

## Legislative Oversight Committee

4/19/17

Responses to question submitted by the Legislative Oversight Subcommittee Chair on April 19, 2017.

### Item 1: Audits Related to Fines and Fees

The question is how the Academy could utilize the \$250,000 currently withheld by the State Treasurer to perform audits related to fines and fees, if the Academy were to take on this responsibility?

**Problem Statement:** Over the past seven years the Academy has seen a significant drop in the amount of funding received from fines and fees money through the State Treasurer's Office. The reason or reasons for this decline have been speculative but the lack of audit information has made it difficult to pin point the cause of the decline.

**Response to inquiry:**

- Within each of the SC Codes that address the collection of fines and fees pursuant to Title 14-1-206, 14-1-207, and 14-1-208 there is a requirement that each judicial entity represented in these codes conduct an annual self-audit or review of:
  - all fines collected
  - all assessments collected
  - the amount of fines retained by the county or municipal treasurer
  - the amount of assessment retained by the county or municipal treasurer
  - the amount of fines and assessments remitted to the State Treasurer pursuant to this section
  - the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.
- Each of the judicial entities represented (general sessions, family court, magistrates, and municipal courts) are required to provide this information to the State Treasurer's Office.
- There are other agencies affected by this funding source as well. These agencies and or programs are listed below by code and judicial entity:
  - 14-1-206 General Session and Family Courts
    - 42.08% Shock and Incarceration Program
    - 14.74% Law Enforcement Training Council (Academy)
    - .45% Department of Public Safety
    - 14.46% Office of Indigent Defense
    - 11.83% State Office of Victim Assistance
    - 15.39% General Fund
    - .89% Office of the Attorney General
    - .16% Office of the State Treasurer
  - 14-1-207 Magistrate's Courts
    - 32.36% Shock Incarceration Program
    - 20.72% Law Enforcement Training Council (Academy)
    - .60% Department of Public Safety

- 18.82% State Office of Victim Assistance
  - 15.93% General Fund
  - 10.49% Office of Indigent Defense
  - .92% Office of the Attorney General
  - .16% Office of the Treasurer
- 14-1-208 Municipal Courts
  - 14.04% Shock and Incarceration Program
  - 13.89% Law Enforcement Training Council (Academy)
  - .36% Department of Public Safety
  - 10.38% State Office of Victim Assistance
  - 11.53% General Fund
  - 10.56% Office of Indigent Defense
  - .89% Department of Mental Health
  - .54% Office of the Attorney General
  - 9.16% Department of Public Safety
  - 1.31% SLED
  - 13.61% Governor's Task Force on Litter
  - 13.61% Department of Juvenile Justice
  - .12% Office of the State Treasurer
- There is also authorization in each of the codes for money to be removed at the local level by the county or city treasurer and remitted to either the county or the municipality from the initial assessment (107.5% of the fine imposed) before the money is sent to the State Treasurer. These percentages are listed below:
  - 14-1-206 – 35.35% County (General Sessions, Family Court)
  - 14-1-207 – 11.16% County (Magistrates)
  - 14-1-208 – 11.16% Municipal (City Courts)
- Auditing authority for these funds is found in Section 14-1-210 SC Code of Laws. This section of law places the responsibility of conducting audits on the State Auditor requiring random periodic audits of county and municipal treasurers and clerks of court to determine if mandated fees are collected and remitted for these sections of the law. Additionally there is a training component in sub-section D that addresses annual training on the collection and distribution processes in order to ensure that those individuals who are responsible are adequately trained and capable to carry out their duties. The State Treasurer and the South Carolina Court Administration are responsible for this training by law.

The \$250,000 identified as being dedicated for the purpose of conducting audits comes by way of the following provisions in the 14-1-210. The State Treasurer is directed to transfer the first \$10,900 received from General Sessions remittance, the first \$136,000 received from Magistrates and the first \$102,500 from municipal courts for this purpose. The aforementioned training is also funded with the initial money collected at the beginning of the fiscal year with \$2,000 from General Sessions, \$5,000 from Magistrates and \$3,000 from Municipal monies.

When determining if the Academy should embark upon accepting the responsibility for conducting the audit process for the fines and fees collected under these codes we respectfully ask the Legislative Oversight Sub-Committee to consider the following.

- Audits should be conducted by an independent source and not by someone who stands to benefit from the audit in question.
- A viable audit process already exists within the law. Questions such as, if counties or municipalities are remitting monies correctly and accurately or why funds are decreasing should be addressed to those responsible for the process. The Academy receives monthly reports from the State Treasurer's office which show the total collections and the Academy's percentage for each month by the counties and municipalities. Using this information the State Auditor's office should be able to investigate and determine where monies are dropping or if individual counties or municipalities are not paying. Furthermore, the state auditors should be able to determine if fewer tickets are being written or if judges are not collecting the 107.5% fees by focusing on these potential issues.
- Since the Academy is not the only agency receiving funding from these codes the State Treasurer in conjunction with the State Auditor can help resolve this issue for all.
- The Academy's primary mission is to train and certify law enforcement personnel. The State Treasurer and the State Auditor have people who are better trained and prepared to ensure monies owed the State are being collected.
- Utilizing the required annual audits that are supposed to be sent to the State Treasurer's office the State Auditor might be able to identify a pattern or trend to explain the drop in funds.

After examining the State salary ranges for auditors and considering fringes, travel cost, and per-diem the Academy would be able to hire 2 auditors and cover travel and expenses for the \$250,000. The current reports received from the State Treasures Office Indicate that there are 203 individual municipal agencies and 46 counties reporting through this system for a total of 249 and an unknown number of individual magistrate courts within each county. Just given the known number of 249 it is estimated that approximately 48 audits could be conducted per year, considering the necessary pre-work and post work that would need to be accomplished with each audit. Additionally, the auditors would need access to the annual reports and monthly reporting requirements currently in use by the State Treasurer's office. This would definitely have a significant impact on the Academy's current operational focus.

## Item 2: Personnel Change in Status Reports (PCS)

The questions concerning this issue are:

Q.1 Why is there a separate hiring form for E-911 personnel?

Q.2 Are there any statistics the agency regularly uses from the PCS reports?

Q.3 Can the Academy provide information on the number of individuals hired, separating, and reasons for separations from law enforcement agencies within South Carolina?

Response:

Q.1 The reason there is a separate form of hire for E-911 (Class4) personnel is because the hiring information required for Class 1, Class 2, and Class 3 personnel are different from the information needed for Class 4. After looking at this issue the certification unit will revisit this issue and determine if it is possible to devise a PCS form that can encompass all the Classes.

Q.2 The Academy constantly receives request, primarily FOIAs from the media, about personnel who have departed and/or joined an agency. Sometimes the inquiries are related to individuals and other times the request include all personnel from an agency generally over a period of time. Agencies have asked for gain and loss information as well. We have received request which included the entire State and others have focused on regions of the State. Generally the use of this information is to answer questions or concerns raised by others. This information has also been used by Academy personnel to examine gain to loss ratios for reports to forecast force replacement needs.

Q.3 Yes, the ACADIS system enables the Academy to track and report, upon request, such information.