

# State of South Carolina



## Office of the State Auditor

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November 17, 2014

The Honorable Hugh K. Leatherman, Sr., Chair  
Senate Finance Committee  
and  
The Honorable W. Brian White, Chairman  
House Ways and Means Committee

Dear Sirs:

Section 102.4 of the Fiscal Year 2014–2015 Appropriation Act requires the State Auditor to annually report its findings of the jurisdictions audited to the Senate Finance Committee and House Ways and Means Committee by October 1<sup>st</sup>. When reports completed and issued notification is provided to the chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, the Governor, members and management of the local government, the State Treasurer, the Chief Justice, and State Office of Victim Assistance in accordance with Section 14-1-210(A) of the South Carolina Code of Laws, as amended. Attachment 1 provides summary of the findings, by jurisdiction.

The Office of the State Auditor conducted the court engagements using internal staff and a private certified public accounting (CPA) firm. We issued fourteen reports during the period July 1, 2013 through June 30, 2014, seven engagements were completed using internal staff and seven were completed by the private CPA firm. Another seven engagements were awarded to the private CPA firm, but they were completed before June 30. The remaining engagements were completed by September 30<sup>th</sup>.

Please accept my apology for missing the October 1<sup>st</sup> deadline. Procedures will be implemented to ensure that the reporting deadline is met in the future. Should you have any questions, please contact me at (803) 253-4160.

Sincerely,

Signature Redacted

Richard H. Gilbert, Jr., CPA  
Deputy State Auditor

RHGjr/cwc

**Town of Andrews Municipal Court**  
**Issue Date: June 24, 2014**  
**Schedule of Over/(Under) Reported Fees: (N/A)**

**Adherence of Fine Guidelines**

The Court clerk did not process the following violations in accordance with State law,

- The Court clerk incorrectly entered the Criminal Data Report (CDR) code for a “traffic stop for a vehicle that had illegal tinting” violation as “illegal professional installation of window tinting material”. The total fine was not in accordance with guidelines.
- A defendant pled down a speeding ticket to a lower offense. The clerk incorrectly entered the CDR code of the original charge.
- The clerk input a Non-Resident Violators Compact (NRVC) violation payment related to a 2001 case in order to record the receipt of the fine in the court accounting system. The assessment included the Criminal Justice Academy surcharge. However, the surcharge should not have been included because it did exist in 2001.
- Section 56-5-2933(A) states “A person ... must be punished as follows: (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days.”

The Court fined one defendant charged with DUAC, first offense, less than \$400.

- Section 56-1-460 states “... a person ... must, upon conviction, be punished as follows: ... (b) for a second offense, fined six hundred dollars or imprisoned for sixty consecutive days, or both;”

The Court fined two defendants charged with Driving Under Suspension (DUS), second offense less than \$600.

**Installment Fee**

Section 14-17-725 states, “... where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court...”.

The Court did not assess and collect the three percent installment fee from three defendants who elected to pay the fine through installment. The defendants were not charged the three percent fee because the required information was not input into the court accounting software.

**Breathalyzer Fee**

Section 56-5-2950(B) states, “No tests may be administered or samples obtained unless, ...the person has been given a written copy of and verbally informed that: (1) he does not have to take the test or give the samples...”

The Court assessed a defendant the \$25 breathalyzer test fee for a DUI case in which the defendant refused to take the breathalyzer test and was subsequently convicted.

## **Town of Andrews Municipal Court (Continued)**

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The Town did not remit eleven out of twelve STRRF timely. The forms were submitted from seven to thirty-one days late.

### **Victim Assistance Funds**

Section 14-1-208(B) states, "The city treasurer must remit 11.16 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D)..." Section 14-1-211(B) states "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law."

The Town's general ledger was not available. Therefore we were unable to (1) trace court revenue to the various general ledger accounts, including victim services, (2) determine if the fund balance was carried forward or (3) ensure that the Town properly accounted for its victim services funds. The Town did provide bank statements that we used to trace deposits made during the procedures period. However, we were unable to trace all of the deposits to the bank statements. The Town did not expend any funds for victim assistance services.

### **Supplementary Schedule**

Section 5-7-240 states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..." In addition, Section 14-1208(E) states, "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected...the annual independent external audit required to be performed for each municipality...must include...a supplementary schedule detailing all fines and assessments collected..."

The Town did not provide nor could they explain why their audited financial statements or supplementary schedule of fines and assessments were not available.

## **Barnwell County Circuit and Family Court System**

**Issue Date: June 27, 2014**

**Schedule of Over/(Under) Reported Fees: (N/A)**

### **Public Defender Application Fee**

Section 17-3-30(B) states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation." Section 17-3-45(B) further states that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

## **Barnwell County Circuit and Family Court System (Continued)**

### **Public Defender Application Fee (Continued)**

The Court waived the Public Defender Application fee for seven defendants, but did not document that a waiver was granted on the sentencing sheet or in the court record.

### **Supplementary Schedule**

Section 14-1-206(E) states, "(1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:...."

The beginning and ending fund balance amounts for the victim assistance fund reported in County's schedule of court fines, assessments and surcharges for the fiscal year ended June 30, 2013 did not agree to the County's general ledger.

### **Town of Clover Municipal Court**

**Issue Date: December 5, 2013**

**Schedule of Over/(Under) Reported Fees: (N/A)**

#### **Adherence to Fine Guidelines**

Section 56-5-2930(A) states, "A person who violates the provisions of this section is guilty of the offense of driving under the influence and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows: (1) If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy-two hours nor more than thirty days."

The Court sentenced one defendant to time served for driving under the influence, 0.10 but less than 0.16, first offense, which did not meet the minimum sentence guideline.

#### **Assessment and Collection of Surcharges and Fees**

Section 14-1-208(A) states, "A person who is convicted of, or pleads guilty...for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment."

The Town incorrectly calculated the 107.5% assessment for one defendant.

Section 14-1-211 (A)(1) states, "In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic offenses or parking violations.

The Court did not assess and collect the \$25 conviction surcharge for seven defendants.

## **Town of Clover Municipal Court (Continued)**

### **Assessment and Collection of Surcharges and Fees (Continued)**

Section 17-3-30(B) states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation." Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

The Court did not assess and collect the \$40 public defender application fee from five defendants that applied for a public defender.

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town did not remit four out of twelve STRRF timely. The forms were submitted from one to four days late.

## **Town of Cottageville Municipal Court**

**Issue Date: February 18, 2014**

**Schedule of Over/(Under) Reported Fees: State (\$288,324); Victim Assistance (\$8,065)**

### **Adherence to Fine Guidelines**

Section 56-5-6540 (A) states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

A defendant was fined \$30.00 for a seatbelt violation.

Section 56-5-1520(G) states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars."

An individual was fined \$25.06 for speeding 10 mph or less over the speed limit.

## **Town of Cottageville Municipal Court (Continued)**

### **Conviction Surcharge**

Section 14-1-211 (A)(1) states, "In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in...municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic or parking violations.

The Court did not assess and collect the \$25 conviction surcharge from one defendant.

### **Installment Fee**

Section 14-7-725 states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant...".

The Court did not assess and collect the three percent installment fee from one defendant who elected to pay the fine through installment.

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The Town did not remit seventeen out of thirty-six STRRF timely. The forms were submitted from three days to fifteen months late. The Town was unable to provide copies of the STRRF for the remaining months therefore we were unable to determine if the reports were submitted timely. In addition amounts on the November 2011 STRRF did not agree to the Town's court accounting records.

### **Supplementary Schedule**

Section 14-1-208 (E)(1) states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

Amounts reported for court fines, assessments, and surcharges collected, retained and remitted on the Town's supplemental schedule for fiscal years ended June 30, 2012 and 2011 did not agree to the Town's general ledger or STRRF. In addition victim advocate court assessments and surcharges, expenditures, funds available to carry forward, and funds carried forward from the prior year did not agree with the Town's general ledger.

## **Town of Cottageville Municipal Court (Continued)**

### **Accounting for Victim Assistance Funds**

Section 14-1-211(B) states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision." In addition, Section 14-1-208(D) states, "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16."

The Town recorded three cash transfers totaling \$4,165 from the victim assistance account to pay salaries and benefits. The Town could not provide documentation to support these charges.

### **City of Easley Municipal Court**

**Issue Date: April 2, 2014**

**Schedule of Over/(Under) Reported Fees: (N/A)**

### **Adherence to Fine Guidelines**

City of Easley Code Section 134.99 (D) states, "Any person who violates the provisions of Code Section 134.06 shall in addition to any civil penalties which may be applicable under the laws of this state, up to conviction thereof, be fined not more than \$500, plus a state assessment fee, but not less than \$100, or imprisoned for not more than 30 days, but not less than 10 days, or both".

The Court fined one defendant \$70 for possession of drug paraphernalia which was not consistent with its local ordinance.

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the City to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The City did not remit four out of twelve STRRF timely. The forms were submitted from three to fifteen days late.

### **Conviction Surcharge**

Section 14-1-211 (A)(1) states, "In addition to all other assessments and surcharges,...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended."

The Court did not assess and collect the \$25 conviction surcharge from one defendant.

## **City of Easley Municipal Court (Continued)**

### **Accounting for Victim Assistance Funds**

Section 14-1-208(D), states, "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts." In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 29, 2012, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

The City charged the following to the victim assistance fund which are not allowable: (1) \$258 for electric, street lights, water and sewer charges; (2) \$68 for municipal insurance; and (3) \$1,020 for attorney fees for criminal domestic violence work.

### **Supplementary Schedule**

Section 14-1-208(E)(1) states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

Amounts reported for the City's court fines and assessments retained, court fines and assessments remitted to the State Treasurer, court surcharges collected, and court surcharges remitted to the State Treasurer did not agree to amounts recorded in the City's accounting records. In addition, victim assistance fund expenditures and victim assistance fund ending balance available for carryforward did not agree to the City's accounting records.

## **City of Fountain Inn Municipal Court**

**Issue Date: July 12, 2013**

**Schedule of Over/(Under) Reported Fees: (N/A)**

### **Adherence to Fine Guidelines**

Section 56-1-460(A)(2) states, "A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56-5-2990 must, upon conviction, be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days."

The Court fined the defendant \$299.76 for driving under suspension, license suspended for DUI, first offense.

Section 56-5-1520(G) states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than Fifteen dollars nor more than twenty-five dollars."



## **City of Fountain Inn Municipal Court (Continued)**

### **Adherence to Fine Guidelines (Continued)**

The Court fined four separate defendants \$38.55 for speeding, 10 mph or less over the speed limit.

Section 44-53-370(d)(4) states, "A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars."

The Court fined one defendant \$204.82 and another defendant \$99.76 for possession of 28 grams or less of marijuana or 10 grams or less of hash or cocaine, first offense.

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-206(B) requires the City to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The City did not remit eight out of twelve STRRF tested to the Office of the State Treasurer timely as required by law. The reports were submitted from one to thirteen days late.

## **Town of Heath Springs Municipal Court**

**Issue Date: June 27, 2014**

**Schedule of Over/(Under) Reported Fees: (N/A)**

### **Adherence of Fine Guidelines**

Section 56-5-1520(G) states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars."

The Court fined one defendant \$25.06 for speeding, 10 mph or less over the speed limit, which was not in accordance with State law.

### **Assessment Calculations**

Section 14-1-208 states "... a person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment."

The Town did not allocate collections and remittances for fines, assessments and surcharges for the first eight months of the test period. The Town only allocated collections between fines and assessments, ignoring surcharges.

### **Supplementary Schedule**

Section 14-1-208(E) states, "(1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:..."

Amounts reported for the Town for victim services expenditures on the schedule of court fines, assessments and surcharges for the fiscal year ended June 30, 2013 did not agree with the Town's general ledger.

**Town of Honea Path Municipal Court**  
**Issue Date: August 27, 2012**  
**Schedule of Over/(Under) Reported Fees: (N/A)**

**Adherence to Fine Guidelines**

Section 56-5-6540 (A) states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

The Municipal court levied a fine of \$30 for a seatbelt violation which exceeded the maximum fine allowed by State law.

**State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-206(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The Town did not remit six out of twelve STRRF tested to the Office of the State Treasurer timely as required by law. The reports were submitted from one to four days late.

**Conviction Surcharge**

Section 14-1-211(A)(1) states, "In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in the State. No portion of the surcharge may be waived, reduced, or suspended."

The Court did not assess and collect the \$25 conviction surcharge from six defendants.

**Accounting for Victim Assistance Funds**

Section 14-1-211(B) states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any fund retained by the county or city treasurer pursuant to subsection (A) (1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The Town recorded June 2011 cash receipts totaling \$625 in the Police Fine general ledger account instead of the Victim Assistance account.

**Supplementary Schedule**

Section 14-1-206(E)(1) states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer, (d) the amount of assessments retained by the county treasurer, (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to the victim services activities, how those funds were expended, and any balances carried forward."

Amounts reported on the Supplemental Schedule for victim services expenditures, funds available for carry forward-beginning, and fund available for carry forward-ending did not agree to the Town's general ledger.

**Town of Lexington Municipal Court**  
**Issue Date: June 27, 2014**  
**Schedule of Over/(Under) Reported Fees: (N/A)**

**Adherence of Fine Guidelines**

The Court clerk did not process the following violations in accordance with State law,

- The Court assessed one defendant less than the allowable fine under the local town ordinance for public intoxication. As a result, when the fine was allocated the Town's share of the allocation was (\$2.41)
- Section 61-4-110 states, "A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

The Court assessed one defendant less than the allowable fine. As a result, when the fine was allocated the Town's share was (\$2.41).

- Section 56-1460(A)(1) states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars..."

The Court assessed one defendant less than the allowable fine. As a result, when the fine was allocated the Town's share was (\$30.12).

- Section 56-5-2930(A) states, "A person who violates the provisions of this section... must be punished as follows: (1) for a first offense by a fine of four hundred dollars ...."

The Court fined one defendant \$400.96 for driving under the influence, blood alcohol less than .10, first offense.

**Assessments on Civil Penalties**

The Town assessed one defendant \$214.46 for a local civil ordinance violation. The Town could not provide their authority for assessing the surcharge on the civil penalty.

**Installment Fee**

Section 14-17-725 states, "... where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court..."

The Court's policy is to charge and collect the three percent installment fee on any case where the defendant pays on installment; however, for three defendants the applicable information was not input in to the court accounting software. Therefore the three percent installment fee was not applied to the defendants' accounts.

**Breathalyzer Fee**

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, "The costs of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the state. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests."

The Court did not assess the defendant the \$25 breathalyzer test fee on two separate DUAC cases in which the defendants took the breathalyzer test and were subsequently convicted.

**Town of Pamlico Municipal Court**  
**Issue Date: June 26, 2014**  
**Schedule of Over/(Under) Reported Fees: (N/A)**

**Adherence to Fine Guidelines**

Section 56-5-1520 states, "(G) A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars; (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars."

The Court assessed the following fines,

- Three defendants were fined \$36.14 for speeding 10 mph or less over the limit.
- Three defendants were fined \$57.83 for speeding more than 10 but less than 15 mph over the posted limit.
- Two individuals were fined \$81.93 for speeding in excess of 15 but less than 25 mph over the posted limit.

Section 56-5-2930(1) states, "(1) for a first offense, ...If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars...."

The Court fined one defendant \$1001 for Driving Under the Influence, blood alcohol over .16, first offense.

Section 56-5-2920 states, "...be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars...."

The Court fined one defendant \$207.23 for Reckless Driving.

**Installment Fee**

Section 14-17-725 states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court."

The Court did not assess and collect the three percent installment fee from one defendant who elected to pay the fine through installment. The Court's policy is not to charge defendants the three per cent installment fee.

**State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The Town did not remit four out of twelve STRRF timely. The forms were submitted from ten to fifty-three days late.

**Town of Ridgeville Municipal Court**

**Issue Date: February 26, 2014**

**Schedule of Over/(Under) Reported Fees: State (\$16,199); Victim Assistance (\$4,168)**

**State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month. In addition, the STRRF states, this form "is required by law and must be filed monthly, on or before the 15<sup>th</sup>, by the municipal or county treasurer, even if there are no collections."

The Town did not remit five out of thirty-six STRRF timely. The forms were submitted from two to thirty-two days late. The Town failed to submit sixteen STRRF during this period. Of these sixteen, the Town provided documentation showing that seven of the forms were completed, but they could not provide documentation (i.e., a State Treasurer's Office receipt) demonstrating that the form had been submitted and received. The Town could not provide documentation to demonstrate that they completed the form for the remaining months.

**Conviction Surcharge**

Section 14-1-211 (A)(1) states, "In addition to all other assessments and surcharges,...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic offenses or parking violations.

The Court did not assess and collect the \$25 conviction surcharge from nineteen defendants.

**Installment Fee**

Section 14-17-725 states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court."

The Court did not assess and collect the three percent installment fee from four defendants who elected to pay their fine on an installment basis.

**Accurate Reporting**

Section 14-1-220 states, "Each...municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of the State Treasurer."

Several amounts reported on the STRRF did not agree to the court accounting records.

## **Town of Ridgeville Municipal Court (Continued)**

### **Supporting Documentation**

Section 14-1-208 (E)(4) states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review." In addition, the Summary Court Bench Book, Memoranda 1996-03, sets forth retention guidelines for various court documents.

- The Town could not provide documentation to support amounts reported in the STRRF for July 2009, January 2010, February 2010, March 2010 and April 2010.
- The Court could not provide cash receipts for four cases to document that the defendant had paid the fine.
- The Court could not provide the uniform traffic ticket for two cases; therefore we could not determine if the defendants were sentenced in accordance with State law.
- The Town could not provide documentation demonstrating that twelve receipts were properly recorded in the court accounting records and that the receipts were reported and remitted to the State Treasurer in accordance with State law.

### **Accounting for Victim Assistance Funds**

Section 14-1-211(B) states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The Town did not properly account for victim service revenue based on actual revenue earned. Instead, it is the Town's policy to deposit \$2,000 each month into the victim assistance account.

### **Supplementary Schedule**

Section 5-7-240 states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..." In addition, Section 14-1-208(E) states, "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected...the annual independent external audit required to be performed for each municipality...must include...a supplementary schedule detailing all fines and assessments collected..."

The Town did not prepare financial statements for the fiscal year ended June 30, 2012 and they did not contract with an independent certified public accounting firm to conduct an audit of the Town's financial records that would include a supplementary schedule detailing all fines and assessments collected.

**Town of Santee Municipal Court**  
**Issue Date: June 27, 2014**  
**Schedule of Over/(Under) Reported Fees: (N/A)**

**Adherence of Fine Guidelines**

Section 56-5-1520(G) states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars."

The Court did not fine the six defendants in accordance with State law for speeding in excess of posted limits.

**Opinion on Supplemental Schedule**

Section 14-1-208(E)(2) and 14-1-211(D)(2) state, "The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents."

The auditors' opinion on the Town's financial statements for the fiscal year ended June 30, 2012 did not include an "in-relation-to" opinion. In fact, the auditor did not provide any form of assurance on the supplementary schedule.

**Spartanburg County Circuit and Family Court System**  
**Issue Date: November 5, 2013**  
**Schedule of Over/(Under) Reported Fees: State (\$59,099)**

**Adherence to Fine Guidelines**

Section 56-5-1210 (A) states, "A person who fails to stop or to comply with the requirement of this section is guilty of: (3) a felony and, upon conviction, must be imprisoned not less than a year nor more than twenty-five years and fined not less than ten thousand dollars nor more than twenty-five thousand dollars when death results."

The Court did not adhere to Section 56-5-1210(A) with respect to one hit and run violation that resulted with death.

**Assessment and Collection of Fees (Continued)**

Section 8-21-310(11)(B)(1) states, "For filing first complaint or petition...in a civil action or proceeding, in a court of record, one hundred dollars" is to be collected. Section 14-1-204(B)(1) further states, "There is added to the fee imposed pursuant to Section (8-21-310(11)(a) an additional fee equal to fifty dollars. One hundred percent of the revenue from this additional fee must be remitted to the State Treasurer".

The Court of Common Pleas did not collect the \$150 for one foreclosure case as required by State law.

Section 47.9 of the 2011-2012 Appropriation Act states, "Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars...This assessment shall be collected and paid over before any other fees."

The court did not assess and collect the \$500 public defender fee from two defendants.

## **Spartanburg County Circuit and Family Court System (Continued)**

### **Assessment and Collection of Fees (Continued)**

Section 17-3-30(B) states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation". Section 17-3-45(B) specifies that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

The Court did not assess and/or collect the \$40 public defender application fee from fourteen defendants that applied for a public defender.

### **Installment Fee**

Section 14-17-725 states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court."

The Court did not assess and collect the three percent installment fee from two defendants that paid their full assessment after the plea date.

### **State Treasurer's Revenue Remittance Form (STRRF)**

Section 14-1-206(B) requires a County to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The County did not remit eleven out of twelve STRRF tested to the Office of the State Treasurer timely as required by law. The reports were submitted from one to six days late.

### **Accurate Reporting**

Section 14-1-220 states. "Each county clerk of court, magistrate, or other person who receives monies from the cost of court assessments in general sessions or magistrates courts shall transmit all these monies to the county treasurer or the county. The county treasurer shall then forward the total sum collected to the State Treasurer."

The Clerk of Court did not report and remit the Circuit/Family Court Filing Fee (line H) correctly. In addition amounts report for Family/Alimony/Child Support Fee (line F); Circuit/Family Fines, Fees and Other Revenue (line G); and Circuit/Family Filing Fee - \$50 Filing Fee Increase (line I) did not agree to amount recorded in the County's court accounting records.

### **Supplementary Schedule**

Section 14-1-206(E)(1) states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer, (d) the amount of assessments retained by the county treasurer, (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f)( the total funds, by source, allocated to the victim services activities, how those funds were expended, and any balances carried forward."



## **Spartanburg County Circuit and Family Court System (Continued)**

### **Supplementary Schedule (Continued)**

Amounts reported on the supplementary schedule for Magistrate Court Collections – Assessments and Magistrate Court Retainage – Assessments did not agree with amounts reported in the County’s general ledger and STRRF. In addition, the County did not separately report victim assistance revenue in its general ledger; and victim assistance beginning balance, current year revenue, and ending balance amounts did not agree with amounts reported on the supplementary schedule.

### **Accounting for Victim Assistance Funds**

Section 14-1-206(D) states, “The revenue retained by the county under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16.” South Carolina Court Administration memorandum, Attachment L, dated June 30, 2011, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

The County has not established a separate general ledger account to account for its victim assistance revenue and expenditure transactions. The county charged the salary of six detention facility employees to victim services even though the employees performed duties which were not associated with victim assistance activities.

### **Town of Ware Shoals Municipal Court**

**Issue Date: June 19, 2014**

**Schedule of Over/(Under) Reported Fees: (N/A)**

### **Installment Fee**

Section 14-17-725 states, “...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court.”

The Court did not assess and collect the three percent installment fee from defendants that elected to pay the fine on installment. The Clerk of Court stated that the Court does not have such a policy.

### **State Treasurer’s Revenue Remittance Form (STRRF)**

Section 14-1-208(B) requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.

The Town did not remit ten out of twelve STRRF timely. The forms were submitted from four to twenty-seven days late.

## **Town of Ware Shoals Municipal Court (Continued)**

### **Monthly Collections Reconciliations**

Internal control best business practices generally include monthly reconciliations of revenue activities with bank deposits to ensure all activity was deposited.

The Court does not routinely reconcile fine amounts collected and entered into its court accounting software with its bank deposits on a monthly basis. At the auditor's request the Town reconciled the accounting records with the bank deposits for several months. The reconciliation identified the following,

- Fines were not always entered into the accounting software in the same month the fine was received.
- Certain fines (e.g., parking tickets, stray pet citations, etc.) were not posted to the accounting software.