

TOWN OF GIFFORD MUNICIPAL COURT

GIFFORD, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2015

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**South Carolina
Office of the State Auditor**

**George L. Kennedy, III, CPA
State Auditor**

January 24, 2017

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

The Honorable Brenda C. Jamison, Chief Judge
Town of Gifford Municipal Court
Gifford, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Gifford Municipal Court System as of and for the year ended June 30, 2015, was issued by Steven L. Blake, CPA, 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,

A handwritten signature in blue ink that reads "George L. Kennedy, III".

George L. Kennedy, III, CPA
State Auditor

GLKIII/cwc

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

January 24, 2017

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

The Honorable Brenda C. Jamison, Chief Judge
Ms. Patricia McTeer, Clerk of Court
Town of Gifford Municipal Court
Gifford, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Gifford Municipal Court, solely to assist you in evaluating the performance of the Town of Gifford Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Gifford Municipal Court is 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 Office of the State Auditor and the Town of Gifford Municipal Court. Consequently, I 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

- I gained an understanding of the policies and procedures established by the Clerk of Court to ensure timely reporting by the Clerk of Court's Office.
- I obtained the court dockets from the Clerk of Court. I judgmentally selected twenty-five cases from the court dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly adjudicated in accordance with applicable State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the fine, fee, assessment and/or surcharge amount adheres to State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the receipts were allocated and apportioned in accordance with applicable State law.

My findings as a result of these procedures are presented in Adherence to Fine Guidelines, Court Software System Setup Error and Court Cash Receipt Procedures in the Accountant's Comments section of this report.

My findings as a result of these procedures are presented in Timely, Accurate Reporting by the Clerk of Court in the Accountant's Comments section of this report.

2. Municipal Treasurer

- I gained an understanding of the policies and procedures established by the municipal treasurer to ensure timely reporting by the municipality.
- I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to ensure that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- I determined that amounts reported on the monthly court remittance forms or equivalents agreed to the municipality's support.
- I scanned the municipality's support to determine if the municipality had misclassified fine, fee, assessment, and surcharge receipts.
- I obtained copies of all State Treasurer's Revenue Remittance forms for the period July 1, 2014 through June 30, 2015. I vouched the amounts reported on the State Treasurer's Revenue Remittance forms to the court remittance forms or equivalents.
- I determined that the amounts reported by the municipality on its supplemental schedule of fines and assessments agreed to the municipality's support.
- I determined that the municipality reported court financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the Town Treasurer in the Accountant's Comments section of this report.

3. Victim Assistance

- I gained an understanding of the policies and procedures established by the municipality to ensure proper accounting for victim assistance funds.
- I made inquiries and performed substantive procedures to determine that any funds retained by the municipality for victim assistance were deposited into a separate account.
- I tested selected expenditures to ensure that the municipality expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- I determined that the municipality reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

The Honorable Nikki R. Haley, Governor
and
The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Gifford Municipal Court
January 24, 2017

- I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the municipality's general ledger or subsidiary ledgers.
- I inspected the municipality's victim assistance fund to determine if the Victim Assistance fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

My findings as a result of these procedures are presented in Victim Assistance Funds in the Accountant's Comments section of this report.

4. Calculation of Over/(Under) Reported Amounts

- I obtained copies of monthly State Treasurer Revenue Remittance Forms for the twelve-month period ended June 30, 2015, which the Town prepared but did not submit to the Office of the State Treasurer and determined they could not be relied upon. I requested and obtained an analysis of court deposits since court began in 2013. I calculated the amount under reported by the municipality by category for the period based on this analysis. I had the municipal clerk review and concur with the calculation.

The results of my procedures disclosed that the municipality under reported amounts due to the State and Victim Assistance Fund. My finding as a result of these procedures is presented in Under Reported Amounts in the Accountant's Comments section of this report.

I was 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, 2015 and, furthermore, I was 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. Accordingly, I do not express such an opinion. Had I performed additional procedures, other matters might have come to my attention that would have been reported to you.

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 Gifford Council, Town of Gifford Clerk of Court, Town of Gifford Treasurer, State Treasurer, State Office of Victim Assistance, the Chief Justice, and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.

Steven L. Blake, CPA

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 I 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.

TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT

COURT SOFTWARE SYSTEM RECEIPT TRACE

I attempted to trace ticket number 49227GR to the receipt book but the original was missing as well as the carbon copy. I noted someone had written on the receipt stub the payor name, amount and "cash". The ticket copy available from the software system had a guilty verdict checked as well as a bench warrant issued for lack of payment.

Section 14-25-85 of the 1976 South Carolina Code of Laws, as amended states "All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of the municipality for which such court is held."

The current clerk of court stated that, based on the information available, the bench warrant would be rescinded.

I recommend the Town consider the implications of proper record keeping and, combined with the recommendation in the Section B, Other Weaknesses findings below, substantially improve their court procedures.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

I obtained a few copies of the State Treasurer Revenue Remittance Forms (STRRF) prepared during the procedures period and determined these copies were incomplete. During my testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), I noted none of the twelve STRRF was submitted to the State Treasurer as required by State law.

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.

The town clerk stated the Town's previous clerk/treasurer stated work demands did not allow for updating and printing timely.

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

TIMELY, ACCURATE RECORDING AND REPORTING BY THE TOWN TREASURER

GENERAL LEDGER COURT RECORDS

The town treasurer kept no records of court activity which allowed for reconciliation of court collection activity, court docket adjudication and deposit activity. I was therefore unable to

trace any court activity through the Town's general ledger including payments made to the State Treasurer, if any.

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 former clerk/treasurer and current clerk stated that a lack of training regarding proper court recordkeeping contributed to the issue.

I recommend the Town accurately record court activity in such a way as to make those records available for review in accordance with state law.

SUPPLEMENTARY SCHEDULE

The Town provided its audited financial statements for the fiscal year ended June 30, 2013, the latest available audit. The audit report included a schedule of fines and assessments which I tested to ensure compliance with State law. I determined that the schedule was not prepared in accordance with applicable State law and did not include the required in-relation-to opinion. The Town's fiscal year 2013 general ledger was not available and the Town could not provide other documentation demonstrating that the schedule reconciled to the Town's accounting records. Therefore I was unable to verify that the schedule was complete and accurate.

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..."

The Town clerk stated the Town has contracted with an independent auditor to perform an audit as of June 30, 2014 and the auditor will be informed of the need for the schedule to be in compliance with state law.

I recommend the Town contract with an Independent Certified Public Accountant to conduct an audit of its financial statements annually and prepare a schedule in accordance with State law.

VICTIM ASSISTANCE FUNDS

During my tests of Municipal Court collections and remittances I noted the following:

- The Town has established a separate bank account for Victim Assistance funds as required by State law but deposits are not made to the account on a monthly basis. I also was not given two months bank statements within the procedures period as

they were unobtainable. This created a scope limitation as to my procedures applying to the entire period.

- The Town does not track Victim Assistance deposits, disbursements or cash balances manually or electronically other than with the bank statement activity. No revenues, expenses or fund balance exist in the general ledger.
- The June 30, 2013 schedule of fines and assessments reported no Victim Assistance carry forward balance; I was unable to verify this as no bank statement was provided to verify the cash account for Victims Assistance.
- There were withdrawals of \$2996.62 made from this bank account to pay Town operating costs during the procedures period.

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."

The former clerk/treasurer and current clerk stated that a lack of training regarding proper court recordkeeping contributed to the issue.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. I also recommend the Town establish a separate general ledger account to ensure the transparency of its Victims' Assistance funds and determine cumulative balances due to Victim Assistance.

UNDER REPORTED AMOUNTS

As reported in the finding Timely Submission of State Treasurer Revenue Remittance Form, the Town did not submit any of the monthly STRRF to the State Treasurer. I was unable to test the completeness and accuracy of the STRRF because the court records were inadequate. However, I requested and obtained a summary schedule of court collections since court was reinstated in 2013. Based on the tests performed, which included determining the type of violations subject to the collection, the ratio of the fine amount to the assessments and surcharges and the application of those ratios by calculation to the summary schedule total for collections, I determined the Town underreported the following cumulative amounts:

STRRF LINE	DESCRIPTION	
K.	Municipal Law Enforcement Surcharge - \$25 per case	99,842.24
KA.	Municipal Criminal Justice Surcharge - \$5	19,968.45
L.	Municipal Court -107.5%	<u>95,369.31</u>
M.	TOTAL REVENUE DUE TO STATE TREASURER	<u>215,180.00</u>
	MUNICIPAL VICTIM FUND	
N.	Assessments - Municipal -107.5%	11,981.07
O.	Surcharges -Municipal	<u>-0-</u>
P.	TOTAL RETAINED FOR VICTIM SERVICES	\$ <u>11,981.07</u>

I recommend the Town implement a process to ensure timely filing and payment of amounts due the State Treasurer.

SECTION B – OTHER WEAKNESSES

The conditions described in this section have been identified while performing agreed-upon procedures but are not considered violations of State Laws, Rules or Regulations.

COURT CASH RECEIPT PROCEDURES

I was unable to trace defendant ticket payments from manual court receipts to the Town's bank deposit. The Clerk of Court/treasurer did not include a detailed list (i.e., name of payee, ticket/docket reference, amount paid, etc.) that comprises the remittance package when she deposited amounts collected from court fines. There is no reconciliation between monies receipted manually for fine payments and monies receipted in the court software system. There is no detailed list (i.e., name of payee, receipt number, check number, check amount, etc.) used in a separate bank deposit. Instead, it is added to other receipts and deposited cumulatively with those receipts. Deposit slip copies were not available for testing. The manual receipt number was however written on the green court copy of the Uniform Traffic Ticket and was traceable to the receipt book from the ticket.

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ..." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The former Clerk of Court/treasurer stated she did not include detail on or keep copies of the bank deposit slips. Because the Clerk of Court/treasurer did not maintain a detail list of individual receipts that comprise its bank deposit there is no assurance that the amount receipted has been deposited in the Town's bank account. The current Clerk of Court stated she prepares and verifies the deposit slip reconciles with the "Daily Cash Receipt Report" printed from the court software system.

I recommend the Clerk of Court/treasurer summarize receipts and include detail on deposits as recommended in Justice Toal's order and deposit daily or weekly, when practicable. The Clerk of Court and the town treasurer should verify that the validated deposit slip reconciles with the "Daily Cash Receipt Report".

LACK OF ADEQUATE FILING PROCEDURES

The clerk of court did not file court records, i.e. tickets, warrants, dockets and receipt books, in an orderly fashion whereby records could be retrieved upon request. The court software system was not reliable for complete processing of records although it appeared

records were partially processed using the system. In short, court record keeping was inadequate and disorganized for the procedures period.

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.

I 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.

MUNICIPALITY'S RESPONSE

The management of the Town of Gifford has been provided a copy of the findings identified in the Accountant's Comments Section of this report and has elected not to provide a written response to the findings.