



Susan Montee, JD, CPA
Missouri State Auditor

City of St. Louis
Office of Circuit Attorney



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Office of the
Missouri State Auditor
Susan Montee, JD, CPA

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The following findings were included in our audit report on the City of St. Louis, Office of Circuit Attorney.

Controls and procedures for recording, monitoring, and disposal of case evidence are not sufficient. One complete list of all evidence on hand is not maintained and a periodic inventory of evidence on hand is not conducted. Evidence is not posted to the case tracking software system immediately upon receipt. The only record of evidence for current cases is the property voucher forms maintained in the case files and a manual log. There are no written procedures to review or update disposal dates of case evidence held by the Circuit Attorney. Several cases listed on the Evidence Disposal Report showed case evidence located in the property rooms with old disposal dates or no disposal date. The Circuit Attorney's office does not notify the city police or sheriff departments of evidence to be retained indefinitely in the property custody section.

Formal bank reconciliations are not prepared timely by the Victim Services Unit for the Asset Forfeiture or Benefit Donations Accounts. In addition, differences between book and bank balances are not adequately investigated and any resulting adjustments approved. Audit staff prepared a bank reconciliation for the Asset Forfeiture Account and the Benefit Donations Account for the month ended June 30, 2009, and noted several large adjustments and unreconciled differences of \$3,748 and \$590, respectively. Bank reconciliations are not adequately documented by the White Collar Crime Unit for the Bad Check Account. In addition, the bad check account has an unidentified balance of \$3,077 which has been carried forward for several years.

Proposals were not solicited or were not documented for the selection of process servers and access to a case law research database. The White Collar Crime Unit did not conduct a formal study to support the percentage of monies withheld from the bond and asset forfeiture monies transferred to the state. Monitoring procedures for the Circuit Attorney's office are not sufficient for fuel purchases. The office has 14 vehicles and paid approximately \$33,200 for fuel from July 2007 through December 2008.

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YELLOW SHEET

CITY OF ST. LOUIS
OFFICE OF CIRCUIT ATTORNEY

TABLE OF CONTENTS

| | <u>Page</u> |
|-------------------------------------------------------------|----------------------------------------|
| STATE AUDITOR'S REPORT | 1-3 |
| MANAGEMENT ADVISORY REPORT - STATE AUDITOR'S FINDINGS | 4-12 |
| <u>Number</u> | <u>Description</u> |
| 1. | Evidence Records and Procedures5 |
| 2. | Bank Reconciliations8 |
| 3. | Disbursements.....10 |
| HISTORY AND ORGANIZATION | 13-14 |

STATE AUDITOR'S REPORT



SUSAN MONTEE, JD, CPA
Missouri State Auditor

Honorable Jennifer Joyce
Circuit Attorney
City of St. Louis, Missouri

The State Auditor was petitioned under Section 29.230, RSMo, to audit the City of St. Louis. The city engaged KPMG LLP, Certified Public Accountants (CPA), to audit the city's financial statements for the year June 30, 2008. To minimize duplication of effort, we reviewed the CPA firm's audit report. We conducted an audit of the City of St. Louis Office of Circuit Attorney. The scope of our audit included, but was not necessarily limited to, the year ended June 30, 2008. The objectives of our audit were to:

1. Obtain an understanding of the petitioners' concerns and perform various procedures to determine their validity and significance.
2. Determine if the office has adequate internal controls over significant management and financial functions.
3. Determine if the office has complied with certain legal provisions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the office, 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. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We 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 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. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not

express such an opinion. Abuse, which refers to behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary given the facts and circumstances, does not necessarily involve noncompliance with legal provisions. Because the determination of abuse is subjective, our audit is not required to provide reasonable assurance of detecting abuse.

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 History and Organization is presented for informational purposes. This information was obtained from the office's management and was not subjected to the procedures applied in our audit of the office.

The accompanying Management Advisory Report presents our findings arising from our audit of the City of St. Louis Office of Circuit Attorney.

Additional audits of various officials and departments of the City of St. Louis fulfilling our obligations under Section 29.230, RSMo, are still in progress, and any additional findings and recommendations will be included in subsequent reports.



Susan Montee, JD, CPA
State Auditor

The following auditors participated in the preparation of this report:

| | |
|---------------------|-------------------------------|
| Director of Audits: | Alice M. Fast, CPA, CIA, CGFM |
| Audit Manager: | Debra S. Lewis, CPA |
| In-Charge Auditor: | Steven J. Re', CPA |
| Audit Staff: | Nathaniel Fast, CPA |

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

CITY OF ST. LOUIS
OFFICE OF CIRCUIT ATTORNEY
MANAGEMENT ADVISORY REPORT
STATE AUDITOR'S FINDINGS

| |
|-------------------------------------------|
| 1. Evidence Records and Procedures |
|-------------------------------------------|

Controls and procedures for recording, monitoring, and disposal of case evidence are not sufficient. Circuit Attorney personnel obtain evidence for use in the adjudication of cases from the city police and sheriff departments by completing a property voucher form.

- A. One complete list of all evidence on hand is not maintained and a periodic inventory of evidence on hand is not conducted. A case tracking software system is used to record evidence for closed cases which includes the date, inventory number, description, case number, location and expiration date; however, evidence is not posted to the system immediately upon receipt. Evidence is entered into the Circuit Attorney's system only for closed cases in which the defendant is found guilty and the incarceration period is 15 years or longer. Evidence for current cases is not entered into this system. The only record of evidence for current cases is the property voucher forms maintained in case files and a manual log. The manual log, which lists property by voucher number, does not include the type of evidence, location, or disposition. To determine the disposition of evidence, the property voucher form has to be reviewed.

Also, a list of audio and video evidence tapes used in cases is maintained in a separate spreadsheet database. During our review, we noted two boxes of tapes which had not been added to the database in a timely manner. The investigator in charge of recording evidence indicated they are behind several months in entering the information into the database.

Considering the significant importance of case evidence utilized in the justice process, adequate internal controls are essential and would significantly reduce the risk of theft, misuse, or misplacement of the items. Additional procedures for recording all evidence for each open case in the control of the Circuit Attorney's office should be established. In addition, periodic physical inventories should be performed and the results compared to the evidence records to ensure all evidence is accounted for properly.

- B. There are no written procedures to review or update disposal dates of case evidence held by the Circuit Attorney. Several cases listed on the Evidence Disposal Report showed case evidence located in the property rooms with old disposal dates or no disposal date. The staff responsible for maintaining case evidence held by the Circuit Attorney's office indicated evidence may be reviewed and disposed of every couple of years; however, a review of the report indicated evidence was still held for several cases with disposal dates that were

several years old (i.e. October 2, 1989, and September 16, 1998). The Circuit Attorney indicated case files are reviewed periodically and on the original disposal date to determine if evidence should be disposed or maintained on file; however, the disposal date is not changed (since it is the sentence date). These reviews are not documented in the case files or evidence records.

Proper disposal of evidence would eliminate the significant risk of unauthorized access, use, theft, and the related potential liability of the Circuit Attorney's office. If evidence is reviewed and it is determined it should be maintained past the original disposition date, this determination should be documented in the case file or evidence records.

- C. The Circuit Attorney's office does not notify the city police or sheriff departments of evidence to be retained indefinitely in the property custody section. Circuit Attorney personnel indicated the office retains evidence for completed cases receiving a sentence of 15 years or greater and the sheriff' and police department are aware of this policy. The police department stated this creates confusion as to the location of evidence in some cases.

To ensure evidence is easily accounted for and adequately safeguarded, the Circuit Attorney's office should formally notify the police and sheriff departments when property meets the criteria to be held indefinitely by the Circuit Attorney's office and will not be returned.

WE RECOMMEND the Circuit Attorney:

- A. Ensure a complete list is maintained of all evidence in the hands of the Circuit Attorney's office. Also, the Circuit Attorney's office should perform a periodic inventory of evidence, compare it to an inventory list, and investigate any differences.
- B. Develop procedures to ensure evidence is disposed of timely or documentation is maintained to show the evidence was reviewed and the disposal date postponed.
- C. Ensure all law enforcement agencies are formally notified when evidence will not be returned.

AUDITEE'S RESPONSE

The Circuit Attorney provided the following written responses:

The primary concern of the Circuit Attorney's Office (CAO) is to hold offenders accountable for the crimes they commit. We want to assure the community that the current processes do not put justice at risk. This office maintains separate evidence processes for open and closed cases. The CAO evidence tracking system utilized for open cases is coordinated among the CAO, Sheriff 's Department and the St. Louis Metropolitan Police Department. This system is primarily paper

based. The CAO evidence tracking system for closed cases is maintained in an internal electronic database. The criminal justice system in St. Louis could greatly benefit from an enhanced electronic system for the management and disposal of evidence among the three agencies that utilize and store this evidence. Currently, there is no money allocated in the CAO budget for this need.

- A. *Evidence management and storage for closed cases is an ongoing concern for this office. We have been working with the Police Department for some time to develop a faster process that will allow unneeded evidence to be destroyed, within the rules set forth by the State of Missouri. We are making progress and should be completed within the next 12 months. Keeping evidence on hand until the statute of limitations runs out allows us to effectively prosecute cold cases, cases in which we have a crime but have yet to identify a suspect, and cases in which police have arrested someone but there was insufficient evidence to charge a person for the crime. Without the ability to retain this evidence, we would be seriously impaired in our efforts to pursue justice.*

The CAO works to conduct periodic inventories of evidence for closed cases. Due to limited resources, those inventories are not conducted as frequently as we would like. We are currently in the process of an inventory of CAO held evidence. A new Karpel case management system scheduled for implementation in 2010 should allow for better inventory management. While the current processes have been adequate to date, we will research better ways to ensure our most critical evidence is documented and stored appropriately. We will include audio and video evidence in the database as suggested.

We have a procedure in place to check out evidence for open cases from the Police Department and Sheriff Department. While the citizens would benefit greatly from an electronic system designed to support evidence management by the Sheriff, Police and CAO, this is not an option at this time. We will continue our efforts to secure funding for such a system and also work to implement the recommendations by the Auditor.

- B. *The CAO does keep complete records and documentation of evidence and disposals. Almost no items kept as evidence hold value to the public; they include items such as bloody clothes, DNA samples, videotape confessions, etc. We will review the recommendations by the Auditor and take appropriate action to continue to improve our processes.*
- C. *The Police Department does not take back evidence once it is checked out by the CAO, so notification of intent to retain is not necessary. We have implemented a notification system with the Sheriff's Office at the recommendation of the Auditor in addition to the current system we have in place.*

Bank reconciliations are not properly documented and differences between bank and book balances are not investigated. In addition, adjustments to book balances are not approved by someone independent of the accounting function. The Circuit Attorney's office maintains seven bank accounts. The following concerns related to bank reconciliations were noted:

- A. Formal bank reconciliations are not prepared timely by the Victim Services Unit for the Asset Forfeiture or Benefit Donations Accounts. In addition, differences between book and bank balances are not adequately investigated and any resulting adjustments approved. Asset forfeiture monies are direct deposited to the Asset Forfeiture Account by the US Department of Justice. Donations received for victims and grants from state agencies are deposited to the Benefit Donations Account. Monies are paid to victims to reimburse them for lost wages, transportation costs, etc., and for training employees.
- A formal bank reconciliation for the Asset Forfeiture Account was last prepared for the month ended June 30, 2008. Audit staff prepared a bank reconciliation for the month ended June 30, 2009, and noted an unreconciled difference of \$3,748, with the ledger balance (\$65,985) exceeding the reconciled bank balance (\$62,237). A review of transactions from July 1, 2008, through June 30, 2009, revealed two adjustments increasing the ledger balance by \$7,993 and an adjustment reducing the ledger balance by \$4,037. During our review, we noted a check issued for \$196 was not recorded in the accounting records and a deposit for \$577 was recorded on the accounting records on December 31, 2008, but did not appear on the bank statements.
 - A formal bank reconciliation for the Benefit Donations Account was last prepared for the month ended December 31, 2008. Audit staff prepared a bank reconciliation for the month ended June 30, 2009, and noted an unreconciled difference of approximately \$590, with the ledger balance (\$127,840) greater than the reconciled bank balance (\$127,250). A review of transactions from July 1, 2007, through June 30, 2009, revealed two adjustments increasing the ledger balance by \$64,037 and an adjustment reducing the ledger balance by \$59,873. During our review, we noted a deposit for \$90 was recorded twice on the accounting records and two debit card transactions, totaling \$481, were not recorded. Also, several old deposits and outstanding checks were not marked as cleared in the accounting records.

Victim Services Unit personnel indicated book transactions were periodically compared to bank statements for both of these accounts and transactions marked as cleared. In addition, they indicated the adjustments were made to agree the

ledger balance to the reconciled bank balance; however, differences noted were not investigated, adjustments were not approved by someone independent of the accounting function, and the reconciliation was only documented by the adjusting entry.

- B. Bank reconciliations are not adequately documented by the White Collar Crime Unit for the Bad Check Account. The supervisor indicated he reconciles the bank account each month by calculating the difference between receipts and disbursements and deducting the total from the ending bank balance; however, no documentation detailing deposits in transit, outstanding checks, or liabilities is prepared. In addition, the Bad Check Account has an unidentified balance of \$3,077 which has been carried forward for several years.

Complete and accurate bank reconciliations are necessary to ensure accounting records are in agreement with the bank, and errors or discrepancies are detected and corrected timely. Supporting documentation for all adjustments should be prepared, maintained with the bank reconciliations, and approved by someone independent of the accounting function. In addition, the unidentified balance in the Bad Check Account should be investigated. If payees cannot be identified, the monies should be disposed of in accordance with state law.

WE RECOMMEND the Circuit Attorney ensure monthly bank reconciliations are properly documented, differences between book and bank balances are investigated, and supporting documentation for adjustments and reconciliations are maintained. In addition, adjustments should be approved by someone independent of the accounting function and unidentified monies should be investigated and disposed of in accordance with state law.

AUDITEE'S RESPONSE

The Circuit Attorney. provided the following written responses:

The CAO takes very seriously the financial responsibility of managing the citizens' money and resources. We are pleased with the outcome of the audit and will be happy to make the recommendations outlined by the Auditor.

- A. *The bank statements and QuickBooks documentation for Asset Forfeiture and Benefits Accounts are reconciled each month by Victims Services management. In addition, we will continue our semiannual, in December and June of each year, certified accountant audits that reconcile these accounts and insure that documentation verifying these actions are produced and filed. We have implemented the Auditor's recommendations. The Asset Forfeiture account is balanced.*
- B. *Formal bank reconciliations are documented by the White Collar Crime Department for the Bank Check Account on a monthly basis and we will continue to do this. We will keep more detailed information in the future at the Auditor's request.*

Bids are not solicited and sole source providers are not documented for some purchases. In addition, a cost study was not conducted to support the percentage of monies withheld from the bond and asset forfeiture payments to the state.

- A. The Circuit Attorney's office does not solicit or retain bid/proposal documentation for the purchase of some services. Circuit Attorney personnel indicated the city's procurement policy is followed; however, it has not been formally adopted. Proposals were not solicited or were not documented for the selection of process servers and access to a case law research database. The Circuit Attorney's office disbursed \$153,086 from July 1, 2007, through December 31, 2008, to various process servers and \$26,811 from July 1, 2007, through December 31, 2008, to access a case law research database.

The Circuit Attorney's office should formally adopt the city's procurement policy and ensure the policies are followed, bid/proposal documentation is retained, and sole source providers are clearly documented. The city's procurement procedures provide a framework for economical management of city resources and help ensure the city receives fair value by contracting with the lowest and best bidders. Competitive bidding helps ensure all parties are given equal opportunity to participate in the Circuit Attorney's business.

While professional services may not be subject to the standard bidding procedures, the Circuit Attorney's office should solicit proposals for professional services to the extent practical. Soliciting proposals and subjecting such services to a competitive selection process does not preclude the office from selecting the vendor or individual best suited to provide the service required. Such practices help provide a range of possible choices and allow the office to make a better-informed decision to ensure necessary services are obtained from the best qualified vendor at the lowest and best cost.

- B. The White Collar Crime Unit did not conduct a formal study to support the percentage of monies withheld from the bond and asset forfeiture monies transferred to the state. Currently, 20 percent is withheld from bond and asset forfeiture monies to be used for general operations of the Circuit Attorney's office. Circuit Attorney personnel indicated Article IX, Chapter 7, Missouri Constitution, provides "net proceeds" and Section 166.131 RSMo, provides for the "clear proceeds" of all forfeitures collected for any breach of the penal laws to be turned over to the state. The office interprets these terms to mean collections less costs. The Circuit Attorney's office determined costs to be 20 percent of asset forfeiture collections; however, no formal cost study was performed to establish this percentage and no documentation of costs was provided. During the year ended June 30, 2008, the CAO withheld \$22,481 and \$6,680 from asset and bond forfeitures, respectively. The Circuit Attorney should perform a cost study of the

actual costs incurred for asset forfeitures to ensure amounts withheld do not exceed actual costs.

- C. Monitoring procedures for the Circuit Attorney's office are not sufficient for fuel purchases. The office paid approximately \$33,200 for fuel from July 2007 through December 2008. The office has 14 vehicles and maintains usage logs for each vehicle which show the date, beginning and ending odometer readings, and reason for the trip; however, fuel purchases are not documented. Employee's are assigned a unique pin number which is entered at the time fuel is purchased; however, charge receipts are not retained and reconciled to the "fleet management report" maintained by the City Board of Public Service Equipment Services Division (ESD) which shows the date, mileage, gallons purchased and amount charged. The Chief Investigator indicated he reviews a "billing department summary" report received from ESD for all vehicles assigned to the Circuit Attorney's office which lists the number of transactions and amount charged to each vehicle; however, there is no reconciliation of fuel purchases to charge receipts.

Fuel receipts should be reviewed and reconciled to the ESD fleet management report to identify errors and misuse in a timely manner.

WE RECOMMEND the Circuit Attorney:

- A. Formally adopt the city's procurement policy and ensure it is followed and complete documentation of the bidding process is maintained.
- B. Ensure formal cost studies are performed and documented for all costs incurred in managing the asset forfeiture and bond forfeiture accounts.
- C. Ensure all fuel charges are reconciled to the Board of Public Service Equipment Services Division fleet management report.

AUDITEE'S RESPONSE

The Circuit Attorney provided the following written responses:

Bids are currently solicited whenever possible to ensure that the CAO is properly managing the taxpayers' money.

- A. *The Circuit Attorney's Office will develop a formal written procurement policy at the Auditors recommendation. The CAO will solicit competitive bids for new purchases and new work as required. We will also keep documentation on file for 12 months.*
- B. *While the White Collar Crime Department did not conduct a formal study to document percentages of monies to be withheld from the bond and asset forfeiture monies transferred to the state, we utilized a thoughtful methodology to determine the 20%*

allocation. The CAO will research the process and cost to implement a formal study at the Auditor's request.

- C. While we currently conduct monthly reviews of our mileage and gas usage, at the recommendation of the Auditor we now include gas purchase data on log sheet and reconcile this information monthly against the Board of Public Service Equipment Services Division fleet management report, with more detailed information.*

HISTORY AND ORGANIZATION

CITY OF ST. LOUIS
OFFICE OF CIRCUIT ATTORNEY
HISTORY AND ORGANIZATION

The City of St. Louis Circuit Attorney is an elected position. Section 56.430, RSMo, sets out the duties and responsibilities of the Circuit Attorney and the assistant circuit attorneys. These duties include reviewing police arrest warrant applications in felony and misdemeanor cases, the initiation and prosecution of all criminal actions for which the circuit and associate circuit courts of the City of St. Louis have jurisdiction, including the grand jury, and representing the state in misdemeanor cases taken to the court of appeals.

The Circuit Attorney has additional duties as a result of local ordinances such as the defense of certain actions brought under the provisions of Section 1983, Title 42 of the US Code and representing agencies in cases in which a writ of replevin has been filed for the return of property used as evidence in a state criminal or traffic case (Section 56.453, RSMo). The office has 146 authorized full time positions; this number includes the child support unit and all grant funded positions.

Jennifer Joyce currently serves as the Circuit Attorney for the City of St. Louis. She has served in that capacity since she was elected in November 2000 and took office in January 2001. Her current term expires in December 2013.

The two main divisions in the Office of Circuit Attorney are the Child Support Enforcement Unit and the Criminal Division.