



Village of Quogue Justice Court

Report of Examination

Period Covered:

June 1, 2012 – February 28, 2014

2015M-18



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

May 2015

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 Quogue, 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*

Introduction

Background

The Village of Quogue (Village) is located in Suffolk County in the Town of Southampton. It has a population of approximately 1,000 year-round residents and a significant summer population. The Village is governed by an elected Board of Trustees (Board), comprising 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). The Village has an elected Village Justice (Justice), an appointed Acting Justice, one part-time Court Clerk (Clerk) and two assistant Court Clerks (assistant clerks).

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justice's principal duties include adjudicating legal matters within the Court's jurisdiction and collecting moneys from fines, bail, surcharges and civil fees. The Justice is required to report the Court's financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF). The Acting Justice has limited responsibility and hears cases on a very limited basis, only when the Justice is unavailable. The Court collected \$315,781 in fines, fees and surcharges and \$55,235 in bail deposits during the audit period.

Objective

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

- Does the Justice properly account for Court funds?

Scope and Methodology

We examined the Court's books and records for the period June 1, 2012 through February 28, 2014.

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 indicated they have initiated, or planned to initiate, 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 to make this plan available for public review in the Village Clerk's office.

Justice Court

Village justices are required to account for cash receipts and disbursements and reconcile their cashbooks (accounting records) and bank balances as of each month's end. Accounting records should be supported by sufficient documentation of court proceedings, including individual case files and an index of all cases. Justices should ensure that payments for fines are pursued, received and accurately recorded, and that deposits are timely. Further, they are responsible for maintaining accurate, up-to-date records of bail moneys held by the court and appropriately paid out when cases are adjudicated. Additionally, justices should perform a monthly accountability of money they hold by preparing a list of court liabilities and comparing it to reconciled bank balances. On a monthly basis, justices must report all moneys collected (excluding pending bail) to the JCF.

The Justice did not ensure that Court moneys were accounted for. We found that the Court had bail money totaling \$35,955 on deposit, of which only \$8,550 was for current court cases; bail deposits totaling \$13,550 were in a fine account rather than the bail account; and bail deposits were not always returned to individuals who posted them. Additionally, receipts were not deposited in a timely manner and all receipts were not accounted for. Finally, the Court did not properly prepare bank reconciliations or prepare an accountability analysis, resulting in excess funds in the Justices' bail and fine accounts which could not be accounted for. While this amount was not significant, routine bank reconciliations and accountabilities are important controls for the Court in detecting errors or irregularities.

Bail

In certain cases, bail is imposed on defendants to help ensure their appearance in court to answer the charges against them. Bail is posted by defendants or possibly by others on a defendant's behalf. A 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. When a court has established a bail account, the bail moneys for all justices must be accounted for in this account. Exonerated bail generally should be returned to the person who posted the bail, less any applicable fees. When exonerated bail is unclaimed, a court should make a good-faith effort for a reasonable period of time to locate the person who posted it. If unable to locate this person, the court may transfer such moneys to the municipality's chief fiscal officer pending a claim. Cash bail still unclaimed six years after exoneration becomes the municipality's property.

The Court collected \$55,235 in bail deposits and disbursed \$62,955 in returned bail money during the audit period.

Pending Bail – On February 28, 2014, the last day of the audit period, the Court had 160 cases with bail money totaling \$35,955 on deposit. Twenty-two cases with bail deposits totaling \$8,550 had a court date scheduled in 2014. The remaining 138 cases with bail money on deposit totaling \$27,405 had “next action” dates dating back as far as May 1992. Our review of the records found no subsequent court dates. We reviewed 22¹ cases with bail deposit dates ranging from January 1992 to July 2011, totaling \$3,951 and identified the following issues:

- One case with bail on deposit totaling \$651 has the defendant’s name identified as “Interest, Bail.” The Clerk was unable to tell us when these moneys date back to or a specific case number associated with them. The Court has done nothing to address these unidentified bail moneys.
- The Clerk was unable to locate nine case files with bail on deposit totaling \$1,160; therefore, the Court is unable to provide any information regarding this money. Bail deposit dates for these nine cases range from January 1992 to January 2009. Seven cases were identified in Court records as disposed, and the Clerk provided copies of eight letters dated April 2, 2009 attempting to contact the individuals who posted the bail. The Court has attempted no further contact or action since that date.
- Four case files had arrest or bench warrants dated between 2004 and 2012 but there was no action to forfeit the bail money totaling \$750 still on deposit. For example, one case from August 1994 still had \$200 bail posted on it, even though an arrest warrant was issued for the defendant in February 2004 and, more than 10 years later, there has been no further action on the case.
- In one instance, Court records had a last action of “defendant adjourned” in May 1999; however, the case file confirmed that the case was disposed in January 1999 because the defendant went to jail in another court’s jurisdiction. The Court never updated its records and is still holding the \$140 bail deposit.
- Three cases with total bail deposits of \$800 were disposed and the case files showed contact attempts dating back to July 2009 with no further action by the Court.

¹ See Appendix B for methodology of sample selection.

- One case with a \$200 bail deposit was disposed in March 1995. The case file includes a letter dated June 23, 1995 from the individual who posted the bail on the defendant's behalf requesting the money be returned. However, the Court never issued a check, and there was no explanation on file.
- One case with \$100 bail on deposit has a "last action" date of January 2006, identifying the defendant as a no-show. The case file confirms the Court has had no correspondence with this defendant since December 2005, with no additional action noted in the case file since that time.
- Two cases with bail money on deposit totaling \$150 were identified as being reported as scofflaws.² In one case, the license was suspended in March 2010; however, there is no documentation addressing the bail money for this individual. In the other case, dated June 8, 2005, the license was never suspended. Nothing has been done since the last action in October 2005 and the bail is still on deposit, with no explanation on file.

These situations exist because the Justice did not address past case files that still have bail money on deposit. The Justice told us he was not certain that there were sufficient funds in the bail account to cover the bail money to be disbursed. As a result, the appropriate parties have not received the bail refunds to which they are entitled, and the Village has not been able to use any exonerated bail money for the benefit of the taxpayers.

Credit - Card Payments – Rather than maintain separate bank accounts for bail, all justices in a village are authorized to maintain a joint bail account for the deposit and disposition of all bail money received by each justice. The Court has established a joint bank account for bail deposits. However, since August 2012, bail deposits made using a credit card are not deposited into the joint account but, instead, are deposited in the fine account. These amounts have not been transferred to the joint bail account, thereby resulting in \$13,550 in bail deposited and maintained in the fine account. The Justice told us he was not aware that the money was never transferred to the joint bail account.

The failure to transfer bail payments made by credit card hindered the Court from properly accounting for both bail and Court funds.

² The New York State Department of Motor Vehicles (DMV) scofflaw program allows a municipality to notify DMV of a registrant who has three or more unanswered parking ticket summonses on one vehicle in an 18-month period. The registration of that vehicle can be denied until the violator replies to the summonses.

Further, comingling moneys without properly accounting for them makes the Court susceptible to the loss, theft or inappropriate use of moneys for which it is responsible.

Exonerated Bail – A 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. Exonerated bail should generally be given back to the person who posted the bail, less any applicable fees. A person who posts bail on behalf of a defendant can complete a bail assignment form to have the bail assigned to the defendant. In such a case, the Court can return the bail moneys to the defendant, as long as the Court has proof of the bail assignment.

The Court disbursed 30 checks³ totaling \$12,300 from the bail account during a six month period that we reviewed.⁴ Two checks totaling \$685 were not given back to the person who posted the bail but, instead, were incorrectly applied to defendants’ fines and fees, with no proof of bail assignment. Allowing bail money to be used by defendants to pay fines and fees when the bail was posted by another individual is a misuse of funds which are improperly withheld from the rightful owner.

Deposits

New York Codes, Rules and Regulations require justices to deposit all money received into their bank accounts as soon as practicable, but no later than 72 hours after receipt, exclusive of Sundays and holidays.

The Justice did not ensure that the Clerk routinely deposited receipts in a timely manner. We reviewed all 490 receipts for money collected during a six-month period,⁵ which totaled \$103,996. Of these, 171 receipts totaling \$33,057 were for credit card transactions, all of which were deposited in a timely manner. However, of the remaining 319 receipts, 210 receipts (66 percent) totaling \$41,124 were deposited between four and 16 days after they were received (one to 13 days after the allowed 72-hour waiting period).

The Justice told us he does not allow Court personnel to make deposits without an armed escort and that an armed escort is not always available, which could delay the deposit of Court funds. As a result, there is an increased risk that money collected could be lost, misappropriated or stolen.

³ Does not include three voided checks during the test months

⁴ See Appendix B for methodology of sample selection.

⁵ See Appendix B for methodology of sample selection.

Receipts

Prompt and accurate recording of money received is essential to properly account for and safeguard Court assets. The Court is required to issue receipts to acknowledge collection of all money paid. Receipt forms produced from computerized software programs should be issued in consecutive numerical sequence and the software program should prevent the deletion or alteration of receipt numbers. The Justice should confirm integrity of receipt sequence on a periodic basis.

The Court issues receipts for fines, fees and bail produced from a computerized system. The system assigns receipt numbers in sequential order and records the collection date on the receipt. The Clerk told us that she does not confirm receipt sequence or check for voided receipts processed by the assistant clerks. No one at the Court verifies receipt sequence integrity. The Clerk told us that she assumes the assistant clerks follow procedures but does not confirm this. No one at the Court is able to determine which clerk was responsible for receipt transactions because all employees used the same user identification and password to sign into the software program.

The Court reported \$315,781 in receipts collected during our audit period. We tested receipts for six months and determined that 514 receipts should have been generated by the system during that time. Court officials were unable to locate 14 receipts, which the software indicated were voided.

Failure to confirm the integrity of receipt sequence on a monthly basis and oversee voided receipts as they occur increases the risk of error or misappropriation of Court moneys. Further, with unaccounted-for receipts, it is impossible to perform a proper reconciliation of deposits to receipts. Lastly, by allowing all personnel to use the same user identification and password, the Court cannot identify and hold clerks accountable for errors and irregularities.

Accountability

Each month, justices should verify the accuracy of their financial records and perform an accountability for the money held by comparing a list of court liabilities with reconciled bank balances. At any point in time, the court's liabilities, such as bail held on pending cases and unremitted fines and fees, should equal⁶ the justices' available cash. Performing bank reconciliations and accountability analyses are critical procedures that document the status of court-held moneys at a given point in time and are important custodial responsibilities for justices.

⁶ A justice's accounts should have a zero balance at the end of the month; if not, the ending balance should reconcile to any outstanding checks plus fines and fees received after the end of the month.

Monthly bank reconciliations were performed incorrectly and the Justice did not perform a monthly accountability analysis. We reviewed the Court's bank records and found that the Clerk did not perform a bank reconciliation comparing the bank balance to the cash records, and the Justice did not perform an accountability analysis each month. We prepared a bank reconciliation and month-end accountability analysis as of February 28, 2014 and identified cash overages of \$335, consisting of \$50 in unremitted fines and fees dating back to January 2012 and bail of \$285.

Bank reconciliations and accountability analyses are critical procedures to ascertain the status of money held by the Court and help ensure that the Court is appropriately addressing its custodial responsibility. The lack of bank reconciliations and accountability analyses significantly increases the risk of unauthorized use or disposition of cash collected and the risk that errors or irregularities will not be detected in a timely manner.

Recommendations

The Justice should:

1. Research all held bail money, identify any bail not related to active cases and disburse it to the proper parties.
2. Develop a procedure to account for all bail money paid by credit card and ensure that all bail funds are transferred to the joint bail bank account on a monthly basis.
3. Review the bail account and make a good-faith effort to return any unclaimed exonerated bail to the proper persons; if unable to locate the person to return the bail to, transfer such money to the Village pending a claim.
4. Determine the source of the excess \$335 in the fine and bail bank accounts and ensure that any unidentified money is remitted to the JCF and any unclaimed exonerated bail is remitted to the Village.
5. Ensure that all money received is deposited in the appropriate Court bank account within 72 hours of receipt, as required by law.
6. Verify that all receipt numbers are accounted for on a monthly basis and ensure that voided receipts are properly documented with the associated corrected receipts.
7. Ensure that all personnel have and use unique user identifications and passwords when entering data into the software program.
8. Ensure that monthly bank reconciliations and monthly accountabilities are performed and reviewed for accuracy.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



Village of Quogue, N.Y.

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PETER SARTORIUS
Mayor

AIMEE BUHL
Village Clerk

MEMORANDUM

To: Office of the NYS Comptroller
Division of Local Government
and School Accountability

From: Peter S. Sartorius
Mayor, Village of Quogue

Date: April 28, 2015

Re: Report of Examination of the Village of Quogue Justice Court for the period June 1, 2012- February 28, 2014

Thank you for having met with me, the Village Clerk-Treasurer, the Village Justice and the Justice Court Clerk to discuss the report of your audit of the Village of Quogue Justice Court for the period June 1, 2012-February 28, 2014. This Memorandum constitutes the Village's comments on that report.

First, let me state that overall the audit was a beneficial experience for the Justice Court and its staff in that it revealed a number of areas in which the financial operations of the court should be improved. These areas include the consistently timely (within 72 hours) deposit of money received by the court, timely transfer of bail funds received via credit card from the fine bank account (the only account that can accept credit cards) to the bail bank account, better control of computerized receipts for amounts received at the court payment window and tightened procedures for month-end bank reconciliations and accountability analyses.

I do think, however, that the overall tone of the report is unduly negative insofar as it discusses bail funds held by the court. There appear to be several hundred dollars in the court's bail account that cannot be accounted for. While this situation is not ideal, the amount is not significant, and the overage apparently relates to old cases that substantially pre-date the tenures of the current Justice and court staff and is not related to the court's current operations and procedures. As you are aware from your discussions with the Justice, at his direction the part-time court staff has been painstakingly engaged for over two years in a review of approximately 20 boxes of old paper files, some of which were damaged by floods in the basement of Quogue Village Hall. This process has resulted in proper identification of some previously unclaimed bail funds and will likely continue to do so. Notwithstanding the implication in the audit report raised in the discussion of certain case files reviewed by the auditors, the court has attempted to

ascertain the whereabouts of persons entitled to receive money held by the court and expects to be able to disburse some unclaimed bail funds to the Village, as provided by law, within the next six weeks.

With respect to the eight “Recommendations” set forth on page 10 of the report, numbers 2, 5, 6, 7 and 8 were already implemented before receipt of the report. Numbers 1, 3 and 4 are on-going and dependent upon continuation and ultimate completion of the file review referred to in the preceding paragraph.

Peter S. Sartorius

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to examine the Court's financial operations for the period June 1, 2012 through February 28, 2014. To achieve our objective and obtain valid audit evidence, our procedures included the following:

- We interviewed Justice Court officials and employees to obtain an understanding of Court operations.
- We spoke to representatives from the software company to gain a better understanding of the application controls for the software used by the Court clerks to capture case information and cash receipt and disbursement information.
- We reviewed the computer-generated receipts for the audit period to determine if receipts were issued sequentially, in date order, and confirm they were not altered or deleted.
- We chose the original sample of six months from the audit period of 21 months by using a random number generator: August, October and December 2012, and January, April and August 2013. We determined that a sample size of at least 25 percent of the total population of months would be adequate. Since the random number generator did not produce a month for 2014, we selected February 2014 (the last month of the audit period) to replace December 2012 (the last of three months selected by the random number generator for 2012) so as to have an evenly distributed sample that covered all three calendar years in the audit period. Using the six-month sample:
 - o We examined the composition of the deposits made and used the receipt dates as recorded on the printed receipts processed by the clerks as the dates of collection.
 - o We observed all the checks in the checkbook identified as being issued during those months to determine the dates they were written, the check numbers, who they were made payable to, the case numbers, the dollar amounts and the reasons for issuing the checks. We reviewed the corresponding bank statements and check images to verify the signatures on the checks. We then obtained the case files to determine who originally posted the bail and if the moneys were applied appropriately or returned to the proper person.
 - o We performed a bank reconciliation and an accountability analysis. For each of the Justice's bank accounts, we compared the total amount reported to the State Comptroller at the close of the month to the reconciled bank balance at month end. For the bail bank account, we compared the pending-cases bail report to the adjusted bank balance.
- We reviewed all JCF monthly reports for our audit period. We compared amounts recorded in the Justices' financial records to the amounts in the Court's monthly reports to the JCF.
- We obtained a report from the Court software of all open and pending cases as of February 28, 2014 with bail money on deposit at the Court. This report identified a population of 160

defendants with \$35,955 in bail pending. We removed the 22 cases that would be heard after February 28, 2014 (the end of our audit scope period) from the population, which left a total of 138 cases totaling \$27,405 to sample from. To ensure that this sample would be representative of open and pending cases, we sorted the cases by last known “Action” as identified in the Court’s software and chose the oldest case in each of the six areas (arrest warrant, first appearance, conference, defendant adjourn, no show and pay fine) that had either one or only a few cases. For the remaining three areas (bench warrant, disposed and reported as scofflaws to State) we sampled every seventh case. We also included the case identified as “Interest, bail” in our sample, due to this unusual notation, giving us a total sample of 22 (16 percent).

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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