



DALLAS COUNTY COUNTY AUDITOR

Memorandum

To: Honorable Beth Villarreal
Constable Precinct No. 5

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

Subject: Review of Statutory Reporting and Compliance for May 1, 2009 thru June 30, 2010

Date: Issued: October 29, 2010
Released: February 24, 2011

Scope

A review was performed on the records and reports of Constable Precinct No. 5 for May 1, 2009 through June 30, 2010 during which **Constable Cortes served**.

Review Procedures

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

A partial list of the review tests include:

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

Statistical

Fiscal Year 2009:

- 25,841 civil papers served per Constable Civil System
- 1,538 writs and orders of sale served per Constable Civil System
- 27,379 criminal papers served per Constable Civil System
- \$1,167,289 constable fee revenue collected all sources
- \$6,512 constable commission collected

Fiscal Year 2010 (through June 30, 2010)

- 16,597 civil papers served per Constable Civil System
- 1,115 writs and orders of sale served per Constable Civil System
- 14,433 criminal papers served per Constable Civil System
- \$837,567 constable fee revenue collected all sources
- \$3,804 constable commission collected

FINDINGS

Cash Management

Disbursements – Current writ collections are disbursed timely from the Constable's special fund. Old balances and errors totaling approximately \$40,502 remain undisbursed / uncorrected.

Commission Calculations – One judgment amount collected twice due to duplicate writ of execution issued by the justice court.

Abandoned Vehicle Proceeds – Checks dating from August 6, 2009 deposited on January 12, 2010. Limited instances of over (under) payments received for \$10 abandoned vehicle fee and/or auction proceeds. Instances of delays (including a two year delay) from the date vehicles were towed until notification sent to the registered owner by the auto pound. Auction list reflects auto pound owner and a Constable Precinct No. 1 employee as successful bidders for five and four vehicles, respectively. Same Constable Precinct No. 1 employee (as payor) signed / authorized a check from the auto pound paying Precinct No. 5 for abandoned vehicles.

Processing

Warrants/Civil Paper Service – Instances of civil papers served without collection of service fees by district clerk, justice court, or constable.

Instances of warrants served by the constable on defendants in jail still reflected as active on the Constable civil system (WX50).

Over 44,000 (approximately 57% outstanding over 1 year) warrants and 1,300 civil papers were unserved as of June 30, 2010. A very limited number of warrants signed by the justice court had not been processed / recorded to the Constable Civil system. 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 with number of unsuccessful service attempts averaging four to five before other warrants are placed on regional.

Time and Attendance – Time for 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 but not consistently approved by the chief clerk as management recognition of benefits taken or extra hours worked. Two employees received two personal holidays during the same calendar year (historical edit corrections submitted), and sick time was expended for non-sick leave related reasons.

980 hours of compensatory time or overtime reflected as earned on Kronos from October 1, 2009 through June 30, 2010. Most comp time earned contained a documented reason code including: special assignment, training, court subpoena, jail overtime, supervisor administrative duties, or investigative assignment. Time was recorded to Kronos for deputies on training in October 2009 as 12 hours per day for five consecutive days.

Evidence Control

Evidence/Property Room – Review of evidence/property room revealed deficiencies in log sheets, tracking/inventorying, and transferring/removing items. 'Found' property, items removed from eviction set-outs, seized property, and county property items are stored in the same secured room and logged on the same evidence log-in sheet. Control logs were not updated denoting results of inventories for both check in and check out. A complete self-inventory has not been completed nor have items from the prior audit been reviewed for proper disposition.

Other

Representation Letter/Internal Control Questionnaires – Constable Cortes declined to sign the representation letter for the audit period under review which states in part "I confirm, to the best of my knowledge and belief, that all monies received by me or any of my employees in our official capacities with Dallas County have been properly recorded and deposited in the County depository in accordance with procedures prescribed by the Dallas County Auditor, and that all records pertaining to financial transactions have been made available to the Dallas County Auditor and/or her employees."

An Internal Control Questionnaire (ICQ) specific to the writ section was presented to the prior administration at the start of the fieldwork, but **not** completed/returned.

An Internal Control Questionnaire (ICQ) with questions concerning monies received/paid, personnel, time and attendance, abandoned vehicle program, was presented to the prior administration at the start of the fieldwork, but **not** completed/returned.

Recommendations

Cash Management

Disbursements – Proper special fund procedures should include accurately and timely depositing and disbursing all collected funds and following unclaimed property statutes in V.T.C.A., Property Code Chapters 72 and 76.

Commission Calculations – Coordinate with the justice court to recover the duplicate judgment collection including constable commissions and return to the defendant.

Abandoned Vehicle Proceeds – 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. A management plan should be developed and procedures documented for processing warrants and recalls properly and timely to the Constable civil system and Regional warrant link system.

Time and Attendance - Train and update staff on county leave policies and annual holiday schedules. Supervisors should enter the actual hours worked by employees and the type of leave and amount of hours taken daily. Fluctuations in compensatory or overtime earned should be documented with reason codes for assignments that are in accordance with county overtime/comp policies. Historical edits should be submitted to the Payroll Hotline to correct leave types and time taken.

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. Update log sheets to include release and disposition information.

Current Findings/Observations/Recommendations

Detailed finding templates numbered 10.C5.01.02, 10.C5.01.03, 10.C5.01.05 through 10.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. 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.C5.01.02
Date: 8/23/10
Audit: Constable Precinct 5 FY 09-10(6/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Review of the special fund activity revealed:</p> <ul style="list-style-type: none"> Seized funds are deposited to the special fund pending forfeiture or return to the defendant. Seized funds, with no case filed, have not been returned to the owner. Limited segregation of duties noted over the bookkeeper's responsibility to authorize final special fund disbursement file for check printing. <p>Status Special Fund Balances from Prior Constable Administrations:</p> <ul style="list-style-type: none"> Old items totaling over \$40,502 in the special fund have not been researched for disbursing to the applicable parties and/or escheating to the County Treasurer or State Comptroller. Undisbursed amounts include \$10,175 receipted on a Tax Warrant executed in 2001. <p>Status: Taxing jurisdiction advised in 2002 that they did not intend to seek recovery of any of the proceeds from the sale conducted on the Tax Warrant.</p>
Work paper Reference: (or other method by which finding was identified)	Work Paper No 4A-2009, 4A-2010
Condition: (Describe the current condition)	<p>Deposits to the special fund include collections on executions, tax warrants, seized/confiscated funds, and/or overpayments. Current transaction review and disbursement is generally dependent on collected balances, award of forfeiture / return to party seized from, and refund of overpayments. Old open items in the Special Fund carried over from prior administrations or not researched for disbursing to the applicable parties or escheating.</p> <p>In order to generate disbursements, the bookkeeper prepares and saves a special fund disbursement file to a designated computer drive on an ongoing basis. The file is reviewed for General Ledger funds availability and approved for processing by the Auditor's office. The County Treasurer's office sends a confirmation file to the department for approval or rejection prior to printing the special fund checks. If approved by the precinct, the checks are printed in the County Treasurer's office via Document Express and mailed as addressed. The bookkeeper updates the disbursement information to the ledger sheets and records a memo entry on the Constable Civil System. The constable office relies on the County Treasurer for bank reconciliations to Oracle GL.</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)	<p>Old balances were not researched and/or disbursed by the prior constable administration. Neither an account reconciliation nor a separate account to deposit money seized under Code of Criminal Procedure, Chapter 59 exists.</p>
Effect: (Describe or quantify any adverse effects)	<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.



Recommendation: (Describe corrective action)	<p>Proper special fund procedures should include:</p> <ul style="list-style-type: none"> • A special fund control ledger should be maintained in order to account for all special fund receipts, disbursements and balance. 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 special fund control ledger should be periodically reviewed, by the chief clerk, to insure that all special fund deposits and disbursements are properly posted. <p>Proper segregation of responsibilities limit the same employee's authority to receipt payments, prepare deposits, prepare disbursements, and authorize special fund disbursements. While 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.</p> <p>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.</p>				
Responsible Department or Organization:	Constable Precinct 5				
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Date:	
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.C5.01.03
Date: 8/18/10
Audit: Constable Precinct 5 FY 09-10(6/30/10)
Auditor(s) Assigned: JG, HDL

Finding:	<p>Comparison of 40 civil paper returns and the associated County Clerk and District Clerk Odyssey records and 30 civil paper returns and the various Justice of the Peace mainframe records for proper credit for civil papers served by Constable Precinct No. 5 revealed:</p> <ul style="list-style-type: none"> • One civil paper served without collection of service fees by the constable or district clerk. (2.5% of sample) • One citation served with monetary credit recorded to another precinct by a justice of the peace court. (3.33% of sample) • Two civil papers served without collection of service fees by the constable or justice of the peace court. (6.7% of sample)
Work paper Reference: (or other method by which finding was identified)	<p>Work Paper No. 6A.1&2&3</p>
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 financial tabs cannot review the civil return lists to see if proper credit has been given for papers served. Dallas County District Clerk does not move funds from a prepaid service escrow account until a completed paper return is received.</p>
Criteria: (Describe the optimal condition)	<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> <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</p>



	<p>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>			
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)	The department should: <ul style="list-style-type: none"> • Decline to serve civil paper process unless fees allowed by law have been paid or properly indorsed with 'paupers oath filed'. • 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. • Maintain all records according to the rules of the Texas State Library and Archives Commission, http://www.tsl.state.tx.us/slr/recordspubs/, and/or according to the Dallas County Records Officer. 			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Date:
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.C5.01.05
Date: 8/23/10
Audit: Constable Precinct 5 FY 09-10(6/30/10)
Auditor(s) Assigned: JG, HDL

Finding:	Review of commission calculations on 20 writ collections for compliance with Commissioners Court approved rates revealed: <ul style="list-style-type: none"> • A writ of execution was issued twice by a Justice of the Peace court for the same judgment; writ officer served the writ twice and collected the judgment amount twice from defendant. • Multiple fees are assessed for posting notices at each location for sales of personal property. • Internal Control Questionnaire (ICQ) specific to the writ section was not completed and returned by the prior administration at the start of fieldwork.
Work paper Reference: (or other method by which finding was identified)	Work Paper No. 6A-6
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. A commission calculation worksheet is prepared by the writ officer based on collection with or without a sale including the calculation of any post judgment interest. The defendant is served and advised of the amount required to be paid to satisfy the judgment and commission. If payment is received satisfying the judgment, a sale will not occur. If payment is not received, the officer identifies statutorily eligible real property and/or personal property that can be seized and sold. Notice of a sale for real property is published in the Daily Commercial Record newspaper and notices are posted in different locations, thereafter; a sale is conducted. A \$20 fee is incorrectly assessed for each location where a notice is posted and for every one sent through certified mail. Writ deputies obtain services of insured wreckers and/or storage facilities/warehouseman (previously authorized by the constable) to remove and store seized personal property until the sale takes place. Seized personal property is stored by a warehouseman who is eligible to receive compensation from the sale for hauling seized items and the corresponding storage fees. The deputy will sell property at the location listed in the notice. Real property is sold at the George Allen Courts Building. Commissions on sales are calculated at twice the rate as without a sale. The writ officer accepts valid bids from anyone present and records bidder information and each bid by bidder on bid data sheets for each item being sold. The successful bidder is required to pay by cash, cashiers check, and/or money order. Storage facility fees must be paid by successful bidder to the warehouseman in order for items to be released. The writ officer issues a receipt of payment to the successful bidder. The writ officer issues the required bill of sale to the successful bidder and completes other legally required documentation. The bid sheets, commission calculation sheet, copy of the writ, and copies of other documentation is maintained by the writ officer at the constable's office in individual folders.</p>



Criteria: (Describe the optimal condition)	Constable commission calculation worksheet should list all variables including, but not limited to judgment amount, judgment date, attorney fees, and interest rate, court costs, indication of sale or execution without a sale and date, applicable commission percentages, and deputy hours spent and be subject to review. According to Dallas County court orders 2006-1691, 2007-1897, 2008-1821, and 2009-1802 "Commissions calculations should include judgment, interest, and attorney fees collected while excluding any court costs." 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. 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. According to Rule of Civil Procedure, Rule 656, EXECUTION DOCKET, the clerk of each court shall keep an execution docket in which he shall enter a statement of all executions as they are issued by him, specifying the names of the parties, the amount of the judgment, the amount due thereon, the rate of interest when it exceeds six percent.....Any clerk who shall fail to keep said execution docket and index thereto, or shall neglect to make entries therein , shall be liable upon his official bond to any person injured for the amount of damages sustained by such neglect. To mitigate risk for the County, third party insurance coverage should be in sufficient value to replace seized assets in the event of damage, destruction, and/or theft.			
Cause: (Describe the cause of the condition if possible)	Justice of the Peace issued two writs of executions although the first one fully satisfied the judgment.			
Effect: (Describe or quantify any adverse effects)	Potential liability to County for requiring defendant to pay judgment twice.			
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • Plaintiff should be contacted to return the duplicate judgment collection. The duplicate judgment collection including constable commission should be refunded to the defendant. • 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. 			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Date:
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.C5.01.06
Date: 8/18/10
Audit: Constable Precinct 5 Audit FY 09-10(6/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Review of employee's time and attendance records revealed:</p> <ul style="list-style-type: none"> Limited instances of bi-weekly pay period 'approval' of time worked not reflected on the Kronos time cards. Limited instances of system wide sign-off noted on the Kronos time cards. Two employees were given two personal days in the same calendar year. <p>Response: Corrected via historical edit.</p> <ul style="list-style-type: none"> 980 hours of compensatory time or overtime earned from October 1, 2009 through June 30, 2010 recorded to Kronos for forty-two employees with one employee earning 145.3 hours. Reason codes for comp time earned or overtime paid such as: 'special assignment', 'court subpoena', 'supervisor administrative duties', 'training', 'jail overtime', 'staffing requirements', and 'investigative assignment', were noted on Kronos as well as occasionally left blank. Instances of deputies' time on the 10-8 logs varying from times recorded to Kronos. Time recorded for deputies on training in October 2009 as 12 hours per day for five consecutive days. Nine activity sheets missing for one deputy. Sick time recorded for an employee prior to and after wedding date with other time recorded as vacation, LWOP, and comp law 1.5 taken.
Work paper Reference: (or other method by which finding was identified)	Work Paper NO.6D-1, 6D-2, 6D-3, 6D-5, 6D-6, and 6D-8, Kronos reports
Condition: (Describe the current condition)	Clerks record their time through time stamp. Deputy constables time is recorded in advance to the Kronos time and attendance system based on scheduled hours and time is changed after it is taken. Supervisors give employee's leave requests to the chief clerk. Time and attendance is entered by the chief clerk into the Kronos time and attendance system. Kronos time cards are marked with 'approval' and signed-off by the chief clerk albeit inconsistently.
Criteria: (Describe the optimal condition)	<p>According to Dallas County Code Section 82-382, Expensing, and (b) "Employees must complete their employment probationary period before they are eligible to expend their accrued vacation."</p> <p>According to Dallas County Code Section 82-771, Granting conditions, "In addition to the holidays listed in section 82-741, during the budget process each year, the commissioners court may grant an additional personal day (eight hours) with the following stipulations....."</p> <p>According to Dallas County Code, 82-175, Supervisory responsibilities, (a) "Supervisory responsibilities fall to the elected official, department head or their designee." (c) "Supervisors are responsible for ensuring time records are accurate and that no abuses occur....." (e) "Supervisors are responsible for checking daily start times, meal periods, end times, vacations time, sick time, compensatory time and overtime to ensure employees are in county overtime policies...."</p> <p>According to Dallas County Code Section 82-32, Work Hours Scheduling, (c) "Breaks and lunch periods. An elected official/department head may also establish breaks and lunch periods for their employees. Employees may be granted one break of ten minutes for each four hours worked. Employees are paid while on break. A lunch period may be 30 minutes or an</p>



	<p>hour depending on the work schedule approved by the elected/appointed official/department head. Lunch periods are in addition to the regular eight-hour work period.” (f) “<i>Hours worked less 40.</i> Any nonexempt employee who does not work a full 40 hour workweek will have his or her compensation reduced by the value of the hours not worked or will charge such time not worked to accrued leave of compensatory time, holiday pay, vacation or sick leave, or any combination of such leave.” (g) “<i>Other.</i> Each elected official/department head is responsible for ensuring that all reporting of time worked, and accrual and use of leave, is in compliance with county policies. Disciplinary action, up to and including termination, may be taken against employees and supervisors who falsify county documents related to work hours.”</p> <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. 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, all accruals should be limited 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, Section 82-172, “Nonexempt employee responsibilities, “(a) The county requires that every employee work 40 hours every week. Vacation leave, sick 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> <p>According to Dallas County Code, Section 82-174, General provisions, “(a) Employees leaving the premises during working hours for reasons other than county business shall clock out when leaving and clock in when returning to work.”</p>
Cause: (Describe the cause of the condition if possible)	<p>Inaccurate application of county time and attendance policies.</p> <p>Oversight</p> <p>10-8 logs not updated throughout the day.</p>
Effect: (Describe or quantify any adverse effects)	<p>Current employees may be over-compensated.</p> <p>Inaccurate recording of leave taken.</p>

County Auditor



Dallas County, Texas

Recommendation: (Describe corrective action)	Work outside the employee schedule should be properly and timely posted to the Kronos time and attendance system in accordance with the Dallas County Code and Commissioners Court orders (exceptions may include late or early start/end times, meal periods exceeding standard lunch schedule, vacation time, sick time, holiday time, jury duty, compensatory time, overtime, etc.). Emphasize supervisory review of time and attendance and Kronos postings with Kronos time cards updated to reflect 'approval' by supervisor or management. Historical edits should be submitted to the Payroll Hotline to reflect correct leave types and time taken on Kronos. Train and update staff on county leave policies and annual holiday schedules. Fluctuations in compensatory or overtime earned should be documented with reason codes for assignments that are in accordance with county overtime/comp policies.			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Date:
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.C5.01.07
Date: 8/30/2010
Audit: Constable Precinct 5 Audit FY 09-10(6/30/10)
Auditor(s) Assigned: JG

Finding:	<p>Review of abandoned vehicle activity revealed:</p> <ul style="list-style-type: none"> • One payment received for auction proceeds exceeded support documentation by \$9 (\$190.60 versus \$181.60). In addition, error in completing deposit resulted in the check being submitted to the bank for \$190. • Two separate lists contain eight vehicles reflected on both lists. Dowdy Ferry Auto Pound paid \$10 twice for each repeated vehicle. • One payment totaling \$910 for 92 abandoned vehicles was \$10 short. • Receipts not issued for checks received from Dowdy Ferry Auto Pound or the auctioneer, but recorded directly on a deposit form submitted to the County Treasurer. Approximately, \$3,720 (\$10 fees) and \$1,614.60 (2% auction proceeds) has been deposited in calendar year 2010 through July 2nd. • Authorizing names reflected on auction/settlement records indicate: <ul style="list-style-type: none"> ○ Successful bidders include Dowdy Ferry owner and a County employee ○ Check signer for Dowdy Ferry includes a County employee • Ongoing legal questions regarding Commissioners Court approval abandoned vehicle program. • Funds and vehicle lists forwarded in FY10 indicate delays in: <ul style="list-style-type: none"> ○ Processing registered letters by Dowdy Ferry ○ Deposits by constable staff <p>An expanded review of 97 towed vehicles from May 2009 based on documentation provided by Dowdy Ferry revealed:</p> <ul style="list-style-type: none"> • 89 of the 97 vehicles were subsequently returned to the registered owner • Seven of the 97 vehicles were reported to the Constable precinct as abandoned with the \$10 fee paid <ul style="list-style-type: none"> • Two of the seven vehicle packets did not contain documentation to support certified mail notification to the registered owner • One of the seven vehicle packets revealed a year passed before notification of abandonment to the Constable precinct • One of the 97 vehicles was reported to the Constable precinct as abandoned without payment of the \$10 fee. The vehicle was subsequently sold in 2010 with 2% of auction proceeds paid to the Constable precinct. • Paperwork was not provided for one May 2009 towed vehicle which was subsequently reported as abandoned to the Constable precinct and sold at auction <p>Prior year audit follow-up of undeposited checks:</p> <ul style="list-style-type: none"> • Nine checks totaling \$1,300 with dates from August 6, 2009 through December 1, 2009 were part of a deposit totaling \$1,530 on January 12, 2010.
Work paper Reference: (or other method by which finding was identified)	Auctioneer's list, abandoned vehicle lists, auto pound vehicle release/return forms, Constable impound sheets, notifications to registered owners and lien holders, Texas Department of Motor Vehicle VTR reports, and county deposits
Condition: (Describe the current condition)	Abandoned vehicle fees and auction were not timely deposited until calendar year 2010. Commissioners Court has <u>not</u> approved Precinct 5's participation in an abandoned vehicle program.



	<p>Deputy constables are assigned to various units including traffic, warrants, civil process, truancy, and bailiff. During traffic stops, drivers are required to present a valid driver's license and proof of insurance. Precinct 5's policy during the period of audit was to tow all (with limited exceptions) vehicles when drivers are cited for no insurance or driving without a valid driver's license. Procedurally, vehicles are checked by the deputy prior to impound to determine if stolen.</p> <p>Dowdy Ferry Wrecker Service is contacted to tow the vehicle to their auto pound.</p> <p>Dispatch queries vehicle returns, prints the return, and attaches to the impound sheet. Other vehicles towed from businesses or abandoned on the highway may also be taken to the Dowdy Ferry Auto Pound.</p> <p>Periodically, Dowdy Ferry Auto Pound provides a list of vehicles reflecting date towed, vehicle make/model year, plate number, VIN, registered owner, lien holder, and date letter first mailed to registered owner and/or lien holder to Precinct 5 staff. A precinct 5 supervisor will match the number of vehicles reported on the list to the amount paid by Dowdy Ferry Auto Pound (or the auctioneer if the vehicle was sold). After review, checks from Dowdy Ferry for the \$10 fee without payment errors are given to bookkeeper for depositing (sometimes mistakes go unnoticed). The Precinct 5 supervisor with the list will run the plates, verify the accuracy of the provided information, and determine whether the vehicle has been reported as stolen and may physically check the vehicle.</p> <p>Dowdy Ferry Auto Pound is required to send a notice to both the registered owner and lien holder via registered or certified mail return receipt requested. (Some notices were sent two years after the original date of tow.) If vehicles are not claimed within 10 days after the date of the notice, they are considered abandoned and can be sold at auction. J.D. Newell Auctioneer is currently the auctioneer for Precinct 5. J.D. Newell Auctioneer started directly paying 2% of the auction proceeds to Precinct 5 in 2010. Statutorily, the constable's office should receive \$10 per reported vehicle or 2% of auction proceeds.</p>
Criteria: (Describe the optimal condition)	<p>According to Transportation Code, Section, 683.014, AUCTION OR USE OF ABANDONED ITEMS; WAIVER OF RIGHTS, "(a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under Section 683.012:</p> <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;



	<p>(2) towing, preservation, and storage fees resulting from the taking into custody; and</p> <p>(3) the cost of notice or publication as required by Section 683.012.</p> <p>(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.</p> <p>(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.</p> <p>(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the 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 (3) the amount of the property owner's insurance deductible. <p>(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."</p> <p>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:</p> <ol style="list-style-type: none"> (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. <p>(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.</p> <p>(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.</p> <p>(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."</p> <p>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:</p> <ol style="list-style-type: none"> (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. <p>(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</p>
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be applied to a garagekeeper's charges for providing notice regarding the vehicle and for service, towing, impoundment, storage, and repair of the vehicle.

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

- (1) two percent of the gross proceeds of the sale of the vehicle; or
- (2) all the proceeds if the gross proceeds of the sale are less than \$10.

(d) Surplus proceeds shall be distributed as provided by Section 683.015.

(e) If the law enforcement agency does not take the vehicle into custody before the 31st day after the date the vehicle was reported abandoned under Section 683.031:

- (1) the law enforcement agency may not take the vehicle into custody; and
- (2) the storage facility may dispose of the vehicle under:

(A) Chapter 70, Property Code, except that notice under Section 683.012 satisfies the notice requirements of that chapter; or

(B) Chapter 2303, Occupations Code, if the storage facility is a vehicle storage facility."

According to Occupations Code, Sec. 2303.154. **SECOND NOTICE; CONSENT TO SALE.** (a) If a vehicle is not claimed by a person permitted to claim the vehicle or is not taken into custody by a law enforcement agency under Chapter 683, Transportation Code, before the 41st day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.

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

(b) Notice under this section must include:

- (1) the information listed in Section 2303.153(a);
- (2) a statement of the right of the facility to dispose of the vehicle under Section 2303.157; and
- (3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the notice is provided is:

(A) a waiver by that person of all right, title, or interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

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

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

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

(b) The facility may:

- (1) notify the department that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the department; or
 - (2) in the alternative, notify the appropriate law enforcement agency and pay a fee of \$10 to that agency.
- (c) A law enforcement agency described by Subsection (b)(2) may sign a document issued by the department.

According to Occupations Code, Sec. 2303.157. **DISPOSAL OF CERTAIN ABANDONED VEHICLES.** (a) The operator of a vehicle storage facility may dispose of a vehicle for which notice is given under Section 2303.154 if, before the 30th day after the date notice is mailed, the vehicle is not:

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

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



applied to the charges incurred for the vehicle under Section 2303.155. The operator shall pay any excess proceeds to the person entitled to those proceeds.

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

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

Sec. 86-757. Outside employment.

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

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

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

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

Sec. 86-758. Conflicts of interest.

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

- (1) Have a substantial interest, investment, ownership or other involvement in any entity or firm which supplies goods or services to the county;
- (2) Accept from or give to any entity, firm or person doing or seeking to do business directly or indirectly with the county, including agents or representatives of such entity, firm or person, any personal gift; loan of any type; entertainment; trips, services, or money in any amount;
- (3) Receive directly or indirectly any pecuniary interest from a contract or other agreement entered into by the county;
- (4) Engage in any other business to an extent which interferes with their performance of duties as a county official or employee; or
- (5) Use in any matter their public office or position for personal gain including the acceptance or dispensing of any special favors, privileges or benefits.

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

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

(d) All elected officials and employees of the county will comply with V.T.C.A., Penal Code ch. 36 that requires that no gift be given as a consideration for some exercise of official discretion. County employees shall not accept gifts from contractors, vendors or other persons who are employed by or who deal with the county. These rules do not apply to gifts exempted by V.T.C.A., Penal Code § 36.10, calendars, folders, pens, notepads and similar articles that bear the donor's advertising, nor do they apply to purely personal gifts between relatives and friends.

(e) All elected officials and candidates required to file financial disclosure statements by V.T.C.A., Local Government Code § 159.001 et seq., shall file an annual financial statement with the county auditor, including the reporting of gifts, as required by that statute.

(f) All elected county officials shall comply with V.T.C.A., Election Code title 15 and all state-mandated reporting of gifts.

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

(h) Nothing in this division shall prohibit the solicitation and or acceptance of contributions and or gifts as authorized by the Texas Election Code.

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."			
Cause: (Describe the cause of the condition if possible)	Inaccurate application or violation of county policies and/or state law. Oversight			
Effect: (Describe or quantify any adverse effects)	Potential for legal liability to Dallas County and/or the elected official. Prevents potential assertion that monies were paid and misappropriated. Failure to issue a receipt for funds received decreases the constable's internal control over funds collected.			
Recommendation: (Describe corrective action)	<ul style="list-style-type: none"> • Commissioners Court approval should be obtained for participation in an abandoned vehicle program. • Written procedures consistent with Transportation Code Chapter 683 should be developed, provided to staff, and enforced. Procedures may include, but are not limited to: <ul style="list-style-type: none"> ○ validating accuracy of lists and payments submitted by vehicle storage facilities ○ checking vehicle plate return information for reported stolen vehicles ○ performing random physical inspections of abandoned or towed vehicles at storage facilities ○ verifying traffic violation criteria meets departmental guidelines and county policies before requesting vehicles be towed with all vehicles immediately inspected for children or animals left in the vehicle ○ using vehicle storage facilities within precinct boundaries or with close proximity of precinct boundaries • 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 • All monies received should be promptly <u>receipted</u> and deposited consistent with state law, V.T.C.A., L.G.C., § 113.022 and procedures recommended by the County Auditor. 			
Responsible Department or Organization:	Constable Precinct 5			
Management's Response:	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree	Respondent:	Date:
Comments:				
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration	

Jan 2-22-11

County Auditor



Dallas County, Texas

Finding Number: 10.C5.01.08
Date: 8/30/10
Audit: Constable Precinct 5 Audit FY 09-10(6/30/10)
Auditor(s) Assigned: JG, HDL

Finding:	<p>Review of the evidence/property room procedures and review of all items in property room revealed ongoing internal control questions regarding storage locations and check-in logs.</p> <p>Storage lockers were cut open on September 29, 2010 as keys were not located. The lockers contained four bags of possible drugs and one bag containing a gun from 2007 cases.</p> <p>Status Prior Year Audit Finding:</p> <ul style="list-style-type: none">• Items have not been reviewed or set-up for destruction. Some items date back as far as 1996.• Control logs were not updated denoting results of inventory.
Work paper Reference: (or other method by which finding was identified)	Work Paper No.6G and observations
Condition: (Describe the current condition)	<p>Deputy constables seize evidence during traffic stops or arrest. Evidence is placed in plastic bags carried by the deputies. The deputy tags the bag, writing the defendant's name, date, and officer service number. The deputy transports the evidence to the constable office and notifies his/her immediate supervisor. The deputy fills out the Evidence check-in log sheet while the supervisor is present. The supervisor will write their last name on the Evidence check-in log sheet and place the bag in the evidence/property room. Deputy constables also take control of other 'found' property that has been abandoned or removed during evictions that cannot be left at the curb. 'Found' property, seized evidence/property, and county property are stored in a small storage room with a door that has two locks. Upper management only has access to the bottom lock as the key to top lock is lost. Deputies check in items that are 'Found' and evidence on the same Evidence check-in/out log sheet. When evidence is checked out, the same check in log sheet is used. Evidence Transmittal Sheet (chain of custody) forms were not completed when items were sent to the lab, released to other law enforcement agencies, returned to defendants, disposed, removed by deputies, etc. The Lieutenant prepares a brief statement describing 'found' items to be picked up by individuals and has the individual sign the statement of release and provide a copy of their driver's license.</p>
Criteria: (Describe the optimal condition)	<p>Seizure, disposition, and property room procedures are established in accordance with state statutes including Code of Criminal Procedure, Articles 18.17, 18.18, 18.181, 18.183, 18.19, 59.02, and 59.03.</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. Limited space available.		
Effect: (Describe or quantify any adverse effects)	Evidence may be misappropriated, tampered with, or misused. Unnecessary inventory of items eligible for destruction. Unable to determine if items are missing or were released.		
Recommendation: (Describe corrective action)	Develop written Evidence/Property room procedures and monitoring plans to include: <ul style="list-style-type: none"> • Physical security of locks, keys, and logs. • Existing locks should be replaced or re-keyed. • Specific training/supervision/follow-up of physical item, accuracy of data, and notice of deficiencies. • 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 lockers 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 missing items 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: _____ Date: _____
Comments:			
Disposition:	<input checked="" type="checkbox"/> Audit Report	<input type="checkbox"/> Oral Comment	<input type="checkbox"/> Deleted From Consideration

Jun 2-22-201

County Auditor



Dallas County, Texas

Finding Number: 10.C5.01.09
Date: 8/31/10
Audit: Constable Precinct 5 FY 09-10(6/30/10)
Auditor(s) Assigned: JG, HDL

Finding:	<p>Review of active warrant/capias list for Constable's office revealed:</p> <ul style="list-style-type: none">• Constable Civil System lacks true aging.• Unsuccessful service attempts are manually tracked on the warrant and not recorded to the Constable Civil System.• Approximately, 57% of warrants have been outstanding for one year.• Instances of warrants served by the constable on defendants in jail still reflected as active on the Constable civil system (WX50).
Work paper Reference: (or other method by which finding was identified)	<p>Constable 5 staff Review of report R05870 warrant/capias active list Over 44,000 warrants and 1,300 civil papers unserved as of June 30, 2010.</p>
Condition: (Describe the current condition)	<p>Warrants and capias are time stamped and alphabetized by the defendant's name 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) and initially assigned to a generic deputy number '520' on CW50/WX50. Addresses are researched and Mapsco information added. The warrants and capias are sorted by alpha groups and filed in a metal cabinet.</p> <p>Each deputy is assigned a group of letters. If a warrant does not have sufficient information, it is returned to the court of issuance without service. Most initial phone calls are made by the bailiffs to prompt defendant's with warrants to report to the constable's office. AIS jail information is also checked by the bailiffs or other deputy constables. Warrants are marked to reflect AIS has been checked. Defendants that come directly to the constable's office are taken by a deputy constable to appear in court. Defendants with a capias are taken to jail. When phone calls are unsuccessful, the deputy constables will drive to the identified addresses to attempt service of the warrants or capias. Warrants, which have been searched on AIS, phone calls made, or service attempted, are stored in small cabinets with notations recorded on the warrant to reflect service attempts. Unserved warrants or capias will be entered (after 4 to 5 unsuccessful service attempts) 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, and returned to the court of issuance.</p> <p>Warrants or capias info recalled by the courts are routed to a designated printer within the constable's office. 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 most 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>Felony, Class A or B warrants are also served by the constable deputies. The deputies will physically go to the defendant's location on these warrants to attempt service/execution. Office of Budget Evaluation</p>

County Auditor



Dallas County, Texas

	recommended that the Constable's office give priority to working these papers rather than class C warrants/capias.
	Long standing Sheriff policy is to age purge class C warrants or capias on Regional after two years. Other warrants or capias <u>not</u> recalled by the court were cancelled by constable staff and returned to the court.
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)	Service attempts not recorded to WX50.
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"> • 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. • Valid successful and/or unsuccessful dates are recorded on the paper returns and WX50 • 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. • Investigate options for automated tracking and integration with JP systems
Responsible Department or Organization:	Constable Precinct 5
Management's Response:	<input type="checkbox"/> Agree <input type="checkbox"/> Disagree Respondent: _____ Date: _____
Comments:	
Disposition:	<input checked="" type="checkbox"/> Audit Report <input type="checkbox"/> Oral Comment <input type="checkbox"/> Deleted From Consideration