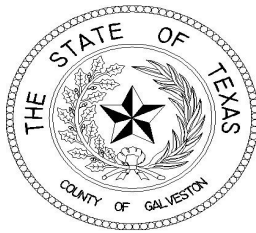


GALVESTON COUNTY



Office of County Auditor

Randall Rice CPA CISA CIO, County Auditor
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722 Moody Ave 4th Floor, Galveston, TX 77550

March 4, 2024

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

Honorable Mark A. Henry and Members of the Court:

Attached to be received and filed is the internal audit report of Justice of the Peace, Precinct 2. The audit covered the period January 1, 2023 through October 31, 2023. Also attached is the response letter from Honorable Blake Apffel, dated January 18, 2024.

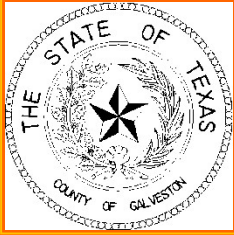
Sincerely,

Randall Rice CPA

Randall Rice CPA
County Auditor

cc: Honorable Judge Blake Apffel

Attachment: Justice of the Peace, Precinct 2 Audit Report
Response Letter, Judge Blake Apffel



Justice of the Peace, Precinct 2 Audit

November 28, 2023

Galveston County
Internal Audit
Division

Randall Rice CPA
CITP CISA CIO CBM DABFA CGMA
County Auditor

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Executive Summary

Reliability and Integrity of Information (page 4)

- Compensating controls have been implemented in different areas of the court's operations to ensure a proper separation of duties.
- No discrepancies were noted in the testing of adjustments, reversals and voids.
- No exceptions were noted in the recording of citations issued by the Galveston County Sheriff's Office in Odyssey.

Safeguarding of Assets (page 5)

- All collections were accounted for during the surprise cash counts.
- Physical security over assets (collections) is adequate.
- The court deposits collections daily.
- Bond account bank reconciliations are reviewed quarterly by the Auditor's Office.

Compliance with Statutes, Policies and Procedures (pages 6-8)

- No discrepancies were noted in the testing of Administrative Dismissals.
- No discrepancies were noted in the testing of No-Charge Dismissals.
- No material discrepancies were noted in the testing of assessing court costs, fines and fees.
- Any credit awarded (Jail Time Credit, Community Service, Waivers) to the defendants must be applied to the fine amount first, then to court costs and fees.
- No material discrepancies were noted in the testing of Time Payment fees.
- PC30 collection fee calculation must include the entire outstanding balance of any fines, fees and court costs.
- Adequate support documentation signed by the judge or the Assistant District Attorney must be scanned into Odyssey for all credit awarded.
- No material discrepancies were noted in the testing of compliance with CCP § 45.051 and court policy.

Statistical Analysis (pages 9-10)

- The largest number of case types filed have continually been criminal cases (Traffic and Non-Traffic Misdemeanors), increasing from 3,178 in FY2019 to 4,057 in FY2023. The second-highest number of case types filed was for civil cases, which decreased from 2,039 in FY2019 to 1,481 in FY2023.
- Total revenue collected increased from \$731,697 in FY2019 to \$876,675 in FY2023.

Introduction

The Internal Audit Division conducted an internal audit of the Justice of the Peace, Precinct 2, in accordance with Local Government Code (LGC) §115. The internal audit covered the period January 1, 2023 through October 31, 2023. The audit was performed from November 7, 2023 through November 28, 2023.

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

- Reliability and integrity of the information
- Safeguarding of assets
- Compliance with laws, regulations, contracts, policies, plans and procedures

The scope of the internal audit encompassed the financial records and administrative procedures related to the Justice of the Peace, Precinct 2. The internal audit included, but was not limited to, the books, accounts, reports, dockets and records of the Justice of the Peace, Precinct 2.

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

Cynthia Hicks, Internal Auditor, 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 not possible for Justice of the Peace, Precinct 2 at this time due to the size of staff and budgetary constraints; however, compensating controls 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 a copy of the transaction receipt to be printed with an explanation documented and signed by the clerk who initiated the transaction and a clerk approving the transaction. Proper support of the adjustments, reversals and voids must be scanned into Odyssey. A sample of adjustments, reversals and voids was tested for compliance with the court policy. No material discrepancies were noted.

Completeness and Accuracy

Information from citations issued by the Galveston County Sheriff's Office is recorded in their Record Management System (RMS). The citations are turned into the related Justice Court and subsequently entered into Odyssey by the clerks. Internal Audit tested a sample of citations recorded in RMS to verify the information was completely and accurately recorded in Odyssey. No discrepancies were noted.

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 Santa Fe office on November 7, 2023 and at the Galveston office on November 8, 2023. All collections were accounted for at the time of the surprise cash counts. Controls are in place to ensure the staff uses a lockable safe to secure collections until they are ready to be deposited. The safe remains locked 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 the maximum benefit of the collections. Justice of the Peace, Precinct 2 has a policy to deposit collections daily. Deposits are reviewed quarterly by the Auditor's Office.

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. Justice of the Peace, Precinct 2 performs a bond account bank reconciliation each month and submits a copy to the Auditor's Office. Bond account bank reconciliations are reviewed quarterly by 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 when the defendant provides proof the underlying violation is resolved within the statutory time limit. When the proof is presented and the administrative fee has been paid, the clerk may dismiss the case without the consent of the Judge or the Assistant District Attorney. A sample of administrative dismissals was tested for compliance with applicable statutes. No discrepancies were noted.

Code of Criminal Procedures (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. No discrepancies were noted.

Court Costs, Fines and Fees

The Texas Judicial Branch publishes a 'Justice Court Convictions Court Cost Chart' each year there is a legislative update. 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. No material discrepancies were noted.

Allocation Rule

Attorney General Opinion GA-147 and the 'Justice Courts - Court Costs and Fees Handbook' define the "Allocation Rule" as the practice of allocating monies received from a defendant first to pay costs and then to pay a fine. If the monies received do not cover all of the costs, then the monies must be allocated to costs on a pro rata basis. Accordingly, any credit awarded (Jail Time Credit, Community Service, Waivers) must be applied to the fine amount first, then to court costs and fees. A sample of cases was tested for compliance with the "Allocation Rule".

Finding: Jail Time Credits are not consistently being allocated correctly in Odyssey.

Recommendation JP2-24-01: To ensure compliance with the Allocation Rule, all credits awarded to a defendant must be applied to the fine first, then to court costs and fees.

Compliance with Statutes, Policies and Procedures (cont.)

Time Payment Fee

If a person is convicted of a felony or misdemeanor and pays any part of the court costs, fine, or restitution on or after the 31st day after the judgment day, the court must assess an additional cost of a time payment fee. CCP §102.030 (effective as of 1/1/2020) states "(a) A person convicted of an offense shall pay a reimbursement fee of \$15 if the person: (1) has been convicted of a felony or misdemeanor; and (2) pays any part of a fine, court costs, or restitution, or another reimbursement fee, on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, restitution, or other reimbursement fee." A sample of cases was tested for compliance with CCP §102.030. No material discrepancies were noted.

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 commissioner's court that enters into a contract with a private attorney or private vendor under this article may authorize the addition of a collection fee (PC30 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: PC30 fees are not consistently being assessed accurately in Odyssey.

Recommendation JP2-24-02: To ensure compliance with CCP §103.0031, PC30 collection fee calculation must include the entire outstanding balance of any fines, fees and court costs.

Credits

Jail Time Credit

CCP §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. Per court policy, the defendant must provide proof of time served.

Community Service

CCP §45.049 (a) Community Service in Satisfaction of Fine or Costs states a justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service.

Compliance with Statutes, Policies and Procedures (cont.)

Indigent Credit/Waivers

CCP §45.0491 Waiver of Payment of Fines and Costs for Indigent Defendants and Children states a justice court may waive payment of all or part of a fine or costs imposed on a defendant if the court determines that:

- (1) the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs or was, at the time the offense was committed, a child as defined by Article 45.058(h); and
- (2) discharging the fine or costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

Court policy dictates all credit awarded must be approved by the Judge and adequate support documentation for credits must be scanned into Odyssey as proof of its validity.

A sample of cases was tested for compliance with CCP §45.048, CCP §45.049(a), CCP §45.0491 and court policy.

Finding: Several cases tested did not have adequate support documentation of the Judge's approval scanned in Odyssey.

Recommendation JP2-24-03: The court is in the process of providing the support documentation and scanning into Odyssey. Moving forward, to ensure compliance with office policy, the Judge shall approve all credits awarded to the defendants and adequate support documentation for all credits awarded must be scanned in Odyssey.

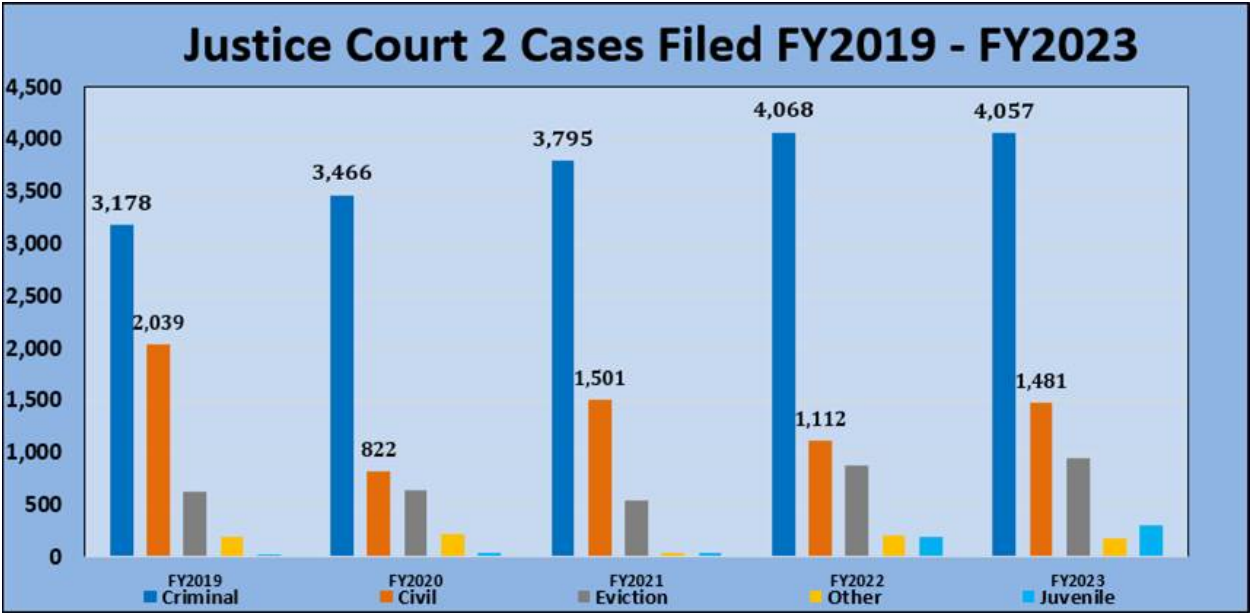
Deferred Disposition (Adjudication)

CCP §45.051 Suspension of Sentence and Deferral of Final disposition states on a plea of guilty or nolo contendere on a misdemeanor case, the judge may defer further proceedings without entering an adjudication of guilt and place the defendant on probation not to exceed 180 days. In issuing the order of deferral, the judge may impose a fine on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The fine may be collected at any time before the probation ends. The judge may elect not to impose the fine for good cause shown by a defendant. If the judge orders the collection of a fine under this subsection, the judge shall require the amount of the fine be credited toward the payment of the amount of any fine imposed by the judge as punishment for the offense. Court policy dictates all support documentation to deferred cases, including the Order for Deferred Disposition (Adjudication) signed by the judge, are scanned into Odyssey and the physical copy is retained in the case jacket. A sample of cases was tested for compliance with CCP §45.051 and court policy. No material discrepancies were noted.

Statistical Analysis

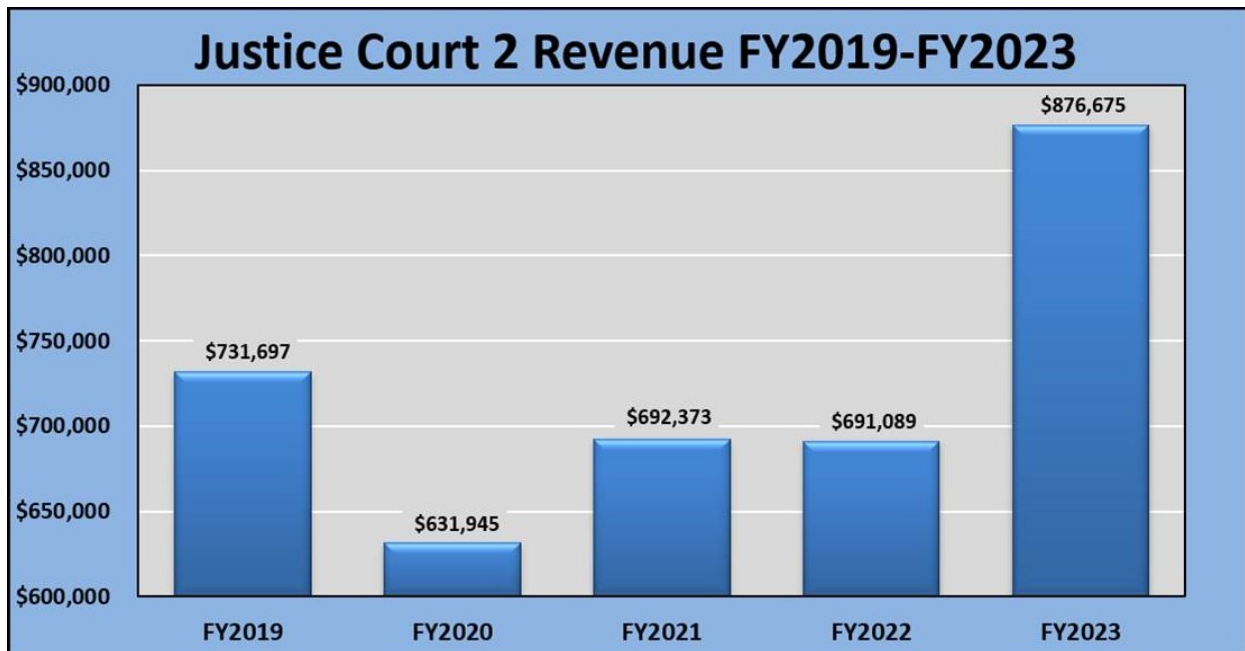
A five-year statistical analysis was performed on the cases filed through Justice of the Peace, Precinct 2 from FY2019 through FY2023. The data for the analysis was obtained from the Odyssey Case Filing Statistics Report. The date range used for the report was October 1, 2019 through September 30, 2023. The largest number of case types filed has continually been criminal cases (Traffic and Non-Traffic Misdemeanors), increasing from 3,178 in FY2019 to 4,057 in FY2023. The second-highest number of case types filed was for civil cases, a decrease in cases from 2,039 in FY2019 to 1,481 in FY2023. The decrease in the number of cases filed in FY2020 was due to the COVID-19 pandemic. The following reflects the number of cases filed during the five-fiscal year analysis:

	Criminal	Civil	Eviction	Other	Juvenile	FY Totals
FY2019	3,178	2,039	620	197	27	6,061
FY2020	3,466	822	636	215	37	5,176
FY2021	3,795	1,501	548	35	37	5,916
FY2022	4,068	1,112	875	209	189	6,453
FY2023	4,057	1,481	945	178	305	6,966
Total	18,564	6,955	3,624	834	595	



Statistical Analysis (cont.)

A five-year statistical analysis was performed on the revenue collected by Justice of the Peace, Precinct 2 from FY2019 through FY2023. The data used in the analysis was obtained from ONESolution, the county's financial reporting system. The date range used for the report was October 1, 2019 through September 30, 2023. The annual bank deposit total increased 17% from \$731,697 in FY2019 to \$876,675 in FY2023. The decrease in revenue during FY2020 was due to the COVID-19 pandemic. The following chart reflects revenue collected by Justice of the Peace, Precinct 2 during the five-year fiscal year analysis:





**JUDGE D. BLAKE APFFEL
JUSTICE COURT TWO
GALVESTON COUNTY TEXAS**

11730 Hwy 6
Santa Fe, Texas 77510

Office Number: 409-770-5484
Fax Number: 409-925-8290

January 18, 2024

Dear Mr. Rice,

After review of the Audit Report, on January 12, 2024, I, Judge D. Blake Apffel, submit this letter to confirm the following items will be addressed in the processes followed in this office.

- 1) Jail Time Credits shall be applied to the fine first, then to court costs and fees
- 2) PC30 fees shall include the entire outstanding balance of any fines, fees and court costs.
- 3) Indigent Credit/Waivers shall have the approved, adequate support documentation for all credits awarded and be scanned into Odyssey.

My staff and I will continue to work toward compliance with the recommendations of the Auditor's office. Thank you for the audit and the diligent work of the audit team.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Blake Apffel", is written over a faint, larger version of the same signature.

D. Blake Apffel
Justice of the Peace
Precinct 2
Galveston County, Texas
409-770-5490