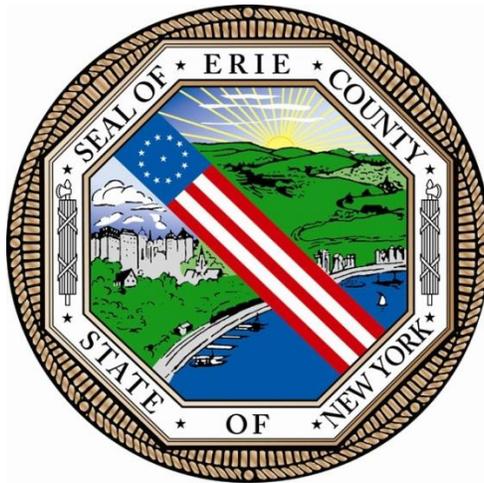


January 2017

**Office of the Erie County Sheriff
AUDIT OF THE BAIL ACCOUNT
JANUARY 1, 2016 TO NOVEMBER 30, 2016**



**STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER**

**HON. STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



January 31, 2017

Erie County Legislature
92 Franklin Street 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of Erie County Sheriff's Office bail bond payment and collection procedures during the period from January 1, 2016 to November 30, 2016.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards. 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. Our objectives were to:

- Determine the existence of operating policies and procedures.
- Determine whether control procedures are in place and operating effectively.
- Determine that records are adequately maintained over the collection and distribution of the bail bond monies.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Management at the Erie County Sheriff's Office is responsible for establishing and maintaining a system of internal controls. The objectives of such a system are to provide management with reasonable, but not absolute, assurance that transactions are executed in accordance with management's authorization and are recorded properly. With the inherent limitations in any system of internal control, errors or irregularities may nevertheless occur and not be detected.

During the course of audit, concerns regarding internal control became apparent through both our walkthroughs and evaluation of documentation. We found deficiencies and inconsistencies in the following: (1) preparation of the bank reconciliations, (2) non-compliance with County policies and (3) in the lack of written policies and procedures. In our opinion, controls over the cash handling of the Bail Account are not adequate.

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BACKGROUND

When someone is arrested, the individual is arraigned in the jurisdiction that the arrest occurred. The arraignment is the initial court proceeding and the first time the defendant appears before a judge. The purpose of arraignment is to inform the individual of the charges, the right to be represented by a lawyer, and the right to an adjournment to obtain a lawyer. This individual must enter a plea to the charges at this time, where the bail may be set by the judge. If the defendant does not have the means to pay bail, the individual will be jailed. The amount set for bail reflects the judge's view of the defendant's past record and the likelihood that he/she will appear at future court dates. Once the judge sets the bail amount for the defendant, the defendant or another person can post the bail at the Erie County Holding Center. This allows the defendant to be conditionally released from custody. The person who posts the bail on behalf of the defendant is given a receipt and a notice, Form JMD-211, listing the instructions for cash bails taken at the Erie County Holding Center. This process allows the defendant to be freed while awaiting and during the trial. Once the trial is completed, the individual who posted the bail on behalf of the defendant takes the bail receipt to the court designated on the receipt for return of the bail money, which usually takes seven to ten business days. The amount returned is less a three percent fee retained by the court of jurisdiction which is authorized by Section 99-M of the New York State General Municipal Law.

The process of cash bails is governed by the Sheriff’s Office Jail Management Division Policy #JMD 09.05.01, effective in May 1991, and subsequently revised in August 1997, March 1998, and September 2002. There are several ways an inmate can lawfully be released from the custody of the Sheriff. The payment of bail is one such way. Bail is paid at the cashier’s window at the Erie County Holding Center, where cash, certified bank checks and/or money orders payable to the “Sheriff of Erie County” are accepted. Credit card payment is possible via a phone in the lobby by calling 1-877-EZBAIL5 (1-877-392-2455). The credit cards are processed by a third party vendor, Government Payment Services Inc.,

referred to afterwards as GovPayNet. GovPayNet transmits a “Cash Bail Confirmation Fax” which includes a unique transaction reference number, transaction date/time, transaction information, and the cardholder information. A service fee is charged by GovPayNet in addition to the amount due for bail and that fee is kept by the credit card processor. The amount of the fee charged is a variable amount depending on the amount of the cash bail. The following business day after the funds were received, a check is written by the Sheriff’s Office payable for the amount of the bail as set by the judge to the municipality of jurisdiction on behalf of the defendant. During the audit period, there were 1574 cash bails processed for a total of \$1,655,417.

AUDIT FINDINGS

I. Inadequate Bank Reconciliation Process

We sampled and tested the reconciliations for the months of February and August 2016. Our testing disclosed that checks marked as VOID on the Outstanding Checks Report included in the bank reconciliation for those periods were not marked as VOID on the “Check List Summary Report” (Check Register) for the same period. In addition, the deposits in transit listed on the bank reconciliation report did not match the deposits in transit that we traced to the source documents. We noted that deposits in transit listed as prepared by the Sheriff’s Office as \$3501 in February and (\$892) in August could not be substantiated.

For the months of January and February 2016, we tested the all transactions listed from the report provided by GovPayNet. Our testing disclosed that on 1/29/16, receipt # 14349 was issued for a credit card payment that was made via GovPayNet, in the amount of \$500. This transaction could not be located on the report from GovPayNet. Additionally, we noted that a payment of \$512 processed on 1/28/16 could not be traced to a corresponding receipt.

We also found that the Bail Account check register only included a list of checks issued, excluded deposits, and did not include additional debits and credits. As such, the balance of the account cannot be accurately determined. This exposes the account to the potential of being overdrawn and subject to Non-Sufficient Fund (NSF) fees.

Accordingly, we were unable to reconcile this account. Because the reconciliation process currently in place excludes standard reconciling items, it appears that this account has not been properly reconciled for at least two years.

WE RECOMMEND that management of the Sheriff’s Office formalize written procedures for reconciling the Bail Account. In addition, **WE FURTHER RECOMMEND** that each reconciliation be reviewed and approved by the reconciler’s supervisor to ensure compliance with their written procedures. **WE RECOMMEND** that in addition to the recording of checks paid out, that the daily deposits are also recorded in the system. Also, **WE RECOMMEND** that all checks that are voided be noted in the check

register and the balance of the Bail Account be adjusted accordingly. This will provide an accurate representation of the current balance of the Bail Account. More importantly, because the Bail Account has not been reconciled at least two years, **WE RECOMMEND** that an appropriate effective date be determined from which to commence their new reconciliation process.

II. Non – Compliance with County Accounting Policies

During the administering of the Internal Control Questionnaire, we found that there is a lack of adherence to County procedure. Specifically, the *County of Erie Accounting Policies, Cash Management, Cash Receipts – Overview* which require that “...all checks must be restrictively endorsed immediately upon receipt.” Our testing disclosed that checks and money orders are being restrictively endorsed during the preparation of the deposit instead of when they are received.

WE RECOMMEND that management of the Sheriff’s Office take the necessary steps to ensure that window staff be apprised of the Erie County policy regarding restrictive check endorsement and ensure that this control procedure be incorporated into their written policies and procedures for bail payment and collection.

AUDITOR’S COMMENTS

I. Disconnect Between Supporting Documentation.

The yellow copies of the Cash Bail Receipts, Form F-10 which is a three part receipt, are filed by check number. When a check is voided, the voided check number on the receipt is crossed off and the replacement check number is written. This creates the potential for misfiling of supporting documentation. The Bail Log report only contains the receipt number while the check number itself is not recorded, creating an inherent disconnect when trying to trace supporting documentation. The Bail Log also lists which receipts are voided. During our testing, we encountered gaps in the numerical sequence of the F10 Cash Bail Receipts because the voids are kept separately in the receipt book. The Check List Summary Report [only lists the check number, the check date, payee, the defendant’s name in the memo column, and the amount. The receipt number is not recorded during this part of the transaction, which makes tracing supporting documentation difficult. The only link between the two reports and the activity is the yellow copy of the F-10 receipt.

WE RECOMMEND that the receipts should be organized by the receipt number, which is preprinted on the receipt, as the associated check could be voided and a different check number would be used for the reissuing of payment. Additionally, the yellow copy of the voided receipt should be kept with all other receipts for the same period. This will provide ease of access and clear supporting documentation for payments made to each municipality on behalf of the defendant. Furthermore, the use of Note1 field in the check writing software would allow tracking which receipt is the supporting documentation to the check. The Check List Summary Report should be revised to incorporate the “Note1” field so that the

corresponding receipt number is logged with the check paid out. Adding this information to the system will provide a direct path to support the checks paid to the various jurisdictions for bail to the receipt of funds received on that individual's behalf.

II. Lack of Policy Regarding Stale Checks

Currently, there is no policy regarding the aging of checks and when they stale date. When reviewing the list of outstanding checks for August 2016, we found that there were two checks from 2008, one check from 2009, one from 2014 and another check from 2015.

WE RECOMMEND that management of the Sheriff's Office adopt a policy to detail the handling of outstanding checks. Adopting such a policy and voiding the checks after a set time period would reduce the potential of incurring fees from the banking institution for honoring the instrument that is considered stale as the checks made out to the various courts are not certified checks.

Results of Exit Conference

An exit conference was held on March 1, 2017 with the Sheriff's Office Chief of Administration and members of his staff. The contents of the report were discussed in detail and the attendees were in agreement of our findings and recommendations. The Chief outlined the measures the Sheriff's Office has implemented as well as measures that will be implemented to address the concerns discussed in our report.

In accordance with the County's Audit Response System and Procedures, we request that the Sheriff's Office prepare a written response to the County Executive concerning the audit findings and recommendations by April 10, 2017. We further request that the County Executive forward copies of the response to the Legislature and the Comptroller by April 24, 2017.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Hon. Mark C. Poloncarz, County Executive
Hon. Timothy B. Howard, Sheriff
Robert W. Keating, Director of Budget and Management
Erie County Fiscal Stability Authority