



**DALLAS COUNTY**  
**COUNTY AUDITOR**

**Memorandum**

To: Honorable Ben Adamcik  
Constable Precinct No. 3

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

Subject: Review of Statutory Reporting and Compliance for February 1, 2010 through September 30, 2012

Date: Issued: June 19, 2013  
Released: August 21, 2013

**Scope**

A review was performed on the records and reports of Constable Precinct No. 3 for February 1, 2010 through September 30, 2012.

**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 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 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 (AG) IV-D billings
- Examined the Evidence/Property Room procedures and log sheets
- Documented warrant processes
- Reviewed Global Positioning Satellite (GPS) reports

## **Statistical**

### **Fiscal Year 2010**

- 24,564 civil papers served per Constable Civil System
- 2,445 writs and orders of sale served per Constable Civil System
- 23,023 criminal papers served per Constable Civil System
- \$2,123,587 constable fee revenue collected all sources
- \$18,191 constable commission collected

### **Fiscal Year 2011**

- 26,423 civil papers served per Constable Civil System
- 2,540 writs and orders of sale served per Constable Civil System
- 22,743 criminal papers served per Constable Civil System
- \$2,188,884 constable fee revenue collected all sources
- \$18,939 constable commission collected

### **Fiscal Year 2012**

- 13,405 civil papers served per Constable Civil System (County and District Clerk papers routed to Sheriff beginning in FY2012)
- 1,826 writs and orders of sale served per Constable Civil System
- 17,513 criminal papers served per Constable Civil System
- \$1,625,052 constable fee revenue collected all sources (Constable Traffic Programs eliminated and County and District Clerk papers routed to Sheriff beginning in FY2012)
- \$15,132 constable commission collected

## **FINDINGS**

### **Cash Management**

Receipts – Computer / Manual – Review of 552 manual office receipts including seven (1.3%) voided office receipts, 4516 computer generated county-wide (CWR) receipts including 300 (6.6%) voided computer receipts and 213 Form 44-A field receipts including 10 (4.7%) voided receipts and receipting procedures revealed: two missing manual receipts; one manual receipt for \$70 check voided without retention of the triplicate copy; two office receipts issued eight and 16 business days, respectively, after the Form 44-A field receipts; one missing 44-A receipt book; and two voided CWR receipts not reissued for 18 and 33 business days, respectively.

Assessments / Collections - Review of 121 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: one capias (from a family court) with fee assessed for \$70 rather than \$130; and, instances of posting errors to the CCS.

Disbursements / Special Fund Reconciliation – Review of special fund activity revealed: one special fund disbursement exceeding special fund deposits by \$5,334.91 due to a receipt/deposit error (**Status:** Corrected. Monies transferred from constable fees Fund 120); and old balances totaling \$3,471 over five years have not been disbursed to the applicable party and/or escheated to the County Treasurer or State Comptroller.

Commission Calculations – Review of 32 writ collections for compliance with Commissioners Court approved rates revealed four (12.5%) commission calculation errors resulting in over collections totaling \$1,338.12 and under collections totaling \$2,299.80. 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.

Receivables / IV-D Billings – Review of two complete AG IV-D paper monthly billings and inquiry into the existence of receivables revealed: one notice totaling \$49.50 was not billed to the AG; and, the precinct does not maintain a file or control ledger of unpaid receivables.

### **Processing**

Warrant / Civil Paper Service – Monetary credit for civil paper services is consistently collected / reflected on the Justice of the Peace Accounting System and the Odyssey Civil Courts System with limited instances of incorrect postings by other offices.

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.

Time and Attendance – Review of employee time and attendance records revealed: one employee charged 2.5 hours vacation time in excess of regular scheduled work hours.

### **Evidence Control**

Evidence / Property Room – Items from the prior audit have not been reviewed for proper disposition. Items from other law enforcement agencies are stored in the evidence room.

## **RECOMMENDATIONS**

### **Cash Management**

Receipting / Depositing – All copies of a void receipt should be retained, clearly marked "void" and affixed with a reason for 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. Update recordkeeping procedures to include a tracking log or receipt books issued.

Assessments / Collections – Continue to assess service fees in accordance with State laws and Commissioners Court orders including Family Code, § 157.103 which states the fee for serving a capias is the same as the fee for service of a writ in civil cases.

Disbursements / Special Fund Reconciliation – Continue to maintain a special fund control ledger accounting for all special fund receipts, disbursements, and case balances. 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. Refund excess commission amounts collected. 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.

Receivables / IV-D Billings – Maintain a ledger to track outstanding service fees with periodic follow-up and delinquent billing notifications. All eligible IV-D service fees should be accurately and timely 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.

### **Processing**

Warrant / Civil 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.

Time and Attendance - Historical edits should be submitted to the Payroll Hotline to correct Kronos posting errors.

### **Evidence Control**

Evidence / Property Room – Eligible items should be scheduled for destruction as authorized by statute when departmental use is prohibited or not feasible.

### **Current Findings/Observations/Recommendations/Reponses**

Detailed finding templates numbered 12.C3.01.01 through 12.C3.01.09 (excluding .06) are attached. Responses are incorporated on 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 are: old balances in the special fund not timely escheated and /or remitted; and, receipt voiding and control procedures.

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.C3.01.01a  
**Date:** 2/11/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Findings:</b>	<p><b>Manual/ Computer Office Receipts</b></p> <p>Review of 552 manual office receipts including 7 manual voided receipts, 4516 computer receipts issued County Wide Receipting (CWR) including 300 cancelled/voided receipts, testing of voiding and balancing procedures for proper accounting and internal controls revealed :</p> <ul style="list-style-type: none"> <li>Two missing manual receipts (54999 and 55000) not located by the chief clerk or bookkeeper.  <b>Response:</b> Per bookkeeper, receipts may have been misplaced when they moved to a new location.</li> <li>One manual receipt for a \$70 check voided without retention of the triplicate copy.</li> <li>Ninety-four cancelled computer transactions without a reason indicated for cancellation.</li> <li>One receipt with an incorrect breakdown resulting in a deposit of \$20 for Fund 582 placed in Fund 120.  <b>Status:</b> Corrected. Request for payment processed to move the funds.</li> <li>Five CWR receipts not attached to the associated 44-A field receipt.  <b>Status:</b> Office receipt amounts and case styles/numbers were traced to CWR receipt postings.</li> <li>One voided CWR receipt not replaced for 33 business days.  <b>Response:</b> Processing was delayed pending receipt of the commission and costs which were billed to the plaintiff's attorney.</li> <li>One voided CWR receipt not replaced for 18 business days.  <b>Response:</b> Per Chief Clerk, the bookkeeper was waiting on the correct commission calculation breakdown from the writ deputy.</li> <li>One CWR receipt issued 16 business days after the 44-A field receipt.  <b>Response:</b> Processing was delayed pending receipt of the commission and costs which were billed to the plaintiff's attorney.</li> <li>One CWR receipt issued eight (8) business days after the 44-A field receipt.  <b>Response:</b> Per Chief Clerk, the bookkeeper was waiting on the correct commission calculation breakdown from the writ deputy.</li> </ul>
<b>Work paper Reference: (or other method by which finding was identified)</b>	<p>Work Paper No. 3A, 3B, 3D FY10, 3D FY11, 3D FY12, 3E, 3G.1, 3H  CWR User Sales Report and DC7 Receipts- Cancelled  Manual Receipts Form 44</p>
<b>Condition: (Describe the current condition)</b>	<p>Payments made direct to the constable include service requests outside Dallas County and papers stamped with "costs not complied with" by the court of issuance. Most payments are checks received via the U.S. Postal Service. Parties to a suit occasionally remit the wrong service fee amount.</p> <p>In May 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</p>



	<p>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/void receipt on the CWR system, a prompt <u>inconsistently</u> 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. There is one county wide numeric receipt sequence.</p> <p>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.</p> <p>Manual receipts are only used when the CWR system is down. Once CWR is functioning, the manual receipts are entered into the CWR system referencing the manual receipt number.</p> <p>Bookkeeper posts a memo entry of payments received on the Constable Civil System, daily, to correspond to CWR activity. Due to mainframe limitations, the disposed constable papers data is periodically purged and not viewable on the Constable Civil System.</p> <p>Once weekly each Thursday, funds (cash, coins, checks, cashier's checks, and money orders) on hand are confirmed as balancing to the CWR system control totals by the bookkeeper. As part of the balancing process, the bookkeeper accesses the CWR Class Overview Spreadsheet and Drawer Balance report. The CWR DC 98 report is generated to produce the deposit. The chief clerk verifies and signs off on the deposit. The deposit is sealed and stored in the safe pending courier pickup. The deposit is submitted to the County Treasurer through the courier.</p>
<p><b>Criteria:</b> <b>(Describe the optimal condition)</b></p>	<p>Best practices regarding receipt control procedures require that:</p> <ul style="list-style-type: none"> <li>• Statutorily required (out-of-county papers) pre-payments which are received for less than the service fee due are not receipted. The requesting party should be contacted by the bookkeeper or chief clerk via phone, email, or fax to submit the balance due. If the balance due is not received, the payment and corresponding process should be returned via the U.S. Postal Service without service performed.</li> <li>• All receipts are accounted for and properly used in order to affix responsibility, enhance cash control, and prevent potential assertion that monies were paid with a refund due as well as to "separation of duties for opening mail and receipting".</li> <li>• Receipted funds should be deposited properly and timely in accordance with V.T.C.A., L.G.C., § 113.022.</li> <li>• Receipts should not be altered, but properly voided and affixed with a reason for the void with retention of all voided copies.</li> <li>• The chief clerk should periodically review the exception reports (especially with respect to receipt deletions, lowered amounts, and payment type changes) to ensure that the explanation for the deletions is documented and reasonable.</li> <li>• Receipts are printed from the CWR system when a self-addressed stamped envelope is sent by the payer.</li> </ul> <p>Accounting and system control procedures require daily reconciliation and balancing of collected funds to support documents and separation of duties to affix responsibility for processing. Staff should be properly trained on balancing processes and closeout procedures.</p>



	As part of compensating controls, a second person verifies and signs off on the deposit along with the bookkeeper.				
<b>Cause:</b> (Describe the cause of the condition if possible)	Clerical error and oversight. Recommended accounting and system control procedures for receipts not followed.				
<b>Effect:</b> (Describe or quantify any adverse effects)	Decreased internal control over receipts and deposits. Inherent risks for delayed deposits include non-recovery of funds, checks or cash could be lost or stolen before being receipted.				
<b>Recommendation:</b> (Describe corrective action)	Receipt and deposit control procedures should include: <ul style="list-style-type: none"> <li>• 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.</li> <li>• Monitoring and reporting anomalies including entry of reason codes for voided receipts in the CWR system.</li> <li>• All copies of a void receipt should be retained, clearly marked "void" and affixed with reason for void in order to affix responsibility, enhance cash control and prevent potential assertion that monies were paid and refund due.</li> <li>• At the end of each business day, receipts should be totaled and compared to the funds on hand and CWR system control totals. Corrections should be made such that both good internal control and audit trails are maintained. 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.</li> </ul>				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough, Chief Clerk	<b>Date:</b> 7/19/2013 & 8/2/2013
<b>Comments:</b>	In reference to "Criteria:" <ul style="list-style-type: none"> <li>• Bullet 1 – Due to some documents are time sensitive, it would be poor customer service to return documents pending additional fees. Statute indicates it is at the discretion of the receiving / serving agency, but does not indicate it mandatory.</li> </ul> <p>Based on the wording of Rule 126 and the use of the word "compelled", it is interpreted that a requesting agency cannot demand a paper be served without payment. However, it does not specify that an agency MUST collect payment for the service. It is our department's policy to collect the appropriate fees on all civil process documents. In the event a document is received with partial payment, the paper is processed, but execution of the document is not completed until full payment is received. The recommended best practices for this are sometimes in conflict with the best practice of our departments customer service practices.</p> <ul style="list-style-type: none"> <li>• Bullet 2 – Job classifications and staffing are not afforded to the Constables Offices to allow for separation of duties. With the staffing we have, we have separated the duties the best way possible given the job classifications are inconsistent with the duties assigned.</li> </ul> <p>Internal steps are being taken to assure Receipting and Depositing procedures are as follows:</p> <ul style="list-style-type: none"> <li>• CWR System allows for additional reports (DC28, DC24, DC8, &amp; DC6) which will be used weekly following the deposit to assure CWR and CCS entries are accurate as</li> </ul>				



	<p>well as Deposits for the Special Fund 582 accounts.</p> <ul style="list-style-type: none"><li>• It is office policy to provide a reason on ALL voided receipts and with the prompting in the CWR system, this should no longer be a problem.</li></ul>			
<b>Disposition:</b>	<table border="1"><tr><td data-bbox="456 426 792 459"><input checked="" type="checkbox"/> Audit Report</td><td data-bbox="792 426 1084 459"><input type="checkbox"/> Oral Comment</td><td data-bbox="1084 426 1481 459"><input type="checkbox"/> Deleted From Consideration</td></tr></table>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration
<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		





**Finding Number:** 12.C3.01.01b  
**Date:** 2/11/2013  
**Audit:** Constable Precinct 3 FY10 - FY12 (9/30/2012)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<b>Form 44-A Field Receipts</b> Review of 213 manual Form 44-A field receipts, including 10 voided receipts, written by deputies in the field and associated office receipts revealed: <ul style="list-style-type: none"> <li>One missing 44-A receipt book (receipt sequence 17501-17525) not located by the chief deputy, chief clerk or writ deputy.  <b>Response:</b> Per the chief clerk, previous writ deputy no longer works for the department.</li> <li>Six voided receipts without retention of the white (original) and pink (triplicate) copies including five without an explanation for void.  <b>Status:</b> Five receipts replaced for the same payment type and a higher or the same amount. One receipt replaced for a lower amount totaling \$82.72 since U.S. postage stamps were included on the original receipt.</li> <li>One voided receipt without retention of the pink (triplicate) copy and without an explanation for void.  <b>Status:</b> Replaced for the same payment type and a higher amount.</li> </ul>
<b>Work paper Reference:</b> <b>(or other method by which finding was identified)</b>	Work Paper No 3A, 3B, 3G.1 Manual Receipts Form 44-A
<b>Condition: (Describe the current condition)</b>	<p>Writ deputies collect funds in the field using form 44-A receipts for writs of execution, orders of sale, and tax warrants. In some instances, the defendant will pay the judgment amount to avoid a sale of property by the writ deputy.</p> <p>When payments are received, the writ deputy will prepare a three-part manual receipt noting the payment method, certified/cashier's 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 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 triplicate (pink) receipt copy to the payer. The original receipt copy and funds received will be turned over to the bookkeeper when the deputy returns to the office. A triplicate office receipt will be received from bookkeeper and attached to the second (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, and prepares weekly deposits and submits to the County Treasurer.</p> <p>With the implementation of County-Wide Receipting (CWR), computer receipts are printed and attached to the form 44-A receipt. A second copy of the computer receipt is printed and attached to the pink copy of the form 44-A receipt and kept by the bookkeeper in a folder for pending special fund disbursements.</p>
<b>Criteria:</b> <b>(Describe the optimal condition)</b>	Best practices for accounting controls require that: <ul style="list-style-type: none"> <li>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</li> </ul>



	<p>secured, and deposited in accordance with V.T.C.A., Local Government Code § 113.022 and procedures recommended by the County Auditor.</p> <ul style="list-style-type: none"> <li>Receipts should not be altered, but properly voided and affixed with a reason for the void, with retention of all voided copies.</li> </ul> <p>All receipts should be accounted for (properly used and kept in numerical order) and be posted and deposited properly and timely. The original office 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 attached to the second copy of the office receipt which is retained in numeric sequence.</p> <p>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.</p>				
<b>Cause:</b> (Describe the cause of the condition if possible)	Deputy oversight Instances of recommended accounting procedures for receipts not followed.				
<b>Effect:</b> (Describe or quantify any adverse effects)	Decreased internal control over funds collected.				
<b>Recommendation:</b> (Describe corrective action)	<ol style="list-style-type: none"> <li>Update documented procedures</li> <li>Implement procedures to sign-out and monitor use of form 44-A receipt books</li> </ol>				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Chief McKnight	<b>Date:</b> 7/19/13
<b>Comments:</b>	No comment				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



**Finding Number:** 12.C1.01.02  
**Date:** 2/11/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<b>Assessments</b> Review of 121 office receipts (20 office receipts for each half of fiscal year under review) to determine that service fee amount collected was in compliance with state laws and Commissioners Court orders and the payment was properly recorded to the Constable Civil System (CCS) revealed: <ul style="list-style-type: none"> <li>• One instance where an incorrect fee amount earned and collected was posted to the CCS.</li> <li>• One capias service fee amount on a family case was assessed/collected/receipted for \$70. (Fee amount should have been \$130)</li> <li>• Four cases where the amount collected was not posted to the CCS.</li> <li>• One instance where an incorrect fee amount collected was posted to the CCS.</li> <li>• Eight instances where a different paper type was receipted than entered to CCS.</li> </ul>
<b>Work paper Reference: (or other method by which finding was identified)</b>	Work Paper No 3F FY10, 3F FY11, 3F FY12 Responses to Papery Type and Service Fee Confirmation R03423 List of Disposed Papers
<b>Condition: (Describe the current condition)</b>	<p>In accordance with Local Government Code, § 118.131, service fee rates are established and approved by Commissioners Court prior to October 1<sup>st</sup> of each year to be effective on January 1<sup>st</sup>. Parties wishing to secure service by the constable precinct may refer to the Commissioners Court order approved annually in September, contact the constable precinct by phone, or locate the listing published by the State Comptroller.</p> <p>Payments made direct 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>
<b>Criteria: (Describe the optimal condition)</b>	<p>Best practices for accounting controls require that:</p> <ul style="list-style-type: none"> <li>• Procedures are established for supervisory review of fee assessments and receipts.</li> <li>• 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.</li> </ul> <p>Rules of Civil Procedure, <b>RULE 126. FEE FOR EXECUTION OF PROCESS, DEMAND.</b> 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</p>



	<p>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>Rules of Civil Procedure, <b>RULE 107. RETURN OF SERVICE</b> (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, <b>RULE 129. HOW COSTS COLLECTED.</b> 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, <b>RULE 130. OFFICER TO LEVY.</b> 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, <b>Sec. 157.103. CAPIAS FEES.</b>          (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>					
<b>Cause:</b> (Describe the cause of the condition if possible)	Clerical error and oversight					
<b>Effect:</b> (Describe or quantify any adverse effects)	Instances of CCS not accurately reflecting paper service categories or amounts paid. Under collection of revenue					
<b>Recommendation:</b> (Describe corrective action)	Proper assessment procedures should include: <ul style="list-style-type: none"> <li>• Service fees should be properly assessed (based on the issuance date or date received by the precinct if unreasonable delay in receiving), collected and timely deposited based on state laws, Commissioner Court orders, etc.</li> <li>• The fee amount earned should be 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.).</li> <li>• Service should <b>not</b> be provided without collection of the fee in advance unless otherwise required by the Rules of Civil Procedure or state laws.</li> </ul>					
<b>Responsible Department or Organization:</b>	Constable Precinct 3					
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough, Chief Clerk	<b>Date:</b>	7/19/2013 & 8/2/2013
<b>Comments:</b>	The document received is titled as a "CAPIAS". Per further review of the document at the time, since it was a Civil document, it was interpreted as a BENCH WARRANT. There is nothing on this document to indicate it was a Writ of any type. Due to the 2010 Dallas County Fee schedule does not specify the cost of a Bench Warrant, the payment of the \$70 which was received with the document was accepted.					



<b>Disposition:</b>	<input checked="checked" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration



**Finding Number:** 12.C3.01.03  
**Date:** 2/20/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<b>Special Fund</b> Review and reconciliation of the special fund activity including 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: <ul style="list-style-type: none"> <li>One special fund disbursement for an amount exceeding the specific available case balance by a total of \$5,334.91 due to a receipt/deposit error on the split for constable fees and special fund collections.</li> </ul> <b>Status:</b> Corrected. Monies were disbursed from constable fees to correct the deposit error. <ul style="list-style-type: none"> <li>One special fund disbursement for \$0.20 less than the amount receipted.</li> <li>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 \$3,471.49 net (including stale dated items).</li> </ul>
<b>Work paper Reference:</b> <b>(or other method by which finding was identified)</b>	Work Paper No 4A FY2010_FY2012, 4B FY2010_FY2012, 4C FY2010_FY2012, 4E
<b>Condition:</b> <b>(Describe the current condition)</b>	<p>The chief clerk maintains an electronic ledger of the special fund activity manually inputting values and balances due to a lack of accounting and reporting within the Constable Civil System. The chief clerk records receipt numbers, dates, and amounts deposited into the special fund bank account.</p> <p>Special fund checks are issue to disburse judgment funds and/or to refund overpayment of service fees.</p> <p>After review of the special fund ledger, the chief clerk will determine which amounts can be disbursed depending on when the funds were deposited (typically seven days after deposit). The chief clerk 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 by the chief clerk or bookkeeper (depending on availability with the approval reviewed by the Chief Clerk, Bookkeeper, and Chief Deputy), the checks are printed in the County Treasurer's office via Document Express and mailed as addressed. The chief clerk updates the disbursement information to the ledger sheets and records a memo entry on the Constable Civil System.</p> <p>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 chief clerk. No standard procedures established to conduct annual review of fund balances and resolve as appropriate.</p>
<b>Criteria:</b> <b>(Describe the optimal condition)</b>	<p>According to recommended best practice:</p> <ul style="list-style-type: none"> <li>To safeguard funds and improve reporting accuracy, departmental subsidiary ledgers should be periodically reconciled and compared to Oracle GL. Assigned cash handling duties are separated.</li> <li>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.</li> </ul>



	<ul style="list-style-type: none"> <li>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.</li> <li>To provide constituent service, funds should be disbursed in a timely manner to the appropriate parties.</li> </ul>				
<b>Cause:</b> (Describe the cause of the condition if possible)	Clerical error. Lack of secondary verification.				
<b>Effect:</b> (Describe or quantify any adverse effects)	<ul style="list-style-type: none"> <li>Special fund ledger variances (subsidiary and general ledger)</li> <li>Dormant unclaimed funds are not escheated. Penalties from the State for not following escheat statutes may be assessed if not corrected.</li> </ul>				
<b>Recommendation:</b> (Describe corrective action)	<p>Proper special fund procedures should include:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Verification of the availability of money in the special fund for a particular individual or case prior to the initiation of a special fund check.</li> <li>The special fund control ledger should be periodically reviewed and reconciled to the Oracle general ledger by supervisory personnel to ensure that all special fund deposits and disbursements are properly posted.</li> <li>Unclaimed property statutes in V.T.C.A., Property Code Chapter 72 and 76 should be 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.</li> <li>Proper segregation of responsibilities do not allow for the same employee to receipt payments, prepare deposits, prepare disbursements, and sign/authorize special fund disbursements. While our review did <u>not</u> identify improper disbursements, approving preliminary check files should be limited to supervisory staff not responsible for preparing the initial special fund disbursement file.</li> </ul>				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough, Chief Clerk	<b>Date:</b> 7/19/2013
<b>Comments:</b>	<ul style="list-style-type: none"> <li>GL Special Fund balance is always reviewed prior to issuance of Special Fund checks.</li> <li>Issuance of Special Funds disbursements are always reviewed by a Secondary source (Chief Deputy and/or Bookkeeper). Staffing and Job Classification of Clerk staff does not allow for complete segregation of responsibilities.</li> <li>Old / Dormant funds cannot be addressed as these funds were collected prior to the current administration and this department does not have access to the case information.</li> </ul>				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



**Finding Number:** 12.C3.01.04  
**Date:** 2/19/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<b>Civil Papers</b> Comparison of 21 civil paper returns and the associated County Clerk and District Clerk Odyssey records and 30 civil paper returns and the related Justice of the Peace mainframe records for proper credit and review of R02973 revealed: <ul style="list-style-type: none"> <li>• Two civil papers transferred to another precinct with monetary credit given to Precinct 3</li> <li>• Two civil papers transferred from Sheriff to Precinct 3 with monetary credit given to Sheriff</li> <li>• Three civil papers served by Precinct 3 with monetary credit recorded to other precincts</li> </ul>
<b>Work paper Reference:</b> (or other method by which finding was identified)	Work Paper No. 5A, 5B
<b>Condition:</b> (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 the pre-payment for service include:</p> <ul style="list-style-type: none"> <li>• Parties that have been approved by the court as indigent. The clerk issuing the process would endorse thereon the words "pauper oath filed".</li> <li>• Papers (citations, notices, capiases, etc.) for IV-D cases requested by the Attorney General.</li> <li>• Cases filed by governmental entities which are exempted from security of filing and service fees.</li> <li>• Protective orders and garnishments. Returns on garnishments are not sent to the court of original issuance by the precinct until payment is received.</li> <li>• Attorneys may 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 these civil papers 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 for service to be completed and paper returned to court.</li> </ul> <p>After paper service, constable staff returns papers to the issuing court (justice court, county clerk or district clerk) thus enabling the clerk to properly recognize revenue if agency serving is different than agency issued to. 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 3 staff requested access (Inquiry Only) to Odyssey Civil Courts System financial tabs in order to review the civil return lists to see if proper credit has been given for papers served.</p>
<b>Criteria:</b> (Describe the optimal condition)	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.  <b>Per V.T.C.A., L.G.C., § 86.021. GENERAL POWERS AND DUTIES. (a) A constable</b>





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 officer. Notices required by Section 24.005, Property Code, relating to eviction actions are process for purposes of this section that may be executed by a constable.

(b) A constable may execute any civil or criminal process throughout the county in which the constable's precinct is located and in other locations as provided by the Code of Criminal Procedure or by any other law.

(c) A constable expressly authorized by statute to perform an act or service, including the service of civil or criminal process, citation, notice, warrant, subpoena, or writ, may perform the act or service anywhere in the county in which the constable's precinct is located.

(d) Regardless of the Texas Rules of Civil Procedure, all civil process may be served by a constable in the constable's county or in a county contiguous to the constable's county, except that a constable who is a party to or interested in the outcome of a suit may not serve any process related to the suit. All civil process served by a constable at any time or place is presumed to be served in the constable's official capacity if under the law the constable may serve that process in the constable's official capacity. A constable may not under any circumstances retain a fee paid for serving civil process in the constable's official capacity other than the constable's regular salary or compensation. Any fee paid to a constable for serving civil process in the constable's official capacity shall be deposited with the county treasurer of the constable's county.

(e) The constable shall attend each justice court held in the precinct.

**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.

(b) If the officer collects money under this section, the officer shall deposit the money in accordance with Section 113.022.

(c) When the officer reports or deposits the collection, the officer shall file with the report or deposit a statement of:

- (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.

(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.

(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.

**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.

**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.

Cause:

Clerical error by court clerks



<b>(Describe the cause of the condition if possible)</b>	Monetary transfers not completed				
<b>Effect: (Describe or quantify any adverse effects)</b>	Fees credited to the wrong law enforcement agency				
<b>Recommendation: (Describe corrective action)</b>	The department should affirm proper deposit/credit: <ul style="list-style-type: none"> <li>• Submit revenue transfer forms/memos to Financial Audit when payments are receipted by Precinct No. 3, but papers are transferred to other agencies for service.</li> <li>• Examine computerized court records associated with papers served or attempted by referencing civil return lists to verify that the fees are properly credited to Precinct No. 3.</li> <li>• Notify appropriate department to make any necessary corrections.</li> </ul>				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough, Chief Clerk	<b>Date:</b> 7/19/2013
<b>Comments:</b>	No comments				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



**Finding Number:** 12.C3.01.05  
**Date:** 2/15/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	Review of Attorney General (AG) IV-D monthly billings for the months of March 2011 and July 2012 revealed: <ul style="list-style-type: none"> <li>• One notice totaling \$49.50 net not billed to the AG</li> <li>• Six instances where the amount collected or payment information was not entered on the Constable Civil System (CCS).</li> </ul>
<b>Work paper Reference:</b> (or other method by which finding was identified)	Work Paper No. 5C Attorney General IV-D billings
<b>Condition:</b> (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. When payment is received, the payment information is entered in the system case file.</p> <p>Notification of service fee amounts (effective January 1<sup>st</sup> of each year) is posted by the Commissioners Court Clerk available for inquiry by all constable precincts, sheriff, justice court precincts, and County Clerk and District Clerk offices.</p>
<b>Criteria:</b> (Describe the optimal condition)	According to the recommended best practice: <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>
<b>Cause:</b> (Describe the cause of the condition if possible)	Clerical error
<b>Effect:</b> (Describe or quantify any adverse effects)	Revenue loss
<b>Recommendation:</b> (Describe corrective action)	Attorney General billing procedures should include: <ul style="list-style-type: none"> <li>• Communicate changes in service fees to staff.</li> <li>• Assess, bill, and collect service fees on all cases based on State laws, Commissioners Court orders, etc. and guidelines provide by the AG.</li> <li>• Review of assessments and monthly IV-D billings by supervisory staff to monitor adherence to established procedures.</li> </ul>



	Billing adjustments should be submitted for items not billed and/or billed in error.				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough, Chief Clerk	<b>Date:</b> 7/19/2013
<b>Comments:</b>	No comment				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration	



**Finding Number:** 12.C3.01.07  
**Date:** 02/15/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<p><b>Collections on Writs of Execution and Orders of Sale</b></p> <p>Review of commission calculations on 32 writ collections for compliance with Commissioners Court approved rates revealed:</p> <ul style="list-style-type: none"> <li>Two commission calculation errors resulting in under-collection of commission totaling \$2,299.80 (deputy used wrong execution worksheet and/or formula to compute constable commission).</li> <li>Two cases in which the full judgment amount was used to calculate commission when only a partial collection was received. Commission was over collected by \$1,338.12.</li> </ul> <p><b>Response:</b> Per writ deputy, when a partial payment is made, it is the Constable's policy to collect the full commission amount based on the total judgment amount.</p> <ul style="list-style-type: none"> <li>\$20 posting fee assessed for each notice of sale that is posted (at various locations) including certified mail fees for sending notifications to interested parties (property owners and prospective buyers) of upcoming sale when a personal or real property sale is conducted to satisfy a judgment.</li> <li>\$20.50 deed preparation fee assessed/collected by writ officer absent authorizing Commissioners Court order or statute.</li> </ul>
<b>Work paper Reference:</b> (or other method by which finding was identified)	Work Paper No. 5E FY10_FY12 and conversation with writ deputy
<b>Condition:</b> (Describe the current condition)	<p>Writs of execution and orders of sale are routed by constable clerical staff to the writ officers for service. 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. Generally, a demand letter is sent to the 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. 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.</p> <p>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 including assessment of the certified mail fee. 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. 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 writ officer accepts valid bids from anyone present and records each bid by bidder on bid</p>



	<p>data sheets for each item being sold. The successful bidder is required to pay by cash, cashiers check, and/or money order. Storage facility fees must be paid by the successful bidder to the warehouseman in order for items to be released. The writ officer issues a receipt of payment to the successful bidder for the full bid amount. 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><b>Criteria:</b> (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.</p> <p>According to Dallas County court orders 2009-1802, 2010-1626, and 2011-1662, "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>
<p><b>Cause:</b> (Describe the cause of the condition if possible)</p>	<p>Writ deputy calculations errors.</p>
<p><b>Effect:</b> (Describe or quantify any adverse effects)</p>	<p>Potential liability to County if bidders are required to pay more than required by law. Loss of County revenue.</p>
<p><b>Recommendation:</b> (Describe corrective action)</p>	<ul style="list-style-type: none"> <li>• The commission calculation should include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. Commission should <u>not</u> be taken on the full amount when only a partial collection occurs.</li> <li>• Commission calculations should be verified / reviewed by another person (chief deputy or chief clerk).</li> <li>• Staff should be advised of service fee/commission changes. Commissioner Court orders for service/commissions should be posted for reference.</li> <li>• Deputies should review of all execution worksheets prior to beginning of year to verify correct formula in use.</li> <li>• 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.</li> </ul>



	<ul style="list-style-type: none"> <li>Deed preparation fees should be authorized through Commissioners Court order.</li> </ul> <p>Excess commission collections should be distributed as appropriate.</p> <p>Erroneous disbursements/refunds should be recovered or a funding source identified.</p>				
<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Chief McKnight & Terrie Yarbrough, Chief Clerk	<b>Date:</b> 7/19/2013 & 8/2/2013
<b>Comments:</b>	<p>Referencing "RECOMMENDATION":</p> <p>Bullet #5: In Real Estate sales, notices must, by statute, be posted:</p> <ul style="list-style-type: none"> <li>a) At the courthouse,</li> <li>b) Sent by certified mail to the defendant,</li> <li>c) Published in the DCR</li> </ul> <p>Commissioners Court orders are unclear as to this matter.</p> <p>Bullet #6: We do not file any deed. That is incumbent upon the Purchaser. We <u>cannot</u>, by statute, send the deed to the Purchaser unless and until they provide this department with a certified copy of a no tax liability form issued by Dallas County. At times, Purchasers do not have one of these forms on hand when the sale is transacted; therefore, we must wait until one is received. We <u>do not</u> collect deed filing fees. The deed fee is for the preparation of the deed.</p> <p>Although, the preparation of the deed is required, there seems to have been a misinterpretation from the previous Writ Officer as to the fee. We will discontinue this service fee.</p>				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



**Finding Number:** 12.C3.01.08  
**Date:** 02/15/2013  
**Audit:** Constable Precinct 3 FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	Review of warrant/capias procedures revealed: <ul style="list-style-type: none"> <li>• Warrants are entered on a daily basis as received.</li> <li>• Approximately 36,547 active warrants are assigned to Precinct 3 as of December 31, 2012.</li> <li>• Constable Civil System (CSS) lacks true aging.</li> <li>• Unsuccessful service attempts are manually tracked on the warrant and not recorded the CSS</li> <li>• Warrants are no longer placed on regional after deputies attempt service per instruction of the Dallas County Sheriff's Department.</li> </ul>
<b>Work paper Reference:</b> (or other method by which finding was identified)	Work Paper NO. 5G and conversation with Chief Clerk Review of warrant/capias workflow process Review of civil and criminal paper statistical activity from CSS
<b>Condition:</b> (Describe the current condition)	<p>Warrants and capias are received from the Justice of the Peace Courts and other agencies in and outside of Dallas County. 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 and assigned to a Warrant Deputy. Warrants are worked by one of four deputies.</p> <p>As the warrants are entered, 1<sup>st</sup> attempt to contact defendants are made by sending a post card to the last known address or address listed on the warrant. After the initial post card and Deputy's review/attempt result in unable to locate the defendant, the warrant is filed, but reviewed monthly until all leads are exhausted. Although warrants can be returned after two years, warrants are reviewed prior to returning to the court.</p> <p>Warrants are researched by both deputies and warrant clerks with post cards and phone calls. In most cases, post cards are sent prior to attempts to physically serve warrants. Attempts of physical service/execution of the warrant are made when phone calls and post cards are unsuccessful. Depending on the available information, a minimum of 3 attempts are made to serve the warrant prior to filing it or returning to court. Un-served warrants are <u>no</u> longer entered on the regional warrant system. The warrant clerks 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>When defendants with class C misdemeanors are located, the defendant is taken before the court or to jail. For a capias, the subject is transported straight to jail. For all 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 3 court (JP3-1, JP3-2, JP2-1 and JP2-2) recalls a warrant/capias, the recall prints out in the constable's office on a designated printer. The warrant clerk should 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. However, the warrant clerk reviews why the warrant was recalled and if recalled due to actions taken by the constable, the disposition type will be entered as a 'S' (Served) in the Constable Civil System and the warrant is returned 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 to assure all documents have been addressed and all paper warrants are returned timely from the time the warrants are disposed in the Constable Civil System. The recalls are totaled up and a count is kept with the printout</p>





	<p>and the recalls.</p> <p>If warrants are returned to the court due to over two years old and/or all available information has been exhausted, the disposition type will be entered as 'U' (unserved).</p> <p>Sources used to locate defendants are: AIS, FORVUS, OMNIX, Internet, and limited online data sources such as Accurant and/or TLO (Non-paid subscription). Online data sources are highly used by other law enforcement departments, but are not authorized in the Constable's budgets.</p>
<b>Criteria:</b> <b>(Describe the optimal condition)</b>	<p>According to <b>Local Government Code § 86.021(a)</b>, 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 officer.</p> <p>According to <b>Local Government Code § 86.024(a)</b>, 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 <b>Code of Criminal Procedure § 23.01</b> 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 <b>Code of Criminal Procedure § 23.18, RETURN OF CAPIAS</b>, 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>According to <b>Code of Criminal Procedure § 12.08, MISDEMEANOR</b>, a complaint or information for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward. The justice court will not issue a warrant without the complaint of file. Therefore, expiration dates should not apply to active warrants.</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>
<b>Cause:</b> <b>(Describe the cause of the condition if possible)</b>	N/A
<b>Effect:</b> <b>(Describe or quantify any adverse effects)</b>	Inability to systemically track service attempts.
<b>Recommendation:</b> <b>(Describe corrective action)</b>	<p>Continue established warrant procedures. Processes should include:</p> <ul style="list-style-type: none"> <li>• Warrants are clocked in as received and assigned an office number.</li> <li>• Clerical staff key required information into the Constable civil system, accurately and timely.</li> <li>• Warrants are appropriately assigned to deputy constables for working.</li> <li>• Warrants recalled by courts are properly and timely recalled through the Constable Civil System and Regional system.</li> <li>• Service attempts and disposition codes are properly entered on the Constable Civil System.</li> <li>• Defendants arrested on a capias are brought before court in accordance with CCP § 23.01.</li> <li>• Warrants remain active until served or recalled by the court.</li> </ul>



<b>Responsible Department or Organization:</b>	Constable Precinct 3				
<b>Management's Response:</b>	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<b>Respondent:</b>	Terrie Yarbrough	<b>Date:</b> 7/19/2013
<b>Comments:</b>	Limited access to information systems prevent improved service on warrants. Online data sources used by other Law Agencies as well as the Sheriff's department are valuable. Funding has not been provided to the Constables for this tool since prior to 2011. Currently warrants issued by Justice of the Peace Courts in Dallas County are JP3-1, JP2-1, and JP 2-2. Warrants from JP3-2/JP3-3 have not been received in over two years.				
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration



**Finding Number:** 12.C3.01.09  
**Date:** 02/18/2013  
**Audit:** Constable Precinct 3 Audit FY10 – FY12 (9/30/12)  
**Auditor(s) Assigned:** SM

<b>Finding:</b>	<p>Observation of office schedules and review of attendance records and Kronos time and attendance system postings beginning January 1, 2012 through December 31, 2012 revealed:</p> <ul style="list-style-type: none"> <li>One employee charged 2.5 vacation hours in excess of regular scheduled work hours.</li> </ul>
<b>Work paper Reference:</b> (or other method by which finding was identified)	<p>Work Paper NO. 7B, 7E, 7G          COMP Time Review          GPS Tracking Network reports</p>
<b>Condition:</b> (Describe the current condition)	<p>Clerks record their time through Kronos Web Time Stamp. Deputy constables time is recorded in advance by the chief clerk to the Kronos time and attendance system. Clerks do not consistently submit a leave request to the chief clerk, but may verbally ask or email when time off is needed. Deputies give their leave request to the chief duty or lieutenant. Supervisors approve and give employee leave requests to the chief clerk to update. Time entered is based on scheduled hours and time is changed to reflect benefits taken or extra hours worked as reported and approved by management. Time and attendance is signed off by the chief deputy or 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>
<b>Criteria:</b> (Describe the optimal condition)	<p>According to Dallas County Code, <b>Section 82-132, Work schedules</b>, "Exempt employees shall report all hours worked and adhere to an established work schedule approved by the elected official/department head. Exempt employees' work schedules shall average a minimum of 40 hours per week, including use of accrued leave time. All time worked shall be recorded in the official time and attendance system."</p> <p>According to Dallas County Code, <b>Section 82-175, Supervisory responsibilities</b>, (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 county overtime policies...."</p> <p>According to Dallas County Code, <b>Section 82-32, Work Hours Scheduling</b>, (a) <i>Work Schedule</i>. "Each supervisor must approve and establish an authorized work schedule for each employee within the time-keeping system. All employees' work hours, exempt and non-exempt, will reflect their established work schedule....." (f) <i>Hours worked less than 40</i>. Any nonexempt employee who does not work a full 40 hour workweek will have his compensation reduced by the value of the hours not worked or will charge such time not worked to accrued leave or compensatory time, holiday pay, vacation or sick leave, or any combination of such leave. (g) <i>Other</i>. "Each elected official/department head is responsible for ensuring that all reporting of time worked, accrual and use of leave, complies with county policies."</p> <p>According to Dallas County Code, <b>Section 82-172, Nonexempt employee responsibilities</b>, (a) the county requires that every employee work 40 hours every week.....</p>
<b>Cause:</b> (Describe the cause of the condition if possible)	<p>Kronos posting errors</p>



<b>Effect:</b> (Describe or quantify any adverse effects)	Official time and attendance records misstated. Actual times may vary from scheduled hours.		
<b>Recommendation:</b> (Describe corrective action)	<ul style="list-style-type: none"> <li>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.</li> <li>Consistent timely supervisory review of Kronos postings should be reflected to promote accuracy of time keeping, available leave balances and reduce need for historical edits.</li> </ul>		
<b>Responsible Department or Organization:</b>	Constable Precinct 3		
<b>Management's Response:</b>	<input type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<b>Respondent:</b> Terrie Yarbrough
<b>Comments:</b>	<b>Date:</b> 7/19/2013		
<b>Disposition:</b>	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration