

# **KINGS COUNTY**

Audit Report

## **COURT REVENUES**

*July 1, 2001, through June 30, 2006*



**JOHN CHIANG**  
California State Controller

April 2007



**JOHN CHIANG**  
**California State Controller**

April 25, 2007

Doil O'Steen  
Director of Finance  
Kings County  
1400 W. Lacey Boulevard  
Hanford, CA 93230

Todd H. Barton  
Court Executive Officer  
Superior Court of California  
Kings County  
1426 South Drive  
Hanford, CA 93230

Dear Mr. O'Steen and Mr. Barton:

The State Controller's Office audited Kings County's court revenues for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$876,766 in court revenues to the State Treasurer because it underremitted:

- The 50% excess of qualified fines, fees, and penalties by \$296,165;
- State surcharges by \$172,967; and
- State court facilities construction penalties by \$407,634.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2001, through June 30, 2006.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Greg Brummels, Audit Manager  
State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, California 94250-5874

Jaime Delgadillo, Collections Supervisor  
Division of Collections  
Bureau of Tax Administration  
Post Office Box 942850  
Sacramento, California 94250-5880

**Once the county has paid the underremitted Trial Court Improvement Fund and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts at the rate of 18% per annum and bill the county accordingly, in accordance with *Government Code* Sections 68085 and 70377.**

If you have any questions, please contact Steve Fujimori, Acting Chief, Special Audits Bureau, at (916) 323-1774.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/jj

cc: John A. Judnick, Manager, Internal Audit  
    Judicial Council of California  
    Karen McGagin, Executive Officer  
    Victim Compensation and Government Claims Board  
    Renee Renwick, Deputy Director  
    Administration Division  
    Department of Fish and Game  
    Greg Jolivette  
    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 Kings County for the period of July 1, 2001, through June 30, 2006. The last day of fieldwork was November 30, 2006.

Our audit disclosed that the county underremitted \$876,766 in court revenues to the State Treasurer because it underremitted:

- The 50% excess of qualified fines, fees, and penalties by \$296,165;
- State surcharges by \$172,967; and
- State court facilities construction penalties by \$407,634.

## 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 a portion of such money, the court is required by *Government Code* Section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to 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.

*Government Code* Section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. *Government Code* Section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, *Government Code* Section 12410 provides the State Controller with general audit authority to ensure that state funds are properly safeguarded.

## Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2001, through June 30, 2006. We did not review the timeliness of any remittances the county may be required to make under *Government Code* Sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Probation Department, and Auditor-Controller's Office.

We performed the following procedures.

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's *Manual of Accounting and Audit Guidelines for Trial Courts*.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

We conducted our audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States. We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

## **Conclusion**

Kings County underremitted \$876,766 in court revenues to the State Treasurer. The overremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

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

The county has satisfactorily resolved the findings noted in our prior audit report, issued July 31, 2002, with the exception of Finding 5.

## **Views of Responsible Officials**

We issued a draft audit report on January 26, 2007. Robert Knudson, Senior Accountant/Auditor responded through a telephone conversation on March 13, 2007, stating that the county would not comment on the draft audit report. Todd Barton, Court Executive Officer, responded through a telephone conversation on March 19, 2007, agreeing with the audit results but noting that Finding 5 is the result of an old accounting system.

**Restricted Use**

This report is solely for the information and use of Kings County, the Kings County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

**Schedule 1—  
Summary of Audit Findings by Fiscal Year  
July 1, 2001, through June 30, 2006**

Description	Account Title <sup>1</sup>	Code Section	Fiscal Year					Total	Reference <sup>2</sup>
			2001-02	2001-02	2002-03	2003-04	2004-05		
Underremitted 50% in excess of fines, fees, and penalties	State Trial Court Improvement Fund	<i>Government Code</i> §77205	\$ 83,105	\$ 82,396	\$ 61,755	\$ 27,916	\$ 40,993	\$ 296,165	Finding 1
Underremitted 20% state and state court facilities construction penalties from traffic school bail	State General Fund 20% Surcharge State Court Facility Construction Fund	<i>Penal Code</i> §1464.7 <i>Government Code</i> §70372(a)	—	24,122	52,982	50,571	45,292	172,967	Finding 4
			—	—	78,535	167,890	161,209	407,634	
<b>Total</b>			<u>\$ 83,105</u>	<u>\$ 106,518</u>	<u>\$ 193,272</u>	<u>\$ 246,377</u>	<u>\$ 247,494</u>	<u>\$ 876,766</u>	

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

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

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Improvement Fund  
July 1, 2001, through June 30, 2006**

<u>Month</u>	<u>Fiscal Year</u>				
	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
August	<u>\$ 83,105</u>	<u>\$ 82,396</u>	<u>\$ 61,755</u>	<u>\$ 27,916</u>	<u>\$ 40,993</u>
Total underremittances to the State Treasurer	<u>\$ 83,105</u>	<u>\$ 82,396</u>	<u>\$ 61,755</u>	<u>\$ 27,916</u>	<u>\$ 40,993</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to *Government Code* Section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 3—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2001, through June 30, 2006**

<u>Month</u>	Fiscal Year		
	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>
July	\$ —	\$ 19,213	\$ 13,809
August	—	18,263	14,778
September	—	17,584	14,604
October	—	13,576	15,067
November	—	11,976	13,364
December	—	10,288	12,179
January	13,951	12,829	14,529
February	10,045	11,672	11,758
March	12,210	14,094	14,955
April	13,296	13,853	12,043
May	13,302	12,231	12,160
June	15,731	12,311	11,962
Total underremittances to the State Treasurer	<u>\$ 78,535</u>	<u>\$ 167,890</u>	<u>\$ 161,208</u>

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to *Government Code* Section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

# Findings and Recommendations

## **FINDING 1— Underremitted excess of qualified fines, fees, and penalties**

The County Auditor-Controller's Office underremitted by \$296,165 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five-fiscal-year (FY) period starting July 1, 2001, and ended June 30, 2006.

*Government Code* Section 77201(b)(2) requires Kings County, for its base revenue obligation, to remit \$982,208 for FY 1998-99 and each fiscal year thereafter. In addition, *Government Code* Section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers and as a result of conditions identified as follows.

- When preparing the MOE for all five fiscal years, the County Auditor-Controller's Office did not report revenues from adult and juvenile probation base fines or the 30% state penalty. The county should have included in the MOE \$371,596 in adult and juvenile base fines and \$204,198 in 30% state penalties.
- When preparing the MOE for all five fiscal years, the County Auditor-Controller's Office did not report recording and individual fees per *Government Code* Section 27361. The county should have included \$574,497 in the MOE.
- When preparing the MOE for all five fiscal years, the County Auditor-Controller's office did not completely reduce the county's realignment base fine account for revenues it calculated on convictions from evidence-of-financial-responsibility violations. The county should not have included \$107,897 in the MOE.
- As stated in Finding 4, the County Auditor-Controller's office did not take state surcharges and state court construction facility penalties out of the reported traffic violator school (TVS) violations; also, \$172,967 ( $\$224,632 \times 77\%$ ) in state surcharges and \$407,634 ( $\$529,395 \times 77\%$ ) in the MOE.

The qualified revenues reported for FY 2001-02 were \$1,875,579. The excess, above the base of \$982,208, is \$893,376. This amount should be divided equally between the county and the State, resulting in \$446,685 excess due the State. The county has remitted a previous payment of \$363,581, causing an underremittance of \$83,105.

The qualified revenues reported for FY 2002-03 were \$1,777,839. The excess, above the base of \$982,208, is \$795,631. This amount should be divided equally between the county and the State, resulting in \$397,816 excess due the State. The county has remitted a previous payment of \$315,420, causing an underremittance of \$82,396.

The qualified revenues reported for FY 2003-04 were \$1,823,882. The excess, above the base of \$982,208, is \$841,674. This amount should be divided equally between the county and the State, resulting in \$359,082 excess due the State. The county has remitted a previous payment of \$359,082, causing an underremittance of \$61,755.

The qualified revenues reported for FY 2004-05 were \$1,905,078. The excess, above the base of \$982,208, is \$922,870. This amount should be divided equally between the county and the State, resulting in \$461,435 excess due the State. The county has remitted a previous payment of \$433,519, causing an underremittance of \$27,916.

The qualified revenues reported for FY 2005-06 were \$1,840,306. The excess, above the base of \$982,208, is \$858,098. This amount should be divided equally between the county and the state, resulting in \$429,049 excess due the State. The county has remitted a previous payment of \$388,056, causing an underremittance of \$40,993.

The underremittances had the following effect.

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
Trial Court Improvement Fund—	
<i>Government Code</i> Section 77205:	
FY 2001-02	\$ 83,105
FY 2002-03	82,396
FY 2003-04	61,755
FY 2004-05	27,916
FY 2005-06	40,99
County General Fund	(296,165)

Recommendation

The county should remit \$296,165 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund—*Government Code* Section 77205. The county should also make the corresponding account adjustments.

**FINDING 2—  
Underremitted state  
penalties and state  
court construction  
facility penalties**

When implementing a new percentage formula to include a \$1 component for DNA penalties, the probation department inappropriately applied a lower percentage to state penalties and state court construction facility penalties that did not represent a full \$10 and \$5 component, respectively. Probation personnel indicated that the erroneous distributions were due to inaccurate computer-programming.

*Penal Code* Section 1464(e) requires a \$10 penalty for every \$10 base fine. 70% of the penalty is to be transmitted to the State Penalty Fund while the remaining 30% is to be deposited in the County General Fund. *Government Code* Section 70372(a) requires that Kings County Courts include a \$5 penalty for every \$10 base fine to be deposited in the State Court Facilities Construction Fund.

Failure to make the required priority distribution causes distributions to the State and county to be inaccurately stated. We did not measure the fiscal effect because it did not appear to be material and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Probation Department should take steps to ensure that all penalties are distributed in accordance with the statutory requirements.

### **FINDING 3— Erroneous distribution priority by the Probation Department**

The Kings County Probation Department prioritized collections in a manner that inappropriately gave a distribution priority to fines and penalties over state 20% surcharges, while civil assessment and state security fees were given priority over fines and penalties. The error occurred because department staff members overlooked the additional computer-programming procedure requirements.

Starting September 30, 2002, *Penal Code* Section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

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

The state 20% surcharge should be collected prior to any collection of fines and penalties within category 2 and the collection of civil assessment and state security fees should be included within category 4 with other reimbursable costs.

Failure to make the required priority distribution causes distributions to the state and county to be inaccurately stated. We did not measure the fiscal effect because it did not appear to be material and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Probation Department should ensure that all surcharges, fines, penalties, and fees are distributed in accordance with the statutory requirements under *Penal Code* Section 1203.1d.

**FINDING 4—  
Underremitted 20%  
State surcharges and  
state court facilities  
construction penalties  
from traffic school  
bail**

The Kings County Superior Court did not correctly deduct state surcharges starting October 2002 or state court facilities construction penalties starting January 2004. Court personnel indicated that the required distribution was inadvertently overlooked.

Starting September 30, 2002, *Penal Code* Section 1465.7 requires a State surcharge of 20% to be levied on all criminal base fines used to calculate the state penalty assessment, as specified in *Penal Code* Section 1464. The surcharge should be applied to criminal fines, including traffic violator school bail.

Effective January 1, 2004, for all traffic school violations, *Vehicle Code* Section 42007 requires the Kings County Courts to include a \$5 penalty, to be collected pursuant to *Government Code* Section 70372(a), on every \$10 fine or portion thereof. The distribution should be deposited in the State Court Facilities Construction Fund.

The incorrect distributions for traffic violator school fees affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance of Effort formula pursuant to *Government Code* Section 77205. In addition, the inappropriate distribution has the following effect.

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State General Fund–20% Surcharge	\$ 172,967
State Court Facilities Construction Fund	407,634
County General Fund	(580,601)

**Recommendation**

The county should remit \$580,601 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$172,967 to the State General Fund–*Penal Code* Section 1465.7 and \$407,634 to the State Court Facilities Construction Fund–*Government Code* Section 70372(a). The county should also make the corresponding account adjustments.

The Superior Court should establish formal procedures to ensure that all traffic school violations are correctly distributed in accordance with statutory requirements. A redistribution should be made for the collection period starting July 2006 through the date the current system is revised.

**FINDING 5—  
Court accounts  
receivable collections  
detail not reported at  
entry level**

As noted in our previous audit, the Kings County Superior Court did not maintain a complete record of cash distributions in accordance with *Government Code* (GC) Section 68101. Daily cash collections are summarized by account; however, the distribution detail for each revenue account at the case level is not summarized.

*Government Code* Section 68101 requires that “any judge imposing or collecting such fines or forfeitures shall keep a record of them. . . .” The court’s cash receipt detail is incomplete.

This finding was addressed in the SCO audit of the Kings County Superior Court for the period of July 1997 through June 2001 (report issued July 31, 2002). At present, the court has not implemented procedures to correct this error.

Failure to record the distribution at the cash receipt entry prohibits the verification of such revenues at the source level. State, county, and city distributions may have inappropriate distributions; however, due to this error, any such distributions cannot be readily identified.

#### Recommendation

The court should modify its accounting system to provide a complete detail record of revenue account distributions at the cash receipt level.

### **FINDING 6— Erroneous distribution priority by the court**

The Kings County Superior Court prioritized collections in a manner that inappropriately gave a distribution priority to various fees and state restitution fines over state 20% surcharges, fines, and penalties. The error occurred because the department staff overlooked the additional computer-programming procedure requirements.

Starting September 30, 2002, *Penal Code* Section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

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

The state 20% surcharge should be collected prior to any collection of fines and penalties within category 2 and the collection of various fees should be included within category 4 with other reimbursable costs.

Failure to make the required priority distribution causes distributions to the State and county to be inaccurately stated. We did not measure the fiscal effect because it did not appear to be material and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The court should take steps to ensure that all surcharges, fines, penalties, and fees are distributed in accordance with the statutory requirements under *Penal Code* Section 1203.1d.

**State Controller's Office  
Division of Audits  
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