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Missouri State Auditor

Thirty-Eighth Judicial Circuit

Taney County

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Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Thirty-Eighth Judicial Circuit, Taney County

Accounting Controls and Procedures	<p>Money handling duties are not adequately segregated. Two clerks are able to receive, record, and disburse monies with no involvement or oversight by other employees and can print and sign checks with a facsimile stamp of the Circuit Clerk's signature. Receipts are not always timely processed, posted, or deposited, and audit staff found instances of cash and checks being returned to the issuer instead of being deposited and a refund issued. Monies received were not always secured, and checks and money orders are not restrictively endorsed immediately. The court still held \$26,000 in bond monies from six criminal cases which should have been disbursed, including \$5,000 forfeited in 2010 which should have been disbursed to the County Treasurer, and \$37,000 in a probate case held since 2009 with no case activity. Non-monetary and voided transactions were not always properly documented or reviewed by the Circuit Clerk, which increases the risk of misuse. At December 31, 2012, the court was owed approximately \$1 million, and the Circuit Clerk does not utilize all available collection capabilities to collect. Blank checks were not securely stored, and manual receipt slip books were not properly retained.</p>
Circuit Court Procedures	<p>Budgets are not prepared for several funds, making it harder to effectively monitor actual costs and revenues. Drug court participants receive gift cards as they advance in the program, but no log is maintained to account for the gift cards, and participants do not have to sign anything to document receipt. The Judge's approval was not documented for two of the three 2012 disbursements reviewed from the Drug Court Fund.</p>

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

American Recovery and Reinvestment Act (Federal Stimulus)	The Thirty-Eighth Judicial Circuit, Taney County did not receive any federal stimulus monies during the audited time period.
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*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Thirty-Eighth Judicial Circuit

Taney County

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THOMAS A. SCHWEICH

Missouri State Auditor

Presiding Judge and Court en banc
and
Circuit Clerk of the
Thirty-Eighth Judicial Circuit
Taney County, Missouri

We have audited certain operations of the Thirty-Eighth Judicial Circuit, Taney County in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2012. The objectives of our audit were to:

1. Evaluate the court's internal controls over significant financial functions.
2. Evaluate the court's compliance with certain legal provisions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the court, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal 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 also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the court's management, the Office of State Courts Administrator, and Taney County and was not subjected to the procedures applied in our audit of the court.

For the areas audited, we identified (1) deficiencies in internal controls, and (2) noncompliance with legal provisions. The accompanying Management Advisory Report presents our findings arising from our audit of the Thirty-Eighth Judicial Circuit, Taney County.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

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Thirty-Eighth Judicial Circuit

Taney County

Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

Significant weaknesses were identified with accounting controls and procedures.

According to court records, receipts collected during the year ending December 31, 2012, totaled approximately \$1.6 million. Fines, court costs, and bonds are collected, recorded in the Justice Information System (JIS), and deposited into the Circuit Clerk's main bank account by personnel of the Circuit Clerk's office.

1.1 Segregation of duties and supervisory reviews

The duties of receiving, recording, and disbursing monies are not adequately segregated. While there are 20 employees in the office and most can receipt monies, 3 clerks have receiving, recording, and daily reconciling responsibilities; and 2 of the 3 clerks also have disbursing and monthly reconciling responsibilities. As a result, there are instances where two clerks are responsible for transactions from initial receipt to disbursement without involvement from other clerks. Further, these two clerks can also print and sign checks with a facsimile stamp of the Circuit Clerk's signature; and only one signature is required. While the Circuit Clerk indicated she reviews the monthly reports, her reviews are not documented and she does not review daily receipt and deposit activity.

Thorough supervisory reviews help ensure all transactions are accounted for properly and assets are adequately safeguarded. Such reviews would reduce the possibility of errors, theft, loss, or misuse of funds going undetected. Internal controls would be improved by segregating duties to the extent possible, and the Circuit Clerk performing a thorough supervisory review that includes comparing daily receipt activity to deposits.

1.2 Receipting and depositing

Receipting and depositing procedures need significant improvement.

- Receipts are not always processed and posted to the JIS in a timely manner; and, as a result, receipts are not always deposited timely.

Manual receipt slips issued by the court are not recorded in the JIS in a timely manner and these monies are not deposited timely. Receipts are only included in daily deposits if they are recorded in the JIS as monetary transactions. Of the total 191 manual receipt slips issued in February, June, and August of 2012, 135 (71 percent) were not recorded in the JIS for 2 or more days. We noted some instances where monies recorded on manual receipt slips were not recorded in the JIS and deposited for as long as 27 days after being received. Many of these receipt slips were issued for cash.

Additionally, during a cash count of Probate Division funds conducted on September 19, 2012, we noted 11 of the 22 checks counted were dated in July and August 2012, and had not been receipted or recorded in the JIS. Several days after our cash count we determined the Probate



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Management Advisory Report - State Auditor's Findings

Clerk had not provided us with all funds on hand at the time of our September 19, 2012, cash count. On October 3, 2012, we conducted a second cash count of Probate Division funds and 26 checks were counted with 12 of those checks having been previously counted. Of the remaining 14 checks, 7 were dated in May, June, and July 2012 and had not been receipted or recorded in the JIS.

According to the Probate Clerk, not all documentation was provided by the attorneys for the unprocessed checks and she is unable to initiate the case filing process on the JIS; however, manual receipt slips had not been issued for these monies. Additionally, the Circuit Clerk indicated the Probate Clerk is several weeks behind in processing probate cases. These unprocessed checks were subsequently processed and deposited at various times between September 19 and December 6, 2012, except for one check dated in June 2012 which the Probate Clerk indicated was returned to the attorney on December 10, 2012. However, no supporting documentation was maintained for the returned check.

- Some cash and original checks are returned to the issuer instead of deposited and a refund check issued. While the Circuit Clerk indicated the practice of returning cash and checks to payees is not allowed, we identified numerous instances of this occurring. For example, a \$26,000 check received on May 7, 2012, was returned to a bonding company on May 9, 2012, \$90 cash received on April 25, 2012, was returned to the payee on May 3, 2012, and a \$38 check counted during our cash count on September 19, 2012, was returned to an attorney when a clerk thought the payment was a duplicate payment. However, the attorney returned the check and the check was posted to the JIS on October 5, 2012. Also, as indicated above, another check counted during the October 3, 2012, cash count was returned to the attorney on December 10, 2012.
- Monies received are not always maintained in a secure location. Some unprocessed monies received are maintained on the desks of various clerks throughout the office. For instance, during our cash count conducted on October 3, 2012, we noted 6 of 14 checks dating back to May and June 2012 were attached to files on the Probate Clerk's desk.
- Checks and money orders are not restrictively endorsed immediately upon receipt. The endorsement is applied at the time of deposit.

Failure to implement adequate receipting and depositing procedures increases the risk that loss, theft, or misuse of monies received will go undetected. Proper receipting, recording, and depositing procedures are also necessary to ensure all monies received are handled and accounted for properly.



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1.3 Liabilities

Liabilities are not adequately reviewed to ensure monies are disbursed in a timely manner. As of September 28, 2012, the Circuit Clerk's case liability listing totaled \$331,465. The Circuit Clerk indicated she reviews the listing approximately every 10 days and at month end; however, her review is not adequate to ensure liabilities are disbursed timely. There are numerous cases on the listing that appear inactive and have not been adequately reviewed. We reviewed 13 cases from this listing, and 7 cases had monies that should have been disbursed.

- Six criminal cases included bond monies totaling \$26,000 that should have been disbursed. One case had a \$5,000 bond that had been forfeited in 2010, but not disbursed to the County Treasurer. The remaining five cases had disposition dates included on the liability listing, and after our review, the Circuit Clerk consulted with the Judge and disbursed the bond monies to the proper parties.
- One probate case included monies totaling approximately \$37,000 that had been held since April 2009 with no activity in the case. The Circuit Clerk indicated she would consult with the Judge to determine the proper disposition of funds.

To properly monitor and ensure monies are appropriately disbursed as provided by state law, procedures should be followed to routinely investigate monies remaining on the liabilities list over a specific period of time.

1.4 Non-monetary transactions

Non-monetary and voided transactions in the JIS are not always properly documented or reviewed by the Circuit Clerk.

Non-monetary transactions, including judicial order transactions and uncollectible bad debt write-offs, are transactions where no monies are received; however, a credit is applied or the amount due is changed. All clerks are allowed to enter non-monetary transactions and to void receipt transactions in the JIS. Of the ten nonmonetary transactions we reviewed, eight were not supported by a court order reducing the defendant's debt owed. Additionally, while a report of voided receipt transactions is available through the JIS, this report is not printed and reviewed by the Circuit Clerk and an explanation is not always documented in the JIS to support the voided transaction.

To reduce the risk of loss or misuse of funds, internal controls should provide reasonable assurance that all transactions are accounted for properly. Non-monetary transactions and voided receipt transactions should be supported by adequate documentation and reviewed by the Circuit Clerk to ensure such transactions are appropriate.



Thirty-Eighth Judicial Circuit
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Management Advisory Report - State Auditor's Findings

1.5 Accrued costs

The Circuit Clerk does not review the accrued cost list for accuracy and does not utilize all available collection capabilities to collect accrued costs.

At December 31, 2012, approximately \$1 million was due to the court. We reviewed 10 of the 233 cases with balance due amounts over \$500 that were included on the accrued cost list. We identified one case with a balance due of \$1,500 that was on the list erroneously. According to the case file, the \$1,500 had been collected and disbursed.

Additionally, the Circuit Clerk has not utilized the state's automated tax offset and collection programs for all cases. According to the Circuit Clerk, 2012 cases are enrolled in the collection programs; however, most of the older cases are not enrolled.

To ensure the accrued cost list is accurate, the list should be periodically reviewed. Section 488.5028, RSMo, authorizes courts to report debts in excess of \$25 to the Office of the State Courts Administrator (OSCA) to seek an offset of an income tax refund. Effective July 1, 2006, Missouri Supreme Court Operating Rule 21.06 requires courts utilizing the JIS to participate in the tax offset program. Section 488.5030, RSMo, authorizes courts to contract with a collection agency to pursue past-due court-ordered penalties, fines, restitution, sanctions, and court costs. It also allows fees or costs associated with such collection efforts be added to the amount due, but such fees and costs cannot exceed 20 percent of the amount collected.

1.6 Record storage and retention

Blank checks were not securely stored and manual receipt slip books were not properly retained. Blank checks are stored in an unlocked cabinet and in the printer with access by all employees. Additionally, manual receipt slip books containing receipt slips issued between January 2011 through November 2011 cannot be located by the Circuit Clerk.

To ensure records are properly safeguarded, the Circuit Clerk should ensure access to blank checks is properly restricted and all manual receipt slips books are retained. In addition, Supreme Court Operating Rule 8 requires the accounting records be maintained for a specified time period.

Recommendations

The Circuit Clerk:

- 1.1 Segregate duties to the extent possible and implement appropriate reviews and monitoring procedures.
- 1.2 Record and deposit all monies received in a timely manner, establish procedures to account for and verify manual receipt slips have been recorded in the JIS on a timely basis, make all disbursements by check, maintain monies received in a secure location, and restrictively endorse checks immediately upon receipt.



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- 1.3 Establish procedures to review the status of liabilities to determine the appropriate disposition of funds held on closed and inactive cases.
- 1.4 Implement procedures requiring non-monetary transactions and voids to be documented, reviewed, and approved.
- 1.5 Develop procedures to ensure accrued costs lists are accurate and take appropriate steps to ensure amounts owed are collected, including participating in the state's automated tax offset and collection programs.
- 1.6 Ensure access to blank checks is properly restricted and manual receipt slips books are properly retained.

Auditee's Response

The Circuit Clerk provided the following written responses:

- 1.1 *I will make it a goal to review and monitor daily balancing, receipts, and disbursements; and work toward utilizing other clerks in the office.*
- 1.2 *Our goal is to get the files processed in a timely manner; however, we have to make sure they are correct before filing, and being short on personnel does create some time delays. Manual receipts will be accounted for daily. While it is not always possible, attempts will be made to record manual receipts into JIS and deposit daily, and all disbursements will be made by check. Checks and manual receipt slips have been relocated into a locked cabinet. Additional staff was hired through special projects, and this person has been assisting in the Probate Division. Again, waiting on correction documentation creates a time delay. Monies will be maintained in a secure location and checks will be restrictively endorsed as soon as we can.*
- 1.3 *I am working towards putting a procedure in place to review and dispose of funds on inactive and closed cases.*
- 1.4 *Voids are reviewed and approved on every transaction; however, a written explanation will be noted. I will ensure nonmonetary transactions are properly documented and will follow up on any discrepancies.*
- 1.5 *We are currently reviewing the accrued cost list and sending out payment plan contracts to every defendant placed on probation. The defendant and Probation Officer sign the contract and a signed copy is returned to us for our files. Attempts will be made to utilize the state's collection programs. I will consult with the Judge about these programs.*



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Management Advisory Report - State Auditor's Findings

1.6 *Blank checks and receipt books have already been relocated to a locked cabinet, and will be retained.*

2. Circuit Court Procedures

Budgets are not prepared for the Circuit Clerk's Interest Fund, the Law Library Fund, and the Drug Court Fund. Further, controls over the Drug Court Fund and the Circuit Clerk's petty cash fund need improvement.

2.1 Budgets

Budgets are not prepared for the Circuit Clerk's Interest Fund, the Law Library Fund, and the Drug Court Fund. The Circuit Clerk maintains separate bank accounts for interest and law library monies, and maintains drug court monies in the court's main bank account along with other court monies. Although the court is primarily funded by the state and county, the interest, law library, and drug court monies are spent at the discretion of the court, and during 2012 approximately \$31,000 was disbursed through these funds.

Preparing a budget for public funds aids in the fiscal management of the monies, provides a means to effectively monitor actual costs and revenues, and provides an avenue for both the county and the public to be fully informed of the court's financial picture.

2.2 Drug court purchases

A log is not maintained for gift cards purchased and given to drug court participants, and the Judge's approval of disbursements from the Drug Court Fund is not always documented.

The Circuit Clerk receives and disburses funds related to operating the drug court. Gift cards are purchased from the Drug Court Fund and the Judge gives the gift cards to participants as they advance in the drug court program. The participant is not required to sign any record to indicate receipt of the gift cards and a log is not maintained to account for gift cards purchased, disbursed, and on hand. Approximately \$1,600 was disbursed for gift card purchases during 2012.

Additionally, two of the three disbursements reviewed from the Drug Court Fund during 2012 did not include documentation of the Judge's approval. During the year ended December 31, 2012, \$6,380 was disbursed from the Drug Court Fund.

To ensure gift cards are accounted for properly and disbursements are properly authorized, a log should be maintained of gift cards purchased, disbursed, and on hand; and all disbursements from the Drug Court Fund should be authorized by the Judge.



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Management Advisory Report - State Auditor's Findings

Recommendations

The Circuit Clerk and the Circuit Judge:

- 2.1 Prepare annual budgets for the Circuit Clerk's Interest Fund, the Law Library Fund, and the Drug Court Fund; and provide copies of these budgets to the county budget officer.
- 2.2 Ensure a gift card log is maintained to properly document the purchase, disbursement, and inventory on hand of gift cards, and maintain documentation of the Judge's authorization of all disbursements from the Drug Court Fund.

Auditee's Response

The Circuit Judge and Circuit Clerk provided the following written responses:

- 2.1 *The court will work toward preparing budgets for the Law Library Fund, Circuit Clerk Interest Fund and Drug Court Fund within the statutory requirements for the authorized expenditure of these funds.*
- 2.2 *The Circuit Clerk and Probation Office in charge of drug court have recently began a process that requires drug court participants to sign for any gift cards received and a record is maintained of all cards purchased, disbursed, and on hand. Drug court funds are only disbursed upon approval of the Judge. The court, the probation office and the circuit clerk will work together to fully document that approval.*

Thirty-Eighth Judicial Circuit

Taney County

Organization and Statistical Information

The Thirty-Eighth Judicial Circuit consists of Taney County as well as Christian County.

The Thirty-Eighth Judicial Circuit consists of one circuit judge and four associate circuit judges. The circuit judge hears cases in Taney and Christian Counties. Of the four associate circuit judges, two are located in Taney County and preside over Associate Circuit Divisions I and II. The other two associate circuit judges are located in Christian County. Circuit personnel located in Christian County are not included in the scope of this audit.

Personnel

At December 31, 2012, the judges, Circuit Clerk, and Juvenile Officer of the Thirty-Eighth Judicial Circuit, Taney County, were as follows:

Title	Name
Circuit Judge	Mark Orr
Associate Circuit Judge, Division I	Tony Williams
Associate Circuit Judge, Division II	James K. Justus
Circuit Clerk	Brenda Kay Neal
Juvenile Officer	Michael Scofield

Financial Information

Receipts of the Thirty-Eighth Judicial Circuit, Taney County, were as follows:

	Year Ended December 31, 2012
Court deposits, fee, bonds, and other	\$1,673,507
Drug Court	16,339
Interest Income	2,030
Total	\$1,691,876

Caseload Information

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

	Year Ended June 30, 2012
Civil	3,152
Criminal	4,011
Juvenile	166
Probate	240
Total	7,569



Thirty-Eighth Judicial Circuit
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Organization and Statistical Information

American Recovery and
Reinvestment Act 2009
(Federal Stimulus)

The Thirty-Eighth Judicial Circuit, Taney County did not receive any federal stimulus monies during the year ended December 31, 2012.