



**Audit Report on the
Onondaga County Sheriff's Office
Criminal Court Bail & Family Court Bail Accounts
Poundage & Unclaimed Funds**

January 23, 2024

By Onondaga County Comptroller Martin D. Masterpole

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SECTION I

BACKGROUND & EXECUTIVE SUMMARY

Background

In early 2023, the newly elected Sheriff of Onondaga County requested that the Onondaga County Comptroller’s Office review the operations of the Sheriff’s Office (Sheriff’s) as related to the oversight of a multitude of bank accounts under their control. The objective of the review being sought would be to confirm that existing policies and procedures for the oversight of the accounts were sound or, if they’re not, to explore areas where the Sheriff’s Office might need to design and implement improved policies and procedures.

This report is the second in a series of audits to be performed on the trust & agency, grant, and cash accounts under the control of the Onondaga County Sheriff’s Office. This audit focuses on the procedures related to unclaimed bail funds (Abandoned Bail) and poundage fees (Poundage) associated with two bail-related trust & agency accounts—the Criminal Court Bail Account and the Family Court Bail Account.

In 2016, the Comptroller’s Office performed a similar review of the trust & agency accounts and various cash accounts under the control of the Onondaga County Sheriff’s Office.

This report focuses on the poundage and unclaimed funds processes within the Sheriff’s Bail Office. The Bail Office is under the direction of the Sheriff’s Custody Department, which is responsible for processing both Criminal and Family Court bail. All bail operations and transactions take place in the Bail Office at the Justice Center. The account reconciliations and end-of-month records retention are completed by the Civil Department, located at the Sheriff’s Office.

Bail poundage is a 3% fee collected by the County, from the posted bail, for all Criminal Court Bail and Family Court cases. When a defendant presents a plea or is found guilty, the bail can then be returned to the person who posted bail (bailer) minus the poundage fee. If a defendant is found not guilty by the court, poundage is not collected and the bailer receives the entire bail amount plus interest, if applicable. Per NYS Finance Law Section § 182, “Deposit and Investment of Money Paid into Court”, Criminal Court bail must be deposited into an interest bearing bank account, so that each bail deposit will earn its respective share of interest, which will be returned to the bailer at the close of the defendant’s court case. Family court bail is deposited into a separate non-interest-bearing account.

Bail funds are sometimes not claimed by the bailer. This can be due to a number of reasons, such as the bailer being unaware that the bail funds were exonerated since the courts do not notify the bailer. Bail funds are considered abandoned if they have not been claimed after “the later of either three years from receipt by the County Treasurer or the year in which the bail funds are

exonerated”. Under New York State’s Abandoned Property Law, organizations that are holding unclaimed property or funds are required by law to report abandoned property to the New York State Comptroller’s Office of Unclaimed Funds (OUF) once these accounts have reached the specified dormancy threshold.

Source: <https://www.osc.state.ny.us/files/unclaimed-funds/reporters/pdf/handbook.pdf>

Executive Summary

During our audit of the unclaimed funds and poundage procedures, the following issues came to our attention:

We noted the following internal control and compliance weaknesses:

- a. Inadequacies in documentation provided for poundage compliance
- b. Non-compliance with NYS Records Retention and Disposition Schedule LGS-1 Section 561 CO2 853
- c. Misinterpretations of guidelines for the unclaimed funds process
- d. Lack of documentation to support due diligence attempts to return unclaimed funds
- e. Non-compliance with the Abandoned Property Law’s established procedures and their respective deadlines, as set forth by the New York State Comptroller’s Office, regarding unclaimed funds

Our recommendations include the following:

- We recommend the Bail Cashier make certain to obtain clear and concise documentation to support the collection of poundage before it is remitted to the County. We also recommend the Sheriff’s administration meet with, and have an open line of communication with, the court magistrates as to the precise information needed to properly document and support the collection of poundage, as well as the returning of bail funds.
- We recommend the Sheriff’s administration review and implement necessary procedures to be compliant with New York State’s Records Retention and Disposition Schedule LGS-1 Section 561 CO2 853, “Cash bail records”.
- We recommend the Sheriff’s Office’s assigned management and staff review the Handbook for Reporters of Unclaimed Funds from the NYS Comptroller’s Office of Unclaimed Funds, April 2023, to ensure compliance with the Abandoned Property Law, Article VI.
- We recommend the Bail Cashier perform due diligence prior to beginning the unclaimed funds process and require a properly executed Bail Exoneration Form before releasing bail.
- We recommend the Sheriff’s Office’s assigned management personnel exercise more oversight of the unclaimed funds, bail poundage, and refund processes.

SECTION II

SCOPE AND METHODOLOGY

Time Period Covered: January 1, 2022 – July 31, 2023

Scope and Objectives:

The purpose of this report is to provide information and recommendations to the Sheriff's Office management on internal controls, processes and procedures for poundage and unclaimed funds related to Criminal Court Bail and Family Court Bail.

Our objectives were to:

- Review the Sheriff's Office policies and procedures related to the above areas
- Review bail processing transactions and related trust & agency account practices
- Provide the Sheriff's Office administration with information and recommendations related to bail processes and procedures to improve internal controls, effectiveness, and efficiency

Methodology:

In order to complete our objectives we:

- Reviewed relevant County and Sheriff's Office policies and procedures to determine the expectations for Criminal and Family Court bail practices
- Interviewed Sheriff's Office staff responsible for the above areas to determine specific practices for these areas
- Summarized current practices for the above areas
- Tested a sample of transactions and processes relating to these areas
- Analyzed and compared required and best practices to current conditions and developed draft recommendations
- Discussed draft recommendations with Sheriff's Office management for their input and practicality evaluation
- Finalized recommendations and included them in this report

SECTION III FINDINGS & RECOMMENDATIONS

During the course of the audit, we noted:

Poundage

Per NYCourts.gov, “Bail is the money or other security given to the court in exchange for releasing a defendant from jail and the defendant’s promise to [return] for their next court date. Bail is returned after the case is over.” <https://www.nycourts.gov/courthelp/criminal/bail.shtml>

When a Criminal or Family Court case is resolved, bail money can be released (returned) to the bailer. If the final disposition is favorable to the defendant, such as an acquittal or dismissal of charges, the entire amount of bail posted will be returned to the bailer. However, if the final disposition results in a conviction or guilty plea, 3% bail poundage will be retained by the court and paid to Onondaga County. The remaining bail money, plus interest, will be returned to the bailer.

According to General Municipal Law 99-m, “Upon a termination of the criminal action or proceeding in favor of the accused, as defined in subdivision two of section 160.50 of the Criminal Procedure Law, the one [and] two per centum fee so retained shall, by order of the appropriate court, be refunded to the person who originally deposited such money.”

1. In 1 of 7 cases tested, we noted there was inadequate documentation provided to determine the outcome of the case and if in fact poundage should have been remitted to the County. We also noted from the information provided, in the form of emails or Bail Exoneration Letters from the various courts, it isn’t always easily determined if in fact the 3% poundage should be deducted from bails, as they don’t always indicate the status of the court’s decision relating to the defendant’s guilt or innocence, or disposition of the case.

A. **Recommendation:**

We recommend the Bail Cashier be certain to obtain clear and concise documentation to support the collection of poundage before it is remitted to the County. We also recommend the Sheriff’s administration meet with, and have an open line of communication with, the court magistrates as to the precise information needed to properly document and support the collection of poundage and the returning of bail funds. This could be a simple matter of devising and completing a standard form (or using the NYS form shown in Exhibit A) the courts could utilize to document the case outcome and support the poundage collected and amount returned.

2. In 1 of 7 cases tested, we noted the Sheriff's Office was not fully in compliance with New York State's Records Retention and Disposition Schedule LGS-1 section 561 CO2 853, "Cash bail records: (a.) Cash bail records, including copy of court order fixing bail, form recording information on principal involved and person posting bail, voucher, receipt and court order directing refunding or forfeiting bail or transferring bail to superior court", has a retention period of 6 years. The Bail Cashier was unable to provide any backup to support the 3% poundage collected.

B. Recommendation:

We recommend the Sheriff's administration review and implement necessary procedures to be compliant with New York State's records retention policy.

Unclaimed Funds

Pursuant to the NYS Office of the State Comptroller's Handbook for Reporters of Unclaimed Funds, once bail money paid to the courts has been exonerated and has been dormant for a 3 year period it can be considered as abandoned. Abandonment commences on either the later of three years from receipt by the County Treasurer or the year in which the bail funds are exonerated. If the County Treasurer has notice that the bail funds have not been exonerated, these funds are not considered as abandoned. It is the responsibility of the Sheriff's Office to perform their due diligence and have the knowledge of the case proceedings to determine when the bail has been exonerated and a return of funds can be processed. The Bail Cashier and Administrative Assistant are responsible for determining when bail is considered dormant for a 3-year period and initiating the required steps outlined below to return the funds to the bailer or to the New York State Comptroller's Office if funds are not claimed.

- **January 1st** – This is the cut-off date for funds that have become dormant in the year prior to this date; they should be included in the report to the New York State Comptroller's Office.
- **January 10th** – A first-class mailing must be sent to each owner who will be included in the report by this date.
- **February 1st** – A notice of unclaimed funds must be published in a newspaper, including names and last known addresses of all persons or entities appearing to be entitled to unclaimed funds amounting to \$50 or more.
- **February 10th** – A second attempt notice must be sent by certified mail, return receipt requested, to each bailer whose name is expected to appear on the report, with abandoned property valued in excess of \$1,000.
- **April 10th** – Due date for Final Report, Verification and Checklist, and remittance to be received by the New York State Comptroller's Office

Pursuant to the NYS Office of Unclaimed Funds Handbook, Article VI, “it is the date of receipt of such funds by a County Treasurer or the Commissioner of Finance which commences the three-year dormancy period. Communications regarding the funds, or additional deposits to the account holding the funds, does not extend the dormancy period”.

3. We noted, based on conversations and correspondence, the Bail Cashier appears to be unfamiliar with the guidelines of Unclaimed Funds. As indicated to us, their interpretation is, bail funds are “considered abandoned when there has been no activity/contact on the case/bail for 3 years”. This is contrary to using the date of receipt of the bail funds as the starting point.

C. Recommendation:

We have provided the Sheriff’s administration and Bail Cashier with the NYS Office of Unclaimed Funds Handbook and recommend they modify any current practices to align with the required regulations. As addressed previously, the Sheriff’s Office should request clear and concise information from the courts before attempting to return bail monies to bailers or the State Comptroller’s Office.

D. Recommendation:

We recommend the Sheriff’s take a pro-active approach, perhaps in the form of an information packet on what items are needed from the bailer to retrieve these funds, in hopes of avoiding unclaimed bail funds.

We noted 6 of the 20 cases tested were in accordance with the Abandoned Property Law. The remaining 14 cases had compliance issues, most of which had more than one finding each, as noted below.

4. We noted in 1 instance of 20 cases tested, supporting documentation provided was not clear and concise to start the abandoned property process. Information provided indicated “suspended judgment”, which based on our understanding could last up to a year. There was no documentation provided indicating the defendant satisfied the judgment and bail was exonerated, yet a letter was mailed out to the bailer to come pick up the funds. A letter should only be mailed to a bailer after due diligence has been performed by the Sheriff’s Office to confirm that bail is exonerated. Furthermore, the money was not picked up by the bailer, nor was it reported to NYS Office of Unclaimed Funds, and is still being held by the Sheriff’s Office as of August 2023. We are unable to determine the results of the case due to limited information provided by the Sheriff’s Office.

E. Recommendation:

We recommend the Sheriff’s Office perform due diligence prior to beginning the Unclaimed Funds process and the Bail Cashier require a Bail Exoneration Form signed by a Judge before releasing bail, as per the Onondaga County Sheriff’s Office’s website.

5. We noted 4 cases had first-class mailings that were mailed past the deadline. These should have been completed by January 10th as the first due diligence attempt to contact the bailer.
 - 3 of the 4 were mailed on March 23, 2023 (72 days late)
 - 1 of the 4 was mailed on April 27, 2023 (107 days late)
 - The final report due on April 10, 2023 to the State Comptroller was never submitted, as noted in the previous finding.
6. We noted in 11 out of 20 cases tested, a notice should have been published in a local newspaper, in accordance with the Abandoned Property Law, and were not. We were informed this step is no longer being performed by the Sheriff's Office.
7. We noted in 1 out of 20 cases tested, where the second attempt at due diligence via certified mail was completed, but past the due date of February 10, 2023 (77 days late).

F. Recommendation:

We recommend the Sheriff's administration become familiar with the regulations and implement procedures to ensure these deadlines, as set forth by Section 1422 of the Abandoned Property Law, are met.

8. We noted in cases where bail money became dormant in 2023, in 2 out of 20 cases tested, the Sheriff's Office is still holding onto the money. Due diligence was performed by mailing a first-class letter to the bailer, but the process was not fully completed and was lacking a second attempt (certified mailing). The bailer did not come to pick up the money, therefore it should have been turned over with the report to the NYS Office of Unclaimed Funds by April 10th of 2023. As previously mentioned, this report was never submitted.

G. Recommendation:

We recommend the Sheriff's Office review the Handbook for Reporters of Unclaimed Funds from the NYS Comptroller's Office of Unclaimed Funds, April 2023, to ensure compliance with the Abandoned Property Law, Article VI. We recommend annual follow up with the courts and bailers as to the status of bail funds and documenting all follow up actions to evidence this due diligence before submission to the NYS Comptroller's Office of Unclaimed Funds. We further recommend management review Article 540-NY Criminal Procedure Law pertaining to Forfeiture of Bail and Remission Thereof.

9. We noted in 1 of the 20 cases tested, the case was still pending and the bail had not been exonerated, as there was a warrant issued for the defendant, but a letter was mailed to the bailer stating the bail money was available for pickup. Since the case was still pending, a letter should not have been mailed.
10. We noted in 2 of the 20 cases tested, bail money was exonerated after a conditional discharge expired, however no due diligence attempts were made to contact the bailer, nor was the money turned over to the NYS Office of Unclaimed Funds.

H. Recommendation:

We recommend the Sheriff's Office implement more oversight of due diligence attempts and bail refund processes.

Other Findings:

11. We noted in 6 of 20 cases tested, Cash Bail Forms were not properly completed, thereby potentially invalidating the legality of the document.
 - 4 of the 6 lacked the date the next to the bailer's signature
 - 1 of the 6 lacked both the dates next to the bailer's and defendant's signatures, respectively
 - 1 of the 6 lacked the signature of the defendant, as well as both dates next to the signatures

I. Recommendation:

We recommend the Sheriff's administration ensure all legal documentation be filled out completely and accurately.

12. We noted in 1 of 20 cases tested, the Unclaimed Funds backup documentation for a Family Court case was attached with Criminal Court paperwork.

J. Recommendation:

We recommend the Sheriff's administration implement review procedures prior to the finalization and filing of any documentation and reports for propriety purposes.

SECTION IV EXHIBITS

Exhibit A:

EXC-79018-23/001 - UCS-541 - 09/05/2023

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STATE OF NEW YORK
COUNTY OF ONONDAGA

UCS-541 (rev. 11/21/19)
ONONDAGA COUNTY COURT

The People of the State of New York
vs.

Bail Exoneration Order

Docket Number:
CJTN:
NYSID:
Index Number:
DA Case Number:
EYO: N

On 08/29/2023, monetary bail was posted in the above-entitled criminal action as follows:

- \$ 250 Cash
- \$ _____ Credit Card or similar device
- \$ _____ Insurance Company Bail Bond
- \$ _____ Secured Appearance Bond
- \$ _____ Partially Secured Appearance Bond
- \$ _____ Unsecured Appearance Bond
- \$ _____ Secured Surety Bond
- \$ _____ Partially Secured Surety Bond
- \$ _____ Unsecured Surety Bond

AND, it is hereby; **ORDERED** that bail is:

- fully exonerated; or
- partially exonerated as follows:

- \$ 250 Cash
- \$ _____ Credit Card or similar device
- \$ _____ Insurance Company Bail Bond
- \$ _____ Secured Appearance Bond
- \$ _____ Partially Secured Appearance Bond
- \$ _____ Unsecured Appearance Bond
- \$ _____ Secured Surety Bond
- \$ _____ Partially Secured Surety Bond
- \$ _____ Unsecured Surety Bond

Check if applicable:

- less any statutory fee pursuant to General Municipal Law section 99-m;
- less \$ _____ toward payment of outstanding restitution, fines, fees or surcharges imposed [see attached bail assignment affidavit and/or stipulation];
- less \$ _____ toward payment of attorney fees [see attached bail assignment affidavit and/or stipulation];

AND bail shall be refunded as detailed above to the following surety (i.e., person who paid the bail):

Surety Name: _____

Surety Address: _____

Dated: 9/5/23

City Court Judge

NOTE: To get your bail back, you must have two government-issued photo IDs to prove your identity, and you must have your

SECTION V MANAGEMENT RESPONSE

Response to Audit Report on the Onondaga County Sheriff's Office Criminal Court Bail & Family Court Bail Accounts Poundage and Unclaimed Funds

January 5, 2024

First and foremost, I would like to thank the County Comptroller and their staff for their time and dedication to the audit. It is the goal of the Onondaga County Sheriff's Office to continuously evaluate and make improvements to financial systems to create safer and more efficient methods of handling financial accounts and transactions.

Executive Summary

The Onondaga County Sheriff's Office manages:

1. Poundage
2. Unclaimed Bail Funds

Identified issues include:

- a. Inadequacies in documentation provided for poundage compliance
- b. Non-compliance with NYS Records Retention and Disposition Schedule LGS-1 Section 561 CO2 853
- c. Misinterpretation of guidelines for unclaimed funds process
- d. Lack of documentation to support due diligence attempts to return unclaimed funds
- e. Non-compliance with Abandoned Property Law's established procedures and their respective deadlines, as set forth by the NYS Comptroller's Office, regarding unclaimed bail funds.

3. Our recommendations include the following:

We recommend the Bail Cashier make certain to obtain clear and concise documentation to support the collection of poundage before it is remitted to the County. We also recommend the Sheriff's administration meet with, and have an open line of communication with, the court magistrates as to the precise information needed to properly document and support the collection of poundage, as well as the returning of bail funds.

We recommend the Sheriff's administration review and implement necessary procedures to be compliant with New York State's Records Retention and Disposition Schedule LGS-1 Section 561 CO2 853, "Cash bail records".

We recommend the Sheriff's Office's assigned management and staff review the Handbook for Reporters of Unclaimed Funds from the NYS Comptroller's Office of Unclaimed Funds, April 2023, to ensure compliance with the Abandoned Property Law, Article VI.

We recommend the Bail Cashier perform due diligence prior to beginning the unclaimed funds process and require a properly executed Bail Exoneration Form before releasing bail.

We recommend the Sheriff's Office's assigned management personnel exercise more oversight of the unclaimed funds, bail poundage, and refund processes.

Response to Executive Summary:

Acknowledging the weaknesses in our current system, we are initiating changes to mitigate risks and ensure compliance. Proper training will be provided, emphasizing adherence to departmental policy thus improving internal controls effectiveness and efficiency.

Note: No financial losses or nefarious activities were detected. Deficiencies primarily involved policy adherence and timeliness.

Poundage:

Per NYCourts.gov, "Bail is the money or other security given to the court in exchange for releasing a defendant from jail and the defendant's promise to [return] for their next court date. Bail is returned after the case is over."

<https://www.nycourts.gov/courthelp/criminal/bail.shtml>

When a Criminal or Family Court case is resolved, bail money can be released (returned) to the bailer. If the final disposition is favorable to the defendant, such as an acquittal or dismissal of charges, the entire amount of bail posted will be returned to the bailer. However, if the final disposition results in a conviction or guilty plea, 3% bail poundage will be retained by the court and paid to Onondaga County. The remaining bail money, plus interest, will be returned to the bailer.

According to General Municipal Law 99-m, "Upon a termination of the criminal action or proceeding in favor of the accused, as defined in subdivision two of section 160.50 of the Criminal Procedure Law, the one [and] two per centum fee so retained shall, by order of the appropriate court, be refunded to the person who originally deposited such money."

1.

In 1 of 7 cases tested, we noted there was inadequate documentation provided to determine the outcome of the case and if in fact poundage should have been remitted to the County. We also noted from the information provided, in the form of emails or Bail Exoneration Letters from the various courts, it isn't always easily determined if in fact the 3% poundage should be deducted from bails, as they don't always indicate the status of the court's decision relating to the defendant's guilt or innocence, or disposition of the case.

A. Recommendation:

We recommend the Bail Cashier be certain to obtain clear and concise documentation to support the collection of poundage before it is remitted to the County. We also recommend the Sheriff's administration meet with, and have an open line of communication with, the court magistrates as to the precise information needed to properly document and support the collection of poundage and the returning of bail funds. This could be a simple matter of devising and completing a standard form (or using the NYS form shown in Exhibit A) the courts could utilize to document the case outcome and support the poundage collected and amount returned.

Response:

Acknowledged as a valid concern and will be addressed with the appropriate staff. Procedures and Policies will be reviewed and adhered to as best possible. Members of the OCSO Administration will attempt to meet with and create a method of communication with courts to obtain necessary information as it relates to this issue. A standardized notification process for local courts will be considered pending the agreement of all parties. Consideration will be given to use of the NYS form or an adapted version, attached to this report. Recommended action to be overseen by Chief Drapikowski.

2. In 1 of 7 cases tested, we noted the Sheriff's Office was not fully in compliance with New York State's Records Retention and Disposition Schedule LGS-1 section 561 CO2 853, "Cash bail records: (a.) Cash bail records, including copy of court order fixing bail, form recording information on principal involved and person posting bail, voucher, receipt and court order directing refunding or forfeiting bail or transferring bail to superior court", has a retention period of 6 years. The Bail Cashier was unable to provide any backup to support the 3% poundage collected.

B. Recommendation:

We recommend the Sheriff's administration review and implement necessary procedures to be compliant with New York State's records retention policy.

Response:

This recommendation will be implemented and presented in a policy that will be presented to the unit. The training and policy will present the requirements of NYS in a clear and logical manner to be followed by the Bail Cashier. If a subject refuses to provide information it should be documented that the subject "REFUSED". Recommended action to be taken by Chief Drapikowski.

Unclaimed Funds

Pursuant to the NYS Office of the State Comptroller's Handbook for Reporters of Unclaimed Funds, once bail money paid to the courts has been exonerated and has been dormant for a 3 year period it can be considered as abandoned. Abandonment commences on either the later of three years from receipt by the County Treasurer or the year in which the bail funds are exonerated. If the County Treasurer has notice that the bail funds have not been exonerated, these funds are not considered as abandoned. It is the responsibility of the Sheriff's Office to perform their due diligence and have the knowledge of the case proceedings to determine when the bail has been exonerated and a return of funds can be processed. The Bail Cashier and Administrative Assistant are responsible for determining when bail is considered dormant for a 3-year period and initiating the required steps outlined below to return the funds to the bailer or to the New York State Comptroller's Office if funds are not claimed.

- **January 1st** – This is the cut-off date for funds that have become dormant in the year prior to this date; they should be included in the report to the New York State Comptroller's Office.
- **January 10th** – A first-class mailing must be sent to each owner who will be included in the report by this date.
- **February 1st** – A notice of unclaimed funds must be published in a newspaper, including names and last known addresses of all persons or entities appearing to be entitled to unclaimed funds amounting to \$50 or more.
- **February 10th** – A second attempt notice must be sent by certified mail, return receipt requested, to each bailer whose name is expected to appear on the report, with abandoned property valued in excess of \$1,000.
- **April 10th** – Due date for Final Report, Verification and Checklist, and remittance to be received by the New York State Comptroller's Office

Pursuant to the NYS Office of Unclaimed Funds Handbook, Article VI, "it is the date of receipt of such funds by a County Treasurer or the Commissioner of Finance which commences the three-year dormancy period. Communications regarding the funds, or additional deposits to the account holding the funds, does not extend the dormancy period".

3. We noted, based on conversations and correspondence, the Bail Cashier appears to be unfamiliar with the guidelines of Unclaimed Funds. As indicated to us, their interpretation is, bail funds are "considered abandoned when there has been no activity/contact on the case/bail for 3 years". This is contrary to using the date of receipt of the bail funds as the starting point.

C. Recommendation:

We have provided the Sheriff's administration and Bail Cashier with the NYS Office of Unclaimed Funds Handbook and recommend they modify any current practices to align with the required regulations. As addressed previously, the Sheriff's Office should request clear and concise information from the courts before attempting to return bail monies to bailers or the State Comptroller's Office.

D. Recommendation:

We recommend the Sheriff's take a pro-active approach, perhaps in the form of an information packet on what items are needed from the bailer to retrieve these funds, in hopes of avoiding unclaimed bail funds.

Response:

We've obtained and are reviewing the NYS Office of Unclaimed Funds Handbook to ensure full compliance. We're committed to aligning our practices with the mandated guidelines. A discussion of producing an informational handout, checklist and information on the Sheriff's website are being explored for implementation.

We noted 6 of the 20 cases tested were in accordance with the Abandoned Property Law. The remaining 14 cases had compliance issues, most of which had more than one finding each, as noted below.

4. We noted in 1 instance of 20 cases tested, supporting documentation provided was not clear and concise to start the abandoned property process. Information provided indicated "suspended judgment", which based on our understanding could last up to a year. There was no documentation provided indicating the defendant satisfied the judgment and bail was exonerated, yet a letter was mailed out to the bailer to come pick up the funds. A letter should only be mailed to a bailer after due diligence has been performed by the Sheriff's Office to confirm that bail is exonerated. Furthermore, the money was not picked up by the bailer, nor was it reported to NYS Office of Unclaimed Funds, and is still being held by the Sheriff's Office as of August 2023. We are unable to determine the results of the case due to limited information provided by the Sheriff's Office.

E. Recommendation:

We recommend the Sheriff's Office perform due diligence prior to beginning the Unclaimed Funds process and the Bail Cashier require a Bail Exoneration Form signed by a Judge before releasing bail, as per the Onondaga County Sheriff's Office's website.

Response:

We're enhancing our due diligence process, implementing a requirement for a Bail Exoneration Form signed by a Judge before releasing bail. This ensures adherence to the prescribed protocol. This enhancement will depend on the court or judge agreement however this will be explored during meeting with the local magistrates to streamline the information flow.

5. We noted 4 cases had first-class mailings that were mailed past the deadline. These should have been completed by January 10th as the first due diligence attempt to contact the bailer.

- o 3 of the 4 were mailed on March 23, 2023 (72 days late)
- o 1 of the 4 was mailed on April 27, 2023 (107 days late)
- The final report due on April 10, 2023 to the State Comptroller was never submitted, as noted in the previous finding.

6. We noted in 11 out of 20 cases tested, a notice should have been published in a local newspaper, in accordance with the Abandoned Property Law, and were not. We were informed this step is no longer being performed by the Sheriff's Office.

7. We noted in 1 out of 20 cases tested, where the second attempt at due diligence via certified mail was completed, but past the due date of February 10, 2023 (77 days late).

F. Recommendation:

We recommend the Sheriff's administration become familiar with the regulations and implement procedures to ensure these deadlines, as set forth by Section 1422 of the Abandoned Property Law, are met.

Response:

We acknowledge the importance of complying with section 1422 of the Abandoned Property Law. We are actively reviewing our procedures to ensure adherence to the specified deadlines and regulatory requirements. OCSO will develop a policy involving Criminal Bail and Unclaimed Bail Funds.

8. We noted in cases where bail money became dormant in 2023, in 2 out of 20 cases tested, the Sheriff's Office is still holding onto the money. Due diligence was performed by mailing a first-class letter to the bailer, but the process was not fully completed and was lacking a second attempt (certified mailing). The bailer did not come to pick up the money, therefore it should have been turned over with the report to the NYS Office of Unclaimed Funds by April 10th of 2023. As previously mentioned, this report was never submitted.

G. Recommendation:

We recommend the Sheriff's Office review the Handbook for Reporters of Unclaimed Funds from the NYS Comptroller's Office of Unclaimed Funds, April 2023, to ensure compliance with the Abandoned Property Law, Article VI. We recommend annual follow up with the courts and bailers as to the status of bail funds and documenting all follow up actions to evidence this due diligence before submission to the NYS Comptroller's Office of Unclaimed Funds. We further recommend management review Article 540-NY Criminal Procedure Law pertaining to Forfeiture of Bail and Remission Thereof.

Response:

We're currently conducting a thorough review of the Handbook for Reporters of Unclaimed Funds from the NYS Comptroller's Office to align our practices with Article VI of the Abandoned Property Law. Moreover, we'll establish a system for follow-ups with the courts and bailers to ensure diligent handling and documentation of bail funds, in accordance with regulatory standards. Additionally, we'll review Article 540-NY Criminal Procedure Law for further insights into Forfeiture of Bail and Remission. This will be completed prior to the establishment of official policy to assure our policy meets best practices.

9. We noted in 1 of the 20 cases tested, the case was still pending and the bail had not been exonerated, as there was a warrant issued for the defendant, but a letter was mailed to the bailer stating the bail money was available for pickup. Since the case was still pending, a letter should not have been mailed.

10. We noted in 2 of the 20 cases tested, bail money was exonerated after a conditional discharge expired, however no due diligence attempts were made to contact the bailer, nor was the money turned over to the NYS Office of Unclaimed Funds.

H. Recommendation:

We recommend the Sheriff's Office implement more oversight of due diligence attempts and bail refund processes.

Response:

We're committed to implementing increased oversight measures to ensure thorough due diligence attempts and enhance our bail refund processes. This includes establishing stricter monitoring protocols to address any shortcomings and uphold compliance with regulations. Consideration will be given to increasing the number of employees assigned to this task but implementing supervision.

Other Findings:

11. We noted in 6 of 20 cases tested, Cash Bail Forms were not properly completed, thereby potentially invalidating the legality of the document.

- 4 of the 6 lacked the date the next to the bailer's signature
- 1 of the 6 lacked both the dates next to the bailer's and defendant's signatures, respectively
- 1 of the 6 lacked the signature of the defendant, as well as both dates next to the signatures

I. Recommendation:

We recommend the Sheriff's administration ensure all legal documentation be filled out completely and accurately.

Response:

An approval process will be developed for reviewing all documentation in this particular area. Recommended action by Chief Drapikowski.

12. We noted in 1 of 20 cases tested, the Unclaimed Funds backup documentation for a Family Court case was attached with Criminal Court paperwork.

J. Recommendation:

We recommend the Sheriff's administration implement review procedures prior to the finalization and filing of any documentation and reports for propriety purposes.

Response:

The above mentioned supervisory review of this paperwork will take place prior to finalization and filing of paperwork. This will allow an additional step to detect errors and implement corrective actions.