

Town of Bainbridge

Justice Court Operations

NOVEMBER 2021



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

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Report Highlights

Town of Bainbridge

Audit Objective

Determine whether the Town of Bainbridge (Town) Justices ensured money due to the Court was accurately collected, recorded and reported and deposited in a timely manner.

Key Findings

The Justices did not always ensure money due to the Court was collected, deposited, recorded and reported in an accurate and timely manner.

- The Justices deposited 220 collections totaling \$35,771 after the three-day limit.
- The Justices did not perform bank reconciliations and monthly accountabilities. As a result, six collections that were not correctly deposited were not identified. In addition, we found their combined cash balances exceeded liabilities by \$4,129. The Justices cannot account for the source of this money.

Key Recommendations

The Justices should:

- Deposit collections within three days of collecting them.
- Perform monthly accountabilities and ensure the clerk performs accurate monthly bank reconciliations.
- Determine the source of unidentified cash balances and report it to the Justice Court Fund (JCF).

Town officials disagreed with certain aspects of our findings and recommendations, but indicated they have initiated corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

Background

The Town is located in Chenango County and is governed by an elected five-member Town Board (Board), which includes four Board members and the Town Supervisor (Supervisor). The Board is responsible for the oversight and general management of the Town.

The Town has two elected Justices who are responsible for all funds received and disbursed by the Town's Justice Court (Court) and for safeguarding Court resources.

One Court clerk (clerk) assists the Justices with processing cases and related financial transactions, including submitting monthly financial activity reports and disposition status of traffic tickets to various New York State agencies.

Quick Facts

| | |
|--|-----------|
| Total Collections During Audit Period | \$140,633 |
| Number of Collections During Audit Period | 913 |

Audit Period

January 1, 2019 – June 30, 2020

Justice Court Operations

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justices adjudicate legal matters within the Court's jurisdiction and administer money collected from fines, surcharges, civil fees and bail.

How Should the Justices Account for Court Funds?

Justices are responsible for maintaining accurate and complete records of court activity and safeguarding all funds collected by the court. This includes ensuring that funds received by the court are accurately recorded in the accounting system and deposited within 72 hours (three days) of the date of collection, exclusive of Sundays and holidays. Also, each month justices must report their courts' financial activities to the Office of the State Comptroller's Justice Court Fund (JCF).

On a monthly basis, justices should perform bank reconciliations and an accountability of funds by preparing a list of court liabilities and comparing it to reconciled bank balances and funds on hand. Court liabilities should equal the available cash balance, and any unidentified funds should be remitted to the JCF.

Bank reconciliations and accountability analyses are critical procedures that help justices determine the status of funds held by the court and enable them to check for and correct errors and/or identify cash shortages.

Town boards are required to perform an annual audit, or contract for an audit, of the town justices' records to ensure court transactions are properly recorded and reported and collected funds are properly received, recorded and disbursed.

Collections Generally Were Recorded Accurately but Deposits Were Late

During our audit period, the Court received 913 collections totaling \$140,633 from fines and fees paid for vehicle and traffic tickets. Justice Thurlby received 472 collections totaling \$70,980, and Justice Davis received 441 collections totaling \$69,653.

Tickets Recorded and Reported – We used computer-assisted audit techniques to compare the Court's computer system data to New York State Department of Motor Vehicles (DMV) data and 1,316 JCF records generated during our audit period and followed up with Court officials on any discrepancies found between these reports.

During this comparison, we also reviewed all tickets issued during our audit period to determine whether they were properly recorded in the Court's computer system and reported as adjudicated by the Justices. Generally, we found that the clerk properly recorded the tickets in the accounting system and reported the funds collected to the JCF.

Court liabilities should equal the available cash balance....

Pending Tickets – During our comparison of ticket data within the three databases (Court, DMV and the JCF), we determined that 93 tickets were outstanding (pending) from January 1, 2019 through December 31, 2020. Of the 93 tickets, we examined 10 tickets¹ and found that the Court was properly following up on tickets to ensure they were ultimately adjudicated.

Collections Recorded – We compared the 913 collections to the Court’s bank records and JCF monthly reports and found that the clerk properly recorded all fines paid by cash or money order in the accounting system. However, the clerk was unaware that she was not obtaining the information for all credit card payments from the Court’s online payment system.

We found that four credit card payments totaling \$794, received in October 2019 and November 2019, were not recorded in the accounting system. This occurred due to the timing between when the credit card payments were paid and when the clerk prompted the payment system to download the credit card payment information into the accounting system.

The clerk was improperly entering the wrong dates into the payment system while downloading the credit card payment information. Had the clerk used overlapping dates for the downloads, all credit card payment information would have downloaded properly into the accounting system.

Also, the clerk incorrectly recorded four of Justice Davis’ collections totaling \$749 in Justice Thurlby’s records and two of Justice Thurlby’s collections totaling \$283 in Justice Davis’ records. The clerk told us the collections were misrecorded as a result of mistakes that she had made.

The Justices did not identify these accounting errors because they did not prepare bank reconciliations and monthly accountability analyses.² When collections are improperly recorded in the accounting records, the Court cannot ensure it is receiving all money due to it, which could have a detrimental effect on those who paid the fines and on the accuracy of the information reported to the DMV and JCF.

Collections Deposited – During our review of the 913 collections, we found that the Justices did not deposit all collections in a timely manner, as follows:

- Justice Thurlby deposited 96 collections (20 percent) totaling \$19,605 after the three-day limit. Justice Thurlby told us he made deposits only once per week, which resulted in these untimely deposits.

¹ Refer to Appendix C for further information on our sample selection.

² Refer to the Bank Reconciliations and Accountabilities Were Not Performed section for further information.

- Justice Davis deposited 61 collections (14 percent) totaling \$6,434 after the three-day limit. Justice Davis told us he made deposits only once per week, which resulted in these untimely deposits.

Because collections were not deposited in a timely manner, the Court had an increased risk that its collections could have been misplaced or susceptible to theft or loss.

Bank Reconciliations and Accountabilities Were Not Performed

Each Justice maintained a bank account for fines, fees and bail. However, the Justices did not prepare bank reconciliations or monthly accountabilities to ensure that all collections were accurately accounted for. While the Justices told us the clerk prepared bank reconciliations for their accounts, they did not ensure that the clerk completed the bank reconciliations, and the clerk had not been preparing them. The clerk told us that she had been trying to complete them but got behind. When we notified Town officials of our audit, the clerk attempted to complete bank reconciliations, but was unable to prepare them accurately because the clerk incorrectly used the previous months' ending bank balance as the beginning book balance when attempting to complete the reconciliations.

We prepared accountabilities for both Justices' accounts as of May 31, 2020 and found that cash balances exceeded liabilities. We determined the correct bail account balances for each Justice: \$1,750 for Justice Thurlby and \$970 for Justice Davis. As of May 31, 2020, cash balances exceeded known liabilities by \$4,129, as confirmed by Court records (Figure 1).

Figure 1: Court Fines, Fees and Bail Accounts, as of 5/31/2020

| | Justice Thurlby | Justice Davis |
|--|-----------------|----------------|
| Court Assets | | |
| Month-End Bank Statement Balance | \$5,986 | \$5,002 |
| Plus: Deposits in Transit ^a | \$286 | \$118 |
| Total Assets | \$6,272 | \$5,120 |
| Court Liabilities | | |
| Due to the JCF | \$2,792 | \$1,751 |
| Bail | \$1,750 | \$970 |
| Total Liabilities | \$4,542 | \$2,721 |
| Excess Funds | \$1,730 | \$2,399 |

a) Credit card payments overlap months when made at or near month-end.

The Justices told us that the excess funds were related to funds turned over from the prior Justice. However, we found that the excess fluctuated during our audit scope period, which indicates that it did not consist only of excess funds from previous justices.

Because the clerk did not always properly maintain the Court's records and the Justices did not prepare monthly accountabilities, Court officials were unable to determine the composition of the unidentified balances.

When Court collections are inaccurately recorded and bank reconciliations and monthly accountabilities are not prepared, the Court has an increased risk that errors or irregularities could occur and remain undetected and that idle funds could be lost or stolen.

The Board performed an audit of the Justices' records for 2019 and identified that the clerk had not reconciled the bank accounts. However, the clerk did not attempt to reconcile the bank accounts until notified of our audit. Had the clerk reconciled the bank accounts in a timely and proper fashion, she would have discovered the record keeping deficiencies in a timely manner.

What Do We Recommend?

The Justices should:

1. Ensure the clerk records all collections in the Court's accounting system regardless of how they are paid (by cash, money order or credit card).
2. Ensure the clerk properly records all collections in each Justice's records.
3. Deposit all collections within three days after they are collected.
4. Ensure the clerk performs accurate monthly bank reconciliations for both Justices' bank accounts.
5. Perform monthly accountabilities of all Court accounting records, which include reconciling assets with known liabilities, and promptly investigate and resolve any discrepancies.
6. Determine the source of unidentified cash balances on hand and report it to the JCF.

Appendix A: Response From Town Officials



Town of Bainbridge

15 North Main Street, Bainbridge, New York 13733
(607) 967-3781 • FAX: 607-967-8674

August 16, 2021

Dear [REDACTED]

This communication is to inform you that the Town of Bainbridge board has received an audit report from the Honorable Mark Davis. Mr. Davis came to our board meeting on Tuesday August 10th and gave us a report. We were told of the findings and some of the recommendations that were given to the court.

Mr. Davis sent me the letter that he sent to your office with the corrective actions they are going to take to improve their court.

As Supervisor I will say that we are satisfied with our 2 Justices and the court clerk. One of the items that were mentioned was the timely deposits. I am confident that our court keeps all monies locked up until deposited in the bank. The three people that run our court seem to work well together and run a fine court.

Sincerely,

Dolores Nabinger
Bainbridge Town Supervisor

Bainbridge Town Court
15 North Main Street, Bainbridge NY 13733

Christopher Thurlby, Town Justice

Phone: (607) 967-7465

Mark Davis, Town Justice

Fax: (607) 967-4506

The audit was conducted with professionalism and the court is grateful for both the effort and all of the findings. The court has adopted and actioned all of the audit recommendations.

The following response is written for three specific purposes. First as a requirement to acknowledge the factual content of the audit, second to satisfy the need for a plan of corrective action, and third, due to the intended public nature of this document, to ensure there is a clear explanation from the court for the public. The court welcomes all questions and will provide candid answers to all concerns any resident may have. Residents are welcome to contact the court with any concerns that may arise from the publication of this audit. While this response may serve as a corrective action plan, it is not intended to be so necessarily. Contingent upon revisions to the confidential draft, a separate corrective action plan may be submitted within the 90 day time allowed for submission of a corrective action plan.

The summary scope of the audit is specified within the singular context of moneys. The examination of their collection, recording and reporting; and these three actions being measured in regard to accuracy and timeliness. The actual activities of the audit however, were broader and entailed other functions of the court, none of which were found to be irregular. Those included pending traffic tickets, the division of labor between the justices, evidence of disproportion in fines and surcharges (trends), adherence to court filing dates (JCF), non-financial record keeping, disbursements, a review of dismissed cases, as well as an understanding of court operations and oversight.

After stating the scope of the audit, the next paragraph of the audit summary repeats the elements of the scope and notes the court failed in every regard. This is a shocking and important statement. The grammatical form of this statement, though not inaccurate, presents what at a first glance appears to be an alarming situation. The paragraph includes three examples. Each example is addressed below with context that should reassure the public of the integrity of the courts operations.

First that, "The clerk did not properly record collections totaling more than \$1,000 in the Court's records." The court would like to emphasize to the residents of our town, that no money handled by the court directly, was ever mishandled, misused, left lying around, neglected or otherwise unaccounted for. The entirety of this error was due to date range settings in computer generated data down loads of credit card payments. Credit card payments are made to an entity call "n-court" and then directly deposited to the justices bank accounts without any intervention by the court. Those payments/collections were never unsecured. The instructional error in how to run this report has been corrected. The audit uncovered an important error that could lead to unresolved traffic tickets and unidentified funds, we are grateful for the audit findings. The auditor's recommendation has been acted

See
Note 1
Page 10

See
Note 2
Page 10

on and the report doubled checked at each month end bank reconciliation. There should be no future errors in this regard.

Second, “The Justices deposited 220 collections totaling \$35,771 after the three-day limit, ranging from one to 28 days late.” The court recognizes that is a lot of late deposits. Residents of our town need to know that our justices each hold court once a week and each and every week make a bank deposit for all moneys handled directly by the court for that week. Receipts are generated at the time of collection, and all money is under lock and key until deposited. The rule our court is in violation of, is a 72 hour limit on the time a court has to deposit money from the time of receipt. Some justices in other towns or cities have open court every day. Under this rule, those courts may hold money during subsequent days in session, effectively creating a two day layover. Our court does not do that. Each time a justice has open court all money is deposited that has been collected since the justice’s last open session of court. This is however, not in compliance with the 72 hour rule. Our justices have been remiss in not making special appearances at the court to conform to the 72 hour rule. As with the clerical computer reporting error already noted, the court is committed to conformance to this rule and our justices are now making special trips to court for the sole purpose of depositing the money kept under lock and key while the court is not in session. Corrective action has been put into place and the clerk is notifying the justices of any moneys collected while court is not in session. Residents should know that each month a report is submitted to the State (JCF) and to the town, and moneys are disbursed to the town in full. The court does not hold over money from month to month.

See
Note 3
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Further on in the body of the audit this finding is elaborated on. Statistics are cited as follows “Justice Thurlby deposited 126 collections (27 percent) totaling \$23,874 after the three-day limit, ranging from one day to 28 days late” and “Justice Davis deposited 94 collections (21 percent) totaling \$11,897 after the three-day limit, ranging from one day to 15 days late.” In follow up conversation with the auditor, the court called attention to the fact that this statistic does not contextualize the untimeliness in a way that would be informative in regard to misuse or otherwise indicate unethical action. For example, the audit is aware of the justices habitual weekly deposit schedule. How many of these deposits, if any, fell outside the weekly window? The answer was 3 for the later justice and a similar number for the first. Those exceptions could be accounted for by holidays or other court closures. The justices, as responsible for the court procedures, are adding this context to afford the Town Board and the public, critical organization of the data presented in the audit, to ensure they have the detail to make informed opinions.

See
Note 3
Page 10

The final bullet in the summary states “The Justices did not perform bank reconciliations and monthly accountabilities, and we found their combined cash balances exceeded liabilities by \$4,129. The Justices cannot account for the source of this money.” Once again, this statement identifies actions that must be taken by the court and the court is now currently performing bank reconciliations and monthly accountabilities. The statement that the justices cannot account for the source of this money is true as it relates to the original source. The court inherited moneys for which no original source was identified. That happened in the first half of 2018 when a justice that had departed the court, but had kept a court bank account open, decided to close the account and remit the money to the court. It came into the courts possession without the departing justice accounting for its source.

See
Note 4
Page 10

Our justices began their terms in January of 2018 and write one check per month to the town supervisor for all money directly handled by the court. The court does not have a volume of disbursements. Other checks are rare and are almost exclusively related to the return of bail which was not identified as an issue. So how does unaccounted money find its way into cash balances? Since the audit was initiated,

the justices have found that on three occasions money was deposited into the bank by n-court without any documented source provided by n-court in their reporting download. We are grateful to the audit for bringing this situation forward. It is hard to imagine unaccounted cash deposits, but we now have two specific examples of how that can happen. Neither of them are known to be caused by the court, but the timely identification of these anomalies is the court's responsibility and the court will ensure collections are refunded or added to monthly disbursements as required. Following the audit recommendation for bank reconciliations and monthly accountabilities has made this possible.

The time period for the audit was specified on the summary as January 2019 to June 2020. Appendix B, the fifth bullet, refers to audit activity going back to January 2016. Perhaps the date only applies to the activity mentioned in that bullet.

See
Note 5
Page 10

The Audit made six recommendations. Each is noted below with our response and corrective action plan.

1. Ensure the clerk records all collections in the Court's accounting system regardless of how they are paid (by cash, money order or credit card). **RESPONSE: The clerk was shown how to overlap dates to capture all credit card payments from n-court. The justices are performing monthly reconciliations to ensure all deposits are recorded properly.**
2. Ensure the clerk properly records all collections in each Justice's records. **RESPONSE: The justices are reviewing all collection receipts to confirm the justice named on the receipt is the justice who received the collection. Monthly bank reconciliation and accountability helps to ensure accuracy.**
3. Deposit all collections within three days after they are collected. **RESPONSE: The clerk now notifies the justices if the court has collected money between their respective court hours and they come in to court to make the additional deposits on whatever frequency is needed to meet the 72 hour deadline.**
4. Ensure the clerk performs accurate monthly bank reconciliations for both Justices' bank accounts. **RESPONSE: The justices in conjunction with the clerk are now performing a complete bank reconciliation each month.**
5. Perform monthly accountabilities of all Court accounting records, which include reconciling assets with known liabilities, and promptly investigate and resolve any discrepancies. **RESPONSE: The justices in conjunction with the clerk will now perform a complete monthly accountability, reconciling assets with known liabilities to identify and resolve discrepancies.**
6. Determine the source of unidentified cash balances on hand and report it to the JCF. **RESPONSE: Several unidentified credit card collections have been caught by the new monthly bank reconciliation and monthly accountability process since the audit began. These credit card collections are not identified on the n-court report, but appear in the bank deposits. The court will work with n-court to learn the cause and identify the collection. All prior unidentified cash balances in excess of liabilities will be reported to JCF and disbursed per their instruction.**

Christopher Thurlby, Town Justice

Mark Davis, Town Justice

Appendix B: OSC Comments on the Town's Response

Note 1

Based on information presented at the exit conference, we revised the audit report to reflect that the Justices did not always ensure money due to the Court was collected, deposited, recorded and reported in an accurate and timely manner.

Note 2

While we amended the report to clarify the finding, no part of this error was due to date range settings in the computer-generated data. The error resulted from the clerk inaccurately recording six collections in the Justices' records and depositing the collections into incorrect bank accounts.

Note 3

Though we amended the report to clarify the finding, the Justices are required to deposit all collections within three days.

Note 4

The cash balances (excess funds) that exceeded liabilities for both Justices fluctuated during our audit scope period. This indicates that these excess funds did not originate only from funds turned over from a previous Justice.

Note 5

January 2016 applies to the audit methodology mentioned in the bullet list item.

Appendix C: 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 current Justices and Board members to gain an understanding of Court operations and oversight.
- We reviewed the Court's filing dates for all JCF reports during our audit period to determine whether the reports were filed in a timely manner.
- We used computer-assisted audit techniques to compare 1,361 DMV, JCF and Court software system records and followed up with Court officials regarding any discrepancies found between these reports. During this comparison, we also reviewed all tickets issued during our audit period to ensure they were accounted for properly within the Court's system.
- We reviewed all pending tickets according to the DMV's records and determined that the Court referred 96 tickets to the DMV Scofflaw Program and reported them as closed to the JCF. We determined that 93 tickets remained outstanding from January 1, 2019 through December 31, 2020. Based on our professional judgment, we reviewed 10 of the 93 pending tickets to determine whether the Justices were following up on these tickets. We chose these 10 tickets by selecting every ninth one, starting at the ticket with the earliest date during our audit period, until we reached a sample of 10 tickets. This amount (10 tickets) reflected more than 10 percent of our population of unpursued tickets.
- We reviewed JCF and DMV reports from January 1, 2016 through December 31, 2019 to determine whether there were any trends in revenues.
- We reviewed all 913 collections totaling \$140,633 received during our audit period to determine whether collections were deposited in a timely manner.
- We reviewed all 42 disbursements totaling \$130,486 from the Justices' bank accounts made during our audit period to determine whether they were for appropriate purposes.
- We performed a monthly accountability for the Justices' bank accounts for January 2019, June 2019, December 2019 and May 2020.
- We reviewed the bail list and ensured the total amount matched the total amount in the bank.
- We reviewed a sample of dismissed cases to ensure they were appropriately dismissed.
- We performed monthly bank reconciliations for the Justices' bank accounts for the months during our audit period.

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 D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

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

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

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

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/files/local-government/publications/pdf/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

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Contact

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