



Office of Court Administration

Collection Improvement Program

**Independent Auditor's Report
on Court Collections**

Bastrop County

July 11, 2014

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EXECUTIVE SUMMARY

Audit Results

The Collection Improvement Program (CIP) Audit Department of the Office of Court Administration (OCA) has performed the procedures enumerated below, which were agreed to by the CIP Technical Support Department of the OCA and Bastrop County (County). The procedures were performed to assist you in evaluating whether the collection program of the County has complied with Article 103.0033 of the Code of Criminal Procedure and Title 1, §175.3 of the Texas Administrative Code (TAC).

Our testing indicates the collection program for the County is not compliant with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. In testing the required components, the County was found to be in partial compliance with four (4) components. All other components were found to be in compliance. According to Section 133.058(e) of the Local Government Code, the County has 180 days to re-establish compliance in order to continue retaining a service fee for the collection.

We were not engaged to, and did not, conduct an examination of the County, the objective of which would be the expression of an opinion on the County's financial records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters may have come to our attention that would have been reported to you.

Bastrop County's management is responsible for operating the collection program in compliance with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

The sufficiency of these procedures is solely the responsibility of the CIP Technical Support Department of the OCA, and we make no representation regarding the sufficiency of the procedures for the purpose for which this report has been requested or for any other purpose.

The compliance engagement was conducted in accordance with standards for an agreed-upon procedures attestation engagement as defined in the attestation standards established by the American Institute of Certified Public Accountants.

Objective

The objective of the engagement was to determine if the County complied with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

Summary of Scope and Methodology

This compliance engagement covers cases for which court costs, fees, and fines were assessed during the period of October 1, 2013 through November 30, 2013, but were not paid at the time of assessment. Cases were tested beyond the audit period to determine compliance with all components of the collection program. The procedures performed are enumerated in the Detailed Procedures and Findings section of this report.

Reporting of Sampling Risk

In performing the procedures, the auditor did not include a detailed inspection of every transaction. A random sample of cases was tested as required by 1 TAC §175.5(b). In consideration of the sampling error inherent in testing a sample of a population, a specific error rate cannot be reported; however, we can report the range within which we have calculated the error rate to fall.

DETAILED PROCEDURES AND FINDINGS

1. *Obtain a population of all adjudicated cases in which the defendant does not pay in full within one (1) month of the date court costs, fees, and fines are assessed.*

Bastrop County provided a list of defendants who accepted a payment plan as means to pay their court costs, fees, and fines assessed for the period of October 1, 2013 through November 30, 2013.

Bastrop County provided six populations of cases, one from each program in the county. Four (4) of the populations were comprised of cases that had a status of extension or payment plan with plea dates from October 1, 2013 through November 30, 2013. Two (2) of the populations were all cases pled from October 1, 2013 through November 30, 2013. The first four populations had a total of 118 cases. The two populations with all cases that pled had a total of 754 cases, before data analysis was performed. The two larger populations were obtained due to one court not offering payment plans and another court not consistently entering the payment plan information into the case management system.

Management Response: *Bastrop County will offer payment plans and will consistently enter payment plan information into the case management system.*

2. *Select a randomly-generated, statistically-valid sample of cases to be tested.*

In order to determine how many of the cases involved payment plans, we used the Bastrop County Case Records Search page to compare the conviction date with the final payment date to determine if 30 days had passed before the defendant paid. All cases where the defendant paid within 30 days of conviction were removed as the court costs, fees, and fines for these cases were paid within 30 days of assessment. In addition, all cases that were settled with a Drivers Safety Course, were deferred, or were dismissed were also removed from the population as these cases did not involve a payment plan. After removing these cases from the populations one court had 24 cases to test and the other had 62. When combined with the original 118 from the other four courts, this resulted in a population of 204 testable cases.

Of the 204 cases provided, 142 cases were identified as defendants who missed payments on the payment plan agreement and required a phone call or mailed letter. There were only six (6) cases identified as having a Capias Pro Fine issued. As this does not provide a significant population to determine compliance, no testing was performed for that component.

For Procedures 8 and 11 below, we tested a total of 62 cases. For Procedures 9 and 10 below, we tested a total of 58 cases. For Procedures 11 and 12 below, we tested a total of 55 and 54 cases.

3. *Obtain a completed survey, in a form prescribed by CIP Audit, from the County.*

A completed survey was obtained and reviewed for information pertinent to the engagement. Survey responses were used to determine compliance with Procedures four (4) through six (6) listed below.

4. *Evaluate the survey to determine if the local collection program has designated at least one (1) employee whose job description contains an essential job function of collection activities. Answers received will be verified during field work.*

With the exception of one Justice of the Peace, the County has two (2) clerks in each of the Justice of the Peace offices which include collection as a priority job function in their job descriptions. The County Clerk and the District Clerk each have a dedicated employee who is in charge of collection for those offices. While on-site, the auditor met, observed, and discussed the dedicated staff's collection program responsibilities.

The County is compliant with this component.

5. *Evaluate the survey to determine if program staff members are monitoring defendants' compliance with the terms of their payment plans or extensions. Answers will be verified through testing of Defendant Communication components.*

The County programs have each implemented a manual system for the monitoring of payment plan compliance. In one office, payment plans are filed according to the payment date and check on the 10th day after the payment due date. If the payment was not made, they attempt to call the defendant and send out past due notices. In another office, every 5 to 10 days they check the current payment plan file to ensure payments were made. If there were any delinquencies, they attempt to call and send out past due letters. This was confirmed to be the process in these offices with the other offices doing similar types of monitoring while on-site during the engagement.

6. *Evaluate the survey to determine if the program has a component designed to improve collections of balances more than 60 days past due. Answers will be verified through testing of Defendant Communication components.*

Three of the Justice of the Peace courts send cases that are more than 60 days past due to the collection agency and then to the Omni system. As a last resort, they sometimes issue a Capias Pro Fine. The County Clerk continues with collection activities and eventually issues a Capias Pro Fine. The District Clerk sets up a new compliance hearing with the judge. This was confirmed to be the process while on-site during the engagement.

7. *Verify with CIP Technical Support and/or CIP Audit Financial Analyst(s) that the program is compliant with reporting requirements described in 1 TAC §175.4.*

The County is current with reporting requirements based on the reporting activity documented in the OCA's CIP Court Collection Report software. All of 2013 calendar year and the first four months of 2014 reporting activity were submitted by most of the court programs.

The County is compliant with this component.

8. *Test samples generated in Procedure 2 (above) to determine if an application was obtained within one (1) month of the assessment date, and contains both contact and ability-to-pay information for the defendant.*

Of the 62 cases tested, 16 errors were noted. No applications were taken for 30-day extensions and in one case the application was not complete because it only asked for one reference rather than the required two. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 21.03% and 31.43%.

The County is in partial compliance with this component.

Management Response: *Applications will be taken for 30 day extensions and will be complete with two references indicated.*

9. *Test samples generated in Procedure 2 (above) to determine if contact information obtained within the application was verified within five (5) days of obtaining the data.*

Of the 58 cases tested, 21 errors were noted. Verification of phone numbers is documented on the application by marking and dating the appropriate blank. In two instances, the verification was not done by the fifth day but was done on the sixth and eighth days. In all other instances, the verification was not documented on the application. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 30.15% and 41.99%.

The County is in partial compliance with this component.

Management Response: *Verification of phone numbers will be documented by marking and dating the appropriate blanks on the forms. Verification will be done by the fifth day and documented as such.*

10. *Test samples generated in Procedure 2 (above) to determine if local program or court staff conducted an interview with the defendant within 14 days of receiving the application.*

Of the 58 cases that were tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is no higher than 4.08%.

The County is compliant with this component.

11. *Test samples generated in Procedure 2 (above) to determine if the payment plans meet the Documentation, Payment Guidelines, and Time Requirements standards defined in TAC §175.3(c)(4).*

Of the 62 cases that were tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is no higher than 4.17%.

The County is compliant with this component.

12. *Test samples generated in Procedure 2 (above) to determine if telephone contact with the defendant within one (1) month of a missed payment was documented.*

Of the 55 cases tested, 24 errors were noted. Phone calls were not documented within one month of a defendant's missed payment. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 40.97% and 48.20%.

The County is in partial compliance with this component.

Management Response: *The County will document phone calls within one month of a defendant's missed payment.*

13. *Test samples generated in Procedure 2 (above) to determine if a written delinquency notice was sent to the defendant within one (1) month of a missed payment.*

Of the 54 cases tested, 25 errors were noted. Written delinquency notices were not documented as being sent within one month of a defendant's missed payment. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 45.88% and 49.89%.

The County is in partial compliance with this component.

Management Response: *The County will document written delinquency notices as being sent within one month of a defendant's missed payment.*

14. *Test samples generated in Procedure 2 (above) to determine if another attempt of contact, either by phone or by mail, was made within one (1) month of the telephone contact or written delinquency notice, whichever is later, on any defendant in which a capias pro fine was sought.*

Because the county only had six (6) cases that had gone to Capias Pro Fine during the audit period, this component was not tested for compliance.

15. *Make a determination, based on results of the testing in Procedures #5 – 14 (above), as to whether the jurisdiction is compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3 based on the criteria defined in 1 TAC §175.5(c).*

Bastrop County is not compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. The County complied with all four (4) of the Operational Components; however, the County was partially compliant with four (4) of the seven (7) Defendant Communication Components. No more than one component can be partially compliant.

Management Response: *The County will diligently continue to bring and keep within compliance boundaries.*

APPENDICES

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The CIP Audit Department of the Office of Court Administration applied procedures, which the CIP Technical Support Department (client) and Bastrop County (responsible party) have agreed-upon, to determine if the County's collection program is compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

Scope

This compliance engagement covers cases for which court costs, fees, and fines were assessed during the period of October 1, 2013 through November 30, 2013, but were not paid at the time of assessment. Cases were tested beyond the audit period to determine compliance with all components of the collection program. All cases that included court costs, fees, and fines that totaled \$10.00 or less were removed from testing.

Methodology

The CIP Audit Department performed the procedures outlined in the Detailed Procedures and Findings section of this report to test records to enable us to issue a report of findings as to whether the County has complied, in all material respects, with the criteria described in Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

In performing the procedures, the 'tests' the auditor performed included tracing source documentation provided by the County to ensure the collection process met the terms of the criteria listed. Source documents include, but are not limited to, court dockets, applications for a payment plan, communication records, capias pro fine records, and payment records.

Criteria Used

Code of Criminal Procedure, Article 103.0033
Texas Administrative Code, Title 1, §175.3

Team Members

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June 26, 2014

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Re: response to Independent Auditor's DRAFT Report on Court Collection

Dear Ms. Price,

Bastrop County is responding to the recent compliance audit performed by the OCA's Collection Improvement Program Audit staff. The report indicates that the County is not in compliant with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC § 175.3. Bastrop County's Management has and will continue to set procedures in place that will ensure compliance in the future.

Bastrop County will offer payment plans and will consistently enter payment plan information into the case management system. Applications will be taken for 30 day extensions and will be complete with two references indicated. Verification of phone numbers will be documented by marking and dating the appropriate blanks on the forms. Verification will be done by the fifth day and documented as such. The County will document phone calls within one month of a defendant's missed payment. In addition, the County will document written delinquency notices as being sent within one month of a defendant's missed payment. The County will diligently continue to bring and keep within compliance boundaries.

On behalf of Bastrop County, we would like to thank each of the OCA's staff for their assistance with these compliance matters.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Smith".

Lisa Smith
County Auditor

REPORT DISTRIBUTION

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