



AUDIT REPORT

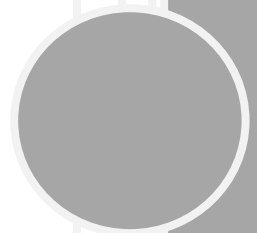
DALLAS COUNTY

FY2021 JUSTICE OF THE PEACE PRECINCT 5, PLACE 1 AUDIT

Darryl D. Thomas
Dallas County Auditor

ISSUED: 1/25/2023

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FY2021 Justice of the Peace Precinct 5, 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 Sara Martinez
Justice of the Peace Precinct 5, Place 1
Dallas, Texas

Attached is the County Auditor's final report entitled "**FY2021 Justice of the Peace Precinct 5, 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.

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 5, Place 1 for fiscal year ended 2021. **The court continues to show signs of improvement in issuing manual receipts, timely depositing checks, and case deletions.** Priority areas of risk which need consideration by management are:

Summary of Significant Observations

- **Special Fund:** Failure to post cancelled checks, disbursements, and timely update the JPAS Docket screen resulted in a \$1478 balance variance between the JPAS records and bank balance.

Repeat observations from Previous Audits:

- **Special Fund:** The court did not timely update the JPAS docket screen resulting in a Special Fund balance variance between the JPAS records and bank balance.
- **Court Cost, Fine and Collection fee Assessment:** Court continues to assess and apply incorrect court costs and fines.

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.

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, 2020 through September 30, 2021.

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

Fee and Fine Assessment

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

- Three cases in which partial payments were not properly allocated among all applicable court costs. This includes one case without a deferred disposition date posted in JPAS.
- One case in which the court did not collect the correct collection fees.
- One case in which the correct agency (Sheriff, Constable, Dart, etc.) did not receive credit for the citation.
- One case in which the court costs were not assessed according to the fee schedule.
- One case in which 85% of the fine for parks and wildlife offense was not sent to the Texas Parks and Wildlife Department.

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, 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 screen 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. 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. 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

Management should make the following corrective actions:

- Post corrections for the one case in which the agency did not get credit for the citation and post the deferred disposition date for the one case in JPAS.
- 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 (2004-1147), 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, including the one case identified in the audit.

Management Action Plan

Management has implemented changes to policies and procedures.

Auditors Response

None

Special Fund

Special Fund check disbursements, reconciliations, and postings to JPAS were reviewed during the audit period (ending September 30, 2021) and the following was identified:

- The Special Fund balance per JPAS is \$18,814.22, of which \$9,428.20 is for cases older than three years.
 - \$733.85 is made up of case balances under \$100 and can be escheated to the county.
 - The \$18,814.22 balance per JPAS is \$1,478 more than the \$17,336.22 Oracle GL balance, as a result of incomplete JPAS records.

Nine checks totaling \$1,258.40 were disbursed, but not posted to JPAS.

- Four cancelled checks totaling \$377.40 were not posted to JPAS.
- The court did not complete the FY2021 Special Fund Reconciliation by the start of the audit (8/9/2022). **Status: The court completed FY21 Special Fund Reconciliation on 09/21/2022.**
- One Special Fund check disbursement was erroneously posted as a cancellation in JPAS.
- One Special Fund check was cancelled 09/23/2021, in JPAS after being cleared by the Treasurer's Office 11/25/2016.
- One Special Fund check in which the court posted the wrong check number to JPAS.
- One Special Fund check was disbursed, but the court re-used the case number for a different plaintiff and defendant after the original plaintiff's disbursement check was refunded.

In accordance with Local Government Code Section (LGC) 113.008 (f), 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; ensure all financial adjustments resulting from the reconciliation are reported to the county auditor for entry in the general set of records; and reflected in the case receipts and disbursement registers of the County Treasurer. Management should escheat funds per Property



Code, § 72 and § 76 and cash bonds should be forfeited per Code of Criminal Procedure § 22. Disbursement checks and cancellations should be completely and accurately posted to JPAS by the court once issued from Oracle. Management did not comply with LGC 113 to ensure the Special Fund account was timely reconciled to detect check disbursements and cancellations errors and omissions. The Special Fund is intended to be a temporary escrow account, and the court has not escheated the \$9,428.20 balance which contains overpayments and cash bonds paid by parties. As a result, parties entitled to funds did not receive 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 posted with errors.

Recommendation

Special Fund

Management should take the following corrective actions:

- Contact parties to claim the \$9,428.20 in Special Funds held in escrow.
- Escheat \$733.85 in cases balances under \$100 to the county.
- Post the nine Special Fund checks totaling \$1,258.40 and four cancellations totaling \$377.40 to JPAS.
- Reconcile Special Fund balances and transactions from the General Ledger against JPAS each month.
- Ensure Special Fund check disbursements and cancellations are accurately and completely posted to cases in JPAS after the completion of monthly reconciliations.
- Verify the availability of money in the Special Fund for a particular case before initiating and/or canceling a Special Fund check.
- 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

Management has implemented changes to policies and procedures. On May 3, 2022, in the amount of \$6,986 was submitted to the Comptroller.

Auditors Response

None

Dismissed Cases

40 dismissed cases were reviewed during the audit period and the following were identified:

- Three 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. This includes one case in which the condition of the State's Motion to Dismiss for a plea-in-bar was not satisfied before disposing the case in JPAS.



- Two cases were dismissed, but the conditions of the State's Motion to Dismiss for a plea-in-bar were not satisfied before disposing the case. This includes one case in which the court incorrectly docketed JPAS with a dismissed date, rather than a DA dismissal date. In one case the court did not post the deferred disposition date in JPAS.
- One case was dismissed without documentation of offense compliance in the case file; therefore, we could not verify whether the dismissal was approved by the Judge.

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. The court should docket credit for waivers, community service, time served, DA motions (requests) to dismiss, and dismissals with the authorized approver's signature and date, consistent with CCP Chapters 32 and 45. These instances occurred because management did not adhere to, CCP 32, CCP 45, and AG Opinion JH-386. Management did not review cases to ensure all supporting documentation was included in the case files and that sufficient approval was documented for case dismissals. As a result, assets may be misappropriated when dismissals are granted without supporting authorization and when cases are not reviewed by the court for completeness of supporting documentation.

Recommendation

Dismissed Cases

Management should make the following corrective actions:

- Post the DA dismissal and deferred disposition date to the two cases in JPAS.
- Require that judicial decisions, including DA (prosecution) motions for dismissal, are authorized by the Judge with the DA's and Judge's signature in compliance with CCP Chapter 32 and Chapter 45, and AG Opinion JH-386.
- Docket cases as events occur, such as dismissal, DA motions for dismissal, appeal bond file dates, and judgments rendered by the court.
- Ensure the appropriate records supporting the court's judgment are in the case file and are reviewed for accuracy and completeness before disposing the case.
- Review case files for the appropriate records supporting the court's judgment and dockets for accuracy and completeness before disposing the case.



Management Action Plan

Management has implemented changes to policies and procedures. JP 5-1 has incorporated using duplicate Motions provided by the DA's Office. The DA's office no longer stamps for dismissals so there is no confusion.

Auditors Response

None

Disposed Cases

20 disposed cases were reviewed and the following was identified: one case in which the State's Motion to Dismiss order was not in the case file and the DA dismissal date was not posted in JPAS.

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 Code of Criminal Procedures (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, DA motions (requests) to dismiss, and dismissals with the authorized approver's signature and date, consistent with CCP Chapter 45. These instances occurred because management did not adhere to CCP 45. Management did not review cases to ensure all supporting documentation was included in the case files and that sufficient approval was documented for case dismissals. As a result, assets may be misappropriated when dismissals are granted without supporting authorization (signatures) and when cases are not reviewed by the court for completeness of supporting documentation.

Recommendation

Disposed Cases

Management should take the following corrective actions:

- Post the DA dismissal date to the one case in JPAS.
- Require that judicial decisions, including DA (prosecution) motions for dismissals, are authorized by the Judge with the DA's and Judge's signature in compliance with CCP Chapter 45.
- Docket cases as events occur, such as dismissal, DA motions for dismissal, appeal bond file dates, and judgments rendered by the court.
- Review case files for the appropriate records supporting the court's judgment and dockets for accuracy and completeness before disposing the case.

Management Action Plan

Management has implemented changes to policies and procedures.

Auditors Response

None



Civil Fees

15 civil cases brought by a non-government entity during the audit period were reviewed and the following identified:

- One case was initially set up in JPAS with an incorrect case type, but a reason was not provided in JPAS comments to reference the correct case. **Status: As of August 8, 2022, the court posted a reason to JPAS referencing the correct case.**
- One case in which "Paupers" was written on the case file, but the Pauper's Affidavit form was not filed with the court.

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 Rule 25 of the Texas Rules of Civil Procedure. Per Rule 145, a Statement of Inability to Afford Payment should be docketed to the case. This occurred due to clerical errors made in the manual process of setting up new civil cases and updating JPAS. Management did not review cases to ensure all supporting documentation was included in the case files. As a result, JPAS docketing errors may occur or filing fees may not be collected when civil case filings are not reviewed by the court for completeness and accuracy.

Recommendation

Civil Fees

Management should take the following corrective actions:

- Ensure case records are accurate and reflect a complete account of case activities.
- Review the Justice Fee Exception List from Document Direct for civil cases filed without a payment and for posting errors.

Management Action Plan

Management has implemented changes to policies and procedures. There was a Certificate of Legal Provider filed with the original petition by an Attorney working Pro Bono through Legal Aid of North Texas.

Auditors Response

None

Computer Receipts

All deposits made by the court during the audit period and 26 voided computer receipts were reviewed and the following was identified:



Five computer receipts were either voided outside of the court's normal business hours, not marked void, did not contain an explanation for voiding, the court did not retain both receipt copies, or the voids were not reviewed by the supervisor.

- One computer receipt was improperly voided for a portion of the original amount posted, rather than voiding the receipt in full.
- One case was inappropriately deleted and the case number re-used for a different plaintiff and defendant after the original plaintiff's payment was voided.

Per the court's written procedures, one must "Write 'VOID' on the receipt. There should always be an explanation and the initials of the person voiding the receipt written on the official computer receipt. All voids/skipped receipts should include a dual sign off. Only the judge, chief clerk, bookkeeper, and collections clerk are allowed to sign off on voided receipts." Receipts should be posted to JPAS with the same date the transaction was made. In order to maintain complete financial records, case numbers should not be reused for different cases or deleted. JPAS reporting through Document Direct provides management 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) to ensure that errors and omissions are detected, future issues are prevented, and that voided receipts are approved during normal business hours. These instances occurred because the court's receipting and voiding procedures were not followed. Management did not prevent and detect voiding for partial amounts and deletions and relies on staff to self-report voids. A lack of management oversight and segregation of duties may result in inaccuracies, an incomplete audit trail, and present opportunities for misappropriation. Additionally, when receipts are voided after the customer leaves the court that customer is unknowingly in possession of a receipt that has been voided.

Recommendation

Computer Receipts

Management should take the following corrective actions:

- Train staff to follow the court's receipting procedures for voiding transactions, including retaining all voided receipt copies.
- Require voiding activities occur during normal business hours.
- Document the review of void transactions by management in writing and ensure void duties are appropriately segregated.
- Maintain complete financial records in JPAS by not deleting cases after voiding transactions.
- Ensure receipts are completely voided for the entire amount, rather than voiding for partial amounts of the original.
- 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

Management has implemented changes to policies and procedures.

Auditors Response

None

Credit Cards

The court's online credit card transactions and postings to JPAS during the audit period were reviewed and the following were identified:

- Four online credit card transactions were receipted to JPAS between nine and 17 business days, but not within the five business days requirement.
- One credit card transaction was made for \$275, but \$270 was posted in JPAS. The court has not posted the remaining \$5.
- One online credit card transaction was posted to the wrong case number. Both cases were subsequently paid in full and disposed.
- One online credit card transaction was made for \$497.20, but the court posted \$477.20 in JPAS. The case was paid in full; therefore, \$20 should be refunded immediately.

The entire amount of each online credit card payment should be receipted to the correct 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. These instances occurred because the court did not ensure the online credit card transactions were timely posted to JPAS for the correct dates, for the correct amounts, and for the correct case; 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

Review of Credit Card Postings

Management should make the following corrective actions:

- Post the \$5 to the one case in JPAS.
- Receipt all credit card payments to JPAS the following business day.
- Refund any overpayments and inappropriately charged fees, as a result of not timely posting the full amount of the original payment.
- 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

Management has implemented changes to policies and procedures. On the four cases list, those are autocite citations in which they receipt automatically in which they did not and had to be manually receipted. The notes from JPAS states, "Per audit, these cases did not print on Report at the time the Report was pulled.



Auditors Response

None

Internal Control Questionnaire

Reviewed the responses from the Internal Control Questionnaire (ICQ), dated 8/8/2022, and identified: clerks authorize community service if the defendant request community services.

Per Texas Attorney General (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 Code of Criminal Procedure (CCP) 45 the justice or judge shall determine whether the fine and costs should be discharged by performing community service. This occurred because court management did not adhere to AG Opinion JH-386 and CCP 45. A lack of management oversight and authorization increases the risk and opportunity that waivers, credits, and dismissals may be inappropriately granted.

Recommendation

Internal Control Questionnaire

Management should make the following corrective actions:

- Comply with AG Opinion JH-386 and CCP 45 by not permitting anyone other than the judge from granting community service to defendants.

Management Action Plan

Management has implemented changes to policies and procedures.

Auditors Response

None

cc: Darryl Martin, Commissioners Court Administrator