



Claire McCaskill

Missouri State Auditor

February 2006

Thirty-Second Judicial Circuit

Cape Girardeau County, Missouri



Office Of
Missouri State Auditor
Claire McCaskill

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The following findings were included in our audit report on the Thirty-Second Judicial Circuit, Cape Girardeau County, Missouri.

The Cape Girardeau Circuit Division has not reviewed accrued costs since the transfer of files from the old computer system to the new Justice Information System (JIS) in July 2001. An accrued costs listing has never been printed and reviewed for accuracy. A complete and accurate listing of accrued costs would allow the Circuit Court to easily review amounts due to the court and take appropriate steps to ensure amounts owed are collected.

The court has not implemented adequate procedures to monitor and dispose of bond monies held in their criminal bank account. During our review of ten open bonds, we noted three bonds totaling \$3,700 that had not been applied to fines and costs. Agreements with bond owners indicated bond monies would be held until fines and costs were paid by the defendants. However, some defendants have not made the required monthly payments and bond monies have not been applied to the delinquent balances. As of November 30, 2005, outstanding bonds held by the court totaled \$162,719.

At December 31, 2004, the Civil Division had checks totaling \$3,867 which had been outstanding for over a year. Furthermore, these checks had not cleared the bank as of August 30, 2005. The Division Clerk has not followed-up on outstanding checks since 2001.

The Civil Division maintains an Adoption Account which has not been active since 1991. The court no longer collects a medical fee on adoption cases and the remaining balance in the account represents excess fees paid by the petitioners. The account had a balance of \$6,439 as of June 30, 2005.

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YELLOW SHEET

THIRTY-SECOND JUDICIAL CIRCUIT
CAPE GIRARDEAU COUNTY, MISSOURI

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STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

Presiding Judge and Court en banc
and
Circuit Clerk of the
Thirty-Second Judicial Circuit
Cape Girardeau County, Missouri

We have audited certain operations of the Thirty-Second Judicial Circuit, Cape Girardeau County, Missouri. The scope of this audit included, but was not necessarily limited to, the years ended December 31, 2004 and 2003. The objectives of this audit were to:

1. Review internal controls over significant financial functions.
2. Review compliance with certain legal provisions.

Our methodology to accomplish these objectives included reviewing written policies, financial records, and other pertinent documents; interviewing various personnel of the judicial circuit, as well as certain external parties; and testing selected transactions.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of 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 significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the judicial circuit's management, the Office of State Courts Administrator, and Cape Girardeau County and was not subjected to the procedures applied in the audit of the judicial circuit.

The accompanying Management Advisory Report presents our findings arising from our audit of the Thirty-Second Judicial Circuit, Cape Girardeau County, Missouri.



Claire McCaskill
State Auditor

October 13, 2005 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Kenneth W. Kuster, CPA
Audit Manager:	Jeannette Eaves, CPA
In-Charge Auditor:	Monique Williams, CPA
Audit Staff:	Steven Re', CPA

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

THIRTY-SECOND JUDICIAL CIRCUIT
CAPE GIRARDEAU COUNTY, MISSOURI
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1. Circuit Clerk's Accounting Controls and Procedures

The Circuit Division has not reviewed accrued case costs in several years, and adequate procedures have not been implemented to monitor and dispose of bond monies held in the criminal bank account and follow-up on old outstanding checks totaling more than \$3,800 in the civil bank account.

- A. The Circuit Division has not reviewed accrued costs (court costs, incarceration costs, court-ordered restitution, and fines) since the transfer of files from the old computer system to the new Justice Information System (JIS) in July 2001. An accrued costs listing has never been printed and reviewed for accuracy. The Division Clerk was not aware an accrued costs listing could be generated by the computer until our review of the case balances.

We noted several cases in which accrued costs were included on the listing erroneously. For example, the listing reflected an outstanding restitution balance of \$72,644 for one case; however, this amount was paid in full in September, 1998. In another case, the accrued costs listing indicated a restitution balance due of \$1,000, but further review of court records indicated this amount was paid in full in May, 1995. In a third case, the defendant served time in prison for non-payment of the outstanding restitution balance, and therefore this amount should have been written off. In addition, the judge waived costs in approximately 300 old adoption cases; however, the Division Clerk has not followed up on these cases to remove them from the listing.

A complete and accurate listing of accrued costs would allow the Circuit Court to easily review amounts due the court and take appropriate steps to ensure amounts owed are collected. Inadequate procedures for the collection of accrued costs may result in lost revenues. The Circuit Clerk should periodically generate a listing of accrued costs and review it for accuracy and completeness.

- B. The court has not implemented adequate procedures to monitor and dispose of bond monies held in their criminal bank account. During our review of ten open bonds, we noted three bonds totaling \$3,700 that had not been applied to fines and costs. The Circuit Clerk's office indicated these bonds had not been applied because agreements with bond owners indicated bond monies would be held until fines and costs were paid by the defendants. However, some defendants owing amounts to the court have not made the required monthly payments and bond monies have not been applied to the delinquent balances. The court was unaware

of these situations until our review of the case files. As of November 30, 2005, outstanding bonds held by the court totaled \$162,719.

The court needs to review cases for which bond monies are held and dispose of these monies in accordance with statutory provisions. Adequate monitoring procedures are necessary to ensure that bond monies are handled appropriately and that monies belonging to other entities or individuals are disbursed timely.

- C. The Civil Division has not established procedures to follow-up on old outstanding checks. At December 31, 2004, checks totaling \$3,867 had been outstanding for over a year. These checks had not cleared the bank as of August 30, 2005. The Division Clerk has not followed-up on outstanding checks since 2001.

These old outstanding checks create additional and unnecessary recordkeeping responsibilities. Procedures should be adopted to routinely follow-up on old outstanding checks and reissue them if the payees can be located. If the payees cannot be located, these monies should be disposed of in accordance with state law.

WE RECOMMEND the Circuit Division:

- A. Maintain a complete and accurate listing of accrued costs. In addition, written procedures should be established and implemented for identifying, recording, and pursuing the collections of accrued costs. An attempt should be made to collect on past due amounts or determine if old balances need to be written off.
- B. Perform a review of cases in which bond monies are being held to determine proper disposition, and establish procedures to ensure bond monies are disbursed in a timely manner.
- C. Develop procedures to routinely follow-up on old outstanding checks and reissue them if necessary or dispose of these monies in accordance with state law.

AUDITEE'S RESPONSE

The Circuit Clerk provided the following responses:

- A. *My office was not aware of any report entitled Aged Trial Balance Account. After taking several hours to print this report for your staff, twice, my staff and I noted that the original receipts were on the pegboard system, but didn't convert to JIS. Your staff indicated that they noted "several cases in which accrued costs were included on the listing erroneously". This conversion was done by the Office of State Court's Administrator (OSCA) and not the Circuit Clerk's Office. We had no control over the conversion process.*

My staff and I pulled the pegboard receipts, the bank deposit slips, and the cancelled checks on each of the files requested by your office making them aware that the court costs and restitution had been paid.

After this unknown report was brought to our attention, I made an application to OSCA on October 31, 2005, for Special Project Assistance to clean up this report. On November 2, 2005, I received a notice from OSCA that funding for this was not available at this time, but to re-apply in June of 2006. This office will re-apply.

Again, this Aged Trial Balance Account Report was never brought to our attention by OSCA, nor in the Banner training classes. My staff does the month to month reports and year-end reports as instructed by OSCA.

- B. *Not only do we receive surety bonds, but also cash bonds. At times, family members like to have the defendants accept some responsibility for their actions and pay the court costs and restitution. We hold those bonds until costs have been paid and then refund the bond to the surety. Most of the defendants made timely payments, but a few did not. This was brought to our attention by your auditors. Thereafter, this office informed the sureties that we were withholding the balance of the court costs and refunding the balance at the request of the State Auditor's Office.*
- C. *My Accounting Clerk has had special projects approved by OSCA in the past to follow-up on outstanding checks. She is in the process of applying for this special project at this time.*

2.	Adoption Account
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The Civil Division maintains an Adoption Account which has not been active since 1991. This account was established to collect a fee from adoption petitioners to help pay for medical costs incurred by their adoptive child if they were held at the juvenile detention facility. The court no longer collects a medical fee on adoption cases and the remaining balance in the account represents excess fees paid by the petitioners. The account had a balance of \$6,439 as of June 30, 2005. The account also incurs a service charge of approximately \$20 per month which will reduce the amount available to distribute.

The Civil Division should disburse the funds to the adoption petitioners and close the account. Any monies which remain as unclaimed or unidentified should be disposed of in accordance with state law.

WE RECOMMEND the Civil Division attempt to locate the adoption petitioners and issue refunds to the petitioners. All monies which remain as unclaimed or unidentified should be disposed of in accordance with state law.

AUDITEE'S RESPONSE

The Circuit Clerk responded that his Accounting Clerk feels she will be able to close this Adoption account and make any refunds during the month of February, 2006.

HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

THIRTY-SECOND JUDICIAL CIRCUIT
CAPE GIRARDEAU COUNTY, MISSOURI
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

Organization

The Thirty-Second Judicial Circuit consists of Cape Girardeau County, Bollinger County, and Perry County.

The Thirty-Second Judicial Circuit consists of two circuit judges and four associate circuit judges. The circuit judges hear cases throughout the circuit. One of these judges also serves as presiding circuit judge on a rotating basis and is responsible for the administration of the circuit. Of the four associate circuit judges, two are located in Cape Girardeau County and preside over the Associate Circuit Court (Division III) and the Probate Division Court (Division IV). The other two associate circuit judges are located in Bollinger County and Perry County.

In addition to the judges, the Thirty-Second Judicial Circuit, Cape Girardeau County personnel include a circuit clerk, an associate circuit division clerk, a probate division clerk, eighteen deputy clerks, one part-time clerk, a chief juvenile officer, one chief deputy juvenile officer, nine deputy juvenile officers, eighteen juvenile detention center staff, three juvenile office support staff, two court reporters, one secretary, and one drug court administrator. The Prosecuting Attorney's Office collects restitution ordered on circuit and associate cases.

The juvenile office's home base is Cape Girardeau County; however, this office also serves residents of Bollinger County and Perry County.

Circuit personnel located in Bollinger County and Perry County are not included in the scope of this audit, but are reported on separately.

Operating Costs

The operating expenses of the various courts are paid by Cape Girardeau County. The operating expenses for the circuit judges, court reporters, and juvenile office (including the juvenile detention center) are paid by the three counties within the circuit based on the percentage of the county's population to the total circuit population.

The salaries of the court personnel and the Chief Juvenile Officer are paid by the state of Missouri. The salaries of the remaining juvenile office personnel (including those of the juvenile detention center) are paid by the various counties within the circuit based on the percentage of each county's population to the total circuit population.

Receipts

Receipts of the Thirty-Second Judicial Circuit, Cape Girardeau County, were as follows:

	Year Ended December 31,	
	2004	2003
Court deposits, fees, bonds, and other	\$ 3,568,660	2,996,614
Interest income	2,597	1,540
Total	\$ 3,571,257	2,998,154

Caseload and Time Standards Statistics

From the Office of State Courts Administrator Missouri Judicial Reports, caseload statistics of the filings and dispositions of the Thirty-Second Judicial Circuit, Cape Girardeau County, were as follows:

	Year Ended June 30,			
	2004		2003	
	Filings	Dispositions	Filings	Dispositions
Civil	3,965	3,919	3,858	3,654
Criminal	4,915	4,682	5,027	5,012
Juvenile	177	215	208	344
Probate	169	124	170	122
Total	9,226	8,940	9,263	9,132

From the Office of State Courts Administrator Missouri Judicial Report for fiscal year 2004, statistics on the compliance of the Thirty-Second Judicial Circuit, Cape Girardeau County, with time standards for disposition of certain types of cases were as follows:

Type of Case	Time Standard	32nd Judicial Circuit Cape Girardeau County, Missouri	State Total
Circuit Civil	90 % in 18 months	82 %	78 %
	98 % in 24 months	91	87
Domestic Relations	90 % in 8 months	90	85
	98 % in 12 months	96	91
Associate Civil	90 % in 6 months	90	86
	98 % in 12 months	98	97
Circuit Felony	90 % in 8 months	96	82
	98 % in 12 months	99	91
Associate Criminal	90 % in 4 months	93	73
	98 % in 6 months	98	85

Personnel

At December 31, 2004, the judges, Circuit Clerk, Chief Juvenile Officer, and Drug Court Administrator of the Thirty-Second Judicial Circuit, Cape Girardeau County, were as follows:

William L. Syler, Circuit Judge, Division I (Presiding Judge)

Benjamin F. Lewis, Circuit Judge, Division II

Gary Kamp, Associate Circuit Judge, Division III

Peter Statler, Associate Circuit Judge, Division IV

Charles Hutson, Circuit Clerk

Randall Rhodes, Chief Juvenile Officer

Steven Narrow, Drug Court Administrator

An organization chart follows:

THIRTY-SECOND JUDICIAL CIRCUIT
 CAPE GIRARDEAU COUNTY, MISSOURI
 ORGANIZATION CHART
 DECEMBER 31, 2004

