



Office of Missouri State Auditor
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FOLLOW-UP REPORT ON AUDIT FINDINGS

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

Report No. 2018-050

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City of Ferguson Municipal Division
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*Includes selected findings



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 conducted follow-up work on certain audit report findings contained in Report No. 2017-025, *Twenty-First Judicial Circuit, City of Ferguson Municipal Division* (rated as Poor), issued in April 2017, pursuant to the Auditor's Follow-Up Team to Effect Recommendations (AFTER) program. The objectives of the AFTER program are to:

1. Identify audit report findings that require immediate management attention and any other findings for which follow up is considered necessary at this time, and inform the municipal division about the follow-up review on those findings.
2. Identify and provide status information for each recommendation reviewed. The status of each recommendation reviewed will be one of the following:
 - Implemented: Auditee fully implemented the recommendation, either as described in the report or in a manner that resolved the underlying issue.
 - In Progress: Auditee has specific plans to begin, or has begun, to implement and intends to fully implement the recommendation.
 - Partially Implemented: Auditee implemented the recommendation in part, but is not making efforts to fully implement it.
 - Not Implemented: Auditee has not implemented the recommendation and has no specific plans to implement the recommendation.

As part of the AFTER work conducted, we reviewed documentation provided by municipal division and city officials and held discussions with officials to verify the status of implementation for the recommendations. Documentation provided by the officials included daily and monthly reports, receipt and disbursement records, electronic and manual case files, and various other financial records. We also reviewed the Department of Justice Independent Monitor Spring 2018 Semiannual Report filed in the United States District Court for the Eastern District of Missouri on March 30, 2018. This report is a summary of the results of this follow-up work, which was substantially completed during June 2018.

Nicole R. Galloway, CPA
State Auditor

Twenty-First Judicial Circuit

City of Ferguson Municipal Division

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1. Unaccounted Monies Municipal division receipts totaling at least \$1,426 were unaccounted for. Because some essential records were altered, deleted, or could not be located it could not be determined if additional monies were 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 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 cash receipts totaling \$1,426 were not deposited. We could not readily determine if additional monies were unaccounted for due to inadequate or incomplete records.

The lack of segregation of duties, inadequate controls, and the absence of proper oversight as discussed in the report, contributed to the court not timely detecting these discrepancies. It was apparent municipal division financial activity was not adequately monitored. Due to the court's weak procedures and inadequate or incomplete records, there was 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.

Status **Partially Implemented**

Municipal division officials did not refer the information to law enforcement because they believed the statute of limitations had run out on possible filing of criminal charges. They have implemented some controls, including independent reviews and oversight to prevent and detect the loss or theft of assets. These newly implemented controls are discussed further in other status sections.

2. Municipal Division Records The municipal division needed 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 documented 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 Case Management System (CMS). However,



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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 serves as 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 was less assurance transactions were properly handled.

Recommendation

The City of Ferguson Municipal Division ensure the proper disposition of cases is documented in manual and electronic records and sufficient documentation is maintained to support all case actions.

Status

Partially Implemented

The municipal division developed new forms and procedures to improve documentation in the manual case records and established independent reviews of manual and electronic records. An assistant court clerk, who is not involved in the receipting or deposit preparation process, reviews all electronic and manual case records as payments are made. We reviewed electronic and manual records for 5 cases and noted sufficient documentation in the case files supporting the majority of case actions. However, copies of warrants issued by the Municipal Judge are only maintained in the manual case files if they have been executed by the police department and returned to court personnel. To support activity recorded in the CMS, the municipal division should keep a copy of all pending, executed, or recalled warrants.

For one of the 5 cases, we noted a \$193 bond was forfeited and disbursed to the city on May 17, 2018, without judicial approval. On May 18, 2018, the defendant plead guilty and asked for the bond to be applied to the fine and court costs. On June 1, 2018, the Municipal Judge signed the plea form and ordered the fine and costs waived because the \$193 bond had already been forfeited and disbursed to the city. This action resulted in the court costs not being disbursed to the appropriate entities. When the defendant plead guilty, the court should have requested the \$193 back from the city and applied it to fines and costs so the costs would have been properly disbursed to all appropriate entities. The Court Clerk said by waving the fines and costs, it was not the court's intent to circumvent the payouts to other entities, it was just easier to handle the transaction in this manner than to request the forfeited



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bond back from the city. This bond's disposition was not recorded in the CMS until June 20, 2018, after our inquiry.

2.2 Record preservation and access

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.

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. In March 2016, the Ferguson City Clerk notified the SAO that many of the records damaged by the leak were covered in mold or had been otherwise rendered unreadable. 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.

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 requested records were remediated and our review completed, we identified a number of records still missing. After subsequent discussions and search efforts by city personnel, 3 case files and 33 final dockets we requested still remained 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, many of which contained confidential personally identifiable information and some of which were required by state law to be considered closed records.

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



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Department/Municipal Court building and were also accessed by various other agencies.

Recommendation

The City of Ferguson Municipal Division 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.

Status

Partially Implemented

At the time of our follow-up meeting, the municipal division had made no efforts to remediate the remaining records stored in the municipal public works garage after the SAO remediated certain records necessary to complete our audit in September 2016. Also, public works personnel still have access to these older records. Access to 2015 through 2018 records is now restricted to court personnel. Records for 2015, 2017, and 2018 are stored in the municipal court building and the 2016 records are stored in the old firehouse, accessible only by court personnel. Beginning with the 2016 records, the municipal division is storing closed case files in protective plastic totes.

3. **Case Management System Controls**

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

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. In addition, the CMS did not restrict court personnel's ability to modify receipt slips or to adjust fines and court costs on cases after the initial judgment had been entered.

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 allowed court personnel to modify receipt slip numbers, and to issue the same receipt slip number more than once. In addition, the CMS allowed all court personnel access to modify, void, and/or delete transactions. Also, the CMS allowed court personnel to enter certain codes to change the case status to closed even if a balance was still due on the case, preventing the case from showing up on future dockets.

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.



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Status

Implemented

The municipal division could not establish the recommended system controls or prevent the closure of cases with balances due. However, the municipal division has developed independent reviews to compensate for the system weaknesses. A third assistant court clerk independent of the receipting and deposit preparation process is reviewing all manual and electronic records each time a payment is made. For all transaction modifications, assistant court clerks must now complete an error report form explaining the error and the correction necessary. The independent assistant clerk and the Court Clerk both review the corrected transaction in the CMS, then sign the form to document their review and approval. The approved form is retained in the case file and a copy is retained in the Court Clerk's office and in the daily receipt binder.

4.1 Accounting Controls
and Procedures -
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. Two assistant court clerks were 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 had 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 appeared 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.

Recommendation

The City of Ferguson Municipal Division segregate accounting duties to the extent possible and implement appropriate reviews and monitoring procedures.

Status

Implemented

Two assistant court clerks remain responsible for collecting and recording monies received and preparing deposits; however, they no longer record the assessed fines and court costs unless the case is handled through the Violation Bureau (VB). The Court Clerk records the assessed fines and court costs in the CMS for all cases heard before the Municipal Judge. A third assistant court clerk, who is independent of the receipting functions, performs reviews of court records and payments received, and runs reports to verify the numerical sequence of receipt slips issued. The Court Clerk also reviews deposits, daily receipt reports, and monthly revenue reports.



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4.2 Accounting Controls
and Procedures -
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.

Recommendation

The City of Ferguson Municipal Division 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.

Status

Implemented

The Municipal Judge is now performing documented reviews of all cases closed through the VB and ensures the amounts paid agree to the standard fines and court costs and that only authorized violations are handled through the VB. He then signs and dates all final dockets and backer sheets.

4.3 Accounting Controls
and Procedures -
Noncash, voided, and
deleted transactions

The municipal division did not ensure noncash transactions were 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 had 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.

Recommendation

The City of Ferguson Municipal Division 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.

Status

Partially Implemented

The municipal division has developed procedures for handling voided and deleted receipts. These procedures include modifying the initial receipt slip amount to \$0 and changing the method of payment to void, issuing a new receipt slip for the correct amount, and completing an error report form explaining the error. This form is signed by the assistant court clerk preparing the form, an independent person verifying the correction, and the supervisor completing the final review. Copies of each completed form are maintained in the applicable case file, the Court Clerk's office, and the daily receipt binder. However, the initial receipt slip issued is not always retained in the case file and the amount of the initial receipt slip subsequently modified is not always documented. The Municipal Judge documents his approval for noncash transactions on the defendant sheets and judicial orders maintained in the case files.



5.1 Municipal Division
Procedures - Policies
and procedures

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

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

The municipal division did not have written policies and procedures in place during our audit period. The Court Clerk was developing written procedures to provide detailed instructions for the assistant court clerks' daily activities; however, a final version had not been approved and communicated to employees as of July 2016. In addition, the municipal division lacked a formal written policy regarding the removal of some previously assessed fees. While the city had repealed the ordinances requiring these fees, a formal judicial order authorizing the deletion of previously assessed fees was not documented.

Recommendation

The City of Ferguson Municipal Division ensure operating orders specify the effective dates, and policies and procedures are in writing and communicated to employees.

Status

In Progress

The Municipal Judge now signs and dates all operating orders. Municipal division officials are currently writing policies and procedures regarding court operations, trial procedures, bonding, etc. in conjunction with the Department of Justice (DOJ) and the Independent Monitor for the Consent Decree. All policies approved will be conveyed to employees and some form of training will be provided.

5.2 Municipal Division
Procedures - 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.

Recommendation

The City of Ferguson Municipal Division 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.



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Additionally, plea agreements should be signed by all parties and documented in the case files.

Status

Implemented

The Prosecuting Attorney now signs all citations and informations, and prepares a memo for each case to nolle pros (dismiss), which is forwarded to the municipal division and filed in the applicable case file. All plea agreements are signed by all parties and retained in the case files. The municipal division no longer prepares plea agreements on behalf of the Prosecuting Attorney or enters these agreements into the CMS until they have been accepted and approved by the Municipal Judge.

5.3 Municipal Division
Procedures - 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-recognizance bond forms were not numbered.

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 by the 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 was 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.

Recommendation

The City of Ferguson Municipal Division 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.

Status

Implemented

The police department now issues prenumbered bond forms for all bonds posted. The Court Clerk reviews the sequence of the bond numbers and notifies the police department of any missing numbers.



5.4 Municipal Division Procedures - Monthly reports

The Court Clerk did not submit accurate monthly reports of municipal division activity to the state and city. Our review of these reports identified numerous errors related to system programming. These differences occurred because the monthly summary report obtained from the CMS was not accurately set up to include amounts collected for all violations. In addition, payments were not always posted to correct cases and 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.

In addition, 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.

Recommendation

The City of Ferguson Municipal Division 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.

Status

Partially Implemented

At the time of our follow-up meeting, municipal division personnel were still making adjustments to prior periods. While the Court Clerk is now reviewing the monthly Municipal Division Summary Reporting Forms by comparing daily reports to monthly reports, there are no procedures to reconcile amounts received and transmitted to the city for deposit to the amounts posted in the municipal division records and city accounting records.

5.6 Municipal Division Procedures - CMS hierarchy

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

Recommendation

The City of Ferguson Municipal Division 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.



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Status

Not Implemented

At the time of our follow-up meeting, the municipal division had not implemented procedures to ensure payments are disbursed in accordance with state law. Municipal division personnel indicated they worked with the CMS programmer to correct the hierarchy parameters within the CMS, but the changes caused other problems to occur and they reverted back to the incorrect hierarchy parameters.

6. Ticket Accountability

The police department, public works code enforcement division, and the municipal division did not 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 were accounted for properly.

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.

Status

In Progress

The Court Clerk is now providing a monthly report of citations filed with the court to the police department supervisors. While complaint forms are still not prenumbered, a prenumbered arrest notification now accompanies each complaint. In addition, the Court Clerk now maintains the housing citation books and accounts for those citations. The municipal division is currently working with the DOJ on an audit citation policy to monitor tickets and hopes to have it implemented by the end of 2018.