



DALLAS COUNTY COUNTY AUDITOR

Memorandum

To: Honorable Roy Williams
Constable Precinct No. 4

From: Virginia Porter
County Auditor

A handwritten signature in cursive script, appearing to read "Virginia Porter", is written over the printed name.

Subject: Review of Statutory Reporting and Compliance from October 2009 thru November 30, 2010

Date: Issued: March 7, 2011
Released: April 21, 2011

SCOPE

A review was performed on the records and report of Constable Precinct No. 4 for the period October 2009 through November 30, 2010 during which the **Honorable Constable R.L. Skinner 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:

- Performed unannounced cash count
- Accounted for numerical sequence of manual receipts
- Traced amounts recorded on the receipts to the bank deposits
- 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 Justice of the Peace
- Reviewed Texas Attorney General IV-D billings
- Examined the Evidence/Property Room procedures and log sheets
- Reviewed warrant processes and outstanding warrant reports

Statistical

Fiscal Year 2010:

- 15,382 civil papers served per Constable Civil System
- 1,817 writs and orders of sale served per Constable Civil System
- 26,087 criminal papers served per Constable Civil System
- \$1,611,294 constable fee revenue collected all sources
- \$1,799 constable commission collected

FINDINGS

Cash Management

Receipting/Depositing – 18% of sampled office receipts were issued 3 to 5 business days after the form 44A field receipts were written.

Special Fund Activity – two special fund receipts totaling \$1,000 were incorrectly deposited into constable fees. (**Status:** Corrected.)

Old balances totaling \$3,742 (prior to June 30, 2006) have not been researched for disbursing to the applicable parties and/or escheated to the County Treasurer or State Comptroller.

Abandoned Vehicle Fees – auction sales receipts are released to auctioneers before the precinct receives payment for 2% of vehicle auction proceeds. Instances noted where the \$10 fee per reported abandoned vehicle is received two to three weeks after the vehicle list is submitted to the constable precinct. Other delays in receiving payment of fees and auction proceeds were noted.

Processing

Warrants/Civil Paper Service – Monetary credit for civil paper service is inconsistently reflected on the Justice of the Peace Accounting System and the Odyssey Civil Courts System due to posting by other offices.

Over 49,000 (approximately 57.7% outstanding over 1 year) warrants and 950 civil papers were unserved as of November 30, 2010. 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 placed on regional and sent to the Sheriff when insufficient information is available to locate the defendant or out-of-county service is required. There is no defined time frame for unsuccessful service attempts before other warrants are placed on regional.

Time and Attendance – Web-timestamp functionality is not used. Time for clerks and deputies is recorded in advance to the Kronos Time and Attendance System based on scheduled hours that equate to an eight hour work day: time is subsequently changed by the chief clerk reflecting benefits taken or extra hours worked as reported and affirming management approval toward those extra hours. Kronos 'approval by manager' is not consistently denoted.

RECOMMENDATIONS

Cash Management

Receipting/Depositing – continue to monitor receipt control procedures and re-emphasize that all monies received should be promptly receipted and deposited in accordance with V.T.C.A., Local Government Code § 113.022 and procedures recommended by the County Auditor.

Special Fund Activity – continue to maintain a special fund control ledger accounting for all special fund receipts, disbursements and case balances. The special fund ledger should be periodically reviewed by supervisory personnel. Cash handling duties should be separated. Unclaimed property statutes in V.T.C.A., Property Code Chapter 72 and 76 should be followed.

Abandoned Vehicle Fees – 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.

Processing

Warrants/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 before warrants are placed on regional.

Time and Attendance – Consider implementation of web-timestamp capture of non-exempt start and end times and ensure Kronos appropriately approved for each pay period.

Current Findings/Observations/Recommendations

Detailed finding templates numbered 10.C4.01.01 through 10.C4.01.03, and 10.C4.01.05 through 10.C4.01.07 are attached. Response 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.

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.

cc. Commissioners Court
Ryan Brown, OBE
Honorable Judge Martin Lowy, LADJ

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.01b
Date: 2/10/11
Audit: Constable Precinct 4 FY 10, 11(11/30/10)
Auditor(s) Assigned: JG

Finding:	Review of 28 form 44-A receipts including one voided receipt written by deputies in the field and associated office receipts revealed: <ul style="list-style-type: none"> Five office receipts were issued 3 to 5 business days after the form 44A field receipts were written.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 3A, 3F.1
Condition: (Describe the current condition)	<p>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.</p> <p>In some 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.</p> <p>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 of the voided receipt will be retained by the writ deputy. For all valid receipts, the writ deputy will sign the receipt and issue the original receipt to the payer. The second receipt copy and funds received will be turned over to the bookkeeper when the deputy returns to the office. An original office receipt will be received from bookkeeper and attached to the third 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 Countywide Receipting (CWR), computer receipts are printed and attached to the form 44-A receipt. Since computer receipts are printed on an 'as needed basis', the pink copy of the form 44-A receipt is no longer attached to computer receipt. The pink copy is given back to deputy and the deputy places it in the writ folder. A copy of the 44-A receipt is also kept by the bookkeeper in the special fund binder.</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.
Cause: (Describe the cause of the condition if possible)	Unknown



Effect: (Describe or quantify any adverse effects)	Inherent risks for delayed deposits include non-recovery of funds, checks or cash could be lost or stolen before being receipted.				
Recommendation: (Describe corrective action)	Proper receipt procedures for money received outside the office should include: <ul style="list-style-type: none"> • The deputy constable should immediately write a form 44-A (manual field) receipt for all funds received. The original receipt should be issued to the payer. • The form 44-A (manual field) receipt should clearly indicate the amount of payment, payment method, date, all relevant case information, and deputy name. • The deputy constable should immediately on return to the office provide collections and the second copy of the form 44-A (manual field) receipt to the bookkeeper. At which time, the bookkeeper should immediately issue an office receipt from the CWR system for the correct amount. All funds should be presented to the bookkeeper in the payment type received. If the bookkeeper is not present, money should be taken to the office and placed in a safe drop box accessible by the chief clerk and bookkeeper only. • The original office CWR receipt should be given to the deputy and attached to the receipt remaining in the form 44-A (manual field) receipt book. • The chief clerk should periodically scan the receipt books returned to verify adherence to the prescribed procedures with follow-up conducted for any anomalies. • Writ collections should be monitored for timely receipt and deposit. • All monies received 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. • Funds should be properly secured at all times. 				
Responsible Department or Organization:	Constable Precinct 4				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date: 4/14/2011
Comments:	All monies received daily are receipted and entered on the system. No monies received on a daily basis are being held.				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.02
Date: 2/10/11
Audit: Constable Precinct 4 FY 10, 11(11/30/2010)
Auditor(s) Assigned: JG

Finding:	<p>Review of all the special fund activity revealed:</p> <ul style="list-style-type: none"> Two special fund receipts totaling \$1,000 were incorrectly deposited into constable fees. Status: Corrected, transferred funds from constable fees to special fund. Old balances totaling \$3,742 (prior to June 30, 2006) have not been researched for disbursing to the applicable party and/or escheating to the County Treasurer or State Comptroller. Status: Paperwork and/or case numbers not available on these old balances to research. <p>Responses to the Internal Control Questionnaire indicate limited segregation of duties: the Chief Clerk prepares and approves the special fund disbursement.</p>
Work paper Reference: (or other method by which finding was identified)	<p>Work Paper No (4A-4C)-2010, 2011</p>
Condition: (Describe the current condition)	<p>Writ deputies collect funds in the field using form 44-A receipts for writs of execution, orders of sale, or tax warrants. 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 (to be deposited to the special fund) and commission including total paid, payer information, case style and number, and receipt date. Funds received will be turned over to the bookkeeper when the deputy returns to the office. The bookkeeper consistently records the payment information through the countywide receipt (CWR) system to the proper deposit codes with infrequent errors occurring. A CWR will be issued by the bookkeeper and attached to the third copy of the form 44-A (manual field) receipt which is given back to deputy. The deputy places the documentation in the writ folder. A copy of the 44-A receipt is also kept in the special fund binder for future disbursements.</p> <p>The chief clerk keeps an electronic ledger of the special fund activity manually inputting values and balances. The chief clerk records receipt numbers, dates, and corresponding funds that were deposited into the special fund bank account. After review and determination regarding funds in order to generate disbursements, 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, 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. The chief clerk keeps copies of the 44-A receipts in a binder for future reference. The constable office relies on the County Treasurer for bank reconciliations to Oracle GL, but does not affirm transactions on the special fund ledger.</p>
Criteria: (Describe the optimal condition)	<p>According to recommended best practice:</p> <ul style="list-style-type: none"> 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. 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. 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				
Effect: (Describe or quantify any adverse effects)	<ul style="list-style-type: none"> • Penalties from the State for not following escheat statutes may be assessed if not corrected. • Special fund ledger variances • Understated / overstated revenue and overpayment / underpayment to applicable parties 				
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 precinct should use formula functionality within Excel to improve tracking, accuracy, and efficiency. • The special fund control ledger should be periodically reviewed by supervisory personnel to insure that all special fund deposits and disbursements are properly posted. • 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. • 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. 				
Responsible Department or Organization:	Constable Precinct 4				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date: 4/14/2011
Comments:	We are working / researching the entries to resolve the matter.				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		

Jun 4-20-2011

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.03
Date: 2/11/11
Audit: Constable Precinct 4 FY 10, 11(11/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Comparison of 40 civil paper returns and the associated County Clerk and District Clerk Odyssey financial records and 30 civil paper returns and the various Justice of the Peace mainframe records for proper credit revealed:</p> <ul style="list-style-type: none"> Two civil papers returned executed with monetary credit recorded to a prepaid account by the District Clerk (5% of sample) Two civil papers served with monetary credit recorded to another precinct by the justice of the peace court (6.7% of sample) One civil paper served without collection of service fees by the constable or District Clerk (2.5% of sample) One civil paper served without collection of service fees by the constable or justice of the peace (3.33% of sample) Constable Civil System reflects service or attempted service and amount of fee earned
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 6A.1&2&3
Condition: (Describe the current condition)	<p>Constables receive 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. 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 indorse thereon the words "pauper oath filed". <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. Only papers issued by the Justice of the Peace courts are reviewed by constable staff. Constable staff without access to Odyssey Civil Courts System financial tabs 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.</p>
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.				
Effect: (Describe or quantify any adverse effects)	Fees credited to the wrong precinct or paper service not recognized as income offsetting constable expenditures. Potential revenue loss for Dallas County.				
Recommendation: (Describe corrective action)	<p>The department should:</p> <ul style="list-style-type: none"> • Request inquiry access to the Odyssey Civil Courts system for the appropriate staff • 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 4				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date: 4/14/2011
Comments:					
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.05
Date: 2/11/11
Audit: Constable Precinct 4 FY 10, 11(11/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Review of warrant/capias procedures revealed:</p> <ul style="list-style-type: none"> • Warrants are entered on a daily basis as received; no pending backlog • Constable Civil System lacks true aging • Unsuccessful service attempts are manually tracked on the warrant and not recorded to the Constable Civil System • Approximately, 56.67% of warrants have been outstanding for one year • Letters are mailed or phone calls made by clerical staff to defendants without previously existing Class C warrants
Work paper Reference: (or other method by which finding was identified)	Review of warrant/capias workflow process
Condition: (Describe the current condition)	<p>Warrants and capias are time stamped when received from the courts. Subsequently, the warrants and capias are stamped by clerical staff with an internal office number, article statement, and the Constable's name. Data from the warrants and capias are entered by the clerks to the Constable Civil System (CW50/WX50) with limited information transferred from the JP mainframe system. Then, the warrants and capias are alphabetized. Addresses are researched with Mapsco information added. The drivers' license numbers are cross referenced for correct identification with changes noted in red.</p> <p>Clerks in Grand Prairie separate the warrants into four defined city stacks and one undefined city stack. Clerks in Irving separate the warrants into three defined city or zip code stacks and one undefined city stack. Warrants in each stack are searched on CW50 and regional for other active warrants on the same defendant. If an active warrant exists, the new warrant will be placed with the existing warrants. If active warrants exist on Regional for the same defendant, the new warrant will be added to the Regional database, updated with the required information, and readied to be transferred to the Sheriff 'wall file'. If a defendant is in custody (jail) downtown, the warrant will be noted as disposed by the clerks to CW50/WX50 the same day. The warrant officer will be given the warrant to place on the defendant in jail and the Sheriff will note a warrant hold in AIS requiring the defendant to provide a bond before being released from jail. A waiver must accompany any Capias for the defendant to receive credit against court costs and fine due for jail time served. Remaining warrants are placed in jackets with designated alpha drawers pending issue of warrant letters, phone calls, etc.</p> <p>For class C warrants, the clerks print and mail the warrant letters and make initial phone calls. Defendants are instructed to report to the court on class C warrants. Two deputies are currently assigned to attempt physical service/execution of the warrants if letters and phone calls are unsuccessful. Defendants with a class C capias are taken before the court or to jail.</p> <p>For felony and class A or B warrants, the clerk prepares a packet which includes a picture, address information, other warrants in other states, and any other useful information. The deputies physically go to the defendant's location on these warrants to attempt service/execution. Five warrant deputies are currently assigned to work felony, class A or B, and AG warrants. Office of Budget Evaluation recommended that the Constable's office give priority to working these papers rather than class C warrants/capias.</p> <p>Unserved warrants or capias will be entered by the clerical staff on the Regional warrant system (date added will be noted) and the paper document will be routed to the Sheriff for placing on the 'wall file'. The 'Return' information (including date and deputy name) on served warrants or capias will be completed by the deputy constables, service information entered by the clerical staff on CW50/WX50, returned to the court of issuance.</p>



	<p>Warrants or capias recalled by the courts create a printout within the constable's office on a designated printer. Recalls are processed on alternate days by the constable clerical staff based on a rotation schedule. Constable staff enters an 'R' (Recalled) on CW50/WX50 as the Disposition type for all recalled warrants with the warrant returned to the court if not on Regional. A cancelled date will be added by constable staff for warrants or capias on Regional. Cancelled Regional warrants or capias will be returned by the Sheriff to the court. A summary printout of all entered recalls is generated from CW50/WX50 and clerks compare 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. The following day, the entire report is given to a supervisor for review. A supervisor will verify all recalls to CW50/WX50. If an error is found, the recall will be given back to the clerk to make corrections.</p> <p>Long standing Sheriff policy is to age purge class C warrants or capias on Regional after two years.</p>				
Criteria: (Describe the optimal condition)	<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 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 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>				
Cause: (Describe the cause of the condition if possible)	N/A				
Effect: (Describe or quantify any adverse effects)	N/A				
Recommendation: (Describe corrective action)	<p>Continue established warrant procedures. 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. • Disposition codes are properly entered on the Constable civil system. • Warrants remain active until served or recalled by the court. 				
Responsible Department or Organization:	Constable Precinct 4				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date: 4/14/2011
Comments:					
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.06
Date: 2/14/11
Audit: Constable Precinct 4 Audit FY 10, 11(11/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Review of receipts for abandoned vehicle activity revealed:</p> <ul style="list-style-type: none"> ASRs (Auctions Sales Receipts a Texas Department of Transportation form VTR-71) are released to auctioneers before payment is received. Towing companies and auctioneers checks are not immediately receipted by the bookkeeper. Status: Checks are now receipted when received by the constable precinct. The \$10 fee per abandoned vehicle is not submitted with the abandoned vehicle report; payment is submitted 2 or 3 weeks later. One towing company had not submitted payment for the \$10 fee or the 2% proceeds from the sale at auction since September 2010. Status: On December 29, 2010, a fax copy of the forthcoming payment was sent and the check was reportedly placed in the mail.
Work paper Reference: (or other method by which finding was identified)	Auctioneer's list, abandoned vehicle lists, and county deposits.
Condition: (Describe the current condition)	<p>Deputy constables are assigned to various units, including traffic, warrants, civil process, truancy, and bailiff. Deputies assigned to traffic units may order vehicles towed incident to a traffic stop. During traffic stops, drivers are requested to present a valid driver's license and proof of insurance. Precinct 4's policy was to tow vehicles when a driver was cited for no insurance or no driver's license, however; other factors could be taken into consideration for towing vehicle such as the age of occupants and physical abilities of vehicle occupants. If a vehicle is towed, a towing company is contacted by the office dispatcher according to the area from which the tow is to occur and an inventory of the vehicle's physical condition and a visual inventory of personal contents left in the vehicle is performed by the deputy before the vehicle is released to the tow company. Inventory and impound information is recorded on an impound sheet which is turned in to the supervisor and kept in office records. Dispatch keeps a vehicle impoundment record with the service number, name of deputy who calls in, and towing company as well as additional information. If a vehicle is not claimed within five days, the VSF (vehicle storage facilities) must send notice to the owner and lien holder of record. If vehicles are not claimed within 10 days after the date of the notice, they are considered abandoned. Transportation code 683.031 sets forth a requirement that such abandoned vehicle is to be reported to a law enforcement agency. Section 683 and TDLR regulations then provide for further notification and disposal procedures for abandoned vehicles. Because of a program initiated by Precinct 4 and approved by County Commissioners in 2006, Precinct 4 receives abandoned vehicles from numerous VSF's county wide. The reports received by the office include abandoned (unclaimed) vehicles from non-consent Private Property tows as well as law enforcement (IM) tows. The reports include a vehicle description with the VIN and license plate, as well as date towed and date the VSFs sent the required notice to the owner and lien holder. The deputy runs vehicles on NCIC/TCIC system to see if the vehicle is stolen and to verify that the vehicle information furnished matches the vehicle information received. Other law enforcement agencies and the storage companies may be contacted to resolve issues discovered or reported. Precinct 4 then accepts or designates the reported vehicles for auction or storage lien disposal. Vehicles for which auction custody is not accepted (referred to storage lien) are referred to as Non-Custody vehicles.</p> <p>Transportation code 683.031 provides for a \$10 per vehicle reporting fee for abandoned vehicles. When vehicles are auctioned by Precinct 4, the department gets 2% of the proceeds.</p> <p>When vehicles are reported to Precinct 4, the \$10 per vehicle fee is not paid immediately and funds are not timely deposited to their account. Towing companies' time frame to submit payment to the precinct for the \$10 fee is sometimes delayed 2 to 3 weeks. In addition, filled and signed ASRs are released to auctioneers before receiving the 2% proceeds for the sale of vehicle in auction. Statutorily, the constable's office should receive a \$10 fee per reported vehicle and 2% of auction proceeds.</p>



<p>Criteria: (Describe the optimal condition)</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 seventh 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 30 days after the date the funds are received.”</p> <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> <ol style="list-style-type: none"> (1) the owner or lienholder: <ol style="list-style-type: none"> (A) waives all rights and interests in the item; and (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 (2) the law enforcement agency 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>(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> <ol style="list-style-type: none"> (1) takes title free and clear of all liens and claims of ownership; (2) shall receive a sales receipt from the law enforcement agency; and (3) is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title. <p>(d) On consent of the Parks and Wildlife Department, the law enforcement agency 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> <ol style="list-style-type: none"> (1) takes title free and clear of all liens and claims of ownership; and (2) is entitled to register the watercraft and receive a certificate of title.” <p>According to Transportation Code, Section, 683.015, AUCTION PROCEEDS, “(a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for:</p> <ol style="list-style-type: none"> (1) the cost of the auction; (2) towing, preservation, and storage fees resulting from the taking into custody; and (3) the cost of notice or publication as required by Section 683.012. <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 law enforcement agency.</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 law enforcement agency may use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the law enforcement agency and transferred under Subsection (d) to compensate property owners whose property was 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:</p> <ol style="list-style-type: none"> (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
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(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



	<p>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.</p> <p>(b) Notice under this section must include:</p> <ol style="list-style-type: none"> (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: <p>(A) a waiver by that person of all right, title, or interest in the vehicle; and</p> <p>(B) a consent to the sale of the vehicle at a public sale.</p> <p>(c) Notwithstanding Subsection (b), if publication is required for notice under this section, the notice must include:</p> <ol style="list-style-type: none"> (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: <p>(A) a waiver of all right, title, and interest in the vehicle; and</p> <p>(B) a consent to the sale of the vehicle at a public sale.</p> <p>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.</p> <p>(b) The facility may:</p> <ol style="list-style-type: none"> (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. <p>(c) A law enforcement agency described by Subsection (b)(2) may sign a document issued by the department.</p> <p>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:</p> <ol style="list-style-type: none"> (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. <p>(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.</p> <p>(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:</p> <ol style="list-style-type: none"> (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. <p>According to Local Government Code, Section 86.025, UNFINISHED BUSINESS, "If a constable vacates the office for any reason, all unfinished business shall be transferred to the succeeding constable and completed in the same manner as if the successor had begun the business.</p>
Cause: (Describe the cause of the condition if possible)	<p>Inaccurate application of county policies and/or state law.</p> <p>Oversight</p> <p>Delayed remittances from towing companies.</p>
Effect: (Describe or quantify any adverse effects)	<p>Potential for legal liability to Dallas County and/or the elected official.</p> <p>Prevents potential assertion that monies were paid.</p> <p>Delay revenue recognition.</p> <p>Failure to issue a receipt for funds received decreases the constable's internal control over funds collected.</p>



Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • All monies received should be promptly receipted and deposited consistent with state law, V.T.C.A., L.G.C., § 113.022 and procedures recommended by the County Auditor. • Written procedures consistent with Transportation Code Chapter 683 should be developed, provided to staff, and enforced. • 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 ○ informed when amounts are not consistent with statutory guidelines 					
Responsible Department or Organization:	Constable Precinct 4					
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date:	4/14/2011
Comments:						
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration			

Jun 4-20-11

County Auditor



Dallas County, Texas

Finding Number: 10.C4.01.07
Date: 2/24/2011
Audit: Constable Precinct 4 Audit FY 10, 11 (11/30/2010)
Auditor(s) Assigned: JG

Finding:	<p>Observation of office schedules and review of manual attendance records and Kronos time and attendance system postings revealed:</p> <ul style="list-style-type: none"> • Bi-weekly pay period 'approval by manager' of time worked not reflected on Kronos time card. • Web-timestamp functionality is not used. Clerk's time is recorded in advance to Kronos based on scheduled hours.
Work paper Reference: (or other method by which finding was identified)	Work Paper NO.6D-1, 6D-2, 6D-6, Kronos reports
Condition: (Describe the current condition)	<p>Clerks and deputy constables time is recorded in advance to the Kronos time and attendance system based on scheduled hours and time is subsequently changed by the chief clerk to reflect benefits taken or extra hours worked as reported and approved by management. Supervisors approve and give employee leave requests to the chief clerk for update. Time and attendance exceptions are entered into Kronos and the bi-weekly pay period is signed off by the chief clerk. Kronos time cards are not marked with 'approval' by the supervisor or other management personnel. 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 Sec. 82-175, Supervisory responsibilities:</p> <p>(a) Supervisory responsibilities fall to the elected official, department head or their designee.</p> <p>(b) Supervisors shall educate their employees about how to use the time entry method they are assigned and about the time and attendance policies for their department.</p> <p>(c) Supervisors are responsible for ensuring employee time records are accurate and that no abuses occur.</p> <p>(d) Supervisors are responsible for recording employee vacation and sick time and for entering time for employees who are working outside their department work area.</p> <p>(e) Supervisors are responsible for checking daily start times, meal periods, end times, vacation time, sick time, compensatory time and overtime to ensure employees are in compliance with their shift work schedule and the county's overtime policies. Supervisors are responsible for promptly documenting actions warranting discipline and for promptly reporting possible fraud to the county auditor.</p> <p>According to Dallas County Code, Section 82-132, Work schedules: 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 <u>shall average a minimum of 40 hours per week</u>, 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, Section 82-84, Maintenance of time and attendance records, "Each department shall keep a record of each employee's hours worked in a manner approved by the commissioner's court and administered by the county auditor's office."</p> <p>According to Dallas County Code, Section 82-172, "Nonexempt employee responsibilities,"</p> <p>"(a) The county requires that every employee work 40 hours every week. Vacation leave, sick</p>



	<p>leave, authorized holidays, authorized time off, and accrued compensatory time count toward this 40-hour per week requirement. Except for the lunch period explained in subsection (c) of this section, employees are expected to be working for the benefit of the county from the time the employee's shift begins until the employee's shift ends. (b) Nonexempt employees are strictly prohibited from working more than 40 hours per week, without prior approval from their supervisor. All of the time an employee works must be recorded on the county's time and attendance system. An employee is never to work without recording time. If an employee is ever asked to work without recording work time, the elected official or department head must be notified immediately. If the matter is not resolved by the department, the employee must immediately notify the county personnel department."</p>				
Cause: (Describe the cause of the condition if possible)	Available automated time recording methods are not used.				
Effect: (Describe or quantify any adverse effects)	Actual times may vary from scheduled hours.				
Recommendation: (Describe corrective action)	<p>All start times, meal periods, end times, vacation time, sick time, holiday time, jury duty, compensatory time, overtime, 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. Each employee should affirm bi-weekly time paid / leave balances expended through review of pay slip on Employee Self-Service (ESS) application.</p> <p>Emphasize supervisory review of time and attendance and Kronos postings with Kronos time card updated to reflect 'approval' by supervisor or management.</p> <p>Consider implementation of web-timestamp capture of non-exempt start and end times.</p>				
Responsible Department or Organization:	Constable Precinct 4				
Management's Response:	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Honorable Roy Williams	Date: 4/14/2011
Comments:	Chief Clerk is the only person entering time for all Constable Precinct 4 personnel.				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		