



Town of Berkshire Justice Court Operations

Report of Examination

Period Covered:

January 1, 2015 – August 25, 2016

2016M-425



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	2
Scope and Methodology	2
Comments of Local Officials and Corrective Action	3
JUSTICE COURT OPERATIONS	4
Recommendations	6
APPENDIX A Response From Local Officials	7
APPENDIX B Audit Methodology and Standards	11
APPENDIX C How to Obtain Additional Copies of the Report	12
APPENDIX D Local Regional Office Listing	13

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 Berkshire, 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 Berkshire (Town) is located in Tioga County and has approximately 1,400 residents. The Town is governed by a five-member elected Town Board (Board) composed of 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 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 money collected to the Supervisor. Two Justices served during our audit period: one Justice served from the beginning of our scope period through December 31, 2015, and a newly appointed Justice took office January 1, 2016. The Court reported collecting approximately \$6,800 in fines and fees from January 2015 through July 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 Justice 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's records and reports for the period January 1, 2015 through August 25, 2016. We extended our scope back to January 1, 2011 to determine how many tickets remained outstanding and their estimated value.

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 have taken, or plan to take, 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 Town Clerk's office.

Justice Court Operations

Town justices assess fines and mandatory surcharges and ensure that money received by their Courts is accurately recorded in the accounting software and, in accordance with the New York State Codes, Rules and Regulations, deposited within 72 hours of receipt. All funds should be accurately 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 the fines paid in full or the case is dismissed, it can be closed. Justices are required to submit monthly reports detailing all fines, fees, surcharges and forfeited bail collected to JCF by the tenth day of the succeeding month. The court should report this information in its monthly report to 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 and signed by the justice. Therefore, justices must maintain accurate and complete records of court activity. Furthermore, the justice’s duties should be properly segregated, or compensating controls should be put in place. Finally, when a justice resigns before the end of a term, he or she is required to transfer all pending cases and any money received on those cases, before leaving office, to the succeeding justice. The resigning justice must also file a final report with JCF reporting all activity, remit any fines and fees due and close all bank accounts.

The Justices did not accurately and completely collect, record, deposit, disburse or report Court money in a timely manner.

Collections — Neither Justice properly pursued collections for those cases where defendants failed to appear in Court. Over 230 Vehicle and Traffic Law (VTL) cases from 2011 through June 2016 remained outstanding. Based on the Town’s average dismissal rate and average fines for adjudicated VTL cases, we estimate these outstanding tickets equate to approximately \$33,000 in unearned revenues for the Town. We sent confirmation letters to 44 defendants whose tickets were unpaid according to Court records to determine if they had made payments that were not recorded. We received responses from 19 defendants, who all confirmed that they had not made any payments during our audit period.

¹ The DMV 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, then the DMV suspends the individual’s license until they address the outstanding ticket.

Records — Although the current Justice properly updated and closed cases that were previously entered into the accounting software by the former Justice, she did not record new cases in the accounting software. None of the seven manual tickets and 80 VTL tickets² issued from January 2016 through August 2016 were entered or downloaded from DMV into the accounting software. The current Justice told us she did not know how to enter cases or download tickets from the DMV database into the accounting software because it was not explained in the JCF training she attended. Although there were three VTL tickets that indicated dismissal and four VTL tickets that had supporting documentation attached to the ticket, none of the 19 cases that were dismissed during our audit period had the Justice’s signature.

Deposits — Although the former Justice deposited money in a timely manner, the current Justice did not always do so. Of the four deposits that the current Justice made from January through July 2016, three deposits totaling \$1,800 were deposited, on average, 17 days after the money was received. Furthermore, we could not determine if the money received from two additional defendants was deposited in a timely manner because there were no records indicating when the payments were made. The current Justice typically issued receipts generated from the accounting software to defendants for money collected. However, because she had not downloaded VTL tickets from DMV or entered new tickets, there were no receipts created for these two defendants.

Disbursements — The disbursements the Justices made were appropriate. However, \$230 remained in the current Justice’s bank account that should have been turned over to JCF. Additionally, when the former Justice left office, he did not close his bank account nor did he disburse the remaining balance of \$652 to the Town.

Reports — Overall, the former Justice filed timely reports with JCF. However, the current Justice filed six of the seven monthly reports to JCF late, by an average of 62 days. Furthermore, neither Justice properly reported closed cases to DMV. During our audit period, 55 cases were reported to JCF as closed, while five were reported to DMV as disposed.

All of these deficiencies occurred because, according to the current Justice, she did not receive sufficient training on the accounting software or on how to download tickets from the DMV database.

² Copies of manual tickets are provided by the Code Enforcement Officer in hardcopy to the Court. VTL tickets are reported to the Court electronically by DMV from its database; however, this data must be downloaded by Court personnel.

As a result of the failure to pursue collections, there was a lack of enforcement of law and lost revenues for the Town and the State.

Recommendations

The Justice should:

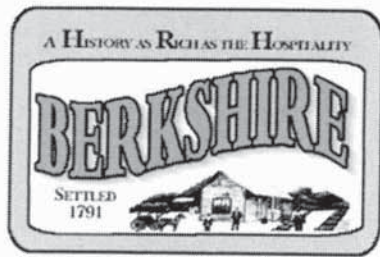
1. Pursue unpaid traffic tickets in a timely manner.
2. Obtain training related to DMV reports and the accounting software, particularly related to recording cases in the accounting software.
3. Ensure dismissed cases are properly supported and signed.
4. Deposit all money collected in a timely manner.
5. Disburse money to the proper parties in a timely manner, including turning money over to JCF and closing former Justices' bank accounts.
6. File reports in a timely manner with appropriate agencies, such as JCF and DMV.

The Board should:

7. Segregate the Justice's duties to the extent possible or implement compensating controls.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



TOWN OF BERKSHIRE

18 Railroad Avenue
Berkshire, NY 13736
Ronald N. McEwen, Supervisor
(607) 372-3096 Fax 607-657-8678

February 22, 2017

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417

Dear Mr. Eames:

This shall serve as both the response and corrective action plan for the Town of Berkshire Justice Court audit.

Items 1 through 6 have been addressed under separate letter by the Town Justice.

The Board should:

7. Segregate the Justice's duties to the extent possible or implement compensating controls.

The Board does, and will continue to make budget provisions for a Clerk to the Court. We do not control the Court procedures but will aid as requested for additional personnel to allow for the segregation of duties within the Court operations. If necessary the Board will request assistance to the Court by another municipality's Court.

We appreciate the help and assistance that has been provided throughout the entire audit process.

Sincerely,

Ronald N McEwen
Town of Berkshire Supervisor

TO: NYS COMPTROLLER
FROM: KELLY SHARP, TOWN OF BERKSHIRE COURT
DATE: FEBRUARY 17, 2017
RE: AUDIT RECOMMENDATIONS

I would like to thank the auditors for their professionalism, courtesy, and patience during this audit. This was the best training I have received since I took over for the previous justice. █████ spent a lot of time helping me connect to the appropriate people so I am now able to download tickets, review DMV records, etc. I considered this a learning experience that will help me do my job more efficiently for the Town of Berkshire.

Action Plan

1. Pursue unpaid traffic tickets in a timely manner:
My court clerk has been out due to medical issues. She is recovering and we have started sending notices. We have had several responses and we are planning to meet regularly to stay current.
2. Obtain training:
The court clerk has been working with me and teaching me how to use the current software. I broke my right leg and ankle in December so that has slowed down our progress. I am

recovering and when I am able we will resume my training.

3. Ensure dismissed cases are signed:

I am signing all appropriate documents.

4. Deposit all money in a timely manner:

I am working on depositing all money collected in the appropriate time frame.

5. Disburse money to proper parties:

I am working on this and now that I am being trained on the computer system this is improving. Regarding the bank account from the previous Justice, I had no idea that this account existed until the audit. [REDACTED] bank was very helpful and the account is closed and money was transferred.

6. Report filing:

I have improved in this area. As my health improves it will be easier for me to keep up with this.

Thank you again for all the assistance and learning opportunities this audit has provided. I intend to take full advantage of this report to use as a guide and reference for my future as justice.

Thank you,

[REDACTED]

Kelly Sharp, 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 Board members to gain an understanding of Court operations and oversight.
- We reviewed the pending tickets per DMV and determined the total number of tickets referred to the DMV Scofflaw Program and reported as closed to JCF. We determined how many tickets remained outstanding from January 2011 through June 2016. We calculated an average ticket fine/surcharge based on ticket fines and surcharges reported to JCF from January 2015 through July 2016. We accounted for dismissed cases by removing 35 percent of the outstanding tickets, based on the ratio of cases reported as dismissed to JCF in 2015. We applied the average ticket fine/surcharge to the number of tickets that remained outstanding to estimate the value of the outstanding tickets.
- We sent confirmation letters to 44 defendants who received traffic tickets after January 1, 2016 that were unpaid according to Court records to determine if Court records were accurate.
- We reviewed code enforcement tickets to determine if they were properly entered into the accounting software.
- We reviewed all cases reported to JCF during our audit period to determine if they were properly dismissed.
- We traced all 34 receipts totaling \$6,755 in our audit period from the accounting software to the bank statements to determine if receipts were deposited intact and in a timely manner.
- We obtained all bank statements for our audit period and reviewed all transfers out, cash withdrawals and canceled check images to determine if they were appropriate by tracing the disbursements to the case files or monthly JCF reports.
- We obtained the filing dates for all JCF reports for our audit period to determine if reports were filed in a timely manner.

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

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

APPENDIX D
OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller
Tracey Hitchen Boyd, Assistant Comptroller

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Bufferalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence Counties

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313