

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Town of Liberty

Justice Court Operations

Report of Examination

Period Covered:

January 1, 2015 – July 22, 2016

2016M-336



Thomas P. DiNapoli

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State of New York

Office of the State Comptroller

Division of Local Government and School Accountability

January 2017

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 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 Liberty, entitled Justice Court Operations. 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 New York State 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 Liberty (Town) is located in Sullivan County and has a population of approximately 10,000. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor and four Board members. The Board is the legislative body responsible for managing Town operations.

The Town's Justice Court (Court) has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Town has two elected Justices who oversee Court operations. The Justices' principal duties include adjudicating legal matters within the Court's jurisdiction; administering money collected from imposing fines, bail, surcharges, civil fees and restitutions; and reporting the Court's financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF). Each Justice is supported by several clerks, who are overseen by a manager (Clerk Manager). The Court's revenues for 2015 were \$278,000.¹

Objective

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

- Did the Justices ensure proper controls were in place and provide sufficient oversight to adequately safeguard Court money?

Scope and Methodology

We examined the Court's financial operations for the period January 1, 2015 through July 22, 2016.

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 C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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. Except as

¹ The Court collects fines and fees that are disbursed to the JCF. The JCF reviews monthly reports and determines the local share of funds collected. \$278,000 represents the Town's share of the fines and fees in 2015.

specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comment on an issue Town officials raised in their response.

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 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 Clerk's office.

Justice Court Operations

The Justices must ensure adequate controls are in place to safeguard money collected by the Court. These controls should help the Justices ensure that receipts are deposited, tickets are properly accounted for and adjudicated, dismissals are properly supported, disbursements are to appropriate parties and Court transactions are properly reported to the JCF. The Justices are also responsible for collecting and accounting for bail money received. The Justices must ensure that Court collections are reconciled to corresponding liabilities (monthly accountability) and the status of each vehicle and traffic ticket is periodically updated with the New York State Department of Motor Vehicles (DMV). Furthermore, the Justices should have procedures regarding enforcement of unpaid tickets to ensure fines are collected as soon as possible and Court personnel should maintain sufficient records to identify unpaid fines. An option to enforce tickets with fines and surcharges that remain unpaid is to use the DMV Scofflaw Program.²

The Justices provided oversight of Court activity; however, they could improve their oversight to further safeguard Court money. We sampled 42 various Court transactions³ and determined that they were properly accounted for because these transactions were recorded as the Justices adjudicated and the associated Court money was deposited and reported to the JCF. We also tested 13 disbursements and found that although they were properly disbursed to appropriate parties, the Justices allow the Clerk Manager to sign all disbursement checks. One Justice explained his time constraints would make it difficult to sign all the checks in a timely manner given the large volume of returned bail each month. However, if the Justices signed the checks it could serve as a preventative control and further improve their current oversight of disbursements.

The Justices review the JCF reports and monthly accountabilities to ensure cases are properly recorded and paid tickets have been deposited. However, the Justices did not reconcile unpaid tickets between the DMV and Court records to ensure defendants' DMV records are accurate and fines are either collected or tickets are

² The DMV Scofflaw Program allows local justice courts to notify the DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the court date) traffic ticket for a 60-day period. When this occurs, the DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then the DMV suspends the individual's license until they address the outstanding ticket.

³ See Appendix C for detailed methodology.

referred to the DMV Scofflaw program. We reviewed six monthly accountabilities and found collections agreed with corresponding liabilities. We selected seven unpaid tickets from the DMV records that should have been referred to the DMV Scofflaw program based on the age of the tickets and found three were not referred because they were pending resolution. The remaining four were properly supported by the Court's records as either paid or dismissed, but were not reflected as such in the DMV records.

DMV records are the defendants' public court records and therefore it is crucial they are accurate. The Justices relied on the expertise of the Clerk Manager instead of overseeing the Court's unpaid fines. Without adequate oversight, there is a risk that the clerks are not collecting all fines and fees due or referring unpaid tickets to the DMV Scofflaw program.

Recommendations

The Justices should:

1. Sign all disbursement checks.
2. Periodically review and reconcile the DMV pending tickets report to the Court records to ensure that tickets are properly reported as paid or referred to the DMV Scofflaw program for enforcement, and document such review was performed.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

**State of New York
Chambers of the Town Court
Town of Liberty Government Center**

BRIAN P. ROURKE
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

DENISE CURRY
Clerk of the Court

HAROLD J. BAUMAN
JUDGE

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FAX: (845) 292-2562

LILLIAN RUBIO
Deputy Clerk of the Court

KERI ANN POLEY
Court Clerk

NANCY SAUCIER
Court Clerk

Written Response and Corrective Action Plan

The Town of Liberty Justice Court was audited for the period between January 1, 2015 and July 22, 2016 by the Office of State Controller, Division of Local Government and School Accountability. It should be noted that during the period that the State Controller auditors were reviewing Court documents that the Justices and Court personnel cooperated fully with their investigation.

Buried in the third paragraph of the Report of Examination of Justice Court Operations it was noted that it was "found collections agreed with corresponding liabilities". In other words, all monies were accounted for, which is the most important aspect of a justice's responsibility for Court operations.

See
Note 1
Page 9

In the last section of the report under the title "Recommendations", it was noted the Justices should:

1. Sign all disbursement checks.
2. Periodically review and reconcile DMV pending tickets report to the Court records to ensure that tickets are properly reported as paid or referred to the DMV Scofflaw program for enforcement.

By way of corrective action, it is suggested that the two Justices shall endeavor to sign all disbursement checks when available, as well as reviewing and reconciling the DMV pending tickets report.

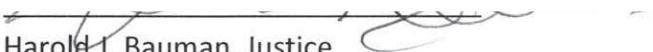
It is further suggested that the Office of Court Administration include State Controller Audits as an education topic offered by the Justice Court Support Resource Center. If Justices must live with them, Justices should know about them.

We appreciate the time spent reviewing our Justice Court files and procedures and would suggest that in future reviews of Justice Courts, the positive aspects a reviewer's findings be stressed in addition to provisions regarding the management of operations to assure the accountability of monies handled. The Justices in the Town of Liberty Court must be doing something right inasmuch as every penny was accounted for.

See
Note 1
Page 9

Dated: December 16, 2016


Brian P. Rourke, Justice


Harold J. Bauman, Justice

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

Recorded collections are accounted for when deposits agree with liabilities; however, it does not ensure that all collections were deposited. Our testing was performed on a sample basis. Therefore, we could not draw the conclusion that all money was accounted for. We can only conclude that the transactions we tested were accounted for.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed Court personnel to gain an understanding of the Court's operations.
- We selected a random sample of 25 closed tickets in DMV records using a random number generator and traced them to case files, Court records and JCF records to determine if the closed tickets were properly recorded and reported. We also verified the associated Court money was deposited.
- We selected a random sample of 10 duplicate receipts using a random number generator and traced them to the Court's accounting system and to the deposits on the bank statement. We also verified these were reported to the JCF.
- We judgmentally selected a sample of seven of the oldest unpaid tickets in the DMV records and reviewed support of the Court's attempt to enforce and collect fines. We also verified these were properly recorded, any associated Court money was deposited and that they were reported to the JCF.
- We determined whether bail was paid to the appropriate parties for closed cases by testing a judgmental sample, with no known bias, of nine bail cases.
- We used a random number generator to select a sample of four monthly accountabilities prepared by the Clerk Manager to verify the reports were supported by the bank statement. We also verified that funds were properly paid to the Town Supervisor.
- We verified the monthly accountabilities of outstanding bail as of June 30, 2016 were supported by funds in both Justices' bail bank accounts.

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 objective. 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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