



# **Office of Court Administration**

## **Collection Improvement Program**

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

**Nueces County**

**November 23, 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 the Nueces 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 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.

Nueces 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 November 1, 2015 through December 31, 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.*

Nueces County provided multiple lists of defendants who accepted an extension and/or payment plan as a means to pay their court costs, fees, and fines assessed during the period of November 1, 2015 through December 31, 2015. The County submitted a total population of 785 cases.

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

A randomly-generated, statistically-valid sample of cases was generated from the population of cases submitted by the County. During testing, cases that did not meet the definition of an eligible case were skipped. In order to calculate the number of eligible cases present in the sample, a ratio proportionate calculation was performed to adjust the population. The results of these calculations produced the following numbers:

- 785 cases with Payment Plans – tested in procedures 8-9 below.
- 188 cases with Payment Plans – tested in procedures 10 below
- 252 cases with Missed Payments – tested in procedure 11 below.
- 127 cases with Missed Payments – tested in procedure 12 below.
- 131 cases with Missed Payments – tested in procedure 13 below.
- 122 cases with a Capias Notice issued – tested in procedure 14 below.

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

A completed survey was obtained from the County. The survey was reviewed for information pertinent to the engagement. Survey responses were used to determine compliance with procedures 4 through 6 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.*

The County has a Collection Department with five (5) people whose job description contains collection activities as their primary job function.

While on-site, the auditor met, observed, and discussed the Collection staff's duties, processes and 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's Collection Department monitors defendants' compliance with the terms of their payment plan and/or extension with an electronic collection software. The Collection Department Supervisor runs weekly reports to identify cases in the case management software system that were referred to the collection Department by the Courts within the jurisdiction. The report is reconciled with the list of defendants who established payment plans.

Defendants who failed to report to the Collection Department to establish a payment plan were contacted by the staff by mail or telephone. If a defendant failed to comply with the terms of an extension or defaulted on a payment plan, written notices and/or telephone calls were made using the I-Plow system.

While on-site, the auditor observed, and discussed the processes and procedures for the monitoring of defendants' payment plans.

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.*

Nueces County utilizes several methods to collect balances more than 60 days past due. The County continues the collection process of sending notices and making telephone calls for the collection of balances more than 60 days past due. Once this process has been exhausted, the case was either referred back to the original court, sent to OmniBase<sup>1</sup> or referred to a third-party collection agency. The probation officer was contacted for defendants who are on probation. The County also utilizes Scofflaw<sup>2</sup> as a collection method.

While on-site, the auditor observed and discussed the process used for the collection of balances more than 60 days past due.

The County is compliant with this component.

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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 driver's 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.

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 OCA's CIP Court Collection Report software. All monthly reports were submitted for calendar year 2015, which includes the audit period November 1, 2015 through December 31, 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 41 cases tested, one (1) error was noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is less than 8.66%.

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 41 cases tested, six (6) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is between 4.10% and 25.17%.

The County is compliant 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 46 cases tested, nine (9) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is between 9.60% and 29.53%.

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 37 cases tested, two (2) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is less than 13.50%.

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 32 cases tested, zero (0) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is less than 4.71%.

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 33 cases tested, zero (0) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is less than 4.58%.

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 30 cases tested, zero (0) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident the error rate is less than 5.03%. Note, 30 cases met the scope criteria; the statistical sample should have included 32 cases. The two (2) untested cases represent a de minimis impact on the audit testing and results.

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).*

Nueces County is compliant with Article 103.0033 of the Code of Criminal Procedure and with 1 TAC §175.3 based on the criteria defined in 1 TAC §175.5(c). The County is compliant with the four (4) Operational Components, and maintained a compliance rate greater than 80% for each of the seven (7) Defendant Communication Components.

## **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 Nueces 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 November 1, 2015 through December 31, 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

### Team Members

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**REPORT DISTRIBUTION**

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