



ALAN WILSON  
ATTORNEY GENERAL

December 2, 2020

Mayor Charles Duberry  
141 West Broad Street  
Lincolnton, SC 29484

Dear Mayor Duberry,

The Office of the Attorney General, Department of Crime Victim Compensation (DCVC), is sending this notice to inform you that we have completed the Follow-up Audit to the Town of Lincolnton State Auditor's Report. A copy of the official report is attached for your review. This is in conformance with Act 96 [PART IV] which requires DCVC to conduct a programmatic review and financial audit on any governmental entity or non-profit organization receiving victim assistance funding to ensure that these crime victim funds are expended in accordance with the law.

Please be advised that all DCVC audits and follow-up reports are public information. I am requesting that you respond to the findings, in writing, within the next ten business days. Please note that, at the end of ten business days, this report will be posted on the DCVC website at [www.sova.sc.gov](http://www.sova.sc.gov) under the DCVC auditing tab.

Should you have any further questions or concerns, please feel free to contact me or Mignon Lee-Thompson, Lead Auditor, at 803.734.1900.

Sincerely,

Ethel Douglas Ford

Ethel Douglas Ford, CPM  
Assistant Deputy Director

Department of Crime Victim Compensation

cc: Sophia James



**The Office of the Attorney General  
Department of Crime Victim  
Compensation**

---

June 30, 2011

**State Auditor's Office Town of Lincolville  
Municipal Court Audit Report**

December 2, 2020

**Follow-up Audit Review for the Town of  
Lincolville Municipal Court State Victim  
Assistance Fines, Fees, and Assessment Fund**

---

# Contents

---

<b>Introduction and Laws</b>	<b>Page</b>
Preface .....	4
Audit Objectives .....	11
Results in Brief .....	11
<b>Objective(s), Conclusion (s), Recommendation(s), and Comments</b>	
A.Procedures for Court Assessments.....	13-14
Did the Town implement policies and procedures to ensure the court assessments are accurately assessed and collected in accordance with State law?	
B. Procedures for Conviction Surcharges.....	15-16
Did the Town implement policies and procedures to ensure the conviction surcharge is accurately assessed and collected in accordance with State law?	
C. Law Enforcement Funding .....	17-18
Did the Town implement policies and procedures to ensure law enforcement funding surcharge is accurately assessed and collected in accordance with State law?	
D. Criminal Justice Academy Surcharge .....	19-20
Did the Town implement policies and procedures to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law?	

E. Installment Fee.....	21-22
<p style="padding-left: 40px;">Did the Town implement policies and procedures to ensure the installment fee is accurately assessed and collected in accordance with State law?</p>	
F. State Treasurer Revenue Remittance Forms (STRRFs).....	23-25
<p style="padding-left: 40px;">Did the Town implement policies and procedures to ensure State Treasurer Revenue Remittance Forms (STRRFs) are submitted by the 15<sup>th</sup> day of the month in accordance with State law?</p>	
G. Victim Assistance Fund.....	26-28
<p style="padding-left: 40px;">Did the Town implement policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law?</p>	
H. Supporting Documentation.....	29-30
<p style="padding-left: 40px;">Did the Town implement policies and procedures to ensure court accounting records are maintained and readily available for review?</p>	
I. Retention Schedule.....	31-32
<p style="padding-left: 40px;">Did the Town implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration’s retention schedule and sound internal control?</p>	
J. Technical Assistance.....	33
<b>Corrective Actions.....</b>	<b>34</b>
<b>Post-Audit Response and Appendix(s) .....</b>	<b>35-36</b>

**Disclaimer: The recommendations included in sections A thru J in this report were made by the State Auditor’s Office. The DCVC follow-up review was based on compliance with the State Auditor’s Office recommendations. In addition, all DCVC follow-up reviews (including this one) are conducted to ensure compliance with applicable laws and regulations. (See Appendix A of this report to review the Initial State Issued Audit Report.)**

**Acronyms:**

FFA – Fines, Fees, and Assessment

DCVC – Department of Crime Victim Compensation

SCLEVA – South Carolina Law Enforcement Victim Advocate

---

## Introduction and Laws

---

### PREFACE

This Programmatic Review and Financial Audit was initiated as a result of the SC State Auditor's Office. The State Audit was completed on June 30, 2011. On March 4, 2020, the Assistant Deputy Director of Department of Crime Victim Compensation (DCVC) issued a letter to the Town of Lincolnvile informing them DCVC will conduct a Follow-up audit review regarding the State Auditor's Office report from 2011. Therefore, due to COVID-19, the DCVC Auditor conducted an electronic and phone Programmatic Review and Financial Audit on July 22, 2020.

---

### *Governing Laws and Regulations*

#### ACT 96 [PART IV]

SECTION 13. B. Chapter 1, Title 14 of the 1976 Code is amended by adding:

"Section 14-1-211.6. (A) If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B) and (D), 14-1-207(B) and (D), 14-1-208(B) and (D), and 14-1-211(B), the State Auditor shall notify the Office of the Attorney General, South Carolina Crime Victim Services Division. The division is authorized to conduct an audit, which must include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding, based on the referrals from the State Auditor or complaints of a specific nature received by the division to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed in collaboration with the Victim Services Coordinating Council. The Victim Services Coordinating Council, in collaboration with the director of the division, shall develop these guidelines to ensure any expenditure that meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure.

*ACT 96 (cont.)*

(B) Any local entity or nonprofit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the Office of the Attorney General, South Carolina Crime Victim Services Division within thirty days of the budget's approval by the governing body of the entity or nonprofit organization. Failure to comply with this provision shall cause the division to initiate a programmatic review and a financial audit of the entity's or nonprofit organization's expenditures of victim assistance funds. Additionally, the division will place the name of the noncompliant entity or nonprofit organization on its website, where it shall remain until such time as the noncompliant entity or nonprofit organization is in compliance with the terms of this section.

(C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation."

**Proviso 59.15**

59.15.(AG: State Crime Victim Compensation)

A county or municipality may retain carry forward funds that were collected pursuant to Sections 14-1-206 (B) and

*Proviso 59.15 (Cont.)*

(D), 14-1-207 (B) and (D), 14-1-208 (B) and (D), and 14-1-211 (B) of the 1976 Code, but no more than \$25,000 or ten percent of funds collected in the prior fiscal year, whichever is higher. If a county or municipality does not spend at least ninety percent of the funds collected pursuant to Sections 14-1-206 (B) and (D), 14-1-207 (B) and (D), 14-1-208 (B) and (D), and 14-1-211 (B) on Article 16, Chapter 3, Title 16 first priority and/or second priority programs during the fiscal year that the funds are received then the county or municipality shall remit any unspent funds that are greater than the allowed carried forward funds, regardless of the year collected, to the State Victim Assistance Program (SVAP) with the Office of the Attorney General within 120 days after the end of the fiscal year. All funds must be accounted for in the annual audit for each county or municipality.

The State Crime Victim Compensation Department shall offer training and technical assistance to each municipality and county annually on acceptable use of both priority one and priority two funds and funds available for competitive bid.

The State Crime Victim Compensation Department is authorized to transfer to the State Victim Assistance Program any state funds deemed available under Crime Victims Compensation authority to the State Victim Assistance Programs be placed in the competitive bid process.

The State Victim Assistance Program shall offer any funds remitted to it to non-profit organizations that provide direct victim services on a competitive bid process. These funds may be used by the non-profit for administrative costs and victim services.

*A county or municipality may be exempt from the remittance requirements of this proviso upon submission of a plan to the State Crime Victim Compensation Department that meets the statutory requirements for the use of funds. A county or municipality must submit the report within 60 days after the end of the fiscal year. The State Crime Victim Compensation Department will review the submitted plan and advise the county or municipality of plan compliance with statutory requirements.*

**Proviso 98.9**

**98.9 (TREAs: Penalties for Non-reporting)**

If a municipality fails to submit the audited financial statements required under Section 14-1-208 of the 1976 Code to the State Treasurer within thirteen months of the end of their fiscal year, the State Treasurer must withhold all state payments to that municipality until the required audited financial statement is received.

If the State Treasurer receives an audit report from either a county or municipality that contains a significant finding related to court fine reports or remittances to the Office of State Treasurer, the requirements of Proviso 117.51 shall be followed if an amount due is specified, otherwise the State Treasurer shall withhold twenty-five percent of all state payments to the county or municipality until the estimated deficiency has been satisfied.

If a county or municipality is more than ninety days delinquent in remitting a monthly court fines report, the State Treasurer shall withhold twenty-five percent of state funding for that county or municipality until all monthly reports are current.

After ninety days, any funds held by the Office of State Treasurer will be made available to the State Auditor to conduct an audit of the entity for the purpose of determining an amount due to the Office of State Treasurer, if any.

**SC Code of Law  
Title 14 [excerpts]**

**Courts – General Provisions**

Collection/Disbursement of Crime Victim Monies at the Municipal & County Levels: below is a brief synopsis of applicable sections.

- **Section 14-1-206, subsection(s) A, B & D:** (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in general sessions court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. (B) The county treasurer must remit 35.35 percent of the revenue generated by the assessment imposed in the county to be used for the purposes set forth in subsection (D) and 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. (D) All



SC Code of Law  
Title 14 (excerpts cont.)

- unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.
- **Section 14-1-207 Subsection(s) A, B & D:** (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in magistrate's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. (B) The county to be used for the purposes set forth in subsection (D) and 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. (D) All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime.

All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

- **Section 14-1-208 Subsection(s) A, B & D:** (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. (B) The county treasurer must remit 11.16 % of the revenue generated by the assessment imposed in municipal court to the county to be used exclusively for the purpose of providing direct victim services and 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. (D) All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

SC Code of Law  
Title 14 (excerpts cont.)

- **Section 14-1-206,207,208 Subsection(s) E:** To ensure that fines and assessments imposed are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each county and municipality must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a Uniform Supplemental Schedule Form detailing all fines and assessments collected by the clerk of court for the court of general sessions, magistrate court of the county and at the court level, the amount remitted to the county and municipal treasurers, and the amount remitted to the State Treasurer.
  
- **Section 14-1-211 Subsection A, B, &D:** (A) A one hundred dollar surcharge is imposed on all convictions obtained in general sessions court and a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. (B) The revenue collected must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer,
  
- **Section 14-1-211 Subsection A, B, &D:** (B) 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 must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision. For the purpose of funds allocation and expenditure, these funds are a part of the general funds of the city or county. These funds must be appropriated for the exclusive purpose of providing victim services as required by Chapter 3, Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Chapter 3, Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Chapter 3, Article 15 of Title 16.

SC Code of Law  
Title 14 (excerpts cont.)

These funds must be used for, but are not limited to, salaries, equipment that includes computer equipment and internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

(D) (1) The supplementary schedule must include the following elements:

- (a) all surcharges collected by the clerk of court for the general sessions, magistrate's, or municipal court;
- (b) the amount of surcharges retained by the city or county treasurer pursuant to this section;
- (c) the amount of funds allocated to victim services by fund source; and
- (d) how those funds were expended, and any carry forward balances.

---

## **Introduction and Legislative**

---

### **PRIOR AUDIT RESULTS**

The South Carolina State Legislative Act 96 (Part IV) mandates the Department of Crime Victim Compensation to conduct a Follow-up Audit which shall include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding with previously found errors to ensure necessary corrective action has taken place; thereby ensuring complying with all applicable state laws and regulations. As noted, the State Auditor's Office conducted an audit of the Town of Lincolville Municipal Court Fines, Fees, and Assessment (FFA) Fund. The State Auditor's Report dated June 30, 2011 was received by DCVC on January 10, 2013.

**This Follow-up Audit for the Town of Lincolville was based on the South Carolina State Auditor's Office initial audit findings and recommendations. (See Appendix A)**

#### **DCVC Audit Objective was**

- To determine if all errors and recommendations issued by the South Carolina State Auditor's Office reports dated June 30, 2011 were adhered to as required by State laws and regulations.

---

### **RESULTS IN BRIEF**

No, all recommendations as outlined in the Town of Lincolville Municipal Court Auditor's Office Report dated June 30, 2011 were not adhered to as required by State law.

The Town of Lincolville implemented policies and procedures to ensure that State Treasurer Revenue Remittance Forms (STRRFs) are submitted by the 15<sup>th</sup> day of the month in accordance with State law. However, the Town did not submit STRRFs for FY11-FY20 as requested by the DCVC Auditor for review to ensure the STRRFs were submitted by the 15<sup>th</sup> day of the month.

In addition, the Town implemented policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law. However, bank statements and expenditures for FY11-FY20 were not submitted. Therefore, the DCVC Auditor could not determine if victim assistance revenue were accounted for and properly used in accordance with State law.

The DCVC Auditor spoke with the Mayor on June 12, 2020 and followed-up with an email informing him the Town would be non-compliant as a result of the documents not being received by June 17, 2020. As a result of being non-compliant, the Mayor was also informed DCVC will initiate a Department of Crime Victim Compensation initial audit. He was also informed at that time if the Town continues to be non-compliant, the Town will be penalized as stated in Act 96 of 2017 [PART IV]. At the conclusion of this audit, the DCVC Auditor had not received STRRFs, bank statements, or expenditures for FY11-FY20 as requested for the victim assistance account.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**A. Procedures for Court Assessments****Objective**

Did the Town implement policies and procedures to ensure the court assessments are accurately assessed and collected in accordance with State law?

---

**Conclusion**

Yes, the Town of Lincolnton did implement policies and procedures to ensure fines levied by the court adhere to applicable State law as recommended in the State Auditor's Report issued on June 30, 2011.

---

**Background**

SC Code of Laws Section 14-1-208 (A)

---

**Discussion**

This is a follow-up audit to the Town of Lincolnton Municipal Court audit issued by the State Auditor's Office dated June 30, 2011. During the State Audit dated June 30, 2011, the State Auditor noted two instances where the court did not assess and collect the 107.5 percent assessment on fines as required by State law. According to South Carolina law noted below:

- Section 14-1-208 (A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond 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 assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended."

The State Auditor recommended the Town of Lincolnton implement policies and procedures to ensure court assessments are accurately assessed and collected in accordance with State law.

The DCVC Auditor emailed the Mayor a list of pre requested audit documents on April 2, 2020. The pre-requested audit list included policies and procedures to ensure court assessments are accurately assessed and collected in accordance with State law.

On June 17, 2020, the DCVC Auditor received policies and procedures via fax from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure court assessments are accurately assessed and collected in accordance with State law. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)**  
**and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**B. Procedures for Conviction Surcharges**

**Objective** Did the Town implement policies and procedures to ensure the conviction surcharge is accurately assessed and collected in accordance with State law?

---

**Conclusion** Yes, the Town of Lincolnton did implement policies and procedures to ensure the conviction surcharge is accurately assessed and collected in accordance with State law?

---

**Background** South Carolina Code of Laws Section 14-1-211 (A) (1)

---

**Discussion** During the State Audit dated June 30, 2011, the State Auditor noted two instances where the court did not assess and collect the required \$25 conviction surcharge. According to the South Carolina law noted below:

- Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, 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 State Auditor recommended the Town of Lincolnton implement policies and procedures to ensure the conviction surcharge is accurately assessed and collected in accordance with State law.

The DCVC Auditor requested policies and procedures in writing on April 2, 2020. The pre-requested list included policies and procedures to ensure the conviction surcharge is accurately assessed and collected in accordance with State law.



The Mayor submitted policies and procedures in writing to the DCVC Auditor on June 17, 2020. The Town of Lincolnville has policies and procedures in writing to ensure the conviction surcharge is accurately assessed and collected in accordance with State law. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)**  
**and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**C. Law Enforcement Funding****Objective**

Did the Town implement policies and procedures to ensure law enforcement funding surcharge is accurately assessed and collected in accordance with State law?

---

**Conclusion**

Yes, since the 2011 State Audit, the Town of Lincolnton has implemented policies and procedures to ensure law enforcement funding surcharge is accurately assessed and collected in accordance with State law.

---

**Background**

South Carolina Code of Laws Section 14-1-212 (A)

---

**Discussion**

During the State Audit dated June 30, 2011, the State Auditor noted three instances where the court did not assess and collect the required \$25 law enforcement funding surcharge. According to the South Carolina law noted below:

- Section 14-1-212 (A) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all fines, forfeitures, escheatment's, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations."

The State Auditor recommended the Town of Lincolnton implement policies and procedures to ensure the law enforcement surcharge is accurately assessed and collected in accordance with State law.

The DCVC Auditor requested policies and procedures in writing on April 2, 2020. The pre-requested list included policies and procedures to ensure the law enforcement surcharge is accurately assessed and collected in accordance with State law.

The Mayor submitted policies and procedures in writing to the DCVC Auditor on June 17, 2020. The Town of Lincolnville has policies and procedures in writing to ensure the law enforcement surcharged is accurately assessed and collected in accordance with State law. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)**  
**and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**D. Criminal Justice Academy Surcharge****Objective**

Did the Town implement policies and procedures to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law?

---

**Conclusion**

Yes, since the 2011 State Audit, the Town of Lincolnton has implemented policies and procedures to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law.

---

**Background**

Proviso 90.5 of the 2010-2011 Appropriations Act

---

**Discussion**

During the State Audit dated June 30, 2011, the State Auditor noted seventeen instances where the court did not assess and collect the required \$5 criminal justice academy surcharge. According to Proviso 90.5 noted below:

- Proviso 90.5 of the 2010-2011 Appropriations Act, states, "In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatment's, or other monetary penalties imposed in the... municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of the surcharge may be waived, reduced, or suspended."

The State Auditor recommended the Town of Lincolnton implement policies and procedures to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The pre-requested documents included policies and procedures to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure the criminal justice academy surcharge is accurately assessed and collected in accordance with State law. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)  
and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**E. Installment Fees****Objective**

Did the Town implement policies and procedures to ensure the installment fee is accurately assessed and collected in accordance with State law?

---

**Conclusion**

Yes, since the 2011 State Audit, the Town of Lincolville has implemented policies and procedures to ensure the installment fees are accurately assessed and collected in accordance with State law.

---

**Background**

South Carolina Code of Laws Section 14-17-725

---

**Discussion**

During the State Audit dated June 30, 2011, the State Auditor noted two out of twenty-five instances where the court assessed and collected the three percent installment fee from individuals who paid the total amount due in one payment after the plea date. In addition, the State Auditor noted two out of twenty-five instances where the court did not assess and collect the three percent installment fee from individuals who paid in installments. According to the South Carolina law noted below:

- Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, 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 State Auditor recommended that the Town of Lincolville implement policies and procedures to ensure the installment fee is accurately assessed and collected in accordance with State law.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The pre-requested documents included policies and procedures to ensure the installment fee is accurately assessed and collected in accordance with State law.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure the installment fee is accurately assessed and collected in accordance with State law. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)  
and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**F. State Treasurer Revenue Remittance Forms (STRRFs)**

<b>Objective</b>	Did the Town implement policies and procedures to ensure State Treasurer Revenue Remittance Forms (STRRFs) are submitted by the 15 <sup>th</sup> day of the month in accordance with State law?
<b>Conclusion</b>	Yes, since the 2011 State Audit report, the Town of Lincolnton has implemented policies and procedures to ensure the STRRFs are submitted by the 15 <sup>th</sup> day of the month in accordance with State law.
<b>Background</b>	South Carolina Code of Laws Section 14-1-208 (B)
<b>Discussion</b>	During the State Audit dated June 30, 2011, the State Auditor noted four out of twelve STRRFs were not submitted to the State Treasurer by the 15th day of the month as required by State law. The forms were submitted one to thirty-five days late. The State Auditor also noted three STRRFs were not submitted. Out of the three STRRFs, one had been prepared by the Town; however, neither the Town nor the State Treasurer could provide the State Auditor with the State Treasurer's receipt to document the STRRFs had been submitted or received. The Town did not provide the other two STRRFs. Based upon the review of the Town's general ledger conducted by the State Auditor, the Town recorded court fees for one of the months and did not record court revenue during the other months.



According to the South Carolina law noted below:

- 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 and make reports on a form and in a manner prescribed by the State Treasurer. In addition, the STRRF states, this form "is required by law and must be filed monthly, on or before the 15th, by the municipal or county treasurer, even if there are no collections."

The State Auditor recommended the Town of Lincolnton implement policies and procedures to ensure the STRRFs are submitted by the fifteenth day of each month in compliance with State law.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The pre-requested documents included policies and procedures to ensure the STRRFs are submitted by the fifteenth day of each month in compliance with State law. The DCVC Auditor also requested STRRFs for FY11-FY20.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnton has policies and procedures in writing to ensure the STRRFs are submitted by the fifteenth day of each month in compliance with State law. Therefore, the Town is compliant with the State Auditor's recommendation. However, the Town did not submit the STRRFs for FY11-FY20. As a result, the DCVC Auditor was not able to determine if the STRRFs were submitted by the 15<sup>th</sup> day of the month. The DCVC Auditor spoke with the Mayor on June 12, 2020 and followed-up with an email informing him the Town would be non-compliant as a result of the documents not being received. As a result of being non-compliant the Mayor was also informed that DCVC will initiate a Department of Crime Victim Compensation initial audit. He was also informed at that time if the Town continues to be non-compliant, the Town will be penalized as stated in Act 96 of 2017 [PART IV] and as noted below:

*(C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation."*

---

**Recommendation(s)  
and Comments**

It is recommended the Town of Lincolnville contact the State Treasurer's office and request the STRRFs for FY11-FY20 and submit to DCVC as requested by the DCVC Auditor.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**G. Victim Assistance Fund**

<b>Objective</b>	Did the Town implement policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law?
<b>Conclusion</b>	Yes, since the 2011 State Audit, the Town of Lincolnvillle has implemented policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law.
<b>Background</b>	South Carolina Code of Laws Section 14-1-211(B)
<b>Discussion</b>	<p>During the State Audit dated June 30, 2011, the State Auditor noted four out of twelve STRRFs were not submitted to the State Treasurer by the 15th day of the month as required by State law. The forms submitted were one to thirty-five days late. The State Auditor also noted three STRRFs that were not submitted. Out of the three STRRFs not submitted, one had been prepared by the Town; however, neither the Town nor the State Treasurer could provide the State Auditor with the State Treasurer's receipt to document the STRRFs had been submitted or received. The Town did not provide the other two STRRFs. Based upon the State Auditor's review of the Town's general ledger the Town recorded court fees for one of the months and did not record court revenue during the other months. According to the South Carolina law noted below:</p> <ul style="list-style-type: none"><li>• Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, 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."</li></ul>

The State Auditor recommended the Town of Lincolnville implement policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law. The State Auditor also recommended the Town establish a separate account for victim assistance activities and transfer the victim assistance funds from the traffic court account to the victim assistance account.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The pre-requested documents included policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law. The DCVC Auditor also requested bank statements for the victim assistance account, as well as expenditure reports for FY11-FY20 to ensure victim assistance funds are properly accounted for and in a separate bank account.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure victim assistance revenue is accounted for in accordance with State law. The Town also established a separate bank account for the victim assistance funds. The Mayor also submitted bank statements July 2019 through April 2020. However, the Town did not submit bank statements for FY-11-FY18 or expenditures for FY11-FY20. As stated previously, the Mayor was informed via email and telephone that if the documents were not received by June 17, 2020, the Town would be non-compliant. The DCVC Auditor was not able to determine if victim assistance funds have been utilized solely for victim services. Therefore, the Town is non-compliant.

---

**Recommendation(s)**  
**and Comments**

It is recommended the Town of Lincolnville contact the bank and request all bank statements for FY11-FY20 and submit to DCVC as requested by the DCVC Auditor.

It is recommended the Town of Lincolnville submit all expenditures for FY11-FY20 as requested by the DCVC Auditor.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**H. Supporting Documentation****Objective**

Did the Town implement policies and procedures to ensure court accounting records are maintained and readily available for review?

---

**Conclusion**

Yes, since the 2011 State Audit, the Town of Lincolnville has implemented policies and procedures to ensure court accounting records are maintained and readily available for review. The Town has also implemented policies and procedures to ensure that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy.

---

**Background**

South Carolina Code of Laws Section 14-1-208 (E) (4)

---

**Discussion**

During the State Audit dated June 30, 2011, the State Auditor noted amounts reported on the July 2010, August 2010 and October 2010 STRRFs did not agree with the Town's general ledger. Town personnel could not explain the differences, nor could they provide any additional documentation to support the amounts reported on the STRRFs. The State Auditor also noted Municipal Court collections and remittances did not agree seven out of twenty-five cash receipts with the Town's court accounting records nor was the DCVC Auditor able to determine if the receipts were reported on the applicable STRRFs. In addition, the Town could not provide supporting documents to support the amounts collected for these seven receipts and if they were accurately assessed and allocated in accordance with State law. According to the South Carolina law noted below:

- Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, 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."

The State Auditor recommended the Town of Lincolnville implement policies and procedures to ensure court accounting records are maintained and readily available for review. The State Auditor also recommended that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The pre-requested documents included policies and procedures to ensure court accounting records are maintained and readily available for review as well as policies and procedures to ensure that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure court accounting records are maintained and readily available for review and all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy. Therefore, the town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)  
and Comments**

No further recommendation.

---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**I. Retention Schedule****Objective**

Did the Town implement policies and procedures to ensure all court records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls?

---

**Conclusion**

Yes, since the 2011, State Audit, the Town of Lincolville has implemented policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

---

**Background**

South Carolina Court Administration's retention schedule

---

**Discussion**

During the State Audit dated June 30, 2011, the State Auditor noted the Town was unable to provide November 2010 court dockets. Therefore, the State Auditor did not have a complete population from which to test court collections and remittances. The Town's personnel could not state why there were no court dockets for November 2010 or if court was held that month.

South Carolina Court Administration's retention schedule requires disposed criminal and traffic dockets be permanently retained. Also, sound internal controls provide for the maintenance and retention of records that are readily available for review.

The State Auditor recommended the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

The DCVC Auditor emailed the Mayor a list of pre-requested audit documents on April 2, 2020. The DCVC Auditor requested policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

On June 17, 2020, the DCVC Auditor received policies and procedures from the Mayor. The Town of Lincolnville has policies and procedures in writing to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls. Therefore, the Town is compliant with the State Auditor's recommendation.

---

**Recommendation(s)  
and Comments**

No further recommendation.



---

**Objective(s), Conclusion(s), Recommendation(s), and Comments**

---

**J. Technical Assistance****Documentation Provided**

During the audit process, technical assistance and support was provided and the following documents were online for review.

1. Legislation - Act 96 (Part IV)
2. Proviso 98.9
3. Proviso 59.15
4. Sample Budget
5. Sample Staff Hired Report
6. Sample Time and Activity Report
7. Sample Expenditure Report
8. Victim Advocate Procedural Manuel
9. Approved Guidelines

**Other Matters**

There are no other matters.

---

## Corrective Action

---

*Act 96 [Part IV] states:*

*(C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation."*

**The Department of Crime Victim Compensation Auditing Department conducted a follow-up electronic audit review regarding the State Auditor's report dated June 30, 2011.**

**All errors were not corrected for the State Auditor's Office report dated June 30, 2011. Therefore, DCVC will initiate a DCVC initial audit. During the DCVC initial audit, the DCVC Auditor will follow-up with all recommendations and errors as noted in the State follow-up audit report dated June 30, 2011. Town officials were informed of the errors and the DCVC initial audit.**

**For an overview of the follow-up audit results please refer to the "Results in Brief" section of this report. This audit was distributed December 2, 2020.**

---

## Official Post-Audit Response

---

**The County/City has 10 business days from the date listed on the front of this report to provide a written response to the DCVC Assistant Deputy Director:**

**Ethel Douglas Ford, CPM  
1205 Pendleton St., Room 401  
Columbia, SC 29201**

**Due to complications related to Covid-19 and our office teleworking, typed names will serve as signatures for the purpose of this report and correspondence letter(s).**

**At the end of the ten-day response period, this report, and all post-audit responses (located in the Appendix) will become public information on the Department of Crime Victim Compensation (DCVC) website:**

**[www.sova.sc.gov](http://www.sova.sc.gov)**

---

**Appendix(s)**

---

**Appendix A – Town of Lincolnvile Municipal Court State Auditor’s Report Issued  
June 30, 2011**

**TOWN OF LINCOLNVILLE MUNICIPAL COURT  
LINCOLNVILLE, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT**

**JUNE 30, 2011**

## CONTENTS

	<u>PAGE</u>
I. INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES	1
II. ACCOUNTANT'S COMMENTS	
SECTION A - VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS	4
ASSESSMENT AND COLLECTION OF FEES AND SURCHARGES	5
107.5% Assessment	5
Conviction Surcharge	5
Law Enforcement Funding Surcharge	6
Criminal Justice Academy Surcharge	6
Recommendation	7
INSTALLMENT FEE	7
SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM	8
ACCOUNTING FOR VICTIM ASSISTANCE FUNDS	9
SUPPORTING DOCUMENTATION	10
SECTION B – OTHER WEAKNESS	11
COURT DOCKET AVAILABILITY	12
TOWN'S RESPONSE	13

# State of South Carolina



## Office of the State Auditor

1401 MAIN STREET, SUITE 1200  
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA  
DEPUTY STATE AUDITOR

(803) 253-4160  
FAX (803) 343-0723

### INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

September 28, 2012

The Honorable Nikki R. Haley, Governor  
State of South Carolina  
Columbia, South Carolina

The Honorable Vergil A. Deas, Municipal Judge  
Town of Lincolville  
Lincolville, South Carolina

Ms. Sophia James, Town Treasurer/Clerk of Court  
Town of Lincolville  
Lincolville, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Lincolville, solely to assist you in evaluating the performance of the Town of Lincolville Municipal Court for the fiscal year ended June 30, 2011, in the areas addressed. The Town of Lincolville and the Town of Lincolville Municipal Court are responsible for its financial records, internal controls and compliance with State laws and regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified parties in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. **Clerk of Court**

- We gained an understanding of the policies and procedures established by the Clerk of Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained court dockets for all cases for the fiscal year ended June 30, 2011 from the Clerk of Court. We randomly selected twenty-five cases from the dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly allocated in accordance with applicable State law. We determined whether the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda. We also agreed amounts to Court's cash receipt records.

The Honorable Nikki R. Haley, Governor  
and  
The Honorable Vergil A. Deas, Municipal Judge  
Ms. Sophia James, Town Treasurer/Clerk of Court  
Town of Lincolnton  
September 28, 2012

Our findings as a result of these procedures are presented in Assessment and Collection of Fees and Surcharges, Installment Fee, Accounting for Victim Assistance Funds, Supporting Documentation, and Court Docket Availability in the Accountant's Comments section of this report.

**2. Town Treasurer**

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the fiscal year ended June 30, 2011. We agreed the amounts reported on the State Treasurer's Revenue Remittance Forms to the Court's cash receipt records and to the State Treasurer's receipts. We also agreed the total revenue due to the State Treasurer to the general ledger.
- We determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- We verified that the amounts reported by the Town on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2010 agreed to the State Treasurer's Revenue Remittance Forms and to the Town's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our findings as a result of these procedures are presented in Submission of State Treasurer's Revenue Remittance Form and Supporting Documentation.

**3. Victim Assistance**

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine if any funds retained by the Town for victim assistance were accounted for in a separate account.
- We determined if the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the Town's general ledger to determine if the Victim Assistance Fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

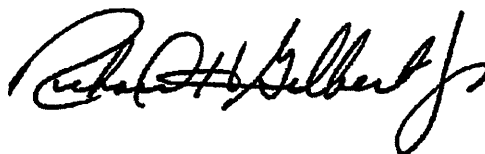
Our findings as a result of these procedures are presented in Accounting for Victim Assistance Funds and Supporting Documentation in the Accountant's Comments section of this report.



The Honorable Nikki R. Haley, Governor  
and  
The Honorable Vergil A. Deas, Municipal Judge  
Ms. Sophia James, Town Treasurer/Clerk of Court  
Town of Lincolnton  
September 28, 2012

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2011, and, furthermore, we were not engaged to express an opinion on the effectiveness of internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, Chairman of the House Judiciary Committee, Chairman of the Senate Judiciary Committee, members of the Town of Lincolnton Town Council, Town of Lincolnton Municipal Judge, Town of Lincolnton Clerk of Court, Town of Lincolnton Treasurer, State Treasurer, State Office of Victim Assistance, and the Chief Justice and is not intended to be and should not be used by anyone other than these specified parties.



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

**ACCOUNTANT'S COMMENTS**

**SECTION A - VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS**

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations governing court collections and remittances. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

## **ASSESSMENT AND COLLECTION OF FEES AND SURCHARGES**

### **107.5% Assessment**

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess and collect the 107.5% assessment on fines as required by State law.

The Town Treasurer/Clerk of Court stated she was unaware this assessment should be levied on violations not written on a Uniform Traffic Ticket.

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond 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 assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended."

### **Conviction Surcharge**

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess and collect the required \$25 conviction surcharge.

The Town Treasurer/Clerk of Court stated she was unaware this surcharge should be levied on violations not written on a Uniform Traffic Ticket.

Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, 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."

### Law Enforcement Funding Surcharge

During our test of Municipal Court collections and remittances, we noted three instances where the Court did not assess and collect the required \$25 law enforcement funding surcharge.

For two of the cases, the Town Treasurer/Clerk of Court stated she was unaware this surcharge should be levied on violations not written on a Uniform Traffic Ticket. For the other case, the cash receipt was collected by the former Clerk of Court who terminated employment with the Town prior to the start of our engagement. Town personnel could not explain why the court did not assess the law enforcement surcharge.

Section 14-1-212 (A) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations."

### Criminal Justice Academy Surcharge

During our test of Municipal Court collections and remittances, we noted seventeen instances where the Court did not assess and collect the required \$5 criminal justice academy surcharge.

The Town Treasurer/Clerk of Court stated she was unaware of this requirement.

Proviso 90.5 of the 2010-2011 Appropriations Act, states, "In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the... municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of the surcharge may be waived, reduced, or suspended."

Recommendation

We recommend the Court implement procedures to ensure assessments and surcharges are properly assessed and collected in accordance with State law.

**INSTALLMENT FEE**

During our test of Municipal Court collections and remittances, we noted two out of twenty-five instances where the Court assessed and collected the three percent installment fee from individuals who paid the total amount due in one payment after the plea date. In addition, we noted two out of twenty-five instances where the Court did not assess and collect the three percent installment fee from individuals who paid in installments.

The Town Treasurer/Clerk of Court stated the Court's policy is to charge the installment fee to all individuals who agree to a scheduled time payment, whether or not that individual pays in installments. For the two cases where the installment fee was not charged, the Town Treasurer/Clerk of Court stated the former Clerk of Court would have been responsible for assessing the charge.

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, 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...".

We recommend the Court implement procedures to ensure the installment fee is assessed and collected in accordance with State law.

## **SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM**

During our testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), we noted four out of twelve STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted one to thirty-five days late. We also noted three STRRF were not submitted. Out of the three STRRF, one had been prepared by the Town; however, neither the Town nor the State Treasurer could provide us with the State Treasurer's Receipt to document the STRRF had been submitted or received. The Town could not provide us with the other two STRRF. Based on our review of the Town's general ledger, we determined that the Town recorded court fees for one of the months and did not record court revenue during the other month.

The former Clerk of Court terminated employment with the Town in January 2011, which was prior to the start of our engagement and no other Town employee was able to explain why the STRRF were either not submitted or submitted late. Other late submissions occurred because of a misunderstanding by the current Town Treasurer/Clerk of Court. When she began employment with the Town in January 2011, she assumed the accounting firm that prepared the Town's financial statements prepared and submitted the STRRF. When she realized her assumption was not correct she began submitting the STRRF in a timely manner.

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 and make reports on a form and in a manner prescribed by the State Treasurer. In addition, the STRRF states, this form "is required by law and must be filed monthly, on or before the 15th, by the municipal or county treasurer, even if there are no collections."

We recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law.

## **ACCOUNTING FOR VICTIM ASSISTANCE FUNDS**

During our test of Municipal Court collections and remittances we noted the Town did not properly retain victim services revenue. The funds collected for victim assistance were not deposited into a separate account as required by State law but were pooled with the Town's traffic court account.

Because the Town did not separately report victim assistance revenue on its general ledger, victim assistance beginning and ending balances per the general ledger did not agree to amounts reported on the required schedule of fines, assessments and surcharges included in the Town's fiscal year ended June 30, 2010 audited financial statements.

Town personnel could not explain why the victim assistance revenue was not deposited into a separate account.

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, 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."

We recommend the Town establish and implement policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law. We also recommend the Town establish a separate account for victim assistance activities and transfer the victim assistance funds from the traffic court account to the victim assistance account.



## SUPPORTING DOCUMENTATION

During our testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), we noted amounts reported on the July 2010, August 2010 and October 2010 forms did not agree to the Town's general ledger. Town personnel could not explain the differences nor could they provide us with any additional documentation to support the amounts reported on the STRRF.

Also, during our testing of Municipal Court collections and remittances we were unable to agree seven out of twenty-five cash receipts to the Town's court accounting records nor were we able to determine if the receipts were reported on the applicable State Treasurer's Revenue Remittance Form (STRRF). In addition, the Town could not provide us with any support to document if the amounts collected for these seven receipts were properly assessed and allocated in accordance with State law.

The former Clerk of Court terminated employment with the Town prior to the start of our engagement and current town personnel were unable to find the documentation we requested. During our testing we did note that the current Town Treasurer/Clerk of Court prepares and maintains an allocation worksheet to support amounts recorded on the STRRF.

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, 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."

We recommend the Town implement procedures to ensure court accounting records are maintained and readily available for review. We also recommend that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy.

**SECTION B – OTHER WEAKNESS**

The condition described in this section has been identified while performing the agreed-upon procedures but is not considered a violation of State Laws, Rules or Regulations.

## **COURT DOCKET AVAILABILITY**

The Town was unable to provide us with the November 2010 court docket; therefore we did not have a complete population from which to test court collections and remittances. The former Clerk of Court terminated employment with the Town prior to the start of our engagement and the current Town Treasurer/Clerk of Court was not certain why there was no court docket for November 2010 or if court was even held that month. We made inquiries of the Town judge about the missing docket but he did not respond to our request.

South Carolina Court Administration's retention schedule requires disposed criminal and traffic dockets be permanently retained. Also, sound internal controls provide for the maintenance and retention of records that are readily available for review.

We recommend the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

**TOWN'S RESPONSE**

P.O. Box 536  
Summerville, South Carolina 29484-0536  
December 14, 2012

Mr. Richard H. Gilbert, Jr., CPA  
Deputy State Auditor  
1401 Main Street, Suite 1200  
Columbia, SC 29201

**RE: Town of Lincolnton Audit Report**

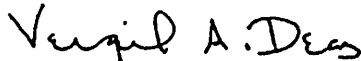
Dear Mr. Gilbert:

Thank you for providing our preliminary draft copy of the audit report for the Town of Lincolnton Municipal Court for the fiscal year ended June 30, 2011. My review has been completed and I am responding based solely on my understanding of current policies and procedures. We are taking necessary steps to correct our policies and procedures to handle all situations and problems listed herein to include submission of revenue remittance forms, collection of fees and surcharges, accounting for victim assistance funds and paying assessments accordingly.

My review of the report has been completed and the report maybe released as far as my authority with the Town of Lincolnton allows. Please note that my engagement with the town is that of a part time nature. I do not have absolute authority outside of the Mayor and Town Council.

I am attaching some comments regarding the matters raised in the accountant's comments. I welcome an opportunity to discuss the matter further. I can be reached at (843) 991-0873.

Sincerely,

  
Vergil A. Deas

### **Reply to Accountant Findings**

1. Town Code violations are usually brought into court on a separate form established by the Town Of Lincolnville for such violations. Town Code Violations were not put on Uniform Traffic Tickets. It appears that the assessments and surcharges were not assessed to the State due to these matters being town code violations that were non traffic and not on a uniformed traffic ticket. The Clerk thus did not include these reports with uniform traffic ticket report and fees. These cases came about from the Codes Enforcement Officer levying a fine for failure to get permits to clear property or burning leaves without permission or for failure to clean up debris and over growth. In an effort to correct, all fines will be assessed and distributed accordingly regardless of the designation or classification of the fine.
2. The court as a general rule always tells people seeking time payments that there is a three percent surcharge. Obviously our former clerk failed to apply the charge upon people coming into the clerk after the court date to pay their payments. In an effort to correct, we will begin printing a reminder acknowledgement on our time payment forms as a reminder to clerk of court personnel.
3. The late submitting of the STRRF forms will definitely be a thing of the past. The recently retired clerk frequently felt overwhelmed by her many responsibilities from court clerk, to the mayor's assistant, assistant for town council, etc. The clerk also governed expenditures and payroll. The former clerk thus failed to prioritize the filing of these forms. Our new clerk is more expeditious and this will not happen under normal circumstances. We have already implemented procedures for the timely submission of the STRRF form. As for missing reports and one showing a remittance but never received, the extent of my appointment as judge was only on a part-time basis. I never involved myself with the monetary aspect of the court. It was my understanding that all submissions were promptly made to the State.
4. Clearly I will recommend to Council to establish a victim's account in accordance with the law. Moreover, I will ask council to insure that funds are transferred from the traffic court account to the newly established victim account. As a part time employee I do not have any authority to open any account or deposit any funds or distribute them in any manner. Council and the Mayor must handle this function. I was surprised that the Town did not have such an account. It is noteworthy that 97% of our cases are routine traffic cases from speeding so the old thinking by town council may have been that a separate victim fund account was not needed.

5. Court accounting records and supporting documentation are currently being appropriately filed and maintained and are readily available. Back in 2010, the former clerk failed to have any type of accurate filing system despite my requests that they keep records of disposed of tickets, NRVC forms and issuance, etc. I was told by that clerk that they would be putting in place a filing system but nothing took place until Ms. James took over the position.
6. We will recommend that Town of Lincolnville Clerk of Courts seek out training sessions and update information available at all times to keep abreast of the latest changes made in our system. Much consideration needs to be given to the lack of intentional conduct in this matter. It appears that former town clerks have become overwhelmed with the numerous hats and roles they must play and lacked understanding of the intricacies and reporting requirements of court administration. These requirements are even more pronounced when you only deal with such issues once or twice a month amidst numerous other tasks and responsibilities bestowed upon a small town clerk who must wear many varied and different hats.
7. This report will allow us to right our ship and bring our small court system into compliance.

5 copies of this document were published at an estimated printing cost of \$1.60 each, and a total printing cost of \$8.00. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.





ALAN WILSON  
ATTORNEY GENERAL

**Programmatic Review Completed by:**

<u>Mignon Lee-Thompson</u>	<u>December 1, 2020</u>
Mignon Lee-Thompson, Lead Auditor	Date

**Reviewed by:**

<u>Dexter Boyd</u>	<u>December 1, 2020</u>
Dexter Boyd, Sr. Auditor	Date

<u>Ethel Douglas Ford</u>	<u>December 1, 2020</u>
Ethel Douglas Ford, CPM, Assistant Deputy Director	Date

<u>D. Scott Beard</u>	<u>December 1, 2020</u>
D. Scott Beard, Deputy Director	Date