



Town of Edinburg Justice Court Operations

Report of Examination

Period Covered:

January 1, 2013 — April 30, 2014

2014M-226



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

November 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 Edinburg, entitled Justice Court Operations. 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 New York State 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 Edinburg (Town) is located in Saratoga County and has a population of about 1,200 residents. The Town is governed by an elected Town Board (Board) which comprises the Town Supervisor and four Board members. The Board is responsible for the general management and control of Town operations. The Board also has oversight responsibilities with respect to the Town's Justice Court (Court).

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Town has one elected Justice and an appointed Court clerk. The Justice's principal duties include adjudicating legal matters within the Court's jurisdiction and administering money collected from imposed fines, bails, surcharges, civil fees and restitution. The Justice reported 243 cases to the Office of the State Comptroller's Justice Court Fund (JCF) during our audit period.

Objective

The objective of our audit was to evaluate the Court's financial operations. Our audit addressed the following related questions:

- Did the Justice maintain complete, accurate and timely records and take action to ensure prompt collection of fines and fees?

Scope and Methodology

We examined the Court's financial operations for the period January 1, 2013 through April 30, 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 generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Justice and Board have 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 Town Board to make this plan available for public review in the Town Clerk's office.

Justice Court Operations

Justices must maintain complete and accurate accounting records and safeguard all money collected by the Court. Justices also are responsible for reconciling Court collections to corresponding liabilities, depositing all money collected, disbursing fees collected to the Supervisor and reporting Court transactions to the JCF. For each case brought before the Court, the Justice must maintain separate case files and such records must include all relevant case information. Justices are also responsible for enforcing unpaid traffic tickets and ensuring that money is collected as efficiently and effectively as possible.

The Justice did not maintain complete and accurate accounting records. Bank reconciliations, month-end accountabilities and reports submitted to the JCF were not accurate. We also found that the Justice did not maintain adequate case files and did not take appropriate action to ensure that fines and fees were collected in a timely manner. As a result of these weaknesses, Town officials have no assurance that all Court money is properly accounted for. Additionally, the Town may not have realized all the revenue it is entitled to from the Court's operations.

Records and Reports

Justices are required to adequately account for all cash receipts and disbursements and complete an accountability analysis at the end of each month. Each month, Justices should compare information from their accounting records (i.e., receipts and disbursements) with the information shown on the bank account statements (i.e., deposits and disbursements) and should complete bank account reconciliations.

At any point in time, the liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justice's available cash. For each case brought before the Court, the Justice must maintain a separate case file and unique index number, as well as a cashbook that chronologically lists all receipts and disbursements. Such records should include all relevant case information, including the date of appearance, fees and fines imposed and amount collected. The Justice is also required to report all Court activity to the JCF accurately and timely.

Monthly Accountability – The Justice did not perform accurate monthly bank account reconciliations and accountability analyses. The Justice maintains two separate bank accounts, one for bail and one for fines and fees. We tested four months of bank reconciliations, monthly accountabilities and disbursements for both bank accounts.

We identified differences between the cashbook balances¹ and the reconciled bank account balances for both bank accounts, because all financial activity was not properly recorded.

The reconciled bail bank account balance did not agree with the Justice's accounting records for any months we reviewed. For example, during three months reviewed, the reconciled bail bank account balance was \$11,386 less than the bail balance recorded in the Court's software system.² For another month, the reconciled bail bank account balance was \$9,386 less than the amount recorded, because the Justice failed to record \$2,000 of bail collected and deposited that month.

The Justice also maintains a manual record of the Court's financial activity. We compared this record's balance with the reconciled bank balance for the same four months and found that the reconciled bail bank balance was \$4,541 more than the amount recorded each month. Although the Justice was aware of this discrepancy, he could not explain what caused it. He was also unaware of the differences between the bank account balance and the Court's computerized records.

Case Files – The Justice should maintain adequate records and reports to document the cases overseen. The status of each case (e.g., awaiting the defendant's first appearance, fines assessed and due, etc.) as reflected in the individual case records should agree with the case status reflected in the Court's software system.

We reviewed 20 cases that were reported to the JCF during our audit period to determine if the case files maintained were adequate and whether the case statuses according to the case file agreed with the Court's computerized records.³ We found that nine case files were adequately maintained and agreed with the information in the Court's software system. However, the Justice was unable to provide us with one case file and the remaining ten case files were not adequately maintained.

These case files either lacked sufficient documentation or the case file information did not agree with the information in the Court's software system or both. For example, four case files did not

¹ The cashbook is a record of the Court's financial activity and is generated from the Court software system.

² The Justice had never generated a bail history report from the software system until we requested one during our audit. He was unaware of and could not provide us with an explanation for this difference.

³ Case files each should contain an appearance ticket, a traffic ticket (if applicable), the amount due, evidence of payment, a date of appearance, the date the case was settled and copies of any applicable correspondence.

contain documentation of the amount due or the amount paid by the defendant. However the Court's software system included these amounts. Additionally for two cases, the amounts due or paid did not agree with the amounts due or paid in the Court's software system.

We also reviewed 20 cases that were not disposed of during our audit period to determine if the case files were adequate and agreed with the case statuses in the Court's software system. We found that eight case files were adequate and agreed. However, for the remaining 12 cases, the Justice did not maintain adequate case files or the case file information did not agree with the Court's software system.

For example, according to one case file, the defendant was fined \$85. However, the Court software system indicated that the defendant was fined \$105. Additionally, because the Justice could not provide us with original case documentation for five cases, he printed copies of the defendants' traffic tickets as a result of our requests. These copies were inadequate, because the included information did not document case activity⁴ or the amount of fines and fees the Justice imposed.

Reports to the JCF – Although Court activity was reported to the JCF in a timely manner,⁵ the reports we reviewed were not accurate. Our review of 26 cases reported to the JCF during our audit period disclosed the following discrepancies:

- One case was reported to the JCF with \$130 more in fines and fees collected than the amount the Justice recorded as received.⁶
- Two cases with fines totaling \$120 were not reported to the JCF.
- One case was reported to JCF with \$10 less in fines collected than the amount the Justice recorded as received.⁷

⁴ Such as appearances, plea agreements, dismissals, etc.

⁵ We determined the timeliness of reports based upon either the date the Justice signed the report or the date the Town Supervisor issued a receipt for the Town's share of Court funds. The Justice does not keep a copy of the JCF's confirmation page once a report was submitted to the JCF.

⁶ The Justice recorded receiving a total of \$10 for this case (as indicated on two separate receipts) in the Justice's receipt book and recorded that amount in the Court's software system. However, he reported \$140 of fines collected for this case to the JCF.

⁷ According to the Justice's receipt book, \$30 was received for this case, \$20 for fines and \$10 for bail. The Justice reported \$20 to the JCF for the case. However, we found that \$30 was actually received and deposited into the Justice's fine bank account.

The Justice's failure to perform accurate monthly accountability analyses and maintain accurate case records contributed to the discrepancies we identified in the Court's records. Furthermore, due to these discrepancies, the Justice and Town officials have no assurance that all fines and fees are properly reported to the JCF and the proper amounts are remitted to the Town Supervisor.⁸ These failures significantly increase the risk of unauthorized use of cash collected and the likelihood that the Justice and Town officials will not detect errors and irregularities in a timely manner.

Traffic Tickets

The Justice is responsible for enforcing traffic tickets to ensure that laws are enforced and revenues are collected as efficiently and effectively as possible. To meet this responsibility, the Justice may use New York State's Department of Motor Vehicles (DMV) Scofflaw Program⁹ to enforce the payment of fines for individuals who either have not appeared in Court to resolve their tickets or have not paid their fines. The Court may "scofflaw" these drivers. 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.

Although the Justice used the DMV Scofflaw Program, he did not take appropriate action to ensure that fines and fees were collected in a timely manner. Our review of a report of all undisposed cases for our audit period disclosed 714 such cases.

We reviewed 20 cases from this report to determine if the Justice took action to ensure the timely collection of fines and fees. We found two cases should not have been on the pending case list¹⁰ and 15 cases that the Court did not report to the DMV as unresolved. This occurred because the Justice did not actively track pending cases to determine what possible actions the Court could take to resolve them. According to Court records, \$1,040 has not been paid by defendants on these cases.

⁸ Some Court revenues are remitted to the JCF and others are remitted directly to the Town Supervisor. For more information, see our publication *Handbook for Town and Village Justices and Court Clerks* available at: <http://www.osc.state.ny.us/localgov/pubs/jch.pdf>

⁹ 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.

¹⁰ One case was paid-in-full but appeared on the pending case list. In the other case, the defendant's attorney requested that the bail be applied to pay the defendant's fines and fees. However, the Justice did not apply the bail to the defendant's fine and fees or return it to the defendant.

The Justice did not routinely and effectively monitor the unresolved traffic tickets with the DMV. As a result, Town officials lack assurance that all Court fines and fees will be collected in a timely manner, potentially resulting in lost revenues to the Town.

Recommendations

The Justice should:

1. Perform monthly accountabilities and bank reconciliations for both the fines and fees and bail bank accounts.
2. Maintain adequate documentation of case activity in the case files and the court records.
3. Reconcile the bail balance to identify the cause of the discrepancy between his records and the bank account balance.
4. Periodically review reports of undisposed cases to ensure appropriate action is taken to enforce traffic tickets.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF EDINBURG
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OFFICE OF
TOWN SUPERVISOR

October 29, 2014

Mr. Jeffrey P. Leonard, Chief Examiner
NYS Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396

Dear Sir,

On October 3, 2014 the Town of Edinburg Town Board and the Town Justice received copies of the draft Report of Examination of Town of Edinburg Justice Court Operations. The Town Supervisor and the Town Justice met with the Auditor on October 7, 2014 to review the report 2014M-226 .

This letter will serve as the Town of Edinburg response to the audit report and our corrective action plan.

We accept the recommendations that were presented and steps have been taken and will continue to be taken to improve the areas in the recommendations. We would like to thank the Office of the State Comptroller for pointing out features of the software provided by the Office of Court Administration. This will improve computer entry and reporting procedures for the future.

We accept that justice court computer records and clerical records did not always balance. However we wish to make it clear, we do feel strongly, that no funds were misappropriated from the court.

The following are the specific corrective actions being implemented for the 4 recommendations.

Audit Recommendation and Corrective Action

All corrective action will be undertaken by the Justice Court and has begun and will be incorporated into the court procedures or concluded as soon as possible.

1. Perform monthly accountabilities and bank reconciliations for both the fines and fees and bail bank accounts.

Corrective Action

The corrective action has been taken to set up a formal monthly reconciliation with the bank statements for the fines and fees and bail accounts. These statements are then reconciled with the computer reports for the month and all information is archived in a 3 ring binder. This was presented to the auditor at the exit conference.

2. Maintain adequate documentation of case activity in the case files and the court records.

Corrective Action

The corrective action is being taken. The justice is setting up a case file system with a summary sheet to record all actions taken with each case.

3. Reconcile the bail balance to identify the cause of the discrepancy between his records and the bank account balance.

Corrective Action

The corrective action is being taken. The justice uses the Office of Court Administration provided software for recording bail funds received and dispersed. He did not properly record the addition and subtraction of funds in the bail account. He is going through prior paper records to determine where the recording errors took place and will correct them in the computer.

4. Periodically review reports of undisposed cases to ensure appropriate action is taken to enforce traffic tickets.

Corrective Action

The corrective action was being taken and will continue. Following a resignation, the two town justice courts were consolidated to one justice several years ago and the outstanding tickets were transferred to this court. A court clerk was also appointed to assist with the increased work load. They have been going through the old tickets to close them out. This has proven to be a long and time consuming process. He will continue to clear these back cases as quickly as time permits.

The Town of Edinburg is committed to supporting our Justice Court with whatever assistance and training may be required. We will also retain the services of an outside auditor to review the justice court books annually and provide any guidance they may need moving forward.

The Town of Edinburg would also like to thank the staff from the Office of the State Comptroller for their courteous and professional manner while conducting the audit.

Sincerely,

Jean Raymond

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: justice court operations, town clerk operations, tax collection operations, Supervisor's records and reports, claims processing and procurement, cash receipts and disbursements and payroll.

During the initial assessment, we interviewed Town officials, performed tests of transactions and reviewed pertinent documents, such as Town policies, Board minutes and financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft or professional misconduct. We then decided on the reported objective and scope by selecting for audit the area most at risk. We selected the Justice Court for audit.

To accomplish our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed the Justice and Town officials to gain an understanding of the Court's processes and procedures over financial operations.
- We prepared bank reconciliations and accountabilities for four randomly selected months¹¹ during the audit period. We compared the adjusted bank balances at month-end with the cashbook balances. We then investigated and resolved any differences. We also reviewed the disbursements for these four months.
- We reviewed 26 cases reported to the JCF during our audit period¹² to determine if adequate case files were maintained and if cases were accurately reported by reviewing receipts and the cashbook reports and comparing these documents with the JCF report.
- We reviewed a sample of 20 pending cases¹³ which were not disposed during our audit period to determine if adequate case files were maintained and the case statuses agreed and whether action was taken to ensure payment by reviewing DMV scofflaw reports.

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.

¹¹ We selected May 2013, August 2013, January 2014 and April 2014 for our audit testing.

¹² We randomly selected a sample of six months during our audit period. From those six months, we judgmentally selected our sample to include 20 cases reported to the JCF by selecting every fourth case reported on those monthly JCF reports and all cases reported to the JCF in January 2014, for a total of 26 cases.

¹³ We judgmentally selected our sample to include cases that according to the Court's computerized software were pending because the defendant had yet to appear in court or the defendant had yet to pay a fine.

APPENDIX C

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