



Office of Court Administration

Collection Improvement Program

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

McLennan County

January 23, 2014

CONTENTS

Transmittal Letter	
Executive Summary	1
Detailed Procedures and Findings	3
Appendix A – Objective, Scope, and Methodology	11
Appendix B – Management Responses and Auditor Comments.....	12
Appendix C – Report Distribution.....	14

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 McLennan County (County). The procedures were performed to assist you in evaluating where the collection program of the County has not 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 have error rates exceeding 20% in three of the seven Critical Components for Defendant Communication. However, the requirements in 1 TAC §175.5(c)(2) allow a maximum of one component to exceed a 20% error rate to be in partial compliance. 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.

McLennan 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 *Government Auditing Standards* issued by the Comptroller General of the United States and 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 December 1, 2012 to January 31, 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.*

McLennan County (County) provided a list of defendants who accepted a time extension or a payment plan to pay court costs, fees, and fines assessed during the period of December 1, 2012 through January 31, 2013. Cases were removed from the population that did not meet the criteria to test as part of the Collection Improvement Program. A population dataset was developed from each collection program to form an overall County population dataset, referred to as the Main population for our discussions. The Main population was used for pulling a sample to be tested.

The centralized Justice Courts population dataset was retrieved during preliminary testing; the original population submitted by the third-party vendor was not relevant for audit purposes. The assessment dates reflected in the dataset received represented the last or latest event recorded, and thus the assessment date was not a reliable parameter to retrieve a valid population. A manual review of all cases filed in Precincts seven and eight was necessary to retrieve a population dataset to be included in the County's overall population dataset.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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

A randomly-generated, statistically-valid sample was taken from the Main population identified in procedure 1 above. The number of samples per program are listed below:

- Centralized Justice Courts – a sample was generated to test 20 cases as detailed in Procedure 8 through 13 listed below.
- Justice Court Precinct 7 – a sample was generated to test one (1) case as detailed in Procedure 8 through 13 listed below.
- Justice Court Precinct 8 – a sample was generated to test one (1) case as detailed in Procedure 8 through 13 listed below.
- District Clerk's Office / Community Supervision and Corrections Department (CSCD) – a sample was generated to test 32 cases as detailed in Procedure 8 through 13 listed below.
- County Clerk's Office – a sample was generated to test seven (7) cases as detailed in Procedure 8 through 13 listed below, and five (5) cases as detailed in Procedure 14 below.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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

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

Management Response:

See Appendix B, page 12, for complete Management Responses.

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.*

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. Each collection program had at least one (1) staff member with collection activities as a priority job function.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 monitoring process of the defendant's compliance with the extension terms or the payment plan agreements are as follows:

District Clerk's Office:

At the pre-sentencing stage, the District Clerk's office determines if the defendant is able to pay all court cost, fees, and fines at the time of sentencing. The expectation is to collect all court costs and fees by the sentencing due date. If it is determined that the defendant is unable to pay all required court costs and fees, the defendant is asked to fill out a payment application packet, and the collection process begins. The payment terms are determined by the number of weeks left until the court sentencing due date. Payment terms are entered into, and monitored through, the program's in-house electronic system. Payment terms information is also forwarded to the County's CSCD department.

CSCD Department:

The CSCD's case management system, Corrections Software Solutions (CSS), is used to monitor the defendant's compliance with the terms of the payment plan agreement. The CSS system contains a financial obligation module, which allows the supervision officer the ability to address compliance issues with the defendant. Any delinquency issues are detected and addressed with the defendant during the monthly appointments. The supervision officer is able to view historical notations, and log current case information in the defendant's electronic chronological record.

Justice Courts:

The Justice Courts collection program monitors defendant's compliance with the terms of the payment plan agreement via a manual system. The Justice Courts program has implemented new collection software within the last two years (Edoc), but is still unable to run a past-due report. The program reviews the court order detailing the terms of the payment plan agreement to detect delinquent cases. The electronic system is updated with the payment amount and the date the payment was received to confirm the current or delinquent status of each case.

Justice Court, Precinct 7:

The Justice Court for Precinct 7 uses a similar manual process as described in the Justice Courts section, supported by updated payment information in the electronic system.

Justice Court, Precinct 8:

The Justice Court for Precinct 8 uses a similar manual process as described in the Justice Courts section, supported by updated payment information in the electronic system in addition to a MicroSoft Excel tracking spreadsheet.

County Clerk's Office:

The County Clerk's office monitors defendant's compliance with the terms of the payment plan agreement on a daily basis via an electronic system developed in-house. An electronic past-due report is generated detailing defendants that are delinquent at any of the following critical past-due days, (5, 10, 35, and 61 days).

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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.*

The County's process to improve collection of seriously delinquent cases is as follows:

District Clerk / CSCD Department:

A defendant is scheduled for monthly visits, delinquency letters are sent, the defendant is reported to OmniBase¹, and the program utilizes Scofflaw to get the defendant into compliance with their payment plan. A motion to revoke probation may be filed if the defendant does not re-establish the payment plan.

Justice Courts:

The Justice Court program uses OmniBase, an outside collection group, and periodic warrant round-up operations to get a defendant back into compliance with their payment plan.

County Clerk's Office:

The County Clerk's office uses telephone calls and late notices, and seeks a capias pro-fine warrant for defendants that do not re-establish compliance with their payment plan.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 monthly reports were submitted for Calendar Years 2012 and 2013.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

¹ 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.

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 60 cases tested county-wide, two (2) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.01%.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 60 cases tested county-wide, 33 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 47.63% and 58.76%.

The County is in partial compliance with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 or a judge-imposed payment plan or extension.*

Of the 60 cases tested county-wide, two (2) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.01%.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 60 cases tested county-wide, there were no errors noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 3.48%.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 60 cases tested county-wide, 30 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 44.39% and 56.98%.

The County is in partial compliance with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 60 cases tested county-wide, 30 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 44.39% and 56.98%.

The County is in partial compliance with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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.*

Within the County, only one program uses Capias Pro Fine warrants as a method to address seriously delinquent cases. Of the five (5) cases tested, there were no errors noted.

The County is compliant with this component.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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).*

McLennan County is not in compliance with the Texas Administrative Code §175.3. In testing the required components, the County was found to be in partial compliance with three of the seven Critical Components for Defendant Communication. However, the audit standards documented in 1 TAC §175.5(c) allow for a maximum of one (1) component to be in partial compliance.

All other components were found to be in compliance.

Management Response:

See Appendix B, page 12, for complete Management Responses.

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 McLennan 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 December 1, 2012 through January 31, 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 \$20.00 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

Greg Magness, CIA, CGAP; Audit Manager

David Cueva; CFE; Auditor

APPENDIX B

The OCA received responses from three sources within McLennan County. The responses, along with Auditor Comments, have been added here.

Justice Court Collections

For the Justice Court Collections, the audit dates fell in a transition period. The Justice Court Collections office had previously used the County maintained Bridge system. When the County moved to eDoc, this created a workflow issue while the cases were imported from Bridge to the eDoc Software. Leslie Woodson, in JP Collections, had to manually pull delinquent cases during this period. This resulted in phone calls and delinquent notices that were not timely. There was also an issue of notes/comments entered by Ms. Woodson that were being deleted by staff in the JP offices. Our vendor (eDoc) is in the process of creating a notes field for Collections, and these fields will be assigned to each case along with the option of scanning/saving any docs for that case.

District Clerk's Office / Community Supervision and Corrections Department

Upon reviewing the language of the REVISED Draft Report, I saw a minor adjustment that may need to be made to the language on page 6 (DETAILED PROCEDURES AND FINDINGS SECTION #6). The wording may need to read as follows: A motion to revoke probation ~~is~~ may be filed if the defendant does not re-establish the payment plan.

I have no issue with the Mr. Cueva's findings in reference to the CSCD sample. Indeed, the many of the sample cases did not contain documentation of offender contact/employment verification. However, based upon the population of cases tested, I believe that the title District Clerk's Office / Community Supervision and Corrections Department may be a misnomer. I recalled that the CSCD sample tested contained both misdemeanor and felony cases.

Of the 32 probation (CSCD) cases tested, only 4 were placed on probation out of the felony courts (District Clerk), the remaining 28 were misdemeanor cases.

Upon initially reviewing the summary spreadsheets, I primarily concentrated on whether or not the data accurately reflected the processing of the CSCD cases. Due to reviewing the make-up of cases (felony vs misdemeanor), I had cause to review the courts at law spreadsheet. One case, <NAME REDACTED> #201200163CR2 appears on both the CSCD and courts at law spreadsheets.

He received probation within the audit time frame (12-6-12), so he correctly appeared on the CSCD data set. He absconded, was re-arrested, and revoked on 4-5-13. For purposes of the audit, I believe that he should not have appeared on the courts at law spreadsheet.

Auditor's Note: In order to better describe the process followed within the CSCD collection program, this report was edited to reflect the change in wording described in the first paragraph. The Auditor agrees that the District Clerk's Office and CSCD are two separate departments. For the purposes of this audit, the title for the collection program contains both names as the District Clerk's Office performs certain required tasks for the cases heard in that court, while CSCD maintains those cases. The case, #201200163CR2, was removed from the County Court-at-Law testing, and the results were re-calculated and added to this report.



WACO, TEXAS

J.A. "ANDY" HARWELL
COUNTY CLERK, McLENNAN COUNTY
P.O. BOX 1727
WACO, TEXAS 76703

January 6, 2014

Re: Compliance Audit

Good Morning Mr. Chapman.

We have received a copy of the revised draft report from the OCA re: CIP.

In regard to our sample cases in the original test audit by Mr. David Cueva, our office requested review by OCA, of two application issues and one contact verified issue. After being reviewed by OCA, these issues have been removed and corrected from the test audit and as same reflected in the revised draft report.

In regard to our phone contact and mail contact notification issues, our office has been working with Lisa Fetch in the IT Dept. and those issues should now be corrected and in compliance with OCA guidelines.

If you have any questions, please do not hesitate to call.

Thank you,

A handwritten signature in black ink, appearing to read "J.A. Harwell". The signature is fluid and cursive, written in a professional style.

J. A. "Andy" Harwell,

County Clerk, Waco, McLennan County, Texas

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