

SAN LUIS OBISPO COUNTY

Audit Report

COURT REVENUES

July 1, 2018, through June 30, 2022



MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

December 2024



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CALIFORNIA STATE CONTROLLER

December 26, 2024

The Honorable James W. Hamilton, CPA, Auditor-Controller
San Luis Obispo County
1055 Monterey Street, Room D290
San Luis Obispo, CA 93408

Mr. Michael Powell, Court Executive Officer
Superior Court of California, San Luis Obispo County
1035 Palm Street, Room 385
San Luis Obispo, CA 93408

Dear Auditor-Controller Hamilton and Mr. Powell:

The State Controller's Office audited San Luis Obispo County's (the county) court revenues for the period of July 1, 2018, through June 30, 2022.

Our audit found that the county underremitted \$350,924 in state court revenues because it underremitted the State Trial Court Improvement and Modernization Fund (Government Code section 77205) by \$215,110. In addition, we found that the county's probation department underremitted \$135,814 in state court revenues because it:

- Underremitted the State's General Fund (Health and Safety Code section 11502) by \$119,254; and
- Underremitted the State's Restitution Fund (Penal Code section 1463.18) by \$16,560.

The county's probation department also made incorrect distributions related to the State Trial Court Improvement and Modernization Fund (Government Code section 68090.8) revenues from DUI, domestic violence, and health and safety violations.

Furthermore, we found that the Superior Court of California, San Luis Obispo County made incorrect distributions related to red-light violations with traffic violator school; DUI, domestic violence, and fish and game violations; and the prioritization of installment payments. We also found that the Superior Court of California, San Luis Obispo County made incorrect distributions for health and safety and DUI violations in cases that involved a judge-ordered total fine.

Mr. James W. Hamilton
Mr. Michael Powell
December 26, 2024
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The county made a payment of \$350,924 on June 24, 2024, to the State Treasurer via the Report to State Controller of Remittance to State Treasurer.

If you have any questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at 916-327-3138, or email at lkurokawa@sco.ca.gov. Thank you.

Sincerely,

Original signed by

Kimberly A. Tarvin, CPA
Chief, Division of Audits

KAT/rs

Copy: The Honorable John Peschong, Chair
San Luis Obispo County Board of Supervisors
Dawn Tomita, Audit 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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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 San Luis Obispo County (the county) on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2018, through June 30, 2022.

Our audit found that the county underremitted \$350,924 in state court revenues.

In addition, the county's probation department made incorrect distributions related to State Trial Court Improvement and Modernization Fund (Government Code [GC] section 68090.8) revenues from DUI, domestic violence, and health and safety violations.

Furthermore, we found that the Superior Court of California, San Luis Obispo County (the court) made incorrect distributions related to red-light violations with traffic violator school; DUI, domestic violence violations, and fish and game violations; and the prioritization of installment payments. We also found that the court made incorrect distributions for health and safety and DUI violations in cases that involved a judge-ordered total fine.

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 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 (MOE) 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, 2018, through June 30, 2022.

To achieve our objective, we performed the following procedures.

General

- We gained an understanding of the county and the court's revenue collection and reporting processes, and of the criteria that were significant to our audit objective.
- We interviewed county personnel regarding the monthly TC-31 remittance process and the 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.
- We assessed the reliability of data from the county and the court's case management systems based on interviews and our review of documents supporting the transaction flow. We determined that the data was sufficiently reliable for purposes of this report.

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 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 four 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 identified.
- 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 47 cases for 10 violation types. We were not able to identify the case population due to the inconsistent timing of when tickets were issued versus when they were paid, and the multitude of entities that remit collections to the county for remittance to the State. We tested the sample as follows:

- We recomputed the sample case distributions and compared them to the actual distributions.
- We calculated the total dollar amount of significant underremittances and overremittances to the State and the county.

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

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 instances of noncompliance with the requirements described in our audit objective. Specifically, we found that the county underremitted \$350,924 in state court revenues to the State Treasurer because it underremitted the State Trial Court Improvement and Modernization Fund (GC section 77205) by \$215,110. In addition, we found that the county's probation department underremitted \$135,814 in state court revenues because it:

- Underremitted the State's General Fund (Health and Safety Code [HSC] section 11502) by \$119,254.
- Underremitted the State's Restitution Fund (Penal Code [PC] section 1463.18) by \$16,560.

The county's probation department also made incorrect distributions related to the State Trial Court Improvement and Modernization Fund (GC section 68090.8) revenues from DUI, domestic violence, and health and safety violations.

Furthermore, we found that the court made incorrect distributions related to red-light violations with traffic violator school; DUI, domestic violence, and fish and game violations; and the prioritization of installment payments. We also found that the court made incorrect distributions for health and safety and DUI violations in cases that involved a judge-ordered total fine.

The county made a payment of \$350,924 on June 24, 2024, 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, 2009, through June 30, 2015, issued on June 30, 2017, with the exception of current Findings 1, 2, and 3 of this audit report. The implementation status of corrective actions is described in the Appendix.

Views of Responsible Officials

We issued a draft report on September 11, 2024. The county's representative responded by letter dated September 12, 2024, agreeing with the audit results. The county probation department's representative responded by letter dated September 23, 2024, agreeing with the audit results. The court's representative responded by letter dated September 17, 2024, agreeing with the audit results. The final audit report includes the county's, the county probation department's, and the court's responses as Attachments A, B, and C.

Restricted Use

This audit report is solely for the information and use of the county; the court; 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 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 A. Tarvin, CPA
Chief, Division of Audits

December 26, 2024

Schedule—
Summary of Audit Findings Affecting Remittances to the State Treasurer
July 1, 2018, through June 30, 2022

Finding ¹	Fiscal Year				Total	Reference ²
	2018-19	2019-20	2020-21	2021-22		
Underremitted 50% excess of qualified revenues State Trial Court Improvement and Modernization Fund – GC § 77205	\$ 27,616	\$ 85,860	\$ 36,342	\$ 65,292	\$ 215,110	Finding 1
Incorrect distribution of revenues from the health and safety violations State General Fund – HSC § 11502	38,042	22,362	23,726	35,124	119,254	Finding 2
Incorrect distribution of revenues from the DUI violations State Restitution Fund – PC § 1463.18	4,360	3,820	3,680	4,700	16,560	Finding 3
Incorrect distribution of the 2% state automation fee State Trial Court Improvement and Modernization Fund – GC § 68090.8	2,960	2,288	1,839	925	8,012	
State General Fund – PC § 1465.7	673	435	425	348	1,881	
State Restitution Fund – PC § 1202.4(b)	(3,633)	(2,723)	(2,264)	(1,273)	(9,893)	
Total	-	-	-	-	-	Finding 4
Net amount underremitted to the State Treasurer	\$ 70,018	\$ 112,042	\$ 63,748	\$ 105,116	\$ 350,924	

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 (repeat
finding)**

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. The errors resulted in the county underremitting the 50% excess of qualified revenues to the State Treasurer by \$215,110 during 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 calculations and reconciled the qualified revenues to revenue collection reports provided by the court and the county's probation department.

We noted that the county's calculations of its qualified revenues did not reconcile to the county's collection reports due to calculation errors related to revenues collected for the county's general fund (GC section 76000[c]), the State Penalty Fund (PC section 1464), and traffic violator school (TVS) fees (Vehicle Code [VC] sections 42007 and 42007.1). The errors also occurred because the court incorrectly distributed revenues from the TVS fee (VC section 42007) and the county's probation department incorrectly distributed revenues from base fines and forfeitures (PC section 1463.001).

We also noted that the county's calculation of the TVS fee (VC section 42007) incorrectly excluded revenues collected for the Courthouse Construction Fund (GC section 76100), 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 the city base fine (VC section 42007[c]) revenues from TVS cases during the audit period.

As noted in Finding 2, the county's probation department failed to distribute 75% of the HSC section 11502 base fines to the State. As health and safety base fines are combined with the county base fines (PC section 1463.001) account, this error resulted in a \$159,005 overstatement of the base fines line item.

As noted in Finding 3, the county's probation department failed to distribute \$20 to the State's Restitution Fund (PC section 1463.18) from the county base fines (PC section 1463.001). As the State's Restitution Fund (PC section 1463.18) revenues are combined with the county base fines (PC section 1463.001) account, this error resulted in a \$16,560 overstatement of the base fines line item.

As noted in Finding 5, the court did not allocate 30% of the TVS fee (VC section 42007) to the general fund of the city or county in which the offense occurred (VC section 42007.3). As a result of this error, the county overstated TVS fee (VC section 42007) revenues by \$31,838

(\$41,349 × 77%), and overstated city base fine (VC section 42007[c]) revenues by \$5,568 (\$7,232 × 77%).

We included the distribution errors related to qualified revenues made by the court and the county's probation department in our recalculation of the 50% excess of qualified revenues.

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 a net of \$1,994,912 for the audit period.

Qualified revenues were understated for the following reasons:

- For each fiscal year of the audit period, there were variances between the amounts reported for the county's general fund (GC section 76000[c]) on the TC-31s and the amounts reported in the revenue collection reports, resulting in an understatement of \$3,315.
- The county understated qualified revenues by a net of \$132,437 for the audit period because it miscalculated the qualified revenues for the county base fines (PC section 1463.001):
 - County base fines (PC section 1463.001; county arrests) – The court overstated revenues for county arrest base fines by \$326,860 for the audit period.
 - County base fines (PC section 1463.001; city arrests) – The court understated revenues for city arrest base fines by \$316,625 for the audit period.
 - County base fines (PC section 1463.001) – The county's probation department understated revenues for city arrest base fines by \$142,672 for the audit period.
- For fiscal year (FY) 2018-19, the county incorrectly reported 70% of the State Penalty Fund (PC section 1464) revenues collected by the county's probation department instead of reporting 30%. For FY 2019-20 through FY 2021-22, the county incorrectly applied the allocation percentage twice to the revenues in the State Penalty Fund (PC section 1464). The two errors resulted in an understatement of \$570,852.
- For the last three fiscal years of the audit period, the county incorrectly applied the allocation percentage twice when calculating its portion of the TVS fee (VC section 42007.1), resulting in an understatement of \$252,006.
- The county understated qualified revenues by \$1,036,302 for the audit period because it miscalculated and incorrectly excluded qualified revenues from the TVS fee (VC section 42007) for the audit period:
 - The county understated qualified revenues by \$448,641 for the audit period because it miscalculated the qualified revenues for the TVS fee (VC section 42007).

- The county understated qualified revenues by \$587,661 for the audit period because it incorrectly excluded the following revenues from its calculation of the TVS fee (VC section 42007):
 - County Courthouse Construction Fund (GC section 76100) – \$23,087;
 - County Criminal Justice Facilities Construction fund (GC section 76101) – \$23,087;
 - Emergency Medical Services fund (GC section 76104) – \$206,831;
 - Maddy Emergency Medical Services fund (GC section 76000.5) – \$206,831; and
 - City base fines (VC section 42007[c]) from the calculation of the TVS fee (VC section 42007) – \$127,825.

The following table shows the audit adjustments to qualified revenues:

	Fiscal Year				Total
	2018-19	2019-20	2020-21	2021-22	
Qualified revenues reported	\$ 2,603,140	\$ 1,526,665	\$ 1,509,191	\$ 1,508,996	\$ 7,147,992
Audit adjustments:					
GC §76000(c) understatements	5,350	4,256	3,044	(9,335)	3,315
PC § 1463.001 understatements	(85,292)	72,746	72,811	72,172	132,437
PC § 1464 understatements	(37,147)	206,875	200,747	200,377	570,852
VC § 42007.1 understatements	-	93,500	71,706	86,800	252,006
VC § 42007 understatements	172,320	304,193	251,700	308,089	1,036,302
Total	<u>55,231</u>	<u>681,570</u>	<u>600,008</u>	<u>658,103</u>	<u>1,994,912</u>
Adjusted qualified revenues	<u>\$ 2,658,371</u>	<u>\$ 2,208,235</u>	<u>\$ 2,109,199</u>	<u>\$ 2,167,099</u>	<u>\$ 9,142,904</u>

As a result of miscalculating the qualified revenues, the county underremitted the 50% excess of qualified revenues by \$215,110 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 underremittance to the State Treasurer.

Fiscal Year	Qualified 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
2018-19	\$ 2,658,371	\$ (2,036,515)	\$ 621,856	\$ 310,928	\$ (283,312)	\$ 27,616
2019-20	2,208,235	\$ (2,036,515)	171,720	85,860	-	85,860
2020-21	2,109,199	\$ (2,036,515)	72,684	36,342	-	36,342
2021-22	2,167,099	\$ (2,036,515)	130,584	65,292	-	65,292
Total						<u>\$ 215,110</u>

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

As discussed in Finding 1 of our prior audit report dated June 30, 2017, the county underremitted the 50% excess of qualified revenues to the State Treasurer from FY 2009-10 through FY 2014-15. The county did not include accurate amounts of qualified revenues in its MOE calculation. This is a repeat finding, as the county did not correct the calculation errors noted in our prior audit report.

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 FY 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

Recommendation

We recommend that the county:

- Remit \$215,110 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 50-50 Excess Split Revenue Computation Form.

County's Response

We [the county] understand and agree with the proposed adjustments outlined in the Schedule, "Summary of Audit Findings Affecting Remittances to the State Treasurer." On June 24, 2024, our office mailed a separate check for \$350,924 to the California Treasurer Cash Management Division, as instructed and based upon the draft findings report received and discussed with your auditors on April 26, 2024, during the exit conference. This payment represents the total underreported principal amounts identified in both the draft finding report and in the final audit report, which are the same.

FINDING 2— Incorrect distribution of revenues from health and safety violations (repeat finding)

During our testing of the health and safety violations, we found that the county's probation department did not properly collect and distribute revenues from these cases. The base fine distribution error resulted in a \$119,254 underremittance to the State's General Fund (HSC 11502). The error occurred because the department misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the department using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. We tested two health and safety violation cases. During testing, we found three errors related to the department's distribution of revenue from health and safety cases. For both cases tested, we found that the department had failed to:

- Assess the criminal lab fee (HSC section 11372.5) and the drug program fee (HSC section 11372.7) as base fine enhancements;
- Distribute 75% of the base fines from health and safety cases to the State (HSC section 11502); and

- Update its distribution system to increase the State's DNA Identification Fund penalty from \$3 to \$4 (GC section 76104.7).

We did not perform a revenue analysis to determine the fiscal effect of these errors because the department cannot retroactively collect base fine enhancements from defendants or recalculate the base fine enhancements.

We performed a revenue analysis to determine the fiscal effect of the department's failure to distribute 75% of the base fines (HSC section 11502) for health and safety cases to the State. For the audit period, we found that the department had underremitted the State's General Fund (HSC section 11502) by \$119,254.

As discussed in Finding 1, the misstatement of health and safety base fines (HSC section 11502) account and the revenues from county base fines (PC section 1463.001) affects calculation of the 50% excess of qualified revenues. As health and safety base fines (HSC section 11502) are combined with the county base fines (PC section 1463.001) account, the error resulted in a \$159,005 overstatement of the base fines line item. We included the health and safety cases distribution error in our recalculation of qualified revenues (see Finding 1).

We did not perform a revenue analysis to determine the fiscal effect of the incorrect DNA penalty (GC section 76104.7) because the department cannot retroactively collect the higher penalty from defendants.

The incorrect distributions had the following effect:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
State General Fund – HSC §11502	<u>\$ 119,254</u>
County General Fund – HSC §11502	<u>\$ (119,254)</u>

As discussed in Finding 2 of the prior audit report dated June 30, 2017, the department failed to update its distribution system to increase the State's DNA Identification Fund penalty from \$3 to \$4. This is a repeat finding, as the department did not correct the calculation errors noted in our prior audit report.

HSC section 11372.5(a) 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 requires the court to increase the total fine as necessary to include the increment.

HSC section 11372.7(a) requires defendants convicted of violating specific Health and Safety Code sections regulating controlled substances to pay a \$150 drug program fee for each separate offense, and requires the court to increase the total fine as necessary to include the increment.

HSC section 11502(a) requires all moneys, forfeited bail, or fines received by the court under Division 10 of the Health and Safety Code to be distributed as follows: 75% to the State Treasurer and 25% to the county or the city in which the prosecution is conducted.

GC section 76104.7 requires a penalty of \$4 for every \$10 (or fraction thereof), be imposed upon every fine, penalty, or forfeiture levied on criminal offenses, including traffic offenses but excluding parking offenses. The 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's DNA Identification Fund.

Recommendation

We recommend that the county's probation department:

- Remit \$119,254 to the State Treasurer and report on the TC-31 an increase to the State's General Fund (HSC section 11502);
- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects health and safety fines, penalties, and assessments, and when it distributes the resulting revenues;
- Review distributions for accuracy and completeness before remittance; and
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

County Probation Department's Response

The Probation Department understands and agrees with the findings and adjustments related to findings two (2) through four (4) as reported in the "Summary of Audit Findings Affecting Remittances to the State Treasurer."

The errors that resulted in the findings were due to the distribution programming in our collections case management software. We have identified where the specific corrections need to be made within the program and are working with our vendor to implement those corrections.

FINDING 3— Incorrect distribution of revenues from DUI violations (repeat finding)

During our testing of DUI violations, we found that the county's probation department did not properly collect and distribute revenues from these cases. The distribution error resulted in an underremittance of \$16,560 to the State's Restitution Fund (PC section 1463.18). The error occurred because the department misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the department using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. We tested four DUI violation cases. During testing, we found two errors related to the department's distribution of revenue from DUI cases. In all of the four cases tested, we found that the department had failed to:

- Distribute \$20 to the State's Restitution Fund (PC section 1463.18) from county base fines (PC section 1463.001); and
- Update its distribution system to increase the additional penalty from \$3 to \$4 for the State's DNA Identification Fund (GC section 76104.7).

We performed a revenue analysis to determine the fiscal effect of the department's failure to distribute \$20 to the State's Restitution Fund (PC section 1463.18) from the county base fines (PC section 1463.001) for each fiscal year of the audit period. The incorrect distributions had the following effect:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
State Restitution Fund – PC § 1463.18	<u>\$ 16,560</u>
County Base Fines – PC § 1463.001	<u>\$ (16,560)</u>

As discussed in Finding 1, the misstatement of the State's Restitution Fund (PC section 1463.18) and county base fine (PC section 1463.001) revenues affects calculation of the 50% excess of qualified revenues. The error resulted in a \$16,560 overstatement of county base fine (PC section 1463.001) revenues. We included the DUI cases distribution error in our recalculation of qualified revenues (see Finding 1).

Regarding the incorrect DNA penalty (GC section 76104.7), we did not determine the fiscal effect because the department cannot retroactively collect the higher penalty from defendants. Therefore, no revenue analysis was performed.

As discussed in Finding 2 of the prior audit report dated June 30, 2017, the probation department failed to update its distribution system to increase the additional state DNA identification penalty from \$3 to \$4. This is a repeat finding, as the department did not correct the calculation errors noted in our prior audit report.

PC section 1463.18 requires the first \$20 of any amount collected for a DUI conviction to be transferred to the State's Restitution Fund.

GC section 76104.7 requires a penalty of \$4 for every \$10 (or fraction thereof) be imposed upon every fine, penalty, or forfeiture levied on criminal offenses, including traffic offenses but excluding parking offenses. The 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's DNA Identification Fund.

Recommendation

We recommend that the county's probation department:

- Remit \$16,560 to the State Treasurer and report on the TC-31 an increase to the State's Restitution Fund (PC section 1463.18);
- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects DUI fines, penalties, and assessments, and when it distributes the resulting revenues;
- Review distributions for accuracy and completeness before remittance to the county; and
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

County Probation Department's Response

The county's probation department provided one response to Findings 2 through 4, rather than responding to the individual findings; the county's response to this finding is shown in Finding 2.

FINDING 4— Incorrect distribution of the 2% state automation fee

During testing of county's probation department cases, we found that the county's probation department did not properly collect and distribute revenues from DUI, domestic violence, and health and safety violations. The error occurred because the department misinterpreted the *Distribution Guidelines* and incorrectly configured its case management system.

We verified, on a sample basis, distributions made by the department using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. We tested four DUI cases, four domestic violence cases, and two health and safety cases. During testing, we found that the department had failed to distribute 2% of the state restitution fine (PC section 1202.4[b]) to the State Trial Court Improvement and Modernization Fund (GC section 68090.8) in all of the cases tested. We also found that the department had incorrectly distributed 2% of the State's General Fund (PC section 1465.7) revenues to the State Trial Court Improvement and Modernization Fund (GC section 68090.8) in DUI and health and safety cases.

We performed a revenue analysis to determine the fiscal effect of these incorrect distributions. The over- and underremittances were limited to state funds and accounts. The department underremitted the State Trial Court Improvement and Modernization Fund (GC section 68090.8) and the State's General Fund (PC section 1465.7) by a total of \$9,893; and it

overremitted the State’s Restitution Fund (PC section 1202.4[b]) by \$9,893. The incorrect distributions had the following effect:

Account Title	Underremitted/ (Overremitted)
State Trial Court Improvement and Modernization Fund – GC §68090.8	\$ 8,012
State’s General Fund – PC §1465.7	1,881
Total	<u>\$ 9,893</u>
State Restitution Fund – PC § 1202.4(b)	<u>\$ (9,893)</u>

GC section 68090.8(b) 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 county report on the TC-31 an increase of \$8,012 to the State Trial Court Improvement and Modernization Fund (GC section 68090.8), an increase of \$1,881 to the State’s General Fund (PC section 1465.7), and a decrease of \$9,893 to the State’s Restitution Fund (PC section 1202.4 [b]).

We recommend that the county’s probation department:

- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects DUI, domestic violence, and health and safety fines, penalties, and assessments, and when it distributes the resulting revenues; and
- Periodically verify the accuracy of its distributions using the JCC’s distribution worksheets.

County Probation Department’s Response

The county’s probation department provided one response to Findings 2 through 4, rather than responding to the individual findings; the county’s response to this finding is shown in Finding 2.

**FINDING 5—
Incorrect distribution
of revenues from red-
light violations with
traffic violator school**

During our testing of red-light violations with traffic violator school, we found that the court did not properly distribute the related revenues. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its 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. We tested four red-light TVS cases and found that in all four of the cases, the court had

not allocated 30% of the TVS fee (VC section 42007) to the general fund (VC section 42007.3) of the city or county in which the offense occurred.

We performed a revenue analysis to determine the fiscal effect of these distribution errors. We performed an analysis of the revenues collected by the court for the red-light allocation fund (PC section 1463.11) to determine the fiscal effect of the distribution errors. Upon completion of our analysis, we found that the errors had resulted in a net overremittance of \$41,349 to the TVS fee (VC section 42007), a net overremittance of \$7,232 to city base fines (VC section 42007[c]), and a net underremittance of \$48,581 to the 30% red-light allocation (VC section 42007.3) for the audit period. The adjustments noted do not have an impact on state funds or accounts, or on court revenues remitted to the State Treasurer. However, the adjustments have an effect on calculation of the 50% excess of qualified revenues.

As discussed in Finding 1, the misstatement of the TVS fees (VC section 42007) and city base fines (VC section 42007[c]) affects calculation of the 50% excess of qualified revenues. The error resulted in a \$31,838 ($\$41,349 \times 77\%$) overstatement of TVS fee (VC section 42007) revenues and a \$5,568 ($\$7,232 \times 77\%$) overstatement of city base fines (VC section 42007[c]) revenues. We included the red-light TVS cases distribution error in our recalculation of qualified revenues (see Finding 1).

VC section 42007.3(a) requires that the first 30% of the amount collected pursuant to VC section 42007 from each person required or permitted to attend traffic violator school be allocated to the general fund of the city or county in which the offense occurred, and that the balance of the amount collected be deposited by the county treasurer as required by VC section 42007.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that that it complies with statutory requirements when it imposes and collects red-light TVS fines, penalties, and assessments, and when it distributes the resulting revenues;
- Review distributions for accuracy and completeness before remittance to the county; and
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

Court's Response

The court agrees with the finding and recommendation. In the first half of 2023, prior to the start of the audit, the court discovered this error in configuration, and it has since been corrected.

**FINDING 6—
Incorrect distribution
of revenues from DUI
violations**

During our testing of DUI violations, we found that the court did not properly distribute the related revenues. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its 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. We tested four DUI violation cases and found that in one of four cases tested, the court had incorrectly assessed \$140 instead of the required \$150 for the state restitution fine (PC section 1202.4[b]).

The state restitution fine (PC section 1202.4[b]) is subject to the 2% state automation fee (GC section 68090.8). Therefore, when the correct amount for the state restitution fine (PC section 1202.4[b]) was not assessed, the state restitution fine (PC section 1202.4[b]) and the State Trial Court Improvement and Modernization Fund (GC section 68090.8) were understated. However, we did not perform a revenue analysis to determine the fiscal effect of the court's fee collection errors because they cannot be corrected; the court cannot retroactively collect the state restitution fine from defendants.

PC section 1202.4(b) requires that, in every case where a person is convicted of a crime, the court impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. PC section 1202.4(b) further requires that the restitution fine, set at the discretion of the court, be commensurate with the seriousness of the offense; the fine for a felony conviction must not be less than \$300 or more than \$10,000, and the fine for a misdemeanor conviction must not be less than \$150 or more than \$1,000.

GC section 68090.8(b) 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 court:

- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects DUI fines, penalties, and assessments, and when it distributes the resulting revenues; and
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

Court's Response

The court agrees with the finding. An incorrect configuration was applied to some cases following a case management system software

upgrade. In 2022, before the audit was conducted, the court discovered and corrected as many of these errors as could be found.

**FINDING 7—
Incorrect distribution
of revenues from
domestic violence
violations**

During our testing of domestic violence violations, we found that the court did not properly distribute the related revenues. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its 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. We tested one domestic violence violation case and found that the court did not collect and distribute sufficient amounts for the State Trial Court Improvement and Modernization Fund (GC section 68090.8) for fines, penalties, and forfeitures.

For the state restitution fine (PC section 1202.4[b]), the court imposed \$147 rather than the required \$150 and distributed 100% of the \$147 to the state restitution fine (PC section 1202.4[b]). The state restitution fine (PC section 1202.4[b]) is subject to the 2% state automation fee (GC section 68090.8). Therefore, when the correct amount for the state restitution fine (PC section 1202.4[b]) was not assessed, the State Trial Court Improvement and Modernization Fund (GC section 68090.8) was understated. We did not perform a revenue analysis to determine the fiscal effect of the court's fee collection errors because they cannot be corrected; the court cannot retroactively collect the full amount from defendants.

PC section 1202.4(b) requires that, in every case where a person is convicted of a crime, the court impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. PC section 1202.4(b) further requires that the restitution fine, set at the discretion of the court, be commensurate with the seriousness of the offense; the fine for a felony conviction must not be less than \$300 or more than \$10,000, and the fine for a misdemeanor conviction must not be less than \$150 or more than \$1,000.

GC section 68090.8(b) 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 court:

- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects domestic violence fines, penalties, and assessments, and when it distributes the resulting revenues; and

- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

Court's Response

The court agrees with the finding and recommendation. This issue has been corrected.

FINDING 8— Incorrect distribution of revenues from the fish and game violations

During our testing of the fish and game violations, we found that the court did not properly distribute the related revenues. The error occurred because the court misinterpreted the *Distribution Guidelines* and incorrectly configured its 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. We tested four fish and game cases and found that for one of four cases, the court had assessed \$30 for the State's Fish and Game Preservation Fund (Fish and Game Code [FGC] section 12021) rather than the required \$15.

In accordance with FGC section 12021, no more than one such additional penalty may be imposed in a single proceeding. The secret witness penalty (FGC section 12021) is also subject to the 2% state automation fee (GC section 68090.8). Therefore, when the penalty for the State's Fish and Game Preservation Fund (FGC section 12021) was assessed twice, the penalties and the State Trial Court Improvement and Modernization Funds were overstated. However, upon discussions with the court, we determined that the error was case-specific; the error was an isolated incident and not systematic. Therefore, no revenue analysis was performed.

FGC section 12021(a) requires courts to impose an additional penalty of \$15 for a violation of the Fish and Game Code; however, no more than one additional penalty may be imposed in a single proceeding. FGC section 12021(a) further requires that revenue from this penalty be deposited in, the State's Fish and Game Preservation Fund and used exclusively for the purposes of FGC section 13006.

Recommendation

We recommend that the court:

- Correct and monitor its case management system to ensure that it complies with statutory requirements when it imposes and collects fish and game fines, penalties, and assessments, and when it distributes the resulting revenues; and
- Periodically verify the accuracy of its distributions using the JCC's distribution worksheets.

Court's Response

The court agrees with the finding and recommendation. This issue was case-specific and was not systemic.

**FINDING 9—
Incorrect distribution
of revenues from
judge-ordered total
fines**

During our testing of the court’s health and safety and DUI violations, we found that the court did not properly distribute revenues from cases in which the judge-ordered a total fine (top-down distribution). The error occurred because the court did not follow the JCC’s guidelines for top-down distributions and incorrectly configured its case management system.

We found that the court made incorrect distributions for health and safety and DUI violations in cases that involved a judge-ordered total fine. For health and safety and DUI violations, the court correctly allocated the full fine amounts to the components with a specified dollar amount. However, in one of three health and safety cases, and two of two DUI cases involving judge-ordered total fines, the court did not pro-rate the remaining fine amounts evenly amongst the base fines and penalty assessments.

We did not measure the fiscal effect of the error because it would be impractical and difficult to redistribute revenues on every case involving top-down distributions.

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

PC section 1463.004(a) states that if a judge specifies only the total fine or forfeiture, percentage calculations may be used to determine the components of total fines or forfeitures if the calculations result in total monthly distributions that are the same as would be produced by strict observance of the statutory distributions.

Recommendation

We recommend that the court:

- Review and correct its distribution process for judge-ordered total fines to ensure that it follows JCC guidelines for top-down distributions; and
- Periodically monitor and verify the accuracy of its distributions using the JCC’s testing sheets.

Court’s Response

The court agrees with the finding and recommendation. This issue has been corrected.

**FINDING 10—
Incorrect
prioritization of
installment payments**

During our distribution 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* and incorrectly configured its case management system.

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

We tested four cases and found that in all four cases tested, the court had correctly distributed the full fine amounts to priority-one and priority-two revenues before any making distributions to other fines and penalties. However, in all four cases, the court incorrectly made distributions to priority-three revenues prior to fully distributing fine amounts to all priority-two revenues. In addition, for two of the four cases, we found that the court had not evenly distributed 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 1203.1d, subparagraph (b) requires that installment payments be disbursed in the following order of priority:

1. Restitution ordered to victims (PC section 1202.4[f]);
2. State surcharge (PC section 1465.7);
3. Fines, penalty assessments, and restitution fines (PC section 1202.4[b]);
and
4. Other reimbursable costs.

Recommendation

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

Court's Response

The court agrees with the finding and recommendation. This issue has been corrected.

FINDING 11— Failure to impose administrative screening and citation processing fees

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 not to 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 had not consistently imposed administrative screening fees or citation processing fees during the audit period.

The error caused an understatement in deposits to the county's general fund. In addition, the failure to collect the fees resulted in an understatement of the qualified revenues used to compute the MOE calculation. We did not perform a revenue analysis to determine the fiscal effect of the error, because the court cannot retroactively collect the fees from defendants.

During the audit period, PC section 1463.07 required a \$25 administrative screening fee from defendants who were arrested and released on their own recognizance upon conviction for any criminal offense, other than an infraction, related to the arrest. The section also required a \$10 citation processing fee from defendants 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.

PC section 1463.07 was repealed during the audit period by Statutes of 2021, Chapter 257 (Assembly Bill 177); as a result, the administrative screening fee and the citation processing fee were repealed effective September 23, 2021.

Recommendation

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

Court's Response

The court agrees with the finding.

Appendix— Summary of Prior Audit Findings

The following table shows the implementation status of San Luis Obispo County's corrective actions related to the findings contained in our prior audit report dated June 30, 2017.

Prior Audit Finding Number	Prior Audit Finding Title	Status
1	Underremitted the 50% excess of qualified fines, fees, and penalties.	Not implemented – see current Finding 1.
2	Underremitted State DNA Identification Fund	Not implemented – see current Findings 2 and 3.
3	Underremitted State DNA Identification Fund (Prop 69)	Fully implemented.
4	Underremitted DUI fines	Fully implemented.

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



COUNTY OF SAN LUIS OBISPO
Office of James W. Hamilton, CPA
Auditor-Controller • Treasurer-Tax Collector • Public Administrator

Michael Stevens, Deputy
Justin Cooley, Deputy

September 12, 2024

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

Dear Ms. Kurokawa:

Please accept this response from the County of San Luis Obispo regarding the Court Revenues Audit Report, for July 1, 2018 through June 30, 2022, dated September 11, 2024. Overall, we concur with the auditors' findings. We appreciate the auditors' thoroughness and helpfulness in explaining the findings so that the appropriate corrections could be made. We have also conducted meetings with the San Luis Obispo County Probation Department and the Superior Court of California, to plan and implement updated procedures in accordance with the requirements detailed in GC Sec 77205 and PC Sec 1463.

We understand and agree with the proposed adjustments outlined in the Schedule, "Summary of Audit Findings Affecting Remittances to the State Treasurer." On June 24, 2024, our office mailed a separate check for \$350,924 to the California Treasurer Cash Management Division, as instructed and based upon the draft findings report received and discussed with your auditors on April 26, 2024 during the exit conference. This payment represents the total underreported principal amounts identified in both the draft finding report and in the final audit report, which are the same.

Enclosed is a copy of the \$350,924 warrant and associated TC31 reports received by your office in June 2024 in response to the draft audit findings report. We respectfully request that any penalties be calculated based upon the date the payment was received by your office, which was mailed to you on June 24, 2024.

Please feel free to contact me at (805) 781-5040 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Hamilton".

James W. Hamilton, CPA
Auditor-Controller-Treasurer-Tax Collector Public Administrator

County of San Luis Obispo Government Center

1055 Monterey Street, Room D290 | San Luis Obispo, CA 93408 | (P) 805-781-5831 | (F) 805-781-5362
ttc@co.slo.ca.us | <http://sloacttc.com>

**Attachment B—
San Luis Obispo County’s Probation Department’s
Response to Draft Audit Report**



COUNTY OF SAN LUIS OBISPO
PROBATION DEPARTMENT
Robert B. Reyes *Chief Probation Officer*

September 23, 2024

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

Dear Ms. Kurokawa:

Please accept this response from the County of San Luis Obispo regarding the July 1, 2018 through June 30, 2022 Court Revenue Audit Report, dated June 2024. Overall, we concur with the auditors' findings. We appreciate the auditors' thoroughness and helpfulness in explaining the findings so that the appropriate corrections could be made.

The Probation Department understands and agrees with the findings and adjustments related to findings two (2) through four (4) as reported in the "Summary of Audit Findings Affecting Remittances to the State Treasurer".

The errors that resulted in the findings were due to the distribution programming in our collections case management software. We have identified where the specific corrections need to be made within the program and are working with our vendor to implement those corrections.

If you require any additional information, please contact Wendy Saunders, Department Administrator at (805) 781-4074.

Sincerely,

A handwritten signature in blue ink that reads "Robert B. Reyes".

Robert B. Reyes
Chief Probation Officer

County of San Luis Obispo Probation Main Office
1730 Bishop St. | San Luis Obispo, CA 93401 | (P) 805-781-5300
www.slocounty.ca.gov

**Attachment C—
Superior Court of California, San Luis Obispo County’s
Response to Draft Audit Report**

Superior Court of California
County of San Luis Obispo

Court Administration

Hon. Rita Federman
Presiding Judge

Michael Powell
Court Executive Officer



Courthouse Annex
1035 Palm Street, Room 385
San Luis Obispo, CA 93408

(805) 706-3615
(805) 706-0210 FAX

slo.courts.ca.gov

September 17, 2024

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

Re: Trial Court Revenue Distribution Audit of the Superior Court, County of San Luis Obispo

Dear Ms. Kurokawa,

We have received the draft audit report dated September 11, 2024, and appreciate the thorough report. The court's responses to the findings in the draft report are below.

Finding 5 – Incorrect distribution of revenues from redlight violations with traffic violator school (Court)

The court agrees with the finding and recommendation. In the first half of 2023, prior to the start of the audit, the court discovered this error in configuration, and it has since been corrected.

Finding 6 – Incorrect distribution of revenues from the DUI violations (Court)

The court agrees with the finding. An incorrect configuration was applied to some cases following a case management system software upgrade. In 2022, before the audit was conducted, the court discovered and corrected as many of these errors as could be found.

Finding 7 – Incorrect distribution of revenues from the domestic violence violations (Court)

The court agrees with the finding and recommendation. This issue has been corrected.

Finding 8 – Incorrect distribution of revenues from the fish and game violations (Court)

The court agrees with the finding and recommendation. This issue was case-specific and was not systemic.

Finding 9 – Incorrect distribution of judge-ordered total fines (Court)

The court agrees with the finding and recommendation. This issue has been corrected.

Finding 10 – Incorrect prioritization of installment payments (Court)

The court agrees with the finding and recommendation. This issue has been corrected.

Finding 11 – Failure to impose administrative screening and citation processing fees (Court)

The court agrees with the finding.

Thank you for the opportunity to respond to the draft audit report.

Sincerely,

Michael Powell

Michael Powell
Court Executive Officer
Superior Court of California, County of San Luis Obispo

cc: Hon. Rita Federman, Presiding Judge
Dana Dowse, Assistant CFO
Geoff O'Quest, CFO

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

www.sco.ca.gov