

Town of Dix

Justice Court Operations

APRIL 2022



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

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Report Highlights

Town of Dix

Audit Objective

Determine whether the Town of Dix (Town) Justices collected, recorded, deposited, reported and remitted Justice Court (Court) collections and reported adjudicated cases in a timely and accurate manner.

Key Findings

The Justices did not ensure all collections were properly collected, recorded, deposited, reported and remitted in a timely and accurate manner, or that all adjudicated cases were reported.

- The Justices did not provide adequate oversight of the clerk, ensure she was properly trained or prepare monthly accountabilities. As a result, recording and reporting errors occurred, causing the Court to owe the Office of the State Comptroller's Justice Court Fund (JCF) \$21,204, victims \$1,701 and defendants \$439.
- The Court's computerized accounting system software did not require sequentially issued receipts, and allowed the Court clerk (clerk) to delete or modify transactions without supervisory approval or the creation of an audit log.
- 186 adjudicated cases were not accurately reported to the DMV.
- Justice Gregory had a shortage totaling \$119 that remained through Justice Vondracek's term.

Key Recommendations

- Ensure that monthly accountabilities of all Court accounting records are completed. Review the recording and reporting errors identified in this report and make necessary corrections.
- Upgrade the Court's computerized accounting system software to a more secure version.

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

Background

The Town of Dix, located in Schuyler County, is governed by an elected Board composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general oversight of operations and finances. The Justice is personally responsible for money received by the Court and supervises Court staff in performing Court-related functions.

The Town has one elected Justice. Justice Gregory's term covered January 1, 1988 through December 31, 2019 and Justice Vondracek's term began on January 1, 2020. A clerk assisted the Justices with processing cases and related financial transactions, including submitting monthly financial activity reports and handling the disposition of adjudicated cases to various New York State agencies.

Quick Facts

Court Deposits

January 1, 2016 – July 12, 2021

Justice Gregory's	\$242,842
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Justice Vondracek's	\$57,016
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Audit Period

January 1, 2016 – July 12, 2021

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, restitution and bail. Court disbursements include returning bail, transferring money to other courts, and remitting fines and fees collected monthly to the Supervisor and restitution to victims.

The clerk started January 1, 2016 and also served as the Supervisor's bookkeeper until December 31, 2020, when she resigned from that position. The clerk maintained manual Court records until April 1, 2017 when she began using a computerized accounting system software program for Court cases.

How Should Justices Account for Court Operations?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the court. In addition, justices should ensure that sequentially numbered receipts are issued to acknowledge the collection of all funds paid to the court, 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.

On a monthly basis, justices should ensure bank reconciliations and an accountability are completed by preparing a list of court liabilities and comparing it to reconciled bank balances and money on hand. Court liabilities should equal the available cash balance, and any discrepancies should be investigated and resolved.

Justices are required to accurately remit fines and fees collected to the town supervisor on a monthly basis, remit restitution to victims, and collect bail from defendants to ensure their appearance in court to answer charges. Justices should maintain accurate records indicating the date bail was remitted to the court, who paid it, when it was returned or applied to fines and fees, and to which case it relates.

In addition, justices are required to submit monthly reports detailing all fines, fees, surcharges and forfeited bail collected and any dismissed cases to the JCF within the first 10 days of the ensuing month. Furthermore, justices should ensure vehicle and traffic ticket dispositions are reported to the New York State Department of Motor Vehicles (DMV). At least annually, justices must present their records and docket to the board. The board must audit, or hire a public accountant to audit, these records.

The Justices Did Not Prepare Monthly Accountabilities

Justice Gregory maintained one bank account that was turned over to Justice Vondracek at the end of his term. Justice Vondracek opened two new separate bank accounts for her bail and Court fines at the beginning of her term. While the clerk completed 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 Justice Gregory as of January 1, 2016 and December 31, 2019 and Justice Vondracek as of July 12, 2021. We found recording and JCF reporting errors went undetected and uncorrected, and money was not deposited timely or intact. As a result, Justice Gregory had a shortage totaling \$115 at the beginning of our audit period that increased to \$119 at the end of his term and carried forward through Justice Vondracek's term (Figure 1).

Figure 1: Court Accountabilities

	Justice Gregory January 1, 2016	Justice Gregory December 31, 2019	Justice Vondracek July 12, 2021
Bank Account Balance	\$72,142	\$36,162	\$39,143
Add: Deposits in transit	281	0	0
Less: Outstanding checks	(500)	(2,121)	(8,589)
Adjusted Bank Balance	\$71,923	\$34,041	\$30,554
Cash on hand found in case files	\$529	\$639	\$689
Due from the Supervisor	70	104	102
Total Court Assets	\$72,522	\$34,784	\$31,345
Known Court Liabilities			
Due to JCF (previous months' fines and fees collected)	\$18,102	\$18,793	\$21,204
Pending Bail	52,505	13,970	8,120
Due to defendants for overpayments	329	439	439
Restitution	1,701	1,701	1,701
Total Known Court Liabilities	\$72,637	\$34,903	\$31,464
Shortage	(\$115)	(\$119)	(\$119)

The clerk performed all financial duties and maintained case files for the Court. Specifically, she:

- Collected fines, fees and restitution,
- Issued manual and computerized collection receipts,

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- Recorded financial transactions and adjudications in the manual Court records and computerized accounting system,
 - Prepared deposits,
 - Prepared the monthly JCF reports from the computerized accounting system,
 - Uploaded traffic law violation dispositions to the DMV,
 - Received bank statements and performed bank reconciliations, and
 - Made deposits for Justice Vondracek.

Justice Gregory prepared the manual monthly JCF reports and made deposits during his term.

In addition, while performing her bookkeeping duties for the Town Supervisor the clerk processed credit card payments totaling \$8,332 for 25 defendants' Court fines and fees during the period January 1, 2017 through December 31, 2019. As a result, these collections were automatically deposited into the Town's general fund bank account and checks had to be issued to Justice Gregory to transfer these collections into the Court's bank account. Furthermore, the clerk lacked the authority to process these collections in this manner. Processing these payments through the Town rather than the Court increased the risk that these funds could have been lost or misappropriated.

During Justice Gregory's term, we found 168 unrecorded and unreported transactions. We also found 20 inaccurately recorded transactions and three recorded in the computerized accounting system transactions that were not reported to JCF. During Justice Vondracek's term, we found seven transactions were not recorded in the computerized accounting system and reported, of which one fee totaling \$50 was also not deposited and found in the case file.

These errors occurred because the Justices did not provide adequate oversight of the clerk and the clerk lacked training. In addition, the Court's computerized accounting system software was not the most secure version. As a result, the software version allowed the clerk to delete and void transactions and previously issued receipts without supervisory approval or the creation of an audit log. In addition, the software did not require the issuance of sequentially numbered receipts.

We found Justice Gregory and the clerk did not make timely deposits. During the period April 1, 2017 through July 12, 2021, there were 1,964 cash receipt transactions recorded in the Court's computerized accounting software totaling \$215,171. We found 787 of these transactions totaling \$62,971 were not deposited within 72 hours of receipt, as required. Justice Gregory's untimely deposits ranged between one and 25 days late, and the clerk's deposits for Justice Vondracek ranged between two and 26 days late.

The New York State Unified Court System can upgrade the Court's computerized accounting system software to a more secure version at no cost. Justice Vondracek and the current clerk were unaware that a more secure version was available.

The net result of all these recording and reporting errors was that the Court owes JCF \$21,204, victims \$1,701 and defendants \$439. Furthermore, the clerk did not report 27 and inaccurately reported 159 traffic ticket dispositions to DMV. These errors were not detected because neither Justice provided adequate oversight of the clerk or prepared monthly accountabilities. In addition, Justice Gregory did not report partial payments until the full amount was collected.

Finally, although the Board hired a certified public accounting firm to perform an annual audit for December 31, 2019 and December 31, 2020, the auditor withdrew from the audit on July 2, 2021 because the Town had not been responsive to their requests for information on a timely basis. In addition, the Board did not request the Justice to present her books and records for review, and the Justice was unaware that she needed to do so. Therefore, the Board did not audit the Justice's records as required, which could have helped to detect the deficiencies found in this audit.

What Do We Recommend?

The Justice should:

1. 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 promptly investigated and resolved.
2. Ensure bank deposits reconcile to receipts and that money is deposited intact and in a timely manner.
3. Deposit all the money found in the case files.
4. Report all payments collected, including partial payments.
5. Remit overpayments to defendants and restitution payments to victims, and collect money owed from the Supervisor.
6. Review the reporting errors identified in this report and report them to JCF and DMV, as appropriate, and ensure that the clerk properly records and reports Court activity.
7. Ensure receipts are issued in sequence and review receipts for any gaps in sequence.

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8. Ensure Court payments are processed through the Court's system rather than the Town's.
 9. Upgrade the Court's computerized accounting system software to the most secure version.
 10. Provide proper oversight of the clerk and ensure the clerk receives needed training to perform her duties. This training can include reviewing:
 - a. OSC's publication *Handbook for Town and Village Justices and Court Clerks*.¹
 - b. OSC's website, *Academy for New York State Local Officials*,² which offers webinars pertaining to Justice monthly reporting, internal controls for cash disbursements, reporting requirements and minimizing errors in JCF records.
 11. At least annually present her records and docket to the Board.

The Board should:

12. Audit the Justice's records and docket as required.

¹ *Justice Court Fund Handbook for Town and Village Justices and Court Clerks*
(www.osc.state.ny.us/files/local-government/publications/pdf/justice-court-fund-handbook.pdf)

² www.osc.state.ny.us/local-government/academy/webinars

Appendix A: Response From Town Officials

Town of Dix Court
304 Seventh Street
Watkins Glen, NY 14891
Hon. Kristina A. Vondracek

March 31, 2022

Office of the State Comptroller
Division of Local Government and School Accountability

To whom it may concern,

The Town of Dix Court is in receipt of the preliminary draft findings for the audit of the Justice Court. In response to the findings the Court has commenced the following corrective actions.

During the course of the audit, the cases that were improperly reported were brought to the attention of the Judge and will be corrected as directed. Although most of the monthly accountability errors occurred during Judge Gregory's term, the current Judge and Clerk will work with the contact person provided to them to ensure all monies collected by the Town of Dix Court is properly reported to the Justice Court Fund, all money found in old case files will be properly deposited if able to do so and reported to the Justice Court Fund, and any overpayments received are remitted to the defendants. And any errors in DMV reporting will be corrected.

The Court has reached out to the Office of Court Administration to request the upgrade to our courtroom program. Since the start of the current Judge's term, we have not accepted any credit card payments, but we have started the process to obtain our own credit processing services to expand our payment options for anyone whom wishes to use this method. Now that the current Judge has more knowledge of what is expected, she will more adequately oversee the clerk and their trainings to streamline processes of the court and is positive that the issues brought forth by this audit will be minimized and hopefully diminished. The monthly accountabilities of all Court accounting records will be performed the Judge and deposits will be taken care of within the 72-hour period as required. The Judge will also be sure to notify the Town Board of the court's readiness of the annual audit as required.

We would like to thank the Comptroller's Office for their efforts these past couple of years, even through the unfortunate pandemic and the restrictions we endured because of it.

Respectfully Submitted,

Hon. Kristina A. Vondracek

Town of Dix NY

Supervisor: Dominick Smith, Highway Supervisor: Scott Yaw,
Town Clerk Helen Teed

Date: 4/13/22

Office of the State Comptroller

Division of Local Government and School Accountability

To whom it may concern,

The Town of Dix Court is in receipt of the preliminary draft findings for the audit of the Justice Court. The Town Board's response to the findings of the Court is as follows.

The Town of Dix Board agrees with the findings in the audit report and that we will ensure that all policies set forth will be complied with. We will be asking that the Justice sends to the Board a detailed report of all accounting records for each month for the Board to review and approve at its monthly meeting. We will assist her in all corrective actions that are needed.

The Town Board will take up the review off all accounting actions at each monthly meeting and will supply to the Justice a means of an annual Audit to ensure all monies and actions are correct.

Sincerely,

Dominick Smith

Town of Dix Supervisor

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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 interviewed Town officials and reviewed Board minutes to gain an understanding of Court financial activities.
- For the audit period, we compared adjudicated cases recorded in the manual records and Court's computerized accounting system software to those reported to DMV and JCF to determine whether there were any variances. We traced all variances to supporting documentation to determine the cause and significance.
- We obtained deposit compositions for the period of January 1, 2017 through July 12, 2021 and compared them to the deposit slips and the Court's manual and computerized accounting system to determine whether all cash receipts were deposited.
- For the audit period, we compared duplicate manual cash receipts, deposit slips and credit card receipts to the collections recorded in the manual records and the Court's computerized accounting system software and reported to DMV and JCF to determine whether all money deposited was recorded and reported.
- We reviewed all closed case files during the audit period and compared them to JCF monthly reports to determine whether cases were accurately reported.
- We reviewed bank reconciliations prepared by the clerk for the audit period for accuracy.
- We reviewed bank statements, deposit slips, monthly JCF and DMV reports, case files, credit slips attached to Town vouchers and duplicate receipts to determine the cash receipts collected by the Court.
- We also performed a count of Court cash on July 23, 2020 and July 12, 2021.
- We prepared accountabilities for Justice Gregory as of January 1, 2016 and December 31, 2019 and Justice Vondracek as of July 12, 2021.
- We reviewed all disbursements for the audit period to determine whether payments were proper and recorded in the manual check register and the Court's computerized accounting system software.
- We reviewed bail activity to determine pending bail as of January 1, 2016, December 31, 2019 and July 12, 2021.

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

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

Contact

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Division of Local Government and School Accountability
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