

Town of Greene

Justice Court Operations

DECEMBER 2021



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

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Report Highlights

Town of Greene

Audit Objective

Determine whether the Town of Greene (Town) Justice Court (Court) properly accounted for, deposited, disbursed and reported fines and fees.

Key Findings

The Town Justices (Justices) properly accounted for, reported and disbursed the fines and fees that we reviewed. However:

- The Justices did not deposit all collections in a timely manner.
- The Justices did not perform monthly accountabilities, and Justice Martin was unaware that the cash balance in her account exceeded known liabilities by \$5,869 as of September 30, 2021.
- Although the Board's 2019 audit of the Court records and reports was incomplete, we found that its 2020 audit had improved.

Key Recommendations

- Deposit all Court collections within three days of the day they were received as required.
- Prepare monthly accountabilities, promptly investigate any differences and determine the source of unidentified cash balances.
- Annually audit the Court's records in a sufficiently detailed and properly documented manner.

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

Background

The Town is located in Chenango County. It is governed by an elected Town Board (Board), which includes four Board members and a Town Supervisor (Supervisor). The Board is responsible for the oversight and general management of Town operations, including Court financial activities.

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

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

Quick Facts January 1, 2019 – September 30, 2020

Number of Justice Court Transactions	469
Fines and Fees Reported to the Justice Court Fund	\$103,522

Audit Period

January 1, 2019 – September 30, 2020. We extended our audit period to September 30, 2021 for additional cash deposit and accountability testing and to update findings related to the Board's annual audit.

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.

Justice Acunto retired on December 31, 2020, and Justice Brown was appointed by the Board on March 10, 2021 and elected on November 2, 2021. Justice Martin has been a Town Justice for more than 22 years.

How Should Justices Account for Court Fines and Fees?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all funds collected by the court. This includes ensuring that collections received by the court are accurately recorded in the accounting system and have appropriate supporting documentation, such as receipts for bail returned. Also, justices must deposit all collections intact¹ as soon as possible, but no later than 72 hours (three days) from the date of collection, exclusive of Sundays and holidays.

Justices must report collections each month (excluding pending bail) to the Office of the State Comptroller's Justice Court Fund (JCF). They also must remit, by check, the funds collected to the town supervisor by the 10th day of each month, or to a defendant as appropriate.

In addition to maintaining complete and accurate accounting records, justices must ensure case information is properly and accurately reported to the JCF and the New York State Department of Motor Vehicles (DMV). The status of each case in a court's computerized recordkeeping system must be current and accurate to ensure cases are reported to different agencies in a timely manner.

On a monthly basis, justices, or court clerks, should reconcile the bank statement to the checkbook and prepare an accountability of funds by comparing court liabilities (including bail), reconciled bank balances and funds on hand. Court liabilities should equal the available cash balance. Any discrepancies should be investigated and resolved, and 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 to enable them to check for and correct errors and/or identify cash shortages.

Further, justices are required to present their records at least once each year to be examined by the town board or an independent public accountant. If the board conducts the audit, its members need to understand how the court operates, the rules and requirements for financial accountability and reporting and the types of financial records that justices should maintain to meet those requirements.

Court liabilities should equal the available cash balance.

¹ In the same form (check or cash) as received

To assist town boards in performing a thorough audit of their towns' justice courts, OSC provides an "Annual Checklist for Review of Justice Court Records" (checklist) in its publication *Justice Court Fund: Handbook for Town and Village Justices and Court Clerks* (handbook).²

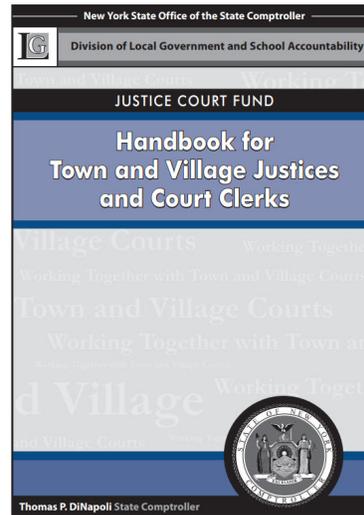
The Justices Did Not Always Deposit Collections in a Timely Manner

We reviewed all 128 Court transactions from March 2019 and September 2020³ to determine whether all transactions involving cash collections were properly recorded and whether all collections were properly deposited in a timely manner. Of the 128 transactions, 85 were tickets that had been disposed of and reported properly to DMV, 28 were traffic tickets and 10 were nontraffic tickets that the clerk had properly collected and deposited, and five were pending tickets.

During our review of all Court transactions, we examined 58 collections totaling \$11,764 and found that the clerk accurately recorded the transactions in the accounting system in a timely manner. The system recorded the composition (cash or check) of each collection, and we determined that the deposits of these collections were made intact.

However, the Justices did not deposit all collections within three days. The Justices told us that because they had full-time jobs, in addition to serving as town justices, their schedules did not permit them to deposit all Court collections within the required time frame.

Furthermore, the clerk routinely received collections during days when court



was not being held, and these collections were not deposited until the Justices went to the bank. Therefore, all collections were not always deposited within the three-day requirement (Figure 1). On average, the Justices deposited collections six days after receiving them. The longer funds remain undeposited, the greater the risk that loss or theft can occur.

Figure 1: March 2019 and September 2020 Daily Collections

	Justice Martin	Justice Acunto	Totals
Number of Daily Collections	15	12	27
Collections Deposited After Three days	8	9	17

² <https://www.osc.state.ny.us/files/local-government/publications/pdf/jch.pdf>

³ Refer to Appendix B for further information on our sample selection.

We also traced the collections to the bank records and monthly reports submitted to the JCF and determined that all collections were accounted for. In addition, we found that the disbursement checks for the collections were remitted to the Supervisor on a timely basis. Furthermore, we determined that all \$11,189 disbursements for bail refunds, transfers or fine overpayments made from the Justices' accounts during our audit period had adequate supporting documentation.

The clerk told us that the Court changed its cash deposit procedures to ensure deposits were made in a timely manner. We reviewed all 13 collections totaling \$2,847 received by Justices Martin and Brown during September 2021 to determine whether the collections were deposited in a timely manner and to examine the deposits of the newly appointed Justice Brown.

We found that the Justices deposited 11 collections in a timely manner. The remaining two deposits were late because Justice Martin did not ensure collections would be deposited while she was away on vacation.

Bank Reconciliations Were Performed, But Accountabilities Were Not

The Justices each maintained one bank account for fines, fees and bail. They also performed bank reconciliations but did not always prepare monthly accountabilities. For some months, the Justices included handwritten notes on the bank reconciliations that noted the liability to the Town for fines, but did not include notes indicating the amount of bail being held or the identity of any excess funds. The Justices told us they did not prepare monthly accountabilities because bail was not collected on every court date, and they were unaware that they should be preparing monthly accountabilities.

We reviewed the March 2019, December 2020⁴ and September 2021 bank reconciliations for the Justices' accounts, and we prepared accountabilities for the Justices' accounts as of December 31, 2020 and September 30, 2021. We found that bank reconciliations were generally accurate, but cash balances exceeded known liabilities by \$5,869 in Justice Martin's account (Figure 2).

⁴ We reviewed the March 2019 and December 2020 bank reconciliations for Justice Acunto's and Justice Martin's bank accounts and the September 2021 bank reconciliations for Justice Martin's and Justice Brown's bank accounts. Refer to Appendix B for further information on our sample selections.

Figure 2: Monthly Accountabilities

	12/31/20 ^a	9/30/21 ^a	9/30/21 ^a
	Justice Acunto	Justice Martin	Justice Brown
Court Assets			
Month-Ending Bank Statement Balance	\$570	\$9,103	\$183
Plus: Deposits in Transit	0	0	0
Total Assets	\$570	\$9,103	\$183
Court Liabilities			
Due to the JCF	\$570	\$2,684	\$163
Bail	0	550	0
Bank Error	0	0	20
Total Liabilities	\$570	\$3,234	\$183
Excess	\$0	\$5,869	\$0

a) These are the dates on which we performed monthly accountabilities for each Justice.

Justice Martin told us that the majority of this unidentified amount was transferred to her when she became a justice in 1997. She also was unaware that it was her responsibility to research the excess funds from a previous Justice. The cash balances in Justice Acunto’s and Justice Brown’s accounts agreed with known liabilities. When accountabilities are not prepared, the Court has an increased risk that errors or irregularities can occur and remain undetected and that idle funds could be lost or stolen.

The Justices submitted their 2019 records to the Board for audit in 2020 and their 2020 records for audit in 2021. The Supervisor told us that the 2019 audit was performed without using the checklist because the officials who performed the audit were unaware it existed. We provided the checklist to the Board during our audit fieldwork. The Supervisor also told us officials used the checklist to complete the 2020 audit, which they completed in October 2021.

Had officials conducted the 2019 audit using the checklist, they would have found that the Justices did not deposit all Court collections in a timely manner. Furthermore, officials may have found that the Justices also did not prepare monthly accountabilities. During our audit fieldwork, we discussed these findings with Town officials before they completed the 2020 audit.

Because officials conducted an incomplete audit for 2019, the Board could not effectively monitor the Court’s financial operations. However, upon reviewing the Board’s 2020 audit results, we found that the Board’s monitoring of the Court’s financial operations had improved.

What Do We Recommend?

The Justices should:

1. Deposit all Court collections within three days of the day they were received, as required.
2. Determine the source of unidentified cash balances on hand and report it to the JCF. If the source remains unknown, remit the funds to the JCF as required.
3. Perform monthly accountabilities of all Court cash assets and known liabilities, and promptly investigate and resolve any discrepancies.

The Board should:

4. Annually audit the Court's records in a sufficiently detailed and properly documented manner by using the checklist and all other information provided in the handbook.

Appendix A: Response From Town Officials



TOWN OF GREENE
County of Chenango
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December 01/2021

Office of the State Comptroller
Division of Local Government and School Accountability
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901

Dear [REDACTED]

I am writing to advise you that the Town of Greene board has received a draft copy of the court audit findings concerning the Honorable Dante Acunto (retired), Honorable Alta Martin, Honorable Donald Brown and Rachel Raimo our court clerk. There are three recommendations for the court and board to consider.

We will be meeting with all concerned parties and will discuss and form a corrective action plan. In closing as the Supervisor I am pleased with our courts operation.

Sincerely,

Joseph M. Henninge, Town 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 Court officials and reviewed the Court's policies and procedures to gain an understanding of Court operations.
- We reviewed Board minutes and year-end documents and interviewed Town officials to determine whether an annual audit of the Court was performed for 2019 and 2020.
- We examined the January 22, 2020 minutes to verify that the Board completed the 2019 audit of the Court's records. However, officials were unable to provide us with a copy of the audit for review.
- We examined the Board's 2020 annual audit of the Court's records.
- For Justices Acunto and Martin, we judgmentally selected to review their records from March 2019 and September 2020, which represented months at the start and end of our audit period. We reviewed fines, fees and bail collected to determine whether collections were properly recorded and deposited intact and in a timely manner. We traced all 58 duplicate receipts totaling \$11,764 from these months to Court records, deposit slips and the bank statements to determine whether collections were properly recorded and deposits were made intact and in a timely manner.
- We reviewed all of Justice Martin's and Justice Brown's 13 duplicate receipts totaling \$2,847 collected during September 2021. We chose this month because it was the most recent month during our updated audit period. We traced the duplicate receipts to deposit slips and bank statements to determine whether collections were deposited intact and in a timely manner.
- For Justices Acunto and Martin, we reviewed all 128 Court transactions from March 2019 and September 2020 and determined whether the clerk properly reported the Justices' adjudication of the related tickets to DMV as being either disposed or pending.
- Using electronic data analysis, we compared all tickets on record with the Court to electronic records from the DMV to determine whether the clerk properly reported all information, including fines, fees and/or surcharges. For any discrepancies that we found, we reviewed supporting documentation, such as case files or copies of tickets.
- We prepared monthly accountabilities for December 31, 2020 for Justice Acunto and September 30, 2021 for Justices Martin and Brown to determine whether cash on hand agreed with known liabilities. We judgmentally selected December 31, 2020 because it was the month of Justice Acunto's retirement.

-
- We reviewed the March 2019 and December 2020 bank reconciliations for Justices Acunto and Martin and the September 2021 bank reconciliations for Justices Martin and Brown to determine whether the bank reconciliations were accurate.
 - We reviewed all disbursements from Justice Acunto's and Justice Martin's bank accounts made during March 2019 through September 2020 and traced them to bank statements, monthly reports, case files and bail returns to determine whether they were for appropriate purposes and had proper supporting documentation.

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/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

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

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Contact

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