



DALLAS COUNTY COUNTY AUDITOR

Memorandum

To: Honorable Beth Villarreal
Constable Precinct No. 5

From: Virginia A. Porter *Virginia A. Porter*
County Auditor's Office

Subject: Review of Statutory Reporting and Compliance for February 1, 2012 through September 30, 2013.

Date: Issued: October 24, 2014
Released: February 3, 2015

Scope

A review was performed on the records and reports of Constable Precinct No. 5 for February 1, 2012 through September 30, 2013.

Review Procedures

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

A partial list of the review tests include:

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

Statistical

Fiscal Year 2012

- 8,380 civil papers served per Constable Civil System
- 1,336 writs and orders of sale served per Constable Civil System
- 6,762 criminal papers served per Constable Civil System
- \$1,047,388 constable fee revenue collected all sources
- \$3,620 constable commission collected

Fiscal Year 2013

- 7,710 civil papers served per Constable Civil System
- 1,512 writs and orders of sale served per Constable Civil System
- 2,553 criminal papers served per Constable Civil System
- \$1,018,481 constable fee revenue collected all sources
- \$3,367 constable commission collected

FINDINGS

Cash Management

Office Receipts – A review of 2,892 County Wide Receipting (CWR) computer receipts including 132 (4.6%) cancelled voided receipts revealed material compliance except: balancing of funds on hand against CWR system control total occurs only once a week during the preparation of the departmental bank deposit.

Response: The bookkeeper enters detailed reasons for any voided transactions in the CWR. Corrective measures have been taken on all areas. Canceled receipting is completed on the same day of cancellation in CWR.

Field Receipts – A review of form 44-A field receipts, written by the writ deputies in the field, revealed material compliance except: two instances where there was a three business day delay in receipting the associated CWR office receipt.

Response: The monies received are now inputted into the system on the same day. Steps have been put into place to ensure this is always the case. All voided receipts must have documentation with an explanation.

Assessments – A review of 71 payments to determine if the amount collected was in compliance with service fees established by Commissioners Court orders and state laws revealed material compliance.

Response: This has been resolved. Steps have been put in place to assure compliance with service fees established by Commissioners Court.

Disbursements/Special Fund Reconciliation – A review of special fund activity revealed: old balances totaling \$71,461 over three years old including \$30,923 in seized funds not eligible for forfeiture. Limited separation of duties noted over the bookkeeper's responsibility to prepare the disbursement file and authorize the file for check printing.

Response: Steps are being taken to identify individuals and dispose of property in accordance with Code of Criminal Procedure, Article 18.17 Abandoned Property. The Dallas County District Attorney's Civil Division is assisting with this recommendation.

Commission Calculations – A review of commission calculations on 19 writ collections revealed: two commission calculation errors resulting in under collection of commissions totaling \$553 (including one where \$286 was refunded to the defendant in error); one collection where the interest rate used differed from the interest rate ordered in the judgment resulting in the writ officer's interest calculation to be \$145.23 short; one case where the interest calculated by the writ officer was short calculated/collected by \$13.18; two cases in which the writ fee was already included in the court costs awarded and a second time by the writ officer resulting in a duplicate assessment/collection; a separate \$20 fee is assessed for posting notices at each location for sales of personal and real property to satisfy a judgment; and, an unauthorized \$5 bill of sale fee is assessed/collected.

Response: Steps have been put into place to assure that the commission calculations include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. Calculations are now verified / reviewed by a supervisory Chief Deputy or Chief Clerk. All recommendations are being implemented.

Receivables / AG IV-D Billings – A review of two monthly AG IV-D billings revealed material compliance except: one notice totaling \$49.50 was not billed to the AG.

Response: This has been resolved and steps have been put in place so that there are no future occurrences.

Processing

Civil Paper Service – Monetary credit for civil paper service is consistently reflected on the Justice of the Peace Accounting System. In three (25%) instances on the Odyssey Civil Courts System, the Sheriff received monetary credit for papers served by the Constable.

Response: We are currently researching the process in place now, to prevent incorrect payments. Steps have been put in place to examine computerized court records associated with papers served or attempted; so as to verify that fees are properly credited to Precinct 5. Clarification is needed in how we can receive payment for papers served by Precinct 5 for the Sheriff's Department.

GPS Data - A review of 49 service attempts during the month of December 2013 for eviction, small claims, and/or civil citations and criminal warrants, officer sworn statements, and officer Daily Activity Reports to GPS Tracking Network reports and Google maps revealed: one instance of a first attempt where the vehicle was not at the service address location at the date/time stated on the court papers (citations and/or sworn statements) - the officer was on vacation and the vehicle was at the storage location; and, one vehicle with missing GPS data.

Response: Steps are being implemented to monitor GPS records.

Criminal Paper Service - 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. Instances of warrants over two years old returned to the court(s) instead of remaining active until served or recalled by the issuing court.

As of October 19, 2013, 16,258 active warrants were assigned to Precinct 5.

Response: Steps have been put into place to address that clerical staff are keying information into the Constable civil system, accurately and in a timely manner. Steps have been put into place to assure warrants are appropriately assigned to deputy constables for working. A system is in place to record dates and attempts.

Time and Attendance – A review of employee time and attendance records/activity revealed material compliance with policies except for two (2) hours recorded as regular time in Kronos when three employees were out of the office. The documented reasons for requiring compensatory time included special assignment (community patrols and events), training, processing paper service, supervisor administrative duties (opening and closing building), and securing the Tax office. Commissioners Court approval was not obtained for any of the community events in which the constable personnel participated.

Response: Employee's schedules have been modified to accommodate department responsibility and assignments to minimize the amount of compensatory time. A supervisory review of KRONOS is completed on a daily basis.

Evidence Control

Evidence/Property Room – A complete self-inventory has not been completed nor have items from the prior audit been reviewed for proper disposition including set-up for destruction. No evidence of periodic research to determine if items are eligible for turnover to Purchasing for disposal, destruction or agency use.

Response: Standard Operating Procedures have been written to address the recommendations. Property is in the process of being inventoried and disposed of when necessary.

Recommendations

Cash Management

Receipting/Depositing – Receipts should not be altered, but properly voided. All copies of a void receipt should be retained, clearly marked "void" and affixed with a reason for the void. The supervisor should, periodically, scan receipts for proper usage. All monies received should be promptly receipted, properly secured, and deposited consistent with state law, Local Government Code, § 113.022 and procedures recommended by the County Auditor. At the end of each business day, receipts should be totaled and compared to funds on hand and CWR system control totals. Receipt and deposit totals should be verified by the back-up bookkeeper or chief clerk with compensating processes such as dual sign-off on balancing and deposit documents.

Assessments – Continue to assess service fees in accordance with state laws and Commissioners Court orders.

Disbursements/Special Fund Reconciliation – Continue to maintain a special fund control ledger accounting for all special fund receipts, disbursements and case balances. Verify the availability of money in the special fund for the pending case prior to the initiation of a special fund check. The special fund ledger should be periodically reviewed by supervisory personnel. Cash handling duties should be separated. Unclaimed property statutes in Property Code Chapter 72 and 76 should be followed.

Commission Calculations – 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. Fees for bill of sale should not be assessed/collected unless authorized by Commissioners Court in accordance with Local Government Code, § 118.131.

Receivables/AG IV-D Billings – Continue to maintain a ledger to track outstanding service fees with periodic follow-up, delinquent billings, and notification to the County Treasurer of debts due the County. All eligible IV-D service fees should be accurately billed to the AG at the maximum rate allowed by Family Code, § 231.202, Local Government Code, § 118.131, and Commissioners Court orders. Billing adjustments should be submitted for items not billed and/or billed in error.

Processing

Civil Paper Service – Examine computerized court records associated with papers served or attempted to verify that the fees are properly credited to Precinct No. 5.

GPS Data - Affidavits filed under Rules of Civil Procedure 510.4(c) must be accurately and properly completed. A minimum of two attempts should occur with the deputy making the two attempts signing the notarized affidavit. A management plan should be developed and implemented to periodically review random GPS tracking data to promote/improve deputy accountability.

Criminal 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. Warrants should remain active until served or recalled by the court.

Time and Attendance - Supervisors should enter the actual hours worked by employees and the type of leave and amount of hours taken daily. Modify employees' schedules to accommodate department responsibilities and assignments and minimize the amount of compensatory or overtime earned. Entries to Kronos for compensatory time earned should be documented with reason codes for assignments that are in accordance with county policies.

Evidence Control

Evidence/Property Room – Develop written Evidence/Property room procedures and monitoring plans. Conduct a complete physical inventory of all items in the storage room annually. Maintain log sheets in property room and routinely update disposition information. Eligible items should be scheduled for destruction as authorized by statute when departmental use is prohibited or not feasible.

Current Findings/Observations/Recommendations

Detailed finding templates numbered 13.C5.01.01 through 13.C5.01.09 are attached.

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 needs to be addressed are: old balances in the special fund not timely escheated and/or remitted; proper assessment/collection for executions and orders of sale including awarded interest and constable commission; and, proper and timely disposition/destruction of eligible evidence or seized/found property.

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. Darryl Martin
Ryan Brown, OBE



Finding Number: 13.C5.01.01a – Computer & Manual Receipts
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (2/1/2012) – FY 13
Auditor(s) Assigned: MM

Findings:	Office Receipts Review of 2,892 County Wide Receipting (CWR) computer generated receipts including 132 cancelled/voided receipts, testing of voiding and balancing procedures for proper accounting and internal controls revealed : <ul style="list-style-type: none"> Forty-three cancelled computer transactions did not contain a reason for cancellation. Status: Users are not prompted to enter cancellation reason for transactions that are cancelled before an amount is entered contributing to forty receipts without a cancellation reason. <ul style="list-style-type: none"> Two cancelled receipts were reissued five business days after the original receipt date.
Work paper Reference: (or other method by which finding was identified)	Work Paper No.3A, 3B 3C and 3D CWR User Sales Report and DC7 Receipts- Cancelled
Condition: (Describe the current condition)	<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 checks received via the U.S. Mail. Parties to a suit occasionally remit the wrong service fee amount.</p> <p>In October 2010, the constable's office started issuing computer receipts on the County Wide Receipting (CWR) system. The bookkeeper chooses the paper (the type of process requested to be served) type and then follows prompts to enter payer information, plaintiff name, defendant name, case number, and office number. In most cases, the fee for the paper type is already pre-set. Payment type of check or cash is chosen and the payment is received. Receipts are printed only when requested as transaction history is retained within the system. The receipts are single copies. When the bookkeeper initiates a void receipt on the CWR system, a prompt appears and the bookkeeper must enter the reason. If the bookkeeper exits out of the receipt transaction before entering any type of information, the reason prompt for cancellation may not appear. Manual receipts are used only when the CWR system is down. Once CWR functioning is restored, the manual receipts are entered into the CWR system. There is one county wide numeric receipt sequence.</p> <p>For internal control reconciliation, the bookkeeper posts a memo entry of payments received on the Constable Civil System, daily, to correspond to CWR activity. Due to mainframe limitations, data on served/disposed constable papers is periodically purged from the Constable Civil System.</p> <p>Once weekly, 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 DC98 report is generated to produce the deposit. The bookkeeper 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>The bookkeeper maintains a separate spreadsheet for payments received for internal balancing and research.</p>
Criteria: (Describe the optimal condition)	Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and



	<p>Communication; and Monitoring Activities. Specific controls related to receipt control procedures require that:</p> <ul style="list-style-type: none"> • Statutorily required pre-payments which are received for less than the service fee due are returned not receipted. The requesting party should be contacted by the bookkeeper or chief clerk via phone, email, or fax to submit the balance due or the payment and corresponding process should be returned via the U.S. mail without service performed. • All receipts are accounted for and properly used in order to affix responsibility, enhance cash control, and prevent potential assertion that monies were paid in with refund due as well as "separation of duties for opening mail and receipting". • Receipts should not be altered, but properly voided and affixed with a reason for the void with retention of all voided copies. • 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. • Receipts are printed from the CWR system and mailed when a self-addressed stamped envelope is sent by the payer. <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. As part of compensating controls, a second person verifies and signs off on the deposit along with the bookkeeper.</p>
Cause: (Describe the cause of the condition if possible)	Incomplete understanding of need to record reason for receipt cancellation in CWR.
Effect: (Describe or quantify any adverse effects)	Prevents potential assertion that monies were paid and refunds due. Inherent risks for delayed deposits include non-recovery of funds, checks or cash could be lost or stolen.
Recommendation: (Describe corrective action)	<p>Receipt and deposit control procedures should include:</p> <ul style="list-style-type: none"> • Monitoring and reporting anomalies including entry of reason codes for voided receipts in the CWR system. • 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. • 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.
Responsible Department or Organization:	Constable Precinct 5,
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Rachel Ortiz, Chief Clerk Date: 1/30/2015
Comments:	The bookkeeper enters detailed reasons for any voided transactions in the CWR. Corrective measures have been taken on all areas. Canceled receipting is completed on the same day of cancellation in CWR.
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.01b – Form 44-A Field Receipts
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (02/01/12) – FY 13
Auditor(s) Assigned: MM

Finding:	Form 44-A Field Receipts Review of 58 manual Form 44-A field receipts, including 1 voided receipt, written by deputies in the field and a complete review of 39 corresponding County Wide Receipts (CWR office receipts) for accurate and timely posting revealed material compliance with exceptions: <ul style="list-style-type: none"> • One voided Form 44-A receipt without an explanation for the void (original and both copies retained). • Two instances where there was a three business day delay in receipting the associated CWR office receipt. An official receipt book issuance log is used to track books issued to/returned by.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 3A, 3B, 3E, 3G.1, Observations Manual Receipts Form 44-A
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, 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, but does not consistently 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 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 the 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 County-Wide Receipting (CWR) in 2010, 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> <p>Copies of the receipt book requisition forms are used by Precinct 5 to keep track of the 44-A receipt books issued to deputies.</p> <p>If funds are collected after normal business hours, deputies will secure monies off-site until the next business day.</p>
Criteria: (Describe the optimal condition)	Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and Communication; and Monitoring Activities. Specific controls related to receipt control procedures require that:



	<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. • 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. • 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. • Receipts should not be altered, but properly voided and affixed with a reason for the void, with retention of all voided copies.
Cause: (Describe the cause of the condition if possible)	Deputy oversight
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.
Recommendation: (Describe corrective action)	<p>Proper receipt procedures for money received outside the office should include:</p> <ul style="list-style-type: none"> • The deputy constable should immediately on return to the office provide monies and the second copy of the form 44-A field receipt to the bookkeeper. At which time, the bookkeeper should immediately issue a CWR for the correct amount. All funds should be presented to the bookkeeper in the payment type received. If the bookkeeper is not present, money should be counted by a second deputy constable with affirmation noted on the receipt and properly secured. • Receipts should not be altered, but properly voided and affixed with a reason for the void with retention of all voided copies.
Responsible Department or Organization:	Constable Precinct 5
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Rachel Ortiz, Chief Clerk Date: 1/30/2015
Comments:	The monies received are now inputted into the system on the same day. Steps have been put into place to ensure this is always the case. All voided receipts must have documentation with an explanation.
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.02 – Compliance with Service Fees
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (02/01/12) – FY 13
Auditor(s) Assigned: MM

Findings:	Assessments Review of 71 payment postings to the Constable Civil System (CCS) for compliance with service fees established by Commissioners Court orders revealed : <ul style="list-style-type: none"> • Three instances where the paper type receipted differed from the paper type entered in the CCS. • Two instances where the fee amount earned was not entered in the CCS. • One paper served before receiving full service fee payment. Status: Resolved. \$10 balance subsequently collected. Responses to CCS paper type questionnaire revealed: <ul style="list-style-type: none"> • CCS paper type code '4' is used for writ of attachments rather than the assigned paper type code 'W'
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 3F-FY 2012, 3F- FY2013 R03423 List of Disposed Papers, Observations Questionnaire
Condition: (Describe the current condition)	<p>In accordance with Local Government Code, § 118.131, service fee rates are established and approved by Commissioners Court prior to October 1st of each year to be effective on January 1st. Parties wishing to secure service by the constable precinct may refer to the Commissioners Court order 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. 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.</p> <p>Bookkeeper posts a memo entry of payments received on the Constable Civil System. Due to mainframe limitations, data on served/disposed constable papers is periodically purged/archived and not viewable on the Constable Civil System.</p>
Criteria: (Describe the optimal condition)	<p>Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and Communication; and Monitoring Activities. Specific controls related to assessment/collection control procedures require that:</p> <ul style="list-style-type: none"> • Procedures are established with supervisory review of assessments and receipts. • Service fees are assessed / collected in compliance with applicable state laws including V.T.C.A, Local Government Code, § 118.131 and Commissioners Court orders. <p>Per 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</p>



	<p>process shall be paid in advance; except when affidavit is filed, as provided by law or these rules. The clerk issuing the process shall endorse 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>Per Rules of Civil Procedure, RULE 107. RETURN OF SERVICE (a) The officer or authorized person executing the citation must complete a return of service. The return may, but need not, be endorsed on or attached to the citation.</p> <p>Per Rules of Civil Procedure, RULE 129. HOW COSTS COLLECTED. If any party responsible for costs fails or refuses to pay the same within ten days after demand for payment, the clerk or justice of peace may make certified copy of the bill of costs then due, and place the same in the hands of the sheriff or constable for collection.....</p> <p>A record of original entry should be posted for tracking/reporting and include all updates of all required data elements accurately and timely.</p>				
Cause: (Describe the cause of the condition if possible)	Clerical error and oversight				
Effect: (Describe or quantify any adverse effects)	Instances of CCS not accurately reflecting paper service categories or fees earned.				
Recommendation: (Describe corrective action)	<p>Proper fee assessment procedures should include:</p> <ul style="list-style-type: none"> • Service fees should be properly assessed (based on the issuance date), collected and timely deposited based on state laws, Commissioner Court orders, etc. • The fee amount earned should be entered in the system 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.). • Service should not be provided without collection of the fee in advance unless otherwise required by Rules of Civil Procedure or state laws. 				
Responsible Department or Organization:	Constable Precinct 5				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Rachel Ortiz, Chief Clerk	Date: 1/30/2015
Comments:	This has been resolved. Steps have been put in place to assure compliance with service fees established by Commissioners Court.				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



Finding Number: 13.C5.01.03 – Special Fund Activity & Reconciliation
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (02/01/12) – FY 13
Auditor(s) Assigned: MM

Finding:	Special Fund Activity and Reconciliation Reconciliation and review of the special fund activity including twenty-five checks, 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"> • Limited segregation of duties noted over the bookkeeper's responsibility to prepare disbursement file and authorize the file for check printing. • One special fund disbursement exceeded the receipted amount by a total of \$6.08. • Old balances (including \$30,923.26 in seized funds not forfeited with most without a sworn statement filed in required timeframe as required by Code of Criminal Procedure, Chapter 59) over three years old totaling \$71,460.54 in the special fund account have not been researched for disbursing to the applicable party, the recovery of excess disbursements, and/or escheating to the County Treasurer or State Comptroller.
Work paper Reference: (or other method by which finding was identified)	Work Paper No 4A, 4B, 4C, and 4E
Condition: (Describe the current condition)	<p>The bookkeeper maintains ledger sheets of the special fund activity due to lack of accounting and reporting within the Constable Civil System. The bookkeeper records dates, case numbers, case parties, and amount deposited into the special fund bank account.</p> <p>Special fund checks are issued to disburse collected judgment funds and/or to refund overpayments of service fees. Seized/confiscated funds are also deposited in the special fund.</p> <p>After review of the special fund ledger, the bookkeeper will determine which amounts can be disbursed depending on when the funds were deposited (typically seven days after deposit). The bookkeeper prepares and saves a special fund disbursement file to a designated computer drive. The file is reviewed for General Ledger funds availability and approved for processing by the Auditor's office. The County Treasurer's office sends a confirmation file to the bookkeeper for approval or rejection prior to printing the special fund checks. If approved, the checks are printed in the County Treasurer's office through Oracle AP and mailed as addressed. The bookkeeper 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 sheets maintained by the bookkeeper. No standard procedures established to conduct annual review of fund balances and resolve as appropriate.</p> <p>Limited research of old case balances (\$71,460.54 of \$83,061.44 balance as of 9/30/2013 is over three years old) is performed on the funds remaining in the special fund account for disbursement or escheatment.</p>
Criteria: (Describe the optimal condition)	<p>Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and Communication; and Monitoring Activities. Specific controls related to disbursement procedures require that:</p> <ul style="list-style-type: none"> • Supervisory verification of all cash transactions (receipts or disbursements) should be consistent and evidenced on subsidiary reconciliation. • Departmental subsidiary ledgers should be periodically reconciled and compared to Oracle GL and bank statements.



	<ul style="list-style-type: none"> Assigned cash handling duties are separated. Funds should be disbursed in a timely manner to the appropriate parties. <p>Inactive balances should be reviewed in accordance with unclaimed property statutes, V.T.C.A., Property Code, § 72 and § 76, and escheated either to the County Treasurer (if \$100 or under) or the State of Texas (if over \$100).</p> <p>Per Code of Criminal Procedure, Art. 59.03. SEIZURE OF CONTRABAND (c) A peace officer who seizes property under this chapter has custody of the property, subject only to replevy under Article 59.02 of this code or an order of a court. A peace officer who has custody of property shall provide the attorney representing the state with a sworn statement that contains a schedule of the property seized, an acknowledgment that the officer has seized the property, and a list of the officer's reasons for the seizure. Not later than 72 hours after the seizure, the peace officer shall:</p> <ol style="list-style-type: none"> (1) place the property under seal; (2) remove the property to a place ordered by the court; or (3) require a law enforcement agency of the state or a political subdivision to take custody of the property and move it to a proper location. <p>Per Code of Criminal Procedure, Art. 59.04. NOTIFICATION OF FORFEITURE PROCEEDING. (a) If a peace officer seizes property under this chapter, the attorney representing the state shall commence proceedings under this section not later than the 30th day after the date of the seizure. (b) A forfeiture proceeding commences under this chapter when the attorney representing the state files a notice of the seizure and intended forfeiture in the name of the state with the clerk of the district court in the county in which the seizure is made. The attorney representing the state must attach to the notice the peace officer's sworn statement under Article 59.03 of this code or, if the property has been seized under Article 59.12(b), the statement of the terms and amount of the depository account or inventory of assets provided by the regulated financial institution to the peace officer executing the warrant in the manner described by Article 59.12(b). Except as provided by Subsection (c) of this article, the attorney representing the state shall cause certified copies of the notice to be served on the following persons in the same manner as provided for the service of process by citation in civil cases:</p>
Cause: (Describe the cause of the condition if possible)	Clerical error Sworn statements not filed timely
Effect: (Describe or quantify any adverse effects)	Deferred research: <ul style="list-style-type: none"> Delayed disbursements to entities/individuals entitled to funds. Penalties from the State for not following escheat statutes may be assessed if not corrected. <p>Limited reconciliation:</p> <ul style="list-style-type: none"> Undetected posting errors resulting in potential for overpayment and unrecoverable losses. Additional staff time to research and correct posting errors. <p>Seized funds cannot be forfeited for use by law enforcement agency.</p>
Recommendation: (Describe corrective action)	Special fund procedures should include: <ul style="list-style-type: none"> 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. Segregation of responsibilities to limit the same employee's authority to receipt payments, prepare deposits, prepare disbursements, and authorize special fund disbursements. The approval of preliminary check files should be limited to supervisory staff not responsible for preparing initial special fund disbursement file. The special fund control ledger periodically reviewed and reconciled to the Oracle general ledger by supervisory personnel to ensure that all special fund deposits and disbursements are properly



	posted.				
	Escheat analysis and stale dating should be managed in accordance with unclaimed property statutes, Property Code, § 72 and § 76. (see website: http://www.window.state.tx.us/up/forms.html).				
Responsible Department or Organization:	Constable Precinct 5				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Rachel Ortiz, Chief Clerk	Date: 1/30/2015
Comments:	Steps are being taken to identify individuals and dispose of property in accordance with Code of Criminal Procedure, Article 18.17 Abandoned Property. The Dallas County District Attorney's Civil Division is assisting with this recommendation.				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration		



Finding Number: 13.C5.01.04- Civil Papers Service
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (02/01/12) & FY 13
Auditor(s) Assigned: MM

Finding:	Civil Papers Comparison of 12 civil paper returns and the associated County Clerk and District Clerk Odyssey records and 40 civil paper returns and the various Justice of the Peace mainframe records for proper credit and review of R03423 for July 2013 revealed: <ul style="list-style-type: none"> Three civil papers served with monetary credit recorded to Sheriff by the District Clerk.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 3F, 5A and 5B, R03423 List of Disposed Papers July 2013
Condition: (Describe the current condition)	<p>The constable's office receives papers via court clerks where parties to a case request service through the court clerk. The court clerks require payment in advance or denote payment exception for civil papers to be served by the Dallas County sheriff or constable agencies with the papers routed to the appropriate agency for service. Exceptions to pre-payment for service include:</p> <ul style="list-style-type: none"> Parties that have been approved by the court as indigent. The clerk issuing the process would endorse thereon the words "pauper oath filed". Papers (citations, notices, capiases, etc.) for IV-D cases requested by the Attorney General. Cases involving tax suits filed by governmental entities. Cases filed by governmental entities which are exempted from security of filing and service fees. Protective orders and garnishments. Returns on garnishments are not sent to the court of original issuance by the precinct until payment is received. Attorneys may request civil papers be issued directly to the attorney for handling and service. The court clerk issuing the process would endorse thereon the words "costs not complied with". The attorney will mail or have these civil papers delivered directly to either a law enforcement agency or private process server. When an attorney selects a constable precinct for service, payment will accompany the civil process or the paper will be held by the constable precinct without service pending payment. The attorney will be notified by the constable precinct of the amount due in order for service to be completed and paper returned to court. <p>After paper service, constable staff returns papers to the issuing court (justice of the peace, truancy courts, county clerk or district clerk) thus enabling clerk to properly recognize prepaid revenue. Only papers issued by the Justice of the Peace courts are reviewed because constable staff does not have access to Odyssey to view financial tab and verify if proper credit has been given.</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 V.T.C.A., L.G.C., § 86.021. GENERAL POWERS AND DUTIES. (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. 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.</p> <p>(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.</p> <p>(c) A constable expressly authorized by statute to perform an act or service, including the service of</p>



	<p>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.</p> <p>(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.</p> <p>(e) The constable shall attend each justice court held in the precinct.</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 law enforcement
Recommendation: (Describe corrective action)	<p>The department should affirm proper deposit/credit:</p> <ul style="list-style-type: none"> • Notify appropriate departments to make any necessary corrections. • Examine computerized court records associated with papers served or attempted to verify that the fees are properly credited to Precinct No. 5.
Responsible Department or Organization:	Constable Precinct 5
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Rachel Ortiz, Chief Clerk Date: 1/30/15
Comments:	We are currently researching the process in place now, to prevent incorrect payments. Steps have been put in place to examine computerized court records associated with papers served or attempted; so as to verify that fees are properly credited to Precinct 5. Clarification is needed in how we can receive payment for papers served by Precinct 5 for the Sheriff's Department.
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.05- Receivable & AG IV-D Billings
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (02/01/12) – FY 13
Auditor(s) Assigned: MM

Findings:	<p>Receivables and AG IV-D Billings Inquiry of constable personnel about the existence of receivables, review of the Constable's Civil System (CCS) and office receipts, and review of two complete monthly billings to the Attorney General (AG) for IV-D papers revealed:</p> <p>AG IV-D Billings</p> <ul style="list-style-type: none"> • Three cases in which the amount collected or payment information was not entered in CCS. • One citation totaling \$49.50 net not billed to the AG. <p>Receivables</p> <ul style="list-style-type: none"> • Constable Civil System does not contain functionality or provide reporting of unpaid service fees. <ul style="list-style-type: none"> ○ An Excel file listing amounts due for service fees (September 2011 forward data lost) was not migrated with a computer upgrade in June or July 2013. <p>Status: The bookkeeper is updating the existing file (beginning with September 2011 through July 2013) by using CWR receipting data, starting with updates to the special fund files.</p>
Work paper Reference: (or other method by which finding was identified)	Work Paper 5C, August 2012 and May 2013 AG IV-D Billings.
Condition: (Describe the current condition)	<p>Attorney General's office submits citations, notices, capiases and other IV-D papers directly to the constable's office for processing without payment of the required service fee. AG IV-D papers are tracked manually by the bookkeeper by making copies of the papers as they are received during the course of the month. At the end of the month, the bookkeeper prepares detailed billings based on the IV-D papers received. A summary invoice is signed 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 1st of each year) is posted by the Commissioners Court Clerk available for inquiry by all constable precincts, sheriff, justice of the peace courts, and County and District Clerk offices.</p>
Criteria: (Describe the optimal condition)	<p>Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and Communication; and Monitoring Activities. Specific controls related to billing procedures, collection efforts, and accounting controls include:</p> <ul style="list-style-type: none"> • Monitoring the age of receivables (run an aged receivable report on a weekly or monthly basis), and systemically follow-up on any accounts that are past due more than a predetermined number of days <ul style="list-style-type: none"> ○ Accounts receivable sub-ledger is reconciled monthly. Reconciliation is reviewed by management and evidence of review is maintained. ○ Referral of uncollected receivables for delinquent collection assistance in a timely manner • Invoices include an accurate breakdown of fees assessed (e.g. party, type of service fee, and amount of services fee) <ul style="list-style-type: none"> ○ Invoices are mailed timely (emailed if email address is available) • Collection efforts initiated on all delinquent balances <ul style="list-style-type: none"> ○ Automated phone calls (or live call scripts) and delinquent notice mailings (standard



	<p>collection letters)</p> <ul style="list-style-type: none"> ○ Use skip tracing or available address search engines <p>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.</p> <p>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.</p> <p>According to Rule 126 of the Texas Rules of Civil Procedure, "No sheriff or constable shall be compelled to execute any process in civil cases coming from any county other than the one in which he is an officer, unless the fees allowed him by law for the service of such process shall be paid in advance; except when affidavit is filed, as provided by law or these rules. The clerk issuing the process shall indorse thereon the words "pauper oath filed," and sign his name officially below them; and the officer in whose hands such process is placed for service shall serve the same. "</p> <p>According to Rule 129 of the Texas Rules of Civil Procedure, "If any party responsible for costs fails or refuses to pay the same within ten days after demand for payment, the clerk or justice of the peace may make certified copy of the bill of costs then due, and place the same in the hands of the sheriff or constable for collection....."</p> <p>According to Local Government Code § 118.131 and Commissioners Court orders, service fees should be collected at the time of service request for all cases filed by non-governmental entities and individuals except for those individuals with approved affidavits of indigence on file. Exceptions include only those entities listed under Civil Practices and Remedies § 6.001, 6.002, and 6.003.</p> <p>Service fees under Tax Code § 34.02 are payable only to the extent sufficient proceeds are available after the proceeds are first applied to:</p> <ol style="list-style-type: none"> (1) the costs of advertising the tax sale; (2) any fees ordered by the judgment to be paid to an appointed attorney ad litem; and (3) the original court costs payable to the clerk of the court. (4) the fees and commissions payable to the officer conducting the sale;
Cause: (Describe the cause of the condition if possible)	Clerical error Lack of receivable functionality within the mainframe Constable Civil System.
Effect: (Describe or quantify any adverse effects)	Potential loss of revenue Potential for duplicate billing (if multiple precincts bill the same paper) to AG by Dallas County
Recommendation: (Describe corrective action)	Billing procedures should include: <ul style="list-style-type: none"> • Assess, bill, and collect service fees on all cases based on State laws, Commissioners Court orders, etc. and guidelines provide by the AG. • Review of assessments and monthly IV-D billings by supervisory staff to monitor adherence to established procedures • County Treasurer advised of debts due the County in accordance with V.T.C.A., L.G.C., § 154.045. <p>Billing adjustments should be submitted for items not billed and/or billed in error.</p>
Responsible Department or Organization:	Constable Precinct 5
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: Rachel Ortiz, Chief Clerk Date: 1/30/2015
Comments:	This has been resolved and steps have been put in place so that there are no future occurrences.
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.06 – Commission Calculations
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (2/1/2012) – FY 13
Auditor(s) Assigned: MM

Finding:	Commission Calculations Review of commission calculations on 19 writ collections for compliance with Commissioners Court approved rates revealed: <ul style="list-style-type: none"> Two commission calculation errors resulting in under-collection of commission totaling \$552.66 (deputy used wrong execution worksheet and/or formula to compute constable commission): <ul style="list-style-type: none"> One commission calculation on the judgment amount excluding awarded attorney fees. One commission calculated only on the funds received from the plaintiff (highest bidder) instead of on the full bid amount (excluding court costs and service fees). Status: \$285.83 was refunded in error to the defendant. Two cases with interest calculation errors totaling \$158.41 in under-calculated interest. Two cases in which the writ officer double-charged the writ fee. \$20 posting fee assessed for each notice of sale that is posted (at various locations) without documentation to support plaintiff requested notices be posted at multiple locations. A \$5 fee for issuing a Bill of Sale is charged.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 5E
Condition: (Describe the current condition)	<p>Writs of execution and orders of sale are routed by constable clerical staff to the writ officers for service. An execution worksheet is manually prepared by the writ deputy to calculate the constable commission amount due and determine the total amount due from the defendant for judgment, costs, post judgment interest, etc. based on collection with a sale and inconsistently without a sale.</p> <p>The constable writ deputy attempts to make personal contact with defendant. The defendant is served and advised of the amount required to be paid to satisfy the judgment. If payment is received satisfying the judgment, a sale will not occur. If payment is not received, the officer can identify statutorily eligible personal property to seize and sell at auction.</p> <p>Writ deputies obtain services of insured (level of insurance that is equal to or exceeding minimum levels required by the State and acceptable to the Constable with the constable precinct inconsistently named as an additional 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.</p> <p>Notices of sale are 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. Costs for posting notices deducted from proceeds of sale. The deputy will sell property at the designated location and time listed on the notices of sale.</p> <p>The writ officer accepts valid bids from anyone present and records each bid by bidder on bid data sheets for each item being sold. The successful bidder is required to pay by cash, cashier's check, and/or money order. The writ officer issues a receipt of payment to the successful bidder for the full (except when storage fees are to be paid directly to the storage facility by the successful bidder to obtain the property) bid amount. The writ officer issues the required bill of sale (\$5 fee charged not authorized by Commissioners Court) to the successful bidder and completes other legally required documentation. The bid sheets,</p>



	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.
Criteria: (Describe the optimal condition)	<p>Management judgment in designing, implementing and conducting internal control, and in assessing its effectiveness is emphasized in the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Internal control requires that five core components be present: Control Environment; Risk Assessment; Control Activities, Information and Communication; and Monitoring Activities. Specific controls related to execution and sale procedures, collection efforts, and accounting controls include:</p> <ul style="list-style-type: none"> • Defendants served in accordance with Rules of Civil Procedure and statutes. • Notices posted and sales conducted in compliance with statute on eligible property. • Automated constable commission calculation worksheets with separate files for collections made with or without a sale. Worksheets should contain all variables including the judgment date, judgment amount, judgment credit, attorney fees, interest rate, pre-judgment and post judgment interest, court costs, service fees (in not combined with court costs), applicable commission percentages, and deputy hours spent. <p>According to Dallas County court orders 2011-1662, 2012-1587, and 2013-1572 "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 Texas Tax Code Chapter 34.01. Sale of Property, (m)... As soon as practicable after a deed is executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.</p>
Cause: (Describe the cause of the condition if possible)	Writ deputy calculation errors
Effect: (Describe or quantify any adverse effects)	Potential liability to County if bidders are required to pay more than required by law.
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • The commission calculation should include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. • Calculations should be verified / reviewed by another person such as supervising chief deputy or clerk. • 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. • Fees for bill of sale should not be assessed/collected if not authorized by Commissioners Court in compliance with Local Government Code, § 118.131. • All payments disbursed to the proper payees for the correct amount.
Responsible Department or Organization:	Constable Precinct 5

County Auditor



Dallas County, Texas

Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Rachel Ortiz, Chief Clerk	Date:	1/30/2015
Comments:	Steps have been put into place to assure that the commission calculations include the judgment, interest, and attorney fees and the approved commission percentages and hourly rates as authorized by Commissioners Court. Calculations are now verified / reviewed by a supervisory Chief Deputy or Chief Clerk. All recommendations are being implemented.					
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration	



Finding Number: 13.C5.01.07 Warrants/Capiases
Date: 05/06/14
Audit: Constable Precinct 5 FY 12 (2/1/2012) – FY 13
Auditor(s) Assigned: MM

Finding:	Warrants/Capiases Review of active warrant/capias procedures and transactions revealed: <ul style="list-style-type: none"> • Warrants are entered to the Constable's warrant system (CW50/WX50) on the mainframe on a daily basis as received. • Instances of warrants over 2 years old returned to the court(s) unexecuted instead of remaining active until served or recalled by issuing court. • Constable Civil System (CCS) lacks true aging. • Unsuccessful service attempts are manually tracked on the warrant and not recorded to the CCS. • As of October 19, 2013, there are 16,258 active warrants assigned to Precinct 5 per Document Direct Report R05870. • Warrants are no longer placed on Regional after deputies attempt service per instruction of the Dallas County Sheriff's Department.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 5G
Condition: (Describe the current condition)	<p>Warrants and capias are received from the Justice of the Peace courts and Truancy courts. Occasionally, mental illness warrants are received from the Justice courts or capiases from the Attorney General's Office. The papers are time stamped by the warrant clerk as soon as received in office. Subsequently, an internal office number is assigned to the warrant and the data is entered to the Constable Civil System.</p> <p>After the warrants have been entered into the Constable's warrant system (CW50/WX50) on the mainframe, the desk office deputy will verify that the warrant information is accurate and AIS jail information is also checked to determine if individual is in custody. If the individual is in jail, the warrant is served at the jail. The warrants are alphabetized by the defendant's name to be filed in the 'wall file' and eventually worked by deputies. On Tuesdays and Fridays the two assigned warrant deputies focus on working juvenile warrants. Class C, AG warrants, and other rush papers are worked on the remaining days. Individuals served with a capias are brought to court.</p> <p>Phone calls are made by the warrant deputies and occasionally by the warrant clerk. Postcards are sent by the chief clerk and warrant clerk. Three good attempts are initiated to serve warrants, Service attempts notations are made on the paper warrant but service attempts are not entered into the constable civil system.</p> <p>The 'Return' information (including date and deputy name) on served warrants or capiases will be completed by the deputy constables, service information entered by the clerical staff on CW50/WX50, returned to the court of issuance. Served and unserved warrants are returned to the court and taken off the constable civil system and Omnix. On Omnix if one warrant is taken off, system programming automatically removes any other warrants for the same person, although the other warrants are still active. The clerk must reenter the active warrant(s) to Omnix.</p> <p>Recall warrant sheets automatically print in the constable's office from the justice of the peace or truancy courts. Recalls are processed by the warrant clerk. Constable staff enters an 'R' (recalled) on constable civil system for the disposition type for most recalled warrants. A summary printout of all entered recalls is generated and clerks compare it to the recall printouts from court.</p> <p>The Constable implemented a policy to age purge warrants and capiases after two years (mirrors Sheriff policy). Every six months, warrants in the wall file are reviewed and warrants and/or capiases <u>not</u> recalled</p>



	by the court are cancelled by constable staff and returned to the court unexecuted.				
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 Procedure § 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>According to Code of Criminal Procedure § 12.08, MISDEMEANOR, 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 on 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>				
Cause: (Describe the cause of the condition if possible)	Lack of integrated system functionality				
Effect: (Describe or quantify any adverse effects)	<p>Inability to systemically track service attempts.</p> <p>Potential for unresolved court cases if warrants not served.</p>				
Recommendation: (Describe corrective action)	<p>A management plan should be developed and procedures documented for processing and returning warrants/capias properly and timely. Processes should include:</p> <ul style="list-style-type: none"> • Clerical staff key required information into the Constable civil system, accurately and timely. • Warrants are appropriately assigned to deputy constables for working. • Valid successful and/or unsuccessful dates are recorded on the paper returns and Constable Civil System. • Service attempts and 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 5				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Rachel Ortiz, Chief Clerk	Date: 1/30/15
Comments:	Regional warrants are no longer placed on Regional per attached letter from Sheriff Valdez. Steps have been put into place to address that clerical staff are keying information into the Constable civil system, accurately and in a timely manner. Steps have been put into place to assure warrants are appropriately assigned to deputy constables for working. A system is in place to record dates and attempts.				
Disposition:	<input checked="" type="checkbox"/> Audit Report		<input type="checkbox"/> Oral Comment		<input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.08 Time and Attendance
Date: 05/16/14
Audit: Constable Precinct 5 Audit FY 12 (2/1/2012) – FY 13
Auditor(s) Assigned: MM

Finding:	Time and Attendance Observation of office schedules and review of manual attendance records and Kronos time and attendance system postings revealed: <ul style="list-style-type: none"> • 2 hours recorded as regular time in Kronos for three employees that were out of the office. • 28 historical edits performed to correct Kronos time and attendance postings in 2012 and nine (9) historical edits performed to correct Kronos time and attendance postings in 2013. • 810.70 hours of compensatory time earned from January 1, 2012 through December 31, 2013 recorded to Kronos for 26 employees in 2012 and 2013. Principle reasons include: <ul style="list-style-type: none"> ○ Securing/closing tax office ○ Opening/closing building ○ Community patrol and events ○ Processing paper service ○ Training courses, field training • Reasons for comp time earned not consistently entered in KRONOS for clerks.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 7A – 7G , Kronos time and attendance reports for years 2012 – 2013, Precinct 5 Daily Activity Reports for December 2013
Condition: (Describe the current condition)	<p>Clerks record their time through Kronos Web Time Stamp. Deputy constables time is recorded in advance to the Kronos time and attendance system. Time entered is based on scheduled hours and time is changed by the chief deputy 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 to modify time taken (earned) in Kronos. Time and attendance is entered and signed off by the chief clerk in Kronos.</p> <p>Precinct policy considers a deputy on duty as soon as they arrive at the precinct or call in from their 'beat' through the radio.</p>
Criteria: (Describe the optimal condition)	<p>According to Dallas County Code, Section 82-81, Policy Statement, Overtime shall be assigned by the supervisor to meet the essential operating needs of the county. It should only be assigned for those situations where the supervisor is convinced the work is essential in order to meet established schedules, deadlines, special projects, emergencies, or there are unscheduled vacancies etc. Due to its cost and other factors, supervisors should be judicious in their utilization of overtime. However, if overtime is required, the supervisor must carefully follow the guidelines outlined in this article regarding the accrual, utilization and recording of overtime for county employees."</p> <p>According to Dallas County Code, Section 82-83, Supervisor's responsibility, It is imperative that supervisors be aware of the workload of each of his employees, and in cases where extraordinary amounts of time worked over 40 hours is being spent on the job, determine whether or not job expectations, productivity, staffing or other resource problems exist. If so, the manager should take corrective actions.</p> <p>Each elected official/department head is held accountable for the utilization and accrual of overtime and compensatory time in their department. This accountability includes ensuring that employees do not accrue excessive amounts of overtime/compensatory time and that if accrued, it is not carried forward year after year. The county's goal is to compensate employees for overtime or compensatory time at the same pay rate at which it is accrued. Therefore, <i>all accruals should be limited</i> and the scheduling or pay off for it should be within the same (1) pay period, (2) month, (3) quarter, or (4) fiscal year in which it is earned.</p>



	<p>According to Dallas County Code, Sec. 82-112. Accrual for overtime/compensatory time. The county does not permit voluntary or unauthorized overtime work. Accrual of overtime for nonexempt employees: (2) Is compensated at the premium rate of time and one half for all approved hours worked in excess of the employee's regular 40 hour workweek. (3) Should be flexed by the supervisor, if at all possible. This means the supervisor shall make an effort to schedule the employee to take off within the same workweek in which the overtime is earned to avoid the accrual of overtime.</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 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, Section 82-134, Scheduled time off. Periodically, elected officials/department heads may grant administrative time off for exempt employees. Such time off must be approved by the elected official/department head. In order to approve such leave, the elected official/department head must ensure the exempt employee's most current 12-month average weekly work schedule exceeds 40 hours. For exempt employees whose tenure is less than 12 months, their average weekly hours worked shall be determined by the average hours worked over the number of weeks worked for the county. If this criterion is met, the elected official/department head may, at his/her discretion, approve the time off. <u>Under no circumstances will this time be granted on an hour-for-hour basis and the total amount of time granted shall not exceed 15 work days in a 12-month period except by formal approval by the commissioners court.</u></p> <p>Any exempt employee who is not approved for administrative time off by the elected official/department head shall have the appropriate accrued leave balances docked. If appropriate leave is unavailable, the employee's salary shall be docked.</p> <p>Elected official/department heads should carefully monitor the amount of administrative leave time granted to each exempt employee to ensure against abuse and the leave is being granted fairly. The county auditor's office will periodically audit administrative time off usage and submit a report to county departments and/or commissioners court.</p>			
Cause: (Describe the cause of the condition if possible)	Unknown			
Effect: (Describe or quantify any adverse effects)	<p>Actual times vary from scheduled hours.</p> <p>Official time and attendance records do not accurately reflect time worked and taken.</p>			
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • Employees' schedules should be modified to accommodate department responsibilities and assignments and minimize the amount of compensatory or overtime earned. • Entries to Kronos for compensatory time earned should be documented with reason codes for assignments that are in accordance with county policies. • Consistent timely supervisory review of Kronos time and attendance postings should be reflected to promote accuracy of time keeping, available leave balances, and reduce the need for historical edits. 			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Rachel Ortiz, Chief Clerk Date: 1/30/15
Comments:	Employee's schedules have been modified to accommodate department responsibility and			

County Auditor



Dallas County, Texas

	assignments to minimize the amount of compensatory time. A supervisory review of KRONOS is completed on a daily basis.		
Disposition:	<input checked="checked" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration



Finding Number: 13.C5.01.09 Evidence/Property Room
Date: 05/06/14
Audit: Constable Precinct 5 Audit FY 12 (2/1/2012) – FY 13
Auditor(s) Assigned: MM

Finding:	Evidence/Property Room Review of the evidence/property room revealed: <ul style="list-style-type: none"> • Items noted in prior audit have not been reviewed or set-up for destruction. • No evidence of periodic research to determine if items are eligible for turn over to Purchasing Department for disposal, destruction or agency use.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 8A&B
Condition: (Describe the current condition)	<p>An incident and chain of custody report will be completed by the deputy when an item must be stored as evidence or found property. Three copies of the chain of custody form will be made. One will be placed with the evidence/found item, another will be filed in the property room inventory file, and the third copy will be placed in a master file. Two individuals must enter the storage room to store and secure the items. Drugs substances to be stored as evidence will be immediately taken to the lab for testing but drugs that are stored as found property will be destroyed.</p> <p>No evidence has been destroyed since the prior audit. Generally, boxes inherited from previous administrations are labeled with the year and item description in the box, for example "2006 guns" are stored.</p> <p>Items are associated with evictions and from writ services. A master electronic inventory list is maintained by the Precinct.</p> <p>Chief Deputy has keys to the evidence/property room.</p>
Criteria: (Describe the optimal condition)	<p>Code of Criminal Procedure, Article 18.17, states in part that unclaimed or abandoned property that is not held as evidence and remains unclaimed for 30 days shall be delivered for disposition to a person designated by the purchasing agent. In addition, the law enforcement agency that originally seized the property may request from the purchasing agent to have the property, which is scheduled for disposition, converted to agency use.</p> <p>Code of Criminal Procedure, Article 18.18, describes procedures for the disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband.</p> <ul style="list-style-type: none"> • Prohibited weapons as described in § 46.05 of the Texas Penal Code shall be destroyed or forfeited to the law enforcement agency that initiated the complaint not later than the 30th day after the final conviction. • Contraband, if forfeited, shall be delivered to the state, any political subdivision of the state, or to any state institution or agency. • If there is no prosecution or conviction following seizure, the magistrate on the motion of the law enforcement agency that seizes a prohibited weapon, shall order the weapon destroyed or forfeited within a timely manner of being informed that no prosecution will arise from the seizure. <p>Code of Criminal Procedure, Article 18.183, states in part that money seized by a law enforcement agency in connection with a violation of Chapter 47 of the Texas Penal Code may be deposited in an interest-bearing bank account of the county in which it was seized until final judgment is rendered.</p>



	<p>Code of Criminal Procedure, Article 18.19, states "If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession of the weapon that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. If the magistrate does not order the return, destruction, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction or forfeiture of the weapon from the magistrate."</p> <p>Code of Criminal Procedure, Article 59.03 states in part:</p> <p>c) A peace officer who seizes property under this chapter has custody of the property, subject only to replevy under Article 59.02 of this code or an order of a court. A peace officer who has custody of property shall provide the attorney representing the state with a sworn statement that contains a schedule of the property seized, an acknowledgment that the officer has seized the property, and a list of the officer's reasons for the seizure. Not later than 72 hours after the seizure, the peace officer shall:</p> <ol style="list-style-type: none"> (1) place the property under seal; (2) remove the property to a place ordered by the court; or (3) require a law enforcement agency of the state or a political subdivision to take custody of the property and move it to a proper location. <p>d) A person in the possession of property at the time a peace officer seizes the property under this chapter may at the time of seizure assert the person's interest in or right to the property. A peace officer who seizes property under this chapter may not at the time of seizure request, require, or in any manner induce any person, including a person who asserts an interest in or right to the property seized, to execute a document purporting to waive the person's interest in or rights to the property.</p> <p>Physical evidence control procedures include:</p> <ul style="list-style-type: none"> • Departmental records of evidence should be properly maintained. Detail captured should be sufficient to identify evidence added to and/or removed from the evidence room and all persons handling the evidence and entering the evidence room. • Evidence should be properly secured and access to keys should be limited to supervisors. • Evidence/property should be tagged and chain of custody forms completed for all evidence/property stored and/or removed from the evidence/property room. Deputy releasing the evidence and the person receiving the evidence should sign and date the form acknowledging the transfer. • Annual physical inventory of evidence should be completed by two officers; one should be at the rank of captain or higher.
Cause: (Describe the cause of the condition if possible)	Lack of written procedures and inadequate control of evidence/property.
Effect: (Describe or quantify any adverse effects)	Evidence may be misappropriated, tampered with, or misused. Unnecessary inventory of items eligible for destruction. Difficulty in distinguishing "found" property versus "seized" property.



Recommendation: (Describe corrective action)	Develop written Evidence/Property room procedures and monitoring plans to include: <ul style="list-style-type: none"> • Detailed efficient logs should be utilized to tag/track each item clearly and accurately noting storing/removal dates and times, printed and signature name of each officer entering/leaving the evidence/property room, defendant (parties) name, case number (if applicable), serial numbers, clear description of items, quantities, and specific reasons for removal. • Evidence Transmittal Sheet (chain of custody) forms should be completed when evidence is removed from the Evidence/Property Room • Separate logs and storage areas should be maintained within the property room for each kind of property kept. ('found', evidence, county property) • Eligible items should be scheduled for destruction as authorized by statute, timely, when departmental use is prohibited or not feasible. • Unclaimed property should be considered for agency use or auction when feasible and allowed by statute. <p>Physical inventory should be completed for all items in the storage room and should include but not limited to:</p> <ul style="list-style-type: none"> • All items identified and compared against the check-in log sheets. • Old cases reviewed to determine status. • Items not listed on the evidence log should be identified and separately listed on logs based on the item (evidence, 'found' property, or county property). • Any items listed on the evidence log but not located should be identified, researched, and reported to appropriate staff. 			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent: Rachel Ortiz, Chief Clerk	Date: 1/30/2015
Comments:	Standard Operating Procedures have been written to address the recommendations. Property is in the process of being inventoried and disposed of when necessary.			
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration	