



THOMAS P. DiNAPOLI
COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET
ALBANY, NEW YORK 12236

GABRIEL F. DEYO
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

August 15, 2014

Ronald C. Taylor, Town Supervisor
Members of the Town Board
Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice
Town of LeRay
8650 LeRay Street
Evans Mills, NY 13637

Report Number: S9-14-05

Dear Supervisor Taylor, Members of the Town Board, Town Justice Hallett and Town Justice Covell:

The Office of the State Comptroller works 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 Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of five Justice Courts (Courts) across New York State. The objective of our audit was to determine if Court officials properly collected, reported and remitted moneys on behalf of the Court. We included the Town of LeRay (Town) Court in this audit. Within the audit scope, we examined the Court's policies and procedures and reviewed accountability and internal controls for the period January 1, 2012 through February 28, 2014. Following is the report of our audit of the Town Justice Court.

This report of examination letter contains our findings and recommendations specific to the Town. We discussed the findings and recommendations with Town officials and considered their comments, which appear in Appendix A, in preparing this report. Town officials generally agreed with findings and recommendations. We responded to an issue raised in the Town's response letter in Appendix B.

Summary of Findings

The Court has not properly collected, reported and remitted moneys received. We found numerous errors and irregularities. Specifically, cash receipts of \$892 were recorded but never deposited into

Court bank accounts; the Court has not reported and remitted \$7,542 to the Office of the State Comptroller Justice Court Fund (JCF); outstanding bail of \$7,200, over six years old, has not been remitted to the Town as required; and the traffic violations reported to the Department of Motor Vehicles (DMV) are not up-to-date. The Court does not reconcile monthly DMV reports with current Court caseload activity and, therefore, may be losing revenue from traffic violations. Also, the Court has not completed monthly bank reconciliations. In addition, the Court's information technology system (System) allowed changes and deletions to information without accountability. Finally, the System's user transactions are not properly monitored. As a result, the ability of Town and Court officials to effectively monitor and control Court operations is limited, and errors or irregularities could occur and not be detected or corrected.

Background and Methodology

The Town covers 73 square miles and has approximately 21,700 residents. The Town Board (Board), comprising a Supervisor and four Board members, is the governing body responsible for overseeing the Town's financial activities, including the Court's general management and financial operations. The Supervisor serves as the chief executive officer and, along with other administrative staff, is responsible for the Town's day-to-day operations. The Court's 2013 budgeted appropriations were \$90,300. During the audit period, the Court operated with three Justices – George Mead (retired June 2013), John Hallett and Larry Covell (who started July 2013) – and two Court clerks. According to the Court's System, the Court collected 4,639 payments totaling approximately \$443,900 in fines, surcharges and fees from January 1, 2012 through June 30, 2013.

Town Courts are part of New York State's Unified Court System and play a vital role in upholding State and local laws. Town Justices (Justices) are empowered to hear civil and criminal cases and adjudicate misdemeanors, minor violations and traffic infractions. Most cases involve minor violations and traffic infractions. Justices are responsible for imposing and collecting fines, surcharges, bail and civil fees, and for reporting adjudicated cases to the State. On a monthly basis, Court personnel remit the moneys collected to the JCF or to the Town's chief fiscal officer.

To complete our audit objective, we conducted interviews with Town officials and reviewed adopted policies and procedures, accounting records and vehicle traffic tickets. 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 C of this report.

Audit Results

Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting Court-related financial activities. They also must ensure that effective internal controls are in place to properly safeguard cash and other Court resources. Such controls should ensure that financial transactions are processed in a timely manner and properly recorded; that appropriate financial reports are accurate and filed in a timely manner; that applicable laws, rules and regulations are observed; and that the work performed by those involved in the Court's financial operations is monitored and reviewed routinely. The Board shares the Justice's primary responsibility for ensuring that an effective system of internal controls is in place for overseeing

Court operations. If these internal control components are lacking or malfunctioning, accountability over the Court’s financial operations is greatly diminished.

We found that the Court is not operating effectively to allow for proper accounting and reporting of financial activities. The Court did not properly collect, report and remit moneys received. Specifically, the Court did not properly deposit cash receipts and remit moneys to the JCF. The Court also had outstanding bail that should be remitted to the Town, and traffic violations reported to the DMV were not up-to-date. We also found internal control weaknesses with the Court’s System, which raises concern regarding the integrity of the Court’s data.

Collection and Accountability – Prompt and accurate recording of receipts is an essential process needed to properly account for Court moneys. Each receipt should be recorded in the cash receipts section of the cash book or accounting system promptly to ensure accountability. The Justices should also perform a monthly reconciliation of money they hold as Court liabilities to the bank balances. Although Justices are encouraged to make deposits as soon as possible, all moneys received must be deposited intact (in the same form as received – cash or check) within 72 hours of collection, exclusive of Sundays and holidays.

While the Justices issued proper receipts for moneys received, they did not perform monthly reconciliations of Court liabilities to the bank balances or make deposits as required. We reviewed cash receipts¹ and reconciled the bank accounts for the period January 1, 2012 through December 31, 2013. Eight receipts totaling \$892 were properly issued, processed and recorded in the System but were never deposited into the Court’s bank accounts.

Table 1: Cash Shortages as of December 31, 2013

	Justice George Mead	Justice John Hallett	Justice Larry Covell
Cash Shortage	\$772	\$120	\$0

Of the \$892, one receipt was for a \$500 bail payment presided over by Justice Mead. The remaining seven receipts totaled \$392 in fines, fees and surcharge payments collected by Justice Mead and Justice Hallett. Court officials said they were unable to determine why these funds were never deposited or where they were. It is not clear whether this is a simple error or an intentional action to cover up money misappropriated from the Court. Further, we tested 163 receipts deposited intact by the Court and found 26 receipts, or 16 percent, were not deposited within 72 hours of collection. The Court deposits receipts weekly. As a result of these weaknesses, the Court is susceptible to loss, theft or inappropriate use of moneys for which the Justice is responsible.

Reporting and Remitting Funds to the JCF – On a monthly basis, every Town and Village Justice is required by law to report and remit moneys collected (excluding pending bail) to the JCF.²

We compared the monthly reports submitted to the JCF against the computerized cash receipts records for the audit period to determine if all moneys were remitted. We found that 21 of 24 monthly reports were inaccurate because the Court’s cash receipts, primarily online payments, were being entered into the System several months after the receipt date and were not included on

¹ See Appendix C for detailed methodology.
² Town Law, Village Law and the Uniform Justice Court Act

the appropriate monthly report to the JCF. As a result, the Court did not report and remit \$7,542 in receipts to the JCF for the period January 1, 2012 through December 31, 2013. The untimely recording of the online payments, together with the lack of monthly bank reconciliations, also caused the Court's bank account balances to be overstated.

Bail – Exonerated bail should be given back to the person who posted the bail, less any applicable bail fees. The Court should make a good faith effort, in a reasonable period of time, to locate the person who posted cash bail. If unable to locate this person to return the bail, the Court may transfer such moneys to the chief financial officer of the municipality, pending a claim. Cash bail still unclaimed six years after exonerated of the bail becomes the property of the municipality.

We reviewed the Court's bail moneys for the period January 1, 2012 through December 31, 2013. We found that the Court is in possession of \$7,200 in bail money from 21 individuals that is over six years old. The Court clerk sent letters to each individual, but none were located. The Court clerk stated that transferring the funds to the Town was not a priority of the Court in the past and was overlooked. Delaying the transfer of exonerated bail funds to the Town, when the person who posted bail cannot be located, increases the risk of money being lost or stolen, and denies the Town the benefit of the use of the funds.

Traffic Tickets – Justices should periodically update and reconcile DMV reports (pending and disposed/dismissed tickets) with current caseload activity. Local and State police agencies issue Uniform Traffic Tickets (UTT) for vehicle and traffic infractions. The DMV tracks the tickets issued by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. Upon adjudication, when all fines are paid, the Court must send a copy of the ticket to the DMV for it to be removed from the pending-ticket database. Among the reports available to the Court is a list of all pending UTT cases, which the Justice may use to help ensure that tickets are processed by the Court in a timely manner. This report can also identify individuals who either have not appeared in Court to resolve their ticket or have not paid their fine. The Court may enforce these traffic tickets, and payments of fines, by using the DMV's Scofflaw Program.³ The Court has to wait 60 days from either the date of appearance or last payment before sending paperwork to the DMV to suspend the motorist's driving privileges.

We found the Court has not reported unresolved traffic tickets to the DMV in a timely manner. The Court scans the open UTT case files, separates the cases that are 60 days old or older, marks the case files as unresolved in the System and reports this information to the DMV. However, although the Court receives the monthly DMV report identifying outstanding tickets, it does not use that report to identify motorists who potentially have unresolved traffic tickets. Due to this deficiency, we selected 30 unresolved UTT case files and found that it took an average of 91 days to address these cases. The Court has not effectively monitored outstanding traffic tickets in its caseload and reconciled them with DMV records. Court officials attributed the lack of timeliness to a former employee who did not properly report individuals who had unresolved traffic tickets for a 60-day period to the DMV. During our audit fieldwork, Court officials were reporting unresolved traffic tickets to the DMV appropriately. When the Court does not reconcile monthly

³ The DMV Scofflaw Program allows local justice courts to notify the DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the court date) traffic ticket for a 60-day period. When this occurs, the DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then the DMV suspends the individual's license until they address the outstanding ticket.

DMV reports with its current caseload activity, unpaid fines and fees may not be enforced in a timely manner, potentially resulting in lost revenue to the Town.

Information Technology Controls – Financial and case management software should produce complete and accurate records and reports. Once information is entered into the system, its integrity should be maintained through controls that limit access and unauthorized changes to the data. Effective software controls provide a means to determine the identity of users and the transactions processed. Software controls should also prevent users from making retroactive changes to the system to ensure that all transactions reflect the date they were recorded. Further, users should not have system access beyond what they need to complete their job responsibilities. To assure accountability and help troubleshoot data errors, an automated audit log, or trail, can provide management with a report that shows who made modifications to the system and what transactions took place. Routine management review of audit logs is an important measure to monitor user activities.

We found that the Court's System allows files to be changed or deleted without documenting the reason. For example, after a cash receipt record is created with a receipt number, the number can subsequently be changed. In addition, the System does not produce an audit log of activity for the Justice or Board to review for changes to or deletions of cases. As a result, there is no individual accountability for changes to case records, which significantly increases the risk of errors or irregularities in the Court and limits the ability of the Court or Board officials to review Court activity from system-generated reports.

Recommendations

1. The Justices should ensure that all receipts received are deposited intact and in a timely manner.
2. The Justices should ensure that bank reconciliations are being completed for all Court bank accounts when monthly bank statements are received.
3. The Board should ensure that the Justices report and remit all applicable revenues to the JCF.
4. The Justices should transfer all bail money that is over six years old to the Town.
5. The Justices should periodically review and reconcile the DMV pending-ticket log with caseload activity to ensure that tickets are properly reported, as paid or enforced, in a timely manner.
6. The Board and Justices should assess the risk areas in the Court software, such as an inadequate audit trail and insufficient automated controls, develop compensating controls to mitigate these risks (e.g., periodically comparing physical cash receipts to the cash receipts log in the software) and contact the software vendor as necessary to address the weaknesses.

7. The Board should ensure that a system-generated audit trail is routinely reviewed by someone independent of the recordkeeping process for unusual or potentially unauthorized transactions.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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.

Our office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Statewide Audits, at (607) 721-8306.

We thank Town officials and the staff of the LeRay Justice Court for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

June 12, 2014

Gabriel F. Deyo, Deputy Comptroller
New York State Office of the State Comptroller
110 State Street
Albany, NY 12236

Report Number: S9-14-05

Dear Deputy Comptroller Deyo:

On May 12, 2014, the Town of LeRay received a draft audit report, which reflected the findings of your office in examination of the Town of LeRay Justice Court. After reviewing those conclusions, the Town Board has the following response:

We agree, in most part, to the Summary of Findings stated in the draft audit report. We believe that a breakdown in internal controls led to the insufficient monitoring of personnel incapable or unwilling to perform the appropriate tasks needed to maintain and operate the Town Justice Court. However, we do strongly feel that no funds were misappropriated from the Court.

See
Note 1
Page 14

As you are aware, the small size of the Town Justice Court office and the limited staffing make true separation of accounting functions impossible without an increase of staffing levels beyond that which is financially feasible. Therefore, it is essential that well-trained personnel capable of operating and maintaining the very basic accounting functions, as well as internal controls to monitor and to evaluate those individuals' actions, are employed by the Town.

Furthermore, the Town has assessed its personnel and internal controls and has adopted new measures based upon the inadequacies unearthed and recommendations made by your office. Please let the remainder of this audit response serve as our Corrective Audit Plan.

Audit Recommendation:

The Justices should ensure that all receipts received are deposited intact and in a timely manner.

Implementation:

The Town Justice Court receives fine monies in three ways: cash, credit, and online (nCourt).

Cash fines are processed daily at the court's window. A paper receipt is written at the time of each transaction, and the corresponding receipt number is logged into the court's computer



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

system at the end of the transaction. At the end of each day, the cash is counted to ensure the cash receipt log matches the computer's receipt log which should ultimately match the cash on hand. Cash deposits are made twice a week. Once the deposit occurs, the clerk makes an entry into the appropriate bank ledger.

Credit fines are processed daily at the court's window. A paper receipt is written at the time of each transaction, and the corresponding receipt number is logged into the court's computer system at the end of the transaction. At the end of each day, the credit card receipt totals are counted to ensure the cash receipt log matches the computer's receipt log. An entry is made at the end of each day into the appropriate bank ledger. The credit card vendor automatically deposits the funds into the respective judge's account.

Online fines through the [REDACTED] are downloaded at the beginning of each day. They then get entered into the court's computer system and, after, are posted to the appropriate bank ledger.

Implementation Date:
November 2013

Person(s) Responsible for Implementation:
Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice

Audit Recommendation:

The Justices should ensure that bank reconciliations are being completed on all Court bank accounts when monthly statements are received.

Implementation:

The Town Justice Court currently has three bank accounts: Justice Hallett's account; Justice Covell's account; and the Town Bail account.

At the end of each month, the Confidential Court Clerks will reconcile each of the Court's accounts. Their reconciliations will be verified by a town representative independent of the Court.



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

Implementation Date:

July 1, 2014

Person(s) Responsible for Implementation:

Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice
Ronald C. Taylor, Town Supervisor

Audit Recommendation:

The Board should ensure that the Justices report and remit all applicable revenues to the JCF.

Implementation:

To ensure that the appropriate amounts and all applicable revenues are reported and remitted to the JCF, the Town Justice Court will first reconcile the bank ledger to the computer-generated report. Then, if in balance, the Court will reconcile the bank ledger to the bank statement. Finally, if the independent town representative agrees to the reconciliation, the report will be submitted within the first ten days of the following month.

Implementation Date:

July 1, 2014

Person(s) Responsible for Implementation:

Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice
Ronald C. Taylor, Town Supervisor

Audit Recommendation:

The Justices should transfer all bail money that is over six years old to the Town.

Implementation:

The Town Justice Court wrote a check to the Town in the amount of \$7,200 for all outstanding bail over six years old. In addition, it provided the Town with a list identifying the person's name, date of original bail deposit and the deposited amount. The Town will hold onto these funds for an additional six years.



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

In addition, the Court has begun to keep a bail log that includes those same identifying traits and will review the list each month, transferring the monies when needed.

Implementation Date:
January 2014

Person(s) Responsible for Implementation:
Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice

Audit Recommendation:
The Justices should periodically review and reconcile the DMV pending-ticket log with caseload activity to ensure that tickets are properly reported, as paid or enforced, in a timely manner.

Implementation:
To ensure that tickets are properly reported, the Town Justice Court will review and reconcile the DMV pending-ticket log with the caseload activity at the end of each month.

Implementation Date:
July 1, 2014

Person(s) Responsible for Implementation:
Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice

Audit Recommendation:
The Board and Justices should assess the risk areas in the Court software – such as an inadequate audit trail and insufficient automated controls – and develop compensating controls to mitigate these risks (e.g., periodically comparing physical cash receipts to the cash receipt log in the software) and contacting the software vendor as necessary to address the weaknesses.

Implementation:
In the cases of computer software, as with many types of technology, we are limited to the abilities that are set before us. No one package is perfect, and supplemental or supporting programs are being developed every day to try and meet the demands of the user.



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

With the Town Justice Court, it uses a software program provided by the Unified Court System called [REDACTED]. Overall, the program is user-friendly and more than capable of providing the necessary functions to perform the given task; however, it does have its areas of weakness, which include inadequate audit trail monitoring and insufficient automated controls.

As this is a software program used by the Unified Court System, a joint effort initiated by the UCS may be a more appropriate way to move forward in asking for changes to the software, so as these alterations are effective and efficient, benefiting everyone.

The Court, however, will reach out to the vendor to review what updates are available and make recommendations, if any, to the Town Board including those programs that may help fill the current inadequacies.

Implementation Date:

July 1, 2014

Person(s) Responsible for Implementation:

Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice

Audit Recommendation:

The Board should ensure that a system-generated audit trail is routinely reviewed by someone independent of the recordkeeping process for unusual or potentially unauthorized transactions.

Implementation:

Currently, the computer software provided by [REDACTED] does not create an audit trail that will allow an administrator to review usage and action. After making contact with the vendor, a supplemental update is available that will allow for the recommendation to occur. The Town Board will request information on the upgrade and will proceed as it best deems fit.

Implementation Date:

July 1, 2014

Person(s) Responsible for Implementation:

Honorable John W. Hallett, Town Justice
Honorable Larry G. Covell, Town Justice
Ronald C. Taylor, Town Supervisor



TOWN OF LERAY
MUNICIPAL OFFICES
8650 LeRay St
Evans Mills, NY 13637-3191
(315) 629-4052
Fax (315) 629-4393

We thank the Office of the State Comptroller, its officials and staff, for your cooperation and recommendations to our Town Justice Court. If you have any questions or concerns, please feel free to contact me at (315) 629-4052.

Sincerely,

Ronald C. Taylor, Supervisor

APPENDIX B

OSC COMMENT ON THE TOWN'S RESPONSE

Note 1

During the audit period, the Court recorded \$892 more in cash receipts in the Court's software system than was deposited in the bank account. Town officials could not identify the location of these funds or provide a reason for the funds not being deposited.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if Justice Court officials properly collected, reported and remitted moneys on the Court's behalf. As part of our audit, we performed the following procedures:

- We interviewed the Justices and Town officials to obtain general background information on the Court. We also interviewed the Justices and Court clerks to gain an understanding of the Court's processes as they relate to the audit objective.
- We reviewed 4,500 fine, fee, surcharge and bail receipts. We compared the receipt data to cash receipt journals, deposit slips, tickets and bank statements as well as transactions in the Court's financial system. We assessed the controls in place over the Court's financial system.
- We reviewed all monthly reports sent to the JCF and information reported to the DMV. We obtained ticket information from the DMV and the JCF and analyzed the data for tickets included in the DMV file, but not in the JCF file. We also identified tickets with different fines or surcharges and investigated the reasons for the differences.
- We contacted motorists with dismissed tickets, for which there was no supporting documentation, to determine that the tickets were in fact dismissed with no fine or surcharge due. We reviewed the information from the Court's computer program used to report to the JCF and the DMV. We reviewed 30 unresolved traffic tickets to determine if the Court is reporting motorists who have a pending ticket that is more than 60 days old to the DMV in a timely manner.

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