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Missouri State Auditor

Forty-Fifth Judicial Circuit

City of Winfield Municipal Division

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CITIZENS SUMMARY

Findings in the audit of Winfield Municipal Division

Background	The Winfield Municipal Division audit was completed as part of the Municipal Courts Initiative of the State Auditor's Office. The Municipal Courts Initiative adds additional areas of review to the standard court audit process. In addition to reviewing financial transactions, accounting practices, and compliance with court rules and state law, auditors also reviewed statistical information, tickets, and other penalties, to identify activities and other practices that may impair impartiality or damage the court's credibility with citizens.
Accounting Controls and Procedures	The municipal division employs only one person, the court clerk, who performs all duties relating to collecting, recording, and transferring court payments for deposit. The city lacks any independent review of the court clerk's accounting records. Payments made to the court are not transmitted intact or timely to the city for deposit, and procedures to record and reconcile bond payments are not adequate. The municipal division lacks a formal plan to collect and monitor unpaid amounts and individual payment plans are not documented.
Municipal Division Procedures	The municipal division failed to detect errors in monthly reports submitted to the Office of State Courts Administrator and the city, which both over- and underreported collections. Oversight for processing traffic tickets is not adequate, some tickets and plea agreements do not reflect approval by the prosecuting attorney, and case activity does not always agree between electronic and manual records.
Monitoring of Excess Revenue	Procedures related to the calculation of excess revenues are not adequate to ensure compliance with state law. The city inaccurately calculated its 2014 revenue from traffic violations and reported that it had no excess revenue due to the Department of Revenue. Auditor calculations show the city owes \$30,686 in excess revenues for traffic payments collected in 2014.
Vehicle Stop Monitoring	The city did not retain adequate records to support 2014 vehicle stop data reported to the Attorney General's Office, which prevented the State Auditor's Office from reviewing the accuracy of the data.

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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City of Winfield Municipal Division

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NICOLE GALLOWAY, CPA **Missouri State Auditor**

Presiding Judge
Forty-Fifth Judicial Circuit
and
Municipal Judge
and
Honorable Mayor
and
Members of the Board of Aldermen
Winfield, Missouri

We have audited certain operations of the City of Winfield Municipal Division of the Forty-Fifth 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 December 31, 2014. The objectives of our audit were to:

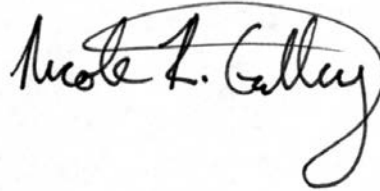
1. Evaluate the municipal division's internal controls over significant financial functions.
2. Evaluate the municipal division's and city's compliance with certain legal provisions.
3. Evaluate the municipal division's compliance with certain court rules.
4. Evaluate the city's compliance with Section 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 Winfield Municipal Division of the Forty-Fifth 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:

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City of Winfield Municipal Division

Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

Accounting controls and procedures need improvement. For the year ended December 31, 2014, the municipal division's case management system reported net collections (including bond forfeitures not used for court costs or fines) totaled approximately \$299,000. Bonds recorded in the case management system and deposited into the municipal division bond account during this period totaled approximately \$45,000.

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 Clerk is the only municipal division employee.

The Court Clerk is responsible for all duties related to collecting court monies, recording and posting these monies to the case management system, and transmitting them to the City Clerk for deposit into the city's operating account or the municipal division's bond bank account. The City Clerk's review of monies transmitted by the municipal division is limited to ensuring the total amount received in the case management system agrees to the total amount transmitted to the city for deposit. 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 transmitted.

Additionally, the City Clerk does not provide documentation to the municipal division detailing how court monies transmitted to the city for deposit were recorded in the city's accounting records. Without this documentation, the Court Clerk cannot compare amounts transmitted by the municipal division to amounts recorded by the city to confirm city records are in agreement with municipal division records. Monthly reconciliations between amounts recorded in the case management system and amounts recorded in city records are necessary to ensure proper accountability.

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 Transmittal procedures

Municipal division receipts are not transmitted intact or timely to the city for deposit and checks are not restrictively endorsed until the transmittal is prepared. Our review of municipal division receipt and city deposit records noted the following issues.

- Cash, checks, and money orders collected for bonds, fines, and court costs on February 18 and 19, 2014, totaling \$4,028 were not deposited into city accounts until February 26, 2014.



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- Bond receipts received between December 12, 2014, and January 8, 2015, totaling \$1,330 were deposited into the bond account on January 8, 2015. However, approximately \$14,250 in fines and court costs received between December 12, 2014, and December 31, 2014, were included in five deposits made to the city accounts during this time frame. Bond receipts are typically transmitted to the city for deposit on a monthly basis.
- Checks and money orders are not restrictively endorsed upon receipt. On February 23, 2015, we counted 11 checks or money orders on hand, totaling \$1,237 that had not been restrictively endorsed. The Court Clerk applies restrictive endorsement to checks and money orders when preparing the transmittal to the city.

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, all monies should be transmitted intact and timely, and checks and money orders should be restrictively endorsed immediately upon receipt. In addition, section IV.C. of Winfield 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 Bonds

The Court Clerk does not issue receipt slips for bond monies received. The Court Clerk posts bond payments to the case management system when received using the case number associated with the bond payment. Since prenumbered receipt slips are not issued for these payments, there is less assurance that all bond payments received are posted to the accounting system and transmitted to the city for deposit into the municipal division bond account.

To reduce the risk of loss, theft, or misuse of bond monies received, and to provide assurance all bond monies are accounted for properly, prenumbered receipt slips should be issued sequentially immediately upon receipt for all bond monies.

1.4 Bond liabilities and reconciliations

A book balance for the bond account is not maintained to facilitate monthly reconciliation to the bank balance and related liabilities (open bonds). In addition, while a list of outstanding bonds is maintained in the municipal division accounting system, the list is not printed and submitted to the city monthly for reconciliation to the bond account balance. Also, bond account disbursements do not contain sufficient detail to identify the individual case and related amount being transferred from the municipal division bond account to the city's operating account.

In July 2014, in an attempt to balance the municipal division bond account, the city made a transfer of \$9,095 from the bond account to a city operating account. The City Clerk and Court Clerk indicated this transfer was for bond



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amounts the municipal division had applied or forfeited in the accounting system prior to January 1, 2014, but the corresponding transfer had not occurred. Neither the Court Clerk nor City Clerk could provide documentation of how this amount was determined or specific cases and related amounts associated with the transfer.

At our request, the Court Clerk generated a list of open bonds at December 31, 2014, and the list totaling \$4,240 exceeded the reconciled bank balance by \$647, indicating a shortage in the account. The municipal division subsequently determined \$600 related to a bond forfeiture that had been reversed by the Municipal Judge and \$47 related to outstanding checks that had not been recorded in the city's financial records.

Section V.B. of Winfield Municipal Court Operating Order Number 1 requires the Court Clerk to submit to the city a monthly open bond report. Additionally, Missouri Supreme Court Operating Rule No. 4.59 requires reconciling all bank balances and open items records at least monthly. Maintaining a 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 liabilities. In addition, monthly lists of liabilities are necessary to ensure all bond dispositions have been properly recorded.

1.5 Accrued costs

The municipal division has not established a formal administrative plan for the collection of court debt and does not adequately monitor accrued costs, including fines and court costs, incarceration costs, and court-ordered restitution.

The municipal division accepts partial payments from defendants; however, formal payment plans are not documented, signed by the defendant, or approved by the Municipal Judge and no minimum payment is required monthly. The case management system tracks accrued costs and can produce a report of balances due; however, the Court Clerk was not aware this report could be generated until we discussed this issue with her. At December 31, 2014, accrued costs totaled approximately \$89,000 in the case management system.

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. Proper monitoring is necessary to provide information to the Municipal Judge and determine appropriate handling when amounts are deemed uncollectible. In addition, payment agreements signed by the defendant and approved by the Municipal Judge formalize the liability to the municipal division and could aid in the collection process.



1.6 Disbursements

City officials did not disburse amounts collected for the Sheriff Retirement Fund (SRF) monthly. The municipal division began collecting and transmitting this \$3 surcharge to the city in September 2013; however, the city did not distribute any SRF fees collected between September 2013 and February 2015 until March 2015, when \$7,449 was distributed to the SRF.

Missouri Supreme Court Operating Rule 21.02 indicates state court costs collected by the municipal division should be disbursed within 30 days of receipt.

Recommendations

The City of Winfield 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 monies transmitted to the city are reconciled with deposits recorded in the city's accounting records.
- 1.2 Ensure receipts are transmitted intact and timely and checks and money orders are restrictively endorsed immediately upon receipt.
- 1.3 Ensure prenumbered receipt slips are issued for all bond monies received and account for the numerical sequence of bond receipt slips issued.
- 1.4 Maintain a book balance and ensure the bank balance is reconciled to the book balance. In addition, the municipal division should prepare monthly lists of liabilities and reconcile the lists to the bank balance, promptly investigate and resolve differences, and maintain sufficient documentation to ensure all bonds are accounted for and disbursed properly.
- 1.5 Establish procedures to monitor accrued costs and obtain signed payment plans approved by the Municipal Judge from all defendants.
- 1.6 Work with the city to ensure court monies are disbursed within 30 days of receipt.

Auditee's Response

The City of Winfield Municipal Division provided the following responses:

- 1.1 *The municipal division and city agree with the recommendation of the State Auditor's Office (SAO), and immediately implemented a procedure to ensure the proper documentation and review of the municipal court's accounting records. The city will provide the*



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municipal division with a detailed receipt slip indicating how funds transmitted were reported in the city's accounting records.

- 1.2 *The municipal division agrees with the recommendation of the SAO and immediately implemented a procedure to ensure that receipts are transmitted in a timely manner. The municipal division will also ensure that all checks and money orders are restrictively endorsed immediately upon receipt.*
- 1.3 *The municipal division agrees with the recommendation of the SAO and immediately implemented a procedure to ensure that receipt slips specifically prenumbered and designated for that purpose are issued for all bond monies received and that a full accounting for such receipt slips is performed.*
- 1.4 *The municipal division agrees with the recommendation of the SAO. The municipal division further states that the referenced transfer of prior bond receipts was done in order to correct historical accounting deficiencies that occurred prior to any of the current court personnel being employed with the city. This transfer was done to ensure that all subsequent accounting was accurate. The municipal division will work with the city to ensure that there are adequate reconciliation and oversight procedures in place in accordance with the recommendations of the SAO.*
- 1.5 *The municipal division agrees with the recommendation of the SAO. The municipal division will endeavor to collect all assessed fines and court costs that have been assessed. The municipal division will do so in accordance with all applicable laws, including Senate Bill 5. The municipal division further states that some outstanding fines and costs have been waived by the Municipal Judge in the aftermath of the decision of the Municipal Judge to recall all active warrants in response to Senate Bill 5 becoming effective. The Municipal Judge reviewed each file on which an uncollected balance remained, and which was previously in warrant status, and where he deemed appropriate the Municipal Judge waived the balance of the fines and costs owed. Those assessed cases where the fines were not waived were reset on a new court date. Each year the Municipal Judge will review all cases on which an outstanding balance remains to determine whether any unpaid fines should be waived due to specific circumstances, such as the defendant having passed away or in compliance with the new statutory procedures to consider a defendant's ability to pay in accordance with the standards promulgated by the Presiding Judge of the Circuit Court.*



1.6 While the city understands the recommendation of the SAO, this finding was premised exclusively on the collection of the \$3 Sherriff's Retirement Fund fee. This fee was, and remains, the subject of litigation as to its validity (*City of Slater v. State of Missouri*, WD78016 – (oral argument August 11, 2015)) and the municipal division collected the fee but due to uncertainty as to whether it should ultimately be retained, the city delayed disbursement until it received further guidance. However, on the recommendation of the SAO, the city immediately disbursed all these funds and continues to do so on an ongoing basis. The city has always disbursed all other court costs as required by the Missouri Supreme Court Operating Rules, and will continue to do so.

2. Municipal Division Procedures

Procedures related to monthly reporting, ticket disposition, Prosecuting Attorney approval, and organization of records need improvement.

2.1 Monthly reports

The Court Clerk did not submit accurate monthly reports of municipal division collections to the state and city. As a result, municipal division activities have been incorrectly reported to the Office of State Courts Administrator (OSCA) and the city lacks the information needed to accurately track amounts collected by the municipal division.

The Court Clerk generates the monthly Municipal Division Summary Reporting Form from the computerized case management system, showing collection amounts entered into the case management system. This monthly report is submitted to the OSCA and to the city. Additionally, the Court Clerk utilizes this report to determine certain court surcharge amounts to be distributed monthly by the city to the state and other political subdivisions.

Our review of these monthly reports identified numerous errors related to system programming. The Court Clerk had not adequately reviewed these reports or identified these errors. The table below presents actual amounts collected compared to amounts reported for the year ended December 31, 2014.

Collections	Actual	Reported	Over/ (Under) Reported
Fines	\$ 207,042	207,062	20
Court costs	22,791	40,308	17,517
Court Surcharges	25,114	25,114	0
Restitution	10	0	(10)
Sheriff Retirement Fund	5,251	5,260	9
Other Costs	29,673	4,601	(25,072)
Bond Forfeitures	9,170	9,770	600
Total	\$ 299,051	292,115	(6,936)



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These differences occurred because (1) the monthly summary report obtained from the system was not accurately set up to include amounts collected for warrant fees, housing fees, and overpayments, and categorized amounts collected for failure to appear as court costs instead of other costs; and (2) transactions were backdated in the case management system to prior accounting periods.

The municipal division case management system allows the Court Clerk to backdate transactions to prior period accounting records rather than requiring posting of the transactions in the current period. As a result, any backdated transactions were not reflected in current period accounting records or included on monthly reports of collections generated from the case management system.

Missouri Supreme Court Operating Rules 4.28 and 4.29 and OSCA instructions require submission of monthly reports of cases filed and fines and court costs collected to the OSCA and the city. Reports are to be submitted by the 15th of the month following the reporting month and include all activities occurring since the last report. To ensure accurate information is reported to the OSCA and court surcharges collected are correctly reported to the city and disbursed to the state and/or tracked in accordance with city ordinance and state law, the municipal division should establish procedures to generate accurate monthly Municipal Division Summary Reporting Forms. Such procedures should include ensuring monthly reports include all activities of the entire month, and reconciling amounts received and deposited to the activity posted in municipal division records and city's accounting system.

2.2 Case dispositions

The Municipal Judge does not approve all case dispositions. The Municipal Judge does not review and approve traffic tickets paid through the violation bureau or the final docket report showing case dispositions recorded in the system.

Without better oversight of all tickets processed, the risk of improper handling of tickets and related monies increases. To ensure the proper disposition of all cases has been entered in the municipal division records, the Municipal Judge should sign the docket to indicate approval of the recorded disposition.

2.3 Prosecutor approval

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

The Prosecuting Attorney allows the Court Clerk to maintain and use his signature stamp to file charges on certain traffic tickets. Our review of 60



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tickets noted the Prosecuting Attorney's signature to file charges was not present on 3 of them.

The Court Clerk is allowed to prepare plea agreements to amend certain traffic violations to non-moving, no-point violations based on a recommendation schedule approved by the Prosecuting Attorney in response to requests received from the defendant's attorneys. The defendants and their attorneys sign and return the plea agreements directly to the Court Clerk for processing. The Prosecuting Attorney will sometimes initial the plea agreements but this procedure is not done consistently. For the 60 tickets reviewed, 17 of 21 plea agreements to amend charges did not indicate review or approval by the Prosecuting Attorney to ensure their propriety. As a result, there is less assurance the Prosecuting Attorney authorized all plea agreements.

The ability of the Court Clerk to amend tickets and apply the Prosecuting Attorney's signature by facsimile stamp 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 amended tickets indicating his review and approval.

2.4 Municipal division records

Municipal division records are not maintained in an accurate, complete, and organized manner. The Court Clerk documents case information for each defendant on backer sheets maintained in manual case files as well as computerized docket sheets maintained in the case management system. However, for 42 of 60 tickets reviewed, case information did not agree between manual and electronic records. We noted backer sheets maintained in manual case files for 28 tickets were left blank, fines and costs assessed did not agree between manual and electronic records for 4 tickets, and case activity (court continuances, warrant, and/or bond activity) did not agree between manual and electronic records for 10 of these tickets.

Supreme Court Operating Rule 4 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 the case. Accurate recording of the case information is necessary to properly account for the municipal division's financial activity. Failure to implement adequate case entry procedures



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increases the risk that loss, theft, or misuse of funds will go undetected and municipal division records will contain errors.

Recommendations

The City of Winfield Municipal Division:

- 2.1 Establish procedures to ensure the accuracy of monthly Municipal Division Summary Reporting Forms. In addition, discontinue making adjustments to prior periods and reconcile amounts received and deposited to amounts posted in the municipal division records and city accounting records to ensure collections are properly distributed.
- 2.2 Ensure the Municipal Judge signs all court dockets.
- 2.3 Ensure the Prosecuting Attorney signs all tickets and reviews and approves all amended and dismissed tickets.
- 2.4 Ensure the proper disposition of cases is documented in manual and electronic records and sufficient documentation is maintained to support all case actions.

Auditee's Response

The City of Winfield Municipal Division provided the following responses:

- 2.1 *The municipal division agrees with the recommendation of the SAO and has already implemented the suggested procedures. The municipal division further answers that some of the referenced inadequacies in the audit resulted from computer coding errors, which were promptly corrected upon identification by the SAO.*
- 2.2 *The municipal division agrees with the recommendation of the SAO and has already implemented a procedure to ensure that the municipal judge signs all court dockets.*
- 2.3 *The municipal division agrees with the recommendations of the SAO. The Prosecutor has already implemented procedures whereby all tickets are either reviewed and signed personally by the Prosecutor, or the Prosecutor reviews the pertinent information pertaining to all citations electronically prior to the court clerk stamping the Prosecutor's signature. Where the latter method is utilized, the authority for the use of the signature stamp is given in writing to the Court Clerk. The Prosecutor has already implemented a policy to ensure that all issued recommendations are signed personally by him.*
- 2.4 *The municipal division agrees with the recommendation of the SAO and has already implemented a procedure to ensure that the*



disposition of each case is properly documented. The municipal division is further working on a method of implementing a procedure for cases disposed of through the municipal division's violation bureau.

3. Monitoring of Excess Revenues

Procedures related to the calculation of excess revenues due to the Missouri Department of Revenue (DOR) are not adequate to ensure compliance with state law. While the city calculated excess revenues due to the DOR for the year ended December 31, 2014, the city's calculation included certain items that are 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 as well as city reserves from prior fiscal years. Based on the calculation below, at least \$30,686 is due the DOR for the year ended December 31, 2014.

The municipal division tracks the amount of fines and court costs collected for traffic violations, including amended charges from traffic violations, in a case management system. Based on the 2014 data from the system, the municipal division collected \$221,601 in fines and court costs for traffic violations, excluding related court costs designated by statute for a specific purpose. The city's excess revenue calculation (from unaudited financial records) for the year ended December 31, 2014, indicates the city's 2014 general operating revenues totaled \$1,017,540, fines and court costs from traffic violations totaled \$240,150, and the percent of annual general operating revenue from traffic violations equaled 23.6 percent. Based on this calculation, city officials determined the city did not have excess revenues from traffic violations for fiscal year 2014.

However, the total general operating revenue reported by the city for use in its excess revenue calculation is misstated. Revenues from fines and court costs were understated by \$15,071 and the city did not include the \$7,827 refuse administration fee in the calculation. In addition, the city included restricted revenues from state motor vehicle taxes and fees, restricted court costs, and city reserves (revenues from prior fiscal years) in the total general operating revenue amount reported. These restricted revenues and reserves should be excluded from the current year general operating revenues used in the calculation of excess revenues due the DOR.

Traffic violation revenue reported by the city for use in its excess revenue calculation did not exclude \$18,549 for certain court costs designated by statute for a specific purpose 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.

The city did not present its fiscal year 2013 excess revenue calculation in its financial statements submitted to the State Auditor's Office (SAO) on March



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18, 2015, almost a year past the April 30, 2014, filing deadline for unaudited financial statements.

The following table, using information from the case management system report and the city's unaudited financial statements, identifies the amount to be remitted to the DOR for excess revenue for fiscal year ended December 31, 2014, after including additional general operating revenue and excluding restricted revenues:

	Year Ended December 31, 2014
City Calculated General Operating Revenues	\$ 1,017,540
Plus Additional General Operating Revenues:	
Police Fine	15,071
Refuse Administration Fee (1)	7,827
Less Restricted Revenues and Reserves:	
Certain Court Costs (2)	(29,611)
Motor Vehicle Sales Tax	(10,774)
Motor Vehicle Fees	(5,931)
Motor Fuel Tax	(36,238)
Transportation Sales Tax Receipts	(84,275)
Street Fund Interest Income	(662)
City Reserves	(236,564)
General Operating Revenues (Less Restricted Revenues and Reserves)	<u>636,383</u>
30 Percent of General Operating Revenues	<u>190,915</u>
 City Calculated Traffic Violation Revenues	 240,150
Less Excludable Traffic Revenues (3)	<u>(18,549)</u>
Fines and Court Costs from Traffic Violations	<u>221,601</u>
 Excess Revenues	 30,686
Amount Remitted to the DOR	<u>0</u>
Remaining Amount Due the DOR	<u>\$ 30,686</u>

(1) The city contracts refuse services from a local business and bills city customers for this service.

The city retains a 7% administrative fee, which is considered a general operating revenue.

(2) Costs, fees and surcharges designated by statute for specific purposes.

(3) Revenue from traffic violations reported by the city included certain court costs designated by statute for a specific purpose (CVC, SRF) as well as bond forfeitures related to traffic violations. These amounts are not required to be included in revenue from traffic violations, thus were excluded when calculating the excess revenue.

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 30 percent of annual general operating revenue to the DOR. Section 302.341.2, RSMo, further provided that a city 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 the section were satisfied. According to 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.



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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 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 accuracy of annual excess revenue calculations, include appropriate general operating revenues and revenues from fines and court costs in the calculations, and make payments of excess revenues timely.

Auditee's Response

The Board of Aldermen provided the following response:

The city does not believe that the SAO's calculation as to excess revenues is correct. Having discussed this issue with the SAO, the city believes that less than 30 percent of its annual general operating revenue is derived from "traffic violations." The city does not agree with the SAO's determination that solid waste revenues are excluded from annual general operating revenue, as such revenues are not limited as to their use by constitutional provision, statute or local ordinance. In fact, the SAO has not been able to identify any constitutional provision, statute or local ordinance that limits the use of the solid waste revenues upon receipt of the city. The SAO's representatives appear to argue that under their own issued definition for "annual general operating revenue," which they allege differs from the statutory definition of that same term established by Senate Bill 5, all "user fees" are excluded. However, this is clearly not an accurate interpretation as the SAO includes other "user fees" in calculating the city's annual general operating revenue.

The solid waste collection fees at issue are user fees, paid by residents and business owners who utilize the city's refuse collection services. The city pays a contractor to perform such services. When the city collects the user fees from its residents and business owners there is no limitation by statute, constitutional provision, or local ordinance that restricts the use of those revenues when they are received by the city. The revenue when collected "can be used to pay any bill or obligation of a city, county, or other political subdivision." As such, it is not a "user fee[] . . . designated by law, ordinance, or Constitution, for a specific purpose." Accordingly, the



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inclusion of these revenues within "annual general operating revenue" is entirely consistent with the definition issued by the SAO, which is:

Revenue that is not required by the enacting ordinance, law or Constitution to be used only for a designated purpose and can be used to pay any bill or obligation of a city, county, or other political subdivision. This includes, but is not limited to, general sales tax, general use tax, general property tax, and fees from certain licenses and permits, interest, fines and penalties. "General operating revenue" does not include, among other items, designated sales or use taxes, user fees, grant funds or other revenue designated by law, ordinance, or Constitution, for a specific purpose.

It has also been explained to the city that the existence of the contractual agreement between the city and the refuse collector renders the revenues restricted. First, while of course the city has a contractual obligation, there is no constitutional provision, statute or ordinance provision that mandates that the contract be paid by the user fees collected from those that use the city's solid refuse collection services. Frankly, it is unclear why the existence of the contract has any bearing on the nature of the revenue. The city has numerous contracts that it has to pay out of its general fund, and it pays those (as it does the solid waste contract fees) using its annual general operating revenues.

*The Missouri Supreme Court in *Arbor Inv. Co., LLC v. City of Hermann*, 341 S.W.3d 673 (Mo. banc 2011), recognized the legitimacy of municipalities engaging in similar enterprises to provide services for its citizens. In light of the fact that the unmistakable overarching intent of the Macks Creek law is to prevent the overreliance by municipalities on their traffic court revenues, it defies logic to penalize those cities (such as Winfield) that provide "for pay" services to their residents and business owners. Excluding such user fees from annual general operating revenues makes no sense when considering the very purpose of the Macks Creek law as modified by HB103.*

Representatives from the SAO have also suggested that these solid waste refuse revenues might be included as annual general operating revenue under SB 5's version of Macks Creek. While the city understands it has been audited under HB103, there is no legitimate basis to ignore SB 5's definition, when the prior version of the statute used the same term, but left it undefined. SB 5's definition makes it plainly clear that "unrestricted user fees" are included as annual general operating revenues.

However, recognizing that under HB103's version of the Macks Creek law it is for the Department of Revenue (DOR) to account for the disbursement of any excess revenues, the city has elected to file an amended report



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indicating both the amount it believes to be the correct "annual general operating revenue" and the amount the SAO believes to be the correct "annual general operating revenue." The city will also tender payment of the alleged excess revenues to the DOR "under protest," and will ask that the DOR make the necessary determination as to whether these funds should be deposited or returned to the city.

Additionally the city notes that the calculation of revenues is not a function of the municipal division, but rather is part of the city's administrative function. The fines imposed by the municipal division are based upon the court's adjudication of the merits of each case, and not based upon the city's overall traffic court revenues. It matters not to the municipal division whether the fines are retained by the city or transferred to the local school district for any given case, because the purpose of the fine levied is not to raise revenue for the city. Accordingly, it is inappropriate for the municipal division to seem to be held responsible for calculating Macks Creek revenues.

It is also unreasonable and unjust to criticize the city administration's good faith attempts to comply with the Macks Creek law when it did not receive the necessary state guidance. Again, it is further unreasonable to lay fault at the feet of the municipal division, as the court is not the entity responsible for making the annual financial report. This is especially unfair in light of the extreme uncertainty that surrounds the correct and proper interpretation of the Macks Creek law as it existed under the HB103 incarnation.

The city will endeavor to ensure that it complies with its Macks Creek reporting and excess revenue requirements.

Auditor's Comment

We have consistently conveyed to city personnel and its representatives that the solid waste refuse (trash) user fee in question seems to be restricted for a specific purpose and should be excluded from general operating revenue. The city charges the trash user fee based on a contract with a private company. The private company sets the rates and pays the city an administrative fee for billing. Under the contract, the city is obligated to pay the amounts collected to the private company and the private company is obligated to pay the city a percentage of collections for the billing service. The city places the trash billing revenue collected into a subaccount of the water and sewer account. The water and sewer account is a restricted account by both law and practice. It appears the city treats this subaccount as a restricted account in practice.

The city did not include any of the trash user fees in its calculation of general operating revenues reported by the city in its excess revenue calculation for 2014, filed with the SAO on April 28, 2015, or in its calculation filed with amended financial statements filed on July 21, 2015.



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Except for the 7 percent administration portion retained by the city, we believe the city's exclusion of the trash user fees from its 2014 excess revenue calculations was correct. The city's reported calculation of general operating revenue improperly included a large amount of restricted revenues and city reserves. Removing these restricted revenues and city reserves from the city's calculation of general operating revenue results in over \$30,000 due the DOR. The city's subsequent belief that the trash user fee is unrestricted and should now be included in general operating revenue would result in no excess revenue due the DOR. While the city has other user fees that run through the general revenue account, such as park rental fees, the calculations of both the city and the SAO have placed them in general operating revenue.

4. Vehicle Stop Reporting

The City of Winfield Police Department did not retain adequate documentation to support the vehicle stop data submitted to the Attorney General's Office (AGO) for the year ended December 31, 2014.

According to the Chief of Police, a separate database was maintained on each police department computer and officers were responsible for entering their vehicle stop data into a database. The Chief of Police indicated he was unable to combine vehicle stop data from each separate database into a comprehensive database, therefore, he manually combined information contained in each database to obtain vehicle stop data information required to be reported. However, documentation to support the information submitted to the AGO was not retained and we were unable to review the accuracy of the data submitted.

During our review of 60 tickets issued during the year ended December 31, 2014, we noted 59 tickets had been issued as a result of a vehicle stop. We could not locate stop data information in any database for 8 of these tickets and one of these tickets had the incorrect gender marked. Additionally, some stop data information may have been duplicated in individual databases.

Section 590.650, RSMo, requires law enforcement agencies to submit stop data to the AGO annually. Section 109.255, RSMo, authorizes the Missouri Local Records Board, chaired by the Secretary of State, to establish minimum retention periods for records created by local governments. The Police Clerk's Record Retention Schedule established by the Local Records Board requires the racial profiling statistics be retained for a minimum of 1 year after submission to the AGO. To ensure vehicle stop information is accurately reported to the AGO, sufficient documentation should be maintained to support the data submitted.



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Recommendation

The City of Winfield Police Department should ensure adequate records are maintained to support the vehicle stop information submitted annually to the AGO.

Auditee's Response

The Board of Aldermen provided the following response:

The city notes that this issue is unrelated to the city's municipal court. As the recommendation itself notes, it is the police department that collects and reports information related to vehicle stop reporting. It would be improper and inappropriate for the city's municipal court to exercise any influence or control over the police department relative to vehicle stop reporting. However, the city will continue to comply with the reporting requirements established by Section 590.650, RSMo. Further, any inadequacies in the supporting data identified by the SAO were due to computer malfunction. The city will endeavor to ensure the accuracy of all such information that is maintained and reported.

Forty-Fifth Judicial Circuit

City of Winfield Municipal Division

Organization and Statistical Information

The City of Winfield Municipal Division is in the Forty-Fifth Judicial Circuit, which consists of Lincoln and Pike Counties. The Honorable Chris Kunza Mennemeyer 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 utilizes Integrated Metropolitan Docketing System, an automated case management system provided by Regional Justice Information Services, which has been approved for use in municipal divisions by the State Judicial Records Committee.

Personnel

At December 31, 2014, the municipal division employees were as follows:

Title	Name
Municipal Judge	Dennis Chassaniol
Court Clerk	Robyn Haase

Financial and Caseload Information

	Year Ended December 31, 2014
Receipts	\$299,051
Number of cases filed	2,182

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
Domestic Violence Shelters	2.00
Sheriff's Retirement Fund	3.00
Failure to Appear (FTA) Fee ¹	100.00
Warrant Fee ²	25.00

¹ In January 2015, the municipal division stopped assessing FTA fees. Additionally, FTA fees previously assessed on open court cases are being waived.

² Effective October 20, 2014, the municipal division stopped assessing warrant fees. Additionally, all warrant fees previously assessed on open court cases are being waived.



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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 Winfield 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 the following table.

Racial Profiling Data/2014 - Winfield Police Department - Population 1,043¹

Key Indicators	Total	White	Black	Hispanic	Asian	Am. Indian	Other
Stops	2217	2126	67	12	2	0	10
Searches	82	78	4	0	0	0	0
Arrests	88	79	7	1	0	0	1
Statewide Population	N/A	82.76	10.90	2.94	1.71	0.41	1.28
Local Population	N/A	97.12	0.58	1.05	0.19	0.00	1.05
Disparity Index ²	N/A	0.99	5.25	0.51	0.47	#Num!	0.43
Search Rate ³	3.70	3.67	5.97	0.00	0.00	#Num!	0.00
Contraband hit rate ⁴	56.10	57.69	25.00	#Num!	#Num!	#Num!	#Num!
Arrest rate ⁵	3.97	3.72	10.45	8.33	0.00	#Num!	10.00

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

#Num! indicates zero denominator