



Town of Lockport Justice Court

Report of Examination

Period Covered:

January 1, 2016 – October 11, 2017

2018M-36



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

July 2018

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 Lockport, 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 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Lockport (Town) is located in Niagara County and has approximately 20,000 residents. The Town is governed by an elected Town Board (Board), which is composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of the Town's financial activities, which includes the Town Justice Court (Court) financial activity. Two elected Justices (Justice Antkowiak and Justice Tilney) preside over the Court and the Court employs two full-time and three part-time Court clerks (clerks) to assist with the financial responsibilities related to Court operations.

During 2016, the Court collected and remitted more than \$1.8 million in fines, fees, surcharges and bail money, generating approximately \$350,000 in revenue for the Town. The Court also collected approximately \$150,000 in bail during 2016.

Scope and Objective

The objective of our audit was to examine the Court's financial activity for the period January 1, 2016 through October 11, 2017.¹ We extended our review of certain transactions back to 1985.

Our audit addressed the following related question:

- Did the Justices accurately and completely collect, record, deposit, disburse, reconcile and report Court money in a timely manner?

Audit Results

The Justices did not accurately and completely collect, record, disburse, reconcile and report Court money in a timely manner. The full-time clerks are responsible for most Court financial transactions with little oversight by the Justices. Court records were not accurate, complete or updated in a timely manner, and the Justices did not require the clerks to perform monthly accountabilities. Furthermore, there were extensive outstanding reconciling adjustments that the Court has not addressed and remained unresolved since as far back as 2009.

Because bail reports were inadequate and unreliable, the Court's bail amounts for the current Justices² were understated by approximately \$61,000. The reports³ also indicated that the Court had more than

¹ Certain Court reports included cases that dated back to 1985.

² Justice Antkowiak and Justice Tilney

³ We adjusted this for negative bail amounts and identified a recalculated pending bail total (as shown in Figure 1).

200 outstanding bails totaling over \$54,000 that were more than six years old. Furthermore, because the Justices did not ensure that all tickets were properly disposed in a timely manner or that fines and fees were properly collected, the New York State Department of Motor Vehicles (DMV) pending ticket report and the Court's balance due report were inaccurate. As a result, the Court did not request the driver's license suspension for the majority of individuals who had outstanding ticket balances greater than 60 days. As of June 5, 2017, the Court reported uncollected amounts due totaling more than \$600,000 and the DMV pending ticket report⁴ indicated nearly 6,000 tickets dating as far back as 1985 appear to be pending and potentially unpaid. The Court did not refer approximately 4,000 (67 percent) of these tickets to the DMV Scofflaw Program.⁵

Furthermore, the Court's records were so deficient that the bail reports for two former Justices still showed about \$86,000⁶ in pending bails even though they were no longer in office.⁷ The Court failed to show the transfer of bail and cases to the succeeding Justice in its records.

Because the Justices have not ensured that Court records are accurate and updated in a timely manner, reports the Court could use to monitor activity are unreliable. As a result, the risk remains that not all money due to the Court has been collected.

Comments of Town Officials

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 initiate corrective action. Appendix B includes our comments on issues raised in the Town's response.

⁴ Dated June 13, 2017

⁵ 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, the DMV suspends the individual's license until they address the outstanding ticket.

⁶ We subsequently adjusted this for negative bail amounts and identified a recalculated total of approximately \$32,000 in pending bail (as shown in Figure 1)

⁷ Justice Arnold's and Justice Schilling's terms ended in 2003 and 2013, respectively.

Introduction

Background

The Town of Lockport (Town) is located in Niagara County and has approximately 20,000 residents. The Town is governed by an elected Town Board (Board), which is composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of the Town's financial activities, which includes the Town Justice Court (Court) financial activity. Two elected Justices (Justice Antkowiak and Justice Tilney) preside over the Court and the Court employs two full-time and three part-time Court clerks (clerks) to assist with the financial responsibilities related to Court operations.

The Justices are responsible for monitoring and managing the Court's financial activity and have jurisdiction over certain criminal, civil and small claim matters, as well as motor vehicle and traffic violations. The Justices use accounting software to account for Court transactions. The Justices impose and collect fines and bail money and are required to report monthly to the Office of the State Comptroller's Justice Court Fund the financial activities of the preceding month and to also remit all fines and fees collected to the Supervisor. During 2016, the Court collected and remitted more than \$1.8 million in fines, fees, surcharges and bail money, generating approximately \$350,000 in revenue for the Town. The Court also collected approximately \$150,000 in bail during 2016.

Objective

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

- Did the Justices accurately and completely collect, record, deposit, disburse, reconcile and report Court money in a timely manner?

Scope and Methodology

We examined the Court's financial transactions for the period January 1, 2016 through October 11, 2017.⁸ We extended our review of certain transactions back to 1985.

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

⁸ Certain Court reports included cases that dated back to 1985.

the value and/or size of the relevant population and the sample selected for examination.

**Comments of Town 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 initiate corrective action. Appendix B includes our comments on issues raised in the Town’s 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 Town Clerk’s office.

Justice Court

Justices are responsible for adjudicating cases brought before them and accounting for and reporting court-related financial activities accurately and in a timely manner. Each month, justices are required to account for collections and disbursements, verify the accuracy of their financial records and reconcile all court bank accounts. They are also responsible for maintaining accurate bail reports, reviewing outstanding balances due to the court and monitoring pending case reports to ensure that cases are properly disposed in a timely manner and that appropriate measures are taken when individuals fail to appear or pay fines and fees in full. Justices also need to provide oversight to ensure that their staff are adequately performing their job duties. Further, a town board⁹ is required to perform an annual examination of the justices' records and document the results of that examination in its meeting minutes.

The Justices did not accurately and completely collect, record, disburse, reconcile and report Court money in a timely manner. Further, because the Justices did not provide adequate oversight to ensure that Court staff maintained accurate records and reports, Court records were unreliable. As a result, the Justices could not provide an accurate monthly accountability to reconcile the Court's cash assets and outstanding liabilities for any of the Court's fine or bail accounts.

Because bail reports were inadequate and unreliable, the Court's bail amounts were understated for the current Justices¹⁰ by approximately \$61,000. The reports¹¹ also indicated that the Court had more than 200 outstanding bails totaling over \$54,000 that were more than six years old. Furthermore, because the Justices did not ensure that all tickets were properly disposed in a timely manner or that fines and fees were properly collected, the New York State Department of Motor Vehicles (DMV) pending ticket report and the Court's balance due report were inaccurate. As a result, the Court did not request the driver's license suspension for the majority of individuals who had outstanding ticket balances greater than 60 days. As of June 5, 2017, the Court reported uncollected amounts due totaling more than \$600,000 and the DMV pending ticket report¹² indicated that nearly 6,000 tickets dating as far back as 1985 appear to be pending and potentially unpaid. The Court did not refer approximately 4,000 (67 percent) of these tickets to the

⁹ Or, a town board may engage a public accountant to perform this examination.

¹⁰ Justice Antkowiak and Justice Tilney

¹¹ We adjusted this for negative bail amounts and identified a recalculated pending bail total (as shown in Figure 1).

¹² Dated June 13, 2017

DMV Scofflaw Program.¹³ Because the Justices have not ensured that Court records are accurate and updated in a timely manner, reports the Court could use to monitor activity are unreliable. As a result, the risk remains that not all money due to the Court has been collected.

Oversight of Court Operations

Concentrating key duties (i.e., authorization, recordkeeping and custody) with an individual where there is little or no oversight weakens internal controls. When it is not practical to segregate court duties, effective oversight by a justice is essential to help ensure that transactions are properly recorded and reported and that all money is accounted for. A monthly accountability is an analysis of court liabilities (such as bail held on pending cases and unremitted fines and fees) that must equal justices' available cash and assets at any point in time. A monthly accountability should identify the source and amount of all revenue held in justices' bank accounts and detect any overages or shortages so that corrective action may be taken in a timely manner.

The full-time clerks are responsible for collecting Court revenues, writing manual receipts, recording receipts and disbursements into the software, preparing monthly reports to the Office of the State Comptroller's Justice Court Fund (JCF), reporting Court transactions to the DMV, maintaining Court records including bail reports, and preparing and making deposits. Although the Justices generally signed monthly JCF reports submitted to the Town with the monthly payments, there is no indication that they routinely reviewed the clerks' work to verify that money received was properly deposited, accounted for and reported, as required. Because the clerks control nearly all phases of the Court's cash collection, recording and reporting processes with minimal oversight, there is an increased risk of errors and irregularities occurring and not being detected in a timely manner.

Further, the Justices did not require the clerks to perform monthly accountabilities. At the Supervisor's request, the Supervisor's senior account clerk (account clerk) attempted to perform monthly accountabilities on the Court's behalf. However, the account clerk's accountabilities relied on Court records that were not accurate, complete or updated in a timely manner. Furthermore, there were extensive outstanding reconciling adjustments that the Court has not addressed and remained unresolved since as far back as 2009.

¹³ 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, the DMV suspends the individual's license until they address the outstanding ticket.

Moreover, while the clerks received a copy of the accountabilities the account clerk prepared, the Justices indicated that they did not review them. Due to the Court's unreliable outstanding bail reports, the volume and age of outstanding bail,¹⁴ and the extensive amount of reconciling adjustments, the Justices were unable to provide an accurate accountability of their cash or liabilities.

While the Board hired public accountants (accountants) to examine the Court's records, the Justices have not fully implemented certain recommendations or completely addressed deficiencies reported by the accountants. For example, the accountants reported that the Justices' bank accounts were not reconciled in a timely manner. The accountants recommended that the amount of money collected be reconciled daily and that someone other than the clerks review this daily reconciliation. Further, the accountants recommended that the clerks maintain accurate and up-to-date records. Implementing these recommendations would have provided some basic controls over cash; however, the Justices failed to follow the recommendations and their records remain unreliable.

Ultimately, the Justices are responsible for accounting and control over money received by the Court. Therefore, it is imperative that the Justices maintain accurate records and perform accountabilities when safeguarding money in the Court's custody.

Outstanding Bail

Bail is generally levied on defendants to help ensure their appearance in court to answer the charges against them. Bail is returned either when the case has been adjudicated or may be used by the defendant to pay any fines and fees imposed by the court. Justices must maintain an appropriate record of all bail received and disbursed, indicating when the bail was paid, by whom, and for whom. It is important for this record to identify the date, check number and to whom the bail was disbursed. Additionally, when a justice leaves office, all pending cases and any money received on those cases must be transferred to the succeeding justice. A justice must also file a report with the JCF reporting all activity, remit any fines and fees collected and unidentified money to the town's supervisor, and close all bank accounts. The accounting records should properly reflect the transfers of bail from a prior justice.

We found that the Court's outstanding bail reports, as of June 5, 2017, were inaccurate and unreliable. For example, the total amount for the current Justices (approximately \$77,000) originally indicated on the outstanding bail report was understated by approximately \$61,000 because the report included bails attributed to these Justices

¹⁴ See section entitled Outstanding Bail for additional information.

with negative balance amounts. As a result, the recalculated and adjusted pending bail for the current Justices totaled approximately \$138,000.¹⁵ The negative amounts occurred primarily because one Justice returned bail that another Justice originally received and recorded in his records. However, because the Court did not keep accurate records and update them in a timely manner, the bail reports did not properly reflect the transfer of bail to the presiding Justice who was responsible for the case.

Furthermore, the Court’s records were so deficient that the bail reports for two former Justices still showed \$86,000¹⁶ in pending bails even though they were no longer in office.¹⁷ The Court failed to show the transfer of bail and cases to the succeeding Justice in its records.

As of June 5, 2017, the Court reported adjusted¹⁸ outstanding bails for both the current and former Justices, totaling \$170,000 and reported having custody of 221 outstanding bails, totaling over \$54,000, that were more than six years old (Figure 1). We tested a sample of 20 bails totaling \$38,800 on the outstanding bail reports and found that three bails totaling \$1,250 were returned and should not have been listed as outstanding bail.

Figure 1: Bail Analysis

| Justice | Adjusted Total Pending Bail ^a | Over Six Years Old | Percentage | Number of Bails Over Six Years Old |
|--------------------------------|--|--------------------|------------|------------------------------------|
| Justice Tilney | \$84,191 | \$23,803 | 28% | 103 |
| Justice Antkowiak | \$53,610 | \$350 | 1% | 2 |
| Justice Arnold ^b | \$24,510 | \$24,510 | 100% | 90 |
| Justice Schilling ^b | \$7,965 | \$5,865 | 74% | 26 |
| Total | \$170,276 | \$54,528 | 32% | 221 |

^a The Court’s pending bail reports were adjusted to eliminate any negative bails reported for each Justice. A negative bail amount was generally the result of entering the bail receipt deposit for one Justice and then returning/remitting it to another Justice. There were no entries to reflect the transfer of cases from one Justice to another.
^b Even though he is no longer a Justice, the records indicate that he has pending bail.

Justice Tilney indicated he will not return a bail until the fine is paid. He also indicated that if a defendant’s family member or friend posts bail and the defendant fails to appear, he does not feel it is fair to forfeit the bail. As a result, the bail remains pending. Ultimately, due

¹⁵ \$77,000 + \$61,000 = \$138,000 (as shown in Figure 1 for Adjusted Total Pending Bail for Justice Tilney and Justice Antkowiak)

¹⁶ We subsequently adjusted this for negative bail amounts and identified a recalculated total of approximately \$32,000 in pending bail (as shown in Figure 1).

¹⁷ Justice Arnold’s and Justice Schilling’s terms ended in 2003 and 2013, respectively.

¹⁸ See footnote 11.

to the age and volume of the outstanding bails and the inaccuracies of the Court's outstanding bail records, we could not rely on it as valid audit evidence.

Ticket Dispositions

Local and State police agencies issue Uniform Traffic Tickets (UTT) for vehicle and traffic infractions which are also tracked by the DMV through its Traffic Safety Law Enforcement and Disposition database. Upon adjudication, when all fines are paid or the ticket is dismissed, courts must transmit an update to the DMV to dispose (i.e., remove) a case from the pending ticket database. The DMV makes a report of all pending UTT cases available to courts to help ensure that tickets are properly disposed. Justices should routinely review this report to help ensure that disposed tickets are processed in a timely manner and promptly removed from the pending report. Clerks can also generate this report and use it to identify individuals who either have not appeared to resolve their tickets or have not paid their fines in full. Justices may then report these outstanding or unresolved pending cases to the DMV Scofflaw Program to enforce the payment of outstanding fines.

We reviewed the pending UTT report for the Court, which contained nearly 6,000 tickets as of June 13, 2017.¹⁹ This report showed that pending tickets dated as far back as 1985 (Figure 2). While all of these tickets were eligible for referral to the Scofflaw Program for enforcement due to their violation dates, the Court referred no more than approximately 2,000 tickets (33 percent).

| Year of Violation | Number of Tickets |
|-------------------|-------------------|
| 1985-1989 | 38 |
| 1990-1999 | 353 |
| 2000-2009 | 2,302 |
| 2010-2016 | 3,291 |
| Total | 5,984 |

As a result, the DMV report showed that approximately 4,000 pending tickets (67 percent) were not referred to the Scofflaw Program by the Court, although they were eligible. We randomly selected 20 pending tickets and found that 15 were previously disposed as closed either because the fine was paid or the ticket was dismissed and should have been removed from the pending report. Four remaining tickets were referred to the Scofflaw Program and one was not recorded in the

¹⁹ To account for timing differences with Court dates, we excluded 1,074 current tickets from our analysis with a 2017 violation date.

software. Because the Court did not properly report ticket dispositions in a timely manner to the DMV, the closed and dismissed tickets improperly remained on the pending report, rendering an inaccurate tool for the Court to rely upon to monitor activity.

Further, the Justices did not generate and review balance due reports from the software to determine whether all fines and fees due were paid in a timely manner and to question those that were not. We obtained a balance due report from the Court which indicated that, as of June 5, 2017, uncollected amounts due totaled over \$600,000. We reviewed 10 cases with fines totaling \$6,640 and determined that five with fines totaling \$2,129 did not have any enforcement procedures in the past two years. For example, a defendant owed \$445, but the case history report showed that the last enforcement or Court activity was during 2010. As a result, all five cases were eligible to be referred to the Scofflaw Program but the Court did not do so, and outstanding fines totaling \$2,129 have not been enforced for payment.

Additionally, because the Court did not properly report ticket dispositions to the DMV, we could not determine whether the Court's balance due report total of \$600,000 was accurate and complete. For example, we sampled 100 cases from the DMV's pending case report and found that 72 cases were not included on the balance due report. The oldest case dated back to 1989. We reviewed 10 cases and found that nine tickets were previously disposed as either dismissed with no fine assessed or disposed with the fine paid in full. The remaining ticket was adjudicated after the date the balance due report was generated.

While the Court's lack of properly reporting ticket dispositions to the DMV likely contributed to the amount of pending cases on the balance due report as still owing money to the Court, our expanded testing of 10 cases did not identify additional money due. However, the amount of cases that we identified in our initial sample (72 cases) that were pending on the DMV's report but not yet included on the Court's balance due report is substantial enough to require changes in Court procedures. Properly reporting ticket dispositions to the DMV and a periodic reconciliation of the DMV's pending case report with Court records and the balance due report could have identified and resolved those differences.

The Supervisor told us that he did not realize how high the outstanding balance on the report was. The Supervisor indicated that, in the past, he inquired with the Court about what the total outstanding balance was but was never provided with the information.

Because the Court did not promptly report ticket dispositions to the DMV or reconcile pending cases with the DMV's records to help ensure that tickets were promptly disposed or referred to the Scofflaw Program as appropriate, the Court's records were inaccurate. Furthermore, the Court may have been able to collect more unpaid fines if better enforcement procedures were used.

Recommendations

The Justices should:

1. Provide sufficient oversight of Court staff to ensure that accurate records and reports are maintained.
2. Ensure accurate accountability analyses are prepared on a monthly basis. All cash on hand and on deposit in the bank should be compared to a listing of Court liabilities. Differences should be promptly investigated and corrective action taken.
3. Ensure a current and accurate list of all bail held and disbursed is maintained and reconciled with cash in the bail account monthly.
4. Report and remit forfeited bail when a defendant fails to appear in Court.
5. Ensure ticket dispositions are properly reported to the DMV in a timely manner.
6. Routinely generate and review the pending UTT and balance due reports and monitor, address and resolve outstanding issues.
7. Ensure that UTT reports are reconciled with Court activity on a monthly basis.
8. Refer individuals that have accounts receivable greater than 60 days to the DMV Scofflaw Program.

The Board should:

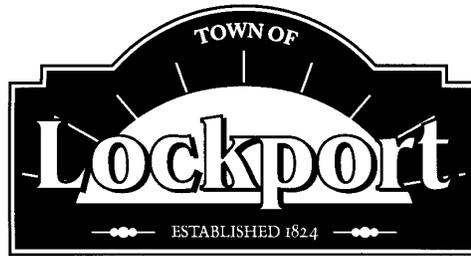
9. Monitor whether the Justices fully address deficiencies and implement recommendations made as a result of our audit and the annual examination of the Justices' records.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

SUPERVISOR
MARK C. CROCKER
SUPERINTENDENT OF HIGHWAYS
DAVID J. MILLER
TOWN CLERK
JUDITH A. NEWBOLD



COUNCIL MEMBERS
DARLENE S. DiCARLO
PATRICIA DUFOUR
THOMAS J. KEOUGH
PAUL W. SIEJAK
TOWN ATTORNEY
BRIAN D. SEAMAN

June 20, 2018

Office of the State Comptroller
295 Main St., Room 1032
Buffalo, NY 14203-2510

Re: Town of Lockport's Response to Justice Court Draft Audit

Dear Sir or Madam:

We at that Town of Lockport would like to thank the Office of the State Comptroller, and in particular the examiner assigned to this examination, for the thorough and professional manner in which the examination was conducted. The Town intends to carefully examine the final report and take action to improve in necessary areas.

The Town takes note that the draft report concerning the Town's Justice Court deals primarily with record keeping, reporting, and journal entry issues, and does not identify instances of waste, misappropriation, or the like.

For example, the Comptroller's Office examiner reviewed a Pending Uniform Traffic Ticket report, which is a report generated by the DMV, and noted that the report indicated that a large number of tickets were still "pending," yet had not been reported as being referred to the Scofflaw Program. Upon a review of 20 randomly selected "pending" tickets it was found that 15 actually had been disposed of, another 4 were in fact referred to the Scofflaw Program, and 1 was not recorded in the software. In other words, these tickets were properly handled by the Court, they just were not reported to the DMV properly. It should be noted that historically at many times the DMV has had a large backlog of data to input resulting in long delays and discrepancies in Town records and DMV records through no fault of the Town.

Also, with regard to Justices' bail accounts, the draft report indicates that the Justices' bail reports were not accurate. However, that was because in several instances one Justice's books showed the bail money coming in, and a different Justice's books showed the money going out. There should have also been a journal entry showing the bail money being transferred

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from one Justice to the other. So, the correct amount of bail money was taken in and dispersed by the Court, it was just that the proper journal entries were not made in the accounting software.

The Town does not wish to minimize the importance of keeping accurate records and reports, and will take seriously the draft report's recommendations in this regard. Justice Court personnel have already begun the task of addressing the noted record keeping issues.

There is one matter in the draft report regarding which the Town believes some clarification is necessary. The draft report indicates that fines and fees owed the Court of over \$600,000 remain uncollected. Over what period of time does this amount cover? It appears from the draft report that this total dates back to 1985. If so, this figure represents a very small percentage of the fines and fees collected by the Town Court over that time period. Considering that the Court collected and remitted over \$1.8 million in fines, fees, etc., in 2016 alone, it may have collected \$50 million or more since 1985, of which the uncollected amount would be a small percentage indeed, possibly as low as 1%.

See
Note 1
Page 16

Also, no consideration is given to what portion of the uncollected money is uncollectible. There are many occasions where fines are reduced to a "civil judgment" by the Court because there is simply no possibility that the defendant will be able to pay. In addition, traffic tickets are often issued to individuals who are from out of the area, out of state, or even out of the country, making enforcement and/or collection difficult if not impossible. In private enterprise these debts would be written off as uncollectible. What percentage of fees and fines should a Court expect would be uncollectible? What are the state-wide averages or standards? By reciting the amount of uncollected fines and fees, but not taking into account the above considerations, a misperception that the money could have been easily collected for the Town is created.

See
Note 1
Page 16

Finally, the Town would respectfully request that the Comptroller's Office consider eliminating recommendation #9 or moving it up to the recommendations for Justices section. Recommendation #9 implicitly infers that the Town Board has more control over the Town Justices than it does. The Town Board hires certified public accountants to perform audits annually for both the Town accounts and the Justice Court accounts. The Town Board has no authority to require the Town Justices, who are independent elected officials in a separate branch of government, to implement particular recommendations of auditors.

See
Note 2
Page 16

In closing, the Town takes seriously the deficiencies noted by the Comptroller's Office in the draft report. The Town intends to use this process as an opportunity for improvement and will carefully consider the examiner's recommendations in preparing a corrective action plan.

Very Truly Yours,

Mark C. Crocker
Town Supervisor

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The audit identified numerous and significant issues with the Court's records. The Town has a responsibility to ensure *all* Court revenues are properly handled. We encourage the Justices and Town officials to use this audit as a tool to help with implementing corrective action. Furthermore, the New York State Office of Court Administration may be able to provide additional guidance or insight regarding the handling of fines and fees deemed to be uncollectible.

Note 2

We recognize that the Justices are separately elected positions. However, the Board has the responsibility to monitor Court activity to ensure that deficiencies are properly addressed. We have revised recommendation nine to clarify the Board's oversight responsibility.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, our audit procedures for each Justice included the following:

- We interviewed the current Justices, clerks and other Town officials, and reviewed Court records and reports to obtain an understanding of the Court's operations.
- We reviewed Board meeting minutes during our audit period to identify evidence of Board oversight of the Court and whether an annual examination of the Court was performed.
- We performed a cash count on June 5, 2017 of both Justices to determine whether all money was properly accounted for. We selected June 5, 2017 to ensure that money collected over the weekend would be available for deposit. We also attempted to perform our own accountability on this same date. However, due to the unreliability of the Court's records, we could not complete our accountability.
- We obtained and reviewed the monthly accountabilities the account clerk attempted to perform and supporting documentation for each Justice as of May 31, 2017. We selected these accountabilities because they were the most recently completed prior to beginning our audit fieldwork. We also inquired with the clerks and Justices as to whether they receive these accountabilities and, if so, what they do with them.
- We obtained outstanding bail reports from the software for each Justice to determine whether the outstanding bail amounts as of June 5, 2017 were accurate by comparing to the manual case file, which contained the bail receipt and supporting documentation. We also reviewed the outstanding bail report to determine how many cases were more than six years old.
- We obtained bank deposit compositions for five deposits from the Justices in September 2016 and compared the compositions to the Justices' cashbook entries to determine whether receipts were properly accounted for and deposited timely and intact. We judgmentally selected this month due to other known risks identified during our audit fieldwork.
- We obtained UTT data from the DMV which included disposed and pending tickets as of June 13, 2017. We categorized the pending cases by year to determine the date of the oldest pending case. We randomly selected 20 pending tickets and traced them to the manual case files to determine whether they were accurately reported. We also compared 100 pending cases from the UTT data to the balance due report generated by the software as of June 5, 2017 to determine whether the Court undertook enforcement procedures, such as referring pending tickets to the DMV Scofflaw Program. These 100 cases were judgmentally selected due to higher risks (multiple violations on tickets). We note that the balance due report did not contain the dates of each of the cases. Lastly, we compared 10 cases from the UTT data that were reported as disposed by dismissal (no fines or fees assessed) to manual case files to determine whether the Court had properly dismissed these cases. These 10 cases were judgmentally selected due to

higher risks (multiple violations on tickets).

- We reviewed the Town's 2016 financial statement audit and management letter to determine whether there were any matters relevant to Court operations.

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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