



DALLAS COUNTY COUNTY AUDITOR

Memorandum

To: Honorable Ray Nichols
Constable Precinct No. 2

From: Darryl D. Thomas
County Auditor

[Handwritten signature: Darryl D. Thomas]
DDT

Subject: Review of Statutory Reporting and Compliance for October 1, 2014 through September 30, 2015.

Date: *Issued: September 8, 2017*
Released: October 11, 2017

Scope:

A review was performed on the records and reports of Constable Precinct No. 2 from October 01, 2014 through September 30, 2015, during the term of the Honorable Michael Gothard and Honorable Ray Nichols.

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 (CCS).

A partial list of the review tests include:

- Examined Constable Precinct 2's cash handling internal controls
- Accounted for numerical sequence of manual receipts
- Traced amounts recorded in County Wide Receipt (CWR) system 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 CCS 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 CCS 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
- Reviewed responses to internal control questionnaires (ICQ) completed by staff

Statistical

- 9,879 civil papers served per Constable Civil System
- 1,322 writs and orders of sale served per Constable Civil System
- 714 criminal papers served per Constable Civil System
- \$1,047,848.31 constable fee revenue collected all sources
- \$1,800.28 constable commission collected

FINDINGS:

Cash Management

Manual Receipts – A review of seven Form 44 office manual receipts including one voided receipt (14%), 21 Form 44-A field receipts including two voided receipts (9.5%), and 662 unused receipts revealed: four unused Form 44 office receipts are torn where two of the four receipt numbers cannot be seen and the remaining two receipts are still usable **Status:** *The Chief Clerk voided unusable manual receipts per recommendation; one Form 44 office receipt missing from the manual receipt book; two instances in which the payment type indicated on the Form 44-A field receipt did not match the payment type that was receipted to CWR; two pink carbon copies of the Form 44-A field receipt located in the manual receipt book instead of the yellow carbon copies; seven Form 44-A field receipts were receipted in CWR two or more business days after the manual receipt date; and incomplete separation of duties – the bookkeeper position is responsible for all funds received at the office; however, the Chief Clerk verifies the deposit prepared by the bookkeeper. A total of 25 Form 44-A receipts appear to be missing or stolen. Response:* *The Chief Clerk stated that the receipt book was stolen from a Deputy. However, the missing receipt book is not listed on the Incident Report dated 11/24/2015 because the officer forgot to list it since he did not realize the receipt book had any monetary value.*

Assessment/Collection – A sample review of 54 CWR receipts to the CCS for compliance with service fees established by Commissioners Court orders, state laws, and court orders revealed: two instances where the fee amount was not specified in CCS; four instances where the amount collected was not specified in CCS; and two instances where the incorrect amount was collected for papers issued in 2014, but served and disposed of in 2015.

Disbursements/Special Fund Reconciliation – A review of Special Fund activity revealed: old balances have been requested for disbursing to applicable parties, recovery of excess disbursements, or escheating to the County Treasurer or State Comptroller, totaling \$1,706.41.

Commission Calculations – A review of 14 Writ collections and commission calculations for compliance with Commissioners Court approved rates revealed: one case where commissions were under collected by a total of \$102.50; one Order of Sale where \$1,749.38 in commission was not collected from the bidder; three cases where commissions were over collected by a total of \$16.81; five cases where interest was under calculated by a total of \$6,291.69; three files with commissions collected per CWR receipts could not be located; and one file with commissions collected per CWR receipts did not have paperwork related to the commissions in the folder.

Processing

Civil Paper Service – Monetary credit for civil paper service is consistently collected / reflected on the Justice of the Peace Accounting System; however, the Odyssey Civil Courts System reflects instances where the Sheriff or other Constable precincts received monetary credit for papers served by Precinct No. 2. Additionally, instances of CCS posting errors and CWR posting errors were noted.

A sample review of 1,004 disposed papers recorded to the CCS as Paper Type 'J' Notice revealed: 518 notices recorded to CCS on eviction citations for cases in which a Bond of Immediate Possession was filed as received by Constable although an \$80 notice fee was not collected by the Justice of the Peace Courts; one hearing notice

(non-civil papers) received from the Justice of the Peace Courts for a traffic case was recorded in CCS as civil paper type "J" Notice although an \$80 Notice Fee was not collected by the Justice of the Peace Courts.

Status: *Due to mainframe limitations, data on served or disposed Constable paper is periodically purged/archived and not viewable on the Constable Civil System, so the Constable office was not able to make the appropriate correction during our internal audit staff's field work. All papers to be served are posted to the CCS for tracking purposes.*

Evidence Control

Evidence/Property Room – Review of the Evidence/Property room revealed: one item on the evidence log has the incorrect weapon serial number. **Response:** *Item was collected by prior Constable Administration.*; one item collected on 5/30/07 was not listed on the evidence log. **Response:** *Item was collected by prior Constable Administration.*; A total of 77 items were listed on the evidence log with a bin location, but items that were located in boxes in the Evidence Room were actually pending destruction; and 16 items on the evidence log without an adequate description on the log with 12 of the items stating "see computer" in the description. We noted that staff has not received proper training on tracking, recording, and labeling property received and property ready for destruction, as stated in the Property and Evidence Management Guideline.

RECOMMENDATIONS:

Cash Management

Receipting/Depositing – The supervisor should, periodically, scan receipts for proper usage, account for all receipts used in order to affix responsibility, enhance cash control, and prevent assertion that monies were paid and a refund is due. All monies received should be promptly and accurately receipted, properly secured, and deposited consistent with state law, Local Government Code, § 113.022 and procedures recommended by the County Auditor. At the end of each business day, receipts should be totaled and compared to funds on hand and CWR system control totals. Receipt and deposit totals should be verified by the back-up bookkeeper or Chief Clerk with compensating processes such as dual sign-off on balancing and deposit documents. Used manual receipts should have a copy of the CWR Receipts attached to the yellow carbon copy of the manual receipt and the pink carbon copy of the manual receipt should be attached with a copy of the CWR Receipts in the bookkeeper's records. Continue to ensure adequate separation of duties over the receipting, balancing, depositing, and disbursing functions.

Management Response: *The Chief Clerk has kept a tracking log of receipt books issued since 2015.*

Assessment/Collection – Continue to assess service fees in accordance with state laws and Commissioners Court orders. All data elements including the Paper Type, Amount Earned, Amount Collected, etc. should be accurately entered in the CCS.

Disbursements/Special Fund Reconciliation – Continue to maintain a Special Fund control ledger accounting for all Special Fund receipts, disbursements, and balances. Follow unclaimed property statutes in accordance with Property Code Chapters 72 and 76.

Management Response: *Old balances (prior to 2013) have been researched for disbursing to applicable parties, recovery of excess disbursement, or escheating to the County Treasurer or State Comptroller.*

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, Chief Clerk, or Bookkeeper.

Processing:

Civil Paper Service – Examine computerized court records associated with papers served or attempted to verify that the fees are properly credited to Precinct No. 2. All data elements including the Paper Type should be accurately entered in the CCS. Documents **without** an officer's return required by statute or Rules of Civil Procedure should **not** be entered in the CCS. Address the system limitation issues with responsible parties and pursue new system enhancements with improved features.

Management Response: *One paper had payment credited to Constable Precinct #1 instead of Precinct #2 in Odyssey (CCL error—removal requested). Two papers with payment credited to the Sheriff instead of Precinct #2 in Odyssey (District Court error—removal requested).*

Receivables – When applicable, the office should ensure payment is received before serving papers, especially for out of county papers. Refer to Texas Rules of Civil Procedure Rule 126. Rule states, "The Constable may require payment before serving process and the only exception listed is for inability to pay".

Evidence Control:

Evidence/Property Room – Evidence/Property Room Log should accurately reflect all evidence/property in the possession of Precinct 2 and include an adequate description of the evidence/property with identifiable evidence/property information such as serial numbers. Records for eligible items scheduled for destruction should be maintained.

Management Response: *The incorrect weapon serial number was corrected on 7/27/17.*

Summary

This 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.

Priority areas of risk which need to be addressed include: clearing old Special Fund balances; evidence and property room inventory controls; and continue to have adequate separation of duties over the receipting, balancing, depositing, and disbursing roles.

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