

# **ORANGE COUNTY**

Audit Report

## **COURT REVENUES**

*July 1, 2003, through June 30, 2009*



**JOHN CHIANG**  
California State Controller

November 2012



**JOHN CHIANG**  
**California State Controller**

November 13, 2012

Jan Grimes  
Deputy Auditor-Controller  
Orange County  
12 Civic Center Plaza, Room 200  
Santa Ana, CA 92702

Alan Carlson  
Chief Executive Officer  
Orange County Superior Court  
700 West Civic Center Drive  
Santa Ana, CA 92702

Dear Ms. Grimes and Mr. Carlson:

The State Controller's Office (SCO) audited Orange County's court revenues for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$1,737,516 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties totaling \$1,175,822; and
- Underremitted Superior Court revenue of \$561,694 due to inequitably distributed collection program operating costs.

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, 2003, through June 30, 2009.

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 Trust Fund, Trial Court Improvement Fund and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.**

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an informal audit review process to resolve a dispute of facts. To request a review, the county should submit a written request for a review, along with supporting documents and information pertinent to the disputed issue(s), within 60 days of receiving this final report. The review request should be submitted to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter Steven Mar, Chief, Local Government Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, CA 95250-5874.

If you have any questions, please contact Mr. Mar at (916) 324-7226.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/sk

cc: John M.W. Moorlach, Chairman  
Orange County Board of Supervisors  
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  
Richard J. Chivaro, Chief Counsel  
State Controller's Office

# Contents

## **Audit Report**

<b>Summary .....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Objective, Scope, and Methodology .....</b>	<b>1</b>
<b>Conclusion .....</b>	<b>2</b>
<b>Follow-Up on Prior Audit Findings .....</b>	<b>2</b>
<b>Views of Responsible Officials.....</b>	<b>3</b>
<b>Restricted Use .....</b>	<b>3</b>
<b>Schedule 1—Summary of Audit Findings by Fiscal Year .....</b>	<b>4</b>
<b>Schedule 2—Summary of Underremittances by Month, Trial Court Trust Fund .....</b>	<b>5</b>
<b>Schedule 3—Summary of Underremittances by Month, Trial Court Improvement Fund .....</b>	<b>6</b>
<b>Schedule 4—Summary of Underremittances by Month, State Court Facilities Construction Fund .....</b>	<b>7</b>
<b>Findings and Recommendations.....</b>	<b>8</b>
<b>Attachment A—County Auditor-Controller’s Response to Draft Audit Report</b>	
<b>Attachment B—Court’s Response to Draft Audit Report</b>	

# 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 Orange County for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$1,737,516 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties totaling \$1,175,822; and
- Underremitted Superior Court revenue of \$561,694 due to inequitably distributed collection program operating costs.

The County Auditor-Controller's Office should remit the balance of \$1,737,516 to the State Treasurer.

## 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, 2003, through June 30, 2009. 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, Office of the District Attorney, 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**

Orange County underremitted \$1,737,516 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

The County Auditor-Controller's Office should remit the balance of \$1,737,516 to the State Treasurer.

## **Follow-Up on Prior Audit Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued March 21, 2008, with the exception of inadequate distribution and reporting of collections (Probation Department).

**Views of  
Responsible  
Officials**

At an exit conference on November 17, 2011, we discussed the audit results with Mark Dubeau, Chief Financial Officer, Orange County Superior Court.

At an exit conference on January 5, 2012, we discussed the audit results with Anil Kukreja, Manager, Court Executive Office, County of Orange; Kaajal Kamdar, Accounting Manager, Probation Department; Lisa Bohan-Johnson, Director, Administrative Services, District Attorney's Office; Kim Dinh, Financial Services Manager, District Attorney's Office; Colin Hoffmaster, General Accounting Manager, Auditor/Controller's Office; Sheri Uikelich, Administration Manager, Court Executive Office; Marjorie Tayht, Collection Manager, Probation Department; Susan Long, Manager, Auditor/Controller's Office; Sarah Omach, Administration Manager, Auditor/Controller's Office; and Lorna Winterroud, Manager Fiscal Services, Probation Department.

The Orange County Chief Deputy Auditor-Controller, Jan E. Grimes, responded to the Draft Audit Report on July 27, 2012 (Attachment A). The Deputy Auditor-Controller requested that we incorporate clarifying language in the Final Audit Report's Audit Finding 1. The Deputy Auditor-Controller concurred with Finding 2.

The Superior Court of California, County of Orange, responded to the Draft Audit Report on August 21, 2012 (Attachment B). The court's response requested that the Final Audit Report incorporate clarifying language as to the cause of Finding 1. The court concurred with the remaining findings.

**Restricted Use**

This report is solely for the information and use of Orange County, the Orange 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

November 13, 2012

**Schedule 1—  
Summary of Audit Findings by Fiscal Year  
July 1, 2003, through June 30, 2009**

Description of Finding Account Title <sup>1</sup> —Code Section	Fiscal Year						Total	Reference <sup>2</sup>
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09		
<b>County</b>								
<b>Underremitted 50% excess of specified codes:</b>								
Trial Court Improvement Fund—GC §77205	\$ 138,392	\$ 138,314	\$ 129,175	\$ 121,459	\$ 119,611	\$ 528,871	\$ 1,175,822	Finding 1
<b>Superior Court</b>								
<b>Underremitted collection program revenues:</b>								
Penalty Fund—PC §1464	114,689	109,857	22,510	9,670	8,953	20,520	286,199	Finding 3
Penalty Fund-Fish and Game Assessment—PC §1464	—	259	—	167	176	—	602	Finding 3
Restitution Fund—PC §1202.4	8,415	18,628	3,449	1,559	798	2,849	35,698	Finding 3
Victim Indemnity Fund—PC §1463.18	680	642	—	—	—	172	1,494	Finding 3
Trail Court Improvement Fund—GC §68090.8	9,095	9,877	2,151	1,139	827	2,150	25,239	Finding 3
General Fund—PC §1465.7	32,714	14,353	11,591	16,722	39,521	26,970	141,871	Finding 3
DNA Identification Fund—GC §76104.63	—	—	—	(1,461)	573	2,545	1,657	Finding 3
Trial Court Trust Fund—PC §1465.8	(1,478)	24,663	(643)	922	(2,503)	(6,975)	13,986	Finding 3
Court Facilities Construction Fund—GC §70372(a)	13,403	20,707	4,739	1,540	2,147	4,829	47,365	Finding 3
Fish and Game Preservation Fund—F&GC §13003	364	179	—	—	120	126	425	Finding 3
Transportation Fund—PC §1463.22(b)	1,554	—	—	—	—	—	364	Finding 3
General Fund—PC §1463.22(c)	506	—	—	—	—	—	1,554	Finding 3
General FundH&SC §11502	3,920	1,284	—	—	100	(101)	1,789	Finding 3
Penalty Fund—VC §40611	882	3,722	298	745	177	857	9,719	Finding 3
Penalty Fund—PC §1464(b)	—	—	—	—	—	—	882	Finding 3
Court Facilities Construction Fund—GC §70373	—	—	—	—	—	(5,626)	(5,626)	Finding 3
Court Facilities Construction Fund—VC §40611	—	—	—	—	—	(1,290)	(1,290)	Finding 3
Court Facilities Construction Fund—VC §42007.1	184,744	—	—	—	—	(234)	(234)	Finding 3
Totals, Superior Court	184,744	204,171	44,095	31,003	50,889	46,792	561,694	
Net amount underpaid (overpaid) to the State Treasurer	\$ 323,136	\$ 342,485	\$ 173,270	\$ 152,462	\$ 170,500	\$ 575,663	\$ 1,737,516	

Legend: GC = Government Code; PC = Penal Code; F&GC = Fish and Game Code; H&SC = Health and Safety Code; VC = Vehicle Code

<sup>1</sup> 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.

<sup>2</sup> See the Findings and Recommendations section.

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Trust Fund  
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ (123)	\$ 2,055	\$ (53)	\$ 76	\$ (208)	\$ (581)
August	(123)	2,055	(53)	76	(208)	(581)
September	(123)	2,055	(53)	76	(208)	(581)
October	(123)	2,055	(53)	76	(208)	(581)
November	(123)	2,055	(53)	76	(208)	(581)
December	(123)	2,055	(53)	76	(208)	(581)
January	(123)	2,055	(53)	76	(208)	(581)
February	(123)	2,055	(53)	76	(208)	(581)
March	(123)	2,055	(53)	76	(208)	(581)
April	(123)	2,055	(53)	76	(208)	(581)
May	(123)	2,055	(53)	76	(208)	(581)
June	(125)	2,058	(60)	86	(215)	(584)
Total underremittances to the State Treasurer	\$ (1,478)	\$ 24,663	\$ (643)	\$ 922	\$ (2,503)	\$ (6,975)

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.

**Schedule 3—  
Summary of Underremittances by Month  
Trial Court Improvement Fund  
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ 12,290	\$ 12,349	\$ 10,943	\$ 10,216	\$ 10,036	\$ 44,251
August	12,290	12,349	10,943	10,216	10,036	44,251
September	12,290	12,349	10,943	10,216	10,036	44,251
October	12,290	12,349	10,943	10,216	10,036	44,251
November	12,290	12,349	10,943	10,216	10,036	44,251
December	12,290	12,349	10,943	10,216	10,036	44,251
January	12,290	12,349	10,943	10,216	10,036	44,251
February	12,290	12,349	10,943	10,216	10,036	44,251
March	12,290	12,349	10,943	10,216	10,036	44,251
April	12,290	12,349	10,943	10,216	10,036	44,251
May	12,290	12,349	10,943	10,216	10,036	44,251
June <sup>1</sup>	12,297	12,352	10,953	10,222	10,042	44,260
Total underremittances to the State Treasurer	<u>\$ 147,487</u>	<u>\$ 148,191</u>	<u>\$ 131,326</u>	<u>\$ 122,598</u>	<u>\$ 120,438</u>	<u>\$ 531,021</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.

<sup>1</sup> Includes maintenance-of-effort underremittances (Finding 1) as follows.

Fiscal Year					
2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<u>\$ 138,392</u>	<u>\$ 138,314</u>	<u>\$ 129,175</u>	<u>\$ 121,459</u>	<u>\$ 119,611</u>	<u>\$ 528,871</u>

**Schedule 4—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ 1,116	\$ 1,725	\$ 394	\$ 128	\$ 178	\$ (193)
August	1,116	1,725	394	128	178	(193)
September	1,116	1,725	394	128	178	(193)
October	1,116	1,725	394	128	178	(193)
November	1,116	1,725	394	128	178	(193)
December	1,116	1,725	394	128	178	(193)
January	1,116	1,725	394	128	178	(193)
February	1,116	1,725	394	128	178	(193)
March	1,116	1,725	394	128	178	(193)
April	1,116	1,725	394	128	178	(193)
May	1,116	1,725	394	128	178	(193)
June	1,127	1,732	405	132	189	(198)
Total underremittances to the State Treasurer	<u>\$ 13,403</u>	<u>\$ 20,707</u>	<u>\$ 4,739</u>	<u>\$ 1,540</u>	<u>\$ 2,147</u>	<u>\$ (2,321)</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.

# Findings and Recommendations

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

The County Auditor-Controller's Office underremitted by \$1,175,822 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal years starting July 1, 2003, and ending June 30, 2009.

Government Code (GC) section 77201(b)(2) requires Orange County, for its base revenue obligation, to remit \$19,572,810 for fiscal year (FY) 2003–04 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 from the following conditions attributable to the court:

- The court did not deduct the \$2 applicable to the county traffic school Courthouse Construction Fund solely from the county 23% Traffic Violator School (TVS) fees account when performing the computations, as required by the December 31, 1997 GC section 77205. This error caused the county 77% TVS account fees to be understated by \$1,409,166.
- The court inequitably distributed collection-program operating costs from its Comprehensive Court Collections Program during the period. The inequitable distribution caused the computations to be understated by \$106,623.
- The court underremitted \$1,085,526 in penalties from TVS cases during January 1, 2009, through June 30, 2009. This error caused the county 77% TVS account fees computations to be understated by \$835,855.

The qualified revenues reported for FY 2003-04 were \$31,470,254. The excess, above the base of \$19,572,810, is \$11,897,444. This amount should be divided equally between the county and the State, resulting in \$5,948,722 excess due the State. The county has remitted a previous payment of \$5,810,330, causing an underremittance of \$138,392.

The qualified revenues reported for FY 2004-05 were \$30,202,149. The excess, above the base of \$19,572,810, is \$10,629,339. This amount should be divided equally between the county and the State, resulting in \$5,314,669 excess due the State. The county has remitted a previous payment of \$5,176,355, causing an underremittance of \$138,314.

The qualified revenues reported for FY 2005-06 were \$30,569,326. The excess, above the base of \$19,572,810, is \$10,996,516. This amount should be divided equally between the county and the State, resulting in \$5,498,258 excess due the State. The county has remitted a previous payment of \$5,369,083, causing an underremittance of \$129,175.

The qualified revenues reported for FY 2006-07 were \$30,190,898. The excess, above the base of \$19,572,810, is \$10,618,088. This amount should be divided equally between the county and the State, resulting in \$5,309,044 excess due the State. The county has remitted a previous payment of \$5,187,585, causing an underremittance of \$121,459.

The qualified revenues reported for FY 2007-08 were \$29,729,107. The excess, above the base of \$19,572,810, is \$10,156,297. This amount should be divided equally between the county and the State, resulting in \$5,078,149 excess due the State. The county has remitted a previous payment of \$4,958,538, causing an underremittance of \$119,611.

The qualified revenues reported for FY 2008-09 were \$26,839,319. The excess, above the base of \$19,572,810, is \$7,266,509. This amount should be divided equally between the county and the State, resulting in \$3,633,255 excess due the State. The county has remitted a previous payment of \$3,104,384, causing an underremittance of \$528,871.

The following table shows the effect of the underremittances:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2003-04	\$ 138,392
FY 2004-05	138,314
FY 2005-06	129,175
FY 2006-07	121,459
FY 2007-08	119,611
FY 2008-09	528,871
County General Fund	(1,175,822)

Recommendation

The county should remit \$1,175,822 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 should also make the corresponding account adjustments.

County Auditor-Controller’s Response

The County Auditor-Controller requests that the SCO add certain assertions to the finding as noted in Attachment A.

Superior Court’s Response

The court believes sufficient detail is provided to the county upon distribution by the Court (Attachment B).

SCO’s Comment

The County Auditor-Controller relies on data received from the court. The Auditor-Controller has no way of verifying if the data is accurate. The Court is responsible for deducting the \$2.00 per case from the 23% share of the County TVS. We changed the third paragraph on page 8 to

reflect the cause of the finding. The new sentence reads, "The error occurred from the following conditions attributable to the court." We also changed the second word in the first bullet on page 8 from "county" to "court" to reflect the cause of the finding.

The finding remains as stated with the modified language.

**FINDING 2—  
Inadequate distribution  
and reporting of  
collections (Probation  
Department)**

As noted in our prior audit, the Probation Department maintains a suspense cash-receipt journal account. The suspense account contains undistributed revenue collections for the period of March 30, 1995, through June 30, 2009. The account balance as of June 30, 2009, is \$151,385. The department did not identify and distribute the collections in a timely manner.

The error occurred because entries were classified as unidentified payments.

The average daily balance in the suspense account was \$151,385.

GC sections 50050 through 50052 declare that moneys escheat after a three-year period and concurrent expiration date on publication notice.

GC section 68101 requires any judge imposing or collecting fines or forfeitures to keep a record of them. Therefore, it is the department's responsibility to maintain a complete and valid recordkeeping system.

Section 5.31 of the SCO's Manual of Accounting and Audit Guidelines for Trial Courts requires that state collections made by all county departments for the month be deposited in the county treasury and remitted to the State every month. Section 9.11 requires the remittance advice to identify the month of collection (deposit).

The SCO audit for the period of July 1, 1994, through June 30, 1998, issued on December 31, 1999, and the audit for the period of July 1, 1998 through June 30, 2003, issued on March 21, 2008, recommended that the department establish procedures to eliminate unidentified payments. The department responded that it attempts to identify payments within one month of receipt, but some are never identifiable and thus eligible for escheatment. The suspense account ending balance on June 30, 1998, was \$305,632, and on June 30, 2003, was \$263,200. We have concluded that no appropriate corrective action has been taken.

Recommendation

The balance of \$151,385 in the suspense account should be identified and distributed.

The department should establish a complete and valid recordkeeping system that properly identifies and distributes all revenue collections.

The department should enforce the escheat provisions for the unidentifiable payments.

County Auditor-Controller's Response

The County Auditor-Controller concurs with the finding as noted in Attachment A.

Superior Court's Response

The finding does not apply to the court.

**FINDING 3—  
Collection program  
operating costs  
inequitably distributed  
by the Superior Court**

The Superior Court did not equitably distribute operating costs from the court's comprehensive collection program during the period of July 2003 through June 2009, resulting in a net correction of \$1,264,299. The court used account caps and estimated the monthly operating costs. The operating costs should be allocated based only on delinquent monthly revenue collections and their corresponding delinquent qualifying accounts.

Additionally, the court did not properly allocate the operating costs to fees. Fees and restitution orders are not eligible for collection in a comprehensive collection program unless the fee or restitution order is associated with the underlying fine and forfeiture originally due and payable on an account for collection in a comprehensive collection program. Furthermore, Senate Bill (SB) 246 was passed and became effective on January 1, 2005; it changed the language of Penal Code (PC) section 1463.007 to include fees.

PC section 1463.007 allows a county or court collecting entity that implemented a Comprehensive Collection Program that satisfies specific statutory requirements to deduct program operating costs from program revenue collections. This section further allows a county or court collecting entity to distribute those amounts to the county treasury prior to distribution of those revenues to the state, court, county, and cities. The program must have a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operated costs.

The SCO's Comprehensive Collection Program Accounting Guidelines, dated May 1997 and revised in June 2006, declares that cost recovery in the program is limited to the revenues collected from the accounts in the program. Therefore, any revenue collected from accounts that qualify for a comprehensive collection program may be deposited in the court or county treasury, and costs may be recovered before revenues are distributed to other governmental entities or programs. Consequently, the court or county must be able to distinguish revenues collected from qualifying accounts and their related costs separately from those accounts that do not meet the statutory requirements for collection in a comprehensive collection program. Estimated percentages are not an allowable method of substantiating the time an employee spends performing qualifying collections. The collections in excess of the related supportable operating costs are required to be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until

qualifying revenues are available to fully recover those eligible costs. The victims' restitution orders cannot be reduced and are not part of revenues that can be used for cost recovery.

The inappropriate distributions had the following effect:

Account Title	Understated/(Overstated)
State Penalty Fund	\$ 286,199
State Penalty Fund–Fish and Game Assessment	602
State Restitution Fund–PC §1204.4	35,698
State Victim Indemnity Fund–P C §1463.18	1,494
State Trial Court Improvement Fund–GC §68090.8	25,239
State General Fund–PC §1465.7	141,871
State DNA Identification Fund –GC §76104.6	1,657
State Court Security Fee–PC §1465.8	13,986
State Court Facilities Construction Fund–GC §70372(a)	47,365
State Fish and Game Preservation Fund–F&GC §13003	425
State Motor Vehicle Account–PC §1463.22(b)	364
State General Fund–PC §1463.22(c)	1,554
State General Fund–H & SC §11502	1,789
State Penalty Fund–Proof of Corrections–VC §40611	9,719
State Penalty Fund–Traumatic Brain Injury–PC §1464(b)	882
State Court Facilities Construction Fund–Immediate & Critical Needs Account–Assessment on infraction convictions–GC §70373	(5,626)
State Court Facilities Construction Fund–Immediate & Critical Needs Account–Proof of Corrections–VC §40611	(1,290)
State Court Facilities Construction Fund–Immediate & Critical Needs Account–Traffic Violator School Fee–VC §420007.1	(234)
	<u>\$ 561,694</u>
County Accounts:	
Alcohol Abuse Education	3,476
Auto Warrant Fee	(27,133)
Bicycle Safety Helmet	522
Citation Processing	(233)
County Share of City Fines	46,814
Court Construction	(751)
HCA Child Restraint	4,327
HOV Diamond	5,686
DUI Lab–PC §1463.14	6,578
Emergency Medical Services	3,371
Fish and Game	565
Proof of Corrections	9,926
County General Fines	3,763
Alcohol Program Fee	4,144
Criminal Justice Facilities Construction	(796)
Interest Fee	536
Crime Lab	2,711
Litter Road Cleanup	147
County Penalty–GC §76000	279,163
DNA	9,699
Penalty 30%–PC §1464	118,086
OCTA HOV	5,657
Traffic Violator School General–VC §42007	(73,902)
Traffic Violator School \$24 Fee–VC §42007.1	(19,009)
Motor Vehicle Fines	35,845
T/S Contract NTSI	(10,240)
T/S Court Facility	(5,752)
	<u>403,200</u>

Account Title	Understated/(Overstated)	
City Accounts:		
Aliso Viejo	(427)	
Anaheim	28,276	
Brea	11,897	
Buena Park	63	
Costa Mesa	28,256	
CSUF	299	
Cypress	1,742	
Dana Point	2,675	
Fountain Valley	2,448	
Fullerton	20,116	
Garden Grove	9,278	
Huntington Beach	9,233	
Irvine	23,571	
Laguna Beach	774	
Laguna Hills	3,484	
Laguna Niguel	850	
Laguna Woods	1,055	
La Habra	8,464	
La Palma	412	
Lake Forest	16,694	
Los Alamitos	3,080	
Mission Viejo	1,095	
Newport Beach	11,973	
Orange	16,477	
Placentia	5,553	
RSM-Motor Vehicle	(372)	
Santa Ana	49,483	
San Clemente	409	
San Juan Capistrano	8,202	
SAUSD	5,363	
Seal Beach	870	
South Coast Air Quality	404	
Stanton	2,232	
Tustin	16,999	
UCI Police	844	
Yorba Linda	2,142	
Villa Park	689	
Westminster	4,802	299,405
Court Accounts:		
Civil Assessment	(1,444,948)	
Court Costs	90,917	
Abstract Fees	(3,966)	
Returned Check	1,347	
Night Court	7,470	
Installment Fee	83,595	
Special Collections	550	
DMV Holding Fee	(5,394)	
PC §1463.007	6,130	(1,264,299)

### Recommendation

The court should remit to the State Treasurer \$561,694 and report on the remittance advice form (TC-31) increases of \$561,694 per the above-

noted state accounts. The county should also make the corresponding account adjustments.

Additionally, the court comprehensive collection program operating costs need to be identified, matched, and offset against program revenues. The operating costs should be allocated only to the delinquent accounts for which collections were made. The delinquent fees collected and associated with the program require operating costs allocations.

Furthermore, a reallocation should be made from July 2009, through the date on which the system is corrected.

County Auditor-Controller’s Response

The finding did not apply to the County Auditor-Controller.

Superior Court’s Response

The court concurs with the audit finding (Attachment B).

**FINDING 4—  
Underremitted  
penalties from Traffic  
Violator School Cases**

The Superior Court did not properly distribute \$1,519,737 applicable to TVS cases for the period of January 2009 through June 2009. The proper distributions were not made as required by Vehicle Code (VC) section 42007. Furthermore, GC section 77205 requires that the \$2 distribution to the County Construction Funds be deducted solely from the county 23% TVS fee account. The incorrect distributions overstated the county penalties, and understated the county’s TVS fee account and the county Emergency Medical Services account. The error was due to improper computerized distribution formulas for TVS cases.

The SCO’s Office Manual of Accounting and Audit Guidelines for Trial Courts, Revision 16, dated January 2004, and Revision 19, dated January 2006, denotes the required procedures on criminal-related fee distributions for VC section 42007-related cases.

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 distributions from the penalties had the following effect:

Account Title	Understated/ (Overstated)
County Traffic Violator School Account–VC §42007	\$ 1,085,526
County Emergency Medical Services Account–GC §76000.5	434,211
County Penalty Account–GC §76000	\$ (1,519,737)

The county fines were also overstated but the errors were not material.

Recommendation

The court should make the corresponding account adjustments. Additionally, a reallocation should be made from July 2009, through the date on which the system is corrected.

The court should revise the TVS distribution formulas to conform with the required VC section 42007 distributions and the formulas for county penalties. Furthermore, the court and the county should review the formulas for compliance with GC section 77205 computations.

County Auditor-Controller's Response

The finding did not apply to the County Auditor-Controller.

Superior Court's Response

The court concurs with the audit finding (Attachment B).

**FINDING 5—  
Underremitted state  
penalties and  
overremitted state court  
facility construction  
penalties from red-light  
violations**

The Superior Court inappropriately did not distribute 30% of state court facility construction penalties from red light traffic violations for non-TVS cases from February 2008 through June 2009. In addition, state and county penalties were under-distributed while the cities received the consequential portion. Court personnel indicated that the required distributions were made in accordance with the SCO's Manual of Accounting and Audit Guidelines for Trial Courts, Revision 20, dated December 2006. These guidelines were incorrect, and were corrected by the SCO on Revision 21, dated July 2009. The court must conform to laws applicable at the time of distribution. The error began when the Emergency Medical Services 2 account was implemented.

PC section 1463.11 requires 30% of base fines and state and county penalties pursuant to red light violations to be distributed to the general fund of the county or city in which the offense occurred. State Court Facility Construction penalties are not referenced in this statute; however, GC section 70372a is subject to the distribution requirements in accordance with PC section 1463. Therefore, State Court Facility Construction penalties are subject to the 30% allocation. The remaining 70% should be distributed in accordance with PC section 1463 or VC section 42007 when traffic violator school is elected.

The inappropriate distribution of 30% of red-light violation penalties affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. We did not measure the dollar effect between the county, state, and cities, as doing so did not appear to be cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The court should implement procedures to improve the output records to adequately provide an accurate distribution of red-light base fines and penalties to comply with statutory requirements.

Additionally, a reallocation should be made from July 2009, through the date on which the system is corrected.

County Auditor-Controller's Response

The finding did not apply to the County Auditor-Controller.

Superior Court's Response

The court believes the finding should not be included in the final report, as the finding does not include any adjustments during the current audit period.

SCO's Comment

The SCO's objective is to report on adjustments and on findings that, if left uncorrected, could eventually result in adjustments.

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

---



**ORANGE COUNTY  
AUDITOR-CONTROLLER**

HALL OF RECORDS  
12 CIVIC CENTER PLAZA, ROOM 200  
POST OFFICE BOX 567  
SANTA ANA, CALIFORNIA 92702-0567

(714) 834-2450 FAX: (714) 834-2569

[www.ac.ocgov.com](http://www.ac.ocgov.com)

**JAN E. GRIMES, CPA**  
CHIEF DEPUTY  
AUDITOR-CONTROLLER

**PHILLIP T. DAIGNEAU**  
DIRECTOR  
INFORMATION TECHNOLOGY

**STEVEN P. RODERMUND**  
PROGRAM MANAGER  
CAPS- PROGRAM MANAGEMENT OFFICE

July 27, 2012

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

Dear Mr. Mar,

In response to your letter dated July 9, 2012 addressing the State Controller's Office audit of the Orange County court revenues for the period of July 1, 2003, through June 30, 2009, the County has the following comments on Findings 1 and 2.

**Finding 1 – Underremitted excess of qualified fines, fees, and penalties**

The County requests the following changes to paragraphs 3 and 4 as presented in the draft Court Revenues audit for the period of July 1, 2003 through June 30, 2009.

*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 attributable to the Court:*

- *The County prepares the calculations and entries for the MOE distribution based solely on the information provided by the Court. The Court incorrectly distributed the Traffic Violator School fees and as a direct result the MOE calculations were effected and the County did not deduct the \$2 applicable to the County traffic school courthouse Construction Fund solely from the county 23% Traffic Violator School (TVS) fees account when performing the computations, as required by the December 31, 1997 GC section 77205. This error caused the County 77% TVS account fees to be understated by \$1,409,166.*

The changes noted above were discussed with the State Auditors, Mr. Pupo and Mr. Vintze, at the Exit Conference held on January 5, 2012. At that time it was agreed that the error would be attributable to the Court and not the County. The County received a revised draft that was updated by Mr. Pupo on January 6<sup>th</sup> which reflects the change. This document is attached for your reference. We request that Finding 1 be changed to attribute the error solely to the Court.

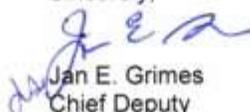
**Finding 2 – Inadequate distribution and reporting of collections (Probation Department)**

Concur. The suspense balance identified in the audit report represents a snapshot in time. The Probation Suspense Account ranged from a balance of \$1,540,000 to \$151,000 during the audit period, and trended downward by 90%, a significant improvement, due to system and staff performance. Probation's progress in this arena is also noted in the audit report. Probation took substantial corrective actions during the audit period to improve monitoring the Department's suspense account. First, Probation Financial Operations and Information Technology staff identified and made significant Financial System improvements to permit the vast majority of what were formerly classified as unidentified items within the suspense account to automatically search Probation's Financial System and correctly post. Second, Probation requested and received funding to hire a team of five personnel in 2007 to clear the backlog of over \$1.5 million in suspense at that time. Due to the success of the program and funding limitations, that team has been disbanded.

Probation is committed to continue improvements to clear items from its suspense account. In the new Integrated Probation Financial System (IPFS), a new Journal is being designed, the goal of which is to separate temporarily unidentified postings from true suspense items. Further improvements will be made as Department funding permits.

Probation fully enforces escheat provisions, per California Government Code sections 50050-50052. The Department has a very effective annual escheatment program in place and vigorously pursues proper identification and assignment of monies in its trust in order to minimize unclaimed funds that must be escheated to the State.

Sincerely,

  
Jan E. Grimes  
Chief Deputy  
Auditor-Controller

JEG/sl

Attachment

cc:

Alan Carlson, Chief Executive Officer  
Orange County Superior Court

Kaajal Kamdar, Accounting Manager  
Orange County Probation Department

Kim Dinh, Manager  
Orange County Office of District Attorney

## **County**

### **FINDING 1 – Underremitted excess of qualified fines, fees, and penalties**

The County Auditor and Controller's Office underremitted by \$1,175,822 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal-year (FY) periods starting July 1, 2003 and ending June 30, 2009.

Government Code section 77201(b)(2) requires Orange County, for its base revenue obligation, to remit \$19,572,810 for FY 2003-04 and each fiscal year thereafter. In addition, Government Code section 77205(a) requires the county to remit to the Trail Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred from the following conditions attributable to the court:

- The county did not deduct the \$2 applicable to the county traffic school courthouse construction fund solely from the county 23% TVS fees account during the period when performing the computations. GC 77205 declares the computations should be as it read on December 31, 1997 for the corresponding accounts. This understated the county 77% TVS account fees by \$1,409,166.
- The court inequitably distributed collection program operating costs from its Comprehensive Court Collections Program during the period. The inequitable distribution understated the computations by \$106,623.
- The court underremitted \$1,085,526 penalties from traffic violator school cases during January 1, 2009 through June 30, 2009. This understated the county 77% TVS account fees computations by \$835,855.

*Orange County*

*Court Revenues*

The qualified revenues reported for FY 2003-04 were \$31,470,254. The excess, above the base of \$19,572,810, is \$11,897,444. This amount should be divided equally between the county and the State, resulting in \$5,948,722 excess due the State. The county has remitted a previous payment of \$5,810,330, causing an underremittance of \$138,392.

The qualified revenues reported for FY 2004-05 were \$30,202,149. The excess, above the base of \$19,572,810, is \$10,629,339. This amount should be divided equally between the county and the State, resulting in \$5,314,669 excess due the State. The county has remitted a previous payment of \$5,176,355, causing an underremittance of \$138,314.

The qualified revenues reported for FY 2005-06 were \$30,569,326. The excess, above the base of \$19,572,810, is \$10,996,516. This amount should be divided equally between the county and the State, resulting in \$5,498,258 excess due the State. The county has remitted a previous payment of \$5,369,083, causing an underremittance of \$129,175.

The qualified revenues reported for FY 2006-07 were \$30,190,898. The excess, above the base of \$19,572,810, is \$10,618,088. This amount should be divided equally between the county and the State, resulting in \$5,309,044 excess due the State. The county has remitted a previous payment of \$5,187,585, causing an underremittance of \$121,459.

The qualified revenues reported for FY 2007-08 were \$29,729,107. The excess, above the base of \$19,572,810, is \$10,156,297. This amount should be divided equally between the county and the State, resulting in \$5,078,149 excess due the State. The county has remitted a previous payment of \$4,958,538, causing an underremittance of \$119,611.

The qualified revenues reported for FY 2008-09 were \$26,839,319. The excess, above the base of \$19,572,810, is \$7,266,509. This amount should be divided equally between the county and the State, resulting in \$3,633,255 excess due the State. The county has remitted a previous payment of \$3,104,384, causing an underremittance of \$528,871.

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

---



## Superior Court of California County of Orange

Chambers of  
**THOMAS BORRIS**  
PRESIDING JUDGE

**ALAN CARLSON**  
CHIEF EXECUTIVE OFFICER

**MARK DUBEAU**  
CHIEF FINANCIAL &  
ADMINISTRATIVE OFFICER

700 CIVIC CENTER DRIVE WEST  
SANTA ANA, CA 92702-1994

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

In response to your letter dated July 9, 2012 addressing the State Controller's Office audit of the Orange County Court revenues for the period July 1, 2003, through June 30, 2009, Orange County Superior Court ("Court") has prepared the following comments. In addition, the Court has addressed the County responses provided to the State Controller's Office in the letter dated July 27, 2012.

### **Finding 1 – Underremitted excess of qualified findings, fees, and penalties**

Paragraph 3 identifies 3 conditions that caused the County to underremit funds to the State Treasurer. The Court concurs with condition 1, which states the following:

- *The County did not deduct the \$2 applicable to the county traffic school Courthouse Construction Fund solely from the 23% Traffic Violator School (TVS) fees account when performing the computations, as required by the December 31, 1997 GC section 77205. The error caused by the county 77% TVS account fees to be understated by \$1,409,166.*

The Court separates the distribution of the \$2 fee applicable to the County traffic school Courthouse Fund when revenues are reported to the County. The \$2 was distributed with \$1 to Criminal Justice Facilities Construction Fund (COJF) and \$1 to the Court Construction Fund (TCCF) per the SCO's Manual of Accounting and Audit Guidelines, Appendix C.

The County responded to this finding on July 27, 2012 and requested that this paragraph be changed to reflect that the County prepares the calculations based solely on the information provided by the Court and that the Court incorrectly distributed the Traffic Violator School Fees which directly affected the County's MOE calculations. The paragraph above outlines the

Page 2

details provided to the County upon distribution by the Court and we believe that the County was provided with sufficient information to perform their distribution calculations. The determination of computations subsequent to the Court's distribution required in the County's MOE is the sole responsibility of the County. The Court should not be held responsible for penalties occurring as a result of the failure of the County to not deduct the \$2 from the 23% TVS account. The Court disagrees with the County's request to change paragraph 3 condition 1 and agrees with the language as presented in the SCO draft report.

The Court agrees with paragraph 3 conditions 2 and 3 as presented in the draft audit report, except we are unable to verify the understated distribution in condition 2 of \$106,623. The Court requests the formula and supporting documentation used in the calculation to further investigate the amount stated. The penalties assessed under conditions 2 and 3 should be the responsibility of the Court. Please see further comments on Findings 3 and 4 for additional discussion.

**Finding 3 – Collection program operation costs inequitable distributed by the Superior Court**

The Court concurs with the audit finding. The Court has always, and continues to strive to ensure distributions are made in accordance with applicable laws and guidelines. Court personnel lacked sufficient training on the applicable guidelines to verify system calculations. In addition, limited access to data within the case management system prevented the Court from accurately validating revenues that were recovered.

Effective July 1, 2011, the Court's case management system was updated to comply with the AOC Comprehensive Collection Program Guidelines and Standards for Cost Recovery and Penal Code sections 1463.007 and 1463.010. The Court has prepared a manual calculation to validate system generated distribution amounts to ensure compliance.

The Comprehensive Court Collections Program ("CCCP") adjustments for the audit period from July 1, 2003, through June 30, 2009, were reported and corrected with the Court's December 2011 distribution. A separate TC-31 report was provided for the State's portion of this adjustment.

The CCCP adjustments for the period of July 1, 2009, through June 30, 2011, were reported and corrected with the Court's January 2012 distribution. A separate TC-31 report was provided for the State's portion of this adjustment.

**Finding 4 – Underremitted penalties from Traffic Violator School Cases**

The Court concurs with the audit finding. The distribution error is a result of a misinterpretation of the requirements prescribed in the SCO's Manual of Accounting and Audit Guidelines for Trial Courts, Appendix C. The adjustments for the audit period from January 1, 2009, through June 30, 2009, were reported and corrected with the December 2011 distribution.

**Page 3**

The Court's case management system was updated to comply and redistribute TVS cases with violation dates beginning on or after July 1, 2009. The necessary adjustment for such time period was reported and corrected with the Court's June 2012 distribution. The programming ensured that any future payments on TVS cases with violation dates beginning on or after July 1, 2009 will be in compliance.

**Finding 5 – Underremitted penalties and overremitted state court facility construction penalties from red-light violations**

As the SCO's recommendation does not include any adjustments during the current audit period, the Court recommends this finding should not be included in the final report.

In response the SCO's Manual of Accounting and Audit Guidelines for Trial Courts, Revision 21, the Court's case management system has been corrected to redistribute red light cases with a date of violation of July 28, 2009 to present. Adjustments to prior distribution were reported and included in the Court's February, March, and June 2012 distributions.

**Conclusion**

The Court's plans for remediation of these audit findings include increased training, analytical procedures, and enhancements in documentation.

The Court is in the process of identifying training requirements and resource allocations to limit further distribution issues. Management will improve documentation of distribution procedures and will perform periodic reviews of its policies to become better prepared for staff and management turnover. Guidance over distribution is not always transparent and originates from several different sources. The Court requests increased assistance from SCO and AOC in applying distribution laws and guidelines.

The Court will communicate with the County on interpretation of distribution guidance and review distribution breakdowns to facilitate understanding of interdependent calculations.

*Orange County*

*Court Revenues*

The underremitances had the following effect:

Account Title

Understated/  
(Overstated)

Trial Court Improvement Fund - Government Code section 77205:

FY 2003-04	\$138,392
FY 2004-05	138,314
FY 2005-06	129,175
FY 2006-07	121,459
FY 2007-08	119,611
FY 2008-09	528,871
County General Fund	(1,175,822)

Recommendation

The county should remit \$1,175,822 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund-Government Code section 77205. The county should also make the corresponding account adjustments.

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

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