



Livingston County Probation Department Financial Operations

Report of Examination

Period Covered:

January 1, 2014 — April 28, 2016

2016M-404



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2017

Dear County Board of Supervisors:

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 the Board of Supervisor's 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 Livingston County Probation Department, entitled Financial Operations. 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 New York State 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Livingston County (County) is governed by the Board of Supervisors (Board), which comprises 17 elected Livingston County Town Supervisors. The Chairman of the Board, elected annually by the Board, is the Chief Executive Officer. The County Administrator reports to the Board, and his responsibilities include ensuring that department heads implement Board-established directives and policies.

The Livingston County Probation Department (Department) assists in reducing the incidence and impact of crime by probationers in the community. The Department collects court-ordered financial obligations, including restitution and designated surcharges, fines, mandatory surcharges and electronic home monitoring fees, as well as driving while intoxicated supervision fees, in accordance with a County local law. The Department distributes collections to crime victims, courts, New York State and the County Treasurer, as directed by court order or law. The Department reported collections of approximately \$254,000 during 2015. At the time that we were conducting audit testing, the Department had open cases with over 2,800 obligations totaling approximately \$3.1 million dating as far back as 1985.

The Probation Department Director (Director)¹ is responsible for managing the Department's day-to-day operations. The Director oversees two probation supervisors, two senior probation officers, seven probation officers, a principal typist and a clerk typist.²

Scope and Objective

The objective of our audit was to examine the Department's financial operations for the period January 1, 2014 through April 28, 2016. Our audit addressed the following related questions:

- Did County and Department officials ensure that the Department adequately enforced, accounted for and safeguarded the collection and disbursement of all money in a timely manner?

Audit Results

The Department's inadequate computer system produced unreliable data and reports for use in monitoring and enforcing unpaid accounts. The Department was unable to produce a complete and accurate listing of outstanding balances for all open cases and of unpaid victims and amounts held

¹ The current Probation Director was appointed effective June 18, 2011.

² The Department promoted the clerk typist to principal typist during our audit period. Our report will still refer to her as clerk typist to prevent confusion.

on their behalf. We estimated that the Department had open cases with over 2,800 obligations with outstanding balances totaling approximately \$3.1 million. Of that amount, approximately \$2.7 million (86 percent) was for cases opened prior to our audit period, some cases dating back as far as 1985. Because of the Department's inadequate enforcement efforts, this aging amount is unlikely to be collected.

We reviewed 37 open cases with outstanding balances of court-ordered obligations totaling \$85,229 as of August 31, 2015, and found that \$29,618 (35 percent) was delinquent because Department staff did not adequately comply with Department policy or law to enforce their timely collection. In addition, the Department lacked sufficient policy guidance for enforcing unpaid Department fees and lacked any guidance for collecting obligations for which the Department retained responsibility after offenders transferred to another jurisdiction³ or finished their probation sentence. The Department makes little or no effort to collect unpaid obligations for the Department's 1,900 "due and owing"⁴ cases totaling about \$2.4 million. Further, the Department did not maintain adequate documentation related to undisbursed restitution or make timely payments to unpaid victims in accordance with the law or Department policy.

In addition, a general lack of oversight by the Board, County Administrator and Director – such as failure to develop policies and procedures, segregate key financial duties and provide for an annual audit and financial report – has resulted in pervasive deficiencies throughout Department operations. The principal typist controlled most cash accounting responsibilities but did not maintain a running cash balance. Therefore, she could not determine the source or purpose of an unidentified cash balance of approximately \$11,400. This amount is likely undisbursed restitution that should have been provided to crime victims.

When we began audit fieldwork, the Department was in the process of implementing new probation accounting software that should provide improved controls, reporting and monitoring capabilities. In addition, the Director began implementing various policy and procedural changes during our audit fieldwork to address issues as we discussed them.

Comments of Local Officials

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, County officials generally agreed with our recommendations and indicated they will continue to implement corrective action. Appendix B includes our comments on issues raised in the County's response letter.

The County Board of Supervisors 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 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 County Board of Supervisors to make this plan available for public review in the Clerk to the Board's office.

³ Another county or state

⁴ Encompasses conditionally discharged and incarcerated offenders and cases not ordered to civil judgment by the court at the end of probation.

Introduction

Background

Livingston County (County) is located in central New York and has a population of approximately 65,000. The County is governed by the Board of Supervisors (Board), which comprises 17 elected Livingston County Town Supervisors. The Chairman of the Board, who is elected annually by the Board, is the Chief Executive Officer. The County Administrator reports to the Board, and his responsibilities include ensuring that department heads implement Board-established directives and policies.

The Livingston County Probation Department (Department) assists in reducing the incidence and impact of crime by probationers in Livingston County. Probation is an alternative to incarceration, permitting offenders to live and work in the community, support their families, receive rehabilitative services and make restitution to the victims of their crimes. The Department collects court-ordered financial obligations including restitution and designated surcharges, fines, mandatory surcharges and electronic home monitoring fees, as well as driving while intoxicated supervision fees in accordance with a County local law.⁵

The Department distributes collections to crime victims, courts, the State and the County Treasurer, as directed by court order or law. The Department reported collections of approximately \$254,000 during 2015, divided fairly evenly between restitution and designated surcharges, fines, mandatory surcharges and Department fees. At the time that we were conducting audit testing, the Department had open cases with over 2,800 obligations⁶ totaling approximately \$3.1 million dating as far back as 1985.

The Probation Department Director (Director)⁷ is responsible for managing the Department's day-to-day operations and developing policies and procedures for the collection, safeguarding, disbursement and enforcement of amounts due to the Department. The Director oversees the following staff: two probation supervisors, two senior probation officers, seven probation officers, a principal typist and a clerk typist.⁸

⁵ As authorized by New York State Executive Law

⁶ Data recorded for open cases is by obligation type. One case may have multiple financial obligations.

⁷ The current Probation Director was appointed effective June 18, 2011.

⁸ The Department promoted the clerk typist to principal typist during our audit period. Our report will still refer to her as clerk typist to prevent confusion.

Objective

The objective of our audit was to examine the Department's financial operations. Our audit addressed the following related question:

- Did County and Department officials ensure that the Department adequately enforced, accounted for and safeguarded the collection and disbursement of all money in a timely manner?

Scope and Methodology

We examined the Department's financial operations for the period January 1, 2014 through April 28, 2016.⁹

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 are included in Appendix C of this report. Unless otherwise indicated in this report, we selected samples for testing based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Department officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, County officials generally agreed with our recommendations and indicated they will continue to implement corrective action. Appendix B includes our comments on issues raised in the County's response letter.

The County Board of Supervisors 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 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 County Board of Supervisors to make this plan available for public review in the Clerk of the Board's office.

⁹ For enforcement sample tests, we also reviewed case file information from prior to our audit period to help establish balances in arrears at the beginning of our audit period, or identify activity that affected the current balance or status of the cases.

Financial Operations

The Department is responsible for collecting court-ordered financial obligations including restitution and designated surcharges,¹⁰ fines, mandatory surcharges,¹¹ and Electronic Home Monitoring (EHM) fees, as well as Driving While Intoxicated (DWI) supervision fees, in accordance with a County local law.¹² Timely collection and distribution of these financial obligations ensures that crime victims receive their court-ordered compensation and helps finance Department operations. The Director is responsible for implementing controls, including written policies and procedures, to provide for adequate accounting records and procedures to safeguard cash receipts, and to enforce the timely collection and distribution of these financial obligations. County officials (the Board and Administrator) also must provide sufficient oversight to facilitate proper accountability for, and timely enforcement and disposition of, all offender financial obligations for which the Department is responsible.

The Department's inadequate computer system produced unreliable data and reports for use in monitoring and enforcing unpaid accounts. The Department was unable to produce a complete and accurate listing of outstanding balances for all open cases and of unpaid victims and amounts held on their behalf. We combined various reports from different sources to estimate that the Department had open cases with over 2,800 obligations with outstanding balances totaling approximately \$3.1 million. Of that amount, approximately \$2.7 million (86 percent) was for cases opened prior to our audit period, some cases dating back as far as 1985. Because of the Department's inadequate enforcement efforts, this aging amount is unlikely to be collected.

We reviewed 37 open cases with outstanding balances of court-ordered obligations totaling \$85,229 as of August 31, 2015, and found

¹⁰ New York State Penal Law requires, in all cases where restitution is imposed as part of a sentence, that the courts direct the defendant to pay a 5 or 10 percent surcharge to the Department.

¹¹ Mandatory surcharges (which – for our reporting purposes – also encompass sex offender registration fees, DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees) are required by New York State Penal Law, ordered at the time of sentencing based on the crime committed, and generally due to the court clerk within 60 days of the date ordered unless the court ordered an alternative due date.

¹² New York State Executive Law allows counties to adopt a local law requiring individuals convicted of a crime under Article 31 of the Vehicle and Traffic Law for DWI, and sentenced to probation supervision, to pay an administrative fee to the Department of \$30 per month.

that \$29,618 (35 percent) was delinquent because Department staff did not adequately comply with Department policy or law to enforce their timely collection. In addition, the Department lacked sufficient policy guidance for enforcing unpaid Department fees and lacked any guidance for collecting obligations for which the Department retained responsibility after offenders transferred to another jurisdiction¹³ or finished their probation sentence. The Department makes little or no effort to collect unpaid obligations for the Department's 1,900 "due and owing" cases totaling about \$2.4 million. Further, the Department did not maintain adequate documentation related to undisbursed restitution or make timely payments to unpaid victims in accordance with the law or Department policy.

In addition, a general lack of oversight by the Board, County Administrator and Director – such as failure to develop policies and procedures, segregate key financial duties and provide for an annual audit and require a financial report – has resulted in pervasive deficiencies throughout Department operations. The principal typist controlled most cash accounting responsibilities but did not maintain a running cash balance. Therefore, she could not determine the source or purpose of an unidentified cash balance of approximately \$11,400. This amount is likely undisbursed restitution that should have been provided to crime victims.

When we began audit fieldwork, the Department was in the process of implementing new probation accounting software that should provide improved controls, reporting and monitoring capabilities. In addition, the Director began implementing various policy and procedural changes during our audit fieldwork to address issues as we discussed them.

Financial Records and Enforcement

New York State Criminal Procedure Law (Criminal Procedure Law) and the New York Codes, Rules and Regulations (NYCRR) require timely reports to the court regarding any offender's repeated failure to remit required payments of all financial obligations, including restitution and designated surcharges, administrative fees, fines and mandatory surcharges. The Director is responsible for establishing a system of controls to ensure accurate and timely collection and disbursement of all financial obligations that the Department collects. This includes maintaining accurate and adequate records of total amounts due and past due from offenders to facilitate ongoing enforcement.

The Director implemented a financial collections policy (policy) on February 29, 2012 that established enforcement procedures to use for non-payment, depending on the type of obligation. Restitution

¹³ Another county or state

and designated surcharges and fines require seeking a modification from the court if periodic payments were not ordered, 30/60/90 day delinquency letters to probationers for non-payment and court notification after 90 days. Mandatory surcharges are to be reported to the court if not paid within 60 days.¹⁴ The policy also directs staff to apply probationers' payments to applicable obligations in the following order: mandatory surcharges, restitution, fines, EHM fees and DWI supervision fees. Implementation of this policy assists the Department in complying with its legal requirement to notify the court of repeated non-payment.

Due to an inadequate and outdated computer system, the Department was unable to provide to us a complete and accurate list of all open cases with total financial obligations outstanding or any amounts past due or in arrears. With more adequate and reliable records, County and Department officials would have been better able to monitor current cases for financial compliance.

Reports generated at our request included outstanding balances for incarcerated or transferred offenders. These balances may be inaccurate if offenders made payments to other supervising parties and/or if the Department was no longer responsible to collect. The reports also included cases categorized as "due and owing" for offenders incarcerated or conditionally discharged, or who completed probation with obligations still outstanding, but not ordered to judgment by the court. Without a judgment, the Department maintains these accounts in its records as open cases, but does not pursue collection. In addition, due to system limitations, the report only included the current month of DWI fees instead of the total unpaid for each case and did not include EHM fees not recorded or tracked within the system. Further, the system was unable to differentiate between the total amount due and the portion that was overdue or in arrears.

Therefore, we combined reports from various sources and approximated total outstanding obligations to be \$3.1 million. Approximately \$2.7 million (86 percent) of the total outstanding balances was for cases opened prior to our audit period, some cases dating back as far as 1985 (Figure 1).

¹⁴ Criminal Procedure Law provides that statutory provisions regarding collection of fines be applied to mandatory surcharges. Accordingly, judges often ordered a due date for mandatory surcharges that exceeded the 60 days provided for in Penal Law. In such cases, despite its 60-day notification policy, the Department should notify the court when the court-ordered payment deadline is not met.

Figure 1 - Outstanding Cases by Obligation Type

Obligation Type	Total Outstanding	Cases Opened Before Audit Period	% Old Cases	Cases Opened During Audit Period	% Recent Cases
Restitution	\$2,093,776	\$1,885,876	90%	\$207,900	10%
Fines	\$506,907	\$426,286	84%	\$80,621	16%
Mandatory Surcharges	\$328,571	\$240,392	73%	\$88,179	27%
EHM Fees	\$127,390	\$83,341	65%	\$44,049	35%
DWI Fees	\$74,733	\$62,184	83%	\$12,549	17%
Total	\$3,131,377	\$2,698,079	86%	\$433,298	14%

The majority of long-overdue outstanding balances resulted from inadequate enforcement efforts during probation and the Department’s lack of any current or ongoing enforcement efforts. Therefore, these balances are unlikely to be collected in the future. As a result, many crime victims will not receive the court-ordered compensation due them. In addition, the State and County lost revenues because they did not receive a significant portion of court-ordered or County-assessed fines, surcharges or fees.

We reviewed 37 cases as of August 31, 2015 that were not in financial compliance during our audit period to determine whether the Department consistently followed legal and policy requirements to enforce collections. Our sample included 22 cases assigned to a probation officer, five cases transferred out to other jurisdictions, five cases transferred in from other jurisdictions and five cases "due and owing." The cases had court-ordered obligations totaling \$196,516, of which collections totaled \$111,287 (57 percent), leaving \$85,229 (43 percent) outstanding. We determined that \$29,618 (35 percent of the outstanding balances) was delinquent¹⁵ as of August 31, 2015.

We reviewed enforcement of collections by obligation type (Figure 2), which each had specific legal and policy criteria, and found that the Department did not adequately or consistently enforce collection of obligations in accordance with the Department’s policy and applicable law. Between 65 percent and 100 percent of these obligations were not adequately enforced.

¹⁵ The cases excluded from the delinquent amount were for incarcerated or transferred-out offenders whose obligations the Department had relinquished responsibility to collect.

Figure 2 – Summary of 37 Sample Cases Tested, Balances as of August 31, 2015

Obligation Type:	Restitution	Fines	Mandatory Surcharges	EHM fees	DWI Fees	Total ^a
Number of Cases with Obligation Type	12	21	34	7	12	86
Total Ordered	\$135,217 ^b	\$26,130	\$18,090	\$8,589	\$8,490	\$196,516
Total Paid	\$81,665	\$13,526	\$9,143	\$3,334	\$3,619	\$111,287
Total Due as of 8/31/15	\$53,552	\$12,604	\$8,947	\$5,255	\$4,871	\$85,229
Total in Arrears as of 8/31/15	\$9,715	\$4,545	\$6,149	\$5,038	\$4,171	\$29,618
Percentage of Balance in Arrears	18%	36%	69%	96%	86%	35%
Cases in Arrears During Audit Period	9	20	31	7	12	79
Cases Not Adequately Enforced	7	14	20	6	12	59
Percentage Not Adequately Enforced	78%	70%	65%	86%	100%	75%

^a Total Column refers to total 'obligations,' as many offenders owed money for multiple obligation types

^b One case had court-ordered restitution of \$115,357 (85 percent of our sample) with \$39,859 outstanding and \$8,334 in arrears. The Judge ordered a payment plan through 2019 – beyond the probation period, which ended in 2008. This individual missed seven payments totaling \$4,488 in our test period (January 1, 2014 through August 31, 2015).

The Department had outstanding cases in arrears because Department staff did not always pursue court order modifications to obtain court-ordered payment plans. In addition, staff only sent letters to offenders for delinquent obligations sporadically. Furthermore, staff generally did not send court notifications for repeated non-payment, but only did so when violating the probationer for a re-offense or failure to meet other non-financial conditions of probation. Further, once probation has ended, the Department does little to enforce outstanding amounts due.

In general, the Department did not routinely send letters to the offenders or the courts for currently active cases or for cases classified as due and owing after probation. As of November 2015, the last court notifications and delinquency letters were dated June and July 2015, respectively, for money that had been due as far back as February 2013.¹⁶ The principal typist told us that, in the past, sending letters to delinquent offenders and to the courts did not result in collections. Therefore, she only sent them if she had spare time. She said that she did not have spare time while implementing the new computer program, and did not send notification letters for an extended period of time. For those cases that were not reported to the court or which the court decided not to order to judgment, the victim's rights were

¹⁶ The last two court notifications had been sent June 2, 2015 for obligations due in February and May 2013; the last delinquency letter was sent to an offender on July 16, 2015.

not protected and the County and State lost revenue. Generally, once a judgment is court-ordered and filed, it is enforceable for 20 years. If the judgment debtor does not pay, the victim is entitled to begin collection efforts.¹⁷

Further, the Department makes little or no effort to collect unpaid obligations for the Department's 1,900 "due and owing" cases totaling about \$2.4 million.¹⁸ Due and owing cases encompass conditionally discharged and incarcerated offenders and cases not ordered to civil judgement by the court at the end of probation. These cases do not have an assigned probation officer, and staff make little effort to collect their outstanding obligations. The policy does not address enforcement of due and owing cases. The principal typist told us that the general practice is to send one letter to the person 30 days after the maximum expiration date¹⁹ if payments were not made in full, and then to send a letter to the court 30 days later if no payment is made.

Department Fees – The County enacted a local law in 2001 requiring a \$30 monthly DWI administrative fee for probationers with DWI convictions, as authorized by New York State Executive Law. The Department also collects court-ordered EHM fees. EHM fees are a daily charge used to offset a portion of the County's cost of the court-ordered electronic home monitoring equipment. The Department's policy mentions DWI and EHM fees but lacks sanctions or enforcement procedures other than to remind probationers to remain current. Although NYCRR requires timely reports to the court regarding any offender's repeated failure to remit required payments of all financial obligations, including administrative fees, the Department did not report unpaid Department fees to the court²⁰ because they were not court-ordered. We found no indication that the Department periodically reported to County officials the amount of unrealized County revenue from outstanding Department fees, or requested or received guidance or assistance on prioritizing and enforcing their collection.

¹⁷ Criminal Procedure Law provides that a court's order of financial obligations to be paid by a defendant shall direct the District Attorney to file a certified copy of the order with the County Clerk, to be entered in the same manner as a judgment in a civil action and docketed as a money judgment. The District Attorney may, in his or her discretion, and must upon court order, institute proceedings to collect the unpaid obligations. Department staff indicated that the courts or County Clerk often do not file the court orders as judgments at the time of sentencing, or order the commencement of collection proceedings at the end of probation.

¹⁸ Of the \$2.4 million, approximately \$109,000 were cases adjudicated during our audit period. The cases prior to our audit scope span back to 1986. This category primarily includes restitution, fines and mandatory surcharges.

¹⁹ The maximum expiration date typically is the due date set by the court or law.

²⁰ Unless included with other court-ordered fees that it was reporting as part of a violation or modification request.

The Department's policy provision to apply offender payments to Department fees last, after all other obligations are paid off,²¹ has significantly reduced the County's revenue. Because of the lax enforcement procedures for all obligations, Department fees often remain unpaid. In addition to inadequate enforcement attempts during probation, the County and Department do not attempt to collect the County revenue after probation has ended, or from transferred offenders. As a result, a large portion of the Department fees was uncollected. For example, of the 37 cases tested, 12 had DWI supervision fees and seven owed EHM fees. The Department-assessed fees, totaling \$17,079 (9 percent), represent a smaller portion of total obligations reviewed, but account for \$9,209 (31 percent) of the total amount past due.

Department staff did not account for EHM fees in the accounting program because of system constraints. The principal typist maintained a spreadsheet for all EHM fees since the Department began charging them in June 2002. As of September 24, 2015, the spreadsheet included outstanding EHM fees totaling \$127,390. Of this amount, \$83,341 (65 percent) was unpaid from as far back as June 2002, and \$44,049 was for cases actively on probation during our audit period. Department staff later provided a report from the new accounting system showing outstanding DWI fees as of February 9, 2016 totaling \$74,733, with \$62,184 (83 percent) long overdue, dating as far back as 1999.

Other Enforcement Efforts – In lieu of enforcing the policy regarding delinquency letters or reporting repeated noncompliance to the courts, Department staff took other less formal measures to try to encourage offenders to pay their financial obligations. For example, we found evidence in the case files that probation officers had consistently discussed with probationers their financial responsibility. The Department also developed internal financial responsibility agreements in an attempt to get probationers on a monthly payment schedule for all obligations when the court order did not provide one. The Director told us that the Department uses additional enforcement techniques, including increasing or decreasing onsite visit frequency and quarterly case reviews by a probation supervisor of active cases. In addition, the policy has two other provisions: denying DMV approval letters if financial accounts are not current and denying consideration for early discharge unless all financial accounts are paid in full. Furthermore, during our audit, the Director had commenced working with County and court officials to relinquish Mandatory Surcharge collection responsibility to the courts. However, the extent

²¹ Prior to the 2012 policy, the former Director applied probationers' payments to Department fees first, not last.

of the Department's long-outstanding unpaid obligations is clear indication that these less formal measures were not adequate and that the Department must take significant additional and aggressive action to try to enforce timely payment of court-ordered and Department-assessed obligations.

Undisbursed Restitution

After making reasonable efforts to locate victims for which they have collected restitution, Department staff should transfer undisbursed restitution held for over a year to a separate account designated for the payment of unpaid restitution orders (referred to as the unpaid victims' fund), beginning with those that have remained unsatisfied for the longest time. NYCRR requires the Director to establish written procedures for handling undisbursed restitution payments, including interest earned, and to maintain a current list of unsatisfied restitution orders that identifies victims who have remained unpaid for the longest time. To facilitate the timely distribution of undisbursed restitution, the Department must maintain an adequate and updated record of all held undisbursed restitution. This record must identify the offender who made the held payments, the date and amount of the payments, amounts already disbursed to the intended victim, if any, and documentation of attempts to locate the victim.

Department staff did not maintain an accurate or updated list of restitution payments held. The accounting system was not equipped to properly account for the unpaid victims' fund. Department staff have consistently disbursed restitution payments they receive each month routinely and in a timely manner to the victims for whom they have accurate addresses. However, the Department did not make payments from the unpaid victims' fund for many years as required, leaving substantial funds idle in the Department's bank account, while victims' court-ordered restitution (some outstanding more than 20 years) remained unpaid.

The Director developed a policy and procedures in 2012 for semi-annual payments of undisbursed restitution. However, the Department did not make semi-annual payments in accordance with the policy. The Department made its first payout of \$5,662 in August 2013 to six victims for cases sentenced between 1989 and 1991. The Department made its second payout of \$6,042 on June 16, 2015 to nine victims for cases sentenced during 1992 and 1993, just days after we contacted the Department on June 11, 2015 to schedule our audit. As of June 2015, the Department still had \$2,233 earmarked as undisbursed restitution in the unpaid victims' fund. In addition, the Department had an \$11,413 unidentified cash balance that likely consisted of undisbursed restitution, and should have been recorded in the unpaid victims' fund and disbursed to unpaid victims, as discussed later in

the report. The Director updated the policy in August 2015 to require annual payouts of undisbursed restitution.

The list used to pay the longest waiting victims was potentially incomplete because it was limited to the records currently available.²² In addition, because so many years had passed without a payout, the Department could not locate many of the oldest outstanding victims that it was able to identify. The Department did not make further attempts to locate victims when its initial letters notifying them of the restitution were returned. For example, when preparing to make the 2013 and 2015 undisbursed restitution payouts, staff addressed the first (oldest) 49 restitution obligations totaling \$25,867, on a list of 204 individuals²³ with unpaid restitution totaling approximately \$268,585.²⁴ Of those 49 cases, the Department was unable to pay 31 victims (63 percent) their outstanding court-ordered restitution (\$11,604) because it no longer had viable addresses for those victims.

Lacking records to support the long-held restitution payments and previous guidance for disbursing it, the Department has retained unidentified cash balances instead of distributing the funds to victims who have been waiting decades to receive their court-ordered restitution.

Control Environment

The Board and Administrator are responsible for overseeing the fiscal operations of all County departments by reviewing fiscal objectives and associated risks for each department; developing appropriate policies and safeguards to protect public assets from loss, waste or abuse; and monitoring adherence to established policies to ensure that all objectives are met and identified risks are routinely controlled. County Law authorizes the Board to provide for an annual audit of the Department's financial operations and to examine the Department's books and records at any time. County Law also requires County officers who receive any fines, penalties, fees or other moneys belonging or due to the County, to make an annual report to the Board, by February 1 of the following year, which details all such moneys received and disbursed.

²² The principal typist told us that payouts were based on the oldest case in the computer system, although it is uncertain whether there were older unsatisfied restitution orders from before that computer system was put in place.

²³ The Department's policy requires staff to distribute undisbursed restitution to victims who are individuals before paying any large businesses.

²⁴ The principal typist had the IT Department provide her this list, which included outstanding cases sentenced as early as 1989 through May 2012. We could not verify that this was an accurate or complete list of all outstanding cases, but it is the list she used to identify the longest outstanding victims to pay from the unpaid victims' fund.

The Director is responsible for implementing a system of controls and procedures that effectively safeguards money and guarantees accurate and timely collection and disbursement of financial obligations. Policies and procedures should properly segregate duties to ensure that the same individual does not control all phases of the collection and disbursement process and the work of one individual is verified by that of another in the course of their regular duties. If optimal segregation of duties is not practical, the Director should implement other compensating controls, such as increased supervisory oversight, to reduce the risk of undetected errors or irregularities. In addition, controls should require the timely completion and independent review of bank reconciliations and accountability analyses to ensure that all cash transactions were accurately recorded and cash balances are clearly accounted for, and to provide an accurate list of held money that can be distributed to unpaid crime victims in a timely manner.

County Oversight – County officials did not actively oversee the Department’s operations. The Board and Administrator did not establish a countywide cash management policy to guide departments who receive and disburse cash, and did not ensure that the Department had effectively implemented sufficient policies and procedures over financial operations. As a result, County officials could not ensure that departments adequately or consistently fulfilled their duties and safeguarded their cash and resources.

In addition, the Board did not perform or hire anyone to perform an annual audit of the Department’s records, and did not examine the Department’s books and records at any time during our audit period. Furthermore, the Director told us she was not aware of the requirement for an annual report, and the Board had never required one or provided guidance for preparing it. Without an annual audit and report, the Board and Administrator cannot effectively monitor the Department’s fiscal affairs, or detect and correct errors and/or irregularities that might occur. Additionally, County officials’ lack of oversight contributed to the Department’s failure to adequately enforce the collection of delinquent accounts, which resulted in crime victims not receiving the restitution to which they were entitled and the County and State not receiving County-assessed or court-ordered revenues.

Segregation of Duties – The principal typist performed almost all aspects of the financial process including receiving cash,²⁵ preparing deposits, entering all financial transactions in the financial software

²⁵ The principal typist processed all offender payments received in the mail, occasionally received cash directly when filling in for the clerk typist, and ultimately handled all receipts taken by all other staff (including probation officers) when recording all receipts and preparing bank deposits.

and selecting cash disbursements for payment. The principal typist was also responsible for reconciling bank accounts.²⁶ Furthermore, Department staff did not physically safeguard cash collections, which they left in an unlocked safe located in an often-vacant office, left open throughout the day. In addition, when probation officers returned from satellite locations after hours, they left the cash collected that day and corresponding manual pre-numbered receipts in the Director's unlocked desk drawer until the next day.

The principal typist also had the ability to delete or change any part of a transaction within the accounting system, including receipt numbers and amounts, with no automated controls requiring authorization. This created an opportunity for the manipulation and concealment of transactions, which significantly increases the risk that fraud could occur and go undetected.

We reviewed all 166 June 2015 cash receipts totaling \$15,849 and determined that they were deposited in a timely manner and accurately recorded in the computer system. We reviewed all cash disbursements made in July 2015 – to distribute the June receipts – totaling \$15,983²⁷ and found no exceptions. In addition, we traced 244 receipts, totaling \$32,663, from 2014 and 2015 associated with 25 cases we selected for data reliability testing, to offender account records and verified they were accurately recorded. Although we found no significant discrepancies with our audit tests, with the flawed accounting system, poor internal controls and little oversight over key aspects of financial transactions, there is an increased opportunity for initiating and concealing improper transactions.

Bank Reconciliations and Accountability Analyses – Monthly bank reconciliations compare a cash control register, which provides a running total of cash on deposit, to a corresponding bank statement to verify that they agree, helping to ensure that all cash receipt and disbursement transactions were captured and properly recorded. Promptly documenting and resolving differences ensures timely discovery of errors or omissions, and accommodates timely and accurate reporting of financial activities. In addition, preparing an accountability analysis – a comparison of cash on hand to a detailed list of known liabilities – is a critical procedure to ascertain the status of moneys held by the Department. Department liabilities, such as restitution due to victims, or fines, fees or surcharges due to the County or State, should equal available cash.

²⁶ The Treasurer's office prints the checks and affixes the Treasurer's signature. The Director or principal typist obtains the checks from the Treasurer's office, and the clerk typist mails the checks.

²⁷ The Department issues checks to victims when the amount collected reaches \$25, resulting in a difference between receipts and disbursements.

The Director did not implement adequate oversight procedures and did not ensure that Department staff properly reconciled bank account balances or accounted for all cash on hand. The principal typist did not prepare monthly bank reconciliations and did not maintain a running cash balance or cash control register to reconcile against the bank statement balance. In addition, the principal typist did not prepare or maintain a list of liabilities or moneys collected and not disbursed to support the available cash balances. Instead, the principal typist reviewed bank statements to determine when checks cleared and verified that deposits on the statement matched her records. The principal typist told us that she did not know how to prepare a proper bank reconciliation. While onsite, we instructed the principal typist on preparing accurate bank reconciliations.

We reviewed bank statements from January 1, 2014 through August 31, 2015 to create a list of outstanding checks and calculated an adjusted bank balance of \$29,703 as of June 30, 2015. We were unable to create an accountability analysis to identify the adjusted bank balance. After accounting for all known liabilities, which totaled \$18,290, we could not identify the remaining \$11,413 balance. While this balance likely consists primarily of undisbursed restitution, the principal typist did not maintain a complete list of all undisbursed restitution held to account for this balance, as explained earlier in the report.

The lack of proper monthly bank reconciliations prevented Department staff from identifying and correcting errors. For example, while the accounting records showed that a check for \$95.24 was voided and replaced, the bank statements indicated that both checks had been cashed. We determined that this was an error and not a fraudulent transaction. This led to inaccurate records and prevented Department officials from knowing how much cash was on hand at any given time.

Department Improvements – After we discussed control weaknesses with the Director during fieldwork, she immediately began implementing various improvements to the Department’s financial procedures. The clerk typist now collects all receipts to provide cash accountability and has no access to adjust offender accounts. The principal typist is still responsible for recording all transactions, but no longer receives cash. In addition, Department staff now keep the office safe locked during the day and have implemented a policy improving controls over money collected at satellite locations. This policy includes requiring probation officers returning after hours to put collections and receipts in a locked drop box attached to the safe, to be retrieved by office staff the next day. The Department also

transitioned to a new computerized probation financial system²⁸ that has more automated internal controls. The system is able to account for EHM fees and properly account for balances for cases transferred from the Department.

Department staff are being cross-trained and the Director is becoming proficient with the new software, which will improve oversight. The Director also plans to begin using other available functions of the new system, including partially automated bank reconciliations and sending periodic statements to probationers and/or victims. This will serve as an enforcement mechanism and an added internal control.²⁹ We believe the prompt action taken by the Director during our audit fieldwork will help improve the Department's internal controls if revised procedures are routinely enforced. However, we made various verbal recommendations regarding additional improvements needed to better segregate duties and further improve internal controls and oversight.

Recommendations

The Board and County Administrator should:

1. Work collaboratively with the Director to create policies concerning the assessment, collection and enforcement of Department fees, in compliance with County Law, and using enforcement mechanisms available in the law,³⁰ during and after probation.
2. Work with the Director (and courts and/or legal counsel as applicable) to develop an approach to address the large number of long-outstanding financial obligations (approximately \$2.4 million) for due and owing cases that the Department has not been pursuing.
3. Take a more active role in providing oversight of the Department's financial operations and ensure the Director has implemented sufficient controls to safeguard Department resources. This includes:
 - a) Establishing, and monitoring compliance with, a cash management policy to guide the Department's consistent handling and safeguarding of cash receipts and disbursements.

²⁸ The Department had started system conversion before we began our audit, and began working live in the system in November 2015.

²⁹ With the expectation that victims or offenders who identify discrepancies in the outstanding amount due would alert the Director that probation records may contain an error or a fraudulent adjustment.

³⁰ Criminal Procedure and Executive Law

- b) Specifying requirements for an annual financial report of money received and disbursed, and ensuring that the Director prepares and submits such annual report by February 1 of the following year.
- c) Providing for an annual audit of the Department's operations, books and records.

The Director should:

- 4. Continue to ensure effective implementation of the new financial accounting system and ensure staff are able to produce adequate periodic reports, including reports of all cases with amounts outstanding and in arrears, to assist in monitoring and enforcing unpaid financial obligations.
- 5. Implement a system of controls and procedures that effectively safeguards money and guarantees accurate and timely collection and disbursement of financial obligations, in accordance with applicable laws and regulations. This may include updating, revising or adding to current policies and procedures, including procedures to ensure the Department takes advantage of all internal control tools available through the new probation financial accounting system.
- 6. Routinely monitor and enforce Departmental policies to ensure consistent and adequate enforcement of collection of financial obligations. If payments are not received on time, established procedures should be followed to collect amounts due or report non-payment to the court as required by law.
- 7. Keep County officials informed on the status of delinquent Department fees and work with them to timely enforce the fees in accordance with the County's local law and the Board's direction.
- 8. Attempt to determine the source of the \$11,413 unidentified cash on hand found during our audit. Unless a specific source is identified, allocate the unidentified cash to the unpaid victims' fund and promptly distribute it to victims unpaid for the longest time, in accordance with policy and law.
- 9. Ensure that Department staff maintain updated accurate records of undisbursed restitution held and of unpaid victims, including updated address and contact information.
- 10. Ensure that undisbursed restitution unclaimed for a year or more is used to pay the crime victims whose restitution orders

have remained unsatisfied for the longest time as promptly as possible.

11. Ensure that financial duties are adequately segregated or implement effective compensating controls when adequate segregation is not possible.
12. Require Department staff to maintain accurate running cash balances for all bank accounts, reconcile those balances to bank statements, and support them with updated and accurate accountability analyses on a monthly basis.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



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Chairman of the Board

Michele R. Rees, IIMC-CMC
Clerk of the Board

July 10, 2017

Mr. Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614

RE: Audit #2016M-404
Livingston County Probation Department Financial Operations

Dear Mr. Grant:

In regards to the above-mentioned matter, please be advised Livingston County has reviewed the draft audit report for the period covering January 1, 2014 through April 28, 2016. I have compiled this response with the assistance of the County Administrator, Probation Director and County Attorney. The County appreciates the opportunity to provide commentary on the preliminary draft and offers the following formal response:

Overall Livingston County found this audit to be a worthwhile and beneficial process. However, it should be noted we were quite surprised to see OSC staff onsite for a period of ten months. Additionally, we were never contacted or provided a written report with regards to the audit findings until nearly a year after the audit was completed. Despite OSC taking well over one year to complete the audit process, we were only allotted 30 days to formulate this written response. Despite having some concerns and issues related to the audit process, we agree that the OSC audit team did discover a handful of items that necessitated improvement and augmentation on our part and, in response, we immediately took action to implement changes. For this, we are thankful to the OSC field staff and supervisors assigned to this engagement.

For purposes of our direct response to the audit report, we must commence with the stated objective of the audit, namely examining whether County and Department officials ensured the Probation Department adequately enforced, accounted for and safeguarded the collection and disbursement of all money in a timely manner. The term "all money" is used somewhat loosely here and warrants clarification. As discovered by OSC staff, but unfortunately never adequately or fairly detailed in the report, our County Probation Department was misconstrued as a collection party for monies owed that instead should have been the responsibility of the court clerk to collect. Specifically, our Probation Department has historically been

burdened with the onus of collecting mandatory surcharges, sex offender registration fees, DNA databank fees, crime victim assistance fees, and supplemental sex offender victim fees, which by statute, are the responsibility of the court clerk to collect. Essentially OSC is holding our Probation Department accountable for numerous fees the Department had no legal obligation to collect and, in doing so, never once addressed the court clerk's legal obligation.

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The stated objective of the audit also uses the term “adequately” when referring to the Department’s ability to enforce, account for and safeguard the collection and disbursement of all money. Not to split hairs, but there is no definition of “adequate” anywhere in statute, regulation or law, nor did OSC provide a definition in the report. Thus, to be fair, the standard being used to assess our Probation Department seems to be rather subjective and imprecise. In addition to the term “adequately”, “safeguard” is a term used in the stated objective that also begs commentary from the County. Again, this term has no definition in statute or otherwise that details or describes what exactly the safeguarding of money entails. Thus, this term also seems to have a subjective understanding and interpretation. Despite the nebulous nature of many of the terms used by OSC in their stated objective for the audit, it should be highlighted and strongly noted that nowhere in the audit did OSC find any evidence of fraud, abuse, or financial malfeasance. OSC was unable to find any hint of financial related improprieties, missing money or accounting irregularities. We feel this is important to stress as so many of the positives that came out of the audit or clarifications that worked in our County’s favor were buried in footnotes. Apparently, as was explained to us by OSC staff during an exit discussion, including such information in the body of the report would make the report “too long and cumbersome.”

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As for the results and findings of the audit, the following is a bulleted summary of some of the audit results with corresponding commentary from the County:

(1) *The Department’s inadequate computer system produced unreliable data and reports for use in monitoring and enforcing unpaid accounts. The Department was unable to produce a complete and accurate listing of outstanding balances for all open cases and of unpaid victims and accounts held on their behalf.*

- a. We concur that the computer system previously used by the Department was insufficient from a financial management perspective. However, our current probation director, Lynne C. Mignemi, upon her appointment in 2011, readily recognized the shortcomings of the system and immediately undertook efforts to purchase and implement a new data management software program that included supervision, investigations, and financial packages. Initially, per the vendor’s recommendations, the Department installed and began utilizing the supervision and investigation programs. In 2015, the Department commenced work on implementing the software’s financial program. Coincidentally, the OSC audit process began at the same time. Thus, the audit uncovered issues we were already aware of and working to improve via the new system. At this time, all facets of the computer software are installed and utilized vastly improving our Department’s ability to manage finances and accounts.

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(2) *We estimate that the Department had open cases with over 2,800 obligations with outstanding balances totaling approximately \$3.1 million. Of that amount, approximately \$2.7 million (86 percent) was for cases opened prior to our audit period, some cases dating back as far as 1985.*

Because of the Department's inadequate enforcement efforts, this aging amount is unlikely to be collected.

- a. We do not completely agree with OSC stating the Department had inadequate enforcement efforts resulting in large outstanding account balances as this is somewhat misleading. The Department did have in place enforcement procedures to address non-payment. Specifically, the Department would seek modification of court orders for purposes of establishing a payment schedule; delinquency letters would be issued at various time intervals; and the court would be notified after an established number of days of nonpayment. Delinquency letters aside, these enforcement procedures require the assistance of the court to be effective. The courts in this County have not always been inclined to establish orders creating a payment schedule, nor have they always been helpful in addressing notifications from our Department regarding payment non-compliance. In many instances where the Court has addressed a violation, the Court imposed sanction is often making the various fees and charges “due and owing” as opposed to reducing said items to a judgment. To be frank, “due and owing” is a vague concept that even the OSC staff failed to understand. Essentially “due and owing” places people on the honor system for purposes of paying the mandated fees and charges. Clearly, this practice offers very little to our Department in terms of enforcement and collection. Because a judgment is not issued, this practice inevitably results in our Department maintaining open files for individuals that will most likely never pay in full. While OSC was quick to rebuke us in our “inadequate enforcement efforts”, they completely failed to mention the problems and shortcomings of the judicial system which is a major component in the enforcement process and certainly a component completely outside of our control. The reply from the OSC audit team when the County questioned this omission was “we did not audit the Court system, we audited the County.” This is an insufficient response. The audit team simply chose to neglect incorporating the direct impact this court inaction has on our collection efforts and this relationship warranted more robust discussion and commentary in the OSC audit report.

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- b. For purposes of assisting with the collection of fees and charges, Criminal Procedure Law specifically requires a court order regarding a defendant's financial obligation to direct the district attorney to file a certified copy of the order with the county clerk. Said order is to be entered in the same manner as a judgment in a civil action and docketed as a money judgment. It should be noted that for years in this County court orders were not filed as judgments at the time of sentencing, which has only served to complicate the Department's role in the enforcement and collection of money obligations. Also, by statute, the District Attorney, not the Probation department, has the discretion to institute proceedings to collect unpaid obligations. This practice, if exercised, would certainly assist in improving the monetary amount collected in this County. This authority is not regularly exercised. Despite the District Attorney's clear statutory role in assisting with the collection of fines and various fees, the audit fails to tellingly make any applicable reference to this role, again choosing to ignore the intergovernmental and interdepartmental complexities of collection efforts.

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- c. It should also be noted that outstanding balances in these types of cases are by nature difficult to collect. We are talking about court mandated fines, fees, restitution and surcharges being placed on people who can often ill-afford it given their personal circumstances and criminal justice experience.

(3) *Further, the Department did not maintain adequate documentation related to undisbursed restitution or make timely payments to unpaid victims in accordance with the law or Department policy.*

a. While the Department may have been unable to produce a complete list of unpaid victims, which is directly related to the previously discussed antiquated data management system, the Department has still made its best efforts to follow the law and disburse unclaimed restitution to unpaid victims. Beginning in 2012, utilizing the expertise of the County's Information Technology Services Department, the Department manually compiled a list of unpaid victims. The Department was able to manually organize the identified victims into categories of individuals, businesses, insurance companies, and public entities as it was clear the Probation Department was not going to be able to pay all victims named on the list. In conjunction with these efforts, the Department began identifying and earmarking funds held in its account for disbursement to unpaid victims. As part of this overall process, victims were contacted for purposes of compiling a list of updated addresses. To this end, the Department has now made several payments of undisbursed restitution to identified victims and it will continue to make such payouts of undisbursed restitution on an annual basis.

(4) *In addition, a general lack of oversight by the Board, County Administrator and Director – such as failure to develop policies and procedures, segregate key financial duties and provide for an annual audit and financial report – has resulted in pervasive deficiencies throughout Department operations. The principal typist controlled most cash accounting responsibilities but did not maintain a running cash balance. Therefore, she could not determine the source or purpose of an unidentified cash balance of approximately \$11,400. This amount is likely undisbursed restitution that should have been provide to crime victims.*

a. We concur that certain policies and procedures, while left unwritten but nevertheless carried out in many circumstances, needed to be reduced to writing and formalized and our County has done so.

b. Relative to segregation of financial duties, I reiterate what was detailed earlier in this response. Specifically, nowhere in the audit report will you find any reference to findings of fraud, abuse, financial malfeasance, financial related improprieties, missing money or accounting irregularities. While one individual staff person in the Department was assigned to a multitude of financial related tasks, never once was there a question of financial mismanagement on her part. Additionally, unlike the Office of Court Administration and the Office of the State Comptroller, Livingston County is under a New York State imposed property tax cap system. Unlike many of our state agency counterparts, we cannot go hiring additional staff left and right to address every

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issue where a “segregation of duties” concern might present as a potential conflict. That being said, we have put into motion a series of additional control mechanisms and checks and balances to satisfy the requirements of the audit guidance.

- c. With regards to our administration’s failure to require an annual audit of the Department’s financial operations, County Law does not mandate such audit as the report seems to insinuate. Instead, County Law simply provides the Board of Supervisors with the authority to perform an annual audit should they so choose. We find it bothersome our County would be condemned for something that is not legally mandated. We would also note that indeed the County has an annual comprehensive, countywide external audit conducted by a reputable CPA firm. The OSC audit report also made reference to the County Law requirement that annual reports be submitted to the Board from all departments receiving fines, penalties, fees or other moneys belonging or due to the County. Pursuant to County policy, the Probation Department is required to provide a written activity report to the Public Services Committee on a regular basis and the director is mandated to appear in person before the Committee on a quarterly basis for reporting purposes. Furthermore, the Probation Department submits an annual report to the Board of Supervisors for the previous year that addresses, in part, the Department’s finances. This year said report was signed and submitted on March 30, 2017.

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Overall, we sincerely appreciate the hard work of the Comptroller’s office. This was a valuable, albeit inexplicably protracted, experience. Should you have any questions or need further information, please feel free to contact my office.

Sincerely,

Eric R. Gott
Chairman of the Board of Supervisors

APPENDIX B

OSC COMMENTS ON THE COUNTY'S RESPONSE

Note 1

Our audit objective was to assess the accounting for and enforcement of all money the Department was responsible to collect. Historically, including during our audit period, the County's practice was for the Department to collect court-ordered mandatory surcharges. In addition, the Department must adhere to any court orders that specifically order mandatory surcharges to be paid to the Probation Department by a specific date or dates (See Footnotes 11 and 14 for reference to the statutes that appear to provide options to the courts for designating the due dates and collecting official or organization). Furthermore, NYCRR 353 addresses the Probation Director's responsibility to establish procedures and controls to guarantee accurate and timely collection and disbursement of all financial obligations the Department collects, and specifically defines financial obligations to include mandatory surcharges.

Note 2

We amended our report to add the court clerk to Footnote 11, which describes Penal Law provisions related to mandatory surcharges.

Note 3

The standard used to assess the Department's performance is precisely defined in the Director's 2012 policy for enforcement and in applicable laws and regulations.

Note 4

We clearly addressed the safeguarding of Department collections in the Control Environment section of our report.

Note 5

We did not identify any fraudulent accounting irregularities within the testing specified in Appendix C, entitled Audit Methodology and Standards. However, the lack of oversight, unsegregated duties and inadequate or nonexistent records – such as running cash balances and accurate bank reconciliations and accountabilities – limit the information available to audit, and increase the inherent risk and opportunity for fraud to occur.

Note 6

Our report acknowledged that the Department had proactively begun implementing new software before we began our audit. As explained to County officials, we needed to describe the old system's limitations to qualify the accuracy of our estimated outstanding case totals, due to our inability to get complete lists and records, and to provide background for other audit findings.

Note 7

We acknowledged that the Department established enforcement procedures in the Director's 2012 policy. However, the Department did not follow that policy or use those procedures timely or consistently. The Department used the court notifications and delinquency letters sporadically and not as required by the policy.

Note 8

We discussed these issues in our report, in the second and third paragraphs following Figure 2, and summarized the statutory roles of the court and District Attorney, and the County's representation about their inaction in Footnote 17.

Note 9

Monthly bank reconciliations, accurate financial records, and the proper and timely disbursement of moneys collected are essential to the Department's effective financial management. Compensating controls, such as increased oversight, can help reduce the risks associated with inadequate segregation of duties.

Note 10

Our report states that County Law "authorizes" the Board to provide for an annual audit of the Department's financial operations. Accordingly, we recommended that the Board provide for an annual audit of the Department's operations, books and records to provide necessary ongoing oversight.

Note 11

The Department did not maintain a running cash balance that it could effectively reconcile to bank statement activity. Although the Department does prepare reports at various times during the year, none of the reports are audited or verified, and they could not be verified without knowing the Department's reconciled cash balance. Therefore, an annual audit of cash that reconciled to the reports could not be performed.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to examine the County and Department's processes to enforce, account for and safeguard the collection and disbursement of all money in a timely manner for the period January 1, 2014 through April 28, 2016. To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed Department staff to gain an understanding of the Department's financial processes and existing internal controls related to the enforcement, collection and disbursement of court-ordered and Department-assessed financial obligations when we arrived on site and to document changes made during our audit.
- We reviewed relevant State and local laws, regulations, and County and Department policies and procedures that were applicable to the enforcement, collection and disbursement of court-ordered and Department-assessed financial obligations.
- We estimated total outstanding obligations by using various reports. Specifically we included open cases as of October 7, 2015 from the last list provided by the County IT department, to which we added: EHM fees outstanding as of September 24, 2015 from the Department's separately maintained spreadsheet, and DWI supervision fees outstanding as of February 9, 2016 per a report provided from the new accounting system.
- We obtained a list of 5,226 receipts totaling \$665,965 from cases opened from January 2014 through July 2015 and selected a sample of 25 cases to determine accuracy and reliability of accounting data.
- For the 25 cases selected to test data reliability, we compared case file court orders and computerized receipts to determine whether the offender was in arrears. Of the 25 cases, we selected all 12 cases with probation officers and five of the nine cases that were transferred in for enforcement testing. We compared the case file court-ordered payments with the financial receipts and the policy and law for the obligations in each case to determine whether the case was adequately enforced.
- To test whether enforcement activities were in accordance with policy and the law, we obtained a list of all open cases as of October 7, 2015 from the database accounting system from the IT department. The list contained 2,849 obligations with balances due totaling \$2,974,129. We selected 10 cases opened between 2012 through 2014 that were assigned to probation officers and in arrears, for enforcement testing. We selected five cases in arrears coded as "due and owing" from 2012 through 2015 and five cases in arrears coded as transfers out from 2012 through 2014 to test for enforcement. We compared the case file court-ordered payments with the financial receipts and the Department policy and any applicable law for the obligations in each case to determine whether the case was adequately enforced.

- We traced all June 2015 manual cash receipts (166 receipts totaling \$15,849) to deposits, the cash receipts journal and individual probationer accounts. We traced the receipts to July 2015 checks and County Treasurer receipts for cash remitted for EHM fees and cash on hand to determine whether they were properly recorded, deposited and disbursed accurately and timely. We also requested bank deposit compositions for June 2015 and compared them to the manual receipts.
- We reviewed all cash receipts issued from January 2014 through June 2015 (3,050 receipts) to determine whether all consecutively numbered manual receipts were accounted for.
- We traced an additional 244 receipts totaling \$32,663 from 2014 and 2015 associated with the 25 cases selected for data reliability testing to account records for agreement of date, name, reason, amount and receipt number. We also identified 1,031 receipts not recorded in the financial system and followed up on all missing receipts to determine the appropriateness of unrecorded receipts.
- We reviewed bank statements from January 2014 through August 2015 to identify outstanding and voided checks as of June 2015. We also attempted to prepare a bank reconciliation and related accountability statement for June 2015.
- We obtained the principal typist's spreadsheet of outstanding EHM fees as of September 24, 2015. We traced EHM and DWI administrative fees from receipts to the amount transmitted to and recorded by the County for agreement. We tested 10 EHM cases owing \$7,584 from the EHM spreadsheet to the principal typist's manual EHM receipt ledger to deposits to determine the reliability of the list.
- We tested for proper documentation, payout and maintenance of the unpaid victims' fund.
- We interviewed Department personnel and requested a report of access rights from the County's IT department to determine any computer controls in place to limit recording financial data to only those that needed access to perform their duties.
- We reviewed an internal court notification report to test for proper court notification of delinquent probationers for the 37 cases selected for enforcement.

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.

APPENDIX D

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