

The seal of the Missouri State Auditor is circular and features a central figure holding a scale and a sword. The text around the seal reads "SEAL OF THE STATE AUDITOR" at the top, "JUSTICE WE STAND DIVIDED" in the middle, and "1820 MISSOURI 1892" at the bottom. The background of the entire page is a faded image of the Missouri State Capitol building.

# Nicole Galloway, CPA

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Missouri State Auditor

Dent County

Report No. 2022-088

October 2022

[auditor.mo.gov](http://auditor.mo.gov)



**Nicole Galloway, CPA**  
Missouri State Auditor

# CITIZENS SUMMARY

## Findings in the audit of Dent County

Prosecuting Attorney's Administrative Fees	The Prosecuting Attorney's office does not assess or collect the statutorily-required fees from defendants who owe bad check or court-ordered restitution.
Sheriff's Unidentified Liabilities	The Sheriff's fee bank account had \$2,956 of unidentified money at December 31, 2021. The Head Administrative Clerk indicated this unidentified balance has been in the fee bank account for multiple years, and office personnel have not disposed of it because they were unable to identify the related liabilities. After we discussed the state laws regarding unidentified money with them, Sheriff's office personnel turned over the balance to the County Treasurer.
Electronic Data Security	The County Assessor, Recorder of Deeds, and Sheriff have not established adequate password controls to reduce the risk of unauthorized access to computers and data. The County Assessor, Recorder of Deeds, Sheriff, and Public Administrator do not have security controls in place to lock computers after a specified number of incorrect logon attempts. The Public Administrator does not store backup data at an off-site location.
Electronic Communications Policy	The county has not developed a records management and retention policy in compliance with the Missouri Secretary of State Records Services Division guidance, as approved by the Missouri Local Records Commission.
Additional Comments	Because counties are managed by several separately-elected individuals, an audit finding made with respect to one office does not necessarily apply to the operations in another office. The overall rating assigned to the county is intended to reflect the performance of the county as a whole. It does not indicate the performance of any one elected official or county office.

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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# Dent County

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## **NICOLE GALLOWAY, CPA**

### **Missouri State Auditor**

County Commission  
and  
Officeholders of Dent County

We have audited certain operations of Dent County in fulfillment of our duties under Section 29.230, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2021. The objectives of our audit were to:

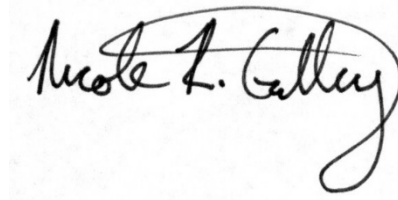
1. Evaluate the county's internal controls over significant management and financial functions.
2. Evaluate the county's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the county; and performing sample testing using haphazard and judgmental selection, as appropriate. The results of our sample testing cannot be projected to the entire populations from which the test items were selected. We obtained an understanding of internal control that is significant to the audit objectives and planned and performed procedures to assess internal control to the extent necessary to address our audit objectives. 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 county's management and was not subjected to the procedures applied in our audit of the county.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of Dent County.

A handwritten signature in black ink, reading "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

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# Dent County

## Management Advisory Report

### State Auditor's Findings

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#### **1. Prosecuting Attorney's Administrative Fees**

The Prosecuting Attorney's office does not assess or collect the statutorily-required fees from defendants who owe bad check or court-ordered restitution. The office collected approximately \$2,800 in bad check restitution and approximately \$8,100 in court-ordered restitution during the year ended December 31, 2021.

The statutorily-required administrative handling fee was not assessed for any applicable cases handled during the year ended December 31, 2021. Beginning in January 2020, the Prosecuting Attorney established a new policy requiring restitution payments received by the office be made payable directly to the victims, and the office began forwarding the payments to the victims. At that time, the Prosecuting Attorney stopped assessing the administrative handling fees. The Prosecuting Attorney stated he no longer collects an administrative handling fee because he believes the state laws relating to bad check and court-ordered restitution, Sections 570.120 and 559.100, RSMo, are not mandatory under his new policy of solely forwarding restitution payments directly to the victim. Although the checks received for restitution are written in the name of the victim, the Prosecuting Attorney takes the actions of receiving the checks, entering the information into office's case management system, generating a receipt slip, and mailing the receipt slip along with the payment to the victim. The Prosecuting Attorney also monitors the remaining restitution balances due to the victims.

Section 570.120, RSMo, establishes the crime of passing bad checks. Section 570.120.5, RSMo, provides that in cases involving bad checks, ". . . each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost." With regard to court-ordered restitution, Section 559.100.3, RSMo, provides, ". . . each prosecuting attorney or circuit attorney who takes any action to collect restitution shall collect from the person paying restitution an administrative handling cost." These statutes do not include provisions for waiver of fees.

#### **Recommendation**

The Prosecuting Attorney assess and collect fees on all bad check and court-ordered restitution cases as required by state law.

#### **Auditee's Response**

*The Prosecuting Attorney's written response is included in the Appendix.*

#### **Auditor's Comment**

Although the Prosecuting Attorney may not place the restitution payments in a bank account, the Prosecuting Attorney takes action under Sections 559.100 and 570.120, RSMo, by receiving the restitution checks, entering the information into the office's case management system, generating a receipt slip, and mailing the receipt slip along with the payment to the victim. The Prosecuting Attorney provided audit staff with 221 case notes summarizing cases that cite Sections 559.100 and 570.120, RSMo. Only 6 of these cases were issued after August 28, 2013, which was when the new language



Dent County  
Management Advisory Report - State Auditor's Findings

regarding the administration handling fee first took effect. None of these 6 cases interpreted or involved the requirement that prosecutors collect administrative handling fees. In addition, the statutes both require the collection of the administrative handling fee and the deposit of the fee by the county treasurer into an interest bearing fund. If money in the fund is not expended, Section 559.100.6, RSMo, provides that the unexpended balance shall remain in the fund to accumulate from year to year. While the Prosecuting Attorney has authority to determine whether to currently spend the money, the statutes provide for the fees to be placed and remain in an interest bearing fund so that the money may be spent in the future as necessary.

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## 2. Sheriff's Unidentified Liabilities

The Sheriff's fee bank account had an unidentified balance as of the year ended December 31, 2021. The office collected receipts for civil paper service, board bills, concealed carry weapon permits, and other miscellaneous receipts totaling approximately \$198,000 through the fee bank account during the year ended December 31, 2021.

The Sheriff's fee bank account had \$2,956 of unidentified money at December 31, 2021. The Sheriff's office staff reconciles the bank balance to a list of liabilities on a monthly basis, and has documented unidentified balances. The Head Administrative Clerk indicated this unidentified balance has been in the fee bank account for multiple years, and office personnel have not disposed of it because they were unable to identify the related liabilities. After we discussed the state laws regarding unidentified money with them, Sheriff's office personnel turned over the balance to the County Treasurer.

Maintaining unidentified balances in the bank account increases the risk of loss, theft, or misuse of funds. Various statutory provisions address the disposal of unidentified money.

### Recommendation

The Sheriff disburse unidentified money in accordance with state law.

### Auditee's Response

*We agree with the recommendation and have already turned over the balance to the County Treasurer. If we have this problem in the future, we will disburse the money in accordance with state law.*

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## 3. Electronic Data Security

Controls over county computers are not sufficient As a result, county records are not adequately protected and are susceptible to unauthorized access or loss of data.

### 3.1 Passwords

The County Assessor, Recorder of Deeds, and Sheriff have not established adequate password controls to reduce the risk of unauthorized access to computers and data. Employees in these offices are not required to change passwords periodically. Additionally, the passwords used by employees in the offices of the County Assessor, Recorder of Deeds, Sheriff, and Public



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Management Advisory Report - State Auditor's Findings

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Administrators are not required to have a minimum number of characters. Officials indicated they have not considered the necessity of a policy requiring these password controls.

In addition, user identifications and passwords for the computers in the Recorder of Deeds office are shared between employees. The Recorder of Deeds indicated she did not feel it was necessary for the part-time employee to have a separate user identification because the software used by the office tracks on which computer the transaction was completed. Employees are instructed to work on one computer to ensure the system can track which computer enters the transaction. However, the system cannot track which employee is using the computers.

Unique user identifications and passwords are necessary to authenticate access to computers and identify activity performed by each individual. The security of computer passwords is dependent upon keeping them confidential. However, since passwords are not periodically changed or contain a minimum number of characters in certain offices, there is less assurance they are effectively limiting access to computers and data files to only those individuals who need access to perform their job responsibilities. Also, allowing users to share accounts and passwords reduces individual accountability for system activity and unauthorized system access could occur. Passwords changed periodically, that contain a minimum number of characters and are not shared, reduce the risk of a compromised password and unauthorized access to and use of computers and data.

### 3.2 Security controls

The County Assessor, Recorder of Deeds, Sheriff, and Public Administrator do not have security controls in place to lock computers after a specified number of incorrect logon attempts. Officials indicated the computers in their offices have the capability to automatically lock after a number of incorrect logon attempts, but they have not required this because they were unaware it was necessary.

Logon attempt controls lock the capability to access a computer after a specified number of consecutive invalid logon attempts and are necessary to prevent unauthorized individuals from continually attempting to logon to a computer by guessing passwords. Without effective security controls, there is an increased risk of unauthorized access to computers and the unauthorized use, modification, or destruction of data.

### 3.3 Data backups

The Public Administrator does not store backup data at an off-site location. She stated she had not considered that both the computer and backup would be lost if her office was damaged or destroyed.

Failure to store computer backup data at a secure off-site location results in the backup data being susceptible to the same damage as the data on the





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computer. Storing backup data off-site will help ensure it is available for recovery if necessary.

Similar conditions  
previously reported

Similar conditions to section 3.1 and 3.2 were noted in our prior audit report.

## Recommendations

The County Commission work with other county officials to:

- 3.1 Require each employee to use a unique user identification and password with a minimum number of characters that is periodically changed.
- 3.2 Require county computers to have security controls in place to lock each computer after a specified number of incorrect logon attempts.
- 3.3 Ensure backup computer data is stored at a secure off-site location.

## Auditee's Response

*We will work with these officeholders to implement these recommendations.*

## 4. Electronic Communications Policy

The county has not developed a records management and retention policy in compliance with the Missouri Secretary of State Records Services Division guidance, as approved by the Missouri Local Records Commission. This guidance recommends government entities have a policy on electronic messaging, including text messages, email, and other third party platforms.

Section 109.270, RSMo, provides that all records made or received by an official in the course of his/her public duties are public property and are not to be disposed of except as provided by law. Section 109.255, RSMo, provides that the Local Records Board issue directives for the destruction of records. The guidelines for managing electronic communications records can be found on the Secretary of State's website.<sup>1</sup>

Development of a written policy to address the use of electronic communications is necessary to ensure all documentation of official business of the county is retained as required by state law. The County Clerk indicated the County has a limited, informal policy regarding electronic communications; however, the County Commission was unaware of the necessity of adopting a formal written policy.

<sup>1</sup> Missouri Secretary of State Records Services Division, *Electronic Communications Records Guidelines for Missouri Government*, May 14, 2019, is available at <<https://www.sos.mo.gov/CMSImages/LocalRecords/CommunicationsGuidelines.pdf>>, accessed August 9, 2022.



Dent County  
Management Advisory Report - State Auditor's Findings

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**Recommendation**

The County Commission work with other county officials to develop a written records management and retention policy to address electronic communications management and retention to comply with Missouri Secretary of State Records Services Division electronic communications guidelines.

**Auditee's Response**

*We will work with the Missouri Association of Counties to implement this recommendation.*

# Dent County

## Organization and Statistical Information

Dent County is a county-organized, third-class county. The county seat is Salem.

Dent County's government is composed of a three-member county commission and separate elected officials performing various tasks. All elected officials serve 4-year terms. The county commission has mainly administrative duties in setting tax levies, appropriating county funds, appointing board members and trustees of special services, accounting for county property, maintaining county roads and bridges, and performing miscellaneous duties not handled by other county officials. Principal functions of these other officials relate to law enforcement, property assessment, property tax collections, conduct of elections, and maintenance of financial and other records important to the county's citizens. In addition to elected officials, the county employed 73 full-time employees and 10 part-time employees on December 31, 2021.

In addition, county operations include a Senate Bill 40 Board and Senior Citizens Services Board.

### Elected Officials

The elected officials and their compensation paid for the year ended December 31 (except as noted) are indicated below:

Officeholder	2022	2021
Darrell Skiles, Presiding Commissioner	\$	32,827
Wes Mobray, Associate Commissioner		30,705
Gary Larson, Associate Commissioner		30,705
Cindy Ard, Recorder of Deeds		45,493
Angie Curley, County Clerk		45,493
Andrew M. Curley, Prosecuting Attorney		140,483
Bob Wells, Sheriff		53,736
Denita Williams, County Treasurer		45,493
Benjamin Pursifull, County Coroner		15,790
Sherida Cook, Public Administrator		45,493
Shannon VanKirk, County Collector (1), year ended February 28,	52,952	
Jamie L. Homeyer, County Assessor, year ended August 31,		44,616
Michelle Elwood, County Surveyor (2)		

- (1) Includes \$5,500 of commissions earned for collecting city property taxes.
- (2) Compensation on a fee basis.



Appendix  
Dent County  
Prosecuting Attorney Response

**OFFICE OF THE PROSECUTING ATTORNEY**

**Dent County Judicial Building  
Salem, Missouri 65560  
(573)729-3406**

**Andrew M. Curley  
Prosecuting Attorney**

**James Weber  
Assistant Prosecuting Attorney**

September 26, 2022

State Auditor's Office  
301 West High Street, Room 880  
P.O. Box 869  
Jefferson City, MO 65102  
Email: moaudit@auditor.mo.gov

In Re: Audit of Dent County

This letter is in response to the auditor's critique of my office policy relating to RSMO 570.120 and 559.100. The issue involves my decision to not collect PA administration fees in connection with restitution/bad checks.

On the vast majority of bad check cases, the defendant is ultimately ordered to pay \$118.50 in court cost and \$300 in fines for county law enforcement restitution (clerf). The fines and clerf penalties account for tens of thousands of dollars for general revenue and clerf. The clerf sums are utilized by my office and other law enforcement agencies to cover costs related to the administration of criminal justice.

Based on the results of prior audits, I created a policy where my office receives from the defendant certified money orders made payable to the victim. The sums are not placed into any county bank account and are simply forwarded to the victim. The reason we are the middle-person is to avoid giving out the victim's contact info to the defendant and because the responsibility to record the restitution payments has inevitably fallen on prosecutor's across the state.

I do not believe RSMO 570.120 and 559.100 are mandatory for prosecutors to assess additional fees against defendants under the circumstances applicable to my policy.

570.120, section 5 indicates that a prosecuting attorney "who takes any action pursuant to the provision of this section shall..." My office has elected not to take any action pursuant to that section and therefore does not collect any referenced fees. Further, I reviewed the editor's notes from the legislature and it indicates that Subsection 5 is intended to cover the "check writing spree" cases. The legislative notes and history do not assert any requirement for prosecutors to collect the fees referenced in the entire statute. There are 221 Missouri cases that discuss this statute. I have reviewed every case and none stand for the proposition that a prosecutor must collect these additional fees. In fact, court costs, fines, clerf, crime victims compensation and the like are already being assessed, collected by the circuit clerk and distributed accordingly.



Appendix  
Dent County  
Prosecuting Attorney Response

**OFFICE OF THE PROSECUTING ATTORNEY**

**Dent County Judicial Building  
Salem, Missouri 65560  
(573)729-3406**

**Andrew M. Curley  
Prosecuting Attorney**

**James Weber  
Assistant Prosecuting Attorney**

559.100 indicates that, "In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes an action to collect restitution shall collect from the person paying restitution an administrative handling cost." It is important the legislature used the words "takes an action". My office has elected not to take any action to collect restitution and therefore does not collect any referenced fees. Restitution payments are made payable to the victim and are not escrowed by my office. We simply record the payment and forward it to the victim. There are 19 cases in Missouri that discuss this statute and none stand for the proposition that a prosecutor must collect these additional fees.


For both statutes, I have been unable to find any attorney general opinion that supports the auditor's interpretation of the 2 statutes.

Lets think about this from a logical/common sense standpoint. 570.120 and 559.100 fees, if collected, are to be placed into an administrative handling fund that can only be expended by the prosecuting attorney's office. If I collected these fees, then I am the only person that could spend or, most importantly, decline to spend any of the sums collected. Your interpretation of the statutes arrived at a contradictory conclusion that I must collect fees that I have the sole discretion to decline to spend. Why would the legislature require my office to assess and collect fees that I can thereafter decline to spend?

Lastly, after reviewing the draft audit report, it appeared there were no concerns with misappropriated funds nor office procedures that might lead to or encourage the same. My staff and I take great pride in conducting ourselves honestly and with integrity. We value the trust the public has bestowed on this office and will never act in a way that will jeopardize that trust. I appreciate your professionalism and efforts in conducting this audit. I fully appreciate that your job is not an easy one to perform. Your staff was considerate and courteous throughout the process and we appreciated the same.

If you have any questions or concerns, do not hesitate to contact me.

Sincerely,

  
Andrew M. Curley  
Prosecuting Attorney