

TEXAS ADMINISTRATIVE CODE
TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

SUBCHAPTER A. GENERAL COLLECTION IMPROVEMENT PROGRAM PROVISIONS

§175.1 Source, Purpose and Scope

(a) The source of this chapter is Article 103.0033 of the Code of Criminal Procedure.

(b) The purpose of this chapter is to provide notice to counties and municipalities of the scope and components of the OCA Collection Improvement Program and of the audit standards that will be used by the Comptroller of Public Accounts to determine program implementation.

(c) The OCA Collection Improvement Program applies to criminal cases in which the defendant agrees to or is required to pay all court costs, fees, and fines under a payment plan rather than when they are assessed and payment is requested. Although the program can be utilized by a judge in virtually every criminal case to effectuate the judge's financial orders, it is not designed to influence the judicial determination of whether to order payment of costs, fees and fines, or otherwise to affect the sentencing or other disposition decision that is within the judge's discretion. The program is simply designed to improve the collection of court costs, fees and fines that have been imposed, while helping defendants satisfy their obligations. The program is not intended to conflict with or undermine the provision to defendants of full procedural and substantive rights under the constitution and laws of this state and of the United States.

(d) Although the program focuses on collection of court costs, fees and fines, it should be implemented in the context of local, state and national efforts to develop and apply systemic policy to the competing financial obligations of people in the criminal justice system.

§175.2. Definitions

(a) "Assessment date" is the date on which a defendant becomes obligated to pay court costs, fees and fines. When a defendant remits partial payment of a citation without appearing in person, the assessment date is the date the partial payment was received.

(b) "Contact information" means the defendant's home address and home or primary contact telephone number; the defendant's employer's or source of support's name, address and telephone number; at least two personal references, and the date the information is obtained;

(c) "Designated counties" are those with a population of 50,000 or greater.

(d) "Designated municipalities" are those with a population of 100,000 or greater.

(e) "Jurisdiction" means a designated county or designated municipality that is subject to these rules.

(f) "OCA" means the Office of Court Administration of the Texas Judicial System.

(g) "OCA's program" or "OCA's Collection Improvement Program" or "model program" means the model program developed by OCA to improve the collection of court costs, fees and fines imposed in criminal cases through application of best practices.

(h) "Payment ability information" means the defendant's account balances in financial institutions, debt balances and payment amounts, and stated income.

(i) "Payment Plan" means a schedule of payment(s) to be paid by a defendant who does not pay all court costs, fees, and fines at the time they are assessed and payment is requested.

(j) "Program" or "Local Program" means the collection program implemented by a jurisdiction.

§175.3. OCA's Collection Improvement Program Requirements

(a) OCA Program Requirements. OCA's program has 10 critical components. Three critical components relate to the way a local program should be implemented, staffed, and operated. The other seven critical components relate to the way program staff communicates with defendants and documents those communications. In accordance with Article 103.0033(j), the Comptroller will periodically audit counties and municipalities to confirm implementation of the critical components of OCA's program; the audit standards are more fully described in §175.5 of this chapter. In computing any period of time under these rules, when the last day of the period falls on a Saturday, Sunday, legal holiday, or other day on which the office is not open for business, then the period runs until the end of the next day on which the office is open for business.

(b) Critical Components for Local Program Operations.

(1) Dedicated Program Staff. Each local program must designate at least one employee whose job description contains an essential job function of collection activities. The priority collection job function may be concentrated in one individual employee or distributed among two or more employees. The collection function need not require 40 hours per week of an employee's time, but must be a priority.

(2) Payment Plan Compliance Monitoring. Program staff must monitor defendants' compliance with the terms of their payment plans and document the ongoing monitoring by either an updated payment due list or a manual or electronic tickler system.

(3) Proper Reporting. The program shall report its collection activity data to OCA at least annually in a format approved by OCA, as described in §175.4 of this chapter.

(c) Critical Components for Defendant Communications.

(1) Application or Contact Information. For payment plans set by a judge, defendant must provide or acknowledge contact information and program staff must document it. In other cases, defendant must provide a signed or acknowledged application for extended payment that includes both contact information and payment ability information. Programs may use a single form for both contact information and payment ability information, and the required information must be obtained within one month of the assessment date.

(2) Verification of Contact Information. Within five days of receiving the data, program staff must verify both the home or contact phone number and the employer or source of support, if applicable. Verification may be conducted by reviewing written proof of the contact information, by telephoning the contacts, or by using a verification service. Verification must be documented by identifying the person conducting it and the date.

(3) Defendant Interviews. Within 14 days of receiving an application or a judge-imposed payment plan, program staff must conduct an in-person or telephone interview with the defendant either to review the application and determine an appropriate payment plan or to review the terms of the judge-imposed payment plan. Interviews must be documented by indicating the name of the interviewer and date of the interview.

(4) Specified Payment Terms.

(A) Documentation. Payment plans must be documented by notation in the judgment or court order, on a docket sheet, by written or electronic record, or by other means enabling later review.

(B) Payment Guidelines. Payment plans should require the highest payment amounts in the shortest period of time that the defendant can successfully make, considering the amount owed, the defendant's ability to pay, and the defendant's obligations to pay other court-mandated amounts, including child support, victim restitution, and fees for drug testing, rehabilitation programs, or community supervision.

(C) Time Requirements. Payment plans set by program staff shall meet the following time requirements:

(i) In municipal and justice court cases, full payment within four months of the assessment date.

(ii) In county and district court cases involving community supervision, full payment at least two months before expiration of the term of community supervision.

(iii) In county and district court cases not involving community supervision and not involving incarceration, full payment within six months of the assessment date. Time requirements for payment plans set by a judge are within judicial discretion.

(5) Telephone Contact for Past-Due Payments. Within one month of a missed payment, a phone call must be made to a defendant who has not contacted the program staff. Phone calls may be made by an automated system, but an electronic report or manual documentation of the telephone contact must be available on request.

(6) Mail Contact for Past-Due Payments. Within one month of a missed payment, a written delinquency notice must be sent to a defendant who has not contacted the program. Written notice may be sent by an automated system, but an electronic report or manual documentation of the mail contact must be available on request.

(7) Contact if Capias Pro Fine Sought. If a capias pro fine will be sought, the program must make another phone call or send another written notice to the defendant within one month of the phone call described in paragraph (5) of this subsection or the written delinquency notice described in paragraph (6) of this subsection, whichever is later. An electronic report or manual documentation of the contact must be maintained.

§175.4. Content and Form of Local Government Reports

(a) General Scope. Article 103.0033(i) requires that each program submit a written report to OCA and the Comptroller at least annually that includes updated information regarding the program, with the content and form to be determined by OCA and the Comptroller.

(b) Reporting Format and Account Setup. In cooperation with the Comptroller, OCA has implemented a web-based Online Collection Reporting System for the program participants or jurisdictions to enter information into the system which is accessible by both agencies. For good cause shown by a jurisdiction, OCA may grant a temporary waiver from timely online reporting. Program participants or jurisdictions shall provide OCA with information for the online reporting system to enable OCA to establish the program reporting system account. The information must include the program name, program start date, start-up costs, the type of collection and case management software programs used by the program, the entity to which the program reports (*e.g.*, district clerk's office, sheriff, etc.), the name and title of the person who manages the daily operations of the program, the mail and e-mail addresses and phone and fax numbers of the program, the courts serviced by the program, and contact information for the program staff with access to the system so user identifications and passwords can be assigned.

(c) Content and Timing of Reports.

(1) Annual Reports. By the 20th day of the month following the anniversary of program implementation, each program or jurisdiction shall report the following information:

- (A) Number of full-time and part-time collection program employees
- (B) Total program budget
- (C) Salary budget for the program
- (D) Dollar amount of fringe benefits for the program
- (E) Areas other than court collections for which the program provides services
- (F) A compilation of 12 months of the monthly reporting information described in paragraph (3) of this subsection, if not reported each month as requested.

(2) Additional information may be requested in the annual reports on a voluntary basis.

(3) Monthly Reports. By the 20th day of the following month, each program or jurisdiction is requested to provide the following information regarding the previous month's program activities:

- (A) Number of cases in which court costs, fees, and fines were assessed
- (B) For assessed court costs and fees: the dollar amount assessed and collected; the dollar amount of credit given for jail time served; the dollar amount of credit given for community service performed; the dollar amount waived because of indigent status, and the dollar amount waived for reasons other than indigency.
- (C) For fines: the dollar amount assessed, collected, or waived; the dollar amount of credit given for jail time served; and the dollar amount of credit given for community service performed
- (D) Aging information consisting of the time span from date of assessment through the date of payment, in 30-day increments up to 120 days, and for more than 120 days.

§175.5. Audit Standards

(a) Compliance Audits. In accordance with Article 103.0033(j), the comptroller shall periodically audit jurisdictions to confirm compliance with the critical components described in §175.3(b) and (c) of this chapter.

(b) Compliance Audit Methods. The comptroller shall use random selection to generate an adequate sample of cases to be audited, and shall use the same sampling methodology as used for programs with similar automation capabilities.

(c) Compliance Audit Standards. The comptroller shall use the following standards in the compliance audit:

(1) A county has met the requirements of §175.3(b) of this chapter when either 90 percent of all courts in the county, or all courts in the county except one court, have satisfied all three requirements. Partial percentages are rounded in favor of the county. A municipality must satisfy all three requirements of §175.3(b) of this chapter.

(2) To be in substantial compliance with a critical component of §175.3(c) of this chapter, the requirement must be met for at least 80% of the cases at that stage of collection. To be in partial compliance with a critical component of §175.3(c) of this chapter, the requirement must be met for at least 50% of the cases at that stage of collection. For the comptroller to find a jurisdiction in compliance with the requirements of §175.3(c) of this chapter, the jurisdiction cannot be in less than partial compliance with any critical component, may be in partial compliance with a maximum of one critical component, and shall be in substantial compliance with all of the other applicable critical components.

SUBCHAPTER B. IMPLEMENTATION SCHEDULE AND WAIVERS

§175.6. Implementation Schedule

In consultation with the Comptroller, OCA has developed and published on its website a prioritized implementation schedule for jurisdictions.

§175.7. Waivers

(a) Statutory Basis. Article 103.0033 provides that OCA may determine that it is not cost-effective to implement a program in a county or municipality and grant a waiver to the requesting entity.

(b) Criteria for granting waivers. OCA will grant a blanket waiver from implementation when the requesting entity demonstrates that:

(1) the estimated costs of implementing the program are greater than the estimated additional revenue that would be generated by implementing the program; and

(2) a compelling reason exists for submitting the waiver request after the entity's published implementation deadline. The requesting entity and OCA program staff each shall submit documentation supporting their cost and revenue projections to the administrative director for determination.

(c) Temporary waivers. OCA will consider a request to grant a temporary waiver for good cause that could not have been reasonably anticipated. Such temporary waivers may be granted after an audit to allow a program to correct deficiencies discovered during the audit.