

GALVESTON COUNTY



Office of County Auditor

Randall Rice CPA CISA CIO, County Auditor
Kristin Bulanek CIA, First Assistant County Auditor

P.O. Box 1418, Galveston, Texas 77553

(409) 770-5304

722 Moody Ave 4th Floor, Galveston, TX 77550

April 6, 2020

Honorable Mark A. Henry, County Judge, and
Members of the Commissioners Court

Honorable Mark A. Henry and Members of the Court:

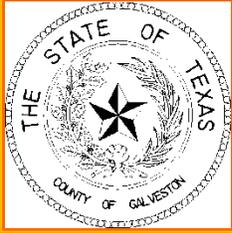
Attached to be received and filed is the internal audit report of Justice of the Peace, Precinct 2. The audit covered the period January 1, 2019 through December 31, 2019. Also attached is the response letter from Honorable Michael Nelson, dated March 23, 2020.

Sincerely,

Randall Rice CPA
County Auditor

cc: Honorable Judge Michael Nelson

Attachment: Justice of the Peace, Precinct 2 Audit Report
Response Letter, Judge Michael Nelson



Justice of the Peace, Precinct 2 Audit

February 10, 2020

Galveston County
Internal Audit
Division

Randall Rice CPA
CITP CISA CIO CBM DABFA CGMA
County Auditor

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Executive Summary

Reliability and Integrity of Information (page 3)

- Compensating controls have been implemented in different areas of the court's operations to ensure a proper separation of duties.
- No discrepancies were noted in testing the adjustments, reversals and voids against court policy.
- No material exceptions were noted in the recording of citations issued by the Galveston County Sheriff's Office in Odyssey.

Safeguarding of Assets (page 4)

- All collections were accounted for during the surprise cash counts.
- Physical security over assets (collections) is adequate.
- Court policy is to deposit collections daily.
- Bond account bank reconciliations are submitted to the Auditor's Office monthly.

Compliance with Statutes, Policies and Procedures (pages 5-7)

- No material exceptions were noted in the testing of Administrative Dismissals.
- No exceptions were noted in the testing of No-Charge Dismissals.
- The office is in compliance with applicable statutes when assessing court costs, fines and fees.
- No material discrepancies were noted in the testing of the "Allocation Rule".
- To ensure compliance with LGC §133.10, the court should only collect the time payment fee on or after the 31st day of the judgment date.
- PC30 collection fee calculation must include the entire outstanding balance of any fines, fees and court costs.
- The Judge shall approve all credits granted to the defendants and adequate support documentation for all credits awarded must be scanned in Odyssey

Statistical Analysis (page 8-9)

- More than a third of cases (38.4%) were traffic misdemeanors. Non-traffic misdemeanors made up 30.7% and evictions made up 14.5%.
- Bank deposits fluctuated from \$60,629 (October 2018) to \$37,786 (December 2018) and back up to \$71,335 (September 2019). Total collections for FY2019 were \$731,698.

Introduction

The Internal Audit Division conducted an internal audit of the Justice of the Peace, Precinct 2, in accordance with Local Government Code §115. The internal audit covered the period January 1, 2019 through December 31, 2019. The audit was performed from January 23, 2020 through February 10, 2020.

The primary objectives of the internal audit are to provide reasonable assurance concerning:

- Reliability and integrity of the information
- Safeguarding of assets
- Compliance with laws, regulations, contracts, policies, plans and procedures

The scope of the internal audit encompassed the financial records and administrative procedures related to the Justice of the Peace, Precinct 2. The internal audit included, but was not limited to, the books, accounts, reports, dockets and records of the Justice of the Peace, Precinct 2.

The internal audit included examining transactions on a test basis and required exercising judgment in the selection of such tests. As the internal audit was not a detailed examination of all transactions, there is a risk that errors or fraud were not detected during the internal audit. The official therefore retains the responsibility for the accuracy and completeness of the financial information.

Because of certain statutory duties required of the County Auditor, we are not independent with regard to the Galveston County Justice of the Peace, Precinct 2 as defined by the AICPA professional standards. However, our internal audit was performed with objectivity and due professional care.

Lillian Arredondo, Internal Auditor, performed the audit.

Reliability and Integrity of Information

Reliable information is accurate, timely, complete and useful. In order to achieve this, controls over record keeping and reporting must be adequate and effective.

Separation of Duties

One of the most important internal controls is to have proper separation of duties. No one person should authorize a transaction, record a transaction and have custody of the assets. A proper separation of duties is sometimes difficult to establish due to the size of staff and budgetary constraints; however, there are compensating controls that have been implemented in different areas of the court's operations.

Adjustments, Reversals and Voids

All clerks have the ability to process adjustments, reversals and voids in Odyssey. Court policy requires a copy of the transaction receipt to be printed with an explanation documented and signed by the clerk who initiated the transaction and a clerk approving the transaction. Proper support of the adjustments, reversals and voids must be scanned into Odyssey for its validity. A sample of adjustments, reversals and voids was tested for compliance with the court policy. No exceptions were noted.

Completeness and Accuracy

Information from citations issued by the Galveston County Sheriff's Office (GCSO) is recorded in their Record Management System (RMS). The citations are turned into the related Justice Court and subsequently entered into Odyssey by the clerks. Internal Audit tested a sample of citations recorded in RMS to verify the information was completely and accurately recorded in Odyssey. No material discrepancies were noted.

Safeguarding of Assets

Safeguarding of assets has three basic components: 1) physical security of the collections, 2) minimal exposure to loss, and 3) proper management of the collections.

Physical Security

Physical security encompasses any method to physically secure the collections from loss. Monies collected should be kept in a locked drawer or safe until they are deposited in the bank.

As part of the audit, the auditor conducted a surprise cash count at the Santa Fe office on January 23, 2020 and at the Galveston office on January 30, 2020. All collections were accounted for at the time of the surprise cash counts. Controls are in place to ensure the staff uses a lockable safe to secure collections until ready to be deposited. The safe remains locked when not in use.

Minimizing Exposure to Loss

Daily depositing is one of the best methods of minimizing exposure of collections to loss as well as providing the county with maximum benefit of the collections. JP2 has a policy to deposit collections daily. Deposits are reviewed quarterly by the Auditor's Office

Management of Collections

Properly prepared and adequately supported bank reconciliations are one of the best methods of cash management available to any official. The reconciliation process identifies any discrepancies in the bond account and assists in preventing the misuse of funds. JP2 performs a bond account bank reconciliation each month and submits a copy to the Auditor's Office. Bond account bank reconciliations are reviewed quarterly by the Auditor's Office.

Compliance with Statutes, Policies and Procedures

The following areas were tested to provide reasonable assurance the court is in compliance with statutes, policies and procedures.

Administrative Dismissals

Certain charges may be dismissed with an administrative fee, set by statute, when the defendant provides proof the underlying violation was resolved within the statutory time limit. When the proof is presented and the administrative fee has been paid, the clerk may dismiss the case without the consent of the Judge or the Assistant District Attorney. A sample of administrative dismissals was tested for compliance with applicable statutes. No material exceptions were noted.

CCP §32.02 Dismissal by State's Attorney

CCP §32.02 Dismissal By State's Attorney states "The attorney representing the State may, by permission of the court, dismiss a criminal action at any time upon filing a written statement with the papers in the case setting out his reasons for such dismissal, which shall be incorporated in the judgment of dismissal. No case shall be dismissed without the consent of the presiding judge." Court policy requires support documentation for no-charge dismissals, signed by the Judge or the Assistant District Attorney, to be scanned into Odyssey as proof of its validity. A sample of no-charge dismissals was tested for compliance with CCP §32.02 and court policy. No exceptions were noted.

Court Costs, Fines and Fees

The Texas Judicial Branch publishes a 'Justice Court Convictions Court Cost Chart' each year there is a legislative update. The chart shows the fees to be assessed for misdemeanor offenses, including specific costs not assessed upon conviction, but assessed under appropriate circumstances. The chart also provides the statute that supports the amount of court costs, fines and fees reflected on the chart. A sample of cases was tested for compliance with the applicable statutes regarding court costs, fines and fees collected by the office. No discrepancies were noted.

Compliance with Statutes, Policies and Procedures (cont.)

Allocation Rule

Attorney General Opinion GA-147 and the 'Justice Courts - Court Costs and Fees Handbook' define the "Allocation Rule" as the practice of allocating monies received from a defendant first to pay costs and then to pay a fine. If the monies received do not cover all of the costs, then the monies must be allocated to costs on a pro rata basis. Accordingly, any credit awarded (Jail Time Credit, Community Service, Waivers) must be applied to the fine amount first, then to court costs and fees. A sample of cases was tested for compliance with the "Allocation Rule". No material discrepancies were noted.

Time Payment Fee

LGC §133.103 states "(a) A person convicted of an offense shall pay, in addition to all other costs, a fee of \$25 if the person: (1) has been convicted of a felony or misdemeanor; and (2) pays any part of a fine, court costs or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution." A sample of cases were tested for compliance with LGC §133.103.

Finding: The court collected the time payment fee prior to the 31st day after the judgment.

Recommendation JP2-20-04: To ensure compliance with LGC §133.103, the court must collect the time payment fee only when the person pays any part of the charges on or after the 31st day of the judgment date.

CCP §103.0031 Collection Contracts

CCP §103.0031 states the commissioners court of a county may enter into a contract with a private attorney or a public or private vendor for the provision of collection services for debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution. A commissioners court that enters into a contract with a private attorney or private vendor under this article may authorize the addition of a collection fee in the amount of 30 percent of the outstanding balance that is more than 60 days past due and has been referred to the attorney or vendor for collection. A sample of cases was tested for compliance with CCP §103.0031.

Finding: PC30 fees are not consistently being assessed accurately in Odyssey.

Recommendation JP2-20-05: To ensure compliance with CCP §103.0031, the PC30 collection fee calculation must include the entire outstanding balance of any fines, fees and court costs.

Compliance with Statutes, Policies and Procedures (cont.)

Credits

Jail Time Credit

CCP §45.048 Discharged From Jail states a defendant placed in jail shall be discharged by showing the defendant is too poor to pay the fine and costs or has remained in jail a sufficient length of time to satisfy the charges. Per court policy, the defendant must provide proof of time served.

Community Service

CCP §45.049(a) Community Service in Satisfaction of Fine or Costs states a justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service.

Indigent Credit/Waivers

CCP §45.0491 Waiver of Payment of Fines and Costs for Indigent Defendants and Children states a justice court may waive payment of all or part of a fine or costs imposed on a defendant if the court determines that:

- (1) the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs or was, at the time the offense was committed, a child as defined by Article 45.058(h); and
- (2) discharging the fine or costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

Court policy dictates all credit awarded must be approved by the Judge and adequate support documentation for credits must be scanned into Odyssey as proof of its validity

A sample of cases was tested for compliance with CCP §45.048, CCP §45.049(a), CCP §45.0491 and court policy.

Finding: Jail time credit and community service credit was awarded without providing adequate support documentation of the Judge's approval.

Recommendation JP2-20-06: To ensure compliance with office policy, the Judge shall approve all credits granted to the defendants and adequate support documentation for all credits awarded must be scanned in Odyssey.

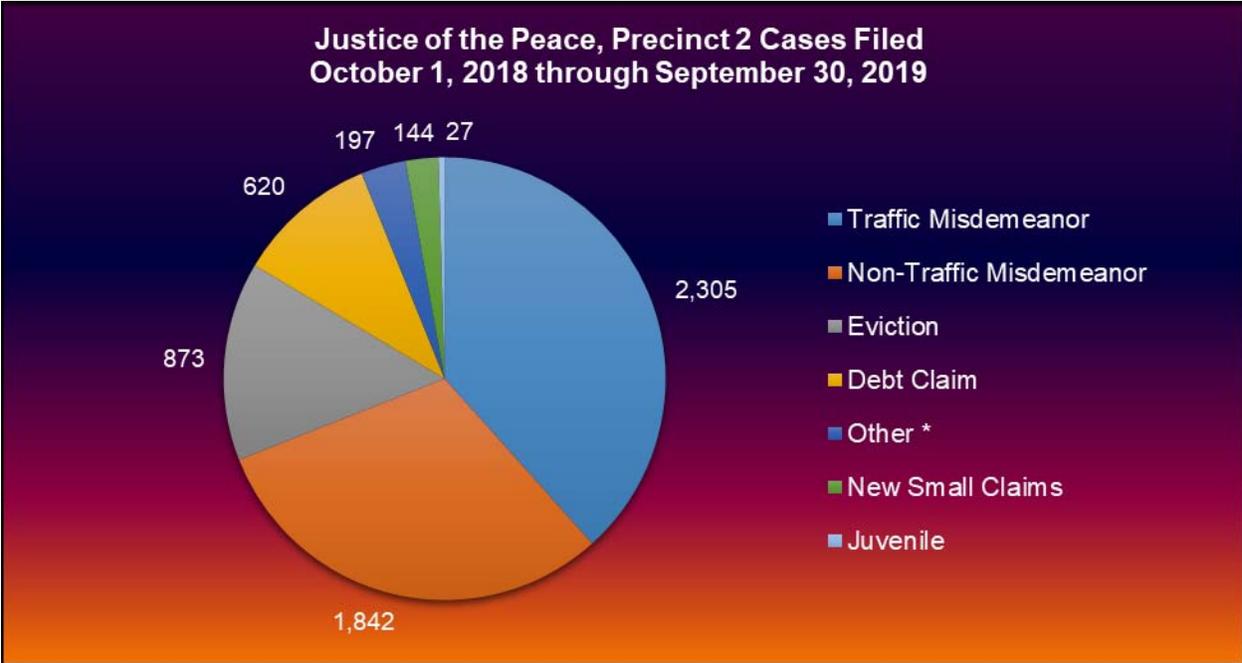
Statistical Analysis

A statistical analysis was performed on the cases filed through JP2 for fiscal year 2019. The data for the analysis was obtained from the Odyssey Case Filing Statistics Report. The date range used for the report was October 1, 2018 through September 30, 2019. More than a third of cases (38.4%) were traffic misdemeanors. Non-traffic misdemeanors made up 30.7% and evictions made up 14.5%.

The following reflects the number and types of cases filed during fiscal year 2019:

Traffic Misdemeanor	2,305	38.4%
Non-Traffic Misdemeanor	1,842	30.7%
Eviction	873	14.5%
Debt Claim	620	10.3%
Other *	197	3.3%
New Small Claims	144	2.4%
Juvenile	27	0.4%
Total Cases Filed	6,008	100.0%

Other*
 JP License Revocation-132
 Occupational License – 39
 Truancy – 17
 Magistrate Duty – 6
 Tow Hearings – 3

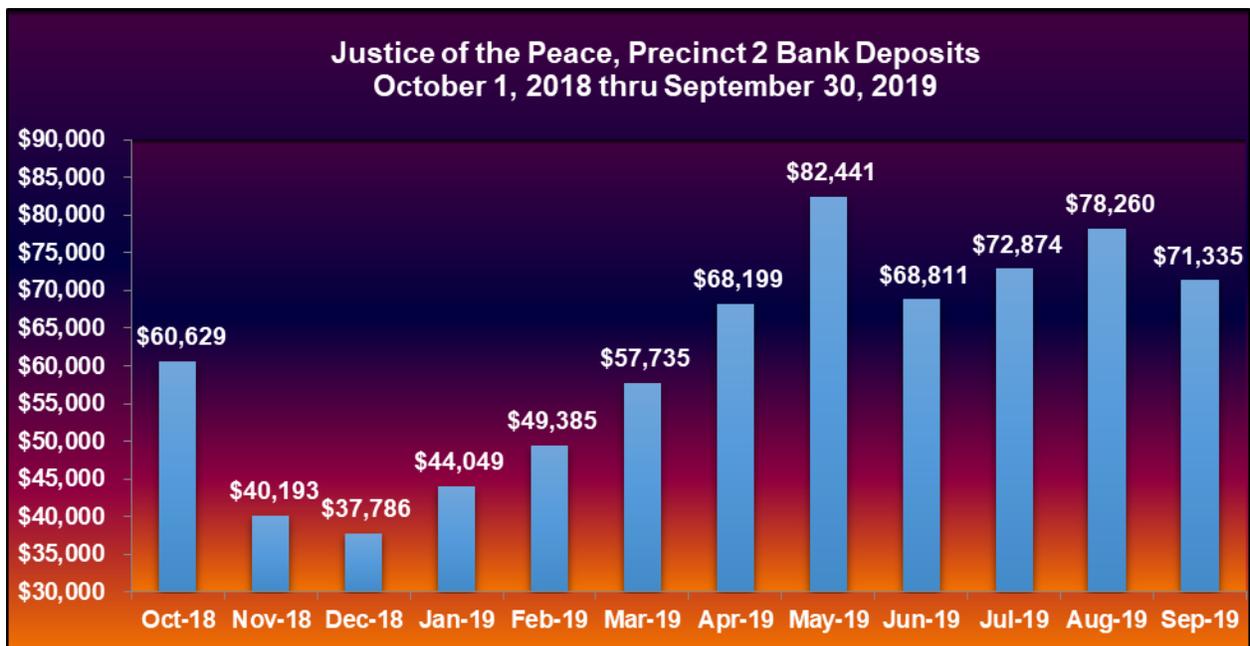


Statistical Analysis (cont.)

A statistical analysis was also performed on the bank deposits made by JP2 during fiscal year 2019. The data used in the analysis was obtained from ONESolution, the county's financial reporting system. The date range used for the report was October 1, 2018 through September 30, 2019.

The following reflects the bank deposits made by JP2 during fiscal year 2019:

JP2-Bank Deposits		
Oct-18	\$	60,629
Nov-18	\$	40,193
Dec-18	\$	37,786
Jan-19	\$	44,049
Feb-19	\$	49,385
Mar-19	\$	57,735
Apr-19	\$	68,199
May-19	\$	82,441
Jun-19	\$	68,811
Jul-19	\$	72,874
Aug-19	\$	78,260
Sep-19	\$	71,335
Total	\$	731,698





JUDGE M. W. NELSON
JUSTICE OF THE PEACE
PRECINCT 2
GALVESTON COUNTY, TEXAS

11730 HWY 6
Santa Fe, Texas 77510
409-770-5484

1922 Sealy Ave
Galveston, Texas 77550
409-766-2250

March 23, 2020

Dear Mr. Rice,

After review of the Audit Report, on Thursday March 19, 2020, I, Judge M. W. Nelson, submit this letter to confirm the following items will be addressed in the processes followed in this office.

- 1) Time Pay calculation shall be done on the 31st or later day from the date of the rendering of a judgment.
- 2) Credit Jail Time, Community Service and finding of Indigence will have a printed and signed judgment scanned into the case file and a hard copy placed in the folder.
- 3) Collection fees (PC30 fees) will be calculated on Fines, Fees and Court Costs, including warrant and omni fees.

My staff and I will continue to work toward compliance with the recommendations of the Auditor's Office. Thank you for the audit and the diligent work of the audit team.

Sincerely,

A handwritten signature in blue ink that reads "M. W. Nelson".

M. W. Nelson
Justice of the Peace
Precinct 2
Galveston County, Texas
409-770-5490