



Office of Missouri State Auditor
Nicole Galloway, CPA

**Forty-Third Judicial Circuit
Livingston County**

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auditor.mo.gov



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Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of Forty-Third Judicial Circuit, Livingston County

Accounting Controls and Procedures	We identified significant weaknesses with accounting controls and procedures. The court has not established specific criteria to be used in determining whether a debt is uncollectible. In addition, the court has not established payment plans or assessed time payment fees on some applicable cases as required. The Circuit Clerk does not review and approve voided transactions, non-monetary transactions, and adjustments in the Judicial Information System (JIS). The Sheriff's Office does not issue prenumbered bond forms and voided bond forms are not retained.
Case Disposition	Court personnel do not always properly record the final disposition of each case in the JIS and do not periodically review reports of open cases.

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

*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 and Court en Banc
and
Circuit Clerk of the
Forty-Third Judicial Circuit
Livingston County, Missouri

We have audited certain operations of the Forty-Third Judicial Circuit, Livingston 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, 2016. The objectives of our audit were to:

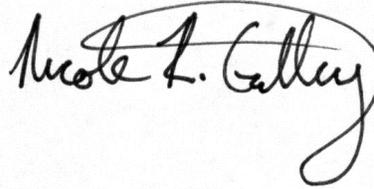
1. Evaluate the court's internal controls over significant financial functions.
2. Evaluate the court's compliance with certain legal provisions.
3. Evaluate the court's compliance with certain court rules.

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 applicable contract, grant agreement, or 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 Livingston 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, (2) no significant noncompliance with legal provisions, and (3) noncompliance with court rules. The accompanying Management Advisory Report presents our findings arising from our audit of the Forty-Third Judicial Circuit, Livingston County.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

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Forty-Third Judicial Circuit

Livingston County

Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

We identified significant weaknesses with accounting controls and procedures.

According to court records, receipts collected during the year ended December 31, 2016, totaled \$920,285. Fines, bonds, garnishments, court costs and other receipts are collected; recorded in the Judicial Information System (JIS), the Missouri Courts automated case management system; and deposited into the Circuit Clerk's general bank account by the Circuit Clerk.

1.1 Accrued case costs

The court has not established specific criteria to be used in determining whether a debt is uncollectible. In addition, the Circuit Clerk and the court have not established payment plans for all amounts not paid in full at case disposition, and do not assess time payment fees on all cases not paid in full within 30 days of disposition. Accrued costs as of February 5, 2017, totaled approximately \$4.2 million.

- The court reviews accounts receivable reports (accrued case costs) from the JIS and the debt collection vendor annually as required by the court's formal administrative plan for collection of court debt (administrative plan). However, the administrative plan does not document the specific criteria to be used in determining whether a debt is uncollectible or provide any guidance on which cases may require further action. The Circuit Clerk indicated no amounts have been deemed uncollectible and written off by court order as allowed by the administrative plan.
- The administrative plan and Missouri Supreme Court Operating Rule (COR) 21.07 require payment plans to be established at case disposition; however, as of December 31, 2016, 1,171 cases with balances due totaling approximately \$583,000 were not associated with payment plans. The Circuit Clerk indicated the court does not establish payment plans if the defendant is on probation because the Missouri Department of Corrections, Division of Probation and Parole, is responsible for ensuring these defendants make adequate payments. In addition, the Circuit Clerk indicated payment plans are not established if the costs are to be paid by more than one party. In these cases no procedures are performed by the court to collect outstanding amounts due.
- The time payment fee was not assessed as required by COR 21.13 for 48 of 54 accrued cost cases reviewed. The Circuit Clerk indicated the time payment fee was not assessed prior to August 2015 unless there was a court order, as verbally instructed by the former Associate Circuit Judge. In August 2015, the court began assessing a time payment fee on all new cases not paid in full within 30 days of disposition, except those where the costs are to be paid by more than one party.



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Management Advisory Report - State Auditor's Findings

To ensure the accuracy of the accrued case costs, and to provide the Circuit Clerk with the necessary information to ensure amounts owed are collected and make a determination about collectability, accrued case costs should be reviewed at least annually and accounts deemed uncollectible should be written off by court order. COR 21.07 requires the court to create payment plans in the JIS for all amounts not paid in full at case disposition. In addition, COR 21.13 requires all divisions of the circuit courts, except municipal divisions, to assess a \$25 time payment fee on all cases not paid in full within 30 days of disposition. Failure to follow these rules could result in lost revenue and in loss, theft, or misuse of funds.

1.2 Voided, non-monetary, and adjustment transactions

The Circuit Clerk does not review and approve voided transactions, non-monetary transactions, and adjustments in the JIS. Non-monetary transactions, including judicial orders, garnishments, and application of bonds, are transactions where no monies are received; however, a credit is applied to the account balances or the amount due is changed. Adjustment transactions include the reduction or non-assessment of fines and court costs due to the correction of errors in the assessment of court costs, reallocation of costs for state reimbursement, and removal of court costs when cases are dismissed. All four deputy court clerks, the Circuit Clerk, and the Associate Circuit Judge are allowed to enter voided transactions, non-monetary transactions, and adjustments in the JIS. Such transactions should be reviewed by a supervisor; however, this review is not performed. For example, both voided transactions we reviewed were voided by the same deputy court clerk who initiated the original transactions, with no documented supervisory review. Also, all 61 non-monetary transactions and adjustments we reviewed were performed without a documented supervisory review.

An independent and/or supervisory review and approval of voided and non-monetary transactions and adjustments is necessary to help ensure such transactions are appropriate and reduce the risk of loss, theft, or misuse of funds.

1.3 Bond accountability

The Sheriff's office does not issue prenumbered bond forms and voided bond forms are not retained. As a result, neither the court nor the Sheriff's office can account for all bond forms issued. The Sheriff's office indicated unnumbered blank bond forms are provided by the court.

The use of unnumbered bond forms decreases the ability to ensure bond receipts are recorded and properly transmitted to the court. Properly accounting for the numerical sequence of bonds forms, including voids, is necessary to ensure all bonds received are properly submitted to the court for processing, and to reduce the risk of loss, theft, or misuse of bond funds going undetected.



Recommendations

The Court en Banc and the Circuit Clerk:

- 1.1 Develop specific criteria to be used in determining whether a debt is uncollectible and write-off amounts deemed uncollectible by court order. In addition, the Circuit Clerk should ensure payment plans are established and time payment fees are assessed in accordance with court operating rules.
- 1.2 Require an independent and/or supervisory review and approval of all voided and non-monetary transactions and adjustments made in the JIS.
- 1.3 Work with the Sheriff's office to ensure prenumbered bond forms are issued, retained, and accounted for properly.

Auditee's Response

- 1.1 *These accrued costs have accumulated over a period of 17 years. A vast majority of these accrued costs are on very old cases where a defendant has gone to prison and owes the state large sums on his or her board bills. Even though the state reimburses the county, the defendant is still responsible to repay the state for the portion of the board bill paid by the state. While the accrued costs remain on the books, defendants' tax refunds may be intercepted and applied to pay these costs. Some costs are being paid by defendants as a condition of their probation. Collection of costs from these criminal defendants may be difficult, but not impossible. Writing them off will mean that the costs will no longer be subject to collection. There is no cost to the court (or effort required of the court) to leave these accrued costs on the books. So, at least to date, the court has not chosen to write off these accrued costs, because there is no financial benefit to do so. The court will comply with the recommendations of the Auditor and will review its collection plan each year to see if there are any possible circumstances where it would be beneficial to the court, state, or counties to write off these costs; will develop and amend its criteria accordingly; and will likewise review individual accounts/plans accordingly.*

All accrued costs are subject to collection plans. To date, however, the accrued costs of persons remaining on probation have not been placed in the Missouri Courts Debt Collection Program, as they have been collected by the local court (with the assistance of the office of Probation and Parole) as a condition of probation. COR 21 requires participation in state debt collection upon disposition, but does not define "disposition." Since the court continues to have jurisdiction over probationers, we have considered disposition to occur upon final discharge from probation. This avoids the duplication of collection efforts and avoids (in the majority of



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cases) the necessity of creating a Missouri/state debt collection plan (as most probationers pay their costs in full). We will nevertheless comply with the Auditor's recommendations, and will commence putting all probation cases on Missouri court debt payment plans.

Prior to January 1, 2012, imposition of the time payment fee was (by statute) at the discretion of the court. Our previous Associate Circuit Judge instructed the clerks that no such fee was to be assessed. We will follow the recommendation of the Auditor, and will impose the time payment fee on all active plans placed in collection after January 1, 2012.

1.2 *We will follow the recommendation of the Auditor, as the Circuit Clerk will institute a plan to periodically review and approve such transactions. It is important to note that litigants, attorneys, and other interested parties are involved in these cases, and that any such transactions are necessarily subject to their oversight. It is also important to note that the Auditor found no instances where any such transactions were erroneously entered.*

1.3 *We will follow the recommendation of the Auditor. There are many other parties, including the persons posting the bonds, the defendants, the attorneys, and the Sheriff, who have a stake in and/or oversee this process. We agree that the prenumbering of bond forms will further assist all parties in making certain that bonds are properly received. Again, we think it important to note that the Auditor cites no instances in which bond monies were not properly processed.*

2. Case Disposition

Court personnel do not always properly record the final disposition of each case in the JIS and do not periodically review reports of open cases. We obtained reports of open cases from OSCA at December 31, 2016, which identified 793 cases that were suspended or pending. Suspended cases are those for which a court clerk cancelled a future court date and did not reschedule a new court date, a warrant was issued, or a probate case is currently open. Pending cases are those for which final action was taken by the court, but the court clerk has not yet recorded all activity in the JIS. When case activity is suspended or pending, the case no longer appears on the court docket.

Our review of 60 pending and suspended cases identified 17 cases (28 percent) that should have been disposed because judgment was made and the related court costs were satisfied. However, the clerks failed to record all activity on the docket sheets in the JIS, and these omissions went undetected because there was no review of the reports of open cases.



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Without procedures to ensure cases are reviewed after a period of inactivity and the proper disposition of all cases has been entered into the JIS, the court cannot be assured all cases are properly handled and associated costs are assessed.

Recommendation

The Circuit Clerk should ensure the disposition of cases is properly recorded in the JIS and the reports of open cases are periodically reviewed.

Auditee's Response

The OSCA sends out quarterly reports of pending cases, which are approaching or are past time standards. Some of the cases on that report have been disposed by the court, but appear to be aged and pending because they have not been properly disposition coded in JIS by the clerks. We do review these aged cases quarterly, and make certain that any such omissions are corrected and that such cases are properly disposition coded. In fiscal year 2016, our felony disposition rate was the fastest in the state, and our associate criminal disposition rate was the fifth fastest in the state. We disposed of associate civil cases 20 days faster than the statewide average, and disposed of domestic relations cases 26 days faster than the statewide average. We are confident that we are processing cases accurately and speedily. However, we will contact OSCA to determine why OSCA's quarterly reports did not include the cases the Auditor identified with no disposition code and work with OSCA to ensure all future quarterly reports/reviews address all pending and suspended cases.

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Organization and Statistical Information

The Forty-Third Judicial Circuit consists of Livingston County as well as Clinton, Caldwell, Daviess, and DeKalb counties.

The Forty-Third Judicial Circuit consists of 2 circuit judges and 5 associate circuit judges. The circuit judges hear cases in all counties in the circuit. One associate circuit judge is located in each county in the circuit. Circuit personnel located in Clinton, Caldwell, Daviess, and DeKalb counties are not included in the scope of the audit.

Personnel

At December 31, 2016, the judges and Circuit Clerk of the Forty-Third Judicial Circuit, Livingston County, were as follows:

Title	Name
Presiding Judge, Division 1	Thomas N. Chapman
Circuit Judge, Division 2	R. Brent Elliott
Associate Circuit Judge	Jim Valbracht
Circuit Clerk	Brenda Wright

In addition, the Forty-Third Judicial Circuit, Livingston County, employed 4 full-time employees and 1 part-time employee on December 31, 2016.

Financial Information

Receipts of the Forty-Third Judicial Circuit, Livingston County, were as follows:

	Year Ended December 31, 2016
Court deposits, fees, bonds, and other	\$919,278
Interest income	1,007
Total	\$920,285

Caseload Information

From the Office of State Courts Administrator Missouri Judicial Reports, case filings of the Forty-Third Judicial Circuit, Livingston County, were as follows:

	Year Ended June 30, 2016
Civil	520
Criminal	2,184
Juvenile	51
Probate	132
Total	2,887