



Town of Potsdam Justice Court

Report of Examination

Period Covered:

January 1, 2009 — August 5, 2013

2014M-14



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	4
Comments of Local Officials and Corrective Action	4
JUSTICE COURT	5
Recommendations	8
APPENDIX A Response From Town Officials	9
APPENDIX B OSC Comments on the Town’s Response	12
APPENDIX C Audit Methodology and Standards	13
APPENDIX D How to Obtain Additional Copies of the Report	15
APPENDIX E Local Regional Office Listing	16

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2014

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 Potsdam, 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 Potsdam (Town) is located in St. Lawrence County and has a population of approximately 16,000. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board members. The Supervisor is the Town's chief executive and chief fiscal officer. The Board is responsible for overseeing the Town's financial activities, including the Justice Court (Court). As part of this responsibility, the Board must ensure that an annual audit is conducted of the Town Justices' (Justices) records and dockets. The Board hired a certified public accounting (CPA) firm to conduct an annual audit to fulfill this responsibility.

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justices' principle duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bails, surcharges and civil fees. Justices are responsible 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 routinely monitored and reviewed. The Justices are also required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month and must remit all moneys collected to either the JCF or the Supervisor. During 2012, the Court reported \$167,497 in fines, fees and surcharges to the Justice Court Fund.

The Town has two elected Justices: Justice James Mason and Justice Samuel Charleson. Justice Mason and Justice Charleson held these positions during the audit period (January 1, 2009 through August 5, 2013). The Court employed a Court Clerk from the beginning of the audit period through June 2013. In addition, a part-time Assistant Court Clerk assists with Court operations.¹ Justice Charleson contacted us to request an audit. The Court Clerk was suspended on June 12, 2013.

Objective

The objective of our audit was to examine the Court's financial activity. Our audit addressed the following related question:

- Was all Court money properly recorded, deposited and reported?

¹ Two individuals held the Assistant Court Clerk position during our audit period.

Scope and Methodology

We examined the Court's records and reports for the period January 1, 2009 through August 5, 2013.

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 is included in Appendix C 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 planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

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 their Court and for the accounting and reporting of Court-related financial activities. The Justices must ensure that an effective system of internal controls is in place to properly safeguard cash and other resources, ensure that financial transactions are processed in a timely manner and maintain complete and accurate accounting records. Justices are responsible for ensuring that all moneys collected are deposited in a timely manner, performing reconciliations of Court collections to corresponding liabilities and reporting Court transactions to the JCF and the New York State Department of Motor Vehicles (DMV), when applicable.

The Justices must ensure that Court personnel issue appropriate receipts to acknowledge collection of all moneys paid to the Court. These receipts should be pre-numbered and issued consecutively, and the Court should retain a duplicate copy of each receipt. If computerized receipts are generated, then software controls must prevent the alteration of receipts. An effective system of internal controls provides sufficient segregation of duties to prevent one individual from controlling all phases of a transaction (e.g., collecting, depositing, recording and reconciling moneys). When this is not practical, the Justices should review and provide adequate oversight for the work performed by Court personnel.

Court moneys were not properly recorded, deposited or reported to the JCF during the audit period. Based on our review of Court records and documents, we determined that the Court's liabilities exceeded the Justices' total available cash as of June 30, 2013, resulting in a shortage of \$117,120, as shown in Table 1.

Table 1: Cash Shortage as of June 30, 2013			
	Justice Mason	Justice Charleson	Total
Unreported Fines and Fees – May 2009 to May 2013	(\$67,165)	(\$47,880)	(\$115,045)
Shortage Related to June 2013 Activity	(\$1,175)	(\$900)	(\$2,075)
Cash Shortage	(\$68,340)	(\$48,780)	(\$117,120)

The Court Clerk was responsible for collecting Court revenues, creating receipts in the computer system, recording the revenues in a hand-written cashbook and in the computer, preparing monthly reports to the JCF, reporting Court transactions to the DMV, and performing monthly reconciliations. The part-time Assistant Court Clerk also collected receipts and recorded them in the hand-written

and computerized records, but she was not responsible for preparing monthly reports to the JCF, reporting transactions to the DMV or performing monthly reconciliations.

Because the Court Clerk controlled all phases of the Court's cash collection process with little oversight by the Justices,² she was able to alter receipt information in the computer and print records that reported only the items that she wanted to report. The Court Clerk printed out cashbooks and reports to the JCF that agreed with amounts deposited in the bank and with monthly reconciliations. Because the Court used receipts that were easily altered, the Court Clerk was able to cover up any discrepancies by altering receipt data.

Cash Shortage – On the surface, the Court's records appear to be well kept. The hand-written cashbook agreed with the computerized cashbook reports,³ bank statements and the Court's monthly reports to JCF. In addition, the Court Clerk prepared an accountability analysis each month showing that the Court's assets equaled the Court's liabilities.

However, when we compared the Court's computerized data to the previously printed computerized cashbook reports on file for January 2009 through May 2013, we found that there were 830 receipts⁴ totaling \$115,045 in the computerized data that did not appear on the printed cashbook reports, going as far back as May 2009. In addition, these receipts were not reported to the JCF or remitted to the Town Supervisor. We did not find any discrepancies from January 2009 through April 2009.

Because these receipts were not included in the printed cashbook that was reconciled to the bank account, the amounts were not deposited or detected as missing. We obtained data from the DMV and found that nearly all of the tickets associated with these receipts (785 out of 794) were reported as being disposed.⁵

We also compared receipts recorded in the computer to the hand-written cashbook entries and deposits for June 2013 and identified a cash shortage of \$2,075. This cash shortage relates to 11 receipts that appear to have been collected prior to June 12, 2013, when the Court Clerk was suspended, but were not deposited in the bank. This brings the total cash shortage to \$117,120 for both Justices combined.

² The Justices reviewed month-end reports and signed the checks.

³ Printed by the Court Clerk each month

⁴ The 830 receipts represent payments related to 794 vehicle and traffic tickets.

⁵ Reporting this information to the DMV updates the individual's driver's license record to show that the ticket was taken care of.

Altered Receipts – During our audit, we obtained a backup of the Court’s computer system and reviewed changes made to receipt transactions between the backup date and the time of our audit. It appeared that certain fines and fees were originally entered into the Court’s computerized program when they were received but were later altered to change the receipt dates to a different month, and the receipt numbers were deleted.

In some instances, the receipt dates were changed to an earlier month that had already been printed and reported, so the receipts were not included in any monthly reports to the JCF. For example, in the computer record, receipt #M6808 was altered⁶ to change the date received from April 1, 2013 to March 29, 2013, and the receipt number was deleted. In other instances, the receipt dates were changed to a later month and then changed back to the original month after that month’s JCF report was generated, resulting in the receipts being omitted from the report. For example, in the computer record, receipt #C4838 was altered⁷ to change the date from March 25, 2013 to April 1, 2013, and the receipt number was deleted. This same receipt was later altered⁸ to change the date received back to its original date of March 25, 2013. As a result of these changes, neither receipt was reported to the JCF or remitted to the Supervisor.

We sent confirmation letters to 105 individuals whose fines and/or fees were included in the Court’s shortage, and 38 individuals responded that they had paid the fine and/or fee. Twelve individuals provided us with a copy of the receipt they received from the Court. These 12 receipts totaled \$1,840, and all had a receipt number.

When we compared the 12 receipts to those recorded in the current computerized records, we found that all 12 receipt numbers had been deleted. In seven cases, the receipt dates had been changed in the computerized system to show an earlier date. The other five cases show the correct receipt date, but have a changed date in the computer showing they were altered two months after the original receipt date.

These 12 receipts were not reported to the JCF as required, and the moneys were not remitted to the Supervisor. It appears that these cases were not reported to the JCF because the receipt dates were altered in the computer system. Although the other 26 individuals did not provide us with a copy of their receipts, the Court did report these tickets to DMV as being paid and/or disposed but did not report them to the JCF.

⁶ On May 6, 2013

⁷ On April 5, 2013

⁸ On May 6, 2013

We attempted to trace the 841 cash receipts⁹ totaling \$117,120 from the shortage list to the appropriate case files and were initially unable to find either the Court's copy of the receipts or the related case files in the closed case files. We later found many of these files in boxes in the Court's basement. The files in these boxes were all related to the items on the shortage list or to deleted cases.¹⁰ We found Court copies of 547 of the 841 receipts on the shortage list totaling \$76,190.

Deleted Receipts – We also identified 16 cash receipts totaling \$1,490 that were deleted from the computer. These receipts were not recorded in the hand-written cashbook, deposited or remitted to the Town Supervisor. We found the Court's copy of 11 of these cash receipts totaling \$1,335 in the case files in boxes in the Court's basement. It appeared that these deleted receipts likely should have been recorded in the hand-written and computerized cashbooks and reported to the JCF. If these receipts were actually collected, then the Court's cash shortage could increase by an additional \$1,490.

We have referred our findings to the appropriate law enforcement authority.

Recommendations

1. The Town should take action to recover any moneys due to the Town and/or New York State.
2. The Court should use pre-numbered duplicate receipts and account for them in a consecutive numerical sequence.
3. The Justices should compare duplicate receipts to monthly computerized cashbook reports and ensure all receipts are accounted for.
4. The Justices should periodically compare a sample of receipts in the computer records with the monthly reports to the JCF.
5. The Justices should periodically compare receipts that are reported to the DMV to the receipts reported to the JCF.

⁹ 830 receipts totaling \$115,045 and 11 receipts totaling \$2,075

¹⁰ Refer to the Deleted Receipts section for further information.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

TOWN OF POTSDAM

18 Elm Street
Potsdam, New York 13676

Supervisor Marie Regan, 315-265-4310
Town Clerk Cindy Goliber, 315-265-3430
NYS TDD Service, call 711 System

Highway Supt. John Keleher, 315-265-3470
Assessor James Snyder, 315-265-2810
Code Officer James Plumley, 315-265-0670

February 27, 2014

Rebecca Wilcox, Chief Examiner
State Office Building
Room 409
333 Washington Street
Syracuse, NY 13202-1428

Unit Name: Town Court, Potsdam, NY 13676
Audit Title: Town of Potsdam Justice Court Report of Examination
Period Covered: 1/1/2009 – 8/5/2013
Report #: 2014M-014

Dear Ms. Wilcox:

The Town of Potsdam has received and agrees with the preliminary draft findings concerning former Court Clerk Mary Jo Guyette. We would like to offer the following new procedures and guidelines that the Potsdam Town Court will be installing to prevent any future loss:

1. On January 21, 2014 we hired a second court clerk and all duties will be shared by each of the two clerks alternately, so checks and balances for accuracy will be in place.
2. As of 1/1/14, no white-out will be allowed in the ledger. If a mistake is made it is to be crossed out with a single line, initialed, and an explanation of the error should follow, before a corrected entry is made.
3. Prior to the audit, cash receipt numbers were filed in different parts of the office. Since 1/1/14, all receipts are now being filed in chronological order.
4. The Judges are working on a training session for new hires, so consistent office procedures will be in place for the clerks. This will allow for easier evaluation by the Judges.
5. As of 2/1/14, the Justices will compare duplicate receipts to monthly computerized cashbook reports and insure all receipts are accounted for.
6. As of 2/1/14, the Justices will ensure that their bail records agree with the balances shown in the accounting records, and see that any differences are resolved.

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1400 Independence Avenue, S. W., Washington, D.C. 20250-9410,
or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

7. As of 2/1/14 the Justices will periodically compare a sample of receipts in the computer records with monthly reports to the Justice Court Fund.

8. As of 2/1/14 the Justices will periodically compare receipts that are reported to the DMV to the receipts reported to the Justice Court Fund.

9. As the Town Supervisor, I would like to make suggestions to the office of the State comptroller that may be helpful:

See
Note 1
Page 12

A.) The [redacted] court program allows changes to be made very easily as this is necessary for a court clerk to perform some of their daily tasks. Ultimately, this is how the theft was accomplished and was difficult to detect. The [redacted] program itself needs to be updated and have added features. One of the most important changes would be to add a mandatory pop-up box when any changes are being made to a case. This pop-up box would request a reason for the change being made. By adding this feature it would allow a list to be generated at the end of each month of all changes that occurred during the month, what cases were changed and why they were changed. This report could be reviewed by Judges and other local officials.

See
Note 2
Page 12

B.) The theft at the Potsdam Town Court was accomplished by moving fines and fees. These were initially entered correctly into the [redacted] court program when they were received. Later they were altered by changing the receipt dates to a previous month, and/or to alter or delete receipt numbers. I suggest that the State Comptroller's Office should periodically, and randomly, ask for a print out of present computer records, along with the previous month's printed report, to see if they remain correct.

In an attempt to recover the stolen revenue, I am in the process of writing a "Victim's Impact Letter" to our local District Attorney, Mary Rain, asking for full restitution to be made. If restitution is granted, the Town of Potsdam has asked for a plan, or outline, of how re-payment will be structured. We have made it clear that we are willing to have a long-term plan if necessary, but want full restitution for the Town and State of New York.

We wish to thank [redacted] your auditor, for her expertise and hard work. She did an excellent job and was extremely professional throughout this process. If your office can give us any further advice as to how we can ensure that there will be no repetition of this kind of malfeasance, we will only be too happy to incorporate your ideas.

The persons who are responsible for implementation of these objectives are:

Honorable James A. Mason, Potsdam Town Justice and
Honorable Samuel S. Charleson, Potsdam Town Justice

Sincerely,

Hon. Marie C. Regan
Town of Potsdam Supervisor

Hon. James A. Mason
Town Justice

Hon. Samuel Charleson
Town Justice

Date 2/27/14

Date 2/27/14

Date 2/27/14

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or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The Town purchased this software from an outside vendor. Town officials should contact the vendor to determine if the software can be updated to provide change reports that would enable officials to review changes made.

Note 2

OSC oversees the fiscal affairs of more than 1,200 town and village justice courts in the State. While we conduct periodic audits of justice courts, we do not have the resources to regularly review recorded receipts to verify that changes are appropriate in every court. It is the responsibility of each municipality to have review procedures in place to help ensure that justice court receipts are appropriately recorded and deposited.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The audit objective was to determine whether all Justice Court money was properly recorded, deposited and reported for the period January 1, 2009 to August 5, 2013.

To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Justice Mason, Justice Charleson and the acting Court Clerk (Assistant Court Clerk) 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 ensure resources were protected from possible loss or improper use, to minimize the risk of errors and irregularities and to ensure compliance with applicable rules and regulations regarding the Court's operations.
- We examined the Court's financial and other records relating to the collection and subsequent disposition of fines and bail. These records included bank statements, copies of deposit slips, canceled checks, manual and computerized cashbooks, manual case files and monthly reports to the JCF. We used this information to determine if moneys were accurately and completely collected, recorded, deposited and reported.
- We counted the Court's cash not deposited on August 5, 2013 and performed a bank reconciliation and accountability analysis to determine whether the total available cash (on hand and deposited) was sufficient to cover the Court's liabilities. We also performed bank reconciliations and accountability analyses for March 2013 through June 2013.
- We obtained information electronically from the JCF and the DMV and compared it to computerized Court records. Using this information, we were able to determine whether fines, fees, and surcharges were reported, as required, to the JCF and whether the DMV's records were updated.
- We obtained a backup of the Court's data from April 24, 2013 and compared it to the data as of July 19, 2013 to identify information that had been altered.
- We obtained information from the St. Lawrence County Correctional Facility pertaining to bail transfers to the Court.
- We reviewed a CPA audit report of Court records dated June 25, 2013.
- We contacted 105 defendants by mail to verify if they made payments relating to our shortage list. We selected 100 individuals associated with a receipt totaling \$100 or more and without a receipt number from November 2012 to June 2013. We selected five more individuals due to either irregularities involving the individual's receipt or to the Court having evidence that

the individual had paid, but it did not have the individual recorded in the manual cashbook as paying a fine or fee.

We conducted this performance audit in accordance with 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 objective.

APPENDIX D

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