

MADERA COUNTY

Audit Report

COURT REVENUES

July 1, 2003, through June 30, 2009



JOHN CHIANG
California State Controller

April 2011



JOHN CHIANG
California State Controller

April 15, 2011

Honorable Janet Kroeger
Auditor-Controller
Madera County
200 West 4th Street
Madera, CA 93637

Bonnie L. Thomas
Court Executive Officer
Superior Court of California,
Madera County
209 West Yosemite Avenue
Madera, CA 93637

Dear Ms. Kroeger and Ms. Thomas:

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

Our audit disclosed that the county underremitted \$1,003,744 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties by \$948,163;
- Underremitted evidence-of-financial-responsibility fines by \$31,325; and
- Underremitted health and safety bail bond forfeitures by \$24,256.

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

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 amount, we will calculate a penalty on the underremitted amount and bill the county accordingly, 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, in writing, within 60 days after receiving the final report, a request for a review, along with supporting documents and information pertinent to the disputed issue(s), 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 to 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 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
Richard J. Chivaro, Chief Counsel
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 Madera County for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$1,003,744 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties by \$948,163;
- Underremitted evidence-of-financial-responsibility fines by \$31,325; and
- Underremitted health and safety bail bond forfeitures by \$24,256.

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, 2003, 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, Revenue Service 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

Madera County underremitted \$1,003,744 in court revenues to the State Treasurer. The underremittances 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 April 29, 2005, with the exception of Finding 5—Underremitted evidence-of-financial-responsibility fines, and Finding 6—Inappropriate distribution of bail bond forfeitures, noted in the Findings and Recommendations section of this report.

**Views of
Responsible
Officials**

We issued a draft audit report on October 29, 2010. Janet Kroeger, Auditor-Controller, responded by letter dated November 9, 2010 (Attachment A), acknowledging the audit results. However, Ms. Kroeger also disputes the lump-sum repayment of \$1,003,744 and is requesting a repayment schedule over the same timeframe that the debt was incurred, with zero interest.

Additionally, Ms. Kroeger expressed concern regarding a prior audit report for the period of July 1, 2003, through June 30, 2006. The SCO did not previously issue an audit report for this period; the findings for this period are included in this audit report.

Bonnie Thomas, Court Executive Officer, responded by letter dated November 17, 2010 (Attachment B), agreeing with the audit results with the exception of Finding 7.

Restricted Use

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

April 15, 2011

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

| Description | Account Title ¹ | Code Section ² | Fiscal Year | | | | | | Total | Reference ³ |
|--|---------------------------------------|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|------------------------|
| | | | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 | | |
| Underremitted 50% excess of fines, fees, and penalties | State Trial Court Improvement Fund | GC §77205 | \$ 126,966 | \$ 127,046 | \$ 124,006 | \$ 164,015 | \$ 203,329 | \$ 202,801 | \$ 948,163 | Finding 1 |
| Inappropriate distribution of State evidence-of- financial-responsibility fines | State Motor Vehicle Fund | PC §1463.22(b) | — | 4,704 | 6,723 | 5,312 | 2,844 | 4,518 | 24,101 | Finding 5 |
| | State General Fund | PC §1463.22(c) | — | 1,411 | 2,014 | 1,593 | 853 | 1,353 | 7,224 | Finding 5 |
| Underremitted bail bond forfeitures | State General Fund | H&SC §11502 | 14,700 | — | — | 3,675 | 4,082 | 74 | 22,531 | Finding 6 |
| | State Trial Court Improvement Fund | GC §68090.8 | 520 | 213 | 327 | 200 | 142 | 323 | 1,725 | Finding 6 |
| Net amount underpaid (overpaid) to the State Treasurer | | | <u>\$ 142,186</u> | <u>\$ 133,374</u> | <u>\$ 133,070</u> | <u>\$ 174,795</u> | <u>\$ 211,250</u> | <u>\$ 209,069</u> | <u>\$1,003,744</u> | |

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

² Legend: GC = Government Code; PC = Penal Code; H&SC = Health and Safety Code.

³ See the Findings and Recommendations section.

**Schedule 2—
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 | \$ — | \$ — | \$ — | \$ — | \$ — | \$ — |
| August | — | — | — | — | — | — |
| September | — | — | — | — | 142 | — |
| October | — | — | 10 | — | — | 303 |
| November | — | — | 11 | — | — | — |
| December | 420 | — | 301 | — | — | — |
| January | — | — | — | — | — | 10 |
| February | — | — | — | — | — | 10 |
| March | 100 | 100 | 6 | 200 | — | — |
| April | — | — | — | — | — | — |
| May | — | 105 | — | — | — | — |
| June | 126,966 | 127,046 | 124,006 | 164,015 | 203,329 | 202,801 |
| Total underremittances to the State Treasurer | <u>\$ 127,486</u> | <u>\$ 127,251</u> | <u>\$ 124,334</u> | <u>\$ 164,215</u> | <u>\$ 203,471</u> | <u>\$ 203,124</u> |

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

Findings and Recommendations

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

The County Auditor-Controller's Office underremitted by \$948,163 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal year (FY) period starting July 1, 2003, and ending June 30, 2009.

Government Code (GC) section 77201(b)(2) requires Madera County, for its base revenue obligation, to remit \$1,042,797 for 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 because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers and as a result of conditions identified as follows:

- For all six fiscal years, the county did not include within the MOE computation all of the traffic violator school (TVS) bail. A total of \$1,929,049 should have been included in the MOE.
- For all six fiscal years, the court did not appropriately distribute \$1 to the Jail Facility Fund from the county's 23% portion. Instead, it was taken out of the total TVS bail. Therefore, 77% of the TVS bail applicable to the MOE, \$27,111 ($\$35,210 \times 0.77$), should have been included in the MOE.
- As stated in Finding 2, the county inappropriately included with the MOE the entire \$5 component amount reported as parking surcharges and not just the \$2 component (40%). A total of \$34,339 should not have been included in the MOE.
- As stated in Finding 5, at month end, the court did not report the total convictions from evidence-of-financial-responsibility violations and offset county realignment base fines accordingly; \$55,114 ($\$73,485 \times 0.75$) should not have been included in the MOE.
- As noted in Finding 6, bail bond forfeitures were distributed 100% to the county which omitted the 75% portion pursuant to Penal Code (PC) section 1463 (\$40,881 should have been included in the MOE).

The qualified revenues reported for FY 2003-04 were \$1,777,969. The excess, above the base of \$1,042,797 is \$735,172. This amount should be divided equally between the county and the State, resulting in \$367,586 excess due the State. The county has remitted a previous payment of \$240,620, resulting in an underremittance of \$126,966.

The qualified revenues reported for FY 2004-05 were \$1,328,975. The excess, above the base of \$1,042,797, is \$286,178. This amount should be divided equally between the county and the State, resulting in \$143,089 excess due the State. The county has remitted a previous payment of \$16,043, resulting in an underremittance of \$127,046.

The qualified revenues reported for FY 2005-06 were \$1,290,808. The excess, above the base of \$1,042,797, is \$248,011. This amount should

be divided equally between the county and the State, resulting in \$124,006 excess due the state.

The qualified revenues reported for FY 2006-07 were \$1,479,331. The excess, above the base of \$1,042,797, is \$436,534. This amount should be divided equally between the county and the State, resulting in \$218,267 excess due the State. The county has remitted a previous payment of \$54,252 resulting in an underremittance of \$164,015.

The qualified revenues reported for FY 2007-08 were \$1,492,290. The excess, above the base of \$1,042,797, is \$449,493. This amount should be divided equally between the county and the State, resulting in \$224,746 excess due the State. The county has remitted a previous payment of \$21,417, resulting in an underremittance of \$203,329.

The underremittances had the following effect:

| Account Title | Understated/ (Overstated) |
|--|------------------------------|
| Trial Court Improvement Fund–Government Code §77205: | |
| FY 2003-04 | \$ 126,966 |
| FY 2004-05 | 127,046 |
| FY 2005-06 | 124,006 |
| FY 2006-07 | 164,015 |
| FY 2007-08 | 203,329 |
| FY 2008-09 | 202,801 |
| County General Fund | (948,163) |

Recommendation

The county should remit \$948,163 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’s Response

The county did not respond to this finding.

Court’s Response

It has been determined this issue exists in all Courts who utilize the same case management system as Madera Superior Court. The courts do not have the ability to make configuration changes within the case management system and must rely on the Administrative Office of the Courts (AOC) to make such changes. The AOC is currently working on a solution to correct the issue for all impacted courts, including Madera Superior Court. We have not been provided with an estimated timeframe as to when a solution will be in place. If there is any redistribution required at the time of implementation, it will be performed immediately.

SCO’s Comment

Until the court is able to properly report the revenues, the county should make the necessary adjustment at year-end when preparing the MOE.

**FINDING 2—
Inappropriate
distribution of
parking surcharges**

The County Auditor-Controller's Office did not correctly distribute the parking surcharges collected from the various local agencies to the County Courthouse Construction Fund and Criminal Justice Facilities Fund from July 2003 through December 2008. In addition, parking fines and penalties pursuant to the State Court Facilities Construction Fund were not distributed. County personnel indicated that the required distribution was inadvertently overlooked.

GC section 76000(c) requires the county to deposit \$2.50 parking surcharge in both the County Courthouse Construction Fund and Criminal Justice Facilities Fund, from each parking fine collected. Further, this section requires \$1 of each \$2.50 parking surcharge to be distributed to the State General Fund.

Starting January 2009, GC section 70372(b) requires the county to remit \$4.50, a fine and parking surcharge, \$3.00 and \$1.50 respectively to the State Court Facility Construction Fund for each parking violation reported by the county and local agencies.

The inappropriate distributions of parking surcharges affect the distribution of fines, penalties as well as the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205 and to the State Court Facility Construction Fund pursuant to GC section 70372(b). A redistribution of the effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Madera County Auditor-Controller's Office should change its distribution formulas for parking surcharges to comply with statutory requirements. A redistribution should be made from July 2009 through the date on which the current system is revised.

County's Response

The county did not respond to this finding.

Court's Response

The court did not respond to this finding.

**FINDING 3—
Erroneous distribution
priority by the County
Revenue Services
division**

The Madera County Revenue Service Division prioritized collections in a manner that inappropriately gave a distribution priority to installment fees over state 20% surcharges, fines and penalties. The error occurred because the department staff overlooked the additional computer programming procedure requirements.

Starting September 30, 2002, PC section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims
2. 20% state surcharge
3. Fines, penalty assessments and restitution fines
4. Other reimbursable costs

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

Failure to make the required priority distribution causes distributions 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 various accounts.

Recommendation

The Madera County Revenue Service Division should take steps to insure that all surcharges, fines, penalties and fees are distributed in accordance with the statutory requirements under PC section 1203.1d.

County's Response

The county did not respond to this finding.

Court's Response

The court did not respond to this finding.

**FINDING 4—
Unimposed state court
facility construction fees
for the immediate and
critical needs account**

The Madera County Probation Department did not impose or document within the probation order, the collection of state court construction facility fees to the immediate and critical needs account (ICNA) per GC section 70373 when sent to the Madera County Revenue Service Division. Therefore, no collections have been made for these revenues by the County Revenue Division. County personnel indicated that the required distribution was inadvertently overlooked.

Starting January 1, 2009, GC section 70373 requires an additional \$30 fee for each misdemeanor or felony conviction when a fine has been ordered.

Failure to impose state court construction facility fees causes deposits in the immediate and critical needs account to be understated.

Recommendation

The Madera Superior Court should inform probation personnel to document within the probation order, the statutory amount for imposition of State court construction facility fees for the immediate and critical needs account to facilitate the proper collection by the Madera County Revenue Service Division.

County's Response

The county did not respond to this finding.

Court's Response

On February 17, 2010 the Court provided the Probation Department with a then current database that included the ICNA conviction fee calculation per GC 70373. This database was provided to the Court by the Administrative Office of the Courts (AOC) and was given to the Probation Dept. with the AOC's permission. Probation was given instructions on how to use the database and they were informed they needed to include the statutory ICNA conviction fee per GC 70373. They were also informed it would be their responsibility to modify the database with any legislative updates. The Probation Department began including the ICNA conviction fee in their probation recommendations as of June 2010.

SCO's Comment

The court is taking necessary corrective action.

**FINDING 5—
Underremitted
evidence-of-financial-
responsibility fines**

The Madera County Superior Court did not make the required distributions to the State General Fund and State Transportation Fund for evidence-of-financial-responsibility fines for the period of July 2003 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.

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

This finding was addressed in the SCO audit of the Madera County and Courts for the period of July 1999 through June 2003 (report issued April 29, 2005).

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

| <u>Account Title</u> | <u>Understated/ (Overstated)</u> |
|---|--------------------------------------|
| State General Fund–Penal Code §1463.22(c) | \$ 24,101 |
| State General Fund–Penal Code §1463.22(b) | 7,224 |
| County General Fund | (73,484) |
| Madera Superior Court | 42,159 |

Recommendation

The county should remit \$31,325 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$24,101 to the State General Fund–PC section 1463.22(c) and \$7,224 to the State Transportation Fund–PC section 1463.22(b). The county should also make the corresponding account adjustments. A redistribution should be made for the period of July 2009 through the date on which the current system is revised.

County's Response

The county did not respond to this finding.

Court's Response

This has been corrected and the Court began using the correct distribution in January 2010. It is completed on a monthly basis and included with the monthly distribution reports provided to the County. In January 2010 the redistribution of funds for July 2009 through January 2010 was completed. In February and March 2010 the Court completed the redistribution of these funds from 2004 through June 2009. The Court inadvertently did not include FY 2003-04 in this redistribution. The redistribution for FY 2003-04 will be completed with the November 2010 monthly distribution reports to the County, Which will complete the redistribution.

SCO's Comment

The court is now using correct distributions.

**FINDING 6—
Inappropriate
distribution of bail
bond forfeitures**

The Madera County Superior Court did not make a proper distribution of forfeited bail as required under Health and Safety Code section 11502. Instead, the court distributed forfeited bail to the county’s General Fund. Health and Safety Code (H&SC) section 11502, a specific distribution, requires 75% of all forfeited bail within Division 10 (H&SC sections 11000-11592) be remitted to the State Treasurer. The remaining 25% should be distributed pursuant to the arresting agency in accordance with PC section 1463.001. Court personnel indicated that the required distribution was inadvertently overlooked.

PC section 1463.009 requires that revenues from forfeited bail be distributed pursuant to PC section 1463. PC section 1463.001(b) (1) further states that the base fines which are subject to specific distribution shall be distributed to the specified funds of the State or the local agency. Additionally, GC section 68090.8 requires that 2% be deducted from all fines, penalties, and forfeitures for automation purposes.

This finding was addressed in the SCO audit of Madera County and Courts for the period of July 1999 through June 2003 (report issued April 29, 2005).

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

| Account Title | Understated/ (Overstated) |
|---|------------------------------|
| State General Fund–Health and Safety Code §11502 | \$ 22,531 |
| State Trial Court Improvement Fund– Government Code §68090.8 | 1,725 |
| County General Fund | (26,866) |
| City of Madera | 2,610 |

Recommendation

The county should remit \$24,256 to the State Treasurer and report on the remittance advice form (TC-31), increases of \$22,531 to the State General Fund–H&SC section 11502 and \$1,725 to the State Trial Court Improvement Fund–GC section 68090.8. The county should also make the corresponding account adjustments.

County’s Response

The county did not respond to this finding.

Court's Response

The Court attempted to resolve this issue after the 2005 audit by having the cases manually reviewed prior to disbursing the funds. Despite those efforts, errors were made and monies were not disbursed properly; ultimately making the process unsuccessful. The Court has now determined an automated process must be created to address this issue so errors do not continue to occur in the future. The Court has contracted with a vendor to make changes to the Court's case management system which will allow the Court to disburse these funds according to code.

SCO's Comment

The court is taking necessary corrective action.

**FINDING 7—
Incorrect distribution
of TVS fees**

The Madera County Superior Court inappropriately did not include within the TVS bail the component that would have otherwise been distributed as DNA penalties starting July 2005 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.

Starting November 3, 2004, GC section 76104.6, and starting July 13, 2006, GC 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 Penalties are levied and collected in the same manner as the State Penalty imposed per PC section 1464 and is not included in the exceptions listed in Vehicle Code section 42007.

The inappropriate distributions for TVS bail affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. A redistribution of the effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts. However, if this practice continues, a material overstatement may occur in future periods.

Recommendation

Madera County Superior Court should change its distribution formulas for TVS bail to comply with statutory requirements. An examination and potential 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 did not respond to this finding.

Court's Response

When the Court's vendor was creating the auto-assess tables for the DNA distribution for TVS bail, the vendor contacted the SCO's office on this issue. The SCO's response was to include DNA distributions with the TVS distributions. This is how it was configured at that time, and remains the same way today. Below is an example of a bail forfeiture with the DNA and TVS case, which clearly shows the DNA amounts are moved over to the TVS Penalty Assessment.

| A | B | C | D | E |
|---|-----------------|--------------|--|-----------------|
| Bail Forfeiture | | | Traffic School | |
| Criminal \$35 ICNA-GC70373 [900701] | \$35.00 | | Criminal \$35 ICNA-GC70373 [900701] | \$35.00 |
| Court Security Fee-\$10 [900709] | \$10.00 | | Court Security Fee-\$10 [900709] | \$10.00 |
| Court Security Fee PC1465.8 [901759] | \$20.00 | | Court Security Fee PC1465.8 [901759] | \$20.00 |
| EMS Add'l GC76000.5 [900098] | \$14.00 | | EMS Add'l GC76000.5 [900098] | \$14.00 |
| State Courthouse Construction [900083] | \$35.00 | | State Courthouse Construction [900083] | \$35.00 |
| AB3000-20% Surcharge PC1465.7 [900065] | \$14.00 | | AB3000-20% Surcharge PC1465.7 [900065] | \$14.00 |
| Emerg Med Service GC76104 [900012] | \$14.00 | | Emerg Med Service GC76104 [900012] | \$14.00 |
| Madera General Fund [MA0001] | \$58.10 | | Madera General Fund [MA0001] | \$58.10 |
| County General Fund PC1463.001 [900004] | \$11.90 | | County General Fund PC1463.001 [900004] | \$11.90 |
| DNA Funding GC76104.7-\$2 [900603] | \$14.00 | \$133.00 | Traffic Sch Pnlty Assess PC1464 [900059] | \$132.00 |
| DNA Funding GC76104.6 [900601] | \$7.00 | | Crim Justice Fac-VC42007 [900707] | \$1.00 |
| DNA Addtl. GC76104.7 [900602] | \$7.00 | | | |
| State Penalty Fund PC1464 [900003] | \$49.00 | | DNA+DNA+DNA+State Penalty+Cnty Penalty+ | |
| Cnty Penalty Assess PC1464 [900050] | \$21.00 | | CFJ = Traffic School Penalty Assessment+CJF | |
| County CJF Construction Fund [900084] | \$35.00 | | | |
| TOTAL | \$345.00 | TOTAL | | \$345.00 |

Based on the above example the court is unclear how GC section 76104.6 and GC section 76104.7 are not being corrected distributed. If the SCO still believes there is an issue with this finding then the court is requesting further clarification.

SCO's Comment

The above example is correct. However, during the period of the SCO audit, for the account 900059, \$119 (\$7 × 17) would have reported and not the amount shown of \$133 (\$7 × 19).

**FINDING 8—
Failure to distribute
30% red-light traffic
allocation**

The Madera County Courts did not distribute 30% of state court facility construction penalties from red light traffic violations starting April 2007 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.

PC section 1463.11 requires 30% of base fines, and state and county penalties (PC sections 1463 and 1464, and GC 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. State Court Facility Construction penalties are not referenced in this statute; however, GC section 70372 is subject to the distribution requirements in accordance with PC section 1463. Therefore, State Court Facility Construction Penalties are subject to the 30% of allocation.

Emergency medical service penalties pursuant to GC section 76000.5 and DNA penalties pursuant to GC sections 76104.6 and 76104.7 are not subject to the 30% distribution. These statutes require full distribution prior to the requirements set forth in PC section 1463.

Failure to distribute the State court facility construction penalties affects the revenues allocated to the county and city's 30% portion pursuant to PC section 1463.11. A redistribution of the effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts. However, if this practice continues, a material overstatement may occur in future periods.

Recommendation

The court should establish formal procedures to ensure that state court facility construction penalties pursuant to PC section 1463.11 are included as part of the 30% red-light offset distribution. An examination and potential redistribution should be made for the collection period starting July 2009 through the date on which the current system is revised.

Court's Response

The Court became aware in December 2009 after review of Revision 20 of Appendix C that a configuration change would be required for the court to be in compliance. This change was made on December 15, 2009 to include the State Court Construction penalties pursuant to PC 1463.11 and are included as part of the 30% red-light offset distribution. The redistribution for the period July 1, 2009 through December 15, 2009 will be completed with the November 2010 monthly distribution report to the County.

SCO's Comment

The court is taking necessary corrective action.

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



AUDITOR-CONTROLLER
COUNTY OF MADERA
204 W 4th ST 2nd Floor MADERA, CALIFORNIA 93637
(559) 675-7707 / FAX (559) 661-3006 / TDD (559) 675-8970

November 9, 2010

John Chiang
California State Controller
P. O. Box 942850
Sacramento, CA 94250 5874

Re: Audit Report Court Revenues

Dear Sir:

The County of Madera acknowledges receipt of the State Controller's Office report dated October 29, 2010, the period July 1, 2003 through June 30, 2009, and responds herein.

On page two, the paragraph "Follow up on Prior Audit Findings" states the County has satisfactorily resolved the findings noted in our prior audit report issued April 29, 2005. That audit report covered the period through June 30, 2003. In the current report the auditor on site indicated a prior audit had been done; however, this office had no exit interview and received final audit report advising us of findings that would have covered the period July 1, 2003 through June 30, 2006. Therefore, we were unable to rectify the errors causing the underremittance to the State Treasury listed in the findings in this audit report.

Even though this office acknowledges the findings, we dispute the lump-sum repayment of \$1,003,744. The County of Madera is requesting a repayment schedule over the same time frame the debt was incurred, with zero interest. Since the underpayment covered a period of six years, the County is proposing a payback of \$167,000 per year for five years and a final payment of \$168,744 in the sixth and final year.

Thank you in advance for your favorable response.

Sincerely,


Jaret Kroeger

11/12/10

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



*Superior Court of the State of California
County of Madera*

209 W. Yosemite Avenue
Phone: 559-675-7944



Madera CA 93637
Fax: 559-675-4947

Presiding Judge: Hon. James E Oakley

Assistant Presiding Judge: Hon. Eric C. Wyatt

Court Executive Officer: Bonnie Thomas

An Affirmative Action/Equal Opportunity Employer

Steven Mar, Chief
Local Government Audits Bureau
California State Controller Office
Division of Audits
PO Box 942850
Sacramento, CA 94250-5874

November 17, 2010

Mr. Mar,

Please find enclosed the responses from Madera Superior Court to the State Controller's Office draft audit report dated October 2010. The State Controller's Office audit of Madera County's Court revenues was for the period of July 1, 2003 through June 30, 2009.

The Court is responding to the findings directed at the Court's collections and distributions and is specifically not responding to the findings directed at the County's collections and distributions. Please let me know if you have any questions regarding this information.

Sincerely,

A handwritten signature in blue ink that reads 'B Thomas'.

Bonnie Thomas
Court Executive Officer

**Madera County
Audit Report
Court Revenues
July 1, 2003 through June 30, 2009**

Court's Responses

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

In part, "..... For all six fiscal years, the court did not appropriately distribute \$1 to the Jail Facility Fund from the county's 23% portion. Instead, it was taken out of the total TVS bail. Therefore, 77% of the TVS bail applicable to the MOE, \$27,111 (\$35,210 x .77), should have been included in the MOE...."

Court's Response to Finding # 1: (In relation to the above portion)

It has been determined this issue exists in all Courts who utilize the same case management system as Madera Superior Court. The courts do not have the ability to make configuration changes within the case management system and must rely on the Administrative Office of the Courts (AOC) to make such changes. The AOC is currently working on a solution to correct the issue for all impacted courts, including Madera Superior Court. We have not been provided with an estimated timeframe as to when a solution will be in place. If there is any redistribution required at the time of implementation, it will be performed immediately.

Finding 2 –
Inappropriate distribution of parking surcharges

Court's Response to Finding # 2:

This is a County only finding.

Finding 3 –
Erroneous distribution priority by the County Revenue Services division

Court's Response to Finding # 3:

This is a County only finding.

Finding 4 –

Unimposed state court facility construction fees for the immediate and critical needs account

“The Madera County Probation Department did not impose or document within the probation order, the collection of state court construction facility fees to the immediate and critical needs account (ICNA) per GC section 70373 when sent to the Madera County Revenue Service Division. Therefore, no collections have been made for these revenues by the County Revenue Division. County personnel indicated that the required distribution was inadvertently overlooked.

Starting January 1, 2009, GC section 70373 requires an additional \$30 fee for each misdemeanor or felony conviction when a fine has been ordered.

Failure to impose state court construction facility fees causes deposits in the immediate and critical needs account to be understated.”

Recommendation

“The Madera Superior Court should inform probation personnel to document within the probation order, the statutory amount for imposition of State court construction facility fees for the immediate and critical needs account to facilitate the proper collection by the Madera County Revenue Service Division.”

Court’s Response to Finding # 4:

On February 17, 2010 the Court provided the Probation Department with a then current database that included the ICNA conviction fee calculation per GC 70373. This database was provided to the Court by the Administrative Office of the Courts (AOC) and was given to the Probation Dept. with the AOC’s permission. Probation was given instructions on how to use the database and they were informed they needed to include the statutory ICNA conviction fee per GC 70373. They were also informed it would be their responsibility to modify the database with any legislative updates. The Probation Department began including the ICNA conviction fee in their probation recommendations as of June 2010.

Finding 5 –

Underremitted evidence-of-financial-responsibility fines

“The Madera County Superior Court did not make the required distributions to the State General Fund and State Transportation Fund for evidence-of-financial-responsibility fines for the period of July 2003 through June 2009. Court

personnel indicated that the required distribution was inadvertently overlooked.....”

Recommendation

“The county should remit \$31,325 to the State Treasurer and report on the remittance advice (TC-31), increases of \$24,101 to the State General Fund – PC section 1463.22(c) and \$7,224 to the State Transportation Fund-PC section 1463.22(b). The county should also make the corresponding account adjustments. A redistribution should be made for the period of July 2003 through the date the current system is revised.”

Court’s Response to Finding #5:

This has been corrected and the Court began using the correct distribution in January 2010. It is completed on a monthly basis and included with the monthly distribution reports provided to the County. In January 2010 the redistribution of funds for July 2009 through January 2010 was completed. In February and March 2010 the Court completed the redistribution of these funds from 2004 through June 2009. The Court inadvertently did not include FY 2003-2004 in this redistribution. The redistribution for FY 2003-2004 will be completed with the November 2010 monthly distribution reports to the County, Which will complete the redistribution.

Finding 6 –

Inappropriate distribution of bail bond forfeitures

“The Madera County Superior Court did not make a proper distribution of forfeited bail as required under Health and Safety Code section 11502. Instead, the court distributed forfeited bail to the County’s General Fund. Health and Safety Code (H&SC) section 11502, a specific distribution, requires 75% of all forfeited bail within Division 10 (H&SC sections 11000-11592) be remitted to the State Treasurer. The remaining 25% should be distributed pursuant to the arresting agency in accordance with PC section 1463.001. Court personnel indicated that the required distribution was inadvertently overlooked.....”

Recommendation

“The county should remit \$24,256 to the State Treasurer and report on the remittance advice (TC-31), increases of \$22,531 to the State General Fund-H&SC section 11502 and \$1,725 to the State Trial Court Improvement Fund-GC section 68090.8. The county should also make the corresponding account adjustments.”

Court's Response to Finding #6:

The Court attempted to resolve this issue after the 2005 audit by having the cases manually reviewed prior to disbursing the funds. Despite those efforts, errors were made and monies were not disbursed properly; ultimately making the process unsuccessful. The Court has now determined an automated process must be created to address this issue so errors do not continue to occur in the future. The Court has contracted with a vendor to make changes to the Court's case management system which will allow the Court to disburse these funds according to code.

Finding 7 –

Incorrect distribution of traffic-violator-school (TVS) fees

"The Madera County Superior Court inappropriately did not include within the TVS bail the component that would have otherwise been distributed as DNA penalties starting July 2005 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.

Starting November 3, 2004, GC section 76104.6, and starting July 13, 2006, GC 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 Penalties are levied and collected in the same manner as the State Penalty imposed per PC section 1464 and is not included in the exceptions listed in Vehicle Code section 42007....."

Recommendation

"Madera County Superior Court should change its distribution formulas for TVS bail to comply with statutory requirements. An examination and potential redistribution should be made for the collection period starting July 2009 through the date the current system is revised."

Court's Response to Finding #7:

When the Court's vendor was creating the auto-assess tables for the DNA distribution for TVS bail, the vendor contacted the SCO's office on this issue. The SCO's response was to include DNA distributions with the TVS distributions. This is how it was configured at that time, and remains the same way today. Below is an example of a bail forfeiture with the DNA and a TVS case, which clearly shows the DNA amounts are moved over to the TVS Penalty Assessment.

| A | B | C | D | E |
|---|-----------------|--------------|--|-----------------|
| Bail Forfeiture | | | Traffic School | |
| Criminal \$35 ICNA-GC70373 [900701] | \$35.00 | | Criminal \$35 ICNA-GC70373 [900701] | \$35.00 |
| Court Security Fee-\$10 [900709] | \$10.00 | | Court Security Fee-\$10 [900709] | \$10.00 |
| Court Security Fee PC1465.8 [901759] | \$20.00 | | Court Security Fee PC1465.8 [901759] | \$20.00 |
| EMS Add'l GC76000.5 [900098] | \$14.00 | | EMS Add'l GC76000.5 [900098] | \$14.00 |
| State Courthouse Construction [900083] | \$35.00 | | State Courthouse Construction [900083] | \$35.00 |
| AB3000-20% Surcharge PC1465.7 [900065] | \$14.00 | | AB3000-20% Surcharge PC1465.7 [900065] | \$14.00 |
| Emerg Med Service GC76104 [900012] | \$14.00 | | Emerg Med Service GC76104 [900012] | \$14.00 |
| Madera General Fund [MA0001] | \$58.10 | | Traffic School Fees-Madera [MA0025] | \$58.10 |
| County General Fund PC1463.001 [900004] | \$11.90 | | TS-County Traffic School Fees [900131] | \$11.90 |
| DNA Funding GC76104.7-\$2 [900603] | \$14.00 | \$133.00 | Traff Sch Prntly Assess PC1464 [900059] | \$132.00 |
| DNA Funding GC76104.6 [900601] | \$7.00 | | Crim Justice Fac-VC42007 [900707] | \$1.00 |
| DNA Addtl. GC76104.7 [900602] | \$7.00 | | | |
| State Penalty Fund PC1464 [900003] | \$49.00 | | DNA+DNA+DNA+State Penalty+Cnty Penalty+ CFJ = Traffic School Penalty Assessment+CJF | |
| Cnty Penalty Assess PC1464 [900050] | \$21.00 | | | |
| County CJF Construction Fund [900084] | \$35.00 | | | |
| TOTAL | \$345.00 | TOTAL | | \$345.00 |

Based on the above example the court is unclear how GC section 76104.6 and GC section 76104.7 are not being correctly distributed. If SCO still believes there is an issue with this finding then the court is requesting further clarification.

Finding 8 –

Lack of distributing of 30% red-light traffic allocation

“The Madera County Courts did not distribute 30% of state court facility construction penalties from red light traffic violations starting April 2007 through June 2009. Court personnel indicated that the required distribution was inadvertently overlooked.....”

Recommendation

The Court should establish formal procedures to ensure that state court facility construction penalties pursuant to PC section 1463.11 are included as part of the 30% red-light offset distribution. An examination and potential redistribution should be made for the collection period starting July 2009 through the date the current system is revised.”

Court’s Response to Finding #8:

The Court became aware in December 2009 after review of Revision 20 of Appendix C that a configuration change would be required for the court to be in compliance. This change was made on December 15, 2009 to include the State Court Construction

penalties pursuant to PC 1463.11 and are included as part of the 30% red-light offset distribution. The redistribution for the period July 1, 2009 through December 15, 2009 will be completed with the November 2010 monthly distribution report to the County.

**State Controller's Office
Division of Audits
Post Office Box 942850
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<http://www.sco.ca.gov>