



Scott Fitzpatrick

Missouri State Auditor

Pemiscot County

Report No. 2024-017

February 2024

auditor.mo.gov



CITIZENS SUMMARY

Findings in the audit of Pemiscot County

County Collector and Property Tax System	The County Collector and her deputies do not always use the actual date of receipt when recording payments and do not retain documentation for mailed payments. As a result, the County Collector did not always properly assess some taxpayers penalties, commissions, and fees for late payments. The County Clerk's account book amounts for charges, collections, additions, and abatements were not accurate and did not agree to the year ended February 28, 2023, annual settlement amounts. The County Clerk's and Commission's review procedures are not adequate to verify the accuracy and completeness of the County Collector's annual settlements. The County Collector and her deputies have access rights in the property tax system allowing them to make changes to individual tax records and there is no independent review of changes made, including assessed valuation and tax changes in the system.
Sheriff's Controls and Procedures	Sheriff's office personnel do not always correctly record the method of payment on receipt slips issued for the general account, and do not always deposit receipts timely. Procedures for preparing bank reconciliations and liabilities listings are not adequate. The Sheriff does not ensure county jail personnel appropriately and timely disburse net proceeds from the inmate commissary account to the County Treasurer for deposit into the Inmate Prisoner Detainee Security Fund as required by state law. The Sheriff does not have adequate policies or procedures to ensure an inmate's remaining account balance is refunded upon release, including formally establishing a threshold for when balances will not be refunded due to insignificance. Sheriff's office personnel have not performed a physical inventory of all seized property.
Prosecuting Attorney's Controls and Procedures	The Prosecuting Attorney's office did not timely transmit court-ordered restitution payments to victims or the related fees to the County Treasurer, and fees are not always transmitted intact. Office personnel did not timely transmit \$27,353 in victim restitution and \$37,440 in related fees collected from January to December 2022. The Prosecuting Attorney has not established procedures to restrictively endorse checks and money orders upon receipt.
County Disbursements	The County Commission has not established guidelines for the use of county credit cards including the appropriate use, oversight, and required documentation to support credit card purchases. A review of credit card statements for the 30 days ended December 10, 2022, found the Sheriff did not submit supporting documentation for 6 transactions totaling \$714 to the County Clerk. The county spent approximately \$1,000 on food and gift card purchases that may not have been prudent, reasonable, or necessary uses of county funds, and the county does not have written policies on employer-provided food and gifts.
Sheriff's Compensation	The County Commission authorized mid-term salary increases totaling \$17,732 to the Sheriff in violation of constitutional provisions.

County Clerk's Controls and Procedures	The County Clerk does not reconcile receipts to transmittals to ensure all receipts are transmitted to the County Treasurer. A review of receipts and transmittal records for June 2022, totaling \$8,454, and records related to 4 of 11 liquor license fees collected during July and August 2022, found a \$303 check issued August 11, 2022, was not transmitted to the County Treasurer and was missing.
County Treasurer's Controls and Procedures	The County Treasurer has not established procedures to routinely follow up on outstanding checks in the County Treasurer's general bank account. As of April 30, 2023, 28 checks totaling \$22,862 had been outstanding for over a year, with the oldest check dating back to 2020.
County Budgets	The County Clerk did not timely submit a certified copy of the 2022 and 2021 county budgets to the State Auditor's Office in accordance with state law.
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.
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.
Subsequent Event	In August 2023, subsequent to our fieldwork, county personnel detected fraudulent activity committed by a third party in the county's primary bank account. County personnel took immediate action to investigate the issue. They contacted the Sheriff's office and bank officials, and are working with federal authorities as the investigation continues. The County Treasurer continues to actively monitor bank activity on a daily basis. In November 2023, the county implemented a positive pay system with the bank to help detect any fraudulent transactions and prevent them from processing. The bank has reimbursed the county for all fraudulent transactions identified as of December 31, 2023.

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 Pemiscot County

We have audited certain operations of Pemiscot 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 Pemiscot County.

A handwritten signature in black ink, reading "Scott Fitzpatrick". The signature is written in a cursive, flowing style.

Scott Fitzpatrick
State Auditor

Pemiscot County

Management Advisory Report

State Auditor's Findings

1. County Collector and Property Tax System

Controls and procedures over the property tax system need improvement. The County Collector processed property tax collections totaling approximately \$14.1 million during the year ended February 28, 2023.

1.1 Receipt dates and documentation

The County Collector and her deputies do not always use the actual date of receipt when recording payments and do not retain documentation for mailed payments. As a result, the County Collector did not properly assess some taxpayers penalties, commissions, and late payment fees.

The property tax system sequentially assigns a receipt number, but allows users to backdate payments recorded in the property tax system. Our review of receipt and deposit records for the 2-week period ending December 4, 2022, and the 2-week period ending January 22, 2023, noted the following:

- On January 3, 2023, the County Collector and her deputies recorded 327 receipt transactions totaling \$305,742, and backdated these receipts to December 3, 2022. The County Collector and deputies also backdated 44 receipt transactions totaling \$164,828 recorded on January 4, 2023, to December 4, 2022. Included in these receipts was a \$500 check dated January 3, 2023. Because the County Collector did not record the receipt as received after the December 31 due date, the taxpayer was not assessed penalties, commissions, and fees totaling \$195. The County Collector indicated the taxpayer mailed a check timely, but when she was processing it on January 3, 2023, it was exactly \$500 short of the total due. She promptly called the taxpayer and received an additional \$500 check that same day.

She backdated the other payments because they were mailed payments postmarked with dates in December 2022. She further indicated she recorded them a month prior to the receipt date on Saturday and Sunday dates instead of the postmark dates because she had already closed out the December 31, 2022, cash drawers and these dates did not have any transactions processed. The County Collector indicated that by backdating these receipts to dates with no activity, it was easier for her to reconcile the batch report to the collection by date summary report.

- The County Collector does not retain postmarked envelopes or record the postmarked dates in the property tax system to support the timeliness of mailed payments received after the delinquent date. The County Collector indicated she did not know she needed to keep postmarked envelopes to demonstrate that these payments were made timely.

Section 139.100.1, RSMo, requires the County Collector to collect a penalty on delinquent taxes owed by a taxpayer as provided for in Section 140.100, RSMo. Section 140.100, RSMo, requires an 18 percent penalty be charged



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for each year's delinquent tax, in addition to the amount of the delinquent tax. Section 139.100.4, RSMo, allows payments mailed to the County Collector to be deemed paid as of the postmark date stamped on the envelope. In the absence of a postmark, or if the postmark is illegible, the collector may use judgment regarding the timeliness of the payment and shall document such decision. Maintaining documentation and recording the postmarked date for mailed payments is necessary to demonstrate the timeliness of payments and compliance with state laws.

1.2 Review of activity

The County Clerk's account book amounts for charges, collections, additions, and abatements were not accurate and did not agree to the year ended February 28, 2023, annual settlement amounts. In addition, the County Clerk's and Commission's review procedures are not adequate to verify the accuracy and completeness of the County Collector's annual settlements. As a result, there is an increased risk of loss, theft, and misuse of property tax receipts going undetected, and less assurance the annual settlements are complete and accurate. The County Clerk indicated she thought everything in the account book matched the annual settlement. However, if they reviewed as indicated, the County Clerk and/or County Commission should have identified the differences between the account book and the annual settlement.

Section 51.150.1(2), RSMo, requires the County Clerk to maintain accounts with all persons "chargeable with money payable into the county treasury." An account book or other record that summarizes all taxes charged to the County Collector, monthly collections, delinquent credits, addition and abatements, and protested amounts should be maintained by the County Clerk. Such records would help the County Clerk ensure taxes charged and credited to the County Collector are complete and accurate and could also be used by the County Clerk and County Commission to verify the County Collector's annual settlements. In addition, Section 139.190, RSMo, requires the County Commission to "carefully and fully examine" the annual settlement of the County Collector. Such procedures are intended to establish checks and balances related to the collection of property taxes.

1.3 Computer access

The county has not adequately restricted property tax system access. Sections 137.260 and 137.270, RSMo, assign responsibility to the County Clerk for making changes to the tax books with the approval of the County Commission. Yet the County Collector and her deputies have access rights in the property tax system allowing them to make changes to individual tax records. In addition, there is no independent review of changes made, including assessed valuation and tax changes in the system. The County Collector indicated she does not know how to restrict access within the property tax system. Because the County Collector is responsible for collecting tax receipts, the ability of personnel within this office to alter tax



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records prevents the necessary and required segregation of duties and represents a significant weakness in internal controls.

Similar conditions previously reported

A similar condition to Section 1.2 was noted in our prior 3 county audit reports and the prior audit report of the County Collector and Property Tax System. In addition, Report No. 2016-038, *Follow-Up Report on Audit Findings - Pemiscot County*, issued in June 2016, reported the status, at that time, as not implemented. A similar condition to Section 1.3 was noted in our prior audit report.

Recommendations

- 1.1 The County Collector implement procedures to record the actual payment date, as evidenced by the postmark, in the property tax system; retain documentation to support payment date recorded; and collect penalties, commissions, and fees on delinquent taxes as required by law.
- 1.2 The County Clerk maintain a complete and accurate account book with the County Collector. In addition, the County Clerk and the County Commission should use the account book to review the accuracy and completeness of the County Collector's annual settlements.
- 1.3 The County Commission and the County Clerk develop procedures to ensure all property tax changes are properly approved and monitored. In addition, the County Commission should work with the County Collector to ensure property tax system access is limited to only what is needed for the users to perform their job duties and responsibilities.

Auditee's Response

The County Collector provided the following responses:

- 1.1 *The payments were verified as having been postmarked in December. It was not my intention to make these payments appear to be backdated. I used these dates so my batch total would match the collection by date summary totals. These accounts will be posted December 31 in the future to avoid any confusion.*

It was my judgement to allow the taxpayer to bring a check for the balance because the taxpayer has always made on time payments and only added incorrectly.

I will keep the envelopes for audit purposes in the future.

- 1.3 *The software company made a change in May 2023 to the system when the auditors were here. I can view and print corrections but am unable to make changes. This should solve any issues or concerns.*



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The County Clerk and County Commission provided the following responses:

- 1.2 *The County Clerk and Collector have been working together to establish a better procedure for keeping a complete and accurate account book. The County Clerk is maintaining weekly totals of approved abatements. The County Collector brings monthly reports to the County Clerk which she will balance her totals with. The County Clerk and County Commission will use this account book to review the County Collector's annual settlement.*
- 1.3 *The County Commission worked with the County Collector to resolve the property tax changes. The County Collector talked to the software company and changes were made to the program to properly restrict access.*

2. Sheriff's Controls and Procedures

Controls and procedures in the Sheriff's office need improvement. The office processed receipts for civil process fees, concealed carry weapon (CCW) permits, bonds, prisoner boarding, inmate money, and other miscellaneous receipts totaling approximately \$1,389,000 for the year ended December 31, 2022.

2.1 Receipting, recording, and depositing

Sheriff's office personnel do not always correctly record the method of payment on receipt slips issued for the general account, and do not always deposit receipts timely. We reviewed receipt and deposit records for the 2-week period ending July 24, 2022, and the 2-week period ending December 18, 2022, and noted the following:

- For the 89 manual receipt slips reviewed, totaling \$28,948, office personnel did not record the method of payment on 8 and incorrectly recorded the method on another. As a result, the Office Manager could not reconcile the composition of receipts to the composition of deposits for the general account. The Office Manager indicated the method of payment was not always filled out by the deputies. It is unclear why the deputies did not always do this.
- The Office Manager did not deposit \$3,477 in CCW permit fees, civil process fees, school resource officer fees, and medical reimbursements collected on July 22, 2022, until August 5, 2022. In addition, the Jail Sergeant did not deposit \$3,174 (\$3,129 cash and a \$45 check) in inmate money collected from November 12, 2022, through December 11, 2022, until December 16, 2022. The Office Manager indicated she typically prepares a weekly deposit unless she is on vacation or out of the office. The Sheriff indicated he did not know that commissary deposits were not being made timely until we brought it to his attention.



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Failure to implement adequate receipting, recording, and depositing procedures, including independent reviews to ensure procedures are being followed, increases the risk that loss, theft, or misuse of money received will go undetected.

2.2 Bank reconciliations and liabilities

Procedures for preparing bank reconciliations and liabilities listings are not adequate. The Sheriff indicated he reviews the bank statements and reconciliations; however, his reviews are not always sufficient to detect or correct errors.

- The Office Manager does not compare the reconciled bank balance to the book balance of the general account because a cumulative book balance is not maintained. As of January 9, 2023, the reconciled bank balance and identified liabilities were \$89,774. The Office Manager indicated she did not keep a cumulative book balance because the former Office Manager did not keep a cumulative book balance.
- The Sheriff has not established procedures to investigate deposits in transit for the inmate commissary account. The bank reconciliation for January 9, 2023, listed 17 deposits in transit dated from October 27, 2020, through June 30, 2021, totaling \$18,011. Sheriff's office personnel did not know why these deposits were still in transit. After our inquiries, the commissary system vendor determined these were erroneous duplicate deposit entries caused by software glitches during the overnight synchronization process and erroneous manual entries made by Sheriff's office personnel. The software vendor subsequently removed these erroneous deposit entries. Because Sheriff's office personnel did not understand the commissary system and the reconciliation process, they did not realize these errors occurred until after our inquiries.
- Sheriff's office personnel do not generate a monthly list of liabilities for the inmate commissary account, and consequently, liabilities are not agreed to the reconciled bank balance. After removal of the erroneous deposits, we determined the reconciled bank balance was \$20,221 as of January 9, 2023. At our request, the Jail Sergeant generated a report of liabilities, totaling \$30,924, as of January 9, 2023, resulting in an account shortage of \$10,703. We determined the account shortage is due largely to issuing disbursements to the County Treasurer in excess of subsidiary ledger balances for commissary profits (see section 2.3) and phone commissions.

Maintaining a cumulative book balance and performing adequate monthly reconciliations helps ensure receipts and disbursements have been properly handled and recorded, and increases the likelihood errors will be identified and corrected timely. Without regular identification and comparison of liabilities to the reconciled bank balance, including investigating and



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correcting reconciling items like old deposits in transit, there is less likelihood errors will be identified and the ability to both identify liabilities and resolve errors is diminished.

2.3 Commissary disbursements

The Sheriff does not ensure county jail personnel appropriately and timely disburse net proceeds from the inmate commissary account to the County Treasurer for deposit into the Inmate Prisoner Detainee Security Fund as required by state law. The Jail Sergeant issued a net proceeds check for \$70,260 in April 2022 to the County Treasurer, but did not retain any supporting documentation and could not explain how this amount was calculated. In addition, there is no documentation of an independent review or approval of this disbursement prior to payment.

Our review of the inmate commissary account noted that while the overall account balance was \$97,652 on April 8, 2022, only \$59,373 was commissary profit and the remainder was mostly inmate money. The April 2022 disbursement resulted in a negative commissary profit balance of \$10,887 within the account. Because this excess disbursement was not detected and corrected, subsequent disbursements of net proceeds in May, June, August, October, and November 2022, and January and March 2023 continued to result in a negative commissary profit balance within the account. As a result, the Sheriff's office was borrowing from inmate balances to provide necessary funds for commissary operations.

We also noted, prior to the April 2022 payment, jail personnel had not disbursed commissary profits since June 30, 2021, approximately 9 months prior. The Jail Sergeant indicated he did not receive any training and was unaware profits needed to be disbursed monthly. He further indicated he was unaware of the excess commissary profit disbursements until our inquiry and was not sure how the system allowed him to disburse more profits than were available. The inmate account balances prevented the bank account from being overdrawn.

To ensure commissary profit transactions are appropriate, all disbursements need to be supported by detailed documentation with payment information clearly indicated. Section 50.370, RSMo, requires county officials to turn over all fees to the County Treasurer monthly. Section 221.102, RSMo, requires each county jail to keep revenues from its commissary in a separate account and pay for goods and other expenses from that account, allows retention of a minimum amount of money in the account for cash flow purposes and current expenses, and requires deposit of the remaining funds (net proceeds) into the county Inmate Prisoner Detainee Security Fund held by the County Treasurer. Failure to perform a documented review and approval of disbursements increases the risk that inappropriate disbursements will occur and go undetected.



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2.4 Inactive inmate account balances

The Sheriff does not have adequate policies or procedures to ensure an inmate's remaining account balance is refunded upon release, including formally establishing a threshold for when balances will not be refunded due to insignificance. As of January 9, 2023, the Sheriff's office was holding \$7,645 for 850 former inmates in the commissary bank account.

Jailers generally provide inmates a debit card credited with their remaining account balances upon release unless the inmate is transferred to another county or the Missouri Department of Corrections (DOC). In those instances, a check is mailed to the other county or the DOC. However, the Jail Sergeant indicated they do not disburse any balance under \$2 and the jail continues to hold this money in the inmates' accounts. However, the Sheriff has not established a formal policy for this procedure. The Jail Sergeant indicated he believed the \$7,645 was not disbursed because jailers forgot to issue debit cards upon release or the inmate's account balance was less than \$2. We determined there were 263 former inmate accounts totaling \$7,201 with balances greater than \$2.

Follow up on inactive accounts is necessary to ensure money is appropriately disbursed to the former inmates or as otherwise provided by state law. Section 447.532, RSMo, provides that any funds held by a political subdivision that remain unclaimed for more than 3 years should be turned over to the Missouri State Treasurer's Unclaimed Property Division. In addition, establishing formal policies and procedures to refund an inmate's remaining balance upon release and the threshold for issuing debit cards would allow the Sheriff to more adequately safeguard any money being held and reduce the risk of its loss, theft, or misuse.

2.5 Seized property

Sheriff's office personnel have not performed a physical inventory of all seized property. The Sheriff indicated the inventory was not performed due to personnel issues. He stated he has had significant employee turnover in his office and it has been a challenge to hire and retain personnel. Considering the often sensitive nature of seized property, adequate internal controls, including physical inventories, are essential to ensure seized property is accounted for properly and to reduce the risk of loss, theft, or misuse of the property.

Similar conditions previously reported

A similar condition to Section 2.1 was noted in our prior audit report and a similar condition to Section 2.2 was noted in our prior 2 audit reports.

Recommendations

The Sheriff:

- 2.1 Implement procedures to ensure the method of payment is indicated on all receipt slips, the composition of receipts is reconciled to the composition of deposits, and money received is deposited timely.



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- 2.2 Ensure adequate monthly bank reconciliations are prepared and maintain a cumulative book balance. In addition, the Sheriff should generate a monthly list of liabilities and reconcile the list to the available cash balance. Any differences, including any old deposits in transit, should be promptly investigated and resolved.
- 2.3 Implement procedures to ensure commissary net proceeds not necessary to meet cash flow needs or current operating expenses are disbursed appropriately and timely to the County Treasurer for deposit into the Inmate Prisoner Detainee Security Fund. Also, the Sheriff should ensure adequate supporting documentation is maintained, and disbursements are independently reviewed and approved prior to payment. The Sheriff should work with the County Treasurer to resolve the excess disbursements.
- 2.4 Establish formal policies and procedures to ensure inmates receive their remaining balances upon release or when insignificant amounts may be retained. In addition, the Sheriff should attempt to return unclaimed balances to the former inmates. If the payee cannot be located, the amount should be disbursed in accordance with state law.
- 2.5 Ensure a periodic inventory of seized property is conducted and reconciled to the seized property evidence log, and investigate any differences.

Auditee's Response

The Sheriff provided the following response:

I plan to implement the recommendations made by the audit, to best of our ability, on each of the findings.

3. Prosecuting Attorney's Controls and Procedures

3.1 Transmitting

Controls and procedures in the Prosecuting Attorney's office need improvement. The office collected approximately \$64,700 in court-ordered restitution and fees during the year ended December 31, 2022.

The Prosecuting Attorney's office did not timely transmit court-ordered restitution payments to victims or the related fees to the County Treasurer. In addition, fees are not always transmitted intact. The office typically transmits restitution to victims and fees to the County Treasurer on the same date. Our review of receipt and transmittal records noted the following:

- Office personnel did not transmit \$5,030 in victim restitution and \$19,025 in related fees collected from January through June 2022 until January 2023. The January 2023 transmittal to the County Treasurer also included a September 2021 receipt. Other September 2021 fees collected were



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transmitted 8 months prior, in April 2022. It is unclear why the September 2021 receipt was not included in the April 2022 transmittal.

- Office personnel did not transmit \$5,715 in victim restitution and \$7,520 in related fees collected from July and August 2022 until February 13, 2023.
- Office personnel did not transmit \$16,608 in victim restitution and \$10,895 in related fees collected from September through December 2022 until February 17, 2023.

The Prosecuting Attorney indicated when he became the interim Prosecuting Attorney in July 2022, the caseload was very large and behind schedule so that was his main focus. He also indicated the staffing was low and he was not aware transmittals were not timely until he began preparing for our audit in February 2023.

Timely and intact transmittal of restitution payments and fees is necessary to ensure victims are compensated, receipts are properly accounted for, and to reduce the risk of loss, theft, or misuse of funds. Additionally, Section 50.370, RSMo, requires all county officials who receive fees or any other remuneration for official services to pay this money monthly to the County Treasurer, and Section 50.380, RSMo, provides that any county officer that fails to pay fees or other remuneration to the County Treasurer timely may be subject to penalties for such failure.

3.2 Restrictive endorsement

The Prosecuting Attorney has not established procedures to restrictively endorse checks and money orders upon receipt. During our February 2023 cash counts, we noted checks and money orders on hand, payable to county funds, totaling \$7,750, had not been restrictively endorsed. The County Treasurer applies the endorsement when she receives the transmittal. The Prosecuting Attorney indicated his office was not restrictively endorsing checks and money orders because they were made payable to the county Law Enforcement Restitution Fund instead of the Prosecuting Attorney, and he was instructed it was not appropriate for him to endorse checks payable to another party. However, a restrictive endorsement would not need to be specific to the payee and his office personnel could have applied such endorsement.

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

Similar conditions previously reported

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



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Recommendations

The Prosecuting Attorney:

- 3.1 Transmit all receipts timely, intact, and in accordance with state law.
- 3.2 Ensure checks and money orders are restrictively endorsed immediately upon receipt.

Auditee's Response

- 3.1 *After this problem was brought to my attention by the audit, I implemented a new policy that transmittal to the Treasurer will be done on a monthly basis as near to the first of the month as possible, and will continue this way in perpetuity. I do not understand why it was not being done properly before my tenure, but this problem has been rectified.*
- 3.2 *The County Treasurer is communicating with the bank to obtain a restrictive endorsement stamp that I will be able to use when payment is received rather than having to wait until transmittal to be endorsed. This will be our procedure going forward. The policy will be immediately implemented upon receipt of said stamp.*

4. County Disbursements

Controls and procedures over county credit card and other disbursements need improvement. Credit card purchases totaled approximately \$13,800 during the year ended December 31, 2022.

4.1 Credit cards

The County Commission has not established guidelines for the use of county credit cards including the appropriate use, oversight, and required documentation to support credit card purchases. The County Clerk and Sheriff's office each have a county credit card and receive separate billing statements.

We reviewed both credit card statements for the 30 days ended December 10, 2022. Charges included on the two statements totaled \$2,185. The Sheriff did not submit supporting documentation for 6 transactions totaling \$714 to the County Clerk. Instead the Sheriff typically only submits a signed letter authorizing payment of the monthly statement. The County Clerk stated she only received this signed letter along with 1 receipt slip from the Sheriff's office for the December 2022 credit card purchases and Sheriff's office personnel indicated they do not maintain receipt slips for credit card purchases or invoices from online purchases.

Credit card purchases are inherently more risky than other purchases because credit card purchases are, or can be, made prior to proper approval. That risk and the potential for inappropriate purchases or other misuse increases even more when internal controls and proper procedures are lacking. Without formal policies and procedures, employees are not aware of what purchases are allowable, the limits of what could be purchased without prior County



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Commission approval, or the documentation required to support purchases; and there is less assurance these purchases are appropriate.

4.2 Food and gift purchases

The county spent approximately \$1,000 on food and gift card purchases that may not have been prudent, reasonable, or necessary uses of county funds. In addition, the county does not have written policies on employer-provided food and gifts.

The food and gift card purchases were for the employee appreciation dinner/holiday party in December 2022. The County Clerk indicated the 25 gift cards totaling \$625 in varying amounts were given as door prizes to employees attending the holiday party. The County Clerk charged these purchases to her county credit card. County personnel did not maintain a list of participants and gift card recipients for this event.

The County has not established any guidance or policies about food and gift purchases. Such guidance or policies can have various provisions. For example, the State of Missouri's agency provided food policy only allows for food at official business functions and light refreshments at other agency sponsored activities (employee retirement, employee appreciation, etc.), but banquets for such activities are not allowed. In addition, the policy requires documentation to support food purchases including (1) purpose, (2) list of participants or estimated number of invitees, and (3) cost of food provided. The State of Missouri also has an agency gift and award policy that allows retirement, service, and other recognition award gifts that are reasonable and primarily represent a token of recognition and not a reward with a cash equivalent, such as a gift card, or a reward of substantial monetary value.

County residents have placed a fiduciary trust in their public officials to spend county revenues in a prudent and necessary manner. Established policies on county provided food and gifts would provide employees necessary guidance and better transparency for citizens about the use of public funds. Additionally, Article VI, Sections 23 and 25, Missouri Constitution prevent local governments from granting public money to any private individual, except as otherwise provided by law.

Recommendations

The County Commission:

- 4.1 Establish written guidelines regarding use of the county credit cards, including provisions for allowable uses, required documentation, and the approval process for credit card purchases.
- 4.2 Ensure all disbursements are a necessary and prudent use of public funds. In addition, the County Commission should establish policies regarding food and gift purchases, if such purchases are considered necessary.



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Auditee's Response

- 4.1 *The County Commission added a section in the Internal Control Policy that establishes guidelines for the county credit cards as recommended. This was approved in the Commission meeting on December 29, 2023.*
- 4.2 *The County Commission added a section in the Internal Control Policy regarding food and gift purchases for county employees similar to the State of Missouri. This was approved in the Commission meeting on December 29, 2023.*

5. Sheriff's Compensation

The County Commission authorized mid-term salary increases totaling \$17,732 to the Sheriff in violation of constitutional provisions. The Sheriff took office in 2021 at the salary level approved by the Pemiscot 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 the 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 did not seek a written legal opinion on these matters and authorized the full salary increase for the Sheriff, but did not document this authorization in the meeting minutes. Additionally, in January 2022, the County Commission increased the Sheriff's salary by \$13,031 instead of spreading the increase out over 5 years as required by statute. The Commission also authorized salary increases for the Sheriff based on salary increases given to associate circuit judges during 2022 and 2023. As of July 2023, the Sheriff received salary increases totaling \$17,732 during his term.

The County Clerk indicated the County Commissioners discussed this matter with a State Senator and a State Representative, and both told them the county could give the Sheriff the total increase. The County Clerk and County



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Commission further indicated that they only did as they were told and believe this complies with the new statute.

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's written response indicates they disagree with the recommendation. The County Commission's full response, as it was presented, is included at Appendix A.

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).

The County Commission's response states that the finding does not indicate the county failed to follow the plain text of the law. The finding does indicate such, in that the finding states Article VII, Section 13, of the Missouri Constitution prohibits an increase in compensation for state, county, and municipal officers during the term of office, and that the County Commission provided the raise in excess of \$10,000 at one time rather than over 5 years as required. The County Commission does not address this noncompliance in its response. The response further states the State Auditor's Office has not presented its authority to determine a statute is unconstitutional. The finding does not question the constitutionality of the statute; but rather the unconstitutional application of the statute by providing raises midterm. Finally, the County Commission's response states the State Auditor's Office did not make specific findings that the County Sheriff did not assume additional duties. However, the finding specifically states that there are no new or additional duties extrinsic or not germane to the office. The duties described in the response are germane and are not extrinsic to the operations of the Sheriff's office.

6. County Clerk's Controls and Procedures

Controls and procedures in the County Clerk's office need improvement. The office processed liquor license fees, notary fees, and other miscellaneous receipts totaling approximately \$20,400 during the year ended December 31, 2022.

The County Clerk does not reconcile receipt records to transmittal records. We reviewed receipt and transmittal records for June 2022, totaling \$8,454,



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and records related to 4 of 11 liquor license fees collected during July and August 2022. A \$303 check associated with receipt number 788919 issued August 11, 2022, was not transmitted to the County Treasurer and was missing. The County Clerk indicated she accidentally returned the check to the business owner with the liquor license. The County Clerk was unaware this check was not transmitted until our inquiry. The County Clerk contacted the individual, received a replacement check on May 3, 2023, and transmitted it to the County Treasurer upon receipt.

Failure to implement adequate transmittal procedures, including reconciling receipts to transmittal records, increases the risk that loss, theft, or misuse of receipts will occur and go undetected. Section 50.370, RSMo, requires all county officials who receive fees or any other remuneration for official services to pay such money monthly to the County Treasurer.

Recommendation

The County Clerk reconcile receipts to transmittals to ensure all receipts are transmitted to the County Treasurer.

Auditee's Response

The County Clerk is checking her receipt book monthly to match the income entered in QuickBooks (electronic accounting software).

7. County Treasurer's Controls and Procedures

Controls and procedures in the County Treasurer's office need improvement. According to a disbursement report, the county disbursed approximately \$24 million during the year ended December 31, 2022.

The County Treasurer has not established procedures to routinely follow up on outstanding checks in the County Treasurer's general bank account. As of April 30, 2023, 28 checks totaling \$22,862 had been outstanding for over a year, with the oldest check dating back to 2020. The County Treasurer indicated she was not informed of the need to follow up on outstanding checks when she took office in January 2023.

Procedures to routinely follow up on outstanding checks are necessary to prevent the accumulation of funds in the account and ensure funds are appropriately disbursed to the payee or as otherwise provided by state law. Section 447.532, RSMo, provides that any funds held by a political subdivision that remain unclaimed for more than 3 years should be turned over to the Missouri State Treasurer's Unclaimed Property Division.

Recommendation

The County Treasurer establish procedures to routinely investigate outstanding checks. Old outstanding checks should be voided and reissued to payees that can be readily located. If payees cannot be located, the money should be disposed of in accordance with state law.



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Auditee's Response

In regards to the outstanding checks from the Treasurer's office, we have been making calls since the auditors brought to my attention that we have several outstanding checks that need to be resolved.

If after calling and sending written notices concerning these checks we receive no response, we will send the related funds for all checks that have been outstanding for 3 years or longer to the Missouri State Treasurer's Unclaimed Property Division.

This will be a formal policy that I will monitor monthly.

8. County Budgets

The County Clerk did not timely submit a certified copy of the 2022 and 2021 county budgets to the State Auditor's Office (SAO) in accordance with state law. The County Clerk indicated she attempted to submit them timely to the SAO, but her emails did not go through. However, the SAO sent reminder notices that the budgets had not been filed.

Section 50.740.2, RSMo, requires the county clerk to file a certified copy of the budget with the State Auditor within 5 days of approval.

Recommendation

The County Clerk submit a certified copy of the county budget to the State Auditor's Office within 5 days of approval as required by state law.

Auditee's Response

The County Clerk did e-mail a certified copy of the 2022 and 2021 county budgets to the State Auditor's Office by the required deadline of January 31 but did not receive a confirmation from the State Auditor's Office showing that they received it. She will be sure a response is received when future budgets are sent. If not received, she will contact the State Auditor's Office immediately.

Auditor's Comment

As the noted in the finding, while the County Clerk may have attempted to email the county budgets, the emails were unsuccessful and the SAO did not receive the budgets. As a result, the SAO did not send a confirmation of receipt. However, the SAO did send reminder notices to the County Clerk about the unsubmitted budgets, and the County Clerk did not follow up with the SAO in response to these reminders.

9. 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.

Employees in the office of the County Clerk, Prosecuting Attorney, and Recorder are not required to change passwords periodically. Additionally, user identifications and passwords for computers in the offices of the County Clerk and Recorder are shared between employees, and Prosecuting



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Attorney's office employee passwords are not required to have a minimum number of characters.

The County Clerk indicated computer passwords may be shared when someone needs to use another computer to access certain software programs, such as QuickBooks, but passwords to access these programs are not shared. The Recorder did not know that passwords should not be shared. The Prosecuting Attorney stated he did not know all passwords should contain a minimum number of characters. The County Commission implemented an electronic data security policy requiring password controls in December 2022, but officials indicated they were not aware of this policy during our inquiries in April 2023.

The county's electronic data security policy requires confidential passwords be established and changed quarterly, and unique user accounts for each employee be established, to prevent unauthorized access to the county's computers and data. 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 that contain a minimum number of characters, are changed periodically, and are not shared, reduce the risk of a compromised password and unauthorized access to and use of computers and data.

Recommendation

The County Commission work with other county officials to require each employee to use a unique user identification and password with a minimum number of characters that is periodically changed.

Auditee's Response

The County Commission provided the following response:

The County Commission created an additional Password Protection Policy that was signed by each office on May 24, 2023. There was also a section added to the Internal Control Policy on electronic data security to address the recommendation. This was approved in the Commission meeting on December 29, 2023.

The Prosecuting Attorney provided the following response:

As of December 11, 2023, all employees of the Prosecuting Attorney's Office are required to change their computer passwords every 90 days. Passwords



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must be at least 8 characters and must consist of upper and lower case letters, at least one numeral, and at least one special character.

The Recorder provided the following response:

Upon reading the draft for the State Auditor's findings for Pemiscot County, I wanted to clarify how I initially answered the questions regarding sharing passwords. Previously, my predecessor and her deputy shared all passwords to each other's computers and any program logins. When I took office January 1st, 2023, I did change passwords; however, I only shared the ones that were necessary for my deputy (who previously worked with my predecessor) to have, in case I was out of the office. During the audit, I addressed that the passwords were only shared between myself and my deputy, and was not aware not to do so.

Moving forward, we made very necessary changes in my office. A "Password Protection Policy" from the County was addressed and signed by myself on May 24, 2023. All passwords have been changed to strong, secure passwords and are no longer shared between my deputy and myself. We change passwords every 90-120 days, We have a shared file in place on our computers, should we need any file/document to be visible to both of us.

10. 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.¹

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 unaware of the record retention requirements and the electronic communications guidelines.

¹ 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 November 20, 2023.



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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

The County Commission added a section in the Internal Control Policy that addresses records management and retention that includes electronic communication per the Missouri Secretary of State Records Service Division guidelines. This was approved in the Commission meeting on December 29, 2023.

11. Subsequent Event

In August 2023, subsequent to our fieldwork, county personnel detected fraudulent activity committed by a third party in the county's primary bank account. County personnel took immediate action to investigate the issue. They contacted the Sheriff's office and bank officials, and are working with federal authorities as the investigation continues.

The County Treasurer continues to actively monitor bank activity on a daily basis. In November 2023, the county implemented a positive pay system with the bank to help detect any fraudulent transactions and prevent them from processing. The bank has reimbursed the county for all fraudulent transactions identified as of December 31, 2023.

Pemiscot County

Organization and Statistical Information

Pemiscot County is a county-organized, third-class county. The county seat is Caruthersville. The county's population was 15,661 in 2020, according to the U.S. Census Bureau.

Pemiscot 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.

Elected Officials

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

Officeholder	2023	2022
Mark Cartee, Presiding Commissioner	\$	29,390
Baugh Merideth, Associate Commissioner		28,759
Noble Nelson, Associate Commissioner		28,759
Peggy V. Darnell, Recorder of Deeds		41,500
Pamela M. Treece, County Clerk		41,500
Thomas D. Greenwell, Sheriff		74,214
Frankie R. Stewart, County Treasurer		41,500
James Brimhall, County Coroner (1)		14,088
Brian Irions, County Coroner (1)		613
Trina Hollomon, Public Administrator		43,575
Steven Horton, Prosecuting Attorney (2)		78,025
Joshua L. Tomlin, Prosecuting Attorney (2)		73,406
Rhonda Parkinson Price, County Collector (3), year ended February 28,	50,345	
Donna Brimhall, County Assessor (4), year ended August 31,		21,788
Lisa Sheckell, County Assessor (4), year ended August 31,		21,787

- (1) James Brimhall served as County Coroner until he passed away on December 15, 2022. Brian Irions was appointed and took office December 16, 2022.
- (2) Joshua L. Tomlin resigned effective June 30, 2022. Steve Horton was appointed as interim Prosecuting Attorney and took office on July 1, 2022, to fill out the term.
- (3) Includes \$8,499 of commissions earned for collecting drainage district property taxes.
- (4) Lisa Sheckell passed away on February 20, 2022. Donna Brimhall served as interim County Assessor until she was appointed and took office on February 23, 2022, to fill out the term.



Pemiscot County
Organization and Statistical Information

In addition to elected officials, the county employed 79 full-time employees and 5 part-time employees on December 31, 2022.

County operations also include the Senate Bill 40 Board and Law Enforcement Restitution Fund Board.



Appendix
Pemiscot County
County Commission Response to Audit Recommendation for Management
Advisory Report Finding Number 5

SHERIFF

We disagree with the State Auditor's preliminary findings in Section 2 of its report. Three principal reasons support the payment of additional compensation to the Sheriff. First, it is consistent with the plain text of Section 57.317, which was amended by the General Assembly in 2021 by Senate Bill 53. The statute sets a formula tying county sheriffs' salaries to a portion of the compensation of an associate circuit judge of the county. First and second class county sheriffs receive, by law, 80% of the compensation of an associate circuit judge. § 57.317.1(1). In third and fourth class counties, a sheriff's salary is also tied to a percentage of an associate circuit court judge's salary, with the specific percentage variable based on the assessed valuation of land in the county. § 57.317.1(2).

That same statute also set a graduated scale for when any additional compensation would be paid to the county sheriff. By law, if the increase in the sheriff's compensation as a result of Senate Bill 53 was less than \$10,000, the increase "shall take effect on January 1, 2022." *Id.* If the increase was \$10,000 or more, "the increase shall be paid over a period of five years in twenty percent increments per year." The Auditor's preliminary findings acknowledge the plain text of the law, and the findings do not state that the Sheriff was not following the plain text of the law. We believe that the assessed land valuation and timing of payment of any additional compensation follows what the law directs us to do.

Second, while Senate Bill 53 was passed over two years ago, there has been no substantive challenge to the law being unconstitutional. The only legal challenge was filed shortly after the law was filed, and it alleged that the law was unconstitutional on procedural grounds. The State's Attorney General's Office successfully defended the legislation. See *County Commissioners Association v. State of Missouri*, Case No. 21AC-CC00442.

No individual or entity has claimed that Senate Bill 53 violates Article VII, Section 13. The Auditor's Office has not provided us with authority that it can conclude that a statute is unconstitutional. All statutes "presumed to be constitutional and will not be held unconstitutional unless [they] clearly and undoubtedly contravene[] the constitution." *United C.O.D. v. State*, 150 S.W.3d 311, 313 (Mo. banc 2004). Nor has the Auditor's Office presented us with authority that it can issue negative findings against a local entity when the entity has complied with the plain text of governing law. We note that the Auditor's Office has not found that the County or the Sheriff has failed to abide by the plain text of Section 57.317. The significant length of time since the bill has been passed further underscores the general rule that all statutes are presumed constitutional.

Finally, the Auditor's Office notes that "Court cases have concluded that to receive additional compensation during a term of office there must be new or additional duties[.]"¹ The Auditor's Office did not make any specific findings that the County Sheriff has not assumed additional responsibilities. In fact, Senate Bill 53 modifies the provisions governing the service of summons, writ, and other court orders, which directly affects county sheriffs. § 57.280.5. In addition, Senate Bill 53 enacted a new statute-Section 221.065-imposes additional duties on county sheriffs with respect to providing certain personal materials to detainees in custody. Finally, Senate Bill 53 modified Section 455.040.3 to require county sheriffs to perform additional duties when entering information into the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC).

Thus, we respectfully disagree with the State Auditor's preliminary findings. At all times, the Sheriff followed the law as enacted by the General Assembly. The Auditor's Office must presume the law is constitutional. A court has already upheld the constitutionality of the law on several grounds, and there has been no challenge to the law on other grounds. And the plain text of Senate Bill 53 imposes

additional duties on the Sheriff's Office, which must alleviate any concerns raised by the Auditor's Office in its interpretation of Article VII, Section 13. We demand that the State Auditor rescind its findings or provide a clear factual basis for any conclusion that the Sheriff or the County have not complied with the plain text of Senate Bill 53.