

Town of Marcy

Justice Court Operations

APRIL 2021



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

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Report Highlights

Town of Marcy

Audit Objective

Determine whether the Town of Marcy (Town) Justices provided adequate oversight of Justice Court (Court) financial activities and ensured collections were deposited timely and intact and properly reported and remitted.

Key Findings

The Justices generally provided adequate oversight of Court financial activities and ensured collections were deposited timely and intact and were properly reported and remitted. However, the Justices did not:

- Document their review of the clerk’s monthly bank reconciliations and accountabilities.
- Ensure the Court clerk (clerk) properly handled or made reasonable efforts to collect payment on 12 pending traffic tickets (30 percent) of 40 tickets tested.
- Ensure the Court was using the most up-to-date and secure recordkeeping software.

Key Recommendations

- Document the review of the monthly bank reconciliations and accountabilities, monitor the work performed by the clerk and ensure pending traffic tickets are enforced in a timely manner.
- Upgrade the Court’s recordkeeping software to the most current and secure version.

Town officials agreed with our recommendations and indicated they have initiated or planned to initiate corrective action.

Background

The Town is located in Oneida County and is governed by an elected Town Board (Board) composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of Town operations, including Court financial activities.

The Town has two elected Justices, and one full-time and one part-time clerk. The clerks assist the Justices in processing cases and related financial transactions, including submitting monthly financial activity reports and traffic dispositions to various New York State agencies.

Quick Facts

Court Revenue for the Audit Period	\$233,902
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Pending Traffic Tickets as of September 30, 2020	1,176
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Terms of Office

Justice Kozyra	January 1, 2008 – December 31, 2023
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Justice Crane	January 1, 2019 – December 31, 2022
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Audit Period

January 1, 2019 – July 30, 2020. We expanded our audit period through September 30, 2020 to review pending traffic tickets.

Justice Court Operations

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, civil fees, surcharges and bail. Effective January 1, 2020, pretrial detention and cash bail was eliminated in a majority of cases but the Justices still maintain the option of setting bail in certain cases.

The Court accepts payments made by cash, certified check, money order and credit cards. Each Justice maintains their own bank account for fines, fees and bail and makes deposits. The clerks collect payments, issue receipts, enter receipts into the Court's computerized system, prepare checks to be signed by the Justices and prepare monthly reports for submission to the Office of the State Comptroller's Justice Court Fund (JCF). In addition, the full-time clerk is responsible for preparing the monthly bank reconciliation and accountability analysis reports while the part-time clerk is responsible for monitoring the monthly and annual pending traffic ticket reports.

How Should Justices Oversee and Account for Court Funds?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the Court. In addition, justices should ensure that all funds are deposited 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 State holidays.

The Justices are required to submit monthly reports detailing all money collected each month (excluding pending bail) to the JCF and disburse the funds collected to the town supervisor or defendant, as appropriate.¹

Justices should ensure that clerks issue receipts to acknowledge the collection of all funds paid to the Court. Receipts generated from a computerized system should be issued in consecutive numerical sequence. Controls should prevent the alteration of receipt numbers or amounts. If receipt numbers can be altered, press-numbered duplicate receipts should be issued instead.

On a monthly basis, the Justices should prepare 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 discrepancies should be investigated and resolved.

¹ The JCF determines the State, County and local share of the funds that were reported and sends an invoice, billing and distribution statement to the town supervisor showing the required distribution of the funds.

Additionally, Justices should ensure collection duties are segregated so one clerk does not control all phases of a transaction. If it is not practical to adequately segregate the clerks' duties because of limited staffing resources, the Justices must establish compensating controls such as routinely reviewing Court records such as bank statements, bank reconciliations, accountability analyses and documenting such review (e.g., by initialing and dating them).

Collections Were Deposited Timely and Intact and Accurately Reported and Remitted

The Justices recorded cashbook receipts from January 1, 2019 through July 30, 2020, which totaled \$233,902. We compared the electronic cashbook entries for each Justice to the amounts on the monthly JCF reports and related payments to the Supervisor and found that all fines and fees collected and recorded from January 1, 2019 through February 29, 2020 were reported and remitted to the JCF in a timely manner.

Receipts recorded for March 1 through July 30, 2020 totaling \$23,928 were not reported and remitted because of a Court shutdown and other delays caused by the COVID-19 pandemic. As a result, we performed a cash count and prepared an accountability analysis as of July 30, 2020. We found that the funds were on hand or on deposit in the Justices' bank accounts and available for reporting and remittance. The Justices subsequently submitted the reports and remitted the funds in September 2020.

We compared 132 cashbook receipts collected during two months of our audit period² totaling \$22,248 to bank records to determine whether they were accurately recorded and deposited intact within 72 hours, and found no exceptions.

We performed various other tests to determine whether Court funds were properly administered. For example, we reviewed cashbook entries for each Justice to determine whether there were any missing or out-of-sequence receipt numbers and reviewed dismissed cases without record of payment to determine whether there was supporting documentation for the dismissals.

In addition, we investigated cases with discrepancies between the information reported to the JCF and the DMV, reviewed bank statements and traced all canceled checks to supporting documentation to determine whether the transactions were valid and supported. Except for minor discrepancies, which we discussed with Court officials, Court funds and documents were in proper order and dismissals were adequately supported.

We...found that all fines and fees collected and reported from January 1, 2019 through February 29, 2020 were reported and remitted to the JCF in a timely manner.

² Refer to Appendix B for a description of our audit methodology and sample selection.

The Justices Did Not Document Review of Bank Reconciliations and Accountabilities

Every month, the full-time clerk prepared bank reconciliations and an accountability report for each Justice to show the money on hand agreed with the Justice's liabilities (e.g., monthly collections owed to the Town).

The Justices told us that they review the monthly reconciliation and accountability reports. We reviewed all the reports for the audit period and found no indication, such as an initial or a date, that the Justices conducted reviews. While we did not find any significant discrepancies with the reconciliation or accountability reports, because the Justices did not document their review, we were unable to verify that important oversight procedures were in place to help safeguard Court assets.

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.

The TSLED database produces reports that are electronically available to each court on a monthly basis. These reports provide the court 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).³

The database also produces an annual TSLED report made 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.

The Clerk Did Not Always Follow Up on Pending Cases in a Timely Manner

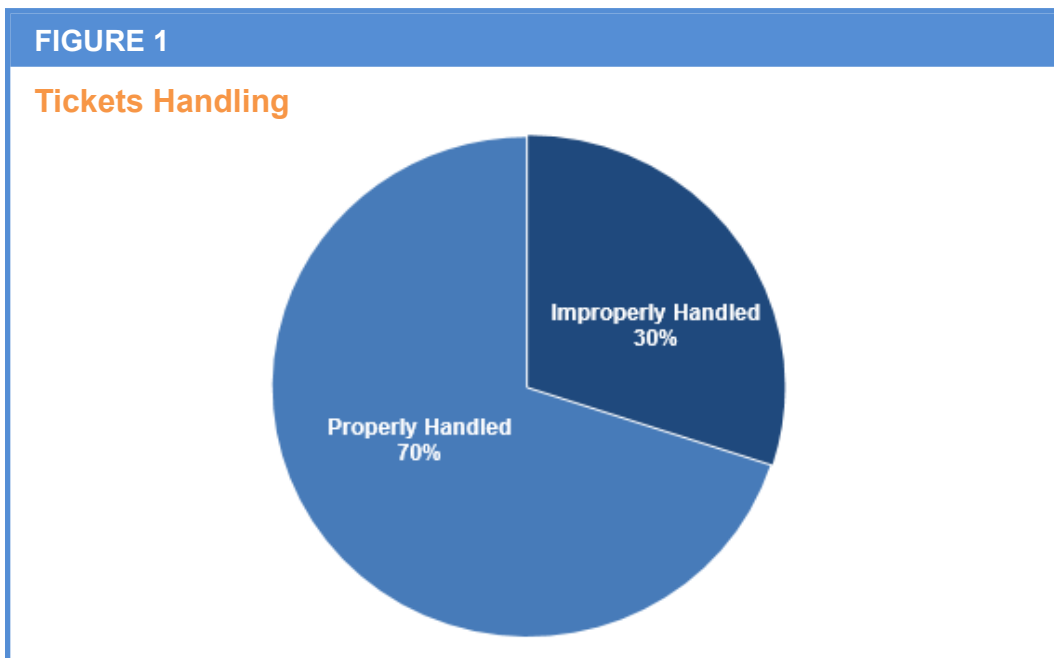
The part-time clerk was responsible for reviewing the monthly TSLED reports to identify individuals who either did not appear in Court to answer their ticket or had

³ The scofflaw program allows local justice courts to notify the DMV when an individual has an unresolved traffic ticket for 60 days because of failing to pay the fine or failing to appear on the court date. When this occurs, the DMV notifies and gives the individual 30 additional days to address the issue. If the individual does not take action by the end of the 30th day, the DMV suspends the individual's license until they address the outstanding ticket.

not paid their fine for more than 60 days, referring these cases to the DMV for enforcement through its scofflaw program. However, the clerk did not reconcile these cases to the Court's records to ensure they were properly reflected in the DMV records.

As of September 30, 2020, Court records showed that 1,176 outstanding pending traffic tickets for violations were issued from January 1, 2015 through May 30, 2020. We reviewed 40 of these pending tickets.

While we found that the clerk properly handled and made reasonable efforts to collect payment on 28 (70 percent) of the pending cases and/or referred outstanding cases to the DMV for license suspension, she did not properly handle or make reasonable efforts to collect payment on 12 tickets (30 percent) (Figure 1).



Nine of the 12 tickets were eligible for the scofflaw program and should have been referred to DMV for license suspension and two did not have reasonable efforts to collect. Also, one ticket was listed as disposed of in the Court records but was still listed as outstanding on DMV records.

The clerk told us that she was unaware of this discrepancy until we brought it to her attention and would follow up with DMV to report the disposition, and refer the nine outstanding tickets for enforcement through the scofflaw program.

The Justices did not periodically review the DMV reports or compare them to the Court's records to help oversee the work of the clerk. As a result, outstanding tickets were not always enforced in a timely manner.

What Are Essential Court Software Controls?

Once information is entered into the Court software, its integrity should be maintained through controls that limit access and changes to data to ensure that transactions are not altered. The software should provide a means of determining the identity of an individual who accessed the software and track their activity.

Audit logs maintain a record of activity that includes the identity of each individual who has accessed the software, the time and date of the access and what activity occurred. The Justices should routinely review these logs to monitor the clerks' software activity, including voided transactions.

Every user should have their own unique user name and password to gain access to the Court software. This helps ensure accountability over work performed and data changed or deleted and limits the possibility of data being compromised by unauthorized users.

Court Software Did Not Have Necessary Security Controls

The Court used a computerized software program for recording collections and generating receipts issued to individuals. We reviewed and assessed the software program's controls and found that during our audit period, the Court was using an older unsecured software version, which did not track voided Court transactions and allowed users to change receipt numbers and delete or change previously recorded entries.

Additionally, the software did not have an audit log function or the ability to generate deletion or change reports. As a result, the clerks could add, delete or modify entries (including cash receipts) at any time, but an audit log or evidence of those changes would not be available for review or accountability. The Justices did not require the clerks to issue press-numbered duplicate receipts to mitigate this control weakness.

Although the Justices and clerks each had their own unique user name and password, they all had access to the module that contained all users' login names and passwords. Therefore, any user could use another user's account to record or delete transactions, which would make it difficult to determine who entered transactions if any discrepancies occurred.

The New York State Unified Court System can upgrade the Court's software to a secure version at no cost. The Justices told us they were unaware that the Court was using the unsecure version of the software and that an updated version was available. Because the Justices did not upgrade to the secure version of the software during our audit period, there was an increased risk that errors or irregularities could have occurred and gone undetected.

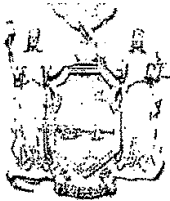
...[T]he Court used an... unsecured software version, which did not track voided... transactions and allowed users to change receipt numbers and delete or change previously recorded entries.

What Do We Recommend?

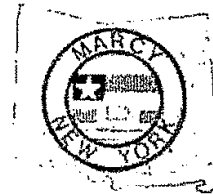
The Justices should:

1. Document their review of the monthly reconciliations and accountabilities prepared by the clerk.
2. Periodically review the DMV reports and compare them to the Court's records to oversee the work performed by the clerk and ensure tickets are enforced in a timely manner.
3. Upgrade the Court's recordkeeping software to the most current available version. If the Court chooses not to upgrade the software, the Justices should require the clerks to issue press-numbered duplicate receipts to document all collections.

Appendix A: Response From Town Officials



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www.townofmarcy.org



March 5, 2021

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor
Albany, New York 12236

To whom it may concern,

The Marcy Town Court is in receipt of the Report of Examination 2020M-166. We have reviewed the report and we are in the process of taking corrective action on the following as recommended in the report.

- 1) Document the review of the monthly bank reconciliations and accountabilities and monitor the work performed by the clerks and ensure pending traffic tickets are enforced in a timely manner. Marcy Town Justices will document all incoming fine and bail payments and compare them to the Court Clerks to ensure the deposits are the same at month end. We will also compare our records to the bank reconciliation and accountabilities. In addition, the Justices will periodically review the DMV reports and compare them to the Courts records to ensure tickets are enforced in a timely manner.
- 2) Upgrade the Court's recordkeeping software to the most current and secure version. We are currently in contact with The New York State Unified Court System to upgrade our current software.

We appreciate your recommendations and will be in contact with your office to advise you of our progress.

Sincerely yours, /

David Kozyra – Town Justice

Stephen Crane – Town Justice

Appendix B: Audit Methodology and Standards

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 the Justices and clerks and reviewed financial records and reports to gain an understating of the Court's financial operations.
- We compared all receipts recorded in the cashbook to amounts reported on monthly JCF reports (obtained monthly report data directly from the JCF) from January 1, 2019 through July 30, 2020 to determine whether all recorded fine and fee collections were properly reported.
- We reviewed the 28 monthly reports submitted to JCF totaling \$209,875, from January 1, 2019 through February 29, 2020 to determine whether they were submitted in a timely manner and payments made to the Supervisor equaled the amounts reported.
- We performed a cash count for both Justices on July 30, 2020 to establish the amount of cash and checks on hand since the last bank deposit for comparison to the cash receipt records. We also prepared a bank reconciliation and an accountability analysis for each Justice as of this date to determine whether there were any differences between the available cash and known liabilities.
- We compared a sample of cash receipts recorded in the cashbook records with deposits on bank statements to determine whether deposits were made timely and intact. To select the sample, we reviewed all bank statements and used our professional judgment to select the month containing the largest number of deposits for each Justice. We tested January 2019 (91 cash receipts totaling \$15,390) for Justice Kozyra and September 2019 (41 cash receipts totaling \$7,058) for Justice Crane.
- We reviewed the computerized cashbook for each Justice to identify any missing or out-of-sequence receipts and check numbers during our audit period.
- We randomly selected a sample of 20 dismissed cases and reviewed the tickets and case files to determine whether the cases had valid documented reasons for dismissal.
- We compared electronic receipt data obtained directly from the JCF and DMV and identified all traffic tickets in our audit period with differences between the amounts reported to the JCF and DMV. We traced the ticket information to Court receipts, case files and bank deposits to determine whether any differences occurred (e.g., report timing or classification issues) and whether the payments were deposited intact.
- We reviewed the bank reconciliation and accountability reports for the audit period for each Justices' fine, fee and bail accounts.

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- We reviewed a report of pending cases as of September 30, 2020 (with violation dates from January 1, 2015 through May 30, 2020). We used our professional judgment to select 40 of the 1,176 pending traffic ticket cases and compared them to the TSLED pending case report to determine whether the records agreed and the Court took appropriate action to enforce the tickets through the scofflaw program. For our sample, we selected 20 pending cases with violation dates from January 1, 2019 through May 30, 2020 and 20 cases with violation dates from 2015 through 2018. We reviewed Court records including case files and history notations of action taken to determine the status of the tickets.
 - The Court transmits back-ups of its electronic records to the Office of Court Administration (OCA) for offsite storage. We compared the totals from the cashbook reports obtained from the clerk to the cashbook report totals received directly from OCA for January 2019 through February 2020 (the period the back-up data was available) to determine whether any changes were made to recorded receipt amounts.
 - We reviewed the bail activity and current bail reports for each Justice as of July 30, 2020 which showed bail transactions and bail held for 12 cases totaling \$3,925 (10 cases totaling \$3,800 for Justice Kozyra and two cases totaling \$125 for Justice Crane). We traced recorded receipts to deposits and disbursements to canceled checks during our audit period and also reviewed case files and other documentation to determine whether Court personnel were making reasonable attempts to return exonerated bail.

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 C: Resources and Services

Regional Office Directory

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

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

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

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

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

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

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

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

Contact

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