



# Village of Mount Morris Justice Court

## Report of Examination

Period Covered:

January 1, 2005 — February 12, 2013

2013M-152



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**

October 2013

Dear Village 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 Village 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 Village of Mount Morris, 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 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 Mount Morris Village Court (Court) is located in the Town of Mount Morris, Livingston County. The Village of Mount Morris (Village) operates its Court with one elected Justice and a court clerk. The Village is governed by an elected Board of Trustees (Board) comprising a Mayor and four Trustees. The Board is responsible for overseeing the Court's general management and financial operations. The Justice is responsible for hearing certain types of civil and criminal cases, and adjudicating misdemeanors, minor violations, and traffic infractions. Justices are personally responsible for all moneys received and disbursed by their Court and for safeguarding Court resources.

During our audit period, the Court had three Justices and three court clerks. The Board appointed the Town of Mount Morris Justice James LaPiana as Acting Justice<sup>1</sup> when former Justice Walter V. Tripp and his court clerk (who also was his spouse) resigned effective May 31, 2010. In June 2010, the Board appointed Justice Peter J. Glanville as the Village Justice and hired a part-time court clerk. Justice Glanville was elected for a four-year term, which expires March 2015. Justice Glanville's court clerk (former court clerk) resigned on January 3, 2013, and the Village hired a replacement court clerk on January 21, 2013. The Court reported 1,817 cases and collected a total of \$280,254 in fines, fees, and surcharges for 2012.

## Objective

The objective of our audit was to examine the Court's financial activity. 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 Court operations for the period January 1, 2005, to February 12, 2013. Our scope was limited because records were unavailable for us to review for March through May 2010, the last three months of Justice Tripp's tenure.

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.

<sup>1</sup> Justice LaPiana did not conduct Village business during his appointment.

**Comments of  
Local Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendations and have implemented or plan to implement 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 Village Clerk's office.

## Justice Court

Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting Court-related financial activities. The Justices must ensure that cash and other resources are properly safeguarded, and that financial transactions are processed in a timely manner and recorded properly. To meet this responsibility, they must maintain complete and accurate accounting records and safeguard all moneys collected. Justices are responsible for depositing all moneys collected in a timely manner, reconciling Court collections to corresponding liabilities, and reporting Court transactions to the Justice Court Fund (JCF). Justices are responsible and accountable for all moneys received by their Courts. Justices are also responsible for overseeing the work of the court clerk.

Justice Tripp did not meet his required responsibilities when he resigned his position. Records were incomplete and, as a result, we could not determine if the amount he remitted to the Village was sufficient to meet Court liabilities. As of February 2, 2012, Justice Glanville's cash account had a shortage of at least \$1,240. This shortage occurred because Justice Glanville failed to oversee the work of his former court clerk and account for all moneys received and disbursed through the Court. Specifically, we found that the former court clerk altered and deleted computerized receipts, did not deposit cash receipts timely and intact,<sup>2</sup> and failed to reconcile bank accounts, maintain an accurate listing of bail, file accurate and complete reports of all adjudicated cases,<sup>3</sup> or properly report ticket dispositions to the Department of Motor Vehicles. Going forward, unless the Justice provides adequate oversight of the court clerk, the risk is increased that errors and irregularities will continue to occur without detection or correction.

### Justice Tripp

When a justice resigns before the end of his or her term, he or she is required to transfer all pending cases and any moneys received on those cases, before his or her departure, to the other justice or the succeeding justice. The resigning justice must also file a final report with the JCF reporting all activity and remitting any fines and fees due, along with any unidentified balances, and close all bank accounts.

<sup>2</sup> Depositing intact means that moneys are deposited in the same amount and form as received.

<sup>3</sup> All cases must be reported to the JCF, including dismissed cases in which no fine or fee is required.

Justice Walter V. Tripp and his court clerk resigned effective May 31, 2010. We found that, following Justice Tripp's resignation, he did not file a final report with the JCF reporting his activity. Justice Tripp also did not remit unidentified moneys to the JCF as required. Furthermore, he did not close his official bank account.

Even though Justice Tripp told us that he left all his records in his office and all transactions were entered in the electronic system, Court records on file for Justice Tripp were incomplete. Justice Glanville's former court clerk stated that, at the time of her hire, there was a receipt book, but records covering the last three months of Justice Tripp's tenure were missing. In addition, Justice Tripp changed the password to the computerized software program – so that Justice Glanville did not have access – and refused to provide the password until a Village police officer went to his residence and requested it. Furthermore, Justice Tripp opened the Court's bank account using his social security number instead of the Village's tax identification number. As a result, Village officials could not access the account or the funds in the account totaling approximately \$11,000.

On July 23, 2010, the Mayor wrote a letter to Justice Tripp requesting that the receipt book and the checkbook used to record Court bank account activity be returned. Village officials told us that, in August 2010, Justice Tripp came in to the Village Hall with a check for "unclaimed funds" totaling approximately \$10,000.<sup>4</sup> The former Clerk-Treasurer accepted the payment and opened a bank account<sup>5</sup> with these funds to return bail as individuals were identified and located, per the advisement of the Office of Court Administration. As of February 12, 2013, there was \$7,428 in the account. Because records covering the final three months of Justice Tripp's tenure were unavailable, we could not determine if the amount turned over in August 2010 was sufficient to cover Court liabilities at the time of his resignation.

When a justice does not ensure that all requirements are met when resigning his or her official position, such as remitting all money in his or her possession, preparing a final report and closing all official bank accounts, the possibility of these moneys being unaccounted for, or even lost or stolen, is increased.

## **Justice Glanville**

Unlike other municipal operations, village justices do not account for financial transactions on a fiscal year basis and are not required to complete annual financial statements. Instead, they are required to account for cash receipts and disbursements from month to month,

<sup>4</sup> Justice Tripp told us that he paid over these moneys in May 2010; however, the check was dated August 9, 2010.

<sup>5</sup> The account was opened September 28, 2010.

and determine accountability (by preparing a list of Court liabilities and comparing it with reconciled bank balances) on a monthly basis. Furthermore, when cash bail is imposed, it is up to the Justice to keep track of it. Bail for pending cases is similar to a customer deposit and is posted by defendants (or by others on their behalf) generally to guarantee appearance in Court to answer charges, after which the bail moneys are returned. Consequently, it is essential that the Justice maintains an accurate accounting of bail. Furthermore, the Justice is personally responsible for moneys received by the Court and may be liable for money paid to the Court that was lost or stolen.

Justice Glanville's records and reports were inaccurate and incomplete because he assigned all of the Court's accounting and recordkeeping duties to the former court clerk and did not review her work to ensure that it was accurate. The former court clerk used the computerized software program to track cases, issue receipts, and report to the JCF. The former court clerk also used a manual log to record deposits and disbursements; however, due to her unsupported alterations, we were unable to reconcile this log to the bank statements or computerized records.

At any point in time, the liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justice's available cash. We performed a cash count of undeposited Court funds presented to us by the former court clerk on February 2, 2012 and found that cash receipts were short \$100. In addition, we identified a separate envelope of cash totaling \$190 that was recorded as received and deposited on January 4, 2012, but was not deposited. Finally, we found a money order dated August 9, 2010 for \$205 that could not be attributed to a defendant which remained undeposited for well over a year.

Neither Justice Glanville nor his former court clerk prepared bank reconciliations or performed accountability analyses on a monthly basis, which would have helped to detect any errors. We attempted to prepare an accountability analysis as of February 2, 2012 using Court liabilities identified through our limited audit testing. The known Court liabilities were higher than cash available by at least \$1,240. However, because the former court clerk altered and deleted records and receipts, rendering the records and reports unreliable, we were unable to determine the Court's liabilities. The former court clerk could not provide an explanation for the altered and deleted records.

Even after we brought these discrepancies to Justice Glanville's attention in February 2012, he did not take corrective action. Instead, Justice Glanville continued to remain passive in his oversight of the clerk, with the exception of looking at the bank statements starting

in October 2012. Justice Glanville stated that he began making all Court deposits in November 2012 because he identified many deposit corrections made by the bank during his review of the bank statements. Even with this direct knowledge of the former court clerk's continued poor performance, Justice Glanville did not end her employment. Instead, he allowed the situation to continue until she resigned on January 3, 2013.

Issuing and Recording Receipts — Justices are required to issue acceptable receipt forms to acknowledge collection of all moneys paid to the Court. A two-part receipt must be prepared immediately whenever moneys are received. One part is retained by the Court and one part is given to the person making the payment. Receipts must be pre-numbered and issued consecutively. Each receipt must document the date, the person paying, the amount paid, form of payment (cash or check) and the purpose of the payment. If receipts are generated from a computerized system, the software controls must prevent the alteration of receipt numbers. If they can be altered, then pre-numbered receipts should be used instead.

Justice Glanville's former court clerk used the computerized software program to generate sequentially numbered receipts with two parts: one retained by the Court and the other for the defendant. However, she had the ability to override any of the assigned receipt numbers. In addition, she had the ability to alter and delete receipts after printing. Finally, we found that she did not always issue a receipt at the time of payment or properly record the form of payment. When conducting our audit tests of Court activities, we found significant discrepancies in receipt records maintained by Justice Glanville's former court clerk. Some examples of the deficiencies we found are as follows:

- We observed that she did not provide a receipt to three individuals at the time of payment.
- A receipt originally issued for a cash payment of \$140 in scofflaw fees was altered and reissued for the payment of fines and surcharges in the amount of \$100. Only the \$100 was reported to the JCF.
- A receipt issued for \$45 was deleted and not deposited or reported.
- A receipt issued for the payment of a \$70 scofflaw fee was deleted. The fee was deposited but not reported.
- The same receipt number was used on three occasions for different defendants paying different amounts.

The former court clerk's ability to override or delete receipt numbers and the Justice's lack of oversight significantly increases the risk that money could be lost or stolen. The fact that the former court clerk was using the ability to override and delete receipt numbers dramatically increases the risk that money was stolen.

Deposit of Moneys Received — State regulation requires Court personnel to deposit all moneys received into the Justices' official bank accounts as soon as possible but no later than 72 hours after receipt. Moneys received must be deposited intact.

Justice Glanville maintained two bank accounts: one for bail and another for fines and fees. We obtained the bank statements, which included deposit compositions, from the bank for the period June 1, 2010 through April 30, 2012 for review and analysis. We randomly selected seven months for testing and identified 56 deposits totaling \$94,709 that the former court clerk made to Justice Glanville's fine account and six deposits totaling \$15,150 that she made to his bail account. The former court clerk did not make intact or timely deposits. However, because she did not maintain adequate and complete records, we could not determine how many deposits were not made timely or intact. Based on available records, we did find that three cash receipts totaling \$210<sup>6</sup> for two deposits were not deposited intact into Justice Glanville's fine account. In addition, \$190 in cash was recorded as received and deposited on January 4, 2012 but was not deposited until February 2, 2012, the day we performed our cash count. The former court clerk also incorrectly completed and made numerous mathematical errors when preparing the duplicate deposit tickets, which resulted in bank adjustments.

When Court collections are not deposited intact — particularly in combination with the failure to accurately record receipts in the computerized accounting system — key controls over the Court's financial operations are compromised. Without these controls, Court funds are highly susceptible to misappropriation by Court personnel without detection.

## Accounting Records

To properly account for the Court's financial activities, it is important that Justices maintain complete, accurate and up-to-date accounting records in accordance with legal requirements and other guidance such as those outlined in the *State Comptroller's Handbook for Town and Village Justices and Court Clerks*. Moneys received by the Court must be promptly and properly recorded in the cash book or accounting system. To verify the accuracy of financial records, Court

<sup>6</sup> This amount includes the two cash receipts totaling \$190 identified during our cash count on February 2, 2012 that should have been deposited on January 4, 2012.

personnel should compare cash on hand and on deposit in the bank to detailed listings of amounts due to the JCF and other Court liabilities. In addition, the Justices or Board should review the computerized accounting system's audit log<sup>7</sup> to monitor the activity of software users. This tool provides a mechanism for individual accountability, reconstructing events, and monitoring problems.

The computerized accounting system the Court uses for recording transactions permits files to be changed or deleted without requiring prior authorization or documentation of the reason. In addition, an audit log of the changes and deletions is not reviewed by the Justices or Board. We obtained information directly from the Court's computerized financial records for the period January 1, 2005 to November 15, 2012 and found that the records were altered and deleted without any oversight. For example, we identified 145 cash receipt transactions totaling \$9,424 that were deleted from the computerized checkbook<sup>8</sup> without any explanation. In addition, we also found that a defendant's license suspensions were lifted without recording the payment of the required \$70 scofflaw fee. As a result, we determined the Court's accounting records were unreliable.

Because the Court's system permits changes and deletions without prior authorizations and the Justice does not review an audit log of system activity, irregularities could occur and go undetected. The Justice could not provide an explanation for why \$9,424 of cash receipts were recorded and then deleted from the records. The ability to record a cash receipt, print a receipt for the payer, and then delete the transaction from the records substantially increases the risk of irregularities with regard to cash receipts. Allowing the court clerk to make these deletions without approval or subsequent review compounds the risk.

## **Monthly Reports and Remittance of Funds**

Accurate and timely reports can provide a means for effectively monitoring Court operations. Village and JCF officials can analyze such reports and investigate any unusual or incomplete information. The late filing or non-filing of required reports can be an indication of operational problems. Village Law requires that Justices submit monthly reports of Court activities to the JCF by the tenth day of the succeeding month. If the reports are submitted electronically, moneys reported as collected must be submitted to the Mayor. The JCF

<sup>7</sup> An audit log (also known as an audit trail) provides a means of determining, on a constant basis, who is accessing the system and what transactions are being processed. Audit logs maintain a record of activity by system or application process. 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 occurred, and the time and date of logoff.

<sup>8</sup> The former court clerk deleted 84 transactions totaling \$6,503 and Justice Tripp's clerk deleted 61 transactions totaling \$2,921.

determines the final distribution based on the monthly report filed by the Justice with the JCF. The JCF then notifies the Mayor of the amount due; the Mayor submits payment to the JCF and retains the Village's share. Partial payments result from the Justice allowing the defendant to pay over a period of time. As with full payment, partial payments should be immediately recorded, reported, and remitted in the month collected. Additionally, a record of amounts collected and receivable for defendants making partial payments should be maintained.

The Justices did not submit accurate and complete reports to the JCF. We compared adjudicated tickets reported to the Department of Motor Vehicles (DMV) to those reported to the JCF for the period June 1, 2009 through December 3, 2011 to determine if all ticket dispositions and payments were properly reported and remitted. We identified 319<sup>9</sup> tickets totaling \$11,630 that were reported to the DMV but were not reported to the JCF as required. We judgmentally selected 120 of the 319 tickets with fines totaling \$11,630 for further review (the remaining 199 tickets did not have fines associated with them) and found various reporting errors, as detailed in Table 1.

| <b>Table 1: JCF Reporting Errors</b>   |
|--|
| <b>Untimely Reporting</b>  |
| 56 tickets were not reported in the month following receipt of payment, but were eventually reported to the JCF between one and nine months later  |
| <b>Failed to Report</b>  |
| 32 tickets were dismissed as part of the Traffic Diversion Program sponsored by the Livingston County District Attorney's Office <sup>a</sup>  |
| 10 tickets were dismissed with proof of repair   |
| 11 tickets were covered by another ticket  |
| Two complaints were withdrawn  |
| One unconditional discharge <sup>b</sup>   |
| <b>Inaccurate Reporting</b>  |
| Six tickets were reported to the JCF but did not list the ticket number  |
| One ticket had a partial payment that was reported incorrectly   |
| <b>Failed to Report and Remit Payment</b>  |
| One ticket had a fine and surcharge paid totaling \$175 that was deleted from the computer program   |
| <sup>a</sup> Defendants who are charged with certain violations of the Vehicle and Traffic Law may enter into a plea agreement to dispose of their tickets by paying a fee to the District Attorney's Office and attending a defensive or safe driving course. |
| <sup>b</sup> Unconditional discharge typically means that a defendant is released from all liability arising under a sentence, including probation and parole.   |

Because of these discrepancies, errors and irregularities occurred and were not detected in a timely manner.

<sup>9</sup> 299 tickets pertain to Judge Glanville and 20 tickets pertain to Judge Tripp

## Recommendations

1. The Board should develop procedures to ensure that a Justice who resigns his or her official position with the Village meets all requirements upon resignation.
2. The Justice should ensure that any unidentified moneys in his bank account are reported and remitted to the JCF.
3. The Justice should reconcile his bank account on a monthly basis and prepare accountability analyses for all moneys held by the Court.
4. The Justice should routinely review the work performed by the court clerk, such as the accounting records and reports, to ensure that they are accurate, agree with the supporting documentation, and are properly filed.
5. The Justice should issue sequentially numbered duplicate receipts for all moneys collected and ensure the receipt indicates from whom, for what, and in what form payment was received.
6. The Justice should ensure that all moneys received are deposited intact within 72 hours from the date of receipt, excluding Sundays and holidays.
7. The Board should ensure that the Court submits accurate monthly reports to the JCF no later than the tenth day of the succeeding month.
8. The Justice and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties or institute compensating controls. Compensating controls may include a monthly review of Court records by the Justice.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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

PLEDGE OF ALLEGIANCE



**LISA TORCELLO**  
Clerk/Treasurer

Village of Mount Morris  
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Mount Morris, New York 14510  
Phone: (585) 658-4160 • Fax: (585) 658-2473  
TTY: 1-800-662-1220 or 1-800-421-1220

**JOEL W. MIKE**  
Mayor

September 27<sup>th</sup>, 2013  
Edward V. Grant, Jr.  
Chief Examiner  
Division of Local Government and School Accountability  
Re: Response to preliminary draft findings

Mr. Grant:

We have reviewed your preliminary draft findings of your recent examination of the Village of Mount Morris Justice Court.

We agree with your recommendations and have implemented, begun the process of implementing, and will implement all of the recommendations as our corrective action plan in the next 90 days.

At our exit conference, we mentioned our concern with some of the language in the findings.

Thank you again for guiding and helping us improve our operation and procedures.

Kindest regards,

Joel W. Mike

Hon. Peter J. Glanville

Mayor  
Village of Mount Morris

Village Justice  
Village of Mount Morris

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

The objective of our audit was to examine the Court's financial activity to determine if the Justices accurately and completely collected, recorded, deposited, and reported Court moneys in a timely manner. We interviewed appropriate Village officials, performed a cash count, obtained information directly from the Court's computerized financial records, and then analyzed this information using computer-assisted techniques. To accomplish the objective of our audit, our procedures included the following:

- We examined the automated financial records for the collection and subsequent dispositions of fines, fees, surcharges, and bail moneys for the period January 1, 2005 to November 15, 2012. We compared these records to deposit slips, deposit compositions, and bank deposits and disbursements provided by the bank. Using this information, we sought to determine if receipts had been properly recorded and deposited, and if moneys had been remitted and reported in a timely and accurate manner.
- We requested and received January 2005 through March 2012 bank statements and deposit information from the bank. We used this information to compare the composition of deposits to receipt records to determine if receipts were deposited intact and accurately accounted for in the Court's records.
- We requested and received a report from the JCF indicating the date of receipt for June 2010 through September 2012 to determine the timeliness of the monthly report filings.
- We reviewed the monthly reports prepared by the Justices and compared them to the receipts issued and deposits made to determine the accuracy of the amounts reported.
- We contacted 31 individuals from whom the Court's records indicated fines or fees were received to confirm the amount and/or method of payment.

We conducted this performance audit in accordance with generally accepted government auditing standards (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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Andrew A. SanFilippo, Executive Deputy Comptroller  
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