

ORANGE COUNTY

Audit Report

COURT REVENUES

July 1, 2016, through June 30, 2020



BETTY T. YEE
California State Controller

October 2022



BETTY T. YEE
California State Controller

October 14, 2022

The Honorable Frank Davies, CPA
Auditor-Controller
Orange County
1770 North Broadway
Santa Ana, CA 92706

David Yamasaki, Court Executive Officer
Superior Court of California, Orange County
700 Civic Center Drive West
Santa Ana, CA 92701

Dear Mr. Davies and Mr. Yamasaki:

The State Controller's Office audited the propriety of the court revenues remitted by Orange County to the State Treasurer for the period of July 1, 2016, through June 30, 2020.

Our audit found that the county's remittances to the State Treasurer were substantially correct; however, we found that the county and court made errors related to DUI violations, the priority of installment payments, and the 50% excess of qualified revenues.

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's Probation Department incorrectly distributed base fines for Penal Code violations.

The findings identified in this report do not have a significant effect on the county's remittances.

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The State Controller's Office has an informal 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, 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, Division of Audits, State Controller's Office, Post Office Box 942850, Sacramento, California 94250.

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

The Honorable Frank Davies, CPA
Auditor-Controller
David Yamasaki,
Court Executive Officer

-2-

October 14, 2022

KT/ac

cc: The Honorable Doug Chaffee, Chairman
Orange 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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State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the propriety of court revenues remitted to the State of California by Orange County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2016, through June 30, 2020.

Our audit found that the county's remittances to the State Treasurer were substantially correct; however, we found that the county and court made errors related to DUI violations, the priority of installment payments, and the 50% excess of qualified revenues.

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's Probation Department incorrectly distributed base fines for Penal Code violations.

The findings identified in this report do not have a significant effect on the county's remittances.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to receive a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the County Treasurer as soon as is practical and provide the County Auditor with a monthly record of collections. This section further requires that the County Auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

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

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

Audit Authority

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

Objective, Scope, and Methodology

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

The audit period was July 1, 2016, through June 30, 2020.

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 criteria that were significant to our audit objective.
- We interviewed county and court personnel regarding the monthly TC-31 remittance process and the maintenance-of-effort (MOE) 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, the county, and cities for all fiscal years in the audit period.
- We performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements.
- We recomputed the annual MOE calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% of qualified revenues remitted to the State.

Distribution Testing

- We assessed the priority of installment payments by haphazardly selecting a non-statistical sample of eight installment payments to verify priority. Errors found were not projected to the intended (total) population.
- 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. No errors were found.

- We performed a risk evaluation of the county and the 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 56 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 the county.

We did not identify any errors that had a significant effect on the county's remittances.

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

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

As a result of performing the audit procedures, we found that Orange County's remittances to the State Treasurer were substantially correct; however, we found that the county and court made errors related to DUI violations, the priority of installment payments, and the 50% excess of qualified revenues. These instances of noncompliance are non-monetary; they are 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's Probation Department incorrectly distributed base fines for Penal Code violations. This instance of noncompliance is described in the Observations and Recommendations section.

The findings identified in this audit report do not have a significant effect on the county's remittances.

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, 2009, through June 30, 2014, issued August 12, 2016, with the exception of Finding 2 of this audit report.

¹ 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.

**Views of
Responsible
Officials**

We issued a draft report on August 18, 2022. The county responded by letter dated August 29, 2022 (Attachment A), agreeing with the audit results, with the exception of Finding 1. In addition, the court responded by letter dated August 25, 2022 (Attachment B), agreeing with the audit results.

Restricted Use

This audit report is solely for the information and use of Orange County; Superior Court of California, Orange County; the JCC; and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this 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

October 14, 2022

Findings and Recommendations

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

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

For the audit period, the county provided support for its calculation of the 50% excess of qualified revenues. We reviewed the county’s calculations and reconciled the qualified revenues to revenue collection reports provided by the court and the county. We noted that qualified revenues in the calculation reconciled to the county collection reports.

However, we noted that the county incorrectly excluded revenues collected for 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 its 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 \$12,874,281 for the audit period.

Qualified revenues were understated because the county incorrectly excluded revenues collected for the following:

- Emergency Medical Services Fund (GC section 76104) – \$2,380,829 understatement;
- Maddy Emergency Medical Services Fund (GC section 76000.5) – \$2,380,829 understatement;
- City base fines (VC section 42007[c]) – \$8,112,623 understatement.

The following table shows the audit adjustments to qualified revenues:

	Fiscal Year				Totals
	2016-17	2017-18	2018-19	2019-20	
Qualified revenues reported	\$ 15,155,033	\$ 14,561,785	\$ 14,247,173	\$ 13,655,659	\$ 57,619,650
Audit adjustments:					
GC section 76104 understatements	619,064	635,822	629,709	496,234	2,380,829
GC section 76000.5 understatements	619,064	635,822	629,709	496,234	2,380,829
VC section 42007(c) understatements	2,077,141	2,126,730	2,094,905	1,813,847	8,112,623
Total	<u>3,315,269</u>	<u>3,398,374</u>	<u>3,354,323</u>	<u>2,806,315</u>	<u>12,874,281</u>
Adjusted qualified revenues	<u>\$ 18,470,302</u>	<u>\$ 17,960,159</u>	<u>\$ 17,601,496</u>	<u>\$ 16,461,974</u>	<u>\$ 70,493,931</u>

Despite the understatement of qualified revenues, the errors did not result in an underremittance to the State Treasurer, as the adjusted qualified revenues were still below the base amount for the county in all four fiscal years.

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

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due the State	County Remittance to the State Treasurer	County Underremittance to the State Treasurer
2016-17	\$ 18,470,302	\$ 19,572,810	\$ (1,102,508)	\$ -	\$ -	\$ -
2017-18	17,960,159	19,572,810	(1,612,651)	-	-	-
2018-19	17,601,496	19,572,810	(1,971,314)	-	-	-
2019-20	16,461,974	19,572,810	(3,110,836)	-	-	-
Total						\$ -

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

Recommendation

We recommend that the county work with the court to 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

The county does not agree with the SCO’s finding and recommendation for Finding No. 1. SCO noted that the 50% excess of qualified revenues was incorrectly calculated because the County misinterpreted the required calculations. SCO has reached a similar finding for other counties as well, which raised similar objections. . . .

The County of Orange disagrees with the SCO’s inclusion of funds that were not transferred to the County’s General Fund, but were instead deposited in other Funds and jurisdictions, including the Maddy EMS and Emergency Medical Services Funds (Gov. Code §§ 76104, 76005.5), and funds transferred to cities (Veh. Code § 42007[c]). Thus, these funds are not available to be split with the State.

Furthermore, we note that from the outset of AB 233’s implementation in 1997, the SCO has not previously asserted the current audit’s proposed 50% Excess MOE calculation in its prior court revenue audits.

The County plans to appeal this audit finding. We understand that the County is not required to remit any additional funds to the California State Treasurer based on this audit finding, but the County wishes to preserve its objection, because the SCO’s change in calculation methodology may affect the County’s share of revenues in the future.

SCO Response

Our finding and recommendation remain unchanged.

As stated in Finding 1, GC section 77205(a) requires the county to remit 50% of the qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for fiscal year 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund. GC section 77205(a) also specifies that the qualified revenues should be 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 is required to be remitted to the State. The instructions during the audit period stated that the VC section 42007 TVS fees should not be reduced by distributions to the Maddy Emergency Medical Services Fund, the Courthouse Construction Fund, the Criminal Justice Facilities Construction Fund, or to cities.

The JCC clarified its 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—
Failure to impose
administrative
screening and citation
processing fees
(repeat finding)**

During our recalculation of the 50% excess of qualified revenues, we found that the court did not consistently impose administrative screening fees or citation processing fees during the audit period. The error occurred because the court elected to not impose the fees.

For the audit period, the county provided support for its calculation 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 the county. During our review, we found that the court did not consistently impose administrative screening fees and citation processing fees during the audit period.

The court's failure to impose administrative screening fees and citation processing fees caused an understatement in deposits to the county General Fund. In addition, the failure to collect the fees understated the qualified revenues used to compute the MOE calculation pursuant to GC section 77205.

During the audit period, Penal Code (PC) section 1463.07 required a \$25 administrative screening fee from people who were arrested and released on their own recognizance upon conviction for any criminal offense, other than an infraction, related to the arrest.² The section also required a \$10 citation processing fee from people who were cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear.

² PC section 1463.07 was repealed by Statutes of 2021, chapter 257 (Assembly Bill 177).

As discussed in Finding 6 of our prior audit report dated August 12, 2016, the court did not consistently impose administrative screening and citation processing fees. This is a repeat finding because the court continued to inconsistently impose these fees.

Recommendation

No recommendation is applicable, as both the administrative screening fee and citation processing fee were repealed effective September 23, 2021.

Court's Response

The court concurs with this finding.

FINDING 3— Incorrect prioritization of installment payments (court)

During testing of court cases, we found that the court incorrectly prioritized distributions of installment payments. The errors occurred because the court misinterpreted 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 payments according to PC section 1203.1(d)(b).

We tested four cases, and found that, in all four cases, the court did not properly distribute payments according to PC section 1203.1(d)(b). The court incorrectly distributed the VC section 42007 TVS fee (priority four) as a priority-three distribution. Furthermore, the court incorrectly distributed the GC section 76000.10(c) EMAT penalty and the GC section 70372(a) State Court Facilities Construction penalty as priority-four revenues rather than priority-three revenues, as required by the *Distribution Guidelines*.

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)(b) requires 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)(b).

Court's Response

The court concurs with this finding. We have taken the steps necessary to update the revenue fund priorities. Additionally, the Court reviewed each revenue fund to ensure [that] the appropriate priority was designated. We have also implemented a practice to annually review the Court's revenue funds and distribution schedules to confirm compliance with statutes and the *Trial Court [Revenue] Distribution Guidelines*.

FINDING 4— Incorrect distribution of revenues from DUI violations

During our testing of DUI violations, we found that the probation department did not properly distribute revenues for the DUI indemnity allocation (PC section 1463.18). This error occurred because the probation department misinterpreted the *Distribution Guidelines*.

We verified, on a sample basis, distributions made by the probation department 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 probation department did not properly distribute revenues for the DUI indemnity allocation (PC section 1463.18).

For DUI violations, we found that the probation department did not distribute 2% of the DUI indemnity allocation (PC section 1463.18) for the state automation fee (GC section 68090.8). Rather than distributing the 2% from the DUI indemnity allocation, the probation department distributed the amount from the county base fines (PC section 1463.001), resulting in an underremittance to the county base fines and an overremittance to the state DUI indemnity allocation.

We performed a revenue analysis of the DUI revenues to determine the fiscal effect of the distribution error. Upon completion of our analysis, we found that the errors did not have a material effect on the revenues remitted to the State.

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

Recommendation

We recommend that the probation department:

- Correct its case management system to comply with statutory requirements;
- Ensure that the 2% state automation fee is properly applied; and
- Periodically verify the accuracy of its distributions using the JCC's testing sheets.

County Probation Department's Response

We concur with the finding. Effective July 1st, 2022, the Probation Department Accounting Unit took the following corrective actions:

- 1) The Fine and Penalty Assessment templates used by staff to setup new cases were modified to reflect the following:
 - a. 2% distribution from the DUI indemnity allocation (PC section 1463.18) to the State Automation Fund (GC section 68090.8).
 - b. 100% distribution of county base fines (PC section 1463.001) to the County instead of 98% that was distributed prior the Audit.
- 2) These changes were also incorporated into Probation's case management system.
- 3) We have created a crosswalk between Probation's Penalty Assessment template and the JCC's testing sheets to verify accuracy of fines and penalty assessment distributions. We will, on a quarterly basis, review our Penalty Assessment templates using JCC's testing sheets.

FINDING 5— Incorrect distribution of the domestic violence fee

During testing of domestic violence cases, we found that the probation department did not properly distribute revenues to the State and the county for the domestic violence fee (Penal Code [PC] section 1203.097). The errors occurred because the probation department misinterpreted the *Distribution Guidelines* and applied rounding formulas to distribute the domestic violence fee.

We verified, on a sample basis, distributions made by the probation department 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 probation department did not properly distribute revenues collected for the \$500 domestic violence fee (PC section 1203.097). We tested four cases, and for all four cases tested, the probation department distributed \$334 (66.8%) to the county and \$166 (33.2%) to the State rather than the required two-thirds (66.67%) to the county and one-third (33.33%) to the State.

We performed a revenue analysis of the domestic violence 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 effect on the revenues remitted to the State.

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 be remitted to the State Treasurer. PC section 1203.097(a)(5) further requires that the remaining one-third be split evenly between the State's Domestic Violence Restraining Order Reimbursement Fund and the State's Domestic Violence Training and Education Fund.

Recommendation

We recommend that the probation department:

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

County Probation Department's Response

We concur with the finding. Effective July 1st, 2022, the Probation Department Accounting Unit took the following corrective action:

- 1) Updated the \$500 domestic violence fee chart to reflect distribution of \$333.33 (2/3 – 66.67%) to the County and \$166.67 (1/3 – 33.33%) to the State.
- 2) Staff began using the updated domestic violence fee chart on new cases with PC 1203.097 violations.
- 3) These changes were also incorporated into Probation's case management system.
- 4) We will, on a quarterly basis, review our domestic violence fee chart using the JCC's *Trial Court Revenue Distribution Guidelines*.

**FINDING 6—
Incorrect
prioritization of
installment payments
(county probation
department)**

During testing of the county's probation department cases, we found that the department incorrectly prioritized distributions of installment payments. The errors occurred because the department misinterpreted the *Distribution Guidelines*.

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

We tested four cases, and found that in all four case the department did not distribute payments according to PC section 1203.1(d)(b). The department incorrectly distributed the GC section 70373 Criminal Conviction Assessment (priority four) as a priority-three distribution, and incorrectly distributed the VC section 23649(a) County Alcohol and Drug Problem Assessment (priority three) as a priority-four distribution. Furthermore, we found that the department did not equitably distribute priority-four revenues, including the court operations assessment, domestic violence fee, and other county fees.

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)(b) requires 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 county's probation department 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)(b).

County Probation Department's Response

We concur with the finding. Effective July 01, 2022, the Probation Department Accounting Unit took the following corrective action:

- 1) Probation's case management system was updated as follows:
 - a. GC section 70373 Criminal Conviction Assessment was changed from priority three (3) to priority four (4).
 - b. VC section 23649(a) County Alcohol and Drug Problem Assessment was changed from priority four (4) to priority three (3)
 - c. All priority four (4) revenues were changed to be equitably distributed within the priority four (4) group.

Observation and Recommendation

OBSERVATION— Incorrect distribution of city base fines

During testing of probation department cases, we found that the probation department incorrectly distributed city base fines from DUI violations. The errors occurred because the probation department misinterpreted the *Distribution Guidelines*.

We verified, on a sample basis, distributions made by the probation department 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 department did not distribute base fines (PC section 1463.002) to cities in cases where a city was the arresting agency.

We discussed this issue with the department and staff stated that all cases are distributed as county cases regardless of the arresting agency. The errors result in underremittances of PC section 1463.002 city revenues and overremittances of PC section 1463.001 county revenues. Furthermore, the error results in an overstatement of qualified revenues as PC section 1463.001 base fines are included in the county's 50% excess of qualified revenues calculation.

We did not measure the effect of the error because it does not result in underremittances to the State and it would be impractical for the State to determine the underremittances for each city.

PC section 1463.001(b)(3) states that base fines resulting from city arrests should be distributed between the cities and county according to PC section 1463.002.

PC section 1463.002 states that Orange County should distribute 15% of base fine revenues from city arrests to the county and 85% to the arresting agency.

Recommendation

We recommend that the probation department correct its case management system to comply with statutory requirements. We further recommend that the probation department perform a revenue analysis to determine the fiscal impact to the cities.

County Probation Department's Response

The county probation department did not respond to this observation.

Appendix— Summary of Prior Audit Findings

The following table shows the implementation status of Orange County's corrective actions related to the findings contained in the county's prior audit report, dated August 12, 2016:

Prior Audit Finding Number	Prior Audit Finding Title	Status
1	Underremitted the 50% excess of qualified fines, fees, and penalties	Fully implemented
2	Incorrect Traffic Violator School bail reported as qualified fines, fees, and penalties	Fully implemented
3	Incorrect distributions of DUI and Health and Safety cases	Fully implemented
4	Incorrectly distributed parking fees	Fully implemented
5	Inaccurate case information recorded	Fully implemented
6	Unimposed administrative screening fees and citation processing fees	Not fully implemented – see current Finding 2
7	Penalties not assessed on Health and Safety fees	Fully implemented

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



OFFICE OF THE
ORANGE COUNTY AUDITOR-CONTROLLER

FRANK DAVIES, CPA
AUDITOR-CONTROLLER

August 29, 2022

To: Lisa Kurokawa, Chief, Compliance Audits Bureau
State Controller's Office
Division of Audits,
P.O. Box 942850
Sacramento, CA 94250

Subject: Orange County's Response to Draft Audit Report for Court Revenues for the period of July 1, 2016 through June 30, 2020

Dear Ms. Kurokawa:

On August 18, 2022, the Auditor-Controller's office received the State Controller's Office (SCO) draft of the Final Audit report for the court revenues for the period of July 1, 2016 through June 30, 2020. As requested in the report, please find our comments to each of the findings identified.

1. Incorrect calculation of 50% excess of qualified revenues

State Recommendation

We recommend that the County work with the court to ensure that the proper accounts are included in the calculation of each line item on the 50% excess of qualified revenues form.

County Response

The County does not agree with the SCO's finding and recommendation for Finding No. 1. SCO noted that the 50% excess of qualified revenues was incorrectly calculated because the County misinterpreted the required calculations. SCO has reached a similar finding for other counties as well, which raised similar objections. See, e.g., Los Angeles County Request for Informal Review dated June 10, 2021 attached.

The County of Orange disagrees with the SCO's inclusion of funds that were not transferred to the County's General Fund, but were instead deposited in other

Funds and jurisdictions, including the Maddy EMS and Emergency Services Funds (Gov. Code §§ 76104, 76005.5), and funds transferred to cities (Veh. Code § 42007(c)). Thus, these funds are not available to be split with the State.

Furthermore, we note that from the outset of AB 233's implementation in 1997, the SCO has not previously asserted the current audit's proposed 50% Excess MOE calculation in its prior court revenue audits.

The County plans to appeal this audit finding. We understand that the County is not required to remit any additional funds to the California State Treasurer based on this audit finding, but the County wishes to preserve its objection, because the SCO's change in calculation methodology may affect the County's share of revenues in the future.

2. For findings 2 and 3, the County of Orange Superior Court will respond to these findings separately.
3. Incorrect distribution of revenues from DUI violations – response from County of Orange Probation Department is attached.
4. Incorrect distribution of the domestic violence fee – response from County of Orange Probation Department is attached.
5. Incorrect prioritization of installment payments – response from County of Orange Probation Department is attached.

If you have any questions, please contact Ila Patel at (714) 834-3753 or email her at ila.Patel@ac.ocgov.com.

Sincerely,



Frank Davies, CPA
Auditor-Controller

Attachments:

1. County of Orange Probation Department Response to Audit Findings No. 4 – 6
2. Los Angeles County Request for Informal Review dated June 10, 2021

**Attachment I – County of Orange Probation Department Response to Audit Findings No. 4
– 6**

Orange County's court revenues audit for the period of July 1, 2016 through June 30, 2020

Finding No. 4 - Incorrect distribution of revenues from DUI violations

DRAFT Report Comment:

- Paragraph 2 of Finding 4 incorrectly states "During testing, we found that the court did not properly..." This should state that "During testing, we found that the probation department did not properly..."

The State Audit Report states that the Orange County Probation Department did not properly distribute revenues for the DUI indemnity allocation (PC section 1463.18).

We concur with the finding. Effective July 1st, 2022, the Probation Department Accounting Unit took the following corrective actions:

- 1) The Fine and Penalty Assessment templates used by staff to setup new cases were modified to reflect the following:
 - a. 2% distribution from the DUI indemnity allocation (PC section 1463.18) to the State Automation Fund (GC section 68090.8).
 - b. 100 % distribution of county base fines (PC section 1463.001) to the County instead of 98% that was distributed prior the Audit.
- 2) These changes were also incorporated into Probation's case management system.
- 3) We have created a crosswalk between Probation's Penalty Assessment template and the JCC's testing sheets to verify accuracy of fines and penalty assessment distributions. We will, on a quarterly basis, review our Penalty Assessment templates using JCC's testing sheets.

FINDING 5 - Incorrect distribution of the domestic violence fee

DRAFT Report Comment:

- Paragraph 1 of Finding 5 states "The errors occurred because the probation department misinterpreted the Distribution Guidelines." This should state that "The errors occurred because of how the probation department applied rounding formulas to the Distribution Guidelines."
- Recommendation section's final bullet states "Periodically verify the accuracy of its distributions using the JCC's testing sheets." We are unable to locate testing sheets from the JCC that show distributions for the Domestic Violence fee. Perhaps the recommendation should state: "Periodically verify the accuracy of its distributions using the Trial Court Revenue Distribution Guidelines."

The State Auditors found that the probation department did not properly distribute revenues to the State and the county for the domestic violence fee (Penal Code [PC] section 1203.097).

We concur with the finding. Effective July 1st, 2022, the Probation Department Accounting Unit took the following corrective action:

- 1) Updated the \$500 domestic violence fee chart to reflect distribution of \$333.33 (2/3 – 66.67%) to the County and \$166.67 (1/3 – 33.33%) to the State.
- 2) Staff began using the updated domestic violence fee chart on new cases with PC 1203.097 violations.
- 3) These changes were also incorporated into Probation's case management system.
- 4) We will, on a quarterly basis, review our domestic violence fee chart using the JCC's Trial Court Revenue Distribution Guidelines.

FINDING 6 - Incorrect prioritization of installment payments

The State Audit Report states that the Orange County Probation Department incorrectly prioritized distributions of installment payments as outlined in PC section 1203.d, subparagraph (b).

We concur with the finding. Effective July 01, 2022, the Probation Department Accounting Unit took the following corrective action:

- 1) Probation's case management system was updated as follows:
 - a. GC section 70373 Criminal Conviction Assessment was changed from priority three (3) to priority four (4).
 - b. VC section 23649(a) County Alcohol and Drug Problem Assessment was changed from priority four (4) to priority three (3).
 - c. All priority four (4) revenues were changed to be equitably distributed within the priority four (4) group.

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



Superior Court of California County of Orange

DARREN DANG
CHIEF FINANCIAL AND ADMINISTRATIVE
OFFICER

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701
PHONE: (657) 622-7015

August 25, 2022

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

Re: SCO 2022 Court Revenue Audit Comments

Dear Ms. Kurokawa:

In response to the State Controller's Office Draft Court Revenue Audit, the Orange County Superior Court has the following comments for Findings 2 and 3.

Finding 2 – Failure to impose administrative screening and citation processing fees (repeat finding)

The Court concurs with this finding.

Finding 3 – Incorrect prioritization of installment payments (court)

The Court concurs with this finding. We have taken the steps necessary to update the revenue fund priorities. Additionally, the Court reviewed each revenue fund to ensure the appropriate priority was designated. We have also implemented a practice to annually review the Court's revenue funds and distribution schedules to confirm compliance with statutes and the Trial Court Distribution Guidelines.

Please contact Chris Lombardo at (657) 622-7789 or by e-mail at clombardo@occourts.org if you have any questions or concerns about this information.

Sincerely,

A handwritten signature in blue ink that reads "Darrendang".

Darren Dang
Chief Financial and Administrative Officer
Orange County Superior Court

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

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