

2019

**Travis County Auditor's Office Review of the
Collections Improvement Program for Felony
Non-Probation Cases**

**Travis County Auditor's Office
Risk Evaluation & Consulting Division**

7/2/2019

TRAVIS COUNTY
AUDITOR'S OFFICE

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To: Velva Price
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From: Patti Smith, CPA
Travis County Auditor

Date: July 2, 2019

Subject: Travis County Collections Improvement Program Review

The Risk Evaluation & Consulting Division of the Travis County Auditor's Office has completed a review of Travis County's Collections Improvement Program for the collection of court costs, fines, and fees assessed on adults adjudicated in criminal district courts that are not actively assigned to adult probation. We conducted this examination in accordance with the applicable statutes governing the County Auditor's Office and those relating to Collections Improvement Programs.

BACKGROUND

In 2005, the Texas Legislature added Section 103.0033 to the Code of Criminal Procedure (CCP) to improve the collection of criminal court costs in counties and municipalities with a population of 100,000 or more. In conjunction with this statute, the Office of the Court Administration developed Title 1, §175 of the Texas Administrative Code.

This Administrative Code section governs the creation and administration of Collections Improvement Programs (CIP) in these large counties and municipalities. CIPs are utilized to collect delinquent criminal court costs, fines, and fees. In Travis County, the CIPs for active district court probationers are administrated by the Travis County Community Supervision and Corrections Department (CSCD).

The District Clerk assesses court costs, fines, and fees for all parties convicted (or placed on deferred adjudication) in Travis County's District Courts. If the convicted party is not placed on probation, the District Clerk is responsible for the collection of their assessed court costs, fines, and fees. Assessments for parties placed on probation are transferred to CSCD for collection.

CSCD utilizes CIPs for past-due balances as needed. If a party with a balance due is revoked from probation, the open balance is returned to the District Clerk for collection.

SCOPE OF EXAMINATION

This review included an assessment of the District Clerk’s compliance with the statutes and regulations governing CIPs. During this review, we examined collection protocols for court costs, fees, and fines assessed between January 1, 2017 and December 31, 2017.

REVIEW METHODOLOGY

Our work was based on applying sampling procedures to the entity’s records and on verbal and written representations from District Clerk’s Office personnel. Sampling relates to examining, on a test basis, evidence supporting the amounts and disclosures in the applicable financial records and statements. The use of sampling techniques would not necessarily disclose all material weaknesses or misstatements for this function. In regard to the written and verbal representations made by District Clerk personnel, unless otherwise noted in this report, office management maintains that the assertions we relied upon during this review were correct to the best of their knowledge.

OVERALL FINDINGS

During our review, we noted issues with the maintenance of payor information, completion of contact verifications, documentation of interviews, and reporting to the Office of Court Administration (OCA). In addition, written past due notices and final contact attempt documents did not include all required information, and a statutorily-required program was not in place to improve the collection of balances over 60 days past due.

Overall Management Response:

The District Clerk agrees with the recommendations and is working on the best approaches to implement the Collections Program using available resources.

EXAMINATION TEAM

Angel Candelario, Lead Auditor
Ronald Cintron, Staff Auditor

CLOSING

This report is intended solely for the information and use of the District Clerk and the Commissioners’ Court. We appreciate the cooperation and assistance received from the management and staff of the District Clerk’s Office. Please contact our office if you have any questions or concerns regarding this report.



David Jungerman, CIA
Chief Assistant County Auditor II – Risk
Evaluation & Consulting



Patti Smith, CPA
Travis County Auditor

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Areas of Concern

We received a report from the District Clerk's Accounting Division containing all 232 cases for which a payment plan was initiated during the 12 months ended December 31, 2017. Of these cases, we selected a random sample of 56 (24%) for compliance testing. During this testing, we noted the following areas of non-compliance with the OCA's review standards:

1. Maintenance of Information

Ability to pay information includes the defendant's household income, expenses, account balances in financial institutions, debt balances and payment amounts, number of dependents, and any other information local program staff require in order to establish a payment plan. This information is used to determine the amount the defendant can successfully pay without undue hardship to the defendant or the defendant's dependents. For all 56 cases reviewed, the defendant's ability to pay information was not maintained.

We also noted that for 43 (77%) of the 56 cases under review, the payment plan forms were missing signatures, dates, and defendant phone numbers.

Texas Administrative Code, Title 1 TAC §175.3 (3) (B) Application or Contact Information states the following:

“Other Cases. For all other cases, the local program must collect from the defendant a signed and dated application for a payment plan that includes both contact information and payment ability information. The required information must be obtained within one month of the assessment date.”

Recommendation:

We recommend that all payment plans on file be signed and dated. In the event the application is completed over the phone, staff should obtain a signed copy of the plan through other means, such as via fax or email. In addition, during the application phase, the staff should collect and maintain the defendant's ability to pay information, including the defendant's expense, revenues, and additional financial assistance.

Management Response:

The District Clerk does the actions mentioned in the recommendations. We currently send an initial correspondence about the amount of fees due. Further, the District Clerk does mail a payment plan to the Defendant after the phone interview is complete which has space for the Defendant to sign the plan or the document is presented for review and signature when in-person meetings occur. The District Clerk now conducts additional follow-ups with the Defendant if the document is not returned or signed [This was initiated after the District Clerk received the initial results of this audit.]. Further, the District Clerk currently utilizes a form that does capture relevant data which records the financial ability of the Defendant. The District Clerk does agree to regularly review our process to ensure compliance with the guidelines of Title I TAC Sec. 175.3[6].

2. Interviews

The interview process is defined as a staff member conducting an interview in person or by telephone with a defendant to review the defendant's ability to pay information or the terms of the defendant's standard payment plan. For all 56 of the cases reviewed, we found no indication/documentation that an interview had been conducted.

Texas Administrative Code, Title 1 TAC §175.3 (5) (A) Defendant Interviews states the following:

“Within 14 days of receiving an application, local program staff must conduct an in-person or telephone interview with the defendant to review payment ability information. Interviews must be documented by indicating the interviewer and date of the interview.”

Recommendation

We recommend that District Clerk personnel conduct in-person or telephonic interviews with the applicable defendants and review the defendant's ability to pay information. The interview could be conducted in conjunction with the application process. In addition, the staff should document the time and date of the interview.

Management Response

The District Clerk does review and respond to concerns of the Defendant's regarding the payment plan as outlined in the Judgment. The District Clerk does have a process which allows Defendant's to craft their own payment plans but will work on presenting a standard payment plan to the Courts after determining if any statutory changes which may have occurred in 2019 may apply to this process.

3. Written Past Due Notices/Final Contact Attempts

In order to inform defendants that they are over 30 days late on their payments, written past due notices should be remitted to these parties via regular or certified mail, e-mail, text message, or other electronic means. This notice provides the defendant with their options should they be unable to make further payments.

Final contact attempts are remitted to defendants within 30 days of an un-answered written past due notice. These final contacts attempt to notify the defendant of their right to avoid jail time for nonpayment if they are unable to pay the amount owed without undue hardship. During our review, we noted that for all 56 cases, written past due notices and final contact attempts did not contain the information required by the Texas Administrative Code.

Texas Administrative Code, Title 1 TAC §175.3 (9) Written Notice for Past-Due Payments states the following:

“The written notice must also include information about how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment.”

Texas Administrative Code, Title 1 TAC §175 (10) Final Contact Attempt states the following:

“The written notice must include the same information required in paragraph (9) of this subsection and include reasonable steps the defendant can take to avoid the defendant's case being reported to the court as non-compliant. The written notice must also notify the defendant of the defendant's right to avoid jail time for nonpayment if the defendant is unable to pay the amount owed without undue hardship to the defendant and the defendant's dependents.”

Recommendation

We recommend that staff update their initial and final notice for past due payment letters and include the information required by Title 1 TAC §175.3 (9) & (10).

Management Response

The District Clerk presently informs the Defendant about the right to contact the Court regarding court costs in accordance with proper procedure and believes that the notices now being sent are in compliance with 1 TAC Sec. 175.3a [9] and [10] as illustrated in the examples posted in the OCA website [This was changed after the District Clerk received the initial results of this audit.]. The District Clerk is working on how to inform the Defendant's about proper procedure on how to request a review by the Court.

4. Delinquent Cases

During the examination, it appeared no program has been implemented to improve the collection of balances over 60 days past due. Currently, the only collections efforts are in the past due notification and final attempt notification.

Texas Administrative Code Title 1 TAC §175.3 (11), Delinquent Cases states that *“Each local program must have a component designed to improve collection of balances more than 60 days past due.”*

Recommendation

Article 103.0033 of the Code of Criminal Procedure, allows for the implementation of *“a component designed to improve the collection of balances for eligible cases more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor.”*

The County's Justice Courts currently have contracts with two private vendors for this service (Linebarger and MSB). We recommend that the District Clerk consider implementing something of this nature to potentially improve the collection of past due balances.

Management Response

As of FY2017, District Clerk has been a part of the Tax Office Central Collection project and is presently sending surety bond cases to the Collection Team. In addition, the District Clerk is

confirming that the information contained in cases that are subject to this audit contains correct information before sending the files to Central Collections.

5. Reporting

Each court is required to report at least annually to the OCA in the format provide by the OCA. The OCA has implemented a web-based online Court Collection Reporting System for local programs or jurisdictions to enter information into the system. During our review, we noted that the District Clerk is not remitting collection improvement program reports to the OCA.

Texas Administrative Code, Title 1 TAC §175.3 (12) Proper Reporting states that “*The local program must report its collection activity data to OCA at least annually in a format approved by OCA, as described in §175.4.*”

Recommendation

Article 103.0033(i) of the Code of Criminal Procedure requires that each local program submit a written report to the OCA at least annually that includes updated information regarding the local program as directed by the OCA. We recommend that the District Clerk begin reporting to the OCA at least annually in the format described in Title 1 TAC §175.4 of the Texas Administrative Code.

Management Response

The District Clerk reported the required information to OCA for July 2018 in August 2018 after working with ITS on the issues that prevented such reporting to occur sooner. The District Clerk kept the OCA updated regarding its efforts to comply with the reporting requirement.