



AUDIT REPORT

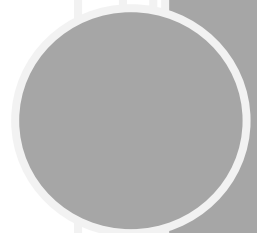
DALLAS COUNTY

FY2020 Justice of the Peace Precinct 2, Place 2 Audit

Darryl D. Thomas
Dallas County Auditor

ISSUED: 11/4/2021

RELEASED: NOVEMBER 23, 2021



FY2020 Justice of the Peace Precinct 2, Place 2 Audit

TABLE OF CONTENTS

MANAGEMENT LETTER	3
EXECUTIVE SUMMARY.....	4
INTRODUCTION	6
DETAILS	7

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 KaTina Whitfield
Justice of the Peace, Precinct 2, Place 2
Dallas, Texas

Attached is the County Auditor's final report entitled "FY2020 Justice of the Peace Precinct 2, 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.

In 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 2, Place 2 for fiscal year 2020. Priority areas of risk which need consideration by management are:

Summary of Significant Observations:

- **Mass Dismissal:** 7,065 cases were not docketed with a dismissal date in JPAS after the DA's motion and the Judge's order to dismiss were signed.
- **Special Fund:** The Special Fund balance is \$57,872.27, of which \$55,632.89 is from cases older than 3 years that were not escheated to parties.
- **Dismissed Cases:** 9 of 40 (23%) cases without the clerks initials when the Judge's stamp was used, case dismissals without written judicial approval, cases not located by the court, "Plea in Bar" orders with terms not met or issued without the DA's motion.
- **Court Cost, Fine and Collection fee Assessment:** Cases with court cost and fee assessment errors, improper removal of collection fees, and docketing errors in the case management system (JPAS).
- **Disposed Cases:** 6 of 20 (30%) cases granting community service or time served without written judicial approval, cases not located by the court, and payment posted to the wrong case.
- **No Judgment/Plea:** 25 disposed cases without a judgement, appeal, dismissal, or deferred adjudication date in JPAS. Including one case without a plea posted to JPAS.

Repeat observations from Previous Audits:

- **Court Cost, Fine and Collection fee Assessment::** Inconsistency assessing, collecting, applying and posting proper court costs, fees and fines.
- **Dismissed Cases:** Cases were dismissed or requests for time served and community service were granted without a documented judicial approval and Clerks did not write their initials when using the Judge's Stamp.
- **Computer/Manual Receipts:** Receipts not marked "void", receipt copies not retained, receipted voided without supervisory approval, and a deposit not posted within five business days.
- **Disposed Cases:** The court does not update the docket screen to consistently reflect an accurate court record of events and case status in the case management system (JPAS).
- **Special Fund:** Case balances over 3 years were not escheated or returned to parties. The court's failure to post issued checks and check cancellations to JPAS resulted in a Special Fund balance difference between JPAS and the Bank balance.
- **Credit Card Activities:** Online credit card payments not receipted to the defendant's case within five business days.

Only those weaknesses which have come to our attention as a result of the audit have been reported. It is the responsibility of the department management to establish and maintain effective internal control over compliance with the requirement of laws, regulations, and contracts applicable to the department.

500 Elm Street, Suite 4200

Dallas, Texas 75202

TEL: 214-653-6472

FAX: 214-653-6440

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 requirements2. Evaluate internal controls3. Verification of accuracy and completeness of reporting4. Review controls over safeguarding of assets

This audit covered the period of October 1, 2019 through September 30, 2020.

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

No Judgement/Plea

We reviewed 25 disposed cases without a judgment date and identified 25 cases were disposed without a judgment, deferral, or dismissal date entered on the JPAS docket screen. This includes one case that was disposed and paid by the defendant without a plea posted in JPAS.

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 Code of Criminal Procedure (CCP), Article 27.14(c). 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. 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 court's docket records may be incomplete and inaccurate.

Recommendation

No Judgement/Plea

Management should make the following corrective actions:

- Correct the 25 judgment date and plea 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 reports from JPAS to detect errors and omissions on disposed cases.

Management Action Plan

The 25 disposed cases without judgment dates were corrected, each case was reviewed, and it was determined they were all disposed by the same clerk who is no longer an employee of Dallas County.

Auditors Response

- None

Computer Receipts

We reviewed FY2020 deposits and 29 voided receipts and identified:

- Four voided computer receipts in which both copies of the printed receipt were not retained.



- Three computer receipts were voided without documenting supervisory review and approval.
- One computer receipt was not marked "void".
- One deposit totaling \$366.00 was posted to JPAS by the court, but not deposited within five business days.
- One computer receipt was posted to JPAS, but backdated 30 days earlier than when the payment was made.

Per the Local Government Code (LGC) § 113.022: A county officer or other person who receives money shall deposit the money with the County Treasurer on or before the next regular business day after the date on which the money is received, or without exception, on or before the fifth business day after the day on which the money is received. The court's voiding procedures require receipts are marked "Void/Deleted", a reason for voiding is documented, all receipt copies are retained by the court, and management approval to void receipts. This occurred because the court did not adhere to LGC 113.022 and the court's voiding procedures. A lack of segregation of duties and management oversight when voiding receipts may result in the misappropriation of assets and loss of revenue. Errors and omissions not detected by management can result in a delay in revenue recognition.

Recommendation

Computer Receipts

Management should make the following corrective actions: □

- Review and approve voided receipts and document the reviewer's initials on each receipt.
- Ensure the preparation and review of voided receipts are appropriately segregated.
- Retain all copies of voided receipts.
- Review Document Direct Exception Reports to timely detect voided receipt errors and omissions.
- Prepare and transfer deposit batches consistent with Local Government Code 113.022.

Management Action Plan

All recommendations have been discussed with both bookkeepers and management does review and approve voided receipts also documented with the reviewer's initials. All Deposits are prepared and transferred consistently each day.

Auditors Response

- None



Credit Cards

We reviewed online credit card payments and postings to JPAS during FY2020 and identified three credit payments were not receipted to the defendant's case within 5 business days, but posted to JPAS between 24-111 business days.

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 (LGC) 113.022. This occurred because the court did not ensure three online credit card payment transactions were timely posted to JPAS and did not comply with LGC 113.022. As a result, payment errors may not be detected and defendants may not receive credit for payments made to their cases.

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.

Management Action Plan

Two of the 3 cases the clerk entered the to and from date information incorrectly which has been addressed and the 1 JT case initially showed failed on our credit card report which delayed the posting. The JPAS Credit Card and Settlement Report is reviewed regularly.

Auditors Response

- None

Special Funds

We reviewed Special Fund activities (period ending September 30, 2020) and identified:

- The Special Fund balance per JPAS is \$57,872.27, of which \$55,632.89 is for cases older than three years.
 - \$55,270.73 can be escheated to external parties and \$362.16 to the Dallas County General fund.



- The \$57,872.27 balance per JPAS is \$3,385.95 less than the \$61,258.22 bank balance, as a result of incomplete JPAS records.
- Nine cancellations totaling \$944.28 were not posted to JPAS. Status: Six cancellations were posted to JPAS by the court during FY2021.
- Three unposted amounts added to the reconciliation summary do not have identifying case and check numbers in the description.
- Three disbursement checks totaling \$811.01 were not posted to JPAS.
- One special fund check in which the court inappropriately waived and refunded the time payment fee and collection fee, totaling \$32.50.

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.

Management did not ensure Special Fund check disbursements and cancellations were timely posted to JPAS and that balances in excess of three years were escheated. As a result, parties entitled to funds did not receive them and may not realize they are held in escrow by the court. This also increases the risk that financial records in JPAS may be incomplete.

Recommendation

Special Funds

Management should make the following corrective actions:

- Contact parties to escheat the \$55,632.89 held in Special Funds.
- Post the three Special Fund disbursement checks and the remaining three cancellations to JPAS.
- Ensure checks and cancellations identified from monthly reconciliations are both posted to JPAS and recorded to the reconciliation with identifying case and check numbers.
- 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.
- Do not waive and then refund the \$25 time payment fee once assessed when a defendant pays the case balance on or after the 31st day after the judgment is entered.

Management Action Plan

As of 11/05/2021 the Special Fund balance is \$24,873 and decreasing as funds have been escheated. Special Fund report is reviewed monthly. Any and all Special fund corrections are in process.



Auditors Response

- None

Fine and Fee Compliance

We reviewed 20 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:

- Three cases in which partial payments were not properly allocated to all applicable court costs and fees in JPAS.
- Two cases in which the fine and fees were not posted according to the fee schedule.
- Two cases in which the judgment date in the JPAS was incorrect. **Status update: As of 7/23/2021 the court corrected the judgment dates for both cases.**
- One case in which 85% of the fine was not sent to the Texas Parks and Wildlife Department.
- One case in which collection fees owed were manually removed from JPAS when disposing the case. The collection fees were collected by the court.
- One case in which the time payment fee was not assessed and collected.

We also reviewed 20 Collection Fee Removals and identified:

- 17 cases in which collection fees owed were manually removed from JPAS when disposing the case. However, the collection fees were collected by the court. This includes:
 - Two cases in which the \$25 time payment fee was not collected, but the court sent the defendant an \$89.70 and \$72 refund.
 - One case did not have the Judge's signature authorizing community service to satisfy the amount owed.
- One case in which the collection fee for \$60 was inappropriately waived by the court and the judgment date in the JPAS is incorrect.

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. Consistent with CCP Chapter 45.017, the JPAS Docket screen should be updated as cases are filed, additional court costs are added, and the date judgment is rendered. 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; except for a case dismissed by a court, any amount satisfied through time-served or community service, or if the court has determined that a Defendant is indigent.



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.

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, lack of management review, and system overrides. Collection fees are removed by court staff without management review or a reason supported by Commissioner's Court Order 2004-1147. This 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

Fine and Fee Compliance

Management should make the following corrective actions:

- Remit 85% of the fine to the Parks and Wildlife for qualifying cases per Parks and Wildlife Code Chapter 12.107, including the case identified in the audit.
- Remove 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.
- Docket the assessment of additional court costs (including administrative fees, time payment fees, warrant or capias fees, etc.), fine amounts reduced by the Judge, collection fees owed, and judgments rendered by the court.
- Review case records, dockets, and payments for accuracy and completeness before disposing the case.
- Review Collection Reports from Document Direct to ensure cases are appropriately docketed (including hearing reset dates) before the case is referred to collections.
- Review JPAS collection and docketing reports in order to detect errors and omissions.
- Ensure all court personnel consistently follow court guidelines, Commissioners Court Orders (2004-1147) and Texas Statutes (CCP Ch.45, 102, 103, LGC Ch.133, and Parks and Wildlife Code Chapter 12.107).

Management Action Plan

- The staff met as a group to discuss all the findings listed above on November 5, 2021 regarding Fine and Fees. We discussed Administrative Dismissals, Entering Pleas and dismissal of cases, Court cost, disposing cases correctly and Bookkeeping procedures. This will be an ongoing training process for the staff to help ensure everyone is clear on Fine and Fee Compliance.

Auditors Response

- None



Dismissed Cases

We reviewed a total of 40 dismissed cases and identified:

- Four cases in which the Judge's stamp was used to dismiss the case; however, we were unable to verify who used the stamp.
- Two cases were dismissed without the Judge's signature approving dismissal.
- One case in which the dismissal date is posted to JPAS, but the terms of the plea in bar dismissal have not been met.
- One case was dismissed with a "Plea and Bar" order signed by the judge without the State's Motion To Dismiss. **Court Response: The wrong form was used in disposing the case.**
- One case file could not be located in the court or county archives to corroborate the judgment of the court.

Per CCP Article 32.02, 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 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. Local Government Code (LGC) 115.901 states the county auditor shall examine the accounts, dockets, and records of each justice of the peace. 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.

Management did not adhere to CCP 32, CCP 45, and LGC 115.901. It is possible assets may be misappropriated when dismissals are granted without supporting authorization or an audit trail consistent with state statutes. Missing case files increase the risk that assets may be misappropriated and not detected through examination of the files and its contents.

Recommendation

Dismissed Cases

Management should make the following corrective actions:

- Require that judicial decisions (including DA motions for dismissal, community service, and time served) are authorized by the Judge with the Judge's signature in compliance with CCP Article 32 and 45.



- Review case records and dockets for accuracy and completeness before disposing the case.
- Locate missing case files for examination by the County Auditor per LGC 115 and Dallas County Code Section 98-6 (a).
- Ensure 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

- The 4 cases stamped were before our new stamps arrived that now includes the clerk's initials. The clerk responsible for dismissing cases without the Judge's signature is no longer employed by Dallas County and a reminder to each clerk has been communicated that no case can be dismissed without the Judge's review. We ensure court files and records are labeled and we keep a record of all files sent to archive.

Auditors Response

- None

Disposed Cases

We reviewed 20 disposed cases in FY2020 and identified:

- Three cases did not have the judge's signature granting requests for Community Service or Time Served, including requests made on the DA's motion. One case file did not have documentation to prove the defendant's time served.
- Two case files could not be located in the court or county archives to corroborate the judgment of the court.
- One case in which payment was posted to the incorrect case. **Status: As of 7/12/2021, the payment was applied to the correct case.**

Per Code of Criminal Procedure (CCP) Article 32.02, no case shall be dismissed without the consent of the presiding judge. Per CCP 45 the justice or judge shall determine whether the fine and costs should be discharged by performing community service and shall credit the defendant for time served in jail. Local Government Code (LGC) 115.901 states the county auditor shall examine the accounts, dockets, and records of each justice of the peace. Per Dallas County Code Sec. 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.

This occurred due to not adhering to CCP 32, CCP 45, and LGC 115.901. This increases the risk that assets may be misappropriated when Community Service or Time Served are granted without the



Judge's authorization (signature) and not detected through examination of the case jacket and its contents.

Recommendation

Disposed Cases

Management should make the following corrective actions:

- Require that judicial decisions (including DA motions for dismissal, community service, and time served) are authorized by the Judge with the Judge's signature in compliance with CCP Article 32 and 45.
- Review case records and dockets for accuracy and completeness before disposing the case.
- Locate missing case files for examination by the County Auditor per LGC 115 and Dallas County Code Section 98-6 (a).
- Ensure 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 discussed in our November 5th team training the importance of the Judge reviewing all Community Service or Time Served Cases.

Auditors Response

- None

Appealed Cases

We reviewed a report of 95 criminal (class c misdemeanor) appealed cases in FY2020 and identified seven were not received by the County Clerk and cannot be located by the court.

Per Code of Criminal Procedure (CCP) Article 45.017(a) the judge shall keep a docket containing whether an appeal was taken and the date of that action. Appeals from a justice court shall be heard by the county court in accordance with CCP Article 45.042(a). Per Dallas County Code Sec. 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.

The court did not track the appealed cases to ensure they arrive to the county Court or are successfully returned to the justice court. As a result, defendants who paid an appeal bond may not be heard at the County Court. Case files and money that cannot be located increases the potential for loss and liability.



Recommendation

Appealed Cases

Management should make the following corrective actions:

- Locate the seven appealed cases that were not received by the County Court.
- Document and track appealed cases transferred to the County Court.
- Ensure appealed cases are received by the County Court.
- Review a report of cases with an Appeal bond to determine cases were not appealed in error.
- Monitor cases returned by the appeals court and seek the Judge's direction for processing returned cases.

Management Action Plan

- The clerk responsible for these cases was terminated for the lack of performance on the Appeals desk. The appeals are now properly documented and tracked.

Auditors Response

- None

Civil Fees

We reviewed 15 civil cases filed by a non-government entity from the Justice Fee Exception List and identified two cases were entered in error. **Status: Both cases were subsequently deleted by the court after internal audit informed the court of the error.** 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 JPAS comments with an explanation for not collecting filing fees, rather than deleting cases. Add comments to one case indicating it was set up in error and reference the correct case number.



- Review the Justice Fee Exception List from Document Direct for civil cases filed without a payment and for posting errors.

Management Action Plan

- All cases entered in error due to case number typos they are deleted out of the system so that our case number remain in numerical order and so that we are able to maintain an accurate case count.

Auditors Response

None

Mass Dismissal

We reviewed 55,201 cases dismissed “for lack of evidence and in the interest of justice” and identified 7,065 cases were not docketed with a dismissal date in JPAS after the DA’s motion and the Judge’s order to dismiss were signed.

Per the Code of Criminal Procedure (CCP) 45.017(a) the judge of each court shall keep a docket containing the date the examination or trial was held, judgment and sentence of the court, and the date each was given. The court did not review JPAS case records to ensure cases were appropriately docketed with a dismissal date. As a result, the court’s case management software JPAS may not reflect accurate and complete information if not appropriately updated.

Recommendation

Mass Dismissal

Management should make the following corrective actions:

- Add the dismissal dates to JPAS for the 7,065 cases.
- Review case records and dockets for accuracy and completeness before disposing cases.
- Run Document Direct Reports or request JPAS reports from IT to detect docketing discrepancies.

Management Action Plan

- The Mass Dismissal cases should have been docketed with a dismissal date in JPAS by IT as with the other Mass Dismissal cases that were dismissed.

Auditors Response

- None

cc: Darryl Martin, Commissioners Court Administrator