

Town of Clayton

Justice Court Time and Attendance

OCTOBER 2018



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

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Report Highlights

Town of Clayton

Audit Objective

Determine whether the Court Clerk (Clerk) reported hours on her Town of Clayton (Town) time sheets that coincided with hours worked at other municipalities.

Key Findings

- Seventy of the 77 time sheets (approximately 91 percent) completed by the Clerk showed no evidence of supervisory review and approval.
- The Clerk reported 384 hours on her Town time sheets totaling \$5,559 that coincided with hours worked at other municipalities.
- The Clerk did not allow for travel time between the Town and another municipal employer. As a result, we estimate she was paid an additional \$1,800 for 123 hours not worked.

Key Recommendations

- Consult with legal counsel and take appropriate action to recover any wages paid for time not worked.
- Enforce the handbook requirement that department heads verify and sign employees' time records.

Town officials agreed with our recommendations and indicated they planned to initiate corrective action. Appendix B includes our comment on an issue raised in the Town's response.

Background

The Town is located in Jefferson County. The Town is governed by an elected Town Board (Board) composed of four members and a Town Supervisor. The Board is responsible for the general oversight of Town operations, including implementing controls over time and attendance and overseeing the financial activities of the Court.

Two elected Justices preside over the Court. An appointed part-time clerk assists the Justices and handles most of the Court's day-to-day operations. The Clerk is responsible for collecting payments, issuing receipts, posting payments into the computer system, preparing and making deposits and preparing the monthly reports to the Justice Court Fund (JCF).

Quick Facts

Population	5,150
2017 Court Revenues Reported to JCF	\$38,160
2017 General Fund Appropriations	\$2.41 million

Audit Period

April 3, 2014 – March 16, 2017.

Justice Court Time and Attendance

The Clerk has worked part-time for the Town Court since April 2014 and full-time for the Town of Alexandria Court since August 2014.¹ She was paid on an hourly basis at both Towns² and recorded the hours she worked on time sheets. The Clerk also worked for the Village of Alexandria Bay for a brief period³ where she was required to use a time clock to record her hours worked on time cards.

The Clerk uses a computer system at the Towns to perform most of her job duties. The Clerk uses the computer system to download tickets, record payments and dispositions, generate correspondence and JCF reports, maintain case files and bail records and perform other activities.

From January 19 through January 20, 2017, a jury was convened to hear a case within the Town Court. The Clerk worked both days and recorded her hours on her time sheet for the Town. A part-time clerk who worked for the Town of Alexandria accompanied the Clerk during the trial to learn how such trials are conducted. The Clerk also recorded her work hours, for both days, as “Training”, on her Town of Alexandria time sheet. When the Town Supervisors from the two Towns contacted each other to determine how to split the cost of the Clerk’s wages for these days, they reviewed her time sheets and found that her hours for the two Towns coincided with each other. As a result, the Clerk was paid twice for the same hours worked. Subsequently, the Town Supervisors compared additional time sheets and found multiple instances where the hours worked for the two Towns coincided with each other.

Officials at the Town of Alexandria brought this issue to our attention during an unrelated technical assistance visit. As a result, we engaged in separate audits of each town. Distinctions are made in this report between findings specific to the Town and those concerning both Towns. See our related report of the Town of Alexandria (2017M-284) at <http://www.osc.state.ny.us/localgov/audits/>. We have referred our findings to the State Comptroller’s Division of Investigations.

How Should the Town Board and Justices Help Ensure That Hours Reported on Time Sheets Are Accurate?

The town board has certain administrative controls over a court, such as fixing salaries of court staff, and setting various employment policies (e.g., vacation, sick, and personal leave).⁴ The justices have general responsibility over the supervision of court staff.

1 The Town has an agreement with the Village of Clayton whereby the Town and Village of Clayton share the Clerk’s employment costs. The Clerk fills out time sheets for the Town, which pays the Clerk and invoices the Village of Clayton for reimbursement.

2 Effective March 12, 2017, the Clerk began to receive a salary from the Town.

3 From the beginning of our audit period through June 18, 2015

4 The Town Board should discuss such policies with the Justices to help avoid implementing policies that could conflict with the Justice’s supervision of court staff.

The Board, in consultation with the Justices, should adopt policies and procedures that inform all employees, and those who directly oversee employees, of their responsibilities regarding the preparation and review of time sheets. Such policies and procedures can help ensure that employees record the information necessary to account for their entire workday, including the dates when work was performed and starting and ending times.

Justices should develop a work schedule for court employees, review time sheets for accuracy and completeness,⁵ and familiarize themselves with town leave policies and monitor work hours. Effective management oversight and monitoring of employees' attendance are necessary to help ensure accountability over hours worked and accurate payments to employees.

The Justices Did Not Review the Clerk's Time Sheets for Accuracy

The Board adopted an employee handbook⁶ that states that time records must be verified and signed by department heads. However, this policy was not enforced for the Clerk's time sheets. We reviewed all 77 time sheets completed by the Clerk during her employment with the Town and found 70 time sheets, (approximately 91 percent) showed no evidence of review and approval by a Justice. We interviewed two Justices⁷ who both stated that they were unaware that they needed to review the Clerk's time sheets.

The Justices were part-time officials who did not generally work at the Town offices during the day to directly observe the Clerk's work hours and there were no other controls to help ensure the Clerk's time sheets were accurate. The Justices did not establish a work schedule or set the number of hours the Clerk was expected to work each day and the Town's website did not include the Court's public office hours. The Justices allowed the Clerk to set her own work hours, which changed from day to day and included working on weekends. Had the Justices established work hours for the Clerk and had one of the Justice's reviewed her time sheets, they could have more closely monitored her attendance during the expected hours and questioned her if anything unusual was noted on her time sheets.

The lax oversight of the Clerk's work hours and lack of review and approval of her time sheets enabled her to submit inaccurate time sheets for over two years without detection and resulted in the Town paying the Clerk for hours not actually worked.

⁵ The Town Law, Section 120 provides that all payrolls or other claims for compensation for personal services rendered to the town by any person, other than an elected town officer, be certified by the town officer or employee having direct supervision of the claimant. The Town Board may, by resolution, determine that, in lieu of certification, these payrolls and claims shall be verified by such officer or employee to the same effect.

⁶ Adopted on September 23, 2015.

⁷ One of the Justices we interviewed served on an interim basis from December 2016 through March 2017 because the elected Justice had taken a leave of absence for personal reasons. The elected Justice officially resigned effective March 17, 2017 and a new Justice was appointed on March 26, 2017.

Hours Reported on the Clerk’s Time Sheets Coincided with Hours Worked at Other Municipalities

We obtained time records from the three municipal employers for which the Clerk worked and compared them from April 3, 2014 (the first day when the Clerk was employed at multiple municipalities) through the start of our fieldwork on March 16, 2017. We found 282 days, or over 26 percent, when the Clerk’s hours at one municipality coincided with the hours at one or both of the others. In other words, more than one out of every four work days in our audit period showed overlapping hours. For example, on September 23, 2016, the Clerk reported working for the Town from 7:30 a.m. to 11:00 a.m. and for the Town of Alexandria from 7:00 a.m. to 3:00 p.m. resulting in three and a half hours of overlap. We estimate the cost of the overlapping hours involving the Town to be \$5,559 and the cost of overlapping hours between all three municipalities to be \$5,984. The Clerk stated that the overlapping hours on her time sheets were the result of recording mistakes.

Figure 1: Overlapping Hours^a

Municipalities with Overlap	Hours	Estimated Cost
Town and Town of Alexandria	374.75	\$5,443 ^b
Town and Village of Alexandria Bay	9.25	\$116 ^c
Subtotal - Overlap Involving the Town	384.00	\$5,559
Town of Alexandria and Village of Alexandria Bay	30.25	\$425 ^c
Total Overlap	414.25	\$5,984

^a From April 3, 2014 through March 16, 2017

^b Because it is unclear whether the Town or Town of Alexandria was shorted because of the overlap, we used the Clerk’s average hourly wage between the Towns to estimate this cost.

^c Because the Clerk punched time cards at the Village of Alexandria Bay, we allocated the cost of the overlap to either the Town or Town of Alexandria using the Clerk’s respective hourly wage at each Town.

We compared the hours reported by the Clerk on her Town time sheets to activity logs generated from her court computer system and found the Clerk reported working 340 hours for the Town on 107 days when no corresponding activity or log-ins were recorded on the court computer system from any user.⁸ The Clerk was paid a total of \$4,825 for these hours.⁹

Some of these hours were on days the Clerk reported working only for the Town and others were on the days the Clerk reporting working overlapping hours at more than one municipality. Over 57 percent of these hours at the Town were

⁸ Because the Town has an agreement with the Village of Clayton to share the Clerk’s employment costs, we included the computer activity for both Town and Village of Clayton courts in this comparison with time sheets.

⁹ We found a similar situation in the Town of Alexandria, where the Clerk reported working 298.5 hours on 87 days with no corresponding computer activity for which she was paid \$4,576. When combined with the Town, the Clerk was paid a total of \$9,401 for reporting 638.50 hours of work with no corresponding computer activity.

recorded on Saturdays and Sundays: days when municipal offices are typically closed and there is only limited business activity. The Clerk told us she performs various duties outside of the Court's computer system including completing paperwork related to sexual and driving while intoxicated (DWI) offenses, suspending licenses and writing receipts. While we acknowledge that the Clerk performs some duties outside of the Court's computer system, we found that the Clerk reported working an average of about three hours per day on the 107 days that had no corresponding computer activity. Given that the Court's case files, financial records, calendars, letters and reports reside within the computer system and that the Clerk needs access to the computer system to perform most of her duties, we question whether she worked all the hours reported on her time sheets for these days.

Absent the review and approval of hours reported on the Clerk's time sheets, the Clerk was able to report overlapping hours she did not work and hours with no corresponding computer activity she may not have worked. While it is unclear which municipality the Clerk worked at when she reported working overlapping hours, the misstatements on the Clerk's time sheets have resulted in unjust financial benefit to the Clerk and unnecessary costs, at taxpayers' expense, to the municipalities involved.

Hours Reported on the Clerk's Time Sheets Did Not Always Provide for Adequate Travel Time Between Municipalities

We compared the Clerk's time sheets for the Town and Town of Alexandria and found multiple instances where the Clerk's recorded end time at one location and the start time at the second location were the same. As a result, one or both Towns paid the Clerk for her travel time between the two locations.

Out of the 942 days when the Clerk reported working for both Towns, we identified 483 days (approximately 51 percent of all days in the period), when the Clerk did not allow for any travel time between the two court offices. For example, on July 10, 2015, the Clerk's time sheets showed she ended work at the Town at 11:00 a.m. and started work at the Town of Alexandria at 11:00 a.m. – an impossible task. For this to occur, the Clerk must leave the first Town early and/or arrive at the second Town late. Considering that the minimum amount of time needed to travel between both court offices is 15 minutes,¹⁰ we estimate the Clerk was paid an additional \$1,800 for 123 hours not worked.¹¹

¹⁰ Travel time calculated by using Internet-mapping software and by driving between court offices.

¹¹ Since it is unclear whether the Town or Town of Alexandria was shorted these hours, we used the Clerk's average hourly wage, between the Towns, to estimate the cost of this travel time.

What Do We Recommend?

The Board should:

1. Consult with legal counsel and take appropriate action to recover any wages paid to the Clerk for time not worked.
2. Ensure department heads are aware of the handbook requirement that they verify and sign employees' time records and enforce this requirement.

The Justices should:

3. Develop an expected work schedule for court employees, establish procedures to monitor work hours and have at least one of the Justices approve court staff time sheets.

Appendix A: Responses From Town Officials

Clayton Town and Village Court
401 Mary Street
Clayton NY 13624
315 686 2427

Hon. William F. Ramseier Justice
Town Justice and Associate Village Justice

Hon. Walter M. Jeram Jr.
Town Justice and Village Justice

July 2, 2018

Rebecca Wilcox, Chief Examiner
Office of the New York State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428

Re: Town of Clayton Justice Court Time and Attendance Report of Examination

Dear Ms. Wilcox:

This letter serves as the Town of Clayton Justice Court Justices' response to the audit of the payroll controls and Court operations undertaken by the Comptroller's Office. The audit reviewed all of the Clerk's functions for the period of April 3, 2014 to March 16, 2017. The audit concluded that there were irregularities with the time keeping entries made by the Clerk and noted that i) approximately 90 percent of the time sheets submitted by the Clerk showed no evidence of supervisory review or approval; ii) a number of the time sheets submitted for this Court contain entries that overlap with the Clerk's time reported for other municipalities; and iii) other time entries were made that appeared to fail to account for the Clerk's travel time between this Court and another municipality.

With reference to the first point, the current Justices became aware of their responsibility for approving the Clerk's time sheets as a result of this audit process. At the time the Clerk's position was created and the Clerk hired, a now former Justice took the lead and supervised the Clerk's training and familiarization with the Court and its processes. It is believed that the Clerk's time sheets that were approved were approved by that former Justice. When that Justice took a leave of absence and ultimately resigned her office, the remaining Justice was then not aware such approval was required and thus did not approve the Clerk's time sheets. It is noteworthy that during the period of this audit there were four different individuals who, at varying times, held a position as a justice in the Town of Clayton, some of whom overlapped and one of whom while serving as a Town of Clayton Justice on a temporary basis held a Justice position with another municipality.

With reference to the second point, several steps have been taken to address the issue of irregular time entries, which steps should include the perceived failure to account for travel between municipalities. Regular hours for the Court, and the Clerk have been established. A policy has been implemented that should the Clerk be absent from her workstation during the established hours, the Clerk is to notify either Justice in advance. Time cards will be reviewed and approved. It remains

impossible however for the Justices, who are part time and each of whom have full time employment, to be present when the Clerk is scheduled to arrive or leave her work station at the courthouse. While the Justices will initial the time sheets of the Clerk, they cannot certify to their accuracy in the same way a full time Justice could.

Further, there is no other process which would allow for a certification by the Justices of the actual time the Clerk is present at work. Reviewing the Clerk's computer activity logs by the Justices is not possible as the Justices do not have access to that information, nor do the Justices believe it is an accurate measure of whether or not the Clerk is working. A significant portion of the Clerk's duties do not require the use of the computer: For example, receiving and responding to telephone messages, opening and filing of mail correspondence, completing hand written forms, financial ledgers, banking, file maintenance and retrieving and organizing old files do not require the use of the computer. It is significant to note that until the Clerk's position was created and the Clerk hired, this Court did not utilize the court computer system to maintain its files, file reports, or remit fines. Because of this fact any request for data from a case file prior to the Clerk's hire date must be retrieved manually from storage, thus requiring the Clerk to maintain two distinct records systems, only one of which requires use of the computer.

It is believed that the changes made will eliminate the irregularities in the Clerk's time cards as noted in the audit. The Justices do note that no other areas of the Clerk's duties were called into question, nor were there any issues noted with Court funds.

See Note 1 Page 10

Sincerely

William F. Ramseier

Walter M. Jeram Jr.

Town Supervisor
David Storandt, Jr.
Town Board Members
Mary Zovistoski
Donna J. Patchen
Lance Peterson, Sr.
Nolan Knapp
Town Clerk
Kathleen E. LaClair



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June 13, 2018

Office of the State Comptroller
Division of Local Government & School Accountability
PSU-CAP Submission
110 State Street, 12th Floor
Albany, New York 12236

To Whom It May Concern:

The Town Board of the Town of Clayton is in receipt of the report of examination of Justice Court Time and Attendance for the period of April 3, 2014 through March 16, 2017, identified as 2017M-286. We are requesting that this Audit Response also serve as our Corrective Action Plan (CAP).

The Town agrees with the recommendations contained in the audit and have taken the following actions:

1. The Town has provided a copy of this report to our Town Attorney and requested a recommendation for how to proceed with regard to recovering any wages paid to the Clerk for time not worked, as well as any other advisable disciplinary action.
2. The Town has consulted both in person and in writing with all department heads, including the Town Justices, regarding the requirement found with our Employee Handbook that all time records are signed by department heads prior to payroll being processed.
3. While the oversight of the part-time court clerk falls solely on the Town Justices, the Town Supervisor has met with the Town Justices and requested that they define and communicate a set work schedule for the part-time court clerk position. They have also been asked to establish a set procedure for monitoring hours actually worked. As noted in 2) above, the Justices have been advised that payroll time records must be signed prior to processing payroll, without exception.

We would like to thank the Comptroller's Office for their assistance and recommendations.

On behalf of the Town Board,

David M. Storandt, Jr.
Town Supervisor

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Appendix B: OSC Comment on the Town's Response

Note 1

Our audit objective was focused on the Court Clerk's reported work hours. We did not audit other Court operations. Therefore, the audit report draws no conclusions on any operational areas that were outside the scope of the audit.

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 Town officials and Court personnel to determine whether policies and procedures were in place over time and attendance.
- We reviewed all 77 time sheets completed by the Clerk during our audit period to determine whether they were reviewed and approved by a direct supervisor.
- We obtained the Clerk's time records from the Town, Town of Alexandria and Village of Alexandria Bay and compared them to each other from April 3, 2014 through March 16, 2017. We determined whether hours reported on any municipality's record coincided with hours reported on any of the other municipalities' records and whether ending and starting times between shifts at different municipalities allowed for travel time between the two locations.
- We compared the hours reported on the Clerk's Town and Town of Alexandria time sheets to computer activity logs to identify hours reported that had no corresponding computer activity.

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#lmgm

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

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