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Missouri State Auditor

Forty-Fifth Judicial Circuit

City of Foley Municipal Division



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Nicole R. Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of Foley Municipal Division

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| Background | The Foley Municipal Division audit was completed as part of the Municipal Courts Initiative of the State Auditor's Office. The Municipal Courts Initiative adds additional areas of review to the standard court audit process. In addition to reviewing financial transactions, accounting practices, and compliance with court rules and state law, auditors also reviewed statistical information, tickets and other penalties to identify activities and other practices that may impair impartiality or damage the court's credibility with citizens. |
| Accounting Controls and Procedures | Significant weaknesses in accounting controls and procedures of the municipal division provide no assurance that payments received were appropriately recorded, deposited and distributed. The same employee serves as the court clerk and city clerk, and neither the municipal judge nor city personnel adequately review the clerk's accounting functions and records. Auditors identified numerous discrepancies among accounting records and the clerk was unable to account for \$700 cash withdrawn. The clerk did not properly disburse Crime Victims Compensation fees pursuant to state law. |
| Municipal Division Procedures | Monthly reports submitted to the Office of State Courts Administrator (OSCA) and the city were inaccurate and did not report collections totaling \$13,540. The municipal judge does not review the final disposition of each case and the prosecuting attorney does not sign all tickets processed by the municipal division. The municipal division also assesses two potentially improper fees without statutory authority, a \$100 fee for failure to appear when a defendant misses a court appearance for a traffic violation and a \$25 warrant fee. |
| Monitoring of Excess Revenues | The city failed to accurately calculate excess revenues from traffic violations, and based on auditors' calculations, at least \$209,057 should have been remitted to the Department of Revenue for 2014. |

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

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

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

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NICOLE GALLOWAY, CPA

Missouri State Auditor

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

We have audited certain operations of the City of Foley Municipal Division of the Forty-Fifth Judicial Circuit in fulfillment of our duties under Chapter 29, RSMo, and as part of the State Auditor's Municipal Courts Initiative. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2014. The objectives of our audit were to:

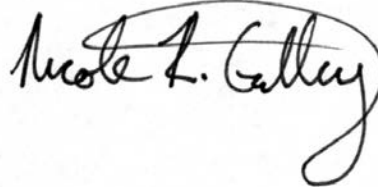
1. Evaluate the municipal division's internal controls over significant financial functions.
2. Evaluate the municipal division's and city's compliance with certain legal provisions.
3. Evaluate the municipal division's compliance with certain court rules.
4. Evaluate the city's compliance with Section 302.341.2, RSMo, which restricted the amount of fines and court costs that may be retained from traffic violations.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the municipal division, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

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

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the municipal division's management and was not subjected to the procedures applied in our audit of the division.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, (3) noncompliance with court rules, and (4) noncompliance with Section 302.341.2, RSMo. The accompanying Management Advisory Report presents our findings arising from our audit of the City of Foley Municipal Division of the Forty-Fifth Judicial Circuit.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is fluid and cursive, with a large loop at the end of the last name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

| | |
|-----------------------|------------------------------------|
| Deputy State Auditor: | Keriann Wright, MBA, CPA |
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City of Foley Municipal Division

Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

We identified significant weaknesses in the accounting controls and procedures of the municipal division. As a result, there is no assurance all monies received were appropriately recorded, deposited, and distributed. According to the court's case management system, fines and court costs collected and bonds applied during the year ended December 31, 2014, totaled approximately \$348,000. Bonds deposited into the municipal division bond account during 2014 and not yet applied to cases (open bonds) as of December 31, 2014, totaled approximately \$2,000.

1.1 Oversight

Neither the Municipal Judge nor city personnel perform adequate supervisory or independent reviews of accounting functions and records. Proper segregation of duties within the municipal division is not possible because the Court Clerk is the only employee. The Court Clerk also serves as city clerk and performs all accounting functions of the municipal division and the city. As a result, the Court Clerk is responsible for all duties related to collecting, recording, and depositing monies, posting fines and court costs into the case management system, disbursing monies, preparing financial reports, and performing bank reconciliations. No one independent of the cash custody and record-keeping functions reconciles recorded receipts to deposits, or reviews disbursements.

To reduce the risk of loss, theft, or misuse of funds, internal controls should provide reasonable assurance all transactions are accounted for properly and assets are adequately safeguarded. Internal controls could be improved by implementing documented thorough supervisory or independent reviews of accounting records.

1.2 Receipting, recording, and depositing procedures

The municipal division does not have adequate receipting, recording, and depositing procedures in place. As noted above, the Court Clerk also serves as city clerk. The Clerk records both court monies and city monies on the same deposit slips but does not maintain adequate documentation to clearly identify the court receipts and city receipts included in each deposit. In addition, the Clerk does not reconcile the composition of receipt slips to the composition of deposits, account for the numerical sequence of receipt slips issued, or deposit all monies intact and timely.

The court's case management system is capable of producing a report showing the numerical sequence of receipt slips issued, the method of payment, and totals by composition to reconcile to each deposit. However, the Clerk indicated he was not aware of this report during the first few months of 2014, and did not retain copies of the reports printed for the remainder of the year. Our review of receipt slips issued during the months of March and May 2014, identified numerous discrepancies and processing delays.

- We were unable to trace cash receipts totaling \$195 to deposits. The case management system receipt records indicate \$444 in cash was



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received from 3 defendants on March 11 and 12, 2014, but only \$277 in cash was deposited in the bank on March 13, 2014, resulting in a cash shortage of \$167. In addition, case management system and manual receipt records indicated cash totaling \$1,816 was received between February 28, 2014, and March 6, 2014, while deposit records show only \$1,788 in cash was deposited on March 7, 2014, resulting in a cash shortage of \$28.

- The Court Clerk did not issue receipt slips for all monies received. During our review of deposits related to receipt slips issued in March 2014, we identified 2 checks totaling \$458 deposited on March 24, 2014, and April 5, 2014, that appear to be court receipts but were not recorded in the case management system or on manual receipt slips.
- The Court Clerk does not reconcile manual receipt slips issued to manual receipt slips recorded in the case management system. We were initially unable to trace 13 receipt slips totaling \$2,006 recorded in the case management system on March 17 and 18, 2014, to a deposit. After repeated inquiries, the Court Clerk provided manual receipt slips and deposit records showing \$1,652 was received and deposited during 2012, and the remaining \$354 was received and deposited during 2013. The Court Clerk indicated the former Court Clerk failed to record these manual receipt slips in the case management system so he recorded them in March 2014, after printing a report of open cases from the system and investigating older cases on the report. However, the Court Clerk did not record any comments when posting this information in the case management system to explain what occurred. As a result, there is no assurance all monies collected were properly recorded in the system and deposited or that receipts and disbursements are recorded and made in the proper period.
- The Court Clerk does not account for the numerical sequence of receipt numbers assigned by the case management system. The system assigns a receipt number for all monies recorded in the system. Our review noted several receipt numbers were skipped or not issued. Subsequently, the Court Clerk discussed this matter with the system programmer and determined the receipt numbers were skipped due to intermittent functionality issues within the system. The Court Clerk was not aware of the skipped receipt numbers or system problems prior to our discussions with him. Reports of receipt numbers are available from the case management system. Reviewing available reports would ensure all receipt numbers are accounted for and there is a valid reason for skipped numbers in the numerical sequence.
- The Court Clerk does not deposit receipts intact or timely. For example, while other receipts received on February 4, 2014, through February 28,



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2014, were deposited timely, a check for \$392 received on February 4, 2014, and twelve other receipts totaling \$1,444 received on February 28, 2014 were held and not deposited until March 7, 2014. In addition, receipts totaling \$3,982 received on May 22 and 23, 2014, were held and not deposited until May 30, 2014.

- We identified 2 receipt slips issued on May 22, 2014, totaling \$200, on which the method of payment was improperly recorded as cash instead of check. The Court Clerk did not detect and correct these errors because the composition of receipt slips is not reconciled to the composition of monies deposited.

Failure to implement adequate receipting, recording, and depositing procedures increases the risk that loss, theft, or misuse of monies will go undetected.

1.3 Change fund

The Court Clerk did not maintain the change fund at a constant amount and cannot account for \$700 in cash withdrawn prior to October 2014. Beginning in October 2014, the municipal division established procedures to maintain the change fund at a constant amount of \$200. Between March 19 and September 25, 2014, 7 checks, totaling \$1,675, made payable to cash were issued from the city's general fund bank account. The memo section of the checks indicates these monies were change for court then for petty cash after court. The Court Clerk indicated he placed these monies into the city's petty cash fund after court each month; however, he does not maintain adequate records for the petty cash fund and could not provide documentation to account for cash totaling \$700 for the months of March, May, and June 2014. As a result, we were unable to determine if these monies were properly returned to the city.

To safeguard against possible loss, theft, or misuse of funds, change funds and petty cash funds should be maintained at a constant amount or imprest basis and the funds should be periodically counted and reconciled to the authorized balance by an independent person. In addition, documentation should be maintained by the city to provide accountability as to the disposition of the monies used for the petty cash.

1.4 Bond liabilities and reconciliations

The Court Clerk does not generate a list of liabilities (open bonds) for comparison to the reconciled bond bank account balance and is unable to agree open bonds to the account balance.

While a list of outstanding bonds is maintained in the case management system, the list is not printed and reconciled to the bond account balance. At our request, the Court Clerk generated a list of open bonds at February 28, 2015, and immediately noticed the list was not accurate. For example, a \$350 bond had been applied to a defendant's balance in the case



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management system on February 28, 2014, but was never disbursed from the bond bank account to the city's general account for fines and court costs paid. The Court Clerk investigated other discrepancies and made the proper disbursements on March 9, 2015. After adjustments, the Court Clerk generated an updated list of open bonds, and the reconciled bank balance of \$2,615 exceeded the list of open bonds by \$45. The Court Clerk indicated he will continue to investigate the unidentified overage.

Monthly reconciliations between liabilities and the reconciled bank account balance are necessary to ensure proper accountability over open cases and to ensure monies held in trust are sufficient to meet liabilities. In addition, monthly lists of liabilities are necessary to ensure all bond dispositions have been properly recorded. To properly monitor bonds and ensure the appropriate disposition of monies, procedures should be implemented to routinely investigate bonds remaining on the liabilities list over a specified period of time.

1.5 Monthly disbursements

The Court Clerk did not properly disburse Crime Victims Compensation (CVC) fees collected. The Court Clerk disbursed to the Department of Revenue (DOR) all CVC fees collected, totaling \$12,185 for the year ended December 31, 2014, instead of retaining and transmitting 5 percent (\$609) to the city treasury as required by state law.

Section 595.045.6 RSMo, and Section III.B.2. Municipal Court Operation Order Number 1, requires 95 percent of the CVC fees to be paid monthly to the DOR and the remaining 5 percent to be disbursed to the city treasury.

Recommendations

The City of Foley Municipal Division:

- 1.1 Ensure documented thorough independent or supervisory reviews of accounting records are periodically performed.
- 1.2 Ensure a receipt slip is issued for all monies received by the municipal division. In addition, account for the numerical sequence of receipts, ensure all receipts are properly recorded, deposited intact, and the composition of the deposit is reconciled to the method of payment on the receipt slips issued.
- 1.3 Maintain the change fund at a constant amount and periodically count and reconcile the monies on hand to the authorized balance. The municipal division should also work with the city to ensure any amounts transmitted to the city's petty cash fund are accounted for properly.
- 1.4 Prepare monthly lists of liabilities and reconcile the lists to the bank balance, promptly investigate and resolve differences, and establish



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procedures to review the status of liabilities to determine the appropriate disposition of funds held.

- 1.5 Develop procedures to ensure the monthly distributions are properly calculated and disbursed in accordance with state law.

Auditee's Response

The City of Foley Municipal Division provided the following responses:

- 1.1 *The court has previously mandated "independent" reviews or comparisons of the accounting records. We are implementing this recommendation and will follow up.*
- 1.2 *The court has implemented this recommendation.*
- 1.3 *The court has implemented this recommendation.*
- 1.4 *The court has implemented this recommendation.*
- 1.5 *The court has made recommendations to the Court Clerk, Mayor and the Board of Aldermen in order to ensure the monthly distributions are properly calculated and disbursed in accordance with state law.*

2. Municipal Division Procedures

Municipal division procedures need improvement.

2.1 Monthly reporting

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

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

Our review of the monthly reports identified numerous errors. The Court Clerk had not adequately reviewed these reports or identified these errors. These errors occurred mostly because the monthly summary report did not include amounts collected for failure to appear fees, warrant fees, housing fees, and online convenience fees. As a result, the Court Clerk did not report



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collections totaling \$13,540 to the OSCA for the year ended December 31, 2014.

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

2.2 Case dispositions

The Municipal Judge does not approve the final disposition of cases for each case brought before the court and does not review and approve traffic and ordinance tickets paid at the violations bureau.

The Court Clerk records the case activity and final disposition for each case on the official docket sheets maintained electronically in the case management system, but does not print the final docket sheet for the Municipal Judge's review and approval. The Municipal Judge and Prosecuting Attorney occasionally make notations on the manual docket sheets attached to the case files; however, this procedure is not done consistently and the Municipal Judge does not sign the manual docket sheets.

Supreme Court Operating Rule 4 requires municipal divisions to maintain a docket or backer sheet for each case. All information regarding the case should be documented including, but not limited to, a copy of the ticket, case number, defendant name, sentence, bond information, warrant information, and disposition of the case. Accurate recording of the case information is necessary to ensure all fines and court costs have been properly collected and deposited. In addition, to ensure the recorded disposition of all cases is proper, the Municipal Judge should sign the docket or backer sheet to indicate approval of the recorded disposition.

2.3 Prosecutor approval

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

The Prosecuting Attorney allows the Court Clerk to maintain and use his signature stamp on traffic tickets and in some cases on docket or backer sheets. Our review of 59 tickets noted the Prosecuting Attorney's clear



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authorization to file charges was not present. Of the 59 tickets, 6 tickets contained the Prosecuting Attorney's facsimile signature and the other 53 tickets had no signature or other approval notation. Subsequent actions to amend or dismiss charges were also not clearly authorized by the Prosecuting Attorney.

For the 59 tickets reviewed, 5 of 17 plea agreements to amend charges were not signed or initialed by the Prosecuting Attorney. The Court Clerk prepares plea agreements on municipal division letterhead to amend traffic violations to non-moving, no-point violations in response to requests he receives from defendant's attorneys. The defendants and their attorneys sign and return the plea agreements directly to the Court Clerk for processing. The Prosecuting Attorney will sometimes initial the plea agreements but this procedure is not done consistently. As a result, there is less assurance the Prosecuting Attorney authorized all plea agreements.

Six of the 59 tickets were later dismissed; however, 2 of the dismissed tickets were not signed or initialed by the Prosecuting Attorney. The Court Clerk is allowed to nolle pros (dismiss) traffic violations issued for no proof of insurance if the defendant later provides proof of insurance. It is not always possible to determine which charges were dismissed by the Prosecuting Attorney or dismissed by the Court Clerk and there is no indication charges dismissed by the Court Clerk are reviewed by the Prosecuting Attorney to ensure their propriety.

The ability of the Court Clerk to amend tickets and apply the Prosecuting Attorney's signature by facsimile stamp without a review by the Prosecuting Attorney is a significant control weakness, and increases the likelihood of tickets being handled improperly and the risk of loss, theft, or misuse of monies going undetected. Missouri Supreme Court Rule 37.35 states citations shall be in writing and signed by the prosecutor and filed with the municipal division. The Prosecuting Attorney's review, documented with his signature, is needed to provide assurance proper cases and charges are filed with the municipal division. Additionally, to ensure the proper disposition of all cases has been entered in the municipal division records, the Prosecuting Attorney should sign or initial all amended or nolle pros tickets indicating his review and approval.

2.4 Warrants

The Municipal Judge does not sign warrants issued and has not issued written authorization for the Court Clerk to sign warrants on his behalf. In addition, the Municipal Judge allows the Court Clerk to use his signature stamp on warrants and failure to appear notices. Without the signature or written authorization, there is no documentation the warrants were authorized. The municipal division issues warrants to defendants who miss court appearances or do not pay their fine.

Supreme Court Rule 37.45 states a warrant shall be signed by the judge or by the clerk of the court when directed by the judge for a specific warrant.



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To ensure warrants are properly issued in accordance with Supreme Court rules, the municipal judge should sign warrants or provide specific written authorization for the Court Clerk to sign warrants and discontinue allowing the use of his facsimile signature.

2.5 Ticket accountability

The police department and the municipal division do not work together to ensure the numerical sequence and ultimate disposition of all tickets issued are accounted for properly. Police officers sign and record the ticket sequence numbers on a log when they obtain ticket books. The Police Chief reviews tickets issued by officers for accuracy and gives them to the municipal division for processing. However, there are no procedures to account for the numerical sequence of all tickets issued or to ensure the transmittal of all issued tickets to the municipal division.

Neither the police department nor the Court Clerk could initially locate 2 of 26 tickets we reviewed. Upon inquiry, police department personnel believed these tickets may have been voided, but not retained by the department. Approximately 2 weeks after our inquiry, the Court Clerk received a fax from a defendant's attorney containing copies of these 2 missing tickets. Police department personnel believe the police officer accidentally gave the defendant all copies of these tickets. It is unclear whether these tickets would have been properly processed if the faxed information had not been provided.

Also, for 3 of the 26 tickets reviewed, the Court Clerk incorrectly entered the ticket number into the case management system, making it difficult to ensure the ticket had been properly filed with the municipal division.

Section VIII D. of Municipal Court Operating Order Number 1 requires the Municipal 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. Without properly accounting for the numerical sequence and ultimate disposition of tickets issued, the department and municipal division cannot 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 properly accounted for, written policies and procedures should be prepared for the handling of voided tickets.

2.6 Failure to appear and warrant fees

The municipal division assesses a potentially improper \$100 failure to appear (FTA) fee when a defendant misses a required court appearance for a traffic violation (infraction). The municipal division assesses the FTA fee on the original traffic violation and does not charge the defendant with a separate infraction for the failure to appear. The municipal division also assesses a potentially improper \$25 warrant fee for each warrant issued for



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failure to appear in court and/or pay amounts due. According to municipal division records, FTA fees and warrant fees collected totaled approximately \$10,211 and \$1,275, respectively, for the year ended December 31, 2014.

Section 544.665.2(4), RSMo, states that failure to appear is an infraction if the criminal matter for which the person was released includes only the violation of a municipal ordinance, provided that the sentence imposed shall not exceed the maximum fine that could be imposed for the municipal ordinance for which the accused was arrested. Although current state law allows for the issuance of a separate violation for failure to appear, there is no statutory provision authorizing the municipal division to assess the FTA fee to the original traffic violation. In addition, per Section 479.260, RSMo, 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 the warrant fee.

Recommendations

The City of Foley Municipal Division:

- 2.1 Establish procedures to ensure accuracy of the monthly Municipal Division Summary Reporting Forms.
- 2.2 Ensure the proper disposition of cases is documented on the court dockets or backer sheets and all court dockets and backer sheets are signed by the Municipal Judge.
- 2.3 Ensure the Prosecuting Attorney signs all tickets and reviews and approves all amended and dismissed tickets. Additionally, the Prosecutor Attorney should discontinue allowing the use of facsimile signatures.
- 2.4 Ensure warrants are signed by the Municipal Judge or the Court Clerk, when directed by the Municipal Judge for a specific warrant. Additionally, the Municipal Judge should discontinue allowing the use of facsimile signatures.
- 2.5 Work with the police department to ensure the numerical sequence and ultimate disposition of all tickets, including voided tickets, are accounted for properly.
- 2.6 Work with the city and legal counsel to reevaluate the FTA fee and the warrant fee and the authority to assess these fees.



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Auditee's Response

The City of Foley Municipal Division provided the following responses:

- 2.1 *The court has implemented this recommendation and began at the time the previous Court Clerk met with State Auditor's Office (SAO) staff.*
- 2.2 *The court has implemented this recommendation and began at the time the previous Court Clerk met with SAO staff.*
- 2.3 *The court has implemented this recommendation and began at the time the previous Court Clerk met with SAO staff.*
- 2.4 *The court has implemented this recommendation and began at the time the previous Court Clerk met with SAO staff.*
- 2.5 *The court has implemented this recommendation and began at the time the previous Court Clerk met with SAO staff.*
- 2.6 *The court has implemented this recommendation and has reconsidered the FTA fees as previously assessed, recalled numerous warrants, and has ceased collecting any warrant fees.*

3. Monitoring of Excess Revenues

Procedures related to the calculation of excess revenues due the Missouri Department of Revenue (DOR) are not adequate to ensure compliance with state law. The city did not include related court costs in its calculation of revenues from traffic violations and improperly included restricted funds in its calculation of general operating revenues. In addition, the city has not determined the total excess revenues that were due or made any payments to the DOR. The city's calculation simply identified the total revenues from traffic violations and the related percentage of general operating revenues. Based on the calculation below, at least \$209,057 should have been remitted to the DOR for the year ended December 31, 2014.

The city's excess revenue calculation (from unaudited financial records) for the year ended December 31, 2014, indicated the city's 2014 revenue from traffic fines totaled \$290,082 or 70 percent of revenues. This total did not include the related court costs from traffic violations retained by the city totaling \$32,070. The municipal division tracks the amount of fines and court costs collected for traffic violations, including amended charges from traffic violations in a case management system. Based on the 2014 data from the system, the municipal division collected \$322,152 in fines and related court costs for traffic violations.

The city did not disclose in its financial statements the total general operating revenues used in the city's calculation of excess revenues. Upon our request during the audit, the city provided additional information



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indicating general operating revenues totaled \$413,180. This amount included restricted revenues from flood-related federal grants and state motor vehicle taxes and fees, bond income, and transfers. The bond income on the city's financial statements consists of bond monies deposited into the bond bank account during 2014; however, most of these bond monies have been applied to fines and court costs owed by defendants in the case management system and are already included in court revenues. The remainder were either refunded to the defendants or are undistributed at December 31, 2014, and are considered a liability. The transfers relate to bond monies applied to fines and court costs in the case management system during 2013, for which the former Court Clerk failed to transfer the monies among the bank accounts during that period. These restricted revenues, bond deposits, and transfers are not considered general operating revenues of the city and should be excluded from the general operating revenues used in the calculation of excess revenues due the DOR.

The city used a similar methodology for its fiscal year 2013 excess revenues calculation in its financial statements submitted to the State Auditor's Office (SAO) on April 3, 2015, almost a year past the April 30, 2014, filing deadline for unaudited financial statements.

The following table, using the case management system report and the city's unaudited financial statements, identifies the amount that should have been remitted to the DOR for excess revenues for the fiscal year ended December 31, 2014, after including applicable court costs from traffic violations and excluding restricted revenues, bonds, and transfers:

| | Year Ended December 31, 2014 |
|---|---------------------------------|
| City Calculated General Operating Revenues | \$ 413,180 |
| Less Restricted Revenues and Transfers | |
| Federal Emergency Management Agency grant | (1,600) |
| State motor vehicle sales tax | (6,071) |
| Bond Income (1) | (20,203) |
| Transfers | (8,322) |
| General Operating Revenues | |
| (Less Restricted Revenues and Transfers) | 376,984 |
| 30 Percent of General Operating Revenues | 113,095 |
| Calculated Fines From Traffic Violations | 290,082 |
| Plus Court Costs From Traffic Violations | 32,070 |
| Fines and Court Costs From Traffic Violations | 322,152 |
| Excess Revenues | (209,057) |
| Amount Remitted to the DOR | 0 |
| Remaining Amount Due the DOR | \$ 209,057 |

(1) Bond deposits are liabilities until the defendants' cases are finalized. The majority of this amount has been applied to fines and court costs due and is included in court revenue or was refunded to defendants during 2014. The undistributed portion of \$1,890 at December 31, 2014, is a liability. Thus, "bond income" should not be considered general operating revenue.



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Management Advisory Report - State Auditor's Findings

Section 302.341.2, RSMo (as it existed from August 28, 2013 to August 27, 2015), required cities to provide an accounting of the percent of annual general operating revenue from fines and court costs for traffic violations in its annual financial report submitted to the SAO (as required by Section 105.145, RSMo), and required cities to remit any such revenues in excess of 30 percent of annual general operating revenue to the DOR. Section 302.341.2, RSMo, further provided that a city that was noncompliant with the law was subject to immediate loss of jurisdiction of the city's municipal court on all traffic-related charges until all requirements of the section were satisfied. Under 12 CSR 10-44.100 (as it existed before September 11, 2015), payment was to be made by the last day of the second month immediately following the end of the fiscal year.

During the 2015 legislative session the General Assembly passed and the Governor signed into law Senate Bill 5 (SB 5), which became effective August 28, 2015. SB 5, among other things, changes the definitions of elements of the excess revenue calculation and reduces the amounts of traffic revenues the city may retain in the future. SB 5 also establishes sanctions for failure to file annual excess revenue information with the SAO, including authorizing the DOR to redirect certain revenues due to the city and possible loss of municipal court jurisdiction until such filings are made.

Due to the impact of SB 5 on operations of the municipal division as well as the city's reporting requirements, it is important the city and municipal division take immediate action to implement policies and procedures to ensure future compliance with state law.

Recommendations

The Board of Aldermen ensure the accuracy of annual excess revenue calculations, include appropriate general operating revenues and revenues from fines and court costs in the calculations, and make payments of excess revenues timely. In addition, the Board of Aldermen should recalculate excess revenues for fiscal year 2014 and work with the DOR to resolve any excess revenues.

Auditee's Response

The City of Foley Municipal Division provided the following response:

The court is, and has been, and will continue to be adapting its procedures and policies in accordance with the change in laws. Further, the court has made recommendations to account for and follow up on any of the delinquent amounts currently owed the Department of Revenue in accordance with SB 5.

The City of Foley Board of Aldermen provided the following response:

The city is implementing procedures to ensure the accuracy of annual excess revenue calculations and has made monthly payment arrangements with the DOR to resolve the excess revenues.

Forty-Fifth Judicial Circuit

City of Foley Municipal Division

Organization and Statistical Information

The City of Foley Municipal Division is in the Forty-Fifth Judicial Circuit, which consists of Lincoln and Pike Counties. The Honorable Chris Kunza Mennemeyer serves as Presiding Judge.

The municipal division is governed by Chapter 479, RSMo, and by Supreme Court Rule No. 37. Supreme Court Rule No. 37.49 provides that each municipal division may establish a violation bureau in which fines and court costs are collected at times other than during court and transmitted to the city treasury. The municipal division does not utilize OSCA's statewide automated case management system known as JIS. Instead, the municipal division utilizes Integrated Metropolitan Docketing System, an automated case management system provided by Regional Justice Information Services, which has been approved for use in municipal divisions by the State Judicial Records Committee.

Personnel

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

| Title | Name |
|-----------------|------------------|
| Municipal Judge | Steven Hillemann |
| Court Clerk | Eric Ohlms |

Financial and Caseload Information

| | Year Ended December 31, 2014 |
|-----------------------|---------------------------------|
| Receipts | \$348,390 |
| Number of cases filed | 1,838 |

Court Costs, Surcharges, and Fees

| Type | Amount |
|--------------------------------------|----------|
| Court Costs (Clerk Fee) | \$ 12.00 |
| Crime Victims' Compensation | 7.50 |
| Law Enforcement Training | 2.00 |
| Peace Officer Standards and Training | 1.00 |
| Domestic Violence Shelters | 2.00 |
| Inmate Security Fund | 2.00 |
| Failure to Appear Fee | 100.00 |
| Warrant Fee | 25.00 |



Forty-Fifth Judicial Circuit
City of Foley Municipal Division
Organization and Statistical Information

Vehicle Stops Report

Section 590.650, RSMo, requires law enforcement agencies report vehicle stop data to the Attorney General's Office (AGO) by March 1st of each year. The AGO compiles the data in a statewide report that can be viewed on the AGO website at <https://ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>. The following table presents data excerpted from the AGO report for the City of Foley Police Department. In addition, see information at <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary>, for background information on the AGO's vehicle stops executive summary along with definitions for footnotes of the following table.

Racial Profiling Data/2014 - Foley Police Department - Population 119¹

| Key Indicators | Total | White | Black | Hispanic | Asian | Am. Indian | Other |
|----------------------------------|-------|-------|---------|----------|-------|---------------|---------|
| Stops | 1249 | 1184 | 44 | 12 | 3 | 1 | 5 |
| Searches | 3 | 2 | 1 | 0 | 0 | 0 | 0 |
| Arrests | 5 | 4 | 1 | 0 | 0 | 0 | 0 |
| Statewide Population | N/A | 82.76 | 10.90 | 2.94 | 1.71 | 0.41 | 1.28 |
| Local Population | N/A | 92.44 | 0.00 | 5.04 | 2.52 | 0.00 | 0.00 |
| Disparity Index ² | N/A | 1.03 | #DIV/0! | 0.19 | 0.10 | #DIV/0! | #DIV/0! |
| Search Rate ³ | 0.24 | 0.17 | 2.27 | 0.00 | 0.00 | 0.00 | 0.00 |
| Contraband hit rate ⁴ | 0.00 | 0.00 | 0.00 | #NUM! | #NUM! | #NUM! | #NUM! |
| Arrest rate ⁵ | 0.40 | 0.34 | 2.27 | 0.00 | 0.00 | 0.00 | 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

#DIV/0! or #NUM! indicates zero denominator