County Mental Health Court Team traveled from Bonham to Dallas, Texas.

## **Additional Status Update Information on Items Not in Original Plan**

The Fannin County Criminal District Attorney Richard Glaser agreed to assign a full-time prosecutor to the Mental Health Court Team. Previously, an Assistant Criminal District Attorney was assigned, but his work load precluded consistent attendance. The newly assigned prosecutor has embraced the opportunity and is learning the ropes.

A meeting by Judge Blake and the local bar association occurred where a participant's handbook for Drug Court was distributed to Defense Attorneys serving on the Court appointed wheel. The Drug Court participant's handbook is the model for the mental health court. Efforts need to be made to adapt the handbook for mental health court clients.

### **Hill County Team – Mental Health Court**

#### **Plan**

- Expand existing admonishment docket
- 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

#### **Status Update**

Hill County has adapted their admonishment docket to utilize several of the features learned about at drug court training and find that it works well. The county IT department will be working to utilize the Tannenberg video conferencing system to establish connectivity between Hill County and state hospitals. TLETS-Carematch has already resulted in several “hits” being brought to the judge’s attention. Local movement or support to establish a separate drug court has not yet evidenced. Hill County held a regional cooperative meeting with Waco and other area MHMR officials and delays for placement have decreased and bond release programs have been enhanced. Conditions of release bonds to better utilize MHMR and other mental health resources are often now used.

### **Medina, Real, & Uvalde Counties Team - Criminal Justice**

#### **Plan**

##### **REDUCING PRE-TRIAL DETENTION RATES**

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

## **Status Update**

The 38<sup>th</sup> Judicial District has contracted with outside vendors to perform an in-depth analysis of its indigent defense system to come up with recommendations with regard to indigent defense, bond parameters and pre-trial release programs and services. Information is currently being gathered in that regard with anticipated initiation of on-site evaluation commencing in June 2012.

### **Taylor County Team – Mental Health Court**

#### **Plan**

Taylor County currently does not have a mental health court. Because the volume of mental health cases is increasing in our county, we will work to determine if we have sufficient cause to merit such a court and to determine the costs of actually setting up such a court. This analysis will involve meeting with the mental health authority and related stakeholders; setting up a local mental health court summit; and conducting fact-finding visits.

#### **Status Update**

Judge Downing Bolls has met with Theron Cole with the Mental Health Association, Mike Wolfe with Community Corrections, and County Commissioner Stan Egger to discuss the mental health court concept and whether the county has ever considered something like that. Judge Bolls would like to hold a large meeting of stakeholders at some point in the future, but so far there is not much interest. It should be noted that Taylor County currently has jail diversion and other programs in place that accomplish the same ends as mental health courts.

### **Tom Green County Team - CPS**

#### **Plan**

Related to CPS cases, Tom Green County discussed the need for attorney assistance. Currently, attorneys travel across a few counties; limiting their availability to be in Tom Green County to hear cases and extending time frames beyond the 12-month statutory deadline. Melissa Cook, Texas Access to Justice Commission, provided information about how the Office of Parental Representation in Travis County uses a social worker to assist and advocate for parents. The team thought either a paraprofessional (Experienced Parent Mentor) or a social work student might be able to assist attorneys in keeping track of clients, helping clients manage the many appointments they have, and understanding the system. In order to explore this idea further they discussed the following next steps:

- Get information from the Supreme Court Commission on the Offices of Children's and Parental Representation; specifically Judge Weatherby was interested in a recently completed evaluation of the offices.
- Meet with Department Director/Chairs at San Angelo State to discuss internships for social work students.

- Contact Mia Sneed, Travis County Office of Parental Representation, to get the calendar and packet that she provides parents with at the outset of a case
- Explore grant opportunities to fund attorney offices or other programs/professionals.

### **Status Update**

- Judge Ben Woodward and I received an email from Melissa Cook (1/12/2012) stating that she would forward a copy of the report/evaluation from Tina Amberboy once she received it. We have never received the report.
- Judge Woodward has exchanged emails and telephone calls with the president of Angelo State and with the Chair of the Sociology Department. They are very interested in working with us on this project, but we have yet to find a time when we are all available to meet. This has been made more difficult by the fact that President Rallo has just been appointed Vice-Chancellor at Texas Tech.
- We have not yet received the “calendar and packet” from Ms. Sneed, but on 2/8/2012 Ms. Cook forwarded to us the information she had received from Ms. Sneed.
- We have discussed and explored grant opportunities to fund this program. However, we need to get a better handle on what the program will look like. We decided early on that our Parent Mentor needs to be separate and apart from the courts and the county. I have approached one of our local nonprofit groups (an umbrella organization for several organizations dealing with children and families) and they had several concerns about including this service under their “umbrella.” I believe our best option would be to work out something with ASU, as it would simplify both the organizational and funding issues.

We are committed to getting this program up and running and will continue working towards that end.

### **Tom Green County Team - SRL**

#### **Plan**

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

#### **Status Update**

Katie Bond, Office of Court Administration, and Hannah Silk Kapasi, Texas Access to Justice Commission, are traveling to Tom Green County on June 6, 2012, to provide training to clerks and court coordinators on information vs. advice, and to speak to judges and attorneys about pro se innovations, including limited scope representation.

## Victoria County Team - SRL

### Plan and Status Update

During the Summit, Judge Laura Weiser, the team leader, had to unexpectedly leave due to an emergency. Katie Bond, Office of Court Administration, and Hannah Silk Karasi, Texas Access to Justice Commission, are traveling to Victoria County on June 29, 2012, to participate in a SRL planning meeting.

## Wharton County Team - Criminal Justice

### Plan

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

### Status Update

The first stakeholders meeting was held on February 3<sup>rd</sup>, 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 was provided to the team 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. The last few meetings were canceled due to the unavailability of several of the stakeholders. They are in the process of improving scheduling to increase attendance.

## Williamson County Team - CPS

### Plan

Recently, the judges of Williamson County unanimously agreed to reduce the number of courts that handle cases filed by the Department of Family and Protective Services from six to three. As the population has increased in Williamson County over the last decade, so has the case filings involving abuse or neglect of children. To accomplish this end, new cases are filed randomly in three courts while pending cases have been transferred from the three county courts being eliminated from the rotation to one county court. The benefits derived from this reallocation are fewer court settings in multiple courts; less court time caseworkers must spend in court; consistency in terms of court orders and service plans for parents; consistency in expectations for attorneys, caseworkers and parents; promotes regular and consistent review of permanency plans for the child(ren) and promotes family/child friendly courts to assist parents and families with building healthy relationships and lifestyles.

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

- 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.
- 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.
- 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.
- 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

### **Status Update**

The courts that primarily hear cases filed by the Texas Department of Family and Protective Services are County-Court-at-Law 1; 395<sup>th</sup> Judicial District Court and 425<sup>th</sup> Judicial District Court. The reduction of the number of courts hearing these types of cases has significantly decreased the amount of time caseworkers spend in court and promotes more consistency in the court orders and service plans for parents.

The caseworkers have changed the format of their court reports to provide more thorough and detailed information to the courts about specific attempts to locate family for potential placements, the parent's service plan requirements, the reason(s) for noncompliance and pertinent information about the child(ren).

The Program Director with TDFPS reviewed the need for therapists to meet with parents off-site who reside in rural areas of the county. The Program Director or her designee will continue to assess the need for this service.

The CASA program in Williamson County is growing and maturing, which has led to an increase in CASA appointments for children in care of the Department.

Caseworkers are meeting with parents at court hearings to provide written resource forms to them that include address and phone numbers for the following: AA/NA meetings; alcohol and drug evaluators and service providers, therapists, psychological evaluators,

psycho-social evaluators, psychiatric evaluators, basic and protective parenting classes, anger management and batter's intervention classes, domestic violence classes, sex offender treatment, public housing programs and employment resources.

Standardized docket control orders have been prepared and distributed among courts, along with general timeframes to promote a final disposition in twelve months.

Status and permanency hearings are being expedited to promote constant review and compliance with service plan requirements by parents and to assess whether the placement of the children is the most appropriate placement available.

The Program Director held an internal round table review of cases where children are in PMC of the TDFPS to determine what alternatives are available. Present at the staffing were representatives from the Department, Casey Foundation and attorneys for the Department.

There have been significant changes in the local Department program staff, most notably the Program Director. Due to these changes, there will be ongoing collaboration between the Courts and the Department to ensure continuing progress with the action plan.

## **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, and 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.

### **City of Lubbock Team - Juvenile**

#### **Plan**

The City of Lubbock and Lubbock County are negotiating the details of an interlocal agreement to operate a Juvenile Case Management (JCM) program through the Texas Dispute Resolution Center in Lubbock. 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.

### **Status Update**

As of May 7, 2012 the terms of an interlocal agreement between the City of Lubbock and Lubbock County are still being negotiated. The District Attorney's Office (Civil Division) for Lubbock County has interpreted the statute to say that a joint project between the City and the County is not an option because the same entity that is collecting the fee must be the entity that is employing the JCM. Currently, the City of Lubbock is continuing to work with the District Attorney's Office to determine if there are other options, but it looks like the only way to resolve the issue may be to propose legislative changes to clarify that a "shared solution" is indeed an option.

### **Royce City Team - Juvenile**

#### **Plan**

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.

#### **Status Update**

On May 1, 2012, Royce City successfully completed its plan to collaborate with Leadership Rockwall County to create a teen court program. Although presently there are no plans for further expansion, Royce City shall continue to explore the possibility of expanding the teen court program to include participation by the City of Princeton and the City of Rowlett.

### **City of Temple Team - Juvenile**

#### **Plan**

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.

#### **Update**

On April 13, 2012, the City of Temple successfully completed its plan to implement a JCM program. The program is operated by the municipality in collaboration with Temple

ISD. JCM training is being provided in conjunction with Bell County Juvenile Probation Services.

## JUVENILE JUSTICE COMMITTEE

On March 29, 2012, the Juvenile Justice Committee held its second meeting. The following presentations were made to the committee on best practices in the area of juvenile justice: 1) Children's Crisis Intervention Training (CCIT); 2) Schoolwide Positive Behavioral Supports Programs (SWPBS); and 3) Disproportionality in Texas Systems including the juvenile system.

CCIT is a nationally recognized program directed at students in crisis. The goal of CCIT is to protect students in crisis from harming themselves and keep them out of prison. Sergeant Michelle White, a CCIT instructor from the San Antonio Independent School District Police Department, presented statistics that led to the adoption and evolution of CCIT in Bexar County. In 2002, 20%<sup>1</sup> of Texans (4.3 million, including 1.2 million children) had some form of diagnosable mental health disorder and 7%<sup>2</sup> of those Texans (1.5 million) suffered severely enough to impair their ability to function at work, school, and in the community. Of 2,585 youth in the Texas Youth Commission in 2002, 50% of those and nearly half (48%) of those referred to the Juvenile Probation Commission had a mental illness.<sup>3</sup> The program provides peace officers with basic skills to manage potentially volatile situations involving people who are mentally ill, suicidal, or emotionally unstable and creates a better understanding of these issues for those officers. A modified curriculum addressing de-escalation techniques, active listening skills and an overview of various disorders and mental illnesses is also available for school personnel. This proficiency program can assist officers in obtaining a Mental Health Officer designation from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

Today, 34 of 70 SAISD Police Officers are certified in CCIT and 32 of those 34 are on duty during school hours and are campus based. In Bexar County in 2011, 28% of referrals were made by school district police departments. Providing the best and most appropriate service for persons in crisis increases both officer and school safety and the cost is considerably less than incarceration.

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<sup>1</sup> U.S. Department of Health and Human Services. Mental Health: A Report of the Surgeon General, 1999; Criminal Justice Policy Council August 2000, Presentation to the House County Affairs Committee; DHHS, NIMH. This was calculated using 20% of current population estimates.

<sup>2</sup> U.S. Department of Health and Human Services. Mental Health: A Report of the Surgeon General, 1999; President's New Freedom Commission on Mental Health, 2002. This was calculated using 7% (as a midpoint of the 5-9% quoted in the report) of current population estimates.

<sup>3</sup> Overview of the Enhanced Mental Health Services Initiative. Criminal Justice Policy Council, May 2002 p. 10; A study of 1300 juveniles randomly selected from the youth referred for probation during the 6 month time period between Jan.1 and Aug 28 2002 in eight counties (Bexar, Cameron, Dallas, El Paso, Harris, Hidalgo, Tarrant, and Travis. These counties comprise over half of the juvenile population in Texas. Mental Health and Juvenile Justice in Texas. Juvenile Probation Commission Feb. 2003.

Dr. Brenda Scheuermann, Special Education Programs Coordinator, Department of Curriculum and Instruction at Texas State University presented a brief overview on “*Schoolwide Positive Behavior Interventions and Supports*” (SWPBS).<sup>4</sup> Other reports demonstrate the effects of getting multiple disciplinary actions and that focus is only one part of the picture. Another part of the picture would be to focus on the population that receives disciplinary action but does not enter the school to prison pipeline because a disciplinary action alone does not put a child on that path. There are identifiable risk factors and protective factors that mediate some of those outcomes and that can keep students from those undesirable outcomes. The protective factors can dramatically outweigh the risk factors. School is found to be the single most important protective factor over which we have the greatest control. Attention should be focused on better establishing a school as a protective factor and research has identified school factors related to positive outcomes.

SWPBS is a mechanism for enhancing the protectiveness of school as a preventive agent against negative outcomes and is a framework for enhancing adoption and implementation of a continuum of evidence-based interventions to achieve desired academic and behavior outcomes for all students. SWPBS is most commonly conceptualized along a three-tiered logic model. There are universal expectations for all students, targeted expectations for some students and intensive expectations for only a few. This concept was adopted from the U.S. Public Health three-tiered logic model. A significant body of research has shown that when implemented correctly, SWPBS can produce reductions in negative outcomes and improvements in protective factors.

The Good Behavior Game<sup>5</sup> is one of the most researched and the strongest body of evidence about the power of early intervention with astounding results. Prevention is more cost effective than intervention. Implementation science provides evidence of facilitators and obstacles to implementing positive behavioral supports as a protective factor. This research should be considered to view PBS as an alternative to traditional discipline systems.

Joyce James, Director, Center for Elimination of Disproportionality and Disparities, Health and Human Services Commission (Center) was the third presenter. The Center was created by Senate Bill 501 in 2011 to help address disproportionality and disparities in Texas health and human services. It expanded the work in child welfare and health and human services to identify, examine, and make recommendations to eliminate racial disparities in systems. There are many terms used to describe racial inequity in outcomes across systems but overall disproportionality is the underrepresentation of a particular race/group in a system as compared to their representation in the general population. A comparison of Texas Child Welfare Data from 2011 that shows African Americans represent 12.1% of the general population but they represent 36.8% of the population of

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<sup>4</sup> See [http://www.pbis.org/school/what\\_is\\_swpbs.aspx](http://www.pbis.org/school/what_is_swpbs.aspx) for a summary of PBIS.

<sup>5</sup> Barrish, H. H., Saunders, M., & Wolf, M. M. (1969). Good behavior game: Effects of individual contingencies for group consequences on disruptive behavior in a classroom. *Journal of Applied Behavior Analysis*, 2(2), 119-124.

children awaiting permanency in the foster care system. This example demonstrates that they are represented at three times their rate in the general population. Work at the center shows this is not unique to the child welfare system and data reflects disproportionality and/or disparities for the same population of people in every system that serves wrongful population. The center presents its work in this manner because of the importance of understanding the broader context of the relationships that systems have and the fact that they ultimately produce the same outcomes for the same population.

The center uses research to elevate the issue and to discuss cross systems. Use of the report on *Breaking School Rules* helps to show how what happens in the education system has long term and lasting impact on what happens to a child as they begin to navigate other systems and demonstrates the relationship between what happens in schools and the juvenile justice system in that there is also disproportionality for African American children in the juvenile justice system. The same is true in the criminal justice system and even in the health system for the same group of people. In Texas, African Americans and Hispanics die at a greater rate than other ethnicities from eight of the ten leading causes of death. These examples demonstrate the need for collaboration cross systems to eliminate the disproportionality and disparities in any one of the systems.

The data collected by the center led to examination of the actions that contributed to the outcomes. With additional factors considered such as poverty and single parent households, there was still disproportionality. Deeper discussion led to the conclusion that racial bias exists in decision making. Elevating this awareness led to work with undoing racism. Texas became the first state in the country to have legislation requiring child protective services to remediate its enforcement actions, to provide cultural competency training to its staff, to work in partnership with the community and to work with other systems.

The center provides assistance examining data and developing data driven strategies using anti-racist principles and practices that result in improved outcomes. This year held the third Implicit Bias conference with juvenile and family court judges. Child support judges and criminal court judges were also allowed to participate. A discussion followed with all the presenters. Discussion followed with questions to the presenters.

Prior to the meeting, Judge Naranjo asked members of the committee to identify goals that meet the charge of the committee. The committee divided those goals into the following categories: Legislative and Best Practices/Data Collection. Then each member including the advisory members each assigned themselves to a subcommittee. The Legislative Subcommittee members are Judge Bellair, Ms. Counce, Ms. Fowler, Mr. Hubner, Mr. LaVallo, Judge Nash, Judge Phillips, Mr. Turner and Chief Ward. The Data Collection and Best Practices Subcommittee members are Dr. Fabelo, Mr. Harden, Ms. James, Mr. LaVallo, Judge Spencer and Ms. Townsend.

Subsequently Judge Naranjo named Judge Polly Spencer to chair the Data collection/Best Practices Subcommittee and Judge Glen Phillips to chair the Legislative Subcommittee. Those subcommittees have begun their work.

There are also three new advisory committee members: Judge Don Coffey, Harris County Justice of the Peace, Precinct 3, Place 2, Baytown, Texas; Dustin Rynders, Supervising Attorney, Education Team, Disability Rights Texas, Houston, TX who will be replacing Richard LaVallo, and Chief Charles Brawner, Springbranch ISD Police Department will be replacing Chief Mike Leyman. Judge Coffey will be on the Legislative Subcommittee, Mr. Rynders will be on both subcommittees, and Chief Brawner will be on the Legislative Subcommittee.

## **INDIGENT DEFENSE**

The Texas Indigent Defense Commission held a meeting of the full board on March 28 and is scheduled to meet next on June 21st. The Grants and Reporting Committee will meet on June 8 and Policies and Standards will meet just prior to the full board on June 21st. The board's priority item will be to consider awards to counties for new indigent defense programs under the FY13 discretionary grant funding stream.

### **Executive Director updates**

Jim Bethke was asked to participate in The Defender Research, Data and Analysis Advisory Committee of the National Legal Aid & Defender Association (NLADA) on May 21-22 in DC. To explain in detail about this important project, follows is an excerpt from the email that requested his participation:

“The Defender Legal Services Division of NLADA established the National Indigent Defense Infrastructure Initiative (NIDII) to support the indigent defense community's ability to expand and improve the delivery of legal representation to low income individuals. Beginning this year, one of the overarching NIDII objectives is to empower the defender community to lead indigent defense system and criminal justice policy reform through the effective use of research, assessment, data and analysis. NIDII was formed in response to a capacity gap in the infrastructure of many indigent defense systems, which typically results from inadequate funding. The result is that indigent defense is decades behind other sectors of the criminal justice system in using data and research to develop policy. NIDII will address this gap through leadership, training, demonstration, technical assistance and other resources. As part of NIDII's broader mandate to increase capacity within indigent defense systems, we are constituting a Research, Data and Analysis Advisory Committee. As a leader who understands the importance of having access to objective, verifiable data to inform policy and support resource development, we are writing to invite you to join us as a member of the Committee.”

Judge Keller and Jim attended the Governor's Criminal Justice Advisory Council established by [Executive Order RP 77-2012](#). The purpose of the Advisory Council is to advise the governor on the creation, staffing, operations and performance of specialty courts to ensure the rights of participants are protected. Earlier this month, Governor Perry appointed Judge Keller and Jim as Ex-Officio members to the Advisory Council.

## **New pilot program in Comal County and federal grant application to BJA**

Comal County officials have agreed to move forward with TIDC on an innovative pilot project allowing indigent defendants to select the qualified attorney of their choice. Jim and other staff have made several visits over the past month to meet with the County Judge, Magistrate, CCL Judges and court administrative staff and to appear before their County Commissioners regarding a resolution of support of the new program. The County voted in favor of a resolution of support to move forward. Edwin submitted the application on May 24. If awarded, would fund the design, implementation and impact assessment of the program, which will also include a new attorney training and mentoring program.



## **Staff updates**

Paul Sembera, UT law student, who worked for TIDC over the last year, graduated from law school this semester. Two UT law students, Andrew Bluebond and Brad Estes, have been hired as new interns. Jennifer Willyard, former TIDC Research Specialist, now works as an independent consultant with Managing to Excellence, an organization that has worked closely with the Commission and Texas counties to develop several programs funded through the Discretionary Grant Program.

Judge Keller, Edwin, and Jim met with Comal County officials and bar leaders to weigh interest in developing a defense delivery system centered on client selection of counsel. Following the meeting, there was a short tour of the 19th century Comal County Courthouse being restored. Pictured from left to right are: Jim, Jennifer Tharp, 22nd District Attorney, Edwin, Judge Keller, Savannah Maurer, indigent defense coordinator, Dib Waldrip, 433rd District Court Judge, and Scott Hagg, County Commissioner.

## **Recent Presentations**

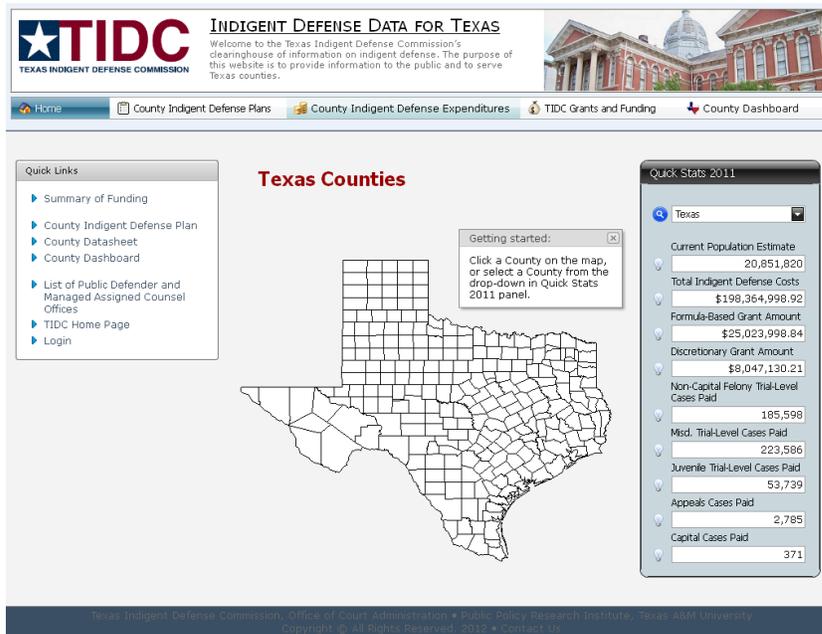
On May 8th Jim presented at the Criminal Justice Conference (Dallas) held by the Texas Center for the Judiciary. He co-presented with Jack Stoffregen (Chief Public Defender, Regional Public Defender Office for Capital Cases) on the topic of Appropriate Costs and Fees in Capital Murder Cases.

In April he presented indigent defense updates to judges from across the state at Texas Municipal Courts Education Center Regional Judges Seminar held in Lubbock.

## **Improved Access to Indigent Defense Data Online**

In March the Texas Indigent Defense Commission (TIDC) unveiled a new format for its public data site. Restructured from the ground up with the help of the Public Policy Research Institute at Texas A&M, the site aims to make it easier for county and state officials to navigate the extensive amount of data maintained by the Commission. The Commission collects information on a wide variety of indigent defense expenditures and appointment trends, as well as the state indigent defense funds distributed to counties through formula and discretionary grant programs. With ten years' worth of data in the archives the new format was needed to improve the accessibility of the data. The new streamlined site was developed over the course of the previous year, and the Commission believes that the added value will be well worth the effort. County data sheets are useful

tools for county users and others to see a snapshot of a county(ies)'s indigent defense program and data elements such as cases added, cases paid and percent of charges defended with appointed counsel for felony, misdemeanor and juvenile cases, total indigent defense expenditures, and grant disbursements. In addition, indigent defense plans for each county are more accessible and it is easier for counties to submit, update, and compare plans. The public may visit the new TIDC data site at: <http://tidc.tamu.edu/public.net/> (note: the image below is a screenshot of the new site)



## Spotlight on Bell County

Judge Jon Burrows and the entire Commissioner's Court, along with Judge Fancy Jezek, District Judge and the rest of Bell County judiciary, have implemented an indigent defense case management system that among other things automates the:

- appointment of attorney based on wheels and qualifications;
- attorney notification process;
- entry of time and activity from the appointed attorney;
- submission of the attorney voucher;
- routing of the voucher to the approving judge for review, edit and approval
- tracking of time between arrest to magistration;
- tracking of time from appointment counsel to initial jail visit;
- completion of the Financial Affidavit based on local rule; and
- much, much, more.

This program solves many of the time consuming snags in the process, thus saving resources and frustration. It results in attorneys being paid more promptly and eliminates the need for redundant data entry.

## Grants and Reporting update

### Counties continue interest in indigent defense improvements

There were 16 counties that responded with Intents to Submit Applications (ISA) to the FY2013 Request for Applications with 17 different programs. In addition to formula type grants, the Commission has available once per year a grant application process for counties that want to develop specific ideas into programs. Often these ideas are model or pilot programs designed to improve the local indigent defense system. The 16 applications underwent a review process by a grant review team. Out of the 16 ISAs, 10 of them were recommended by the grant review team for the Commission to consider at its June meeting. The summary of all of the FY2013 Discretionary Applications are below:

County	Grant Proposal Title	Grant Type	Requested Grant Amount
<b>Collin</b>	Collin County Mental Health Managed Counsel Program	multi-year (1)	\$250,774.00
<b>El Paso</b>	Specialty Court Attorney Position for the El Paso County Public Defender's Office	multi-year (1)	\$60,282.00
<b>Kaufman</b>	Mental Health Attorney/Advocate Team	multi-year (1)	\$108,799.64
<b>Rockwall</b>	Rockwall County Managed Assigned Counsel and Behavioral Health Program	multi-year (1)	\$370,238.00
<b>Wichita</b>	Mental Health Social Worker	multi-year (1)	\$97,708.80
<b>Williamson</b>	Williamson County Indigent Defense Evaluation and Implementation of Improvements for a more Effective and Efficient Indigent Defense System	multi-year (1)	\$370,674.00
			\$1,258,476.44
<b>El Paso</b>	Tablet PC Upgrade for the El Paso County Public Defender's Office	single-year	\$32,000.00
<b>Harrison</b>	Video Conferencing for Indigent Inmates and Mental Health	single-year	\$2,759.90
<b>McLennan</b>	McLennan County Indigent Defense Coordinator	single-year	\$37,456.06
<b>Tarrant</b>	Reengineering Tarrant County's Pretrial Programs through centralization of functions and automation of data collection using tablet computers	single-year	\$9,000.00
			\$81,215.96

### Formula Grant Payments

Two hundred- nine (209) counties out of two hundred twenty-four (224) that were awarded a 2012 Formula Grant have received their first and second quarter payments. If your county has not received payments, it could be because of the special conditions that were listed on your Statement of Grant Award. Special condition(s) that could have been listed on your statement are: a) plan requirements b) expenditure requirement c) previous year award balance. Review your statement of Grant Award and if there is a special condition(s), check to see if that special condition(s) is still outstanding. Once your special condition(s) is met, you may be able to receive payments. As always if you have questions please contact TIDC staff.

## **Policies and Standards update**

### **Indigence Determination Standards**

As part of the indigent defense plan review process, staff recently assessed what financial standards are used to determine indigence in the 370 indigent defense plans currently on file. The top three categories of standards each appear in the vast majority of plans. The most used standard is a multiple of the federal poverty guidelines income level, which appears in 352 plans. The most common percentage used is 125%, although large numbers of plans also use 100% and 150% of the poverty guidelines income level. Qualification for a means test public benefit program, such as Medicaid or the supplemental nutrition assistance program (SNAP), is the second most common standard and is found in 317 plans. Rounding out the top three for determining indigence is a defendant who resides in a correctional or mental health institution. These three standards appeared in the primary template we issued as part of the then new plan submission process in 2009 and also form the basis of model guidelines the State Bar of Texas issued a few years ago. A relatively small number of plans also contain a maximum assets test, a net income test (income minus necessary expenses), or some other standard.

### **Other news**

#### **TIDC Resources Now Available on YouTube**

The Commission has digitally recorded its Indigent Defense Workshops and Symposium presentations and the collection of these over the past four years are available not only on its website but also on YouTube. These presenters and the messages they deliver contain a wealth of information for those who are interested in keeping abreast with the latest best practices, both in the state and nationally. Not only will county officials (commissioners, judiciary) benefit from the information but policy makers, defense lawyers, and the public in general will see how much has been accomplished and the importance of the work that lies ahead. All share the importance message that the right to counsel under the 6th Amendment is a fundamental one and a basic cornerstone to our justice system and democracy. Be prepared to be truly inspired as you watch and share these with others!

Video downloads on the Commission website:

<http://www.txcourts.gov/tidc/archivesworkshops.htm>

Also on YouTube: <http://www.youtube.com/user/TheTIDC?feature=watch>

#### **Supreme Court Extends Right to Effective Counsel to Plea Bargain**

On March 21st the U.S. Supreme Court decided two cases that held a defendant in a criminal case has a Sixth Amendment right to effective assistance of counsel in the plea bargaining process. The cases, *Missouri v Frye* and *Lafler v Cooper*, were 5-4 decisions with the majority opinions written by Justice Anthony Kennedy. In *Frye*, the defendant's attorney did not inform him of plea offers from the prosecution and he later plead guilty without an agreement and received a substantially longer sentence than the earlier offers. The court held that generally "defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to

the accused.” Justice Kennedy reasoned that because our system relies heavily on plea bargains, “the negotiation of a plea bargain, rather than the unfolding of a trial, is almost always the critical point for a defendant.” In order to show prejudice, the majority held that “defendants must demonstrate a reasonable probability they would have accepted the earlier plea offer had they been afforded effective assistance of counsel. Defendants must also demonstrate a reasonable probability the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it, if they had the authority to exercise that discretion under state law.”

The Texas Court of Criminal Appeals reached a similar conclusion in the *Ex Parte Lemke* decision in 2000. The court held that “[f]ailure of defense counsel to inform a criminal defendant of plea offers made by the State is an omission that falls below an objective standard of professional reasonableness.” The court found that the defendant was prejudiced by counsel’s failure to inform defendant of plea offers of 20 and 16 years confinement and instead plead guilty to a term of confinement of 40 years. The court ordered the trial court to withdraw the defendant’s pleas, require the State to reinstate its 20 year plea bargain offer, and allow defendant to re-plead to the indictments in these causes.

In the *Lafler* case, the attorney transmitted the plea offer to the client; however the client rejected the offer based on the erroneous advice of counsel. After the plea offer had been rejected, there was a full jury trial resulting in a harsher sentence than the one offered in the rejected plea deal. Justice Kennedy once again writing for the majority held that to gain relief “a defendant must show that but for the ineffective advice of counsel there is a reasonable probability that the plea offer would have been presented to the court (i.e., that the defendant would have accepted the plea and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer’s terms would have been less severe than under the judgment and sentence that in fact were imposed.” Fashioning an appropriate remedy in such cases will potentially be challenging. In his dissenting opinion, Justice Scalia noted the decisions open “a whole new field of constitutionalized criminal procedure: plea-bargaining law.”

### **Veterans Defender Resource Published**

The Commission published the Veterans Defender Resource for county and court officials who are interested in the creation of a new Veterans Court or enhancing their existing problem solving courts with the addition of a defender component. A law recently passed by the Texas legislature authorized counties to establish a Veterans Courts. According to Senator Leticia Van de Putte, “Senator Rodney Ellis and I authored legislation to create Veterans Courts in Texas counties because we saw the need to recognize the unique challenges faced by service members who have endured the stresses of combat. Our war fighters have sacrificed so much for us; they deserve special consideration in helping deal with the complexities within the criminal justice and legal system.”

Defendants are eligible to participate in a veterans court program only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that resulted from the defendant's military service in a combat zone or other similar hazardous duty area and materially affected the defendant's criminal conduct at issue in the case.

The Commission provides an array of support to counties that wish to implement initiatives that will improve access to the right to counsel. The Veterans Defender Resource provides information about how counties can access this support through the Commission's discretionary grant programs. Additionally, the Resource includes a directory of the currently operating Veterans Courts programs throughout the state. Many of the judges who have chosen to run Veterans Courts may be valuable sources of wisdom and advice as a new court is formed. According to Judge Brent Carr of Tarrant County, "The veteran's court has been an incredible experience. This program is not a gift to a veteran, it is an opportunity. By completing a professionally designed course of therapy and treatment, the veteran has the opportunity to correct destructive behavior and have his or her good name restored. This is good for the veteran, the veteran's family, and the community. It's the least we can do." The Veterans Defender Resource is available on the Commission's website:

[http://www.courts.state.tx.us/tidc/pdf/VetDefenderMarch28Publication\(Final\).pdf](http://www.courts.state.tx.us/tidc/pdf/VetDefenderMarch28Publication(Final).pdf)

### **Texas Innocence Projects Provide Important Failsafe**

In our adversarial system, perhaps the most important line of defense against wrongful convictions is access to effective, competent defense representation. Despite our system's safeguards against conviction of the innocent, however, Texas has exonerated more wrongfully convicted inmates with DNA evidence than any other state. To date, 44 Texans have been cleared by DNA testing in cases originating in 13 Texas counties. Collectively these innocent persons served more than 650 years in prison for crimes they did not commit.

As the number of exonerations began to mount in Texas, the state took several steps to respond. In 2005 the Texas Legislature directed the Texas Indigent Defense Commission to contract with the four public law schools in Texas to operate innocence projects. These projects provide investigative and legal services to identify and rectify wrongful convictions of Texas inmates in non-death penalty cases and function as an important failsafe in our criminal justice system. Currently annual grants of \$80,000 per law school support the programs and are generally used to defray the costs of one supervising attorney for each project. The participating law schools are the Thurgood Marshall School of Law at Texas Southern University, the Texas Tech School of Law, The University of Texas School of Law, and the University of Houston Law Center.

Seven Texans have so far been exonerated through the efforts of these projects since the state began providing funding in 2006, and several other cases are moving toward

completion. Most recently, Dallas District Judge Lena Levario concluded hearings on April 6 that resulted in findings of actual innocence of three men convicted of aggravated robbery, one of whom, Darryl Washington, was sentenced to 99 years. Judge Levario has forwarded her findings to the Court of Criminal Appeals, which will review the case and decide whether to concur in the district court's finding of actual innocence and grant habeas corpus relief. The actual innocence claims of the three men are supported by the Dallas District Attorney's office, which conducted its own re-investigation that identified the actual perpetrators. Washington's case was originally taken up by a law student working with the University of Houston Innocence Project, Tracey Cobb, who continued to work the case after law school and later teamed with the Texas Tech-based Innocence Project of Texas to litigate the case.

The work of the innocence projects has helped uncover important information on breakdowns in the system that lead to erroneous convictions, which provides policymakers with the opportunity to learn from mistakes and enhance the accuracy of the criminal justice system. At the same time, law students gain valuable practical experience working in the public interest and helping to ensure that justice is ultimately done.

## **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

Last fall, 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.

OCA issued a Request for Offer (RFO) in March 2012 to solicit a new eFiling vendor. Eight responses were received from the RFO. The evaluation team is currently evaluating the offers and hopes to get a recommendation to the Supreme Court mid-June. This would trigger final negotiations and an award in July.

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 to provide an ample transition time. On May 17<sup>th</sup>, the DIR approved an 18 month extension to the program. In doing this, the program is limited on adding new jurisdictions (only appellate courts can be added after 8/31/12). Additionally, the fees associated with eFiling and eService increase by \$1 (\$5.00/eFiling; \$5.50/eService). DIR worked with OCA and was able to reduce the State share from 20% down to 0% to mitigate as much of a cost increase as was possible.

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. The 2<sup>nd</sup> Court of Appeals will begin accepting eFilings in August, the 7<sup>th</sup> and 13<sup>th</sup> Courts of Appeals will begin in September, and the 9<sup>th</sup> Court of Appeals will begin in October.

eFiling is now mandatory in the Supreme Court, the 1<sup>st</sup>, 3<sup>rd</sup>, and 14<sup>th</sup> Courts of Appeals (for civil cases). The 7<sup>th</sup> Court of Appeals will also mandate eFiling for civil cases when they go live in September.

### Texas Appeals Management and E-filing System (TAMES)

Last year, OCA deployed TAMES to the 14th Court of Appeals (Houston). OCA commends the 14<sup>th</sup> Court of Appeals for their exceptionally high level of patience and ability to work through system issues.

The court has now fully implemented the TAMES system including:

- Integrated intake of attorney, clerk, and court reporter eFilings;
- Case Management functions;
- Electronic notice generation;
- Circulations and voting; and,
- Fully searchable website and automated order/opinion posting.

OCA staff is working with the Supreme Court to complete the testing of conferencing functions that apply only to the Court. TAMES is anticipated to go into production for the Supreme Court on July 16<sup>th</sup>.

OCA has also been working with the other Courts of Appeals to move towards implementing TAMES. The 1<sup>st</sup> Court of Appeals will implement on June 18<sup>th</sup>. The 5<sup>th</sup> Court of Appeals will implement sometime in August. The 9<sup>th</sup> Court of Appeals will implement sometime in October.

In preparation for deployment, OCA staff have deployed a virtual server (or a server within a server) to encapsulate TAMES into all Courts of Appeals. OCA staff completed preliminary data conversions in each of the Courts of Appeals and no major conversion issues have been found.

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. OCA has hired a Business Analyst/Project Manager as well as a Programmer to lead the programming activities needed to support the Commission. The change from contract to state staff will result in a reduction of staffing costs of approximately 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.

OCA is now offering CPCMS at no cost to counties as a hosted solution. Three counties have already started the service and several others have expressed interest.

OCA is working to expand the video conferencing project that allows more children to participate in their hearings despite long distances between the child and the court. Services are now expanding 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 Emergency Data Infrastructure (JEDI)**

To provide continued availability of critical computing resources to the appellate courts after a disaster, OCA installed secondary computer servers at Austin and Waco locations to provide a backup site for the appellate courts.

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 very soon.

## **Growing Needs for Information Technology**

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 (Skype) 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 Texas Judicial System Annual Report for FY 2011 (<http://www.courts.state.tx.us/pubs/AR2011/toc.htm>)
- Produced the Texas Judicial System Directory for 2012 (<http://www.courts.state.tx.us/pubs/JudDir.asp>)

## **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:

- Provided frequent technical assistance to clerks and case management software vendors or county information technology staff; and
- Made a presentation at the Region 8 meeting of the County and District Clerks' Association in Alice.

## **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:

- Updated the reporting instructions and frequently asked questions with additional information;
- Made 12 presentations at seminars through the Texas Municipal Courts Education Center and Texas Justice Court Training Center; and
- Provided other frequent technical assistance to clerks and case management software vendors or local information technology staff.

## **National Instant Criminal Background Check System (NICS) – Record Improvement**

OCA has taken a leading role in providing assistance to district and county clerks with the implementation of HB 3352, which passed in 2009 to comply with and implement the requirements of the federal NICS Improvement Amendments Act of 2007. HB 3352 requires clerks to report information on prohibiting mental health, guardianship, and mental retardation cases (including historical cases for the period September 1, 1989 through August 31, 2009) to the Criminal Justice Information System (CJIS) site maintained by the Texas Department of Public Safety. This information is used in background checks performed by the FBI to determine whether a person is disqualified from possessing or receiving a firearm.

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;
- Prepared two articles, one clarified NICS reporting requirements and the other provided an update on the NICS Record Improvement Project, which were published in the spring issue of the County and District Clerks' Association's newsletter;
- Made two presentation on HB 3352/NICS reporting at two regional meetings of the County and District Clerks' Association (the Region 8 meeting in Alice and the Region 3 meeting in Abilene);
- 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 through CJIS. The grant project is called the “Texas NICS Record Improvement Project” The grant period is October 1, 2011 through September 31, 2012. Since February 1, 2012, OCA has:

- Provided records research assistance to the county clerk and/or district clerk in Bell, Brown, Caldwell, Fort Bend, Guadalupe, Hale, Hardin, Lubbock, Milam, Nueces, Smith, Tom Green, Tyler, Webb, and Wilson counties;
- Reviewed 42,211 records and identified 7,822 records with sufficient data to be entered into CJIS (does not include the number of records reviewed in May 2012, as this information is not yet available);
- Conducted interviews to replace the NICS clerk assigned to the Tyler Region who resigned;
- Coordinated and staffed a NICS Record Improvement Task Force meeting, which was held on May 4, 2012; and
- Applied for a \$488,841 grant, under the FY 2012 NICS Act Record Improvement Program, to continue the NICS Record Improvement Project for a second year (from October 1, 2012 through September 30, 2013).

## **RESEARCH**

### **H.B. 79 County Court at Law Study**

H.B. 79, a court reorganization bill that was passed during the last legislative session, contained a requirement that a study be undertaken by OCA to determine the feasibility, efficiency and potential cost of converting some or all county courts at law (CCLs) with civil jurisdiction in excess of \$200,000 to district courts. OCA is working in conjunction with the National Center for State Courts (NCSC) on this study. The study will include a survey of attorneys to determine the dollar amount of damages in civil cases filed in district courts and county courts at law.

OCA has engaged in the following activities:

- Met with NCSC staff and staff in Senator Robert Duncan’s office, respectively, to discuss the study scope and methodology; and
- Prepared and distributed a brief survey to the district and county clerks in the affected counties to determine whether they have an automated case management system from which certain case information can be generated, including attorney name and contact information, which is needed to conduct the attorney survey.

## **COURT SERVICES**

### **Self-Represented Litigants**

As reported in previous Director Reports, OCA partnered with Lone Star Legal Aid on an application for a \$71,000 Technology Initiative Grant (TIG) from the Legal Services Corporation. We got the grant (Lone Star is the grantee), and work on the project is

underway. The project, *Texas Court Help*, also includes Texas Legal Services Center (TLSC) through [www.TexasLawHelp.org](http://www.TexasLawHelp.org), an existing website that provides legal information and resources. The primary goal of the project is to improve low-income self-represented litigants' access to the court system, with a special emphasis on access for limited English proficient (LEP) populations. A virtual statewide self-help center will be created using both Texas Law Help and OCA's website, Texas Courts Online ([www.txcourts.gov](http://www.txcourts.gov)). 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 videos and step-by-step guides about basic procedures such as filing a lawsuit, service of process, preparing for court, and courtroom conduct. Counties will be able to upload information about their courts, such as local rules, location of the courts, etc. We are working on the content and expect the website to be launched next fall.

OCA participated on the Supreme Court's Uniform Forms Task Force, which generated considerable controversy as reported in the February Directors Report. 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. The initial set of forms developed by the Task Force was a set of forms for persons with no children or real property who want to obtain an uncontested divorce. The Supreme Court sent the forms to the Supreme Court Advisory Committee (SCAC), which addresses rule proposals and other matters for the Court. The SCAC considered the forms on April 13 and 14; members made many comments about changes that should be made to the forms. The forms and SCAC's comments are back at the Supreme Court. Much of the material relevant to this issue is collected on the Access to Justice Commission's website at <http://www.texasatj.org/SRL>.

We have 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. 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 make presentations at the Texas Center for the Judiciary's annual professional development program for court coordinators in June and annual judicial conference in September, and the Texas Association of Court Administrators conference in October. We are also making presentations in Tom Green County and Victoria County to follow up from the Shared Solutions Summit.

### **Language Access in the Courts**

Consistent with the ABA standards for language access in the courts described in the February Directors Report, OCA is working to identify areas where gaps in language access services in Texas courts can be addressed on a statewide basis. OCA's current 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. OCA has also written a model Language Access Plan that can be used as a template by local courts to develop their own language access plans. Possible

areas for development in the immediate future include a language access webpage with links to state, DOJ, and NCSC language access resources; distribution of tips, bench cards, and scripts developed for judges by members of the Consortium for Language Access; and facilitation of training for judges and court personnel. Longer range projects include development of training videos and seeking funding to help counties use interpreters remotely.

OCA attended the annual business meeting of the Consortium for Language Access in the Courts in April. As reported in February, NCSC and COSCA/CCJ are reorganizing the way that they will address language access issues, policy, and services. The Consortium, which handles testing of interpreters, will become part of a new Language Access Services Section in the NCSC Court Services Division. In addition to the Consortium's testing services, the new Section will support COSCA/CCJ leadership and serve as a clearinghouse for best practices and resources for language access programs. A new entity, the Council of Language Access Coordinators, will focus on professional development and collaboration among language access programs and will make policy and procedural recommendations to COSCA/CCJ's Language Access Advisory Committee. Other news from the annual business meeting is that the base amount of the Testing Assessment paid by member states will increase from \$5,000 to \$7,000, while the \$2.25 per LEP rate remains unchanged.

### **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:

- Made presentations on clerk's duties in domestic violence cases at four regional meetings of the Texas District and County Clerks' Association. The meetings were held in Abilene, Conroe, Lamesa, and Hondo, in March and April 2012;
- Made a presentation on reporting domestic violence orders to the statewide criminal database at the annual meeting of the Texas Criminal Justice Information Users Group, in Corpus Christi, on April 17, 2012;
- In February 2012, made a presentation in Austin regarding the Texas Remote Interpreter Project to a legal aid group;
- Provided legal support and expertise to the Texas Remote Interpreter Project;
- Continued to participate in the Supreme Court's Protective Order Task Force's revision of the Protective Order Kit;
- Represented OCA at the meetings of the Task Force on the Relationship between Domestic Violence and Child Abuse and Neglect, created by SB 434 that passed in 2011;
- Represented OCA on the State Bar of Texas Protective Order Task Force;
- Drafted an orders checklist for judges to use in all types of protective order cases; and

- Created a training curriculum for judges on how to develop a firearms surrender process for protective orders. The training will be presented on June 1, 2012, at the Texas Council on Family Violence Domestic Violence Judicial Summit.

### **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 (OVW), 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.

- 347 judges have been setup with online TRIP calendar access, and 18 have returned their signed participation agreements to fully enroll in the program; and
- 7 judges have used the services since the project's inception, scheduling a total of 10 hearings. Their feedback has been positive.

Despite many and varied efforts to promote the use of TRIP, utilization remains low. In response to numerous inquiries about the availability of TRIP services in criminal cases, OCA is currently preparing a request to broaden the grant's scope to include criminal cases in counties with a population less than 50,000. Those counties are not required to provide "licensed" interpreters, only "qualified" interpreters. OCA contends that the use of TRIP interpreters in those counties will improve the quality of interpretation services so significantly that their use for criminal cases in those counties should not be considered supplanting.

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

- Called and/or e-mailed 333 county courts at law with a family law docket and county courts to offer TRIP services and to determine their language access needs;
- Conducted a webinar on how to use TRIP, which was attended by Lone Star Legal Aid staff in east Texas;
- Made a presentation on TRIP and attorney ethics related to limited English proficient (LEP) parties at a meeting of the Texas Bar Association's Poverty Law Section, in Austin;
- Made a presentation on TRIP at a training session of the family law section of Texas Rio Grande Legal Aid, in San Antonio; and
- Designed, printed, and began distributing color posters, which describe TRIP in Spanish, for posting in clerk offices and at courthouse information centers.

Also, OCA engaged in the following activities:

- Answered public inquiries about the court interpreting profession and responded to court staff inquiries about technical and ethical issues related to language access in the courts;
- Attended the 2012 conference of the National Association of Judiciary Interpreters and Translators, which included training on interpreting for LEP victims of domestic violence;
- Researched and began developing training materials for bilingual court staff who deal with Spanish-speaking members of the public outside of the courtroom; and
- Participated in monthly grantee training sessions sponsored by OVW.

### **Interpretation Services for Child Protection Cases**

Since December 2011, with grant funding from the Children's Commission, OCA has been providing Spanish language telephonic interpretation to OCA's Child Protection Specialty Courts. Plans are underway to expand this service to include all courts hearing child protection cases in counties with fewer than 500 children in DFPS legal responsibility. Under the new program parameters, all Texas counties will be eligible for this service except for Bexar, Dallas, Denton, El Paso, Harris, Nueces, Tarrant, Tom Green, Travis, and Williamson counties.

### **Disaster Readiness**

The *Emergency Management Tips for District and County Clerks* document, prepared by Mary Cowherd and Latonia Wilson (the former district clerk in Galveston County), was completed and distributed to the district and county clerks in March. It is posted at: <http://www.supreme.courts.state.tx.us/emtf/pdf/EmergencyManagementTipsForClerks.pdf>.

## **COLLECTION IMPROVEMENT PROGRAM**

### **Technical Support**

OCA continued to assist counties and cities required to implement a collection improvement program (CIP) with either implementing a program or refining the processes of a previously implemented program.

- 77 of the 78 counties and cities required to implement a program, based on the 2000 federal decennial census, have either fully or partially implemented a program. Harris County previously received a waiver; and
- 12 of the 13 counties and cities required to implement a program, based on the 2010 federal decennial census, have either fully or partially implemented a program. The remaining jurisdiction is expected to implement a program by the end of August 2012

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.

- 77 preliminary, simulated audits of the counties and cities required to implement a program have been completed;
- Of the 77 counties and cities in which a preliminary, simulated audit was conducted: 19 were audited by the CPA, and all of them passed either their initial or subsequent official compliance audit; 46 are scheduled for an official compliance audit by the new OCA CIP audit section; and 12 are receiving continuing assistance by OCA technical support staff; and
- OCA conducted “spot checks” of counties and cities required to implement a program to ensure continuing compliance with program components.

OCA also engaged in the following assistance activities:

- Conducted regional collections training workshops in Corpus Christi and Decatur, and made presentations and conducted training sessions at the annual conference of the Governmental Collectors Association of Texas, in San Marcos, in May; and
- In an effort to ensure that the information on collection activity reported to OCA is accurate and uniform throughout the State, conducted special regional training sessions on CIP reporting in Austin, San Angelo, Kilgore, Houston, Denton, and Arlington.

## **Audit**

The CIP Audit department has completed post-implementation rate reviews for the cities of Austin, Corpus Christi, El Paso, Pasadena and Waco. The auditors are in the process of conducting rate reviews for Lubbock, Nacogdoches, Potter and Randall counties. Beginning in June, the auditors will begin compliance engagements, starting with the cities of Garland and Plano.

During the month of May and the first two weeks of June, OCA’s CIP financial analyst and the Collection Improvement Program support staff traveled to nine locations across the state (San Angelo, Kilgore, Houston, Denton, Arlington, Corpus Christi, McAllen, El Paso, and Lubbock) to conduct training on the CIP in order to educate county and city staff on the CIP and enhance the quality of data reported by the programs.

## **SPECIALTY COURTS PROGRAM**

### **Child Protection Courts**

The child protection courts held their annual meeting in March. The meeting, moderated by Judge John Specia, had a collaborative format focused on defining future goals for the CPC system and identifying promising case practices. Dr. Jane Burstain presented

analysis of 2011 DFPS data that showed the OCA child protection courts have the highest rate of reunification from temporary managing conservatorship, the highest rate of placing children with relatives when reunification fails, and the highest rate of final orders within 1 year. Each of the courts identified an improvement goal based on CPCMS outcome measure reports and are currently working to implement strategies to attain those goals.

## **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.

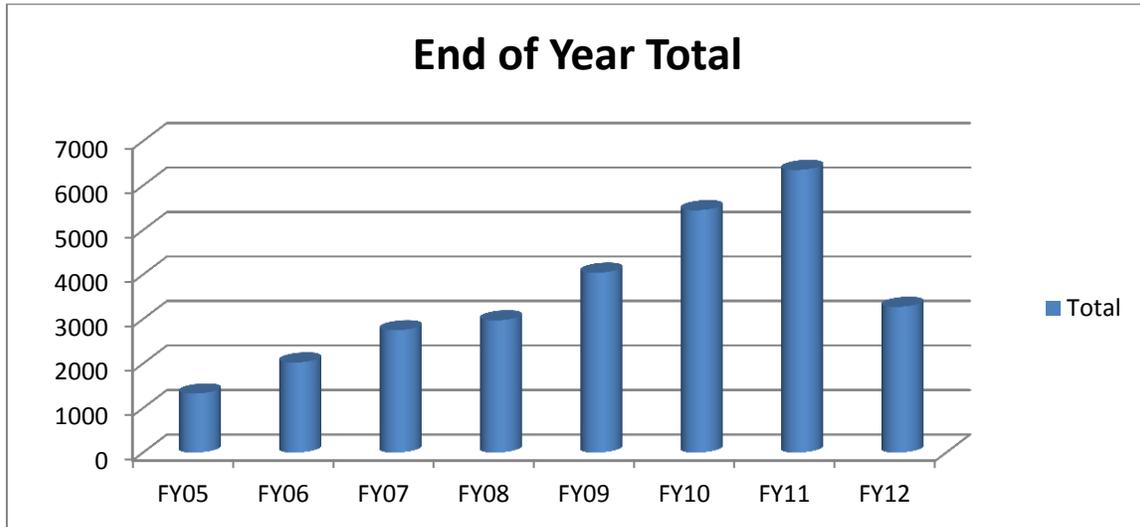
<b>Board</b>	<b>Regulated Population (as of April 30, 2012)</b>
CRCB	2,513 individuals & 358 firms
GCB	349 individuals
PSRB	3,275 individuals

All Certification Division staff members for the three boards continue to meet monthly 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.

Beginning in February 2012, certification program heads have met several times with the Chief Financial Officer to discuss potential changes to their respective performance measures. Proposed changes were submitted in April, and responses to inquiries from the Legislative Budget Board and the Governor’s Office were provided in May. A meeting with all concerned held May 24.

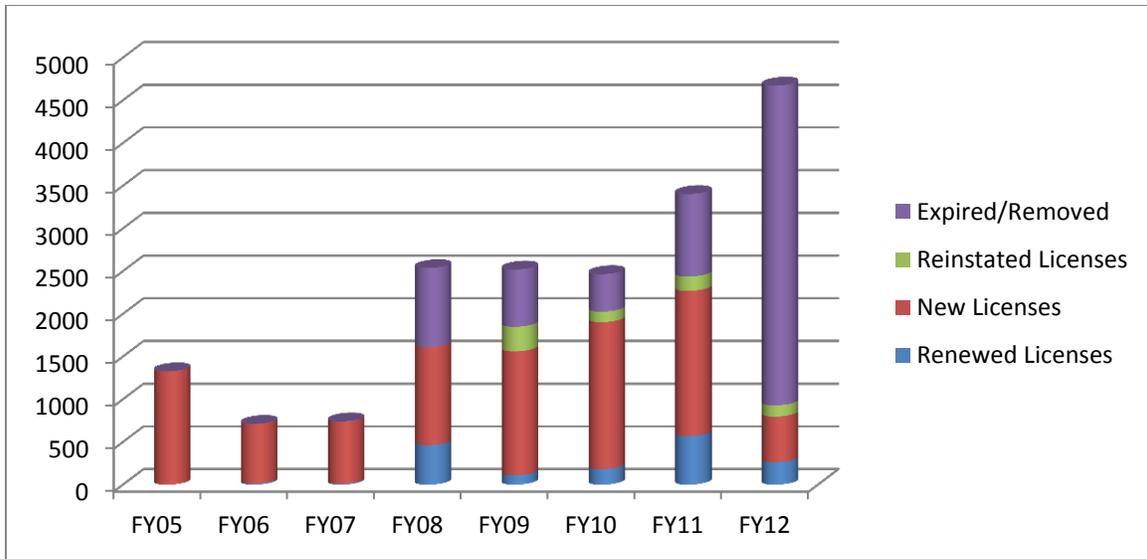
## Process Server Review Board

In 2005, 1,265 people who had already been authorized to serve civil process in Dallas, Denton and Harris counties were grandfathered for statewide authorization to serve civil process under the order issued in June 2005. By November 2011, this population peaked at 6,427.



Number of Licensed Process Servers (2012 data as of April 30)

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. On April 2, 2012, the complete list of persons certified to serve civil process statewide was updated to only include persons who have paid the required fees necessary to comply with this Act. Accordingly, approximately 2,793 persons previously on the list of persons authorized to serve civil process statewide were removed from the list however the Board has continued to issue 50 to 100 new licenses per month since these fees were implemented and that number is expected to continue to rise. The total amount of certification and prorated fees collected as of April 30 was \$544,534.66.



Process Server Licenses by category

\*Although certification is issued monthly for a three-year period, the largest cycles for renewal have been during the month of July in both 2008 and 2011.

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.

### Guardianship Certification Board

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 GCB 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 were posted for public comment; no comments were received. The GCB adopted the second set of proposed changes at its April 2012 meeting. Submission to the Supreme Court of Texas for approval is pending.

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.

The vendor declined to continue the contract under the current terms through FY 2013. GCB, legal and purchasing staff have discussed preparing and posting a Request for Proposals for a new exam contract. Options, including posting an RFP and using the exam administration and proctoring service offered through the University of Texas at Austin, are currently being explored. A decision will be made in time to inform the Board at its early August meeting.

### **Court Reporters Certification Board**

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 30<sup>th</sup>) became effective on September 1, 2011, and January 1, 2012, respectively.

Establishing a Review Panel in the Fall of 2011 to consider new complaints instead of having the full Board perform this function has greatly improved efficiencies and streamlined the complaint process freeing up the Board to focus on disciplinary hearings and rule and policy matters.

The Board's Rules Committee has been contemplating 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 to be posted for public comment in the near future.

A request for an Attorney General's Opinion was filed by the Board's Chair in August 2011 relating to a possible 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. AG Opinion No. GA-0928 was issued on May 14, 2012, advising that section 199.1, Rules of Civil Procedure, is in harmony with sections 52.021 and 52.033, Texas Government Code, that allows for a party to litigation, the attorney of the party, or a full-time employee of a party or a party's attorney to record a deposition solely by non-stenographic means without violating Government Code section 52.021(f).

## **NATIONAL ISSUES**

The National Summit on Language Access in the Courts will be held October 1-3, 2012, in Houston and will call attention to the problem of access to justice for people with limited English proficiency. We will be sending a team to the summit where we hope to gain information on successful strategies and evidence-based practices as we formulate our state plan for system improvement.