Burnet County Collections & Compliance Office
200 South Pierce
Burnet, Texas 78611
512-715-5270

June 16,2016

To whom it may Concern,

Re: These are my concerns, please take further time to discuss all courts involved not just Justice of the Peace and Municipal Courts.

1. The new CIP rules are really going to bog down our court days and the dockets. It is going to place a lot of extra work for the Judges and their clerks from what I can tell. We are having defendants going to court, getting their punishments, they see the clerk, and then see the collections department. Then if we as the collections or compliance department see that the defendant may not be able to handle a payment agreement we are having to send them back into court to see the Judge again. I can only speak for Burnet County but this will take forever..... When we are finished with the docket the collections department is the last office (besides if they are put on probation) that the defendant will see. This means that the court staff will have to just remain in the courtroom waiting to see what we determine for each defendant. Sometimes we don't get done with court until after 4:00 or closer to 5:00 so when do these defendants come back to court? Immediately? If so, we will be staying late. I just don't see the Judges or at least my Judges thinking this is going to be a good idea. If we make them come back the following day they will not show up I can promise you... and the Judge may not be available.
2. The discretionary income really bothers me as a collector. We are not here to hold people to a fire, our job is to help the defendant become successful at fulfilling the Judge's order for a crime that they chose to commit. If we are taking into account credit cards, and small loans or big loans, and all of this "extra" stuff needed to supposedly survive then we are looking at a majority of defendants that will be placed on community service. I can tell you as a collector for the last 10 years that I have seen multiple defendants that say they cannot afford to make payments but literally have gone to lunch and seen them getting a full set of nails ($45) at the local nail salon; or they have been incarcerated for public intoxication over and over, so they have money for their beer but not money to pay their fines and fees ? I just think that we are taking way too much into consideration for these defendants. We see a lot of these people over and over in court and we have ones that do not and would not meet the new criteria set out but

they will be the ones that will have this paid off in 30 days or even in 2 payments..... I have seen a financial evaluation where the defendant was upside down by $200 or more and when I ask the question so how do you think you will be able to successfully complete this payment agreement they say oh I will have this done in no time because they DO want to pay it back and they actually DO pay it back... If I went by these new rules then they would automatically be considered indigent and fees waived.. They most likely couldn't do community service because they DO have a job and when would they have the time to complete those hours without undue hardship ? We also have defendants that don't meet payment plan eligibility and we DO offer them community service to pay for their fines and court costs and they never show up to fulfill those duties. So community service is not going to be our solution to this problem in my opinion.

3. Third, only getting 20% of their discretionary income is going to make a lot of payment plans about $25/month... this will not be attainable for them to accomplish during the length of their probation; or if it's a final judgment they will be on a payment plan forever which is just more work for your clerks and collections staff.
4. Having to wait one month before you are allowed to call or notify someone that they are delinquent is something else I disagree with. It has been proven that the longer you allow a defendant to pay out their fines and court costs the less likely you are to recover those costs. If we wait a full month before we contact someone I can assure you we will not be successful as collectors. The current business process of if they are 5 days late mailing them a postcard OR making a phone call can result in A LOT of just simple miscommunication.... MOST of the time these people simply forgot and as soon as we call they say oh yes let me do that today, or give me until Friday when I get paid again. Waiting a month is just going to hinder our collections.

I truly think that you should reconsider some of these new rules as I see that it will make our court system a very bogged down system, cases will be reset or not heard at all, longer court days, and more hearings. If you could see as a collector what we do each and every day to make sure that these defendants are successful in making their payments I think the feeling of what we do would change. We are not holding these people to the fire and threatening them, but yes we do make them feel responsible and take accountability for what they have done and for what the Judge has ordered them to do. We are very successful in how we collect money not only for our counties but also as revenue for the state as well. Burnet County is a Voluntary department we are not mandated and I can tell you that we do follow the current CIP program as closely as possible and we have not had any issues and have been very successful in what we do as a department. We give these individuals every possible chance to fulfill their obligations before we tell them that a warrant could be issued for their arrest, or their driver's license could be flagged, or before we send them to an outside source. And I do mean work with them.... Pages and pages of phone calls and conversations trying to help them pay. I think this needs to be revisited.

Thank you for your time.

Stephanie McCormick
Burnet County Collections & Compliance Supervisor

www.govcat.net

Governmental Collectors Association of Texas
PO Box 554
Bryan, Texas 77806

Tanya Skinner-President
(979)450-8112

I am very concerned as a Director of a mandatory collection program. Although these proposed changes appear to work well for Justice of the Peace and Municipal Courts; it is clear that they do not take into consideration the crushing effect these changes will place on District, County and Associate courts. This oversight is likely due to the fact that the only judges who have had input in drafting these changes are solely Justice of the Peace and Municipal Judges. Accordingly, in representing my concerns for courts who preside over more severe cases, I have several concerns to bring to your attention.

1. Discretionary Income should be redefined and presumptions of indigence for court costs and fines should be eliminated. As the Brazos County Collections Director, my office handles cases from Class C offenses (Justice of the Peace and Municipal) to Class A, Class B and Felony cases, including but not limited to, DWI, drug possession, manufacture/distribution to murder. When determining whether a defendant is able to make a payment and/or be determined indigent, the expenses that should be considered are necessities only. For instance, food, shelter, clothing, medical, child care, basic telephone service, reasonable automobile payments, insurance, utilities, etc. Many of our defendants have numerous expenses on their application which show poor financial decision making on their part, not inability to pay court costs. Both the Judges and the staff of my office routinely see defendants with new tattoos, acrylic nails, expensive hair color/cuts, etc. Many continue to purchase alcohol and cigarettes as well. It should also be noted that many defendants are arrested multiple times prior to disposition of a single case and routinely find money for bond and the majority of defendants negotiate their own dispositions.

2. Income should be based on "household income." All household income is to the benefit of the defendant in paying debts, etc. For instance, we have many cases where couples have resided together for numerous years, but are not legally married. With your definition being limited to spouse, you eliminate other resources that are available to the defendant. Additionally, because the District, County and Associate Courts see defendants 17 years of age or older, you may have a 17 year old who is still in school, but is claimed as a dependent by the parents, maintains employment, drives a newer vehicle and with your presumption would immediately be excused from financial obligations because he/she is still in school. There is no argument that this presumption should apply for youth in placement or foster homes.

3. Referral to the Court after sentencing. The Brazos County Judges in District, County and Associate courts inform the defendant of the court costs, fine, court appointed attorneys fees and restitution, if any, at sentencing. During this court proceeding, the defendant has the opportunity to raise the issue of indigency and to provide proper documentation (which is seldom exists) to the court. This should eliminate the necessity for the defendant to reappear before the judge. With the volume of cases on the dockets, our judges do not have the time to revisit cases and review issues previously addressed. This requirement would delay court proceedings and place an onerous burden on the courts, which do not have sufficient staff or time to meet this requirement.

4. The proposed changes do not take into consideration the fact that approximately 90% of Class A, Class B and Felony cases are disposed of by plea agreement. The defendant is generally given more than one option for disposition and actually negotiates and chooses his/her outcome. Many negotiate for large fine only dispositions. To allow a defendant to negotiate the outcome and then leave the courtroom and designate that he/she cannot comply with those terms and should be excused from the negotiated obligations flies in the face of common sense. It minimizes the crime, devalues the justice system and gives complete disregard to the victims of our offense.

5. Community service is an option currently used in our department. Brazos County has set up several places within the county for people to perform their hours. For defendants who fail to complete their community service, Brazos County sends out a last chance letter which includes an affidavit. The affidavit gives the defendants an opportunity to request their community service due date be revisited and/or to discuss issues that have developed since sentencing. After the due date passes or defendant requests their case be revisited, the Judge reviews the information and decides how the case should be resolved. The judges typically determine whether community service should be modified, fees waived, or a modified payment plan implemented. If a defendant fails to appear or disregards the Court's order, a capias pro fine is issued.

6. Interviews and establishment of a payment plan should be completed within 14 days. The proposal to wait one month is neither efficient nor logical. Currently, our judges send the defendant immediately to collections from the courtroom. We are able to obtain financial and contact information at that time. The defendant is then given an opportunity to return at a convenient time with additional documentation to be considered. If we wait to obtain this information and to set-up a payment plan, we may not be able to locate the defendant at all. Defendants tend to move frequently from one address to another. Presently, Brazos County requires defendants contact us within 5 business days of moving with their new mailing address. If we delay obtaining contact information, reminder post cards, and last chance letters are a waste of tax payers dollars spent on printing and postage. Just as a parent expects their child to accept responsibility for wrong doing, a defendant, who knowingly, intelligently, and willfully broke the law should be required to do the same. Therefore, the defendant should be responsible for maintaining contact with the Collection Department.

7. Current audit standards are sufficient. Brazos County failed its first audit, made the required changes and has successfully passed the next three. Getting the defendant's correct information, their contacts, their employment information, any government assistance, monthly bills and two references is not just for compliance, but to ensure we have tried every way possible to notify the defendant they are defaulting, and a capias pro fine may be issued. District, County and Associate courts are most effective with this information when the defendant appears in court. Justice and municipal courts do not have that luxury. All information collected on our application is not public record. Also, I see no need to change the name of Audit Review.

8. Probation cases need no change to the current guideline. Defendants must complete paying the assessed court costs and fines within their probation period. Changing the current guidelines will likely increase the filing of motions to revoke and motions to proceed. This outcome could

be extremely unfair to a defendant who ends up serving jail time on a revocation or is adjudicated (convicted) for an offense that but for this proposed change, the defendant would have successfully completed probation. The current agreement states that defendants are to pay probation fees, court cost and fines two months prior to be the expiration of their probation to obtain a successful discharge. This allows the Court to still have authority over the defendant's case if it is not paid prior to their probation expiring. Our judges take great strides at sentencing to insure the defendant can comply with probation terms. No one wants to see a defendant fail.

9. Collection Improvement Program Components must remain to have guidelines to follow. The eleven components are essential to having a successful program. Adding the email address to the list of contact information gives Collection Departments another avenue to notify defendant. Employer information is not only important in determining the amount and frequency of payments, but in supplying courts with relevant information during indigency hearings.

10. Requiring Judges to set up the payment plans in court is not feasible. There is not enough staff or time during dockets in our District, County or Associate courts to setup payment plans. In Brazos County, we have eleven courts; yet including myself, there are only six clerks doing collections. The Judges still have the ability to tell us how much to set the plan at per month, give community service and/ or waive the fees. With all payment options available, there are still some defendants who would just rather go to jail and lay out their fines and costs.

11. No matter what you call it, it is still a payment plan. Suggested name changes may be "Compliance of the Judgment and Sentence Agreement" or "Terms and Agreement of Compliance." However, the defendants will still be making payments based on the schedule in their agreement whether it is weekly, bimonthly or monthly.

In all my years of experience dealing with the OCA Specialist and audit team, they have done nothing but improve processes for the Court systems. They give advice which has helped defendants accomplish goals and meet obligations in life even if it is something as little as paying a ticket in full. I have had defendants ask my staff or I if they can hug us to show how thankful they are that we enabled them to pay off their first case.

As previously stated, my office serves eleven courts with six clerks maintaining around 18,000 active cases. When we set up a payment plan agreement, we explain the process of how this works in relation to their judgment and sentence, go over each payment agreement if they have multiple cases to resolve, and then ask if they have any questions or are confused with any part of the process. Prior to the defendant leaving my office, a card with my office's contact information is attached to their payment agreements to allow the defendant to contact us at a later date with any questions or concerns. My staff also gives each defendant a copy of what is expected of them and assures the defendant we are here to help them successfully resolve their judgment and sentence obligations. Establishing this rapport, lets defendants know they can come back if their circumstances change and revisit how to resolve their cases.

I have worked as the Collections Director for twelve years in Brazos County. During this time period I have been able to reduce the number of capias pro fine warrants issued for noncompliance. This speaks to the illusion that we are "putting poor people in jail." This program is an important tool in

assisting people that cannot afford to pay in full the day of their judgment and sentence. Without the Collection Improvement Program Components as guidelines, defendants could be placed on payment plans for 20 years owing only $3,000.00. Without the components, there is no punishment for crimes that have been committed.

Finally, I strongly feel that the committee should review these procedures again including District, County Court, and Associate Court Judges in their discussion. I believe the proposed changes at this time will place a heavy burden on the already overworked court staff.

Thank you for your time regarding this matter. If you need to contact me please feel free to do so.

Sincerely yours,

Tanya Skinner

Tanya Skinner
Governmental Collectors President
Brazos County Collections Director

July 18, 2016

Mr. Scott Griffith
Director, Research and Court Services
Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066

RE: Proposed Rules Changes to Chapter 175 of the Texas Administrative Code

Dear Mr. Griffith,

I want to take the opportunity to point out the problems with the aggressive nature and schedule the Office of Court Administration (OCA) and Judicial Council are taking with changing the rules of the Collection Improvement Program (CIP). This program was developed over the course of years, using tried methods, analyzing best practices, and piloting the programs in various jurisdictions to come up with a model that has been so successful, the State Legislature made it mandatory for the largest jurisdictions within the State.

In the early 1990's, forward-thinking officials in Dallas County reviewed the collection process in the criminal courts and realized they had an issue. Upon looking at the amount of court costs, fees, and fines owed to the County, the officials realized a significant source of County revenue was being ignored; however, upon further inspection they realized the uncollected funds represented court orders being ignored by persons convicted of a crime.

The officials determined the problem was the process itself, so they began looking at court collection programs across the nation. They traveled to states like Colorado and Arizona to review the court collection programs those states had implemented. They examined best practices utilized by the private sector to develop a pro-active approach to getting these defendants compliant with their court orders in a timely manner.

In February 1993, a court collection pilot program was launched in Dallas County with a two-person staff and a budget of $75,000. The pilot had 12 months to produce a $250,000 increase in the amount of court costs, fees, and fines collected. That goal was realized 90 days after implementation. The program was so successful that word spread throughout the Metroplex, and several other jurisdictions adopted the model and implemented a court collection program in their jurisdiction.

Those programs were so successful that the OCA took notice by the mid-1990s. In September 1996, the OCA implemented a court collection pilot project, modeled largely after the Dallas County program, in the county-level courts in Brazoria County. Unlike Dallas County, Brazoria County had a successful history of collecting court costs, fees, and fines. However, at the end of the first year of the pilot project, Brazoria County experienced a 131% increase in the dollar amount collected within 60 days of sentencing, and the collection rate increased by approximately 10%. However, the most important and surprising result was the 58% decrease in credits given for jail time served. Fewer citizens were spending time in jail as a direct result of the CIP.

After the success enjoyed in Brazoria County, the OCA began to assist cities and counties interested in improving compliance and collections with the implementation of its model program. By September 1, 2005, the OCA had assisted 50 counties and 17 cities in implementing a court collection program. The results were outstanding with an average collection rate increase of 91% for those jurisdictions that reported their results.

Those figures were too good for the Senate Finance Committee to ignore, leading to Senate Bill (S.B.) 978. Ultimately, the concept was incorporated into Article 10 of S.B. 1863, which requires cities with a population of 100,000 or more, and counties with a population of 50,000 or more, to implement a program to improve collection of court costs, fees, and fines in criminal cases. The results have been staggering, with an estimated $1 billion collected in additional court costs, fees, and fines due to the program.

The CIP encourages personal responsibility. According to the National Center for State Courts, "Lack of compliance in paying fines and fees denies a jurisdiction revenue and, more important, calls into question the authority and efficacy of the court and justice system." And while improving court collection improves revenue, it is the most cost effective manner to achieve compliance with court orders for both the jurisdiction, and more importantly, the defendant.

Now the OCA and Judicial Council propose changes to this successful program that would keep poor people out of the CIP....something that has been an integral part of the program since its inception. The proposed rules do not simply tweak the current program, but substantially overhauls the program with rules that do not meet any of the models the program was founded on. The changes have not been tested as the program was; there have been no pilot programs of the new rules to see what unintended consequences may arise from implementing the changes. Nobody knows what challenges will arise, yet the OCA and Judicial Council want to hurriedly rush to change a program that has enjoyed success for over two decades.

Everyone can agree we should do everything we can to ensure people who are found to be indigent are not jailed because they do not have the capacity to pay their court costs, fees, and fines. This should be done as part of due process for the defendant, prior to the defendant entering the CIP. A process that ensures defendants' ability to pay should be developed, tested, and modified to ensure all Texans are treated fairly. And most importantly, this should be done with ALL 2,659 courts in the State, not just the 877 courts (32.98%) that fall under the purview of the Collection Improvement Program. There are many poor Texans living in rural, sparsely populated counties that need these protections, as well.

In summary, the Collection Improvement Program was built over years of testing methods that would work. The haste with which this overhaul of the program is being rushed does not follow the same reasoning that made the CIP such a successful program.

Thank you for your time and consideration,

Greg Magness
Austin, Texas

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 08, 2016 4:31 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: Proposed CIP Rules

Shelly - This is for our CIP binders.

Thanks.

Scott

Begin forwarded message:

> **From:** Michael Stack <michael.stack@parkercountytx.com>
> **Date:** July 8, 2016 at 2:15:34 PM EDT
> **To:** "scott.griffith@txcourts.gov" <scott.griffith@txcourts.gov>
> **Subject: Proposed CIP Rules**
>
> Mr. Griffith,
>
> I am writing in opposition to the proposed CIP rules. When a defendant agrees in court to ALL conditions of community supervision, they have signed the order agreeing to pay fees. Each person can state their case at the hearing on inability to pay. The Community Supervision Officer then works with each person to fulfill this obligation, based on the payment schedule set by the Judge. These rule changes unduly increase workloads and places the importance of fee collections ahead of any other condition. I would hope that the proposed rule changes are denied.
>
> Respectfully,
>
> **Michael A. Stack**
> **Parker County CSCD Director**
> **1675 Ft. Worth Hwy**
> **Weatherford, Texas 76086**
> **817-594-3872 ext. 2015**
> **817-599-7648 (fax)**

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 08, 2016 4:34 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: Proposed Revisions to CIP
Attachments: image001.gif

Shelly - This is for our CIP binders.

Thanks.

Scott

Begin forwarded message:

> **From:** Meredith Lyon <Meredith.Lyon@cityofcarrollton.com>
> **Date:** July 8, 2016 at 11:09:42 AM EDT
> **To:** "'scott.griffith@txcourts.gov'" <scott.griffith@txcourts.gov>
> **Cc:** Deryl Corley <Deryl.Corley@cityofcarrollton.com>
> **Subject: Proposed Revisions to CIP**
>
> Mr. Griffith:
>
> Various staff members of the Carrollton Municipal Court have reviewed the proposed revisions to the Collections Improvement Program (CIP) and we have a number of concerns we wanted to bring to your attention. If you have any questions or need additional information from us, please feel free to let us know.
>
> To be frank, the proposed revisions were not drafted with busy, high volume courts in mind. The proposed revisions also do not take into account how effective the existing CIP is when implemented correctly. The Carrollton Municipal Court strictly adheres to the existing CIP, and our collections program is highly effective. The Office of Court Administration has audited/visited/spot-checked our collections program numerous times over the years, and every time, we have passed with flying colors.
>
> Many of the additional "steps" being proposed will simply delay the ability of courts to work with defendants on settling outstanding fines. While we cannot speak for the staffing of other courts, the Carrollton Municipal Court does not have the judicial staff or the additional collections staff that would be undoubtedly necessary to implement the proposed amendments. The proposed amendments contemplate significantly more time on the bench for judges, which in turn will have a negative impact on timely docketing of cases. Eliminating the ability of designated collections staff to set payment plans or community service agreements will put a significant strain on judicial staff. Our court, and I would imagine most municipal courts in the state, are working with very lean judicial staff, and re-routing all alternative payment agreements through court will negatively impact existing court docketing. The proposed amendments also would require significantly more collections staff time. We currently have a designated collections clerk whose primary responsibility is to implement the existing CIP. We also have

one staff member who is cross-trained to back up the regular collections clerk when necessary. Our designated collections clerk already does an enormous amount of work collecting financial information from defendants, verifying that information, and monitoring compliance once a payment plan or community service agreement has been set. Without additional staffing, implementation of the proposed amendments would be virtually impossible for one designated person to accomplish. Given lean court staffing and the high volume nature of our court, we do not have the resources to provide additional collections staff.

Nothing in the existing CIP prevents a defendant whose circumstances have changed from coming back to the collections division to revise an existing payment plan or community service agreement. There is no discernable reason why, under the proposed revisions, that a defendant should have to return to court to specifically address a judge to discuss these changes, particularly when the designated collections clerk is monitoring compliance and has immediate access to a defendant's financial information. A defendant will be able to more quickly discuss changes to alternative payment agreements with the collections clerk and have those changes reviewed and approved by a judge than if they had to wait to schedule a court hearing to discuss the matter with a judge.

Specifically exempting defendants who have been found indigent from the proposed CIP does not take into account the fact that indigence does not always mean complete inability to pay. In cases where a defendant is found indigent and there is an inability to pay, community service and waiver of fines and fees are options available in some circumstances. Exempting defendants who have been found indigent also does not take into account that those individual's financial circumstances may improve. Monitoring these defendants' cases under the CIP would ensure that indigent defendants are on the proper alternative payment arrangement for their circumstances, and that those arrangements can be adjusted if it becomes necessary.

The Carrollton Municipal Court currently provides multiple opportunities for defendants who cannot initially pay court fines in full to get more time to pay, to set up payment plans, to set up community service agreements, and in some cases, obtain a waiver of fines and fees. All of these options are exercised in accordance with the existing CIP. The proposed amendments to the CIP will most likely do nothing to ensure greater compliance. In our experience, defendants who are willing to work with the court on making alternative arrangements to satisfy outstanding fines will remain in contact with the court and will provide the court the necessary information and documentation. These defendants already remain in contact with the court if circumstances change and existing agreements need to be revisited. In our experience, defendants who are not willing to work with the court in making alterative arrangements to satisfy outstanding fines will either fail to provide necessary documentation, fail to comply with the terms or a payment/community service agreement, or will often simply not communicate with the court at all.

In closing, we believe that the existing CIP works very effectively in courts that implement it properly. Increasing enforcement of the existing CIP's rules and procedures would be much more efficient and effective in obtaining compliance than implementing the proposed amendments.

Best Regards,

Meredith Lyon
Presiding Judge, Carrollton Municipal Court
2001 E. Jackson Road
Carrollton, TX 75006
Tel: 972-466-4745

Shelly Ortiz

From: Scott Griffith
Sent: Wednesday, July 13, 2016 6:58 AM
To: David Slayton; Mena Ramon; Shelly Ortiz
Subject: FW: Proposed Changes to Title 1, Part 8., Chapter 175, Subchapter A - 1 TAC 175.1--175.3

Hi Shelly – This is for our binders.

Thanks.

Scott

From: jed.davenport@conchovalleycscd.org [mailto:jed.davenport@conchovalleycscd.org]
Sent: Monday, July 11, 2016 8:13 PM
To: Scott Griffith
Subject: Proposed Changes to Title 1, Part 8., Chapter 175, Subchapter A - 1 TAC 175.1--175.3

Scott Griffith,

My Name is Jed Davenport, Director of the Concho Valley CSCD(Adult Probation) which includes Tom Green County, Sterling County, Schleicher County, Irion County, Runnels County, Concho County, and Coke County. **I would like to express a voice of opposition to the proposed changes to Title 1, Part 8., Chapter 175, Subchapter A - 1 TAC 175.1--175.3 .**

To be brief, please consider the detrimental effects the proposed changes will have on probation department operations.

1. While the proposed changes at first glance appear to be speaking to collection improvement programs, many of these proposed changes will require a tremendous increase in resources from district and county courts, and the probation department. The Concho Valley CSCD would have to employ 3-6 additional staff (approximately $250,000 to $300,000 per year) devoted exclusively to the activities prescribed/mandated in the proposed changes.
2. The proposed changes do not identify or set aside funding for CSCD's to effectuate the proposed changes.
3. Lack of funding to hire staff to perform these CIP related actions will force departments to pull officers away from public protection/safety related functions thereby jeopardizing CSCD operations.
4. The Concho Valley CSCD will have to replicate these changes in 7 different jurisdictions just to accommodate the separate CIP's in the 7 counties we serve.
5. Every department transfers offender supervision to other states and to other departments within the state of Texas. Concho Valley CSCD has 900 such cases who are required to make payments even though the offender resides in another jurisdiction. These proposed changes do not consider how departments and courts will address offenders residing in other jurisdictions.

Since these proposed changes appear to create and mandate significantly large amounts of resource consuming action, I find it unfortunate that Community Supervision & Corrections Departments and their corresponding Judiciaries were not solicited for input regarding the feasibility and impact of the proposed changes.

Please feel free to contact me if you have any questions
Sincerely,

J.E. Davenport
Director
Concho Valley CSCD
325-659-0200

Shelly Ortiz

From: Scott Griffith
Sent: Wednesday, July 13, 2016 7:00 AM
To: Shelly Ortiz; David Slayton; Mena Ramon
Subject: FW: Proposed changes to the collections improvement program
Attachments: winmail.dat

Hi Shelly – This is also for our binders.

Thanks.

Scott

From: Marc and Terri Holder [mailto:
Sent: Tuesday, July 12, 2016 4:06 PM
To: Texas CCL Judges Association; Scott Griffith
Subject: Re: Proposed changes to the collections improvement program

Thank you for those points. Our and I echo Amanda's concern. The collection efforts contemplated by the new rules will severely burden our ability to manage dockets. We have a growing county and general jurisdiction CCL's and District Courts. We don't just handle criminal cases. So, when we have a criminal week, we try to schedule 2 jury trials that week. We have 60-80 people on 8 dockets per month (2 arraignments, 2 pretrial 1's, 2 pretrial 2's and 2 trial d). We would spend far too much time getting these folks back and forth through the proposed process. I agree if they agreed to a plea bargain, they agreed they could pay. Otherwise, don't accept the plea bargain. Working through that many cases, that many defendants would impede our ability to try those cases that need to be tried. In a county like Brazoria, one of the fastest growing counties with 8 courts full time and a shared court, the proposed process is too cumbersome.

Marc Holder
CCL #2
Brazoria County, Texas

On Tuesday, July 12, 2016 2:49 PM, Amanda Matzke <AMatzke@BRAZOSCOUNTYTX.GOV> wrote:

> Judges,
>
> I am sending you a copy of a letter I am working on regarding some of the proposed changes to the Collections Improvement Program. If you hear criminal cases, the rule changes will apply to you. The letter is lengthy, but the changes will affect how moneys are collected in all criminal cases. Should you want to submit a comment regarding the proposed rules changes, your comments to Scott.Griffith@txcourts.gov<mailto:Scott.Griffith@txcourts.gov> are needed by July 31st. You can go to http://www.sos.state.tx.us/texreg/pdf/backview/0701/0701prop.pdf to see the actual rule changes being proposed.
>
> Thank you,
> Amanda
>
> Committee Members,

My collections department director and I recently met to discuss some of the proposed changes to the Collection Improvement Program for the state. Although the changes proposed would affect all criminal courts in the state, the CIP Rules Advisory Committee did not have a single county court at law or district judge on it. Not surprisingly, the changes in the CIP are geared more toward the operation of a class C court, but would significantly impact all criminal trial courts in the state. I am forwarding the proposed changes to you, but here are some of my concerns after speaking with my collections director and my criminal associate court judge:

* One of the proposed changes would have a defendant, after going in front of the judge, go down to the collections department to then confirm with collections that the moneys owed can be paid without undue hardship. If the defendant then tells the collections department that they can't pay the money assessed, the defendant has to be brought back in front of the judge. On a regular docket day for us, 99% cases resolved would be due to a plea bargain where the defendant had input into the agreement reached. Our prosecutors routinely make 3 different offers for different combinations of fines and jail time and of course, the defendant can plead not guilty. If the defendant could not complete the terms of the agreement, he/she should not have represented to a judge that they could by accepting the state's plea bargain.

This is also a logistical concern. For example, after the afternoon docket, a defendant goes to collections. Once in collections, the defendant says the payment of moneys owed would be an undue hardship. The collections department would then have to take the person back up to the court to see the judge. By the time all of this occurs, it may be after 5pm and the court may be gone for the day. Again, this is a logistical problem for County Courts at Law and District Courts that JP and municipal courts may not be encountering due to the procedural differences of the courts.

* The "contact information" collected by collections department would no longer include defendant's employment information or their spouse's employment information. While collecting the information doesn't appear to be strictly prohibited, the fact that language regarding the employment information is being removed from the current language is telling.

* The definition of "household income" only includes the defendant and a spouse. It needs to include any income from anyone in that household. As we all know, many people live together without being married. Further, this would more closely compare to the order adopted by the Supreme Court in civil cases as of May 16, 2016 by Misc. Docket No. 16-9056.

* The definition of what is discretionary income would allow expenses that are purely discretionary to be considered "required" and therefore, not discretionary. Here is the definition used:

"Discretionary income" means the amount of a household's net (after-tax) income minus the amount of all required payments and the cost of items that are essential for the defendant and the defendant's dependents. Required payments are those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to, loan, credit card, and car and health insurance payments; court mandated payments, such as child support and victim restitution payments; and fees for drug testing, rehabilitation programs, and community supervision. Items that are essential for a defendant and the defendant's dependents are those which are necessary to ensure the well-being of the defendant and defendant's dependents, including, but not limited to, transportation, food, medicine and medical services or supplies, housing, child care, and clothing.

Under this definition, as long as a defendant pays for cigarettes, alcohol, cell phone bills, hair and nail appointments, movies, meals out etc. by credit card, they are not using discretionary income?

Also, there is also no reasonableness built into the determination of discretionary income. For example, a defendant could have a vehicle payment of $900 or more when there are obviously less expensive alternatives for transportation. I completely agree that we don't want people to lose their house and want them to be able to feed, clothe and provide for their families, but this definition is just ridiculous.

Further, the collections department would only be allowed to collect a maximum of 20% of a defendant's discretionary income. Why only 20% of discretionary income? This may work in class C cases where fines are generally $500 or less, however, with potential restitution and fines in CCLs and District Courts being in the thousands or more, this is not workable and could extend payment plans for years.

* These proposed changes may create more MTR's and MTP's for non-payment which would ultimately hurt the defendant and could increase the number of convictions. This is a very negative, unintended consequence of these changes.

These changes may work fine for the courts that hear exclusively class C misdemeanors, but are not workable for courts hearing criminal cases with much higher financial stakes involved. The simplest solutions would be for the changes to apply to municipal and JP cases only and not to county court at law and district court cases at least until these trial courts have some input. Another simple solution would be for plea bargained cases to be exempted from these rules. To be clear, I do not propose that we take away a person's ability to request modifications in payment plans, the ability to request community service be performed in lieu of payment, nor waiver of moneys in appropriate cases under the current rules. I am concerned that we are unnecessarily tying the hands of our collections departments from the start.

Thank you,

Amanda Matzke

##########

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Shelly Ortiz

Subject: RE: Proposed CIP Rules

From: Scott Griffith
Sent: Friday, July 15, 2016 7:43 AM
To: Shelly Ortiz <Shelly.Ortiz@txcourts.gov>
Cc: David Slayton <David.Slayton@txcourts.gov>; Mena Ramon <Mena.Ramon@txcourts.gov>
Subject: Fwd: Proposed CIP Rules

Shelly, this is for the binders.

Thanks.

Scott

Begin forwarded message:

> **From:** Karen Fetchko <karenfe@plano.gov>
> **Date:** July 14, 2016 at 12:21:41 PM EDT
> **To:** "scott.griffith@txcourts.gov" <scott.griffith@txcourts.gov>
> **Subject: Proposed CIP Rules**
>
> Good morning Scott –
>
> On behalf of the Plano Municipal Court, myself and our Chief Judge, Don Stevenson, would like to submit the following recommendation/suggestion in regards to the proposed CIP rules – particularly the reporting piece.
>
> In reference to Section 175.4 (c) (2), we would like to suggest changing this from a monthly report to a quarterly report and perhaps change the verbiage to read "No later than the last day of the month following each calendar quarter, each local program or jurisdiction is requested to provide the following information regarding the previous quarter's local program activities....". Considering the number of fees that are reported and paid to the state on a calendar quarterly basis, it seems it would be more efficient to prepare and submit our collection activity reports on a quarterly basis rather than every 30 days. Speaking for our court only, these reports can be time consuming to compile and are generally due at the same time many other required "monthly" reports are being prepared. It makes more sense to us to align these reports with the quarterly State report so that we can eliminate the amount of time spent on these every 30 days.
>
> We appreciate the opportunity to share our thoughts and look forward to the outcome of the proposed revisions.
>
> Thank you.
>
> **Karen Fetchko**
> *Municipal Court Administrator*
> 900 E. 15th Street
> Plano, Texas 75074
> T 972.941.2176
> F 972.941.2024
> karenfe@plano.gov
> plano.gov

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 15, 2016 5:56 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: Judicial Collection improvement

Shelly - This is for the binders.

Thanks.

Scott

Begin forwarded message:

> **From:** James Meredith <JMeredith@smith-county.com>
> **Date:** July 15, 2016 at 1:45:40 PM CDT
> **To:** "'scott.griffith@txcourts.gov'" <scott.griffith@txcourts.gov>
> **Cc:** "Chad Graff (michael.graff@courts.state.tx.us)" <michael.graff@courts.state.tx.us>, Sheryl Keel <SKeel@smith-county.com>, Phillip Smith <PSmith@smith-county.com>
> **Subject: Judicial Collection Improvement**
>
> I'm not sure I understand where this change is coming from, but it sounds like we are trying to fix a problem by covering everyone with this improvement program, instead of fixing broken courts.
> The very last straw for JP3 Smith County is a warrant. I have 3 full time clerks that work very hard at keeping up with the outstanding cases. This court accepts the pleas, then works with the defendants as far as just paying the fines, time payment plans, community service , Fine served if jailed by officers. The options of DSC, deferred dispositions, what I call Judge Payment plans where,(I sit done with them like an indigency hearing), to see what they could afford to pay, on a payment plan, or to approve indigency. This Court also uses Omni and again only use of a warrant when nothing else seems to work.
>
> This program will only cause more work for the court clerks and appears to penalize the court for the defendants responsibilities.
>
> Respectfully submitted,
>
> James L. Meredith
> Justice of the Peace Pct 3
> Troup, Smith County, TX 75789
> 903-590-4729

Shelly Ortiz

To: Scott Griffith
Cc: David Slayton; Mena Ramon
Subject: RE: Comments on the proposed new rules and repeals

From: Scott Griffith
Sent: Tuesday, July 19, 2016 9:01 AM
To: Shelly Ortiz <Shelly.Ortiz@txcourts.gov>
Cc: David Slayton <David.Slayton@txcourts.gov>; Mena Ramon <Mena.Ramon@txcourts.gov>
Subject: FW: Comments on the proposed new rules and repeals
Importance: High

Shelly – This email is for the binders.

Thanks.

Scott

From: Jeff Davidson [mailto:jdavidson@rockwallcountytexas.com]
Sent: Monday, July 18, 2016 2:38 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Comments on the proposed new rules and repeals
Importance: High

Comments on the proposed new rules and repeals:

Think about this: These Court Costs and Fines is punishment for breaking the law, NOT buying a TV or refrigerator. Now, if these new rules and repeals go through and people find out that they would be considered indigent because they have no job or do not make much money, then what's to stop them from breaking the law purposely, since they would know there would be NO CONSEQUENCES for their action. They'd speed knowing they wouldn't have to pay; They'd roll through that stop sign, change lanes in a no lane change and they definitely WOULD NOT HAVE the LIABILITY INSURANCE required to protect the innocent, law abiding citizens out here. So Please do the right thing and stop these new rules and repeals please.

Thank you

Jeff Davidson
Rockwall County Compliance Director
1111 East YellowJacket Lane, Suite# 205
Rockwall, Texas 75087-4901
972-204-6550
972-204-6559 fax
jdavidson@rockwallcountytexas.com

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Shelly Ortiz

From: Scott Griffith
Sent: Monday, July 18, 2016 11:56 AM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: Proposed CIP Rules and Flowchart

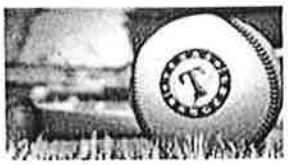
For the binders.

Scott

From: Lei Holder [mailto:Lei.Holder@parkercountytx.com]
Sent: Monday, July 18, 2016 9:25 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed CIP Rules and Flowchart

I hope I am not beyond the deadline to respond. I was at a conference this past week, and of course, this issue was addressed.
I agree with Steven Cherry and the others on this issue. This change does contradict the purpose of the collections program and may very well open a proverbial Pandora's Box. Persons who have already agreed to pay, and are making payments, will opt to do community service on an already limited and stressed system, as we are limited to places a person can do community service. There will also be an increase in persons claiming that community service is a hardship, in order to be found indigent and not have to pay their fines at all. This opens the door to individuals violating the law, knowing they can request an indigent hearing and never have to pay for their actions. I truly hate to think this, but that is society today.
We too, as with the other courts, have standing orders from our Judge as to what agreements we can make, and then he reviews when he returns to the office. This new rule will be a substantial increase in court room time for the Judge on an already full docket.

Lei Holder
Collections Clerk
Parker County JP 1
1020 E. Highway 199
Springtown, Texas 76082
682.229.2106
817.220.2000(Fax)



Shelly Ortiz

From:	Scott Griffith
Sent:	Monday, July 18, 2016 11:57 AM
To:	Shelly Ortiz
Cc:	Mena Ramon; David Slayton
Subject:	FW: Comments on Rules Changes Chapter 175
Attachments:	payment plan updates.docx

For the binders.

Scott

From: Aimee Sharp [mailto:Aimee.Sharp@traviscountytx.gov]
Sent: Monday, July 18, 2016 9:29 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Comments on Rules Changes Chapter 175

Mr. Griffith,

I have attached input regarding the proposed changes to Chapter 175, Collections Improvement Program as it related to Travis County Community Supervision and Corrections Department. If I can be of further assistance I can be reach at this email or phone number below.

Thank you for your consideration,

Aimee Sharp
Travis County Community Justice Services
Administrative Services Division Director
512-854-7836

TCCJS
TRAVIS COUNTY
COMMUNITY JUSTICE SERVICES
Pretrial Services & Adult Probation

The Travis County Adult Probation Department acts as the Collections Improvement Plan administrator for Travis County. All defendants who are placed on probation and do not pay court costs and fines at the time of sentencing are provided a payment plan by the bookkeeping section of the department. The plans are prepared and signed by staff and the defendant and maintained in the case management computer system. The bookkeeping staff revises plans at any time when circumstances dictate such a change. The probation officers enforce the payment plan compliance if a client falls more than 90 days delinquent as per program rules. The Travis County Adult Probation Department has identified two sections of changes to the Texas Administrative Code Chapter 175 "Collection Improvement Program" which have a fiscal impact to the department.

The revisions to 171.1.e referral to Court for Review of Defendant's Ability to Pay would require that local program staff refer a case back to court if payments would create undue hardships on the client and their dependents. The rule also requires program staff to collect information regarding defendant's ability to satisfy with non-monetary compliance options. The staff in the bookkeeping section would normally not send any reports to court, that duty is maintained by the probation officers. Additionally the bookkeeping section is not in the business of determining community service hours or any other non-monetary arrangements. This additional requirement would require development of procedure and formats of reports to be sent to Court, appointment of personnel to appear at Court to present the information to the Judge, and establishment of a mechanism to implement the orders of the Court. This process is far above and beyond current practices of the probation office and their interactions with the Courts. It is not responsible to assume there is no additional workload of the probation office with these new requirements. While the judicial discretion remains unchanged, the recommendation and reporting process, additional court appearances required, and system implementation will impact the workload and staffing levels of the probation department. There are 19 probation officers assigned to provide the Courts with reports on existing probation matters. We know that only 59% of the defendants are employed full time, and we should expect that 7,312 individuals not employed full time will need additional court attention to their payment plans. This could require as many as 8 FTE (19 current x 41%) to be assigned to provide reports to the courts. The average cost for these probation officers is $62,500 for a total fiscal impact of $500,000 annually.

The revisions to section 175.3 paragraph 8 require telephone contact within one month of a missed payment and paragraph 9 requires written notice to be mailed within one month of a missed payment. Currently, CIP guidelines state that such contact is made in 90 days. The requirement to both mail and make telephone calls every 30 days creates significantly more work than is currently required by program rules. There are currently 10,884 defendants with a delinquent balance at the 30 day mark. That is a total of 130,608 telephone calls to be conducted and letters that need to be mailed each year. There are 240 average business days per year and there needs to be 544 calls placed and 544 letters to be mailed each business day. Even if a staff member can make in excess of 500 calls per day that would require 1 Full-time-equivalent staff member for the phone calls and 2 additional FTE to process the additional mailing volume to be added. Accounting for salary, fringe benefits, and health insurance, the average cost of each staff member is $50,000 x 3 = $150,000 additional annual cost. Additionally, the cost of mailing 130,608 letters ($.47 postage, printing, and envelope = $0.50 each) would be an additional $65,304 per year. In total the new contact requirements cost Travis County Adult Probation $215,304 annually.

With the additional court officers and the clerical staff to ensure contact every 30 days, the total fiscal impact to the department is estimated to be at least $715,304. The total amount of court costs and fines collected by the Travis County Adult Probation Department in FY 2015 was $909,693. It hardly seems responsible to add program staff which would cost more than the total amount that would be expected to be collected.

The department's overarching goal is to affect behavior change in the clients so that they may become law-abiding citizens and does appreciate the role of financial payments in that rehabilitation. Many times, there are underlying issues that must be addressed before clients are even able to pay. Many are returning from some period of incarceration, are drug and alcohol addicted, suffer some period of homelessness, or other significant factors that may a payment within 30 days almost impossible and the 90 day timeframe is much more accommodating period.

Shelly Ortiz

From:	Scott Griffith
Sent:	Tuesday, July 19, 2016 2:37 PM
To:	Shelly Ortiz
Cc:	David Slayton; Mena Ramon
Subject:	FW: Part 8. Texas Judicial Council Chapter 175 Collection Improvement Program, concerns and opposition
Attachments:	OCA Rules Response.pdf

Shelly – This email and the attachment are for the binders.

Thanks.

Scott

From: Daniel [mailto:dwdaniel@kaufmancounty.net]
Sent: Tuesday, July 19, 2016 2:35 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Part 8. Texas Judicial Council Chapter 175 Collection Improvement Program, concerns and opposition

As the Director of Kaufman County CSCD, I would like to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 3. Texas Judicial Council as posted in the July 1, 2016 Texas Register.

The proposed rule changes mandate significant changes to how community supervision cases are initially handled and processed. These changes would require my department to add at a minimum of 2.5 additional staff, which I do not have the budget, facilities, or internal funding to accomplish. In addition to Departmental staffing, additional court hearings and court time would be required, placing additional burdens on the local District Attorney's office, Public Defenders office, and Court Dockets, in order to accommodate the fee hearings, and creating potential lost revenue due to mandated fee reductions or non-monetary forms of payment.

Under the changes, program staff must be designated to complete the functions of the Collection Improvement Program. While the rules do allow for these duties to be distributed over multiple staff, in order to insure compliance with the time frames and guidelines established by the rules, my Department would be required to hire additional staff to complete the interview on the "Assessment Date," identify "Discretionary Income," gather "Payment ability information," develop "Payment Plan," in addition to the mandatory follow up and re-visitation called for when a defendant fails to make payments.

If a defendant claims the financial cost of supervision would place an undue burden on them or their family or if a defendant refuses to sign a statement acknowledging their ability to pay we, "must refer the case to the court for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate." Due to local staff gathering this information, the local staff would also have to be present in court, thus taking more of their time and increasing the local cost to comply with the rules. The analysis of the proposed amendment by the Office of Court Administration states this is a new component and they have no way of assessing its impact or effectiveness.

In addition to the proposed assessment, acknowledgement of ability to pay, and mandated court hearings, the proposed changes require additional follow up contacts when/if a defendant fails to pay their fees. These contacts must include specified information and alternatives be documented in each contact. These contacts include a final contact which must be completed in writing, by mail. This increased and additional contact requirements are in addition to case supervision which is already occurring and taking place.

The totality of these rule changes will require an increase in staff time as well as personnel costs, which I am unable to meet in my funding. Furthermore, an offender's ability to pay costs is not a static, but rather a dynamic factor. Many defendants enter community supervision from jail or after exiting a treatment program. When these defendants initially enter supervision they do not have the ability to pay, however through referrals and supervision programs we can encourage defendants to obtain employment and seek a prosocial rehabilitation of the defendant through accountability, rehabilitation, treatment, and supervision. The rules as proposed do not give a defendant or the Department an opportunity to succeed and instead assumes their failure. In Kaufman County we have set up a process to have defendants referred for court if over time they show an inability to pay fees. After giving the defendant an opportunity to grow and succeed, if they show they are unable to meet their financial burdens, we will take the case back to the court and allow the court to review the fees and services at that time. The rules as written mandate all fees be addressed at the beginning of program placement instead of after working with the defendant to succeed.

Additionally, as these rules advocate for defendants not to suffer an undue financial burden, we must also consider the number of victims who would suffer if restitution costs were waived. I hear from victims monthly, who due to the defendants actions, are suffering financial difficulty due to expenses incurred by the defendants offense. In my opinion, it

would be inappropriate to make victims suffer a second time due a "hardship" being placed on the perpetrator of their offense.

n conclusion, if the rules pass as written, Kaufman County CSCD will be unable to meet these requirements and would have to return the collection of District Clerk fees to Kaufman County. In speaking with the District Clerks office she has stated she would need a minimum of four additional staff in order to meet the requirements of the rules as proposed. Not only will this place additional burden on the District Clerks office, it will place a further burden on defendants who will have to make payments to multiple locations and track multiple accounts.

David Daniel
Director, Kaufman County CSCD
T: (972)563-3890
F: (972) 563-0558

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KAUFMAN COUNTY COMMUNITY SUPERVISION
AND CORRECTIONS DEPARTMENT
408 E. College St
Terrell, Texas 75160
(972) 563-3890
FAX (972) 563-0558

David W. Daniel
Director

As the Director of Kaufman County CSCD, I would like to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. Texas Judicial Council as posted in the July 1, 2016 Texas Register.

The proposed rule changes mandate significant changes to how community supervision cases are initially handled and processed. These changes would require my department to add at a minimum of 2.5 additional staff, which I do not have the budget, facilities, or internal funding to accomplish. In addition to Departmental staffing, additional court hearings and court time would be required, placing additional burdens on the local District Attorney's office, Public Defenders office, and Court Dockets, in order to accommodate the fee hearings, and creating potential lost revenue due to mandated fee reductions or non-monetary forms of payment. Under the changes, program staff must be designated to complete the functions of the Collection Improvement Program. While the rules do allow for these duties to be distributed over multiple staff, in order to insure compliance with the time frames and guidelines established by the rules, my Department would be required to hire additional staff to complete the interview on the "Assessment Date," identify "Discretionary Income," gather "Payment ability information," develop "Payment Plan," in addition to the mandatory follow up and re-visitation called for when a defendant fails to make payments.

If a defendant claims the financial cost of supervision would place an undue burden on them or their family or if a defendant refuses to sign a statement acknowledging their ability to pay we, "must refer the case to the court for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate." Due to local staff gathering this information, the local staff would also have to be present in court, thus taking more of their time and increasing the local cost to comply with the rules. The analysis of the proposed amendment by the Office of Court Administration states this is a new component and they have no way of assessing its impact or effectiveness.

In addition to the proposed assessment, acknowledgement of ability to pay, and mandated court hearings, the proposed changes require additional follow up contacts when/if a defendant fails to pay their fees. These contacts must include specified information and alternatives be documented in each contact. These contacts include a final contact which must be completed in writing, by mail. This increased and additional contact requirements are in addition to case supervision which is already occurring and taking place.

The totality of these rule changes will require an increase in staff time as well as personnel costs, which I am unable to meet in my funding. Furthermore, an offender's ability to pay costs is not a static, but rather a dynamic factor. Many defendants enter community supervision from jail or after exiting a treatment program. When these defendants initially enter supervision they do not have the ability to pay, however through referrals and supervision programs we can encourage defendants to obtain employment and seek a prosocial rehabilitation of the defendant through accountability, rehabilitation, treatment, and supervision. The rules as proposed do not give a defendant or the Department an opportunity to succeed and instead assumes their failure. In Kaufman County we have set up a process to have defendants referred for court if over time they show an inability to pay fees. After giving the defendant an opportunity to grow and succeed, if they show they are unable to meet their financial burdens, we will take the case back to the court and allow the court to review the fees and services at that time. The rules as written mandate all fees be addressed at the beginning of program placement instead of after working with the defendant to succeed.

Additionally, as these rules advocate for defendants not to suffer an undue financial burden, we must also consider the number of victims who would suffer if restitution costs were waived. I hear from victims monthly, who due to the defendants actions, are suffering financial difficulty due to expenses incurred by the defendants

offense. In my opinion, it would be inappropriate to make victims suffer a second time due a "hardship" being placed on the perpetrator of their offense.
In conclusion, if the rules pass as written, Kaufman County CSCD will be unable to meet these requirements and would have to return the collection of District Clerk fees to Kaufman County. In speaking with the District Clerks office she has stated she would need a minimum of four additional staff in order to meet the requirements of the rules as proposed. Not only will this place additional burden on the District Clerks office, it will place a further burden on defendants who will have to make payments to multiple locations and track multiple accounts.

Sincerely,

David W. Daniel
Kaufman County CSCD, Director

Shelly Ortiz

From: Scott Griffith
Sent: Wednesday, July 20, 2016 12:45 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: CIP rules

Shelly – This email is for the binders.

Thanks.

Scott

From: Cathy Stuart [mailto:cstuart@vctx.org]
Sent: Wednesday, July 20, 2016 11:05 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: CIP rules

The rules state that you are unable to collect money or place in jail a defendant that has been found indigent or on any assistance from the State. I believe this would take away the fine and court costs of 90% of our defendants. The rule would not only be detrimental to the Counties but the State as well, due to the fact that 80% of our Court costs are forwarded to the State Comptroller. It will place a burden on our collections department to determine if they are truly indigent by the guidelines set out in the rules and having at least one employee in the courtrooms that will bring the defendant before the court so they may determine if indigent, waiving fees or having the defendant perform CSR hours. The burden is being placed on employees to decipher if indigent but also slowing the court process if the Judge has to continuously have a hearing regarding indigence. A program will need to be made available to all collection departments that will aide in the decision of indigence. The Probation departments will also be affected by this rule in most counties, due to the fact that they will be in control of the defendants that are ordered to perform CSR hours in lieu of fees.

I believe the rules and/or legislation need to be discussed further and involvement with more County Departments, such as: County Judge, Auditors, District and County Court Judges, County Clerks, District Clerks, etc...

The rules will definitely affect the County budget, not only for the extra employees that will be needed, but the fees not being collected.

Cathy Stuart
District Clerk
Victoria County, Texas
(361) 575-0581

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Shelly Ortiz

From:	Scott Griffith
Sent:	Wednesday, July 20, 2016 5:12 PM
To:	Shelly Ortiz
Cc:	David Slayton; Mena Ramon
Subject:	FW: Comments on proposed CIP rules
Attachments:	Letter to OCA with CIP comments.docx

For the binders.

From: Letson, Sonya [mailto:Sonya.Letson@amarillo.gov]
Sent: Wednesday, July 20, 2016 1:58 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Comments on proposed CIP rules

Dear Mr. Griffith,

Please find attached a letter with comments concerning the proposed revision of Texas Administrative Code Chapter 175 concerning Collection Improvement Programs. I can be reached with any questions at this email address. Thank you –

Sonya Letson
Presiding Judge
City of Amarillo Municipal Court

CITY OF AMARILLO
MUNICIPAL COURT

July 20, 2016

Scott Griffith
Office of Court Administration
PO Box 12066
Austin, Texas 78711-2066
VIA email: scott.griffith@txcourts.gov

Re: Comments to proposed rules for Collection Improvement Program

Dear Mr. Griffith,

After reading the proposed changes to the Collections Improvement Program chapter of the Administrative Code, I have some questions and concerns, which I have summarized below. I hope these comments will be helpful, and I would be glad to expand upon them or provide concrete examples if requested.

1. **§175.2(e) Definition of Household Income, §175.2(l) Definition of Spouse, and §175.3(a)(6)(B)(ii) Presumption of Inability to Pay when Household Income is below 125% of poverty.** I believe that limiting the program staff's analysis of household income to only married persons is too narrow. A great many, if not most, of defendants going through the CIP live in households composed of persons with a variety of relationships other than legally-recognized marriage. Generally these persons have existing arrangements for sharing expenses, so that, for example, when staff sees that the defendant lists rent at $750, they know to inquire further into the percentage paid by defendant and the percentage paid by others. The ability of others in the household to bear household expenses should be a factor to be considered in determining the defendant's available income and resources. If the program staff is not able to consider and analyze the income of other household members, then all cases in which defendants live in non-traditional households will have to come before the judge for a correct analysis. These households are fast becoming the norm, and requiring the judge to review all these situations for a proper analysis of the defendant's ability to pay will be an unwarranted burden. The Texas Supreme Court has recognized this reality, as indicated by the language of the *Statement of Inability to Afford Payment of Court Costs* form that is now required in civil cases. That form requires parties to give information about income from household members other than spouses, so that the court, attorneys, and other parties can have a fair understanding of the party's financial situation in deciding whether to challenge the claim of inability to pay costs. The program staff determining a defendant's financial ability to satisfy a criminal judgment needs this latitude as well.

2. **§175.2(e) Definition of Discretionary Income and §175.3(a)(6)(B)(ii) Presumption of Inability to Pay when dependent receives government assistance.** It would be helpful for the term "dependent" to be defined. A dependent should be a person actually reliant upon the defendant for support. Further, these provisions make no mention of where the dependent lives. Ostensibly the dependent could live elsewhere in a household that qualifies for government assistance, not in the defendant's household.

3. **§175.2(j) Definition of Payment Ability Information.** The meaning of the second sentence in this definition is unclear. Does this mean the program staff must take the information provided by the defendant at face value and may not inquire further when initially setting up the payment plan? Does it mean that if defendant adds new citations to an existing plan the staff may not ask for updated payment ability information? Does it mean only the defendant may request a review of the information provided?

4. **§175.3(a)(6)(E) Judicial discretion.** Either the rules "bind judges" or they don't. The language "None of these provisions should bind judges or influence judicial discretion" is not helpful in directing either program staff or the judiciary. A better phrase might be "Judges retain judicial discretion regarding...", etc.

5. **§175.3(b)(2) Application or contact information is obtained.** How long must program staff wait to receive an application? May they set a deadline for receipt? Is an application considered timely if it is received 2 years after requested? What if a warrant has already been issued? This provision does not give sufficient practical guidance for the program staff or the judiciary.

I appreciate all the hard work that has gone into this proposed revision, and also appreciate the opportunity to make comments to the proposal. Both the collections program staff and our judges strive to do the right thing in all situations. Neither the staff nor the judges have any interest in setting a payment plan that the defendant cannot pay, and the court routinely orders reduced payment plans based upon a defendant's income and pay schedule, as well as community service for defendants who request it and are indigent. However, the court takes its judgments very seriously, as a matter of community safety and respect for the rule of law. The CIP rules should not be revised to the extent that it becomes difficult or impossible to enforce the court's judgments.

Please feel free to contact me if I can provide any further information or answer any questions.

Sincerely,

Sonya Letson
Presiding Judge
City of Amarillo Municipal Court

Shelly Ortiz

From: Scott Griffith
Sent: Wednesday, July 20, 2016 5:13 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: Chapter 175 Proposed rules

For the binders.

Thanks.

From: Mike Wolfe [mailto:mwolfe@taylorcscd.org]
Sent: Wednesday, July 20, 2016 4:34 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Chapter 175 Proposed rules

Dear Mr. Griffith,
I would like to comment on the proposed rule changes currently in the Texas Register. If you are not the correct person to receive this, would you please forward to the appropriate person.

I am the Community Supervision and Corrections Department (CSCD) Director in Taylor, Callahan, and Coleman counties. Taylor county is required to participate in the collections improvement program. My CSCD collects court costs and fines for Taylor county on all cases place on felony or misdemeanor community supervision. My main concern in these proposed requirements is the additional workload being placed on CSCD staff with no resource relief being offered or considered by OCA. In addition the defendants inability to pay will have the unintended consequence of carrying over to the collection of probation fees. When the probation fees start decreasing, we will have no choice but to lay staff off causing revocations to go up. I listened to a webinar today with Mr. David Slayton and asked this question, his answer did not address the problem. In addition, Mr. Slayton attempted to explain the court's role and the use of it's discretion. I still don't understand. Lastly I would like to point out, according to Mr. Slayton, this rule is being revised to address some concern about people being locked up for failure to pay. I would like you to know that a group of CSCD Directors testified in May in front of a joint committee of the House on this issue. All testified this does not happen with probation cases. So I have to wonder why you are including a section of the population where this is not a problem.
I therefore am opposed to your proposed rule changes and urge the Texas Judicial Council to vote against these changes.

Michael D. Wolfe
Director
Taylor, Callahan, and Coleman CSCD

Shelly Ortiz

From: Adan Zamora <AZamora@kcscd.com>
Sent: Thursday, July 21, 2016 2:52 PM
To: Scott Griffith
Cc: Adan Zamora
Subject: Proposed CIP Changes

I am in total agreement with the letter dated July 21, 2016 sent by Mr. Arnold on behalf of the PAC.
Even though the proposed changes do not directly affect my department at this time, a comment made during the webinar that questioned why it didn't apply to all counties concerns me.
If it did apply to us I would have a hard time trying to staff the positon or assigning anyone the additional duty.
We got cut another 5% on our budget for fiscal year 2017.

I thank you for taking my comments under consideration.

Adan Zamora
Kleberg-Kenedy CSCD

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Shelly Ortiz

From: Marla Pinson <mpinson@co.hood.tx.us>
Sent: Thursday, July 21, 2016 3:25 PM
To: Scott Griffith; Cynthia Montes; Danny Tuggle
Subject: Proposed CIP Rules and Flowchart

Our Hood County JP4 Court has some thoughts and concerns over the new Proposed CIP Rules and Flowchart.

I guess my biggest concern from schematic is when a defendant (not indigent) does not comply with TP requirements then we are to give them Unable to Pay Options and Non-monetary Options. What exactly qualifies as an Unable to Pay Option? The court will take in no payments at all if we are constantly giving defendants Unable to Pay Options. These changes from previous CIP are very involved and mean so much more time and responsibility of clerks with ultimately reduced collections overall.

--
Marla Pinson
Office Manager/Deputy Court Clerk
Hood County-JP4
100 E.Pearl St..Granbury, Tx 76048
Ph-817-408-2530. fax-817-573-3836
mpinson@co.hood.tx.us

I agree with previous statements and concerns voiced by other courts regarding proposed operational flowchart. By waiving all penalties for indigency, this defeats the purpose of the justice system. No one is held accountable for their actions. We already have indigency programs in place in our court. I do not see every defendant as the clerks in my court take pleas and work with defendants on time payment plans. If indigency or community service needs arise, then a hearing is held to review appropriate indigency paperwork and present alternative option to defendant to satisfy the court such as community service. This new flow chart is very confusing and appears it will overwhelm justice ourts with limited staff, which in turn stops due process for all concerned.

Judge Danny R. Tuggle
Justice of the Peace
Precinct 4, Place 1
Hood County, TX

Shelly Ortiz

From: Allen Bell <allen.bell@midlandcscd.net>
Sent: Thursday, July 21, 2016 4:12 PM
To: Scott Griffith
Subject: Opposition to OCA Rule Changes

Mr. Griffith;

I am writing this email to state my opposition to the proposed OCA rule changes.

My name is Allen Bell, and I am the Director of the Adult Probation Department in Midland, Texas. I have worked in the field of Criminal Justice for 27 years, and I have been with the Midland CSCD for 25 years.

I understand that there are several different reasons that many oppose the OCA rule changes. I oppose these rule changes, in short, because it will result in many probation departments moving already scarce resources away from the supervision of offenders.

The job of probation is to divert offenders from jail and prison (in a large part to save the state money) and then protect the community by changing offender behavior. If the proposed OCA requirements are put into place, my department will be forced to divert already scarce resources from our mission of changing offender behavior in order to adhere to fee collection requirements enacted by yet another state agency. In the long run, this will lead to increased probation revocation rates, cost the state money, and endanger citizens. Probation departments that must spend resources on OCA collection mandates rather than supervision will likely see violations increase. This in turn will result in revocation and incarceration.

Adult probation already has a huge interest in fee collections. Over half of our operating budget comes from fees that we collect. We also collect restitution for victims, and many departments such as mine are tasked with collecting court fees and fines for the county. Probation departments have historically been able to supervise offenders, monitor and change behavior, and collect fees without the added burden of extensive OCA requirements.

The burdens that will be brought on by these proposed OCA rule changes will result in probation departments having to convert probation officer positions to collection agent positions. Simply hiring additional people is not an option with our budgets unless we are given more funding by the state to perform this task (and you and I both know that will not happen). In addition, the court hearings required by the proposed changes will result in probation department personnel spending more time in court away from the supervision of their cases and judges spending more time on already probated cases rather than addressing their loaded dockets.

Finally, a probationer's life (employment, finances, etc.) is not static. It is an ever changing situation. Many offenders will enter probation with no job and no

money. Many will eventually find employment earning a good wage, only to lose that job due to jail or the economy. A probationer may go to treatment for drugs and alcohol and be unemployed for 6 months or a year, but then come out clean and sober and obtain good employment and begin to address their financial issues. Determining an individual's ability to pay cannot be "mandated" or "regulated" from an office in Austin. It is something that must be dealt with up close and in person within the local communities. As probation officers are working with offenders to change and better their lives, they are also working closely with their economic situation and understand what can and can't be done financially. This is something that cannot be measured by how many letters are sent, how many texts are auto-generated, how many phone calls are made, or any such tic-mark that OCA thinks can be proof of a "job well done" in an audit.

The proposed OCA rules will not help, but will only hurt the states probation system by making departments less effective in performing their mission, and tie up the courts in unnecessary hearings. In the end, the proposed changes will cost the State of Texas and will jeopardize the safety of it's citizens. This is a case of the tail wagging the dog!

Allen E. Bell
Agency Director
Midland Judicial District CSCD
432.688.4104 (office)
432.254.8510 (cell)
allen.bell@midlandcscd.net
Website Midlandcscd.net

Shelly Ortiz

From: Terry Easterling <EasterlingT@pottercscd.org>
Sent: Thursday, July 21, 2016 3:17 PM
To: Scott Griffith
Subject: CIP Changes

Dear Mr. Griffith
In reference to the proposed changes, we are a jurisdiction in which the collections department is run independently of the CSCD, therefor we will not be directly affected by the "improvements". I do have concerns however about the proposed indigence provisions. I worry that if a defendant is deemed indigent for the purpose of paying fines and court costs that this could be used as a defense against also paying supervision fees, as well as restitution. I also do not see how this plan can be labeled an "improvement plan" when it appears that it will reduce revenue to both the state and counties.

I hope that your organization will strongly reconsider going forward with these proposed changes.

Thank you for your consideration.

Terry R. Easterling,
Director, Potter Randall and Armstrong
Counties CSCD

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Shelly Ortiz

From: Darren Williams <darrenw@co.harrison.tx.us>
Sent: Thursday, July 21, 2016 4:23 PM
To: Scott Griffith
Subject: Re: OCA Proposed Policy changes for CIP
Attachments: PAC letter in opposition to CIP changes.pdf

Mr. Griffith,

I want to add my voice in opposition to the proposed new rule changes. I am in agreement with the recent Probation Advisory Committee letter that was sent to you, dated July 21, 2016 (see attached).

My opposition stems from concern that the proposed changes could adversely impact my department. My concerns are two-fold: First, that assessed Fines and Court Costs being converted to community service work, could result in an increased burden of added staffing and liability concerns for our CSCD Community Service program (our County currently has no such program-ours is the only one). Secondly, that referrals back to Court in the form of hearings, could result in increased staffing concerns or needs as it pertains to ongoing indigence determinations.

Thank you for your consideration in this matter.

Respectfully,

Darren Williams, Director
Community Supervision and Corrections Dept.
Harrison County, Texas
903-923-4016, Ext. 1244
DarrenW@Co.Harrison.TX.US

Shelly Ortiz

From: Arnold K. Patrick <arnold.patrick@hidalgocountycscd.org>
Sent: Thursday, July 21, 2016 2:17 PM
To: Scott Griffith
Subject: Letter in opposition to CIP changes
Attachments: PAC letter in opposition to CIP changes.pdf

Mr. Griffith,
The Probation Advisory Committee is appointed by the Judicial Advisory Council and represents 122 Community Supervision and Corrections Departments, all 254 counties in Texas are represented by this body and by unanimous vote, wish to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. Texas Judicial Council as posted in the July 1, 2016 Texas Register. Please find the attached letter regarding this matter. Thank you,

Arnold Patrick

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TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnoldpatrick@hidalgocountycsed.org

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

July 21, 2016

Mr. Griffith,

The Probation Advisory Committee is appointed by the Judicial Advisory Council and represents 122 Community Supervision and Corrections Departments, all 254 counties in Texas are represented by this body and by unanimous vote, wish to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. Texas Judicial Council as posted in the July 1, 2016 Texas Register.

It is clear from the webinar conducted by the Office of Court Administration that less than half of the counties are affected by these new rules. Approximately 25% of the Counties in Texas are mandated to participate in the CIP and thus many will not feel compelled to voice concerns. Due to the fact that we represent all probation departments in Texas, many of which will be affected by these changes directly and the rest of which could be affected indirectly, we would like to point out that our concerns should be considered with the weight they deserve. We may be the only organization that has a direct interest on how these changes affect the entire state and not just the 25% affected directly.

The proposed rule changes make significant changes to the current Collections Improvement Program that will detrimentally affect local government, probation departments and state government. These detriments include an increase in needed personnel to local government, increased court hearings and court time as well as potential lost revenue to state government.

Under the proposed changes, program staff are required to obtain a signed statement from the defendant of their ability to pay the assessed costs, fines and fees under the imposed terms. Additional requirements are placed upon both the defendant and the program staff if the defendant is unable to make this acknowledgement. Then program staff are required to conduct interviews with defendants whom do not acknowledge that they have the ability to pay.

A referral back to court, which would require a hearing, is required for those that do not acknowledge their ability to pay. The analysis of the proposed amendment by the Office of Court Administration states that this is a new component and they have no way of assessing its impact or effectiveness.

The proposed changes require additional information and instructions be given in contacts with the defendants. The changes regarding Final Contact Attempt require that before reporting a case as non-compliant a final contact must be made by program staff in writing, by mail.

TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnold.patrick@hidalgocountycscd.org

These changes will undoubtedly require much more local program staff time to perform as required. This will increase the costs to local government. The requirement to obtain acknowledgement of ability to pay from defendant will result in additional resources being utilized by court and local program staff. The required hearings for those that are unwilling to sign the acknowledgement will increase the amount of time needed for a court to deal with many cases. In addition, these acknowledgements of ability to pay are treated as absolute. A defendant's ability to pay is not a stagnant factor. Many defendants come out of incarceration, treatment programs and other issues and are unable to bear the burden of the financial obligations out of court, however these issues are dynamic and change as the defendant progresses through the phases of re-integration and rehabilitation. Community Supervision and Corrections Departments have been addressing these issues with defendants from the beginning and are much better equipped and qualified to make these types of determinations. We would beg caution in making such significant and far reaching changes without further investigation on the impacts it will make on defendants, local and state government.

Sincerely,

Arnold Patrick

Shelly Ortiz

From: John Mcguire <jmcguire.walcscd@att.net>
Sent: Thursday, July 21, 2016 3:19 PM
To: Scott Griffith
Cc: Jo Ann Fishbeck
Subject: Collections Improvement Program

Mr. Griffith:

We have been recently notified of proposals to change the administration of the Collections Improvement Program. This would affect our department, Waller County CSCD, in the future because we currently collect court costs, fines, and attorney fees for the criminal courts of Waller County, and because we anticipate that the 2020 census will show that we will have exceeded 50,000 in population by that time.

Please note that CSCDs are not allowed to utilize appropriated funds for the hiring or program costs associated with the Collections Improvement Program, because the Program's mission is to collect funds that are not in any way connected to the operation of the CSCD. We barely have funding to hire the staff we need to perform the supervision of offenders – our primary mission. If you want dedicated staff performing tasks mandated by the CIP, then I suggest you have the State fund a full time position from the budget of the Office of Court Administration.

Our officers work full 40 hour per week schedules working with offenders, many of whom have substance abuse and/or mental health issues. There is no money in the budget to hire extra staff or pay overtime to accomplish these new CIP "improvements".

In truth, many offenders on community supervision struggle to adhere to a payment schedule, and a high percentage of them "get well" financially after they have received their income tax refund in March or April. This is true for every CSCD. A docket for delinquent offenders would require judges to add dedicated days to already scheduled court dockets. I can't imagine that any district or county court-at-law judge would agree to a day or two, each month, of delinquent fee hearings for indigent offenders.

Please understand that we ARE NOT funded by our respective counties, like juvenile probation. We receive some funding from the State (TDCJ-CJAD), but rely on an unusually large amount of our funding from our collection of probation fees from offenders, some of whom are indigent, and aren't paying our fees any more than they are paying court costs, fines, or attorney fees. All of us resent being "bill collectors", but are forced to do it because if we don't, we will not make payroll.

Our mission is to support our courts, supervise offenders, and enhance public safety. Please allow us to do those things without the undue burden of these CIP "improvements".

John D. McGuire
Assistant Director
155th & 506th Judicial District CSCD
W: (979)826-8051 x3123
C: (979)204-4738
jmcguire.walcscd@att.net

Shelly Ortiz

From: Scott Griffith
Sent: Thursday, July 21, 2016 5:19 PM
To: Shelly Ortiz
Cc: Mena Ramon; David Slayton
Subject: FW: Proposed changes to the collections improvement program

Shelly – This is for the binders.

Scott

From: BCJP-Myrtle, Lisa [mailto:lisa.myrtle@txkusa.org]
Sent: Thursday, July 21, 2016 10:15 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Cc: NBCH-Tutt, Cassey <Cassey.Tutt@txkusa.org>
Subject: Proposed changes to the collections improvement program

Good morning, I'm not seeing a so called improvement in this program, when these defendants make the choice to break the law they know they do not have the means to pay the court cost and fine. Although they do have the means to pay for alcohol, cell phones, cigarettes, nails and other wanted NOT needed items.

We are a class C court, where you will see around 95% of the citations are NO INSURANCE AND NO DL, and in that 95% around 90% would have to be considered for this proposed program. Don't think by giving them this help that they are going to go out and get Insurance-No not going to happen. What is going to happen is our court loses and once again the defendant wins no lesson is learned, and where is the Justice.

Remember they day in Ferguson when the Payless shoe store got looted? Well guess what no a single pair of work boots were taken. Go figure!
Our court is opposing this proposal.
Thank you.

Lisa Myrtle
Chief Clerk
Justice of the Peace, Pct. 5
903-585-5428 phone
903-585-2111 fax

Shelly Ortiz

From: Scott Griffith
Sent: Thursday, July 21, 2016 5:43 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: CIP Rules Comments

Shelly – For the binders.

Scott

From: Al Cercone [mailto:Al.Cercone@dallascounty.org]
Sent: Thursday, July 21, 2016 5:40 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: CIP Rules Comments

Mr. Griffith:

After reviewing the proposed rule changes to the Collections Improvement Program I offer the following comments for publication/posting to your website:

It has been this court's experience that the Collections Improvement Program (CIP) has done nothing to improve collections in the many years since its implementation. It must now be described as a failed collections improvement experiment. While I will assume there were good intentions to create the CIP, which tie the court's hands to enforce the laws as written regarding fine collections, collections have decreased. This decrease places an additional burden on the overtaxed citizens, the people of the State of Texas, to make up the loss created by this program. Your request for suggestions or comment implies you intend to only place a small bandage over a fatal wound.

The OCA procedures for collections are lengthy, over burdensome, and are usually met with uncooperative and combative defendants who intentionally delay the process. The results are an unnecessary waste of court time, resources, and manpower that could be better utilized, all at the taxpayer's expense for no improvement in collections, and therefore no return on the taxpayer's investment in this program. There is also the expense of those employed by OCA charged to oversee, audit, and regulate compliance of the CIP's procedures in all courts who have not received a waiver, an additional waste of taxpayer money.

Instead of being an educational opportunity, whereby criminal defendants could learn from a court experience after being guilty of a criminal offense, your procedures give them the tools necessary to beat the system and absolve themselves of personal responsibility. It is also a discriminatory practice where those law violators who are otherwise responsible and honest citizens pay for their minor crimes, while those less responsible law violators, who often "choose" not to pay when they can, are not punished for their crimes.

This court often deals with defendant's claiming to be "indigent" for seven or eight years before they appear to pay their fines in full. Before they do we have made repeated calls, send multiple post cards, scheduled and re-scheduled their appearance over and over, all requiring more wasted resources and clerk time without any credit for that additional time. We finally see those defendants, not because of any CIP procedures, but when they need to renew their Driver License and discover they cannot unless they pay their outstanding fines. A

punishment for a crime is intended to teach a lesson and hopefully prevent the reoccurrence. CIP procedures are rewarding crime, therefore doing nothing to prevent its reoccurrence.

Also, defining a credit card installment as a "required payment" before the court can consider how much "discretionary income" a defendant can afford is absurd and offensive. A fine is a debt owed to the people of the State of Texas as a punishment for violating one of the people's laws. To require payment only if and when a defendant has money left over after paying for everything else they choose to pay for, including their credit card debt, is ridiculous, to be kind. Additionally, these procedures reward an ever expanding class of dependent citizens always looking for a way to avoid consequences for their actions and escape personal responsibility.

Judge Al Cercone
Justice of the Peace, 3-1
10056 Marsh Lane | Suite 132
Dallas, TX 75229-6071
Tel 214-321-4106 | **Fax** 214-321-4912
Court: JP31Court@dallascounty.org
Personal: acercone@dallascounty.org

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 22, 2016 10:40 AM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: Proposed revisions to the CIP Rules

Shelly – This is for the binders.

Scott

From: Stan Horton [mailto:stan.horton@wichitafallstx.gov]
Sent: Friday, July 22, 2016 9:17 AM
To: Scott Griffith <scott.griffith@txcourts.gov>; Cynthia Montes <Cynthia.Montes@txcourts.gov>
Subject: Proposed revisions to the CIP Rules

Scott. After a very long and detailed review of the proposed rules i have great concern. Texas courts are overworked as it is keeping up with compliance regulations as there written to date. Now it seems that someone or some group of people want us to actually act as loan officers at banking institutes. When did the judicial system break to the point that a credit check need to be preformed to assure that a person is financially capable of violating the law. Come on this is absurd !!!
Why in the world would a governing body make a set of rules that would tie the hands of another governing body only to further stress the system that an individual put themselves in because of disregard for public safety. I have been a law enforcement officer for 35 years and an official with our municipality in charge of this program. To date I have never seen anything like this. This needs to be stopped before we tear down what legal system we have left. The facts are simple. A person does not need to be proven financially fit to break the law. Don't you think the Texas Department of Public Safety needs to be involved. They Texas DPS can require all this information before issuing a driver license to its citizen. After they have been deemed financially stable to violate the law then turn them loose. Other states can follow. We can even set up credit check at our state line. If you are not financially stable and cant afford to break the law you cant come in. How about that.
I am very willing to work with individuals and help them resolve their issues as best as possible but i am in NO way in favor of CRIPPLING the justice system. This is why America has a problem. This right here.

Thank you for your time and please note that my passion in this letter is not directed at you. However it is directed at the group of individuals that felt the need to further enable those who could care less about the lives they effect. Us The men and women of America and Texas who come to work every day to keep the balance in society.

Regards.

--
Stan Horton
Court Administrator / City Marshal
City of Wichita Falls
511 Bluff St Wichita Falls, Texas 76301
Phone: 940-761-7882
Fax: 940-761-7990

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 22, 2016 4:35 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: FW: CIP rules

For the binders.

From: Tonna Trumble [mailto:ttrumble@co.hood.tx.us]
Sent: Friday, July 22, 2016 11:54 AM
To: Scott Griffith <scott.griffith@txcourts.gov>; Cynthia Montes <Cynthia.Montes@txcourts.gov>
Subject: CIP rules

Scott, I am going to list just a few of my concerns about the CIP rules.

* I feel that the program should be dropped, if the committee is going to put in place all of the new rules that put more man hours on the Counties. Reading the Rules, and passing an audit would put a considerable amount of man hours on the collection department, if you are an in house collection department, as we are in the Hood County Districts Clerks office. If the State is going to fund this for Counties, that would be different. I'm thinking that the money the County receives will not out weigh the work we will have to do to pass an audit.
* It seems the committee is made up of City officials, and County Justice of the Peace officials, with only one District Clerk on the committee, no District Judges, no County Court at Law Judges, no County Clerks. The ules do not seem to be written or address the higher courts, and how they function.
* I was also wondering if the indigents will not have to pay probation fees, if not, in a County where 3/4 of the defendants are indigent, you will be shutting down probation offices, or the State will have to fund them completely. They will become a babysitter, of defendants with nothing collected from them. And if the Rules do not apply to them on "fees", then that will not be fair to Counties. We collect a good amount of these fees from indigents now, but the new Rules, will ban us from trying!! The Supreme Court seems to be so worried about the civil rights of indigents, what about the civil rights of all the victims that these indigents have victimized?? With these Rules, the taxpayer will have to pick up all of bills for indigents !!
* I can see an increase in crime over the State, because without making them pay any costs, then it will be like a slap on the hand, turn them loose, and let them re-offend again!!!
* I am wondering if the Supreme Court really thinks that a form filled out by an indigents, saying they can not pay any money, is a true reflection that they are truly indigent? If they are out doing the crimes, do they not think they will not lie, to get out of paying fees?
* All of the components of the program set Counties out to fail !!! Your Rules say that an employee, does not have to be a
"full time" employee, you need to re-read the Rules and tell me how they could not be a full time employee, and ever pass an audit!
* I have been elected for seven terms, and voted in every election, from the top of the ticket to the bottom of the ticket, but I can tell you I will definitely reconsider the top !!!!

Thank you,
Tonna Trumble Hitt
Hood County District Clerk

Shelly Ortiz

From: Mena Ramon
Sent: Tuesday, July 26, 2016 1:29 PM
To: Shelly Ortiz
Cc: Scott Griffith
Subject: FW: Proposed Collection Improvements Changes

Shelly, Can you add this to the notebooks, please. Thanks!

From: Marilyn Galloway
Sent: Tuesday, July 26, 2016 1:20 PM
To: David Slayton <David.Slayton@txcourts.gov>; Scott Griffith <scott.griffith@txcourts.gov>; Mena Ramon <Mena.Ramon@txcourts.gov>
Subject: FW: Proposed Collection Improvements Changes

FYI – this may be a comment on the CIP changes.

From: Dana Blanton [mailto:DBlanton@sos.texas.gov]
Sent: Tuesday, July 26, 2016 9:52 AM
To: Marilyn Galloway <Marilyn.Galloway@txcourts.gov>
Subject: FW: Proposed Collection Improvements Changes

Hi, Marilyn ---

We received this email in our general mailbox. I'm forwarding it to you because you are liaison for the Texas Judicial Council. If you think it needs to be forwarded to someone else, please let me know.

Thank you.

Dana Blanton
Editor, Texas Register
Office of the Secretary of State

From: Weaver, Cindy [mailto:cweaver@myharlingen.us]
Sent: Friday, July 22, 2016 5:00 PM
To: Register Mailbox Account <register@sos.texas.gov>
Subject: Proposed Collection Improvements Changes

Texas Register

Although the findings of the U S Department of Justice investigation of the City of Ferguson Police and Municipal Court do give courts a reason to review their procedures in the collection of fines, we would like to know what (if any) research was conducted by the Texas Judicial Council on Texas Courts , which would indicate that Texas Courts need a major vamping to its collection program? In our dealings with local courts, we find that they follow the same pattern that we do, which is to have defendants, who indicate to the court that they will not be able to pay the fine in its entirely, fill out a payment application and pay in payments. We have a basic payment plan option but the clerks have the authority to modify the payments to meet the defendant's financial limits. The application lists their income and

expenses. Those defendants who indicate to the collections clerk that they are unable to pay are sent back to the judge for assignment of community service or other alternate ways to be in compliance with the judge's orders.

We submit monthly collection reports to the OCA on a voluntary basis so that we are prepared if legislation passes laws which will require our court to follow the OCA Collection Improvement Program. Our goal is to close cases, not intimidate people.

We use Omni/DPS, Scofflaw Program and hire an attorney's office to work on collecting our fines. Fines also increase when warrants are issued. All of these tools increase the cost of each citation. Maybe, instead of changing the collections program, there should be legislation to reduce the court costs to a more reasonable amount?

Cynthia R. Weaver
Harlingen Municipal Court Administrator
Certified Court Clerk Level II
(956) 216-5127 Ph., (956) 216-5130 Fax
Today is a good day to have a good day.

Shelly Ortiz

From: Scott Griffith
Sent: Monday, July 25, 2016 12:47 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: Proposed Changes

For the binders.

Thx

Begin forwarded message:

> **From:** Jim McKenzie <jmckenzie@huntcscd.com>
> **Date:** July 25, 2016 at 9:23:19 AM MDT
> **To:** <scott.griffith@txcourts.gov>
> **Subject: Proposed Changes**
>
> Mr. Griffith,
>
> My name is Jim McKenzie and I currently serve as the director of the Hunt County CSCD.
>
> I am sending you this email to give my thoughts on the changes being proposed to the OCA requirements. I am against any changes being made to the procedure in place. I am under the opinion that "if it's not broken, don't fix it". The current procedure in place seems to be working and I feel no changes need to be made. If the proposed changes are implemented that would cause a financial burden to CSCDs around the state in that additional staff would need to be employed to perform what is being proposed.
>
> Sincerely,
> Jim McKenzie
> Hunt County CSCD Director
> 903-455-9563 ext.115

Shelly Ortiz

From: Scott Griffith
Sent: Monday, July 25, 2016 12:48 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: Comments regarding changes to proposed rules for OCA CIP
Attachments: Letter to Scott Griffith (OCA) regarding Proposed Changes to OCA CIP Rules.pdf; ATT00001.htm

For the binders.

Scott

Begin forwarded message:

> **From:** Amanda Knox <amanda.knox@co.wise.tx.us>
> **Date:** July 25, 2016 at 10:34:35 AM MDT
> **To:** <scott.griffith@txcourts.gov>
> **Cc:** <jim.lehman@txcourts.gov>, Cynthia Montes <cynthia.montes@txcourts.gov>, <sherry.lemon@co.wise.tx.us>, <morgan.gyger@co.wise.tx.us>, <amanda.knox@co.wise.tx.us>
> **Subject: Comments regarding changes to proposed rules for OCA CIP**
>
> Mr. Griffith,
>
> I would appreciate your consideration of the comments, concerns and questions on the attached letter regarding proposed changes to the OCA Collection Improvement Program.
>
> Thank you,
>
> Sherry Lemon
> County Clerk, Wise County
> By: Amanda Knox, Chief Deputy
> (940) 627-3351

WISE COUNTY CLERK/LOCAL REGISTRAR **SHERRY LEMON**

July 25, 2016

Scott Griffith
Office of Court Administration
Director of Research and Court Services
P.O. Box 12066
Austin, Texas 78711-2066

Re: Proposed Rule Changes to the OCA Collection Improvement Program

Mr. Griffith,

The Wise County Clerk's office has thoroughly read the Proposed Rules as stated in the Texas Register as well as reviewed the flow charts and other information provided by our Regional Specialist, Cynthia Montes.

I wish to submit on behalf of the Wise County Clerk's office the following comments, concerns and questions.

- Proposed Changes will result in a loss of revenue to the county

The Collection Improvement Program that is in place for Wise County Court at Law (Misdemeanor Criminal offenses) works well. The deputy designated to the Collection Improvement Program (CIP) is diligent in collections and defendant compliance. All deputies in the Court Department are diligent about collections. A defendant's monthly payment amount is based on income and punishment term and staff is considerate of any hardships. The average total collection amount has increased from June 2014/2015 to June 2015/2016.

There are many questions surrounding the "Acknowledgement of Ability to Pay" form. Has OCA considered processes and parameters to provide the local CIP programs that will guide the local program in the verification process? Will there be a standardized form used by all counties/municipalities that are governed by the OCA CIP rules? Are we to simply trust that a defendant is providing accurate information? An increase in "yes" responses to the question, "Will paying your fine and court cost be a hardship to you or your dependents?" is to be expected. In many instances, defendants do not wish to provide financial ability information. They see providing that information as "none of our business."

Many defendants will take a non-monetary option to cover the fine/court cost rather than have to pay. An increase in "jail time credit" or other non-monetary compliance options will only further reduce the revenue that is collected by the county for court cost and fines. I understand that a percentage of court cost is collected by the county for the benefit of the state. As total court cost collections decrease under the proposed rules the amount of funding received by the state will also decease.

200 N. Trinity • Records Bldg. • P.O. Box 359 • Decatur, TX 76234 • (940) 627-3351 • Fax (940) 627-2138
E-Mail: sherry.lemon@co.wise.tx.us • Website: www.co.wise.tx.us/cc

A decrease in court cost collected may negatively impact local services provided. Wise County maintains (as best it can) the quality of service expected by the taxpayers with reduced funds due to reduction in fees of office, oil/gas revenue, and decreased tax, appraisal and mineral values. Likewise, a decrease in fine collections will directly affect the local funding of infrastructure as those funds go to road/bridge funding.

Wise County has in place for CIP's the option for defendants to pay by credit/debit card. If a defendant doesn't have the money in-hand the day of the hearing they have the option to pay by credit/debit card. Defendants may also use this method for monthly payments if they are set up on a payment plan. This office has seen an increase in credit/debit card payments since this option was implemented.

Overall, I feel there needs to be more explanation about the parameters and process of determining whether a defendant is truly unable to pay. I have read and understand the information about discretionary income and the presumed inability to pay criteria. There are too many questions as to who is going to be the gatekeeper of this part of the process.

It is my understanding that this is a Collection Improvement Program not a Compliance Improvement Program and was intended to improve collection of fine/court cost.

- Proposed changes removes monetary punishment by requiring multiple reminders of what to do if a defendant cannot pay fine/court cost

If a person commits a crime then, more often than not, he or she is aware that there will be a monetary punishment as well as possible community supervision or jail time. When a defendant is given a non-monetary option to satisfy the judgment he/she will take that option.

When monetary punishment is removed what is left? As I stated previously, there are already defendants who would rather "sit it out" than come up with the money. The proposed rule changes do nothing more than allow the defendant an "out". Sometimes monetary punishment, especially in the current economy, is a more effective deterrent to crime than any non-monetary punishment.

- Proposed changes create additional hearings and more work on CIP and court staff if defendant does not comply

Defendants currently on Payment Plans are provided compliance information at the time of plan set up. A compliance hearing is scheduled typically for the month after their last payment is due. If the defendant doesn't comply with the terms of the payment plan then the compliance hearing is moved closer to the current date. If the defendant doesn't appear at the compliance hearing the court issues a capias pro fine.

The proposed rules have the CIP deputy constantly having to refer the defendant back to the court if inability to pay is determined after a payment plan has been established. The misdemeanor docket in Wise County is already heavy and increased Indigence Hearings would only add to the hearing caseload for the judge.

Have OCA and Judicial Council considered what will happen if, hypothetically, the proposed rules are put in place and then a few years down the road changed back to the current process? Would the rules revert back to the current practice or would a new format be put in place to account for the inability for defendants to pay assessed fine/court cost?

Please consider the concerns stated above when discussions are had about the proposed rule changes to the current Collection Improvement Program process.

Thank you,

Amanda Knox

Sherry Lemon
County Clerk, Wise County
By: Amanda Knox, Chief Deputy

Shelly Ortiz

From: Scott Griffith
Sent: Monday, July 25, 2016 12:49 PM
To: Shelly Ortiz
Cc: David Slayton; Mena Ramon
Subject: Fwd: OCA Proposed Changes

For the binders.

Begin forwarded message:

> **From:** Guy <glelliott@wilbargercscd.com>
> **Date:** July 25, 2016 at 11:23:37 AM MDT
> **To:** "scott.griffith@txcourts.gov" <scott.griffith@txcourts.gov>
> **Subject: OCA Proposed Changes**
>
> Wilbarger, Foard & Hardeman CSCD Oppose the proposed changes.
>
> Guy L. Elliott
> Director
> Sent from my iPhone

Shelly Ortiz

From: Enax, Michael <Michael.Enax@fortbendcountytx.gov>
Sent: Thursday, July 28, 2016 12:14 PM
To: Scott Griffith
Subject: Proposed Changes for the CIP

Mr. Griffith,
I am writing this email to express my support of the letter from Arnold Patrick, Chair of the Probation Advisory Committee, which opposes the proposed changes to the Collections Improvement Plan. My Department collects fines, fees and court costs for the District Courts of Fort Bend County and we are very diligent in following the CIP requirements currently in place. Following the current requirements increases the amount of time we spend on cases but we feel it is time well spent and necessary. To increase those requirements would only result in additional time consuming paperwork and additional interviews which would take time away from productive supervision. I do not think the increased requirements will result in any significant return in dollars, in fact, my opinion is that the amounts collected could very well be reduced due to the way the proposed changes are set up.

Thank you for the opportunity to express my concerns.

Best Regards,

Mike Enax
CSCD Director
Fort Bend County

Note: The comments on and attachments to this e-mail are intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this in error, please contact the sender and delete the original message, any attachment(s) and copies. Thank you for your cooperation.

Thursday, July 28, 2016

Mr. Griffith,

In response to the proposed CIP rule changes, please take all matters into consideration. As it is, the courts are over flowing with regular dockets. The proposed changes will increase an already overloaded system. In my opinion, with the proposed changes, the job of collecting seems to fall upon the judges.

The CIPs already in place are here to take the burden of recouping the costs assessed by the courts off of said courts. The proposed policy changes will greatly impact the public's perception of the court system, in a negative way. A fine is assessed as punishment for a crime committed. It should hurt a little. Don't get me wrong, there are those that are truly indigent. And we handle those cases as such. But there are also those who have worked and continue to work the system who can more than afford to pay for their crime.

We as collectors use the information given to us by an offender and schedule a payment plan according to what they are able to afford. Just because an offender receives government assistance should not automatically disqualify them from paying for the punishment that the courts have assessed. In many cases an offender is more than able & also willing to pay what he owes for fine & costs. Waiving the costs or allowing all/most to do community service, will not benefit anyone except for the offender.

If an offender is told over and over that if they are unable to pay they do not have to pay, then why would they pay? Because if I understand correctly, all of the documents & phone calls and such must be changed to let an offender know upfront, if he feels he cannot afford a payment schedule, he doesn't have to pay, ever, even after failing to comply with community service. If the offender goes before a judge for an indigence hearing, he is told the same thing.

As a collector, I understand that collecting fines/fees is not about revenue but about following through with the punishment that the court has assessed. But as a tax payer, I would most certainly have concerns regarding a drop in revenue that could affect my taxes.

Please allow CIPs to continue to do our jobs as we have been in the past. I understand that some changes must be made to some programs and that should be addressed. But the proposed changes will not do that.

Thank you for your time.

Laura Prado
Collections Coordinator, Potter County Texas

Shelly Ortiz

From: Collection Department - Rodina Scott <rodinascott@co.potter.tx.us>
Sent: Thursday, July 28, 2016 11:39 AM
To: Scott Griffith
Subject: Comments on proposed new rules for the Collection Improvement Program

Good afternoon,

The system in place under the current Office of Court Administration rules for collections in Texas already conforms to the Department of Justice opinion in their letter from March 2016. These proposed rule changes will bog down the system to the point that time is wasted in the Collectors and Judges spinning their wheels while the Defendants play the system trying to see how long they can put off their punishment. We already put a great deal of time and effort into attempting to get Defendants to comply with their Court Ordered punishments, these changes will more than triple that work load on an already stressed system. The rule changes will also increase the cost to the Taxpayers significantly while the Defendants will reduce their financial obligation for use of the Courts' time. As a Taxpayer, I believe it is the Defendant's responsibility to pay for their usage of the Court system, not my responsibility. As a Collector, I believe it is my responsibility to help Defendants comply with their Court orders in such a way as to be mutually beneficial for each side. Their payment plans should be reasonable within their budget, but still repaying the obligation of their punishment without wasting more time or more Taxpayer money, all the while avoiding incarceration if possible. It should be the experienced Collector's responsibility, in conjunction with the Defendants, to quickly evaluate a Defendant's budget to set a reasonable monthly rate. As Collectors' salaries and financial situations are more similar to that of most Defendants, Collectors are in a unique position to be able to understand when Defendants are giving an accurate financial picture and when they are falsifying their information in an attempt to get out of their obligation. Judges do not have the same perspective due to very high salaries coupled with a significantly different standard of living. One benefit that has inadvertently come out of the current collections process is that Collectors are now teaching Defendants how to budget and prioritize their finances, something many Defendants never learned to do. A more appropriate situation would be for the Collectors and Defendants to come together to determine a Defendant's true financial picture, as we currently do, and if that picture is a grim one that suggests indigence, take that information to the Court and recommend the costs be dismissed or community service granted in lieu of payment. Funny enough, that is what most Collections Departments in the Texas are already doing. Stop trying to fix what isn't broken.

Regarding calling people indigent under a certain national poverty level statistic, you are essentially saying a vast majority of Defendants are no longer responsible for their actions. You are instead shifting the financial responsibility of the Defendant's punishment to the Taxpayers. And by these standards, most of the Collectors in Texas are under the poverty level as well.

Since July 2006, Potter County has recovered $ 15.7 million in Fines, Court Costs, and Court Appointed Attorney Fees for Justice, County and District Courts. We have seen $ 6.2 million given in Jail Credit and over $ 600,000 in costs dismissed. In all, that represents the financial obligations of 31,091 Criminal Cause numbers satisfied. This is money paid by the Defendants to compensate for usage of the Court system and all Departments involved in the arrest, investigation and prosecution process. A process that spans more than just the Police, Prosecutors and Judges, this system also requires Clerks, IT personnel, Records Management personnel, Mail Clerks, Switchboard Operators, Courthouse Security personnel, Collections personnel and even Human Rresources personnel among others. Potter County currently has $ 13.7 million outstanding in Court obligations for 15,959 Criminal Cause numbers owed to the 4 Justice, 3 County and 5 District Courts. Of that $ 13.7 million, there are only 2,412 active Capias Pro Fines for a total of $ 1.1 million dollars. That represents an average of $ 460 per warrant. For the total outstanding balance owed to the Courts, the average cost is $ 359.77 per Cause number. Per Office of Court Administration research, Collectors spend 36 minutes working on each Cause number having a balance of $ 300 when Defendants follow their payment plans without becoming delinquent. For an average cost of $ 859 in Potter County, that is 103 minutes of work spent to Collect a balance if there are no times of

delinquency and no further hearings or actions regarding the balance. Given that Potter County has 15,959 Criminal Cause numbers with a balance at an average of $ 859 per Cause number, this represents 27,396 man hours, or 684.9 weeks of work, or 13.17 years for one Collector to assist Defendants in complying with their Court Ordered obligations. That burden should remain on the Defendants, not shifted to the taxpayers in paying additional staff for each County to comply with the proposed requirements. The proposed requirements would not only increase the amount of time the Collectors and Judicial staff would have to spend on each case, it would also increase the amount of costs dismissed or discharged through community service for Defendants who are certainly capable of paying. They may not be capable by the standard of someone who has a $ 100K per year salary, but they are most definitely capable by the standard of the income and expenses Defendants report to their Collectors every day. There are Defendants who do work low wage jobs, receive monthly social security benefits in lieu of working, are self-employed construction workers or child care providers, or have any number of other valid, legal ways of earning a living to pay their rent, utilities, groceries, daycare costs, life and health insurance, phone bills, and yes, even their Court ordered obligations. While those forms of income may seem too low to be considered worthwhile to someone with a high income, for a population that has very low or often no expenses, they are still valid forms of income that allow Defendants the dignity of being able to comply with their Court obligations. For those Defendants with a tight budget, most, if not all of them, can still afford $ 20 or $ 30 per month. Were you aware that working even 1 day per month at a day labor company pays more than $ 30 for that day? Many Defendants may be poor, but they certainly aren't incapable of paying. Most Defendants are capable of paying quite a bit more per month or of paying in full within 30-90 days of their guilty plea.

Every dollar in uncollected Court Cost and/or Court Appointed Attorney Fees becomes a dollar the County must get Taxpayers to pay to prosecute a Defendant for their disregard of the law. For every uncollected Court Cost and/or Court Appointed Attorney Fee, that is a dollar less of Taxpayer money in the general fund or a specific budget that could go toward more necessary services such as fire protection and prevention, road maintenance, patrolling Deputies, and the like. If Potter County Collections had not recovered $ 15.7 million in the last 10 years and that burden had remained on the Taxpayers as it previously was, what essential services would we have had to forgo? How much higher would the property taxes have to be to cover that balance? Prior to the Collections Improvement Program, Potter County allowed most Defendants to 'sit out' their obligations, which translates in no money coming in to compensate for the prosecution process, but having to pay to house these Defendants in jail. Other Defendants paid very little because each Department shuffled the time-consuming burden of collections to a tertiary task that very few people took up. Contrary to what some may think, Collections is not in the business of generating revenue, putting people in jail or increasing the burden to the taxpayers. We are here to help Defendants pay their obligations to the Court that they incurred when they chose to disregard Texas Law and take that burden off the Taxpayer. We do not tack on any unnecessary or illegal fees to the Court obligation as it has been discovered that some States do.

Most Defendants want to pay their obligations if those payments are reasonable. The Collections Department is here to make sure the payments are reasonable for a Defendant's budget but still sufficient to discharge their Court ordered obligation. There will always be a section of the population who does not want to pay regardless of their income and ability to discharge their obligation either through monthly payments or community service. For those Defendants, they find it amusing to see how much of the Court's and Collections Department's time they can waste. A system of unnecessary repeated show cause hearings gives that population the opportunity to waste the Court's valuable time. I say valuable in the overhead expenses of salaries and utilities to keep the Court open for additional hearings above and beyond what we already accomplish. As we already know, the current outstanding balance of $ 13.7 million will take approximately 13.17 years for one Collector to recover.

The DOJ investigation and report was generated in response to Counties and States who are unfairly incarcerating Defendants while tacking on unreasonable additional costs in a rotating system designed to generate revenue. Those jurisdictions rightly should face reform. In Texas we have been very fortunate to have a far-sighted Legislature that saw a Collections program in Dallas County which helped Defendants comply with their Court ordered obligations without placing an undue burden on either the Defendants or the Taxpayers. The Legislature then created he Collections Improvement Program in response to seeing the financial burden of prosecution resting on the Taxpayers while Defendants got out of their obligations by sitting in jail. The current Collections Program works. It is a model that should be proudly held up to the rest of our Country to show how proactive Texas has been in striking a

balance between Defendant obligations and Taxpayer burdens. These proposed changes are overblown, unnecessary, and appear to be a response to a problem that does not exist in Texas.

Finally, we must all remember, these obligations are a legal part of a punishment. These Fines, Court Costs, and Appointed Attorney Fees aren't a purchase or a bill desired by any Defendant. They have always been a Court ordered obligation as part of the punishment phase of the law. If you take away the teeth of a punishment, then why bother having a punishment at all? Just like Defendants don't want to go to jail, they also don't want to pay unnecessary costs or waste any of their time. Collectors are here to help the Defendants comply with their Court Orders while recouping the money spent in arrest, investigation and prosecution. Collectors are here to take the burden of collecting that money off the Court to help lessen their overloaded dockets, Judges and Clerks. Please allow the Collectors to continue to do their jobs by assisting Defendants in compliance and keeping Defendants from wasting the Court's valuable time using the current CIP that has a proven track record of working while not running afoul of anyone's civil rights.

Thank you for your time and attention,

Rodina Scott
Collections Deputy
Potter County, Texas
806-379-2235

Shelly Ortiz

From: Judge Chuck Ruckel <cruckel@co.collin.tx.us>
Sent: Thursday, July 28, 2016 11:46 AM
To: Scott Griffith
Subject: CIP Collections Improvement Program

Mr. Griffith:

The proposed changes in the collections process will only increase the workload on the already overloaded Justice Courts and Clerks. Please do not change these rules or, at least, invite representatives of the Justice Courts to provide input and develop rules that make sense and accomplish improvement.

Judge C. Ruckel
Collin County Justice Court 3-1
920 East Park Blvd, Suite 220
Plano, TX 75074
(972) 881-3001

Larry G. Bevill, County Clerk

Taylor County, Texas

300 Oak Street, Suite 100 Abilene Texas 79602 - (325) 674-1202
bevill@taylorcountytexas.org

July 28, 2016

Mr. Scott Griffith
Office of Court Administration
P.O. Box 12066
Austin, Texas, 78711-2066

RE: Public Comment, Proposed CIP rules

Dear Mr. Griffith:

I have read and re-read the proposed CIP rules and have the following comments.

When the CIP first began, OCA staff crisscrossed the State making presentations that judgment without penalty, judgment without consequence is not effective judgment. Of course during those days, the OCA was about raising money for the State. This version of the CIP is about not creating hardship, non-monetary punishment and removing the threat of incarceration. This version launches Texas into a Texas Court system that merely provides "slaps on the wrist" for individuals who BROKE THE LAW if they can prove indigency.

Whether the crime was a felony or a misdemeanor, the person is a criminal who made a choice to break the law. Their punishment should be a hardship on them. Without consequence or without sufficient consequence there is no "lesson learned" to redirect them from committing the crime again, second, perhaps even multiple times. I have learned these lessons listening to OCA staff over the last two decades. Putting this proposed CIP into place will make it so the people who pay fine and court cost, the people who go to jail, will be those who have jobs and are contributing to society. The folks who purge from society will be those who get a "slap on the wrist" from the Texas Court system.

I object to the following determinations in the proposed CIP.

(6) Referral to Court for Review of Defendant's Ability to Pay
(A) Referral to Court –
This proposed change will result in adding additional docket time to our judges. In Taylor County our judges are busy; adding an additional hearing or conference is an undue hardship. This is especially wasteful when considering that once this community of criminals/defendants learns that they can postpone or eliminate the judgment through these CIP rules, the escalation of undue hardship claims will commence.

(6) Referral to Court for Review of Defendant's Ability to Pay
(B) Presumption of Inability to Pay
(i) Just because a person is going to school does not mean that they can't pay their court cost, fees and fines. A number of "students" have jobs and other financial support, giving them discretionary income. This should not be the "free" pass as is currently written into the proposed rules.

(6) Referral to Court for Review of Defendant's Ability to Pay
(D) Information Regarding Non-Monetary Compliance Options
The result of this proposed change is effectively adding additional cost and liability on governments. There may be established Community Service programs in larger counties; however in Taylor County they do not exist. My experience is the courts will have to create and fund these programs and then monitor them; thereby creating more bureaucracy. This takes time and labor hours will be spent which costs tax payer money. All the while our state legislative leaders are working to eliminate the ability of local governments to raise tax rates and budgets these proposed rules are increasing costs on local governments

Additionally if the County creates the program – the County can be held liable for the program.

When the criminal community learns they can keep their money and not pay fine and court cost, the burden on these programs will increase. Increasing costs, increasing time, increasing liability create a recipe for financial disaster.

Finally, I suggest that additional rules be added for repeat offenders. Someone who continually breaks the law, either in the same offense or additional ones, should have an increased level of hardship.

In closing, I will end on a positive note. The removal of the time requirements for full payment is greatly appreciated. The majority of those in my county who do not pay in full are largely unable to pay by the 4th month as well. Congratulations on removing a requirement that was largely unobtainable.

Sincerely,

"Original to follow by USPS mail"

Larry G. Bevill
Taylor County Clerk, and
Taxpayer

Shelly Ortiz

From: Shelli Berry <sberry@hoodcscd.com>
Sent: Thursday, July 28, 2016 10:39 AM
To: Scott Griffith
Subject: FW: Rule Changes

Mr. Griffith,

Hood County Community Supervision and Corrections Department strongly opposes the proposed rule changes to the Collections Improvement Program. Under the proposed changes, Local governments would be forced to hire additional staff to perform these requirements, increasing local costs. The courts would be flooded with cases that are referred back due the defendants inability to pay. A defendants inability to pay is often times a temporary situation, due to incarceration or loss of a job. Please consider each of these factors before making any changes to the program.

Respectfully,

Shelli Berry
Director
Hood County CSCD

This e-mail (including any attachments) may contain confidential, proprietary and/or priviledged information, and unauthorized disclosure or use is prohibited. If you received this e-mail in error, please notify the sender and delete this e-mail from your system.

Shelly Ortiz

rom: Rochelle Thomas < >
Sent: Thursday, July 28, 2016 10:07 AM
To: Scott Griffith
Subject: Comments regarding proposed rules for Collections

July 27, 2016

Dear Mr. Scott Griffith,

I am sending this email in response to the proposed changes to the Collections Improvement Program. I have been working with defendants for over 30 years in Adult Probation and as such am very familiar with the collection of payments owed on behalf of a crime committed. Although you do not include restitution or probation fee payments, it seems all other fines and fees imposed as a result of their offense are included.

Requiring a defendant to swear his is not indigent is counterproductive to the sentencing process. Numerous defendants are sentenced as part of a plea agreement thereby acknowledging they will pay the monies assessed at the time they accept the agreement. Having a defendant sign something swearing they are not indigent starts a long and difficult road to getting them to pay. Many defendants may not be employed to their full potential at the time of sentencing, especially if they were incarcerated prior to sentencing or if they thought their sentence would involve incarceration. Under employment and unemployment are common situations and are addressed when placed on probation. A standard condition for probation is usually to obtain and maintain employment. To assume that a person who gets benefits such as those laid out in the rules is automatically indigent is wrong. Many defendants work on a cash basis, use their paychecks for very nice cars or even assume ridiculous rent to own agreements. Numerous defendants can assume a part time job in addition to a full time job even if it is a single parent who works full time and babysits other people's children while caring for her own for money when they are off. Additional examples include mowing a few lawns for extra cash on the weekends, or a regular part time job in addition to their full time job at least until their financial obligations are settled.

The rules proposing additional staff responsibilities, court appearances and reports will be counterproductive by causing additional unfunded expenses incurred by those involved in the collection of monies owed. Some counties are turning to an outside collector that charges additional fees to the defendant in addition to what was court ordered. This is also counterproductive to the situation. Additional concerns will be an increase in Community Service Restitution being ordered for those not on probation but will be referred to probation departments to monitor the hours completed and report back to the Courts. This will be an additional expense to probation departments for an already unfunded mandate.

Requiring defendants to swear they will pay, requiring payments to be spread out over the period of a probated sentence and holding defendants accountable financially for the costs incurred as a result of their behavior is good sense.

In closing and as previously mentioned, although the proposed rules defining a defendant as indigent are not involving restitution or probation fees, I am confident it will eventually be used as the standard in Courts to determine whether someone is indigent for all monies to be assessed.

Thank you for any and all consideration of the above.

Sincerely,

Rochelle Thomas

McLENNAN COUNTY
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT

P.O. BOX 1250, WACO, TEXAS 76703
(254) 757-5070
(504 N 6TH Street)

WILLIAM W. SEIGMAN
DIRECTOR

RALPH T. STROTHER
19TH DISTRICT COURT
MATT JOHNSON
54TH DISTRICT COURT
GARY R. COLEY JR.
74TH DISTRICT COURT
JIM MEYER
170TH DISTRICT COURT
VICKI MENARD
414TH DISTRICT COURT
MIKE FREEMAN
COUNTY COURT AT LAW No 1
T. BRADLEY CATES
COUNTY COURT AT LAW No 2
SCOTT FELTON
COUNTY JUDGE

July 27, 2016

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Mr. Griffith,

I serve as Director of Adult Probation for the McLennan County Community Supervision and Corrections Department (CSCD) and wish to express opposition to the proposed rule changes to the Collection Improvement Program (Chapter 175), Texas Judicial Council (Part 8), Title 1 (Administration) of the Texas Administrative Code, as posted in the Texas Register.

I understand that the proposed rule changes are in response to a Department of Justice letter dated March 14, 2016 outlining "illegal enforcement" of fines and fees in certain jurisdictions around the country, urging jurisdictions to review "court rules and procedures within your jurisdiction to ensure that they comply with due process, equal protection, and sound public policy."

While the principles outlined in the DOJ letter are sound, the proposed revisions to the Collection Improvement Program appear to go far beyond addressing those principles.

McLennan County was audited under the current Collection Improvement Model in 2014. Due to the sample selection procedures, the majority of the cases audited were clients on probation. So the result of the county audit was dependent upon how well we, as a department, documented contact with the defendants, addressed their delinquencies, etc. Distinction between face to face contacts vs. telephonic/written correspondence was an issue, as was the exact timing of such contact. As a result of the audit, we put in place processes that addressed the current Collection Improvement Model rules.

Addressing the proposed Collection Improvement Program rules will pose an additional hardship and, in many cases, require that we return to court whenever "Ability Issues" are discovered. Monitoring the compliance of defendants is what we do, but we are not solely concerned with the current financial status. We are an agency that addresses multiple risks and needs of clients. We do not solely concern ourselves with their ability to pay, but we certainly must document such at each office visit or fail to abide by the current Collection Improvement Model. A defendant's ability and/or willingness to pay are not static factors. "Ability Issues" during community supervision are fluid, less definite and dependent upon their current status. They may occur multiple times during supervision.

While I cannot speak for representatives of all Texas county entities that collect fines and costs, I can imagine that determining "Ability Issue" through telephone and mail contact will prove difficult and require additional program staff. Auditing such contacts for compliance will prove even more difficult.

The current Collection Improvement Model is difficult to manage for CSCD's as financial responsibility is a fraction of what we deal with. Making it more cumbersome and less definite will prove even more difficult. Perhaps addressing indigence at the time of sentencing and prior to Capias Pro Fine issuance may be a simpler approach.

Sincerely,

William W. Seigman
Director of Adult Probation
McLennan County CSCD

Shelly Ortiz

From: David Brabham <David.Brabham@co.gregg.tx.us>
Sent: Thursday, July 28, 2016 9:15 AM
To: Scott Griffith
Subject: proposed changes to court collections

Dear Mr. Griffith:

Let me voice my opposition to the proposed changes to court cost and fine collections. This is not well thought out and much more information needs to be gathered before making these changes.

Thank you.

Judge David Brabham
188TH District Court
David.Brabham@co.gregg.tx.us

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Shelly Ortiz

From: DeAnn Owens <DOwens@smith-county.com>
Sent: Thursday, July 28, 2016 8:48 AM
To: Scott Griffith
Subject: CIP Rules

Please leave the rules alone.

DeAnn Owens
Clerk, Pct 5
Smith County, Texas
903-590-4892

Shelly Ortiz

From: jplamesa@windstream.net
Sent: Thursday, July 28, 2016 8:45 AM
To: Scott Griffith
Subject: Rules Changes

I do not approve of the suggested rules changes. Please don't change anything at this time.

--

Denise P. Dyess
Justice of the Peace
Dawson County Texas
P. O. Box 1268
Lamesa, TX 79331
(806) 872-3744 phone

Sh173rd District Court
Dan Moore, Judge

392nd District Court
Carter Tarrance, Judge

3rd District Court
Mark Calhoon, Judge

Steve Jeffus, Director

173rd Judicial District
Community Supervision & Corrections Department
109 West Corsicana, Suite 100
PO Box 790
Athens, Texas 75751
(903) 675-6122 / Fax (903) 675-6197

July 27, 2016

Mr. Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

RE: Proposed Collection Improvement Program Rule Changes

Dear Mr. Griffith:

I am writing concerning the proposed rule changes to Chapter 175: Collection Improvement Program. After reviewing the proposed changes, I feel I should voice opposition to them. The current system was tested, piloted and proven effective. It is a good system. There are rules currently in place that allow for extending payment deadlines, waivers, allowances for CSR, etc. CSCD's address defendants' financial obligations and employment monthly. We are very thorough and qualified to make proper decisions concerning someone's ability to pay. The ability to pay can change monthly, and oftentimes does.

There is a difference between someone truly indigent and someone who is not living within their means. These new rules are allowing the same relief when you look at your definition of discretionary income. There is no accountability if one is allowed to run up large credit card bills, buy new cars, and buy expensive clothing with no regard for paying court-ordered obligations. This is just one of the many discrepancies and concerns I have that hopefully will be addressed before passing these new rules.

Currently, there is no way of assessing what impact these new rules will have. What is the harm in slowing down and piloting a program or doing an impact study to ensure the effectiveness of the proposed rules?

Sincerely yours,

Steve Jeffus

Steve Jeffus
Director

WSJ/sb

Letitia Farnie
2555 Cullen Blvd.
Pearland, Texas 77584
281-997-5900

Mr. Scott Griffith
State Office of court administration
Via electronic mail: scott.griffith@txcourts.gov

Re: Texas Judicial Council Proposed Repeal and Implementation of New Collection Improvement Program Rules
Public Comments

Dear Mr. Griffith,

The current proposed collection program changes need to be put on hold.

- It appears that the next legislative session will be reviewing 'due process steps' for fine only charges.
- A review of the Collection Program should be done in light of separation of powers.

It is understood and agreed that Justice and Municipal Courts must follow standard accounting and collection processes BUT the proposed OCA Collection Program, with punishment, requires the court system to be an investigative branch with specific, unreasonable responsibility for the actions of the defendant. This is unacceptable and unethical and must be reviewed and stopped.

We agree as TJCIA suggests that the language in Code of Criminal Procedure 45.057(h) address notification requirement be added to any person with a fine or cost due for a fine only misdemeanor. As stated in (h), the obligation would end upon disposition of the case. The responsibility should be upon the party to provide current and accurate contact information for the duration of their obligation to the state. The person with the citation has the responsibility to make sure the Court always has *current and correct contact information. When the Court has correct information the person will receive notifications of hearings which is vital. However the Court cannot force a person to "pick up their mail" or "read their mail" to receive the information. (sending letters to incorrect addresses wastes the taxpayers money / calling numbers that are incorrect wastes time and money as well).*

If the Texas Criminal Procedure process is followed justice is assured.

Please change the current/ proposed mandates. These mandates take time away from helping those persons who come to court and need assistance. Why does the Court need to verify information given to them within 5 days? The person just gave the information; if it is correct - the Court has wasted their time; if it is not correct -the court has wasted their time and they still cannot contact the defendant.

Should it not be the responsibility for the person to make sure the information is correct so they will receive notifications??????

The State when they notify people of surcharges use the address on the person's driver's license whether it is correct or not and the person is "deemed to have received that notification" why are the Courts mandated to do more?

Why complete a "defendant interview" within 14 days? Again, this is more burdensome on a court for the 5% of the defendants who most likely are not going to cooperate and follow the process any way. The Judge at a docket can and should conduct the indigency hearing and do any and all within their authority to extend time to pay/ give community service/ find indigent/etc....

If a defendant misses a payment why does the burden shift to the Court? (the court has to call/ the court has to send a letter/ all these processes must be documented)??? Again this is time and expense for the Court.

If the OCA would like the list of persons (with addresses and phone numbers) that owe fines from the Court, then OCA can set up this process to contact and interview and recall and resend letters, then the OCA can let the Court know which defendants should be given a warrant for a Capias Pro Fine Warrant after months of this delaying process.

The defendant should be responsible to take care if this obligation they have; just like every other obligation they have.

Creating blanket over reaching changes for all courts/judges when 95% of the system is working properly is not fiscally responsible to the citizens of this State. Please hold off any more changes at this time. Please follow the requests from the TJCJA, Jeri Yenni, Brazoria County DA, representing five district courts and four county courts at law, and others.

Sincerely,

Letitia Farnie

Judge Jim Hansen
Presiding Judge
904 Broadway

P.O. Box 10536
Lubbock, Texas 79408
(806) 775-1547
FAX (806) 775-7956

July 27, 2016

RE: comments concerning the proposed Chapter 175 CIP Program changes

Let me first state if there is a true concern about oppressing indigent individuals in the class C fining process, the State of Texas should immediately abolish the unconstitutional DPS surcharge program. This program targets poor people and unconscionably penalizes them for being poor, and should be abolished in total before mandating new provisos on the courts and the CIP programs in Texas. You should also abolish the $25 time payment fee which unfairly targets those with the lesser ability to pay within 30 days.

You are tasked with coming up with rules that walk a fine line. I hope you come up with rules that are fair in identifying truly indigent defendants. Moreover, I pray you do not simply rebrand criminal defendants as victims, with the police and courts as the bad guy.

As to the issue at hand, I agree defendants should be advised of inability to pay rights, but I strongly disagree with any "presumption of indigence" under section 175.3(a) (6) (B) (iii).

There should be no presumption, rather it should read "the defendant is eligible if...". I am uncertain in reading your document in the aforementioned Section B that defendants must meet either condition i, ii, and iii, or all three conditions. I believe an individual has to take some responsibility and follow steps to receive reduced or no fine amounts.

Our County has worked hard establishing a CIP of professionals who conduct a thorough, exhaustive intake review when individuals state they are unable to pay fines within thirty days. They go above and beyond what is called for to ascertain an individual's ability/inability to pay a fine, and will allow payments in small increments. I also work very hard to provide and monitor community service options, and reduce or absolve fines when circumstances dictate. We are in compliance with everything written within the document.

A convicted criminal defendant claiming indigence should be required to cooperate and show proof of their indigence if the investigation by CIP merits additional research of the indigence claims of the affidavit. I again reiterate convicted criminal defendants should not have an automatic "get out of fines free" card in the form of a signed affidavit.

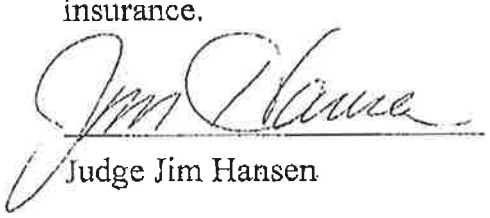
The automated provision runs contrary to the rule of crime and punishment. Punishment, financial or otherwise, serves as an incentive against continued bad behaviour. The proviso in 175.3(a) (6) (B) seems to state "students do not have to pay fines". This sends an entirely wrong message to young people. Will they also be forgiven for alcohol, tobacco, and penal code fines, over and over?

The plan as written appears to create an "escape hatch" or "trap door" that will be abused far more often than accomplishing any supposed noble purpose. The "presumption of inability to pay" proviso for students should be taken out of the document immediately. Attending school should not exempt an individual from all fines, only a limited number of individuals in specific circumstances. In my 26 years on the bench, thousands of parents have paid their high schoolers fine and stated "you can work it off", or "you can pay me back when you can". Also, many students have jobs and can pay their fines, or they do community service. If you automate a "trap door" for fine forgiveness in the plan, it simply makes no sense.

As far as convictions, I see two types of people for class C violations: the one time only violator, and the career criminal, who commits class C offenses and higher crimes on a regular basis. If they know they have an escape hatch by lying, both will lie, perjure, cheat or steal. When you give these defendants a "pay" or "no pay" option, 9 out of 10 will not hesitate to say anything to get out of paying a fine. If the CIP review of the indigence affidavit reveals incorrect or false information, the CIP and courts should retain the ability to require proof and reinstate the fine in full. I believe there should be additional punishment for those who attempt to cheat the system. I am also not aware of one instance where an individual has been prosecuted for perjury for signing a false affidavit.

Convicted criminal defendants need to pay a fine, a reduced fine, work off their fine through community service, or, if they choose or refuse, lay out their fine in jail. In many instances, people will come to my office and request to lay out their fines, or they send over a request because they are already in jail for other crimes.

I encourage you to proceed with caution in crafting rules that ensure the right of an indigent individual, while at the same time including a carefully thought out protocol to keep individuals from cheating the system. If you write these rules incorrectly, you are putting an undue burden on the court, and creating a whole new class of individuals who can commit crimes without fear of punishment, and drive our roads without licenses or insurance.



Judge Jim Hansen

MY SUGGESTED PLAN

An indigent individual has a responsibility to appear in court and answer court summons just like any other person. Being poor does not give you rights to ignore the court and play the indigent card at a later time.

REQUIRE Courts to send a show cause notice before any warrant is issued in a class c case. You can use whatever verbiage you think is best in the notice.

The Show cause hearing allows the Judge to explain the plea options (if there is no plea), or to discuss community service, fine reduction, or indigence.

If the person wishes to claim indigence, they should be required to bring proof (food stamps, government assistance checks, a paycheck stub, etc.

If the person provides a bad address, or fails to appear at show cause, they have WAIVED their right to claim indigence, and a warrant may issue.

The burden should be on the defendant. It should not be presumed. It should not be given freely. It should not be granted to anyone willing to claim indigence simply because they do not want to pay the fine.

The defendant should be required to provide proof of indigence if it is not evident, and the defendant should appear in court to claim indigence, In any other circumstance, you empower defendants to ignore an initial appearance, ignore subsequent notices, sign pay agreements and blow them off, have courts and clerks move through a five or ten step process to get to a Capias Pro Fine, then, after all that, allow the defendant to cry "indigent", and walk out unscathed.

100th Judicial District Community Supervision & Corrections Department
Carson, Childress, Collingsworth, Donley, Hall
P.O. Box 126
Childress, Texas 79201
(940) 937-3671
(940) 937-3786 (fax)

Becky Fuller, Director **Carol Holcomb, Asst. Director**

July 27, 2016

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Mr. Griffith,

I am the CSCD Director for a very rural district. I have just become aware of the proposed rule changes for Chapter 175 Collections Improvement Program under Part 8. I want to voice my *concern* and *opposition* to these changes.

The small counties in the 100th Judicial District would be devastated by these changes. I see absolutely no positive outcome through the proposed changes. Someone needs to reassess their projections of the ripple effect this will have on the citizens of Texas and make some wise decisions.

Sincerely,

Becky Fuller, CSCD Director
100th Judicial District CSCD

Shelly Ortiz

rom: Kathy McGinnis <wmc@eastex.net>
Sent: Wednesday, July 27, 2016 4:10 PM
To: Scott Griffith
Subject: CIP

I disagree with the proposed new changes. I thought violations had PUNISHMENTS assessed to them. When did breaking the law become a debt? Why should paying any debt take priority over a court order?

Judge McGinnis

P O Box 730
Waskom, TX 75692
PH: 903-687-2694
FAX: 903-687-3295

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Shelly Ortiz

rom: Donna Crawford <DCrawford@smith-county.com>
Sent: Wednesday, July 27, 2016 3:47 PM
To: Scott Griffith
Subject: Rule Changes

Mr Griffith:

Please do not change the court collection rules. We will continue to work to collect the fines and fees, but these changes would make it extremely difficult to comply with these new rules and keep our work caught up.

Donna Crawford
Chief Clerk
Justice of the Peace Pct. 5
Smith County, Texas
903-590-4891

Shelly Ortiz

From: jp1@co.titus.tx.us
Sent: Wednesday, July 27, 2016 3:47 PM
To: Scott Griffith
Subject: CIP Collections Improvement Progarm

I ask that the Collection Rules not be changed. The only thing needing to be changed is to do away with the surcharges if someone wants to help those that are indigent. It is a system that continues to buy people and keep them from having a valid license. Please reconsider these changes. Judge Kay McNutt Titus County, Texas

Shelly Ortiz

rom: Eloyce Matthews <EMatthews@deafsmithcounty.texas.gov>
Sent: Wednesday, July 27, 2016 3:29 PM
To: Scott Griffith
Subject: proposed changes to CIP

My name is Eloyce Matthews. I am the director of Deaf Smith County CSCD. I believe this would overwhelm our department. I am against the proposed changes.

Eloyce Matthews , Director
Deaf Smith County Community Supervision Office
235 E 3rd, Rm 204
Hereford, Texas 79045

806-364-3791
Fax: 806-363-7010

Shelly Ortiz

From: Beth Smith <besmith@co.hays.tx.us>
Sent: Wednesday, July 27, 2016 3:06 PM
To: Scott Griffith
Subject: Rules

Dear Sir,
Please leave the JOP rules as they are. It's very confusing when rules are changed every 2 years.
Thank you,
Beth Smith
JP 2 Hays

Shelly Ortiz

From: Randi Ortega <randi@ochiltree.net>
Sent: Wednesday, July 27, 2016 2:49 PM
To: Scott Griffith
Subject: OCA Proposed Changes to Collection Improvement Program

Dear Mr. Griffith,

I am the director of the Hutchinson, Hansford and Ochiltree County CSCD (Adult Probation). I wish to express my concern over and opposition to the proposed changes the OCA is making to the Collection Improvement Program. This has the potential to cause a serious adverse financial impact to my department which would result in the loss of staff, and a decreased ability to adequately supervise the criminal offenders the court places on community supervision in our jurisdiction. This would increase recidivism rated, crime rates, and decrease public safety.

Respectfully,

--
Randi Ortega
Director
Hutchinson, Hansford & Ochiltree Counties CSCD
806-273-0108
806-202-0271 (cell)

Shelly Ortiz

From: Jan Morrow <jan.morrow@co.wise.tx.us>
Sent: Wednesday, July 27, 2016 2:28 PM
To: Scott Griffith
Subject: CIP Rules and Revisions

In response to the proposed rule revisions for the Collection Improvement Program which I believe will greatly impact not only our Court system here in Texas but which could very well negatively impact our nation as a whole.

While I am a proponent of the 14th Amendment, I believe that a presumption of inability to pay would certainly set a precedent that could prove detrimental. I have spoken not only with my staff but others in the judicial community and the consensus is that such broad sweeping revisions will change our judicial system as we know it. It appears that these changes would simply be inviting more individuals to claim a "hardship" in a system already taxed to the breaking point.

If a survey was given to the American people to ask them that if they received a citation and either 1) plead and chose to pay the ticket; 2) request a driving safety course and were assessed court costs or 3) were found guilty at trial and assessed a fine and costs; would it be a hardship to pay these amounts? Without a doubt the majority would claim a hardship to pay as this is an expense that isn't budgeted for.

Court costs continue to increase to help fund programs for those that are experiencing a "hardship". This is merely indicative of the cycle that we as a society are perpetuating. Many of the individuals that we see here at the Justice Court level are habitual violators and owe fees at several levels of court. Throw in surcharges and re-instatement fees and the system is placing a burden on the poor and middle class and simply perpetuating poverty. This being said, swinging the pendulum back in the other direction, in what seems an extreme move, can only exacerbate the burdens placed on the courts, local and state government and eventually trickling down to the taxpayers.

It appears that the revisions are based on the fact that the courts are utilizing a central collection agency; please know that is far from accurate. Not all counties and cities that are mandated for the Collections Improvement Program use a centralized collections department. Wise County for one is mandated for the CIP; however, each JP office, the probation department and the County Clerk office all must handle our own collections.

It appears that the revisions would place a hardship on staff members who are trying to accommodate the provisions that are currently in place with the CIP. Being that our county is mandated to participate in the Collection Improvement Program and that each entity is acting as the collecting agent, each office must have at least 1 employee whose primary function is collections. My office only has 3 clerks and it would be a struggle to ask that they do more than is already asked of them now.

Asking that they be responsible in determining presumed inability criteria and discretionary income for an individual then that same individual may receive a different determination from probation or some other entity perhaps even in a different county. There is also the matter of an increased amount of reporting over what is currently asked of the courts.

Application forms for payment plans would require additional information from individuals and honestly, the court spends a great amount of time now trying to get completed applications particularly those received by mail. With the increased amount of information needed on the applications, and the presumption of inability as well, I have a great concern that the courts will become a clearinghouse for individuals information.

The applications that are required by the CIP are subject to open records requests (barring the information that must be redacted such as social security numbers). Collection agencies, collection attorneys and for that matter individuals may access the increasing number of criminal/court databases that counties across Texas are providing on their website and see that a particular defendant has requested a payment plan. With an open records request, most of the information that the individual provides will be privy to those who wish to provide a request.

That being said, I pray that great and thorough thought be given to the revisions before lasting and potentially detrimental changes are made.

Sincerely yours,

Jan Morrow

Wise Co. JP#1

George D. Gilles
142nd DISTRICT COURT
MIDLAND COUNTY COURTHOUSE
500 N. LORIANE, SUITE 1000
MIDLAND, TEXAS 79701

ROBIN MALONE DARR
385TH DISTRICT COURT
MIDLAND COUNTY COURTHOUSE
500 N. LORIANE, SUITE 801
MIDLAND, TEXAS 79701

David W. Lindemood
318TH DISTRICT COURT
MIDLAND COUNTY COURTHOUSE
500 N. LORIANE, SUITE 900
MIDLAND, TEXAS 79701

RODNEY W. SATTERWHITE
441ST DISTRICT COURT
MIDLAND COUNTY COURTHOUSE
500 N. LORIANE, SUITE 901
MIDLAND, TEXAS 79701

Elizabeth B. Leonard
LOCAL ADMINISTRATIVE DISTRICT JUDGE
238TH DISTRICT COURT
MIDLAND COUNTY COURTHOUSE
500 N. LORIANE, SUITE 800
MIDLAND, TEXAS 79701
TELEPHONE: 432.688.4380

Dear Members of the Texas Judicial Council:

After discussing the proposed amendment to Tex. Admin. Code § 175, (hereinafter referred to as the "Amendment"), the Midland County District Judges and County Court-at-Law Judges oppose the proposed changes contained in the Amendment. The Amendment contemplates several logistical, financial and equitable challenges that we do not support. I will address each of these concerns as they pertain only to indigent defendants.

As a logistical matter, this Amendment requires a staff person to obtain contact information and payment ability information, verify home phone number and primary contact phone number, establish payment ability and prepare a payment plan. In determining payment ability, the staff employee must delve into the defendant's required payments, his credit card spending, his income tax liability, and analyze necessary expenses including transportation, food, medicine and medical services or supplies, housing, child care and clothing. The staff person must accomplish the inquiry/review within a very short time frame. Midland County does not currently employ the staff necessary to perform this job responsibility.

Another difficulty arises when the court decides to accept a probation plea prior to determining if the defendant has an ability to pay. If the court proceeds with the plea, the court may have to schedule an "Ability Hearing" and amend all of the paperwork. As a judge, I would not want to accept a plea agreement without some assurance the defendant has an ability to pay. Instead of accepting a plea within a week, the court must postpone the plea until all of the necessary forms, interviews, verifications and court hearings occur. This logistical problem is only magnified by the defendants sitting in jail awaiting a plea hearing, and in Midland County, that translates to $86.00 per day, per inmate.

Over the past one year period, approximately 51% of Midland County's felony cases, being 969 felony defendants, qualified for a court appointed attorney. The Midland County standard for a court appointed attorney substantially mirrors the Amendment's "Ability to Pay" standard. This potentially adds 969 Ability Hearings to our court dockets, just for felony cases. This is not an efficient use of the Court's time and resources.

The Amendment would also significantly reduce the probation fees used to operate our Community Corrections and Supervision Department ("CSCD"). The Amendment contemplates a reduction of fees for CSCD, but does not provide an additional funding source to supervise the offenders not paying the monthly probation fee. This lack of funding leads to my last point: does probation look different for indigent defendants?

If an indigent defendant is not paying fees, how will the court punish him? Will the indigent defendant receive an increase in community supervision hours while the non-indigent only has to write a check? Will the indigent defendant get prison offers at a higher rate than the non-indigent defendant? If an indigent person cannot pay for supervision, will the prosecutor offer probation and require CSCD to supervise the indigent for free? If indigent defendants are not receiving probation offers from the District Attorney's Office, will they request a jury trial just to receive probation, thus increasing the Court's trial docket?

In sum, these changes add significant personnel costs, additional court hearings and potentially different outcomes for indigent defendants. Therefore, we cannot support this Amendment. If the Committee has any questions, we welcome the opportunity to discuss our concerns.

Respectfully Submitted,

Elizabeth B. Leonard
Local Administrative District Judge
238th District Court

George D. "Jody" Gilles
142nd District Court Judge

David W. Lindemood
318th District Court Judge

Robin Malone Darr
385th District Court Judge

Rodney W. Satterwhite
441st District Court Judge

K. Kyle Peeler
County Court at Law #1

Marvin Moore
County Court at Law #2

Shelly Ortiz

From: Edward Salazar <esalazar@sanpatriciococscd.org>
Sent: Wednesday, July 27, 2016 1:55 PM
To: Scott Griffith
Subject: CIP
Attachments: PAC letter in opposition to CIP changes.pdf

Mr. Griffith,

I have attached a letter written by Arnold Patrick, Probation Advisory Council Chair. I want to inform that agree with the PAC and oppose this CIP effort as it does not provide us with the resources needed to implement this program.

Sincerely,

--
Edward Salazar, Director
San Patricio County CSCD
Aransas, Bee, Live Oak &
McMullen Counties
404 W. Market
Sinton, Texas 78387
(361) 364-4243 ext 229
Fax: (361) 364-5642

TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnold.patrick@hidalgocountytxcsd.org

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

July 21, 2016

Mr. Griffith,

The Probation Advisory Committee is appointed by the Judicial Advisory Council and represents 122 Community Supervision and Corrections Departments, all 254 counties in Texas are represented by this body and by unanimous vote, wish to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. Texas Judicial Council as posted in the July 1, 2016 Texas Register.

It is clear from the webinar conducted by the Office of Court Administration that less than half of the counties are affected by these new rules. Approximately 25% of the Counties in Texas are mandated to participate in the CIP and thus many will not feel compelled to voice concerns. Due to the fact that we represent all probation departments in Texas, many of which will be affected by these changes directly and the rest of which could be affected indirectly, we would like to point out that our concerns should be considered with the weight they deserve. We may be the only organization that has a direct interest on how these changes affect the entire state and not just the 25% affected directly.

The proposed rule changes make significant changes to the current Collections Improvement Program that will detrimentally affect local government, probation departments and state government. These detriments include an increase in needed personnel to local government, increased court hearings and court time as well as potential lost revenue to state government.

Under the proposed changes, program staff are required to obtain a signed statement from the defendant of their ability to pay the assessed costs, fines and fees under the imposed terms. Additional requirements are placed upon both the defendant and the program staff if the defendant is unable to make this acknowledgement. Then program staff are required to conduct interviews with defendants whom do not acknowledge that they have the ability to pay.

A referral back to court, which would require a hearing, is required for those that do not acknowledge their ability to pay. The analysis of the proposed amendment by the Office of Court Administration states that this is a new component and they have no way of assessing its impact or effectiveness.

The proposed changes require additional information and instructions be given in contacts with the defendants. The changes regarding Final Contact Attempt require that before reporting a case as non-compliant a final contact must be made by program staff in writing, by mail.

TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnold.patrick@hidalgocountycscd.org

These changes will undoubtedly require much more local program staff time to perform as required. This will increase the costs to local government. The requirement to obtain acknowledgement of ability to pay from defendant will result in additional resources being utilized by court and local program staff. The required hearings for those that are unwilling to sign the acknowledgement will increase the amount of time needed for a court to deal with many cases. In addition, these acknowledgements of ability to pay are treated as absolute. A defendant's ability to pay is not a stagnant factor. Many defendants come out of incarceration, treatment programs and other issues and are unable to bear the burden of the financial obligations out of court, however these issues are dynamic and change as the defendant progresses through the phases of re-integration and rehabilitation. Community Supervision and Corrections Departments have been addressing these issues with defendants from the beginning and are much better equipped and qualified to make these types of determinations. We would beg caution in making such significant and far reaching changes without further investigation on the impacts it will make on defendants, local and state government.

Sincerely,

Arnold Patrick

TODD M. WINSLOW
Director

UVALDE & REAL COUNTIES
112 E. North St
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38th JUDICIAL DISTRICT

Community Supervision
& Corrections Department

MEDINA COUNTY
761 Avenue Y
Hondo, Texas 78861
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Fax (830) 426-8158

July 27, 2016

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Mr. Griffith,

I am writing to echo the concerns and opposition to the proposed rule changes for the Collections Improvement Program previously submitted by the Probation Advisory Committee. It is my opinion that the proposed changes will create an increased burden (personnel, time and lost revenue) to probation departments and to local and state government.

The proposed changes will result in the need for more staff and will increase cost to which ever entity is collecting fees (probation or local government). The acknowledgements of ability to pay are in my opinion unnecessary. Community Supervision and Corrections Departments have been addressing defendant's ability to pay, and can monitor the changes in ability to pay over the term of probation. Our department does not seek incarceration for defendant's whose sole violation is the non-payment of fees. We work with defendant's on obtaining employment, and utilize administrative and compliance hearings to address issues of non-payment. Ultimately, the Court makes the determination of whether a defendant is indigent or intentionally avoiding payment with the financial ability to do so.

I respectfully request and recommend further investigation into how these significant changes will impact all involved.

Sincerely,

Todd Winslow
Director 38th Judicial District CSCD

Shelly Ortiz

From: Lindberg, Melissa <Melissa.Lindberg@abilenetx.com>
Sent: Wednesday, July 27, 2016 12:33 PM
To: Scott Griffith
Subject: Proposed changes to CIP

Importance: High

Scott,

After reviewing the documents regarding the proposed changes to the rules for the CIP program, the judge and I have the following questions/comments:

1. Because it appears there will be an increased workload for the judges, does the State plan to fund the additional judges which will be necessary to carry out the provisions of this proposal?
2. These proposed changes appear to eliminate the deterrent effect of fines and effectively encourage recidivism.
3. It is likely that courts will experience increased costs for additional staffing, postage and printing needs based on the requirements of the proposed changes.
4. Lastly, are there any provisions for penalties to defendants who fail to provide accurate information to the court with regard to their financial status and ability to take care of outstanding fines without undue hardship?

Thank you for your time.

Melissa A. Lindberg, CMCC, CPM
Court Administrator
Abilene Municipal Court
Ph: (325)676-6303
Fax: (325)676-6286

Shelly Ortiz

From: Dean Armstrong <ldarmstrong@co.hood.tx.us>
Sent: Wednesday, July 27, 2016 10:00 AM
To: Scott Griffith
Cc: Cynthia Montes
Subject: Proposed Rules Changes to Collection Improvement Program.....AGAINST

The proposed changes to the rules would create a hardship on the courts and clerk's office having to implement these changes. We are a small county barely over the 50k population limit. Having to bring cases back before the judge because of the defendant not being able to pay the amounts after they already agreed that they could indeed pay those amounts in the plea bargain they accepted is a redundant process that will just keep us going in loops.

Currently if a defendant cannot pay, our CSCD determines if the defendant is eligible for Community Service in lieu of a portion or all of their fine and order is sent to our judge for approval or non approval. He is presented the facts without having a hearing on a case by case basis done by our CSCD.
I have to be honest. My belief is that if you make it mandatory that after X amount of days late, then a Capias Pro Fine is issued, we don't need all this nonsense. With a Capias Pro Fine, the pay it or lay it out. If they can afford to pay the monies they get out of jail. If the can't, they can request an indigency hearing and have their costs waived or laid out in jail.
These proposed rules changes are the complete opposite from the current rules of collect, collect, collect. Does this mean that the current rules have no merit and don't work? I don't understand all this red tape tying our hands while trying to do our job. This office has always had a voluntary collection program that we feel worked.

--

Dean Armstrong
Chief Deputy
Hood County Clerk's Office
817-579-3222 ext 5620
email: ldarmstrong@co.hood.tx.us
website: http://tx-hoodcounty.civicplus.com/index.aspx?nid=211

Shelly Ortiz

rom: bendiaz@nts-online.net
Sent: Wednesday, July 27, 2016 9:04 AM
To: Scott Griffith
Subject: Collections Improvement Program proposed changes

Mr. Griffith

My name is Benjamin Diaz, and I am the Director of the Lamb County Community Supervision and Corrections Department. I am writing you today to say that I **oppose** the rule changes to for Chapter 175 under Part 8. These changes will have a negative impact on most CSCD's across our state. I honestly cannot remember the last time we have revoked and incarcerated a person on community supervision solely because they have failed to pay fees.

I am in not in the business of sending folks to jail because they are too poor to pay fees, and I think most CSCD's around the state would agree. We work with our probationers to seek employment and improve their financial situation first and foremost.

Thank you for your time.

Benjamin J Diaz
Director
Lamb County CSCD
100 – 6th Drive, Rm 209
Littlefield, TX 79339
Phone (806) 385-4222 ext. 246
Fax (806) 385-3273

Shelly Ortiz

From: Wes Criddle <wcriddle@mywoodcounty.com>
Sent: Wednesday, July 27, 2016 8:34 AM
To: Scott Griffith
Subject: CIP Changes

Mr. Griffith,
Too many times, I see legislation passed that affects a lot of people and the ones who are never asked if the changes are good or bad, are the ones who are the most affected by the changes. I think it would be wise for the committees and legislators to contact the people affected by the changes. No one seems to take into consideration that there are many budget constraints that are never taken into consideration before enacting these changes. Many of us are locked in with limited number of staff who are taxed with duties beyond their hired positions and legislation forces more work to be placed on our offices and no consideration is given to this idea.
I understand that someone has a great idea to do something and it sounds simple enough when first passed, but then legislators have to pay someone to watch the ones in the jobs created for this legislation and then someone is needed to be hired to watch the ones watching the ones fulfilling the changes and then there are more hired to watch the watchers watching the workers....it never ends and the citizens are being taxed more and more to pay for these new positions and yet the ones for whom this legislation is piled upon gets no relief.
Sit down with the people who do the jobs and talk to them about your ideas before enacting new legislation.
As ones charged with the collection of the monies for the state and counties, you hamstring us and then give us legislation that really is next to impossible to complete. We are elected by the people to do a job and if we do not do the job then we will be unseated by the people. Legislation is going to continue until there are no fines or fees collected and yet there will be a tremendous paper trail to prove that we have been legislated out of a job as well as yourselves.
Thank you for your time and consideration in this matter.
Sincerely,

Wesley M. Criddle,

Wood County
Justice of the Peace, Pct. 2
716 North Greenville Highway
Post Office Box 325)
Mineola, Texas 75773
(903) 569-3802 (office)
(903) 569-6270 (Facsimile)
wcriddle@co.wood.tx.us

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Shelly Ortiz

From: Steven Cherry <Sdcherry@GPTX.org>
Sent: Tuesday, July 26, 2016 5:07 PM
To: Scott Griffith
Subject: Proposed Changes

Mr. Griffith,

I hope there is still time to address the proposed changes. First of all, this seems to contradict the whole collections program. I understand that there is a need for indigent hearings and we have already seen an increase in the amount of those, but a constant reminder is going to create a nightmare for courts. I feel that a defendant that was going to make their monthly payment may elect to bypass that by requesting community service and treat that as a form of an extension.
We as well, have the ability to accept pleas and establish payment plans without the defendant seeing the judge. I can see an increase in courtroom time for judges and clerks with the amount of defendants that might explore the indigent process. I am sure that most courts have a process in place to deal with indigent defendants, but I don't know if we are prepared for the impact this might have if we continue to advertise it for delinquent payments.

Steven Cherry
Court Services Director
City of Grand Prairie

Shelly Ortiz

From: Mitch Shamburger <MShamburger@smith-county.com>
Sent: Tuesday, July 26, 2016 4:05 PM
To: Scott Griffith
Subject: CIP rule change

This is FYI and does not have to go any further...I really hesitate to press the send button, but several other judges have expressed the same sentiment and are smart enough to keep their mouth shut!
Just blowing off steam.

From a Justice Court / Municipal Court Judge

If you created the proposed CIP flowchart it might make since.
Looking at it from the outside shows it is complicated.
But, I believe that is the way you like it.
M
Defendants are referred to as customers? A customer shops because they want to. A defendants goes to court because they have to. A customer can walk out when he wants to. A defendant may not... unless he is indigent.

After reading the proposal I am convinced OCA or the Judicial Council would like to take over my court or at least dictate what my clerks do with their time. Collections is only a part of what we do.
With a staff already spending much of their time entering data to generate OCA reports you are now "requiring" the courts to do additional work and reporting. Time they used to spend sending late notices and contacting defendants.

If we operated like a bank it would have some merit. If the defendants were coming in and applying for a loan to pay their fine it could work. However, the person traveling through Winona, Texas who lives in New Jersey, will probably do his business by phone mail and maybe internet. And, if he does not take care of business we can suspend his Driver License until he does. (something we cannot do with Texas drivers.)

The idea that everyone should be considered indigent is absurd and guts the already weaken position of the courts. Add the vagueness of "undue hardship" and expanding it to dependents? I wait for the defendant to claim, "I am already behind on child support and paying this fine will take food out of my third wife's baby."

How about letting them pay fines with their Texas Star card along with food stamps.

Mitch

To: Scott Griffith
From: The District and County Court at Law Judges in Brazos County
Re: Proposed Changes in the Collections Improvement Program
Date: July 25, 2016

We were recently informed by the head of our Collections Department of the proposed rule changes to the Collections Improvement Program. Although the changes proposed would affect all criminal courts in the state, the CIP Rules Advisory Committee did not have a single county court at law or district judge on it. Not surprisingly, the changes in the CIP are geared more toward the operation of a class C court, but would significantly impact all criminal trial courts in the state. Here are some of our concerns after speaking with our collections director and criminal associate court judge:

* One of the proposed changes would have a defendant, after going in front of the judge, go down to the collections department to then confirm with collections that the moneys owed can be paid without undue hardship. If the defendant then tells the collections department that they can't pay the money assessed, the defendant has to be brought back in front of the judge. On a regular docket day for us, 99% cases resolved would be due to a plea bargain where the defendant had input into the agreement reached. Our prosecutors routinely make 3 different offers for different combinations of fines and jail time and of course, the defendant can plead not guilty. If the defendant could not complete the terms of the agreement, he/she should not have represented to a judge that they could by accepting the state's plea bargain.

This is also a logistical concern. For example, after the afternoon docket, a defendant goes to collections. Once in collections, the defendant says the payment of moneys owed would be an undue hardship. The collections department would then have to take the person back up to the court to see the judge. By the time all of this occurs, it may be after 5pm and the court may be gone for the day. Again, this is a logistical problem for County Courts at Law and District Courts that JP and municipal courts may not be encountering due to the procedural differences of the courts.

* The "contact information" collected by collections department would no longer include defendant's employment information or their spouse's employment information. While

collecting the information doesn't appear to be strictly prohibited, the fact that language regarding the employment information is being removed from the current language is telling.

* The definition of "household income" only includes the defendant and a spouse. It needs to include any income from anyone in that household. As we all know, many people live together without being married. Further, this would more closely compare to the order adopted by the Supreme Court in civil cases as of May 16, 2016 by Misc. Docket No. 16-9056.

* The definition of what is discretionary income would allow expenses that are purely discretionary to be considered "required" and therefore, not discretionary. Here is the proposed definition:

> *"Discretionary income" means the amount of a household's net (after-tax) income minus the amount of all required payments and the cost of items that are essential for the defendant and the defendant's dependents. Required payments are those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to,* ***loan, credit card, and car*** *and health insurance* ***payments****; court mandated payments, such as child support and victim restitution payments; and fees for drug testing, rehabilitation programs, and community supervision. Items that are essential for a defendant and the defendant's dependents are those which are necessary to ensure the well-being of the defendant and defendant's dependents, including, but not limited to, transportation, food, medicine and medical services or supplies, housing, child care, and clothing.*

Under this definition, as long as a defendant pays for cigarettes, alcohol, cell phone bills, hair and nail appointments, movies, meals out, vacations etc. by credit card, they are not using discretionary income?

Also, there is also no reasonableness built into the determination of discretionary income. For example, a defendant could have a vehicle payment of $900 or more when there are obviously less expensive alternatives for transportation. We completely agree that we don't want people to lose their house and want them to be able to feed, clothe and provide for their families, but this definition is just ridiculous.

Further, the collections department would only be allowed to collect a maximum of 20% of a defendant's discretionary income. Why only 20% of discretionary income? This may work in class C cases where fines are generally $500 or less, however, with potential restitution and fines in CCLs and District Courts being in the thousands or more, this is not workable and could extend payment plans for years.

* These proposed changes may create more MTR's and MTP's for non-payment which would ultimately hurt the defendant and could increase the number of convictions. This is a very negative, unintended consequence of these changes.

These changes may work fine for the courts that hear exclusively class C misdemeanors, but are not workable for courts hearing criminal cases with much higher financial stakes involved. The simplest solutions would be for the changes to apply to municipal and JP cases only and not to county court at law and district court cases at least until these trial courts have some input. Another simple solution would be for plea bargained cases to be exempted from these rule changes. To be clear, we do not propose to take away a person's ability to request modifications in payment plans, the ability to request community service be performed in lieu of payment, nor waiver of moneys in appropriate cases under the current rules. We are concerned that these changes unnecessarily tie the hands of our collections departments from the start. For these reasons, we oppose the proposed changes to the Collections Improvement Program.

Respectfully,

Steve Smith, Judge 361st District Court

Travis Bryan, III, Judge 272nd District Court

Kyle Hawthorne, Judge 85th District Court

Amanda Matzke, Judge County Court at Law #1

Jim Locke, Judge County Court at Law #2

Shelly Ortiz

rom: Karen Alexander <KarenA@johnsoncountytx.org>
Sent: Tuesday, July 26, 2016 1:47 PM
To: Scott Griffith
Subject: Proposed Amendments - against

At this time if a defendant fails to pay according to his payment plan he is contacted and if he can show that his financial circumstances have changed to the extent that his ability to pay is affected then we require proof of that change and re-evaluate the current payment plan including giving the opportunity to perform community service. This is usually accomplished without requiring an additional hearing and only requires a judge's signature on an order we generate. The proposed revisions seem very cumbersome without really accomplishing any more. If the required fees and fines are too easily paid by the defendant where is the punishment and the incentive to not continue the behavior that brought him before the court in the first place?

Karen Alexander
Chief Deputy – Court Section
Johnson County Clerk
817-556-6324
karena@johnsoncountytx.org

Shelly Ortiz

rom: Dawn Cole <dcole@randallcounty.org>
Sent: Tuesday, July 26, 2016 1:25 PM
To: Scott Griffith
Subject: NEW RULES AND REPEALS OF CIP

Scott,

Against the new rules and repeals of CIP.

Dawn R. Cole
Randall County Judicial Enforcement
2309 Russell Long Blvd Ste 134
Canyon, TX 79015
806-468-5560
806-468-5512

Shelly Ortiz

From: John Kelley <john.kelley@co.morris.tx.us>
Sent: Tuesday, July 26, 2016 11:54 AM
To: Scott Griffith
Cc: Arnold Patrick
Subject: Probation Advisory Committee letter dated July 21, 2016; re CIP

Greetings Mr Griffith,
Just a short line to voice my endorsement of Mr Patrick's letter regarding proposed rule changes to the Collections Improvement Program.
Although Morris County is small and not mandated to participate in the CIP, I am apprehensive that all CSCD's, large or small, would be affected if this change is adopted, and not necessarily for only reasons stated in the letter. Offering probationers an "opportunity" to be exempt from partial or all fees plays right into the hands of many, if not most, of our clientele who study ways to beat the system, and will go the limit to that end.
I know, as I am sure you know, that members of the criminal culture feed off each other's experiences. With the changes, soon all will know it won't cost them anything to take a shot at not having to pay court-ordered fees which keep our system operational. The majority of CSCD "Basic" funding comes from the court-ordered fee collections. Revenue from fines and costs is a major contributor to the funding for county and district.
To maintain a workforce of educated staff, salaries must (at least) keep up with annual cost-of-living increases. Without an increase in state funding and with a decrease in fee collection that is certain to happen with adoption of the proposed changes to CIP; well, the negative impact on state, local and CSCD is obvious. CSCD loses personnel, supervision becomes less effective, and local crime becomes a major issue of the state again as it was a few years back when the costly prisons were numerous and over-crowded. By the way, probationers are not sent to prison just because they cannot pay their fees. By the end of term, the officer knows the client well enough to know his/her potential ability to comply financially. Probation, the court and the client will work out a reasonable resolution.
As mentioned in Mr Patrick's letter, most probationers start out having a difficult time fitting fee payments into their budgets, but in time they usually find a way to pay in full. ***Giving them an up-front chance for exemption encompasses extra work and costs as mentioned in the letter, and also the potential to wreck the CSCD budget.***
In closing, and in stride with Mr Patrick's letter, please be cautious "in making such significant and far reaching changes without further investigation on the impacts it will make on defendants, local and state government".

Sincerely,

John Kelley, Director
76th and 276th Judicial District CSCD
Morris, Camp and Titus Counties
903-645-3166

This email is free from viruses and malware because avast! Antivirus protection is active.

Shelly Ortiz

rom:	Ladonna Jones <Ladonnaj@co.harrison.tx.us>
Sent:	Tuesday, July 26, 2016 10:06 AM
To:	Scott Griffith
Cc:	Michael C. Graff; Hugh Taylor; Jamie Smith; Sherry Rushing; Brad Morin; Joe Black; Megan Pinson; 'Clarice Watkins'; Michael Smith; Nancy George
Subject:	proposed changes to the Collection Improvement Program

Mr. Griffith:

I am opposed to the proposed changes to the Collection Improvement Program for several reasons.

1. The proposed rules will add to an already tremendous work load on the collection and court staff of the counties and cities involved.
2. They will affect ONLY the counties and cities required to participate in the Collection Improvement Program and will impose an unfair financial burden on said entities.
3. The rules will give some defendants a "way out" of accountability for violations of the law thus reducing the integrity of our court systems.
4. And the proposed rules will most certainly add to the increasing financial burden of law abiding taxpayers in funding our court systems and local governments.

Ladonna Jones
Fine Collections Manager (and Taxpayer)
Harrison County
200 W Houston, Room 318
Marshall, TX 75670

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Shelly Ortiz

From: Hugh Taylor <Hugh@co.harrison.tx.us>
Sent: Tuesday, July 26, 2016 9:28 AM
To: Scott Griffith
Subject: CIP Rule changes

Mr. Griffith,

I am opposed the changes in the CIP for a number of reasons. As a former JP, I was involved in the implementation of the original plan in Harrison County. My impression of the new proposal is that our staff will be burdened with a case load that is impossible to administer. Our budget constraints are no different than other counties. To add staff for this administration will be a drag on high priority needs such as deputy pay and road repair. Our plan works for the intended purpose at the present time.

Hugh Taylor / Harrison County, Texas/ #1 Peter Whetstone Square, Room 314/ Marshall, Texas 75670
Harrison County Judge /Twitter @harrisonjudge /Website www.harrisoncountytexas.org

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Shelly Ortiz

From: Raul <raul.santillan@co.winkler.tx.us>
Sent: Monday, July 25, 2016 10:49 PM
To: Scott Griffith
Subject: CIP

Mr. Griffith,

Just wanted to let you know that the Winkler County CSCD opposes any changes to the CIP.

Raul Santillan, Director
109th Judicial District
Winkler County CSCD

Shelly Ortiz

From: John Choate <jchoate@271stprobation-tx.us>
Sent: Monday, July 25, 2016 4:04 PM
To: Scott Griffith

I would like to state my opposition to the CIP (collection improvement program) rule changes. The changes will have a negative impact on courts and the state as a whole.

John Choate
Director
271st Judicial District CSCD
Jack and Wise Counties

Sent via the Samsung Galaxy S®6 active, an AT&T 4G LTE smartphone

Shelly Ortiz

From: Katherine Sadau <ksadau@moore-tx.com>
Sent: Monday, July 25, 2016 3:58 PM
To: Scott Griffith
Subject: Opposition

Mr. Griffith:

Re: OCA Rule Changes

I would like to voice my opposition to the rule change to the CIP, Collection Improvement Program.

Thank you.

Katherine Sadau, Director
69th Judicial District CSCD
Moore, Dallam, Hartley, and Sherman Counties

MARY ALDOUS
First Assistant

TRAVIS TOWNSEND
Chief - Criminal Division

RAETHELLA JONES
Chief - Civil Division

VICKI KRAMER
Chief Investigator

JERI YENNE

CRIMINAL DISTRICT ATTORNEY
BRAZORIA COUNTY

July 25, 2016

Via Electronic Mail: scott.griffith@txcourts.gov
Via Certified Mail, Return Receipt Requested
Scott Griffith
State Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066

RE: Texas Judicial Council Proposed Repeal and Implementation of New Collection Improvement Program Rules
Public Comments on behalf of Brazoria County, Texas

Dear Mr. Griffith,

Please find below comments submitted on behalf of Brazoria County, Texas (the "County") regarding the Texas Judicial Council's proposed repeal and replacement Texas Administrative Code title 1, chapter 175. Brazoria County has five district courts and four county courts at law. A collections program overseen by the Brazoria County Clerk manages collections compliance efforts on behalf of these courts. In addition, Brazoria County has eight justice of the peace courts. Each justice of the peace court independently manages its collections.

The County's comments reference several areas in which the proposed rules effectively supersede courts' authority in adjudicating cases and place an undue burden on courts and local programs' ability to efficiently manage cases. The County urges the Texas Judicial Council to reconsider the proposed revisions, which will have an unwarranted negative impact on judicial authority and efficient case management, and place a significant financial burden on counties similar to Brazoria County.

I. Several Proposed Rules Diminish Judges' Legal Authority and Discretion.

The proposed rules state in several areas that they do not intend to limit, influence, or bind courts' authority or discretion. Despite these assurances, the proposed rules, when considered along with their practical impact on courts, will have this outcome.

Proposed Sections 175.3(a)(3) and (6) provide an example where the proposed rules have this effect. Under the current rules, a judge may discuss with a defendant his or her payment ability information, take into consideration potential financial hardships, and order a tailored payment plan based on the circumstances of the case and information received directly from the defendant

concerning his or her financial situation. When a defendant is before the court, the judge may inquire into any payment ability issues at that time, and the defendant may raise any concerns. After the judge orders a payment plan, the defendant's contact information is verified, the defendant is interviewed to review the plan, and the defendant begins making payments. In the alternative, the defendant may provide his or her payment ability information to the local program, which will formulate a plan that must yield to the defendant's income and debt and payment obligations. In the event the local program sets the payment plan, it "require[s] payment in full 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." 1 TEX. ADMIN. CODE § 175.3(c)(4)(B) (emphasis added). The current rules are drafted to ensure defendants are not unfairly ordered to pay fees, fines, or costs, while recognizing the need to effectively manage cases.

In the event a judge sets a payment plan under the proposed rules, the local program must refer the defendant back to court if the defendant represents after appearing before the judge that the court-ordered payment plan would be an "undue hardship." This proposed change is one example of an unnecessary procedure that will force defendants to return to court to discuss the same information that, under the current rules, is already addressed with the court. Prior to the defendant interacting with the program staff, the defendant has appeared before the court, the court has considered the circumstances of the case (including the defendant's financial situation), and the court has issued an order. Nevertheless, the proposed rules require that program staff and the court go through this process again, and if the defendant makes a representation that differs from that made to the court or is unsatisfied with the court's initial order, the rules require the court to reconsider its order. This procedure (1) creates unwarranted, repetitive, and costly work for program staff, (2) slows down the court, and (3) discourages courts from ordering the payment of fees, fines, and costs. The unavoidable consequence of these changes is that courts and local programs will be forced at the outset to provide defendants with payment plans that comply solely with the defendant's desires, and not plans that the court deems the most appropriate or efficient, in order to avoid overwhelming the court. While going out of their way to state repeatedly that they do not hinder a judge's authority and discretion, the proposed rules are clearly written to have that effect.

The proposed rules under Section 175.3(a)(6) require local program staff to refer a defendant back to court if, while collecting information to establish a payment plan, the defendant indicates that he or she would suffer an undue hardship by paying the costs, fees, and fines. The current rules *require* local programs establish plans that defendants can "successfully" complete and *must* into consideration the defendant's "ability to pay" and other existing payment obligations. 1 TEX. ADMIN. CODE § 175.3(c)(4)(B). In other words, a local program currently violates Chapter 175 by setting up a payment plan with which a defendant cannot comply. Further, in the event the defendant's situation changes and he or she cannot comply, the defendant may request at any time a different plan or non-monetary compliance options from the local program or court.

A further example can be found in proposed Section 175.3(a)(10), which mandates a final contact attempt be made before a case may be reported to the court as non-compliant. The proposed rule states that it does not "interfere or alter the judge's authority to adjudicate a case for non-compliance at any time." However, the rule clearly prohibits a court from requiring or requesting a local program report cases in which defendants have failed to make payments after receiving notice of past-due payments under Sections 175.3(a)(8) and (9). In other words, the rule expressly purports to not strip courts of their authority to take action based on non-payment, but disallows a court from even receiving notification of such nonpayment. This revision presents another example where the intent of the rule revisions is evident in their practical impact—the minimization of courts' authority to oversee cases.

II. The Proposed Rules are Contradictory as to Court Referrals.

Proposed Section 175.3(a)(6) is contradictory as to which cases must be referred to court based on an indication of an "undue hardship." Proposed Section 175.3(a)(6)(A) states the following:

> If a defendant interview or other information collected by local program staff indicates that the defendant **may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship** to the defendant or the defendant's dependents, or that the defendant **may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship** to the defendant or the defendant's dependents, local program staff ***must refer the case to the court*** for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate.

Proposed Section 175.3(a)(6)(C), however, provides the following:

> Local program staff ***may refer to the court*** cases in which the defendant is not presumed to be unable to pay under §175.3(a)(6)(B) but that local program staff have received information indicating that the defendant **may not have the ability to pay the costs, fees, and fines assessed by the judge without undue hardship** to the defendant or the defendant's dependents or **may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship** to the defendant or the defendant's dependents.

The proposed rules state that a local program both "must" and "may" refer back to court any defendant who indicates that he or she is unable to pay due to an "undue hardship."[1] The County requests that this ambiguity be clarified so that local programs, at a minimum, not be required to refer a defendant to court unless some discernible criteria is met. The term "undue hardship" is not defined, and the rules provide no clarification as to what this means. A local program would

[1] Proposed Section 175.3(a)(6)(B) lists scenarios where a defendant is presumed unable to pay, but these criteria do not purport to address each situation where payment would cause an "undue hardship."

not be able to comply with a compulsory rule, as the proposed rules provide no guidance as to the meaning of this term. In addition, any referral to court, whether permissive or mandatory, is unnecessary. Under the current rules, a defendant is interviewed by either the judge or local program staff, the defendant provides his or her payment ability information, and a payment plan "that the defendant can successfully make" is established based on the information provided by the defendant. Requiring that a defendant be automatically referred to court after establishing an achievable plan is unnecessary.

III. The Current Rules Comply with the Department of Justice's Requirements.

On March 14, 2016, the United States Department of Justice issued a letter listing seven constitutional principles to be considered in assessing and enforcing fines and fees. The current rules do not infringe upon any of these constitutional principles. Payment plans already must be established in a fashion that the defendant can successfully make payments. The current rules do not prohibit a defendant from requesting a hearing at any time in the event his or her financial situation changes, including the reconsideration of the payment plan or a request for a non-monetary option due to inability to pay. The current rules provide for multiple contacts regarding nonpayment be made before the defendant may be arrested. Courts currently are not limited on alternatives to incarceration in the event that a defendant does not comply with a payment plan. The County's collections programs operated under the current rules comply with each of the principles listed in the Department of Justice's letter. As such, the proposed repeal and replacement of Chapter 175 is unwarranted.

IV. The Proposed Rules Place an Undue Burden on Local Government and Indigent Defendants.

The proposed rules will undoubtedly hinder the courts' efficiency and authority in managing cases, but they will also place unnecessary financial burdens on the County. The proposed rules' fiscal note states that "[t]he actual cost of complying with the new rules will vary depending on counties' and municipalities' current operations and systems. However, OCA does not anticipate that the cost will be significant." For Brazoria County, the proposed rules will come at a substantial cost to the County. As is stated above, the County has nine independent offices that collect for courts within the County. Of course, each of these local programs will face significant initial costs in implementing new rules. However, the fiscal note incorrectly suggests that the financial impact is limited to these initial costs. In Brazoria County, employees perform many of the tasks that the fiscal note downplays as performed by "notification systems" and "programming." The proposed rules add numerous procedures (which often must be repeated) to a system that already involves much documentation, interviews, phone calls, mailings, notifications, and reporting for each case. One need only compare the Office of Court Administration's current and proposed flowcharts to visualize the exponential growth of tasks for program staff, as well as the circular process that is facilitated by encouraging courts to repeatedly hold hearings on referrals from the local program.

In addition to the increased burdens on local government, the proposed rules increase the number of times defendants must travel to and appear in court. By creating a system where defendants

may potentially return to court a number of times throughout a case, the proposed rules will unduly burden indigent defendants who must travel to and appear in court in lieu of other necessary obligations.

V. Implementation of Rules Unfairly Impacts Counties Subject to Follow-Up Audits.

Earlier this month, Brazoria County submitted to OCA auditors a declaration of compliance to permit OCA to perform a follow-up audit of the County's programs. According to OCA, the audit cannot be performed until January 2017, at the earliest. Depending on the approval and enactment of proposed rule changes, Brazoria County may face the prospect of implementing changes in response to new rules *and* being subject to a follow-up audit. In the event changes to the rules are approved, Brazoria County should not be subject to a follow-up audit that evaluates compliance with the new rules.

Sincerely,

Jeri Yenne
Criminal District Attorney
Brazoria County, Texas

Shelly Ortiz

From: BCDJ-Addison, Jeff <addison@txkusa.org>
Sent: Monday, July 25, 2016 2:01 PM
To: Scott Griffith
Subject: CIP changes

I have looked through the proposed changes and I cannot support the proposed changes.

Thanks,

Jeff M. Addison
Judge
County Court at Law
Bowie County, Texas

Shelly Ortiz

From: Scott Griffith
Sent: Thursday, July 28, 2016 1:37 PM
To: Shelly Ortiz
Subject: FW: Collection Improvement Program

For the binders.

Scott

From: Dale Rush [mailto:drush@srcaccess.net]
Sent: Thursday, July 28, 2016 1:36 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Collection Improvement Program

I want to voice my opposition to the proposed rule changes for Chapter 175 Collections Improvement Program under Part 8 Texas Judicial Council as posted in the July 1, 2016 Texas Register.

Dale Rush, Director
50th Judicial District
Community Supervision and Corrections Department
Serving Baylor, Knox, Cottle and King Counties

Shelly Ortiz

:om: Sherry Gilmore <gilmores@taylorcountytexas.org>
Sent: Thursday, July 28, 2016 1:55 PM
To: Scott Griffith
Subject: Changes to collection improvement

jp1-2@taylorcountytexas.org Against, no changes to system working

Shelly Ortiz

rom: Janie Farris <jfarris@co.walker.tx.us>
Sent: Thursday, July 28, 2016 1:54 PM
To: Scott Griffith
Subject: CIP Rule Revision 2016

Dear Mr. Griffith,

It is my intention for this email to be short and to the point. I do not need to reiterate information that you have and that has been provided to the Judges of this state concerning CIP.

The proposed Collection Improvement Plan will only make our jobs as Judges/Clerks/Court/Collection Department more difficult and complicate and confuse the general public who are trying to work within a system they already do not understand.

I appreciate the fact that those who **TRULY** do not have the ability to pay; not those who just **DO NOT CHOOSE** to pay, be given as much consideration as possible to take care of the consequences of their choices and decisions.

Making defendants appear in court, complete paperwork, sent to collections, collections having to send back to the courts, defendants having to re-appear, with no assurance that anything will be resolved. This is not just inconvenient, but is time-consuming and poor use of the limited resources that most courts experience. This new plan can only be seen as a dog chasing its tail ! Probably oversimplify, but true.

strongly urge all who are in the decision making position to reconsider, table, and further explore. I would hope that Judges and Clerks from all different size courts within the state be a part of this decision making process.

Respectfully submitted,

Janie H. Farris
Justice of the Peace, Pct. 1
Walker County
717 FM 2821 West, Suite 300
Huntsville, Texas 77320

936-436-4966

Shelly Ortiz

From: Allison Albritton <AAlbritton@smith-county.com>
Sent: Thursday, July 28, 2016 1:52 PM
To: Scott Griffith
Subject: Rule Changes

Please leave the rules as they are.

Thanks,

Allison Albritton
Smith County, JP5 Clerk
903-590-4895

Shelly Ortiz

From:	Scott Griffith
Sent:	Thursday, July 28, 2016 1:59 PM
To:	Shelly Ortiz
Subject:	FW: Issues With The Proposed CIP Rules
Attachments:	Issues with the proposed CIP Rules.pdf

For the binders

From: District Clerk [mailto:DClerk@TarrantCounty.com]
Sent: Thursday, July 28, 2016 12:48 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Cc: 'Cynthia.montes@txcourt.gov' <Cynthia.montes@txcourt.gov>; B. Glen Whitley <GWhitley@TarrantCounty.com>; Mark C. Mendez <MMendez@TarrantCounty.com>; Lynne Finley <lfinley@co.collin.tx.us>; Courts - Criminal District Judges <CriminalDistrictJudges@TarrantCounty.com>; Brent Carr <BACarr@TarrantCounty.com>; Doug Gowin <DKGowin@TarrantCounty.com>; Alisia C. Morris <ACMorris@TarrantCounty.com>
Subject: Issues With The Proposed CIP Rules

Mr. Griffith –

Please accept the attached comments from me on the proposed CIP Rules. We believe that there will be a significant drop in revenue from the current 3.2 million we collect on a yearly basis on felony cases. It has been proven over a multiyear period that criminal defendants can pay the amount assessed. We have a "financial unit" in Tarrant County who works for the judges that assesses the ability to pay early on a case and which is factored into the judicial decision of what fines to assess.

We hope that serious consideration will be given to leaving our current processes in place as they have worked well since we began the collection improvement program in 2007.

Regards,

Thomas A. Wilder
Tarrant County - District Clerk
100 N. Calhoun St., 2nd Floor
Fort Worth, TX 76196
817-212-7206
dclerk@tarrantcounty.com

Issues affecting the clerk with the new proposed CIP rules:

1. The new proposed rules will quickly decrease revenue for the county, by restricting the efforts of the collection officers.

2. Reviewing the TJCDIR list of committee members, it clearly shows an unfair representation, as there is not sufficient feedback from county and district courts. Changes are being considered without involvement from all parties that will be affected.

3. A signed statement (Ability Acknowledgment Form) will need to be obtained from the defendant as to whether they are able to pay the costs or if it will create an undue hardship for them. What will restrict an individual from stating that they cannot pay, when they actually can? Who will be responsible for creating the Acknowledgment Form – the clerk, court or OCA? Who will responsible for administering the form?

4. Extended payments and lowered payments will now allow a defendant to complete their probation and have a balance on their costs. The current goal is to have the defendant satisfy their debt before their probation is complete. This will create outstanding balances on the books.

5. Interviewing will become an extended process due to all the additional requirements. This will create a bottleneck for the judicial compliance officers.

6. At various stages of the collection process they have proposed that the individual can claim inability to pay and they have to be referred back to the court. This will create a hardship on the courts for the compliance officer to send the defendant back to the court.

7. The new rules also state the compliance officer can request a hearing to verify indigency status. This again will probably not be well received by the judges.

8. There are now presumed inability criteria that the clerk will probably have to determine. One being the determination as to whether the individual is below the Federal Poverty Guideline.

9. This set of rules will require more reporting. OCA will now want the number of cases that were referred back to the court.

Submitted by Tom Wilder, Tarrant County District Clerk
7/28/16

Shelly Ortiz

'om: Scott Griffith
ɔent: Thursday, July 28, 2016 2:41 PM
To: Shelly Ortiz
Subject: FW: Proposed CIP rules

For the binders.

From: SHARON GARDNER [mailto:jpnana51@yahoo.com]
Sent: Thursday, July 28, 2016 2:37 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed CIP rules

It is my opinion that any additional responsibilities given to the Courts is unnecessary. This is a Justice Court and most of our defendant's do not appear in person, they do not always give their current address and hardly ever give a phone number. They take care of their charges by mail, email, fax etc. This is a "fine" only court, so if the ability to collect a fine becomes impossible if it is a "undue hardship" then we are doing a lot of work for nothing as well as the complainant. I think we need to be reminded there is usually a choice whether a law is broken or not. Courts already have the ability to use their discretion on setting fines, allowing community service in special ɔituations. The State should not take away another opportunity for judges to use their "discretion."

Again, in a fine only Court and the convicted defendant never has to pay that fine, or do community service what is their punishment?

If you choose to adopt this program, please exclude Justice Courts.

Thank you for your time.
Sharon Gardner
Justice of the Peace, Nolan County

The DISTRICT and COUNTY COURT AT LAW of BOWIE COUNTY, TEXAS
710 James Bowie Dr.
New, Boston, Texas 75570

Mr. Scott Griffith
P. O. Box 12066
Austin, Texas 7811-2066
Re: Proposed changes to CIP provision of the Texas Administrative Code

Mr. Griffith:

After a close review of the proposed rule changes for the Collections Improvement Programs under T.A.C. Title 1, Part 8, Chapter 175, Subchapter A, by the Judiciary of Bowie County we unanimously oppose the proposed changes.

We join numerous other jurisdictions which have also expressed their opposition to the proposed changes. We would point out that these proposed changes would require more hearings before the courts not only increasing the burden on already tight dockets, but also increasing the strain on defendants resulting from more time off work or away from their families to repeatedly appear in court.

Our courts join in the objections made by other jurisdictions and caution that due to the far reaching and varied interpretations of the proposed changes, in particular where such changes could be applied to *all costs* resulting from a conviction, the potential for many unintended consequences appears to be a significant threat. We believe these proposed changes, as written, should be rejected and a more detailed analysis of the impact on the Courts already tight dockets, Community Supervision and Correction Departments, and local county finances be undertaken before further rule changes are proposed.

Bill Miller, Presiding Judge
5th Judicial District Court
Bowie and Cass Counties, Texas

Bobby Lockhart, Presiding Judge
102nd Judicial District Court,
Bowie and Red River Counties, Texas

Leon F. Pesek, Jr., Presiding Judge
202nd Judicial District Court
Bowie County, Texas

Jeff Addison, Presiding Judge
Bowie County Court at Law
Bowie County, Texas

Shelly Ortiz

rom: Scott Griffith
Sent: Thursday, July 28, 2016 3:59 PM
To: Shelly Ortiz
Subject: FW: Counties 50,000 or Over - Proposed Revisions to the Collection Improvement Program Rules

Importance: High

For the binders.

From: Teresa Kiel [mailto:tkiel@co.guadalupe.tx.us]
Sent: Thursday, July 28, 2016 3:44 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Cc: Nanette Forbes <NanetteF@county.org>
Subject: Counties 50,000 or Over - Proposed Revisions to the Collection Improvement Program Rules
Importance: High

Good afternoon Mr. Griffith,

Thank you for allowing us an opportunity to comment on the proposed rule change.

Let's hit the fiscal impact first. We predict revenues will drop dramatically because of the defendants' option to claim nability to pay' and receive community service instead; costs will increase because additional manpower will be needed for clerks to 'monitor' community service. Community Service is already being monitored by the Community Supervision and Corrections Department (CSCD/Probation), why do you intend to add these duties to the collections department? These changes will have a significant negative fiscal impact on local collection programs. In fact, this may force counties to create and fund separate collections departments for all courts. Most counties can't afford it today.

Referral to Court for Review – this is another item that should be a referral from the probation department and not the collections department. We are not responsible for supervising. It is important to note that Guadalupe County does not have a "collections department" per se; but rather each clerk's office is responsible for collections in the courts they serve. I understand how this could work if there were a designated collections department in every county; but remember, not every county can afford such.

We honestly believe the reason costs are not being collected is because the defendants simply choose NOT to pay. (They have other things they'd rather spend their money on.) The jewelry they wear, the cars they drive, the cell phones they carry indicate their ability to pay. Trust me, we see it every day.

We realize some of them have substance abuse problems, which affects their ability to make good decisions. The proposed changes aren't going to do anything about solving the underlying problems that produce these negative behaviors in the first place, they will simply leave more money in the defendants' pockets. Let's not forget: ***costs, fines and fees are NOT punishment unless they are collected.***

Adding the definition of discretionary income is critical but we believe setting payment amounts "not to exceed 20% of their discretionary income per month" is too generous. They will continue to use the rest for non-essential items rather han their "obligations". Can we shoot for 30% maybe?

The bottom line is: These proposed changes create more work for the local program staff with no authority to keep them compliant with their payment agreements. The tone we will be setting for them is..... if they owe money to the courts, they can get out of it at any time by saying it will be a hardship on them. We are planting the seed or even raining them to not take their consequences seriously, especially if we have to include alternative options in every phone call and every notice! This undermines the entire criminal justice system.

Again, we do not understand how this will not have a significant fiscal impact on both state and counties.

If they can claim a hardship, then they can avoid all consequences. Why even prosecute?

Thank you for your time and consideration.

Kindest regards,

Teresa Kiel
Teresa Kiel
Guadalupe County Clerk
Seguin, Texas
830-303-8859

Shelly Ortiz

From: Scott Griffith
Sent: Thursday, July 28, 2016 4:54 PM
To: Shelly Ortiz
Subject: FW: CONCERNS Re: "Proposed" Collection Improvement Program Changes

Importance: High

For the binders.

Thx

From: NBCH-Tutt, Cassey [mailto:Cassey.Tutt@txkusa.org]
Sent: Thursday, July 28, 2016 4:39 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: CONCERNS Re: "Proposed" Collection Improvement Program Changes
Importance: High

Mr. Griffith,

It is on behalf of the Bowie County Fines and Collections Department that I am writing today, to express our concerns and to oppose the "**Proposed**" changes to the Collections Improvement Program. After reading and rereading these "**Proposed**" changes, it is hard for us to understand, how the State could call these "**Proposed**" changes fair and just for all involved.

First, how can our Collections Department be expected to monitor a program, where there are so many steps to the process, that will not only cause confusion to the defendant but the staff as well?

*Starting with the Court, then to the Collections Department to pay, then back to the Court because of undue hardship, then back to Collections Department for community service conversion, then back to the court for non-compliance of community service plan, then back to Collections Department for revisions to the community service plan, then back to the court for repeat non-compliance.....

*Starting with the Court, then to the Collections Department to pay, payment plan is made, defendant makes payment, then the following month defendant informs that they've lost employment and request a hearing, then back to the Court because of undue hardship, then back to Collections Department for community service conversion, then back to the court non-compliance of community service plan, then back to Collections Department for revisions to the community service plan, then back to the court for repeat non-compliance.....

Confused yet? These are just a couple of scenarios and from someone that does this daily; believe me when I tell you, that there are more where those came from. There are so many gray areas and unanswered questions that, in our opinion, will lead to non-compliance from the very beginning.

The defendant does not go into a plea of guilty blindsided. He or she has spoken with the Court / District Attorney at some point to see what their options are. In that case, why would they enter a plea of guilt and accept the financial obligation of a fine and court cost assessment, knowing their own financial abilities?

Due to violation of privacy and HIPPA laws, how are we as a Collections Department supposed to verify some of the information that is requested in the **"Proposed"** area of "Presumption of Inability to Pay?" It is already a tedious process to obtain income/financial information from the Defendants. That being said, what are the consequences if the defendant fails to submit this requested information set forth in the **"Proposed"** changes so that the Court or Collections program can verify that there is in fact is an undue hardship?

"Household Income" Why not ask for the income of all that live in the home, and not just from the defendant and their spouse?

"Discretionary Income" In our opinion, this definition is ludicrous. If this definition is really what we have to base the findings on, then at least 95% of our defendants would have an undue hardship financially. When did Credit Cards become essential?

Due to these **"Proposed"** changes, an expansion in our community service program will be needed. Additional employees for the said program will be a foreseen problem with a decrease in county revenue.

At what point do we draw the line and stop coddling the defendant and start holding them accountable for their action of breaking the law? Why even have laws if we are just going to let them be broken without punishment. Where is the fairness and justice for the people that choose to obey the law? This all started with a choice.

Thank you for your time regarding this matter.

Cassey Tutt
Collections Specialist
Bowie County
Fines & Collection Dept.
(903) 628-6803

415TH DISTRICT COURT

Graham Quisenberry
Judge Presiding

Dawn Ryle, CCM
Court Coordinator ~ Civil
dawn.ryle@parkercountytx.com
(817) 598-6162

Sheila Scruggs, CCM
Court Coordinator ~ Criminal
sheila.scruggs@parkercountytx.com
(817) 598-6102

117 Fort Worth Highway
Weatherford, Texas 76086
Facsimile (817) 598-6161

July 28, 2016

Office of Court Administration
Attn: Mr. Scott Griffith
Box 12066
Austin, Texas 78711-2066

and via email to scott.griffith@txcourts.gov

Re: Chapter 175 -"Collection Improvement Program" proposed rules

Dear Mr. Griffith:

This letter is prompted by a notification received from my local chief of the Parker County Community Supervision and Corrections Department ("CSCD") that input is sought regarding the rules referenced above. Notwithstanding that I could write a virtual book about what is wrong with the proposal, let me simply state, "I object."

This exercise in bureaucratic overreach purportedly has its genesis in a U.S. Department of Justice ("DOJ") letter dated March 14, 2016 and Article 103.0033 of the Texas Code of Criminal Procedure. With respect to the state statute, it references a program to "...improve the collection of court costs, fees, and fines imposed in criminal cases..." while the DOJ letter essentially accuses "certain jurisdictions" of illegal activity. In that regard, this 9 page letter impugns the integrity of all courts and their supporting agencies while claiming that only "certain jurisdictions" offend. The irony is not lost on me that while the title of this federal department contains the word "justice", that same department effectively assumes that since a few are committing illegal acts, then all concerned must be guilty. While heretofore I have not been inclined to receive instruction from federal bureaucrats on what is just, I must now deal with such arriving on my front doorstep. This travesty apparently now produced the springboard upon which an agency of the State of Texas seeks to give us at the county level another dose of government from afar. We do not want it and more important, we do not need it.

I reviewed the "program provisions" to the point where I was almost totally confused, which did not take long. I also took a look at the "flow chart" provided with similar results. Is it not manifestly obvious

to you rule-makers that if you need a flow chart, then the rules themselves are confusing? Actually, the rules do not merit much discussion from my perspective since they simply are not needed in any form. This ruse is simply about the state getting its money largely at the expense of the localities. This is a bit ironic since the DOJ letter implies protection of those "in poverty" but, as mentioned, implies that I and my fine colleagues are crooks. The function of the DOJ is to prosecute those engaging in illegal activity, not lecture the law-abiding on what we might do in the future. If the DOJ is not prosecuting these alleged crimes, then I personally resent that, also.

The auditor from the Office of Court Administration was in our local CSCD office last week. According to your auditing standards, our results were perfect. Even so, you apparently now wish to fix what is not broken. Frankly, we in Parker County do a better job of providing justice, which can sometimes involve collecting money, than anyone with the DOJ or Office of Court Administration could hope to do.

One final point I would make is that the cost of implementing this program to all Texas taxpayers will exceed any "improvement" in collections. Those needing assistance in paying court-assessed amounts will actually be caught in yet another oppressive government program that claims to help, but really does not. I think I care more about these people than does anyone in Austin.

Sincerely,

Graham Quisenberry

P.S. I am enclosing a copy of Arnold Patrick's July 21 letter to you on the position of the Probation Advisory Committee. In light of past experience with these opportunities for public comment, I must confess I could not help thinking, as I read the letter, you really will not care what Mr. Patrick had to say and thus, will not give much consideration to my comments, either. If the spirit of justice is really our guide here, I expect you to take into account our comments and act on them.

TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnold.patrick@hidalgocountycsed.org

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

July 21, 2016

Mr. Griffith,

The Probation Advisory Committee is appointed by the Judicial Advisory Council and represents 122 Community Supervision and Corrections Departments, all 254 counties in Texas are represented by this body and by unanimous vote, wish to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. Texas Judicial Council as posted in the July 1, 2016 Texas Register.

It is clear from the webinar conducted by the Office of Court Administration that less than half of the counties are affected by these new rules. Approximately 25% of the Counties in Texas are mandated to participate in the CIP and thus many will not feel compelled to voice concerns. Due to the fact that we represent all probation departments in Texas, many of which will be affected by these changes directly and the rest of which could be affected indirectly, we would like to point out that our concerns should be considered with the weight they deserve. We may be the only organization that has a direct interest on how these changes affect the entire state and not just the 25% affected directly.

The proposed rule changes make significant changes to the current Collections Improvement Program that will detrimentally affect local government, probation departments and state government. These detriments include an increase in needed personnel to local government, increased court hearings and court time as well as potential lost revenue to state government.

Under the proposed changes, program staff are required to obtain a signed statement from the defendant of their ability to pay the assessed costs, fines and fees under the imposed terms. Additional requirements are placed upon both the defendant and the program staff if the defendant is unable to make this acknowledgement. Then program staff are required to conduct interviews with defendants whom do not acknowledge that they have the ability to pay.

A referral back to court, which would require a hearing, is required for those that do not acknowledge their ability to pay. The analysis of the proposed amendment by the Office of Court Administration states that this is a new component and they have no way of assessing its impact or effectiveness.

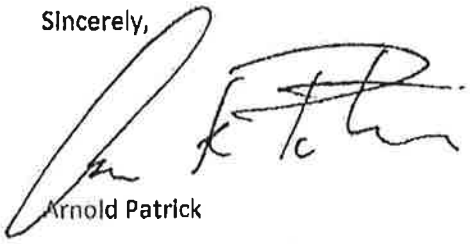
The proposed changes require additional information and instructions be given in contacts with the defendants. The changes regarding Final Contact Attempt require that before reporting a case as non-compliant a final contact must be made by program staff in writing, by mail.

TEXAS
Probation Advisory Committee

Arnold K. Patrick – PAC Chair
arnold.patrick@hidalgocountytxcsd.org

These changes will undoubtedly require much more local program staff time to perform as required. This will increase the costs to local government. The requirement to obtain acknowledgement of ability to pay from defendant will result in additional resources being utilized by court and local program staff. The required hearings for those that are unwilling to sign the acknowledgement will increase the amount of time needed for a court to deal with many cases. In addition, these acknowledgements of ability to pay are treated as absolute. A defendant's ability to pay is not a stagnant factor. Many defendants come out of incarceration, treatment programs and other issues and are unable to bear the burden of the financial obligations out of court, however these issues are dynamic and change as the defendant progresses through the phases of re-integration and rehabilitation. Community Supervision and Corrections Departments have been addressing these issues with defendants from the beginning and are much better equipped and qualified to make these types of determinations. We would beg caution in making such significant and far reaching changes without further investigation on the impacts it will make on defendants, local and state government.

Sincerely,



Arnold Patrick

Shelly Ortiz

From: Scott Griffith
Sent: Thursday, July 28, 2016 4:56 PM
To: Shelly Ortiz
Subject: FW: proposed collection improvement

For the binders.

Scott

From: Kathy Gwinn [mailto:kgwinn@co.hood.tx.us]
Sent: Thursday, July 28, 2016 4:55 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: proposed collection improvement

I am voicing my opinion **AGAINST** the revised Collection Improvement Program.
Our court utilizes our part-time clerk whose job is the Collection of fines due.
She spends approximately 25 hours a week making phone calls to defendants and mailed notices that payments are late.
Now we are a fairly small county and right now we have 45 payment plans in our files. Our office doesn't have the man-power to
spend any more time on payment plans and verify what you are asking the court to do. We work diligently with our defendants
but more often than not the defendants are not willing to work with the courts.
Example: Today I had show cause hearing for 20 defendants who are behind in their payments and/or they have not taken care of their
fine.We have mailed notices, called them if a phone number available and we receive either no answer, no e-mail to contact them and
courtesy notice comes back not deliverable as addressed or they ignore the mailed notice.
I had one (1) defendant show up and he has a job, but his hours have been cut back. I extended his payment plan and lowered his payments.
he still said to me " this is just throwing money away, I get nothing from paying this ticket" Imagine that statement ! I had 2 others show up and pay their
fines, they had forgotten about them. 2 defendants came in and made a small payment and worked out a payment plan. Now what about the other 15,
they didn't even show up to see how or if the court was willing to work with them. In other words, you can give them all these opportunities and
chances to make their payments or work with them, either community service or lower payments but you can't get them to
respond to your calls, e-mails or hearing notices.
The paper trail alone is mind-boggling much less the notes and phone calls that are generated because of this program already. All of this takes staff, time
and money yet these defendants are not paying. The courts spend more time and thus more money yet our collections are down. We spend anywhere from 30 mins to 1 hour with a defendant setting up a payment plan with us. These new regulations mean more time.
In addition to using one employee to work the payment plans now you are asking for **ANOTHER REPORT** be done to make sure we are implementing these

new regulations. When the local commissioners are asking us to generate more revenue by accessing more fines, yet our Federal Government is telling our
troopers that they must go to the border. Our ticket numbers are down, our revenue is down and the Texas Judicial Council and OCA want to continue to
push more regulation on the courts and for what? We work with these defendants every day, when they come in smoking and have a drug paraphernalia ticket and can't find a job well, "there's your sign".
I believe that to continue to implement more and more regulations on the court is the wrong direction. While the legislature is making more laws for us
to enforce and prosecute the Texas Judicial Council and OCA continue to cripple the courts by your constant "IMPROVEMENTS"
The defendants are the ones who have broke the laws and yet it is the courts that you continue to impose undue hardship on.
Thank you for your time.

--

Kathryn Gwinn
Justice of the Peace-Precinct 3
Hood County
5417 Acton Highway, Granbury, Tx. 76049
817-579-3202- office
817-296-9809-cell
kgwinn@co.hood.tx.us

CITY OF HOUSTON

Department Name

Sylvester Turner

Mayor

Barbra E. Hartle
Director and Presiding Judge
P.O. Box 1562
Houston, Texas 77251-1562

T. Dial 311
www.houstontx.gov

Mr. Scott Griffith
Director of Research & Court Services
Office of Court Administration
P.O. Box 12066
Austin Texas 78711-2066

Dear Mr. Griffith:

The City of Houston Municipal Courts Department (COH MCD) has read and reviewed the proposed changes to the new Chapter 175 under Texas Government Code Statute 71.019 and offers the following comments and questions regarding the rule changes.

- Will the Office of Court Administration (OCA) provide a standardized Ability Acknowledgement Form or will the courts be responsible for creating their own?

- Will the OCA provide standards as to how the court determines the defendant's discretionary income or will the courts be responsible for developing their own standards? Will the OCA also provide a standard form/formula/guidelines/ for courts to use to determine a person's inability to pay or will this also be the responsibility of the courts to make such determinations?

- The proposed rules would place unfunded mandates on the Courts by OCA to hire additional staff to accomplish OCA's goal of having dedicated programing staff in addition to the added costs to update existing computer technology and programing to accomplish the new rule changes.

- MCD believes the issuance of a citation to a driver for a traffic violation is the best tool to change the behavior of drivers to comply with traffic safety laws especially in large urban areas such Houston/Harris County. If drivers believe there will not be any consequence for their driving behavior, then Law Enforcement Officers may not write as many traffic citations which may lead to more accidents in areas that already have a high amount of traffic related accidents and fatalities.

We look forward to OCA clarifying and responding to some of our comments and questions in the near future. Please to do not hesitate to call me for any follow up questions or assistance as you prepare a new Chapter 175 of the Texas Administrative Code.

Council Members: Brenda Stardig Jerry Davis Ellen R Cohen Dwight A Boykins Dave Martin Steve Le Greg Travis Karla Cisneros
Robert Gallegos Mike Laster Larry V. Green Mike Knox David W. Robinson Michael Kubosh Amanda Edwards Jack Christie
Controller: Chris Brown

Sincerely,

Barbara E. Hartle
Director and Presiding Judge
City of Houston Municipal Courts Department

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 8:16 AM
To: Shelly Ortiz
Subject: FW: Personal Request to Table Collection Amendments - Gordon Starkenburg
Attachments: Gordon Starkenburg feedback to OCA proposed collections amendments 7-2016.pdf

For the binders.

From: Gordon Starkenburg [mailto:txjpstarky@me.com]
Sent: Thursday, July 28, 2016 9:48 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Cc: David Slayton <David.Slayton@txcourts.gov>; bgravell@wilco.org
Subject: Personal Request to Table Collection Amendments - Gordon Starkenburg

The attached request is based on my own personal thoughts. The goal to amend was merited but the product must be tabled.

Please review my own personal thoughts about the proposed collection program amendments.

- Gordon Starkenburg - Brazoria County Justice of the Peace.
832-858-8291

FYI - I do have personal history with the original SB 1863 in 2005 and the building of the collection program. Changes are eeded but the Legislators already set the intent that we can not change without a Legislative change.

Please table the proposed amendments for now - Thank You.

Regarding OCA Memo dated May 27,2016: Analysis of Proposed Amendments to Texas Administrative Code, Chapter 175, Collection Improvement Program.

I ask that the Proposed Amendments be tabled for at least the following two reasons:

1. The Primary Goal of the Collections Improvement Program is to give specific steps to the courts for the 'Improvement of the Collection' of Court Cost, Fees, and Fines imposed in specific Criminal Cases. That direction and authority is spelled out in CCP 103.0033(d)(1)&(2). As stated in CCP 103.0033, the program MUST focus on two components both dealing with collection improvement. The proposed 'amendments' change that focus without authority to do so. Since the creation of Chapter 175 based on SB 1863 (79th Session 2005), there have been three legislative changes. (HB 2949 82nd Session, SB 1 82nd Session, and SB 387 83rd Session). None of these legislative changes changed the focus or intent of the original bill. The proposed changes to Chapter 175 create a new primary goal and add components NOT authorized by the Legislature. I understand the goal of the proposed amendments but challenge the authority to modify the specific collection focus set by the Legislature.
2. Question of Equal Justice for ALL. The proposed amendments create a protected class. CCP 103.0033 limits the scope of Chapter 175 to counties based on population size. With the proposed changes, a 17-year-old High School student speeding in a school zone is automatically presumed to be unable to pay all the costs, fees, and fines assessed to the charge. In a county NOT under Chapter 175, a similar 17-year-old High School student would NOT be afforded that same 'presumed right'. I believe this unauthorized component violates the Constitutional right of Equal Justice for All. If

the goal of the proposed amendment is to modify 'Due Process' in the State of Texas, then we need to ask the Legislative Branch to review that process for the whole state.

Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) In this article:

(1) "Eligible case" means a criminal case in which the judgment has been entered by a trial court. The term does not include a criminal case in which a defendant has been placed on deferred disposition or has elected to take a driving safety course.

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

(3) "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies only to:

(1) a county with a population of 50,000 or greater; and

(2) a municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h)(2) or (h-1), each county and municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h)(1). A county program must include district, county, and justice courts.

(d) The program must consist of:

(1) a component that conforms with a model developed by the office and designed to improve in-house collections for eligible cases through the application of best practices; and

(2) 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 in accordance with Article 103.0031.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are able to implement a program before April 1 of the following year.

(f) The office shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(g) The office shall:

(1) make available on the office's Internet website requirements for a program; and

(2) assist counties and municipalities in implementing a program by providing training and consultation, except that the office may not provide employees for implementation of a program.

(h) The office may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

(h-1) The office shall grant a waiver to a county that:

(1) contains within its borders a correctional facility operated by or under contract with the Texas Department of Criminal Justice; and

(2) has a population of 50,000 or more only because the inmate population of all correctional facilities described by Subdivision (1) is included in that population.

(i) Each county and municipality shall at least annually submit to the office a written report that includes updated information regarding the program, as determined by the office. The report must be in a form approved by the office.

(j) The office shall periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 10.01, eff. August 29, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1171 (H.B. 2949), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 41.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 24 (S.B. 387), Sec. 1, eff. May 10, 2013.

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 9:29 AM
To: Shelly Ortiz
Subject: FW: Propesed Amendments to Texas Admin Code Chapter 175, Collection Improvement Program

For the binders.

Scott

From: RICHARD MANN [mailto:RICHARD.MANN@ectorcountytx.gov]
Sent: Friday, July 29, 2016 9:15 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Cc: STACY TROTTER <stacy.trotter@ectorcountytx.gov>; KIM ROGERS <KIM.ROGERS@ectorcountytx.gov>
Subject: Propesed Amendments to Texas Admin Code Chapter 175, Collection Improvement Program

Mr Griffith,

I wish to express concern and opposition to the proposed rule changes for Chapter 175. Collections Improvement Program under Part 8. These changes will require more local staff to perform the requirements and increase costs to our local counties. It will also add the need for more resources to be used by the courts and time for the courts to hear so many cases. The Community Supervision and Corrections Departments have already been dealing with indigent 'efendant and working with them for successful completion of probation without incarceration, with success. Thank you for hearing me on this matter.

Richard Mann
Director
Ector County Adult Probation
312 N. Texas
Odessa, TX 79761
(432) 498-4103
(432) 498-4392 (fax)
Richard.Mann@ectorcountytx.gov

Denton County

County Clerk

Juli Luke

Juli Luke
Denton County Courts Building
1450 E. McKinney, 1st Floor

(940)349-2012
Fax (940)349-2013
Juli.Luke@dentoncounty.com

July 27, 2016

Re: Proposed changes to the Collection Improvement Program

Mr. Griffith,

Thank you for allowing those counties that will be affected by the proposed change of rules to voice concerns and comments. These changes will have a huge impact on Denton County.

The proposed guideline provisions, Collection Improvement Program §175.3(a)(1) includes:

> ...the local program need not require 40 hours per week of an employee's time but must be a priority.

This discredits the amount of individuals in largely populated counties that will qualify for this program and the time it will entail to ensure compliance according to §175.5 Compliance Review Standards. This places an undue burden on counties and their ability to collect fees.

Additionally, §175.3(a)(6) staff must refer cases to the courts, which will now take them away from their duties to address each case qualifying for referral. As staff will be required by the Court to attend the hearings

determining indigence and provide the information as outlined in §175.3(a)(6)(A)(B)(C). Further, §175.3(a)(6)(E) states:

> None of these provisions should bind judges or influence judicial discretion…

While we agree the judge should make the final determination, this negates the time it takes collection staff to compile the required data to make the determination. Ultimately, too much is required.

Collection departments will be expected to continue with their current business practices but now compartmentalize a portion for those that qualify for such a program and follow alternative procedures. Directly affecting the business processes of a department and dismissively implying that it wouldn't require additional time to remain compliant is trivializing the duties of the staff.

While I have emphasized the effect on time this implementation would now take, this does not lessen the financial impact it will have on counties, due to significant loss of revenue. I am only addressing the issues that concern the county clerk's office, which oversees collections. The other departments and officials within this county should be consulted with regards to any required changes for their respective offices or departments.

Please feel free to contact me if you have any further questions.

Respectfully,

Juli Luke

Juli Luke
Denton County Clerk

Shan Alexander
Director of Judicial Compliance
Phone# (806)775-1654

P.O. Box 10536
Lubbock, Texas 79408
Fax# (806)775-7959

July 28, 2016

The American Bar.org Standard 18-1.2(a) states: The legislature and executive should determine the public policies of sentencing and enact the statutory framework for the sentencing system. The legislative function is performed best by statutes that articulate the societal purposes in sentencing, define the authorized types of sanctions, and set the maximum limits of those sanctions. In this, we find the proposed revision to the Collections Improvement Program. A statutory framework that is designed as an extension of the courts and an additional avenue for carrying out judicial sentencing regarding costs, fines and fees.

Before addressing concerns on how these changes will affect the current program, it is necessary to first require clarification in the definitions and components that are being revised.

1. What is an "undue hardship" and how has this document truly defined its meaning? This statement is mentioned at least 13 times throughout the document, but doesn't provide a clear and concise definition or method of determination.

2. Another repetitive term in this document is the statement regarding dependents, but again it does not provide clarity as to who is being considered as a defendant's dependent?
   a. Can a defendant claim their dependents if they don't live with the offender?
   b. What will be the verification process for ensuring this information is true and correct so as to also ensure fair consideration and reporting?

3. Why is only 20% of the discretionary funds being allocated for payment of costs and not 100%?
   a. Per 175.2(d) in the definition of "Discretionary Income" all items that could potentially create a penalty including medical supplies, cable, credit cards and child care are already being considered.
   b. Also, said section also mentions mandated court payments should be considered, but payment arrangements on court costs comes after what has traditionally been considered luxury items. (i.e., credit cards, loans, and particular leases.)

4. "Household income" does not mention all forms of monetary receipts such as trusts, student loan refunds, SSI, or other allowances besides employment.
   a. How would the new rules work when an offender lives with roommates or family members?

5. How is an informal marriage determined? This is especially important in upholding the definition and determination of "Household Income" between couples.

a. What is the legality for upholding a defendant's claim for an informal marriage without proof?

6. In consideration of all payment plans established by the local program, to ensure judicial discretion is not being overlooked. Should all plans be reviewed by the judge?

7. Under "Presumption of Inability to Pay" guidelines, will a defendant be required to provide proof?
   a. What timeframe, if any, will be instituted for accomplishing the "Referral to Court"?

The proposed rules do not appear to have taken statistical data or lateral objectivity on the part of the local program into consideration as to how these rules are applied. Meaning that what may work for Houston and still maintain a viable program, may not work for Lubbock due to fewer resources for offenders and higher eligibility for government services. This is especially true when referencing section 175.3(a) (6) (B) (i) regarding offenders that attend school. Many students at this age tend to work while attending school. Also, many student's parents are willing and able to pay on their behalf. But the significant piece that appears to be removed is the ability for the local staff to verify the validity of an offender's claims prior to being returned to court. Essentially, the proposed rules creates an umbrella that makes it easier for offenders to avoid punishment due to circumstances. In turn, this will create an avenue that allows people to repeat offenses without consequence.

Below are some statistics from the Lubbock County Judicial Compliance that have been acquired using interviews during the course of the last 30 days under the assumption of implementation of the proposed rules.

PAYMENT PLAN CRITERIA

COURT TYPE	INABILITY TO PAY 175.3(a)(6)(B) (50 cases per court level)	AGREEMENT APPROVED CASES
JUSTICE COURTS	34 cases / 2:3	16 cases / 1:3
COUNTY COURTS @ LAW	25 cases / 1:2	25 cases / 1:2
DISTRICT COURTS	34 cases / 2:3	16 cases / 1:3

The cases above are from a list of cases approved for payments under the current rules.

Lubbock County averages 500 cases per month for all courts which would see an estimated 300 cases per month returned to court for judicial review due to "Presumption of Inability to Pay". In section 175.6(b) (1) it mentions that waivers for implementation can be granted provided the local program proves cost to implement is greater than revenue. I can assure that if the aforementioned numbers remain true then revenue will be lost immediately and continually. Although, it is not in the interest of the local program to speak on the judges behalf. When numbers return to courts in such high amounts, one can only ascertain that other remedies will be sought. It is the responsibility of local programs to ensure compliance of the court's sentences when it comes to costs, fines and fees.

In essence, how do we maintain the integrity of the court system with all due respect to the Collections Improvement Program under these conditions? Especially, if a judge spends more time ruling on the ability to pay than just rendering a ruling? Even in its current form, the rules of the CIP, does not remove, deter, or offset a court's judgment. Therefore, it is our duty to ensure the integrity of the courts, the justice system as a whole, and the public at large.

Shan Alexander, Director of Judicial Compliance

COMMENTS APPROVED BY:

Honorable Drue Farmer, County Court# 2

Honorable James Hansen, JP# 1

Honorable Ann-Marie Carruth, JP# 4

Lorrie Jarnagin, A.D. Judicial Compliance

Erma Robinson, Compliance Assistant

Mike Castillo, Compliance Assistant

Ed Scherer, Compliance Assistant

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 9:36 AM
To: Shelly Ortiz
Subject: FW: Proposed changes to collection programs

For the binders.

Scott

From: Matt Crain [mailto:mcrain@co.hill.tx.us]
Sent: Friday, July 29, 2016 9:35 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed changes to collection programs

To whom it may concern:

I am not in favor of the proposed changes to the Collection Improvement Plan (CIP).

Thanks,
Matt Crain
Judge, Hill County Court at Law

Shelly Ortiz

'rom: Scott Griffith
Sent: Friday, July 29, 2016 10:13 AM
To: Shelly Ortiz
Subject: FW: Proposed changes for Part 8. TEXAS JUDICIAL COUNCIL CHAPTER 175. COLLECTIONS IMPROVEMENT PROGRAM

For the binders.

Scott

From: Ralena Kimbrough [mailto:rkimbrough@aransascounty.org]
Sent: Friday, July 29, 2016 10:12 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed changes for Part 8. TEXAS JUDICIAL COUNCIL CHAPTER 175. COLLECTIONS IMPROVEMENT PROGRAM

7-29-16
Aransas County Collections

Re: Proposed changes for Part 8. TEXAS JUDICIAL COUNCIL
CHAPTER 175. COLLECTIONS IMPROVEMENT PROGRAM

My concerns are in line with that of our County Court at Law Judge, see below. We have had multiple discussions about these changes.

The concerns he did not list, that I have, is if we, counties of less than 50,000, do not institute non-monetary compliance options are we opening ourselves up to law suits in the future?

I foresee this leading to convicted criminals getting nothing more than a scolding, taking away the authority to hold people accountable for their choices/actions. What happened to the concept, of a fine is not a bill it is a court ordered judgment for a crime committed.

I consulted with my County Court at Law Judge. He is aware that our county is not required to report due to our less than 50,000 population. Nonetheless, he expressed these concerns:

1) Many of our "indigent" do not work, nor do they seek employment. There is no requirement for even a façade of effort to escape being "indigent". Many of our applicants' affidavits list zero income and zero expenses. Why not have the same work requirements as State programs for food stamps and housing? We are enabling indigent status for intentional indigents to the detriment of those truly indigent through no choice of their own. Yes, this is a comment on the program as a whole, but the changes are only adding to the existing expense.
2) In small counties like ours, there are limited opportunities for this type community service due to fewer organizations existing.
3) The County will have increased personnel expenses to develop and manage an expanded community service program to benefit many who are unlikely to be willing workers.
4) More hearings mean more tasks and time for jailers, bailiffs, judges, court administrators. Cost?

With concern,

Misty R. Kimbrough
Aransas County Collections Specialist
301 N. Live Oak, Room 101
Rockport, TX 78382
361-790-0139 phone with voicemail
361-790-0119 facsimile
rkimbrough@aransascounty.org

Misty R. Kimbrough
Collection Specialist
COMPLIANCE = FREEDOM!
Aransas County Clerk's Office
301 N. Live Oak, Room 101
Rockport, TX 78382
361-790-0139 phone
361-790-0119 fax
rkimbrough@aransascounty.org

Office Hours:
8:00 – 11:45 AM
1:00 – 4:45 PM

****
ATTENTION PUBLIC OFFICIALS!
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****
****
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****
Please refrain from printing this email unless completely necessary. Go Green!
****

DALLAS COUNTY TEXAS
JOHN F. WARREN
DALLAS COUNTY CLERK

To: Scott Griffith

From: Bridgett Pitre, Dallas County Criminal Courts Collections Manager

Subject: Collection Improvement Program Rule Revisions

Date: July 29, 2016

Scott Griffith:

This memo is in response to the Proposed Collection Improvement Programs rule revisions that were released in June 2016. These proposed changes would have an adverse effect on the Dallas County collection of court cost, fees, and fines. Because we would like to be part of the solution, we are offering alternative suggestions that would not pose a negative impact to our collection efforts. Therefore, please see the following list of objections and solutions:

In the proposed changes of Chapter 175.1Collection Improvement Program Provisions:

(6)(A) Referral to Court. If a defendant interview or other information collected by local program staff indicates that the defendant may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents, or that the defendant may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents, local program staff must refer the case to the court for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate.

Determination of indigence should be established before the defendant is sent to collections. Judges should be required to determine indigence at the time of plea sentencing. At that time, a prescreen form should be given to the defendant by the judge to determine his/her inability to pay. Once the form is completed and reviewed by the judge, indigence is determined. If inability to pay is established community service could be offered. If the defendant is able to pay, the Judge should send the defendant to collections division for payment arrangements.

On the proposed changes of Chapter 175.3 Components for Local Program Operations. Collection Improvement Program Provisions:

DALLAS COUNTY TEXAS
JOHN F. WARREN
DALLAS COUNTY CLERK

(a)(8) ..... "*This telephone contact must also include information about the* ***availability of non-monetary compliance options*** *and how the defendant may request a hearing for the judge to consider the defendant's ability to pay and options available for the defendant to satisfy the judgment.*"

(9) ..... "*The written notice must also include information about the* ***availability of non-monetary compliance options*** *and how the defendant may request a hearing for the judge to consider the defendant's ability to pay and options available for the defendant to satisfy the judgment.*"

(10)....."*The local program should not report the case back to the court as non-compliant until at least one month after the final contact attempt to provide the defendant time to discuss with local program staff new payment plan terms or* ***alternative non-monetary compliance options*** *for the court to consider.*"

Any communications made to the defendants, whether oral or written, should not include non-monetary compliance options. Providing defendants with unable to pay options in every point of communications would give the allusion that payment of court cost and fines are easily avoidable, thus decreasing the severity of punishment in a criminal case. It is our goal during the interview phase of collections, to assist the defendant with every available option to comply with the Judge's sentence. For that reason, should the interview/collector see the need to reevaluate inability pay due to reduction in payment, the defendant is sent back before the judge.

In conclusion, the proposed changes of Chapter 175.1Collection Improvement Program Provisions would pose a major threat to the Dallas County Clerk Collections division collection efforts. This collection program has accomplished a lot and contributes greatly to Dallas County 2.5 million residents. Adopting these proposed changes would be step in the wrong direction, undoing all of the hard work and accomplishments this program has achieved. Please consider my objections and suggestions as strong alternatives to the proposed changes.

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 10:54 AM
To: Shelly Ortiz
Subject: FW: Collection Improvement Program

For the binders.

Scott

From: Carolyn Jones [mailto:carolynj@co.andrews.tx.us]
Sent: Friday, July 29, 2016 10:52 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Collection Improvement Program

I totally oppose Chapter 175, the Collection Improvement Program under Part 8 of the Texas Judicial Council as posted July 1, 2016 in Texas Register.

Carolyn Jones, Director
Andrews County CSCD

Shelly Ortiz

'rom: Scott Griffith
Sent: Friday, July 29, 2016 10:54 AM
To: Shelly Ortiz
Subject: FW: Concerns about CIP rule changes
Attachments: DOJ CIP.docx

For the binders.

From: Andrea Weilacher [mailto:Andrea.Weilacher@dentoncounty.com]
Sent: Friday, July 29, 2016 10:21 AM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Concerns about CIP rule changes

Good morning Scott

My name is Andrea Weilacher and I am the department manager for the Denton County Collections and Compliance Department. Attached is my letter of concern. We have been very successful in the way we handle our Collections program. Our office works with those who have little income to create a payment plan within their budget. I cannot stress enough what an impact these proposed changed will have on our county and the local and state budgets.

Thank you,

Andrea Weilacher

Department Manager
Collection Compliance Department
Denton County Clerk
Ph: 940-349-2030
Andrea.Weilacher@dentoncounty.com

Denton County
Collections Compliance Department

Denton County Courts Building, 1st Floor
940-349-2030 Phone
940-349-2031 Fax

July 25, 2016

Re: Proposed changes to the Collection Improvement Program

To whom it may concern:

As the Department Manager of the Denton County Collections Compliance Department, I am concerned about the proposed changes to the Collection Improvement Program. These changes will not only affect the Collections department but the District Felony, Criminal Misdemeanor and Justice of the Peace courts.

1. The proposed rule changes to the Collections Improvement Program (CIP) will create a lot of extra work on the Judges, court clerks and collections staff. On any given day, the Criminal courts have a docket of over 100 plea hearings. Some get jail time, others are reset for a later date. The majority will be sent to the Collection Compliance Department to set up a payment plan for fines and court costs. Our Collections staff consists of 4 full time employees and one department supervisor. Due to county budget restraints, we can't afford to hire the additional personnel that will be required to appear in court with a defendant and prove their indigence. After court, the defendant still has to report to adult probation and Collections. Our department does not have an overtime budget in place allowing us to work past a 40 hour work week. Denton County fiscal year runs from October 1st to September 30th. Budgets for the coming year have to be approved months in advance by Commissioners Court. The reduced collection of court-imposed fees and fines will have major effects on local and state budgets.
2. CIPs have shown to significantly increase revenue to the state, courts and local government by millions of dollars annually. Allowing court ordered fines and fees to be ignored diminishes public respect for the rule of the court. A fine is punishment collected on a crime committed.
3. Payment guidelines – all fines and court costs should be required to be paid in full no later than 60 days prior to the expiration of probation or preferably sooner. The proposed rule change of not paying more than 20 percent of the defendant's discretionary income would require most defendants to be placed on a longer probation in order to have their fees paid off during the probationary period. Extensions will only decrease their chances of successfully completing probation. Without the CIP components as guidelines, defendants owing $3000 could potentially be placed on a 10 year payment plan only paying $30 a month. This is an example of the quagmire this will create.
4. Having to wait one month before the Collections staff is allowed to call or notify defendants who are delinquent is bad collection practices. It has been proven that the longer you allow a defendant to pay out their fines and court costs, the less likely the county or state are to

collect those costs. If the proposed changes to the CIP are passed, it is inevitable that all the municipalities, counties, and state will feel the impact of the loss of revenue.

5. Those defendants that are truly indigent should be required to do community service in excess of what was ordered through probation and get credit towards their fines and fees. Not all judges are doing this and find it easier just to waive all fees and be done with the case. There is no justice in waiving fees.

The proposed Collections Improvement Program changes must be reconsidered. The proposed changes most certainly will congest the court system with indigence or show cause hearings plus put a lot more stress on an already stressful job of a Collector. Our job is not an easy one but we are successful in how we collect money not only for our county but also for the state as well. The purpose of the criminal justice system is to penalize individuals who break the law. These penalties include fees along with incarceration or probation. To simply create guidelines that require erasing an assessed punishment based on the income of an individual is discriminating against those that are required to pay because they don't meet these qualifications.

Sincerely,
Andrea Weilacher
Department Manager
Denton County Collections Compliance Department
Denton County Texas

Friday, July 29, 2016

Good morning Mr. Griffith

I just want to express my thoughts and concerns about the proposed rule changes to the CIP. OCA was created to help the counties and cities in Texas to collect fines, court costs, fees, etc. that is owed to the court. It is designed to allow people who do not have the money to pay in full the day they are assessed these monies, to set up a payment plan. To me this is being fair to ALL defendants.

If the proposed changes are made, in my eyes it will not be fair. It won't be fair to the person that has more access to cash than the one who does not.

Paying for an offense that a person has committed is a form of punishment. It is not supposed to be convenient.

I have the following posted on my bulletin board outside my office:

Principals of Understanding:

- A fine is punishment and not a "Bill".
- The payment is the defendant's responsibility.
- It is expected that the defendant must sacrifice to pay.
- The defendant must give payment the highest priority.
- The defendant must expect consequences if payment is not made.
- The defendant needs to understand the consequences.
- The payment is a Court Order, a sentence which may not be convenient.
- A court is not where people prefer to spend money.
- Many people come to court with money.

I truly believe if you take away most of our rights to collect money it will show the defendants that they are free to do as they please.

The crime rate is high enough already. If they know they can get away with it without consequences like paying money the crime rate will sky rocket out of hand. This will cause more problems than what we already have.

Several people have made mistakes and they learn from them because there are consequences for their action: such as paying fines and fees. A lot of these people will not repeat bad choices because they know there will be consequences.

We have programs and steps in place to help the people who really need it. (ex. Community service) If our probation officers see a person that is really trying and need help; they have steps in place as well to assist the defendants.

It is my opinion, unless you have been in our shoes as collectors, decisions such as the changes that are being proposed, the committee should pilot the program before changes are made. We as collectors see first-hand who really needs help. I have seen so many people out in public that are on probation at the store purchasing alcohol beverages, cigarettes, tobacco, get their hair and nails done, etc. These things are not cheap to buy or get done. A lot of these people are on public assistance. To me, if they have money available to do these things they should be made to pay. The people that are proposing these changes are not out here like we are and see these things.

The purpose of us collecting the money owed to the courts is a punishment, in hopes to deter people from committing crimes.

I want to thank you for taking the time to read my letter and I really hope the panel will reconsider the proposed changes. I think the current CIP is fair as they can be to ALL without these proposed changes. As a collector and a citizen I feel like it would be an injustice to ALL if the changes are passed.

Sincerely,

Tanya Hall

Director of Nacogdoches County Collections Department

423rd Judicial District Court
Christopher D. Duggan, Judge

Andrea R. Partida
Criminal Court Coordinator
(512) 581-7137
(512) 581-4038 fax
andrea.partida@co.bastrop.tx.us

804 Pecan Street
Bastrop, Texas 78602
Michele Fruitsche
Official Court Reporter

Deborah Shirocky
Civil Court Coordinator
(512) 581-4037
(512) 581-4038 fax
deborah.shirocky@co.bastrop.tx.us

July 29, 2016

To Whom It May Concern:

Re: Proposed Changes in the Collection Improvement Program

I am writing to object to the proposed changes in the Collection Improvement Program. Bastrop County has moved to a centralized collection model, through the County Treasurer's Office, and it is working well for Bastrop County and its citizens. Bastrop County Treasurer, Ms. Laurie Ingram, and her staff, do an excellent job balancing the need to collect assessed fines and court costs while respecting and identifying folks that are indigent. There is no need to change the current system.

I visited with Ms. Ingram, and her staff, and asked them to draft some written objections from their perspective. Their objections reflect my objections. I have attached it for your consideration.

A person that violates the law, whether it's a Class C traffic ticket or a felony case, should and must pay the fine and court costs associated with the case. Additionally, we must take into consideration people that are indigent. No one wants to create a "debtor's prison." Bastrop County does an excellent job collecting fines, fees and court costs under the current system. There is no need to implement the proposed changes. They are too cumbersome and it would, in my opinion, be a significant financial burden to implement them.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Christopher D. Duggan
Judge Presiding

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

175.1 Purpose and Scope.

1) While the modifications may not create a hardship for the defendant, the proposal to send the cases back to the court will create a hardship to the various courts. In addition, the cases are criminal cases that warrant compliance and adherence to the courts instructions.

3) Some counties do not have the resources to offer community service or other non-monetary compliance options. Is the Justice Department willing to pay for a longitudinal grant program as indicated in *Art. 103.0032 Collection Improvement Plan to* fund the creation of other non-monetary compliance options.(i.e. Community Service Programs)?

175.3 Collection Improvement Components

Sending the cases back to the courts is expensive and in-efficient for small counties. The court dockets are saturated with a high volume of violent offenders and civil cases that warrant the Judges to spend quality time to make optimal decisions on these critical cases. Sending the cases back to the Judge for review is not reasonable. While the determination of indigency should be made by the court, perhaps an administrative review hearing without flooding the dockets would be optimal.

1) Defendant Interviews

Defendants should have the option to waive the requirement to allow the defendant to pay more than 20 percent of the defendant's discretionary income per month. Some defendant's may not want to participate in an extended payment plan. In addition, any/all defendant(s) can claim undue hardship on their application. Local program staff only has a few options to try and verify payment ability of a defendant. What is the proposal to help local program staff validate financial income accuracy? Claiming undue hardship on an application becomes the standard because there are no means to prove otherwise.

2) Referral to Court for review of defendant's ability to pay.

Sending the cases back to the courts is expensive and in-efficient for small counties. The court dockets are saturated with a high volume of violent offenders and civil cases that warrant the Judges to spend quality time to make optimal decisions on these critical cases.

Sending the cases back to the Judge for review is not reasonable and would require funding from state for additional staff. To require our county to implement a trackable "non-monetary" option so as not to impose undue hardship on the defendant, directly creates undue hardship on our county. While the determination of indigency should be made by the court, perhaps an administrative review hearing without flooding the dockets would be optimal.

3) Payment Plan Guidelines.

Time requirements are essential to this component. Immediate compliance reduces the court's costs associated with managing compliance and reduces the risk of non-compliance.

4) Telephone and Written Notice Contact.

The options the defendants has if they are unable to pay and information regarding the availability of non-monetary compliance and how a defendant can request a hearing for the Judge to consider the defendants ability to pay should only be disclosed at the beginning, during interview. Including the language continuously in telephone calls and written contacts is inefficient.

Fiscal Note.

We do not concur with Ms. Henry's belief that there will not be fiscal implications for state government. The modifications are impeding the CIP's from implementing best practices on criminal cases. There is a lack of justice, when a person can commit a law violation and not be held accountable. The fiscal impact on local counties is significant; flooding the courts with the same case over and over cost money and time; breeding defendants to claim undue hardship because local program staff can't otherwise verify their finances cost us money; the decrease in collected fines and fines will absolutely financially impact our county and creating non-monetary trackable options is very expensive. The injustices that occurred in another jurisdiction should not create a nationwide sanction. The current CIP model is an optimal best practice collection approach that requires a modification in the OCA flowchart at best.

TEXAS MUNICIPAL COURTS ASSOCIATION

1350 NASA Parkway, Suite 200 · Houston, Texas 77058-2800 · 281-333-9229

TMCA dues are not deductible as a charitable contribution for federal income tax purposes, but may be partially deductible as a business expense. TMCA estimates that 83% of your membership dues for [year(s)] are allocable to lobbying activities of the TMCA, and therefore are not deductible for income tax purposes.

July 29, 2016

The Honorable Scott Griffith
Scott.griffith@txcourts.gov
P. O. Box 12066
Austin, Texas 78711-2066

Dear Mr. Griffith:

The Texas Municipal Court Association (TMCA) asks that the Collection Improvement Program allow the elected or appointed judges of the State of Texas to do what we are required by law and the Constitution.

Issues with the Collection Improvement Program have been brought to the attention of the Office of Court Administration. TMCA has concerns about the ethical implications for the municipal court judiciary regarding portions of the current Chapter 175 Collection Improvement Program as well as proposed changes to the Collection Improvement Program as they pertain to the Canons of Judicial Conduct.

These issues must be addressed prior to implementation.

Respectfully,

Board of Directors
Texas Municipal Court Association Board of Directors

Shelly Ortiz

From: Ronald R. McBroom <rmcbroom@johnsoncountytx.org>
Sent: Friday, July 29, 2016 1:11 PM
To: Scott Griffith
Subject: Collection Improvement Program

I am against the Collection Improvement Program I think the programs we already have in place work just fine.

Judge Ronald R. McBroom
Johnson County JP1

Shelly Ortiz

From: Geneva Mason <masong@co.grayson.tx.us>
Sent: Friday, July 29, 2016 1:00 PM
To: Scott Griffith
Subject: CIP Rules comment

Against

Geneva Mason
Deputy Clerk-JP4

117 S MAIN ST
P.O. BOX 1964
VAN ALSTYNE TX 75495
903-813-4200 ext 3411
903-482-6543
903-482-6573-fax

City of DENTON

Office of the Municipal Judge

601 E. HICKORY. DENTON. TEXAS 76205 • (940) 349-8139

The Honorable Scott Griffith
Scott.griffith@txcourts.gov
P.O. Box 12066
Austin, Texas 78711-2066

July 29th, 2016

Dear Mr. Griffith:

Please record my comment as being : **AGAINST PROPOSED AMENDMENTS**

As a judge of a mid-sized municipality in the Dallas/ Ft. Worth metroplex area, I have, over the last several years, formed the opinion that the current Collection Improvement Program, under Chapter 175 of the Texas Administrative Code, may compound or intensify financial pressure on defendants and contribute to the perception that Courts are harsh and indifferent to the economic circumstances of the public, many of which are struggling to make ends meet in hard economic times.

The proposed amendments do not seem to alleviate these concerns.

Instead of encouraging processes whereby defendants may appear before the Court to personally present relevant information regarding their ability to pay, both the existing and proposed rules under Chapter 175 of the Texas Administrative Code (CIP Program,) require that "collections staff" collect a large amount of personal and financial information from defendants. In some cases, the information required is more akin to personal and financial documentation often required by banks as a part of loan "qualification". And, while I understand the desire to treat our case collections more efficiently as if they are traditional business transactions, our customers are not "customers by choice." In certain situations, our "customers" would not normally be eligible for traditional business type loans, and in many cases, these defendants simply may not have access to that information. Our attempts to collect information may be misinterpreted by many of our most disenfranchised defendants as intimidating, and in other cases so overwhelming so as discourage some defendants who might otherwise attempt to make payment, from requesting direct and personal access to the Court (judge.)

In courts that have long-established processes for appearance before the judge, and in cases in which a judge has determined that a payment plan is justified and appropriate based on the representations of the defendant, that judicial plan may be seen as being subject to review by "collections staff" who require that the defendant participate in interviews and provide substantial documentation. (Sec. 175.3(a)(3)(A) and Sec. 175.3(5)(A) and ((b))

Many of the poorest defendants (those who would be most adversely affected,) are left with the impression that if they do not have bank accounts, IRS tax documents, written proof regarding rent or mortgage, child support documentation, or documentation regarding discretionary income (See Sec. 175.2.(d) and (j),) they will not, or cannot qualify for additional time to pay. For this reason, many defendants simply give up on the system, turn around, walk away and wait for a warrant to be issued.

Unfortunately, if not appropriately implemented, the Collections Improvement Program may add to an impression often held by the public that courts are created to "generate revenue" and collect money for cities, counties and the State of Texas. In some situations, court staff may be left with the impression that the Court will be punished if they allow someone who might not be "qualified" under the CIP's criteria, additional time to pay, even if the judge has entered a finding to the contrary.

Specific Recommendations:

Recommendation 1. Revise Chapter 175 - Applicability to Courts Based on Performance or Compliance.

The current and proposed CIP is applied to courts without regard for or consideration of that court's established procedures, relative compliance with accepted and appropriate processes for similar courts or the overall "collections performance" of that court. While it would require a substantial effort to establish universal standards of performance as to acceptable collections compliance, under the current program, courts are required to staff for and modify court procedures to meet the requirements of the Collections Improvement Program.

And, without offering any form of additional funding assistance, many cities and counties may perceive the program as an "unfunded mandate."

As the CIP is intended as way to help municipalities to "improve" their collection practices, perhaps it might make more sense to only require that cities who fail to meet certain collections standards or criteria be required to comply with all of the provisions of the program. The CIP, or portions of it, might better be offered as a "best practices tool" for those courts who meet certain standards - but a mandatory process for those that do not.

Recommendation: Revise Chapter 175, Texas Administrative Code to "apply only to those Courts who, after audit and examination by either the State Comptroller's Office or the Office of Court Administration, fail for a period of twelve months or more to collect more than eighty (80%) of the fine or fees assessed as a part of a court order."

Recommendation 2. Exempt "Judge Ordered Plans" from the Requirements of Collections Staff Verification, Staff Interviews or Collection of "Payment Ability Information."

It was my hope that the proposed amendments would further clarify that a "judge ordered plan" would be exempt from the burdensome requirements of collecting "payment ability information" or participation in a "Defendant Interview." Perhaps the proposed amendments actually do exempt the defendant from these, if the defendant indicates that "they have the ability to pay." However, if the

defendant does not indicate that they have the ability to pay, then, at least according to my understanding of the proposed amendments, local program staff must then collect the ability to pay information. One would think that this issue would be addressed at the time of the defendant's appearance before the judge.

The Proposed Amendments to Chapter 175.3(a)(3) through 175.3(a)(5) appear to be an attempt to clarify required collections information. However, based on its predicate as to whether the defendant indicates they "have the ability to pay", "doesn't have the ability to pay", or "does not state whether they have the ability to pay" the courts obligations are not clear. More critically, these standards related to the defendant's ability to pay, require that the defendant be able to understand and assess what these standards mean, or rely on court staff to inappropriately (and perhaps illegally) advise the defendant as to what these terms mean.

As to 175.3(a)(3)(B), the preface "for all other cases" is so broad in scope that I am not sure anyone can understand what it might mean.

In short, Section 175.3 remains confusing and open to such interpretation that one cannot be sure how or when certain mandatory processes are triggered.

Recommendation: Once a defendant has appeared before the judge in open court, and once the Court has, based upon the representations of the defendant, determined an appropriate payment plan that will allow the defendant sufficient time to pay, the local program staff is required only collect "contact information" as defined under Sec. 175.2(c).

In closing, I would like to ask that the Collections Improvement Program simply allow the elected or appointed judges of the State of Texas to do that which we are required by law to do – to inquire, to apply justice fairly, and to listen to and consider the individual facts of each case and the circumstances of each defendant. I do not wish to use judicial independence as a shield to inquiry. Instead, I think that all municipal, justice, county and district judges should be held accountable for our processes, and that we be required to perform our job – all of our job, by providing all defendants with access to the Courts. But, in order to do so, we must be given the ability to use our discretion without fear that the decisions we make in open court might place our courts in conflict with collection program requirements that might subject our courts, cities or counties to sanction.

Respectfully,

ROBIN A. RAMSAY
Presiding Judge
Denton Municipal Court of Record
City of Denton, Texas
Robin.ramsay@cityofdenton.com

Shelly Ortiz

From: David Hawley <hawleyd@co.grayson.tx.us>
Sent: Friday, July 29, 2016 12:10 PM
To: Scott Griffith; Cynthia Montes
Subject: Comments on the Proposed CIP Rule Changes
Attachments: Scan0182.pdf

Please read the above attachment and consider what the proposed rule changes to the CIP will do to the Justice Courts and the system. It is hard enough now to collect fines & court costs if this system goes in effect, it will have a huge impact on staffing and the reduction of collections in the justice courts. Please consider our pleas. Judge Hawley

Cynthia, would you please send this to Rep Judith Zaffirini, I do not have her address. Thank you.

JUDGE DAVID HAWLEY
Justice of the Peace
Precinct 2 • Grayson County

July 25th, 2016

Representatives from Grayson County Offices have been able to review the proposed rule changes to the Collections Improvement Program (CIP). I myself from the Justice Court feel that these changes will significantly impact our county in a negative way.

The current CIP program is designed to enforce court orders that have been issued from our local courts. The proposed rules basically remove the enforcement of those court orders. The requirement for a referral back to the court for a non-monetary plan under the proposed rules changes will severely hinder the local courts ability to quickly handle a large number of cases in a single court day. This would decrease the number of cases heard in a court and increase the number of inmates in the county jails statewide. The proposed rules changes, does not address the enforcement of the non-monetary plan. What is the court's recourse if the defendant does not comply with the non-monetary plan? Is the court to issue a warrant put the defendant in jail? Is the court required to waive the court ordered fines and court costs?

The current CIP program is designed to evaluate the defendant's income and determine the appropriate payment schedule for the defendant to comply with the court orders. The proposed rules address hardships on the defendants and their ability to pay their court ordered fines and costs. Under the proposed rules, if someone receives assistance as described under "Presumption of Inability to Pay" then the CIP needs to refer the defendant back to court. It does not address a defendant that fits this presumption, but agrees to the payment plan set up by the CIP program anyway. Can the court accept a payment if the defendant wants to pay instead of participate in a non-monetary plan? Can a combination of payment types be accepted to complete the court ordered fines and costs?

The current CIP program is designed to encourage compliance with court orders and satisfy the payments plans as quickly as possible. The proposed rules restrict the ability of the CIP staff to schedule plans that exceed 20% of the defendant's disposable income. The maximum amount of fine and that can be assessed to a defendant on a felony case is $10,000. If a person has a disposable income of $100 a month then their monthly payment cannot exceed $20 monthly, under the proposed rules. This would mean that this case would have to be managed by the local program in excess of 40 years, just to pay the fines. It has been proven that the longer an agreement, the less agreement is successfully completed. The proposed rules do not address what procedure the CIP is follow when the defendant does not have a disposable income. Does the CIP need to refer them to the court even if they don't meet the "Presumption of Inability to Pay" guidelines?

101 W. Woodard Street • Denison, TX 75021 • Office: 903-465-0984 • Fax: 903-464-9718

JUDGE DAVID HAWLEY
Justice of the Peace
Precinct 2 • Grayson County

The current CIP program is designed to notify the defendants of the consequences if they fail to comply with the court orders. The proposed rules require continued notification of non-monetary options with no consequence if not satisfied. If the defendant is notified of payment alternatives and fails to comply with the payment plan or ask for a non-monetary plan, what are the courts enforcement options?

The current CIP program allows counties to retain a large portion of the collected funds. The proposed rules changes would have a dramatic impact on the county's finances. The estimated amount of cases that the proposed rules would affect in Grayson County would be approximately 50% of the cases monthly. If those court orders could not be enforced and no monetary punishment could be accepted on those cases then Grayson County would lose an estimated $650,000 a year. If the court orders are not enforceable, what do the counties do to recoup the resources that have been used to comply with the CIP statue?

Defendants are going to continue to commit crimes and violate the laws of the State of Texas. The recidivism rate is already high and we see a large portion of the same individuals multiple times. This will only increase if the proposed rules are approved as they are currently written. The courts will not have any power to enforce the laws of the State of Texas. The goals of the local CIP programs are to enforce the court orders, collect the fines and court costs, provide an avenue for the defendants to learn from their mistakes and provide them an alternative to jail time. A small portion of the counties in Texas are mandated to comply with the CIP statutes, but the laws of the State of Texas apply to everyone. Why should the rules be different from one county to the next?

We strongly encourage the deficiencies in the proposed rules be addressed before a changes could be considered. The Justice of the Peace Courts I have spoken with in this county all agree that these proposed rules would severely cripple and slow the criminal justice process in Grayson County and the State of Texas.

Please consider these points before making a decision that will impact small and large jurisdictions,

Judge David Hawley
Justice Court Pct. #2
Grayson County

101 W. Woodard Street • Denison, TX 75021 • Office: 903-465-0984 • Fax: 903-464-9718

Larry Atherton

Justice of the Peace, Precinct One

July 29, 2016

Via email to scott.griffith@txcourts.gov
Mr. Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Re: Comments to Collections Improvement Program Rules Change

Dear Mr. Griffith:

I have been able to review the proposed rule changes to the Collections Improvement Program (CIP) and I feel that these changes will significantly impact my court and county in a negative way.
The current CIP program is designed to enforce court orders that have been issued from our local courts. The proposed rules basically remove the enforcement of those court orders. The requirement for a referral back to the court for a non-monetary plan under the proposed rules changes will severely hinder the local courts ability to quickly handle a large number of cases in a single court day. This would decrease the number of cases heard in a court and increase the number of inmates in the county jails statewide. The proposed rules changes, does not address the enforcement of the non-monetary plan. What is the court's recourse if the defendant does not comply with the non-monetary plan? Is the court to issue a warrant put the defendant in jail? Is the court required to waive the court ordered fines and court costs?

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The current CIP program is designed to encourage compliance with court orders and satisfy the payments plans as quickly as possible. The proposed rules restrict the ability of the CIP staff to schedule plans that exceed 20% of the defendant's disposable income. The maximum amount of fine and that can be assessed to a defendant on a felony case is $10,000. If a person has a disposable income of $100

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Larry Atherton

Justice of the Peace, Precinct One

a month then their monthly payment cannot exceed $20 monthly, under the proposed rules. This would mean that this case would have to be managed by the local program in excess of 40 years, just to pay the fines. It has been proven that the longer an agreement, the less agreement is successfully completed. The proposed rules do not address what procedure the CIP is follow when the defendant does not have a disposable income. Does the CIP need to refer them to the court even if they don't meet the "Presumption of Inability to Pay" guidelines?

The current CIP program is designed to notify the defendants of the consequences if they fail to comply with the court orders. The proposed rules require continued notification of non-monetary options with no consequence if not satisfied. If the defendant is notified of payment alternatives and fails to comply with the payment plan or ask for a non-monetary plan, what are the courts enforcement options?
The current CIP program allows counties to retain a large portion of the collected funds. The proposed rules changes would have a dramatic impact on the county's finances. The estimated amount of cases that the proposed rules would affect in Grayson County would be approximately 50% of the cases monthly. If those court orders could not be enforced and no monetary punishment could be accepted on those cases then Grayson County would lose an estimated $650,000 a year. If the court orders are not enforceable, what do the counties do to recoup the resources that have been used to comply with the CIP statue?

Defendants are going to continue to commit crimes and violate the laws of the State of Texas. The recidivism rate is already high and we see a large portion of the same individuals multiple times. This will only increase if the proposed rules are approved as they are currently written. The courts will not have any power to enforce the laws of the State of Texas. The goals of the local CIP programs are to enforce the court orders, collect the fines and court costs, provide an avenue for the defendants to learn from their mistakes and provide them an alternative to jail time.
It is my opinion that these proposed rule changes would severely cripple the criminal justice process in Grayson County and the State of Texas.

Thank you for your consideration,

Judge Larry Atherton
Justice of the Peace, Pct 1
Grayson County, Texas
Office – 903-813-4345
Fax – 903-893-9264

MIKE REEVES
Justice of the Peace
Precinct 3
Grayson County

509 North Union Streets
Whitesboro, Texas 76273
Phone: (903) 564-3550
Fax: (903) 564-9127

July 25th, 2016

Representatives from Grayson County Offices have been able to review the proposed rule changes to the Collections Improvement Program (CIP). I myself from the Justice Court feel that these changes will significantly impact our county in a negative way.

The current CIP program is designed to enforce court orders that have been issued from our local courts. The proposed rules basically remove the enforcement of those court orders. The requirement for a referral back to the court for a non-monetary plan under the proposed rules changes will severely hinder the local courts ability to quickly handle a large number of cases in a single court day. This would decrease the number of cases heard in a court and increase the number of inmates in the county jails statewide. The proposed rules changes, does not address the enforcement of the non-monetary plan. What is the court's recourse if the defendant does not comply with the non-monetary plan? Is the court to issue a warrant put the defendant in jail? Is the court required to waive the court ordered fines and court costs?

The current CIP program is designed to evaluate the defendant's income and determine the appropriate payment schedule for the defendant to comply with the court orders. The proposed rules address hardships on the defendants and their ability to pay their court ordered fines and costs. Under the proposed rules, if someone receives assistance as described under "Presumption of Inability to Pay" then the CIP needs to refer the defendant back to court. It does not address a defendant that fits this presumption, but agrees to the payment plan set up by the CIP program anyway. Can the court accept a payment if the defendant wants to pay instead of participate in a non-monetary plan? Can a combination of payment types be accepted to complete the court ordered fines and costs?

The current CIP program is designed to encourage compliance with court orders and satisfy the payments plans as quickly as possible. The proposed rules restrict the ability of the CIP staff to schedule plans that exceed 20% of the defendant's disposable income. The maximum amount of fine and that can be assessed to a defendant on a felony case is $10,000. If a person has a disposable income of $100 a month then their monthly payment cannot exceed $20 monthly, under the proposed rules. This would mean that this case would have to be managed by the local program in excess of 40 years, just to pay the fines. It has been proven that the longer an agreement, the less agreement is successfully completed. The proposed rules do not address what procedure the CIP is follow when the defendant does not have a disposable income. Does the CIP need to refer them to the court even if they don't meet the "Presumption of Inability to Pay" guidelines?

e current CIP program is designed to notify the defendants of the consequences if they fail to comply with the court orders. The proposed rules require continued notification of non-monetary options with no consequence if not satisfied. If the defendant is notified of payment alternatives and fails to comply with the payment plan or ask for a non-monetary plan, what are the courts enforcement options?

The current CIP program allows counties to retain a large portion of the collected funds. The proposed rules changes would have a dramatic impact on the county's finances. The estimated amount of cases that the proposed rules would affect in Grayson County would be approximately 50% of the cases monthly. If those court orders could not be enforced and no monetary punishment could be accepted on those cases then Grayson County would lose an estimated $650,000 a year. If the court orders are not enforceable, what do the counties do to recoup the resources that have been used to comply with the CIP statue?

Defendants are going to continue to commit crimes and violate the laws of the State of Texas. The recidivism rate is already high and we see a large portion of the same individuals multiple times. This will only increase if the proposed rules are approved as they are currently written. The courts will not have any power to enforce the laws of the State of Texas. The goals of the local CIP programs are to enforce the court orders, collect the fines and court costs, provide an avenue for the defendants to learn from their mistakes and provide them an alternative to jail time. A small portion of the counties in Texas are mandated to comply with the CIP statutes, but the laws of the State of Texas apply to everyone. Why should the rules be different from one county to the next?

We strongly encourage the deficiencies in the proposed rules be addressed before a changes could be considered. The Justice of the Peace Courts I have spoken with in this county all agree that these proposed rules would severely cripple and
ow the criminal justice process in Grayson County and the State of Texas.

Please consider these points before making a decision that will impact small and large jurisdictions,

Mike Reeves

Justice Court Pct. #3
Grayson County

Rita G. Noel
Justice of the Peace
Precinct 4 • Grayson County

July 25th, 2016

Mr. Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Re: Comments to Collections Improvement Program Rules Change

Dear Mr. Griffith:

Representatives from Grayson County Offices have been able to review the proposed rule changes to the Collections Improvement Program (CIP). I myself from the Justice Court feel that these changes will significantly impact our county in a negative way.

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a month then their monthly payment cannot exceed $20 monthly, under the proposed rules. This would mean that this case would have to be managed by the local program in excess of 40 years, just to pay the fines. It has been proven that the longer an agreement, the less agreement is successfully completed. The proposed rules do not address what procedure the CIP is follow when the defendant does not have a disposable income. Does the CIP need to refer them to the court even if they don't meet the "Presumption of Inability to Pay" guidelines?

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The current CIP program allows counties to retain a large portion of the collected funds. The proposed rules changes would have a dramatic impact on the county's finances. The estimated amount of cases that the proposed rules would affect in Grayson County would be approximately 50% of the cases monthly. If those court orders could not be enforced and no monetary punishment could be accepted on those cases then Grayson County would lose an estimated $650,000 a year. If the court orders are not enforceable, what do the counties do to recoup the resources that have been used to comply with the CIP statue?

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We strongly encourage the deficiencies in the proposed rules be addressed before a changes could be considered. The Justice of the Peace Courts I have spoken with in this county all agree that these proposed rules would severely cripple and slow the criminal justice process in Grayson County and the State of Texas.

Please consider these points before making a decision that will impact small and large jurisdictions.

Sincerely,

Judge Rita G Noel
Justice Court Pct. 4
Grayson County

Shelly Ortiz

From: KIM ROGERS <KIM.ROGERS@ectorcountytx.gov>
Sent: Friday, July 29, 2016 1:32 PM
To: Scott Griffith
Cc: MYRTA CORTEZ; RICHARD MANN
Subject: Proposed changes to Texas Administrative Code

Mr. Griffith,

I want to take this opportunity to let you know of concerns that this department has regarding the proposed changes to the Collection Improvement Program. The presumption of a defendant's inability to pay is likely to result in an immediate and unnecessary drop in collection of Court Ordered fees and fines. The anticipated drop, combined with the significant costs of the proposed changes, could place sizeable and unrealistic burdens on county budgets and staff. Collections departments currently work with defendants to determine what they can reasonably pay and over what period of time. This avoids placing undue financial hardship on them while still allowing them to fulfill their obligations to the courts.

Thank you for your time and consideration.

Kim Rogers
Ector County Compliance Director
300 N Grant, Room 116
Odessa, Texas 79761
kim.rogers@ectorcountytx.gov
Office 432-617-3290
Fax 432-617-3291

Shelly Ortiz

From:	Derek Ware <DWare@epcounty.com>
Sent:	Friday, July 29, 2016 2:06 PM
To:	Scott Griffith
Cc:	Alma Trejo; Robert Anchondo; Wallace Hardgrove
Subject:	El Paso Council of Judges response to OCA CIP rule change
Attachments:	EL PASO COUNTY's COJ RESPONSE TO OCA CIP RULE CHANGE_7 28 16.pdf
Importance:	High

Good Afternoon Mr. Scott Griffith,

The County of El Paso has been informed you are the point of contact to receive responses pertaining to the purposed OCA CIP rule change.

Yesterday afternoon The El Paso Council of Judges collectively drafted a response to the purposed OCA CIP rule change. Judge Robert Anchondo, County Criminal Court at Law #2, headed this effort on behalf of the COJ. The COJ unanimously agreed to the submission of the attached response and has been signed by Judge Alma Trejo, Administrative Judge, County Criminal Court at Law #1.

A copy of this response has also been sent to fax number 512-463-1648.

ATTACHED: EL PASO COUNTY's COJ RESPONSE TO OCA CIP RULE CHANGE_7 28 16 *(PDF format)*

Respectfully,

EL PASO COUNTY FINANCIAL RECOVERY DIVISION

Derek Ware, Manager
Financial Recovery Division
El Paso County,
500 E. San Antonio Ave.,
El Paso, TX 79901
P#915-543-3892 ext. 2371

July 28, 2016

The El Paso Council of Judges opposes the proposed changes.

After reviewing the proposed rule change from the Office of Court Administration of the Texas Judicial System's (OCA) Collection Improvement Program (CIP), it has been determined it would have a detrimental and counterproductive results not only to all County and District Courts, and other El Paso County offices but would serve more of an injustice and disservice to those assessed fees on their court cases. The following is a list of concerns imposed by the proposed OCA changes.

Under the proposed changes, after a defendant stands before a judge and pleads guilty, the defendant is required to report to the El Paso County's Financial Recovery office (Dedicated Local Program Staff), a division under the Budget and Fiscal Policy Department responsible for the recovery of assessed court cost. The Financial Recovery Division is to confirm the cost of court proceedings owed can be paid without undue hardship. If the defendant expresses they cannot reimburse the assessed cost at the time of their plea, the defendant is to be returned back to court so an Indigency Hearing can be held.

On a regular docket day, 99% of cases resolved are due to a plea bargain, where a defendant and their appointed or retained counsel are given ample opportunity to give their input into the terms of agreement/judgment to include assessed court fees. After the "Bill of Cost" is presented to the defendant detailing their assessed fees and the defendant expresses to the FRD Specialist that the defendant cannot comply with the assessed fees, it is assumed that the defendant has misrepresented to the court that the defendant has agreed with the terms of the plea to include paying the assessed fees. If the defendant cannot comply with the terms of the plea bargain, it is at that time they are afforded the opportunity and the responsibility to express their concerns. The Judiciary of the County of El Paso has no intention of placing a defendant in a situation to fail. If a defendant is to express their concerns at the time of plea, the judiciary will not hesitate to take their concerns into consideration. This one example of the proposed OCA CIP change is counterproductive and increases the lack of resources by having to return a case back to court when the opportunity was already given beforehand for the defendant to express their inability to comply with the terms of their plea bargain.

The Financial Recovery Division is already conducting financial interviews on defendants after their plea in accordance with the current OCA CIP rules. After reviewing financial interviews currently being conducted, about 80% of cases under a plea bargain, based on the purposed rule change will have to be referred back to the court for an indigency hearing therefore, increasing the case load for the court. After running a statistical sample test that included financial interviews based on the purposed OCA rule change, requiring a dependent's financial status to be taken into account, an additional 10 to 12% of defendants, would have to be referred back to court. For a total of 90 to 92% of cases returned for indigency hearings.

This is NOT taking into account the remaining 8 to 10 % of defendants given a payment arrangement who then default on a single payment. A phone call and notice must be triggered by the FRD staff using the purposed notification verbiage informing the defendant of their option to return their case back to court for a hearing. Within the County of El Paso, 99% of plea bargains is equal to about 765 cases per month. If 90 to 92% of these cases were to be referred back to court for an indigency hearing, on average of 696 cases per month would be sent back totaling approximately 8,352 additional cases added to court dockets per year. Not only is this imposing a massive number of additional hearings to a docket but would also deplete already deficient resources and logistics from those offices that directly and indirectly support the court process. As a result,

courts would have to rely on the taxpayer and community to assist in covering additional costs that otherwise would not be needed.

As per the purposed rule changes definition of "household income", it only includes the defendant's and a spouse's income. It does not take into account additional income from those who contribute residing within the home of residence. However, the proposed rule states that the court cannot impose an undue hardship on defendants and their dependents. This is clearly unreasonable and illogical. For example, if a dependent is working and contributing to the household expenses, those contributions cannot be taken into account as part of the household income. However, if a dependent is receiving one of the qualifying forms of government assistance, yet it is less than their contribution to the household expenses, the government assistance is to be taken into account without mention of their contribution to the home. This methodology would actually place a defendant at a possible surplus of income and again the proposed rules would be counterproductive.

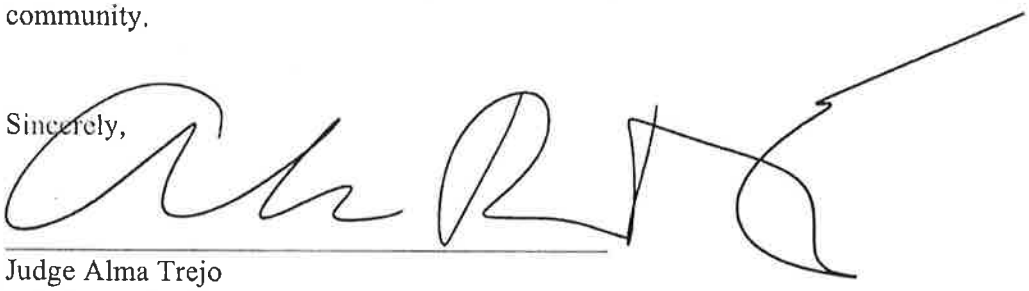
As per the purposed rule's definition of "Discretionary income" meaning the amount of a defendant's net (after-tax) household income minus the amount of all required payments and the cost of items such as credit cards, clothes, food, and vehicle. It is understandable and agreed that a defendant should not lose their home or be unable to feed, clothe, and provide for their families by retaining the means to pay the cost of reasonable expenses. However, under this definition, as long as a defendant pays for cigarettes, alcohol, multiple modern cell phones, hair dresser, nail appointments, movie or concert tickets, meals out etc. using a credit card, they are not using discretionary income therefore, these expenses cannot be taken into account. The definition of the proposed term also does not define an allowable amount to be spent on clothes and vehicles. A defendant may have multiple luxury vehicles or a habit of spending on overpriced and unnecessary clothing; yet again, it cannot be taken into account? Subsequent creating a biased financial evaluation.

Additionally, the Financial Recovery Division would only be allowed to recover assessed court expenses at a rate of 20% of a defendant's discretionary income per month. With potential restitution and fines in County and District Courts often in the thousands or more, this is not workable and could extend payment plans for years and may result in a defendant's probation being extended since they did not comply with part of the agreed terms of probation of paying their restitution and/or fines in full. The proposed rules may create more Motions to Revoke Probation (MTR) for non-payment which would ultimately hurt the defendant and could increase the number of convictions. This is a very negative, unintended consequence of the proposed rule change. Ultimately it would set up a defendant for failure and would actually incur more cost to a defendant in the long term.

Under the purposed Texas Administrative Code, §175.1, (C), the purposed rule change does not alter a judge's legal authority or discretion to design payment plans of any amount or length of time, to convert costs, fees, and fines into community service or other non-monetary compliance options as prescribed by law, to waive costs, fees and fines; or to reduce the total amount a defendant owes at any time after assessment date; or to adjudicate a case for non-compliance. This authority is not new, the judiciary already uses this discretion to prevent placing a defendant in a position of failure. As mentioned before, if a defendant expressed their concern regarding the terms of cost at the time of plea bargain, the judges would employ this tool and prevent a defendant having to be recycled through the judicial process for a second time exhausting unnecessary resources.

One solution would be for the plea bargained cases to least be exempt from these rules since all of these concerns are brought to the attention of a defendant and their counsel prior to them accepting the terms of plea/judgment. Just as other dedicated program staffs throughout the state of Texas, The El Paso County's Financial Recovery Division regains monies from those who have exhausted resources throughout the judicial process. These are not only resources directly drained from the courts but from other offices required to support the judicial system such as arresting agencies, emergency response teams, clerical and technical support plus, legal counsel if needed. These are ALL resources initially funded by taxpayers. The Financial Recovery Division's goal is to assist in making the County and taxpayers whole by replenishing funds to allow public services to continue without interruption or placing the additional burden of cost upon the taxpayers and community.

Sincerely,



Judge Alma Trejo
Administrative Judge
County Criminal Court at Law # 1

The Senate of The State of Texas

Senator Craig Estes
District 30

July 29, 2016

Via email to scott.griffith@txcourts.gov
Mr. Scott Griffith
P.O. Box 12066
Austin, TX 78711-2066

Re: Comments to Collection Improvement Program Rules Change

Dear Mr. Griffith:

I am writing concerning the proposed changes to the Collection Improvement Program published in the Texas Register on July 1, 2016.

My constituents in Grayson County have expressed serious concern over the administrative and financial burdens that would result on the County if the proposed changes are implemented. I have reviewed the proposed changes, and I am also concerned. I believe that the Texas Judicial Council's laudable goal was to provide clarity and flexibility to local judges and program administrators for securing the payment of costs, fines, and fees, and to actually improve the rate of collection from defendants in the program, but I am not persuaded that this goal will be accomplished with the new procedures. In fact, I believe the opposite may occur--that, in many cases, judges will be forced to accept *non-indigent* defendants' mere assertions of inability to pay, and then be forced to monitor these defendants in alternative community service-type programs to satisfy their debts, which do not exist in Grayson County to a large enough degree to absorb such defendants. This would obviously not improve the rate of collection, and it would result in a greater administrative burden on the County judicial system.

I hope that the Texas Judicial Council (TJC) carefully considers the probable real-world consequences of the proposed rule changes. I'd also like to request that the TCJ work with Grayson County and others in order to propose alternative changes that are likely to accomplish TCJ's goals, while also not unduly burdening Texas Counties.

Respectfully,

Craig Estes

Senator Craig Estes
Proudly Serving District 30

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2525 Kell Blvd., Suite 302
Wichita Falls, Texas 76308
940-689-0191
Fax: 940-689-0194

CAPITOL OFFICE:
P.O. Box 12068
Austin, Texas 78711
512-463-0130
FAX: 512-463-8874
Dial 711 for Relay Calls

DENTON DISTRICT OFFICE:
4401 North I-35, Suite 202
Denton, Texas 76207
940-898-0331
Fax: 940-898-0926

Shelly Ortiz

Subject: FW: Proposed Collection Improvement Program Rules - Comments

From: Judge Dan Schaap [mailto:SchaapD@pottercscd.org]
Sent: Friday, July 29, 2016 2:25 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed Collection Improvement Program Rules - Comments

I am the judge of the 47th District Court for Armstrong, Potter and Randall Counties. While I recognize there may be a need for better procedures and more due process with regard to the collection of fines and fees from criminal defendants, I am concerned that the proposed rules increase the amount of bureaucratic effort required to operate the program without providing sufficient discretion to the Collection staff to make a determination about a Defendant's ability to pay and take an appropriate action short of taking the Defendant back to Court. I fear that the percentage of felony defendants that fit within the "inability to pay" paradigm is very high and will burden the Courts with yet one more task to fit within court calendars that are already present logistical challenges. That is particularly true for a Court like the 47th, which serves 3 separate counties.

Along that same vein I must point out that a county like Armstrong County, with a population of 2000 people, does not really have the wherewithal to consistently jump through all the hoops contemplated by the new plan. There is no choice but to assign this to someone whose training and experience is not commensurate with the demands of this program. In short, some consideration should be given to a significantly abridged version of the plan for the many small, rural counties in Texas.

Thanks for your consideration of these comments.

Judge Dan L. Schaap

Judge Dan L. Schaap

47th District Court
Randall County Justice Center
2309 Russell Long Blvd.,
Canyon, Texas 79015

(806) 379-2350 OFFICE
(806) 379-6158 FAX
SchaapD@pottercscd.org

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Shelly Ortiz

From: Tina Villa <tvilla@co.hood.tx.us>
Sent: Friday, July 29, 2016 3:07 PM
To: Scott Griffith
Subject: Proposed Collection Improvement Program Rules

Judge Castillo, Hood County JP2, and I,Tina Villa, Office Manager of Hood County JP2 are against this proposed change.

Thank you,

Tina Villa
Office Manager
Justice of Peace Pct. 2
Hood County, TX

Shelly Ortiz

From: Jennings, Sharon <sjennings@ci.corsicana.tx.us>
Sent: Friday, July 29, 2016 3:29 PM
To: Scott Griffith
Subject: CIP Rules

Dear Mr. Griffith,

I ask that the CIP program not be applied to the smaller courts, population under 50,000 or so. The economy in these rural areas has suffered in recent years and the burden placed on the courts may be unbearable. Just keeping up with what is now required can be difficult to manage. Our court has already made changes to have better contact with persons regarding payment of fines and fees. I think it is important to continue to improve processes in all courts.

I appreciate your consideration for the smaller courts.

Regards,

Sharon Jennings, CCM
Municipal Court Administrator
City of Corsicana
903.654.4861
sjennings@ci.corsicana.tx.us
"Ability is what you're capable of doing. Motivation determines what you do. Attitude determines how well you do it."-Lou Holtz

COLLIN COUNTY

Lynne Finley
District Clerk
2100 Bloomdale Rd
Suite 12132
McKinney, Texas 75071
972-548-4320 or
972-424-1460 Ext 4320 (Metro)

July 29, 2016

Scott Griffith
Texas Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066

Mr. Griffith:

As District Clerk for Collin County, and responsible for court collections in cases heard by 11 District Courts, I wish to express my concern and opposition to the proposed rule changes for Chapter 175 of Title 1 of the Texas Administrative Code concerning the Collection Improvement Program as posted in the July 1, 2016 Texas Register.

Under the proposed rules, upon disposition of a case, program staff would be required to get a signed statement from a defendant regarding whether the defendant has the ability to pay the assessed costs, fines and fees under the imposed terms without undue hardship to the defendant and defendant's dependents. Additional requirements are placed upon the defendant and the program staff if the defendant is unable to make the acknowledgment. Program staff is then required to conduct interviews with defendants whom do not acknowledge that they have the ability to pay. Currently less than 5% of defendants pay in full at time of disposition and a conservative estimate would be that between 60%-80% of defendants would state that any payment would be an undue hardship.

In meeting this requirement, Collin County would have to add at least one full time position to interview defendants, confirm incomes (including household members) or their participation in federal and state assistance programs Experience in the past has shown that in many instances, when completing applications of inability, individuals may not always be forthcoming in disclosing their true income and resources. How do you handle situations, in which the defendant does not provide program staff with complete financial information or a complete application? Is the proposed payment plan followed or is the case put "on hold" until information is received? Proving participation in a federal or state assistance program can be difficult. Will OCA give program staff a means to confirm participation in state programs such as Medicaid or Food Stamps or do we just take the defendant's word that they participate?

The proposed rules also require that program staff refer the defendant back to the court for a hearing for those that do not acknowledge their ability to pay. This requirement would not only add additional work for the courts, but would also require program staff to monitor when the hearing was scheduled, if the defendant showed up for the hearing, and the outcome of the hearing. With 11 district courts in

Collin County, if the court had questions regarding the application during the hearing, with current staffing, it would be nearly impossible to be available for all the courts. In addition, requiring a hearing may also cause hardship for the defendant ---requiring them to take off work and arrange transportation. How do you handle situations in which the defendant may live out of county or even out of state?

In addition, regarding the proposed interview and court hearing requirements, the proposed rules do not address how to handle cases in which a defendant does not show up for the interview or the hearing. Do program staff continue with collection efforts (e.g. phone, calls, and mailings) or does the case remain in limbo until the interview is completed and the hearing held? What are the time frames for defendants to respond for requests for information? How many times are hearings rescheduled, if the defendant does not show?

The proposed changes also require additional information and instructions be given by program staff in contacts with the defendants. Both phone and mail communication must include steps the defendant can take if they are unable to pay. Given that many of our defendants are in and out of compliance in making their monthly payments, would these individuals be required to complete a new financial application and have a hearing before the judge each time they were unable to pay?

The Collin County District Clerks office currently works with defendants in setting up their payment plans. A defendant's ability to pay is taken into consideration. Monthly payment plans generally range from $10-$50 per month. The proposed rules will certainly require more program staff to carry out the new requirements, with little evidence that the changes will positively impact outcomes. The required hearings for those that are unwilling to sign the acknowledgement will increase the amount of time needed for a court to deal with many cases. In additional, these acknowledgements of ability to pay are treated as absolutes. A defendant's ability to pay is not a stagnant factor. Many defendants come out of incarceration and treatment programs and are unable to bear the burden of the financial obligations of the court, however these issues are dynamic and change as the defendant progresses through the phases of re-integration and rehabilitation.

As the Collin County District Clerk, I respectfully oppose the proposed changes to Chapter 175 of Title 1 of the Texas Administrative for the afore-stated reasons and request caution in making such significant and far reaching changes without further investigation on the impacts it will make on the defendants, the courts, and the program staff.

Sincerely,

Lynne Finley

Lynne Finley, JD
Collin County District Clerk

July 29, 2016

Via email to scott.griffith@txcourts.gov
Mr. Scott Griffith
Texas Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066
Via telecopy at (512) 463-1648

Re: Collections Improvement Program Rules Change

Dear Mr. Griffith:

The Texas Office of Court Administration recently proposed changes to the rules regarding the Collections Improvement Program (CIP), which is codified in Article 103.001, *et seq.*, of the Texas Code of Criminal Procedure. It is our understanding that the public has until July 31, 2016, to submit any comments about the proposed changes to the rules.

With a population of just over 120,000, Grayson County, Texas, barely meets the 110,000 population threshold for having to participate in the CIP. Most of the other counties required to participate have much greater populations and more resources than we do.

On behalf of Grayson County, the undersigned county officials submit the following comments in opposition to the proposed rule changes, which will adversely affect Grayson County if they are implemented.

I. Summary of proposed rule changes.

The essence of the proposed rule changes is to direct those defendants who qualify as being unable to pay fines and court costs into an alternative method of satisfying the assessment of costs, fees, and fines other than through the payment of money. The proposed rule changes will implement a procedure by which each defendant is asked to state whether he or she is able to

pay such fines and court costs, and, if not, direct the defendant into a non-monetary program to satisfy the monetary portion of the defendant's sentence.

Under the proposed changes, the county's CIP staff will be required to obtain a signed statement from the defendant of his or her ability to pay the assessed costs, fines and fees under the imposed sentence. Additional requirements are placed on both the defendant and the CIP staff if the defendant is unable to make this acknowledgement. A referral back to the court, which would require a hearing, is required for those that do not acknowledge their ability to pay.

The proposed changes also require additional information and instructions be given in contacts with the defendants. The changes regarding Final Contact Attempt require that, before reporting a case as non-compliant, a final contact must be made by the county's CIP staff in writing, by mail, and it must explain non-monetary options.

The requirement to obtain acknowledgement of ability to pay from a defendant will result in additional resources being utilized by the courts and by the county's CIP staff, which is already stretched thin. The required hearings for those defendants who are unwilling to sign the acknowledgement will necessarily increase the amount of time needed for a court to deal with many cases.

II. Grayson County has only one non-monetary program.

Grayson County does not have any non-monetary programs that can be utilized to address a defendant's inability to pay, other than community service plans for fines and court costs, which are monitored by our county's CIP. It will not be practical to direct each and every defendant who is deemed unable to pay to Grayson County's community service program; our community service will quickly be overloaded, and defendants will have to remain in the community service program for too long, thereby increasing the chances that they will not complete their program successfully.

Furthermore, the proposed changes basically eliminate the enforcement of non-compliance because no consequences will result if the defendant fails to comply with the payment plan or fails to complete a non-monetary plan.

Eventually, word will get around that any defendant who can qualify as being unable to pay will never be held accountable for failing to complete a non-monetary program in Grayson County, and respect for such non-monetary programs will eventually erode.

III. Proposed rules will cause delay to court dockets.

The requirement for a referral back to the court for a non-monetary plan also will severely hinder the local courts' ability to efficiently handle a large number of cases in a single court day as defendants shuffle back and forth between the CIP staff and the court to determine whether they are unable to pay. This will decrease the number of cases heard in a court, it will

cause backlog on our courts' dockets, and it will most certainly increase the strain on our criminal justice system.

IV. Proposed rules will cost Grayson County revenue from collections.

The current CIP program allows counties to retain a large portion of the collected funds. The estimated amount of cases that the proposed rules would affect in Grayson County would be approximately 50 percent of the cases each month. If those court orders cannot be enforced and no monetary punishment can be accepted on those cases, then Grayson County will lose an estimated $650,000 a year. However, our county's expenses related to enforcement of our criminal judgments will not decrease at all.

If 50 percent of the defendants in Grayson County can avoid paying fines and court costs and still be excused from an alternative, non-monetary program because we simply cannot logistically man such non-monetary programs in a timely manner, then we fear that defendants who commit crimes in Grayson County will soon come to learn that their actions will go unpunished, and they will lose respect for our criminal justice system.

V. Grayson County is not likely to receive a waiver.

The proposed rules will allow a county to seek a waiver under certain circumstances, including if Grayson County can demonstrate that the estimated costs of implementing a local program are greater than the estimated additional revenue that would be generated by implementing the local program, and if a compelling reason exists for submitting the waiver request after the entity's implementation deadline. We are concerned, however, that Grayson County will fall too far behind before we can gather the data necessary to satisfy the waiver requirements, or that the standard for satisfying the waiver requirements will be too high, yet Grayson County will still suffer from the proposed rule changes.

What we think will happen is that all qualifying defendants will be funneled into our community service program, which will then be so overloaded that it will not be able to function properly for the persons for whom it is designed to benefit, but this factor does not appear to be a part of the waiver analysis.

In sum, Grayson County respectfully requests that the proposed rule changes to the Collections Improvement Program be rejected.

Thank you very much for your consideration of this matter.

Sincerely,

County Judge William L. Magers

Sheriff-Elect Tom Watt

Criminal District Attorney Joe Brown

Judge Jim Fallon
15th District Court

Judge Rayburn "Rim" Nall
59th District Court

Judge Brian K. Gary
397th District Court

signed with permission by Bill Magers
Judge James C. Henderson
County Court at Law No. 1

Judge Carol M. Siebman
County Court at Law No. 2

Alan Brown
Director, Community Services
& Corrections Division

Cc: Hon State Senator Judith Zaffirini

Shelly Ortiz

From: Justice of Peace #3 - Gary Jackson <garyjackson@co.potter.tx.us>
Sent: Friday, July 29, 2016 2:36 PM
To: Scott Griffith
Subject: Proposed Changes

Mr. Griffith,

I am writing to inform you that myself and the other three JP's of Potter County, Judge Debbie Horn, Judge Rich Herman, and Judge Thomas Jones are against the proposed indigent rule changes. We believe the way it is now works very well. Thank you.

Judge Gary L. Jackson
Justice of the Peace
Potter County, Precinct 3
P.O. Box 50487
Amarillo, Tx 79159-0487
Phone - (806) 355-3070
Fax - (806) 352-0129

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Shelly Ortiz

From: Craig Johnson <craig.johnson@co.wise.tx.us>
Sent: Friday, July 29, 2016 3:12 PM
To: Scott Griffith
Cc: Craig Johnson
Subject: COMMENT ON PROPOSED CIP RULES: AGAINST

Mr. Griffith,

Upon review of the proposed changes to the CIP rules I have found them to be very problematic, vague, cumbersome, and expensive in addition to being very invasive and potentially unfair to defendants. Therefore, I am against the rules being adopted and implemented.

The new rules place the responsibility of the determining what a defendant can and cannot afford upon court. No one knows their financial situation better than a defendant. I do not believe the court has any business telling a defendant what they can or cannot afford. Nor do I believe the court has any business evaluating the schedules of defendants to determine if they are able to satisfy the assessment with non-monetary compliance such as community service. Those decisions are best left to the defendants.

Key terms such as "undue hardship" have not been defined. Since the terms are not defined and are left open to interpretation could lead to unfair and confusing situations for the defendant. For example: A defendant may be considered unable to pay costs because they have an "undue hardship" in one court, but another court does not find an "undue hardship" exists. Furthermore, if a defendant is found unable to afford costs in court they may still be required o pay charges and fees in other areas (i.e. driver's license surcharges). That is unfair and confusing for defendants.

The presumption of inability to pay costs based on the defendant being required to attend school due to the compulsory school attendance law is misguided. A defendant's standing as a student has absolutely no bearing on the ability to pay costs. While some students and their families struggle financially not all are students fall into that category. Many students have far less time than money due to school activities. Those students commonly prefer to pay their costs to avoid missing or conflicting with their educational activities. Since the presumption of inability would apply to all students the court would be required to show the student was not unable to pay costs which would draw out and complicate the process needlessly.

The proposed new rules put forth many changes. Implementing and working under the proposed new rules would dramatically increase the time it takes court staff to process and evaluate these cases. The cost in manpower and efficiency could easily, and unfairly, overwhelm smaller counties and courts within them who do not have the personnel and budget to handle them. This is especially true for counties that do not have a centralized collection office.

As previously stated I am against adopting and implementing the proposed changes.

Judge Craig D. Johnson
Justice of the Peace, Precinct 2
Wise County, Texas

Shelly Ortiz

From: Sheryl Keel <SKeel@smith-county.com>
Sent: Friday, July 29, 2016 3:29 PM
To: Scott Griffith
Subject: proposed cip rules

Scott

I do not think the new changes that are trying to be put in place will help the program at all, only hinder it. We have come a long way in the way the program is ran now. Just a couple of things that I saw is how can the new changes go in effect for mandatory counties vs. volunteer programs. You have two defendants with the same citation, 1 is given a "pass" because they are maxed out on credit cards and the other is penalized for paying his bills and not being in debt. I see potential law suits there. Another problem I see is that the docket sheets will be even more heavy. When a defendant has to go back to court and prove that now they cant pay.

Please reconsider the proposed changes.

Sheryl Keel
Judicial Compliance Supervisor
200 E Ferguson St. #300
Tyler TX 75702
903-590-4624

Shelly Ortiz

Subject: FW: Collections Improvement Program

From: Scott Griffith
Sent: Friday, July 29, 2016 3:43 PM
To: Shelly Ortiz <Shelly.Ortiz@txcourts.gov>
Subject: FW: Collections Improvement Program

For the binders.

Scott

From: Hughes, Judge Jean (CCL) [mailto:Jean_Hughes@ccl.hctx.net]
Sent: Friday, July 29, 2016 3:40 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Collections Improvement Program

Scott,

I'm contacting you as President of the Texas Association of County Court at Law Judges regarding the CIP proposals. You probably have already received letters from a number of our members or their counties as well as the Probation Advisory Committee.

First, if there is an effort to rework these proposals, which we certainly hope will be the case, we would be glad to offer assistance from our organization.

Secondly, while we see where this might be an attempt to handle Class C misdemeanor situations where courts have standard set fines for certain offenses, over 95% of Class B misdemeanors thru felonies are a result of a plea bargain. There is presumption at the time of the plea that because the defendant has freely and voluntarily entered into this agreement, they have the ability to pay. As current law allows (CCP Art. 43.091) the court can waive fine and costs upon default if appropriate.

Third, the options are not practical in the everyday operation of courts. We are drowning as it is.

Again, please let me know if we can offer any assistance.

Respectfully,

Judge Jean Spradling Hughes
Harris County Criminal Court at Law No. 15
1201 Franklin
Houston, Texas 77002
713-755-4760 Office
713-899-3915 Cell

Chair, Criminal Justice Legislation
State Bar of Texas Judicial Section
President, Texas Association of County
Court at Law Judges

OFFICE OF
COURT ADMINISTRATION

Toni Freeman
Official Court Reporter

BRENT A. CARR
Judge
County Criminal Court No. 9
401 W. Belknap, 8th Floor
Fort Worth, Texas 76196-7678
(817) 884-3410

Lori McEndree
Court Coordinator

Scott Griffith
P.O. Box 12066
Austin, Texas 78711-2066

Mr. Griffith.

I am currently the Local Administrative Judge for the Statutory County Courts in Tarrant County. We wish to express our concerns regarding the proposed rule changes to Tex. Admin. Code Ch. 175, Part 8 (Collections Improvement Program) as posted in the July 1, 2016 Texas Register.

We would like to echo the issues presented in the Probation Advisory Committee's recent letter regarding the proposed rule changes. Specifically, we are concerned with the increase in costs and staffing that will be required for assessment of ability to pay and management for compliance with non-monetary options. Currently, there is no statutory mechanism in place to monitor non-monetary payment options post-conviction – and your proposed rules do not address this issue. If our Community Supervision and Corrections Department could not fulfill this role in its current form, it would necessarily fall to the courts or the clerk's office. For example, would this require the courts to establish a post-conviction supervision office or some other unit of administration to monitor non-monetary payment options?

It is clear that further investigation and information is needed to address the potential impact of these changes to local government and the courts and the methods by which any such changes can be put into effect.

Sincerely,

Brent A. Carr

Brent A. Carr, Judge

Shelly Ortiz

`om: Tammy Sosa <Tammy.sosa@co.wise.tx.us>
ɔent: Friday, July 29, 2016 3:48 PM
To: Scott Griffith
Subject: Against changes

I am against adopting and implementing the proposed changes.

The proposed new rules put forth many changes. Implementing and working under the proposed new rules would dramatically increase the time it takes court staff to process and evaluate these cases. The cost in manpower and efficiency could easily, and unfairly, overwhelm smaller counties and courts within them who do not have the personnel and budget to handle them. This is especially true for counties that do not have a centralized collection office.

Tammy Sosa
Office Manager
Judge Craig Johnson
Justice of the Peace, Pct. 2
Wise County

Shelly Ortiz

From: Paredes, Juan <Juan.Paredes@fortworthtexas.gov>
Sent: Friday, July 29, 2016 4:01 PM
To: Scott Griffith
Cc: Cynthia Montes; Rumuly, William F; Laney, LaMysa; Ewing, Theresa A.; Mares, Ninfa
Subject: CIP Rule Changes

Scott:

The City of Forth is submitting the following regarding the proposed Collection Improvement Program rule changes.

1. (a)(4) Verification of Contact Information
    a. Consideration should be taken for municipalities that arraign defendants at locations away from the local program staff. High volumes of time payment orders can be challenging to process within 5 calendar days, especially when a large number of arraignments are conducted on weekends. The court recommends amending this time requirement to 5 business days.
2. 6(B) Presumption of Inability to Pay
    a. Clarification is need to address if verification is required on any of the presumption categories
        i. Is the local program required to validate proof of school enrollment, financial assistance programs, etc.
3. 6(C) Other Cases
    a. Clarification is need for the local program staff on defendants not presumed to be unable to pay but may have received information indicating the inability to pay.
4. 7(B)(1) Attempt to Obtain Application or Contact Information
    a. The court feels the one week verbiage can be clarified and extended to 10 business days if mailing an application

Juan Paredes
Assistant Clerk of the Court
Fort Worth Municipal Court
Office: 817-392-5868
Cell: 817-994-2214
Juan.Paredes@fortworthtexas.gov

City of Fort Worth — Working together to build a strong community.

FORT WORTH

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Shelly Ortiz

rom: Gary, Keith <keith.gary@dallascityhall.com>
Sent: Friday, July 29, 2016 3:45 PM
To: Scott Griffith
Cc: Carter, Gloria; Rogers, Ryan
Subject: Proposed CIP Amendments

I believe I posted a comment in June, but just in case.

Dallas Judges routinely offer alternative non-cash means for a defendant to dispose of their case. When the defendant chooses to pay, but is unable to pay the fines and fees in its entirety, the current process in Dallas allows for the defendant to work with court staff to come up with a payment plan that is amenable not only to the court, but also the defendant. We currently have an 80% success rate for defendants meeting the terms of the payment plan agreement and disposing their case. in those cases where the defendant does not complete the pay plan we have at least collected the initial 30%.

Defendants that can't afford to pay have already told that to the Judge prior to working with our clerks. If we start offering indigency to defendants that have already been sent to court collection staff by the Judge, we are just opening ourselves up to additional delays by defendants that are trying to "game the system". Additionally, courtroom dockets will be severely impacted by defendants that are exploring the possibility of using indigency as a way to avoid paying a citation they were once willing to pay.

If there are any further questions, or if I may be of additional assistance, please contact me via email, or phone 214-670-4973.

Keith Gary
Financial Services Manager
Court & Detention Services
City of Dallas

DALLAS COUNTY TEXAS
JOHN F. WARREN
DALLAS COUNTY CLERK

To: Scott Griffith

From: Rhonda Pennington, Dallas County Clerk Chief Deputy

Subject: Collection Improvement Program Rule Revisions

Date: July 29, 2016

Scott Griffith:

There is cause for concern in reference to the proposed changes in the CIP. The changes will affect our County negatively in the following ways:

- The revisions will change our judicial system as we know it. It will overwhelm the courts with indigent hearings and show cause hearings that must be heard in addition to the daily court pleas and trials

- It appears these changes would encourage fiscally-abled customers to claim ~~that~~ they are unable to pay cost/fines. Offenders often have multiple cases across felony and misdemeanor courts. The changes would relieve the offenders from the obligation to pay costs/fines for each case that is currently before the courts.

- The revision also places the financial burden on the courts and local/state government. This burden-eventually trickles down to the taxpayers.

- The burden of proof concerning customers' ability to pay is shifted to county employees. Currently, we are able-to examine all of the customer's resources (I.E. family members, possible discretionary money spending patterns) as possible avenues to collect court costs and fines. These means would not be permitted under the proposed CIP changes.

- The reduced collection of court fees/fines will have major effects on local and state budgets.

- Dallas County successfully provides community service opportunities for those offenders who are truly indigent.

- Judges will be more inclined to waive the fees/fines to avoid additional hearings, resulting in loss of revenue.

The current CIP was designed to assist cities and counties with collecting court costs, fees, and fines assessed against persons convicted of (or placed on deferred adjudication or deferred disposition for) misdemeanor or felony charges when they are not prepared to pay all court costs, fees, and fines, at the time of assessment and when time to pay is requested. Being prepared to pay and unable to pay are two different terms. The current changes allow those who have the means but are not prepared to pay into those who have no expectation to pay.

The estimated additional revenue generated by the mandatory Collection Improvement Programs in the state of Texas is $494,591,672 and includes both state and local revenues.

I believe that crime does not pay, criminals pay for crime. Court cost and fines are not punishments until they are collected. The wrong message is being sent to offenders if we adopt the new program rule provisions.

Rhonda Pennington
Dallas County Clerk's Office
Chief Deputy
509 Main Street Ste. 300
Dallas, Texas 75207
214-653-7565 ph.
rpennington@dallascounty.org

Shelly Ortiz

Subject: FW: Proposed Amendment

From: Angelita Hunter [mailto:ahunter@mckinneytexas.org]
Sent: Friday, July 29, 2016 4:00 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: Proposed Amendment

Mr. Griffith,

I was in charge of the collection process and ensuring we met the OCA regulations before my promotion. I just saw the proposed rule change and flow chart and our court has basically operated that way since I have been employed here. We also give them the opportunity to write a letter to the judge expressing extended time, or review of their pay plan. This has been very effective since people may lose a job, after the payment plan has been established. I do think that 60 days is an excessive amount of time, and we have been very effective the current OCA policy.

Purely speaking as an ex-collection clerk, I do believe the OCA time frame now, gives the defendant's plenty of time to appear and/or write a letter if unable to appear (work, out of state, etc). From my own personal experience, almost everyone takes it seriously when they aren't able to pay on time, and will act within a week of their payment default.

With Food Stamps, or any government help, it is required that one prove the need of hardship with tax returns, divorce decrees if ordered to pay child support, termination letter from former employer, utility bill to prove residency, lease or rent, etc. I believe that requesting such documentation would help properly assist defendants and their needs at the initial point of being the pay plan. If a defendant states that they are indigent, after the pay plan, to request them to produce documentation of all the hardships for the court to justify why CS was given, lower payment plan, or any other outcome that could be ordered?

I commend those involved in this process, to help secure the rights of all, and thank you for allowing others to comment with our questions and concerns.

Respectfully,

Angelita Hunter Judicial Clerk, Municipal Court of the City of McKinney
972-547-7677 Desk | 972-547-7686 Fax | ahunter@mckinneytexas.org | contact.courts@mckinneytexas.org
" Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it." – Learned Hand

Please visit the link for online citation:
https://services.mckinneytexas.org/Click2GovCS/

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Shelly Ortiz

From: Mike McAuliffe <mcauliffem@taylorcountytexas.org>
Sent: Friday, July 29, 2016 4:00 PM
To: Scott Griffith
Subject: Proposed Changes

After having read the proposed CIP rule revisions and looking over the existing and proposed CIP.
I believe that a maze has been developed compared to what was in place already.

My collections has the defendant fill out all necessary paperwork stating their financial situation and comparing it to what is owed on any given situation. My clerk does not overcharge anyone to get the fine paid off in 30, 60, or even 90 days. We never want to put a burden on home finances or put the defendant in a situation that is not manageable. If anything, our office does not add all the additional charges (collections, serving warrants, etc....) We try to have them pay out what they can afford each month, sometimes as little as $10.00 I am not interested in putting these people in jail over fines, due to the costs the county incurs with jail time and housing of the defendant.

We have not had anyone claim indigence when a low amount is offered to them and they are treated with respect every time they come to the window to pay. I am afraid that word will spread that they can claim indulgency, not pay, be given community service. When a capias pro fine warrant is issued, they are brought back to court, and then what are we to do with them? It appears that we just excuse the fine and write the whole thing off. Once that is started then the snowball effect will take place.

I am all for community service in exchange for fines owed, but what happens when an individual signs up for community service, then doesn't fulfill their hours, are we then to hold them in contempt and place them in jail? Or do we just write them off dismissing the fines so that the county doesn't foot the bill, then when it gets out that we dismiss the tickets, no one else pays and we lose all the way around.

There has to be a better way to handle indigence without punishing either the counties or the public by violating rights.

Thank you.

Judge Mike McAuliffe
Taylor County Justice of the Peace 1-1
301 Oak St., Suite 611
Abilene, TX 79602
325-674-1338 Office
325-674-1250 Fax

Shelly Ortiz

From: Dottie Zavala <dzavala@lakejacksontx.gov>
Sent: Friday, July 29, 2016 4:14 PM
To: Scott Griffith
Cc: 'Landra Hudson'

Subject: Proposed CIP Rules

We are exempt from this because our population is under 100,000. However, if there are plans to change that requirement, my main concern would be that it is too much for small courts.

With that being said, below are a few of my concerns/questions to the proposed rules.

§175.3. Collection Improvement Program Components.
(4) Verification of Contact Information. Within five days of receiving the contact information, local program staff must verify both the home and primary contact telephone number. Verification may be conducted by reviewing written proof of the contact information, by telephoning the personal contacts, or by using a verification service. Verification must be documented by identifying the person conducting it and the date of the verification.
What happens if the phone numbers are wrong/do not work?

(5) Defendant Interviews.
(A) Within 14 days of receiving an application or receiving a case in which the judge has set a payment plan before referring the case to the program and the defendant has indicated that the defendant does not have the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents, 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 name of the interviewer and date of the interview.
What happens if the person cannot be contacted?

(B) Within 14 days of receiving a case in which the judge has set a payment plan before referring the case to the program and the defendant has indicated that the defendant has the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents, local program staff must conduct an in-person or telephone interview with the defendant to review the terms of the payment plan set by the judge. Interviews must be documented by indicating the name of the interviewer and date of the interview.
Why do we need to contact people that have the ability to pay?

(6) Referral to Court for Review of Defendant's Ability to Pay.
(A) Referral to Court. If a defendant interview or other information collected by local program staff indicates that the defendant may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents, or that the defendant may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents, local program staff must refer the case to the court for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate.
Will local program staff be educated so that they will know who can and can't pay? Who will fund that education?

(B) Presumption of Inability to Pay.
(ii) the defendant's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or
What does 125% mean? How much is that?

(iii) the defendant or the defendant's dependent receives assistance under the following:
(1) a food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(2) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;
(3) the medical assistance program under Chapter 32, Human Resources Code; or
(4) the child health plan program under Chapter 62, Health and Safety Code.
e they required to provide proof?

(b) Exceptions to Defendant Communications Rules.
(1) Attempt to Obtain Application or Contact Information. An attempt to obtain an application or contact information described in §175.3(a)(3) is made either by mailing an application or contact information form or by obtaining the information via the telephone within one week of the assessment date. An electronic report or manual documentation of the attempt must be available on request. Should the defendant not return a completed application or contact information form and the post office not return the application or contact information form as undeliverable, the local program must make a second attempt to contact the defendant with any existing available information within one month of the first attempt. An electronic report or manual documentation of the second attempt must be made available on request.
Is it at this point where they are reported as non-compliant?

Thank you for your time.

Dorothy Zavala, CCCII
Court Clerk
City of Lake Jackson
5-B Oak Drive
Lake Jackson, TX 77566
(979) 297-1031 ext 2753
(979) 292-0130 (fax)

Shelly Ortiz

From: Louise Cates <louise.cates@co.wise.tx.us>
Sent: Friday, July 29, 2016 4:11 PM
To: Scott Griffith
Cc: Mandy Hays
Subject: Comments - CIP rule changes

Mr. Griffith,

Hi, my name is Louise Cates, JP3 Court Clerk Wise County. One of my responsibilities is to process compliance with the Collection Improvement Program. There are few a concerns that I have regarding the proposed rule changes.

One being the financial agreement interview that requires determining "undue hardship" as described by the CIP rule changes by calculating discretionary Income and presumed Inability to pay. This does not allow for the defendant to determine their own budget regarding payment that is due for the offense that the defendant committed. This only perpetuates poverty and does not allow for personal responsibility, rather it is a donation/gift/freebie/handout. The defendant should be able to request an inability to pay hearing of their own accord prior to entering into a financial agreement and not the court clerk determination of the defendants budget by calculating discretionary Income for an inability to pay hearing.

Also, there is a huge difference regarding population for each county. Each change that requires more in depth analysis requires more dedicated staff.
There should be a compliance exception or 2 tier compliance that would accommodate counties that are closer to the low end of the population starting point.

I understand the premise that this program is designed to be a true Collection process and the good that it allows regarding payment plans for defendants as well as reporting for the state. However, it does not address the ability to process collections at the expected level that these rule changes require for smaller counties.

Thank you,

Louise O. Cates
Court Clerk
Wise County Pct.3
(940) 433-2969
(940) 433-3062

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 4:33 PM
To: Shelly Ortiz
Subject: FW: opinion on proposed rules

For the binders.

Scott

From: Gail Loeb [mailto:GailL@cctexas.com]
Sent: Friday, July 29, 2016 4:25 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: opinion on proposed rules

I read the e-mail proposal when it was received.
I think it's great – making the clerks do what they should be doing.

Sincerely,

Gail G. Loeb

Presiding Judge
Municipal Court
City of Corpus Christi
120 N. Chaparral St.
Corpus Christi, Tx. 78401
361-826-2520

Shelly Ortiz

'rom: Scott Griffith
Sent: Friday, July 29, 2016 4:42 PM
To: Shelly Ortiz
Subject: FW: Mesquite Municipal Court: Response to Proposed Collection Improvement Program Rules

For the binders.

-----Original Message-----
From: Lidia Barraza [mailto:lbarraza@cityofmesquite.com]
Sent: Friday, July 29, 2016 4:35 PM
To: Cynthia Montes <Cynthia.Montes@txcourts.gov>; Scott Griffith <scott.griffith@txcourts.gov>
Subject: Mesquite Municipal Court: Response to Proposed Collection Improvement Program Rules

Judge Crane and I reviewed the Proposed Collection Improvement Program Rules and submit the following response:

To determine that the defendant falls under the federal poverty level they will be required to complete a detailed application and interview. We believe there will be resistance or opposition from the defendants to provide all the information required on the application and to have interviews after their application is reviewed to informed them of other non-monetary options. We are basing this belief on past experiences of this court having defendants walked out upset without doing anything on their case saying that it is ridiculous that the court is requesting all that information just because they are requesting a payment plan.

Most defendants will not have the proof of expenses or proof of government assistance or school records. It will be very time consuming for both the defendant to provide proof of all their expenses and for the court to verify the expenses listed on the application. Due to the volume of cases it will require more court staff just to work on these cases. What happens if they complete the application but don't have or don't submit the proof of the expenses?
If the defendant enters on the application that he/she is unemployed, how is the Court going to verify that?

A better proposal would be to allow those Defendants willing and able to make pay plans to be quickly processed (with the basic contact information provided) and if those defendants are later delinquent to go on a show cause docket, then the more detailed financial application and processing interview can be conducted.

The real word is that over 60% of our pay plans are fully paid without delinquencies or show cause issues. Why burden this percent of the paying public with the inconvenience of filling out forms and conducting an interview when there will be no need or use of the work product.

Thank you,

Lidia P. Barraza
Court Administrator
Mesquite Municipal Court
211 Municipal Way
P.O. Box 850137
Mesquite, Texas 75185-0137
)72-216-6601
lbarraza@cityofmesquite.com

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 4:47 PM
To: Shelly Ortiz
Subject: FW: CIP

For the binders.

From: Timothy Green [mailto:judge@mybigspring.com]
Sent: Friday, July 29, 2016 4:46 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: CIP

The concern for the small courts are, in addition to current duties and requirements, making this fit in the many duties that already must happen with court. I feel that there could be some incentives for a smaller court if they (the small court) could offer someone in their court a financial incentive to accept more duties ($1.50/$2.00 increase to court cost on all cases) to head the CIP.

I can see the value to having a clear plan to collecting monies owed to the court, the challenge is getting the personal to take on the CIP roles. I do however believe that a financial incentive, however small, may attract an office staff to take on this challenge and grow a CIP.

I do applaud efforts to continue to improve compliance with court orders, but I feel the heavy lifting is the challenge of implementing a CIP.

Timothy Green
Municipal Court Judge

CITY OF
Big Spring

PH: (432) 264-2533

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Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 4:49 PM
To: Shelly Ortiz
Subject: FW: proposed CIP rules

For the binders.

Scott

From: Jenny Garcia [mailto:jgarcia@montbelvieu.net]
Sent: Friday, July 29, 2016 4:47 PM
To: Scott Griffith <scott.griffith@txcourts.gov>
Subject: proposed CIP rules

Mr. Griffith,
I am a 1 person office and my work day does not allow any extra time to submit such information. This in no way is an improvement for the court or defendants who come in wishing to take care of a citation. This will cause severe back up for all involved. Everyone is entitled to a fair and speedy trial. This is a huge interference with giving someone a fair and speedy trial. This will cause a severe back log in all cases. I am currently at the mercy of my city requesting another person to help staff this office just to keep up with the day to day tasks to ensure that all defendants get fair customer service that they deserve.
Please take this email into consideration before making this change and burden upon the courts.
Thank you,

Jenny Garcia
Court Clerk
Mont Belvieu Municipal Court
281-576-5018 ph
281-385-2288 fax
www.montbelvieu.net

Shelly Ortiz

From: Brandy Wood <bwood@johnsoncountytx.org>
Sent: Friday, July 29, 2016 5:01 PM
To: Scott Griffith
Cc: Cynthia Montes; Ronald R. McBroom
Subject: OPPOSED: Proposed Collection Improvement Program Rules

Mr. Griffith,

Our court would like to voice **opposition** to the proposed changes to the CIP. From the prospective of the individual who will be expected to carry this out, we will be drowning. The CIP is cumbersome enough as it is. The rules, as they CURRENTLY are devour a tremendous amount of time and it would be detrimental to our ability to maintain compliance should the program be made more complex and tedious, as this proposal suggests. There needs to be a level of expectation for the defendant to **take responsibility** for working with the court to resolve their charges, and to bear the consequences if they don't. It is **fully a two-way street**, but these proposed changes are unbalanced.

Thank you,

Brandy Wood
Justice Court Clerk, JP1
226 Featherston Street
Cleburne, TX 76033

Phone: (817) 556-6033
Fax: (817) 556-6198

Shelly Ortiz

From: Roberto Baez <roberto.baez@cob.us>
Sent: Friday, July 29, 2016 5:09 PM
To: Scott Griffith
Subject: CIP COMMENTS

Good afternoon,

More than comments or feedback, first I have a question, are you going to allow the Local Staff Program to be able to assist defendants by setting payment plans without seeing a Judge? This practice will definitely alleviate a lot of traffic during court hearings. If you are recommending this as part of your changes, how much time the CIP staff can set a payment plan for? I really like the Flowchart, it is well done and very clear to follow.

Respectfully,

Roberto Baez, MBA, CCC II*
***Certified Court Clerk**
Municipal Court Administrator

City of Brownsville | Municipal Court
1034 E. Levee St. | Brownsville, TX 78521
Tel: 956.574.6637 | Cell: 956.592.5202 | Fax: 956.574.6655
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Shelly Ortiz

From: JENNIFER BILLINGS <jbillings@daytontx.org>
Sent: Friday, July 29, 2016 5:06 PM
To: Scott Griffith; Landra Hudson
Subject: Proposed CIP Rules

I am very concerned on this proposed Collection Improvement Program. I currently only have 2 clerks in my office including myself and do not foresee getting another clerk anytime soon. Our work day does not allow any extra time to be able to complete all of the necessary components that this program would require, much less be able to have a dedicated staff member for this. This will have the opposite effect of improving a defendants compliance. This will in no way be helpful to defendants or clerks in the long run. This will cause a severe back-log with all cases which will hinder giving defendants a speedy process in the disposition of their cases.

--

Jennifer Billings

Court Administrator

Municipal Court

City of Dayton, Texas

Phone (936)258-5312

Fax (936)258-2663

www.cityofdaytontx.com

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Shelly Ortiz

From: Hays, Mandy <mandy.hays@co.wise.tx.us>
Sent: Friday, July 29, 2016 5:06 PM
To: Scott Griffith
Subject: Comments on the Proposed CIP Rule Changes

Dear Mr. Griffith,

My name is Mandy Hays and I am the justice court judge for precinct 3 in Wise County, Texas. We are a relatively small county with a population just over 62,000, so we are fairly new to the collections program. We have had some growing pains, but have adjusted well and I believe are doing a very good job with the CIP.

After reviewing the proposed changes to the CIP, I have some concerns. I am worried that administering justice now requires a collection agency attitude...a scale in one hand and a calculator in the other. We do not have a centralized collection office. Every office in our county handles their own payment plans. The defendants and the court work together to determine what payments fit into the defendant's budget. It seems over-reaching to tell a defendant what they can or cannot afford. I realize that this works both ways and could also force the defendant to pay more than they wanted because the CAN afford more than what they are stating, but it seems the pendulum is swinging too far. Surely there is a less invasive way to solve this issue. Under the new rules, if we have a defendant that says they want to pay $50 per month, we would have situations where we would have to tell them, "no, our calculations show you can only pay $30 per month." This seems odd for a court to say to someone that is taking responsibility for their fine and court costs. Also with the new rules, we would have to say to someone who is under the compulsory school attendance law, "you are a student, therefore you are considered indigent." They may have birthday money saved or they may work in the evenings when they are not in school and paying a citation would be less of a burden than community service. The new rules do not allow a remedy for this.

I am against the changes as they stand at this time. I'm not sure what the solution is to the problem or perceived problem, but I pray that all comments by the people administering the CIP will be carefully and thoughtfully considered when adopting new rules.

Sincerely,
Mandy Hays

Mandy L. Hays
Justice of the Peace, Pct. 3
Wise County, Texas
Phone: 940-433-2969
Fax: 940-433-3062

Shelly Ortiz

From: Scott Griffith
Sent: Friday, July 29, 2016 9:32 PM
To: Shelly Ortiz
Subject: Fwd: Comment on Proposed CIP Rules and Flowchart

For the binders.

Thx

Begin forwarded message:

From: Lacy Britten <skipper@redpianos.com>
Date: July 29, 2016 at 8:48:59 PM CDT
To: "scott.griffith@txcourts.gov" <scott.griffith@txcourts.gov>
Cc: Lisa howard <Lhoward@hursttx.gov>, "cynthia.montes@txcourts.gov" <cynthia.montes@txcourts.gov>, "lbritten@eulesstx.gov" <lbritten@eulesstx.gov>, "lbritten@hursttx.gov" <lbritten@hursttx.gov>
Subject: Comment on Proposed CIP Rules and Flowchart

My name is Lacy Britten, and I am the Judge for the Cities of Euless and Hurst. Below please find the following comments to your proposed rules.

1. The definition of discretionary income is overly broad and inaccurate. This definition specifies that discretionary income is after tax income minus required payments and the cost of items essential to the defendant and the defendant's dependents. Required payments are defined as those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to, loan, credit card, and car and health insurance payments; court mandated payments, such as child support and victim restitution payments; and fees for drug testing, rehabilitation programs, and community supervision. Items that are essential for the defendant and the defendant's dependents are those which are necessary to ensure the well-being of the defendant and defendant's dependents, including, but not limited to, transportation, food, medicine and medical services or supplies, housing, child care, and clothing.

   This definition allows a defendant to incur debt for non-essential items and elaborate or expensive items/vehicles and then claim them as "required payments". This definition does not reflect a true definition of discretionary income. People who buy cars that they cannot afford, people who run up debt for items they cannot afford, people who take out loans that they cannot afford should not be lumped into the category of people who qualify as indigent. Every judge who sees people for Class C misdemeanor cases can tell you stories of defendants who appear in court with expensive clothing, handbags, jewelry, phones, personal beauty/grooming services, as well as people who drive expensive vehicles and take expensive trips who claim they should qualify for community service or a payment plan. Your definition of discretionary income should not include credit card payments or payments in excess of the reasonable loan or payment amount for a defendant with that particular income.

   Further, your plan and your definition makes no provision for assets. . . checking accounts, savings accounts, equity in a home, vehicle, boat, business, retirement account, brokerage

account, etc. Apparently, the defendant could have amassed a fortune in assets or even just a bank account, but simply because he/she may have no regular income, he/she is qualified for a payment plan and perhaps community service. Your plan should include the consideration of a defendant's assets, as well as his/her debts.

2. Additionally, your guideline that a defendant should not be made to pay more than 20% of his/her discretionary income is wholly unnecessary. Judges are completely able to determine how much a defendant should be able to pay. Let me give you an example that I see quite frequently. I see a good number of people who may have a low income, but who pay for absolutely nothing (no housing, no food, no phone, no car payment, etc.) because their needs are paid for by another. . . family member, boyfriend, girlfriend, relative etc. They may only make $15,000 per year, but they have absolutely no expenses listed on their financial form. There is simply no reason that person cannot pay more than 20% of their "discretionary income" towards their ticket. This is simply an example of OCA trying to interfere with what should be simply the judge's decision.

3. Your "Ability Acknowledgement Form" is simply ludicrous. I would estimate that 98% of the thousands of defendants that come through both my courts would say, regardless of their personal income and assets, that payment of the fine and costs is an undue hardship on them. The fact is that the fine in a Class C misdemeanor case is punishment. It is meant to insure the public safety through by deterring that particular activity; by rehabilitating those convicted of violations and by being assessed in a manner and amount as is necessary to prevent the likely recurrence of criminal behavior. PC 1.02. The fine (and costs imposed by the legislature) are the punishment for a criminal offense. . . not a debt incurred for purchasing a consumer good. Punishment is by its very nature meant to be inconvenient, uncomfortable and unpleasant so as to deter future criminal conduct. The idea that a defendant must acknowledge that their punishment is not a hardship to them is simply ridiculous and contrary to the law. I dare say that a requirement that a defendant who is being committed to jail or to prison for a higher level offense be required to sign a document indicating that his sentence is not a hardship to him or his dependants before a judge is allowed to sentence him would be universally ridiculed. While taking into account a defendant's financial situation is wise and formulating a variety of ways that a defendant can comply with the punishment assessed is simply good sense, requiring the signing of an Ability Acknowledgement Form is simply overkill, unnecessary and not required by law.

4. Your requirement of telephone contact after a defendant misses a payment is onerous and shifts the responsibility for complying with the punishment assessed from the defendant to the court. This is unnecessary and again not required by law. In my experiences, courts provide defendants detailed written instructions of what is required of them. . . the amount of the payment, when it is due, where and how it can be paid, and what happens if it is not paid by the deadline. There should be no requirement that the court do anything further after providing a defendant with that information. The burden of complying is the defendant's. . . .again, it is his/her punishment. OCA's requirement of telephone contact is the equivalent of requiring that the court give the defendant a hotel inspired wake-up call prior to court to make sure he/she appears on time. I doubt that anyone would posit that we should start giving defendant's wake-up calls before court. There should be no requirement that we call them after we have given them clear, written directions on what is required of them.

I completely agree with the critics of the program rules, as well as the prior collection improvement program rules, that OCA is usurping the judicial role in Class C misdemeanor cases. I think OCA would be much better served by providing more training and education to judges through TMCEC about what collection efforts work best (traditional mail, email, text,

telephone?), what type of payment plans result in the most collections (small down payment, no down payment, weekly payments, monthly payments, how much for a given income/asset level?), what type of collection efforts are most effective. Rather than attempting to replace a judge's ability to make judgments and decisions about particular defendants, try giving us more information on what works and what does not work. We judges want defendants to comply with the punishment imposed. Our community wants the same thing, and we all hope that the punishment assessed will at a very minimum deter that particular defendant from committing that specific offense again. That means we want to devise the best, most efficient way to see that the defendant complies with that punishment. The program rules that you devise simply cannot account for the myriad of defendants and situations that we see. It simply creates unnecessary work for both the clerks and the judges, gives defendants more options than are necessary or that are required by law and does not appear to even recognize or acknowledge that the issue being addressed is one of punishment for a criminal offense.

Thank you for your consideration. I appreciate your time.

Lacy D. Britten
Municipal Judge
Cities of Hurst and Euless

43rd Judicial District Court

117 Fort Worth Street
Weatherford, Texas 76086
817-594-7343 • Fax 817-598-6108

CRAIG TOWSON
District Judge

July 28, 2016

VIA EMAIL *scott.griffith@txcourts.gov* ***& Regular Mail***
Scott Griffith
P. O. Box 12066
Austin, Texas 78711-2066

Re: Proposed CIP Rule Changes.

Dear Mr. Griffith,

I have been contacted by the chief of the Parker County Community Service and Corrections Department with the proposed changes for Rule 175. I would like to stress my disdain for the proposed changes.

I was of the understanding, both as an attorney and as district judge, that the responsibility to complete community service was totally in the control of the defendant. I would anticipate that somewhere in the upper 90 percentile range of all probationers are the result of the plea agreement. Thus, I would think that prior to the defendant being placed on community supervision, said defendant was aware of the monetary obligations he or she was agreeing to pay.

While I certainly understand that life has peaks and valleys, and unexpected expenses or lack of employment comes about while someone is on community supervision; I am certain that Michael Stack, head of probation in Parker County, Texas, and every one of his employees have enough sense to help those probationers that find themselves in a valley. I would also anticipate that every other probation department in the State of Texas shares that same attribute. They have an understanding and are able to identify someone who is having financial difficulties. In my experience they take appropriate action or no action as the case may be.

I am doubtful that new regulations that require the State's probation departments to do more with limited resources, will assist anyone. This would appear to be yet one more instance of allowing a defendant to receive probation, not perform under the agreement they made with the State, and have no consequences for the violation. I would certainly hope this is not just a back handed way of attempting to keep a defendant out of prison, thus off the State's payroll, but rather place the burden back on the local community.

From a court's perspective, the process of community supervision seems very straightforward. A defendant accepts and agrees (in most all circumstances) to the terms and conditions of community

supervision. The defendant makes a choice to perform or not complete the conditions of the community supervision. Performance equals compliance and thus completion, while non-compliance results in multiple in-house administration meetings with the defendant. If the non-compliance continues, the defendant is brought before the judge for an appropriate sanction, if any.

I know several of the directors for various probation departments throughout the state. I will say that every one of them appear to be good, upstanding, reasonable, intelligent, compassionate people. I do not believe adding more regulations to their plate will assist anyone, except a defendant who is not doing what they agreed to do, and perhaps saving the State money while costing the local community more. I would anticipate if a county is experiencing a problem, it would best be addressed between the judges of that county and the probation director, not more regulations from Austin that took their advice from the United States Department of Justice on how local policies should be handled. The judges in each county and the director of probation know more taxpayers in their respective county than the all of the bureaucrats in Austin, Texas and Washington, D.C., combined. With that in mind, it should go without saying that the local leaders would know what works best in their communities, not bureaucrats from lands far away.

I fear that once the word was on the street that if a defendant fails to pay as required and there are no consequences for failure to comply, there would be a plethora of defendants that would suddenly diagnose themselves as indigent. As I recall, most, if not all, of the probation departments are self-funding. What is the answer when the local probation departments no longer have the financial resources to fund its department? If history is indicative of future acts, the State will step in to "fix" the problem it created, blame the local community and take additional steps to create more governmental intrusion to help confuse the pubic and exacerbate the problem more. In addition, the new proposed regulations do not take into account the financial impact on the local communities and victims who were to receive restitution under the terms of the defendant's community supervision.

As a judge, I could simply deny any plea unless all fines, fees and restitution are paid prior to the plea, and implement the alternative to community supervision, incarceration, on anyone that could not pay up front. This would hardly seem fair, but the new proposed regulations are making it just as unfair to the victims of crime, local taxpayer and probation departments.

I am confident that the new regulations will be approved, and the commission's request for input from the local communities is just part of a ruse to pacify us that are on the front lines.

My one question would be why is the State trying to fix what is not broken?

Sincerely,

Craig Towson

Cc: Michael Stack

JUDGE STEVEN L. SEIDER
JUSTICE OF THE PEACE
DALLAS COUNTY
PRECINCT 3, PLACE 2

July 29, 2015

Scott Griffith
Texas Judicial Council
P.O. Box 12066
Austin, Texas 78711-2066
Email: scott.griffith@txcourts.gov

Re: Comments AGAINST the Proposed Collection Improvement Plan (CIP) Rules

Dear Mr. Griffith:

Please accept this letter in opposition to the proposed CIP rules changes.

First, the majority of Justice Courts and Municipal Courts in Texas operate within the letter and the spirit of the provisions of Chapter 45 of the *Texas Code of Criminal Procedure*, as well as the provisions currently provided for in the Collection Improvement Program developed by the Office of Court Administration.

Second, the Proposed Collection Improvement Program Model places undue burdens upon judges, court staff and the counties or municipalities that must fund the requirements. Ironically, the additional steps actually *reduce* the very collections the program is charged with improving.

Third, identifying "best practices" for collections is a worthy endeavor and there are changes that should be considered for the Collection Improvement Program. Courts that are successful in their efforts are the true subject matter experts-- they should be regarded as a resource for a continuous review and evaluation of the program.

Fourth, the issues raised by a recent Department of Justice (DOJ) letter regarding the incarceration of indigent defendants that are not afforded an opportunity to discharge their obligations by alternative means must be addressed. They are best addressed by education and providing a model of the "best practices" that are consistent with the DOJ-identified concerns.

Finally, routinely "waiving" fines, court costs, fees and surcharges is contributing to an erosion of public confidence in our government, in general-- and the courts, specifically.

Thank you for your consideration and feel free to contact me if ever I can be of assistance.

Very truly yours,

Steven L. Seider

Judge Steven L. Seider

Richardson Government Center
Phone: (214) 904-3042

1411 W. Beltline Rd.

Richardson, Texas 75080
Fax: (214) 904-3049

Texas Judicial Council

As the County Clerk and elected official responsible for the Collections Improvement Program for 2 County Court at Law and 3 J.P. offices in Kaufman County, I felt it necessary to voice my concern and opposition to the proposed rule changes for Chapter 175 Collections Improvement Program, as posted in the July 1, 2016 Texas Register.

After a thorough review, the Collections staff believes that the proposed rules, as written, are a total rewrite to the existing process and will place a much heavier burden on the courts, local program staff, County and defendants.

- The proposed rules to review an individual's payment ability information and return to court all those with an 'inability or hardship' will dramatically affect the initial handling and processing of the cases, making it a much more laborious and expensive task for every office and everyone involved – Courts, staff, D.A., public defender, appointed and privately retained attorneys, and the defendants.

- The proposed rules to remove the time frames; recommendation of payments not to exceed 20% of discretionary income; requirement for final letter; and addition for revised payment plans after receiving a final letter will drastically extend (almost indefinitely) the time frame in which the court and local staff will have to monitor and assist in the compliance of court ordered costs, fines and fees. It will also add additional costs to the county in regards to staffing, office supplies and postage.

- The proposed rule for having and using community service and non-monetary programs place the courts in a difficult position in regards to compliance. These types of programs do not fall under any governmental agency and are not controlled by the court, or local program staff. Participation and monitoring of such programs and/or the creation of other non-monetary compliance programs will come at a huge cost to the county and there is no certainty of success.

- In regards to the upcoming mandated criminal E-file changes, there are many questions as to how the proposed rules and associated paperwork will be incorporated into the requirements for a paperless criminal court environment. It appears that the county will be forced to make expenditures for hardware and software to accommodate electronic submittal of applications and compliance paperwork.

- Based on a county sampling of current application data, there could be as high as a 70% increase in 'inability to pay and hardship' cases returned to court for non-monetary compliance and/or a reduction of court costs and fees. These types of cases will reflect as lost revenue to the state and county and will increase the costs and expenditures at the county level.

- Lastly, our Probation Department has said that if the proposed rule changes pass, they will no longer be able to comply with the CIP program rules and will be forced to stop all collections of fees and fines and will return the responsibility of collections to the county. This increased caseload (over 550 felony cases) will require additional expenditures that will have to be borne by the county. In addition, it will create a hardship on the defendants, who will be required to travel to probation in one city and pay their fees in another city.

The present Collection Improvement Program rules, as defined, for the 87 counties and cities that must participate (50,000+ populations) have proven workable and effective. However, the proposed rule significantly shifts the program away from collection improvements/court compliance and creates an unfair, burdensome, and expensive program for *only* those 87 counties, cities and their courts.

If the rule has been rewritten to protect those defendants who have been determined to be indigent, then the new rules should be applied equally across Texas, so all defendants are afforded the same 'indigent' right or status in every court, regardless of the size of the city or county.

Victims, in those 87 counties and citles, may also have to shoulder the financial burden of the proposed rules. In those cases, where the defendant has been found indigent or there is a hardship, then the victim will not be provided the opportunity to receive the restitution ordered by the court.

Additionally, as written, the proposed rules allow for the court and local program staff (only in those 87 counties and cities) to look only at the defendants ability to pay 'at the time of sentencing' and to create compliance measures or fee reductions based on that dated information. So, as word spreads through those communities, we believe that the numbers will reflect more and more defendants claiming 'an inability to pay or a hardship' *at the time of sentencing* to neither pay for the crime they committed, nor the justice they were afforded.

It is our understanding that the proposed changes try to provide local collections program greater flexibility in establishing payment plans and codifies that the program's components do not apply to defendants who have been determined to be indigent. However, from a local collections program standpoint, we do not see that these changes are not necessary, positive, or fair for any of the entities involved and that there will be significant fiscal implications on the state and local governments, who are mandated to participate in the CIP.

It is our hope that much more discussion is allowed before any changes are approved.

Respectfully submitted,

Laura A Hughes

Laura A. Hughes
Kaufman County Clerk
laura@kaufmancounty.net

DEAN B. STANZIONE
DIRECTOR OF COURT ADMINISTRATION

CRYCTAL SPRADLEY
ASSISTANT DIRECTOR

OFFICE OF COURT ADMINISTRATION
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July 31, 2016

Re: Comments in Response to Collection Improvement Program Proposed Rules

The Texas Judicial Council (Council) has proposed changes to Chapter 175 of Title 1 of the Texas Administration Code as it relates to the Collection Improvement Program (CIP) rules. Understanding the intent of the Council, Lubbock County appreciates the diligence committee members have put forth in preparing the proposed rule changes in an attempt to adhere to the primary goal[1] of those changes. Having considered the goal and reviewing the nature of the proposed rules, we present the following observations of and concerns regarding the proposed changes.

General Concerns

1) It appears there was a failure to include representation from County Court-at-Law or District Court judges as participants in the discussion of the rule changes. The committee appeared to be driven by justice and municipal courts. In doing so, proposed changes were created without critical input from all court levels served by the CIP, specifically, as mentioned, the trial courts.

2) As previously indicated, the majority of the judicial makeup of the committee proposing the rules were from municipal and justice of the peace courts, working to establish the application of the proposed rules under Chapter 45 of the Code of Criminal Procedure (CCP). Statutory differences exist in the "Execution of Judgment" in Chapter 43 CCP, used by the trial courts, and Chapter 45 CCP. The trial courts, pursuant to §43.03 CCP, have statutory discretion when determining indigence before the issuance of a capias pro fine and whether or not the defendant "*made a good faith effort to discharge fines and costs*" and could have done so "*without experiencing any undue hardship*[2]." The section further provides that "(e) this article does not apply to a court governed by Chapter 45."

---

[1] Excerpt taken from the Office of Court Administration's May 27th memo to the Texas Judicial Council: "The primary goal of the proposed amendments is to provide procedures *that will help defendant's comply with court ordered costs, fines and fees without imposing undue hardship on defendants and defendant's dependents.*" http://www.txcourts.gov/media/1380461/Memo-re-proposed-CIP-amendments-5-27-16.pdf

[2] Underlined language indicates the necessity for judicial discretion

With the interests of those governed by Chapter 45 on this committee, it is necessary that those governed by Chapter 43 also be represented in the construction of any proposed rules.

3) The rules imply there is no intention of altering the legal authority or the discretion of the judge (1 TAC §175.1(c)[3]); however, some of the rules do, in fact, border on altering such authority. Providing a "rule" that mandates a presumption of indigence and defines what "required" financial obligations are to a whole population, without judicial discretion, seems unreasonable and contradictory to the goal of not altering the authority or discretion of the judge.

4) Several of the rule changes and definitions are those which should be mandated through the legislative process. In a review of statutes and case law, discretionary income, undue hardship, and household income are not well defined, if at all. Much language speaks to whether or not the individual has an "ability to pay," thus, an inference toward judicial discretion. Ability is determined on a case-by-case basis. If the legislature has found difficulty in defining such terms, it would seem they have permitted the authority to the courts to apply such definitions on a case-by-case basis. In doing so, the court would then apply standards to the defendant's discretionary income and how an undue hardship would relate to that individual.

Specific Proposed Rule Concerns

1) §175.2. Definitions
   a) *Discretionary Income*. The definition places the judiciary at the bottom of a person's financial obligations, watering down the necessity for a penalty to violating the law. This definition indicates that "*required payments are those which would result in a penalty or other adverse impact if payment is not made.*" Would the order of the court constitute a *required payment that would result in a penalty*?
      i) The attempt to define "discretionary income" is much needed; however, this definition sets too many constraints to what the judge, in their discretion, can consider as necessary in determining the repayment of fines, costs and fees ordered by their court. Removing the language concerning "required payments" and leaving language defining "items that are essential" seems more reasonable.
      ii) The statute provides that upon notification by a court, withdrawals of an inmate account may be made in certain circumstances such as the payment of court fees, costs, and fines[4]. Additionally, the Office of Court Administration (OCA) provides counties example forms and resources to complete such orders and notification to withdrawal from an inmate's account. Within those forms, the OCA provides in an example order and repayment structure[5] as follows:
         (1) The initial payment amount as:
            (a) 15% of the account balance up to and including $100, plus,

[3] http://www.txcourts.gov/media/1380455/Ch-175-Proposed-Amendments.pdf
[4] § 501.014 Inmate Money, TX GOVT
[5] Taken from http://www.txcourts.gov/rules-forms/forms/ document entitled "*Attachment A – Order to Withdraw Funds*"

(b) 25% of any portion of the account balance that is between $100.01 and $500 inclusive, plus,
(c) 50% of any portion of the account balance that is more than $500; and then,
(d) 10% of the defendant's deposits.

iii) With such an order provided by OCA, it would appear that there is a priority statutorily provided that conflicts with the priorities established within the current and proposed rules. Here, there is no review to determine the inmates "discretionary income," and yet, we find proposed rules which minimize court-ordered obligations for individuals not incarcerated while prioritizing, based upon account balances, monies available to inmates. While these amounts still seem arbitrary, the statute clearly provides a priority of how the defendant's money is to be allocated – a priority that includes payment of fines, costs, and fees.

b) *Payment Ability Information.* This definition should clarify that household expenses are those expenditures required to be paid for by the defendant and the defendant's spouse. In a scenario where a shared household includes four working individuals, the defendant may only be responsible for a portion of the household expenses.

The term "dependents" should be defined more clearly, possibly as "dependent child(ren)" similarly defined by §31.002, Human Resources Code.

2) §175.3. Collection Improvement Program Components

a) *Referral to Court.* As provided in the commentary of the proposed rules, many program staff already have this practice in place. The section should reference Section 6(E) so that it provides local programs the ability to administer non-monetary compliance options available at their disposal. These options may be pre-defined in consultation with the judge of the court, as a designee of the court, thus eliminating a need to refer them immediately back to court.

i) Under §26.04, Code of Criminal Procedure, the statute already permits a court or judges' designee the ability to perform an administrative function on behalf of the court or judge – appointment of counsel. This function is provided based upon the written procedures established by the judges of the courts served[6]. Allowing local program staff to perform this function, based upon pre-defined written procedures, as a designee of the court or judge, would serve the same purpose, and, subsequently, ease the burden on the courts' docket.

b) *Presumption of Inability to Pay.* Section 6(B)(ii) is arbitrary and should be struck. If a defendant is working a part-time job making less than 125% of the federal poverty guideline, but lives with parents and pays no bills – are they presumed to be unable to pay? While the federal poverty guidelines are used in a number of areas, the finding of indigency for purposes of compliance with a court order should be founded on a case-by-case basis, which is best determined through the interview process.

[6] Art. 26.04. [494] [558] [547] Procedures for Appointing Counsel, TX CRIM PRO

i) While several programs do utilize poverty guidelines for determining program eligibility, there are still many that do not use means-tests in determining eligibility, including but not limited to, supplemental security income (SSI), earned income tax credit, many state/locally-funded general assistance programs, some portions of Medicaid, section-8 low-income housing assistance, and low-rent public housing.[7]

ii) Additionally, verification that the individual receives assistance identified in Section 6(B)(iii) should be required by and within the discretion of the court or program staff. If the judge or local program staff believe there is a reason to confirm the assistance provided to defendant, such a requirement should be within their discretion.

c) *Payment Guidelines*. If the section is going to contain a statement that "*a judge is not required to follow these guidelines in setting a payment plan*," why have the guidelines within the rules?

i) Section 7(B)(ii) should be removed from consideration for incorporation within these rules. The proposed language is developed arbitrarily, and even conflicts with example language found on OCA supported forms as previously discussed in Section 1(a)(ii)(1) of this document.

3) Conclusions and Recommendations

a) The current Collection Improvement Program rules were not "broken." The rules did need some minor revisions, yet the proposed rules go beyond such a scope and produce a set of mandates that create a set of revised rules that will either cause the court collections efforts or the collection improvement program to, in fact, become broken.

b) We would recommend new rules not being implemented until the trial courts had greater participation in the formulation of rules affecting their courts.

c) The counties would be better served establishing their own *collection improvement program plans* with, at a minimum, only components necessary to meet statutory requirements.

d) The rules fail to advocate the importance of punishment through a fine, cost or fee – all of which are ordered by a court, provided within the bounds of the statute, after an appropriate finding that said fine, cost or fee is an adequate penalty for the violation or crime committed.

e) As previously noted, if the legislature has found difficulty prudently attaching definitions to terms such as undue hardship and discretionary income, it would be just as prudent not to attempt to define these terms within the collection improvement program rules.

Dean B. Stanzione
Director of Court Administration

[7] Taken from https://aspe.hhs.gov/frequently-asked-questions-related-poverty-guidelines-and-poverty on July 20, 2016.

Shelly Ortiz

From: Scott Griffith
Sent: Monday, August 01, 2016 10:29 AM
To: Shelly Ortiz
Subject: Fwd: collection improvement program

For the binders.

Scott

Begin forwarded message:

> **From:** "Solomon, Mitchell" <Mitchell.Solomon@austintexas.gov>
> **Date:** August 1, 2016 at 11:19:06 AM EDT
> **To:** "scott.griffith@txcourts.gov" <scott.griffith@txcourts.gov>
> **Subject: collection improvement program**
>
> Section 175.2 (d) Required payments are those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to, loan, credit card, and car and health insurance payment… This section definition is overly broad. Any purchase, no matter how unnecessary or frivolous, on a credit card could mean that a person has no " discretionary" money to pay the court. Judge Mitchell Solomon

DENNIS BONNEN

CAPITOL OFFICE:
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TIN, TX 78768-2910
2) 463-0564
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HOUSE OF REPRESENTATIVES

DISTRICT OFFICE:
122 E. MYRTLE
ANGLETON, TX 77515
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July 28, 2016

RECEIVED
AUG 01 2016
OFFICE OF
COURT ADMINISTRATION

Mr. Scott Griffith
State Office of Court Administration
P.O. Box 12066
Austin, TX 78711-2066

Dear Mr. Griffith:

It has been brought to my attention by a number of Brazoria County elected officials that the Texas Judicial Council (TJC) has proposed to repeal the existing Collection Improvement Program and replace it with a vastly different program that will have an expansive impact on the way counties manage their collections. I wish to express my serious concerns with the proposed changes, as well as the manner in which this endeavor is being undertaken.

Through my discussions with various individuals, the consensus appears to be that the existing Collection Improvement Program is working effectively and efficiently, while ensuring proper due process for the defendant. Further, the program in place provides ample discretion and authority to our courts so as to not limit, influence, or bind them in such a way that they are unable to work with a defendant's individual circumstances. Contrary to TJC's expressed goal, it appears that the proposed changes would effectively tie the hands of our local courts.

In addition to these concerns, TJC's actions appear to create a solution to a problem that does not exist. The current rules comply with the U.S. Department of Justice's requirements and there has been no formal mandate by the DOJ to make changes to our existing collections system. Further, as outlined in Brazoria County District Attorney Jeri Yenne's attached letter, the proposed rules not only diminish judges' legal authority and discretion, but are also contradictory in their direction while placing a significant undue financial burden upon our local governments and indigent defendants.

As such, I wish to offer my strong opposition to the direction TJC has taken with respect to the proposed changes to the Collection Improvement Program. Further, I respectfully request a response outlining the impetus and justification for such an extensive overhaul so that my office and the local government officials serving Brazoria County may have a better understanding of this undertaking by TJC.

I welcome the opportunity to visit further with your members regarding this matter, while also inviting you to engage directly with those tasked with implementing and managing court collections in Brazoria County and throughout Texas so that you do not make a decision absent the invaluable input of those impacted by these changes.

Thank you for taking the time to consider my concerns and position. If I can be of assistance to you, please do not hesitate to call on me.

Sincerely,

Dennis Bonnen

Dennis Bonnen
State Representative - District 25
Speaker Pro Tempore

MARY ALDOUS
First Assistant

TRAVIS TOWNSEND
Chief - Criminal Division

RAETHELLA JONES
Chief - Civil Division

VICKI KRAMER
Chief Investigator

JERI YENNE

CRIMINAL DISTRICT ATTORNEY
BRAZORIA COUNTY

July 25, 2016

RECEIVED
AUG 01 2016
OFFICE OF
COURT ADMINISTRATION

Via Electronic Mail: scott.griffith@txcourts.gov
Via Certified Mail, Return Receipt Requested
Scott Griffith
State Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066

RE: Texas Judicial Council Proposed Repeal and Implementation of New Collection Improvement Program Rules
Public Comments on behalf of Brazoria County, Texas

Dear Mr. Griffith,

Please find below comments submitted on behalf of Brazoria County, Texas (the "County") regarding the Texas Judicial Council's proposed repeal and replacement Texas Administrative Code title 1, chapter 175. Brazoria County has five district courts and four county courts at law. A collections program overseen by the Brazoria County Clerk manages collections compliance efforts on behalf of these courts. In addition, Brazoria County has eight justice of the peace courts. Each justice of the peace court independently manages its collections.

The County's comments reference several areas in which the proposed rules effectively supersede courts' authority in adjudicating cases and place an undue burden on courts and local programs' ability to efficiently manage cases. The County urges the Texas Judicial Council to reconsider the proposed revisions, which will have an unwarranted negative impact on judicial authority and efficient case management, and place a significant financial burden on counties similar to Brazoria County.

I. Several Proposed Rules Diminish Judges' Legal Authority and Discretion.

The proposed rules state in several areas that they do not intend to limit, influence, or bind courts' authority or discretion. Despite these assurances, the proposed rules, when considered along with their practical impact on courts, will have this outcome.

Proposed Sections 175.3(a)(3) and (6) provide an example where the proposed rules have this effect. Under the current rules, a judge may discuss with a defendant his or her payment ability information, take into consideration potential financial hardships, and order a tailored payment plan based on the circumstances of the case and information received directly from the defendant

concerning his or her financial situation. When a defendant is before the court, the judge may inquire into any payment ability issues at that time, and the defendant may raise any concerns. After the judge orders a payment plan, the defendant's contact information is verified, the defendant is interviewed to review the plan, and the defendant begins making payments. In the alternative, the defendant may provide his or her payment ability information to the local program, which will formulate a plan that must yield to the defendant's income and debt and payment obligations. In the event the local program sets the payment plan, it "require[s] payment in full 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." 1 TEX. ADMIN. CODE § 175.3(c)(4)(B) (emphasis added). The current rules are drafted to ensure defendants are not unfairly ordered to pay fees, fines, or costs, while recognizing the need to effectively manage cases.

In the event a judge sets a payment plan under the proposed rules, the local program must refer the defendant back to court if the defendant represents after appearing before the judge that the court-ordered payment plan would be an "undue hardship." This proposed change is one example of an unnecessary procedure that will force defendants to return to court to discuss the same information that, under the current rules, is already addressed with the court. Prior to the defendant interacting with the program staff, the defendant has appeared before the court, the court has considered the circumstances of the case (including the defendant's financial situation), and the court has issued an order. Nevertheless, the proposed rules require that program staff and the court go through this process again, and if the defendant makes a representation that differs from that made to the court or is unsatisfied with the court's initial order, the rules require the court to reconsider its order. This procedure (1) creates unwarranted, repetitive, and costly work for program staff, (2) slows down the court, and (3) discourages courts from ordering the payment of fees, fines, and costs. The unavoidable consequence of these changes is that courts and local programs will be forced at the outset to provide defendants with payment plans that comply solely with the defendant's desires, and not plans that the court deems the most appropriate or efficient, in order to avoid overwhelming the court. While going out of their way to state repeatedly that they do not hinder a judge's authority and discretion, the proposed rules are clearly written to have that effect.

The proposed rules under Section 175.3(a)(6) require local program staff to refer a defendant back to court if, while collecting information to establish a payment plan, the defendant indicates that he or she would suffer an undue hardship by paying the costs, fees, and fines. The current rules *require* local programs establish plans that defendants can "successfully" complete and *must* into consideration the defendant's "ability to pay" and other existing payment obligations. 1 TEX. ADMIN. CODE § 175.3(c)(4)(B). In other words, a local program currently violates Chapter 175 by setting up a payment plan with which a defendant cannot comply. Further, in the event the defendant's situation changes and he or she cannot comply, the defendant may request at any time a different plan or non-monetary compliance options from the local program or court.

A further example can be found in proposed Section 175.3(a)(10), which mandates a final contact attempt be made before a case may be reported to the court as non-compliant. The proposed rule states that it does not "interfere or alter the judge's authority to adjudicate a case for non-compliance at any time." However, the rule clearly prohibits a court from requiring or requesting a local program report cases in which defendants have failed to make payments after receiving notice of past-due payments under Sections 175.3(a)(8) and (9). In other words, the rule expressly purports to not strip courts of their authority to take action based on non-payment, but disallows a court from even receiving notification of such nonpayment. This revision presents another example where the intent of the rule revisions is evident in their practical impact—the minimization of courts' authority to oversee cases.

II. The Proposed Rules are Contradictory as to Court Referrals.

Proposed Section 175.3(a)(6) is contradictory as to which cases must be referred to court based on an indication of an "undue hardship." Proposed Section 175.3(a)(6)(A) states the following:

> If a defendant interview or other information collected by local program staff indicates that the defendant **may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship** to the defendant or the defendant's dependents, or that the defendant **may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship** to the defendant or the defendant's dependents, local program staff ***must refer the case to the court*** for the judge to determine if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate.

Proposed Section 175.3(a)(6)(C), however, provides the following:

> Local program staff ***may refer to the court*** cases in which the defendant is not presumed to be unable to pay under §175.3(a)(6)(B) but that local program staff have received information indicating that the defendant **may not have the ability to pay the costs, fees, and fines assessed by the judge without undue hardship** to the defendant or the defendant's dependents or **may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship** to the defendant or the defendant's dependents.

The proposed rules state that a local program both "must" and "may" refer back to court any defendant who indicates that he or she is unable to pay due to an "undue hardship."[1] The County requests that this ambiguity be clarified so that local programs, at a minimum, not be required to refer a defendant to court unless some discernible criteria is met. The term "undue hardship" is not defined, and the rules provide no clarification as to what this means. A local program would

[1] Proposed Section 175.3(a)(6)(B) lists scenarios where a defendant is presumed unable to pay, but these criteria do not purport to address each situation where payment would cause an "undue hardship."

not be able to comply with a compulsory rule, as the proposed rules provide no guidance as to the meaning of this term. In addition, any referral to court, whether permissive or mandatory, is unnecessary. Under the current rules, a defendant is interviewed by either the judge or local program staff, the defendant provides his or her payment ability information, and a payment plan "that the defendant can successfully make" is established based on the information provided by the defendant. Requiring that a defendant be automatically referred to court after establishing an achievable plan is unnecessary.

III. The Current Rules Comply with the Department of Justice's Requirements.

On March 14, 2016, the United States Department of Justice issued a letter listing seven constitutional principles to be considered in assessing and enforcing fines and fees. The current rules do not infringe upon any of these constitutional principles. Payment plans already must be established in a fashion that the defendant can successfully make payments. The current rules do not prohibit a defendant from requesting a hearing at any time in the event his or her financial situation changes, including the reconsideration of the payment plan or a request for a non-monetary option due to inability to pay. The current rules provide for multiple contacts regarding nonpayment be made before the defendant may be arrested. Courts currently are not limited on alternatives to incarceration in the event that a defendant does not comply with a payment plan. The County's collections programs operated under the current rules comply with each of the principles listed in the Department of Justice's letter. As such, the proposed repeal and replacement of Chapter 175 is unwarranted.

IV. The Proposed Rules Place an Undue Burden on Local Government and Indigent Defendants.

The proposed rules will undoubtedly hinder the courts' efficiency and authority in managing cases, but they will also place unnecessary financial burdens on the County. The proposed rules' fiscal note states that "[t]he actual cost of complying with the new rules will vary depending on counties' and municipalities' current operations and systems. However, OCA does not anticipate that the cost will be significant." For Brazoria County, the proposed rules will come at a substantial cost to the County. As is stated above, the County has nine independent offices that collect for courts within the County. Of course, each of these local programs will face significant initial costs in implementing new rules. However, the fiscal note incorrectly suggests that the financial impact is limited to these initial costs. In Brazoria County, employees perform many of the tasks that the fiscal note downplays as performed by "notification systems" and "programming." The proposed rules add numerous procedures (which often must be repeated) to a system that already involves much documentation, interviews, phone calls, mailings, notifications, and reporting for each case. One need only compare the Office of Court Administration's current and proposed flowcharts to visualize the exponential growth of tasks for program staff, as well as the circular process that is facilitated by encouraging courts to repeatedly hold hearings on referrals from the local program.

In addition to the increased burdens on local government, the proposed rules increase the number of times defendants must travel to and appear in court. By creating a system where defendants

may potentially return to court a number of times throughout a case, the proposed rules will unduly burden indigent defendants who must travel to and appear in court in lieu of other necessary obligations.

V. Implementation of Rules Unfairly Impacts Counties Subject to Follow-Up Audits.

Earlier this month, Brazoria County submitted to OCA auditors a declaration of compliance to permit OCA to perform a follow-up audit of the County's programs. According to OCA, the audit cannot be performed until January 2017, at the earliest. Depending on the approval and enactment of proposed rule changes, Brazoria County may face the prospect of implementing changes in response to new rules *and* being subject to a follow-up audit. In the event changes to the rules are approved, Brazoria County should not be subject to a follow-up audit that evaluates compliance with the new rules.

Sincerely,

Jeri Yenne
Criminal District Attorney
Brazoria County, Texas

Shelly Ortiz

From: Scott Griffith
Sent: Tuesday, August 02, 2016 6:49 AM
To: Shelly Ortiz
Subject: FW: Proposed Amendments to Texas Administrative Code, Chapter 175, Collection Improvement Program

For the binders.

Scott

From: James Mosley [mailto:judgejmosley@gmail.com]
Sent: Monday, August 01, 2016 10:42 AM
To: Scott Griffith
Cc: arnold.patrick@hidalgocountycscd.org; Randi Ortega; Mark Snider
Subject: Proposed Amendments to Texas Administrative Code, Chapter 175, Collection Improvement Program

Dear Mr Griffith:

I wanted to take the opportunity the express my opposition to the proposed amendments to the Collection Improvement Program. I am the judge for the 316th District Court in Hutchinson County. I apologize for the tardiness of this e-mail but I just found out about the proposed changes late last week.

The proposed changes, although not directly effecting our probation department because we are under the 50,000 population threshold, will undoubtedly create more work for already overworked departments with no corresponding increase in funding, and will result in a significant decrease in revenue for the effected departments given the overwhelming number of "indigent" clients they serve. More than 2 out of 3 clients served by our department are indigent as defined by this very generous definition of indigence as proposed in these rules. I see no mechanism by which a probation department will be able to make up for these lost revenues. Further, I can confidently state that I have never been involved in a case in which revocation of probation was sought solely on the grounds for failure to pay, either as a judge or as a criminal defense attorney for many years prior to taking the bench. This appears to be a case of a solution searching for a problem, a problem that does not exist in our department. Additionally, I believe that although these amendments do not apply to our department today, the "creeping" nature of bureaucracy makes it virtually inevitable that the 50,000 population threshold will soon be done away with, not to mention the fact that there is a very good constitutional equal protection argument to be made by a probationer in a rural county of less than 50,000 population who does not get to take advantage of these new rules while a probationer in a large county does, based solely on where they are placed on probation. For all these reasons, I oppose the proposed amendments to the Collection Improvement Program. Thank you for your time. - James Mosley.

--

JAMES M. MOSLEY
JUDGE 316TH DISTRICT COURT
HUTCHINSON COUNTY

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COURT COORDINATOR
KIMI LANTELME

COURT REPORTER
LAVONNA STATER

Texas Appleseed TFDP Texas Legal Services Center ACLU American Civil Liberties Union of Texas Foundation

August 1, 2016

Via Email: Scott.Griffith@txcourts.gov
Mr. Scott Griffith
Director of Research & Court Services
Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066

Re: Proposed Amendments to Collection Improvement Program Rules Published July 1, 2016

Dear Mr. Griffith:

We represent a coalition of organizations working together to improve the way municipal and justice courts administer justice for low-income Texans. We write to express support for the proposed amendments to the rules governing the Collection Improvement Program (1 Tex. Admin. Code Ch. 175) published on July 1, 2016, in the *Texas Register*, as well as to encourage additional rule revisions to further improve the Collection Improvement Program.

We commend Chief Justice Hecht and the Texas Judicial Council for addressing the impact that fines and court costs have on low-income Texans by revising the Collection Improvement Program (CIP) rules. We also appreciate that two of our organizations were invited to participate in the Advisory Committee and that you were receptive to our ideas and suggestions during that process.

As attorneys and advocates, we frequently encounter individuals who cannot pay the fines and court costs assessed in Texas' municipal and justice courts. With more than 17 percent of Texans living below the federal poverty line, many Texans simply lack the income necessary to pay fines and court costs, even though most wish to comply with court orders and to resolve their criminal cases. In too many cases, low-income Texans' failure to pay fines and costs leads to suspended drivers' licenses and vehicle registrations, resulting in even more fines and court costs; arrest warrants that cause them to fear law enforcement and lose housing and employment opportunities; and jail sentences that dramatically disrupt their lives. The CIP should facilitate compliance with court orders so that individuals avoid such consequences, and the proposed amendments would help to accomplish this purpose.

The Proposed Rules Would Help Identify Those with No Ability to Pay and Remove Them from the CIP.

Overall, the proposed rules would help to ensure collection efforts are not undertaken against those who are completely unable to pay fines and costs. We support the proposed rule change providing that the CIP does not apply to individuals with no ability to pay fines or costs, and that when CIP staff identifies such individuals, they are to be referred back to the court for alternative sentencing. 41 Tex. Reg. 4747-48 §§ 175.1(d) & 175.3(a)(6)(A). This change will encourage judges to utilize the alternative sentencing methods available under Chapter 45 of the Code of Criminal Procedure, and to impose sentences that those with insufficient income are able to complete. The proposed rules should also help to identify people with no ability to pay by providing a clear standard to guide CIP staff, creating a presumption that those below a certain income level or who receive government benefits are unable to pay any fines or costs. 41 Tex. Reg. 4748 § 175.3(a)(6)(B). Additionally, by requiring that individuals be provided with information about non-monetary compliance options when payments are past due, the rules would support the identification of individuals whose financial circumstances have changed so that they too could also be referred back to court for alternative sentencing. 41 Tex. Reg. 4749 §§ 175.3(a)(8), 175.3(a)(9) & 175.3(a)(10). Ultimately, the effect of these new rules should be to remove individuals with no ability to pay from collection efforts of the CIP, instead encouraging courts to use alternative ways to hold these individuals accountable.

The Proposed Rules Would Make Payment Plans More Affordable and Accessible.

The proposed rules would also help facilitate access to payment plans that are actually affordable. The existing CIP rules state that payment plans must result in "full payment within four months of the assessment date" for justice and municipal courts (1 Tex. Admin. Code § 175.3(c)(4)(C)) and that defendants be required to pay the "highest payment amounts" per month that they are able to pay (*Id.* § 175.3(c)(4)(B)). The effect has been to bar many individuals from payment plans entirely. When the "highest amount possible" for an individual would not be sufficient to result in payment in full within the inflexible time limit, people have essentially been told the only option is default and noncompliance. We have encountered courts requiring defendants to pay 25% of the amount owed as a "down payment" to enter a payment plan, and defendants who have been told by court staff that there can be no deviation from the four-month requirement. We support the proposed rules' elimination of the time limits and "highest amount possible" requirement. The new rules are more appropriate because they tie monthly payment plan amounts to each individual's discretionary income, capping the amount at 20% of discretionary income. By making payment plans affordable, more people will be able to access payment plans and be able to succeed in paying the amount ordered to resolve their cases.

The Proposed Rules Appropriately Clarify that the CIP Does Not Affect Judicial Discretion.

Finally, the proposed CIP rules also make positive changes clarifying the role of judges versus CIP staff. We support the clarification that the CIP is not intended to limit, nor can it limit, the

discretion of any judge to waive or reduce the amount of fines and costs that are owed or to otherwise impose alternative sentences. 41 Tex. Reg. 4747 § 175.1(b). Also, the existing rules suggest that CIP staff may seek capias warrants when an individual has failed to make required payments (1 Tex. Admin. Code § 175.3(c)(7)), when in fact, only a judge may decide that a capias warrant should be issued. We support the proposed rule removing reference to CIP staff seeking warrants and clarifying that all staff may do is refer the case back to the court for non-compliance once staff has completed the required collection attempts. 41 Tex. Reg. 4749 § 175.3(a)(10).

Additional Modifications to the CIP Rules Would Help to Ensure Justice for Low-Income Texans.

We also offer suggestions for several ways in which the proposed rules could be further amended to improve the functioning of the CIP, with a special focus on protecting those who are struggling to pay court-ordered fines and costs.

I. Set time limits so that payment plans and court involvement do not last indefinitely.

The proposed rules have eliminated the current time limit that payment plans be completed over the course of four months, as discussed above, and we support this change. Under the proposed rules, CIP staff will need to determine the amount the defendant can actually afford, given her discretionary income, and establish a monthly payment amount of no more than 20 percent of defendant's discretionary income. One unintended consequence of these changes could be for defendants to be put on payment plans that endure for a significant number of months, even years. For example, if a defendant is sentenced to pay $250 in fines and costs, and her discretionary income is $50 per month, CIP staff may determine the appropriate monthly payment amount is $10 per month. This means she would not pay off her fines and costs for more than 2 years. The longer it takes a defendant to complete a sentence, the longer she must remain under court jurisdiction and the more likely she is to fail. For this reason, we would propose adding a limit to the number of months that payment plans can endure under the new rules. Specifically, in §175.3(a)(7)(B)(ii), the proposed rule should be amended to reasonably limit the number of months that a defendant can be required to pay, by adding as follows: "Generally, payment plans should not require the defendant to pay more than 20 percent of the defendant's discretionary income per month for a period of no more than six months." Similarly, it should be made clear in proposed § 175.3(a)(6)(A) that "unable to pay costs…" means unable to pay within a reasonable number of months. Here, "unable to pay the costs, fees, and fines assessed by the judge", could be changed to read, "unable to pay the costs, fees, and fines assessed costs assessed by the judge within six months." If a defendant cannot pay in full within six months given the limitations on monthly payments tied to the discretionary income, CIP staff should be required to refer the case back to the court for appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines pursuant to proposed § 175.3(a)(6)(A).

II. Ensure that all defendants have the ability to comply with ordered payment amounts, and that all defendants understand what to do if their financial circumstances change.

In the new proposed § 175.3(a)(3)(A), defendants who have been put on a payment plan by a judge are not subject to the same type of ability-to-pay inquiry as those who are put on a payment plan by CIP staff. Instead, defendants must fill out a form stating whether or not they can pay the judicially ordered payments without "financial hardship" or "undue hardship." Existing statute does not require judges to conduct ability-to-pay inquiries, nor does it place any limit on the payment plan terms established by judges, meaning that judges could potentially impose unaffordable payment plans without realizing that defendant will not be able to successfully make the ordered payments. Other judges may rely on CIP staff to do a more intensive initial financial screening of defendant's ability to pay. Ideally, all persons who are referred to the CIP, including those with a judicially-ordered payment plan, would receive the same ability-to-pay inquiry envisioned in proposed § 175.3(a)(3)(B). If the judicially-ordered payment plan required a payment of more than 20% of defendant's discretionary income, the payment plan terms could be revised to bring it into compliance with the 20% cap. This would ensure that any defendant who is unable to pay a judicially-ordered payment plan is quickly identified and referred back to the court, or payment plans are appropriately revised based on defendant's actual discretionary income.

If this is not changed, CIP staff should at least be required to use understandable language on the forms that ask whether a defendant is able to pay a judicially-ordered payment plan. Asking an individual whether she can pay without "financial hardship" or "undue hardship" is not easily understood, and could lead to different responses from people with identical income. It would be better to ask "whether the defendant has the ability to pay the costs, fees and fines . . . without struggling to pay all of defendant's and his or her dependents' monthly expenses," or something similar that is straightforward and easily understood.

Furthermore, we have frequent contact with individuals whose non-compliance with court orders is due to changed financial circumstances. They may leave court believing that they have enough money to pay a fine or costs, only to encounter an unexpected major expense, like a medical procedure or car repair, or lose their jobs and find themselves without any income. The new rules should make clear that CIP staff must provide information to all defendants when they are referred to the program about the process for seeking relief if financial circumstances or income changes, or defendant for any other reason is unable to pay at some point in the future. This information should be provided when CIP staff collects ability to pay information (41 Tex. Reg. 4748 § 175.3(a)(3)) and when they conduct defendant interviews (*Id.* § 175.3(a)(5)). And in proposed § 175.3(a)(7), the rules should state that program staff will review and modify payment plan terms if necessary upon the defendant reporting to program staff that income or expenses have changed.

Additionally, we support the newly proposed rules' presumption that recipients of certain government benefits, like state nutrition and medical assistance programs, are unable to pay any fines or costs. 41 Tex. Reg. 4748 § 175.3(a)(6)(B)(iii). To this list of government benefits, we recommend the inclusion of the Telephone Lifeline assistance program that is administered by the Public Utility Commission of Texas. The Lifeline program provides reduced rate telephone service for thousands of impoverished seniors and low-income Texas families who do not otherwise participate in programs administered by Health and Human Services agencies.

Finally, in proposed § 175.1(d) which outlines certain cases to which the CIP does not apply, the proposed language should be modified to clarify that the CIP does not apply to "cases in which the defendant is incarcerated but not yet released." The intent to exempt this group of people from the CIP is made clear in proposed rule § 175.5(b) related to Compliance Reviews (stating that "eligible case" for OCA Compliance Reviews does not include cases in which "the defendant is incarcerated, unless defendant is released and payment is required"). However, § 175.1(d) should be changed as well to exempt this group of people for the sake of clarity.

III. Clarify that waiver and reduction of fines and costs is an option available to defendants.

The proposed rule § 175.1(c) states that the CIP does not alter a judge's discretion to, among other things, "waive costs, fees, and fines; or to reduce the total amount a defendant owes at any time after the assessment date[.]" This suggests that reduction, or partial waiver, of fines and costs can only occur *after* the assessment date. Yet, a judge has the discretion to set the fine amount in each case within the guidelines prescribed by the legislature, and therefore has the authority to change, waive or reduce that amount at any point. A judge may decide to reduce a fine to below what is typically assessed in her court at sentencing and is within her judicial authority in doing so. This language should be clarified to provide that judges have legal authority or discretion to waive costs, fees, and fines or to reduce the total amount a defendant owes "at any time" rather than "after the assessment date[.]"

Similarly, proposed sections 175.3(8) and (9) should be amended to include notice about waiver options. These proposed provisions provide for the content of the notice that must be provided to defendants when payments are past due. They provide that defendants must be notified of "non-monetary compliance options" and the "options available for the defendant to satisfy the judgment." Here, defendant should also be notified of the ability of the judge to "fully or partially waive the fines and/or costs owed."

IV. Include more reporting requirements in monthly reports to the Office of Court Administration.

The Office of Court Administration through the CIP already gathers data from local courts. 1 Tex. Admin. Code § 175.4(c). The proposed rules add an additional category of data: "the

number of cases in which local program staff referred the case to the court under 175.3(a)(6) for review of the defendant's ability to pay[.]" 41 Tex. Reg. 4750 § 175.4(c)(b)(B). While this piece of information will be valuable, the proposed rules should be amended to collect the following additional pieces of information from each court as well:

1. the number of cases in which a judge, at the time of assessment, determined defendant unable to pay any amount at time of assessment and therefore ineligible for the CIP;
2. the number of cases in which a judge, at the time of assessment, authorized discharge of the costs, fees, and fines through non-monetary compliance options, making defendant ineligible for the CIP;
3. the number of capias warrants issued by judges after a defendant did not comply with payment plan terms that CIP staff imposed; and
4. the number of jail commitment orders issued by the court for nonpayment of fines or costs, or noncompliance with court orders regarding non-monetary compliance.

All of these numbers are ones that courts should be able to collect relatively easily and would provide valuable insight into how well the CIP is facilitating compliance with court orders by low-income individuals.

Conclusion

We appreciate the Judicial Council's attention to the problems with the Collection Improvement Program and efforts to revise the rules so that low-income Texans are treated fairly and able to resolve the fines and costs they owe. We respectfully ask that you consider these additional rule changes to improve operations and fairness of the Program even further. If you have any questions, do not hesitate to contact us.

Sincerely,

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