

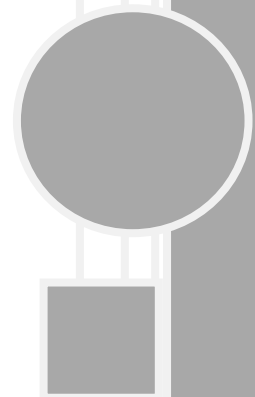


AUDIT REPORT

DALLAS COUNTY

CONSTABLE PRECINCT 3 - FY2016 AND FY2017

Darryl D. Thomas
Dallas County Auditor
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CONSTABLE PRECINCT 3 - FY2016 AND FY2017

TABLE OF CONTENTS

MANAGEMENT LETTER.....	3
EXECUTIVE SUMMARY.....	4
INTRODUCTION.....	5
DETAILS.....	6
Commission Calculation.....	6
Special Fund Reconciliation.....	7
Fee Compliance/Posting.....	8
Manual Receipts.....	9
Property/Evidence Room.....	10

This report is intended for the information and use of the agency/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



DALLAS COUNTY
COUNTY AUDITOR

MANAGEMENT LETTER

Honorable Benjamin Joe Adamcik
Constable Precinct No. 3
Dallas, Texas

Attached is the County Auditor's final report entitled "**Constable Precinct 3 - FY2016 and FY2017**" Report. In order to reduce paper usage, a hard copy will not be sent through in-house mail except to the auditee.

If you prefer that released reports be emailed to a different (or additional) recipient, please inform me of the name and the change will be made.

Respectfully,

A handwritten signature in blue ink that reads "Darryl D. Thomas". The signature is fluid and cursive.

Darryl D. Thomas
County Auditor

EXECUTIVE SUMMARY

A review was performed in accordance with statutory guidelines on the records and reports of Constable Precinct No. 3 for fiscal years 2016 and 2017. Internal Control weaknesses which need consideration by management are:

Summary of Significant Observations:

Lack of knowledge of statutes and the fee schedule authorized by the Dallas County Commissioners Court resulted in:

- The wrong percentages were used in calculations for commission earned on collections resulting from a sale.
- Inconsistency in applying correct interest rate and date for commission calculation.

Due to a system limitation of the Constable Civil System, papers are purged after 18 months resulted in:

- Inadequate guidelines on recording and tracking paper served in the Constable Civil System.
- Incomplete data entry into Constable Civil System.
- Inconsistency in recognizing accurate, complete and proper classification of monetary credits for paper served or attempt to serve by the deputy

Limited management oversight and insufficient internal control over fee compliance and posting procedure resulted in:

- Data clerk entry errors in the County-Wide Receipting System.
- Lack of supervisory review of fee assessments and receipts.

Limited staff training on performing Special Fund reconciliation and reviewing of special fund balance activities.

Repeat observations from Previous Audits:

Lack of knowledge of statutes and the fee schedule authorized by the Dallas County Commissioners Court resulted in:

- The wrong percentages were used in calculations for commission earned on collections resulting from a sale.
- Inconsistency in applying correct interest rate and date for commission calculation.

Lack of established inventory control procedures of the evidence/ property items.

Limited staff training on performing Special Fund reconciliation and reviewing of special fund balance activities.

INTRODUCTION

Dallas County Auditor's Office mission is to provide responsible, progressive leadership by accomplishing the following:

- Comply with applicable laws and regulations
- Safeguard and monitor the assets of the County utilizing sound fiscal policies
- Assess risk and establish and administer adequate internal controls
- Accurately record and report financial transactions of the County
- Ensure accurate and timely processing of amounts due to County employees and vendors
- Set an example of honesty, fairness and professionalism for Dallas County government
- Provide services with integrity
- Work in partnership with all departments to resolve all issues of the County
- Strive to utilize the latest efficient and effective technology in the performance of tasks
- Provide technical support and training in the development, implementation, and maintenance of information systems
- Hold ourselves accountable to the citizens of the County at all times
- Be responsive to the elected officials and department heads of Dallas County

The objectives of this audit are to:

1. Ensure compliance with statutory requirements
2. Evaluate internal controls
3. Verification of accuracy and completeness of reporting
4. Review controls over safeguarding of assets

This audit covered the period of October 1, 2015 through September 30, 2017.

The audit procedures will include interviews with key process owners, observation of transactions processing, data analysis and sample testing of transactions. The main system used will also be reviewed and incorporated as part of the testing of transactions.

DETAILS

Commission Calculation

A review of commission calculations for 14 papers in FY16 and 15 papers in FY17 for accuracy and compliance with Commissioners Court approved rates revealed: ten cases where commission was under collected by a total of \$12,947.26, six cases where the \$150 service fee was collected twice, five cases where a total of \$4,599.25 for commission was collected although service was not successful, commission in the amount of \$2,500 was collected on a Tax Warrant where no sale occurred, and commission in the amount of \$1,719.13 was collected for a case that resulted in an auction without sale. Dallas County court orders 2014-1308, 2015-1304, and 2016-1099 state that "commission calculations should include judgment, interest, and attorney fees *collected* while excluding any court costs" and that there is no commission on a Tax Warrant without a sale. Additionally, per Sec. 304.005 (a) of the Finance Code, "post judgment interest on a money judgment of a court in this state accrues during the period beginning on the date the judgment is rendered and ending on the date the judgment is satisfied." Sec. 304 also states that while post judgment interest compounds annually, prejudgment interest is computed as simple interest and does not compound. The inconsistent application of Dallas County Court orders and inadequate staff training resulted in several commission calculation errors, loss of County revenue, and noncompliance with Dallas County Commissioners Court orders and the Finance Code.

Recommendation

Commission Calculation

Management should ensure that written procedures are established and implemented to:

- Minimize and resolve commission calculation errors.
- Create separate automated commission calculation work sheets for sales and non-sales.
- Commission should not be calculated for unsuccessful service.
- Interest should be calculated according to the language specified in the judgment using the judgment date to one day prior to collection/sale, unless the judgment states otherwise.
- A bill of costs should be attached to each judgment sheet in order to determine whether or not the service fee has been assessed. If the service fee has been included in the court costs on the judgment, it should not be collected by the precinct.
- Calculations should be reviewed and verified by another staff member at the precinct, preferably the chief deputy or chief clerk.
- Refunds should be issued for excess collections.

Management Action Plan

Findings have been reviewed and errors that have been noted were completed by the

previous Writ Officers and prior Chief Deputy. These findings have been shared with the new Chief Deputy and new Writ Officer. There seems to be some difference in interpretation as to the right to collect commission when a case has been settled between parties. Both the lack of available tools and limitations of the Constable Civil System continue to pose a continued concern as to the ability to improve and limit errors in this area. It is recommended that staff receive additional training and monitoring in dealing with these types of actions.

Auditors Response

The court orders for Sheriff and Constable fees; 2014-1308, 2015-1304, and 2016-1099; state that commission is due on amounts "collected" by the precinct. If restitution cannot be paid by the Defendant and the Constable Deputy is unable to seize property to satisfy the judgment, the paper (Writ of Execution, Order of Sale, or Tax Warrant) should be returned to the court as Nulla Bona and the precinct is not entitled to commission. If the Defendant and Plaintiff agree to settle outside of the Constable's office and/or court, that is a separate matter. The paper service fee of \$150 and the \$40 per hour fee for deputy time worked in excess of ten hours would be sufficient payment for the Deputy's time and effort.

Special Fund Reconciliation

A reconciliation and review of the Special Fund activity for FY16 and FY17, postings to the Constable Civil System (CCS), general ledger, and internal control procedures for separation of duties, authorization, and funds available for disbursements and proper payee revealed: Special Fund balances over three years old totaling \$6,411.69 have not been researched for disbursement to applicable parties, recovery of excess disbursements, or escheating to the County Treasurer or State Comptroller. As a result, there is a delay in disbursements to appropriate parties. To comply with statutes, stale dated checks and undisbursed funds should be reviewed in accordance with unclaimed property statutes, Property Code, § 72 and 76 and escheated either to the County Treasurer (if \$100 or under) or the State of Texas (if over \$100).

Recommendation

Special Fund Reconciliation

Management should ensure:

- Old balances are researched for disbursement to applicable parties, recovery of excess disbursements, or escheating to the County Treasurer or State Comptroller.

Management Action Plan

There are 34 cases identified in the Special Funds account that are over three years old and have not been reconciled. Three cases have a Court order referenced as stale dated. These will be reviewed for filing as Unclaimed once case information can be located. Five cases are issues with either underpayment or overpayments for less than \$.20 cents that no action is needed. One case is a result of a Stop Payment that the Attorney never followed through with in providing documentation as to the authority to receive any reissued funds. Action is still being reviewed on this. Also, 25 of the 34 cases are from the previous

administration that we are unable to address as there is no available case information to reference. Furthermore, these are just now being brought to your attention and have not been addressed in previous audits. There are some questions as to whether they are part of the previous Constable 3-A Special Funds account.

Auditors Response

To comply with statutes, stale dated checks and undisbursed funds should be reviewed in accordance with unclaimed property statutes, Property Code, § 72 and 76 and escheated either to the County Treasurer (if \$100 or under) or the State of Texas (if over \$100). The old cases have been mentioned in previous audits. The finding on previous audit reports have been shown as a grand total and not individual cases..

Fee Compliance/Posting

A review of the IT extract from the Constable Civil System (CCS) and the receipts from County-Wide Receipting System (CWR) to determine the completeness and accuracy of data related to paper service for FY16 and FY17 revealed: 230 instances where the fee amount received in CWR was not entered into the Amount Collected column of CCS; 3,521 receipts out of 3,825 receipts (92%) contained data entry errors in the office number field of CWR; five papers in CCS where the fee in the Amount Collected field was entered incorrectly; 11 instances where the precinct collected a total of \$880 for the service of a protective order; and one CWR receipt that referenced the incorrect paper type. Service fees should be assessed and collected in compliance with applicable state laws, including Local Government Code, § 118.131 and Commissioners Court orders. In order to comply with best practices, a record of original entry should be posted to the CCS for tracking/reporting and accurately include all updates of all required data elements in a timely manner. Additionally, receipts in CWR should accurately reference the data posted to CCS and capture the entirety of the office numbers.

Due to the system limitation, inadequate guidelines on recording and tracking papers served, data clerk entry errors/oversights in CWR, and a lack of supervisory review of fee assessments and receipts; there is an inaccurate or incomplete record of fees earned and collected. Precinct staff is unable to record revenue in the CCS for papers that have been purged from the system. Inaccurate data will result in overstating/understating the total number of papers served which is used to derive staffing requirements and perform a Constable Fee analysis.

Recommendation

Fee Compliance/Posting

Management should ensure that:

- Written procedures are established for fee compliance.
- Refunds are issued for payments received for protective orders.
- Service fees are properly assessed and collected according to state laws, Commissioner Court orders, Local Government Code § 118.131, etc.
- Data entered into the Constable Civil System is complete and accurate. All data elements, including the Fee Amount Earned, Amount Collected, Amount Paid to

Court, Disposition Code, and Paper Type fields, should be accurately entered into the Constable Civil System.

- Receipts are entered into CWR with the correct details from CCS including, but not limited to: office number, paper type, and case number.
- The new system resolves the limitation identified in CCS.

Management Action Plan

The overall response to this is that the tools/system provided to the Constables are both out dated and lacks sufficient tools to prevent errors.

Auditors Response

Prior to 2016, the Auditor's Office was never able to compare the data from CCS to CWR to determine the completeness and accuracy of data related to paper service. Beginning in 2016, IT was able to upload the data that we used for comparison. Since this change occurred at the same time as our audit, we will consider this as an informational issue during this audit. However, in future we will still review and recommend that Best Practices require that :

- A record of original entry should be posted to the Constable Civil System for tracking/reporting and accurately include all updates of all required data elements in a timely manner.
- Receipts in CWR should accurately reference the data posted to CCS.
- The Office Number field in CWR should include all characters of the office number from the Constable Civil System.

For Protective Orders where fees are not requested, we recommend that a legal interpretation be requested from the District Attorney's Office to determine if fees can be accepted, if offered.

Manual Receipts

A review of 51 deputy manual receipts (form 44-A) issued during FY16 and FY17 revealed: there were 15 computer receipts that did not reference the appropriate form 44-A manual receipt number, the date was written incorrectly on two form 44-A manual receipts, there were ten form 44-A manual receipts that did not list the payment type, the payment type listed on one form 44-A manual receipt was different from the payment type on the corresponding computer receipt, and there was one form 44-A manual receipt issued out of sequence. Based on best practices for manual receipts, the computer receipt should always reference the manual receipt number, all of the appropriate fields on the manual receipt should be filled out correctly, and manual receipts should be issued in chronological and numerical order. The inconsistent application of controls when generating computer receipts for form 44-A manual receipts and various oversights/errors by the Writ Deputy when issuing form 44-A manual receipts led to an incomplete record of manual receipts in the CWR

system and incomplete or inaccurate form 44-A manual receipts. Additionally, manual receipts issued out of sequence could result in blank receipts thus contributing to a waste of Dallas County resources. Ultimately, decreased internal control over funds collected can lead to accounting errors and omissions and the misappropriation of assets.

Recommendation

Manual Receipts

Management should develop formal written receipting procedures to ensure that manual receipts are:

- Properly recorded in CWR.
- Reviewed and verified for accuracy/completeness before they are issued to customers.
- Issued in numerical and chronological order.

Management Action Plan

The requirement to reference all manual receipts in the CWS has been addressed and made mandatory. Both Writ Deputy and Bookkeeper have been advised to review manual receipts for accuracy and completeness.

Auditors Response

None

Property/Evidence Room

A review of the property/evidence room revealed: one item located in the storage room did not match the description of the item shown on the Precinct's Evidence List, one item located in the storage room was not included on the Evidence List, and four guns found in the storage room were not listed on the Abandoned/Found Property Log. According to best practices, the evidence officer should ensure that all relevant details of property/evidence items are accurately recorded on a list or log in an effort to increase adherence to the Code of Criminal Procedures as stated in, but not limited to, Article 18.17, 18.18, 18.181, and 18.183. Departmental records of evidence should be properly maintained. Details captured should be sufficient enough to identify evidence/property items added to and/or removed from the evidence room and all persons handling the evidence and entering the evidence room. Deputy omissions or errors, the absence of formal training and written procedures, and the lack of annual inventory reviews may result in inaccurate or incomplete records for property/evidence items.

Recommendation

Property/Evidence Room

Management should ensure:

- Procedures are developed for the Evidence/Property room and frequently

monitored.

- Specific training/supervision/follow-up of physical items, accuracy of data, and notice of deficiencies.
- Physical inventory should be completed for all items in the storage room.
- Identify and reconcile all items with the Evidence List and Property Log either monthly, quarterly, or annually.
- Old cases are reviewed to determine status.

Management Action Plan

Under new Administration steps have been taken to ensure that any and all items seized or abandoned are inventoried and listed. This list will be reviewed regularly and steps will be taken to either return property or have it destroyed as required.

Auditors Response

None

cc: Darryl Martin, Commissioners Court Administrator