

Town of Adams

Justice Court Operations

FEBRUARY 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

- Report Highlights 1**

- Justice Court Operations 2**
 - How Should Justices Record, Deposit and Report Court Funds? . . . 2
 - Court Funds Were Properly Recorded, Deposited and Reported . . . 3
 - Monthly Bank Reconciliations and Accountabilities Were Not Prepared 3
 - The Board’s Annual Audit of the Justices Is Inadequate 5
 - What Do We Recommend? 5

- Appendix A – Response From Town Officials 6**

- Appendix B – Audit Methodology and Standards 7**

- Appendix C – Resources and Services 9**

Report Highlights

Town of Adams

Audit Objective

Determine whether the Town of Adams (Town) Justice Court (Court) funds were properly recorded, deposited and reported.

Key Findings

Overall, Court funds were properly recorded, deposited and reported during our audit period. However:

- None of the Justices prepared monthly accountabilities or bank reconciliations.
- Cash in a retired Justice’s bank account exceeded known liabilities by a total of \$1,104.
- The Board’s annual audit of the Justices’ books and records is inadequate because it primarily relies on the clerk to perform the review procedures.

Key Recommendations

- Perform monthly accountabilities and bank reconciliations and promptly investigate and resolve any differences.
- Contact the Justice Court Fund for guidance on reporting the unidentified cash balance remaining in the retired Justice’s bank account.
- Perform a thorough, complete and independent annual audit of the Court’s records or retain an independent public accountant to perform the audit.

Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Background

The Town is located in Jefferson County.

The Town is governed by the Town Board (Board), which is composed of the Town Supervisor (Supervisor) and four elected Board members.

The Board is responsible for the general oversight of Town operations, including the Court’s financial activities.

The Court is generally served by two elected Justices. However, during the audit period a Justice was appointed when an elected Judge retired.

A court clerk (clerk) assists the Justices with processing cases and their related financial transactions.

Quick Facts

2019 Court Revenues	\$217,115
2020 General Fund Appropriations	\$896,122
Population	5,143

Audit Period

January 1, 2019 – August 19, 2020

Justice Court Operations

A justice court has jurisdiction over vehicle and traffic, criminal, civil and small claim cases. Justices adjudicate legal matters within the court's jurisdiction and administer funds collected from fines, surcharges, civil fees and bail. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) the financial activities of the preceding month.

The Court is served by two Justices. Justice Robert Newark served throughout the audit period and currently serves, while Justice Donald Shaw retired on June 30, 2020. Because he retired prior to the start of our audit, Justice Shaw was unavailable to us during our fieldwork. Justice Shaw was replaced with the appointment of Justice Crystal Smith, who prior to becoming a Justice, served as clerk for Justice Newark. The Town also employs another clerk to assist with the financial responsibilities including collecting payments, issuing receipts, posting payments in the computer system, preparing and making deposits and preparing the monthly reports for submission to the JCF. The Court accepts payments made by cash, certified check, money order and credit cards. Each Justice maintains their own bank account for fines and fees, and for bail.

How Should Justices Record, Deposit and Report Court Funds?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all funds collected by the court. Justices should issue press-numbered receipts in consecutive order and indicate the form of payment (e.g., cash or check) to acknowledge the collection of funds paid to the court. Proper receipts serve as evidence of individual collections and help ensure accounting records are complete and accurate. All funds should be deposited intact in the same amount and form as collected. In addition, funds are required to be deposited as soon as possible, but no later than 72 hours from the date of collection, exclusive of Sundays and holidays. Justices are also required to submit monthly reports detailing all fines, fees, surcharges and forfeited bail to the JCF and to remit a check to the town supervisor in the amount of the monthly report. Additionally, justices must provide adequate oversight of the work performed by their clerks.

On a monthly basis, justices should perform a reconciliation between the bank balance and the checkbook balance. Also, a monthly accountability of funds should be conducted by preparing a list of court liabilities and comparing it to reconciled bank balances and cash on hand. At any point in time, the recorded court liabilities, such as bail held on pending cases and unremitted fines and fees, should equal the justice's available cash. Any discrepancies should be investigated and resolved, and any unidentified funds should be reported to the JCF.

The board is responsible for providing adequate oversight by annually auditing the justices' records and dockets to ensure fines and fees have been collected

...[A] monthly accountability of funds should be conducted by preparing a list of court liabilities and comparing it to reconciled bank balances and cash on hand.

and turned over to the proper parties as required by law. The board can conduct the audit or contract with an independent public accountant to perform the audit. To assist with this responsibility, the Office of the State Comptroller has prepared a Handbook for *Town and Village Justices and Court Clerks* (Handbook), which contains a checklist the board can use as a guide when performing an annual audit of justice court records. The minutes of the board proceedings should document the results of the audit.

Court Funds Were Properly Recorded, Deposited and Reported

Justices Newark and Shaw recorded cash receipts totaling \$291,287 from January 2019 through June 2020. We electronically compared all cashbook entries for each of these Justices with the amounts reported on their monthly JCF reports and determined that all recorded fine and fee collections were properly reported.

We compared 60 press-numbered duplicate receipts issued during our audit period, totaling \$10,575, to cashbook entries and bank records to determine whether collections were accurately recorded and deposited timely and intact. Our testing showed minor exceptions with the timeliness of deposits, which we discussed with Court officials.

In addition, we performed several other tests to determine whether Court funds were properly administered.¹ We reviewed voided cashbook transactions and dismissed cases without record of payment to determine the validity of the void or dismissal. We also reviewed cashbook entries to identify missing or out of sequence receipt and check numbers and investigated discrepancies between information reported to the JCF and the Department of Motor Vehicles (DMV). We also reviewed pending cases to determine whether the Court had performed reasonable collection efforts. We also traced all checks from all three Justices' bank statements to supporting documentation to determine whether the transactions were valid and supported, and reviewed the bank statements to look for any suspicious activity. Lastly, we reviewed bail activity for the audit period to determine whether bail records were accurate and returned bail was properly supported. Except for minor discrepancies that we discussed with Court officials, the Court funds and documents were in proper order.

Monthly Bank Reconciliations and Accountabilities Were Not Prepared

Neither the clerk nor the three Justices performed bank reconciliations or prepared monthly accountabilities to ensure that all collections were accurately

¹ See Appendix B for additional information on our audit methodology and sample selection.

accounted for and no discrepancies exist in the Justices' records. Justices Newark and Smith told us they did not perform these procedures and we saw no evidence that Justice Shaw performed an accountability or a bank reconciliation for any of the reporting months in our audit period.

We performed an accountability for Justice Shaw as of the date of his retirement on June 30, 2020, and found the cash balance exceeded known Court liabilities by \$1,104 (Figure 1).

**Figure 1: Justice Shaw's Fines, Fees and Bail Account
Accountability Analysis as of June 30, 2020**

Court Assets	
Bank Balance	\$10,184
Outstanding Checks	205
Adjusted Bank Balance	\$9,979
Court Liabilities	
Fines and Fees Due JCF – June 2020	\$8,875
Bail	\$0
Total Known Liabilities	8,875
Difference	\$1,104

Although Justice Shaw's June 2020 fines and fees were subsequently reported to the JCF and remitted to the Supervisor, the \$1,104 unidentified cash balance remained in his bank account as of September 30, 2020 and \$205 in checks were still outstanding. No records were available showing the source of the funds in the account. In addition, Justice Shaw's checkbook register of deposits, checks written and running cash balance was incomplete because no entries were recorded after August 2019. As a result, Justice Shaw did not have a recorded cash balance to reconcile with the bank account balance (adjusted for deposits in transit and outstanding checks) for his last 10 months in office.

Although Justice Newark and Justice Smith did not prepare bank reconciliations or monthly accountabilities, they told us they compare the payments recorded on the monthly cash report and JCF reports to detailed deposit slips and bank statements to ensure collections are being deposited.

As part of our testing we performed a physical cash count and prepared accountabilities for both Justice Newark and Justice Smith as of August 19, 2020. We found minor variances in Justice Newark's accountability and bank reconciliation. We found no variance in Justice Smith's accountability. However, Justice Smith did not maintain a checkbook register to reconcile with the cash in bank.

When bank reconciliations and accountabilities are not prepared, there is a risk that unidentified funds can remain on deposit and that errors or irregularities can occur and remain undetected.

The Board's Annual Audit of the Justices Is Inadequate

At the end of the 2019 fiscal year, Justice Smith, who served as a clerk at the time, performed an annual audit of applicable Court records and documented her audit work in the checklist from the Handbook. Although the checklist was signed by the Supervisor and two other Board members, they did not independently perform audit procedures such as ensuring collections are properly deposited, recorded and reported monthly to the JCF. The Supervisor and the two other Board members told us they performed a cursory review of monthly cash reports, JCF reports and bank statements. The audit work performed by Justice Smith during the time she served as a clerk lacked independence because she also handled the Court's cash collection and recordkeeping responsibilities, and no compensating controls were established to ensure the audit work was reliable.

Without a thorough and independent review of the books and records by the Board or an independent public accountant, the Board's ability to effectively monitor the Court's financial operations was diminished. In addition, had the Board audited the Justices' books and records, it may have discovered that the Justices were not performing monthly bank reconciliations and accountabilities and brought these issues to the Justices' attention for corrective action.

What Do We Recommend?

The Justices should:

1. Ensure bank reconciliations and accountabilities of all Court accounting records are prepared monthly for each account, including the reconciliation of cash assets and known liabilities, and promptly investigate and resolve any discrepancies.
2. Follow-up on the remaining outstanding checks in Justice Shaw's bank account and contact the JCF for guidance on reporting the unidentified cash balance so the account can be closed.

The Board should:

3. Perform a thorough, complete and independent audit of the Court's books and records at least annually or retain an independent public accountant to perform the audit and document the results in the Board minutes.

Appendix A: Response From Town Officials

Town of Adams Court
3 S. Main Street
Adams, NY 13605
315-232-2467
315-232-3596(fax)

January 25, 2021

New York State Comptroller
Syracuse Regional Office
State Office Bldg. Room 409
333 E. Washington St.
Syracuse, NY 13202-1428

Dear Sirs:

The Adams Town Court is in acceptance of the audit held for the Court for the period of January 01, 2019 – August 19, 2020.

It was recommended that the court reconcile the bank statements and all accountabilities at the end of each month, which the court is putting into everyday practice.

It was also recommended that Justice Shaw close his account as he has retired. This too will be done as his earliest convenience.

The board does do a yearly audit and documents it in the minutes when that action has taken place.

Please accept this letter as our acceptance of the audit with the included corrective actions to be taken by the court.

Thank you,

David Kellogg
Town of Adams Supervisor

Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed the Justices and clerk and reviewed financial records and reports to gain an understanding of the Court's financial operations.
- We electronically compared all receipts recorded in the cashbook to amounts reported on monthly JCF reports from January 1, 2019 through June 30, 2020 to determine whether all recorded fine and fee collections were properly reported.²
- We used our professional judgment to select the month of February 2020 for Justices Shaw and Newark, and July 2020 for Justice Smith, tracing a total of 60 duplicate receipts, 20 for each Justice, to computerized cashbook entries and deposits to determine whether collections were properly recorded and deposits were made timely and intact. We also traced these payments to dispositions reported to the DMV and followed up on any differences.
- We selected a judgmental sample of 30 voided receipts in the computerized Court records and a judgmental sample of 25 dismissed cases from electronic JCF reports, for the period January 1, 2019 through July 15, 2020, and reviewed duplicate receipts, computerized and manual case files, and discussed with Court officials to determine the reasons for the voided transactions and dismissed cases.
- We used our professional judgment to select the period from January 1, 2019 through July 15, 2020 and reviewed each Justices' computerized cashbook to identify any missing or out of sequence receipt and check numbers.
- We selected all 17 cases for the period January 1, 2019 through June 30, 2020, with dollar disparities between the amounts reported to the JCF and DMV. We also selected all 25 cases reported to DMV and not JCF. We compared payment amounts to duplicate receipts, case files and bank deposits to determine whether funds received were properly deposited and reported to JCF and the reasons cases were reported as closed to the DMV but not reported to JCF.
- We used our professional judgment to select 15 pending cases from a Traffic Safety Law Enforcement and Disposition (TSLED) report generated by DMV on July 8, 2020 to determine whether the cases listed were accurately classified as outstanding. We compared the cases to cashbook entries and

² We obtained monthly report data directly from the JCF.

JCF reports and contacted the 15 related defendants by mail to try to confirm information in the Court's records. We also determined whether reasonable collection efforts have been made for these 15 cases by reviewing case files and through discussions with officials.

- We reviewed the monthly bank statements for each Justice within our audit period to identify any unusual activity such as bank transfers, in-bank withdrawals or checks written to cash. We also traced all checks, charges and withdrawals on the Justices' bank statements during the audit period to documentation supporting the validity of the transactions.
- We traced all canceled checks for bail remitted to the defendants within our audit period to the bail activity report to determine whether the bail records were accurate and returned bail was properly supported.
- We performed an accountability for Justice Shaw as of June 30, 2020 (his retirement date).
- We performed a cash count and prepared accountabilities for Justice Newark and Justice Smith as of August 19, 2020 to determine whether cash on hand agreed with known liabilities.
- We interviewed Town officials and reviewed the Board meeting minutes and year end documents to determine whether an annual audit of the Court was performed for the 2019 fiscal year.

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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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 provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Town Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

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