

# Village of Warsaw

## Justice Court Operations

MAY 2022



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

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# Report Highlights

## Village of Warsaw

### Audit Objective

Determine whether the Village of Warsaw (Village) Justice Court (Court) collections were properly accounted for and deposited.

### Key Findings

Although Village Court officials properly collected, deposited, reported and remitted fines and fees, they did not maintain accurate records and reports. The Justices and/or Court officials:

- Did not maintain an accurate cashbook or outstanding bail reports. Without accurate bail records, the Justices cannot ensure that all pending bails have been appropriately resolved.
- Did not properly monitor the Court's monthly financial activity. For example, they did not perform adequate monthly bank reconciliations or accountabilities.
- Did not ensure that the clerk's work was accurate and sufficient.

### Key Recommendations

- Maintain accurate records and reports.
- Retain original bank statements and properly document monthly bank reconciliations.
- Prepare monthly accountabilities and investigate any discrepancies.

Village officials agreed with our findings and recommendations and indicated they plan to initiate corrective action.

### Background

The Village is located in Wyoming County and governed by an elected Village Board of Trustees (Board), which includes a Mayor and four Trustees. The Board is responsible for the general oversight of Village operations, including the Court's financial activities.

The Village has one elected Justice (Justice Blythe), one appointed Associate Justice (Justice Errington) and one part-time Court clerk (clerk).

The clerk assists the Justices in processing cases and related financial transactions, which includes submitting monthly financial activity reports and traffic dispositions to various New York State agencies.

#### Quick Facts

2019-20

Reported Fines and Fees	\$507,000
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Bail Deposits	\$72,000
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#### Terms of Office

Justice Blythe	April 1, 2014 to March 31, 2022
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Justice Errington	July 1, 2018 to March 31, 2022
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### Audit Period

June 1, 2019 – June 24, 2021

# Justice Court Operations

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

The Court accepts payments made by cash, certified check, credit card (in person and online) and personal check. The Court accepts personal checks only from defendants who reside in Wyoming County or its surrounding counties. Each Justice maintained their own bank account and deposited all fines and fees into their respective fine accounts. However, they deposited all bail collected into a shared joint account.

During 2020, Justice Blythe remitted approximately \$233,000 to the Village, while Justice Errington remitted approximately \$144,000. When Justice Blythe was absent or otherwise unable to serve as the Village's justice, or if the Village needed assistance because of the volume of activity, Justice Errington served as the Village's justice.

The clerk collected payments, issued receipts and recorded payments in the Court's computerized software system. The clerk also prepared checks to be signed by the Justices, which she submitted to the Village and appropriate third parties, such as for bail returns. In addition, she prepared monthly reports and submitted them to the Office of the State Comptroller's Justice Court Fund (JCF), and reported vehicle and traffic ticket dispositions to the New York State Department of Motor Vehicles (DMV).

## How Should the Justices Collect, Deposit, Record, Report and Disburse Court Collections?

Village justices generally are responsible and accountable for all village court activities. Justices must ensure that their courts have an effective system of internal controls in place so that cash and other resources are properly safeguarded and financial transactions are properly processed and recorded in a timely manner.

Justices also must ensure that money paid to their court is promptly and accurately recorded. This is an essential process needed to properly account for court money. Each payment received should be recorded in a court's cashbook, and receipts should be issued simultaneously for all payments received.

In addition, justices are responsible for depositing all collections intact (i.e., in the same amount and form as received) as soon as possible, but no later than 72 hours (three days) from the date of collection, exclusive of Sundays and holidays.

After depositing collections, justices must ensure that the deposit amounts are properly recorded in their courts' cashbook. This helps court personnel properly

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Justices also must ensure that money paid to their court is promptly and accurately recorded.

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reconcile the amounts recorded in the cashbook to bank balances, as indicated in monthly bank statements, at the end of each month.

Justices also must report collections (excluding pending bail) each month to the JCF. Furthermore, they must disburse, by check, the funds collected to their village's treasurer by the 10th day of each month, or to a defendant as appropriate.

### **Collections Were Properly Collected, Deposited, Reported and Remitted but Not Always Accurately Recorded**

We reviewed October 2020 Court collections for each Justice and found that the Justices properly collected and deposited fees totaling \$49,890. We also reviewed all fines and fees totaling \$378,050 that were reported and remitted during 2020 and found that the Justices remitted them to the Treasurer and reported them to the JCF in an accurate and timely manner. However, the Court did not properly record all collections in its cashbook.

We reviewed the October 2020 cashbook reports for each Justice to determine whether the recorded deposit amounts in the cashbook matched the deposit amounts indicated in the bank statements.<sup>1</sup> For Justice Blythe, 12 cashbook deposits totaling \$15,565 did not match the deposit amounts indicated on the bank statements. For Justice Errington, 14 cashbook deposits totaling \$13,588 did not match the bank statement deposit amounts.

The clerk told us that these differences were due to unidentified online credit card payments deposited into the Justices' bank accounts, which made it difficult for the Justices and the clerk to reconcile the Justices' bank statements.

The clerk told us that when defendants made online credit card payments to the Court that the credit card payment processing company (company) deposited the payments directly into the Justices' bank accounts. She told us that the company did not provide the Court with any detail to identify the online payments. However, we found that the company emailed the Court a payment notification each time it made a deposit into the Justices' bank accounts and a reconciliation report with a breakdown of each deposit.

The clerk discarded the credit card payment notifications and reconciliation reports without using this information to update Court records. She told us that she felt her review of the payment notifications alone was adequate to process the payment.

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The clerk discarded the credit card payment notifications and reconciliation reports without using this information to update Court records.

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<sup>1</sup> Refer to Appendix B for further information on our sample selection and testing methodology.

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As a result, the clerk could not identify which individual credit card payments in her cashbook applied to corresponding deposits indicated on the bank statements. Had the clerk entered the information provided in the notifications and reconciliation reports in the Court's cashbook, to identify the receipt's corresponding deposit, the recorded cashbook deposit amounts would have agreed with the bank statements.

We obtained and examined the company's notifications and reconciliation report for October 2020 and traced all fine collections totaling \$49,890 in the Court's cashbook reports and corresponding bank statement. However, because the clerk did not enter the information from the notifications and reconciliation reports in the Court's cashbook, the Justices would not have been able to properly reconcile bank activity or ensure collections were deposited accurately and in a timely manner.

### **How Should the Justices Maintain Bail Records?**

When courts collect and process bail, this can involve a significant amount of money. Bail for pending cases, or cases that have not yet been adjudicated, is similar to a customer deposit. It generally is posted (paid) by defendants, or by others on behalf of defendants (payees), to guarantee the defendants' appearance in court to answer their charges.

In some instances, bail amounts can remain with a court for long periods of time. Therefore, justices must maintain an accurate record of all bail. Court officials should promptly record the collection and disposition of bail in a supplemental bail record after the transactions occur to ensure that the record is complete and current. Officials also should update court records to reflect bail or cases transferred to newly elected or appointed justices.

### **The Justices Did Not Maintain Adequate Bail Records**

As of December 31, 2020, the Court's outstanding bail reports were inaccurate and unreliable. Although there were no pending bails and the bail bank balance was zero, the Court's pending bail report showed 462 pending bails and negative bail balances of \$23,386 for Justice Blythe and \$864 for Justice Errington. The negative amounts occurred primarily because one Justice returned bail that another Justice originally received and recorded in their records.

Because the Court did not keep accurate bail records and update them in a timely manner, the pending bail reports did not properly reflect the transfer of bail to the presiding Justice who was responsible for the case. Furthermore, the Court's records were so deficient that the pending bail reports for four former Justices still showed a total of \$24,228 in pending bails even though they were no longer

in office (Figure 1). For example, pending bail reports as of December 31, 2020 showed that former Justice Kennedy had 152 pending bails totaling \$18,254.

**Figure 1: Pending Bail Analysis**

Justice	Amount	Number
<b>Blythe</b>	(\$23,386)	76
<b>Errington</b>	(864)	42
<b>Former Justices</b>		
<b>Kennedy</b>	\$18,254	152
<b>Munger</b>	(1,940)	43
<b>Hyjek</b>	7,010	50
<b>Brooks</b>	904	99
<b>Unidentified Totals</b>	<b>(\$22)</b>	<b>462</b>

The clerk was unaware that the Court’s computerized software system could produce a separate pending bail report for each Justice or that there was pending bail recorded for the former Justices.

The outstanding bail amounts on the pending bail reports dated back to 1996. For example, former Justice Brooks received a \$250 bail in September 1996, which former Justice Kennedy returned two months later. However, this bail was still included on the pending bail report at the end of 2020, or 24 years later. A similar finding was indicated in our prior audit report released in August 2008.<sup>2</sup>

Without accurate bail records, the Justices cannot ensure that all pending bails have been resolved and bail amounts have been returned to defendants and payees or paid to the Village, as appropriate.

### **How Should the Justices Monitor the Court’s Monthly Financial Activity?**

Justices should perform a monthly bank reconciliation and an accountability of funds to help ensure that their courts’ financial activities are properly collected, deposited, recorded, reported and disbursed. To prepare a monthly accountability, court officials must compile a list of their court’s liabilities and compare it to reconciled bank balances and undeposited money on hand. Court liabilities should equal the total available cash balance.

Preparing monthly accountabilities becomes particularly important in smaller justice courts where staff resources are limited. In these situations, justices may be unable to adequately segregate their court clerk’s incompatible duties.

<sup>2</sup> *Village of Warsaw - Justice Court (2007M-298)*

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This means that the court clerk could control all phases of financial transactions (collecting, recording and disbursing) without proper oversight.

### **The Justices Did Not Properly Monitor the Court's Monthly Financial Activity**

The Justices did not perform adequate monthly bank reconciliations or accountabilities for their individual bank accounts and did not perform adequate bank reconciliations for the shared bail account. For example, when we asked to review the bank statements for the Justices' bank accounts and the bail account, we found that five bank statements (December 2020 to April 2021) were unopened for Justice Errington's fine account. Also, he could not locate the original bank statements for June 2019 through February 2020.

Both Justices told us they frequently reviewed online bank activity for their accounts by comparing the Court's check register balance with their bank balances and felt this was an adequate review. However, this process did not provide any documentation to substantiate this review. Furthermore, without an accurate cashbook report,<sup>3</sup> it would be difficult for the Justices to perform a proper bank reconciliation.

The clerk reconciled the bail account and performed monthly accountabilities for the bail funds. However, the clerk did not generate a detailed pending bail report for each Justice to check the amount of pending bail reported in the Court's computerized software system, which is needed for this accountability to be accurate.

The clerk compared the reconciled bank statement with the pending bail total recorded in the Court's computerized software system. However, without an itemized list provided in a pending bail report to support that total, the Justices could not adequately review the clerk's accountability of bail funds. Furthermore, there is no evidence that the Justices reviewed the clerk's bail accountabilities. Also, Justice Errington told us that he relied on Justice Blythe to perform this function.

We prepared accountabilities, as of October 31, 2020, for both Justices' bank accounts and the shared bail account and found a \$2,000 overage in the bail account. The clerk was unable to identify which case it applied to, and in November 2020 she remitted these funds to the Village. However, this transaction was not included on the Court's pending bail report for either Justice. Also, it further contributed to the incorrect pending bail report (Figure 1), which as of December 31, 2020 showed a cumulative negative total of \$22 when the bank balance was actually zero.

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<sup>3</sup> Refer to the Collections Were Properly Collected, Deposited, Reported and Remitted But Not Always Accurately Recorded section for further information.



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The Justices did not adequately oversee the Court's financial operations or ensure that the clerk's work was accurate and sufficient. As a result, the Court had unidentified bail funds on deposit, and errors and irregularities occurred without being detected and corrected.

According to Justice Blythe, he was not familiar with the reporting capabilities of the Court's software program and did not know that separate bail reports could be generated. He told us that he relied on his Clerk and, therefore, he limited his review to reports that the Clerk generated for him.

### What Do We Recommend?

The Justices should:

1. Provide sufficient oversight over the clerk's work to ensure that the Court's records and reports, including cashbook reports and bank reconciliations, are accurate. Also, ensure the clerk retains the notifications and reconciliation reports provided by the company.
2. Ensure the clerk maintains a current and accurate list of all bail held and disbursed and reconciles the pending bail amounts with cash reported in the bail bank account on a monthly basis. Also, ensure the clerk promptly updates this list to reflect bail or cases transferred to newly elected or appointed justices.
3. Retain original bank statements and prepare and document proper monthly bank reconciliations.
4. Complete monthly accountabilities by preparing a reconciliation of cash assets and comparing them with known liabilities. If the clerk completes the monthly accountabilities, review them for accuracy, and investigate and promptly resolve any discrepancies.
5. Obtain the previous credit card payment notifications and update the Court's records to reflect the proper form of payments received.
6. Seek training to better familiarize themselves with the Court's financial system and to further develop their understanding of their oversight responsibilities. This can include attending local official training provided by the Office of the State Comptroller.<sup>4</sup>

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The Justices  
did not  
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<sup>4</sup> <https://www.osc.state.ny.us/local-government/academy/webinars>

# Appendix A: Response From Village Officials

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## VILLAGE OF WARSAW

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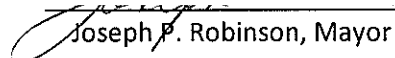
April 27, 2022

To: Office of the New York State Comptroller  
Buffalo Regional Office

Attn: Chief Examiner

Re: Draft Audit Report  
Village of Warsaw Justice Court

This is in response to the Draft Audit Report of the Village of Warsaw Justice Court. We have reviewed the Draft Audit Report and concur with the conclusion of the auditor. We also agree with the recommendations of the report. We are currently in the process of creating a Corrective Action Plan.

  
Joseph P. Robinson, Mayor

## Appendix B: Audit Methodology and Standards

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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 and policies, interviewed the clerk and Justices and reviewed financial reports to gain an understating of the Court's financial operations.
- We used our professional judgment to review available bank reconciliations and prepared accountabilities for each Justice as of October 31, 2020 to determine whether cash on hand agreed with known liabilities and to determine whether the amount in the shared bail bank account matched amounts recorded in the pending bail report. We chose this date because October 2020 represented the last completed month before we started our audit.
- We used our professional judgment to review the dates that the Court submitted monthly reports to the JCF for June 2019 through March 2021, excluding March and April 2020 based on the Court's COVID-19 status, to determine whether the Court submitted the reports as required. This time frame includes the beginning of our audit period through the month when we performed the test (March 2021).
- We used our professional judgment to compare the Court's remittances to the Village for the 2020 calendar year, excluding March and April 2020 based on the Court's COVID-19 status, to Village reports to determine whether they matched. We also reviewed Court collection records to determine whether the clerk issued duplicate sequential receipts for all money received. We chose to review the 2019-20 fiscal year because it was the most current completed fiscal year at the time of our audit fieldwork.
- We compared Court disbursement records generated during our audit period to canceled check images from the Justice's bank accounts to determine whether the amounts and payee names were the same. We also compared bail disbursement records to canceled check images and compared collection records to bank statements to determine whether they matched and whether there were any gaps in the check sequence.
- We compared collections recorded during our audit period to DMV records to determine whether amounts reported to the JCF and DMV matched.
- We compared online credit card payment deposits to notification and reconciliation reports, bank statement deposit reports and the Court's cashbook to determine whether they matched.

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- Using a random number generator, we selected the month of September 2020 and compared JCF data generated during that month to the Court's data to determine whether they matched.
  - Using a random number generator, we selected the month of October 2020 and compared cashbook entries generated during that month to deposits indicated in the October 2020 bank statements to determine whether they matched and whether the money collected during that month was deposited intact and in a timely manner. We also determined whether the amounts collected during that month matched the amounts indicated in the Court's monthly report submitted to the JCF.

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 Village Clerk-Treasurer's Office.

## Appendix C: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://www.osc.state.ny.us/local-government/academy)

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