

YUBA COUNTY

Audit Report

COURT REVENUES

July 1, 2009, through June 30, 2013



BETTY T. YEE
California State Controller

December 2015



BETTY T. YEE
California State Controller

December 31, 2015

Richard Eberle
Auditor-Controller
Yuba County
915 Eighth Street, Suite 105
Marysville, CA 95901

H. Stephen Konishi
Court Executive Officer
Superior Court of California Yuba County
215 Fifth Street, Suite 200
Marysville, CA 95901

Dear Mr. Eberle and Mr. Konishi:

The State Controller's Office audited Yuba County's court revenues for the period of July 1, 2009, through June 30, 2013.

Our audit found that the county underremitted a net total of \$233,567 in court revenues to the State Treasurer because it:

- Underremitted 50% excess of qualified fines, fees, and penalties by \$43,913
- Underremitted parking revenues by \$82,395
- Underremitted red-light violation bails by \$60,540
- Underremitted \$4 DNA fees by \$51,252
- Overremitted city TVS fees by \$4,533

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2009, through June 30, 2013.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

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

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250-5872

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.

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an informal audit review process to resolve a dispute of facts. To request a review, the county should submit a written request for a review, along with supporting documents and information pertinent to the disputed issue(s), within 60 days of receiving this final report. The review request should be submitted to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter to Elizabeth González, Chief, Local Government Compliance Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, CA 95250-5874.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/ljs

Attachment

cc: Renee Danielson, Court Division Manager
Superior Court of California, Yuba County
John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Anita Lee
Legislative Analyst's Office
Michael Gungon, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office
Richard J. Chivaro, Chief Counsel
State Controller's Office

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
Follow-Up on Prior Audit Findings	2
Views of Responsible Officials.....	2
Restricted Use	3
Findings and Recommendations.....	4
Schedule 1—Summary of Audit Findings by Fiscal Year	12
Schedule 2—Summary of Underremittances by Month, Trial Court Trust Fund	14
Schedule 3—Summary of Underremittances by Month, Trial Court Improvement Fund	16
Schedule 4—Summary of Underremittances by Month, State Court Facilities Construction Fund.....	18
Schedule 5—Summary of Overremittances by Month.....	20
Attachment—County Auditor-Controller’s Response to Draft Audit Report	

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 Yuba County for the period of July 1, 2009, through June 30, 2013.

Our audit found that the county underremitted a net total of \$233,567 in court revenues to the State Treasurer because it:

- Underremitted 50% excess of qualified fines, fees, and penalties by \$43,913
- Underremitted parking revenues by \$82,395
- Underremitted red-light violation bails by \$60,540
- Underremitted \$4 DNA fees by \$51,252
- Overremitted city TVS fees by \$4,533

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 (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as 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.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO 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, 2009, through June 30, 2013. We did not review the timeliness of any remittances the county may be required to make under GC 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, Department of Revenue and Recovery, Auditor-Controller's Office, and Shasta Collections.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county that 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*
- 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

Yuba County underremitted \$233,567 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The court has satisfactorily resolved the findings noted in our prior audit report, issued October 2011, with the exception of Finding 3 of this audit report.

Views of Responsible Officials

We issued a draft audit report on May 13, 2015. Richard Eberle, Yuba County Auditor-Controller, responded by letter dated June 2, 2015 (Attachment A), agreeing with the audit results with the exception of Findings 5 and 6. Renee Danielson, Yuba Superior Court Division Manager, responded by email dated July 30, 2015, agreeing with the audit results.

Restricted Use

This report is solely for the information and use of Yuba County, the Yuba 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, CPA
Chief, Division of Audits

December 31, 2015

Findings and Recommendations

FINDING 1— Underremitted the 50% excess of qualified fines, fees, and penalties

The Yuba County Auditor-Controller's Office underremitted by \$43,913 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the four-fiscal-year period starting July 1, 2009 and ending June 30, 2013.

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

The error occurred due to the fiscal impact of conditions identified in this report's findings as follows:

- As stated in Finding 2, Yuba County underremitted parking fees. The underremittance caused an understatement of county parking revenues in the amount of \$12,828, which should have been included in the maintenance-of-effort (MOE) calculation.
- As stated in Finding 3, the Yuba Superior Court did not properly distribute red-light violation fines. This inappropriate distribution caused an overstatement of county General Fund revenues in the amount of \$12,222, which should not have been included in the MOE calculation.
- As stated in Finding 4, the Yuba Superior Court did not properly distribute DNA Identification Fund – GC, section 76104.7 fees. This inappropriate distribution caused an overstatement of county General Fund revenues in the amount of \$8,809, which should not have been included in the MOE calculation.
- As stated in Finding 5, the Yuba Superior Court did not properly distribute Traffic Violator School (TVS) city cases. This inappropriate distribution caused an understatement of county General Fund revenues in the amount of \$94,391, which should have been included in the MOE calculation.
- As stated in Finding 6, the Yuba Superior Court did not properly distribute Traffic Violator School county cases. This inappropriate distribution caused an understatement of county General Fund revenues in the amount of \$1,638, which should have been included in the MOE calculation.

The adjusted qualified revenues reported for FY 2009-10 were \$719,997. The excess, above the base of \$289,325, is \$430,672. This amount should be divided equally between the county and State, resulting in \$215,336 excess due the State. The county has remitted a previous payment of \$209,321, causing an underremittance of \$6,015.

The adjusted qualified revenues reported for FY 2010-11 were \$626,117. The excess, above the base of \$289,325, is \$336,792. This amount should be divided equally between the county and the State, resulting in \$168,396 excess due the State. The county has remitted a previous payment of \$157,098, causing an underremittance of \$11,298.

The adjusted qualified revenues reported for FY 2011-12 were \$722,769. The excess, above the base of \$289,325 is \$433,444. This amount should be divided equally between the county and the State, resulting in \$216,722 excess due the State. The county has remitted a previous payment of \$202,626, causing an underremittance of \$14,096.

The adjusted qualified revenues reported for FY 2012-13 were \$627,917. The excess, above the base of \$289,325 is \$338,592. This amount should be divided equally between the county and the State, resulting in \$169,296 excess due the State. The county has remitted a previous payment of \$156,792, causing an underremittance of \$12,504.

The over- and under-remittances had the following effects:

Account Title	Underremitted/ (Overremitted)
Trial Court Improvement Fund – GC section 77205	
FY 2009-10	\$ 6,015
FY 2010-11	11,298
FY 2011-12	14,096
FY 2012-13	12,504
County General Fund	(43,913)

Recommendation

The county should remit \$43,913 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Trial Court Improvement Fund – GC section 77205. The county also should make the corresponding account adjustments as the result.

County Auditor-Controller’s Response

The Auditor-Controller agreed with Finding 1. However, Mr. Eberle stated that Yuba County did not cause the underremittance. Therefore, any related penalties and interest should be directly charged to and collected from the entities responsible for the delinquency or failure to pay.

Superior Court’s Response

The Superior Court agreed with Finding 1.

SCO’s Comment

We agree that any related penalties and interest shall be paid by the entities responsible for the delinquency or the failure to pay. As a result, we revised Schedule 3 in this report to identify the net underremittances by each responsible entity, to facilitate the collection process. The finding remains as stated.

**FINDING 2—
Underremitted State
parking surcharges**

Yuba Community College and the Marysville Police Department did not distribute county and State parking surcharges and fines from July 2009 through June 2013. The error occurred because college and police department personnel misinterpreted the distribution requirements.

Vehicle Code (VC) section 40200.3 provides that parking fines by the issuing agencies are deposited with the jurisdiction except for sums payable pursuant to GC sections 76000, 76000.3, and 70372(b).

Vehicle Code (VC) section 40225(d) allows equipment and registration tab violations to be processed as civil penalties. Upon proof of correction, the civil penalty is reduced to \$10. Civil penalties collected on equipment and tab violations are distributed as follows: 50% to the issuing/processing agency and 50% to the State Treasurer.

Failure to collect the surcharges affected the revenues reported to the State and had the following effects:

Account Title	Underremitted/ (Overremitted)
State General Fund	\$ 27,876
State Court Facilities Construction Fund – ICNA, GC §70372(b)	25,656
State Trial Court Trust Fund, GC §76000.3	16,035
State Court Facilities Construction Fund, GC §70372(b) (\$1.50)	12,828
County General Fund	17,104
County Handicap (County) Linkage Fee	16,368
County Criminal Justice Facilities Fund	12,828
County Court Construction Fund	12,828
City of Marysville General Fund	(73,789)
Yuba Community College General Fund	(67,734)

Failure to properly distribute parking fees also affected the revenues reported to the State Trial Court Improvement Fund under the maintenance-of-effort (MOE) formula (see Finding 1) by a net total of \$12,828.

Recommendation

The county should remit \$ 82,395 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$27,876 to the State General Fund; \$25,656 to the State Court Facilities Construction Fund, (ICNA) – GC section 70372(b); \$16,035 to the State Trial Court Trust Fund – GC section 76100.3; and \$12,828 to the State Court Facilities Construction Fund – GC section 70372. The county also should make the corresponding account adjustments.

County Auditor-Controller’s Response

The Auditor-Controller agreed with Finding 2. However, Mr. Eberle stated that because the county did not have legal authority to enforce the remittance of the parking fines and verify any amounts reported by the city or college, the county should not be responsible to pay any penalties and/or interest related to the underremitted parking violation fines.

Superior Court’s Response

The Superior Court agreed with Finding 2.

SCO’s Comment

We agree that any related penalties and interest shall be paid by the entities responsible for the delinquency or the failure to pay. As a result, we revised Schedule 2 and Schedule 4 in this report to identify the net underremittances by each responsible entity, to facilitate the collection process. The finding remains as stated.

**FINDING 3—
Inappropriate
distribution of red-
light violation bails**

The Yuba Superior Court did not properly distribute the red-light violation bails for city-issued citations issued from July 1, 2009 through June 30, 2010. The court distributed the first 30% of the entire bail to the city. The error occurred because the required distribution was inadvertently overlooked.

Penal Code (PC) section 1463.11 stipulates that the “first 30% of the moneys collected and deposited with the county for distribution pursuant to PC 1463 are to be distributed to the general fund of the city or county in which the offense occurred.” That is 30% of the base fine, the State penalty, the county penalty, the EMAT penalty, and the State Court Facilities Construction Fund penalty.

EMS penalties pursuant to Government Code section 76000.5, and DNA penalties pursuant to Government Code sections 76104.6 and 76104.7, are not subject to the 30% distribution. Those statutes require full distribution prior to the requirements set forth in PC section 1463.

The inappropriate distributions for red-light violation cases had the following effects:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
20% State Surcharge – GC §1465.7	\$ 34,434
State Court Facilities Construction Fund – GC §70372(a)	15,616
State DNA Identification Fund – GC §76104.6	8,809
State DNA Identification Fund – GC §76104.7	8,809
State Penalty Fund – PC §1464	(5,526)
2% State Automation Fund – GC §68090.8	(1,602)
County Additional EMS Fund	17,618
County Courthouse Construction Fund	3,363
County General Fund	1,265
County share of State Penalty Fund	(8,889)
County EMS Fund	(5,926)
County Road Fund	(5,710)
County Criminal Justice Facility Construction Fund	(2,963)
City of Marysville General Fund	(59,298)

Failure to properly distribute red-light violation bails also affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula by a net total of \$12,222 (see Finding 1).

Recommendation

The county should increase subsequent remittances to the State Treasurer by \$60,540 and report on the remittance advice form (TC-31) the following: increases of \$34,434 to State Surcharge – GC section 1465.7; \$15,616 to State Court Facilities Construction Fund – GC section 70372 (a); \$8,809 to DNA Identification Fund – GC section 76104.6; and \$8,809 to DNA Identification Fund – GC section 76104.7, respectively; and decreases of \$1,602 to 2% Automation – GC section 68090.8, and \$5,526 to State Penalty Assessment – PC section 1464. The county should implement adjustments noted above to comply with statutory requirements for red-light violation cases.

County Auditor-Controller's Response

The Auditor-Controller agreed with Finding 3. However, Mr. Eberle stated that Yuba County did not cause the underremittances. Therefore, any related penalties and interest should be directly charged to and collected from the Yuba Superior Court.

Superior Court's Response

The Superior Court agreed with Finding 3.

SCO's Comment

We agree that Yuba Superior Court is responsible for any related penalties and interests. The finding remains as stated.

FINDING 4— Underremitted DNA penalties

The Yuba Superior Court did not assess the entire \$4 DNA additional penalties pursuant to Government Code 76104.7, from July 1, 2012, through June 30, 2013. The error occurred because the required distribution was inadvertently overlooked.

Government Code section 76104.7 provides that a penalty of \$4 for every \$10 of the base fine be collected.

The inappropriate distributions for DNA penalties had the following effects:

Account Title	Underremitted/ (Overremitted)
State DNA Identification Fund – GC §76104.7	\$ 70,900
State Court Facilities Construction Fund – GC §70372	(10,678)
State Penalty Fund – PC §1464	(6,407)
State DNA Identification Fund – GC §76104.6	(2,136)
2% State Automation Fund – GC §68090.8	(427)
County Share of State Penalty Fund	(14,948)
County Criminal Justice Facility Construction Fund	(8,542)
County EMS Fund	(4,271)
County General Fund	(3,203)
County Courthouse Construction Fund	(2,136)
City of Marysville General Fund	(18,152)

Failure to properly distribute DNA Penalties also affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1) by a net total of \$8,809.

Recommendation

The county should increase subsequent remittances by \$51,252 to the State Treasurer and report on the remittance advice form (TC-31) the following: an increase to DNA Identification Fund, GC section 76104.7 by \$70,900; and decreases of \$427 to 2% Automation, GC section 68090.8; \$2,136 to DNA Identification, GC section 76104.6; \$2,136 to State Penalty Assessment, PC section 1464; and \$6,407 to State Courthouse Construction Fund, GC section 70372.

County Auditor-Controller's Response

The Auditor-Controller agreed with Finding 4. However, Mr. Eberle stated that Yuba County did not cause the underremittances. Therefore, any related penalties and interests should be directly charged to and collected from the Yuba Superior Court.

Superior Court's Response

The Superior Court agreed with Finding 4.

SCO's Comment

We agree that Yuba Superior Court is responsible for any related penalties and interest. The finding remains as stated.

**FINDING 5—
Inappropriate
distribution of traffic
violation school (TVS)
fees**

The Yuba County Superior Court did not properly distribute TVS fees for city-issued citation cases from July 2009 through June 2013. The court excluded a percentage of the county-issued citation base fines from the county’s TVS fees pursuant to VC 42007. The error occurred because the required distribution was inadvertently overlooked.

Vehicle Code section 42007(3)(c) states that for fees resulting from city-issued citations, an amount equal to the amount of base fines that would have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of subdivision (b) of section 1463.001 of the Penal Code, shall be deposited in the treasury of the appropriate city.

The DNA Identification Penalty Assessment and DNA Additional Penalty Assessment are levied and collected in the same manner as the State Penalty imposed per Penal Code section 1464. Vehicle Code section 42007 does not specify a distribution exception for DNA penalties.

Failure to properly distribute TVS bail affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1) by a total of \$94,391 ($\$122,586 \times 77\%$).

The inappropriate distributions of TVS fees had the following effects:

Account Title	Underremitted/ (Overremitted)
State Court Facilities Construction Fund – GC §70372 (a)	\$ 5,180
State DNA Identification Fund – GC §76104.7	(7,770)
State DNA Identification Fund – GC §76104.6	(1,943)
County TVS	122,586
County DNA Identification Fund	(5,827)
City of Marysville General Fund	(112,226)

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$4,533 and report on the remittance advice form (TC-31) the following: an increase of \$5,180 to the State Court Facilities Construction Fund – GC section 70372(a); a decrease of \$7,770 to the State DNA Identification Penalty Assessment – GC section 76104.7; and a decrease of \$1,943 to the State DNA Identification Penalty Assessment – GC section 76104.6. The county also should implement other adjustments noted above to comply with statutory requirements for TVS bail distribution. The court should make redistributions for the period of July 2013 through the date the current system is revised.

County Auditor-Controller’s Response

The Auditor-Controller agreed with Finding 5 in principle. However, Mr. Eberle raised the issue that there had been no similar finding in the prior court revenue audits. Therefore, penalties and interest should not be assessed on the entire underremittance.

Superior Court's Response

The Superior Court agrees with Finding 5.

SCO's Comment

Ultimately the actions of the SCO Audits Division does not change the interpretation of the statutes in TVS distributions, and any oversight that may have occurred in the prior audits does not preclude the enforcement of those provisions in the current audit. The finding remains as stated.

**FINDING 6—
Inappropriate
distribution of traffic
violation school (TVS)
bail**

The Yuba County Superior Court did not properly distribute county TVS bail from July 2009 through June 2013. The court excluded a percentage of the county-issued citation base fines from the county's TVS fees pursuant to VC 42007. The error occurred because the required distribution was inadvertently overlooked.

VC section 42007, as of December 31, 1997, requires the TVS bail, except for those resulting from city-issued citation, to be deposited in the county General Fund. GC section 77205 requires that 77% of the TVS revenues in the county General Fund be included in the MOE formula for remittance to the Trial Court Improvement Fund.

Failure to properly distribute TVS bail affected the revenues reported to the State Trial Court Improvement Fund under the MOE calculation (see Finding 1) by a total of \$1,638 ($\$2,128 \times 77\%$).

Recommendation

The court should revise its distribution formula to comply with statutory requirements for TVS county bail distribution.

County Auditor-Controller's Response

The Auditor-Controller agreed with Finding 6 in principle. However, Mr. Eberle raised the issue that there had been no similar finding in the prior court revenue audits. Therefore, penalties and interest should not be assessed on the entire underremittances.

Superior Court's Response

The Superior Court agreed with Finding 6.

SCO's Comment

Ultimately the actions of the SCO Audits Division does not change the interpretation of the statutes in TVS distributions, and any oversight that may have occurred in the prior audits does not preclude the enforcement of those provisions in the current audit. The finding remains as stated.

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2009, through June 30, 2013**

Description of Finding Account Title ¹ – Code Section	Fiscal Year				Total	Reference ²
	2009-10	2010-11	2011-12	2012-13		
Auditor-Controller						
Underremitted 50% excess of fines, fees, and penalties						
State Trial Court Improvement Fund – GC §77205	\$ 6,015	\$ 11,298	\$ 14,096	\$ 12,504	\$ 43,913	Finding 1
Auditor-Controller						
Underremittance of Parking Fees						
Equipment/Tag Violation Fee – VC §40225(d)	6,969	6,969	6,969	6,969	27,876	Finding 2
State Court Facilities Construction Fund ICNA – GC §70372(B)	6,414	6,414	6,414	6,414	25,656	Finding 2
Trial Court Trust Fund – GC §76000.3	—	3,207	6,414	6,414	16,035	Finding 2
State Court Facilities Construction Fund – GC §70372(B)	3,207	3,207	3,207	3,207	12,828	Finding 2
Superior Court						
Red Light Violation Cases						
20% State Surcharge – GC §1465.7	34,434				34,434	Finding 3
State Court Facilities Construction Fund – GC §70372	15,616				15,616	Finding 3
DNA Identification Fund GC §76104.6 – GC §76104.6	8,809				8,809	Finding 3
DNA Identification Fund GC §76104.7 – GC §76104.7	8,809				8,809	Finding 3
2% Automation – GC §68090.8	(1,602)				(1,602)	Finding 3
State Penalty Assessment (State) – PC §1464	(5,526)				(5,526)	Finding 3
Superior Court						
Underremitted DNA Identification Fund GC §76104.7						
DNA Identification Fund GC §76104.7 – GC §76104.7				70,900	70,900	Finding 4
2% Automation – GC §68090.8				(427)	(427)	Finding 4
DNA Identification GC §76104.6 – GC §76104.6				(2,136)	(2,136)	Finding 4
State Penalty Assessment (State) – PC §1464				(6,407)	(6,407)	Finding 4
State Court Facilities Construction Fund – GC §70372				(10,678)	(10,678)	Finding 4
Superior Court						
TVS City-Issued Citations						
State Court Facilities Construction Fund – GC §70372 (a)	1,133	1,037	1,346	1,664	5,180	Finding 5
State DNA Identification Fund – GC §76104.7	(1,699)	(1,555)	(2,019)	(2,497)	(7,770)	Finding 5
State DNA Identification – GC §76104.6	(425)	(389)	(505)	(624)	(1,943)	Finding 5
Net amount underremitted (overremitted) to the State Treasurer	\$ 82,154	\$ 30,188	\$ 35,922	\$ 85,303	\$ 233,567	

Schedule 1 (continued)

Legend: GC = Government Code; H&SC = Health and 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 Form (TC-31) to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Trust Fund
July 1, 2009, through June 30, 2013**

Trial Court Trust Fund - Combined

Month	Fiscal Year				Total ¹
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	-		\$ 535	\$ 535	
August	-		535	535	
September	-		535	535	
October	-		535	535	
November	-		535	535	
December	-		535	535	
January	-	\$ 534	535	535	
February	-	534	535	535	
March	-	534	535	535	
April	-	534	535	535	
May	-	534	535	535	
June	-	537	529	529	
Total underremittances to the State Treasurer	-	\$ 3,207	\$ 6,414	\$ 6,414	\$ 16,035

Trial Court Trust Fund - Yuba Community College

Month	Fiscal Year				Total ¹
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	-	-	\$ 369	\$ 369	
August	-	-	369	369	
September	-	-	369	369	
October	-	-	369	369	
November	-	-	369	369	
December	-	-	369	369	
January	-	\$ 369	369	369	
February	-	369	369	369	
March	-	369	369	369	
April	-	369	369	369	
May	-	369	369	369	
June	-	369	369	369	
Total underremittances to the State Treasurer	-	\$ 2,214	\$ 4,428	\$ 4,428	\$ 11,070

Schedule 2 (continued)

Trial Court Trust Fund - Marysville Police Department

Month	Fiscal Year				
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	-	-	\$ 165	\$ 165	
August	-	-	165	165	
September	-	-	165	165	
October	-	-	165	165	
November	-	-	165	165	
December	-	-	165	165	
January	-	\$ 165	165	165	
February	-	165	165	165	
March	-	165	165	165	
April	-	165	165	165	
May	-	165	165	165	
June	-	168	171	171	
Total underremittances to the State Treasurer	-	\$ 993	\$ 1,986	\$ 1,986	\$ 4,965

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 This is a supplemental schedule for the SCO Division of Accounting and Reporting to calculate penalties and interest. The grand total is listed to facilitate the review process.

**Schedule 3—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2009, through June 30, 2013**

Trial Court Improvement Fund - Combined

Month	Fiscal Year				Total ¹
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	-	-	-	-	
August	-	-	-	-	
September	-	-	-	-	
October	-	-	-	-	
November	-	-	-	-	
December	-	-	-	-	
January	-	-	-	-	
February	-	-	-	-	
March	-	-	-	-	
April	-	-	-	-	
May	-	-	-	-	
June	\$ 6,015	\$ 11,298	\$ 14,096	\$ 12,504	
Total underremittances to the State Treasurer	\$ 6,015	\$ 11,298	\$ 14,096	\$ 12,504	\$ 43,913

Trial Court Improvement Fund - Yuba Community College

Month	Fiscal Year				Total ¹
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	-	-	-	-	
August	-	-	-	-	
September	-	-	-	-	
October	-	-	-	-	
November	-	-	-	-	
December	-	-	-	-	
January	-	-	-	-	
February	-	-	-	-	
March	-	-	-	-	
April	-	-	-	-	
May	-	-	-	-	
June	\$ 1,107	\$ 1,107	\$ 1,107	\$ 1,107	
Total underremittances to the State Treasurer	\$ 1,107	\$ 1,107	\$ 1,107	\$ 1,107	\$ 4,428

Schedule 3 (continued)

Trial Court Improvement Fund - Marysville Police Department

<u>Month</u>	<u>Fiscal Year</u>				
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	
July	-	-	-	-	
August	-	-	-	-	
September	-	-	-	-	
October	-	-	-	-	
November	-	-	-	-	
December	-	-	-	-	
January	-	-	-	-	
February	-	-	-	-	
March	-	-	-	-	
April	-	-	-	-	
May	-	-	-	-	
June	\$ 497	\$ 497	\$ 497	\$ 497	
Total underremittances to the State Treasurer	<u>\$ 497</u>	<u>\$ 497</u>	<u>\$ 497</u>	<u>\$ 497</u>	<u>\$ 1,988</u>

Trial Court Improvement Fund - Yuba Superior Court

<u>Month</u>	<u>Fiscal Year</u>				
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	
July	-	-	-	-	
August	-	-	-	-	
September	-	-	-	-	
October	-	-	-	-	
November	-	-	-	-	
December	-	-	-	-	
January	-	-	-	-	
February	-	-	-	-	
March	-	-	-	-	
April	-	-	-	-	
May	-	-	-	-	
June	\$ 4,411	\$ 9,694	\$ 12,492	\$ 10,900	
Total underremittances to the State Treasurer	<u>\$ 4,411</u>	<u>\$ 9,694</u>	<u>\$ 12,492</u>	<u>\$ 10,900</u>	<u>\$ 37,497</u>

NOTE: Delinquent Trial Court Improvement 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 amount after the county pays the underlying amount owed.

¹ The amounts are entirely from the maintenance-of-effort (MOE) underremittance (Finding 1).

² This is a supplemental schedule for the SCO Division of Accounting and Reporting to calculate penalties and interest. The grand total is listed to facilitate the review process.

**Schedule 4—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2009, through June 30, 2013**

State Court Facilities Construction Fund - Combined

Month	Fiscal Year				Total ¹
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	\$ 2,197	\$ 888	\$ 914	\$ 51	
August	2,197	888	914	51	
September	2,197	888	914	51	
October	2,197	888	914	51	
November	2,197	888	914	51	
December	2,197	888	914	51	
January	2,197	888	914	51	
February	2,198	888	914	51	
March	2,198	888	914	50	
April	2,198	888	914	50	
May	2,198	889	914	50	
June	2,198	889	913	50	
Total underremittances to the State Treasurer	<u>\$ 26,369</u>	<u>\$ 10,658</u>	<u>\$ 10,967</u>	<u>\$ 608</u>	<u>\$48,602</u>

State Court Facilities Construction Fund - Yuba Community College

Month	Fiscal Year				
	FY2009-10	FY2010-11	FY2011-12	FY2012-13	
July	\$ 554	\$ 554	\$ 554	\$ 554	
August	554	554	554	554	
September	554	554	554	554	
October	554	554	554	554	
November	554	554	554	554	
December	554	554	554	554	
January	554	554	554	554	
February	554	554	554	554	
March	554	554	554	554	
April	554	554	554	554	
May	554	554	554	554	
June	554	554	554	554	
Total underremittances to the State Treasurer	<u>\$ 6,648</u>	<u>\$ 6,648</u>	<u>\$ 6,648</u>	<u>\$ 6,648</u>	<u>\$26,592</u>

Schedule 4 (continued)

State Court Facilities Construction Fund - Marysville Police Department

Month	Fiscal Year				
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	\$ 248	\$ 248	\$ 248	\$ 248	
August	248	248	248	248	
September	248	248	248	248	
October	248	248	248	248	
November	248	248	248	248	
December	248	248	248	248	
January	248	248	248	248	
February	248	248	248	248	
March	248	248	248	248	
April	248	248	248	248	
May	248	248	248	248	
June	251	251	251	251	
Total underremittances to the State Treasurer	<u>\$ 2,979</u>	<u>\$ 2,979</u>	<u>\$ 2,979</u>	<u>\$ 2,979</u>	<u>\$ 11,916</u>

State Court Facilities Construction Fund - Yuba Superior Court

Month	Fiscal Year				
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	
July	\$ 1,395	\$ 86	\$ 112	\$ (751)	
August	1,395	86	112	(751)	
September	1,395	86	112	(751)	
October	1,395	86	112	(751)	
November	1,395	86	112	(751)	
December	1,395	86	112	(751)	
January	1,395	86	112	(751)	
February	1,396	86	112	(751)	
March	1,396	86	112	(752)	
April	1,396	86	112	(752)	
May	1,396	87	112	(752)	
June	1,393	84	108	(755)	
Total underremittances to the State Treasurer	<u>\$ 16,742</u>	<u>\$ 1,031</u>	<u>\$ 1,340</u>	<u>\$ (9,019)</u>	<u>\$ 10,094</u>

NOTE: Delinquent Court Facilities 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 70353. The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

¹This is a supplemental schedule for the SCO Division of Accounting and Reporting to calculate penalties and interest. The grand total is listed to facilitate the review process.

**Schedule 5—
Summary of Overremittances by Month
July 1, 2009, through June 30, 2013**

Month	Fiscal Year				Total ¹
	2009-10	2010-11	2011-12	2012-13	
July	\$ (771)	\$ (162)	\$ (210)	\$ (1,897)	
August	(771)	(162)	(210)	(1,897)	
September	(771)	(162)	(210)	(1,897)	
October	(771)	(162)	(210)	(1,897)	
November	(771)	(162)	(210)	(1,897)	
December	(771)	(162)	(210)	(1,897)	
January	(771)	(162)	(210)	(1,897)	
February	(771)	(162)	(210)	(1,898)	
March	(771)	(162)	(211)	(1,898)	
April	(771)	(162)	(211)	(1,898)	
May	(771)	(162)	(211)	(1,898)	
June	(771)	(162)	(211)	(1,898)	
Total overremittances to the State Treasurer	<u>\$ (9,252)</u>	<u>\$ (1,944)</u>	<u>\$ (2,524)</u>	<u>\$ (22,769)</u>	<u>\$ (36,489)</u>

¹ This is a supplemental schedule for the SCO Division of Accounting and Reporting to calculate penalties and interest. The grand total is listed to facilitate the review process.

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

The County of Yuba



Office of the Auditor-Controller

Richard Eberle, CPA
Yuba County Government Center
915 8th Street, Suite 105
Marysville, CA 95901

Phone: (530) 749-7810
Fax: (530) 749-7814
Email: reberle@co.yuba.ca.us

Elizabeth Gonzales
Bureau Chief
Local Government Compliance Bureau
Division of Audits
PO BOX 942850
Sacramento CA 94250-5874

Dear Ms. Gonzales:

My office received the draft report of the Yuba County Trial Court Revenue audit for the period of July 1, 2009 through June 30, 2013 on May 18, 2015. We have reviewed the draft report and the findings and have prepared the following responses.

Finding 1:

Yuba County (County) agrees that for the years under audit there is an under remittance of the 50% excess of qualified fines, fees, and penalties and that there is a net obligation owed to the State for the under remittance. Finding 1 is the result of Findings 2-6 and each finding has its own response below.

It is the contention of the County that, according to Government Code (GC) 68085(i) that upon receipt (or in this case the identification of a delinquency) the Controller (State Controller) shall calculate penalties and interest related to the delinquency. GC Section 68085(j) indicates that any calculated penalty and interest shall be paid by the entity responsible for the failure to pay. As defined in Findings 2-6, the actions of the County were not the cause of the delinquency or failure to pay and any related penalties and interest should be directly charged to and collected from the entities responsible for the delinquency or failure. It is the contention of the County that all under remittances (delinquencies or failures to pay) as identified in Findings 2-4 were the result of the actions of other entities. For Finding 5 & 6, the County agrees that, subsequent to Revision 22 of the State Controller's Office Trial Courts Distribution Guidelines Appendix C updated as of January 1, 2013 there was an under remittance and penalties and interest should be assessed on TVS fee under-remittances beginning with the 50/50 split calculation for June 30, 2013.

Finding 2:

The County agrees with the audit finding. It is true that the County under-remitted State parking surcharges to the State. However the County remitted all funds due to the State that were in its possession and reported as collected. The County remitted to the state the corresponding portion of all fines, fees, and penalties revenue as reported to the County by the Courts. The under remittance to the State was the result of the City of Marysville (City) and the Yuba County Community College (College) not remitting to the County the portion of collected parking violation revenue due to the State and County to be distributed accordingly. The County never received

the parking violation fees from the City or the College to distribute. The cause of the under remittance was the failure of the City and College to comply with PC 1463.001(b)(3) and VC 42007 when collecting parking fines. Upon investigation of the related codes the County is unable to identify any appropriate enforcement mechanism to ensure the City and College properly remit to the County all parking violation fines and subsequently does not have the ability to force the City or College neither to comply with the law nor to verify the accuracy of any amounts reported and remitted outside of litigation for violation of established law.

As the under remittance resulted from a failure to pay by the City and College, and as GC section 68085 (j)(1) says "...Payment [calculated penalty and interest] shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller..." and as GC section 68085 (j)(4) says "The party responsible for the error or other action that caused the failure to pay may include, but is not limited to, the party that collected the funds who is not the party responsible for remitting the funds to the Trial Court Trust Fund, if the collecting party failed or delayed in providing the remitting party with sufficient information needed by the remitting party to distribute the funds..." it is the position of the County that the City and the College, as the parties responsible for the failure to pay, be assessed the penalty and interest. The County is not responsible to pay any penalties and interest related to any failure to pay on the under remitted parking violation fees from the City and County.

Finding 3:

The County agrees with the finding that the Yuba County Superior Court did not properly distribute Red Light Violation fines.

It is the contention of the County that, according to Government Code (GC) 68085(i) that upon receipt (or in this case the identification of a delinquency) the Controller (State Controller) shall calculate penalties and interest related to the delinquency. GC Section 68085(j) indicates that any calculated penalty and interest shall be paid by the entity responsible for the failure to pay. As defined in the Finding, the actions of the County were not the cause of the delinquency or failure to pay and any related penalties and interest should be directly charged to and collected from the Superior Court as the entity responsible for the delinquency or failure.

Finding 4:

The County agrees with the finding that the Yuba County Superior Court did not properly distribute DNA Identification Fund GC 76104.7 fees.

It is the contention of the County that, according to Government Code (GC) 68085(i) that upon receipt (or in this case the identification of a delinquency) the Controller (State Controller) shall calculate penalties and interest related to the delinquency. GC Section 68085(j) indicates that any calculated penalty and interest shall be paid by the entity responsible for the failure to pay. As defined in the Finding, the actions of the County were not the cause of the delinquency or failure to pay and any related penalties and interest should be directly charged to and collected from the Superior Court as the entity responsible for the delinquency or failure.

Finding 5:

The County agrees in part with the finding that the County and Court did not properly distribute the Traffic Violators School (TVS) fines/fees. For the portion of the finding that identifies an error prior to June 30, 2013, the County does not agree with the finding. The methodology used to determine the allocation of the TVS fines/fees had been used by the County for calculation of the 50/50 split and has been subjected to multiple audits of prior periods. None of the prior audits identified issues with the formula or the methodology used to

calculate the split. Operating on the assumption that, since the methodology passed audit, it was an accepted and approved methodology the County continued using it to calculate the 50/50 split.

In Revision 23 of the Trial Courts Distribution Guidelines Appendix C updated as of January 1, 2013, the State Controller's office (SCO) changed the wording of the formula used to calculate the TVS Fee (on page 70). For reasons unknown to the County, the SCO felt the need to change the instructions on page 70 to bring additional clarity to the understanding of the formula used to calculate the 50/50 split related to TVS fees. It can be inferred that since the need arose to provide additional clarity there existed, prior to the clarification, some confusion as to how the formula was supposed to be used in arriving at the split amount for TVS fees. It is the contention of the county that the methodology used prior to the clarifying wording in Revision 23 was a legitimate interpretation of the applicable codes, especially in light of that methodology being approved through SCO audits. All TVS fees were accurately remitted to the State prior to Revision 23 were done according to a methodology that had been previously vetted and approved by the SCO.

Due to Revision 23 being issued with sufficient time to adapt to the clarifying verbiage in distributing the TVS fees as part of the 50/50 split, the County agrees that the TVS fees should have been included as clarified in Revision 23 as part of the June 30, 2013 50/50 split calculation. Any amounts deemed to be calculated incorrectly under the methodology as specified in Revision 23 should be charged penalties and interest.

Finding 6:

The County agrees in part with the finding that the County and Court did not properly distribute the Traffic Violators School (TVS) fines/fees. For the portion of the finding that identifies an error prior to June 30, 2013, the County does not agree with the finding. The methodology used to determine the allocation of the TVS fines/fees had been used by the County for calculation of the 50/50 split and has been subjected to multiple audits of prior periods. None of the prior audits identified issues with the formula or the methodology used to calculate the split. Operating on the assumption that, since the methodology passed audit, it was an accepted and approved methodology the County continued using it to calculate the 50/50 split.

In Revision 23 of the Trial Courts Distribution Guidelines Appendix C updated as of January 1, 2013, the State Controller's office (SCO) changed the wording of the formula used to calculate the TVS Fee (on page 70). For reasons unknown to the County, the SCO felt the need to change the instructions on page 70 to bring additional clarity to the understanding of the formula used to calculate the 50/50 split related to TVS fees. It can be inferred that since the need arose to provide additional clarity there existed, prior to the clarification, some confusion as to how the formula was supposed to be used in arriving at the split amount for TVS fees. It is the contention of the county that the methodology used prior to the clarifying wording in Revision 23 was a legitimate interpretation of the applicable codes, especially in light of that methodology being approved through SCO audits. All TVS fees were accurately remitted to the State prior to Revision 23 were done according to a methodology that had been previously vetted and approved by the SCO.

Due to Revision 23 being issued with sufficient time to adapt to the clarifying verbiage in distributing the TVS fees as part of the 50/50 split, the County agrees that the TVS fees should have been included as clarified in Revision 23 as part of the June 30, 2013 50/50 split calculation. Any amounts deemed to be calculated incorrectly under the methodology as specified in Revision 23 should be charged penalties and interest.

Thank you for this opportunity to communicate with you and please contact us with any clarification you might need to finalize the audit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Eberle', with a long horizontal flourish extending to the right.

Richard Eberle
Auditor-Controller
Yuba County

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

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