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Thirty-Second Judicial Circuit
Cape Girardeau County

Report No. 2020-118

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CITIZENS SUMMARY

Findings in the audit of the 32nd Judicial Circuit Court in Cape Girardeau County

Accounting Controls and Procedures	The Circuit Clerk's office did not complete bank reconciliations for the Criminal Division bank account from July 2017 through August 2020, or for the Civil Division bank account from October 2017 to May 2020, as required by Missouri Supreme Court operating rules (State COR). The Circuit Clerk has not adequately segregated accounting duties, does not perform a satisfactory independent supervisory review of all accounting and bank records, and does not document the limited review performed.
Accounts Receivable	The court does not assess the $25 time-payment fee on juvenile cases as required by State COR and authorized by state law. The Circuit Clerk does not periodically review outstanding court costs owed to the circuit court.
Court Procedures	The court clerks process fee adjustments without an independent or supervisory review. Periodic reviews of user access to data and other information in the new Show Me Courts System and the JIS are not performed by the Circuit Clerk to ensure access rights are commensurate with job responsibilities and remain appropriate. Budgets are not prepared for the Interest Fund, Garnishment Fee Fund, Time Payment Fund, and Law Library Fund.

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.

Thirty-Second Judicial Circuit
Cape Girardeau County
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Presiding Judge and Court en Banc
and
Circuit Clerk of the
Thirty-Second Judicial Circuit
Cape Girardeau County, Missouri

We have audited certain operations of the Thirty-Second Judicial Circuit, Cape Girardeau 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, 2019. The objectives of our audit were to:

1. Evaluate the court's internal controls over significant management financial functions.

2. Evaluate the court's compliance with certain legal provisions.

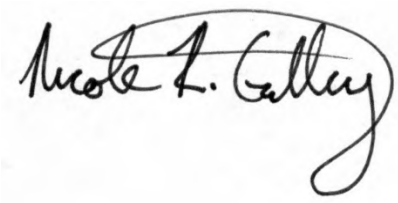
3. Evaluate the court's compliance with certain court rules.

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 control that is significant to the audit objectives and assessed the design and implementation of such internal control to the extent necessary to address our audit objectives. 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 Cape Girardeau 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) 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-Second Judicial Circuit, Cape Girardeau County.



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State Auditor

The following auditors participated in the preparation of this report:

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1. Accounting Controls and Procedures

Significant weaknesses exist in the controls and procedures over bank reconciliations and fiscal personnel job duties are not properly segregated.

1.1 Bank reconciliations

The Circuit Clerk's office did not complete bank reconciliations for the Criminal Division bank account from July 2017 through August 2020, or for the Civil Division bank account from October 2017 to May 2020, as required by Missouri Supreme Court operating rules (State COR). Over these time periods, unreconciled differences occurred in varying amounts and court personnel could not determine the cause for the fluctuations. They indicated the reconciliations were not completed due to limitations in the staff's understanding of the reconciliation process, limited staff availability, and the inability to determine the cause of reconciling differences between the bank account and the accounting records.

The Criminal Division's December 2018 incomplete bank reconciliation documented a discrepancy of $10,398 between the general ledger balance and the adjusted bank balance and a discrepancy of $7,372 between the general ledger balance and open items balance. The October 2019 incomplete bank reconciliation documented a discrepancy of $22,505 between the general ledger balance and the adjusted bank balance and a discrepancy of $19,489 between the general ledger balance and open items balance. The Senior Court Clerk indicated the discrepancies could have originated due to changing banks in July 2017, the inability to reconcile all credit card transactions timely, and not being able to resolve the issues after falling behind.

A similar situation occurred when the Civil Court Clerk could not reconcile the Civil Division bank account beginning in October 2017. The Office of State Courts Administrator (OSCA) resolved the discrepancies and reconciled the account to court records in May 2020. The Civil Division's bank account was combined with the Criminal Account on May 29, 2020. In addition, the prior Civil bank account remains open to allow outstanding checks to clear.

The Circuit Clerk indicated she was aware of the situation and the court had contacted the OSCA and had been placed on a waiting list for the OSCA to complete the reconciliations for the court.[1] According to court personnel, OSCA personnel instructed the court to perform daily reconciliations, which consists of reviewing the deposit and payments that cleared, and not to perform the monthly reconciliations. They also indicated, OSCA personnel later stated this instruction was in error and court personnel should have

[1] As of the end of fieldwork OSCA's assistance on this reconciliation was still pending.

performed the monthly reconciliations to ensure the unreconciled difference did not change from month to month.

State COR 4.59 requires reconciling all bank balances and open items records at least monthly. Timely bank reconciliations are necessary to ensure accounting records balance, transactions are properly recorded, and errors or discrepancies are detected and corrected timely. Thorough independent and/or supervisory reviews help ensure all assets are adequately safeguarded.

1.2 Segregation of duties

The Circuit Clerk has not adequately segregated accounting duties, does not perform a satisfactory independent supervisory review of all accounting and bank records, and does not document the limited review performed. The Senior Court Clerk's duties for the Criminal Court and the Civil Court include preparing disbursements, printing checks, and reconciling the bank account. In addition, prior to June 2020, the Criminal Court Clerk also signed the Criminal Court checks and the Civil Court Clerk would occasionally sign Civil Court checks. Although the court consolidated the Criminal and Civil bank accounts into one account in June 2020, lack of segregation of duties continued with the same court clerk prepares and prints the checks and reconciles the bank account. The Circuit Clerk performs undocumented reviews that include checking the unreconciled bank balance, deposits in transit, and visually scanning the disbursements and deposits in the month-end report. The reviews do not include comparing the balance of the bank accounts to the open items listing nor accounting for the uncleared checks.

Thorough independent and/or supervisory reviews help ensure all assets are accounted for and are adequately safeguarded. If proper segregation of duties are not implemented, documented independent and/or supervisory reviews of accounting and bank records are necessary.

Recommendations

The Circuit Clerk:

1.1 Perform monthly bank reconciliations of all bank accounts timely.

1.2 Segregate accounting duties to the extent possible and ensure independent and/or supervisory reviews of detailed accounting and bank records are performed and documented.

Auditee's Response

The Circuit Clerk's written response is included at the Appendix.

2. Accounts Receivable

Controls and procedures over accounts receivable need improvement. Time-payment fees are not assessed on juvenile cases, and accounts receivable are not periodically reviewed.

2.1 Time payment fee

The court does not assess the $25 time-payment fee on juvenile cases as required by State COR and authorized by state law. The court did not assess the time-payment fee for approximately 1,000 juvenile cases outstanding as

of December 31, 2019. The Circuit Clerk indicated she was unaware time-payment fees should have been assessed on juvenile cases not paid in full within 30 days. As a result, the court is not in compliance with legal provisions and has lost revenue.

> Section 488.5025, RSMo, states "In addition to any other assessment authorized by law, a court may assess a fee of twenty five dollars on each person who pays a court-ordered judgement, penalty, fine, sanction, or court costs on a time-payment basis, including restitution and juvenile monetary assessments."

Also, State 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.

2.2 Accounts receivable review

The Circuit Clerk does not periodically review outstanding court costs owed to the circuit court. The court's information system tracks cases and can produce a report of balances due; however, the Circuit Clerk does not print and review this report to (1) ensure amounts owed agree to the case file or (2) identify possible errors or cases with potentially uncollectible balances. According to a report we obtained from the OSCA, as of June 11, 2020, the circuit court had outstanding costs owed to the court totaling $3.2 million for 14,301 cases of which some cases date back to 1998.

Local COR 67.12.9 states "the court shall review accounts receivable reports developed by OSCA and the debt collection vendor and those debts deemed to be uncollectible shall be written off by court order." Proper and timely monitoring of receivables is necessary to help ensure unpaid amounts are collected and proper follow-up action is taken for non-payment and to provide information to the Presiding Judge to determine appropriate handling when amounts are deemed uncollectible.

Recommendations

The Circuit Clerk:

2.1 Ensure time-payment fees are assessed in accordance with State COR as authorized by state law.

2.2 Establish procedures to review accounts receivable in accordance with Local COR.

Auditee's Response

The Circuit Clerk's written response is included at the Appendix.

3. Court Procedures

We identified significant weaknesses with court procedures. Fee adjustments are not reviewed, users access rights are not periodically reviewed for accuracy, and budgets were not prepared for several court funds.

3.1 Fee adjustments

The court clerks process fee adjustments without an independent or supervisory review. Fee adjustments include the reduction or non-assessment of fines and court costs due to the correction of errors in the assessment of

court costs, reallocation of costs for state reimbursement, and removal of court costs when cases are dismissed.

Fee adjustments processed totaled approximately $324,000 during the year ended December 31, 2019. That total included approximately $247,000 of adjustments for jail board fees processed from April 1, 2019, through August 12, 2019. A court order to write these costs off was subsequently issued by the Presiding Judge on August 13, 2019.

An independent and/or supervisory review and approval of fee adjustments and court authorization is necessary to help ensure such transactions are appropriate and reduce the risk of loss, theft, or misuse of funds.

3.2 Periodic review of user system access

Periodic reviews of user access to data and other information in the new Show Me Courts System and the JIS are not performed by the Circuit Clerk to ensure access rights are commensurate with job responsibilities and remain appropriate. As a result, some court personnel have inappropriate access to initiate and modify transactions within the JIS/Show-Me Courts System.

We obtained reports from the OSCA of user accounts having access to the JIS/Show-Me Courts System as of June 2020. Upon review of the report, the Circuit Clerk indicated some of the users had more access than required to perform their job responsibilities. For example, one employee had transferred to another job within the court in December 2018, but still had access rights to JIS/Show-Me Courts System.

Local COR 69.01.C.7 states "Ensure user access is periodically reviewed and unnecessary access, including that of terminated users is timely removed. Review user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities." Periodic reviews of user accounts ensure the right type and level of access, corresponding to each user's job responsibilities, has been provided.

3.3 Budgets

Budgets are not prepared for the Interest Fund, Garnishment Fee Fund, Time Payment Fund, and Law Library Fund. Preparing budgets allows management the ability to monitor revenues, disbursements, and available fund balance.

Preparing a budget for public funds aids in overall fiscal management; 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.

Recommendations

The Circuit Clerk:

3.1 Require an independent and/or supervisory review and approval of all fee adjustments made in the JIS/Show-Me Courts System.

3.2 Periodically review user access to data and other information resources within the JIS/Show-Me Courts System to ensure access rights are commensurate with job duties and responsibilities.

3.3 Prepare annual budgets for the Interest Fund and Garnishment Fee Fund; and provide copies of these budgets to the county budget officer.

The Presiding Judge:

3.3 Prepare annual budgets for the Time Payment Fund, and Law Library Fund; and provide copies of these budgets to the county budget officer.

Auditee's Response

The Circuit Clerk's and Presiding Judge's written response is included at the Appendix.

Auditor's Comment

The Circuit Clerk's response to MAR finding number 3.2 indicates periodic reviews of user access are performed when staff responsibilities are changed. However, this information differs from the information obtained during audit fieldwork. The Circuit Clerk also responded that user access in the JIS system can be very broad, which allows many tasks to be completed and that these access rights do not always coincide with the employees' regularly assigned duties. Local COR requires a periodic review to ensure access rights are commensurate with current user job responsibilities.

Thirty-Second Judicial Circuit
Cape Girardeau County
Organization and Statistical Information

The Thirty-Second Judicial Circuit consists of Cape Girardeau County, Bollinger County, and Perry County.

The Thirty-Second Judicial Circuit consists of two circuit judges and four Associate Circuit Judges. The Circuit Judges hear circuit level cases throughout the 32nd Judicial Circuit (Divisions I and II). One of these judges also serves as Presiding Judge on a rotating basis and is responsible for the administration of the circuit. Of the four Associate Circuit Judges, two are located in Cape Girardeau County. One presides over Associate Circuit Criminal Court (Division III) and the other presides over Associate Circuit Civil Court (Division IV), which includes probate. The other two Associate Circuit Judges are located in Bollinger County (Division V) and Perry County (Division VI).

The juvenile office's home base is Cape Girardeau County; however, this office also serves residents of Bollinger County and Perry County.

Circuit personnel located in Bollinger County and Perry County are not included in the scope of this audit.

Personnel

At December 31, 2019, the Judges, Circuit Clerk, Chief Juvenile Officer, and Treatment Court Administrator of the Thirty-Second Judicial Circuit, Cape Girardeau County, were as follows:

Title	Name
Presiding Circuit Judge	Benjamin F. Lewis
Circuit Judge (1)	Michael Gardner
Associate Circuit Judge	Frank E. Miller
Associate Circuit Judge (2)	Scott A. Lipke
Circuit Clerk	Charleen C. Biester
Chief Juvenile Officer	Randall Rhodes
Treatment Court Administrator	Sheila Sauer

(1) Scott A. Lipke was appointed in May 2020 replacing Michael Gardner.

(2) Julia Meiners Koester was appointed in July 2020 replacing the vacancy created when Scott A. Lipke was appointed to Circuit Judge.

In addition, the Thirty-Second Judicial Circuit, Cape Girardeau County, employed 20 full-time employees and 6 part-time employees on December 31, 2019.

Financial Information

Receipts of the Thirty-Second Judicial Circuit, Cape Girardeau County, were as follows:

	Year Ended December 31, 2019
Court deposits, fees, bonds, and other	$1,984,407
Probate and Juvenile deposits, fees, and other	57,127
Total	$2,041,534

Caseload Information

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

	Year Ended December 31, 2019
Civil	4,371
Criminal	3,814
Juvenile	256
Probate	529
Total	8,970

STATE OF MISSOURI

32ND JUDICIAL CIRCUIT
CAPE GIRARDEAU COUNTY

CHARLEEN C. BIESTER
CLERK OF THE CIRCUIT COURT

CAPE GIRARDEAU COUNTY COURTHOUSE
203 N. HIGH STREET, STE. 129
JACKSON, MISSOURI 63755
TELEPHONE (573) 243-1755
FAX: (573) 204-2405

AUDIT RESPONSES

1.1 Bank reconciliations: The State budget does not provide individual courts with the funds necessary to hire their own accountants so when court staff are unable to resolve discrepancies, it is appropriate to submit that task to the accountants on staff at the Office of States Courts Administrator (OSCA). In 2017, when clerks in Cape Girardeau County were unable to determine the cause of reconciling differences, they promptly sought assistance from OSCA's accounting department. Because OSCA's resources are limited and they serve courts throughout the State, Cape County was placed on what became a multi-year waiting list for assistance. The accountants on staff at OSCA have now resolved all discrepancies and the account is fully reconciled.

1.2 Segregation of duties: Maintaining offices in two courthouses has always presented the Cape Girardeau County Circuit Clerk with unique challenges. With the civil divisions in Cape Girardeau and the criminal divisions in Jackson, court staff was effectively reduced by half as was supervisory time by the Circuit Clerk, who traveled back and forth between the two locations. The consolidation of all court staff in a single courthouse in 2020 has resolved those issues and has allowed for further segregation of duties and a higher degree of supervisory reviews.

Recommendations: I agree with the auditor's findings in accounting controls and procedures and the recommended changes have been implemented. Accounting duties have been reassigned and are segregated to the fullest extent possible. Documented supervisory reviews of accounting processes and bank records are performed by the Circuit Clerk and by senior court staff, and procedural changes have been established to ensure that monthly reconciliations are completed in a timely manner.

2.1 Time Payment Fee: The Cape Girardeau County Circuit Court has been assessing time payment fees in certain case types dating back to October 2003 when first allowed by Missouri Statute. Court Operating Rule 21.13, which mandates that courts assess the fee in all case types, went into effect January 2012. Nothing has been discovered in the records left behind for me in this office referencing the rule or explaining why it wasn't implemented in juvenile court cases at the time it went into effect. It remains, however, that this court has an obligation to assess a time payment fee on any juvenile monetary assessments not paid in full within 30 days, and the necessary steps have been taken to ensure that the fee is being appropriately assessed.

2.2 Accounts receivable review: In 2019, the Circuit Clerk requested judicial review of outstanding court debt and the Presiding Judge issued an order allowing the clerk to write off over $9,000,000 in uncollectible debt. Work on that order continues and court clerks have written off all but approximately $700,000. Another review of accounts receivable is currently underway, but because the court continues to collect on outstanding debt through the efforts of the State's debt collection vendor and through state tax offset reimbursements, most is collectible. Prior to 2019, records were not retained when proposed debt submitted for judicial review was not followed by an order to write off uncollectible debt.

The Circuit Clerk and court staff regularly review disposition and exception reports in an effort to identify and correct errors. Cases disposed without costs are reviewed for accuracy. Fee sheets are generated at case disposition and reviewed for accuracy.

Recommendations: I agree with the Auditor's findings in the area of accounts receivable and have implemented the recommended changes to ensure time payment fees are assessed in accordance with Court Operating Rules. Procedures have been established to ensure that accounts receivable records continue to be regularly reviewed in compliance with local court rules and regardless of outcome, documentation of outstanding court debt submitted for judicial review will be retained.

3.1 Fee Adjustments: In most instances, adjustments are made as a result of judicial order. Judges will order that costs be waived, that fines be suspended, or that costs be certified to state or the county. Occasionally court clerks will need to make minor corrections when entering data due to clerical error. Regardless of circumstance, adjustments are made when necessary to ensure that fees assessed are in accordance with the judgment on record.

3.2 Periodic review of user system access: I disagree with the Auditor's findings on this point. Periodic reviews of user access are conducted each time a change in court personnel occurs and permissions are reviewed when job duties change. As explained to the field auditor when interviewed, certain JIS permissions in the system are very broad and allow many tasks to be completed, whether assigned as regular duties or not. Further, when clerks are assigned a new workload, previously assigned permissions are often intentionally left in place to allow that clerk to back up duties in their previously assigned area.

The Circuit Clerk is Cape Girardeau County's Security Point of Contact and as such, judicial employees working outside of the Circuit Clerk's office appear on the Clerk's security roster. The court employee who transferred to another job within the court system is the Presiding Judge's secretary, who is afforded a high degree of access. The JIS/SMC permissions granted are commensurate with her currently assigned job responsibilities.

3.3 Budgets: Revenue, expenditures, and available fund balances for the interest and garnishment fee funds are tracked and managed in JIS and SMC. In addition to the court's operating system tracking, the Circuit Clerk maintains a ledger together with detailed record of expenditures for each fund. Because the law library fee fund and time payment fee fund are not tracked through JIS and SMC, detailed ledgers of revenue and expenditures for these two funds are kept and maintained by court-assigned bookkeepers. Expenditures for all funds are carefully tracked and reviewed for compliance with Missouri Statute.

Recommendations: I agree with the Auditor's findings as to adjustments and budgets and the recommended changes have been implemented. There is no State process or funding to bring in private accountants to conduct independent reviews, however the Circuit Clerk together with senior court staff perform documented supervisory reviews and approvals of fee adjustments. In addition to the management protocols already in place, annual budgets for all court funds have been prepared and submitted to the County Auditor.

Charleen C. Biester, Circuit Clerk
Cape Girardeau County

November 17, 2020
Date

Benjamin F. Lewis, Presiding Judge
32nd Judicial Circuit

11/17/2020
Date