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Missouri State Auditor

May 13, 2015

Honorable Jo Fortney
Knox County Prosecuting Attorney
207 N 2nd Street
Edina, Missouri 63537

This letter communicates the results of our review of the handling of monies collected by the Knox County Prosecuting Attorney's office from January 2013 through August 2014 that includes bad check restitution and fees, court-ordered restitution, and donations for amended traffic tickets or deferred prosecution. This review was initiated at the request of former Prosecuting Attorney David Brown after he discovered monies had been misappropriated from the bank account for the private law office operated by him and Jo Fortney. Prior to contacting the State Auditor, the former Prosecuting Attorney initiated a review of the Prosecuting Attorney's escrow bank account, which includes monies received for bad checks and court-ordered restitution, and discovered discrepancies with a court-ordered restitution payment received in 2014. The objectives of our review were to evaluate the Prosecuting Attorney's internal controls over the handling of monies collected, evaluate the Prosecuting Attorney's compliance with certain legal provisions, and determine the extent of any monies missing from the Prosecuting Attorney's office.

Because of the limited scope and nature of this review, there is no citizens summary and no overall rating is provided.

Methodology

Our methodology included obtaining an understanding of procedures and records related to handling of monies collected by the Prosecuting Attorney's office; reviewing manual receipt slips, accounting system activity, and bank statements, including copies of deposit slips and canceled checks; and interviewing various personnel of the Prosecuting Attorney's office, as well as certain external parties.

Background

We previously audited the Prosecuting Attorney's office as part of our last audit of the county for the 2 years ended December 31, 2011; see Report No. 2012-144, *Knox County*, issued in December 2012. Our report included several internal control deficiencies in the Prosecuting Attorney's office. Report No. 2013-043, *Follow-Up Report on Audit Findings - Knox County*, was issued in May 2013. The follow-up report indicated the internal control recommendations had either been implemented or were in progress.

However, we identified similar problems during this review and improvements in controls and procedures established at the time of the follow-up meeting were not continued as discussed in the following section.

The Prosecuting Attorney's office does not have written policies or procedures related to collection, deposit or transmittal, and disbursement of monies. Office personnel provided us with a description of procedures and records utilized to account for monies handled including bad checks, court-ordered restitution, and donations. During the time period reviewed, the office employed multiple clerks that performed money handling functions. While one of these employees had primary responsibility for receiving, recording, and disbursing monies for the Prosecuting Attorney's office, the other 3 employees assisted with duties of the Prosecuting Attorney's office as needed and issued manual receipt slips for payments received if the primary employee was unavailable. A clerk records monies received for bad check restitution, bad check fees, and court-ordered restitution on manual receipt slips and then posts these payments to the Prosecuting Attorney's accounting system, which tracks monies owed by defendant. A clerk periodically deposits these monies in the Prosecuting Attorney's escrow bank account and periodically issues checks to the County Treasurer for bad check fees and to victims for restitution, though the office does not have established procedures regarding the frequency of disbursements.

The Prosecuting Attorney's office also collects donations in exchange for amending charges on traffic tickets or deferring prosecution in criminal cases which is a violation of state law. The Prosecuting Attorney routinely amends charges for traffic tickets if the defendant submits a donation to the county Restitution Fund ranging from \$100 to \$350 in addition to other required court costs and fines. These monies are transmitted to the County Treasurer. Personnel do not issue manual receipt slips for these donations but instead maintain a spreadsheet of amounts due and received by defendant. The Prosecuting Attorney also requires defendants to make a donation to the Restitution Fund in exchange for deferring prosecution whereby the Prosecuting Attorney dismisses criminal charges and agrees to not re-file any charges if the accused complies with the terms of the agreement.

Results, Conclusions, and Recommendations

1. Missing Monies and Other Questionable Transactions

We identified \$590 in monies received that were not deposited in the bank account or transmitted to the County Treasurer and are missing. Per the manual receipt slips issued, these payments were made in cash. Officials indicated they generally require defendants to pay by money order and the office typically does not accept cash without approval of either the Prosecuting Attorney or the Assistant Prosecuting Attorney. The Prosecuting Attorney could not provide a documented confirmation of prior approval for the cash payments in question.

Receipts Not Deposited or Transmitted

Receipt Slip Date	Receipt slip number	Amount	Purpose
9/20/2013	196395	\$150.00	Condition of probation
10/15/2013	196396	200.00	Condition of probation
2/13/2014	1432	200.00	Court-ordered restitution
4/17/2014	1446	40.00	Court-ordered restitution
		\$590.00	

The 2 payments related to a condition of the defendant's probation should have been transmitted to the County Treasurer for deposit in the county's General Revenue Fund. The County Treasurer confirmed these monies had not been transmitted to him. The 2 court-ordered restitution payments should have been deposited in the Prosecuting Attorney's escrow bank account and subsequently disbursed to victims. For receipt slip number 1432, \$200 was disbursed to the victim in July 2014, creating a shortage in the bank

account since the monies were not deposited. The other court-ordered restitution payment listed was not deposited or disbursed. Records reviewed indicate various office personnel had access to monies and several different personnel signed the manual receipt slips for the payments in question; therefore, we cannot determine who is responsible for the missing monies.

The Prosecuting Attorney identified a questionable disbursement totaling \$50, which we reviewed. Also, we identified another questionable disbursement of \$50. For both transactions the amount disbursed was greater than the amount recorded as received and deposited. A clerk issued a manual receipt slip for a \$400 receipt on March 11, 2014, and subsequently deposited this amount. However, the clerk had initially recorded a payment of \$450 in the accounting system on February 6, 2014 (over a month before the manual receipt slip was written), and later disbursed monies totaling \$450, including a \$423 check to the victim and a \$27 refund check to the defendant, creating a \$50 shortage in the bank account. There were no other payments recorded from this defendant during the period reviewed and the Prosecuting Attorney was unsure why the manual receipt slip was not issued for over a month after the payment was recorded in the accounting system. The Prosecuting Attorney had identified this transaction as questionable prior to our review. Additionally, for another defendant a clerk recorded 6 receipts totaling \$550 on various dates from August 2013 to July 2014 but disbursed \$600 in July 2014, creating a \$50 shortage in the bank account. A \$50 receipt was recorded in the accounting system in April 2014 and July 2014 using the same money order number but can only be traced to one deposit on July 11, 2014; therefore, it is likely the same payment of \$50 was recorded twice in the accounting system.

The spreadsheet of donations for amended traffic tickets included 50 transactions during the period of review. We were able to trace 46 of these transactions to the County Treasurer's records and the Prosecuting Attorney confirmed the other 4 should have been removed from the spreadsheet because defendants did not accept the offer to amend their ticket. The Prosecuting Attorney's office did not obtain receipt slips from the County Treasurer as proof these monies had been transmitted to the County Treasurer.

We recommend the Prosecuting Attorney further investigate the missing monies and other questionable disbursements and take the necessary action to recover monies as appropriate. In addition, a receipt slip should be obtained from the County Treasurer for all monies transmitted to the County Treasurer.

2. Supervisory Review and Bank Reconciliations

During the period reviewed one employee was primarily responsible for most accounting duties including issuing manual receipt slips, preparing deposits, issuing checks, and recording activity in the accounting system. This employee was also responsible for transmitting monies to the County Treasurer and maintaining the spreadsheet of donations for amended traffic tickets. However, other employees also accepted payments and issued manual receipt slips.

During the period reviewed the only documented review of accounting records was performed by the Assistant Prosecuting Attorney and consisted of reviewing the monthly bank reconciliations. However, reviews were not performed timely after June 2013 and some bank reconciliations were not reviewed for up to 5 months. The Assistant Prosecuting Attorney documented her review by applying her initials and the date reviewed to the bank reconciliations.

We recommend the Prosecuting Attorney perform and document supervisory reviews of the receipting, recording, and disbursing functions. In addition, the Prosecuting Attorney should ensure bank reconciliations are performed monthly.

3. Liabilities and Timeliness of Disbursements

Office personnel do not prepare a monthly list of liabilities or reconcile to available cash balances. Additionally, the office held some monies for extended periods of time before disbursement. We prepared a list of liabilities as of August 31, 2014, and identified liabilities totaled \$3,283 while the reconciled bank balance was \$3,174, resulting in a shortage of \$109. The list of liabilities indicates some court-ordered restitution received has been held for over 12 months.

We recommend the Prosecuting Attorney ensure monthly lists of liabilities are prepared and reconciled to cash balances. Any shortages should be investigated and any remaining unidentified or unclaimed amounts should be disbursed in accordance with state law. In addition, the Prosecuting Attorney should ensure restitution amounts are disbursed timely.

4. Receipts and Deposits

Office personnel did not make deposits timely after June 2013. Only 3 deposits were made during the 6 months ending December 31, 2013, and there were only 6 deposits made for the period January 2014 through August 2014. The Prosecuting Attorney indicated there is a steady amount of financial activity throughout the year. Manual receipt slips were not issued for 5 payments received for bad checks or court-ordered restitution, though the payments were posted to the accounting system and deposited. Also, receipt slips were not always issued for donations for deferred prosecution. Manual receipt slip numbers are not entered in the Prosecuting Attorney's accounting system and there is no procedure to reconcile manual receipt slips to payments posted to the accounting system and deposited. We identified numerous instances in which the receipt date per the accounting system was up to 3 months after the date on the manual receipt slips. We also noted instances in which receipts were posted to the accounting system up to 2 months prior to being recorded on a manual receipt slip.

We recommend the Prosecuting Attorney ensure receipt slips are issued for all monies upon receipt, the numerical sequence of receipt slips is accounted for, manual and electronic receipt records are reconciled to deposits, and monies are deposited timely.

5. Donations

The Prosecuting Attorney continues to amend charges filed on traffic tickets and defer prosecution in criminal cases by requiring defendants to make a donation to a county fund as a condition of amending or deferring charges, in violation of state law. The Prosecuting Attorney does not have authority to require a donation to a county fund to amend charges filed on traffic tickets or defer prosecution of criminal cases. Section 50.565, RSMo, grants the authority for a judge to order defendants to contribute to the county's law enforcement restitution fund in a filed case with a plea or finding of guilt for those cases allowed by law, which excludes certain traffic offenses, any class C misdemeanor, or infraction.

The amount of donations for amended traffic tickets deposited in the Restitution and General Revenue Funds totaled approximately \$6,600 during the period reviewed. We were unable to determine a total of donations related to deferred prosecution due to lack of appropriate records.

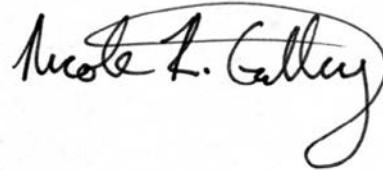
We recommend the Prosecuting Attorney discontinue the practice of requiring donations to the county as part of amending or deferring charges filed.

6. Administrative Fees

The Prosecuting Attorney has not assessed the statutorily required fees from defendants who owe court-ordered restitution. The Prosecuting Attorney indicated she was unaware of these new statutory provisions.

Section 559.100.3, RSMo (effective August 28, 2013), requires the Prosecuting Attorney to collect an administrative handling cost fee on cases of court-ordered restitution. The County Treasurer is required to deposit these fees in the Administrative Handling Cost Fund.

We recommend the Prosecuting Attorney assess and collect fees on all restitution cases as required by state law.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is fluid and cursive, with a large loop at the end of the last name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this letter:

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