

SAN DIEGO COUNTY

Revised Audit Report

COURT REVENUES

July 1, 2000, through June 30, 2006



JOHN CHIANG
California State Controller

April 2011



JOHN CHIANG
California State Controller

April 29, 2011

The Honorable Tracy Sandoval, C.P.A.
Auditor and Controller/Assistant Chief Financial Officer
San Diego County
1600 Pacific Highway
San Diego, CA 92101

Michael Roddy
Court Executive Officer
San Diego County Superior Court
220 West Broadway Boulevard
San Diego, CA 92101

Dear Ms. Sandoval and Mr. Roddy:

The State Controller's Office audited San Diego County's court revenues for the period of July 1, 2000, through June 30, 2006, and issued a report dated August 14, 2009.

Subsequently, the county requested that we review additional information and documentation regarding Findings 1 and 2. Based on our review of the additional documentation, we revised Findings 1 and 2.

Our revised audit disclosed that the county underremitted \$2,529,600 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties totaling \$1,806,876;
- Underremitted collection program operating costs improperly identified by its County Revenue and Recovery Department totaling \$345,098;
- Underremitted inequitably distributed collection program operating costs by its Superior Court totaling \$99,946; and
- Underremitted fines, penalties, and surcharges from its Superior Court Traffic Violator School cases totaling \$277,680.

Once the county has paid the underremitted Trial Court Trust Fund, Trial Court Improvement Fund, and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts 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 Governments Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Dorothy Thrush, Finance Director
Chief Administrative Office
San Diego County Public Safety Group
Gary Colbert, Director
Office of Revenue and Recovery
San Diego County
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Revised 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 Diego County for the period of July 1, 2000, through June 30, 2006.

We reviewed additional documentation subsequent to the issuance of final audit report dated August 14, 2009. Our revised audit disclosed that the county underremitted \$2,529,600 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified fines, fees, and penalties totaling \$1,806,876;
- Underremitted collection program operating costs improperly identified by its County Revenue and Recovery Department totaling \$345,098;
- Underremitted inequitably distributed collection program operating costs by its Superior Court totaling \$99,946; and
- Underremitted fines, penalties, and surcharges from its Superior Court Traffic Violator School cases totaling \$277,680.

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, 2000, 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, County Revenue and Recovery Department, and Auditor and 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 Diego County underremitted \$2,529,600 in court revenues to the State Treasurer. The underremittances are summarized in Revised Schedule 1 and described in the Revised Findings and Recommendations section.

**Follow-Up on Prior
Audit Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued July 2002, with the exception that collections were still inequitably prorated and some distributions were not properly supported.

**Views of
Responsible
Officials**

We issued a final audit report dated August 14, 2009. Subsequently, the county requested that we review additional information and documentation regarding Findings 1 and 2. Based on our review of additional documentation provided, we revised Findings 1 and 2.

The county agreed with the revisions to Findings 1 and 2 via e-mail dated December 2, 2010, from Liliana Lau on behalf of Gina S. Surgeon, Fiscal Manager, Office of Revenue and Recovery.

Restricted Use

This report is solely for the information and use of San Diego County, the San Diego 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 29, 2011

**Revised Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2000, through June 30, 2006**

Description	Account Title ¹	Code Section	Fiscal Year						Total	Reference ²
			2000-01	2001-02	2002-03	2003-04	2004-05	2005-06		
County										
Underremitted 50% excess of specified codes	Trial Court Improvement Fund	GC §77205	\$ 171,717	\$ 414,949	\$ 246,123	\$ 271,437	\$ 344,228	\$ 358,422	\$1,806,876	Finding 1
Underremitted collection program revenues	Penalty Fund	PC §1464	—	—	—	15,008	12,888	33,165	61,061	Finding 2
	Restitution Fund	PC §1202.4	—	—	—	42,876	49,370	93,162	185,408	Finding 2
	Trial Court Improvement Fund	GC §68090.8	—	—	—	6,090	2,182	3,907	12,179	Finding 2
	Victim Indemnity Fund	PC §1463.18	—	—	—	31,989	57	212	32,258	Finding 2
	Court Facilities Construction Fund	GC §70372(a)	—	—	—	1,078	4,336	13,333	18,747	Finding 2
	General Fund	PC §1465.7	—	—	—	7,812	10,321	3,939	22,072	Finding 2
	Domestic Violence Restraining Order Reimbursement Fund	PC §1203.097	—	—	—	192	1,073	2,067	3,332	Finding 2
	DNA Identification Fund	GC §76104.6	—	—	—	—	(100)	1,339	1,239	Finding 2
	Trial Court Trust Fund	PC §1465.8	—	—	—	457	2,024	6,321	8,802	Finding 2
Subtotals			—	—	—	105,502	82,151	157,445	345,098	
Totals, County			171,717	414,949	246,123	376,939	426,379	515,867	2,151,974	
Superior Court										
Underremitted collection program revenues	Penalty Fund	PC §1464	—	—	—	71,070	110,659	89,862	271,591	Finding 5
	Trial Court Improvement Fund	GC §68090.8	—	—	—	5,534	8,905	8,168	22,607	Finding 5
	Court Facilities Construction Fund	GC §70372(a)	—	—	—	28,404	44,380	32,426	105,210	Finding 5
	Restitution Fund	PC §1001.90	—	—	—	(25)	(40)	(37)	(102)	Finding 5
	General Fund	H&SC §11502	—	—	—	(747)	(1,105)	(1,253)	(3,105)	Finding 5
	Restitution Fund	PC §1202.4	—	—	—	(56,842)	(92,314)	(70,154)	(219,310)	Finding 5
	Domestic Violence Restraining Order Reimbursement Fund	PC §1203.097	—	—	—	(435)	(785)	(649)	(1,869)	Finding 5

Revised Schedule 1 (continued)

Description	Account Title ¹	Code Section	Fiscal Year					Total	Reference ²	
			2000-01	2001-02	2002-03	2003-04	2004-05			2005-06
	Domestic Violent Training and Education Fund	PC §1203.097	—	—	—	(435)	(785)	(649)	(1,869)	Finding 5
	Fish and Game Preservation Fund	F&GC §13003	—	—	—	(326)	(424)	(877)	(1,627)	Finding 5
	Fish and Game Secret Witness Program	F&GC §13006	—	—	—	(22)	(46)	(84)	(152)	Finding 5
	Victim Indemnity Fund	PC §1463.18	—	—	—	(10,155)	(11,137)	(9,874)	(31,166)	Finding 5
	Trial Court Trust Fund	PC §1465.8	—	—	—	(2,433)	(13,796)	(92,234)	(108,463)	Finding 5
	Penalty Fund	PC §1464(b)	—	—	—	(122)	(182)	(200)	(504)	Finding 5
	Penalty Fund	VC §40611	—	—	—	(426)	(712)	(2,633)	(3,771)	Finding 5
	General Fund	PC §1465.7	—	—	—	19,832	30,941	21,703	72,476	Finding 5
Subtotals			—	—	—	52,872	73,559	(26,485)	99,946	
Underremitted fines and penalty from traffic violator school cases	Court Facilities Construction Fund	GC §70372(a)	—	—	—	34,748	66,277	64,401	165,426	Finding 6
	General Fund		—	—	—	23,579	44,974	43,701	112,254	Finding 6
Subtotals			—	—	—	58,327	111,251	108,102	277,680	
Totals, Superior Court			—	—	—	111,199	184,810	81,617	377,626	
Net amount underpaid (overpaid) to the State Treasurer			<u>\$ 171,717</u>	<u>\$ 414,949</u>	<u>\$ 246,123</u>	<u>\$ 488,138</u>	<u>\$ 611,189</u>	<u>\$ 597,484</u>	<u>\$2,529,600</u>	

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

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.

**Revised Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2000, through June 30, 2006**

Month	Fiscal Year					
	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ —	\$ 968	\$ 923	\$ 1,006
August	—	—	—	968	923	1,006
September	—	—	—	968	923	1,006
October	—	—	—	968	923	1,006
November	—	—	—	968	923	1,006
December	—	—	—	968	923	1,006
January	—	—	—	968	923	1,006
February	—	—	—	968	923	1,006
March	—	—	—	968	923	1,006
April	—	—	—	968	923	1,006
May	—	—	—	968	923	1,006
June (1)	<u>171,717</u>	<u>414,949</u>	<u>246,123</u>	<u>272,413</u>	<u>345,162</u>	<u>359,431</u>
Total underremittances (overremittances) to the State Treasurer	<u>\$ 171,717</u>	<u>\$ 414,949</u>	<u>\$ 246,123</u>	<u>\$ 283,061</u>	<u>\$ 355,315</u>	<u>\$ 370,497</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.

(1) Includes maintenance-of-effort underremittances (Finding 1) as follows: \$ 171,717 \$ 414,949 \$ 246,123 \$ 271,437 \$ 344,228 \$ 358,422

**Revised Schedule 3—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2000, through June 30, 2006**

Month	Fiscal Year					
	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ —	\$ 5,352	\$ 9,582	\$ 9,180
August	—	—	—	5,352	9,582	9,180
September	—	—	—	5,352	9,582	9,180
October	—	—	—	5,352	9,582	9,180
November	—	—	—	5,352	9,582	9,180
December	—	—	—	5,352	9,582	9,180
January	—	—	—	5,352	9,582	9,180
February	—	—	—	5,352	9,582	9,180
March	—	—	—	5,352	9,582	9,180
April	—	—	—	5,352	9,582	9,180
May	—	—	—	5,352	9,582	9,180
June	—	—	—	5,358	9,591	9,180
Total underremittances (overremittances) to the State Treasurer	\$ —	\$ —	\$ —	\$ 64,230	\$ 114,993	\$ 110,160

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code Section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Revised Schedule 4—
Summary of Overremittances by Month
July 1, 2000, through June 30, 2006**

Month	Fiscal Year					
	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ —	\$ 164	\$ 981	\$ 7,159
August	—	—	—	164	981	7,159
September	—	—	—	164	981	7,159
October	—	—	—	164	981	7,159
November	—	—	—	164	981	7,159
December	—	—	—	164	981	7,159
January	—	—	—	164	981	7,159
February	—	—	—	164	981	7,159
March	—	—	—	164	981	7,159
April	—	—	—	164	981	7,159
May	—	—	—	164	981	7,159
June	—	—	—	172	981	7,164
Total underremittances (overremittances) to the State Treasurer	\$ —	\$ —	\$ —	\$ 1,976	\$ 11,772	\$ 85,913

Revised Findings and Recommendations

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

The County Auditor and Controller's Office underremitted by \$1,806,876 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal-year (FY) periods starting July 1, 2000, and ending June 30, 2006.

Government Code section 77201(b)(2) requires San Diego County, for its base revenue obligation, to remit \$16,166,735 for FY 2000-01 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 error occurred from the following conditions attributable to the county:

- The qualified accounts from the County Revenue and Recovery Department, totaling \$1,847,210, were not reflected within the computations.
- The qualified accounts from the Superior Court Central Collections for FY 2000-01 of \$22,890 were not reflected within the computations.
- The prior period adjustments made by the County Auditor and Controller's Office to the qualified accounts understated the computations for FY 2001-02 by \$318,319.
- The county underreported a Superior Court, North Division, county arrest base fine entry, during FY 2004-05, of \$113,359 due to a posting error, and overreported the \$24 Traffic Violator School (TVS) fee revenue account for FY 2004-05 by \$29,999.

The error occurred from the following conditions attributable to the Superior Court:

- The Superior Court did not properly distribute the TVS cases during the period of January 1, 2004, through June 30, 2006. The understated amount of \$70,160 on the county 77% TVS fees account should be included in the computations.
- The Superior Court did not deduct the \$2 applicable to the county traffic school courthouse construction fund solely from the county 23% TVS fees account during the period of July 1, 2001, through December 31, 2003. This understated the county 77% TVS account fees by \$423,697.
- The Superior Court inequitably distributed collection program operating costs from its Comprehensive Court Collections Program. The inequitable distribution understated the computations by \$848,116.

The qualified revenues reported for FY 2000-01 were \$23,257,560. The excess, above the base of \$16,166,735, is \$7,090,825. This amount should be divided equally between the county and the State, resulting in \$3,545,413 excess due the State. The county has remitted a previous payment of \$3,373,696, causing an underremittance of \$171,717.

The qualified revenues reported for FY 2001-02 were \$21,199,071. The excess, above the base of \$16,166,735, is \$5,032,336. This amount should be divided equally between the county and the State, resulting in \$2,516,168 excess due the State. The county has remitted a previous payment of \$2,101,219, causing an underremittance of \$414,949.

The qualified revenues reported for FY 2002-03 were \$25,212,483. The excess, above the base of \$16,166,735, is \$9,045,748. This amount should be divided equally between the county and the State, resulting in \$4,522,874 excess due the State. The county has remitted a previous payment of \$4,276,751, causing an underremittance of \$246,123.

The qualified revenues reported for FY 2003-04 were \$27,456,512. The excess, above the base of \$16,166,735, is \$11,289,777. This amount should be divided equally between the county and the State, resulting in \$5,644,889 excess due the State. The county has remitted a previous payment of \$5,373,452, causing an underremittance of \$271,437.

The qualified revenues reported for FY 2004-05 were \$26,381,445. The excess, above the base of \$16,166,735, is \$10,214,760. This amount should be divided equally between the county and the State, resulting in \$5,107,380 excess due the State. The county has remitted a previous payment of \$4,763,152, causing an underremittance of \$344,228.

The qualified revenues reported for FY 2005-06 were \$26,679,115. The excess, above the base of \$16,166,735, is \$10,512,380. This amount should be divided equally between the county and the State, resulting in \$5,256,190 excess due the State. The county has remitted a previous payment of \$4,897,768, causing an underremittance of \$358,422.

The underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund—Government Code section 77205:	
FY 2000-01	\$ 171,717
FY 2001-02	414,949
FY 2002-03	246,123
FY 2003-04	271,437
FY 2004-05	344,228
FY 2005-06	358,422
County General Fund	1,806,876

Recommendation

The county should remit \$1,806,876 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 Auditor and Controller's Response

- 1) The qualified accounts from the County Revenue and Recovery Department, totaling \$1,959,066, were not reflected within the (GC 77201.1 and GC 77205) computations.

The Audit continually refers to “qualified revenues” and “additional qualified revenues” as the basis for under-remittance but does not provide any detail as to the accounts that were reviewed or the accounts that were the basis for the alleged “additional qualified revenues.” We are unable to determine the basis of the finding. The accounting processes of the County of San Diego, Office of Revenue and Recovery have been developed to be in compliance with the State Controllers Office Manual of Accounting and Audit Guidelines and State laws as outlined in, GC 77201.1 and GC 77205. Nothing in the Audit would suggest otherwise.

During the exit conference, the Auditor indicated that the “qualified accounts” were comprised of both PC1203.1 and PC1464 accounts. The Office of Revenue and Recovery sought additional information regarding the question of 1203.1 accounting in August of 2007 from the Audits Manager and did not receive a response. The workpapers provided by the Auditor did not provide clarification between the specific findings and overall qualified revenue calculations that were used to determine the \$1,959,066.

We disagree with the finding related to distribution of collections attributed to PC 1203.1 collections. These collections were distributed in accordance to the accounting processes indicated in the State Controller's Office Manual of Accounting and Audit Guidelines and State law. The process was not identified as noncompliant in past audits and has not changed, with the exception of the percentage allowance which was revised appropriately to reflect changes in legislation.

We agree with the finding related to distribution for the collections attributed to PC 1464. A remittance of \$280,119 has been made for those funds due to the state.

- 2) The qualified accounts from the Superior Court Central Collections for FY 2000-01 of \$22,890 were not reflected within the computations.

This bulleted item is the responsibility of the San Diego Superior Court and is included in their response of March 19, 2008.

- 3) The prior period adjustments made by the County Auditor and Controller's Office to the qualified accounts understated the computations for FY 2000-01 by \$318,319.

We agree with the finding. A remittance of \$159,160 has been made for those funds due to the state.

- 4) The county underreported a Superior Court, North Division, county arrest base fine entry, during FY 2004-05, of \$113,359 due to a posting error, and over-reported the \$24 Traffic Violator School (TVS) fee revenue account for FY 2004-05 by \$29,999.

We agree with the finding. A remittance of \$41,680 has been made for those funds due to the state.

Bullets 5 - 7) These bulleted findings are the responsibilities of the San Diego Superior Court and are included in their response of March 19, 2008.

Corrective Action:

The County agrees that we owe \$480,959. In anticipation of the Final Draft Audit Report, the County made an advance payment of \$692,808 on August 10, 2007 to stop penalty and interest from accruing. Therefore, we will be requesting a reimbursement of \$211,848 based on the above response and that of the Superior Court dated March 19, 2008.

Court's Response

This finding and recommendation result from the cumulative effect of the individual findings of the entire Audit Report as they relate to the 50% of revenue eligible for distribution under Government Code Section 77205(a). The Superior Court's responses to the three bulleted items above may be found in responses to Finding 5 and Finding 5 below. Other bulleted items in Finding 1 attributed to the County relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to those items under separate cover.

SCO's Comment

Qualified and additional qualified revenues referred to in the audit report are the revenue schedules from the county's Revenue and Recovery Department, Financial Reconciliation Reports, and Adult and Juvenile Probation Reports. We provided appropriate county officials with a summary schedule on the qualified revenues of \$1,959,066 by electronic mail on January 13, 2009. The schedule is presented below.

Penal Code Section	Description	Fiscal Year						Totals	½ of Total
		2005-06	2004-05	2003-04	2002-03	2001-02	2000-01		
1203.1	Revenue and Recovery, Adult	\$341,372	\$299,944	\$257,177	\$288,753	\$300,092	\$279,179	\$1,766,517	
1203.1	Revenue and Recovery, Juvenile	9,458	7,904	10,602	21,836	25,198	23,589	98,587	
	Totals	350,830	307,848	267,779	310,589	325,290	302,768	1,865,104	
	Distribution percentage	× 75%	× 75%	× 75%	× 75%	× 75%	× 75%	× 75%	
	Totals, PC §1463.001/PC §1203.1	<u>\$263,123</u>	<u>\$230,886</u>	<u>\$200,834</u>	<u>\$232,942</u>	<u>\$243,968</u>	<u>\$227,076</u>	<u>1,398,828</u>	\$699,414
1464 (30%)	Revenue and Recovery, Adult	\$103,019	\$ 90,209	\$ 77,257	\$ 86,646	\$ 90,064	\$ 83,574	530,769	
1464 (30%)	Revenue and Recovery, Juvenile	2,804	2,295	3,180	6,552	7,562	7,076	29,469	
	Totals, PC §1464 (30%)	<u>\$105,823</u>	<u>\$ 92,504</u>	<u>\$ 80,437</u>	<u>\$ 93,198</u>	<u>\$ 97,626</u>	<u>\$ 90,650</u>	<u>560,238</u>	\$280,119
	Totals, Revenue and Recovery							<u>\$1,959,066</u>	

Government Code section 77205(a) includes a listing of all the fee, fine, and forfeiture revenue that counties collect pursuant to specific code sections. This list includes the Penal Code sections 1463.001 and 1464 as qualified revenues that should be included in the county's maintenance-of-effort (MOE) calculations. Therefore, all revenues collected pursuant to Penal Code Sections 1463.001 and 1464 shall be used to calculate the county's MOE. Revenue collected pursuant to Penal Code section 1203.1 for probation fines shall be distributed in accordance with Penal Code section 1463.001. Refer to SCO's Comments in Finding 6 for more information regarding proper accounting for qualified revenues.

Our audit disclosed that the county failed to include all revenues collected by the Revenue and Recovery Department for base fines. The fines for Penal Code section 1463.001 in the amount of \$1,398,828 (75% of \$1,865,104) and \$560,238 for penalty assessments attributable to the 30% of total Penal Code section 1464 were not included in the MOE calculation, less comprehensive collection expenses of \$70,908 (75% on \$94,544 and \$40,946).

As a result, a total of \$1,847,210 was underremitted in the MOE payments.

We revised Finding 1 based on additional documentation provided by the county for Finding 2 and by the court for Finding 5. As a result, the underremittance decreased from \$2,146,660 to \$1,806,876.

**FINDING 2—
Collection program
operating costs not
properly identified
and equitably
distributed by the
County Revenue and
Recovery Department**

The County Revenue and Recovery Department did not equitably distribute operating costs totaling \$1,213,279 during the period of December 2003 through June 2006 from the county Comprehensive Collection Program delinquent collections. The department determined the eligible program operating costs based on a total revenue collection formula of delinquent collections to total collections on December 2004. The department then applied the computed operating cost to both current and delinquent monthly revenue collections.

Penal Code section 1463.007 allows a county collecting entity that has implemented a Comprehensive Collection Program that satisfies specific statutory requirements to deduct program operating costs from program revenue collections. This section further allows a county collecting 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 operated costs.

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

The collections in excess of the related supportable operating costs must be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until qualifying revenues are available to fully recover those eligible costs. The victims' restitution orders cannot be reduced and are not part of revenues that can be used for cost recovery.

The department representatives did not provide written policies and procedures on its Comprehensive Collection Program practices and did not adhere to the State Comprehensive Collection Program guidelines.

Because the program does not conform with Penal Code section 1463.007 and the SCO's Comprehensive Collection Program Accounting Guidelines, the entire collection enhancement operating costs for the period of December 2003 through June 2006 should not be eligible for offset against state, cities, and county revenues.

The incorrect distribution had the following effect:

Account Title	Understated/(Overstated)	
State Penalty Fund	\$ 61,061	
State Restitution Fund–Penal Code §1202.4	185,408	
State Indemnity Fund–Penal Code §1463.18	32,258	
State Trial Court Improvement Fund– Government Code §68090.8	12,179	
State General Fund–Penal Code §1465.7	22,072	
State DNA Identification Fund–Government Code §76104.6	1,239	
State Domestic Violence Fund–Penal Code §1203.097	3,332	
State Court Security Fee–Penal Code §1465.8	8,802	
State Court Facilities Construction Fund– Government Code §70372(a)	18,747	\$ 345,098
State Victim Restitution Board		61,870
County accounts:		
Penal Code §1203.1	85,339	
Penalty 30% Share	14,351	
Penalty Assessment	58,892	
Domestic Violence	3,061	
Alcohol Program Fees–Penal Code §1463.16	1,286	
AIDS education program	22	
DNA	477	
Penal Code §1463.007	<u>(570,396)</u>	(406,968)

Recommendation

The court should remit to the State Treasurer \$345,098 and report on the remittance advice (TC-31) form increases per the above noted state accounts. The county should also make the corresponding account adjustments. The county agreed with the revisions to the finding. All other aspects of the finding remains unchanged.

Additionally, the county's Comprehensive Collection Program operating costs should be identified, matched, and offset against the program revenues. The operating costs should be allocated only to the accounts for which collections were made. When revenues exceed the expenditures, the excess revenues should remain as originally distributed. When expenditures exceed the revenues, the excess expenditures should be identified and carried forward to the following month. This procedure must be performed on a monthly basis.

County Auditor and Controller's Response

We disagree that the Office of Revenue and Recovery did not adhere to the State Comprehensive Collection Program (CCP) or that the correction would result in an amount due to the State. The calculations used for the audit period were in accordance to the State Comprehensive Collection Program Guidelines as published at the time, which did not provide the same level of clarity as the guidelines published in June 2006. Office of Revenue & Recovery processes have been updated to reflected changes published in the June 2006 revision, but those would not apply to the audit period.

Corrective Action:

No corrective action is required for the audit period. The Office of Revenue and Recovery's CCP calculation will include an annual review and utilize all appropriate costs as outline in the current State Comprehensive Collection Program Guidelines.

Court's Response

This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

SCO's Comment

The county's position is not an accurate portrayal of the noted deficiency. As stated in the finding, the county did not comply with applicable law and the SCO guidelines.

As stated in the finding, the county determined and used operating costs based on estimates and not actual operating costs; therefore, it did not comply with the Comprehensive Collection Program (CCP). The county is responsible for ensuring that operating costs are supported by time cards (if the individual performs other duties) and cost records. The estimated operating costs may be used for reporting purposes as long as the county makes an adjustment to actual operating costs prior to the end of the fiscal year. The county is responsible for maintaining actual operating costs.

The allocation of costs based on prior period delinquent and non-delinquent collections is not a proper methodology for allocating costs under the program. Additionally, the program requires a separate and distinct revenue collection activity and documentation of the related cost of collection. The county does not have authority to offset collection costs from current non-delinquent revenues.

The SCO's Comprehensive Collection Program Accounting Guidelines issued in May 1997 was updated in June 2006 to account for subsequent changes in the law. The law did not change provisions in the guidelines regarding separate and distinct revenue collection activity that identifies total collections received from qualifying accounts remained. The county or court must distinguish revenues collected from qualifying accounts from those accounts not eligible under the program. Collection agencies may be used but a collection agency must provide distinct revenue and cost information on the qualifying accounts referred to the agency.

Failure to maintain separate and distinct revenue collection activity information will result in the disqualification of these accounts from cost recovery in a comprehensive collection program. Distribution of revenues collected in a comprehensive collection program should be performed in accordance with Chapter 5: Revenues Distribution of the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.

The net revenues available for distribution should be allocated equitably to those accounts on which collections were made. Additionally, net revenues collected should be equitably prorated to each distribution component of the account. A separate and distinct revenue collection activity is defined as an activity with the ability to identify and collect revenues of qualifying accounts and document the related costs.

We revised Finding 2 because the county made re-computations and identified eligible program costs totaling \$642,883 and properly made the distributions to the program qualifying accounts.

**FINDING 3—
Incorrect reporting of
DNA Identification
Penalty Assessment by
the County Public Safety
Group Department**

The San Diego County Public Safety Group did not properly report the DNA Identification Penalty Assessment collections made by the county Revenue and Recovery Department during the period of March 2005 through June 2006. A portion of the 30% share due the county DNA Identification Fund was incorrectly reported to the State. The error was the result of miscommunication between the Public Safety Group and the Revenue and Recovery Department. The overstated amount of DNA Identification Penalty Assessment reported to the State was not material.

Effective January 2005, Government Code section 76104.6 requires (for calendar years 2005 and 2006) the DNA Identification Penalty assessment to be distributed 70% to the State DNA Identification Fund and 30% to the county DNA Identification fund.

Recommendation

The Public Safety Group should consult with the Revenue and Recovery Department to develop procedures for the proper reporting of State DNA Identification Penalty Assessment.

County Auditor and Controller's Response

We agree with this finding.

Corrective Action:

The accounting processes for the Office of Revenue and Recovery have been revised so that the disbursement to the State for DNA identification Penalty Assessment will be remitted by the Public Safety Group.

Court's Response

This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

**FINDING 4—
Erroneous distribution
priority (Revenue and
Recovery Department)**

The Revenue and Recovery Department prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties as well as some fines and penalties over the 20% state surcharges. The error occurred because the formulas on the department's management information system did not designate the proper distribution priorities, and because the department believes that Penal Code section 1203.1d is not applicable to Penal Code section 1203.1-related fines. Additionally, the first \$20 of fines collected on Driving-Under-the-Influence cases were not distributed to the State Victim Indemnity Fund in accordance with Penal Code section 1463.18.

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

State restitution should be included within category 3 and the cost of installment fees and other various 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. We did not measure the dollar effect because it did not appear to be material and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The department should ensure that all installment and various other fees are distributed in accordance with the statutory requirements under Penal Code section 1203.1d and Penal Code section 1463.18.

County Auditor and Controller's Response

We disagree with the statements related to distribution priority. Penal Code Section 1203.1d applies to installment payments ordered pursuant to the Penal code. Many of the County's accounts derive from court orders made pursuant to the Welfare & Institutions Code rather than the Penal Code. Those court orders would not be subject to the Penal Code Section priority distribution. Additionally, the collection system used by the County of San Diego Office of Revenue and Recovery is set-up to distribute collections as the next priority after restitution, consistent with State law.

Corrective Action:

We will continue to take all necessary steps to ensure that all installments are distributed in accordance with statutory requirements.

Court's Response

This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

SCO's Comment

Penal Code section 1203.1d requires a mandatory prioritization in the distribution of all installment payments. Therefore, all restitutions, surcharges, fines, penalty assessments, and fees collected from county's installment program are subject to prioritization requirements. Although the county does not agree with the finding relating to distribution priority, it appears that the county is taking some of the necessary steps to ensure that all installments are distributed in accordance with the Penal Code sections 1203.1d and 1463.18.

We did not revise Finding 4.

**FINDING 5—
Inequitably distributed
collection program
operating costs and
collections received not
identified by the
Superior Court**

The San Diego Superior Court did not equitably and promptly distribute operating costs totaling \$7,892,033 during the period of April 2004 through June 2006 from the Comprehensive Collection Program delinquent collections. Additionally, the collections received were not separately identified by qualifying accounts. The court allocated the operating costs based on a total revenue collection formula for certain designated accounts with collections during the period of July 2003 through March 2004. The designated accounts included both current and delinquent revenue collections. Furthermore, the court did not allocate the operating costs to all of the accounts for which collections were made.

Penal Code section 1463.007 allows a court collecting entity that has implemented a Comprehensive Court Collection Program (CCCP) that satisfies specific statutory requirements to deduct program operating costs from program revenue collections. This section further allows a court collecting 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 operated costs.

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

Section 5.10 of the SCO's Manual of Accounting and Audit Guidelines for Trial Courts requires moneys to be transferred to the county treasury at least monthly and the county auditor to settle the accounts by transferring moneys to the proper entities and funds.

The court representatives did not provide written policies and procedures for its Comprehensive Collection Program practices and did not adhere to the State Comprehensive Collection Program guidelines.

Because the program did not conform with Penal Code section 1463.007 and the SCO's Comprehensive Collection Program Accounting Guidelines, the entire collection enhancement operating costs for the period of April 2004 through June 2006 should not be eligible for offset against State, cities, and county revenues.

The incorrect distribution had the following effect:

Account Title	Understated/(Overstated)	
State Penalty Fund	\$ 965,984	
State Trial Court Improvement Fund– Government Code §68090.8(a)	95,494	
State General Fund–Penal Code §1465.7	278,589	
State Court Facilities Construction Fund– Government Code §70372(a)	404,861	\$ 1,744,928
County accounts:		
Emergency Medical Services Fund	138,111	
Penalty 30% Share	449,846	
Penalty Assessment	1,063,057	
Automated Warrant	60,769	
Extra Bail–Penal Code §1269d	32,357	
TVS 77%	965,984	
TVS 23%	316,471	
Traffic School Construction Fund	13,416	
Civil Assessment	1,083,576	4,123,587
Court accounts:		
Returned check	7,892	
Night court	20,519	
Collection incentive	(4,179,268)	
Staff cost recovery	(3,643,343)	
IT recovery	(69,422)	(7,863,622)
City accounts:		
Carlsbad	82,866	
Chula Vista	83,656	
Coronado	29,201	
Del Mar	12,626	
El Cajon	171,257	
Encinitas	54,455	
Escondido	115,224	
Imperial Beach	18,941	
La Mesa	46,563	
Lemon Grove	25,255	
National City	37,093	
Oceanside	127,062	
Port District	16,573	
Poway	23,676	
San Diego	989,661	
San Marcos	59,190	
Santee	26,833	
Solana Beach	10,260	
Vista	64,715	1,995,107

Recommendation

The court should remit to the State Treasurer \$1,744,928 and report on the remittance advice (TC-31) form increases of \$965,984 to the State Penalty Fund, \$95,494 to the State Trial Court Improvement Fund–Government Code section 68090.8, \$278,589 to the State General Fund–Penal Code section 1465.7, and \$404,861 to the State Court Facilities Construction Fund–Government Code section 70372(a). The court should also make the corresponding account adjustments.

Additionally, the court should implement procedures to identify the CCCP revenues. The revenues then should be distributed in accordance with applicable laws. The CCCP expenditures should be matched and offset against the CCCP revenues. The operating costs should be allocated only to the accounts for which collections were made. When revenues exceed the expenditures, the excess revenues should remain as originally distributed. When expenditures exceed the revenues, the excess expenditures should be identified and carried forward to the following month. This procedure must be performed on a monthly basis.

Court's Response

The following information is submitted to dispute Finding 5, and the third bulleted item from Finding 1, which stems from Finding 5.

The Audit states that the Court did not deduct the cost of operating the collection program in accordance with the SCO's Comprehensive Collection Program Accounting Guidelines that were in effect during the time periods covered by the audit, and that therefore the Court's entire collections enhancement operating costs offset should be disallowed. The Court acted in good faith in deducting its cost of collections. The SCO guidelines in effect from May 1997 through June 2006 were unclear regarding the methodology and timing for the deduction of costs. As noted in the Audit Report, the guidelines were "revised" in June 2006; that revision clarified what apparently had been the intent of the unclear language in the 1997 guidelines.

In response to that clarification, the Court has developed a reporting system that segregates the delinquent revenues from current revenue, allowing us to deduct our costs in accordance with the revised guidelines, with which we are currently in compliance. We have utilized that same reporting system to recalculate the revenue distributions and cost deductions for the time period covered by the Audit Report. That redistribution would result in a reduction in revenue distributions to the State of California in the amount of \$105,592.

Through the Superior Court's collections program the State has benefited from the revenue collected on delinquent accounts not only through direct distributions that have risen 447% between FY 03-04 and FY 06-07 (and still climbing), but also from collections of revenues eligible under Government Code Section 77205(a), where the excess over the base year is split 50% with the State, which have increased 200% over the same period. All of these additional State revenues are the result of the Superior Court's enforcement of court ordered debt.

Our collections program is held as a model by the Administrative Office of the Courts and has been emulated by other superior courts and county agencies, resulting in further revenues to the State that would otherwise have not been realized. Because of the Court's commitment to collections of delinquent debt, all appropriate agencies have benefited financially.

The State Controller's Office has not conducted an audit of court revenues in the County of San Diego since June of 2000. The Superior Court began deducting its costs of collections as a Comprehensive Collections Program qualified under Penal Code Section 1463.007 in

July of 2003. Had the State conducted audits in a timely fashion, it would have noted the perceived error in the Court's application of the SCO guidelines shortly after the Court began deducting its costs. It raises issues of fairness where the lack of clarity in written guidelines and the State's lack of onsite review of Court records combined to allow perceived misinterpretations to continue.

SCO's Comment

In its response, the court states that it disputes the finding and provides additional information that, in essence, appears to agree with our conclusions. The court's response includes the following statements:

The Court acted in good faith in deducting its cost of collections.

The Court has developed a reporting system that segregates the delinquent revenues from current revenue, allowing use to deduct our costs in accordance with the revised guidelines, with which we are currently in compliance.

Based on its response, the court is taking necessary steps to remedy some of the non-compliance.

The court claims that redistribution would result in a reduction in revenue distributions to the State in the amount of \$105,592 for the audit period, but did not provide any supporting documentation within its response to the draft audit report.

The SCO's Comprehensive Collection Program Accounting guidelines, issued in May 1997, states:

A county or trial court that implements a comprehensive collection program shall operate that program as a separate and distinct revenue collection activity. A separate and distinct revenue collection activity is defined as an activity with the ability to identify and collect revenues of qualifying accounts and document the related costs of collection on the qualifying accounts on an ongoing basis. Therefore, a county or trial court must be able to distinguish qualifying accounts and their related costs from those accounts which do not meet the statutory requirements. . . Failure to maintain separate and distinct revenue collection activity information will result in the disqualification of accounts collected by a county or trial court from inclusion in a comprehensive collection program.

We revised Finding 5 because the court made re-computations and identified eligible program costs totaling \$7,863,920 and properly made the distributions to the program qualifying accounts.

The incorrect account distributions were corrected and had the following effect:

Account Title	Understated/(Overstated)	
State accounts:		
State Penalty Fund	\$ 271,591	
State Trial Court Improvement Fund– GC §6809.8(a)	22,607	
State General Fund–PC 1§465.7	72,476	
State Court Facilities Construction Fund– GC §70372(a)	105,210	
State Diversion Restitution–PC §1001.90	(102)	
State General Fund, H&SC–§11502	(3,105)	
State Restitution Fund–PC §1202.4	(219,310)	
State Domestic Violence Restraining Order Fund–PC §1203.097	(1,869)	
State Domestic Violence Training and Education Fund–PC §1203.097	(1,869)	
State Fish and Game Preservation Fund– F&GC §13003	(1,627)	
State Fish and Game Secret Witness Program– F&GC §13006	(152)	
State Indemnity Fund–PC §1463.18	(31,166)	
State Court Security Fee–PC 1465.8	(108,463)	
State Penalty Fund–Traumatic Brain Injury– PC §1464(b)	(504)	
State Penalty Fund–Proof of Corrections– VC §40611	(3,771)	\$ 99,946
County accounts:		
Emergency Medical Services	133,035	
Penalty 30% Share	152,236	
Penalty Assessment	367,888	
Automated Warrant	(78,090)	
Special Distribution for Bail Increases– PC 1463.28	18,966	
TVS 77%	932,816	
Traffic School/FCP Fees	296,446	
Traffic School Construction Funds	11,625	
Traffic School–\$24 fee	(11,762)	
Administrative Screening Fee	(8,565)	
Citation Processing Fee	(7,492)	
County Probation	(158)	
Fines–County–75%	(209,117)	
Fines–City	(32,088)	
Vehicle Codes Fines	(40,775)	
General Fines	(6,271)	
Litter Fines	(222)	
Veterinarian Fines	(473)	
Red Lights	(880)	
Sheriff Alcohol Lab Test Fee	(23,118)	
Fish and Game	(1,619)	
Child Restraint	(3,543)	
Domestic Violence	(7,360)	
Drug Prevention	(233)	
Alcohol Prevention and Abuse	(9,700)	
Crime Lab	(497)	

Account Title	Understated/(Overstated)	
County accounts (continued):		
Returned Check Fee	2,932	
Court Cost	(320,821)	
Night Court	4,763	
Unattended Children	(627)	1,157,296
Court accounts:		
Returned Check	(4,257)	
CTSI Traffic	(1,616)	
Alcohol Assessment Fee	(166,424)	
Enhance Collections	(1,594)	
Court Cost-Other	(9,164)	
Reimbursed Revenue	(909)	
Forfeiture Reinstatement Fee	(333)	
Court Costs	(6,241)	
Civil Assessment-Trial Court Trust Fund	<u>(2,157,672)</u>	(2,348,210)
City accounts:		
Carlsbad	46,425	
Chula Vista	49,384	
Coronado	19,820	
Del Mar	8,064	
El Cajon	125,848	
Encinitas	33,011	
Escondido	49,169	
Grossmont College	(159)	
Imperial Beach	10,263	
La Mesa	29,181	
Lemon Grove	12,817	
Mira Costa College	(130)	
MTBD - Trolley Citations	(8,591)	
National City	19,455	
Oceanside	54,949	
Palomar College	(101)	
Port District	10,242	
Poway	14,578	
San Diego	541,057	
San Marcos	30,770	
SANDAG	(2,172)	
Santee	18,775	
San Diego Community College	(247)	
Solana Beach	5,166	
Vista	23,270	
Vital Records	<u>124</u>	1,090,968

The court should remit to the State Treasurer \$99,946 and report on the remittance advice (TC-31) form increases and decreases per the above noted state accounts. The court should also make the corresponding county, court, and cities account adjustments.

The court agreed with the revisions to the finding. All other aspects of the finding remains unchanged.

**FINDING 6—
Underremitted fines,
penalties, and
surcharges from Traffic
Violator School cases**

The San Diego Superior Court did not properly distribute TVS cases for the period of January 2004 through June 2006. The distribution to the \$2 county traffic school courthouse construction fund was computed over the total bail for fines, penalties, and surcharges. Additionally, the \$2 to the county traffic school courthouse construction fund was given a distribution priority over fines, penalties, and surcharges. Vehicle Code section 42007 declares that the \$2 to the county courthouse construction fund be computed only from the balance of TVS fee after the required deductions to fines, penalties, and surcharges. Furthermore, Government Code section 77205 requires that the \$2 distribution be deducted from the county 23% TVS fee account. The incorrect distributions understated the fines, penalties, and surcharges plus the county 77% TVS fee account, and overstated the county 23% TVS fee account. The error was due to improper computerized distribution formulas for TVS cases.

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

Effective January 1, 2000, for all traffic school violations, Vehicle Code section 42007 requires that \$2 (or the penalty portion allotted by the county) from every \$7 county penalty that would have been collected pursuant to Government Code section 76000 on a fine distribution be deposited in the county Emergency Medical Service 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 traffic violator school bail. The surcharge should equal 20% of the fine.

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

Penal Code section 1463.004(a) declares that when an automated case-processing system requires percentages, calculations may be employed to establish the components of total fines or forfeitures, provided that the aggregate monthly distributions resulting from the calculations are the same as would be produced by strict observance of the statutory provisions.

The inappropriate distributions for traffic violator school fees affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance of Effort formula pursuant to Government Code section 77205.

In addition, the inappropriate distributions had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State General Fund–Penal Code §1465.7– Surcharge	\$ 112,254
State Court Facility Construction Fund– Government Code §70372(a)	165,426
County EMS Fund	112,254
County 77% traffic violator school account	70,160
County 23% traffic violator school account	(596,312)
City accounts:	
Carlsbad	4,924
Chula Vista	4,924
Coronado	1,641
Del Mar	1,641
El Cajon	8,206
Encinitas	4,924
Escondido	11,488
Imperial Beach	1,641
La Mesa	1,641
Lemon Grove	1,641
National City	1,641
Oceanside	11,488
Poway	4,924
San Diego	57,442
San Marcos	3,282
Solana Beach	1,641
Sandag	1,641
Santee	1,641
Vista	9,847

Recommendation

The court should remit \$277,680 to the State Treasurer and report on the remittance advice (TC-31) form increases of \$112,254 to the State General Fund–Penal Code section 1465.7 and \$165,426 to the State Court Facilities Construction Fund–Government Code section 70372(a). The court should also make the corresponding account adjustments.

During FY 2006-07, the court revised its computerized distribution formulas for TVS cases. The court should review the revised formulas for conformance with the require Vehicle Code section 42007 distributions. Furthermore, the court and the county should review the revised formulas for compliance with Government Code section 77205 computations.

Court's Response

The following information is provided to dispute Finding 6, and the first and second bulleted items for the Superior Court in Finding 1 which stem from Finding 6.

We have carefully reviewed Government Code Section 77205 and all of the other citations of code sections and State Controller's Office guidelines noted in the Audit Report in reference to Finding 6, and we

can find no language to support the audit's claim that the Court was required to deduct the distributed money from the county 23% TVS fee account.

SCO's Comment

The SCO's Manual of Accounting and Audit Guidelines for Trial Courts, Appendix C, Revision #9, revised January 1997, applicable on December 1997, states that the \$2 applicable to the constructions funds should be deducted solely from the remaining 23% of the TVS Fees due the county.

Government Code section 77205 specifically refers to the fines pursuant to the Vehicle Code. Vehicle Code section 42007(b)(2), as it read on December 31, 1997, states:

The remaining amount collected under subdivision (a) shall be deposited in the general fund of the county, provided that in any county in which fund is established pursuant to Section 76100 or 76101 of the Government Code, the sum of one dollar (\$1) for each fund so established shall be deposited with the county treasury and placed in that fund.

As stated in the finding, the court did not properly distribute TVS cases during the period of January 2004 through June 2006. It should be noted that the court did revise its distribution formulas starting July 2006 to comply with the applicable laws.

The finding remains unchanged.

**FINDING 7—
Collections inequitably
prorated and account
distributions not
properly supported
(Superior Court)**

As noted in our prior audit, the Superior Court Financial Management System (FMS) did not equitably prorate the account distributions. Additionally, Health and Safety Code section 11502, Uniform Controlled Substances, and Vehicle Code section 23152, Driving-Under-the-Influence (DUI) cases were not properly distributed. During the current audit, we again noted that the court FMS did not perform the proper account distributions.

The following FMS input, process, or output deficiencies were noted as of June 2006:

- The FMS reports did not properly accumulate the year-to-date totals. However, monthly totals were properly accumulated. The system should reconcile the monthly totals with the year-to-date totals.
- The East Division FMS reports were not generally consistent with FMS reports issued by the other courts in the area of account classification and method of tracking Government Code section 77205 revenues. General uniformity should exist within the FMS reports.
- The FMS did not distribute the first \$20 of fines collected on DUI cases to the State Victim Indemnity Fund as required by Penal Code section 1463.18. Additionally, the proper distribution priority was not assigned. Failure to properly distribute DUI fines causes the State Victim Indemnity Fund to be understated.
- The Uniform Controlled Substances collection cases were not distributed in accordance with Health and Safety Code sections 11502, 11372.5, and 11372.7. Furthermore, the Superior Court Probation Order/Commitment and Misdemeanor forms used to record fees imposed do not provide for the identification of crime lab fees. The collections of “criminalistic laboratory analysis fee” and “drug program fee” should be accounted for as fines subject to state penalties, local penalties, the 20% state surcharge (Penal Code section 1465.7), Proposition 69 penalty assessment, state court facilities construction penalty (Government Code section 70372), and the 2% automation fee.
- The FMS prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties. The priority for fines and penalties were the same as for the 20% state surcharge. This prioritization method does not conform with Penal Code section 1203.1d.
- The account distributions for cases on installment payments were not readily and easily identifiable.

The SCO audit for the period of July 1, 1996, through June 30, 2000, issued in July 2002, recommended that the court implement procedures to identify the judges’ impositions regarding the additional \$50 crime lab fees, ensure that all accounts are distributed in accordance with distribution priorities, and support revenue collections and distributions with a proper audit trail.

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

State restitution should be included within category 3 and the cost of installment fees and other various fees should be included within category 4, with other reimbursable costs.

Health and Safety Code section 11372.5 requires a \$50 crime lab fee to be added for each conviction of controlled substance violation under the section. The SCO legal counsel has opined that the fee should be imposed unless it is specifically waived by the judge.

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

Section 5.10 of the SCO's Manual of Accounting and Audit Guidelines for Trial Courts requires moneys to be transferred to the county treasury at least monthly and the county auditor to settle the accounts by transferring moneys to the proper entities and funds.

Government Code section 68085(h) declares that any amounts required to be transmitted to the State shall be remitted no later than 45 days after the end of the month in which fees were collected.

Failure to make the distributions in accordance with applicable laws causes the state, county, court, and city accounts to be inaccurately stated. We did not measure the dollar effect because it did not appear to be material and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

Court staff believe that their revenue collections are generally based on Penal Code section 1463.001 and need not adhere to the priority distribution practices per Penal Code section 1203.1d.

Recommendation

The San Diego County Superior Court should ensure that all installment and various other fees are distributed in accordance with the statutory requirements under Penal Code section 1203.1d. Additionally, the account distributions on installment payment cases should be quickly and readily identifiable.

The court should revise its distributions for DUI and Uniform Controlled Substances cases.

The court should implement procedures to identify the judges' impositions regarding the additional \$50 crime lab fees.

The court should ensure that collections moneys are settled on a monthly basis and are remitted promptly.

Court's Response to Bullet Points

The following FMS input, process, or output deficiencies were noted as of June 2006:

- **The FMS Reports did not properly accumulate the year-to-date totals. However, monthly totals were properly accumulated. The system should reconcile the monthly totals with the year-to-date totals.**

Response:

- FMS has four distinct revenue reports. One each for the County, Cities/Agencies, State and the Administrative Office of the Courts (AOC). When money shifts within reports at the direction for the legislature due to mid-year statute changes the totals are no longer accurate. This is why the Court doesn't rely on the totals on the FMS reports. The correct totals are maintained outside of FMS in a worksheet of revenue as it is actually distributed. The worksheets are retained for audit purposes.
- **The East Division FMS reports were not generally consistent with the FMS reports issued by the other courts in the area of account classification and method of tracking Government Code section 77205 revenue. General uniformity should exist within the FMS reports.**

Response:

- The Court is working toward uniformity. For civil fees, FMS is uniform with the changes made when the Uniform Civil Fee legislation was enacted. The Court is working on attaining uniformity in FMS for the criminal and traffic areas.
- **The FMS did not distribute the first \$20 of fines collected on DUI cases to the State Victim Indemnity Fund as required by Penal Code section 1463.18. Additionally, the proper distribution priority was not assigned. Failure to properly distribute DUI fines causes the State Victim Indemnity Fund to be understated.**

Response:

- The \$1.00 night court fee was being taken first. The Court has rearranged the lines of distribution within the FMS in the DUI codes so that the \$20 is first.
- **The Uniform Controlled Substances collection cases were not distributed in accordance with Health and Safety Code sections 11502, 11372.5, and 11372.7. Furthermore, the Superior Court Probation Order/Commitment and Misdemeanor forms used to record fees imposed do not provide for the identification of crime lab fees. The collections of "criminalistic laboratory analysis fee" and "drug program fee" should be accounted for as fines subject to the state penalties, local penalties, the 20% state surcharge (Penal Code section 1465.7), Proposition 69**

penalty assessment, state court facilities construction penalty (Government Code section 70372), and the 2% automation fee.

Response:

- The identified fees are not listed separately in FMS because they are included in the total fine imposed by the Judge in accordance with the Court's Sentencing Guidelines. They are subject to Penalty Assessment as outlined in the Audit.
- **The FMS prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties. The priority for fines and penalties were the same as for the 20% state surcharge. This prioritization method does not conform with Penal Code section 1203.1d.**

Response:

- FMS is an antiquated system (circa 1985) that wasn't designed for more than one major priority. Currently, that priority goes to payment of restitution to a victim. It would be prohibitively costly to program FMS to allow for a secondary priority which should be the 20% surcharge. It is currently distributed at the same time as all other penalty assessments. We anticipate having multiple priority capabilities with the implementation of the next phase of the AOC's California Case Management System, "V4", in approximately 2012.
- **The account distributions for cases on installment payments were not readily and easily identifiable.**

Response:

- FMS does not have drill down capabilities. The Court can identify the components of an installment account, though it is very time consuming. This issue will also be resolved with the implementation of V4.

Court's Response to Recommendation

The Superior Court is working to ensure that the statewide California Case Management System (CCMS) being developed by the AOC for traffic and criminal matters include all of the distributions authorized by law, including the required priorities. This will replace the limited systems the court now uses. The entries in the CCMS will have drill-down capabilities to see exactly how each payment was distributed.

DUI distributions have been modified in FMS to distribute the \$20 Alcohol Restitution Fee first.

The Health and Safety fine distributions are outlined in the San Diego Superior Court Sentencing Guidelines including the criminalistic laboratory analysis fees, which are part of the overall fine imposed.

As noted in the response to Finding 5 above, the Superior Court is deducting its costs monthly from delinquent revenues as recommended by the SCO's Comprehensive Collection Program Accounting Guidelines dated June, 2006.

SCO's Comment

The court has implemented or is addressing the recommended revisions to its collection and distribution processes.

**Attachment A—
County Auditor and Controller’s Response
to Draft Audit Report**



County of San Diego

DONALD F. STEUER
CHIEF FINANCIAL OFFICER
(619) 531-5413
FAX (619) 531-5219

AUDITOR AND CONTROLLER
1600 PACIFIC HIGHWAY STE 166, SAN DIEGO, CALIFORNIA 92101-2478

TRACY M. SANDOVAL
ASST CHIEF FINANCIAL OFFICER/
AUDITOR & CONTROLLER
(619) 531-5413
FAX (619) 531-5219

April 7, 2008

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

Dear Mr. Mar:

The County of San Diego has reviewed the draft audit of court revenues prepared by your office for the period of July 1, 2000 through June 30, 2006 that addresses the San Diego Superior Court, a State Agency, and the County of San Diego, a County Agency.

The County of San Diego disputes in whole or in part Findings 1, 2, and 4 as described in the County's attached response. The County made a partial payment to the State Treasurer that was remitted on August 10, 2007 of specific undisputed and disputed amounts which is explained in response to Finding 1. Although the County is disputing portions of Finding 1, the County decided to make a payment in good faith to the State Treasurer. The County's intention was to cease the penalty and interest from accruing on the funds pending receipt of the draft audit report.

San Diego Superior Court has responded to the Findings that reference Superior Court and has been mailed under separate cover.

The County of San Diego is very concerned with respect to this State Audit that customarily covers a three-year time period rather than the six-year time period due to the fairness of disclosing any perceived misinterpretations of the County's collection efforts in a reasonable time. A shorter review period would benefit both the County of San Diego and the State in order for the County to correct any issues and remit the agreeable amounts in a timely manner; and especially avoid assessing an exorbitant penalty and interest on any amounts owed.

If you have any questions regarding the attached response, please contact Raul Carrillo, Revenue and Cost Accounting, Auditor and Controller Department, at (619) 531-5585 or Gina Surgeon, Office of Revenue and Recovery, Auditor and Controller Department, at (619) 515-6199.

Sincerely,

TRACY M. SANDOVAL
Assistant Chief Financial Officer/Auditor and Controller

RCA:TD:tw

Attachment

**County of San Diego
Office of Revenue & Recovery**

Finding 1 - Underremitted 50% excess of qualified fines, fees, and penalties.

The County Auditor and Controller's Office underremitted by \$2,146,660 the 50% excess of qualified excess fines, fees, and penalties to the State Treasurer for the six fiscal year (FY) periods starting on July 1, 2000 and ending on June 30, 2006.

Government Code Section 77201(b)(2) requires San Diego County, for its base revenue obligation, to remit \$16,166,735 for FY 2000-01, and each fiscal year thereafter. In addition, Government Code Section 77205(a) requires the county to remit to the State Trial Court Improvement Fund 50% of qualified revenues exceed the stated base for each fiscal year.

County Response:

- 1) The qualified accounts from the County Revenue and Recovery Department, totaling \$1,959,066, were not reflected within the (GC 77201.1 and GC 77205) computations.

The Audit continually refers to "qualified revenues" and "additional qualified revenues" as the basis for under-remittance but does not provide any detail as to the accounts that were reviewed or the accounts that were the basis for the alleged "additional qualified revenues." We are unable to determine the basis of the finding. The accounting processes of the County of San Diego, Office of Revenue and Recovery have been developed to be in compliance with State Controller's Office Manual of Accounting and Audit Guidelines and State laws as outlined in, GC 77201.1 and GC 77205. Nothing in the Audit would suggest otherwise.

During the exit conference, the Auditor indicated that the "qualified accounts" were comprised of both PC1203.1 and PC1464 accounts. The Office of Revenue and Recovery sought additional information regarding the question of 1203.1 accounting in August of 2007 from the Audits Manager and did not receive a response. The workpapers provided by the Auditor did not provide clarification between the specific findings and the overall qualified revenue calculations that were used to determine the \$1,959,066.

We disagree with the finding related to distribution of collections attributed to PC 1203.1 collections. These collections were distributed in accordance to the accounting processes indicated in the State Controller's Office Manual of Accounting and Audit Guidelines and State law. The process was not identified as noncompliant in past audits and has not changed, with the exception of the percentage allowance which was revised appropriately to reflect changes in legislation.

We agree with the finding related to distribution for the collections attributed to PC 1464. A remittance of \$280,119 has been made for those funds due to the state.

- 2) The qualified accounts from the Superior Court Central Collections for FY 2000-01 of \$22,890 were not reflected within the computations.

This bulleted item is the responsibility of the San Diego Superior Court and is included in their response of March 19, 2008.

- 3) The prior period adjustments made by the County Auditor and Controller's Office to the qualified accounts understated the computations for FY 2000-01 by \$318,319.

We agree with the finding. A remittance of \$159,160 has been made for those funds due to the state.

- 4) The county underreported a Superior Court, North Division, county arrest base fine entry, during FY 2004-05, of \$113,359 due to a posting error, and over-reported the \$24 Traffic Violator School (TVS) fee revenue account for FY 2004-05 by \$29,999.

We agree with the finding. A remittance of \$41,680 has been made for those funds due to the state.

Bullets 5 – 7) These bulleted findings are the responsibilities of the San Diego Superior Court and are included in their response of March 19, 2008.

Corrective Action:

The County agrees that we owe \$480,959. In anticipation of the Final Draft Audit Report, the County made an advance payment of \$692,808 on August 10, 2007 to stop penalty and interest from accruing. Therefore, we will be requesting a reimbursement of \$211,848 based on the above response and that of the Superior Court dated March 19, 2008.

Finding 2 – Collection program operating costs not properly identified and inequitably distributed.

The County Revenue and Recovery Department did not equitably distribute operating costs totaling \$1,213,279 during the period of December 2003 through June 2006 from the county Comprehensive Collection Program delinquent collections. The department determined the eligible program operating costs based on a total revenue collection formula of delinquent collections to total collections on December 2004. The department then applied the computed operating cost to both current and delinquent monthly revenue collections.

County Response:

We disagree that the Office of Revenue and Recovery did not adhere to the State Comprehensive Collection Program (CCP) or that the correction would result in an amount due to the State. The calculations used for the audit period were in accordance to the State Comprehensive Collection Program Guidelines as published at the time, which did not provide the same level of clarity as the guidelines published in June 2006. Office of Revenue & Recovery processes have been

updated to reflected changes published in the June 2006 revision, but those would not apply to the audit period.

Corrective Action:

No corrective action is required for the audit period. The Office of Revenue and Recovery's CCP calculation will include an annual review and utilize all appropriate costs as outline in the current State Comprehensive Collection Program Guidelines.

Finding 3 – Incorrect reporting of DNA Identification Penalty Assessment by the County Public Safety Group Department.

The San Diego County Public Safety Group did not properly report the DNA Identification Penalty Assessment collections made by the Office of Revenue and Recovery during the period of March 2005 through June 2006. A portion of the 30% share due the county DNA Identification Fund was incorrectly reported to the State. The error was the result of miscommunication between the Public Safety Group and the Revenue and Recovery Department. The overstated amount of DNA Identification Penalty Assessment reported to the State was not material. Effective January 2005, Government Code section 76104.6 requires (for calendar years 2005 and 2006) the DNA Identification Penalty Assessment to be distributed 70% to the State DNA Identification Fund and 30% to the county DNA Identification fund.

County Response:

We agree with this finding.

Corrective Action:

The accounting processes for the Office of Revenue and Recovery have been revised so that the disbursement to the State for DNA Identification Penalty Assessment will be remitted by the Public Safety Group.

Finding 4 – Erroneous distribution priority (County Revenue and Recovery Department)

The Revenue and Recovery Department prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties and fines and penalties over 20% surcharges. The error occurred because the formulas on the Department's management information system did not designate the proper distribution priorities and because the department believes that Penal Code section 1203.1d is not applicable to Penal Code section 1203.1 related fines. Additionally, the first \$20 of fines collected on Driving-Under-the-Influence cases were not distributed to the State Victim Indemnity Fund in accordance with Penal Code Section 1463.18.

County Response:

We disagree with the statements related to distribution priority. Penal Code Section 1203.1d applies to installment payments ordered pursuant to the Penal Code. Many of the County's accounts derive from court orders made pursuant to the Welfare & Institutions Code rather than the Penal Code. Those court orders would not be subject to the Penal Code Section priority distribution. Additionally, the collection system used by the County of San Diego Office of Revenue and Recovery is set-up to distribute collections as the next priority after restitution, consistent with State law.

Corrective Action:

We will continue to take all necessary steps to ensure that all installments are distributed in accordance with statutory requirements.

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

The Superior Court of California

COUNTY OF SAN DIEGO

EXECUTIVE OFFICE OF THE COURT

MICHAEL M. RODDY
Executive Officer and Clerk
Jury Commissioner

Post Office Box 122724
San Diego, California 92112-2724
(619) 615-6393

March 19, 2008

SENT VIA REGISTERED MAIL

Mr. Jeffrey V. Brownfield
Chief, Division of Audits
State Controller's Office
PO Box 942850
Sacramento, CA 94250-5874

Re: Response to Draft Audit Report of Court Revenues

Dear Mr. Brownfield:

We have reviewed the draft audit of court revenues prepared by your office for the period of July 1, 2000 through June 30, 2006, received here on March 5, 2008. Attached is the Court's response to the various audit findings and documentation of correction or compliance. We understand that the County of San Diego is responding to findings from their areas of responsibility under separate cover.

The Superior Court disputes Finding 5 and associated references in Finding 1. Those findings involve the distribution of operating costs for the Court's collections program for delinquent court ordered debt. Our Court is justifiably proud of its collections program. Since July 2000, cash collections on delinquent debt have totaled \$231,648,707. Millions of dollars of those funds have been distributed to the State of California that would otherwise have gone uncollected. Our program is held as a model by the Administrative Office of the Courts and has been emulated by other superior courts and county agencies, resulting in further revenues to the State.

Our collection program was conducted under the State Controller's Office (SCO) guidelines dated May 1997. These guidelines, which were the only ones available at the time we implemented our program, were unclear with respect to the methodology and timing for the deduction of costs. The guidelines were revised in June 2006, clarifying those provisions. The Court acted in good faith in deducting its costs of collections under the 1997 guidelines that were in effect at the time, and with the implementation of the clarified guidelines, we have modified our collection program to follow the rules that are now in effect. Had the Court utilized the 2006 guidelines in distributing revenues and deducting costs during the period covered by the Audit Report, the result would have been an overall reduction in revenues to the State of \$105,592.

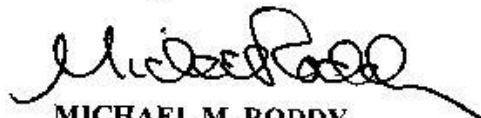
Mr. Jeffrey V. Brownfield
Response to Draft Audit Report of Court Revenues
Page 2 of 2
March 19, 2008

The State Controller's Office has not conducted an audit of court revenues in the County of San Diego since June 2000. The Superior Court began deducting its costs of collections as a Comprehensive Collections Program qualified under Penal Code Section 1463.007 in July of 2003. Had the State conducted audits in a timely fashion, it would have noted the perceived error in the Court's application of the SCO guidelines shortly after the Court began deducting its costs. It raises issues of fairness where the lack of clarity in written guidelines and the State's lack of onsite review of Court records combined to allow perceived misinterpretations to continue.

The Superior Court further disputes Finding 6, and associated references in Finding 1, having found no language in the statutes or SCO guidelines cited in the Audit Report to support the audit finding.

If you have any questions regarding our statements in support of our dispute of the findings, please contact Robert Bradley, Chief Financial Officer, at (619) 531-3128.

Sincerely,



MICHAEL M. RODDY
Executive Officer

Enclosure

cc: Tracy Sandoval, Asst. CFO/Auditor & Controller, County of San Diego
John Judnick, Manager, Internal Audit Services, Administrative Office of the Courts
Jessica Sanora, Manager, Enhanced Collections Unit, Administrative Office of the Courts
Robert F. Bradley, Jr., CFO, Superior Court of California, County of San Diego

Enclosure
San Diego County
Audit Report
Court Revenues
July 1, 2000 through June 30, 2006

Audit Response

Finding 1 – The County Auditor & Controller’s Office underremitted by \$2,146,660 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal-year (FY) periods starting July 1, 2000 and ending June 30, 2006.

The error occurred from the following conditions attributable to the Superior Court:

- **The Superior Court did not properly distribute the TVS cases during the period of January 1, 2004, through June 30, 2006. The understated amount of \$70,160 on the county 77% TVS fees account should be included in the computations.**
- **The Superior Court did not deduct the \$2 applicable to the county traffic school courthouse construction fund solely from the county 23% TVS fees account during the period of July 1, 2001, through December 31, 2003. This understated the county 77% TVS account fees by \$423,395.**
- **The Superior Court inequitably distributed collection program operating costs from its Comprehensive Court Collections Program. The inequitable distribution understated the computations by \$1,415,830.**

Recommendation: The County should remit \$2,146,660 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.

Response:

- This finding and recommendation result from the cumulative effect of the individual findings of the entire Audit Report as they relate to the 50% of revenue eligible for distribution under Government Code Section 77205(a). The Superior Court’s responses to the three bulleted items above may be found in responses to Finding 5 and Finding 6 below. Other bulleted items in Finding 1 attributed to the County relate to areas of responsibility under the control of the County of San

Diego. It is the understanding of the Superior Court that the County will be responding to those items under separate cover.

Finding 2 – The County Revenue and Recovery Department did not equitably distribute operating costs totaling \$1,213,279 during the period of December 2003 through June 2006 from the County Comprehensive Collection Program delinquent collections. The department determined the eligible program operating costs based on a total revenue collection formula of delinquent collections to total collections on December 2004. The department then applied the computed operating cost to both current and delinquent monthly revenue collections.

Recommendation: The County should remit to the State Treasurer \$779,428 and report on the remittance advice (TC-31) form increases of \$779,428 per the above noted state accounts. The County should also make the corresponding account adjustments.

Response:

- This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

Finding 3 – The San Diego County Public Safety Group did not properly report the DNA Identification Penalty Assessment collections made by the County Revenue and Recovery Department during the period of March 2005 through June 2006.

Recommendation: The Public Safety Group should consult with the Revenue and Recovery Department to develop procedures for the proper reporting of State DNA Identification Penalty Assessment.

Response:

- This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

Finding 4 – The Revenue and Recovery Department prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties as well as some fines and penalties over 20% state surcharges.

Recommendation: The department should ensure that all installment and various other fees are distributed in accordance with the statutory requirements under Penal Code section 1203.1d and Penal Code section 1463.18

Response:

- This finding and recommendation relate to areas of responsibility under the control of the County of San Diego. It is the understanding of the Superior Court that the County will be responding to this item under separate cover.

Finding 5 – The San Diego Superior Court did not equitably and promptly distribute operating costs totaling \$7,892,033 during the period of April 2004 through June 2006 from the Comprehensive Collection Program delinquent collections. Additionally, the collections received were not separately identified by qualifying accounts. The Court allocated the operating costs based on a total revenue collection formula for certain designated accounts with collections during the period of July 2003 through March 2004. The designated accounts included both current and delinquent revenue collections. Furthermore, the Court did not allocate the operating costs to all of the accounts for which collections were made.

Because the program did not conform with Penal Code section 1463.007 and the SCO's Comprehensive Collection Program Accounting Guidelines, the entire collections enhancement operating costs for the period of April 2004 through June 2006 should not be eligible for offset against State, cities, and county revenues.

Recommendation: The Court should remit to the State Treasurer \$1,744,928 and report on the remittance advice (TC-31) form increases of \$965,984 to the State Penalty Fund, \$95,494 to the State Trial Court Improvement Fund-Government Code section 68090.8, \$278,589 to the State General Fund-Penal Code section 1465.7, and \$404,861 to the State Court Facilities Construction Fund-Government Code section 70372(a). The Court should also make the corresponding account adjustments.

Additionally, the Court should implement procedures to identify the CCCP revenues. The revenues then should be distributed in accordance with applicable laws. The CCCP expenditures should be matched and offset against the CCCP revenues. The operating costs should be allocated only to the accounts for which collections were made. When revenues exceed the expenditures, the excess revenues should remain as originally distributed. When expenditures exceed the revenues, the excess expenditures should be identified and carried forward to the following month. This procedure must be performed on a monthly basis.

Response:

- The following information is submitted to dispute Finding 5, and the third bulleted item from Finding 1, which stems from Finding 5.

The Audit states that the Court did not deduct the cost of operating the collection program in accordance with the SCO's Comprehensive Collection Program Accounting Guidelines that were in effect during the time periods covered by the audit, and that therefore the Court's entire collections enhancement operating costs offset should be disallowed. The Court acted in good faith in deducting its cost of collections. The SCO guidelines in effect from May 1997 through June 2006 were unclear regarding the methodology and timing for the deduction of costs. As noted in the Audit Report, the guidelines were "revised" in June 2006; that revision clarified what apparently had been the intent of the unclear language in the 1997 guidelines.

In response to that clarification, the Court has developed a reporting system that segregates the delinquent revenue from current revenue, allowing us to deduct our costs in accordance with the revised guidelines, with which we are currently in compliance. We have utilized that same reporting system to recalculate the revenue distributions and cost deductions for the time period covered by the Audit Report. That redistribution would result in a reduction in revenue distributions to the State of California in the amount of \$105,592.

Through the Superior Court's collections program the State has benefited from the revenue collected on delinquent accounts not only through direct distributions that have risen 447% between FY 03-04 and FY 06-07 (and still climbing), but also from collections of revenues eligible under Government Code Section 77205(a), where the excess over the base year is split 50% with the State, which have increased 200% over the same period. All of these additional State revenues are the result of the Superior Court's enforcement of court ordered debt.

Our collections program is held as a model by the Administrative Office of the Courts and has been emulated by other superior courts and county agencies, resulting in further revenues to the State that would otherwise have not been realized. Because of the Court's commitment to collections of delinquent debt, all appropriate agencies have benefited financially.

The State Controller's Office has not conducted an audit of court revenues in the County of San Diego since June of 2000. The Superior Court began deducting its costs of collections as a Comprehensive Collections Program qualified under Penal Code Section 1463.007 in July of 2003. Had the State conducted audits in a timely fashion, it would have noted the perceived error in the Court's application of the SCO guidelines shortly after the Court began deducting its costs. It raises issues of fairness where the lack of clarity in written guidelines and the State's lack of onsite review of Court records combined to allow perceived misinterpretations to continue.

Finding 6 – The San Diego Superior Court did not properly distribute TVS cases for the period of January 2004 through June 2006. The distribution to the \$2 county

traffic school-courthouse construction fund was computed over the total bail for fines, penalties, and surcharges. Additionally, the \$2 to the county traffic school courthouse construction fund was given a distribution priority over fines, penalties, and surcharges. Vehicle Code Section 42007 declares that the \$2 to the county courthouse construction fund be computed only from the balance of TVS fee after the required deductions to fines, penalties, and surcharges. Furthermore, Government Code section 77205 requires that the \$2 distribution be deducted from the county 23% TVS fee account. The incorrect distributions understated the fines, penalties, and surcharges plus the county 77% TVS fee account, and overstated the county 23% TVS fee account. The error was due to improper computerized distribution formulas for TVS cases.

Recommendation: The court should remit \$277,680 to the State Treasurer and report on the remittance advice (TC-31) form increases of \$112,254 to the State General Fund-Penal Code section 1465.7 and \$165,426 to the State Court Facilities Construction Fund-Government Code section 70372(a). The Court should also make the corresponding account adjustments.

During FY 2006-07, the Court revised its computerized distribution formulas for TVS cases. The Court should review the revised formulas for conformance with the require Vehicle Code section 42007 distributions. Furthermore, the Court and the County should review the revised formulas for compliance with Government Code section 77205 computations.

Response:

- The following information is provided to dispute Finding 6, and the first and second bulleted items for the Superior Court in Finding 1 which stem from Finding 6.

We have carefully reviewed Government Code Section 77205 and all of the other citations of code sections and State Controller's Office guidelines noted in the Audit Report in reference to Finding 6, and we can find no language to support the audit's claim that the Court was required to deduct the distributed money from the county 23% TVS fee account.

Finding 7 – As noted in our prior audit, the Superior Court Financial Management System (FMS) did not equitably prorate the account distributions. Additionally, Health and Safety Code section 11502, Uniform Controlled Substances, and Vehicle Code section 23152, Driving-Under-the-Influence (DUI) cases were not properly distributed. During the current audit, we again noted that the court FMS did not perform the proper account distributions.

The following FMS input, process, or output deficiencies were noted as of June 2006:

- **The FMS reports did not properly accumulate the year-to-date totals. However, monthly totals were properly accumulated. The system should reconcile the monthly totals with the year-to-date totals.**

Response:

- FMS has four distinct revenue reports. One each for the County, Cities/Agencies, State and the Administrative Office of the Courts (AOC). When money shifts within reports at the direction of the legislature due to mid-year statute changes the totals are no longer accurate. This is why the Court doesn't rely on the totals on the FMS reports. The correct totals are maintained outside of FMS in a worksheet of revenue as it is actually distributed. The worksheets are retained for audit purposes.
- **The East Division FMS reports were not generally consistent with the FMS reports issued by the other courts in the area of account classification and method of tracking Government Code section 77205 revenue. General uniformity should exist within the FMS reports.**

Response:

- The Court is working towards uniformity. For civil fees, FMS is uniform with the changes made when the Uniform Civil Fee legislation was enacted. The Court is working on attaining uniformity in FMS for the criminal and traffic areas.
- **The FMS did not distribute the first \$20 of fines collected on DUI cases to the State Victim Indemnity Fund as required by Penal Code section 1463.18. Additionally, the proper distribution priority was not assigned. Failure to properly distribute DUI fines causes the State Victim Indemnity Fund to be understated.**

Response:

- The \$1.00 night court fee was being taken first. The Court has rearranged the lines of distribution within FMS in the DUI codes so that the \$20 is first.
- **The Uniform Controlled Substances collection cases were not distributed in accordance with Health and Safety Code sections 11502, 11372.5, and 11372.7. Furthermore, the Superior Court Probation Order/Commitment and Misdemeanor forms used to record fees imposed do not provide for the identification of crime lab fees. The collections of "criminalistic laboratory analysis fee" and "drug program fee" should be accounted for as fines subject to the state penalties, local penalties, the 20% state surcharge (Penal**

Code section 1465.7), Proposition 69 penalty assessment, state court facilities construction penalty (Government Code section 70372), and the 2% automation fee.

Response:

- The identified fees are not listed separately in FMS because they are included in the total fine imposed by the Judge in accordance with the Court's Sentencing Guidelines. They are subject to Penalty Assessment as outlined in the Audit.
- **The FMS prorated collections in a manner that inappropriately gave a distribution priority to various fees over fines and penalties. The priority for fines and penalties were the same as for the 20% state surcharge. This prioritization method does not conform with Penal Code section 1203.1d.**

Response:

- FMS is an antiquated system (circa 1985) that wasn't designed for more than one major priority. Currently, that priority goes to payment of restitution to a victim. It would be prohibitively costly to program FMS to allow for a secondary priority which should be the 20% surcharge. It is currently distributed at the same time as all other penalty assessments. We anticipate having multiple priority capabilities with the implementation of the next phase of the AOC's California Case Management System, "V4", in approximately 2012.
- **The account distributions for cases on installment payments were not readily and easily identifiable.**

Response:

- FMS does not have drill down capabilities. The Court can identify the components of an installment account, though it is very time consuming. This issue will also be resolved with the implementation of V4.

Recommendation: The San Diego County Superior Court should ensure that all installment and various other fees are distributed in accordance with the statutory requirements under Penal Code section 1203.1d. Additionally, the account distributions on installment payment cases should be quickly and readily identifiable.

The Court should revise its distributions for DUI and Uniform Controlled Substances cases.

The Court should implement procedures to identify the judges' impositions regarding the additional \$50 crime lab fees.

The Court should ensure that collections moneys are settled on a monthly basis and remitted promptly.

Response:

- The Management System (CCMS) being developed by the AOC for traffic and criminal matters include all of the distributions authorized by law, including the required priorities. This will replace the limited systems the court now uses. The entries in the CCMS will have drill-down capabilities to see exactly how each payment was distributed.
- DUI distributions have been modified in FMS to distribute the \$20 Alcohol Restitution Fee first.
- The Health and Safety fine distributions are outlined in the San Diego Superior Court Sentencing Guidelines including the criminalistic laboratory analysis fees, which are part of the overall fine imposed.
- As noted in the response to Finding 5 above, the Superior Court is deducting its costs monthly from delinquent revenue as recommended by the SCO's Comprehensive Collection Program Accounting Guidelines dated June, 2006.

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