

Prosecutor Officeholder Change

Performance Audit



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Clay County, Missouri Auditor

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I. Introduction and Scope

Prosecutor Dan White served in office from 2004 until 2022, or approximately 19 years. He was originally named Clay County Prosecuting Attorney by Governor Bob Holden upon a vacancy from his predecessor, Don Norris, who had been appointed as an Associate Circuit Court Judge. Prosecutor White went on to win four consecutive elections in 2006, 2010, 2014, and 2018. In 2022, Prosecutor White received an appointment from current Governor Mike Parson as Associate Circuit Court Judge due to an opening, thereby creating a vacancy for the elected officeholder position.

Former Assistant Prosecutor Zachary Thompson filed to run for Prosecutor in the 2022 elections and was unopposed. When the vacancy occurred for the previous Prosecutor White in September, 2022, the County Commission—pursuant to County Constitution Section 4.05—named Mr. Thompson as interim Prosecutor until he assumed office in January of 2023. This occurred after a brief period where the Chief Deputy immediately served in the capacity of Prosecutor until the Commission appointed Mr. Thompson as the official replacement.

Per Revised Statute of Missouri (RSMo) 55.030, as well as 55.160 by County Constitution Section 4.02, the County Auditor is to audit the accounts of elected officeholders upon their retirement or vacancy from office. Accordingly, this audit covers the financial aspects of the Prosecutor's Office. The implied purpose of such an officeholder change audit is to provide new officials with an understanding of their financial positions. Included in the audit, however, is an assessment of internal controls surrounding the various funds under the purview of the Prosecutor's Office. In addition, this audit highlights any potential economies or efficiencies for taxpayer resources handled by Prosecutor financial operations, where applicable.

As such, during fieldwork the Auditor's Office reviewed financial statistical history to determine account balances and trends during Prosecutor White's tenure. We then further made inquiries concerning appropriate internal controls over monetary transactions in the Prosecutor's Office. Plus, we tested a statistical sample of bank statement activities to verify compliance with Missouri Statutes governing Bad Check prosecution along with Restitution.

Under Generally Accepted Government Auditing Standards (GAGAS), this audit is a Performance Audit. Any findings must be supported by adequate and sufficient evidence. Each finding also contains the necessary elements of Condition (explaining the matter), Criteria (reason it's an issue), Cause (what led to the finding), Effect (implication or significance) and Recommendation by the Auditor. Auditee Management, in this case the Prosecutor, is afforded the opportunity to respond the Recommendation and those answers are printed verbatim. The Auditor also communicates with the Auditee in an exit conference to go over the facts and any disagreements before releasing the audit.

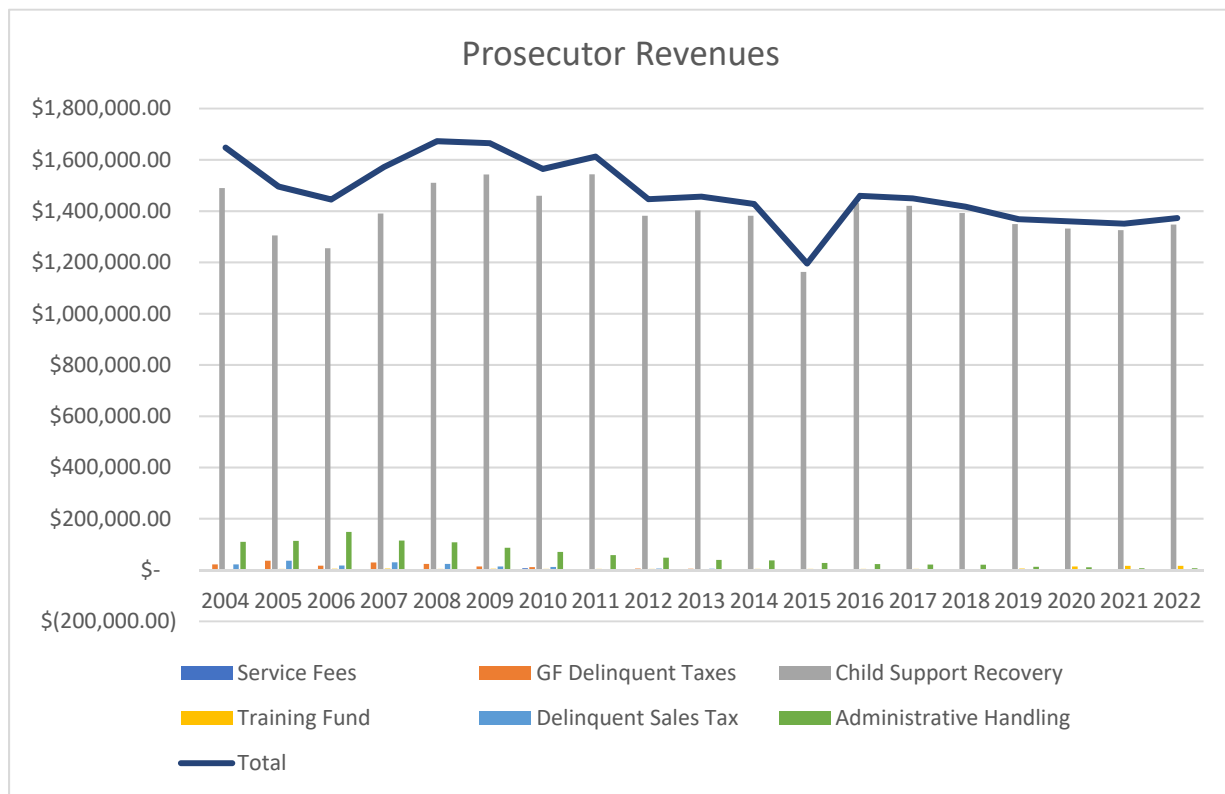
II. Audit

- **Statistical Overview**

Condition:

Revenues

The following presents financial information from former Prosecutor White’s terms in office. We begin with the revenue side of the ledger. We considered six revenue accounts with three located within the County General Fund: Service Fees (typically discovery copies), half of Delinquent Sales Tax (and other State revenues, where there is a 20% collection fee), as well as the Child Support Recovery Federal grant. The other three revenue sources have their own Funds of Training (which is funded by a \$0.50 court surcharge on criminal cases per RSMo 56.765), Delinquent Sales Tax (the other half, per RSMo 56.312 and 136.150), and Administrative (revenues come from Bad Check and Restitution prosecution fees). Here are the statistics:



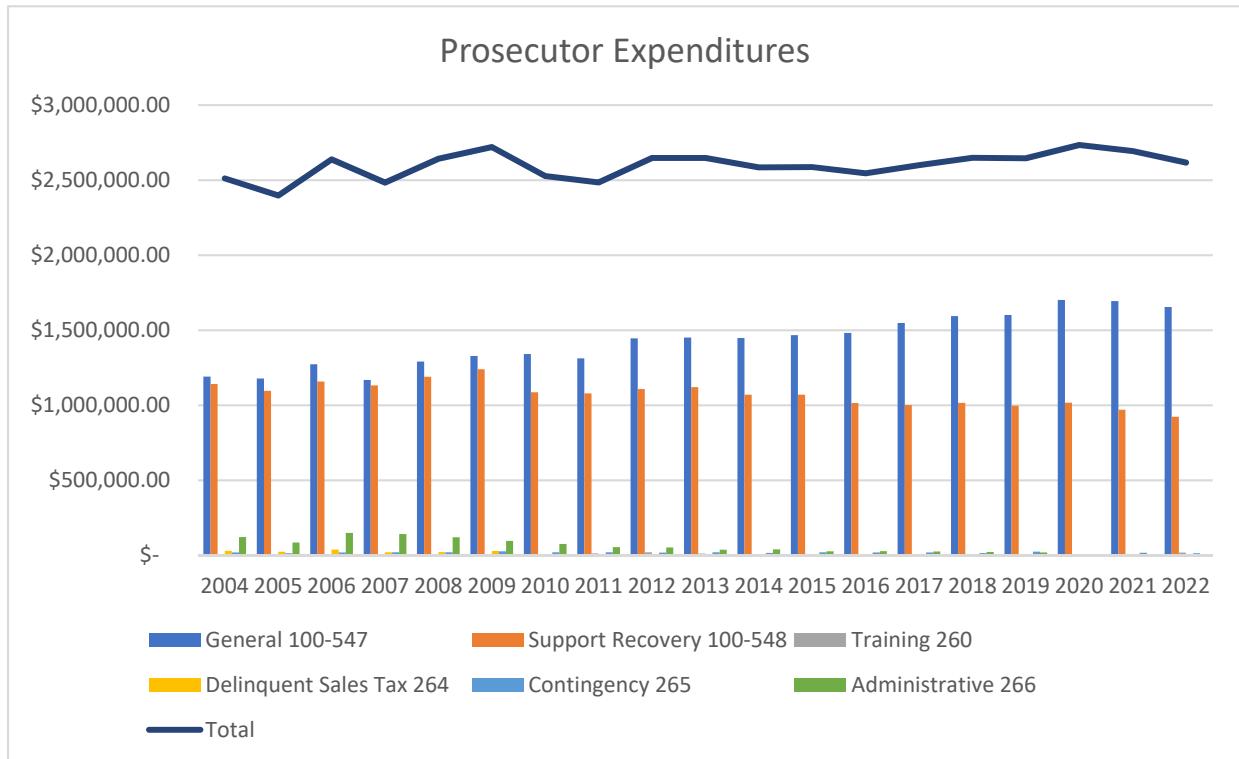
Relevant takeaways here are that the highest year of revenues was 2008 at \$1,672,853.04, with the lowest in 2015 at \$1,195,670.71. The total over 19 years was \$27,981,691.35 with an annual average of \$1,472,720.60 across all funds. The Child Support Recovery grant is by far the largest revenue category for the Prosecutor’s Office.

Next is the accompanying chart in dollar figures:

Prosecutor	Service Fees	GF Delinquent Taxes	Child Support Recovery	Training Fund	Delinquent Sales Tax	Administrative Handling	Total
2004	\$ 1,678.36	\$ 21,502.98	\$ 1,489,690.60	\$ 3,512.50	\$ 21,709.73	\$ 109,592.49	\$ 1,647,686.66
2005	\$ 1,081.75	\$ 35,955.70	\$ 1,304,601.46	\$ 4,255.50	\$ 36,366.45	\$ 113,353.59	\$ 1,495,614.45
2006	\$ 2,182.82	\$ 16,989.37	\$ 1,255,036.47	\$ 5,166.17	\$ 17,720.51	\$ 148,438.16	\$ 1,445,533.50
2007	\$ 1,805.34	\$ 29,484.12	\$ 1,390,515.88	\$ 5,358.36	\$ 30,050.36	\$ 114,770.42	\$ 1,571,984.48
2008	\$ 2,527.84	\$ 23,413.69	\$ 1,510,510.03	\$ 4,620.18	\$ 23,832.25	\$ 107,949.05	\$ 1,672,853.04
2009	\$ 3,318.15	\$ 13,818.50	\$ 1,542,385.31	\$ 4,972.20	\$ 13,967.68	\$ 86,531.14	\$ 1,664,992.98
2010	\$ 7,112.01	\$ 11,402.45	\$ 1,459,492.06	\$ 4,420.23	\$ 11,644.13	\$ 70,262.09	\$ 1,564,332.97
2011	\$ 2,595.50	\$ 1,722.50	\$ 1,543,430.01	\$ 4,628.50	\$ 2,306.23	\$ 57,910.72	\$ 1,612,593.46
2012	\$ 1,394.07	\$ 5,326.08	\$ 1,381,703.28	\$ 4,552.90	\$ 5,472.78	\$ 48,259.47	\$ 1,446,708.58
2013	\$ 1,157.50	\$ 5,023.07	\$ 1,401,988.51	\$ 3,678.80	\$ 5,136.32	\$ 39,372.48	\$ 1,456,356.68
2014	\$ 426.00	\$ 1,772.47	\$ 1,381,832.91	\$ 4,578.87	\$ 1,893.78	\$ 37,239.69	\$ 1,427,743.72
2015	\$ 456.00	\$ 288.56	\$ 1,162,778.15	\$ 4,076.40	\$ 361.27	\$ 27,710.33	\$ 1,195,670.71
2016	\$ 695.03	\$ 23.00	\$ 1,430,768.84	\$ 4,518.35	\$ 81.95	\$ 23,295.11	\$ 1,459,382.28
2017	\$ 468.50	\$ 1,762.00	\$ 1,420,464.90	\$ 4,115.17	\$ 1,812.90	\$ 21,196.16	\$ 1,449,819.63
2018	\$ 667.50	\$ (222.00)	\$ 1,392,421.36	\$ 3,842.01	\$ (126.33)	\$ 20,525.99	\$ 1,417,108.53
2019	\$ 596.50	\$ 550.00	\$ 1,349,122.39	\$ 5,531.17	\$ 680.05	\$ 12,377.97	\$ 1,368,858.08
2020	\$ 549.25	\$ 1,760.00	\$ 1,331,583.12	\$ 13,604.75	\$ 1,846.08	\$ 10,672.51	\$ 1,360,015.71
2021	\$ 720.10	\$ 1,091.32	\$ 1,325,719.69	\$ 16,172.26	\$ 1,136.17	\$ 6,545.20	\$ 1,351,384.74
2022	\$ 542.51	\$ 939.85	\$ 1,347,120.04	\$ 16,335.49	\$ 1,003.98	\$ 7,109.28	\$ 1,373,051.15
Total	\$ 29,432.22	\$ 171,663.81	\$ 25,074,044.97	\$ 101,604.32	\$ 175,892.31	\$ 1,056,002.57	\$ 27,981,691.35
Average	\$ 1,577.62	\$ 9,084.40	\$ 1,390,587.63	\$ 6,207.36	\$ 9,310.33	\$ 55,953.26	\$ 1,472,720.60

Expenditures

Now analyzing Prosecutor expenditures, we similarly show six sections. They encompass the main Prosecutor Department of 100-547 and the Child Support Recovery Department of 100-548, both within the General Fund 100. The others correspond to the above revenue explanations as the Training Fund 260, Delinquent Sales Tax 264, and Administrative 266. Of note, the Contingency Fund 265 revenue is sourced from the County at \$20,000 per year under RSMo 56.330. Here are the data:



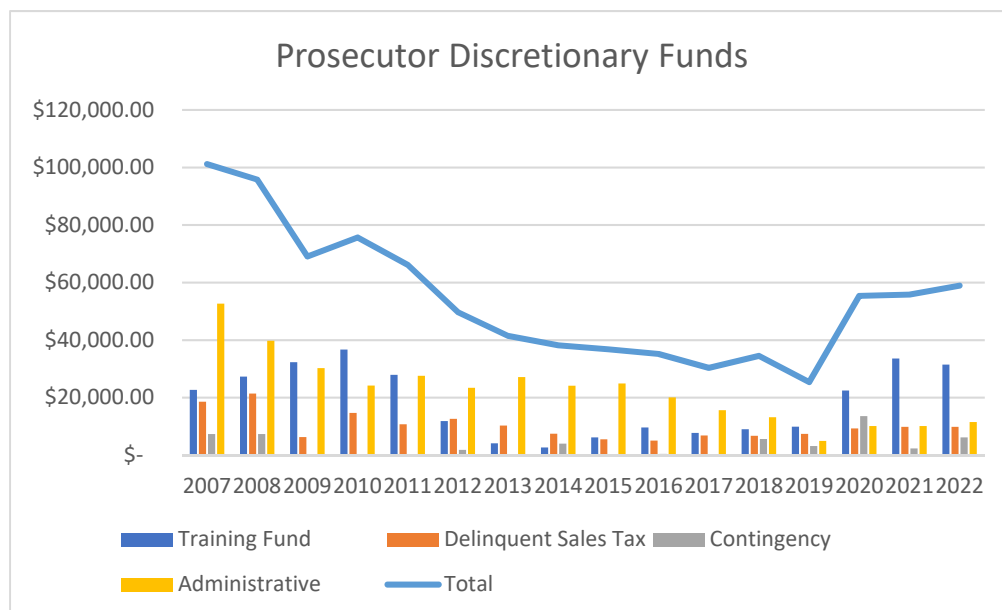
Some highlights for expenditures are that the highest year of expenditures was 2020 at \$2,734,879.22, with the lowest in 2005 at \$2,398,224.62. The total over 19 years was \$49,367,451.20 with an annual average of \$2,598,286.91 across all funds. The General Fund Prosecutor Department of 100-547 is the largest expenditure category for the Prosecutor's Office.

The matching chart is depicted below:

Prosecutor	General 100-547	Support Recovery 100-548	Training 260	Delinquent Sales Tax 264	Contingency 265	Administrative 266	Total
2004	\$ 1,191,149.37	\$ 1,141,789.86	\$ 8,860.42	\$ 30,152.32	\$ 18,801.37	\$ 121,194.78	\$ 2,511,948.12
2005	\$ 1,178,260.85	\$ 1,096,177.54	\$ -	\$ 23,805.50	\$ 14,271.04	\$ 85,709.69	\$ 2,398,224.62
2006	\$ 1,273,398.22	\$ 1,157,997.34	\$ -	\$ 38,593.66	\$ 19,646.33	\$ 149,393.45	\$ 2,639,029.00
2007	\$ 1,168,920.10	\$ 1,132,763.91	\$ -	\$ 20,571.00	\$ 19,965.12	\$ 141,470.93	\$ 2,483,691.06
2008	\$ 1,291,455.10	\$ 1,189,993.29	\$ -	\$ 20,992.00	\$ 19,997.57	\$ 120,798.86	\$ 2,643,236.82
2009	\$ 1,328,102.77	\$ 1,240,107.52	\$ -	\$ 29,102.53	\$ 27,000.00	\$ 96,090.57	\$ 2,720,403.39
2010	\$ 1,341,680.14	\$ 1,086,582.17	\$ -	\$ 3,205.36	\$ 20,251.43	\$ 76,284.44	\$ 2,528,003.54
2011	\$ 1,312,016.56	\$ 1,078,635.17	\$ 13,375.62	\$ 5,868.50	\$ 20,064.62	\$ 54,759.06	\$ 2,484,719.53
2012	\$ 1,445,742.51	\$ 1,107,864.44	\$ 20,584.15	\$ 3,565.31	\$ 18,168.41	\$ 52,398.88	\$ 2,648,323.70
2013	\$ 1,451,574.11	\$ 1,120,299.23	\$ 11,573.57	\$ 7,499.05	\$ 20,000.00	\$ 37,558.89	\$ 2,648,504.85
2014	\$ 1,448,023.43	\$ 1,070,287.56	\$ 6,041.20	\$ 4,658.46	\$ 16,029.37	\$ 40,065.95	\$ 2,585,105.97
2015	\$ 1,467,458.18	\$ 1,070,099.72	\$ 655.22	\$ 2,329.04	\$ 19,893.42	\$ 26,936.83	\$ 2,587,372.41
2016	\$ 1,481,743.64	\$ 1,015,213.08	\$ 1,030.49	\$ 523.55	\$ 19,559.55	\$ 28,114.88	\$ 2,546,185.19
2017	\$ 1,547,852.98	\$ 1,001,110.34	\$ 6,017.02	\$ -	\$ 19,819.98	\$ 25,680.62	\$ 2,600,480.94
2018	\$ 1,593,748.77	\$ 1,015,882.86	\$ 2,559.41	\$ -	\$ 14,559.23	\$ 22,958.89	\$ 2,649,709.16
2019	\$ 1,601,888.51	\$ 996,481.34	\$ 4,619.70	\$ -	\$ 24,221.69	\$ 18,880.19	\$ 2,646,091.43
2020	\$ 1,701,185.26	\$ 1,017,586.16	\$ 1,070.83	\$ -	\$ 7,826.18	\$ 7,210.79	\$ 2,734,879.22
2021	\$ 1,693,697.25	\$ 970,236.84	\$ 5,344.55	\$ 580.00	\$ 17,646.44	\$ 6,580.29	\$ 2,694,085.37
2022	\$ 1,654,592.27	\$ 923,744.74	\$ 18,613.03	\$ 963.71	\$ 13,842.70	\$ 5,700.43	\$ 2,617,456.88
Total	\$ 27,172,490.02	\$ 20,432,853.11	\$ 100,345.21	\$ 192,409.99	\$ 351,564.45	\$ 1,117,788.42	\$ 49,367,451.20
Average	\$ 1,430,131.05	\$ 1,075,413.32	\$ 5,281.33	\$ 10,126.84	\$ 18,503.39	\$ 58,830.97	\$ 2,598,286.91

Cash Balances

We also took the liberty to draw up cash balances at year-end for those discretionary Funds derived from Statute and mentioned earlier. We point out, however, that the Prosecutor also oversees a Bad Check Fund and Restitution Fund. Those Funds remain at near \$0 balance, serving essentially a pass-through function. The balances are due to other parties as a result of prosecution. The graph here portrays those cash balances available to the Prosecutor's discretion and apart from the County General Fund:



As shown, total cash balances appear to have declined from 2007—the earliest year with enough financial records—and the beginning amount of \$101,190.63. A bounce looks like it occurred in 2020, though, after the lowest point in 2019 at \$25,388.40. The sum over that entire period was \$869,779.38 with an average annual amount of \$54,361.21.

Here is the associated chart:

Prosecutor	Training Fund	Delinquent Sales Tax	Contingency	Administrative	Total
2007	\$ 22,694.06	\$ 18,547.66	\$ 7,316.14	\$ 52,632.77	\$101,190.63
2008	\$ 27,314.24	\$ 21,387.91	\$ 7,318.57	\$ 39,778.84	\$ 95,799.56
2009	\$ 32,286.44	\$ 6,253.06	\$ 318.57	\$ 30,219.41	\$ 69,077.48
2010	\$ 36,706.67	\$ 14,691.83	\$ 67.14	\$ 24,197.06	\$ 75,662.70
2011	\$ 27,891.90	\$ 10,713.34	\$ 2.52	\$ 27,564.99	\$ 66,172.75
2012	\$ 11,831.35	\$ 12,620.81	\$ 1,834.11	\$ 23,425.58	\$ 49,711.85
2013	\$ 4,112.95	\$ 10,258.08	\$ 0.11	\$ 27,108.79	\$ 41,479.93
2014	\$ 2,642.51	\$ 7,453.40	\$ 3,970.74	\$ 24,129.53	\$ 38,196.18
2015	\$ 6,151.89	\$ 5,486.63	\$ 275.32	\$ 24,908.03	\$ 36,821.87
2016	\$ 9,616.75	\$ 5,045.03	\$ 440.45	\$ 20,088.26	\$ 35,190.49
2017	\$ 7,714.90	\$ 6,857.93	\$ 180.02	\$ 15,603.80	\$ 30,356.65
2018	\$ 8,997.50	\$ 6,731.60	\$ 5,620.79	\$ 13,170.90	\$ 34,520.79
2019	\$ 9,908.97	\$ 7,411.65	\$ 3,152.45	\$ 4,915.33	\$ 25,388.40
2020	\$ 22,442.89	\$ 9,257.73	\$ 13,572.92	\$ 10,130.40	\$ 55,403.94
2021	\$ 33,579.60	\$ 9,813.90	\$ 2,353.56	\$ 10,095.31	\$ 55,842.37
2022	\$ 31,448.16	\$ 9,854.17	\$ 6,157.30	\$ 11,504.16	\$ 58,963.79
Total	\$ 295,340.78	\$ 162,384.73	\$ 52,580.71	\$ 359,473.16	\$869,779.38
Average	\$ 18,458.80	\$ 10,149.05	\$ 3,286.29	\$ 22,467.07	\$ 54,361.21

COVID Spending

To wrap up the statistical condition, we make brief comments on recent COVID stimulus spending by the Prosecutor’s Office. These funds were reimbursed from elsewhere and therefore aren’t reflected in the regular accounts. First, with the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, the County received \$29,323,887.00 in 2020. Of that, \$40,742.21 was allocated to the Prosecutor’s Office and only \$11,334.24 was spent on laptops for remote work capability.

As part of the American Rescue Plan Act (ARPA), the County was awarded \$48,549,469.00 from the US Treasury Department in 2021-2022. Of that, Resolution 2021-151 obligated \$360,000.00 to the Prosecutor’s Office over a two-year period for hiring personnel aimed at addressing a case backlog due to court shutdowns during the pandemic. This was the County’s first approved ARPA project. For that program, \$199,614.72 has been spent through the end of 2022.

Likewise, Resolution 2022-286 authorized \$110,860.00 to remodel office space for those new case backlog staff. Through 2022, \$65,084.60 has been expended. Altogether, the Prosecutor’s Office spent \$276,033.56 out of \$77,873,356 granted to Clay County so far—less than 1%. A table summarizing these numbers is as follows:

Prosecutor	CARES	ARPA-Backlog Payroll	ARPA-Remodel	Total
2020	\$ 11,334.24	\$ -	\$ -	\$ 11,334.24
2021	\$ -	\$ 39,484.81	\$ -	\$ 39,484.81
2022	\$ -	\$ 160,129.91	\$ 65,084.60	\$ 225,214.51
Total	\$ 11,334.24	\$ 199,614.72	\$ 65,084.60	\$ 276,033.56

Criteria:

Various Missouri Statutes govern the Prosecutor’s accounts, primarily from Ch. 56. Those previously referenced for the discretionary Funds include RSMo 56.312 (considered together with RSMo 136.150), 56.330, and 56.765. Laws for bad check fees are found in RSMo 570.120, where the fee varies based on the amount of the check: “The cost shall be twenty-five dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed seventy-five dollars total.” Restitution fees similarly get receipted into the Administrative Handling Fund 266 by this same method under RSMo 559.100.

Cause:

The financial conditions for the Prosecutor’s Office depend largely on criminal activity in the County as well as governing laws. Indeed, revenues only occur based on allowable fees or grants approved in Statute. Expenditures are a factor of costs associated with prosecuting crime. Certainly some elements of expenditures increase over time due to inflation, such as personnel compensation. Notably not all benefits costs are apportioned in the before mentioned expenditures, owing to how they are centrally paid by the County to the assorted providers.

Effect:

Related to the cause of Prosecutor finances, the effect shows up in the resources available to prosecute crime and enforce the rule of law in Clay County.

Recommendation:

There is no formal recommendation with this condition, the statistics are merely informative for the benefit and awareness of the new officeholder.

Management Response:

“The Prosecutor’s Office thanks the County Auditor for this information.”

- **Contingency Fund Credit Card**

Condition:

The Prosecutor’s Office uses a credit card for its Contingency Fund (265). The bank provider for this card is different than the overall County’s P-Card vendor. Consequently, the County does not realize any rebate revenue from purchases on this card. In addition, this separate card charges interest that often requires being removed from statements. The County P-Card provider does not charge interest. Because this standalone credit card isn’t imported into the accounting system, as with County P-Cards, there is a lack of transparency regarding payment descriptions. The only vendor listed on expenditure reports is “Card Service Center.” With County P-Card transactions, each payment is specified as to the vendor paid by the card and not just the bank provider.

Furthermore, a P-Card policy and manual are in place for County P-Cards, but not for this other credit card on its own. One provision of the manual is sales tax exemption for County purchases. The State-issued sales tax exemption identification number is printed on the face of County P-Cards. Lastly, the County P-Card balances are reserved in the General Fund as an encumbrance to ensure sufficient budget for charges. No such reserve currently exists with this Prosecutor credit card.

Criteria:

The Government Finance Officers Association (GFOA) Board issued a Best Practice on September 25, 2020, with respect to “Using Purchasing Cards to Streamline the Purchasing Process.”¹ Within that Best Practice, GFOA recognizes the advantages of consolidating P-Cards through one provider due to rebate revenue potential. The standard also addresses the challenge of accurately reporting credit card payments—not only paying off the balance, but also the card’s ultimate uses.

Cause:

The distinct Contingency Fund credit card situation is understandable as Missouri Statute 56.330 mandates that first class counties provide \$20,000 a year for expenses stemming from the duties of the Prosecutor’s Office. No approval from the Commission is needed as, instead, a Judge of the Circuit Court has to approve the costs along with the Prosecutor. Then the County Treasurer is to issue payment. County P-Cards typically go through the Commission and regular accounts payable procedures.

Effect:

With a rebate rate of around ~1%, depending on Countywide P-Card volume, the foregone revenue from the Prosecutor credit card is not material at merely ~\$200 at most. The risk involved with no encumbrance for the present \$20,000 credit limit, however, is considerable. Moreover, the insufficient transparency could be improved.

¹ <https://www.gfoa.org/materials/purchasing-cards>

Recommendation:

Consider cancelling the Contingency Fund credit card with its current provider. County purchasing systems can easily import these transactions from already County-issued P-Cards to Prosecutor staff. The limit on said P-Cards can be increased if desired. The same signature request form can be utilized and processed without obtaining Commission sign off, in line with RSMo 56.330.

Management Response:

“The Prosecutor’s Office thanks the County Auditor for his work on this matter. Purchases made using the contingency fund card are reviewed and approved by a Clay County Judge and receipts of individual purchases are kept in order to maintain a complete and detailed record. Those receipts are available upon request and are currently being provided to the County Treasurer and County Auditor prior to payment. We look forward to working with the County Auditor to maintain the highest level of transparency and accountability in our office and finding new ways to do our job better.”

III. Overall Rating for this Audit

Explanation: In light of the superior cooperation from auditee staff and management, along with the nature as well as quality of the findings, this audit achieves a rating of 5 out of 5 stars.



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