

# OFFICE OF THE SUFFOLK COUNTY COMPTROLLER



## **Suffolk County Department of Probation**

### **A Performance Audit of Forfeiture Funds**

**Period Covered:  
January 1, 2014 through December 31, 2015**

**Report # 2016-12**

**Date Issued: September 9, 2020**

**John M. Kennedy, Jr.**

**SUFFOLK COUNTY  
OFFICE OF THE COMPTROLLER**

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Comptroller

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## LETTER OF TRANSMITTAL

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September 9, 2020

Andrea Neubauer, Director  
Suffolk County Department of Probation  
100 East Avenue  
Yaphank, NY 11980

Dear Director Neubauer:

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted for the period January 1, 2014 through December 31, 2015, of the Suffolk County Probation Department's (Department) Federal and State Forfeiture Fund revenue and expenditures.

The objectives of our audit were as follows:

- To review the reconciliation of Federal and State Forfeiture revenue and expenditures reported by the Department to the revenue and expenditures recorded in the County's Integrated Financial Management System.
- To determine if Federal Forfeiture revenue and expenditures reported on the Equitable Sharing Agreement and Certification (ESAC) are properly reported in accordance with applicable guidelines, regulations and instruction.
- To determine if Federal Forfeiture expenditures were properly authorized and approved. To ensure that purchases were made in accordance with all laws, regulation and guidelines applicable to forfeiture funds.
- To confirm the existence of assets purchased with forfeiture funds and to ensure the Department maintained and/or disposed of assets according to Federal, State and County laws, rules and regulations.
- To calculate forfeiture fund balances as of December 31, 2014 and December 31, 2015 in order to implement the guidelines of the Department of Justice Guide to Equitable Sharing for State and Local Law Enforcement Agencies which requires a separate account be established for Forfeiture Revenue Funds.
- To verify that the Suffolk County Probation Department Fund Balance Schedule properly reported revenues and expenditures of forfeiture funds.

We conducted this 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 objectives. 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

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## EXECUTIVE SUMMARY

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### **Introduction:**

The Suffolk County Comptroller's Office has conducted an audit of the departmental Federal and State Forfeiture Fund revenue and expenditures of the Suffolk County Department of Probation (Department) for the period January 1, 2014 through December 31, 2015.

### **Purpose:**

The purpose of our audit of the Department's Federal and State Forfeiture Fund revenue and expenditures was to determine if the Department complied with certain requirements of the laws, regulations, guidelines and Suffolk County Standard Operating Procedures (SOP) applicable to departmental forfeiture funds, and to review and test internal controls applicable to those forfeiture funds.

### **Summary of Significant Findings:**

- The Department did not comply with the requirements established by the Department of Justice pertaining to the holding of funds for a reasonable period of time. (p. 9)
- The Department failed to comply with the requirements established by the Department of Justice with regard to establishing a procedure for the authorization of use of forfeiture funds for purchases. (p. 9)
- The Department failed to report expenditures on the Department's Equitable Sharing Agreement and Certification (ESAC) for 2015, resulting in a material overstatement of fund balance. (p. 9)
- The Department did not properly record Federal Forfeiture Funds in Suffolk County's (County's) Integrated Financial Management System (IFMS). (p. 10)
- The Department has inadequate internal controls with regard to the receipt of goods and services and the related payment process. (p.10)
- The Department failed to comply with local laws, standard operating procedures, rules, regulations and/or orders of the County. (p. 10, p. 12)
- The Department failed to reconcile its ending fund balance per their Schedule of Changes in Fund Balance for Federal Forfeiture Funds to the fund balance in the County's Integrated Financial Management System. (p. 11)

- The Department did not record forfeiture funds transactions in the County's Integrated Financial Management System in the proper year. (p. 11)
- The Department does not perform bank reconciliations for the Suffolk County National Bank, currently known as People's United Bank, account for Federal Forfeiture funds. (p. 12)
- The Department did not submit Forms DAG-71 timely, as required by Federal Equitable Sharing Guidelines which state, "Sharing requests must be submitted within 60 days after the federal adoption of a state or local seizure." (p. 12)
- Pro forma resolutions accepting and appropriating Federal Asset Forfeiture Funds on behalf of the Probation Department were prepared citing inappropriate Legislation. (p. 12)
- The Department does not have a centralized inventory/asset control system which impairs their ability to provide safeguards for inventory/assets purchased with Federal Forfeiture Funds. (p. 12)

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## 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 Probation Department and all of the duties performed are mandated by New York State Law. Section 256, paragraph 1 of the New York State Executive Law provides the general mandate for the establishment of county probation agencies.

During the audit period, the Department received Federal Forfeiture Funds from the Department of Justice (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.

On July 30, 2014, the DOJ released an interim policy guidance regarding the use of equitable sharing funds which replaced the existing policies included in the DOJ Guide to Equitable Sharing.

For the years ending December 31, 2014 and December 31, 2015 the Department received revenue, including interest, related to the DOJ federal forfeiture program in the amount of \$13,837 and \$11,338, respectively and expended \$3,350 and \$44,423 respectively from Federal Forfeiture Funds which was reported on the ESAC. During the period January 1, 2014 through December 31, 2015 the Department did not record any Department of Treasury (TRES) forfeiture revenue or expenditures. The ESAC is prepared on the cash basis.

	<u>2014</u>	<u>2015</u>
Beginning Equitable Sharing Fund Balance:	\$76,182	\$86,669
Equitable Sharing Funds Received:	13,813	11,315
Interest Income:	24	23
Equitable Sharing Funds Expended:	<u>(3,350)</u>	<u>(44,423)</u>
Ending Equitable Sharing Funds Balance:	<u>\$86,669</u>	<u>\$53,584</u>

During the period January 1, 2014 through December 31, 2015, the Department did not receive, use or dispose of any forfeited vehicles.

During the period January 1, 2014 through December 31, 2015, the Department did not receive, use or maintain any Department of Treasury (TRES) forfeiture funds or assets received or purchased with TRES forfeiture funds.

New York State (State) forfeiture funding is received directly from the Suffolk County District Attorney's Office. The authority of the DA to distribute state forfeiture proceeds is found in the New York State Civil Practice Laws and Rules (CPLR§1349). During the period January 1, 2014 through December 31, 2015, the DA did not distribute any proceeds or property to the Department.

The Department also receives funds from the County for DWI seizures. These funds are distributed according to Suffolk County Law - Chapter 420: Drug Premises and Property - Article II: Forfeiture of Property Used in or Obtained Through Crime - Section 420-8 Disposition of Forfeited Assets and Proceeds - Paragraph B. A separate audit report will be issued regarding DWI seizures.

In 2017, the Suffolk County Legislature enacted Resolution No. 141-2017, Adopting Local Law No. 6-2017, A Charter Law to Increase the Transparency of Asset Forfeiture Funds. This new law requires the Suffolk County Comptroller's Office to conduct an audit of asset forfeiture accounts biennially to ensure that asset forfeiture funds are being used in an appropriate manner. Field work for this audit was concluded prior to the adoption of the new law. Future audits will be conducted in accordance with the requirements of Local Law No. 6-2017.

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## SCOPE AND METHODOLOGY

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In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted for the period January 1, 2014 through December 31, 2015, of the Department's Federal and State Forfeiture Fund revenue and expenditures.

In order to accomplish the objectives as stated in the Letter of Transmittal (p. 1) we performed the following procedures:

- Reviewed relevant Suffolk County Laws, New York State (NYS) General Municipal Law, County and Public Officers Laws, Suffolk County Resolutions and SOPs as well as Federal Guidelines for Equitable Sharing for State and Local Law Enforcement Agencies including any interim policy guidance.
- Conducted interviews of Department personnel as deemed necessary to obtain an understanding of the procedures used to record revenue and expenditures of forfeiture funds.
- Interviewed Department personnel responsible for the duties related to the Department's forfeiture revenues, expenditures, reconciliations, approvals and payment processing to obtain an understanding of the processes and internal procedures employed by the Department.
- Interviewed personnel from the Division of Accounting Services who are responsible for processing the Department's forfeiture expenditures.
- Interviewed personnel from the Division of Finance and Taxation who have custody of the Department's forfeiture fund accounts.
- Interviewed personnel from the County Executive's Budget Office who are responsible for preparing pro forma resolutions appropriating forfeiture funds.
- Performed a reconciliation of federal expenditures reported by the Department on the Equitable Sharing Agreement and Certification to the expenditures recorded in the County's Integrated Financial Management System (IFMS) and the Department's internal records.
- Performed a reconciliation of federal revenue reported by the Department on the Equitable Sharing Agreement and Certification to the revenue recorded in the County's IFMS and the Department's internal records.
- Performed revenue testing on all cash receipts and interest income received by the Department under their forfeiture programs.

- Performed expenditure testing of all transactions relating to the Department's federal forfeiture programs to determine if the expenditures were made in accordance with all laws, regulations, SOPs and federal guidelines associated with forfeiture funds.
- 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.
- Expanded the reconciliation of forfeiture fund balance to include all forfeiture funds received, appropriated, and expended from the inception of the Department's participation in the Federal Forfeiture Program in order to confirm the accuracy of Department's Schedule of Changes in Fund Balance.
- Attempted to perform testing on assets to ensure assets exist, were properly inventoried, maintained and disposed of according to federal, state and county rules, regulations, laws and guidelines.

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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## AUDIT FINDINGS

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***The Department did not comply with the guidelines established by the DOJ. The DOJ Guide to Equitable Sharing (Guide) states, “Shared monies should not be retained unnecessarily. Shared monies normally should be expended for their designated use or other permissible law enforcement purpose as they are received. Shared monies may be retained in a holding account for up to three years to satisfy future needs.”*** The Department did not submit a pro forma resolution request to the County Executive’s Budget Office (Budget Office) for forfeiture funds received from April 2009 through November 2014, totaling \$52,835 until December 2014. There is no evidence of the Department submitting requests for pro forma resolutions to accept and appropriate these funds prior to December 2014. Therefore forfeiture funds received in 2009, 2010 and 2012 were not available to expend for a period of over three years. Although the DOJ no longer requires shared monies to be expended within any specified timeframe, the three year requirement was in effect through July 31, 2014. The Department’s non-compliance with the federal guidelines placed the Department at risk of exclusion from further participation in the equitable sharing program.

***The Department failed to comply with the DOJ Guide’s requirement that participating law enforcement agencies establish an internal control procedure to recommend expenditures from the revenue account. The Guide further requires that the agency head must authorize all expenditures from the federal sharing revenue account. As a result of the Department’s non-compliance with the federal guidelines, the Department may be subject to exclusion from further participation in the equitable sharing program.***

- The Senior Account Clerk responsible for completing payment vouchers does not receive written authorization by the Director when processing a purchase requisition using forfeiture funds.
- During our audit testing of forfeiture expenditures for 2014 and 2015, the Department failed to provide evidence of internal approval for use of DOJ Forfeiture Funds for 33 out of 33 (100%) expenditure items tested.

***The Department overstated the fund balance on their ESAC due to omission of expenditures. The Department is required to file an ESAC annually with the Federal Government to report DOJ and TRES fund balances, equitable sharing revenues, interest income earned, and a summary of equitably shared funds expended by category.*** The Department overstated the fund balance on their ESAC for 2015 by \$19,669 due to the omission of expenditures of forfeiture funds used to purchase law enforcement equipment. This omission resulted in a material overstatement of fund balance. As a result of the audit, the Department amended their 2015 ESAC to account for the prior omission of expenditures. The Department is required to report actual amounts and uses of the federal asset sharing funds and property within their jurisdiction. Non-compliance with this guideline may place the Department at risk from further participation in the equitable sharing program.

***The Department did not properly record Federal Forfeiture Funds in the County's IFMS.***

- Of the two forfeiture fund items received from the Department of Justice in 2014, two (100 %) items totaling \$13,814 were erroneously recorded in the County's IFMS as interest income. As a result of this error, interest income was overstated and federal forfeiture revenue was understated in the County's IFMS. The Division of Finance and Taxation prepares the cash receipt for the Department, however, it is the Department's responsibility to determine and provide the appropriate revenue code.
- Forfeiture funds in the amount of \$8,563 transferred from the Suffolk County Police Department to the Probation Department were erroneously recorded in the County's IFMS as interest income.

***The Department has inadequate internal controls with regard to the receipt of goods and services and the related payment process.*** The Department has the same personnel receive goods and complete payment vouchers, which weakens the Department's internal controls due to a lack of segregation of duties. The Senior Account Clerk, who is responsible for completing payment vouchers, also receives goods purchased. She then contacts the individual who ordered the items to pick them up and places them in the hall outside of her office. The Senior Account Clerk does not review the packing slip to confirm receipt nor is there a procedure in place for her to confirm receipt of goods prior to submitting a voucher for payment. The lack of a formal procedure to confirm receipt of goods and services increases the risk of disbursing funds for items not received.

***The Department did not document receipt of supplies or software on packing slips and invoices.***

- There is no evidence that the Department confirmed receipt of the only Federal Forfeiture expenditure item purchased in 2014 (100%). The Department did not have a signed invoice, packing slip or a supply ticket indicating receipt of the item. The failure to document receipt of goods and services increases the risk of disbursing funds for items not received.
- Of 32 items tested in 2015, we found five items (15.6%) where the Department did not have a signed invoice, packing slip or a supply ticket indicating receipt of the items. The failure to document receipt of goods and services increases the risk of disbursing funds for items not received.

***The Department did not comply with SOPs with regard to forfeiture funds. SOP E-04 states, "Department Heads requesting assignment of a wireless device and/or service for employees not covered in section 7b will complete and sign Exec. Form No. 29A, and forward the original and two copies to the Chief Deputy County Executive. All requests are made on a per employee basis."*** In 2015, of the 32 items tested, two (6.3%) were for wireless communications devices. The Department issued the two wireless communications devices without first obtaining Suffolk County Executive's Office approval by submitting Exec. Form No. 29A as per SOP E-04. Additionally, internal written approval is not documented in the file. According to federal guidelines, the state or local participating law enforcement agency must obtain approval

for expenditures from the governing body. As a result of the Department's non-compliance with federal guidelines, the Department may be at risk of exclusion from further participation in the equitable sharing program.

***The Department failed to reconcile the fund balance for the Federal Forfeiture Funds to the balance of Fund 777 in the County's IFMS. The Department has been unable to reconcile their Federal Forfeiture Fund Balance to the County's IFMS for an indeterminate period of time.*** The Department's Schedule of Changes in Fund Balance for Federal Forfeiture Funds does not agree with the fund balance (Fund 777) in the County's IFMS. The Department representatives could not recall the last time the fund balance was truly reconciled. As a result, the Department was unable to detect errors and omissions of reported revenue and expenditures.

***The Department's fund balance per the County's IFMS does not agree with the audited fund balance. As a result, funds received and not appropriated in the County's IFMS are not available for use. The following differences were noted:***

- There were three instances where there is no evidence of pro forma resolutions to accept and appropriate interest earned in 2006, 2008, and 2009 totaling \$3,524. There is no evidence to support whether the Department submitted a request to the Budget Office to accept and appropriate the interest.
- A pro forma resolution was issued by the Budget Office to appropriate interest in the amount of \$2,308. However, \$2,037 was appropriated in the County's Integrated Financial Management System, resulting in a difference of \$271.
- There were four instances where there is no evidence that interest totaling \$579, accepted and appropriated by pro forma resolutions, was appropriated in the County's Integrated Financial Management System.

Pro Forma Resolution No.	Year Interest Earned	Amount
10-2011	2010	\$334
33-2012	2011	\$167
76-2013	2012	\$ 53
10-2014	2013	\$ 25

- An Expense Budget (APEB) transaction processed by the Budget Office to carry forward the Department's Federal Forfeiture Fund appropriations to a new version of the County's IFMS at year end 2005 was calculated in error, resulting in a difference of \$273 between the Federal Forfeiture Fund Balance and the appropriated fund balance in IFMS.

***The Department did not record forfeiture funds in the County's IFMS in the proper year. The County's financial statements are reported on the modified accrual basis; therefore revenue must be recorded in the County's IFMS in the year they were received and available.*** Federal Forfeiture Funds in the amount of \$6,463 were received in 2013 and were reported by the

Department on the Equitable Sharing Agreement and Certification for the year ending 2013, however, the funds were erroneously recorded as revenue for 2014 in the County's IFMS.

***The Department does not perform bank reconciliations for the Suffolk County National Bank, currently known as People's United Bank, account for Federal Forfeiture funds.*** Our audit identified instances where forfeiture revenue was erroneously recorded as interest income in the County's IFMS. Had the Department performed monthly reconciliations of bank statements to the County's IFMS, these errors may have been detected timely.

***The Department did not submit Applications for Transfer of Federally Forfeited Property, Forms DAG-71, timely, as required by Federal Equitable Sharing Guidelines.*** Of the 33 items tested, there were three (9.1%) instances where the DAG-71 was submitted more than 60 days after the date of the seizure. The DOJ Guide to Equitable Sharing states, "Sharing requests must be submitted within 60 days after the federal adoption of a state or local seizure." As a result of the Department's non-compliance with the federal guidelines, the Department may be subject to exclusion from further participation in the equitable sharing program.

***Pro forma resolutions accepting and appropriating Federal Asset Forfeiture Funds on behalf of the Probation Department were prepared citing inappropriate Legislation.*** The cover letters for pro forma resolutions to accept and appropriate DOJ forfeiture funds state: "Pursuant to the provisions of Section 1 of Local Law No. 7 of 1978, Resolution No. 271 of 1978 and Resolution 1112 of 1990, the Office of the County Executive hereby accepts Federal Asset Forfeiture Funds on behalf of the Suffolk County Probation Department." Resolution No. 1112 of 1990 authorizes the Commissioner of the Police Department to accept and appropriate Federal Forfeiture Funds via pro forma resolutions. The Federal Forfeiture Funds must be expended in accordance with the terms, conditions and provisions of the Comprehensive Criminal Control Act of 1984 and the U.S. Attorney General's Guidelines on Seized and Forfeited Property. We found no evidence of a similar Resolution authorizing the Probation Department to accept and appropriate Federal Forfeiture Funds via pro forma resolutions.

***The Department does not have a centralized inventory control system and therefore their ability to provide safeguards for inventory purchased with Federal Forfeiture Funds is impaired. We were unable to perform testing of fixed assets purchased with Federal Forfeiture Funds outside of those purchased with forfeiture funds during the audit period.***

- Inventory items purchased with forfeiture funds are not documented on the Department's Equipment Inventory Spreadsheet. However, assets purchased in 2014 and 2015 using forfeiture funds were added to the equipment inventory spreadsheet subsequent to our testing.
- The Equipment Inventory Spreadsheet maintained by the Department is limited to equipment purchased from 11/12/09 and later. Equipment purchased prior to 11/12/09 is not recorded on the equipment inventory list.

***The Department did not comply with SOP G-02, Equipment Inventory Control System, which states, "The Department must maintain inventory records for assets with a purchase price of less than \$5,000."*** Although SOP G-02 requires departments to notify Audit and Control of new

equipment purchases, deletions and transfers of equipment (over \$5,000), the SOP also requires inventory records be maintained for assets with a purchase price of less than \$5,000. Assets purchased with Federal Forfeiture Funds in 2014 and 2015, with a purchase price of less than \$5,000, were not listed on the Department's equipment inventory spreadsheet. As a result of the omission of these assets, the Department's inventory records are not useful, meaningful or accurate.

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## RECOMMENDATIONS

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- The Department should comply with all requirements contained in the DOJ Guide to Equitable Sharing for State and Local Law Enforcement Agencies and the TRES Guide to Equitable Sharing for Foreign Countries and Federal, State and Local Law Enforcement Agencies. Equitably shared funds must be used in accordance with federal guidelines, which include obtaining the approval for expenditures from the agency head, using funds for law enforcement purposes only, and expending Federal Forfeiture Funds within three years of receiving them. Equitably shared funds are subject to the laws, rules, regulations and orders of the state or local jurisdiction, and if not adhered to, funds could be withheld from the Department.
- The Department should comply with the DOJ guidelines and establish an internal procedure to recommend expenditures from the forfeiture revenue account. The Director of the Probation Department should authorize in writing all expenditures from the federal sharing revenue account.
- The Department should ensure all appropriate expenditures recorded in the County's IFMS are reported on the Department's ESAC. Since the ESAC is prepared on the cash basis of accounting it should be reconciled to the County's IFMS, which is recorded using the modified accrual basis of accounting.
- The Department should ensure all Federal Forfeiture revenue transactions and transactions from other law enforcement agencies are properly recorded in the County's IFMS as revenue.
- The Department should ensure the employee who receives goods is not the same employee who completes the payment voucher. Furthermore, the Department should assign an employee to record the receipt of purchases to ensure goods are not misappropriated.
- The Department should ensure all goods are received and services are performed before submitting payment to avoid overpayment to vendors.
- The Department should comply with all requirements contained in SOP E-04, including submitting an Executive Form No. 29A to the Chief Deputy County Executive for approval.
- The Department should ensure that fund balances for forfeiture funds are reconciled to the County's IFMS along with all activity for forfeiture funds at least on an annual basis, to detect errors and omissions of reported revenue and expenditures in a timely manner.
- The Department should ensure that all Federal Forfeiture Funds and related interest are appropriated by pro forma resolution and confirm that a budgetary transaction to appropriate the funds in the County's IFMS occurred. In instances where a pro forma

resolution was not issued and/or the funds were not appropriated in the County's IFMS, the Department should submit a request for a pro forma resolution to the Budget Office to accept and appropriate such funds in an effort to reconcile the Federal Forfeiture Fund Balance to the County's IFMS.

- The Department should ensure all Federal Forfeiture revenue transactions are appropriated through a pro forma resolution and that pro forma resolutions are filed with the Clerk of the County Legislature, to accept, appropriate and make available for use all forfeiture funds including interest income as required by SOP H-01.
- The Department should ensure forfeiture transactions are properly recorded in the County's IFMS on the accrual basis.
- The Department should perform bank reconciliations for the Federal Forfeiture Fund bank account, to the County's IFMS and to the Department's records, on a monthly basis to detect errors and omissions in a timely manner.
- The Department should ensure that all DAG-71 requests are signed and submitted to the federal oversight agency within the time frame required by the DOJ.
- The Department should seek a change to Suffolk County Law authorizing the Director of the Probation Department to accept and appropriate Federal Forfeiture Funds in accordance with rules and guidelines of the Suffolk County Department of Audit and Control.
- The Department should maintain an up to date Inventory Spreadsheet that denotes the location of all forfeiture equipment and vehicles. The spreadsheet should be updated whenever asset forfeiture equipment or vehicles are purchased, transferred, sold and/or destroyed. Additionally, the County Control Tag Number and correct serial number/VIN Number should be included for all equipment costing \$5,000 or more. Assets should be received and inventoried as the equipment is received by the Department. The Department should ensure that assets, regardless of purchase price, are included on the Department's equipment inventory spreadsheet.

**APPENDICES**

APPENDIX A

Equitable Sharing Agreement and Certification

Suffolk County Probation Department

Annual Certification Report

For the Year Ending 12/31/2014

Summary of Equitable Sharing Activity		Justice Funds <sup>1</sup>	Treasury Funds <sup>2</sup>
1	Beginning Equitable Sharing Balance (Must match Ending Balance from prior FY)	\$76,182.40	\$0.00
2	Equitable Sharing Funds Received	\$13,813.60	\$0.00
3	Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force (Complete Table B)		
4	Other Income		
5	Interest Income	\$23.75	\$0.00
6	Total Equitable Sharing Funds Received	\$90,019.75	\$0.00
7	Equitable Sharing Funds Spent	\$3,350.40	\$0.00
8	Ending Equitable Sharing Funds Balance	\$86,669.35	\$0.00

<sup>1</sup> Department of Justice Asset Forfeiture Program participants are FBI, DEA, ATF, USPIS, DCIS, DSS and FDA

<sup>2</sup> Department of the Treasury Asset Forfeiture Program participants are IRS, ICE, CBP and USSS

Summary of Shared Funds Spent		Justice Funds	Treasury Funds
a	Law enforcement operations and investigations	\$0.00	\$0.00
b	Training and education	\$3,350.40	\$0.00
c	Law enforcement, public safety and detention facilities	\$0.00	\$0.00
d	Law enforcement equipment	\$0.00	\$0.00
e	Joint Law enforcement/public safety operations	\$0.00	\$0.00
f	Contracting for services	\$0.00	\$0.00
g	Law enforcement travel per diem	\$0.00	\$0.00
h	Law enforcement awards and memorials	\$0.00	\$0.00
i	Drug, gang and other education or awareness programs	\$0.00	\$0.00
j	Matching grants (Complete Table C)		
k	Transfers to other participating law enforcement agencies (Complete Table D)		
l	Support of community-based programs (Complete Table E)		
m	Non-categorized expenditures (Complete Table F)		
n	Salaries (Complete Table G)		
	Total	\$3,350.40	\$0.00

APPENDIX B

Equitable Sharing Agreement and Certification

Suffolk County Probation Department  
Annual Certification Report (Amended)  
For the Year Ending 12/31/2015

Summary of Equitable Sharing Activity		Justice Funds <sup>1</sup>	Treasury Funds <sup>2</sup>
1	Beginning Equitable Sharing Balance (Must match Ending Balance from prior FY)	\$86,669.35	\$0.00
2	Equitable Sharing Funds Received	\$11,314.89	\$0.00
3	Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force (Complete Table B)		
4	Other Income		
5	Interest Income	\$23.27	\$0.00
6	Total Equitable Sharing Funds Received	\$98,007.51	\$0.00
7	Equitable Sharing Funds Spent	\$44,423.04	\$0.00
8	Ending Equitable Sharing Funds Balance	\$53,584.47	\$0.00

<sup>1</sup> Department of Justice Asset Forfeiture Program participants are FBI, DEA, ATF, USPIS, DCIS, DSS and FDA

<sup>2</sup> Department of the Treasury Asset Forfeiture Program participants are IRS, ICE, CBP and USSS

Summary of Shared Funds Spent		Justice Funds	Treasury Funds
a	Law enforcement operations and investigations	\$0.00	\$0.00
b	Training and education	\$0.00	\$0.00
c	Law enforcement, public safety and detention facilities	\$0.00	\$0.00
d	Law enforcement equipment	\$44,423.04	\$0.00
e	Joint Law enforcement/public safety operations	\$0.00	\$0.00
f	Contracting for services	\$0.00	\$0.00
g	Law enforcement travel per diem	\$0.00	\$0.00
h	Law enforcement awards and memorials	\$0.00	\$0.00
i	Drug, gang and other education or awareness programs	\$0.00	\$0.00
j	Matching grants (Complete Table C)		
k	Transfers to other participating law enforcement agencies (Complete Table D)		
l	Support of community-based programs (Complete Table E)		
m	Non-categorized expenditures (Complete Table F)		
n	Salaries (Complete Table G)		
	Total	\$44,423.04	\$0.00

**APPENDIX C**

**GLOSSARY:**

<u>Term</u>	<u>Definition</u>
“APEB”	Expense Budget transaction
“Budget Office”	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
“DA”	Suffolk County District Attorney’s Office
“Form DAG-71”	Application for Transfer of Federally Forfeited Property
“Department”	Suffolk County Probation Department
“DOJ”	US Department of Justice
“ESAC”	Equitable Sharing Agreement and Certification
“Finance and Taxation”	Office of the Suffolk County Comptroller’s Division of Finance and Taxation
“IFMS”	Integrated Financial Management System
“IRS”	Internal Revenue Service
“JVA”	Journal Voucher Adjustment
“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

APPENDIX D

Suffolk County Department of Probation  
Response to Unofficial Draft Report Number 2016-12

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  
100Veterans Highway PO Box 6100  
Hauppauge, New York 11788-0099

Re: A Performance Audit of Forfeiture Funds January 1, 2014 through December 31, 2015

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, 2014 through December 31, 2015. As you may know, the audit team conducted their field work during the tenure of my predecessor, and it would have been the former Probation Director who attended the pre-exit conference in December of 2016. With that having been said, my response to the audit findings is as follows.

**The Department did not comply with the guidelines established by the DOJ. The DOJ Guide to Equitable Sharing states, "Shared monies should not be retained unnecessarily. Shared monies normally should be expended for their designated use or other permissible law enforcement purpose as they are received. Shared monies may be retained in a holding account for up to three years to satisfy future needs.**

The Department does not dispute this finding. A pro forma resolution for forfeiture funds received from April 2009 through November 2014 totaling \$52,835 was not submitted to the Budget Office until December 2014.

**The Department failed to comply with the DOJ Guide's requirement that participating law enforcement agencies establish an internal control procedure to recommend**

**expenditures from the revenue account. The guide further requires that the agency head must authorize all expenditures from the federal sharing revenue account. As a result of the Department's non-compliance with the federal guidelines, the Department may be subject to exclusion from further participation in the equitable sharing program.**

The Department concurs with this finding. During the audit period, there was no procedure in place for the agency head to authorize an expenditure from the federal sharing revenue account. Therefore, the Senior Account Clerk responsible for completing all payment vouchers during the audit period did so without written authorization from the Probation Director. However, this did not cause the Department to be excluded from further participation in the equitable sharing program. It should also be noted here that in 2018, as part of a larger effort to standardize financial practices, the Department created a form requiring the Director's signature to approve, disapprove, or modify any request to expend federal forfeiture funds.

**The Department overstated the fund balance on their ESAC due to omission of expenditures. The Department is required to file an ESAC annually with the Federal Government to report DOJ and TRES fund balances, equitable sharing revenues, interest income earned, and a summary of equitably shared funds expended by category.**

The Department concurs with this finding. The fund balance on the ESAC for 2015 was overstated by \$19,669, due to the omission of expenditures of forfeiture funds used to purchase law enforcement equipment.

**The Department did not properly record Federal Forfeiture Funds in the County's IFMS.**

The Department concurs with this finding. Forfeiture funds received from the DOJ in 2014 in the amount of \$13,814, and forfeiture funds in the amount of \$8,563 transferred to the Probation Department from the Suffolk County Police Department, were erroneously recorded in IFMS as interest income.

**The Department has inadequate internal controls with regard to the receipt of goods and services and the related payment process.**

The Department concurs with this finding. During the audit period, the Senior Account Clerk who received the goods purchased also completed the payment voucher. However, that is no longer the Department's practice. Since 2018, when goods are received, they are visually inspected and inventoried by someone other than the Senior Account Clerk completing the payment voucher. Only after the goods are inventoried to ensure that the order is complete is the Senior Account Clerk authorized to complete the payment voucher.

**The Department did not document receipt of supplies or software on packing slips and invoices.** The 2014 expenditure referenced in the draft report represents the annual fee charged by the vendor for a virtual training program. As such, while there would not have been a packing slip or a supply ticket, the Department acknowledges the failure to properly document receipt of this service. The Department further acknowledges that of the 32 items tested in 2015, it could not produce documentation in the form of a signed invoice, packing slip or supply ticket for 5 of those items.

**The Department did not comply with SOP's with regard to forfeiture funds. SOP E-04 states, "Department Heads requesting assignment of a wireless device and/or service for employees not covered in section 7b will complete and sign Exec. Form No. 29A, and forward the original and two copies to the Chief Deputy County Executive. All requests are made on a per employee basis.**

The Department concurs with this finding. There appears to be no record of the Department having completed Exec. Form No. 29A for submission to the Chief Deputy County Executive regarding the two wireless communication devices in question.

**The Department failed to reconcile the fund balance for the federal Forfeiture Funds to the balance of Fund 777 in the County's IFMS. The Department has been unable to reconcile their Federal Forfeiture Fund Balance to the County's IFMS for an indeterminate period of time.**

The Department has records from the Treasurer's office indicating that IFMS was in balance with the asset forfeiture bank statement as of 12/31/2004. The Department also has records from 2010 showing that the employee who had held the finance position from 1996 until their retirement in November 2015, had attempted to have the bank balance and IFMS reconciled. However, it doesn't appear that any reconciling entries were made at that time. Despite the Department's more recent efforts to identify the cause(s) of the discrepancies, through outreach to the audit staff and the Budget Office, it remains unclear how or when this issue will be resolved. Nevertheless, the Department is committed to finding a way forward, and to that end, the Department will be seeking input from Audit and Control. In summary, the Department concurs with the audit finding; the Department has failed to reconcile the asset forfeiture funds balance with IFMS for an indeterminate period of time.

**The Department's fund balance per the County's IFMS does not agree with the audited fund balance. As a result, funds received and not appropriated in the county's IFMS are not available for use.**

The Department agrees with this finding, and acknowledges that any funds received but not appropriated in IFMS are not available for use by the Department.

**The Department did not record forfeiture funds in the County's IFMS in the proper year. The County's financial statements are reported on the modified accrual basis; therefore revenue must be recorded in the IFMS in the year they were received and available.**

The Department concurs with this finding. Forfeiture funds received in 2013 in the amount of \$6,463 were recorded as revenue in 2014.

**The Department does not perform bank reconciliations for the Suffolk County National Back account for Federal forfeiture funds.**

The Department concurs with this finding. However, since 2018 the Department has routinely performed these bank reconciliations.

**The Department did not submit Applications for Transfer of Federally Forfeited Property, Forms DAG- 71, timely, as required by the Federal Equitable Sharing Guidelines.**

The Department agrees with this finding. Of the 33 items tested, there were 3 instances in which the DAG 71 was submitted more than 60 days after the seizure date.

**Pro forma resolutions accepting and appropriating Federal Asset Forfeiture Funds on behalf of the Probation Department were prepared citing inappropriate Legislation.**

The Department concurs with this finding. However, Resolution #564-2020, specifically 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.

**The Department does not have a centralized inventory control system which impairs their ability to provide safeguards for inventory purchased with Federal Forfeiture Funds.**

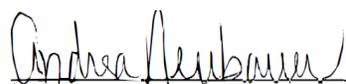
The Department concurs with this finding. At the time the audit was conducted, the Department did not have a centralized inventory control system to track inventory purchased with Federal Forfeiture Funds, nor did the Department have a record of inventory purchased prior to 2009. However, an inventory control system was instituted in 2018, as part of a larger effort to standardize the Department's financial practices. Consistent with the Department's 2018 financial practices policy, the Principal Financial Analyst now maintains the Department's inventory spreadsheet.

**The Department did not comply with SOP G-02, Equipment Inventory Control System, which states, "The Department must maintain inventory records for assets with a purchase price of less than \$5,000."** The Department concurs with this finding.

Assets purchased with Federal Forfeiture Funds during the audit period costing less than \$5,000 were not included in the Department's inventory records. However, the Department's 2018 financial practice policy provides clear instruction to account clerk staff on the procedure to follow for inventorying all assets purchased, regardless of cost.

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

Very truly yours,



Andrea Neubauer  
Director

## APPENDIX E

### Comptroller Office's Comments on the Department's Response

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

The Department submitted a written response to the audit report (Appendix D, 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.

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