

KERN COUNTY

Audit Report

COURT REVENUES

July 1, 2015, through June 30, 2019



BETTY T. YEE
California State Controller

September 2021



BETTY T. YEE
California State Controller

September 16, 2021

The Honorable Mary B. Bedard, CPA,
Auditor-Controller-County Clerk
Kern County
1115 Truxtun Avenue
Bakersfield, CA 93301

Tamarah Harber-Pickens,
Court Executive Officer
Superior Court of California, Kern County
1415 Truxtun Avenue, Room 212
Bakersfield, CA 93301

Dear Ms. Bedard and Ms. Harber-Pickens:

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

Our audit found that the county underremitted \$1,419,515 in state court revenues to the State Treasurer because it underremitted the State Trial Improvement and Modernization Fund (Government Code section 77205) by \$1,419,515.

In addition, we found that the county and court made incorrect distributions related to speeding traffic violator school, health and safety, fish and game, and parking violations.

We also identified a deficiency that is not significant to our audit objective, but warrants the attention of management. Specifically, we found that the county did not properly collect county parking surcharges.

The county made a payment of \$1,419,515 in August 2021.

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an information audit review process for resolving disputes. 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, within 60 days of receiving this final audit report. The review request should be submitted to Shawn Silva, Acting Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, California 94250. In addition, please provide a copy of the request letter to Lisa Kurokawa, Chief, Compliance Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250.

The Honorable Mary B. Bedard, CPA -1-
Auditor-Controller-County Clerk
Tamarah Harber-Pickens, Court Executive Officer

September 16, 2021

If you have questions regarding the audit findings, please contact Ms. Kurokawa 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/as

cc: The Honorable Phillip Peters, Chairman
Kern 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
Sandeep Singh, Manager
Local Government Policy Unit
State Controller's Office
Jennifer Montecinos, Manager
Tax Administration Section
State Controller's Office
Shawn Silva, Acting Chief Counsel
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 Kern County 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 county underremitted \$1,419,515 in state court revenues to the State Treasurer. In addition, we found that the county and court made incorrect distributions related to speeding traffic violator school, health and safety, fish and game, and parking 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 county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period.
- We performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements.
- We recomputed the annual 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 (see Finding 1).

Distribution Testing

- We assessed the priority of installment payments by haphazardly selecting a non-statistical sample of four installment payments to verify priority.
- We scheduled parking surcharge revenues collected from entities that issue parking citations within the county to ensure that revenues were correct, complete, and remitted in accordance with state statutory requirements.
- We performed a risk evaluation of the county and court and identified violation types that are prone to errors due to either their complexity or statutory changes during the audit period. Based on the risk evaluation, we haphazardly selected a non-statistical sample of 44 cases for 11 violation types.¹ 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 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

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

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 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 instances of noncompliance with the requirements described in our audit objective. Specifically, we found that the county underremitted \$1,419,515 in state court revenues to the State Treasurer because it underremitted the State Trial Court Improvement and Modernization Fund (GC section 77205) by \$1,419,515.

This instance of noncompliance is quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

In addition, we found that county and court made incorrect distributions related to speeding traffic violator school, health and safety, fish and game, and parking violations. These instances of noncompliance are non-monetary and described in the Findings and Recommendations section.

We also identified a deficiency that is not significant to our audit objective, but warrants the attention of management. Specifically, we found that the county did not properly collect county parking surcharges. This instance of noncompliance is described in the Observation and Recommendation section.

The county made a payment of \$1,419,515 in August 2021.

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, 2004, through June 30, 2012, issued November 26, 2013. See the Appendix for the summary schedule of prior audit findings

Views of Responsible Officials

We issued a draft report on July 27, 2021. Mary B. Bedard, CPA, Auditor-Controller-County Clerk, responded by letter dated August 18, 2021 (Attachment A), agreeing with the audit results with the exception of Finding 1. In addition, Travis Andreas, Deputy Court Executive Officer, responded by letter dated August 4, 2021 (Attachment B), agreeing with the audit results.

Restricted Use

This audit report is solely for the information and use of Kern County; Superior Court of California, Kern County; the Judicial Council of California (JCC); 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.

Original signed by

KIMBERLY TARVIN, CPA
Chief, Division of Audits

September 16, 2021

Schedule—
Summary of Audit Findings Affecting Remittances to the State Treasurer
July 1, 2015, through June 30, 2019

| Finding ¹ | 2015-16 | 2016-17 | 2017-18 | 2018-19 | Total | Reference ² |
|--|-------------------|-------------------|-------------------|-------------------|---------------------|------------------------|
| Underremitted 50% excess of qualified revenues State Trial Court Improvement and Modernization Fund—GC §77205 | \$ 354,984 | \$ 371,931 | \$ 343,690 | \$ 348,910 | \$ 1,419,515 | Finding 1 |
| Total amount underremitted to the State Treasurer | <u>\$ 354,984</u> | <u>\$ 371,931</u> | <u>\$ 343,690</u> | <u>\$ 348,910</u> | <u>\$ 1,419,515</u> | |

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— Underremitted 50% excess of qualified revenues

During our recalculation of the 50% excess of qualified revenues, we found that the county used incorrect qualified revenue amounts in its calculation for each fiscal year. These errors resulted in the county underremitting the 50% excess of qualified revenues by a net of \$1,419,515 for the audit period. The 50% excess of qualified revenues was incorrectly calculated because the county misinterpreted the required calculations.

For the audit period, the county provided support for its calculations of the 50% excess of qualified revenues. We reviewed the county's calculation and reconciled the qualified revenues to revenue collection reports provided by the court and county. We noted that the county incorrectly excluded the revenues collected for the Criminal Justice Facilities Construction Fund (GC section 76101), the Emergency Medical Services Fund (GC section 76104), the Maddy Emergency Medical Services Fund (GC section 76000.5), and city base fines (Vehicle Code [VC] section 42007[c]) from the calculation of the traffic violator school (TVS) fee (VC section 42007) during the audit period.

We recalculated the county's qualified revenues based on actual court revenues collected for each fiscal year. After our recalculation, we found that the county had understated qualified revenues by \$2,839,028 for the audit period.

Qualified revenues were understated because the county incorrectly excluded the following revenues from its calculation of the TVS fee (VC section 42007):

- Criminal Justice Facilities Construction Fund (GC section 76101)—\$85,948;
- Emergency Medical Services Fund (GC section 76104)—\$859,473;
- Maddy Emergency Medical Services Fund (GC section 76000.5)—\$859,473; and
- City base fines (VC section 42007[c])—\$1,034,134.

The following table shows the audit adjustments to qualified revenues:

| | Fiscal Year | | | | Totals |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| | 2015-16 | 2016-17 | 2017-18 | 2018-19 | |
| Qualified revenues reported | \$ 9,277,875 | \$ 8,812,582 | \$ 8,357,143 | \$ 8,324,819 | \$34,772,419 |
| Audit adjustments: | | | | | |
| GC section 76101 understatement | 22,995 | 21,794 | 20,759 | 20,400 | 85,948 |
| GC section 76104 understatement | 229,945 | 217,938 | 207,594 | 203,996 | 859,473 |
| GC section 76000.5 understatement | 229,945 | 217,938 | 207,594 | 203,996 | 859,473 |
| VC section 42007(c) understatement | 227,081 | 286,191 | 251,433 | 269,429 | 1,034,134 |
| Total | 709,966 | 743,861 | 687,380 | 697,821 | 2,839,028 |
| Adjusted qualified revenues | <u>\$ 9,987,841</u> | <u>\$ 9,556,443</u> | <u>\$ 9,044,523</u> | <u>\$ 9,022,640</u> | <u>\$37,611,447</u> |

As a result of miscalculating the qualified revenues, the county underremitted the 50% excess of qualified revenues by a net of \$1,419,515 for the audit period.

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

| 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 ¹ |
|-------------|---------------------|-------------|------------------------------|---------------------------------|--|--|
| 2015-16 | \$ 9,987,841 | \$5,530,972 | \$4,456,869 | \$2,228,435 | \$(1,873,451) | \$ 354,984 |
| 2016-17 | 9,556,443 | 5,530,972 | 4,025,471 | 2,012,736 | (1,640,805) | 371,931 |
| 2017-18 | 9,044,523 | 5,530,972 | 3,513,551 | 1,756,776 | (1,413,086) | 343,690 |
| 2018-19 | 9,022,640 | 5,530,972 | 3,491,668 | 1,745,834 | (1,396,924) | 348,910 |
| Total | | | | | | <u>\$ 1,419,515</u> |

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

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

Recommendation

We recommend that the county:

- Remit \$1,419,515 to the State Treasurer and report on the TC-31 an increase to the State Trial Court Improvement and Modernization Fund; and
- Ensure that the proper accounts are included in the calculation of each line item on the 50% excess of qualified revenues form.

County’s Response

Regarding Finding #1, “Under-remitted 50% Excess of Qualified Revenues”, the county does not agree with the State Controller’s Office (SCO) finding and recommendation. SCO states that the County underremitted qualified revenues related to Traffic Violator School (TVS) court cases: Criminal Justice Facilities Construction Fund (GC section 76101), Emergency Medical Services Fund (GC section 76104), Maddy Emergency Medical Services Fund (GC section 76000.5), and City base fines (VC section 42007[c]). These revenues are all distributed to non-General Fund accounts. If we include these TVS revenues in the 50% excess calculation, the County will be required to pay the State Treasurer for monies that the General Fund did not receive or benefit from. The only source available for this payment is unrestricted locally generated funds. Furthermore, the County cannot confirm that the amount of revenue that was transferred from the courts is correct.

While we do not agree with the under-remittance, we will be sending a payment of \$1,419,515 to the State Treasurer for the audit period. The County plans to appeal this finding with the State Controller's Office.

SCO Response

Our finding and recommendation remain unchanged.

As stated in Finding 1, GC section 77205 requires the county to remit 50% of the qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for fiscal year 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund. GC section 77205 also specifies that the qualified revenues are based on the amount that would have been deposited in the General Fund pursuant to how the applicable sections read as of December 31, 1997.

In its annual memorandum, the JCC provides instructions for counties to calculate the amount of excess revenues that must be remitted to the State. The instructions during the audit period stated that the VC 42007 TVS fees should not be reduced by distributions to the Maddy Emergency Medical Services Fund, Courthouse Construction Fund, Criminal Justice Facilities Construction Fund, or to the cities.

The JCC clarified these instructions further in its June 15, 2020 memorandum. In this memorandum, the JCC explicitly requires that the total amount collected for TVS fees be included as qualified revenues.

FINDING 2— Incorrect distribution of revenues from speeding traffic violation school violations

During our testing of speeding TVS cases, we found that the court did not properly distribute revenues to a number of state and county funds. This error occurred due to inadequacies in the court's case management system.

We verified, on a sample basis, distributions made by the court using its case management system. For each sample case, we recomputed the distributions and compared them to the actual distributions. During testing, we found that the court made incorrect distributions to the following funds:

- VC section 42007 TVS Fee;
- VC section 42007(c) city base fines;
- GC section 76104 Emergency Medical Services Fund;
- GC section 76000.5 Emergency Medical Services Fund;
- GC section 70372(a) State Court Facilities Construction Fund; and
- Penal Code (PC) section 1465.7 state 20% surcharge.

Distribution errors were only found in cases with base fines that were not a multiple of \$10. The errors occurred because the court's case management system uses allocation tables and percentages calculated using a \$100 base fine. This methodology creates variances in cases where the base fine is not a multiple of \$10 (e.g., \$35). The variances result in under- and overremittances to the funds detailed above.

We performed a revenue analysis of speeding TVS violations to determine the fiscal effect of the distribution error. Upon completion of our analysis, we found that the error did not affect the net revenues remitted to the State Treasurer. Furthermore, we found that this error did not affect the county's 50% excess of qualified revenues calculation, as all affected local funds were qualified revenues.

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

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.

VC section 42007(c) requires an amount equal to the amount of base fines that would have been deposited in the city's treasury pursuant to PC section 1463.001 to be deposited in the city's treasury.

GC section 70372(a) requires the courts to levy a state court construction penalty of \$5 for every \$10 of each fine imposed and collected by the courts for all criminal offenses.

PC section 1465.7 requires the courts to levy a state surcharge of 20% of the base fine used to calculate the state penalty assessment.

Recommendation

We recommend that the court:

- Correct its case management system to ensure that speeding TVS revenues are distributed in accordance with statutory requirements; and
- Periodically verify the accuracy of its distributions using the JCC's testing sheets.

Court's Response

The court concurs with the audit finding, and the fact that distribution errors are due to case management system limitations. The court is actively pursuing a case management system replacement.

FINDING 3— Incorrect distribution of judge-ordered total fines

During our testing of superior court cases, we found that the court did not properly distribute revenues of cases where the judge ordered a total fine. The error occurred because the court did not follow the JCC's guidelines for top-down distributions.

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

testing, we found that the court made incorrect distributions for health and safety and fish and game violations when judges ordered total fines for such cases.

For each case where a judge ordered a total fine, the court distributed revenues using top-down distribution. The JCC provides guidance to courts for top-down distributions, and allows two different methodologies. Courts may either (1) reduce all components proportionately, including those with a specified dollar amount; or (2) allocate the full amount to those components with a specified dollar amount, then pro-rate the remaining balance among the rest of the total fine's components.

For both health and safety and fish and game violations, the court incorrectly allocated the full amount to components with a specified dollar amount and the state and county penalty assessments. The remaining balance was then pro-rated between the base fines and the 20% state surcharge (PC section 1465.7). Furthermore, the court failed to impose the Criminal Laboratory Analysis Fee (Health and Safety Code [HSC] section 11372.5) and the Drug Program Fee (HSC section 11372.7) as base fine enhancements. These errors resulted in underremittances to the base fines and 20% state surcharge, and overremittances to various state and county penalty assessments.

We performed a revenue analysis of the top-down distributions to determine the fiscal effect of the distribution errors. Based on the low number of health and safety and fish and game cases, the relative minor underremittances to the State Treasurer in each case tested, and the complexity of quantifying underremittances from top-down distributions, we determined that the errors did not result in material underremittances to the State Treasurer. However, we noted that errors in calculating the Criminal Laboratory Analysis Fee and Drug Program Fee are errors that cannot be reversed, as the court cannot retroactively collect the under-collected amounts from defendants or recalculate base fine enhancements.

PC section 1463.004 states that percentage calculations may be employed to establish the components of total fines or forfeitures, provided that the aggregate monthly distributions resulting from the calculations are the same as would be produced by strict observance of the statutory distributions.

HSC section 11372.5 requires defendants convicted of violating specific Health and Safety Code 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.

HSC section 11372.5 requires defendants convicted of a violation of Chapter 6 of the Health and Safety Code 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.

Recommendation

We recommend that the court:

- Correct its case management system to ensure that the court follows JCC guidelines for top-down distributions;
- Ensure that the Criminal Laboratory Analysis Fee (HSC section 11372.5) and Drug Program Fee (HSC section 11372.7) are programmed as base fine enhancements in the court's case management system; and
- Periodically verify the accuracy of its distributions using the JCC's testing sheets.

Court's Response

The Court concurs with the audit finding. The Court is limited in making changes to the case management system. The Court is actively pursuing a case management system replacement, and will retrain staff to ensure that the Criminal Laboratory Analysis Fee (HSC section 11372.5) and Drug Program Fees (HSC section 11372.7) are added accordingly.

FINDING 4— Incorrect distribution of parking surcharges

During our analysis of parking and equipment violations, we found that the county did not remit parking and equipment violation revenues collected by the county's General Services Division (GSD) to the State Treasurer. We also found that parking revenues collected by external parking agencies were distributed to incorrect state accounts on the county's TC-31 remittances. The errors occurred because the county misinterpreted the distribution guidelines and failed to remit a portion of revenues to the state.

We reviewed the county's parking documentation to verify the accuracy of the county's collection and distribution of parking surcharges and equipment violation revenues. We reconciled revenues remitted to the state to the actual county parking reports from the GSD and the county's Auditor-Controller's Office. The Auditor-Controller's Office is responsible for collecting parking revenues from the external parking agencies and remitting the revenues to the state. The GSD is responsible for collecting parking revenues from county agencies.

During our reconciliation, we found that revenues collected by the GSD were not remitted to the State Treasurer from July 2015 through February 2018. In April 2018, the county discovered the error and submitted a TC-31 remittance to the State Treasurer for parking revenues retroactive to May 2009. Parking revenues collected by the GSD were correctly remitted each month thereafter.

During our reconciliation of revenues collected by external parking agencies, we found that the external parking agencies were correctly collecting and remitting parking revenues to the county. However, the county Auditor-Controller's Office did not properly distribute revenues into the correct state funds.

The auditor-controller incorrectly remitted the entire \$4.50 collected for the state court construction penalty on parking violations to the State Court Facilities Construction Fund (GC section 70372[b]). The county should have deposited one-third of the \$4.50 state court construction penalty in the State Court Facilities Construction Fund (GC section 70372[b]), and two-thirds in the State Court Facilities Construction Fund – Immediate and Critical Needs Account (GC section 70372[b]).

The auditor-controller also incorrectly remitted the additional \$3.00 parking surcharge collected on parking violations to the State General Fund (PC section 1465.7). The county should have deposited the \$3.00 additional surcharge in the State Trial Court Fund (GC section 76000.3).

We did not measure the fiscal effect of these errors, as the county remitted the past-due revenues during the audit period and the distribution error involves only the distribution of revenues between state accounts.

GC section 70372(f) (2) requires the county to deposit one-third of the \$4.50 state court construction penalty in the State Court Facilities Construction Fund and two-thirds in the State Court Facilities Construction Fund – Immediate and Critical Needs Account.

GC section 76000.3 requires the county to deposit the \$3.00 additional parking surcharge in the Trial Court Trust Fund.

Recommendation

We recommend that the county:

- Correct its case management system to ensure proper allocation of parking surcharges between the State Court Facilities Construction Fund accounts and the Trial Court Trust Fund to comply with statutory requirements; and
- Periodically verify the accuracy of its distributions using the JCC’s testing sheets.

County’s Response

The County of Kern concurs with [the finding]. The recommendations provided by SCO will be adopted by the County.

FINDING 5— Incorrect prioritization of installment payments

During testing of superior court cases, we found that the court incorrectly prioritized distributions of installment payments. The errors occurred due to inadequacies in the court’s case management system, and the court’s misinterpretation of the distribution guidelines.

We verified, on a sample basis, distributions made by the court using its case management system for installment payments. For each sample case, we reviewed the distributions to determine whether the court correctly prioritized the distributions of installment payment according to PC section 1203.1(d). During testing, we found that the court incorrectly gave distribution priority to the DUI indemnity allocation (PC section 1463.18)

over the 20% state surcharge (PC section 1465.7). Additionally, the court prorated priority-four distributions before fully distributing all the priority-three revenues.

We did not measure the effect of the error because it would be impractical and difficult to redistribute revenues on every case involving installment payments.

PC section 1203.1(d) requires a mandatory prioritization in the distribution of 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.

Recommendation

We recommend that the court take steps to ensure that all surcharges, fines, penalties, and fees are distributed in accordance with the statutory priority requirements of PC section 1203.1(d).

Court's Response

The court concurs with the audit finding, and the fact that distribution errors are due to case management system limitations. The court is actively pursuing a case management system replacement.

Observation and Recommendation

OBSERVATION— Incorrect collection of parking surcharges

During our analysis of parking surcharges, we found that the GSD did not properly collect county parking surcharges. This error occurred because the GSD misinterpreted distribution guidelines.

We reviewed the county's parking documentation to verify the accuracy of the GSD's distributions of parking surcharges and equipment violation revenues. During our review, we found that the GSD incorrectly collected \$12.50 for each parking violation. As the county had transferred responsibility for the court facilities to the JCC, the GSD should have collected only \$11.00 for each parking violation. The additional \$1.50 collected by the department was distributed to the county's Courthouse Construction Fund.

We did not measure this distribution error, because it would not result in overremitted funds to the State Treasurer. Instead, the parking entities overcharged defendants on each case, meaning that the excess revenues collected are actually owed to the defendants. However, we believe it would be impractical for the county to return the overcharged amounts to each defendant.

GC section 76000(b) requires each parking agency to pay the county treasurer \$2.50 for each fund established in accordance with GC section 76100 or 76101 on every parking violation.

GC section 76000(c) requires the county treasurer to deposit \$1.00 of every \$2.50 collected for the county's Courthouse Construction Fund and Criminal Justice Facilities Construction Fund into the county's General Fund.

In addition, GC section 76000(d) states that, once responsibility for court facilities transfers from the county to the JCC, the authority to impose the \$2.50 penalty for the county's Courthouse Construction Fund shall be reduced to \$1.00.

Recommendation

We recommend that the county reduce collections for the county's Courthouse Construction Fund from \$2.50 to \$1.00 in accordance with GC section 76000(d).

County's Response

The County of Kern concurs with [the Observation]. The recommendations provided by SCO will be adopted by the County.

Appendix— Summary Schedule of Prior Audit Findings

The following table shows the implementation status of Kern County's corrective actions related to the findings contained in the county's prior audit report, dated November 26, 2013.

| Prior Audit Finding Number | Finding Title | Implementation Status |
|----------------------------|--|-----------------------|
| 1 | Underremitted Emergency Medical Air Transportation penalties | Fully implemented |
| 2 | Underremitted 50% excess of qualified fines, fees, and penalties | Fully implemented |
| 3 | Overremitted Emergency Medical Air Transportation penalties | Fully implemented |

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



Mary B. Bedard, CPA
Auditor-Controller-County Clerk

KERN COUNTY AUDITOR-CONTROLLER-COUNTY CLERK
1115 Truxtun Avenue, 1st and 2nd Floor • Bakersfield, CA 93301-4639

August 18, 2021

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

Dear Ms. Kurokawa,

This is our response for the County findings in the draft audit report dated 07/27/21.

The County of Kern concurs with **Finding #4**, "Incorrect Distribution of Parking Surcharges", and the **Observation**, "Incorrect Collection of Parking Surcharges". The recommendations provided by SCO will be adopted by the County.

Regarding **Finding #1**, "Under-remitted 50% Excess of Qualified Revenues", the county does not agree with the State Controller's Office (SCO) finding and recommendation. SCO states that the County under-remitted qualified revenues related to Traffic Violator School (TVS) court cases: Criminal Justice Facilities Construction Fund (GC section 76101), Emergency Medical Services Fund (GC section 76104), Maddy Emergency Medical Services Fund (GC section 76000.5), and City base fines (VC section 42007(c)). These revenues are all distributed to non-General Fund accounts. If we include these TVS revenues in the 50% excess calculation, the County will be required to pay the State Treasurer for monies that the General Fund did not receive or benefit from. The only source available for this payment is unrestricted locally generated funds. Furthermore, the County cannot confirm that the amount of revenue that was transferred from the courts is correct.

While we do not agree with the under-remittance, we will be sending a payment of \$1,419,515 to the State Treasurer for the audit period. The County plans to appeal this finding with the State Controller's Office.

We appreciate the opportunity to address the proposed findings. If you wish to discuss this further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Mary B. Bedard".

Mary B. Bedard, CPA
Auditor-Controller-County Clerk

MBB/AXE/ja

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



COLETTE M. HUMPHREY
PRESIDING JUDGE

JUDITH K. DULCICH
ASST. PRESIDING JUDGE

TAMARAH HARBER-PICKENS
COURT EXECUTIVE OFFICER &
CLERK OF THE COURT

Metropolitan Division
1415 Truxtun Ave., Rm. 212
Bakersfield, CA 93301
(661) 868-4934

Metropolitan Division –
Justice Center
1215 Truxtun Avenue
Bakersfield, CA 93301
(661) 868-2450

Metropolitan Division -
Juvenile Justice Center
2100 College Avenue
Bakersfield, CA 93305
(661) 868-5393

Metropolitan Division - Traffic
Department
3131 Arrow Street
Bakersfield, CA 93308
(661) 335-7100

Delano/McFarland Branch
1122 Jefferson Street
Delano, CA 93215
(661) 720-5800

Shafter Branch
325 Central Valley Highway
Shafter, CA 93263
(661) 746-7500

Arvin/Lamont Branch
12022 Main Street
Lamont, CA 93241
(661) 868-5800

Taft/Maricopa Branch
311 North Lincoln Street
Taft, CA 93268
(661) 763-8531

Mojave Branch
1773 Highway 58
Mojave, CA 93501
(661) 824-7100

Ridgecrest Branch
132 East Coso Avenue
Ridgecrest, CA 93555
(760) 384-5900

SUPERIOR COURT OF CALIFORNIA COUNTY OF KERN

August 4, 2021

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

Dear Ms. Kurokawa,

This correspondence serves as the response to the five (5) audit findings and one (1) observation noted in the Audit Report of Court Revenues for Kern County during the period of July 1, 2015, through June 30, 2019.

The Kern County Superior Court would like to take the opportunity to thank your staff for their professionalism and willingness to work with the Court during the course of this audit, which was profoundly affected by the pandemic.

Please see the Court's responses herewith for each of the findings and observation identified in the audit report.

Should you have further questions or require additional information, please contact me at (661) 868-2610.

Sincerely,

Digitally signed by
Travis
Date: 2021.08.04
10:55:38 -07'00'

Travis Andreas
Deputy Court Executive Officer – Finance

CC: Hon. Colette Humphrey, Presiding Judge
Tamarah Harber-Pickens, CEO

Please see the Court's responses to the findings and observations below:

Finding 1 – *Underremitted 50% excess of qualified revenues.*

Court Response - No response as this is a County finding.

Finding 2 – *Incorrect distribution of revenues from speeding traffic violation school violations.*

Court Response - The Court concurs with the audit finding, and the fact that distribution errors are due to case management system limitations. The Court is actively pursuing a case management system replacement.

Finding 3 – *Incorrect distribution of judge-ordered total fines.*

Court Response - The Court concurs with the audit finding. The Court is limited in making changes to the case management system. The Court is actively pursuing a case management system replacement, and will retrain staff to ensure that the Criminal Laboratory Analysis Fees (HSC section 11372.5) and Drug Program Fees (HSC section 11372.7) are added accordingly.

Finding 4 – *Incorrect distribution of parking surcharges.*

Court Response - No response as this is a County finding.

Finding 5 – *Incorrect prioritization of installment payments.*

Court Response - The Court concurs with the audit finding, and the fact that distribution errors are due to case management system limitations. The Court is actively pursuing a case management system replacement.

Observation – *Incorrect collection of parking surcharges.*

Court Response - No response as this is a County observation.

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

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