

**Nassau County
Office of the Comptroller**



**Department of Probation
Court Ordered Restitution
Bank Account Review**

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Comptroller

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OFFICE OF THE COMPTROLLER

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Executive Summary

Introduction:

The Probation Department (“Department”) is responsible for the collection and administration of restitution and reparation payments under both the Penal and Criminal Procedure Law. The Department is required by New York Criminal Procedure Law¹ to maintain an account when the court imposes both (i) a fine and (ii) restitution or reparation and such designated surcharge upon an individual and imposes a schedule of payments. As the Department is the designated collections agency for the State, the funds they collect are not used for the County’s general operations.

Purpose:

The purpose of this review was to:

- Ensure the Department is fulfilling its fiduciary responsibilities over the collection and distribution of monies to the person or persons to whom it is to be paid;
- Determine whether the Probation Restitution’s bank reconciliations are performed timely and accurately with adequate supervisory oversight; and
- Determine that the Department of Probation has adequate internal controls to safeguard against misuse or abuse of funds.

Key Findings:

- The Probation Department (“Department” or “Probation”) did not reconcile the restitution bank account in over 19 months. As a result, the Department is not in compliance with the New York State Regulations with respect to handling of all financial obligations.
- The restitution bank reconciliation had adjusting entries totaling \$102,796 that had not been resolved for two years.
- Probation did not comply with New York State Regulations to investigate the reasons or follow up on outstanding stale checks in the restitution bank account totaling \$266,365.
- Violations of cash controls to prevent theft were found when the Department had used non-sequential numbered checks for the restitution bank account and voided and reissued checks with no reasons recorded in the system.

¹ New York Criminal Procedure, Article 420.10, Collection of fines, restitution or reparation.

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- A lack of proper segregation of duties exist when the Probation Supervisor was found to be in charge of the Intake Unit including the front desk, Restitution Unit and is also the Department's IT officer.
- The Department did not disburse Restitution Trust Funds to unpaid victims since 2011, which is in violation of the Criminal Procedures Law and NYS Regulations.
- Monies collected by the Department are applied to probation fees instead of restitution when judgment orders are delayed, which is contrary to Criminal Procedures Law that requires monies be applied first to restitution.
- The Department did not implement the Caseload Explorer Financial Module and therefore, Probation officers did not have immediate access and could not efficiently perform their financial oversight over financial obligations owed by the probationers.

Key Recommendations:

We recommend that the Probation Department:

- reconcile the restitution bank account balance to the balance in Probation's accounting records in a timely manner and resolve all reconciling items, such as the recording of DWI fees of \$81,762 and recouping the \$15,420 from a probationer. Additional accounting staff should be hired to assist in restitution functions.
- have proper management oversight of the bank reconciliation process to ensure financial information is accurate and to mitigate the risk of assets being misappropriated.
- research the reasons for uncashed crime victim checks within the one year period and designate undisbursed funds over a year old to be paid to other restitution orders.
- correct all invalid check numbers, ensure check numbers used in the system are in sync with the actual bank check numbers and reasons for voided and reissued checks are recorded in the accounting system.
- segregate the accounting functions for the setup of accounts receivable, entering cash receipts and disbursements and the daily posting against daily deposit reconciliation to separate individuals.

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- maintain a list of unsatisfied restitution orders in chronological order and distribute Restitution Trust monies (Unclaimed Funds) to victims who have been unpaid the longest, to comply with Criminal Procedures Law and NYS Regulations.
- apply payments that are received to the restitution account first then to Probation fees as required by the Criminal Procedures Law and work with the County Court and District Attorney's Office to obtain judgment orders in a timelier manner.
- ensure that all Probation Officers maintain access to probationers' court ordered financial obligations to properly perform their NYS mandated duties to report probationers who fail to meet their financial obligation to courts and the Board of Parole as required by Probation Regulations.

The matters covered in this report have been discussed with the officials of the Department of Probation. On September 26, 2016, we submitted a draft report to Probation for their review. Probation provided their response on November 15, 2016. Their response and our follow up to their response are included as an Appendix to this report.

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Introduction

Background

The Probation Restitution account is a non-NIFS² bank account used to collect restitution, surcharges and probation fees from probationers and to disburse monies to beneficiaries based on judgment orders from the court. Field Audit recently conducted a countywide compilation of the bank accounts used by all Nassau County Departments via a questionnaire. Information was collected on accounts kept within the Nassau Integrated Financial System (“NIFS”) Bank Accounts (where proceeds are used for County operations), non NIFS accounts where departments collect and disburse funds that do not belong to the County and petty cash accounts that are maintained in various departments.

As a part of the review of the Countywide Bank Accounts, we identified approximately fourteen non-NIFS bank accounts (exclusive of the County Clerk’s Office)³ that had balances. Nassau County’s Probation Department (“Department” or “Probation”) Restitution Account bank account was selected because the Department had not been able to identify all the reconciling items to agree the bank account balance to the book balance as of December 31, 2014.

Criminal Procedure Law (“CPL”)⁴ states that the “chief elected official in each county, ... shall designate an official or organization other than the district attorney to be responsible for the collection and administration of restitution and reparation payments under provisions of the penal law and this chapter.” While the law does not require that a local probation department be designated as the “restitution collection agency”, probation departments have been designated as such agencies by each county outside of the City of New York.

According to the New York State Penal Code, Article 60.27⁵, “the court shall consider restitution or reparation to the victim of the crime and may require restitution or reparation as part of the sentence imposed upon a person convicted of an offense, and after providing the district attorney with an opportunity to be heard in accordance with the provisions of this subdivision, require the defendant to make restitution of the fruits of his or her offense or reparation for the actual out-of-pocket loss caused thereby and...any costs or losses incurred due to any adverse action taken against the victim.”

² The Nassau Integrated Financial System is the financial accounting system that is used by Nassau County.

³ Also excludes the Nassau County Sewer Storm, Tobacco Settlement and CTSC Residual Trust accounts.

⁴ New York State Criminal Procedure Law, Article 420, Section 420.10 (8) (a).

⁵ New York Penal, Article 60, Section 60.27, Restitution and Reparation.

Introduction

Nassau County Probation Department

Probation is a State-mandated function. The Department provides information and services to the Courts, offers crime victims a voice in the judicial system, and assists in strengthening families. Probation Officers protect the community by intervening in the lives of offenders through community supervision, providing them with options, holding them accountable, and serving as a catalyst for positive change.

Probation Officers are sworn New York State peace officers, carrying significant authority and liability. The Department consists of the Criminal and Family Divisions. Both provide pre-disposition diversion services and for those offenders who cannot be diverted, court mandated investigations and community supervision services.⁶

Exhibit I below details the various Probation fees collected.

Exhibit I

**Probation Department
List of Administrative and Restitution Fees**

<u>Category & Type</u>	<u>Amount</u>	<u>Frequency</u>
Pre-Sentencing Investigation		
Pre-Sentence Investigation	\$375	Per Investigation
Enhanced Pre-Sentence Investigation	\$500	Per Investigation
DWI Administrative Fees		
DWI Supervision	\$30	Per Month
Victim Impact Panel	\$100	Per Session
Electronic Monitoring	\$3 - \$12	Per Day
Drug Testing	\$12.50	Per Test
Supervision		
Supervision	\$50	Per Month
Electronic Monitoring	\$3 - \$12	Per Day
Drug Testing	\$12.50	Per Test
Community Service Placement	\$187.50	At time of placement interview
Court Ordered Restitution Surcharge	5% - 10%	As ordered by the judge
Certificate of Relief	\$250	Per Investigation

Source: Nassau County Probation Department Schedule 04/01/2011

Probation receipts deposited into this account are comprised of restitution monies that are distributed to court ordered recipients (crime victims), restitution surcharges (which offset the

⁶ Nassau County Probation Department website.

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County's cost of collections) and various County Probation fees. Probation also receives State aid and grant funds but those receipts are not deposited into this bank account.

The restitution monies, surcharges and fees that are collected have been maintained in the case management system used only for restitution, known as the Tracker System. Exhibit II provides a ten year history of the restitution monies, surcharges and fees collected from 2006 to 2015.

Exhibit II

**Probation Department
Restitution, Surcharges and Fees *
Ten Year History 2006 - 2015**

<u>Year</u>	<u>Restitution</u>	<u>Surcharges and Fees</u>	<u>Total</u>
2006	\$ 1,201,511	\$ 1,570,580	\$ 2,772,091
2007	1,331,618	1,768,138	3,099,756
2008	1,274,032	1,719,760	2,993,792
2009	1,041,418	1,682,108	2,723,526
2010	780,619	1,706,523	2,487,142
2011	910,412	1,682,389	2,592,801
2012	687,619	1,740,475	2,428,094
2013	1,049,218	1,693,485	2,742,703
2014	916,004	1,467,333	2,383,337
2015	709,371	1,338,798	2,048,169
Total	<u>\$ 9,901,822</u>	<u>\$ 16,369,589</u>	<u>\$ 26,271,411</u>
Annual Average	<u>\$ 990,182</u>	<u>\$ 1,636,959</u>	<u>\$ 2,627,141</u>

Source of Data: Tracker System

***This chart does not account for trends and reductions of crime.**

According to information provided by the Probation Staff, the Department began using a state sponsored electronic case management system Caseload Explorer in 2009, except for the financial module. During a meeting on September 29, 2015, the unit stated they hoped to transition in the near future from the Tracker System to the financial module of the Caseload Explorer System, which is used in the majority of the counties of New York State. On April 1, 2016, the Caseload Explorer financial module was implemented by the Department.

The auditors met with the Probation staff on September 29, 2015, and again for a follow up meeting on October 30, 2015. In these meetings, the Probation staff described the procedures and controls

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related to Probation, specifically regarding the receipt and disbursement of restitution monies and probation fee payments.

As explained by the Probation staff, the intake staff collect payments from probationers and the Probation Assistants (“PA”) are trained to receive and log payments. The payments can be made in the form of cash, check, money order, or by credit card.

Procedures for the receipt of restitution and fees are as follows:

- A receipt for each payment is on triplicate copy paper. One copy is given to the probationer, one copy is attached to the payment and goes into a drop safe, and one copy is kept in the Receipts Log.
- Every morning, the Restitution Unit PA opens the drop safe using the combination, and logs the receipts from the prior day in Tracker. Another PA writes up a deposit slip for the total receipts and the Department’s Warrant Squad takes the money to the bank. Deposit slips are then given to the Probation Unit and accountant at month end.
- The PA who is in charge of recording receipts applies the receipts to pay restitution, surcharges or fees based on what was initially set up for each case in Tracker.
- A different PA than the one in charge of receipts, will set up each case in Tracker when Judgment Orders⁷ are received for probationers. Each case is set up with the amount of restitution and surcharges ordered by the Judgment Orders and the appropriate probation fees.
- The monthly probation fees are transferred to the Nassau County Treasurer by check from the Tracker system and recorded as revenue in the Nassau County Integrated Financial System.
- Probation policy dictates that any disbursement checks over \$500 must be reviewed by the Accountant and approved by the Director of Probation. The Director of Probation normally delays distributing checks for ten business days to give bank deposits time to fully clear, in order to avoid issues with bounced checks and non-sufficient funds.

In 2012, New York State allowed the Probation Department to send unpaid Driving While Impaired (“DWI”) Probation fees to collection agencies for collection. Once a year, a report for the unpaid DWI Probation fees for those off Probation is provided to the Nassau County

⁷ Judgment orders are court orders that require probationers to pay restitution to victims of a crime.

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Treasurer's Office ("Treasurer") which is sent to Municipal Service Bureau ("MSB"), a collection agency. MSB remits the fees it collects to the Treasurer who records the deposits into NIFS. The Treasurer reviews the fees collected and calculates the collection fees owed to the collection agency based on the amounts collected.⁸

A claim voucher is prepared and sent to the Comptroller's Office Vendor Claims Unit by the Treasurer to pay the collection fees to the agency. The list of the collected fees is sent monthly by the Treasurer to the Probation Accountant who gives it to the Probation Supervisor to record the receipt of DWI fees into the Tracker system. The DWI fee, less the collection fee, is recorded as a receipt in each account and the MSB collection fee is posted as a negative obligation in the Tracker system.

Audit Scope, Objectives and Methodology

The audit period was from January 1, 2013 to December 31, 2015.

The objective of the review is to determine whether the Probation Restitution bank account is being monitored and reviewed by the Probation Department to ensure there is no misuse of funds and that bank reconciliations are performed timely to safeguard assets, especially those that are not recorded on the County's accounting system.

Our review of the account included the following:

1. Review the activity in the Probation Restitution account to ensure proper documentation is maintained and the account is being utilized in accordance with the intended purpose.
2. Determine the reason the bank account has not been reconciled to the accounting system as of December 31, 2014.
3. Interview the staff to understand the process followed when performing bank reconciliations, including timeliness and management oversight.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

⁸ The Treasurer's staff stated the MSB collection agency fees are based on the amount of Probation DWI fees collected. (Collected amount of \$399.99 or less is .1825%, \$400 or higher is .175% and 3rd party attorney is .245%).

Findings and Recommendations

Audit Finding

(1) The Restitution Account Had Not Been Reconciled in Over 19 Months

In September 2015, at the commencement of our review, the Department of Probation Accountant (“Accountant”) stated that they could not resolve a difference of \$102,796 between the Probation’s Tracker accounting system balance and the Chase bank balance and was not able to identify a \$6,331 difference as of December 31, 2014. We were advised that the Accountant has normally been able to perform the reconciliation and identify the reconciling items.

New York State Regulations Section 353.3 (a)⁹ states “Each probation director shall be responsible for ensuring that his or her respective probation department adheres to the accounting procedures for probation departments issued by the Office of the State Comptroller with respect to handling of all financial obligations...”.

The State Comptroller¹⁰ requires that bank reconciliations must be performed within 5 to 7 days of each month-end to safeguard assets, check the accuracy and reliability of accounting data and permit the timely reporting of account balances. The reconciliation of bank and book balances is necessary to determine the reasons for any differences and to correct any errors in the accounts in a timely basis.

As a result of the audit, the Probation Department, the Accountant and the auditors worked together and the bank reconciliation for December 31, 2014 has been completed. (See Exhibit III)

⁹ New York State Regulation, Title 9 NYCRR, Subtitle H, Part 353 Financial Obligations, Section 353.3 Rules (a).

¹⁰ New York State Accounting System User Procedures Manual, Guide to Financial Operations, Section XIV.4.c, Special Procedures, Agency Bank Accounts, Bank Account Reporting and Reconciliations, Revised 09/14/15.

Findings and Recommendations

Exhibit III

Probation Department Restitution Bank Account Bank Reconciliation As of December 31, 2013 and 2014

	<u>12/31/13</u>	<u>12/31/14</u>
<u>Bank Balance</u>	\$ 414,005	\$ 518,889
<u>Additions:</u>		
DWI fees recorded on books as cash in error <i>Note 1</i>	78,799	81,762
Deposits on books not in bank - In Transit <i>Note 2</i>	-	15,471
Disbursement not on books <i>Note 3</i>	5,930	6,005
Deposits returned by bank not on books	298	3,166
Check voided on books, cashed by bank <i>Note 3</i>	551	551
Duplicate Checks voided on books but cashed by bank <i>Note 3</i>	348	348
Miscellaneous adjustments	116	(20)
<u>Deductions:</u>		
Checks outstanding	(158,254)	(266,365)
Credit card transactions to be refunded not on books <i>Note 3</i>	(1,250)	(1,215)
Bank interest not on books	(32)	(47)
Bank processing errors	(1)	-
<u>Book Balance</u>	<u>\$ 340,510</u>	<u>\$ 358,545</u>

Note 1: DWI fees totaling \$81,762 (2012 to 2014) were collected by MSB (collection agency) and remitted directly to the Treasurer and recorded in NIFS. Probation recorded the receipts in the Tracker System as if cash was received when they should have been recorded to DWI fees.

Note 2: The majority of the amount shown of \$15,471 includes a deposit of a restitution check dated 12/23/14 for \$15,576, erroneously recorded by bank as a deposit of \$155.76; creating a difference of \$15,420.24 that has not been resolved.

Note 3: Of the reconciling items totaling \$5,689 as of 12/31/14 ((\$6005 +\$551+\$348-\$1,215), \$5,614 represents 12 unresolved items from prior years [\$257 for 2011, \$(489) for 2012 and \$5,846 for 2013]. The remainder of \$75 (\$5,689-\$5,614) relates to 2014.

The department appears to have not been current in the preceding year as well. The bank reconciliation for December 31, 2013 was prepared and reviewed in June 2014. As noted above, the State Comptroller mandates that bank reconciliations must be performed within 5 to 7 days of each month-end.¹¹

¹¹ New York State Accounting System User Procedures Manual, Guide to Financial Operations, Section XIV.4.c, Special Procedures, Agency Bank Accounts, Bank Account Reporting and Reconciliations, Revised 09/14/15.

Findings and Recommendations

Audit Recommendation(s):

We recommend that the Probation Department's Acting Director:

- a) ensure that the restitution bank account balance is reconciled to the balance in Probation's accounting records in a timely manner and all reconciling items are resolved. Additional accounting staff should be hired to assist in restitution functions, as the restitution surcharge collected is for offsetting the cost of collections; and
- b) ensure there is proper management oversight of the bank reconciliation process to make sure financial information is accurate and assets are not at risk of being misappropriated, and that the managerial review is evidenced by the initials and date of the reviewer.

Audit Finding:

(2) The Restitution Bank Account has Adjusting Entries Totaling \$102,796 that Remain Unresolved Two Years Later

Despite the audit team's assistance in reconciling the 2014 bank account, there are still actions to properly account for these reconciling times that Department needs to resolve. The following summarizes the major portion of the errors and prior years' reconciling items from Finding 1 that still need to be corrected. (Note: The reconciling item related to outstanding checks is discussed in Finding 3).

- **\$81,762** for DWI fees remitted by MSB (a County Collection Agency) to the Treasurer's Office were recorded by Probation as cash receipts on the Tracker system, when it should have been recorded to DWI fees. The receipts had been recorded on the individual probation accounts in the Tracker system as if cash was received but the actual monies were paid directly to the Treasurer's Office. As a result, the cash balance on the accounting records is overstated by \$81,762 as of December 31, 2014, dating back to September, 2012.
- **\$15,420** represents a bank deposit difference that has not been resolved. A probationer paid \$15,576 for his restitution and that was included in a bank deposit in December 2014. However, the bank erroneously recorded this as a deposit of \$156. The Probation Department stated when the bank deposit error was found, the bank attempted to redeposit the check but there were insufficient funds in the probationer's bank account. Probation stated they are trying to collect the \$15,420 from the probationer who is no longer on Probation.
- **\$5,614** for 12 items not corrected in the Tracker System that occurred in prior years (\$257 for 2011, \$(489) for 2012 and \$5,846 for 2013

Findings and Recommendations

Audit Recommendation(s):

We recommend that the Probation Department's Acting Director:

- a) make the necessary adjustments to the accounting records to correctly record the DWI fees that were collected by the collection agency and remitted to the Treasurer as noted by the audit;
- b) collect the \$15,420 from the Probationer due to the bank error for the deposit of \$15,576; and
- c) correct the 12 items totaling \$5,614 from prior years.

Audit Finding:

(3) Probation Did Not Comply with State Regulations, Did Not Follow Up on Outstanding Stale Checks to Crime Victims Totaling \$266,365

Probation departments are required to spend up to a year to try to find the victim (in order to clear the uncashed check). NYS Regulation, Section 353.3 (c) requires probation departments to work with the US Postal Service to obtain change of address information and Federal Drivers Privacy Act 18 USC Section 2721 permits government agencies access to motor vehicles records for use in carrying out agency functions. Restitution collection agencies may use DMV for the purpose of locating a defendant, probationer or victim. The Regulations also require that interest and any undisbursed payments over one year old shall be designated for the payment of restitution orders that have remained unsatisfied the longest period of time.

Our review found there was no evidence that follow up procedures were performed on the outstanding checks in the restitution bank account as of December 31, 2014, as required by New York State ("NYS") Regulation, Title 9 NYCRR, Part 353.¹² During our meeting on March 18, 2016, the Accountant stated that letters to locate the beneficiaries to clear the uncashed checks had not been sent out since December 2011, which is not in compliance with the required Regulations.

Exhibit IV shows the aging of the outstanding checks. Of the 1,102 outstanding checks totaling \$266,365 as of December 31, 2014, 549 checks totaling \$84,778 were from over one year old to at least three years old.

¹² New York State Regulation, Title 9 NYCRR, Subtitle H, Part 353 Financial Obligations, Section 353.3 Rules (c).

Findings and Recommendations

Exhibit IV

Probation Department Restitution Bank Account Outstanding Checks As of December 31, 2014

<u>Age of Checks</u>	<u>Count</u>	<u>Amount</u>
Less Than 1 Year	553	\$ 181,587
1-2 Years	212	\$ 40,525
2-3 Years	190	\$ 27,667
3+ Years	147	\$ 16,586
Total	<u>1,102</u>	<u>\$ 266,365</u>

Source of Data: 12/31/14 Outstanding Check List From
Probation's Tracker System

A check outstanding for more than one year is considered a stale dated check and should be voided, pursuant to the State Comptroller's Accounting System User Procedures Manual.¹³ The Probation Department did not comply with the Regulations to use the one year period to locate the intended beneficiaries to clear the uncashed checks. Funds undisbursable over a year old should be re-designated as restitution trust funds to be paid to other restitution orders (see Finding 6).

We also found that recent lists of outstanding checks generated from the accounting system are not correct, since checks cleared by the bank after December 31, 2014 were not recorded in the system. A correct list of outstanding victim checks would include another year and half of outstanding checks.

Audit Recommendation(s):

We recommend that the Probation Department comply with the NYS Regulations and their own Procedural Manual to:

- a) investigate the reasons for uncashed crime victim checks for a full year and attempt to locate the intended beneficiaries as required by the Regulations; and
- b) ensure any investigated, undisbursed funds be designated and listed for the payment of other restitution orders that have remained unsatisfied for the longest period of time.

¹³ New York State Accounting System User Procedures Manual, Guide to Financial Operations, Section XIV.4.c, Special Procedures, Agency Bank Accounts. Bank Account Reporting and Reconciliations, Revised 09/14/15.

Findings and Recommendations

Audit Finding:

(4) Violations of Cash Controls Designed to Prevent Theft Were Found

During the bank reconciliation review, auditors found a lack of standard cash controls to prevent theft, such as the use of non-sequential numbered checks. They also found missing documentation for why checks were voided and reissued (and no controls to prevent the name of the payee from being changed). This is a very serious weakness in a unit that collects \$2 to \$3 million in cash each year to pay thousands of crime victims.

Prior to 2004, the restitution unit was under the Administrative section of the Probation Department and the unit was overseen by Restitution Officers (Probations Officers with MBA's). Between 2004 and 2011, the unit was still under the Administrative section and overseen by a Senior Accountant with another Accountant who independently performed the bank reconciliation.

In late 2011, the collection and distribution of court ordered restitution was placed under the Criminal Division, under various probation supervisors who had other duties in the department and who did not have accounting or financial backgrounds. Currently, collections and disbursements are recorded by probation officers and probation assistants without financial oversight.

Invalid Check Numbers Recorded

Our review of check numbers on the Tracker's System outstanding check list as of December 31, 2014, revealed instances where check numbers were invalid. These included check numbers such as "9772", "177188", "197608" and "1", which were not valid Chase check numbers or had more digits than the check numbers used by Probation.¹⁴

In order to perform a proper bank reconciliation, valid check numbers must be entered correctly into the Tracker System, then compared to the checks paid by the bank, in order to account for all the disbursements paid. These steps must be correctly performed to account for all payments and to uncover any misuse of funds.

The New York Office of the State Comptroller ("State Comptroller") states when bank reconciliations are performed the return checks are to be filed in numerical order with previous checks and that any checks other than outstanding checks missing from the sequence must be investigated.¹⁵

¹⁴ There were also several instances where checks were voided and reissued and the reasons for doing so were not recorded in the system.

¹⁵ New York State Accounting System User Procedures Manual, Guide to Financial Operations, Section XIV.4.c, Special Procedures, Agency Bank Accounts, Bank Account Reporting and Reconciliations, Revised 09/14/15.

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Reasons for Void and Reissued Checks

The Restitution unit must sometimes void and reissue checks when checks are returned due to an invalid address; or payee change requests from the Court, County agencies or payees themselves. For every void, notations should be in the system, explaining the reasons for the voided and reissued checks, and the actual voided checks be given to the Accountant. During a test of outstanding checks payable, this was found not to be the case.

The auditors selected a sample of 10 checks totaling \$214,593 payable to the County to determine how long the County took to cash the check. After a discussion with the Probation Supervisor, the auditors found that 5 of the 10 checks selected for review totaling \$38,599 had been voided. The reasons for the voided or reissued checks were not recorded in the system except for one 2014 voided check for \$4,906, that was in the system.

The auditors questioned the Accountant to determine that all voided checks are retained as an audit trail but found that they could not account for all voided checks when performing the monthly bank reconciliation. The Accountant stated it is very difficult to account for all the checks issued during the month since check numbers had been used out of sequence and invalid checks numbers had been entered.

It is essential that the reasons for voided and reissued checks are recorded in the system and all checks issued are accounted for to ensure controls are in place to safeguard assets.

Audit Recommendation(s):

We recommend that the Probation Department take the necessary steps to ensure adequate safeguards are in place for the Restitution cash account. The Probation Department should:

- a) correct all invalid check numbers in the financial accounting system;
- b) ensure that check numbers going forward with the new system (Caseload) are automatically generated and in sync with the actual bank check numbers;
- c) record reasons for voided and reissued checks in the system; and
- d) account for all check numbers when performing the monthly bank reconciliation.

Audit Finding

(5) Lack of Proper Segregation of Duties Compromises Internal Controls

Meetings with the Probation staff revealed that the Probation Supervisor is in charge of the Intake Unit including the front desk, Restitution Unit, and is also the Department's IT officer. The

Findings and Recommendations

Supervisor is in charge of Intake recording of how much restitution is owed and to whom the checks are to be paid, has production access to the cash receipts and cash disbursements functions in the Tracker System and is responsible for the conversion from the Tracker system to the financial Caseload Explorer system.¹⁶ As the IT officer, they have access to the financial information and could make adjustments to both Tracker and Caseload Explorer systems.

The Supervisor explained that the oversight of three units is necessary because Probation is working with a small staff. The Supervisor sometimes even has to fill in for Probation Assistants who are out by completing the receipts and/or disbursement procedures. This is a production task that is not a supervisory review or oversight function. The same Supervisor is also responsible for making adjustments to resolve (reconciling) items identified in the bank reconciliation and to correct posting errors in the Tracker system.

This is an internal control weakness, as no employee should have access to both the account set up, the entering of receipts and disbursements in the system and the implementation of the new financial system. The same employee having access to both sides of the transaction increases the likelihood that errors and/or fraud could occur and go undetected.

The Probation Department is not in compliance with the NYS Regulation, Section 353.3(a)¹⁷ which requires that the department adhere to the accounting procedures issued by the State Comptroller with respect to handling all financial obligations which the department collects or similar procedures which establish a system of control to guarantee accurate and timely collection and disbursement of financial obligations. The Probation Department does not have adequate segregation of financial functions, since one employee has access to cash receipts and disbursements, account set up, can make adjustments and is responsible for the accounting system conversion process.

“Segregating the incompatible duties of custody of cash, record-keeping, authorizations, and reconciliations prevents an employee or official from controlling all phases of the accounting function.”¹⁸ When duties cannot be segregated, supervisory oversight is needed to mitigate the risks resulting from inadequate segregation of accounting duties.

Audit Recommendation(s):

We recommend that the following Probation Department functions be segregated, the setup of accounts receivable, entering cash receipts and disbursements, daily posting against daily deposit

¹⁶ The Caseload Explorer system is the accounting system that is replacing the present Tracker System.

¹⁷ New York State Rules and Regulation, Title 9 NYCRR Part 353, Financial Obligations, Section 353.3(a).

¹⁸ Office of New York State Comptroller, The Practice of Internal Controls, Bank Reconciliation Procedures 3-2-2, page 14.

Findings and Recommendations

reconciliation to separate individuals. Duties of the personnel who would take over in the event of an absence of one of these individuals should also be also be determined and segregated.

Audit Finding:

(6) Probation Has Not Distributed Restitution Trust Funds to Unpaid Victims Since 2011, In Violation of the Criminal Procedures Law, and the Probation Procedural Manual

The Probation Department has not disbursed monies to beneficiaries who have not been paid restitution as required by Procedures for the Distribution of Restitution Trust, the Criminal Procedure Law 420.10 (7) and Section 353.3 (c) of the NYS Regulations. The Regulation states interest and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied the longest period of time. Undisbursed restitution payments is defined in the Probation policy as payments which have been remitted by a defendant but not disbursed to the intended beneficiary and such payment has gone unclaimed for a period of one year and the location of the intended beneficiary cannot be ascertained by such official or organization after using reasonable efforts. The Probation Department shall also maintain a list of unsatisfied restitution orders and develop a mechanism for disbursement of monies to the affected crime victims. Unsatisfied restitution orders are orders for which the last scheduled payment is at least sixty calendar days overdue.

Although this should be done at least once a year, and the Department has a procedure to do so, the supervisor stated the last payments from the Restitution Trust was prior to December 2011. An old list of unpaid beneficiaries from 1988 to December 1, 1992 was provided to the auditors and a new list titled "Disbursement Candidates" that was generated on March 9, 2016 showed the last activity date of March 2002. The unit also failed to maintain the required list of unsatisfied restitution orders over sixty days old.

Audit Recommendation(s):

We recommend that the Department:

- a) maintain a list of unsatisfied restitution orders (such as when the probationer passes away and can no longer make payments to that victim) in chronological order; and
- b) comply with Criminal Procedures Law and NYS Regulations and distribute Restitution Trust monies (Unclaimed Funds) to victims who have been unpaid the longest.

Findings and Recommendations

Audit Finding

(7) Contrary to Criminal Procedures Law, Monies Collected Are Applied To Probation Fees Instead of Restitution When Judgment Orders Are Delayed

Our review determined that the Probation Department did not follow the Criminal Procedure Law Section 420.10 (b)¹⁹ which states that monies received from individuals are to be applied first to restitution. We were informed during the entrance meeting that this was not being done consistently prior to the audit.

Judgment orders from the court contain the terms of each probationer, including restitution that is to be paid to the victim(s). County Probation fees are established by a standard schedule (unless the probationer files and is approved for a hardship waiver). They stated that one reason monies may not be applied to restitution first was because of the delay in the time it took for a judgment order to reach the Department. We explained that a journal entry between fees and restitution to correct any misposting to a probationer's account could be made during the monthly closing and recording process, before the fees are sent to the Treasurer.

In response to the problem of missing judgments, the auditors were advised that in December 2015, the Probation Department contacted the Chief Clerk of the court and requested that restitution judgment orders be completed and provided to Probation within a few days. The Chief Clerk responded stating that an e-mail notification would be sent to Judges, secretaries and clerks to process the judgment orders more promptly.

Audit Recommendation(s):

We recommend that the Probation Department:

- a) apply payments that are received to the restitution account until it is up-to-date as per Criminal Procedures Law and then to the County fee categories; and
- b) work with the Nassau County Court system and the District Attorney's Office in order to receive judgment orders in a timelier manner.

¹⁹ New York Criminal Procedure, Article 420.10, Collection of fines, restitution or reparation. "When the court imposes both (i) a fine and (ii) restitution or reparation and such designated surcharge upon an individual and imposes a schedule of payments, the court shall also direct that payment of restitution or reparation and such designated surcharge take priority over the payment of the fine."

Findings and Recommendations

Audit Finding

(8) Probation did not Implement the Caseload Explorer Financial Module, Consequently, Probation Officers Did Not Have Immediate Access and could not Efficiently Perform their Financial Oversight Over Probationers' Financial Obligations

At a meeting on March 18, 2016, the Probation Supervisor stated that the other modules of the Caseload Explorer had been implemented in October 2009, except for the financial part which was scheduled to be installed in 2010. A 2011 performance report from NYS Criminal Justice Services lists Nassau as one of 42 Counties that had implemented the new system as of December 31, 2011. However, at the time of the audit, the financial records were still in a separate system (Tracker) until the Caseload Explorer financial module provided by NYS via grant funds was implemented in 2016.

Thus, prior to 2016, the Tracker system was only available to those posting cash receipts, the probation officers did not have access to what was owed for restitution and for County fees when meeting monthly with their probationers. As a result, probation officers who are required to enforce the conditions of the probation and to assess whether the probationer/offender was making a sufficient effort to meet their court ordered payments on a timely basis, were not properly performing this requirement. When a probationer fails to comply with the financial obligation of their sentence, the Officer is required to report such failure to the court in accordance with Section 353.3(d) of the New York State Regulation. The court will decide to lower the restitution owed due to hardship or can order the probationer be sent to jail.

The Caseload Explorer provided to Nassau County is a case management system containing one complete record for each probationer, with all case information from its inception through its conclusion including: presentence investigation including prior arrest history, intake information, diversion programs, supervision monitoring, restitution collection, and any other special or related service delivery programs.

New York State's intention is to have all the counties on the Caseload Explorer system so that information on all probationers can be accessed by every county.

Audit Recommendation(s):

We recommend that the Probation Department ensure that all Probation Officers maintain access to probationers' court ordered financial obligations as well as all information that is needed so they can properly perform their NYS mandated duties in order to report probationers that failed to meet the financial obligation to courts and the Board of Parole as required by Probation Regulations.

EDWARD MANGANO
COUNTY EXECUTIVE



JOHN PLACKIS
ACTING PROBATION DIRECTOR

NASSAU COUNTY PROBATION DEPARTMENT
400 COUNTY SEAT DRIVE
MINEOLA, NY 11501-4823
(516) 571-4676

November 15, 2016

Office of the County Comptroller
Ms. JoAnn Greene, Director of Field Audit
240 Old Country Road
Mineola, New York 11501

Re: Department of Probation Court Ordered Restitution Bank Account Review

Dear Ms. Greene:

We are in receipt of your letter dated September 26, 2016 with your findings relating to the above-referenced audit. As per your request, we would like to provide you with this formal response. The following are explanations and/or corrective measures we are taking in response to your report:

Please note that in relating to the scope of the audit (2013-2015) we are referring to the former department Director.

Finding (1):

The Restitution Account Had Not Been Reconciled in Over 19 Months

Audit Recommendation(s):

We recommend that the Probation Department’s Acting Director:

- a) ensure that the restitution bank account balance is reconciled to the balance in Probation’s accounting records in a timely manner and all reconciling items are resolved. Additional accounting staff should be hired to assist in restitution functions, as the restitution surcharge collected is for offsetting the cost of collections; and
- b) ensure there is proper management oversight of the bank reconciliation process to make sure financial information is accurate and assets are not at risk of being misappropriated, and that the managerial review is evidenced by the initials and date of the reviewer.

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Probation Response:

The Department did fulfil its responsibility and prepare bank reconciliations with any reconciling differences in a timely manner. The Department could not move forward on its monthly bank reconciliation in December 2014 due to a reconciliation error, but that does not mean that we stopped the reconciliation process. We continued our efforts and worked diligently to resolve the problem and ultimately Comptroller’s was able to assist us so we can now move forward.

Although we have lost 4 positions during this period, we have continued to meet our responsibility. In addition, in January 2012, the Probation Department also assumed control of the Juvenile Detention Center (JDC) from the DSS which increased workloads.

There currently is double oversight of the reconciliations process and managerial review by our Probation Director and Departmental Attorney (both in the past and present). Our Director reviews the monthly bank statement and signs-off, while the Accountant performs the reconciliation and notes any reconciling items to follow-up on. At that point, our departmental Attorney reviews the monthly bank reconciliation and signs-off. Reconciliations are then forwarded to the Treasurer’s office.

Auditor’s Follow-up Response:

We reiterate with respect to recommendation (a) that the Probation Department’s Acting Director ensure the restitution bank account is reconciled in a timely basis, and all reconciling items are resolved.. Although the Probation Department’s response stated they did fulfil its responsibility and prepared the bank reconciliations in a timely manner, the account had not been reconciled in over 19 months. In addition, Probation has not answered the auditors queries regarding whether they have caught up and prepared all 2015 and 2016 reconciliations.

With respect to the response to recommendation (b) we concur with the corrective action taken by the Probation Department to have managerial oversight and signoff of the monthly bank reconciliation process.

Finding (2):

The Restitution Bank Account has Adjusting Entries Totaling \$102,796 that Remain Unresolved Two Years Later

Audit Recommendation(s):

We recommend that the Probation Department’s Acting Director:

- a) make the necessary adjustments to the accounting records to correctly record the DWI fees that were collected by the collection agency and remitted to the Treasurer as noted by the audit;
- b) collect the \$15,420 from the Probationer due to the bank error for the deposit of \$15,576; and

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- c) correct the 12 items totaling \$5,614 from prior years.

Probation Response:

The Department has already begun to take corrective measures as follows:

- (a) the Departmental Supervisor has made the correcting journal entry of \$81,762 regarding the MSB collection fees. The journal entry now corrects the cash balance of the restitution account.
- (b) the Departmental Attorney had already sent out a collection letter to the probationer advising that \$15,540 remaining payment needs to be made. The Treasurer’s was engaged in discussion with the bank about their processing error and our options to recoup the full check amount. Ultimately, the bank has declined to cover the balance of this check. Our next course of action has been to ask the Commissioner of Investigations and County Attorney to pursue recouping the outstanding balance due. In addition, the District Attorney’s Office has verified that no Judgment of Satisfaction went out to the probationer after the check was paid. The probationer continues to receive monthly bills for the outstanding balance that remains.
- (c) Miscellaneous items will be reviewed and corrected as needed.

Auditor’s Follow-up Response:

We concur with the corrective actions taken by the Probation Department’s Acting Director regarding recommendations (a), (b) and (c) to record the DWI fees, collect the \$15,420 from the Probationer and correct the 12 items totaling \$5,614 from prior years.

Finding (3):

Probation Did Not Comply with State Regulations, Did Not Follow Up on Outstanding Stale Checks to Crime Victims Totaling \$266,365

Audit Recommendation(s):

We recommend that the Probation Department comply with the NYS Regulations and their own Procedural Manual to:

- a) investigate the reasons for uncashed crime victim checks for a full year and attempt to locate the intended beneficiaries as required by the Regulations; and
- b) ensure any investigated, undisbursed funds be designated and listed for the payment of other restitution orders that have remained unsatisfied for the longest period of time.

Probation Response:

We have taken corrective measures that stale check letters be sent out timely to beneficiaries. We are sending out a preformatted letter advising beneficiaries to contact the Department if the check was not received or if they cashed the check. A replacement check would be sent out to those individuals who never received an original check.

In response to your Exhibit IV, although the report states that there are large outstanding numbers of checks, we know that is not completely accurate and performed a manual review of the outstanding checks (outside of the accounting system) that have cleared since Dec 2014. This was

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done in order to generate an updated stale dated check list so we can send out notices to beneficiaries of any outstanding checks. Please see chart below:

<u>Age of Checks</u>	<u>Year</u>	<u>Count</u>	<u>Amount</u>
Less than 1 yr.	2014	208	\$ 66,632.62
1-2 yrs.	2013	209	\$ 40,243.86
2-3 yrs.	2012	190	\$ 27,667.26
3+ yrs.	2011	<u>144</u>	\$ 16,222.72
TOTAL		<u>751</u>	<u>\$150,766.46</u>

Although it is not mandated, we will attempt to use DMV records as a means to try and locate beneficiaries’ current addresses and then ascertain their reasons why checks were not cashed.

We are also using our new Caseload Explorer system to generate a detailed list of the longest unsatisfied orders that are in the Restitution account. In discussion with other NYS counties, they utilize the same report in CX to disburse funds to unpaid victims.

Auditor’s Follow-up Response:

We concur with the corrective action taken by the Probation Department regarding recommendation (a) to investigate the reasons for uncashed crime victim checks by sending out letters and the use of DMV records to locate the beneficiaries and recommendation (b) to generate detailed list of the longest unsatisfied restitution orders to disburse funds to unpaid victims from the new Caseload Explorer system.

With respect to the Probation Department’s comment that the numbers of outstanding checks in Exhibit IV is not completely accurate, Exhibit IV shows the aging of the 1,102 outstanding checks totaling \$266,365 as of December 31, 2014. The Probation Department is referring to checks that were cleared by the bank after December 31, 2014. Therefore, we stand by the accuracy of the data in Exhibit IV.

Finding (4):

Violations of Cash Controls Designed to Prevent Theft Were Found

Audit Recommendation(s):

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We recommend that the Probation Department take the necessary steps to ensure adequate safeguards are in place for the Restitution cash account. The Probation Department should:

- a) correct all invalid check numbers in the financial accounting system;
- b) ensure that check numbers going forward with the new system (Caseload) are automatically generated and in sync with the actual bank check numbers;
- c) record reasons for voided and reissued checks in the system; and
- d) account for all check numbers when performing the monthly bank reconciliation.

Probation Response:

We strongly disagree and take exception with the wording of “Theft” in your caption title as it alludes that there was a problem; no theft was found. What happened was a weakness in the legacy system which has been eradicated in our present system.

We have taken corrective action by having the Supervisor review the daily check register to ensure that the payee, amount of the check, and check number are recorded properly. The supervisor will initial and date the journal. Any errors can be corrected immediately at this point if they are detected. As far as additional check information, the reasons for voids and reissued checks will be entered in the Caseload Explorer system. The individual reasons for the void and reissuance of a check can be reviewed on demand.

We have taken corrective action with regards to check numbers being out of sequence. Under the old TRACKER accounting system check numbers were entered manually by the operator which allowed for errors. Under the new Caseload Explorer system, all check numbers are automatically assigned sequentially by the system eliminating misentry of check numbers by the operator. The operator must check to be sure the proper check number in the printer matches to the check number on screen. With the correction of check numbers in Caseload Explorer, the Accountant will be able to account for all checks voided in the month, and will facilitate the preparation of the monthly bank reconciliation as all checks are accounted for and in sequential order. Going forward, this will insure integrity as a result of the new system and problems will now be mitigated.

Auditor’s Follow-up Response:

We concur with the corrective action taken by the Probation Department regarding recommendations (a), (b), (c) and (d) to correct invalid check numbers by having the supervisor review the daily check register, using the new Caseload Explorer system which automatically assigns check numbers in sequential order, having the operator match the check numbers on the printer to screen records, entering the reasons for the void and reissuance of checks in the Caseload Explorer system and account for all check numbers to facilitate the preparation of the monthly bank reconciliation.

*With respect to the Probation Department’s disagreement with the word “Theft” in the finding title, we stand by the title. The title does not state or infer that theft was found. Cash controls are necessary to help prevent theft from occurring. The Probation Department’s use of non-sequential check numbers and the lack of documentation to explain voided and reissued checks are serious weaknesses that increase the **risk** of theft.*

Finding (5):

Lack of Proper Segregation of Duties Compromises Internal Controls

Audit Recommendation(s):

We recommend that the following Probation Department functions be segregated, the setup of accounts receivable, entering cash receipts and disbursements, daily posting against daily deposit reconciliation to separate individuals. Duties of the personnel who would take over in the event of an absence of one of these individuals should also be also be determined and segregated.

Probation Response:

The Department has Segregation of Duties of the Supervisor to avoid any conflicts. There are internal controls. The finding states that the Supervisor could make adjustments to the old TRACKER system. This is incorrect – the TRACKER system would not allow deletions and any corrections would be followed by an audit trail within the system. The New Caseload Explorer system also does not permit deletions by the Supervisor. Any changes can only physically be made by the outside software vendor after a formal written request is made by the Department. The Supervisor never generates checks in either TRACKER or CX systems and has no ability to do so. Therefore, there is no need for Segregation of Duty. It should be noted that the Supervisor is working with a small staff, and as has been past practice, has arranged the work flow in the unit to yield the highest efficiency possible.

To suggest that the Supervisor would be able to make changes undetected needs to be further explained. This would assume that the Supervisor knows how to write professional product software code (for this software) and would also have direct access to the server (which is secured by IT Dept. in Bethpage). Neither case exists. The Supervisor does however possess knowledge of the system to train Restitution Unit staff. In years 2013 – 2014, the Supervisor was not involved in daily RU production. The Supervisor did not take over daily operations of the RU until September 2015 when the current supervisor Assistant Probation Director (APD) retired. In addition, staff in the RU were to be reassigned within the Department and so existing staff trained incoming staff on the new system. During this interim basis (September through December) in order to maintain efficiency and continuity the Supervisor was assigned to the RU (as employee was already performing INTIME for the staff and was the logical choice).

Also, as recommended, we would like to select one (1) additional person to act as alternate in the absence of the Supervisor. In the absence of the Supervisor, our Assistant Deputy Director (ADD) will oversee daily operations.

Auditor’s Follow-up Response:

We reiterate the recommendation for the Probation Department to segregate the setup of accounts receivable, entering cash receipts and disbursements and daily posting of cash receipts to separate individuals, in accordance with the Practice of Internal Controls issued by the Office of the New York State Comptroller.

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We do not agree with the Probation Department’s rationale that there is no need to segregate duties because the old Tracker system and the new Caseload Explorer system do not allow for deletions and any corrections are tracked by an audit trail within the system. For clarity purposes, the audit did not address deletions per se, or state that the two systems allowed deletions. The audit also never suggested that the Supervisor had the ability to change the software. The audit addressed the Supervisor’s access to both receipts and disbursements and the ability to make adjustments to transactions in the system.

The Probation Department confirmed in its response that the Supervisor had the ability to make adjustments when it stated and relied on the premise that “any corrections are tracked by an audit trail within the system.” With respect to the Probation Department’s suggestion of the system’s audit trail as a compensating control, an audit trail does not prevent errors or unauthorized corrections to transactions from occurring, nor would an audit trail ensure that errors or unauthorized corrections are detected and addressed in a timely manner. Rather, exception reporting would need to be developed using the audit trail functionality and a control process would need to be implemented requiring the review and follow up of exception reports. No such exception reporting existed.

We concur with the Probation Department’s plan for the Assistant Deputy Director to oversee the daily operations when the Supervisor is absent.

Finding (6):

Probation Has Not Distributed Restitution Trust Funds to Unpaid Victims Since 2011, In Violation of the Criminal Procedures Law, and the Probation Procedural Manual

Audit Recommendation(s):

We recommend that the Department:

- a) maintain a list of unsatisfied restitution orders (such as when the probationer passes away and can no longer make payments to that victim) in chronological order; and
- b) comply with Criminal Procedures Law and NYS Regulations and distribute Restitution Trust monies (Unclaimed Funds) to victims who have been unpaid the longest.

Probation Response:

We are working with our CX software vendor (selected by NYS Comptroller to service all NYS counties) to modify an existing Caseload Explorer report so that the oldest unsatisfied restitution orders are listed in chronological order and to distribute these funds to the beneficiaries who are owed the money the longest. The process requires to pay the oldest unpaid victim first in full, or make whole– no partial payments are allowed – then move up to the next victim on the list. For instance, this situation could potentially result in one victim, with a large restitution order, to garner a substantial portion of the funds available at that time. This would-in-fact create a situation whereby many people might still go unpaid on the list.

To illustrate this point: if beneficiary A was owed \$1,000 and there was only \$200 in the Restitution Trust account, that full amount would go to pay only beneficiary “A”, leaving a

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remaining balance of \$800. No other beneficiaries can be paid at this point because only the oldest beneficiary can be paid first, beneficiary B must wait his/her turn in line because there are only enough funds to cover beneficiary “A”. Next month, the Restitution Trust account receives \$200 from the probationer and again beneficiary “A” receives another payment for \$200. The remaining balance from the probationer now goes down to \$600. This same process will continue repeating over and over until the probationer has paid off his/her balance in full. This results in only one (1) beneficiary being paid while other beneficiaries remain unpaid until the first beneficiary is completely satisfied. There will be situations where some judgments will never be satisfied as the amount ordered is significantly more than the probationer can ever pay.

Auditor’s Follow-up Response:

We concur with the corrective actions being taken by the Probation Department regarding recommendations (a) and (b) to maintain and modify a list of unsatisfied restitution orders in chronological order and to comply with the Criminal Procedures Law and NYS Regulations to distribute monies to victims who have been unpaid the longest.

Finding (7):

Contrary to Criminal Procedures Law, Monies Collected Are Applied To Probation Fees Instead of Restitution When Judgment Orders Are Delayed

Audit Recommendation(s):

We recommend that the Probation Department:

- a) apply payments that are received to the restitution account until it is up-to-date as per Criminal Procedures Law and then to the County fee categories; and
- b) work with the Nassau County Court system and the District Attorney’s Office in order to receive judgment orders in a timelier manner.

Probation Response:

There has been no violation of the NY CPL, Article 420.10. We have followed this to the best of our ability within the confines of the law. Our Policy has always been to pay restitution before any fees. If money was collected and applied to a probation fee and a judgment order was subsequently received, that money transferred over to the restitution account and the fee adjusted.

We disagree with this finding that restitution was not applied consistently to accounts as when we find any mispostings of “restitution to fees” they are then corrected immediately. Clerical errors will occur at times but that is not the standard operating procedure. Before any affidavit is generated by the Restitution Unit, a thorough review of the probationer’s payment history is done to insure that the court receives the most accurate and up-to-date financial information about non-payment of restitution. The Restitution Unit, therefore, would be the first to recognize a potential problem and take immediate corrective steps to journal entry fees back to restitution. We would then bill the probationer for the fees owed.

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Going forward with the timeliness of Judgment Orders, Probation continues to work with the Nassau County Court system in order to expedite receipt of Judgment Orders. Currently we receive Judgment Orders from District Court electronically which expedites the determination of Restitution and fees. Probation continues communicating with County Court, which presently relies on paper orders, to move in the same direction as with District and receive information electronically.

The Department is working with the software vendor to develop a report, to be run on demand, that will capture all changes and deletions to beneficiaries, amounts, etc. in Caseload Explorer. This will ensure that there is always a strong audit trail of any financial edits made to CX and will eliminate any possible “workarounds” to circumvent the system that could go unnoticed.

Auditor’s Follow-up Response:

With respect to the response to recommendation (a), we reiterate that the Probation Department apply monies received from probationers to the restitution account first until it is up-to-date as per the New York Criminal Procedures Law (“NY CPL”) and then to County fees. Although the Probation Department has stated there has been no violation of the NY CPL, Article 420.10, the auditors were informed during the entrance meeting that monies received were being applied to County fees when court orders for restitution were delayed.

With respect to the response to recommendation (b), we concur with the Probation Department’s plan to work with the Nassau County Court system in order to expedite the receipt of judgment orders.

Finding (8):

Probation did not Implement the Caseload Explorer Financial Module, Consequently, Probation Officers Did Not Have Immediate Access and could not Efficiently Perform their Financial Oversight Over Probationers Financial Obligations

Audit Recommendation(s):

We recommend that the Probation Department ensure that all Probation Officers maintain access to probationers’ court ordered financial obligations as well as all information that is needed so they can properly perform their NYS mandated duties in order to report probationers that failed to meet the financial obligation to courts and the Board of Parole as required by Probation Regulations.

Probation Response:

We disagree with your finding that Probation delayed in implementing the financial module of CX and that Officers did not have immediate information access to perform their oversight.

The statement that Nassau was one of 42 counties that were listed in the state performance report as implementing CX in December 2011 but really did not achieve that goal until 2016 is misleading. Firstly, this timeframe is outside the scope of the audit which runs from 2013-2015;

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and secondly, every county progressed at its own pace as different stages of CX were utilized and rolled-out. There was no state mandate that we had to implement all modules at the same time and no urgency or rush to go from the well-established TRACKER system to CX. We needed to exercise good business acumen to be sure that the timing and migration of our accounting system to CX proceeded uneventfully as possible.

There were numerous software hurdles to clear requiring close collaboration between TRACKER/CX software engineers. Some key examples would be establishing a PIN number for each account in CX via manual entry while TRACKER utilized a case number for daily operations – the two methods were incompatible; file associations had to be created to link Payor/Payee in order to allow the data conversion to migrate properly. After each update was completed, error reporting was run repeatedly to minimize conversion errors to accounts.

Prior to CX, TRACKER interfaced with the county mainframe program PROBE that relayed to TRACKER daily downloaded information such as probationer’s demographics, i.e., PIN #, Officer Assigned, Caseload name, obligation type (fee type or restitution/surcharge), and dates. When the department went to Caseload Explorer in 2009 the daily download stopped and all limited data had to be manually entered into Tracker. Without proactive involvement by Officers and advising the Restitution Unit of changes, the optimal functioning of the Tracker system was reduced. The APD at the time terminated the dissemination of the restitution report; however, Officers/Supervisors still always had the ability to inquire immediately and directly from the RU about probationer payments and balances at any given time. This did not in any way affect the Officers/Supervisors efficiency and financial oversight over probationers’ financial obligations.

Auditor’s Follow-up Response:

We reiterate the recommendation for the Probation Department to ensure that all Probation Officers maintain access to probationer’s court ordered financial obligations so the Probation Officers can perform their NYS mandated duties as required by Probation Regulation.

Prior to 2016 (within the audit scope time frame), the Probation Officers did not have access to the old Tracker system to quickly determine what was owed for restitution and County fees in order to enforce the conditions of the probation. Although the Probation Department’s response stated the Probation Officers/Supervisors had the ability to inquire directly to the Restitution Unit regarding probationer payments and balances, the Probation Officers’ oversight of a probationer’s financial obligations could not be performed independently from the Restitution Unit as in the past. The need to perform extra steps involving human interactions will typically lead to a decrease in efficiency and timelines.

Again, thank you for this opportunity to respond to this review.

Sincerely,



John Plackis, Acting Probation Director

Nassau County Probation Department