

Town of Friendship

Justice Court Operations

MAY 2021



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

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Report Highlights

Town of Friendship

Audit Objective

Determine whether the Town of Friendship (Town) Justices properly collected, recorded, deposited, disbursed and reported Justice Court (Court) collections.

Key Findings

Although the Justices properly collected, recorded and reported fines and fees, they did not deposit and disburse all fines and fees in a timely manner.

- Sixty-seven receipts totaling almost \$11,000 were not deposited within 72 hours, as required.
- Monthly accountabilities were not performed.
- As of December 1, 2020 the Town Board (Board) had not completed an audit of the 2018 and 2019 records, as required. As a result, the Board's ability to effectively monitor financial operations of the Court was diminished.

Key Recommendations

- Ensure deposits are made within 72 hours of collection, and monthly reports and disbursements are made timely.
- Prepare monthly accountabilities and investigate any discrepancies.
- Annually audit the records of the Court.

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

Background

The Town is located in Allegany County and is governed by an elected five-member Board, which includes 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 money received and disbursed by the Court and for safeguarding Court resources.

A Board-appointed part-time Court clerk (Clerk) assists the Justices with processing cases and related financial transactions, including submitting monthly financial activity reports and the disposition of traffic tickets to various New York State agencies.

Quick Facts

Total Court Collections
January 1, 2020 – October 13, 2020

Justice Szucs	\$36,539
Justice Lewis	\$25,976

Audit Period

January 1, 2020 – December 1, 2020.

Justice Court Operations

The court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. Justices adjudicate legal matters within the court's jurisdiction and administer money collected from fines, surcharges, civil fees and bail. Court disbursements include returning bail after judgments are rendered, transferring money to other courts and remitting fines and fees collected to the town supervisor on a monthly basis.

How Should the Justices Account for Court Collections?

A justice is required to record each receipt in the accounting records and deposit all funds intact (i.e., in the same amount and form as received) as soon as possible, but no later than 72 hours from the date of collection, exclusive of Sundays and holidays. A justice is also responsible to submit a report of all money collected each month (excluding pending bail) to the Office of the State Comptroller Justice Court Fund (JCF) by the 10th of the following month. A justice must disburse the total collections reported on the monthly JCF report to the town supervisor by check, also by the 10th of the following month.

Fines and Fees Were Not Always Deposited and Disbursed in a Timely Manner

We reviewed all 334 recorded collections and subsequent deposits totaling \$62,515 made by the Justices from January 1, 2020 through October 13, 2020. While all collections were properly collected, recorded and reported, they were not always deposited and disbursed in a timely manner, as required.

For example, we found that bank deposits for cash, check or money order collections totaling \$6,218 for Justice Szucs and \$4,560 for Justice Lewis were not made within 72 hours. Of these untimely deposits, the longest that collections remained undeposited was two weeks from the date of receipt.

We also found that while all Court collections required to be remitted by the Justices to the Supervisor were accurate and matched the amounts reported to JCF, they were not disbursed to the Supervisor by the 10th of the following month as required for four of the seven months reviewed. As a result, these disbursements were not always made in a timely manner.

At the direction of the Justices, the Clerk is primarily responsible for the day-to-day activity of the Court for both Justices, which includes depositing and reporting collections, as well as preparing the monthly reports and corresponding checks for disbursements. The Clerk stated that there is not enough time each week to ensure everything gets done as it should because her position is part-time and the Court has a lot of activity. She further explained that the bank where deposits are made is in a neighboring town and she only has time to make deposits once a week.

While all collections were properly collected, recorded and reported, they were not always deposited and disbursed in a timely manner, as required.

When deposits and payments are not completed when required, there is an increased risk that errors or irregularities could occur and go unnoticed or uncorrected in a timely manner.

How Should Justices Monitor Their Court’s Monthly Financial Activity?

To ensure that the court’s financial activity is properly collected, recorded, deposited, disbursed and reported, a justice should perform a monthly bank reconciliation and an accountability of funds. This is accomplished by preparing a list of the court’s liabilities and comparing it to reconciled bank balances and undeposited collections of court money on hand. Court liabilities should equal the total available cash balance. This is particularly important when, because of limited staff resources, it is not possible to adequately segregate any incompatible duties of the clerk to ensure that one person does not control all phases of a transaction without proper oversight.

Monthly Accountabilities Were Not Performed

Each Justice maintains one bank account for fines, fees and bail. While the Clerk was completing monthly bank reconciliations, neither the Justices, nor the Clerk prepared monthly accountabilities to ensure that all collections were accurately accounted for and discrepancies could be promptly identified.

We prepared accountabilities for both Justices’ accounts as of January 1, 2020 and October 13, 2020 and while we discussed certain minor variances with officials during our audit fieldwork, we noted no significant exceptions. However, because monthly accountabilities were not performed, errors or irregularities may have occurred and remained undetected. The Clerk told us that while she had attended certain Court-related training and knew she should do them, she was unsure how to apply what she learned to the preparation of an actual accountability. During our audit fieldwork, we provided technical assistance to the Clerk regarding how to perform an accountability and also referred her to our Office’s publication, *Handbook for Town and Village Justices and Court Clerks*.

Because the Board did not annually audit the Justices’ books and records, it did not detect or correct the findings we identified in this report. A portion of the Court collections becomes a revenue for the Town and as such, it is important for the Board to ensure that Court financial records are accurate and that monthly reports are complete and timely.

We discussed this with the Supervisor who verified that the Board had fallen behind in its responsibility to audit the Justices’ records and that the audits for 2018 and 2019 had not been done. While the Board contracted to have the 2019

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...[T]he Board did not annually audit the Justices’ books and records...

records reviewed, this review had not been completed as of the date our audit fieldwork ended, December 1, 2020.

As a result, the Board's ability to effectively monitor financial operations of the Court was diminished.

What Do We Recommend?

The Justices should:

1. Ensure that all receipts are deposited within 72 hours after collection, excluding holidays and Sundays.
2. Ensure that monthly disbursements to the Supervisor are made by the 10th of the following month.
3. Ensure that monthly accountabilities of all Court accounting records, including the reconciliation of cash assets and known liabilities, are completed and reviewed for accuracy, and any discrepancies are investigated and resolved promptly.
4. Present their records and dockets to the Board for examination at least annually.

The Board should:

5. Conduct an 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 FRIENDSHIP

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To all whom it concerns:

This is to acknowledge receipt of Town of Friendship, Justice Court Operations – Report of Examination 2021M-15. The report and related documentation has been received and reviewed by the Town of Friendship Supervisor, Russ Hall and board members. We do not dispute the findings nor recommendation outlined in the report. While we were caught unaware to some of the issues we have already begun corrective actions. Training and formalized procedural systems will substantially remedy most problems found.

Respectfully,

Russ Hall, Friendship Town Supervisor

4/7/2021

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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 reviewed Board meeting minutes, interviewed the Clerk and Justices and reviewed financial reports to gain an understating of the Court's financial operations.
- We reviewed collections of fines, fees and bail from January 1, 2020 through October 13, 2020, on which date we performed a cash count, to determine whether collections were properly recorded and deposited intact and in a timely manner.
- We reviewed canceled check images from January 1, 2020 through October 31, 2020 to determine whether the Justices' payments to the Supervisor were accurate and completed timely. We excluded monthly reports and disbursements for March and April 2020 from this review based on the Court's COVID-19 status.
- We compared recorded collections from January 1, 2020 through March 31, 2020 with the New York State Department of Motor Vehicles (DMV) records to determine whether amounts reported to the JCF and DMV matched.
- We prepared accountabilities for each Justice at January 1, 2020 and October 13, 2020 to determine whether cash on hand agreed with known liabilities.
- We interviewed Town officials and reviewed the Board meeting minutes to determine if an annual audit of the Court was performed for the 2018 and 2019 fiscal years.

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

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