

# **SAN LUIS OBISPO COUNTY**

Audit Report

## **COURT REVENUES**

*July 1, 2001, through June 30, 2009*



**JOHN CHIANG**  
California State Controller

November 2010



**JOHN CHIANG**  
California State Controller

November 30, 2010

Honorable Gere Sibbach  
Auditor/Controller  
County of San Luis Obispo  
1055 Monterey Street, Room D220  
San Luis Obispo, CA 93408

Wayne Hall  
Court Executive Officer  
Superior Court of California  
San Luis Obispo County  
1035 Palm Street, Room 355  
San Luis Obispo, CA 93408

Dear Mr. Sibbach and Mr. Hall:

The State Controller's Office (SCO) audited San Luis Obispo County's court revenues for the period of July 1, 2001, through June 30, 2009.

Our audit disclosed that the county underremitted a net of \$1,667,690 in court revenues to the State Treasurer because it:

- Underremitted probation department fines, penalties, restitution, and fees by \$595,846;
- Underremitted state court facility construction penalties, 20% surcharges, and 2% court automation fees from traffic violator school bail by \$575,329;
- Underremitted probation department revenues from the Comprehensive Collection Program by \$564,578;
- Overremitted traffic violator school fees and red-light violations by \$314,538 due to posting errors;
- Underremitted 50% excess of fines, fees, and penalties by \$252,075;
- Underremitted proof-of-correction fines by \$46,212;
- Overremitted state domestic violence fees by \$33,026; and
- Overremitted 2% court automation fees by \$18,786.

The county made a payment of \$1,667,690 on September 1, 2010.

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, 2001, 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:

Mike Spalj, 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

**Once the county has paid the underremitted Trial Court Improvement Fund and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts at the rate of 18% per annum and bill the county accordingly, in accordance with Government Code sections 68085, 70353, and 70377.**

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: James P. Erb, CPA  
Assistant Auditor-Controller  
San Luis Obispo County  
Michelle Frazier, Court Fiscal Officer  
Superior Court of California  
San Luis Obispo County  
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  
Scott Taylor, 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 San Luis Obispo County for the period of July 1, 2001, through June 30, 2009.

Our audit disclosed that the county underremitted a net of \$1,667,690 in court revenues to the State Treasurer because it:

- Underremitted probation department fines, penalties, restitution, and fees by \$595,846;
- Underremitted state court facility construction penalties, 20% surcharges, and 2% court automation fees from traffic violator school bail by \$575,329;
- Underremitted probation department revenues from the Comprehensive Collection Program by \$564,578;
- Overremitted traffic violator school fees and red-light violations by \$314,538 due to posting errors;
- Underremitted 50% excess of fines, fees, and penalties by \$252,075;
- Underremitted proof-of-correction fines by \$46,212;
- Overremitted state domestic violence fees by \$33,026; and
- Overremitted 2% court automation fees by \$18,786.

## 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 section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

Government Code section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. Government Code section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, Government Code section 12410 provides the State Controller 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, 2001, through June 30, 2009. We did not review the timeliness of any remittances the county may be required to make under Government Code sections 70353, 77201.1(b)(1), and 77201(b)(2).

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

We performed the following procedures:

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

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

## **Conclusion**

San Luis Obispo County underremitted a net of \$1,667,690 in court revenues to the State Treasurer. The underremittances and overremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

**Follow-Up on Prior  
Audit Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued September 30, 2002, with the exception of Finding 4, for underremitted proof-of-correction fees.

**Views of  
Responsible  
Officials**

We issued a draft audit report on August 25, 2010. James P. Erb, CPA, Assistant Auditor-Controller, responded by letter dated September 16, 2010 (Attachment A), agreeing with the audit results. Further, Michelle Frazier, Court Fiscal Officer, responded by letter dated September 8, 2010 (Attachment B), agreeing with the audit results except as follows.

The county states, in its response, "We disagree with the 18% per annum penalty associated with the underreported State Court Facilities Construction Funds. We understand the repayment of the underreported funds. We also understand reimbursement for any interest lost. However, to be penalized at 18% per annum for an unintentional error is not appropriate. The state did not lose 18% as a result of not having these funds available. This penalty appears to far exceed any damages realized by the State." Regarding the delinquency to the State Court Facilities Fund, Government Code section 70377(b) requires the Controller to calculate a penalty on any delinquent remittance at a daily rate equivalent to 1-1/2% per month for the number of days the payment is delinquent. In accordance with Government Code sections 77205(b) and 70377(a), the remittances are due 45 days after the month/year in which they were collected.

**Restricted Use**

This report is solely for the information and use of San Luis Obispo County, the San Luis Obispo 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 30, 2010

## Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2003, through June 30, 2008

Description	Account Title <sup>1</sup>	Code Section <sup>2</sup>	Fiscal Year								Total	Reference <sup>3</sup>
			2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09		
Inequitable distribution of probation fines, penalties, restitution, and fees	State Penalties	PC §1464	\$ 24,309	\$ 21,828	\$ 9,580	\$ 27,068	\$ 34,303	\$ 31,813	\$ 59,456	\$ 97,064	\$ 305,421	Finding 1
	Court Construction											
	Facility Penalties	GC §70372(a)	—	—	4,106	11,601	14,701	13,634	25,481	41,599	111,122	Finding 1
	20% State Surcharge	PC §1465.7	—	—	2,737	7,734	9,801	9,089	16,988	27,733	74,082	Finding 1
	State Restitution	PC §1202.4	—	—	—	—	—	—	20,993	35,944	56,937	Finding 1
	State DNA Penalties	GC §76104.7	—	—	—	—	—	—	8,494	13,866	22,360	Finding 1
	State Diversion											
	Restitution Fees	PC §1001.9	—	—	—	—	—	—	7,640	8,005	15,645	Finding 1
	Crime Lab Fees	H&SC §11372.5	—	—	—	—	—	—	2,329	3,856	6,185	Finding 1
	Child Abuse Fees	PC §288E	—	—	—	—	—	—	459	2,922	3,381	Finding 1
State Sex Offender Fees	PC §290	—	—	—	—	—	—	289	424	713	Finding 1	
Inequitable distribution of operating cost from the comprehensive collection program	State Restitution	PC §1202.4, W&IC §1730.6	—	7,235	44,382	105,963	56,199	59,446	38,163	7,055	318,443	Finding 2
	State Penalties	PC §1464	—	5,006	12,025	21,259	35,973	43,961	28,531	(6,151)	140,604	Finding 2
	Court Construction											
	Facility Penalties	GC §70372(a)	—	—	5,154	9,111	15,417	18,840	12,228	(2,636)	58,114	Finding 2
	State Diversion											
	Restitution Fees	PC §1001.9	—	(1,419)	1,906	11,325	12,769	12,638	8,221	2,567	48,007	Finding 2
	20% State Surcharge	PC §1465.7	—	—	3,506	6,198	10,488	12,817	8,318	(1,793)	39,534	Finding 2
	Crime Lab Fees	H&SC §11372.5	—	943	3,107	5,627	6,109	6,222	4,513	1,545	28,066	Finding 2
	Court Automation											
	Fee 2%	GC §68090.8	—	2,610	2,610	2,610	2,610	2,610	2,610	2,610	18,270	Finding 2
	State Sex Offender Fees	PC §290	—	176	1,600	1,981	677	758	258	(210)	5,240	Finding 2
	State DNA Penalties	GC §76101.6	—	—	—	—	—	6,280	4,076	(879)	9,477	Finding 2
	\$30 ICNA	GC §70373	—	—	—	—	—	—	—	17	17	Finding 2
	State DNA Penalties	GC §76104.7	—	—	—	(319)	(3,322)	(6,112)	(4,837)	(437)	(15,027)	Finding 2
Court Security Fee												
AB1759	PC §1465.8	—	—	(1,614)	(6,591)	(9,392)	(10,202)	(6,628)	464	(33,963)	Finding 2	
Domestic Violence Fees	PC §1203.097	—	(3,739)	(12,210)	(10,727)	(8,712)	(9,382)	(7,535)	101	(52,204)	Finding 2	

### Schedule 1 (continued)

Description	Account Title <sup>1</sup>	Code Section <sup>2</sup>	Fiscal Year								Total	Reference <sup>3</sup>
			2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09		
Underremitted 50% excess of qualified fines, fees, and penalties	AB 233 MOE	GC §77205	14,038	(19,090)	(52,570)	(60,456)	(47,386)	(4,260)	205,533	216,266	252,075	Finding 3
Underremitted proof-of-correction fees	Proof-of-Correction Fees	VC §40611	8,387	7,225	8,120	7,637	7,952	4,413	2,478	—	46,212	Finding 4
Overremitted state domestic violence fees	State Domestic Violence-Rst Ord	PC §1203.097	—	—	—	—	—	(3,809)	(6,832)	(5,872)	(16,513)	Finding 5
	State Domestic Violence-Train	PC §1203.097	—	—	—	—	—	(3,809)	(6,832)	(5,872)	(16,513)	Finding 5
Overremitted 2% court automation fees	Court Automation Fee 2%	GC §68090.8	—	—	—	—	—	(5,996)	(8,005)	(4,785)	(18,786)	Finding 6
Inequitable distribution of state court facility construction penalties, 20% surcharges, 2% court automation fees from TVS bail	Court Construction Facility Penalties	GC §70372(a), VC §42007	—	—	82,730	144,753	149,794	81,346	—	—	458,623	Finding 7
	20% State Surcharge	PC §1465.7	—	—	—	—	—	35,559	89,187	102,152	226,898	Finding 7
	Court Automation Fee 2%	GC §68090.8	—	—	—	—	—	(18,190)	(42,583)	(49,419)	(110,192)	Finding 7
Inequitable distribution of TVS fees and red-light violations due to posting errors	Court Construction Facility Penalties	GC §70372(a), VC §42007	—	—	—	—	—	—	15,604	16,267	31,871	Finding 8
	Court Automation Fee 2%	GC §68090.8	—	—	—	—	—	—	1,491	1,738	3,229	Finding 8
	State DNA Penalties (Prop. 69)	GC §76101.6	—	—	—	—	—	—	(3,982)	(4,286)	(8,268)	Finding 8
	State DNA Penalties	GC §76101.7	—	—	—	—	—	—	(15,930)	(17,144)	(33,074)	Finding 8
	20% State Surcharge	PC §1465.7	—	—	—	—	—	—	(36,934)	(39,848)	(76,782)	Finding 8
	State Penalties	PC §1464	—	—	—	—	—	—	(111,509)	(120,005)	(231,514)	Finding 8
Net amount underpaid to the State Treasurer			<u>\$ 46,734</u>	<u>\$ 20,775</u>	<u>\$ 115,169</u>	<u>\$ 284,774</u>	<u>\$ 287,981</u>	<u>\$ 277,666</u>	<u>\$ 311,733</u>	<u>\$ 322,858</u>	<u>\$1,667,690</u>	

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

<sup>2</sup> Legend: GC=Government Code; H&SC=Health and Safety Code; PC=Penal Code; VC=Vehicle Code; W&IC=Welfare and Institutions Code

<sup>3</sup> See the Findings and Recommendations section.

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Improvement Fund  
July 1, 2001, through June 30, 2009**

Month	Fiscal Year							
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Combined:</b>								
July	\$ —	\$ 217	\$ 217	\$ 217	\$ 217	\$ 217	\$ 217	\$ 690
August	—	217	217	217	217	217	217	217
September	—	217	217	217	217	217	217	522
October	—	217	217	217	217	217	217	537
November	—	217	217	217	217	217	217	507
December	—	217	217	217	217	217	218	568
January	—	218	218	218	218	218	218	218
February	—	218	218	218	218	218	442	218
March	—	218	218	218	218	218	455	218
April	—	218	218	218	218	218	525	218
May	—	218	218	218	218	218	545	218
June	14,038	218	218	218	218	218	206,146	216,483
<b>Total</b>	<b>\$ 14,038</b>	<b>\$ 2,610</b>	<b>\$ 209,634</b>	<b>\$ 220,614</b>				
<b>County:</b>								
July	\$ —	\$ 217	\$ 217	\$ 217	\$ 217	\$ 217	\$ 217	\$ 217
August	—	217	217	217	217	217	217	217
September	—	217	217	217	217	217	217	217
October	—	217	217	217	217	217	217	217
November	—	217	217	217	217	217	217	217
December	—	217	217	217	217	217	218	218
January	—	218	218	218	218	218	218	218
February	—	218	218	218	218	218	218	218
March	—	218	218	218	218	218	218	218
April	—	218	218	218	218	218	218	218
May	—	218	218	218	218	218	218	218
June	14,038	218	218	218	218	218	205,750	216,483
<b>Total</b>	<b>\$ 14,038</b>	<b>\$ 2,610</b>	<b>\$ 208,143</b>	<b>\$ 218,876</b>				
<b>Superior Court:</b>								
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 473
August	—	—	—	—	—	—	—	—
September	—	—	—	—	—	—	—	305
October	—	—	—	—	—	—	—	320
November	—	—	—	—	—	—	—	290
December	—	—	—	—	—	—	—	350
January	—	—	—	—	—	—	—	—
February	—	—	—	—	—	—	224	—
March	—	—	—	—	—	—	237	—
April	—	—	—	—	—	—	307	—
May	—	—	—	—	—	—	327	—
June	—	—	—	—	—	—	396	—
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 1,491</b>	<b>\$ 1,738</b>

**Schedule 3—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2001, through June 30, 2009**

Month	Fiscal Year							
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Combined:</b>								
July	\$ —	\$ —	\$ —	\$ 14,423	\$ 14,620	\$ 14,496	\$ 2,344	\$ 8,842
August	—	—	—	16,243	18,861	18,325	2,344	3,995
September	—	—	—	13,656	15,896	15,529	2,344	7,508
October	—	—	—	12,563	16,489	17,529	2,344	8,851
November	—	—	—	11,444	12,766	16,007	2,344	6,580
December	—	—	—	12,361	12,303	15,698	2,344	7,455
January	—	—	14,536	14,897	17,168	2,706	2,344	4,450
February	—	—	12,642	10,953	12,950	2,706	5,118	2,037
March	—	—	18,053	14,277	15,236	2,706	8,242	2,037
April	—	—	17,311	13,829	14,769	2,706	8,508	2,037
May	—	—	15,066	14,882	15,906	2,706	7,602	2,037
June	—	—	14,382	15,937	12,948	2,706	7,435	2,037
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 91,990</b>	<b>\$ 165,465</b>	<b>\$ 179,912</b>	<b>\$ 113,820</b>	<b>\$ 53,313</b>	<b>\$ 57,866</b>
<b>County:</b>								
July	\$ —	\$ —	\$ —	\$ 1,726	\$ 2,510	\$ 2,706	\$ 2,344	\$ 5,126
August	—	—	—	1,726	2,510	2,706	2,344	3,995
September	—	—	—	1,726	2,510	2,706	2,344	4,264
October	—	—	—	1,726	2,510	2,706	2,344	5,358
November	—	—	—	1,726	2,510	2,706	2,344	3,993
December	—	—	—	1,726	2,510	2,706	2,344	4,228
January	—	—	1,543	1,726	2,510	2,706	2,344	4,450
February	—	—	1,543	1,726	2,510	2,706	2,344	2,037
March	—	—	1,543	1,726	2,510	2,706	5,371	2,037
April	—	—	1,543	1,726	2,510	2,706	5,093	2,037
May	—	—	1,543	1,726	2,510	2,706	4,317	2,037
June	—	—	1,544	1,726	2,510	2,706	4,176	2,037
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 9,259</b>	<b>\$ 20,712</b>	<b>\$ 30,120</b>	<b>\$ 32,472</b>	<b>\$ 37,709</b>	<b>\$ 41,599</b>
<b>Superior Court:</b>								
July	\$ —	\$ —	\$ —	\$ 12,697	\$ 12,110	\$ 11,790	\$ —	\$ 3,716
August	—	—	—	14,517	16,351	15,619	—	—
September	—	—	—	11,930	13,386	12,823	—	3,244
October	—	—	—	10,837	13,979	14,823	—	3,493
November	—	—	—	9,718	10,256	13,301	—	2,587
December	—	—	—	10,635	9,793	12,992	—	3,227
January	—	—	12,993	13,171	14,658	—	—	—
February	—	—	11,099	9,227	10,440	—	2,774	—
March	—	—	16,510	12,551	12,726	—	2,871	—
April	—	—	15,768	12,103	12,259	—	3,415	—
May	—	—	13,523	13,156	13,396	—	3,285	—
June	—	—	12,838	14,211	10,438	—	3,259	—
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 82,731</b>	<b>\$ 144,753</b>	<b>\$ 149,792</b>	<b>\$ 81,348</b>	<b>\$ 15,604</b>	<b>\$ 16,267</b>

**Schedule 4—  
Summary of Overremittances by Month  
July 1, 2001, through June 30, 2009**

Month	Fiscal Year							
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Combined:</b>								
July	\$ —	\$ 430	\$ 1,152	\$ 1,470	\$ 1,785	\$ 2,141	\$ 6,607	\$ 50,140
August	—	430	1,152	1,470	1,785	2,141	6,617	42,920
September	—	430	1,152	1,470	1,785	2,142	6,317	6,540
October	—	430	1,152	1,470	1,785	2,142	7,565	42,917
November	—	430	1,152	1,470	1,785	2,142	6,422	35,242
December	—	430	1,152	1,470	1,785	2,743	5,645	44,105
January	—	430	1,152	1,470	1,786	7,205	7,380	6,642
February	—	430	1,152	1,470	1,786	7,118	36,559	5,648
March	—	430	1,152	1,469	1,786	7,893	37,777	6,602
April	—	430	1,152	1,469	1,786	7,800	44,932	7,466
May	—	429	1,152	1,469	1,786	7,156	43,412	5,390
June	—	19,520	53,722	61,926	49,172	11,137	42,374	5,725
<b>Total</b>	<b>\$ —</b>	<b>\$ 24,248</b>	<b>\$ 66,394</b>	<b>\$ 78,093</b>	<b>\$ 68,812</b>	<b>\$ 61,760</b>	<b>\$ 251,607</b>	<b>\$ 259,337</b>
<b>County:</b>								
July	\$ —	\$ 430	\$ 1,152	\$ 1,470	\$ 1,785	\$ 2,141	\$ 3,644	\$ 2,842
August	—	430	1,152	1,470	1,785	2,141	3,490	2,692
September	—	430	1,152	1,470	1,785	2,142	3,628	2,231
October	—	430	1,152	1,470	1,785	2,142	3,698	2,815
November	—	430	1,152	1,470	1,785	2,142	3,643	1,974
December	—	430	1,152	1,470	1,785	2,743	3,009	2,352
January	—	430	1,152	1,470	1,786	4,127	3,559	2,579
February	—	430	1,152	1,470	1,786	4,272	3,282	1,825
March	—	430	1,152	1,469	1,786	4,698	3,112	2,893
April	—	429	1,152	1,469	1,786	4,432	3,386	3,122
May	—	429	1,152	1,469	1,786	4,038	3,162	1,384
June	—	19,520	53,722	61,926	49,172	8,552	3,055	1,927
<b>Total</b>	<b>\$ —</b>	<b>\$ 24,248</b>	<b>\$ 66,394</b>	<b>\$ 78,093</b>	<b>\$ 68,812</b>	<b>\$ 43,570</b>	<b>\$ 40,668</b>	<b>\$ 28,636</b>
<b>Superior Court:</b>								
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 2,963	\$ 47,298
August	—	—	—	—	—	—	3,127	40,228
September	—	—	—	—	—	—	2,689	4,309
October	—	—	—	—	—	—	3,867	40,102
November	—	—	—	—	—	—	2,779	33,268
December	—	—	—	—	—	—	2,636	41,753
January	—	—	—	—	—	3,078	3,821	4,063
February	—	—	—	—	—	2,846	33,277	3,823
March	—	—	—	—	—	3,195	34,665	3,709
April	—	—	—	—	—	3,368	41,546	4,344
May	—	—	—	—	—	3,118	40,250	4,006
June	—	—	—	—	—	2,585	39,319	3,798
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 18,190</b>	<b>\$ 210,939</b>	<b>\$ 230,701</b>

# Findings and Recommendations

**FINDING 1—  
Inequitable  
distribution of  
probation fines,  
penalties, restitution,  
and fees**

The Probation Department did not equitably distribute base fines, penalties, restitution, and fees throughout the audit period from July 2001 through June 2009. State and county penalties were adequately distributed from the month-end reported base fines. In addition, from March 2008 through January 2009, the probation department applied an additional 70% reduction toward selected base fines, penalties, restitution, and fees as an offset for its comprehensive collection program. County personnel indicated that the required distributions were inadvertently overlooked due to a lack of information.

Penal Code section 1464(e) requires 70% of state penalties to be transmitted to the State, while the remaining 30% is to be deposited in the County General Fund. Starting September 30, 2002, Penal Code section 1465.7 requires a state surcharge of 20% to be levied on all criminal base fines used to calculate the state penalty assessment, as specified in Penal Code section 1464. The surcharge should be applied to criminal fines. Starting October 1, 2002, San Luis Obispo County Courts are required to include a \$3 penalty to be collected pursuant to Government Code section 70372(a) on every \$10 fine or portion thereof. The distribution should be deposited in the State Court Facilities Construction Fund. Starting July 2006, Government Code section 76104.7 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty and forfeiture levied on criminal offenses including traffic offenses, but excluding parking offenses. The DNA identification penalty is levied and collected in the same manner as the state penalty imposed per Penal Code (PC) section 1464. The DNA penalty including interest should be deposited in the State DNA Identification Fund.

Penal Code section 1463.007 allows a court collection entity that implements a comprehensive collection program that satisfies specific statutory requirements to deduct program operating costs in an equitable manner from program revenue collections. This section further allows a court collection entity to distribute those amounts to the county treasury prior to distribution of those revenues to the State, 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 operating costs.

The inequitable distributions of state surcharges and penalties affect the revenues reported to the State Trial Court Improvement Fund under the maintenance-of-effort (MOE) formula pursuant to Government Code section 77205. In addition, the inequitable distribution had the following effects:

Account Title	Understated/ (Overstated)
State Penalties–Penal Code §1464	\$ 305,421
State Court Facilities Construction Fund– Government Code §70372(a)	111,122
State General Fund–20% Surcharge–Penal Code §1465.7	74,082
State Restitution–Penal Code §1202.4	56,937
State DNA Identification Fund–Government Code §76104.7	22,360
Diversion Restitution–Penal Code §1001.9	15,645
State Crime Lab Fund–Health and Safety Code §11372.5	6,185
State Restitution Fund–Penal Code §288e	3,381
State General Fund Sex Offender fines–Penal Code §290.3	711
County General Fund	(293,957)
County Jail Facilities Fund	(85,058)
County Court Construction Fund	(91,454)
Emergency Medical Service Fund	(98,507)
Automated Fingerprint Fund	(29,654)
Alcohol Program Fund	2,786

#### Recommendation

The county should remit \$595,846 to the State Treasurer and report on the remittance advice form (TC-31) increases by \$305,421 to the State Penalty Fund–Penal Code section 1464; \$111,122 to the State Court Facilities Construction Fund–Government Code section 70372(a); \$74,082 to the State General Fund–Penal Code section 1465.7; \$56,937 to the State Restitution Fund–Penal Code section 1204.4; \$22,360 to State DNA Identification Fund–Government Code section 76104.7; \$15,645 to the State Restitution Fund (Diversion Fees)–Penal Code section 1001.9; \$6,185 to the State Crime Lab Fund–Health and Safety Code section 11372.5; \$3,381 to the State Restitution Fund (Child Abuse)–Penal Code section 288e; and \$711 to the State General Fund (Sex Offender Fines)–Penal Code section 290.3.

The probation department should establish procedures to ensure that all revenues offset from its comprehensive collection program are correctly distributed in accordance with statutory requirements. A redistribution should be made for the collection period starting July 2009 through the date on which the current system is revised.

#### County's Response

The county agrees with the finding.

**FINDING 2—  
Inequitable  
distribution of  
operating cost from  
the comprehensive  
collection program**

The probation department did not equitably distribute operating costs from the comprehensive collection program to the accounts on which collections were made for the period of February 2003 through March 2008. Distributions starting from April 2008 through June 2009, except for public defender fees, were correct. Deductions for operating costs were taken only from county base fines, county and state penalties, and other state revenues. The department did not allocate operating costs to all of the accounts to which collections were made. In addition, the department did not offset all eligible overhead costs incurred by the program. County personnel indicated that the required distribution was not fully understood.

Penal Code section 1463.007 allows a court collection entity that implements a comprehensive collection program that satisfies specific statutory requirements to deduct program operating costs in an equitable manner from program revenue collections. This section further allows a court collection entity to distribute those amounts to the county treasury prior to distribution of those revenues to the State, 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 operating costs.

The State Controller's Comprehensive Collection Program Accounting Guidelines state that operating costs are to be equitably offset against the sources from which the collections were received. Guidelines and Standards for Cost Recovery issued by the Judicial Council of California allow indirect costs as established under the county's cost plan.

The inequitable distributions of state revenues affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. In addition, the inequitable distribution had the following effects:

Account Title	Understated/ (Overstated)
State Restitution Fund—Penal Code §1202.4	\$ 318,443
State Penalty Fund—Penal Code §1464	140,604
State Court Facilities Construction Fund— Government Code §70372(a)	58,114
Restitution Fund (Diversion Fees)—Penal Code §1001.9	48,007
State General Fund—20% surcharge—Penal Code §1465.7	39,534
State Crime Lab Fund—Health and Safety Code §11372.5	28,066
State Court Automation Fund—Government Code §68090.8	18,270
State DNA Identification Fund—Government Code §76101.6	9,477
State General Fund Sex Offender fines—Penal Code §290.3	5,240
State Court Facilities Construction Fund (ICNA)— Government Code §70373	17
State DNA Identification Fund—Government Code §76101.7	(15,027)
State Court Security Fees—Penal Code §1465.8	(33,963)
State Domestic Violence Fund—Penal Code §1203.097	(52,204)
County General Fund	(715,924)
County Jail Facilities Fund	50,216
County Court Construction Fund	40,173
Emergency Medical Services Fund	40,173
Automated Fingerprint Fund	10,043
Other County Funds	10,741

Recommendation

The county should remit \$564,578 to the State Treasurer and report on the remittance advice form (TC-31) increases by \$318,443 to the State Restitution Fund–Penal Code section 1202.4; \$140,604 to the State Penalty Fund–Penal Code section 1464; \$58,114 to the State Court Facilities Construction Fund–Government Code section 70372(a); \$48,007 to the State Restitution Fund (Diversion Fees)–Penal Code section 1001.90; \$39,534 to State General Fund (20% Surcharge)–Penal Code section 1465.7; \$28,066 to the State General Fund (Crime Lab Fees)–Health and Safety Code section 11372.5; \$18,270 to the State Trial Court Improvement Fund–Government Code section 68090.8; \$9,477 to the State DNA Identification Fund–Government Code section 76101.6; \$5,240 to the State General Fund (Sex Offender Fines)–Penal Code section 290.3; \$17 to the State Court Facilities Construction Fund–Immediate Critical Needs Account–Government Code section 70372; and decreases by \$15,027 to the State DNA Identification Fund–Government Code section 76101.7; \$33,963 to the Trial Court Trust Fund (Security Fees)–Penal Code section 1465.8; and \$52,204 to the Domestic Violence Fund–Penal Code section 1203.097. The county should also make the corresponding account adjustments.

The probation department should establish procedures to ensure that all revenues offset from its comprehensive collection program are correctly distributed in accordance with statutory requirements. A redistribution should be made for the collection period starting July 2009 through the date on which the current system is revised.

County's Response

The county agrees with the finding.

**FINDING 3—  
Underremitted 50%  
excess of qualified  
fines, fees, and  
penalties**

The county underremitted 50% of the qualified excess of fines, fees, and penalties to the State Treasurer for the five-fiscal year period from July 1, 2001, through June 30, 2009, by \$252,075. Government Code section 77201(b)(2) requires San Luis Obispo County, for its base revenue obligation, to remit \$2,036,515 for FY 1998-99 and each fiscal year thereafter. In addition, Government Code section 77205(a) requires the county to remit 50% of the qualified revenues which exceed the stated base for each fiscal year, to the State Trial Court Improvement Fund.

The error occurred because the county used incorrect entries in its distribution working papers. The fiscal impact of conditions identified in this report's findings is as follows:

- As stated in Finding 1, the probation department did not correctly distribute or report qualifying revenues to be included in the MOE. County base fines totaling \$327,237 ( $\$436,316 \times 0.75$ ) and 30% of state penalties in the amount of \$130,895 should have been included in the MOE formula. A total of \$458,132 should have been included in the MOE.

- As stated in Finding 2, the probation department primarily offset county and state base fine revenues from their comprehensive collection program. A recalculation of the comprehensive collection program offset has caused an increase in the county base fines totaling \$150,648 ( $\$200,864 \times 0.75$ ), and 30% of state penalties in the amount of \$60,259 should have been included in the MOE formula.
- As stated in Finding 4, when preparing the MOE for all seven fiscal years ending June 2008, the County Auditor's Office deposited in the County's General Fund and included in the MOE formula, 30% of the State's proof-of-correction fees per Vehicle Code section 40611. This amount, \$46,212, should not have been included in the MOE.
- As stated in Finding 7, the court erroneously posted traffic violator school (TVS) bail as county base fines with penalties. The error caused base fines and 30% state penalties to be overreported, while 77% of eligible TVS bail was underreported. County base fines of \$150,861 ( $\$201,148 \times 0.75$ ) and \$99,221 (30% state penalties) totaling \$250,082 should not have been included in the MOE formula and TVS bail; \$904,297 ( $\$1,174,411 \times 77$ ) should have been included in the MOE formula. The net total \$654,215 should have been included in the MOE formula.
- As stated in Finding 8, when calculating the distribution for TVS violations, the court did not equitably offset emergency medical services (EMS) penalties and state court construction facility penalties, and erroneously offset state court automation fees. The net total of \$772,895 should not have been included in the MOE formula.

The qualified revenues reported for FY 2001-02 were \$3,055,463. The excess, above the base of \$2,036,515, is \$1,018,948, and should be divided equally between the county and State, resulting in \$509,474 excess due the State. The county has remitted a previous payment of \$495,436, causing an underremittance of \$14,038.

The qualified revenues reported for FY 2002-03 were \$2,979,035. The excess, above the base of \$2,036,515, is \$942,520, and should be divided equally between the county and State, resulting in \$471,260 excess due the State. The county has remitted a previous payment of \$490,350, causing an overremittance of \$19,090.

The qualified revenues reported for FY 2003-04 were \$3,044,032. The excess, above the base of \$2,036,515, is \$1,007,517, and should be divided equally between the county and State, resulting in \$503,758 excess due the State. The county has remitted a previous payment of \$556,329, causing an overremittance of \$52,571.

The qualified revenues reported for FY 2004-05 were \$2,804,500. The excess, above the base of \$2,036,515, is \$767,985, and should be divided equally between the county and State, resulting in \$383,992 excess due the State. The county has remitted a previous payment of \$443,948, causing an overremittance of \$59,956.

The qualified revenues reported for FY 2005-06 were 2,979,488. The excess, above the base of \$2,036,515, is \$942,973, and should be divided equally between the county and State, resulting in \$471,486 excess due the State. The county has remitted a previous payment of \$518,872, causing an overremittance of \$47,386.

The qualified revenues reported for FY 2006-07 were \$3,248,534. The excess, above the base of \$2,036,515, is \$1,212,019, and should be divided equally between the county and State, resulting in \$606,010 excess due the State. The county has remitted a previous payment of \$610,270, causing an overremittance of \$4,260.

The qualified revenues reported for FY 2007-08 were 3,493,649. The excess, above the base of \$2,036,515, is \$1,457,134, and should be divided equally between the county and State, resulting in \$728,567 excess due the State. The county has remitted a previous payment of \$523,034, causing an underremittance of \$205,533.

The qualified revenues reported for FY 2008-09 were 3,643,585. The excess, above the base of \$2,036,515, is \$1,607,070, and should be divided equally between the county and State, resulting in \$803,535 excess due the State. The county has remitted a previous payment of \$587,269, causing an underremittance of \$216,266.

The under- and overremittances had the following effects:

Account Title	Understated/ (Overstated)
State Trial Court Improvement Fund–Government Code §77205:	
FY 2001-02	\$ 14,038
FY 2002-03	(19,090)
FY 2003-04	(52,570)
FY 2004-05	(60,456)
FY 2005-06	(47,386)
FY 2006-07	(4,260)
FY 2007-08	205,533
FY 2008-09	216,266
County General Fund	(252,075)

#### Recommendation

The county should remit \$252,075 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Trial Court Improvement Fund–Government Code section 77205. The county should also make the corresponding account adjustments.

#### County's Response

The county agrees with the finding.

**FINDING 4—  
Underremitted proof-  
of-correction fees**

The county distributed to the County General Fund 30% of the state proof-of-correction fees, totaling \$46,212, from July 1, 2001 through June 30, 2008. Proof-of-correction fees should have been distributed under Vehicle Code section 40611 in this manner: 34% to the State Penalty Fund (POC), 33% to the County General fund, and 33% to the arresting agency. Government Code section 77205(a) requires 30% of state penalties pursuant to Penal Code section 1464, to be deposited in the County General Fund, but does not include 30% of the proof-of-correction fees under Vehicle Code section 40611. The error occurred because county staff performing the MOE computation pursuant to Government Code section 77205(a), transferred 30% of the state proof-of-correction fees to the County General Fund.

This finding was noted in the previous SCO audit issued on September 30, 2002, which covered the period July 1, 1997, through June 30, 2001.

The inequitable distributions of state proof-of-correction fees affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. In addition, the inequitable distribution had the following effects:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Penalty Fund (POC)	\$ 46,212
County General Fund	(46,212)

Recommendation

The county should remit \$46,212 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Penalty Fund (POC). The county should also make the corresponding account adjustments.

County and Court’s Response

The county and court agree with the finding.

**FINDING 5—  
Overremitted  
domestic violence fees**

The probation department distributed two-thirds of the domestic violence fees to the State Domestic Restraining Order Reimbursement Fund and State Domestic Violence Training and Education Fund from January 2007 through June 2009. Department personnel indicated that the required distribution was inadvertently overlooked.

Starting January 2007, Penal Code section 1203.097 requires a minimum payment of \$400 for any person placed on probation where the victim is a person defined in Family Code section 6211. Two-thirds of the payment is to be placed in a County Special Domestic Violence Fund and the balance remitted to the State Domestic Violence Fund.

The inequitable distribution had the following effects:

Account Title	Understated/ (Overstated)
State Domestic Restraining Order Reimbursement Fund– Penal Code §1203.007	\$ (16,513)
State Domestic Violence Training and Education Fund– Penal Code §1203.007	(16,513)
County Domestic Violence Fund	33,026

Recommendation

The county should offset subsequent remittances by \$33,026 to the State Treasurer and report on the remittance advice form (TC-31), decreases of \$16,513 to the State Domestic Restraining Order Reimbursement Fund–Penal Code section 1203.097, and \$16,513 to the State Domestic Violence Training and Education Fund–Penal Code section 1203.097. The county should also make the corresponding account adjustments. A redistribution should be made for the period of July 2009 through January 2010.

County’s Response

The county agrees with the finding.

**FINDING 6—  
Overremitted 2%  
court automation fees**

The probation department deducted a 2% state court automation fee from ineligible accounts totaling \$18,786 from December 2007 through June 2009. County personnel inadvertently applied the 2% court automation fee to the local fees.

Government Code section 68090.8 requires a 2% charge to be taken from base fines and penalties pursuant to Penal Code sections 1463 and 1464, and Government Code section 76000. Fees related to the base fines are not subject to the 2% court automation fee.

The inequitable distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Improvement Fund–Government Code §68090.8	\$ (18,786)
County General Fund	18,786

Recommendation

The county should offset subsequent remittances to the State Treasurer and report on the remittance advice form (TC-31) a decrease of \$18,786 to the State Trial Court Improvement Fund–Government Code section 68090.8. The county should also make the corresponding account adjustments. A redistribution should be made for state court 2% automation fees from July 2009 through the date the current system is revised.

County’s Response

The county agrees with the finding.

**FINDING 7—  
Inequitable distribution  
of state court facilities  
construction penalties,  
20% surcharges, 2%  
court automation fees  
from TVS bail**

The Superior Court did not deduct state court facilities construction penalties from TVS fees from January 2004 through January 2007, and state 20% surcharges from January 2007 through June 2009. In contrast, the court applied 2% court automation fees on TVS fees from January 2007 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.

From January 1, 2002, through December 31, 2003, state court facilities construction penalties were not eligible for any distribution from TVS bail. However, effective January 1, 2004, for all TVS fees, Vehicle Code section 42007 requires the courts to include a \$3 penalty that would have been collected pursuant to Government Code section 70372(a) and a fine distribution to be deposited in the State Court Facilities Construction Fund.

Starting September 30, 2002, Penal Code section 1465.7 requires a state surcharge of 20% to be levied on all criminal base fines used to calculate the state penalty assessment, as specified in Penal Code section 1464. The surcharge should be applied to criminal fines including TVS bail.

Government Code section 68090.8 requires a 2% charge to be taken from base fines and penalties pursuant to Penal Code sections 1463 and 1464. Vehicle Code section 42007 does not specify an allowance for the 2% court automation fee from TVS bail.

The inequitable distributions for TVS fees affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. In addition, the inequitable distribution had the following effects:

Account Title	Understated/ (Overstated)
State Court Facilities Construction Fund	\$ 458,623
State General Fund (20% surcharge)—Penal Code §1465.7	226,898
State Court Improvement Fund—Government Code §68090.8	(110,192)
County General Fund	(575,329)

**Recommendation**

The county should remit \$575,329 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$458,623 to the State Court Facilities Construction Fund—Government Code section 70372(a); \$226,898 to the State General Fund; and a decrease of \$110,192 to the State Trial Court Improvement Fund—Government Code section 68090.8. The county should also make the corresponding account adjustments.

The Superior Court should prepare a redistribution adjustment for state court facilities construction penalties for the period from July 2009 through the date the current system is revised.

**County and Court’s Response**

The county and court agree with the finding.

**FINDING 8—  
Inequitable  
distribution of TVS  
fees and red-light  
violations due to  
posting errors**

The Superior Court erroneously posted TVS fees and county red-light violations from February 2008 through July 2008, and September 2008 through December 2008. Court personnel indicated that the required distribution was inadvertently overlooked.

Government Code section 68101 requires that, “Each officer authorized to receive fees pursuant to this title shall keep in accordance with the guidelines of the Controller, a monthly record of all fees or compensation and fines of whatever nature, kind, or description, collected or chargeable.”

The inequitable distributions of TVS fees affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. In addition, the inequitable distribution had the following effects:

Account Title	Understated/ (Overstated)
State Court Facilities Construction Fund–Government Code §70372 (a)	\$ 31,871
State Trial Court Improvement Fund–Government Code §68090.8	3,229
State DNA Identification Fund–Government Code §76101.6	(8,268)
State DNA Identification Fund–Government Code §76101.7	(33,074)
State General Fund (20% surcharge)–Penal Code §1465.7	(76,782)
State Penalties–Penal Code §1464	(231,514)
County General Fund	549,611
County Jail Facilities Fund	(82,684)
County Court Construction Fund	(66,147)
Emergency Medical Services Fund	(44,900)
Automated Fingerprint Fund	(16,537)
County DNA Fund	(24,805)

Recommendation

The county should offset subsequent remittances by \$314,538 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$31,871 to the State Court Facilities Construction Fund–Government Code section 70372(a); \$3,229 to the State Trial Court Improvement Fund–Government Code section 68090.8; and decreases of 8,268 State DNA Identification Fund–Government Code section 76101.6; \$33,074 to the State DNA Identification Fund–Government Code section 76101.7; \$76,782 to State General Fund (20% Surcharge)–Penal Code section 1465.7; and \$231,514 to the State Penalty Fund–Penal Code section 1464. The county should also make the corresponding account adjustments.

County and Court’s Response

The county and court agree with the finding.

**FINDING 9—  
Incorrect formula  
applied to EMS  
penalties from red-  
light violations**

The Superior Court did not deduct 30% from the \$2 emergency medical services (EMS) penalty from red-light TVS bail. However, the court deducted a greater portion 15% ( $4 \div 26$ ) from the total red-light traffic fines but was only entitled to 5% ( $2 \div 38$ ). Court personnel indicated that the required distribution was inadvertently overlooked.

Penal Code section 1463.11 requires 30% of base fines, State and county penalties, (Penal Code sections 1463 and 1464 and Government Code section 76100, respectively) pursuant to red-light violations to be distributed to the general fund of the county or city in which the offense occurred. The EMS penalties are referenced in this statute as part of the county's penalty portion within Government Code section 76100; however, EMS penalties pursuant to Government Code section 76000.5 (an additional \$2 component) are not subject to the 30% distribution.

The inequitable distribution of the EMS penalties from red-light violations affect the distribution of fines and penalties as well as the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. We did not measure the dollar effect because it did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should take steps to ensure that all surcharges, fines, penalties, and fees are distributed in accordance with the statutory requirements under Penal Code section 1463.11.

County and Court's Response

The county and court agree with the finding.

**FINDING 10—  
Erroneous  
distribution priority**

The Superior Court prioritized collections in a manner that gave a distribution priority to installment fees over state 20% surcharges, fines, and penalties. The error occurred because court personnel overlooked the additional computer programming procedure requirements.

Starting September 30, 2002, Penal Code 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

The collection of installment fees should be included within category 4 with other reimbursable costs.

Failure to make the required priority distribution causes revenues to the State and county to be inaccurately stated. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should take steps to ensure that all surcharges, fines, penalties, and fees are distributed in accordance with the statutory requirements under Penal Code section 1203.1d.

Court's Response

The court did not respond to the finding.

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

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**County of San Luis Obispo**  
**Office of the Auditor-Controller**  
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September 16, 2010

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:

Please accept this response from the County of San Luis Obispo regarding the July 1, 2001 through June 30, 2009 Court Revenue Audit Report. Overall, we concur with the auditor's findings. We appreciate the auditor's thoroughness and helpfulness in explaining the findings and their impact on the reported trial court revenue distributions.

We understand and agree with the proposed adjustments outlined in Schedule 1, "Summary of Audit Findings by Fiscal Year". On September 1, 2010, your office received payment, by certified mail, of \$1,667,690. This payment represents the total underreported principal from both the local court and the County's Probation Department as identified in August 25, 2010 draft audit report.

The County of San Luis Obispo and local courts have always intended to distribute trial court revenues appropriately. However, the distribution of trial court revenues has become an extremely complicated process. Fines and penalties vary by County and by individual offense. There is very little guidance offered to the Counties or local courts and yet we have become a collection agency for many state programs. We respectfully request the Administrative Office of the Courts and the State Controller's Office work together to develop clear and concise guidelines to assist the local agencies performing the trial court revenue collections.

We disagree with the 18% per annum penalty associated with the underreported State Court Facilities Construction Funds. We understand the repayment of the underreported funds. We also understand reimbursement for any interest lost. However, to be penalized at 18% per annum for an unintentional error is not appropriate. The state did not lose 18% as a result of not having these funds available. This penalty appears to far exceed any damages realized by the State.

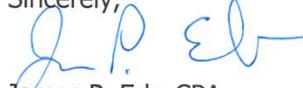
Steven Mar, Chief, Local Government Audits Bureau  
September 16, 2010  
Page 2

We received a draft report for an audit which was never finalized on August 24, 2007. We responded within the allowed time frame and questioned the interpretation of findings 1 and 3. We did not get any response from the State Controller's Office until May of 2008, 8 months later. At that time we were told our response was never received. We resubmitted our response by certified mail on May 23, 2008. It was received by the State Controller's Office on May 27, 2008. We were not contacted again by the State Controller's Office until January 8, 2010, 20 months later. We had responded as requested to the August 24, 2007 draft audit report. The County of San Luis Obispo is not responsible for this delay. We request, and so do the local courts, that this delay is taken into account when calculating any penalties or interest on amounts identified in the August 24, 2007 draft audit report.

In summary, we agree with the auditor's findings and have made changes to correct the revenue reporting errors going forward. We have paid the entire principal balance identified in the August 25, 2010 draft report. We do not believe any penalties should be calculated past August 2007 for issues identified in the audit draft report dated August 24, 2007. The local courts, which are responsible for approximately 74% of the underreported State Court Facilities Construction Funds, agree with our position regarding the calculation of penalties. I am including the response from the local court.

Please feel free to contact me at (805) 788-2964 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J.P. Erb', is written over the typed name.

James P. Erb, CPA  
Assistant Auditor-Controller

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

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Superior Court of California  
County of San Luis Obispo

Susan Matherly  
Court Executive Officer

Thu Nguyen  
Assistant Court Executive Officer

**Court Administration**  
(805) 781-5421  
(805) 781-1159 FAX



**Courthouse Annex**  
1035 Palm Street, Room 385  
San Luis Obispo, CA 93408

**Fiscal Services: 781-5675**

September 8, 2010

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

Dear Mr. Mar:

After review, the Court concurs with the SCO audit findings for items #4, #7, # 8 and #9 as listed in the Draft Audit Report.

While the Court strives for strict compliance on every revenue distribution it processes, the sheer number of variations caused by the overlapping Government, Penal and Vehicle codes makes the distribution process extremely difficult. As of yet, the Court does not have an integrated statewide criminal and traffic case management system, and our current distribution processes are completely manual. When legislative changes are introduced, the Court makes all attempts to review the hundreds of pages of associated documentation and the revisions to the State Controllers Manual for Distribution Tables. Even with these precautions, it is possible to overlook a single line in the documentation which can lead to these errors. As such, our Court would strongly recommend that the State Controller's Office be more proactive when these changes occur and either review all proposed distributions within one year of implementation or provide a certification process where the proposed distributions are reviewed and approved prior to implementation. Auditing every nine years is an inadequate method of assisting Courts and Counties to remain in compliance, particularly if the legislation mandates the payment of penalties.

As the Superior Court is not in control of any of the funds which have been deposited into the County General Fund in error, the correcting remittances due to the State must come from the County. This is a repeat of our request made in the Court's original audit response letter dated September 17, 2007. The court implemented the corrected distributions in December 2006 for

state court facility construction penalties identified in the original audit. Based upon our September 2007 response letter, and our request that the County not delay resolving the underpaid state court facility construction funds, the court had assumed that the under-remittances detailed in the 2007 audit had been resolved. It wasn't until January of 2010 that we found that the 2007 audit had not been completed by your office and that the under-remittances had not been addressed. As a result of the delayed audit report and in line with the Court's audit response letter sent in September 2007, it is our belief that no penalties should be calculated or expected from your office after September 2007.

Thank you for the opportunity to respond to the draft report, if you have any questions, please contact me at 781-5417.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michelle Frazier".

Michelle Frazier  
Court Fiscal Officer  
Superior Court of California  
San Luis Obispo

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

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