

# OFFICE OF THE SUFFOLK COUNTY COMPTROLLER



## **Suffolk County Department of Probation**

### **A Performance Audit of the Probation Department's Forfeiture Funds**

**Period Covered:  
January 1, 2017 through December 31, 2018**

**Report # 2019-27**

**Date Issued: September 9, 2020**

**John M. Kennedy, Jr.**

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## REPORT HIGHLIGHTS/FACT SHEET

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### Audit Objective

The objective is to perform an audit of books, records and accounts pertaining to the Probation Department (Department)'s asset forfeiture funds as per the legislative requirements set forth at Section C5-2(K) of the Suffolk County Code; to determine if the Department complied with certain requirements of laws, regulations, guidelines and SOPs applicable to the Department's forfeiture funds; and to review and test internal controls applicable to those forfeiture funds.

### Conclusion

Local Law 06-2017 mandates the Comptroller's Office to conduct an audit and provide a written determination of the regularity, legality and correctness of the Department's forfeiture appropriations and expenditures. Based on our examination of the Department's books, records and accounts pertaining to asset forfeiture funds, we believe that for fiscal years ending December 31, 2017 and December 31, 2018, the Department has complied with Local Law 06-2017 except for the following key findings:

- The Department has not been empowered to accept and appropriate federal forfeiture funds via legislation (p. 6).
- The Department failed to receive the Department Head's approval prior to incurring an expense as required by the federal guidance (p. 6).

### Background

The Department and all of the duties performed are mandated by Section 256 of the New York State (NYS) Executive Law, which provides the general mandate for the establishment of county probation agencies. In connection with the performance of these duties, the Department receives federal forfeiture funds from the Department of Justice (DOJ). These funds can only be used to increase or supplement the resources of the receiving law enforcement agency and must be used for a valid law enforcement purpose (p. 4).

For the years ending December 31, 2017 and December 31, 2018, the Department:

- received DOJ revenue in the amount of \$1,789 and \$278, respectively;
- expended DOJ forfeiture funds totaling \$15,613 in fiscal year 2017 and had no expenditures in fiscal year 2018; and
- did not receive, use or dispose of any DOJ forfeited vehicles (p. 5).

### Quick Facts

Local Law No. 06-2017, A Charter Law to Increase the Transparency of Asset Forfeiture Funds mandated the Suffolk County Comptroller to audit asset forfeiture accounts biennially to ensure that asset forfeiture funds are being used in an appropriate manner. These audits shall provide a written determination of the regularity, legality and correctness of appropriations and expenditures made with asset forfeiture funds.

## LETTER OF TRANSMITTAL

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September 9, 2020

Andrea Neubauer, Director of Probation

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter and as required by Local Law 06-2017, a performance audit of the Department's forfeiture fund revenue and expenditures was conducted for the period January 1, 2017 through December 31, 2018.

The objectives of our audit were as follows:

- To determine if federal forfeiture revenues and expenditures listed on the Equitable Sharing Agreement and Certification (ESAC) are properly reported in accordance with applicable guidelines, regulations, and instruction.
- To verify that total forfeiture revenues and expenditures reported by the Department agree to the totals recorded in the County's Integrated Financial Management System (IFMS).
- To determine if forfeiture expenditures were made in accordance with applicable laws, guidelines, regulations and SOPs.
- To verify that assets purchased with forfeiture funds exist, and were maintained and disposed of in accordance with applicable laws, rules, regulations and SOPs.
- To review and test internal controls applicable to departmental forfeiture funds.
- To determine if the Department maintains forfeiture fund balances and to verify that the fund balances properly reported revenue and expenditures of forfeiture funds.
- To provide a written determination of the regularity, legality and correctness of appropriations and expenditures made in connection with asset forfeiture funds.

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Local Law 06-2017 mandates the Comptroller’s Office to conduct a biennial audit and provide a written determination of the regularity, legality and correctness of the Department’s forfeiture appropriations and expenditures. Based on our examination of the Department’s books, records and accounts pertaining to asset forfeiture funds, we believe that for fiscal years ending December 31, 2017 and December 31, 2018, the Department has materially complied with Local Law 06-2017 relating to the regularity, legality and correctness of appropriations and expenditures of asset forfeiture funds except for the findings disclosed in this report (pp. 6 - 7).

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

Respectfully submitted,

Office of the County Comptroller  
Division of Auditing Services

## BACKGROUND

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The Department was established in 1908 and is located at 100 East Avenue, Yaphank, NY 11980. The Department's mission is to provide community protection and client assistance/rehabilitation. The Department provides community supervision of both sentenced and pre-trial offenders and aids both juvenile and adult offenders in obtaining needed services. Probation services reduce crime by lowering recidivism among offenders receiving probation services and provide a viable, effective alternative to incarceration. The Department and all of the duties performed are mandated by Section 256 of the NYS Executive Law, which provides the general mandate for the establishment of county probation agencies.

### **Federal Forfeiture Program**

During the audit period January 1, 2017 through December 31, 2018, the Department received federal forfeiture funds from the DOJ. Any state, local and tribal law enforcement agency that directly participates in an investigation or prosecution that results in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture. Shared funds can only be used to increase or supplement the resources of the receiving state or local law enforcement agency. Shared funds may be used by law enforcement agencies for law enforcement purposes only.

DOJ forfeiture is established through the Federal Comprehensive Crime Control Act of 1984. Federal forfeiture proceeds are distributed at the DOJ's discretion to the Office based upon the Office's level of direct participation in the investigation. During the audit period, the Office received shared federal forfeiture proceeds from the DOJ (The authority of the DOJ to share federal forfeiture proceeds is found primarily in Title 21 U.S.C. §881(e) (1) (A) and (e) (3)).

During the period January 01, 2017 through December 31, 2018, the Department did not receive, use or maintain any Department of the Treasury (TRES) forfeiture funds or assets received or purchased with TRES forfeiture funds.

On July 23, 2018, the DOJ and TRES jointly released an updated Guide regarding the use of equitable sharing funds which replaced the existing separate Guides.

The Department is required to submit an ESAC annually with the Federal Government within two months after the end of the previous fiscal year. It reports the Department's DOJ and TRES fund balance, equitable sharing revenue, interest income earned, and a summary of equitably shared funds expended by category. The ESAC is required to be prepared in accordance with DOJ and TRES guidelines, regulations and instruction using cash-based accounting methods.

For the years ending December 31, 2017 and December 31, 2018, the Department received revenue, including interest, related to the DOJ federal forfeiture program in

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the amount of \$1,789 and \$278, respectively and expended \$15,613 in fiscal year 2017 and had no expenditures in fiscal year 2018.

	<u>2017</u>	<u>2018</u>
Beginning Equitable Sharing Fund Balance:	\$ 25,699	\$ 11,875
Equitable Sharing Funds Received:	1,789	278
Equitable Sharing Funds Expended:	<u>(15,613)</u>	<u>(0)</u>
Ending Equitable Sharing Fund Balance:	<u>\$ 11,875</u>	<u>\$ 12,153</u>

During the period January 1, 2017 through December 31, 2018 the Office did not receive, use or dispose of any forfeited vehicles.

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**NYS Civil Practice Laws and Rules (CPLR)**  
**Section 1349 Forfeiture Program**

The Suffolk County District Attorney's Office obtains and distributes forfeiture proceeds per the NYS CPLR §1349.

During the period January 01, 2017 through December 31, 2018, the Department did not receive, use or maintain any NYS CPLR §1349 forfeiture funds or assets received or purchased with NYS CPLR §1349 forfeiture funds.

## AUDIT FINDINGS

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### *Deficient Authorization*

***The Department has not been empowered to accept and appropriate federal forfeiture funds via legislation.*** The Department submitted three pro forma resolutions totaling \$1,789 citing legislation empowering the Suffolk County Police Department and Sheriff's Office to receive and utilize forfeiture funds. The Department became aware of the error during a previous audit performed by the Office of the County Comptroller's Audit Division. As a result, the Department contacted the County Executive's Budget Office (CEBO) about obtaining a resolution allowing the Department to receive and utilize DOJ forfeiture funds; however, we have not found evidence that a resolution allowing the Director of Probation to accept and appropriate federal forfeiture funds has been enacted. Additionally, the Department has submitted two pro forma resolutions totaling \$278 that have not been accepted or appropriated due to the lack of appropriate legislation. Without the appropriate legislation, the Department cannot accept and appropriate forfeiture funds.

### *Inadequate Internal Control*

***The Department failed to receive the Department Head's approval prior to incurring an expense as required by the federal guidance.*** Federal Guidelines for Equitable Sharing for State and Local Law Enforcement Agencies (Guide) states "The state or local participating agency must establish an internal procedure to recommend expenditures from the revenue account. . . . The agency head must authorize all expenditures from the federal sharing revenue account"; however, for the one expenditure tested the Department did not have any documentation of the Department Head's approval. Subsequent to this transaction, the Department has instituted a new policy that would require that an Asset Forfeiture Request Form be completed that would document the Department Head's prior approval. Failure to adhere to the federal guidelines can result in sanctions including, but not limited to, offsets to future sharing, denial of an agency's sharing request, and temporary or permanent exclusion from further participation in the equitable sharing program.

### *Failure to Timely Request Equitable Sharing*

***The Department failed to timely submit their request for an equitable share of forfeiture funds as required by federal guidelines, which may have resulted in the loss of forfeiture revenue.*** The Guide states "Sharing requests must be submitted within 60 days after the seizure or within 60 days after the federal adoption of a state or local seizure. . . . No sharing requests will be considered after the forfeited property has been distributed, deposited into the Assets Forfeiture Fund, or otherwise disposed of according to law"; however, all three requests for equitable sharing the Department

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completed during the audit period (100%) were submitted after the 60 day time frame. On July 23, 2018, the DOJ and TRES jointly released a new Guide which states "Sharing requests may be submitted at any time following the seizure, but no later than 45 days after forfeiture." Failure to submit a request (DAG-71) timely exposes the Department to the risk of being excluded from equitable sharing for seizures in which they had participated.

*Failure to Timely Appropriate Equitable Sharing Interest*

***The Department failed to timely submit their request to accept and appropriate federal forfeiture interest revenue via a pro forma resolution to the CEBO for all 25 (100%) forfeiture interest revenue transactions tested.*** In 2018, the Department received a pro forma resolution accepting and appropriating all forfeiture interest revenue earned during fiscal year 2017. Additionally, the Department submitted a request to accept and appropriate all federal forfeiture interest revenue for fiscal year 2018 on March 22, 2019. Best practice would be to submit interest revenues immediately after they are earned in order to make funds available and ensure the federal forfeiture fund balance reconciles with IFMS. On January 16, 2019, the Office of the County Comptroller issued Forfeiture Advisory No. 3 stating, "Interest for equitable sharing funds is required to receive a pro forma resolution monthly, as interest is earned." Failure to appropriate interest revenue in a timely manner prohibits those revenues from being recognized in the period in which they are earned.

## Recommendations

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### *Deficient Authorization*

The Department must obtain a resolution via legislation allowing the Director of Probation to accept and appropriate forfeiture funds in accordance with all applicable laws, rules, regulations and guidelines. The resolution should be retroactive to the date funds were initially received.

### *Inadequate Internal Control*

The Department must comply with all requirements set forth for the use of federal forfeiture funds, including the requirement contained in the Guide that the agency head must authorize all expenditures from the federal sharing revenue account.

### *Failure to Timely Request Equitable Sharing*

The Department must submit the DAG-71 form no later than 45 days after the forfeiture to ensure that it receives an equitable share of forfeiture funds.

### *Failure to Timely Appropriate Equitable Sharing Interest*

The Department should request pro forma resolutions, citing appropriate legislation, to accept and appropriate federal forfeiture interest revenue monthly, as the revenue is earned.

## CONCLUSION

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Local Law 06-2017 mandates the Comptroller's Office to conduct an audit and provide a written determination of the regularity, legality and correctness of the Department's forfeiture appropriations and expenditures. Based on our examination of the Department's books, records and accounts pertaining to asset forfeiture funds, we believe that for fiscal years ending December 31, 2017 and December 31, 2018, the Department has complied with Local Law 06-2017 relating to the regularity, legality and correctness of appropriations and expenditures of asset forfeiture funds except for the following key findings:

- The Department has not been empowered to accept and appropriate federal forfeiture funds via legislation.
- The Department failed to receive the Department Head's approval prior to incurring an expense as required by the federal guidance.

## CONTRIBUTORS TO THIS REPORT

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**John M. Kennedy, Jr.**

Comptroller

**Louis A. Necroto, CPA**

Chief Deputy Comptroller

**Frank Bayer, CPA**

Executive Director of Auditing Services

**Manuel Alban, Jr., CPA, CFE**

Assistant Director of Auditing Services

**Audit Team:**

Jason Taylor, CFE, Investigative Auditor

Nicolas Majsce, CFE, Auditor

Charles Campisi, Intern

## Schedules

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**Note: The accompanying schedules are an integral part of this report.**

Schedule 1  
Suffolk County Department of Probation  
Federal Forfeiture Program - Adjustments to  
Equitable Sharing Agreement and Certification for Fiscal Year Ending 12/31/2017  
For the January 01, 2017 to December 31, 2017 Fiscal Year

Summary of Equitable Sharing Activity	Justice Funds	Adjustments	Adjusted Funds	Notes	Treasury Funds	Adjustments	Adjusted Funds	Notes
1 Beginning Equitable Sharing Balance	\$ 25,698.81	\$ -	\$ 25,698.81		\$ -	\$ -	\$ -	
2 Equitable Sharing Funds Received	1,782.10	-	1,782.10	(1)	-	-	-	
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force	-	-	-		-	-	-	
4 Other Income	-	-	-		-	-	-	
5 Interest Income	6.81	-	6.81	(2) (5)	-	-	-	
6 Total Equitable Sharing Funds Received	<u>\$ 27,487.72</u>	<u>\$ -</u>	<u>\$ 27,487.72</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
a Law enforcement operations and investigations	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	
b Training and education	-	-	-		-	-	-	
c Law enforcement, public safety and detention facilities	-	-	-		-	-	-	
d Law enforcement equipment	15,613.00	-	15,613.00	(6)	-	-	-	
e Joint Law enforcement/public safety operations	-	-	-		-	-	-	
f Contracting for services	-	-	-		-	-	-	
g Law enforcement travel per diem	-	-	-		-	-	-	
h Law enforcement awards and memorials	-	-	-		-	-	-	
i Drug, gang and other education or awareness programs	-	-	-		-	-	-	
j Matching grants	-	-	-		-	-	-	
k Transfers to other participating law enforcement agencies	-	-	-		-	-	-	
l Support of community-based programs	-	-	-		-	-	-	
m Non-categorized expenditures	-	-	-		-	-	-	
n Salaries	-	-	-		-	-	-	
7 Total Equitable Sharing Funds Spent	<u>\$ 15,613.00</u>	<u>\$ -</u>	<u>\$ 15,613.00</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
8 Ending Equitable Sharing Funds Balance	<u>\$ 11,874.72</u>	<u>\$ -</u>	<u>\$ 11,874.72</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	

See Notes to the Schedules (pp. 18 - 19).

Schedule 2  
Suffolk County Department of Probation  
Federal Forfeiture Program - Detailed Schedule of Revenues for Fiscal Year 2017  
For the January 01, 2017 to December 31, 2017 Fiscal Year

DAG-71 Number (If Applicable)	Date Funds Received	Fund	Unit Code	Revenue Code	Document Date	Document Code	Document Number	Description	Pro Forma Date	Pro Forma Number	Fleet/Serial Number (If Applicable)	DOJ Amount	TRES Amount	Total Amount	Notes
N/A	01/31/17	777	3188	2406	01/31/17	CR	INT00009745	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	\$ 0.68	\$ -	\$ 0.68	(2)
15-FBI-002871	02/22/17	777	3188	2626	03/31/17	CR	VCHR0039045	777 PROB FORFIETURE□ \$1,125.60 DF 6880 CRV*38992	04/19/17	118-2017	N/A	1,125.60	-	1,125.60	(1)
N/A	02/28/17	777	3188	2406	02/28/17	CR	INT00009806	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.60	-	0.60	(2)
N/A	03/31/17	777	3188	2406	03/31/17	CR	INT00009866	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.68	-	0.68	(2)
15-FBI-002827	04/25/17	777	3188	2626	04/30/17	CR	VCHR0039751	PROBATION FORFEITURE FUND 777 Seizure ID# 15-FBI-002827	05/25/17	149-2017	N/A	656.50	-	656.50	(1)
N/A	04/30/17	777	3188	2406	04/30/17	CR	INT00009930	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.62	-	0.62	(2)
N/A	04/30/17	777	3188	2406	09/30/17	CR	FIX00001655	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.16	-	0.16	(2)(5)
N/A	05/31/17	777	3188	2406	05/31/17	CR	INT00009992	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.59	-	0.59	(2)
N/A	06/30/17	777	3188	2406	06/30/17	CR	INT00010058	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.68	-	0.68	(2)
N/A	07/31/17	777	3188	2406	08/31/17	CR	FIXINTJULY2017HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.70	-	0.70	(2)
N/A	08/31/17	777	3188	2406	08/31/17	CR	INT00010123	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.70	-	0.70	(2)
N/A	09/29/17	777	3188	2406	09/30/17	CR	INT00010188	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.51	-	0.51	(2)
N/A	10/31/17	777	3188	2406	11/30/17	CR	FIX00001709	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.32	-	0.32	(2)
N/A	11/30/17	777	3188	2406	12/31/17	CR	FIXINTNOV2017HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.29	-	0.29	(2)
N/A	12/29/17	777	3188	2406	12/31/17	CR	INTDEC2017HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	05/01/18	046-2018	N/A	0.28	-	0.28	(2)
												<u>\$ 1,788.91</u>	<u>\$ -</u>	<u>\$ 1,788.91</u>	

See Notes to the Schedules (pp. 18 - 19).

Schedule 3  
 Suffolk County Department of Probation  
 Federal Forfeiture Program - Detailed Schedule of Expenditures for Fiscal Year 2017  
 For the January 01, 2017 to December 31, 2017 Fiscal Year

<u>Fund</u>	<u>Unit Code</u>	<u>Object Code</u>	<u>Sub Object Code</u>	<u>Document Date</u>	<u>Document Code</u>	<u>Document Number</u>	<u>Check Date</u>	<u>Check Number</u>	<u>Vendor</u>	<u>Description of Purchase</u>	<u>DOJ Amount</u>	<u>TRES Amount</u>	<u>Total Amount</u>	<u>Notes</u>
777	3188	4750	-	9/15/2017	PRC	297790	9/15/2017	00000003780458	INTRALOGIC SOLUTIONS INC.	Purchase and installation 9 interior and 4 exterior cameras	\$ 15,613.00	\$ -	\$ 15,613.00	(6)
											<u>\$ 15,613.00</u>	<u>\$ -</u>	<u>\$ 15,613.00</u>	

See Notes to the Schedules (pp. 18 - 19).

Schedule 4  
Suffolk County Department of Probation  
Federal Forfeiture Program - Adjustments to  
Equitable Sharing Agreement and Certification for Fiscal Year Ending 12/31/2018  
For the January 01, 2018 to December 31, 2018 Fiscal Year

Summary of Equitable Sharing Activity	Justice Funds	Adjustments	Adjusted Funds	Notes	Treasury Funds	Adjustments	Adjusted Funds	Notes
1 Beginning Equitable Sharing Balance	\$ 11,874.72	\$ -	\$ 11,874.72		\$ -	\$ -	\$ -	
2 Equitable Sharing Funds Received	274.36	-	274.36	(3)	-	-	-	
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force	-	-	-		-	-	-	
4 Other Income	-	-	-		-	-	-	
5 Interest Income	3.62	-	3.62	(4)	-	-	-	
6 Total Equitable Sharing Funds Received	<u>\$ 12,152.70</u>	<u>\$ -</u>	<u>\$ 12,152.70</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
a Law enforcement operations and investigations	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	
b Training and education	-	-	-		-	-	-	
c Law enforcement, public safety and detention facilities	-	-	-		-	-	-	
d Law enforcement equipment	-	-	-		-	-	-	
e Joint Law enforcement/public safety operations	-	-	-		-	-	-	
f Contracting for services	-	-	-		-	-	-	
g Law enforcement travel per diem	-	-	-		-	-	-	
h Law enforcement awards and memorials	-	-	-		-	-	-	
i Drug, gang and other education or awareness programs	-	-	-		-	-	-	
j Matching grants	-	-	-		-	-	-	
k Transfers to other participating law enforcement agencies	-	-	-		-	-	-	
l Support of community-based programs	-	-	-		-	-	-	
m Non-categorized expenditures	-	-	-		-	-	-	
n Salaries	-	-	-		-	-	-	
7 Total Equitable Sharing Funds Spent	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
8 Ending Equitable Sharing Funds Balance	<u><u>\$ 12,152.70</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 12,152.70</u></u>		<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	

See Notes to the Schedules (pp. 18 - 19).

Schedule 5  
Suffolk County Department of Probation  
Federal Forfeiture Program - Detailed Schedule of Revenues for Fiscal Year 2018  
For the January 01, 2018 to December 31, 2018 Fiscal Year

DAG-71 Number (If Applicable)	Date Funds Received	Fund	Unit Code	Revenue Code	Document Date	Document Code	Document Number	Description	Pro Forma Date	Pro Forma Number	Fleet/Serial Number (If Applicable)	DOJ Amount	TRES Amount	Total Amount	Notes
N/A	01/31/18	777	3188	2406	01/31/18	CR	INTJAN2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	\$ 0.32	\$ -	\$ 0.32	(4)
N/A	02/28/18	777	3188	2406	02/28/18	CR	INTFEB2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.28	-	0.28	(4)
N/A	03/30/18	777	3188	2406	03/31/18	CR	INTMAR2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.29	-	0.29	(4)
N/A	04/30/18	777	3188	2406	04/30/18	CR	INTAPR2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.30	-	0.30	(4)
N/A	05/31/18	777	3188	2406	05/31/18	CR	INTMAY2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.31	-	0.31	(4)
N/A	06/29/18	777	3188	2406	06/30/18	CR	INTJUN2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.28	-	0.28	(4)
N/A	07/31/18	777	3188	2406	09/30/18	CR	FIXINTJUL2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.31	-	0.31	(4)
13-FBI-007283	08/08/18	777	3188	2626	09/30/18	CR	FIX00002006	PROBATION FORFEITURE FUND 777 Seizure ID# 13-FBI-007283 missed wire dated 8-8-18	N/A	N/A	N/A	274.36	-	274.36	(3)
N/A	08/31/18	777	3188	2406	08/31/18	CR	INTAUG2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.31	-	0.31	(4)
N/A	09/28/18	777	3188	2406	09/30/18	CR	INTSEPT2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.28	-	0.28	(4)
N/A	10/31/18	777	3188	2406	10/31/18	CR	INTOCT2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.33	-	0.33	(4)
N/A	11/30/18	777	3188	2406	11/30/18	CR	INTNOV2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.30	-	0.30	(4)
N/A	12/31/18	777	3188	2406	02/28/19	CR	INTDEC2018HB	INTEREST FUND 777□ ASSETS FOREITURE PROBATION	N/A	N/A	N/A	0.31	-	0.31	(4)
												<u>\$ 277.98</u>	<u>\$ -</u>	<u>\$ 277.98</u>	

See Notes to the Schedules (pp. 18 - 19).

Schedule 6  
 Suffolk County Department of Probation  
 Federal Forfeiture Program - Detailed Schedule of Expenditures for Fiscal Year 2018  
 For the January 01, 2018 to December 31, 2018 Fiscal Year

<u>Fund</u>	<u>Unit Code</u>	<u>Object Code</u>	<u>Sub Object Code</u>	<u>Document Date</u>	<u>Document Code</u>	<u>Document Number</u>	<u>Check Date</u>	<u>Check Number</u>	<u>Vendor</u>	<u>Description of Purchase</u>	<u>DOJ Amount</u>	<u>TRES Amount</u>	<u>Total Amount</u>	<u>Notes</u>
No expenditures recorded in Fiscal Year 2018.											<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	

See Notes to the Schedules (pp. 18 - 19).

## Notes to the Schedules

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The schedules included with this report provide details as set forth by Local Law No. 06-2017. These schedules were prepared on the cash-basis of accounting. All revenue is recognized as pending upon receipt and the pro forma resolution request is submitted to the Budget Office. No funds are added to the available balance until the pro forma resolution is created and the Budget Office processes the Appropriation Expense Budget (APEB).

- (1) The originating source of revenue was the United States Department of Justice. Revenue is received via electronic funds transfers. The statutes under which revenue was received were as follows: Title 21 U.S.C. §881 (e) (1) (A) and (e) (3); Title 18 U.S.C. §981 (e) (2); and Title 19 U.S.C. §1616a. The revenue is appropriated to be spent under organization code 3188.
- (2) Amount represents interest income earned during 2017 on federal forfeiture funds deposited in People's United Bank formerly known as Suffolk County National Bank. Interest is credited to the account at the end of the month; however, the Office does not request a pro-forma resolution to appropriate the interest until the end of the year.
- (3) The originating source of revenue was the United States Department of Justice. Revenue is received via electronic funds transfers. The statutes under which revenue was received were as follows: Title 21 U.S.C. §881 (e) (1) (A) and (e) (3); Title 18 U.S.C. §981 (e) (2); and Title 19 U.S.C. §1616a. A request for a pro forma resolution appropriating the revenue had been completed; however, the revenue was not appropriated by the time the audit engagement had concluded.
- (4) Amount represents interest income earned during 2018 on federal forfeiture funds deposited in People's United Bank. Interest is credited to the account at the end of the month; however, the Office does not request a pro-forma resolution to appropriate the interest until the end of the year. The interest income was not appropriated by the time the audit engagement had concluded.
- (5) The amount represents interest income that was not included on the Department's April 2017 bank statement. The subsequent bank statement increased the Department's beginning account balance.

- 
- (6) Expenditures for federal forfeiture funds are to be categorized by sub object code; however, the sub object codes for the forfeiture funds was not established until the audit period being tested had concluded. The expenditure was categorized as a Law Enforcement Equipment Expense. The Department had total Law Enforcement Equipment Expenses of \$15,613 and \$0 in 2017 and 2018, respectfully.

## APPENDIX A: RESPONSE FROM THE DEPARTMENT

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### COUNTY OF SUFFOLK



Steven Bellone  
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PROBATION

ANDREA NEUBAUER  
DIRECTOR

August 28, 2020

Frank Bayer, CPA  
Executive Director of Auditing Services  
Office of the County Comptroller  
H Lee Dennison Building  
100 Veterans Highway  
PO Box 6100  
Hauppauge, New York 11788-0099

Re: A Performance Audit of the  
Probation Department Forfeiture Funds  
January 1, 2017 through December 31, 2018

Dear Mr. Bayer:

Thank you for the opportunity to review the draft report of the performance audit of the Suffolk County Probation Department's Forfeiture Funds for the period January 1, 2017 through December 31, 2018. My response to the audit findings is as follows.

**Deficient Authorization: The Department has not been empowered to accept and appropriate federal forfeiture funds via legislation.**

The Department agrees with this finding. During the audit period, the Department did not have the authority to accept and appropriate federal forfeiture funds. However, Resolution #564-2020, authorizing the Probation Department to apply to the US Department of Justice and the US Department of the Treasury for the transfer of federally seized and forfeited property and to receive, expend, and utilize such property in accord with the provisions of the US Attorney General's guidelines on seized and forfeited property, was approved by the Suffolk County Legislature on 7/21/2020, and by the Suffolk County Executive on 8/3/2020.

**Inadequate Internal Control: The Department failed to receive the Department head's approval prior to incurring an expense as required by the federal guidance.**

The Department agrees with this finding. However, in 2018, the Department, as part of a larger effort to standardize financial practices, created a form requiring the Director's signature to approve, disapprove, or modify a request to expend federal forfeiture funds.

P.O. Box 188  
YAPHANK, NEW YORK 11980 - 0188  
(631) 852 - 5000

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**Failure to Timely Request Equitable Sharing: The Department failed to timely submit their request for an equitable share of forfeiture funds as required by federal guidelines, which may have resulted in the loss of forfeiture funds.**

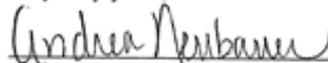
The Department could find no evidence of an equitable sharing request having been submitted during the two year audit period ending 12/31/2018. Therefore, on 7/31/2020 the Department requested further information from the Office of the Comptroller. On 8/3/2020 the Office of the Comptroller provided detailed information regarding three revenues associated with seizures that did *not* occur during the audit period (seizure dates 9/9/2013, 3/18/2015, 3/18/2015) and with DAG 71 submission dates that also did *not* fall within the audit period (submission dates 2/25/2014, 3/4/2016, 3/4/2016). Based on the information provided by the Office of the Comptroller on 8/3/2020, the Department agrees that it failed to comply with federal guidelines regarding the timely submission of these equitable sharing requests. However, this did not result in the loss of forfeiture funds. Moreover, the procedure to file for equitable sharing has changed, such that the Department no longer submits the initial request. Instead, the Department's Principal Financial Analyst logs onto the Asset Forfeiture Eshare account on a monthly basis to search for those cases that have potential sharing. By logging onto the Eshare account each month, the Principal Financial Analyst can efficiently manage the Department's equitable sharing activities using information furnished by the "processing agency" - for example, the DEA or the FBI.

**Failure to Timely Appropriate Equitable Sharing Interest: The Department failed to timely submit their request to accept and appropriate federal forfeiture interest revenue via a pro forma resolution to the CEBO for all 25 (100%) forfeiture interest revenue transactions tested.**

The Department concurs with this finding. Pro forma resolutions to accept and appropriate forfeiture interest revenue earned in 2017 and 2018 were done annually, rather than immediately after the interest revenue was earned. The Department is familiar with Forfeiture Advisory No. 3, issued on 1/16/2019, which states that "Interest for equitable sharing funds is required to receive a pro forma resolution monthly, as interest is earned." However, in an email communication with the Office of the Comptroller on 1/17/2020, the Department was given permission to do pro forma requests on a quarterly basis, because the interest revenue is negligible. Therefore, in the absence of any further instruction from the Office of the Comptroller, it is the Department's intention to submit the pro forma resolutions quarterly.

Again, thank you for the opportunity to review the draft audit report.

Very truly yours,



Andrea Neubauer  
Director

## APPENDIX B: COMPTROLLER'S OFFICE COMMENTS TO DEPARTMENT'S RESPONSE

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### **Auditee: Suffolk County Department of Probation**

The Department provided a written response to the audit report (Appendix A, p. 20). In its response, the Department concurred with all of the audit findings and stated that it has or will take corrective action in response to our audit. Therefore, no modification of the audit report is warranted.

However, the Department's response to the finding *Failure to Timely Request Equitable Sharing* includes concerns about our methodology which we hope to clarify. The funds noted in this finding were received by the Department on February 22, 2017, April 25, 2017 and August 8, 2018; therefore, under the cash-basis of accounting the revenue would be recognized during the audit period. As part of our revenue testing, we reviewed the corresponding equitable sharing requests for appropriateness and timeliness. Under the current iteration of the Guide, the Department is required to submit a sharing request no later than 45 days after forfeiture<sup>1</sup>. Failure to comply with this requirement may subject the Department to sanctions including the denial or extinguishment of sharing requests<sup>2</sup>.

We extend our gratitude to the personnel of the Suffolk County Department of Probation for their cooperation during the audit and for taking corrective action to address the deficiencies identified in our report.

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<sup>1</sup> *Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies*, Section IV (A) (1)

<sup>2</sup> *Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies*, Section IX

## APPENDIX C: AUDIT SCOPE AND METHODOLOGY

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The scope of this audit is the Department's federal forfeiture funds during the period January 1, 2017 through December 31, 2018. In order to accomplish the objectives as stated in the Letter of Transmittal, we performed the following procedures:

- Reviewed relevant Suffolk County, NYS General Municipal, County and Public Officers Laws, Suffolk County Resolutions and SOPs as well as the Guide.
- Conducted interviews of Department personnel as deemed necessary to obtain an understanding of the procedures used to record program revenue, expenditures of forfeiture funds and the receipt of assets associated with the forfeiture programs.
- Interviewed Department personnel responsible for the duties related to the Department's forfeiture revenue, expenditures, reconciliation, approval and payment processing to obtain an understanding of the processes and internal procedures employed by the Department.
- Interviewed personnel from Audit and Control who are responsible for handling the Department's forfeiture expenditures.
- Interviewed personnel from the Office of the Suffolk County Comptroller's Division of Finance and Taxation (FIN) who are responsible for handling the Department's forfeiture fund accounts.
- Interviewed personnel from the CEBO who are responsible for generating pro forma resolutions and approving expenditures which require requisitions.
- Reconciled the forfeiture fund balance reported on the ESAC to the bank statements and the Department's records.
- Performed a reconciliation of federal revenue reported by the Department on the ESAC to the revenue recorded in IFMS, on the Department's records, on the bank statements, to the total appropriated by pro forma resolution and as reported on the DOJ's eShare Distribution Report.
- Performed a reconciliation of federal expenditures reported by the Department on the ESAC to the expenditures recorded in IFMS, on the Department's records, and on the bank statements.
- Reviewed departmental pro forma resolutions filed with the Clerk of the County Legislature to ensure all revenue and interest was accepted, appropriated and available for use.

- 
- Performed the following analytical procedures:
    - Analysis of the Department's Budget,
    - Comparison of Prior Year Expenditures,
    - Analysis of Transfers to the Operating Account,
    - Analysis of Forfeiture Funds Distributed to Participating Law Enforcement Agencies & to Support Community Based Programs,
    - Analysis of Forfeiture Imprest Accounts<sup>3</sup>, and
    - Analysis of Forfeited Assets.
  
  - Judgmentally-selected 28 (100%) of the Department's DOJ forfeiture revenue transactions during the audit period.
  
  - Judgmentally-selected one (100%) of the Department's DOJ forfeiture expenditure transactions during the audit period.
  
  - Judgmentally-selected for testing five of the 18 (28%) assets purchased with DOJ forfeiture funds and maintained by the Department.

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 relevant population size and the sample selected for examination.

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<sup>3</sup> An imprest account is a bank account maintained and drawn against by the establishing department. It is also called a petty cash fund.

## APPENDIX D: GLOSSARY

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<u>Term</u>	<u>Definition</u>
“CEBO”	County Executive’s Budget Office
“CPLR § 1349”	New York Consolidated Laws CVP – Civil Practice Law & Rules Article 13-A - (1310 – 1352) PROCEEDS OF A CRIME – FORFEITURE 1349 - Disposal of property
“Department”	Suffolk County Department of Probation
“DOJ”	US Department of Justice
“ESAC”	Equitable Sharing Agreement and Certification
“FIN”	Office of the Suffolk County Comptroller’s Division of Finance and Taxation
“Guide”	Federal Guidelines for Equitable Sharing for State and Local Law Enforcement Agencies
“IFMS”	Integrated Financial Management System
“NYS”	New York State
“Shared Funds” or “Equitable Sharing Funds”	Federal Forfeiture Funds
“SOP”	Suffolk County Standard Operating Procedures
“TRES”	US Department of the Treasury