



Village of Greenwich Justice Court Operations

Report of Examination

Period Covered:

June 1, 2012 — August 31, 2013

2014M-23



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

May 2014

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 Greenwich, entitled Justice Court Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the 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 Greenwich (Village) is located in Washington County and has a population of approximately 1,750 residents. The Village is governed by an elected Board of Trustees (Board) which is comprised of a Mayor and four Trustees. The Board is the legislative body responsible for managing Village operations. These responsibilities include establishing appropriate internal controls over financial operations and monitoring financial activities. The Village provides general administrative services including the operation of a Justice Court (Court) with an elected Justice and an appointed court clerk (clerk).¹

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before the Court. The Justice's principal duties include adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bail, surcharges, civil fees and restitutions. Justices are required to report the Court's financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF). The Justice collected approximately \$98,500 in fines, fees and surcharges during our audit period.

Objective

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

- Are internal controls over Court operations appropriately designed and operating effectively to allow for the proper accounting and reporting of financial activity?

Scope and Methodology

We examined internal controls over the Court's financial operations for the period of June 1, 2012 through August 31, 2013.

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

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 have initiated, or indicated they planned to initiate, corrective action.

¹ The Court employed two different clerks during our audit period. The previous clerk was employed until December 31, 2012 and the current clerk started employment on January 1, 2013.

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

Justice Court Operations

A well-designed system of internal controls ensures that cash received by the Court is safeguarded, and that Court activity is properly recorded and reported. The Justice is responsible for adjudicating cases brought before her Court and accounting for and reporting all related Court financial activities. The Justice must ensure that controls are in place and working effectively, particularly when there is a limited segregation of duties. To meet that responsibility, she must maintain complete and accurate records and safeguard all moneys collected. Essential procedures include the monthly reconciliation of bank accounts to Court records, and a monthly accountability which compares cash on hand and on deposit to detailed lists of amounts due to the JCF as well as other outstanding liabilities, such as bail. In addition, Justices are required to issue receipts for all collections, deposit all moneys collected within 72 hours of receipt and report Court transactions to the JCF in a timely manner.

Internal controls over the Court's accounting and reporting of financial activity are not adequate. The Justice did not consistently perform bank reconciliations, maintain timely and accurate cash records, and submit monthly reports to the JCF on time. In addition, the Justice used computerized receipts that could be altered or deleted and did not deposit all collections in a timely manner, as required by law. Also, the current Justice has not properly reviewed the former Justice's pending case files. Because of these weaknesses, there is an increased risk that errors and irregularities could occur without being detected and corrected, which puts public resources at risk.

Bank Reconciliations and Monthly Accountabilities – Justices are required to account for cash collections and disbursements from month to month. To assist in this accounting, they should determine their accountability – by preparing a list of Court liabilities and comparing it with reconciled bank balances – on a monthly basis. Bank reconciliations and accountability analyses document the status of moneys held by the Court at any point in time and provide a means of verifying that the Court is properly addressing its custodial responsibilities.

The Justice stated that she reviewed her monthly bank statements to ensure that all deposits were included and all checks that cleared the bank were proper Court expenditures. She also said that she computed an accountability analysis based on Court receipts; however, she did not consistently perform bank reconciliations and did not compare the reconciled bank balance with her manual cash records. During our

initial test work, we found that the manual cash register used to track cash collections and disbursements did not include a running cash balance which could be compared to the reconciled bank statement balance.

As a result of our discussions with the Justice regarding bank reconciliations and the maintenance of the manual cash records, she completed all of the monthly bank reconciliations and established a running cash balance in the manual cash register for her entire term with the Village. We reconciled the bank statements and performed a month-end accountability analysis for our audit period and compared the cash balances to the Justice's updated manual cash records. We found minor discrepancies, which we discussed with the Justice and she subsequently corrected.

Cash Receipts and Deposits – Prompt and accurate recording of moneys received is essential to properly account for and safeguard Court assets. Justices are required to issue receipts to acknowledge collection of all moneys paid to the Court. Receipt forms produced from computerized accounting software programs should be issued in consecutive numerical sequence and the software program should prevent the deletion or alteration of receipt numbers. If computer-generated receipts can be altered in the system, then manual press-numbered duplicate receipts should be used as well. Justices are required to deposit intact (in the same amount and form of payment as received) all moneys collected by the Court into official bank accounts as soon as possible, but no later than 72 hours from the date of collection, excluding Sundays and holidays. Deposited amounts should always agree with amounts received and recorded.

The Court issues receipts for fines, fees and bail produced from its computerized accounting system. The system assigns receipt numbers in sequential order and records the date of collection on the receipt. However, there is a weakness with the system because the receipt number and date can be altered or deleted after the receipt has been printed and issued. Further, Court officials did not use manual press-numbered duplicate receipts as a mitigating control because they were not aware of the weaknesses with the computerized receipts.

The Court reported \$98,480 for receipts collected to the JCF during our audit period. We determined that a total of 819 receipts were (or should have been) generated by the system during that time. Court officials could not locate 23 of the 819 receipts from either a copy of a physical computer-generated receipt or within the computerized system's case files.² Consequently, we are unable to determine the amount, if any, of the 23 receipts that could not be located. With

² The computerized system identifies sequential receipts numbers that cannot be found within the computerized system's case files as cases not found.

the exception of one missing receipt number, all of the exceptions happened from June 1 through December 31, 2012, while the former clerk was employed. The Justice stated that she terminated the previous clerk's employment because the clerk did not maintain accurate records and lacked adequate training in the use of the computerized system, which led to errors when generating receipts for the fines, fees and bail received. Furthermore, the Justice told us that she did not fully understand the importance of keeping receipt numbers sequentially numbered and dated without any deletions or alterations.

Because of these weaknesses, we tested cash receipts and deposits to determine if the moneys received were deposited intact and in a timely manner. Using a random number generator, we selected a four-month sample consisting of the months of July and October 2012, and February and May 2013 for testing. For the collections received during July and October 2012, we were unable to verify the composition of all deposits because of the lack of supporting documentation. However, for the deposits totaling \$17,941 that we could identify, these deposits were made intact and timely. For the \$11,610 in collections received during February and May 2013, we found that the deposits were made intact; however, not all of the deposits were made in a timely manner. For example, 13 receipts totaling \$1,125 that were collected during February 2013 were deposited between one and four days late. In addition, six receipts totaling \$770 that were collected during May 2013 were deposited between one and three days late. The Justice stated that until shortly before our audit began, she was unaware of the 72-hour deposit requirement.

When receipts issued for fines, fees and bail can be altered and deleted, the risk is increased that moneys could be received and not be properly deposited and reported. Furthermore, deletions of receipts increase the risk that a case could be improperly deleted and not reported. Any fines or fees related to a deleted case file could be diverted for unauthorized purposes. Therefore, making timely deposits is an essential control that, together with the prompt and accurate recording of receipts, helps prevent irregularities in cash management.

Monthly Reporting – Every Justice is required by law to submit monthly reports detailing fines, fees, surcharges and forfeited bail collected to the JCF by the 10th day of the succeeding month. Reports received after the 10th of the month are considered late even if they are mailed on or before that date. Furthermore, a monthly report should be filed for each month during which a Justice holds office regardless whether any cases were heard.

Although we found that the moneys collected, as evidenced by the computer-generated receipts, agreed to the JCF monthly reports submitted during our audit period, the February 2013 monthly report was received by the JCF eight days late. We inquired further with the JCF and found that the Justice filed the March 2013 report 77 days late, the July 2013 report two days late and the August 2013 report 14 days late. The Justice stated that she filed the March 2013 report late because she noticed a discrepancy in the recordkeeping when the Court changed banks. She filed the August 2013 report late because she had difficulty filing the report electronically. The Justice filed other reports late because she was trying to correct errors found within the computerized system before submitting the reports. However, delinquent monthly reporting to the JCF increases the risk that amounts reported are incomplete and that Court records are not up-to-date.

Pending and Open Cases – When Justices leave office, they are required to transfer all pending cases and any moneys received on those cases to the succeeding Justice. They must also file a final report with the JCF reporting all activity, remit any fines and fees due, and close all bank accounts. The Board is responsible for ensuring that a Justice complies with these requirements upon leaving the position.

Although the previous Justice remitted the balance of his bank account to the Village and subsequently closed the account when he left office on March 30, 2012, the current Justice has not properly reviewed the former Justice's pending cases. The Justice provided us a pending case report as of October 31, 2013, which listed 1,472 pending cases with dates ranging from August 1989 through October 2013. Of these, 63 cases were at least 10 years old, with the oldest open case dated August 1989.

We reviewed the pending cases that were more than 10 years old to determine their status and found that 15 had defendants that did not appear for Court, 44 had defendants that appeared but did not pay the fine due, one case was disposed and three cases were scofflawed.³ The disposed and scofflawed cases should have been closed out, but the previous Justice failed to do so. We also reviewed the status of 26 open cases by selecting every 100th case listed on the report that was not over 10 years old. Of those reviewed, 12 had defendants that did not appear for Court, five had defendants that appeared but did not pay the fine due, two had defendants that appeared and were making installment payments for the fines due, five were scofflawed, and the Court planned to scofflaw two additional cases before December

³ Scofflaw tickets pertain to outstanding and unpaid traffic tickets. Upon submission of an unpaid traffic ticket/fine to DMV, the DMV can terminate a driver's license privileges.

31, 2013. The previous Justice failed to close the five scofflawed cases. For all cases reviewed that were not disposed or scofflawed, the Justices failed to provide follow-up to ensure that all cases were handled properly.

The Justice explained that when her term began in April 2012, she was given multiple boxes of old cases that were not filed in filing cabinets. The Justice and her current clerk have not had sufficient time to review all of the old cases and determine the status of each case. Failure to monitor pending and open cases for many years increases the risk that fines and fees will not be collected and accurate information will not be transmitted to the appropriate reporting agencies.

Recommendations

The Justice should:

1. Prepare monthly bank reconciliations and accountability analyses in a timely manner. The Justice should maintain adequate cash records so that the cash balance can be compared to the reconciled bank balance each month.
2. Use manual press-numbered receipts in addition to the computer-generated receipts due to the weakness created by the ability to alter or delete receipts in the computerized system.
3. Ensure that all moneys received are deposited in a timely manner.
4. Ensure that all monthly reports are submitted to the JCF in a timely manner.
5. Monitor and review all pending cases and close them, as applicable.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

Village of Greenwich

May 23, 2014

Office of State Comptroller Division of Local Government and School Accountability

On behalf of the Village of Greenwich, I would like to express my appreciation for the time and effort that was spent on the recently completed audit of the Village of Greenwich Court Operations.

Whenever possible, our local government believes in taking a pro-active response to issues before they become problems. So it was no surprise that a number of recommendations found in the report began to be implemented before the audit was completed.

Those actions include:

All deposits are now made within the 72 hour window.

The Court now complies with the bank reconciliations and monthly accountabilities as well as meeting the requirements of the monthly reporting. All reconciliations are now formally recorded on the bank statements. The check register is maintained with the running balance and is reconciled with the weekly SEI deposit slips and monthly bank statements & monthly audit and control reports.

In an effort to clear out the backlog of pending and open cases, the Village Justice received permission from the Board of Trustees for an increase to the 2013/2014 and 2014/2015 budgets to fund the additional work needed by the Court Clerk to resolve the backlog.

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Village of Greenwich

While the records show that one JCF report was filed 77 days late, it is the opinion of the Village that the Village Justice notified the State that the report was going to be filed late due to a discrepancy and was advised not to file the report until the discrepancy was rectified.

The audit recommends that in addition to tightening up the electronic record keeping (which has been done), that manual cash receipts be implemented. While the arguments in the draft audit report are persuasive, it is the opinion of the Village that doing so would require an additional court employee. Due to the budgetary restrictions of the Governor's Tax Cap the Village was unable to fund such a position in the recently adopted budget. We will be addressing this issue in the action plan to be submitted by the end of July.

Due to the training the Court officials received last year, a number of changes were implemented prior to the audit. Those changes include the installation of a lock box on the inside door of the courtroom, allowing people to pay fines directly to the Court, even when no one is present.

Sincerely,

Mayor David Doonan

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APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if internal controls over Court operations were appropriately designed and operating effectively to allow for the proper accounting and reporting of the Court's financial activity. To achieve our objective and valid audit evidence, our audit procedures included the following:

- We interviewed Village officials and employees to obtain an understanding of Court operations.
- We gained an understanding of the policies and procedures over Court operations.
- We reviewed all of the Justice's available bank statements, bank reconciliations, accountability analyses and manual check register records for our audit period. Using this information, we reconciled the bank statements and compared the reconciled balances to the Justice's manual cash records to assess whether the Justice had properly accounted for receipts and deposited, remitted and reported moneys in a timely and accurate manner.
- We reviewed the computer generated receipts for our audit period to determine if receipts were issued sequentially and in date order, and were not altered or deleted.
- We tested cash receipts and deposits based on the computer generated receipts to determine if the moneys received were deposited intact and in a timely manner. Using a random number generator, we selected a four-month sample consisting of the months of July 2012, October 2012, February 2013 and May 2013 for testing. We examined the composition of the deposits made and used the receipt date as recorded on the printed receipts processed by the clerks as the collection date.
- We reviewed all computer generated receipt deposits, check registers, bank statements, canceled check images⁴ and JCF monthly reports for our audit period. We compared amounts recorded in the Justice's financial records to amounts included in the Court's monthly reports to the JCF.
- Through inquiry of JCF officials, we determined the number of days monthly reports were filed late for our audit period.
- We obtained a report from the computerized accounting software used by the Court for all open and pending cases as of October 31, 2013, which we used to perform audit procedures. We determined that there were 1,472 pending cases as of October 2013. We judgmentally selected all cases that were 10 years or older and also sequentially selected every 100th case that was not more than 10 years old for testing. We compared amounts recorded in the Justice's financial records to amounts included in the Court's monthly reports to JCF.

⁴ The Court's previous bank did not supply copies of canceled checks with the bank statements. Therefore, we only could review copies of canceled checks with the Court's current bank for the period April 1, 2013 through August 31, 2013.

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.

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