



Town of Seneca Falls

Justice Court

Report of Examination

Period Covered:

January 1, 2012 — March 4, 2013

2013M-89



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 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 Town of Seneca Falls, entitled Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the 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 Seneca Falls (Town) is located in Seneca County, has a population of approximately 9,000 and is the home of the National Women's Hall of Fame. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board members. The Supervisor is the chief executive and chief fiscal officer of the Town. The Board has the overall responsibility for overseeing the Town's financial activities, including the financial activity of the Justice Court (Court).

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Town Justices' (Justice) principle duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bails, surcharges, civil fees and restitutions. Justices are personally responsible for all moneys received and disbursed by the Court and for safeguarding Court resources by ensuring that a good system of internal controls is in place; appropriate financial reports are accurate and filed in a timely manner; applicable laws, rules and regulations are observed; and work performed by those involved in Court financial operations is monitored and reviewed routinely.

In 1982, the Board adopted a resolution to eliminate one of the Justice positions and have only one full-time Justice. In 1998, the Village of Seneca Falls¹ Court was eliminated and all cases since this time have been held in the Town's Court. Justice Joyce Mahoney was the elected Justice during our audit period. The Town also employed three clerks² to assist with Court operations. During 2012, the Court collected \$324,790 in fines and surcharges. The Court is ranked the 211th municipal court in New York State regarding amount of revenues collected and is the largest municipal court collector of revenues in Seneca County.³

Objective

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

- Did the Justices and the Board provide adequate oversight to ensure the accurate and timely deposit, recording and accounting of the Court's moneys?

¹ The Village of Seneca Falls was dissolved as of December 31, 2011.

² The Town employs one full-time and two part-time clerks.

³ There are a total of 1,236 courts within the state and 11 municipal courts within Seneca County, as reported on the 2012 Justice Court Fund Ranking Report.

**Scope and
Methodology**

We examined the Court’s financial operations for the period January 1, 2012 to March 4, 2013.⁴

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 C of this report.

**Comments of
Local Officials and
Corrective Action**

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 planned to initiate, or have already initiated, corrective action. Appendix B includes our comment on an issue Town officials raised in their response.

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 Clerk’s office.

⁴ We reviewed Court records and reports through January 31, 2013, as information for February 2013 was not available while examiners were on site.

Justice Court

Justices are responsible for adjudicating cases brought before them and accounting for and reporting Court-related financial activities. The Justices must maintain complete and accurate accounting records and safeguard all moneys collected. Justices are also responsible for reconciling Court collections to corresponding liabilities and reporting Court transactions to the Office of the State Comptroller's Justice Court Fund (JCF) in a timely manner. Routine reconciliation of bank accounts enables the Court to verify the accuracy of its financial records. In addition, the Justices are responsible for providing an annual accounting to the Board. The Board is responsible for annually auditing the books and records of the Court or hiring a certified public accountant (CPA) for that purpose.

The Justice was absent for the majority of our audit period; during this time, the Court operated with three temporarily assigned Justices. We found that important recordkeeping functions were not performed to ensure accountability over the Court's records. Specifically, the Justice and assigned Justices did not review bank statements or reconciliations, and did not review system activity to detect and correct errors. We also found that assigned Justices did not maintain separate bank accounts to track incoming Court moneys, and the Justice and assigned Justices did not personally submit their monthly reports to JCF or ensure that the monthly reports were submitted timely to OSC. In addition, the Board does not ensure that a timely annual audit of the Court's books and records is performed. As a result, the Justice and Town officials have limited assurance that all moneys collected were properly recorded and accounted for, which increases the risk that Court funds could be misappropriated without detection or correction.

Assigned Justices

If a Justice is unable to preside over the Court for a period of time, the Administrative Judge of the Judicial District in which the Court is located can assign a Justice to preside over the Court for a specified period of time. Due to the Justice being unable to preside over the Court for the majority of our audit period, the Administrative Judge for the Seventh Judicial District assigned three Justices to serve for different periods of time.⁵

To establish individual accountability, each Justice, including an assigned Justice, is required to maintain an official bank account in his/her name as judicial officer in a bank or trust company authorized

⁵ Justice Brian Laird, Justice Dean Mattoon, and Justice Maryclaire Donovan Frank

to do business in the State of New York. Justices can opt to maintain separate bank accounts for bail and fines. In addition, Justices are required to notify the Office of Court Administration (OCA) with specific bank account information, which includes when an account is opened or closed. Fines, fees, bails and any other moneys collected should be deposited and reported by the Justice who heard the case.

None of the three assigned Justices that presided over the Court in 2012 or the beginning of 2013 opened their own bank accounts; instead, all moneys collected were deposited into Justice Mahoney's account. Additionally, all monthly activity was reported under Justice Mahoney rather than the assigned Justice who heard the case. The clerks stated that it would have been too difficult to open accounts for each Justice and have all of their information set-up in the Court's system when the assigned Justices frequently changed and only presided over the Court for a limited time.⁶ However, the OCA notified the Court prior to our audit that Justices were required to have their own separate bank accounts and activity should be reported under the presiding Justice. During our audit fieldwork, the current assigned Justice⁷ did open his own bank account and was set up in the Court's system so that moneys would be deposited, recorded and reported appropriately.

When Justices (including assigned Justices) do not maintain separate bank accounts or report monthly activity appropriately, the risk of errors or misappropriation of Court assets increases because it becomes difficult to trace cash receipts, deposits, software entries, and general recordkeeping to the appropriate Justice. In addition, incorrectly reporting monthly activity under another's name may have certain legal ramifications.⁸

Justice Oversight

Justices are personally accountable for all activities that occur in their Court. The Justices must ensure that an effective system of internal controls is in place to provide reasonable assurance that cash and other resources are properly safeguarded, and that financial transactions are processed in a timely manner and recorded properly. When a Court employs clerks, it is essential that Justices provide adequate oversight over clerk functions and Court operations, including routinely reviewing Court records, such as bank reconciliations and accountability analyses and reviewing the Court database management system activity.

⁶ Mostly for one or two months at a time

⁷ Justice Mattoon's most recent assignment was for the term of February 1, 2013 to March 31, 2013.

⁸ E.g., if knowingly offering a false instrument for filing

Accountability and Bank Reconciliations – To establish controls over cash, it is essential that Justices or clerks perform routine accountability analyses. This is done by comparing cash on hand and on deposit in the bank to detailed listings of outstanding bail and amounts due to the JCF. Justices also should use audit logs (also known as audit trails) as a means of determining, on a constant basis, who is accessing the system and what transactions are being processed. It is also important for Court personnel to perform monthly bank reconciliations to check for and correct errors or identify unauthorized withdrawals.

The Court’s current accountability analyses and bank reconciliations need improvement. A clerk completes bank reconciliations monthly, but does not compare outstanding bail with the available remaining account balance⁹ or compare bank account activity to the Court’s books and records. Further, the Justices did not review bank statements or bank reconciliations and did not review system activity through the generation and review of audit logs. In addition, the system the Court uses for recording transactions permits files to be changed or deleted without requiring documentation of the reason, which increases the risk that Court funds could be misappropriated without detection.

In January 2012, the Justice completed an accountability analysis that was inaccurate because the bail amount listed in the analysis did not correspond with the bail activity report for the month.¹⁰

We completed bank reconciliations and accountability analyses for January 2012 through January 2013 and found that all reconciliations for this period resulted in a negative unreconciled balance. As of the end of January 2013, there was an unreconciled negative balance of \$368 in Justice Mahoney's bank account.¹¹

Without the proper and periodic reconciliation of Court cash assets and known liabilities, or a review of system activity, the Justices cannot identify and resolve the ongoing discrepancies, and there is an increased risk of errors and irregularities occurring and going undetected.

Monthly Reporting – Justices are required to prepare and electronically file a monthly report with the JCF by the 10th day of each month. This report must include all Court activities for the previous month and should include all closed cases and those cases where the defendants

⁹ The Justice uses one bank account for fines and bail.

¹⁰ Based on the bail activity report, there was not sufficient cash in the bank account to cover outstanding bail.

¹¹ An additional negative \$138 was attributed to bank service and check re-order fees that should not have been automatically deducted from the Justice’s account.

are paying fines on an installment basis. Justices must remit all fine and fee collections to the Town’s chief fiscal officer.

The Justices did not personally file monthly reports with the JCF. Instead, a clerk filed monthly reports on behalf of all Justices. The Justices granted the clerk permission to file the monthly reports and gave the clerk access to their online filing account information, including username and password.¹² Therefore, the electronic certification filed with the monthly report was not a true representation of the Justices’ verification and there is no guarantee that the Justices are providing the proper oversight of the report.

Additionally, the submitted reports were not filed in a timely manner. In 2012, 10 out of 12 reports for Justice Mahoney were filed between two and 26 days late, and were filed an average of nine days after the filing deadline. Because all Court activity was improperly reported under Justice Mahoney, each of the assigned Justices filed “no activity” reports; however, the monthly reports for all assigned Justices were also filed late.¹³

The Justices’ failure to personally file reports and submit fines and fees collected in a timely manner decreases their accountability and oversight over Court operations, delays the corresponding allocation and payment of Court revenues to the appropriate parties, and increases the risk of recordkeeping and reporting errors.

Board Oversight

Town Law and the Uniform Justice Court Act require Justices to present their records and dockets to the Board for audit at least once a year.¹⁴ The Board is responsible for annually auditing the books and records of the Court or contracting with a CPA for that purpose. An annual audit helps Town officials ensure that the Justice is maintaining accurate and proper accounting records and properly accounting for and disbursing the Court’s moneys. After the audit is complete, it should be entered in the minutes of the Board’s proceedings and documentation should be filed detailing the records reviewed and results of the audit. The Board also has the responsibility to oversee other Court functions and ensure compliance with relevant laws and regulations, including timely monthly reporting.

¹² The clerk filed monthly reports for Justice Mahoney, along with “no activity” reports for the assigned Justices, who also provided their account information so these reports could be filed.

¹³ Justice Laird filed one report late and JCF had not received three other reports for this Justice as of February 28, 2013. Justice Mattoon filed four of four reports late, and Justice Frank’s single report was filed late.

¹⁴ An annual audit of the previous year’s Justice Court records should be completed by January 20th of each year.

The Board did not properly oversee Court activities as required by Town Law. In recent years,¹⁵ the Town received correspondence from OCA notifying it of the requirement to annually audit the Court's books and records and certify the accuracy of these records with OCA.¹⁶ Therefore, the Town engaged a CPA to perform annual audits of the Court. We found, however, that the most recent audit completed was in 2010; this audit was of the Court's 2008 records.

Although the Town contracts for a CPA audit of the Court's records, these audits have not been completed timely for 2009 and 2010, and the Court's books and records have not been audited for 2011 and 2012. Town officials informed us that an audit of the Court's records was performed in 2012 for 2009 and 2010, but the Town had not received these reports as of the end of our fieldwork. The records were not audited in a timely manner partly because Town officials delayed submitting the records to the CPA and partly because Town officials did not follow up with the CPA to ensure that the CPA performed the audit in a timely manner.

In addition, certifications and copies of completed audit reports have not been provided to OCA. The Board also did not properly oversee the Court's regular functions and duties, including ensuring monthly reports were filed timely. The Supervisor receives written notice when reports are delinquent 90 days or more to encourage his involvement in the oversight of Court reporting. There were two reports during 2012¹⁷ that were delinquent at least 90 days for which the Supervisor received notification. However, despite these notifications, delinquent reports continued to be an unresolved issue.

Without an effective and timely audit of the Court's records, including available cash, bail, and monthly accountabilities, the Board cannot provide assurance that all moneys are properly accounted for. Also, had the Board properly conducted or contracted for an annual audit and provided regular oversight of the Court, deficiencies identified during our audit may have been identified sooner and prompt corrective action could have been taken.

Recommendations

1. The Justices (including temporarily assigned Justices) should open their own bank accounts for deposits of Court moneys.

¹⁵ Town officials are unsure of the exact date and year of when this correspondence was first received; they believe it was in 2010, the year that the first CPA audit was completed.

¹⁶ A certification letter from the Board and copy of the Board's audit or independent audit report should be provided to OCA.

¹⁷ Both reports were for assigned Justices presiding over the Court.

2. The Justices should personally file their monthly reports and include all Court activity for cases they personally presided over.
3. The Justices should report and remit all fines, fees and surcharges to OSC in a timely manner.
4. The Justices should ensure bank reconciliations are performed monthly, adjusted bank balances are compared to balances in the accounting records, and any differences between the bank balances and accounting records are resolved. After reconciling the bank balance, Justices should ensure the cash balance reconciles with liabilities to OSC and other pending liabilities, such as bail.
5. The Justices should review reconciliations and analyses of Court liabilities performed by the Court clerks. Justices should ensure that any differences are investigated and, if necessary, take corrective action.
6. The Justices should investigate the cause of the unidentified negative balance and take the necessary corrective action.
7. The Justices should review an audit log generated by the Court's database management system, or a manual log maintained by the Justices and clerks, that documents the reason for all changes and/or deletions made within the system.
8. The Board should perform, or cause to be performed, a timely annual audit of the Justices' books and document evidence indicating the audit steps performed, records reviewed, and the results of the audit in the Board minutes.
9. The Board should remit the appropriate certifications to OCA when annual audits are completed.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

In their response, Town officials discussed specific medical issues that the Justice had. We redacted these issues to protect the Justice's privacy.

TOWN OF SENECA FALLS

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June 19, 2013

Office of the State Comptroller
Attn: Mr. Edward V. Grant, Jr.
Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614

Re: Town of Seneca Falls Justice Court
Report Number: 2013M-089

Dear [REDACTED]

Please accept the following as the response to the above noted report from the Town of Seneca Falls.

The report notes that the Town of Seneca Falls has one Justice position and that the Justice was absent for the majority of the audit period. During this time, the elected Justice for the Town had a number of medical issues. [REDACTED]

[REDACTED] This was a very difficult time for the Court staff and the Town administration generally. The Court clerks did the best that could, given the circumstances, and contacted both the Office of Court Administration and the Justice Court Fund of the Office of the State Comptroller for assistance.

The Town was fortunate to have the three replacement Justices assigned by the Administrative Judge for the Seventh Judicial District. One of the Justices noted in the audit is the Special Counsel to the Supervising Judge of the Seventh Judicial District. These assigned Justices served mostly without pay and stepped into a unique and difficult situation. The Town is very appreciative of their efforts. These Justices served as Justice of the Town Court and as head of the Town's Court Department. The assigned Justices worked with the Court's Clerks in attempt to keep the Town's Justice Court running smoothly.

The audit faults the Town for failing to set up a separate bank account for each Justice. At the time, the clerks believed that they were doing the right thing by maintaining the account of the sitting Town Justice. All money coming into the Court belonged to the Court, not to the individual Justice that happened to be presiding over that case. Often, money is paid to the Court over time, not just on the day that a case reaches disposition. It is very likely that money would come into the Court well after there had been a change over of the temporary assigned Justice. With the unsettled

See
Note 1
Page 14

nature of the Court at that time (one of the Justices noted in the audit presided for one day) this seemed to be best way to maintain the integrity of the Court's funds.

The report notes that the monthly reports were submitted by the clerk on behalf of the assigned Justices. These reports are submitted electronically. The program to submit the reports and the Court records the reports are based upon are maintained on the elected Justice's computer and the clerk's computer. The replacement Justices did not have access to the elected Justice's computer and they were not provided a separate computer by the Town for their temporary assignment. The monthly reports were submitted electronically from the clerk's computer by the clerk and the assigned Justices in what seemed to be the best way they could, given the circumstances.

The audit notes that the Town Board contracts for a CPA audit of the Court's records, but that the audits had not been completed at the time of your report. The report also notes an unreconciled negative balance of \$368 in Justice Mahoney's bank account. Since the report, \$357 has been reconciled to the satisfaction of the Town's contracted auditors, leaving a discrepancy of \$11.

Since the report was completed, the Town has created a committee to oversee Court operations. This Committee will be ensuring that monthly reports are timely. The Town has also restored the second Justice position pursuant to Town Law section 20(1)(b). Beginning in January 2014, the Town will have two part-time Justice positions, which will be able to cover for each other in the case of unexpected absences.

The time period covered by the report was particularly difficult for the Town and specifically for the Court. The elected Justice [REDACTED] had a prolonged absence. The Court staff carried on the best that they could, with the help of the assigned Justices, the Office of Court Administration and the Justice Court Fund of the Office of the State Comptroller. The Town's elected Justice has since regained her health and is back on the bench. It is our hope that this will enable the Town to implement recommendations of the audit moving forward.

Thank you for the opportunity to respond to this report.

Respectfully submitted.

Patrick J. Morrell

APPENDIX B

OSC COMMENT ON THE TOWN OFFICIAL'S RESPONSE

Note 1

The Uniform Civil Rules for the Justice Courts require every town justice to deposit, as soon as practicable, all moneys received in his or her judicial capacity in a separate bank account in his or her name as such judicial officer, in a bank or trust company in New York State, pending disposition as required by law. This requirement is also reiterated in Appendix 8 of the Handbook for Town and Village Justices and Court Clerks published by OSC. The Court was also reminded, on multiple occasions, by the Office of Court Administration of this requirement.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

As part of our audit, we reviewed the Court's internal control procedures. We obtained an understanding of these internal controls by inquiry, observation and inspection of documents and records. Court records and reports were reviewed in audit testing through January 31, 2013, as information for February 2013 was not available while examiners were on site. Specifically, we performed the following procedures:

- We reviewed accounting records to determine if they were complete, accurate and up-to-date.
- We compared recorded cash receipts and disbursements with supporting documentation such as case files, duplicate receipts, bank statements, canceled check images and reports to the JCF.
- We verified that transactions as detailed on the bank statements were recorded in the Court's records, for legitimate Court-related purposes and supported by appropriate documentation.
- We reviewed and compared Court activity to Traffic Safety Law Enforcement and Disposition reports prepared for the State Department of Motor Vehicles.
- We obtained and analyzed computerized data using audit software to ensure that certain operations, such as deletions or modifications of computerized records, were done for legitimate purposes.
- We performed reconciliations of the Justices' bank statements with their records of bail for pending cases, cash books and JCF reports.
- We interviewed appropriate local officials and employees.

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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