

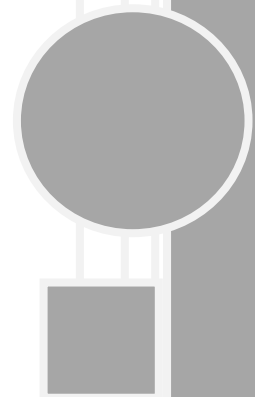


AUDIT REPORT

DALLAS COUNTY

2019 JUSTICE OF THE PEACE PRECINCT 1, PLACE 2 AUDIT

Darryl D. Thomas
Dallas County Auditor
ISSUED: February 22, 2021
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2019 JUSTICE OF THE PEACE PRECINCT 1, PLACE 2 AUDIT

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This report is intended for the information and use of the agency/department. While we have reviewed internal controls and financial reports, this review will not necessarily disclose all matters of a material weakness. It is the responsibility of the department to establish and maintain effective internal control over compliance with the requirements of laws, regulations, and contracts applicable to the department



DALLAS COUNTY
COUNTY AUDITOR

MANAGEMENT LETTER

Honorable Judge Valencia Nash
Justice of Peace Precinct 1, Place 2
Dallas, Texas

Attached is the County Auditor's final report entitled "**2019 Justice of the Peace Precinct 1, Place 2 Audit**" Report. In order to reduce paper usage, a hard copy will not be sent through in-house mail except to the auditee.

If you prefer that released reports be emailed to a different (or additional) recipient, please inform me of the name and the change will be made.

Respectfully,

Darryl D. Thomas

Darryl D. Thomas
County Auditor

EXECUTIVE SUMMARY

A review was performed in accordance with statutory guidelines on the records and reports of Justice of the Peace, Precinct 1, Place 2 for fiscal year 2019. We have identified processes with differing risk factors for consideration by management.

Summary of Significant Observations

- **Special Fund Activities:** Failure to timely update the JPAS docket screen resulted Special Fund balance variance of \$38,197.28 between JPAS record and Bank balance.
- **Fee and Fine Assessment and Collection:** 29 of 40 (73%) cases were not appropriately assessed and collected of court costs, fines, and fees and accurately postings to the Justice of the Peace Accounting System (JPAS)
- **Dismissed Cases:** 10 of 20 (50%) Court management did not prevent staff from dismissing cases without judicial approval and ensuring all requested documentation was received
- **Disposed Cases:** 8 of 20 (40%) instances where the court did not prevent staff from disposing cases, including DA (prosecution) motions for dismissal without judicial approval; and did not ensure all requested supporting documentation was reviewed for completeness and included in the case file.
- **Credit Cards:** Seven online credit card transactions were not receipted to JPAS until after nine to seventy-four business days and two credit card payments were posted to JPAS, but backdated one to two days earlier than when the payment was made.

Repeat observations from Previous Audits:

- **Special Fund Activities:** Failure to timely update the JPAS docket screen resulted Special Fund balance variance between JPAS record and Bank balance
- **Fee and Fine Assessment and Collection:** Inconsistency assessing, collecting, applying and posting proper court costs, fees and fines.
- **Dismissed/disposed Cases:** Lack of management oversight over dismissing, disposing and updating the misdemeanor docket screen to accurately reflect action imposed by the court including the court costs and fine amount due on any given case.
- **Credit Cards:** Online credit card payment delayed several days posting to JPAS.
- **Case Jacket:** Case files could not be located in the court or in the County Archives.
- **Case Deletions:** Cases were deleted without supervisory review. There are no means to determine if financial activity was recorded to the deleted cases.

INTRODUCTION

Dallas County Auditor's Office mission is to provide responsible, progressive leadership by accomplishing the following:

- Comply with applicable laws and regulations
- Safeguard and monitor the assets of the County utilizing sound fiscal policies
- Assess risk and establish and administer adequate internal controls
- Accurately record and report financial transactions of the County
- Ensure accurate and timely processing of amounts due to County employees and vendors
- Set an example of honesty, fairness and professionalism for Dallas County government
- Provide services with integrity
- Work in partnership with all departments to resolve all issues of the County
- Strive to utilize the latest efficient and effective technology in the performance of tasks
- Provide technical support and training in the development, implementation, and maintenance of information systems
- Hold ourselves accountable to the citizens of the County at all times
- Be responsive to the elected officials and department heads of Dallas County

The objectives of this audit are to:

1. Ensure compliance with statutory requirements
2. Evaluate internal controls
3. Verification of accuracy and completeness of reporting
4. Review controls over safeguarding of assets

This audit covered the period of October 1, 2018 through September 30, 2019.

The audit procedures will include interviews with key process owners, observation of transactions processing, data analysis and sample testing of transactions. The main system used will also be reviewed and incorporated as part of the testing of transactions.

DETAILS

Special Fund

We reviewed the Special Fund activities (period ending September 30, 2019) and identified:

- The Special Fund balance is \$81,688.86 of which \$75,377.15 is for cases older than 3 years. The \$81,688.86 balance per JPAS is \$38,197.28 less than the \$119,886.14 bank balance, as a result of incomplete JPAS records.
- 52 checks totaling \$9,287.90 were disbursed, but not posted to JPAS.
- 24 canceled checks totaling \$4,324.60 were not posted to JPAS.
- Ten Special Funds checks in which the court posted the wrong check number to JPAS.
- One Special Fund check was issued for \$5,200, but the check should have been issued for \$5,220. The remaining \$20 has not been issued by the court.

In accordance with Local Government Code Section 113.008, an official with Special Funds shall reconcile all balances and transactions in the statement of activity against the balances of the official's records (JPAS, case jackets, and bank statement) each month. Management should escheat funds per Property Code, § 72 and § 76 and cash bonds should be forfeited per Code of Criminal Procedure § 22. Special Fund reports should be periodically reviewed and disbursements should be made in the appropriate amount, to the appropriate parties, and posted in a timely manner. Management did not ensure Special Fund activities were timely reviewed, escheated, and that check disbursements and cancelations were posted accurately to JPAS. The Special Fund is intended to be a temporary escrow account. Parties entitled to funds have not received them and may not realize they are held in escrow by the court. Without effective review and oversight disbursement checks may be sent to the incorrect payee, financial records in JPAS may be incomplete or be posted with errors.

Recommendation

Special Fund

Management should make the following corrective actions:

- Contact parties to claim the \$75,377.15 in Special Funds held in escrow.
- Post the 52 Special Fund checks totaling \$9,287.90 and 24 cancelations totaling \$4,324.60 to JPAS.
- Issue the remaining \$20 check owed to the party.
- Post the correct check number to the ten cases in JPAS.
- Reconcile Special Fund balances and transactions from the General Ledger against JPAS each month.
- Ensure Special Fund check disbursements and cancelations are accurately and completely posted to cases in JPAS after the completion of monthly reconciliations.
- Review Special Fund reports and routinely escheat Special Funds in accordance with

unclaimed property statutes, Property Code, § 72 and § 76.

- Forfeit cash bonds in accordance with Code of Criminal Procedure § 22.

Management Action Plan

- We are working on and waiting for clarity from the Auditor's Office to make the corrections.
- All checks that were not canceled except check #844 which was canceled in JPAS, have now been updated and canceled to correct the \$4,324.60 total.
- JP 1-2 has submitted a Report to Team Mainframe to have Special Fund checks applied to the correct case numbers based on information received from the auditors and forwarded to Team Mainframe for correction in the Forvus system.
- The remaining \$20 has been posted to the JPAS account.

Auditors Response

None

Fee and Fine Assessment and Collection

We reviewed 40 cases for appropriate assessment and collection of court costs, fines, and fees and accuracy of postings to the Justice of the Peace Accounting System (JPAS) and identified:

- Nine cases in which the correct agency (Sheriff, Constable, Dart, etc.) did not receive credit for the citation.
- Six cases in which the time payment fee was not properly assessed.
- Four cases in which the court costs and fees were not assessed and collected according to the fee schedule for the offense.
- Three cases in which the court did not collect the correct amount for collection fees, including one case in which the collection fees were entirely removed by the court without an explanation.
- Three disposed cases in which the warrant issue or return date field was not posted in JPAS prior to disposition. Issued warrants should have both an issue and return date posted.
- Three cases in which partial payments were not properly allocated to all applicable court costs and fees in JPAS.
- Three cases in which 85% of the fine for parks and wildlife offenses were not sent to the Texas Parks and Wildlife Department.
- Two cases in which 50% of the fine for parent truancy related offenses were not sent to the independent school district.

Court costs, fines, and fees should be assessed, collected, and prorated in compliance with applicable state laws including Code of Criminal Procedure (CCP) Chapters 45 and 102 and Local Government Code Chapter 133, Commissioners Court orders, and Attorney General Opinion GA-0147. Court costs should be assessed based on offense date and offense type. Consistent with CCP Chapter 45.017, the JPAS Docket screens should be

updated as cases are filed, additional court costs are added, the date judgment is rendered, the date warrants are returned, and as changes in fines or amounts are ordered by the Judge. Per Dallas County Commissioners Court Order 2004-1147, the remaining balance will not be waived in any way but continue to be outstanding until the collection amount is paid in full (unless the case is dismissed by a court; or a time-served, community service, or Indigence order is granted). Consistent with Parks and Wildlife Code Chapter 12.107, a justice of the peace shall send 85% of the fine to the department within 10 days after the date of collection. According to the Education Code 25.093, one-half of the fine collected shall be sent to the school district in which the child attends school. These instances occurred due to non-compliance with state statutes, clerical errors and omissions from manual case entries, and inadequate JPAS system functionality that requires the manual entry of assessments and payments. The court did not ensure portions of fines were not distributed to the proper recipients, and manually removed collection fees. These errors and omissions may result in the inadequate collection of court costs and fine amounts and an incorrect distribution and disbursement of funds contractually and statutorily owed to other parties.

Recommendation

Fee and Fine Assessment and Collection

Management should make the following corrective actions:

- Docket cases as events occur, such as: the assessment of additional court costs (including administrative fees, time payment fees, warrant or capias fees, etc.), fine amounts reduced by the Judge, judgments rendered by the court, deferred disposition is granted, and warrants returned by the court.
- Review case records, dockets, and payments for accuracy and completeness before disposing the case.
- Ensure all court personnel consistently follow court guidelines, Commissioners Court Orders, and Texas Statutes (CCP Ch.45, 102 and LGC Ch.133).
- Remit 85% of the fine to the Parks and Wildlife for qualifying cases per Parks and Wildlife Code Chapter 12.107
- Remit one-half of the fine collected to the school district or qualifying cases per Education Code 25.093.
- Waive collection fees only for cases dismissed by the court and for amounts satisfied through time-served or community service, or if the court has determined that a Defendant is indigent per Dallas County Commissioners Court Order 2004-1147.

Management Action Plan

- The staff have been reminded of policies and procedures regarding collection fees, warrants, and that 85% of the fine is to be sent to Texas Parks and Wildlife for wildlife offenses.

Auditors Response

None

Dismissed Cases

We reviewed 20 dismissed cases and identified:

- Six were dismissed with a JPAS note "State moves to dismiss in the Interest of Justice", without the DA's signed motion.
 - Three of these cases were dismissed with the judge's signature stamp; however, we could not verify who used the stamp because the clerk's initials were not documented.
 - Two of these cases were dismissed without the judge's signed order.
- Two dismissed cases in which the judge did not sign an order granting community service, but credit was given to discharge the fine and costs due in JPAS. There was no documentation of completed community service in the case file. **Status: On 4/01/2021 the court provided the signed orders granting community service and documentation of completed community service.**
- Two case files requested for audit review were not located in the court's records or County Archives; therefore, we could not verify the dismissal. One file was notated as "Destroyed".

Per CCP Article 32.02, no case shall be dismissed without the consent of the presiding judge. Per Texas AG Opinion JH-386, "A justice of the peace may not delegate to any other person the exercise of judicial powers and duties devolved upon him by the Constitution or statutes of the state." Per CCP Article 45.017 (a) The judge of each court shall keep a docket containing the judgment and sentence of the court, and the date each was given. The court should docket credit for waivers, community service, time served, and dismissals with the authorized approver's signature and date, consistent with CCP Chapter 45. Local Government Code (LGC) 115.901 states the county auditor shall examine the accounts, dockets, and records of each justice of the peace. The court should ensure all documents required for dismissal have been collected. Per Dallas County Code Section 98-6 (a) Elected officials who designate themselves as the records management officer for their office will cooperate with the Commissioners Court and the county records management officer on records management issues. Court management did not adhere to CCP 32, CCP 45, LGC 115.901, and AG Opinion JH-386; did not prevent staff from dismissing cases without judicial approval; and ensuring all requested documentation was received. The court stores paper records in files and utilize a manual system for categorizing and tracking case jackets stored remotely. It is possible assets may be misappropriated when waivers and dismissals are granted without supporting authorization and documentation. Missing case jackets increase the risk that assets may be misappropriated and not detected through examination of the case jacket and its contents.

Recommendation

Dismissed Cases

Management should make the following corrective actions:

- Locate the missing case files and present them for audit review.
- Require that judicial decisions, including DA (prosecution) motions for dismissal, are authorized by the Judge with the Judge's signature.
- Comply with CCP Article 32 and 45.
- Review case records and dockets for accuracy and completeness before disposing the case.
- Ensure case files are made available to the County Auditor for examination per LGC 115.
- Require court files and records are classified and inventoried before moving files off-site, for ease in later identification.
- Communicate records management issues to the Records Management Officer.

Management Action Plan

- We have reviewed retention policies to ensure compliance.

Auditors Response

None

Disposed Cases

We reviewed 20 disposed cases and identified:

- Two cases in which the Judge's signature stamp was used to grant the dismissal of community service; however, we could not verify who used the stamp because the clerk's initials were not documented.
- Two cases were dismissed with a JPAS note "State moves to dismiss in the Interest of Justice", without the DA's signed motion.
- Two cases in which the judge did not sign an order granting Time Served or Community Service, but credit was given to discharge the fine and costs due in JPAS. There was also no proof community service or time serviced was completed in the case file.
- Two cases in which the court received the Driver Safety Course certificate of completion, but the certificate did not have the defendant's signature.

Per Code of Criminal Procedure (CCP) Article 32.02, the attorney representing the State may, by permission of the court, dismiss a criminal action at any time upon filing a written statement with the papers in the case setting out his reasons for such dismissal, which shall be incorporated in the judgment of dismissal. No case shall be dismissed without the consent of the presiding judge. According to the Texas Court of Criminal Appeals, "A trial court has no "general authority" to dismiss a criminal case without the prosecution's consent except as provided by statute, common law, or constitutional provision (See State v. Johnson, 821 S.W.2d 609,

613; Tex.Crim.App.1991)." Per the Code of Criminal Procedure (CCP) 45.041, the judge shall determine whether the fine and costs should be discharged by performing community service or for time served in jail. Per Texas AG Opinion JH-386, "A justice of the peace may not delegate to any other person the exercise of judicial powers and duties devolved upon him by the Constitution or statutes of the state." Per CCP Article 45.0511(c) The court shall allow the defendant 90 days to present to the court a uniform certificate of completion of the driving safety course. These instances occurred because the court did not adhere to CCP 32, CCP 45, and AG Opinion JH-386; did not prevent staff from dismissing cases, including DA (prosecution) motions for dismissal without judicial approval; and did not ensure all requested supporting documentation was reviewed for completeness and included in the case file. It is possible assets may be misappropriated when dismissals are granted without supporting authorization (signatures) and when disposed cases are not reviewed by the court for completeness of supporting and authorizing documentation.

Recommendation

Disposed Cases

Management should make the following corrective actions:

- Require that judicial decisions, including DA (prosecution) motions for dismissal, are authorized by the Judge with the Judge's signature.
- Comply with CCP 32, CCP 45, and AG Opinion JH-386.
- Review case records and dockets for accuracy and completeness before disposing the case.
- Comply with CCP Article 45 and require that defendant's provide a signed certificate of driver safety course completion.

Management Action Plan

- The Staff has been reminded of policies and procedures to initial when using the Judges' signature stamp.
- For cases dismissed, at the time our procedure required documentation on the system. However, we have now implemented a DA signed motion.
- At the time our procedure required documentation on the system. However, we have now implemented a Judge signed order granting time served or community service.
- The Staff has been reminded of policies and procedures to ensure Certificate of Completion is signed.

Auditors Response

None

Credit Cards

We reviewed online credit card payments and postings to JPAS during FY2019 and identified:

- Seven online credit card transactions totaling \$1,682 were not receipted to JPAS until after nine to seventy-four business days.
- Two credit card payments totaling \$83 were posted to JPAS, but backdated one to two days earlier than when the payment was made.

The entire amount of each online credit card payment should be receipted to the defendant's case in JPAS by the following business day, but no later than the fifth day after the day money was received per Local Government Code 113.022. Payments should not be backdated in JPAS. In these instances the court did not ensure the online credit card payments were timely posted to JPAS and for the correct dates. As a result, defendants may not receive timely credit for payments made to their cases and backdating affects the accuracy of the financial records.

Recommendation

Credit Cards

Management should make the following corrective actions:

- Receipt all credit card payments to JPAS the following business day.
- Provide oversight by reviewing JP Credit Card and Settlement Reports against payments posted to JPAS to ensure all payments are accurately and completely posted.
- Not permit court staff to backdate receipts in JPAS.

Management Action Plan

- Bookkeeping has been reminded of policies and procedures to ensure timely posting of online credit card payments.

Auditors Response

None

Case Deletions

We reviewed all FY2019 Defendant/Plaintiff (D/P) log Reports and identified six cases were deleted without supervisory review. There are no means to determine if financial activity was recorded to the deleted cases. As a best practice, management should periodically review D/P Log and Exception Reports (especially with respect to receipt deletions, lowered amounts, payment type changes, and agreeing the daily closeout) to ensure that errors and omissions are detected and reviewed. There is limited system functionality for assigning security roles and rights in JPAS, which allow court staff to delete cases without segregation of duties. Management did not detect these six case deletions by reviewing Defendant/Plaintiff Reports. It is possible for assets to be misappropriated and not be detected when whole cases are deleted from JPAS. Deleting cases can result in the loss of receipt records, case notes, docketing information, and other actions posted by the court without an audit trail.

Recommendation

Case Deletions

Management should make the following corrective actions:

- Not permit staff to delete cases.
- Routinely monitor Defendant/Plaintiff Log Reports for case deletions and communicating with staff when they occur.
- Review circumstances surrounding each case deletion to understand the effect and impact.
- Work with Dallas County IT to limit system rights and roles based on the user's core job duties.

Management Action Plan

- Clerks have been instructed not to delete any case, for any reason. Case will remain in the system with documentation explaining reason as to what has transpired.

Auditors Response

None

Computer Receipts

We reviewed all 29 computer receipts voided in FY2019 and identified:

- Nine computer receipts were partially voided, in which a portion of the amount was voided, rather than voiding the full amount of the receipt.
- Nine computer receipts either were not marked void, did not have an explanation for voiding, the court did not retain both receipt copies, and the voids were not reviewed by the supervisor.
- Five voided computer receipts were subsequently re-posted, but backdated before the original transaction.

The court's voiding procedure is to mark receipts "Void", document a reason for voiding, ensure all receipt copies are retained by the court, and obtain dual sign off approval on all voided receipts. Computer receipts should be voided for the complete original amount of the transaction. Receipts should be posted to JPAS with the same date the transaction was made. Payments should not be backdated in JPAS. JPAS reporting through Document Direct provides the JP courts with the capability to review exception reports, voided transactions and transaction logs (especially with respect to receipt deletions, lowered amounts, payment type changes, and agreeing the daily closeout), and to ensure that errors and omissions are detected. These instances occurred because the court's receipting and voiding procedures were not followed and management did not prevent and detect receipt back dating and voiding for partial amounts. Not adhering to the court's procedures and backdating receipts may result in record inaccuracies, an incomplete audit trail, and present opportunities for misappropriation.

Recommendation

Computer Receipts

Management should make the following corrective actions:

- Follow the court's receipting procedures for voiding transactions, including retaining all receipt copies are retained.
- Document the review of void transactions by management in writing and ensure void duties are appropriately segregated.
- Ensure receipts are completely voided for the entire amount, rather than voiding for partial amounts of the original.
- Require all receipts are posted on the same day the money is collected and not backdated to earlier dates in JPAS.
- Mark computer receipts "Void" with a written explanation when receipts are voided at the court.
- Periodically review Exception Reports from JPAS to monitor voided computer receipts and ensure the timely detection of errors and omissions.

Management Action Plan

- The Staff has been reminded of policies and procedures when voiding a transaction.

Auditors Response

None

Civil Fees

We reviewed 15 civil cases brought by a non-government entity from the Justice Fee Exception List and identified four cases in which the court did not collect filing fees and document an explanation for not collecting filing fees in JPAS. Each clerk shall keep a file docket which shall show in convenient form the number of the suit, the names of the attorneys, the names of the parties to the suit, and the nature thereof, and, in brief form, the officer's return on the process, and all subsequent proceedings had in the case with the dates thereof, consistent with Rules 25 and 524 of the Texas Rules of Civil Procedure. This occurred due to clerical errors and omissions made in the manual process of setting up new cases, and were not detected through reviewing the Justice Fee Exception List. As a result, JPAS docketing errors may occur when civil case filings are not reviewed by the court for completeness and accuracy.

Recommendation

Civil Fees

Management should make the following corrective actions:

- Update the four cases with an explanation for not collecting filing fees in JPAS.
- Review the Justice Fee Exception List from Document Direct for civil cases filed without a payment.
- Ensure case records are accurate and reflect a complete account of case activities.

Management Action Plan

- Bookkeeping has been reminded of policies and procedures to use fee table.

Auditors Response

None

Manual Receipts

We reviewed 13 manual receipts and three manual receipts voided during FY2019 and identified:

- Three manual receipts were voided without management approval. Two of these receipts were voided without an explanation.

The court's voiding procedure is to mark receipts "Void", document a reason for voiding, and to obtain management review and approval before voiding receipts. Receipts with errors, including amounts crossed out, should be voided. This occurred because the court's voiding procedures were not followed. A lack of segregation of duties, oversight, and management review may result in potential revenue losses, misappropriation of assets, and risk of a delay in the detection of errors in manual receipts.

Recommendation

Manual Receipts

Management should make the following corrective actions:

- Review and approve voided manual receipts and document the reviewer's initials on each receipt.
- Ensure the preparation and review of voided receipts is appropriately segregated.
- Ensure all manual receipts containing errors are clearly marked "Void", with a written explanation for voiding the receipt, rather than crossing out errors and re-writing over them.

Management Action Plan

- The Court did list an explanation (which we noted during fieldwork), but the Court does not document management's approval. The Bookkeeper's initials are circled on the receipt.

- The Court added an explanation and management's approval of the void after the auditor completed their review on 7/21/20.
- We removed the exception for one of the voids after reviewing the audit support.

Auditors Response

None

No Judgment/Plea Cases

We reviewed a report of seven disposed cases and identified these cases were disposed without either a dismissal date, DA dismissal Date, judgment date, deferred disposition date, or plea. The JPAS docket screen should be updated with a plea of nolo contendere (when the defendant has not entered a prior plea) and judgment when web or mail payments are accepted by the court as full payment in accordance with C.C.P., Art. 27.14(c). Per C.C.P. Art 45.017 (a) the judge of each court shall keep a docket containing the judgment and sentence of the court, and the date each was given. This occurred because JPAS date fields, case records, and system reports were not reviewed for accuracy and completeness before disposing cases. As a result, the case docketing fields in JPAS may not reflect accurate and complete information if not appropriately updated.

Recommendation

No Judgment/Plea Cases

Management should make the following corrective actions:

- Correct plea and judgment omissions in JPAS.
- Docket cases as events occur, such as pleas offered by the defendant, judgment and sentence of the court, dismissals and appeals, and the date each was taken.
- Review case records and dockets for accuracy and completeness before disposing a case.
- Review Document Direct Reports to detect errors and omissions on disposed cases in JPAS.

Management Action Plan

- The Court disagrees that the cases were disposed without any of the relevant dates.

Auditors Response

- We documented on 6/21/20 that our report only shows the Court had a judgment date posted to two cases, but no plea. We verified with IT and they documented the plea fields were changed on 11/3/20 by the Court , after our fieldwork was complete. The Court added the judgment date and plea to a case on 11/3/20, after the completion of audit fieldwork. Lastly, the Court added the dismissal date to two

cases on 3/25/21, after the completion of the fieldwork.

cc: Darryl Martin, Commissioners Court Administrator