

TUOLUMNE COUNTY

Audit Report

COURT REVENUES

July 1, 2010, through June 30, 2017



BETTY T. YEE
California State Controller

September 2019



BETTY T. YEE
California State Controller

September 6, 2019

Deborah Bautista, Auditor-Controller
Tuolumne County
2 South Green Street
Sonora, CA 95370

Hector X. Gonzalez, Jr., Court Executive Officer
Superior Court of California, Tuolumne County
41 West Yaney Avenue, 3rd Floor
Sonora, CA 95370

Dear Ms. Bautista and Mr. Gonzalez:

The State Controller's Office (SCO) audited Tuolumne County's court revenues for the period of July 1, 2010, through June 30, 2017.

Our audit found that the county underremitted a net of \$91,125 in state court revenues to the State Treasurer. In addition, we found that the county Revenue and Recovery Department incorrectly prioritized installment payments and overremitted Emergency Medical Air Transportation penalties from the TVS bail.

The county should remit \$91,125 to the State Treasurer via the TC-31 (Report to State Controller of Remittance to State Treasurer), and include the Schedule of this audit report. On the TC-31, the county should specify the account name identified on the Schedule of this audit report and state that the underremitted amount is related to the SCO audit period of July 1, 2010, through June 30, 2017.

The county should not combine audit finding remittances with current revenues on the TC-31. Instead, a separate TC-31 should be submitted for the underremitted amount for the audit period. For your convenience, the TC-31 and directions for submission to the State Treasurer's Office are located at https://www.sco.ca.gov/ard_state_accounting.html.

The underremitted amount is due no later than 30 days after receipt of this final audit report. The SCO will add a statutory one-and-a-half percent (1.5%) per month penalty on applicable delinquent amounts if payment is not received within 30 days of issuance of the final audit report.

Once the county has paid the underremitted amount, the Tax Programs Unit will calculate interest on the underremitted amount and bill the county in accordance with Government Code sections 68085, 70353, and 70377.

Deborah Bautista, Auditor-Controller
Hector X. Gonzalez, Jr., Court Executive
Officer

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September 6, 2019

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

Tax Programs Unit Supervisor
Local Government Programs and Services Division
Bureau of Tax Administration and Government Compensation
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250

If you have questions regarding payments, TC-31s, or interest and penalties, please contact Jennifer Montecinos, Manager, TPU, by telephone at (916) 322-7952, or by email at lgpsdtaxaccouting@sco.ca.gov.

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

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/hf

cc: Karl Rodefer, Chairman
Tuolumne County Board of Supervisors
Grant Parks, Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
California Victim Compensation Board
Anita Lee, Senior Fiscal and Policy Analyst
Legislative Analyst's Office
Sandeep Singh, Manager
Local Government Policy Unit
State Controller's Office
Jennifer Montecinos, Manager
Tax Programs Unit
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 Tuolumne County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2010, through June 30, 2017.

Our audit found that the county underremitted a net of \$91,125 in state court revenues to the State Treasurer because it:

- Overremitted the 50% excess of qualified fines, fees, and penalties by \$9,482;
- Underremitted DNA penalties by a net of \$47,981;
- Underremitted bail bond forfeitures by a net of \$45,663;
- Underremitted state parking surcharges by \$14,252; and
- Overremitted the State Court Facilities Construction Fund from Traffic Violator School (TVS) Bail by \$7,289.

In addition, we found that the county Revenue and Recovery Department incorrectly prioritized installment payments and overremitted Emergency Medical Air Transport (EMAT) penalties from TVS bail.

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 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 the SCO to review the reports and records to ensure that all fines and forfeitures have been transmitted. 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 audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county and court remitted all court revenues to the State Treasurer, pursuant to the TC-31 process.

The audit period was July 1, 2010, through June 30, 2017.

To achieve our objective, we performed the following procedures:

General

- Gained an understanding of the county and court's revenue collection and reporting processes by interviewing key personnel, and reviewing documentation supporting the transaction flow;
- Scheduled monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State; and
- Performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

Cash Collections

- Scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period;
- Performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements; and
- Recomputed the annual maintenance-of-effort (MOE) 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

- Assessed the priority of installment payments. Judgmentally selected a sample of five installments to verify priority;
- Performed a risk evaluation of the county and the court, and identified violation types susceptible to errors due to statutory changes during the audit period. Based on the risk evaluation, judgmentally selected a non-statistical sample of 48 cases for 10 violation types. Errors found were not projected to the intended (total) population. Then, we:
 - Recomputed the sample case distributions and compared them to the actual distributions; and
 - Calculated the total dollar amount of significant underremittances to the State and county.

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.

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

Conclusion

As a result of performing the audit procedures, we found that the county underremitted a net of \$91,125 in state court revenues to the State Treasurer. In addition, we found that the county Revenue and Recovery Department incorrectly prioritized installment payments and overremitted EMAT penalties from the TVS bail. These instances of non-compliance are quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

The county should remit \$91,125 to the State Treasurer via the TC-31.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2003, through June 30, 2010, issued November 16, 2011.

Views of Responsible Officials

We issued a draft audit report on June 28, 2019. On July 30, 2019, we contacted Deborah Bautista, Auditor-Controller at the county and Hector X. Gonzalez Jr., Court Executive Officer at the court via email to follow up on a response to the draft report. We did not receive a response from either the county or the court.

Restricted Use

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

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

September 6, 2019

Schedule— Summary of Audit Findings Affecting Remittances to the State Treasurer July 1, 2010, through June 30, 2017

Finding ¹	Fiscal Year						Total	Reference ²	
	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16			2016-17
Overremitted 50% excess of qualified fines, fees, and penalties									
State Trial Court Improvement and Modernization Fund – GC §77205	\$ (3,143)	\$ (6,434)	\$ (7,498)	\$ 18,645	\$ (7,751)	\$ (7,999)	\$ 4,698	\$ (9,482)	Finding 1
Underremitted State DNA Identification Fund									
State DNA Identification Fund – GC §76104.7	-	-	2,577	17,121	20,810	19,144	21,279	80,931	
State DNA Identification Fund (Prop. 69) – GC §76104.6	-	-	(18)	(122)	(149)	(137)	(152)	(578)	
State General Fund (20% State Surcharge) – Penal Code (PC) § 1465.7	-	-	(147)	(978)	(1,189)	(1,094)	(1,216)	(4,624)	
State Court Facilities Construction Fund – GC §70372(a) – Criminal Violations	-	-	(368)	(2,446)	(2,973)	(2,735)	(3,040)	(11,562)	
State Penalty Fund – PC §1464	-	-	(515)	(3,424)	(4,162)	(3,829)	(4,256)	(16,186)	
	-	-	1,529	10,151	12,337	11,349	12,615	47,981	Finding 2
Underremitted bail bond forfeitures									
State General Fund (Health and Safety) – Health and Safety Code (HSC) §11502	-	7,350	-	14,700	-	-	20,213	42,263	
State Trial Court Improvement and Modernization Fund (2% Automation) – GC §68090.8	-	200	-	1,900	300	-	1,000	3,400	
	-	7,550	-	16,600	300	-	21,213	45,663	Finding 3
Underremitted state parking surcharges									
State Court Facilities Construction Fund – GC §70372(b) – Parking Violations	2,924	1,468	1,284	1,825	1,976	2,517	2,258	14,252	Finding 4
Overremitted State Court Facilities Construction Fund from TVS bail									
State Court Facilities Construction Fund – GC §70372(a) – Criminal Violations	(236)	(1,329)	(1,608)	(1,385)	(1,514)	(1,217)	-	(7,289)	Finding 5
Total amount underremitted (overremitted) to the State Treasurer	\$ (455)	\$ 1,255	\$ (6,293)	\$ 45,836	\$ 5,348	\$ 4,650	\$ 40,784	\$ 91,125	

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

²See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Overremitted 50%
excess of qualified
fines, fees, and
penalties**

During our recalculation of the 50% excess of qualified fines, fees, and penalties, we found that Tuolumne County overremitted a net of \$9,482 to the State Treasurer for fiscal year (FY) 2010-11 through FY 2016-17.

GC section 77205 requires the county to remit 50% of 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 overremittances 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 Due the State Treasurer	County Underremittance/ (Overremittance) to the State Treasurer ¹
2010-11	\$ 631,737	\$ 361,665	\$ 270,072	\$ 135,036	\$ (138,179)	\$ (3,143)
2011-12	596,533	361,665	234,868	117,434	(123,868)	(6,434)
2012-13	622,073	361,665	260,408	130,204	(137,702)	(7,498)
2013-14	590,229	361,665	228,564	114,282	(95,637)	18,645
2014-15	563,448	361,665	201,783	100,892	(108,643)	(7,751)
2015-16	523,432	361,665	161,767	80,884	(88,883)	(7,999)
2016-17	571,791	361,665	210,126	105,063	(100,365)	4,698
Total						\$ (9,482)

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

The error occurred because the county overstated qualified revenues by \$18,964. The actual adjustment is \$9,482, representing 50% of the overstated qualified revenues. The \$18,964 is calculated as follows:

- As noted in Finding 2, the county Revenue and Recovery Department did not increase State DNA penalties from \$3 to \$4 between July 2012 and June 2017. Consequently, related fines and penalties were overstated. The county base fines of \$17,342 ($\$23,123 \times 75\%$) and the county’s 30% share of the State Penalty Fund of \$6,937, totaling \$24,279, should not have been included in the MOE calculation.
- As noted in Finding 3, the court did not correctly distribute bail bond forfeitures between July 2011 and June 2017. A total county base fine of \$74,198 should have been included in the MOE calculation.
- As noted in Finding 5, the county incorrectly distributed TVS bail from FY 2010-11 through FY 2015-16. When compiling the qualified revenues, the county did not include the \$1 TVS county criminal justice facilities penalty in the total TVS bail when applying 77% of MOE formula. As a result, \$5,614 ($\$7,291 \times 77\%$) should have been included in the MOE calculation.

- Between FY 2010-11 and FY 2015-16, when compiling the MOE, the county incorrectly identified TVS bail as the 30% TVS penalty and reported it as part of the 30% State Penalty. As a result, the qualified revenues were overstated by \$69,370 ($301,608 \times 23\%$) in the MOE calculation.
- Between FY 2010-11 and FY 2016-17, when compiling the MOE, the county incorrectly included the 30% red light fine as county base fines. As a result, \$5,127 should not have been included in the MOE calculation.

Recommendation

We recommend that the county reduce remittances to the State Treasurer by \$9,482, and report on the TC-31 a decrease to the State Trial Court Improvement and Modernization Fund.

**FINDING 2—
Underremitted State
DNA Identification
Fund**

During our testing of the DNA penalties collected, we found that the county Revenue and Recovery Department did not increase State DNA penalties from \$3 to \$4 between July 2012 and June 2017. County personnel indicated that the required increase was inadvertently overlooked.

Starting June 26, 2012, GC section 76104.7 requires an additional penalty of \$4 for every \$10, or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected on criminal offenses, including traffic offenses but excluding parking offenses. The additional penalty is levied and collected in the same manner as the state penalty imposed per PC section 1464. The entire amount, including interest, should be distributed to the State DNA Identification Fund.

The incorrect distribution for the State DNA Identification Fund resulted in overreported revenues to the State Trial Court Improvement and Modernization Fund under the MOE formula pursuant to GC section 77205. The county base fine of \$17,342 ($\$23,123 \times 75\%$), and the county’s 30% share of State Penalty Fund of \$6,937, totaling \$24,279, should not have been included in the MOE calculation.

The incorrect distribution also had the following effects:

Account Title	Underremitted / (Overremitted)
State DNA Identification Fund – GC §76104.7	\$ 80,931
State Penalty Fund – PC §1464	(16,186)
State Court Facilities Construction Fund – GC §70372(a) – Criminal Violations	(11,562)
State General Fund (20% State Surcharge) – PC §1465.7	(4,624)
State DNA Identification Fund (Prop. 69) – GC §76104.6	(578)
	<u>47,981</u>
County General Fund	(30,060)
County Jail Facilities Construction Fund	(11,562)
County Emergency Medical Service Fund	(4,625)
County DNA Fund	(1,734)
	<u>\$ (47,981)</u>

Recommendation

We recommend that the county:

- Establish and implement procedures to properly report to the State DNA Identification Fund; and
- Remit \$47,981 to the State Treasurer and report on the TC-31 an increase of \$80,931 to the State DNA Identification Fund and decreases of \$16,186 to the State Penalty Fund, \$11,562 to the State Court Facilities Construction Fund, \$4,624 to the State General Fund (20% State Surcharge), and \$578 to the State DNA Identification Fund (Prop. 69).

**FINDING 3—
Underremitted bail
bond forfeitures**

During bail bond forfeiture testing, we found that the court did not properly distribute forfeited bail as required under PC section 1463 and HSC section 11502. Instead, the court distributed 100% of bail bond forfeitures to the District Attorney Court Trust Fund for the period of July 1, 2011, through June 30, 2017. Court personnel indicated that the required distribution was inadvertently overlooked.

PC section 1463.009 requires that revenues from forfeited bail be distributed pursuant to PC section 1463. PC section 1463.001(b)(1) further states that the base, which is subject to specific distribution, must be distributed to the specified funds of the State or the local agency.

HSC section 11502 requires that 75% of all forfeited bail within Division 10 (HSC sections 11000 through 11592) be remitted to the State Treasurer. The remaining 25% should be distributed pursuant to the arresting agency in accordance with PC section 1463.001.

GC section 68090.8 requires that 2% be deducted from all fines, penalties, and forfeitures for automation purposes.

The incorrect distribution for bail bond forfeitures resulted in underreported revenues to the State Trial Court Improvement and Modernization Fund under the MOE formula pursuant to GC section 77205. A net total county base fine of \$74,198 should have been included in the MOE calculation.

The incorrect distribution also had the following effects:

<u>Account Title</u>	<u>Underremitted / (Overremitted)</u>
State General Fund (Health and Safety) – HSC §11502	\$ 42,263
State Trial Court Improvement and Modernization Fund (2% Automation) – GC §68090.8	3,400
	<u>45,663</u>
County General Fund	113,018
District Attorney Court Trust Fund	(170,000)
City of Sonora	11,319
	<u>\$ (45,663)</u>

Recommendation

We recommend that the court should establish and implement procedures to properly report bail bond forfeitures.

Also, we recommend that the county remit \$45,663 to the State Treasurer and report on the TC-31 increases of \$42,263 to the State General Fund, and \$3,400 to the State Trial Court Improvement and Modernization Fund.

**FINDING 4—
Underremitted state
parking surcharges**

During our testing of parking revenue, we found that the county incorrectly distributed \$1.50 in state court facilities construction parking surcharges to the County Criminal Justice Facilities Construction Fund between July 2010 and May 2017. County personnel indicated that the required distribution was inadvertently overlooked.

GC section 76000(c) requires the county to deposit a \$2.50 parking surcharge in both the County Courthouse Construction Fund and Criminal Justice Facilities Construction Fund from each parking fine collected. This section also requires \$1 of each \$2.50 parking surcharge to be distributed to the County General Fund. Upon the transfer of responsibility for facilities from the county to the Judicial Council, the \$1.50 to the County Courthouse Construction Fund is repealed.

GC section 70372(b) requires a penalty of \$4.50 to be distributed to the State Court Facilities Construction Fund for every parking fine or forfeiture, starting January 2009.

The incorrect distributions also had the following effect:

Account Title	Underremitted / (Overremitted)
State Court Facilities Construction Fund – GC § 70372(b) – Parking Violations	\$ 14,252
County Criminal Justice Facilities Construction Fund	(14,252)

Recommendation

We recommend the county:

- Establish and implement procedures to properly distribute surcharges to the State Court Facilities Construction Fund; and
- Remit \$14,252 to the State Treasurer and report on the TC-31 an increase of \$14,252 to the State Court Facilities Construction Fund.

**FINDING 5—
Overremitted State
Court Facilities
Construction Fund
from TVS bail**

During our TVS testing, we found that the county incorrectly distributed the \$1 county criminal justice facilities penalty from the county’s 23% TVS bail to the State Court Facilities Construction Fund between July 2010 and May 2017. The error occurred because the court staff misinterpreted the statutorily required distributions.

Vehicle Code (VC) section 42007 requires 77% of bail after qualified deductions to be reported in accordance with GC section 77205 as it read December 31, 1997. The remaining revenues (23%) are to be deposited to the county’s General Fund, less \$1 to the County Criminal Justice Facilities Construction Fund.

The incorrect distribution for TVS bail resulted in underreported revenues to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. A net total of \$5,614 ($\$7,291 \times 77\%$) TVS bail should have been included in the MOE calculation.

The incorrect distribution also had the following effects:

Account Title	Underremitted / (Overremitted)
State Court Facilities Construction Fund – GC § 70372(a) – Criminal Violations	\$ (7,289)
County Criminal Justice Facilities Construction Fund	7,289

Recommendation

We recommend that the county:

- Establish and implement procedures to properly report TVS bail; and
- Remit \$7,289 to the State Treasurer and report on the TC-31 a decrease of \$7,289 to the State Court Facilities Construction Fund.

**FINDING 6—
Incorrect distribution
priority for
installment payments**

During our testing of payment prioritization, we found that the county Revenue and Recovery Department incorrectly prioritized collections in a manner that gave distribution priority to DNA penalties and State Court Facilities Construction Fund – Immediate and Critical Needs Account assessments over fines and penalties for the period of July 1, 2010, through June 30, 2017. The error occurred because department staff overlooked the additional computer programming procedure requirements.

PC section 1203.1(b) requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims;
2. 20% state surcharge;
3. Fines, penalty assessments, and restitution fines; and
4. Other reimbursable costs.

Failure to make the required priority distribution causes distributions to the state and county to be inaccurately stated. Measuring the dollar effect did not appear to be either material or cost-effective due to the difficulty of identifying and redistributing the various accounts.

Recommendation

We recommend that the county Revenue and Recovery Department establish and implement procedures to distribute payment priorities correctly.

**FINDING 7—
Overremitted
Emergency Medical
Air Transportation
penalties from TVS
bail**

During our TVS testing, we found that the county Revenue and Recovery Department incorrectly distributed the State Emergency Medical Air Transportation Act Fund from the TVS bail for the period of January 1, 2011, through June 30, 2017. The error occurred because department staff misinterpreted the statutorily required distributions.

Starting January 1, 2011, GC section 76000.1 requires a \$4 penalty upon every fine levied on criminal offenses including traffic offenses, but excluding parking offenses. However, upon the election of traffic school, the fine and penalties are converted to TVS bail as mandated by VC section 42007. Therefore, because EMAT penalties are not included in the exceptions listed within VC section 42007, they should remain as TVS bail.

Failure to make the required priority distribution causes distributions to the state and county to be inaccurately stated. However, measuring the dollar effect did not appear to be either material or cost-effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

We recommend that the county Revenue and Recovery Department establish and implement procedures to distribute EMAT penalties correctly.

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

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