



Village of Oxford Justice Court Operations

Report of Examination

Period Covered:

June 1, 2011 — April 30, 2013

2013M-219



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Village Officials and Corrective Action	4
JUSTICE COURT OPERATIONS	5
Recommendations	8
APPENDIX A Response From Village Officials	10
APPENDIX B OSC Comments on the Village’s Response	13
APPENDIX C Audit Methodology and Standards	14
APPENDIX D How to Obtain Additional Copies of the Report	16
APPENDIX E Local Regional Office Listing	17

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

February 2014

Dear Village 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 Village of Oxford, 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 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 Village of Oxford (Village) is located in the Town of Oxford in Chenango County and has a population of approximately 1,450. The Village is governed by a Board of Trustees (Board) which comprises four elected members and an elected Mayor. The Board is responsible for the general management and control of the Village's financial affairs, which includes designing and implementing specific controls to safeguard Village assets. The Court reported collecting \$177,800 during our audit period.

The Village operates its Justice Court (Court) with one Justice (Kathleen Moser)¹ and one Acting Justice (Joan Kline), who are responsible for Court operations. During most of the audit period, Justice Moser was the appointed Acting Justice and also served as a part-time clerk to the previous elected Justice (Charles Race), who handled the majority of the Court's activity until his resignation in February 2013. In March 2013 the Mayor appointed Justice Moser to replace Justice Race until the required election was held, and the Board appointed Justice Kline as Acting Justice. There are no separate Court clerks.

The Justices use a software system to record case information and related financial transactions, such as receipts and disbursements. They accept cash, money orders and credit cards (through an online vendor) for the payment of fines and fees. At the end of each month, the Justices prepare a report of adjudicated cases, together with fines and fees collected, which is filed with the State Comptroller's Justice Court Fund (JCF). The Village employs an external accountant (CPA firm) to perform agreed-upon procedures, which review the Court's annual activity.

Objective

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

- Did the Justices ensure that Court moneys were accounted for properly?

Scope and Methodology

We examined records of the Justice Court for the period June 1, 2011 through April 30, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on

¹ As of the end of our audit period, John Weidman was elected Justice to complete the term of Justice role, thereby replacing Justice Moser.

such standards and the methodology used in performing this audit is included in Appendix C of this report.

**Comments of
Village Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our findings and recommendations and indicated they would take corrective action. Appendix B contains our comments on issues raised in the Village's 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-Treasurer's office.

Justice Court Operations

Village justices are required to account for cash receipts and disbursements and reconcile their cashbooks (accounting records) and bank balances as of the end of each month. The accounting records should be supported by sufficient documentation of court proceedings, including individual case files and an index of all cases. The Justices should ensure that payments for fines are pursued, received and accurately recorded, and that deposits are timely. Further, they are responsible for maintaining accurate, up-to-date records of bail moneys held by the Court and appropriately paid out when cases are adjudicated.² Additionally, the Justices should perform a monthly accountability of money they hold by preparing a list of Court liabilities and comparing it to reconciled bank balances. On a monthly basis, the Justices must report and remit all moneys collected (excluding pending bail) to the State Comptroller's Justice Court Fund (JCF) and report the disposition of each moving violation to the New York State Department of Motor Vehicles (DMV). The final component of a strong system of oversight lies with the Board, with the responsibility to provide for an annual audit of the Justices' operations.

The Justices did not ensure that Court moneys were accounted for properly. We found numerous errors and irregularities, from including adjudicating traffic tickets; recording, collection and deposit of payments; reporting to the JCF and the DMV. For example, \$1,325 in collections was recorded with no corresponding deposits; 10 cases totaling \$2,520 were reported to the DMV as paid, with no related records of receipt or deposit; and we identified a \$3,500 shortage in the Court account of Justice Race (retired), of which \$2,300 in bail had been forfeited during our scope period but not deposited or remitted to the JCF. Further, over 903 tickets with outstanding fees on record at the DMV were not current in the Court's records and, therefore, represent significant unrealized revenue. The Justices did not prepare monthly accountabilities, which could have identified these discrepancies. Although the Board engaged a CPA firm to annually review certain Court activities, these reviews were on average six months after the end of the period reviewed, which does not provide useful oversight in a timely manner.

Recordkeeping — The Justices did not keep proper case files and supporting documentation for tickets that were dismissed or reduced,

² 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.

and their computerized records contained numerous errors. Our comparison of the moving violation records in the Court's computer system with the DMV database (to which the Court has access) showed 468 more outstanding (unpaid) tickets on record at the DMV than recorded as owed in the Village's software system. Furthermore, 903 of the tickets listed in the DMV database as outstanding were not in the Court's software system at all. (See also comments under "Enforcing Payment of Tickets.")

We selected 30 tickets from the Court's records and found that eight tickets lacked supporting documentation for fine reduction or ticket dismissal; seven additional tickets were also found to lack supporting documentation during other audit testing. Moreover, during the course of our audit, we found that at least four tickets were deleted from the system without any documented authorization or explanation, and, as of March 2013, 231 tickets recorded in the system did not have any related fine amount adjudicated and have remained unresolved since as far back as February 1992. Therefore, it is not certain whether the Justices adjudicated the fines, dismissed the tickets properly or collected moneys that were not recorded and deposited. The Justices were unable to explain the deletions and omissions identified in our sample.

Collection and Deposit — The Justices did not properly account for moneys received. They issued both manual and computer-generated receipts during our audit period, but neither type of receipt was issued in sequential order. In addition, there were numerous missing receipt numbers in the software system that the Justices could not explain. We also could not verify the composition of moneys received or determine if the related deposits were intact (in the same form as received) for nine of the 10 deposits we tested, because there were no detailed deposit slips. Further, at least three collections, totaling \$1,325, were recorded as collected in the software system but were not deposited. Ten cases totaling \$2,520 were also reported to the DMV as paid, but there were no related records of the payments in the software system or related deposits in the bank.³ Due to these discrepancies, there is no way to determine if moneys received may have been either lost or stolen.

Enforcing Payment of Tickets — Available methods the Court can use to pursue payment of tickets include letters, collection agencies and the DMV Scofflaw Program.⁴

³ Details on our testing can be found in Appendix C, Audit Methodology and Standards.

⁴ The Court may "scofflaw" drivers who have not answered to the Court regarding a traffic violation or those who have not made a payment on their tickets. The DMV will not allow those drivers to renew their license until they answer the Court.

The Justices did not properly enforce payment of tickets. The current Justices use a binder of tickets or a DMV report to aid them in pursuing collections; however, the ticket binder is not reconciled to the Court's software or DMV records. Village officials told us they were not aware of outstanding tickets at the DMV (totaling 903 that were not shown as pending in the Court's computer records) and therefore could not pursue collections on them.

We reviewed 15 unpaid tickets that were recorded as such in the Court software⁵ and found that two were properly scofflawed and 13 were not. The Justices told us they did not use any other means of collection on these 13 tickets. In addition, we sent out confirmation letters to 30 defendants; four letters were returned indicating the defendants had never been contacted to pay and one was returned as "unable to forward." Because the Court does not pursue collection on hundreds of pending tickets, maximize available methods of enforcement or ensure that defendants' addresses are current, its enforcement efforts are incomplete and inadequate. This results in lost revenue, and moneys could have been stolen and never recorded as paid.

Disbursements and Related Reporting — We also found various deficiencies in disbursements made by the Justices and related reporting errors. For example, the Justices did not disburse the proper amount of money to the JCF, and each of the three justices filed monthly reports late (11 of 48 filed). Of six disbursements payable to the JCF, three were for amounts that differed from the monthly report by approximately \$1,600.⁶ Four cases totaling \$1,100 were also reported incorrectly to the JCF based on the total shown as received in the Court's computerized cashbook reports. In addition, because the Justices' individual Court bank accounts included both fine and bail activity, disbursements are not easily tracked and the risk of error is increased. We found inaccuracies in both the manual and computerized listings of outstanding bail. For example, bail with related fees (poundage) totaling \$2,300 had been forfeited as early as June 2011 but had not been turned over to the JCF. Further, a disbursement of \$1,500 to Justice Race was for the same amount as the money he deposited in the bank, but there was no documentation of the reason for the check. Additionally, there was a cash withdrawal from the bank of \$5,000 which could have been for bail returned to a defendant. This disbursement was supported only by a cash withdrawal slip with the defendant's name noted. Such a document is not reliable to prove who received the cash that was withdrawn.⁷

⁵ This sample was randomly selected and comprised 10 tickets issued since 2011 and five tickets previously issued since 2006.

⁶ Two underpayments totaling \$1,367 and one overpayment of \$235, for a net of \$1,132 underpaid

⁷ Our attempt to contact the defendant to confirm the return of the bail money was unsuccessful.

Accountabilities and Shortages — The Justices did not prepare bank reconciliations or monthly accountabilities comparing Court liabilities with reconciled bank balances. We compared the bank balance to the known liabilities for each justice as of February 2013 and found that Justice Race’s account was \$3,500 short and Justice Moser’s account was short \$25. The shortage in Justice Race’s account included the \$2,300 in bail that was not accounted for. The February 2013 monthly report for Justice Race was not filed until July, partially due to this shortage.

These discrepancies may have occurred because the Justices performed all aspects of their duties without oversight by Board. A CPA firm annually performed agreed-upon review procedures for the past nine years but its reports were provided to the Board on average six months after the period reviewed, which does not provide useful oversight in a timely manner. To the Board’s credit in the 2011 report, which was received in December 2012, the CPA firm reported the lack of bank reconciliations and instances where money was recorded but not deposited; the Board subsequently asked Justice Race to provide bank reconciliations, and the Justice then resigned.

Due to the Court’s lack of documentation and poor records, it is not clear whether the deficiencies we found are simple errors or intentional actions to cover money stolen from the Court. As a result of these deficiencies, the Court is susceptible to the loss, theft or inappropriate use of moneys for which it is responsible.

Recommendations

1. The Justices should reimburse the amounts their accounts are short and bring their records and reports up to date.
2. The Justices should properly record tickets issued and moneys received and deposited to ensure that each ticket is adjudicated and has an associated payment deposited in the bank or it is being pursued for payment.
3. The Justices should reconcile their manual system for pursuing unpaid tickets to their software system and to the DMV database and implement procedures to ensure that the Court’s systems reflect the DMV pending-ticket data on an ongoing basis.
4. The Justices should maintain supporting documentation for ticket dismissals and fine reductions and should ensure that records are not deleted without documented authorization and explanation.
5. The Justices should consistently enforce unpaid tickets.
6. The Justices should ensure that all Court reports to the JCF are accurate and timely and that all Court disbursements, including

those made to the JCF, are supported by activity in the software system. Dispositions of moving violations reported to the DMV should have supporting records of receipt and deposit.

7. The Justices should ensure that all manual or computer-generated receipts are issued in sequential order.
8. The Justices should perform monthly bank reconciliations and monthly accountabilities.
9. The Board should provide greater oversight of the Justices and implement the CPA firm's recommendations to prevent further errors or irregularities.

APPENDIX A
RESPONSE FROM VILLAGE OFFICIALS

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



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January 29, 2014



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RE: Village of Oxford Justice Court Operations
Draft Audit Report – 2013M-219
Period – June 1, 2011 – April 30 2013

Following a Board review on January 28th of the Draft Audit Report submitted to the Village on January 3, 2014 and with the following changes agreed at the January 8, 2014 Exit Discussion, the Village is in agreement with the findings of the Report and the resulting recommendations. A Corrective Action Plan will be developed following release of the final Audit Report.

January 8, 2014 Exit discussion amendments to Draft Audit Report:

- 1) Changed from Board to Mayor on appointing Kathy Moser
- 2) Changed wording about "complete the term" to until an election could be held
- 3) Changed "Village employed CPA" from "Court"
- 4) Changed wording from 5 months late to 6 months after the period ended
- 5) removed the word "all" and added "may have" regarding deficiencies (see below).
- 6) Changed wording about board responding to CPA firm's findings and added wording giving the board credit. (See below)

See
Note 1
Page 13

These discrepancies may have occurred because the Justices performed all aspects of their duties without oversight by Board. A CPA firm annually performed agreed-upon review procedures for the past nine years but its reports were provided to the Board on average six months after the end of the period reviewed which does not provide useful oversight in a timely manner. To the Board's credit, in the 2011 report which was received in December 2012, the CPA firm reported the lack of bank reconciliations and instances where money was recorded but not deposited; the Board subsequently asked Justice Race to provide bank reconciliations, and the Justice then resigned

The report findings are related to a separately elected Village Justice Court official's actions and procedures. Under normal circumstances, the Justice would be granted an exemption to the "one response from local government rule" and he would be afforded the opportunity to respond on his behalf separately from the village to the findings and recommendations. Unfortunately, due to ill health, the Justice was not able to participate in the audit process and cannot now respond to audit findings due to his death in November 2013. The report indicates that lack of documentation and poor records leaves unclear whether the discrepancies were simple errors or intentional actions. As this open question could tarnish the Court's image and the Justice's integrity and honesty over a career spanning more than 20 years, it should be noted that all Court audits prior to 2011 substantially complied in all material respects with the terms and conditions of the Audits.

See
Note 2
Page 13

VILLAGE OF OXFORD

Incorporated 1808

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Report Recommendations

1. The Justices should reimburse the amounts their accounts are short and bring their records and reports up to date.
2. The Justices should properly record tickets issued and moneys received and deposited to ensure that each ticket is adjudicated and has an associated payment deposited in the bank or that it is being pursued for payment.
3. The Justices should reconcile their manual system for pursuing unpaid tickets to their software system and to the DMV database and implement procedures to ensure that the Court's systems reflect the DMV pending-ticket data on an ongoing basis.
4. The Justices should maintain supporting documentation for ticket dismissals and fine reductions and should ensure that records are not deleted without documented authorization and explanation.
5. The Justices should consistently enforce unpaid tickets.
6. The Justices should ensure that all Court reports to the JCF are accurate and timely and that all Court disbursements, including those made to the JCF, are supported by activity in the software system. Dispositions of moving violations reported to the DMV should have supporting records of receipt and deposit.
7. The Justices should ensure that all manual or computer-generated receipts are issued in sequential order.
8. The Justices should perform monthly bank reconciliations and monthly accountabilities.
9. The Board should provide greater oversight of the Justices and implement the CPA firm's recommendations to prevent further errors or irregularities.

RESPONSE COMMENTS TO RECOMMENDATIONS

Though the Village is in agreement with Recommendation #1, it will be problematic to development a corrective action Plan as the Justice is deceased.

Sincerely,

Mayor Terry Stark
Village of Oxford

APPENDIX B

OSC COMMENTS ON THE VILLAGE'S RESPONSE

Note 1

The report has been updated to reflect these changes.

Note 2

While the Village Justice is primarily responsible for the operations of the Court, the Board of Trustees is ultimately responsible for the management of the Village's financial affairs.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

During this audit, we examined the Justice Court operations for the period June 1, 2011 through April 30, 2013. To accomplish our audit objective and obtain relevant audit evidence, our procedures included the following:

- We interviewed two Board members and two Justices to gain an understanding of their operations.
- We obtained information electronically from the DMV, the JCF and the Court's records and compared the information to determine if cases were accounted for properly. We followed up on various samples of the discrepancies identified.
- We traced bank deposits from the bank statement back to the accounting records cashbook for the months of January 2012, September 2012 and April 2013.
- We compared cash receipt reports from the Court software system to bank deposits for December 2011 and February 2013 to determine if receipts were deposited in a timely manner and intact.
- We compared deposit amounts from bank statements to computerized reports to verify that each deposit corresponded to payments received for January 2012, September 2012 and April 2013.
- We selected 20 transactions from the January 2013 AC-1030 monthly report submitted to the JCF to determine if fine amounts were accurately dismissed and if reduced case fines were appropriately substantiated.
- We reviewed receipts to determine if they were issued in sequential order.
- We reviewed outstanding ticketed violations as of April 30, 2013 to determine if the Court was effectively pursuing collections.
- We sent out 30 confirmation letters to defendants shown as unpaid to verify they had not yet paid their amount due.
- We selected six disbursements related to monthly filings to determine if these payments agreed to the monthly AC-1030 report and if the reports were filed in a timely manner.
- We reviewed bank records and disbursements ledgers and Justice Court monthly reports to determine the amount of bail and determine if there was evidence of "stale" bail (bail that has been retained for an extended period of time and not turned over to the Village general fund).

- We selected all 20 disbursements that were over \$10 and not related to the monthly AC-1030 report of Court activity for our scope period to determine whether they were supported and legitimate expenditures.
- We reviewed accounting records and bank statements for December 2011 and February 2013 to determine whether bank reconciliations were being performed.
- We performed an accountability analysis for December 2011 and February 2013 to determine whether Court assets and liabilities balanced.
- We reviewed findings reported to the Board for the last nine CPA reviews to determine if the reports were timely and asked what actions the Board took based on those 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX D

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