



Office of Court Administration

Collection Improvement Program

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

Comal 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 Comal 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 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.

The 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.*

The County provided a list of defendants who accepted an extension and/or a payment plan during the audit period November 1, 2015 through December 31, 2015. Defendant cases were received from six (6) County collection programs. The County collection programs consisted of four (4) Justice of The Peace Courts, (Precincts 1, 2, 3, and 4), Comal County Court at Law Collections, and Comal County District Clerk.

Each program population was reviewed to remove cases defined as exclusionary cases delineated by the restrictions in the Request for Information form, and to segregate the population into two (2) separate and distinct populations. For this discussion the populations are referred to as the Main and the Capias populations.

- The Main population were defendants who requested and received an extension and/or a payment plan and were current with the terms of the payment agreement. The Main population also included cases where the defendant missed a payment and was 30 days past-due as defined in the terms of their extension or payment plan agreement. The Main population incorporated cases from all six (6) programs.
- The Capias population contains cases where a Capias Pro-Fine was sought as a result of the defendant's non-compliance with the terms of the extension or the payment plan agreement. The Capias population incorporated cases from three (3) Justice of The Peace Courts, (Precincts 2, 3, and 4). Although, Justice of The Peace, Precinct 4 no longer issues Capias Pro-Fine warrants, credit was given for completed work revealed during testing.

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

A randomly-generated, statistically-valid sample of cases was taken from all six (6) programs as follow:

- The Main population – all six (6) County collection programs embodied the population size of 337 cases selected for testing as detailed in Procedures 8 through 13 listed below.
- The Capias population – only three (3) County collection programs embodied the population size of 27 cases selected for testing as detailed 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 each program, and was reviewed for information pertinent to the engagement. Survey responses were used to determine compliance with 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 Court or collection program employed at least one staff person whose priority job function included the Collection Improvement Program activities.

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 monitors defendant compliance with the terms of the extension or payment plan agreement as follows:

- JP1 - Missed payments trigger a telephone call, and a green postcard reminder addressed to the defendant. All telephone calls, and delinquent payment mailings are documented in the computer software. Payment plan cases are kept in a separate designated file cabinet, and case files are reviewed weekly to ensure defendants comply with the terms of their payment plan agreement.
- JP2 - Payment plan cases are maintained and checked manually on a weekly basis to record payment activity. Past due payments trigger a telephone call and a delinquent mailer notice to the defendant.
- JP3 - The compliance clerk monitors the 30 day extensions to pay (30-day pays) and payment plans electronically. In addition, a Microsoft exchange calendar is used as a reminder of the defendant's payment due dates. Past due payments trigger a telephone call and a delinquent past due notice is mailed to the defendant.
- JP4 – Defendants on a payment plan, and defendants who do not pay within 30 days of the assessed date must submit an application form. Every two (2) weeks a system software report is generated to determine if a past due telephone call, a past due mailer, and or a third notice is required based on the defendant's payment activity.
As a backup process, a copy of these cases are kept in a separate file folder and easily accessible for review.
- County Clerk Collections – Payment plans are entered into the system software, and the defendant's payments are monitored with a combination of case flags, and event due dates electronically. In addition, collections staff maintain a copy of this information in Excel as a backup system. Defendant payment activity is monitored on a daily basis, and past due payments trigger a telephone call, and a delinquent past due notice addressed to the defendant. Incarcerated defendants must sign a cost document agreeing to contact the collections department upon release.
- District Clerk Collections - On a monthly basis, the collections clerk tracks all defendant payment activity to monitor for compliance with the terms of the payment plan agreement, (payments are always due on the 10th of each month). The collections clerk places a telephone call to defendants, and mails out past due notices addressed to the

defendants when a scheduled payment becomes past due. In addition, the collections clerk also checks if the defendant is in custody or enrolled in a treatment program.

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.*

- JP1 -The Court continues telephone calls and green postcard mailers for delinquent cases 60 days past due. In addition, the case can be referred to a third party collection agency (McCreary, Veselka, Bragg, and Allen, P.C. Attorneys at Law) to continue the collection process.
- JP2 - The Court's process for delinquent cases 60 days past due, is to continue telephone calls addressed to the defendant, and the Court will also set the case on docket for a financial hearing. In addition, the case can be referred to a third party collection agency (McCreary, Veselka, Bragg, and Allen, P.C. Attorneys at Law) to continue the collection process.
- JP3 - The Court continues telephone calls, past due postcards, and issues a Capias Pro-Fine warrant for delinquent cases 60 days past due. In addition, the case can be referred to a third party collection agency (McCreary, Veselka, Bragg, and Allen, P.C. Attorneys at Law) to continue the collection process.
- JP4 - Delinquent cases 60 days past due are referred to a third party collection agency (McCreary, Veselka, Bragg, and Allen, P.C. Attorneys at Law) to continue the collection process.
- County Clerk Collections - The program continues telephone calls and past due mailer reminders for delinquent cases 60 days past due. In addition, the program began referring these cases to a third party collection agency for cases adjudicated from 2009 to 2013, and is considering using the collection agency for the remaining years after 2013.
- District Clerk Collections - Delinquent cases 60 days past due are referred to a third party collection agency (McCreary, Veselka, Bragg, and Allen, P.C. Attorneys at Law) to continue the collection process.

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. Monthly reports were submitted through December for Calendar Year 2015, which include the audit period November and December 2015.

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 51 cases tested, 11 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 13.64% and 29.31%. Although the error rate range has an upper level of 29.31%, (which translates into a score of 70.69%), the test results are considered to be in partial compliance because the results meet at least a 50% score as detailed in the audit standards in 1 TAC §175.5(c)(2).

The County is in partial compliance 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 38 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.97%.

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 38 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 10.23%.

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 38 cases tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.97%.

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 38 cases tested, two (2) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 13.57%.

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 38 cases tested, five (5) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 5.80% and 18.53%.

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 19 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 19.43%.

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).*

Comal 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 11 components of the Collection Improvement Program.

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 Comal 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

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