

Town of Brunswick

Justice Court

MAY 2018



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Audit Objective

Determine whether Court transactions were accounted for accurately and in a timely manner; deposits were made intact and in a timely manner; and disbursements were reviewed and approved by the Justices.

Key Findings

- Although collections were generally deposited intact, they were not deposited within 72 hours as required. They were deposited as late as 11 days after the date of receipt.
- Court personnel are unaware of the bail account balance.
- There were 26 checks signed using a signature stamp rather than signed by the Justice.

Key Recommendations

- Ensure deposits are made within 72 hours as required by law.
- Perform monthly bank reconciliations.
- Discontinue the use of a signature stamp.

Town officials generally agreed with our recommendations and have initiated, or indicated they planned to initiate corrective action.

Background

The Town of Brunswick (Town) is located in Rensselaer County.

The Town is governed by the Town Board (Board), which is composed of the Town Supervisor and four elected Board members. The Board is responsible for the general management and control of Town finances and overseeing financial activities, including the Justice Court. The Town has two elected Justices and two full-time Court clerks.

Quick Facts

Collections Reported to Justice Court Fund During Audit Period	\$531,824
Disbursements Made During Audit Period	\$592,758

Audit Period

January 1, 2016 – July 1, 2017

Justice Court

A court has jurisdiction over vehicle and traffic, criminal, civil and small claim cases. Justices adjudicate legal matters within the court's jurisdiction and administer money collected from fines, surcharges, civil fees, restitution and bail. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) the financial activities of the preceding month. The Town has two elected Justices: Justice Lawrence Kronau and Justice Terrance Buchanan who currently preside over the Court. The Town also employed two clerks to assist with the financial responsibilities including collecting payments, issuing receipts,¹ posting payments in the computer system, preparing and making deposits and preparing the monthly reports for review by the Justices prior to submitting them to the JCF.

How Should Justices Account for Court Funds and Maintain Case Files?

Justices are generally responsible for money received and disbursed by their court and for safeguarding court resources. Justices must maintain complete and accurate accounting records of collections and disbursements and safeguard all money collected by the court. For each case brought before the court, justices must maintain separate case files, and such records must include all relevant case information and be properly and accurately reported to the JCF. The status of each case (e.g., awaiting the defendant's first appearance, fines assessed and due, etc.) as reflected in the individual case files should agree with the case status reflected in the court's software system.

Procedures for adequately accounting for court transactions include issuing pre-numbered duplicate receipts and recording each collection in the accounting records. All funds should be deposited intact (i.e., in the same amount and form as collected) and are required to be deposited as soon as possible but no later than 72 hours from the date of collection, exclusive of Sundays and holidays. Any voided receipts should include an explanation for why they were voided and be kept on file. Additionally, justices must provide adequate oversight of the work performed by their clerks.

Justices collect bail² from defendants to ensure their appearance in court to answer charges. To ensure adequate accountability of bail proceeds, justices should maintain records of the date bail is received, who paid it and the case to which it relates.

¹ Receipts were printed out of the Court's computer system.

² Bail is returned when the case has been adjudicated or used to pay fines and fees imposed by the court.

On a monthly basis, justices should perform a reconciliation between the bank balance and the checkbook balance. Also, an accountability of funds should be conducted by preparing a list of court liabilities and comparing it to reconciled bank balances and money on hand. Any discrepancies should be investigated and resolved, and any unidentified funds should be remitted to the JCF.

All court disbursements should be recorded in the accounting records, made for appropriate court purposes and signed by an authorized signatory. Disbursements generally involve returning bail, applying bail to fines and fees, transferring money to other courts and monthly remittances to the town supervisor or JCF. The clerks can prepare the checks but they must be reviewed and signed by the justices. Signature stamps should not be used to sign checks because they increase the risk that inappropriate payments could be made without detection. In addition, boards are required to perform an annual audit of justices' records or engage an independent public accountant to do so.

The Clerks Properly Maintained Case Files and Properly Recorded Collections of Fines and Fees

We reviewed 20 case files and found they were properly maintained with all supporting documentation including evidence of payment where applicable. Case files agreed to the Court's computerized case history report and were accurately reported to the JCF.

We reviewed 505 computerized receipts issued for the collection of fines and fees totaling \$63,470 and found they were issued in sequential order. We also reviewed nine receipts totaling \$865 that were voided in the sequence of receipts reviewed and found the receipts were voided for appropriate reasons and new receipts were issued if needed. We found the collections were accurately recorded in the Court's computerized system and reported to the JCF.

Certain Bail Collections Were Not Sufficiently Documented and Bail Disbursements Were Not Properly Recorded

A clerk told us that collections received in the mail are entered on the same day they are received if time permits. However, if bail collections are not recorded on the same day they are received, they are date stamped and recorded at a later date. We reviewed six bail collections totaling \$2,090 and found all collections were properly posted. However, we could not determine whether three bail collections totaling \$1,240 were recorded in a timely manner because they were turned over to the Court by the Trooper Station or the County Jail and did not document the date the Court received the collection. The remaining three collections totaling \$850 were received by the Court and recorded in a timely manner.

We reviewed nine bail disbursements totaling \$13,970. Three disbursements totaling \$780 were appropriately applied to fines and fees and properly recorded in the Court's computerized system and reported to the JCF. The other six disbursements totaling \$13,190 were made to return bail. The clerks told us they prepare the checks for the Justices to sign. Once signed, the checks are turned over to the rightful owner and then recorded in the Court's computerized system. While we found all bail was appropriately returned to the rightful owner and recorded, there were instances where disbursements were not recorded in a timely manner. Disbursements should be recorded in a timely manner to ensure that records are accurate and up-to-date. Failing to do so could result in duplicate payments or disbursements not being recorded at all.

The Clerks Did Not Deposit All Collections in a Timely Manner

The Court accepts payments in the form of cash, check, money order, credit card and e-payments.³ There are three bank accounts; each Justice has his own account for fines and fees and there is a shared account for bail transactions. We reviewed deposits made for 505 collections for fines and fees totaling \$63,470 and found that, except for minor discrepancies which we discussed with the clerks, collections were deposited intact. Of the collections reviewed, 331 totaling \$42,390 were paid by cash or check. We found 250 of these collections totaling \$31,349 (76 percent) were deposited between four and 11 days, which is beyond the 72-hour requirement from when collections were received. The clerks told us they did not always have sufficient time to prepare and make deposits due to the volume of their Court transactions.

We also reviewed six bail collections totaling \$2,090 and found one collection for \$100 was never deposited and appears to be missing. The Justices and clerks were not aware the \$100 was not deposited and could not account for this money during our audit. Additionally, the clerks did not routinely run reports of collections for the bail account, which may have helped them realize the bail collections did not reconcile with the deposits into the bail bank account. The remaining five collections of \$1,990 were deposited intact. However, three collections totaling \$1,250 were deposited as much as nine days after the date of collection.

When Court personnel do not deposit collections in a timely manner, there is an increased risk that cash will be lost or misused.

³ E-payments allow payees to pay online. This site is handled by a third party.

Bank Reconciliations and Accountabilities Were Not Performed

While the clerks verified the deposits of collections using online banking, they did not perform bank reconciliations or accountability analyses and did not keep bank statements on file.

We performed bank reconciliations and accountability analyses of the fines and fees accounts for April 2016 and January 2017 and noted only minor variances. The reconciled bank balances agreed with the balances in the check book ledgers and money on hand agreed with the outstanding liabilities for fines and fees.

We attempted to perform bank reconciliations and accountability analyses of the bail account for April 2016 and January 2017 but were unable to do so because of inaccurate record keeping. A manual ledger is maintained to record bail disbursements. However, deposits are not documented and a running balance is not maintained. We also noted that the computerized bail reports, dated June 29, 2017, were not accurate. Neither the clerks nor the Justices are aware of the bail account's balance because bank reconciliations were never performed. Additionally, there are unidentified funds in the bail account.⁴ Because Court personnel did not maintain a ledger with a running balance of what was moved from the bail account and applied to fines and fees, they could not determine the amount of unidentified money.

Because the records were so inaccurate, we could not perform a true bank reconciliation. Instead, we could only verify collections and disbursements. Without a true bank reconciliation, we could not perform any accountability analyses. Furthermore, we could not determine whether the computerized bail reports were accurate.

In lieu of conducting an annual audit of the Justices' records itself, the Board contracted with a certified public accountant (CPA) to conduct the audit. We reviewed the CPA audit reports for the 2015 and 2016 fiscal years. The reports made recommendations to record all deposits and disbursements in a check register with a running total; determine check book balance and perform formal bank reconciliations for each account on a monthly basis; and maintain bank statements. Justice Buchanan stated he was relatively new when the last audit was conducted and does not remember reviewing the audit, but is in favor of adhering to the recommendations. Justice Kronau stated he does not believe that these tasks are his job and incorrectly assumed they were the clerks' job.

⁴ On December 9, 2013, a deposit of \$9,200 was made to the bail account from the fines and fees accounts per the Town's independent auditors. On December 13, 2016 a check was written to the Town from the bail account in the amount of \$3,402.50 for unclaimed exonerated bail. Letters were sent out to reconcile unidentified money. As payees come in with receipt providing evidence of payment, the clerks issue a check from the bail account to the fines and fees account and record payment in the computerized system.

Without performing bank reconciliations and accountability analyses, the Justices cannot timely check for and correct errors or identify cash shortages.

One Justice Did Not Appropriately Sign All Checks

We reviewed 96 checks totaling \$60,934 issued in our audit period to return bail, apply bail to fines and fees, transfer money to other courts or refund an overpayment.⁵ We identified 26 checks totaling \$10,572 which the clerk signed using Justice Kronau's signature stamp without the Justice having reviewed and approved the checks. The clerk said she used the stamp because payees came in requesting their money and the Justices were not available. However, we found the checks that were signed by signature stamp were not only issued to return bail but also to issue checks from the bail account to apply to fines and fees. These checks also were deposited into the fines and fees account.

Although all checks signed with a signature stamp were for appropriate Court purposes, when a signature stamp is used to sign checks, there is a risk that checks could be issued for inappropriate purposes, which could lead to cash shortages.

What Do We Recommend?

The Justices should:

1. Ensure collections and disbursements are recorded in a timely manner.
2. Ensure deposits are made within the 72-hour requirement.
3. Maintain a ledger for all bank accounts for deposits and disbursements with a running cash balance.
4. Ensure bank reconciliations are prepared for each account on a monthly basis and bank statements are maintained.
5. Ensure accountability analyses are prepared on a monthly basis.
6. Correct the bail account financial records.

⁵ Monthly remittances to the Town Supervisor are performed by a transfer via online banking.

-
7. Reconcile the bail account and remit any unidentified funds to the JCF.
 8. Ensure that the use of the signature stamp is discontinued and each Justice personally reviews and signs checks related to their Court transactions.
 9. Review and take corrective action in response to annual audits of the Court records.

Appendix A: Response From Town Officials



G. Lawrence Kronau
Town Justice

Town of Brunswick Justice Court

Terrance Buchanan
Town Justice

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Unit Name: Town of Brunswick Justice Court
Audit Report Title: Justice Court Audit
Audit Report Number: 2017M-285

Response to Audit

We, at the Justice Court, Town of Brunswick have reviewed the findings of the audit of our fiscal operations recently completed by the Office of the State Comptroller. As responsible members of the Judiciary and its staff, we welcome the advice and recommendations set forth in the audit and otherwise provided by your staff, which enables our Court to better perform its fiscal operation and responsibilities. As always we remain committed to delivering quality judicial services to the residents of our Town in a competent, efficient and responsible manner.

We are in substantial agreement with the audit's findings and had actually begun implementing some of the recommendations set forth in the audit prior to its completion. With ours being the second busiest Justice Court in all of Rensselaer County, and the fiscal operations examined by the audit involve over one-half million dollars of funds, we take solace in the fact that your findings mainly involved some needed procedural tightening of our methods and (with one very minor exception which has been corrected) reported no missing funds.

We have already undertaken what we believe to be appropriate steps to comply with the three (3) key recommendations set forth in the audit suggested in the audit's findings. That said, however, with respect to the use of a signature stamp, and understanding that is the Office of Court Administration which promulgates the regulations involving their use, as we discussed in our draft audit meeting, we would respectfully submit that some alternative procedure be authorized which would ensure fiscal accountability even while allowing an

authorized signature in the Justices' absence to release monies rightfully owed. Often former defendants, or others who post their bail, may come some distance to our Courts to retrieve bail, sometimes in substantial amounts, understandingly believing that they may retrieve their monies any time the Court is open. They couldn't possibly be aware that the Justice who handled the case must be available to sign a check to effectuate the transaction. In an environment where courts are constantly reminded of their obligations to protect defendant's rights, this requirement seems somehow incongruent with that duty. Moreover, given the fact that the Town Justices in Brunswick, as in most if not all Justice Courts in Rensselaer County, serve in a part-time capacity, a procedure which essentially and apparently requires that they be available at all times seems somewhat unfair, given other business, professional and personal commitments they might have. Given current computer and smart phone technology, which readily allows for a high degree of electronic communication between the Justices and the support staff, it would seem that a procedure could be devised which would enable a Justice to remotely review, approve and authorize a financial transaction by one of the Court Clerks, while at the same time ensuring full fiscal responsibility and accountability.

Corrective Action Plan

The audit contains nine (9) recommendations for the Court going forward. I will address each one as enumerated.

- 1) Ensure collections and disbursements are recorded in a timely manner. This is now being done and staff compliance is being monitored by the Justices.
- 2) Ensure deposits are made within the 72 hour requirement. This is now being done and has, in fact, been our practice since early on in the audit process. Previously, most deposits had been made within that time frame but all efforts are now being made to insure full compliance. A directive from the Justices, dated January 5, 2018, was distributed to the Clerks re-stating this requirement. The Justices will continue to monitor this activity.
- 3) Maintain a ledger for all bank accounts for deposits and disbursement with a running cash balance. That is being done and is addressed, as well, in the aforementioned directive.
- 4) Ensure bank reconciliations are prepared for each account on a monthly basis and bank statements are maintained.
- 5) Ensure accountability analyses are prepared on a monthly basis. That is being done. The new form provided by your auditor has been very helpful in this effort.

6) Correct the bail account financial records. That has been done.

7) Reconcile the bail account and remit any unidentified and unclaimed bail to the Town of Brunswick. That has been done. Unidentified funds from the fine account to be remitted to JCF.

8) Ensure that the use of the signature stamp is discontinued and each Justice personally reviews and signs checks related to their Court transactions. This has been done. Please note, however, our above mentioned request for further consideration of this requirement.

9) Review and take corrective action in response to annual audits of the Court records. This will be done going forward and the corrective actions previously recommended have been undertaken.

On behalf of our staff at the Brunswick Town Court we would like to thank the Office of the State Comptroller for their professionalism and courtesy over the past months required to complete the audit. We take our fiduciary responsibilities, as we do all of our responsibilities, extremely seriously. We enjoyed working with your staff and are grateful for the opportunity to even further enhance and professionalize our efforts to better serve our constituents and the Judiciary. We always welcome any efforts to help us accomplish that.

Very truly yours,

Hon. Terrance A. Buchanan
Brunswick Town Justice

April 11th, 2018

Hon G. Lawrence Kronau
Brunswick Town Justice

April 11th, 2018

Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed the clerks and Justices and reviewed financial reports to gain an understating of the Court's financial operations.
- We randomly sampled two months of collections for fines and fees and bail to determine whether collections were properly recorded and deposited intact and in a timely manner.
- We reviewed receipts voided within the two randomly selected months to determine whether they were voided for appropriate purposes.
- We judgmentally selected 20 cases reported to JCF within the two randomly selected months to determine whether adequate case files were maintained and whether they were properly reported to JCF.
- We reviewed disbursements made within the two randomly selected months to determine whether they were properly recorded in the Court's computerized system, whether they were for appropriate purposes and, if returning bail, whether it was appropriately returned to the rightful owner.
- We performed bank reconciliations and accountability analyses for the months selected for the fines and fees account to determine whether cash on hand agreed with known liabilities. Due to the inaccurate records, we could not perform bank reconciliations or accountability analyses for the bail account.
- We reviewed the CPA report of the Justice Court for the 2015 and 2016 fiscal years to determine whether recommendations were made to the Justices and, if so, whether they were addressed.
- We reviewed all disbursements made via online banking for the monthly remittances to the Town Supervisor to determine whether they agreed to the monthly JCF report. We also reviewed all check disbursements to determine whether they were appropriately signed by one of the Justices.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

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.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided 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 Town Board to make the CAP available for public review in the Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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www.osc.state.ny.us/localgov/index.htm

Local Government and School Accountability Help Line: (866) 321-8503

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