



Town of Niagara Justice Court

Report of Examination

Period Covered:

January 1, 2014 — July 29, 2015

2015M-218



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2015

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Niagara, entitled Justice Court. This audit was conducted 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.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

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

Introduction

Background

The Town of Niagara (Town) is located in Niagara County, has approximately 8,400 residents and is governed by an elected Town Board (Board), composed of the Town Supervisor and four Council members. The Board has the overall responsibility for overseeing the Town's financial activities, including the financial activity of the Town Justice Court (Court). The Town has two elected Justices who preside over Court operations. The Justices appoint their respective Court clerks and part-time assistant Court clerks.

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases. The Justices are responsible for adjudicating legal matters within the Court's jurisdiction and administering money collected from fines, bail, surcharges, civil fees and restitutions. Justices are required to submit monthly reports to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month. The Court collected \$557,951 in fines, fees and surcharges in 2014. The Town's share of Court revenue was \$406,862.

Objective

The objective of our audit was to examine the Court's financial activity. Our audit addressed the following related question:

- Did the Justices ensure that all fines and fees were properly collected?

Scope and Methodology

We examined the Court's records and reports for the period January 1, 2014 through July 29, 2015.¹

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report. 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.

¹ The partial payment report generated includes open cases dated back to 1989 and the pending cases report generated includes cases dated back to 1985.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they will take corrective action.

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 forwarded to our office within 90 days, pursuant to Section 35 of the 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 this plan available for public review in the Town Clerk's office.

Justice Court

Justices are responsible for properly collecting all fines and fees owed to the Court. This includes reviewing balance due and pending case reports to ensure that all appropriate measures, such as suspending licenses or issuing bench warrants, are taken when individuals fail to appear or pay fines and fees in full.

We found the Justices did not ensure that all fines and fees were properly collected. Both Justices did not generate and review balance due reports and one Justice did not generate and review the pending cases report. As a result, the Court did not request the suspension of the driver's licenses for two individuals who had outstanding ticket balances greater than 60 days. In addition, Court reports indicate that unpaid fines and fees may total up to \$399,321 on tickets ranging from 1989 through 2015 and that over 11,000 tickets dating as far back as 1985 appear to be pending (unpaid). As a result, there is a risk that not all money due to the Court has been collected and reported. By reviewing those reports the Justices can systematically monitor and resolve outstanding issues and ensure fines and fees assessed by them are properly collected.

Partial Payments – A justice may allow defendants to pay fines and surcharges in partial payments. To properly account for anticipated transactions, a record of these partial payments should be maintained to identify the amounts owed, similar to a customer accounts receivable, and the amounts collected to date. The receipts should be deposited in a timely manner and reported to JCF in the month the amounts are collected. To ensure accuracy, payments should be recorded promptly in a supplemental record of partial payments.

We selected 38 individuals who made partial payments to the Court during 2014.² These individuals had a combined total of \$17,751 of fines and fees assessed by the Court and made payments totaling \$16,893 as of May 12, 2015.³ Although we noted no exceptions relating to timely depositing or reporting to JCF, there remained an outstanding balance of \$858 due from four individuals. We found that two of those individuals had outstanding balances greater than 60 days. A reminder of payment due was sent to one individual. The

² From the ledger book, we randomly chose two months (April and October 2014) and from those two months, we chose all 38 individuals in those months who made partial payments. We reviewed all payments made from the beginning of each case.

³ This also includes termination of a license suspension fee, which is applied when an individual fails to pay within 60 days and his or her license is suspended, and bail poundage that is assessed when an individual posts bail and is found guilty.

Court did not realize that an additional payment was due for the other individual. The Court did not take additional actions to enforce payment on both of these outstanding balances. For example, the Court could have requested the New York State Department of Motor Vehicles (DMV) to suspend the driver's license of both individuals because they did not make payment within the 60 days. The failure to enforce ticket amounts increases the risk that fines and fees assessed by the Justices will not be collected.

In addition, we noted that 11 of the payments totaling \$1,261 made by the 38 individuals were not correctly indicated as either partial or final payments. Accurately indicating payments as partial or final ensures outstanding payment due information is accurate and up-to-date. As a result, the Justices can assess all outstanding payments due and facilitate timely enforcement.

We found that the Justices did not systematically monitor amounts owed by all cases. The Court computer system has the capability to generate a partial payment report, showing outstanding fines and fees due on all open cases where the Justices have imposed fines. The Justices were unaware of and, as a result, did not review the report to determine if fines were being paid in a timely manner and to take additional enforcement actions on those that were not. We asked the Court clerks to generate the report and found that unpaid fines and fees totaled \$399,321 on tickets with violation dates ranging from 1989 through 2015.⁴

We judgmentally selected 20 tickets from this report and noted no significant exceptions relating to the ticket enforcement, timely depositing of receipts or reporting to JCF. As a result, we could not determine the cause for the significant amount of unpaid fines and fees reported.

Pending Tickets – To capture revenues from Court operations and reduce or avoid a backlog of outstanding traffic cases, it is essential for the Justices to adopt a policy and develop procedures for the enforcement of collections of fines and fees by Court personnel. These guidelines should include procedures for using reports available from DMV to follow-up on and enforce outstanding tickets. For example, the Court can use the DMV scofflaw program to enforce payment of fines.⁵ However, we found that the Justices have not done so.

⁴ The report was generated on cases from both Justices. One was on February 9, 2015 and the other was on February 18, 2015.

⁵ The DMV scofflaw program allows local justice courts to notify DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the Court date) traffic ticket for a 60-day period. When this occurs, DMV notifies the individual and gives him or her 30 additional days to address the issue. If the individual has not taken action, DMV suspends the individual's license until he or she addresses the outstanding ticket.

Local and State police agencies issue Uniform Traffic Tickets (UTT) for vehicle and traffic infractions. DMV tracks the tickets issued by adding pertinent information to its Traffic Safety Law Enforcement and Disposition database. Upon adjudication, when all fines are paid, the Court must transmit an update to DMV to remove a case from the pending ticket database. Among the reports available to the Court is a list of all pending UTT cases, which the Justices should routinely review to ensure the Court is processing tickets in a timely manner. The Court clerks can also generate this report and use it to identify individuals who either have not appeared in Court to resolve their tickets or have not paid their fines. The Justices may then report these cases to DMV to be enforced through the scofflaw program.

We reviewed the pending UTT report for the Court, which contained over 11,000 tickets as of February 1, 2015. This report showed that pending tickets were dated as far back as 1985:

Years of Violations	Number of Tickets
1985 – 1994	3,492
1995 – 2004	3,578
2005 – 2014	4,035
2015 (through February 1)	330
Total	11,435

We reviewed the Court’s method of reviewing and updating the pending UTT report to ensure all information within the computer system reported to DMV is up-to-date and accurate.⁶ One Justice downloads the pending UTT report on a weekly basis to reconcile open traffic cases and resubmits any updated information to DMV during the weekly transmittal and uses the pending UTT report to ensure that license suspensions are performed in a timely manner.

However, the other Justice did not utilize the pending UTT report. We selected 25 tickets from the pending UTT report to determine the status of each ticket. We found that 21 of these cases belonged to the Justice that did not utilize the pending UTT report.⁷ However, that Justice did not report 16 of the 21 cases as disposed with certain fines and fees collected to DMV and, as a result, they incorrectly remained on the pending UTT report.

⁶ This report shows all open cases.

⁷ We noted no significant exceptions with the remaining four tickets.

Because the one Justice did not generate and review the pending UTT report to investigate and resolve the large amount of tickets remaining on the pending list, unpaid fines and fees may not be enforced in a timely manner, potentially resulting in lost revenue to the Town.⁸

Dismissed Tickets – When a ticket is issued, relevant information is sent to DMV. After the case is adjudicated and fines are paid in full or the case is assessed with no fines or fees and is dismissed, it can be disposed. While this step includes recording the payment in the Court cashbook and on the monthly JCF report, the Court is also required to send this information to DMV so the case is properly accounted for as “disposed” in its database. It is important that the Justices report disposed cases to DMV in a timely manner so defendants’ DMV records are accurate.

We reviewed the dismissed UTT report, which contained over 2,017 tickets for the Court as of February 1, 2015. We selected 25 tickets to determine if they were disposed properly and did not find any significant exceptions.

The Justices could improve the Court’s outstanding payment collections by routinely generating and reviewing relevant reports such as the partial payment and pending UTT reports to monitor, address and resolve outstanding issues to ensure fines and fees assessed are properly collected. Due to the significant amount of unpaid fines and fees listed on the partial payment report and significant cases on the pending UTT report, there is a risk that not all money was properly collected, recorded and reported.

Recommendations

The Justices should:

1. Adopt a policy and develop procedures for the enforcement of collections of fines and fees.
2. Request that DMV suspend the driver’s licenses of individuals that have accounts receivable greater than 60 days.
3. Routinely generate and review the partial payment and pending UTT reports and monitor, address and resolve outstanding issues to ensure fines and fees assessed are properly collected.
4. Investigate and determine a course of action to resolve the significant amount of unpaid fines and fees on the partial payment report and the large number of open cases on the UTT report.

⁸ All 25 tickets were properly adjudicated and fines and fees were assigned, collected, deposited and properly reported to JCF.

5. Ensure that the Court clerks record payments accurately as partial or final on the payment receipts and in the case files in the computer system.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.

JUSTICE COURT
TOWN OF NIAGARA
COUNTY OF NIAGARA, STATE OF NEW YORK
7105 LOCKPORT ROAD
NIAGARA FALLS, NY 14305

TELEPHONE (716) 215-1480

FAX (716) 207-7006

JOHN P. TEIXEIRA
TOWN JUSTICE



JAMES J. FASO
TOWN JUSTICE

State of New York
Office of the State Comptroller
110 State Street
Albany, New York 12236
December 3, 2015

ATTN: Jeffrey D. Mazula
Chief Examiner of Local Government
School Accountability

This letter is in response to the audit recommendations proposed by the New York State Office of the State Comptroller.

I. The policy for collecting fines is as follows:

1. Defendant is sentenced and fines and fees are levied at this time.
2. Defendant can pay at sentencing using cash, money order or [REDACTED] or [REDACTED] credit cards.
3. Defendant may request time to pay if unable to do so at time of sentencing. The standard length of time given is 3 weeks. The defendant may request more time and at the discretion of the Court usually will be given 30 days. When fines are very high or defendant has financial problems a partial payment schedule may be set up.
4. If defendant fails to make payments as arranged, a fine reminder letter is sent giving them a date to make the payments. Failure to make payment after this letter will result in a Bench Warrant for their arrest or a scofflaw of their driver's license.
5. Partial payments and fines not collected are monitored using the Report of Cases Pending for traffic matters and Payment Due Report for criminal matters.

JUSTICE COURT
TOWN OF NIAGARA

COUNTY OF NIAGARA, STATE OF NEW YORK
7108 LOCKPORT ROAD
NIAGARA FALLS, NY 14305

TELEPHONE (716) 215-1480

FAX (716) 297-7006

JOHN P. TEIXEIRA
TOWN JUSTICE



JAMES J. FASO
TOWN JUSTICE

II. The report of Cases Pending is printed on a monthly basis and all eligible tickets are requested to be scofflawed by DMV when they are eligible. Not all tickets can be suspended right at 60 days.

III. The report of Cases Pending is always printed when it becomes available once a month. The Court will now print the Payment Due Report on a monthly basis and follow up with any necessary actions.

IV. Every course of action available to collect outstanding fines and fees is currently being utilized to the fullest.

V. When there is a partial payment made it will be noted on the receipt along with the balance due and the next date for payment. When money is entered in the computer for a case, it reflects whether it is a partial payment because the remaining balance shows as money due and the amount paid appears as paid monies. If a case is paid in full the case is disposed of in the computer.

Submitted 12/3/2015 by Honorable James J. Faso

JUSTICE COURT
TOWN OF NIAGARA
COUNTY OF NIAGARA, STATE OF NEW YORK
7105 LOCKPORT ROAD
NIAGARA FALLS, NY 14305

TELEPHONE (716) 215-1480

FAX (716) 287-7006

JOHN P. TEIXEIRA
TOWN JUSTICE



JAMES J. FASO
TOWN JUSTICE

To: Comptrollers Office; Attn: [REDACTED]

RESPONSE TO 2015 AUDIT

Making sure all vehicle & traffic dispositions are recorded in the computer and transmitted to DMV.

Be sure to lift suspensions where applicable, either temporary or final lift.

Partial payments are accepted. We require a payment within two weeks, from there payments can be weekly, biweekly, or monthly. If defendant defaults on payment a reminder letter is sent out, from there payments are not an option; the entire balance owed is due.

When payments are received, receipt should include payment type, amount paid, and whether it was full or partial payment. If partial payment was made, remaining balance and next payment date is noted on receipt. (Payments due report monitors out-standing fines. This report is run bi-weekly)

Individuals whose tickets are unanswered or have failed to pay fines, will be suspended after the required 60-day waiting period.

As to misdemeanor vehicle & traffic, a warrant is issued for failure to appear or pay fines. However, the 60-day waiting period must be observed. As this relates to the last adjourned date or written correspondence, before suspending.

In regard to arrest or bench warrants and suspensions, until the police agency arrests on the warrants, or the individual appear in regard to the suspension, THE COURT CANNOT GO FORWARD.

Respectfully,

Honorable John P. Teixeira
Niagara Town Justice

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed Court officials to gain an understanding of Court operations relating to the collection of fines and fees.
- We selected 25 tickets from the pending UTT report and 25 tickets from the dismissed UTT report for audit testing. These tickets appeared to be of greater risk due to the ticket types, violation and reporting dates to JCF or DMV.
- We randomly selected the months of April and October 2014 and tested all 38 partial payments made during those two months to determine if the individuals had paid their fines and fees in full.
- From the partial payment report, we judgmentally selected 10 individuals (20 tickets) from each Justice who had fines outstanding within the last two years to test the status and outstanding balance of the tickets and to determine the accuracy of the Court's records.
- Where applicable, we traced each of our samples to the deposits in the bank statements, cash receipt records, case files including adjudicated tickets, monthly bank reconciliations, JCF reports and DMV reports to ensure that the Justices had properly accounted for, deposited, remitted and reported the collection of fines and fees in a timely and accurate manner.

We conducted this performance audit in accordance with 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.

APPENDIX C

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