



ULSTER COUNTY  
COMPTROLLER'S OFFICE  
Elliott Auerbach, Comptroller

May 20, 2016

**Probation Department Audit of Internal Controls over Receipt and  
Disbursement of Restitution**

# ULSTER COUNTY OFFICE OF THE COMPTROLLER

PO BOX 1800  
KINGSTON, NEW YORK 12402  
Telephone (845) 331-8774 • Fax (845) 340-3697

**Elliott Auerbach**  
*Comptroller*



**Evan Gallo, Esq.**  
*Deputy Comptroller*

**Alicia DeMarco, CPA**  
*Director of Internal Audit &  
Control*

---

May 20, 2016

Dear County Officials:

Following herewith is our audit of the Ulster County Probation Department's ("Department") administration of the collection and disbursement of restitution payments. Our analysis focused on the adequacy of procedures in place that govern the receipt of these types of payments, as well as their disbursement to any and all awarded victims.

We conclude that adequate controls generally exist over the collection and disbursement of restitution payments. However, the void receipt process was identified as being in need of improvement, which was verbally communicated to the Department during the audit. The Department responded promptly and has begun to implement an improved procedure that will require an additional approval prior to the receipt being voided. The audit also revealed an inconsistency in the aging receivables report, which is an essential tool for Departmental officials who must ensure that outstanding accounts receivable are properly monitored.

The reports issued by the Office of the Ulster County Comptroller ("Office") are an important component in accomplishing the development and promotion of short and long-term strategies to achieve reduced costs, improved service delivery, accountability, and protection for the County's assets. These reports are expected to be a resource and are designed to identify currently emerging fiscally related problems and provide recommendations for their improvement.

The Office conducted this audit and produced this report in accordance with the Comptroller's authority as set forth in Article IX, Section 57, first paragraph, and Sections 57(A) and (G) of the Ulster County Charter, as well as applicable New York State laws, rules, and regulations.

If we can be of assistance to you, or if you have any questions concerning this report, please feel free to contact us.

Respectfully submitted,

Ulster County Comptroller

## **Introduction**

---

### **A. What is restitution?**

Restitution is compensation paid to a victim by the perpetrator of a crime for the losses or injuries incurred as a result of that criminal offense. Restitution must be ordered by the Court at the time of sentencing and is considered part of the sentence. Anyone who has been the victim of a criminal offense and has suffered injuries, economic losses, or damages can seek restitution, but the amount of restitution awarded is based on proof of out-of-pocket losses and other damages incurred in relation to the criminal offense. Restitution may include costs such as reimbursement for medical expenses, counseling services, loss of earnings, and replacement of property; however, it may not include payments for future losses, mental anguish, or pain and suffering.

The Court may hold a restitution hearing where the Court can consider the perpetrator's ability to pay. Payments are based on the amount of restitution ordered and disbursed according to the schedule of payments in the restitution order.<sup>1</sup> The restitution order states what percentage the Department can collect in restitution fees. State law requires a designated surcharge of 5%, which may not be waived by the Court. However, three instances exist when the surcharge does not apply: (1) cases originating from Family Court, (2) buy money to a police agency, and (3) arson clean up funds to a municipality or fire company. An additional 5% may be collected after submission and approval of an affidavit claiming that probation costs exceeded the mandatory 5%.<sup>2</sup>

### **B. The role of the Ulster County Probation Department**

The Ulster County Probation Department assists in reducing recidivism and the incidence of crime by supervising probationers in the community, and it is also the designated agency for the collection of court ordered restitution and surcharges for cases with or without a probationary component attached. The Probation Director ("Director") manages the Department's operations and oversees approximately fifty managerial and staff positions. Department staff is responsible for collecting restitution payments and applicable surcharges, which are subsequently remitted to the appropriate victims designated by the courts or to the Ulster County Department of Finance ("DOF").

The Department also collects Driving While Intoxicated ("DWI") Supervision Fees, which consist of a monthly \$30 charge for individuals convicted of a crime under Article 31 of the New York State Vehicle and Traffic Law (Alcohol and Drug-related Offenses and Procedures Applicable Thereto) and who are sentenced to probationary supervision. The restitution fees and the DWI Supervision Fees are remitted to DOF on a bi-monthly basis.

---

<sup>1</sup> See "A Victim's Guide To Restitution In New York State: A Brochure For Crime Victims," by the New York State Office of Victim Services. Available at <https://ovs.ny.gov/sites/default/files/brochure/restitutionbrochure-english32509slfedits12-31-13.pdf>.

<sup>2</sup> See Appendix A: Response from Ulster County Probation Department. The paragraph within this report was amended to reflect the aforementioned description of surcharges included in the Department's response.

During 2015, the Department disbursed \$224,743 in restitution to victims, collected and remitted \$27,984 in surcharges and \$62,914 in supervision fees to DOF, and issued \$1,387 to the oldest unpaid victim trust fund.<sup>3</sup>

## **Objectives**

---

The purpose of this audit was to determine whether the mechanisms in place regarding the collection and disbursement of restitution payments are adequate, efficient, and in accordance with the Department's procedures.

Specifically, our audit sought to:

- Determine whether the Department has sufficient internal controls over its financial operations, including the documenting, recordkeeping, collecting, and distributing of all monies pertaining to all restitution and surcharges handled by the Department.

## **Scope**

---

This audit was conducted in conformance with generally accepted government auditing standards. Those standards require that we plan and perform an audit in order to obtain sufficient and appropriate evidence so that we may provide a reasonable basis for our findings and conclusions, which are ultimately based on our aforementioned audit objectives.

### **A. Collections**

Relating to the receipts of restitution payments, we documented the processes involved for receiving cash or money orders in addition to those funds remitted through a third party vendor ("Gov-Pay"). The cash or money order receipts are received on location by either the Senior Data Base Clerk or the Transcribing Typist. They enter the payment into the Caseload computer software, which updates the offender's file. The offender is given a copy of a receipt that details the allocation of the payment made (i.e. to whom and how much). If a payment is made via mail then a copy of the receipt is given to the Probation Officer, which should be delivered to the offender upon the next visit or stored in the case file. Cash denominations are written on the internal copy of the receipt unless paid by money order. Each receipt is attached to the payment and placed in a safe. The Administrative Assistant then opens the safe and verifies that the payment matches the receipt before sorting payment types by drawer (i.e. restitution or DWI service fees). The combined amount of the deposit reports is then deposited into the bank by the Administrative Assistant, and the deposit ticket is attached to the deposit reports. Copies of all money orders are scanned and attached to the deposit packet.

---

<sup>3</sup> See "2015 Ulster County Annual Reports of the Executive Department" at page 61 (stating key statistics of the Probation Department specifically related to restitution and fees).

For payments made via Gov-Pay, the offender logs into the site in order to make a payment, and Gov-Pay subsequently sends a notice to the Department via fax. Payments made through Gov-Pay are transferred (via Automated Clearing House) directly to the bank. The payment information, including an approval number and reference number, is entered on each offender file in Caseload that automatically updates payoff information. Receipts are printed out and attached with the Gov-Pay fax paperwork.

The *collection process* was documented and tested using the following methods:

- Interviewed the Director, Deputy Director, and Administrative Assistant;
- Received a listing of all receipts recorded for the period of January 1, 2015, through December 31, 2015;
- Reviewed the receipt numbers for continuity for the month of August 2015 to identify whether any gaps or voids existed – all of which were accounted;
- Tested 40 receipts of restitution payments made during 2015 – all receipts were properly recorded and deposited into the bank account; and
- Tested 5 receipts that were collected in 2015 and subsequently voided – all voids tested were voided and re-issued for valid reasons.

## **B. Disbursements**

We further documented the disbursement process of payments to restitution victims. The disbursement process begins after receipts of restitution payments are deposited into the bank via the process noted above. Checks are issued bi-monthly, and the Department remits the full amount of restitution surcharges and DWI supervision fees to DOF. Restitution disbursements to victims are created in Caseload via a check write function where all receipts previously received appear in a window to be selected for check disbursement. This action is performed by the Account Clerk, and a check register is created that details all checks to be printed along with their sum. The check register is reviewed and signed by the Director or Deputy, and each check is also manually signed at this time. The check register is then sent to the Office of the Ulster County Comptroller for certification. Once the certification is returned from the Comptroller's Office, the checks are mailed out to the appropriate victims.

The *disbursement process* was documented and tested using the following methods:

- Interviewed the Director, Deputy Director, and Administrative Assistant;
- Received a listing of all disbursements recorded for the period of January 1, 2015, through December 31, 2015;
- Reviewed the monthly Bank Reconciliations for the year of 2015 for accuracy;
- Tested 40 disbursements of restitution payments disbursed in 2015 – we determined that the sample population was properly disbursed and accounted for in the financial system; and
- Tested 15 disbursements from 2015 that were subsequently voided – we determined that all void samples contained valid reasons.

### C. Oldest Unpaid Victims

We also received and reviewed the Department's procedures on payments made to victims with unsatisfied claims. The procedure states that each year the Department should disburse payments to the oldest unpaid victims out of undisbursed monies. The undisbursed monies, which are held in the Victim Trust Fund, accumulate based on payments received from offenders whose victims were not able to be located through reasonable efforts and after a period of one year. These funds are then distributed to the oldest unpaid victims. The Department must retain 20% of the balance of the undisbursed monies while distributing the remaining 80% based on an Unpaid Victim Report. For each unpaid case, the victim is eligible for up to \$500 in payment from the undisbursed monies.

The *oldest unpaid victim process* was tested using the following methods:

- Tested all payments made to the Oldest Unpaid Victims in 2015 – we determined the payments were in fact made to the oldest unpaid victims per the Unpaid Victim Report; and
- Reviewed the trial balance of the undisbursed monies – we determined that 20% was retained and that 80% was disbursed per the procedures in place.

## Findings & Recommendations

---

### A. Void Receipt Process

**Finding** – During our review, we tested the void receipt process and determined that one person could receive, void, and reissue cash receipts without additional approval, which is a deficiency in internal control.

**Recommendation** – Verbal communication of this concern over the void receipt process was made during the course of the audit. Department officials reacted promptly and are currently developing a new process to ensure that one person is not capable of unilaterally receiving and voiding cash payments.

### B. Delinquent Accounts

**Finding** – During our review, we requested and received an aging report from the Department. The report indicated that offenders owed approximately \$10.9 million as of March 29, 2016, yet the combination of the aged columns only totaled \$10.2 million. We noted that clarity on remaining balances is obtainable by investigating individual case files; however, without a valid aging report, Department officials may not be able to properly monitor outstanding accounts receivable.

**Recommendation** – The Department should contact Caseload software management personnel and determine the reason(s) for discrepancies in the aging report. The Department should also develop a strategy to more easily determine the correct outstanding balance for each case file on the aging report.

## **Conclusion**

---

Based on our evaluation, effective internal controls generally exist in the disbursement process, as all restitution receipts and disbursements selected for testing were accurately recorded. The implementation of a new void receipt procedure will ensure that strong internal controls are maintained in regard to the receipt process of restitution payments. Additionally, addressing the discrepancies found within the aging reports will ensure that offenders properly pay what is owed of them and victims receive what is rightfully theirs.

Prior to release, a draft version of this report was sent to the Probation Department for their review. Any response received from the Department has been incorporated into the final report.

The Comptroller's Office would like to thank the Probation Department for their helpfulness and accommodations and for ensuring that knowledgeable staff was readily available for on-site visits, which facilitated an efficient auditing process.

## **Appendix A: Response from Probation Department**





# Ulster County Probation Department

733 BROADWAY, KINGSTON, NY 12401-3449

Phone: (845) 340-3200 Fax: (845) 340-3220

**MICHAEL P. HEIN**  
County Executive

**MELANIE S. MULLINS**  
*Director/STOP DWI Coordinator*  
**NANCY H. SCHMIDT, LMSW**  
*Deputy Director*

## **Unit**

May 16, 2016

### **Administrators**

Mary Trish Cina, LMSW  
Valerie Naccarato  
Deborah G. Stitt

Randy Boughton, Sr. Auditor  
Ulster County Comptroller's Office  
Via email

## **Satellite Offices**

Dear Mr. Boughton,

### **Ellenville**

845-647-1740  
845-647-4782 fax

It has been a pleasure to work with the Comptroller's Office in reviewing Restitution practices in the Ulster County Probation Department. We always welcome the opportunity to educate regarding our procedures and to receive feedback to ensure that we are adopting best practices with the work that we do. The Comptroller's Office has been helpful both in assisting us in creating our financial policy and vetting it as we worked toward that end.

### **New Paltz**

845-255-6037  
845-255-6045 fax

In response to the findings of the recent audit be advised:

### **Saugerties**

845-246-2800  
Ext 350

The department has already instituted corrective action with regards to the void receipts of payments process. Immediately after this issue was uncovered staffs were instructed to adopt the following practice:

## **Community**

### **Service**

#### **Program**

63 Golden Hill Dr.  
Kingston, NY 12401  
845-340-3342  
845-334-3252 fax

- Have someone else with permission to void - void the receipt originally issued and create a new corrected receipt. If no one is available at that time to do the void on your behalf, note that on the receipt and leave with payment. (at deposit stage – void can be verified for reissue accuracy and reason)
- Make sure you document the reason WHY the need to reissue a new receipt for payment.
- Put the OLD receipt of payment (voided) attached to the newly reissued corrected receipt so there is a reference and view of original and new receipts for verification.
- Make sure explanation is written on voided receipt and sign your name.

## **Crime Victims**

### **Assistance**

#### **Program**

5 Pearl Street  
Kingston, NY 12401  
845-340-3443  
845-340-3223 fax

We are currently amending our financial policy to incorporate this change.

## **STOP-DWI**

380 Boulevard  
Kingston, NY 12401  
845-340-3448  
845-340-3449fax

With regards to the Aging Report, Management has met with our Database Administrator, Restitution Clerk and Administrative Assistant to review the report to determine the reasons for the discrepancy. It was determined that this is an Invoice Aging vs a Payment Aging report that fails to take into account cases with zero surcharge, cases in which restitution is ordered jointly and severally and a codefendant satisfies the judgement and those cases in which restitution is paid in full at the time of sentencing. I have already

informed the State Director's Association of this issue and asked for their support of our efforts to have it addressed by Automon, our case management software vendor and DCJS/OPCA, our state oversight agency. Any changes to the software must be requested, approved and are funded by OPCA. I will advise both Automon and OPCA of this issue in the coming week.

Additionally, be advised that this report is an aggregate report while the work with regards to restitution collection is done on an individual basis in exchanges between the officer and offender. The shortcomings of the Aging Report are mitigated by the fact that arrears are accurately reflected on the overview screen for each offender and Officers are made aware of any arrears each time they sign on to work with an individual.

One final comment is offered regarding your description of the surcharge in your introduction – What is Restitution. Be advised that statute mandates a designated surcharge of 5% which cannot be waived by the judiciary. There are three instances in which the designated surcharge does not apply: Cases originating in Family Court, buy money to a police agency and arson clean up funds to a municipality or fire company. The law also allows for an additional 5% to be collected upon submission and approval of an affidavit claiming that our costs exceed the mandatory 5%. The Department has taken a proactive position with requesting the additional surcharge due to the costs of our efforts and an affidavit is submitted with each sentencing report. The additional surcharge is generally approved and by far most of our restitution cases have a 10% surcharge imposed.

Should you have any additional questions or concerns please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melanie S. Mullins', with a long horizontal flourish extending to the right.

Melanie S. Mullins  
Probation Director

cc: Robert A. Sudlow, Deputy County Executive