



**Report on the
Probation Restitution Trust and Agency Account
By Onondaga County Comptroller Matthew Beadnell
November 26, 2019**

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SECTION I

BACKGROUND AND EXECUTIVE SUMMARY

Background

Restitution is ordered by a court by issuing a “Restitution Order to be Docketed as a Money Judgment.” A court may make restitution part of the Special Conditions in the Order and Conditions of Probation and direct the probationer on the: total amount owed, frequency of installments, start date, and fully paid by date. These orders are filed in the County Clerk’s Office. A judge may decide not to require restitution as condition of probation. The Onondaga County Probation Department collects restitution on behalf of the victims as ordered by courts in Onondaga County.

According the Principal Probation officer, Onondaga County has 2,974 people on probation as of July 16, 2019. Probationers’ restitution payments for 2018 totaled \$424,810 per the Deposited Payments Report received from Financial Operations.

Prior to 2014, the Probation Department had a Fiscal Office responsible for the collection and disbursement of restitution. In 2014, Financial Operations assumed these responsibilities. In January 2017, a Management Analyst in Financial Operations (Management Analyst) commenced performing the accounting duties for Probation. She informed us she was not fully trained and had to take time to learn the process on her own.

The Office of the New York State Comptroller issued a Report of Examination of the Onondaga County Probation Department Financial Operations in November 2018 covering the period January 1, 2016 through December 31, 2017. We followed up on findings from their report directly related to our audit.

As a result of the numerous issues and the complexity of these issues, our interactions with Probation and Financial Operation staff during this audit was significant. In general, we received information, explanations and data we were requesting and we wish to thank the staff for their time and efforts during this audit.

Executive Summary

The Probation Restitution Trust and Agency Account is a pass through account for money collected by the Probation Department to be distributed to victims of crimes. The Supervising Probation Officer monitors restitution balances and payment; and follows up for better victim addresses. Financial Operations is responsible for setting up accounts receivable, collection and disbursement of restitution and bank and credit card reconciliations.

During our review we noted issues with the Probation financial software system, bank and credit card reconciliations, internal controls, disbursement of victim funds, restitution/reparation policy, and Probation Department bank account signatories. Our most significant recommendations include:

- *The Probation and Financial Operations staff should continue to work to correct past data issues in the CES. Once the data in the system is correct, they should work with the software manufacturer to be able to produce reports from the system showing the correct amount receivable balance for each and all accounts in the system at any time requested, the cash balance of each and all accounts in the system, and other necessary reports. If the system ultimately cannot produce the necessary reports on demand, then Probation and Financial Operations should research and acquire a software system that can produce these very necessary and useful accounting reports.*
- *The bank reconciliations include a reconciliation of cash in the bank to a total of Undisbursed funds \$104,376.40, Victims Trust Account Balance \$53,359.05 and Unspecified Funds Balance Account \$30,049.50. They should also include the reconciliation of the detail to the Probation Restitution Subsidiary Account in PeopleSoft. Any differences on the reconciliations should be investigated and cleared and any adjusting entries should have detailed explanations and timely clearance.*
- *The bank reconciliations and credit card reconciliations be reviewed and approved by someone other than the person completing them. Reviews/approvals should be appropriately documented.*
- *Additional segregation of duties of staff or other compensating controls. The Probation Department and Financial Operations established a Cash Receipt and Disbursement Policy-Probation in follow up to the State Report and the policy addresses separation of duties. The general rule of separation of duties is that no one person should be able to control enough of any transaction so that an error or irregularity could occur and not be detected by another person during the normal course of their duties. There are generally multiple ways to establish appropriate segregation of duties and therefore better internal controls.*

We emphasize the need for management to improve segregation of duties over restitution as soon as possible.

- *A Probation Department Reception Desk Cashiers Office staff member should view the count of cash by Financial Operations Staff and sign off on the exchange. In addition, there should be a sign-off by Financial Operations Staff and Finance Staff when there is an exchange of money from Financial Operations to the Finance Department.*
- *Financial Operations should continue to try to determine the details of the Victim Trust and Unspecified Funds Account balances and any differences between the cash and trust accounts.*

SECTION II

SCOPE AND METHODOLOGY

SCOPE

Our scope included an assessment of whether the Probation Restitution Trust & Agency Account is an accurate record of: restitution collected from probationers, distribution payments, and balances on hand. In addition, we assessed Probation Department internal control policies and procedures and whether the required internal control policies and procedures were effective.

Methodology

- Interviewed staff responsible for the administration and accounting of Probation Restitution.
- Reviewed compliance with the Probation Department Policy No. 91-11, Restitution/Reparation, modified March 13, 2017.
- Performed a walk through from receipt of the probationer payment to the distribution to the victim (s) per the payment register.
- Reviewed compliance with 420-NY Criminal Procedure Law, §420.10,-Collection of fines, restitution or reparation.

SECTION III

FINDINGS AND RECOMMENDATIONS

Probation System

During the time period we audited, a dedicated software system (Caseload Explorer System [CES]) was used and is still currently used to manage the Probation restitution, surcharges, and fees.

We were informed the detail of the balance sheet accounts provided to us as of June 27, 2019, including Receivables for \$41,068,985 and Payables for \$41,176,048, were unreliable. We were informed, and we confirmed with testing, the Accounts Receivable Aging Report was also unreliable. In addition, for 2 of 13 individual account statements (Financial Statements) reviewed, we were unable to accurately recalculate the Total Due Balance to match the amount so reported based on the information in the statement provided.

We were further informed by Financial Operations staff there are data issues with CES due to the past system conversion and subsequent data entry practices. These data issues could be causing some or all of the software system reporting issues. We were further informed that the Financial Operations staff is currently working to correct the data problems.

Recommendation:

- 1) *The Probation and Financial Operations staff should continue to work to correct past data issues in the CES. Once the data in the system is correct, they should work with the software manufacturer to be able to produce reports from the system showing the correct amount receivable balance for each and all accounts in the system at any time requested, the cash balance of each and all accounts in the system, and other necessary reports. If the system ultimately cannot produce the necessary reports on demand, then Probation and Financial Operations should research and acquire a software system that can produce these very necessary and useful accounting reports.*

Reconciliations

The bank reconciliation includes balancing of the Financial Operations Excel Worksheet Book Balance to the Bank Balance and to Caseload Explorer. We noted the following findings from a review of 4 bank reconciliations (November and December 2017 and June and September 2018) tested:

- The monthly bank reconciliations do not include the reconciliation of Undisbursed funds \$104,376.40, Victims Trust Account Balance \$53,359 and Unspecified Funds Balance Account \$30,049.
- When the Management Analyst reconciles the bank account, she does not balance the detail to the Probation Restitution Subsidiary Account in PeopleSoft.
- The Management Analyst signs and dates the credit card and bank reconciliations however there is no supervisory sign off as evidence of review and approval.
- There is a difference between the outstanding checks amount used in the Bank Balance section compared to the Outstanding Checks Report from Caseload Explorer. We were informed it is a timing issue, but no detail was provided.
- Probation checks are printed with “Not valid after 60 days.” However, the December 2017 Probation Voided Checks Report included checks dated from 2013-2017.
- The December 2017 Probation Voided Checks Report also showed a check as voided twice in error. We brought this error to the attention of the Management Analyst who will have to adjust the bank balance.
- We noted numerous other adjustments to and differences in the bank reconciliations we reviewed, some of the adjustments and differences were explained and some were unexplained.

Recommendations:

We recommend:

- 2) The bank reconciliations include a reconciliation of cash in the bank to a total of Undisbursed funds \$104,376.40, Victims Trust Account Balance \$53,359.05 and Unspecified Funds Balance Account \$30,049.50. They should also include the reconciliation of the detail to the Probation Restitution Subsidiary Account in PeopleSoft. Any differences on the reconciliations should be investigated and cleared and any adjusting entries should have detailed explanations and timely clearance.*

- 3) *The bank reconciliations and credit card reconciliations be reviewed and approved by someone other than the person completing them. Reviews/approvals should be appropriately documented.*
- 4) *The Management Analyst investigate the difference between the outstanding checks amount used in the Bank Balance section compared to the Outstanding Checks Report from Caseload Explorer.*
- 5) *Outstanding checks be voided after the 60 day time period on the checks has expired. The Management Analyst informed us she now voids outstanding checks after 90 days. We reviewed the current void check list and it only goes back to May 31, 2019.*

Internal Controls

We found the following internal control deficiencies and errors in the accounting system:

- The November 2018 Report of Examination on the Onondaga County Probation Department Financial Operations by the Office of the New York State Comptroller, page 8 stated, “Department officials do not review the printed check disbursement report for irregularities and the finance manager prepares monthly bank reconciliations without supervisory review. The finance manager’s duties are not adequately segregated because she has access to cash, reconciles the bank account and can record or update cash receipt and disbursement transactions with no oversight. As a result, the finance manager could change the payee on a check or void a cash receipt in the financial system after collection without detection. Department officials should adequately segregate the finance manager’s duties or implement effective compensating controls.”

The finance manager in the above paragraph refers to the Management Analyst. In follow up to the State Report, the Management Analyst informed us she emails the Monthly Restitution Checklist (payment register) electronic file to the Deputy Director-Financial Operations to review for irregularities. We asked the Deputy Director on two occasions if he reviews the checklist and provides evidence of review. At the exit conference for this audit the Deputy Director indicated that he does review the checklist but does not provide evidence of approval.

In summary, our review of the current duties and internal controls found the duties described above and related internal controls have not changed significantly since the NYS Comptroller’s Office audit.

- Probation Reception Desk Cashier’s Office staff do not observe and sign off on the count of cash by Financial Operations Staff when cash is transferred. In addition, we were told by the Account Clerk III that although the Financial Operations staff observes the count of cash by the Finance Department staff, there is no sign off for the exchange of cash, checks and money orders from Financial Operations to the

Finance Department. This practice has the potential of placing employees in an undesirable situation if cash does not balance at a later time.

- According to the Probation Department Restitution/Reparation Policy Memorandum #91-11 modified March 13, 2017, supervisors who oversee probation officers will verify the Restitution Information Sheet has been completed, but the policy does not require them to sign off as evidence of review.
- We were informed seven people (not including Cashier's Staff) have the combination to the safe in the Probation Department Reception Desk Cashier's Office.
- We randomly selected three credit amounts (increases) posted to the PeopleSoft Probation Restitution Subsidiary Account. One was from September 2017 and the others from June and November 2018. Each credit amount was for one month of credit card payment transactions. We reviewed and tested mathematical accuracy of each month's Credit Card Reconciliations and support and noted errors on each.
- We randomly selected three debit amounts (decreases) posted to the PeopleSoft Probation Restitution Subsidiary Account. One was from July 2017 and the others from September 2018 and December 2018. These were quarterly postings to adjust the General Ledger to reflect the bank balance except at year end when the general ledger is adjusted to reflect the reconciliation balance. We reviewed and tested mathematical accuracy of the adjustments and support and noted errors on each.
- We tested eight cases from the Deposited Payments Report reviewing collections from probationers and restitution payments to victims and surcharge payments to the Chief Fiscal Officer (CFO). We noted the following:
 - In two cases restitution was not part of the Order and Conditions of Probation from the Court, however, the Probation Department set up a Restitution Information Sheet to pay restitution.
 - In one case restitution was set up as \$25,200 at a surcharge of 10% for a total owed of \$27,720 per information in the Restitution Information Sheet on a Medicaid fraud case. However, the Restitution Order (Court Order) ordered the defendant to pay the victim \$22,200 with an additional 5% surcharge (collection fee) of \$1,110 for a total of \$23,310.

The individual account statement notes the starting balance of \$27,720 with payments made and adjustments totaling \$5,720 zeroed this amount out. We asked the Management Analyst about the adjustment and she informed us it was done to match the official court order. She followed up with the Onondaga County Social Services Department on this case and the County representative stated, "Per my correspondence from the DA's (District Attorney) office dated March 19, 2015, the client was ordered to pay back \$22,200. This amount matches the restitution order. When in

doubt, always go by the Restitution order as it is the final say. The DA's Office must have reduced our original overpayment calculation of \$25,247.71 during sentencing/plea bargaining process."

In reviewing the case further, the Management Analyst found the correct obligation of \$22,200 was not paid in full and should not have been closed and the probationer still owes \$2,265.55. She set up a new receivable for \$2,265.55. It was reduced by the \$890.05 (surcharge paid at 10% but should have been 5%) for a new balance owed of \$1,375.50.

- In a case where restitution was not part of the Order and Conditions of Probation we noted a fax from the town court in the case file dated after the Order requesting fines and fees be added as a condition of probation. The Restitution Information Sheet notes the town court as the victim but we were informed by the Management Analyst the court never cashed the checks and do not take such payments. She stated she reversed and reissued payment to the victims in the crime case.
- In one case the balance is \$239.20 and was due by May 19, 2019.
- In one case the Restitution Information Sheet does not agree to the Order and Conditions of Probation. There is an unexplained shortage of \$103.91.
- In one case we were uncertain what restitution amounts are owed because the Restitution Information Sheet in the case file in the Probation Department differs from the Order and Conditions of Probation and Restitution Information Sheet in Financial Operations. We further noted on the Deposited Payments Report a payment on February 28, 2018, of \$1,500 going to a victim not on the Restitution Information Sheets. In addition, the individual account statement has a different starting obligation balance than on the Restitution Information Sheet and unexplained balance adjustments.

Recommendations

We recommend:

- 6) *Additional segregation of duties of staff or other compensating controls. The Probation Department and Financial Operations established a Cash Receipt and Disbursement Policy-Probation in follow up to the State Report and the policy addresses separation of duties. The general rule of separation of duties is that no one person should be able to control enough of any transaction so that an error or irregularity could occur and not be detected by another person during the normal course of their duties. There are generally multiple ways to establish appropriate segregation of duties and therefore better internal*

controls. We present the following ideas as possible, but not the only way to improve segregation of duties in the Probation Department, collection and payments functions:

- The Supervising Probation Officer could verify information from the Restitution Information Sheet entered into the Caseload Explorer System by the Management Analyst is correct. If this option is chosen, the Supervising Probation Officer should document the verification of the information and any corrections needed.*
- We were informed the Account Clerk II now performs all the duties of collection verification, deposit entry to the Caseload Explorer System, and completion of bank deposit slip and cash report with the Management Analyst reviewing her work. However, when the clerk goes on vacation, the Management Analyst does her work. Other title commensurate Financial Operations Staff should be cross-trained to perform the Account Clerk II work when she is out of the office.*
- Periodic review of and tests of probation restitution activities and accounts by someone independent of the collection and payment functions to monitor compliance with internal controls and policy*

We emphasize the need for management to improve segregation of duties over restitution as soon as possible.

- 7) The fewest number of staff members possible should have access to the safe in the Probation Department Reception Desk Cashier's Office.*
- 8) A Probation Department Reception Desk Cashier's Office staff member should view the count of cash by Financial Operations Staff and sign off on the exchange. In addition, there should be a sign-off by Financial Operations Staff and Finance Staff when there is an exchange of money from Financial Operations to the Finance Department.*
- 9) The Probation Department Restitution/Reparation Policy No. 91-11 modified March 13 2017 should be revised requiring Supervisors to provide evidence review and approval.*
- 10) The Probation Department should continue to document their follow up when restitution is not paid by the due date.*

Victim Trust Account and Unspecified Fund Account

At June 27, 2019 there were PeopleSoft accounting system balances in the Cash-Victim Trust Account of \$53,359.05 and Cash-Unspecified Funds Account for \$30,049.50. We were informed by the Management Analyst the probationers who paid money into the Cash-Victims Trust Account are known, but the victims are unknown. As for the Cash-Unspecified Funds Account, she stated this is a legacy amount carried from the old software system and neither the probationers nor the victims are known.

There are also accounting system Trust accounts for the Victims Trusts Account with a balance of \$53,374.05 and Trust-Unspecified Funds Account with a balance of \$29,595.72. Although the amounts in the Cash and Trust accounts are close in value, they are not the same and details of these accounts are unknown.

Recommendation:

11) Financial Operations should continue to try to determine the details of the Victim Trust and Unspecified Funds Account balances and any differences between the cash and trust accounts.

Restitution/Reparation Policy

We noted the Onondaga County Probation Department Restitution/Reparation Policy No. 91-11 modified March 13, 2017, Section C. Procedures, still uses the pre-Financial Operations terminology to describe the financial responsibilities. The Policy needs to be updated to reflect current conditions with the creation of Financial Operations.

Recommendation

12) Probation Administration should update the Onondaga County Probation Department Restitution/Reparation Policy.

Probation Department Bank Account Signatories

The Financial Analyst forwarded an email from the M & T Bank Representative dated August 15, 2019, stating the signatories on the Probation Department Bank Account are Steven P. Morgan, the Chief Fiscal Officer, Andrew Sicherman, the Commissioner of Probation, and Robert E. Antonacci II, the previous Comptroller.

The Comptroller does not sign Trust & Agency checks and is not responsible for the account. The signing and responsibility belongs to the Chief Fiscal Officer.

Recommendation

13) The Finance Department should contact M & T Bank to remove the Comptroller as signer and create a new business signature card signed.

We were informed by the Financial Analyst they are in the process of having the former Comptroller removed as signatory.

SECTION IV MANAGEMENT'S RESPONSE

COUNTY OF ONONDAGA



DEPARTMENT OF FINANCE

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John H. Mulroy Civic Center, 15th Floor
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J. RYAN McMAHON II
County Executive

STEVEN P. MORGAN
Chief Fiscal Officer

PHILIP BRITT
*Deputy Director of
Financial Operations*

November 25, 2019

Matthew J. Beadnell, Comptroller
Office of the County Comptroller
John H. Mulroy Civic Center
421 Montgomery Street
Syracuse, NY 13202

Dear Mr. Beadnell,

Thank you to the Office of the County Comptroller for its evaluation and recommendations regarding Probation restitution. Financial Operations (The Department) is continually reviewing procedures and controls around the handling of Probation restitution and implementing changes where necessary.

The system conversion discussed in the report was completed in 2012 prior to the merging into Financial Operations.

Below is the Department's response to the audit recommendations where applicable:

- The Department will continue to work with the developer to fully utilize the software
- We will also continue to identify segregation of duty issues and take appropriate action.
- In addition, management recognizes the importance of internal controls and will continue to review and improve procedures.
- Bank reconciliations are reviewed by the County's Treasury Department and going forward the Deputy of Financial Operations will also review.
- We worked with the County Law Department to design procedures to be in accordance with best practices in distributing held restitution funds.
- Cash handling procedures have been revised and implemented.
- The Department will work with Finance to remove the County Comptroller as a signor on the bank account.

Respectfully submitted,

A handwritten signature in black ink that reads "Philip Britt".

Philip Britt
Deputy Director Financial Operations