



Town of Sweden Justice Court

Report of Examination

Period Covered:

January 1, 2013 – September 4, 2014

2014M-318



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

February 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 Sweden, 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Sweden (Town) is located in Monroe County and is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board members. The Board has the overall responsibility for overseeing the financial activities of the Town, including the Justice Court (Court). The Justices' principal duties involve adjudicating legal matters within the Court's jurisdiction and they are personally responsible for all moneys received and disbursed by the Court. The Town currently has three Justices: Robert Connors, Mark Depferd and Kevin Johnson. Justice Johnson replaced Justice Carl Coapman, who resigned in January 2013. The Town currently employs two Court clerks to assist in Court operations. The Court had a third clerk, who worked primarily for Justice Connors, until June 2013 when she resigned from that position. During 2013, the Court collected approximately \$414,000 in fines and surcharges.

Scope and Objective

The objective of our audit was to review the processes and procedures for the Court's financial operations for the period January 1, 2013 through September 4, 2014.¹ We expanded the scope of the audit to perform accountabilities and review records back to September 1, 2012 for Justice Connors, due to concerns expressed by Town officials. Our audit addressed the following related question:

- Did the Justices provide adequate oversight to ensure the accurate and complete collection, depositing, recording and reporting of Court moneys in a timely manner?

Audit Results

The Justices do not provide adequate oversight of Court operations to ensure the accurate and complete collection, deposit, recording and reporting of Court moneys in a timely manner. The Justices have not adequately segregated the duties of the clerks and do not regularly review accounting records, bank statements, or monthly reconciliations and accountability analyses. Although the Court issues computerized receipts, the receipt numbers, dates and amounts can be altered or deleted in the computer system and the Justices do not review system activity as a compensating control. Further, 71 receipts² were not deposited within 72 hours of receipt and various receipts or transactions were deleted from the system without a valid documented reason. Finally, the Justices have not developed a policy or procedures to enforce the collection of unpaid fines and fees. As a result, 34 unpaid tickets were not submitted to the Department of Motor Vehicles (DMV) scofflaw program and five tickets were incorrectly reported as disposed-of to the DMV. Due to internal control weaknesses, it is impossible

¹ We reviewed Court records and reports through March 31, 2014.

² Four percent of the total receipts tested (1,794)

for the Justices to hold any clerks responsible for any errors, deficiencies or fraudulent or abusive activities that may occur, and the Court is not collecting all potential revenue.

Comments of Local Officials

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 begun implementing corrective action.

Introduction

Background

The Town of Sweden (Town) is located in Monroe County, has a population of approximately 14,175 and includes the State University of New York College at Brockport. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board 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 Justice Court (Court).

The Town's Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justices' principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bails, surcharges, civil fees and restitutions. Justices are personally responsible for all moneys received and disbursed by the Court and for safeguarding Court resources by implementing a good system of internal controls, routinely reviewing the work performed by the Court clerks, and ensuring that financial reports are accurate and filed in a timely manner and that applicable laws, rules and regulations are observed.

The Town currently has three Justices: Robert Connors, Mark Depferd and Kevin Johnson. Justice Johnson replaced Justice Carl Coapman, who resigned in January 2013. The Town currently employs two Court clerks to assist in Court operations. The Court had a third clerk, who worked primarily for Justice Connors, until June 2013 when she resigned from that position.

During 2013, the Court collected approximately \$414,000 in fines and surcharges. For 2013, the Court was ranked 144th in revenues collected of all municipal courts in New York State and is the seventh largest in Monroe County.³

Objective

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

- Did the Justices provide adequate oversight to ensure the accurate and complete collection, depositing, recording and reporting of Court moneys in a timely manner?

³ There are 1,226 courts within the State and 22 municipal courts within Monroe County, as reported on the 2013 justice court fund ranking report.

**Scope and
Methodology**

We examined the Court's financial operations for the period January 1, 2013 through September 4, 2014.⁴ We expanded the scope of the audit to perform accountabilities and review records back to September 1, 2012 for Justice Connors, due to concerns expressed by Town officials.

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 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 begun implementing 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 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 Clerk's office.

⁴ We reviewed Court records and reports through March 31, 2014.

Justice Court

The Justices are responsible for adjudicating cases brought before them, and accounting for and reporting the Court's financial activities. The Justices must report Court transactions to the Office of the State Comptroller's Justice Court Fund (JCF) in a timely manner. They are also responsible for implementing effective internal controls to oversee operations and ensure that the appointed Court clerks maintain complete and accurate accounting records on their behalf and safeguard all moneys collected. Justices should segregate the duties of the clerks to the extent possible and thoroughly review their work as a compensating control. They should routinely ensure that Clerks issue accurate receipts that cannot be altered or deleted and deposit all moneys collected intact within 72 hours of receipt. It is also essential that the Justices implement a policy and procedures for the collection of unpaid fines and fees.

The Justices do not provide adequate oversight of Court operations to ensure the accurate and complete collection, deposit, recording and reporting of Court moneys in a timely manner. The Justices have not adequately segregated the duties of the clerks and do not regularly review accounting records, bank statements or monthly reconciliations and accountability analyses. Although the Court issues computerized receipts, the receipt numbers, dates and amounts can be altered or deleted in the computer system and the Justices do not review system activity as a compensating control. Further, 71 receipts⁵ were not deposited within 72 hours of receipt and various receipts or transactions were deleted from the system without a valid documented reason. Finally, the Justices have not developed a policy or procedures to enforce collection of unpaid fines and fees. As a result, 34 unpaid tickets were not submitted to the Department of Motor Vehicles (DMV) scofflaw program⁶ and five tickets were incorrectly reported as disposed of to the DMV. Due to these control weaknesses, it is impossible for the Justices to hold any clerks responsible for any errors, deficiencies or fraudulent or abusive activities that may occur, and the Court is not collecting all potential revenue.

Justice Oversight

Justices are personally accountable for all activities that occur in their Court. The Justices must ensure that an effective system of internal controls is in place to provide reasonable assurance that cash and other resources are properly safeguarded and that financial transactions are

⁵ Four percent of the total receipts tested (1,794).

⁶ The DMV scofflaw program allows courts to notify the DMV when an individual has an unresolved traffic ticket for 60 days. DMV gives the individual an additional 30 days to address the issue before it suspends the individual's license.

properly processed and recorded in a timely manner. When a Court employs clerks, it is essential that the Justices clearly delineate and segregate (to the extent possible) their duties and provide adequate oversight over clerk functions and Court operations, including routinely reviewing Court records, such as bank reconciliations and accountability analyses, bank statements and the Court's computerized accounting system activity.

Segregation of Duties — The Justices are responsible for segregating duties by ensuring that each clerk only processes transactions for her one assigned Justice,⁷ or by assigning specific phases of each case and transaction to different clerks so that the clerks would automatically see and review the work of the other clerks when performing their assigned duties. Where it is not practical to segregate duties, the Justices should provide additional oversight as a mitigating control. Such oversight could include reviewing bank statements, canceled checks, bank reconciliations and accountability analyses on a regular basis to ensure the court's records are timely and accurate.

The Justices are not providing sufficient oversight of Court operations and have not adequately segregated the duties of their clerks. Court personnel told us that each clerk is assigned a Justice for whose financial operations she is primarily responsible.⁸ However, all clerks collect cash for Court fines, fees and bail, record those payments in the computerized accounting system and prepare and make deposits for all of the Justices. Justice Johnson's clerk prepares disbursement checks for his cases, reconciles his bank accounts, and is primarily responsible for reporting all scofflaw-eligible cases to the DMV.⁹ Justice Depferd's clerk prepares checks, reconciles his and Justice Connors' bank accounts,¹⁰ and prepares the monthly reports for all three Justices.

Despite this lack of segregation of duties, the Justices did not directly receive or review bank statements¹¹ or canceled check images, and do not regularly review accounting records, bank reconciliations and monthly accountability analyses. The Justices' reviews generally entail scanning the prepared monthly reports before submitting

⁷ This would require significant independent review and oversight by the Justice, but place clearer accountability on each clerk.

⁸ The Court currently (since June 2013) has two clerks who share the work for the third Justice, based on availability.

⁹ See Traffic Tickets.

¹⁰ Since June 2013, when Justice Connors' clerk resigned.

¹¹ Bank statements were accessed online, printed by the Town's finance manager and given directly to the Court clerks. These statements do not include canceled check images.

them.¹² Further, the Justices and clerks expressed concerns regarding the former clerk's abilities and performance; however, the Justices¹³ did not enhance their oversight of Court operations.

Thus, all clerks have the ability to access the records and process transactions for all three Justices, both in the manual case files and in the computerized records. Furthermore, as discussed later in this report, there are limited controls over the computerized accounting system. Consequently, there is an increased risk and opportunity for a clerk to make improper entries or adjustments for cases that are the responsibility of another clerk, and potentially cast false blame. As a result, it is virtually impossible for the Justices to hold one clerk responsible for any significant errors, deficiencies or potentially fraudulent or abusive activities that might be identified. Due to these oversight weaknesses, we tested various Court records¹⁴ and found that the Justices cannot be assured that all money was properly recorded, deposited and reported.

Accountability — Justices are responsible and accountable for all moneys received by their Courts. At any point in time, the recorded liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash. Any unclaimed exonerated bail¹⁵ should be turned over to the Town, pending a claim.¹⁶ Any other unidentified moneys should be reported and paid to the JCF. Each month, Court personnel should compare cash on hand and on deposit in the bank (per monthly bank statements) to information from their accounting records, including detailed listings of outstanding bail and amounts due to the JCF. Each Justice's account should be zeroed out at the end of the month and, if not, the balance should reconcile to any outstanding checks, held bail and any fines received after the end of the month. Routine bank reconciliations and accountability analyses are critical procedures to document the status of moneys held by the Court at any point in time and to enable the Court to check for and correct errors or identify cash shortages.

The clerks prepare monthly bank reconciliations and accountability analyses. However, the Justices do not regularly review them. We reviewed the reconciliations and found they were generally adequate

¹² Justice Johnson stated that, on occasion, he will pull a case file to compare the file with the amount of the fines and fees reported on the monthly report.

¹³ While the former Court clerk was assigned to and performed most duties for Justice Connors, she also had access to the other Justices' operations.

¹⁴ See Appendix B, Audit Methodology and Standards, for details on our testing.

¹⁵ Exonerated bail is bail awaiting return to the individual who posted it for the defendant.

¹⁶ Cash bail still unclaimed six years after exoneration of the bail becomes the property of the Town.

and completed in a timely manner. However, the former clerk was unable to resolve an identified discrepancy that remained for several months. We completed bank reconciliations and accountability analyses for January 2013 through March 2014 for all of the Justices. We also did extended testing back to September 2012 for Justice Connors, due to his concerns with the former clerk's recordkeeping practices and abilities.

- Justice Johnson — We found that Justice Johnson's account properly reconciled, from his first month in office (February 2013) through March 31, 2014.
- Justice Depferd — When Justice Coapman resigned,¹⁷ he had an unreconciled balance of \$4,091 that was transferred to Justice Depferd. At the beginning of the audit period, Justice Depferd had an additional unreconciled balance of \$7,291 in his account from his own original cases. In February 2013, Justice Depferd appropriately reported a total of \$10,532¹⁸ to JCF as unidentified moneys. The clerks stated that the remaining unreconciled balance of \$850 in Justice Depferd's account was for two outstanding checks from 2007 for returned bail; however, they did not have supporting documentation for our review, and should have voided checks that were outstanding that long. These funds accumulated several years before the audit period. While these were excess balances that could not be accounted for, as opposed to cash shortages, the sizeable unexplained balances are indicative of potentially significant errors that were not identified and addressed by the Justices, and likely represent amounts that were collected and not properly accounted for or remitted to the appropriate parties. However, we did not identify any significant errors or unreconciled balances or cash shortages since February 2013.
- Justice Connors — We found that Justice Connors had an unreconciled balance in his bank account of \$100¹⁹ in September 2012 that increased to \$777.50 in February 2013 due to various recording errors.²⁰ After the clerks corrected various errors, the account properly reconciled to a zero balance as of October 2013.

Justice Connors told us that in the past, his account had shortages and he made up the difference from his personal funds. However,

¹⁷ January 17, 2013

¹⁸ The transfer from Coapman of \$4,091 and \$6,441 of his own unidentified funds

¹⁹ The former Court clerk identified this for someone who paid, but without a receipt entered.

²⁰ Such as checks written for returned bail that were later voided and \$100 reported in January for an individual that did not make a payment until February.

he could not provide us with any details or documentation of any such instances. We also found no evidence of additional deposits to cover any cash shortages during our review. The former clerk also told us that the Justice neither put money into the account nor gave her money to put into the account.

During our testing, we found one shortage in November 2012 of \$185 that was paid in installments by the former Court clerk, usually with her personal credit card. On our inquiry, the former clerk said she thought this could have been a mistake by any of the clerks and did not know or think that she was responsible or should have to pay it, but she made the payments because she did not want to lose her job over it. Justice Depferd's clerk attempted to resolve the discrepancy by altering the original receipt in the system²¹ to change the amount recorded to \$90. Because this payment was apparently made in cash, we are unable to determine whether the full payment of \$275²² was made in cash and \$185 was missing, or if \$90 was paid and the receipt was mistakenly issued as paid in full for the remaining balance (\$275).²³ Additionally, because of the lack of segregated duties among the clerks, we are unable to determine who would be responsible for any missing cash. Although we found no clear evidence of any other cash shortages, there is no assurance that there were no other shortages. For example, we found five tickets that were not yet paid according to court records when they were reported to the DMV as disposed,²⁴ which can be another way to cover a shortage in funds.

Receipts and Deposits — Prompt and accurate recording of moneys received is essential to properly account for and safeguard Court assets. Justices are required to issue receipts to acknowledge collection of all moneys paid to the Court. It is essential that receipts be recorded with detailed information, including the date and method of payment (cash, check, money order or credit card). Receipt forms produced from a computerized accounting system should be issued in consecutive numerical sequence and the program should prevent the deletion or alteration of receipt numbers. If computer generated receipts can be altered in the system, then manual press numbered duplicate receipts and an audit log should be used.²⁵ Effective audit logs provide information, such as the identity of each person who has accessed the system, the time and date of the access, what activity

²¹ See next section for further details on system deficiency. Because the record was changed, this was not identified as a discrepancy when reconciling as of the end of the month reports.

²² As originally recorded

²³ This individual had made seven previous partial payments on his balance due.

²⁴ See Traffic Tickets

²⁵ Audit logs maintain a record of activity by system or application process.

occurred and the time and date of logoff. Justices are required to deposit intact (in the same amount and form of payment as received) all moneys collected by the Court into official bank accounts as soon as possible, but no later than 72 hours from the date of collection.²⁶

The Court issues receipts produced from its computerized accounting system. The system assigns receipt numbers in sequential order and records the date of collection on the receipt. However, the system allows the receipt number, date or amount to be altered or deleted after the receipt has been printed and issued. We also found that the clerks do not use the available field in the system to record the method of payment, which inhibits the Justices' ability to ensure that the clerks are depositing all amounts collected intact and not making substitutions to cover receipts with collections from other receipts. Additionally, the Justices did not review system activity by generating and reviewing audit logs and, in fact, Court personnel were unsure whether audit logs were available within the system. Because the Justices do not use an audit log, they are unable to identify instances when records are changed or deleted and by whom.

Because of these weaknesses, we tested cash receipts and deposits to determine if the moneys received were properly recorded, reported and deposited intact and in a timely manner. Due to concerns regarding the former Court clerk, we selected the entire six months she worked during our audit period for testing.²⁷ We were unable to verify that all receipts were recorded and deposited intact²⁸ and found that 71 of 1,794 receipts were not deposited in a timely manner.²⁹ For Justices Coapman, Johnson and Depferd, we reviewed 1,212 transactions totaling \$127,643 and found only minor discrepancies. For Justice Connors, we reviewed 675 transactions totaling \$86,408 and found a few significant discrepancies. For example, three receipts totaling \$190 were recorded on May 31, 2013 and reported to JCF on the May 2013 report, but the cash was not deposited intact. The deposit for these receipts included \$90 in cash, with \$100 cash not deposited. The \$100 difference was covered by a receipt for a \$100 credit card payment made on May 30 for a different case. That receipt was deleted from the system and then re-entered (with a new receipt number) in June, but the deposit was covered in cash. While these seemed to be isolated instances, the substitution of recorded payments with other payments is a common method of misappropriating cash receipts. As discussed previously, the Justices lack the ability to hold a given clerk

²⁶ Excluding Sundays and holidays

²⁷ We obtained deposit compositions from the bank for January through June 2013 for all three Justices' accounts.

²⁸ We had to assume that payments not made by check, money order or credit cards (as documented in deposit records), were made in cash.

²⁹ Within the 72-hour requirement

accountable for significant errors or missing funds because each of them has access to the cash, case records and software, and could be responsible for errors regardless of which Justice handled the case.

We also obtained and analyzed computerized data from the Court's system. We used this data to sort all receipt numbers through March 10, 2014³⁰ to identify any gaps in the sequencing. We compared these gaps to court documentation and a list of system deletions. We found that 42 receipts³¹ were deleted from the system. We found no documentation for the reason for the deletion for 32³² of these receipts (76 percent). We also reviewed another list of 18 transaction deletions³³ and found no support of a valid reason for making 17 of the deletions. We reviewed available Court records and found that five deletions appear to be valid, 10 are open cases or had civil judgments owed and two are questionable. Specifically, for one of the deletions (\$100), the System record indicates that the case was disposed with the fine not paid, while the manual case file shows that the fine was paid. For the other deletion (\$50), the case file stated that the ticket was paid with a specific receipt number, but the system showed that receipt number as payment (of \$218) on another ticket for the same person; however, the clerks were unable to locate a case file for this second ticket or provide any further explanation for how this occurred.

When receipts issued for fines, fees and bail can be altered and deleted, the risk is increased that moneys could be received and not be properly deposited and reported. Furthermore, deletions of receipts increase the risk that a case could be improperly deleted and not reported. Any fines or fees related to a deleted case file could be diverted for unauthorized purposes. Therefore, requiring timely deposits, prompt and accurate recording of receipts and routine Justice review of System audit logs or other accounting records would help detect any irregularities in cash management that do occur.

Traffic Tickets

To maximize revenues from court operations and reduce or avoid a backlog of outstanding cases, it is essential for the Justices to adopt a policy and procedures for the enforcement of collections by Court personnel. These guidelines should include procedures for using reports available from the DMV to follow-up on and enforce outstanding tickets. For example, the Court can use the DMV scofflaw

³⁰ Using electronic data obtained from the system

³¹ Justice Connors – 31, Justice Depferd – 7, Justice Johnson – 4

³² Justice Connors – 25, Justice Depferd – 4, Justice Johnson – 3

³³ The deletions list was generated from the automated analysis of the system data. Because most of the deleted receipts do not have any documentation, we cannot determine if these deletions are for the same cases as the deleted receipts.

program³⁴ to enforce payment of fines. The Court has to wait 60 days from either the date of appearance or last payment before sending paperwork to the DMV to suspend the motorist's driving privileges.

The local and State police agencies issue Uniform Traffic Tickets (UTTs) for vehicle and traffic infractions. The DMV tracks the tickets 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. Court personnel can generate reports from the TSLED database, which list all pending UTT cases. The Justices should routinely review these reports to ensure that the Court is processing tickets in a timely manner. The Clerks can also generate a TSLED report of only the cases that have been pending for 60 days and use it to identify individuals who either have not appeared in Court to resolve their tickets or have not paid their fines. The Clerks should then report these cases to the DMV to be enforced through the scofflaw program.

The Justices have not established a policy or procedures for the enforcement of collections by Court personnel. As a result, the Court is not enforcing unresolved tickets in a timely manner. The Town participates in the DMV scofflaw program and the Justices and clerks stated that it is their practice to submit unresolved tickets to the DMV after 60 days. However, the clerks do not use the TSLED report that includes all tickets pending for more than 60 days. Instead, the clerks have developed their own practice for identifying cases to be reported to the scofflaw program. Furthermore, the Justices do not use the TSLED report to monitor their cases and ensure that the clerks are processing tickets in a timely manner.

Due to these control weaknesses, we requested the clerks obtain the most recent TSLED report for our review. The TSLED report contained 775 pending cases that had been pending for at least 60 days, as of April 30, 2014, for failure to appear or failure to pay. We reviewed a sample of 50 cases and found that nine cases were submitted to the DMV scofflaw program and seven were disposed of or dismissed. However, the remaining 34 were not submitted to the DMV scofflaw program. The clerks informed us that this occurred, in part, because they were several months behind in processing scofflaw cases. They also indicated that if an individual or his or her attorney

³⁴ 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 and gives the individual 30 additional days to address the issue, after which it suspends the individual's drivers license until he or she addresses the outstanding ticket.

make any contact with the Court (even to just inquire about his or her ticket), then the Court will not submit the ticket to the scofflaw program. We also found that the clerks incorrectly reported five tickets to the DMV as disposed, four of which have not yet been paid, according to Court records. Because they were incorrectly reported as completed, these cases are not tracked in the DMV pending cases system and are unlikely to be identified as unpaid and eligible to be reported to the scofflaw program. Further, reporting cases as closed to the DMV without recording them in the records can be another way to cover a shortage in funds.

Due to the lack of a formal policy requiring the enforcement of unresolved traffic tickets, including routine use of the scofflaw program, and the lack of Justice oversight of the enforcement of collections, the clerks incorrectly reported tickets to the DMV as disposed and the Court is not maximizing efforts to collect all potential revenue.

Recommendations

The Justices should:

1. Ensure that the Court clerks' duties are adequately segregated. Where it is not practical to segregate duties, the Justices should provide additional oversight as a mitigating control.
2. Receive and review bank statements and canceled check images directly from the bank.
3. Review bank statements, bank reconciliations and accountability analyses and the court's accounting records on a regular basis for timeliness and accuracy. Justices should ensure that any differences are investigated and, if necessary, take corrective action.
4. Further research the remaining unaccounted for balance in Justice Depferd's account and, if unresolved, remit the unaccounted for funds to the JCF or the Supervisor as appropriate.
5. Require the use of manual press-numbered duplicate receipts or work with the software vendor to correct system deficiencies that allow receipts to be altered or deleted.
6. Ensure that the clerks use the available field in the computerized system to record the method of payment for receipts.
7. Review an audit log from the accounting system as a means of determining, on a routine basis, who is accessing the system and what transactions are being processed, changed or deleted.

8. Ensure all collections are deposited within 72 hours.
9. Ensure all traffic tickets that are unresolved after 60 days are reported to the DMV for scofflaw.
10. Develop a policy and procedures to ensure that collections are enforced by Court personnel.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



Town of Sweden
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February 11, 2015

VIA U.S. MAIL AND E-MAIL (caps@osc.state.ny.us)

Office of the State Comptroller
Division of Local Government and School Accountability
Attention: Mr. Edward V. Grant, Jr., *Chief Examiner*
The Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614

**Re: Town of Sweden Justice Court Audit Response and Corrective Action Plan,
Period Covered January 1, 2013 – September 4, 2014,
Audit Report Number 2014M-318**

Dear Chief Examiner Grant:

We write this letter in response to the audit of the Town of Sweden Justice Court by local examiners from your office. First, let me commend you on the professionalism of your staff. The examiners assigned to our audit were courteous, knowledgeable and thorough, and our experience with them was positive and constructive.

We have thoroughly reviewed and discussed the Report of Examination 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 responses to the Report's recommendations, and it is submitted herewith. We are pleased to report that a number of these system and process improvements are already in place. We are working diligently to implement the remaining ones.

We truly appreciate the input and advice of you and your staff as we endeavor to faithfully serve the residents of the Town of Sweden.

Sincerely,

Robert A. Carges, *Town Supervisor*

Kevin G. Johnson, *Town Justice*

Robert P. Connors, *Town Justice*

Mark R. Depferd, *Town Justice*

Corrective Action Plan

Unit Name: Town of Sweden
Audit Report: Justice Court
Audit Report Number: 2014M-318

Introduction:

We are thankful for the efforts and input of the auditors on how we can improve the processes and procedures of our Court. We have already or will immediately implement corrective actions to address each of the recommendations noted in the Audit Report. What follows is a reiteration of each of the Audit Report's recommendations followed by our corrective action plan as to each recommendation.

Audit Recommendation 1:

Ensure that the court clerks' duties are adequately segregated. Where it is not practical to segregate duties, the Justices should provide additional oversight as a mitigating control.

Implementation Plan of Action:

The Town only employs two (2) clerks for the Court, and as such, adequate segregation of duties is not possible. Both clerks collect monies at the Court service window, enter payments and other information into the [REDACTED] Program, and perform accounting and bank deposit functions for the Court. Accordingly, the Justices have implemented an enhanced oversight program, as more fully discussed in the response to Audit Recommendation 3 below. Pursuant to said program, Justices will immediately investigate any discrepancies and/or irregularities found in the Court's financial affairs, and will take corrective action, if necessary.

Audit Recommendation 2:

Receive and review bank statements and canceled check images, directly from the bank.

Implementation Plan of Action:

The Justices have each established on-line access to their individual Court bank accounts at the bank so that they can access all account information directly from the bank, including, but not limited to deposit and withdrawal information, bank statements and canceled check images.

Audit Recommendation 3:

Review bank statements, bank reconciliations and accountability analyses and the court's accounting records on a regular basis for timeliness and accuracy. Justices should ensure that any differences are investigated and, if necessary, take corrective action.

Implementation Plan of Action:

The Justices will perform an examination of their accounts not less than once a month. In order to accomplish this examination, the Justices will obtain the following items:

- 1. a statement of their account and any available cancelled check images directly from the bank for the previous month (as is more fully discussed in the response to Audit Recommendation 2 above);*
- 2. the original records of monthly deposits from files at the Court office for the previous month;*
- 3. a random sampling of not less than five (5) files on which fines and/or surcharges were paid during the previous month from the files at the Court office;*
- 4. [REDACTED] Program audit log for the previous month; and*
- 5. an accounting statement from the [REDACTED] program and/or the JCF report for the previous month.*

The Justices will reconcile and compare these items to ensure that the financial affairs and accounts of the Court are being handled accurately, thoroughly and in a timely manner. Justices will immediately investigate any discrepancies and/or irregularities, and take corrective action, if necessary.

Audit Recommendation 4:

Further research the remaining unaccounted for balance in Justice Depferd's account and, if unresolved, remit the unaccounted for funds to JCF or the Supervisor as appropriate.

Implementation Plan of Action:

Justice Depferd will immediately research the unaccounted for balance in his account and resolve the issue in accordance with the law.

Audit Recommendation 5:

Require the use of manual press-numbered duplicate receipts or work with the software vendor to correct system deficiencies that allow receipts to be altered or deleted.

Implementation Plan of Action:

The clerks of the Court have been instructed not to alter or delete receipts without informing and obtaining the express approval of the Justice to whom the case belongs. Additionally, the Court will inquire of [REDACTED] whether it is possible to remove the functionalities of receipt alteration and deletion from the system. In the event that [REDACTED] cannot remove these functionalities from the system, the Court will require the clerks to use manual press-numbered duplicate receipts.

Justices will follow through on implementing these process changes, and will also regularly examine the Court's financials, as more fully discussed in the response to Audit Recommendation 3 above, to detect any discrepancies and/or irregularities. Justices will immediately investigate any discrepancies and/or irregularities, and take corrective action, if necessary.

Audit Recommendation 6:

Ensure that the clerks use the available field in the computerized system to record the method of payment for receipts.

Implementation Plan of Action:

The clerks of the Court have been instructed to use the method of payment field in the [REDACTED] program for every transaction. Additionally, the Court will inquire of [REDACTED] whether it is possible to make the use of that field mandatory before saving the record of payment. Justices will monitor the [REDACTED] reports monthly to ensure that the clerks are inputting the form of payment information on every transaction. Justices will immediately address any missing information with the clerks, and take corrective action, if necessary.

Audit Recommendation 7:

Review an audit log from the accounting system as a means of determining, on a routine basis, who is accessing the system and what transactions are being processed, changed and/or deleted.

Implementation Plan of Action:

The clerks of the Court already provide a copy of the audit log to each of the Justices every month. The Justices will continue to review the audit log as part of their oversight duties, as more fully discussed in the response to Audit Recommendation 3 above. Justices will immediately investigate any discrepancies and/or irregularities found in said logs, and take corrective action, if necessary.

Audit Recommendation 8:

Ensure all collections are deposited with 72 hours.

Implementation Plan of Action:

The clerks of the Court have always been instructed to make every effort to make all deposits within seventy-two (72) hours from receipt, and to inform the Justices in the event any deposits are not made in a timely manner. The Justices will provide additional oversight for this function by reviewing the Court's financials each month to determine whether deposits are being made in a timely manner, as more fully discussed in the response to Audit Recommendation 3 above. Justices will immediately address any untimely deposits with the clerks, and take corrective action, if necessary.

Audit Recommendation 9:

Ensure all traffic tickets that are unresolved after 60 days are reported to the DMV for scofflaw.

Implementation Plan of Action:

The clerks of the Court have been instructed to immediately report any traffic tickets which remain unresolved after sixty (60) days to the DMV for scofflaw. The Justices will provide oversight for this function by reviewing the Court's scofflaw filing system each month. Justices will immediately address with the clerks any tickets that have not been sent to DMV for scofflaw in a timely manner, and take corrective action, if necessary.

Audit Recommendation 10:

Develop a policy and procedures to ensure that collections are enforced by Court personnel.

Implementation Plan of Action:

The Court already utilizes the following methods for enforcing and collecting on unpaid fines and surcharges:

- 1. the Court sends reminder letters to defendants to remind them that their fines and surcharges are unpaid;*
- 2. the Court sets control dates at sentencing for defendants to re-appear if their fines and surcharges are unpaid;*
- 3. defendants are reported to the DMV for scofflaw if fines and surcharges are unpaid;*
- 4. the Court issues criminal summonses to defendants whose fines and surcharges are unpaid; and*
- 5. the Court issues warrants for the arrest of defendants whose fines and surcharges are unpaid.*

The Court will redouble its efforts to utilize these methods for the enforcement and collection of unpaid fines and surcharges. The Court clerks and Justices will work together to determine the most appropriate course of action for collection of fines and surcharges on a case by case basis. In the instances where it is apparent that a defendant has no intention of paying a fine and surcharge, or where a defendant is unable to pay a fine and surcharge, the Court will continue its practice of converting such a fine and surcharge to a civil judgment. Justices will immediately address with the clerks any file on which fine and surcharge collection duties have been neglected, and take corrective action, if necessary.

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to review Court operations and assess whether moneys were properly collected, deposited, recorded and reported in a timely manner. To achieve our objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Town officials and employees to obtain an understanding of Court operations.
- We reviewed Board minutes and audit reports.
- We reviewed all of the Justice's bank statements, canceled check images, bank reconciliations, accountability analyses, bail listings and manual check register records. Using this information, we reconciled the bank statements and performed an accountability analyses. We compared the reconciled balances to the Justice's cash records to assess whether the Justice had properly accounted for receipts and deposited, remitted and reported moneys in a timely and accurate manner.
- We reviewed the computer generated receipts for our audit period to determine if receipts were issued sequentially and in date order, and were not altered or deleted.
- We tested cash receipts and deposits based on the computer generated receipts to determine if the moneys received were deposited intact and in a timely manner. We selected 6 months (January through June 2013) while the former Court clerk was employed at the Court to review recorded receipts, deposit composition, and timely deposits for each of the Justices. We also compared the amounts recorded in the Justice's financial records to amounts included in the Court's monthly reports to the JCF. We reviewed case files and any other supporting documentation for any discrepancies identified.
- We calculated the number of days between receipt and the deposit to determine the number of deposits that exceeded 72 hours.
- We randomly selected 65 cases from JCF reporting from January through June 2013 and 25 cases from JCF reporting from July 2013 through February 2014 for ticket testing. We recorded the amounts reported to JCF on monthly reports for specific defendants or tickets and compared these reported amounts with the amounts written by the Justice on the physical ticket maintained in case files.
- From all JCF data, we filtered dismissed cases and assigned each of those cases a number. We then randomly selected a sample of 20 dismissed cases to review to determine if there was a reason documented for the dismissal and if the reason was valid.
- Through inquiry of JCF officials, we determined if monthly reports were filed late for any months in our audit period.

- We reviewed all receipts and documentation related to the shortage repaid by the former clerk and other payments made for this individual's case.
- We obtained and analyzed computerized data using data extraction and analysis software to identify and review unusual transactions. This testing and review included:
 - o Comparing the DMV disposed ticket data to the JCF data to find those ticket numbers that were in the DMV disposed ticket data but not in the JCF data. We reviewed case files and any supporting documentation for differences.
 - o Identifying gaps in receipt numbers. For those gaps (deletions) identified, we reviewed Court records to determine if there was any documentation or support for the deletions.
 - o Determining the records that were deleted from the checkbook table and not re-entered. For these deletions, we reviewed Court records to determine if there was any documentation or support for the deletions.
- We obtained the TSLED report of cases pending 60 days for the period ending April 30, 2014. We tested a random sample of 30 "fail to appear" cases and 20 "fail to pay" cases from the 775 pending cases to determine if and when the cases were reported to the scofflaw program.

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

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