



Town of Prattsville

Justice Court

Report of Examination

Period Covered:

January 1, 2011 — June 29, 2012

2012M-243



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	3
JUSTICE COURT OPERATIONS	5
Bank Reconciliation and Accountability Analysis	5
Cash Receipts	8
Annual Audit	10
Segregation of Duties	11
Recommendations	12
APPENDIX A Response From Local Officials	14
APPENDIX B Audit Methodology and Standards	16
APPENDIX C How to Obtain Additional Copies of the Report	18
APPENDIX D Local Regional Office Listing	19

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2013

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Prattsville Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of Prattsville (Town) is located in Greene County, and has a population of approximately 700. During our audit period, the Town had two elected Justices, Robert Blain and Donald Olson, who shared a court clerk. The Justices have jurisdiction over vehicle and traffic, criminal, and civil proceedings brought before the Justice Court (Court). The Justices' principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys from fines, bail, and surcharges. The Justices are required to report the Court's financial activities monthly to the Office of the State Comptroller's (OSC) Justice Court Fund (JCF). For the audit period, the Justices collected approximately \$9,500 in fines, fees and surcharges.

Objective

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

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

Scope and Methodology

We examined the Court's financial operations for the period January 1, 2011 to June 29, 2012, and performed a cash count and accountability analysis as of July 18, 2012. Press-numbered duplicate cash receipts book used for the period January 2011 through August 2011 and all original files for cases adjudicated between January and August 2011 were not available for review because they were damaged in the floodwaters resulting from Hurricane Irene.

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 are included in Appendix B of this report.

Comments of Local Officials and Corrective Action

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

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our findings and recommendations and indicated they plan to initiate corrective action.

Justice Court Operations

Town Justices are responsible for adjudicating all cases brought before the Court, and maintaining sufficient records to render a full accounting of all moneys received, all disbursements made, and the balance of moneys remaining. The Justices also are responsible for establishing internal controls to ensure that all fines and fees received are properly recorded, remitted, and protected against the threat of being lost or stolen. The Justices must ensure that internal controls are working effectively, particularly when there is limited segregation of duties. The Board is responsible for overseeing Court operations and monitoring Court personnel to help ensure that transactions are properly recorded and reported, and moneys are properly accounted for. This is accomplished, in part, by performing an annual audit of the Justices' records, either by the Board itself, or by engaging the services of an independent public accountant.

Internal controls over the Court's operations were not appropriately designed or operating effectively to allow for proper accounting and reporting of financial activities. Justices Blain and Olson did not perform bank reconciliations properly or at all, prepare monthly accountabilities, deposit cash receipts in a timely manner, adequately segregate the court clerk's duties and provide proper oversight of the court clerk. Further, the Board's oversight of the Court was inadequate. The court clerk improperly held partial payments, did not issue press-numbered receipts for all payments collected by the Court, and did not enter all moneys received into the Court's accounting system. Because of these weaknesses, Justice Blain had unidentified funds totaling \$1,848 in his bank account that could not be traced to any open or closed case files, fines or fees, or bail moneys; and Justice Olson had a cash shortage totaling \$852 which had not been detected or corrected.

Bank Reconciliation and Accountability Analysis

A Justice is personally responsible for moneys received by the Court and may be liable for money paid to the Court that was lost or stolen. Therefore, it is essential that each Justice maintain a current, accurate, and complete list of all moneys held. Justices are required to account for cash receipts and disbursements from month to month by reconciling the bank accounts.¹ They also should compare cash on hand and on deposit in the bank to detailed lists of Court liabilities (outstanding bail and amounts due to the State Comptroller's Justice Court Fund (JCF) and others). This comparison is referred to as an accountability

¹ Each Justice's account should be zeroed out at the end of the month, and, if not, the balance should reconcile to any outstanding checks, and fines and fees received after the end of the month.

analysis. Performing bank reconciliations and accountability analyses are critical procedures to ascertain the status of moneys held by the Court. The Court's liabilities, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash. The documentation of a bank reconciliation and analysis of liabilities helps to ensure that the Court is appropriately addressing its custodial function.

Neither Justice Blain nor the court clerk performed bank reconciliations, and often did not even review the monthly bank statements. Consequently, returned items were not always promptly addressed. For example, neither Justice Blain nor the court clerk were aware that a money order deposited into Justice Blain's bank account in November 2011 had been returned unpaid. Justice Olson told us that he reconciled his bank account but did not document his reconciliations. Our review found that his reconciliations were not performed properly. For example, Justice Olson was unaware that a check that he had issued in August 2011 was still outstanding as of June 30, 2012.

Neither the Justices nor the court clerk performed accountability analyses. We performed a cash count of undeposited funds with each Justice on July 18, 2012, and prepared an accountability analysis as of that date. We determined that Justice Blain had unidentified funds totaling \$1,848 in his bank account that could not be traced to any open or closed case files, fines or fees, or bail moneys.

Justice Blain and the court clerk stated that pending bail was not a component of the surplus moneys. Rather, based on the available records, the surplus may be due, in part, to amounts collected by Justice Blain's predecessor; from moneys collected for partial payments that the present court clerk was not aware of; unidentified small claims or restitution payments collected but not remitted; fines, fees and/or surcharges collected by the Court but not reported and remitted; unreturned overpayment of fines and fees; and outstanding checks. Justice Blain told us that he did not recall the amount transferred to him by his predecessor and he had not received or requested an accountability when he took office in 1988.

Justice Olson had a cash shortage totaling \$852. Neither Justice Olson nor the court clerk could provide an explanation for the shortage. Justice Olson stated that he deposits all moneys as received by his Court. The court clerk stated that she places any moneys she collects for Justice Olson in a sealed envelope and either hands the envelope to the Justice or places it in a pre-designated area to be retrieved by him. The shortage may be attributed to undeposited receipts from prior years, improper amounts reported to the JCF, or payments to the Town Supervisor in excess of reported amounts to the JCF.

The identified variances could have been avoided by periodic reconciliation of bank statements, preparation of monthly accountabilities, and a more thorough review of the monthly cashbook and JCF reports.

Partial Payments — The Office of the State Comptroller’s *Handbook for Town and Village Justices and Court Clerks* (Handbook) guidelines require fines, fees and surcharges to be reported to the JCF in the month collected. The Handbook recognizes that, at times, defendants need to pay the Court in installment payments, and provides a specific procedure for reporting partial and final payments. The Handbook further recommends maintaining a separate listing of partial payments that is available for review and update by Court personnel. Court-ordered restitution should be collected by the county-designated restitution collection agency, which is generally, but not always, the county probation department. Small claims judgments should be paid directly to plaintiffs.²

The Justices held partial payments collected by the Court for fines, fees, surcharges, and Court-ordered judgments without reporting or disbursing them until they received the final payment. The Justices did not maintain payment information on a separate listing of partial payments. Rather, they stored this information in manila file folders in the court clerk’s desk. Consequently, the Justices did not adequately monitor these case files or follow up on them in a timely manner. We requested the court clerk to prepare a listing of partial payments held for each Justice, and obtained and reviewed the associated manila file folders to verify amounts held. At the time of our review, Court records identified 12 case files with partial payments totaling \$3,095: seven case files for Justice Blain’s court totaling \$2,205, and five case files for Justice Olson’s court totaling \$890.

Justice Blain stated that he did not report partial payments for fines, fees and surcharges in the month collected, and favored the “cushion” they provided for bounced checks. These identified partial payment case files dated back to 1995 – in one instance, the last recorded collection was December, 1996; for two other case files, the last recorded collections were received in June and November, 1999. The most recent partial payment activity for collection of fines, fees and surcharges was May, 2011. The Justices instructed the court clerk to report payments for fines, fees and surcharges when they are paid in full. Furthermore, two of the 12 case files reviewed were for Court-ordered restitution and the award of a small claims judgment. The

² In limited circumstances, in order to obtain a satisfaction of judgment, if the plaintiff cannot be located, the Court may accept a payment to satisfy a court-ordered judgment.

Court should not have collected these payments. Rather, the Justices should have required that the defendants pay the restitution agency and plaintiff directly. Justice Blain said he believed that the defendant was more likely to pay the small claims judgment if he was required to pay the Court. Justice Blain told us that, when the judgment is fully collected, he will remit the collected amounts to the plaintiff.

Because Court personnel did not periodically review and monitor these case files, and the likelihood of collection diminishes over time, the Court may be unable to collect remaining balances owed, estimated at \$1,980. When we brought the case files that we reviewed to the Justices' attention, they stated that they were not aware of their aged status. Because the Court did not follow Handbook procedures in reporting and remitting partial payments, the Town was not afforded the benefit of the related cash flow from timely transmittal of these revenues to the Town Supervisor.

Cash Receipts

Prompt and accurate recording of receipts is an essential process needed to properly account for and safeguard Court moneys. Justices are required to issue acceptable receipts to acknowledge collection of all moneys paid to the Court. These receipts should be pre-numbered and in at least duplicate form. Receipts should be issued in numerical sequence and a copy should be retained as evidence of collection. Receipts produced from computerized accounting software programs also should be issued in consecutive numerical sequence and a hard copy should be retained as evidence of collection. Each receipt should document the date, person paying, amount paid, form of payment (currency, check, or money order), purpose of the payment (preferably referencing the case or ticket number), and be signed by the person issuing it to establish accountability. Receipts should be recorded in the Justice's accounting system promptly upon issuance to acknowledge collection.

Justices are required to deposit intact (in the same amount and form – currency, check, or money order – as received) all moneys collected by the Court into official bank accounts as soon as possible, but no later than 72 hours from the date of receipt, excluding Sundays and holidays. Deposited amounts should always agree with amounts received and recorded. Deposit slips should allow for accurate identification of the type of collections (e.g., bail, filing fee, fine, partial payment), be prepared in duplicate form, contain sufficient detail to identify the transaction (e.g., identification of the maker of the check or money order), and a copy validated by the bank should be retained as evidence of the deposit.

Timeliness of Deposits — Although both Justices were aware moneys collected by the Court were required to be deposited within 72 hours

from the date of receipt, neither Justice provided sufficient oversight of the court clerk to ensure compliance with the deposit requirement. Deposits made by Justice Olson and by the court clerk for Justice Blain were not always made in a timely manner. In some instances, deposits were held for extended periods of time, placing these moneys at risk of theft or loss. We examined all deposits made to the Justices' bank accounts during the audit period and identified the following discrepancies.

During the audit period, 32 deposits (comprising 67 individual payments and one redeposited item) totaling \$8,220 were made to Justice Blain's account.

- Forty-four of the 68 receipts (65 percent) totaling \$4,320 were not deposited in a timely manner. Thirty-two of these 44 receipts, totaling \$3,360, were collected in prior years, dating as far back as 2006.
- Six money orders totaling \$595 issued in 2008 and deposited in 2011 and 2012 were charged back as stale or expired due to the delay in depositing to Justice Blain's account; five of these money orders totaling \$460 remained unpaid as of the end of field work.
- Three checks dated in 2008, totaling \$75, were not deposited at all. We found these checks in a zippered bag in a file cabinet. Collection of these moneys was reported to the JCF in 2008.

During the audit period, 22 deposits (comprising 37 individual payments) totaling \$6,651 were made to Justice Olson's account.

- Fourteen of the 37 receipts (38 percent) totaling \$1,895 were not deposited in a timely manner. Receipts were deposited between one and 26 days late.
- Two cash payments totaling \$385 were collected, as evidenced by press-numbered receipt forms, but were not deposited. The receipts were issued in February 2012 (\$300) and June 2012 (\$85). Collection of these moneys was reported to the JCF in 2012.
- A check for \$20 dated in 2008 was not deposited at all. We found this check in a zippered bag in a file cabinet. Collection of this money was reported to the JCF in 2008.

When deposits are not made in a timely manner, the risk is increased that Court funds could be lost or misappropriated.

Press-Numbered Receipts — The court clerk used one press-numbered receipt book for both Justices; however, the court clerk did not issue receipts for all moneys collected. Unless requested, receipts were not issued for payments made by personal or business checks. The press-numbered receipt book used during the period January 1 to August 28, 2011 was not available because it was destroyed in floodwaters; the court clerk began using a new press-numbered receipt book on November 15, 2011. The court clerk told us that she issued computerized receipts until she replaced her press-numbered receipt book.

We reviewed 26 collections totaling \$3,605 made between October 1, 2011 and June 29, 2012 and found that there was no record of receipts issued for seven of 26 payments received totaling \$950. Further, computer-generated receipts that the clerk issued were not numbered or signed, and did not indicate the form of payment. When receipts are not properly recorded, the risk is increased that errors or irregularities could occur without detection or correction.

Deposit Slips — Neither Justice used a duplicate deposit slip nor maintained photocopies of the prepared deposit slips. Furthermore, neither Justices' deposit slips contained sufficient detail to identify the composition of the deposits.

Justice Olson prepares his own deposit slips from moneys turned over to him by the court clerk. Justice Olson maintains his checkbook register and makes his own deposits, but does not retain the validated deposit slips received from the bank at the time of deposit. For Justice Blain, the court clerk prepares the deposit slips, maintains the checkbook register, and makes bank deposits, but does not always retain the validated deposit slips.

Sufficiently detailed, duplicate deposit records are a key internal control in regards to accounting records. When deposit records are lacking or compromised, Court money could be susceptible to misappropriation or loss.

Annual Audit

Every Town Justice is required to present his/her records and docket at least once a year to the Town to be examined by the Board, or by an independent public accountant. In conducting its reviews, it is important for the Board to determine whether the Town has effective procedures in place to ensure that the Court's financial transactions are properly recorded and reported, and that all moneys are accounted for properly. Board members should expect to find records (either manual or computerized) being maintained by Court personnel who are required to receive and disburse moneys. Such records should include, but not be limited to, cash receipt records and supporting

documents, cash disbursement records and supporting documents, bank statements and supporting documents, monthly reconciliations of cash book balances and bank balances, and reports to applicable government agencies.

Although the January 9, 2012 Board minutes indicate that a Court audit was done, the Board did not perform an adequate audit of the Court's 2011 activity. In fact, Justice Blain stated that the Justices did not present their shared docket to the Board for review because there was so little Court activity after the flood. Town officials were unable to provide us any other evidence to indicate that an adequate audit of the Justices' 2011 records was performed.

In practice, each year the Justices provide only the shared docket to the Board for review; they do not present any other records of the Court's financial transactions to the Board. According to the Town Supervisor, although the Board had signed the Justices' docket, no further review was performed.

Without an effective annual audit of the Court's records, Town officials do not have assurance that all moneys received and disbursed by the Court are properly accounted for. Had the Board conducted the required annual audit, the deficiencies identified during our audit may have been identified sooner and prompt corrective action could have been taken.

Segregation of Duties

An important component of any internal control system is proper segregation of duties to ensure that no one person controls all phases of a transaction. Specifically, it is important that one person does not have the ability to control the entire cash collection and recordkeeping processes. Concentrating key duties (i.e., recordkeeping and cash custody) with one individual with little or no oversight weakens internal controls. The Board and Justices are responsible for establishing controls so that no one single individual handles all or most aspects of the Court's accounting. When it is not practical to segregate Court duties, compensating controls can be implemented, through timely and effective oversight by the Justices, and ultimately, the Board. These controls are essential to help ensure that transactions are properly recorded and reported and that all moneys are accounted for.

The Justices did not establish adequate procedures to monitor the court clerk's duties or review her work. The court clerk performs several key aspects of the Court's cash accounting function with limited oversight. Her duties include accepting payments, opening mail, issuing receipts, recording cash receipts, making deposits, preparing monthly reports to the JCF and maintaining all other Court

records and files. When the same person is responsible for receiving, recording and depositing cash, and for preparing monthly reports, there is an increased risk that cash could be misappropriated and records adjusted to conceal the misappropriation. We also found that the Board did not provide significant oversight of the Justices. When duties are not adequately segregated and compensating controls, such as supervisory reviews, are insufficient, there is an increased risk that loss or theft could occur and not be detected.

Recommendations

1. Each Justice should prepare a proper bank reconciliation and accountability analysis on a monthly basis. The Justices should compare all cash on hand, and on deposit in the bank, to a listing of Court liabilities. Differences should be promptly investigated and corrective action taken as needed.
2. The Justices, with the assistance of the court clerk, should review and analyze all open case files and bail records to determine if there are additional payments held that would affect the amount of calculated cash surplus and shortage amounts. Justice Blain should remit all unidentified moneys to the Town Supervisor, or the JCF, as appropriate.
3. The Justices should ensure that the value of missing payments and returned or undeposited checks is restored to the appropriate accounts.
4. The Justices should report to the JCF partial payments of fines, fees and surcharges currently held by the Court, and report to the JCF future collections in the month received. Court-ordered restitution payments should be referred to the county-designated restitution collection agency. The Justices should turn over to the plaintiff amounts already collected for small claims judgments, and should not collect future payments.
5. The Justices should ensure that the collection of all moneys is promptly receipted, entered into the Court's records, and reported. The Justices should report moneys currently held by the Court for all fines, fees and surcharges that have been paid in full.
6. The Justices should ensure that deposits of all moneys received are made intact within 72 hours from the date of receipt, excluding Sundays and holidays.
7. The Board should conduct a proper annual audit of the Justice Court's records, as required, and monitor the Court's financial activities on an ongoing basis.

8. The Justices and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties or institute compensating controls. Compensating controls may include a monthly review of Court records by the Justices and a periodic review of the Justices' accountability reconciliation by the Board.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF PRATTSVILLE
OFFICE OF THE SUPERVISOR'S
P.O. BOX 418
PRATTSVILLE, NY 12468

February 11, 2013

[REDACTED]
NYS Office of the State Comptroller
Newburgh Regional Office
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

**RE: TOWN OF PRATTSVILLE
JUSTICE COURT DRAFT AUDIT REPORT**

Dear [REDACTED]

This letter will serve as the written response of the Town of Prattsville to the draft Audit Report for the Town Court and Justice Robert Blain and Donald Olsen.

The Town and our Justices have thoroughly reviewed the finding and recommendations contained in the Report. Additionally, representatives of the Town met with representatives of the Office of the State Comptroller (OSC) and discussed the Report in greater detail.

The Town is appreciative of the information and suggested recommendations you have provided in rectifying the areas of concern noted in the audit. The Town will provide a detailed Corrective Action Plan (CAP) in cooperation with our Justices which will incorporate the OSC recommendation of the Report and the guidelines outlined in the *Handbook for Town and Village Justices and Court Clerks*.

In addition, the Town will work with our Justices to ensure they are provided with the necessary training and resources to comply with the recommendations and have hired independent CPAs, Pattison, Koskey, Howe & Bucci to assist.

It is anticipated that a completed CAP can be reviewed and approved by the Town Council at its regular meeting on March 11, 2013. If additional information is needed prior to our submission of a CAP, please do not hesitate to contact my office.

Sincerely, _____

Kory P. O'Hara
Town Supervisor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine if internal controls over Court operations were appropriately designed and operating effectively to allow for the proper accounting and reporting of the Court's financial activity. To achieve our objective:

- We interviewed Town officials and employees to obtain an understanding of operations relating to the Justice Court.
- We gained an understanding of the policies and procedures relative to our audit objective.
- We reviewed both Justices' available banking and disbursement records; finding the records incomplete, we requested and obtained information for both Justices' accounts from the bank. Records received and reviewed included bank statements, canceled checks, and deposited items (e.g., checks, money orders) for the period January 2011 through June 2012. Using this information, we assessed whether the Justices had properly accounted for receipts, and deposited, remitted and reported moneys in a timely and accurate manner.
- We compared amounts recorded in both of the Justices' financial records to amounts included in the Court's monthly reports to the JCF. We used cashbook reports and JCF reports from prior years to verify that the receipts collected in prior years but deposited during our audit period were reported to the JCF.
- We obtained copies of deposited items that were charged back.
- We reviewed the press-numbered receipt book to determine if receipts were issued for all collections.
- We examined case files disposed from January 2012 to June 2012, and dockets and available 2011 disposed case files of both Justices and compared the information in the case files to information reported to the JCF to assess the accuracy and completeness of the records.
- We requested and obtained a listing of open case files where partial payments had been collected and held. We reviewed the case files to determine the amount of partial payments held.
- We reviewed bank statements and copies of canceled checks and compared disbursement payments made with amounts reported to the JCF.
- We used the checkbook registers in conjunction with bank statements and deposit and disbursement detail (canceled checks and returned items) obtained from the bank to reconstruct account activity during the audit period.
- We compared the Court's electronic records to data we obtained from the New York State Department of Motor Vehicles and the JCF.

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.

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