



# Town of Saugerties Justice Court Operations

## Report of Examination

Period Covered:

January 1, 2013 – November 3, 2014

2015M-47



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**

June 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 Saugerties, 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 Saugerties (Town) is located in Ulster County and has approximately 19,500 residents. The Town is governed by the Town Board (Board), which comprises four elected members and an elected Town Supervisor (Supervisor). The Board is the legislative body responsible for the Town's overall management, including oversight of the Town's financial activities as well as financial activity of the Town Justice Court (Court). The Town has two elected Justices, who preside over Court operations, and three full-time clerks appointed by the Justices.

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 submit monthly reports to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month. The Court collected approximately \$1 million in fines, fees and surcharges during our audit period.

## Objective

The objective of our audit was to examine internal controls over the Court's financial activity. Our audit addressed the following related question:

- Was Court money properly recorded, deposited and reported?

## Scope and Methodology

We examined the Court's internal controls for the period January 1, 2013 through November 3, 2014.

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 C 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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the Town's response letter.

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 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 must maintain complete and accurate accounting records and safeguard all moneys collected by the Court. Justices are also responsible for reconciling Court collections to corresponding liabilities, disbursing fees collected to the Supervisor and reporting Court transactions to the JCF. Justices must ensure that internal controls are in place and working effectively.

The Justices did not ensure that Court funds were properly recorded, deposited and reported. Court clerks performed incompatible duties related to cash receipts and the Justices did not provide effective oversight of their work. As a result, bank accounts for one Justice had unaccounted-for funds in both the fine and bail accounts each month averaging \$14,627 and \$6,703, respectively. In addition, the Court was in possession of stale bail<sup>1</sup> from 21 individuals totaling \$5,935. Also, bail records were inaccurate and cash receipts were not always deposited within 72 hours as required by law. Because of this lack of oversight, the Court has an increased risk that errors and irregularities could occur without being detected, placing public resources at risk. Similar findings were cited in a previous audit.<sup>2</sup> However, the audit recommendations were not implemented.

### Reconciliations and Accountabilities

Each month, justices are required to account for cash collections and disbursements, verify the accuracy of their financial records and reconcile all Court bank accounts. Justices also should perform an accountability of funds they hold by preparing a list of Court liabilities and comparing it with reconciled bank balances. At any point in time, Court liabilities, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash.

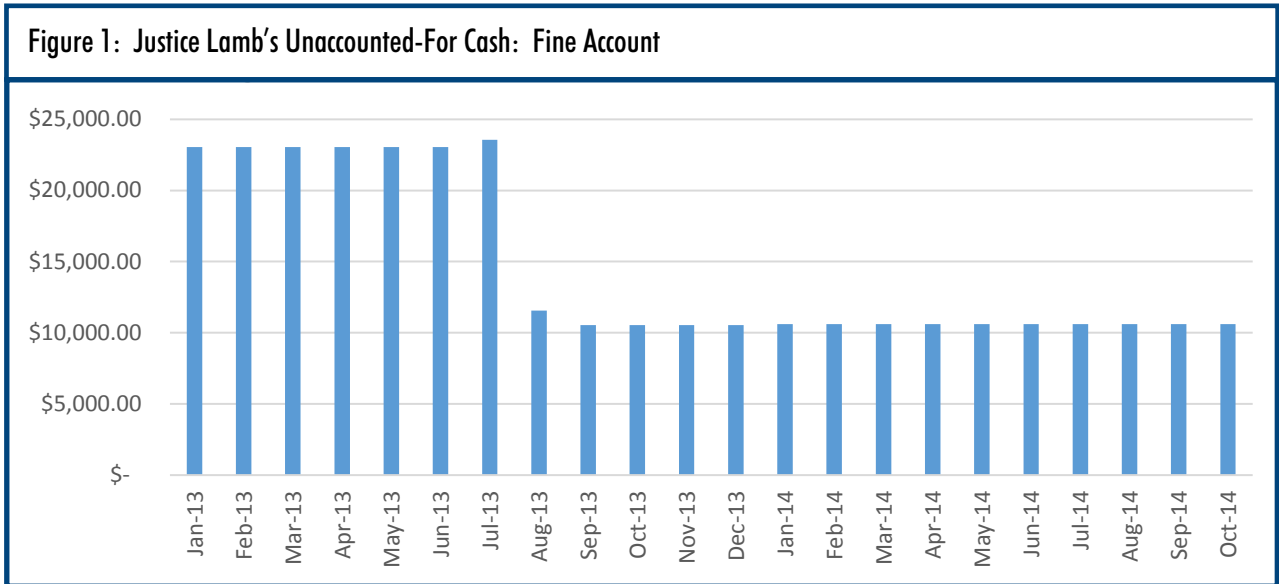
The Justices and clerks did not perform adequate bank reconciliations or accountability analyses. The clerks maintained copies of all banking activity and compared deposits slips and signed checks to the bank statements at the end of the month. However, no formal reconciliation was performed. The clerks did not compare cash on hand and on deposit to detailed lists of bail activity and amounts due to the JCF.

We prepared a monthly accountability for the audit period for each Justice's fine account, and a monthly accountability of the bail accounts for those months in which bail activity reports were available. We found significant variances in both fine and bail accounts for one Justice.

<sup>1</sup> Bail held by the Court for more than six years

<sup>2</sup> See report 2011M-283 titled, *Internal Controls Over Selected Financial Activities*.

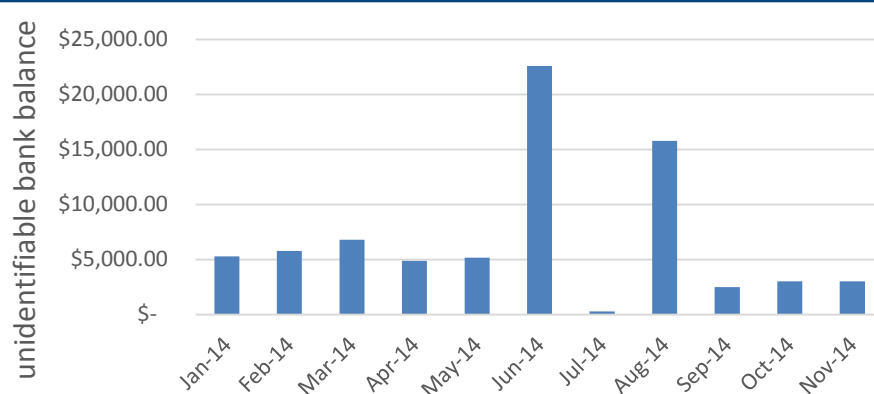
- As shown in Figure 1, Justice Lamb's fine account had on average \$14,627 more than known liabilities for the entire audit period. Excess unaccounted-for cash fluctuated from \$10,550 to \$23,050 a month from January to December of 2013.<sup>3</sup> The differences were \$10,620 each month from January to October 2014.



- As shown in Figure 2, Justice Lamb's bail account had on average \$6,703 more than known liabilities in each month during 2014. Excess unaccounted-for cash ranged from \$291 to \$22,601 per month. The lack of Court records precludes the Court from determining if there was unaccounted-for cash in the bail account in prior periods.

<sup>3</sup> The amount of cash in the fine account decreased significantly from July 2013 to August 2013 because some of the funds were identified as bail moneys. Therefore, the money was transferred from the fine account to the bail account.

**Figure 2: Justice Lamb Unaccounted-For Cash: Bail Account**



The unaccounted-for, excess cash balances occurred because Justice Lamb did not ensure that monthly accountability analyses of the fine and bail accounts were being performed. Court officials suggested that the balances were passed down to Justice Lamb from former justices, some of which date back prior to the use of computerized records. As a result, they believe balances in Justice Lamb's account accumulated over time and Court officials cannot identify, with certainty, the source of the funds. In addition, bail records used to support the associated liabilities were not accurate.

Had Court officials compared the reconciled bank balances with the recorded cash balances each month, they could have identified the variances sooner for a more timely correction of the Court financial records. As a result of these variances, the Court does not have accurate monthly financial information necessary to effectively monitor the Court's financial operations.

## **Bail Records**

It is essential that each Justice maintain a record of all bail. The receipt and disposition of bail should be recorded promptly to ensure that records are complete and up-to-date. The bail activity report identifies all bail for which a Justice is accountable. The Justice must ensure that the total per the bail activity report agrees with the bank balance. Exonerated bail should be returned to the person who posted the bail, less any applicable fees. The Court should make a good faith effort for a reasonable period of time to locate the person who posted cash bail. If unable to locate the person to whom to return bail, the Court may transfer such moneys to the Supervisor pending a claim. Cash bail that remains unclaimed six years after exoneration becomes the Town's property.

Although both Justices maintained a separate bank account for bail, neither Justice reconciled the bail account bank balances with the



bail activity reports. In fact, bail reports, identifying bail held by the Court, were not printed and retained prior to 2014.

We obtained all available bail activity reports for 2014 and compared them to account balances on deposit in the bail accounts. The bail activity reports did not reconcile with the bail bank statement balances for any of the months tested for Justice Lamb. The bank accounts had more available cash than the records listed. In addition, the Court has \$5,935 in bail money from 21 individuals whose cases were closed over six years ago and should have been transferred to the Supervisor.

The Court clerk explained that bail received prior to the use of computerized records had not been entered into the computer records and bail accumulated over time was improperly tracked. Therefore, the Court did not have an accurate record of the amount of bail in its possession. The Court clerk also informed us that she is working with the independent accountant to help identify and resolve the variances. When bail cannot be properly accounted for, there is risk that these funds can be substituted for current liabilities and available cash to misappropriate funds without detection or correction.

### **Cash Receipts and Deposits**

Justices are required to issue receipts to acknowledge the collection of all funds paid to the Court. In addition, Justices are required to deposit intact (in the same amount and form of payment as received) all funds collected by the Court as soon as possible, but no later than 72 hours from the date of collection. Deposited amounts should always agree with amounts received and recorded.

Each clerk issues handwritten receipts for fines, fees and bail using press-numbered duplicate receipts;<sup>4</sup> enters the receipts into the computerized accounting software; and deposits the funds into the Justices' bank accounts. However, the Justices do not adequately review or otherwise monitor the clerks' work to ensure that the Court's accounting records are accurate and deposits are made in a timely manner.

We randomly selected three months' activity during the audit period and compared 500 handwritten receipts<sup>5</sup> totaling \$71,887 issued by the Court for Justice Lamb to the computerized cash book, bank deposits and monthly reports submitted to the JCF to determine if receipt numbers, payees, dates and amounts matched. We found that the receipts were properly issued, recorded and reported. While we did not find any inconsistencies with the recording, we also compared

<sup>4</sup> A duplicate receipt consists of two copies: one copy is given to the payer and the other retained by the Court.

<sup>5</sup> We reviewed all of the receipts for the three months.

317 Court collections by cash or money order totaling \$42,364 to bank deposits for the three months to determine whether the funds received were deposited in a timely manner. Of 317 cash receipts reviewed, 93 (29 percent) totaling \$11,971 were not deposited within 72 hours as required by law. This happened because the Court clerks make deposits weekly, instead of within 72 hours as required by law.

Although we found limited exceptions with our testing, the lack of oversight of the clerks and the lack of timely deposits can result in misappropriations of funds.

## **Recommendations**

The Justices should:

1. Ensure that monthly bank reconciliations and accountabilities are performed and available cash reconciles with liabilities. Any differences should be investigated and resolved promptly.
2. Perform an analysis of all bail liabilities and adjust Court records to ensure that the bail activity reports represent a complete and up-to-date list of bail moneys.
3. Make a good faith effort to locate the persons who posted exonerated bail so it can be returned. All exonerated bail that is unclaimed after six years should be transferred to the Supervisor.
4. Ensure that all funds are properly deposited within 72 hours of receipt.

## **APPENDIX A**

### **RESPONSE FROM TOWN OFFICIALS**

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

**TOWN OF SAUGERTIES  
JUSTICE COURT**



Tel: (845) 246-2800

Fax: (845) 246-9996

**RESPONSE TO TOWN OF SAUGERTIES  
JUSTICE COURT OPERATIONS  
REPORT OF EXAMINATION  
2015M-47**

The main issue the court has with the Report of Examination is the total lack of historical perspective on the part of the examiners. While it may seem ancient history to the examiners, the town only commenced using [REDACTED] on an experimental basis in 1994. Prior to that time the court program was extremely limited and did not generate the reports that are now used to conduct audits and perform reconciliations. Even further back in time all records were maintained manually. The court had two justices but has historically been understaffed.

See  
Note 1  
Page 12

Further, the auditors were not aware of prior OSC policy that recommended that justices maintain only one account so that both bail and funds were held together. It is a relatively recent development that fine accounts and bail accounts were separated. This situation was discussed at the prior audit and since that time significant strides have been made to identify bail. Justice Lamb inherited the problem. Upon taking office, all the funds that had accumulated in the account were rolled over into his new court account. Despite identifying the problem, it was not until 2014, that the town devoted the resources of the town's accountant to help determine the amount of unclaimed bail and following OSC's recommendation added a carryover bail account under Justice Lamb's name to hold the funds until attempt can be made to dispose of it.

See  
Note 2  
Page 12

The report claims insufficient oversight by the judges. Both judges, however, write receipts for bail and fines, review fine receipts against the tickets, review and file their own monthly report, compare the monthly report against receipts. It is true that the justices do not reconcile the monthly bank statements, that was near impossible with the carryover bail preventing the account from zeroing out. This should now be corrected.

See  
Note 2  
Page 12

Regarding cash deposits not being timely made. It was pointed out that this occurred less than 29% of the time. The main reason for late deposits was to insure there were funds on hand to make change on court nights which fall on Tuesday and

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Saugerties, NY 12477

TOWN OF SAUGERTIES  
JUSTICE COURT



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Wednesday. The creation of a petit cash fund would require the maintenance of yet another account, funded by the Town, creating the risk of loss.

See  
Note 3  
Page 12

Nowhere does the report emphasize the fact that there was no loss of funds and that the records examined were accurate.

See  
Note 4  
Page 12

Local courts continue to be increasingly burdened with new technology (often incompatible), new rules, and new paperwork. At the same time that more money flows to the state and towns but courts are increasingly subjected to budgetary restraints. There is only so much work that can be done. While clearly the justices are legally responsible for all that occurs in their courts, this system is stretched thin. Ironically, as has been pointed out, it is the most cost effective way to deliver the quantity and quality of justice for the citizenry. When an audit takes place the auditors should have a comprehensive knowledge of the system they are auditing. It should not be necessary for court staff to educate regarding standard court procedures.

See  
Note 5  
Page 12

Dated: May 26, 2015

Respectfully submitted on behalf of the Town of Saugerties Justice Court by

\_\_\_\_\_  
Daniel M. Lamb, Jr., Justice

\_\_\_\_\_  
Claudia Andreassen, Justice

## **APPENDIX B**

### **OSC COMMENTS ON THE TOWN'S RESPONSE**

#### **Note 1**

At the time of our audit, the Town had been using computerized records for 21 years. We believe this is a sufficient period of time for the Court to develop the necessary expertise for maintaining adequate records. In addition, our 2010 audit of the Court identified the same deficiencies identified in this report. Such deficiencies have remained uncorrected.

#### **Note 2**

Whether the fine and bail accounts are combined or separate, each Justice has always been required to ensure that the fine and bail balances are properly identified. Having one account with a carryover of bail does not preclude the Justices from reconciling monthly statements.

#### **Note 3**

The use of a small petty cash fund for making change will eliminate the risk associated with keeping larger cash deposits on hand and will also help ensure that the Justices deposit all moneys received within 72 hours, as required by law. While the statutory deadline is the latest point in time at which a deposit may be made, from an internal control perspective, the best approach is to deposit moneys as soon as possible. The longer money remains undeposited, the greater the risk that loss or theft will occur.

#### **Note 4**

Many records examined during the audit were not accurate. In fact, a precipitating cause for a majority of the deficiencies identified were due to poor and inaccurate records.

#### **Note 5**

The audit staff is well versed in justice court operations.

## **APPENDIX C**

### **AUDIT METHODOLOGY AND STANDARDS**

Our overall goal was to determine if internal controls over Court operations were appropriately designed and operating effectively to allow for the proper accounting and reporting of the Court's financial activity for the period January 1, 2013 through November 3, 2014. To achieve our objective and valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and employees to obtain an understanding of Court operations.
- We gained an understanding of the policies and procedures over Court operations.
- We reviewed bank statements for each Justice's bail account and compared bank balances to available 2014 bail reports. We performed a monthly accountability for the bail accounts for each Justice.
- We identified unclaimed, exonerated (stale) bail amounts for each Justice.
- We performed a monthly accountability analysis for the fine accounts of each Justice for 2013 and 2014.
- We tested the accuracy of records by comparing computerized data to hard-copy reports.
- We performed tests of receipts to ensure that the receipt sequence was intact and that receipt information (receipt numbers, amounts and payees) matched Court records.
- We determined the timeliness of deposits by comparing the dates of receipt issuance to deposit slips and bank deposit dates.
- We reviewed and tested the analysis of raw data to identify deletions in records and followed up with testing to determine the validity of the explanations.
- We compared the manual receipts issued to the cash book reports.

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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