

# DIRECTOR'S REPORT

August 2016



## Texas Judicial Council

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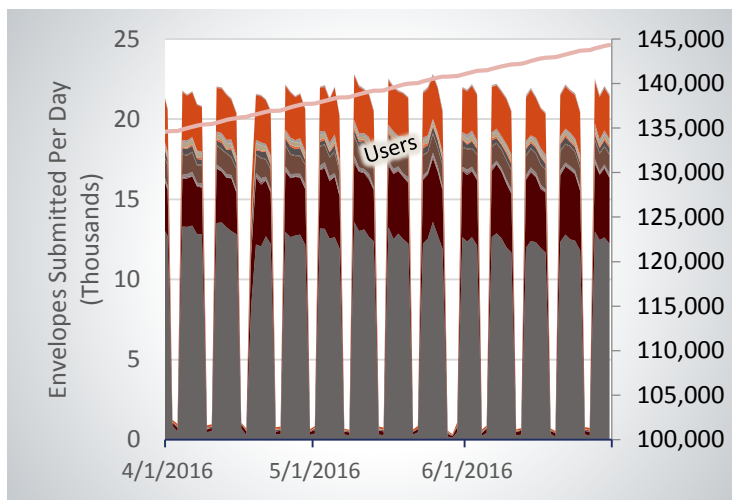
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## TECHNOLOGY & DATA

### Information Services Division

**Civil e-Filing is now mandatory for attorneys in all 254 Texas counties!** OCA appreciates and thanks the Supreme Court, the Judicial Committee on Information Technology and the District and County clerks for their leadership in the eFiling arena. Texas remains an example model for other states with a decentralized system. Today, the system handles around 30,000 documents each day with nearly 150,000 users on the system.



OCA's Information Services Division (ISD) is instructed by the Legislature to directly provide staff and information technology equipment and services to the two high courts, the 14 intermediate appellate courts and five judicial branch state agencies. The division also provides staff to coordinate and facilitate the work of the Judicial Committee on Information Technology (JCIT).

### Criminal e-Filing

At the end of June, the Court of Criminal Appeals ordered that criminal eFiling be mandatory for attorneys in district and county courts. The implementation of the mandate will be similar to the civil mandate, with the top 10 most populous counties becoming mandatory in July 2017 and other counties becoming mandatory every six months according to their population. JCIT has already passed eFiling standard codes last year in support of permissive criminal eFiling but will review them again for any necessary additions for mandatory criminal eFiling. The statewide eFiling rules will also be reviewed by JCIT and recommendations given to the Court.

### Judicial Access to Court Records

As part of the eFiling contract, Tyler Technologies is contracted to provide document access. The new tool is currently being beta-tested by Texas judges and is called Re:SearchTX (formerly RACER). The tool is now available to all judges. OCA will have a table at the Annual Judicial Conference in September to ensure judges know that this tool exists. Only documents eFiled will be available in the system going back to January 2016.

**re:SearchTX**

The tool allows judges to filter eFiled documents down by county, court, case, party or a combination of those criteria. Judges can then save those results to “folders” for later viewing. It is expected that this tool will have big benefits to judges that hear cases in multiple jurisdictions that do not share case management systems.

OCA expects to open access to attorneys of record on cases at the end of 2016. The Judicial Committee on Information Technology is also beginning meetings with clerks, judges and attorneys regarding the provision of remote access to court documents to attorneys generally and other members of the public.

### Other Information Services Projects

- Implementation of online self-represented litigant (SRL) form preparation tool – As part of the eFiling platform, OCA has made available to the Texas Legal Services Center (TLSC) the ability to implement the Guide and File System. This system provides online interviews using plain language to assist SRLs in completing forms. The system is available for use at <http://selfhelp.efiletexas.gov>. Six interviews have been implemented including one that generates the Supreme Court approved forms for divorce with no children. TLSC projects that more than 50 forms will be available with this tool. Once completed, the forms can be electronically filed directly with the court.
- Guardianship Compliance Tool – This tool will support the Guardianship Compliance Project being piloted by OCA. The tool will allow judges to require that guardians electronically file their initial inventories, annual reports, and annual accountings. The system will then use a series of checks to look for potential abuse and alert the judge or other judicial staff reviewing these filings. Adaptations from the Minnesota system have been identified, and OCA has hired a contract programmer to work on the Texas tool. OCA expects to have the tool involved in a pilot county no later than December 2016.
- Replacing licensing database – OCA’s software that manages the licensing provided by the Judicial Branch Certification Commission is outdated and in need of several modern features including the ability for licensees to review their records and renew/pay for licenses online. A request for offers is currently out for bid and a decision is anticipated prior to the next Judicial Council meeting.
- Replacing court activity database – Over the last several legislative sessions, there has been an increased need for court data in order to satisfy court personnel, public, media, and legislator requests. Frequently the data collected is not granular enough to answer the questions of those individuals. The database is also archaic and in need of modern features. The new system would work to ease the reporting burden of local clerks, as well as enhance the ability for OCA research staff and the public to look at data about the courts.
- Infrastructure Upgrades – OCA has completed the workstation upgrades for judicial branch organizations supported by OCA Information Services. OCA also completed a WAN upgrade, giving the appellate courts a 10X upgrade in speed between the court and OCA. Additional cybersecurity upgrades, server upgrades, and software upgrades are planned for the fall. This includes the deployment of Office365 to interested entities supported by OCA.

## RESEARCH & COURT SERVICES

Since the last Judicial Council meeting, the Research and Court Services Director and Court Services Manager presented on data quality issues and provided an update on Judicial Council activities at the County and District Court Clerks' Annual Conference in Galveston. The Director also gave a presentation on court performance measurement and management and the Judicial Council's Centers of Excellence initiative at the Texas Center for the Judiciary's Professional Development Program (PDP). PDP is an intensive week-long educational program for court coordinators.

### Court Services

OCA has reorganized its Research and Court Services Division to now include a new Court Services section. Amanda Stites, who has been with the Research and Court Services Division since 2009, will be the manager of the new section, which includes OCA's consulting, language access, research, and grant-funded programs.

### Consulting

The Court Services Consultant assisted the 212<sup>th</sup> District Court, Galveston County, in the development and implementation of a Differentiated Case Management (DCM) policy for all criminal cases. The implementation of the DCM policy is expected to result in a decrease in the time to disposition of lesser degree felonies and help the court better manage events related to complex felonies. The Court Services Consultant is now assisting the court in developing a DCM policy for civil cases.

In June, the Court Services Consultant served as faculty member for the Professional Development Program.

### Language Access Services

Since the last Council meeting, TCRIS staff engaged in the following:

- Continued managing the Interpreter Locator Listserv, which allows court personnel from around the state to search for interpreters fluent in exotic and rare languages. The exotic language requested during the period was Nepali.
- Provided interpreting services in 236 hearings held in 44 counties to 43 judges in a variety of criminal and civil cases, including magistrations, plea hearings, sentencing hearings, arraignments and prove-ups.
- Enrolled eight new TCRIS users.
- Continued translating the Supreme Court Children's Commission's Parent Resource Guide into Spanish.
- Provided an overview of the language access resources available on OCA's website for the Appellate Clerks' Meeting in San Antonio.

Language Access Program staff provide Spanish interpreting services via speakerphone or videoconference through the Texas Court Remote Interpreter Service (TCRIS). TCRIS services are available for all case types, for short, non-contested hearings involving limited or no evidence. In addition, OCA's Language Access staff provides training on language access issues and best practices.

## Research

OCA research staff continue to work with researchers at Texas A&M's Public Policy Research Institute on a pretrial release research project, which is being conducted under the charge of the Council's Criminal Justice Committee. The study, which will look at the pretrial release practices in jurisdictions around the state, is expected to inform judges and others about pretrial program planning, design, and operations issues.

OCA research staff continue to work with researchers at the National Center for State Courts (NCSC) on the Texas Child Protective Services Judicial Workload assessment project funded by a grant from the Texas Children's Commission. The project will result in a method to objectively determine the number of judges necessary to process the CPS-filed caseload. An interim report was issued by NCSC in June and the final draft is due in August.

## Domestic Violence Training

OCA's Domestic Violence Training Attorney (DVTA), funded through a grant from the Criminal Justice Division of the Office of the Governor, continued as the Presiding Officer of the HB 2455 Task Force to Promote Uniformity in the Collection and Reporting of Information Relating to Family Violence, Sexual Assault, Stalking, and Human Trafficking. OCA must deliver a report with recommendations on issues of data quality and uniformity to the Governor and Legislature by September 1, 2016.

The DVTA also began working with members of the University of California Berkley's Hague Domestic Violence Project to assemble a committee to create a bench guide to assist Texas judges in managing processes and substantive law applied in Hague Convention child abduction cases in which domestic violence is a factor. In addition, the DVTA is working with representatives of the Texas Victim Services Association to plan a symposium on victims' issues to be held this fall.

The DVTA conducted training sessions on family violence, Magistrate's Orders of Emergency Protection, and Texas Crime Information Center reporting to the following organizations:

- Texas Rio Grande Legal Aid in Eagle Pass;
- County and District Clerks Association of Texas Education Seminar in Round Rock;
- Texas Criminal Justice Information Users Group Annual Conference in Galveston; and
- Texas Municipal Courts Education Center's Bailiffs and Warrant Officers Conference in Dallas.

## Data Collection

### Judicial Information Program

The Judicial Information Program collects, reports and analyzes court activity statistics, judicial directory information, and other information from the approximately 2,700 courts in the state; produces the Annual Statistical Report for the Texas Judiciary, the Texas Judicial System Directory, and other publications; and provides statistical and other information about the judicial branch to the legislature, state and federal agencies, local governments, private associations and public interest groups, and others. More than 150,000 statistical and other reports were received in FY2015.

#### Data on Case Filing Trends

Staff developed a presentation for Judicial Council on filing trends in cases related to motor vehicles for its meeting in June.

#### Legislative Changes affecting Data

SB 1369, related to mandatory reporting of appointments and fees paid to attorneys ad litem, guardians, guardians ad litem, mediators and competency evaluators, goes into effect September 1, 2016.

Staff have developed forms, instructions, frequently asked questions (“FAQ”), checklists, presentations, webinars and other resources related to the reporting requirements of the bill. Staff also worked with a programmer to make changes to the current appointments and fees reporting database.

### Technical Assistance and Training

A significant amount of time of the Judicial Information Program’s staff continues to be devoted to providing ongoing support to the trial courts and clerks and their information technology staff or case management vendors on reporting issues. Since the last Council meeting, staff made presentations at clerk education seminars held by the Texas Municipal Courts Education Center and the Texas Justice Courts Training Center.

### Collection Improvement Program

#### Technical Support

Since the last Council meeting, CIP staff continued to:

- Conduct “spot checks” of programs required to implement a program to ensure continuing compliance with program components;
- Compile data for Return on Expenditure reports;
- Work on policies and establishing procedures for training and managing compliance with data verification audits;
- Provide training;
- Conduct corrective strategy meetings designed to assist jurisdictions that have failed a compliance audit.

Through its Collection Improvement Program (CIP), OCA continues to provide technical assistance counties and cities required by law to have a collection improvement program. This assistance is designed to promote local program compliance with key program components.



### Collection Improvement Program Audit

Since the beginning of FY16, the CIP – Audit Section has issued reports for 15 Compliance Audits. Of the 15 jurisdictions audited, 12 passed the audit (including five jurisdictions undergoing a follow-up audit), and 3 jurisdictions failed the compliance audit. All three jurisdictions that failed have completed the 180-day grace period and are awaiting the beginning of a follow-up audit. Audit staff are currently working on 14 Compliance Audits and 2 Post-implementation Rate Reviews.

Article 103.0033(j) of the Code of Criminal Procedure also requires OCA to periodically review mandatory local jurisdictions to ensure the data reported to the CIP Court Collection Report system is reliable. The CIP – Audit Section completed fieldwork for the first pilot of the Data Verification Audit and is currently working on the second pilot of this project type. The CIP – Audit Section plans to perform several pilot audits of this project type during FY17.

Article 103.0033(j) of the Code of Criminal Procedure requires OCA to periodically review mandatory local jurisdictions' compliance with the components of the Collection Improvement Program (CIP).

## CHILDRENS' COURTS

### Child Protection Courts/Child Support Courts Program

In May 2016, the Specialty Courts Program Coordinator (SCPC) and Legal Manager began efforts to secure input from persons who regularly appear before child protection and child support associate court judges to assist the Presiding Judges in conducting performance evaluations of the associate judges. The SCPC and Legal Manager reached out to child protection and child support court associate judges, the Office of the Attorney General (OAG), the Department of Family Protective Services (DFPS) Legal and Child Protective Services (CPS), and Texas CASA (Court Appointed Special Advocates) to obtain contact information for attorneys, both agency and private, and their respective staff. In turn, electronic surveys were emailed to these individuals and the referring courts soliciting input on their perspective of the associate judges' performance. Between June 23 and July 11, hundreds of emails were sent. The participants were given an average of two weeks to respond. On July 21, the results were distributed to the Presiding Judges for consideration.

### Problem Solving Court Coordinator

On July 1 and August 5, the Specialty Courts Program Coordinator (SCPC) attended the Judicial Council's Mental Health Committee along with other OCA staff. OCA will support the committee's work and the SCPC has been selected as staff to assist.

The SCPC attended the National Association of Drug Court Professionals (NADCP) Adult Drug Court Best Practice Implementation Standards meeting in Arlington, VA, on July 29. The advisory group discussed a list of suggested activities for NADCP to implement to encourage local problem-solving court program adherence to relevant national best practice standards and evidence-based best practices. After robust discussion, the group identified and prioritized standards recommendations assigning importance weights



to standards components. Next steps include NADCP staff developing an implementation plan guided by the advisory group's recommendations.

## REGULATORY SERVICES

### JBCC Certifications, Registrations, and Licenses

Profession	Number of Certifications, Registrations, Licenses
Court Reporters	2,272 individuals and 343 firms
Guardians	463 individuals
Process Servers	3,515 individuals
Court Interpreters	453 individuals
<b>TOTAL</b>	<b>7,046 individuals and firms</b>

### Recent Meetings of the JBCC and Advisory Boards

On August 5, 2016, the JBCC held its ninth meeting of the Commission. The agenda can be viewed at

<http://www.txcourts.gov/media/1435639/jbcc-agenda-final-august-5-2016.pdf>

### Compliance Section Complaint Investigation and Resolution

There have been three recent complaint review committee meetings.

- Process Server Certification Complaint Review Committee meeting – June 2, 2016
- Court Reporter Certification Complaint Review Committee meeting – June 3, 2016
- Licensed Court Interpreter Complaint Review Committee meeting – July 15, 2016

In FY 2016, the JBCC compliance team has opened 78 complaints that were filed with the Commission. There are currently 26 complaints open in various stages of the complaint process:

- 5 court reporter, 14 process server, 6 guardian, and 1 court interpreter complaints.
- Agendas for all meetings are posted on the JBCC website at <http://www.txcourts.gov/jbcc/meetings-agendas.aspx>.

### Development of the new Codes of Ethics and Standards

The JBCC continues to prepare the Codes of Ethics for each profession to submit to the Supreme Court. The Code of Ethics and Minimum Standards was recently adopted by the Supreme Court for Guardianship Services for private professional guardians, guardianship programs, and the Department of Aging and Disability Services. The Code and Minimum Standards were developed by the Guardianship Certification Advisory Board and approved by the Judicial Branch Certification Commission. The Code and Minimum

On September 1, 2014, the Judicial Branch Certification Commission (JBCC) was established by the Texas Legislature, during the 83rd Regular Session, to promote government efficiency and create consistency across the regulated judicial professions. The core responsibility of the JBCC is the oversight of the certification, registration, and licensing of 7,046 court reporters and court reporting firms, guardians, process servers, and licensed court interpreters. The nine-member commission is appointed by the Supreme Court of Texas.

Standards incorporate the recent Legislative requirements from Senate Bill 1882, House Bills 39, 1438 and 2665, as well as comments from the public. The Code and Minimum Standards are effective immediately and located on the JBCC webpage at <http://www.txcourts.gov/media/1400622/169103.pdf>.

The new Process Server Certification Code of Conduct and the Licensed Court Interpreter Code of Ethics have also been adopted by the Supreme Court and are posted on the JBCC website.

Revisions to the Court Reporter Code of Professional Conduct is in progress.

Best Practices for Licensed Court Interpreters are currently in development and staff are also drafting updates to the Court Reporter Certification Uniform Format Manual (UFM).

#### Examinations Administered for the JBCC

The JBCC certification staff administers and proctors the examinations for the Guardianship Certification written examination and the Licensed Court Interpreter (LCI) written and oral examinations. A vendor administers the written and skills examination for the Court Reporters Certification. An examination for process servers is currently being developed.

EXAMS ADMINISTERED			
Fiscal Year	Written - Guardianship	Written - Licensed Court Interpreters	Oral - Licensed Court Interpreters
FY16	98	129	86
FY15	111	123	79

#### Additional Projects for the JBCC

- On May 9, 2016, OCA posted a Request for Proposal (RFP) to replace the current certification licensing database. June 16 was the deadline for the submission of offers for the system. OCA is currently scheduling demonstrations by potential vendors.
- OCA staff reviewed and revised performance measures for JBCC as part of the Strategic Plan that accurately reflects workload of JBCC (e.g. adding non-jurisdictional complaints that were excluded previously).
- As part of OCA’s Legislative Appropriations Request (LAR) to be submitted to the Legislature for upcoming session, prepared a five-year overview of performance measures and revenue projections for FY 2015 – FY 2019 (2018-2019 biennium included).
- OCA staff are also working with certification advisory boards to develop a penalty matrix to create consistency relating to the complaint penalties and sanctions.

## GUARDIANSHIP COMPLIANCE PILOT PROJECT

Through this project, guardianship compliance specialists will be available to:

- Review adult guardianship cases to identify reporting deficiencies by the guardian.
- Audit annual accountings and report findings back to the court.
- Work with courts to develop best practices in managing guardianship cases.

Assistance is available to counties without a statutory probate court that have a significant number of guardianship cases reported at no cost to the county. OCA will also develop an electronic database to monitor guardianship filings of initial inventory, annual reports, and annual accountings. Auditors are working with Anderson, Bexar, Comal, Guadalupe, Hays, Orange, and Webb Counties on this project.

The Office of Court Administration will report on the performance of the Guardianship Compliance Project in a study to the Legislature no later than January 1, 2017. The report will include at least the following data elements:

- The number of courts involved in the guardianship compliance project.
- The number of guardianship cases reviewed by the guardianship compliance project.
- The number of reviewed guardianship cases found to be out of compliance with statutorily required reporting.
- The number of cases reported to the court for ward well-being or financial exploitation concerns.
- The status of technology developed to monitor guardianship filings.

The Guardianship Compliance Project adapting Minnesota's Conservator Account Auditing Program (CAAP).

- Minnesota uses an online conservator account reporting application called "MyMNConservator" (MMC).
- Minnesota operates statewide to audit conservator accounts and provide information and recommendations to the district courts and to conservators.
- The mission of the Conservator Account Auditing Program (CAAP) is to safeguard the assets of protected persons through the oversight of conservators by conducting professional compliance audits.

### Conservatorship Accountability Project (CAP)

Texas has also received an implementation award to receive technical assistance to implement the Conservatorship Accountability Project (CAP). Indiana, Iowa, and Texas were selected to receive

Pursuant to the Judicial Council recommendation from the Elders Committee, OCA obtained funding from the legislature to establish a pilot program to improve guardianship compliance. The Office of Court Administration has launched the Guardianship Compliance Project to provide additional resources to courts handling guardianship cases. The goal of this project is to help courts protect our most vulnerable citizens and their assets.

implementation awards; New Mexico and Nevada were provided planning awards. This project will use the extensive expertise and experience of the National Center for State Courts to support Texas' efforts in adapting the Minnesota "MMC" software, which allows conservators (known as guardians of the estate in Texas) to file their inventory, annual reports, and annual accountings electronically, integrating the software with our statewide eFiling system. The red flag validation and implementation, standardized reports and alerts, and judicial response protocols in the system will greatly improve Texas judges' ability to protect assets and modernize and improve guardianship accounting with limited resources. This project complements the Office of Court Administration's Guardianship Compliance Pilot Project.

#### **Pilot Project Activities**

- Met with Judges, court staff, and county clerks on details of project.
- Conducted an Initial Assessment and Program Survey.
- Conducted Review and audit of guardianship files for overall reporting compliance
  - Reviewing files for missing inventories, missing annual report of the persons, and missing annual accountings
  - Completing audit sheet for each active case file
  - Compiling our findings on a spreadsheet to report
- Conducting financial audit of estates using Initial Inventories and Annual Accountings
- Working with the courts to develop notices to request missing reports and information
- Maintaining a list to recommend best practices for the courts and clerks

#### *Hays County Information*

- Sent out 238 standard and customized letters from the court on missing reports and red flags
  - Receiving responses and conducting audits of annual accountings

#### *Guadalupe County Information*

- Sent out standard and customized letters from the court on missing reports and red flags
  - Receiving responses and conducting audits of annual accountings

#### *Webb County Information*

- Received the templates from the CCL1 and working to prepare letters to send to guardians requesting missing reports and information.
- 122 Annual Report Request Letters have now been completed.
- 100 Initial Inventory Request Letters have also now been completed. Annual Accounting Request letters pending.
- Working on preparing addresses for CCL2 to send out letters for the missing reports and information.

#### *Comal County Information*

- May 31, 2016 - the team initiated the project in Comal County.

#### *Anderson County Information*

- June 15, 2016 - the team initiated the project in Anderson County.

#### *Montgomery County Information*

- July 5, 2016 - initiated the project in Montgomery County.

*Orange County Information*

- August 1, 2016, initiated the project in Orange County

*Bexar County Information*

- August 8, 2016, initiated the project in Bexar County

Participating County	Bexar	Orange	Anderson	Comal	Guadalupe	Hays	Montgomery	Webb
<b>Total Guardianship Cases Reported to OCA</b>	<b>8,399</b>	<b>844</b>	<b>83</b>	<b>403</b>	<b>205</b>	<b>228</b>	<b>508</b>	<b>1139</b>
Total Case Files Reviewed (as of August 15)	171	719	83	403	205	656	508	677
<i>Closures: Recommended for Inactive Status (deceased ward, temporary guardianship, minor emancipated)</i>			17	231	46	435	35	851
<b>Total Active Cases</b>	<b>unknown</b>	<b>unknown</b>	<b>66</b>	<b>172</b>	<b>159</b>	<b>221</b>	<b>473</b>	<b>288</b>
Total Guardianships of the Person			14	86	84	66	377	49
Total Guardian of the Estate			0	8	10	13	19	8
Total Guardianships of Both Person & Estate			52	78	65	142	77	231
<i>Missing Annual Reports of the Person</i>			37% 25/66	22% 36/164	23% 34/149	39% 82/208	7% 31/454	79% 220/280
<i>Missing Annual Accountings</i>			46% 24/52	24% 21/86	27% 20/75	47% 73/155	10% 10/96	77% 183/239
<i>Missing Initial Inventories</i>			57% 30/52	14% 12/86	24% 18/75	39% 61/155	3% 3/96	80% 192/239
<i>Guardianships with Bonds Waived</i>			12% 8/66	17% 30/172	35% 56/159	42% 92/221	7% 34/473	41% 118/288
<b>Total estate value from inventories under guardianship</b>	<b>In process</b>	<b>In process</b>	<b>\$6,058,976</b>	<b>\$15,479,192</b>	<b>\$9,439,432</b>	<b>\$10,088,171</b>	<b>\$25,418,089</b>	<b>\$6,484,401</b>
Average estate value per case (from available inventories)			<b>\$275,408</b>	<b>\$208,178</b>	<b>\$165,604</b>	<b>\$107,320</b>	<b>\$273,313</b>	<b>\$137,965</b>

*Additional Information and Observations*

- Late or lack of required reporting of inventories, annual report of the person and annual accountings
- No backup bank statements, checks, or invoices for the annual accountings
- Unauthorized or unexplained ATM withdrawals
- Unauthorized or unexplained transfers
- Unauthorized or unexplained gifts to family members
- Payments to credit card accounts not listed on annual accounting
- Unauthorized or unexplained purchases
- No criminal background checks, no policy or procedures

## TIMOTHY COLE EXONERATION REVIEW COMMITTEE

The Timothy Cole Exoneration Review Commission met again on June 28 in the Supreme Court courtroom. At this meeting the following items were discussed:

- Follow up information from law enforcement agencies on electronic recording of interrogations, requested by the Commission at the March 22<sup>nd</sup> meeting, was gathered and presented to the Commission.
- Results from Commission members' opinions poll on potential policy recommendations about electronic recording were presented along with a potential policy recommendation for the Commission based on the results of the poll.
- Members voted on which policy items regarding electronic recording of interrogations would be recommended in the Commission's report.
- Staff presented new material and potential policy recommendations on the following research topics:
  - Informant Regulation
  - False Accusation
  - Mistaken Eyewitness Identification
- Commission members requested to be sent all information gathered by staff on these new topics as well as a poll on the potential policy recommendations.
  - Staff has drafted a poll with different potential policy recommendations about informant regulation, false accusation and mistaken eyewitness identification to gather the opinions of Commission members. This poll is in the process of being distributed.
- Next and final research topic for the Commission is on Forensic Science practices across the state.
  - Staff will soon be meeting with the Director of the Texas Forensic Science Commission, also a member of this Commission, and General Counsel to discuss this research topic and the collaboration between the two Commissions.
- Staff met with Dr. Sandra Thompson, expert on mistaken eyewitness identification, and discussed various potential policy recommendations that the Commission could make in this regard.