



Village of Herkimer

Justice Court

Report of Examination

Period Covered:

June 1, 2008 — June 26, 2009

2010M-78



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2010

Dear Village 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 Village 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 Village of Herkimer 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 Village of Herkimer (Village) is located in Herkimer County. The Village is governed by a Board of Trustees (Board) which comprises four elected Trustees and a Mayor. The Village provides general administrative services including the operation of a Village Justice Court (Court) with one Justice, an Acting Justice¹ and a Court Clerk. The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before the Court. The Justice's principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys from fines, bails, surcharges, and civil fees. Justices are required to report financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF).

Justice Phillip O'Donnell Jr. has presided over the Court since April 1989 and Acting Justice Karl Manne has presided since June 2007. The Court Clerk has been employed since August 2002.

During our audit period, Justice O'Donnell reported approximately \$37,000 in parking tickets and approximately 4,000 cases totaling about \$264,000 in fines, fees and surcharges to the JCF. Justice Manne reported 116 cases totaling approximately \$7,700 to the JCF.

Objective

The objective of our audit was to review the Court's accounting records and internal controls. Our audit addressed the following question:

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

Scope and Methodology

During this audit, we examined the Court's internal controls and records for the period June 1, 2008 to June 26, 2009. We extended the scope of our audit of Justice O'Donnell's disbursements back to June 1, 2002 due to inaccuracies we found in his bail and restitution records.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

¹ The Acting Justice serves when requested by the Justice or in the absence or inability of the Justice to serve.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendations and indicated they have already taken some corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board of Trustees to make this plan available for public review in the Village Clerk-Treasurer's office.

Internal Controls

A well-designed system of internal controls is necessary to ensure that cash received by the Court is safeguarded and that Court activity is properly recorded and reported. The Justices must ensure that internal controls are in place and working effectively, particularly when there is limited segregation of duties. Justices are responsible for adjudicating cases brought before their Court as well as accounting for and reporting all related Court financial activities. To meet that responsibility, they must maintain complete and accurate accounting records and safeguard all moneys collected. Justices also need to reconcile cash activity and report all Court transactions to the Justice Court Fund (JCF) in a timely manner. Routine reconciliation of bank accounts enables Court personnel to verify the accuracy of financial records and establish control over cash.

The Court's internal controls were not appropriately designed and were not operating effectively.² Justice O'Donnell did not perform monthly accountability reconciliations, and his assets exceeded known liabilities by \$6,967. In addition, Justice O'Donnell failed to report \$5,000 in Court receipts to the JCF. The Court Clerk's duties were not adequately segregated; she was responsible for receiving moneys and maintaining Court records with limited oversight. Our testing disclosed significant errors in recordkeeping. Further, the Court Clerk did not always make deposits in a timely manner, resulting in JCF reports that were not always an accurate reflection of the preceding month's Court activity.

The Court Clerk also did not accurately record bail activity, and collected restitution payments that should have been collected by the Herkimer County Probation Department. Further, the Court Clerk did not maintain adequate controls over these restitution payments, and did not ensure that amounts due were collected and remitted to the victims. The Board did not fulfill its oversight responsibility over the Court's financial operations by conducting the required annual audit of the Court's records. Because of these weaknesses, the Justices have no assurance that all moneys collected were properly recorded and accounted for, and the risk is increased that Court funds could be misappropriated without detection or correction.

We conducted a prior audit of the Court for the period May 1, 2001 to May 28, 2002, which found similar deficiencies in Justice O'Donnell's recordkeeping. In addition, an independent public

² Since Acting Justice Manne had very little activity during the audit period, we primarily focused our testing on Justice O'Donnell's records and procedures.

accountant conducted an audit for the fiscal year ended May 31, 2007 and identified similar problems.

Accountability

It is important for Court personnel to verify the accuracy of financial records and establish control over cash by reconciling bank accounts monthly. They also should compare cash on hand and on deposit in the bank to detailed listings of outstanding bail and amounts due to the JCF and others. This comparison is referred to as an accountability analysis. Performing bank reconciliations and accountability analyses are critical procedures to document the status of moneys held by the Court at any point in time. The documentation of a bank reconciliation and analysis of liabilities helps to ensure that the Court is appropriately addressing its custodial function.

Justice O'Donnell and the Court Clerk did not reconcile bank accounts or perform any accountability analyses. We prepared bank reconciliations and an accountability analysis as of June 26, 2009 and found that Justice O'Donnell's available cash exceeded his known liabilities by \$6,967. Although we adjusted the accountability analysis for errors that we identified during our testing, we did not test every transaction, and the amount of this difference will change if additional errors are identified. Neither the Court Clerk nor Justice O'Donnell were able to explain the discrepancies.

We previously audited the Court for the period May 1, 2001 to May 28, 2002 and found that Justice O'Donnell failed to reconcile bank accounts and reconcile Court liabilities with available cash. In January 2003, Justice O'Donnell reported unidentified funds of nearly \$17,000 to the JCF in response to the audit. In addition, the Board had an independent public accountant audit the Court's records for the fiscal year ended May 31, 2007. Among other things, this audit found that bank statements were not reconciled on a monthly basis. In response to that audit, Justice O'Donnell informed the Board that the Court's bank account was being reconciled on a monthly basis. However, we found no indication that Justice O'Donnell or the Court Clerk were performing this critical control procedure.

The lack of reconciliations contributed to the discrepancies identified in the Court's records. The failure to reconcile bank accounts and liabilities significantly increases the risk of unauthorized use or disposition of cash and makes it more likely that Village officials will not detect errors and/or irregularities in a timely manner.

Segregation of Duties

The Justices and Board are responsible for establishing controls so that no single individual handles all or most aspects of the Court's cash accounting. When it is not practical to segregate Court duties, compensating controls can be implemented through timely and

effective oversight by the Justices and, ultimately, the Board, to help ensure that transactions are properly recorded and reported and that all moneys are accounted for.

The Court Clerk performed several key aspects of the Court's cash accounting function with limited oversight. Her functions included collecting cash, inputting cash receipts and disbursements in the Court's computer record keeping system (system), and maintaining all Court records and files, including the record of bail and restitution held in connection with pending cases. When the same person is responsible for collecting and recording cash receipts, there is an increased risk that cash could be received and not deposited, and errors or irregularities could occur without being detected and corrected in a timely manner.

Justice O'Donnell attempted to mitigate these risks by opening the Court's mail, comparing receipts prepared by the Court Clerk with deposits, and delivering the deposits to the bank. However, Justice O'Donnell gave the Court Clerk all checks and money orders received by mail without making a list of them, so he could not verify that all moneys were included in the deposits. In addition, Justice O'Donnell did not verify that all receipts were recorded in the system.

When duties are not adequately segregated and compensating controls are insufficient, the risk is increased that errors and irregularities could occur and not be detected or corrected in a timely manner. In fact, we found several errors in which the Court Clerk deposited moneys in the bank, but did not record them in the system or properly report them to the JCF (see the section entitled Cash Receipts).

Cash Receipts

Effective internal controls are necessary to ensure that cash received by the Court is properly recorded, deposited, and reported in a timely manner. General Municipal Law (GML) requires justices to issue receipts to acknowledge collection of all moneys paid to the court. These receipts should be pre-numbered and in duplicate form. For the issuance of receipts to be a meaningful and strong control, receipt books must be inventoried, safeguarded and accounted for by someone independent of the collection process. All Court activities, including receipts collected, must be reported to the JCF on a monthly basis. Receipts must be properly recorded in the accounting system and deposited in a timely manner, and the Court must have processes in place to follow up on checks returned by the bank for insufficient funds.

Recording and Reporting Receipts – The Court uses press-numbered duplicate receipts to document cash collections for vehicle and traffic fines and fees, bail, and other activity, such as restitution. Village Law requires monthly Court activities, including all fines and fees collected in the previous month, to be reported to the JCF on or before the tenth day of the following month. To verify the accuracy of financial records, Court personnel should compare cash on hand and on deposit in the bank to detailed listings of amounts due to the JCF and other Court liabilities. To ensure that the Court receives all amounts due, it should have a process in place to re-deposit returned checks or collect the funds due from defendants. The Justices are responsible for ensuring that internal controls are in place and working effectively.

Justice O’Donnell did not remit receipts to the JCF or other appropriate parties in a timely manner. In addition, no one maintained an inventory of receipt books, and internal controls over their purchase, use and remaining inventories were inadequate. The Court Clerk is allowed to purchase the pre-numbered receipt books with neither the Justices nor the Board holding her accountable for each receipt in the book. In addition, the Court Clerk told us that, at times, she has purchased receipt books with the same series of numbers. The lack of consecutively numbered, inventoried and properly controlled receipts makes it more difficult to establish accountability over the receipt of money and increases the risk that moneys may be collected and not be recorded. We found the following deficiencies in our review of the Court’s records and receipts:

- Justice O’Donnell received 57 payments totaling about \$5,000 in fines and fees from June 2008 through June 26, 2009³ that he had not reported to the JCF.
- Justice O’Donnell over-reported parking ticket fines to the JCF by \$1,195 in the December 2008 monthly report. It appears that this error occurred because the Court Clerk included the same amount of fines that had been reported the prior month (\$3,365) rather than \$2,170 in fines the Court actually received.
- Justice O’Donnell reported a \$100 fine for one case in December 2008; however, the related case history report does not show that a fine payment was ever received.

³ With the exception of one payment of \$95, Justice O’Donnell reported all these receipts to the JCF as of August 20, 2009.

- The Court Clerk did not maintain up-to-date computerized case records. We found notes attached to receipt books for 28 cases that the Court Clerk said that she had not yet entered into the Court's system, and therefore could not record the related receipts totaling \$4,211. Twenty-one of these receipts totaling \$2,130 were from 2008. We tested these receipts and found that 17 cases totaling \$3,348 had not been recorded in the computerized records or reported to the JCF as of June 26, 2009. In addition, nine receipts for the collection of restitution⁴ totaling \$650 were not recorded in the computerized records and remitted to the appropriate victims.
- We tested 50 duplicate receipts totaling \$17,725 and 30 gaps in duplicate receipt numbers recorded in the computerized accounting system to determine if the Court Clerk properly recorded and reported receipts. The Court Clerk reported four cases totaling \$1,100 to the JCF three to six months late and did not enter one restitution payment totaling \$150 into the Court's computerized records until nearly three months after it was received. The Court Clerk did not record in the computerized records another receipt for \$135 collected on June 4, 2009 or report it to the JCF as of August 10, 2009.
- During the period January 2008 through June 2009, eight checks totaling \$1,085 were returned by the bank for insufficient funds (NSF). The Court incurred \$70 in bank fees as a result of these NSF checks. The Court Clerk was unable to identify which cases seven of these checks totaling \$950 related to, and she had no procedures in place to contact defendants to arrange for repayments of these checks and recover the associated bank fees.

Although the system is capable of generating deposit slip reports that enable the Court Clerk and Justices to compare receipts entered into the system with related deposits, the Court Clerk did not use these reports. Had the Court Clerk generated these reports as well as other basic reports that showed receipts and disbursements, bail activity, and pending bail and restitution, she could have detected errors more quickly. In addition, the Justices could have used these reports as a management tool to oversee Court operations.

Timely Deposits – New York Codes, Rules and Regulations (NYCRR) require all receipts to be deposited intact (in the same form that they were received) as soon as possible but no later than 72 hours, excluding Sundays and holidays, from the date of receipt. This

⁴ See also "Restitution" section regarding the propriety of the Court collecting restitution.

requirement is an essential control that, together with the prompt and accurate recording of receipts, helps prevent errors and irregularities.

Justice O'Donnell and Acting Justice Manne did not always ensure that the Court Clerk deposited receipts in a timely manner. Our tests of 278 of Justice O'Donnell's receipts totaling \$52,724 disclosed that \$4,595 (9 percent) of the cash receipts were deposited up to six days beyond the 72 hour requirement. Of the 68 receipts tested for Acting Justice Manne, 40 receipts totaling \$5,240 (59 percent) were deposited late. Ten of these receipts totaling \$1,520 were deposited between 20 and 47 days late. In December 2007, Acting Justice Manne wrote a letter to the Court Clerk to confirm his expectation that she would make timely deposits. Despite this guidance and the fact that the bank used by the Court is almost directly across the street, the Court Clerk did not prepare timely deposits for Acting Justice Manne during our audit period.

On June 26, 2009 we counted the Court's cash, checks and money orders on hand, and the Court Clerk signed a cash count sheet indicating that she had provided us with all un-deposited cash for which she was accountable. On June 30, 2009, the Court Clerk deposited all but \$50 which was intended to be used as petty cash. On three separate dates following the cash count (July 21, 24, and 29, 2009), the Court Clerk found \$765 in additional un-deposited cash, checks and money orders that dated as far back as November, 2008. The Court Clerk stated that all of these receipts were on hand at the start of our audit but not presented to us at the time of our cash count.

Of the \$765 in additional un-deposited cash, the Court Clerk presented us with \$370 in cash related to two \$185 fine payments that were collected at the Village Clerk's Office. Staff members in the Village Clerk's Office occasionally accept payments when the Court Clerk is absent. They turn the money over to the Court Clerk; however, the Court Clerk does not provide them with a receipt to document the transfer of funds. One fine, which appears to have been paid in November 2008, had not been entered into the Court's computerized records as of June 26, 2009. Because the Court Clerk had not properly recorded this fine, she sent the defendant two letters dated January 9, 2009 and March 5, 2009 to schedule and then reschedule a court date even though the defendant had already paid the ticket. For the second case, the Court Clerk indicated she had found \$185 in cash in a desk drawer with a summary of payment information received from the Village Clerk's office.

Prompt recording and depositing of moneys received helps the Court Clerk determine accountability as of the end of each month, and to prepare monthly reports to the JCF. When Court collections

are not deposited in a timely manner – particularly in combination with the failure to accurately record receipts in the accounting system – key controls over the Court’s financial operations are compromised. Without these controls, Court funds are susceptible to misappropriation by Court personnel without detection by Village officials.

Bail

In certain cases, bail is levied on defendants to help ensure their appearance in Court to answer the charges against them. Bail is either returned to the individual when the case has been adjudicated or used to pay any fines and fees imposed by the Court. The Justice must maintain an appropriate record of all bail received and disbursed, indicating when the bail was paid, by whom, and to which case it relates. This record should also identify the date, check number, and to whom the bail was disbursed.

We identified significant errors and omissions in Justice O’Donnell’s bail records. Specifically, there were several instances where bail receipts and disbursements were not recorded in the computer system, the Court overpaid bail refunds, and it did not properly report bail used to pay fines.

On June 26, 2009, a computer generated report showed Justice O’Donnell held outstanding bail for 195 cases totaling \$94,558. Sixty-one cases were over 10 years old, some dating as far back as 1989. In addition, 39 cases listed in the report showed negative bail amounts totaling \$1,710.⁵ We question the accuracy of the bail record and whether the Court is really holding these dated bail amounts to ensure the defendants’ appearance in Court. Our testing of the bail records also disclosed the following errors totaling \$47,563:

- The Court received and deposited \$25,000 of bail on June 25, 2009 that the Court Clerk did not add to the computerized records until June 29, 2009. In addition, the Court received \$200 of bail on May 29, 2009 that the Court Clerk did not add to the records until July 16, 2009. As a result of these omissions, pending bail was understated by \$25,200 as of June 26, 2009, the date of our accountability analysis.
- Checks written to refund bail were not always recorded in the records, thus overstating the amount of bail held by the Court. As a result, we extended our testing of canceled checks back to June 2002 (our last audit of the Court) to determine if bail refund checks were properly recorded. We found 30

⁵ These negative bail amounts are dated prior to 2002 and they ranged from \$0.25 to \$420.

payments totaling \$16,458 that were made to return bail; however, the amounts had never been deducted from the Court's outstanding bail list (\$94,558) that was presented to us on June 26, 2009. Therefore, the Court's outstanding bail amount was overstated by \$16,458.

- The Court returned \$2,500 of bail on March 6, 2009; however, the Court Clerk did not record this disbursement in the computerized records, and the records did not show that any bail was received for the case. The Court Clerk informed us that Herkimer County was holding the bail, and the Court refunded the bail in anticipation of receiving it from the County. However, the Court Clerk had taken no action to request the money from the County until we recommended she contact the County in July 2009. The Court subsequently received the \$2,500 from the County in August 2009, about five months after it had refunded the bail.
- In three instances, the Court refunded too much bail. The overpayments totaled \$2,105.⁶
- The Court received \$1,000 in bail in October 2008 and refunded it later that same month; however, the Court Clerk did not record the receipt and disbursement transactions in the computerized records.
- Court records indicate that \$300 in bail should have been used to pay a related fine in September 2006. However, the fine was never reported to the JCF, and the \$300 remained in the pending bail list as of June 26, 2009.

We contacted the County Sheriff's Office and obtained a list of bail that was posted at the County and then transferred to the Village Court for the adjudication of the case. Our tests of 27 cases totaling \$33,150 disclosed errors totaling \$700:

- The Court received \$500 in bail in June 2008 that the Court Clerk did not enter into the computer system. In December 2008, the Justice assessed a \$1,000 fine and \$190 surcharge for the case. The Court Clerk reported only \$50 of the initial \$500 bail as a fine to the JCF. The Court Clerk never recorded the remaining \$450 bail balance in the records or used it to pay the fine. In addition, \$690 is still due from the defendant. There was no indication the Justice or the Court Clerk were aware of the status of this case and the reporting error until we

⁶ The Court overpaid \$100 in May 2005, \$1,655 in June 2006 and \$350 in June 2006.

brought it to their attention. The Justice indicated the Court would report the \$450 to the JCF and institute collection measures to collect the remaining \$690 from the defendant.

- In October 2008, the Court received \$250 in bail for another case. The Court Clerk deposited the bail; however, she did not record the bail receipt in the computerized records. Therefore, it was not included in the pending bail report. There was no indication that the bail was returned to the defendant or reported to the JCF. Therefore, this bail should have been included on a list of outstanding bail at June 26, 2009.

The Court has no process in place to routinely generate bail activity reports and pending bail reports and to review them for accuracy. Had the Court Clerk printed bail activity reports and compared them with the activity in the bail bank account, she would likely have been able to detect these errors. Court personnel's failure to perform a monthly accountability analysis and investigate differences also contributed to these errors being undetected.

Restitution

In addition to a fine and/or imprisonment, the Court may sentence a defendant to make restitution to the victim of the crime. Restitution should be collected by the designated restitution agency, which, in this case, is the Herkimer County Probation Department.⁷ The Justice should direct that all restitution be paid to the Probation Department; the Court should not be involved with collecting and disbursing restitution payments.

Justice O'Donnell indicated that he often directed that defendants pay restitution to the Court, instead of the Herkimer County Probation Department, to facilitate a prompt disposition of the case. As of June 26, 2009, the Court was holding restitution totaling about \$9,400 for 103 cases. Of those cases, 91 had receipt dates that were over one year old, which indicates that the Court is not promptly remitting the restitution to the victims.⁸ In addition, neither the Board nor the Justices had instituted policies, procedures or oversight to ensure that restitution payments received were properly remitted to the victims. Records were not adequate to monitor the collection and remittance of restitution, and we found errors in the records that were maintained.

The Court Clerk indicated that, although individual case files show the amount of restitution ordered by the Court, she has no other records or reports that show the total amount due from the various

⁷ Criminal Procedure Law, Section 420.10

⁸ The restitution receipts date as far back as 1993.

defendants at any given point in time. To determine the amount of restitution due, she would need to go through each individual case file to compile a list. Although the system is capable of generating reports showing restitution receipts and disbursements handled by the Court, the Court Clerk did not generate these reports to determine what amounts were collected and available to distribute to the victims.⁹ The Court Clerk indicated that she often relied on a victim's complaint to the Court as a means of alerting her that a victim had not received the required restitution. She would then review her computer case file to determine the status of any restitution owed the victim. In addition, the Court made nine restitution payments totaling \$1,376 since June 2002 but did not record them in the computerized records. This overstated the amount of restitution held by the Court as of June 26, 2009 by about 15 percent.

Board Oversight

Although Justice O'Donnell and Acting Justice Manne are solely responsible and accountable for all activities that occur in their Court, the Board is also responsible for providing financial oversight. One part of this oversight is the performance of an annual audit of the Court records.¹⁰ The Uniform Justice Court Act¹¹ requires each Justice to present his records and dockets to the Board for audit at least once a year. The Board should then either audit such records, or engage an independent public accountant to do so. The minutes of the proceedings of the Board should document that the Justices' records and dockets have been audited and that the fines and fees shown to have been collected have been remitted to the proper Village officials. Annual audits are an important internal control because they allow the Board to independently verify that the Court's accounting records are complete and accurate and that all moneys have been properly accounted for and reported.

We found no evidence that Justice O'Donnell or Acting Justice Manne presented their 2007-08 records to the Board or an independent public accountant for audit. The Mayor told us he did not know that an annual audit of the Justices was required. Had the Board conducted an annual audit as required, some of the deficiencies found during our audit may have been identified and addressed sooner.

Recommendations

1. Justice O'Donnell should perform bank reconciliations on a monthly basis and compare available cash to a listing of Court

⁹ The Court Clerk contacted the software vendor during our audit to learn how to generate these reports.

¹⁰ To assist with this responsibility, the Office of the State Comptroller has published a Handbook for Town and Village Justices and Court Clerks, which contains sample schedules and questionnaires to assist in completing this annual audit.

¹¹ Section 2019-a

liabilities. Any differences should be promptly investigated and, if necessary, corrective action taken.

2. Justice O'Donnell should investigate and resolve the differences between the Court's net cash assets and known liabilities and, if unable to, should report the unidentified moneys to the JCF.
3. The Board and Justices should ensure that the Court Clerk performs her cash receipts duties accurately and in a timely manner.
4. Justice O'Donnell and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties, or that compensating controls are implemented. Compensating controls may include a monthly review of Court records by the Justice and a monthly review of the Justice's accountability reconciliation by the Board.
5. Justice O'Donnell should establish procedures to ensure that cash received by the Court is properly recorded in the accounting records, deposited and, when applicable, reported to the JCF in a timely manner.
6. Justice O'Donnell should seek to recover the \$1,195 overpayment of parking ticket money from the JCF.
7. The Board should ensure that the press numbered duplicate receipt books used by the Court are acquired and controlled by someone other than the Court Clerk and that all receipts are accounted for.
8. Justice O'Donnell should ensure that transactions involving checks returned for insufficient funds are reviewed to make sure such checks are re-deposited or reimbursed by the payer. The Justice should seek a refund of any amount paid to the JCF and adjust the status of a case from closed to open until final payment is received.
9. The Justice and Acting Justice should deposit all moneys received in an official bank account within 72 hours of collection, as required by law.
10. Justice O'Donnell, with the assistance of the Court Clerk, should analyze the bail and restitution records and make any corrections necessary to ensure that the records accurately account for the bail and restitution held by the Court. The Justice should seek to

recover the three bail amounts that were refunded for more than the amount that was owed the payor.

11. The Court should direct the Herkimer County Probation Department to collect and distribute restitution.
12. The Board should conduct an annual audit of the Justice's records and monitor the Court's activities on an ongoing basis.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

Village of Herkimer
Municipal Hall
120 Green Street
Herkimer, N.Y. 13350
(315) 866-3303
"Site of Historic Fort Dayton"
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August 10, 2010

[REDACTED]
333 E. Washington St.
Room 409
Syracuse, NY 13202

Dear [REDACTED]

The Village Board has reviewed the preliminary draft findings of the recent examination of the Village of Herkimer Justice Court after the Board had contacted the Comptroller's office to request an audit. We agree with the findings and have already addressed some deficiencies.

On behalf of the Board, I thank you and your staff for your time.

Sincerely,



Mark M. Ainsworth
Mayor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

We interviewed Village Justice Phillip O'Donnell, Jr., Acting Justice Karl Manne, and the Court Clerk concerning the Court's operations. These interviews allowed us to understand the Court's internal control system, and to determine whether Court operations complied with applicable rules and regulations.

We examined financial and other records relating to the collection and subsequent dispositions of fines, bails, and restitutions. These records included bank statements, monthly reports to the Justice Court Fund, duplicate receipts, case files, and cash receipt and disbursement records.

We compared receipts with bank deposits and traced them to monthly reports.

We conducted a cash count and attempted to reconcile the Justice's total available cash with known liabilities as of June 26, 2009.

We selected a sample of cases and confirmed information with defendants.

We compared the Court's electronic records to data we obtained from the New York State Department of Motor Vehicles and the JCF.

We tested the Court's record of bail by tracing from duplicate cash receipts for bail to the Bail Activity Report to verify that the payment was properly recorded in the Court's computer system.

To determine if the Court was properly recording restitution payments received, we traced from duplicate cash receipts for restitution to the Other Activity Report to verify that the payment was properly recorded in the Court's system.

We reviewed bank statements and canceled checks and compared payments made with the amounts deducted from the bail and other activity (restitution) records.

We contacted the Herkimer County Sheriff's Office and obtained a list of bail that was transferred from the County to the Village Court. We then traced 27 bail payments to the Village Court's records and followed through on the disposition of the cases.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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AND SCHOOL ACCOUNTABILITY

Steven J. Hancox, Deputy Comptroller
John C. Traylor, Assistant Comptroller

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