



Village of Attica Justice Court

Report of Examination

Period Covered:

January 1, 2012 — December 20, 2013

2014M-30



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

May 2014

Dear Village 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 Village 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 Village of Attica, 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 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 Village of Attica is located in Wyoming and Genesee Counties, has a population of approximately 2,500 and encompasses almost two square miles. The Village is governed by an elected Village Board (Board) comprised of four trustees and a Mayor. The Board is responsible for the general management and control of Village finances and is responsible for overseeing financial activities, including those of the Justice Court (Court).

The Village's elected Justice presides over Court operations. The Justice is responsible for adjudicating legal matters and properly accounting for all moneys collected and disbursed by the Court. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the preceding month's financial activities.

During our audit period, there was a change of Justices and Court clerks. The former Justice resigned effective December 31, 2012, at which point the acting Justice assumed responsibility for pending cases. A newly elected Justice began presiding over Court operations in May 2013. Based on data reported to JCF, the Court collected revenue of approximately \$106,000, \$105,000, \$97,000 and \$66,000 in the 2009 through 2012 calendar years, respectively. For the 2013 calendar year, revenue was trending upward as the current Justice and Court clerk were addressing pending cases. In the first ten months of 2013 the Court collected \$65,000, with \$22,000 reported as collected in September and October.

Objective

The objective of our audit was to review the processes and procedures for the Justice Court's financial operations. Our audit addressed the following related question:

- Did the Court accurately and completely collect, record, deposit and report moneys in a timely manner?

Scope and Methodology

We examined the Justice Court's records and reports for the period of January 1, 2012 through December 20, 2013. Information was obtained from prior years when necessary to complete our audit objective.

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 is included in Appendix B of this report.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials agreed with the findings and recommendations and indicated that they have taken, and plan to 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 Village Clerk's office.

Justice Court

Justices are responsible for adjudicating cases brought before them and for the accounting and reporting of all related Court financial activities. The New York Codes, Rules and Regulations require the Justices to maintain complete, accurate and timely accounting records; reconcile bank accounts with recorded cash activity; maintain separate bank accounts; deposit moneys in a timely manner; and report Court activity to the JCF accurately and timely. For each case brought before the Court, the Justices must maintain a separate case file and unique index number, as well as a cash book that chronologically itemizes all receipts and disbursements. Such records must include all relevant case information, including the date of appearance, fees and fines imposed and amount collected. All moneys received by the Justices must be deposited within 72 hours of the date of receipt. State Finance Law requires the Justices to forward all fines, penalties and forfeitures received to the JCF.

The Justices did not properly account for all court fines, fees and surcharges. We also found that pending cases and payments due were not followed up in a timely manner. In addition, we traced one month¹ of cash receipts to bank deposits and the monthly report to JCF for the former Justice and the current Justice. We found that the former Justice generally made deposits intact but not always timely. For example, fines and bail received on January 6, January 9, and January 13, 2012 totaling \$3,470 were not deposited until January 17, which was not within 72 hours as required by the regulations. We found that the current Justice generally made timely and intact deposits. For both Justices, the amounts collected during the two months we reviewed were reported to JCF correctly. We also found that all monthly reports we reviewed² were submitted to the JCF in a timely manner.

Because we found no evidence that the former Justice³ had prepared adequate bank reconciliations or monthly accountabilities to verify the status of moneys held by the Court, we prepared accountabilities for the former Justice. We also prepared an accountability for the current Justice. While we did not find discrepancies in the current Justice's records, the former Justice's accounts had what appeared to be \$718 in unaccounted for money. However, the current Justice subsequently determined that \$1,000 in bail for a case handled by the

¹ The test month was January 2010 for the former Justice and October 2013 for the current Justice.

² We reviewed all reports submitted in 2012 by the former Justice and the May through October reports in 2013 by the current Justice.

³ The current Justice prepared monthly bank reconciliations and accountabilities.

former Justice was not on deposit. As such, the former Justice actually had a shortage of \$282. The former Justice remitted a personal check to resolve the shortage. Had a monthly accountability been properly prepared in a timely manner, this discrepancy likely would have been detected.

The Justices also did not systematically monitor amounts due, enforce payment and resolve the related cases. The Court's computer system has the ability to generate a balance due report; however, no such reports were generated. During our fieldwork we reviewed the partial payment report from the system and found that 142 cases had a total balance due of \$17,000. We selected 20 cases from the report for review and identified numerous problems. For example, four cases indicated there were bench warrants issued. However, our review of the case files noted that two of the bench warrants were not signed by a Justice. We contacted the Village Police Department and confirmed that those two bench warrants were not received. The two bench warrants were intended to be served in 2003 and 2010. The total due for the related cases was \$995.

The Justices did not routinely scofflaw cases 60 days after payment was not received and did not actively track pending cases to determine what possible actions the Court could take to resolve those cases. A pending cases report was never generated from the system. When we requested the pending cases report, we found that it listed 1,922 pending cases,⁴ some of which date back to 1992. We analyzed 950 cases from the report and found that the Court's computer system indicated that 257 of those cases were actually disposed.

To identify the possible causes for the Court's revenue fluctuations, we obtained additional information from the Village's Police Department. Each month the Police Department receives a cases disposed report from the New York State Department of Motor Vehicles (DMV) and uses that information in addition to its records of traffic tickets issued to track the status of cases. From January 2010 through December 2013 the Police Department issued more than 3,000 traffic tickets. However, approximately 1,200 cases were still open (40 percent) as of November 2013. We also found a significant decrease in the number of tickets issued in 2012 and 2013. From 2011 to 2012 the number of tickets issued decreased by approximately 160 (20 percent) and from 2012 to 2013 the number of tickets issued decreased by approximately 40 more.

The Justice has not established adequate processes and procedures. In addition, the Justice has not used the Handbook for Town and Village

⁴ Some of the 142 cases with a balance due (noted previously) are included in the 1,922 pending cases.

Justices and Court Clerks⁵ promulgated by this Office as a reference source. The Court clerk performs the majority of the Court's financial duties with limited oversight, including receiving payments, preparing and making bank deposits, entering financial and other information into the computer system, preparing and filing the monthly JCF report, and maintaining case files. There was no evidence that the Justice provided adequate oversight of the Court clerk's work to help mitigate the risk associated with her performing virtually all of the financial duties. As a result, the Court has an increased risk that recordkeeping errors may occur and remain undetected and uncorrected. Although our testing of the current Justice's records did not identify significant issues, controls and accountability could be improved if the Justice took a more active role in overseeing the Court clerk's work.

We discussed other minor deficiencies and exceptions found during our testing with Court officials during the conduct of our fieldwork.

Recommendations

1. The Justice and Court clerk should enhance their understanding of the Court's computer accounting system and consider attending training if available.
2. The Justice should provide adequate oversight of the Court clerk's financial duties.
3. The Justice should scofflaw pending cases regularly. The Justice should generate and review balance due and pending cases reports to resolve outstanding issues, as well as take action to resolve old cases.

⁵ <http://www.osc.state.ny.us/localgov/pubs/jch.pdf>

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

Village Of Attica

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Officers: Douglas A. Post Administrator/Clerk Treasurer, Julie A. Cook Deputy Clerk
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April 22, 2014

Mr. Robert E. Meller, Chief Examiner
Office of the State Comptroller
Division of Local Government
295 Main Street Suite 1032
Buffalo, New York 14203-2510

Re: Justice Court Report of Examination 2014M-30

The Village of Attica has reviewed the examination presented to us by [REDACTED] on April 7, 2014 and we offer the following response and action plan:

First, we would like to thank the Office of the State Comptroller for their thorough audit of our court. Prior to the State audit some of the issues identified in your audit were brought to light in an independent audit which the Village had done. Using the information we have learned from these audits we feel our court operation will work to uphold their fiscal and procedural responsibility moving forward.

Pending cases

Of the 1,922 pending cases dating back to 1992, most were simply incorrectly reported in the Court's computer system. Of the remaining pending cases we are addressing them while still keeping up with all current activity. Moving forward the court will follow up on pending cases on a timely manner.

Timely deposits

Our court staff will work to ensure that all deposits are made on a timely basis as described in the audit.

Justice oversight

Our current Justice will provide oversight on the court clerk's financial duties. The Justice will review the computer generated monthly reports and review the reconciled monthly bank activity.

Resource material

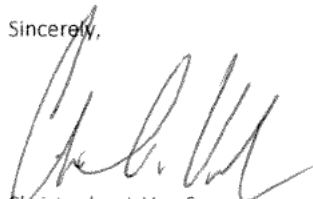
Our court staff will review the "Handbook for Town and Village Justices and Court Clerks", if they feel they need further instruction or clarification they will attend the training offered by the Office of the State Comptroller.

Understanding of the computerized program

The Court Staff will work towards understanding the scope of what the New York State provided software programs can accomplish. If training for this is necessary they will contact the appropriate personnel for assistance.

We agree with all finding that the auditor has discovered and we have already begun to implement the recommendations. It is the Village Board's intention to give our Court staff all the necessary tools they need going forward to maintain proper procedures.

Sincerely,



Christopher L Van Son
Mayor, Village of Attica

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to review Court operations and assess whether moneys were properly collected, recorded, deposited and reported for the period January 1, 2012 through December 20, 2013. We obtained information directly from the Court's computerized financial database back-up file and analyzed it electronically using computer-assisted techniques. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed appropriate Village officials and employees.
- We examined financial and other records relating to the collection and subsequent disposition of fines and bail. These records included bank statements, monthly reports to JCF, case files and cash receipt and disbursement records.
- We compared receipts with bank deposits and the monthly reports.
- We reviewed monthly reports submitted to JCF to determine whether they were reported timely.
- We prepared bank reconciliations and accountabilities for the former Justice and the current Justice.
- We used computer-assisted data analysis to compare the Court's electronic records during our audit period to data that we obtained from the DMV and JCF. We then judgmentally selected nine cases from the results of the computer-assisted data analysis for further review.
- We examined 20 cases from the balance due report.
- We analyzed 950 cases from the pending cases report.
- We reviewed the Village Police Department's ticket issuance and case disposition status records.

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.

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