



Nicole R. Galloway, CPA
Missouri State Auditor

Twenty-First Judicial Circuit

City of St. Ann Municipal Division

December 2015
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<http://auditor.mo.gov>



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Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of St. Ann Municipal Court

Background

The St. Ann Municipal Court audit was completed as part of the Municipal Courts Initiative of the State Auditor's Office. The Municipal Courts Initiative adds additional areas of review to the standard court audit process. In addition to reviewing financial transactions, accounting practices, and compliance with court rules and state law, auditors also reviewed statistical information, tickets, and other penalties, to identify activities and other practices that may impair impartiality or damage the court's credibility with citizens.

Bond Fees

Although state law does not include provisions for the collection of bond processing fees, the city's police department collects a \$25 bond fee to process cash bond payments and a \$10 bond fee to process credit card bond payments. In 2014, the department collected approximately \$38,000 in bond processing fees without any statutory authority.

Vehicle Stop Reporting

The city did not retain adequate records to support 2014 vehicle stop data reported to the Missouri Attorney General's Office, which prevented the State Auditor's Office from reviewing the accuracy of the data.

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

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Twenty-First Judicial Circuit

City of St. Ann Municipal Division

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NICOLE R. GALLOWAY, CPA **Missouri State Auditor**

Presiding Judge
Twenty-First Judicial Circuit
and
Municipal Judge
and
Honorable Mayor
and
Members of the Board of Aldermen
St. Ann, Missouri

We have audited certain operations of the City of St. Ann Municipal Division of the Twenty-First Judicial Circuit in fulfillment of our duties under Chapter 29, RSMo, and as part of the State Auditor's Municipal Courts Initiative. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2014. The objectives of our audit were to:

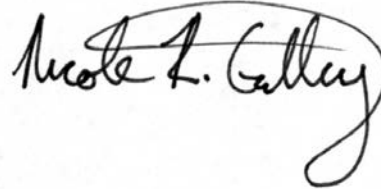
1. Evaluate the municipal division's internal controls over significant financial functions.
2. Evaluate the municipal division's and city's compliance with certain legal provisions.
3. Evaluate the municipal division's compliance with certain court rules.
4. Evaluate the city's compliance with Section 302.341.2, RSMo, which restricted the amount of fines and court costs that may be retained from traffic violations.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the municipal division, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the municipal division's management and was not subjected to the procedures applied in our audit of the division.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) noncompliance with legal provisions, (3) no significant noncompliance with a court rule, and (4) no significant noncompliance with Section 302.341.2, RSMo. The accompanying Management Advisory Report presents our findings arising from our audit of the City of St. Ann Municipal Division of the Twenty-First Judicial Circuit.

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

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	John Luetkemeyer, CPA
Director of Audits:	Douglas J. Porting, CPA, CFE
Audit Manager:	Deborah Whitis, MBA, CPA, CIA, CFE
In-Charge Auditor:	Gina Henley, MBA
Audit Staff:	Sheila Hohenstreet

Twenty-First Judicial Circuit

City of St. Ann Municipal Division

Management Advisory Report - State Auditor's Findings

1. Bond Fees

The police department collects a \$25 bond fee to process cash bond payments and a \$10 bond fee to process credit card bond payments; however, state law does not include provisions to collect such a fee. The police department collected approximately \$38,000 in bond processing fees for the year ended December 31, 2014. The police department should refrain from collecting these fees since the department does not have statutory authority to collect them.

Recommendation

The City of St. Ann Municipal Division work with the police department to discontinue collecting the bond processing fees.

Auditee's Response

The City of St. Ann disagrees with the State Auditor's opinion regarding this issue for the reasons outlined below:

The \$25 processing fee on cash bond payments and \$10 fee on credit card bond payments were legal user fees duly enacted by the Board of Aldermen of the City of St. Ann through Ordinance 2544. The fees were enacted to specifically cover the non-judicial staff time in the city's Corrections Department to process bonds, when the party chose to use city rather than private sector services. The Missouri Supreme Court found such fees legal in Keller v. Marion County Ambulance District, 820 S.W.2d 301 (Mo. banc 1991) ("how much to charge users [of services] is for the elected" to decide) and again most recently in Arbor Inv. Co v. City of Hermann, 341 SW2d 673 (Mo 2011). We obtained a legal opinion from the St. Ann City Attorney outlining why this fee meets the user fee "Litmus Test" outlined by the Missouri Supreme Court.

Based on comments made by State Auditor staff during the exit interview, it appears the State Auditor's Office is relying on a 2009 Attorney General's Opinion, Opinion No. 1242009, regarding the imposition of a mandatory "booking fee" by an elected county sheriff as justification for this finding. The fee in that opinion charged by the sheriff's office was not authorized by law, unlike in the instant matter whereby it was expressly authorized by ordinance. As mentioned above, the St. Ann fees in question were lawfully established by the governing body of the city and were only charged as processing fees for those individuals posting large sums of cash or using credit cards for posting bonds. This was not a mandatory fee to be released from jail. Individuals could be released on their own recognizance or have a bail bondsmen post a bond on their behalf and this fee would not be charged.

It should also be noted that St. Louis County, through County Ordinance 24110, 9-1-09 has enacted and continues to utilize a similar fee. Like St. Louis County, the City of St. Ann believes that this fee is compliant with state law.



Regardless, the Municipal Division has transitioned to signature bonds in 2015 and no longer accepts cash bonds. Therefore, this fee is no longer necessary to offset costs associated with cash bonds.

Auditor's Comment

The law does not provide for fees on individuals incarcerated on crimes that have not been adjudicated. Most costs associated with the criminal justice system are only paid if the individual is found guilty. Here, the individual must pay the bond and an additional fee to be released. The city is not providing a service but rather is doing what it is required to do by law, performing the administrative task of handling bond funds and transmitting it to the municipal division.

2. Vehicle Stop Reporting

The City of St. Ann Police Department did not retain adequate documentation to support the vehicle stop data submitted to the Attorney General's Office (AGO) for the year ended December 31, 2014.

Police officers were responsible for entering vehicle stop data into the Regional Justice Information System (REJIS) until approximately October 2014, when the police department began using another system vendor for vehicle stop reporting. Department personnel generated summary reports from both systems and manually combined the information for the report submitted to the AGO. In March 2015, based on a formal request from the Police Chief, certain records were purged from the information stored on the REJIS system, including vehicle stop data. The city did not have procedures in place to maintain backup copies of this data and was unable to recover any data after it was purged. As a result, we were unable to review the accuracy of the vehicle stop data submitted to the AGO.

Section 590.650, RSMo, requires law enforcement agencies to submit stop data to the AGO annually. Section 109.255, RSMo, authorizes the Missouri Local Records Board, chaired by the Secretary of State, to establish minimum retention periods for records created by local governments. The Police Clerk's Record Retention Schedule established by the Local Records Board requires the racial profiling statistics be retained for a minimum of 1 year after submission to the AGO. To ensure vehicle stop information is accurately reported to the AGO, sufficient documentation should be maintained to support data submitted.

Recommendation

The City of St. Ann Police Department should ensure adequate records are maintained to support the vehicle stop information submitted annually to the AGO.

Auditee's Response

The City of St. Ann disagrees with the State Auditor's opinion regarding this issue for the reasons outlined below:

As the State Auditor's Office is aware, the City of St. Ann Police Department



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filed the report required under Section 590.650.1, RSMo, by the March 2015 deadline in the format prescribed by the Attorney General's Office. The report was accepted by that office with no requests for follow up information and therefore the Department met its requirement to compile and report. The attached letter from Attorney General's Office indicates this fact. The St. Ann Police Department retained hard copies of the summary data produced by the two computerized systems that was utilized by the department to file the report.

*Section 590.650.1, RSMo, contains no record retention requirements nor has the Attorney General's Office issued any guidance on what, if any, raw historical data needs to be retained by the reporting agency. As this raw statistical data was stored on a legacy system maintained by REJIS, and the Department transitioned to an in-house system in 2015, the City discontinued its retention in electronic format once the transition to the new in-house system was complete and the report was accepted by the Attorney General's Office. **Again, the City retained hard copies of the report filing and associated aggregate statistical data as required by law.***

Section 109.225, RSMo, regarding record retention requirements established by the Secretary of State's Office for Police Clerks for Vehicle Stop Reporting states "Racial Profiling Statistics 1 Year after submission to Attorney General Destroy." The City retained the "Statistics" report generated by REJIS that was used to file with the Attorney General Office. A copy was provided to the State Auditor's Office.

*It appears that the State Auditor's Office is trying to cross reference municipal court citations to a data collection process that was purposely designed by the State Legislature to insure the anonymity of those individuals stopped by law enforcement, but not issued a citation. Sections 590.650.1 and 109.255, RSMo, provides for the collection of anonymous data in aggregate format to compile statistical reports that are submitted to the Attorney General's Office. If the State Auditor's Office believes it should have the ability to cross reference vehicle stop data with municipal court citations for "auditing" purposes, then it should discuss the issue with the Attorney General's Office and the State Legislature. The City of St. Ann **will not** engage in the collection of data that is **personally identifiable** based on a vehicle stop that may have resulted in no violation of the law and that would be subject to public disclosure under the State's Open Records and Meetings Law without a written opinion from the Attorney General's Office or a state statute which authorizes it.*

Sections 590.560.1 and 109.255, RSMo, contain no requirements for any actions by the Municipal Division and therefore, the City fails to see how it is relevant to an audit of the Municipal Division's operations and has followed the law as it was written and intended by the State Legislature.

In conclusion, the City is gravely concerned about the report's appearance that the Municipal Division had any involvement in or responsibility for the above



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Management Advisory Report - State Auditor's Findings

"findings." The Municipal Division had no involvement in or control over ANY of the "issues" raised in the State Auditor's report.

In fact, the current environment surrounding municipal courts, the City finds it unconscionable that no effort was made by the State Auditor's Office to acknowledge that it was unable to uncover ANY issues associated with the actual operation of the Municipal Division. Furthermore, the City feels that the above findings are simply based on opinion, not rooted in the case or state law that was in place during the period that the audit covered and simply cloud the real finding that St. Ann Municipal Division is run in a sound, professional manner.

Auditor's Comment

This finding does not question the timely filing or submission of the vehicle stop data reported to the AGO. The letter from the AGO mentioned in the response only confirms the City of St. Ann submitted a timely racial profiling report on 2014 traffic stops in the format required by the AGO. Documentation should be retained in accordance with record retention schedules and to support information submitted to the AGO. The Police Clerk's Records Retention Schedule and Section 109.210(5), RSMo, define a "record" as any "document, book, paper, photograph, map, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business." This definition includes those records created, used, and maintained in electronic form. Without detail data to support summary information reported to the AGO, there is less assurance the information reported is complete and accurate. The audit recommendation is not suggesting the city collect additional data that is personally identifiable, but that the city retain the data already collected.

Twenty-First Judicial Circuit

City of St. Ann Municipal Division

Organization and Statistical Information

The City of St. Ann Municipal Division is in the Twenty-First Judicial Circuit, which consists of St. Louis County. The Honorable Maura B. McShane serves as Presiding Judge.

The municipal division is governed by Chapter 479, RSMo, and by Supreme Court Rule No. 37. Supreme Court Rule No. 37.49 provides that each municipal division may establish a violation bureau in which fines and court costs are collected at times other than during court and transmitted to the city treasury. During January 2014, the municipal division began utilizing OSCA's statewide automated case management system known as JIS. Previously, the municipal division utilized Integrated Metropolitan Docketing System, an automated case management system provided by REJIS, which has been approved for use in municipal divisions by the State Judicial Records Committee.

Personnel

At December 31, 2014, the municipal division employees were as follows:

Title	Name
Municipal Judge	Sean O'Hagan
Municipal Judge	William G. Buchholz
Court Administrator	Angela Chatman
Deputy Court Administrator	Elizabeth Weimer
Court Clerk	Annie O'Brien
Court Clerk	Pat Brown
Court Clerk	Angela Taylor
Court Clerk	Stella Brown

Financial and Caseload Information

	Year Ended December 31, 2014
Receipts	\$3,329,904
Number of cases filed	19,732

Court Costs, Surcharges, and Fees(1)

Type	Amount
Court Costs (Clerk Fee)	\$12.00
Crime Victims' Compensation	7.50
Law Enforcement Training	2.00
Peace Officer Standards and Training	1.00
Domestic Violence Shelters	2.00
Inmate Security Fund	2.00
Court Automation Fee	7.00

(1) Apart from the court, the city's police department collects a bond processing fee of \$25 for cash bond payments and \$10 for credit card bond payments



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 Organization and Statistical Information

Vehicle Stops Report

Section 590.650, RSMo requires law enforcement agencies report vehicle stop data to the Attorney General's Office (AGO) by March 1st of each year. The AGO compiles the data in a statewide report which can be viewed on the AGO website at <https://ago.mo.gov/docs/default-source/public-safety/2014agencyreports.pdf?sfvrsn=2>. The following table presents data excerpted from the AGO report for the city of St. Ann Police Department. In addition, see information at <https://ago.mo.gov/home/vehicle-stops-report/2014-executive-summary>, for background information on the AGO's vehicle stops executive summary along with definitions for footnotes of the following table.

Racial Profiling Data/2014 - St. Ann Police Department - Population 10,416¹

Key Indicators	Total	White	Black	Hispanic	Asian	Am. Indian	Other
Stops	10308	6352	3672	60	29	3	192
Searches	648	241	368	20	1	1	17
Arrests	650	229	383	19	1	1	17
Statewide Population	N/A	82.76	10.90	2.94	1.71	0.41	1.28
Local Population	N/A	71.15	20.16	4.61	2.27	0.24	1.57
Disparity Index ²	N/A	0.87	1.77	0.13	0.12	0.12	1.18
Search Rate ³	6.29	3.79	10.02	33.33	3.45	33.33	8.85
Contraband hit rate ⁴	10.03	12.86	8.97	5.00	0.00	0.00	0.00
Arrest rate ⁵	6.31	3.61	10.43	31.67	3.45	33.33	8.85

¹ Population figures are from the 2010 Census for persons 16 years of age and older who designated a single race. Hispanics may be of any race. "Others" includes persons of mixed race and unknown race.

² Disparity index = (proportion of stops / proportion of population). A value of 1 represents no disparity; values greater than 1 indicate over-representation, values less than 1 indicate under-representation.

³ Search rate = (searches / stops) X 100

⁴ Contraband hit rate = (searches with contraband found / total searches) X 100

⁵ Arrest rate = (arrests / stops) X 100