



# Town of Clarendon

## Justice Court Operations

### Report of Examination

Period Covered:

January 1, 2012 — November 13, 2013

2013M-362



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**

March 2014

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 Clarendon, 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 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 Clarendon (Town) is located in Orleans County and is governed by an elected Town Board (Board), which comprises the Town Supervisor (Supervisor) and four Council members. The Supervisor is the chief executive and chief fiscal officer of the Town. The Board has the overall responsibility for overseeing the financial activities of the Town, including the financial activity of the Town Justice Court (Court). The Town has two elected Justices who preside over Court operations.

The Justices are responsible for adjudicating legal matters within the Court's jurisdiction and properly accounting for all moneys collected and disbursed by the Court. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month. The Town's revenue attributable to Court operations was \$37,900 in 2008, declining to approximately \$2,700 in 2010. Court revenues have subsequently increased and for the 2012 fiscal year the Town reported \$18,700 in revenues attributable to Court operations. The Court was audited by the New York State Office of Court Administration, which released a report in July 2011 that found that at least \$89,600 in Court funds were misappropriated by the former Court clerk. She was subsequently convicted and agreed to pay restitution. Given the past misappropriation of Court funds, we reviewed the Court's financial activity to ensure corrective action has been taken and preventative procedures have been established to safeguard Court assets.

## Objective

The objective of our audit was to review the processes and procedures for the Court's financial operations. Specifically, our audit addressed the following related question:

- Did the Justices accurately and completely collect, record, deposit and report Court moneys in a timely manner?

## Scope and Methodology

We examined the Court's records and reports for the period January 1, 2012 through November 13, 2013. We also analyzed certain Court activity back to 2006 in order to achieve our objective.

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  
Local Officials and  
Corrective Action**

The results of our audit and recommendation 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 recommendation and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendation 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 Operations

Justices are responsible not only for adjudicating cases brought before them, but also for the accounting and reporting of all the Court's related financial activities. The New York Codes, Rules and Regulations requires the Justices to maintain complete and accurate accounting records, reconcile cash activity, maintain separate bank accounts, deposit cash in a timely manner and report Court activity accurately and in a timely manner. For each case brought before the Court, the Justices must maintain a separate case file and unique index number, as well as a cash book that chronologically itemizes all receipts and disbursements. Such records must include all relevant case information including the date of appearance, fees and fines imposed and amount collected. All moneys received by the Justices must be deposited within 72 hours of the date of receipt. State Finance Law requires the Justices to forward all fines, penalties, and forfeitures received to the JCF.

We reviewed the Justices' records and reports and found that, generally, the Justices accurately and completely collected, recorded and reported Court moneys and that receipts were generally deposited in a timely manner. We also found that the Justices submitted monthly reports to JCF in a timely manner. We judgmentally selected 95 cases<sup>1</sup> based on criteria such as rationale for deleting transactions, cases reported as dismissed, "plea by mail" cases and cases reported for different amounts to the New York State Department of Motor Vehicles (DMV) and JCF and found that generally they were accurately and completely recorded and reported. We found no significant deficiencies in the Court records we examined.

Due to the fluctuations in revenues, we also analyzed the number of tickets disposed and the Court revenues from 2006 to current and found that tickets disposed and gross revenues for 2012 were at 2006 levels. However the Town's share of Court revenues of \$18,700 in 2012 is much lower than the \$37,900 recorded in 2008 due in part to the current Justices' approach in adjudicating cases.<sup>2</sup> We found that 2013 activity, projected to year end, is in line with 2012 activity. Additionally, while the Town's share of the Court's gross receipts was

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<sup>1</sup> Refer to Appendix B for a description of the selection criteria and the tests conducted.

<sup>2</sup> Justices have the discretion to accept a plea to a lesser charge, thereby amending the original speeding charge violation, based on the merits of the case, to either parking-related offenses or failure to obey a traffic signal. The related fines imposed are distributed to the local authorities (town or village). As such, the judicial discretion whether to accept plea bargains for lesser charges can have a significant effect on the distribution of revenues between the State and the Town.

approximately 50 percent in 2008 and 2009, for the past two years it has been approximately 25 percent.

Overall, the Justices have established adequate processes and procedures for the Court's financial operations. The Court clerk collects cash receipts, records entries in the accounting system and prepares deposits. The Justices review the deposits to ensure they are accurate and that all receipts are accounted for prior to depositing the receipts with the bank. While the Justices properly account for monthly activity and prepare bank reconciliations, we found that the accountability reports were not properly prepared. We prepared accountabilities for both Justices for the months of June, July and August 2013 and found minor variances with both Justices' accountabilities. When the variances were brought to the Court clerk's attention she promptly investigated and accounted for the variances.

The Justices stated that they also select at random unspecified cases each month from the monthly report and trace them back to the cash receipts journal and the original docket to ensure that fines and fees were completely recorded as imposed by the Justices. The Board also performs an annual audit of Court records.

We discussed other minor deficiencies with Court officials during the conduct of our fieldwork, which officials indicated they would address.

We commend the Justices and the Court clerk on their efforts to improve Court operations and encourage them to continue reviewing and resolving the pending cases report which contains significant activity that occurred during the previous Court clerk's tenure.

## **Recommendation**

1. The Justices must ensure that proper accountability reports are prepared that accurately identifies the Court's assets and liabilities.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



**Town of Clarendon Justice Court**  
**16385 Church St**  
**PO Box 145**  
**Clarendon NY 14429**  
**Phone: (585) 638-6371 Ext 102**

February 27, 2014

Office of the State Comptroller  
Division of Local Government and School Accountability  
Buffalo Regional Office  
Robert Meller, Chief Examiner  
295 Main Street Suite 1032  
Buffalo, New York 14203  
Audit Report Title: Town of Clarendon Justice Court Operations  
Audit Report Number: 2013M-362

Mr. Meller,

In connection with your audit of the Clarendon Justice Court for the period January 1, 2012, through November 13, 2013, I am submitting this Audit Response letter, combined with a Corrective Action Report, for your review.

After reviewing the audit report draft, I am in full agreement with the report findings. The only deficiency noted in the report draft was as follows: "The justices must ensure that proper accountability reports are prepared that accurately identifies the Court's assets and liabilities." To date, the monthly reconciliation reports were being done on standard bank statements, however it has been brought to our attention that this is not the recommended procedure.

To correct this deficiency, the court has developed and will implement a corrective action plan that will include the following:

- 1) At the end of each month, the Justices will complete a Monthly Checklist for Review of Justice Court Records as found in the New York State Comptrollers Handbook.
- 2) The implementation of this plan will go into effect immediately and reports will be prepared beginning with the month of February, 2014.
- 3) Honorable Thomas DiFante, Clarendon Town Justice, will be responsible for the implementation of the plan and ensure monthly reports are properly completed.

Sincerely,

Honorable Thomas M. DiFante  
Town Justice, Town of Clarendon

Richard Moy

*Tom Superson*  
February 27, 2014

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

The objective of this audit was to review the Court operations and assess whether Court moneys were properly collected, recorded, deposited and reported. We obtained information directly from the Court's computerized financial database backup file and analyzed it electronically using computer-assisted techniques. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed the Justices and the current Court clerk concerning the operations of the Court. These discussions allowed us to understand the processes and procedures of the Court and to assess whether the established procedures were sufficient to ensure that financial transactions were accurately and completely recorded and reported in a timely manner.
- We examined financial and other records relating to the collection and subsequent disposition of fines and bail moneys. These records included bank statements, monthly reports to the JCF, receipts, case files and cash receipts and disbursement records. Using this information, we sought to determine if receipts had been properly and completely recorded and deposited, and if moneys had been remitted in a timely manner to JCF.
- We reviewed monthly reports for both Justices for the period April 2013 through August 2013 to determine if they were submitted in a timely manner.
- We reviewed cash receipts to determine that the receipts were properly recorded in the accounting records and deposited in the bank in a timely manner.
- We analyzed Court activity and revenue collections from 2006 through 2013.
- We performed the following audit tests on 95 cases that were judgmentally selected to represent a variety of criteria:
  - o We reviewed 25 cases reported as dismissed to ensure they were indeed dismissed by the Justices and were properly documented.
  - o We reviewed 22 “plea by mail” cases to ensure they were accurately and completely recorded and reported.
  - o We reviewed 20 cases received by the Court prior to 2010 to ensure they had been properly processed.
  - o We reviewed 13 cases from our computer-assisted data analysis of deleted transactions. We traced them to original dockets to ensure that fines and fees imposed by the Justices were accurately and completely recorded and reported.

- o We reviewed five cases identified by our computer-assisted data analysis as recorded in the Court's cash receipts but not reported to JCF.
- o We reviewed four cases that were reported to DMV as disposed cases but were not reported to JCF.
- o We reviewed six cases identified by our computer-assisted data analysis as containing discrepancies between fines and fees reported to the JCF and DMV.

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.

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