



ALAN WILSON
ATTORNEY GENERAL

August 25, 2023

Mayor Nathaniel Shaffer
Town of Varnville
PO Box 308
Varnville, SC 29944-0308

Dear Mayor Shaffer,

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 Varnville 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 request that you respond to the findings in writing within the next ten business days. Please note that this report will be posted on the DCVC website at the end of 10 business days.

<https://www.scag.gov/inside-the-office/crime-victim-services-division/crime-victim-compensation/auditing/>

If you have any further questions or concerns, don't hesitate to contact me or Mignon Lee-Thompson, Senior Auditor, at 803.734.1900.

Sincerely,



Debbie Curtis
Deputy Director

Department of Crime Victim Compensation

Cc: Chief Tyrone Smith
Kimberly Vinson



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

June 30, 2020

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

August 25, 2023

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

Contents

Introduction and Laws	Page
Preface	4
Audit Objectives	11
Results in Brief	11-12
Objective(s), Conclusion (s), Recommendation(s), and Comments	
A. Fines Levied by Court.....	13-15
Did the town implement written policies and procedures to ensure fines levied by the Court adhere to applicable state law? Have procedures been distributed to all relevant personnel?	
B. Installment Fee.....	16-18
Did the town implement written policies and procedures to ensure the installment fees are accurately assessed and collected in accordance with State law? Have procedures been distributed to all relevant personnel?	
C. Victim Assistance Fund Reconciliation.....	19-23
Did the town implement written policies and procedures to ensure the Victim Assistance revenue is accounted for and reconciliations are done timely in accordance with State law? Have procedures been distributed to all relevant personnel?	
D. State Victim Assistance Program (SVAP).....	24-28
Did the Town of Varnville remit \$31,750 to the State Victim Assistance Program (SVAP) as recommended by the DCVC Auditor?	
E. Technical Assistance.....	29
Corrective Actions.....	30

Disclaimer: The recommendations included in sections A thru C 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 due to the SC State Auditor's Office. The State Audit was completed on June 30, 2020. On May 18, 2021, the Assistant Deputy Director of the Department of Crime Victim Compensation issued a letter to the Town of Varnville informing them DCVC will conduct a Follow-up audit review regarding the State Auditor's Office report from June 30, 2020. As a result of restrictions implemented by the COVID-19 pandemic, the town officials requested that the DCVC Auditor conduct a zoom audit meeting. The Programmatic Review and Financial Audit meeting was held on August 18, 2022, via zoom.

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.

(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 (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
Title14 [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. 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 Varnville Municipal Court Fines, Fees, and Assessment (FFA) Fund. The State Auditor's Report, dated June 30, 2020, was received by DCVC on January 10, 2021.

This Follow-up Audit for the Town of Varnville was based on the SC State Auditor's Office initial audit findings and recommendations. (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, 2020, were adhered to as required by State laws and regulations. .

RESULTS IN BRIEF

Yes, all recommendations, as outlined in the Town of Varnville Municipal Court Auditor's Office Report dated June 30, 2020, were adhered to as required by State law.

The Town of Varnville implemented written policies and procedures to ensure fines levied by the court adhere to applicable State law as recommended in the State Auditor's Report on June 30, 2020. All procedures have been distributed to all relevant personnel.

In addition, the town of Varnville implemented written policies and procedures to ensure installment fees are accurately assessed and collected in accordance with State law as recommended in the State Auditor's Report on June 30, 2020. All procedures have been distributed to all relevant personnel.

The town of Varnville implemented policies and procedures to ensure the Victim Assistance revenue is accounted for and reconciliations are done in accordance with State law as recommended in the State Auditor's Report on June 30, 2020. All procedures have been distributed to all relevant personnel. After a review of all financial requested audit documents, it appears that all Victim Assistance revenue is accounted for.

The Office of the Attorney General and The Department of Crime Victim Compensation has worked with the Town of Varnville to remit **\$31,750** to SVAP.

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

A. Fines Levied by Court**Objective**

Did the town implement written policies and procedures to ensure fines levied by the Court adhere to applicable state law? Are the procedures in writing? Have procedures been distributed to all relevant personnel?

Conclusion

Yes, the Town of Varnville implemented written policies and procedures to ensure fines levied by the court adhere to applicable State law as recommended in the State Auditor's Report dated June 30, 2020. All procedures have been distributed to all relevant personnel.

Background

SC Code of Law Section 56-5-1520 (G)(1)

Discussion

The Department of Crime Victim (DCVC) Programmatic Review and Financial Audit is a follow-up audit to the Town of Varnville Municipal Court audit issued by the State Auditor's Office dated June 30, 2020. During the State Audit dated June 30, 2020, the State Auditor noted one instance where an individual was fined \$76.50 for speeding less than 10 miles per hour over the speed limit.

- Section 56-50-1520(G) (1) of the 1976 South Carolina Code of Laws, as amended, 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 the ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;"

Management Response:

The ticket referenced above was written in error by the police officer. The ticket should have been written for \$76.50, with a fine that would not have exceeded \$25. The ticket was overlooked by the court due to the defendant paying the ticket online. The defendant will be reimbursed as of February 2021.

The State Auditor recommended that the Town of Varnville implement written policies and procedures to ensure that all fines levied by the court adhere to state law.

Prior to the zoom audit meeting on August 19, 2022, the DCVC Auditor emailed the chief, mayor, town's accountant, and clerk a list of pre-requested audit documents on June 14, 2022. The pre-requested audit documents list included a request for written policies and procedures to ensure fines levied by the court adhere to State law. The DCVC Auditor also requested supporting documentation confirming that the individual was reimbursed for the overpayment of the speeding ticket as of February 1, 2021, as stated in the management response in the State Audit report dated June 30, 2020.

On June 21, 2022, the DCVC Auditor received policies and procedures from the town's clerk. The towns' policies and procedure state:

The law is the primary determinate of the overall fine, which includes the combined fees and assessments. Every violation or charge that carries a fine must result from a law. Every year, usually in early June, S.C. Court Administration issues a memo detailing all the provisos and law cites that impact the coming state budget year. This memo is highly informative, extremely focused and lists all information by type of court. It is usually mailed or e-mailed to those who have court contact information listed with the office.

All fees and assessments remitted to the State Treasurer's Office are referenced to a South Carolina Code of Laws section for each fee or assessment on the State Treasurer's Office revenue remittance form.

If an individual is guilty, the judge, in some cases, has the latitude within the law to determine the fine within a range. The judge, in some cases, has the latitude within the law to sentence a person to time served. In a case where time served is the sentence and it is in accordance with the law, there is no fine. When there is no fine, there can be no assessment because the assessment is based on a mathematical computation using the fine amount. If there is no minimum fine set by law, the judge can suspend the fine. If there is a minimum fine amount, the judge cannot suspend or determine a fine below the minimum amount. If there is a maximum fine amount set by law (but no minimum), the judge can suspend the entire fine amount. If the judge suspends the entire fine amount, the court must still collect the assessment.

Varnville Municipal Court uses LawTrak software to calculate fees and assessments. However, the use of software does not remove the municipality's responsibility for properly calculating and remitting fees and assessments due the State. Some software requires user updates and intervention on a frequent basis to various tables built into the software to function properly. The vendor supports some software as long as maintenance fees are paid and the program is routinely updated. It is the municipality's responsibility to ensure the proper operation of its court system including the functionality of the software.

During the zoom audit meeting on August 19, 2022, the DCVC Auditor asked the town's clerk if policies and procedures had been distributed to all relevant personnel. The clerk stated, yes, policies and procedures have been distributed to all relevant personnel.

The Town of Varnville implemented written policies and procedures to ensure fines levied by the court adhere to applicable 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. Installment Fees

Objective Did the Town of Varnville implement written policies and procedures to ensure the installment fees are accurately assessed and collected in accordance with State law? Are the procedures in writing? Have procedures been distributed to all relevant personnel?

Conclusion Yes, the Town of Varnville implemented written policies and procedures to ensure installment fees are accurately assessed and collected in accordance with State law as recommended in the State Auditor's Report dated June 30, 2020. All procedures have been distributed to all relevant personnel.

Background SC Code of Law Section 14-1-209

Discussion The Department of Crime Victim (DCVC) Programmatic Review and Financial Audit is a follow-up audit to the Town of Varnville Municipal Court audit issued by the State Auditor's Office dated June 30, 2020. During the State Audit dated June 30, 2020, the State Auditor noted that the town did not assess a 3% installment fee for an individual's payment agreement in accordance with State law.

- Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fine and assessment are paid in installment. In addition, the South Carolina Court Administration fee memorandum dated July 8, 2019, states, "The intent of Section 14-1-209(B) is that each installment payment be allocated on pro rata basis to each applicable fine, assessment, and surcharge."

Management Response:

The above referenced finding was an error on the behalf of the court. The individual should have been charged 3% fee over the time payment agreement until the balance was paid in full.

The State Auditor recommended that the Town of Varnville implement policies and procedures to ensure the installment fee is accurately assessed and collected in accordance with State law.

Prior to the virtual site visit on August 19, 2022, the DCVC Auditor emailed the chief, mayor, town's accountant, and clerk a list of pre-requested audit documents on June 14, 2022. The pre-requested audit documents list included a request for written policies and procedures to ensure installment fees are accurately assessed and collected in accordance with State law.

On June 21, 2022, the DCVC Auditor received policies and procedures from the town's clerk. The towns' policies and procedure state:

Installment Payments S.C. Code Ann. § 14-1-209 provides guidance when the fine and assessment are paid in installments. Each installment payment should be allocated on a pro rata basis to each applicable fine, assessment and surcharge. Prior to making these computations, the court should determine which assessments and surcharges may apply based on the following chart. After the court determines which assessments and surcharges apply, then part of the installment payment should be allocated until what remains is the fine and assessment combination.

—When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends S.C. Code Ann. § 14-1-209(B) for the fiscal year ... and requires that 51.80722 percent of each installment be treated as a payment towards the assessment. The remaining 48.192771 percent is treated as a payment towards the fine. The assessment amount must further be divided, with 88.84 being transmitted to the state, and 11.16 being retained by the municipality for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.).

Those charges must be collected separately and not included in the percentage splits explained above. Funds collected as installments should not be held until full payment is received but must be remitted each month to the City Treasurer. To compensate for this slight shift in funds, the division of the final installment payment should be adjusted so that the portion collected as the assessment does not exceed the amount originally imposed.¶ 1

When an individual pays the fine, assessment or restitution through installments, the municipal court must collect an additional 3 percent of the installment payment as a collection cost charge. The collection cost is transmitted to the municipal treasurer for deposit into the municipal general fund (S.C. Code Ann. § 14-17-725).

During the virtual site visit on August 19, 2022, the DCVC Auditor asked the town's clerk if policies and procedures had been distributed to all relevant personnel. The clerk stated, yes, policies and procedures have been distributed to all relevant personnel.

The Town of Varnville implemented written policies and procedures to ensure installment fees 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

C. Victim Assistance Fund**Objective**

Did the town implement written policies and procedures to ensure the Victim Assistance revenue is accounted for and reconciliations are done timely in accordance with State law? Are the procedures in writing? Have procedures been distributed to all relevant personnel?

Conclusion

Yes, the Town of Varnville implemented written policies and procedures to ensure the Victim Assistance revenue is accounted for and reconciliations are done in accordance with State law as recommended in the State Auditor's Report dated June 30, 2020. All procedures have been distributed to all relevant personnel.

Background

South Carolina Code of Laws Section 14-1-211(B)

Discussion

The Department of Crime Victim (DCVC) Programmatic Review and Financial Audit is a follow-up audit to the Town of Varnville Municipal Court audit issued by the State Auditor's Office dated June 30, 2020. During the State Audit dated June 30, 2020, the State Auditor noted that one exception in which the Victim Assistance Funds were transferred out of the Victim Assistance Fund to the General Fund during the current fiscal year was for expenses incurred in prior years in the amount of **\$3,159.30** for four expenses. According to the State Auditor's Report, the **\$3,159.30** was recorded as a current-year expense in the Uniform Schedule of Court fines, Assessments, and Surcharges.

Management Response:

The transfer of \$3,806.00 that was made in the current fiscal year from the Victims Fund Account to the Town's General fund account, was paid out of the general fund in prior fiscal years. These items were expensed as victim funds in the years incurred, but the Victim Fund had not repaid the general fund.

The State Auditor recommended that the Town of Varnville implement written policies procedures to ensure that victim assistance revenue is accounted for in accordance with State law.

Prior to the virtual site visit on August 19, 2022, the DCVC Auditor emailed the chief, mayor, town's accountant, and clerk a list of pre-requested audit documents on June 14, 2022. The pre-requested audit documents list included a request for written policies and procedures to ensure that victim assistance revenue is accounted for in accordance with State law.

On June 21, 2022, the DCVC Auditor received policies and procedures from the town's clerk. The towns' policies and procedure state:

Separation of Monies and Accounts

Whoever is responsible for accounting at the municipal level is responsible for the separation of monies and accounts. First, segregate the court funds from all other city funds. These funds should represent any bond funds deposited and posted before trial and in escrow until the defendant is adjudicated. The clerk of court does not report these collections to the State Treasurer for remittance.

Once the defendant is found guilty or innocent, a determination is made as to the status of those funds. If innocent, the clerk of court should authorize a refund to the defendant based on the judge's ruling. If guilty, those funds are forwarded to the city for disbursement in accordance with the law. A list of bonds pending should be maintained and reconciled monthly with the clerk of court or court bank account. At no time should the city —borrow] or otherwise access those monies. This is considered a crime by the S.C. Judicial Department.

Reports should be run routinely, usually at month end, to allocate collections on guilty defendants amongst the fines, assessments, surcharges and pullouts. This report should accompany any movement of funds from the clerk of court or court bank account. At the very least, a check should be generated to move all monies properly adjudicated out of the account. Accounting records on the city treasurer's side should reflect the simultaneous transactions.

The state auditor recommends that all monies associated with victim services revenue sources be kept in a separate

general ledger fund. A special revenue fund type would fit this recommendation. It is not necessary to keep these monies in a separate bank account. Pooling the cash could provide benefits of a higher investment return or lower bank fees. As previously noted, each revenue source, the conviction surcharge, application fee and the victim service share of the assessment should be tracked separately.

Accounting records should reflect the receipt of the check(s) generated by the clerk of court. The amounts due the state may be credited to a generic —Due to the State] ledger liability account. Victim service revenues should be credited to the various revenue accounts in the victim service fund, and the revenue due the city from the fines can be credited to a generic —bonds and fines]] revenue account in the general ledger. The debit is to the cash account(s).

The State Treasurer's draft or a check written by the city to remit the amount due to the 71 state is accounted for by a debit to the —liability due to the statell and a credit to cash. The ultimate goal of the accounting system is to readily provide information to produce the required Schedule of Fines and Assessments. Required information for this schedule is found in S.C. Code Ann. 5 14-1-208(E). This is a required supplementary schedule and must have an external auditor's —in relation toll opinion on it. The required information includes

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.

Victim Assistance Revenue and State Treasurer Remittance

A person convicted of, or pleads guilty or —nolo contenderell 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. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended. Assessments must not be waived, reduced or suspended.

A \$25 surcharge is imposed on all criminal convictions in addition to all other assessments and surcharges, including municipal ordinances obtained in magistrate and municipal courts (S.C. Code Ann.

5 14-1-211). The surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930 (driving under the influence of liquor, drugs or like substances) and Section 56-5- 2933 (DUI Per Se). No portion of the surcharge may be waived, reduced or suspended.

The city treasurer must remit 12 percent of the revenue generated by the assessment imposed to the municipality to be used for the purposes set forth in 5 14-1-208(D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the 82 fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer (S.C. Code Ann. 5 14-1208 (4)). However, the amount of the assessment revenue required to be paid to the state pursuant to a —hold-harmless] clause may not exceed the amount collected for the month. Assessments paid in installments are remitted as received.

The surcharge revenue retained by the municipality must be reported to the State Treasurer monthly in a form and manner required by that office. To ensure surcharges imposed pursuant to 5 14-1-211 (A) are properly collected and remitted to the city treasurer, the annual independent external audit required to be performed by each municipality pursuant to 5 5-7-240 must include a review of the accounting controls over the collection, reporting and distribution of surcharges from the point of collection to the point of distribution. It must have a supplementary schedule detailing the amount of the surcharges collected at the court level, the amount retained by the municipality's treasurer, the amount of funds allocated to victim services

by fund source, how those funds were expended and carry forward balances. The municipality is allowed to use \$1,000 of the funds to offset the audit's cost.

The municipality must use the revenue it retained to provide 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. First priority is given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority is given to programs which expand victims' services beyond those required by Article 15 of Title 16. These funds may 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 separately identified in the municipality's adopted budget as funds unused and must be carried forward from year-to-year and used exclusively for providing services for crime victims.

During the zoom audit meeting on August 19, 2022, the DCVC Auditor asked the town's clerk if policies and procedures had been distributed to all relevant personnel. The clerk stated, yes, policies and procedures have been distributed to all relevant personnel.

The Town of Varnville implemented written policies and procedures to ensure Victim Assistance revenue is accounted for and reconciliations are done 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. State Victim Assistance Program (SVAP)

Objective Did the Town of Varnville remit \$31,750 to State Victim Assistance Program (SVAP) as recommended by the DCVC Auditor?

Conclusion The Office of the Attorney General and The Department of Crime Victim Compensation worked with the Town of Varnville to remit **\$31,750** to SVAP.

Background Proviso 59.15. (AG: State Crime Victim Compensation)

Discussion In May 2021, the Assistant Deputy Director of DCVC was contacted by the Town of Varnville's chief, advising that the town's clerk no longer wanted to be the Victim Advocate. The chief informed the Assistant Deputy Director that the town was interested in contracting with Hampton County to cover the town's victim services. The Assistant Deputy Director informed the chief before the town could move forward with a contract with Hampton County, DCVC would have to review the town's financial documents to determine if the balance of the Victim Assistance Fund was correct. After meeting with the Assistant Deputy Director to determine what supporting documents was needed, the DCVC Auditor contacted the town's accountant and requested the Schedule of Court Fines, Fees, Assessments and Surcharges, bank statements for the Victim Assistance Account, and State Treasurer Revenue Remittance Forms (STRRFs) for FY18-FY20. The town's accountant submitted all documents as requested by the DCVC Auditor as well as the Town's Profit and Loss for FY18-FY20.

After reviewing the Schedule of Court Fines, Fees, Assessments and Surcharges, bank statements, STRRFs, Town's Profit and Loss statement and the State Auditor's report dated June 30, 2020, the DCVC Auditor determined The Town of Varnville did not meet the 90% spending requirement per Proviso 59.15 stated below:

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 (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.

Town of Varnville was required to remit \$31,750 to the State Victim Assistance Program (SVAP). Below is a detailed overview of the Town's Victim Assistance Fines, Fees, and Assessment Funds from FY18-FY20.

FY 18

The beginning balance carried forward from FY17 \$49,911
The Town Collected \$5,544
90% spending requirement \$4989.60
The Town Spent \$2,011

Therefore, the Town failed to meet the 90% spending requirement. The Town only spent 36% for FY18. The Town was required to submit to the State Victim Assistance Program (SVAP) a total of \$28,444 carrying forward the required \$25,000.

FY19

The beginning balance carried forward from FY18 \$53,444
The carried forward balance should have been \$25,000
The Town Collected \$4,753
90% spending requirement \$4277.70
The Town Spent \$1,447

Therefore, the Town failed to meet the 90% spending requirement. The Town only spent 30% for FY19. The Town was required to submit to the State Victim Assistance Program (SVAP) a total of \$3,306. carrying forward the required \$25,000.

FY20

The beginning balance carried forward from FY20 \$56,750
The carried forward balance should have been only \$25,000
The Town Collected \$2,994
90% spending requirement \$2694.60
The Town Spent \$48,806

The Town donated **\$45,000** to a nonprofit providing direct victim services FY20, therefore they did meet the 90% spending requirement for that year. However, the Town should not have made donations prior to remitting funds to SVAP, because they failed to meet the 90% spending requirements for FY18 and FY19.

The town failed to remit funds to SVAP for FY18 in the amount of **\$28,444** and **\$3,306** FY19. The total amount required to be remitted to SVAP is **\$31,750** per Proviso 59.15.

On May 27, 2021, the Assistant Deputy Director notified the chief and the town's accountant of the DCVC Auditor's findings via email. The email stated that funds were to be remitted to SVAP no later than June 17, 2021. The town failed to remit the funds by the stated date. The Assistant Deputy Director sent a second email on June 17, 2021 to the chief and the town's accountant that requested SVAP funds be remitted June 21, 2021. The Assistant Deputy Director also requested a copy of the check and a current bank statement from the Victim Assistance account as separate documentation. The Town failed to remit the funds by the stated date.

During the zoom audit meeting on August 19, 2022, the DCVC Auditor asked the mayor if the town had a plan in place to remit the funds to SVAP. He stated that the town did not have a plan at that time because he needed to consult with the town's attorney. The DCVC Auditor advised the town's officials at that time, that the town could not move forward with a victim service contract with Hampton County until the funds were remitted to SVAP. The town's clerk informed the DCVC Auditor that she would no longer be serving as the dual role victim advocate. The DCVC Auditor asked the chief who would be assisting the town's victims, the chief stated he will be assisting the town's victims and the town was no longer interested in a victim service contract with Hampton County.

Since the zoom audit meeting on August 19, 2022, The Office of the Attorney General and The Department of Crime Victim Compensation worked with the Town of Varnville to remit \$31,750 to SVAP.

Recommendation(s)
and Comments

No Further Recommendation

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

E. 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 Manual
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 audit review regarding the State Auditor's report dated June 30, 2020.

All errors were corrected for the State Auditor's Office report dated June 30, 2020.

There are no further actions or recommendations.

For an overview of the follow-up audit results please refer to the "Results in Brief" section of this report. This audit was distributed January 30, 2023.

Appendix(s)

**Appendix A – Town of Varnville Municipal Court State Auditor’s Report Issued
June 30, 2020**

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

**INDEPENDENT ACCOUNTANTS' REPORT ON
APPLYING AGREED-UPON PROCEDURES**

For the Year Ended June 30, 2020

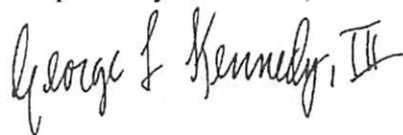
May 20, 2021

The Honorable Walder H. Sanders, Jr., Chief Judge
Ms. Seneinka Jones, Clerk/Treasurer
Town of Varnville Municipal Court
Varnville, South Carolina

This report resulting from the application of agreed-upon procedures to the accounting records of the Town of Varnville Municipal Court System as of and for the period July 1, 2019 through June 30, 2020, was issued by The Hobbs Group, P.A., under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,



George L. Kennedy, III, CPA
State Auditor

GLKIII/trb

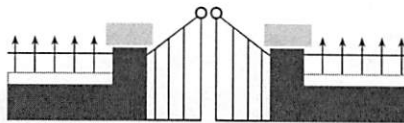
TABLE OF CONTENTS
TOWN OF VARNVILLE MUNICIPAL COURT
JUNE 30, 2020

Independent Accountants' Report on Applying Agreed-Upon Procedures.....1

1704 Laurel Street
Columbia, SC 29201

P.O. Box 2411
Columbia, SC 29202

Phone (803) 799-0555
Fax (803) 799-4212



TheHobbsGroup
CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS, PA

125 W. Stone Avenue
Greenville, SC 29609

Phone (864) 271-7503
Fax (864) 751-5889

www.hobbscpa.com

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

May 20, 2021

Mr. George L. Kennedy, III, CPA
State Auditor
State of South Carolina
Columbia, South Carolina

The Honorable Walder H. Sanders, Jr., Chief Judge
Ms. Seneinka Jones, Clerk/Treasurer
Town of Varnville Municipal Court
Varnville, South Carolina

We have performed the procedures described below on the systems, processes, and behaviors related to financial activity of the Town of Varnville Municipal Court (the "Town") for the period July 1, 2019 through June 30, 2020, in the areas addressed. The Town is responsible for the systems, processes and behaviors related to financial activity.

The South Carolina Office of the State Auditor has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of the systems, processes, and behaviors related to financial activity for the period July 1, 2019 through June 30, 2020. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures and the associated findings are as follows:

1. Clerk of Court

- We obtained the court dockets or equivalents from the Clerk of Court. We randomly selected 25 cases from the court dockets and recalculated the fine, fee, assessment and surcharge calculation to confirm that the fine, fee, assessment and surcharge were properly allocated in accordance with applicable State law and the South Carolina Court Administration fee memoranda.
- We randomly selected 25 court receipt transactions to confirm that the fine, fee, assessment and surcharge adhered to State law and the South Carolina Court Administration fee memoranda and that the receipts were allocated in accordance with applicable State law.

Findings -- Adherence to Fine Guidelines

During our inspection of Town Court collections and remittances, we observed the following instances in which the Town did not fine the defendant in accordance with State law:

Speeding

The Court fined one individual \$50.00 for speeding less than 10 miles per hour over the speed limit. Section 56-05-1520(G)(1) of the 1976 South Carolina Code of Laws, as amended, 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; "

Management Response:

The ticket referenced above was written in error by the police officer. The ticket should have been written for \$76.50, with a fine that would not have exceeded \$25. The ticket was overlooked by the court due to the defendant paying the ticket online. The defendant will be reimbursed as of February 2021.

Installment Payments

The Town did not assess a 3% installment fee for an individual's time payment agreement in accordance with State law. Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fine and assessment are paid in installments. In addition, the South Carolina Court Administration fee memorandum dated July 8, 2019, states, "The intent of Section 14-1-209(B) is that each installment payment be allocated on a pro rata basis to each applicable fine, assessment, and surcharge."

Management Response:

The above referenced finding was an error on behalf of the court. The individual should have been charged the 3% fee over the time payment agreement until the balance was paid in full.

2. Town Treasurer

- We inspected all monthly court remittance forms or equivalents to confirm that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- We agreed the amounts reported on the monthly remittance forms or equivalents to the Town's support.
- We inspected the Town's support to confirm that the Town properly classified fine, fee, assessment, and surcharge receipts.
- We inspected all State Treasurer's Revenue Remittance Forms ("STRRF") for the period July 1, 2019 through June 30, 2020 and agreed the amounts reported on the STRRF to the court remittance forms or equivalents.

We found no exceptions as a result of the procedures.

3. Victim Assistance

- We made inquiries and confirmed that any funds retained by the Town for victim assistance were deposited into a separate account.
- We selected all (4) expenditures to confirm that the Town expended victim assistance funds in accordance with State law and the South Carolina Court Administration fee memoranda.
- We inspected the Town's victim assistance account to confirm the Victim Assistance fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

Findings -- Prior Year Expenses Recorded in the Current Year

We noted one exception in which funds were transferred out of the Victim Assistance Fund to the General Fund during the current fiscal year that was for expenses incurred in prior years. The transfer amount referenced above is \$3,159.30 which is made up of four prior year expenses. This amount was recorded as a current year expense in the Uniform Schedule of Court Fines, Assessments, and Surcharges.

Management Response:

The transfer, \$3,806 that was made in the current fiscal year from the Victims Fund Account to the Town's General fund account, was paid out of the general fund in prior fiscal years. These items were expensed as victim funds in the years incurred, but the Victim Funds had not repaid the general fund.

4. Uniform Schedule of Court Fines, Assessments and Surcharges

- We agreed amounts reported by the Town on its Uniform Schedule of Court Fines, Assessments and Surcharges, as reported in the annual financial statement audit, for the period July 1, 2019 through June 30, 2020, to the Town's general ledger.
- We inspected the Town's Uniform Schedule of Court Fines, Assessments and Surcharges, as reported in the annual financial statement audit, to confirm that it contained all the elements required by South Carolina Code of Laws Section 14-1-208.

We found no exceptions as a result of these procedures.

5. Calculation of Over/(Under) Reported Amounts

- We inspected copies of monthly State Treasurer Revenue Remittance Forms for the twelve month period ended June 30, 2020, which the Town prepared and submitted to the South Carolina Office of the State Treasurer. We calculated the amount over/(under) reported by the Town by category.

We found no exceptions as a result of these procedures.

We were engaged by the South Carolina Office of the State Auditor to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or a review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the systems, processes, and behaviors related to financial activity of the Town for the period July 1, 2019 through June 30, 2020. Accordingly, we do not express

such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the Town and to meet our ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Town of Varnville Municipal Council, the Clerk of Court, Town Treasurer, State Treasurer, the South Carolina Department of Crime Victim Compensation, and the Chief Justice and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

The Hobbs Group, P.A.
Columbia, South Carolina

The Hobbs Group, P.A.

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 Deputy Director:

**Debbie Curtis
1205 Pendleton St., Room 401
Columbia, SC 29201**

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:

<https://www.scag.gov/inside-the-office/crime-victim-services-division/crime-victim-compensation/auditing/>



ALAN WILSON
ATTORNEY GENERAL

Programmatic Review Completed by:

Mignon Lee Thompson
Mignon Lee-Thompson, Senior Auditor

8/25/2023
Date

Reviewed by:

Dexter L. Boyd
Dexter Boyd, Audit Manager

8/25/2023
Date

Debbie Curtis
Debbie Curtis, Deputy Director

Aug. 25, 2023
Date