

# **CITY AND COUNTY OF SAN FRANCISCO**

Audit Report

## **COURT REVENUES**

*July 1, 2015, through June 30, 2019*



**BETTY T. YEE**  
California State Controller

August 2021



**BETTY T. YEE**  
**California State Controller**

August 24, 2021

Ben Rosenfield, Controller  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

T. Michael Yuen, Court Executive Officer  
Superior Court of California,  
County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Mr. Rosenfield and Mr. Yuen:

The State Controller's Office (SCO) audited the propriety of the court revenues remitted by the City and County of San Francisco to the State Treasurer for the period of July 1, 2015, through June 30, 2019.

Our audit found that the city and county underremitted a net of \$1,227,394 in state court revenues to the State Treasurer because it:

- Underremitted the State Trial Court Improvement and Modernization Fund (Government Code [GC] section 77205) by \$6,521;
- Underremitted the State Court Facilities Construction Fund (GC section 70372[a]) by \$2,511;
- Underremitted the State Court Facilities Construction Fund – Immediate and Critical Needs Account (GC section 70372[a]) by \$1,272,392;
- Underremitted the State General Fund (Penal Code [PC] section 1463.22[c]) by \$136,827;
- Underremitted the State Motor Vehicle Fund (PC section 1463.22[b]) by \$41,049;
- Overremitted the State DNA Identification Fund (GC section 76104.6) by \$13,641; and
- Overremitted the State DNA Identification Fund (GC section 76104.7) by \$218,265.

In addition, we found that the court made incorrect distributions related to traffic, red-light, DUI, domestic violence, fish and game, health and safety, and proof of correction violations.

The city and county made a payment of \$1,227,394 in January 2021.

Ben Rosenfield, Controller  
T. Michael Yuen, Court Executive Officer

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August 24, 2021

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/lis

cc: The Honorable Shamann Walton, President  
San Francisco City and County Board of Supervisors  
Grant Parks, Manager  
Internal Audit Services  
Judicial Council of California  
Lynda Gledhill, Executive Officer  
California Victim Compensation Board  
Anita Lee, Senior Fiscal and Policy Analyst  
Legislative Analyst's Office  
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Jennifer Montecinos, Manager  
Tax Administration Section  
State Controller's Office

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# Audit Report

## Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by the City and County of San Francisco on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2015, through June 30, 2019.

Our audit found that the city and county underremitted a net of \$1,227,394 in state court revenues to the State Treasurer. In addition, we found that the court made incorrect distributions related to traffic, red-light, DUI, domestic violence, fish and game, health and safety, and proof of correction violations.

## 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.

## Audit Authority

We conducted this audit under the authority of GC section 68103, which requires the SCO to review the 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, 2015, through June 30, 2019.

To achieve our objective, we performed the following procedures:

### General

- We gained an understanding of the county and court's revenue collection and reporting processes, and of the relevant criteria.
- We interviewed county personnel regarding the monthly TC-31 remittance process and the maintenance-of-effort calculation.
- We interviewed court personnel regarding the revenue distribution process and the case management system.
- We reviewed documents supporting the transaction flow.

- We scheduled 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 city and county and the court showing court revenue distributions to the State and the city and county for all fiscal years in the audit period.
- We performed analytical procedures using ratio analysis for state and city and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements.
- We recomputed the annual maintenance-of-effort calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% excess of qualified revenues remitted to the State.

#### Distribution Testing

- We assessed the priority of installment payments by haphazardly selecting a non-statistical sample of two installment payments to verify priority. No errors were identified.
- We scheduled parking surcharge revenues collected from entities that issue parking citations within the city and county to ensure that revenues were correct, complete, and remitted in accordance with state statutory requirements. No errors were identified.
- We performed a risk evaluation of the city and 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 44 cases for 11 violation types.<sup>1</sup> Then, we:
  - Recomputed the sample case distributions and compared them to the actual distributions; and
  - Calculated the total dollar amount of significant underremittances and overremittances to the State and city and county.

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

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.

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<sup>1</sup> We were not able to identify the case population due to the inconsistent timing of when tickets are issued versus when they are paid, and the multitude of entities that remit collections to the county for remittance to the State.

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

## **Conclusion**

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. Specifically, we found that the city and county underremitted a net of \$1,227,394 in state court revenues to the State Treasurer as follows:

- Underremitted the State Trial Court Improvement and Modernization Fund (GC section 77205) by \$6,521;
- Underremitted the State Court Facilities Construction Fund (GC section 70372[a]) by \$2,511;
- Underremitted the State Court Facilities Construction Fund – Immediate and Critical Needs Account (GC section 70372[a]) by \$1,272,392;
- Underremitted the State General Fund (Penal Code [PC] section 1463.22[c]) by \$136,827;
- Underremitted the State Motor Vehicle Fund (PC section 1463.22[b]) by \$41,049;
- Overremitted the State DNA Identification Fund (GC section 76104.6) by \$13,641; and
- Overremitted the State DNA Identification Fund (GC section 76104.7) by \$218,265.

These instances of noncompliance are quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

In addition, we found that the court made incorrect distributions related to traffic, red light, DUI, domestic violence, fish and game, health and safety, and proof of correction violations. These instances of noncompliance are non-monetary and described in the Findings and Recommendations section.

The city and county made a payment of \$1,227,394 in January 2021.

## **Follow-up on Prior Audit Findings**

The city and county has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2004, through June 30, 2010, issued November 4, 2011.

## **Views of Responsible Officials**

We issued a draft report on June 24, 2021. Ben Rosenfield, Controller, and T. Michael Yeun, Court Executive Officer, responded by letter dated July 6, 2021 (Attachment), agreeing with the audit results.

**Restricted Use**

This audit report is solely for the information and use of the City and County of San Francisco; Superior Court of California, County of San Francisco; the Judicial Council of California; and 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](http://www.sco.ca.gov).

*Original signed by*

KIMBERLY TARVIN, CPA  
Chief, Division of Audits

August 24, 2021



## Schedule—

# Summary of Audit Findings Affecting Remittances to the State Treasurer

## July 1, 2015, through June 30, 2019

Finding <sup>1</sup>	Fiscal Year				Total	Reference <sup>2</sup>
	2015-16	2016-17	2017-18	2018-19		
Underremitted 50% Excess of Qualified Revenues						
State Trial Court Improvement and Modernization Fund – GC §77205	\$ 93,036	\$ (144,072)	\$ 129,708	\$ (72,151)	\$ 6,521	Finding 1
Incorrect Distribution of Speeding TVS Cases						
State Court Facilities Construction Fund – GC §70372(a)	1,167	1,149	-	-	2,316	
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(a)	582,158	573,501	-	-	1,155,659	
Total	583,325	574,650	-	-	1,157,975	Finding 2
Incorrect Distribution of Proof of Insurance Cases						
State General Fund: Uninsured Motorists – PC §1463.22(c)	32,056	40,552	33,300	30,919	136,827	
State Motor Vehicle Fund: Uninsured Motorists – PC §1463.22(b)	9,617	12,166	9,990	9,276	41,049	
Total	41,673	52,718	43,290	40,195	177,876	Finding 3
Incorrect Distribution of Red Light TVS Cases						
State DNA Identification Fund – GC §76104.6	(4,817)	(4,484)	(2,794)	(1,546)	(13,641)	
State DNA Identification Fund – GC §76104.7	(77,078)	(71,747)	(44,710)	(24,730)	(218,265)	
State Court Facilities Construction Fund – GC §70372(a)	69	64	40	22	195	
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(a)	41,223	38,372	23,912	13,226	116,733	
Total	(40,603)	(37,795)	(23,552)	(13,028)	(114,978)	Finding 4
Net amount (overremitted)/underremitted to the State Treasurer	<u>\$ 677,431</u>	<u>\$ 445,501</u>	<u>\$ 149,446</u>	<u>\$ (44,984)</u>	<u>\$ 1,227,394</u>	

<sup>1</sup>The identification of state revenue account titles should be used to ensure proper recording when preparing the TC-31.

<sup>2</sup>See the Findings and Recommendations section.

# Findings and Recommendations

## **FINDING 1— Underremitted the 50% excess of qualified revenues**

During our recalculation of the 50% excess of qualified revenues, we found that the city and county used incorrect qualified revenue amounts in its calculation for each fiscal year. These errors resulted in the city and county underremitting the 50% excess of qualified fines by a net of \$6,521 for the audit period. The 50% excess of qualified revenues was incorrectly calculated because the city and county misinterpreted the required calculation and the court misinterpreted distribution guidelines.

For the audit period, the city and county provided support for its calculation of the 50% excess of qualified revenues. We reviewed the city and county's calculation and reconciled the qualified revenues to revenue collection reports provided by the court. We noted that the city and county incorrectly calculated qualified revenues of county base fines (PC section 1463.001) by multiplying the base fines by 50% rather than the required 75% for fiscal year (FY) 2015-16 through FY 2017-18. Furthermore, the city and county incorrectly included Red Light Allocation Fund (PC section 1463.11) revenues in its calculation of county base fines for each fiscal year of the audit period.

During testing of court cases, we found that the court did not properly distribute revenues of Traffic Violator School (TVS) and Proof of Financial Responsibility cases. These distribution errors resulted in material misstatements of qualified revenues for each fiscal year of the audit period.

We recalculated the city and county's qualified revenues based on actual court revenues collected for each fiscal year of the audit period. After our recalculation, we found that the city and county had overstated qualified revenues by a net of \$26,341 for the audit period. Despite qualified revenues being overstated for the audit period, the 50% excess of qualified revenues was underremitted by \$6,521.

Qualified revenues were understated because:

- The city and county understated qualified revenues by \$1,058,248 for the audit period because it multiplied qualified revenues of PC section 1463.001 base fines by 50% rather than the required 75% for FY 2015-16 through FY 2017-18 and incorrectly included Red Light Allocation Fund (PC section 1463.11) revenues in its calculation of county base fines for the each fiscal year;
- As noted in Finding 2, the court incorrectly converted the State Court Facilities Construction penalty (GC section 70372[a]) to the TVS Fee (Vehicle Code [VC] section 42007). These errors resulted in an overstatement of \$891,641 ( $\$1,157,975 \times 77\%$ ) in qualified revenues for the TVS Fee (VC section 42007) line item;
- As noted in Finding 3, the court failed to reduce base fines of proof of financial responsibility cases by the required State and county distributions (PC sections 1463.22[a] through [c]). These errors resulted in an overstatement of \$312,994 ( $\$417,324 \times 75\%$ ) in

qualified revenues for the County Base Fines (PC section 1463.001) line item; and

- As noted in Finding 4, the court did not properly distribute revenues of Red Light TVS cases. These errors resulted in an understatement of \$120,046 ( $\$155,904 \times 77\%$ ) in qualified revenues for the TVS Fee (VC section 42007) line item.

The following table shows the audit adjustments to qualified revenues:

	Fiscal Year				Totals
	2015-16	2016-17	2017-18	2018-19	
Qualified revenues reported	\$ 6,883,186	\$ 6,792,697	\$ 5,131,571	\$ 4,190,409	\$ 22,997,863
Audit adjustments:					
PC §1463.001 miscalculation	666,166	207,641	310,999	(126,558)	1,058,248
Speeding TVS overstatement	(449,160)	(442,481)	-	-	(891,641)
Proof of insurance overstatement	(73,328)	(92,764)	(76,175)	(70,727)	(312,994)
Red light TVS understatement	42,394	39,460	24,591	13,601	120,046
Total	<u>186,072</u>	<u>(288,144)</u>	<u>259,415</u>	<u>(183,684)</u>	<u>(26,341)</u>
Adjusted qualified revenues	<u>\$ 7,069,258</u>	<u>\$ 6,504,553</u>	<u>\$ 5,390,986</u>	<u>\$ 4,006,725</u>	<u>\$ 22,971,522</u>

Despite the overstatement of qualified revenues, the incorrect qualified revenues resulted in the city and county underremitting the 50% excess of qualified revenues by \$6,521 for the audit period.

GC section 77205 requires the city and 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.

The following table shows:

- The excess qualified revenues amount above the base; and
- The county’s underremittance to the State Treasurer by comparing 50% of the excess qualified revenues amount above the base to actual county remittances:

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due the State	County Remittance to the State Treasurer	County Underremittance to the State Treasurer <sup>1</sup>
2015-16	\$ 7,069,258	\$ 4,046,107	\$3,023,151	\$1,511,576	\$(1,418,540)	\$ 93,036
2016-17	6,504,553	4,046,107	2,458,446	1,229,223	(1,373,295)	(144,072)
2017-18	5,390,986	4,046,107	1,344,879	672,440	(542,732)	129,708
2018-19	4,006,725	4,046,107	-	-	(72,151)	(72,151)
Total						<u>\$ 6,521</u>

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

Recommendation

We recommend that the city and county remit \$6,521 to the State Treasurer and report on the TC-31 an increase to the State Trial Court Improvement and Modernization Fund. We further recommend that the city and county ensure that correct percentages are used for all qualified revenues reported for the 50% Excess of Qualified Revenues calculation.

We also recommend that the court correct its accounting system to comply with statutory requirements and ensure that Red Light TVS, Speeding TVS, and Proof of Financial Responsibility revenues are distributed properly and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

City and County and Court's Response

The city and county and court concurred with the audit finding.

**FINDING 2—  
Incorrect distribution  
of Speeding TVS  
violations**

During our testing of Speeding TVS cases, we found that the court did not properly distribute TVS Fee (VC section 42007) revenues, resulting in a net underremittance of \$1,157,975 to the State Treasurer for the audit period. These errors also resulted in an overstatement of \$891,641 ( $\$1,157,975 \times 77\%$ ) in the city and county's qualified revenues for the TVS Fee (VC section 42007) line item. The error occurred because the court misinterpreted distribution guidelines and incorrectly configured TVS distributions in its accounting system.

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. During testing, we found that the court incorrectly converted the State Court Construction Penalty (GC section 70372[a]) to the TVS Fee (VC section 42007) for FY 2015-16 and FY 2016-17. Additionally, the court incorrectly converted Emergency Medical Services penalties (GC sections 76104 and 76000.5) for FY 2015-16 and FY 2016-17, as well as the \$1 Local Courthouse Construction Fund penalty (GC section 76100) for all four years of the audit period. These errors resulted in a net underremittance to the State of \$1,157,975 for the audit period.

VC section 42007(a) requires the clerk of the court to collect a fee from every person who is ordered or permitted to attend traffic violator school. The fee collected must equal to total bail for the offense shown on the uniform county-wide bail schedule.

VC section 42007(b) requires counties in which a fund is established pursuant to GC sections 76100 and 76101 to collect \$1 for deposit in each fund.

VC section 42007(b)(2) requires counties with an established Maddy Emergency Medical Services Fund to collect \$2 for every \$7 pursuant to GC section 76000, and to collect \$2 for every \$10 pursuant to GC section 76000.5 for deposit in the fund.

The incorrect distribution had the following effect:

Account Title	Underremitted / (Overremitted)
State Court Facilities Construction Fund – GC §70372(a)	\$ 2,316
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(a)	1,155,659
<b>Total</b>	<b>\$ 1,157,975</b>
Traffic Violator School Fee – VC §42007	\$ (2,130,674)
Courthouse Construction Fund – GC §76100	46,319
Emergency Medical Services Fund – GC §76104	463,190
Maddy Emergency Medical Services Fund – GC §76000.5	463,190
<b>Total</b>	<b>\$ (1,157,975)</b>

Recommendation

We recommend that the city and county remit \$1,157,975 to the State Treasurer and report on the TC-31 an increase of \$2,316 to the State Court Facilities Construction Fund – GC section 70732(a) and \$1,155,659 to the State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC section 70732(a).

We also recommend that the court correct its accounting system to ensure that revenues are distributed in accordance with statutory requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California’s testing sheets.

City and County and Court’s Response

The city and county and court concurred with the audit finding.

**FINDING 3—  
Incorrect distribution  
of Proof of Financial  
Responsibility  
violations**

During our testing of superior court cases, we found that the court incorrectly distributed revenues for proof of financial responsibility violations resulting in a net underremittance of \$177,876 to the State Treasurer for the audit period. These errors also resulted in an overstatement of \$312,994 ( $\$417,324 \times 75\%$ ) in the city and county’s qualified revenues for the County Base Fines (PC section 1463.001) line item. The error occurred because the court misinterpreted distribution guidelines and incorrectly configured distributions for proof of financial responsibility violations in its accounting system.

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. During testing, we found that the court failed to distribute a portion of county base fines into the State and county special uninsured motorist accounts (PC sections 1463.22[a] through [c]). The error resulted in overremittances to the county general fund (PC section 1463.001) and underremittances to the State General Fund (PC section 1463.22[c]), the State Motor Vehicle Fund (PC section 1463.22[b]), and the county special uninsured motorists accounts (PC section 1463.22[a]).

PC section 1463.22(a) requires the county to deposit \$17.50 of the money deposited with the county pursuant to PC section 1463 for each conviction of VC section 16028 into a special account allocated to defray costs of the municipal and superior courts.

PC section 1463.22(b) requires the county to deposit \$3 of the money deposited with the county pursuant to PC section 1463 for each conviction of VC section 16028 into the Motor Vehicle Account in the State Transportation Fund.

PC section 1463.22(c) requires the county to deposit \$10 of the money deposited with the county pursuant to PC section 1463 for each conviction of VC section 16028 into the State General Fund.

The incorrect distributions had the following effect:

Account Title	Underremitted / (Overremitted)
State General Fund: Uninsured Motorists – PC §1463.22(c)	\$ 136,827
State Motor Vehicle Fund: Uninsured Motorists – PC §1463.22(b)	41,049
Total	<u>\$ 177,876</u>
County General Fund – Base Fines – PC §1463.001	\$ (417,324)
County General Fund – Uninsured Motorists – PC §1463.22(a)	239,448
Total	<u>\$ (177,876)</u>

#### Recommendation

We recommend that the court remit \$177,876 to the State Treasurer and report on the TC-31 increases of \$136,827 to the State General Fund: Uninsured Motorists (\$10) and \$41,049 to the State Transportation Fund: Uninsured Motorists (\$3).

We also recommend that the court correct its accounting system to comply with statutory requirements and ensure that revenues of proof of financial responsibility violations are distributed properly requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

#### City and County and Court's Response

The city and county and court concurred with the audit finding.

**FINDING 4—  
Incorrect distribution  
of Red Light TVS  
violations**

During our testing of red light TVS violations, we found that the court did not properly distribute TVS Fee (VC section 42007) revenues, resulting in a net overremittance of \$114,978 to the State Treasurer for the audit period. These errors also resulted in an understatement of \$120,046 ( $\$155,904 \times 77\%$ ) in the city and county's qualified revenues for TVS Fee (VC section 42007) line item. The error occurred because the court misinterpreted distribution guidelines and incorrectly configured TVS distributions in its accounting system.

We verified, on a sample basis, distribution made by the court using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. During testing, we found that the court failed to convert the DNA ID penalties (GC sections 76104.6 and 76104.7) to the TVS Fee (VC section 42007). Additionally, the court incorrectly distributed 30% of the following funds to the TVS Fee: Local Courthouse Construction Fund (GC section 76100), the Emergency Medical Services Fund (GC section 76104), the Maddy Emergency Medical Services Fund (GC section 76000.5), and the State Court Facilities Construction Fund (GC section 70372[a]).

The distribution errors resulted in overremittances to the State and county funds and underremittances to the County General Fund (VC section 42007). We performed a revenue analysis with case information provided by the court for each fiscal year of the audit period. After completion of our analysis, we determined that the distribution errors resulted in a net overremittance to the State of \$114,978.

VC section 42007(a) requires the clerk of the court to collect a fee from every person who is ordered or permitted to attend traffic violator school. The fee collected must equal to total bail for the offense shown on the uniform county-wide bail schedule.

VC section 42007(b)(1) requires counties in which a fund is established pursuant to GC sections 76100 and 76101 to collect \$1 for deposit in each fund.

VC section 42007(b)(2) requires counties with an established Maddy Emergency Medical Services Fund to collect \$2 for every \$7 pursuant to GC section 76000, and to collect \$2 for every \$10 pursuant to GC section 76000.5 for deposit in the fund.

The incorrect distributions had the following effect:

Account Title	Underremitted / (Overremitted)
State DNA Identification Fund (State portion) – GC §76104.6	\$ (13,641)
State DNA Identification Fund – GC §76104.7	(218,265)
State Court Facilities Construction Fund – GC §70372(a)	195
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(a)	116,733
<b>Total</b>	<b>\$ (114,978)</b>
County General Fund: TVS Fee – VC §42007	\$ 53,202
DNA Identification Fund (county portion) – GC §76104.6	(40,926)
Courthouse Construction Fund – GC §76100	9,160
Emergency Medical Services Fund – GC §76104	46,771
Maddy Emergency Medical Services Fund – GC §76000.5	46,771
<b>Total</b>	<b>\$ 114,978</b>

Recommendation

We recommend that the city and county:

- Offset subsequent remittances to the State Treasurer by \$114,978;
- Report on the TC-31 decreases of \$13,641 to the DNA Identification Fund (Prop 69) – GC section 76104.6 and \$218,265 to the DNA Identification Fund – GC section 76104.7; and
- Report on the TC-31 increases of \$195 to the State Court Facilities Construction Fund – GC section 70372(a) and \$116,733 to the State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC section 70372(a).

We also recommend that the court correct its accounting system to comply with statutory requirements and ensure that red light TVS violations are distributed properly requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California’s testing sheets.

City and County and Court’s Response

The city and county and court concurred with the audit finding.

**FINDING 5—  
Incorrect distribution  
of the Penal Code  
section 1464 State  
Penalty Assessment**

During our testing of traffic violations, we found that the court did not properly distribute the State Penalty Assessment (PC section 1464) between the State and county. This error occurred because the court misinterpreted distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found that the court incorrectly distributed the State and county portions of the



State Penalty Assessment (PC section 1464). The incorrect distributions resulted in a slight overremittance to the State for each traffic case. The distribution errors were made due to the court incorrectly configuring its accounting system for all traffic cases.

PC section 1464 requires a state penalty of ten dollars for every ten dollars of base fine imposed and collected by the courts for all criminal cases involving a violation of a section of the Vehicle Code. PC section 1464(e) further requires 70% of the balance be transmitted to the State Penalty Fund and 30% remain on deposit in the county general fund.

We performed an analysis of the State Penalty Assessment revenues to determine the fiscal effect of this distribution error. Upon completion of our analysis, we found that the error did not result in a material overremittance to the State.

#### Recommendation

We recommend that the court correct its accounting system to comply with statutory requirements and ensure that the State Penalty Assessment is distributed 70% to the State and 30% to the county requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

#### Court's Response

The court concurred with the audit finding.

### **FINDING 6— Incorrect distribution of the 2% State Automation Fee**

During our testing of superior court cases, we found that the court did not properly distribute revenues for the State Trial Court Improvement and Modernization Fund (GC section 68090.8). The distribution errors occurred because the court misinterpreted distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found the following issues with the court's distribution of the 2% State Automation Fee (GC section 68090.8):

- For red light (Non TVS) violations, the court calculated the 2% State Automation Fee based on gross revenue amounts rather than the net amount after distributions to the 30% Red Light Allocation Fund (PC section 1463.11);
- For DUI violations, the court failed to distribute 2% of the DUI special accounts (PC section 1463.14(a), PC section 1463.16, and PC section 1463.18), the DUI lab test penalty (PC section 1464.14(b)), and the State Restitution Fine (PC section 1202.4[b]), to the State Trial Court and Modernization Fund (GC section 68090.8); and
- For domestic violence and health and safety violations, the court failed to distribute 2% of the State Restitution Fine (PC section 1202.4[b])

to the State Trial Court and Modernization Fund (GC section 68090.8).

The court made the distribution errors because it incorrectly configured its accounting system relative to the 2% State Automation Fee. The distribution errors led to slight overremittances to the State Restitution Fund, County Red Light Allocation Fund, and the DUI special fund accounts, while underremitting the State Trial Court Improvement and Modernization Fund and various other county and State funds.

GC section 68090.8 requires the county treasurer to transmit 2% of all fines, penalties, and forfeitures collected in criminal cases into the State Trial Court Improvement and Modernization Fund to be used exclusively to pay the costs of automated systems for the trial courts.

PC section 1463.11 requires the first 30% of the amount collected for Red-light Violations to be allocated to the city or county in which the offense occurred.

We performed an analysis of the State Trial Court Improvement and Modernization Fund revenues to determine the fiscal effect of the distribution errors. Upon completion of our analysis, we found that the errors did not have a material impact on the revenues remitted to the State.

#### Recommendation

We recommend that the court correct its accounting system to comply with statutory requirements and ensure that the 2% State Automation Fee is properly applied to traffic and criminal cases requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

#### Court's Response

The court concurred with the audit finding.

### **FINDING 7— Incorrect distribution of the Domestic Violence Fee**

During our testing of domestic violence violations, we found that the court did not properly distribute the Domestic Violence Fee (PC section 1203.097[a][5]) between the State and the city and county. This error occurred because the court misinterpreted the distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found that the court incorrectly distributed the State and county portions of the Domestic Violence Fee (PC section 1203.097[a][5]). The court incorrectly rounded the county domestic violence fee to the nearest dollar resulting in a slight overremittance to the State for each domestic violence case. The distribution errors were made due to the court incorrectly configuring its accounting system for domestic violence violations.

PC section 1203.097(a)(5) requires that two-thirds of the Domestic Violence Fee collected be posted to the county's Domestic Violence Fund and the remaining one-third remitted to the State Treasurer. Further, the remaining one-third should be split evenly between the State Domestic Violence Restraining Order Reimbursement Fund and the State Domestic Violence Training and Education Fund.

We performed an analysis of the Domestic Violence Fee (PC section 1203.097[a][5]) revenues to determine the fiscal effect of this distribution error. Upon completion of our analysis, we found that the error did not have a material impact on the revenues remitted to the State.

#### Recommendation

We recommend that the court correct its accounting system to comply with statutory requirements and ensure that the Domestic Violence Fee is distributed one-third to the State and two-thirds to the county requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

#### Court's Response

The court concurred with the audit finding.

### **FINDING 8— Failure to impose the \$15 Secret Witness Penalty**

During testing of fish and game violations, we found that the court did not impose the \$15 Secret Witness Penalty (Fish and Game Code [FGC] section 12021) on all fish and game violations. This error occurred because the court misinterpreted distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found that the court failed to impose the \$15 Secret Witness Penalty (FGC section 12021) for each fish and game violation tested.

FGC section 12021 states that the courts shall impose an additional penalty of \$15 for a violation of the Fish and Game code to be deposited into the Fish and Game Preservation Fund.

We performed an analysis of fish and game revenues to determine the fiscal effect of the distribution error. Upon completion of our analysis, we found that the error did not have a material impact on the revenues remitted to the State.

#### Recommendation

We recommend that the court correct its accounting system to comply with statutory requirements and ensure that the \$15 Secret Witness Penalty is imposed for each applicable fish and game violation requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

Court's Response

The court concurred with the audit finding.

**FINDING 9—  
Failure to enhance  
base fines on health  
and safety violations**

During testing of health and safety violations, we found that the court did not program the Criminal Laboratory Analysis Fee (Health and Safety code [HSC] section 11372.5) or the Drug Program Fee (HSC section 11372.7) as base fine enhancements in its accounting system. The error occurred because the court misinterpreted the distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found that the court did not program the \$50 Criminal Laboratory Analysis Fee or the \$150 Drug Program Fee as base fine enhancements in its accounting system. As neither fee was programmed into the accounting system, the fees were not collected by the court and remitted to the county. Furthermore, we found that the court also under collected the total base fines.

The lack of base fine enhancements results in under collections of state and local penalties. It also affects the 50% excess of qualified revenues calculation, as the county's portion of the State Penalty Fund (PC section 1464) is included in the calculation. The court made the necessary system changes to correct the issues noted effective July 1, 2018.

HSC section 11372.5 requires defendants convicted of violating specific HSC sections regulating controlled substances to pay a \$50 criminal laboratory analysis fee for each separate offense and the court to increase the total fine as necessary to include the increment. Deposits made pursuant to this section must be made prior to any transfer pursuant to HSC section 11502.

HSC section 11372.7 requires defendants convicted of a violation of Chapter 6 of the HSC to pay a drug program fee in an amount not to exceed \$150 for each separate offense and the court to increase the total fine as necessary to include the increment. Deposits made pursuant to this section must be made prior to any transfers pursuant to HSC section 11502.

We performed a revenue analysis of the health and safety violations and found that the under collection of base fines did not result in a material underremittance to the State. Furthermore, the errors related to the Criminal Laboratory Analysis Fee and the Drug Program Fee cannot now be reversed or measured, as the court cannot retroactively collect the under-collected State and county penalties from defendants.

Recommendation

We recommend that the court ensure that its accounting system complies with statutory requirements and that the required base fine enhancements are collected and requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

Court's Response

The court concurred with the audit finding.

**FINDING 10—  
Incorrect distribution  
of Proof of Correction  
violations**

During testing of proof of correction violations, we found that the court did not properly distribute the Proof of Correction Fee (VC section 40611) between the State and county. This error occurred because the court misinterpreted the distribution guidelines and incorrectly configured its accounting system.

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. During testing, we found that the court incorrectly distributed the State and county portions of the first \$10 of the Proof of Correction Fee (VC section 40611). The court distributed 32.5% of the first \$10 of the Proof of Correction Fee rather than the required 34%, resulting in a slight underremittance to the State. The distribution errors were made due to the court incorrectly configuring its accounting system for Proof of Correction violations.

VC section 40611 requires a \$25 transaction fee for each proof of correction violation. VC section 40611 further states that 34% of the first ten dollars of the fee shall be transferred to the State Treasury for deposit in the State Penalty Fund.

We performed an analysis of the Proof of Correction Fee (VC section 40611) revenues to determine the fiscal effect of this distribution error. Upon completion of our analysis, we found that the error did not have a material impact on the revenues remitted to the State.

Recommendation

We recommend that the court correct its accounting system to comply with statutory requirements and ensure that the first \$10 of the Proof of Correction Fee is distributed 34% to the State and 66% to the county requirements and that the court periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets.

Court's Response

The court concurred with the audit finding.

**Attachment—  
City and County’s and Court’s Response to  
Draft Audit Report**

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**OFFICE OF THE CONTROLLER**  
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield  
Controller  
Todd Rydstrom  
Deputy Controller

July 6, 2021

Ms. Lisa Kurokawa  
Chief, Compliance Audits Bureau  
State Controller's Office, Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874

Dear Ms. Kurokawa:

In connection with the State Controller's Office draft audit report of Court Revenues dated June 24, 2021, the City and County of San Francisco concurs with Findings 1 through 4. The Superior Court concurs with Findings 1 through 10. We will take the following corrective actions:

- **Finding 1: Under-remittance of 50% of Qualified Revenues.** As recommended, the City and County will apply the correct percentages to qualified revenues in future calculations of its "50% Excess of Qualified Revenues" payment to the State and work with the Superior Court to ensure the correct distributions are made to the City.
- **Finding 2 through 4: Incorrect Distributions of Speeding TVS Violations, Proof of Financial Responsibility Violations, and Red Light TVS Violations.** Based on an earlier draft audit report, the City and San Francisco remitted \$1,227,394 to the State of California on January 22, 2021 and submitted the recommended TC-31 reports.
- **Findings 1 through 10: Incorrect Distributions of Various Revenues.** The Court confirms it will correct its accounting system to comply with statutory requirements to ensure revenues are allocated as required and will periodically verify the accuracy of its distributions using the Judicial Council of California's testing sheets. Corrections have already been made to the accounting system's distribution methods as of July 1, 2021.

Based on an earlier draft audit report, the City and San Francisco remitted \$1,227,394 to the State of California on January 22, 2021.

Sincerely,

Ben Rosenfield  
Controller

T. Michael Yuen  
Court Executive Officer

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

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