

County of Napa

Auditor-Controller

Internal Audit Report

Probation Department
Internal Control Review
Victim Restitution Program

For Fiscal Year Ended June 30, 2021

Report Date: November 18, 2021



A Tradition of Stewardship
A Commitment to Service

Tracy A. Schulze, CPA
Auditor-Controller

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A Tradition of Stewardship
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Tracy A. Schulze
Auditor-Controller

November 18, 2021

To the Board of Supervisors
Napa County, CA

Executive Summary

The internal audit section of the Napa County Auditor-Controller's Office has completed an internal control review over Napa County Probation Department's Victim Restitution Program for the fiscal year ended June 30, 2021.

We conducted our review in conformance with the *International Standards for the Professional Practice of Internal Auditing (Standards)* established by the Institute of Internal Auditors. These *Standards* require that we identify, analyze, evaluate, and document sufficient information and evidence to achieve our objectives; and that the internal audit activity be independent, objective, and perform engagements with proficiency and due professional care.

The primary objective of this engagement was to determine whether adequate internal controls exist over the Victim Restitution Program. We reviewed a sample of probationer accounts and related documents to determine if adequate internal controls were in place and operating as designed.

Based on our review, we believe that administration of the Victim Restitution Program has adequate internal controls to collect, disburse, track, and account for victim restitution funds. However, we noted opportunities for Probation to improve the Victim Restitution Program. This report contains three observations, recommendations, and includes response from Probation and County Executive Office to strengthen internal controls over the Victim Restitution Program.

This report is a matter of public record and is intended solely for the information and use of the Napa County's Board of Supervisors, Executive Officer, District Attorney, Chief Probation Officer, and the Courts. I want to thank the internal audit team and Probation's staff for their expertise and professionalism in conducting this engagement.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tracy A. Schulze".

Tracy A. Schulze, CPA
Auditor-Controller

**Internal Control Review
Victim Restitution Program
For Fiscal Year Ended June 30, 2021**

Background

Napa County Probation Department (Probation) is part of the criminal justice system in Napa County. Probation's primary focus is to (1) assist in keeping Napa County a safe community by providing rehabilitative services to juvenile and adult offenders, (2) present court accurate information to assist in sentencing decisions, and (3) enforce court orders for those on community supervision.

As described in Article I, Section 28 of the California State Constitution, all persons who suffer losses as a result of criminal activity shall have the right to restitution. The court can order a defendant to pay restitution to victim(s). Per California Penal Code Section §1202.4, the court must award restitution to the victim(s) in the full amount of the economic loss incurred, resulting from the crime (e.g., medical expenses, lost wages, damaged property).

If the defendant is sent to state prison, the California Department of Corrections and Rehabilitation (CDCR) will collect the restitution. The CDCR collects a 10 percent administration fee on all restitution collections. If Probationers send direct voluntary payments to CDCR for their restitution obligations while they are in prison, CDCR will provide a courtesy waiver of the 10 percent administrative fee. CDCR will then forward the information to the California Victim Compensation Board (CalVC), who will disburse restitution funds to victims.

For defendants who are granted probation, Napa County Executive Office (CEO) contracts with a third-party debt collection agency to collect court-ordered restitution payments from probationers to repay victims. Prior to October 2020, the County contracted the administration of this service to a debt collection agency named EOS CCA (EOS). EOS handled all aspects of the Victim Restitution Program including collection, disbursement, tracking, and accounting for victim restitution funds.

As a result of a Request for Proposals process, Napa County awarded the debt collection contract to GC Services (GCS) in October 2020. The change in vendor required certain processes within the Victim Restitution Program to be modified. Probation has taken the lead in developing new processes for the Victim Restitution Program that incorporate all the new changes. These processes now require the Treasurer-Tax Collector's assistance to collect restitution funds from GCS and the Auditor-Controller to issue checks to pay victims. Probation would also have to track and account for victim restitution funds internally. Due to these changes in processes, Probation requested the internal audit

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Background (continued)

section of the Auditor-Controller's Office (ACO) to review the Victim Restitution Program and to determine whether adequate internal controls are in place and operating as designed.

The Victim Restitution Program involves the collection, disbursement, tracking, and accounting for victim restitution funds. On a daily and weekly basis, GCS sends Probation collection reports that includes (1) cash and (2) checks that have been held for 30 days and cleared. Upon Probation's approval of the collection reports, GCS wires collected restitution funds to the Treasurer-Tax Collector. Once Probation approves GCS's wire payment, Probation requests the Auditor-Controller to issue checks for GCS to mail to victims.

Uncashed or unclaimed victim restitution checks are returned, and Probation staff attempts to locate the victim(s). Checks that cannot be distributed to victims are logged as undistributed funds and held for at least three years. Then, if elected by Napa County Board of Supervisors, these funds are transferred to Probation to be used for general victim services in accordance with California Government Code §50050.

Probation is responsible for designing, implementing, and maintaining adequate internal controls over the Victim Restitution Program including collecting, disbursing, tracking, and accounting for victim restitution funds.

Objective and Scope

The primary objective of this engagement was to determine whether the administration of the Victim Restitution Program has adequate internal controls to collect, disburse, track, and account for victim restitution funds.

The scope included a review of Probation's records for the fiscal year ended June 30, 2021.

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Methodology

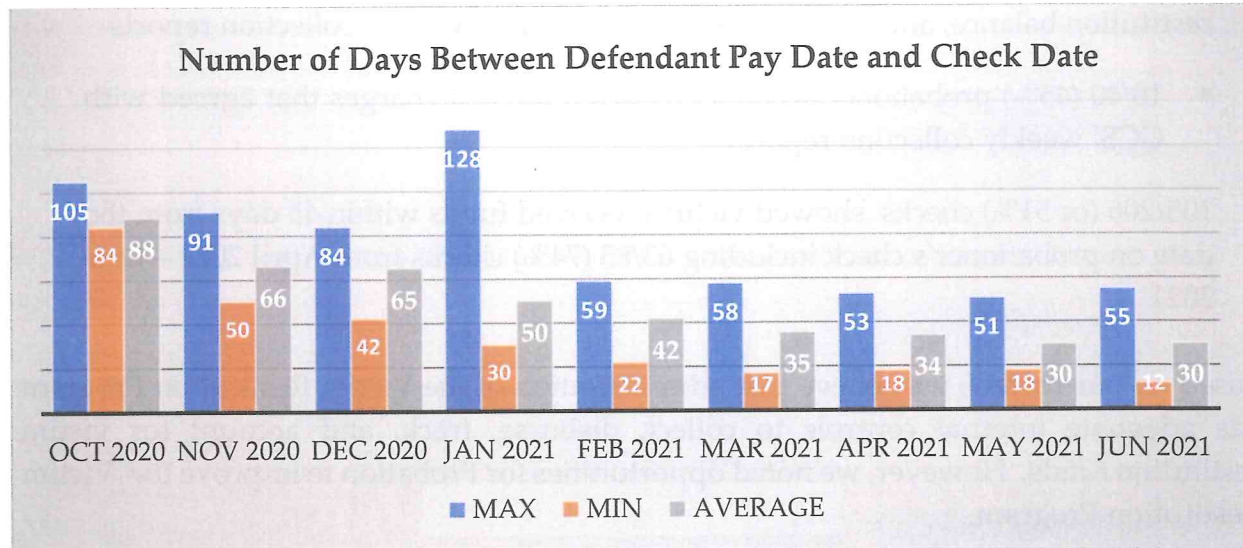
To accomplish our audit objectives, our procedures included, but not limited to, the following:

- Interviewed Probation's staff to gain an understanding of the procedures used to administer the Victim Restitution Program
- Reviewed written procedures and walked through the process of collecting, disbursing, tracking, and accounting for victim restitution funds
- Reviewed unpaid and delinquent accounts had follow up activity documented
- Reviewed changes to probationers' accounts were properly documented
- Reviewed notes to distribute unclaimed funds/returned checks were reasonable and documented
- Reviewed spending plan for unclaimed funds
- Verified payment amount splits (i.e., between victims and co-defendants), payment date, interest charges, administrative fees, remaining restitution balance, and case number agreed to GCS' weekly collection reports (i.e., on a sampling basis)
- Verified victims received funds within 45 days from the date on probationers' check (i.e., on a sampling basis)

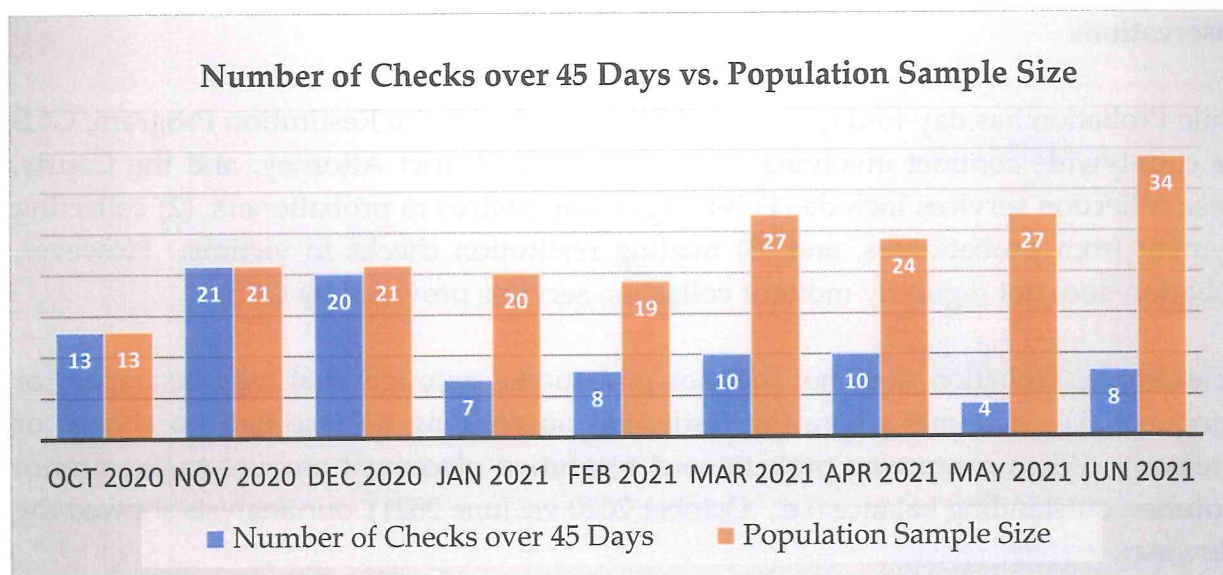
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Results

The first bar graph shows monthly the maximum, minimum, and average number of days (respectively) between defendant pay date and check date. Based on the average number of days between defendant pay date and check date, Probation improved the rate victims receive their funds from 88 days (October 2020) to 30 days (June 2021).



The second bar graph shows monthly the number of checks over 45 days compared to the population sample size. For June 2021, 23.5% (or 8/34) of the checks tested took over 45 days for victims to receive their funds compared to 100% (or 13/13) of the checks tested for October 2020.



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Conclusion

We reviewed a sample of probationer accounts and related documents to determine if adequate internal controls were in place and operating as designed.

- 40/40 (100%) probationer accounts showed payment amount splits (i.e., between victims and co-defendants), payment date, administrative fees, remaining restitution balance, and case number agreed to GCS' weekly collection reports
 - 18/40 (45%) probationer accounts reported interest charges that agreed with GCS' weekly collection reports
- 105/206 (or 51%) checks showed victims received funds within 45 days from the date on probationer's check including 63/85 (74%) checks from April 2021 – June 2021

Based on our review, we believe that administration of the Victim Restitution Program has adequate internal controls to collect, disburse, track, and account for victim restitution funds. However, we noted opportunities for Probation to improve the Victim Restitution Program.

This report contains three observations, recommendations, and includes responses from Probation and CEO to strengthen internal controls over the Victim Restitution Program.

1. Monitor Collection Services

Observations

While Probation has day-to-day responsibility over the Victim Restitution Program, GCS is a countywide contract involving CEO, Probation, District Attorney, and the Courts. These collection services include (1) issuing billing notices to probationers, (2) collecting payment from probationers, and (3) mailing restitution checks to victims. However, Probation does not regularly monitor collection services provided by GCS.

For example, Probation does not monitor probationer accounts that may be unpaid or delinquent (i.e., accounts where the restitution outstanding balance had no change or increased). When comparing probationers' restitution placement amount to the current restitution outstanding balance (i.e., October 2020 vs. June 2021), our analysis showed the following:

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Conclusion (continued)

1. Monitor Collection Services (continued)

Observations (continued)

- 803 probationer accounts had no change in restitution outstanding balance, which totaled \$6,913,836
- 354 probationer accounts had an increase in restitution outstanding balance, which in total increased by \$1,298,539
- 354 probationer accounts had a decrease in restitution outstanding balance, which in total decreased by \$501,194

For fiscal year 2020-2021, the County of Napa paid GC Services \$362,467 for collection services. During this time, GC Services collected \$501,194 in restitution, which resulted in a decrease in restitution outstanding balance for 354 probationer accounts. However, this was offset by 803 probationer accounts that had no change and 354 probationer accounts that had an increase in restitution outstanding balance.

Recommendations

- We recommend Probation work with the CEO to establish performance goals with GCS to convey clear expectations and improve efficiency in the administration of the program.
- We also recommend Probation establish a process to monitor probationer accounts that may be unpaid or delinquent on at least a quarterly basis. For example, Probation's monitoring could include a comparison of probationers' restitution outstanding balance from one period to another. Any accounts that did not change or increase, should be flagged for review. If probationer accounts are not monitored, there is an increased risk of incorrect billing and unpaid restitution for victims.

Probation's Responses

- Probation, in partnership with multiple department consortium of the CEO, District Attorney, and the Courts will work to establish performance goals with GCS.
- Probation will establish a process to monitor probationer accounts that may be unpaid or delinquent on at least a quarterly basis.

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Conclusion (continued)

2. Review Probationer Accounts

Observations

- Review and approval of initial account set-ups and subsequent changes were not documented.
- Probation has performed detailed review on 306 of the 1,625 (18.83%) probationer accounts transferred from EOS CCA to GCS in roughly nine months.

Recommendations

- We recommend initial account set ups and any subsequent changes have a preparer and reviewer name documented for accountability purposes. Given the relatively low risk and high volume of transactions, we believe that it is not practical to review every change. However, Probation should establish a process to periodically review a sample of changes in probationer's accounts. Probation should also require staff to maintain an audit trail of key changes.
- We also recommend the County dedicate additional resources towards the Victim Restitution Program. Probation has over 81.17% of transferred accounts remaining to perform detailed review, while continue to manage new accounts.

Probation's Responses

- Initial accounts are set up by the Restitution Analyst with a "Payout Referral" from a Probation Officer or Legal Clerk assigned to the case. In addition, Probation's staff are working on transferred accounts from EOS. These accounts require a restitution investigation, which takes time to assure the account is as accurate as possible. All accounts are reviewed by the Probation Services Program Manager or Staff Services Analyst II. In addition, Probation recently added a place on each "Master Account Sheet" to record who created the sheet and who approved the sheet.
- To complete a restitution investigation on the remaining transferred accounts, we will need additional resources. Probation has taken on this program with

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Conclusion (continued)

2. Review Probationer Accounts (continued)

Probation's Responses (continued)

only one added Restitution Analyst. The totality of this program was underestimated. In order to sustain this program, we will need at minimum one (1) additional Staff Services Analyst I/II. Even after the remaining 1,600 cases have been investigated, we will require on-going additional staff to monitor probationer accounts and insure accurate collection, disbursement, tracking, and accounting for victim restitution funds.

3. Unclaimed Funds

Observations

- In accordance with Government Code Section §50050, unclaimed funds held for three or more years revert to the County to be used for victim services (e.g., food, clothing) following public notice. As of June 30, 2021, Probation does not have a spending plan established.
- During our review, we noted Probation appears to account for all unclaimed funds and make appropriate and reasonable efforts to distribute funds to victims. As of June 30, 2021, five (5) accounts are logged under "Undistributed Funds." These five (5) accounts represent 13 undistributed checks that total \$604.99. However, we noted Probation does not prioritize their review of returned checks by check date.

Recommendations

- We recommend Probation develop a spending plan in preparation of any victim restitution funds reverting to the County to be used for general victim services. The spending plan, which will be required in about two years, should include allowable and unallowable expenditures and spending limits.
- We also recommend Probation to prioritize their review of returned checks by check date. The oldest returned check should be reviewed first since victim restitution

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Conclusion (continued)

3. Unclaimed Funds (continued)

Recommendations (continued)

funds become eligible to be used for general victim services three years from the returned check date.

Probation's Responses

- We will reach the one-year mark of unclaimed funds in December 2021. Although we have not yet developed a spending plan, we are aware that this needs to happen.
- Currently, we do not prioritize returned checks for review. Since there are a limited number of returned checks, we can review all returned checks within a reasonable time. We exhaust all avenues prior to classifying funds as "Unclaimed." However, we will develop a process to re-attempt to locate these victims or their estate at least once a year.

Overall Response from County Executive Office

The CEO appreciates and agrees with the ACO report on the internal control review over Napa County Probation Department's Victim Restitution Program. The CEO would like to note that the Victim Restitution Program and GC Services contract is a countywide effort that includes a consortium of multiple departments including Probation, District Attorney, and the Courts, which all have a significant interest in victim restitution. The CEO will continue to coordinate these efforts on an equal footing with other departments.