

**IN THE CIRCUIT COURT OF JASPER COUNTY, MISSOURI
29th JUDICIAL CIRCUIT**

MUNICIPAL DIVISION – THE CITY OF CARTHAGE

MUNICIPAL COURT OPERATING ORDER #1

Effective Date – AUGUST 28, 2010

The Court, on its own motion, makes the following General Orders with respect to the administration of the Court:

I. Court Administrator. The Court Administrator, and all deputy court administrators, shall be responsible for the orders contained in Paragraphs II through X. The Court Administrator shall when applicable request the City Finance Department (“City”) to assist the Court Administrator to effectuate applicable provisions of Sections II, III, IV, V, VII, VIII and IX herein.

II. General Administrative Procedures.

A. Case Numbering. All cases filed by the prosecutor shall be assigned a unique number and indexed. Forms used by the Court shall be numbered sequentially and accounted for, including receipt slips and tickets. (Source: Supreme Court Operating Rule (COR) 4.04.; payment agreement source State Auditor recommendation.)

B. Violation Bureau Schedule. Court Administrator is appointed Violation Bureau Clerk. The Violation Bureau Schedule (which has been established by a separate court order) shall be prominently displayed at the payment window so that defendants wishing to pay tickets out of court may view the Schedule. (Source: Supreme Court Rul (SCR) 37.49.)

C. Budget. The Court Administrator shall communicate regularly with the Judge and the City regarding any budget issues involving the Court. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. (Sources: Mo. Constitution, Article II: COR 13.)

III. Reporting Requirements.

A. Reporting to the City. Within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk the dockets of all cases heard during the preceding month by the Court and those cases in which there was an application for a trial de

novo. The City Clerk shall make a copy of the previous month's docket showing all case dispositions. If a record is closed under Chapter 610, RSMo., the Court Administrator shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. Supreme Court Operating Rule 4.29 allows the Court Administrator to substitute submission of the dockets to the City Clerk with a report for the previous month's activities, detailed income of the Court and the number of cases handled by the Court. (Source 479.080.3 RSMo., COR 4.29)

B. Reporting to the Department of Revenue.

1. Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while driving a commercial motor vehicle, including commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("DOR"). The Court Administrator shall abide by the "Traffic Case Processing Procedures" found in Chapter 3 of the then current Missouri Municipal Clerk Manual ("Clerk Manual") published by the Office of State Court Administrator ("OSCA"). The Court Administrator shall assure that the disposition is received by the DOR within seven days of the disposition (*Source: 302.225.1 and 577.051 RSMo.*)

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a completed "Record of Conviction" form referenced in Supreme Court Rule form 37.B – *Record of Conviction*. (*Source: SCR 37.B*)

2. Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund ("CVC") surcharge to be assessed on all nonmoving and moving traffic violations and all other nontraffic municipal ordinance violations, unless the case has been dismissed. The Court Administrator shall forthwith cause the CVC charge to be reported to DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and
5% (\$.37 of each fee) to the general fund of City in accordance with IV.C,
infra. (*Source: 488.5339 and 595.045 RSMo.*)

3. Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant's driving privileges under the Abuse and Lose law, the Court Administrator shall send any Missouri license surrendered to the Court, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Chapter 3 of the then current Clerk Manual. (*Source: 577.500 through 577.505 RSMo.*)

4. Failure to Appear or Pay -- License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant's failure to dispose of a moving traffic violation, that the Court will order the DOR to suspend that defendant's license in thirty (30) days, if the charges are not disposed of or fully paid. Such notification may not be sent until a summons has been sent to the defendant and there shall thereafter be no appearance. The Court Administrator shall send the F.A.C.T. form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant, without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. *(Source: 302.341 RSMo.)*

5. Withholding Renewal of License. In the event a driver shall fail to appear when ordered, and without being first granted a continuance, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the "Lieu of Bail" form then supplied by the DOR except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, *supra*. When the case is disposed of, the Court Administrator shall report the disposition as on any other traffic case. *(Source: 544.045.4 RSMo.)*

6. Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact Form provided by DOR, to DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. *(Source: 544.046 RSMo.)*

7. Driver Improvement Programs. In the event that the Judge has ordered a defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the moving traffic violation has been amended to a nonmoving violation by the Prosecutor. *(Source: 302.302 RSMo.)*

8. Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device, the Court Administrator shall forthwith send the Order to install ignition interlock device to DOR properly executed, containing the requirements for the period of the use of the ignition interlock device. *(Source: 577.600 through 577.614 RSMo.)*

C. Reporting to OSCA.

The Court Administrator shall complete and deliver the "Municipal Division Summary Reporting" form to OSCA no later than the 15th day of each month, with data completed from the previous month's court activity. This data shall be delivered by e-mail or fax to OSCA on the then current form provided by OSCA. The Court Administrator shall complete the form in accordance with the instructions submitted from time-to-time by OSCA, and as contained in the then current Municipal Clerk's Manual. A copy of the OSCA form shall be submitted to the Judge each month. (Source: COR 4.28)

D. Reporting to the Missouri State Highway Patrol (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the Missouri State Highway Patrol any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations deemed to be "comparable ordinance violations" as defined by Section 43.503 RSMo. and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Court that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the Missouri State Highway Patrol a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Section 3 of the then current Municipal Clerk's Manual. (Source: 43.503 RSMo.)

Dispositions that must be reported to the Missouri State Highway Patrol are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement
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The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the Missouri State Highway Patrol the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to 43.506 RSMo. (Source: Chapter 43.503 and 43.506 RSMo.)

E. Reporting to Circuit Court en Banc

The Court Administrator shall prepare a report every six months which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in its municipal court division. The municipal court division shall submit said report to the circuit court en banc. The report shall include the six month period beginning January first and ending June thirtieth and the six month period beginning July first and ending December thirty-first of each year. The report shall be submitted to the circuit court en banc no later than sixty days following the end of the reporting period. (Source: 577.006 RSMo.)

The Court Administrator shall send the intoxication-related traffic offense case activity reports to the Presiding Judge no later than August 29 for the January to June reporting period and no later than February 28 for the July to December reporting period.

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the "Municipal Division Summary Reporting Form" that is submitted monthly to OSCA to meet the bi-annual reporting requirement to the circuit court en banc. The Court Administrator shall make copies of each month's report for the required reporting period and send along with a cover letter to the presiding judge of the circuit.

F. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Municipal Court Operating Order #1 to the Missouri State Highway Patrol and the Office of the State Courts Administrator at the addresses shown below. If any revisions are made to this order the Court Administrator shall provide a revised copy to the Missouri State Highway Patrol and Office of the State Courts Administrator's Office (Source: 577.006.RSMo.).

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator
Attention: Court Services Division, DWI Reporting Policy
PO Box 104480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-5961

Missouri State Highway Patrol
Criminal Justice Information Services Division
Attention: Captain Timothy McGrail
PO Box 9500
Jefferson City, MO 65102
Fax: 573-751-9382

IV. Fines, Court Costs, Surcharges and Fidelity Bonds.

A. Collection of Fines, Court Costs, and Surcharges. The Court Administrator shall use his/her best efforts so that on each case, fines assessed and general court costs in the amount as set forth by ordinance, CVC surcharges, Peace Officer Standards & Training Commission (POST) surcharges, Law Enforcement Training Fund ("LETF") surcharge, recoupment, domestic violence, inmate security and other surcharges as are set forth by City ordinance, are collected and remitted timely to City and to DOR, respectively, in accordance with this Order. The Court Administrator is not required to refund any overpayment of court costs of \$5.00 or less. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00.

The Court Administrator shall pay the over paid funds to the city on a regular basis in the event that there is an overpayment of \$5.00 or less and a written agreement exists with the county that allows the city to retain the overpayments.

(Sources: Court Cost: City Ordinance; CVC: 488.5339 RSMo. and 595.045 RSMo.; POST: 488.5336 RSMo.; LETF: 488.5336RSMo.; Overpayments/Underpayments: 488.014 RSMo.)

B. Receipts for Payment of Fines, Court Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or approved automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. *(Source: COR 4.53 and Chapter 4.5 Clerk Manual)*

C. Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts. The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Court's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other City personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. *(Source: COR 21 and Chapter 4.5 Clerk Manual)*

D. Fidelity Bonds. In order to follow recommendations of the State Auditor, the Court Administrator shall request the City to maintain fidelity bonds covering the Court Administrator and other personnel who handle collection or deposit of fines, court costs and surcharges related to the Court. The Court Administrator shall obtain a copy of the

declaration sheets of any such bonds obtained by the City to keep in the Court permanent files. (Source: Chapter 4.5 Clerk Manual)

V. Surety Bonds.

A. Bond Qualifications. The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. (Source: SCR 37.29 and 374.710 RSMo.)

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

B. Surety Bond Receipts. The Court Administrator shall use his or her best efforts to act in conjunction with the City Police Department, to establish guidelines on cash bonds. The Court Administrator shall post the bond amount to the individual case and note the date and type of bond received.

The Court Administrator shall, whenever possible, request that personnel of the City or other court administrators together with the Court Administrator count all bond money. The Court Administrator shall deposit said bond money according to the City's guidelines. The Court Administrator shall maintain said bond account and reconcile said account on a monthly basis. An open bond case report shall be submitted monthly to the City by the Court Administrator. (Source: Chapter 2, Clerk Manual)

*C. Unclaimed Bond Funds and other Funds. The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer's Office Unclaimed Property Division, all funds unclaimed for three years and cash bonds unclaimed for one year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact the person and return the funds. Said report shall be sent to the State Treasurer's Office by November 1st of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. (Source: 447.532 RSMo. and 447.595 RSMo.)

*VI. Warrants. The Court Administrator shall follow those procedures and guidelines concerning warrants as are set forth in Chapter 2 of the then current Clerk's Manual, unless otherwise directed by the Judge. (Source: Chapter 2, Clerk Manual)

VII. Accounting Procedures. The Court Administrator shall to the fullest extent possible abide those accounting procedures as are mandated by COR 4.51 and which procedures are set forth in Chapter 4 of the then current edition of the Clerk Manual entitled "Recommended Accounting Procedures for Municipal Divisions." In particular, the Court Administrator shall:

A. Reconcile bank statements monthly and same shall be reviewed by a person independent of the Court.

B. Maintain all funds that are being held in trust by the Court and reconcile monthly. All unusual items or exceptions shall be investigated promptly.

C. Ensure all payments on accounts are receipted, recorded to the accounts, and deposited intact.

D. Work jointly with the Police Department to account for all traffic tickets in numerical sequence and maintain a record of the disposition of all tickets assigned and issued by the Police Department.

E. Maintain all the Court's records except for those permitted to be destroyed or transferred in accordance with Supreme Court Operating Rule 8.

F. Not waive any fine, court costs or surcharge, or agree to collect a different amount of fine, court costs or surcharge than that amount listed in the Violation Bureau Schedule or what has been assessed by a Court Order, except as discussed in IV.A *supra*.

G. Develop a system for independent monitoring, receiving and depositing monies as an independent task segregated from the recording and disbursement of collections. In the event that such duties cannot be segregated, at a minimum, the Court Administrator shall request the City develop a documented independent comparison of receipt slips issued in the amount and composition of deposits, and independent review of the bank statements and month-end reconciliations. (*Source COR 4.51*)

VIII. Confidential and Closed Records.

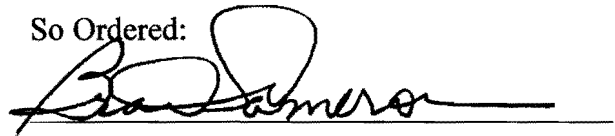
A. Identify Records. The Court Administrator shall identify all Court records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (SATOP), or the defendant found not guilty) that contain confidential information. The Court Administrator on behalf of the Judge shall request the City provide adequate and secure file cabinets for the retention of confidential records and closed files. (*Source: 610.120 RSMo.*)

B. Confidentiality of SATOP Programs. If the Court orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential. (*Source: CFR Part 2, (42 U.S.C. 290 dd-3)*).

X. Record Retention and Destruction. The Court Administrator shall retain all Court records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow Missouri Supreme Court Operating Rule 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with Supreme Court Operating Rule 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. (Source: COR 8.03.)

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (Source: 451.110 through 451.130 RSMo.)

So Ordered:



DATE 2-17-2011

Judge, City of Carthage, Missouri