

NEVADA COUNTY

Audit Report

COURT REVENUES

July 1, 2017, through June 30, 2021



MALIA M. COHEN
California State Controller

August 2023



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

August 14, 2023

The Honorable Gina Will, Auditor-Controller
Nevada County
950 Maidu Avenue
Nevada City, CA 95959

Jason Galkin, Court Executive Officer
Superior Court of California, Nevada County
201 Church Street
Nevada City, CA 95959

Dear Ms. Will and Mr. Galkin:

The State Controller's Office audited Nevada County's court revenues for the period of July 1, 2017, through June 30, 2021.

Our audit found that the county's remittances to the State Treasurer were substantially correct. However, we found that the county and court made errors related to the 50% excess of qualified revenues, domestic violence violations, speeding and red-light traffic violator school, fish and game violations, health and safety violations, and the priority of installment payments. The findings identified in this report do not have a significant effect on those remittances.

If you have questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138, or by email at lkurokawa@sco.ca.gov.

Sincerely,

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

KT/rs

Ms. Gina Will
Mr. Jason Galkin
August 14, 2023
Page 2 of 2

cc: Courtney Personeni, Senior Accountant-Auditor
Auditor-Controller's Office
Nevada County
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Auditor-Controller's Office
Nevada County
The Honorable Sue Hoek, Chair
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Audit Report

Summary

The State Controller's Office (SCO) audited the propriety of court revenues remitted to the State of California by Nevada County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2017, through June 30, 2021.

Our audit found that the county's remittances to the State Treasurer were substantially correct. However, we found that the county and court made errors related to the 50% excess of qualified revenues, domestic violence violations, speeding and red-light traffic violator school (TVS), fish and game violations, health and safety violations, and the priority of installment payments. The findings identified in this report do not have a significant effect on those remittances.

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 receive a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the County Treasurer as soon as is practical and provide the County Auditor with a monthly record of collections. This section further requires that the County Auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

The SCO publishes the *Trial Court Revenue Distribution Guidelines (Distribution Guidelines)* to provide direction on the distribution of fines, fees, forfeitures, penalties, and assessments. The *Distribution Guidelines* group code sections that share similar exceptions, conditions, or distributions into a series of nine tables.

The Judicial Council of California (JCC) provides forms and worksheets to ensure the proper calculation and distribution of fines, fees, forfeitures, penalties, and assessments. The guidance includes forms used to compute the annual maintenance-of-effort (MOE) calculation and worksheets to verify the more complex revenue distributions.

Audit Authority

We conducted this audit under the authority of GC section 68103, which requires the SCO to review the county's reports and records to ensure that all fines and forfeitures have been transmitted. In addition, GC section 68104 authorizes the SCO to examine records maintained by the court. Furthermore, GC section 12410 provides the SCO with general audit authority to superintend the fiscal concerns of the State.

Objective, Scope, and Methodology

Our audit objective was to determine the propriety of the court revenues remitted to the State Treasurer pursuant to the TC-31 process.

The audit period was July 1, 2017, through June 30, 2021.

To achieve our objective, we performed the following procedures.

General

- We gained an understanding of the county and the court's revenue collection and reporting processes, and of the criteria that were significant to our audit objective.
- We interviewed county and court personnel regarding the monthly TC-31 remittance process, the revenue distribution process, the case management system, and the MOE calculation.
- We reviewed documents supporting the transaction flow.
- We scheduled the monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State.
- We performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

Cash Collections

- We scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period.
- We performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements.
- We recomputed the annual MOE calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% of qualified revenues remitted to the State.

Distribution Testing

- We assessed the priority of installment payments by haphazardly selecting a non-statistical sample of nine installment payments to verify priority. Errors found were not projected to the intended (total) population.
- We performed a risk evaluation of the county and court, and identified violation types that are prone to errors due to either their complexity or statutory changes during the audit period.

Based on the risk evaluation, we haphazardly selected a non-statistical sample of 133 cases for 11 violation types. We were not able to identify the case population due to the inconsistent timing of when tickets were issued versus when they were paid, and the multitude of entities that remit collections to the county for remittance to the State.

We tested the sample as follows:

- We recomputed the sample case distributions and compared them to the actual distributions.
- We calculated the total dollar amount of significant underremittances and overremittances to the State and the county.

Errors found were not projected to the intended (total) population.

We did not audit the financial statements of the county or the court. We did not review any court revenue remittances that the county and court may be required to make under GC sections 70353 and 77201.1(b), included in the TC-31.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

As a result of performing the audit procedures, we found that Nevada County's remittances to the State Treasurer are substantially correct. However, we found that the county and court made errors related to the 50% excess of qualified revenues, domestic violence violations, speeding and red-light TVS, fish and game violations, health and safety violations, and the priority of installment payments. The findings identified in this audit report do not have a significant effect on those remittances.

These instances of noncompliance are non-monetary; they are described in the Findings and Recommendations section.

Follow-up on Prior Audit Findings

Nevada County has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2008, through June 30, 2013, issued May 4, 2016, with the exception of Finding 6 of this audit report. See the Appendix for the summary of prior audit findings.

Views of Responsible Officials

We issued a draft audit report on April 26, 2023. Nevada County's representative responded by letter dated April 27, 2023, agreeing with Finding 1. This final audit report includes the county's response as an attachment. The Superior Court of California, Nevada County's representative responded by email on May 2, 2023, agreeing with Findings 2 through 6.

Restricted Use

This audit report is solely for the information and use of Nevada County; the Superior Court of California, Nevada County; the JCC; 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 audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

August 14, 2023

Findings and Recommendations

FINDING 1— Incorrect calculation of 50% excess of qualified revenues

During our recalculation of the 50% excess of qualified revenues, we found that the county used an incorrect qualified revenue amount in its calculation for each fiscal year. However, these errors did not result in underremittances to the State Treasurer, as the qualified revenues were below the base amount for each fiscal year. The errors occurred because the county misinterpreted the required calculations.

For the audit period, the county provided support for its calculation of the 50% excess of qualified revenues. We reviewed the county's calculations and reconciled the qualified revenues to revenue collection reports provided by the court and the county. We noted that qualified revenues in the calculations did not reconcile to the court's collection reports due to calculation errors related to base fines (Penal Code [PC] section 1463.001), the state penalty (PC section 1464), and the TVS fee (Vehicle Code [VC] section 42007).

We also noted that in fiscal year (FY) 2019-20 and FY 2020-21, the county incorrectly excluded 30% from the county's 30% share of the state penalty (PC section 1464) amounts; and it incorrectly excluded 49% from the county's 49% (\$24.01) share of the \$49 TVS fee (VC section 42007.1).

Furthermore, we noted that the county incorrectly excluded revenues collected for the Emergency Medical Services Fund (GC section 76104) and for city base fines (VC section 42007[c]) from its calculation of the TVS fee (VC section 42007) during the audit period.

We recalculated the county's qualified revenues based on actual court revenues collected for each fiscal year. We found that the county had understated qualified revenues by \$327,650 for the audit period.

Qualified revenues were understated for the following reasons:

- The county miscalculated the qualified revenues from the base fines (PC section 1463.001) by \$17,309 because it overstated the revenues collected for the audit period by \$17,309.
- The county overstated the revenues collected from the state penalty (PC section 1464) in FY 2017-18 and FY 2018-19 by a total of \$3,004. The county also incorrectly excluded \$168,713 in revenues collected from the state penalty (PC section 1464) in FY 2019-20 and FY 2020-21, resulting in a net understatement of \$165,709.
- The county miscalculated the qualified revenues from the TVS fee (VC section 42007) by \$51,358 because it overstated the revenues collected for the audit period by \$51,358.
- The county incorrectly excluded revenues collected for the Emergency Medical Services Fund (GC section 76104) from TVS cases, resulting in an understatement of \$70,372.

- The county incorrectly excluded revenues collected for the city base fine (VC section 42007[c]) from TVS cases, resulting in an understatement of \$129,482.
- The county incorrectly excluded an additional 49% of the revenues collected for the \$49 TVS fee (VC section 42007.1) in FY 2019-20 and FY 2020-21, resulting in an understatement of \$30,754.

The following table shows the audit adjustments to qualified revenues:

	Fiscal Year				
	2017-18	2018-19	2019-20	2020-21	Total
Qualified revenues reported	\$ 706,513	\$ 579,085	\$ 554,192	\$ 588,804	\$ 2,428,594
Audit adjustment:					
PC § 1463.001 overstatement	(2,192)	(1,485)	(12,870)	(762)	(17,309)
PC § 1464 understatement	(737)	(2,267)	80,177	88,536	165,709
VC § 42007 overstatement	(1,711)	(1,738)	(38,556)	(9,353)	(51,358)
GC § 76104 understatement	22,767	20,547	16,364	10,694	70,372
VC § 42007(c) understatement	42,269	37,832	28,060	21,321	129,482
VC § 42007.1 understatement	-	-	18,607	12,147	30,754
Total	60,396	52,889	91,782	122,583	327,650
Audited revenues	\$ 766,909	\$ 631,974	\$ 645,974	\$ 711,387	\$ 2,756,244

Although qualified revenues were understated by \$327,650, the adjusted qualified revenues were still below the base amount for the county in all four fiscal years of the audit period. As a result, the errors did not lead to an underremittance to the State Treasurer.

The following table shows the excess qualified revenues, and—by comparing the 50% excess amount due to the State to the county’s actual remittance—the county’s underremittance to the State Treasurer.

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due to the State	County Remitted to the State	County Underremitted to the State¹
2017-18	\$ 766,909	\$ 1,220,686	\$ -	\$ -	\$ -	\$ -
2018-19	631,974	1,220,686	-	-	-	-
2019-20	645,974	1,220,686	-	-	-	-
2020-21	711,387	1,220,686	-	-	-	-
Total						\$ -

¹Should be identified on the TC-31 as State Trial Court Improvement and Modernization Fund – GC §77205

GC section 77205(a) requires the county to remit 50% of the qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for FY 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

Recommendation

We recommend that the county ensure that the proper accounts are included in the calculation of each line item on the 50-50 Excess Split Revenue Computation Form.

County's Response

The County Agrees.

The County is working more closely with the courts to reconcile revenue reports and appropriately categorize fees and fines in our 50% excess calculations to accurately determine qualified revenues and potential excess to remit.

**FINDING 2—
Incorrect distribution
of revenues from
domestic violence
violations**

During our testing of the domestic violation cases, we found that the court did not properly collect and distribute revenues from these cases. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the court using its case management system. For each sample case, we recomputed the distributions and compared them to the actual distributions.

We tested 10 cases and found three cases for which the court collected fines, fees, and penalties in excess of the amount applicable to a domestic violence conviction. We also found one case for which the court incorrectly distributed revenues from assault violations (PC section 240) to the Domestic Violence Fund (PC section 1203.097[a][5]). We also found two cases for which the court incorrectly distributed the \$500 domestic violence fee (PC section 1203.097[a][5]).

We performed a revenue analysis to determine the fiscal effect of these distribution errors. We found that the errors did not have a material effect on the revenues remitted to the State.

PC section 1203.097(a)(5) requires the county to post two-thirds of the domestic violence fee collected to its Domestic Violence Fund; no more than 8% may be used for administrative costs. PC section 1203.097(a)(5) further requires that the remaining one-third be transferred, once a month, to the SCO for deposit in equal amounts in the State's Domestic Violence Restraining Order Reimbursement Fund and the State's Domestic Violence Training and Education Fund.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that domestic violence revenues are collected and distributed in accordance with statutory requirements;

- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets; and
- Review distributions for accuracy and completeness before remittance to the county's auditor-controller.

Court's Response

The court is in agreement with the audit finding related to incorrect distribution of domestic violence cases during the audit period. The court has implemented a new case management system and tested the distribution configuration for accuracy. Regular internal audits of court distributions are conducted by court staff using JCC distribution worksheets.

FINDING 3— Incorrect distribution of revenues from red-light and speeding traffic violator school

During our testing of cases of red-light and speeding TVS, we found that the court did not properly distribute revenues from these cases to the TVS fee (VC section 42007). The errors occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the court using its case management system. For each sample case, we recomputed the distributions and compared them to the actual distributions.

We found that the court incorrectly converted base fines and penalties to the TVS fee (VC section 42007). We tested 15 speeding TVS cases and found three cases for which the incorrect conversion resulted in an understatement of the TVS fee (VC section 42007) and an overstatement of the city base fines (VC section 42007[c]). We tested 10 red-light TVS cases and found eight cases for which the incorrect conversion resulted in an overstatement of the TVS fee (VC section 42007) and an understatement of the 30% red-light allocation account (VC section 42007.3). We also found that city base fines (VC section 42007[c]) were overstated in two of these eight cases.

A misstatement of the TVS fee (VC section 42007) and city base fines (VC section 42007[c]) affects the 50% excess of qualified revenues calculation. However, upon completion of an analysis of revenues to determine the fiscal effect of these distribution errors, we found that they did not have a material impact on the revenues reported in the 50% excess of qualified revenue calculation.

VC section 42007(a)(1) requires the clerk of the court to collect a fee, in an amount equal to the total bail for the eligible offense shown on the uniform countywide bail schedule, from every person who is ordered or permitted to attend traffic violator school pursuant to VC section 41501 or 42005.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that TVS revenues are distributed in accordance with statutory requirements;
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets; and
- Review distributions for accuracy and completeness before remittance to the county's auditor-controller.

Court's Response

The court is in agreement with the audit finding related to incorrect distribution of red-light and speeding TVS cases during the audit period. The court has implemented a new case management system and tested the distribution configuration for accuracy. Additional improvements to identify TVS funds were made at the auditor's recommendation. Regular internal audits of court distributions are conducted by court staff using JCC distribution worksheets.

**FINDING 4—
Incorrect distribution
of revenues from fish
and game violations**

During testing of fish and game violation cases, we found that the court did not properly distribute revenues from these cases. The errors occurred because the court misinterpreted the *Distribution Guidelines*.

We verified, on a sample basis, distributions made by the court using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions.

We found that the court did not distribute revenues from the secret witness penalty (Fish and Game Code section 12021) to the 2% deposit for state automation (GC section 68090.8) in nine of the 11 cases that we tested. We also found two cases for which the court did not assess the secret witness penalty (Fish and Game Code section 12021). We also found that the court did not proportionately distribute revenues from fish and game violations to fines, penalties, and fees.

We performed a revenue analysis to determine the fiscal effect of these distribution errors. We found that the errors did not have a material effect on the revenues remitted to the State, due to the low number of affected cases.

GC section 68090.8(b) requires the county treasurer, prior to making any other required distribution, to transmit 2% of all fines, penalties, and forfeitures collected in criminal cases to the State Trial Court Improvement and Modernization Fund to be used exclusively to pay the costs of automated systems for the trial courts.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that fish and game revenues are distributed in accordance with statutory requirements;
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets; and
- Review distributions for accuracy and completeness before remittance to the county's auditor-controller.

Court's Response

The court is in agreement with the audit finding related to incorrect distribution of [revenues from] fish and game cases during the audit period. The court has implemented a new case management system and tested the distribution configuration for accuracy. Regular internal audits of court distributions are conducted by court staff using JCC distribution worksheets.

**FINDING 5—
Incorrect distribution
of revenues from
health and safety
violations**

During our testing of health and safety violation cases, we found that the court did not consistently assess the criminal laboratory analysis fee (Health and Safety Code [HSC] section 11372.5) or the drug program fee (HSC section 11372.7). Furthermore, the court did not treat the criminal laboratory analysis fee (HSC section 11372.5) or the drug program fee (HSC section 11372.7) as a fine. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the court using its case management system. For each sample case, we recomputed the distributions and compared them to the actual distributions.

We found that the court inconsistently assessed the criminal laboratory analysis fee (HSC section 11372.5) or drug program fee (HSC section 11372.7) for certain health and safety violations. Moreover, the court did not account for the criminal laboratory analysis fee (HSC section 11372.5) or drug program fee (HSC section 11372.7) that the court assessed as a fine.

The criminal laboratory analysis fee (HSC section 11372.5) and drug program fee (HSC section 11372.7) are subject to the state penalty (PC section 1464), local penalties (GC section 76000), DNA penalties (GC sections 76104.6 and 76104.7), the state court construction penalty (GC section 70372[a]), the state surcharge (PC section 1465.7), and the 2% deposit for state automation (GC section 68090.8). Therefore, when the criminal laboratory analysis fee (HSC section 11372.5) or drug program fee (HSC section 11372.7) was not assessed, the penalties, the surcharge, and the fee were understated. However, these errors cannot now

be reversed because the court cannot retroactively collect base fine enhancements from defendants or recalculate the base fine enhancements.

HSC section 11372.5(a) requires defendants convicted of violating specific Health and Safety Code sections regulating controlled substances to pay a \$50 criminal laboratory analysis for each separate offense, and requires the court to increase the total fine as necessary to include the increment.

HSC section 11372.7(a) requires defendants convicted of violating specific Health and Safety Code sections regulating controlled substances to pay a \$150 drug program fee for each separate offense, and requires the court to increase the total fine as necessary to include the increment.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that health and safety revenues are assessed and distributed in accordance with statutory requirements;
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets; and
- Review distributions for accuracy and completeness before remittance to the county's auditor-controller.

Court's Response

The court is in agreement with the audit finding related to incorrect distribution of [revenues from] health and safety cases during the audit period. The court has implemented a new case management system and tested the distribution configuration for accuracy. Regular internal audits of court distributions are conducted by court staff using JCC distribution worksheets.

FINDING 6— Incorrect prioritization of installment payments (repeat finding)

During our distribution testing of superior court cases, we found that the court incorrectly prioritized distributions of installment payments. The errors occurred because the county misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the court using its case management system. For each sample case, we reviewed the distributions to determine whether the court correctly prioritized the distributions of installment payments according to PC section 1203.1d, subparagraph (b).

We tested nine cases and found four cases for which the court did not distribute the installment payments to the state surcharge (PC section 1465.7, priority two) before priority-three fines and penalties. Furthermore, we found three cases for which the court did not distribute

installment payments to priority-three fines and penalties in full before it distributed priority-four reimbursable costs.

Failure to disburse installment payments according to the required distribution priority causes revenues to the State and the county to be inaccurately stated. However, we did not measure the effect of the error because it would be impractical and difficult to redistribute revenues on every case involving installment payments.

As discussed in Finding 2 of our prior audit report dated May 4, 2016, the county inappropriately distributed installment payments. This is a repeat finding because the county did not correct the distribution errors noted in our prior audit report.

PC section 1203.1d, subparagraph (b) requires the distribution of installment payments be made in the following order of priority:

1. Restitution ordered to victims (PC section 1202.4[f]);
2. State surcharge (PC section 1465.7);
3. Fines, penalty assessments, restitution fines (PC section 1202.4[b]);
and
4. Other reimbursable costs.

Recommendation

We recommend that the court correct its case management system to ensure that installment payments are distributed in accordance with statutory priority requirements.

Court's Response

The court is in agreement with the audit finding related to incorrect distribution prioritization during the audit period. The court has implemented a new case management system and tested the distribution configuration for accuracy. Regular internal audits of court distributions are conducted by court staff using JCC distribution worksheets.

Appendix— Summary of Prior Audit Findings

The following table shows the implementation status of Nevada County's corrective actions related to the findings contained in our prior audit report dated May 4, 2016.

Prior Audit Finding Number	Prior Audit Finding Title	Status
1	Overremitted excess of qualified fines, fees, and penalties	Fully implemented
2	Inappropriate distribution of installment payments	Not implemented – See current Finding 6

**Attachment—
County's Response to Draft Audit Report**



NEVADA COUNTY
CALIFORNIA

GINA S. WILL, AUDITOR-CONTROLLER

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April 27, 2023

Lisa Kurokawa, Chief, Compliance Audits Bureau,
Division of Audits
State Controller's Office
PO Box 942850
Sacramento, CA 94250

Re: The State Controller's Office audited Nevada County's court revenues for the period of July 1, 2017, through June 30, 2021.

Per the final draft finding – 1, Under remitted 50% excess

The County Agrees.

The County is working more closely with Courts to reconcile revenue reports and appropriately categorize fees and fines in our 50% excess calculations to accurately determine qualified revenues and potential excess to remit.

Response provided on 4/27/2023 by Gina S. Will, Auditor-Controller
Date of Corrective Action: Fall 2023
Responsible Person(s): Andrew Fox, Accountant-Auditor II

Sincerely,

Gina S. Will
Auditor-Controller

**State Controller's Office
Division of Audits
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