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August 15, 2014

David Law, Town Supervisor
Members of the Town Board and
Honorable James Fox, Town Justice
Town of Norwich
157 County Road 32A
Norwich, NY 13815

Report Number: S9-14-03

Dear Supervisor Law, Members of the Town Board and Town Justice Fox:

The Office of the State Comptroller works 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 assets.

In accordance with these goals, we conducted an audit of five Justice Courts (Courts) across New York State. The objective of our audit was to determine if Justice Court officials properly collected, reported and remitted moneys on behalf of the Court. We included the Town of Norwich (Town) Court in this audit. Within the audit scope, we examined the Court's policies and procedures and reviewed accountability and internal controls for the period January 1, 2012 through December 31, 2013. Following is the report of our audit of the Town Justice Court.

This report of examination letter contains our findings and recommendations specific to the Town. We discussed the findings and recommendations with Town officials and considered their comments, which appear in Appendix A, in preparing this report. Town officials generally agreed with findings and recommendations. We responded to issues raised in the Town's response letter in Appendix B.

Summary of Findings

Based on our testing, we found the Court has properly collected and remitted moneys received. However, the Court is not reporting unresolved traffic tickets to the State's Department of Motor Vehicles (DMV) in a timely manner. In addition, we found deposits not being made within the

required 72 hours.¹ Finally, the Court's information technology system (System) allowed changes and deletions to information without accountability and there was a lack of monitoring of the System's user transactions. As a result, the ability of Town and Court officials to effectively monitor and control Court operations is limited, and errors or irregularities could occur and not be detected or corrected.

Background and Methodology

The Town covers 42 square miles and has approximately 3,800 residents. The Town Board (Board), comprising a Supervisor and four Board members, is the governing body responsible for overseeing the Town's financial activities, including the Court's general management and financial operations. The Supervisor serves as the chief executive officer and, along with other administrative staff, is responsible for the Town's day-to-day operations. The Court's 2013 budgeted appropriations were \$32,500. During the audit period, the Court operated with one Justice, James Fox, and two part-time Court clerks. According to the Court's information technology system (System), the Court collected 1,924 payments totaling approximately \$155,600 in fines, surcharges and fees from January 1, 2012 through June 30, 2013.

Town Courts are part of New York State's Unified Court System and play a vital role in upholding State and local laws. Town Justices (Justices) are empowered to hear civil and criminal cases and adjudicate misdemeanors, minor violations and traffic infractions. Most cases involve minor violations and traffic infractions. Justices are responsible for imposing and collecting fines, surcharges, bail and civil fees, and are responsible for reporting adjudicated cases to the State. On a monthly basis, Court personnel remit these collections to the Office of the State Comptroller's Justice Court Fund (JCF) or to the Town's chief fiscal officer.

To complete our audit objective, we conducted interviews with Town officials and reviewed adopted policies and procedures, accounting records and vehicle traffic tickets. 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 is included in Appendix C of this report.

Audit Results

Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting Court-related financial activities. They also must ensure that effective internal controls are in place to properly safeguard cash and other Court resources. Such controls should ensure that financial transactions are processed in a timely manner and properly recorded; that appropriate financial reports are accurate and filed in a timely manner; that applicable laws, rules and regulations are observed; and that the work performed by those involved in the Court's financial operations is monitored and reviewed routinely. The Board shares the Justice's primary responsibility for ensuring that an effective system of internal controls is in place for overseeing Court operations. If these internal control components are lacking or malfunctioning, accountability over the Court's financial operations is greatly diminished.

¹ Although Courts are encouraged to make deposits as soon as possible, all moneys received must be deposited within 72 hours of collection, exclusive of Sundays and holidays, per New York Codes, Rules and Regulations – Vol. 22, Section 214.9 (a) – Bank account requirements for town justices and village justices.

Based on our testing, we found that the Court properly collected and remitted moneys received. However, the Court does not report unresolved traffic tickets to the DMV in a timely manner. Further, we found that the Court does not deposit funds within the required 72 hours. Finally, the Court's System does not have adequate controls and no one reviews audit trails of user transactions.

Traffic Tickets – Justices should periodically update and reconcile DMV reports (pending and disposed/dismissed tickets) with current caseload activity. Local and State police agencies issue Uniform Traffic Tickets (UTT) for vehicle and traffic infractions. The DMV tracks the tickets issued by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. Upon adjudication, when all fines are paid, the Court must send a copy of the ticket to the DMV for it to be removed from the pending-ticket database. Among the DMV reports available to the Court is a list of all pending UTT cases, which the Justice may use to help ensure that tickets are processed by the Court in a timely manner. This report can also identify individuals who either have not appeared in Court to resolve their ticket or have not paid their fine. The Court may enforce these traffic tickets, and payment of fines, by using the DMV's Scofflaw Program.² The Court has to wait 60 days from either the date of appearance or last payment before sending in paperwork to suspend the motorist's driving privileges.

We found the Court did not report unresolved traffic tickets to the DMV in a timely manner. The Court scans the open UTT case files, separates the cases that are 60 days old or older, marks the case files as unresolved in the System and reports the cases to the DMV. Although the Court receives the monthly DMV report identifying outstanding tickets, it does not use that report to identify motorists who potentially have unresolved traffic tickets. Due to this deficiency, we selected 30 unresolved UTT case files and found that it took an average of 373 days to address these cases. The Court has not effectively monitored outstanding tickets in its caseload and reconciled them with DMV records. Court officials attributed the lack of reporting unresolved traffic tickets to the DMV in a timely manner to the time-consuming nature of reviewing the outstanding tickets. When the Court does not reconcile monthly DMV reports with its current caseload activity, unpaid fines and fees may not be enforced in a timely manner, potentially resulting in lost revenue to the Town.

Bank Deposits – Moneys received should be deposited intact as soon as possible. Depositing intact means that moneys are not split or grouped into lump sum amounts, but are deposited in the same amounts as received. For example, if \$1,000 is collected for the day's receipts, the deposit for that day's collections should be \$1,000. The deposit should not be split \$400 one day and \$600 the next day. Deposited amounts should always agree with amounts received and recorded. Although justices are encouraged to make deposits as soon as possible, all moneys received must be deposited within 72 hours of collection, exclusive of Sundays and holidays.

We tested 157 receipts collected by the Court and found that all receipts were deposited intact. However, 28 of the 157 (18 percent) receipts were not deposited within 72 hours of collection.

² The DMV Scofflaw Program allows local justice courts to notify the DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the court date) traffic ticket 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.

Instead, the Court deposits receipts weekly. When deposits are not timely, there is an increased risk of loss, theft or misuse of Court funds.

Information Technology Controls – Financial and case management software should produce complete and accurate records and reports. Once information is entered into the system, its integrity should be maintained through controls that limit access and unauthorized changes to the data. Effective software controls provide a means to determine the identity of users and the transactions processed. Software controls should also prevent users from making retroactive changes to the system to ensure that all transactions reflect the date they were recorded. Further, users should not have system access beyond what they need to complete their job responsibilities. To assure accountability and help troubleshoot data errors, an automated audit log, or trail, can provide management with a report that shows who made modifications to the system and what transactions took place. Routine management review of audit logs is an important measure to monitor user activities.

We found that the Court's System permits files to be changed or deleted without documenting the reason. For example, after a cash receipt record is created with a receipt number, the number can subsequently be changed. In addition, the System does not produce an audit log of activity for the Justice or Board to review for changes or deletions of cases. As a result, there is no individual accountability for changes to case records, which significantly increases the risk of errors or irregularities in the Court and limits the ability of the Court or Board officials to review Court activity from system-generated reports.

Recommendations

1. The Justice should periodically review and reconcile the DMV pending-ticket log with caseload activity to ensure that tickets are properly reported, as paid or enforced, in a timely manner.
2. The Justice should deposit all receipts collected within 72 hours.
3. The Board and Justice should assess the risk areas in the Court software, such as an inadequate audit trail and insufficient automated controls, develop compensating controls to mitigate these risks (e.g., periodically comparing physical cash receipts to the cash receipts log in the software) and contact the software vendor as necessary to address the weaknesses.
4. The Board should ensure that a system-generated audit trail is routinely reviewed by someone independent of the recordkeeping process for unusual or potentially unauthorized transactions.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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.

Our office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Statewide Audits, at (607) 721-8306.

We thank the Town officials and the staff of the Norwich Justice Court for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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



TOWN OF NORWICH

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Office of The State Comptroller
Division of Local Government and School Accountability
Deputy Comptroller Gabriel F. Deyo
110 State St.
Albany, NY 12236-0001

Dear State Comptroller Office:

The Town of Norwich has received the Town of Norwich Court audit dated March 19th, 2014. Town Supervisor Law, Town Justice Fox and Court Clerk Vidler met with the Comptroller's on March 26th, 2014 and discussed the auditor's finding. The Town finds the audit to be favorable with the fact that no money or serious clerical issues were found. The Town does wish to state that several of the concerns that the auditor's found were and have already been addressed.

Background and Methodology: The audit fails to state that Town Justice Fox took over the Court in April 2011 as an appointed position. Court Clerk Vidler was appointed to the position of assistant Court Clerk in January 2011 and then to full time clerk in February 2012. The Court also requested and added Assistant Court Clerk Quattrocchi in February 2012. The audit period of January 2012 thru June 2013 covered a period of time shortly after Judge Fox and staff took over the Town Court.

See
Note 1
Page 10

Traffic Tickets: Justice Fox agrees that the auditor's findings are probably true and accurate, but the report fails to state that Judge Fox had already addressed the issue of traffic tickets not being scoffed to the State within 60-days. Judge Fox after taking Office obtained a V-Pass account with DMV which allows the court to scoff and monitor traffic tickets. Once a V-Pass account was established Court Clerk Vidler immediately started to scoff current tickets needing to be scoffed. The audit fails to indicate that during the audit period of January 2012 to June of 2013 the Court collected \$16,400 in scoff fees, \$63,059.00 in fines and \$71,985.00 in surcharges. The amounts are an increase compared to the previous 18 months when the Court collected \$2111.00 in scoff fees, \$37,439.00 in fines and \$35,357.00 in surcharges. The audit states that the Town is potentially losing revenue when in fact revenue have increased and should have been noted by the audit. When the Court requested the board to appoint Assistant Court Clerk Quattrocchi, the Court's intent was to assist Clerk Vidler with clearing old tickets dating as far back as the 1970's and assist with Court accounting records.

See
Note 2
Page 10

Building For The Future-Come Grow With Us

The Town of Norwich is an Equal Opportunity Provider and Employer. Complaints of discrimination should be sent to:
USDA, Office of Civil Rights, Room 316-W, Whitten Building, 1400 Independence Ave., SW, Washington, DC 20250-9410

Bank Deposits: Justice Fox agrees with the audit findings and will make a every effort to ensure deposits are made within the 72 hour period. As a side note not mentioned in the audit the Court has implemented the taking of credit cards and payments via [REDACTED] accounting for approximately 50% of all moneys collected each month. These moneys are directly deposited into the Court's bank account with no money being handled by the Court Clerks. Ensuring compliance with the 72hr rule.

Information Technology Controls: The Audit finds the current [REDACTED] program has the potential of someone making changes to the system and no record indicates who makes the changes. One concern is cash receipts. The current system used in [REDACTED] has several safety factors. The first being all payment transactions are written on receipts that are in booklets that are printed and numbered by an outside printing source. All receipts are kept in the booklet and then entered in to the [REDACTED] program. Deposits are then compared to the [REDACTED] program and the hand written receipts. This is usually handled by Court Clerk Vidler and occasionally by Judge Fox and Clerk Quattrocchi. Clerk Quattrocchi takes the Court Deposit to the banks and double checks the deposit to the receipts. Judge Fox does the monthly Comptroller's report and compares the money reported to the monthly report in [REDACTED] program. With three separate persons checking the money's handled by the court any possible erroneous entries would probably be detected. The [REDACTED] program does have a enhanced secure update that can be purchased that tracks any changes in the [REDACTED] program but even this enhanced version would only indicate when the program was changed and not who did the change. The enhanced program would be a one time additional cost of \$495.00 to the Town. The Town currently pays \$950.00 per year for its licensing fee to [REDACTED] for the [REDACTED] program with no reimbursement from the State.

See
Note 3
Page 10

Recommendations:

1. Justice Fox has already implemented the reconciling of DMV records and said records are being kept current.
2. The Court currently takes credit cards and uses [REDACTED] for fine payments which represents approximately 50% of all payments received. All other deposits are being made in a timely matter.
3. Justice Fox monitors the Court activities usually on a daily basis. All ticket fines and surcharges are imposed by the Judge and hand written on the court copy of the ticket, which is kept in files. All fines and surcharges are then entered by one court clerk who does 90 to 95% of the all entries and receipts, the second clerk double checks the deposits and then makes the deposits and also balances all bank records on a monthly basis. With a three person system the probability of erroneous entries not being detected is very minimum. No system is fool proof even with the purchasing the enhanced software from [REDACTED] at a one time cost of \$495.00 by the Town with no reimbursement does not ensure a secure system. The program would indicate a change made in the system but does not indicate who made the change. The court is willing to pursue any and all avenues to ensure court program integrity and security.

Town Board at this time believes that Justice Fox has already taken corrective action on all findings in the audit and the Town has met the requirements of Section 35 of the General Municipal Law.

Sincerely

Supervisor David Law

April 15th, 2014

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The report presents information for the audit period. The Town's response letter identified when Judge Fox was appointed.

Note 2

The audit did not address the Court's revenue enhancements. However, for our audit period, we found that 87 percent of the traffic tickets we tested were not reported to the DMV for enforcement in a timely manner.

Note 3

We did not recommend the Court purchase upgrades to its current information technology system. We identified system weaknesses that put the Court's financial activity at risk of being manipulated with no audit trail available. The physical monitoring reported by Court officials does not fully mitigate the system risks because the current controls do not include any comparison of transactions to the system.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if Justice Court officials properly collected, reported and remitted moneys on the Court's behalf. As part of our audit, we performed the following procedures:

- We interviewed the Justice and officials to obtain general background information of the Court. We also interviewed the Justice and Court clerks to gain an understanding of the Court's process as it relates to the audit objective.
- We reviewed cash receipt journals, deposit slips, tickets, bank statements and transactions in the Court's financial system. We assessed system controls in place over the Court's System.
- We reviewed monthly reports sent to the JCF and information reported to the DMV. We obtained ticket information from the DMV and the JCF and analyzed the data for tickets included in the DMV file, but not in the JCF file. We also identified tickets with different fines or surcharges and investigated the reasons for the differences.
- We reviewed the information from the computer program used to report to the JCF and the DMV. We reviewed DMV TSLED reports to determine if the Court is reporting motorists who have a pending ticket that is more than 60 days old to the DMV 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.