

MARIN COUNTY

Audit Report

COURT REVENUES

July 1, 2004, through June 30, 2010



JOHN CHIANG
California State Controller

September 2012



JOHN CHIANG
California State Controller

September 20, 2012

The Honorable Roy Given
Director of Finance
Marin County
3501 Civic Center Drive, Room 225
San Rafael, CA 94903

Kim Turner
Court Executive Officer
Superior Court
Marin County
3501 Civic Center Drive, Room 116
San Rafael, CA 94903

Dear Mr. Given and Ms. Turner:

The State Controller's Office audited Marin County's court revenues for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county overremitted \$148,594 in court revenues to the State Treasurer because it:

- Overremitted the 50% excess qualified fines, fees, and penalties by \$698,962;
- Underremitted equipment and registration tag revenues by \$237,891;
- Underremitted state court facilities construction fund penalties by \$173,107; and
- Underremitted evidence-of-financial responsibility revenues by \$139,370.

The County's Department of Finance should reduce subsequent remittances to the State Treasurer by \$148,594.

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, 2004, through June 30, 2010.

The Honorable Roy Given
Kim Turner

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September 20, 2012

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 94250-5872

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 Marin County for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county overremitted \$148,594 in court revenues to the State Treasurer because it:

- Overremitted the 50% excess qualified fines, fees, and penalties by \$698,962;
- Underremitted equipment and registration tag revenues by \$237,891;
- Underremitted state court facilities construction fund penalties by \$173,107; and
- Underremitted evidence-of-financial responsibility revenues by \$139,370.

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 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 State Controller 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, 2004, through June 30, 2010. 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; and
- 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

Marin County overremitted \$148,594 in court revenues to the State Treasurer. The overremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued July 14, 2006, with the exception of maintenance-of-effort, prioritization on installment fees, and evidence-of-financial responsibility findings.

**Views of
Responsible
Official**

We issued a draft audit report on June 6, 2012. Kim Turner, Superior Court Executive Officer, responded by letter dated June 28, 2012 (Attachment), agreeing with the audit Findings 1, 2, 3, 8, and 9. The Executive Officer responded with clarifications to Findings 4, 5, 6, and 7. We did not receive a response from the county's Finance Department.

Restricted Use

This report is solely for the information and use of Marin County, the Superior Court of Marin 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

September 20, 2012

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2004, through June 30, 2010**

Description <u>Account Title—Code Section</u> ¹	Fiscal Year						Total	Reference ²
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10		
Overremitted 50% excess of qualified fines, fees, and penalties								
Trial Court Improvement Fund—GC §77205(a)	\$ 34,218	\$ (179,010)	\$ (126,350)	\$ (159,443)	\$ (142,301)	\$ (126,076)	\$ (698,962)	Finding 1
Underremitted equipment and registration tag violations								
General Fund—Equipment and Registration Tag—VC §40225(d)	36,154	31,806	38,834	46,625	45,778	52,021	251,218	Finding 2
State Court Facilities Construction Fund—Parking Fine—GC §70372(b)	—	—	—	—	—	(4,398)	(4,398)	Finding 2
State Court Facilities Construction Fund—Immediate and Critical Needs Account—Parking Penalty Assessment—GC §70372(a)	—	—	—	—	—	(8,929)	(8,929)	Finding 2
Inappropriate distribution of city related TVS bail								
State Court Facilities Construction Fund—Penalties—GC §70372(b)	108,520	64,587	—	—	—	—	173,107	Finding 6
Underremitted evidence-of-financial responsibility								
State General Fund—\$10—PC §1463.22(c)	32,993	27,583	26,378	2,647	11,147	6,460	107,208	Finding 7
State Transportation Fund—\$3—PC §1463.22(b)	9,898	8,275	7,913	794	3,344	1,938	32,162	Finding 7
Net amount underpaid (overpaid) to the State Treasurer	<u>\$ 221,783</u>	<u>\$ (46,759)</u>	<u>\$ (53,225)</u>	<u>\$ (109,377)</u>	<u>\$ (82,032)</u>	<u>\$ (78,984)</u>	<u>\$ (148,594)</u>	

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the remittance advice form TC-31 to the State Treasurer.
Legend: GC=Government Code, VC=Vehicle Code, PC=Penal Code.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2004, through June 30, 2010**

<u>Month</u>	<u>Fiscal Year 2004-05</u>
County: June	<u>\$ 34,218</u>
Total underremittances to the State Treasurer	<u><u>\$ 34,218</u></u>

NOTE: Delinquent Trial Court Improvement 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 amount after the county pays the underlying amount owed.

**Schedule 3—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2004, through June 30, 2010**

<u>Month</u>	Fiscal Year	
	<u>2004-05</u>	<u>2005-06</u>
Superior Court:		
July	\$ 9,043	\$ 5,382
August	9,043	5,382
September	9,043	5,382
October	9,043	5,382
November	9,043	5,382
December	9,043	5,382
January	9,043	5,382
February	9,043	5,382
March	9,044	5,382
April	9,044	5,383
May	9,044	5,383
June	9,044	5,383
Total underremittances to the State Treasurer	<u>\$ 108,520</u>	<u>\$ 64,587</u>

NOTE: Delinquent State Court Facilities Construction 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 70377. The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

**Schedule 4—
Summary of Overremittances by Month
July 1, 2004, through June 30, 2010**

Month	Fiscal Year					
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Superior Court:						
July	\$ —	\$ 14,917	\$ 10,529	\$ 13,286	\$ 11,858	\$ 11,616
August	—	14,917	10,529	13,287	11,858	11,617
September	—	14,917	10,529	13,287	11,858	11,617
October	—	14,917	10,529	13,287	11,858	11,617
November	—	14,917	10,529	13,287	11,858	11,617
December	—	14,917	10,529	13,287	11,858	11,617
January	—	14,918	10,529	13,287	11,858	11,617
February	—	14,918	10,529	13,287	11,859	11,617
March	—	14,918	10,529	13,287	11,859	11,617
April	—	14,918	10,529	13,287	11,859	11,617
May	—	14,918	10,530	13,287	11,859	11,617
June	—	14,918	10,530	13,287	11,859	11,617
Total overremittances to the State Treasurer	\$ —	\$ 179,010	\$ 126,350	\$ 159,443	\$ 142,301	\$ 139,403

Findings and Recommendations

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

The county's Department of Finance Office overremitted by \$698,962 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six-fiscal-year (FY) period starting July 1, 2004, and ending June 30, 2010.

Government Code (GC) section 77201(b)(2) requires Marin County, for its base revenue obligation, to remit \$2,111,712 for FY 1998-99 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 the following conditions:

- As stated in Finding 5, the Marin County Superior Court did not appropriately deduct emergency medical service (EMS) penalties from traffic violator school (TVS) fees for FY 2004-05 and FY 2005-06. The adjustment caused a decrease in the TVS balance fee account in the amount of \$132,706 as part of the MOE calculations.
- As stated in Finding 6, the Marin County Superior Court inappropriately distributed 100% of city-related TVS bail to the various cities for FY 2004-05 and FY 2005-06 and did not include it in the MOE. The adjustment caused an increase in TVS bail in the amount of \$589,520 (77% of \$765,611) as a part of the MOE calculations.
- As stated in Finding 7, the Marin County Superior Court underremitted evidence-of-financial responsibility revenues to the state. The adjustment caused a decrease in county base fines by \$51,969 (75% of \$69,292) as part of the MOE calculations.
- Marin County Superior Court correctly distributed \$1 to the Criminal Justice Facility Fund and \$1 to the Court Construction Fund from TVS cases; however, the \$2 was not distributed from the county's 23% portion of TVS fees. The adjustment caused an increase in TVS fees by \$125,300 (77% of \$162,728) as part of the MOE calculations.
- When preparing the MOE, the county incurred scheduling errors that did not include all revenues for a proper calculation. The adjustment caused the following increases: county base fines city share by \$114,919, 30% state penalties by \$70,542, TVS balance of fees by \$119,192, administrative screening fees by \$222, and citation processing fees by \$2,792. A net total of \$307,667 should have been included in the MOE.

- When preparing the MOE, the county incurred scheduling errors that inappropriately included revenues for an improper calculation. The adjustment caused the following decreases: county base fines by \$126,183, 30% state penalties by \$333,282, TVS balance of fees by \$1,207,952, TVS \$24 fees by \$34,899, and administrative screening fees by \$3,276. A net total of \$1,705,592 should not have been included in the MOE.

The qualified revenues reported for FY 2004-05 were \$3,755,872. The excess, above the base of \$2,111,712, is \$1,644,160. This amount should be divided equally between the county and the State, resulting in \$822,080 excess due the State. The county has remitted a previous payment of \$787,862, causing an underremittance of \$34,218.

The qualified revenues reported for FY 2005-06 were \$3,396,760. The excess, above the base of \$2,111,712, is \$1,285,048. This amount should be divided equally between the county and the State, resulting in \$642,524 excess due the State. The county has remitted a previous payment of \$821,534, causing an overremittance of \$179,010.

The qualified revenues reported for FY 2006-07 were \$3,286,743. The excess, above the base of \$2,111,712, is \$1,175,031. This amount should be divided equally between the county and the State, resulting in \$587,516 excess due the State. The county has remitted a previous payment of \$713,866, causing an overremittance of \$126,350.

The qualified revenues reported for FY 2007-08 were \$3,413,591. The excess, above the base of \$2,111,712, is \$1,301,879. This amount should be divided equally between the county and the State, resulting in \$650,940 excess due the State. The county has remitted a previous payment of \$810,382, causing an overremittance of \$159,443.

The qualified revenues reported for FY 2008-09 were \$3,151,632. The excess, above the base of \$2,111,712, is \$1,039,920. This amount should be divided equally between the county and the State, resulting in \$519,960 excess due the State. The county has remitted a previous payment of \$662,261, causing an overremittance of \$142,301.

The qualified revenues reported for FY 2009-10 were \$3,039,445. The excess, above the base of \$2,111,712, is \$927,733. This amount should be divided equally between the county and the State, resulting in \$463,867 excess due the State. The county has remitted a previous payment of \$589,943, causing an overremittance of \$126,076.

The following table shows the effect of the overremittances:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2004-05	\$ 34,218
FY 2005-06	(179,010)
FY 2006-07	(126,350)
FY 2007-08	(159,443)
FY 2008-09	(142,301)
FY 2009-10	(126,076)
County General Fund	(698,962)

Recommendation

The county should reduce remittances by \$698,962 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.

Court’s Response

The court agrees with the audit finding.

**FINDING 2—
Underremitted
equipment and
registration tag
violation fees**

The Marin County Department of Finance did not distribute state equipment and registration tag violations to the state from city parking surcharges remitted from July 2004 through June 2010. Additionally, the Department of Finance transposed what otherwise should have been equipment and registration tag revenues to the State Court Facilities Construction Fund-Parking Fine and State Court Facilities Construction Fund-Immediate and Critical Needs Account Parking Penalty Assessment accounts. Department of Finance staff indicated that the required distribution was inadvertently overlooked.

Vehicle Code (VC) section 40225(d) allows equipment and registration tag violations to be processed as civil penalties. Upon proof of corrections, the civil penalty is reduced to \$10. Civil penalties collected on equipment and registration tag violations are distributed as follows: 50% to the issuing/processing agency and 50% to the State Treasurer.

The incorrect distribution had the following effect:

Account Title	Understated/ (Overstated)
State General Fund-Equipment & Registration Tag–VC §40225(d)	\$ 251,218
State Court Facilities Construction Fund-Parking Fine–GC §70372(b)	(4,398)
State Court Facilities Construction Fund–Immediate and Critical Needs–Account Parking Penalty Assessment–GC §70372(b)	(8,929)
County General Fund	(237,891)

Recommendation

The county should remit \$237,891 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$237,891 to the State General Fund–VC section 40225(d). Also, the amounts that were transposed should be reported on the remittance advice form, decreasing State Court Facilities Construction Fund–Parking Fine–GC section 70372(b) by \$4,398 and decreasing State Court Facilities Construction Fund-Immediate and Critical Needs Account Parking Penalty Assessment–GC section 70372(b) by \$8,929 to be reported as State General Fund–VC section 40225(d) in the amount of \$13,327.

Court’s Response

The court agrees with the audit finding.

**FINDING 3—
Omitted distributions
to the state on
probation cases**

The Marin County Probation Department is omitting distributions to the following state accounts that are statutory:

- 20% State Surcharge account
- State Court Facilities Construction Fund Penalty account
- State Court Facilities Construction Fund Penalty-Immediate and Critical Needs account
- Two DNA accounts
- The required specific distribution for DUI cases

Probation Department staff members were not aware that the court probation orders requiring these distributions are being omitted in their automated distribution system for adult and juvenile probation cases.

Starting September 30, 2002, Penal Code (PC) section 1463.7 requires a state surcharge of 20% to be levied on all criminal base fines used to calculate state penalties, as specified in PC section 1464. The surcharge should be applied to criminal fines including TVS bail; the surcharge should equal 20% of the fine.

VC section 23536 requires that a fine of not less than \$390 nor more than \$1,000 be imposed on a DUI conviction; the fine component is inclusive of the special distributions for PC section 1463.14(a) (county alcohol laboratory amount), PC section 1463.16(a) (county's alcohol program amount), and PC section 1463.18 (indemnification of victim).

Therefore, PC section 1464 states that there shall be levied a state penalty, in an amount equal to \$10 for \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, except parking offenses, involving a violation of a section of the VC or any local ordinance adopted to the VC.

Starting January 1, 2009, GC section 70373(a)(1) states that an assessment shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses, for each misdemeanor or felony (\$35) and (\$30) for each infraction, to be deposited monthly into the Immediate and Critical Needs Account of the State Court Facilities-Construction Fund established in GC section 70371.5.

Starting January 1, 2009, VC section 40611 states that a fee of \$25 must be collected for each violation, and for each citation \$10 shall be allocated monthly as follows: 33% to the local entity in whose jurisdiction the citation was issued, 33% to the State, and 33% to the county general fund. The remainder of the fees collected on each citation shall be deposited monthly into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund established pursuant to GC section 70371.5.

Starting January 1, 2009, VC section 42007.1 states that a fee of \$49 must be collected and split, with 51% of the amount deposited monthly into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund established pursuant to GC section 70371.5.

Effective November 2004, GC section 76107.6 requires \$1 DNA penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture levied on criminal offenses, including traffic offenses but excluding parking offenses.

Starting July 12, 2006, GC section 76104.7 states there shall be levied an additional state-only penalty of \$1 for every \$10 or fraction thereof upon every fine, penalty, and forfeiture imposed and collected by the courts for all criminal offenses, 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 and 100% should be distributed, including interest, to the State DNA Identification Fund.

The Probation Department's failure to implement these statutory distributions affected the revenues being reported to the State Trial Court Improvement fund. We did not measure the fiscal effect because we did not consider doing so to be cost-effective because of the difficulty in identifying and redistributing the various accounts and cities.

Recommendation

The Marin County Probation Department should update its system to ensure that the probation orders include the required distributions. Also, the probation department should make the corresponding redistributions for the period of July 2010 through the date on which the current system is revised.

Court's Response

The Superior Court of Marin County clarified that the responsibility lies with the Probation Department for collecting and distributing court fines and fees on supervised probation cases.

SCO's Comment

The SCO agrees with the clarification and has changed the designation in the paragraph prior to the recommendation from "The court's failure..." to "The Probation Department's failure. . . ."

**FINDING 4—
Incorrect
prioritization of
installment payments**

The Marin County Probation Department distribution for installment payment is giving priority to administrative fees, assessments, reimbursements before fines and penalties. This finding was noted in the prior court revenue audit report. Probation department staff indicated that they were not aware that they had programmed incorrect distribution formulas for installment payments.

Effective October 1, 2002, PC section 1203.1(d) requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims;
2. 20% state surcharge;
3. Fines, penalty assessments, and restitution fines; and
4. Other reimbursable costs such a civil assessment and installment fees.

Failure to make the required priority distribution causes state and county revenues to be misstated. We did not measure the fiscal effect because we did not consider doing so to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Marin County Probation Department should update the distribution formulas for administrative fees, assessments, reimbursements, installment fees, accelerated parole costs, and all installment fees to ensure that the distributions comply with statutory requirements.

Court's Response

The Superior Court of Marin County clarified that the responsibility lies with the Probation Department for collecting and distributing court fines and fees on supervised probation cases.

SCO's Comment

The SCO agrees with the clarification and has added the third sentence in the finding to read "Probation department staff..."

**FINDING 5—
Overremitted TVS
fees from EMS**

The Marin County Superior Court did not appropriately deduct EMS penalties from TVS fees beginning July 2004. The court made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the county of TVS revenue that had been over-remitted to the cities included EMS revenue that the county did not deposit in the EMS Fund.

Effective January 1, 2000, for all traffic school violations, VC section 42007 requires \$2 from every \$7 that would have been collected pursuant to GC section 76000 on a fine distribution to be deposited in the Emergency Medical Service Fund.

The incorrect distributions for TVS fees affects the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. In addition, the inappropriate distribution has the following effect on the county account:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
County-Traffic Violator School Balance of Fee	\$ (132,706)
County-EMS Fund	132,706

Recommendation

The county should implement the adjustment noted for the above fiscal years. The court has made the appropriate adjustment to the current date.

Court's Response

Regarding this finding, the incorrect distributions that were identified in the prior court revenue audit continued in FY 2004-05 and FY 2005-06 while the County Information and Systems Technology Department (IST) completed considerable reprogramming of the court's outdated case management system. Using the SCO auditor's 5-year spreadsheet, the court computed the additional overpayments to the cities that occurred during FY 2004-05 and FY 2005-06, while IST was reprogramming. The cities repaid the county with either a one-time payment or 5-year payment plans that ended in November 2011. The payments to the County of TVS revenue that had been over remitted to the cities included EMS revenue that the County didn't deposit in the EMS Fund.

Accordingly, the second the third sentences of the first paragraph should read "The court had made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the County of TVS revenue that had been over remitted to the cities included EMS revenue that the County didn't deposit in the EMS Fund."

The first sentence of the Recommendation should read "The County" instead of "The court".

SCO's Comment

The SCO agrees with the clarification and has added the following language to the first paragraph: "The court made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the county for TVS revenue that had been over remitted to the cities included EMS revenue that the county did not deposit in the EMS Fund." The SCO also changed the first sentence of the recommendation to read "The county" instead of "The court."

**FINDING 6—
Inappropriate
distribution of city
related TVS bail**

The Marin County Superior Court inappropriately distributed 100% of city-related TVS bail to various cities for FY 2004-05 and FY 2005-06. Court personnel indicated that the required redistribution was inadvertently overlooked when making the adjustments based on the prior SCO audit report.

Effective July 1, 1998, when a defendant attends traffic violator school pursuant to VC section 42007 on a city arrest, the city will receive the same portion of the base fines that would have been allotted to it if the defendant had not attended traffic violator school.

PC section 1463.11 requires that 30% of red-light violations be distributed to the county or city general fund in which the offense occurred. In addition, if the red-light violator is referred to traffic school, VC 42001 requires 30% of the traffic violator school fee to be distributed to the county or city where the offense occurred.

The inappropriate distributions for TVS fees 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 has the following effect on the county and city accounts:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Court Facilities Construction	
Penalties—GC Code section 70372(a)	\$ 173,107
County General Fund	765,611
County EMS Penalty Fund	115,405
City Fine Revenue Accounts:	
Belvedere	(1,685)
Corta Madera	(44,226)
Fairfax	(40,131)
Larkspur	(49,009)
Mill Valley	(105,068)
Novato	(228,948)
Ross	(4,917)
San Anselmo	(145,873)
Sausalito	(56,709)
San Rafael	(341,206)
Tiburon	(35,141)
Marin Community College	(1,210)

Recommendation

The county should implement the adjustment noted for the above fiscal years. The court has made the appropriate adjustment to the current date.

Court’s Response

The court made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the county of TVS revenue that had been over-remitted to the cities included EMS revenue that the county did not deposit in the EMS Fund.

SCO’s Comment

The SCO agrees with the clarification and has added the following language to the first paragraph: “The court made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the county for TVS revenue that had been over remitted to the cities included EMS revenue that the county did not deposit in the EMS Fund.” The SCO also changed the first sentence of the recommendation to read “The county” instead of “The court.”

**FINDING 7—
Incorrect distributions
for evidence-of-
financial responsibility
violations**

The Marin County Superior Court did not make the required distributions to the State General Fund and the State Transportation Fund for proof of financial responsibility fines for the period of July 2004 through June 2010. This finding was noted in the prior court revenue audit report. Court staff members indicated that they were not aware that their automated system for these distributions was not making the required distributions correctly for evidence-of-financial responsibility fines.

A \$30.50 fee on each conviction of an evidence-of-financial responsibility violation per PC section 16028 is required to be distributed per conviction in the following manner: \$17.50 to the County General Fund pursuant to PC section 1463.22(a), \$10 to the State General Fund pursuant to PC section 1463.22(c), and \$3 to the State Transportation Fund pursuant to PC section 1463.22(b).

The court's failure to make the required fine distribution upon each conviction of evidence of financial responsibility had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State General Fund (\$10)–PC §1463.22(c)	\$ 107,208
State Transportation Fund (\$3)–PC §1463.22(b)	32,162
County General Fund	(69,292)
City Fine Revenue Accounts:	
Belvedere	(1,033)
Corta Madera	(2,163)
Fairfax	(1,588)
Larkspur	(1,853)
Mill Valley	(5,429)
Novato	(21,603)
Ross	(155)
San Anselmo	(3,450)
Sausalito	(4,034)
San Rafael	(26,241)
Tiburon	(2,462)
Marin Community College	(67)

Recommendation

The county should remit \$139,370 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$107,208 to the state General Fund–PC section 1463.22(c) and \$32,162 to the State Transportation Fund–PC section 1463.22(b). The county should also make the corresponding account adjustments.

The court should establish formal procedures to ensure that evidence-of-financial responsibility fines are correctly distributed in accordance with statutory requirements. A redistribution should be made for the collection period starting July 2004 through the date on which the current system is revised.

Court's Response

Regarding this finding, the incorrect distributions that were identified in the prior court revenue audit continued in FY 2004-05 and FY 2005-06. Using the SCO auditor's 5-year spreadsheet, the court computed the additional overpayments to the cities that occurred during FY 2004-05 and FY 2005-06. The cities repaid the county with either a one-time payment or 5-year payment plans that ended in November 2011. The payments to the County for proof of financial responsibility fines that had been over remitted to the cities in FY 2004-05 and FY 2005-06 included revenue that should have been distributed to the State General Fund and State Transportation Fund.

Due to limitations of the court's outdated case management system that are not practical to reprogram, the court has always used and continues to use a spreadsheet procedure to calculate the distributions for evidence of financial responsibility fines. The spreadsheet procedure was revised effective July 2007 to correctly calculate these distributions.

For the 12 months of FY 2006-07, the SCO audit identifies incorrect distributions that were not adjusted and the court agrees with that finding. The correct spreadsheet procedure has been in place since July 2007, although there was a clerical error in October and November 2007 that reverted to the incorrect distributions identified in the SCO audit. The court will revise the distributions for those periods.

In addition, prior to the SCO audit, the court discovered and corrected clerical errors in distributions for evidence of financial responsibility fines for March 2008 through January 2010. Due to these clerical errors, the court has established procedures to ensure that evidence of financial responsibility fines are correctly distributed in accordance with statutory requirements.

SCO's Comment

The SCO agrees with the clarification.

FINDING 8— Inappropriate distribution of state share of credit card fees

The Marin County Superior Court deducted credit card fees (merchant fees) only against state penalties in the amount of \$131,565 from July 2005 through June 2010, and did not equitably distribute these fees to the other state accounts in its monthly distributions. The superior court was of the understanding that credit card fees could be deducted directly from state penalties only, even though the fees are pro-rated equitably among the State, county, court, and cities.

GC section 6159 and rule 10.820 of the California Rules of Court authorize courts to charge a cardholder a fee based on the costs associated with accepting a credit card payment not to exceed the costs incurred by the court in providing the payment by credit or debit card. However, there must be an equitable distribution to all state accounts.

State penalties are understated by \$131,565 and the other state accounts are overstated accordingly.

Recommendation

The court should implement procedures to equitably distribute the State's share of credit card fees to all state accounts reported in its monthly distributions. Additionally, the court should make the corresponding account adjustments to its current records.

Court's Response

The court agrees with the audit finding.

**FINDING 9—
Incorrect
prioritization of
installment fees**

The Marin County Superior Court pro-rated collections in a manner that inappropriately gave a distribution priority to installment fees over fines and penalties. This finding was noted in the prior court revenue audit report. Court staff members indicated that they were not aware they had programmed incorrect distribution formulas for installment payments.

Prior to September 30, 2002, the installment payments were pro-rated in accordance with the SCO Accounting Manual using one of the following methods: (1) equitable loss, (2) limited component, or (3) category distribution.

Effective October 1, 2002, PC section 1203.1(d) requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims;
2. 20% state surcharge;
3. Fines, penalty assessments, and restitution fines; and
4. Other reimbursable costs such as civil assessment and installment fees.

The court's failure to make the required priority distribution caused state and county revenues to be misstated. We did not measure the fiscal effect because we determined that doing so would not be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Marin County Superior Court should update the distribution formulas for all installment fees to ensure that the distribution comply with statutory requirements under PC section 1203.1(d).

Court's Response

The court agrees with the audit finding.

**Attachment—
Court's Response to
Draft Audit Report**

Superior Court of California
County of Marin

KIM TURNER
Court Executive Officer



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June 28, 2012

Mr. Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Dear Mr. Mar:

This letter constitutes the Court's official response to the Audit Report of Court Revenues dated June 2012 for the period July 1, 2004 through June 30, 2010. We would like to especially commend Jim Robertson, the Audit Specialist assigned to Marin. He was very professional, knowledgeable, courteous and accommodating during the course of the engagement and a pleasure to work with.

The Court generally agrees with most of the issues, findings and recommendations. The following comments are not related to the amounts due to or from the State. Other than four changes in names, position titles, or schedule headings, our comments provide clarification of the separation of Court and County responsibilities and of language regarding the timing and extent of adjustments that the Court made following the previous audit report dated July 2006.

RESPONSE TO COURT REVENUES AUDIT REPORT

Views of Responsible Officials, page 3

Please make the following changes to names and titles in this section:

Terrence Boren, Presiding Judge;
Dorothy McCarthy, Information Technology Manager;
Rachel Creyer, Financial Services Associate;

Schedule 1, page 4

The third bold heading (Finding 6) should read "Inappropriate distribution of city related TVS bail" instead of "Inappropriate distribution of state share of credit card fees".

Finding 3 – Omitted distributions to the state on probation cases, page 11

Finding 4 – Incorrect prioritization of installment payments, page 12

Regarding these two findings, the Probation Department is separately responsible for collecting and distributing court fines and fees on supervised probation cases.

Accordingly, the last paragraph of Finding 3, before “Recommendation”, should read “The Probation Department’s failure” instead of the “The court’s failure”.

Similarly, the last sentence in the first paragraph of Finding 4 should read “Probation staff” instead of “Court staff”.

Finding 5 – Over remitted TVS fees from EMS, page 13

Regarding this finding, the incorrect distributions that were identified in the prior court revenue audit continued in FY 2004-05 and FY 2005-06 while the County Information and Systems Technology Department (IST) completed considerable reprogramming of the court’s outdated case management system. Using the SCO auditor’s 5-year spreadsheet, the court computed the additional overpayments to the cities that occurred during FY 2004-05 and FY 2005-06, while IST was reprogramming. The cities repaid the county with either a one-time payment or 5-year payment plans that ended in November 2011. The payments to the County of TVS revenue that had been over remitted to the cities included EMS revenue that the County didn’t deposit in the EMS Fund.

Accordingly, the second and third sentences of the first paragraph should read “The court had made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the County of TVS revenue that had been over remitted to the cities included EMS revenue that the County didn’t deposit in the EMS Fund.”

The first sentence of the Recommendation should read “The County” instead of “The court”.

Finding 6 – Inappropriate distribution of city related TVS bail, page 13

Regarding this finding, the incorrect distributions that were identified in the prior court revenue audit continued in FY 2004-05 and FY 2005-06 while the County Information and Systems Technology Department (IST) completed considerable reprogramming of the court’s outdated case management system. Using the SCO auditor’s 5-year spreadsheet, the court computed the additional overpayments to the cities that occurred during FY 2004-05 and FY 2005-06, while IST was reprogramming. The cities repaid the county with either a one-time payment or 5-year payment plans that ended in November 2011. The payments to the County of TVS revenue that had been over remitted to the cities in FY 2004-05 and FY 2005-06 included revenue for the County to distribute to the State, the County General Fund and the County EMS Fund.

Accordingly, the second and third sentences of the first paragraph should read “The court had made adjustments based on the prior court revenue audit report and continued to make similar adjustments for FY 2004-05 and FY 2005-06. Court personnel indicated that repayments to the County of TVS revenue that had been over remitted to the cities included revenue for the County to distribute to the State, the County General Fund and the County EMS Fund.”

The first sentence of the Recommendation should read “The County” instead of “The court”.

Finding 7 – Incorrect distributions for evidence of financial responsibility violations, page 14

Regarding this finding, the incorrect distributions that were identified in the prior court revenue audit continued in FY 2004-05 and FY 2005-06. Using the SCO auditor's 5-year spreadsheet, the court computed the additional overpayments to the cities that occurred during FY 2004-05 and FY 2005-06. The cities repaid the county with either a one-time payment or 5-year payment plans that ended in November 2011. The payments to the County for proof of financial responsibility fines that had been over remitted to the cities in FY 2004-05 and FY 2005-06 included revenue that should have been distributed to the State General Fund and State Transportation Fund.

Due to limitations of the court's outdated case management system that are not practical to reprogram, the court has always used and continues to use a spreadsheet procedure to calculate the distributions for evidence of financial responsibility fines. The spreadsheet procedure was revised effective July 2007 to correctly calculate these distributions.

For the 12 months of FY 2006-07, the SCO audit identifies incorrect distributions that were not adjusted and the court agrees with that finding. The correct spreadsheet procedure has been in place since July 2007, although there was a clerical error in October and November 2007 that reverted to the incorrect distributions identified in the SCO audit. The court will revise the distributions for those periods.

In addition, prior to the SCO audit, the court discovered and corrected clerical errors in distributions for evidence of financial responsibility fines for March 2008 through January 2010. Due to these clerical errors, the court has established procedures to ensure that evidence of financial responsibility fines are correctly distributed in accordance with statutory requirements.

Finding 8 – Inappropriate distribution of state credit card fees, page 15

The court has complied with this recommendation beginning with the distribution for June 2010.

In conclusion, we are satisfied with the results of this audit of Court revenues. Please contact me if you have questions or seek clarification of any of the information provided in this letter. Thank you for your efforts to conclude this work, especially given the State's ongoing fiscal challenges.

Sincerely yours,



Kim Turner
Executive Officer

Cc: Hon. James R. Ritchie, Presiding Judge
Hon. Faye D'Opal, Assistant Presiding Judge
Roy Given, Director of Finance, Marin County
Neil Cossman, Chief Financial Officer, Marin Superior Court

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