

Erath County Auditor
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September 28, 2017

Honorable Tab Thompson, County Judge
Dee Stephens, Commissioner Precinct 1
Herbert Brown, Commissioner Precinct 2
Joe Brown, Commissioner Precinct 3
Scot Jackson, Commissioner Precinct 4

Executive Summary

The purpose of an internal audit is to review and examine documents, processes, and procedures with the intent of evaluating compliance with the laws of the Federal Government, State of Texas, internal control practices, and generally accepted accounting principles. An internal audit is not to find innocence or guilt because that is the purpose of our courts. Any irregularities found during an internal audit are referred to the appropriate agency.

Summary

November 7, 2016 three offices in Erath County were notified their offices had been randomly selected for audit during fiscal year 2017. One of those offices was the Sheriff's Office which would also include the Erath County Jail. The responsibilities of the Sheriff's Office and Jail were researched, risk was assessed, and an audit plan was developed.

Later in November 2016 it was learned the Texas Commission on Law Enforcement (TCOLE) had been investigating Sheriff Bryant and other Erath County Law Enforcement Officers since mid-summer 2016. TCOLE confirmed the investigation publicly on December 15, 2016. Sheriff Tommy Bryant committed suicide on December 20, 2016. The employees under investigation by TCOLE were suspended on December 20, 2016 and procedure, as outlined by TCOLE and written in Texas Occupations Code 1701.452, was observed. Effective December 31, 2016 the same employees were not sworn in as law enforcement for Erath County. Risk was reassessed after each of these events and the audit plan and scope were changed accordingly.

Matt Coates was appointed Sheriff the afternoon of December 20, 2016 by Commissioners' Court. At approximately 2:30 the afternoon of December 20, 2016 two teams entered the Sheriff's Office. The first team handled all aspects related to human resources and was led by Donna Kelly, Erath County Treasurer. The second team, under the supervision of the County Auditor's Office, did inventory of the Sheriff's Office facility and vehicles with the exception of

the Dispatch and Jail. Dispatch and the Jail were inventoried later that week. Sheriff Coates and Sgt. Danny Briley of the Texas Rangers were in the building to assist in the assessment of the situation.

The audit report has not previously been issued as to avoid jeopardizing any pending litigation from TCOLE or the Texas Attorney General's Office. Because of the delay certain areas were tested a second time using the same processes to evaluate changes if any, to the original findings. Results of the subsequent testing are recorded under "Current Condition" heading.

Respectfully submitted,

A handwritten signature in black ink that reads "Janet S. Martin CPA, CFE". The signature is written in a cursive style.

Janet S. Martin, CPA, CFE
Erath County Auditor

Results of the Erath County Sheriff's Office Audit

Sheriff Office Administrative Matters

The administration of the Sheriff's Office is found in Texas Local Government Code (LGC) 85, Texas Occupation Code 1701.309 and 1701.312, and Texas LGC 152.011. Based on the code sections the following procedures were performed.

Commissioners' Court Minutes were reviewed and were found to contain the acceptance of properly executed bonds for Matt Coates, Sheriff, in appropriate amounts with correct payees.

The sureties issuing the bonds were researched and were found to have a Triple "A" rating.

Matt Coates, Sheriff at the time this report was issued, meets all requirements listed in LGC 85.0011 and 82.0025 based on reports reviewed that were issued by TCOLE.

Documents dated December 31, 2016 were reviewed to verify all deputies serving Erath County have been appointed in writing and the documents were appropriately filed with the County Clerk.

LGC 85.004 speaks to the use of reserve deputies. Erath County has a long history with reserve deputies which at one time included a deputy's posse. Research revealed no official court action was taken years ago to allow the Sheriff to use reserves; however, it is my belief the Court approved through their actions. The Court has approved funds and has approved bonds as they have been presented. Commissioners' Court in their July 24, 2017 session granted the Sheriff the authority to use reserve deputies. The records in the County Clerk's Office contain the written appointments and oaths of the Reserve Deputies. A review of the bonds on file show the bonds were issued by a solvent bonding agency, in the required amounts, and issued to the correct payee.

It is the responsibility of Commissioners' Court to approve the amount of compensation paid to County employees according to LGC 152.011. Several allegations were made by multiple employees related to employee hours worked. Because of these allegations the scope of the audit was greatly expanded relating to employee pay. The following procedures were performed:

Sheriff Office Procedures to test Administrative Matters:

- The pay scale approved by Commissioners' Court on September 12, 2016 was obtained.
- The rate(s) of pay for all employees of the Sheriff's Office were confirmed balancing the pay rate to the rank or position of the employee then to the payroll system for each employee, and finally to the actual amounts paid to employees. All employees were paid according to the pay scale approved by Commissioners' Court.
- Timesheets were printed for seven employees against whom allegations of time card fraud were made. Approximately 60% of the timesheet entries were manual entries for

a specific six employees and when the entire employee population of the Sheriff's Office and Jail employees was examined approximately 27% were manual entries.

Sheriff's Office Findings for Administrative Matters:

1. Two supervisors and one employee received pay from the County and from an outside source at the same time.
2. Normal "clock-in" "clock-out" procedures were not being used. Certain employees were allowed to call the office with their work times. Numerous manual time entries were found for the same six employees.

Sheriff's Office Recommendations for Administrative Matters:

1. Develop a fair and impartial policy for requests received by the Sheriff's Office for outside security work.
2. Require employees to enter their time through the computer or other clock-in device. Manual adjustments should be held to a minimum.
3. Limit the number of people who have the ability to approve and submit a timesheet for payment.

Sheriff's Office Current Condition for Administrative Matters:

- A sign-up sheet is posted for each request to assist with outside security work. Each employee may sign up for two shifts and no more until all personnel has had an opportunity to review the request. If shifts remain after all have been given an opportunity extra shifts may be obtained.
- Two payroll periods were randomly selected by the Treasurer's Office. Manual time input was reviewed for all employees. The manual entries were 1.955% of the total timesheet entries.
- The timesheets used to review and quantify the reduction in manual timesheet entries were also used to review the timesheet approval process. Timesheets are being approved by a departmental supervisor and an upper level supervisor.

Jail Administrative Matters

It is the responsibility of Commissioners' Court to approve the amount of compensation paid to County employees according to LGC 152.011. Several allegations were made by multiple employees related to employee hours worked. Because of these allegations the scope of the audit was greatly expanded related to employee pay. The following procedures were performed:

Jail Procedures for Administrative Matters:

- The pay scale approved by Commissioners' Court on September 12, 2016 was obtained.
- The rate(s) of pay for all employees of the Jail were confirmed balancing the pay rate to the rank or position of the employee then to the payroll system for each employee, and finally to the actual amounts paid to employees. All employees were paid according to the pay scale approved by Commissioners' Court.
- Interviews were conducted by a supervisor as part of an Internal Affairs Investigation.

Jail Finding for Administrative Matters:

A shift leader was clocking in then leaving the building and coming back to clock out at the end of their shift. The supervisor of the shift leader had knowledge of what was happening and was approving the timesheets. The information was obtained through an interview during the Internal Affairs Investigation.

Jail Recommendations for Administrative Matters:

1. Create an environment allowing employees to report incidents to top supervisors without the fear of reprisal.
2. Change the angle of the security cameras or add additional cameras to cover all building entrances. The change would increase employee safety and would allow monitoring of employees entering and leaving the building.

Jail Current Conditions for Administrative Matters:

- The shift leader who was clocking in and then returning at the end of the shift was interviewed during the Internal Affairs Investigation. The shift supervisor resigned without explaining if the allegations were true or false.
- Changing or adding camera coverage is being researched as Erath County enters a new fiscal year.

Training and TCOLE Compliance

June 2016 TCOLE began an investigation into the previous Sheriff, Tommy Bryant. The investigation broadened to encompass multiple employees after the investigator from TCOLE began his investigation. The results of the TCOLE investigation have not been made public; however, multiple issues related to training were found. Title 10 Chapter 1701 of the Texas Occupations Code defines the requirements for Law Enforcement Officers including Jailers.

Sheriff's Office Training and TCOLE Compliance Procedures:

Twenty-nine training classes have been provided since January 1, 2017 along with firearm qualifications. Ten additional classes are planned before the end of calendar year 2017. At January 1, 2017 only three law enforcement personnel had current firearm qualifications. Several employees in the Sheriff's Office and Jail were out of compliance with their basic training requirements.

Jail Infirmary

Texas Administrative Code 273 and Code of Criminal Procedure 16.22 provide the guidance for inmate medical care. Erath County EMS Director, Wes Green, assisted in the audit of the jail infirmary.

Jail Infirmary Procedures:

The Health Services Plan was reviewed and had been updated on November 15, 2016. Jail Standards issued an acceptance of policy updates.

Erath County takes care of inmate medical needs by contracting with a licensed physician and has two part time nurses who are employees. The physician makes weekly visits on Thursday and additional visits as required. Inmates needing additional services are referred to specialists, mental health professionals and dentists.

Storage for all medication, prescription and over the counter, was observed and meets requirements. Medication is triple locked and paper medicine logs are used to indicate who received medication. The medication type, quantity, recipient, and jailer are all recorded on the medicine logs. Records are also kept listing what medication is ordered from the pharmacy and the delivery date.

During intake the health history of an inmate is recorded including health history, current illnesses including prescriptions, special diets, and therapy, known pregnancy, current medical, mental, and dental care and treatment along with behavioral observation to assess the state of consciousness and mental status. An inventory of body deformities, ease of movement, markings, condition of body orifices and the presence of lice or vermin is documented. These records were observed in a separate area in the intake files.

Texas jail facilities with one hundred beds or greater are required to test employees and volunteers for tuberculosis. Inmates confined for seven days or more are to be tested for tuberculosis before the seventh day unless the test is objectionable to the inmate for religious reasons or the inmate has been rebooked more than once during a twelve month period. The computer inmate records were reviewed along with employee records to verify compliance.

Jail Infirmary Material Weaknesses and Findings:

Material Weakness

1. Medications prescribed by the physician and ordered from the pharmacy were, at times, not available to the inmates for as much as five days.
2. A pharmacist, based on moral objection, refused to issue a prescribed controlled substance used for treatment of a mental disorder.

Recommendation – A pharmacy should be used that can provide timely delivery of all prescribed medications.

Current Conditions – A secondary pharmacy is being used to purchase controlled substances of MHMR inmates. Erath County has signed a contract with a health services provider who will be providing all medical care including pharmaceuticals.

Finding – The paper medication logs were not in good order. Jailers were not following procedures as they applied to the counting of the medications. The medication counts were verified and no medications were missing. The physical medication counts did not agree with the paper medication logs.

Recommendation – Better supervision of the jailers issuing medication, additional training, and disciplinary action if proper procedure is not followed.

Finding – Inmates and employees had not received their tuberculous test timely.

Recommendation – Create a reminder system for inmate compliance and an employee policy stating new employees are tested on their first day of work.

Current Conditions – All new inmates and new employees since February 1, 2017 are in compliance with TAC 273.7(a) as of June 27, 2017.

Jail Commissary

Texas Administrative Code Part 9 Rules 277 and 291 along with Texas Local Government Code 351.0415 govern operations of the Jail Commissary. The Sheriff is responsible for the operations of the commissary. In Erath County, the Sheriff has chosen to use a company who manages the commissary. A sample of inmate purchases and deposits from October 2015 was chosen and all activity related to those inmates were tested. The tests found Erath County to be in compliance with all regulations as they relate to the inmates.

Two bank accounts exist and the reconciliation of the accounts found no irregularities. All items with a unit price of greater than \$50, all replacement television sets, were located and inventoried. All expenditures and receipts were examined. Because of the misinformation given by a supervisor the scope of the audit as it related to expenditures and cash handling was expanded.

Finding – Blank signed checks were found in the receipt envelopes in an unlocked file cabinet. Wal-Mart receipts were present in each of the envelopes with blank signed checks. The room containing the file cabinet was accessible to multiple employees.

Recommendation -

1. Deface all signed unused checks by cutting off the signature line.
2. The commissary check book and all related documents should be in a locked secure place with access given to only those employees responsible for commissary funds.

Jail Food

The requirements for a county related to providing food for inmates is found in Texas Administrative Code Chapter 281. Erath County contracts with a vendor who provides menus prepared by a registered dietician. The County has chosen to serve a 2800 calorie a day diet which is 300 calories above the State mandate. The vendor also supplies food and training necessary to prepare and serve the menu items. Special menus are available when requested.

The kitchen was observed during meal preparation four times along with the serving process. The observations were unannounced and were made at varying times during the day and on a variety of days including one weekend visit. An Erath County employee supervises trustees who prepare the food. Food items were served at appropriate temperatures. Food is served three times every twenty-four hours and it is never longer than fourteen hours between meals. Meals are served in a group setting for inmates when appropriate. The only excess food allowed in any cell are the diabetic snacks.

Finding –

1. Food was not being prepared according to the menus prepared by the licensed dietician in the first three unannounced visits.
2. Special diets prescribed for inmates were not prepared correctly.

Recommendations –

1. Provide additional training for the kitchen officer and the trustees preparing the food. Training to include the mechanics of preparation, importance of preparing menus exactly, and pantry management.
2. Review the menu selection to ensure the ingredients are in the pantry to prepare the menu. If items are not in the pantry contact the vendor and investigate why items are not available.

3. The Sheriff, Chief, or Captain should plan quarterly unannounced visits to the kitchen to ensure food preparation is done according to TAC 281.

Current Condition – The fourth unannounced visit found food preparation to be correct including physician prescribed meals.

Other Jail Issues

1. The internal investigation performed by the Sheriff's Office found falsified documents completed by a shift lead and approved by the supervisor related to the completion of required fire drills. Other jail related items have been turned over the TCOLE.
2. Any door with a lock should always remain locked per Jail Standards. On eight occasions during the audit doors were found unlocked. A supervisor was questioned regarding the open doors during the internal investigation. The supervisor denied doors were left unlocked. The unlocked doors were documented by photographs.
3. Several accusations were made against multiple shift supervisors. The internal affairs investigation reviewed the allegations, documented claims, and interviewed the shift supervisor. The allegations proved were failure to supervise, actions that engenders a person, conduct unbecoming, sleeping and intoxication on duty, observing laws broken and took no action, incorrect prisoner count, and watching movies on duty. Allegations were documented through photographs, interviews, and written statements.

Assets

Vehicles

An inventory of all vehicles was performed. The vehicles had a variety of maintenance issues including cracked windshields. Most tires had adequate tread. The equipment in each vehicle was inconsistent and the equipment did not match the individual inventory lists. Equipment assigned to a specific unit was found in another unit and some equipment was not located. Vehicles had duplication of equipment as a result of random equipment movement. Basic equipment such as first aid kits and spare tires were not in each vehicle.

Findings-

1. Routine vehicle maintenance is not being performed.
2. Equipment is moved from vehicle to vehicle without changing the inventory records.
3. Necessary safety equipment is not in each vehicle.

Recommendations-

1. A policy establishing accountability for vehicle maintenance should be written and enforced.
2. Equipment assigned to a specific vehicle should not be moved to another vehicle.
3. Equipment in a vehicle should be periodically reviewed by supervisors.
4. All vehicles should have required safety equipment as defined by the Sheriff.

Equipment assigned to individual employees

Equipment assigned to each employee is listed on an inventory sheet. The item descriptions include a description of the item along with a serial number. Equipment assigned to specific employees had been swapped and this was verified through checking the serial numbers.

Finding- Assigned equipment was not with the individual of record. The assets swapped included weapons and other safety equipment.

Recommendation- Establish a policy requiring employees to maintain the equipment as assigned. The policy should include a review process by a supervisor.

Drone

A drone and accessories were purchased from a company, who advertises they sell only to law enforcement. Forfeiture money was used to purchase the drone. Two drones were found on the evening of December 20, 2016. The owner of one of the drones presented a receipt for their drone and it was released. A subsequent inventory of the accessories revealed missing items. All information has been turned over to the AG Investigator.

Estrays

An estray is any animal found wandering. Texas Agriculture Code (AG) Chapter 142 (Appendix 13) outlines the responsibilities of a county regarding estrays.

Erath County, after receiving a report, immediately impounds an estray even if impounding must be done prior to notifying the owner. Ownership is determined through tag, band, or other manner that can be read or identified from a long distance. After impounding the estray, the owner is allowed to redeem their animal once all expenses have been paid.

A notice of estray is filed with the County Clerk's office and the notice contains all items required in AG142.009(b). When the owner cannot be found an advertisement is published twice within a 15 day period.

The owner may reclaim their estray at anytime before the estray is sold if the owner provides an affidavit of ownership, the Sheriff approved the affidavit, the affidavit is filed with the County Clerk, paid all estray handling expenses, executed an affidavit of receipt of estray, and had filed the receipt of estray in the records of the County Clerk.

The affidavit of ownership must contain the name and address of the owner, date the owner discovered the animal was an estray. Property from which the animal strayed, a description of the animal including its breed, color, sex, age, size, markings of any kind including ear markings and brands along with a sworn statement that the affiant is the owner or caretaker of the animal.

Erath County does not charge the collection fee provided in section 142.005.

An impounded animal is never used for any purpose and if an impounded animal escapes or dies, the Sheriff makes a written report of the death or escape and files the report with the County Clerk.

The affidavit of receipt issued by Erath County contains the name and address of the person receiving the estray, date of receipt, method of claim to the estray, purchase price if the animal was bought, handling expenses paid, and any net proceeds of the sale of the estray.

Finding - The receipt used did not contain all elements required by AG 142.010(e).

Recommendation – Redesign the receipt form to include all required elements.

Current Condition – The receipt form has been redesigned to contain all elements as defined in AG142.010(e).

Funds Control

Incoming money or available cash is found in three areas; jail petty cash, bail bonds, and narcotic buy money. Payments for civil service are collected by the Clerks.

Jail Petty Cash

The primary purpose of the jail petty cash fund is to facilitate inmate transports to other facilities. Jail petty cash is included in Erath County's random cash counts. During the cash count the Auditor's Office meets with a Jail representative and cash is counted. The petty cash box is behind three locks which include a locked door, locked desk, and a locked box.

The Jail administration tracks the cash used in a ledger book and keeps the receipts. The Auditor's Office collects a copy of the ledger book to verify the math in the ledger. The cash in the box plus the receipts are to add to the amount approved by Commissioners' Court. The cash count was over by \$0.07. When the balance is below an agreed amount the receipts are presented for the fund to be replenished.

No Findings –

Bail Bonds

The bail bonds listed were reconciled to the bond documents, receipts, and deposit slips. Multiple checks, nine days of transactions, were found in the cash bag. The cash box containing cash bonds could not immediately be reconciled because the employee responsible for the cash bail bonds was out sick.

Finding –

1. Checks are not being given to the County Treasurer daily for deposit.
2. Cash bonds could not be refunded correctly if access to the cash box is limited to one employee.

Recommendations – A policy stating proper cash handling procedures should be written. The policy should include a primary person and backup to handle each task in the policy. All locked containers, i.e. cash box, safe, etc., should have a second key.

Narcotic Buy Money

Historically, Erath County policy had been to issue buy money and after the attempted or actual purchase of illegal drugs the unused cash was returned to the County Treasurer's Office. The policy of returning unused funds changed during 2016. It was established June 28, 2016 was the last time the buy money fund balanced which was also the date when the fund transferred to a new narcotics officer. The deposits and expenditure receipts were compared. The comparison revealed more cash has been spent than the cash available.

The next procedure to attempt to account for the extra expenditures was to research the type of offense listed in the "call cards." A call card is the record created before an incident is initially investigated and considered to be a case and a case number is assigned. The research yielded cash spent for two other counties. Memorandums of Understanding (MOU) do not exist with the two counties. No receipts for additional incoming funds were found.

Approximately 30 days after the cash count and attempted reconciliation one of the counties reimbursed Erath County for money spent. The reimbursement did not match the amount shown as disbursed for the county.

Findings –

1. Not all activity on the buy money reconciliation sheet had a receipt.
2. No accountability for the money received or expended.
3. No MOU in place to work with other counties

Recommendations –

1. All financial activity, incoming and outgoing funds, need to be supported with documentation.
2. Documents for expenditures need to be signed by the narcotics officer and a supervisor.
3. The name of the narcotics officer must be redacted from the receipts following each audit and all documents related to the audit must have all names redacted.
4. Memorandums of Understanding should be executed with all surrounding counties.

Other Items

Anonymous Tips

Emails – The Auditor’s Office received two anonymous emails in December 2016 stating “the sheriff” (Tommy Bryant) was a “bad man.” The email addresses could not be traced. No specific allegations were made in the emails.

Anonymous Letter – An anonymous letter was sent to TCOLE stating money had been spent by members of the Sheriff’s Office to purchase alcohol. TCOLE referred the letter to Erath County District Attorney who then requested the Auditor’s assistance.

The merchant listed in the letter was interviewed at their place of business by the Auditor and a deputy. The merchant said no improprieties had occurred. All bank statements for Erath County Court House Reserve Deputies Association account were examined and no improper purchases were made. All itemized receipts from fiscal years 2015 and 2016 from the Commissary account were examined and no improper purchases were made. The policy for paying bills on an ongoing basis has three review steps. Two of those processes do not involve the office holder. As such, no improper purchases were made from the General Fund.

The information was given to the investigator for the Attorney General’s Office.

Altered Document

The evening of December 20, 2016, as mentioned earlier, a team went to the Sheriff’s Office to inventory and secure assets. During the next thirty day period six employees left Erath County and the files from their desks were reviewed. One file found in a supervisor’s desk contained a document with an altered signature. The signature of the County Judge had been cut from another document and was taped to a federal document. The County Judge and his assistant were asked if either of them made the alteration or had authorized the alteration and both the Judge and his assistant knew nothing about the altered document. The file and all contents have been given to the AG’s investigator.