



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER CO#130753

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DATE: 08/06/2019

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE REVIEW OF FINANCIAL AND SYSTEM CONTROLS FOR JUSTICE OF THE PEACE, PRECINCT 5**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the Review of Financial and System Controls for Justice of the Peace, Precinct 5.

BACKGROUND:

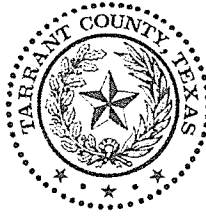
In accordance with Local Government code, the Auditor's Office reviewed the financial and system controls established by the Justice of the Peace, Precinct 5, for the four month period ended January 31, 2019.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor's Office

PREPARED BY: S. Renee Tidwell
APPROVED BY:



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June 28, 2019

The Honorable Sergio De Leon, Justice of the Peace, Precinct 5
The Honorable District Judges
The Honorable Commissioners Court
Tarrant County, Texas

Re: Auditor's Report – Review of Financial and System Controls, Justice of the Peace, Precinct 5

SUMMARY

In accordance with Local Government Code, we reviewed financial and system controls in place for the four month period ended January 31, 2019. As a result of our review, we observed *significant material weaknesses* in the controls over receipts and disbursements combined with the lack of segregation of duties and meaningful management oversight. Furthermore, we observed that system controls to mitigate the risk of certain errors or irregularities had not been implemented in Odyssey, which impacts all the JP courts. We recognize that these issues are inherent to the system. The system controls related to modifications to financial transactions are especially vulnerable to errors and irregularities including fraud. Because of these limitations, a *significant material risk* of theft or loss of funds exists. As a result, we cannot provide reasonable assurance regarding the timely detection or prevention of fraud. Specifically, we observed that:

- Observation 1 Segregation of duties was not adequate between certain incompatible tasks.
- Observation 2 The bank reconciliation was not properly reconciled.
- Observation 3 Transactions recorded in Odyssey were not always accurate, adequately supported, or properly approved.
- Observation 4 Documents related to court proceedings were not always processed timely.
- Observation 5 Procedures for the disposition of cases were not adequate.

Attached is management's written response to this report. We also communicated less significant matters to staff during our review.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 Segregation of duties was not adequate between certain incompatible tasks.

Background

Lack of segregation of duties occurs when a few employees are required to perform incompatible tasks. In situations where it is impossible to separate duties due to the small number of employees, additional controls should be implemented. No one individual should control all aspects of a transaction. During our review, the JP5 Office was staffed with two Court Clerks, one Court Manager, and the JP. After our fieldwork but prior to issuance of our report, the office increased to three clerks.

Observations

During our review, we observed that segregation of duties was not adequate between certain incompatible tasks. Specifically:

1. The Court Manager has the ability to receipt monies, prepare the deposits, record financial information into the County's general ledger, and perform the monthly bank reconciliations. Based on discussions with personnel, there is no meaningful management oversight of the Court Manager's work.
2. System controls implemented within Odyssey do not require segregation of duties between incompatible tasks. Specifically, we observed instances where the same clerk reversed charges or previously adjusted transactions in Odyssey without documented supervisory approval.
3. The JP's signature stamp was not adequately secured and controlled. We observed that JP5's standard operating procedures for processing cases begins with the JP handwriting his decision on each case jacket. Using the case jacket, staff will prepare the court order and then stamps the court order. Typically, the clerk is not in the presence of the JP when he is rendering judgment. Furthermore, we found that the JP did not initial the documents to ensure that the judgment was properly reflected on the court order. This, combined with the staff's ability to make financial transaction adjustments in Odyssey without management oversight, increases the risk of unauthorized activity including fraud.

Without adequate segregation of duties or other mitigating controls, errors and fraud may not be prevented or detected.

Recommendations

We understand the staffing limitations of the JP's Office. However, we recommend the following to mitigate the risk of fraud and errors:

1. Ideally, system controls should prevent employees from adjusting or reversing their own transactions. Since Odyssey does not have the functionality to set roles and permissions by till, a monthly report should be generated that lists adjusted and reversed transactions. Management should select a sample of transactions for review and determine the accuracy and validity of the adjustment or reversals including voids. Management should also document their review by initialing and dating the report.

2. The number of staff with access to the JP's signature stamps should be limited and stamps should be kept in a secured location. Ideally, the stamp should only be used in the presence of the JP.

Observation 2 The bank reconciliation was not properly reconciled.

Background

JP5 accepts cash, checks, money orders, and credit cards for payment of court costs, fees, and fines. Credit card payments are processed at the counter and through the internet. Credit card transactions are processed through credit card processors who provide various reports detailing credit card transactions, including eligible cases filed through *eFileTexas.gov*. JP staff records daily receipts into Odyssey which are deposited into a separate JP5 bank account at JPMorgan Chase Bank.

JP staff submits a monthly financial report to the Auditor's Office for inclusion in the County's general ledger. The Court Manager is responsible for the preparation of the monthly financial reports including the bank reconciliation.

Observations

During our review of the bank reconciliation for the four months ended January 31, 2019, we observed that the monthly bank reconciliation was not always properly reconciled. For example:

1. Credit card payments related to cases filed through *eFile Texas* were not always created and posted on the same day in Odyssey. For example, we observed that approximately \$2,391.50 or 216 transactions were created in the *eFile Till* on 12/13/2018 but the till was not closed until 12/14/2018. Additionally, staff indicated that more than one person will log into the till at the same time making it difficult to determine who processed the transaction.
2. Five checks remained outstanding on the JP5 bank reconciliation for more than six months. One dated back to April 9, 2015.
3. The monthly bank reconciliation remitted to the Auditor's Office consistently showed differences between the adjusted bank balance and the adjusted book balance. Additionally, the trust balance did not always agree to the reconciled Odyssey balance. This occurred because the Court Manager was not aware that the *Registry and Trust Accounts with Balances* report should be used to reconcile Odyssey with the bank balance.

Each month, the Auditor's Office staff made corrections to the reconciliations. Although the differences were immaterial, a risk exists that error or irregularities could go undetected. While JP5 did have a procedure in place to sign the monthly financials forwarded to the Auditor's Office, there is no documentation to indicate that the monthly bank reconciliation was independently reviewed for accuracy.

JP staff may not be adequately trained with regard to certain financial requirements, including daily and monthly reconciliations. If JP staff had procedures in place to reconcile credit card activity on a daily basis, these differences may have been identified and resolved in a timely manner.

Recommendations

Because credit card receipts settle anywhere between two and five business days from the date of the transaction, we recommend the Court Manager reconcile credit card receipts recorded in Odyssey to all credit card processors' reports on a daily basis. Any receipting errors identified from the reconciliation should be corrected immediately. Additionally, we recommend the Court Manager determine whether the old outstanding checks should be escheated to the State as required by statute.

Furthermore, we recommend the JP review the reconciliation and related financial reports to verify accuracy and appropriateness of the reconciliation and the relevant transactions. The Auditor's Office is available to provide guidance on the bank reconciliation process.

Observation 3 Transactions recorded in Odyssey were not always accurate, adequately supported or properly approved.

Background

Odyssey contains essential case information including relevant parties, case type, bonds, fees charged and paid, balances due, case comments, paper service, receipts, disbursements, and case disposition. Assessments and adjustments of fines, fees, and court costs are applied based on the JP's approval or as required by statute. The case jackets contain records essential to the JP and other county offices.

Observations

During our review, the Information Technology Department (ITD) provided data queried from Odyssey for high risk transactions (e.g., voids, reversals, adjustments, jail time served, community service credit and judicial waivers). Based on the data provided by ITD, JP5 processed 678 transactions in which a void, reversal or adjustment occurred. We selected a sample of transactions for review and found that transactions in Odyssey were not always accurate, adequately supported, or properly approved. For example:

1. *Transactions processed were not always accurate.* In one instance, we observed that staff inadvertently removed the Omni-base collection fee. In another instance, staff incorrectly included the Omni-base collection fee when applying credit for jail time served. As a result, the monthly report to the Office of Court Administration was overstated by \$125.10 for the month of October 2018.

Furthermore, staff processed multiple adjustments for different reasons and/or circumstances that were incorrectly combined into one transaction.

2. *Transactions processed were not always adequately supported.* The *Notice to Appear* form created by JP staff for the misdemeanor cases incorrectly included Social Security Income and Medicare as government assistance accepted as proof of indigency status. Medicaid and Supplemental Security Income are the actual government assistance programs that are allowed to determine status. Additionally, we observed that some cases did not contain any proof of indigency.
3. *Transactions processed were not always properly approved.* The staff did not always obtain the JP's signature on the *Statement of Inability to Afford Payment of Court Costs or an Appeal Bond* when the waiver was granted when he was rendering judgment. We also observed that staff did not obtain

approval of the document used to support that community service was completed in accordance with the deferred disposition court order. Instead, the staff accepted a note from the parent as evidence of completion.

Furthermore, we observed that there is no procedure in place requiring a secondary review of adjustments made to court costs, fines, and fees.

Without adequate documentation or appropriate review and approval, errors and fraud may not be prevented or detected.

Recommendations

We recommend JP5 implement procedures requiring a supervisory or independent review of adjustments. At least monthly, we recommend the Court Manager obtain a report of financial adjustments from ITD and review for accuracy and legitimacy. Furthermore, we recommend staff be trained on how to make adjustments in Odyssey given the case specifics, including required supporting documentation and JP approval.

Observation 4 Documents related to court proceedings were not always processed timely.

Background

Texas Rule of Civil Procedures, Rule 501.1 (a) dictates, “...when a petition is filed with a justice court to initiate a suit, the clerk must promptly issue a citation and deliver the citation as directed by the plaintiff.”

Observations

During our review, we observed that documents related to court proceeding were not always processed timely. For example, we found an instance where the citation was not processed for almost 5 months after the petition was filed. Additionally, we found three cases where the citation had not been mailed for months after the petition was filed. These conditions occurred because documents were not processed or updated in Odyssey in a timely manner.

Recommendation

We recommend that JP5 implement procedures requiring staff to process transactions daily and update Odyssey in a timely manner as required by statute.

Observation 5 Procedures for the disposition of cases were not adequate.

Background

Article 32.02 of the Code of Criminal Procedure requires judicial approval for the dismissal of cases. Article 45.051 (a) of the Code of Criminal Procedure permits judicial discretion in the deferral of final disposition in misdemeanor cases that are punishable by a fine. Sentences can be deferred for up to 180 days as defined

by the Justice Court. If the defendant fails to complete the requirements of the deferral, a conviction will be entered on the judgment.

When Odyssey was introduced to the Justice Courts in March 2010, caseloads were transferred from the old system. Many of these cases are disposed with a receivable balance, which requires case research to determine if the receivable is indeed accurate.

Observations

During our review, we found that procedures for the disposition of cases were not adequate. Specifically:

1. As of January 31, 2019, the receivable balance in Odyssey for JP5 is approximately \$47,674 for 544 individual cases, 41% of them from the Odyssey conversion.
2. There is no follow-up on pending cases. For example, we observed twelve cases where deferred disposition was granted by the Justice Court for a specified number of days. Once the deferral period had expired, the cases sat pending without any action taken by the Justice Court.
3. The staff did not always update the case status in Odyssey when the cases were created due to clerical errors or filed in the incorrect court. As a result, the cases were shown as active rather than promptly dismissed and closed.


Recommendations

We recommend JP5 staff 1) review disposed cases with a receivable balance and adjust as necessary, and 2) develop written procedures to review cases on a monthly basis and update the status in accordance with statute.

CLOSING REMARKS

We appreciate the cooperation of the JP5 staff during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,



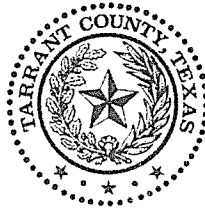
S. Renee Tidwell, CPA
County Auditor

Audit Team

Kimberly Buchanan, Audit Manager
Maki Ogata Brown, Senior Internal Auditor
Kara Hoekstra, Senior Internal Auditor

Attachment

Management's response



RECEIVED

JUL 11 2019

AUDITOR

SERGIOL DELEON
JUSTICE OF THE PEACE
PRECINCT 5

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884-1438

July 10, 2019

S. Renee Tidwell, CPA
Tarrant County Auditor
100 E. Weatherford Street
Fort Worth, Texas 76196

RE: Justice of the Peace, Pct. 5 Response to Audit Report

Dear Auditor Tidwell:

Our court wishes to thank you and your team for performing an audit of our court and issuing a report of your findings. Like all county departments we are accountable for tax-dollars appropriated, generated, and expended by our court. Accordingly, we hold ourselves to a high standard and can appreciate your audit which identified areas of concern and has offered suggested recommendations for our court to implement.

Despite strict oversight, we are aware of the potential for fraud and abuse that exists in county departments. Such an unfortunate situation occurred in Justice of the Peace Court, Precinct 6 where illegal and unscrupulous activity ultimately led to the arrest and conviction of a former county employee. This unfortunate incident justifiably prompted greater and enhanced oversight of all justice courts and has also prompted judges along with their court managers to re-examine financial procedures and protocols to prevent abuse and safeguard taxpayer confidence. We welcome such a review.

To be clear, however, the concerns identified in your audit reveal *systemic* weaknesses inherent to the limitations imposed by the software provided by the county, the county policies and procedures heretofore established as best practices in the past, the number of personnel afforded to our office, and the limitations imposed by the antiquated facilities provided for our operations.

Moreover, it is equally important to note that the audit uncovered zero evidence of fraud, theft, misappropriation or other malfeasance in the Justice of the Peace Precinct 5 Office.

Our court will adopt all of the recommendations we are capable of implementing. That cooperative and open posture has been our practice with previous audits and recommendations. I wish to

address each one of the observations made by your team and offer some needed context for you, District Judges, Commissioner's Court, and the taxpayers. They are as follows:

Observation 1: Segregation of duties was not adequate between certain incompatible tasks.

Response: *The job description of the Court Manger among other things is to maintain all financial operations of the justice court. Accordingly, the Court Manager is tasked solely with this responsibility. The remaining court clerks are assigned to our civil and criminal sections and are not required to perform this added task per their job description. Having said this, the court had adopted prior recommendations of Auditor's Office and has since required a second review with initials required from the Judge and a Court Clerk. The second layer of verification ensures a proper check and balance to the court's financial operations.*

The observations related to the Odyssey system mentioned in your report require a rebuttal with respect to the segregation of duties in our court.

Previously, the Odyssey computer system did not have a second user approval for clerks who needed to back out or correct a transaction. Meaning it was not possible to have someone else approve a modification/change in the Odyssey system. This was the common practice of all 8 Justice Courts. The Auditor's Office took note of this and Auditor Tidwell issued a memorandum to all Justice Courts requiring a change to adopt a second user approval.

After receiving the memo, our court acted immediately and sent a request to the IT Department to require a second user approval the very same day. Shortly thereafter, the county IT Department created a mechanism for the second user approval and our court has been using it ever since.

Court Manager Rosemary Garza provided emails to your team and explained in detail our adoption of previous Auditor recommendations; however, that was surprisingly not included in your report.

Finally, with respect to the JP signature stamp; this was a practice that was kept from the previous Judge and was never red-flagged as problematic in previous audits. All clerks have been assigned signature stamps for use in stamping signatures on documents related to misdemeanor cases, alternate service requests, evictions, writ of possessions, and other correspondence. They have these stamps and are permitted to use them when on I am on the bench or away at training. When I am in the office, I will personally sign said documents. Also, these stamps are never used for checks or to approve any financial transactions.

Observation 2: The bank reconciliation was not properly reconciled.

Response: *When cases are filed utilizing eFile and are accepted by our court sometimes there is a lag between the time the clerk accepts a case and the time Odyssey system generates a receipt. This is a situation of a computer system glitch and nothing else.*

The check that was cited in your report that remained outstanding from April 9, 2015 was an oversight by our court manger and has since been corrected.

Bank reconciliations errors are due to incorrect data entry and late generated receipts which could show differences from month to month. According to staff in the County Auditor's Office that reviews these reports indicates these situations are seldom and very rare.

Observation 3: Transactions recorded in Odyssey were not always accurate, adequately supported or properly approved.

Response: *Omni based collection fees are waived when a defendant is declared indigent and thus need removed when appropriate. Further, under Article 45.0491 the Judge has the discretion to declare a defendant indigent. This is the people's court and our court will accept whatever documentation a defendant wishes to admit in his or her case. We will not adopt a blanket policy that will prevent defendants from presenting exhibits for the court to consider in the administration of justice.*

Observation 4: Documents related to court proceeding were not always processed timely.

Response: *The court has been inundated with case filings both in person and through the eFile system and recently experienced a staffing shortage. This has since been resolved and staff is able to meet in-person filing and electronic case filing demands.*

Observation 5: Procedures for the disposition of cases were not adequate.

Response: *The inadequate disposition of cases is attributed to a shortage of staff needed in our criminal section. This shortage along with an antiquated computer system which fails to alert our staff when deferrals need to be revoked or dismissals issued to defendants contributes to the delay in issuing the appropriate paperwork.*

Moreover, the Court has been inundated with criminal citations issued by local law enforcement agencies. Last calendar year there were 2,886 criminal citations filed in our court and since January 1, 2019 we have had 2,011 criminal citation filed. We are expected to reach a little over 4,000 cases by years end.

There is a great deal of staff time that goes into our criminal section and that is work that cannot be adequately accounted for in your report. Criminal citations are either filed electronically or in person. If the citations are filed in person said citation has to be manually entered in the Odyssey system or modifications made if the criminal case was filed electronically.


After the citation is updated it must be set for a hearing, notice to appear are issued to all parties; said notices must be scanned into odyssey system; and file jackets prepared with labels for the hearing date. Docket calls for our criminal citations are held two or three times out of the week and our clerk must check in defendants on hearing dates and then afterwards accept payment or set cases for trail.

Further, any defendant requiring a payment plan will cause the clerk to expend additional time reviewing paperwork and verifying references listed by defendant via phone calls. Phone verification is required by the State of Texas.

As you can see there is a great deal of work that must go into each citation and additional personnel is needed to meet the growing demands.

In closing, we again thank you for the Audit and the opportunity to respond. Please let us know if you have any questions or require additional information. We always welcome the opportunity to improve our operations.

Kindest regards


SERGIO L. DE LEON
Justice of the Peace, Pct. 5

/sld

Thanks!
