

Town of Clarkson

Justice Court Operations

SEPTEMBER 2018



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Audit Objective

Determine whether the Justices provided adequate oversight to ensure receipts were collected, deposited, recorded, reported and remitted in a timely and accurate manner.

Key Findings

- Justices did not provide adequate oversight of Court operations.
- Collections were not always properly and timely recorded and deposited.
- Court personnel did not properly enforce pending tickets. As a result, 283 (23 percent) were not submitted to the Department of Motor Vehicle (DMV) scofflaw program or not reported or incorrectly reported to the DMV.

Key Recommendations

- Provide adequate oversight of Court operations.
- Issue complete receipts and properly record all funds collected.
- Enforce pending tickets and submit eligible tickets to the DMV scofflaw program.

Town officials agreed with our recommendations and indicated they have begun to initiate corrective action.

Background

The Town of Clarkson (Town) is located in Monroe County.

During our audit period, there were two Justices, Hammel and Wilcox, who adjudicated legal matters within the Court's jurisdiction, such as vehicle and traffic, criminal, civil and small claims cases. Two part-time clerks assisted the Justices with processing cases and their related financial transactions, including submitting monthly financial activity reports and traffic dispositions to various New York State agencies.

Quick Facts

2016 Fines and Fees Collected	\$73,572
Justice Hammel's Term	01/01/14 – 12/31/17
Justice Wilcox's Term	01/01/15 – 12/31/18

Audit Period

January 1, 2016 – November 1, 2017

Justice Court Operations

Justices are required to submit monthly financial reports to the Office of the State Comptroller's Justice Court Fund (JCF). Justices must also report all vehicle and traffic ticket dispositions to the New York State Department of Motor Vehicles (DMV).

Why Should Justices Establish Policies and Procedures for Court Operations?

Justices should establish policies and procedures for the clerks to which they delegate portions of their financial responsibilities to ensure that all receipts are properly recorded, reported, disbursed and accounted for. Adequate policies and procedures provide guidance for the clerks while performing their duties to ensure that incompatible financial duties are segregated. This can be accomplished by either ensuring that each clerk processes transactions only for her assigned Justice¹ or by assigning specific phases of cases and transactions to different clerks, so that the clerks automatically review each other's work while performing their assigned duties. Where it is not practical to segregate duties, the Justices should provide additional oversight as a mitigating control.

The Justices Did Not Provide Adequate Guidance or Segregate Incompatible Duties

The Justices did not develop written policies and procedures for day-to-day Court operations. Instead, they relied on the clerks to perform most duties, did not segregate incompatible financial duties² and provided limited oversight of Court operations. The clerks were each responsible for collecting payments, issuing prenumbered manual receipts, posting receipts in the Court's recordkeeping software (software), preparing and making deposits, obtaining bank transaction reports, preparing reconciliations and accountabilities, reporting ticket disposition to the DMV and preparing monthly JCF reports for the Justices' signature and submittal. Due to the lack of guidance, the clerks handled the cash collection and enforcement of unpaid tickets inconsistently. In addition, because the clerks performed these duties without adequate oversight, the Justices did not ensure that their work was accurate and sufficient.

1 This would require significant independent review and oversight by the Justices, but provide clear accountability for each clerk.

2 Before May 2016, the clerks performed work for both Justices. After this time, the Justices directed the clerks to perform tasks only for their assigned Justice, which eliminated any segregation of duties provided by the clerks performing various procedures for each other. However, the clerks' software access rights were not changed, so each clerk could still record, change or delete the other Justice's records.

How Should Justices Provide Oversight of Court Operations?

A town justice is generally responsible for moneys received by the justice court. Each month, justices should account for cash collections and disbursements, verify the accuracy of their financial records and review all bank reconciliations and accountabilities that compare court liabilities with reconciled bank balances and money on hand.³ Justices should review all canceled checks while reviewing bank reconciliations performed by the clerks and ensure that bank statements are included with the monthly records. In addition, justices must ensure that their signature stamps are not used to issue unauthorized or improper payments.

Justices are required to issue receipts to acknowledge the collection of all funds paid to the court and record each receipt in the accounting records. When issuing manual receipts, the clerks must include all necessary information on the receipts, including payment type (cash or check), law violation, case and ticket number and recipient signature. Justices also must deposit all court funds collected intact⁴ as soon as possible but not later than 72 hours from the date of collection, exclusive of Sundays and holidays. Deposited amounts should always agree with amounts received and recorded.

The Justices Did Not Provide Adequate Accountability for Court Funds

The Justices submitted monthly reports to the JCF and told us they reviewed monthly reports, bank statements, reconciliations and accountabilities. However, there was no indication on the reconciliations and accountabilities that the Justices had reviewed them. Further, canceled check images were not received or reviewed by the clerks or Justices, and bank statements were not included with the monthly records.⁵ Instead, the clerks included a printed report of bank transactions from the online banking system, which did not always include all transactions for the month.

Additionally, both clerks told us they used their assigned Justice's signature stamp to sign letters. Although we did not identify any inappropriate transactions during our review of canceled checks, the clerks could have used the signature stamps for other purposes, such as signing checks. Therefore, it is critical for the Justices to receive and review bank statements and canceled checks to have a complete accounting of all bank transactions from each month. Further, the Justices did not have sufficient reports available to review and account for bail activity each month, which resulted in a small discrepancy between Justice Hammel's accountability and actual bail balance.

3 For more information, refer to OSC's *Handbook for Town and Village Justices and Court Clerks*.

4 In the same amount and form as collected

5 Although the Town Supervisor's office received bank statements and canceled check images, the Justices did not request to review this documentation.

Because the Justices did not adequately oversee Court operations, the Court has an increased risk that unidentified funds could remain on deposit and that errors or irregularities could occur and remain undetected or uncorrected.

Collections Were Not Always Properly and Timely Recorded and Deposited

The clerks issued manual prenumbered receipts for funds received for both Justices. However, they did not always completely record information on the manual receipts and did not always record the method of payment (Figure 1).

Figure 1: Incomplete Manual Receipt Information^a

	Justice Wilcox: Number of Receipts	Justice Hammel: Number of Receipts
Missing Payment Type	132	67
Incomplete Law Violation Section	82	28
Missing Case Number or Ticket Number	73	17
Unsigned Receipt	3	1
Totals	290	113

^a Some receipts had more than one deficiency

After issuing manual receipts to defendants, the clerks recorded the receipt information in the software. Instead of using the software’s ability to generate sequential receipts, the clerks entered the receipt numbers in the software to correspond to the manual receipt numbers, but did not change the date to match the date that the manual receipt was issued.

We compared all software receipt transactions to the manual receipts for our audit period and found that information in the software records did not always correspond to the manual receipts (Figure 2).

Figure 2: Differences Between Manual Receipts and Software Records

	Justice Wilcox: Number of Transactions	Justice Hammel: Number of Transactions
Different Receipt Dates	36	28
Incorrect Receipt Numbers	18	15
Different Payee Names^a	10	5
No Manual Receipts (Transferred Bail)	5	6
Unrecorded Receipt Numbers	4	6
Different Receipt Amounts^b	2	2
Totals	75	62

^a The manual receipts listed the individual making payment, and the software records listed the name of a business or a defendant’s name.

^b These included two refunded overpayments: one bad check fee turned over to the Town Clerk and one inaccurate manual receipt.

Due to the multiple discrepancies in software receipt records, the Justices would not have been able to perform a quick comparison between manual and computerized receipts. As a result, there was little accountability to ensure software records were accurate and receipts were issued sequentially.

We also reviewed the software receipt sequence for each Justice and found gaps, duplicates and numbers out of the sequence mainly due to incorrect data entry and voided receipts. We reviewed all recorded receipts for both Justices⁶ during our audit period and found they had been deposited. However, 8 percent of the noncredit card payments recorded for both Justices⁷ were not deposited within the required 72 hours from the date of collection, ranging from one to nine days late.

In addition, we found a \$100 payment for Justice Hammel that was deposited but not recorded in the software records or reported and remitted to the JCF.

When receipt information is incomplete or inaccurate and recorded improperly, and when receipts are issued out of sequence, the Justices cannot determine whether the clerks are depositing all amounts collected intact and in a timely manner. It also makes it difficult for the Justices to determine whether the clerks were substituting cash for checks to cover receipts with collections from other receipts.

What Are Essential Court Software Controls?

Once information is entered into the software, its integrity should be maintained through controls that limit access and changes to data to ensure that transactions are not altered. The software should provide a means of determining the identity of individuals who access the software and their activity. Audit logs maintain a record of activity that includes the identity of each person who has accessed the software, the time and date of the access and what activity occurred. The Justices should review these logs on a routine basis to monitor the clerks' software activity. Usernames and passwords provide user authentication to prevent unauthorized use or modification of, and user accountability for, computer activity and should be confidential.

Court Software Did Not Have Necessary Controls

We found that the Court was using an older version of the software that allowed users to change receipt numbers and delete or change previously recorded entries. Additionally, the software did not have an audit log function or the ability to generate deletion or change reports. Also, users did not keep a manual log of

6 460 transactions totaling approximately \$60,000 for Justice Wilcox and 396 transactions totaling approximately \$57,000 for Justice Hammel

7 38 non-credit card payments totaling \$3,576 for Justice Wilcox and 30 non-credit card payments totaling \$3,281 for Justice Hammel

deletions and changes and reasons for the deletions and changes. Consequently, the clerks could add, delete or modify entries at any time, but an audit log or evidence of those changes would not be available for review or accountability.

In addition, although the Justices and clerks each had their own username and password, they all had access to a software screen that contained all users' login names and passwords. Therefore, all users could use another user's account to record or delete transactions. As a result, there is no accountability for any discrepancies in the software records.

Because the Justices did not implement adequate software controls or upgrade to the more secure version of the software,⁸ Town officials cannot be certain that they have a complete record of Court collections, and the Justices cannot identify instances when records had been changed or deleted. Additionally, altering, adding or deleting receipts increases the risk that funds could be received but not deposited and reported. Because this technique has been used to conceal the misappropriation of funds in other courts, the Justices should address the possibility that it could happen in their Court and take action.

How Should Courts Enforce Pending Tickets?

One of the responsibilities of a justice court is to adjudicate vehicle and traffic violations. Law enforcement officials issue uniform traffic tickets for vehicle and traffic infractions. The DMV tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. When all associated fines are paid for a ticket, the court uploads the ticket's disposition to TSLED for removal from the pending ticket database.

The TSLED database produces reports that are electronically available to each local court on a monthly basis. These reports are a tool to verify the accuracy of a court's records against the information in the State's database and to help ensure tickets are processed in a timely manner. Court officials can also generate a TSLED report of the cases that have been pending for 60 days and use it to identify individuals who either have not appeared in court to answer their ticket or have not paid their fine. The Court generally refers these cases to the DMV for enforcement through its scofflaw program.⁹

After the case is adjudicated and fines are paid in full, or the case is assessed with no fines or fees and is dismissed, it can be disposed. This step includes uploading information to the TSLED so that the case is properly accounted

⁸ This version can generate change reports and includes "locked" receipts that can be voided but not deleted.

⁹ The DMV's scofflaw program allows local justice courts to notify the DMV when an individual has an unresolved traffic ticket (failure to pay the fine or failure to appear on the court date) 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, the DMV suspends the individual's license until they address the outstanding ticket.

for as “disposed” and removed from the pending ticket database. Justices must accurately report disposed cases in a timely manner to the DMV so that defendants’ DMV records are accurate.

Court Personnel Did Not Properly Enforce Pending Tickets

Although the Court participated in the DMV’s scofflaw program, Court personnel did not regularly use TSLED reports to enforce and monitor unresolved traffic tickets. Instead, the clerks developed informal procedures for identifying tickets to be referred to the scofflaw program. The Justices also did not use the TSLED reports to monitor their pending cases and ensure that the clerks were accurately reporting ticket activity to the DMV in a timely manner. As a result, we found that the Court’s process for tracking pending tickets and tickets already referred to the scofflaw program and the process for determining which tickets were eligible to be referred to the scofflaw program were ineffective.

We reviewed the DMV pending ticket report and identified 283 pending tickets (23 percent of the Court’s pending tickets) that were not submitted to the scofflaw program and required further review. We found that these tickets should have been submitted to the scofflaw program or were either not reported or incorrectly reported to the DMV (Figure 3).

Figure 3: Tickets Not Reported or Incorrectly Reported to the DMV

Ticket Status	Number of Tickets
Should Have Been Submitted to the Scofflaw Program	94
Paid	88
Indicated as Dismissed in the Software	58
Unable to Locate Ticket	18
Purged	16
Covered by Another Ticket	8
Abated by Death	1
Totals	283

In addition, certain tickets and related financial information were improperly purged from the software. While physical tickets can be destroyed after the required retention period,¹⁰ it is not appropriate to delete financial data, such as unpaid fines and fees, from the software, or to report tickets to the DMV as dismissed when they were not.

The clerk who primarily purged cases mistakenly believed that the Court could not collect on tickets that were more than 20 years old after the physical tickets

¹⁰ The retention period for open non-misdemeanor tickets is 20 years.

were destroyed and that she had to eliminate outstanding fines and fees from the software and the DMV's records. Therefore, for tickets more than 20 years old, the clerk generally labeled them in the software as purged or dismissed and set fines and fees to zero.

Because the clerk did not know the correct procedure, some tickets that she purged remained on the DMV pending ticket report. She made multiple attempts in different ways to remove them from the report and remove the license suspensions. As a result, some of these tickets were listed on DMV error reports, which raised concerns for the other clerk.

The other clerk identified 47 tickets, issued to 26 people, that she felt were improperly purged or altered. We reviewed available records for these tickets and found the following:

- Thirty-three were more than 20 years old and eligible for the physical ticket to be destroyed. For the remaining 14 tickets issued to six individuals, 13 tickets for five individuals were available and still open in the software — although fines had been set to zero — and one offender was deceased.
- At least 11 purged tickets, and possibly many more,¹¹ appeared to be for no-shows that did not have assessed fines and fees.
- Sixteen tickets (including those for the five individuals previously mentioned) did not have assessed fines and fees listed in the software even though the printed tickets indicated fines and fees were assessed. While these tickets remained open in the software and often pending in the DMV database, the software did not accurately depict fines and fees owed. This caused a problem when a clerk attempted to record a \$100 payment received in December 2016 to pay for a ticket from 2001 that no longer had assessed fines and fees listed in the software. As a result, the clerk did not record the payment in the software or report it to the JCF. This unrecorded cash on hand contributed to the \$60 overage in Justice Hammel's reconciled cash balance.

In addition, we reviewed 30 tickets for each Justice that were reported as dismissed during our audit period. All 30 of Justice Hammel's tickets had a valid documented reason for dismissal recorded on the ticket. For Justice Wilcox, 13 (43 percent) had a valid documented reason, 14 (47 percent) did not have sufficient information documented on the ticket and three (10 percent) did not have any disposition recorded on the ticket.

We also compared information reported to the DMV and JCF during our audit period and identified 10 ticket dispositions that were reported to the DMV but had

¹¹ For cases for which the physical ticket was destroyed, we could not be certain whether fines or fees had been assessed due to inconsistent entries and potential changes and deletions in the software.

not been reported to the JCF. Of these, six (60 percent) were dismissed, but the clerk did not report the disposition to the JCF. The remaining four (40 percent) were reported to the DMV as paid in full when the ticket had not yet been paid.

Because these tickets were incorrectly reported as completed, they were not tracked in the DMV pending ticket system and are unlikely to be identified as unpaid and eligible to be referred to the scofflaw program. Further, reporting tickets as closed to the DMV, without recording payments in the software and reporting them to the JCF, can be a way to conceal a shortage or theft of funds. Because the Court did not enforce or monitor pending tickets in a timely manner, errors and inconsistencies in ticket recording and reporting have occurred.

What Do We Recommend?

The Justices should:

1. Develop policies and procedures for Court operations, segregating the clerks' incompatible financial duties and providing clerk oversight and review.
2. Receive and review bank statements and canceled check images and make notations on the documents to indicate their review.
3. Ensure the clerks print and maintain accurate bail records and review these records and investigate and correct any differences in bail activity and bail balances in a timely manner.
4. Ensure the clerks issue properly completed receipts, accurately record all information for funds collected and report and remit the appropriate funds to the JCF.
5. Review receipt records to ensure receipts are issued sequentially.
6. Ensure all funds are deposited within 72 hours from the date of collection.
7. Consider upgrading the software to the available secure version, which will prohibit deletions and provide audit logs for review, and using the software to generate receipts. If the Court chooses not to upgrade the software, the Justices should require the clerks to maintain a manual log documenting reasons for all changes and deletions within the software.
8. Restrict access to users' login names and passwords, so that users cannot access each other's accounts.
9. Ensure the clerks regularly use TSLED reports to enforce and monitor unresolved traffic tickets and ensure that the clerks accurately report ticket activity to the DMV in a timely manner.

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10. Ensure that all eligible pending tickets are referred to the DMV scofflaw program for enforcement.
 11. Ensure the clerks are aware of how to properly process tickets that are more than 20 years old.
 12. Ensure the clerks enter all assessed fines and fees in the software and remove the fines and fees only by recording payments or Justice-authorized dismissals.
 13. Ensure all dismissed tickets have Justice authorization and sufficient documentation for the purpose of dismissal.

Justice Penders¹² should:

14. Make necessary adjustments to bail records to correct the recorded bail balance.
15. Record the deposited funds on hand to the appropriate tickets, report the payments to the JCF and remit the funds as required.

¹² Justice Hammel's replacement

Appendix A: Response From Town Officials

TOWN OF CLARKSON JUSTICE COURT

3655 Lake Rd.
P.O. Box 803
Clarkson, N.Y. 14430
(585) 637-1134
Fax (585) 637-1140

Ian E. W. Penders
Town Justice
Christopher T. Wilcox
Town Justice
M. Dawn Rejewski
Court Clerk
Kellie Mesler
Deputy Court Clerk
Patricia Preston
Deputy Court Clerk

On August 29, 2018 we met in the Clarkson Courthouse with the State Comptrollers' Office. Their auditors discussed their most recent audit as well as answer questions and concerns we had.

We have made necessary changes to courtroom protocol, and court procedures to ensure we addressed any issues with the audit.

As Judges, we welcome constructive criticism as we are constantly striving to serve the public to the best of our abilities and strive to run a court of fairness and integrity.

If there are any further concerns, please do not hesitate to contact the court.

Sincerely,

Christopher T. Wilcox
Clarkson Town Justice

Ian E. Penders
Clarkson Town Justice

Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and employees and reviewed Court records and reports to gain an understanding of Court operations and software controls.
- We reviewed Board minutes and Court audit and external review documentation.
- We prepared bank reconciliations and accountability analyses for both Justices' bank accounts for each month from January 2016 through June 2017 to determine whether cash on hand agreed with known liabilities. We also reviewed those completed by the clerks. This time period reflects the beginning of our audit period through to the completed month (June 2017) prior to audit notification.
- We reviewed and compared bail reports for each Justice for January 2016 through June 2017.
- To determine whether cash collected was properly receipted, recorded and deposited for both Justices, we reviewed and compared all manual press-numbered receipts, software receipt transactions and bank statements for January 1, 2016 through July 15, 2017. This time period reflects the beginning of our audit period through to the date (July 15, 2017) that we requested and received each report and/or document.
- We requested and reviewed a report directly from the DMV of all pending uniform traffic tickets and reviewed the 1,239 pending cases to determine whether they were eligible to be and appropriately submitted to the scofflaw program. The data was current as of August 2, 2017, which was the date that the DMV provided the information.
- We compared electronic data received directly from the JCF on August 8, 2017 to DMV data received on August 2, 2017 and reviewed all cases with differences in reported information. We also compared JCF data to the Court's software records and reviewed the cases with differences. We reviewed all cases with differences from the beginning of our audit period to the dates that the information was provided.
- We randomly selected a sample of 30 dismissed cases from each Justice and reviewed the tickets to determine whether cases had valid documented reasons for dismissal.

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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of 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 the CAP available for public review in the Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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www.osc.state.ny.us/localgov/index.htm

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