

**31st JUDICIAL CIRCUIT  
REPUBLIC MUNICIPAL DIVISION  
COURT REVIEW REPORT**

**INTRODUCTION**

This report was prepared following a review by the Office of State Courts Administrator (OSCA) Municipal Review unit, conducted on August 30th, 2023. The review was conducted to determine, but not limited to, compliance with Supreme Court Rules, Court Operating Rules, Missouri State Statutes, and state and local reporting requirements.

The report provides descriptions of some observations that do not comply with various laws, rules and regulations. Corrective action requirements follow each description and represent what the court can do to improve the issue described. The report is intended for management purposes and may be shared with court staff and municipal officials to assist in making appropriate changes.

The following staff assisted with the review and/or preparation of this report:

Municipal and Traffic Support Services Manager  
Municipal Review Supervisor  
Supreme Court Monitor

Robin Ausmus  
Roberta Rothstein  
Tom Barr

Municipal Division Judge Ben McBride and Municipal Division Clerks Penny Mayes and Kimberly Winkler were in attendance for this review.

**SUPREME COURT RULE 37.04 APPENDIX A  
MINIMUM OPERATING STANDARDS FOR MUNICIPAL DIVISIONS  
AND MUNICIPAL DIVISION JUDGES**

**Minimum Operating Standard # 4: Municipal divisions and their judges shall neither assess nor collect unauthorized fines, costs, or surcharges.**

**A. Municipal Divisions**

- Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010, RSMo,) authorized by state statute are assessed. The OSCA bench card on municipal division court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.

**Non-Compliance Observation**

**Municipal Ordinance 130.180 Jailing Of Defendants**

If, in the opinion of the Municipal Judge, the City has no suitable and safe place of confinement, the Municipal Judge may commit the defendant to the County Jail, and it shall be the duty of the Sheriff, if space for the prisoner is available in the County Jail, upon receipt of a warrant of commitment from the Judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed to such Sheriff for the keeping of such prisoner in his/her custody. The same shall be **taxed as cost**.

**Municipal Ordinance 130.250 Court Costs**

5. Service charges, witness fees and/or **jail costs incurred** as a result of the apprehension, confinement and/or prosecution of any defendant.

**Corrective Action Requirement**

It is suggested a review of Ordinance 130.180 and 130.250(5) be made with regard to current authority and language, specifically that which references assessing costs for the confinement of any defendant.

*SC97604 State of Missouri v. George Richey, AND SC97630, State of Missouri v. John B. Wright, which held that "board bills" are not to be taxed as court costs.*

**Non-Compliance Observation**

**Municipal Ordinance 130.250 Court Costs**

10. **A surcharge of three dollars (\$3.00) for the Sheriffs' Retirement Fund** to be collected and distributed under Sections 488.010 to 488.020, RSMo., as provided under Section 57.955 and 488.024, RSMo. [Ord. No. 20-11, 3-24-2020]

## Corrective Action Requirement

The \$3 Sheriffs Retirement Fund surcharge should no longer be assessed, effective July 1, 2021. COR 21.03.

*SC98484 Daven Fowler, ET Al v. Missouri Sheriffs' Retirement System.*

- DPC (Dismissal on Payment of Costs) is not permitted. Section 479.353(5), RSMo, COR 21.01(c).

## Non-Compliance Observation

### **Municipal Ordinance 130.250 Court Costs**

C. Costs, fees, charges and surcharges shall only be assessed against, and collected from, defendants who have pled guilty or been found guilty, **or who have agreed to pay the same in exchange for dismissal of a charge.**

## Corrective Action Requirement

It is suggested a review of Ordinance 130.250(C) be made with regard to current statutory authority and language. There is no statutory authority for dismissal of charges once costs have been paid.

### *COR 21.01 AMOUNT OF COSTS, FEES, MISCELLANEOUS CHARGES, AND SURCHARGES*

*(c) The court clerk shall collect and disburse the above fees in a manner provided by sections 488.010 to 488.020, RSMo, and Court Operating Rule 21.02; however, **none of the above fees shall be collected** in any proceeding involving a violation of an ordinance or state law when a criminal proceeding or defendant **has been dismissed by the court** or when costs are waived or are to be paid by the state, county or municipality. This Court Operating Rule 21.01(c) shall not apply if costs are taxed to the defendant in a criminal proceeding and the state is responsible for payment of costs pursuant to section 550.020, RSMo, because the defendant has been declared indigent.*

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**Minimum Operating Standard # 7: Municipal divisions shall be operated in a manner that upholds the constitutional principles of separation of powers and the integrity of the judiciary as a separate and independent branch of government.**

- Municipal division facility's exterior and interior signage, design, functionality, and other factors convey an appearance to the public that it is a separate and independent branch of government.

## Non-Compliance Observation

The municipal division clerk and prosecuting attorney clerk share an office.

### **Corrective Action Requirement**

It is recommended the prosecutor clerk and the municipal division personnel not share an office. The housing of the municipal prosecutor staff and the Republic Municipal Division within the same general office space does not convey the constitutional principles of separation of powers and the integrity of the judiciary as a separate and independent branch of government to the public. SCR 37.04A

### **Non-Compliance Observation**

It is difficult to see division signage on the glass above the entrance door to the Police/Courts building.

### **Corrective Action Requirement**

This facility's exterior signage could be improved by adding the lettering REPUBLIC MUNICIPAL DIVISION in larger lettering, at eye level, lending a clear description as to division location. Lettering could be added to the door, window, or brick wall of building.

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**Minimum Operating Standard # 10: Municipal divisions shall be well-managed and accountable to the law, with appropriate oversight of municipal division operations provided by the circuit court presiding judge of the judicial circuit.**

### **◆ Generally**

- The municipal division has a functional clerk's office that handles bookkeeping and money handling obligations of the municipal division in a prudent and organized manner and in compliance with the current recommendations of the Office of State Courts Administrator and the Missouri state auditor.

### **Non-Compliance Observation**

The municipal division's checks are titled:

CITY OF REPUBLIC MUNICIPAL COURT

### **Corrective Action Requirement**

It is suggested the municipal division establish all bank, investment and other court accounts in the name of "Republic Municipal Division" as recommended by the Office of State Courts Administrator.

◆ **Open Records and Other Recordkeeping Matters (Article I, § 14, Constitution of Missouri; Court Operating Rules 2, 4 and 8; sections 483.065, 483.075, 483.082, RSMo)**

- The municipal division maintains complete and accurate records of municipal division proceedings, including warrants outstanding, bonds posted, case files and dispositions.

**Non-Compliance Observation**

It was identified during the review a bond ordered refunded on June 06, 2023 had not yet been refunded.

Case # 210563706  
Republic vs. Michael Charles Williams  
Charge: Expired Plates  
Cash Bond \$500  
Bond Receipt # 2323BND14  
Dismissed By Prosec/Nolle Pros

**Corrective Action Requirement**

It is suggested the municipal division clerk generate, in detail, a monthly Open Items report. This report will list cases with bond money posted. These cases should be reviewed to see if the bond money can be applied to fine and costs due, or be refunded.

- The municipal division has established procedures to generate monthly reports of municipal division activity, and the municipal division submits these reports timely to OSCA and to the city in accordance with COR 4.28 and 4.29.

**Non-Compliance Observation**

**Municipal Ordinance 130.080 Report To City Council**

The Municipal Judge shall cause to be prepared within the **first (1st) ten (10) days** of every month a report indicating the following:

A list of all cases heard and tried before the court during the preceding month, **giving in each case the name of the defendant, the fine imposed if any, the amount of cost, the names of the defendants committed and, in the cases where there was an application for trial de novo**, respectively. The same shall be prepared under oath by the Municipal Court Clerk or the Municipal Judge. This report will be filed with the City Clerk, who shall thereafter forward the same to the City Council of the City for examination at its first (1st) session thereafter. The Municipal Court shall, within the ten

(10) days after the first (1st) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding months, if they have not previously been paid.

### **Corrective Action Requirement**

It is suggested the division review Ordinance 130.080, specifically as it relates to COR 4.29.

*4.29 MUNICIPAL DIVISION REPORTING TO THE MUNICIPALITY On or before the 15th of each month, the Municipal Division shall submit to the municipality a copy of the monthly case load **summary report** for the preceding month required by Court Operating Rule 4.28. This reporting requirement shall supersede and replace the reporting requirement established by section 479.080.3, RSMo.*

### **◆ Financial and Bookkeeping (Section 483.075.1, RSMo)**

- The municipal division obtains signed payment plans from all defendants and ensures payment plans are established in the case management system in accordance with court operating rules where applicable.

### **Non-Compliance Observation**

#### **Municipal Ordinance 130.280 Installment Payment of Fine**

When a fine is assessed for violating an ordinance, it should be within the **discretion of the Judge** assessing the fine to provide for the payment of a fine on an installment basis under such terms and conditions as he/she may deem appropriate.

### **Corrective Action Requirement**

It is suggested to follow the recommendation outlined in Municipal Case Processing, Section 4.5 Recommended Accounting Procedures for Municipal Divisions, Uncollected Costs and Fines with regard to COR 21.06, 21.07 and 21.09. Delinquent costs that are associated to a payment plan are turned over to Debt Collection and Tax Offset.

#### **COR 21.09 PAYMENT PLANS**

*The court en banc for each circuit using the approved statewide case management system **shall establish payment plan policies and procedures**. The policies and procedures should address, at a minimum, the effective date of the plan, the minimum payment due at case disposition or prior to granting a payment plan, the minimum monthly payment to ensure the repayment time frame is reasonable, and obtaining the debtor's social security number under Court Operating Rule 4.*

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## Supreme Court Operating Rule 2 Public Access to Records of the Judicial Department

### COR 2.02 General Policy

Policy. Records of all courts are presumed to be open to any member of the public for purposes of inspection or copying. This policy does not apply to records that are confidential pursuant to statute, court rule or order, or other law; judicial or judicial staff work product, internal electronic mail; memoranda or drafts; or appellate judicial case assignments.

(c) Redaction of Confidential Information. Unless otherwise ordered by the court, any counsel, party, or other person offering a document for filing in any court shall redact information that is confidential pursuant to statute, court rule or order, or other law. Such confidential information can include, but is not limited to:

- (1) Social security numbers, **driver's license numbers**, state identification numbers, taxpayer identification numbers, and passport numbers;
- (2) Financial institution account numbers, credit or debit card numbers, personal identification numbers, or passwords used to secure any such accounts or cards;
- (3) Names, addresses, and contact information of informants, victims, witnesses, and persons protected under restraining or protection orders;
- (4) **Dates of birth**;
- (5) Names of individuals known to be minors; and
- (6) Case numbers of confidential, expunged, or sealed records.

### Non-Compliance Observation

The Republic Municipal Division website has an Outstanding Warrants page that lists defendant's date of birth and license number.

### Corrective Action Requirement

It is suggested the division refer to and follow COR 2.