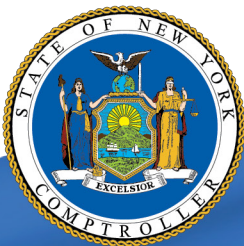


Town of Lindley

Justice Court

MARCH 2018



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

Contents

Report Highlights 1

Justice Court Operations 2

 How Should Justices Account for Court Funds? 2

 Accountabilities and Bank Reconciliations Were Not Prepared 2

 How Does the Court Enforce Vehicle and Traffic Violations? 3

 The Court Did Not Ensure Timely Adjudication and Reporting of
 Vehicle and Traffic Violations 3

 How Can the Court Ensure Accountability for All Receipts? 4

 The Court Has Missing Receipts. 4

 What Do We Recommend? 4

Appendix A – Responses From Town Officials 6

Appendix B – OSC Comment on the Supervisor’s Response 9

Appendix C – Audit Methodology and Standards 10

Appendix D – Resources and Services. 11

Report Highlights

Town of Lindley

Audit Objective

Determine whether the Justices ensured receipts were collected, deposited, recorded, reported and remitted in an accurate and timely manner.

Key Findings

- Monthly bank reconciliations and accountabilities were not prepared and errors went undetected and uncorrected.
- The Court did not ensure timely adjudication and reporting of vehicle and traffic cases.

Key Recommendations

The Justices should:

- Perform a periodic review of all Court accounting records, including the reconciliation of cash assets and known liabilities, and promptly investigate and resolve any discrepancies.
- Review the Traffic Safety Law Enforcement and Disposition reports to identify Department of Motor Vehicle (DMV) reporting errors and tickets eligible for referral to DMV's Scofflaw Program.

The Town Supervisor and Justices Wilson and Kuck all submitted separate response letters, which are included in Appendix A. The Supervisor disagreed with our report. Our comments to the Supervisor's response are included in Appendix B. The Justices generally agreed with our findings and Justice Kuck indicated the Court would implement corrective action.

Background

The Town of Lindley (Town) is located in Steuben County.

During our audit period, there were three Justices, Wilson, Burton and Kuck, who adjudicated legal matters within the Court's jurisdiction, such as vehicle and traffic, criminal, civil and small claims cases. A Court clerk and multiple deputy clerks assist the Justices with processing cases and their related financial transactions, including submitting monthly financial activity reports and traffic dispositions to various New York State agencies.¹

Quick Facts

| | |
|---|-----------|
| 2016 Revenues | \$587,978 |
| Steuben County Ranking by 2016 Revenues | 1st |
| 2016 Vehicle and Traffic Charges | 2,850 |

Audit Period

January 1, 2016 – November 2, 2017

¹ Office of the State Comptroller's Justice Court Fund and the New York State Department of Motor Vehicles.

Justice Court Operations

How Should Justices Account for Court Funds?

Unlike other municipal operations, town justices do not account for financial transactions on a fiscal year basis, and are not required to complete annual financial statements. Instead, they are required to account for cash receipts and disbursements from month to month, and determine accountability (by preparing a list of court liabilities and comparing it with reconciled bank balances) on a monthly basis.

Bail posted by defendants (or others on their behalf) for pending cases resembles a customer deposit to guarantee their appearance in court to answer charges. If they appear, the bail money is returned. Since bails can involve significant amounts of money and remain with the court for long periods of time, it is essential that each justice maintains an accurate accounting of bail. Exonerated bail,² less any applicable fees, is returned to the person that paid it, without being reported to the Office of the State Comptroller's Justice Court Fund (JCF).

Accountabilities and Bank Reconciliations Were Not Prepared

The three Justices did not prepare monthly bank reconciliations or accountabilities. Therefore, we prepared bank reconciliations from January 1, 2016 through May 31, 2017 and conducted a cash count and accountability analysis on June 14, 2017. We found that:

1. Exonerated bail totaling \$985 was incorrectly included on the list of current bail.
2. The Justices failed to deposit and refund all bail money from the bail bank account. As a result, the fine and fee account was owed \$720 from the bail account.
3. The bail account had unidentified money totaling \$1,069 that was not reported and remitted to JCF.
4. The fine and fee account had a minor net shortage of \$26.³

The Justices should have identified all of these errors if they had performed accountabilities and reconciliations.

² At the conclusion of a case, the bail becomes "exonerated," as long as it was not previously forfeited.

³ Justice Burton had a \$40 shortage and Justice Wilson had a \$14 overage, for a net shortage of \$26.

How Does the Court Enforce Vehicle and Traffic Violations?

One of the responsibilities of a justice court is to adjudicate vehicle and traffic violations. Law enforcement officials issue Uniform Traffic Tickets (UTTs) for vehicle and traffic infractions. The Department of Motor Vehicles (DMV) tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. When all associated fines are paid, the court uploads the ticket's disposition to TSLED for removal from the pending ticket database. The TSLED database produces reports that are electronically available to each local court on a monthly basis. These reports are a tool to verify the accuracy of the court's records against the information in the State's database and to help ensure tickets are processed in a timely manner. Court officials can also generate a TSLED report of the cases that have been pending for 60 days and use it to identify individuals who either have not appeared in court to answer their ticket or have not paid their fine. The Court has procedures in place to report these cases to the DMV for enforcement through its Scofflaw Program.⁴

The Court Did Not Ensure Timely Adjudication and Reporting of Vehicle and Traffic Violations

The Justices relied on the Court clerk to use the TSLED database reports to identify reporting errors and individuals eligible for referral to the Scofflaw Program. The Court clerk was behind on referring tickets because of the turnover in Justices and training new deputy Court clerks. The Clerk stated that December 2016 was the last time she referred tickets to the Scofflaw Program. However, we reviewed the TSLED pending ticket report for the period January 1, 2016 through June 21, 2017 and identified 2,069 pending tickets,⁵ of which 245 (12 percent) were referred to the Scofflaw Program because of nonpayment or no appearance at Court.

Timely review of reports would ensure drivers' records were accurate and help ensure timely collection of fines and other revenues.

4 The DMV Scofflaw Program allows local justice courts to notify DMV when an individual has an unresolved traffic ticket (failure to pay the fine or failure to appear on the court date) for a 60-day period. When this occurs, DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then DMV suspends the individual's license until they address the outstanding ticket.

5 The pending ticket report does not identify fine amounts.

How Can the Court Ensure Accountability for All Receipts?

General Municipal Law requires justices to issue acceptable receipt forms to acknowledge collection of all money paid to the court. These receipt forms should be pre-numbered and in at least duplicate form. When acquiring pre-printed forms from vendors, justices should keep an inventory record of the receipt numbers acquired, and account for those forms used and remaining on hand. The forms should be issued in consecutive numerical sequence and a copy should be retained as evidence of collection. Receipt forms produced from computerized accounting software programs, cash registers, and other mechanical or electronic devices should also be issued in consecutive numerical sequence and a hard copy should be retained as evidence of collection. In addition, the software controls must prevent the alteration of receipt numbers by activating automatic receipt numbers. Voided or deleted receipts should have sufficient documentation to determine they were authorized and not reusable. If numbers can be altered, then pre-numbered manual receipts must be used.

The Court Has Missing Receipts

The Court clerks did not use pre-numbered manual receipts, but instead used receipts generated from the computerized software program. Because the automatic receipt numbering function was not enabled in the software program, receipt numbers were occasionally reused and sometimes not used. In addition, the software program used by the Court was not the security version. The security version would not allow receipts to be altered or deleted after they were issued. Because the Town's version allowed receipts to be altered or deleted after issuance, the risk is increased that funds could be misappropriated without detection.

We reviewed all 4,587 issued receipts during the audit period and identified 14 receipt numbering gaps. It appears that 13 of the gaps related to unused receipt numbers and one gap was from changing the receipt numbering sequence for a new Justice. We also reviewed the 2016 deleted cashbook receipt log that identified 17 deleted receipts. We found 16 were to correct recording errors and one case file was unavailable for review. The ability to alter and delete receipts, coupled with not issuing pre-numbered receipts, increases the risk of fraud and severely limits its detection.

What Do We Recommend?

The Justices should:

-
1. Perform a periodic review of all Court accounting records, including reconciliations of cash assets and known liabilities, and promptly investigate and resolve any discrepancies.
 2. Report and remit any unidentified money in the Justices' bank accounts to JCF.
 3. Perform a comparison of pending bail reports with funds available in the bail bank account.
 4. Review the TSLED reports to identify DMV reporting errors and tickets eligible for referral to DMV's Scofflaw Program.
 5. Enable the automatic receipt numbering function in the computerized software program and consider upgrading to the security version.

Appendix A: Responses From Town Officials



Lindley Town Hall

637 County Rte 115 PO Box 62 Lindley, NY 14858
Phone/Fax: 607-523-8816 lindleytown.blogspot.com

The Town of Lindley Supervisor exchanged a verbal rebuttal during the exit interview and it was made clear that the statements in the first bullet point of Appendix B- Audit Methodology and Standards would remain as written.

See
Note 1
Page 9

To clarify; the Town Board of Lindley has made it a practice not to meet one on one with any agency or individual due to the outbreak of allegations both in areas of misconduct and of sexual accusations. This is sweeping the nation in news and headlines every day. If this is the policy of the Comptroller's office to meet individually, we recommend that revisions be made to this policy. Two Board members can meet without a quorum.

Secondly, the request to meet was not identified as a mandatory or even as was stated 'strongly suggested' in emails to the four Town Board members. In future correspondence the office should provide more information in regards to why the meeting would be helpful to the Comptrollers report. The request was placed on a Wednesday to meet Thursday or Friday. This is also very short notice of a meeting with such importance. A small town such as ours the majority of the staff is part time and are rarely in attendance each and every day of the week. Establishing a good relationship between the Comptroller's office and the Municipality is the responsibility of both parties. I have copies of the correspondence to show that none of these meetings were 'declined'.

Lastly, the comment (also the Court clerk's husband) makes an implication that there is something unethical in regards to the positions and actions taken in the town. I have been reminded by residents since 2012 that my relationship can in no way impact decisions for the town. I am certain that if you were to poll the town the majority of residents already know these facts. I welcome any advice on how to better serve this community in an ethical manner.

Sincerely,

Patrick Clark
Supervisor
Town of Lindley

Lindley Town Court
637 US 15 PO Box 64
Lindley, NY 14858
(607)523-8388
Fax (607)523-8232
Or
Fax (607)240-5367
Lindleytowncourt@nycourts.gov

Rebuttal to Lindley Town Court Audit

In response to our recent audit and findings:

Accountabilities and Bank Reconciliations

#1: The exonerated bail totaling \$985 has been updated in the [REDACTED] program and is no longer showing as current bail.

#2: The \$720 has been transferred from the bail account to the fines and fee's account.

#3: Unidentified money will be reported and remitted to JCF on February 2018 month end report. This money is a carryover from previous Justice's.

As of August 2017 bank statements have been reconciled monthly.

The Court Did Not Ensure Timely Adjudication and Reporting of Vehicle and Traffic Violations

All cases have been reviewed and all cases eligible have been referred to the scofflaw program.

The Court Hass Missing Receipts

The court will be updating to the secured version of [REDACTED] software. The court is voiding receipts and no longer deleting receipts.

In conclusion, based on the recommendations made to the court (Page 6), all recommendations have been reviewed and implemented with the exception of #2 which will be taken care of by March 10, 2018.

Regards,

Julie Kuck

Tracy Wilson
Retired Lindley Town Justice

February 13, 2018

Edward V. Grant Jr.
Chief Examiner
Division of Local Government
And School Accountability

RE: 2017M-270

Chief Examiner Edward V. Grant Jr.;

In reply to the Audit of the Lindley Town Court by the Office of the State Comptroller of the State of New York for the period of January 1, 2016 through May 31, 2017. During the audit scope I was the Town Justice from January 1, 2016 through October 16, 2016. According to the Draft report there were 4 issues listed for Accountabilities and Bank Reconciliations.

During my time as Town Justice I did not have a Bail Account separate from my Fine and Fee Account, therefore, there was no shortage from lack of transferring from the Bail Account to the Fine and Fee Account.

I was aware of an overage from money being transferred from the prior Judge to the Courts Fine and Fee Account of approximately \$761.00 at the beginning of my first term.

I was aware of a double payment being made due to a credit card dispute that was in process but prior to my leaving office I was not aware of an invoice being sent to the Court to reimburse the credit card company.

I would like to add in closing that during the audit scope period that I was the Town Justice the Court was run by one part time clerk and myself.

Thank you,

Tracy Wilson
Retired Town Justice

Appendix B: OSC Comment on the Supervisor's Response

Note 1 (This applies to the Supervisor's entire response)

The Board provides oversight of the Justice and Court clerks' work by auditing at least annually the Court's books and records. The spousal relationship between the Supervisor and Court clerk is not a prohibited conflict. However, it must be recognized as a weakness in internal controls. As a result, we sought an impartial response from the Board members about the Court oversight they provided. Two Board members did not respond to our request, one declined to meet and the other stated he would only meet in the presence of another Board member. This was a part of a pattern of declining invitations to meet with us, at the Board's convenience, at both the beginning and end of the audit. Due to the Board's lack of cooperation and unwillingness to meet with us throughout the entire audit process, we obtained representation letters from each Board member stating that they were unaware of any fraud, waste, noncompliance or abuse and had completed an annual audit by performing adequate procedures.

Appendix C: 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 the Justices and Supervisor (also the Court clerk's husband) to gain an understanding of how Court oversight was provided. We inquired of the other four Board members, but they all declined to meet with us.
- We performed cash counts of the Justices' cash on hand on June 14, 2017.
- We prepared a bank reconciliation for the Justices' bank accounts and performed an accountability for the period January 1, 2016 through June 14, 2017.
- We reviewed the Justices' pending bail report as of June 14, 2017.
- To determine whether receipts were deposited timely and whether data in the computerized software was reliable, we randomly selected July 2016, January 2017 and June 2017 from the period January 2016 through June 2017 using a computerized random number generator.
- To determine the number of tickets eligible for referral to DMV's Scofflaw Program, we obtained the report of pending violations dated August 22, 2017 and selected pending tickets within the period January 1, 2016 through June 21, 2017. We then deselected tickets with violations that were not eligible for referral to the Scofflaw Program and defendants that were making installment payments.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

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 D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.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/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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Division of Local Government and School Accountability
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