

TEHAMA COUNTY

Audit Report

COURT REVENUES

July 1, 2005, through June 30, 2011



JOHN CHIANG
California State Controller

June 2012



JOHN CHIANG
California State Controller

June 1, 2012

Honorable Leroy Anderson
Auditor-Controller
County of Tehama
444 Oak Street
Red Bluff, CA 96080

Gina Setter
Court Executive Officer
Superior Court of California, Tehama County
333 Washington Street, Room 21
Red Bluff, CA 96080

Dear Mr. Anderson and Ms. Setter:

The State Controller's Office audited Tehama County's court revenues for the period of July 1, 2005, through June 30, 2011.

Our audit disclosed that the county overremitted \$7,883 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess fines, fees, and penalties by \$17,201;
- Underremitted State Penalties by \$8,777; and
- Overremitted state surcharges, DNA penalties, and state court construction penalties by \$33,861.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2005, through June 30, 2011.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Joe Vintze, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250

Honorable Leroy Anderson
Gina Setter

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June 1, 2012

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau,
at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Sandeep Singh, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Tehama County for the period of July 1, 2005, through June 30, 2011.

Our audit disclosed that the county overremitted \$7,883 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess fines, fees, and penalties by \$17,201;
- Underremitted State Penalties by \$8,777; and
- Overremitted state surcharges, DNA penalties, and state court construction penalties by \$33,861.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the SCO to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2005, through June 30, 2011. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Probation Department, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.

- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

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

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Tehama County overremitted \$7,883 in court revenues to the State Treasurer. The overremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued October 27, 2006.

Views of Responsible Officials

We issued a draft report on March 6, 2012. In a telephone conversation, the county agreed with the results of the audit. In a telephone conversation between the SCO and the Court Executive Administrative Officer, the Court also agreed with the results of the audit.

Restricted Use

This report is solely for the information and use of Tehama County, the Tehama County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

June 1, 2012

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2005, through June 30, 2011**

Description	Account Title ¹	Code Section	Fiscal Year						Total	Reference ²
			2005-06	2006-07	2007-08	2008-09	2009-10	2010-11		
Underremitted 50% excess of fines, fees, and penalties	State Trial Court Improvement Fund	GC 70205	\$ 344	\$ 407	\$ 14,758	\$ 988	\$ 795	\$ (91)	\$ 17,201	Finding 1
Underremitted State Penalties	State Penalty Fund	PC 1464	2,063	1,453	983	1,059	1,165	2,054	8,777	Finding 2
Overremitted State Surcharge, DNA, and State Court Construction Penalties	State Court Facility Construction Fund	GC 70372	—	—	(20,423)	—	—	—	(20,423)	Finding 3
	State General Fund	PC 1465.8	—	—	(8,332)	—	—	—	(8,332)	Finding 3
	State DNA Penalty Fund	GC 76104.7	—	—	(4,085)	—	—	—	(4,085)	Finding 3
	State DNA Penalty Fund	GC 76104.6	—	—	(1,021)	—	—	—	(1,021)	Finding 3
Net amount underpaid (overpaid) to the State Treasurer			<u>\$ 2,407</u>	<u>\$ 1,860</u>	<u>\$ (18,120)</u>	<u>\$ 2,047</u>	<u>\$ 1,960</u>	<u>\$ 1,963</u>	<u>\$ (7,883)</u>	

¹ The identification of state revenue account titles should be used to ensure proper recording when preparing the remittance advice (TC-31) to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2005, through June 30, 2011**

Month	Fiscal Year				
	2005-06	2006-07	2007-08	2008-09	2009-10
July	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—
September	—	—	—	—	—
October	—	—	—	—	—
November	—	—	—	—	—
December	—	—	—	—	—
January	—	—	—	—	—
February	—	—	—	—	—
March	—	—	—	—	—
April	—	—	—	—	—
May	—	—	—	—	—
June ¹	344	407	14,758	988	795
Total underremittances to the State Treasurer	<u>\$ 344</u>	<u>\$ 407</u>	<u>\$ 14,758</u>	<u>\$ 988</u>	<u>\$ 795</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

Findings and Recommendations

FINDING 1— Underremitted excess of qualified fines, fees, and penalties

The County Auditor-Controller's Office underremitted by \$17,201 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal-year (FY) period starting July 1, 2005, and ending June 30, 2011.

Government Code (GC) section 77201(b)(2) requires Tehama County, for its base revenue obligation, to remit \$640,303 for FY 2005-06 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers and as a result of conditions identified as follows:

- For all six fiscal years, the court did not appropriately distribute \$1 to the Jail Facility Fund from the county's 23% portion. Instead, it was taken out of the total traffic violator school (TVS) bail. Therefore, 77% of the TVS bail applicable to the MOE included this amount. \$17,859 ($\$23,193 \times .77$) should have been included in the MOE.
- As stated in Finding 2, the probation department did not correctly distribute or report qualifying revenues to be included in the MOE. The adjustments caused a decrease in county base fines and a 30% increase in eligible state penalties. A decrease of \$15,954 ($\$21,262 \times .75$) of county base fines and an increase of \$3,751 30% state penalties totaling \$12,203 should not have been included in the MOE.
- As noted in Finding 4, State Surcharges, DNA penalties, and State Court Facility Construction penalties were distributed from bail bond forfeitures. The bail forfeitures should have been distributed pursuant to Penal Code (PC) section 1463.009. \$27,693 ($\$36,924 \times .75$) should not have been included in the MOE.
- For the FY 2008-09, FY 2009-10, and FY 2010-11, the county distributed a \$1 component as parking surcharges instead of a \$2 component. \$1,055 should have been included in the MOE.

The qualified revenues reported for FY 2005-06 were \$1,403,362. The excess, above the base of \$640,303, is \$763,059. This amount should be divided equally between the county and the State, resulting in \$381,529 excess due the State. The county has remitted a previous payment of \$381,185, causing an underremittance of \$344.

The qualified revenues reported for FY 2006-07 were \$1,241,279. The excess, above the base of \$640,303, is \$600,976. This amount should be divided equally between the county and the State, resulting in \$300,488 excess due the State. The county has remitted a previous payment of \$300,081, causing an underremittance of \$407.

The qualified revenues reported for FY 2007-08 were \$1,451,623. The excess, above the base of \$640,303, is \$811,320. This amount should be divided equally between the county and the State, resulting in \$405,660 excess due the State. The county has remitted a previous payment of \$390,902, causing an underremittance of \$14,758.

The qualified revenues reported for FY 2008-09 were \$1,258,465. The excess, above the base of \$640,303, is \$618,162. This amount should be divided equally between the county and the State, resulting in \$309,081 excess due the State. The county has remitted a previous payment of \$308,093, causing an underremittance of \$988.

The qualified revenues reported for FY 2009-10 were \$1,157,658. The excess, above the base of \$640,303, is \$517,355. This amount should be divided equally between the county and the State, resulting in \$258,677 excess due the State. The county has remitted a previous payment of \$257,882, causing an underremittance of \$795.

The qualified revenues reported for FY 2010-11 were \$1,140,620. The excess, above the base of \$640,303, is \$500,317. This amount should be divided equally between the county and the State, resulting in \$250,159 excess due the State. The county has remitted a previous payment of \$250,250, causing an overremittance of \$91.

The over- and underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–Government Code section 77205	
FY 2005-06	\$ 344
FY 2006-07	407
FY 2007-08	14,758
FY 2008-09	988
FY 2009-10	795
FY 2010-11	(91)

Recommendation

The county should reduce remittances by \$17,201 to the State Treasurer and report on the remittance advice form (TC-31) a decrease to the Trial Court Improvement Fund–GC section 77205. The county should also make the corresponding account adjustments.

**FINDING 2—
Underremitted State
Penalties**

The Tehama County Probation Department made a misallocation when computing the state and county portion of penalties from the county’s share of base fines. The misstatement occurred because the departments accounting distribution formula did not establish a correct distribution ratio between county base fines and penalties.

PC section 1464 requires a \$10 state penalty for every \$10 fine or portion thereof. In addition PC section 1464 (e) requires 70% of state penalties to be transmitted to the state while the remaining 30% is to be deposited in the County General Fund. GC section 76000 requires a \$7 county penalty for every \$10 fine or portion thereof.

The inappropriate distributions for state penalties affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. In addition, the inappropriate distribution had the following effect:

Account Title	Understated/ (Overstated)
State Penalty Fund – PC §1464	\$ 8,777
County General Fund – Base Fines – PC §1463	(21,272)
County General Fund – 30% PC §1464	3,751
County Jail Facility Fund	8,744

Recommendation

The county should remit \$8,777 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Penalty Fund– PC section 1464. The county should also make the corresponding account adjustments.

The Tehama County Probation Department should take steps to ensure that state penalties are distributed in accordance with the statutory requirements. A redistribution should be made for the collection period starting July 2011 through the date on which the current system is revised.

**FINDING 3—
Inappropriate
distribution of DNA
and EMAT penalties**

The Tehama County Probation Department did not update the required distributions for state DNA penalties from June 2010 through June 2011 nor levy a \$4 state emergency medical air transportation (EMAT) penalty starting January 2011. Department personnel indicated that the required distribution was inadvertently overlooked.

Starting June 10, 2010, GC section 76104.7 requires a \$3 penalty for every \$10 or fraction thereof upon every fine, penalty and forfeiture levied on criminal offenses including traffic offenses, but excluding parking offenses. The DNA Identification Penalty Assessment is levied and collected in the same manner as the State Penalty imposed per PC section 1464. The entire penalty (100%) should be distributed, including interest, to the State DNA Identification Fund.

Starting January 1, 2011, GC section 76000.1 requires a \$4 penalty upon every fine levied on criminal offenses including traffic offenses but excluding parking offenses.

Failure to make the required priority distribution causes distributions to the state and county to be inaccurately stated. We did not measure the dollar effect, as doing so would not be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Tehama Probation Department should take steps to ensure that DNA and EMAT penalties are distributed in accordance with the statutory requirements.

**FINDING 4—
Overremitted state
surcharges, DNA
penalties, and state
court construction
penalties**

The Tehama County Superior Court did not make a proper distribution of a bail bond forfeiture as required under PC section 1463.009. The bail forfeiture included the distribution of 20% state surcharge, DNA penalties, and state court facility construction penalties. Court personnel indicated that the required distribution was inadvertently overlooked.

PC section 1463.009 requires revenues from bail bond forfeitures pursuant to PC sections 288a and 1172.7 be offset by any reasonable administrative costs and up to 50% to satisfy any court orders or restitution orders. The balance should be distributed pursuant to PC section 1463.

PC section 1463 requires county base fines and bail bond forfeitures to be deposited into the county General Fund. State and county penalties are not subject to bail bond forfeitures. GC section 68090.8 requires that 2% be deducted from all fines, penalties, and forfeitures for automation purposes.

The inappropriate distributions for bail bond forfeitures affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. In addition, the inappropriate distribution had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Court Facility Construction Fund – GC §70372	\$ (20,423)
State General Fund – PC §1465.8	(8,332)
State DNA Penalty Fund – GC §76104.7	(4,085)
State DNA Penalty Fund – GC §76104.6	(1,021)
County General Fund	36,924
County DNA Fund	(3,063)

Recommendation

The county should offset subsequent remittances by \$33,861 to the State Treasurer and report on the remittance advice form (TC-31) decreases of \$20,423 to the State Court Facilities Construction Fund–GC section 70372(a), \$8,332 to State General Fund (20% Surcharge)–PC section 1465.7, \$4,085 to the State DNA Identification Fund–GC section 76101.7, and \$1,021 to the State DNA Identification Fund–GC section 76101.6. The county should also make the corresponding account adjustments.

**State Controller's Office
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