



Town of Canton

Justice Court

Report of Examination

Period Covered:

August 1, 2010 — August 22, 2011

2012M-117



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

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 Town of Canton, 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 Canton (Town) is located in St. Lawrence County and has 10,995 residents. The Town is governed by the Town Board (Board) consisting of four Board members and a Town Supervisor. The Town provides general administrative services, including the Town Justice Court (Court).

The Town has two elected Justices: Justice Christopher Curly, who has been in office since January 2011, and Justice Cathleen O'Horo, who has served since February 2000. Justice Thomas Wheeler¹ also presided over the Court through December 2010. The Town operates the Court as a combined Court with the Village of Canton (Village), sharing two Court clerks (clerks). The Town and Village pay the salaries of their respective Justices. The Town pays the clerks' salaries and all other Court costs and then bills the Village semi-annually for the Village's share of Court costs.

Justices have jurisdiction over and are responsible for hearing certain civil and criminal cases and motor vehicle and traffic violations. Justices can impose and collect fines, fees, and bail money and are responsible for reporting adjudicated cases to appropriate State agencies. On a monthly basis, the Justices must report all moneys (excluding pending bail) collected to the State Comptroller's Justice Court Fund (JCF) and must remit all moneys collected (also excluding pending bail) to either the JCF or the Town Supervisor. They are also responsible for establishing internal controls that ensure that all fines, fees, and bail received are properly recorded and remitted to appropriate agencies. The Board is required to perform an annual audit of each Justice's records or may engage the services of an independent public accountant for that purpose. The Justices reported \$160,520 in fines, fees, and surcharges to the JCF during the period August 2010 to July 2011.

Objective

The objective of our audit was to evaluate the Court's recordkeeping and reporting procedures and to review the Court's internal controls. Our audit addressed the following related question:

- Were the internal controls over Court operations appropriately designed and operating effectively to ensure the proper accounting and reporting of financial transactions?

¹ Justice Wheeler served from December 9, 2009, to December 31, 2010.

**Scope and
Methodology**

We examined the Courts records and reports for the period August 1, 2010, to August 22, 2011.

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 they have taken or 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 (governing body) to make this plan available for public review in the Town Clerk's office.

Internal Controls

A well-designed system of internal controls is necessary to ensure that cash received by the Court is safeguarded and that Court activity is properly recorded and reported. Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting all related Court financial activities. The Justices must ensure that an effective system of internal controls is in place to provide reasonable assurance that cash and other resources are properly safeguarded and that financial transactions are processed in a timely manner and recorded properly. Justices must ensure that financial reports are accurate and filed in a timely manner; applicable laws, rules, and regulations are observed; and that the work performed by those involved in the Court's financial operations is monitored and reviewed routinely. They must periodically reconcile cash activity and report all Court transactions monthly. 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.

We found significant weaknesses in the Court's internal controls and a lack of oversight of the Court's operations by the Justices and the Board. The Justices have not ensured that the clerks performed bank reconciliations or accountability analyses to account for all Court funds. In addition, the clerks performed all of the key aspects of the Court's cash accounting functions with limited oversight, and the Justices did not ensure that clerk duties were adequately segregated. Additionally, Justice Wheeler did not meet basic requirements when leaving office. Finally, two Board members who conducted the annual audit of the Court's records noted bank reconciliations were not being performed, but the Board took no corrective action. Because of these weaknesses, the Board and the Justices have limited assurance that all moneys collected were properly recorded and accounted for, and the risk is increased that Court funds could be misappropriated without detection or correction.

Accountability

It is important for the Justices to verify the accuracy of financial records and establish control over cash by routinely reconciling the Court's bank accounts. The Justices should compare the amount of cash on hand and on deposit in the bank to detailed lists of amounts due to the JCF and to other outstanding liabilities. This comparison is referred to as an accountability analysis. Performing bank reconciliations and accountability analyses are critical procedures that document the status of Court-held moneys at a given point in time. Documenting bank reconciliations and analyzing liabilities demonstrates that the Justices are appropriately addressing their custodial responsibilities.

The Justices did not fulfill their responsibility to properly account for Court assets by ensuring that bank reconciliations and accountability analyses were being performed. Using the Court records and documents that were available, we attempted to verify the Court's liabilities and to reconcile them with the Justices' cash. As of August 22, 2011, Justice Curley's available cash exceed his liabilities by \$2,627.² This amount represents cash that could not be traced to an individual case or other type of supporting documentation and remains unidentified. Justice O'Horo's liabilities exceeded her cash balance by \$1,787. We reviewed the January 1, 2011, to August 22, 2011, Court transactions and found minor exceptions, which we shared with Town officials.

The lack of bank reconciliations and accountability analyses significantly increases the risk of unauthorized use or disposition of cash collected and increases the risk that errors and/or irregularities will not be detected in a timely manner.

Management Oversight

Although the Justices are responsible and accountable for all activities that occur in their Courts, the Board also is responsible for providing financial oversight. These oversight responsibilities include ensuring that duties are segregated so that no one person is responsible for all steps in a financial transaction, that Justices meet specific requirements when leaving office, that proper controls are in place over computer passwords, and that an annual audit of the Court's records is completed.

The Justices and Board did not provide effective oversight of Court operations. As a result, the clerks' duties were not adequately segregated, bank accounts having unidentified cash remained open, and account users shared passwords. Also, a Justice leaving office did not perform the required duties. In addition, neither the Board nor the Justices took action on discrepancies identified during the Board's annual audit of the Justices' records. Due to these weaknesses, the risk is increased that errors or irregularities could occur without being detected or corrected.

Segregation of Duties — An important component of any internal control system is proper segregation of duties to ensure that no one person controls all phases of a transaction. Specifically, it is important that one person does not have the ability to control the entire cash collection and recordkeeping processes. Concentrating key duties (i.e., recordkeeping and cash custody) with one individual with little or no oversight weakens internal controls. The Board and the Justices

² Justice Curley received a transfer of \$6,107 on April 7, 2011 from the closing of Justice Wheeler's bank account. The total unidentified amount is attributable to Justice Wheeler and other former justices.

are responsible for establishing controls so that no single individual handles all or most aspects of the Court's accounting. When it is not practical to segregate Court duties, effective oversight by the Justices and, ultimately, the Board is essential to help ensure that transactions are properly recorded and reported and that all moneys are accounted for.

Justices O'Horo's and Curley's clerks performed many incompatible financial duties, including issuing cash receipts, receiving and preparing deposits for all moneys received, entering financial and other information into the computer system, preparing and filing the monthly report with the JCF, and maintaining case files. Justices O'Horo and Curley did not establish adequate procedures to monitor the clerks' duties or review their work.

Concentrating key duties with one individual without adequate oversight weakens internal controls and significantly increases the risk that cash could be received and not deposited or that errors and irregularities could go undetected and uncorrected. We also found the Board did not provide any significant oversight of the Justices. Because duties have not been properly segregated, Town officials do not have assurance that the Court's financial transactions are properly recorded and reported and that all moneys are accounted for properly.

Leaving Office — When justices leave office, they are required to transfer all pending cases and any moneys received on those cases to the succeeding justice. They must also file a final report with the JCF reporting all activity and remitting any fines and fees due and close all bank accounts. The governing Board is responsible for ensuring that a justice meets these requirements when leaving an official Town position.

Justice Wheeler's term ended on December 31, 2010. Although he filed a final report with the JCF, he failed to properly transfer all remaining moneys from pending cases to his successor, or close his official bank account. His fine bank account was not closed until April 2011 and his bail bank account was left open and transferred to Justice Curley's name. The majority of Justice Curley's unidentified cash was transferred from Justice Wheeler's balances.

If the Board does not ensure that all the requirements are met by a Justice when leaving office, such as remitting all money in their possession, preparing a final report and closing all official bank accounts, the possibility of these moneys being unaccounted for or even lost or stolen is increased.

Computer Controls — Passwords are one of the most basic controls

that can be used to mitigate the risk of unauthorized users obtaining access to an entity's computer systems. Each user should have their own account password to provide accountability within the system so related activities can be traced back to specific individuals. If users share passwords, then accountability is lost.

The clerks told us that they have one user account established for the Town Court's computer program, and the password for that account is shared by the Justices and the clerks. Consequently, the Justices and the clerks have the ability to add, delete, or modify entries without an audit trail to identify who made the change. When users share accounts, accountability is diminished and transactions cannot be traced back to a single user.

Annual Audit — The Uniform Justice Court Act requires each Justice to present his/her records and dockets to the Board for audit at least once per year. The Board should then audit such records, or engage an independent public accountant to do so. The minutes of the Board's proceedings should document that the Justices' records and dockets have been audited and that the fines and fees shown to have been collected have been remitted to the proper Town official. Annual audits are an important internal control because they allow the Board to independently verify that the Court's accounting records are complete and accurate and that all moneys have been properly accounted for and reported.

Two Board members audited Court records in September 2010. Although the audit identified the lack of bank reconciliations, neither the Justices nor the Board took corrective action for the discrepancies identified. As a result, deficiencies noted in this report were allowed to continue.

Recommendations

1. Justice Curley should identify the cash overage amount in the bank account and transmit any unidentified monies to the JCF.
2. The Justices should ensure that bank reconciliations and accountability analyses are properly performed on a monthly basis. Any differences should be promptly investigated and, if necessary, corrective action taken.
3. The Justices should maintain a current, accurate and complete list of all bail held and ensure the total of this list reconciles with the monthly bank reconciliations and accountability analyses.
4. The Board should ensure that the Justices' policies and procedures address adequate segregation of cash custody and recordkeeping duties, or ensure that compensating controls are implemented such as supervisory or Board oversight.

5. The Justices should require that unique user names and passwords are used and that users do not share passwords.
6. The Board should ensure that a Justice who resigns his or her official position with the Town meets all requirements upon resignation.
7. The Board and Justices should address any issues identified during the annual audit of the Court's financial records.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

CANTON TOWN COURT

Municipal Building
60 Main Street
Canton, New York 13617
Telephone (315) 379-9844
Fax (315) 386-4350

Cathleen E. O'Horo
Canton Town Justice

Christopher R. Curley
Canton Town Justice

October 4, 2012

Syracuse Regional Office
Attention: Rebecca Wilcox, Chief Examiner
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428

Dear Ms. Wilcox:

This is meant to be both a response to the audit report and a corrective action plan. While the audit points out deficiencies found during the audit period, it should be pointed out that immediately prior to August, 2010, and for a considerable time before that date the Court office was understaffed and there was much turnover in clerks and judges. During lengthy periods of time there was only one clerk to handle all office work for four separate justices. Over the course of approximately two years 8 different people held the position of justice for either the town or the village.

As of now the town justice fine accounts are balanced and any overage in either account has been sent to the Justice Court Fund. The bail accounts are balanced and we will review the money on deposit to determine if any should be sent to the Supervisor. The justices will review both the fine and bail accounts each month and make sure reconciliations are done. Any discrepancies will be corrected. There is currently a list of all bail held and that account will be reconciled each month to insure that when disposed of, the bail is properly accounted for when applied to fines or poundage. (If applicable)

The justices will insure that each clerk receives his or her own password and that those passwords are not shared.

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October 4, 2012

When the Board audit is done each year the justices will receive a copy of the written report. Any deficiencies will be addressed with the clerks and the Board.

Very truly yours,

Canton Town Justice

Canton ~~T~~own Justice

Cathleen E. O'Horo

Christopher R. ~~C~~urley



David T. Button, Supervisor
Clark H. Carvel, Deputy Supervisor
Paul J. Backus, Councilman
Daniel G. Fay, Councilman
James T. Smith, Councilman
Lisa A. Hammond, Clerk
Terry L. Billings, Highway Superintendent
Stephen E. Teele, Assessor
Linda A. Casserly, Tax Collector
Charles B. Nash, Esq., Attorney
Russell B. Lawrence IV, Code Enforcement

October 9, 2012

Rebecca Wilcox, Chief Examiner
NYS Office of the State Comptroller - Syracuse Division
333 East Washington Street, Room 409
Syracuse, New York. 13202-1428

Re.: Audit of Town of Canton Justice Court

Dear Ms. Wilcox:

I am writing in response to the draft Report of Examination of the Canton Town Justice Court done by your office for the period August 1, 2010 to August 22, 2011. The examiner has made observations and recommendations related to the Board's oversight role, and this is the Board's response.

In re. Management Oversight (p. 7), the Board committee that oversees the work of the Justice Court performs routine audits. When - in May 2010 - it detected a discrepancy between bank balances and actual funds available, it was advised that the problem would be corrected. A follow up a few months later would have determined if the problem had been addressed. The audit performed by the Committee in May 2012 showed that all accounts were balanced (notwithstanding this carryover discrepancy). The Board audits in 2010, 2011 and 2012 showed that these were old discrepancies of unknown origin, and the Comptroller's examination was not able to determine where they came from. The reader of this report will note that the net effect of the discrepancies between the accounts of the two judges produces a net negligible discrepancy, suggesting that funds were deposited to the wrong justice account.

In re. Segregation of Duties (p. 7), the administrative staff provides support for both the Village and Town Justice courts. When administrative operations had first been consolidated in 2003, it was with the understanding of the Justices that staff would not be "silo-ed" and would be cross trained to do work for both systems. Despite warnings from the Supervisor's office, the



TOWN OF CANTON

www.CantonNewYork.US
Municipal Building
60 Main Street
Canton, New York 13617

David T. Button, Supervisor
Clark H. Carvel, Deputy Supervisor
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Daniel G. Fay, Councilman
James T. Smith, Councilman
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Rebecca Wilcox
October 9, 2012
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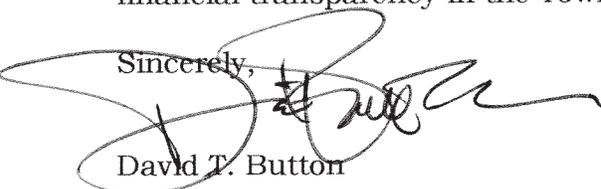
support staff divided up responsibilities as it had done in the past. Efforts underway now (October 2012) to dissolve the Village court system and the reassignment of staff responsibilities should create the kind of cross-accountability the Board originally anticipated in 2003.

In re. Compensating Controls (p. 9), the Board has - in the past - been cautioned by Counsel and the Judges about separation of powers between executive, legislative and judiciary and has been hesitant to overstep its boundaries. However, this audit helps clarify the lines separating the branches, which should help in better defining its oversight authority.

In re. Resigned Judges (p. 9), the turnover of four justices in less 16 months has made it difficult to insure that the financial accounts of the justices have remained segregated, but the Board will work to guarantee that the integrity of each account is maintained.

We found the examiner to be thorough, professional and helpful in providing recommendations that will be helpful in making a good system even better. Our Board takes seriously his recommendations and will work to maintain complete financial transparency in the Town's Justice Court.

Sincerely,



David T. Button

c.c. Town Board
Justices

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to determine whether the internal controls over Court operations were appropriately designed and operating effectively to ensure the proper accounting and reporting of financial transactions. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We reviewed the Court's financial and other records relating to the collection and subsequent disposition of fines and bails. These records included bank statements, canceled checks, monthly reports to the State Comptroller, duplicate receipts, case files, and disbursement records. Using this information, we sought to determine if receipts had been properly recorded and deposited, if moneys had been remitted in a timely and accurate manner and if the internal controls over these functions were adequate.
- We interviewed the Justices, clerks, and the Town Supervisor concerning the Court's operations. These discussions allowed us to understand the Court's internal control system and to make an assessment as to whether the established controls were sufficient to provide assurance that resources were protected from possible loss or improper use, minimize the risk of errors and irregularities, and ensure compliance with applicable rules and regulations regarding the Court's operations.
- We counted the Justices' undeposited official cash as of August 22, 2011, and performed bank reconciliations to determine whether total available cash (on-hand and in the bank) was sufficient to cover Court liabilities.
- We obtained information from the JCF and Department of Motor Vehicles (DMV) for comparison to Court records. Using this information we were able to ascertain whether all cases listed as disposed were reported to the JCF, as required.
- We obtained information from the St. Lawrence County Sheriff Department pertaining to bail transfers to the Court. We reviewed manual case folders, disbursement records, electronic case data, and correspondence to determine if the Court was holding bail as of August 22, 2011.
- We reviewed disbursements to ascertain whether all were made by check and were for proper purposes.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Steven J. Hancox, Deputy Comptroller
Nathaalie N. Carey, Assistant Comptroller

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