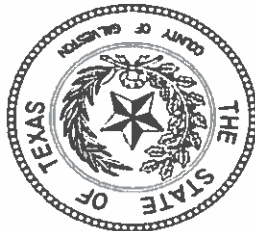


GALVESTON COUNTY



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

Office of County Auditor

722 Moody Ave 4th Floor, Galveston, TX 77550

(409) 770-5304

P.O. Box 1418, Galveston, Texas 77553

August 29, 2017

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

Honorable Mark A. Henry and Members of the Court:

Attached for your consideration is the internal audit report of Justice of the Peace, Precinct 3. The audit covered the period May 1, 2016 through April 30, 2017. Also attached is the response letter from Honorable Penny L. Pope, dated August 11, 2017.

Sincerely,

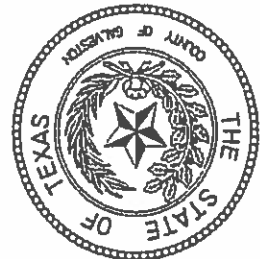
A handwritten signature in blue ink, appearing to read "Randall Rice CPA".

Randall Rice CPA
County Auditor

cc: Honorable Judge Penny L. Pope

Attachment: Justice of the Peace, Precinct 3 Audit Report
Response Letter, Judge Penny L. Pope

JUDGE PENNY L. POPE
JUSTICE OF THE PEACE
PRECINCT 3, GALVESTON COUNTY
600 59th Street, 1st Floor
Galveston, Texas 77551
(409) 770-5179



August 11, 2017

Mr. Randall Rice
Galveston County Auditor
722 Moody, 4th Floor
Galveston, Texas 77550

Re: Audit Conducted on JP3, May 2016 – April 2017

Dear Mr. Rice:

I have had the opportunity to review and discuss the findings of the audit conducted by your office of my office for the period May 2016 through April 2017. After having an exit interview with Ms. Lori McWhirter and Ms. Christina Fogg, a couple of my concerns were resolved. Your office still, in my opinion, is incorrectly applying Art. 45.08, Texas Code of Criminal Procedure, as a standard for the audit inquiry. I will explain.

Art 45.08 states:

"... (a) A defendant placed in jail on account of failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant: (1) is too poor to pay the fine and costs; or (2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 for each period of time served, as specified by the convicting court in the judgment in the case. (b) A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fine and costs in the case must remain in jail to satisfy \$50 of the fine and costs..." (note: The \$50 in (a) will change to \$100 as of September 1st for offenses occurring after September 1st.)

This statute comes into play after the Court has issued a capias pro fine and ordered the Defendant to be committed to jail. Once the defendant is in jail and files a Motion for Habeas Corpus, the court shall release the defendant pursuant to this directive. I can safely say that in my 25 years on the bench, this statute has come into play maybe 2 times, and not during this audit period.

I believe that what your office is attempting to test is whether or not I am giving Defendants credit for the time they have spent in jail on the case pursuant to Art. 45.041(c) which states:

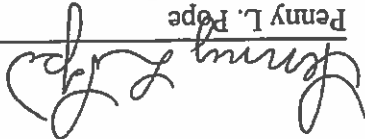
"The justice or judge shall credit the defendant for time served in jail as provided by Art. 42.03. The credit shall be applied to the amount of the fine and costs at the rate provided by Art. 45.048."

This section mandates that I give the jail credit without the necessity of the Defendant filing a habeas corpus proceeding and this is the section that the audit should be testing, in my opinion. This statute comes into play any time the defendant is arrested during the pendency of the case. The defendant could have been arrested at the time of the crime and subsequently made bond, or could have been arrested after the filing of the case and made bond. In these instances, I determine the jail credit by looking at the date on the formal complaint and the date of the bond, or looking at the date of arrest as reflected on the warrant and the date of the bond. Occasionally I will have my office inquire into the Sheriff's records for the booking and release date. These are the dates that I must give Defendant credit for and the fact that I did this is reflected on the written judgment.

The other inconsistencies mentioned in the audit were explained to me and my staff will attempt to be more careful when using Odyssey.

Do not hesitate to call if you have any questions.

Respectfully,



Penny L. Pope
Justice of the Peace, Pct. 3
Galveston County Texas

Justice of the Peace, Precinct 3 Audit
June 9, 2017

Executive Summary 1
Introduction 2
Details 3-9

Randall Rice CPA
CITP CISA CIO CBM DABFA CGMA
County Auditor

Galveston County
Internal Audit
Division



Executive Summary

Reliability and Integrity of Information (page 3)

- Compensating controls have been implemented in different areas of the courts operations to ensure a proper separation of duties.
- To be in compliance with court policy, a comment must be provided in Odyssey explaining the reason for adjustments, reversals and voids. A copy of the transaction receipt, signed by the judge, must be scanned into Odyssey as proof of the judge's authorization.

- No errors were detected in testing jail time credit compliance with CCP §45.048 and court policy.

- No errors were detected in testing the composition of the deposits made to the bank.

- To be in compliance with applicable statutes, the office should refer to the 'Justice Court Convictions Court Cost Chart' when assessing court costs, fines and fees.

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 5-6)

- No errors were detected in the testing of Administrative or No-Charge Dismissals
- To be in compliance with the "Allocation Rule", the court must do the following:
 - Jail time credit must be applied to the fine first then the fees and court costs.
 - Partial payments that do not cover all of the court costs must be allocated to court costs, including the time payment fee, on a pro-rata basis.
- When transferring cases from Net Data to Odyssey, the court costs, fines and fees must agree with the collection record in Net Data.

Statistical Analysis (page 7)

- Almost half (45.5%) of the cases filed were non-traffic misdemeanors. Evictions made up 21.8% and traffic misdemeanors made up 13.7%.
- Bank deposits fluctuated between twenty-eight thousand (April 2017) and sixty-three thousand (September 2016) dollars a month. Total collections for the audit period were \$502,856.97.

Introduction

The Internal Audit Division conducted an internal audit of the Justice of the Peace, Precinct 3 (JP3), in accordance with Local Government Code §115. The internal audit covered the period May 1, 2016 through April 30, 2017. The audit was performed from May 8, 2017 through June 8, 2017.

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

- Reliability and integrity of the information.
- Safeguarding of assets.
- Compliance with statutes, policies, and procedures.

The scope of the internal audit encompassed the financial records and administrative procedures related to the Justice of the Peace, Precinct 3. The internal audit included, but was not limited to, the books, accounts, reports, dockets and records of the Justice of the Peace, Precinct 3.

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 3 as defined by the AICPA professional standards. However, our internal audit was performed with objectivity and due professional care.

Christina Fogg, Internal Auditor I, 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 the judge's approval for these types of transactions. A comment must be provided in Odyssey explaining the reason for the transaction. A copy of the transaction receipt, signed by the judge, must be scanned into Odyssey as proof of the judge's authorization.

A sample of adjustments, reversals and voids was tested for compliance with court policy.

Finding: Adjustments, reversals and voids do not consistently have a comment recorded in Odyssey stating the reason for the transaction.

Finding: A copy of the transaction receipt, signed by the judge, is not consistently being scanned into Odyssey.

Recommendation JP3-17-06: To be in compliance with court policy, a comment must be provided in Odyssey explaining the reason for adjustments, reversals and voids. A copy of the transaction receipt, signed by the judge, must be scanned into Odyssey as proof of the judge's authorization.

Jail Time Credit

CP §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. The judge verifies time served before granting jail time credit. Court Policy dictates jail time credit awarded must be approved by the judge.

A sample of cases was tested for compliance with CP §45.048 and court policy. There were no discrepancies.

Reliability and Integrity of Information (cont.)

Bank Deposit Images

The composition of the deposits made to the bank must match the composition of the collections as recorded in Odyssey. Copies of the bank deposit images are provided by the Treasurer's Office. A sample of bank deposit images were compared to the collections as recorded in Odyssey. No errors were detected.

Court Costs, Fines and Fees

The Texas Judicial Branch publishes a 'Justice Court Convictions Court Cost Chart' each calendar year. 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.

Finding: The Crystal Beach Office and La Marque Office had numerous errors in their collection of courts costs, fines and fees.

Recommendation JP3-17-07: To be in compliance with applicable statutes, the office should refer to the 'Justice Court Convictions Court Cost Chart' when assessing court costs, fines and fees.

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 Galveston office on May 10, 2017, the Crystal Beach office on May 17, 2017 and the La Marque office on May 23, 2017. All collections were accounted for at the time of the surprise cash counts. Controls are in place to ensure the staff of each office uses a lockable safe to secure collections until ready to be deposited in the bank. The safe remains locked in each office 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. JP3 has a policy to deposit collections daily.

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.

JP3 performs a bond account bank reconciliation each month and submits a copy to 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 court may dismiss the case. A sample of administrative dismissals was tested for compliance with applicable statutes. No errors were detected.

Allocation Rule

A defendant may be awarded jail time credit (JTC) in lieu of paying the court costs, fees and fine. If the amount of JTC awarded is not enough to satisfy all charges, the court must follow the "Allocation Rule". Attorney General Opinion GA-147 and the "Justice Courts - Court Costs and Fees Handbook" define the "Allocation Rule" for JTC as the practice of applying JTC to the fine first and then to court costs and fees. If the monies received do not cover all of the court costs, then the monies must be allocated to court costs on a pro-rata basis. A sample of cases was tested for compliance with the "Allocation Rule".

Finding: Jail time credit is not consistently being allocated to fines first.

Recommendation JP3-17-08: To be in compliance with the "Allocation Rule", jail time credit must be applied to the fine first then to the fees and court costs.

Time Payment Fee

LG C §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."

The Court Costs and Fees Handbook for Justice Courts Chapter V(A)(1)(a) Allocation Rule states "The time payment fee is treated like other court costs and fees when allocating and prorating. When the full amount owed by a defendant is not received, the time payment fee takes precedence over fines and shares pro rata with other costs and fees". A sample of cases were tested for compliance with LG C §133.103 and the "Allocation Rule".

Finding: The Crystal Beach Office is not consistently allocating partial payments to the time payment fee.

Recommendation JP3-17-09: To be in compliance with the "Allocation Rule", partial payments that do not cover all of the court costs must be allocated to court costs, including the time payment fee, on a pro-rata basis.

Compliance with Statutes, Policies and Procedures (cont)

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.

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.

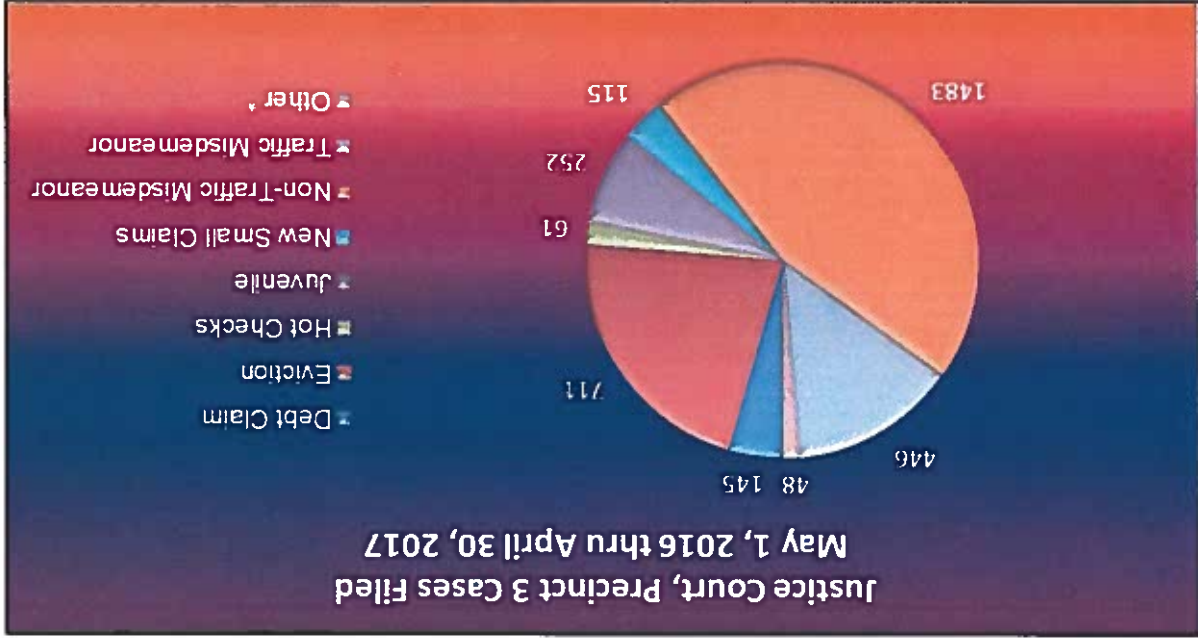
Finding: The La Marque Office transferred several cases from Net Data to Odyssey, however, the fees were not recorded accurately in Odyssey. This resulted in a miscalculation of the PC30 fees.

Recommendation JP3-17-10: When transferring cases from Net Data to Odyssey, the court costs, fines and fees must agree with the collection record in Net Data.

Statistical Analysis

A statistical analysis was performed on the cases filed through JF3 during the audit period. The data for the analysis was obtained from the Odyssey Case Index Report. The date range used for the report was May 1, 2016 through April 30, 2017. Almost half (45.5%) of the cases filed were non-traffic misdemeanors. Evictions made up 21.8% and traffic misdemeanors made up 13.7%. The following reflects the number and types of cases filed during the audit period:

Debt Claim	145
Eviction	711
Hot Checks	61
Juvenile	252
New Small Claims	115
Non-Traffic Misdemeanor	1,483
Occupational License	30
Traffic Misdemeanor	446
Other *	18
Total Cases Filed	3,261
Other	
Magistrate Duty - 16	
Repair & Remedy - 1	
Tow Hearings - 1	



Statistical Analysis (cont)

A statistical analysis was also performed on the bank deposits made by JP3 during the audit period. The data used in the analysis was obtained from OneSolution, the county's financial reporting system. The date range used for the report was May 1, 2016 through April 30, 2017. The following reflects the bank deposits made by JP3 during the audit period:

JP3 - Bank Deposits	
May-16	\$ 46,563.30
Jun-16	\$ 42,953.98
Jul-16	\$ 38,744.90
Aug-16	\$ 60,467.27
Sep-16	\$ 63,880.43
Oct-16	\$ 42,123.77
Nov-16	\$ 29,511.60
Dec-16	\$ 25,090.60
Jan-17	\$ 30,911.73
Feb-17	\$ 37,527.23
Mar-17	\$ 56,833.76
Apr-17	\$ 28,248.40
Total	\$502,856.97

