

**CHESTERFIELD COUNTY CIRCUIT
AND FAMILY COURT SYSTEM**

CHESTERFIELD, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2010

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State of South Carolina



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

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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

March 23, 2011

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

The Honorable Faye L. Sellers, Clerk of Court
Chesterfield County Circuit and Family Court System
Chesterfield, South Carolina

The Honorable Kathy B. Sheeler, Treasurer
Chesterfield County
Chesterfield, South Carolina

We have performed the procedures described below, which were agreed to by the County of Chesterfield and the Chesterfield County Circuit Court and Family Court, solely to assist you in evaluating the performance of the Chesterfield County Circuit and Family Court System for the fiscal year ended June 30, 2010, in the areas addressed. The County of Chesterfield and the Chesterfield County Circuit Court and Family Court are responsible for its financial records, internal controls and compliance with State laws and regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified parties in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. **Clerk of Court**

- We gained an understanding of the policies and procedures established by the Clerk of Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained the General Sessions' beginning and ending indictment numbers for all cases for the period under review from the Clerk of Court. We randomly selected twenty-five cases and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly allocated in accordance with applicable State law. We also determined that the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

The Honorable Nikki R. Haley, Governor
and
The Honorable Faye L. Sellers, Clerk of Court
The Honorable Kathy B. Sheeler, Treasurer
Chesterfield County
March 23, 2011

- We obtained the population of case numbers for all new cases filed in the Court of Common Pleas during the period under review from the Clerk of Court. We randomly selected twenty-five case numbers to determine that filing and motion fees adhered to State law and the Clerk of Court Manual.
- We obtained the population of case numbers for all new cases filed in Family Court during the period under review from the Clerk of Court. We randomly selected twenty-five cases to determine that filing fees, motion fees, support collection fees, and fines adhered to State law and the Clerk of Court Manual.
- We obtained the population of marriage license numbers for all new marriage licenses issued by the Probate Court during the period under review from the Probate Judge. We randomly selected twenty-five licenses to determine that the marriage license fee adhered to State law.
- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the County Treasurer in accordance with State law.
- We agreed amounts reported on all monthly court remittance reports to the Court's cash receipts ledger.

Our findings as a result of these procedures are presented in Assessment and Collection of Fees, Allocation of Payments, Timely Remittance of Court Generated Revenue, and Accurate Reporting in the Accountant's Comments section of this report.

2. **County Treasurer**

- We gained an understanding of the policies and procedures established by the County to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the County which reported court generated monies for the fiscal year ended June 30, 2010. We 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.
- We determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- We verified that the amounts reported by the County on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2010 agreed to the State Treasurer's Revenue Remittance Forms and to the County's general ledger.

Our findings as a result of these procedures are presented in Accurate Reporting and Supplementary Schedule in the Accountant's Comments section of this report.

3. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the County to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that any funds retained by the County for victim assistance were accounted for in a separate account.
- We tested 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.
- We determined if the County reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We 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.

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

4. **Calculation of Over/(Under) Reported Amounts**

- We prepared a schedule of fines, fees, assessments and surcharges for the County for the 36 months ended June 30, 2010 using the Court's cash receipts records and monthly remittance reports. We compared amounts from this schedule to amounts reported on the State Treasurer's Revenue Remittance Forms and calculated the amount over/(under) reported by the County by category.

The results of our procedures disclosed that the County had underreported amounts due to the State. See Attachment 1 in the Accountant's Comments section of this report for further detail.

5. **Status of Prior Findings**

- We inquired about the status of findings reported in the Accountant's Comments section of the State Auditor's Report for the twelve month period ended March 31, 2005, and dated June 24, 2005, to determine if the County had taken adequate corrective action.

Our finding as a result of these procedures is presented in Allocation of Payments in the Accountant's Comments section of this report.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2010, and, furthermore, we were not engaged to express an opinion on the effectiveness of internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The Honorable Nikki R. Haley, Governor
and
The Honorable Faye L. Sellers, Clerk of Court
The Honorable Kathy B. Sheeler, Treasurer
Chesterfield County
March 23, 2011

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

A handwritten signature in black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

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

ACCOUNTANT'S COMMENTS

SECTION A – VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

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

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

ASSESSMENT AND COLLECTION OF FEES

Public Defender Application Fee

During our test of General Sessions Court collections and remittances, we noted ten instances where the Court did not collect the \$40 public defender application fee from defendants that executed an affidavit for public defender services.

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, “A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel.”

The Circuit Administrator for the Fourth Circuit Public Defender’s Office stated that the failure to assess the public defender application fee was an oversight by the Public Defender’s Office.

Breathalyzer Fee

During our test of General Sessions Court collections and remittances, we noted one instance where the Court did not assess the \$25 breathalyzer test fee for a DUI case in which the defendant took the breathalyzer test and was subsequently convicted.

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, “The costs of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the state. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests.”

The Clerk of Court stated she was not aware the individual had taken the breathalyzer test.

Recommendation

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

ALLOCATION OF PAYMENTS

During our test of General Sessions Court collections and remittances, we noted two instances where the General Sessions Court did not allocate installment payments on a pro rata basis. We also noted two instances in which the Court did not allocate payments to the \$500 indigent defense fee before any other fees.

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. The Court Administration Fee Memorandums dated June 26, 2009, and June 24, 2010, states, "The intent of Section 14-1-209(A) is that each installment payment be allocated on a pro rata basis to each applicable fine, assessment, and surcharge." Additionally, Proviso 47.12 of the 2009-2010 Appropriations Act states, "Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars...This assessment shall be collected and paid over before any other fees."

The Clerk of Court stated she adheres to the payment allocations generated by the Court's court accounting software (Smith Data). She also stated the County is currently implementing the State's court accounting software (CMS).

We recommend the General Sessions Court implement procedures to ensure that installment payments are allocated in accordance with State law.

TIMELY REMITTANCE OF COURT GENERATED REVENUE

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted one instance where installment payments for a bond estreatment were not remitted to the State on a monthly basis. Instead of making monthly remittances the County reported and remitted the bond estreatment after all installment payments had been made.

Section 17-15-260 of the 1976 South Carolina Code of Laws, as amended, states, in part that “The funds collected pursuant to this chapter must be remitted in the following manner: twenty-five percent to the general fund of the State, twenty-five percent to the solicitor’s office in the county in which the forfeiture is ordered, and fifty percent to the county general fund of the county in which the forfeiture is ordered.” In addition, South Carolina Court Administration Fee Memorandum dated June 26, 2009 section I.B.5, states, “The state’s portion should be turned over to the County Treasurer on a monthly basis for transmittal to the State Treasurer.”

The Clerk of Court stated she holds the money until the total amount is paid to enable her to keep up with the estreatment.

We recommend the Clerk of Court implement procedures to ensure bond estreatment installment payments are reported and remitted to the State Treasurer in accordance with State law.

ACCURATE REPORTING

During our testing of the County’s STRRF, we noted the Clerk of Court did not report and remit family court costs to the State Treasurer in accordance with State law. Section 14-1-205 of the 1976 South Carolina Code of Laws, as amended, states “...Fifty-six percent of all costs, fees, fines, penalties, forfeitures, and other revenues generated by the circuit courts and the family courts, ... must be remitted to the county in which the proceeding is instituted and forty-four percent of the revenues must be delivered to the county treasurer to be remitted monthly by the fifteenth day of each month to the State Treasurer...”. The Clerk of Court stated she was not aware the Court was required to report and remit these monies to the State Treasurer.

We also noted three instances where the DUI Breathalyzer Test Fee was not reported on Line VA – DUI Breathalyzer Test Fee of the STRRF but was included on Line L - Boating under the Influence (BUI). We determined the County Treasurer’s Office was not using the most current STRRF which has a separate line for the DUI Breathalyzer Test Fee. The County Treasurer stated this was due to oversight.

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, states "The county treasurer must...make reports on a form and in a manner prescribed by the State Treasurer." Due to the nature of these reporting errors, we prepared a schedule of court fines and fees for the 36 months ended June 30, 2010, to determine if the County over or underreported amounts reported to the State. See Schedule at Attachment 1.

We recommend the County implement procedures to ensure all court collections are properly reported and remitted to the State Treasurer in accordance with State law. We also recommend the County revise and submit an amended STRRF in accordance with Attachment 1.

SUPPLEMENTARY SCHEDULE

During our testing of the schedule of court fines, assessments and surcharges, we noted the County did not report how victims’ services funds were expended nor did it report any victim services’ fund balances carried forward, as required by State law. The County’s finance director stated this was a result of oversight by finance personnel.

Section 14-1-206(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer;

(d) the amount of assessments retained by the county 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.”

We recommend the County implement procedures to ensure the supplementary schedule contains all required elements in accordance with State law.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures, we noted the County charged the following to victim assistance funds, which we have deemed to be unallowable: (1) \$1,183 for UHF mobile radios purchased for investigators; (2) \$861 for AT&T wireless air cards purchased for patrol car computers; and (3) \$30 more than the maximum amount allowed for a donated lunch.

According to victim services personnel, the County contacted the South Carolina Victim Advocate Network and was told the UHF mobile radios and the AT&T wireless air cards were allowable expenditures. Also according to personnel, the County contacted the State Office of Victim Assistance and was told the donated lunch was an allowable expenditure. We do not disagree that the mobile radio and wireless cards are allowable expenditures; however, because the purchases are not used solely by victims services we do not believe the expenditures are allowable. Also, a maximum amount of \$7 per person is allowed for a donated lunch; victim services personnel added sales tax to the \$7, which exceeded the maximum amount allowable.

Section 14-1-206(D) of the 1976 South Carolina Code of Laws, as amended, states, “The revenue retained by the county under subsection (B) must be used for the provision of 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.” In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 26, 2009, and the South Carolina Victim Service Coordinating Council, Suggested Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

We recommend the County reimburse the victim assistance funds for the expenditures that were improperly charged and establish and implement policies and procedures to ensure victim assistance revenue is used only for expenditures that benefit the victim assistance program in accordance with State law.

SECTION B – STATUS OF PRIOR FINDINGS

During the current engagement, we reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the Report on Agreed Upon Procedures of Chesterfield County General Sessions Court for the year ended March 31, 2005 and dated June 24, 2005. We determined that Chesterfield County has taken adequate corrective action on the deficiencies titled Timely Transmittal to the County Treasurer, Use of Minimum Fines, No Supporting Documentation for Required Schedules, Inaccurate Victims' Assistance Fund Reporting in the Required Schedule and Allowable Victims' Assistance Expenditure. We also determined that the deficiency titled Allocation of Installment Payments still exists; consequently we have reported a similar finding in Section A of the report.

Chesterfield County Circuit/Family Court
 Schedule of Court Fines and Fees Over/(Under) Reported
 For the 36 months ended June 30, 2010

Attachment 1

Allocation in Accordance with State Law

	Total Court Collections	Public Defender Application Fee - \$40	Marriage License Fee	Motion Fee	Family/Child Support Fee	Circuit/Family Fines, Fees and Other Revenue	Filing Fee - \$100	Filing Fee Increase- \$50	Boating Under The Influence (BUJ)	DUI Assessment - \$12	DUI Surcharge	DUI DPS Pullout - \$100	DUI DPS Auto Fee - \$40 Per Auto	DUI/DUAC Breathalyzer Test Conviction Fee - \$25	Drug Surcharge - \$100 per case	Law Enforc. Surcharge - \$25 Per Case	General Sessions - State Assessment	General Sessions - Victim Services Assessment	General Sessions - Victim Services Surcharge	
Total FYE June 2008	17,184.71					17,184.71			-					-						
Total FYE June 2009	6,996.66					6,996.66			-					-						
Total FYE June 2010	4,942.27					4,805.29		75.00						61.98						
Total Court Collections per Cash Receipt Records	29,123.64	-	-	-	-	28,986.66	-	-	75.00	-	-	-	-	61.98	-	-	-	-	-	-
Remittances per State Treasurer's Revenue Remittance Forms	14,395.62					14,258.64		136.98						-						
	<u>(14,728.02)</u>																			
Balance Due From/(Due to) State	(14,728.02)	-	-	-	-	(14,728.02)	-	-	61.98	-	-	-	-	(61.98)	-	-	-	-	-	-
State Treasurer Revenue Remittance Form Line		A	C	E	F	G	H	I	L	O	Q	S	U	VA	W	Y	AA	DD	FF	

COUNTY'S RESPONSE

Office of County Treasurer
Chesterfield County
P O Drawer 750
Chesterfield, SC 29709

Treasurer
Kathy B. Sheeler

Phone (843) 623-2563
Fax (843) 623-6352

Tax Collector
Doris Ann Sellers

May 12, 2011

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

Dear Mr Gilbert:

My review of the preliminary draft of the report resulting from the Chesterfield County Circuit and Family Court System for the fiscal year ending June 30, 2010, is complete. I am noting, as you know, the \$61.98 that shows to be due to the state, was sent to the state as boating under the influence instead of DUI breathalyzer test fee. I am working with the State Treasurer's office, Marty Woods, to correct this.

I am authorizing release of the report.

Sincerely,



Kathy B. Sheeler
County Treasurer

Serving The Citizens Of Chesterfield County



CHESTERFIELD COUNTY CLERK OF COURT

FAYE L. SELLERS, CLERK

200 West Main Street • P. O. Box 529
Chesterfield, South Carolina 29709

Telephone (843) 623-2574

Court of General Sessions
Court of Common Pleas
Register of Deeds

May 27, 2011

Richard H. Gilbert, Jr.
Office of the State Auditor
1401 Main Street, Ste 1200
Columbia, S. C. 29201

Please accept this as my release of the Auditors Report.

1. Public Defender has an order signed by Judge King that their office collect the \$40 Public Defender fee.
2. Breathalyzer fee was an oversight.
3. I thought that the fines and fee had been corrected in 2005. I talked with a representative from Smith Data in 2005 and was told that problem would be corrected and ready the next month. In June, 2011 we will be on the CMS program and this problem should take care of this problem.
4. The estreatment monies were held in the clerk's office (money deposited as receipted) until all was collected in order to keep a clearer record of those funds.
5. As instructed by our previous clerk, a defendant could be ordered to pay a fine, a court cost, or complete community service if found in contempt of court. If the defendant paid a court cost, 100% of the monies stayed in the county.

Please let me know if I can be of anymore service.

Sincerely,

Faye Sellers

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