



# Scott Fitzpatrick

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Missouri State Auditor

Montgomery County

Report No. 2024-013

February 2024

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



**Scott Fitzpatrick**  
Missouri State Auditor

# CITIZENS SUMMARY

## Findings in the audit of Montgomery County

Property Tax Rates	Because the County Clerk reported incorrect assessed valuation totals to the State Auditor's Office (SAO) for the road and bridge tax levy in 2022, the SAO certified tax rate ceilings based on the incorrect totals and the county assessed approximately \$89,000 more in property taxes than allowed by state law. The County Clerk also reported incorrect totals in 2021, which resulted in the county assessing approximately \$5,000 less in property taxes than the maximum allowed by state law.
Sheriff's Compensation	The County Commission authorized mid-term salary increases totaling \$20,226 to the Sheriff in violation of constitutional provisions.
Sheriff's Inmate and Commissary Controls and Procedures	Sheriff's office personnel do not always deposit inmate money timely and do not prepare a monthly list of liabilities for the inmate and commissary accounts, and consequently, liabilities are not agreed to the reconciled bank balances.
Aggregate Abstracts	The County Clerk did not prepare the back tax, land and personal tax, or railroad and utility tax aggregate abstracts for 2018 through 2022.
Sunshine Law	The County Commission did not always comply with the Sunshine Law for open and closed meetings.
Electronic Data Security	County records are not adequately protected and are susceptible to unauthorized access or loss of data because controls over county computers are not sufficient.
Electronic Communication Policy	The county has not developed a records management and retention policy that includes electronic communication 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 **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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**SCOTT FITZPATRICK**  
MISSOURI STATE AUDITOR

County Commission  
and  
Officeholders of Montgomery County

We have audited certain operations of Montgomery 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, 2022. 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, as well as certain external parties; 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 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 Montgomery County.

A handwritten signature in black ink that reads "Scott Fitzpatrick". The signature is written in a cursive style with a large initial "S" and "F".

Scott Fitzpatrick  
State Auditor

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# Montgomery County Management Advisory Report State Auditor's Findings

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## 1. Property Tax Rates

The County Clerk reported incorrect assessed valuation totals to the State Auditor's Office (SAO) for the road and bridge tax levy in 2022, and for the road and bridge and special road and bridge tax levies in 2021, resulting in the SAO certifying tax rate ceilings that varied from the internal calculation of the tax rate ceilings completed by the County Clerk, which were not provided to the SAO. The 2022 error resulted in the county assessing approximately \$89,000 more in property taxes than allowed by state law. The 2021 errors resulted in the county assessing approximately \$5,000 less in property taxes than the maximum permitted by state law.

In 2022, the County Clerk reported an assessed valuation totaling approximately \$239 million instead of using the actual assessed valuation of approximately \$279 million when reporting the tax rate ceiling for the road and bridge tax levy to the SAO. As a result, the SAO certified a tax rate ceiling of \$2.976 (per \$100 assessed valuation). During the audit in 2023, we calculated a tax rate ceiling of \$2.582 when using the correct assessed valuations for 2022 and the correct (non-certified) tax rate ceiling for 2021. The county used the certified tax rate ceiling calculated by the SAO from the incorrect assessed valuation amount and assessed approximately \$89,000 more in road and bridge taxes than allowed in 2022. Similar valuation errors were also made by the County Clerk in 2021 for the road and bridge and special road and bridge tax levies, resulting in a combined total of \$5,000 less in taxes assessed for both levies in 2021.

Tax rate ceilings are determined based on the requirements of Article X, Section 22 of the Missouri Constitution (commonly referred to as the Hancock Amendment) and Section 137.073, RSMo. Counties should ensure property tax rates levied are calculated correctly and do not exceed the tax rate ceilings established by state law. The County Clerk indicated human error is to blame for the wrong assessed valuations being reported to the SAO. However, she could not explain why the errors were not corrected when the SAO certified tax rate ceilings that did not agree with the tax rate ceilings she had calculated.

## Recommendation

The County Commission work with the County Clerk to report the correct 2021 and 2022 road and bridge and 2021 special road and bridge assessed valuations to the State Auditor's Office and determine how to correct the 2022 overcharges. In addition, establish procedures to ensure assessed valuations are properly reported to the SAO in the future.

## Auditee's Response

*The Deputy County Clerk and the County Collector contacted the State Auditor's Office to resolve this issue in October 2023. We will ensure the road and bridge property tax rate is reduced sufficiently to correct the overcharges in 2024.*



## 2. Sheriff's Compensation

The County Commission authorized mid-term salary increases totaling \$20,226 to the Sheriff in violation of constitutional provisions. The Sheriff took office in 2021 at the salary level approved by the Montgomery County Salary Commission.

Section 57.317.1(2), RSMo, enacted in 2021, states the sheriff shall receive an annual salary computed based on a percentage of the compensation of an associate circuit judge of the county, with the percentage determined by a statutory schedule using the county's current assessed valuation level. The law indicates if the increase to the Sheriff's salary is less than \$10,000, the increase shall take effect January 1, 2022, but if the salary increase is more than \$10,000, the increase shall be paid equally over a 5-year period. However, Article VII, Section 13 of the Missouri Constitution prohibits an increase in compensation for state, county, and municipal officers during their term of office. Court cases have concluded that to receive additional compensation during a term of office there must be: 1) no existing compensation for the office; 2) new or additional duties extrinsic or not germane to the office; or 3) the mid-term increase must result from the application of a statutory formula for calculating compensation that was in place prior to the individual being elected or taking office. None of those circumstances exist; therefore, the increase to the Sheriff's salary should be effective only for any Sheriff elected and sworn into office after the new salary schedule was authorized.

The County Commission stated it believed it was required to increase the Sheriff's salary due to the change in state law. The County Commission did not seek a written legal opinion on this matter, and authorized a salary increase for the Sheriff in March 2022, to be effective retroactively to January 1, 2022. The total increase was calculated at \$30,347, to be paid over a 5-year period with an annual increase of \$6,069. The County Commission also authorized additional salary increases for the Sheriff during 2022 and 2023 based on the salary increases given to associate circuit judges. As of July 2023, the Sheriff received salary increases totaling \$20,226 during his term.

### Recommendation

The County Commission discontinue the mid-term salary increase and consider various methods for possible recoupment of money already paid.

### Auditee's Response

*The County Commission will discuss this recommendation with the Sheriff and the county's attorney. The County Commission respectfully disagrees with the State Auditor's findings and notes that no court decision has addressed the constitutional issue raised in the findings regarding the application and interpretation of Section 57.317.1(2), RSMo. However, the County Commission will take this recommendation under advisement and determine the best course of action.*



## Auditor's Comment

"The compensation of state, county and municipal officers shall not be increased during the term of office" per Article VII, Section 13, Missouri Constitution. The County Commission has not offered any authority to conclude the constitutional barrier to mid-term compensation increases contained in Article VII, Section 13 of the Missouri Constitution is inapplicable to county sheriffs. In multiple cases, the Supreme Court of Missouri has addressed the constitutional prohibition on mid-term increases. See e.g., *Mooney v. County of St. Louis*, 286 S.W.2d 763 (Mo. 1956); *State ex rel. George v. Verkamp*, 365 S.W.3d 598 (Mo. banc. 2012); *Laclede County v. Douglass*, 43 S.W.3d 826 (Mo. 2001).

### 3. Sheriff's Inmate and Commissary Controls and Procedures

Controls and procedures over inmate money and commissary purchases in the Sheriff's office need improvement. The office processed receipts for inmate money and commissary purchases totaling approximately \$217,000 and \$72,000, respectively, for the year ended December 31, 2022.

#### 3.1 Depositing

Sheriff's office personnel do not always deposit inmate money timely. During the year ended December 31, 2022, only 14 deposits were made and the average deposit totaled approximately \$5,600. Only 1 deposit a month was made for 10 months and only 2 deposits were made in the other 2 months. Sheriff's office personnel indicated the practice is to deposit money when they are notified by the commissary system that the kiosk is full, and they believe the money is secure while in the kiosk.

Failure to implement adequate depositing procedures increases the risk that loss, theft, or misuse of money received will occur and go undetected.

#### 3.2 Liabilities

Sheriff's office personnel do not prepare a monthly list of liabilities for the inmate and commissary accounts, and consequently, liabilities are not agreed to the reconciled bank balances. The reconciled bank balance as of December 30, 2022, was \$16,620 for the inmate account. Office personnel provided us a list of liabilities totaling \$16,721 as of December 31, 2022, indicating a shortage of \$101. The reconciled bank balance as of December 30, 2022, was \$15,145 for the commissary account. Sheriff's office personnel were unable to provide a list of liabilities for this account due to technical difficulties with the commissary system. Sheriff's office personnel were not aware of the necessity of agreeing the monthly list of liabilities to the reconciled account balances.

Monthly lists of liabilities that are agreed to the reconciled bank balance are necessary to ensure records are in balance, errors are detected and corrected timely, and sufficient cash is available for the payment of all liabilities. Prompt follow up on discrepancies is necessary to resolve errors and ensure money is properly disbursed.





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A similar condition was noted in our prior 4 audit reports. In addition, Report No. 2018-015, *Follow-Up Report on Audit Findings - Montgomery County*, issued in March 2018, reported the status, at that time, as implemented.

## Recommendations

The Sheriff:

- 3.1 Ensure deposits are made timely.
- 3.2 Prepare monthly lists of liabilities and reconcile the lists to the available cash balances. Any differences should be promptly investigated and resolved.

## Auditee's Response

- 3.1 *Beginning in October 2023, deposits are now made at least weekly. In addition, if notification is received that the cash box is in excess of \$500, a deposit will be made that day.*
- 3.2 *Beginning in October 2023, monthly lists of liabilities are prepared and reconciled to the available cash balances. The lists are retained with the reconciliation. If a list does not balance to the available cash balance, an investigation will be initiated and findings will be documented. In addition, we are working with our commissary vendor and hope to resolve the differences between liabilities and available cash balances in the commissary system by the end of this year.*

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## 4. Aggregate Abstracts

The County Clerk did not prepare the back tax, land and personal tax, or railroad and utility tax aggregate abstracts for 2018 through 2022. The County Clerk indicated she was not aware she was responsible for completing these aggregate abstracts.

Section 137.295, RSMo, requires the County Clerk to prepare these reports and forward them to the Department of Revenue and State Tax Commission upon completion of current and delinquent tax books.

## Recommendation

The County Clerk prepare the back tax, land and personal tax, and railroad and utility tax aggregate abstracts and timely file them with the Department of Revenue and State Tax Commission.

## Auditee's Response

*The County Clerk declined to provide a response. The County Commission provided the following response:*

*The aggregate abstracts were completed and filed with the Department of Revenue and State Tax Commission in August 2023 for 2018 through 2022 by the Deputy County Clerk and the County Collector.*



## 5. Sunshine Law

The County Commission did not always comply with the Sunshine Law for open and closed meetings. The County Commission went into closed meetings 21 times from January 1, 2022, through June 22, 2023.

The reason cited in open meeting minutes for going into all 21 closed sessions did not reflect topics actually discussed in the closed meetings. Section 610.021(5), RSMo, was cited as the reason for closing the meetings, which relates to nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment. However, the closed meeting minutes did not indicate discussions about this topic. Instead, topics discussed included hiring employees, which is an allowable topic under Section 610.021(3); performance of specific employees, which is an allowable topic under Section 610.021(13), RSMo; and various legal matters, including pending litigation and contracts, which are allowable topics under Section 610.021(1), RSMo. The County Commission indicated the incorrect citations were an oversight and erroneously not updated in the meeting minutes.

In addition, minutes for closed meetings did not always include sufficient detail to ensure the topics discussed were allowable under the Sunshine Law for 9 of the 21 closed meetings. Closed meeting minutes for these meetings indicated the purpose was "personnel issues" in a specific office with no other information provided. The County Commission indicated it believes minutes need to include only enough information that the purpose of the closed meeting can be identified, and do not need to be overly detailed.

Section 610.022, RSMo, requires public bodies announce the specific reasons allowed by law for going into a closed session and to enter the reason into the minutes. This section also limits discussion topics and actions in closed meetings to only those specifically announced prior to closure. Additionally, without sufficiently detailed meeting minutes it is unclear if all of the discussions were appropriate for closed meetings.

### Recommendation

The County Commission ensure the specific reasons for closing a meeting are accurately documented in the open minutes, closed meeting minutes are sufficiently detailed, and discussions in closed meetings are limited to only those specific reasons cited for closing the meeting.

### Auditee's Response

*The County Commission now has a detailed list from the Sunshine Law of the specific reasons for going into a closed session and have been using them in the open minutes since being made aware of these issues by the State Auditor's Office. We are also making more detailed closed session meeting minutes that can be referred to when looking into past meetings that may involve the same employees or issues. This was implemented in July 2023. We*



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*have started including more detail in the minutes to ensure the topics discussed were allowable under the Sunshine Law.*

## 6. Electronic Data Security

### 6.1 Passwords

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.

The Prosecuting Attorney, Public Administrator, and Recorder of Deeds have not established adequate password controls to reduce the risk of unauthorized access to computers and data. Employees in the Prosecuting Attorney's and the Public Administrator's offices are not required to change passwords periodically, and passwords for employees in the office of the Recorder of Deeds are not required to have a minimum number of characters. The officials in these offices indicated they had not considered the necessity of requiring password controls in their offices.

Passwords are necessary to authenticate access to computers. However, since passwords in certain offices are not periodically changed or required to contain a minimum number of characters, 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.

A similar condition was noted in our prior 2 audit reports. In addition, Report No. 2018-015, *Follow-Up Report on Audit Findings - Montgomery County*, issued in March 2018, reported the status, at that time, as partially implemented.

### 6.2 Security controls

The County Assessor, County Clerk, County Collector, and Recorder of Deeds do not have security controls in place to lock computers after a specified number of incorrect logon attempts. Officials indicated they had not considered the necessity of requiring user IDs to be locked or revoked after failed password attempts.

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.

## Recommendations

The County Commission work with other county officials to:

- 6.1 Require each employee to use a password with a minimum number of characters that is periodically changed.



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6.2 Require county computers to have security controls in place to lock each computer after a specified number of incorrect logon attempts.

## Auditee's Response

*We are actively in discussion with our information technology vendor to develop policies for password controls including passwords with a minimum number of characters that are periodically changed and lockouts for incorrect logon attempts to reduce the risk of unauthorized access to computers and data.*

## 7. Electronic Communication Policy

The county has not developed a records management and retention policy that includes electronic communication 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 Commission indicated it was aware of the importance of managing electronic communications; however, it was unaware of the necessity of adopting a formal written policy.

## 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

*Since being made aware of the necessity of having a formal policy on electronic communication management, we began the process of developing said policy in consultation with legal and information technology experts that are familiar with these policies. Email retention is going to be addressed by switching email providers starting on December 12, 2023.*

<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 September 6, 2023.

# Montgomery County

## Organization and Statistical Information

Montgomery County is a county-organized, third-class county. The county seat is Montgomery City. The county's population was 11,322 in 2020, according to the U.S. Census Bureau.

Montgomery 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 67 full-time employees and 24 part-time employees on December 31, 2022.

County operations also include the Senate Bill 40 Board.

### Elected Officials

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

Officeholder	2023	2022
Ryan D. Poston, Presiding Commissioner	\$	31,899
Dave Teeter, Associate Commissioner		29,796
Doug Lensing, Associate Commissioner		29,796
Sheila See, Recorder of Deeds		45,150
Kathy Hancock, County Clerk		45,150
Kelly King, Prosecuting Attorney (1)		
Keith Freie, Interim Prosecuting Attorney (2)		117,873
Craig S. Allison, Sheriff		59,743
Lori Stiers, County Treasurer		45,150
David Colbert, County Coroner		15,750
Kaley Reagan, Public Administrator		45,150
Anita L. Sullivan, County Collector, year ended February 28,	45,150	
Jerome P. Overkamp, County Assessor, year ended August 31,		44,605
Larry P. Bade, County Surveyor (3)		

- (1) Kelly King served as Acting Prosecuting Attorney without compensation until she resigned in March 2022.
- (2) Keith Freie, was appointed Interim Prosecuting Attorney on April 18, 2022. Compensation includes his salary of \$14,906 earned while serving as a part-time Assistant Prosecutor prior to his appointment as the Interim Prosecuting Attorney.
- (3) Compensation on a fee basis.