

**Travis County Constable, Precinct 2
Report of Findings and Recommendations
(Limited Scope)
#13-08**

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TRAVIS COUNTY
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March 16, 2013
Travis County Constable, Precinct 2
#13-08

Report of Findings and Recommendations

Adan Ballesteros
Constable, Precinct 2

Scheduled as part of our statutory requirements, the Revenue and Internal Controls Auditing Division of the Travis County Auditor's Office has completed an examination of the Constable, Precinct 2 Office. 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.

Our examination of this office included an assessment of the adequacy and effectiveness of the overall system of internal controls in place for Constable 2's accounting system during the period November 1, 2012 to January 31, 2013. This included examinations of controls over handling and managing collections, liabilities, receivables, bank reconciliations, fixed assets and user access to the County's financial system. Our work was based on applying sampling procedures to office records and on verbal and written representations from this office. 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 matters in Constable, Precinct 2's financial statements, financial records and internal controls that might be material weaknesses or misstatements. In regards to the written and verbal representations made by this office, 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.

Based on our examination, we gave the system of internal controls for this functional area our rating of "Adequate", which indicates an overall solid system of internal controls that outweighs the relative number of minor or more serious examination findings. See Attachment A for an explanation of our grading system for the overall control environment.

Specifically, the control weaknesses we noted related to the timeliness of revenue remission, writs of execution calculations and remittances to other agencies. Details of these items, our recommendations and management's responses to these issues can be found in Attachment B. Immediately after the title of each control issue listed in this attachment, we have placed our

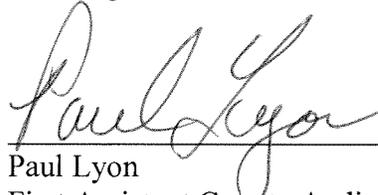
assessment of the severity of that particular issue in parenthesis. These items are assessed as having “Most Serious”, “Serious” or “Less Serious” significance.

A copy of this office’s financial statement for January 31, 2013 is provided in Attachment C. The express purpose of presenting this statement and the associated findings is to comply with the applicable local government code statutes and to provide internal control feedback to Travis County officials. These financial statements have not currently been audited by Travis County’s external auditors.

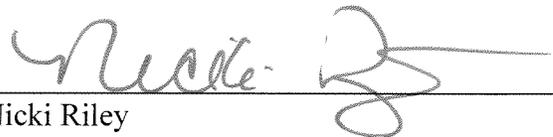
These findings and recommendations are intended solely for the information and use of management and Commissioners’ Court. We greatly appreciate the cooperation and assistance received from the management and staff of the Constable, Precinct 2 Office during this examination. Please contact our office if you have any questions or concerns regarding this report.



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Examination File

EXECUTIVE SUMMARY

Functional Area:

Constables serve as a law enforcement agency for Travis County, with county-wide jurisdiction in civil and criminal matters. They process and execute civil processes from various courts, including forcible entry and detainer suits, writs of possession, citations and executions issued from justice of the peace courts. The constables also process and execute misdemeanor traffic and hot check warrants of arrest for Travis County justice of the peace courts and for other municipalities and counties.

Prior Examination Exceptions (#10-16, Dated January 20, 2010):

We noted control weaknesses related to timeliness of remitting revenue, safeguarding and tracking manual receipt books, processing writs of execution and disbursements to other County offices and governmental entities.

Current Examination Objective (Period – November 1, 2012 to January 31, 2013):

The scope of this examination included a review of receipts and disbursements to verify compliance with statutes and internal policies and procedures. In addition, we evaluated controls over internal functions responsible for handling and managing collections, liabilities, receivables, bank reconciliations, fixed assets and user access to the County's financial system.

Current Examination Findings:

- County fines and fees were not remitted to the Treasurer's Office in a timely, statutorily compliant manner (See Comment #1 in Attachment B).
- Calculation errors when processing the writs of execution (See Comment #2 in Attachment B).
- Credit card collections were remitted to other agencies prior to the funds being deposited from the credit card processing entity in the credit card bank account (See Comment #3 in Attachment B).

Overall Opinion (See Transmittal Letter for Specifics):

The overall system of internal controls in place for this office was rated "Adequate", indication that an overall system of internal controls outweighs the relative number of minor or more serious findings.

Internal Controls Rating Key

Rating Designation	Rating Description
Good	Well established internal controls with few, if any, minor exceptions
Adequate	Overall solid system of internal controls outweighs the relative number of minor or more serious findings
Requires Improvement	Weaknesses exist that negatively impact the overall system of internal controls
Requires Significant Improvement	Significant number of weaknesses that negatively impact the overall system of internal controls
Inadequate	Existing overall system of internal control is ineffective

Note: A good internal control system reduces the risk of errors, defalcations, and misappropriations of funds. Weak internal control systems provide an environment in which errors, defalcations, and misappropriations of funds can go undetected.

ATTACHMENT B

1. Revenue Remittance (Less Serious)

During the examination period November 1, 2012 to January 31, 2013, we reviewed the civil, criminal, credit card and manual receipts issued by the Constable, Precinct 2 Office. Total funds collected by receipt type during the examination period, and our samples for each, are as follows:

Receipt Type	Population Totals		Sample Totals		
	Number of Items	Total Revenue	Number of Items	% of Population	Sampled Revenue
Civil	154	\$36,094.00	17	11.0%	\$4,152.50
Criminal	36	1,950.00	3	8.3%	150.00
Credit Cards	96	5,907.00	10	10.4%	697.00
Manual Receipts	20	1,255.00	15	75.0%	850.00
Totals	306	\$45,206.00	45	14.7%	\$5,849.50

Civil Receipts:

Of the 17 civil receipts tested, eight (47%) receipts totaling \$3,032.50 (73%) were remitted to the Treasurer's Office within one business day of receipt and nine (53%) receipts totaling \$1,120 (27%) were remitted between 2 to 7 business days after receipt.

System-Generated Criminal Receipts:

Of the 3 criminal receipts tested, one (33%) receipt totaling \$50 (33%) was remitted to the Treasurer's Office within one business day of receipt and two (67%) receipts totaling \$100 (67%) were remitted between two and three business days after receipt.

Criminal Credit Card Receipts:

For credit card receipts, we compared the date the credit card funds were deposited into the Constable's credit card bank account to the date the funds were remitted to the Treasurer's Office. Of the 10 credit card receipts tested, nine (90%) receipts totaling \$647 (93%) were remitted within one business day of receipt and one (10%) receipt totaling \$50 (7%) was remitted on the fourth business day after receipt.

Manual Credit Card Receipts:

Of the 15 manual receipts tested, 12 (80%) receipts totaling \$700 (82%) were remitted to the Treasurer's Office within one business day of receipt, two (13%) receipts totaling \$100 (12%) were remitted on the second business day after receipt and one (7%) receipt totaling \$50 (6%) was remitted on the fifth business day after receipt.

Significance:

The above items are significant for the following reasons:

- In regards to remitting civil fees to the Treasurer, Section 113.022 of the Texas Local Government Code, "Time for Making Deposits", states the following:

“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.”

- In regards to remitting criminal fees, Article 103.004 (a) of the Code of Criminal Procedure, “*Disposition of Collected Money*”, states:

Except as provided by Subsections (b) and (c), an officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next regular business day after the date that the money is collected. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the third regular business day after the date that the money is collected.

Recommendation:

Collections should be remitted in such a manner that they are timely received by the appropriate party, thereby ensuring compliance with applicable statutes.

Management Response:

Management understands the importance of compliance with Section 113.022 of the Texas Local Government Code, “*Time for Making Deposits*”, and Article 103.004 (a) of the Code of Criminal Procedure, “*Disposition of Collected Money*”. We feel that we have made a significant improvement in the timeliness of remittances since our last internal audit. The delays in disbursement are due to credit card lag time (4 days from date of receipt to date of deposit) as well as research, and processing demands. Management is committed to depositing all funds to the Treasurer no later than the third business day from the date collected for both civil and criminal collections. Depositing all monies by the next business day after the date collected is not possible because some transactions require additional research and processing.

2. Writs of Execution (Less Serious)

During the examination period, the Constable, Precinct 2 Office processed 29 writs of execution all of which had been disbursed by January 31, 2013. For these writs, there were 37 receipts totaling \$324,889.92 and 40 disbursements totaling \$325,189.01. We tested 10 (34%) of these writs of execution, which included 15 (41%) receipts totaling \$255,575.00 (79%) and 17 (43%) plaintiff disbursements totaling \$262,509.38 (81%), noting the following:

Executions

- For cause number C-1-CV-10-005584, it appears the \$205 writ service fee was entered into the execution payment worksheet twice. This fee was included in both the court costs and the constable service fee lines of the worksheet. As a result, the defendant is being asked to pay more than they are required to pay.

- For cause number C-1-CV-06-008102, the start date for the interest accrual was incorrectly entered into the execution payment worksheet as December 27, 2006, which is the judgment date. However, the judgment states the date of December 12, 2006 should be used for the interest accrual start date. The difference resulted in an interest calculation that was too low by approximately \$248.81.

Receipts/Revenue

For the 15 execution receipts tested, commissions totaling \$11,584.03 were collected. Seven (47%) commissions totaling \$8,374.40 (72%) were properly remitted to the Treasurer's Office within one business day of receipt and eight (53%) commissions totaling \$3,209.63 (28%) were remitted to the Treasurer's Office between 2 to 7 business days after receipts.

Significance:

The items noted above are significant for the following reasons:

- It is important that writs of execution be executed exactly as they are written, including collecting only the amounts identified in the writs and calculating interest in accordance with writ instructions so that the proper amounts are collected and disbursed.
- In regards to remitting civil fees to the Treasurer, Section 113.022 of the Texas Local Government Code, "Time for Making Deposits", states the following:

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.

Recommendation:

Based on the noted significance, we recommend the following:

- Execution worksheets should be reviewed by an independent party to verify the accuracy of all calculations and to ensure that the proper amounts are pursued for collection.
- This office should remit funds due to the County Treasurer in a timely manner, thereby ensuring compliance with the applicable statutes.

Management Response:

Executions

Executions are currently prepared by clerical staff, reviewed by a deputy and then independently reviewed by our Justice of the Peace and Constable "shared" staff accountant. Considering the amount of Writs of Execution that are processed at JP2, we feel that the margin of error has been significantly reduced. The findings noted above are clearly oversights. The calculation errors will be corrected if possible and management will review the current process and determine if any additional controls are needed.

Commission Remittance

Due to the interpretation difficulty of some writs and our rigorous review process, it is difficult to remit all commissions by the next business day after the date of collection. We will work on narrowing this margin and hope to remit commissions no later than the third business day after the date of collection.

3. Other Agencies (Less Serious)

A letter of understanding is intended to provide a foundation for a working relationship between the Constable, Precinct 2 Office and other governmental entities. The purpose of this working relationship is to provide for the timely execution of misdemeanor warrants issued from the other governmental entities for Class C misdemeanor offenses committed in their city, where defendants are located in the jurisdiction of Constable, Precinct 2. The Constable's Office will be allowed to withhold a warrant fee on each warrant executed when such fee is collected through the payment of all fines and costs associated with the warrant.

During the examination period, the Constable, Precinct 2 Office was a party to ten letters of understanding with other agencies (City of Manor, City of Kyle, etc.). Related to these agreements, the Constable's Office issued 105 receipts totaling \$36,489.35 and 86 disbursements totaling \$33,178.59 during the period. We tested 18 (17%) receipts totaling \$9,626.70 (26%) for timely disbursement to the applicable governmental entities, which included 15 (17%) disbursements totaling \$7,963.90 (24%).

In our testing, we noted two (11%) receipts totaling \$796.80 (8%) for credit card collections for which the checks disbursing the funds to the applicable governmental entities were issued prior to the funds being deposited from the credit card processing entity into the credit card bank account. This also means the funds in question had not yet been transferred to the operating account. The funds for receipt #30447 (\$449.80) were deposited in the credit card account on November 23, 2012, transferred to the operating account on November 26, 2012, and the disbursement check was dated November 21, 2012. The funds for receipt #30489 (\$347) were deposited in the credit card account on December 4, 2012, transferred to the operating account on December 10, 2012, and the disbursement check was dated December 3, 2012.

Significance:

It is important that credit card collections are not remitted to another agency until they are received in the credit card bank account in order to avoid the possibility that funds are disbursed but never received. If funds are disbursed before receiving them, the Constable's Office runs the risk of not having sufficient funds to make other disbursements.

Recommendation:

Either a system generated flag or other manual control process should be implemented to ensure that credit card receipts are not remitted before they have been received in the credit card bank account and transferred to the office operating account.

Management Response:

Our current policy is to remit credit card generated receipts on or after the 4th business day from the receipt date. Management will investigate the auditor's findings to determine the cause of the two early remittances and adopt additional safeguards which may include system generated flags, if available, to ensure that credit card receipts are not remitted prior to collection.

Travis County Constable, Precinct 2
Statement of Fiduciary Assets and Liabilities
Agency Fund
January 31, 2013

Assets		
Cash		\$ 1,825
Accounts receivable, net		<u>8,705</u>
Total assets		<u>10,530</u>
Liabilities		
Due to third parties		5,554
Due to other government entities		<u>4,976</u>
Total liabilities		<u>10,530</u>
Net Assets		<u><u>\$ -</u></u>

NOTE: The express purpose of presenting this financial statement and the appropriate findings is to comply with applicable local government code statutes and to provide internal control feedback to Travis County officials. This financial statement has not currently been audited by Travis County's external auditors.