



Town of Fulton Justice Court Operations

Report of Examination

Period Covered:

January 1, 2015 – October 6, 2016

2017M-6



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2017

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 Fulton, 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 Fulton (Town) is located in Schoharie County and has approximately 1,400 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 one appointed Justice who is responsible for overseeing Court operations. The Justice has jurisdiction over certain civil and criminal cases and adjudicates motor vehicle and traffic violations. The Justice uses computerized accounting software to account for the majority of Court transactions. The Justice imposes and collects fines, fees and bail money and is responsible for reporting the Court's monthly financial activities to the Office of the State Comptroller's Justice Court Fund (JCF) and remitting all moneys collected to the Supervisor.

Two Justices served during our audit period. The former Justice resigned May 9, 2016. The New York State Office of Court Administration (OCA) appointed a Justice from another town on May 18, 2016 to oversee Court operations until an election could be held. The Court has had frequent turnover since a long-term Justice retired in 2013, and without a Court clerk, OCA has stepped in twice to run Court operations. The Court reported collecting approximately \$3,400 in fines and fees from January 2015 through September 2016.

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 former Justice ensure that Court money was accurately and completely collected, recorded, deposited and reported in a timely manner?

Scope and Methodology

We examined the Court's records and reports for the period January 1, 2015 through October 6, 2016.

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. 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.

**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 will initiate corrective action.

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 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's office.

Justice Court Operations

Town justices assess fines and mandatory surcharges and ensure money received by the court is accurately recorded in the accounting system and deposited within 72 hours of receipt. All funds should be reported to JCF and the New York State Department of Motor Vehicles (DMV) and then disbursed to the Supervisor, JCF or defendant, 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 reports 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.¹ Additionally, all dismissed cases should be properly supported. Therefore, justices must maintain accurate and complete records of Court activity. Lastly, the board is required to perform an annual audit of the court’s records to ensure the justice is properly recording and reporting transactions and accounting for all money received.

The former Justice did not ensure Court money was accurately and completely collected, recorded, deposited and reported in a timely manner. Of the 105 vehicle and traffic tickets issued during our scope period, the former Justice did not adjudicate 82 tickets, either because he did not hold court on a regular basis or did not pursue those defendants who failed to appear.

Since the appointed (interim) Justice took over, 48 tickets have been adjudicated and closed, including 32 of the former Justice’s 82 cases. However, there is \$1,790 in the bank that has not been accounted for in the accounting software and Court records. The interim Justice told us he is working on determining which cases the money should be associated with and whether it is from bank credits from returned bank fees.

Additionally, the computerized bail list (showing bail moneys held by the Court) has not been updated to reflect the bail returned to defendants and is overstated by \$4,775. The former Justice had not deposited receipts in a timely manner. Of the 37 receipts totaling

¹ The DMV Scofflaw Program allows local justice courts to notify 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, DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then DMV suspends the individual’s license until they address the outstanding ticket.

\$5,113 in our scope period, 13 receipts totaling \$2,070 were deposited an average of 51 days late. Of the 16 monthly reports the former Justice was required to file with JCF, two were timely, nine were filed an average of 72 days late and five were never submitted to JCF by the former Justice. The interim Justice has brought the filings up to date and files his reports in a timely manner.

The former Justice stated in his resignation letter that he was unable to perform the many administrative tasks of the Court because he did not realize that 80 percent of these responsibilities were administrative rather than judicial. Additionally, he stated he did not file timely reports because he did not have a Court clerk and was unable to coordinate information between the various computer programs as needed to file those reports.

Although the Board engaged a CPA firm to perform an annual audit of the Court for 2015, the CPA firm was unable to complete the audit due to the Court's sporadic and inadequate records. Therefore, we obtained (from DMV, the Schoharie County Sheriff's Office, the New York State Police and the New York State Department of Environmental Conservation) a list of all tickets issued in our scope period. We have reasonable assurance that these 120 issued tickets are accounted for within the Court records; however, this does not confirm that all payments received from defendants were properly recorded in the accounting software. Therefore, we sent 44 letters to defendants whose cases were still open, to determine whether they had remitted payments to the Court. Of the nine responses returned (20 percent), none indicated that money collected by the former Justice was not properly recorded or turned over to JCF.

Without consistently maintained, accurate records and a thorough annual audit of Court finances, there is a significant risk of errors, irregularities or the theft or loss of Court moneys.

Recommendations

The Justice should:

1. Hold court as scheduled;
2. Adjudicate tickets in a timely manner;
3. Turn over any unaccounted-for money to JCF and file required reports of financial activities in a timely manner;
4. Maintain adequate court records, including updating the bail records in the accounting software;
5. Deposit all money collected in a timely manner, within 72 hours; and

6. Pursue open cases for collection, as appropriate.

The Board should:

7. Perform an annual audit of the Justice's records or hire a CPA to conduct an audit.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

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FORMED APRIL 15, 1828



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March 22, 2017

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Attn: [REDACTED]
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Binghamton Regional Office
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Dear [REDACTED],

The Town of Fulton recently underwent an audit of the Town Justice files from January 1, 2015 to October 6, 2016. Since then a new Justice, Thomas Conto, was elected in January 2017. There have been several discussions, making the new Justice fully aware of the following recommendations, as the Town moves forward.

The Town is making the following recommendations:

1. The Town Justice will hold court as scheduled by the Justice; currently Court is set for the second and forth Tuesday of each month at 2pm.
2. The Town Justice will adjudicate tickets in a timely manner, per the Justice's schedule.
3. The Town Justice will turn over any unaccounted for money to the JCF and file any required reports of financial activities in a timely manner, as per the Justice's schedule.
4. The Town Justice and Town Court Clerk will maintain adequate court records, including updating the bail records in the accounting software. The Town Board also has appointment a new Town Court Clerk effective April 1, 2017, who also has been shadowing another neighboring Court Clerk as to learn the required duties.
5. The Town Justice or Town Court Clerk will deposit all money collected in a timely manner which will be within 72 hours after collection.
6. The Town Justice will pursue any open cases for collection, as appropriate, per the Justice's schedule.
7. The Town Board has increased the Town Justice's salary to supplement the increased time the new Justice will need to bring past records up to date. The Town Board will also continue to have an independent auditor, The Bonadio Group, conduct annually audits of the Justice's records.

The Town hopes these improvements will help satisfy any past problems. If you have any questions, please feel free to contact me at 518-827-4896.

Sincerely,

Philip R. Skowfoe Jr.
Town of Fulton Supervisor

cc: Thomas Conto, Town Justice

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed the current Justice and Supervisor to gain an understanding of Court operations and oversight.
- We reviewed DMV tickets issued during our scope period to determine if they were properly handled.
- We traced all 37 receipts totaling \$5,113 in our audit period from the accounting software to the bank statements to determine whether receipts were deposited intact and in a timely manner.
- We reviewed the bail list in the accounting software and compared it to the bank balance to determine whether the list matched the bank account.
- We obtained the filing dates for all JCF reports for our audit period to determine whether reports were filed in a timely manner.
- We sent out 44 confirmation letters to defendants to determine whether Court records were accurate. We judgmentally selected all defendants who received traffic tickets or had other violations without any disposition reported to DMV or JCF during our scope period.

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 C

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