

COLUSA COUNTY

Audit Report

COURT REVENUES

July 1, 2004, through June 30, 2011



JOHN CHIANG
California State Controller

October 2012



JOHN CHIANG
California State Controller

October 25, 2012

Honorable Peggy Scroggins
Auditor-Controller
Colusa County
546 Jay Street, Suite 202
Colusa, CA 95932

Norbert Jaworski
Court Executive Officer
Superior Court of California, Colusa County
532 Oak Street
Colusa, CA 95932

Dear Ms. Scroggins and Mr. Jaworski:

The State Controller's Office (SCO) audited Colusa County's court revenues for the period of July 1, 2004, through June 30, 2011.

Our audit disclosed that the county underremitted \$15,431 in court revenues to the State Treasurer because it underremitted the 50% excess of qualified fines, fees, and penalties.

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 form that the account adjustments relate to the SCO audit for the period of July 1, 2004, 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 94250-5872

Once the county has paid the underremitted Trial Court Improvement Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

Honorable Peggy Scroggins
Norbert Jaworski

-2-

October 25, 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
Colusa County Board of Supervisors

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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 Colusa County for the period of July 1, 2004, through June 30, 2011.

Our audit disclosed that the county underremitted \$15,431 in court revenues to the State Treasurer because it underremitted the 50% excess of qualified fines, fees, and penalties of \$15,431.

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, 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 that 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

Colusa County underremitted \$15,431 in court revenues to the State Treasurer. The underremittance is 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 31, 2006, with the exception of distributions of statutory requirements and inaccurate prioritization of installment payments by the Probation Department and the Superior Court.

Views of Responsible Officials

We issued a draft audit report on July 26, 2012. On August 17, 2012, the Colusa County Auditor-Controller responded agreeing with the results of the audit (Attachment A).

On August 15, 2012, the Colusa County Superior Court responded acknowledging the draft report and its intent to "...strive towards accurate and timely distribution of court revenues." (Attachment B)

Restricted Use

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

October 25, 2012

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2004, through June 30, 2011**

Description of Finding Account Title ¹ –Code Section	Fiscal Year							Total	Reference ²
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11		
Underremitted 50% excess of fines, fees, and penalties									
Trial Court Improvement Fund–GC §77205(a)	\$ 2,892	\$ 2,725	\$ 1,912	\$ 1,818	\$ 1,378	\$ 2,088	\$ 2,618	\$ 15,431	Finding 1
Net amount underpaid (overpaid) to the State Treasurer	\$ 2,892	\$ 2,725	\$ 1,912	\$ 1,818	\$ 1,378	\$ 2,088	\$ 2,618	\$ 15,431	

Legend: GC = Government Code

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.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2004, through June 30, 2011**

Month	Fiscal Year						
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—	—	—
September	—	—	—	—	—	—	—
October	—	—	—	—	—	—	—
November	—	—	—	—	—	—	—
December	—	—	—	—	—	—	—
January	—	—	—	—	—	—	—
February	—	—	—	—	—	—	—
March	—	—	—	—	—	—	—
April	—	—	—	—	—	—	—
May	—	—	—	—	—	—	—
June	2,892	2,725	1,912	1,818	1,378	2,088	2,618
Total underremittances to the State Treasurer	\$ 2,892	\$ 2,725	\$ 1,912	\$ 1,818	\$ 1,378	\$ 2,088	\$ 2,618

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.

Findings and Recommendations

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

The County Auditor-Controller's Office underremitted by \$15,431 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the seven fiscal years starting July 1, 2004, and ending June 30, 2011.

Government Code (GC) section 77201(b)(2) requires Colusa County, for its base revenue obligation, to remit \$397,468 for fiscal year (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:

- Colusa County Superior Court correctly distributed \$1 to the Criminal Justice Facility Fund and \$1 to the Courthouse Construction Fund from traffic violator school (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 \$31,112 (77% of \$40,405) as part of the MOE calculations.
- The county added to the MOE calculations \$250 of unallowable revenues.

The qualified revenues reported for FY 2004-05 were \$819,343. The excess, above the base of \$397,468, is \$421,875. This amount should be divided equally between the county and the State, resulting in \$210,938 excess due the State. The county has remitted a previous payment of \$208,046, causing an underremittance of \$2,892.

The qualified revenues reported for FY 2005-06 were \$796,120. The excess, above the base of \$397,468, is \$398,652. This amount should be divided equally between the county and the State, resulting in \$199,326 excess due the State. The county has remitted a previous payment of \$196,601, causing an underremittance of \$2,725.

The qualified revenues reported for FY 2006-07 were \$699,703. The excess, above the base of \$397,468, is \$302,235. This amount should be divided equally between the county and the State, resulting in \$151,118 excess due the State. The county has remitted a previous payment of \$149,205, causing an underremittance of \$1,912.

The qualified revenues reported for FY 2007-08 were \$745,807. The excess, above the base of \$397,468, is \$348,339. This amount should be divided equally between the county and the State, resulting in \$174,170 excess due the State. The county has remitted a previous payment of \$172,352, causing an underremittance of \$1,818.

The qualified revenues reported for FY 2008-09 were \$617,020. The excess, above the base of \$397,468, is \$219,552. This amount should be divided equally between the county and the State, resulting in \$109,776 excess due the State. The county has remitted a previous payment of \$108,398, causing an underremittance of \$1,378.

The qualified revenues reported for FY 2009-10 were \$789,607. The excess, above the base of \$397,468, is \$392,139. This amount should be divided equally between the county and the State, resulting in \$196,069 excess due the State. The county has remitted a previous payment of \$193,982, causing an underremittance of \$2,088.

The qualified revenues reported for FY 2010-11 were \$1,005,398. The excess, above the base of \$397,468, is \$607,930. This amount should be divided equally between the county and the State, resulting in \$303,965 excess due the State. The county has remitted a previous payment of \$301,347, causing an underremittance of \$2,618.

The following table shows the effect of the underremittances:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
Trial Court Improvement Fund–GC §77205:	
FY 2004-05	\$ 2,892
FY 2005-06	2,725
FY 2006-07	1,912
FY 2007-08	1,818
FY 2008-09	1,378
FY 2009-10	2,088
FY 2010-11	2,618
County General Fund	(15,431)

Recommendation

The county should remit \$15,431 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county also should make the corresponding account adjustments.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**FINDING 2—
Omitted or incorrect
distributions on
probation cases**

The Colusa County Probation Department omitted or incorrectly distributed required distributions on adult and juvenile probation cases of the following items:

- 20% surcharge (Penal Code [PC] section 1465.7)
- Court security fees (PC section 1465.8)
- State Court Facilities Construction Fund Penalty–Immediate and Critical Needs Account–Assessment on misdemeanor and felony convictions (GC section 70373)
- State Court Facilities Construction Fund Penalty–Immediate and Critical Needs Account–Assessment on infraction (GC section 70373)
- State Court Facilities Construction Fund–Penalty on criminal fines (GC section 70372(a))
- DNA accounts (GC section 76104.6 and .7)
- Traffic violator school fees (Vehicle Code [VC] section 42007)
- Traffic violator school \$24 fee (VC section 42007.1(b))
- State Court Facilities Construction Fund Penalty–Immediate and Critical Needs Account–Traffic violator school fees (VC section 42007.1)
- Trial Court Improvement Fund–2% automation fee (GC section 68090.8)
- Emergency Medical Services (EMS)–\$2 additional penalty assessment (GC section 76000.5)
- EMS–\$4 air transportation penalty (GC section 76000.10)

The above statutes are described in the respective code sections of the Penal Code, Government Code, and Vehicle Code concerning their implementation date on criminal fines, convictions, or infractions of the related code violations. Probation Department staff members were not aware that the JustWare system was omitting or incorrectly distributing these revenues on adult and juvenile probation cases. This finding was noted in the prior court revenue audit report.

Failure to implement these statutory distributions causes a shortfall in revenues being reported to the state, county, and respective incorporated cities. Measuring the fiscal effect was considered not to be cost-effective because of the difficulty in identifying and redistributing the various accounts, and some distributions the shortfall was not above the auditors' level of materiality.

Recommendation

Colusa County Probation Department should update its system to accurately ensure that the probation orders include the required distributions. Also, the Probation Department should make the corresponding redistributions for the period of July 2011 through the date on which the new system is revised. Currently, the Probation Department is implementing a new case management system called Corrections Software Solutions.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**FINDING 3—
Incorrect
prioritization of
installment payments**

The Colusa County Probation Department's distributions for installment payment are not in accordance with the established payoff priority scheme. Probation Department staff members indicated that they were not aware they had programmed incorrect distribution priority formulas for installment payments. This finding was noted in the prior court revenue audit report.

Effective October 1, 2002, PC section 1203.1d. 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
4. Other reimbursable costs such as civil assessment and installment fees
5. Items increased or added to priorities 2 through 4 after July 1, 2009

Failure to make the required priority distribution causes state and county revenues to be misstated. Measuring the fiscal effect was considered not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Colusa County Probation Department should update its distribution formulas to insure the distributions comply with statutory requirements. Also, the Probation Department should make the corresponding redistributions for the period of July 2011 through the date on which the new system is revised. Currently, the Probation Department is implementing a new case management system called Corrections Software Solutions.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**FINDING 4—
Incorrect distribution
of the \$2 EMS
additional penalty**

The Colusa County Superior Court has implemented distributions for the EMS \$2 additional penalty. However, this revenue is distributed among county penalties instead of the EMS (Maddy Fund) on regular traffic infractions, driving-under-the-influence (DUI) and proof-of-insurance convictions, child restraint and drug violations, and fish and game convictions. On TVS cases, these revenues are being distributed to the county's EMS account, and not treated as a specific distribution to the EMS (Maddy Fund).

The court staff was not aware of the specific distributions for the EMS (Maddy Fund) in that its implementation was at the option of the county board of supervisors and the court has undergone personnel staff changes.

GC section 76000.5 provides, at the option of the county board of supervisors, a \$2 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture levied on criminal offenses. This is separate from any distribution of the county penalty for local emergency medical services pursuant to GC section 76000.

This distribution is to the county's EMS (Maddy Fund) pursuant to Health and Safety Code section 1798.98a for emergency medical services as specified. Of the money deposited into the Maddy Fund, 15% shall be used to fund pediatric trauma centers. Costs of administering money deposited into the Maddy Fund shall be reimbursed from the proceeds, not to exceed 10% of the proceeds.

County penalties are overstated and the specific distribution for the EMS (Maddy Fund) is understated accordingly. Measuring the fiscal effect was considered not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should implement procedures to separate the distributions for the \$2 EMS (Maddy Fund) from the other county penalties. Additionally, the court should make the corresponding redistributions for the period of July 2011 through the date on which the current system is revised.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**FINDING 5—
Inappropriate
distributions on red-
light and red-light
TVS cases**

The Colusa County Superior Court is overstating various distributions on red-light and red-light TVS cases. The court staff indicated that they were not aware of the system's inaccurate distribution formulas for red-light cases, with and without traffic violator school.

PC section 1463.11 requires that 30% of the red-light violation be distributed to the general fund of the county or city in which the offense occurred in this manner: after deducting the allowable 2% court automation fee, 30% of the total bail (including the base fine, state and local penalties, and emergency medical air transportation penalty) to the county or city general fund in which the offense occurred and the balance (70%) is then distributed proportionally pursuant to PC sections 1463.001 and 1464, and GC section 76000.

In addition, if the red-light violation is referred to traffic violator school, VC section 42007.3 requires that the first 30% of the amount collected shall be allocated to the general fund of the city or county in which the offense occurred.

The inappropriate distribution for red-light and red-light traffic violator school violations affects the revenues distributions to the state, county, and cities. Measuring the fiscal effect was considered not to cost-effective because of the few red lights in the county and the difficulty in identifying the cases throughout this audit period.

Recommendation

The Superior Court should implement procedures to correct the formulas within their distribution system for red-light and red-light TVS cases. Additionally, the court should make the corresponding redistributions for the period of July 2011 through the date on which the current system is revised.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**FINDING 6—
Incorrect prioritization
of installment payments**

The Colusa County Superior Court's distributions for installment payments are not in accordance with the established payoff priority scheme. Court staff members indicated that they were not aware their system had not been programmed the correct the distribution formulas for installment payments. This finding was noted in the prior court revenue audit report.

Effective October 1, 2002, PC section 1203.1d 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
4. Other reimbursable costs such as civil assessment and installment fees
5. Items increased or added to priorities 2 through 4 after July 1, 2009

Failure to make the required priority distribution causes state and county revenues to be misstated. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should update its distribution formulas to ensure the distributions comply with statutory requirements. Additionally, the court should make the corresponding redistributions for the period of July 2011 through the date on which the current system is revised.

County Auditor-Controller's response

The Auditor-Controller has agreed with the finding.

Superior Court's Response

The Superior Court has agreed with the finding.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**

COLUSA

COUNTY

Office of
Peggy Scroggins
County Auditor-Controller
Risk Manager
Data Processing Manager



AUDITOR - CONTROLLER

546 Jay Street, Suite 202
Colusa, California 95932
Phone (530) 458-0400
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Robert Zunino
Asst. Auditor - Controller
Asst. Risk Manager
Asst. Data Processing Manager

August 17, 2012.

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

Subject: Colusa County Audit Report of Court Revenues
for the Period of July 1, 2004, through June 30, 2011

Dear Mr. Steven Mar:

We have received the subject audit shown above. We appreciate the diligence and professionalism of State Controller's auditor, Mr. James Robertson, and the assistance that he provided County staff.

The findings have been reviewed by management and staff, and we concur with the findings. Corrective action has been taken and new procedures will be implemented that address the findings.

A check for \$15,431 for the under-remittance of the Trial Court Improvement Fund will be mailed shortly.

Sincerely,

COUNTY OF COLUSA

Peggy Scroggins

PEGGY SCROGGINS
Auditor-Controller

cc: Colusa County Board of Supervisors
Mr. William Fenton, Interim Probation Chief

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

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF COLUSA**

Jeffrey A. Thompson
Judge-Department 1
547 Market Street
Elizabeth Ufkes Olivera
Judge-Department 2
532 Oak Street

532 Oak Street
Colusa, California 95932
(530) 458-5149
Fax: (530) 458-2230

Norbert Jaworski
Court Executive Officer
Clerk of the Court
Jury Commissioner
(530) 458-0683
Fax: (530) 458-2904

August 15, 2012

Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office
Division of Audits
PO Box 942850
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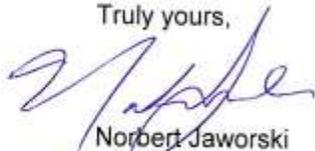
Dear Mr. Mar:

This letter is in response to your July 26, 2012 letter and draft audit report of court revenues received by the Colusa Superior Court on August 6, 2012.

Our Court is committed to distributing revenues in compliance with statutory requirements and has begun the process to correct the issues listed in within the draft audit report. A work order, ticket number 14734, has been created for the programmers at Ciber Inc., the vendor with whom with the court contracts with to host and maintain our case management system.

The Court will continue to strive towards accurate and timely distribution of court revenues.

Truly yours,



Norbert Jaworski
Court Executive Officer

cc: Hon. Jeffrey A. Thompson, Presiding Judge
Peggy Scroggins, Colusa County Auditor-Controller

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>