



COMMISSIONERS COURT  
COMMUNICATION

REFERENCE NUMBER CO#129118

PAGE 1 OF 8

DATE: 12/04/2018

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE REVIEW OF  
FINANCIAL AND SYSTEM CONTROLS FOR CONSTABLE, PRECINCT 7**

**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 Constable, Precinct 7.

**BACKGROUND:**

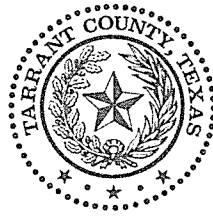
In accordance with Local Government Code, the Auditor's Office performed a review of the financial and system controls established by Constable, Precinct 7, for the nine (9) months ending June 30, 2018.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor's Office

PREPARED BY: S. Renee Tidwell  
APPROVED BY:



## TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506  
100 E. WEATHERFORD  
FORT WORTH, TEXAS 76196-0103  
817/884-1205  
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S. RENEE TIDWELL, CPA  
COUNTY AUDITOR  
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CRAIG MAXWELL  
FIRST ASSISTANT COUNTY AUDITOR  
cmaxwell@tarrantcounty.com

November 1, 2018

Constable Clint Burgess, Precinct 7  
The Honorable District Judges  
The Honorable Commissioners Court  
Tarrant County, Texas

Re: Auditor's Report – Review of Financial and System Controls, Constable Precinct 7

### SUMMARY

In accordance with the Local Government Code, we performed a review of the financial and access controls of the Constable's Office, Precinct 7, for the nine month period ended June 30, 2018. The Constable's Office receives process papers from various sources, including Constable 1, out of county agencies, attorneys and the Justice Courts. The Constable's Office does not maintain a comprehensive list of process papers received and then served by the Constable and his deputies. The *Mainframe* is the system primarily used to record both service paper information and financial transactions. However, the reporting functionality for the *Mainframe* is limited and there is no report readily available that lists papers entered, assigned, receipted, and attempted service, etc. The Tarrant County Constables have requested a comprehensive solution to replace multiple systems and manual processes. Because of these limitations and manual processes, our review was limited in scope and we offer no assurance that all funds collected were accurately recorded and deposited with the Auditor's Office.

As a result of our review, we observed that procedures related to the oversight and processing of financial related transactions need improvement. We also communicated less significant matters to staff during our review. Attached is management's written response.

### OBSERVATIONS AND RECOMMENDATIONS

*Procedures related to the oversight and processing of financial related transactions need improvement.*

#### Background

Segregation of duties is critical to effective internal control because it reduces the risk of mistakes and inappropriate actions. Adequate segregation of duties reduces the likelihood that errors both intentional and unintentional will remain undetected. No one employee should be in a position both to perpetrate and to conceal errors or fraud. In situations where it is impossible to separate duties due to the small number of employees, additional controls should be implemented (e.g., independent or supervisory review).

Local Government Code 113.022 states that a county officer who receives money “shall” deposit the money with the *county treasurer* on or before the next business day after the money is received. The statute also states that if this deadline cannot be met, then the money must be deposited no later than the 5<sup>th</sup> business day after the money is received. According to the opinion issued by the Criminal District Attorney’s Office, #99-OP-107, a public officer is strictly liable for the funds, including any losses and shortages, until the money is deposited with the County Auditor.

### **Observations**

During our review, we observed procedures related to the oversight and processing of financial related transactions need improvement. Specifically:

1. *Segregation of duties was not adequate between certain incompatible tasks.* During our review, we observed that the Office Manager was responsible for entering receipts into the *Mainframe*, issuing receipts and preparing the weekly deposit. In addition, the Office Manager has the ability to “back out” (void) receipts recorded in the *Mainframe*. No evidence exists that indicates an independent review of the weekly deposit or “back out” entries was performed.

### **Recommendations**

While we understand there are staffing limitations, we recommend the Constable develop procedures that include an independent review of the weekly deposit. These procedures should also include the review of accuracy and validity of any “back out” receipts. This review should be documented.

2. *Supervisory review of calculations related to writs of execution was not documented.* We reviewed the calculation worksheets for all seven writs of execution during the audit period and found only one where supervisory review was documented. We also observed an instance where the deputy incorrectly assessed interest on a cost-only collection.

*Unallowable fees were charged.* Local Government Code 118.131 authorizes Constables to assess fees for services as approved by Commissioners Court. For example, the Constable’s Office assessed a \$250 charge for ten hours of work performed by a clerk. The fee schedule approved by Commissioners Court only allows for the assessment of \$150 on a writ of execution plus \$50 per hour, per *deputy*, after two hours.

### **Recommendations**

We recommend independent review of all calculations for writs of execution for compliance with the judgment. Furthermore, we recommend the Constable seek the advice of the Criminal District Attorney’s Office regarding fees assessed and collected.

3. *Certain fees of office were not always deposited with the Auditor’s Office by the 5<sup>th</sup> day after the money was received.* Eight out of eleven receipts tested were deposited between 6 to 10 business days later. We also noted that receipts were not always entered the same day the payment was received. Funds are vulnerable to theft or loss until the funds are deposited with the Auditor’s Office.

**Recommendations**

We recommend that staff enter receipts into the *Mainframe* upon receipt. All funds should be remitted to the Auditor's Office no later than the 5<sup>th</sup> business day after the money is received.


4. *The Constable's Office did not invoice court papers served for the Office of the Attorney General (OAG) in a timely manner.* Twelve out of fifteen invoices sent to the OAG were billed 4 to 8 months after the papers were served. For example, we observed that papers served in August 2017 were not invoiced until April 2018. According to the Constable's staff, the OAG indicated that they may bill up to three years in arrears. Good business practice suggests that services should be billed following the month the services were performed. Because of the manual nature of the invoice process, we believe a risk exists that revenues earned are not invoiced and subsequently collected. The Constable's Office implemented procedures to invoice more timely during our review.

*No further recommendation is necessary.*

**CLOSING REMARKS**

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

Sincerely,



S. Renée Tidwell, CPA  
County Auditor

*Attachment:* Management's response

*Distribution:* Chief Hatley, Constable Precinct 7

*Audit Team:* Kim Buchanan, Audit Manager  
Kara Hoekstra, Senior Internal Auditor

Office of Constable Clint C. Burgess  
Tarrant County Precinct 7  
1100 East Broad Street Suite 201  
Mansfield, Texas 76063  
817-473-5110  
www.TexasConstable.com



L-C07-18-040

November 19, 2018

S. Renee Tidwell, CPA County Auditor

Re: Management Response to Auditor's Report

Mrs. Tidwell,

Tarrant County Constables Office Precinct 7 is in receipt of the Auditor's report on the Review of Financial and System Controls.

Our office understands the importance of maintaining a good control of all financial transactions coming through our office before they are turned over to the County Auditor for deposit. The Audit team have made suggestions. And we have made improvements by placing better supervision checks and balances of all transactions, not limited to voided or backed out entries. All monies and checks received are logged into the Mainframe that day, along with quicker delivery of funds to the Auditor's Office.

Our office now has the Chief Deputy check all transaction of monies, voids, backed out entries that are made in the Mainframe before it is sent in for delivery to the Auditor's Office. The Chief Deputy also does a review of all requested expenditures from this office. In the Past regarding Attorney General invoicing, we would wait until each quarter or longer to invoice. The Attorney General's Office sent us an email stating that they can take invoices up to 36 months old. We have taken the suggestion of the Auditor and have been invoicing the Attorney General's Office each month.

Writs of Executions are checked for accuracy by the Chief Deputy and or the Senior Deputy during the workup and calculations by the Writ Deputy. The Writ of Execution is then placed on an extensive Excel file that is maintained by our office and checked monthly by the Constable. During a Writ of Execution/Auction of a Business, we made use of a Clerk with the supervision of a Deputy for hours billed. The Client was made aware of the use of a Clerk and was very happy with the invoice. Our office received a letter of praise for a job well done by the Plaintiff /Client. We have reached out to Tarrant County legal and made them aware of the need for clerical assistance during auctions and they are moving forward in getting an hourly fee for Clerks approved. (See attachment A - from Blumberg & Bagley LLP Attorneys)

We would like to thank your office for the professional cooperation and assistance with this year's Audit.

Sincerely,

A rectangular grey box redacting the signature of Clint C. Burgess.

~~Clint C. Burgess~~  
Constable Pct. 7

Blumberg & Bagley, L.L.P.

Attorneys

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Daniel E. Blumberg

Board Certified, Civil Trial Law, Texas Board of Legal Specialization

Fellow, College of the State Bar of Texas

May 10, 2018

VIA REGULAR U.S. MAIL and  
EMAIL: [ccburgess@tarrantcounty.com](mailto:ccburgess@tarrantcounty.com)  
Hon. Clint C. Burgess  
Precinct 7 Constable of Tarrant County  
Tarrant County Southeast Subcourthouse  
1100 E. Broad Street, Suite 201  
Mansfield, Texas 76063

re: Thank you

Dear Constable Burgess:

I am writing to offer you my thanks and those of my partner, Peter F. Bagley, Blumberg & Bagley, LLP, the law firm of which we are a part, and our employees for your exemplary performance and that of Deputy George Reynolds, Sergeant John Kiefer and others connected with your office in connection with Cause No. 096--292698-17. As you know, Hon. R.H. Wallace, Judge of the 96<sup>th</sup> District Court, signed an Order Granting Motion for Turnover in that matter. Further, Hon. Tom Wilder, Tarrant County District Clerk, issued a Writ of Execution in connection with the judgment rendered in that matter. It became the responsibility of your office to serve the Writ of Execution, to enforce the turnover order, to seize the judgment debtors' nonexempt assets, and to conduct an execution sale of those assets in partial satisfaction of the judgment in that matter, all in accordance with applicable law. These tasks were assigned to Deputy Reynolds and Sergeant Kiefer. They acquitted themselves in exemplary fashion.

Significantly, the judgment debtors in this matter proved to be unusually adept at resisting the lawful orders and process of the Court. Deputy Reynolds and Sergeant Kiefer did not permit this to stop them. They performed their duties professionally, efficiently and promptly. Some of the judgment debtors' assets were voluminous and occupied an industrial space of about 5,000 square feet. Deputy Reynolds, Sergeant Kiefer and others with your office secured and inventoried this property and readied it for sale. At some point in the process it became clear that valuable software resided on a computer located in this industrial space and that the judgment debtors were anxious to retrieve it. Despite the judgment debtors' best efforts, Deputy Reynolds and Sergeant Kiefer successfully protected this software from the judgment debtors. In time, they sold that and the other property they had seized at an appropriate execution sale. They

CLINT C. BURGESS  
CONSTABLE PCT. 7  
TARRANT COUNTY, TX  
2018 MAY 16 PM 3:46  
DATE SERVED  
TIME SERVED  
DEPUTY



Hon. Clint C. Burgess  
May 10, 2018  
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also proved adept at selecting an appropriate auctioneer to sell the assets sold and at doing the other things necessary to cause the assets seized to bring as much as reasonably possible at the execution sale. Of course, this benefits all involved.

Finally, Deputy Reynolds and Sergeant Kiefer attended one of the hearings conducted in connection with the referenced matter at which the judgment debtors sought to delay or avoid the pending execution sale and, by listening carefully, learned all they needed to know about the issues the judgment debtors had raised. This permitted Deputy Reynolds and Sergeant Kiefer to deal successfully with these issues when the judgment debtors raised them again and again in the course of the legal process necessary to give effect to the order and the writ mentioned.

By copy of this letter I am calling you and your office's superior performance of these duties to Hon. Andy Nguyen, Tarrant County Commissioner, and Hon. B. Glen Whitley, Tarrant County Judge. I hope that they will join me in congratulating you, Deputy Reynolds, Sergeant Keifer and the others with your office who have served us, our clients and the other citizens of Tarrant County so well.

Very truly yours,

  
Daniel E. Blumberg 

DEB/jmp  
No enclosure

cc: VIA REGULAR U.S. MAIL and  
EMAIL: [precinct2@tarrantcounty.com](mailto:precinct2@tarrantcounty.com)  
Hon. Andy Nguyen  
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Fort Worth, Texas 76196

Hon. Clint C. Burgess  
May 10, 2018  
Page 3

cc: VIA REGULAR U.S. MAIL and  
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