SACRAMENTO COUNTY

Audit Report

COURT REVENUES

July 1, 2001, through June 30, 2006



JOHN CHIANG
California State Controller

February 2009



California State Controller

February 6, 2009

Dave Irish
Director of Finance
Sacramento County
700 H Street, Room 4650
Sacramento, CA 95814

Dennis Jones Court Executive Officer Sacramento County 720 9th Street, Room 611 Sacramento, CA 95814

Dear Mr. Irish and Mr. Jones:

The State Controller's Office audited Sacramento County's court revenues for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$127,385 in court revenues to the State Treasurer because it underremitted the 50% excess of qualified fines, fees, and penalties. Our audit also disclosed procedural findings as described in the Findings and Recommendations section of this report.

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, 2001, through June 30, 2006.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustments to the attention of the following individuals:

Greg Brummels, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Jaime Delgadillo, 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 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/sk

cc: John A. Judnick, Manager, Internal Audit
Judicial Council of California
Karen McGagin, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst'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 Sacramento County for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$127,385 in court revenues to the State Treasurer because it underremitted the 50% excess of qualified fines, fees, and penalties. Our audit also disclosed procedural findings as described in the Findings and Recommendations section of this report.

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, 2006. 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, Division of Revenue Recovery, 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

Sacramento County underremitted \$127,385 in court revenues to the State Treasurer. The underremittance is summarized in Schedule 1 and described in the Findings and Recommendations section.

Additionally, we noted procedural findings as described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued January 2003.

Views of Responsible Officials

We issued a draft audit report on October 15, 2008. Dave Irish, Director of Finance, responded by letter dated November 13, 2008 (Attachment A), agreeing with the audit results with the exception of Finding 1. Dennis B. Jones, Court Executive Officer, responded by letter dated November 3, 2008 (Attachment B), agreeing with the audit results.

Restricted Use

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

February 6, 2009

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2001, through June 30, 2006

Description	Account Title ¹	Code Section	2001-02	2002-03	Fiscal Year 2003-04	2004-05	2005-06	Total	Reference ²
Underremitted 50% excess of fines, fees, and penalties	State Trial Court Improvement Fund	Government Code §77205	\$ 25,428	\$ 23,308	\$ 24,417	\$ 27,293	\$ 26,939	\$ 127,385	Finding 1
Net amount underpaid (overpaid) to the State Treasurer			\$ 25,428	\$ 23,308	\$ 24,417	\$ 27,293	\$ 26,939	\$ 127,385	

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 See the Findings and Recommendations section.

Schedule 2— Summary of Underremittances by Month Trial Court Improvement Fund July 1, 2001, through June 30, 2006

Month		2002-03	2	2003-04		scal Year 2004-05		2005-06		2006-07
July	\$		\$		\$		\$		\$	
August	_	25,428	_	23,308	_	24,417	7	27,293	-	26,939
September				, <u> </u>		· —		_		· —
October										
November				_						_
December										
January										
February										
March										
April										
May										
June					_					
Total underremittances to the State Treasurer	\$	25,428	\$	23,308	\$	24,417	\$	27,293	\$	26,939

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 \$127,385 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five-fiscal-year (FY) period starting July 1, 2001, and ended June 30, 2006.

Government Code section 77201(b)(2) requires Sacramento County, for its base revenue obligation, to remit \$5,937,204 for FY 1998-99 and each fiscal year thereafter. In addition, Government Code 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 underremittance occurred because the court did not appropriately distribute \$1 to the Jail Facility Fund and \$1 to the Court Construction Fund from the county's 23% portion of the traffic violator school (TVS) bail. Instead, the \$2 was taken out of the total TVS bail. Therefore, 77% of the TVS bail applicable to the maintenance of effort (MOE) included this amount. \$254,772 (\$330,873 x 0.77) should have been included in the MOE.

The qualified revenues reported for FY 2001-02 were \$11,037,442. The excess, above the base of \$5,937,204, is \$5,100,238. This amount should have been divided equally between the county and the state, resulting in \$2,550,119 excess due the state. The county has remitted a previous payment of \$2,524,691, leaving an underremittance of \$25,428.

The qualified revenues reported for FY 2002-03 were \$11,261,904. The excess, above the base of \$5,937,204, is \$5,324,700. This amount should have been divided equally between the county and the state, resulting in \$2,662,350 excess due the state. The county has remitted a previous payment of \$2,639,042, leaving an underremittance of \$23,308.

The qualified revenues reported for FY 2003-04 were \$12,361,185. The excess, above the base of \$5,937,204, is \$6,423,981. This amount should have been divided equally between the county and the state, resulting in 3,211,991 excess due the state. The county has remitted a previous payment of \$3,187,574, leaving an underremittance of \$24,417.

The qualified revenues reported for FY 2004-05 were \$13,303,347. The excess, above the base of \$5,937,204, is \$7,366,143. This amount should have been divided equally between the county and the state, resulting in \$3,683,072, excess due the state. The county has remitted a previous payment of \$3,655,779, leaving an underremittance of \$27,293.

The qualified revenues reported for FY 2005-06 were \$12,088,374. The excess, above the base of \$5,937,204, is \$6,151,170. This amount should have been divided equally between the county and the state, resulting in \$3,075,585 excess due the state. The county has remitted a previous payment of \$3,048,646, leaving an underremittance of \$26,939.

The underremittance had the following effect:

Account Title	Understated/ (Overstated)			
Trial Court Improvement Fund–Government Code section 77205:				
FY 2001-02	\$	25,428		
FY 2002-03		23,308		
FY 2003-04		24,417		
FY 2004-05		27,293		
FY 2005-06		26,939		
County General Fund	((127,385)		

Recommendation

The county should remit \$127,385 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–Government Code section 77205. The county should also make the corresponding account adjustments.

County's Response

Under California case law, an action to collect misallocated funds, where the duty to pay arises from statute is limited to three years prior to the filing of the action. Code of Civil Procedure §338(a) provides that an action upon a liability created by statute, other than a penalty or forfeiture must be brought within three years. This provision has been held to limit back claims by the state against a city for failure to pay the state's share of fines to three years.

At this point in November 2008, a three year limitation permits an action to recoup funds from November 2005 forward and bars action for funds prior to that date. To settle this matter, DRR recommends the County remit only amounts claimed after November 2005.

Court's Response

The court concurs with the finding and has made the proper adjustments in the case management system to properly align the fees in question. The necessary corrections to the case management system were implemented in May 2007 upon notification of the necessary change by the project Auditor. The court will provide reimbursement to the County for the penalty/interest that will be due on the outstanding amount the County is required to pay. The penalty/interest calculation would be computed from the payment due date until June 2007 when this Audit was suspended due to reassignment of the project Auditor.

SCO's Comment

Generally, a statute of limitations only affects legal remedies; it will not extinguish the debt or obligation. In this situation, the obligation to pay underremitted funds would still exist even if the Controller was otherwise time-barred from pursuing legal remedies. The statute of limitations, if applicable, would not prevent the Controller from pursuing any administrative remedies available, such as an offset. Section 338(d)

of the Code of Civil Procedure, which requires an action for relief from fraud or mistake to commence within three years from the date of discovery, is the applicable statute of limitations for this finding.

Furthermore, the accrual date for a cause of action based on a mistake is the date of discovery of the mistake. In accordance with section 338(d), the Controller's Office would have three years from the date of discovery of the audit error to bring its action.

This finding remains unchanged.

FINDING 2— Inappropriate distribution priority – Superior Court

The Sacramento Superior Court did not properly prioritize its installment payments. The court's reimbursable costs were collected first. Court staff indicated that the accounting system had not been programmed correctly to comply with the required collection sequence.

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

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 the various accounts.

Recommendation

The Sacramento Superior Court should take steps to establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under Penal Code section 1203.1d.

Court's Response

The court concurs with the finding and upon notification of the error by the project Auditor made the necessary adjustments in June 2007 to the case management system to correctly prioritize the noted installment payments. The court follows the State Controller's Office guidelines for all payments received. This particular prioritization was changed in 2003 by AB3000, but the change was not implemented by the court as a result of miscommunication between the court and the case management vendor concerning the usable inclusion of this necessary change in the system.

FINDING 3— Inappropriate distribution priority – Department of Revenue Recovery

The Sacramento County Department of Revenue Recovery did not properly prioritize its installment payments. Installment fees and court security fees were collected before the fines, penalties, and restitution orders. Department staff indicated that the accounting system had not been programmed correctly to comply with the required collection sequence.

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

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 the various accounts.

Recommendation

The Department of Revenue Recovery should take steps to establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under Penal Code section 1203.1d.

County's Response

Penal Code §1203.1d(b) when enacted provided that priority amount restitution, state surcharge, fines, etc. and reimbursable costs was to be set by the Board of Supervisors. Pursuant to that authorization, the Sacramento County Board of Supervisors set priorities allocating a portion of each payment for disbursements.

Amendments to §1203.1d(b) removed Board of Supervisors discretion and made the current statutory order mandatory, by changing "may" to "shall" effective January 1, 2001. The July 1, 1997 through June 30, 2001 audit report dated January 2003, did not bring the change in law and accounting requirements to the County's attention, although the report clearly covered the effective date of the change. The Manual of Accounting and Audit Guidelines for Trial Courts similarly did not clearly notify users of a change to mandatory order of disbursements. County acted in reliance on the review and the accounting and audit guidelines.

The installment priorities in DRR's collection system have been reviewed and changed to comply with Penal Code section §1203.1d. The installment fees and court security fees are now prioritized to be paid after the fines, penalties and restitution orders.

A formal procedure will be implemented that will require all identified legislative changes to distribution priorities to be handled by DRR accounting to ensure that changes are made in the DRR revenue

collection system. Actual changes to the DRR revenue collection system will be made by DRR IT staff under the direction of Accounting. As changes are made they will be tested to ensure that distribution priorities are handled correctly.

Court's Response

This finding will be addressed by the County.

FINDING 4— Deficiency in control over court records

In the preparation of the audit report for the Sacramento County Superior Court, we noted a fraud case involving a Sacramento Court employee who was able to alter records of Driving Under the Influence (DUI) cases. According to a KXTV News 10 report on November 19, 2007, this employee allegedly had been altering court case files since January 1, 2007. The employee was arrested in November 2007 on charges of destroying court records, making fraudulent computer entries, and conspiracy.

The Administrative Office of the Courts (AOC) procedure manual states that any deviations from the manual should be documented in the local court's operations and procedures manual. We were unable to locate any procedures for monitoring the alteration of traffic dockets in the AOC manual. Also, there is no local operation manual.

The State Controller's Office generally evaluates internal controls only to the extent necessary to satisfy the objectives of the performance audit. Such procedures are far less extensive than would be required for a financial audit. It should be noted that California courts have not been subject to a financial audit requirement, or a more extensive review of internal controls since January 1, 1998.

Good internal controls and prudent business practices require that authorization must be properly obtained prior to the alteration or deletion of any court documents.

According to the Sacramento County District Attorney's Office, records of seven DUI cases were inappropriately altered. However, those records have all been restored and the cases were adjudicated. Revenues from those cases will not be affected.

Recommendation

The Sacramento County Superior Court should prepare and maintain a local operations and procedures manual that includes procedures for document controls, particularly over monitoring the deletion and alteration of court records.

The Sacramento County Superior Court, in conjunction with the AOC, should request an independent review of internal controls over its operations.

Court's Response

We concur with the need for good internal controls and proper procedural manuals. Upon discovery of the infractions, the court immediately established a procedure that directs any dismissed case to be directed to supervisors for a double-check of the case file against the case management system information. In addition, the court n [sic] has directed their Internal Audit Unit to perform spot checks on such cases along with expanding the scope of existing reviews of internal control functions to include this area of the court.

Attachment A— County Director of Finance's Response to Draft Audit Report

Internal Services Agency

Department of Finance

Auditor-Controller Division Julie Valverde, Assistant Auditor-Controller

Terry Schutten, County Executive Mark Norris, Agency Administrator Dave Irish, CPA, Department Director

County of Sacramento

November 13, 2008

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

Please find attached the County of Sacramento's response to the State Controller's Office draft audit report issued October 15, 2008, for the audit of the Sacramento County Court Revenues for the Period July 1, 2001 through June 30, 2006. Please note that the County believes that there is a limitation to collect the amounts due as noted in the audit and therefore the County should only remit amounts claimed after November 2005. Also, it is the County's understanding that the Superior Court of California, County of Sacramento, has submitted a separate response dated November 3, 2008, for findings that pertain to the Court.

If you should have any questions regarding this response please contact Julie Valverde, Assistant Auditor-Controller at 874-7248.

Sincerely,

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Dave Irish

Director of Finance

ce: Mark Norris, Internal Agency Administrator Connic Ahmed, Director, Department of Revenue Recovery Julie Valverde, Assistant Auditor-Controller

COUNTY OF SACRAMENTO

DEPARTMENT OF REVENUE RECOVERY

Intra-Departmental Correspondence

To:

Connie Ahmed

Director Revenue Recovery

Walter Matye

Walter Matye
DRR Sr. Accounting Manager

Date: November 13, 2008

Subject: RESPONSE TO STATE AUDIT REPORT ISSUED OCTOBER 2008

The State Controller's Office audited Sacramento County's court revenues for the period of July 1, 2001 through June 30, 2006 and issued their findings in a report dated October 2008. This memo is in response to those findings:

Finding 1 - The County received funds which it should not have because deductions were made from the overall fund rather than County's portion of the fund from fiscal years 2001-2002 through 2005-2006.

Recommendation

The County should remit \$127,385 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund-Government Code section 77205. The County should also make the corresponding account adjustments.

DRR response to findings 1

Under California case law, an action to collect misallocated funds, where the duty to pay arises from statute is limited to three years prior to the filing of the action. Code of Civil Procedure §338(a) provides that an action upon a liability created by statute, other than a penalty or forfeiture must be brought within three years. This provision has been held to limit back claims by the state against a city for failure to pay the state's share of fines to three years.

At this point in November 2008, a three year limitation permits an action to recoup funds from November 2005 forward and bars action for funds prior to that date. To settle this matter, DRR recommends the County remit only amounts claimed after November 2005.

Finding 3 - The County did not allocate installment payments pursuant to Penal Code §1203.1d mandatory requirements.

Recommendation

The Department of Revenue Recovery should take steps to establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under Penal Code section §1203.1d.

DRR response to finding 3

Penal Code §1203.1d (b) when enacted provided that priority among restitution, state surcharge, fines, etc. and reimbursable costs was to be set by the Board of Supervisors. Pursuant to that authorization, the Sacramento County Board of Supervisors set priorities allocating a portion of each payment for

Amendments to §1203.1d (b) removed Board of Supervisors discretion and made the current statutory order mandatory, by changing "may" to "shall" effective January 1, 2001. The July 1, 1997 through June

Page 2: Response to State Audit Report issued October 2008

30, 2001 audit report dated January 2003, did not bring the change in law and accounting requirements to the County's attention, although the report clearly covered the effective date of the change. The Manual of Accounting and Audit Guidelines for Trial Courts similarly did not clearly notify users of a change to mandatory order of disbursements. County acted in reliance on the review and the accounting and audit guidelines.

The installment priorities in DRR's collection system have been reviewed and changed to comply with Penal Code section §1203.1d. The installment fees and court security fees are now prioritized to be paid after the fines, penalties and restitution orders.

A formal procedure will be implemented that will require all identified legislative changes to distribution priorities to be handled by DRR accounting to ensure that changes are made in the DRR revenue collection system. Actual changes to the DRR revenue collection system will be made by DRR IT staff under the direction of Accounting. As changes are made they will be tested to ensure that distribution priorities are handled correctly.

Attachment B— Court's Response to Draft Audit Report



SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

DENNIS B. JONES EXECUTIVE OFFICER 720 9TH STREET SACRAMENTO, CA 95814 (916) 874-6328

November 3, 2008

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

Subject: Response to Draft Audit Report Issued October 15, 2008 for the State Controller's Office audit of Sacramento County Court Revenues for the Period July 1, 2001 through June 30, 2006

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

The court concurs with the finding and has made the proper adjustments in the case management system to properly align the fees in question. The necessary corrections to the case management system were implemented in May 2007 upon notification of the necessary change by the project Auditor. The court will provide reimbursement to the County for the penalty/interest that will be due on the outstanding amount the County is required to pay. The penalty/interest calculation would be computed from the payment due date until June 2007 when this Audit was suspended due to reassignment of the project Auditor.

Finding 2 - Inappropriate distribution priority - Superior Court

The court concurs with the finding and upon notification of the error by the project Auditor made the necessary adjustments in June 2007 to the case management system to correctly prioritize the noted installment payments. The court follows the State Controller's Office guidelines for all payments received. This particular prioritization was changed in 2003 by AB3000, but the change was not implemented by the court as a result of miscommunication between the court and the case management vendor concerning the usable inclusion of this necessary change in the system.

Steven Mar, Chief Local Government Audits Bureau November 3, 2008 Page 2

Finding 3 – Inappropriate distribution priority – Department of Revenue Recovery This finding will be addressed by the County.

Finding 4 - Deficiency in control over court records

We concur with the need for good internal controls and proper procedural manuals. Upon discovery of the infractions, the court immediately established a procedure that directs any dismissed case to be directed to supervisors for a double-check of the case file against the case management system information. In addition, the court n has directed their Internal Audit Unit to perform spot checks on such cases along with expanding the scope of existing reviews of internal control functions to include this area of the court.

If you have any questions, please contact Rick Board, Court Chief Financial Officer, at 874-8133. Thanks you

Sincerely,

Dennis B. Jones

Court Executive Officer

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

http://www.sco.ca.gov