



Scott Fitzpatrick

Missouri State Auditor

City of St. Louis

Office of the Circuit Attorney

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Scott Fitzpatrick
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the City of St. Louis - Office of the Circuit Attorney

Background

In January 2018, the City of St. Louis Board of Aldermen requested the State Auditor's Office (SAO) conduct a comprehensive audit of the city. Pursuant to that request, the audit of the Circuit Attorney's office (CAO) began on June 23, 2021. The Office of the Circuit Attorney is an elective office for the City of St. Louis.

From the beginning of the audit, the SAO met resistance from former Circuit Attorney Kim Gardner (FCA), who acted to prevent the SAO from conducting the audit. The FCA required all SAO requests for records be made to the First Assistant Circuit Attorney (FACA) who, along with other office representatives, repeatedly ignored or delayed responding to SAO requests for the next 2 years and only responded after being subpoenaed. The CAO also provided limited information, denied onsite access needed to conduct interviews and perform audit work, and unnecessarily redacted documentation. Full access to documents, personnel, and the office itself was only given after the new administration took over in May 2023. As a result, the audit was significantly delayed.

Efficiency and Effectiveness of Operations

During the FCA's tenure, the number of cases referred, filed, and closed significantly declined while the time to prosecute the reduced caseload significantly increased. Additionally, the CAO refused prosecution for significantly more cases than the prior administration. CAO personnel, on average, refused approximately 59 percent of referred cases, which is an increase of approximately 40 percent from the average percentage of cases refused by the prior administration. Under the FCA, it took office personnel significantly longer to file charges and significantly fewer cases were filed. The number of cases filed decreased from an average of 4,666 cases per year during the prior administration to only 2,529 cases per year during the FCA's tenure. CAO personnel took, on average, approximately 463 days to dispose of a case, which was significantly higher than the prior administration's average of approximately 293 days and the current administration's average of 142 days. In addition, the CAO did not dispose of 95 percent of felony cases within 14 months of case filing, as recommended by the Missouri Supreme Court.

The FCA did not devote her full time to the CAO as required. Instead, she took classes and completed clinical coursework to obtain a Family Nurse Practitioner, Post-Master's Certificate from Saint Louis University (SLU). This contributed to the lack of leadership at the CAO, caused the FCA to miss important case appearances, and prevented the FCA from fulfilling her statutory mandate. Based on the information provided by SLU, there were 40 separate instances (29 full days and 11 half days) in which the FCA spent time during normal CAO business hours completing clinical coursework. This equates to 34.5 working days, or approximately 7 weeks, away from her circuit attorney duties.

During the FCA's administration, a significant number of CAO personnel left employment, which contributed to the decline in the efficiency and effectiveness of the office. At the beginning of her tenure, the FCA had 141 employees. By May 2023, the office had only 89 employees, a 37 percent decline.

Disbursements

The FCA authorized reimbursements to herself totaling \$6,688 for personal legal fees. These payments were approved by the FCA and the Chief Clerk. When asked, CAO officials indicated the reimbursements were approved at the direction of the FCA. In August 2022, the Supreme Court of Missouri found the FCA violated the Rules of Professional Conduct during her prosecution of former Governor Eric Greitens. The Court assessed the FCA fines of \$5,004 and the FCA made 4 payments to the Court totaling this amount. On July 23, 2024, the FCA signed a diversion agreement with the United States Attorney's office, accepting responsibility for the misuse of more than \$5,000 in public funds and agreed to pay back the \$5,004 to the CAO. The FCA also directed the CAO to reimburse her for two payments totaling \$1,684 to the Missouri Supreme Court for *pro hac vice* fees associated with the petition for quo warranto filed by the Missouri Attorney General's office.

CAO officials issued 64 checks, totaling \$58,482, for disbursements from the Contingency account that were not allowed by state law. These purchases included food, flowers, disc jockey services, wall art, party and community meeting location rentals, a Sam's Club membership, chili cook-out supplies, Sunshine Law violation fines, car detailing, employee plaques, personal legal expenses, a new CAO website, and credit card late fees and interest charges. In addition, the CAO has not established any guidance or policies about food or entertainment purchases.

CAO personnel could not locate some or all of the supporting documentation for 47 of the 173 Contingency bank account disbursements reviewed, totaling \$10,639, and personnel did not retain/maintain adequate documentation to support 57 of the 160 credit card purchases reviewed, totaling \$8,652. In addition, CAO officials and personnel have not disbursed approximately \$15,600 in asset and bond forfeiture payments to the city's School Building Revolving Fund, and delayed an additional \$8,904 in similar payments to the fund.

Accounting Controls and Procedures

As a result of accounting control weaknesses, CAO officials and personnel do not know how much money should be in the bank accounts or who is owed the unidentified money in the Restitution and Bad Check bank accounts. CAO personnel do not reconcile the Restitution and Bad Check bank accounts, and do not maintain book balances or lists of liabilities for the accounts. CAO personnel do not follow up on old outstanding checks in the Restitution bank account. As of May 16, 2023, 63 checks, totaling \$10,417, issued from June 29, 2021, through April 28, 2022, had been outstanding for more than a year. CAO personnel incorrectly recorded in the accounting system the check number for 97 percent of the restitution checks the audit reviewed. This complicated the limited bank reconciliation process for CAO staff and made it more difficult to detect errors. CAO personnel do not account for the numerical sequence of receipt slips and some deleted transactions were not reviewed. The clerk that receipts and records payments also has the ability to delete transactions in the accounting system.

Procurement Procedures	CAO officials did not solicit bids or proposals for goods and services as required, and did not maintain documentation to support procurement decisions. The audit identified 11 CAO vendors that provided services during the audit period and were paid a total of \$1,926,924 that should have been competitively procured. However, CAO personnel were unable to provide any documentation of a competitive selection process for any of the vendors. In addition, the FCA did not establish policies and procedures for the selection of vendors providing goods and services.
Seized Property	CAO personnel do not maintain a complete and accurate seized property inventory listing and do not conduct periodic physical inventories of seized property. Of 30 haphazardly selected seized property items from the 4,426 items on the seized property list, CAO personnel could not locate 1 of the items (3 percent). Of 30 haphazardly selected seized property items from property rooms, 3 of the items could not be located on the seized property listing (10 percent). Additionally, the CAO has not disposed of old seized property timely, nor have personnel responded timely to requests from other agencies for disposal of seized property.
Capital Assets	The CAO does not have procedures to ensure employees return office equipment upon termination as required by policy, and some employees did not return items. The former FACA did not return her office laptop computer until December 2023, after the SAO issued a subpoena in November 2023 ordering her to appear and produce all CAO-related information and property in her possession. She resigned in May 2023, 7 months before returning her property to the CAO. The CAO was unaware the laptop computer was missing. CAO personnel do not maintain complete capital asset records or conduct annual physical inventories of assets such as computers and cell phones.
User Access, Identifications, and Passwords	CAO attorneys share CaseNet user identifications and passwords with trial support staff and other office employees, who often enter information into the CaseNet system on behalf of the attorneys in the office. There are no controls or policies in place to limit case access to only those employees assigned to a particular case. Instead, personnel maintain a list with the login credentials of all attorneys. During recorded interviews, several attorneys stated case dismissals and nolle pros judgements were entered on their cases in the CaseNet system without their knowledge.

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

*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

Honorable Gabe Gore, Circuit Attorney
City of St. Louis, Missouri

We have audited certain operations of the City of St. Louis Circuit Attorney in fulfillment of our duties under Section 29.200.3, RSMo. The State Auditor initiated audits of the City of St. Louis in response to a formal request from the Board of Aldermen. The city engaged KPMG LLP, Certified Public Accountants (CPAs), to audit the city's financial statements for the years ended June 30, 2022, and June 30, 2023. To minimize duplication of effort, we reviewed the CPA firm's reports. The scope of our audit included, but was not necessarily limited to, the period of July 1, 2021, through May 16, 2023. The objectives of our audit were to:

1. Evaluate the office's internal controls over significant management and financial functions.
2. Evaluate the office's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 a reasonable basis for our findings and conclusions based on our audit objectives.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the City of St. Louis Office of the Circuit Attorney.

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

Scott Fitzpatrick
State Auditor

City of St. Louis

Office of the Circuit Attorney

Introduction

Background

In January 2018, the City of St. Louis Board of Aldermen requested the State Auditor's Office (SAO) conduct a comprehensive audit of the city. Pursuant to that request, we began the audit of the Circuit Attorney's office (CAO) on June 23, 2021. The Office of the Circuit Attorney is an elective office for the City of St. Louis. The city's population was 301,578 in 2020, according to the U.S. Census Bureau.

Missouri statute and city ordinance define the office's duties. Section 56.060, RSMo, requires the Circuit Attorney to commence and prosecute all civil and criminal actions in the Circuit Attorney's county in which the county or state is concerned as well as defend all suits against the state or the county. Section 56.450, RSMo, requires the Circuit Attorney to manage and conduct all criminal cases, business, and proceedings of which the circuit court of the City of St. Louis shall have jurisdiction; and appear for the state in all misdemeanor cases appealed to the court of appeals. In addition, Section 56.453, RSMo, states the Circuit Attorney will perform additional duties including (1) act as defense counsel or co-counsel for any city elected official if that official is sued in connection with the performance of his or her office, (2) represent the Sheriff or the metropolitan police department in writs of replevin filed for the return of property that is or had been used as evidence in any state criminal or traffic case, (3) represent petitioners in civil contempt proceedings when it is alleged that a respondent violated a court order under Chapter 455, RSMo, and (4) initiate proceedings under Section 600.100, RSMo, to determine the present ability of any defendant to pay all or a portion of the costs of his representation.

The former Circuit Attorney, Kim Gardner, was responsible for overseeing the office from January 1, 2017, through May 16, 2023, when she resigned, and is referred to as the former Circuit Attorney (FCA) throughout the remainder of this report. Gabe Gore currently serves as the Circuit Attorney, and is referred to as the current Circuit Attorney (CCA), throughout the remainder of this report. He was appointed to this position in May 2023 and was sworn in on May 30, 2023. He was elected in November 2024, and his first full term expires January 1, 2029. As of May 12, 2023,¹ the CAO employed 87 employees.

Circuit Attorney impeded audit

From the beginning of the audit, we were met with resistance from the FCA, who acted to prevent us from conducting the audit. The FCA required all SAO requests for records be made to the First Assistant Circuit Attorney (FACA) who, along with other office representatives, repeatedly ignored or delayed responding to our requests for the next 2 years and only responded after being subpoenaed. The CAO also provided limited information, denied onsite

¹ The number of employees is based on city payroll data, and May 12, 2023, was the last payroll date prior to the FCA's resignation.



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access needed to conduct interviews and perform audit work, and unnecessarily redacted documentation. Full access to documents, personnel, and the office itself was only given after the new administration took over in May 2023. As a result, the audit was significantly delayed.

A summary of significant events in our efforts to obtain information for the audit follows.

- On June 23, 2021, at the beginning of the audit, we submitted a request to the FACA for bank statements from all 7 CAO-controlled bank accounts and policies and procedures for receipting, depositing, and seized property. CAO personnel only responded with redacted bank statements for 4 of the 7 bank accounts. We sent follow-up requests in October, November, and December 2021; and March and April 2022. We ultimately had to subpoena the banks directly to obtain unredacted copies of statements for all bank accounts.
- On August 25, 2021, 2 months after we originally requested the documentation, CAO personnel provided seized property policies and procedures. However, they did not provide the receipting and depositing policies requested. We sent follow-up emails in August, November, and December 2021; and March and April 2022. CAO personnel provided the information in September 2022, over a year after the original request.
- On August 25, 2021, CAO officials notified us they would not allow onsite audit work, which is a standard and necessary part of the audit process.
- On September 16 and October 5, 2021, we were able to meet with CAO personnel via Webex (a video conferencing service).
- In October 2021, we requested onsite visits at the CAO, but personnel denied this request due to COVID-19 pandemic restrictions. We responded, acknowledging the restrictions, but reiterated the need to make office visits in the future as part of the audit. In November 2021, we received an email from the FCA's outside counsel (referred to throughout the report as the CAO counsel), who was engaged to represent the CAO during the audit, stating they were unable to accommodate office visits.
- On December 2, 2021, we held a Webex meeting with the CAO counsel to discuss what was needed to continue the audit and we subsequently provided a list of outstanding requests. The CAO counsel responded that he was working on the requested documents.



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- In January 2022, the audit was suspended pending the reduction/end of the CAO's onsite COVID-19 pandemic restrictions. The audit was restarted on March 1, 2022.
- In March and April 2022, on 5 separate occasions, we contacted CAO officials to schedule meetings with no response.
- In June 2022, the SAO General Counsel sent a letter to the CAO counsel noting the significant delays with the audit and that 7 months had passed with no cooperation from the CAO.
- In August 2022, in response to the SAO General Counsel letter, the CAO counsel emailed asking when we would be able to start scheduling meetings. In September 2022, the CAO counsel became the audit liaison designated to receive and respond to audit requests and began responding on behalf of the FACA.
- In October and December 2022, we were able to meet via Webex with some CAO personnel, but received no response to follow-up questions and document requests sent after those meetings.
- On March 1, 2023, after multiple emails going back and forth with CAO officials about documentation requested, the CAO counsel provided some requested information on a flash drive. On the same day, we issued a subpoena to the FCA to obtain the documentation not provided on the flash drive. On March 2, 2023, we served the subpoena (see Appendix B).
- On March 23, 2023, the CAO counsel responded to the subpoena with some information requested and indicated other information was previously discussed or provided. On March 29, 2023, we provided information as to why previously provided information was not responsive to the subpoena and a list of the documentation still needed by the subpoena deadline. On April 25, 2023, the CAO counsel responded that the CAO would provide a formal response to the SAO letter.
- On May 4, 2023, the FCA announced she would resign, effective June 1, 2023.
- On May 11, 2023, the CAO counsel contacted us to ask about next steps with the audit given the announced resignation. We indicated the requirement to provide the subpoenaed documentation stood and that if it was not received by May 15, 2023, the SAO would file a petition to enforce the subpoena in court the following day. CAO counsel indicated CAO personnel would be unable to turn over any documentation because the FACA was on leave.



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- On May 15, 2023, we served subpoenas on 3 separate banks for the production of all bank records for the CAO bank accounts (see Appendixes C, D, and E).
- On May 16, 2023, the FCA resigned from the CAO effective immediately. On May 19, 2023, Governor Parson appointed Gabe Gore as the CCA. The newly appointed CCA fully cooperated with the audit, and audit work was able to proceed.
- Beginning in September 2023, we made substantial efforts to obtain testimony about the prior operations of the CAO from the FACA. These attempts to obtain testimony and records necessitated issuing 4 separate subpoenas to secure her cooperation (see Appendix F). On January 4, 2024, the FACA appeared for an interview pursuant to the subpoena.
- On January 31, 2024, we issued a subpoena for the FCA to personally appear, submit to questioning, and to produce records on March 27, 2024, (see Appendix G). The process server attempted to serve the subpoena 9 times from February 6, 2024, to March 15, 2024, without success.
- On May 6, 2024, we re-issued a subpoena for the FCA to personally appear, submit to questioning, and to produce records on June 12, 2024. On the same day, we held a press conference to ask the public for help locating the FCA because we were unable to locate her in order to have her formally served. The process server attempted to serve the subpoena 5 different times in May at possible addresses without success (see Appendix G).
- On May 6, 2024, we also issued a subpoena to Saint Louis University (SLU) requesting production of certain records pertaining to the FCA (see Appendix H). On May 17, 2024, an attorney personally representing the FCA emailed us and SLU objecting to the SLU subpoena. We worked with the attorney and SLU to determine the specific information needed from requested SLU records, and on May 23, 2024, SLU complied with the subpoena and provided the requested documentation. On May 17, 2024, we also provided a copy of the May 6, FCA subpoena to her personal attorney and noted the multiple attempts made to previously reach the FCA. The attorney agreed to provide the subpoena to the FCA and, on June 12, 2024, the FCA appeared and provided testimony and records.

While SAO personnel worked as effectively and efficiently as possible, given the difficulties encountered, the delays increased audit costs. The reasons for the additional costs included delays due to the withholding of certain records by the FCA and the overall number of issues discovered during the audit. See the Management Advisory Report (MAR) section of this report for more



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information on these issues. Additionally, the delays resulted in a change to the audit period and thereby increased the audit work to include a review of significant events and transactions during the expanded audit period.

Sunshine Law Violation

The Freedom Center of Missouri, on behalf of its client, filed a motion for civil contempt against the CAO in the Circuit Court of the City of St. Louis on September 1, 2020, for violations of the Sunshine Law (Case Number 2022-CC00080), including failing to provide responsive records. The court ruled that CAO officials failed to comply with Section 610.027, RSMo, and ruled in favor of the Plaintiff.

In August 2022, the CAO disbursed a check to the Freedom Center of Missouri in the amount of \$27,272, and in July 2024, the Plaintiff and CAO officials entered into a settlement agreement. CAO officials agreed to pay \$47,088 to resolve the case, which included the previous payment of \$27,272. Because this issue was resolved by the courts, we made no additional recommendations.

Court operations during the COVID-19 pandemic

On March 16, 2020, the Presiding Judge ordered the 22nd Judicial Circuit Court to remain open, but made modifications to its operation to take reasonable and necessary steps to protect health and safety during the COVID-19 pandemic. This included canceling all jury trials, suspending all in-person proceedings with certain identified exceptions, and requiring the use of video or telephone conferencing for all hearings. On March 25, 2020, defendants were ordered to appear by interactive video, and the CAO and defense counsel were ordered to appear remotely by an approved audio or video platform.

On May 4, 2020, the Missouri Supreme Court modified operational directives for reducing of COVID-19 pandemic restrictions on in-person proceedings. Effective July 6, 2020, the Missouri Supreme Court set forth operational directives for the courts to work towards full restoration of court operations including convening the grand jury and resuming jury trials. Effective February 25, 2022, the Supreme Court of Missouri rescinded all of the previous orders relating to limitations on and alterations to court procedures necessitated by the pandemic. On March 8, 2022, the 22nd Judicial Circuit Presiding Judge encouraged judges, court staff, attorneys, and litigants to use all available technology, including teleconferencing and video conferencing whenever practical and not prohibited by Constitutional or statutory provisions; however, as of March 14, 2022, all court procedures were to be conducted in person unless instructed otherwise by the court.

While not reasonably estimable, these restrictions are presumed to have had an impact on the efficiency and effectiveness of the operations of the CAO discussed in MAR finding number 1.



Scope and Methodology

The scope of this audit included but was not necessarily limited to, the period July 1, 2021, through May 16, 2023.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; gathering information regarding court cases, staffing, disbursements, procurement, and user access through interviewing various current and past personnel of the office, as well as certain external parties; and performing sample testing using haphazard, judgmental, and random 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.

To evaluate the office's internal control system, procedures for compliance with county and statutory requirements, and the economy and efficiency of certain management practices and procedures; we performed the following tests and procedures:

- We reviewed applicable state laws, city ordinances, and written policies and procedures; and interviewed various individuals.
- We used information provided by the Missouri Supreme Court, and reports from Prosecutor By Karpel (PBK) software system used by the CAO to organize case information to identify performance measures related to the number of cases filed, disposed, and refused; the amount of time needed to process cases; and the percentage of cases closed within established timeframes.
- We reviewed the evidence handbook; the employee handbook; and the operations and training manuals for bad checks, bond forfeitures, deposits, the felony post plea diversion program, and the warrant office.
- We interviewed various personnel including the FCA, FACA, Chief Clerk, numerous CAO staff attorneys, a former Administrative Assistant, and Missouri court personnel.



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- We compiled data from the 22nd Judicial Circuit Court from the Annual Judicial and Statistical Reports released by the Missouri Supreme Court, for the period July 1, 2014, through June 30, 2023.
- We interviewed various CAO personnel about the PBK system and reviewed the PBK system user guide to obtain an understanding of how the data was entered and used in the PBK system. The CCA granted us read-only access to the PBK system in November 2023. This enabled us to generate reports and produce graphs from the PBK system for the period July 1, 2014, through June 30, 2024.
- We analyzed the FCA's St. Louis University clinical coursework attendance records for the period July 1, 2021, through May 16, 2023. We reviewed all 50 class days she attended to determine if the day and time of the clinical hours occurred during normal CAO operating hours or whether the hours were during holidays, weekends, or a time the FCA was on leave.
- We compiled payroll data provided by the City of St. Louis Comptroller's office for every CAO employee who received a paycheck during the audit period. We analyzed the information and classified the employees as legal staff, support staff, or other employees. Based on when the employee started receiving a paycheck and when the employee received his/her last paycheck, we were able to establish how many employees were working throughout the period within each classification.
- We analyzed all 630 disbursements totaling \$260,571 from the 7 CAO bank accounts for the period July 1, 2021, through May 16, 2023. We performed various tests on these disbursements. We reviewed all 431 disbursements, totaling \$121,700, made from the Restitution bank account, along with an additional 108 outstanding checks totaling \$21,861. We also reviewed all 173 disbursements, totaling \$104,948, from the Contingency bank account for the period July 1, 2021, through May 16, 2023. This work did not including reviewing approximately \$18,524,000 in disbursements made by the Comptroller's office on behalf of the CAO during the same period.
- We analyzed all 160 office credit card purchases, totaling \$22,944, and judgmentally selected and further reviewed 28 purchases, totaling \$4,241, for the period July 1, 2021, through May 16, 2023.
- We reviewed the CAO bank account procedures, including the reconciliation process and receipting and depositing procedures, for the 7 CAO bank accounts.



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- We identified 86 vendors the CAO used during the audit period, and judgmentally reviewed the 11 vendors paid over \$12,000 in a rolling 90-day period, for compliance with procurement provisions. The 11 vendors were paid \$1,926,924 during the audit period.
- We judgmentally selected and reviewed 30 seized property items from the PBK system and 30 items from seized property rooms.
- We randomly selected and reviewed personnel files for 8 of the 75 employees who left CAO employment from July 1, 2021, to May 16, 2023.
- We used a word search protocol with search terms, selected names, and key words relating to audit objectives to review email and documents provided by the FACA in response to the subpoena.

Subpoenas Required

As discussed, we issued subpoenas to the FCA, the FACA, SLU, and the various banks used by the CAO to compel them to provide testimony² and/or produce records and documents related to their testimony (see Appendixes B through H). Appendixes B through H include redactions of information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena. Representatives of the SAO took the testimony of the FACA on January 4, 2024, and the FCA on June 12, 2024. Representatives of the SAO also recorded interviews with the Chief Clerk, and 23 attorneys who were working for the CAO during our audit period.

² The individuals' testimonies were recorded by SAO auditors.

City of St. Louis
Office of the Circuit Attorney
Management Advisory Report - State Auditor's Findings

1. Efficiency and Effectiveness of Operations

The efficiency and effectiveness of the Circuit Attorney's office (CAO) operations significantly declined during the former Circuit Attorney (FCA)'s tenure and the office did not meet established court standards for case handling. The FCA did not have performance measures in place to evaluate the operations of the office, nor did the office use established standards to evaluate office operations. Additionally, the FCA did not devote her full attention to her official duties and was unable to adequately staff the office. The failure to operate the office efficiently and effectively, with the necessary oversight and staffing, caused extended case times, fewer cases prosecuted, and prolonged the time victims and defendants had to wait for resolution of their cases.

1.1 CAO performance declined significantly during the FCA's tenure and the FCA did not use performance measures to monitor the office

During the FCA's term, the number of cases referred, filed, and closed significantly declined while the time to prosecute the reduced caseload significantly increased. Additionally, the CAO refused prosecution for significantly more cases than the prior administration. The FCA did not establish performance measures or use established standards to measure case performance.

Cases not entered into system

The CAO, under the FCA, did not process into the Prosecutor By Karpel (PBK) system a significant number of potential cases referred by law enforcement. A case is considered referred³ when it is provided to the CAO by law enforcement; however, if the case is not entered into the PBK system, a decision on whether to file charges cannot be made and the case does not proceed in the CAO. There were approximately 6,700 cases provided by law enforcement that were in CAO email inboxes waiting to be processed by the warrant office at the end of May 2023.

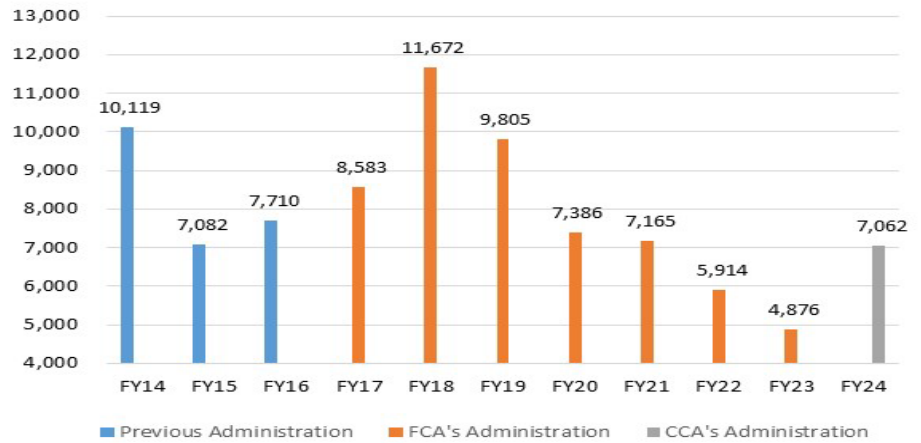
³ A case referral means CAO personnel received a case from law enforcement. When a case is referred to a prosecuting attorney, the prosecuting attorney makes the decision to file charges or decline to prosecute the case.



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Management Advisory Report - State Auditor's Findings

As shown in Figure 1, the number of cases referred and initially entered into the PBK system declined from a high of 11,672 in fiscal year 2018 to only 4,876 in fiscal year 2023. The amount increased again during the first year of the current Circuit Attorney (CCA)'s administration.

Figure 1: Total number of cases referred and entered into the PBK system by fiscal year from fiscal years 2014 through 2024⁴



Source: Prepared by the State Auditor's Office (SAO) using the legal inquiry report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal years 2023 and 2024 data was generated in June 2024.

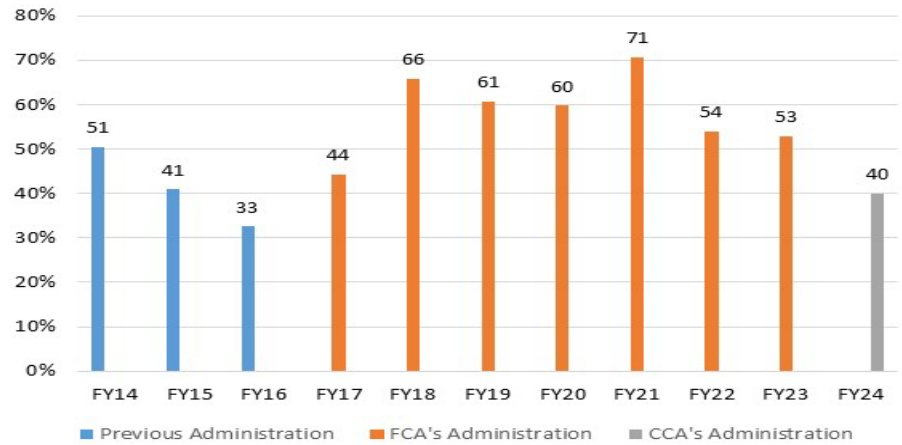
⁴ The totals shown in this section establish how many cases were entered into the PBK system, and are used in Figures 2 and 3. As noted, over 6,700 cases were awaiting entry into the PBK system as of May 2023 so they are not included in the totals presented.



More cases refused

CAO personnel refused prosecution⁵ for a significantly higher percentage of referred cases, including a higher percentage of felony cases, during the FCA's administration. We compared the percentage of cases refused by fiscal year in Figure 2.⁶

Figure 2: Percentage of total cases refused for prosecution by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using the legal inquiry report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal years 2023 and 2024 data was generated in June 2024.

⁵ The PBK user guide, defines "refused cases" as those in which every charge associated with the case is declined or turned down for filing.

⁶ The percentage is the number of cases with a refused case status for each fiscal year divided by the total number of cases referred and entered into the PBK system for that fiscal year.

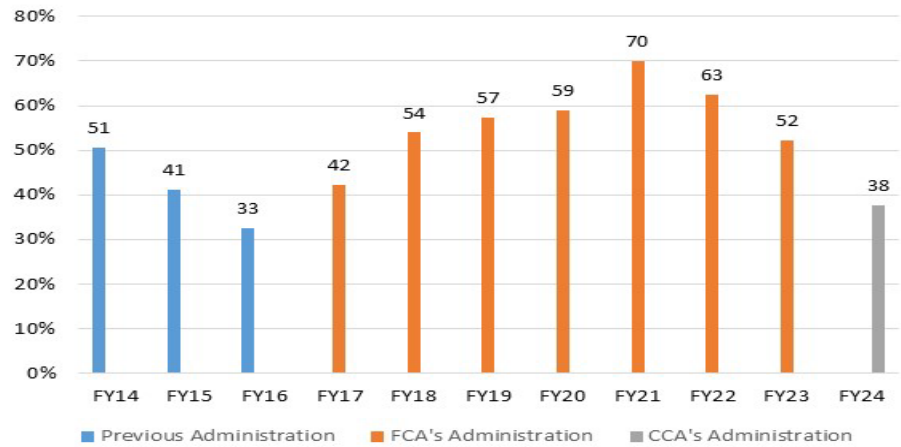


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CAO personnel, on average, refused approximately 59 percent of referred cases during the FCA's administration. This is an increase of approximately 40 percent from the average percentage of cases refused by the prior administration. Also in the first year of the current administration, personnel only refused an average of approximately 40 percent of cases.

In Figure 3, we identified the percentage⁷ of felony cases CAO personnel refused to prosecute.

Figure 3: Percentage of felony cases refused by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using the legal inquiry report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal years 2023 and 2024 data was generated in June 2024.

The CAO refused an average of approximately 56 percent of the felony cases referred during the FCA's tenure, compared to the previous administration's average of only approximately 42 percent. The current administration only refused an average of approximately 38 percent of referred felony cases in its first year.

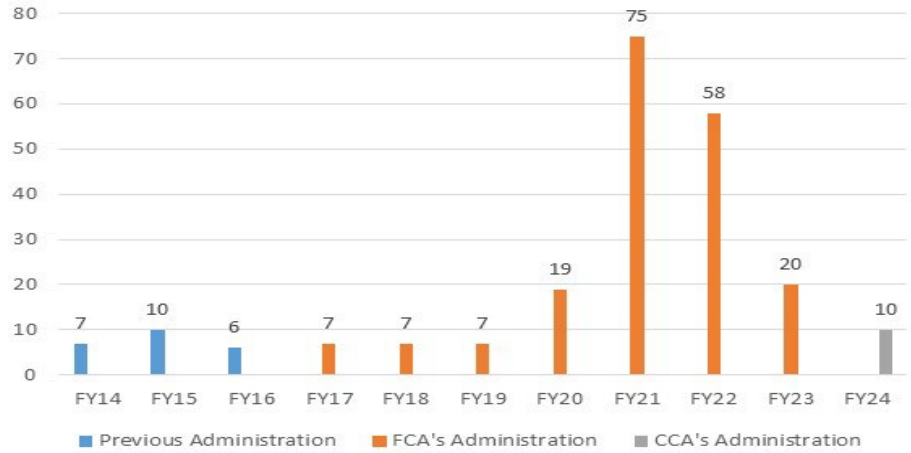
⁷ The percentage is the number of felony cases with a refused case status for each fiscal year divided by the total number of felony cases referred and entered into the PBK system for that fiscal year.



Delays in filing charges

CAO personnel took significantly longer to file charges during the FCA's last 4 years in office. Figure 4 shows the average number of days between CAO receipt of the case and date the CAO filed charges with the court.

Figure 4: Average number of days between when the case was referred and when charges were filed by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using the time standards by status report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal years 2023 and 2024 data was generated in June 2024.

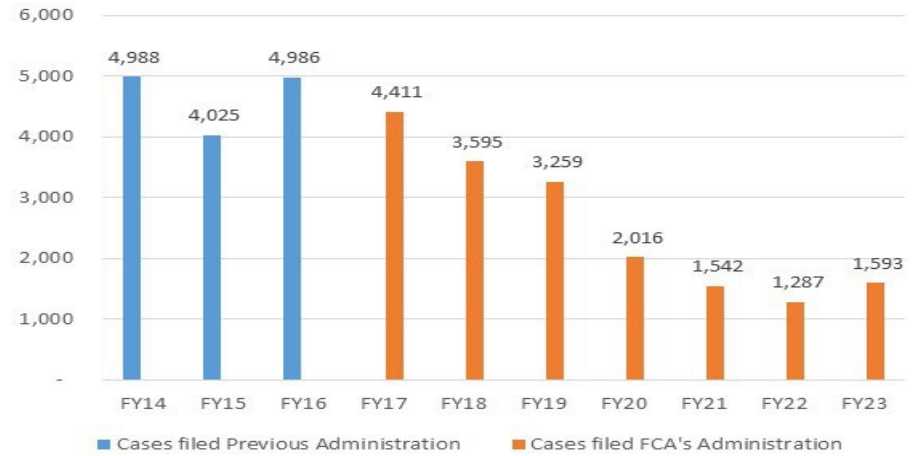
CAO personnel needed approximately 7.2 days to file charges from fiscal year 2014 to fiscal year 2019. However, during fiscal years 2021 and 2022, CAO personnel needed, on average, approximately 75 days and 58 days, respectively, to file charges on a case. As a result, cases were significantly delayed. While this was during the COVID-19 pandemic, court restrictions should not have significantly limited CAO personnel's ability to file charges. During the first full year of the current administration, the average number of days to file charges decreased to 10 days, consistent with pre-fiscal year 2020 levels.



Fewer cases filed

During the FCA's administration, CAO personnel filed⁸ significantly fewer cases than the prior administration, especially during the last 4 years of the FCA's administration. We compared the total number of cases filed by fiscal year, in Figure 5. As shown, the number of cases filed decreased from an average of 4,666 cases per year during the prior administration to only 2,529 cases per year during the FCA's tenure.

Figure 5: Total number of cases filed with the courts by fiscal year for fiscal years 2014 through 2023



Source: Prepared by the SAO using the Annual Judicial and Statistical Reports Circuit Profile for the 22nd Circuit Court found on the Missouri Courts website - <https://www.courts.mo.gov/page.jsp?id=296>, accessed on January 18, 2024.

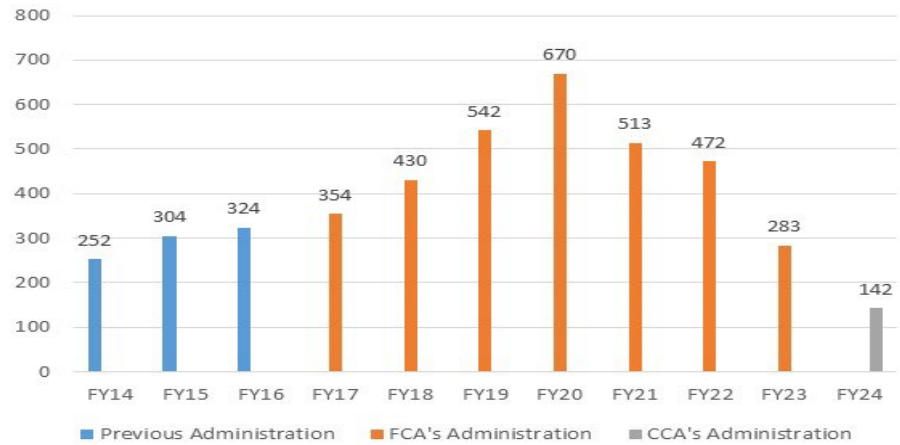
⁸ Filed cases are cases for which the CAO has initiated proceedings in the court system.



Delays in disposing cases

During the FCA's tenure, CAO personnel took significantly longer to dispose⁹ of cases. We reviewed the average number of days from when charges were filed to the date a case was disposed by fiscal year in Figure 6.

Figure 6: Number of days between filing charges and disposing of the case by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using the time standards by status report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal years 2023 and 2024 data was generated in June 2024.

Personnel under the FCA took, on average, approximately 463 days to dispose of a case, which was significantly higher than the prior administration's average of approximately 293 days. Many cases took well over a year to dispose of under the FCA, while the current administration averaged 142 days for case disposition in its first year. While the Circuit Attorney is not solely responsible for the time it may take to dispose of a case, any delays in the handling of the cases by the office, including deciding to file charges or requesting case continuances, can result in longer case disposition times.

⁹ A disposed case means every charge has been resolved, but not every conviction has been sentenced.

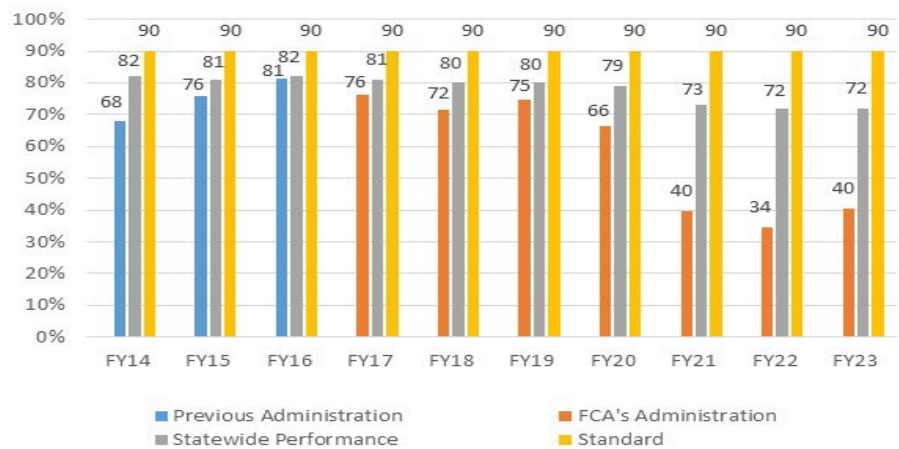


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Felony cases delayed significantly

CAO personnel did not dispose of felony cases timely during the FCA's administration, especially during the last 3 years of her tenure. The Missouri Supreme Court provides time standards for how long it should take prosecuting attorneys to dispose of felony cases. Per this standard, 90 percent of felony cases should be disposed of within 10 months of the case being filed. Longer case disposition times result in longer periods victims and defendants must wait for resolution of their cases. We compared the percentage of felony cases disposed of within 10 months for the previous administration, the FCA's administration, and the statewide average in Figure 7.

Figure 7: Percent of felony cases disposed of within 10 months by fiscal year for fiscal years 2014 through 2023



Source: Prepared by the SAO using the Annual Judicial and Statistical Report supplement Table 66 found on Missouri Courts website - <<https://www.courts.mo.gov/page.jsp?id=1919>>, accessed on May 28, 2024.

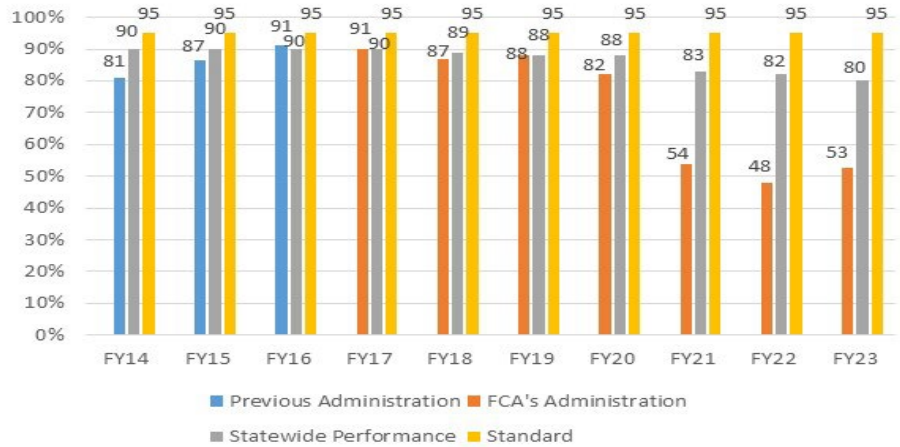
As shown, CAO personnel disposed of 40 percent or less of its cases within 10 months in fiscal years 2021, 2022, and 2023. This was at least 30 percent less than the state average and 50 percent less than Missouri Supreme Court standards. This is a significant decline from the prior administration and even the first 4 years of the FCA's term. While these years coincide with the COVID-19 pandemic, the data shows that statewide dispositions did not decline as significantly as the CAO's dispositions, indicating the CAO's untimeliness cannot be fully explained by court restrictions during that time.



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In addition, the CAO did not dispose of 95 percent of felony cases within 14 months of case filing, as recommended by the Missouri Supreme Court. Figure 8 shows the percentage of felony cases disposed of within 14 months during the previous administration, the FCA's administration, and the statewide average by fiscal year.

Figure 8: Percent of felony cases disposed of within 14 months by fiscal year for fiscal years 2014 through 2023



Source: Prepared by the SAO using the Annual Judicial and Statistical Report supplement Table 66 found on Missouri Courts website - <<https://www.courts.mo.gov/page.jsp?id=1919>>, accessed on May 28, 2024.

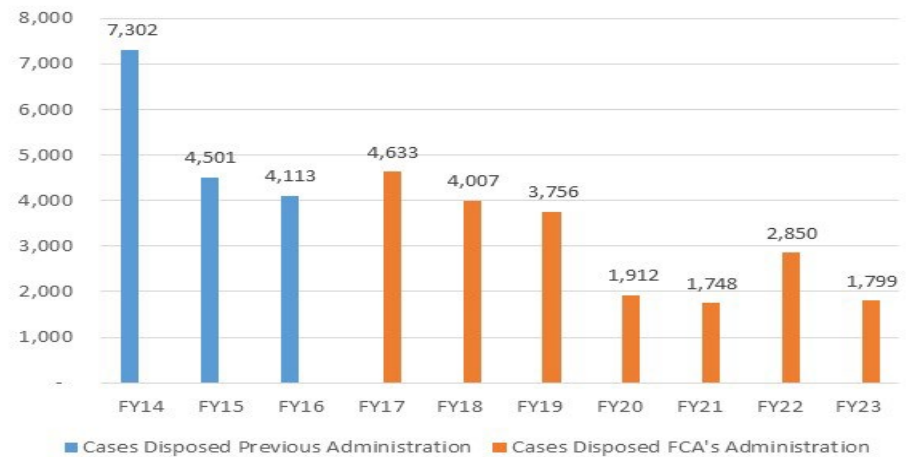
While CAO personnel were unable to meet the Missouri Supreme Court standards, they did dispose of between 82 percent and 90 percent of felony cases within 14 months from fiscal year 2017 to 2020. However, during fiscal years 2021, 2022, and 2023, CAO personnel were only able to dispose of between 48 percent and 54 percent of felony cases within 14 months. At the same time, the statewide average was from 80 to 83 percent. The CAO's decline was also more significant than the statewide average, further indicating the CAO's untimeliness cannot be fully explained by COVID-19 pandemic related court restrictions.



Fewer cases disposed

CAO personnel disposed of significantly fewer cases during the last 4 years of the FCA's administration. We compared the number of disposed cases by fiscal year, in Figure 9.

Figure 9: Total number of cases disposed by fiscal year for fiscal years 2014 through 2023



Source: Prepared by the SAO using the Annual Judicial and Statistical Report Circuit Profile for the 22nd Circuit Court found on the Missouri Courts website - <https://www.courts.mo.gov/page.jsp?id=296>, accessed on January 18, 2024.

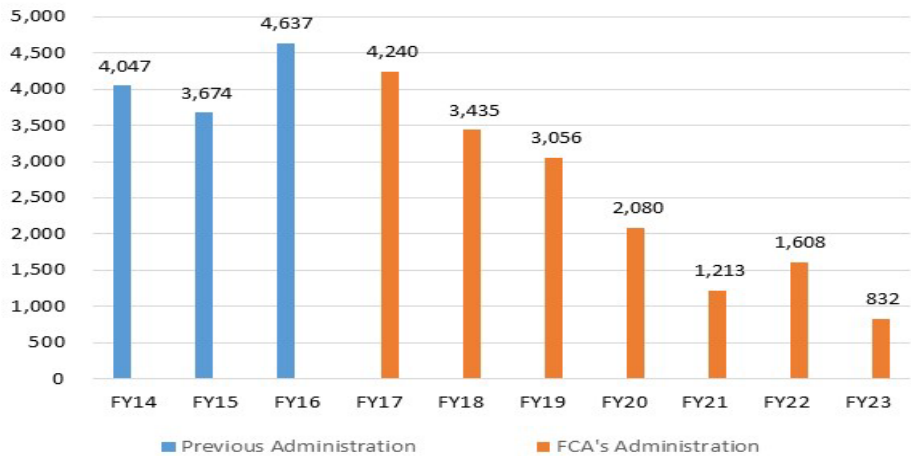
During the previous administration, the annual average number of cases disposed was approximately 5,300 cases. This decreased to an average of approximately 4,130 cases for the first 3 years of the FCA's administration and to an average of only approximately 2,080 cases during the last 4 years of the FCA's administration. Because disposing of cases is a primary duty of the CAO, this reduction indicates the office was less effective during this time.



Fewer cases closed

CAO personnel closed¹⁰ significantly fewer cases per year during the last 3 years of the FCA's administration than during the previous administration. We compared the number of cases closed by fiscal year in Figure 10.

Figure 10: Total number of cases closed by fiscal year for fiscal years 2014 through 2023



Source: Prepared by the SAO using the legal inquiry report found in PBK. Fiscal year 2014 through fiscal year 2022 data was generated in November 2023, and fiscal year 2023 data was generated in June 2024.

As shown, CAO personnel closed a significantly smaller number of cases than the prior administration, especially during the last 3 years of the FCA's administration. CAO personnel closed, on average, approximately 4,119 cases annually during the prior administration but only closed, on average, 2,352 annually during the FCA's administration. CAO personnel closed only approximately 1,218 cases, on average, during the last 3 years of the FCA's administration.

FCA did not establish performance measures

The FCA did not establish performance measures for the CAO and did not use Missouri Supreme Court standards to evaluate the office. As a result, CAO officials had no method to assess if the CAO was fulfilling its statutory obligation¹¹ to evaluate and prosecute referred cases in an efficient and effective manner. The FCA did not provide any explanation of why effective performance measures were not used.

Establishing measures of performance provides evidence to the public that the CAO is meeting its intended purpose and goals, and is essential in guiding strategic decision making. The National State Auditors Association guidance

¹⁰ Closed cases are cases for which all charges on the case have been disposed and every conviction has a sentence.

¹¹ Section 56.060.1, RSMo.



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for audit organizations and government agencies states, "Performance measurement is a critical element of accountability for public resources" and further recommends considering the mission statement, goals, objectives, and an action plan when developing a performance measure process.¹² Additionally, the Government Finance Officers Association recommends, "all organizations identify, track, and communicate performance measures to monitor financial and budgetary status, service delivery, program outcomes, and community conditions."¹³

Establishing performance measures related to the length of time needed to process cases, the number of cases disposed per attorney, and the number of cases assigned per attorney, along with using Missouri Supreme Court standards would provide the CA with useful information to determine if the CAO was achieving its statutory purpose and would provide the CA key performance information for making strategic decisions.

Conclusion

During a recorded interview, the FCA indicated the reason for the decline in office performance was the COVID-19 pandemic. However, the decline in some areas began prior to the pandemic, continued after pandemic-related restrictions were lifted, and extended through the end of the FCA's administration. In addition, staffing decreases discussed in section 1.3 likely contributed to the declines. During recorded interviews with over 20 staff attorneys, 13 stated the workload was too large or overwhelming, and 4 agreed the workload exceeded professionally appropriate levels. Attorneys also stated they felt the caseload negatively impacted the quality of their work, it was difficult to avoid burnout and be proactive on cases, and their workload was too large to allow them to do their jobs effectively.

The FCA had a fiduciary and statutory duty to evaluate and prosecute, as appropriate, cases referred to the CAO by law enforcement. Case statistics show this was not performed efficiently and effectively during the FCA's tenure as compared to the prior and current CAs, court standards, and state averages; and the FCA did nothing to measure, monitor, or address these issues. Evaluation of office operations using established performance measures is necessary to identify and address areas of underperformance and the possible causes. Without such processes, the CA cannot be assured all possible efforts are being made to efficiently and effectively carry out the necessary duties of the CAO.

¹² *Best Practices in Performance Measurement in Government, Developing Performance Measures, NSAA, 2004*, p. 1
<https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Developing_Performance_Measures.pdf>, accessed July 29, 2024.

¹³ *Best Practices, Performance Measures, GFOA, 2018*
<<https://www.gfoa.org/materials/performance-measures>>, accessed August 5, 2024.



1.2 FCA did not devote full time to the CAO

The FCA did not devote her full time to the CAO as required. Instead, she took classes and completed clinical coursework to obtain a Family Nurse Practitioner, Post-Master's Certificate from Saint Louis University (SLU). This contributed to the lack of leadership at the CAO, caused the FCA to miss important case appearances, and prevented the FCA from fulfilling her statutory mandate.

Clinical hour records

The FCA attended post-graduate college courses during business hours without taking leave. On May 6, 2024, we subpoenaed SLU for the FCA's student records, including transcripts and clinical hour records. During our audit period, based on the information provided by SLU, there were 40 separate instances (29 full days and 11 half days)¹⁴ in which the FCA spent time during normal CAO business hours completing clinical coursework. This equates to 34.5 working days, or approximately 7 weeks, away from her circuit attorney duties. During a recorded interview, the FCA indicated she was taking the classes to improve the office and bring mental health awareness to the CAO.

There was no documentation to support her schooling was an effort to improve the office, nor did the FCA request reimbursement for the costs of classes to suggest this was part of her official duties. In addition, we did not identify, and the FCA did not know of, anyone else in the office taking any nursing classes to enhance the office. According to the FCA, only the Chief Clerk knew she was taking classes.

The FCA's efforts to use her additional medical training for the improvement of the office were mostly unknown and unsupported, and no other CAO personnel were participating in similar efforts; all of which indicate the schooling was not for the benefit of the CAO, but rather was for the pursuit of the FCA's personal educational goals while she was supposed to be serving in her elected capacity.

Important case missed

Completing clinical coursework during CAO working hours distracted the FCA from performing her duties. For example, on April 27, 2023, court was set for 1:30 p.m. to determine whether or not there was sufficient reason to find the FCA in indirect criminal contempt of court. The judge had ordered either the FCA or a designee to appear. According to coursework records, the FCA was in class from 8:00 a.m. through 12:00 p.m. that day, and the FCA sent a designee. However, the designee who appeared knew little information about the case when questioned. The judge stated, "I asked for a designee but

¹⁴ If the number of hours the FCA spent doing clinical coursework for the day was between 1 and 5 hours, we considered it a half day missed. If the number of hours the FCA spent doing clinical coursework for the day was over 5 hours, we considered it a full day missed. We took into consideration holidays, weekends, and leave requests.



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you sent someone who didn't have the ability to stand in Ms. Gardner's shoes."¹⁵ The Judge found there was sufficient reason to find the FCA in indirect criminal contempt of court and said that the FCA was the captain of a "rudderless ship of chaos."

Conclusion

Section 56.445, RSMo, requires the CA and CAO employees to dedicate their entire time and energy to the discharge of their official duties. The failure of the FCA to do this and provide the necessary oversight of her office likely led to the less efficient case handling and the employee dissatisfaction discussed in sections 1.1 and 1.3, as well as one contempt of court charge. The FCA's full-time dedication to her position was not only needed to meet statutory requirements but also to ensure her office acted in the best interest of defendants, victims, and the citizens of the City of St. Louis, which was her duty as the elected CA.

1.3 Staff shortage

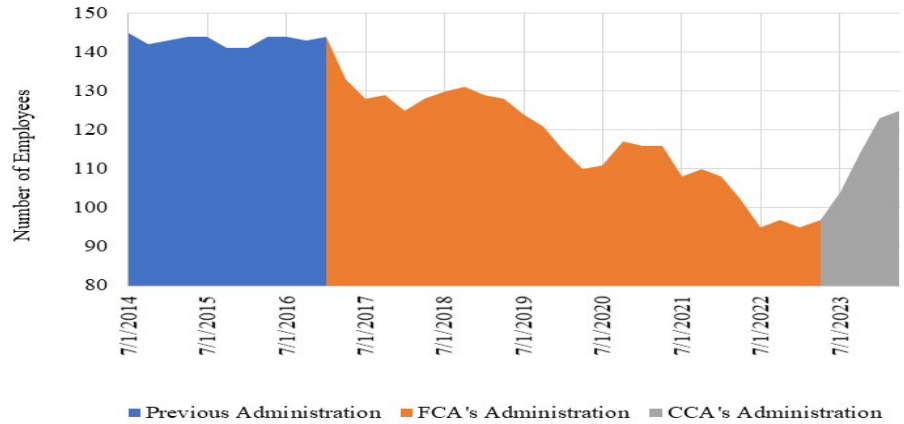
During the FCA's administration, a significant number of CAO personnel left employment, which likely contributed to the decline in the efficiency and effectiveness of the office. At the beginning of her tenure, the FCA had 141 employees. By May 2023, the office had only 89 employees, a 37 percent decline. Figure 11 shows the number of full time employees working for the CAO by fiscal year.

¹⁵ "Judge Michael Noble Was Not Having It With The former CA Today," *Riverfront Times*, April 27, 2023, <<https://www.riverfronttimes.com/news/judge-michael-noble-was-not-having-it-with-kim-gardner-today-39946742>>, accessed on August 8, 2024.



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Figure 11: Total full time employees by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using payroll records provided by the City of St. Louis Comptroller's office for the period July 1, 2014, through June 30, 2024. We used the highest number of employees in the quarterly reports per fiscal year for illustrative purposes.

As shown, employment levels at the CAO did not significantly decline until the FCA's administration and only rebounded when the new CA was appointed.

More employees left the CAO than were hired for most years during the FCA's administration. We analyzed CAO personnel data to determine if the decline in CAO staffing was due to attrition, a lack of hiring, or a combination of both.

Figure 12: Turnover During the FCA's Tenure

Employees	2017	2018	2019	2020	2021	2022	2023	Total
Began employment	41	44	28	31	28	26	6	204
Left employment	58	40	41	29	36	40	14	258
Net employee gain/(loss)	(17)	4	(13)	2	(8)	(14)	(8)	(54)
Turnover percentage*	44%	32%	34%	26%	32%	40%	16%	33%

* The turnover percentage was calculated by dividing the number of employees who left the office by the average number of employees working per year. The turnover percentage for calendar year 2023 was calculated only for the FCA's tenure (January through May 2023).

Source: Prepared by the SAO using calendar year payroll records provided by the City of St. Louis Comptroller's office.



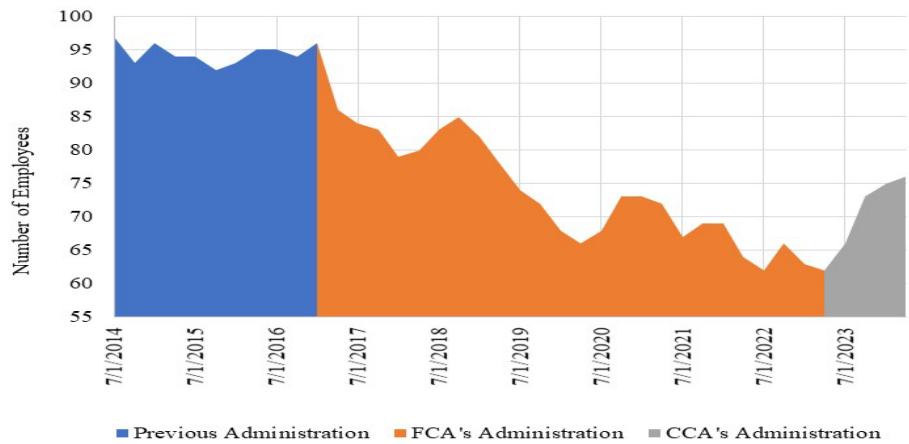
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As shown in the table, numerous employees left shortly after the FCA's term began in 2017, while at the same time, hiring also declined, resulting in significant turnover in most years. More employees left than were hired in 5 of the 7 years of the FCA's tenure. In 3 of those years, the net loss was more than 10 employees. While the COVID-19 pandemic may have had some effect on staffing, 2 of the years with the most significant turnover were prior to the pandemic.

Legal staff declined significantly

A significant number of the CAO's legal staff left during the FCA's administration. We performed the same analysis used in Figure 11 for legal staff¹⁶ in Figure 13.

Figure 13: Legal staff by fiscal year for fiscal years 2014 through 2024



Source: Prepared by the SAO using payroll records provided by the City of St. Louis Comptroller's office from July 1, 2014, through June 30, 2024.

Less than half the number of attorneys remained at the end of the FCA's administration

Figure 13 shows that by the end of the FCA's tenure, the legal staff declined from 94 employees when she took office to only 58 employees when she left, an over 38 percent decline. The decline includes a reduction in the number of attorneys from 53 in January 2017, to only 24 in May 2023, a 55 percent decline. As of June 30 2024, the legal staff has expanded to 73 employees including 44 attorneys.

The significant decline in legal staffing meant there were fewer attorneys to handle existing and incoming cases, which likely contributed to the increase in case processing time and the backlog of cases entered into PBK. This also resulted in fewer experienced attorneys available to sufficiently train new

¹⁶ Legal staff include the following titles: Assistant Circuit Attorney, Attorneys I-IV, Attorney Manager, Chief Investigator, Chief Misdemeanor Attorney, Chief Misdemeanor Officer, Chief Trial Assistant, Chief Warrant Officer, Circuit Attorney, Deputy Warrant Officer, Diversion Specialist, First Assistant Circuit Attorney, Investigators I, I/A, and II, Paralegal, Special Assistant Circuit Attorney II and III, and Special Attorney II.



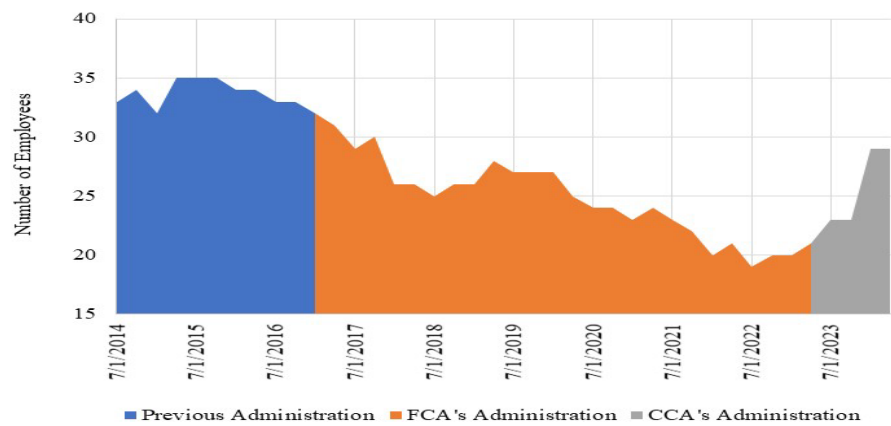
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hires and to handle more complex cases, likely resulting, in part, in the decline in CAO dispositions as discussed in section 1.1.

Support staff declined significantly

A significant number of support staff also left the CAO during the FCA's administration. We reviewed support staff levels by fiscal year in Figure 14. By the end of the FCA's tenure support staff consisted of only 19 employees, down from 32 employees when she took office in 2017. Support staff levels rebounded to 29 employees by the end of the first full year of the current administration.

Figure 14: Support staff employees by fiscal year for fiscal year 2014 through 2024



Source: Prepared by the SAO using payroll records provided by the City of St. Louis Comptroller's office from July 1, 2014, through June 30, 2024.

The decreased support staff resulted in legal staff needing to perform additional administrative tasks, further increasing workload for the attorneys and likely contributing to the increase in case processing time discussed in section 1.1.

Conclusion

The FCA, in a recorded interview, indicated staffing shortages were the result of low salaries. However, salary levels were not significantly different during the prior administration and have not changed significantly with the new administration. We interviewed over 20 CAO staff attorneys who worked under the FCA. Only 8 of the attorneys mentioned salary as one of their reasons for the high turnover, and it was not their only reason. Most attributed the turnover to high workload; high stress; lack of communication, transparency, authority, guidance, and leadership; being overworked; no clear chain of command; large caseloads; insufficient training; being overwhelmed; and disorganized management.

Adequate staffing is necessary to maintain the proper functions of the office and helps ensure caseloads are feasible and cases are handled according to legal and professional standards. Adequate staffing also allows appropriate



onboarding, training, and supervision of staff to ensure the office is operating effectively and efficiently in accordance with established standards.

Recommendations

The Circuit Attorney:

- 1.1 Ensure cases are processed as timely as possible and in accordance with state standards and establish performance measures to assess the efficiency and effectiveness of the office.
- 1.2 Work full time to discharge his/her official duties as required by statute.
- 1.3 Ensure staffing is sufficient and proper hiring and training processes are in place for all staff levels.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

Auditor's Comment

The Circuit Attorney's response indicates he does not believe the State Auditor has plenary authority to question the management of the office and that the Circuit Attorney answers to citizens of the county (city in this case). The audit was conducted at the request of the Board of Aldermen which represents city citizens. From the beginning of the audit, and throughout its extended period, one of the objectives was to evaluate the office's efficiency and effectiveness. The audit identified weaknesses in the efficiency and effectiveness of the office and recommends using standards established by the Missouri Supreme Court, which does have oversight over court proceedings. In addition, recommendations 1.1 and 1.3 ask the Circuit Attorney to establish and ensure the office meets its own standards, which is a recommended practice for all governmental bodies.

2. Disbursements

CAO disbursement policies and procedures need improvement. For the period July 2021 through May 16, 2023, CAO officials and personnel disbursed \$260,571, including \$22,944 in credit card purchases, from the 7 bank accounts the CAO maintains outside of the city treasury.

2.1 Personal reimbursements to the FCA

The FCA authorized reimbursements to herself totaling \$6,688 for personal legal fees. These payments were approved by the FCA and the Chief Clerk. When asked, CAO officials indicated the reimbursements were approved at the direction of the FCA.

Supreme Court fines reimbursed

In August 2022, the Supreme Court of Missouri found the FCA violated the Rules of Professional Conduct during her prosecution of former Governor Eric Greitens.¹⁷ The Court assessed the FCA fines of \$5,004 and the FCA

¹⁷ *In re Kimberly M. Gardner*, Case No. SC99645 (August 30, 2022).



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made 4 payments to the Court totaling this amount. She then directed the CAO to issue her the following reimbursements from the Contingency bank account:

- Check number 1353, dated November 1, 2022, for \$750
- Check number 1398, dated January 10, 2023, for \$1,000
- Check number 1759, dated February 24, 2023, for \$1,500
- Check number 1778, dated April 26, 2023, for \$1,754

On July 23, 2024, the FCA signed a diversion agreement with the United States Attorney's office, and accepted responsibility for the misuse of more than \$5,000 in public funds and agreed to pay back the \$5,004 to the CAO.¹⁸

Legal fees reimbursed

In March 2023, the Attorney General, on behalf of the State of Missouri, filed a petition for quo warranto to remove the FCA from office.¹⁹ The CAO, FCA, and FACA each filed motions in that case requesting that various attorneys be admitted *pro hac vice* pursuant to Rule 9.03 of the Missouri Supreme Court Rules. Rule 6.01(n) of Missouri's Supreme Court Rules requires a lawyer seeking to appear *pro hac vice* in any case to pay an enrollment fee for each case in each court in which the lawyer seeks to appear. The FCA personally paid the Supreme Court the *pro hac vice* fees for 4 attorneys in 2 payments totaling \$1,684,²⁰ and then directed the CAO to issue her the following reimbursements from the Contingency bank account:

- Check number 1761, dated March 10, 2023, for \$419
- Check number 1762, dated March 21, 2023, for \$1,265

Conclusion

When asked in a recorded interview, the FCA indicated she requested and authorized these reimbursements because the legal actions were brought against her as the Circuit Attorney, and she considered them to be CAO expenses. While these expenses arose while the FCA was in office, the underlying legal actions were due to violations of her personal professional conduct standards and not those of the office. Also, as noted, she later accepted responsibility for the misuse of public funds, and per the diversion agreement, has reimbursed the CAO in the amount of \$5,004. The FCA had a fiduciary duty to the taxpayers to ensure city funds were only expended on necessary items and in a manner that provides the greatest benefit to the city, and not on personal legal fees and fines.

¹⁸ *United States v. Kimberly M. Gardner* (United States District Court for the Eastern District of Missouri, USA Form 186 - Precharge Diversion Agreement, Oct 4, 2024).

¹⁹ *Missouri Attorney General v. Kimberly M. Gardner*, Case No. 2322-CC00383 (22nd Circuit Court), filed March 21, 2023.

²⁰ The amount paid and reimbursed includes service fees for electronic payment.



2.2 Misuse of restricted funds

CAO officials made unallowable purchases with the Contingency account they improperly hold outside the city treasury. CAO officials spent approximately \$104,950 from the Contingency account during the audit period.

Unallowed disbursements

CAO officials issued 64 checks, totaling \$58,482, for disbursements from the Contingency account that were not allowed by state law. These purchases included food, flowers, disc jockey services, wall art, party and community meeting location rentals, a Sam's Club membership, chili cook-out supplies, Sunshine Law violation fines (see Background section), car detailing, employee plaques, personal legal expenses, a new CAO website, and credit card late fees and interest charges.

Section 56.530, RSMo, restricts Contingency account disbursements to those related to bringing witnesses from other states, costs associated with prosecuting a defendant, and generally any expense for prosecution of the duties of the office. CAO officials indicated General Fund money was available to use for the disbursements noted, so it is unclear why they used the Contingency account, other than it was common practice for previous administrations.

Unallowed bank account

CAO officials maintain the Contingency account outside of the city treasury in violation of state law. The annual allotment of \$32,000 is transferred directly to the CAO account when requested. During our audit period the CAO requested the entire \$32,000 in one lump sum every year.

Section 56.530, RSMo, requires the city treasurer to maintain the contingency fund and to "pay out as needed to the circuit attorney. . . ." CAO officials indicated there was a lack of understanding on the restrictions for the Contingency account. In addition, CAO officials indicated this was the way the previous administration handled the account and they were following that guidance.

2.3 Lack of documentation to support purchases

CAO personnel could not locate some or all of the supporting documentation for 47 of the 173 Contingency bank account disbursements reviewed (27 percent), totaling \$10,639. Additionally, CAO personnel did not retain/maintain adequate documentation to support 57 of the 160 credit card purchases reviewed (36 percent),²¹ totaling \$8,652.

CAO personnel indicated the office only had informal policies and procedures regarding document retention and CAO personnel did not always follow the informal procedures. Best practices require retention of receipts, invoices, or other documentation indicating the amount of the disbursement, the vendor,

²¹ The CAO paid credit cards with the Contingency and Bond and Asset Forfeiture accounts.



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and the purpose of the disbursement. Without such documentation, there is less assurance these purchases were for the benefit of the CAO and a prudent use of taxpayer funds, and there is an increased risk that loss, theft, or misuse will go undetected. Additionally, 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. Record retention schedules can be found on the Secretary of State's website.²²

2.4 Questionable purchases

CAO officials made questionable food and other purchases totaling \$18,860 and the CAO does not have a policy regarding such purchases. CAO officials made 49 questionable purchases, totaling \$18,137, using Contingency bank account funds and 2 questionable purchases totaling \$723 using the Bond and Asset Forfeiture account funds during our audit period. These purchases were for parties and a picnic, disc jockey services, location rental for the office picnic, executive staff dinner, meetings, and luncheons. The CAO did not maintain a list of any of the participants for the staff dinners or meetings, nor did personnel document the purpose of these events. For example, CAO officials spent \$5,180 at a bar and grill and \$2,585 to purchase pizza for various functions without such documentation. As noted in Section 2.2, Contingency account use is restricted; however, even if other funds were used, these disbursements would be a questionable use of taxpayer dollars. When asked during a recorded interview if she authorized these items, the FCA stated, "To my knowledge yes," and when asked why, the FCA stated it was to "boost morale."

The CAO has not established any guidance or policies about food or entertainment purchases. Such guidance or policies can have various provisions. For example, the State of Missouri's agency provided food policy²³ only allows for food at official business functions, if it will promote the efficient conduct of business, and light refreshments at other agency sponsored events (employee retirement, employee appreciation, etc.), but banquets for such events 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 CAO has a fiduciary duty to spend public money in a prudent and necessary manner. Established policies on office provided food would

²² Office of the Missouri Secretary of State, Local Government Records Retention Schedules are available at <<https://www.sos.mo.gov/archives/localrecs/schedules>>, accessed November 20, 2024.

²³ Missouri Office of Administration, *State of Missouri Administrative Policy SP-5 - Agency Provided Food*, Issued January 2002, <https://oa.mo.gov/sites/default/files/agency_food.pdf>, accessed July 8, 2024.



2.5 Distributions withheld and delayed from the School Building Revolving Fund

provide employees necessary guidance and better transparency for citizens about the use of public funds.

CAO officials and personnel have not disbursed approximately \$15,600 in asset and bond forfeiture payments to the city's School Building Revolving Fund, and delayed an additional \$8,904 in similar payments to the fund. In total, the CAO received \$19,344 in asset forfeiture money and \$11,286 in bond forfeiture money from July 1, 2021, through September 29, 2022. Based on the amounts collected, the CAO owed the School Building Revolving Fund \$24,504, by September 30, 2022. However, CAO personnel only disbursed \$8,904 to the fund on March 3, 2023, 5 months after the statutory deadline, leaving \$15,600 still owed.

CAO personnel receive asset forfeiture money for property seized by law enforcement, and bond forfeiture money when the court orders a defendant's bond money forfeited. Based on state law and a CAO interoffice memorandum, 80 percent of the amount received is to be transferred to the School Building Revolving Fund and the CAO is allowed to retain 20 percent to cover costs associated with handling forfeiture money. The forfeited money is due to the School Building Revolving Fund (maintained by the city Treasurer) annually by September 30.

Section 166.131, RSMo, indicates all forfeiture proceeds should be disbursed annually, on or before September 30. Section 513.623, RSMo, indicates the net forfeiture proceeds shall be distributed pursuant to the Missouri Constitution, which requires the funds to be distributed to city school funds. CAO officials indicated payments were withheld due to lack of oversight, high employee turnover, and a lack of employee training. Timely disbursement of money collected is necessary to reduce the risk of loss, theft, or misuse of funds; and to comply with state law.

Recommendations

The Circuit Attorney:

- 2.1 Continue efforts to recover misspent funds from the FCA and ensure future reimbursements are appropriate.
- 2.2 Establish controls to ensure Contingency account disbursements are allowable and work with the city Treasurer to maintain the fund within the city treasury.
- 2.3 Establish policies and procedures to ensure adequate supporting documentation is maintained for all disbursements and retain all records in accordance with state law.



- 2.4 Ensure all disbursements are a reasonable and prudent use of public funds. Additionally, develop a comprehensive policy regarding food and other purchases.
- 2.5 Establish controls to ensure forfeiture payments are distributed as required.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

Auditor's Comment

- 2.2 The Circuit Attorney's response indicates that no changes are necessary to the established practices regarding the Contingency Fund and that the maintenance of the account outside of the city treasury is sound practice. There is nothing in statute that allows for the Circuit Attorney to maintain the fund outside of the city treasury. The response also indicates that statute allows for discretion in the use of the Contingency Fund for the "proper and vigorous prosecution of the duties of his office." However, it is unclear how the questioned expenses in the finding including food, flowers, disc jockey services, wall art, party and community meeting location rentals, a Sam's Club membership, and chili cook-out supplies are necessary to carry out the duties of the office.

3. Accounting Controls and Procedures

CAO accounting controls and procedures need improvement. As a result of accounting control weaknesses, CAO officials and personnel do not know how much money should be in the bank accounts or who is owed the unidentified money in the Restitution and Bad Check bank accounts. From July 1, 2021, through May 16, 2023, CAO personnel maintained 7 bank accounts with deposits totaling \$285,250 and disbursements totaling \$260,571.

3.1 Bank reconciliations

CAO personnel do not reconcile the Restitution and Bad Check bank accounts, and do not maintain book balances or lists of liabilities for the accounts.

- Personnel indicated they do not enter checks into the accounting system as they are written, but instead use the monthly bank statements to identify the checks that cleared the bank account, and then enter those checks in the accounting system. However, not all reconciling items (deposits in transit and outstanding checks) are accounted for using this method; therefore, accurate book balances are not maintained, and it is not possible to compare the reconciled bank balances to book balances.
- Personnel do not prepare lists of liabilities for the Restitution and Bad Check bank accounts. As a result, the reconciled bank balance is not compared to liabilities, and the CAO has unidentified balances in both accounts. As of May 30, 2023, the bank balance for the Restitution



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account was \$73,439 and the bank balance for the Bad Check account was \$32,362. A portion of the Restitution bank balance consists of outstanding checks as discussed in section 3.2. CAO personnel cannot identify to whom the remaining balances belong and this may represent undistributed restitution and bad check payments owed to victims.

Personnel indicated they believed entering the checks into the accounting system was reconciling the bank accounts and officials indicated they believed personnel were completing the reconciliations. However, no one reviewed the work done to ensure the reconciliations were complete and accurate. During a recorded interview, the FCA was asked if she was checking the bank reconciliations. She stated, "No. We had people who were over that type of stuff."

Preparing adequate monthly bank reconciliations, cumulative book balances, and monthly lists of liabilities helps ensure receipts and disbursements have been properly handled and recorded, and increases the likelihood errors will be identified and corrected timely. Regular identification of liabilities and a comparison of liabilities to the reconciled bank balance is necessary to ensure accounting records are in balance, and money is available to satisfy all liabilities. Additionally, by reviewing the bank reconciliations, CAO officials can monitor the Restitution and Bad Check bank accounts to identify accumulating balances and possible unpaid amounts to victims.

Similar conditions were noted in our prior audit report.

3.2 Outstanding checks

CAO personnel do not follow up on old outstanding checks in the Restitution bank account. As of May 16, 2023, 63 checks, totaling \$10,417, issued from June 29, 2021, through April 28, 2022, had been outstanding for more than a year. This represents 11 percent of the total checks issued during that time. CAO personnel indicated they had not followed up on these checks, were not aware of the importance of following up on old outstanding checks, and had not established procedures to do this.

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.

3.3 Inaccurate accounting records

CAO personnel incorrectly recorded the check number for 97 percent of the restitution checks we reviewed in the accounting system. This complicated the limited bank reconciliation process for CAO staff and made it more difficult to detect errors. We compared all 459 checks numbers shown on the bank statements during our audit period, to the accounting system, and



identified 445 check numbers (97 percent) that were recorded incorrectly in the accounting system. CAO personnel indicated they previously determined there was a glitch in the system which caused an error when entering the check numbers. However, instead of correcting the error, CAO personnel continued using incorrect check numbers. Accurate accounting records are necessary to reconcile account balances to book balances and to ensure all transactions are properly accounted for.

3.4 Numerical sequence of receipt slips

CAO personnel do not account for the numerical sequence of receipt slips and some deleted transactions were not reviewed. The clerk that receipts and records payments also has the ability to delete transactions in the accounting system.

During our cash count on June 14, 2023, we noted receipt numbers 11105 and 11108 were not included on the collection detail report and were deleted. There was no documentation included with the reports to show the missing receipt numbers were investigated. At our request, the clerk generated a report listing the deleted transactions from January 1, 2023, through June 14, 2023. During that period, the clerk deleted 4 receipts totaling \$1,295, including receipt numbers 11105 and 11108. When asked why the transactions were deleted, the clerk indicated a mistake was made when entering the transaction into the accounting system and the transaction had to be deleted to re-enter the information. The clerk did not retain any documentation to support this and no one regularly reviewed the collection reports or deleted transaction reports to ensure any missing receipt numbers were accounted for and the deleted transactions were appropriate.

Failure to account for the numerical sequence of receipt slips and review deleted transactions increases the risk that loss, theft, or misuse of money will go undetected and accounting records will contain errors. CAO officials indicated they were not aware a deleted transaction report could be run from the system.

Recommendations

The Circuit Attorney:

- 3.1 Establish controls and procedures to ensure bank reconciliations are prepared, accurate cumulative book balances are maintained, and lists of liabilities are prepared and reconciled to book balances. Any amount that cannot be identified should be turned over to the Missouri State Treasurer's Unclaimed Property Division in accordance with state law.
- 3.2 Establish procedures to routinely investigate outstanding checks. Old outstanding checks should be voided and reissued to payees that can be readily located. If the payee cannot be located, the funds should be disbursed in accordance with state law.



- 3.3 Ensure accounting records are accurate, including check numbers entered, and correct inaccurate records.
- 3.4 Ensure personnel account for the numerical sequence of receipt slips and deleted receipt slips are supported by documentation and independently reviewed.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

4. Procurement Procedures

CAO officials did not solicit bids or proposals for goods and services as required, and did not maintain documentation to support procurement decisions. In addition, the FCA did not establish policies and procedures for the selection of vendors providing goods and services.

We identified 11 CAO vendors providing services during the audit period that should have been competitively procured. However, CAO personnel were unable to provide any documentation of a competitive selection process for any of the vendors. These vendors provided legal and consulting services, and software and office equipment as shown below:

Vendor	Total Paid During Audit Period
Law Firm 1	\$ 66,586
Law Firm 2	245,129
Law Firm 3	12,520
Consultant 1	180,000
Consultant 2	120,000
Consultant 3	125,000
Software Provider 1	161,471
Software Provider 2	123,348
Software Provider 3	70,288
Software Provider 4	731,494
Office Equipment Provider	91,088
Total	\$ 1,926,924

Source: Prepared by the SAO using disbursement records provided by the City of St. Louis Comptroller's office for July 1, 2021, through May 16, 2023.

During a recorded interview, the FCA stated, "Not to my knowledge" when asked if certain vendors were bid. The FCA chose to follow the city's procurement process but did not use this process for all procurement, and officials indicated the CAO did not have its own procurement policy. They also indicated they were unaware of the importance of establishing and following competitive procurement procedures.

Section 50.660, RSMo, requires competitive bidding when contracts and purchases made from any one person, firm, or corporation exceed \$12,000



during any ninety-day period. Lack of proper competitive bidding increases the likelihood of obtaining goods and services for a higher price than necessary and inefficient use of taxpayer funds. Formal procurement procedures would provide a framework for economical management of resources and help ensure the office receives fair value. Retaining complete documentation of all bids and proposals received and justification for awarding the bid or proposal would provide additional assurance state laws were followed.

A similar condition was noted in our prior audit report.

Recommendation

The Circuit Attorney formally adopt city procurement policies and procedures or establish office specific procurement policies and procedures that comply with state law. Policies and procedures should include documentation requirements for bids or proposals received and the justification for the vendor selected.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

Auditor's Comment

The Circuit Attorney's response indicates the recommendation requires the office to formally adopt city procurement procedures. However, the recommendation allows for the Circuit Attorney's discretion in either adopting city policies *or* establishing CAO policies that comply with state law. Procurement policies and procedures are necessary to ensure there are proper controls over the procurement process and provide a framework for economical management of resources.

5. Seized Property

Controls and procedures over seized property need improvement. As of June 15, 2023, the CAO was storing 4,426 seized property items in 4 different property rooms, according to the PBK system.

5.1 Property listing and physical inventories

CAO personnel do not maintain a complete and accurate seized property inventory listing and do not conduct periodic physical inventories of seized property. Personnel enter and track seized property in the PBK system. We haphazardly selected 30 seized property items from the 4,426 items on the seized property list to determine if the information entered into the PBK system was complete and accurate. CAO personnel could not locate 1 of these items (3 percent). In addition, we haphazardly selected 30 seized property items from property rooms to determine if the items were on the seized property listing. We could not locate 3 of these items on the seized property listing (10 percent). CAO personnel also could not locate the items because the evidence boxes did not include sufficient information to match to the property listing.

The Chief Investigator indicated there has not been a physical inventory since he started overseeing seized property in October 2020, and did not know



when the last time CAO personnel completed a physical inventory. The Chief Investigator also indicated the office does not require physical inventories and would not have staff available to perform them.

Considering the often sensitive nature of seized property, adequate internal controls are essential and would significantly reduce the risk of loss, theft, or misuse of the property. Maintaining complete and accurate inventory control records and performing periodic physical inventories with the results compared to inventory records is necessary to ensure property is accounted for properly.

A similar condition was noted in our 2 prior audit reports.

5.2 Disposal of seized property

The CAO has not disposed of old seized property timely, nor have personnel responded timely to requests from other agencies for disposal of seized property. As a result, the CAO, Sheriff's office, and St. Louis Metropolitan Police Department (SLMPD) unnecessarily maintain significant amounts of old seized property. When a trial is about to begin, evidence will be brought to the CAO by other law enforcement agencies. The seized property remains in the custody of the CAO until it is either disposed of or returned to the other agency (e.g., drugs, items that need testing, etc.). For any agency to dispose of seized evidence, the CAO must obtain a court order. To request this, the applicable agency sends notice to the CAO, which must determine whether the evidence in question is still relevant. Once this is determined, the CAO will file the request with the courts.

The CAO seized property list includes seized evidence dating back to 2006, when the CAO started using PBK for tracking purposes.²⁴ Based on seized property records, CAO personnel maintain evidence for 1,180 cases, dating from December 31, 2006, or earlier. Additionally, while performing the seized property test, we identified many items dating earlier than 2006. For example, 1 evidence box observed was dated October 8, 1989, and consisted of 2 empty liquor bottles.

In addition to the CAO not periodically disposing of evidence in its possession, other City of St. Louis law enforcement agencies have had difficulties with the CAO fulfilling their requests for destruction of seized property. For example,²⁵ the SLMPD filed a petition seeking a court order to destroy controlled substances in its possession. The CAO filed a response requesting the court deny the petition. On November 7, 2022, a hearing was held to address both issues. The court denied the CAO request and granted

²⁴ All property seized prior to 2006 is shown with a 2006 date in the PBK system.

²⁵ *In re Controlled Substances Custody City Police*, Case No. 2222-CC09640 (22nd Circuit Court), filed October 6, 2022.



the SLMPD petition. On November 8, 2022, in response to the court's actions, the CAO filed a motion for stay of the order, but it was denied. On November 9, 2022, the CAO filed a motion to reconsider the denial of the stay; however, the Court again denied the CAO's request. The Court stated:

. . . the CAO has at least attempted to misdirect the Court or offer partial truths, but, has also perhaps plainly lied to the Court. The evidence at the November 7 hearing clearly demonstrated it had about twenty months to respond to the City's request. As such, the Court finds the CAO is not entitled to the benefit of any doubt. It has squandered any goodwill it may have had by attempting to mislead the Court.

Periodic review and disposal of seized property, including timely filing of disposal cases for other agencies, is necessary to maintain adequate space for evidence, and can assist with organization and accessibility of evidence. Section 542.301, RSMo, provides the requirements for the disposition of seized property that has not been forfeited or returned to the claimant. The Chief Investigator indicated the CAO did not have sufficient staffing or time to dispose of its seized property or process and file the requests from other agencies.

A similar condition was noted in our two prior audit reports.

Recommendations

The Circuit Attorney:

- 5.1 Establish procedures to maintain complete and accurate seized property inventory records, ensure a periodic inventory is conducted and reconciled to the seized property inventory records, and investigate any differences. In addition, the Circuit Attorney should ensure resources are sufficient to adequately track and monitor seized property.
- 5.2 Ensure appropriate resources are available to dispose of seized property timely and timely file disposal requests from other law enforcement agencies with the court.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

6. Capital Assets

CAO officials do not ensure employees return all CAO property upon termination, do not have adequate capital asset records, and do not perform annual asset inventories.

No procedures to return office equipment

The CAO does not have procedures to ensure employees return office equipment upon termination as required by policy, and some employees did not return items. The only procedure performed when an employee leaves the



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office is for the Chief Clerk to send an email message to the information technology department requesting employee access to various internal systems be removed. As a result, there is little assurance all CAO assets are accounted for when an employee leaves. During the FCA's tenure, 258 employees left the office.

For example, the former FACA did not return her office laptop computer until December 2023, after our November 2023 subpoena was issued ordering her to appear and produce all CAO-related information and property in her possession. She resigned in May 2023, 7 months before returning her property to the CAO. When asked why she waited to return the items,²⁶ she stated when she resigned she was on leave and she brought back the items she knew at the time to bring back. She also indicated the SAO subpoena caused her to realize the need to gather everything to provide to the CAO and no one at the CAO reached out to her about the missing items. The CAO was unaware the laptop computer was missing.

CAO policy 7.1 indicates, "Terminated employees (voluntary or otherwise) must return any and all office property. . . ." Prior to one of the administrative employees leaving the office, CAO personnel indicated there were procedures to collect equipment, access badges, and other property. However, these did not continue after that employee left. Implementing procedures to monitor and account for city assets would decrease the risk of theft or misuse occurring without detection.

Capital asset records and annual inventories

CAO personnel do not maintain complete capital asset records or conduct annual physical inventories of assets such as computers and cell phones. We requested a listing of capital assets and their values. However, CAO personnel could only provide a list of current employees and their assigned equipment, but nothing that shows assets not specifically assigned to an employee or assets assigned to previous employees that have not been returned. In addition, CAO personnel could not identify the last time a physical asset inventory was performed.

Adequate capital asset records and procedures, including annual inventories, are necessary to provide controls over city property; to safeguard city assets that are susceptible to loss, theft, or misuse; and to provide a basis for proper financial reporting and insurance coverage. CAO officials indicated they were not aware of the importance of performing annual physical inventories. The FACA's missing laptop computer may have been identified sooner if asset records were complete and periodic inventories were conducted.

²⁶ Items returned included a laptop computer and 14 flash drives.



Recommendation

The Circuit Attorney establish policies and procedures to ensure employees return all office property upon termination of employment, asset records are complete, and annual inventories are conducted. The Circuit Attorney should also ensure unaccounted for items are investigated, and take necessary action to recover any missing assets.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

7. User Access, Identifications, and Passwords

CAO attorneys share CaseNet user identifications and passwords with trial support staff and other office employees. Attorneys use the CaseNet system to process, track, and monitor cases.

Trial support staff and other office employees often enter information into the CaseNet system on behalf of the attorneys in the office. There are no controls or policies in place to limit case access to only those employees assigned to a particular case. Instead, personnel maintain a list with the login credentials of all attorneys. During recorded interviews, several attorneys stated case dismissals and nolle pros judgements²⁷ were entered on their cases in the CaseNet system without their knowledge. The shared credentials makes it difficult to identify who entered this information on behalf of the attorneys.

According to Court Operating Rule 27.03, the sharing of attorney login credentials is allowed if the attorney authorized the employee to enter information into the CaseNet system on his/her behalf. Court Operating Rule 27.03(4) allows login information to be used by non-attorney agents and employees, as long as the attorney permits them. CAO officials indicated they were not aware of the importance of establishing controls and procedures limiting shared login credentials.

Recommendation

The Circuit Attorney establish controls and procedures to limit CaseNet access in accordance with the court operating rules.

Auditee's Response

The Circuit Attorney's response is located in Appendix A.

Auditor's Comment

The Circuit Attorney's response indicates that timely CaseNet entry is a "group effort" and the audit finding does not take into consideration the busy nature of Circuit Attorney's office. Controls and procedures to limit CaseNet access in accordance with court operating rules are necessary to properly limit case access to only those individuals necessary for timely case handling and to help ensure entered information is appropriate based on the assigned attorney's requests. As the Circuit Attorney indicates in his response, his office is very busy, so appropriate oversight of case information, including appropriately limiting case access, is critical.

²⁷ A nolle pros judgement is a formal notice of abandonment by a plaintiff or prosecutor of all or part of a suit or action.

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Supporting Documentation

The following appendixes provide the Circuit Attorney's responses to our recommendations and copies of the subpoenas discussed in the Background section. These appendixes are summarized in the following table:

Appendix	Type of Supporting Documentation
A	Circuit Attorney's Responses to Audit Recommendations
B	State Auditor Subpoenas - Kimberly Gardner
C	State Auditor Subpoenas - UMB Financial Corporation
D	State Auditor Subpoenas - U.S. Bancorp Center
E	State Auditor Subpoenas - Simmons Bank
F	State Auditor Subpoenas - Serena Wilson-Griffin
G	State Auditor Subpoenas - Kimberly Gardner
H	State Auditor Subpoenas - Saint Louis University



Appendix A
Office of the Circuit Attorney
Circuit Attorney's Responses to Audit Recommendations

The following addresses the specific issues and recommendations raised in the draft report.

1. Efficiency and effectiveness of operations.

The bulk of the draft audit focuses on his immediate predecessor in this office. Mr. Gore has no comment regarding the various allegations or suggestions of wrongdoing by his predecessor. Mr. Gore believes his efforts and the office's resources are better focused on moving forward rather than looking back.

That said, Mr. Gore does not believe that the state auditor has plenary authority over any county prosecutor's management of a county law department, including any authority to question the Circuit Attorney's hiring, training, or supervision of personnel or the exercise of his prosecutorial discretion in accepting and prosecuting matters in the county. Mr. Gore certainly acknowledges that his management approach has differed, and will differ, greatly from that of his immediate predecessor. But ultimately, a county prosecutor answers to the citizens of the county in the operation of the law department.

In terms of the specific recommendations, Mr. Gore certainly accepts recommendation 1.2. As to recommendations 1.1 and 1.3, Mr. Gore and his team will work diligently to fulfill the statutory duties of the office. The draft report's references to "state standards," "performance measures" and "proper" hiring and training processes lack any specific references and are too vague to be accepted as written. Mr. Gore absolutely commits to using his best efforts in running an effective and efficient public law department.

2. Disbursements

As with section 1 of the draft report, section 2 focuses largely on the conduct of the immediately prior administration and the recommendations focus on discontinuing conduct that Mr. Gore has not, and will not, engage in, such as the conduct described in section 2.1.

The draft report addresses at length the prior administration's use of the contingency fund established by RSMo. § 56.530. The report addresses both where this account is maintained (either by the City Treasurer or in an account in the name of the Circuit Attorney) and the purposes for which the prior administration used these funds.

As to the first issue, Mr. Gore understands that for decades the City's practice has been to put a lump sum of \$32,000 per year into an account in the name of the Circuit Attorney and that the Circuit Attorney has withdrawn from the account as needed, as opposed to maintaining the fund in the City treasury and requiring seriatim voucher and disbursements. Neither the City, any prior Circuit Attorney nor any prior state auditor has ever complained about this practice.

Mr. Gore has not been advised by the City that it desires to discontinue this long-standing practice and, for a variety of reasons, believes the practice is sound. For example, requiring the Circuit Attorney to submit a voucher to the City to pay for the travel and hotel expenses of out-of-state witnesses could well make information about such witness' plans available to the public, including the criminal defendant and his or her allies. This would adversely affect the administration of justice.



Appendix A
Office of the Circuit Attorney
Circuit Attorney's Responses to Audit Recommendations

As to the second issue – the proper uses of the fund – Mr. Gore believe the statute allows any circuit attorney discretion in this area. While RSMo. § 56.530 lists certain specifically permitted uses, it also provides that the fund can be used “generally [to pay] such expenses as may be put to in the proper and vigorous prosecution of the duties of his office.”

In terms of the Auditor’s recommendations, the efforts to recover funds from the prior Circuit Attorney (recommendation 2.1) have been undertaken by the U.S. Attorney, not the Circuit Attorney.

As set forth above, the Circuit Attorney does not believe that any changes are necessary to the established practices regarding the contingency fund (recommendation 2.2).

Mr. Gore agrees to establish reasonable policies and procedures to collect and retain records regarding reasonable disbursement requests (recommendations 2.3 and 2.4) and to comply with the timing requirements of §166.131 (recommendation 2.5).

3. Accounting controls and procedures

This section again focuses on the prior administration. The issues raised do not appear to involve any misappropriation of public funds but, rather, the alleged failure to follow best accounting practices in such items as reconciling bank accounts.

Mr. Gore commits to retaining and training staff to improve the office’s compliance with standard accounting controls and procedures.

4. Procurement procedures

The draft report asserts that the Circuit Attorney is subject to the provisions of RSMo § 50.660 and that the Circuit Attorney should “formally adopt [St. Louis] city procurement policies and procedures” including procedures for competitive bidding and, apparently, City approval of contracts entered into by the Circuit Attorney with outside vendors. The Circuit Attorney disagrees and knows of no authority supporting the Auditor’s opinion. To the contrary, the office of any county circuit attorney is an independent office, not subject to the oversight of any municipality within the county. *City of St. Louis v. Doss*, 807 S.W.2d 61, 63 (Mo. banc 1991) (“[s]ubjecting county officials to the regulation of the diverse public entities for whom they perform services would soon lead to chaos.”).

5. Seized property.

Mr. Gore concedes that he inherited a “property room” and procedures for seized and retained evidence that needs to be improved. He commits to using his best efforts to improve in this area.

6. Capital assets.

Mr. Gore has established procedures to ensure, to the extent possible, the return of all Circuit Attorney property upon the separation of employment and will endeavor to maintain records of the office’s property.



Appendix A
Office of the Circuit Attorney
Circuit Attorney's Responses to Audit Recommendations

7. User access, identifications and passwords

Finally, the draft audit criticizes the office because multiple attorneys and staff have access to individual attorney's casenet.com passwords and log-in information. According to the Auditor, information on particular cases was entered into the system without the knowledge of the attorney(s) assigned to the case, although the report does not state that the information entered was inaccurate or harmful to the case. The report's criticism focuses on the belief that the "shared credentials make it difficult to identify who entered" the information into the system.

The Auditor's comments fail to appreciate the dynamics of a busy law office handling hundreds of matters through the efforts of dozens of employees. Getting documents on file through casenet.com in a timely manner is often a group effort, and the members of that group can change for multiple reasons – from attrition to sick days. Part of Mr. Gore's overall changes to the management of the office already include stabilizing the workforce and establishing a more structured team approach to case management. Mr. Gore believes that these changes will address the issue raised in section 7 of the draft report.



Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

**To: Kimberly M. Gardner, Circuit Attorney
Office of the Circuit Attorney
1114 Market, Room 401
St. Louis, Missouri 63101**

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Christopher Vetter, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 334, St. Louis, MO 63101, at 10 a.m. on Thursday, March 23, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

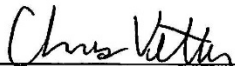
In lieu of appearance, physical access to the records described in Exhibit A may be granted for State Auditor staff on or before the appearance date listed above. Alternatively, records may be shipped to the Missouri State Auditor to the attention of James Kayser at 149 Park Central Square, Box 471, Suite 814, Springfield, MO 65806 to be received no later than the appearance date listed above.

ISSUED this 1st day of March, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.



Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by hand delivery on this 2nd day of March, 2023.
to Lauren Dodge





Appendix B
Office of the Circuit Attorney
State Auditor Subpoenas - Kimberly Gardner

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following documents or other records in your possession or under your control, in whatever form whether hard copy or electronic, pertaining or belonging to the Office of the Circuit Attorney, for the time period of July 2021 to June 2022:

1. Bank statements and monthly reconciliation detail reports for the following accounts using the last four numbers of the account number and the name of the account according to the bank statements:
 - Account [REDACTED] - US Bank - Delinquent Tax/Bad Check Unit
 - Account [REDACTED] - US Bank - Asset Forfeiture
 - Account [REDACTED] - Lindell Bank - Victim Services Asset Forfeiture
 - Account [REDACTED] - Simmons Bank - Contingency Fund Account
 - Account [REDACTED] - Simmons Bank - Bond/Asset Forfeiture Cost Acc
 - Account [REDACTED] - US Bank - Bond Forfeiture
 - Account [REDACTED] - US Bank - Restitution Collections
2. Documentation on how the Office of the Circuit Attorney determined the 80/20 split for the Criminal Activity Forfeiture Act (CAFA) Seizure monies and documentation on how the Office of the Circuit Attorney determined what this money can be used for according to the law.
3. List of expenditures for the period July 1, 2021 through June 30, 2022.
4. List of employees and their job titles who are involved in cash handling, disbursements, bank reconciliations, QuickBooks, and seized property.
5. A user guide, or documented procedures, or policy guidelines for the case management system currently being used.
6. Credit card statements along with the receipts/documentation for those charges for the period July 1, 2021 through June 30, 2022.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix C
 Office of the Circuit Attorney
 State Auditor Subpoenas - UMB Financial Corporation



MISSOURI STATE AUDITOR

Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

**To: UMB Financial Corporation
 ATTN: Judicial Compliance
 1010 Grand Boulevard
 Kansas City, MO 64141**

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representative, Leslie Korte, General Counsel, at the Truman State Office Building, 301 West High Street Room 880, Jefferson City, Missouri 65101, at 8:00am on May 31, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

In lieu of appearance, physical access to the records described in Exhibit A may be granted for State Auditor staff on or before the appearance date listed above. Alternatively, records may be shipped to the Missouri State Auditor to the attention of James Kayser at 149 Park Central Square, Box 471, Suite 814, Springfield, Missouri 65806 or you may send them electronically to james.kayser@auditor.mo.gov to be received no later than the appearance date listed above.

ISSUED this 15th day of May, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
 Missouri State Auditor

I served the foregoing subpoena by HAND DELIVERY on this 15 day of MAY, 2023.



Appendix C
Office of the Circuit Attorney
State Auditor Subpoenas - UMB Financial Corporation



MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control, in whatever form, whether hard copy or electronic, pertaining or belonging to the Circuit Attorney's Office, 1114 Market Street, Room 401, Saint Louis, Missouri 63101-2039 for the time period of July 2021 to July 2022:

This request includes, but is not limited to, the following:

1. Credit card statements, card holder agreements, and transaction records for credit card account ending in [REDACTED]
2. Credit card statements, card holder agreements, and transaction records for credit card account ending in [REDACTED]
3. Credit card statements, card holder agreements, and transaction records for any credit card account related to aforementioned Circuit Attorney's Office, 1114 Market Street, Room 401, Saint Louis Missouri 63101-2039

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



MISSOURI STATE AUDITOR

Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

**To: U.S. Bancorp Center (DBA U.S. Bank)
ATTN: Legal Department/Subpoena Compliance
800 Nicollet Mall
Minneapolis, Minnesota 55402**

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representative, Leslie Korte, General Counsel, at the Truman State Office Building, 301 West High Street Room 880, Jefferson City, Missouri 65101, at 8:00am on May 31, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

In lieu of appearance, physical access to the records described in Exhibit A may be granted for State Auditor staff on or before the appearance date listed above. Alternatively, records may be shipped to the Missouri State Auditor to the attention of James Kayser at 149 Park Central Square, Box 471, Suite 814, Springfield, Missouri 65806 or you may send them electronically to james.kayser@auditor.mo.gov to be received no later than the appearance date listed above.

ISSUED this 15th day of May, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by HAND DELIVERY on this 15 day of MAY, 2023.



Appendix D
Office of the Circuit Attorney
State Auditor Subpoenas - U.S. Bancorp Center



MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control, in whatever form, whether hard copy or electronic, pertaining or belonging to the City of St. Louis Circuit Attorney's Office and/or City of St. Louis St. Louis Circuit Attorney's Office, 1114 Market Street, Room 759, Saint Louis, Missouri 63101-2009 for the time period of July 2021 to June 2022:

This request includes, but is not limited to, the following:

1. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Restitution Collection Account ending in [REDACTED]
2. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Bond Forfeiture Account ending in [REDACTED]
3. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Asset Forfeiture Account ending in [REDACTED]
4. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Delinquent Tax/Bad Check Unit Account ending in [REDACTED]

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix E
Office of the Circuit Attorney
State Auditor Subpoenas - Simmons Bank



MISSOURI STATE AUDITOR

Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

**To: Simmons Bank
2809 E. Sunshine
Springfield, MO 65804**

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representative, Leslie Korte, General Counsel, at the Truman State Office Building, 301 West High Street Room 880, Jefferson City, Missouri 65101, at 8:00am on May 31, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

In lieu of appearance, physical access to the records described in Exhibit A may be granted for State Auditor staff on or before the appearance date listed above. Alternatively, records may be shipped to the Missouri State Auditor to the attention of James Kayser at 149 Park Central Square, Box 471, Suite 814, Springfield, Missouri 65806 or you may send them electronically to james.kayser@auditor.mo.gov to be received no later than the appearance date listed above.

ISSUED this 15th day of May, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by HAND DELIVERY on this 15 day of MAY, 2023.



Appendix E
Office of the Circuit Attorney
State Auditor Subpoenas - Simmons Bank



MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control, in whatever form, whether hard copy or electronic, pertaining or belonging to the City of St. Louis Office of the Circuit Attorney, 1114 Market Street, Room 401, Saint Louis, Missouri 63101-2039 for the time period of January 2021 to December 2022:

This request includes, but is not limited to, the following:

1. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Contingency Fund Account ending in [REDACTED]
2. Signature cards, copies of checks (front and back), deposit bank backup, and bank statements related to the Bond/Asset Forfeiture Cost Account ending in [REDACTED]

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

To: **Serena Wilson-Griffin**
[Redacted]
[Redacted]

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Conference Room 351, St. Louis, MO 63101, at 10:00 a.m. on November 15, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 24th day of October, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.


Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by Personal Service on this 30 day of October, 2023.

NICK ZOTTI
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
[Redacted]





Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

All documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of May 2019 to May 2023.

This request includes, but is not limited to, the following:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the First Assistant Circuit Attorney for the Circuit Attorney's Office.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

SUBPOENA

To: **Serena Wilson-Griffin**
[REDACTED]

Via: [REDACTED]

SERVED VIA EMAIL ON ATTORNEY [REDACTED]:

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 334, St. Louis, MO 63101, at 10:00 a.m. on November 30, 2023, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 22nd day of November, 2023, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.


Scott Fitzpatrick
Missouri State Auditor



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

I served the foregoing subpoena via email on this 22nd day of November, 2023.

/s/ Leslie Korte
General Counsel
State Auditor of Missouri

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, or policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the First Assistant Circuit Attorney for the Circuit Attorney's Office.

Pursuant to agreement with counsel for Ms. Wilson-Griffin, our office reserves the right to request production of all documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of May 2019 to May 2023.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

SUBPOENA

To: **Serena Wilson-Griffin**
[REDACTED]

Via: [REDACTED]

SERVED VIA EMAIL ON ATTORNEY [REDACTED]:
[REDACTED]

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 334, St. Louis, MO 63101, at 10:00a.m. on January 4, 2024, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 28th day of November, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

I served the foregoing subpoena via email on this 28th day of November, 2023.

/s/ Leslie Korte
General Counsel
State Auditor of Missouri

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, or policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the First Assistant Circuit Attorney for the Circuit Attorney's Office.

Pursuant to agreement with counsel for Ms. Wilson-Griffin, our office reserves the right to request production of all documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of May 2019 to May 2023.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

SUBPOENA

To: **Serena Wilson-Griffin**
[Redacted]

Via: [Redacted]

SERVED VIA HAND DELIVERY TO MS. WILSON-GRIFFIN

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 334, St. Louis, MO 63101, at 10:00a.m. on February 7, 2024, for purposes of providing testimony pertaining to the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 3rd day of January, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.



Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena via hand delivery on this 4th day of January, 2024.

/s/ Robert Tillman
Deputy General Counsel
State Auditor of Missouri



Appendix F
Office of the Circuit Attorney
State Auditor Subpoenas - Serena Wilson-Griffin



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

EXHIBIT A

You are to appear as instructed on the attached subpoena for purposes of providing testimony pertaining to the following items you provided to the Circuit Attorney's Office on December 29, 2023:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, or policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the First Assistant Circuit Attorney for the Circuit Attorney's Office.

Pursuant to the prior agreement with counsel for Ms. Wilson-Griffin, our office reserves the right to request production of all documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of May 2019 to May 2023.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Appendix G
Office of the Circuit Attorney
State Auditor Subpoenas - Kimberly Gardner



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

Information of a personal, privileged, or sensitive nature, and/or information that is not directly related to the information requested in the subpoena has been redacted.

SUBPOENA

To: **Kimberly Gardner**



YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 500, St. Louis, MO 63101, at 10:00 a.m. on March 27, 2024, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 31st day of January, 2024 pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by _____ on this ___ day of _____, 2024.

The SAO hired a process server to serve Kim Gardner with this subpoena, but the process server was unable to serve the subpoena after multiple attempts were made.



Appendix G
Office of the Circuit Attorney
State Auditor Subpoenas - Kimberly Gardner



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

All documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of January 2017 to May 2023.

This request includes, but is not limited to, the following:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the Circuit Attorney for the St. Louis Circuit Attorney's Office.
4. Any equipment still in your possession, which belongs to the St. Louis Circuit Attorney's office.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

SUBPOENA

To: **Kimberly Gardner**



YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Robert Tillman, Deputy General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 500, St. Louis, MO 63101, at 11:00 a.m. on June 12, 2024, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

ISSUED this 6th day of May 2024, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by _____ on this ___ day of _____, 2024.

This subpoena was served electronically to Kim Gardner's Attorney.



Appendix G
Office of the Circuit Attorney
State Auditor Subpoenas - Kimberly Gardner



SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

All documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the St. Louis Circuit Attorney's Office, for the time period of January 2017 to May 2023.

This request includes, but is not limited to, the following:

1. Documentation for any expenditures related to the Circuit Attorney's Office.
2. Any user guides, documented procedures, policy guidelines related to the Circuit Attorney's Office.
3. Any documentation related to any professional or other organization you worked with in your capacity as the Circuit Attorney for the St. Louis Circuit Attorney's Office.
4. Any equipment still in your possession, which belongs to the St. Louis Circuit Attorney's office.

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.



Scott Fitzpatrick
Missouri State Auditor

SUBPOENA

To: General Counsel
Saint Louis University
221 N. Grand Blvd.
DuBourg Hall, Room 219
St. Louis, MO 63103

YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or his representatives, Leslie Korte, General Counsel, Wayne Kauffman, Audit Manager, and James Kayser, Auditor In Charge at the Wainwright State Office Building, 111 N. 7th Street, Room 500, St. Louis, MO 63101, at 10 a.m. on Friday, May 17, 2024, for purposes of providing testimony, and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

In lieu of appearance, physical access to the records described in Exhibit A may be granted for State Auditor staff on or before the appearance date listed above. Alternatively, records may be shipped to the Missouri State Auditor to the attention of James Kayser at 149 Park Central Square, Suite 814, Springfield, MO 65806 or you may send them electronically to james.kayser@auditor.mo.gov to be received no later than the appearance date listed above.

ISSUED this 6th day of May 2024, pursuant to Section 29.235.4(1), of the Revised Statutes of Missouri.

Scott Fitzpatrick
Missouri State Auditor

I served the foregoing subpoena by HAND DELIVERY on this 6 day of MAY, 2024.



Appendix H
Office of the Circuit Attorney
State Auditor Subpoenas - Saint Louis University



Scott Fitzpatrick
Missouri State Auditor

EXHIBIT A

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control:

All documents or other records, in whatever form, whether hard copy or electronic, pertaining or belonging to the Saint Louis University for student Kimberly Gardner for the time period January 2017 to May 2023.

This request includes, but is not limited to, the following:

1. Dates of attendance for Kimberly Gardner in any Saint Louis University academic program(s), for the time period January 2017 through May 2023
2. Which academic program(s) were attended by Kimberly Gardner, along with a description of the program(s) and requirements
3. Academic transcripts for Kimberly Gardner for the time period January 2017 through May 2023
4. Kimberly Gardner's student class schedule for all semesters for the time period January 2017 through May 2023, including class times, class days, and any clinical class times and days she attended

This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo.