

# **Guidelines for Transition to New Judicial Council Reports**

## **Background**

Acting on a mandate of the Texas Legislature [78<sup>th</sup> (2003), 79<sup>th</sup> (2005), and 80<sup>th</sup> (2007) Regular Sessions under a rider to the General Appropriations Act for each of those sessions] and a request of the Judicial Council's Committee on Judicial Data Management, OCA created workgroups comprised of judges and clerks to review the data elements currently used by the district and county-level courts in reporting court activity. The review was inaugurated in 2004.

After several years of work on this project, a group of judges who served on the various OCA workgroups, along with representatives from the Supreme Court, Court of Criminal Appeals, and the Legislature, met in April 2007 to review all the proposed monthly report changes recommended by the OCA workgroups, except the proposed probate, guardianship, and mental health data changes, prior to the submission of the proposed changes to the Committee on Judicial Data Management.

The Committee on Judicial Data Management met twice (May 2007 and October 2007) to consider the recommended changes to the reporting forms and instructions for the district courts, county courts at law, and constitutional county courts. The proposed reporting forms, as amended by that Committee, were submitted to and considered by the full Judicial Council at its meeting on December 7, 2007. Notice of the Council's intent to repeal the existing monthly case activity reporting rules and to adopt new monthly reporting rules was published in the Texas Register on March 21, 2008, with a 30-day comment period. At its May 23, 2008 meeting, the Judicial Council considered the comments that were received, repealed the existing reporting rules, adopted the new reporting rules, and approved the proposed reporting forms and instructions, as amended at that meeting.

The changes made to the reporting forms will:

- Provide more detailed, useful information about court workload and activity, particularly in family law, juvenile and probate cases, where little information of limited usefulness had been collected in the past;
- Allow policymakers and other interested parties to track important, growing caseloads in child protection, guardianship and mental health cases, which require long-term court involvement and satisfaction of statutorily-mandated timelines; and
- Provide a more accurate picture of caseload under a court's control by indicating how much of a court's cases are "active," enabling courts to measure the age of their pending caseload more accurately, to determine meaningful case-processing times, and to manage court resources more effectively.

## **You must start NOW!!!**

You will need time to assess your situation, develop a plan, and begin implementation. In some or even many cases, you will not currently have access to the information required to complete parts of the report, so you will need to work with the judges, their staff, and your IT people to get some sort of system established to capture the required information. This will require changes in processes, procedures, and computer programming. You will also need to implement new

processes and changes to the case management system and reports to make sure that the data you are collecting is accurate.

In addition, the sooner you start using the new case categories, the fewer cases there will be pending under the old case categories once you start reporting in the new format for September 2010. Even though new categories will be used, reports may be programmed to count the cases according to the case categories used on the old report form.

### ***Develop an implementation plan***

Determine:

- What you are currently **able** to report
- What you are currently **unable** to report
  - What needs to change **in your office** to be able to collect and report the new information
  - What information you currently have **no access to**
    - Who has access to/control over the missing information
    - How they can either provide you the information or give you access to it
  - What processes/procedures will need to be changed or created
  - What changes to computer system(s) are needed

Start implementation:

- Begin using new case categories at a specified date (**January 1, 2009** is strongly recommended)
- Begin using civil and family case cover sheets at a specified date (**January 1, 2009** is strongly recommended)
- Make software changes to track new information/case categories, but also make sure that you are able to complete current OCA reports
- Implement changes in processes, procedures and information technology to start capturing new information

### **Reporting Filings and Dispositions in Cases Categorized under the Previous Version of the Judicial Council Reports**

All **new cases** filed on or after September 1, 2010 must be classified in the new reporting categories.

A case must be reported as disposed of in the same category in which it was reported filed.

If a county is unable to reclassify cases pending on or before August 31, 2010 into the new categories, the pending cases should be reported as pending or disposed on or after September 1, 2010 as follows:

<b>Old Category</b>	<b>New Category</b>
<b>District Criminal</b>	
Assault or Attempted Murder	Aggravated Assault or Attempted Murder
Arson	Other Felony
Other Proceedings	Civil Cases Relating to Criminal Matters—Civil Section
<b>Misdemeanors</b>	
DWI	DWI—First Offense
Theft or Worthless Checks	Theft
Drug Offenses	Other Drug Offenses
Assault	Assault—Other
<b>Juvenile</b>	
Delinquent Conduct	All Other Offenses
<b>District Civil</b>	
Injury/Damage: Other than Motor Vehicle	Injury/Damage: Other
Accounts, Contract & Notes	Contract: Consumer/Commercial/Debt
Workers' Compensation	Other Civil
<b>County Court Civil</b>	
Injury/Damage: Other than Motor Vehicle	Injury/Damage: Other
<b>Family</b>	
Divorce	Divorce: Children
Reciprocals	Title IV-D: UIFSA
<b>Probate</b>	
Probate Cases	Probate: All Other Cases

## **Active and Inactive Pending Cases**

Through the years, OCA has received numerous comments from judges who are in favor of distinguishing active cases from inactive cases. They do not want to be “penalized” for not disposing of cases over which they have no control.

According to the National Center for State Courts, “courts able to distinguish active versus inactive pending cases are in a better position to measure the age of their pending caseload accurately, to determine meaningful case-processing times, and to manage court resources.”

A case is placed in an inactive pending status because further court proceedings and activities cannot be resumed until an event restores the case to the court’s active pending caseload.

**Processes and codes for many of the statuses that would make a case categorized as “inactive” already exist and are being used** (e.g. abated, capias/warrant, etc.), and others can be created. Clerks are currently counting inactive cases (e.g., "unapprehended cases" in the criminal section, and abated cases in "all other dispositions" in the the civil section, of the

monthly report). The majority of inactive cases will be "unapprehended cases," which are already counted in criminal cases.

In some cases, it will be up to the local jurisdictions to determine what types of situations should make a case inactive then make sure that processes and case management systems are modified to put cases in this status and count them accurately on the report (e.g., the "hold for judgment/settlement" status currently used in Harris County). **In these cases, the clerk will need to consult with the judges and their staff to determine what situations make a case inactive or reactivated, and procedures will need to be established to ensure that the clerk either has access to the required information or that it is provided to the clerk by the courts.**

Examples in criminal and juvenile cases:

- Cases in which a directive to apprehend or warrant of arrest has been issued;
- Cases in which a defendant is being held elsewhere on federal charges;
- Cases stayed due to a question of mental illness or mental retardation;
- Cases stayed while a defendant undergoes temporary or extended inpatient mental health treatment; and
- Cases in which the defendant is otherwise unavailable for adjudication.

Examples in civil and family cases:

- Cases ordered to arbitration;
- Cases in which an abatement order has been entered while the case continues being conducted under collaborative law procedures (Section 153.0072, Family Code);
- Cases delayed due to the Soldiers' & Sailors' Civil Relief Act;
- Cases in which a notice or suggestion of bankruptcy is filed;
- Cases in which a capias has been issued for failure to appear (Ch. 157, Family Code);
- Cases in which a suggestion of death is filed;
- Cases placed in "hold for judgment/settlement" status—cases in which the issues have been resolved but the proceedings are "on hold" pending settlement to be completed or final judgment to be signed; and
- All other cases ordered abated by a judge.

We expect all jurisdictions, when able, to report inactive and reactivated cases. *If a jurisdiction is initially unable to count inactive and reactivated cases, OCA will consider a request for a temporary waiver for good cause. If a temporary waiver is granted, all pending cases should be reported in the lines for active cases.*

### **Counties with Exchange of Benches System or Sharing of Caseload by District and Statutory County Courts**

A case handled (disposed of) by the county court at law should be reported on the statutory county court form, even if the district clerk is the records keeper. This has always been the case, but we still encounter reports where the county court at law activity is being credited to the district courts.

In addition, some counties have an exchange of benches system that involves both the district and county courts at law. In some other counties, a case may be filed in the district court but actually handled by the county court at law, and vice versa.

Whatever the case may be in your county, the activity reported in the district report should contain information on cases handled by the district courts only, and the statutory county court report should contain information for the county courts at law only. It is very important to give the correct court the credit for handling a case so that the statistics are accurate and meaningful reflections of each court's workload.

## **Case Cover Sheets**

As part of the judicial data project, the Judicial Council asked the OCA judicial data workgroups to develop a civil case cover sheet, the purpose of which was to take the burden off clerks in categorizing cases and make the attorney or litigant responsible for indicating what type of case is being filed. Use of a cover sheet will be very helpful to the clerk offices, particularly in light of the increase in case categories on the monthly reports. Cover sheets are required by the federal courts, as well as by many courts in other states.

In addition to model cover sheets for civil cases (i.e., one for district civil cases and the other for county civil cases), model cover sheets were also developed for family, criminal and juvenile cases. At the September 19, 2008 meeting of the Judicial Council, the Council approved the civil and family cover sheets as model forms, which can be modified for local use. The model cover sheets are posted on the OCA website.

We will ask the Supreme Court to consider adopting a rule requiring a cover sheet to be submitted when a civil or family case is filed. We will keep you notified of any developments in this area.

If the Supreme Court chooses not to adopt a rule, we recommend that you speak with your judges about adopting a local rule requiring the use of a cover sheet when a case is filed. Dallas County is a good model; it has required cover sheets for some time.