



# Town of Brant Justice Court

## Report of Examination

Period Covered:

January 1, 2012 — April 25, 2014

2014M-180



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

August 2014

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 Brant, 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 Brant (Town) is located in Erie County and is governed by an elected Town Board (Board), which comprises the Town Supervisor (Supervisor) and four Council members. The Supervisor is the Town's chief executive and chief fiscal officer. The Board has the overall responsibility for overseeing the Town's financial activities, including the financial activity of the Town Justice Court (Court). The Town has two elected Justices who preside over Court operations. The Court employs two court clerks and a part-time assistant court clerk to assist with Court operations.

The Justices are responsible for adjudicating legal matters within the Court's jurisdiction and properly accounting for all moneys collected and disbursed by the Court. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month. The Town's revenue attributable to Court operations was \$366,772 in 2013. During our audit period, three Justices were responsible for adjudicating cases. In August 2013, one Justice passed away and a new Justice was appointed by the Board to assume responsibility for his pending cases. The appointed Justice was subsequently elected and presided over Court operations for the remainder of our audit period.

## Objective

The objective of our audit was to review the Justices' records and reports. We addressed the following related question:

- Did the Justices accurately and completely collect, record, deposit and report moneys in a timely manner?

## Scope and Methodology

We examined the Justices' records and reports for the period January 1, 2012 through April 25, 2014.

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 B 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 agreed with our findings and recommendations and indicated that they are taking 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.

## Justice Court

Justices must maintain complete and accurate accounting records and safeguard all moneys collected by the Court. Justices are also responsible for reconciling Court collections to corresponding liabilities, disbursing fees collected to the Supervisor and reporting Court transactions to JCF. They are also responsible for updating the status of vehicle and traffic tickets with the New York State Department of Motor Vehicles (DMV) and the timely enforcement of those that remain unpaid.

We found no material discrepancies with the accounting for moneys received by the Court or the accuracy of bank deposits. However, we found that the Justices did not always perform monthly bank reconciliations and accountabilities properly. We also found that the Justices did not always report and remit moneys to JCF in a timely manner. In addition, the Justices did not follow up on pending cases or enforce unpaid fines and fees. Further, the Board did not conduct an annual audit of the Court's records. As a result of these weaknesses, the Board cannot be assured that all Court moneys were received and properly accounted for.

Monthly Reports and Remittance of Funds – Every Justice is required by law to report monthly to JCF the Court activities of the preceding month by the 10th of the following month. We reviewed 16 monthly reports<sup>1</sup> filed by the Justices totaling \$295,354 and found that eight reports totaling \$162,261 were filed untimely. For example, the February 2013 report for \$18,240 was due by February 10, 2013, but was not reported to JCF until February 27, 2013. The Justices' failure to file reports and submit fines and fees collected in a timely manner delays the corresponding allocation and payment of Court revenues to the appropriate parties, including the Town, and increases the risk of recordkeeping and reporting errors.

We judgmentally selected 162 cases<sup>2</sup> for review based on criteria such as rationale for deleting transactions, cases reported as dismissed, "plea by mail" cases and cases reported for different amounts to DMV and JCF. We found that generally they were recorded and reported accurately and completely. However, we found that 18 cases<sup>3</sup> were dismissed by the court clerks without the Justices' approval and that two partially paid parking tickets with total outstanding balances

<sup>1</sup> January 2013 through February 2014

<sup>2</sup> Refer to Appendix B for a description of the selection criteria and the tests conducted.

<sup>3</sup> The court clerks dismissed equipment violation cases like headlight or muffler violations when proof of repair was presented. The two partially paid parking tickets were reopened.

of \$95 were closed by the court clerks. We discussed other minor deficiencies and exceptions found during our testing with Court officials during the conduct of our fieldwork.

Accountability and Bank Reconciliations – Each month, each Justice should verify the accuracy of his or her financial records and perform an accountability for the money held by preparing a list of Court liabilities and comparing it with reconciled bank balances. At any point in time, the Court’s liabilities, such as bail held on pending cases and unremitted fines and fees, should equal<sup>4</sup> the Justice’s available cash. We reviewed the Justices’ bank reconciliations and monthly accountabilities for January 2013 through February 2014. We found that, although the former Justice reviewed his monthly bank statements, he did not perform a bank reconciliation comparing the bank balance to his cash records and did not perform an accountability analysis each month. Because of these discrepancies, we prepared a bank reconciliation and month-end accountability analysis as of July 30, 2013 and found that the Justice had \$112 in his bank account that could not be traced to any open or closed cases during our audit period. However, we performed another accountability analysis as of August 30, 2013 and found that all the receipts collected during August were properly deposited. We also determined that all of the July 2013 receipts were properly included in the July monthly report to JCF. While we did not find discrepancies in the other Justices’ monthly reconciliations, one Justice’s bail account had not been reconciled since October 2013. Bank reconciliations and accountability analyses are critical procedures to ascertain the status of money held by the Court and help ensure that the Court is appropriately addressing its custodial responsibility.

Pending Cases – The Justice is responsible for enforcing unpaid tickets and ensuring that revenues are collected as efficiently and effectively as possible. We found that the Justices did not routinely scoff<sup>5</sup> cases 60 days after payment was not received and did not actively track pending cases to determine what possible actions the Court could take to resolve those cases. We reviewed 39 cases<sup>6</sup> and

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<sup>4</sup> The Justice’s account should have a zero balance at the end of the month; if not, the ending balance should reconcile to any outstanding checks plus fines and fees received after the end of the month.

<sup>5</sup> New York State Law provides that a New York State Driver’s License, or the privilege to drive in New York State for out-of-state licensees, will be suspended if the licensee fails to appear in response to a traffic summons or fails to pay a fine imposed by the Court after 60 days. After a suspension occurs, the defendant must also pay a \$70 scofflaw fee in addition to any fines and surcharges before the suspension is lifted.

<sup>6</sup> We identified 171 cases recorded in the Court’s cash receipts records that were not reported to JCF. We selected 19 of the 171 cases not reported to review by randomly selecting every ninth case. We also identified and reviewed 20 cases reported to JCF and DMV with differing amounts for fines and fees.

found that three cases had a total unpaid balance of \$1,255 more than 60 days after the cases had been adjudicated. The Justices had not reported these unpaid cases to the DMV or taken appropriate action to enforce payment. For example, a case was adjudicated on March 27, 2012, but the unpaid balance of \$360 had not been reported to the DMV as of April 25, 2014. Because the Justices did not adequately reconcile DMV pending reports with current Court caseload activity, unpaid tickets may not have been enforced and DMV records were not updated in a timely manner.

These deficiencies occurred because the Justices did not provide adequate oversight of the court clerks. The court clerks perform the majority of the Court's financial duties with limited oversight, including receiving payments, preparing and making bank deposits, entering financial and other information into the computer system, preparing and filing the monthly reports, and maintaining case files. There was no evidence that the Justices reviewed or approved the court clerks' work on a regular basis to help mitigate the risk associated with them performing virtually all of the financial duties. Although our testing of the current Justices' records did not identify significant issues, controls and accountability could be improved if the Justices took a more active role in overseeing the court clerks' work. In addition, the Board could have mitigated some of these risks by conducting or engaging an independent accountant to conduct an annual audit of the Justices' records. During an audit of the Justices' records, the Board could have identified the discrepancies described in this report.

## **Recommendations**

The Justices should:

1. Submit the monthly reports to JCF no later than the 10th of the following month.
2. Prepare monthly bank reconciliations and accountability analyses, promptly investigate differences and take corrective action as needed.
3. Review and analyze all open case files to determine if there are additional payments held.
4. Periodically review unpaid balances due on adjudicated cases and pending cases reports to resolve outstanding issues, as well as take action to resolve old cases.
5. Provide adequate oversight of the court clerks and ensure pending cases and unpaid tickets are not dismissed or closed by the clerks without proper approval.

6. The Board should audit, or hire an accountant to audit, the Justice's records annually.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



## Town of Brant Erie County New York

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August 14, 2014  
Office of the State Comptroller  
Division of Local Government & School Accountability  
295 Main Street, Room 1032  
Buffalo, N.Y. 14203-2510

██████████  
To whom it may Concern,

The following is a letter of response to your Audit dated January 1, 2012 to April 25, 2014. During the period audited by your department, the Town of Brant had extenuating circumstances that caused the issues that your department recommends to be corrected. In 2012 Justice Linda Crouse was diagnosed with Cancer and had to undergo treatments and hospitalization which caused confusion in the reporting and communications with her court clerk. Justice Peter Gugino did pick up the slack that was caused by the frequent absences of Judge Crouse. Then on August 10, 2013 Judge Gugino died suddenly while performing a ceremony in the Town. This caused great confusion and Judge Crouse then came back to pick up the work that Judge Gugino was also doing. The transition of these circumstances is what caused the issues that were found by your department. Then Judge Borngraber was elected to office in November and attended school and took office January 1, 2014. Again a transition had to take place with a new Judge and court clerk. Then on July 3, 2014 Judge Crouse passed away and we now have a neighboring Judge helping out until this fall's election. Please understand that this was a very difficult time for our Justice department and the Town of Brant, the recommendations that you have set forth will be implemented as soon as possible. We thank you for the audit and realize that you are the watch dogs of the public and we have great respect for your recommendations.

Thank you  
Leonard K. Pero

~~Supervisor~~  
Town of Brant  
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## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine whether the Justices accurately and completely collect, record, deposit and report moneys in a timely manner. To accomplish this, we interviewed appropriate Town officials, tested selected records and examined pertinent documents for the period January 1, 2012 through April 25, 2014. Our procedures included the following:

- We interviewed Court officials to gain an understanding of Court operations for collecting, recording, depositing and reporting the moneys collected.
- We interviewed Board members and Court officials to determine if the Board audits the record of the Justices or hired an accountant to conduct the audit.
- We reviewed bank statements, cash receipts and disbursement records, monthly bank reconciliations and monthly accountability reports to ensure the Justices had properly accounted for receipts and deposited, remitted and reported moneys in a timely and accurate manner.
- We performed reconciliations of the Justices' bank statements and compared them with known liabilities based on bail records, cash receipts and disbursements records, canceled checks and JCF reports.
- We compared amounts recorded on the cash receipts records to amounts reported to JCF to ensure that all receipts were accurately reported in a timely manner.
- We verified that fines on the tickets agreed with duplicate receipts, cash receipts records and bank deposits.
- We compared information from JCF for the period January 2012 through March 2014 and from DMV as of January 31, 2014 to Court records. Using this information, we determined whether fines, fees and surcharges were reported, as required, to JCF and whether DMV records were updated for disposed tickets. We performed the following audit tests on the 162 cases reviewed:
  - o We reviewed all 40 cases reported as dismissed to ensure they were indeed dismissed by the Justices and were properly documented.
  - o We reviewed all 25 "plea by mail" cases to ensure they were accurately and completely recorded and reported.
  - o We reviewed 37 cases deleted from Court records but reported to either JCF or DMV. We traced them to original dockets to ensure that fines and fees imposed by the Justices were accurately and completely recorded and reported.
  - o We reviewed 19 cases out of the 171 cases recorded in the Court's cash receipts but not reported to JCF. We selected every ninth case from the population of 171 cases not reported.

- o We reviewed all 21 cases that were reported to DMV as disposed cases but were not reported to JCF.
- o We reviewed all 20 cases identified as containing discrepancies between fines and fees reported to JCF and DMV.

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.

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