

**IN THE CIRCUIT COURT OF ST. LOUIS
COUNTY, MISSOURI
21st JUDICIAL CIRCUIT**

MUNICIPAL DIVISION – THE CITY OF KIRKWOOD

MUNICIPAL DIVISION OPERATING ORDER #4

Including Eight Local Court Rule provisions

Superseding Court Operating Orders #1, #2 and #3

Effective Date – June 20, 2017

**Background and Purpose of Division Operating Order #4
and Eight Applicable Local Court Rules**

A. This Division Operating Order #4 compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Missouri Courts: Municipal Divisions (“*MOS*”). This Order shall supersede Court Operating Orders #1, #2 and #3, which are hereby rescinded. The term “Municipal Division” shall be referred to herein as “Division.”

B. This Order is intended to include in one consolidated Division Order, such relevant statutes, rules and standards, to provide for and achieve procedural fairness, order and convenience for those who appear before this Division. This Order is intended to apply, , to all Court personnel, officers of the Court, attorneys, and litigants, including without limitation the Judge, Court Administrator, Clerk of Court, Prosecuting Attorney, Prosecuting Attorney’s Clerk, Bailiff, and security personnel.

C. This Order is not intended to supersede, supplant, or alter any Missouri Supreme Court Rule, including the *MOS*, or any local circuit court rule adopted which governs the operations of a municipal division and reporting obligation, as provided in the “Protocols for Presiding Circuit Court Judges Supervising Municipal Court Judges” adopted by the Supreme Court in November, 2016. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules, Missouri statutes, and local circuit court rules, which may differ than the provisions of this Order.

D. This Order also includes in Part I, Section B, several local circuit court rules, which are not technically "operating orders" or "operating rules." The term "Court Administrator" as used in Part I, Section B, and elsewhere, also applies to those Divisions which utilize the term "Court Clerk." The Term "Division Clerk" shall also be considered synonymous, when that term is used in place of "Court Administrator" or "Court Clerk." The same is true for "Deputy Court Administrators," "Deputy Division Clerks, or "Deputy Court Clerks," which are the same position.

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. General Administrative Procedures.

1. General Duties of Court Administrator. Court Administrator shall ensure that the Court regularly communicates with the Circuit Clerk and the Presiding Judge on all relevant matters, including the Division's existence. The Court Administrator shall comply with the standards set forth in "Open Records and other Recordkeeping Matters" contained in the MOS, following MOS #10. Such standards shall include maintenance of complete and accurate records of all Division proceedings, including warrants outstanding, bonds posted, case files and dispositions. All documentation "backer sheets" shall be signed by the Judge. The Court Administrator shall ensure that Division's computer data is backed-up, stored in secure offsite locations, and that passwords are kept confidential and periodically changed. Courts using the statewide case management system shall follow any published security guidelines.
2. Case Numbering and Case Indexing. Case index records shall be maintained on all municipal cases. Judgment index records shall be maintained on all municipal judgments. Case indexes shall be maintained for each case filed, including traffic or non-traffic violations. The index shall include the full name of the defendant, case number, date the case was filed with the court, and the case disposition. Confidential cases shall be accessible only by authorized personnel.

Cases filed by the prosecutor shall be assigned a unique number by the Division. The numbering system shall be that used by the Office of State Court Administrator ("OSCA") or that computer software vendor approved by the State Judicial Records Committee. All forms used by the Division shall be numbered sequentially and accounted for, including tickets, summons, complaints, receipt slips, bond forms, and payment agreements. (Source: §§483.065, 483.075, and 483.082 RSMo; Supreme Court Operating Rule ("COR") 4.04.; payment agreement source State Auditor recommendation, Municipal Clerk Manual ("Clerk Manual") Section 1.1c.)

3. Violation Bureau Schedule – Posting and Availability to Accused. The Judge shall, from time to time, appoint a Court Administrator to be the Violation Bureau Clerk. This shall be by a separate order. The Violation Bureau Schedule shall list and process only those violations authorized by Supreme Court Rule 37.49(c). It shall

be prominently displayed at the place where fines are to be paid. The Court Administrator shall periodically communicate with the police department to ensure, where applicable, the schedule of fines and costs payable through the Violation Bureau is provided to an accused at the same time as a violation notice. (Source: *Supreme Court Rules ("SCR") 37.49 and 37.33(b).*)

4. Budget. The Court Administrator shall communicate regularly with the Judge and the City Finance Department ("*City*") regarding any budget issues involving the Division. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. The Court Administrator shall work with the City to identify associated fines and costs revenues for the purpose of the revenue calculations required by law. (Source: *Mo. Constitution, Article II; §479.359 RSMo; COR 13.*)
5. Advising Litigants of Their Rights in Court. The Court Administrator shall take necessary steps to ensure that defendants are given advice of rights pursuant to the SCR and MOS #9, including a "Notice of Rights in Municipal Division" form as approved by the Supreme Court. (Source: *SCR 37.47, 37.48, 37.50, and 37.58; MOS #9.*)
6. Compliance with Certifications and Reports to Auditors – Highway Patrol. The Court Administrator shall communicate with Missouri State Highway Patrol ("*MSHP*"), OSCA, and the Regional Justice Information System ("*REJIS*") to be compliant with their policies and management agreements regarding information, including terminal operations. The Court Administrator shall communicate with the Judge and with the City to facilitate compliance with requirements of other agencies with respect to the information systems provided to the Division.

B. Applicable Local Circuit Court Rules.

1. Court Administrator. The Court Administrator (or, as known in some Divisions, the "Court Clerk" or "Division Clerk"), shall be the chief administrator of the Division. The Court Administrator and all Deputy Clerks, shall be responsible for the orders contained in Parts I, II and III, except when such orders are applicable only to the Judge, to the Prosecuting Attorney, to the Prosecuting Attorney's Clerk, or to other personnel other than the Court Administrator. The Court Administrator shall, when applicable, cooperate with the City to assist the Court Administrator to effectuate applicable provisions of this Order. To the extent not prohibited by the MOS, or other relevant law or rule, the Court Administrator shall cooperate with the Prosecuting Attorney's Clerk, the police department, and the City.
2. Minor Traffic Violations – Special Rule. The Court Administrator shall clearly mark the jacket or outside of case files which fall under the current definition of

“Minor Traffic Violations” so that the Division may readily recognize such cases when handling the file. The Court Administrator shall communicate with the Division, and with the Prosecuting Attorney’s Clerk and Prosecuting Attorney, so that all court personnel are aware of the limitations with respect to fines, costs, and other conditions imposed upon the Division by legislation. (Source: §§479.353 and 479.360 RSMo.)

3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. (Source: §§479.350(4) and 479.353(1)(b) RSMo.)
4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney’s Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator’s Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator’s office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division 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 Section 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prosequi, 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. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. (Source: §§566.226, 610.105 and 610.120 RSMo; Section 5.1 of Clerk Manual.)

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 "Case Processing Procedures" found in Chapter 3 of the then current Clerk Manual published by OSCA. The Court Administrator shall ensure that the disposition is received by the DOR within seven (7) days of the disposition. If defendant requests a *trial de novo* within the ten (10) day period after judgment against defendant, then the DOR shall not receive the disposition. (Source: §§302.225.1 and 577.051 RSMo; Section 1.4 of Clerk Manual.)

The Court Administrator shall insure the accuracy of data entered into the automated case management system and ensure required reporting information is transmitted electronically in a format approved by the DOR.

- (b) Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund ("**CVC**") surcharge to be assessed on all non-moving and moving traffic violations and all other non-traffic municipal ordinance violations, unless the case has been dismissed, or costs have been waived due to the Division finding the defendant indigent. The Court Administrator shall forthwith cause the CVC charge to be reported to the 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 the City in accordance with IV.C, *infra*. (Source: §§488.5339 and 595.045.6 RSMo.)

The Court Administrator shall be familiar with and abide by those provisions set forth in Sections 4.2 and 4.3 of the then current Clerk Manual.

- (c) 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, within ten (10) days of the order, send any Missouri license surrendered to the Division, 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 Section 3.8 of the then current Clerk Manual. (Source: §§577.500 through 577.505 RSMo.)

- (d) 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 Division will order the DOR to suspend that defendant's license in thirty (30) days, if the charges are not disposed of or fully paid. This provision shall not apply to Minor Traffic Violations as defined in Section 479.353 RSMo (2015). For such violations for which a notice may be sent to defendants, such notification shall not be sent until a summons has been mailed to the defendant and defendant thereafter shall fail to appear. On non-Minor Traffic Violation cases that apply, the Court Administrator shall send the Failure to Appear or Pay Traffic Violation (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 and 427.353 RSMo; Section 3.5 of Clerk Manual.*)

- (e) Withholding Renewal of License. In the event a defendant shall fail to appear when ordered, and without being first granted a continuance, and appropriate summons to follow the failure to appear, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the "Lieu of Bail" form provided 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; Section 3.5 of Clerk Manual.*)

- (f) 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 the DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact (NVRC) Form provided by the DOR, to the Compact Administrator at the 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; Sections 3.5 and 3.6 of Clerk Manual.)
- (g) Driver Improvement Programs. In the event that the Judge has ordered a non-CDL holder 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 non-moving violation by the Prosecuting Attorney. (Source: §302.302 RSMo; Section 3.7 of Clerk Manual.)
- (h) Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device (“IID”), the Court Administrator shall forthwith send the Order to install the IID to the DOR properly executed, containing the requirements for the period of the use of the IID. (Source: §§577.600 through 577.614 RSMo; Section 3.2 of Clerk Manual.)

3. Reporting to OSCA.

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of COR Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

4. Reporting to the MSHP (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the MSHP 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 Division 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 MSHP 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 Sections 1.4 and 3.3 of the then current Clerk Manual. (Source: §§479.172, 43.503 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

Dispositions that must be reported to the MSHP are:

- Not guilty, dismissed, nolle prosequi or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the MSHP the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to Section 43.506 RSMo. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

The Court Administrator shall provide any information received by the Division Administrator to the Judge, so that the Judge shall comply with the statutory requirement to receive "adequate instruction on the laws related to intoxication-related traffic offenses." (Source: §479.172.1 RSMo.)

5. Reporting Intoxication-Related Traffic Offenses to Circuit Court en Banc

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, 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 that Division. The Division shall submit said report to the Circuit Court en Banc. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court en Banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day period to submit the report following the end of the reporting period as there is for the report to the Circuit Court en Banc. (Source: §479.172.3 RSMo; MOS; Section 1.4 of Clerk Manual.)

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 semi-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 Circuit Judge.

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

The Court Administrator shall provide a signed copy of this Order to the MSHP and OSCA at the addresses shown below. If any revisions are made to this Order, the Court Administrator shall provide a revised copy to the MSHP and OSCA. *(Source: §479.172 RSMo; Section 1.4 of Clerk Manual.)*

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator
Attention: Court Services Division, DWI Reporting Policy
P.O. Box 104480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-596

Missouri State Highway Patrol
Criminal Justice Information
Services Division
P.O. Box 950
Jefferson City, Missouri 65102
Email: mshpcjis@mshp.dps.mo.gov

7. Reporting to the Presiding Circuit Judge. The Court Administrator shall meet with the Judge to review the "Minimum Operating Standards Form" to be submitted semi-annually to the Presiding Circuit Judge, to ensure compliance with the items to be certified in such Form. (*Source: MOS #10.*)
8. Reporting to State Auditor. The Court Administrator shall meet and confer with the Judge to ensure that the City shall timely file with the State Auditor, together with the City's report due under Section 105.145 RSMo, the City's certification of its substantial compliance signed by the Judge with the Division procedures set forth in Section 79.360.1(1)(10) RSMo. The Court Administrator and the Judge shall meet periodically to review the provisions of Section 479.360(1) in order to ensure compliance with the State Auditor requirements.
9. Reporting to Judge. The Court Administrator shall assemble the reports submitted to DOR, the MSHP, OSCA, the Presiding Circuit Judge, and the State Auditor, and maintain same in a file for periodic review by the Judge, so that the Judge is aware that all reporting requirements have been complied with for the previous period.
10. Reporting to the Department of Insurance. The Court Administrator shall report all unsatisfied judgments against bail bond agents and sureties, and subsequent satisfactions of those judgments, to the Department of Insurance. The Court Administrator shall utilize those procedures set forth in the Clerk Manual. (*Source: § 374.763 RSMo; Section 2.3 of Clerk Manual.*)

D. Fines, Division Costs, Surcharges and Fidelity Bonds.

1. General Rules.

- (a) The Court Administrator shall utilize his/her best efforts so that on each case adjudicated by the Judge, the Judge's appropriate fines are assessed and general Division costs are assessed only in the amounts set forth by statute or ordinance. These shall include CVC surcharges, police officer standard and training commission ("**POST**") surcharges, law enforcement training fine ("**LETF**") surcharges, recoupment, and other legal surcharges as set forth by law and city ordinance. Those fines and costs that shall be collected shall be remitted timely to the City, and to the DOR respectively, in accordance with this Order. (*Source: MOS #4.*)

The Court Administrator shall use the OSCA Cost Card on municipal division costs as a reference. Dismissal upon payment of costs shall not be permitted. Division costs shall not be assessed against indigent defendants, as per law. (*Source: §479.353(4)(5) RSMo; MOS #4.*)

permitted. Division costs shall not be assessed against indigent defendants, as per law. (Source: §479.353(4)(5) RSMo; MOS #4.)

(b) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. (Source: §479.360.1 RSMo; MOS #2 and #4.)

(c) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall have other forms as available from OSCA to comply with requirements by law. (Source: §479.360.1 RSMo; Rule 37.65; MOS #2.)

2. Overpayment. 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 overpaid 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.

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

Receipts for Payment of Fines, Division 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 maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual receipts shall be issued and the payment shall be accounted for immediately following the restoration of the 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 Section 4.5 of Clerk Manual.)

3. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. (Source: MOS #6.)

4. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. (Source: §479.359 RSMo.)

 - (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division'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; Section 4.5 of Clerk Manual; MOS "Open Records and Other Recordkeeping Matters" and "Financial and Bookkeeping" provisions.)

5. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. (Source: Section 4.5 of Clerk Manual; MOS "Financial and Bookkeeping" provisions.)

E. Surety Bonds and Confinement.

1. 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.

2. Cash Bond Schedule. Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:

- (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
- (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the "24 hour Rule," as described in Section 544.170.1 RSMo, relating to the right to review of conditions for release when no "conditions for release" have been imposed.
- (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

(Source: §§479.360.1, 479.360.2, 544.170.1 RSMo; SCR 37.1, 37.20 and 37.65; MOS #1.)

3. 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 (3) years and cash bonds unclaimed for one (1) 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, 447.539. and 447.595 RSMo; Section 4.4 of Clerk Manual.)

F. Warrants.

1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court

Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. (Source: SCR 37.45.)

- 2 The Court Administrator shall work with the Judge to create procedures to ensure that the recall and cancellation of all outstanding warrants is communicated to the police department by the Court Administrator without delay. The Court Administrator shall coordinate with the police department and the Judge to make sure there is a duty judge available at all times to rule promptly upon warrants, bails, conditions, and pretrial release, and other matters. (Source: Chapter 2 of Clerk Manual; MOS #1.)

- G. **Accounting Procedures.** The Court Administrator shall to the fullest extent possible, abide by those accounting procedures as are mandated by law, and in particular as are set forth in Chapter 4 of the then current edition of the Clerk Manual. (Source: §§479.080, 479.350, 479.353, 479.359, 483.075, and 483.082 RSMo; Chapter 610 RSMo; SCR 37; MOS "Financial and Bookkeeping" provisions; COR 4, 8 and 21.)

In particular, the Court Administrator shall work with the Judge and the City, to ensure that the "Financing and Bookkeeping" provisions of MOS are abided by as far as can be practicably accomplished.

- H. **Marriage Records.** If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Court Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least days [NOTE: Number of days should be entered by local court based on local need] before a scheduled wedding to ensure adequate review of such license.

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, COR 14)

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

A. General Rule.

1. Division Shall be Open to the Public. The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (Source: §479.360.1 RSMo; MOS #8.)
2. Opening of Division Doors. Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division's docket, unless a different order of the Division shall specify otherwise.
3. No Refusal of Entry. Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division personnel shall have the right to ask persons entering the courtroom if they are a defendant or visitor, but only for purposes of directing where to sit, or to mark a name off the docket. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

B. Exceptions and Limitations to the Above General Rules Regarding Open Division.

The Division recognizes and shall abide by the provisions of Sections 476.170, 479.060, 479.360 and 479.060 RSMo and MOS #8, requiring that the courtroom be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The following are limited exceptions to this General Rule, as set forth in Paragraphs 1 through 5 below:

1. Disruptive Persons. If any person attending a Division session shall become disruptive in any manner, including, but not limited to, talking in anything other than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Division personnel, that person shall be first cautioned by Division personnel, and if the offensive conduct is not immediately corrected, removed from the courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.
2. Persons under the Clear Influence of Alcohol or Drugs. If any person attending a court session shall appear to Division personnel to be clearly under the influence of

alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the courtroom.

3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.

4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division personnel shall count the persons present in the courtroom and shall limit access so as not to be in violation of the Fire Code. The number of persons who may be present in the courtroom without violation of the Fire Code is 190.

When it appears to the Division during any single Division session, that there will be more persons attempting to enter the courtroom than are permitted under the Fire Code, then the Division shall take such appropriate action as would be consistent with all legal and constitutional requirements.

5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:

(a) When a child becomes noisy or will not remain seated, the parents or guardians of that child will be asked to remove said child or children. The bailiff or police officer shall record the name of the defendant associated with the child, and ask that the defendant and children remain in the hallway or outside the courtroom until their name is called on the docket. At such time as the defendant's name is called, the bailiff shall summon the family, including children, who may then enter the courtroom for purposes of arraignment or other business with the Division.

(b) The Division may exclude children if the nature of a matter being heard may be, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 RSMo; MOS #8.)

C. Closing of the Courtroom. Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defendant, desires to close the courtroom during any particular motion or trial, the Judge shall conduct a brief hearing on

whether to enter an order to close the proceedings and shall be guided by the following Sections:

1. The proponent of closure must present a showing of a compelling interest for such closure. The Judge shall balance the public's right of access with the interest identified by the proponent of closure and shall determine whether the interest identified by the proponent is such that closure of the courtroom is essential to preserve the interest under the circumstances.
2. Anyone present in the courtroom when the closure motion is made shall be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the interest identified by the proponent of closure.
4. The order shall be no broader in its application or duration than necessary to serve its purpose.

See: State ex rel Pulitzer, Inc. v. Autrey, 19 S.W.3d 710 (Mo. App. E.D. 2000 and State v. Salazar, 414 S.W.3d 606 (Mo. App. 2013)

- D. **Retention of Rights.** The Judge retains the right to post and enforce additional rules of conduct in order to maintain the integrity and decorum of the courtroom, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

A. **Fax and Electronic Memoranda.**

1. This Division shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.
2. Requests for warrant recall may be submitted by fax.

- B. **Access to Division Files.** Members of the public, news media and attorneys of record shall have access to open Division records. There shall be an exception that requests to review files not on the docket must be made prior to the start of Division docket proceedings. The Court Administrator shall not be required to pull files not on the docket during Division sessions unless there is sufficient time to do so. (*Source: Chapter 610 RSMo; COR 2 and 4; MOS #8.*)

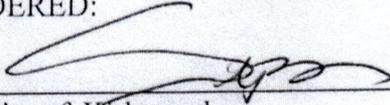
- C. **Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to interpret any

proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (Source: §§476.750-476.766 RSMo.)

DATE

6/2011

SO ORDERED:



Judge, City of Kirkwood