



# Town of Sand Lake Justice Court

## Report of Examination

Period Covered:

January 1, 2013 — February 28, 2015

2015M-121



Thomas P. DiNapoli

# Table of Contents

|   | <b>Page</b> |
|---|-------------|
| <b>AUTHORITY LETTER</b>   | 1           |
| <b>INTRODUCTION</b>   | 2           |
| Background  | 2           |
| Objective   | 2           |
| Scope and Methodology   | 2           |
| Comments of Town Officials and Corrective Action                | 2           |
| <b>JUSTICE COURT</b>  | 4           |
| Court Records   | 4           |
| Timely and Intact Deposits                                      | 6           |
| Recommendations   | 7           |
| <b>APPENDIX A</b> Response From Town Officials                  | 8           |
| <b>APPENDIX B</b> Audit Methodology and Standards               | 11          |
| <b>APPENDIX C</b> How to Obtain Additional Copies of the Report | 12          |
| <b>APPENDIX D</b> Local Regional Office Listing                 | 13          |

# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

August 2015

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 Sand Lake, entitled 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 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 Sand Lake (Town) is located in Rensselaer County and has a population of 8,530 residents. The Town is governed by an elected Town Board (Board) which comprises the Town Supervisor (Supervisor) and four Council members. The Board is the legislative body responsible for the Town's overall management, including oversight of the Town's operations and finances. The Town provides residents with general administrative services, including the operation of a Justice Court (Court) that has two elected Justices and an appointed Court clerk (clerk).

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases. The Justices' principal duties include adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bail, surcharges, civil fees and restitutions. Justices are required to report the Court's financial activities each month to the Office of the State Comptroller's Justice Court Fund (JCF). The Court collected approximately \$190,757 in fines, fees and surcharges during our audit period.

## Objective

The objective of our audit was to evaluate the Court's financial operations. Our audit addressed the following related question:

- Did the Justices collect, record, deposit and report court money accurately and in a timely manner?

## Scope and Methodology

We examined the Court's financial operations for the period January 1, 2013 through February 28, 2015. We expanded our scope period back to May 24, 1993 as it relates to Court case records.

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 our recommendations and have initiated, or indicated they planned to initiate, corrective action.

The Justices and the Board have 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 Town Board to make this plan available for public review in the Town Clerk's office.

## Justice Court

Justices are responsible for adjudicating all cases brought before their Court and for accounting and reporting Court-related financial activities. To accomplish this, Justices must maintain complete, accurate and timely accounting records; perform monthly bank reconciliations and accountability analyses; and deposit moneys in a timely manner. Furthermore, for each case brought before the Court, the Justice must maintain separate case files, and such records must include all relevant case information.

We found no material discrepancies with the accounting for moneys received by the Court or the accuracy of bank deposits. However, the Justices did not ensure that accurate monthly bank account reconciliations were being performed by the clerk, which should be part of their month-end accountability analysis. Furthermore, we found 20 cases were not properly closed out in the Court's computerized accounting system and the clerk could not locate 21 pending case files to allow us to determine whether the case files agreed with the Court's accounting system. Additionally, the Justices did not deposit all collections in a timely manner.

### Court Records

It is important for Court personnel to periodically verify the accuracy of the financial records and establish adequate controls over cash by reconciling the Court's bank accounts each month. In addition, on a monthly basis, the amount of cash on hand and on deposit in the bank should be compared to detailed lists of amounts due to the JCF and other outstanding liabilities such as pending bail. This comparison is referred to as an accountability analysis. Accountability analyses serve to document the status of moneys held by the Court and to provide a means of demonstrating that the Court is properly addressing its custodial responsibilities. The Justices are personally responsible for moneys received by the Court and may be liable for money paid to the Court if the money is lost or stolen. Therefore, as part of the accountability analyses, if the clerk is performing the bank reconciliations, the Justices should review them to be sure they are complete and correct.

In addition, for each case brought before the Court, the Justice must maintain a separate case file and unique index number. Such records should include all relevant case information, including the date of appearance, fees and fines imposed and amount collected.

Monthly Accountability – The Justices did not confirm the accuracy of the monthly bank account reconciliations performed by the clerk.

We reviewed the Justices' fine and fees bank account reconciliations and monthly accountabilities for multiple months<sup>1</sup> and found there were no issues with Justice Fryer's account. In Justice Toomey's account, \$421 could not be traced to any open or closed cases during our audit period.<sup>2</sup> However, all collections in the months tested for both Justices were properly recorded, deposited, included on the monthly reports to the JCF and remitted to the Supervisor in a timely manner.

In addition, we reviewed both Justices' bail bank account reconciliations for the month of February 2015. Their reconciled bank account balances did not agree with the related cash balances in the accounting system. The clerk compared the amount of bail recorded in the Justices' checkbooks to the amount in the Justices' bail bank accounts but did not compare the checkbook or bail bank account balances to the Court's bail activity and balances in the Court's accounting system.<sup>3</sup> The Justices similarly compared their checkbooks to the bank accounts, but they did not compare those balances to the Court's accounting system. The lack of a reconciliation of the bail bank accounts to the Court's accounting system has resulted in errors occurring and not being detected in a timely manner.

We found that both Justices' bail bank account balances did not agree with the bail activity and balances in the accounting system as of February 28, 2015. Justice Toomey's and Justice Fryer's reconciled bail bank account balances were \$301 and \$350 more, respectively, than the balances in the accounting system. Although these discrepancies are not significant, they indicate that the computerized accounting records are not properly maintained. While we could trace the bail bank account balances to the related case files, a reconciliation of bail bank accounts to recorded bail activity is an essential control to identify such discrepancies and determine when and why they occurred.

Pending Case Files – The Justices should maintain adequate records and reports to document the cases they are responsible for. The status of each case (e.g., awaiting the defendant's first appearance, fines assessed and due, etc.) as reflected in the individual case files should agree with the case status reflected in the Court's software system.

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<sup>1</sup> For Justice Toomey, we reviewed the months of March, June and September 2013 and January 2015, and for Justice Fryer we reviewed the months of April and May 2013 and April and October 2014.

<sup>2</sup> Subsequent to our fieldwork, the \$421 was turned over to JCF as unidentified money. Unidentified money in a Justice's bank account should be reported and paid to JCF as such and will be retained by JCF until a legitimate claim is made against these funds.

<sup>3</sup> The clerk was unaware that a bail activity report from the accounting system could be generated until we requested one during our audit.

There were 1,901 pending cases recorded in the Court's accounting system as of February 24, 2015. We randomly selected 115 of the pending cases to determine if the manual case files were adequately maintained<sup>4</sup> and whether the case status, according to the case file, agreed with the Court's computerized records. We found 74 case files agreed with the computerized records. However, 20 cases (17 percent) were still open in the accounting system. While fines had been properly collected, recorded and deposited for these cases, based on the information in the case files, these cases should have been closed in the accounting system. Furthermore, there were 21 case files (18 percent) that the clerk could not locate, and, as a result, we could not determine the status of the cases and whether they were in agreement with the Court's accounting system. These missing case files were at least six years old and the Justices told us that they were unaware that they were missing. Although the clerk was not in office six years ago, both Justices were in office and should still maintain adequate records to document the cases they are responsible for.

The Justices' failure to perform accurate and complete monthly accountability analyses contributed to the discrepancies we identified in the Court's accounting records. In addition, not ensuring that all pending cases are accounted for and that the case files agree with the Court's accounting system creates a risk for errors and irregularities to occur and go undetected.

### **Timely and Intact Deposits**

New York Codes, Rules and Regulations (NYCRR)<sup>5</sup> require Court personnel to deposit all collections into the Justices' Court bank accounts as soon as possible, but no later than 72 hours after receipt, exclusive of Sundays and holidays.

Although deposits were made intact,<sup>6</sup> the Justices did not make all their deposits in a timely manner. We reviewed 242 collections totaling \$29,778 and found that 26 collections totaling \$3,193 were deposited between one and eight days late. For example, two collections on May 23, 2013 totaling \$235 were not deposited until June 6, 2013; these collections should have been deposited no later than May 28, 2013. According to the clerk, the prior clerk generally made deposits once a week, and the current clerk continued this practice. The failure to deposit Court receipts within the prescribed time limit increases the risk that money could be lost or stolen.

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<sup>4</sup> Case files each should contain an appearance ticket, a traffic ticket (if applicable), the amount due, evidence of payment, a date of appearance, the date the case was settled and copies of any applicable correspondence.

<sup>5</sup> Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(a)

<sup>6</sup> In the same amount and form (e.g., cash, check, money order) as the collections



## **Recommendations**

The Justices should:

1. Ensure that the bank reconciliations performed on their fine and fees and bail accounts are accurate and promptly investigate differences.
2. Review and analyze pending cases and take the necessary action required.
3. Ensure that all deposits are made no later than 72 hours from the day of receipt.

## **APPENDIX A**

### **RESPONSE FROM TOWN OFFICIALS**

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



## Town of Sand Lake

8428 NYS Route 66  
P.O. Box 273  
Sand Lake, New York 12153  
(518) 674-2026

July 29, 2015

VIA U.S. MAIL AND E-MAIL([Muni-GlensFalls@osc.state.ny.us](mailto:Muni-GlensFalls@osc.state.ny.us))

Office of the State Comptroller  
Division of Local Government and School Accountability  
Attention: Jeffrey P. Leonard, Chief Examiner  
One Broad Street Plaza  
Glens Falls, New York 12801

Dear Madam or Sir,

Please allow this correspondence to serve as a Response and Corrective Plan to the Report of Examination by the Office of the State Comptroller(hereinafter the " Report") of the internal controls and operations of the Justice Court of the Town of Sand Lake for the period beginning on January 1, 2013 through February 28, 2015.

We have thoroughly reviewed and discussed the Report from the auditors. We agree on the findings of the audit and recognize the importance of addressing the recommendations included in the report. Toward that end, we have developed a Corrective Action Plan which substantively details the Court's response to the Report's recommendations. We are pleased to report that some recommendations have already been implemented and we are working diligently to implement the remaining recommendations.

### **AUDIT RECOMMENDATION 1:**

Ensure that the bank reconciliation performed in their fine and fees accounts are accurate and promptly investigate differences.

### **Implementation of audit recommendation 1:**

The Justices will institute a procedure whereby monthly bank statements are reconciled upon receipt so as to verify (1) that deposits have been properly posted to the account on the correct dates and for the correct amounts, (2) that checks have cleared the account in the correct amounts, (3) that other charges or credits are legitimate and are supported by adequate documentation, (4) whether deposits not yet posted should be considered "in transit", and (5) whether checks that have not yet cleared the account should be considered "outstanding". The Court will insure that the adjusted bank balance as of the end of each month agrees with the amount shown in their respective checkbooks, and investigate and resolve any differences. Any discrepancies will be more readily apparent by performing monthly reconciliations of the accounts as recommended in the audit report.

**AUDIT RECOMMENDATION 2:**

Review and analyze cases and take necessary action required.

**Implementation of audit recommendation 2:**

The Justices and clerks will diligently search for all pending files, properly close files and, further, seek to implement an adequate electronic tracking system to ensure proper accountability of the court's records.

**AUDIT RECOMMENDATION 3:**

Ensure that all deposits are made no later than 72 hours from the day of receipt.

**Implementation of audit recommendation 3:**

Money received by the court shall be deposited promptly into the bank within 72 hours of collection (exclusive of Sundays and holidays).

Sincerely,

\_\_\_\_\_  
Flora Fasoldt

Town Supervisor

\_\_\_\_\_  
David W. Fryer

Town Justice

\_\_\_\_\_  
Paul G. Toomey

Town Justice

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

To accomplish our audit objective and to obtain valid audit evidence, our audit procedures for the Court included the following:

- We interviewed the Justices and other Town officials to gain an understanding of the Court's processes and procedures over financial operations.
- We reviewed bank reconciliations and accountabilities of the Justices' fine and fees accounts to determine if they were accurate. We randomly selected four different months during the audit period for each Justice and determined if the cash receipts and deposits agreed with the cashbook report and the report forwarded to JCF. Also, we reviewed the disbursements for these four months.
- We reviewed the bank reconciliations of the Justices' bail accounts as of February 28, 2015 and compared them to the bail activity report produced by the software system to determine accuracy.
- We randomly selected 115 cases out of 1,901 pending cases recorded in the Court's accounting system as of February 24, 2015 (cases dated back as far as May 24, 1993). We examined the case files to determine if the information in the individual case records reflected the case statuses in the Court's accounting system. Our sample included vehicle and traffic tickets and included pending as well as disposed cases.
- For Justice Toomey, we reviewed 127 receipts collected during June and October 2013 and April and May 2014. For Justice Fryer, we reviewed 115 receipts collected during April and May 2013 and April and June 2014. We compared these receipts to the bank activity to determine whether the money was deposited 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.

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