

COURTEX

Texas Judicial Branch News

Winter 2007

From the Office of Court Administration Director

Greetings from Austin. It turns out to be quite challenging to produce a newsletter during the throes of the legislative session. However, we do have several items that should be of interest, so please read on.

- [Carl](#)

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Court Tech

Supreme Court Webcasting

Live video webcasts of oral arguments before the Supreme Court of Texas will be made available through the St. Mary's University School of Law [web site](#), beginning with the March 2007 session of the court. On March 1, 2007, the Court adopted Miscellaneous Docket [No. 07-9033](#), providing interim procedures governing webcasting of oral arguments. The collaborative project between the court and St. Mary's will allow anyone around the world who has access to a computer to listen and view the court's live proceedings from its Austin courtroom. Additionally, those Internet transmissions will be recorded and stored on the law school's website where they can be accessed at any time. This project culminates nearly a year of planning and demonstrates a unique collaboration between the Supreme Court and the law school to make such oral arguments available on a worldwide basis. The Court is seeking state funding from the legislature to further enhance the project.

Judicial Committee on Information Technology

Data Reporting & Exchanges

At the JCIT meeting in December, Mary Cowherd, OCA's deputy director for court services, reported on OCA's work on the Judicial Council's plans for updating the monthly summary reporting of court statistics to OCA. JCIT members urged that OCA and the Judicial Council take any available steps to move toward alignment with national XML standards (i.e., [GJXDM/NIEM](#)) for summary-level court reporting. Toward that end, Mary engaged with experts at the National Center for State Courts (NCSC) to help us determine how far we can get with Texas reporting, who told her:

The NCSC's [*State Court Guide to Statistical Reporting*](#) (commonly called the "Statistical Guide") is the dominant guideline for the reporting of case activity statistics. NCSC is trying to encourage states to adopt, as much as practical, the suggestions set forth in the Guide, which will enable courts throughout the country to "report *caseloads* in a comparable and meaningful way . . . and to capture and provide much of the information necessary to present a clearer picture of court *workload*."

NCSC would like to see every state comply closely with the *Statistical Guide*. Nationwide statistical publications would show better comparability between states if all states complied and nationwide technology standards for statistical report exchanges would be more attainable. Few states do comply, though. Michigan is the only state that highly matches the *Statistical Guide*. California currently has a 25% match and New Hampshire currently has a 35% match, but both of these states will move toward 70% with their new statewide trial court case management systems. Our sense was that about 10 states have a somewhat high level of compliance (i.e., a match of 50% or more) to the *Statistical Guide*, but we do not know this with certainty. The NCSC is currently in the process of preparing status reports that show the match between what each state collects and what is required in the *Statistical Guide*.

In their basic form, GJXDM and NIEM cover case level data, not summary data. However, GJXDM provides for "extensions"—add-ons that certain business partners agree on. An NCSC team is working to leverage this extensibility feature for statistical reporting. They will use extensions to map the *Statistical Guide* to GJXDM interchanges and produce an IEPD (Information Exchange Package Documentation) for reporting summary data on cases being processed in the courts. Further, to provide for situations where local jurisdictions report using nonstandard definitions, the IEPD will also use extensions to provide for explanations about exceptions to standard definitions in the *Statistical Guide*. NCSC will have the draft IEPD out by the end of April. As we understood it, even though Texas does not capture data elements that are identical to those recommended in the *Guide*, Texas will be able to participate in the IEPD initiative. The IEPD project covers both the exchange between trial courts and their AOC, and between the AOC and the NCSC.

DIR Procurement for Hosted Case Management System

The Department of Information Resources (DIR) reports that it is continuing preparation toward issuing an RFO for a hosted court case management system. DIR has notified OCA that they plan on convening a meeting with stakeholders in March. Further information is available on DIR [contracting projects](#).

Legislative Funding

OCA has two major requests for funding for projects that fall within JCIT's area of interest. The Trial Court Technology project (\$500,000) would enable OCA to fund case management software, collections software, and Internet connectivity projects in local courts, with JCIT's guidance. The Texas Appeals Management and E-filing System (TAMES) project (\$3.5M) would bring e-filing and electronic document circulation into the appellate courts. So far, the House and Senate have not included the Trial Court project in committee markup, and only the Senate has approved the TAMES project in markup.

Justice Court E-filing

Two bills – S.B. 237 and H.B. 819 - would direct the Supreme Court to develop rules for justice court e-filing. Justice Nathan Hecht and general counsel Lisa Hobbs heard from justices of the peace and other stakeholders in a meeting of a JCIT ad-hoc committee on this topic on February 23. Issues discussed included JP's Internet access, wet signatures on sworn pleadings, numbers of *pro se* filings, the workability of current county and district court rules as model rules, and the exact scope of the wording in the two bills.

Court Professions

Guardianship

The [Guardianship Certification Board](#) (GCB) secured the approval of the Supreme Court of Texas on [rules](#) for the certification of guardians, on December 12, 2006. As adopted by the Court, Rule Section VI(d) allows the GCB to choose whether to require both a Texas test and another test. On February 27th, the GCB met and decided to continue on its current path of requiring both a Texas test (administered by the National Guardianship Foundation), and the NGF's existing test.

Three bills of interest to the GCB are S.B. 505, relating to access to criminal history record information by the Guardianship Certification Board; S.B. 506, relating to provisional certification for certain guardians; and S.B. 507, relating to reimbursement of members of the Guardianship Certification Board for certain expenses.

Court Reporting

Congratulations to the [recipients](#) of 22 new licenses issued after the January 26, 2007 examination administered by the Court Reporters Certification Board (CRCB). The CRCB administers the exam three times a year and certifies those individuals who are qualified to practice based on successful completion. Statistics for the recent examination were:

Oral Exam:	Written Exam:	Certification Rate:
Pass: 31%	Pass: 88%	22%
Fail: 69%	Fail: 12%	

Three bills of interest to the court reporting community are H.B. 335, relating to the time for a court reporter to provide a transcript of the evidence in a case, H.B. 1518/S.B. 734, relating to circumstances under which court reporting firms, shorthand reporting firms, and affiliate offices are considered to provide services in this state, and S.B. 179, relating to the ownership and disposition of official court reporter notes and transcripts.

Service of Process

As reported in November, the period for public comment on [Rule 14](#), Rules of Judicial Administration, Statewide Certification to Serve Civil Process, ended on January 30, 2007. On March 1, 2007, the Court adopted Miscellaneous Docket [No. 07-9032](#), providing for final approval of the rule.

Court Administration

Weighted Caseload Study

OCA has embarked on a weighted caseload study, with the purpose to develop an objective and accurate method to measure the workload of the courts to determine how many judges are needed to handle that workload. This major project is the culmination of several years of work by the Judicial Council. On December 14, 2000, the Judicial Council unanimously adopted the report entitled *Performance Measures: District Courts*, which was prepared by the Council's District Court Performance Measures Subcommittee, and directed that it be submitted to the legislature. In that report, the subcommittee recommended that "the state should consider seeking the assistance of the National Center for State Courts or some other outside entity to conduct a weighted caseload study."

On September 17, 2002, the Judicial Council unanimously adopted the report entitled *Assessing Judicial Workload in Texas' District Courts* and the recommendations contained within that report, which was prepared by the Council's Committee on District Courts, and directed that it be submitted to the legislature and the governor. In that report, the Committee recommended that the legislature should appropriate the necessary funding to the Office of Court Administration and the Judicial Council for the implementation of a weighted caseload study for district courts. It further recommended that the legislature consider appropriating the necessary funding for a weighted caseload study of Texas' entire trial court system.

The 79th Legislature, R.S., passed S.B. 729, which directed OCA to contract with a nonprofit organization that specializes in providing consulting services to courts to conduct a weighted caseload study of the district courts. The legislature did not provide funding for the study, which had a price tag of approximately \$300,000 at that time. In FY 2006, OCA identified agency cost savings, and obtained a \$100,000 grant from the State Justice Institute and \$21,126 in federal Court Improvement Project funds, for the study. These funds, however, were not enough to pay for the entire study. As a result, the study is divided into two phases. OCA has contracted with the National Center for State Courts (NCSC) to conduct Phase I of the study.

Scope of Study

Phase I will result in the development of preliminary case weights that can be used to determine district court workload and judicial need throughout the state. It will measure the amount of judge time currently spent on handling different types of cases from filing to disposition. The study will also measure time spent on workload not directly related to cases but nonetheless essential functions for the court. Many states only do Phase I when conducting a weighted caseload study. Phase I of the project started in October 2006 and will be completed December 31, 2007.

Phase 2, if funded (and it does not look promising), will assess the preliminary case weights developed in Phase I to determine whether the amount of time judges currently spend on various cases is reasonable to dispense quality justice. Results will be used to examine and evaluate the current allocation of district judges in our state in more depth. An additional \$125,000 is needed to conduct Phase 2 and finish the entire study.

Methodology

Weighted caseload is a technique for determining how much time is required to process cases handled by the court and perform other essential judicial functions. Information is collected on all cases handled by the court to account for the variety of case types. A sample of judges will be asked to monitor, from May 1 through May 31, 2007, how much time they spend on each case and other essential functions.

Each county in Texas has a jurisdictional pattern reflecting the relationship between the district judge and the county (these patterns were previously developed by the Judicial Council Committee on District Courts). The six jurisdictional patterns are as follows:

1. Single county served by multiple courts (serving only that county)
2. Single county served by a single court (serving only that county)
3. Multiple counties served by multiple courts with identical jurisdiction
4. Multiple counties served by a single court
5. Multiple counties served by multiple courts with one separate jurisdiction
6. Multiple counties served by multiple courts with many separate jurisdictions

The sampling strategy was developed by the NCSC based on county population and jurisdictional pattern.

- All 254 counties in Texas were first grouped into six general clusters based on population. Clusters 1-5 include the largest 22 counties in the state.
- Cluster 6 is comprised of the smallest 232 counties and is further separated by the court jurisdictional pattern for each county.

All counties in Clusters 1 through 5 will be asked to participate in the study. The Judicial Needs Assessment Committee, which is a judicial advisory committee that is providing guidance and oversight to the weighted caseload study, decided which counties in Cluster 6 will be asked to participate in the study. As county courts at law share concurrent jurisdiction with the district courts, it is likely that county courts at law judges will also be asked to participate in the time study.

Indigent Defense

The Task Force on Indigent Defense (TFID) has established a [website](#) with information on legislation of interest to the indigent defense community. The TFID has meetings scheduled on March 9, Court of Criminal Appeals courtroom, Austin.

According to a 2006 report by the U.S. Bureau of Justice Statistics, nearly a quarter of both state prisoners and jail inmates who reported they had a mental health problem had served three or more prior sentences to incarceration. This makes them familiar faces in our nation's courtrooms.

The Council of State Governments Justice Center recently announced that TFID Chair/Presiding Judge Sharon Keller and the Texas Court of Criminal Appeals have been selected to participate in the [Chief Justices' Criminal Justice/Mental Health Leadership Initiative](#), a national project designed to assist state supreme court chief justices in guiding efforts in their state to improve the response to people with mental illnesses in the criminal justice system. The membership of the Texas Task Force includes:

Sharon Keller – Presiding Judge, Texas Court of Criminal Appeals
 Robert Duncan - State Senator
 John Bradley – Williamson County District Attorney
 David Gutierrez – Lubbock County Sheriff
 Mary Anne Wiley – General Counsel, Office of the Governor
 Jim Bethke – Director, Texas Task Force on Indigent Defense
 Mike Maples – Texas Department of State Health Services, Director Mental Health/Substance Abuse
 Dee Wilson – Director, Texas Correctional Office on Offenders with Medical or Mental Impairments

Collection Improvement Program

OCA's Collection Improvement Program is a set of principles and a process for managing cases when defendants are not prepared to pay all court costs, fees, and fines, at the point of assessment and when time to pay is requested. There are [20 components](#) and 11 are deemed critical, which include some that are likely to require an initial investment at the local level:

- Staff or staff time dedicated to collection activities; this may include county or city employees or contract employees.
- In most cases, defendants unable to pay in full on the day of sentencing or pleading are required to complete an application for extension of time to pay.
- Non-payment follow-up includes telephone contact, letter notification, and possible issuance of warrant.

However, OCA data from implementing voluntary programs shows that jurisdictions can easily recoup the start-up costs of the program within months, with a potential return on investment of 700% in the first year.

OCA revenue projections for the state were based on self-reported information from voluntary programs, which resulted in an assumption that collection rates pre-program would average 56%, and post-program would improve by 16 points to 72%. Using those assumptions OCA projected \$5.8 million in new revenue for the state in FY 2006 as a result of the mandatory program. That figure has turned out to be \$7.1 million.

Several legislative proposals have been introduced or discussed that would negatively affect future collections: SB 176 would tend to shift collections to probation departments (CSCDs); SB 280/HB 1550 would make the program essentially optional; and SB 461 would make it easier to obtain a waiver from the program. Following is a summary projection of the annual impact of those proposals on state revenue and on the Crime Victims Compensation Fund in particular.

	State Revenue Loss	CVCF Loss ¹
SB 176	\$7.3 million	\$1.9 million
SB 280	\$25.8 million	\$6.7 million
SB 461	(analysis not complete)	(analysis not complete)

¹ Amounts are included in the total amounts for state revenue loss.

Pro Se Litigants

On February 1-3, the American Judicature Society put on its South Central Regional Conference on Pro Se Litigation. Attendees from Texas included the judiciary, elected clerks, legal aid providers, family law practitioners, and representatives of the Supreme Court and the Office of Court Administration. The Texas team identified several ideas for improvement of services to self-represented litigants, and made key contacts from around the country.

Following are excellent resources for court personnel who want to improve their services to this growing group of customers:

[Best Practices](#) in Court-Based Programs for the Self Represented: Concepts, Attributes and Issues for Exploration, 2006 Edition

[Trends](#) in Self Represented Litigation Innovation

[Directory](#) of Court-Based Self Help Programs

[White Paper](#) on Self Represented Litigation, Conference of State Court Administrators

And, here are three Texas-specific websites and one national website for self-represented litigants:

[The State Law Library](#)

[Texas Law Help](#)

[FreeTexasForms.org](#)

[Self Help Support](#)

Courts for Kids

Work continues on the Supreme Court's initiatives to strengthen courts as an essential component of improving outcomes for children and youth in foster care. In December 2006, the Supreme Court appointed the [Foster Care Consultative Group](#) to recommend an organizational structure, membership criteria, and a proposed plan and timeline for launching a statewide judicial commission for children and families. That group has convened three times, most recently on March 2, 2007, and issued a report recommending the creation of a 12 member commission. The commission would maintain three standing committees, entitled Projects, Technology, and Training, and which would oversee three federal Court Improvement Project grants, respectively – the "Basic" CIP grant, the "Data" CIP grant, and the "Training" CIP grant. The report also recommends that the Court hire a full time Executive Director for this project (which has been [posted](#)), and launch the commission with a hearing before the full Court later in the year.

The Law Library

The Rules of Appellate Procedure and the Rules of Evidence, the Rules of Civil Procedure, Texas Discovery Rules, Court Reporters Rules, Rules of Judicial Administration and Parental Notification Rules are available from the Supreme Court of Texas Rules and Procedures [web page](#). In addition, the Code of Judicial Conduct, including proposed revisions, may be accessed from that page.

Amendments

Rules 21.1, 21.3, 21.8, 21.9, 35.3 and 42.2 of the Rules of Appellate Procedure were amended effective January 1, 2007. The updated rules are posted on the [website](#) of the Supreme Court of Texas. Amendments to the Rules of Evidence, rules 412 and 504, took effect on January 1, 2007. The updated rules are available from the Supreme Court of Texas [website](#).

The public comment period for proposed amendments to Parental Notification Rules 1.1, 1.3, 1.10, 2.2, 2.3 and 2.4 expired on January 30, 2007. The proposed changes took effect March 1, 2007. The Supreme Court's Misc. Docket Order No. [06-9143](#) details the proposed changes.

Judicial Branch Events

MARCH

2		Process Servers Review Board Meeting 3rd Court of Appeals Courtroom, Price Daniels Building, Austin
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9	9:30 a.m.	Presiding Judges Meeting Tom C. Clark Building, 6 th Floor, Austin
	10:00 a.m.	Task Force on Indigent Defense Grants and Reporting Committee Court of Criminal Appeals Courtroom, 201 W. 14 St., Austin
	1:00 p.m.	Task Force on Indigent Defense Court of Criminal Appeals Courtroom, 201 W. 14 St., Austin

APRIL

13	9:30 a.m.	Presiding Judges Meeting Tom C. Clark Building, 6th Floor, Austin
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27-28		Supreme Court Advisory Committee Texas Association of Broadcasters 502 E. 11th, Suite 200, Austin
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28		Public Meeting Court Reporters Certification Board (location to be announced) Austin
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MAY

II	9:30 a.m.	Presiding Judges Meeting Tom C. Clark Building, 6th Floor, Austin
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I8	11:00 a.m.	Guardianship Certification Board (location to be determined)

About [OCA](#)

Resources & Information
for the Efficient Administration
of the Judicial Branch of Texas

OCA provides **resources** for the judicial branch:

- technical assistance, training, and research on court administration;
- staffing for judicial branch regulatory boards and policymaking bodies;
- information technology solutions, including [Texas Courts Online](#);
- funding and standards for [indigent defense](#) services;
- fiscal and legal consultation for [appellate courts](#); and
- staffing and administration for [specialty courts](#).

OCA provides [information](#) about the judicial branch:

- statistics and analysis of court information and case activity;
- descriptions of court system structure and jurisdiction;
- legislative responses and reports about the courts and judiciary; and
- comparative policy studies and recommendations.

[Organization Chart](#)
[Divisions and Contacts](#)
[Strategic Plan](#)



Please refer comments or questions about this newsletter or the Office of Court Administration to:

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