



**Office of Court Administration**

**Collection Improvement Program**

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

**Midland County**

**July 13, 2016**

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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 Midland County (County). The procedures were performed to assist you in evaluating whether the collection programs of the County have 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 programs for the County are compliant with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. In testing the required components, no findings were noted.

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.

Midland 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 January 1, 2015 through February 28, 2015, 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.*

The County provided a list of defendants who accepted an extension and/or a payment plan during the audit period January 1, 2015 through February 28, 2015. Defendant cases were received from six (6) separate County collection programs. The six (6) programs were the Warrant Services Department, Adult Probation (CSCD), Justice of The Peace, Precinct 1 (JP1), Justice of The Peace, Precinct 2 (JP2), Justice of The Peace, Precinct 3 (JP3), and Justice of The Peace, Precinct 4 (JP4).

Each program case population (data population) was sorted to remove cases defined as exclusionary cases based on the restrictions in the Request for Information form. The data population from each program consisted of cases where the defendant requested and received an extension or a payment plan. The data populations included cases where the defendant was current with the payment plan agreement, cases where the defendant missed a payment and was 30 days or more past-due, and cases where the defendant was non-compliant with the terms of the payment plan agreement and a Capias Pro-Fine warrant was sought.

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

A randomly-generated, statistically-valid sample of cases was taken from the data populations submitted by the County collection programs. The initial random sample of cases generated from each program were 90 cases from the Warrant Service Department, 40 cases from CSCD, 60 cases from JP1, 55 cases from JP2, 90 cases from JP3, and 41 cases from JP4.

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

A completed survey was obtained from each program, and each survey was reviewed for information pertinent to the engagement. Survey responses were used to determine compliance in Procedures 4 through 6 listed below.

4. *Evaluate the survey to determine if each 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.*

Each collection program employs several staff members whose essential job functions include collection activities as a priority job function. During the field audit process, the auditor met, observed, and discussed the County's collection staff job duties relating to the County's collection activities.

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's process for monitoring each defendant's compliance with the terms of the extension or payment plan agreement are as follow:

**Warrant Services:**

Cases from District and County Courts-at-Law that do not result in a probation term report to the Warrant Services department for payment processing. Defendant information and payment terms are entered into an electronic software system (i-Plow) for record keeping, monitoring, and processing. Payment terms are calculated on a 90-day time frame, and the electronic system triggers automated calls and card mailers to past-due defendants. Software queries can also generate a list of defendants who have become delinquent with the terms of their payment plan agreement.

**CSCD Department:**

In addition to scheduled visits, system reports are distributed to Supervision officers with a defendant status update. The officer enters an electronic chronological entry in the defendant's file after every contact. Supervision officers have an electronic "dashboard" that shows a list of delinquent cases. If the defendant becomes past-due with the terms of the payment plan agreement, the officer will initiate telephone calls and letters advising the defendant of the corrective action needed. In addition, defendants receive quarterly letters with account status updates.

**Justice of The Peace, Precinct 1:**

The court clerk monitors and documents the defendant's payment activity manually in the defendant's file. Time payment cases are filed separately for ease of tracking scheduled payment activity. All time payment and payment extension case files are reviewed weekly to ensure scheduled payments were submitted by the defendant.

**Justice of The Peace, Precinct 2:**

Time payment cases are reviewed every 14 days to ensure scheduled payments were made. All case notes and payment activity are documented manually in the defendant's file, as well as in the Court's electronic software.

**Justice of The Peace, Precinct 3:**

The court clerk monitors and documents the defendant's payment activity manually on the defendant's file. Time payment cases are filed separately for ease of tracking scheduled payment activity. All time payment and extension case files are reviewed weekly to ensure scheduled payments were submitted by the defendant.

**Justice of The Peace, Precinct 4:**

Time payment cases are reviewed every 14 days to ensure scheduled payments were made. All case notes and payment activity are documented manually in the defendant's file, as well as in the Court's electronic software.

The County is compliant with this component.

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

**Warrant Services:**

Software queries generate a list of past-due defendants who become delinquent with the terms of their payment plan agreement. After an initial series of card mailers and telephone calls, the system continues to trigger card mailers until the assessed amounts are paid in full, or a Capias Pro-Fine is issued. If a Capias warrant is issued, the defendant is added to OmniBase<sup>1</sup>, and ScoffLaw<sup>2</sup> is used, if allowed by the Court. The case is then assigned to a department investigator for processing.

**CSCD Department:**

When a defendant becomes seriously delinquent with the terms of the probation and/or the payment plan agreement, the defendant is called in for an administrative hearing with a department supervisor. The defendant can also be brought to an administrative hearing before the judge to explain the excessive delinquency. In addition, the department can file a motion-to-revoke probation for noncompliance.

**Justice of The Peace, Precinct 1:**

Any past-due payment generates an immediate call to the defendant, and a summons sent by mail. Capias warrants, OmniBase, and a third-party collection agency (Perdue Brandon) are utilized to improve collection of seriously delinquent cases 60 days past-due.

**Justice of The Peace, Precinct 2:**

When a past-due payment occurs, a telephone call is made and written notice sent to the defendant. An additional call, and a pre-warrant notice is sent prior to the issuance of a Capias Pro Fine to non-responsive defendants. Capias warrants, OmniBase, and a third-party collection agency (Perdue Brandon) are utilized to improve collection of delinquent cases 60 days past-due.

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<sup>1</sup>OmniBase Services of Texas maintains and administers the central database for the cities and counties contracted to use the Department of Public Safety's Failure to Appear (FTA) Program. The FTA program provides an effective collection and enforcement tool by restricting the violator's ability to renew their license for outstanding violations.

<sup>2</sup>ScoffLaw - The Texas Scofflaw Program is a section of the Texas Transportation Code, designed to help county and municipal governments hold law breakers accountable by allowing a Tax Assessor-Collector of a county to reject vehicle registrations for customers with outstanding fines, fees, taxes, or who have failed to appear in a municipal or county court.

**Justice of The Peace, Precinct 3:**

Past-due payments result in an immediate call to the defendant, and a summons sent by mail. Capias warrants, OmniBase, and a third-party collection agency (Perdue Brandon) are utilized to improve collection of seriously delinquent cases 60 days past-due.

**Justice of The Peace, Precinct 4:**

When a past-due payment occurs, a telephone call is made and written notice sent to the defendant. An additional call, and a pre-warrant notice is sent prior to the issuance of a Capias Pro Fine to non-responsive defendants. Capias warrants, OmniBase, and a third-party collection agency (Perdue Brandon) are utilized to improve collection of delinquent cases 60 days past-due.

The County is compliant with this component.

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 jurisdiction is current with reporting requirements based on the reporting activity documented in the OCA's CIP Court Collection Report software. All monthly reports were submitted for Calendar Year 2015, which included the audit period January and February of 2015.

The County is compliant with this component.

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

Of the 36 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 5.82%.

The County is compliant with this component.

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 79 cases tested, 25 errors were noted. Taking into consideration the inherent sampling error, we are 95% confident that the error rate is between 25.94% and 37.08%.

The County is in partial compliance with this component.

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 36 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 5.82%.

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 36 cases tested, one (1) error was noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 9.86%.

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 31 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.12%.

The County is compliant with this component.

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 30 cases tested, three (3) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 2.85% and 17.36%.

The County is compliant with this component.

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.*

Of the 32 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 3.27%.

The County is compliant with this component.

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).*

Midland County is in compliance with Article 103.0033 of the Code of Criminal Procedure and with 1 TAC §175.3 based on the criteria defined in TAC §175.3(c). The County is compliant with all four (4) Operational Components of the Collection Improvement Program.

In addition, the County is partially compliant with one (1) of the Defendant Communication Components, and fully compliant with the remaining six (6) Defendant Communication Components. To be in compliance, no more than one (1) Defendant Communication Component can be in partial compliance.

## **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 Midland 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 January 1, 2015 through February 28, 2015, 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

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 compliance 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

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