



Office of Missouri State Auditor
Nicole Galloway, CPA

**Twenty-First Judicial Circuit
City of Ferguson
Municipal Division**

Report No. 2017-025
April 2017

auditor.mo.gov



Findings in the audit of Ferguson Municipal Division

Unaccounted Monies	Receipts totaling at least \$1,426 are unaccounted for. Because some essential records were altered, deleted, or could not be located, it cannot be determined if additional monies may be missing.
Municipal Division Records	Municipal division records were not maintained in an accurate, complete, and organized manner. The municipal division did not ensure court records were maintained in accordance with court operating rules and access to these records was restricted to court personnel only. In addition, the municipal division did not have an adequate system in place to track the location and custody of municipal division records.
Case Management System Controls	The municipal division does not have adequate controls and procedures to ensure all case activity is properly recorded in the computerized case management system (CMS). Several key system controls were either missing or overridden, and compensating independent review was not adequate.
Accounting Controls and Procedures	The municipal division had not adequately segregated accounting duties and adequate supervisory reviews of accounting records were not performed. Fines and court costs were not always assessed in accordance with the violation bureau (VB) schedule and court personnel did not ensure only authorized violations were handled through the VB. The municipal division did not ensure noncash transactions are properly documented and had not established procedures for the review and approval of noncash, voided, and deleted transactions in the CMS by persons independent of the receipting process. The municipal division did not have adequate procedures to follow up on bonds with negative amounts included on the monthly bond liability lists.
Municipal Division Procedures	Some operating orders were not dated to show the effective date and many policies and procedures were not in writing. The Prosecuting Attorney did not sign all tickets processed by the municipal division and approval of amended and dismissed tickets was not always clearly documented. The police department and the municipal division should work together to account for the numerical sequence of bond forms issued. Monthly reports submitted to the Office of State Courts Administrator and the city were inaccurate. During the year ended June 30, 2015, the municipal division collected approximately \$26,000 in illegal warrant recall, non-prosecution, and letter fees. The city has repealed these fees and they are no longer assessed. The municipal division does not disburse collections in accordance with the municipal hierarchy established by court operating rule. Controls over the Municipal Judge's signature stamp were not sufficient.

Ticket Accountability

The police department, public works code enforcement division, and the municipal division need to maintain adequate records to ensure the numerical sequence and ultimate disposition of all tickets, including arrest notifications, uniform citations, complaints, and housing citations issued for violations of municipal ordinances are accounted for properly.

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

*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.

All reports are available on our Web site: auditor.mo.gov

Twenty-First Judicial Circuit

City of Ferguson Municipal Division

Table of Contents

State Auditor's Report	2
------------------------	---

Management Advisory	
Report - State Auditor's	
Findings	
1. Unaccounted Monies	4
2. Municipal Division Records	9
3. Case Management System Controls	15
4. Accounting Controls and Procedures	17
5. Municipal Division Procedures	23
6. Ticket Accountability	33

Organization and Statistical	35
Information	



NICOLE GALLOWAY, CPA **Missouri State Auditor**

Presiding Judge
Twenty-First Judicial Circuit
and
Municipal Judge
and
Honorable Mayor
and
Members of the City Council
Ferguson, Missouri

We have audited certain operations of the City of Ferguson Municipal Division of the Twenty-First 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 June 30, 2015. 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 state laws restricting the amount of certain court revenues that may be retained.
5. Determine the extent of municipal division monies unaccounted for.

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. The municipal division could not locate or provide us certain case files and court dockets for various time periods. In addition, the municipal division did not maintain adequate records to support certain significant case activity and financial transactions, including incomplete records for the assessment and/or adjustment of some fines and court costs and incomplete receipt records. Because of these limitations on the scope of our audit, we could not adequately audit certain transactions.

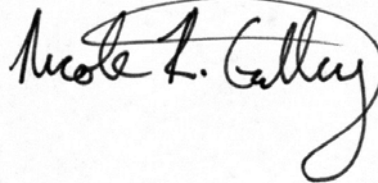
We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design 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.

Except as discussed in the second paragraph, 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, (4) no noncompliance with state laws restricting the amount of certain court revenues that may be retained, (5) and monies unaccounted for totaling at least \$1,426. The accompanying Management Advisory Report presents our findings arising from our audit of the City of Ferguson Municipal Division of the Twenty-First Judicial Circuit.



Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Douglas J. Porting, CPA, CFE
Audit Manager:	Deborah Whitis, MBA, CPA, CIA, CFE
In-Charge Auditor:	Heather R. Stiles, MBA, CPA, CFE
Audit Staff:	Sheila Hohenstreet

Twenty-First Judicial Circuit
 City of Ferguson Municipal Division
 Management Advisory Report - State Auditor's Findings

1. Unaccounted Monies

Municipal division receipts totaling at least \$1,426 are unaccounted for. Because some essential records were altered, deleted, or could not be located it cannot be determined if additional monies may be unaccounted for.

In February 2016, we identified discrepancies between accounting and deposit records for some transactions during the year ended June 30, 2015. We notified the Court Clerk and city personnel of our concerns and made numerous requests for access to additional court records stored at the municipal garage (see MAR finding number 2.2) to further evaluate the discrepancies. The municipal division could not provide some requested records. In addition, some internal controls were not in place or were circumvented, making it difficult to determine the validity of some transactions. During our review of available court records, we noted the following issues.

Undeposited cash receipts

Cash receipts totaling \$1,426 were not deposited.

- Receipt slips issued on 8 cases totaling \$609 were subsequently deleted from the case management system (CMS) and these monies were not deposited. Case judgments entered in the CMS were deleted from the CMS for 4 of these cases, negative judgments were entered in the CMS for 3 of these cases, and the fine was modified on the remaining case, reducing the amount due from each defendant by the amount noted on the corresponding deleted receipt slip.

Receipt Date	Case Number	Receipt Slip Number	Amount Received but not Deposited
01/02/2015	990459	240907	\$ 13
01/02/2015	131506491	240907	74
01/23/2015	20142810	241214	102
01/26/2015	20132749	241221	102
01/26/2015	131506989	241227	102
02/02/2015	R1211086A	241279	100
02/02/2015	131513318	241292	14
02/02/2015	20145225	241292	102
			\$ 609

- Receipt slips issued for monies received on 10 cases were subsequently modified, reducing amounts receipted and deposited by a total of \$417. For 8 of these 10 cases, negative judgments were entered into the CMS, lowering the amount due from each defendant by the amount of the reduction on the corresponding receipt slip.



Twenty-First Judicial Circuit
 City of Ferguson Municipal Division
 Management Advisory Report - State Auditor's Findings

Receipt Slip Date	Case Number	Receipt Slip Number	Initial Receipt Slip Amount	Modified Receipt Slip Amount	Amount Reduced
07/11/2014	070343879	236395	\$ 125	100	25
08/13/2014	20144508	237707	127	107	20
09/08/2014	121144970	238544	79	19	60
09/22/2014	20142339	238950	127	102	25
10/10/2014	131511887	239746	107	92	15
12/01/2014	131510128	240433	127	87	40
12/04/2014	131514323	240542	152	142	10
12/10/2014	131515432	240768	100	80	20
02/04/2015	102177916	241340	204	102	102
02/04/2015	121139125	241349	204	104	100
			\$ 1,352	935	417

- Fines assessed on three cases were later modified in the CMS, without supporting documentation such as a judge's order, inappropriately reducing the amount due from the defendants by \$300. Activity recorded in the CMS for these cases indicates this money was likely received but not recorded or deposited.

Case Number	Date Modified	Amount Reduced
131509296	01/09/2015	\$ 100
131509423	01/13/2015	100
070339522	02/23/2015	100
		\$ 300

- Cash bonds totaling \$100 were not recorded in the CMS or deposited. Our review of a negative bond liability identified the police department issued bond number 31146 on March 20, 2014, for \$200; however, only \$100 was received by the municipal division and deposited.

Possible additional unaccounted monies

Additional monies may be unaccounted for, but could not be readily determined due to inadequate or incomplete records.

- Court records were not maintained in an accurate, complete, and organized manner (see MAR finding number 2.1).
- The municipal division lacked adequate controls and procedures to ensure all case activity was properly recorded in the CMS (see MAR finding number 3).



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

- The municipal division lacked supporting documentation for changes to assessed fines and court costs, as well as voided and deleted transactions (see MAR finding number 4.3), and plea agreements (see MAR finding number 5.2).
- We identified 77 missing prenumbered bond forms and the division did not maintain records to account for unnumbered bond forms issued (see MAR finding number 5.3).

Conclusions

The lack of segregation of duties, inadequate controls, and the absence of proper oversight as discussed in this report, contributed to the court not timely detecting these discrepancies. It is apparent municipal division financial activity was not adequately monitored. Due to the court's weak procedures and inadequate or incomplete records, there is no assurance all monies collected were deposited.

Recommendation

The City of Ferguson Municipal Division work with law enforcement officials regarding any possible criminal prosecution related to the unaccounted funds, including restitution. In addition, the division should take a proactive approach to implement adequate controls to prevent and detect the loss or theft of assets.

Auditee's Response

The Auditor stated that certain receipts listed in the first two bullet-points of this section were issued for \$1,026, but that she could not reconcile such receipts with deposit records.

The audit report inadequately addresses the potential causes of this miniscule discrepancy. The audit report fails to present any reliable evidence that shows the various amounts are indeed missing instead of the result of simple accounting errors.

All eight of the claimed deleted receipts occurred within a one-month period of time - January 2, 2015 - February 2, 2015. The municipal division discovered this discrepancy prior to the Auditor's field visit. At that time, the prior Court Clerk worked with the CMS to create a standard report that shows if a receipt is generated and then later deleted. It is through this mechanism the discrepancy was discovered (again, prior to the Auditor's visit).

The city subsequently initiated an investigation into the discrepancy involving the deleted receipts. The investigation resulted in a part-time municipal division employee being terminated. This all occurred prior to the Auditor's visit. The city's investigation did not reveal sufficient evidence to prosecute the employee.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

The Auditor was informed of the findings by the city, the city's investigation and the personnel action taken immediately upon conclusion of the investigation.

Following the related termination, no further similar instances occurred. Despite running several tests and procedures, the Auditor was unable to find any further instances of unaccounted for funds.

As a result of this incident, the city's municipal division worked with representatives of the Office of the State Court Administrator (OSCA) to create a voided receipt procedure that further helps identify potential discrepancies in receipts versus monies collected. In addition, the municipal division has separated duties such that payment clerks are unable to modify or delete a payment receipt in the current CMS. If a payment clerk makes an error and needs to void a receipt, such error is documented and then approved by the Court Clerk.

The city is confident in the findings of its initial investigation and the resulting action to terminate the employee. And, the action to terminate the employee appears to have solved the issue in that no further instances have occurred. Therefore, no further investigation is warranted. It should also be noted that, even if there was proof of theft as alleged by the Auditor, the statute of limitations for such a misdemeanor under state law is one year and that time period has long since passed.

The city's municipal division believes it is inappropriate for the Auditor to state that there are "possible additional unaccounted monies" based upon alleged inadequate or incomplete records. "Inadequate" or "incomplete" records are indications of themselves. They are not, necessarily, indications of potentially missing funds. If the Auditor searched for additional missing monies and did not find any, this fact should be stated in the report. If the Auditor failed to search for additional missing monies, this fact should be stated in the report without any inflammatory conclusory statements that are erroneously premised.

The city's municipal division has developed, in conjunction with OSCA, a current "voided receipt" procedure that satisfies OSCA's requirements.

With regard to the Auditor's findings regarding modified receipts, the city's total receipts during the audit period were 9,726. The Auditor identified 10 receipts that were allegedly modified. The percentage is 0.0012% of the total receipts. As indicated above, the modified receipts were identified by the city prior to the Auditor's visit and addressed through subsequent personnel action.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

In addressing the issue of reduced fines for certain receipts, the Auditor fails to take into account the policies, procedures, and mandates related to the city's Consent Decree as well as changes in Missouri law and several of the city's municipal ordinances, which were repealed. These events precipitated (and even mandated) the reduction in fines of which the Auditor identifies.

With regard to the three alleged cases where fines were assessed and later modified without supporting documentation, no receipts were generated which demonstrate that original fine amounts were not actually collected. The Auditor makes an unsubstantiated conclusory statement that "... this money was likely received but not recorded or deposited." This amounts to an inappropriate conclusory statement that is inflammatory and unsubstantiated by the audit findings.

The auditor references one single bond form that referenced \$200 while the bond receipt shows \$100. The auditor has failed to put any information forth to show that this is nothing more than human error in preparation of the bond form.

The city believes that the current procedures in place provide adequate control to ensure the proper collection, accounting, deposit and maintenance of funds received by the payment clerks in the municipal court.

Auditor's Comment

Municipal division officials could not provide documentation showing the transactions reported in the tables on pages 4 and 5 had been properly handled. All court clerks had the ability to modify and/or delete receipt slips prior to April 25, 2016, and the Court Clerk still has the ability to override this system control at her discretion. While the municipal division could generate the report showing if a receipt slip was prepared and later voided or deleted, municipal division officials did not provide any documentation to indicate this report was routinely generated and reviewed periodically. In addition, this report does not show modifications to receipt slip amounts.

In July 2016, the Prosecuting Attorney indicated the city's investigation identified less than \$500 was unaccounted for. We made multiple requests, both before July 2016 and after, for a list of cases identified, information on how the city arrived at that amount, and what city officials did to identify all unaccounted for monies. We were not provided this information.

As noted throughout our report, we identified many other questionable transactions that may or may not be legitimate. Due to the court's weak procedures and lack of documentation, there is no assurance all CMS entries were appropriate and all monies collected deposited. We considered relevant policies, procedures, and mandates. Transactions cited in the finding occurred over a year before the city entered into the Consent Decree on March 17, 2016. There is no evidence these transactions were impacted



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

by the Consent Decree or other changes to municipal ordinances or state law.

Regarding the 3 cases in the second table on page 5, we observed other case actions associated with receipt of payment recorded in the CMS and/or manual case records, even though a receipt slip was not issued.

2. Municipal Division Records

The municipal division needs to improve controls and procedures over the division's records.

2.1 Court records

Municipal division records were not maintained in an accurate, complete, and organized manner. Municipal division personnel document case information for each defendant on manual dockets, backer sheets, defendant sheets, and the front cover of manual case files as well as in computerized case records maintained in the CMS. However, information recorded on the backer sheets was very inconsistent, often incomplete, and in some cases blank. In addition, documentation such as the citation or ticket, defendant sheets, official notices to appear in court, plea agreements, warrants, and/or bond forfeiture forms were not always maintained in the manual case files and/or were not complete. Manual notations by the Municipal Judge, Prosecuting Attorney, and Assistant Prosecuting Attorneys on defendant sheets or manual working dockets are the official record of the court proceedings; however, these notations were not always documented consistently and did not always indicate who made them. The electronic CMS is the official accounting record of the municipal division. Our review identified numerous discrepancies between manual records and electronic records. In addition, municipal division personnel could not locate 3 of 149 case files and 33 of 144 final dockets requested during the audit for comparison to information documented in the CMS. As a result, there is less assurance transactions were properly handled.

Supreme Court Operating Rule No. 4.03 requires the official court record consist of all documents filed from initiation to final termination of the case. Supreme Court Operating Rule No. 4.08 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. In addition, Supreme Court Operating Rule No. 8.04.7 requires all financial records be maintained for 5 years or until completion of an audit. Accurate recording of the case information and retention of applicable records is necessary to properly account for the municipal division's financial and case activity and reduce the risk that loss, theft, or misuse of funds will go undetected and municipal division records will contain errors.



2.2 Record preservation and access

The municipal division did not ensure court records are maintained in accordance with court operating rules and access to these records was restricted to court personnel only. In addition, the municipal division did not have an adequate system in place to track the location and custody of municipal division records.

The municipal division utilized some upper level rooms in the municipal public works garage to store records related to cases closed before January 1, 2015, as well as court dockets and other financial information. During 2014, this garage sustained water damage from a roof leak and municipal division records were impacted.

Requests for records

In February 2016, we began asking for access to certain case files and court dockets stored in the municipal garage. According to a statement from the Ferguson City Clerk dated March 31, 2016, many of the records damaged by the leak were covered in mold or had been otherwise rendered unreadable. The City Clerk advised that the city considered it "prudent and necessary to budget funds in an upcoming fiscal year" for mold remediation. While municipal division and city officials were aware court records were damaged, no one had taken any steps to evaluate the extent of the damage to determine what records could be recovered and the effort required.

On May 3, 2016, we met with the Court Clerk, City Finance Director, and City Manager, and made another request for access to the records stored at the garage. On May 5, 2016, the Court Clerk indicated the city had just obtained an evaluation of the mold damage and the city was contacting another company for a second opinion.

After we made numerous inquiries regarding the status of the second opinion, the City Manager provided us with a copy of the resulting report on June 10, 2016. This report contained results of the mold investigation and a remedial action plan. Subsequent discussions with the City Manager implied city officials planned to have city personnel perform the remediation work. Based on this understanding, we scheduled a return visit to the city to review these records on July 11, 2016.

On July 7, 2016, the Court Clerk requested we postpone the scheduled visit because she did not believe the requested records would be remediated and available by July 11th. As a result, we agreed to postpone the return visit another week. On July 14, 2016, the Prosecuting Attorney issued statements that the requested files were being made available immediately for review at the municipal garage in their current condition as the city was not required to alter the records or take steps to change the condition of the records. The Prosecuting Attorney further stated the auditors may take precautions they felt appropriate to handle the records. In a subsequent meeting on July 21, 2016, officials indicated they intended to perform remediation, addressing



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

ceiling and drywall repair first, with no firm timeline to address cleaning and remediation of the records.

In September 2016, the city began the mold remediation process by removing damaged ceiling and wall material. However, because the city had no timeline for remediating the records, the SAO took extraordinary steps and hired a mold remediation company to recover and preserve the court records available and necessary to resume our audit work. The remediation firm completed its work during the week beginning September 26, 2016.

After available records were remediated and our review completed, we identified a number of records still missing. In November 2016, we provided the municipal division with a list of 3 previously requested case files and a significant number of final dockets still missing. In December 2016, the city attorney stated a diligent search was conducted by city personnel, but they could not locate any of the missing records.

In January 2017, the municipal division notified us an additional box containing 17 final dockets had been located at the Ferguson City Hall. According to the Court Clerk, these records had been taken to the City Clerk's office as part of an earlier Sunshine Law request and had not been returned to the municipal division. Thirty-three final dockets we requested still remain misplaced.

Site visits

On April 20, 2016, and September 26, 2016, we conducted site visits to the municipal garage and noted the records were not maintained in a secure location within the building. All city employees with access to the building had access to these records. As a result, the confidentiality of the information within these records, including personally identifiable information such as social security numbers, dates of birth, and driver's license numbers, was not protected. In addition, certain records are required to be closed by state law.

We took the following pictures during the April 2016 site visit. They depict the records maintained in disarray at the municipal garage. We observed the storage area door propped open.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings





Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

The municipal division did not have adequate procedures in place to track the location and custody of municipal division records. As previously noted, these records were stored at multiple locations within the city. In addition, records were moved during the renovation of the City of Ferguson Police Department/Municipal Court building and were also accessed by various other agencies. Because the municipal division had no procedures in place to track the location and custody of these records, division personnel could not ensure all records were accounted for properly and retained in accordance with court operating rules. This weakness contributed to the loss of and inability to locate municipal division records.

Conclusion

Missouri Supreme Court Operating Rule No. 4.22 requires court files to be stored in secure areas that are free from excessive heat, moisture, and threats of destruction and access to case files be restricted to court personnel. A formal system to track the location and custody of records decreases the likelihood of lost or misplaced records.

Recommendations

The City of Ferguson Municipal Division:

- 2.1 Ensure the proper disposition of cases is documented in manual and electronic records and sufficient documentation is maintained to support all case actions.
- 2.2 Ensure case records are maintained in accordance with court operating rules and access to case records is properly restricted. In addition, the municipal division should implement procedures to track the location and custody of municipal division records.

Auditee's Response

- 2.1 *The city's municipal division disagrees with the Auditor's findings that municipal division files were not regularly maintained in a complete and organized manner. The municipal division is currently maintaining both manual case files and electronic case files in an accurate, complete, and organized manner and did so during the audit period. The current court clerks worked extensively with OSCA and the court's CMS to ensure that both paper and electronic records are being properly maintained. New forms developed and used by the Municipal Judge and Prosecuting Attorney have kept manual notations to a minimum (if used at all).*

Each document the court receives pertaining to a defendant is filed in its own case folder, including the ticket, defendant sheets, warrants, payment agreements, attorney entries, bonds posted and bond forfeitures. Beginning in March 2015 the court began keeping copies of all letters mailed to the defendant in their file. The current Municipal Judge and both Municipal Judges prior to his appointment have signed all plea forms and they are filed in the defendant's case. Furthermore, all defendants and defense counsel



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

must now sign and submit all plea agreements, motions, pleadings, payment plans, and other similar records.

In regards to the three cases that the court was unable to locate for the Auditor, they have all been closed since 2014, and one of them closed out prior to the audit period. The city believes the files for these cases are located in its public works garage building but is unable to locate them due to water damage and mold remediation efforts in that building.

- 2.2 *In 2014 there was a period of heavy rain, which resulted in a roof leak, water damage, and mold growth on certain municipal division files that were in storage. Prior to the roof leak, these court records were stored in an organized fashion in a locked, secured room to facilitate easy search and retrieval. However, during the work to repair the damage to the storage area, some of the boxes of records were moved to allow the repairs to the storage area to take place and to prevent further damage to the files. The Auditor's visit occurred during this transition period.*

The city's municipal division is now storing closed files in the municipal court office. The current Court Clerk ordered plastic containers to store the 2016 closed cases and is in compliance with COR 4.22. See photos of current storage of closed cases.





Auditor's Comment

2.1 Records reviewed during our audit were not maintained in an accurate, complete, and organized manner, as detailed in the finding.

3. Case Management System Controls

The municipal division does not have adequate controls and procedures to ensure all case activity is properly recorded in the CMS.

The municipal division previously used an automated CMS known as Computerized Court System. In November 2014, the municipal division began using an automated CMS sold by Information Technology, Inc. Our review noted several key system controls were either missing or overridden, and compensating independent supervisory review was not adequate.

User access

The municipal division had not limited court personnel's ability to perform conflicting duties within the CMS and had not established procedures to provide adequate supervision or review of the work performed by court personnel to ensure transactions were appropriate. All court personnel have the ability to assess and adjust fines and court costs (including posting noncash transactions); record and modify case dispositions; and modify, void, and/or delete monies receipted, in the CMS.

Assessment of fines and court costs

The CMS does not restrict court personnel's ability to adjust fines and court costs on cases after the initial judgment has been entered. Fines and court costs are entered (assessed) in the CMS by court personnel when (1) the Court Clerk prepares a plea agreement on behalf of the prosecuting attorney, prior to receiving confirmation from the defendant indicating acceptance of the plea agreement; (2) the defendant pleads guilty in court; or (3) the defendant pleads guilty and makes a payment through the Violation Bureau (VB).

We noted several cases for which the fine and costs entered as the initial judgment were subsequently adjusted downward without adequate documentation the action was appropriate. For example, fines assessed on one case originally totaled \$200.50. The manual case file included a receipt slip (number 241279) indicating receipt of a \$100 payment on February 2, 2015, however, this receipt slip was deleted from the CMS, no money deposited, and the fine previously assessed in the CMS reduced by \$100 on the same date with no explanation. We identified other questionable transactions as discussed in MAR finding number 4.3.

Receipt slips

Our review of receipt slip numbers issued during the year ended June 30, 2015, identified 175 missing receipt slip numbers.

The CMS generates receipt slips in numerical sequence and can be configured to restrict editing of issued receipt numbers. Prior to April 25, 2016, the municipal division had chosen to override this system control and



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

allow court personnel to modify receipt slip numbers, and to issue the same receipt slip number more than once. In addition, the CMS allows all court personnel access to modify, void, and/or delete transactions. For example, receipt slip number 240019 was issued to a defendant for \$4 on November 5, 2014, the receipt slip was deleted from the system, and the same receipt slip number was issued to a different defendant for \$100. While the CMS has the ability to generate a report documenting voided and deleted receipt slips, this report was not generated and reviewed by municipal division personnel periodically. Additionally, this report does not document when a receipt slip amount is subsequently modified. Due to these significant control weaknesses, the numerical sequence of receipt slips cannot be accounted for properly and there is no assurance all monies collected were deposited. To properly account for monies received, a receipt slip issued in error should be voided and a new receipt slip with a different number prepared to document the correct transaction information.

Dispositions

The CMS allows court personnel to enter certain codes to change the case status to closed even if a balance is still due on the case. When this occurs, the case will not show up on a future court docket for judicial review of the unpaid balance.

Conclusions

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds as well as to protect the integrity of the CMS, controls are necessary to provide reasonable assurance that all transactions are authorized, accounted for properly, and assets are adequately safeguarded. System controls would be improved by limiting user access in the CMS to only those functions necessary to perform their duties, segregating the duties of receipting from that of assessing fines and court costs, restricting the ability to edit and delete transactions, and updating system codes to prevent the closure of cases with outstanding balances. If proper system controls cannot be achieved, an adequate independent review of case activity should be performed and any differences investigated and documented.

Recommendation

The City of Ferguson Municipal Division establish controls to limit user access to only those functions necessary to perform assigned duties, restrict the user's ability to modify, edit and/or delete transactions, and work with the CMS vendor to modify disposition codes to prevent the closure of cases with balances due. If proper system controls cannot be achieved, adequate independent reviews of case activity should be performed and any differences investigated and documented.

Auditee's Response

The example of receipt number 241279 (February 2, 2015) under the heading "assessment of fines and court costs" is the same example used by the Auditor in section 1. As in response to section 1, beginning in March 2015 the Court Clerk worked with representatives of OSCA and with representatives of the CMS to create a voided receipt procedure. User



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

access has been modified so payment clerks are unable to modify a receipt if they make an error. A voided receipt procedure was put into place on May 28, 2015. Additionally, upon the Auditor's suggestions, the full-time Assistant Court Clerk reviews every payment that is taken by the payment clerks to make sure the judgement has not been modified. The city is confident in the procedures that are now in place, which were developed in conjunction with OSCA.

The Court Clerk enters all of the judgements with the exception of cases that are paid through the violations bureau. Per the Auditor's recommendation all judgements/payments are checked by the full-time Assistant Court Clerk to determine if there have been any payment modifications.

In addressing the issue of reduced fines for certain receipts reduced without adequate documentation, the Auditor fails to take into account the policies, procedures, and mandates related to the city's Consent Decree as well as changes in Missouri law and several of the city's municipal ordinances, which were repealed. These events precipitated (and even mandated) the reduction in fines of which the Auditor identifies.

The city's municipal division worked with representatives of OSCA to create a voided receipt procedure that further helps identify potential discrepancies in receipts versus monies collected. In addition, the municipal division has separated duties such that payment clerks are unable to modify or delete a payment receipt in the current court management system. If a payment clerk makes an error and needs to void a receipt, such error is documented and then approved by the Court Clerk.

Auditor's Comment

Auditors considered policies and procedures if documentation was available, and changes to the city's municipal ordinances as noted in this report. We also considered changes to Missouri law even though these were not effective until at least July 1, 2015. While such changes in policies, municipal ordinances, or state law may be appropriate explanations for adjustment of fines and costs previously assessed, the municipal division could not provide documentation of which specific reason applied to some of the cases we reviewed. To ensure all adjustments to case activity are appropriate, adequate documentation should be retained to support the transactions.

4. Accounting Controls and Procedures

We identified significant weaknesses with accounting controls and procedures of the municipal division requiring improvement. For the year ended June 30, 2015, the CMS indicated net collections totaled approximately \$1,027,000. Bonds recorded in the CMS and deposited into the municipal division's bond account during this period totaled approximately \$201,000.



4.1 Segregation of duties and supervisory review

The municipal division had not adequately segregated accounting duties and adequate supervisory reviews of accounting records were not performed.

Neither the Municipal Judge nor other personnel independent of the cash custody and record-keeping functions provided adequate supervision or review of the work performed by court personnel to ensure transactions were appropriate. In addition, no independent or supervisory reviews were performed to ensure all case activity was properly recorded in the CMS and the Municipal Judge's orders were followed.

Two assistant court clerks are primarily responsible for all duties related to collecting court monies, recording and posting this activity to the CMS, and preparing the deposits. All court personnel have the ability to assess and adjust fines and court costs, receipt monies, post noncash transactions, void and delete transactions, and record case dispositions in the CMS. Numerous unauthorized transactions appear to have been made in the CMS including the dismissal of cases on non-court dates, with no documentation of approval by the Municipal Judge. Also, fines and court costs assessed were not always consistent with the Municipal Judge's orders recorded on the defendant sheet or with the Prosecuting Attorney's recommendation documented on manual working dockets or schedule for amended violations, as applicable. An independent comparison of manual case records to electronic case files is needed to determine proper case status.

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 restricting user access rights in the CMS and implementing documented supervisory or independent reviews of accounting records and electronic case information.

4.2 Violation bureau

Fines and court costs were not always assessed in accordance with the VB schedule. In addition, court personnel did not ensure only authorized violations were handled through the VB.

We reviewed 60 citations issued during the year ended June 30, 2015, of which 25 had fines and court costs assessed. The fine assessed for 2 of the 11 citations paid through the VB did not agree to amounts authorized by the VB schedule. Two additional citations paid through the VB were not authorized to be handled through the VB and the amounts assessed were not supported by other judicial orders. The VB schedule shows the types of violations payable through the VB prior to the court date and the standard fines and court costs for those violations.

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, procedures should be established to ensure standard fines and



4.3 Noncash, voided, and deleted transactions

court costs are collected through the VB and only authorized violations are handled through the VB.

The municipal division did not ensure noncash transactions are properly documented and had not established procedures for the review and approval of noncash, voided, and deleted transactions in the CMS by persons independent of the receipting process.

All court personnel have the ability to record noncash transactions in the CMS. Noncash transactions include community service performed; jail time served; and modification or waiver of fines, court costs, and fees. Most noncash transactions should be supported by a documented judicial order and a record of jail time served signed by a jailer or a report of hours of service from a community service organization attesting to the days spent or hours worked for credit, as applicable. As noted in MAR finding number 3.1, the municipal division began using a new CMS in November 2014. The date on which case judgments were assessed and/or modified on cases entered into CMS prior to this conversion were not available after the conversion. During our review of noncash transactions that occurred following the CMS conversion, we noted the following concerns:

- We reviewed 35 of at least 120 cases in which a case judgment amount was modified in the CMS. Eight of the cases had noncash transactions that reduced previously assessed fines by \$561 without supporting documentation. In another 5 of the cases the Prosecuting Attorney amended fines previously assessed without obtaining documented approval from the Municipal Judge.
- We reviewed a separate group of 15 cases with negative judgments recorded (other costs, amounts stayed or waived, time served, and the send letter fee) in the CMS between the November 2014 CMS conversion and June 30, 2015. Twelve of the cases had noncash transactions totaling \$863 that did not have documented authorization to support the negative judgments, which essentially reduced the balance due.

Our review of receipts recorded in the CMS between November 1, 2014, and June 30, 2015, identified 128 voided and 60 deleted transactions. Many of these transactions appeared to result from erroneous receipt transactions and subsequent receipts were immediately recorded in the CMS to correct the errors. However, because the reasons for voiding and deleting transactions were not documented, we could not determine the reasons for all of these transactions. Our review of 14 voided or deleted transactions associated with 10 defendants' cases identified 6 transactions totaling \$522 that did not have documentation to support the reasons for the deleted



receipts and subsequent dismissal or fine reduction of the related cases in the CMS.

Adequate documentation and independent review and approval of noncash, voided, and deleted transactions are necessary to help ensure such transactions are appropriate and reduce the risk of errors, loss, theft, or misuse of funds.

4.4 Bond liabilities and reconciliations

The municipal division did not have adequate procedures to follow up on bonds with negative amounts included on the monthly bond liability lists. While monthly listings of bond liabilities are prepared and reconciled to the bond bank account, at June 30, 2015, the bond liability list included 21 bonds with negative balances. As a result, the total of open bonds exceeded the available bank balance by \$4,925.

Our review of 3 of these negative bonds noted the following:

- Court personnel applied a \$300 bond toward a defendant's open cases. However, the defendant had only posted a \$200 bond.
- Court personnel forfeited a \$300 bond to the city and subsequently refunded the same bond to the defendant.
- Court personnel applied a \$200 bond toward a defendant's open cases. Bond records indicate the defendant posted a \$200 bond, however, only \$100 was transmitted from the police department to the court and subsequently posted to the CMS and deposited.

Following our review, the municipal division requested and received \$4,925 from the city to balance the bond account. The municipal division should continue to review and monitor bond liability lists for accuracy. Any differences should be investigated and reasons for differences documented. Complete and accurate lists of liabilities should be reconciled to the cash balances to ensure records are in balance and sufficient funds are available for the payment of all liabilities.

Recommendations

The City of Ferguson Municipal Division:

- 4.1 Segregate accounting duties to the extent possible and implement appropriate reviews and monitoring procedures.
- 4.2 Ensure fines and court costs assessed for citations paid through the VB agree to the standard fines and court costs and only authorized violations are handled through the VB.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

- 4.3 Require an independent review and approval of noncash, voided, and deleted transactions posted to the case management system and retain adequate documentation to support those transactions.
- 4.4 Ensure bond liabilities lists are accurate, investigate differences between bond liabilities lists and reconciled balances, and make any necessary corrections.

Auditee's Response

- 4.1 *In 2015, municipal court personnel worked with the OSCA to properly segregate duties, put restrictions in place with regard to entries in the CMS, and to implement other "checks and balances."*

User access to the CMS has been modified so payment clerks are unable to modify a receipt if they make an error. A voided receipt procedure was put into place on May 28, 2015. Additionally, upon the Auditor's suggestions, the full-time Assistant Court Clerk reviews every payment that is taken by the payment clerks to make sure the judgement has not been modified.

Additionally, adequate supervision of court personnel by the Court Clerk has been implemented as a result of the city's Consent Decree.

With regard to the allegation that fines assessed were inconsistent with recorded orders and prosecutorial recommendations, the Auditor failed to conduct an independent comparison of manual case records to electronic case files to determine the cause of any alleged inconsistencies. If the Auditor had reviewed the electronic case files in conjunction with the manual case files, these alleged inconsistencies could have been remedied.

Given that controls were developed in conjunction with the OSCA, the city is confident that the procedure currently utilized sufficiently address segregation of duties and supervisory review.

- 4.2 *The Auditor references two citations where the fines imposed were lower than the amount shown for such violations on the fine schedule.*

In addressing the issue of reduced fines for certain receipts reduced without adequate documentation, the Auditor fails to take into account the policies, procedures, and mandates related to the city's Consent Decree as well as changes in Missouri law and several of the city's municipal ordinances, which were repealed. These events precipitated (and even mandated) the reduction in fines of which the Auditor identifies.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

In fact, Paragraph 340 of the Consent Decree states:

...the city will ensure that defendants are provided with appropriate ability-to-pay determinations consistent with the following requirements:

- a. The court will affirmatively inquire as to a defendant's financial capacity prior to initially assessing fines, fees, and costs;*
- b. Where a showing of indigency is made, the court will proportion all fines, fees, and costs imposed by the court to the financial resources of the defendant;*
- c. Individuals who indicate they cannot afford to pay will not be asked to prove their indigency beyond completion of a standard affidavit under penalty of perjury;*
- d. Objective and consistent criteria will be established for proportioning fines, fees, and costs to a defendant's income in cases where a defendant makes a sufficient showing of indigency. These criteria not only will take into account the income of the defendant, but will also consider any documented fines or fees owed to other municipal courts; and*
- e. The city agrees to ensure that ability-to-pay determinations are conducted prior to the court imposing any initial fine or fee, upon any increase in the fine or related court costs and fees, and upon a defendant's request for an ability-to-pay determination at any point in a case, including in cases with preset fines.*

Moreover, municipal judges are available to make decisions at all times as required, not just during the hours when municipal court is in session. A municipal judge's work occurs outside of court hours as well as during court hours. An independent comparison of manual case records to electronic case records would have likely remedied any inconsistencies.

The Auditor fails to present the facts and circumstances of the defendant, which gave rise to the ultimate fines imposed in these two cases. Therefore, the auditee is not able to provide a more thorough response with regard to the factors, which were resulted in the particular fines assessed in the two cases.

With regard to the other two citations mentioned by the Auditor, it is believed that the Auditor is referring to two citations for two property maintenance violations involving trash. While this type of violation was not on the violations bureau "VB" list during fiscal



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

year 2014, the previous Municipal Judge allowed defendants to pay a standard fine if they were in compliance so they didn't have to appear. This type of violation has since been added to the VB list. Currently, the Municipal Judge ensures that all charges that do not require a court appearance are listed on the VB. Of course, a defendant may always request an ability-to-pay determination in lieu of paying the fine listed on the VB.

4.3 *User access to the CMS has been modified so payment clerks are unable to modify a receipt if they make an error. A voided receipt procedure was put into place on May 28, 2015. Additionally, upon the Auditor's suggestions, the full-time Assistant Court Clerk reviews every payment that is taken by the payment clerks to make sure the judgement has not been modified. This procedure addresses cash and noncash transactions, as well as voided and deleted transactions.*

4.4 *The city's municipal division worked with the OSCA in March 2015 (prior to the Auditor's visit) regarding its bond procedures and believes it operated (and currently operates) in compliance with OSCA's requirements. The city's municipal division worked with a representative of OSCA regarding the negative balances and receiving the money back from the city.*

Auditor's Comment

4.1 Auditors reviewed electronic case files in conjunction with the manual case files and dockets. Our independent comparison of these records identified numerous inconsistencies, as stated in the report. We asked the municipal division for documentation to explain these inconsistencies, but division personnel did not provide us any supporting information.

4.2 Auditors compared manual and electronic case records and did not question any reductions in fines and court costs supported by a judicial order or other documented authorization. While the municipal division's response cites mandates related to the city's Consent Decree, nothing in the decree applied to the citations discussed in the finding, and it is therefore irrelevant to those cases.

5. Municipal Division Procedures

Procedures related to municipal division policies, Prosecuting Attorney approval, bonds, monthly reporting, disbursements, fee assessments, and signature stamps need improvement.

5.1 Policies and procedures

Some operating orders were not dated to show the effective date and many policies and procedures were not in writing. For example:

- The Prosecuting Attorney issued three operating orders authorizing court clerks to (1) apply the \$100 bond payment collected toward fines



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

instead of holding it as a bond and to nolle pros (dismiss) certain failure to appear (FTA) cases as part of an amnesty program, (2) nolle pros (dismiss) any FTA cases still open and not adjudicated, and (3) prepare and record recommendations to amend charges for certain violations based on a predefined list of violations and fines. Each order stated it shall remain in effect until withdrawn, revoked, or amended in writing; however, none of these orders or the predefined list were dated or stated an effective date. As a result, it is not possible to clearly determine the effective time periods for these orders or which cases should or should not have been affected by these orders.

- The municipal division did not have written policies and procedures in place during our audit period. The Court Clerk is developing written procedures to provide detailed instructions for the court clerks' daily activities; however, a final version had not been approved and communicated to employees as of July 2016.
- The municipal division lacked a formal written policy regarding the removal of some previously assessed fees. Upon the former Court Clerk's request, the CMS programmer deleted the letter fees and warrant recall fees assessed on most open cases. While the city had repealed the ordinances requiring these fees, a formal judicial order authorizing the deletion of previously assessed fees was not documented.

These weaknesses have contributed to some of the inconsistencies and errors noted throughout the report.

The inclusion of effective dates on operating orders clearly indicates when new procedures are implemented. Maintaining and communicating written guidance results in consistently processed cases and eases supervisory review, allowing errors to be detected.

5.2 Prosecutor approval

The Prosecuting Attorney did not sign all tickets processed by the municipal division and the Prosecuting Attorney's approval of amended and dismissed tickets was not always clearly documented. In addition, the Prosecuting Attorney did not file an information form with the municipal division for the prosecution of FTA ordinance violations.

- The Prosecuting Attorney allowed court personnel to use her signature stamp on uniform citations filed with the division. Our review of 60 cases noted the Prosecuting Attorney's clear authorization to file charges was not always present. Of the 60 cases, 10 had no signature or other approval notation documented and the majority of the remaining 50 cases only contained the Prosecuting Attorney's facsimile signature. There was no indication tickets stamped with the facsimile signature were reviewed or approved by the Prosecuting Attorney.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

- The Prosecuting Attorney did not document her approval of amended tickets. The Prosecuting Attorney authorized the Court Clerk and Assistant Court Clerks to prepare plea agreements to amend certain violations to non-moving, no-point violations based on a recommendation schedule approved by the Prosecuting Attorney. However, documentation of plea agreements provided to defendants on the Prosecuting Attorney's behalf were not retained in the case files, and neither the Prosecuting Attorney nor the defendant/defendant's attorney signed and returned the plea agreement indicating acceptance. When an alternative arrangement is agreed upon between the defendant and the Prosecuting Attorney, a plea agreement signed by both parties is necessary to document the amended charge, fine, and court costs.
- The Prosecuting Attorney's authorization to dismiss charges was not always clearly documented. According to entries in the CMS, charges filed for 12 of the 60 tickets we reviewed were subsequently nolle pro (dismissed); however, there was no written documentation on manual case records, dockets, or elsewhere indicating the Prosecuting Attorney authorized 3 of these dismissals. The CMS notations indicate 2 of these 3 tickets were dismissed upon officer request.
- According to CMS records, 8,979 and 1,867 FTA cases were filed with the municipal division during the years ended June 30, 2014, and June 30, 2015, respectively. Our review of 25 FTA ordinance violation cases filed during the year ended June 30, 2015, noted none of these cases included an information signed by the Prosecuting Attorney charging the defendant with the ordinance violation.

The ability of the clerks to apply the Prosecuting Attorney's signature by facsimile stamp and amend or dismiss tickets 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 Rules 37.34 and 37.35 state all ordinance violations shall be prosecuted by information, be in writing and signed by the prosecutor, and filed with the municipal division. The Prosecuting Attorney's review, documented by 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 or dismissed cases to indicate review and approval.

5.3 Bond procedures

The police department and the municipal division should work together to account for the numerical sequence of bond forms issued. Cash bond forms, while prenumbered, were not issued in numerical sequence and release-on-recognition bond forms were not numbered.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

Police department personnel normally responsible for issuing bond forms did not issue cash bond forms in numerical sequence. Beginning in September 2014, both the police department and municipal division personnel issued bond forms for a period of time, using forms from the same sequence. Neither the police department nor the municipal division maintained records to track which bond forms were held by each department/division. While, the police department prepared a log of all cash bonds transmitted from the police department to the Court Clerk, these logs were not used to account for the numerical sequence of all bond forms issued. The Court Clerk indicated she began printing the bond deposit reports and accounting for the numerical sequence of bond forms as of June 2015, but the resolution of any missing bond forms is not documented.

In addition, the police department issued unnumbered bond forms for individuals released on their own recognizance. A log was not maintained for these forms. Since all bond forms issued do not have a sequential number, neither the Court Clerk nor police department can account for all forms issued.

Our review of the approximately 925 prenumbered bond forms in the sequences issued during the year ended June 30, 2015, identified 82 missing bond forms. Of these 82 missing bond forms, bond log records indicate that 5 of these bond forms were voided, but not retained. Neither the police department nor the Court Clerk could account for any of the 77 remaining bond forms. Sixty of these 77 missing bond forms were in sequential order (numbered 32137 through 32196.)

To reduce the risk of loss, theft, or misuse of bond monies and provide assurance bond monies are accounted for properly, procedures to account for bond forms and transmittal of bonds to the Court Clerk should be established. In addition, the use of generic unnumbered bond forms decreases the ability to ensure bond receipts are recorded and properly transmitted to the municipal division.

5.4 Monthly reports

The Court Clerk did not submit accurate monthly reports of municipal division activity to the state and city. As a result, the OSCA received inaccurate information and the city lacked the information needed to accurately monitor municipal division activity and distribute collections appropriately.

Collections

The Court Clerk generates the monthly Municipal Division Summary Reporting Form from the CMS, showing collection amounts entered into the case management system. This monthly report is submitted to the OSCA and to the city.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

Our review of these reports identified numerous errors related to system programming. The Court Clerk had not adequately reviewed the reports or identified these errors.

The following table presents actual amounts collected versus amounts reported on the February 2015 Municipal Division Summary Reporting Form:

Collections	Actual	Reported	Over/ (Under) Reported
Fines	\$ 94,846	89,795	(5,051)
Court costs	9,408	8,765	(643)
Court Surcharges	11,442	10,666	(776)
Restitution	100	100	0
Parking ticket	0	302	302
Other Costs	3,738	3,736	(2)
Bond Forfeitures	4,028	4,028	0
Total	\$ 123,562	117,392	(6,170)

These differences occurred because the monthly summary report obtained from the CMS was not accurately set up to include amounts collected for all violations. Fines and court costs collected for certain housing violations as well as court costs collected for parking violations were not included in fines and court costs reported on monthly summary reports. After we informed the Court Clerk of these discrepancies, she worked with the CMS programmer to investigate and correct the programming errors.

In addition, payments were not always posted to correct cases. For example, a defendant made a \$102 payment on February 2, 2015, for fines and court costs assessed on two separate cases. The entire \$102 payment was applied to case A, which only had a \$32 balance due. The CMS indicated the defendant was due a \$70 refund, however, this \$70 balance was the amount due for Case B. Because the payment was not applied to case B, the CMS did not allocate amounts collected appropriately for reporting or distribution purposes.

Also, the CMS allowed court personnel to delete transactions as well as backdate transactions to prior period accounting records rather than requiring posting of the transactions in the current period. As a result, any deleted or backdated transactions were not reflected in current period accounting records or included on monthly summary reports of collections generated from the CMS. See MAR finding number 3.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

Disbursements

The municipal division did not have procedures in place to ensure the accuracy of court surcharge amounts reported to the city for disbursement. The Court Clerk generates and provides a monthly summary report of court surcharges to the city for use in preparing disbursements to the state and city. Neither the municipal division nor city personnel reconciled this report to the monthly summary reporting form of collections to ensure amounts reported for disbursement were accurate. Our comparison of these two reports for the month of February 2015 noted distributions exceeded actual collections by \$254.

Conclusions

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 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 and summary reports of surcharges. Such procedures should include ensuring monthly reports include all activities of the entire month, and reconciling amounts received and transmitted to the city for deposit to the activity posted in municipal division records and the city's accounting system.

5.5 Warrant, letter, and non-prosecution fees

The municipal division assessed a potentially improper \$50 warrant recall fee when a warrant was recalled at the defendant's or defendant's attorney's request. The municipal division also assessed a \$75 non-prosecution fee if a complaint filed by a person other than a city officer was withdrawn upon the request of the complaining party, and a \$15 letter fee each time a defendant failed to appear in court and the court mailed the defendant a letter ordering his/her future appearance. In September 2014, the city repealed the ordinances authorizing the warrant recall and letter fees, and in May 2015 the city repealed the ordinance authorizing the non-prosecution fee. The municipal division is currently waiving any of these fees remaining on open cases. During the year ended June 30, 2015, the municipal division collected approximately \$16,000 in warrant recall fees, \$8,840 in letter fees, and \$1,125 in non-prosecution fees.

Section 479.260, RSMo, states a municipality may by ordinance provide for court fees pursuant to sections 488.010 to 488.020, RSMo; however, these sections do not include any provisions that authorize the municipal division to assess warrant recall, letter, or non-prosecution fees.

5.6 CMS hierarchy

The municipal division does not disburse collections in accordance with the municipal hierarchy established by court operating rule.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

The state-approved municipal hierarchy requires disbursement of court costs and surcharges prior to disbursement of restitution, fines, and probation fees. However, when defendants make payments on their cases, the CMS improperly disburses the amounts paid based on the following hierarchy (1) fines; (2) credit card fees, non-prosecution fees, probation fees, restitution, DWI recoupment, warrant recall fees, and letter fees; and (3) court costs and surcharges.

Due to the incorrect CMS hierarchy and limitations within the system, any previously assessed and stayed (waived) warrant recall fees or letter fees are still allocated part of the amounts collected and are disbursed prior to court costs and surcharges. For example, a defendant was initially assessed \$116.50 (\$75 fine, \$15 letter fee, and \$26.50 court costs and surcharges), but \$15 was waived in the CMS (for the letter fee previously assessed), resulting in a balance due and paid of \$101.50. The CMS reported this payment for disbursement as follows (1) \$75 fine, (2) \$15 letter fee, and (3) \$11.50 court costs and surcharges. While the CMS recognized the \$15 reduction in the total balance due, it did not recognize the line item category for the letter fee deletion and instead incorrectly reduced court costs and surcharges due. As a result, the CMS disbursement reports improperly included previously waived fees and excluded some court costs and surcharges.

Missouri Supreme Court Operating Rule 21.03 requires municipal divisions follow the municipal hierarchy for disbursement of amounts collected. This hierarchy requires disbursement of court costs and surcharges prior to disbursement of restitution to political subdivisions, fines and parking penalties, probation fees, and restitution to individuals. The municipal division should work with the CMS programmer to correct the hierarchy parameters within the CMS and develop procedures to ensure payments are disbursed in accordance with state law.

5.7 Signature stamp

Controls over the Municipal Judge's signature stamp were not sufficient. The Municipal Judge authorized court clerks to apply his facsimile signature to warrants and summons notices for bond forfeiture hearings. Court clerks authorized to use the signature stamp did not initial to indicate use and there was no independent review of the documents stamped. On numerous occasions, we observed the Municipal Judge's facsimile signature stamp maintained in an area accessible to employees not authorized to use the stamp.

To reduce the risk of misuse, access to the Municipal Judge's signature stamp should be limited and the use of the signature stamp on documents should be subsequently approved.



Recommendations

The City of Ferguson Municipal Division:

- 5.1 Ensure operating orders specify the effective dates, and policies and procedures are in writing and communicated to employees.
- 5.2 Ensure a citation or information signed by the Prosecuting Attorney is filed for each ordinance violation to be prosecuted. In addition, the municipal division should ensure the Prosecuting Attorney reviews and approves all amended and dismissed tickets. Additionally, plea agreements should be signed by all parties and documented in the case files.
- 5.3 Work with the police department to ensure prenumbered bond forms are issued for all bonds posted and the numerical sequence of all bond forms is accounted for properly.
- 5.4 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 transmitted to the city for deposit to amounts posted in the municipal division records and city accounting records to ensure collections are properly distributed.
- 5.5 Work with the city and legal counsel to ensure proper authorization exists prior to establishing any additional fees.
- 5.6 Work with the CMS programmer to correct the hierarchy parameters within the CMS and implement procedures to ensure payments are disbursed in accordance with state law.
- 5.7 Establish procedures to adequately secure and control the use of the Municipal Judge's signature stamp, including requiring the user to initial the stamp and a subsequent review and approval of stamped documents.

Auditee's Response

- 5.1 *The Auditor fails to take into account the policies, procedures, and mandates related to the city's Consent Decree (which was approved by a federal judge in a formal judicial order) as well as changes in Missouri law and several of the city's municipal ordinances, which were repealed. These events precipitated (and even mandated) the reduction in fines of which the Auditor identifies.*

Among the required procedures, the Consent Decree provides as follows:



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

Paragraph 326(b): "To the extent that it has not already done so, the City will eliminate all pending charges, fines, and fees related to failure to appear violations (previously imposed pursuant to Ferguson Municipal Code § 13-58) without requiring a defendant to make a bond payment, appear in court, or take any other action..."

Paragraph 326(d): "In all cases in which a defendant has made total payments that exceed the amount of the initial fines and fees imposed for a municipal ordinance violation, including payments for associated failure to appear violations, the City will recommend that all fines are stayed and the case closed, with no further collections. The City will provide this amnesty without requiring a defendant to make a bond payment, appear in court, or take any other action. In all cases where payments have already been made that do not total or exceed the amount of the original fine, including payments for associated failure to appear violations, the City will recommend lowering the fine and fee debts owed to the amount of the initial fines and fees imposed, less any form of payment already made by the defendant."

While the previous Prosecutor promulgated several operating orders or policies pertaining to prosecutorial functions, each was for a designated program or function. Each policy was either specifically limited in application to a particular program (such as one of the amnesty programs which ran for a finite period of time) or were of indefinite duration until superseded. When such policies were superseded, they were noted as such and the new policy was implemented.

- 5.2 *The previous Prosecutor and Assistant Prosecutor both authorized the use of their signature stamps on certain documents. Those documents were subject to the review of the prosecutors. The signature stamp has not been used for almost two years unless by one of the prosecutors for convenience.*

With regard to plea agreements, the city has developed a new form that requires both the prosecutor and the defendant's attorney or defendant to sign the plea agreement. By signing the agreement, the defendant's attorney now must represent that he or she has the authority of his or her client to enter into the plea agreement on behalf of the defendant. The Court Clerk no longer prepares plea agreements on behalf of the Prosecutor and the city has appointed one of the part-time assistant court clerks to be the Prosecutors' Assistant.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

The Auditor pointed out that she wasn't sure if the Prosecuting Attorney authorized three dismissals out of 60 case files reviewed. Subsequently during the audit, the Prosecuting Attorney acknowledged responsibility for the dismissals. The previous Municipal Prosecutor reviewed these dismissals and determined that each one was authorized.

Additionally, while certain cases may from time to time, be instantly dismissed by the Prosecutor, separate forms have been prepared to document those dismissals and other types of dismissals.

5.3 *The city now accounts for the numerical sequence of bond forms and has done so since before the Auditor's visit. As noted in the Auditor's report the current Court Clerk keeps track of all bond numbers in sequential order including forms that have been voided since June 2015.*

5.4 *As noted in the Auditor's findings, the current Court Clerk worked with the CMS programmer during the audit to investigate and correct the programming errors that were causing inaccuracies in the monthly reports.*

5.5 *The Auditor fails to take into account the policies, procedures, and mandates related to the city's Consent Decree as well as changes in Missouri law and several of the city's municipal ordinances, which were repealed. These events precipitated (and even mandated) the reduction in fines of which the Auditor identifies.*

5.6 *The municipal court will continue working with the CMS programmer with respect to the hierarchy parameters within the CMS in order to ensure that fines and court cost are disbursed to all respective state agencies and the city in accordance with state law.*

5.7 *The previous Municipal Judge had written an order allowing the Court Clerk to use his stamp for warrants, however, it was kept in a secure location and the Court Clerk would initial next to the signature when using it.*

The current Court Clerk does not use the Municipal Judge's signature stamp. The Municipal Judge signs all required documents personally.

Auditor's Comment

5.1 *Auditors considered policies and procedures, however many were not dated or not in writing. Further, while the response indicates some policies related to programs that ran for a finite period of time, the municipal division was unable to provide clear documentation*



of the dates when those programs ran. The lack of dates on policies and operating orders makes it difficult to determine effective time periods or when they superseded previous orders.

- 5.4 The municipal division's response does not address the portions of the recommendation to discontinue making adjustments to prior periods and to reconcile amounts received and transmitted to the city for deposit with amounts posted in the municipal division records and city accounting records to ensure collections are properly distributed.

6. Ticket Accountability

The police department, public works code enforcement division, and the municipal division need to maintain adequate records to ensure the numerical sequence and ultimate disposition of all tickets, including arrest notifications, uniform citations, complaints, and housing citations issued for violations of municipal ordinances are accounted for properly.

Arrest notifications and
uniform citations

The police department issues prenumbered arrest notifications for some municipal ordinance violations. Additionally, while most uniform citations are issued electronically through mobile ticketing, each police officer is also issued a manual uniform citation book. The Court Clerk records the arrest notification or manual book's ticket sequence on a log when the police officer obtains a book. However, neither the police department nor the municipal division had procedures in place to account for the numerical sequence of arrest notifications or manual uniform citations issued or to ensure the transmittal of all issued arrest notifications or uniform citations to the municipal division. In addition, the municipal division did not record the disposition of unused or voided arrest notifications or uniform citations. Unused uniform citations returned to the division by police officers were shredded.

Complaints

The police department issues complaint forms for some non-traffic ordinance violations, but these forms are not prenumbered. Without prenumbered forms and adequate procedures to account for the numerical sequence and ultimate disposition of these forms, the police department and the municipal division cannot be assured that all forms issued are properly transmitted to the municipal division for processing.

Housing citations

The city's public works code enforcement division issues prenumbered citations for housing code violations. The code enforcement division records the sequence numbers on a log when the enforcement officer obtains a book of citations. However, neither the city's code enforcement division nor the municipal division had procedures in place to account for the numerical sequence of citations issued or voided by code enforcement officers or to ensure all citations issued were properly transmitted to the municipal division for processing.



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Management Advisory Report - State Auditor's Findings

Conclusion

Section VIII.D of Ferguson Municipal Court Operating Order Number 1 requires the Court Clerk to work jointly with the police department to account for all traffic tickets in numerical sequence and maintain a record of the disposition of all tickets assigned and issued by the police department. Properly accounting for the numerical sequence and ultimate disposition of tickets issued would allow the police department, code enforcement division, and municipal division to ensure all tickets are properly submitted for processing. A record should be maintained to account for the ultimate disposition of each ticket to decrease the risk of loss, theft, or misuse of funds. In addition, to ensure all voided tickets can be accounted for properly, written policies and procedures should be prepared for the handling of voided tickets.

Recommendation

The City of Ferguson Municipal Division work with the police department and code enforcement division to ensure the numerical sequence and ultimate disposition of all tickets, including arrest notifications, uniform citations, complaints, and housing citations are accounted for properly.

Auditee's Response

The Court Clerk is currently working with the police department and housing department to develop a procedure to ensure that the numerical sequence of tickets and arrest notifications are accounted for properly. As recommended by the Auditor, when issuing a new summons book to an officer, the Court Clerk checks to ensure every ticket from the previous book has been used and accounted for.

The police department does have a voided ticket procedure and all tickets that are voided must be signed off by a supervisor and then forwarded to the Court Clerk.

Twenty-First Judicial Circuit

City of Ferguson Municipal Division

Organization and Statistical Information

The City of Ferguson Municipal Division is in the Twenty-First Judicial Circuit, which consists of St. Louis County. The Honorable Maura B. McShane 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 an automated case management system provided by Information Technology, Inc., which has been approved for use in municipal divisions by the State Judicial Records Committee.

Personnel

During the year ended June 30, 2015, the municipal division employees and other principal officials included:

Title	Name	Dates of Service During the Year Ended June 30, 2015
Municipal Judge	Ronald J. Brockmeyer	July 1, 2014 - March 9, 2015
Municipal Judge	Roy L. Richter	March 16, 2015 - June 9, 2015
Municipal Judge ¹	Donald McCullin	June 10, 2015 - June 30, 2015
Court Clerk	Mary Ann Twitty	July 1, 2014 - March 4, 2015
Court Clerk ²	Christine Lanfersieck	July 1, 2014 - June 30, 2015
Assistant Court Clerk	Machelle Ciaravino	July 1, 2014 - June 30, 2015
Assistant Court Clerk	Elaine Marsden	July 1, 2014 - June 30, 2015
Assistant Court Clerk	Kelly Green	July 1, 2014 - March 27, 2015
Assistant Court Clerk	Jessica Meyer	July 1, 2014 - February 26, 2015
Assistant Court Clerk	Krystal Nicholson	March 10, 2015 - June 30, 2015
Assistant Court Clerk	Hershaun Simon	March 10, 2015 - May 9, 2015
Prosecuting Attorney ³	Stephanie Karr	July 1, 2014 - June 30, 2015
Assistant Prosecuting Attorney	Bret M. Rich	July 1, 2014 - June 30, 2015
Assistant Prosecuting Attorney	Edward J. Sluys	March 2015 - June 30, 2015

¹ Donald McCullin retired on April 11, 2016. Micah Hall served as the Provisional Municipal Judge until October 2016 when Terry Lynn Brown was appointed Municipal Judge.

² Christine Lanfersieck was promoted from Assistant Court Clerk to Court Clerk on March 5, 2015, to replace Mary Ann Twitty.

³ Stephanie Karr resigned in October 2016 when Lee Clayton Goodman was appointed Prosecuting Attorney.

Financial and Caseload Information

	Year Ended June 30, 2015
Receipts	\$1,026,557
Number of cases filed	6,783



Twenty-First Judicial Circuit
City of Ferguson Municipal Division
Organization and Statistical Information

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 Shelter	2.00
Inmate Security (Biometric Verification)	2.00
Credit Card Fee	4.00
Letter Fee ¹	15.00
Warrant Recall Fee ¹	50.00
Probation Fee	75.00
Non-Prosecution Fee ²	75.00

¹ In September 2014, the municipal division stopped assessing letter fees and warrant recall fees. Letter fees and warrant recall fees previously assessed on open cases are being waived.

² In May 2015, the municipal division stopped assessing non-prosecution fees. Non-prosecution fees previously assessed on open court cases are being waived.

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 webpage.¹ The following table presents data excerpted from the AGO report for the City of Ferguson Police Department. In addition, see the AGO executive summary webpage² for background information on the AGO's vehicle stops executive summary along with definitions for footnotes of the following table.

¹ <https://ago.mo.gov/home/vehicle-stops-report>, accessed on April 12, 2017.

² <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary>, accessed on April 12, 2017



Twenty-First Judicial Circuit
 City of Ferguson Municipal Division
 Organization and Statistical Information

Racial Profiling Data/2014 - Ferguson Police Department - Population 15,865¹

Key Indicators	Total	White	Black	Hispanic	Asian	Am. Indian	Other
Stops	4572	758	3756	11	16	3	28
Searches	409	27	379	1	0	2	0
Arrests	282	17	262	1	0	2	0
Statewide Population %	N/A	82.76	10.90	2.94	1.71	0.41	1.28
Local Population %	N/A	33.65	63.00	1.10	0.60	0.37	1.29
Disparity Index ²	N/A	0.49	1.30	0.22	0.58	0.18	0.48
Search Rate ³	8.95	3.56	10.09	9.09	0.00	66.67	0.00
Contraband hit rate ⁴	29.10	14.81	29.82	100.00	#Num!	50.00	#Num!
Arrest rate ⁵	6.17	2.24	6.98	9.09	0.00	66.67	0.00

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

The 2015 data is available as of June 1, 2016, and can be viewed on the AGO website at <https://ago.mo.gov/docs/default-source/public-safety/2015agencyreports.pdf?sfvrsn=2>.