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Missouri State Auditor

Seventh Judicial Circuit

City of Mosby Municipal Division

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Report No. 2016-003



<http://auditor.mo.gov>



Findings in the audit of Mosby Municipal Division

Background	<p>The City of Mosby discontinued municipal court operations in September 2015. Pending cases were transferred to the Clay County Circuit Court. Audit findings relate to division operations prior to the court's dissolution.</p> <p>The Mosby Municipal Court Division audit was completed as part of the Municipal Courts Initiative of the State Auditor's Office. The Initiative adds additional areas of review to the standard court audit process to identify activities and other practices that may impair impartiality or damage the court's credibility with citizens.</p>
Accounting Controls and Procedures	<p>The municipal judge and city personnel failed to perform adequate supervisory or independent reviews of the accounting functions and records of the municipal court's only employee, the court administrator. The court administrator did not deposit payments timely and often withheld cash from deposits to make change for other transactions, creating a risk of loss, theft or misuse of funds. The court administrator also did not prepare a list of bond liabilities each month to compare to the bank account balance, and auditors found an excess balance of \$7,776 in unidentified money.</p>
Municipal Division Procedures	<p>The municipal judge did not approve all case dispositions or maintain a docket sheet for each case, as required by court rules. The prosecuting attorney did not always sign tickets processed by the court, and auditors found that 48 of 60 tickets reviewed did not have the prosecutor's signature. The court administrator was allowed to dismiss certain traffic violations without review by the prosecuting attorney, increasing the potential for tickets to be handled improperly. The municipal court also assessed a potentially improper \$50 warrant for failure to appear in court and/or pay amounts due, although state law does not authorize the fee.</p>
Monitoring of Excess Revenues	<p>Procedures related to the calculation of excess revenues are not adequate to ensure compliance with state law. The city improperly calculated and overstated revenues from traffic violations by at least \$13,762. The city also overstated its general operating revenue by approximately \$93,750.</p>

In the areas audited, the overall performance of this entity was **Fair**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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NICOLE GALLOWAY, CPA **Missouri State Auditor**

Presiding Judge
Seventh Judicial Circuit
and
Municipal Judge
and
Honorable Mayor
and
Members of the Board of Aldermen
Mosby, Missouri

We have audited certain operations of the City of Mosby Municipal Division of the Seventh Judicial Circuit in fulfillment of our duties under Chapter 29, RSMo, and as part of the State Auditor's Municipal Courts Initiative. The scope of our audit included, but was not necessarily limited to, the year ended March 31, 2015. The objectives of our audit were to:

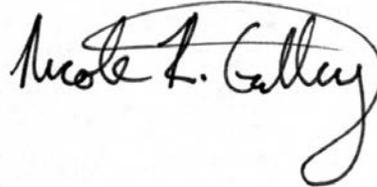
1. Evaluate the municipal division's internal controls over significant financial functions.
2. Evaluate the municipal division's and city's compliance with certain legal provisions.
3. Evaluate the municipal division's compliance with certain court rules.
4. Evaluate the city's compliance with Section 302.341.2, RSMo, which restricted the amount of fines and court costs that may be retained from traffic violations.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the municipal division, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the municipal division's management and was not subjected to the procedures applied in our audit of the division.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, (3) noncompliance with court rules, and (4) noncompliance with Section 302.341.2, RSMo. The accompanying Management Advisory Report presents our findings arising from our audit of the City of Mosby Municipal Division of the Seventh Judicial Circuit.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	Keriann Wright, MBA, CPA
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Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

Accounting controls and procedures need improvement. For the year ended March 31, 2015, the municipal division's records indicate net collections (including bond forfeitures not used for court costs or fines) totaled approximately \$98,000. Bonds recorded on the manual log and deposited into the municipal division bond account during this period totaled approximately \$21,000.

1.1 Oversight

Neither the Municipal Judge nor city personnel perform adequate supervisory or independent reviews of accounting functions and records. Proper segregation of duties within the municipal division is not possible because the Court Administrator is the only employee.

The Court Administrator is responsible for all duties related to collecting court monies, recording and posting these monies to the municipal division's records, and depositing these monies into the city's general fund account or the municipal division's bond bank account. The City Clerk's involvement is limited to recording into the city's accounting records information regarding each general fund account deposit made by the Court Administrator. The City Clerk does not account for the numerical sequence of receipt slips issued or compare the composition of receipt slips to the composition of monies deposited.

Additionally, procedures do not exist to reconcile manual receipt slips issued for electronic payments (credit/debit card) to amounts direct deposited into the city's general fund bank account. The municipal division uses a vendor to process electronic payments. The vendor notifies the Court Administrator of each payment made by a defendant and deposits the payment directly into the city's bank account. The Court Administrator records these electronic payments on manual receipt slips and provides copies of the vendor notifications to the City Clerk. Neither the Court Administrator nor City Clerk reconcile the electronic payments recorded on receipt slips to the amounts deposited into the city's bank account to ensure all electronic payments have been processed properly.

To reduce the risk of loss, theft, or misuse of funds, internal controls should provide reasonable assurance all transactions are accounted for properly and assets are adequately safeguarded. Internal controls could be improved by implementing documented supervisory or independent reviews of accounting records.

1.2 Depositing procedures

The Court Administrator does not deposit receipts intact or timely. Our review of 12 deposits made during the months of November and December 2014, and March 2015, identified 9 deposits with differences between the amounts of cash recorded on the receipt slips and the amounts deposited. These differences occurred because the Court Administrator deposits all checks and money orders, but often withholds cash from deposits to make



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change for court and adds excess cash to subsequent deposits. However, the Court Administrator does not prepare records to document the cash withheld and the balance of cash on hand.

In addition, 9 of the 12 deposits in our review included receipts held more than 5 days. For example, the deposit of \$1,846 on December 31, 2014, included 7 receipts totaling \$792 received between December 12 and 23, 2014.

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, all monies should be deposited intact and timely. If a change fund is needed, it should be set at a constant amount and a procedure established to reconcile to this amount every time a deposit is made. In addition, section IV.C. of Mosby Municipal Court Operating Order Number 1 requires all fines, costs, surcharges, and bonds collected be deposited daily, or when the amount on hand reaches \$100.

1.3 Bond liabilities and reconciliations

The Court Administrator does not prepare monthly lists of liabilities (open bonds) for comparison to the bond bank account balance, and unidentified amounts continue to accumulate in the bond bank account. In addition, bank reconciliations are incomplete because they do not include reconciling items such as deposits in transit and outstanding checks, and do not reconcile to a book balance. A running book balance is not available because the checkbook register was destroyed in a May 2015 flood. The bond ledger indicating the defendant's name, date, and amounts received and disbursed, did not accurately reflect bond activity because the Court Administrator did not always record the related disbursement information.

At our request, the Court Administrator updated the bond ledger and prepared a list of open bonds at June 30, 2015. Open bonds identified totaled only \$9,130, while the bank balance was \$16,906, resulting in an unidentified difference of \$7,776. A portion of the excess balance may relate to outstanding checks, but that amount is unknown because outstanding checks are not tracked. This unidentified excess amount increased from the \$7,095 unidentified difference noted in our prior audit report (Report No. 2009-139). As of July 30, 2015, this difference remains undistributed.

Section IV.E.2. of Mosby Municipal Court Operating Order Number 1 requires the Court Administrator to submit to the city a monthly open bond case report. Additionally, Missouri Supreme Court Operating Rule No. 4.59 requires all bank balances and open items records be reconciled at least monthly. Maintaining an accurate book balance, reconciling the bank balance to the book balance, and reconciling liabilities to the reconciled bank account balance are necessary to ensure proper accountability over open cases and to ensure monies held in trust are sufficient to meet



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liabilities. In addition, monthly lists of liabilities are necessary to ensure all bond dispositions have been properly recorded.

Recommendations

The City of Mosby Municipal Division:

- 1.1 Ensure documented thorough independent or supervisory reviews of municipal division accounting records are periodically performed. In addition, work with the city to ensure receipt and deposit records are reconciled with deposits recorded in the city's accounting records.
- 1.2 Reconcile the composition of receipts to the composition of deposits and deposit all monies intact and timely. If a change fund is needed, it should be maintained at an established amount and periodically reconciled to the monies on hand.
- 1.3 Prepare a monthly list of liabilities, maintain a book balance, and reconcile these totals monthly to the bank balance. In addition, the municipal division should promptly investigate and resolve differences, and establish procedures to review the status of liabilities to determine the appropriate disposition of funds held.

Auditee's Response

The Mayor, Court Administrator, and City Clerk provided the following responses:

- 1.1 *We agree with the finding. Documented independent reviews were implemented in June 2015. The Court Administrator is now working with the City Clerk to reconcile court records with the city's accounting records. Although the municipal division was dissolved in September 2015, should it be reinstated, the documented independent reviews and reconciliations will resume.*
- 1.2 *We agree with the finding. The city established a change fund of \$100 in June 2015, and began reconciling it periodically. The Court Administrator began transmitting all receipts intact and timely to the City Clerk for deposit and the City Clerk began verifying the composition of transmittals to the composition of receipt slips. Following the final court date due to the municipal division's dissolution, the change fund was returned to the City Clerk. Although the municipal division has been dissolved, should it be reinstated, these new procedures will resume.*
- 1.3 *We agree with the finding. In July 2015, the municipal division established and transferred all open bond monies to a new bond bank account. The Court Administrator is now preparing a monthly list of liabilities, maintaining a book balance, and reconciling*



monthly to the bank statement balance. The Court Administrator has turned the open bond monies associated with pending cases over to Clay County. The Court Administrator is continuing to investigate unidentified bond monies and is working with the former Municipal Judge, who is now the city's Prosecuting Attorney, to determine the proper disposition of the unidentified monies.

2. Municipal Division Procedures

Procedures related to ticket disposition, Prosecuting Attorney approval, and warrant fees need improvement.

2.1 Case dispositions

The Municipal Judge does not approve all case dispositions. The Municipal Judge does not review and approve traffic and ordinance tickets paid through the violation bureau or the final court dockets. The Court Administrator records the case activity on court dockets listing cases to be heard at each court session. Tickets paid through the violation bureau are not included on the court dockets. The Municipal Judge does not review or document his approval of the court dockets after final case dispositions are recorded. In addition, the municipal division does not maintain a docket or backer sheet for each case. Instead, the Municipal Judge will sometimes record his order on the ticket.

Supreme Court Operating Rule 4.08 requires municipal divisions to maintain a docket or backer sheet for each case. All information regarding the case should be documented including, but not limited to, a copy of the ticket, case number, defendant name, sentence, bond information, warrant information, and disposition of case. Accurate recording of the case information is necessary to ensure all fines and court costs have been properly collected and deposited. In addition, the Municipal Judge should sign the docket or backer sheet to indicate approval of the recorded disposition.

2.2 Prosecutor approval

The Prosecuting Attorney does not always sign tickets processed by the municipal division and the Prosecuting Attorney's approval of dismissed tickets is not always clearly documented.

Our review of 60 tickets noted the Prosecuting Attorney's signature to file charges was not present on 48 of them. Subsequent actions to dismiss charges were also not clearly authorized by the Prosecuting Attorney. Fifteen of the 60 tickets were later dismissed; however, 14 of the dismissed tickets were not signed or initialed by the Prosecuting Attorney. The Court Administrator is allowed to nolle pros (dismiss) traffic violations for no proof of insurance if the defendant later provides proof of insurance. It is not always possible to determine which charges were dismissed by the Prosecuting Attorney or dismissed by the Court Administrator and there is



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no indication charges dismissed by the Court Administrator are reviewed by the Prosecuting Attorney to ensure their propriety.

The ability of the Court Administrator to nolle pros tickets without a review by the Prosecuting Attorney is a significant control weakness, and increases the likelihood of tickets being handled improperly and the risk of loss, theft, or misuse of monies going undetected. Missouri Supreme Court Rule 37.35 states citations shall be in writing and signed by the prosecutor and filed with the municipal division. The Prosecuting Attorney's review, documented with his signature, is needed to provide assurance proper cases and charges are filed with the municipal division. Additionally, to ensure the proper disposition of all cases has been entered in the municipal division records, the Prosecuting Attorney should sign or initial all nolle pros tickets indicating his review and approval.

2.3 Warrant fees

The municipal division assesses a potentially improper \$50 warrant fee for each warrant issued for failure to appear in court and/or pay amounts due. According to municipal division records, warrant fees collected totaled approximately \$2,500 for year ended March 31, 2015. Per Section 479.260, RSMo, a municipality may by ordinance provide for court fees pursuant to sections 488.010 to 488.020, RSMo; however, these sections do not include any provisions that authorize the municipal division to assess the warrant fee.

Recommendations

The City of Mosby Municipal Division:

- 2.1 Ensure the proper disposition of cases is documented on the court dockets or backer sheets and all court dockets and backer sheets are signed by the Municipal Judge.
- 2.2 Ensure the Prosecuting Attorney signs all tickets and reviews and approves all dismissed tickets.
- 2.3 Work with the city and legal counsel to reevaluate the warrant fee and the authority to assess the fee.

Auditee's Response

Neither the City of Mosby nor the Municipal Division provided responses to these recommendations.

3. Monitoring of Excess Revenues

Procedures related to the calculation of excess revenues due the Missouri Department of Revenue (DOR) are not adequate to ensure compliance with state law. The city's calculation included certain items that were not required to be included in the traffic violation revenue total. Also, the city's general operating revenue calculation improperly included revenues restricted for specific purposes and transfers from other funds. As a result, the city's calculations do not accurately assess whether excess revenues are owed to



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the DOR. Because of the lack of supporting documentation for some amounts used in the calculation and the manual nature of the court's records, it is unclear if the city has exceeded the revenue limits.

The city's excess revenue calculation (from unaudited financial records) for the year ended March 31, 2015, indicates the city's 2015 revenues from traffic violation fines and court costs totaled \$98,639, general operating revenues totaled \$335,253, and 30 percent of the general operating revenues equaled \$100,576. Based on this calculation, the city determined it did not have any excess revenues from traffic violations for fiscal year 2015.

Our review of court and city records indicated the city overstated revenues from traffic violations by at least \$13,762 because the city included restricted court costs, miscellaneous police department income, transfers from other funds, some non-traffic ordinance violation revenues, and bond forfeitures that were not required to be included in revenue from traffic violations under state law as it existed prior to August 28, 2015. In addition, the city improperly included revenues from all traffic violations, both moving and non-moving. Revenues from non-moving violations, except for those related to tickets amended from a moving violation, should have been excluded. Though the Court Administrator prepared monthly reports indicating total court revenues by violation type (moving, non-moving, and non-traffic ordinance) and provided this information to the city for use in its calculation of excess revenues, the City Clerk made the identified errors when compiling information from these reports. In addition, documentation to support the information reported to the city was not readily available and we were unable to verify the accuracy of the total amounts reported by the Court Administrator to the city for each violation type.

In addition, the total general operating revenue reported by the city for use in its excess revenue calculation appears to be overstated by approximately \$93,750. The city improperly included restricted revenues from state motor vehicle taxes and fees, restricted court costs, restricted utility user fees, and transfers from other funds. These restricted revenues and transfers should be excluded from the general operating revenues used in the calculation.

The city submitted its 2015 unaudited financial statements and excess revenue calculation to the State Auditor's Office (SAO) on August 21, 2015, almost a month past the July 31, 2015 filing deadline. The city used a different methodology for its fiscal year 2014 excess revenue calculation submitted to the SAO on September 8, 2014.

Section 302.341.2, RSMo (as it existed from August 28, 2013 to August 27, 2015), required cities to provide an accounting of the percent of annual general operating revenue from fines and court costs for traffic violations in its annual financial report submitted to the SAO (as required by Section 105.145, RSMo), and required cities to remit any such revenues in excess of



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30 percent of annual general operating revenue to the DOR. Section 302.341.2, RSMo, further provided that a city that was noncompliant with the law was subject to immediate loss of jurisdiction of the city's municipal court on all traffic-related charges until all requirements of this section were satisfied. Under 12 CSR 10-44.100 (as it existed prior to September 11, 2015), payment was to be made by the last day of the second month immediately following the end of the fiscal year.

During the 2015 legislative session the General Assembly passed and the Governor signed into law Senate Bill 5 (SB 5), which became effective August 28, 2015. SB 5, among other things, changes the definitions of elements of the excess revenue calculation and reduces the amounts of traffic revenues the city may retain in the future. SB 5 also establishes sanctions for failure to file annual excess revenue information with the SAO, including authorizing the DOR to redirect certain revenues due to the city and possible loss of municipal court jurisdiction until such filings are made.

Due to the impact of SB 5 on operations of the municipal division as well as the city's reporting requirements, it is important the city and municipal division take immediate action to implement policies and procedures to ensure future compliance with state law.

Recommendations

The Board of Aldermen ensure the amounts included and excluded in the annual excess revenue calculations are accurate and comply with state law. In addition, the Board of Aldermen should recalculate excess revenues for fiscal year 2015, maintain documentation to support the calculations, and make appropriate payments to the DOR for any excess revenues identified.

Auditee's Response

The Mayor, Court Administrator, and City Clerk provided the following response:

The city is working on procedures to ensure proper reporting of excess revenues and will maintain documentation to support the calculations. The city will recalculate the excess revenues for fiscal year 2015 and submit a revised report to the SAO. If any excess revenues are identified, payment will be made to the DOR.

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Organization and Statistical Information

The City of Mosby Municipal Division is in the Seventh Judicial Circuit, which consists of Clay County. The Honorable Shane T. Alexander serves as Presiding Judge.

The municipal division is governed by Chapter 479, RSMo, and by Supreme Court Rule No. 37. Supreme Court Rule No. 37.49 provides that each municipal division may establish a violation bureau in which fines and court costs are collected at times other than during court and transmitted to the city treasury. The municipal division does not utilize OSCA's statewide automated case management system known as JIS. Instead, the municipal division maintains manual records.

The City of Mosby Board of Aldermen voted to discontinue Police Department operations on August 6, 2015, and is negotiating a contract with Clay County for law enforcement services. The City of Mosby Municipal Division was discontinued effective September 11, 2015. Pending cases have been transferred to Clay County and fines and court costs will be collected through the Seventh Judicial Circuit, Clay County.

Personnel

At March 31, 2015, the municipal division employees were as follows:

Title	Name
Municipal Judge	William Shull
Court Administrator	Sally Denney

Financial and Caseload Information

	Year Ended March 31, 2015
Receipts	\$98,244
Number of cases filed	1,090

Court Costs, Surcharges, and Fees

Type	Amount
Court Costs (Clerk Fee)	\$ 12.00
Crime Victims' Compensation	7.50
Law Enforcement Training	2.00
Peace Officer Standards and Training	1.00
Judicial Education Fund	1.00
Warrant Fee	50.00



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 Organization and Statistical Information

Vehicle Stops Report

Section 590.650, RSMo requires law enforcement agencies report vehicle stop data to the Attorney General's Office (AGO) by March 1st of each year. The AGO compiles the data in a statewide report that can be viewed on the AGO website at <https://ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>. The following table presents data excerpted from the AGO report for the city of Mosby Police Department. In addition, see information at: <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary>, for background information on the AGO's vehicle stops executive summary along with definitions for footnotes of following table.

Racial Profiling Data/2014 - Mosby Police Department - Population 153¹

Key Indicators	Total	White	Black	Hispanic	Asian	Am. Indian	Other
Stops	1546	1450	67	24	2	1	2
Searches	46	40	3	3	0	0	0
Arrests	35	30	2	3	0	0	0
Statewide Population	N/A	82.76	10.90	2.94	1.71	0.41	1.28
Local Population	N/A	96.73	1.31	0.65	0.65	0.00	0.65
Disparity Index ²	N/A	0.97	3.32	2.38	0.20	#DIV/0!	0.20
Search Rate ³	2.98	2.76	4.48	12.50	0.00	0.00	0.00
Contraband hit rate ⁴	30.43	35.00	0.00	0.00	#Num!	Num!	Num!
Arrest rate ⁵	2.26	2.07	2.99	12.50	0.00	0.00	0.00

¹ Population figures are from the 2010 Census for persons 16 years of age and older who designated a single race. Hispanics may be of any race. "Other" includes persons of mixed race and unknown race.

² Disparity index = (proportion of stops / proportion of population). A value of 1 represents no disparity; values greater than 1 indicate over-representation, values less than 1 indicate under-representation.

³ Search rate = (searches / stops) X 100

⁴ Contraband hit rate = (searches with contraband found / total searches) X 100

⁵ Arrest rate = (arrests / stops) X 100

#DIV/0! or #Num! indicates zero denominator