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Missouri State Auditor

Thirty-Eighth Judicial Circuit

City of Clever Municipal Division

July 2008

Report No. 2008-44



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Office of
Missouri State Auditor
Susan Montee, CPA

July 2008

An audit was conducted by our office of the Thirty-Eighth Judicial Circuit, city of Clever Municipal Division.

Fines, court costs, and bonds totaling at least \$4,628 were received by the Clever Municipal Division during the period July 1, 2006 through March 13, 2008, but were not deposited, and were misappropriated. Upon discovering the discrepancies noted above in the deposit records of the municipal division, auditors performed a very limited review of other city receipts, and identified an additional cash shortage of \$571 in two of only three water and sewer deposits reviewed. In addition, auditors noted numerous small dollar city receipt slips ranging from \$4 to \$19 for items such as dog tags and trash bags that could not be traced to a deposit. It appears likely additional city cash receipts may have been misappropriated, and the city needs to take steps to obtain an audit of these funds.

The former City Clerk, who also acted as Court Clerk, was hired by the city in December 2004, and was terminated on December 17, 2007. She was subsequently charged with felony stealing and forgery for writing unauthorized checks totaling approximately \$42,000 from the city's bank accounts between September 2006 and December 2007. After our initial visit to the city of Clever on Wednesday, February 20, 2008, the Assistant City Clerk, who had assumed most of the court related duties, abruptly terminated employment on Monday, February 25, 2008. Poor controls over municipal division monies, as well as no independent review of the work performed by city employees allowed these misappropriations to go undetected.

There is inadequate segregation of duties related to the collection and disbursement of court money, and neither the Municipal Judge nor other personnel independent of the cash custody and record-keeping functions provide adequate supervision or review of the work performed. Additionally, numerous poor procedures and controls over the collection of court receipts contributed to the misappropriation.

The final disposition of each case is not consistently documented on the court dockets, Crime Victims Compensation and Police Officers Standard Training and Commission Fund collections were not remitted to the state timely, and the court does not file a monthly report of all cases heard with the city. In addition, monthly listings of open items (liabilities) were not prepared and reconciled to the available cash balance for the bond account, and city employees are allowed to amend traffic violations and collect double the fine amount without documented approval from the Prosecuting Attorney or Municipal Judge. In addition, neither the police department nor the municipal division accounts for the numerical sequence and ultimate disposition of traffic tickets issued.

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YELLOW SHEET

THIRTY-EIGHTH JUDICIAL CIRCUIT
CITY OF CLEVER
MUNICIPAL DIVISION

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STATE AUDITOR'S REPORT



SUSAN MONTEE, CPA
Missouri State Auditor

Presiding Judge
Thirty-Eighth Judicial Circuit
and
Municipal Judge
Clever, Missouri

We have audited certain operations of the city of Clever Municipal Division of the Thirty-Eighth Judicial Circuit. The scope of our audit included, but was not necessarily limited to, the period July 1, 2006 through March 13, 2008. The objectives of our audit were to:

1. Determine if the municipal division has adequate internal controls over significant financial functions such as receipts.
2. Determine if the municipal division has complied with certain legal provisions.
3. Review certain receipts and attempt to determine the amount of any misappropriated funds.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the municipal division, as well as certain external parties; and testing selected transactions.

We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We 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. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion. Abuse, which refers to behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary given the facts and circumstances, does not

necessarily involve noncompliance with legal provisions. Because the determination of abuse is subjective, our audit is not required to provide reasonable assurance of detecting abuse.

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 History, 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.

The accompanying Management Advisory Report presents our findings arising from our audit of the city of Clever Municipal Division of the Thirty-Eighth Judicial Circuit.



Susan Montee, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits: Kenneth W. Kuster, CPA
Audit Manager: Donna Christian, CPA, CGFM
In-Charge Auditor: Ted Fugitt, CPA

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

THIRTY-EIGHTH JUDICIAL CIRCUIT
CITY OF CLEVER
MUNICIPAL DIVISION
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1.	Missing Funds
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Fines, court costs, and bonds totaling at least \$4,628 were received during the period July 1, 2006 through March 13, 2008, but were not deposited, and were misappropriated. While our audit was only of the city of Clever Municipal Division, a limited review of only three city water and sewer deposits identified an additional cash shortage of \$571. As a result, it appears likely additional cash receipts may have been misappropriated from the city's water and sewer collections, and the city needs to take the necessary steps to obtain an audit of these funds.

- A. Receipts totaling at least \$4,628 (\$3,478 in fines and costs, and \$1,150 in bonds) were received by the city of Clever's municipal division or police department during the period July 1, 2006 through March 13, 2008, but were not deposited.

Fines and court costs are generally collected by the Court Clerk or the Assistant City Clerk and deposited into the city's general bank account. Cash bonds are collected and receipted by the Clever Police Department, then transmitted in cash to the Court Clerk for deposit into a separate bond bank account. The Court Clerk also receives bonds from other law enforcement agencies and deposits them into the bond bank account.

A breakdown of the missing receipts is as follows:

- Unrecorded checks were substituted into municipal division deposits of fines and costs in exchange for cash receipts totaling at least \$1,220. For example, a \$750 check received from the Christian County Sheriff's Department for a bond was not recorded by the municipal division, but deposited and cash was withheld and apparently misappropriated. In another example, a check for \$240 for city water security deposits and a \$100 check for a July 4th celebration donation was deposited in the place of municipal division cash receipts.
- In some instances recorded receipts were simply not included in amounts deposited. A comparison of municipal division receipt slips to amounts deposited identified a shortage of at least \$1,915. In one instance, a defendant paid \$73 cash for the full amount of his fine and court costs on December 26, 2007, but was detained on a warrant in May 2008 for failure to pay and required to post a \$250 cash bond. While a receipt slip was issued for the defendant's December 2007 payment, the payment had not been deposited or

recorded in the case file, and appears to have been misappropriated. The city refunded the bond amount to the defendant upon discovering the discrepancy.

- Bonds totaling \$1,150 were receipted but not deposited. At least five cash bonds totaling \$850 received and recorded by the police department were not deposited into the municipal division's bond bank account. According to police department personnel, bond monies were transmitted in cash to either the Court Clerk or Assistant City Clerk; however, no receipt slip was obtained from these court personnel to document the transmittal of cash and the bonds were not deposited. Additionally, a \$300 bond received and recorded by the Court Clerk in the municipal division's receipt book was not deposited.
- Misappropriated funds were also concealed when receipt slip amounts were recorded on the deposit log for less than the actual amount on the receipt slip. Approximately \$193 of the shortage noted above was concealed in this manner.
- A \$150 misappropriation appears to have occurred when the amount recorded on a receipt slip was \$150 less than the actual amount of a check received, and a cash receipt for this amount was not deposited. In July 2006, a deposit of fines and court costs included a defendant's check for \$320, but the receipt slip was only written for \$170, and another \$150 cash receipt was not deposited. According to the defendant's attorney and case file information, \$320 was the judgment for the cases involved and this amount should have been recorded.

In addition, we identified three other court deposits that appeared to differ from recorded receipts by smaller amounts, ranging from \$20 to \$60.

B. Upon discovering the discrepancies noted above in the deposit records of the municipal division, we performed a very limited review of other city receipts, such as water and sewer collections. We compared only three city deposits in January 2008 to recorded receipts or utility payment stubs, and a cash shortage of at least \$571 was identified in two of these three deposits as follows:

- A city deposit of water and sewer collections dated January 28, 2008, for \$2,625 included three unrecorded checks totaling \$240 for water security deposits, and recorded water and sewer collections paid in cash totaling the same amount were not deposited and apparently misappropriated.
- A city water and sewer deposit on January 30, 2008, did not include cash receipts totaling \$331. The misappropriated funds appear to have been concealed through two unrecorded water security deposit checks totaling \$180 substituted into the deposit for cash receipts, and a credit adjustment (rather than a payment) posted to the city's computerized utility accounts receivable records for \$151. A hand written receipt slip (number 330632) was found in the city's records indicating \$151 in cash was paid for the utility charges, but

instead of a payment being posted to the customer's account, a credit adjustment was posted and the cash payment was not deposited and apparently misappropriated.

We also noted numerous small dollar city receipt slips ranging from \$4 to \$19 for items such as dog tags and trash bags which could not be traced to a deposit.

Considering the discrepancies we identified in the limited number of city deposits we reviewed, it is likely additional city funds have been misappropriated. Because our audit was only of the city's municipal division, a separate audit would be necessary to determine any additional funds missing from the city.

The former City Clerk, who also acted as Court Clerk, was hired by the city in December 2004, and was terminated on December 17, 2007. The clerk was subsequently charged with felony stealing and forgery for writing unauthorized checks to herself and other payees totaling approximately \$42,000 from the city's bank accounts between September 2006 and December 2007. After our initial visit to the city of Clever on Wednesday, February 20, 2008, the Assistant City Clerk, who had assumed most of the court related duties, abruptly terminated employment on Monday, February 25, 2008.

Because of the lack of availability of records for periods prior to July 1, 2006, we did not perform extensive auditing procedures and provide no assurances with regard to the accountability of court monies during any earlier time periods.

Poor controls over municipal division monies, as well as no independent review of the work performed by the various city employees, as further discussed in the remainder of the Management Advisory Report (MAR), allowed these misappropriations to go undetected.

WE RECOMMEND the city of Clever Municipal Division, along with the city, work with law enforcement officials regarding criminal prosecution, including restitution of the missing funds. Further, steps should be taken to secure an audit of all city funds to determine any additional funds that may have been misappropriated.

AUDITEE'S RESPONSE

The Mayor provided the following response:

The city has been working with the Christian County Sheriff's Department and the Christian County Prosecuting Attorney regarding the stealing and forgery charges pending against the former City Clerk. We will continue to work with these officials regarding the criminal prosecution and restitution of the missing court monies and the additional city monies misappropriated. We will also be discussing additional audit procedures with our independent auditor regarding the misappropriated city funds.

The Municipal Judge stated:

"I support the efforts of the city to implement the suggestions and recommendations made by the State Auditor. As a part-time municipal judge, my duties are to conduct court and handle as many matters pertaining to the court as time may permit. Unfortunately Clever, like most other small towns, does not pay for additional time by the court for supervising administrative duties to be performed by the clerk nor am I vested with the authority to hire anyone for that purpose. I support the mayor's position to put in place another person to independently supervise the clerk's performance."

2.

Receipt Procedures

Poor procedures and controls over the collection of fines, court costs, and bonds contributed to the misappropriation of municipal division receipts identified in this report. According to municipal division records, approximately \$46,000 was collected during the year ended June 30, 2007, including approximately \$1,500 in bonds collected by the police department.

- Receipt slips were not issued for some monies received, and the method of payment (cash, check, or money order) was not always recorded on the receipt slip and reconciled to the deposits. As a result, unrecorded checks were substituted into municipal division deposits, and recorded cash receipts were not deposited and apparently misappropriated.
- Receipts were not always deposited on a timely basis. For example, only one deposit of municipal division funds was made in November 2007. The deposit, made on November 27, 2007, was for over \$4,000 and included numerous receipts from the beginning of the month. Additionally, the next deposit was not made until January 15, 2008, and totaled \$3,930. Approximately \$2,200 cash was missing from these two deposits.
- Access to court monies was not adequately controlled. Court monies received were sometimes clipped to the individual's case file and kept on a rolling file cart, accessible to all city employees, until deposited.
- The municipal division did not always issue receipt slips for bond monies transmitted to the court from the police department. While the police department wrote a receipt slip for the bond monies they collected, there was no documentation to support the transfer of funds from the police department to the municipal division.
- Payment agreement forms used by the municipal division to establish payment plans for defendants are not prenumbered. As a result, the court could not ensure all instances where a defendant was paying partial payments were accounted for properly.

- Bond forms used by the police department are not prenumbered to properly account for all bonds received.

To ensure all receipts are accounted for properly and deposited intact, receipt slips, with the method of payment documented, should be issued for all monies received, and the composition of the receipt slips should be reconciled to the composition of the deposits. Had such a comparison been performed, some of the misappropriation noted earlier in this report may have been detected.

Additionally, the failure to deposit timely and limit access to undeposited receipts to a minimum number of persons increases the risk of theft or misuse of funds. Also, the transfer of bonds monies from the police department to the municipal division should be documented, and an independent reconciliation of bonds collected by the police department to the bonds deposited by the Court Clerk should be performed. Further, bond forms and payment agreements should be prenumbered and the numerical sequence should be accounted for fully.

WE RECOMMEND the city of Clever Municipal Division issue receipt slips for all monies received with the method of payment documented, and reconcile the composition of receipt slips to the composition of deposits. Additionally, receipts should be deposited intact timely with access to court monies limited. Further, bonds collected by the police department should be reconciled to bonds deposited by the Court Clerk, and bond forms and payment agreement forms should be prenumbered and the numerical sequence accounted for fully.

AUDITEE'S RESPONSE

The Mayor and Municipal Judge provided the following response:

We have recently made numerous improvements in procedures and controls over the collection of fines, court costs, and bonds. Receipt slips are now issued for all monies received and the method of payment is reconciled to the deposits. Deposits are made at least weekly. Court monies are now kept in a separate cash box until deposited. Receipt slips are now issued to the Clever Police Department for all bonds transmitted to the court by Clever Police Department personnel. We are working toward obtaining prenumbered bond forms and payment agreement forms.

3.	Segregation of Duties
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The duties of receiving, recording, depositing, reconciling, and disbursing court receipts were not adequately segregated, and the work performed by various city employees related to the municipal division was not adequately reviewed. Had such controls been in place, some of the misappropriation noted in this report may have been prevented.

The Court Clerk, the Assistant City Clerk, and various other city employees all perform duties related to the collection and disbursement of fines, court costs, and bonds. Neither the Municipal Judge nor other personnel independent of the cash custody and record-keeping functions provide adequate supervision or review of the work performed by these various city employees. The lack of adequate supervision and oversight have placed funds at risk, resulting in the misappropriation of municipal division funds.

WE RECOMMEND the city of Clever Municipal Division adequately segregate the duties of receiving, recording, depositing, reconciling, and disbursing court receipts. If such segregation is not possible, a documented periodic review of municipal division records by an independent person should be established.

AUDITEE'S RESPONSE

The Mayor and Municipal Judge provided the following response:

We are in the process of implementing oversight procedures by an independent person and providing increased reporting to the city council of court related activity.

4. Court Records and Procedures
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The final disposition of each case is not consistently documented on the court dockets, Crime Victims Compensation and Police Officers Standard Training and Commission Fund collections were not remitted to the state timely, monthly reports documenting the court's caseload have not been filed with the Office of State Court Administrator timely, and the court does not file a monthly report of all cases heard with the city. In addition, monthly listings of open items (liabilities) were not prepared and reconciled to the available cash balance for the bond account, and city employees are allowed to amend traffic violations and collect double the fine amount without documented approval from the Prosecuting Attorney or Municipal Judge.

- A. The final disposition of each case is not consistently documented on the court dockets. In addition, the April 2007 court docket could not be located. The ultimate disposition of each case should be recorded on the docket and all court records should be retained to ensure the proper disposition has been recorded in the court records. Section 479.070, RSMo, requires the proceeding for every case commenced before the court to be entered on the docket.
- B. Crime Victims Compensation (CVC) and Police Officers Standard Training and Commission (POST) Fund collections were not remitted to the state on a timely basis. For example, CVC receipts collected from March through December 2007, totaling \$763, were not remitted to the state until February 2008. Additionally, monthly reports documenting the court's caseload have not been filed with the Office of State Court Administrator since March 2007, and the court does not file a monthly report of all cases heard with the city.

Section 479.080, RSMo requires the municipal division to disburse fines and court costs to the city or state, as applicable, at least monthly. In addition, Section 479.080.3, RSMo, requires the Court Clerk to prepare a monthly listing of all cases heard in court, including fines and court costs collected, to be verified by the Clerk or Municipal Judge and filed with the city.

- C. Monthly listings of open items (liabilities) were not prepared and reconciled to the available cash balance for the bond account. The bond account had a cash balance of \$862 and \$1,090 at June 30, 2007 and 2006, respectively. Monthly listings of open items should be prepared and reconciled to the available cash balance to ensure proper accountability over open cases and to ensure monies held in trust by the municipal division are sufficient to meet liabilities. Such reconciliations would allow for prompt detection of errors. Unidentified shortages should be investigated immediately and appropriate action taken.
- D. City employees receipting court monies are allowed to amend traffic violations to violations which result in no points assessed on the defendants' driving records. The defendant pays double the fine on the amended violation. Neither the city's Prosecuting Attorney nor the Municipal Judge provide adequate oversight or document their approval of this process.

Further, municipal division personnel indicated required traffic offenses have not been reported to the Missouri Department of Revenue (DOR) in over a year and they are now having difficulty determining whether some of these tickets were amended, due to lack of adequate documentation of amended tickets.

To ensure the proper disposition of all cases has been entered in the court records, the Prosecuting Attorney should sign or initial all amended tickets indicating his approval, and the amount of fines on amended tickets should be determined and documented by the Municipal Judge. Additionally, Section 302.225, RSMo, requires that records of any pleas or findings of guilty on traffic violations under the laws of the state, county or municipal ordinance be reported to the DOR within seven days of the conviction date.

WE RECOMMEND the city of Clever Municipal Division:

- A. Ensure the proper disposition of cases is documented on the court dockets, and all court dockets are maintained.
- B. Establish procedures to ensure amounts are disbursed to the state monthly, and all required reports are timely filed.
- C. Prepare monthly listings of bond open items and reconcile the listing with the balance in the bond account.

- D. Require the Prosecuting Attorney's signature on all amended tickets, and ensure the Municipal Judge's determination of fines on amended tickets is documented. Further, the court should ensure all required traffic offenses are reported to the Missouri Department of Revenue in accordance with state law.

AUDITEE'S RESPONSE

The Mayor and Municipal Judge provided the following responses:

- A. *All court dockets are now retained and properly filed. We will improve the documentation of court activity on court dockets.*
- B. *All amounts are now disbursed to the state timely and all required reports will be filed.*
- C. *Currently all bonds received are being properly accounted for and we will attempt to determine the proper disposition of the balance of the bond account from the time period of the former court clerk.*
- D. *All required offenses are now being reported to the Missouri Department of Revenue. The Prosecuting Attorney and Municipal Judge will review current procedures regarding amended tickets to determine any changes needed.*

5. Ticket Accountability

Neither the police department nor the municipal division accounts for the numerical sequence and ultimate disposition of traffic tickets issued. The police department maintains a log of ticket books assigned to officers; however no record is maintained to account for the numerical sequence of each individual ticket. Without a proper accounting for the numerical sequence and ultimate disposition of tickets issued, the court and the police department cannot be assured all tickets issued were properly submitted for processing.

WE RECOMMEND the city of Clever Municipal Division work with the police department to ensure the numerical sequence and ultimate disposition of all tickets issued are accounted for properly.

AUDITEE'S RESPONSE

The Mayor and Municipal Judge provided the following response:

We are in the process of establishing procedures to account for the numerical sequence of all tickets.

HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

THIRTY-EIGHTH JUDICIAL CIRCUIT
CITY OF CLEVER
MUNICIPAL DIVISION
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

The city of Clever Municipal Division is in the Thirty-Eighth Judicial Circuit, which consists of Christian and Taney counties. The Honorable Mark Orr 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 (VB) in which fines and costs are collected at times other than during court and transmitted to the city treasury.

Operating Costs

The operating costs and court salaries of the municipal division are paid by the municipality.

Personnel

At June 30, 2007, the municipal division employees were as follows:

Municipal Judge	Mark Rundel
City Clerk/Court Clerk	Julia Keithley (1)

- (1) Misti Clinkingbeard, who began employment with the city in August 2007 as Assistant City Clerk, assumed the duties of City Clerk/Court Clerk following the termination of Julia Keithley on December 17, 2007. Clinkingbeard terminated employment on February 25, 2008. Kristy Stewart began employment as the City Clerk on March 3, 2008. Mayor Trisha Elam and other temporary employees have assisted with court related duties.

Financial and Caseload Information

	Year Ended <u>June 30, 2007</u>
Receipts	\$ 45,958
Number of cases filed	374

DOCUMENTATION TO SUPPORT AUDIT FINDINGS

THIRTY-EIGHTH JUDICIAL CIRCUIT
 CITY OF CLEVER
 MUNICIPAL DIVISION
 DOCUMENTATION TO SUPPORT AUDIT FINDINGS

MANAGEMENT ADVISORY REPORT, PART 1.A.

Missing fines and costs:

<u>Deposit Date</u>	<u>Receipt Numbers</u>	<u>Cash Receipts*</u>	<u>Cash Deposited</u>	<u>Missing Receipts</u>	
7/21/2006	2846-2851	\$ 150	-	150	
8/8/2006	2857-2867	243	50	193	**
8/24/2006	2868-2875	223	123	100	**
6/6/2007	3123-3149	1,119	679	440	
9/28/2007	3226-3241	724	631	93	
11/28/2007	3279-3308	589	2	587	
1/15/2008	3309-3349	1,886	269	1,617	***
2/28/2008	3350-3365	348	50	298	****
		\$ <u>5,282</u>	<u>1,804</u>	<u>3,478</u>	

Missing bonds:

<u>Receipt Date</u>	<u>Receipt Number</u>	<u>Bond Amount</u>	
2/23/2007	3343	\$ 250	
3/30/2007	3097	300	
5/9/2007	3347	250	
5/18/2007	3348	200	
11/15/2007	3350	150	
		\$ <u>1,150</u>	*****

* Represents only those receipts marked cash or receipts unmarked but appear to be cash.

** Receipt #2865 included in August 24, 2006 deposit. The cash deposited for August 24, 2006 has been increased for a \$75 check to the city's petty cash fund included in the deposit.

*** Cash deposited includes \$18 of the cash missing from receipt number 3329 that was located in the case file and deposited in March 2008.

**** Excludes receipt numbers 3352, 3356 and 3357 which were included in subsequent deposits. The \$298 missing represents two receipts marked cash and dated February 4 and 5, 2008.

***** Receipt number 3097 received by Court Clerk. Remaining bonds received by police department.