

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT  
& SCHOOL ACCOUNTABILITY

# Town of Somers

## Justice Court

Report of Examination

Period Covered:

January 1, 1012 — March 31, 2013

2013M-198



Thomas P. DiNapoli

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# **State of New York**

## **Office of the State Comptroller**

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

September 2013

Dear Town Officials and Justice Court 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 Somers Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of Somers (Town) is located in Westchester County, covers 33 square miles, and has a population of approximately 20,400. The Town is governed by the Town Board (Board) which comprises the Town Supervisor (Supervisor) and four elected Board members. The Town Court (Court) operates with two Justices and two court clerks (clerks). The Court has jurisdiction over misdemeanor criminal matters, felony arraignments, civil and small claims actions (jurisdiction up to \$3,000), and motor vehicle and Town ordinance violations. The Court collected approximately \$317,000 in fines for adjudicated cases, parking violations and forfeitures for the period January 1, 2012 to March 31, 2013.

Justices are personally responsible for all moneys received and disbursed by the Court and for safeguarding Court resources. Justices are required to report financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF). Although the Justices are primarily responsible for overseeing Court operations, the Board also shares responsibility to ensure an effective system of internal controls over Court operations is in place.

## Objective

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

- Were internal controls over the Court's financial activities appropriately designed and operating effectively to ensure the proper accounting and reporting of financial transactions?

## Scope and Methodology

We examined the internal controls established over the Court's financial activities for the period January 1, 2012 to March 31, 2013.

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 are included in Appendix B of this report.

## Comments of Town 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 the findings in this report and indicated they have begun to implement corrective action.

The Town 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

A well-designed system of internal controls is necessary to ensure that cash received by the Court is safeguarded, and that Court activity is properly recorded and reported. Justices must ensure that internal controls are in place and working effectively, particularly when there is limited segregation of duties. Justices are responsible for adjudicating cases brought before their Court, and accounting for and reporting all related Court financial activities. To meet that responsibility, they must ensure that the court clerk maintains and safeguards all moneys collected and reports all Court transactions to the JCF in a timely manner.

We found weaknesses in the Court's internal controls and a lack of oversight of the Court's operations by the Justices and the Board. The clerks performed all of the key aspects of the Court's accounting function with limited oversight. Deposits were not always made, and monthly reports were not always submitted, in a timely manner. Because of these weaknesses, the Board and the Justices have limited assurance that all moneys collected are accounted for, and there is an increased risk that Court funds could be misappropriated without detection or correction.

### Segregation of Duties

An effective system of internal controls provides for the distribution of duties so that no one individual controls all phases of a transaction. Proper division of responsibilities allows the work of one employee to be independently verified in the normal course of another employee's or supervisor's duties. In situations where segregating duties within the Court's financial operations may not be practical, the Justices must exercise sufficient oversight to help ensure that the clerks properly record and report all financial transactions and properly account for all moneys.

Both clerks perform several key aspects of the Court's accounting function with limited oversight. These functions include recording cash receipts, making deposits, reconciling bank records, making cash disbursements, preparing monthly reports to the JCF, maintaining and updating the bail accounts, and maintaining all other Court records and files. Neither the Justices nor the Board have established adequate policies or procedures for monitoring the duties of, or reviewing the work performed by, the clerks. We tested 102 transactions totaling \$13,902 and did not find any discrepancies. However, without adequate segregation of duties or compensating controls, there is an increased risk that cash could be received and not deposited, and errors or irregularities could occur without being detected and corrected in a timely manner.

## **Untimely Deposits**

New York Codes, Rules and Regulations require all receipts to be deposited intact (in the same form that they were received) as soon as possible but no later than 72 hours, excluding Sundays and holidays, from the date of receipt. This requirement is an essential control that, together with the prompt and accurate recording of receipts, helps prevent errors and irregularities.

Although both Justices were aware moneys collected by the Court were required to be deposited within 72 hours from the date of receipt, neither Justice provided sufficient oversight of the clerks to ensure they complied with this requirement.

We judgmentally tested the month of February 2013, the last month that was filed with the JCF in our audit period, and found that some deposits were not made in a timely manner; therefore, we expanded the testing to include December 2012 and January 2013, the preceding two months. In total, we examined 31 deposits which consisted of 304 receipts, totaling \$55,078 made to the two Justices' bank accounts. We found that 54 out of the 304 receipts totaling \$7,085, or 13 percent of the total receipts tested, were held for four to six days. The clerks stated that they were busy and unable to make the deposits on time. Late deposits increase the risk that Court personnel will not properly account for all moneys received, and moneys could be lost or stolen.

## **Reports to the Justice Court Fund**

Accurate and timely reports provide a means for effectively monitoring Court operations. Town and JCF officials can analyze such reports and investigate any unusual or incomplete information. Every Justice is required by law to report to the JCF the Court's activities of each month by the tenth of the ensuing month. All moneys reported as collected, electronically or otherwise, must also be submitted to the Supervisor by the tenth of the following month.

We reviewed the monthly reports for the period of January 1, 2012 through March 31, 2013 and compared the reports provided by the clerks to the JCF records and found no discrepancies. However, the Justices submitted 14 of the 30 monthly reports that were due during our audit period between one and five days late to the JCF. The clerks stated that Justices are part-time and are not always available to review and sign their reports when due. Filing reports late hinders effective monitoring of Court operations and increases the risk that loss or misappropriation of funds could occur and not be detected.

## **Recommendations**

1. The Justices and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties, or that compensating controls are implemented.

2. The Justices should ensure that the clerks deposit all moneys received in an official bank account within 72 hours of collection, as required by law.
3. The Justice should submit monthly reports to the JCF no later than the tenth day of the succeeding month.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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

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**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

MARY BETH MURPHY  
SUPERVISOR



August 28, 2013

Tenneh Blamah  
Chief Examiner of Local Government  
& School Accountability  
Office of the State Comptroller  
110 State Street  
Albany NY 12236

RE: Town of Somers Justice Court  
Report of Examination  
Period 1/1/12 to 3/31/13  
Audit Report No. 2013M-198

Dear Ms. Blamah:

Enclosed, please find the Response to Findings and Corrective Action Plan prepared by the Somers Justice Court in response to the Office of State Comptroller Draft Audit Report. The Town Board members have reviewed the Justices Response to Findings and Corrective Action Plan and agree with the recommendations in the audit and that the corrective action plan be immediately implemented by the Justices, Court Clerk and Assistant Court Clerk. Thank you.

Very truly yours,

Mary Beth Murphy  
Supervisor

Enc.

cc by email and regular mail:

(1) [REDACTED] Office of the State Comptroller  
Division of Local Government and School Accountability  
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[REDACTED]

(2) Office of State Comptroller  
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& School Accountability  
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Albany NY, 11236  
caps@osc.state.ny.us

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## JUSTICE COURT

### Town of Somers

WESTCHESTER COUNTY, N.Y.

#### TOWN JUSTICES

Hon. Denis J. Timone  
Hon. Michael J. McDermott



**TOWN HOUSE**  
**335 ROUTE 202**  
**SOMERS, NY 10589**

(914) 277-8225  
FAX  
(914) 277-3771

August 2, 2013

#### Response to Findings and Corrective Action Plan

The Court thanks the staff of the State Comptroller's Office for their courtesy and professionalism in conducting a review of the financial operations of the Justice Court and in identifying areas that can be redesigned to work more effectively.

The Court has examined the internal controls and has already begun implementation of corrective actions. It should be stated that although weaknesses were identified there were no discrepancies in the amount of monies received by the court and reported to the JCF and the DMV.

#### **Recommendation**

The Justices and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties, or that compensating controls are implemented.

#### **Justice Court Response**

In order to ensure a further segregation of duties, steps have been added to the procedures in place to ensure a more complete review of the cash deposits and recordkeeping practices. Understanding that there has been no findings of any discrepancies both Judges along with the Town Board have put into place additional steps to insure more oversight over the financial transactions. It has always been the practice that the Justices have reviewed the monthly activities reports to the JCF and the banking records and reconciliations. The Justices will evidence their review of the deposits and cashbook going forward. The deposits are to be prepared and initialed by the assistant Court Clerk and initialed and reviewed by the Court Clerk. In the event the Justices are unavailable to review said items the Director of Finance will review prepared deposits and bank reconciliations.

**Recommendation**

The Justice should submit monthly reports to the JCF no later than the tenth day of the succeeding month.

**Justice Court response:**

The Somers Court Justices have reviewed the audit and understand and appreciate the importance of compliance with the monthly activity deadline set by the State Comptroller's Office and henceforth will be timely filed by the 10<sup>th</sup> of each month.

**Recommendation**

The Justices should ensure that the clerks deposit all moneys received in an official bank account within 72 hours of collection, as required by law.

**Justice Court response:**

The Judges have both reviewed the procedure and have instituted a procedure that ensures that the Court staff will make deposits within the 72 hour rule.

Very truly yours,

/ Denis J. Timone  
Town Justice

Michael J. McDermon  
Town Justice

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

The objective of our audit was to determine whether internal controls over the Court's financial activities were appropriately designed and operating effectively to ensure the proper accounting and reporting of financial transactions for the period January 1, 2012 to March 31, 2013. To achieve our objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Court personnel to gain an understanding of the Court's operation.
- We reviewed the Court's accounting records to determine if they were complete, accurate and up-to-date.
- We compared recorded cash receipts and disbursements with supporting documentation such as case files, records of bail transactions and reports to the JCF.
- We compared amounts recorded in the Justices' accounting records to amounts deposited and amounts included in the Court's monthly reports to the JCF.
- We reviewed bank statements and canceled checks, and compared payments made with the amounts deducted from the bail activity records.

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.

## **APPENDIX C**

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# APPENDIX D

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### AND SCHOOL ACCOUNTABILITY

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