COMMITTEE ON LEGISLATIVE RESEARCH OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5816-05

Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SCS for SB 852

Subject: Law Enforcement Officers and Agencies; Public Safety Department; St. Louis

City

Type: Original Date: June 4, 2014

Bill Summary: This proposal changes the laws regarding public safety.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2015	FY 2016	FY 2017	
General Revenue	(More than \$1,491,597)	(More than \$1,491,651)	(More than \$1,492,056)	
Total Estimated Net Effect on General Revenue Fund	(More than \$1,491,597)	(More than \$1,491,651)	(More than \$1,492,056)	

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2015	FY 2016	FY 2017	
Line of Duty Compensation*	\$0	\$0	\$0	
University Funds	(Could exceed \$83,333)	(Could exceed \$100,000)	(Could exceed \$100,000)	
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$83,333)	(Could exceed \$100,000)	(Could exceed \$100,000)	

^{*}Potential increase and extension of program expenditures offset by Transfers-In from the General Revenue Fund

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 16 pages.

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ESTIMATED NET EFFECT ON FEDERAL FUNDS					
FUND AFFECTED	FY 2015	FY 2016	FY 2017		
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0		

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2015	FY 2016	FY 2017	
General Revenue	2 FTE	2 FTE	2 FTE	
Total Estimated Net Effect on FTE	2	2	2	

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS					
FUND AFFECTED FY 2015 FY 2016 FY 2017					
Local Government* \$0 \$0					

^{*} Losses and Savings that should net to zero.

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FISCAL ANALYSIS

ASSUMPTION

Section 44.095 - Law enforcement mutual aid region:

In response to a similar proposal from this year (HB 2041), officials at **Ray County** assumed an unknown cost from this proposal.

Oversight assumes that since all members responding are deemed employees of their respective local political subdivisions, liability and workers' compensation are provided to the employees of the respective local political subdivision. Therefore, Oversight will show a \$0 fiscal impact to local political subdivisions.

Officials from the **Office of Administration - General Services Division** state this part of the proposal would have the potential exposure to the legal expense fund for actions of the Missouri State Highway Patrol while responding to potential critical incidents in bordering counties in Kansas.

Officials at the **Department of Public Safety's Missouri Highway Patrol (MHP)** stated since all members responding remain employees of their respective political subdivision or public safety agency, and the liability and workers' compensation is provided to the employees of the respective political subdivision or public safety agency, the MHP assumes no fiscal impact.

In response to a similar proposal from this year (HB 2041), officials at the **Jackson County Sheriff's Department** and the **City of Kansas City** each assumed no fiscal impact to their respective organizations from this proposal.

Sections 84.340, 571.030, and 590.750 - Corporate Security Officers:

Officials from the **Department of Public Safety - Office of the Director (DPS)** state this bill requires DPS to regulate and license all corporate Security Advisors. DPS will have to promulgate rules to implement the provisions of the law and shall oversee the licensing of Security Advisors. The addition of the program will necessitate the hiring of a Program Representative II. DPS assumes the total cost for this additional FTE to be approximately \$55,000 per year.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact their agency.

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ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender** (**SPD**) cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of acting as a corporate security advisor without a license from the Department of Public Safety; a new class A misdemeanor.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal

In response to previous versions of this proposal, officials from the **Department of Corrections** (**DOC**) stated penalty provisions for violations, a component of the bill to also have potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY13 average of \$5.07 per offender, per day or an annual cost of \$1,851 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the St. Louis Metropolitan Police Department, and the Kansas City Police Department did not respond to our request for fiscal impact.

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ASSUMPTION (continued)

Oversight assumes DPS will be able to charge fees for the licensing and renewal of licenses for corporate security advisors. Oversight does not know the number of corporate security advisors that are licensed each year by the St. Louis Metropolitan Police Department and the Kansas City Police Department. In the Code of State Regulations (17 CSR 10-2.040), the Board of Police Commissioners of Kansas City, Missouri has established the following fee schedule:

Annual Company License	\$3	300
Class A - Armed License	\$1	45
Class A - Armed License Renewal	\$	90
Replacement of Lost/Stolen License	\$	65
Rescheduling Fee	\$	85

Oversight doesn't know how many licenses DPS will need to issue, or what fees DPS will charge; therefore, we will reflect an unknown amount of revenue into the General Revenue Fund for these fees. However, Oversight assumes DPS will charge fees sufficient to cover their costs of administering this license.

Oversight will also reflect a loss of fees to the local political subdivisions as well as a savings for not having to administer the licensing. Oversight will assume the two will offset.

Section 105.935 - Department of Corrections compensatory time:

Officials from the **Office of Administration - Division of Personnel** state there may be significant fiscal impact to the Department of Corrections in regard to overtime pay-off; however, it would be difficult to predict with any certainty or accuracy how many hours of overtime would be accrued and the pay rates of the staff involved. Therefore, the fiscal impact is unknown.

Officials from **DOC** state the proposed language, "Compensatory time shall be considered accrued upon completion of time worked in excess of such employee's normal assigned shift,..." reflects the recent ruling by the Western District in Missouri Corrections Officers Association v. Missouri Department of Corrections, WD 75418, which held, in essence, that a corrections officer's compensatory time accrues at the end of the shift in which he has worked excess time, and not at the end of the workweek. DOC is already aware of the need to modify the procedure affected by the court case. DOC has changed the way it manages compensatory time in a manner that is compatible with the court case and has not seen any appreciable increase in the accrual of compensatory time. Therefore, it is believed that passage of this legislation would not lead to

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ASSUMPTION (continued)

any significant accrual of additional compensatory time, therefore having \$0 to minimal impact on the Department.

The only concern is whether the proposed language requires that the compensatory time considered accrued upon completion of time worked in excess of an employee's normal assigned shift should be paid out at the rate of time and one-half or at the employee's straight rate of pay. It is assumed that this legislation is proposed in order to implement the court case and not alter the way the FLSA calculates compensatory time.

Sections 191.630 - 191.631 Communicable disease and repeal of Sections 192.800 - 192.808:

In response to a similar proposal from this year (SB 918), officials from the **University of Missouri Health Care (University)** stated they have reviewed the proposed legislation, as written, and have determined there is a significant potential negative impact to the University in excess of \$100,000 annually. The University states the added costs include additional testing for emergency type personnel and the additional supplies and equipment that would be required for this testing.

In response to a similar proposal from this year (SB 918), officials from the **Cole County Sheriff's Department** assumed this proposal would have a minimal fiscal impact on their organization.

Officials from the **Department of Health and Senior Services** and the **Department of Mental Health** each state the provisions of this proposal should create no fiscal impact on their respective agencies.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** assumed that hospitals and nursing facilities are required to notify the emergency care worker or Good Samaritan of the known communicable disease up front. There is no fiscal impact to MHD.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

In response to a similar proposal from this year (SB 918), officials from the **Office of Secretary of State (SOS)** stated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The

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ASSUMPTION (continued)

Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect that additional funding would be required to meet these costs. However, it is also recognized that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Section 287.243 - Line of Duty Compensation Act expansion/extension:

Officials from the **Department of Labor and Industrial Relations (DOLIR)** provided the following response to this proposal:

DOLIR officials stated the benefit class of recipients who could be awarded Line of Duty Compensation benefits would be increased based on the expansion of what constitutes "Killed in the line of duty" in §287.243.2(5)(b) of the proposal. Therefore, the number of pay-outs would increase given the larger number of qualifying individuals. The number cannot be estimated, therefore, the increase is unknown.

DOLIR officials included an estimate of unknown additional cost for the General Revenue Fund in their response.

Oversight notes this program was enacted on June 19, 2009. No payments were made in FY 2009 or FY 2010, but payments (\$25,000 for each) were made on five claims in FY 2011, two claims in FY 2012 and thirteen claims (\$325,000) in FY 2013. Oversight has no information as to the potential increase in eligible claimants for this program which would result from implementing this proposal, and will indicate unknown transfers from the General Revenue Fund to the Line of Duty Compensation Fund and unknown payments to beneficiaries from the Line of Duty Compensation Fund for DOLIR.

Oversight also notes this program was to sunset on June 19, 2015 and terminate September 1, 2016. Oversight notes that this proposal extends the sunset date to June 2025.

Officials from the **Office of Administration - Division of General Services (DGS)** noted this proposal would allow for death benefits for any law officers, emergency medical technicians, air ambulance pilots, air ambulance registered professional nurses, paramedics, and firefighters

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ASSUMPTION (continued)

acting in the individual's performance of his or her duties whether the injury is received while the individual is on duty or off duty.

DGS officials assume the proposal would require the state's self insured workers' compensation program fund to pay death benefits for law enforcement officers acting in the individual's performance of his or her duties as a law enforcement officer regardless of whether an injury resulting in death is received while on or off duty.

Oversight assumes this proposal would make changes to and have an impact only on the state program for line of duty compensation, managed by the Department of Labor and Industrial Relations; it would have no direct impact to other state agencies or to local governments.

§334.950 - SAFE CARE

Officials from the **Department of Public Safety (DPS) - Director's Office** state the legislation requires the DPS to establish rules and make payments to SAFE CARE providers, out of appropriations made for that purpose, who provide forensic examinations of persons under eighteen years of age who are alleged victims of physical abuse.

The SAFE program within the Crime Victims Compensation Unit of the DPS received 2,587 claims for suspected sexual assault/rape victims who were under the age of 18 and paid a total of \$1,433,919 to medical providers who performed the sexual assault forensic examination.

In order to provide reimbursement to medical providers for forensic examination of victims of physical abuse, DPS would require the following:

One FTE for a staff person to process claims (Processing Technician, \$25,572 annually) plus related fringe benefits, equipment and expense. Total FY15 costs to the General Revenue (GR) Fund are estimated to be \$39,597; FY16 costs to GR of \$39,651; and FY17 costs to GR of \$40,056.

Oversight notes the FY 2015 budget (Section 8.050) for the Department of Public Safety that has been approved by the legislature but that is still awaiting action by the Governor, appropriates \$1,452,000 to reimburse SAFE CARE providers for performing forensic medical exams on children suspected of having been physically abused. Since this is a new program/new decision item, Oversight will present this cost in the fiscal note for each FY 2015, FY 2016, and FY 2017.

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ASSUMPTION (continued)

§632.520 - Violence to a Department of Mental Health Employee:

Officials from the **Department of Corrections** state the penalty provision component of this bill resulting in a potential fiscal impact for the DOC is for up to a class B felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender costs either through incarceration (FY 13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY 13 average of \$5.07 per offender, per day, or an annual cost of \$1,851 per offender).

Therefore, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Sixteen (16) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes of knowingly committing violence to an employee of the Department of Mental Health (DMH) or to another offender housed in a secure facility. Violation of this new subsection would become a new class B felony and knowingly damaging any building or other property owned or operated by the DMH would become a new class C felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Mental Health (DMH)** state the proposed legislation imposes no additional duties nor threatens current revenues. No fiscal impact is anticipated.

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<u>ASSUMPTION</u> (continued)

Based on discussions with DMH staff, **Oversight** notes that the DMH would not expect to have significant savings as a result of sending one or two people to the DOC as a result of this proposal. The DMH receives funding for a "ward", rather than for the number of people in their care. The DMH does not believe they would ever send enough individuals to the DOC in a year to save the cost of an entire ward.

In response to a similar proposal from this year (HB 1243), officials from the **Office of Administration - Division of General Services** stated this legislation (§632.520.2) could potentially result in savings to the state's workers' compensation program with the following assumption:

That an offender residing in a state mental health facility would be deterred from acting out violently against an employee of the facility knowing that the punishment could result in charges and a possible conviction of a class B felony.

Oversight assumes an unknown savings to the General Revenue Fund.

§300.320 - Repeal of funeral procession identifying insignia:

In response to similar legislation from this year (HB 1993), officials at the Cole County Sheriff's Department, the Jefferson City Police Department, the Springfield Police Department and the Columbia Police Department each assumed no fiscal impact to their respective organizations from this proposal.

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FISCAL IMPACT - State Government	FY 2015 (10 months)	FY 2016	FY 2017
GENERAL REVENUE FUND			
Savings - OA-GS (§632.520) Reduction in workers' compensation program costs	Unknown	Unknown	Unknown
<u>Income</u> - DPS (§590.750) Fees from corporate security officers	At Least \$52,384	At Least \$55,316	At Least \$55,878
Cost - DPS (§590.750) Personal Service Fringe Benefits Expense and Equipment Total Costs - DPS-DO (§590.750) FTE Change - DPS	(\$29,870) (\$15,235) (\$7,279) (\$52,384) 1 FTE	(\$36,202) (\$18,465) (\$649) (\$55,316) 1 FTE	(\$36,564) (\$18,649) (\$665) (\$55,878) 1 FTE
<u>Transfer Out</u> - to Line of Duty Compensation Fund (287.243)	(Unknown)	(Unknown)	(Unknown)
Costs - DPS-DO (§334.950) Personal service Fringe benefits Equipment and expense Provider reimbursement (Section 8.050 of FY 2015 approved budget) Total Costs - DPS-DO FTE Change - DPS	(\$21,310) (\$10,869) (\$7,418) (\$1,452,000) (\$1,491,597) 1 FTE	(\$25,828) (\$13,174) (\$649) (\$1,452,000) (\$1,491,651) 1 FTE	(\$26,086) (\$13,305) (\$665) (\$1,452,000) (\$1,492,056) 1 FTE
Costs - DOC (§632.520) Incarceration and probation costs	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(More than <u>\$1,491,597)</u>	(More than <u>\$1,491,651)</u>	(More than <u>\$1,492,056)</u>
Estimated Net FTE Change for General Revenue Fund	2 FTE	2 FTE	2 FTE

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FISCAL IMPACT - State Government (10 months) FY 2015 FY 2016 FY 2017

LINE OF DUTY COMPENSATION FUND

<u>Transfer In</u> - from General Revenue Fund Unknown Unknown Unknown (287.243)

Cost - DOLIR Line of Duty Compensation Program Changes (287.243)

(Unknown) (Unknown) (Unknown)

ESTIMATED NET EFFECT ON LINE OF DUTY COMPENSATION FUND

FUND \$0 \$0 \$0

UNIVERSITY FUNDS

<u>Costs</u> - University of Missouri Personal services, equipment and supplies and other expenses (Sections 191.630 - 191.631)

ESTIMATED NET EFFECT ON UNIVERSITY FUNDS

(Could exceed (<u>\$83,333)</u>

(Could exceed <u>\$100,000)</u>

(Could exceed \$100,000)

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FISCAL IMPACT - Local Government	FY 2015	FY 2016	FY 2017
	(10 months)		

LOCAL POLITICAL SUBDIVISIONS

Savings - Kansas City and St. Louis Police Departments - no longer regulating corporate security advisors (§590.750)	Unknown	Unknown	Unknown
<u>Loss</u> - Kansas City and St. Louis Police Departments - no longer collecting fees for regulating corporate security advisors (§590.750)	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to emergency service providers, corporate security advisors, reimbursement for child abuse exams, crimes against Department of Mental Health employees and property, and funeral processions.

CORPORATE SECURITY ADVISORS - 84.340, 571.030, & 590.750

Under current law, the St. Louis Board of Police Commissioners has the authority to regulate corporate security advisors.

This act provides that the Department of Public Safety shall have the sole authority to regulate and license corporate security advisors. In addition, this act provides that the authority and jurisdiction of a corporate security advisor is only limited by the geographical limits of the state unless the advisor's license is recognized by another state or the federal government. Any corporate security advisor licensed as of February 1, 2014, is not required to apply for a new license until his or her license expires or is otherwise revoked.

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FISCAL DESCRIPTION (continued)

This act makes acting as a corporate security advisor without a license a Class A misdemeanor.

The Department of Public Safety is granted rulemaking authority to implement the licensing and regulation of corporate security advisors.

COMMUNICABLE DISEASES - 191.630, 191.631

Under current law, hospitals are required to have procedures for notifying emergency care providers about the risk for exposure. This proposal requires a coroner and medical examiner to also have written policies and procedures for notification of an emergency care provider and Good Samaritan. The coroner or medical examiner shall include local representation of a designated infection control officer during the process to develop or review such policies.

All emergency care providers shall respond to and treat any patient regardless of the status of the patient's HIV or other communicable disease infection. Hospitals, nursing homes, and other medical facilities and practitioners who transfer patients known to have a communicable disease or to be subject to an order of quarantine or an order of isolation shall notify the emergency care providers who are providing the transportation services of the potential risk of exposure to a communicable disease, including communicable diseases of a public health threat.

This proposal also repeals sections 192.800 to 192.808.

LINE OF DUTY COMPENSATION FOR EMERGENCY PERSONNEL - 287.243

Under current law, emergency personnel killed in the line of duty are eligible for certain workers' compensation benefits when such person's life is lost as a result of an injury received in the active performance of his or her duties, within the scope of his or her profession, while on duty and but for the performance, death would not have occurred.

This act modifies the standard for eligibility. Under the act, individuals are eligible for compensation when:

- Death is caused by an accident or violence of another;
- The individual is in the active performance of his or her duties and there is a relationship between the accident or commission of the act and the performance of duty, even when off duty; the individual is traveling to or from employment; or the individual is taking a break while on duty;
- The injury is the cause of the death; and
- Death occurs within 300 weeks of the injury.

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FISCAL DESCRIPTION (continued)

Also, this act extends the expiration date on the line of duty compensation program to 2025.

SAFE CARE PROVIDER REIMBURSEMENT -Section 334.950

The Department of Public Safety must establish rules and make payments to SAFE CARE providers, out of appropriations made for that purpose, who provide forensic examinations of individuals under 18 years of age who are alleged victims of physical abuse.

ACT OF VIOLENCE BY A PERSON COMMITTED TO DEPARTMENT OF MENTAL HEALTH - Section 632.520

This proposal specifies that a sexually violent predator ordered or committed to the Department of Mental Health who knowingly commits violence to an employee of the department or to another offender housed in a secure facility operated by the department will be guilty of a class B felony.

An offender who knowingly damages any building or other property owned or operated by the department will be guilty of a class C felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety

Office of the Director

Missouri Highway Patrol

Office of Administration

General Services

Personnel

Department of Corrections

Office of the State Courts Administrator

Office of the State Public Defender

Department of Health and Senior Services

Department of Mental Health

Department of Social Services

Joint Committee on Administrative Rules

Office of the Secretary of State

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SOURCES OF INFORMATION (continued)

Department of Labor and Industrial Relations
Office of Prosecution Services
Jackson County Sheriff's Department
City of Kansas City
Ray County
University of Missouri
Cole County Sheriff's Department
Jefferson City Police Department
Springfield Police Department
Columbia Police Department

NOT RESPONDING:

St. Louis Metropolitan Police Department Kansas City Police Department

> Mickey Wilson, CPA Director

Mickey Wilen

June 4, 2014

Ross Strope Assistant Director June 4, 2014