

Town of Fort Covington

Justice Court Operations

JANUARY 2019



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
 - Collections Were Not Recorded Accurately and Deposits Were Not Timely 2
 - Bank Reconciliations and Accountabilities Were Not Performed 3
 - Bail Reports Were Inaccurate 5
 - The Board Did Not Perform an Annual Audit of Court Records 5
 - What Do We Recommend? 6

- Appendix A – Response From Town Officials 7**

- Appendix B – Audit Methodology and Standards 8**

- Appendix C – Resources and Services 9**

Report Highlights

Town of Fort Covington

Audit Objective

Determine whether the Town Justices collected, recorded and reported all fines, fees and bail accurately and made bank deposits timely and intact.

Key Findings

- Justice Wilbanks made 83 percent of bank deposits from three to 67 days late.
- The Justices' cash balances exceeded known liabilities by a combined total of \$4,728 as of April 30, 2018
- The Justices did not maintain accurate outstanding bail reports.

Key Recommendations

- Ensure deposits are made within 72 hours of collection.
- Prepare monthly bank reconciliations and accountabilities. Investigate any difference.
- Reconcile bail reports to bail on deposit.

Town officials generally agreed with our recommendations and have initiated, or indicated they planned to initiate corrective action.

Background

The Town of Fort Covington (Town) is located in Franklin County. The Town is governed by the Town Board (Board), which is composed of the Town Supervisor and four elected Board members. The Board is responsible for the general oversight of Town operations, including the Justice Court (Court) financial activities.

Two Justices, Leroux and Wilbanks, adjudicate legal matters within the Court's jurisdiction, such as vehicle and traffic, criminal, civil and small claims cases. A part-time Court clerk (clerk) assists the Justices with processing cases and their related financial transactions.

Quick Facts

Justice Court Collections Recorded	376
Court Revenues Reported to Justice Court Fund	\$43,397

Audit Period

January 1, 2017 – April 30, 2018

Justice Court Operations

The Justices collect payments, issue receipts, make deposits and prepare disbursements. The clerk posts collections into the computer system and prepares monthly reports to the Office of the State Comptroller's Justice Court Fund (JCF).

How Should Justices Account for Court Funds?

Justices are responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the Court. Justices should issue press-numbered receipts in consecutive order and indicate the form of payment (i.e., cash or check) to acknowledge the collection of money paid to the Court. Proper receipts serve as evidence of individual collections and help ensure accounting records are complete and accurate. All funds should be deposited intact (i.e., in the same amount and form as collected) and are required to be deposited as soon as possible, but no later than 72 hours from the date of collection, exclusive of Sundays and holidays.

Each month, Court personnel should compare cash on hand and on deposit in the bank (per monthly bank statements) to their accounting records, including outstanding bail and amounts due to the JCF. Each Justice's account should reconcile to any outstanding checks, held bail and fines received but not yet remitted to the JCF. Bank reconciliations and accountability analyses are critical procedures to determine the status of money held by the Court and to enable the Justices to check for and correct errors or identify cash shortages.

Adequate records should be maintained to document the date of receipt, the payee and the related case information for bail collected from defendants to ensure their appearance in Court to answer charges. Justices are required to submit monthly reports detailing all fines, fees, surcharges and forfeited bail to the JCF by the tenth day of the succeeding month.

The Board is responsible for providing adequate oversight by auditing the Justices' records and dockets to ensure fines and fees have been collected and turned over to the proper parties as required by law. The Board can conduct the audit or contract with an independent auditor to perform the audit. The Board is also responsible for documenting the audit results in its minutes.

Collections Were Not Recorded Accurately and Deposits Were Not Timely

We compared all 376 Court receipts issued during our audit period, totaling \$43,397,¹ to bank records and monthly reports to determine if collections were accurately recorded and deposited timely and intact. The Justices did not

¹ Justice Leroux and Justice Wilbanks prepared 179 receipts totaling \$15,720 and 197 receipts totaling \$27,677 respectively.

consistently identify whether collections and corresponding deposits were in the form of checks or cash. Fines collected were recorded in the accounting system by the clerk from issued press-numbered receipts. However, for the 16 months covered by our audit period, Justice Wilbanks monthly cash reports did not agree with bank deposits in any of the months and Justice Leroux's did not agree for two of the months. As a result, we requested bank compositions for both Justices Leroux and Wilbanks, in order to verify recorded collections were deposited to the Justices' bank accounts.

We were able to trace each of the 376 duplicate receipts to the bank records and monthly reports and determine all collections were accounted for. However, Justice Wilbanks frequently did not deposit collections timely or in an organized manner. We found that Justice Wilbanks:

- Made 44 of 53 deposits (83 percent) after the 72-hour limit, ranging from three days to 67 days after the required period for depositing collections. For example, collections totaling \$553 received on January 10, 2017 were not deposited until March 21, 2017, or 67 days past the 72 hour requirement.
- Submitted eight incorrect monthly reports to the JCF. For example, monthly collections reported for March 2017 totaled \$1,911. However, we determined the actual collections were \$1,718.

Because Justice Wilbanks maintained bail in the same bank account as collected fines, she was able to satisfy her monthly liability to the JCF even though she had not yet deposited all the fines collected. Justice Wilbanks was aware of the 72 hour requirement, but did not provide us with a reason for not making timely deposits.

We also reviewed bank composition and records for Justice Leroux and determined he made all 51 deposits timely and intact. However, he submitted four incorrect monthly reports containing four separate duplicate payments totaling \$566. These errors were a result of collections being deposited and reported, but not recorded in the accounting records until subsequent months when they were reported a second time.

By not depositing Court collections within the prescribed time limit, and not recording them as received, there is an increased risk that errors could occur without detection or money could be lost or stolen.

Bank Reconciliations and Accountabilities Were Not Performed

Each Justice maintained one bank account for fines, fees and bail. Neither Justice performed bank reconciliations or prepared monthly accountabilities to ensure that all collections were accurately accounted for and discrepancies could be promptly identified.

We prepared accountabilities for both Justices' accounts as of April 30, 2018 and found that both had cash balances that exceeded their liabilities. In doing so, we determined the correct bail account balances for each Justice (Leroux \$2,771 and Wilbanks \$610). As of April 30, 2018, cash on hand exceeded the known liabilities substantiated by Court records by \$4,728.

Figure 1: Justice Leroux's Fine, Fee and Bail Account-Accountability Analysis As of April 30, 2018

Court Assets	
Adjusted Bank Balance	\$5,828
Due From JCF (Overpayment)	\$566
Total Assets	\$6,394
Court Liabilities	
Fines and Fees Due JCF for April 2018	\$2,181
Bail	\$2,771
Total Known Liabilities	\$4,952
Difference	\$1,442

Figure 2: Justice Wilbanks' Fine, Fee and Bail Account-Accountability Analysis As of April 30, 2018

Court Assets	
Adjusted Bank Balance	\$4,715
Total Assets	\$4,715
Court Liabilities	
Fines and Fees Due JCF for April 2018	\$819
Bail	\$610
Total Known Liabilities	\$1,429
Difference	\$3,286

The Justices could not provide an explanation for the variances. Because the Court records were not properly maintained and monthly accountabilities were not completed, Court officials were unable to determine the composition of the unidentified balances.

When bank reconciliations and accountabilities are not prepared, there is a risk that unidentified funds can remain on deposit and that errors or irregularities can occur and remain undetected.

Bail Reports Were Inaccurate

We calculated the Justices' bail balances as of January 1, 2017 and reviewed all bail transactions during our audit period. We reviewed the manual bail ledger maintained at the Franklin County Sheriff's Civil Office to determine the bail received and submitted to each Justice. We also obtained and reviewed duplicate receipts to calculate bail received by each Justice and reviewed cancelled check images to identify the amount of bail returned. Based on our review of the records available, the correct April 30, 2018 bail balances for Justice Leroux totaled \$2,771² and Justice Wilbanks totaled \$610.

The Justices did not establish a separate bail account or maintain a current and complete list of bail held. We reviewed reports of outstanding bail produced by the Court's accounting system as of April 30, 2018 and we found that Justice Wilbanks bail report totaled \$41,000, which exceeded her actual bail liability of \$610 by \$40,390. Justice Leroux's bail report totaled \$1,500 as of April 30, 2018. However, his actual bail liability balance as of April 30, 2008 was \$2,771. Both Justice's confirmed their reports were inaccurate and neither could reconcile their balances with financial records.

We determined the cause of the inaccurate balances in the accounting records was the result of the Justices not ensuring the bail was accurately recorded by the clerk in the computerized system when it was received and also not recording disbursements from the bail account when bail was returned to defendants. Justice Leroux retained bail documentation from the Franklin County Sherriff Civil Office but did not maintain a running balance of bail received and disbursed. Justice Wilbanks also does not prepare a record of bail received and disbursed. The Justices did not generate and update bail reports or maintain supplemental records of current bail despite being aware of the incorrect bail balances.

Without accurate and completed bail records, the Justices cannot ensure that bail is properly accounted for and appropriately disbursed. Had bail activity reports been generated and updated or a supplemental record of bail been maintained, the Justices could have detected and been able to correct these errors as they occurred.

The Board Did Not Perform an Annual Audit of Court Records

The Board did not annually audit the Justices' books and records as required. Because a portion of the Justice Court collections becomes a revenue for the Town, it is important for the Board to ensure that Court financial records are accurate and that monthly reports are complete and timely. We reviewed the Board meeting minutes and year end documents and did not identify any

² Justice Leroux's bail balance included bail fees (poundage) retained and not reported to JCF.

indication the annual audit was performed for the 2017 fiscal year. We discussed this with the Supervisor who verified that the Board did not conduct an audit of the Justices' records. The Board did conduct the annual review of the Justices' records for the 2016 fiscal year. However, the examination of the records was inadequate as it did not include the Justices' bank statements, cancelled check images, duplicate receipt books or dockets.

Because the Board failed to perform an audit of the Justices' records for 2017 and it conducted an inadequate audit for 2016, its ability to effectively monitor financial operations of the Court was diminished. Had the Board adequately audited the Justices' records, it could have identified deficiencies in the Court's records and procedures and brought them to the Justices' attention for corrective action.

What Do We Recommend?

The Justices should:

1. Determine the source of unidentified cash balances on hand and report it to the JCF.
2. Ensure that monthly reports are accurate.
3. Make bank deposits within 72 hours after collection and ensure they are intact.
4. Ensure bank reconciliations are prepared monthly for each account.
5. Perform monthly accountabilities of all Court accounting records, including the reconciliation of cash assets and known liabilities, and promptly investigate and resolve any discrepancies.
6. Correct bail reports to agree with actual bail liabilities.
7. Regularly generate bail activity reports and reconcile the reports to supporting documentation to ensure that bail records are accurate and complete.

The Board should:

8. Audit the Court's books and records at least annually or retain an independent public accountant to perform the audit and document the results in the minutes.

Appendix A: Response From Town Officials

**Town of Fort Covington
2510 Chateaugay Street
Fort Covington, New York 12937
518-358-4629 / 518-358-2121**

**Supervisor
Patricia Manchester**

**Highway Superintendent
Lynden Greene**

**Town Clerk
Christine Benway**

**Assessor
Pamela Sloate**

January 3, 2019

██████████
Principal Examiner
NYS Office of State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801

Dear ██████████

This letter is the Town of Fort Covington's response to your preliminary draft findings and recommendations of our recent audit of our Justice Court.

The Town agrees with and does not dispute any of the "Key Findings"

We appreciate your office identifying areas where the Town can improve and maintain accurate accounting for collecting, recording and reporting fines, fees and bail funds.

We agree with each of the "Key Recommendations".

The Town has begun corrective action. The Town is setting-up, with the Town's current Bookkeeper a monthly report which will include a month end bank reconciliation, including bail for each Justice. These reports will be audited monthly by the Town Board at the regular scheduled monthly board meeting.

Sincerely,

Patricia Manchester Supervisor

**Town Council
John Cushman
David Russell
John Bashaw
Stacey Ellsworth**

**Tax Collector
Karen Stowell**

**Town Justice
Cheryle Wilbanks
Tony Leroux**

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed the clerk and Justices and reviewed financial reports to gain an understating of the Court's financial operations.
- We reviewed collections of fines and fees and bail from January 1, 2017 through April 30, 2018 to determine whether collections were properly recorded and deposited intact and in a timely manner.
- We traced a total of 376 duplicate receipts totaling \$43,397 from both justices to determine if collections were properly recorded and deposits were made timely and intact.
- We prepared monthly accountabilities for each justice for the period January 1, 2017 through April 30, 2018 to determine whether cash on hand agreed with known liabilities.
- We obtained and reviewed financial records related to the receipt and return of bail and calculated the bail balance as of January 1, 2017.
- We interviewed Town officials and reviewed the Board meeting minutes and year end documents to determine if an annual audit of the Court was performed for the 2017 fiscal year.

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 C: 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

Contact

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

Local Government and School Accountability Help Line: (866) 321-8503

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