



Madison County Probation Department Restitution Payments and Revenues

Report of Examination

Period Covered:

January 1, 2013 — December 31, 2013

2014M-93



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2014

Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and County Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Madison County Probation Department, entitled Restitution Payments and Revenues. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

Madison County (County) is located in central New York and has a population of approximately 73,000. The County is governed by a Board of Supervisors (Board) comprising 19 members who represent the 15 towns and one city that are located within the County. The County Administrator provides general supervision of County operations. The Probation Department (Department) assists in reducing the incidence of crime by probationers in the community and is the designated agency for the collection of court ordered restitution and surcharges for probation and non-probation cases.

The Deputy Director¹ manages the Department's day-to-day operations and oversees two probation supervisors, eight probation officers and three office assistants. During 2013, the Department collected \$73,324 in restitution, including \$3,152 in surcharges. The Department currently supervises 85 cases where there is an order for a defendant to pay restitution and 64 cases where the defendant is on probation for DWI offenses. Department staff is responsible for collecting restitution payments and designated surcharges. After collection, the Department remits the restitution moneys to the victims designated by the courts and the surcharges to the County Treasurer.

Objective

The objective of our audit was to determine if restitution payments were adequately safeguarded and whether probation supervision fees were being collected. Our audit addressed the following related questions:

- Are internal controls over the collection and disbursement of restitution adequately designed and operating effectively?
- Are County officials pursuing all possible revenue sources within the Department?

Scope and Methodology

We examined the Department's records and reports for the period of January 1 through December 31, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

¹ The Director position was vacant during our audit period. The Deputy Director serves as the acting Director in the absence of the Director. The Deputy Director was appointed Director in February 2014.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and our recommendation have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendation and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk of the Board's office.

Restitution Payments and Revenues

Department management is responsible for implementing the Board's control directives by designing and implementing appropriate operating policies, practices and procedures and properly delineating employee responsibilities to ensure that cash received for restitution is adequately safeguarded and that cash is disbursed only upon proper authorization.

We found that the Department has established an adequate system of internal control over the collection and disbursement of restitution. However, we found that County officials were not pursuing all possible revenue sources within the Department. If the County imposed certain allowable fees, the probation department could generate an additional \$25,000 annually.

Internal Controls

An effective system of internal controls provides for adequate segregation of duties and independent oversight of cash operations. Proper segregation of duties ensures that no one person controls all phases of a transaction and provides for the work of one employee to be verified by another employee. Controls should also help ensure that cash transactions are properly initiated, approved, documented and recorded, cash is safeguarded to prevent loss or theft and disbursements are proper. When internal controls are not designed appropriately or operating effectively, there is an increased risk that cash receipts may not be deposited or unauthorized payments could be made.

The Department has established procedures that segregate duties and provide for each employee's work to be reviewed by another employee. Two office assistants collect restitution and surcharges from defendants in person or through the mail and prepare receipts. A third office assistant (OAI) verifies and records the payment information from the duplicate receipts into the accounting records and prepares the deposit. The Deputy Director verifies the amount of the deposit and ensures that the total deposit agrees with the receipts and the amounts entered into the accounting records. The OAI prepares checks for payment and either the Deputy Director or a probation supervisor signs the checks. The Deputy Director reviews canceled checks, bank statements and the bank reconciliations that the OAI performs. Both the OAI and probation officers are responsible for monitoring delinquent payments from defendants. When a defendant is delinquent in payment, they submit a letter to the respective court or the District Attorney's Office (DA) as notification of the delinquency.

To determine whether the internal controls were operating as intended, we tested payments from 20 defendants totaling \$4,596 to determine

if payments were properly recorded, deposited and remitted to the intended victims. Our testing showed that 17 payments were properly recorded, deposited and remitted to the victims. Three defendants made no payments; therefore, we verified that the Department had notified the applicable court or DA for enforcement. Notifications were sent for all three defendants. In addition, we reviewed the completeness and continuity of receipt numbers for one month as well as a bank reconciliation for accuracy. All receipts examined were complete and intact, and the bank reconciliation was properly prepared and showed evidence of independent review. We did not identify any errors or improprieties. Overall, we found that the Department's internal controls over the collection and disbursement of restitution were adequately designed and operating effectively.

Revenues

New York State Law allows counties to adopt a local law requiring individuals convicted of a crime under Article 31 of the Vehicle and Traffic Law (driving while intoxicated, or DWI) and who are sentenced to probation supervision to pay an administrative fee to the Department of \$30 per month.² Additionally, through the adoption of a local law, the Board may impose fees for drug screening. If these administrative fees are not charged, Department operations and functions may not be operating at the lowest possible cost to taxpayers.

The Department supervised an average of 306 individual cases per month in 2013 but did not impose administrative fees for probation supervision or drug screening. In 2013, there were approximately 720 months of DWI supervision and 260 probationers requiring drug-screening tests. The County Administrator and Deputy Director told us that the County does not charge DWI supervision or drug-screening fees since the Department takes the position that they would rather have the defendant apply this money towards restitution and transportation costs in traveling to the courts and probation office, instead of paying these additional fees. However, other counties³ are routinely imposing and collecting fees for DWI supervision and drug testing.

If these fees were imposed, the Department could have collected as much as \$25,000 during 2013. Charging these fees to the individuals on probation could reduce the financial burden on taxpayers.

² The law requires probation departments to waive all or a portion of the fee due to indigence or if it would create an unreasonable hardship on the probationer, the probationer's immediate family or other dependents.

³ We contacted seven counties in the Syracuse region to determine what fees are charged for these services. Six counties charged DWI supervision fees and three also charged for drug testing.

Recommendation

1. County officials should consider imposing fees for probation supervision and drug screening.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



MADISON COUNTY BOARD OF SUPERVISORS

John M. Becker, Chairman
Mark Scimone, County Administrator
Cindy L. Urtz, Clerk

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Wampsville, NY 13163
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May 28, 2014

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 East Washington Street
Syracuse, New York 13202-1428

Dear Ms. Wilcox:

The following is the response in regards to the Madison County Probation Department Restitution Payments and Revenues Report of Examination for the period covered January 1, 2013 – December 31, 2013.

I concur with the findings of the restitution payments and revenues internal control review conducted by the Office of the State Comptroller. I am very proud of the job done by departmental management and our employees to ensure the proper internal controls over the collection and disbursement of restitution are in place.

In regards to pursuing all possible revenue sources within the Probation Department, currently, the only monies collected by the Madison County Probation Department are restitution and associated surcharges. Historically, supervision and other fees have not been collected by the department as it was reasoned that the probationer's available funds might be better directed toward other financial responsibilities associated with probation supervision.

Primary among those responsibilities is the probationer's obligation to make restitution to the victim of his/her crime. Restitution is always a priority and such is conveyed to the probationer. Additionally, most probationers are required to attend substance abuse and/or mental health treatment as a condition of their probation sentence. In DWI cases, nearly all such probationers are mandated to attend treatment. In instances where a probationer is un- or under-insured, the cost of treatment must be borne out-of-pocket. Lastly, Madison County is a predominately rural area, with very limited public transportation. In nearly all cases, those with DWI convictions have had their driver's licenses revoked by the Court. Thus, it often becomes necessary for them to pay others for transportation to probation and treatment appointments.

In summary, in Madison County to date, the payment of restitution, treatment fees, and transportation costs have been prioritized over the collection of supervision or other fees. That being said, it is understood that this is a potentially significant source of revenue for the county. As such, capturing this source of funds will be discussed with the Criminal Justice, Public

Safety, and Emergency Communications Committee for possible consideration by the Board of Supervisors as a whole.

Sincerely,

John M Becker, Chairman
Madison County Board of Supervisors

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine if restitution payments were adequately safeguarded and whether probation supervision fees were being collected for the period January 1 through December 31, 2013.

To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed the Deputy Director, office assistants and probation officers to gain an understanding of the internal controls over the collection and disbursement of restitution payments. We also interviewed the County Administrator and Deputy Director as to whether probationers are charged supervision fees.
- We reviewed the receipt numbers for continuity for July 2013 to identify whether any gaps or voids existed. We also determined if the information written on the receipt slips was recorded in the transaction reports.
- We randomly selected 20 defendants who had an active order to pay restitution. We selected payments received from these defendants during July 2013 to determine if the payment amount stipulated in their respective court order was collected as shown on the duplicate receipt, recorded in the accounting records, deposited in the bank and disbursed to the intended victim based upon our review of the canceled checks. For defendants who had not paid restitution, we determined if the DA had been notified of the delinquency.
- We determined the accuracy of the bank reconciliation for July 2013.
- We randomly selected 10 canceled checks from the bank statements during our audit period, to determine if the payment amounts and victim names agreed with the court orders.
- We inquired of seven counties in the Syracuse region to determine what fees, if any, they were charging for probation supervision and for drug testing.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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