

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

**State Auditor's Report on Applying
Agreed-Upon Procedures
June 30, 2008**

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

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State of South Carolina



Office of the State Auditor

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November 25, 2008

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable J.A. Graves, Municipal Judge
Town of Cheraw
Cheraw, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Cheraw Municipal Court System for the period July 1, 2007 through June 30, 2008, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, 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 black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

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

RHGjr/cwc

Independent Accountants' Report on Applying Agreed-Upon Procedures

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the Town of Cheraw Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. J.A. Graves, Judge for the Town of Cheraw, is responsible for compliance with the requirements for the Municipal Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the 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 associated findings are as follows:

1. TIMELY REPORTING BY THE CLERK OF COURT

- We researched South Carolina Code of Laws Section 14-25-85 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the Municipal Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Clerk of Court and Municipal Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the Treasurer specifically documents timeliness.
- We inspected documentation, including the Clerk of Court Remittance Forms or equivalents for the months of July 1, 2007 through June 30, 2008 to determine if the Clerk of Court submitted the reports to the Municipal Treasurer in accordance with the law.

We found no exceptions as a result of the procedures.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the Town's general ledger accounts for the assessments (Sections 14-1-208(A), (B) and (D)) and victim assistance surcharge (Section 14-1-211) for the period July 1, 2007 through June 30, 2008.
- We compared the amounts reported on the Clerk of Court Remittance Forms or equivalents to the Clerk of Court's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal year 2007 – 2008 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Clerk of Court's software system-generated detail reports to the Judicial Department guidelines range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN " in the Accountants' Comments section of this report.

3. PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by Town council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-208(E)(4).
- We compared the fiscal year-ended June 30, 2007 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Supplemental Schedule of Fines and Assessments of the audited financial statement on page 40 and to the beginning fund balance as adjusted in that fund for fiscal year 2008.
- We judgmentally selected a sample of Victim Assistance Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our findings are reported under "PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING" in the Accountants' Comments section of this report.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Clerk of Court Remittance Forms or equivalents for the period July 1, 2007 through June 30, 2008.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-208(B).

4. **TIMELY ACCURATE REPORTING TO THE STATE TREASURER**, Continued

- We traced amounts recorded in the Town's financial statement Supplemental Schedule of Fines Assessments of the year ended June 30, 2007 report related to fines and assessments revenues reporting on page 40 in accordance with Section 14-1-208(E) to supporting schedules used in the audit to comply with Section 14-1-208(E).
- We traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

Our findings are reported under "TIMELY ACCURATE REPORTING TO THE STATE TREASURER" in the Accountants' Comments section of this report.

5. **CALCULATION OF UNDERREPORTED ASSESSMENTS AND SURCHARGES**

- Using the court dockets and collections provided we calculated the fine, assessment and surcharge amounts in accordance with the South Carolina Code of Laws and the South Carolina Judicial Department memorandums.
- We compared our calculation to the amounts previously remitted on the State Treasurer's Revenue Remittance forms to determine if the Town had over/(under) remitted court fines, fees and assessments to the State Treasurer's Office.
- We compared our calculation of court fines, fees and surcharge amounts with the amounts recorded to the Victim Assistance fund to determine if the Town had over/(under) remitted court assessments related to Victim Assistance.

The results of our procedures disclosed that the Town had over reported amounts due to the State and under reported amount to the Victim Assistance fund. See comments and Attachment 1 in the Accountants' Comments section of this report for further detail.

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, 2008 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Cheraw Town Council, Town Clerk of Court, Town Treasurer, State Treasurer, State Office of Victim Assistance, 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.



September 30, 2008

ACCOUNTANTS' COMMENTS

**TOWN OF CHERAW MUNICIPAL COURT
CHERAW, SOUTH CAROLINA**
State Auditor's Report
June 30, 2008

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. 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.

TOWN OF CHERAW MUNICIPAL COURT
CHERAW, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge is not adhering to the Judicial Department minimum/maximum fine guidelines included in the laws.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are obtained from the minimum and maximum fines recorded in the respective laws.

CAUSE: The Judge did not use the current Judicial Department's fine guidelines.

EFFECT: By not assessing the minimum fines as required in the legislation, the Town is violating the law.

AUDITORS' RECOMMENDATION: We recommend that the Judge comply with state law by using the current minimum/maximum fine guidelines.

IMPROPER CLASSIFICATION OF VIOLATIONS

CONDITION 1: The collections for Driving Under the Influence (DUI), Simple Possession, Shoplifting, Petit Larceny, Trespassing, Assault, Disorderly Conduct, Littering, Domestic Violence, Possession of Drug Paraphernalia, Public Drunkenness and Giving False Information charges were not properly allocated between fines, assessments and surcharges. There was no apportionment for conviction surcharge.

CRITERIA: South Carolina Code of Laws Section 14-1-211(A)(1) states, "A twenty-five dollar surcharge is imposed on all convictions obtained in municipal court" and "the surcharge must not be imposed on convictions for misdemeanor traffic offenses."

CAUSE: The clerk input these charges as misdemeanor traffic offenses rather than non-traffic offenses.

EFFECT: The conviction surcharge collections were allocated between fines and assessments rather than conviction surcharge.

AUDITORS' RECOMMENDATION: We recommend the Town correct the input error prospectively and reimburse the Victim Assistance Fund.

CONDITION 2: The collections for Driving Under the Influence (DUI) charges were not properly allocated between fines, assessments and surcharges. There were no apportionments for the \$100 DUI surcharge, the \$12 assessment or the \$100 pullout.

CRITERIA: South Carolina 2007 - 2008 General Appropriations Act (H. 3620) Part 1B Section 33.7, states "(A) In addition to all other assessments and surcharges required to be imposed by law, during the current fiscal year, a one hundred dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended." South Carolina Code of Laws Section 56-5-2995(A) states "...an additional assessment of twelve dollars must be added to any punishment imposed which must be remitted to the State Treasurer..." South Carolina Code of Laws Section 56-1-460(C) states "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."

TOWN OF CHERAW MUNICIPAL COURT
CHERAW, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

CAUSE: The clerk input the incorrect statute when entering the tickets into the computer system.

EFFECT: By not assessing the drug surcharge as required in the legislation, the Town is violating the law.

AUDITORS' RECOMMENDATION: We recommend the Town comply with the law and use the current guidelines when reporting surcharges. We recommend the Town repay the liability to the State Treasurer as surcharges under-reported on the State Treasurer's Revenue Remittance Reports.

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

LACK OF AN EXPENDITURE ALLOCATION PLAN

CONDITION: The Victims Advocate has been issued a cell phone for business purposes. The Victims Advocate performs other duties unrelated to Victim Assistance. The Town does not allocate the cell phone bill to all benefiting departments.

CRITERIA: South Carolina Code of Laws Section 14-1-208(D) states, "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law."

CAUSE: The Town does not have an expenditure allocation plan.

EFFECT: The Town is charging expenditures to the Victim Assistance program that benefit other departments.

AUDITORS' RECOMMENDATION: The Town should develop and implement an allocation plan to fairly allocate the cost of cell phone charges and other goods or services to all the benefiting departments.

LACK OF PROPER ACCOUNTING

CONDITION: The Town does not properly account for the Victim Assistance money it collects. The Town does not include the Victim Assistance share of the assessments when recording Victim Assistance financial activity.

CRITERIA: South Carolina Code of Laws Section 14-1-208 (B) states "The city treasurer must remit ... the assessment ... to the municipality to be used for the purposes set forth in subsection (D)." and Code of Laws Section 14-1-208 (E)(4) states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection...."

CAUSE: The Treasurer was not aware and therefore did not record this as Victim Assistance.

EFFECT: The Town's Victim Assistance accounting records are not complete or accurate.

AUDITORS' RECOMMENDATION: The Town should design and implement procedures to properly account for Victim Assistance. The Town should determine and remit revenue due to the Victim Assistance account.

TOWN OF CHERAW MUNICIPAL COURT
CHERAW, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: Seven of the State Treasurer's Remittance Reports for the procedures period July 1, 2007 through June 30, 2008 were not filed timely. These reports were submitted 2 to 177 days late.

CRITERIA: South Carolina Code of Laws Sections 14-1-208 (B) states "The city treasurer must remit ... on a monthly basis by the fifteenth day of each month...."

CAUSE: The Town has not developed procedures to ensure that reports are submitted timely.

EFFECT: As a result the Town Treasurer was late in filing the report seven times.

AUDITORS' RECOMMENDATION: The Town should develop and implement procedures to comply with State law.

SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Supplementary Schedule of Fines and Assessments, which was prepared by an independent external auditor and submitted to the State, did not include all of the information that is required by law to be included on the schedule. The schedule did not include the fines collected, fines retained by the Town, amount of fines remitted to the State Treasurer, funds by source allocated to Victim Assistance, Victim Assistance expenditures or any balance carried forward.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E) states "the annual independent external audit ... must include ... a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer."

CAUSE: The Town relied on the independent auditor to include all required information on the schedule.

EFFECT: The Supplementary Schedule of Fines and Assessments did not comply with the law.

AUDITORS' RECOMMENDATION: The Town is responsible for the schedule, and therefore should ensure the schedule complies with State law.

TOWN OF CHERAW
 Schedule of Court Fines and Fees
 For the 48 months ended June 30, 2008

Allocation in Accordance with Judicial
Department Memo

Allocation in Accordance
with State Law

Attachment 1

	TOTAL COLLECTIONS	Law Enforement Surcharge	DUI/\$12	DUI/\$100 Surcharge	Drug Surcharge P 33.7	Conviction Surcharge	Fine & Assessment	State Assessment	Victim Services	Fine	DUS PULLOUT	DUI PULLOUT
Total 2005	\$ 20,626.00	1,225.00	0.00	0.00	1,200.00	1,225.00	16,976.00	7,813.29	981.50	8,181.21	0.00	0.00
Total 2006	15,734.00	800.00	0.00	0.00	900.00	800.00	13,234.00	6,090.81	765.55	6,377.61	0.00	0.00
Total 2007	3,260.00	175.00	0.00	0.00	300.00	175.00	2,610.00	1,201.23	150.98	1,257.79	0.00	0.00
Total 2008	5,948.00	550.00	12.00	100.00	200.00	550.00	4,536.00	2,087.60	262.54	2,185.90	0.00	100.00
Corrected Collections	45,568.00	2,750.00	12.00	100.00	2,600.00	2,750.00	37,356.00	17,193.30	2,159.81	18,002.89	0.00	100.00
Total Remittances Made for the 48 Month Period:	45,968.00	2,750.00	0.00	0.00	2,000.00	0.00	41,218.00	18,971.83	2,383.22	19,862.95	0.00	0.00
 Victim Assistance Oct 1998- June 2008									76,288.87			
*	<u>(400.00)</u>											
Balance Due To Victim Services:	78,815.46					2,750.00			76,065.46			
Balance Due From State:	\$(966.53)	0.00	12.00	100.00	600.00			(1,778.53)			0.00	100.00
State Treasurer Revenue Remittance Form Line		K	G	H	J	O		L	N		F	I

NOTE: The above corrections were automatically done using the software. The October State Treasurer's Revenue Remittance Form, submitted in November 2008, contained these corrections. An accounting for Victim Assistance to begin fiscal year 2009 should begin with a \$78,815.46 balance.

* Because of the software errors, the Town processed \$400 of collections it never had. Upon correcting this, \$192.76 was reversed from fine revenues, \$184.11 from State-shared assessment and \$23.13 from Victim Assistance.

**CHERAW POLICE DEPARTMENT
258 SECOND ST.
CHERAW, SOUTH CAROLINA 29520
843-537-7868 FAX# 843-537-8404**

IN RESPONSE TO THE STATE AUDITOR'S REPORT ON APPLYING AGREED-UPON PROCEDURES; PLEASE SEE THE FOLLOWING.

TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: THE MUNICIPAL COURT JUDGE IS NOT ADHERING TO THE JUDICIAL DEPARTMENT MINIMUM/MAXIMUM FINE GUIDELINES INCLUDED IN THE LAWS.

RESPONSE: THE MUNICIPAL JUDGE HAS ADVISED ALL OFFICERS TO ONLY ASSIGN THE STATE DESIGNATED FINES FOR EACH OFFENSE. TO INSURE THAT ALL FINES WILL BE ACCORDING TO THE STATE LAW.

IMPROPER CLASSIFICATION OF VIOLATIONS

CONDITION 1: THE COLLECTIONS OF DRIVING UNDER THE INFLUENCE (DUI), SIMPLE POSSESSION, SHOPLIFTING, PETIT LARCENY, TRESPASSING, ASSAULT, DISORDERLY CONDUCT, LITTERING, DOMESTIC VIOLENCE, POSSESSION OF DRUG PARAPHENALIA, PUBLIC DRUNKENNESS AND GIVING FALSE INFORMATION CHARGES WERE NOT PROPERLY ALLOCATED BETWEEN FINES, ASSESSMENTS AND SURCHARGES. THERE WAS NO APPORTIONMENT FOR CONVICTION SURCHARGE.

RESPONSE: THE CLERK WAS USING A SHORT CUT DROP DOWN BOX FOR FREQUENTLY USED CHARGES. THIS SHORT CUT ALLOCATED EVERYTHING AS TRAFFIC. THE CLERK IS NO LONGER USING THIS SHORT CUT. EACH CRIMINAL VIOLATION IS NOT BEING APPORTIONED THE \$25 CONVICTION SURCHARGE. THE CLERK WENT BACK THREE YEARS TO THE START OF THE NEW COMPUTER PROGRAM AND CORRECTED ALL PREVIOUS CHARGES THAT WERE IMPROPERLY ASSESSED. THOSE RECORDS HAVE BEEN SUBMITTED TO THE AUDITOR.

CONDITION 2: THE COLLECTIONS FOR DRIVING UNDER THE INFLUENCE (DUI) CHARGES WERE NOT PROPERLY ALLOCATED BETWEEN FINES, ASSESSMENTS AND SURCHARGES. THERE WERE NO APPORTIONMENTS FOR THE \$100 DUI SURCHARGE, THE \$12 ASSESSMENT OF THE \$100 PULLOUT.

RESPONSE: THE CLERK CORRECTED RECORDS FOR THE PAST THREE YEARS. THE PROGRAM HAS A SPECIFIC PRINTOUT FOR DUI. THIS IS NO LONGER A POSSIBILITY DUE TO THE PROGRAMMING CHANGE. ALL CHANGES HAVE BEEN FORWARDED TO THE AUDITOR.

December 11, 2008

**TOWN OF CHERAW
200 MARKET STREET
CHERAW, SOUTH CAROLINA
843-537-7283 FAX# 843-537-8407**

IN RESPONSE TO THE STATE AUDITOR'S REPORT PLEASE SEE THE FOLLOWING:

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

LACK OF EXPENDITURE ALLOCATION PLAN

CONDITION: the Victims Advocate has been issued a cell phone for business purposes. The Victims Advocate performs other duties unrelated to Victim Assistance. The Town does not allocate the cell phone bill to all benefiting departments.

RESPONSE: The telephone for the Victim Advocate Officer was issued in August 2007. The charges for this phone have been discontinued. The only expense charged to the Victim Advocate Account is about 40% of the Victims Advocate Officer's salary and fringe benefits. In the 2009-2010 budget proper allocation will be determined for the Victim Advocate Officer telephone. We have no other expenses charged to this account.

LACK OF PROPER ACCOUNTING

CONDITION: The Town does not properly account for the Victim Assistance money it collects. The Town does not include the Victim Assistance share of the assessments when recording Victim Assistance financial activity.

RESPONSE: The 11.16% for Victim's Advocate will be transferred to the Victim's Advocate Account along with the other assessments. Any prior funds due to the Victim Advocate will be made with a transfer from police fines to the Victim Advocate Account. All funds will be properly allocated in our records.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: Seven of the State Treasurer's Remittance Reports for the procedures period July 1, 2007 through June 30, 2008 were not filed timely. These reports were submitted 2 to 177 days late.

RESPONSE: The Town Clerk-Treasurer and the Municipal Court Clerk understood that the monthly reports are due to the South Carolina State Treasurer on the 15th. The Clerk-Treasurer and the Municipal Court Clerk have implemented a schedule to have all reports sent to the State Treasurer by the 15th day of each month.

SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Supplementary Schedule of Fines and Assessments, which was prepared by an independent external auditor and submitted to the State, did not include all of the information that is required by law to be included on the schedule. The schedule did not include the fines collected, fines retained by the Town, amount of fines remitted to the State Treasurer, funds by source allocated to Victim Assistance, Victim Assistance expenditures or any balance carried forward.

RESPONSE: The Town of Cheraw's Audit for 2008-2009 has been corrected to meet the State Law requirements as set forth in S.C. Code of Law Section 14-1-2-208(b). See page 40 of our 2008-2009 audit.

December 11, 2008