



# Albany County Probation Department Internal Controls Over Financial Operations

Report of Examination

Period Covered:

January 1, 2012 — June 30, 2013

2013M-340



Thomas P. DiNapoli

# Table of Contents

	<b>Page</b>
<b>AUTHORITY LETTER</b>	2
<b>INTRODUCTION</b>	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	4
<b>INTERNAL CONTROLS OVER FINANCIAL OPERATIONS</b>	5
Cash Receipts and Disbursements	5
Victims' Trust Fund	7
Delinquent Accounts	8
Recommendations	9
<b>APPENDIX A</b> Response From Local Officials	11
<b>APPENDIX B</b> Audit Methodology and Standards	15
<b>APPENDIX C</b> How to Obtain Additional Copies of the Report	17
<b>APPENDIX D</b> Local Regional Office Listing	18

# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

February 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 Legislature 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 Albany County Probation Department, entitled Internal Controls Over 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 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

Albany County (County) is located in eastern New York State and has a population of approximately 303,000. The County Legislature (Legislature) serves as the County's policy-making body. The Legislature comprises 39 County Legislators who are elected to four-year terms to represent the citizens residing in a Legislative District. The County Executive is elected to a four-year term and serves as the County's chief executive officer. The Albany County Probation Department (Department) is a County agency under the supervision of the Legislature and the County Executive. The Department's mission is to ensure the safety of County residents by supervising all juvenile and adult clients on probation, and helping them become responsible, productive and law-abiding members of the community.

The Department's services include the preparation of pre-sentence investigations and reports for the criminal courts, and the supervision of criminals sentenced to probation. The Department also provides investigation and supervision for criminals released from the jail by the Local Conditional Release Commission, as well as intake, investigation and supervision services for Family Court. In addition, the Department provides discretionary services for pretrial and alternative sentencing, and participates in the Person In Need of Supervision Program.<sup>1</sup> Finally, the Department provides auxiliary services that include the collection and disbursement of fines and restitution. The Department's staff of 103 employees collected \$464,508 and \$542,187 in restitution, fines and fees during 2011 and 2012, respectively.

## Objective

The objective of our audit was to determine if the Department has adequate internal controls over its financial operations. Our audit addressed the following related question:

- Are the Department's internal controls over financial operations appropriately designed and operating effectively?

## Scope and Methodology

We examined the Department's financial records; reports of cash receipts, disbursements and delinquent accounts; and the victims' trust fund for the period January 1, 2012 through June 30, 2013. We

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<sup>1</sup> A Person In Need of Supervision (PINS) is a youth under the age of 18 who is showing a pattern of habitual disobedience, running away, curfew violations, substance abuse, violent behavior or school truancy problems. Most PINS referrals are made by parents or school districts. PINS Diversion Services attempt to resolve the conflicts that brought a youth to the attention of the Department by offering supervision, guidance and referrals to community resources.

extended our scope forward to August 21, 2013 for the delinquent accounts finding. Our audit disclosed areas in need of improvement concerning information technology controls. Because of the sensitivity of this information, the vulnerabilities are not discussed in this report but have been communicated confidentially to Department officials so they could take corrective action.

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 B of this report.

**Comments of  
Local Officials and  
Corrective Action**

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. County officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Legislature 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 Legislature to make this plan available for public review in the Clerk's office.

## Internal Controls Over Financial Operations

County and Department officials are responsible for designing adequate procedures to safeguard County resources. An effective system of internal controls over financial operations ensures that restitution fees are properly billed and all moneys are properly collected, safeguarded, recorded, deposited, accounted for and disbursed. Department officials also must provide sufficient oversight, ensure proper segregation of duties and make certain that the financial management tools provided are sufficient to carry out their responsibilities in an efficient manner. If limited resources make it difficult to segregate incompatible duties, County officials must implement compensating controls, such as increased supervisory oversight, to reduce the risk of undetected errors or irregularities.

County officials have not ensured that the Department account clerks' financial duties were adequately segregated. While our testing did not disclose material issues, the clerks' ability to control all cash receipts and disbursement functions increases the risk that Department funds could be misappropriated without detection. Also, although the Department has established policies for disbursing restitution money retained in a victims' trust fund, Department officials have not disbursed these funds in a timely manner in accordance with the policy. As of July 2013, the balance in the victims' trust fund totaled \$130,707; this excessive balance precludes many crime victims of unsatisfied restitution orders from receiving the money to which they are entitled. Finally, the Department's software does not produce accurate accounts receivable aging reports, which hinders Department officials' ability to monitor these accounts and take appropriate action.

### Cash Receipts and Disbursements

An effective system of internal controls provides for the adequate segregation of duties so that no one individual controls all phases of a financial transaction. When an optimal segregation of duties is not practical, it is important that officials implement compensating controls, such as designating someone outside the cash collection and billing process to regularly review bank deposits, canceled checks, records and reconciliations, and compare them to the transactions recorded in the County's records to verify accuracy. In addition, Department officials could provide additional oversight including periodic independent reviews of accounting records to ensure they are up-to-date, and independent monthly reviews of bank statements and reconciliations to determine proper documentation of cash receipts.

County officials have not ensured an adequate segregation of financial duties in the Department. Both account clerks collect

money from clients, record the receipts in the system, prepare and deposit the money in the bank, perform bank reconciliations at the end of the month, disburse payments to victims, and maintain the accounting system. In addition, the Director's signature is entered in the software system, allowing both account clerks to print and sign checks automatically. With these incompatible duties, the account clerks have the ability to disburse funds for inappropriate purposes and conceal it in the records. Based on these identified weaknesses, we performed the following tests:

- We selected a sample<sup>2</sup> of 60 receipts totaling \$6,804 received by the Department. Department staff deposited all 60 receipts in the bank in a timely manner.
- We selected a sample<sup>3</sup> of 50 checks totaling \$8,960; we determined that the disbursements were proper and the payment was made to the appropriate individual per the restitution order.
- We selected a sample<sup>4</sup> of 20 voided receipts and determined that each receipt was voided for a valid reason.

Prior to April 2013,<sup>5</sup> the Department's policy was to collect restitution payments in the form of cash, money order or cashier's check. Department officials provided a computerized report of restitution collections for the audit period. Based on our review of this report, we found 60 receipts totaling \$37,581<sup>6</sup> were made in a form of payment (such as uncertified personal checks) that differed from the Department's policy. We judgmentally selected 10 of these receipts totaling \$15,468 and found that all 10 were properly deposited.

Although we did not find significant discrepancies with our testing, the Department's lack of segregation of duties, without adequate compensating controls, increases the risk that errors can occur and go undetected and uncorrected, and cash can be misappropriated.

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<sup>2</sup> Refer to Appendix B, Audit Methodology and Standards, for more information on the sample selection process.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> In April 2013, Department officials implemented a policy where cash would no longer be accepted for payment of restitution orders.

<sup>6</sup> The Department accepted payment from 12 attorney checks totaling \$6,174, three personal checks totaling \$1,007, 27 Department of Correctional Services/Institution checks totaling \$27,620 and 18 electronic checks totaling \$2,780.

## Victims' Trust Fund

One of the Department's significant functions is to collect victim restitution and related surcharges<sup>7</sup> as ordered by the courts and remit them in a timely manner to the victims and the County Treasurer's office. At times, however, collected restitution is not disbursed to the intended beneficiary because the victim cannot be located using reasonable efforts. Restitution payments, along with earned interest, should be carefully tracked and promptly remitted to the appropriate party. Restitution that remains undisbursed for one year should be transferred to a separate account, commonly referred to as the victims' trust fund,<sup>8</sup> and designated for the payment of restitution orders, beginning with those that have remained unsatisfied for the longest period of time.

New York Codes, Rules and Regulations require that the Department establish written procedures for handling undisbursed restitution payments, including any interest earned; ensure that all financial obligations are promptly disbursed to intended beneficiaries or remitted to appropriate County officials and maintain a current list of unsatisfied restitution orders<sup>9</sup> which identifies victims who have remained unpaid for the longest period of time. To facilitate timely distribution of undisbursed restitution, the Department should also maintain an adequate and updated record of all undisbursed restitution payments being held. This record should identify the probationer who paid and the date of the payment, include a detailed accounting of how much money was paid to the victim and contain documentation of attempts to locate the victim.

Department officials have established a policy where undisbursed restitution will be paid to the individuals who have unsatisfied restitution orders. However, the Department does not have a documented process that provides guidelines for disbursing payments to the unsatisfied restitution recipients. Department staff maintain spreadsheets of unpaid restitution; however, they do not regularly contact individuals who have unsatisfied restitution orders to verify the amount due and then disburse the money owed. Instead, they contact them as time permits. As of July 2013, the balance in the victims' trust fund was \$130,707. If the Department paid restitution

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<sup>7</sup> New York State Penal Law provides that, where restitution is imposed as part of a sentence, the court shall direct the defendant to pay a 5 or 10 percent surcharge to the official or organization responsible for the collection and administration of restitution payments. The designated surcharge is retained by the County as revenue.

<sup>8</sup> Criminal Procedure Law defines undisbursed restitution as payments that were remitted by a defendant, but not disbursed to the intended beneficiary, and remain unclaimed for a year.

<sup>9</sup> Unsatisfied restitution orders are those for which the last scheduled payment is at least 60 calendar days overdue.

in a timely manner to individuals with unpaid restitution orders, this amount would be nominal.

Without a process in place regarding tracking undisbursed restitution, the Department does not have an adequate means of verifying how much restitution is actually owed to the victims. Prior to disbursing restitution, Department staff will mail a letter to the individual who is owed restitution to certify whether they had or had not received the full amount owed to them from the restitution order. This certification is the only procedure to verify that the money is actually owed to the person. Therefore, an individual could simply state on the form that they are owed restitution and be mailed the associated payment, regardless of whether the individual is actually entitled to the payment.

During the audit period, the Department paid \$14,883 to 28 individuals who had outstanding restitution orders from 1982 through 1990. We reviewed all 28 letters returned to receive the unpaid restitution and found that the Department paid restitution totaling \$3,888 to nine individuals without adequate documentation to support these payments. Specifically, eight individuals returned forms totaling \$3,237 that did not contain the requested certification. The Department also paid \$651 in restitution to an additional individual even though this person stated that he had already received this restitution in full.

Accumulating an excessive balance in the victims' trust fund precludes many crime victims of unsatisfied restitution orders from receiving the money to which they are entitled. In addition, when proper supporting documentation is not provided, the Department risks paying individuals money to which they are not entitled.

## **Delinquent Accounts**

Department officials are responsible for ensuring that restitution obligations and fees are accurately recorded to the individual accounts in the Department's accounting system as they are imposed and that client payments of outstanding obligations are properly credited to the corresponding accounts. Additionally, Department officials must track and monitor such receivables and actively pursue payment on delinquent accounts to allow individuals receiving restitution orders to be paid in a timely manner.

Department personnel could not readily provide an aging report of accounts receivable; in fact, they told us that they are not using the aging report because it does not age the balances accurately. Department officials generated an aging report from the software indicating that clients owed approximately \$15.7 million in restitution and fees as of August 21, 2013. We selected a sample of 30 accounts<sup>10</sup>

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<sup>10</sup> Refer to Appendix B, Audit Methodology and Standards, for more information on the sample selection process.

totaling \$21.5 million<sup>11</sup> and verified that, although the total balance due was correct, the aging report did not age the balances accurately. For example, nine of the accounts from our sample had a total balance due in the “Balance due over 120 days” column which was greater than the corresponding total balance due for the individual accounts. The total sum of all these nine accounts in the “Balance due over 120 days” column was approximately \$2 million more than the sum of the “Total balance due” for these nine accounts. Department officials stated this variance exists due to an issue with payments recorded in the old system that did not carry over to the new software system during the conversion.

Because the computerized records were incorrect, we did not perform any testing to determine whether Department personnel followed up to collect delinquent accounts in a timely manner. Department personnel compensated for these inaccurate reports by manually reviewing clients’ case files every three months, identifying those in arrears, and sending delinquent letters to the clients and their parole officers. Department officials also told us that probation officers should be regularly contacting their clients regarding delinquent payments.

Without an accurate aging report, Department officials may not be able to properly monitor outstanding accounts receivable. In addition, inaccurate accounts receivable balances prevent Department officials from ensuring that individuals receive their restitution order payments in the correct amount and in a timely manner.

## **Recommendations**

1. Department officials should establish written policies and procedures that clearly assign and properly segregate duties, assign authority and provide for periodic independent reconciliations and management oversight.
2. The Director of the Department should retain control of his facsimile signature contained in the computer software system, possibly through the use of a separate password, and discontinue the process of allowing the account clerks to print checks containing the Director’s signature without his approval.
3. Department officials should keep the balance of the undisbursed restitution in the victims’ trust fund to a nominal amount by making more timely disbursements to those victims who have been unpaid for the longest period of time.

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<sup>11</sup> The total of the sample is greater than the total amount of restitution receivable because some of the probationers are both jointly and separately liable to individuals.

4. Department officials should establish procedures for verifying that recipients of restitution payments are entitled to receive those payments.
5. Department officials should ensure that disbursements to individuals from the victims' trust fund are supported by adequate documentation.
6. Department officials should ensure that aging balances for each and every account are accurate and reliable.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



DANIEL P. MCCOY  
COUNTY EXECUTIVE

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PHILIP F. CALDERONE, ESQ.  
DEPUTY COUNTY EXECUTIVE

January 29, 2014

[REDACTED]  
NYS Office of the State Comptroller  
Division of Local Government and School Accountability  
One Broad Street Plaza  
Glens Falls, NY 12801

Re: Albany County Probation Internal  
Controls over Financial Operations  
Report of Examination Period  
1/1/2012 – 6/30/2013  
2013m - 340

Dear [REDACTED]

We have reviewed the Audit report and appreciate the time and effort that you have taken with this audit. We are in agreement with the findings and will immediately address the concerns and recommendations. Our comments, including some steps already taken, follow each recommendation.

Audit Recommendation 1:

Department officials should establish written policies and procedures that clearly assign and properly segregate duties, assign authority, and provide for periodic independent reconciliations and management oversight.

County Response:

*We agree that segregation of duties is required. The Probation Department is working with the County Executive Office to obtain an additional Account Clerk to perform this function. The Probation Director will work to separate the duties to allow independent review and reconciliation and update current Albany County Probation policy to reflect such.*

Audit Recommendation 2:

The Director of the Department should retain control of facsimile signature contained on the computer software system, possibly through the use of a separate password, and discontinue the process of allowing the account clerks to print checks containing the Director's signature without approval.

County Response:

The Probation electronic record system, [REDACTED] is provided by the vendor: [REDACTED]. This software is contracted to all Probation Departments in New York State under the direction of the New York State Office of Probation and Correctional Alternatives. The Albany County IT Department has requested this change be implemented to the Albany Probation Department [REDACTED]. The Probation Director has notified NYS OPCA of this recommendation and has requested that it be included in a future update to the software. The Probation Director will manually review each check that is written and match check register numbers, including victims, prior to authorizing payment.

Audit Recommendation 3:

Department officials should keep the balance of the undisbursed restitution in the Victims Trust Fund to a nominal amount by making more timely disbursements to those victims who have been unpaid for the longest period of time.

County Response:

The Probation Department Director is working with the County Executive Office to obtain an additional Account Clerk. When that is approved the new Account Clerk will allow concentrated efforts to locate the victims of the oldest accounts and disburse payments to them first.

Audit Recommendation 4:

Department officials should establish procedures to verify that recipients of restitution payments are entitled to receive those payments.

County Response:

The Probation Department has modified the letter that it sends to victims to include clear and concise information required to be returned to the Probation Department to establish identity. This modified victim's letter will be a detailed and articulate process to be included in an updated Albany County Probation Collections Policy.

Audit Recommendation 5:

Department officials should ensure that disbursements to individuals from the Victims Trust Fund are supported by adequate documentation.

County Response:

The Probation Department will continue to locate and verify victims and establish correct identification but will modify the process by the use of a new letter mailed to each victim which must be notarized to confirm their identity before being returned.

Audit Recommendation 6:

Department officials should ensure that aging balances for each and every account are accurate and reliable.

County Response:

The current and available aging report provided in the [REDACTED] financials contains cases of joint and several, closed, and open accounts. The Probation Director will make a request of the NYS Office of Probation and Correctional Alternatives to create a new report or modify the existing report in fiscal aging to allow separation of these cases to provide an accurate account of cases.

We appreciate the recommendations of the Auditor's report and will work diligently to update our policies and procedures to reflect such. We look forward to detailing our work in the Corrective Action Plan.

Sincerely,

Daniel P. McCoy  
County Executive

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

We reviewed the Albany County Probation Department's financial records, including cash receipts and disbursement documentation, delinquent accounts and aging report, bank reconciliations and victims' trust fund, as well as supporting materials and reports. We conducted testing of financial records, conducted site visits and observed daily financial operations, interviewed County and Departmental officials, and examined other documentation related to the objective for the audit scope period.

Specifically:

- We used a random number generator to randomly select a sample of 60 cash receipts for the scope period. Our sample contained 27 DWI and 33 restitution cash receipts. We reviewed original cash receipts, check images (if applicable), deposit tickets, deposit slips and bank statements. We compared the information from all sources to make sure that it agreed. Also, we examined the deposits to make sure that they were made intact and in a timely manner.
- We used a random number generator to randomly select a sample of 50 disbursements for the scope period. We reviewed canceled checks, court orders and check registers in the software system. We compared the information from the source documents to make sure that it agreed. We reviewed the disbursements to make sure that the money was sent to the victim entitled to those disbursements.
- We used a random number generator to randomly select 10 voided receipts for the scope period. We then compared the voided receipts with the reissued receipts and the receipt register from the software system to make sure that all receipts were voided for a proper reason.
- We reviewed all disbursements from the victims' trust fund for the scope period.
- We picked the first 10 DWI receipts from our random sample that we used for our receipt testing to test the accuracy of the DWI monthly fees.
- We judgmentally selected a sample of the deposits that were accepted via payment methods not outlined in the Department's policy and traced these payments to original receipt, deposit ticket, deposit slip and bank statement. In addition, we reviewed whether the deposits were made intact and in a timely manner, as well as whether the payment method was appropriate.
- We selected the first 20 cases with the highest balance due over 120 days from the aging report, and then we judgmentally selected 10 more cases. We traced the original obligation from the software system to court orders. We then recalculated the balance due for each of the selected accounts, subtracting all payments that had been made to date, to make sure that the aging report was accurate.

- We selected all restitution payments from our receipt sample test (33 in total), and recalculated the surcharge and the payment to the victim to make sure that the 5 percent surcharge was calculated properly. We also traced the surcharges to the monthly check paid to Albany County's Finance Department.

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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