

**2019**

**Travis County Auditor's Office Review of  
Constable, Precinct 2 Off-Duty Vehicle  
Donations**

**Travis County Auditor's Office  
Risk Evaluation and Consulting Division**

**January 24, 2019**

TRAVIS COUNTY  
AUDITOR'S OFFICE

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Date: January 24, 2019

To: Adan Ballesteros  
Constable, Precinct 2

From: Patti Smith  
Travis County Auditor

Subject: Off-Duty Vehicle Donations Examination

Scheduled as part of our statutory requirements, particularly those in Section 115 of the Local Government Code and Article 59 of the Texas Code of Criminal Procedure, the Risk Evaluation and Consulting Division of the Travis County Auditor's Office has completed an examination of the accounting protocols for the off-duty vehicle donation function of the Constable, Precinct 2 Office (CN2). We conducted our examination in accordance with the applicable statutes governing the County Auditor's Office and those relating to County financial and accounting protocols. As a result of our examination, we are providing this report on our findings and recommendations.

## **BACKGROUND**

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A constable's office serves as a law enforcement agency with county-wide jurisdiction in civil and criminal matters. These offices process and execute civil legal notices, summonses, and citations from various courts including forcible entry and detainers, writs of possession, citations, and executions issued from the Justice of the Peace courts. Constables also process and execute misdemeanor traffic and hot check warrants of arrest for the Travis County Justices of the Peace courts, as well as other municipalities and counties. Law enforcement personnel periodically perform services for outside parties while off duty. These services include, for example, security for large events and directing traffic at construction sites.

## **SCOPE**

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This report details an assessment of the adequacy and effectiveness of the overall system of financial controls in place for CN2 off-duty vehicle donations during the period of October 1, 2016 through March 31, 2018.

## **EXAMINATION METHODOLOGY**

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Our work was based on applying sampling procedures to office records and on verbal and written representations from CN2. Sampling relates to examining, on a test basis, evidence supporting the amounts and disclosures in the financial records and statements. The use of sampling techniques would not necessarily disclose all material issues and weaknesses in this functional area. In regard to the written and verbal representations made by CN2, unless otherwise noted in this report, office management maintains that the assertions we relied upon in the examination were correct to the best of their knowledge.

## **SUMMARY OF FINDINGS & RECOMMENDATIONS**

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We noted internal control issues related to the utilization of an unapproved hourly rate for donations. Our findings and recommendations are detailed in the Areas of Concern Section of this report. Each finding has a listed severity of “Most Serious”, “Serious”, or “Less Serious”.

## **EXAMINATION TEAM**

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Amanda Muehlberg, Lead Auditor

## **CLOSING**

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This report is intended solely for the information and use of the Constable’s Office and the Commissioners Court. We greatly appreciate the cooperation and assistance received from the management and staff of the Travis County Constable, Precinct 2 Office during our review. Please contact us if you have any questions or concerns regarding this report.



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David Jungerman, CIA  
Chief Assistant County Auditor -  
Risk Evaluation & Consulting



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Patti Smith, CPA  
Travis County Auditor

## REPORT DISTRIBUTION

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Examination File

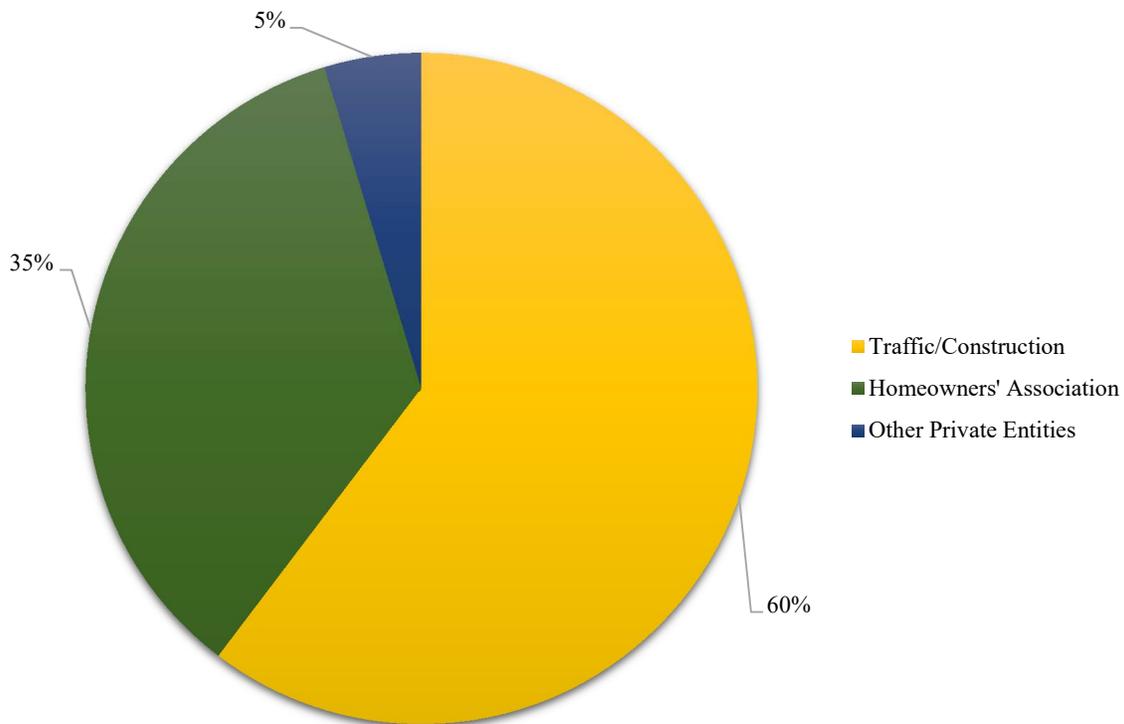
## Background

At times, outside third parties require specialized assistance from Law Enforcement Officers (LEOs). For example, churches or road construction contractors may need an LEO to direct traffic or a large public event may need LEOs for security. When Constable LEOs provide these services, they typically do so while off duty. When this is the case, the LEO enters into a Constable-approved secondary employment agreement with the third party.

In many cases, the LEOs must utilize their County-owned patrol vehicles in order to properly perform these off-duty services for third parties. These vehicles can be particularly helpful for closing road lanes and alerting drivers while LEOs direct traffic. When County vehicles are used for this purpose, fuel, maintenance, and other usage costs are incurred by the County. In order to recoup these costs, the third parties agree to a recommended hourly donation.

These donations are collected by the applicable constable's office directly, remitting the funds collected to the Treasurer's Office as County revenue. During the period October 1, 2016 through March 31, 2018, CN2 collected \$49,725 on 45 payments from outside parties. The graph below details the percentages by source type:

**Off-Duty Collections by Source  
October 1, 2016 - March 31, 2018**



## **Areas of Concern**

We reviewed 8 (18%) of the 44 donations received during the period, for which the sampled receipts totaled \$9,860. During this review we noted the following:

### **1. Donation Assessment Rate/Rate Analysis (Less Serious)**

CN2 currently requests a donation of \$15/hour for off-duty vehicle usage, with a minimum two-hour charge. In 2008, the Commissioners Court approved an increase in this rate from \$15/hour to \$20/hour. This increase took effect in January 2013.

#### **Significance:**

In order to be compliant with the decree of the Commissioners Court, donations should be requested at the approved \$20/hour rate.

#### **Recommendations:**

We recommend that CN2 utilize the Commissioner's Court-approved donation rate of \$20/hour. We also recommend that CN2 work with the Planning and Budget Office (PBO) and Transportation and Natural Resources (TNR) to determine if the hourly rate for donations is adequate, or if it should be changed, as this rate has not been analyzed since 2008.

#### **Management Response:**

Travis County Constable Adan Ballesteros (Pct. 2) maintains an office which provides law enforcement services to the community upon availability and community needs. Precinct 2 maintains a relationship with the community whom voices concerns in regard to safety within the community and general events. Regularly, Precinct 2 receives request from the community for law enforcement assistance that would otherwise hinder on duty first responders should an emergency take place. Precinct 2 has requested "vehicle donations" from private citizens, businesses and/or Home Owner Associations (HOA) per county practice.

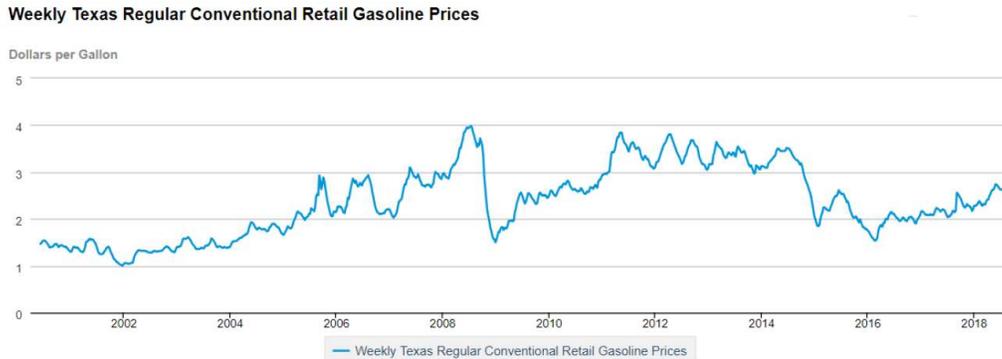
Precinct 2 additionally believes that community members requesting law enforcement should be held accountable for wear and tear (theory) of county vehicles. Utilizing the information that we have from the interlocal agreement, the hourly cost of maintaining a Travis County Vehicle is \$2.24 per hour.

Conversely, it seems that even though the monetary value increase from \$15.00 an hour sought by the Efficiency Committee, to be identified to the community as a "vehicle donation", \$20.00 an hour, would generate a gross profit of \$17.76 per hour of service performed. We do not believe that it is the intent of the county to profit from the use of county equipment nor donations, which are intended for maintenance and fuel.

Travis County Auditor's Office has addressed concerns regarding the increase of all "vehicle donations" from \$15.00 to \$20.00 an hour. As stated, Commissioners Court approved the increase in 2008.

According to U.S. Energy Information Administration the peak national average fuel price was \$3.98 per gallon of gas in 2008. Additionally the county was operating vehicles which were

predominately the 8 cylinder Ford Crown Victoria. By January of 2009 gas prices dropped to \$1.55 a gallon and did not rise above \$3.00 a gallon again until February 21, 2011. Fast forward to January 2013 gas was \$3.17 a gallon.



Travis County adjusted its vehicle purchasing practices since the halt production of the Crown Victoria. Precinct 2 was directly affected by this and began purchasing vehicles which were Eco friendly and many of the vehicles such as the Dodge Charger would shut down cylinders to reduce fuel consumption. Vehicles purchased in that time frame also had documented better fuel efficiency. Whereas in a Crown Victoria, deputies were required to fill cars daily or twice a day, but in Dodge Chargers they may be fortunate enough to refuel every other day or longer. Dodge chargers also have smaller gas tank (18.5 gallons) than the Crown Victoria (19.1 gallons) further amplifying the impressiveness of the fuel savings.

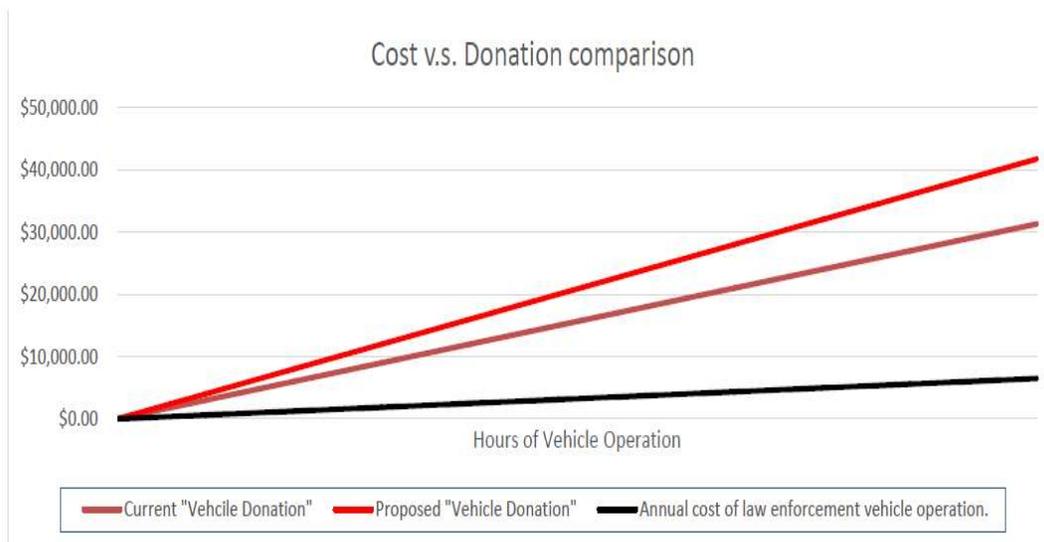
Present day, a majority of the vehicles in operation by Precinct 2 fleet are 6 cylinder engines adding increased fuel efficiency and idle as a 4 cylinder. Present day fuel prices are at \$2.42 a gallon. Factually speaking, most off-duty performed by deputies assisting the community is conducted at fixed locations. This means that the vehicle likely does not move. Travis County does not perform maintenance on vehicles which idle. The current Travis County practice of Fleet Services is to perform oil changes and standard vehicle preventative maintenance on fleet vehicles in 5,000 mile increments.

Precinct 2 has communicated with TNR to receive the average cost of operation and maintenance of a county vehicle. TRN has responded with the following annual cost of vehicle maintenance (see next page):

Description	Cost
<b>Pickups, 4x4 Utility, Vans &amp; Other Sedans:</b>	
Oil changes	\$65
Transmission Service	\$65
Tires	\$300
Brake Job	\$125
misc. repairs	\$400
Fuel - 15/mpg/12,000 miles yr.	\$1,800
<b>Total</b>	<b>\$ 2,755</b>

Description	Cost
<b>Law Enforcement Vehicles:</b>	
4 a year @ avg. \$67 Oil changes	\$268
Transmission Service	\$85
Tires	\$500
Brake Job	\$200
Misc. repairs	\$425
Fuel -14/mpg /20,000 miles yr.	\$3,214
<b>Total</b>	<b>\$ 4,692</b>

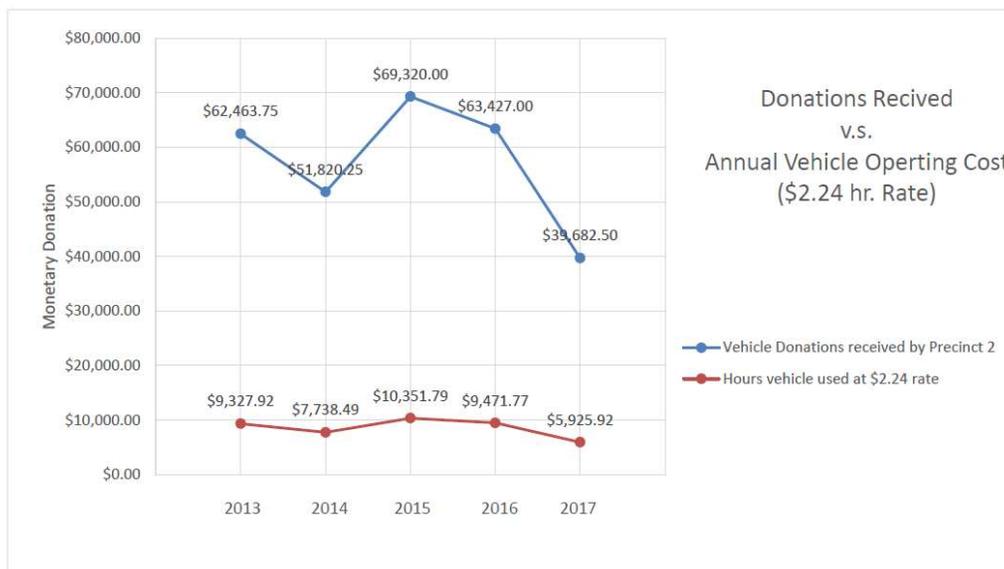
TNR, who manages and maintains Travis County Vehicles, identifies the \$4,692.00 annual cost of vehicle maintenance covers the annual cost of fuel, maintenance and repair for one full time employee. County employees work 261 days a year, not including holidays, sick, vacation and personal holidays. With the leave aside, that translates to 2,088 hours of work performed annually. The annual cost of operating a vehicle (\$4,692.00), divided by operational hours within a year (2,088 hours) calculates to \$2.24 an hour. The graph below demonstrates the difference in “Donations” collected vs. interlocal agreement for payment of maintenance and fuel for one year:



As stated by Travis County Auditor’s Office, the purpose of the vehicle donation is to cover fuel and maintenance costs associated with the off-duty services provided. It is not to pay for the vehicle which was purchased for law enforcement use by tax payers. The vehicle is a tool utilized by deputies no different than handcuffs and uniforms.

Under the presumed information listed above, the employer of the off duty officer, who should be responsible for maintenance and operational cost of the vehicle while it is being utilized, seems to in fact be paying the purchase price of the vehicle. Hypothetically speaking, if a deputy/deputies work 325 hours of off duty employment; the County, in effect, is requiring that responsible community members recognizing the need for law enforcement presence pay the annual amount of fuel and maintenance of one county vehicle. Should the community not also receive the missing 1,763 hours of law enforcement presence? Should the community rely solely on on-duty deputies responsible for answering emergency calls for service when they recognize in advance the need for law enforcement at their community event?

The available mathematical data indicates that off-duty vehicle usage is generating revenue for Travis County. For example, in 2013 vehicle donations were equivalent to the total annual maintenance and fuel cost of thirteen (13) of the precinct's 22 assigned vehicles. Vehicle donations listed for the years below were receive at the rate of \$15.00 an hour. Also to be noted; vehicle replacement cost in 2013 was \$36,250.00.



Travis County Auditor's Office states that "this rate has not been analyzed since 2008." Precinct 2 would like to be provided a copy of the last analysis.

Travis County Auditor's Office recommends that Precinct 2 work with TNR and PBO to complete an updated cost recovery rate analysis as soon as possible. On July 10, 2018 Precinct 2 followed this recommendation and attempted to host a meeting between all 5 Constable's offices, the Auditor's Office, Risk Management, TNR and PBO. The meeting was scheduled for July 19, 2018. All county agencies other than Constables offices declined the meeting.

Precinct 2 has been in communication with TNR in order to identify the annual operating cost of a Travis County law enforcement vehicle. TNR conferred that an up to date cost assessment should be completed.

The Auditor's Office does not specify which county agency would be responsible for performing the study.

Precinct 2 is absolutely inclined to comply with the rulings of Commissioners Court; but also believes that a current cost analysis should be conducted to reflect actual cost directly related to vehicle maintenance and fuel in hopes to avoid profiting from "donations".

Auditor's Note:

The above management response contains a number of concerns related to off-duty vehicle use that are outside the purview of the Auditor's Office. We encourage CN2 to consult with the appropriate entities, including the other Constables, the Commissioners Court, the County Attorney, PBO, and TNR to resolve these issues.