



Town of Milford

Justice Court Operations

Report of Examination

Period Covered:

January 1, 2013 — July 9, 2014

2014M-279



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 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 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 Milford, 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 Milford (Town) is located in Otsego County and has 3,044 residents. The Town is governed by an elected Town Board (Board) which includes the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of the Town's financial activities, which includes the Town Justice Court's (Court) financial operations.

The Court has two elected Justices who are responsible for overseeing Court operations. The Justices have jurisdiction over certain civil and criminal cases and adjudicating motor vehicle and traffic violations. The Justices impose and collect fines, fees and bail money and are responsible for reporting monthly to the State Comptroller's Justice Court Fund (JCF) regarding the Court's monthly financial activities and remitting all moneys collected to the Supervisor. Additionally, the Justices are responsible for updating the disposition of each motor vehicle and traffic violation to the New York State Department of Motor Vehicles (DMV). The Justices are using a software system to account for the majority of their court transactions.

Three Justices served during our audit period. One Justice retired December 31, 2013 and a newly elected Justice ("Justice A") took office January 1, 2014. The other active Justice ("Justice B") has been in office since January 2004. Previously, the retired Justice and Justice B shared a court clerk, who also retired as of December 31, 2013. As of April 2014, a subsequently hired clerk works for Justice A, and Justice B does not have a clerk. The Court collected approximately \$141,900 in 2013.

Objective

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

- Did the Justices ensure that Court money was accurately and completely collected, recorded, deposited, disbursed and reported in a timely manner?

Scope and Methodology

We examined the Court records and reports for the period January 1, 2013 through July 9, 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 A of this report.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials. Officials were given an opportunity to respond to our findings and recommendations within 30 days of the exit conference, but they did not respond.

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 Operations

Town Justices must assess impartial fines and mandatory surcharges and ensure that money received by the Court is accurately recorded in the accounting system and deposited within 72 hours of receipt. All funds should be accurately reported to JCF and DMV and then disbursed to the Supervisor, JCF or defendant,¹ as appropriate, in a timely manner. When a case is adjudicated and fines are paid in full or the case is dismissed, it can be closed. The Court should report this information in its monthly report to the JCF and inform DMV so the case is properly accounted for as “disposed” in the DMV database. Any tickets with fines and surcharges that remain unpaid should be forwarded to DMV for enforcement through its Scofflaw Program.² Additionally, all dismissed cases should be properly supported.³ Therefore, Justices must maintain accurate and complete records of Court activity. They are also responsible for reconciling their accounting records to the bank balances and performing a monthly accountability of money they hold by preparing a list of Court liabilities and comparing it to reconciled bank balances. Lastly, the Board is required to perform an annual audit of the Justices’ records to ensure that they are properly recording and reporting transactions and accounting for all moneys received and disbursed.

Case Recording and Reporting – Although all three Justices deposited and disbursed Court money properly during our audit period, they did not always ensure that it was completely collected or accurately recorded and reported. Of 78 cases reviewed, we found various deficiencies among 39 cases as follows:⁴

- Thirteen cases with fines and surcharges totaling almost \$3,400 were eligible for referral to the DMV Scofflaw Program but were not referred.

¹ Bail may be imposed on defendants to help ensure their appearance in court. When a case is adjudicated, this money is either returned to the individual who posted the bail or applied toward the payment of any fines and fees imposed by the court.

² 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.

³ With evidence of the District Attorney’s recommendation, if dismissed, or documentation that shows the offense ticketed was resolved

⁴ Various cases had overlapping issues, such as being open in the DMV records but recorded in the Court software as having been referred to the DMV Scofflaw Program.

- Twenty-six tickets were either paid in full or dismissed but remained open because they had not been properly reported to DMV. Of these, 11 cases remained open in both the Court software system and DMV records, and 15 cases remained open in DMV records although their resolutions had been properly recorded in the Court software system and reported to JCF and were properly supported with Court records. As a result, these 26 tickets are at a significant risk of being improperly referred to the DMV Scofflaw Program.

The remaining 39 cases we reviewed did not have any exceptions. The fines and surcharges for 15 cases were properly assessed using standard Court manuals and mandatory surcharge schedules, the dismissals for 15 cases were properly supported by Court records and the remaining nine cases were properly recorded in the Court software and reported to DMV with a disposition of fines paid or new Court dates set.

Fiscal Responsibilities – Justice B performed all of her financial functions without implementing mitigating controls or receiving adequate oversight; Justice A relied on her court clerk to perform all of the financial functions without implementing sufficient mitigating controls or providing adequate oversight to the court clerk.⁵ Furthermore, while Justices A and B reconciled their accounting records to bank balances and liabilities for fines on a monthly basis, they did not compare their list of liabilities for bail (i.e., being held by the Court until the case is resolved) with the reconciled bank balances. In addition, the Justices did not have anyone review the supporting material for their reconciliations, which increases the risk that errors or irregularities may occur without detection.

Moreover, the Board did not provide adequate oversight of Court financial operations. The Board just completed the audit of Justice B’s Court records for fiscal years 2012 and 2013 and has yet to perform an audit of the retired Justice’s Court records for those same years.

The lack of segregation of duties coupled with the lack of adequate oversight by the Justices and Board creates an increased risk of loss from potential theft or misuse of Court funds. Additionally, cases could be inappropriately dismissed. Drivers’ licenses may be inappropriately suspended if the cases are not properly closed in all of the relevant and necessary records.

⁵ Justice A told us she lacks sufficient knowledge of the DMV and Court software systems.

Recommendations

The Justices should:

1. Periodically review and reconcile DMV's pending-ticket log with caseload activity to ensure that tickets are properly reported, as paid or enforced, in a timely manner.
2. Consider obtaining training, as needed, relating to the DMV and Court software systems.
3. Implement segregation of duties to the extent possible.
4. Prepare a monthly accountability analysis for all moneys held by the Court. Any differences should be promptly investigated and, if necessary, corrective action taken.

The Board should:

5. Perform a thorough and timely audit of both Justices' records annually. Evidence of an audit indicating the tests performed, the records reviewed and the results of the audit should be retained and noted in the Board minutes.

APPENDIX A

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess Justice Court operations. To accomplish our audit objective and obtain valid and relevant audit evidence, we performed the following steps:

- We interviewed the three Justices, Board members, the Town and Court Clerks and other Town employees. We reviewed the Board meeting minutes to gain an understanding of Court operations and oversight, including any written policies or procedures in place, bank reconciliation reviews or annual audits.
- We obtained the June 30, 2014 “Cases Pending 60 Days” report from DMV and compared a sample of 38 out of 77 cases to the hardcopy case files and Court software system to determine if they should have been referred to the DMV Scofflaw Program and/or were recorded and reported to DMV correctly. For our sample, we selected the first 15 cases assigned to Justice A and to Justice B and the first eight cases assigned to the retired Justice.
- We obtained a backup of the data in the Court software system and compared this information using computer-assisted techniques to the DMV and JCF records. Our analysis found 155 cases during our audit scope period that were in the Court software system but not reported to DMV. Out of these we selected 10 cases and reviewed the hardcopy case files to determine if they should have been referred to the DMV Scofflaw Program or reported to DMV as closed. We selected the first four cases assigned to Justice A and to Justice B and the first two cases assigned to the retired Justice for our sample.
- We obtained the closed-case report from DMV and reviewed 30 closed cases with a total of \$7,555 of fine payments out of 962 closed cases. We traced them from the hardcopy case file to the Court software system, JCF monthly reports and bank statements to ensure that they were properly recorded, reported and deposited. To obtain our sample, we selected the retired Justice’s first 10 cases for each letter of the alphabet (beginning with A) from the 2013 closed-case file cabinet; for Justice B we selected the first five cases from the 2013 closed-case file cabinet and five from the 2014 cabinet; and for Justice A we selected the first 10 cases from the 2014 closed-case file cabinet.
- We obtained both Justice A’s and Justice B’s ledgers of bail collected and returned, and we selected five cases totaling \$14,000 in bail payments out of eight closed bail cases. We traced them from the hardcopy case file to the Court software system, JCF monthly reports and bank statements to ensure that they were properly recorded, reported and deposited. To obtain our sample, we selected both closed cases of Justice A and three cases from Justice B’s six closed bail cases.
- We obtained the open-case report from DMV and reviewed 30 open cases with nine fine payments received totaling \$1,266 and four bail payments totaling \$3,000 from 360 open cases. We traced them from the hardcopy case file to the Court software system, JCF monthly reports and bank statements to ensure that they were properly recorded, reported and deposited.

- We selected the first 15 fine cases reported as assigned to each Justice A and B and the first two bail cases reported as assigned for each Justice. We traced these cases to the Court software system, JCF monthly reports and bank statements to ensure that they were properly recorded, reported and deposited in a timely manner.
- We selected a sample of 15 cases reported as dismissed per the JCF monthly reports during our audit scope period and reviewed the case files to ensure that they were appropriately dismissed. We selected the first five cases on the retired Justice's June 2013 report, the first five cases reported on Justice B's November 2013 report and the first five cases reported on Justice A's January 2014 through April 2014 reports.
- We selected a sample of 15 cases' fines and surcharges assessed and compared them to the typical fines and surcharges to ensure that the amounts assessed were appropriate. We selected the first five cases assigned to Justice A where the fine and surcharge was below \$100 and the first five cases assigned to each Justice B and the retired Justice where the fine was below \$100 and the surcharge was below \$63.
- We obtained all the bank statements for our scope period for both fine and bail accounts for all three Justices. We reviewed all transfers out or cash withdrawals and canceled check images to ensure that all disbursements were appropriate, by tracing the disbursements to the case files or monthly JCF reports.
- We traced the JCF monthly reports of November 2013 for the retired Justice, December 2013 for Justice B and June 2014 for both Justice A and B to the canceled check images to ensure that the Justices were reporting and disbursing moneys accurately and in a timely manner. We also verified that the retired Justice submitted the December 2013 JCF report and Court money.
- We reviewed the bank reconciliations prepared by all Justices for December 2013 and June 2013 for both their fine and bail bank accounts to ensure that bank reconciliations were being prepared accurately and in a timely manner. We then compared these reconciled balances for the same month to any lists of liabilities the Justices maintained to ensure that there were no unaccounted-for funds.

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.

APPENDIX B

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