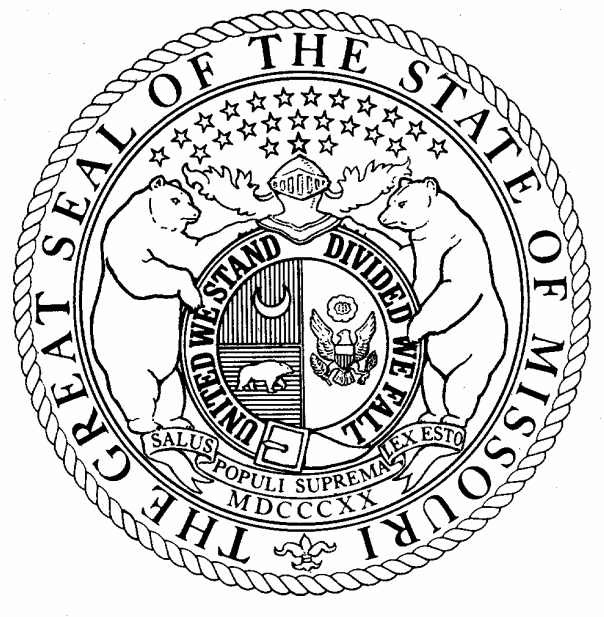
Municipal Judges
HB 1695 Intoxication-Related Traffic Offenses



Prepared by:

Office of State Courts Administrator
July 2010

MUNICIPAL JUDGE EDUCATION COMMITTEE
P. O. Box 104480
JEFFERSON CITY, MISSOURI
65110

July 26, 2010

To: Missouri Municipal Judges

From: Judge Roy Richter, Chair, Municipal Judge Education Committee

Subject: New DWI Rules

With the passing of HB 1695, new Missouri DWI rules go into effect August 28, 2010. To assist you in preparing for these rule changes, the Missouri Office of State Court Administrator, in cooperation with the Missouri Municipal and Associate Circuit Judges Association and the Missouri Department of Revenue, have put together this packet of information that includes:

1. A document outlining the implementation of HB 1695
2. General overview article written by Judge Robert Aulgur, 13th Judicial Circuit for *The Benchmark.*
3. Revision of Municipal Court Operating Rule 1.
4. Municipal Clerk Manual Chapter 3.3. Criminal History Reporting
5. Municipal Division Reporting Administrative Procedures and Reporting Form

This material will be distributed at the Missouri Department of Revenue regional seminars, which will take place in August and September. This information also will be available at the New Municipal Judge Orientation November 6, 2010, in Jefferson City, and at the Missouri Municipal and Associate Circuit Judges Association's regional trainings and annual conference in 2011.

If you have questions regarding this material, please contact the OSCA Help Desk at 1-888-541-4894.

STAFFED BY OFFICE OF STATE COURTS ADMINISTRATOR (573) 751-4377
JUDGE ROY L. RICHTER, CHAIRMAN
JUDGE SUZANNE BOCELL BRADLEY
JUDGE DENNIS E. BUDD
JUDGE LARRY BUTCHER
JUDGE DAVID L. DIMOND
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JUDGE J. BRAD FUNK
JUDGE SHAWN R. McCARVER
JUDGE KENNETH F. THOMPSON
JUDGE MARCIA WALSH

Municipal Division Judges
Document for Implementing HB 1695
Intoxication-Related Traffic Offenses

Prepared by
Office of State Courts Administrator (OSCA)
If you have any questions, please call the OSCA Help Desk 1-888-541-4894

Distributed by Department of Revenue at the 2010 DOR Law Enforcement DWI Seminars
August – September, 2010

1. To learn generally about the **provisions of HB 1695**, please review the article to appear in the "The Benchmark" by the Honorable Robert Aulgur, 13th Judicial Circuit of Missouri Municipal Division for the City of Columbia, Missouri. *Pages 3 - 10*

2. Section 577.006 RSMo. requires municipal divisions to have a **written policy for reporting dispositions of intoxication-related traffic offenses** and to provide a copy of the policy to the office of state courts administrator and the highway patrol. In order to comply with this requirement, OSCA with the assistance of Missouri Municipal and Associate Circuit Judges' Association has revised Municipal Court Operating Order #1. It is recommended that every municipal division adopt the rule if has not already done so or to readopt the revised rule. The rule should be edited as appropriate for your court, signed and provided to the addresses shown in the order as soon as possible. Make sure your court administrator or clerk understands each provision of Municipal Court Operating Order #1 and if not, he/she should contact the OSCA Help Desk and request assistance. *Pages 11 - 22*

3. Municipal divisions are required to report all intoxication related offenses to the fingerprint based Criminal History Repository. To meet the **requirements of reporting intoxication-related traffic offenses**, make sure your court administrator or clerk is familiar with all of the provision of Municipal Clerk Manual Chapter 3.3 Criminal History Reporting and is complying with them. *Pages 23 - 37*

4. Section 577.006 RSMo. requires municipal divisions to report all filings and disposition of intoxication-related offenses bi-annually to the court en banc. To meet the requirements of **reporting bi-annually to the court en banc**, please use the "Municipal Division Summary Reporting Form" that your court is currently required to send monthly to OSCA. Instructions for using the "Municipal Division Summary Reporting Form" for bi-annual reporting are included in Municipal Court Operating Order #1 and in Chapter 1.4 of the Municipal Clerk Manual. *Pages 38 - 42*

5. HB 1695 **changes the jurisdiction of the municipal division** as it relates to repeat DWI offenders. Section 479.170 RSMo. provides that **intoxication-related traffic offenses shall not be tried in municipal court if the defendant has been convicted, found guilty, or pled guilty to two or more previous intoxication-related traffic offenses as defined in section 577.023, or has had two or more previous alcohol-related enforcement contacts as defined in section 302.525.** An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of

section 565.024, RSMo., murder in the second degree under section 565.021, RSMo., where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo., assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo., or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance; Alcohol-related enforcement contacts as defined under 302.525 RSMo include any administrative alcohol suspension or revocation, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving while intoxicated, driving while under the influence of drugs or alcohol, or driving a vehicle while having an unlawful alcohol concentration.

Each municipal court should establish a process for determining that the court has the authority under section 479.170 RSMo. to grant a remedy or judgment in a driving while intoxicated or driving with excessive blood alcohol content cases filed after August 28, 2010. The manner in which the court fulfills this duty will be up to each individual judge to decide. Some suggestions that have been shared include:

- Having the prosecuting attorney or law enforcement complete a records check through DOR, DWITS, Criminal History Repository or MULES prior to a plea of guilty that the defendant is in compliance with the requirements of section 479.170 RSMo. or

- Having a written statement signed by the prosecutor and defense attorney filed prior to a plea of guilty that the defendant is in compliance with the requirements of section 479.170 RSMo. or

- Having the court make a sworn inquiry of the defendant at time of plea about his past conviction and alcohol-related enforcement contacts to establish that the court has the ability to provide pronounce a judgment in the filed case.

6. If the court is interested in establishing a **DWI court or docket** under the new authority granted by the provisions of H.B. 1695, Section 478.007.2 RSMo. requires that the DWI court or docket combine judicial supervision, drug testing, continuous alcohol monitoring, substance abuse traffic offender program compliance, and treatment of DWI court participants. The court may assess necessary costs for participation in DWI court against the participant, however these are estimated by one DWI court to be approximately $3000. Money received for those costs shall not be considered court costs, charges, or fines. The DWI court or docket may operate in conjunction with a drug court. A number of drug courts accept DWI offenders. In addition there are DWI courts in Boone County, Butler County, Buchanan County, Franklin County, Greene County, Jefferson County, Lincoln County, Montgomery County, St. Charles County, and Warren County. There is a Supreme Court Operating Rule and related guidelines being drafted by the Alternative Courts Committee that will define operational standards for DWI courts and other treatment courts.

7. Section 577.054 RSMo, modifies the criteria for **expungement of first alcohol-related driving offenses.** The person shall not have been convicted of any subsequent alcohol-related driving offenses or have any subsequent alcohol-related enforcement contacts, nor have any alcohol-related charges or enforcement contacts pending at the time of the expungement hearing. Attached is the revised "Order Expunging First Alcohol-Related Traffic Offense Pursuant to Section 577.054 RSMo."

BENCHMARK ARTICLE ON H.B. 1695 - 2010 D.W.I. LAW

This article will look at some of the changes in the law relating to driving while intoxicated cases in Missouri created by the passage of House Bill 1695. Let's begin by looking at how quickly this law took shape.

I. **HISTORY OF HOUSE BILL 1695**.

In the fall of 2009 the Saint Louis Post Dispatch published a series of newspaper articles discussing several issues relating to driving while intoxicated enforcement in the Saint Louis area. These articles took the position that driving while intoxicated cases in the St. Louis area were not being investigated, charged, and/or adjudicated properly under existing Missouri law. Missouri Governor Jay Nixon convened what he called a "Driving While Intoxicated Summit" on November 4, 2009 made up of judges, prosecutors, private attorneys, law enforcement personnel, alcohol treatment providers, and other government experts on driving while intoxicated issues. Judge Kevin Kelly of our association was invited to participate in the summit. Based on the discussions and information gathered at the "Driving While Intoxicated Summit," Governor Nixon proposed legislation to correct the abuses that he believed existed in the present driving while intoxicated enforcement and adjudication system. House Bill 1695 was introduced by Rep. Bryan Stevenson on January 19, 2010. House Bill 1695 was truly agreed to and finally passed by the Missouri General Assembly on May 13, 2010 and signed into law by Governor Nixon on June 2, 2010. The effective date for this legislation is August 28, 2010.

II. **DRIVING WHILE INTOXICATED DOCKETS OR COURTS IN H.B. 1695**

Missouri Supreme Court Chief Justice William Ray Price presented his State of the Judiciary address to the Missouri General Assembly on February 3, 2010. During that address Justice Price told Missouri legislators to get smart on crime, not just tough on crime. He specifically spoke of his desire to use D.W.I. courts and dockets as a means to accomplish this goal. This objective was realized in House Bill 1695.

Sections 478.001-478.009 RSMo. are the statutes which govern Missouri drug courts. H.B. 1695 added several new provisions to this chapter. The purpose of these changes was to give any circuit court or county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants with a county municipal court established under section 66.010 the discretionary authority to set up a D.W.I. docket or D.W.I. Court . (See: sections 478.001 (2) and 478.007 RSMo.) The D.W.I. docket or court can be presided over by a current drug court commissioner or by a judge selected by a majority of the judges of the circuit court. (See: sections 478.001.2 RSMo. and 478.003.1 RSMo.). The legislation also gives drug court commissioners the legal authority to serve in counties other than the county in which they are appointed upon the agreement of the presiding judge of that county and assignment by the supreme court. (See: section 478.001.2 RSMo.).

The D.W.I. courts or dockets set up under the new law will be coordinated by the Drug Courts Coordinating Commission in the judicial department. However, H.B. 1695 does not contain any new state, county, or municipal funding sources for the new D.W.I. courts and dockets under the authority of the Drug Court Coordinating Commission.

The D.W.I. court or docket judge will have a clear set of guidelines to follow in setting up the new court. The new legislation states that the circuit court shall have the authority to provide an alternative for the judicial system to dispose of cases in which a person has pleaded guilty to driving while intoxicated or driving with excessive blood alcohol content and the person had a blood alcohol content of .15% or more by weight of alcohol in such person's blood; or the person has previously pleaded guilty to or has been found guilty of one or more intoxication-related traffic offenses as defined by section 577.023; or the person has two or more previous alcohol-related enforcement contacts as defined in 302.525. The new court will combine the use of judicial supervision, drug testing, continuous alcohol monitoring, substance abuse traffic offender program compliance, and treatment of drug and alcohol problems in accomplishing the rehabilitation of each offender assigned to the D.W.I. court or docket. (See: sections 478.007.1 and 478.007.2 RSMo.). The court may assess any and all necessary costs for participation in D.W.I. court against the participant. These costs of treatment shall not be considered court costs, charges, or fines. (See: section 478.007.2 RSMo.).

The new legislation has given the D.W.I. court or docket judge several new powers to encourage qualified defendants to use these new alternative sentencing courts. One of those new powers is the authority for the D.W.I. court judge to grant a limited driving privilege to persons participating in or who have graduated from their D.W.I. court or docket program. The court is only allowed to grant this limited driving privilege to a participant or graduate of the D.W.I. court or docket after the defendant has completed forty five days in the program. (See sections 302.309.3 and 302.309.9 RSMo.).

The Missouri General Assembly also added new language to existing Sections 577.010 and 577.012 RSMo which provide D.W.I. or B.A.C. defendants with fifteen-hundredths of one percent or more by weight of alcohol in their blood an incentive to participate in a D.W.I. court or docket under section 478.007 or other court ordered treatment program where one exists in their circuit. Section 577.010 RSMo. was amended by the legislature with the following new language:

> "3. Notwithstanding the provisions of subsection 2 of this section, in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or other court-ordered treatment program."

The Missouri General Assembly then added this new language to section 577.010 RSMo. :

> "4.If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section, for such first offense:
>
> > (1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty eight hours."
> >
> > (2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days."

This same language was also placed in section 577.012 RSMo, which governs driving with excessive blood alcohol content cases. The Missouri General Assembly did not change the existing punishment range for driving while intoxicated or driving with excessive blood alcohol content. They remain a class B misdemeanor and still have the same requirement that a suspended imposition of sentence in a driving while intoxicated case must be twenty four months in length. The new legislation also significantly increased the mandatory jail time required for prior offenders and persistent offenders to serve before they are eligible for parole or probation unless they participate in and successfully complete a program established under section 478.007 or other court-ordered treatment program. (See: sections 577.023.6(1)(b) and 577.023.6(2)(b) RSMo.),

The Missouri General Assembly did not define "other court ordered treatment program." It seems logical to this author that it should be somewhat similar to the program content laid out for the D.W.I. court or docket in section 478.007 RSMo., but it would not have to be exactly the same. Perhaps the Supreme Court of Missouri or the Drug Court Coordinating Commission will give further guidance to us on this issue.

III. **MUNICIPAL COURT AUTHORITY TO ISSUE JUDMENTS IN CERTAIN CASES**

House Bill 1695 places a new restriction on the legal authority of municipal courts to render a judgment in certain intoxication-related traffic offenses. The following language was added to section 479.170 RSMo.:

"2. For purposes of this section, any offense involving the operation of a motor vehicle in an intoxicated condition as defined in section 577.001 shall not be cognizable in municipal court, if the defendant has been convicted, found guilty, or pled guilty to

two or more previous intoxication-related traffic offenses as defined in section 577.023, or has had two or more previous alcohol-related enforcement contacts as defined in section 302.525."

This means that persons who are a persistent offender as defined in section 577.023.1(5) or persons who have two or more previous alcohol-related enforcement contacts should now be charged and adjudicated in state court. Section 302.525 RSMo. defines alcohol-related enforcement contacts to include any administrative driving while intoxicated suspension or revocation under sections 302.500 to 302.540 RSMo., any suspension or revocation for a refusal to submit to a chemical test under an implied consent law in this or any other state, and any conviction in this or any other state for a violation which involves driving while intoxicated, driving under the influence of drugs or alcohol, or driving a motor vehicle while having an unlawful alcohol concentration. Another topic for courts to consider will be the case where the defendant's driving record and conviction record show a mixture of intoxication-related convictions and alcohol-related enforcement contacts. Each judge and prosecutor will have to examine conviction and department of revenue records on a case by case basis to correctly apply the law in each factual situation presented to the court. Please note the Missouri General Assembly's use of the word "**previous**" in defining the intoxication-related traffic offenses and alcohol-related enforcement contacts the courts and prosecutors are supposed to consider.

The new legislation makes it easier for prosecuting attorneys and judges to determine the current status of intoxication-related traffic offenses and alcohol-related enforcement contacts of the defendant by expanding the sources of information that can by used to prove up the prior convictions or contacts. The legislature stated that the court may now use evidence received by a search of the records of the Missouri Uniform law enforcement system (M.U.L.E.S.), criminal history records from the central repository (fingerprint cards), records from the driving while intoxicated tracking system (D.W.I.T.S.), and certified driving records maintained by the Missouri Department of Revenue in determining the court's ability to provide a remedy for a certain case and the punishment range applicable to the case. (See: section 577.023.16 RSMo.)

So what happens if, despite your best efforts, you adjudicate a case in violation of this new law? In the recent case of J.C.W. ex.rel.Webb vs. Wyciskalla (Mo. 2009), Judge Wolff wrote an opinion on what court jurisdiction means and what it does not mean in Missouri. Judge Wolff stated that: "it is clear that neither the courts nor the legislature owns the concept of subject matter jurisdiction. It is a function of the Missouri Constitution, which was enacted by and therefore is owned by the people." Judge Wolff went on to write that there is a distinction between a court's subject matter jurisdiction and the court's failure to follow a statutory requirement which might constitute judicial error, but would not deprive the court of subject matter jurisdiction over the case. The opinion went on to hold that: "When a statute speaks in jurisdictional terms or can be read in such terms, it is proper to read it as merely setting statutory limits on remedies or elements of claims for relief that courts may grant."

The subject matter jurisdiction for Missouri Municipal Courts is set out in Article 5 Section 23 of the Missouri Constitution of 1945. This section states: "A municipal judge shall hear and determine violations of municipal ordinances in one or more municipalities." It is this author's opinion that the judgments rendered by Municipal Court judges in intoxication-related traffic cases are more criminal in nature than civil because our judgments are not designed to provide redress for a private wrong, but are intended to punish a public wrong. State v. Harold 271 S.W.2d 527 (Mo. 1954) and Kansas City v. Bott 509 S.W.2d 42 (Mo. 1974). Given this background I believe that our judges should familiarize themselves with the cases which are being decided which apply the J.C.W. case cited supra. See for examples: State ex.rel.State v. Parkinson 280 S.W. 70 (Mo. 2009) and Schmidt v. State 292 S.W.3d 574 (Mo. App. 2009). These cases are making it clear that a court who has subject matter jurisdiction of a case filed before it under the Missouri Constitution can still be subject to limitation of remedy by the Missouri General Assembly. Failure to apply that limitation is a reviewable form of judicial error. The appellate court will have the authority to review the court's ruling for prejudice to the city or defendant, waiver of the appellate issue by actions of the appealing party etc., and will have all of the traditional remedies to correct error that they have had available in the past. Our judges should also keep in mind in determining how section 479.170 RSMo. is going to be applied in their courts that municipal convictions can be used to enhance punishment for repeat intoxication-related traffic offenders. See: Section 577.023(16) RSMo. I believe that section 479.170 RSMo. is a statutory bar on our ability to provide a judgment in cases subject to that statute. Failure to obey this statutory bar will cause needless appeals and evidentiary problems at trial, particularly in cases where the challenged conviction was used by a state or municipal prosecutor as one of the grounds to enhance punishment on a subsequent intoxication-related case committed by the same defendant. The prosecutor has to prove the prior conviction is valid beyond a reasonable doubt and the trial judge's use of the prior conviction to enhance punishment is a valid point of appeal. This is not a good use of judicial time or resources and would create uncertainty about the validity of municipal court convictions. At the conference I heard different ideas for making sure the court has the ability to issue a judgment including having the prosecuting attorney be responsible for making sure that the court is in compliance with this new law before filing the charge, having a written statement of ability to issue a judgment signed by the prosecutor and defense attorney filed prior to plea, having the court make a sworn inquiry of the defendant at time of plea, or have the court do the record checks itself at time of filing or prior to final disposition.

IV. **NEW REPORTING REQUIREMENTS**

House Bill 1695 has placed several new mandatory reporting requirements on law enforcement agencies and prosecutors. These new requirements are contained in new section 577.005. They require both law enforcement agencies and prosecuting attorneys to adopt policies requiring arrest and charging information on intoxication-related traffic offenses to be reported to the central repository as required by section 43.503 RSMo. Failure to do so may result in the offending agency not receiving any grants administered by the Missouri Department of Public Safety. After January 1, 2011 the Missouri Highway Patrol will also be required to maintain regular accountability reports of this

information from the data submitted. The author believes these reports will be available to the general public and news outlets upon request.

V. **NEW MUNICIPAL COURT REPORTING & TRAINING REQUIREMENTS**

The new legislation states that each municipal judge shall receive adequate instructions on laws relating to intoxication-related traffic offenses. The new section also sets out the issues which should be addressed in that training. (See: section 577.006.1 RSMo.) The Municipal Judge Education Committee, the Office of State Courts Administrator, and members of our association are working together to design and implement this new training in a cost effective and efficient manner.

Section 577.006.1 RSMo. also requires that each municipal court judge shall adopt a written policy requiring that municipal court personnel timely report dispositions of all charges for intoxication-related traffic offenses to the central repository. This reporting is already mandated by state law, but this new law makes it crystal clear that the policy must be in writing, the records must be sent in a TIMELY manner and the records must report ALL dispositions. Copies of the written policy are to be given to the Office of State Courts Administrator and the Missouri Highway Patrol. Preliminary discussions with the Office of State Courts Administrator staff indicate that they are probably going to suggest language for the written policy that will be similar to the language in Judge Frank Vatterott's Municipal Court Operating Rule #1 sections III (B)(1) and section III (D) which is located on our M.M.A.C.J.A. website. It has been recently updated to reflect changes in the law from the 2009 legislative session. If you have this current version of Frank's order already in place in your court, you probably already have the necessary written order in place to comply with the new legislation.

In addition to the reporting requirement set out above, the Missouri Legislature also added a new municipal court division report to the circuit court en banc relating to intoxication-related traffic cases. (See: section 577.006.3 RSMo.) The minimum required content of the report is set out in the new statute. The legislation also gave the circuit court en banc the authority to request other information, in addition to the information required by the statute, in this new circuit court report. The report must cover information for a period of six months beginning January first and ending June thirtieth and July 1st to December thirty-first of each year. The circuit court report must be completed and filed with the circuit court en banc within sixty days following the end of the reporting period. The circuit court en banc shall make recommendations or take any action it deems appropriate based on a review of these reports. It is this author's opinion that municipal division judges should talk with their Presiding Judge prior to August 28, 2010 to determine what information the court en banc will want their court to provide in addition to the statutorily required information, in what format they want the information, and establish a starting date for the report. The author believes the reports should begin effective September 1, 2010 through December 31, 2010 and that is what I will suggest to my Presiding Judge. I will also recommend that the new six month report consist of the monthly Missouri Municipal Division Summary Reporting Forms already

required to be given to O.S.C.A. by the Supreme Court of Missouri operating rules. (See: Mo.S.Ct. Operating Rule 4.28).

VI. **CHANGES IN REFUSAL TO TAKE CHEMICAL TEST LAW**

Over the last several years several Missouri appellate opinions have dealt with the meaning of the language of section 577.041.1 RSMo.) which currently states:

> "If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given…"

As an example of these cases, I would suggest you read Randal L. Smith v. Director of Revenue 260 S.W.3d 896 H.N. 5 (Mo. App. S.D. 2008) and the cases cited therein. These cases have uniformly applied the above cited statute as written. Missouri prosecutors convinced the Missouri General Assembly in House Bill 1695 to amend the above-cited statute to remove the words, "**none shall be given**." They argued that this will allow law enforcement officers and prosecutors to seek a search warrant for preservation of evidence of the refusing person's blood alcohol content or perhaps open the door to warrant-less searches for a refusing person's blood alcohol content under the exigent circumstances-destruction of evidence exception to the search warrant requirement.

VII. **MISCELLANEOUS PROVISIONS IN HOUSE BILL 1695**

1. Search Warrants: Section 542.276.11 RSMo. was added to allow electronic signatures of the peace officer or prosecutor seeking a search warrant or the judge issuing the search warrant to be used without causing the search warrant to be invalid.

2. 90 Minute Rule: Section 577.039 RSMo. was amended by deleting the language which required an arrest without warrant to be made within one and one-half hours of the claimed intoxication-related traffic offense.

3. Expungement Of Prior Convictions: Section 577.054.1 RSMo. was amended as follows:

> "If the court determines, after hearing, that such person has not been convicted of any **subsequent** alcohol-related driving offense **[**in the ten years prior to the date of the application for expungement, and**],** has no other **subsequent** alcohol-related enforcement contacts as defined in section 302.525 RSMo., **[**during the ten year period**] and has no other alcohol-related driving charges or alcohol-related enforcement actions pending at the time of the hearing on the application,**…"

These changes will require you to amend any expungement orders for actions filed and granted after August 28, 2010 to include a finding that the movant does not have other alcohol-related driving charges or alcohol-related enforcement actions pending at the time of the hearing on the application. This section again underscores the importance of our courts being diligent about reporting all intoxication-related information to the proper records custodians as required by existing law and the new provisions contained in House Bill 1695.

VIII **CONCLUSION**

It is important for all of us to make sure that our court records and procedures comply with Missouri law, particularly where those records affect so many important issues, both to the defendant and the citizens of Missouri. Failure to follow these new requirements will lead to more intervention by the circuit court, the Supreme Court of Missouri, and/or the Missouri General Assembly in intoxication-related traffic cases in this author's opinion.

NOTE: This Order is intended as a template for courts to use in implementing a local municipal court rule. It contains informational notes within the body of the order which should be deleted before signing the final order. Other sections may contain several options where those that do not apply should be deleted, and/or blanks which must be filled in before signing the final order.

Pursuant to 577.006 RSMo, municipal divisions shall adopt a written policy outlining the requirements and procedures to report disposition information on all intoxication related traffic offenses to the Office of State Courts Administrator's Office and Missouri State Highway Patrol. To comply with this requirement a copy shall be on file with the Office of the State Courts Administrator's Office and the Missouri State Highway Patrol and if any revisions are made to this order, they shall also be forwarded to OSCA and MSHP.

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
_____ JUDICIAL CIRCUIT

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL COURT OPERATING ORDER #1

Effective Date - _____

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. All forms used by the Court shall be numbered sequentially and accounted for, including receipt slips, bond forms, tickets, summons, complaint forms, and payment agreements. *(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 Rule (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 (the *" Municipal Division Summary Reporting"* form). The Court Administrator shall provide the Judge a copy of the report provided to the City. *(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.)*

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Court. The other sections, as well as this note, should be deleted.

[Courts Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into the automated case management system approved for statewide use by the State Judicial Records

Committee, so that OSCA can automatically extract required reporting information to electronically provide to the Department of Revenue. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem logs.

[Courts Using an Automated Case Management System Approved for Local Use and Approved for Electronic Reporting to the Department of Revenue]

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

[Courts Not Using an Automated Case Management System or Using an Automated System Not Approved for Electronic Submission to Department of Revenue]

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.

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Court. The other sections, as well as this note, should be deleted.

[Courts Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information as provided by Supreme Court Operating Rule 4.28. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified

through the case management system and filing and disposition exception reports. *(Source: COR 4.28)*

[Courts Using an Automated Case Management System Approved for Local Use]

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of Supreme Court Operating 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 court activity. *(Source: COR 4.28)*

[Courts Not Using an Automated Case Management System]

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

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Court. The other sections, as well as this note, should be deleted.

[Courts Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information and forward it to the Missouri State Highway Patrol. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem log reports. *(Source: Chapter 43.503 and 43.506 RSMo.)*

[Courts Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

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.

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Court. The other sections, as well as this note, should be deleted.

[Courts Using Automated Case Management System Approved for Statewide]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall run the Report.net reports described in Chapter 1 of the then current Municipal Clerk's Manual and complete the "Municipal Division Summary Reporting Form." The Court Administrator shall send the "Municipal Division Summary Reporting Form" along with a cover letter to the presiding judge of the circuit to meet the bi-annual reporting requirement to the circuit court en banc.

[Courts Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

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.

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Court. The other sections, as well as this note, should be deleted.

[Courts with no written agreement from the county commission or council that the city may retain funds.]

The Court Administrator shall pay such over paid funds to the county on a regular basis when there is an overpayment of $5.00 or less.

[Courts with a written agreement from the county commission or council that the city may retain the funds]

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. Administrative Search Warrants. The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the municipal judge in the records of the municipal court. *(Source: Chapter 542RSMo.)* [*NOTE: For courts that have city ordinances allowing the issuance of administrative search warrants.]*

VIII. 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*)

IX. 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.*)

XI. Marriage Records. If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least ___ hours [*NOTE: Number of hours 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.)*

So Ordered:

DATE_____ _____
Judge, City of _____

3.3 – CRIMINAL HISTORY REPORTING

References
Statutes: 43.500, 43.503, 43.506, 43.527, 43.530, 43.532, 43.535, 43.536, 43.540, 43.542, 43.543, 43.546, 43.547, 67.1819, 210.025, 210.487, 313.220, 313.810, 571.101, 577.006, 577.010-577.023 and 577.051, 590.060, National Child Protection Act
Supreme Court Rules: N/A
Court Operating Rules: N/A
Publication Date: February 1992
Revised: August 2010

INTRODUCTION

The MSHP Criminal Justice Information Services (CJIS) Division is the criminal records central repository responsible for compiling, maintaining and disseminating the complete and accurate criminal history record, arrest reports and statistical information. The criminal history repository uses the fingerprints, palm prints and DNA of the defendant to assure that the correct identity of the defendant is maintained. All reporting to the criminal history repository must be based on the fingerprint card and all references to the criminal case reporting must have a valid fingerprint card number known as the Offense Cycle Number (OCN). The OCN is the unique number pre-printed at the top of the finger print card or assigned by an automated fingerprint machine called a Live Scan. A new fingerprint card and OCN is assigned each time an individual is arrested and/or fingerprinted.

Law enforcement officials, prosecuting attorneys, court clerks, the Department of Corrections (DOC) and the Department of Mental Health (DMH) are required to submit, without undue delay, certain criminal arrest, charge and disposition information to the Missouri Criminal Records Repository (MCRR) so complete and accurate criminal history records may be maintained. Reportable offenses are any violations of municipal ordinances that are deemed comparable to felony or misdemeanor A violations; or any misdemeanor violation that can be enhanced to a class A misdemeanor or higher for subsequent violations as defined by Sections 43.500 and 43.506 RSMo and as listed in the Missouri State Charge Code Manual. Reportable offenses include all intoxication-related traffic offenses. Filings and dispositions must be reported to CJIS only in a manner approved by MSHP.

If a person is charged with any offense for which fingerprints are required to be submitted to the central repository, and the defendant has not been fingerprinted the court shall order a law enforcement agency to immediately fingerprint the person using the Order for Fingerprinting form located at the end of this section. The law enforcement agency must perform the fingerprinting and submit the completed fingerprint card to the

central repository and furnish the city prosecutor and clerk of the court ordering the fingerprinting with the OCN within 30 days of the order.

If the filing and disposition information is not supplied to the MSHP within 30 days, the arrest record filed with MSHP will be closed to the public until such information is provided. All records forwarded to the central repository and the courts by prosecutors shall include the OCN of the offense, the charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

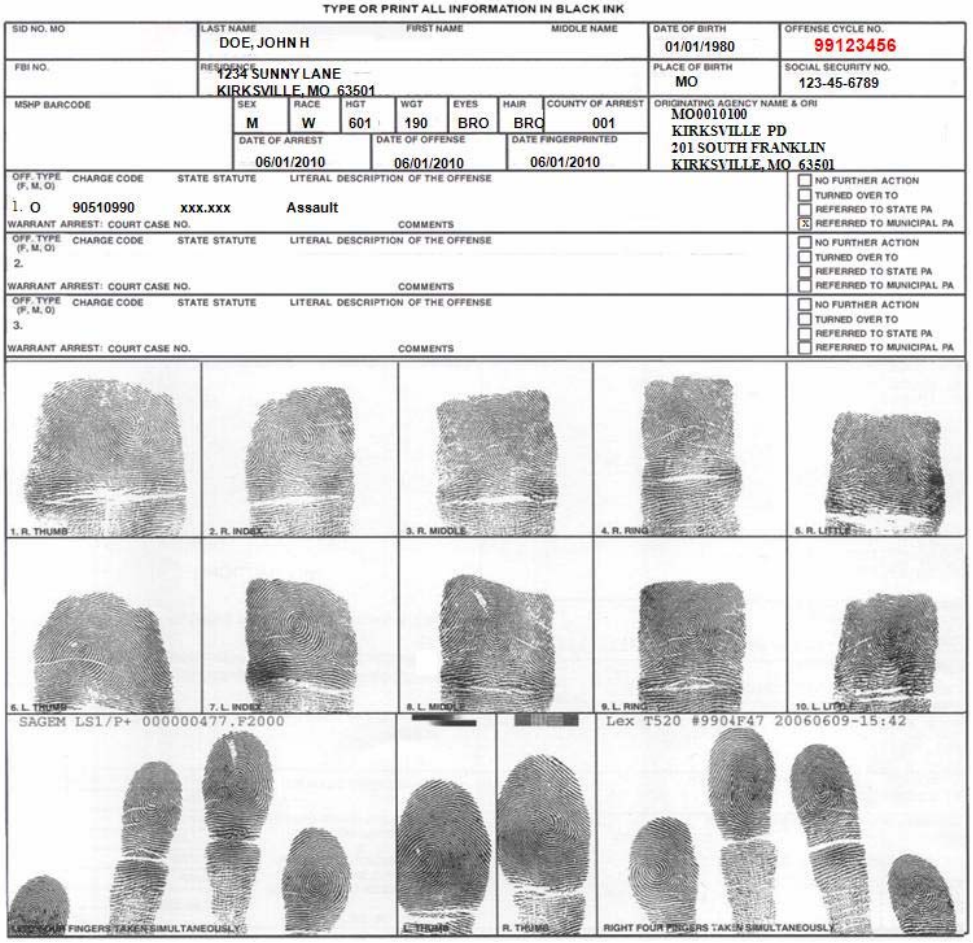
In 2010, the Legislature increased the importance of criminal history reporting of intoxication-related traffic offenses by requiring the courts to have a written policy on the criminal history reporting of these offenses which will be covered later in this section. In addition, each municipal court must report twice a year to the court en banc on all intoxication-related offenses. (Section 1.4 Administrative Reporting Requirements for more details).

Criminal history reporting does **not** satisfy the reporting requirements for traffic citation dispositions. See Section 3.4 Citation Processing Procedures for reporting to the Department of Revenue (DOR).

LAW ENFORCEMENT REPORTING (Section 43.503.2 and 43.503.8 RSMo)

A criminal history record begins when a law enforcement agency manually completes a State Criminal Fingerprint Card, a three part form, or obtains fingerprints electronically using Live Scan. Fingerprints should be obtained at the time of arrest or ordered by the judge at the initial court appearance. The law enforcement agency will submit their copy of the fingerprints to the Missouri Criminal Records Repository (MCRR), at which time a criminal history record is established. The Offense Cycle Number (OCN) is a unique number and is preprinted on the State Criminal Fingerprint Card or is pre-assigned for Live Scan use. All subsequent actions on this incident are reported to the central repository using the OCN. The criminal history record uses the fingerprint to establish positive identification and the OCN is used for tracking each arrest charge to a final disposition.

EXAMPLE OF COMPLETED CRIMINAL FRINGERPRINT CARD
ITEMS IN BOLD ARE MANDATORY FIELDS



TYPE OR PRINT ALL INFORMATION IN BLACK INK

SID NO. MO	LAST NAME	FIRST NAME	MIDDLE NAME	DATE OF BIRTH	OFFENSE CYCLE NO.
	DOE, JOHN H			01/01/1980	99123456

FBI NO.	RESIDENCE	PLACE OF BIRTH	SOCIAL SECURITY NO.
	1234 SUNNY LANE KIRKSVILLE, MO 63501	MO	123-45-6789

MSHP BARCODE	SEX	RACE	HGT	WGT	EYES	HAIR	COUNTY OF ARREST	ORIGINATING AGENCY NAME & ORI
	M	W	601	190	BRO	BRO	001	MO0010100 KIRKSVILLE PD 201 SOUTH FRANKLIN KIRKSVILLE, MO 63501

DATE OF ARREST	DATE OF OFFENSE	DATE FINGERPRINTED
06/01/2010	06/01/2010	06/01/2010

OFF. TYPE (F, M, O)	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE		
1. O	90510990	xxx.xxx	Assault		☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☒ REFERRED TO MUNICIPAL PA
WARRANT ARREST:	COURT CASE NO.		COMMENTS		
2.					☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA
WARRANT ARREST:	COURT CASE NO.		COMMENTS		
3.					☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA
WARRANT ARREST:	COURT CASE NO.		COMMENTS		

PROSECUTOR REPORTING (Section 43.503.5 RSMo)

Disposition Reporting Process: When charges are referred to the prosecuting attorney by law enforcement the arresting agency should forward the Prosecutor Action segment and the Court Action segment of the State Criminal Fingerprint Card to the prosecutor's office. Using the Prosecutor Action segment the prosecuting attorney will notify the MCRR of charges that are not filed, deferred, or diversions. If charges are filed, the prosecuting attorney will forward the Prosecutor Action and Court Action segments of the State Criminal Fingerprint Card to the court. This provides the court with the current charges and the OCN associated with those charges.

EXAMPLE OF COMPLETED PROSECUTOR ACTION FILING
ITEMS IN BOLD ARE MANDATORY FIELDS

SID NO. MO.	LAST NAME DOE, JOHN H	FIRST NAME	MIDDLE NAME					DATE OF BIRTH 01/01/1980	OFFENSE CYCLE NO. 99123456
FBI NO.	RESIDENCE 1234 SUNNY LANE KIRKSVILLE, MO 63501							PLACE OF BIRTH MO	SOCIAL SECURITY NO. 123-45-6789
MSHP BARCODE	SEX M	RACE W	HGT. 601	WGT. 190	EYES BRO	HAIR BRO	COUNTY OF ARREST 001	ORIGINATING AGENCY NAME & ORI MO0010100 KIRKSVILLE PD 201 SOUTH FRANKLIN KIRKSVILLE, MO 63501	
	DATE OF ARREST 06/01/2010		DATE OF OFFENSE 06/01/2010		DATE FINGERPRINTED 06/01/2010				

OFF TYPE (F, M, O)	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE	
1. O	90510990	xxx.xxx	ASSAULT	☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☒ REFERRED TO MUNICIPAL PA
WARRANT ARREST: COURT CASE NO.			COMMENTS	
OFF TYPE (F, M, O) 2.	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE	☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA
WARRANT ARREST: COURT CASE NO.			COMMENTS	
OFF TYPE (F, M, O) 3.	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE	☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA
WARRANT ARREST: COURT CASE NO.			COMMENTS	

PROSECUTOR ACTION

CHARGE 1 ☐ FELONY ☐ MISD. ☒ ORDINANCE	☒ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE ASSAULT					CHARGE CODE 90510990	NCIC CODE (ORDINANCE CHARGES ONLY) 1399	
CHARGE 2 ☐ FELONY ☐ MISD. ☐ ORDINANCE	☐ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE					CHARGE CODE	NCIC CODE (ORDINANCE CHARGES ONLY)	
CHARGE 3 ☐ FELONY ☐ MISD. ☐ ORDINANCE	☐ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE					CHARGE CODE	NCIC CODE (ORDINANCE CHARGES ONLY)	
CHARGE 4 ☐ FELONY ☐ MISD. ☐ ORDINANCE	☐ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE					CHARGE CODE	NCIC CODE (ORDINANCE CHARGES ONLY)	
CHARGE 5 ☐ FELONY ☐ MISD. ☐ ORDINANCE	☐ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE					CHARGE CODE	NCIC CODE (ORDINANCE CHARGES ONLY)	
CHARGE 6 ☐ FELONY ☐ MISD. ☐ ORDINANCE	☐ FILED	☐ NOT FILED	☐ NOLLE PROS	☐ AMENDED	☐ NO TRUE BILL	☐ DEFERRED	☐ COMBINED / CONSOLIDATED	
	LITERAL DESCRIPTION OF THE OFFENSE					CHARGE CODE	NCIC CODE (ORDINANCE CHARGES ONLY)	

PROSECUTOR'S ORI	SIGNATURE	DATE ACTION TAKEN

MAIL TO: MISSOURI STATE HIGHWAY PATROL
CRIMINAL RECORDS & IDENTIFICATION DIVISION
P. O. BOX 9500
JEFFERSON CITY, MO 65102
PHONE: (573) 526-6153

COURT REPORTING (Section 43.503 RSMo)

The court clerk reports charges filed, amended charges and any disposition (including not guilty, dismissed, and Suspended Imposition of Sentence (SIS)) associated with each OCN.

For manual reporting courts, the Clerk forwards the Prosecutor Action segment to MSHP when the case is filed.

If, at the time of the initial hearing, an OCN was not established for any offense(s) for which a fingerprint is required by statute to be collected, maintained or disseminated by MCRR, the court shall order a law enforcement agency to immediately fingerprint the defendant using the Order for Fingerprinting form located at the end of this section.

Once the person is fingerprinted, the law enforcement agency will forward the State Criminal Fingerprint Card to the MCRR within 30 days and shall furnish the OCN associated with the fingerprints to the prosecuting attorney and the clerk of the court that ordered the fingerprinting.

Non-JIS Courts should use the Missouri State Charge Code Manual to determine if the charge requires an OCN. OSCA recommends preparing the Order to Fingerprint at the time of filing if the OCN is not provided on reportable offenses. This will ensure the OCN is obtained prior to disposition.

JIS Courts should use the OSCA Reports Circuit Court Calendar and select the "Print OCN Description" report option when preparing the court calendar. This option will print the OCN on file, advise the OCN is required (if not on file), or advise the OCN is not required. Utilizing this option allows the court clerk to prepare, ahead of time, the Order for Fingerprinting for the judge's signature to ensure the OCN is obtained prior to disposition.

The OCN can consist of all numeric or both alpha and numeric characters, however the OCN will always be 8 characters in length and should never be fabricated. The OCN must be the exact identifier that appeared on the original fingerprint card.

Note: at some point in the future, the fingerprint card may be replaced with another biometric means of unique identification.

Below are examples of the completed court action copy of the State Criminal Fingerprint Card that the court clerk will receive from the prosecuting attorney and will complete at disposition.

Example of a Completed Municipal Division Copy

Court should record the filing and disposition for each charge including the disposition date, sentence, and include the court's ORI number

Mail completed disposition to:
Missouri State Highway Patrol
Criminal Justice Information Services Division MSHP - CJIS
P.O. Box 9500
Jefferson City, MO 65102

EXAMPLE OF A COMPLETED COURT DISPOSITION
ITEMS IN BOLD ARE MANDATORY FIELDS

SID NO. MO.	LAST NAME / FIRST NAME / MIDDLE NAME	DATE OF BIRTH	OFFENSE CYCLE NO.
	DOE, JOHN H	01/01/1980	99123456
FBI NO.	RESIDENCE: 1234 SUNNY LANE, KIRKSVILLE, MO 63501	PLACE OF BIRTH: MO	SOCIAL SECURITY NO.: 123-45-6789

MSHP BARCODE	SEX	RACE	HGT.	WGT.	EYES	HAIR	COUNTY OF ARREST	ORIGINATING AGENCY NAME & ORI
	M	W	601	190	BRO	BRO	001	MO0010100 KIRKSVILLE PD 201 SOUTH FRANKLIN KIRKSVILLE, MO 63501

DATE OF ARREST	DATE OF OFFENSE	DATE FINGERPRINTED
06/01/2010	06/01/2010	06/01/2010

OFF TYPE (F, M, O)	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE	WARRANT ARREST: COURT CASE NO.	COMMENTS	
1. O	90510990	xxx.xxx	ASSAULT			☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☒ REFERRED TO MUNICIPAL PA
2.						☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA
3.						☐ NO FURTHER ACTION ☐ TURNED OVER TO ☐ REFERRED TO STATE PA ☐ REFERRED TO MUNICIPAL PA

COURT ACTION

CHARGE 1	☒ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT
CHARGE 2	☐ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT
CHARGE 3	☐ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT
CHARGE 4	☐ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT
CHARGE 5	☐ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT
CHARGE 6	☐ GUILTY	☐ SES	☐ SIS	☐ CONFINEMENT	☐ NOT GUILTY	☐ NOT GUILTY / MENTAL DISEASE OR DEFECT	☐ CHANGE OF VENUE	☐ DISMISSED BY PA ☐ DISMISSED BY COURT

OFF TYPE (F, M, O)	CHARGE CODE	STATE STATUTE	LITERAL DESCRIPTION OF THE OFFENSE	LENGTH OF SENTENCE	TERM OF PROBATION	FINE AMOUNT
1. O	90510990		ASSAULT			$250.00
2.						
3.						
4.						
5.						
6.						

COURT'S ORI	SIGNATURE	DATE ACTION TAKEN

MAIL TO: MISSOURI STATE HIGHWAY PATROL
CRIMINAL RECORDS & IDENTIFICATION DIVISION
P. O. BOX 9500
JEFFERSON CITY, MO 65102
PHONE: (573) 526-6153

REQUESTS FOR CRIMINAL HISTORY RECORDS AND USE OF INFORMATION (Sections 43.500, 43.527, 43.530, 43.532 and 43.540 RSMo)

The MSHP CJIS Division is responsible for compiling and disseminating complete and accurate criminal history records and for compiling, maintaining and disseminating criminal incident and arrest reports and statistics. Any requests from the public or corporations to the courts for criminal history records should be referred to the MSHP CJIS at (573) 526-6153. The requestor shall be responsible for contacting CJIS to determine the documents required for completing the request, providing payment and the method of payment.

The use of any information obtained from MCRR is limited to the purpose for which it was intended. If someone obtains a criminal history report from the central repository under false pretenses or for a purpose other than for providing criminal history information to the requestor for its intended purpose, they are guilty of the class A misdemeanor. A criminal justice agency receiving a request for criminal history information under their control, may request verification of the identity (including fingerprints) of the person the information is being requested on before releasing the confidential records.

An individual shall be given an opportunity to challenge the information contained in his/her criminal history report through the Missouri State Highway Patrol. If the record is inaccurate or incomplete, the Missouri State Highway Patrol will notify the court and make any changes deemed necessary by the court.

USE OF CRIMINAL HISTORY RECORDS FOR EMPLOYMENT (Sections 43.506, 43.527, 43.530, 43.535, 43.536, 43.540, 43.542, 43.543, 43.547, 313.810, 313.810, 313.220, 210.025, 210.487, 67.1818, 571.101, 590.060 RSMo), National Child Protection Act as amended by the Volunteers for Children Act and the Adam Walsh Act

Criminal history record information is used to provide authorized state agencies with information for screening applicants or candidates seeking or being considered for employment, assignment or appointment to a position with specific agencies or for issuance or renewal of a license, permit, certificate or registration of authority from an agency. Such employment positions include, but are not limited to:

* School bus drivers and any position in a school;

* Bingo equipment and supply manufacturer or supplier;

* Any person seeking employment with, issuance or renewal of a gaming license from the Missouri Gaming Commission;

* Positions:

    - In direct care, public or private, residential or special care programs, not-for-profit or voluntary,

    - That provides care, placement or educational services to any child, the elderly or persons with disabilities as patients or residents,

    - Including businesses or organization that licenses or certifies others to provide care or placement service, or

- Overseen by or issue or renew any license, certificate, permit or registration from the Department of Social Services, Department of Mental Health or Department of Health and Senior Services;

* Any Board or Commission under the purview of the Administrative Hearing Commission pursuant to Section 621.045 RSMo;

* Any person seeking employment with, issuance or renewal of a license, certificate, permit or registration to conduct business from the Division of Professional Registration of the Department of Economic Development;

* Any person seeking employment with, issuance or renewal of a license, certificate, permit or registration from the Department of Elementary or Secondary Education; or

* Any position under the purview of the Supreme Court of Missouri.

Criminal history records are also used by law enforcement agencies for screening persons for employment or access to an academy police school, for persons seeking a permit to purchase or possess a firearm for employment as a watchman, security personnel or private investigator, and for persons seeking issuance or renewal of a license, permit, certificate or registration to purchase, possess or carry a concealed firearm.

REPORTING INTOXICATION-RELATED TRAFFIC OFFENSES TO THE REPOSITORY (Section 577.005 RSMo and 577.006 RSMo)

Each law enforcement agency and each county and municipal prosecutor must establish policies regarding required reporting of intoxication-related traffic arrests and charges not filed to the criminal history central repository as required by Section 43.503 RSMo. Such policy must be provided when applying for any grants administered by the Missouri department of public safety.

Each municipal court must establish a written policy to ensure all required intoxication-related traffic offense information is reported to the criminal history repository in a timely manner (Section 577.006 RSMo). The policy must be filed with the central repository and the Office of State Court Administrator at the addresses listed below. It is essential that courts be proactive in this area to assure all intoxication-related traffic cases have an OCN and are reported accurately and timely to the criminal history repository.

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

Office of the State Court Administrator
Attn: Court Services Division, DWI Reporting Policy
PO Box 1044480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-5961

CLERK'S DUTIES/PROCEDURES

COURTS WITHOUT JIS

1. To report filing information, the court clerk is required to submit the Prosecutor Action segment to the MSHP at case initiation. Note: Any court clerk that provides clerical support for the city prosecutor shall notify the central repository of the decision to defer or not file criminal charges on any charge referred for prosecution that is reportable under Section 43.503 RSMo. Send to:

   Missouri State Highway Patrol
   Criminal Justice Information Services Division
   MSHP - CJIS
   PO Box 9500
   Jefferson City, MO 65102

2. If at the first court hearing, the fingerprint number has not been provided to the court and the charge as listed in the Missouri Charge Code Manual requires criminal history reporting (OCN reporting), prepare the "Order for Fingerprint" form as found in Section 3.3a and provide to the court to order fingerprints be taken

3. Report **disposition** information on the white (court) copy or the court action segment of the fingerprint card. If blue form or Prosecutor Action segment was not submitted in step 1 or 2, also report the filings on the white or court copy.

4. Make and place a copy of the fingerprint card in the file.

5. Send the original to the Highway Patrol at the above address:

   NOTE: It is possible to have more than one OCN fingerprint card for a single case. This can occur when charges from multiple arrests (creating multiple OCNs) are combined into one case or when a defendant has been arrested on an offense(s) more than one time (creating duplicate OCNs). Duplicate OCNs can occur when a defendant is arrested and fingerprinted by a city police department and fingerprinted again when being booked

into the county jail for holding or arrested and fingerprinted again when a warrant is executed for the same offense.

Complete Step 6 only if defendant has multiple/duplicate OCNs

6. Any corrections or explanations for multiple or duplicate OCN fingerprint cards should be processed as follows:

   6.1 Manually complete the State Criminal Fingerprint Card Form (if available), or provide a memorandum to the MSHP for each duplicate OCN fingerprint card received noting the following information:

   * Court ORI.

   * Defendant's Name.

   * Provide the Duplicate/Multiple OCN number and the original OCN number (please indicate and specify whether duplicate or multiple, such as stating "OCN x is a duplicate of OCN y in that OCN x was an arrest on a warrant issued for charges reported on OCN y" or "OCN x is a multiple of OCN y in that both charges were filed in case number 123 and all subsequent information will be contained within OCN x").

   * Case Number.

   6.2 Mail the duplicate OCN information to:

   Missouri State Highway Patrol
   Criminal Justice Information Services Division
   MSHP - CJIS
   PO Box 9500
   Jefferson City, MO 65102

7. File the document in the case file.

COURTS WITH JIS

NOTE: See the appropriate section below for procedures which reflects your situation.

OCN KNOWN AT TIME OF FILING OF CITATION

1. **CVAQMVI – Custom Quick Citation Entry.** (**See Procedures: Municipal Case Processing in GOLD.**)

1.1. Complete new case initiation procedures. (See Section 2.1, Case Initiation)

* Click on COASITE in the navigation pane and enter the OCN.

2. **CDADOCT – Custom Docket Association Entry. (See Procedures: Docket Entry in GOLD.)**

2.1 Enter the following docket code FOCN - OCN Filed.

NOTE: It is possible to have more than one OCN fingerprint card for a single case. This can occur when charges from multiple arrests (creating multiple OCNs) are combined into one case or when a defendant has been arrested on an offense(s) more than one time (creating duplicate OCNs). Duplicate OCNs can occur when a defendant is arrested and fingerprinted by a city police department and fingerprinted again when being booked into the county jail for holding or arrested and fingerprinted again when a warrant is executed for the same offense.

Complete Steps 3 and 4 only if defendant has multiple/duplicate OCNs. Proceed to step 5 if Defendant only has one OCN.

3. Any corrections or explanations for multiple or duplicate OCN fingerprint cards should be processed as follows:

3.1 Manually complete the State Criminal Fingerprint Card Form (if available), or provide a memorandum to the MSHP for each duplicate OCN fingerprint card received but not entered in Site defined noting the following information:

* Court ORI.

* Defendant's Name.

* Provide the Duplicate/Multiple OCN number and the original OCN number (please indicate and specify whether duplicate or multiple, such as stating "OCN x is a duplicate of OCN y in that OCN x was an arrest on a warrant issued for charges reported on OCN y" or "OCN x is a multiple of OCN y in that both charges were filed in case number 123 and all subsequent information will be contained within OCN x").

* Case Number.

3.2 Mail the duplicate OCN information to:

Missouri State Highway Patrol
Criminal Justice Information Services Division
MSHP - CJIS
PO Box 9500
Jefferson City, MO 65102

4. **CDADOCT-Custom Docket Association Entry (See Procedures: Docket Entry in GOLD.)**

4.1 Use the following docket code:

* ONOTE – Judge/Clerk - Note

4.2 Enter docket text that the memorandum was provided to MSHP and indicate the duplicate or multiple OCN was not entered in the site defined information on the case.

5. File the document in the case file.

NOTE: The Circuit Court Calendar has a feature to identify those cases that are reportable but missing the OCN. When running the Circuit Court Calendar, clerks should select the parameter option "Print OCN Description." This will identify cases where an OCN is required but missing by displaying the statement "OCN Not on File."

OCN NOT RECEIVED AT TIME OF FIRST APPEARANCE

1. **OSCA Reports Calendar:** The Circuit Court Calendar has a feature to identify those cases that are reportable but missing the OCN. When running the Circuit Court Calendar, select the parameter option "Print OCN Description." This will identify cases where an OCN is required but missing by displaying the statement "OCN Not on File."

2. If the OCN is not on file, prepare the Order for Fingerprinting for the judge's signature

3. When the OCN is received, follow procedures "OCN RECEIVED AFTER TIME OF FILING" in this section

OCN RECEIVED AFTER TIME OF FILING

1. **CDADOCT – Custom Docket Association Entry (See Procedures: Docket Entry in GOLD.)**

   1.1. Use the following docket code:

   * FOCN - OCN Filed

2. **CDACASU – Custom Case Information Update (See Procedures: Updating Case Information in GOLD.)**

   2.1. Click on COASITE in the navigation pane and enter the OCN.

   NOTE: It is possible to have more than one OCN fingerprint card for a single case. This can occur when charges from multiple arrests (creating multiple OCNs) are combined into one case or when a defendant has been arrested on an offense(s) more than one time (creating duplicate OCNs). Duplicate OCNs can occur when a defendant is arrested and fingerprinted by a city police department and fingerprinted again when being booked into the county jail for holding or arrested and fingerprinted again when a warrant is executed for the same offense.

Complete Steps 3 and 4 if defendant has multiple/duplicate OCNs. If the defendant only has one OCN, proceed to step 5

3. Any corrections or explanations for multiple or duplicate OCN fingerprint cards should be processed as follows:

   3.1 Manually complete the State Criminal Fingerprint Card Form (if available), or provide a memorandum to the MSHP for each duplicate OCN fingerprint card received but not entered in Site defined noting the following information:

   * Court ORI.

   * Defendant's Name.

   * Provide the Duplicate/Multiple OCN number and the original OCN number (please indicate and specify whether duplicate or multiple, such as stating "OCN x is a duplicate of OCN y in that OCN x was an arrest on a warrant issued for charges reported on OCN y" or "OCN x is a multiple of OCN y in that both charges were filed in case number 123 and all subsequent information will be contained within OCN x").

   * Case Number.

3.2 Mail the duplicate OCN information to:

Missouri State Highway Patrol
Criminal Justice Information Services Division
MSHP - CJIS
PO Box 9500
Jefferson City, MO 65102

4. **CDADOCT-Custom Docket Association Entry (See Procedures: Docket Entry in GOLD).**

4.1 Use the following docket code:

* ONOTE – Judge/Clerk - Note

4.2 Enter docket text that the memorandum was provided to MSHP and indicate the duplicate or multiple OCN was not entered in the site defined information on the case.

5. File the document in the case file.

ELECTRONIC CRIMINAL HISTORY (ECH) PROBLEM LOG

All criminal filings and disposition information is reported electronically to MSHP by OSCA. However, due to data entry errors, cases may not submit electronically to MSHP. These data entry errors must be corrected so that the MSHP will receive final disposition of the charges. Corrections to the data entry errors should be made at the beginning of each week.

To access the errors for correction run one of the following reports:

1. **CWACHPL- Electronic Reporting Problem Log (See Procedures: Creating an Error Log Report in GOLD.)**

* Query for all errors by location.

* For each case listed, note the error description and then click on the appropriate form in the navigation pane to fix the error.

2. **JIS Reports (See Procedures: Missing OCN Report in GOLD.)**

* A printed copy of the OCN and other problem log errors may be obtained by accessing Report.net – Cognos Connection – Public Folders – JIS Reports – Circuit Courts-All Divisions – Exceptions. Choose Criminal History Problem Log by Error Message. Run and print the report by selecting your location,

selecting all error messages, and letting the “Date Qued Selection” default to the earliest and latest dates.

Form

CR102 Order for Fingerprinting

1.4 –REPORTING REQUIREMENTS

References
Statutes: 302.225, 479.080, 577.006, 577.051, and Chapter 610 RSMo
Supreme Court Rules: N/A
Court Operating Rules: 4.28 and 4.29
Publication Date: September 1995
Revised: August 2010

REPORTING TO OFFICE OF STATE COURTS ADMINISTRATOR (COR 4.28)

Each court is required by Court Operating Rule 4 to report case information to the Office of State Courts Administrator (OSCA) on a monthly basis. The report is due by the 15th day of each month with data from the previous month. This data from the report is used to document the work of the municipal divisions, to publish it in the annual report and to use to answer questions of the legislature and the public on the work of the courts. Courts shall report on forms supplied by or in a format approved by OSCA. The Municipal Division Summary Reporting Form is at the end of the section. Courts shall comply on a timely basis with requests from OSCA to correct reporting errors or to supply information omitted from a previous report.

Courts using the JIS System should not submit this report as the system will automatically report all case information to OSCA.

Courts not using JIS should return the completed form to OSCA no later than the 15th day of each month with the data from the previous month by mail, fax and e-mail:

Statistics Section
Office of State Courts Administrator
P.O. Box 104480
Jefferson City, MO 65110
573-526-0338 (Fax)
SWJIS.Reports@courts.mo.gov (E-mail)

REPORTING INTOXICATION-RELATED TRAFFIC OFFENSES TO THE CIRCUIT COURT EN BANC (Section 577.006 RSMo)

Municipal divisions shall submit a report every 6 months stating the total number and disposition of all intoxication-related traffic offenses adjudicated, dismissed or pending in the municipal division. The report shall be compiled twice annually, for the periods ending June 30 and December 31, and shall be submitted to the circuit court en banc no later than 60 days following the last day of the

reporting period. The circuit court en banc will make recommendations or take action it deems appropriate after review of the report.

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.

Courts without JIS

Unless instructed by the circuit court to provide additional information or to report in a different manner, 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.

Courts with JIS

Unless instructed by the circuit court to provide additional information or to report in a different manner, run the following Report.Net reports for the 6 month period being reported to the circuit court:

* Alcohol and Drug Related Traffic by Filing Detail. Verify all cases have been correctly entered as O3 case types. Correct any cases that are not correctly shown as O3 case types.

* Alcohol and Drug Related Traffic by Filing Summary.

* Alcohol and Drug Related Traffic by Disposition Summary. Run the Detail report to verify the numbers if necessary.

* Alcohol and Drug Related by Pending Detail.

* Transfer the totals from the reports to the "Municipal Division Summary Reporting Form." completing Section I and Section II (rows B, C 1 -9 and D) for the column labeled "Alcohol and Drug Related Traffic."

Send the Municipal Division Summary Reporting form along with a cover letter to the presiding judge of the circuit to meet the bi-annual reporting requirement to the circuit court en banc. Provide a copy to the municipal division judge.

REPORTING TO THE MUNICIPALITY (Section 479.080.3 RSMo & COR 4.29)

Chapter 479 RSMo requires the court to submit to the municipality a list of all cases heard during the preceding month, however, Court Operating Rule 4.29 allows the municipal division to submit the Municipal Division Summary Reporting form to fulfill this requirement.

REPORTING INTOXICATION-RELATED TRAFFIC OFFENSE POLICY TO OSCA AND MSHP (Section 577.006 RSMo)

Each municipal court must establish a written policy to ensure all required intoxication-related traffic offense information is reported to the criminal history repository in a timely manner (Section 577.006 RSMo). The policy must be filed with the central repository and the Office of State Court Administrator at the addresses listed below. It is recommended that courts use Municipal Court Operating Order #1, found in Section 1.1, General Administration Procedures or Appendix K of this manual.

It is essential that courts be proactive in this area to assure all intoxication-related traffic cases have an OCN and are reported accurately and timely to the criminal history repository.

The policy (preferable Municipal Court Operating Order #1) and any changes made to the policy must be sent to:

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

Office of the State Court Administrator
Attn: Court Services Division, DWI Reporting Policy
PO Box 1044480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-5961

REPORTING TO THE MISSOURI DEPARTMENT OF REVENUE (Sections 302.225.1 and 577.051 RSMo)

The court must report case disposition information on moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence's (SIS); all convictions while driving a commercial motor vehicle, including commercial drivers' license holders driving a personal vehicle, to the Missouri Department of Revenue (DOR). The report is to be received by DOR within seven days of disposition; this **DOES NOT** include the 10 day timeframe for filing a trial de novo. Refer to Section 3.4. Citation Disposition Reporting of this manual.

FINGERPRINT REPORTING TO THE MISSOURI STATE HIGHWAY PATROL (Section 43.506 RSMo)

Report any plea of guilty for all dispositions involving violations of Sections 577.010 through 577.023 RSMo, or violations of county or municipal ordinances involving alcohol or drug related driving offenses to the Missouri State Highway Patrol within 30 days of case disposition. This disposition must be reported using the Offense Cycle Number (OCN) from the Missouri State Criminal Fingerprint Card, which is completed by the arresting agency at the time of the arrest or

when ordered by the court. See Section 3.3, Criminal History Disposition Reporting for additional information.

Forms

Municipal Division Summary Reporting Form
Municipal Division Summary Reporting Form Instructions

MUNICIPAL DIVISION SUMMARY REPORTING FORM
Please refer to Instructions for definitions of terms and directions for completion.
In addition, please complete and report each month, even if there are no new cases filed and/or heard.

I. COURT INFORMATION

Reporting Month/Year

Prepared by | Telephone Number ( )

Municipality | County | Circuit

Court Location Code (if applicable) | Number of Court Staff

II. MONTHLY CASELOAD INFORMATION

	Alcohol and Drug Related Traffic	Other Traffic	Non-Traffic Ordinance
A. Cases (Citations/Informations) Pending – 1st of month			
B. Cases (Citations/Informations) Filed			
C. Cases (Citations/Informations) Disposed			
1. Jury Trial (Springfield only)			
2. Court/Bench Trial - Guilty			
3. Court/Bench Trial – Not Guilty			
4. Plea of Guilty in Court			
5. Violations Bureau Citations and Bond Forfeitures by Court Order (as payment of fines/costs)			
6. Dismissed by Court			
7. Nolle Prosequi			
8. Certified for Jury Trial (not heard in Municipal Div.)			
9. TOTAL CASE DISPOSITIONS			
D. Cases (Citations/Informations) Pending - End of Month (A + B – C9)			
E. Trial De Novo and/or Appeal Applications Filed			

III. WARRANT INFORMATION (Pre and Post Disposition)

1. Total Issued for Reporting Month
2. Total Outstanding at End of Month

IV. PARKING TICKETS

Issued

☐ Court staff does not process parking tickets

V. NET COLLECTIONS

Fines	$
Clerk/Court Fee (Costs)	$
Peace Officer Standards and Training (POST) Fund Surcharge	$
Crime Victims Compensation (CVC) Fund Surcharge	$
Law Enforcement Training (LET) Fund Surcharge (if authorized)	$
Domestic Violence Shelter Surcharge	$
Inmate Security Fund Surcharge	$
Restitution	$
Other (please specify):	$

Revenue Received for Parking Tickets	$
Bond forfeitures NOT used for costs/fines	$
TOTAL	$

VI. OTHER COLLECTIONS

Total retained for Judicial Education Fund (JEF) $

☐ Court does not collect JEF

Revised Jan. 2005

IN THE _____ JUDICIAL CIRCUIT COURT, _____, MISSOURI

Judge or Division:	**Case Number:**	
Petitioner Name/Address:	City of _____ (if municipal)	
vs.	Driver's License No. / Expiration Date:	
Director of Revenue State of Missouri	DOB:	(Date File Stamp)

Order Expunging First Alcohol-Related Traffic Offense Pursuant to Section 577.054 RSMo

On _____ (date), the Court finds as follows:

1. Petitioner was convicted of _____ on _____ (date) in the _____ court of _____, Missouri, more than ten years prior to the date of filing of the application herein.
2. Petitioner has not been issued or is not required to possess a commercial driver's license issued by this state or any other state.
3. Petitioner is a first-time alcohol offender who had pleaded guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial vehicle while under the influence of alcohol.
4. Petitioner has not been convicted of any other alcohol-related driving offense and has no other alcohol-related enforcement contacts as defined in Section 302.525 RSMo since the date of conviction, and has no other alcohol-related driving charges or alcohol-related enforcement actions pending at the time of hearing on this application.
5. The Department of Revenue has been served, and based upon duties under Section 577.054 RSMo, has no objection to this expungement as denoted by the answer in the file.
6. Petitioner has not previously obtained an expungement pursuant to the provisions of Section 577.054 RSMo.

Therefore, it is so Ordered:

Petitioner's conviction of _____ on _____ (date) is hereby expunged. Any records maintained by the courts or administrative agency shall be expunged, maintained as confidential records and available only to the parties or by order of court for good cause shown. The effect of this order shall be to restore petitioner to the status he/she occupied prior to his/her arrest, plea and conviction as if such event had never taken place. A copy of this order shall be sent to the Director of Revenue and any other courts or agencies which may have a record of this conviction.

_____ Date

_____ Judge