



An Audit Report on

The Guardianship Program at the Office of Court Administration

- The Office identified guardianships that were not in the database used to register guardianships, but it did not report that information to the courts.
- The Office conducted reviews of guardians and reported concerns to the courts as required. It could strengthen its monitoring by performing follow-up work to determine the courts' correction of reported issues.
- The Office submitted annual reports to the Legislature as required.

Lisa R. Collier, CPA, CFE, CIDA
State Auditor

The Office of Court Administration (Office) implemented processes to establish and administer the Guardianship Abuse, Fraud, and Exploitation Deterrence Program (Guardianship Program) in compliance with certain requirements within Texas Government Code, Chapter 72. During its guardianship case reviews, the Office identified guardianships that were not in the State's guardianship database, the Aithent Licensing System (ALiS). However, it did not report that missing information to the appropriate courts. Having complete data in ALiS would help the Office more efficiently monitor guardianships.

The Office is responsible for reviewing the guardianships' compliance with reporting requirements, and it completed reviews in fiscal years 2022 and 2023. It also submitted required reports to the Legislature. The Office could strengthen its monitoring by following up on issues it has identified during its reviews.

- [Background](#) | p. 4
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This audit was conducted in accordance with Texas Government Code, Sections 321.013 and 321.0132.

HIGH

GUARDIANSHIP DATA

During its case reviews, the Office identified guardianships that were supervised by courts but not in the database. However, it did not report that information to the courts.

[Chapter 1 | p. 5](#)

MEDIUM

REVIEWS AND REPORTS ON GUARDIANSHIPS

The Office reviewed guardianships in 146 counties in fiscal years 2022 and 2023. It could follow up to determine the implementation of its recommendations.

[Chapter 2 | p. 9](#)

LOW

ANNUAL REPORTING

The Office submitted annual reports on the guardianship program to the Legislature in fiscal years 2022 and 2023, but it should improve its process for reviewing the annual report.

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For more information about this audit, contact Audit Manager Becky Beachy or State Auditor Lisa Collier at 512-936-9500.

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Note on Confidential Findings

To minimize security risks, auditors communicated in a separate report to the Office details about certain processes and control weaknesses, including certain general controls, that could put guardianship information at risk.

PRIORITY

Two of those findings were rated Priority because the issues could critically affect the security over the Office's guardianship data. Immediate action is needed to address the noted concerns and reduce risks to a more desirable level.

HIGH

One of those findings was rated High because the issues could substantially affect data security. Prompt action is needed to address the noted concerns and reduce risks to a more desirable level.

A separate report references confidential information. Pursuant to Standard 9.61 of the U.S. Government Accountability Office's *Government Auditing Standards*, certain information was omitted from this report because that information was deemed to present potential risks related to public safety, security, or the disclosure of private or confidential data. Under the provisions of Texas Government Code, Section 552.139, the omitted information is also exempt from the requirements of the Texas Public Information Act.

Summary of Management's Response

Auditors made recommendations to address the issues identified during this audit, provided at the end of each chapter in this report. The Office agreed with the recommendations.

Ratings Definitions

Auditors used professional judgment and rated the audit findings identified in this report. The issue ratings identified for each chapter were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

PRIORITY: Issues identified present risks or effects that if not addressed could ***critically affect*** the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

HIGH: Issues identified present risks or effects that if not addressed could ***substantially affect*** the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

MEDIUM: Issues identified present risks or effects that if not addressed could ***moderately affect*** the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

LOW: The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks ***or*** effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

For more on the methodology for issue ratings, see [Report Ratings](#) in Appendix 1.

Background Information

Guardianship Abuse, Fraud, and Exploitation Deterrence Program

Senate Bill 31 (86th Legislature, Regular Session) created the Guardianship Abuse, Fraud, and Exploitation Deterrence Program (Guardianship Program) within the Office of Court Administration (Office). The program was created to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings.

Texas Government Code, Chapter 72, requires the Office to do the following through the Guardianship Program:

- Review guardianships of wards and identify reporting deficiencies by guardians;
- Audit annual accounts required to be filed by guardians;
- Work with courts to develop best practices in managing guardianship cases;
- Report to the courts any concerns of potential abuse, fraud, or exploitation;
- Maintain an electronic database to monitor filings of required reports; and
- Submit an annual report to the Legislature.



HIGH

Chapter 1 Guardianship Data

The Office of Court Administration (Office) implemented the Guardianship Abuse, Fraud, and Exploitation Deterrence Program (Guardianship Program). The Office is responsible for reviewing the guardianships' compliance with reporting requirements.

During its case reviews, the Office performs procedures to identify the population of guardianships. However, it should strengthen its reporting of its results to the applicable courts.

In addition, as of November 2023, the Office was developing a system to allow guardians to file their reports electronically. However, the Office did not consistently comply with its internal IT policies during the system's development.

The Office identified guardianships that were not in the guardianship database, but it did not report that information to the courts.

The Office uses multiple data sources, including the Aithent Licensing System (ALiS)¹, during its case reviews. The Office stated that it can update ALiS when it identifies errors for guardians in the database; however, it cannot add new guardians. During its case reviews, the Office identified guardianships that were supervised by the courts but not included in ALiS. For example, 9 (16 percent) of the 55 active guardianship cases² sampled by auditors were not in ALiS.

¹ ALiS is an online system that the Judicial Branch Certification Commission uses to register guardianships.

² One of the 56 active cases tested did not have a guardian and was therefore not in ALiS. Therefore, only 55 of the cases should be in ALiS.

However, the Office did not report the total number of guardians it identified as missing from ALiS or the specific missing cases, as it does with all other significant deficiencies noted during its reviews. As a result, the Office's reports did not help improve the completeness of the population of guardians in ALiS.

It is important for ALiS to be complete because having a list of all guardians in the system would help the Office more efficiently identify guardianships for its monitoring.

In addition to ALiS, the Office has been developing the Texas Guardianship Online Reporting System (eGOAT), since 2016. This system would allow guardians to file their reports electronically. The Office implemented portions of eGOAT in fiscal year 2020. It planned to use eGOAT to comply with the requirements of Texas Government Code, Section 72.122(a)(2), to monitor filings of required guardianship report (see below for more information about the development of eGOAT).

The Office did not comply with its IT policies for developing and rolling out eGOAT.

In developing eGOAT, the Office has not created the following documentation required by its internal policies:

- Preliminary analysis documentation including documenting costs, benefits, and risks.
- System design documentation including screen layouts, business rules, and diagrams.

Creating this documentation would help the Office to develop a system that meets its security and functionality requirements.

In addition, the Office has not developed a schedule for rolling out eGOAT. As of November 2023, only a portion of eGOAT was operational in only 1 of the 254 counties in Texas. eGOAT would increase the Office's efficiency by improving its ability to monitor guardianships centrally, reducing the time needed to perform on-site monitoring.

Recommendations

The Office should:

- Include all identified cases missing from ALiS in its associated reports provided to the courts.
- Create and document the required information for the development of eGOAT.

Management's Response

Recommendation

The Office should:

Include all identified cases missing from ALiS in its associated reports provided to the courts.

Management Response

The Office agrees with the recommendation. The Office will implement a process by which its Program auditors will share the courts' guardianship docket with Office personnel within the Judicial Branch Certification Commission ("JBCC") who maintain the guardianship registry on ALiS. JBCC personnel will:

- (1) cross-reference the courts' dockets against the registry to identify all cases missing from the registry; and
- (2) provide to the courts a list of all guardianships on the docket which do not appear to be registered.

The EPRS Director will be responsible for implementing this enhancement by September 1, 2024.

Recommendation

Create and document the required information for the development of eGOAT.

Management Response

The Office agrees with the intent of the recommendation but has determined it would be best to abandon the internal development of eGOAT. The Office will develop a project charter, schedule, and requirements to contract for the development of an online guardianship reporting system. The Office will pursue a vendor-based solution.

The EPRS Director will be responsible for implementing this recommendation by September 1, 2025.

MEDIUM

Chapter 2

Reviews and Reports on Guardianships

The Office complied with certain requirements within Texas Government Code, Chapter 72, in its operation of the Guardianship Program. This program provided additional resources to courts administering guardianships, but it could be improved through follow-up work to determine whether its recommendations have been implemented.

The courts are responsible for monitoring and reviewing guardianships. Guardians are required to submit statutorily required reports to the courts, which is a primary means to monitor whether guardians are meeting their duty to care for wards (see text box). The Office is responsible for reviewing the guardianships' compliance with reporting requirements. Part of this effort is to identify instances of fraud, exploitation, and abuse.

The Office reviewed guardianships and reported concerns to the court as required.

The Office completed case reviews in 146 (57 percent) of the state's 254 counties in fiscal years 2022 and 2023. During those reviews, the Office:

- Determined whether guardians submitted required reports to the courts.
- Analyzed those reports, including supporting documentation.
- Identified instances in which courts waived bonding requirements.

Guardianships

Guardianships can be designed to protect a ward's physical or financial well-being, or both. During its case reviews, the Office determines the guardianships' compliance with the following requirements:

- Guardians of the person have a duty to oversee the ward's health and well-being and are required to file an annual report on the ward's well-being.
- Guardians of the estate have a duty to manage the ward's financial affairs and are required to file (1) an inventory of the ward's property within 30 days of qualifying as a guardian and (2) an annual account of the estate.

Source: Texas Estates Code, Chapters 1154 and 1163.

In addition, the Office submitted reports that summarized its case reviews to the county clerks and the applicable courts. These reports detailed identified guardians' noncompliance with reporting requirements and any indications of risk of abuse, fraud, or exploitation. Those reports also included recommendations about how they could improve their management of guardianship cases.

The Office also developed tools to enable it to perform in-depth financial reviews, and it implemented processes to perform those reviews for guardians of the estate. The Office has conducted one such review since the Guardianship Program began in fiscal year 2020.

In addition, the Office:

- Had processes to help ensure the accuracy of its reports. Specifically, information in the reports for a sample of 112 cases³ was consistent with the Office's documentation of its reviews.
- Developed a standardized set of recommendations for its reports to ensure consistency in the guidance it provides the courts. All recommendations in a sample of five reports came from that standard set.

The Office has not followed up to monitor courts' correction of reported issues.

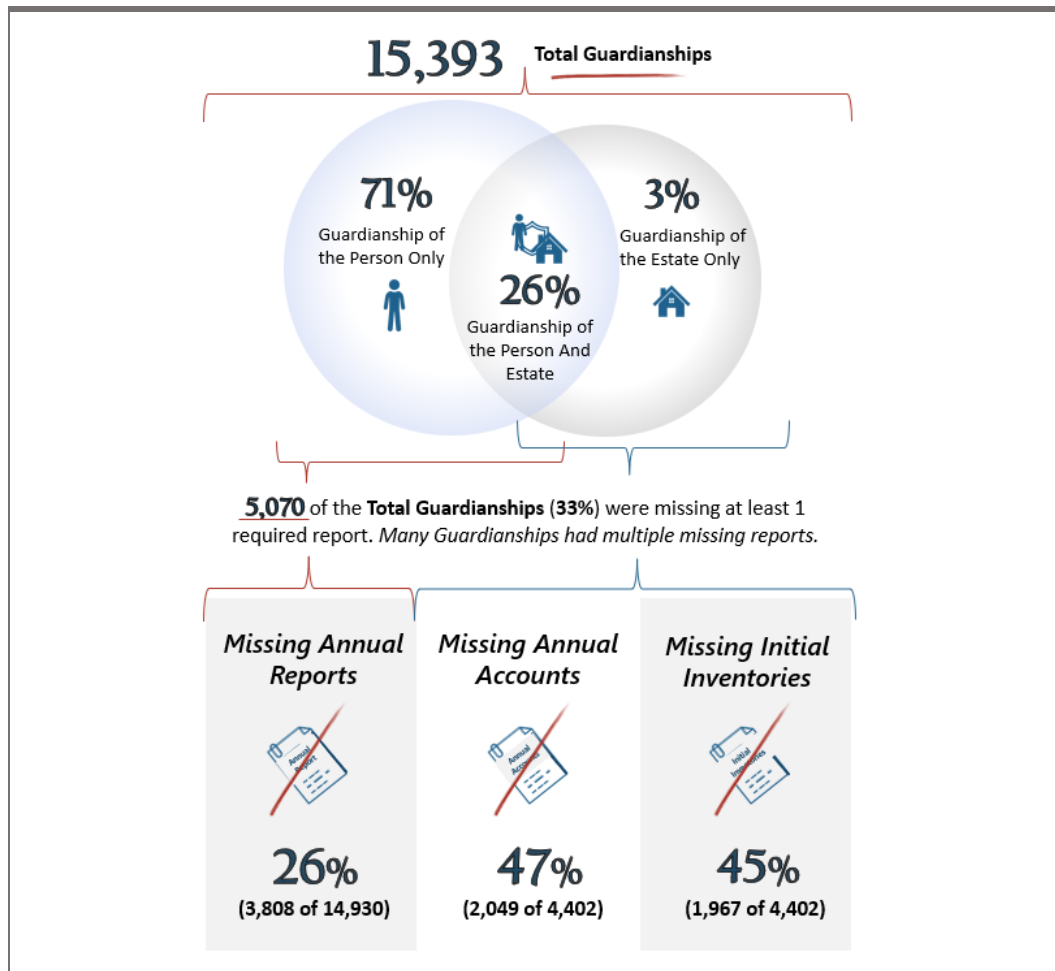
The Office's reviews identified risks to wards. Specifically, during fiscal years 2022 and 2023, the Office reported 387 cases to the courts that identified potential abuse, fraud, exploitation, or other concerns about wards' well-being. In addition, the Office's reviews during that same period determined that 33 percent of the guardianships that it examined had not submitted at least one of the required guardianship reports (see Figure 1 on the next page).

A guardian's failure to submit the required reports reduces the likelihood that the courts or the Office could detect instances in which guardians were neglecting, defrauding, or abusing their wards.

³ Of the 146 counties that the Office had reviewed in fiscal years 2022 and 2023, auditors selected a sample of 20 counties. Auditors then selected a sample of 112 cases from a population of 9,871 cases from those 20 counties.

Figure 1

Active Guardianships and Missing Reports from the Office's Reviews Completed During Fiscal Years 2022 and 2023



Source: The Office, including the results of reviews it completed during fiscal years 2022 and 2023.

Some of the issues that the Office identified in its reviews had existed for several years. Therefore, it is recommended that the Office verify that courts address the threats to the well-being of wards identified in its work.

However, the Office has not returned to any of the 240 counties that it has reviewed since the Guardianship Program began in fiscal year 2020. It also does not have a documented plan that identifies which cases it will follow up or in which counties it will perform follow-up work. Following up on identified issues would improve the Office's ability to (1) identify high risk guardianships for in-depth financial reviews and (2) determine whether the courts have made progress in protecting the wards within the guardianships under their supervision.

The Office has worked with other guardianship authorities, including the courts, to develop best practices for managing guardianships.

The Office's website has a section for the Guardianship Program, which contains links to several guardianship articles. The Office's Guardianship Compliance manager was on a National Association for Court Management workgroup that developed one of these resources, *The Adult Guardianship Guide – A Guide to Plan, Develop and Sustain a Comprehensive Court Guardianship and Conservatorship Program*.

The Office also stated that it helps clerks and courts when requested and participates in panel discussions at various meetings to provide guidance.

Recommendation

The Office should document and implement a plan that identifies cases, counties, and/or courts for conducting follow-up work.

Management's Response

The Office agrees to document and implement a plan that identifies cases, counties, and courts for follow-up audits. The Office has conducted initial compliance reviews in over 240 counties to date and will soon complete the initial audits of the entire state. The program has a plan to conduct follow-up audits in counties with identified high out-of-compliance percentages during the initial compliance review. The program will also conduct follow-up audits in counties where there are higher counts of cases of immediate concern and where courts request follow-up audits on a case-by-case basis.

The EPRS Director will be responsible for implementing this recommendation by September 1, 2024.

LOW

Chapter 3

Annual Reporting

The Office submitted annual reports on the guardianship program to the Legislature in fiscal years 2022 and 2023, as required by the Texas Government Code.

The Office improved the accuracy and completeness of its fiscal year 2023 annual program report over that of its fiscal year 2022 report.

The Office's fiscal year 2022 report did not include certain required information (see text box), and some data was inaccurate. The Office improved the accuracy and completeness of the information in its fiscal year 2023 report. Specifically:

- The fiscal year 2022 report did not include the required section on the number of cases reported to a court concerning potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward.⁴ The fiscal year 2023 report had all required sections.
- The Office inaccurately included probate court data in its reporting of county court compliance with guardianship requirements. The Office corrected this error in its fiscal year 2023 report.

Annual Reporting Requirements

Texas Government Code, Section 72.124, requires the Office to submit an annual report to the Legislature about the Guardianship Program. The report must include:

- The number of courts involved in the program.
- The number of guardianships reviewed by the Office's guardianship specialists.
- The number of guardianship cases determined to be out of compliance with statutory reporting requirements.
- The number of cases reported to a court concerning potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward.
- The status of any technology developed to monitor guardianship cases for purposes of the program.

⁴ The Office issued a revised fiscal year 2022 report containing this section on November 20, 2023.

However, in its fiscal year 2023 report, the Office inaccurately reported that 37 percent of the cases were out of compliance for all courts; the actual rate was 32 percent.

The Office should strengthen its review process to help ensure the accuracy and completeness of all information presented in the reports.

Recommendation

The Office should improve its process for reviewing the annual report.

Management's Response

The Office agrees with this recommendation. The Office will improve its processes for reviewing the annual report by ensuring an additional quality assurance review is in place.

The EPRS Director is responsible for implementing this recommendation by December 1, 2024.



Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Office of Court Administration (Office) has processes and related controls to help ensure that it administers the Guardianship Abuse, Fraud, Exploitation and Deterrence Program (Guardianship Program) in accordance with applicable requirements and that related data is complete, accurate, and secure.

Scope

The scope of this audit included the case reviews completed during fiscal years 2022 and 2023; as well as the Office's fiscal year 2022 and fiscal year 2023 annual Guardianship Program reports.

The scope also included a review of significant internal control components related to all COSO components (Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring).

The following members of the State Auditor's staff performed the audit:



- Gregory S. Adams, CPA, MPA, CGFM (Project Manager)
- Michelle Rodriguez, CFE (Assistant Project Manager)
- Jennifer Fries, MS
- Rachel Lynne Goldman, CPA, CISA, CFE
- David Hinojosa, CIA, CFE, CFI
- David Johnson
- Michael Yokie, CISA
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Becky Beachy, CIA, CGAP (Audit Manager)

Methodology

We conducted this performance audit from April 2023 through April 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, during the audit, matters not required to be reported in accordance with *Government Auditing Standards* were communicated to Office management for consideration.

Addressing the Audit Objectives

During the audit, we performed the following:

- Interviewed Office management and staff to gain an understanding of the processes and related systems used in the Guardianship Program.
- Identified the relevant criteria:
 - Texas Government Code, Chapters 72, 152, and 155.
 - Judicial Branch Certification Commission rules.
 - Texas Estates Code, Chapters 1052, 1151, 1154, 1203, and 1163.
 - The Office's *Guardian Abuse, Fraud, and Exploitation Deterrence Program (GAFEDP) Procedures Manual*.
 - The Office's Project Lifecycle Policy.
- Tested a risk-based sample of 20 review reports from a population of 146 reports that the Office submitted to the courts from September 1, 2021, through August 31, 2023. This sample, including the items described below, were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population. For the sample of the 20 review reports, we tested:
 - To determine whether the information was complete and tested the controls associated with those reports. This sample design was selected to cover different characteristics, including the Office staff

performing the review and the size and geographic location of the subject county.

- To determine the accuracy of the information in those reports. To do this, we selected a nonrandom sample of 112 cases (56 active cases and 56 closed cases) from the source documentation of those 20 review reports. This sample was equal to approximately 1 percent of 9,871 active and closed cases covered by those reports.
- To determine if guardianship cases were included in the Aithent Licensing System (ALiS). To do this, we compared the sample of 56 active cases (see previous bullet) to the information in ALiS.
- To determine if the recommendations were consistent with the Office's best practices library of recommendations. To do this, we selected a nonrandom sample of 5 reports from those 20 sample reports.
- Tested the Office's annual program reports for fiscal years 2022 and 2023 for accuracy, completeness, and compliance with Texas Government Code, Section 72.124.
- Examined the Office's system development documentation for the Texas Guardianship Online Reporting System (eGOAT).

Data Reliability and Completeness

Auditors obtained Excel spreadsheets used by the Office for recording results of field reviews. Auditors verified that access to the SharePoint folders holding the spreadsheets was limited to those with a business need for such access.

Additionally, auditors compared the data in those spreadsheets with data in the Office's reports for consistency. Auditors determined that the data in the Excel spreadsheets was reliable for the purpose of the audit.

Report Ratings

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.



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The Honorable Robert Nichols, Member, Texas Senate

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The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

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The Honorable Chief Justice Nathan L. Hecht

Ms. Megan LaVoie, Administrative Director

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