

The seal of the Missouri State Auditor is circular and features a central figure holding a scale and a sword. The text around the seal reads "SEAL OF THE STATE AUDITOR" at the top, "WE STAND DIVIDED" in the middle, and "1820 MISSOURI 1892" at the bottom.

Nicole Galloway, CPA

Missouri State Auditor

Thirty-First Judicial Circuit
Greene County

Report No. 2019-100

October 2019

auditor.mo.gov



Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Thirty-First Judicial Circuit, Greene County

Time-Payment Fee	The court does not assess the time-payment fee on juvenile cases as required by local court and Missouri Supreme Court rules.
Circuit Court Funds	The court does not prepare budgets for the three funds administered by the Court en Banc, and two of the funds have accumulated excessive fund balances without any formal plans for their use. At December 31, 2018, the Time Payment Fund's cash balance was \$186,136 and the 31st Judicial Special Fund's cash balance was \$982,197.

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

*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.

Thirty-First Judicial Circuit

Greene County

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NICOLE GALLOWAY, CPA

Missouri State Auditor

Presiding Judge and Court en Banc
and
Circuit Clerk of the
Thirty-First Judicial Circuit
Greene County, Missouri

We have audited certain operations of the Thirty-First Judicial Circuit, Greene County in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2018. The objectives of our audit were to:

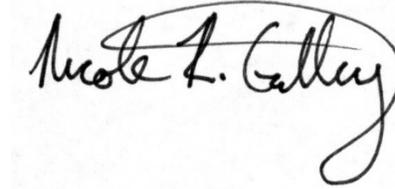
1. Evaluate the court's internal controls over significant financial functions.
2. Evaluate the court's compliance with certain legal provisions.
3. Evaluate the court's compliance with certain court rules.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the court, 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 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 applicable contract, grant agreement, or 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 court's management, the Office of State Courts Administrator, and Greene County and was not subjected to the procedures applied in our audit of the court.

For the areas audited, we identified (1) deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) noncompliance with court rules. The accompanying Management Advisory Report presents our findings arising from our audit of the Thirty-First Judicial Circuit, Greene County.

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 word "Galloway".

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Kim Spraggs, CPA, CGAP
Audit Manager:	Josh Allen, CPA, CFE, CGAP
In-Charge Auditor:	Joy Stevens, CFE, CGAP
Audit Staff:	Jacqueline E. Brown, MBA Samantha A. Bull

Thirty-First Judicial Circuit

Greene County

Management Advisory Report - State Auditor's Findings

1. Time-Payment Fee The court does not assess the time-payment fee on juvenile cases as required by local court and Missouri Supreme Court rules. The court did not assess the time-payment fee for approximately 2,800 juvenile cases outstanding as of December 31, 2018.

Local Court Rule 100.3.3 requires the Circuit Clerk to assess a fee on each person who pays a court-ordered judgment, penalty, fine, sanction, or court costs on a time-payment basis, including restitution and juvenile monetary assessments. In addition, Missouri Supreme Court Operating Rule (COR) 21.13 requires all divisions of the circuit courts, except municipal divisions, to assess a \$25 time-payment fee on all cases not paid in full within 30 days of disposition. Failure to follow these rules results in lost revenue.

Recommendation The Circuit Clerk ensure time-payment fees are assessed in accordance with court operating rules.

Auditee's Response *The Circuit Court's written response, provided by the Circuit Clerk and the Presiding Judge, is included at the appendix.*

2. Circuit Court Funds The court does not prepare budgets for the three funds administered by the Court en Banc, and two of the funds have accumulated excessive fund balances without any formal plans for their use.

The Court en Banc administers three funds, each with a specific purpose(s): the Time Payment Fund, the Family Services and Justice Fund, and the 31st Judicial Special Fund. These funds are maintained in three separate bank accounts and the Presiding Judge's office is responsible for making disbursements from the funds. At December 31, 2018, these funds had an aggregate balance of approximately \$1.3 million and approximately \$150,000 was disbursed from these funds in 2018.

2.1 Budgets Budgets are not prepared for the Time Payment Fund, the Family Services and Justice Fund, and the 31st Judicial Special Fund.

Preparing a budget for public funds aids in the fiscal management of the monies; provides a means to effectively monitor actual costs, revenues, and cash balances; and helps inform both the county and the public of the court's financial picture.

2.2 Accumulated fund balances The Time Payment Fund and the 31st Judicial Special Fund have accumulated excessive fund balances without any formal plans for their use. The fees assessed provide significantly more revenue than is necessary to maintain the current expenditures from these funds.

The Time Payment Fund's cash balance was \$186,136 at December 31, 2018, while 2018 total disbursements totaled \$1,075. As previously noted, Local



Thirty-First Judicial Circuit
Greene County
Management Advisory Report - State Auditor's Findings

Court Rule 100.3.3 and COR 21.13 require the Circuit Clerk to assess the time-payment fee on certain cases.¹ Section 488.5025.2, RSMo, requires the fee be distributed as follows: \$8 to the statewide court automation fund, \$7 to the director of revenue, and \$10 to the Time Payment Fund to be spent under the direction and order of the Court en Banc to improve, maintain, and enhance the ability to collect and manage moneys assessed or received by the court; to improve case processing, enhance court security, preservation of the record; or to improve the administration of justice.

The 31st Judicial Special Fund's cash balance was \$982,197 at December 31, 2018, while 2018 total disbursements totaled \$79,826. Receipts deposited in this fund have increased each year since 2015 and totaled approximately \$226,000 in 2018. The court assesses a surcharge of \$20 for each civil case filing, the amount allowed by Section 488.426.2, RSMo. Section 488.429, RSMo, authorizes the Court en Banc to spend these funds for the maintenance and upkeep of the law library, court room renovations, technology improvements, the circuit's family services and justice fund, or debt service on county bonds for courtroom renovations or enhancement projects.

As previously noted, these funds are not budgeted and no other formal plan exists for their use. The Presiding Judge indicated the Court en Banc plans to use some of the 31st Judicial Special Fund balance to remodel ten courtrooms costing approximately \$45,000 per courtroom, a total of \$450,000 in estimated costs. He also indicated the court plans to use the funds to pay guardian ad litem fees and Family Treatment Court expenses. However, no other plans were provided for the remaining fund balance.

Accumulated excessive cash balances with no formal plan for use of the monies puts an unnecessary burden on taxpayers. The court should determine future needs and develop a formal plan for the use of the Time Payment Fund and the 31st Judicial Special Fund. In addition, the court should consider reducing or suspending the surcharge on civil cases if the fees are not needed for the court's operation.

Recommendations

The Court en Banc:

- 2.1 Prepare annual budgets for the Time Payment Fund, the Family Services and Justice Fund, and the 31st Judicial Special Fund; and provide copies of these budgets to the county budget officer.
- 2.2 Develop a formal plan, based on the court's future needs, to use the monies available in the Time Payment Fund and the 31st Judicial

¹ As noted at finding number 1, the court is not collecting the required time-payment fee on juvenile cases.



Thirty-First Judicial Circuit
Greene County
Management Advisory Report - State Auditor's Findings

Special Fund and/or consider reducing or suspending the surcharge on civil cases.

Auditee's Response

The Circuit Court's written response, provided by the Circuit Clerk and the Presiding Judge, is included at the appendix.

Auditor's Comment

The Circuit Court's response states the court provided to auditors a rather extensive outline of the planned use of the funds and the finding concluded the court has no planned use for the funds. However, the finding does acknowledge various plans communicated to audit staff which need to be formally documented. To ensure transparency and accountability over these funds, all plans for the funds should be documented in a formal written plan.

Thirty-First Judicial Circuit

Greene County

Organization and Statistical Information

The Thirty-First Judicial Circuit consists only of Greene County.

Personnel

At December 31, 2018, the judges, Circuit Clerk, Court Administrator, and Juvenile Officer/Family Court Administrator of the Thirty-First Judicial Circuit, Greene County, were as follows:

Title	Name
Presiding Circuit Judge	Michael J. Cordonnier
Circuit Judge, Division II	David Jones
Circuit Judge, Division III	Jason Brown
Circuit Judge, Division IV	Thomas Mountjoy
Circuit Judge, Division V	Calvin Holden
Associate Circuit Judge, Division 21	Jerry A. Harmison Jr.
Associate Circuit Judge, Division 22	Margaret Holden Palmietto
Associate Circuit Judge, Division 23	Andy Hosmer
Associate Circuit Judge, Division 24	Mark Powell
Associate Circuit Judge, Division 25	Becky J.W. Borthwick
Associate Circuit Judge, Division 26	J. Ronald Carrier
Circuit Clerk	Thomas R. Barr
Court Administrator	Kylie Young
Chief Juvenile Officer/Family Court Administrator	Bill Prince

In addition, the Thirty-First Judicial Circuit, Greene County, employed 206 full-time employees and 14 part-time employees on December 31, 2018.

Financial Information

Receipts of the Thirty-First Judicial Circuit, Greene County, were as follows:

	Year Ended December 31, 2018
Circuit Court deposits, fees, bonds, and other	\$8,980,964
Juvenile Court deposits, fees, and other	459,783
Total	\$9,440,747

Caseload Information

From the Office of State Courts Administrator Missouri Judicial Reports, case filings of the Thirty-First Judicial Circuit, Greene County, were as follows:

	Year Ended June 30, 2018
Civil	15,846
Criminal	15,677
Juvenile	882
Probate	1,931
Total	34,336



Appendix
Thirty-First Judicial Circuit - Greene County
Circuit Clerk and Court en Banc's Response



MICHAEL J. CORDONNIER
Presiding Judge

THOMAS R. BARR
Circuit Clerk

KYLIE YOUNG
Court Administrator

JENNIFER FLEEMAN
Secretary to Presiding Judge

STATE OF MISSOURI
CIRCUIT COURT, 31ST JUDICIAL CIRCUIT
GREENE COUNTY JUDICIAL FACILITY
1010 Boonville Ave
Springfield, Missouri 65802
Phone (417) 868-4127
Fax (417) 829-6366

Nicole Galloway, CPA
Missouri State Auditor

September 16, 2019

Re: Auditees response
Thirty-first Judicial Circuit
Management Advisory Report – State Auditor's Findings

Dear Auditor Galloway,

You have provided us a draft of your Management Advisory Report. Your report follows your audit review process that began April 9, 2019 and included many weeks of onsite review, offsite review following, and inspection of countless documents. We appreciate the thoroughness of your effort, and the professionalism of your audit staff.

Following our careful review your report, we are very proud of the manner in which the financial, operational and legal business is conducted in the Thirty-first Judicial Circuit. While it is no surprise to us, it is certainly gratifying to confirm that based on the thousands of financial transactions and over \$9 million managed, there were no significant shortcomings revealed in your investigation. Similarly upon your review of innumerable case related transactions there were no operational or legal issues to report. The dedicated and conscientious men and women in the Thirty-first Judicial Circuit, who universally take great pride in their service to the judiciary, will be gratified to learn of your report.

At your request, we are providing our response to your specific findings. For clarity, our response will be in the same order, and with the same numerical identification which you have chosen for your report.



Appendix

Thirty-First Judicial Circuit - Greene County Circuit Clerk and Court en Banc's Response

1. Time-Payment Fee

As you have recited, the Thirty-first Judicial Circuit local court rule 100.3.3 is identical to Missouri Supreme Court Operation Rule 21.13. Both rules require the court to assess a \$25 fee on all cases with financial charges not paid in full within 30 days of disposition. Without question the Supreme Court has resolved this fee shall apply to all divisions of the court. As you have observed, our court has not been assessing the "late fee" in cases disposed in the Juvenile Division. The fee has been appropriately assessed in all other divisions of the court.

We have determined this dates back to a time before the rules mandated all divisions of court be assessed the specific fee. [Effective date was January 1, 2012] We can only surmise historically that because the typical Juvenile Division fee is relatively small, \$30, and is levied on persons most often without means to make the payment, (juvenile abuse, neglect, and delinquency cases) the Court simply did not determine it appropriate or cost effective to add the \$25 additional fee. Our policy did not recognize the rule change.

However, in response to your report, we do acknowledge our obligation to assess the late payment fee on Juvenile Division cases and have already taken action to make certain the fee is assessed on all cases as mandated.

2. Circuit Court Funds

2.1 – 2.2 Budgets and Accumulated fund balances.

You have suggested two of three court managed funds have accumulated excessive balances without any formal plans for their use. Curiously, one of the funds to which you refer is the Time Payment Fund, which was the subject of Part 1 of your report for which we will now be assessing more fees.

We do take issue with your conclusion. In response to the onsite auditor's request, we did provide a rather extensive outline of the Courts planned use of the funds that included significant expenditures made in 2019, albeit outside of your audit period, and the reasonably anticipated future expenditures.

The Thirty-first Judicial Circuit is a non-partisan court as contemplated by Article 5 of the Missouri Constitution. As such, we are restricted and in fact limited by Missouri statutes in the types of expenditures we can approve from the funds you reference. As we disclosed to your onsite auditors, we have been working closely with our elected representatives to advance a statutory amendment to expand the authorized use(s) for these funds so we can better provide judicial resources to our community. We will continue that effort in the next legislative session. If and when we are successful in promoting that amendment we anticipate a substantial and recurrent expenditure from the funds.



Appendix Thirty-First Judicial Circuit - Greene County Circuit Clerk and Court en Banc's Response

To allay your conclusion that we have no planned use for the funds, and in effort to give you some insight into our current and anticipated use, thus far in the calendar year 2019, we have expended nearly \$200,000 to upgrade four of our aging courtrooms with modern audio and visual technology. The expense for the equipment, infrastructure, and installation is approximately \$45,000/courtroom. Our current plan is to proceed with renovating the remaining ten courtrooms, one-by-one in an organized and disciplined manner. The anticipated expenditure will be in excess of \$450,000.

In addition we are very pleased to report the Missouri Legislature has appropriated funds for the Thirty-first Judicial Circuit to install an additional, now sixth Circuit Judge. The first additional Circuit Judge position in our circuit in over 40 years! Therefore in our 2020 budget estimate recently submitted to the Greene County Commission, we have proposed, and now committed in our formal budget, to fund the cost of furnishings, computers and audiovisual equipment for a soon-to-be constructed additional courtroom. This planned expenditure exceeds \$100,000. We are working closely and collegially with the Greene County Commission in this regard.

Finally, and consistent with the statutory restriction, in the year 2019 we have used approximately \$200,000 of the fund monies to support the expense of our Family Treatment Court program. This program is a section of our broader Treatment Court and serves families in crisis and families unable to reunify with their children due to addiction issues.

You are correct in your conclusion that we have not prepared a formal budget for these funds. We do however disagree with your conclusion that we do not effectively monitor actual costs, revenues and cash balances with regard to the funds. We do in fact carefully monitor each of those management points. While nothing in the enabling statues for these funds, or the Supreme Court Operating Rules would mandate or even suggest that a formal budget should be prepared, we do accept and appreciate your suggestion that a budget may be of assistance in our continued management of these funds.

Sincerely,

Thomas R. Barr
Greene County Circuit Clerk

Michael J. Cordonnier
Presiding Judge
Thirty-first Judicial Circuit

- c. Joshua Allen, Audit Manager
Joy Stevens, Staff Auditor, III