



DALLAS COUNTY COUNTY AUDITOR

Memorandum

To: Honorable Cleophas Steele
Constable Precinct No. 1

From: Virginia A. Porter *Virginia Porter*
County Auditor

Subject: Review of Statutory Reporting and Compliance for May 1, 2009 through July 31, 2012

Date: Issued: April 22, 2013
Released: September 13, 2013

Scope

A review was performed on the records and reports of Constable Precinct No. 1 for May 1, 2009 through July 31, 2012 during which the Honorable Derick Evans served.

Review Procedures

Standard review procedures were followed to test the internal controls for cash, revenue, and other county assets. A random sampling of the total activity was selected for certain review steps based on risk, the dollar value of transactions, the volume of transactions, and noted internal control weaknesses. Testing also involved a review of the Constable civil system.

A partial list of the review tests include:

- Accounted for numerical sequence of manual receipts
- Traced amounts recorded on the receipts to the bank deposits
- Performed unannounced cash counts
- Examined special fund disbursements to determine if sufficient funds were collected, proper payees paid and if posting to the Constable civil system had occurred
- Reviewed assessed fees, commissions, executions and orders of sale for compliance with applicable state laws and Commissioners Court orders
- Reviewed time and attendance records for proper posting and compliance with County policies and procedures
- Reviewed Constable civil return lists for correct postings to the Constable Civil System to determine if appropriate credit was given to the Constable by the District Clerk, County Clerk and Justices of the Peace
- Reviewed Texas Attorney General IV-D billings
- Examined the Evidence/Property Room procedures and log sheets
- Documented warrant processes
- Confirmed requisite bond on file
- Compared paper service/attempt data to Global Positioning System (GPS) vehicle reports

Statistical

Fiscal Year 2009

- 34,855 civil papers served per Constable Civil System
- 3,317 writs and orders of sale served per Constable Civil System
- 16,266 criminal papers served per Constable Civil System
- \$2,462,622.33 constable fee revenue collected all sources
- \$14,488.86 constable commission collected

Fiscal Year 2010

- 35,130 civil papers served per Constable Civil System
- 3,653 writs and orders of sale served per Constable Civil System
- 14,146 criminal papers served per Constable Civil System
- \$2,388,562.26 constable fee revenue collected all sources
- \$17,216.82 constable commission collected

Fiscal Year 2011

- 35,197 civil papers served per Constable Civil System
- 3,978 writs and orders of sale served per Constable Civil System
- 13,369 criminal papers served per Constable Civil System
- \$2,543,730.18 constable fee revenue collected all sources
- \$14,921.32 constable commission collected

Fiscal Year 2012 (complete twelve months)

- 23,913 civil papers served per Constable Civil System
- 4,367 writs and orders of sale served per Constable Civil System
- 7,915 criminal papers served per Constable Civil System
- \$2,403,748.02 constable fee revenue collected all sources
- \$13,157.76 constable commission collected

FINDINGS

Cash Management

Receipts – Computer/Manual – Review of 6,940 manual office receipts including 99 (1.4%) voided office receipts, 8,239 computer generated county-wide (CWR) receipts including 212 (2.6%) voided computer receipts and 377 Form 44-A field receipts including 19 (5%) voided receipts revealed minor internal control weaknesses including: four instances where the writ deputy initially received and receipted cash then converted the cash to a cashier's check at the depository bank; funds collected on executions after normal business hours were secured off-site until the next business day; one 44-A receipt altered to a lower amount for \$11.31 less cash; and two office receipts issued five or more business days after the Form 44-A field receipt (Processing for one receipt was delayed due to a temporary restraining order on the case.)

Assessment/Collection - Review of 160 office receipts to determine if the amount collected was in compliance with state laws and Commissioners Court orders, and properly recorded to the Constable Civil System (CCS) revealed instances of posting errors to the CCS.

Disbursements/Special Fund Reconciliation – Review of special fund activity revealed: one duplicate payment totaling \$796.42 (**Status:** Recovered); one erroneous refund for \$276.80 to a defendant on a writ collection (money was due to the plaintiff); writ collections are disbursed timely from the Constable's special fund; limited instances of incorrect deposits; old balances and errors remain undisbursed / uncorrected; and, stale dated checks are not posted to the Constable's control ledger.

Commission Calculations – A separate \$20 posting fee is assessed for each location where the notice of sale is posted by the constable's office per court case/writ on a sale of property to satisfy the judgment. A review of 67 writ collections for compliance with Commissioners Court approved rates revealed six (9%) commission calculation errors. Inquiry and discussion with constable writ staff revealed: commission rate increases approved on court order 2010-1626 were not collected until October 2011; and instances of current warehouseman insurance certificates not available for review.

IV-D Billings – A review of five complete monthly billings to the Attorney General for IV-D papers revealed: two service fees billed to the AG for citation paid directly to Precinct No. 1 by another party; and, sixteen notices were not billed.

***Response:** Cases might be simultaneous citation and notice papers. Constable office does not bill for both.*

Receivables – Constable Civil System does not contain functionality or provide reporting of unpaid service fees. Inquiry of constable personnel revealed papers are occasionally served without advance collection of service fees for non-governmental parties not filing an *Affidavit of Inability to Pay Costs*. Billing notices are sent to respective attorneys advising that returns will not be sent to issuing court clerk until full payment is received.

Processing

Warrant/Civil Paper Service – Hearing notices (non-civil papers) received from the justice of peace court for constable precinct officers to attend traffic court were recorded in the CCS as civil paper type 'J', notice.

Management analysis is limited by system summary reports lacking true aging and manual tracking of unsuccessful service attempts. Constable Civil System is not consistently updated for unsuccessful service attempts. Monthly reports reviewed by management include: Previous on Hand, Received, Re-Opened, Served, Unexecuted, Deleted, Recall-Dismissed, Transferred, Transferred No-Work, and On Hand end of month.

Warrants are no longer placed on regional nor sent to the Sheriff after unsuccessful service attempts. Constable's office gives priority to serving felony and class A and B misdemeanor warrants and AG papers over class C misdemeanor warrants in deference to past advice from DA.

Time and Attendance – Four employees received an extra personal holiday in excess of days approved by Commissioner's Court. Several employees were authorized a second bad weather day in 2011 when the County officially closed only one day. Two employees took vacation with time recorded as 24 hours holiday time. One hundred and seven historical edits were performed to correct various attendance posting errors in Kronos.

Abandoned Vehicles – First recorded deposits occurred August 2009 for vehicles towed in 2006, 2007, and 2008. Authorizing names reflected on auction/consignment records indicate a person employed by

Precinct No. 1 (as a clerk at the time) was a successful bidder. The employee also signed twelve checks issued by the tow company/auto pound facility.

Precinct responses to the Internal Control Questionnaire (ICQ) revealed employees are not required to report conflicts of interest and employees are not required to report outside employment activities.

***Response:** Until the audit, only the deputies were required to report outside employment. The clerical staff had not reported any such employment. Currently, all employees are required to report outside employment and receive prior approval.*

Evidence Control

Evidence/Property Room – Review of evidence/property room revealed deficiencies in log sheets, tracking/inventorying, and transferring/removing items. ‘Found’ property, items removed from eviction set-outs, seized property, and county property items are stored in the same secured room due to limited available space. Over 250 items identified by a 2007 Property Room Audit as potentially eligible for destruction remain on hand. Sixty items previously documented (during the prior audit or on the inventory control log) were not located during the full inventory performed in calendar year 2012.

Recommendations

Cash Management

Receipting – All copies of a void receipt should be retained, clearly marked “void” and affixed with a reason for the void. The supervisor should, periodically, scan receipts for proper usage. All monies received should be promptly receipted, properly secured, and deposited consistent with state law, V.T.C.A., L.G.C., § 113.022 and procedures recommended by the County Auditor. Consideration should be given to installation of a drop box/safe to secure writ collections received after hours or when the bookkeeper or chief clerk are not available to receive.

Assessment/Collection – The fee amount earned should be accurately and timely entered in the CCS and recorded on the return for all papers served.

Disbursements – Continue to maintain a special fund control ledger accounting for all special fund receipts, disbursements, and case balances. Erroneous disbursements/refunds should be recovered or a funding source identified. The special fund ledger should be periodically reviewed by supervisory personnel. Cash handling duties should be separated. Unclaimed property statutes in accordance with V.T.C.A., Property Code Chapters 72 and 76 should be followed.

Commission Calculations – The commission calculation should include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. Calculations should be verified / reviewed by another person such as supervising chief deputy or clerk. One notice fee per posted sale/writ should be assessed unless parties to the sale request additional posting locations.

IV-D Billings – All eligible IV-D service fees should be accurately billed to the AG at the maximum rate allowed by Family Code, § 231.202, V.T.C.A., Local Government Code, § 118.131, and Commissioners Court orders. Billing adjustments should be submitted for items not billed and/or billed in error.

Receivables – Billing procedures should include documented procedures. Document proposed modifications to the Constable Civil System and incorporate in technology assessments.

Processing

Paper Service – To extent feasible with current staffing levels, updates to the Constable Civil System should include recording unsuccessful service attempts. Conduct periodic inventories of papers on hand to report control totals. Develop standard procedures for staff to follow on timelines and number of unsuccessful service attempts before warrants are placed on regional.

Hearing notices from justice courts for deputy constables to attend traffic court should not be entered into the CCS. Summons received from truancy courts should be recorded as paper type 'K'.

Time and Attendance - Train and update staff on county leave policies and annual holiday schedules. Care should be taken to properly record all time taken to the Kronos Time and Attendance System in accordance with Dallas County Code and Commissioners Court orders. Historical edits should be submitted to the Payroll Hotline to correct Kronos posting errors.

Abandoned Vehicles – All monies received should be promptly receipted and deposited in accordance with V.T.C.A., L.G.C., § 113.022. Abandoned vehicle activities should be followed in accordance with Transportation Code Chapter 683.

Employees should be required to report all potential conflicts of interest and outside employment.

Evidence Control

Evidence/Property Room – Update Evidence/Property room procedures and monitoring plans. Conduct a complete physical inventory of all items annually.

Current Findings/Observations/Recommendations/Reponses

Detailed finding templates numbered 12.C1.01.01 through 12.C1.01.11 are attached. Responses are incorporated with the templates.

Summary

The report is intended for the information and use of the 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.

Highest areas of risk which need to be addressed include::reconciling special fund activity and clearing old balances; evidence and property room inventory controls; and, proper assessment/collection of service fees, notices, and commissions.

New management should evaluate risks and potential for fraud. Emphasis on outlined procedures should provide for improved departmental processes. Development of written internal procedures should be initiated to ensure compliance with recommended procedures, county policies, and state statutes. Consideration of all issues and weaknesses should be incorporated by the precinct as a self-assessment tool in testing processing functionality of a new constable civil/warrant tracking system.

cc. Darryl Martin, Commissioners Court Administrator
Ryan Brown, Office of Budget and Evaluation



Finding Number: 12.C1.01.01
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Receipting Review of 6,940 manual office receipts including 99 voided office receipts, 8, 239 computer generated county-wide receipts (CWR) including 212 computer voided receipts and 377 field receipts (44-A) including 19 voided field receipts were revealed the following internal control weakness for the period beginning April 29, 2009 through July 31, 2012:</p> <p><u>Office Receipts</u></p> <ul style="list-style-type: none"> One office receipt was issued five (5) business days after the 44-A field receipt. One office receipt was issued 13 business days after the 44-A field receipt. Processing was delayed due to receipt of a temporary restraining order on the case. <p><u>Field Receipts (44-A)</u></p> <ul style="list-style-type: none"> Two voided cash receipts did not have the original white copy attached. One receipt for \$2,520 cash replaced for \$1,170 cash (acknowledgement letter attached indicating \$1,350 was refunded) and one receipt for \$2,180 not replaced (bankruptcy filed). Eleven voided receipts did not have an explanation for void or marked as void. Overpayment of \$26.15 in 44-A receipt funds was released directly to plaintiff. <p>Response: Non-county funds used to offset the overpayment.</p> <ul style="list-style-type: none"> Four instances (for three papers) of deputy receipting cash and subsequently converting the cash to a cashier's check. Funds collected on executions after normal business hours are secured off-site until the next business day. <p>Response: Per assistant chief, deputies are solely responsible for the entire amount receipted. Until a secure county drop off location is established, the deputies will continue to secure collection money and retain liability.</p> <ul style="list-style-type: none"> Two 44-A receipt books containing unused receipts were stored in boxes in the bookkeeper's office. <p>Status: Bookkeeper placed receipt books in filing cabinet in office which is locked daily overnight.</p> <ul style="list-style-type: none"> Two CWR's were issued for \$700.96 more in checks than amounts receipted by the deputy. <p>Response: Payer did not have exact amount due and submitted checks exceeding execution amount by \$700. Overpayment was not included on the receipt since it was to be refunded.</p> <ul style="list-style-type: none"> One 44-A receipt was altered to a lower amount for \$11.31 less cash.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 3A, 3B, 3C-09, 3C-10, 3C-11 3F.1, 3F.2, 3C, 3D FY11, 3D FY12, 3G.1 and conversation with Assistant Chief
Condition: (Describe the current condition)	<p>Office Receipt Procedures: Manual receipts (process discontinued with implementation of CWR) issued by the bookkeeper reference the case number, style of the case, paper type, payer information, payment type, date paid, and payment amount. Receipts are sent out to the payer only if a self-addressed pre-paid postage envelope is provided. The original white copy of triplicate manual receipt is the payer copy, the yellow copy is retained by the constable's office and the</p>



pink copy is sent to the auditor's office. If mistakes are identified after the white copy has been mailed, bookkeeper voids the remaining pink and yellow copies of the receipt and does not deposit the remitted payment. The requesting party is contacted by the bookkeeper via the phone to submit the balance due or the payment is returned via U.S. mail without service performed. When a manual receipt is voided, the original and pink copies are sent to the auditor's office.

On October 21, 2010, the constable's office began using the County Wide Receipting (CWR) system to issue receipts (computer). The bookkeeper chooses the paper (the type of process requested to be served) type and then follows prompts to enter payer information, plaintiff name, defendant name, case number, and office number. In most cases, the fee for the paper type is already pre-set. Payment type of check or cash is chosen and the payment is receipted. Receipts are printed only when necessary (customer in office or if payment is mailed with return pre-paid postage envelope) as transaction history is retained within the system. The receipts are single copies. When the bookkeeper initiates a cancelled receipt on the CWR system, a prompt inconsistently appears for the bookkeeper to enter the reason. If the bookkeeper exits out of the receipt transaction before entering any type of information, the reason prompt for cancellation will not appear.

Controls in CLASS prevent receipts from being created until transactions are complete. Transaction information is incomplete until payment is entered (amount paid, payment type, and payer) so that screen prints of a transaction in progress are not confused with a receipt. The small display window prevents full display of all constable items.

Manual receipts are used only when the CWR system is down. Once CWR is functioning, the manual receipts are entered into the CWR system referencing the manual receipt number. There is one county wide numeric receipt sequence.

Bookkeeper posts a memo entry of payments received on the Constable Civil System. Due to mainframe limitations, the disposed constable papers data is periodically purged and not viewable on the Constable Civil System.

The bookkeeper prepares a weekly deposit through CWR each Thursday. Transactions are finalized and a CWR deposit warrant is printed from DC98.

Field Receipt Procedures:

Writ deputies collect funds in the field using form 44-A receipts for writs of execution, orders of sale, or tax warrants. In some instances, the defendant will pay the judgment amount to avoid a sale of property by the writ deputy.

In other instances, the plaintiff, that holds a lien against the property for sale, will purchase the property. No funds will change hand for the sale except for service fees and commissions due the constable. The writ officer will issue a form 44-A receipt for the total amount of judgment credit, service fees, and commission, and delineate on the officer's return sent to the issuing court.

When payments are received, the writ deputy will prepare a three-part manual receipt noting the payment method (certified/cashiers check/money order number or count the cash received as applicable), amount paid by judgment and commission including total paid, payer information, case style and number, and receipt date. If an error is made on the receipt, the writ deputy will write 'VOID' across the receipt and note the reason for the void. All copies



	<p>of the voided receipt will be retained by the writ deputy for filing at the precinct office. For all valid receipts, the writ deputy will sign the receipt and issue the original (white) receipt to the payer. The second (pink) receipt copy and funds received will be turned over to the bookkeeper when the deputy returns to the office. An original office (CWR) receipt will be received from bookkeeper and attached to the third (yellow) copy of the form 44-A (manual field) receipt which is retained in numerical order. The bookkeeper posts a memo entry of funds received to the Constable Civil System.</p> <p>Sales involving large amounts of change and/or cash were converted to a cashiers check by the assistant chief at the county's depository bank to limit potential risk from having large sums of cash on hand. The form 44-A field receipt referenced both payment types.</p>
Criteria: (Describe the optimal condition)	<p>Best practices for accounting controls require that:</p> <ul style="list-style-type: none"> • All monies received by Constable personnel should be promptly receipted for the amount of funds tendered, correct change given to customers, and all funds received properly secured, and deposited in accordance with V.T.C.A., Local Government Code § 113.022 and procedures recommended by the County Auditor. • In accordance with V.T.C.A., Civil Practice and Remedies Code, § 34.047. DISTRIBUTION OF SALE PROCEEDS. (a) An officer shall deliver money collected on execution to the entitled party at the earliest opportunity. • All receipts should be accounted for (properly used and kept in numerical order) and be posted and deposited properly and timely. The original office (CWR) receipt should be given to the deputy and attached to the receipt remaining in the form 44-A field receipt book. The second copy of the form 44-A field receipt should be maintained with the weekly CWR deposit balancing paperwork. • Funds should be properly secured at all times. Consideration should be given to acquiring a safe or drop box to secure writ collections received after hours or when the bookkeeper or chief clerk are not available to receive.
Cause: (Describe the cause of the condition if possible)	Deputy and clerical oversight
Effect: (Describe or quantify any adverse effects)	<p>Internal control weaknesses.</p> <p>Inherent risks for delayed deposits include non-recovery of funds, checks or cash could be lost or stolen before being receipted.</p>
Recommendation: (Describe corrective action)	<p>Proper receipt procedures for money received outside the office should include:</p> <ul style="list-style-type: none"> • All monies received, including collections on writs of execution subject to a TRO, should be promptly receipted and deposited consistent with state law, V.T.C.A. L.G.C., § 113.022, Vernon's Ann., C.C.P., § 103.004 and procedures recommended by the County Auditor. • The deputy constable should immediately write a form 44-A (manual field) receipt for all funds received. • The form 44-A field receipt should clearly indicate amount received payment method, date, all relevant case information, and deputy name. • The deputy constable should immediately on return to the office provide monies and the second copy of the form 44-A field receipt to the bookkeeper. At which time, the bookkeeper should immediately issue a CWR for the correct amount. All funds should be presented to the bookkeeper in the payment type received. (An alternative approach, when large sums of cash are involved, may require {for safety reasons} the deputy to convert



	<p>the cash at the County's depository bank to a cashiers check payable to Dallas County). If the bookkeeper is not present, money should be counted by a second deputy constable with affirmation noted on the receipt(s) and taken to the office and placed in a safe drop box accessible by the chief clerk and bookkeeper only.</p> <ul style="list-style-type: none"> • The office CWR should be given to the deputy and attached to the receipt remaining in the form 44-A (manual field) receipt book. • The second copy of the form 44-A (manual field) receipt should be filed by the bookkeeper. • The chief clerk should periodically scan the receipt books returned to verify adherence to the prescribed procedures with follow-up conducted for any anomalies. • All voided receipts should have a reason noted with the retention of all voided receipt copies. • Funds should be properly secured at all times. Consideration should be given to acquiring a safe or drop box to secure writ collections received after hours or when the bookkeeper or chief clerk are not available to receive. 				
Responsible Department or Organization:	Constable Precinct 1				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date: 8/15/2013
Comments:	The items identified in the current recommendations were in place or have been implemented since the last audit was performed. Additionally, a monthly error report will be generated moving forward to review all form 44A receipts to track any discrepancies.				
Disposition:	<input checked="" type="checkbox"/> Audit Report (last official audit report issued August 2010. Other receipting procedures were adopted with upgrade to CWR in October 2010.	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



Finding Number: 12.C1.01.02
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Review of 160 office receipts (20 office receipts for each half of fiscal year under review) to determine that the amount collected are in compliance with state laws, court order and payment are properly recorded to the Constable Civil System (CCS) revealed:</p> <ul style="list-style-type: none"> • One receipt issued for \$130 (to serve one writ) was erroneously posted to the CCS as two papers received with \$130 fees collected on each. Writ issued by court directed service to a company and two named individuals. Court docket shows one writ was issued. • One receipt issued for \$210 did not reference a case style or number. Associated check stub from the Travis County Tax Assessor references an attachment. There is no evidence of follow-up by staff. • One receipt issued for \$70 (to serve a family court issued capias) was posted to the CCS as a paper type "order / N" and \$70 fee collected. • One receipt issued for \$130 (to serve a writ of garnishment) was posted to the CCS as a paper type citation/summons and \$70 fee earned and collected. • One instance where an incorrect fee amount earned was posted to the CCS. • Ten cases where the amount collected was not posted to the CCS. • One receipt issued for \$80.00 (to serve a citation \$75.00) with no reference to the overpayment.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 3E-FY09,3E-FY10, 3E-FY11, 3F FY11, 3F FY12 and conversation with Assistant Chief
Condition: (Describe the current condition)	<p>In accordance with Local Government Code, § 118.131, service fee rates are established and approved by Commissioners Court prior to October 1st of each year to be effective on January 1st. Parties wishing to secure service by the constable precinct may refer to the Commissioners Court order, contact the constable precinct by phone, or locate the listing published by the State Comptroller. Payments made directly to the constable include service requests from outside Dallas County and papers stamped with "costs not complied with" by the court of issuance. Most payments are received via the U.S. Mail. Parties to a suit occasionally remit the wrong service fee amount. Overpayments \$10 or less are not refunded unless specifically requested by the party seeking service of process. Payments received for less than the authorized amount are consistently returned (without service performed) requesting the appropriate amount. Service fees are assessed / collected by the bookkeeper referencing the case number, style of the case, paper type, payer and payer address, payment type, date paid, payment amount, and type of deposit. Fees remitted for service on tax suits may be less than approved schedules due to insufficient collection of funds at a tax sale. When service is processed with receipt of partial payment, the civil paper return is not returned to the court until full payment is received.</p> <p>Bookkeeper posts a memo entry of payments received on the Constable Civil System. Due to mainframe limitations, data on served/disposed constable papers is periodically purged/archived and not viewable on the Constable Civil System.</p>
Criteria: (Describe the optimal condition)	<p>Best practices for accounting controls require that:</p> <ul style="list-style-type: none"> • Procedures are established for supervisory review of fee assessments and receipts. • Service fees are assessed and collected in compliance with applicable state laws including V.T.C.A, Local Government Code, § 118.131 and Commissioners Court orders. <p>Rules of Civil Procedure, RULE 126. FEE FOR EXECUTION OF PROCESS, DEMAND. No sheriff or constable shall be compelled to execute any process in civil cases coming from any county other than the one in which he is an officer, unless the fees allowed him by law for the service of such process shall be paid in advance; except when affidavit is</p>



	<p>filed, as provided by law or these rules. The clerk issuing the process shall indorse thereon the words "pauper oath filed," and sign his name officially below them; and the officer in whose hands such process is placed for service shall serve the same.</p> <p>Rules of Civil Procedure, RULE 107. RETURN OF SERVICE (a) The officer or authorized person executing the citation must complete a return of service. The return may, but need not, be endorsed on or attached to the citation.</p> <p>Rules of Civil Procedure, RULE 129. HOW COSTS COLLECTED. If any party responsible for costs fails or refuses to pay the same within ten days after demand for payment, the clerk or justice of peace may make certified copy of the bill of costs then due, and place the same in the hands of the sheriff or constable for collection.....</p> <p>Rules of Civil Procedure, RULE 130. OFFICER TO LEVY. The sheriff or constable upon demand and failure to pay said bill of costs, may levy upon a sufficient amount of property of the person from whom said costs are due to satisfy the same, and sell such property as under execution.</p> <p>Family Code, Sec. 157.103. CAPIAS FEES. (a) The fee for issuing a capias as provided in this chapter is the same as the fee for issuance of a writ of attachment. (b) The fee for serving a capias is the same as the fee for service of a writ in civil cases generally.</p> <p>A record of original entry should be posted for tracking/reporting and include all updates of all required data elements accurately and timely.</p>				
Cause: (Describe the cause of the condition if possible)	Clerical error.				
Effect: (Describe or quantify any adverse effects)	Instances of CCS not accurately reflecting paper service categories or amounts paid.				
Recommendation: (Describe corrective action)	<p>Proper receipt processing procedures should include:</p> <ul style="list-style-type: none"> • Service fees properly assessed based on the issuance date, collected and timely deposited based on state laws, Commissioner Court orders, etc. • The fee amount earned entered in the CCS and recorded on the return for all papers served including those exempt from prepayment of service fee (i.e. papers served by virtue of pauper's affidavit, protective orders, tax suits, etc.). • No delivery of service without collection of the fee in advance unless otherwise required by the Rules of Civil Procedure or state laws. 				
Responsible Department or Organization:	Constable Precinct 1				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date: 8/15/2013
Comments:	As identified in the 2011 audit, every effort is made to ensure the clerical error rate is kept at a bare minimum. However, there are occasions where such oversights do occur. There is currently no mechanism in place to identify these type errors on a daily basis. When the errors are identified, proper corrections are made.				
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration				



Finding Number: 12.C1.01.03
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Reconciliation and review of special fund activity, postings to the Constable Civil System, general ledger and internal control procedures for separation of duties, authorization, funds available for disbursement and proper payees revealed:</p> <ul style="list-style-type: none"> Two special fund deposit errors (deposited to the General Fund) totaling \$2,727.32 less than the associated receipt control totals. Status: Corrected. County Wide Receipting coding error caused Attorney General billing payment to be incorrectly deposited into special fund account. Status: Corrected. Manual special fund control ledger does not include case numbers, special fund check payees or ledger balance. Each special fund receipt and disbursement is listed on a separate monthly ledger. Status: Electronic file for disbursed checks was created to account for special fund checks issued. One special fund disbursement issued for \$37.55 in excess of the available case balance. One duplicate payment totaling \$796.42. Status: Chief Clerk recovered duplicate payment. One special fund check totaling \$4950 cancelled in November 2011 without reissuance. Status: Bookkeeper will research information and reissue. Old balances in the special fund have not been researched for disbursement to the applicable party, the recovery of excess disbursements, or escheatment to the County Treasurer or State Comptroller. Amounts pending action approximate \$1,641.72 net (including stale dated items). Status: Bookkeeper stated some issues have been or are in the process of being resolved. Five stale dated checks totaling \$572.22 were not recorded on the special fund ledger maintained by the bookkeeper. Funds will remain in the special fund bank account if not tracked, researched and disbursed.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 3C-FY09, 3C-FY10, 3C-FY11, 4A-2011, 4B, 4C-1A, 4A FY11, 4A FY12, 4B FY11, 4B FY12, 4E
Condition: (Describe the current condition)	<p>The bookkeeper maintains a ledger of the special fund activity due to lack of accounting and reporting features within the Constable Civil System. The bookkeeper records receipt numbers, dates, and amount deposited into the special fund bank account. After review and determination regarding funds in order to generate disbursements, the bookkeeper prepares and saves a special fund disbursement file to a designated computer drive. The file is reviewed for General Ledger funds availability and approved for processing by the Auditor's office. The County Treasurer's office sends a confirmation file to the department for approval or rejection prior to printing the special fund checks. If approved, the checks are printed in the County Treasurer's office via Document Express and mailed as addressed. The bookkeeper updates the disbursement information to the ledger sheets and records a memo entry on the Constable Civil System. The constable's office relies on the County Treasurer for bank reconciliations to Oracle and does not affirm transactions on the Oracle special fund general ledger to the ledger maintained by the bookkeeper.</p>
Criteria: (Describe the optimal condition)	<p>According to recommended best practice:</p> <ul style="list-style-type: none"> To safeguard funds, confirm 'Due to / Due from', and improve reporting accuracy, departmental subsidiary ledgers should be periodically reconciled and compared to Oracle GL. Assigned cash handling duties are separated. To comply with statutes, stale dated checks and undisbursed funds should be reviewed in accordance with unclaimed property statutes, V.T.C.A., Property Code, § 72 and 76. To provide oversight, supervisory verification of all cash transactions (receipts or



	disbursements) should be consistent and evidenced on subsidiary reconciliation and written authorization for e-processing checks periodically affirmed. <ul style="list-style-type: none"> To provide constituent service, funds should be disbursed in a timely manner to the appropriate parties.
Cause: (Describe the cause of the condition if possible)	Clerical error. Lack of supervisory verification.
Effect: (Describe or quantify any adverse effects)	<ul style="list-style-type: none"> Special fund ledger variances (subsidiary and general ledger) Dormant unclaimed funds are not escheated
Recommendation: (Describe corrective action)	<p>Proper special fund procedures should include:</p> <ul style="list-style-type: none"> Continue to maintain a special fund control ledger accounting for all special fund receipts, disbursements and case balances. The control sheet (or an associated subsidiary ledger) should clearly identify all individuals to whom money is due and include the related receipt and case numbers. The final disbursement confirmation file from the Treasurer's office should be compared to the related special fund deposits then used to update the special fund control ledger. The special fund control ledger periodically reviewed and reconciled to the Oracle general ledger by supervisory personnel to ensure that all special fund deposits and disbursements are properly posted. Unclaimed property statutes in V.T.C.A., Property Code Chapter 72 and 76 followed when special fund checks are stale dated by the County Treasurer or funds remain undisbursed in the special fund and cannot be disbursed to the court of jurisdiction. Segregation of responsibilities for employees receipting payments, preparing deposits, preparing disbursements, and signing / authorizing special fund disbursements. Approval of preliminary check files limited to supervisory staff not responsible for preparing the initial special fund disbursement file. <p>Erroneous disbursements/refunds should be recovered or a funding source identified.</p>
Responsible Department or Organization:	Constable Precinct 1
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Honorable Cleophas Steele, Constable Date: 8/15/2013
Comments:	<p>Several of the items identified in this audit were done so during an audit that occurred in 2011. Since that time most have been corrected. An excel spreadsheet was created to track special fund receipts/payments, disbursements and balances. This spreadsheet is easily accessible to both the bookkeeper and the Chief Clerk for review. Currently, the bookkeeper processes all special fund transactions to include 580 account disbursements. This information is emailed to the Chief Clerk for review prior to any checks being printed to the plaintiffs.</p> <p>A refund in the amount of \$4950 was identified as needing further research to locate the refundee to return the payment. We have since found additional information for this individual and are in the process of attempting contact to confirm their identity and contact information for refund.</p> <p>We have begun the process of learning how to access the Oracle General Ledger to reconcile the 580 account information.</p>
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.04
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: JG, PA

Finding:	<p>Comparison of 56 civil paper returns and the associated County Clerk and District Clerk Odyssey records and 71 civil paper returns and the related Justice of the Peace mainframe records for proper credit and review of R02967 revealed:</p> <ul style="list-style-type: none"> • One county court case where payment collected by both County Clerk and Constable's office. • Four cases where monetary credit not recorded by the District Clerk. Payment amounts remain in the pre-paid service fee escrow account. Status: District Clerk staff reviewed OnBase evidence of service and credited precinct 1 for service fees totaling \$330. • One service fee not collected by either the District Clerk or Constable's office. The service fee was entered as an "indirect fee" in Odyssey record. Review of paper in OnBase revealed the paper documented Dallas County Constable fees were not collected. • One service fee not collected by either Justice of the Peace court or Constable's office. • Three papers transferred from Precinct No 1 and served by other precincts with Precinct No. 1 receiving monetary credit. Status: One instance corrected 02/9/12. • Seven papers served by Precinct No. 1 with collected funds credited to another precinct. Status: One instance corrected 02/9/12. • Three instances where the incorrect Fee Amount Earned was posted to the Constable Civil System. • One instance where the Fee Amount Earned was not posted to the Constable Civil System.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 6A-1&2, 6A-3
Condition: (Describe the current condition)	<p>The constable's office receives papers via court clerks where parties to a case request service through the court clerk. The court clerks require payment in advance or denote payment exception for civil papers to be served by the Dallas County sheriff or constable agencies with the papers routed to the appropriate agency for service. A stamp is affixed to the paper by the District and County Clerk staff showing whether officer fees were collected. Exceptions to pre-payment for service include:</p> <ul style="list-style-type: none"> • Parties that have been approved by the court as indigent. The clerk issuing the process would endorse thereon the words "pauper oath filed". • Attorneys that request civil papers be issued directly to the attorney for handling and service. The clerk issuing the process would endorse thereon the words "costs not complied with". The attorney will mail or deliver the papers directly to a law enforcement agency or private process server. When an attorney selects a constable precinct for service, payment will accompany the civil process or the paper will be held by the constable precinct without service pending payment. The attorney will be notified by the constable precinct of the amount due for service to be completed. <p>After paper service, constable staff returns papers to the issuing court: justice court, county clerk or district clerk enabling clerk to properly recognize prepaid revenue. In some instances, services are performed and the requesting party is billed for the amount due. The civil paper is not returned to the court until full payment is received. Payments received for service on tax suits may be less than approved schedules as a result of insufficient funds collected from a tax sale. Only papers issued by the Justice of the Peace courts are reviewed for proper credit by constable staff. Constable staff without access to Odyssey Civil Courts System financial tabs</p>



	cannot review the civil return lists to see if proper credit has been given for papers served. While the Dallas County District Clerk does not move funds from a prepaid service escrow account until a completed paper return is received, instances occurred where papers were returned without recognition of revenue.
Criteria: (Describe the optimal condition)	<p>County, District, and Justice of the Peace courts should properly assess and record credit for civil paper service including the collection of constable fees due.</p> <p>Per L.G.C., Sec. 113.903. COLLECTION MADE BY ONE OFFICER ON BEHALF OF ANOTHER. (a) With the prior consent of the commissioners court and the officer to whom funds are owed, a district, county, or precinct officer authorized by law to receive or collect money or other property that belongs to the county may receive or collect, on behalf of another district, county, or precinct officer, money or property owed to the county.</p> <p>(b) If the officer collects money under this section, the officer shall deposit the money in accordance with Section 113.022.</p> <p>(c) When the officer reports or deposits the collection, the officer shall file with the report or deposit a statement of:</p> <ol style="list-style-type: none"> (1) the name of the party paying the money; (2) the amount received; (3) the purpose for which the amount was received; and (4) the officer on whose behalf the money was collected. <p>(d) the county auditor, or county clerk if there is no county auditor, and the county treasurer shall attribute money or property received or collected under this section to the account of the officer on whose behalf it is received or collected.</p> <p>(e) A person who accepts a payment under the terms of this section shall issue a receipt for any money received to the payer of the debt.</p> <p>Rules of Civil Procedure, RULE 17. OFFICER TO EXECUTE PROCESS - Except where otherwise expressly provided by law or these rules, the officer receiving any process to be executed shall not be entitled in any case to demand his fee for executing the same in advance of such execution, but his fee shall be taxed and collected as other costs in the case.</p> <p>Rules of Civil Procedure, RULE 126. FEE FOR EXECUTION OF PROCESS, DEMAND - No sheriff or constable shall be compelled to execute any process in civil cases coming from any county other than the one in which he is an officer, unless the fees allowed him by law for the service of such process shall be paid in advance; except when affidavit is filed, as provided by law or these rules. The clerk issuing the process shall indorse thereon the words "pauper oath filed," and sign his name officially below them; and the officer in whose hands such process is placed for service shall serve the same.</p>
Cause: (Describe the cause of the condition if possible)	Clerical error by court clerks and constable personnel.
Effect: (Describe or quantify any adverse effects)	Fees credited to the wrong precinct and/or not collected or paper service not recognized as income to offset constable expenditures.
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • Request inquiry access to the Odyssey Civil Courts system for the appropriate staff • Inspect papers received from the Dallas County Clerk or District Clerk for notations related to service fees collections. Confirm case service fee posting supports collections indicated. • Review County Clerk and District Clerk Odyssey records and Justice of the Peace mainframe records by referencing civil return lists to ensure that fees are properly credited. • Notify appropriate department to make any necessary corrections.
Responsible Department or Organization:	Constable Precinct 1



Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date:	8/15/2013
Comments:	Every effort is made to ensure that accuracy is maintained during the entry of all documents placed on the Forvus System. However, we do not currently have access to the Odyssey system to review or reference civil return lists. We are exploring the possibility of having this system installed.					
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration	



Finding Number: 12.C1.01.05
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: JG, PA

Finding:	<p>Review of Attorney General (AG) IV-D monthly billings for the months of May 2010, January 2011, February 2011, August 2011 and February 2012 revealed:</p> <ul style="list-style-type: none"> Sixteen notices not reported to the AG for payment resulting in \$755.70 not billed or received. <p>Response: Cases might be simultaneous citation and notice papers. Office does not bill for both.</p> <ul style="list-style-type: none"> Two service fees billed to the AG for citations paid directly to Precinct No. 1 by another party.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 6A-4
Condition: (Describe the current condition)	<p>Attorney General's office submits citations, notices, capiases, etc. for IV-D papers directly to the constable's office for processing without payment of the required service fee. AG IV-D papers are manually tracked by constable staff. After the end of the month, constable's staff prepares detailed billings based on the prior months IV-D papers received and processed for service. A summary invoice is prepared by the chief clerk requesting reimbursement at 66% of the approved service fee amount. The invoice is submitted to the attorney general for review and processing.</p> <p>Notification of service fee amounts (effective January 1st of each year) is posted by the Commissioners Court Clerk available for inquiry by all constable precincts, sheriff, justice court precincts, County Clerk and District Clerk offices.</p>
Criteria: (Describe the optimal condition)	<p>According to the recommended best practice:</p> <ul style="list-style-type: none"> Service fees should be assessed / collected in compliance with applicable state laws including V.T.C.A, Local Government Code, § 118.131 and Commissioners Court orders. All eligible Title IV-D service fees should be billed to the Attorney General at the maximum rate as allowed by Family Code § 231.202.
Cause: (Describe the cause of the condition if possible)	Clerical error.
Effect: (Describe or quantify any adverse effects)	Revenue loss.
Recommendation: (Describe corrective action)	<p>Attorney General billing procedures should include:</p> <ul style="list-style-type: none"> Affirm staff uses latest approved service fee. Assess, bill, and collect service fees on all cases based on State laws, Commissioners Court orders, etc. and guidelines provide by the AG. Review of assessments and monthly IV-D billings by supervisory staff to monitor adherence to established procedures.



	Billing adjustments should be submitted for items not billed and/or billed in error.				
Responsible Department or Organization:	Constable Precinct 1				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date: 8/15/2013
Comments:	All recommendations are currently in place and followed.				
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.06
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/2012)
Auditor(s) Assigned: PA

Findings:	<p>Inquiry of constable personnel about the existence of receivables and review of the Constable's civil system and office receipts revealed:</p> <ul style="list-style-type: none"> • Papers for tax suits, IV-D, and license suspensions served without collecting the service fee in advance in accordance with statute. • Out of county papers served without advance payment received. Billing notices are sent to respective attorneys advising that returns will not be sent to issuing court clerk until full payment is received. • Service fees remain unpaid. • Receivables unreported to County Treasurer's office. • Constable Civil System does not contain functionality or provide reporting of unpaid service fees.
Work paper Reference: (or other method by which finding was identified)	<p>Work Paper No. 6A-5, Papers Holding for Services Fees and Balances 2011 folder, and conversation with bookkeeper.</p>
Condition: (Describe the current condition)	<p>Constables receive papers via court clerks when parties to a case request service through the court clerk. The court clerks require payment in advance or denote payment exception for civil papers to be served by the Dallas County sheriff or constable agencies with the papers routed to the appropriate agency for service. Exceptions to pre-payment for service include:</p> <ul style="list-style-type: none"> • Parties that have been approved by the court as indigent. The clerk issuing the process would endorse thereon the words "pauper oath filed". • Papers (citations, notices, capiases, etc.) for IV-D cases requested by the Attorney General. • Cases involving tax suits filed by governmental entities. • Cases filed by governmental entities which are exempted from security of filing and service fees. • Protective Orders and garnishments. Returns on garnishments are not sent to the court of original issuance by the precinct until payment is received. • Attorneys that request civil papers be issued directly to the attorney for handling and service. The court clerk issuing the process would indorse thereon the words "costs not complied with". The attorney will mail or have these civil papers delivered directly to either a law enforcement agency or private process server. When an attorney selects a constable precinct for service, payment will accompany the civil process or the paper will be held by the constable precinct without service pending payment. The attorney will be notified by the constable precinct of the amount due in order for service to be completed and paper returned to court. Limited instances were noted where service occurred and papers returned without full payment of service fee. <p>Other than "costs not complied with" papers, papers received by the constable with above exceptions will be served without payment. After paper service, constable staff returns papers to the issuing court: justice court, county clerk or district clerk enabling clerk to properly recognize prepaid revenue. After the end of the month, constable's staff prepares detailed billings based on the prior months for IV-D papers received and processed for service. A summary invoice is prepared by the chief clerk requesting reimbursement at 66% of the</p>



	<p>approved service fee amount. The invoice is submitted to the attorney general for review and processing. A billing notice is not prepared for the other exception categories.</p> <p>The bookkeeper has a folder with copies of bills sent and the papers that are being held because partial or no payment has been received. Some returns were processed and sent back to court without full payment. The bookkeeper began to track billing activity on a spreadsheet but the billing activity was not up to date as of August 2012.</p> <p>Due to mainframe limitations, data on served/disposed constable papers is periodically purged from the Constable Civil System.</p>
Criteria: (Describe the optimal condition)	<p>According to Rule 126 of the Texas Rules of Civil Procedure, "No sheriff or constable shall be compelled to execute any process in civil cases coming from any county other than the one in which he is an officer, unless the fees allowed him by law for the service of such process shall be paid in advance; except when affidavit is filed, as provided by law or these rules. The clerk issuing the process shall indorse thereon the words "pauper oath filed," and sign his name officially below them; and the officer in whose hands such process is placed for service shall serve the same. "</p> <p>According to Rule 129 of the Texas Rules of Civil Procedure, "If any party responsible for costs fails or refuses to pay the same within ten days after demand for payment, the clerk or justice of the peace may make certified copy of the bill of costs then due, and place the same in the hands of the sheriff or constable for collection....."</p> <p>According to Local Government Code § 118.131 and Commissioners Court orders, service fees should be collected at the time of service request for all cases filed by non-governmental entities and individuals except for those individuals with approved affidavits of indigence on file. Exceptions include only those entities listed under Civil Practices and Remedies § 6.001, 6.002, and 6.003.</p> <p>Service fees under Tax Code § 34.02 are payable only to the extent sufficient proceeds are available after the proceeds are first applied to:</p> <ol style="list-style-type: none"> (1) the costs of advertising the tax sale; (2) any fees ordered by the judgment to be paid to an appointed attorney ad litem; and (3) the original court costs payable to the clerk of the court. <p>According to standardized collection processes, collection efforts on delinquent service fees should include billing letters and phone calls with notations reflected on subsidiary ledgers.</p>
Cause: (Describe the cause of the condition if possible)	<p>Lack of receivable functionality within the mainframe Constable Civil System.</p> <p>Service performed without payment of service fees.</p>
Effect: (Describe or quantify any adverse effects)	<p>Potential loss of revenue.</p>
Recommendation: (Describe corrective action)	<p>Billing procedures should include:</p> <ul style="list-style-type: none"> • Annual staff notice of court ordered fee changes. • Assess, bill, and collect service fees based on State laws, Commissioners Court orders, Rules of Civil Procedure, etc. • Review of assessments and periodic reconciliation by supervisory.



	<p>Document proposed modifications to the Constable Civil System and incorporate in <u>technology assessments</u>.</p> <p>Bookkeeper should maintain a ledger (Excel or Access database) to track outstanding service fees with periodic follow-up and delinquent billing notifications. County Treasurer should be advised of debts due the County in accordance with L.G.C., § 154.045.</p>			
Responsible Department or Organization:	Constable Precinct 1			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable
Comments:	<p>Date: 8/15/2013</p> <p>As identified in the 2011 audit, every effort is made to ensure the clerical error rate is kept at a minimum. However, there are occasions where such oversights do occur. There is currently no mechanism in place to identify these type errors on a daily basis. When the errors are identified, the proper corrections are made.</p> <p>All Court approved fees are distributed to the clerical staff and sworn personnel for immediate implementation and all suggested adjustments have been made to the proper coding of paper types and dispositions.</p> <p>In the interest of justice, this office will continue to deliver service on process that is deemed as urgent or will cause possible litigation to the department as a result of our failure to provide service until payment is received. We currently maintain an excel spreadsheet that includes all individuals and or agencies who owe service fees. We mail letters and make telephone contact with the individuals to attempt collection. We do not return the citation/process to court until payment is received. Once we have made attempts to collect such fees, they will be turned over to the DA's office for further processing. It is our understanding that this current practice may not be appropriate. We are seeking clarification from the DA's Office.</p>			
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration			



Finding Number: 12.C1.01.07
Date: 11/26/2012
Audit: Constable Precinct 1 FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Review of commission calculations on 67 writ collections for compliance with Commissioners Court approved rates revealed:</p> <ul style="list-style-type: none"> Two commission calculation errors (\$1350 and \$81.39) where deputy used wrong execution worksheet and/or formula to compute and collect constable commissions. Status: Deputy issued a new receipt for the correct amount and the cash difference of \$1,350 was released to the attorney. Over-collection of \$81.39 constable commission not corrected. One case in which full judgment amount was used to calculate commission with no adjustment for the judgment credit amount. Commission over collected by \$164.57. A second instance where judgment credit amount not deducted for commission calculation; however only partial payment was received and correct amount collected for commissions A \$10 overpayment for posting fees. Overpayment was deposited in Fund 120. Three commission calculation errors resulting in under-collection of commission (\$87.25 total) where deputy used wrong execution worksheet and/or formula to compute and collect constable commissions. \$276.80 from a writ collection refunded to the defendant in error. Money should have been paid to the plaintiff. A \$20 posting fee is assessed for each notice of sale that is posted (at various locations) or certified letter sent to inform interested parties (property owners and prospective buyers) of upcoming sale when a personal or real property sale is conducted to satisfy a judgment. Response: Notices are posted at three locations for real property sales. Notices are posted at multiple locations for personal property in order to enhance collection efforts. In some circumstances, a notice is also sent via certified mail to the owner of record. <p>Discussion and inquires of writ staff revealed:</p> <ul style="list-style-type: none"> Execution worksheets used to calculate commission amounts not updated with the new rates effective January 1, 2011. As a result, commissions for any execution collection or sale involving an amount over \$10,000 prior to October 2011 were not calculated correctly. Instances of current warehouseman insurance certificates not available for review by audit staff.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 6A-6, 5E FY11, 5E FY12, observation and discussion with staff
Condition: (Describe the current condition)	<p>Writs of execution and orders of sale are routed by constable clerical staff to the writ officers for service. Generally, a demand letter is sent to defendant informing them of the writ and to contact the constable's office. This letter is not sent when requested by the plaintiff or their attorney. The defendant is served and advised of the amount required to be paid to satisfy the judgment and commission. A commission calculation worksheet is prepared by the writ officer based on judgment amount, including the calculation of any post judgment interest, and if the collection is with or without a sale. If payment is received satisfying the judgment, a sale will not occur. If payment is not received, the officer identifies statutorily eligible personal and/or real property that can be seized and sold at auction. Seized personal property is stored by a warehouseman who is eligible to receive compensation from the sale for</p>



	<p>hauling and storing seized items. Notice of sale of real property is published in the Daily Commercial Record. The Daily Commercial Record is paid by either the plaintiff or its representative before the auction date. The notices are also posted in various county locations. A \$20 fee is assessed for each location where a notice is posted and for every notice sent through certified mail. The deputy will sell property at the designated location and time listed on the notices of sale. Real property is sold at the George Allen Courts Building.</p> <p>Writ deputies obtain services of insured wreckers and/or storage facilities/warehouseman (previously authorized by the Constable) to remove and store seized personal property until the sale takes place. Several wrecker and/or storage facility/warehouseman insurance certificates were not presented for review and could not be confirmed as having the level of insurance that is equal to or exceeding minimum levels required by the State with the constable precinct named as an additional insured. Seized personal property is stored by a warehouseman who is eligible to receive compensation from the sale for hauling seized items and the corresponding storage fees. The deputy will sell property at the location listed in the notice. Storage facility fees are deducted from the successful bid and required to be paid directly to the storage facility by the successful bidder to obtain the property.</p> <p>The successful bidder is required to pay by cash, cashiers check, and/or money order. The writ officer issues a receipt of payment to the successful bidder for the full (except when storage fees are to be paid directly to the storage facility by the successful bidder) amount bid. The writ officer accepts valid bids from anyone present and records each bid by bidder on bid data sheets for each item being sold. The writ officer issues the required bill of sale to the successful bidder and completes other legally required documentation. The bid sheets, commission calculation sheet, copy of the writ, and copies of other documentation are maintained by the writ officer at the constable's office in individual folders.</p>
<p>Criteria: (Describe the optimal condition)</p>	<p>Constable commission calculation worksheet should indicate whether the collection is made with or without a sale and should list all variables including the judgment date, judgment amount, judgment credit, attorney fees, interest rate, court costs, applicable commission percentages, and deputy hours spent and be available for review for compliance with statutory provisions.</p> <p>According to Dallas County court orders 2008-1821, 2009-1802, and 2010-1626, "Commission calculations should include judgment, interest, and attorney fees collected while excluding any court costs."</p> <p>According to Rule of Civil Procedure, Rule 647, NOTICE OF SALE OF REAL ESTATE, the officer shall post such notice in writing in three public places in the county if no newspaper will publish the notice of sale for the compensation herein fixed.</p> <p>According to Rule of Civil Procedure, Rule 650, NOTICE OF SALE OF PERSONAL PROPERTY, the sale of any personal property levied on under execution shall be given by posting notice thereof for ten days successively immediately prior to the date of sale at the courthouse door of any county and at the place where the sale is to be made.</p> <p>According to V.T.C.A., Civil Practices and Remedies, 34.066. IMPROPER SALE. (a) If an officer sells property without giving notice as required by the Texas Rules of Civil Procedure or sells property in a manner other than that prescribed by this chapter and the Texas Rules of Civil Procedure, the officer shall be liable only for actual damages sustained by the injured party. (b) The injured party has the burden to prove that the sale was improper and any actual damages suffered.</p>



Cause: (Describe the cause of the condition if possible)	Writ deputy calculations errors. Execution worksheets not updated.				
Effect: (Describe or quantify any adverse effects)	Potential liability to County if bidders are required to pay more than required by law.				
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> The commission calculation should include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. Calculations should be verified / reviewed by another person (chief deputy or chief clerk). Staff should be advised of service fee/commission changes. Commissioners Court orders for service/commissions should be posted for reference. Review of all execution worksheets prior to beginning of year to verify correct formula in use. One notice fee per posted sale (per writ) should be assessed in accordance with Commissioner's court orders unless parties to the sale request additional locations not required by statute or the Rules of Civil Procedure. <p>Erroneous disbursements/refunds should be recovered or a funding source identified.</p>				
Responsible Department or Organization:	Constable Precinct 1				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date: 8/21/2013
Comments:	<p>All the recommendations as outlined herein have already been instituted or in place since the beginning of the previous audit, and/or implemented during this audit. However, we have an exception with the following auditor's position: "...one notice fee per posted sale {per writ} should be assessed...." Further discussions are still required on this particular issue. The Commissioner's Court Order reads, "Posting Notices...\$20.00." However, their Order does not clarify, nor does it adequately address the auditor's position of only one [1] \$20.00 "notice fee" per writ, per sale should only be assessed.</p> <p>The department currently, and over the years, has for maximum exposure and due diligence for each plaintiff for each real property and/or personal property sales, "posts" all Notice of Constable's Sale(s), in three [3] separate locations. [i.e., <i>George Allen Civil Courts Bldg., Lancaster sub-courthouse and the Polk Street sub-courthouse. (And when required, Moving Services – Precinct 1 Storage Facility)</i>] The <i>Daily Commercial Record</i> is an excellent publication source and venue for all Constable's /Sheriff's sales of real property, but has a very, very limited circulation. Therefore, we again take the rational position that for additional due diligence, and for seeking maximum exposure for the sole purpose of obtaining the highest possible bid for each plaintiff on all sales, the Court Order that reads, "Posting Notices...\$20.00," is defined as a \$20.00 fee being assessed for <u>each</u> Notice that is posted in each of the three [3] locations. It is our department's position that the Commissioner's Court Order currently does not support the auditor's position. With a simple clarification citing explicit language of what the Court actually means by "Posting Notices...\$20.00," in the 2013/2014 Court Order should immediately remedy this position.</p> <p>Furthermore, our department is again requesting clarification on what fee[s] shall be imposed for all certified mail that is sent out to each of the interested parties for real property/personal property sales under writs of execution/orders of sale. Over the years, this department has charged the same \$20.00 "Posting Notices" fee for each certified mail letter sent. The Court could also clarify exactly what this rate fee should be for the preparation and mailing for each certified letter posted; or possibly utilize a flat rate schedule for each certified letter posted [i.e., <i>mailed</i>] by this department's requirement.</p>				
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.08
Date: 11/26/2012
Audit: Constable Precinct 1 FY09 – FY12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Review of warrant/capias procedures revealed:</p> <ul style="list-style-type: none"> • Six warrants recalled by issuing court were disposed as served (S). • Warrants are entered on a daily basis as received but thousands are yet to be filed in the 'wall file' by clerks and subsequently worked by deputy constable. • Approximately 94,600 active Class C warrants were assigned to Constable Precinct 1 as of August 19, 2012. • Unsuccessful service attempts are manually tracked and not recorded to the Constable Civil System. <p>Review of other paper processing procedures revealed:</p> <ul style="list-style-type: none"> • Hearing notices (non-civil papers) received from the justice of peace court for constable precinct officers to attend traffic court were recorded in the Constable Civil System (CSS) as civil paper type 'J' overstating workload measures. • Summons received from truancy courts were recorded in the CSS as civil paper type 'J' rather than notice/orders juvenile paper type 'K'.
Work paper Reference: (or other method by which finding was identified)	<p>Review of warrant/capias workflow process, GPS Service</p> <p>Review of civil and criminal paper statistical activity from CSS</p>
Condition: (Describe the current condition)	<p>Warrants and capias are received from the Justice of the Peace Courts, Truancy Courts, the Attorney General's Office, and occasionally from out of county courts. The papers are stamped by clerical staff with an internal office number and data from the warrants are entered to the Constable Civil System. The warrants are alphabetized by the defendant's name to be filed in the 'wall file' and eventually worked by deputies. As general practice, warrants have a shelf life of 2 years.</p> <p>Warrants are researched by the deputies with phone calls. No letters are sent prior to attempts to physically serve warrants. Attempts of physical service/execution of the warrant are made when phone calls are unsuccessful. Depending on the available information, 2 or 3 attempts are made to serve the warrant. Un-served warrants are <u>no</u> longer entered on the regional warrant system. Deputy Constables input return information on served warrants or capias into the Constable Civil System and the paper is returned to the court of issuance.</p> <p>Defendants with class C misdemeanors are taken before the court or to jail. For a capias, the subject is transported straight to jail. For felony and class A or B warrants, deputies physically go to the defendant's location to attempt service. District Attorney office recommended that the Constable's office give priority to working these papers rather than class C warrants/capias.</p> <p>When a precinct 1 court (JP1-1, JP1-2, and Truancy) recalls a warrant/capias, a copy of the recall prints in the constable's office on a designated printer. The warrant clerk will enter an 'R' (Recalled) as the disposition type on the Constable Civil System for all recalled warrants and send the warrant papers to the designated court. A summary printout of all entered recalls is generated and the clerk compares it to the court's copy of the recall. The recalls are totaled up and a count is kept with the printout and the recalls.</p>
Criteria: (Describe the optimal	<p>According to Local Government Code § 86.021(a), a constable shall execute and return as provided by law each process, warrant, and precept that is directed to the constable and is delivered by a lawful</p>



condition)	<p>officer.</p> <p>According to Local Government Code § 86.024(a), a constable that fails or refuses to execute and return according to law a process, warrant, or precept that is lawfully directed and delivered to the constable, the constable shall be fined for contempt before the court that issued the process, warrant, or precept on the motion of the person injured by the failure or refusal.</p> <p>According to the Code of Criminal Procedures § 23.01 a capias commands an officer to bring defendant before court immediately or on a day or at a term stated in the writ.</p> <p>According to Code of Criminal Procedures § 23.18, RETURN OF CAPIAS, The return of the capias shall be made to the court from which it is issued. If it has been executed, the return shall state what disposition has been made of the defendant. If it has not been executed, the cause of the failure to execute it shall be fully stated. If defendant has not been found, the return shall further show what efforts have been made by the officer to find him, and what information he has as to the defendant's whereabouts.</p> <p>Constable civil system should accurately reflect the status of the warrant/capias, example recalled ("R"), regional ("O"), served ("S"), and unserved ("U").</p> <p>Constable civil system should accurately reflect the type of paper service.</p>						
Cause: (Describe the cause of the condition if possible)	<p>Lack of adequate staff and integrated system functionality.</p> <p>Incomplete guidelines on paper type reporting.</p>						
Effect: (Describe or quantify any adverse effects)	<p>Overstated workload measures.</p> <p>Incorrect constable civil fee analysis.</p> <p>CCS not accurately reflecting paper service categories.</p>						
Recommendation: (Describe corrective action)	<p>A management plan should be developed and procedures documented for processing and returning warrants/capias properly and timely. Processes should include:</p> <ul style="list-style-type: none"> • Warrants are clocked in as received and assigned an office number. • Clerical staff key required information into the Constable civil system, accurately and timely. • Warrants are appropriately assigned to deputy constables for working. • Warrants recalled by courts are properly and timely recalled through the Constable Civil System and Regional system. • Service attempts and disposition codes are properly entered on the Constable Civil System. • Defendants arrested on a capias are brought before court in accordance with CCP § 23.01. • Warrants remain active until served or recalled by the court. <p>Hearing notices from justice courts for deputy constables to attend traffic courts should not be entered into the CSS.</p> <p>Summons received from truancy courts should be recorded as paper type 'K'.</p>						
Responsible Department or Organization:	Constable Precinct 1						
Management's Response:	<table border="1"> <tr> <td><input type="checkbox"/> Agree</td> <td><input type="checkbox"/> Disagree</td> <td>Respondent:</td> <td>Honorable Cleophas Steele, Constable</td> <td>Date:</td> <td>8/15/2013</td> </tr> </table>	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date:	8/15/2013
<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date:	8/15/2013		
Comments:	<p>The recommended items listed herein are currently in place. All warrants are returned properly and timely. Any oversight or omissions by the clerical staff when imputing information into the system is monitored and addressed. The paper types currently in place have been so and approved throughout all previous audits. Staffing issues and the inability to take defendants to jail on class c warrants created a backlog of unprocessed warrants. To help alleviate this backlog, a daily Jail Book-in Report (Inmates</p>						

County Auditor



Dallas County, Texas

	Booked –in in the last 24 hours) is checked for defendant with warrants in our precinct. These warrants are then taken to the jail and placed on the defendants.		
Disposition:	<input checked="checked" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.09
Date: 11/26/2012
Audit: Constable Precinct 1 Audit FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Observation of office schedules and review of attendance records and Kronos time and attendance system postings revealed:</p> <ul style="list-style-type: none"> • One employee took two personal days in 2009 when one personal day was approved by Commissioners Court. • Two employees took three personal days in 2010 when two personal days were approved by Commissioners Court. Both employees have ended employment with Dallas County. • Employees authorized second bad weather day in February 2011 by Elected Official. • Exempt employee's work schedule in Kronos reflected as 8 AM to 5 PM with 30 minute lunch. Employee took one hour lunch without additional time taken recorded to Kronos. <p>Status: Kronos schedule updated to reflect 60 minute lunch in August 2010.</p> <ul style="list-style-type: none"> • Two employees' vacation time taken (totaling 24 hours) were coded as holiday time in Kronos. One employee has ended employment with Dallas County. • One employee's 2011 Labor Day holiday time was recorded as vacation time in Kronos. • One employee took two personal days in 2011 when one personal day was approved by Commissioners Court. • Manual request form submitted for 2.5 hours sick leave to be taken the next day not recorded to Kronos. <p>Response: Deputy is a bailiff and not required to complete a daily activity report. Per dispatch log, the deputy did not clear early.</p> <ul style="list-style-type: none"> • One hundred and seven historical edits were performed to correct different employees' Kronos Time and Attendance postings during review period. • Instances of bi-weekly pay period 'sign off' not completed by the department, but defaulting to system wide sign-off.
Work paper Reference: (or other method by which finding was identified)	Work Paper NO. 6D-2, 6D-8, 7B, 7E, COMP Time Review
Condition: (Describe the current condition)	<p>Clerks record their time through Kronos Web Time Stamp. Deputy constables time is recorded in advance to the Kronos time and attendance system. Time entered is based on scheduled hours and time is changed by the chief clerk to reflect benefits taken or extra hours worked as reported. Supervisors pre-authorize employee leave requests and give to the chief clerk to update Kronos. The Kronos time card sign-offs are not marked with 'approval' by the supervisor or other management personnel. Time and attendance is signed off by the chief clerk in Kronos. Oracle DC Employee Self-Service is available for constable staff to review hours paid and accrual balances taken / earned / available.</p>
Criteria: (Describe the optimal condition)	<p>According to Dallas County Code Section 82-771, Granting conditions, "In addition to the holidays listed in section 82-741, during the budget process each year, the commissioners court <u>may</u> grant an additional personal day (eight hours) with the following stipulations....."</p> <p>According to Dallas County Code Section 82-175, Supervisory responsibilities, (c) "Supervisors are responsible for ensuring time records are accurate and that no abuses occur....." (e) "Supervisors are responsible for checking daily start times, meal periods, end times, vacations time, sick time, compensatory time and overtime to ensure employees are in</p>



	county overtime policies...." (f) "Supervisors are responsible for approving all time records for their department every Monday by 10:00 a.m.				
Cause: (Describe the cause of the condition if possible)	Kronos posting errors. Instances of inaccurate application of county time and attendance policies. Incomplete supervisory oversight.				
Effect: (Describe or quantify any adverse effects)	Official time and attendance records misstated. Employees may be over-compensated for leave already taken. Unable to independently validate deputy time worked. Actual times may vary from scheduled hours.				
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> Actual deputy start times, end times, and meal periods (when greater than six minutes before the employee's scheduled shift start time or scheduled shift end), vacation time, sick time, holiday time, jury duty, compensatory time, overtime, meal periods, etc. should be properly and timely posted to the Kronos time and attendance system in accordance with the Dallas County Code and Commissioners Court orders. Kronos time cards should be signed off by department management or duty may be deferred to chief clerk at the end of each bi-weekly pay period. Emphasize consistent timely supervisory review of Kronos postings to promote accuracy of time keeping, available leave balances and reduce need for historical edits. Historical edits should be submitted to the Payroll Hotline to correct Kronos posting errors. 				
Responsible Department or Organization:	Constable Precinct 1				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas, Steele, Constable	Date: 8/15/2013
Comments:	<p>Portions of the recommendations made for the time and attendance, have were implemented after the initial review was performed in 2010. The exempt employee that the auditor is referring to in this audit works 8am to 5pm and is scheduled with a 1 hour lunch. The failure to sign off of Time and Attendance on a few occasions was an oversight and not the norm. This office was notified by the Payroll Dept. during their initial audit that this had occurred. Moving forward steps were taken to ensure that the bi-weekly sign-off was performed by the Chief Clerk, timely and as required.</p> <p>When an error or omission occurs as it relates to posting leave or comp-time earned or utilized, any additional modifications such as updates or corrections after sign-off, are sent to the Payroll Hotline for editing/updates as required for corrections. Leave/comp-time requests for deputies are given to the Chief Deputy who then gives the request to the Constable for final approval. On occasion these requests are either submitted untimely or not provided to the Chief Clerk to update the system until after the pay period has ended. We are working diligently to ensure that the required documents are provided to the Chief Clerk for recording more timely.</p>				
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.10
Date: 11/26/2012
Audit: Constable Precinct 1 Audit FY 09 – 12 (7/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Review of the evidence/property room revealed:</p> <ul style="list-style-type: none"> • 'Found' property, seized evidence/property, and county property remains unorganized and is stored in same room due to limited space availability. • Missing ceiling tile, first noted in 2007 Property Room review, has not been replaced. Property room and all its contents can be easily accessed through ceiling. Status: The Polk Station is being remodeled and the new property room will not permit ceiling access. • As of December 8, 2011, keypad code for one property storage rooms has not been changed. Chief Deputy retired on October 31, 2011. Response: Request will be made for keypad code to be changed. • Over 250 previously identified items eligible for destruction remain in the inventory. • Cash held as 'found items' is not securely stored in a vault, deposited in a bank, nor researched for disposition or returned to the owner. • 60 items previously documented (previous audit or inventory control log) were not located during the full inventory performed in 2012. 27 of the 60 items were previously listed as eligible for destruction. • 68 additional items not noted in the previous audit nor recorded to the inventory control log supported by a property inventory sheet. • No evidence of periodic research to determine if items are eligible for turnover to Purchasing for disposal, destruction or agency use.
Work paper Reference: (or other method by which finding was identified)	Work Paper NO. 6H, 8A&B and property room audit conducted with Assistant Chief
Condition: (Describe the current condition)	<p>Deputy constables seize evidence during traffic stops or arrests. Evidence is placed in plastic bags carried by the deputies. The deputy seizing the evidence will fill out a property inventory sheet that specifies the defendant's name, case number if applicable, date, officer service number, and a description of the item to be stored in the property/inventory room. The deputy transports the evidence to the constable's office and notifies the Assistant Chief Deputy or the Chief Deputy. The evidence is placed into the property room with intent to record on the property/inventory room control log. Deputy constables also take control of other 'found' property that has been abandoned or removed during evictions and cannot be left at the curb.</p> <p>'Found' property, seized evidence/property, and county property are stored in a small storage room with a door that has a single lock. The Chief Deputy and Assistant Chief Deputy are the only keys to access the room. Due to the limited space in the main storage room, another storage room with limited access is also being used to store weapons eligible for destruction. This storage room can only be entered with an access code.</p> <p>A new Evidence/Found Property/Inventory Report is now completed for every item to be stored. These forms are filed in the same binder containing previously used log sheet. The form enables the deputy to distinguish whether the item is evidence or found property. After the check-in log sheet is completed, the evidence bag is placed in the evidence/property room. For drug evidence, there is section on the form that enables tracking to and from the Institute of Forensic Sciences.</p> <p>Departmental inventories are not completed annually.</p>



<p>Criteria: (Describe the optimal condition)</p>	<p>Code of Criminal Procedure, Article 18.17, states in part that unclaimed or abandoned property that is not held as evidence and remains unclaimed for 30 days shall be delivered for disposition to a person designated by the purchasing agent. In addition, the law enforcement agency that originally seized the property may request from the purchasing agent to have the property, which is scheduled for disposition, converted to agency use.</p> <p>Code of Criminal Procedure, Article 18.18, describes procedures for the disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband.</p> <ul style="list-style-type: none"> • Prohibited weapons as described in § 46.05 of the Texas Penal Code shall be destroyed or forfeited to the law enforcement agency that initiated the complaint not later than the 30th day after the final conviction. • Contraband, if forfeited, shall be delivered to the state, any political subdivision of the state, or to any state institution or agency. • If there is no prosecution or conviction following seizure, the magistrate on the motion of the law enforcement agency that seizes a prohibited weapon, shall order the weapon destroyed or forfeited within a timely manner of being informed that no prosecution will arise from the seizure. <p>Code of Criminal Procedure, Article 18.181, describes procedures for the disposition of explosive weapons and chemical dispensing devices (a device other than a small chemical dispenser sold commercially for personal protection).</p> <p>Code of Criminal Procedure, Article 18.183, states in part that money seized by a law enforcement agency in connection with a violation of Chapter 47 of the Texas Penal Code may be deposited in an interest-bearing bank account of the county in which it was seized until final judgment is rendered.</p> <p>Best practices for cash control include securing cash in an onsite value or deposit in a bank.</p> <p>Code of Criminal Procedure, Article 18.19, states "If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession of the weapon that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. If the magistrate does not order the return, destruction, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction or forfeiture of the weapon from the magistrate."</p> <p>Code of Criminal Procedure, Article 59.03 states in part:</p> <p>c) A peace officer who seizes property under this chapter has custody of the property, subject only to replevy under Article 59.02 of this code or an order of a court. A peace officer who has custody of property shall provide the attorney representing the state with a sworn statement that contains a schedule of the property seized, an acknowledgment that the officer has seized the property, and a list of the officer's reasons for the seizure. Not later than 72 hours after the seizure, the peace officer shall:</p> <p>(1) place the property under seal;</p>
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	<p>(2) remove the property to a place ordered by the court; or</p> <p>(3) require a law enforcement agency of the state or a political subdivision to take custody of the property and move it to a proper location.</p> <p>(d) A person in the possession of property at the time a peace officer seizes the property under this chapter may at the time of seizure assert the person's interest in or right to the property. A peace officer who seizes property under this chapter may not at the time of seizure request, require, or in any manner induce any person, including a person who asserts an interest in or right to the property seized, to execute a document purporting to waive the person's interest in or rights to the property.</p> <p>Physical evidence control procedures include:</p> <ul style="list-style-type: none"> • Departmental records of evidence should be properly maintained. Detail captured should be sufficient to identify evidence added to and/or removed from the evidence room and all persons handling the evidence and entering the evidence room. • Evidence should be properly secured and access to keys should be limited to supervisors. • Evidence/property should be tagged and chain of custody forms completed for all evidence/property stored and/or removed from the evidence/property room. Deputy releasing the evidence and the person receiving the evidence should sign and date the form acknowledging the transfer. • Annual physical inventory of evidence should be completed by two officers; one should be at the rank of Captain or higher.
Cause: (Describe the cause of the condition if possible)	<p>Limited space available.</p> <p>Lack of written procedures and inadequate control and accountability of evidence/property.</p>
Effect: (Describe or quantify any adverse effects)	<p>Evidence may be misappropriated, tampered with, or misused.</p> <p>Difficulty in distinguishing "found" property versus "seized" property.</p> <p>Unnecessary inventory of items eligible for destruction.</p>
Recommendation: (Describe corrective action)	<p>Update Evidence/Property room procedures and monitoring plans to include:</p> <ul style="list-style-type: none"> • Physical security of locks, keys, and logs including the replacement of ceiling tile. • Specific training/supervision/follow-up of physical item, accuracy of data, and notice of deficiencies. • Separate logs and storage area should be maintained within the property room for each kind of property kept. ('found', evidence, or county property) • Eligible items should be scheduled for destruction as authorized by statute, timely, when departmental use is prohibited or not feasible. • Unclaimed property should be considered for agency use or auction when feasible and allowed by statute. • Consider forfeiting ammunition for agency use or for the Sheriff gun range due to the high cost required for destruction. • Destruction of sealed evidence from the Institute of Forensic Science when a case has not been filed within the statute of limitations (2 years for misdemeanors and 3 years for felonies).
Responsible Department or Organization:	Constable Precinct 1
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Honorable Cleophas Steele, Constable Date: 8/15/2013
Comments:	The new Evidence/Property Room was recently completed. Additionally, we have ordered shelving and heat sealer with property bags to utilize moving forward. Approximately 95% of all items that are eligible for destruction have been transferred accordingly. Weapons, controlled substances, ammunition, and other paraphernalia, etc., have been boxed and/or



	<p>bundled according and paired to the past audit sheets as provided by the Auditor's Office. Although this has been a very time consuming and tedious process, we have almost completed boxing, bundling, and separating of each found property/evidence items in question.</p> <p>All that remains are the actual listing/detailing of each of the item[s] accordingly, in affidavit form for the Court's review for their signed order for destruction. Separation of drug evidence, ammunition, weapons and all other miscellaneous found property, held over the years by this department, is all that remains. Once we complete this very large list of eligible items for destruction, the property room issues as outlined herein, will be more adaptable, in sync, and easily controlled with the recommendations and requirements as set forth in this report.</p> <p>During this audit, and as stated in the previous audit, several of the same issues that were addressed by this department, have been corrected. The newly created/revised property/evidence/inventory sheets have been in effect, and are currently being utilized by all sworn personnel for all found property/evidence/weapons and other miscellaneous property.</p>		
Disposition:	<input checked="checked" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration



Finding Number: 12.C1.01.11
Date: 11/26/2012
Audit: Constable Precinct 1 Audit FY 09 – 12 (07/31/12)
Auditor(s) Assigned: PA

Finding:	<p>Review of receipts for abandoned vehicle activity revealed:</p> <ul style="list-style-type: none"> • One abandoned vehicle report for 128 vehicles could not be located. • One payment received for auction proceeds exceeded support documentation by \$13 (\$479.50 versus \$466.50). • Authorizing names reflected on auction/consignment records indicate: <ul style="list-style-type: none"> ◦ Successful bidders included Dowdy Ferry's owner and a Precinct 1 clerk. ◦ A Precinct 1 clerk was a check signer for twelve Dowdy Ferry checks. • Failure to follow-up on auction of vehicles determined as abandoned. <p>Responses to the Internal Control Questionnaires (ICQ's) revealed:</p> <ul style="list-style-type: none"> • Employees are not required to report conflicts of interest. • Employees are not required to report outside employment activities. <p>Status/Response: <i>Until the audit, only the deputies were required to report outside employment. The clerical staff had not reported any such employment. Currently, all employees are required to report outside employment and receive prior approval.</i></p>
Work paper Reference: (or other method by which finding was identified)	<p>Auctioneer's consignment lists, abandoned vehicle lists, county deposits, and conversation with Assistant Chief.</p> <p>Review of responses to ICQ</p>
Condition: (Describe the current condition)	<p>Precinct 1's policy during the period of audit was to tow all (with limited exceptions) vehicles when drivers were cited for no insurance or driving with a fraudulent inspection sticker. Procedurally, vehicles were checked by the deputy prior to impound to determine if stolen.</p> <p>When a vehicle was to be towed, Dowdy Ferry Auto Service Inc. was contacted to tow the vehicle to their auto pound. A Vehicle Impound Record was completed by the deputy and signed by the wrecker operator, Dowdy Ferry Auto Services Inc.</p> <p>Dispatch queries vehicle returns, prints the return, and attaches to the impound sheet. Other vehicles towed from businesses or abandoned on the highway were also taken to the Dowdy Ferry Auto Pound, the towing company and vehicle storage facility used by Precinct 1 when the traffic program was in effect.</p> <p>Precinct 1 received abandoned vehicle reports and the associated \$10 (fee per Transportation Code § 683.031) per vehicle payment from Dowdy Ferry. The abandoned vehicle reports contained the vehicles' make, model, VIN, license plates, and notice dates. The bookkeeper received the reports and receipted the payment. Then, the report was forwarded to the deputy assigned to run each vehicle on the list on NCIC/TCIC system. The deputy checked to see if the vehicle was stolen and verified that the vehicle information reported was accurate. Other law enforcement agencies and the VSF were contacted to resolve issues discovered or reported. A second notice should have been sent to the vehicle owner or lien holder.</p> <p>When a vehicle is disposed through law enforcement auction, section 683.034 provides that the law enforcement agency may collect 2% from the auction proceeds. Dowdy Ferry used JD Newell Auctioneers to conduct the vehicle auctions for Precinct 1. The auctioneer provided a</p>



	consignment report that listed all the vehicles sold at auction to the assistant chief deputy. The list identified the number of auction sales receipts (ASRs) that were given to the auctioneer for printing the vehicle information. Once the completed ASRs were reviewed, the assistant chief deputy signed each form. Auction proceeds were paid to Precinct 1 after the ASRs were signed.
Criteria: (Describe the optimal condition)	<p>According to Transportation Code, Section, 683.014, AUCTION OR USE OF ABANDONED ITEMS; WAIVER OF RIGHTS, "(a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under Section 683.012:</p> <p>(1) the owner or lienholder:</p> <p>(A) waives all rights and interests in the item; and</p> <p>(B) consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided by Subsection (d); and</p> <p>(2) the <u>law enforcement agency</u> may sell the item at a public auction, transfer the item, if a watercraft, as provided by Subsection (d), or use the item as provided by Section 683.016.</p> <p>(b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.</p> <p>(c) The purchaser of a motor vehicle, watercraft, or outboard motor:</p> <p>(1) takes title free and clear of all liens and claims of ownership;</p> <p>(2) shall receive a sales receipt from the <u>law enforcement agency</u>; and</p> <p>(3) is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title.</p> <p>(d) On consent of the Parks and Wildlife Department, the <u>law enforcement agency</u> may transfer a watercraft that is not claimed under Section 683.012 to the Parks and Wildlife Department for use as part of an artificial reef under Chapter 89, Parks and Wildlife Code, or for other use by the Parks and Wildlife Department permitted under the Parks and Wildlife Code. On transfer of the watercraft, the Parks and Wildlife Department:</p> <p>(1) takes title free and clear of all liens and claims of ownership; and</p> <p>(2) is entitled to register the watercraft and receive a certificate of title."</p> <p>According to Transportation Code, Section, 683.015, AUCTION PROCEEDS, "(a) A <u>law enforcement agency</u> is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for:</p> <p>(1) the cost of the auction;</p> <p>(2) towing, preservation, and storage fees resulting from the taking into custody; and</p> <p>(3) the cost of notice or publication as required by Section 683.012.</p> <p>(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.</p> <p>(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.</p> <p>(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the <u>law enforcement agency</u>.</p> <p>(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.</p> <p>(f) A county <u>law enforcement agency</u> may use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the <u>law enforcement agency</u> and transferred under Subsection (d) to compensate property owners whose property was</p>



damaged as a result of the pursuit, regardless of whether the agency would be liable under Chapter 101, Civil Practice and Remedies Code. A payment for compensation under this subsection may not exceed any of the following amounts:

- (1) the net proceeds received from the sale of the motor vehicle abandoned as a result of the pursuit;
- (2) \$1,000 per property owner, if more than one property owner's property is damaged as a result of the pursuit; or
- (3) the amount of the property owner's insurance deductible.

(g) Before a law enforcement agency may compensate a property owner under Subsection (f) using funds transferred to a county under Subsection (d), the sheriff or constable must submit the proposed payment for compensation for consideration, and the commissioners court shall consider the proposed payment for compensation, at the next regularly scheduled meeting of the commissioners court."

According to Transportation Code, Section, 683.031, GARAGEKEEPER'S DUTY: ABANDONED MOTOR VEHICLES, "(a) A motor vehicle is abandoned if the vehicle is left in a storage facility operated for commercial purposes after the 10th day after the date on which:

- (1) the garagekeeper gives notice by registered or certified mail, return receipt requested, to the last known registered owner of the vehicle and to each lienholder of record of the vehicle under Chapter 501 to remove the vehicle;
- (2) a contract for the vehicle to remain on the premises of the facility expires; or
- (3) the vehicle was left in the facility, if the vehicle was left by a person other than the registered owner or a person authorized to have possession of the vehicle under a contract of use, service, storage, or repair.

(b) If notice sent under Subsection (a)(1) is returned unclaimed by the post office, substituted notice is sufficient if published in one newspaper of general circulation in the area where the vehicle was left.

(c) The garagekeeper shall report the abandonment of the motor vehicle to a law enforcement agency with jurisdiction where the vehicle is located and shall pay a \$10 fee to be used by the law enforcement agency for the cost of the notice required by this subchapter or other cost incurred in disposing of the vehicle.

(d) The garagekeeper shall retain custody of an abandoned motor vehicle until the law enforcement agency takes the vehicle into custody under Section 683.034."

According to Transportation Code, Section, 683.034, DISPOSAL OF VEHICLE ABANDONED IN STORAGE FACILITY, "(a) A law enforcement agency shall take into custody an abandoned vehicle left in a storage facility that has not been claimed in the period provided by the notice under Section 683.012. In this section, a law enforcement agency has custody if the agency:

- (1) has physical custody of the vehicle;
- (2) has given notice to the storage facility that the law enforcement agency intends to dispose of the vehicle under this section; or
- (3) has received a report under Section 683.031(c) and the garagekeeper has met all of the requirements of that subsection.

(b) The law enforcement agency may use the vehicle as authorized by Section 683.016 or sell the vehicle at auction as provided by Section 683.014. If a vehicle is sold, the proceeds of the sale shall first be applied to a garagekeeper's charges for providing notice regarding the vehicle and for service, towing, impoundment, storage, and repair of the vehicle.

(c) As compensation for expenses incurred in taking the vehicle into custody and selling it, the law enforcement agency shall retain:



- (1) two percent of the gross proceeds of the sale of the vehicle; or
- (2) all the proceeds if the gross proceeds of the sale are less than \$10.
- (d) Surplus proceeds shall be distributed as provided by Section 683.015.
- (e) If the law enforcement agency does not take the vehicle into custody before the 31st day after the date the vehicle was reported abandoned under Section 683.031:
 - (1) the law enforcement agency may not take the vehicle into custody; and
 - (2) the storage facility may dispose of the vehicle under:
 - (A) Chapter 70, Property Code, except that notice under Section 683.012 satisfies the notice requirements of that chapter; or
 - (B) Chapter 2303, Occupations Code, if the storage facility is a vehicle storage facility."

According to Occupations Code, Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE.

(a) If a vehicle is not claimed by a person permitted to claim the vehicle or is not taken into custody by a law enforcement agency under Chapter 683, Transportation Code, before the 41st day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.

(a-1) If a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned and send notice of abandonment to a law enforcement agency under Chapter 683, Transportation Code.

(b) Notice under this section must include:

- (1) the information listed in Section 2303.153(a);
- (2) a statement of the right of the facility to dispose of the vehicle under Section 2303.157; and

(3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the notice is provided is:

- (A) a waiver by that person of all right, title, or interest in the vehicle; and
- (B) a consent to the sale of the vehicle at a public sale.

(c) Notwithstanding Subsection (b), if publication is required for notice under this section, the notice must include:

- (1) the information listed in Section 2303.153(b); and
- (2) a statement that the failure of the owner or lienholder to claim the vehicle before the date of sale is:
 - (A) a waiver of all right, title, and interest in the vehicle; and
 - (B) a consent to the sale of the vehicle at a public sale.

According to Occupations Code, Sec. 2303.1545. DISPOSITION OF ABANDONED NUISANCE VEHICLE. (a) A vehicle storage facility that holds an abandoned nuisance vehicle is not required to send or publish a second notice and is entitled to dispose of the vehicle on the 30th day after the date the notice is mailed or published under Section 2303.151 or 2303.152.

(b) The facility may:

- (1) notify the department that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the department; or
- (2) in the alternative, notify the appropriate law enforcement agency and pay a fee of \$10 to that agency.

(c) A law enforcement agency described by Subsection (b)(2) may sign a document issued by the department.

According to Occupations Code, Sec. 2303.157. DISPOSAL OF CERTAIN ABANDONED



VEHICLES. (a) The operator of a vehicle storage facility may dispose of a vehicle for which notice is given under Section 2303.154 if, before the 30th day after the date notice is mailed, the vehicle is not:

(1) claimed by a person entitled to claim the vehicle; or
 (2) taken into custody by a law enforcement agency under Chapter 683, Transportation Code.

(b) An operator entitled to dispose of a vehicle under this section may sell the vehicle at a public sale without obtaining a release or discharge of any lien on the vehicle, regardless of whether notice was provided by mail or by publication under this chapter. The proceeds from the sale of the vehicle shall be applied to the charges incurred for the vehicle under Section 2303.155. The operator shall pay any excess proceeds to the person entitled to those proceeds.

(c) Notwithstanding Subsection (a), the operator of a vehicle storage facility may dispose of a vehicle for which notice was given under this subchapter as provided by this section if:

(1) the vehicle is an abandoned nuisance vehicle; and
 (2) before the 30th day after the date the notice was sent, the facility submits an application to the department for disposal of the vehicle.

Dallas County Code, Sec. 86-757. Outside employment.

(a) No employee shall engage in any other employment during the hours he is scheduled to work for the county; nor shall an employee work outside such hours of his employment with the county in a manner, or to an extent, that conflicts with the county's interest or public image or that adversely affects his availability and usefulness as an employee to the county.

(b) All employees who are considering employment or who already hold outside employment shall notify their supervisor of the details of the job, the name of their secondary employer, and obtain their elected official/department heads' (i.e., the county's) approval.

(c) Supervisors who feel an employee's outside employment conflicts with the county's principles as set forth in subsection (a) of this section shall notify his elected official/department head. The elected official/department head shall make the final decision.

(d) Any employee who feels approval of an outside job is being unreasonably withheld is entitled to use the grievance procedure as a recourse.

Dallas County Code, Sec. 86-758. Conflicts of interest.

(a) In order to avoid potential conflicts of interest or the appearance of conflicts of interest, no officer or employee of the county shall:

(1) Have a substantial interest, investment, ownership or other involvement in any entity or firm which supplies goods or services to the county;
 (2) Accept from or give to any entity, firm or person doing or seeking to do business directly or indirectly with the county, including agents or representatives of such entity, firm or person, any personal gift; loan of any type; entertainment; trips, services, or money in any amount;
 (3) Receive directly or indirectly any pecuniary interest from a contract or other agreement entered into by the county;

(4) Engage in any other business to an extent which interferes with their performance of duties as a county official or employee; or

(5) Use in any matter their public office or position for personal gain including the acceptance or dispensing of any special favors, privileges or benefits.

(b) The county officials or employees having reservations or questions regarding possible conflicts of interest should request a legal opinion from the district attorney's office.

(c) The county officials and employees may be requested to submit an annual conflict of interest-disclosure statement (Exhibit EC) to the commissioners court.

(d) All elected officials and employees of the county will comply with V.T.C.A., Penal Code ch. 36 that requires that no gift be given as a consideration for some exercise of official



	<p>discretion. County employees shall not accept gifts from contractors, vendors or other persons who are employed by or who deal with the county. These rules do not apply to gifts exempted by V.T.C.A., Penal Code § 36.10, calendars, folders, pens, notepads and similar articles that bear the donor's advertising, nor do they apply to purely personal gifts between relatives and friends.</p> <p>(e) All elected officials and candidates required to file financial disclosure statements by V.T.C.A., Local Government Code § 159.001 et seq., shall file an annual financial statement with the county auditor, including the reporting of gifts, as required by that statute.</p> <p>(f) All elected county officials shall comply with V.T.C.A., Election Code title 15 and all state-mandated reporting of gifts.</p> <p>(g) The county officials or employees having reservations or questions regarding possible conflicts of interest should request a legal opinion from the district attorney's office.</p> <p>(h) Nothing in this division shall prohibit the solicitation and or acceptance of contributions and or gifts as authorized by the Texas Election Code.</p> <p>According to V.T.C.A., Local Government Code, § 113.022, TIME FOR MAKING DEPOSITS, "(a) A county officer who receives funds shall deposit the funds with the county treasurer on or before the next regular business day after the date on which the funds are received. If this deadline is not met, the officer must deposit the funds, without exception, on or before the fifth business day after the day on which the funds are received. However, in a county with fewer than 50,000 inhabitants, the commissioners court may extend the period during which funds must be deposited with the county treasurer, but the period may not exceed 15 days after the date the funds are received."</p>
Cause: (Describe the cause of the condition if possible)	Not fully aware of county policies and state laws. Oversight
Effect: (Describe or quantify any adverse effects)	Potential for legal liability to Dallas County and/or the elected official. Conflict of interest.
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • Written procedures consistent with Transportation Code Chapter 683 and Occupations Code 2303 should be developed, provided to staff, and enforced. Procedures may include, but are not limited to: <ul style="list-style-type: none"> ○ validating accuracy of lists and payments submitted by vehicle storage facilities ○ checking vehicle plate return information for reported stolen vehicles ○ performing random physical inspections of abandoned or towed vehicles at storage facilities ○ verifying traffic violation criteria meets departmental guidelines and county policies before requesting vehicles be towed with all vehicles immediately inspected for children or animals left in the vehicle • Vehicle storage facilities should be: <ul style="list-style-type: none"> ○ advised to report abandoned or towed vehicles within time frames required by statute including notification to law enforcement ○ required to submit accurate and timely payments and lists and provide revised lists when errors are identified ○ directed to sell abandoned vehicles through auctions • Employees should be: <ul style="list-style-type: none"> ○ advised to avoid actual or perceived conflicts of interest ○ limited to outside employment activities with businesses not engaged in a business relationship with Dallas County



Responsible Department or Organization:	Constable Precinct 1 Dowdy Ferry Auto Services Inc.				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Cleophas Steele, Constable	Date: 8/15/2013
Comments:	With the abolition of the constable's traffic enforcement duties as of September 2010, the towing and/or impoundment of vehicles with Dowdy Ferry Auto Services has ceased as it relates to these areas outlined herein. As far as this department is aware, we are current on all requirements as it relates to the Texas Transportation Code, Section 683.034, i.e., disposal of vehicle[s] abandoned in storage facilities.				
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration