

# Town of Patterson

## Justice Court Operations

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**NOVEMBER 2020**

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

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# Report Highlights

## Town of Patterson

### Audit Objective

Determine whether the Town of Patterson (Town) Justices collected, recorded, deposited, disbursed and reported all fines and fees in a timely and accurate manner.

### Key Findings

Although the Justices accurately collected, recorded and deposited fines and fees, they did not disburse or report all fines and fees in a timely and accurate manner.

- The Justices did not adequately account for bail, which led to them retaining \$14,793 in bail funds that could not be identified by payee.
- The Court clerks did not return unclaimed exonerated bail totaling \$16,287 to the known payees or remit them to the Town.
- 55 of 100 tickets reviewed were not reported or incorrectly reported to the New York State Department of Motor Vehicles (DMV), or were not submitted to the DMV's Scofflaw Program.

### Key Recommendations

- Review unidentified bail funds and identify to whom they should be paid.
- Make a good faith effort to locate the known payees who posted exonerated bails and return the bails to them.
- Review pending cases listed on monthly and annual DMV reports to ensure their status is accurate in the Court's and DMV's records.

Town officials disagreed with certain aspects of our findings and recommendations, but indicated they planned to implement some of our recommendations. Appendix B includes our comments on issues raised in the Town's response letter.

### Background

The Town is located in Putnam County and is governed by an elected five-member Board, which includes four Board members and the Town Supervisor (Supervisor). The Board is responsible for the oversight and general management of the Town.

The Town has two elected Justices who are responsible for all moneys received and disbursed by the Town's Justice Court (Court) and for safeguarding Court resources.

Two full-time Court clerks (clerks) assist the Justices with processing cases and related financial transactions, including submitting monthly financial activity reports and the disposition of traffic tickets to various New York State agencies.

#### Quick Facts

<b>Total Collections During Audit Period</b>	\$683,182
<b>Justice Mole's Term</b>	2010 – Present
<b>Justice Caruso's Term</b>	2016 – Present

### Audit Period

January 1, 2018 – September 30, 2019. We extended our audit period through December 10, 2019 to perform a cash count.

# Justice Court Operations

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The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justices adjudicate legal matters within the Court's jurisdiction and administer money collected from fines, surcharges, civil fees and bail.

## How Should the Justices Account for Court Collections?

A Justice is required to issue receipts to acknowledge the collection of all funds paid to the Court, record each receipt in the accounting records and deposit all funds intact (i.e., in the same amount and form as received) as soon as possible, but no later than 72 hours from the date of collection, exclusive of Sundays and holidays.

The Justices are responsible for ensuring that the clerks report all money collected each month (excluding pending bail) to the Office of the State Comptroller Justice Court Fund (JCF) and disburse by check the funds collected to the Supervisor or defendant as appropriate. Court disbursements include returning bail after judgements are rendered, transferring money to other courts and remitting fines and fees collected to the Supervisor on a monthly basis.

On a monthly basis, the Justices should perform bank reconciliations and an accountability of funds by preparing a list of Court liabilities and comparing it to reconciled bank balances and money on hand. Court liabilities should equal the available cash balance, and any unidentified funds should be remitted to the JCF.

Justices should ensure collection duties are segregated to ensure one person does not control all phases of a transaction without proper oversight. If it is not practical to adequately segregate the clerks' duties because of limited staff resources, the Justices must establish compensating controls such as performing monthly accountabilities.

Justices must ensure their signature stamps are not used to issue unauthorized or improper payments. Therefore, a Justice's signature stamp should be used only by them or someone under their direct supervision.

## Fines and Fees Were Accurately Collected, Recorded and Deposited in a Timely Manner

The clerks were responsible for receiving and recording collections into the cash receipts journal and making deposits in a timely manner. We compared a random sample of 507 Court receipts totaling \$99,697<sup>1</sup> issued during our audit period to bank deposit records for both Justices and found that the collections were collected and recorded accurately and deposited in a timely manner.

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<sup>1</sup> Justice Mole prepared 214 receipts totaling \$42,683 and Justice Caruso prepared 293 receipts totaling \$57,015. Refer to Appendix B for further information on our sample selection.

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Justices must ensure their signature stamps are not used to issue unauthorized or improper payments.

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## The Clerks Controlled the Justices' Signature Stamps

Disbursements made by Court officials generally involved transferring money to other courts, remitting funds monthly to the Supervisor and returning exonerated bail.<sup>2</sup> Although the Justices were responsible for all moneys disbursed by the Court, we found that both clerks controlled the Justices' signature stamps and used them to authorize checks for returning exonerated bail. We reviewed all 154 disbursements totaling nearly \$755,000<sup>3</sup> made by both Justices during our audit period and found they were for appropriate purposes and had adequate supporting documentation.

The Justices told us that the clerks used the signature stamps for bail returns because they were not always available to manually authorize the disbursements. Town officials implemented a compensating control by having the Town Comptroller perform monthly bank reconciliations. However, we found that bank reconciliations were not always performed in a timely manner. In addition, the Justices did not perform monthly accountabilities or monitor the clerks while they were using the Justices' signature stamps.

Because the clerks controlled the Justices' signature stamps without any supervision, they could control all phases of Court transactions. As a result, the Court had an increased risk that reporting errors could occur and/or money could be misappropriated without timely detection.

## How Should the Justices Account for Bail?

In certain cases, bail is levied on defendants to help ensure their appearance in Court to answer the charges against them. Bail is returned to the individual when the case has been adjudicated or used to pay any fines and fees imposed by the Court.

Justices must maintain an appropriate record of all bail received and disbursed that indicates when the bail was paid, by whom and to which case it was related. It also is important for the disbursement records to identify the date, check number and to whom the bail was disbursed.

Justice Court regulations stipulate that exonerated bail should be given back to the person who posted the bail, less any applicable bail fees. Courts are required to make a good faith effort for six months to locate the persons who posted the bail. If a court is unable to return the bail, the funds that cannot be returned may

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Justices must maintain an appropriate record of all bail received and disbursed...

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<sup>2</sup> A bail bond is exonerated when the legal process and/or trial has finished. Exonerated bail is returned to the person who paid the bail.

<sup>3</sup> Justice Mole made 81 disbursements totaling \$351,189, and Justice Caruso made 73 disbursements totaling \$403,692.

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be transferred to the Town, pending claims.<sup>4</sup> Cash bail still unclaimed after six years becomes the Town's property.

If a court cannot identify the persons who posted the bail funds, the court should remit the bail funds to the JCF where they will be retained by the State until the court can properly identify the funds. In addition, when a new justice assumes the duties of office, bail funds retained by the former justice should be audited and certified prior to the transfer to and acceptance by the new justice.

### **Bail Reports Were Inaccurate**

Each Justice maintained a separate bail account. As of September 30, 2019, Justice Caruso had \$43,663 in his bail account and Justice Mole had \$25,045. The clerks maintained bail records in the Court's computerized accounting system to track pending bail. We compared the computerized bail report to the bail balances for both Justices and found that bail cash on hand exceeded pending bail by \$8,108 for Justice Caruso and \$6,685 for Justice Mole.

Court officials told us that these unidentified balances were transferred from previous Justices' bail accounts. However, the Justices did not conduct an audit of their predecessors' bail records when taking office. Also, the Court did not remit these unidentified balances to the JCF. As a result, the excess bail balances have remained for many years.

After we brought this to the attention of Town officials, the Town Comptroller partially reconciled the bail accounts and provided us and the clerks with a list of payees identifying who the unidentified funds might have belonged to for some of the funds.

Some bail accounts dated back to 1985. Because the cases were so old, the clerks were unable to determine from available records whether the payees had been refunded the bail amounts or were still waiting to be refunded. Therefore, we were unable to determine the validity of the list.

We also reviewed all of the cases from the pending bail report for each Justice as of September 30, 2019 to determine whether the cases were still pending. We found that Justice Caruso's bail records included three old cases with bail totaling \$280 of which we could not determine whether the amounts had been refunded or were still being held.

In addition, we found that Justice Caruso's bail records included \$400 in bail that was transferred to Justice Mole. Although the bail records showed the transfer, the Court's computerized system did not. As a result, Justice Mole's bail report

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Some bail accounts dated back to 1985.

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<sup>4</sup> The Town must hold these funds in case the payees submit a claim requesting a refund for the original bail amounts paid.

showed a negative balance of \$12 for this case because bail poundage<sup>5</sup> had been applied to it, but the case had not been transferred to Justice Mole in the Court's computerized system. After our fieldwork was completed, the clerks provided us with a cancelled check image and updated bail records showing that they transferred the case to Justice Mole on November 18, 2019.

Because the Court had an unidentified balance totaling nearly \$15,000 in its bail accounts, it had a significant risk that the excess funds could have been inappropriately borrowed or misappropriated without timely detection. Furthermore, because the Justices did not adequately account for these funds, they were unable to return the funds to the payees or submit them to the Town. Also, the Justices were unaware that the funds should have been remitted to the JCF.

### The Clerks Did Not Make a Good Faith Effort to Return Exonerated Bail

We reviewed the pending bail reports for both Justices as of September 30, 2019 and found there were 90 pending bails totaling \$50,999. To determine the status of each bail, we reviewed the case files and found that 46 bails (51 percent) totaling \$16,287 were unclaimed exonerated bail<sup>6</sup> (Figure 1).

**Figure 1: Unclaimed Exonerated Bail as of September 30, 2019**

	Justice Caruso	Justice Mole	Totals
<b>Total Unclaimed Exonerated Bails</b>	32	14	46
<b>Total Amount of Unclaimed Exonerated Bail</b>	\$9,228	\$7,060	\$16,288
<b>Over Six Years</b>	20	4	24
<b>Amount Over Six Years</b>	\$6,886	\$4,422	\$11,308
<b>Under Six Years</b>	10	10	20
<b>Amount Under Six Years</b>	\$2,042	\$2,638	\$4,680
<b>Exonerated Date Unknown</b>	2	0	2
<b>Amount of Exonerated Date Unknown</b>	\$300	\$0	\$300

5 Bail poundage is a 3 percent surcharge on bail refunds for defendants who are convicted or plead guilty.

6 These were bails that were posted by individuals who the Court could identify.

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Of the 46 bails, 24 bails (52 percent) totaling \$11,308 had been exonerated for more than six years. However, the Court had not remitted these bail funds to the Town. Had it done so, these funds would have been the Town's property after six years.

Also, 20 bails totaling \$4,680 had been exonerated for less than six years, but had not been returned to the individuals who posted the bails. We could not determine when the remaining two bails totaling \$300 had been exonerated due to the lack of records in the case files and computerized system.

During our review of the 46 case files, we found that the clerks did not make a good faith effort to return 31 exonerated bails (67 percent) totaling \$8,866, some of which dated back to 1992. The clerks told us that many of these cases were exonerated before they were employed with the Village. They also told us they did not have time to attempt to locate the payees for older cases. However, we found that the clerks made a good faith effort to contact the payees for all five exonerated bails totaling \$1,350 that were exonerated during our audit period.

Because the clerks did not make an effort to contact the persons who posted exonerated bails, the payees have an increased risk that they will not receive the refunds to which they are entitled. Also, because the clerks did not transfer exonerated bails<sup>7</sup> to the Town in a timely manner, unclaimed bails cannot be used to benefit taxpayers. As a result, the Town could have realized additional revenue of up to \$11,308, if Court officials had made a good faith effort to return the unclaimed bail.

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The Justices are responsible for ensuring that the clerks inform the DMV of ticket dispositions...

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## How Should Courts Enforce Pending Tickets?

A justice court is responsible for adjudicating vehicle and traffic violations. Law enforcement officials issue uniform traffic tickets for vehicle and traffic infractions. The DMV tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database.

When all associated fines are paid for a ticket, the local court uploads the ticket's disposition to TSLED for removal from the pending ticket database. A local court may change a ticket's disposition in TSLED by importing a file from its computerized court records or by changing the ticket's disposition information directly within the TSLED database.

However, to remove parking tickets from TSLED, a local court must mail the tickets to the DMV with the updated disposition information indicated on the tickets. The Justices are responsible for ensuring that the clerks inform the DMV of ticket dispositions, so the cases can be properly closed in the DMV database.

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<sup>7</sup> Of which the payees did not respond to the clerks' notifications



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The TSLED database produces reports that are available electronically to each local court on a monthly basis. These monthly reports provide local courts with information about current pending cases, including a list of all cases pending for 60 days or more, to help identify individuals who have failed to appear in court or pay their fine for enforcement through the DMV's Scofflaw Program (scofflaw program).<sup>8</sup>

The database also produces an annual TSLED report that is available to each court in February, which includes information on all outstanding pending cases since the cases' inception. Court personnel should review these reports to ensure that the information in the State's database matches their court records and to help ensure tickets are processed and enforced in a timely manner. Because the Justices are responsible for ensuring that the clerks inform the DMV of ticket dispositions, the Justices should periodically compare DMV reports to the Court's records.

The clerks were responsible for reviewing the monthly and annual TSLED reports – to update the status of pending cases and identify individuals who either had not appeared in court to answer their ticket or had not paid their fine for more than 60 days – and refer applicable pending cases to the DMV for enforcement through its scofflaw program.

### **The Clerks Did Not Follow Up on All Pending Cases**

As of September 30, 2019, DMV records indicated that the Court had 7,250 pending traffic tickets. We used our professional judgment to review 100 of the 7,250 pending tickets,<sup>9</sup> compared the tickets to Court records to determine their status and found the following:

- 35 tickets listed as pending in the DMV's records were listed in the Court's records as having been disposed. The clerks told us they reported this status update to the DMV for all 35 tickets. However, we found that the Court's computerized records did not match the information in TSLED. For example, the Court's records for one of the pending tickets showed that the Court disposed the ticket and reported the updated disposition to the DMV on April 1, 2015. But when we reviewed the Court's report that was imported to TSLED on April 1, 2015, we found that this ticket was not included in the report. In addition, three of the 35 tickets were parking tickets, and the

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<sup>8</sup> The scofflaw program allows local justice courts to notify the DMV when an individual has an unresolved traffic ticket for 60 days due to failing to pay the fine or failing to appear on the court date. When this occurs, the DMV notifies the individual and gives them 30 additional days to address the issue. If the individual does not take action by the end of the 30 days, the DMV suspends the individual's license until they address the outstanding ticket.

<sup>9</sup> Refer to Appendix C for further information on our sample selection.

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Court had not mailed the tickets to the DMV with the updated disposition information.

- 33 tickets were correctly listed as having been reported to the DMV for enforcement through its scofflaw program.
- 18 tickets listed as pending in the DMV's records were listed in the Court's records as having been reported to the DMV for enforcement through its scofflaw program. The clerks told us they changed the disposition information for these tickets directly in TSLED rather than importing a file into the database from the computerized Court records. However, we found that the tickets that were eligible to be referred to the scofflaw program within our audit period were not properly reported to the DMV. For example, Court records showed that the clerks had changed the disposition information for one pending ticket in the TSLED on April 5, 2018, but it was not reported to the DMV for enforcement through its scofflaw program.
- 12 tickets were correctly listed as pending in the DMV's records as of September 30, 2019.
- Two tickets listed as pending in the DMV's records were not in the Court's computerized records. These tickets were pending for more than four and eight years, respectively. Court officials could not locate the original records for these tickets. However, the Court should have notified the DMV to place both tickets in the scofflaw program.

Although the clerks updated the status of pending tickets in the Court's records, they did not review the annual pending ticket list to ensure the updates were made. In addition, the Justices did not ensure the clerks informed the DMV of ticket dispositions by periodically comparing DMV reports to the Court's records.

As a result, the Justices were unaware of the errors and inconsistencies in ticket recording and reporting that we identified between the Court's and DMV's records. In addition, the DMV records for the defendants associated with these tickets were incorrect and their driving records were incomplete.

## What Do We Recommend?

The Justices should:

1. Discontinue the clerks' use of the Justices' signature stamps.
2. Review their predecessors' bail records and the unidentified bail funds and identify to whom they should be refunded (the payees). If they are unable to determine who the payees are, the Justices should remit these funds to the JCF.

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3. Ensure the clerks update the bail list periodically and maintain accurate bail records.
  4. Ensure the clerks make a good faith effort to locate the known payees who posted exonerated bails and return the bails to them. If the Justices cannot locate the payees, they may transfer the funds to the Town, pending a claim.
  5. Periodically compare TSLED reports to the Court's records to ensure the clerks are properly informing the DMV of ticket dispositions.

The Court clerks should:

6. Review pending cases listed on the monthly and annual TSLED reports to ensure their status is accurate in the Court's and DMV's records, and take action to directly address inconsistencies with the DMV in a timely manner.

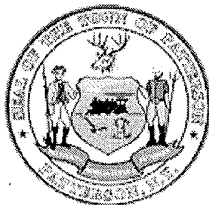
# Appendix A: Response From Town Officials<sup>10</sup>

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## TOWN OF PATTERSON JUSTICE COURT

HON. ANTHONY R. MOLÉ

HON. MICHAEL V. CARUSO  
TAMMY SMITH - COURT CLERK



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August 24, 2020

E-Mail: [Muni-Newburgh@osc.ny.gov](mailto:Muni-Newburgh@osc.ny.gov)  
and First Class Mail

Lisa A. Reynolds, Chief Examiner  
NYS Comptroller's Office  
33 Airport Center Drive, Suite 103  
New Windsor, New York 12553

Re: Local Officials Response to OCS Audit - 2020M-63

Dear Ms. Reynolds:

The following is the Town of Patterson Justice Court's response to the OSC Audit recently performed by your office.

**Initial comment on overall tenor of the report:**

The Audit Period covered in this report as stated therein is misleading. To say that the Audit covered the period from January 1, 2018 to September 30, 2019 is inaccurate. Some of the findings in this audit cover a significantly greater period of time. The reason for pointing this out is that most of the current personnel were not employed in the Justice Court in relation to certain items mentioned in the report, such as prior bail accounts.

See  
Note 1  
Page 14

There are several statements in the "Examination of Audit" that clearly demonstrate that *no malfeasance took place*, yet the report is replete with statements like "...errors could occur and/or money could be misappropriated without timely detection...", etc. These are inaccurate and inflammatory statements that are counter-productive to problem solving and serve no other

See  
Note 2  
Page 14

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<sup>10</sup> The Town's response letter refers to an attachment that supports the response letter. Because the Town's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.

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purpose than to sensationalize an audit or to be used by anyone looking to criticize the Town and we take exception to their use. For the same reason, we take exception to the use of text boxes and pull quotes in the report that seem to randomly contain text that places a negative connotation on the findings in the report. The use of the text boxes is misleading, inaccurate, unprofessional and sensationalistic, as they are not an accurate reflection of findings in the report. Perhaps the report should reflect the fact that for the audit period, the auditors “found that the collections were collected and recorded accurately and deposited in a timely manner,” as was the actual finding of the auditors as stated in the report, but not reflected in the highlighted text boxes.

**Signature stamps:**

The Justice Court has utilized a signature stamp for the signing of certain items, such as return of bail, which is useful in situations where the Justices are unavailable and a person arrives at the Court with a bail receipt requesting a return of their bail after such bail has been exonerated by a Town Justice. This process ensures a timely return of bail. The signature stamps are not used without a Justice’s authorization on each occasion. Although the auditors opined that errors could occur and money could be misappropriated by the use of the signature stamps, the fact of the matter is that the auditors found no evidence whatsoever to support that opinion. In fact, the auditors findings were that no such errors or misappropriation had occurred. The recommendation of the auditors is to cease the use of signature stamps. The Court, in order to satisfy the Comptroller’s Office will cease the use of signature stamps. However, it must be understood that this will delay certain processes, such as return of bail, as those appearing at the Court requesting a return of bail will have to make an appointment for a specific date and time when a Justice is available, or will have to return at a later date to obtain the return of bail after the Justice has signed same. Nevertheless, the Justices review monthly deposits, expenditures and accountings line by line to ensure accuracy and proper accounting across Court accounts.

See Note 3 Page 14
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**Bail Accounts:**

The report indicates that bail accounts were inaccurate. However, that is due to the fact that the Town of Patterson has carried over bail from very old bail accounts. The first and foremost flaw in the report with regard to bail accounts, is the assumption that all bail accounts are equally maintained by all Justices. For instance, each Justice, when he assumes the position of Town Justice, sets up a new bail account specific to that Justice. However, the report lumps all prior bail accounts together in a manner that results in inaccurate information with respect thereto. Further, and most importantly, action is being taken by the Town to appropriately dispose of the exonerated bails from the prior Justices’ bail accounts. The current Justices were approximately ten years of age when some of the referenced bail was posted. The Court has requested the assistance of the State in advising the Court how to handle the prior bail. At one point in the past the State informed the Court that the Town of Patterson had to set up a separate account into which the prior bail could be deposited to the Town. However, the Town of Patterson would not set up such an account which prohibited the Court from depositing the prior bail amounts into such an account. At our initial meeting with the auditors, the Town Justices specifically

See Note 4 Page 14
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requested that the auditors review these prior bail amounts, which predate the current Justices' time periods, and provide direction as to what should be done with the amounts. During the course of the audit, the Court Clerks were able to locate certain individuals who posted bail many years ago, and were able to return those bail amounts. However, this process took a great deal of time on the part of the Clerks which interfered with their day to day operations. The Court appreciates the direction now provided in the report guiding the Court on the process that would be deemed the proper method to dispose of the prior bail amounts, and the Court intends to follow that process to resolve the prior bail amounts. As a side note, with the recent changes to the laws of New York State pertaining to bail, we do not foresee having a significant amount of bail posted in the future.

**Enforcement of Pending Tickets:**

The report indicates that there are a large number of traffic tickets that remain open or pending on the Department of Motor Vehicle Traffic Safety Law Enforcement and Disposition (TSLED) database, even though dispositions were entered in the court system. The report asserts that the Court Clerks are responsible for the accuracy of the TSLED report. The report also indicates that upon a review of the sampling of those tickets, it was discovered that the tickets were disposed of on the Court computer system, but that they were not disposed of in the TSLED database. Therefore, it was discovered that tickets that were processed and properly disposed of by the Court, were showing as pending in DMV's records, thereby resulting in a high number of pending tickets on the TSLED report.

See  
Note 5  
Page 15

During the audit, one of the Court Clerks disposed of a number of tickets in the Court computer system, with the auditor observing. After the tickets had all been entered and properly disposed of in the Court system, the Clerk then contacted the DMV to have them ascertain whether the tickets were entered as disposed on the TSLED database. The DMV indicated that they were not showing up as disposed, but were still showing up as pending. The DMV attributed this anomaly to a "glitch" in their system. The Court Clerk then continued to follow up with the DMV until the tickets were properly entered as disposed on the TSLED database. This exchange between the Court and the DMV was observed by one of the auditors that prepared this report, which clearly showed that the issue was with the DMV and the TSLED database, and not an issue with the Court Clerk's failure to properly dispose of the tickets. Notwithstanding the fact that this is an issue that must be resolved by the DMV, alone, the report indicates that it is the Court Clerk's responsibility to ensure that the DMV properly enters tickets in the TSLED system. This process would require the Court Clerks to constantly review the TSLED report, compare it with the Court system, and then continually contact the DMV to ensure that they enter the ticket properly in the TSLED database. This process would take an inordinate amount of the Court Clerks' time, wherein they would be prohibited from performing their daily tasks. The Town Justices assert that it is not the Court Clerks' responsibility to ensure that the DMV properly enters ticket information into their database. The Court Clerks are charged with entering the ticket information and dispositions in the court system, which then is sent to the DMV system. The Clerks are not employees of the DMV. Further, the Court and the DMV are entirely separate entities. Moreover, the auditors found that the ticket dispositions were properly entered by the Clerks into the Court system. To impose upon the Court Clerks duties that are to be

See  
Note 6  
Page 15

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performed by the DMV is unreasonable. Perhaps an audit should be performed on the DMV to determine the cause of these discrepancies, and to put measures in place to remedy the issue. The overly broad and unconfined timeline covered by this report improperly frames the issue because it covers decades worth of tickets, adjudications, and administrative work that is far in excess of the current clerks' scope of duties. Again, the focus should be on creating a balanced, constructive report. This draft is an overly sensationalized account with untethered findings that should also address protocols and internal controls to be administered by other agencies (i.e. DMV) to avoid their reporting databases causing confusion as described herein.

See Note 1 Page 14
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**Recommendations:**

The "Recommendations" portion of the report is addressed in the Justice Court's Corrective Action Plan, which is submitted herewith.

Respectfully submitted,

Anthony R. Molé,  
Town of Patterson Town Justice

Michael V. Caruso,  
Town of Patterson Town Justice

# Appendix B: OSC Comments on the Town's Response

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## Note 1

The audit period covered in our report is accurate. We reviewed all cases from the pending bail and TSLED reports as of September 30, 2019, which included bail and pending tickets dating back to 1985. Because these old cases and pending tickets remained on the Court's records as of the end of our audit period, they were included in the boundaries of our audit and accurately documented in the audit report.

## Note 2

Our audit report contains standard language and is supported by various facts and examples. It does not contain inaccurate or inflammatory statements, nor was its purpose to sensationalize our audit findings. Although we found that all disbursements reviewed were for appropriate purposes, we identified internal control weaknesses that created the opportunity for misappropriation. For example, because the clerks controlled the Justices' signature stamps without any supervision and controlled all phases of Court transactions, the Court had an increased risk that reporting errors could occur and/or money could be misappropriated without timely detection.

Text boxes (pull quotes)<sup>11</sup> are used in our audit report to summarize audit criteria and findings. These text boxes are also supported by various facts and examples and are an accurate reflection of our audit findings. For example, the pull quote that states "Some bail accounts dated back to 1985" is supported by case files and records provided by Court officials.

## Note 3

Because the clerks performed all phases of Court transactions – receiving funds, recording transactions into the Court's records, signing checks with the Justices' signature stamps and disbursing funds – there was no opportunity during this process for the Justices to provide timely oversight of the transactions. When the Justices sign each check by hand, use their signature stamps to sign checks or provide direct oversight of the clerks as they use the Justices' signature stamps to sign checks, this helps the Justices reduce the risk that inappropriate transactions could occur.

## Note 4

Although many of the bail funds were from prior justices, it was the Justices' responsibility upon assuming the duties of their office to audit and certify the funds retained by the former justices before transferring and accepting the funds into

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<sup>11</sup> The Town refers to the pull quotes in the report as "text boxes" because they were formatted as text boxes in the draft report.



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their accounts. If the Justices had performed this responsibility before accepting the old bail funds, many of the discrepancies identified in this report could have been prevented.

OSC did not inform the Court that the Town had to set up a separate account for old bail funds. As acknowledged by the Town, we recommended that the Justices review their predecessors' bail records and the unidentified bail funds and identify to whom they should be refunded (the payees). If the Justices are unable to identify the payees who posted the bail funds, they should remit the funds to the JCF.

We understand that the process of locating individuals who posted bail many years ago is time consuming. However, after we completed our audit fieldwork, the clerks provided us with documentation indicating they had contacted some payees and returned bail funds to them.

#### Note 5

The Court clerks should review TSLED reports to ensure that the information in the DMV database matches the Court's records and to help ensure tickets are processed and enforced in a timely manner. We found that the Court clerks did not periodically review the TSLED reports. As a result, there were numerous discrepancies between the Court's and DMV's records.

#### Note 6

The audit's scope was limited to determining whether the Justices collected, recorded, deposited, disbursed and reported all fines and fees in a timely and accurate manner. As such, we did not determine the effectiveness and/or sufficiency of DMV's database. However, if the Court clerks had periodically, or even annually, reviewed TSLED reports, they could have identified the discrepancies indicated in the audit report and rectified them in a timely manner. Furthermore, three of the discrepancies were unrelated to the DMV's database operations. Instead, they were due to the clerks' failure to mail tickets with updated disposition information to the DMV.

In addition, the audit report did not state that the Court clerks were responsible for ensuring that the DMV properly entered tickets into its database. However, the clerks should periodically review TSLED reports to ensure that the DMV's database matches the Court's records and to help ensure tickets are processed and enforced in a timely manner.

## Appendix C: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town and Court officials and reviewed the Court's policies and procedures to gain an understanding of operations.
- We randomly selected three months (January 2018, November 2018 and September 2019) and reviewed the 507 Court receipts totaling \$99,697 that were collected and deposited during these months for both Justices. Justice Mole prepared 214 of the 507 receipts totaling \$42,683, and Justice Caruso prepared 293 receipts totaling \$57,015. We traced each receipt to Court documents and deposit records to determine whether they were recorded properly and deposited timely and intact.<sup>12</sup>
- We reviewed computerized cash receipts records and duplicate receipt books to identify any gaps or missing receipts.
- We reviewed all disbursements from the Justices' bank accounts made during our audit period and traced them to monthly reports and bail returns to determine whether they were for appropriate purposes and had proper supporting documentation.
- We reviewed all bank reconciliations prepared by the Town Comptroller during our audit period to determine whether they were prepared in a timely manner. We also prepared the bank reconciliations for January 2018, September 2018 and September 2019 to determine whether the Town Comptrollers' reconciliations for those months were accurate.
- We reviewed the pending bail reports as of September 2019 for both Justices and traced each bail listed on the reports to Court and bank records to determine whether the reports were accurate. If a case had been exonerated, we determined when it was exonerated and whether the clerks made a good faith effort to return the bail to the known payee. For the unidentified bail funds of which the payees were unknown, we interviewed Town and Court officials and reviewed old Court records to determine whether there were any records that could help identify the payees.
- We used our professional judgment to select 100 pending tickets listed in the DMV's pending ticket report as of September 30, 2019 and compared the status of these tickets to the Court's records to determine the accuracy of the DMV's records. We distributed the population of pending tickets into aging categories with increments of five years, ranging from 0-35 years, and calculated the percentage that each aging category represented in

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<sup>12</sup> Moneys collected must be deposited intact, that is, in the same order and form (cash or check) in which they were received.

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the population. We applied that percentage for each aging category to the sample size of 100 to obtain the number of tickets to be sampled from each category. For example, pending tickets that ranged from 10-15 years old represented 14 percent of the population. We then randomly selected the actual sample of pending tickets from each aging group using a computerized sampling tool.

- We performed a cash count on December 10, 2019 to determine whether cash on hand agreed with known liabilities.
- We analyzed Court revenue during the past five years (January 1, 2015 through September 30, 2019) to identify trends.

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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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 provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Town Clerk's office.

## Appendix D: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional\\_directory.pdf](http://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf)

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

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263196&issued=All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All)

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

[www.osc.state.ny.us/local-government/fiscal-monitoring](http://www.osc.state.ny.us/local-government/fiscal-monitoring)

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

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263206&issued=All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All)

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

[www.osc.state.ny.us/local-government/resources/planning-resources](http://www.osc.state.ny.us/local-government/resources/planning-resources)

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

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf](http://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf)

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

[www.osc.state.ny.us/local-government/required-reporting](http://www.osc.state.ny.us/local-government/required-reporting)

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

[www.osc.state.ny.us/local-government/publications?title=&body\\_value=&field\\_topics\\_target\\_id=263211&issued=All](http://www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All)

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

[www.osc.state.ny.us/local-government/academy](http://www.osc.state.ny.us/local-government/academy)

## Contact

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[www.osc.state.ny.us/local-government](http://www.osc.state.ny.us/local-government)

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

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