

CHARLESTON COUNTY MAGISTRATE COURT

CHARLESTON, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2016

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**South Carolina
Office of the State Auditor**

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

June 5, 2017

The Honorable Henry McMaster, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Ellen S. Steinberg, Chief Magistrate
The Honorable Andrew C. Smith, Treasurer
Charleston County
Charleston, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Charleston County Magistrate Court System as of and for the year ended June 30, 2016, 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/sag

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

June 5, 2017

The Honorable Ellen S. Steinberg, Chief Magistrate
Charleston County Magistrate Court System
Charleston, South Carolina

The Honorable Andrew C. Smith, Treasurer
Charleston County
Charleston, South Carolina

I have performed the procedures described below, which were agreed to by the County of Charleston, County of Charleston Summary Court Administration and the Charleston County Magistrate Courts, solely to assist you in evaluating the performance of the Charleston County Magistrate Court Systems for the fiscal year ended June 30, 2016, in the areas addressed. The County of Charleston, County of Charleston Summary Court Administration and the Charleston County Magistrate Courts 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 Office of the State Auditor and the Charleston County Magistrate Court Systems. 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. County of Charleston Summary Court Administration

- I gained an understanding of the policies and procedures established by the County of Charleston Summary Court Administration and the Charleston County Magistrates' Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- I obtained the individual Magistrate Courts' beginning and ending warrant and uniform traffic ticket numbers for all cases for the period under review from the County of Charleston Summary Court Administration. I judgmentally selected between seven to eleven criminal/traffic cases from each of the 13 individual magistrates' courts tested and recalculated the fine, fee, assessment and/or surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly adjudicated and allocated in accordance with applicable State law and to the South Carolina Court Administration fee memoranda.

The Honorable Ellen S. Steinberg, Chief Magistrate
The Honorable Andrew C. Smith, Treasurer
Charleston County
June 5, 2017

- I obtained the population of case numbers for all new cases filed in Magistrates' Civil court during the period under review from the County of Charleston Summary Court Administration. I judgmentally selected between three and seven case numbers to determine that filing fees adhered to State law and the South Carolina Judicial Department memo, attachment K.
- I tested 158 judgmentally selected, recorded court receipt transactions in the 13 courts combined to determine that the receipts were allocated and remitted in a timely manner to the County Treasurer in accordance with State law.
- I agreed all amounts reported on the monthly court transmittal reports to the Court's summary cash receipt report or equivalent.

My findings as a result of these procedures are presented in Timely, Accurate Reporting by the County of Charleston Summary Court Administration and the Charleston County Magistrates' Clerks of Court in the Accountant's Comments section of this report.

2. County Treasurer

- I gained an understanding of the policies and procedures established by the County Treasurer to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- I obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the County which reported court generated monies for the fiscal year ended June 30, 2016. I agreed the line item amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports, general ledger, and to the State Treasurer's receipts for four randomly selected months.
- I determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- I verified that the amounts reported by the County on its supplementary schedule of fines and assessments for the fiscal year ended June 30, 2016 reconciled to the State Treasurer's Revenue Remittance Forms and to the County's general ledger.

There were no findings as a result of these procedures.

The Honorable Ellen S. Steinberg, Chief Magistrate
The Honorable Andrew C. Smith, Treasurer
Charleston County
June 5, 2017

3. Victim Assistance

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

There were no findings as a result of these procedures.

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 the county level of court for the twelve months ended June 30, 2016, 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, 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 Charleston County Council, County of Charleston Summary Court Administration, Charleston County 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

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 COUNTY OF CHARLESTON SUMMARY COURT
ADMINISTRATION AND CHARLESON COUNTY MAGISTRATES' CLERKS OF COURT**

Adherence to Fine Guidelines

I noted the following instances in which the magistrates did not sentence the defendant in accordance with State law:

Driving Under Suspension

Three individuals were sentenced to \$299.76 and one to \$300.24 for Driving Under Suspension, license not suspended for DUI, first offense. One individual was sentenced to \$999.04 for Driving Under Suspension, license not suspended for DUI, third offense.

Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "...A person who drives a motor vehicle on any public highway of this state when his license to drive is canceled, suspended or revoked must, upon conviction, be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;" and "(c) for a third or subsequent offense, fined one thousand dollars, and imprisoned for up to ninety days"

Charleston County Summary Court Administration stated these errors were due to rounding total fine amounts.

Speeding

Seven individuals were fined \$25.06, one individual \$25.54, one individual \$26.51 and another \$81.93 for speeding 10 miles per hour or less over the speed limit. One individual was fined \$50.13 for speeding more than 10 but less than 15 miles per hour over the speed limit. One individual was fined \$81.93 for speeding more than 15 but less than 25 miles per hour over the speed limit.

Section 56-5-1520(G) 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"; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars; (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars."

Charleston County Summary Court Administration stated the error in fine amounts was a result of the issuing officer writing rounded or incorrect roadside bond amounts on the tickets and the magistrate did not correct the errors.

Driving Under the Influence [DUI]

One individual was fined \$387.95 and another individual a negative one hundred dollars (\$100.00) for DUI < .10 – 1st Offense.

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “A person who violates the provisions of this section... must be punished as follows: (1) for a first offense, by a fine of four hundred dollars ...”

Charleston County Summary Court Administration stated the first error in fine amounts was the result of rounding the fine amount and the second error was caused when the magistrate reduced the fine below the minimum mandatory fees and surcharges thus creating a negative fine amount when the software allocates the payment across the mandatory fees and surcharges.

Simple Possession of Marijuana

The Court fined one individual \$215.42 for possession of 28g (1 oz) or less of marijuana or 10g or less of hash, 1st offense.

Section 44-53-370(d)(4) of the 1976 South Carolina Code of Laws, as amended, states, “A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars.”

Charleston County Summary Court Administration stated the error in the fine amount was a result of the issuing officer writing rounded or incorrect roadside bond amounts on the tickets and the magistrate did not correct the errors.

No Proof of Insurance

One individual was fined \$123.86 for No Proof of Insurance.

Section 56-10-225(C) of the 1976 South Carolina Code of Laws, as amended, states, “A person who fails to maintain the proof of insurance in his motor vehicle as required by subsection (A) is guilty of a misdemeanor and, upon conviction, ... “ and 56-3-2520 provides the penalty which states, “...shall be punished by a fine of not more than one hundred dollars ...”

Charleston County Summary Court Administration stated the error in the fine amount

was a result of the issuing officer writing rounded or incorrect roadside bond amounts on the tickets and the magistrate did not correct the errors.

Sale of Alcohol to an Underage Person

One individual was fined \$-0- for the Sale of Alcohol to an Underage Person.

Section 61-4-50 of the 1976 South Carolina Code of Laws, as amended, states, “A person who makes a sale in violation of this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars . . .”

Charleston County Summary Court Administration stated the magistrate incorrectly suspended the fine.

I recommend the Magistrate Court implement procedures to train officers on the correct roadside bond amounts and magistrates on minimum fine amounts to ensure defendants are sentenced in accordance with State law.

Illegal Parking

One individual was fined \$232.00 for Illegal Parking.

Section 56-5-2530 of the 1976 South Carolina Code of Laws, as amended, is titled “Stopping, standing or parking prohibited in specified places;” and 56-5-6190 provides the penalty which states, “...shall be punished by a fine of not more than one hundred dollars ...”

Charleston County Summary Court Administration stated the error in the fine amount was a result of the issuing officer writing rounded or incorrect roadside bond amounts on the tickets and the magistrate did not correct the errors.

I recommend the Magistrate Court implement procedures to train officers on the correct roadside bond amounts and magistrates on minimum fine amounts to ensure defendants are sentenced in accordance with State law.

Installment Fee

I noted one instance where the Magistrate assessed and collected the three percent installment fee from an individual who paid the total amount due in one payment after the court date.

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...”

Charleston County Summary Court Administration stated that once Magistrates establish a payment plan the collection fee was always collected.

I recommend the Magistrate Court implement procedures to charge the installment fee only when defendants pay in installments in accordance with State law.

Case File Missing

One civil case file selected could not be located for testing; therefore, I was unable to determine if the proper fees were paid.

Section 22-1-80 of the 1976 South Carolina Code of Laws, as amended, states “. . . shall insert all his proceedings in each case by its title, showing the commencement, progress and termination thereof, as well as all fees charged or received by him.”

There was no reason given for why the case file was missing.

I recommend the Magistrate continue due diligence in maintaining/tracking case files.

COUNTY'S RESPONSE



Junerese Rhodan
Director

SUMMARY COURT ADMINISTRATION

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Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive
Post Office Box 20190
Charleston, SC 29413-0190

To: Whom it May Concern

From: Junerese Rhodan *JBRhodan*
Summary Court Director

Re: State Auditor's Report

Date: June 9, 2017

As a result of the State Auditor's findings, we have notified all magistrates and staff to pay special attention to all fine amounts when disposing of citations. We re-visited the Quick Reference Guide for setting fines & fees and ensured that proper minimum and maximum amounts were included. We distributed this information to all magistrates and staff. We also distributed this information to local law enforcement agencies to ensure correct minimum and maximum bond amounts were posted on citations at the time of stop. We re-addressed the collection of the 3% installment fee with each court to ensure that the fee would only be collected when multiple payments were made. We set internal policies in place with regards to accepting partial payments to eliminate future errors. Our internal auditor has added these items to her schedule to randomly audit these matters on a reoccurring basis.