



# Orleans County Sheriff's Department Inmate and Commissary Accounts

## Report of Examination

Period Covered:

January 1, 2015 – May 10, 2017

2017M-209



Thomas P. DiNapoli

# Table of Contents

	<b>Page</b>
<b>AUTHORITY LETTER</b>	1
<b>INTRODUCTION</b>	2
Background	2
Objective	2
Scope and Methodology	2
Comments of County Officials and Corrective Action	3
<b>INMATE AND COMMISSARY ACCOUNTS</b>	4
Inmate Accounts	5
Commissary Account	7
Recommendations	8
<b>APPENDIX A</b> Response From County Officials	9
<b>APPENDIX B</b> OSC Comment on the County's Response	11
<b>APPENDIX C</b> Audit Methodology and Standards	12
<b>APPENDIX D</b> How to Obtain Additional Copies of the Report	13
<b>APPENDIX E</b> Local Regional Office Listing	14

# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

February 2018

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 Orleans County, entitled Sheriff's Department Inmate and Commissary Accounts. 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*

# Introduction

## Background

Orleans County (County) is located in western New York State and has a population of approximately 43,000. The County Legislature (Legislature) serves as the policy-making body and is composed of seven elected Legislators, one of whom serves as Chairman. The Legislature appoints a chief administrative officer (County Administrator) to oversee the day-to-day administration of County services. The County's 2017 budget is approximately \$66 million. The Sheriff's Department (Department) budget is approximately \$10 million.

The Department provides services under the supervision of an elected Sheriff. In addition to certain other law and safety enforcement duties, the Sheriff is responsible along with the jail superintendent for County jail operations. The jail can house 82 inmates and is often at full capacity because it serves as a detention center for pre-trial felony and misdemeanor defendants and individuals convicted of misdemeanors or other violations in local Courts. The Sheriff is statutorily required to arrange for the County Treasurer (Treasurer) to conduct periodic audits of the commissary account.

The current Sheriff took office in January 2016, succeeding the former Sheriff who served in this position for 12 years. The former Sheriff's confidential secretary (secretary), who retired in December 2015 after 15 years of service in that position, was responsible for handling and recording all Department financial activity. The current Sheriff appointed a secretary to assist him with these financial duties.

## Objective

The objective of our audit was to examine the Department's processes and procedures over inmate and commissary accounts. Our audit addressed the following related question:

- Did Department staff properly account for and manage inmate and commissary accounts?

## Scope and Methodology

We examined Department inmate and commissary account financial activity for the period January 1, 2015 through May 10, 2017.

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, samples for testing were selected 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 the relevant population size and the sample selected for examination.

**Comments of County  
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 did not specifically address our recommendations in their response but indicated they would continue to take corrective action. Appendix B includes our comment on issues raised in the County's response.

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 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 office of the Clerk of the Legislature.

## Inmate and Commissary Accounts

The Sheriff is required to maintain an inmate fund to account for all money collected from sentenced inmates at the time of incarceration. These funds are deposited into an inmate bank account and include funds earned by an inmate during imprisonment and any other money received by or on an inmate's behalf. A commissary may be established, maintained and operated for the purpose of making available, for sale to inmates, items deemed proper by such officials and consistent with the inmates' health and welfare and the facility's security and general operation.

With the Legislature's approval, the Sheriff contracted with a vendor to provide the jail's commissary services and impose a 22 percent commissary surcharge (surcharge) on each purchase. All surcharges received are required to be accounted for and deposited in a separate commissary bank account and may only be used for inmate welfare and rehabilitation purposes.

The Sheriff's Department did not properly account for and manage the inmate and commissary accounts. The former Sheriff improperly transferred approximately \$33,800 from the inmate bank account to the civil bank account.<sup>1</sup> Additionally, the former secretary did not periodically account for and deposit all commissary surcharges in the separate commissary bank account as required and instead issued a check that the former Sheriff signed to transfer from the inmate account totaling approximately \$23,900 in November 2015 to apparently correct for the previously unmade transfers to the commissary account.

The former Sheriff did not review the bank reconciliations prepared by the secretary and neither the former nor the current Sheriff prepared monthly accountabilities for the inmate and the commissary accounts to reconcile the bank account balances with the outstanding liabilities (e.g., money owed to inmates or vendors).

We performed an accountability for the inmate account and found that as of February 28, 2017, the Department had approximately \$5,400 more in this account than the known amounts owed. Further, Department officials incorrectly made disbursements from the inmate account for shared expenditures, such as cable bills, and made disbursements, such as personal inmate telephone charges, from the commissary account.

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<sup>1</sup> This account is a pass-through account the Sheriff maintains for Court ordered civil judgments to be collected from the defendant and paid to the victim.

## **Inmate Accounts**

An inmate may receive money in a variety of ways including money that was in the inmate's possession at the time of incarceration, deposits made on an inmate's behalf by jail visitors using a kiosk at the jail, money orders mailed to the jail or credit cards used to transfer money to an inmate's account. The Sheriff must maintain a separate accounting of all money received by each inmate from the time of incarceration until the inmate is released. Each inmate's account record is updated whenever the inmate receives money. Inmate receipts must be logged and recorded in the Department's ledger and deposited in a timely manner.

When an inmate makes a commissary purchase, the inmate's account is reduced for both the cost of the items and the surcharge. When an inmate is released, the balance of any cash remaining in the inmate's account must be returned to the inmate.

We reviewed the inmate account records and found that the former secretary did not properly account for inmate funds. As a result, deposits were not made in a timely manner and certain commissary account disbursements were improperly paid from the inmate bank account.

Inmate Account Balance – The former Sheriff did not always account for and transfer surcharges collected from inmates to the commissary account. As a result, excess funds accumulated in the inmate account. The Treasurer conducted a review of the former Sheriff's records in 2015 and determined that while inmates and other vendors were owed a total of approximately \$35,000, the bank account had a balance of more than \$68,960. As a result, upon the Legislature's approval, the former Sheriff signed a check for the Treasurer to transfer approximately \$33,800 from the inmate account to the civil bank account.

Both the Treasurer and County Administrator told us that the Legislature was aware of and approved this transfer as part of the 2015 year-end budget adjustments. However, we found no evidence that the Legislature approved this transaction.

Further, the Treasurer's commissary account audit did not identify any instances in which civil money was erroneously deposited in the inmate account. Consequently, Department officials have no documentation to support the necessity of this transfer. Because the former Sheriff did not properly account for and transfer surcharges from the inmate bank account to the commissary account, it is likely that the \$33,800 in excess funds in the inmate account were actually surcharges. However, instead of treating the balance as surcharges and transferring it to the commissary account to be used for the benefit of the inmates, it was transferred to the civil account.

Accountability Reports – To ensure the accuracy of cash collections, disbursements and financial records, the Sheriff should periodically reconcile all Department bank accounts and perform an accountability of funds, comparing book balances, known liabilities and assets to the reconciled bank balances and investigate any differences.

The former Sheriff did not perform accountability reports of any Department bank accounts. Neither the former nor current Sheriff ensured that individual inmate account financial activities were complete and properly accounted for because they did not prepare monthly accountability reports. The current Sheriff relied on a system-generated accountability report, which listed some liabilities, either did not exist or could not be explained or accounted for by County officials.

We question the reliability of the system-generated accountability reports and prepared a monthly change to accountability for the inmate bank account as of February 28, 2017. We found that the inmate account contained unidentified funds totaling approximately \$5,400. For example, Department officials indicated that due to the implementation of a new financial system more than \$3,100 of liabilities were recorded in the inmate account records (to balance these records with the bank account balance) for which there was no supporting evidence.

Additionally, when the current Sheriff discontinued the practice of using the \$250 petty cash fund to pay released inmates, the cash was deposited in the inmate bank account. However, a corresponding adjustment was not recorded in the inmate account records, which resulted in the financial records indicating that this amount was still owed to the inmate account.

Cash Receipts – A corrections officer (CO) records the amount of cash surrendered by an inmate upon incarceration and any other money received in a daily log book, issues a duplicate press-numbered receipt and records the receipt number in the log book. For kiosk deposits, an inmate number or name is used to identify the funds that are credited directly to the inmate’s account. Individuals can also use credit cards to deposit funds directly to the inmate’s account. The Superintendent periodically closes out the kiosk, which generates automatic receipts for each close out and gives the kiosk cash and the receipt to the administrative clerk who prepares and makes the bank deposits.

We reviewed 20 individual inmate accounts totaling approximately \$1,600 and found that the funds and cash receipts received were properly receipted and recorded.

We reviewed an additional 120 deposits totaling \$68,406 composed of CO log book closeouts and kiosk cash outs and found that while all receipts were deposited in the bank, 39 deposits (33 percent) totaling \$25,386 (37 percent) were deposited three or more days after the log book and/or kiosk machine cash out. The longer money remains undeposited, the greater the risk that loss or theft can occur.

### **Commissary Account**

The Sheriff may establish a commissary account (commissary) from which an inmate can purchase personal items such as reading materials, snacks and hygiene products. The Sheriff may set higher purchase prices to cover costs and allow the commissary to be self-supporting. The prices can return modest profits which must be used only for inmate welfare and rehabilitation.

Inmates use the jail's telephone system to access the commissary purchasing system, which automatically compares the total purchase amount to the inmate account balance. If there are insufficient funds the order is flagged and not sent to the vendor. If there are sufficient funds the purchase cost and surcharge are deducted from the inmate's account.

After Department officials send the commissary order to the vendor, the vendor packages the purchases for each order and ships the items to the Jail where a CO distributes the items to inmates. Weekly or biweekly, the vendor bills the Jail for commissary purchases, which are reconciled and prepared for payment by the administrative clerk. The Sheriff pays the vendor for the items purchased with funds from the applicable inmate account and issues a payment from the inmate account to the commissary account for the surcharge.

The former Sheriff did not always pay vendors for commissary supplies from inmate accounts and instead incorrectly used the commissary account. From January through June 2015, the Department incorrectly paid for inmate purchases from the commissary account. While funds were later transferred from the inmate account, the amounts transferred were not for the correct purchase amounts. During this period, \$28,558 should have been transferred from the inmate account to the commissary account. However, \$25,702 was transferred, resulting in a difference of \$2,856.

Additionally, certain disbursements were incorrectly paid from either the inmate or commissary accounts. For example, in February 2015 an inmate's personal phone bill for \$3,916 was incorrectly paid out of the commissary account instead of the inmate account. Over time, similar errors may have contributed to the accumulation of excess funds in the inmate account because the funds were not deducted to

pay for inmate purchases or the surcharges on those purchases were not transferred to the commissary account.

The current Sheriff has taken certain corrective action to address some of these deficiencies such as properly transferring funds between accounts and charging purchases to the appropriate accounts.

Neither the former nor the current Sheriff implemented controls, such as written policies and procedures, and the Legislature did not provide sufficient oversight by ensuring a periodic review of bank reconciliations and accountabilities was performed. As a result, Department officials did not properly account for and manage the inmate and commissary accounts and inmate and commissary funds were improperly used.

## **Recommendations**

The Legislature and Sheriff should:

1. Ensure commissary surcharges are used only for inmate welfare and rehabilitation and return the funds improperly transferred from the inmate account to the civil account.

The Sheriff should ensure that:

2. Accurate monthly accountabilities are prepared and reviewed.
3. All commissary surcharges in the inmate account are transferred to the commissary account.
4. Departmental policies and procedures over the inmate and commissary accounts are established.
5. Disbursements are made from the appropriate accounts.

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

The County Officials' response to this audit can be found on the following page.



**Charles H. Nesbitt, Jr.**  
Chief Administrative Officer  
cnesbitt@orleansny.com

**COUNTY OF ORLEANS**  
**Chief Administrative Officer**

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January 16, 2018

Mr. Jeffrey D. Mazula, Chief Examiner  
Office of the State Comptroller  
295 Main Street, Suite 1032  
Buffalo, New York 14203-2510

Dear Mr. Mazula:

Orleans County certainly appreciates the effort and time put in by your staff reviewing and critiquing the problems with the accounts controlled by the Orleans County Sheriff's Office. The staff was very thorough and professional and in this instance, followed up on this very issue at the request of the Orleans County Treasurer.

See  
Note 1  
Page 11

It is important to point out that Orleans County officials have respectfully requested such a review during every audit entrance interview over the past five years. Since discovering problems with the Sheriff's accounts, the county has had at least two audit procedures done and a top to bottom review done by the Orleans County Treasurer's staff. County officials have been unable to find guidance or obtain any assistance from the NYS Comptroller on this matter until now.

See  
Note 1  
Page 11

The new Sheriff and his staff to their credit have been extremely diligent in identifying and addressing issues with the administrative practices of the previous Sheriff's administration. Orleans County will continue to support those efforts going forward.

Again, thank you for your time and assistance in this matter.

Sincerely,

Charles H. Nesbitt, Jr.

Cc: Orleans County Legislature  
Orleans County Sheriff  
Orleans County Treasurer

## **APPENDIX B**

### **OSC COMMENT ON THE COUNTY'S RESPONSE**

#### Note 1

We audited the Department based on our risk assessment process, which included interviews of County officials and a limited review of certain financial transactions, records and reports. We did not select the Department for audit at the County Treasurer's request. In addition, we are unaware of any other requests by County officials to audit the Department in the previous five years.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed the Sheriff, Treasurer, County Administrator, Department officials and employees and reviewed Department policies to gain an understanding of the activities relating to the inmate and commissary accounts.
- We reviewed various financial records and reports related to inmate and commissary accounts to gain an understanding of operational procedures.
- We reviewed relevant statutes, rules and regulations relating to inmate funds, commissary purchases and permitted uses of commissary profits to determine whether the Department complied with requirements for managing inmate funds.
- We reviewed documents relating to receipts of funds for 20 inmates, such as CO log records, kiosk receipts and credit card deposits to inmate accounts and subsequent deposits of these funds and recording in inmate accounts to ensure funds were completely and accurately accounted for. We judgmentally selected our sample from the entries on the CO log for inmates who had a higher concentration of cash listed.
- We reviewed inmate and commissary account disbursements and bank records for our audit period to determine whether expenditures and transfers of funds between inmate and commissary accounts were properly accounted for.
- We prepared an accountability for the inmate account as of February 28, 2017, which was the most recently completed month of financial activity when we began our audit fieldwork.

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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**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
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