

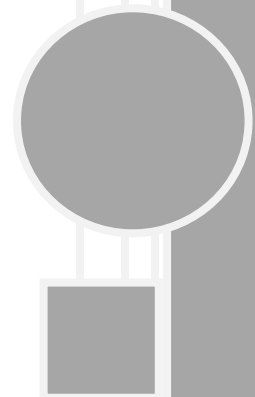


AUDIT REPORT

DALLAS COUNTY

2019 JUSTICE OF THE PEACE PRECINCT 3, PLACE 1 AUDIT

Darryl D. Thomas
Dallas County Auditor
ISSUED: November 10, 2020
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2019 JUSTICE OF THE PEACE PRECINCT 3, PLACE 1 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 Al Cercone
Justice of Peace, Precinct 3, Place 1
Dallas, Texas

Attached is the County Auditor's final report entitled "**2019 Justice of the Peace Precinct 3, Place 1 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,

A handwritten signature in black ink that reads "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 3, Place 1 for fiscal year end 2019. Internal Control weaknesses which need consideration by management are:

Summary of Significant Observations

- **Planning Document** : Court management has not provided requested documents such as, Internal Control Questionnaire, Management Action Plan Follow-up, Control Walk-through and Department Procedure to comply with LGC 115. **Status: On 11/18/2020, after the audit concluded, the court returned the signed Internal Control Questionnaire**
- **Special Fund Reconciliation and Activity**: The court did not provide the Fiscal Year 2019 Special Fund Reconciliation for audit review. In addition, \$24,101.44 bank balance is \$2,245.60 more than the fund balance per JPAS, as a result of incomplete JPAS records.
- **Dismissed Cases**: 11 out of 20 (55%) cases were dismissed without a signed motion from the DA or without an order of dismissal signed by the judge. Four case files could not be located in the court or the County's Archives to corroborate the judgment of the court. **Status: On 11/18/2020, after the audit concluded, the remaining six signed State's Motions to Dismiss were provided to audit**
- **Warrants**: Management has not monitored Warrant Error Report to recall active warrants on disposed cases and those paid in full.

Repeat observations from Previous Audits:

- The court does not reconcile the Special Fund to timely detect posting errors.
- The court does not review to ensure a case is appropriately docketed, all requested documentation has been received, and that sufficient approval is documented on disposed cases.
- The court does not deter cases deletions and does not review D/P Reports to detect the appropriateness of case deletions.
- Cases without a balance due or marked inactive (disposed) have an active warrant.
- The court does not have a review process to ensure court costs were accurately assessed and collected, and cases activities are completely logged in JPAS prior to case disposition.
- Receipts and void were not reviewed by court management for accuracy and completeness.
- Court management did not indicate case records, JPAS date fields, and system reports are reviewed for accuracy and completeness before cases are dispose.
- There is limited system functionality for assigning security roles and rights in JPAS, which allow court staff to delete 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

Document Requests Not Provided

On 5/14/2020, the court was sent a request for documents. The court has not completed and returned the following documents:

- Internal Control Questionnaire (**Status: On 11/18/2020, after the audit concluded, the court returned the signed Internal Control Questionnaire**).
- Management Action Plan Follow-Up
- Control Walk-through
- Departmental Procedures

Per Local Government Code (LGC) 115.001, the county auditor shall have continual access to and shall examine and investigate the correctness of: the books, accounts, reports, vouchers, and other records of any officer. According to 115.901 (a) the county auditor shall examine the accounts, dockets, and records of each justice of the peace to determine if any money belonging to the county and in the possession of the officer has not been accounted for and paid over according to law. Additionally, per LGC 114.003, a county official or other person who is required under this subtitle to provide a report, statement, or other information to the county auditor and who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, statement, or information, commits an offense. Court management has not provided requested documents in compliance with LGC 115.

The Internal Control Questionnaire is a survey completed by all Dallas County departments during each audit to document the department's procedures, policies, and methodologies for conducting County business. The Management Action Plan Follow Up Document asks management to respond with the current status (completed, in progress, not started, not implemented) on findings from the prior year audit. As a result, the audit scope is limited and it increases the risk that control weaknesses may not be effectively managed and mitigated by the department. It is also difficult to evaluate and score the department's risk for the county when it will not return a survey to financial, operational, and strategic activities.

Recommendation

Planning Documents

Management should comply with LGC 112, 114, and 115 and complete and return the following documents:

- Internal Control Questionnaire
- Management Action Plan Follow-Up
- Control Walk-through
- Departmental Procedures

Management Action Plan

N/A

Special Fund

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

- **The court did not provide the Fiscal Year 2019 Special Fund Reconciliation for audit review. Per inquiry, management stated it had not been completed.**
- The Special Fund balance is \$21,855.84, of which \$2,745.00 is for cases older than three years.
- The \$24,101.44 bank balance is \$2,245.60 more than the fund balance per JPAS, as a result of incomplete JPAS records.
- One check was issued for \$22, but it did not include the additional \$7.85 owed (check #556001877).

The Special Fund is a temporary escrow account for funds that belong to individuals, companies, and government entities. In accordance with Local Government Code (LGC) 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. The Civil Practice and Remedies Section 64.072 states, a court may not administer a corporation in receivership for more than three years after the date the receiver is appointed. Court management has not adhered to LGC Section 113.008 and Civil Practice and Remedies Section 64.072. The court has not contacted various parties to claim money deposited in the Special Fund between 11/1/2002 and 11/15/2012. Individuals, companies, and/or government entities entitled to funds have not received them and may not realize they are held in escrow by the court. A lack of management oversight and timely Special Fund reconciliations can result in JPAS posting errors and omissions.

Recommendation

Special Fund

Management should make the following corrective actions:

- Reconcile Special Fund balances and transactions from the General Ledger against JPAS each month, per LGC Section 113.008.
- Contact parties to claim \$2,745 in Special Funds held in escrow.
- Post \$2,245.60 of transactions to JPAS so the Special Fund balance per JPAS agrees to the amount in the bank.
- 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

Balancing of the Special Fund is done manually. JPAS reports are not accurate.

Auditors Response

We have never found an error with the Reports. It is the Courts that are entering data that drives the Reports. What the Courts enter in JPAS appears on the Report. Clerks at this Court have been known to back date transactions as cited in this audit. This may be why the Court feels that the JPAS Reports are not accurate.

Case Deletions

We reviewed all monthly Defendant/Plaintiff (D/P) Reports and identified 103 cases were deleted without management review. There are no means to determine if financial activity was recorded to the deleted cases. As a best practice, management should not permit the deletion of cases and periodically review D/P Reports to ensure that case deletions do not occur. There is limited system functionality for assigning security roles and rights in JPAS, which allow court staff to delete cases. Management has not indicated D/P Reports are monitored to detect case deletions. As a result, assets can 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 D/P Reports for case deletions and communicating with staff when they occur.
- Review circumstances surrounding each case deletion to address underlying issues and prevent re-occurrence.
- Work with Dallas County IT to limit system rights and roles based on the user's core job duties.

Management Action Plan

When criminal cases are entered into the system there are no filing fees therefore, no financial records . A Clerk does not have access to delete JPAS financial records (payment history). Therefore, any case type that had financial records and a case is deleted, the financial records will show when the deleted number is re-entered.

Auditors Response

Clerks should never be deleting cases. The Court's response does not address the risk and the possibility that case deletions can occur. In our review there were more Civil cases than

Criminal and the Court did not address those cases.

Dismissed Cases

We reviewed 20 dismissed cases and identified:

- Seven cases were dismissed without a signed motion from the DA. **Status: As of 6/23/2020, one motion for dismissal was subsequently signed by the Assistant DA.**
- Four case files could not be located in the court or the County's Archives to corroborate the judgment of the court.
- Three cases were dismissed without an order of dismissal signed by the judge, and the case type on the State's Motion to Dismiss was listed as JT rather than JM for one case.

Per C.C.P. Art 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)." The court should docket fine waivers, community service, time served, judgments, DA motions (requests) to dismiss, and dismissals authorized by the Judge with a signature and date, consistent with the C.C.P. Per C.C.P. Art 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. Local Government Code (LGC) Section 115.001 states, "The county auditor shall have continual access to and shall examine and investigate the correctness of: the books, accounts, reports, vouchers, and other records of any officer." Court management did not adhere to C.C.P. 32, 45, and LGC 115 and did not prevent staff from dismissing cases without a DA's motion or judicial approval. The court stores paper records in files and utilize a manual system for categorizing and tracking case jackets stored remotely. As a result, assets may be misappropriated when waivers and dismissals are granted without supporting authorization and when disposed cases are not reviewed by the court for completeness of supporting 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.
- Require that judicial decisions, including DA (prosecution) motions for dismissal, are authorized by the Judge with the Judge's signature.
- Comply with C.C.P. 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

On 11/18/2020, after the audit concluded, the remaining six signed State's Motion to Dismiss were provided to audit.

Auditors Response

None

Warrants

We reviewed the JP Warrant Error Report, dated 5/10/2020, and identified ten cases without a balance due or marked inactive (disposed) have an active warrant. Per the Code of Criminal Procedure (C.C.P.) Article 45, "A justice or judge shall recall an arrest warrant for the defendant's failure to appear if the defendant voluntarily appears to resolve the amount owed and the amount owed is resolved." The court shall recall a capias pro fine under the same conditions. Management has not indicated the Warrant Error Report is monitored to recall active warrants on disposed cases and those paid in full. This poses a potential liability to the County for persons arrested in error.

Recommendation

Warrants

Management should make the following corrective actions:

- Recall warrants and capias on the 1120 cases consistent with C.C.P. Art. 45.
- Review the Warrant Error Report to recall active warrants on disposed cases and those paid in full.
- Communicate active warrant discrepancies with the Constable's and Sheriff's office for resolution.

Management Action Plan

Management agreed that some cases had an active warrant and subsequently recalled the Warrants. Management disagreed in some cases since there was a dispute with the online payment.

Auditors Response

None

No Judgment/ Plea

We reviewed disposed cases filed in FY2019 and identified 15 cases were disposed without a judgment, deferral, or dismissal date entered in the JPAS docket screen; and seven cases were disposed without a plea entered in the JPAS docket screen.

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. Article 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. Court management did not indicate case records, JPAS date fields, and system reports are reviewed for accuracy and completeness before cases are disposed. Assets may be misappropriated and JPAS docketing errors may occur when disposed cases are not reviewed by the court for completeness and accuracy.

Recommendation

No Judgment/ Plea

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 reports from JPAS to detect errors and omissions on disposed cases.

Management Action Plan

Management agreed with some cases and disagreed in cases where the defendant was not guilty and there was no judgement and also disagreed in cases with Admin dismissals and no judgement.

Auditors Response

These are cases where the Court did not document the date acknowledging the administrative dismissal or the rendering of the Court when the defendant was determined to be not guilty.

Credit Cards

We reviewed all credit card postings and refunds posted to JPAS during FY2019 and identified:

- Eight credit cards payments were receipted more than five business days after payment.

The JPAS misdemeanor docket screen should accurately reflect actions imposed by the court, including the court costs and fine amount due on any given case, consistent with the Code of Criminal Procedure, § 45.017.

The entire amount of each online credit card payment should be receipted to the defendant's case in JPAS by the following business day, consistent with L.G.C. 113.022. As a best practice, management should provide oversight over the receipting process including posting credit card transactions. Daily close out procedures did not ensure all credit card transactions were timely posted to JPAS for the complete amount paid by the defendant. As a result, defendants may be unduly subject to additional costs and measures when payments are not timely applied and may pay more than the amount due when court costs and fine amounts are not timely updated.

Recommendation

Credit Cards

Management should make the following corrective actions:

- Receipt all credit card payments to JPAS no later than the fifth day after the day money was received, consistent with Local Government Code 113.022.
- Provide oversight by reviewing JP Credit Card and Settlement Reports against payments posted to JPAS for accuracy and completeness.
- Update JPAS when court costs and fine amounts change (i.e. fine reductions by the judge, driver safety course granted), to ensure an accurate balance owed is displayed on the County website.
- Ensuring JPAS reflect the correct court costs and fine amounts owed consistent with the Code of Criminal Procedure, § 45.017.

Management Action Plan

Management agrees that the wrong date spans were entered when pulling the Credit Card Report . The error was found when a defendant called. Research of this case found the error and bookkeeper receipted the missing payments for 12/28-12/29.

Auditors Response

None

Computer Receipts

We reviewed all 86 computer receipt voids and identified:

- Four receipts were voided without a documented explanation.
- Two voided computer receipts in which both copies of the printed receipt were not retained by the court.
- One computer receipt was partially voided, instead of voiding the complete receipt, without management approval. The partially voided amount was subsequently posted the following month, but back dated to the date of the original transaction.

Computer receipts should be voided for the complete original amount of the transaction and marked void with an explanation written on the receipt. All receipt copies should be retained by the court. It is the court's procedure to require dual sign off on all void receipts by a preparer and separate reviewer. Receipts should be

posted to JPAS with the same date the transaction was made. The preparer processed the computer receipt voids without obtaining evidence of management review. Court management has not indicated Exception reports from JPAS are utilized to review void transactions for errors, omissions, partial voiding, and back dating of receipts. A lack of management oversight when voiding transactions may result in the misappropriation of assets and loss of revenue. Errors and omissions not detected by management may also increase this risk.

Recommendation

Computer Receipts

Management should make the following corrective actions:

- Discourage staff from backdating receipts in JPAS.
- Enforce the court's procedure of requiring dual sign off by a preparer and separate reviewer on all void receipts.
- Mark computer receipts "VOID" and write an explanation for receipts that voided.
- Retain all copies of voided receipts.
- Ensure receipts are voided for the complete original amount of the transaction, rather than voiding for partial amounts of the original.
- Review Document Direct Exception Reports to timely detect voided receipt errors, omissions, partial voiding, and back dating of receipts.

Management Action Plan

The receipt that was partially voided occurred due to a clerical error.

Auditors Response

None

Disposed Cases

We reviewed 10 disposed cases and identified one case file could not be located in the court or the County's Archives to corroborate the judgment of the court. 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. Local Government Code (LGC) Section 115.001 states, "The county auditor shall have continual access to and shall examine and investigate the correctness of: the books, accounts, reports, vouchers, and other records of any officer." Per LGC 115.901 the county auditor shall examine the accounts, dockets, and records of each justice of the peace to determine if any money belonging to the county and in the possession of the officer has not been accounted for and paid over according to law. The court stores paper records in files and utilize a manual system for categorizing and tracking case jackets stored remotely. Missing case jackets increase the risk that assets may be misappropriated and not detected through examination of the case jacket and its contents.

Recommendation

Disposed Cases

Management should make the following corrective actions:

- Locate the missing case file.
- 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

It appears that the plea date was transposed back in 1991, and written as 2/28/2019 instead of the correct date of 2/28/1991.

Auditors Response

N/A

Manual Receipts

We reviewed all 31 manual receipts in FY2019 and identified four receipts issued were not issued in date sequence. Manual receipts should be issued in sequential order with the correct case number referenced, payment amount, tender type, payee name, payment date, and receiver's name. Receipts skipped in sequence should be marked "Void" with an explanation written on the receipt. Manual receipts should be reviewed by court management for accuracy and completeness and to ensure receipts are timely posted to the correct cases. These errors were made during the receipting process and management should review manual receipts for accuracy. 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:

- Issue manual receipts in sequential order.
- Write "Void" on manual receipts that are skipped in sequence along with an explanation written on the receipt.
- Review manual receipts for accuracy and completeness, including the total amount, tender type, case number, transaction date, and payer name fields on the receipt. The reviewer should not be the preparer of the receipt.

Management Action Plan

No response received

Auditors Response

N/A

Fee and Fine Assessment and Collection

We reviewed 40 cases for compliance with applicable state laws including Code of Criminal Procedure (C.C.P.) Chapters 45 and 102 and Local Government Code Chapter 133, Commissioner Court Orders, and Attorney General Opinion GA-0147 and identified:

- Two cases in which the Time Payment Fee was not assessed and collected.
- Two cases in which partial payments were not allocated and posted to all applicable court costs and fees.
- One case in which the transaction fee was not collected.

Court costs, fines, and fees should be assessed, collected, and prorated in compliance with applicable state laws including Code of Criminal Procedure (C.C.P.) 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 C.C.P. Chapter 45.017, the JPAS Docket screens should be updated as cases are filed, additional court costs are added, and as changes in fines or special expense amounts are ordered by the Judge. This occurred due to clerical errors and omissions from manual case entries, inadequate JPAS system functionality that requires the manual entry of assessments and payments, and system override. These errors and omissions resulted in the inadequate collection of court costs and fine amounts, an incorrect distribution and disbursement of funds, and inaccurate or incomplete data reflected in JPAS.

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, and judgments rendered 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 (C.C.P. Ch.45, 102 and L.G.C. Ch.133).
- Detect errors and omissions by reviewing JPAS collection and docketing reports.
- Require partial payments are prorated to all applicable court costs and collection fees before applying to the fine.

Management Action Plan

Management agrees that the cases identified where the Time Payment Fees were not collected was correct. Management disagreed that partial payments were not posted, stating that due to system limitations prorating partial payments was not possible and that the fees were posted to the correct accounts.

Auditors Response

None

Civil Fees

We reviewed 15 civil cases brought by a non-government entity from the Justice Fee Exception List and identified five cases in which the court did not 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 made in the manual process of setting up new cases. 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 cases in JPAS with an explanation for not collecting filing fees.
- 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

Management generally agrees with the finding, but indicated that one case was resolved through an Administrative Hearing which was removed from our finding.

Auditors Response

None

cc: Darryl Martin, Commissioners Court Administrator