



Robert E. Antonacci II, CPA
Comptroller

COUNTY OF ONONDAGA

*Office of the
County Comptroller*

*John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202-2998
(315) 435-2130 • Fax (315) 435-2250
www.ongov.net*

James V. Maturo
Deputy Comptroller

April 29, 2010

Mr. Al Giacchi, Commissioner
Department of Probation
421 Montgomery Street 6th Floor
Syracuse, New York 13202

Dear Mr. Giacchi:

An audit of the trust and agency account 061 Court and Trust Funds, Subsidiary 000002 was performed. The test period covered was for the year 2008 through September 30, 2009. We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the recorded fund balance and the related expenditures are free of material misstatement. This recorded fund balance and the related expenditures are the responsibility of the department's management. Our responsibility is to express an opinion on these amounts based on our audit. An audit includes examining, on a test basis, evidence supporting the fund amount and expenditures. We believe our audit provides a reasonable basis for our opinion.

It was noted in the previous audit, "Case Load Explorer", a statewide system to allow for better tracking of probationers, was to be ready for use within 2008. As of this report date, it is not up and running. The Programmer Analyst-Information Technology (IT) informed us that by December 2008, IT was ready to convert to the new vendor (Automon Corporation) files, but the vendor had difficulty developing a financial module that would meet the needs of all the Counties and this delayed the entire project. Automon completed the system June of this year. In November 2009, IT will start the process of conversion sending a batch of data to Automon to put into their files. When the converted files are sent back, IT will have Probation and the Fiscal Office test them. The system should go live the end of the second quarter 2010.

We were also informed historical information as to the original order information will be lost with this new system. It will only pick up the current balance due. IT will keep the PROB system (current Probation system) up and running 6 years for history purposes.

In addition, we noted Grant Number 776068-Caseload Explorer at 9/21/09 has actual revenues of \$172,783 from State Aid and the General Fund and expenses of \$98,337 with an available balance of \$74,446.

Restitution payments collected are not placed in an interest-bearing account. According to Criminal Procedure Law (New York State Law), Article 420.10, Section 7, Undisbursed restitution payments, *“Where a court requires that restitution or reparation be made by a defendant, the official or organization to whom payments are to be remitted pursuant to subdivision one of this section may place such payments in an interest-bearing account.”* The Financial Analyst-Finance Administration stated that there is much activity in the account where the bank could charge a fee, but they do not or pay interest. The account was in a CD when rates were high. The Financial Analyst observes this account, as well as others, and if rates were to rise she would request the bank pay interest on the accounts.

According to Criminal Procedure Law (New York State Law), Article 420.10, Section 7, Undisbursed restitution payments, *“The interest accrued and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied for the longest period of time.”* The law does not specify any maximum limits of payment. The Onondaga County Probation Department’s policy toward payment of redistributed balances is victims paid are the ones that have been owed restitution for the longest amount of time. Payment is up to \$2,500. The remaining unclaimed restitution is then paid to other victims. This is an unwritten rule to be fair to every victim owed money. The Probation Department has agreed to discuss this practice with the Law Department.

All backup documentation related to the account was found to be well organized and efficiently maintained. The debits and credits tested were traced to the backup detail and were valid.

The following findings were noted during the audit and are presented below with recommendations for correction:

1. An employee from the Finance Department brings the signature disk to Information Technology (IT) during the printing process for restitution checks. This employee along with the computer operator signs the Operations Laser Check Processing Log. This log is kept in IT. For additional control purposes, the last audit report recommended the Finance Department maintain a check log to keep track of the check stock and the log should be signed off by Finance and IT. We noted a check log is in use, however, it is entitled FAMIS, not Probation; only the audit numbers and void check numbers are listed, excluding the check numbers; and it is not signed off by Finance and IT.

It was recommended to the Finance Department the check log read Probation instead of FAMIS. A copy of the check log maintained by IT titled Probation/Trust Unit was obtained and given to Finance as an example to follow. In addition to the audit numbers and void numbers noted currently, check numbers should be included. For control purposes, audit numbers and check numbers should be compared to the previous check run to ensure no stock or check numbers are missing. Finally, the log should be signed off by Finance and IT as evidence of review. The Director Tax Preparation-Finance and Operation System Manager-Information Technology have agreed to these recommendations.

We asked the Probation Department if the monthly check abstract could be used to compare starting/ending check numbers and total of number of checks to the actual

checks printed. The Probation Department will discuss this with the Law Department, but at this time sees no reason why the Department (Probation) could not provide the Finance Department with a copy of the monthly check abstract.

2. A test review of the May 2009 reconciliation of Book, Bank and PROB (Probation) system balances noted Book and Bank balances agree, but the PROB system balance is different.

Monthly, the Accountant II-Probation sends a copy of the reconciliation to the Accountant I-Finance. The Accountant II-Probation does not reconcile to FAMIS. The Accountant I-Finance reconciles the bank with FAMIS at yearend and provides the Chief Government Accountant the entry to be made to FAMIS to agree with the bank.

It is recommended to the Accountant II-Probation that the Book, Bank and PROB system balances agree for proper accounting. The Accountant II agreed and will change the format of reconciliation.

Since the Accountant II-Probation ultimately has the responsibility of the Trust & Agency Account, it is recommended he review the yearend entry to FAMIS for propriety. The Accountant II agreed to do this.

3. For one of eight probationers tested, the Restitution Information Sheet prepared by the Probation Officer compared to the Beneficiary List by Priority (Program: PR86) on the PROB system noted the sheet had one more beneficiary than the list on the system. The beneficiary is owed \$10,969.

Errors like this come up on the monthly Restitution Cases Report received by the Fiscal Office. There is a separate report for each Probation Officer listing the cases in question. The report is given to the Probation Officer to follow up on.

The Restitution Information Sheet notes on 10/30/08, the Account Clerk II-Probation questioned the assigned Probation Officer about this case, however, no response was received from the Probation Officer who retired 4/24/09 or his replacement. We requested the probationer's file and noted a Court Order stating the victim should be paid. We reviewed this with the Account Clerk II, who changed the coding on the Beneficiary List by Priority from a 3 to a 2, so this victim will be paid first in the next payment. This will catch the victim up with the others.

It is recommended Probation Officers follow up in a timely manner on Fiscal Office questions regarding victims and restitution due to ascertain appropriate payments are being made according to the Court Orders on file.

4. The Fiscal Office has no access to the court order in the probationer's file and must rely on information written on the Restitution Information Sheet by the Probation Officer.

We recommend the Fiscal Office have access to the court order to compare to the Restitution Information Sheet to ascertain records are accurate as to probationer and victim information.

The Commissioner and Deputy Commissioner will work with the Supervisors-Probation to remind their Probation Officers to provide Victim information to the Fiscal Office accurately and in a timely fashion.

5. In one of eight cases tested, we noted check number 40102 dated 9/24/08 to the beneficiary has not been cashed. This is one of one of five 2008 checks to the beneficiary that have not been cashed. They date ranged from 2/22/08 through 12/25/08. Three of the five checks have been outstanding for over 1 year. All of the checks are listed on the Outstanding Uncashed Checks Report (PRQ98) as of 3/31/09. This report is generated quarterly per the Accountant II-Probation, but the 3/31/09 report is the last report on file in the Fiscal Office. The report dated 3/31/09 lists checks outstanding from 2/23/07 through 3/24/09 or 559 uncashed checks for \$119,629.19. Of these checks, approximately 84 are 1-2 years outstanding totaling approximately \$3,339.00. The 3/31/09 report evidences the Account Clerk II-Probation's attempt to review, however, due to lack in staff (Account Clerk I terminated 2/09) and other work taking priority, she has been unable to review it further.

It is recommended the Fiscal Office follow up on the checks totaling \$3,339 to see if the victims have the checks to void and reissue or if no contact can be made, the amount (s) transferred to undisbursed funds and held for redistribution.

It is further recommended to the Fiscal Office the Outstanding Uncashed Checks Reports be consistently requested on a quarterly basis and reviewed to ascertain control of undisbursed funds.

Per the Accountant II-Probation, the Fiscal Office will make an attempt to void uncashed checks sooner and on a regular basis. The loss of the Account Clerk I-Probation has had an effect on the Fiscal Office ability to get this done.

6. One of eight cases tested noted the probationer fully paid the restitution owed. As for the other seven cases, the probationers have made restitution payments, but it appears the Restitution Balance Due on the individual Inquiry to Restitution Account (Program: PR63) should be lower according to the payment terms on the Restitution Information Sheet, Amended Court Order, or Inquiry to Restitution Account (Program: PR63). The Accountant II-Probation stated the Fiscal Office sets up the case on the Probation system, collects the money from the probationer and pays the victim (s). The Fiscal Office does not get involved with following up on non-payment. It is the responsibility of the Probation Officer to follow up and enforce payment by the probationer. If the probationer does not pay, he faces the judge for sentencing. Some of the probationers are not working or just don't pay.

It is recommended the Probation Officers continue to follow up with the probationers and enforce payment to help ensure victim payments.

7. While performing the audit, the Account Clerk II-Probation brought to our attention a case where on 8/18/09 the attorney for the probationer paid the beneficiary directly for

the restitution owed of \$21.96 plus the 10% surcharge of \$2.20 for a total of \$24.16. The Accountant II-Probation stated that as a norm, the probationer pays at the Cash Window in the Probation Department. However, on occasion, the probationer pays his attorney who pays the victim and sometimes in error, paying the total ordered including the surcharge.

It is recommended the Fiscal Office contact the attorney to collect the surcharge so the County is able to recover the cost of handling the case.

The Accountant II-Probation stated the Fiscal Office is currently doing this.

8. We noted the last Undisbursed Totals by the Oldest Payment Date Report (PRA81) run by Probation for review is dated 4/21/09. The undisbursed amounts on the report pertain to checks undeliverable to beneficiaries. Once the amounts have been held as undisbursed for one year, the Fiscal Office tries to contact the beneficiary again for a better address to resend the money. If no response, the money is put in the redistribution account.

The amounts on the report are listed by the oldest probationers' payment dates from 6/13/01 through 4/21/09. This report evidenced some review by the Account Clerk II-Probation, but again, due to lack in staff and other work taking priority, she has been unable to review it further.

During the audit, we requested another Undisbursed Totals by the Oldest Payment Date Report as of 8/21/09. Approximately, 92 undisbursed payments totaling \$15,532 have oldest payment dates from 6/3/99 through 8/7/08. Of the 92, 2 undisbursed amounts pertained to the Onondaga County District Attorney's Office and 1 to Onondaga Community College, as beneficiaries.

In follow up to the undisbursed amount of \$15,532, it is recommended the Fiscal Office try to contact the beneficiaries for a better address and see if they still want the money. If they don't want the money or there is no response, the undisbursed balances should go to the redistribution balance. Follow up should be made with County departments, as beneficiaries, to find out why checks have not been cashed in the past.

The Probation Department has agreed to amend the Victim letter to include additional information to help the Fiscal Office locate beneficiaries.

It is further recommended in the future, as the budget prevails, the Probation Department consider hiring an Account Clerk I to help ease the workload.

9. From a review of the report entitled, Beneficiaries (Companies) Who Haven't Received Checks in Over a Year (PRA73), requested as of 8/21/09, it appears that \$614,916 is owed to Onondaga County Departments (i.e. Water authority, Justice, Commissioner of Finance, District Attorney, Law, Parks, Transportation, DSS and Sheriffs) and Onondaga Community College, as beneficiaries. There are also different beneficiary numbers listed on the report for the same department and we understand that new employees in the Fiscal Office would assign a new beneficiary number for each case, instead of using one per department. We note more than 50% of the \$614,916 is owed to DSS. For example, under DSS beneficiary number 9700008, a balance owed in the amount of \$204,739

pertains to 64 cases involving welfare fraud. Most of these cases, per the Probation Department, are Welfare/Medicaid Fraud where the probationer remains on assistance and is unable to pay restitution as directed.

This report pertains to Beneficiaries (Companies) who have never received money or none in over a year. There is also a report for Beneficiaries (People). The Accountant II-Probation stated the Fiscal Office tries to contact the beneficiary to see if payment is still wanted. Payments are made to people first who have never received payment, then companies. Payment is made from the redistribution balance.

10. From a review of the Account Clerk II-Probation file, we noted cases where beneficiaries signed letters wanting the money. These were in envelopes postmarked in January 2008; however, the money has not been sent to date. In January 2008, the Account Clerk I – Probation Department received and entered these on a spreadsheet, but never sent out the money. The Account Clerk II did not always check her work due to her own workload. As noted previously, the Account Clerk I left in 2/09.

The Account Clerk II tries to issue money when time prevails. The last redistribution of restitution was 2/9/09. There is currently a redistribution balance of \$4,277.00. Once the Fiscal Office reviews the Outstanding Uncashed Checks Report and Undisbursed Totals by the Oldest Payment Date Report in the above noted findings, the balance could be larger.

It is recommended to the Fiscal Office to continue their efforts to maximize the use of undisbursed funds of beneficiaries which can not be contacted or do not want the money and distribute it more timely to victims who have restitution orders that have remained unsatisfied for the longest period of time.

Sincerely,



Robert E. Antonacci II, CPA

cc: Hon. Joanne Mahoney, County Executive
Ann Rooney, County Administrator Human Services
James Rowley, Chief Fiscal Officer
Karen Carney, Director Real Property



Onondaga County Probation Department

Joanne M. Mahoney
County Executive

Al Giacchi
Commissioner of Probation

John H. Mulroy Civic Center
421 Montgomery Street, 6th Floor
Syracuse, NY 13202

Phone: 315-435-2321/2312
Fax: 315-435-5260
www.ongov.net

Wednesday, March 24, 2010

Robert E. Antonacci, CPA, Esq.
Onondaga County Comptroller
421 Montgomery St.
Syracuse NY 13202

Dear Mr. Antonacci;

We have reviewed your findings following the audit of our Fiscal Office and would like to make the following comments. I have attached a copy of the findings for your reference and will respond to the numbered items where applicable, beginning on page two.

- 1.) This has been discussed with our Accountant, Patrick Bane and we will follow the recommendations of the Auditor.
- 2.) We have made the changes indicated.
- 3.) We will continue to work with our staff to improve the process of identifying and providing restitution to the appropriate victims.
- 4.) This has been addressed.
- 5.) As is the case with several of the findings/suggestions, our current staffing has made it extremely difficult to address much of anything beyond the necessary day-today functions of the office.
- 6.) We will work with the Supervisors and Probation Officers in an attempt to improve our collection rate.
- 7.) I believe that Mr. Squires indicated that based on the dollar amount of this particular debt, he would recommend that it be removed from the audit.

- 8.) As previously indicated, while we acknowledge that there is room for improvement in this area, this is a time consuming endeavor and we feel that we are doing what we can at this point.
- 9.) As indicated, the majority of these cases involve welfare fraud, where a probationer continues to receive services. In many cases, the Department of Social Services is able to recoup loses by adjusting the clients current benefits. As you might imagine, this is a difficult population to collect from but we continue to aggressively pursue the collection of restitution.
- 10.) We have addressed this and going forward we will make an effort to process these payments as quickly as possible.

As previously indicated, we feel that the addition of an Account Clerk I would allow us to fully address several of the issues noted in your audit. Thank you for your assistance and suggestions. If you have any additional questions, please feel free to cal me at 435-6997.

Sincerely;

A handwritten signature in cursive script that reads "Alphonse Giacchi".

Alphonse Giacchi
Commissioner of Probation