



# Town of Butler

## Justice Court

### Report of Examination

Period Covered:

January 1, 2011 — April 30, 2012

2012M-184



Thomas P. DiNapoli

# Table of Contents

	<b>Page</b>
<b>AUTHORITY LETTER</b>	2
<b>INTRODUCTION</b>	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	3
<b>JUSTICE COURT</b>	5
Bail List	5
Timely and Intact Deposits	6
Accountability/Bank Reconciliations	7
Recommendations	7
<b>APPENDIX A</b> Response From Local Officials	9
<b>APPENDIX B</b> Audit Methodology and Standards	11
<b>APPENDIX C</b> How to Obtain Additional Copies of the Report	12
<b>APPENDIX D</b> Local Regional Office Listing	13

# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

November 2012

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Butler, entitled Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of Butler (Town) is located in Wayne County and has a population of 2,000 residents. The Town is governed by a Town Board (Board) comprising the elected Town Supervisor and four elected Board members. The Board is the legislative body responsible for managing Town operations including establishing appropriate internal controls over financial operations and monitoring financial activities.

The Town's Justice Court (Court) has jurisdiction over vehicle and traffic, criminal, civil, and small claims cases brought before it. The two Justices' principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bails, surcharges, civil fees, and restitutions. Justices are personally responsible for all moneys received and disbursed by the Court and for safeguarding Court resources by ensuring that a good system of internal controls is in place, appropriate financial reports are accurate and filed in a timely manner, applicable laws, rules and regulations are observed, and work performed by those involved in Court financial operations is monitored and reviewed routinely.

Justices Jeffrey Harper and Scott Stone presided over the Court during our audit period. A Court clerk employed by the Town assists in Court operations. During our audit period, the Justices and Court clerk collected \$95,635 in fines and surcharges.

## Objective

The objective of our audit was to review internal controls over the Court's financial operations. Our audit addressed the following related question:

- Did the Justices deposit, record, and account for the Court's moneys accurately and in a timely manner?

## Scope and Methodology

We examined the financial operations of the Court for the period January 1, 2011, to April 30, 2012.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

## Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials

generally agreed with our recommendations and indicated that they plan to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Town Clerk's office.

## Justice Court

Justices are responsible for adjudicating cases brought before them and accounting for and reporting Court-related financial activities. The Justices must maintain complete and accurate accounting records and safeguard all moneys collected. Justices are also responsible for reconciling Court collections to corresponding liabilities, depositing all moneys collected within 72 hours of receipt, and reporting Court transactions to the Office of the State Comptroller's Justice Court Fund (JCF) in a timely manner. Routine reconciliation of bank accounts enables the Court to verify the accuracy of its financial records. Justices are also responsible and accountable for all moneys received by their Courts. At any point in time, the liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash. Any unclaimed exonerated bail<sup>1</sup> should be turned over to the Town pending a claim. The Board also must exercise sufficient oversight of the Justices to ensure that the Court is properly recording and reporting transactions and properly accounting for moneys received.

The Justices and Board did not establish adequate internal controls over the Court's financial operations. Specifically, we found that Justice Harper did not maintain a bail list, while Justice Stone did not always make timely and intact deposits or turn over unclaimed bail to the Town. Further, both Justices did not complete formal monthly bank reconciliations and accountability analyses. As a result, Town officials have limited assurance that all moneys collected were properly recorded and accounted for, increasing the risk that Court funds could be misappropriated without detection or correction.

### **Bail List**

In certain cases, bail is levied on defendants to ensure their appearance in Court to answer the charges against them. Bail is either returned when the case has been adjudicated or used to pay fines and fees imposed by the Court. The Justices must maintain an appropriate record of all bail received and disbursed, indicating when the bail was paid, by whom, and to which case it relates. This record should also identify the date, check number, and to whom the bail was disbursed. The Justices must ensure that the bail record is reconciled to the balance in the bail bank account on a monthly basis.

Justice Harper did not maintain a formal bail list. The Justice maintained an informal record of bail received and disbursed in his checkbook register, but these records did not contain all of the

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<sup>1</sup> Exonerated bail is bail awaiting return to the individual who posted it for the defendant.

necessary information, such as the case number and whether the individual posting bail is the defendant. This information is necessary to ensure the bail is returned to the appropriate individual. Due to this insufficient recordkeeping, Justice Harper was unable to reconcile the bail bank account<sup>2</sup> or determine the correct amount of pending bail. Without an accurate bail list, the Justice is unable to ensure bail is properly accounted for, appropriately disbursed, and appropriately and accurately reconciled to the bail accounts each month. Because the Justice did not ensure that monthly pending bail records were properly maintained, there is a risk that errors or irregularities can occur and remain undetected.

## **Timely and Intact Deposits**

State regulation<sup>3</sup> requires Court personnel to deposit all moneys received into the Justices' official bank accounts as soon as possible, but no later than 72 hours after receipt. Moneys received must be deposited intact (not split or grouped into lump-sum amounts, but deposited in the same amounts and composition, or form, as received) as soon as possible. This timely and intact depositing of receipts helps prevent errors and irregularities. To properly account for moneys received and deposited, it is essential that Justices establish control procedures that require accurate identification of the type of collections deposited so that collections can be easily traced to cash receipt and deposit records.

To determine whether moneys were deposited intact and in a timely manner, we tested receipts collected for each of the Justices during four randomly selected months.<sup>4</sup> Of the 90 deposits reviewed for Justice Stone,<sup>5</sup> 62 (69 percent) of them, totaling \$12,415, were deposited from one to 14 days late (seven days late on average). We reviewed a total of 44 deposits for Justice Harper<sup>6</sup> and found no significant issues in the timeliness of deposits. However, because the Justice did not record a method of payment<sup>7</sup> for receipts, we were unable to determine if deposits were made intact.

We also found that the Court is not accepting credit card payments for fines and fees. The acceptance of credit card payments for fines and fees can dramatically improve local cash flow by increasing payments while reducing costs associated with generating payment reminders. The acceptance of credit card payments also makes courts more secure, both physically and financially, by reducing the amount of cash collected. Accepting credit card payments, and processing

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<sup>2</sup> As of May 31, 2012, Justice Harper's bail bank account balance was \$1,702.46.

<sup>3</sup> The Uniform Civil Rules for Justice Courts

<sup>4</sup> March 2011, June 2011, July 2011 and April 2012

<sup>5</sup> Deposits had an aggregate value of \$16,906.

<sup>6</sup> Deposits had an aggregate value of \$7,785.

<sup>7</sup> Cash, check or money order

payment transactions on a daily basis, would help the Court increase collections and deposit receipts in a timely manner.

The failure to deposit Court receipts intact within the prescribed time limit increases the risk that Court personnel will not properly account for all moneys received, and moneys could be lost or stolen.

## **Accountability/Bank Reconciliations**

Justices are required to account for cash receipts and disbursements from month to month and determine accountability as of the end of each month. Each month, Court personnel should compare information from their accounting records with the information shown in their bank account statements. Each Justice's account should be zeroed out at the end of the month, and, if not, the balance should reconcile to any outstanding checks and any fines received after the end of the month. Further, any unclaimed exonerated bail should be remitted to the Town pending a claim. Cash bail still unclaimed six years after exoneration of the bail becomes the property of the Town. Bank reconciliations and accountability analyses are critical procedures to document the status of moneys held by the Court at any point in time.

While the Justices stated that they performed monthly bank reconciliations, they could not provide documentation of bank reconciliations or accountability analyses. Therefore, we reconciled the Justices' bank statements for the most recent six months<sup>8</sup> with their bail records, cash books, and JCF reports. We found no material issues in reconciling fine or bail accounts.

The failure to reconcile bank accounts and liabilities significantly increases the risk of unauthorized use or disposition of cash and makes it more likely that Town officials will not detect cash shortages, errors and/or irregularities in a timely manner. In addition, without sufficient controls and monitoring of all bail money received and an accurate pending bail list, the Justices are not aware of their current liabilities and are at risk of making errors in the disbursement of bail moneys.

## **Recommendations**

1. The Justices should ensure that all bail received and disbursed is properly accounted for.
2. The Justices should institute control procedures to help ensure that all moneys are deposited intact and within 72 hours after receipt.
3. The Justices should consider accepting payments by credit card.

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<sup>8</sup> November 2011 through April 2012

4. The Justices should prepare monthly bank reconciliations and analyses of Court liabilities for comparison with available cash. Any differences should be promptly identified and investigated, and, if necessary, corrective action should be taken.
5. The Justices should remit all unclaimed exonerated bail to the Town, pending a claim.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following page.

# TOWN OF BUTLER

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Wolcott, NY 14590

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Supervisor

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November 15, 2012

Edward V. Grant, Jr., Chief Examiner  
Office of the State Comptroller  
The Powers Building  
16 West Main Street – Suite 522  
Rochester, New York 14614-1608

Dear Mr. Grant:

First, I would like to thank your staff for doing this audit, and would like to say that your staff was very professional, friendly and helpful. Among many other responsibilities, the Town Board and the Town Supervisor of the Town of Butler have a shared responsibility to safeguard town assets.

In reference to the audit of the Town of Butler Justice Court covering the period January 1, 2011 to April 30, 2012, we agree with the findings and agree there were no missing funds. We are also committed to implementing policy and procedures for this corrective action plan.

The Justices are committed to improving their recordkeeping and improving their internal controls over their financial operations, such as, but not limited to, Bail accounts, Bank reconciliations and analyses as well as making deposits within the 72 hour time frame.

The Town Board will be reviewing this progress on a quarterly basis and will be making recommendations if needed. I would like this letter to serve as our official response and corrective action plan.

Very truly yours,

s/b David Spickerman                      Town Supervisor

s/b Honorable Scott Stone              Town Justice

s/b Honorable Jeffrey Harper          Town Justice

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

As part of our audit, we reviewed the Courts' internal control procedures. We obtained an understanding of these internal controls by inquiry, observation, and inspection of documents and records. Specifically, we performed the following procedures:

- We reviewed accounting records to determine if they were complete, accurate, and up-to-date.
- We compared recorded cash receipts and disbursements with supporting documentation such as case files, duplicate receipts, bank statements, canceled check images, and reports to the JCF.
- We verified that transactions as detailed on the bank statements were recorded in the Court's records, were for legitimate Court-related purposes, and were supported by appropriate documentation.
- We reviewed and compared Court activity to Traffic Safety Law Enforcement and Disposition reports prepared for the State Department of Motor Vehicles.
- We obtained computerized data covering the audit period that we analyzed using audit software to ensure that certain operations, such as deletions of computerized records, were done for legitimate purposes.
- We performed reconciliations of the Justices' bank statements with their records of bail for pending cases, cash books, and JCF reports.
- We reviewed the Board's most recently completed annual audit of the Court's 2010 records.
- We interviewed appropriate local officials and employees.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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