



To Honorable County Council Members
Honorable Steve Ehlmann, County Executive

February 23, 2018

The County Counselor examination opened November 15, 2017, has been completed, and the final report is being issued today. The scope of the review covered January 1, 2015 through October 31, 2017. Fieldwork for the review was completed on January 22, 2018, and our report reflects the results of work performed through that date. Responses were requested for by February 28 and received on February 23, 2018.

The objectives of the review were to determine whether internal controls were adequate and effective, operations and records were in compliance with established standards, regulations, policies and procedures, and resources were being used efficiently.

The examination covered ordinance and ticket prosecution, the litigation/trial process, ordinance preparation, contract preparation, and the case management system. We reviewed the internal control environment surrounding those activities, as well as performed an evaluation of the effectiveness and efficiency with which department objectives are being achieved. In addition, reviews for compliance with the County Charter and Ordinances, Missouri Statutes, and internal policies and procedures were performed.

This audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*, and consisted of examining, on a test basis, sufficient evidence to afford a reasonable basis, for our opinion.

In our opinion, except for the opportunities included in this report, internal controls were adequate and effective and operations and records were in compliance with established standards.

The issuance of this report completes the formal examination process. However, if you wish to discuss any aspects of the audit or report, please contact me.

Brent Statler

Brent R. Statler, CPA, CGAP
County Auditor

Attachment

Copy to Joann Leykam, Director of Administration
Keith Hazelwood, County Counselor



**County Counselor
Examination Report
Opened November 15, 2017**

Scope: January 1, 2015 – October 31, 2017

Table of Contents

I. Background and Introduction	1
Authority and Activity.....	1
Funding.....	2
Staffing.....	2
II. Status Board.....	3
III. Executive Summary.....	5
IV. Detailed Findings.....	6
Control Opportunities.....	6

BACKGROUND AND INTRODUCTION

Authority and Activity:

Under the authority granted by Section 4.6 of the County Charter, the County Counselor has charge of and conducts all of the civil law business of the County, its departments, offices, divisions, officers, boards and commissions, including the authority to file action in quo warrantor. The County Counselor is appointed by the County Executive subject to the approval of the County Council.

The Counselor's Office serves as the prosecutor for all Municipal Court cases, including those involving a violation of County ordinances.

The staff of the Counselor's Office prepares, or approves as to form, all leases, deeds, contracts, bonds, ordinances, rules, regulations, drafts of legislation, and other instruments.

The Counselor's Office also, upon request, furnishes legal advice and opinions to the Council, the County Executive, County Officials, County Departments, and to all County boards and commissions, respecting County business.

The County Counselor's program mission as stated in the 2018 budget is as follows:

The mission of the County Counselor's Office is to fulfill the duty and responsibility imposed by the Charter of St. Charles County to provide quality, responsive ethical legal representation and defense for the County, its elected and appointed officials and its employees on all issues arising from the operation of county government and the delivery of county services, and thereby serve the citizens of St. Charles County.

The lawyers of the County Counselor's Office undertake our duties pursuant to the Charter, the Constitutions of the United States and state of Missouri, and applicable laws of the federal and state governments and the County of St. Charles. 2018 budget, pg. 18.

Funding:

The primary funding for the County Counselor is provided by the general revenue fund. The historical funding for the County Counselor is presented below.

County Counselor General Revenue Fund – Expenditures Fiscal Years 2013-2018								
Fiscal Year	Salaries & Benefits	% Increase	Operating Expenditures	% Increase	Capital Expenditures‡	% Increase	Total Expenditures	% Increase
2013	\$1,055,103	N/A	\$96,045	N/A	\$6,397	N/A	\$1,157,545	N/A
2014	\$1,232,229	16.8%	\$119,451	24.4%	\$5,112	-20.1%	\$1,356,792	17.2%
2015	\$1,320,315	7.1%	\$103,105	-13.7%	\$6,678	30.6%	\$1,430,098	5.4%
2016	\$1,350,159	2.7%	\$124,487	20.7%	\$19,828	196.9%	\$1,494,474	4.5%
2017	\$1,603,510	18.8%	\$122,247	-1.8%	\$968	-95.1%	\$1,726,725	15.5%
2018*	\$1,713,759	6.9%	\$150,250	22.9%	\$7,000	623.1%	\$1,871,009	8.4%

Revenues generated by the County Counselor are deposited in the general revenue fund. The historical funding is presented below:

County Counselor General Revenue Fund – Revenues Fiscal Years 2013-2018		
Fiscal Year	Total Revenue (Interfund Transfers)	Counselor Revenue as a Percentage of Expenditures
2013	\$195,116	16.9%
2014	\$198,779	14.7%
2015	\$224,263	15.7%
2016	\$282,283	18.9%
2017	\$717,545	41.6%
2018*	\$0	0.0%

* These are the approved budget amounts from the 2018 budget.

‡ Includes amounts from the Capital Projects Fund (301).

Staffing:

The number of full-time equivalent authorized positions for the County Counselor increased (16.7%) from 12.0 full-time positions in 2013 to a total of 14.0 full-time budgeted employees in 2018.

II. STATUS BOARD

The status board provides a summary of the County Counselor’s functions and processes. Each cell located under a function represents an activity that is to be completed to ensure that the process is performed in an effective and efficient manner. The color of the cells represents the assessment regarding completion of the activity. The legend below gives a description of the definition of each color.

- Red indicates management's immediate attention is required.
- Yellow indicates an opportunity for improvement exists.
- Green indicates there is no action necessary at this time.
- Blue indicates a process that was not included in the scope of the review.
- Grey indicates a County issue that should be addressed by management, but is not necessarily a direct responsibility of the audited department/office.

Ordinance Violations	Litigation Process	Contracts/ Leases	Ordinance Preparation	Administrative
The Police Dept. Records Div. forwards traffic tickets to the Counselor’s Office.	When being sued, the County receives a petition for suit.	Departments/Offices send the Counselor a request to create or review a contract.	Departments/Offices send the Counselor a request for a proposed bill.	Payroll (A1)
Animal Control tickets are forwarded from the Humane Services Division.	A new case file is created in Legal Files and assigned to an Assoc. Counselor.	New contracts can be a standard form or unique.	A bill is drafted based on department requirements and reviewed for Charter/ Code compliance.	Petty Cash (A2)
Code Enforcement citations are sent through Citizenseve.	The Counselor gathers evidence and collects statements.	Contracts are written to match an agreement, ordinance, or organizational standards.	The draft is reviewed by the requesting department and the Executive Office.	Case Management: The Legal Files System is used to track cases and related documentation.
Tickets are reviewed for probable cause and the correct charge code.	A determination is made to proceed to trial or settle.	Contracts are reviewed to ensure that all necessary elements/ clauses are included.	The approved draft is sent to the Council Office to be placed on the agenda for the next meeting.	Sunshine Law Requests
Tickets/citations are entered into Karpel and sent to the Municipal Court to be added to the docket.	Settlements require different levels of notification and approval based on the amount.	Completed/ reviewed contracts are sent to the appropriate department for signing.	A routing form is used to track the required reviews and approvals.	
If a not guilty plea is entered, an Assoc. Counselor presents the case in court.	For cases where the County is the plaintiff, the County will try to work out a settlement with the defendant’s insurer.			

Ordinance Violations	Litigation Process	Contracts/ Leases	Ordinance Preparation	Administrative
MO State Highway Patrol (MSHP) tickets refused by the Prosecuting Attorney are sent to the Counselor.	Restitution is sought when applicable and tracked in Karpel.			
If there is a County charge code similar to the listed violation on the MSHP ticket, it is processed				
If there is no similar charge code, the MSHP ticket is sent back to the Prosecuting Attorney.				
For some case, the defendant may pay restitution to the victim as part of a plea and/or sentencing.				
The defendant will pay restitution in the victim's name to the Court or Counselor's Office.				
The Counselor's Office records the payment in a manual log and in Karpel software. (A3)				
Payments are recorded in the case file and mailed to the victim.				

III. EXECUTIVE SUMMARY

Following is a summary of opportunities for improvement which were noted during our review of the County Counselor:

A. Control Opportunities

- 1. Payroll Documentation:** A non-exempt employee is paid based on a set schedule; however, variances from the schedule are not documented on the schedule.
- 2. Petty Cash:** The County Counselor's Office does not have a procedure in place to consistently track petty cash transactions or routinely reconcile the fund balance to cash on hand due to its infrequent use.
- 3. Restitution:** During a review of restitution payments, it was noted that several items: 1) did not trace to the tracking log; 2) were not included on the receipt report; or 3) did not include all information on the tracking log.

Control – Payroll Documentation

Discussion and Background	Cause	Risk/Effect	Recommendation	Management Response
<p>The County Counselor follows the County policies for payroll. Employees document time either on a timesheet or pre-established schedule which is automatically populated by MUNIS. The County Counselor reviews and approves timesheets and leave/OT forms. The designated Associate County Counselor or County Counselor reviews the hours proof for accuracy and then approves the report in MUNIS.</p> <p>Per the FLSA (29 CFR Part 516), every covered employer must keep certain records for each non-exempt worker. The Act requires no particular form for the records, but does require that the records include certain identifying information about the employee and data about the hours worked and the wages earned, including variances of scheduled hours worked.</p>	<p>A non-exempt employee is paid based on a set schedule; however, variances from the schedule are not documented on the schedule.</p> <p><u>Note:</u> Paid leave is documented on leave forms.</p>	<p>Opportunity for improved documentation of time within guidelines of the Fair Labor Standards Act.</p>	<p>The County Counselor should consider having all non-exempt employees prepare timesheets or document variances from the set schedule accordingly.</p>	<p>Management has requested the non-exempt employee to record her work time (including variances from her normal 8:00 a.m. to 5:00 p.m. set schedule) on a daily calendar sheet which is prepared for the primary purpose of indicating which staff members are out of the office for any portion of the work day; for the non-exempt staffer that calendar will specifically show both regular attendance and any variance from the regular schedule. This new calendar was initiated with the payroll period which began Thursday, February 1, 2018.</p>

Control – Petty Cash

Discussion and Background	Cause	Risk/Effect	Recommendation	Management Response
<p>The County Counselor's Office maintains a petty cash fund that is used to pay for postage, parking fees, or other miscellaneous costs (in rare circumstances). Receipts are required for reimbursement and the fund is replenished through the Finance Department when necessary.</p>	<p>The County Counselor's Office does not have a procedure in place to consistently track petty cash transactions or routinely reconcile the fund balance to cash on hand due to its infrequent use.</p> <p><u>Note 1:</u> Per office staff, the fund has only been replenished once in the last five years.</p> <p><u>Note 2:</u> The majority of entries on the existing list of transactions relate to the use of previously purchased postage.</p>	<p>Opportunity for improved fund tracking and documentation.</p>	<p>The County Counselor's Office should reevaluate the petty cash fund to determine if its need exists.</p> <p>If retained, the office should maintain proper documentation (e.g. ledger) for the petty cash fund to record transactions (date, amount, purpose, etc.) and should reconcile the fund on a periodic basis.</p> <p><u>Note:</u> If deemed necessary, an inventory of postage should be maintained separately.</p>	<p>All petty cash which was in the County Counselor's Office was accounted for and the balance has been turned over to the Department of Finance.</p> <p>The County Counselor's Office will no longer maintain a petty cash fund, because it was used so very seldom. Instead, when the County Counselor's Office needs petty cash, it will requisition it from the Department of Finance.</p> <p>Petty cash fund was closed by the last day of January, 2018.</p>

Control - Restitution

Discussion and Background	Cause	Risk/Effect	Recommendation	Management Response
<p>All documentation for restitution cases and related payments handled by the Counselor's Office is entered and/or scanned into the Karpel system. Once the payment (check or money order) is received, the Municipal Prosecution Paralegal will scan the payment and enter the information into Karpel to produce a receipt. The receipt is sent to the defendant or their attorney and the payment is sent via USPS to the victim. If the County was the victim, then payment is recorded in the case file and sent via inter-office mail to the appropriate department. A handwritten log of the payments and tracking numbers is maintained in the Office.</p>	<p>The following was noted in a review of twenty-eight restitution payments:</p> <ol style="list-style-type: none"> 1) Three (10.7%) payments could not be located in Karpel or a case file; <p><u>Note 1:</u> One item was traced to a deposit (County as the victim) and another was traced to a copy of the check to the victim. The third entry was owed to the County, but no documentation could be located.</p> <ol style="list-style-type: none"> 2) Fifteen (53.6%) payments did not show up in the Karpel restitution receipt report; <p><u>Note 2:</u> Although the payments were recorded in Karpel, a manual search by file number was required to locate the documentation.</p> <ol style="list-style-type: none"> 3) Of the ten payments to the County, nine (90.0%) did not reference the department on the tracking log; and 4) Neither the defendant's name nor amount received/sent (to victim) is included on the tracking sheet. 	<p>Opportunity for improved tracking of restitution disbursements.</p>	<p>The County Counselor's Office should:</p> <ol style="list-style-type: none"> 1) Work to ensure that all restitution payments are entered into Karpel; 2) Work with the IS Dept. and/or software vendor to determine if the system's search functionality is set up and operating as intended; and 3) Update the tracking log to include the defendant's name, restitution payment amount, payment type (including check/money order #), and County Department, if applicable. 	<p>The County Counselor's Office has requested guidance from the Department of Finance as to structuring a more efficient and more standardized procedure for handling restitution matters. The timeline for crafting a new restitution process is uncertain at this time.</p>