

# OFFICE OF AUDITS & ADVISORY SERVICES



## OFFICE OF REVENUE AND RECOVERY PERFORMANCE AUDIT

### *FINAL REPORT*

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# County of San Diego

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AUDITOR AND CONTROLLER

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**JUAN R. PEREZ**  
CHIEF OF AUDITS

April 13, 2020

TO: LeShay M. Shaw, Director  
Office of Revenue and Recovery

FROM: Juan R. Perez  
Chief of Audits

## FINAL REPORT: OFFICE OF REVENUE AND RECOVERY PERFORMANCE AUDIT

Enclosed is our report on the Office of Revenue and Recovery Performance Audit. We have reviewed your response to our recommendations and have attached it to the audit report.

The actions taken and/or planned, in general, are responsive to the recommendations in the report. As required under Board of Supervisors Policy B-44, we respectfully request that you provide quarterly status reports on the implementation progress of the recommendations. You or your designee will receive email notifications when these quarterly updates are due, and these notifications will continue until all actions have been implemented.

If you have any questions, please contact me at (858) 495-5661.

JUAN R. PEREZ  
Chief of Audits

AUD:CE:nb

Enclosure

c: Tracy M. Sandoval, Deputy Chief Administrative Officer/Chief Financial Officer  
Tracy Drager, Auditor and Controller  
Damien Quinn, Group Finance Director, Finance and General Government Group

## INTRODUCTION

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**Audit Objective** The Office of Audits & Advisory Services (OAAS) completed a performance audit of the Office of Revenue and Recovery (ORR). The objective of the audit was to evaluate management controls in place to ensure effectiveness of operations.

**Background** ORR is the designated collection agency for the County of San Diego (County). As a division of the Auditor and Controller Department, ORR is responsible for the management, collection, and accounting of receivables owed to County departments for a variety of programs and services, excluding child support and property taxes. ORR also collects and distributes, on behalf of the Chief Probation Officer, fines, fees, and penalties imposed by the courts. ORR uses the Revenue Plus Collection System (RPCS) to manage accounts assigned to ORR for collection.

As of April 30, 2018, ORR managed approximately 500,000 accounts which represent approximately \$420M. From this amount, \$239.2M were past due. During FY 2017-18, ORR collected \$18.4M with a recovery rate of 7.38%.<sup>1</sup>

Most of the State of California laws relating to collection and distribution of accounts receivable are part of the Government Code (GC), Penal Code (PEN), Health and Safety Code (HSC), and Welfare and Institutions Code (WIC).

ORR collection methods and tools include collection calls, delinquency letters, imposition of liens, skip tracing,<sup>2</sup> and Small Claims Court filings. In addition, ORR submits qualified delinquent accounts to the Franchise Tax Board (FTB) through the Interagency Intercept Collection (IIC) and the Court-Ordered Debt Collection (COD) programs, and to the California Department of Social Services (CDSS) through the Internal Revenue Service (IRS) Intercept program. FTB IIC intercepts state tax refunds or lottery winnings due to a debtor. FTB COD issues a levy against a debtor's bank account, wages or other miscellaneous source of income. IRS intercepts federal tax refunds.

ORR charges client departments and debtors various fees to cover the administrative and clerical costs for the collection of accounts receivable. Accounts referred to the FTB and IRS are charged a fee by each respective agency based on the amount that is collected. For FTB COD and IRS collections, ORR will offset the fee amount against the amount collected. FTB IIC fees are absorbed by ORR. Fees charged for collections are shown in Table 1 on the following page:

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<sup>1</sup> The recovery rate is the annual collections divided by the annual average available accounts receivable.

<sup>2</sup> Skip tracing is a process to locate the debtor.

**Table 1. Collection Fees**

Description	Authority	Amount	Recipient	Payor
Service Fee	MOU Agreement	30%-35% of amount collected or a flat \$100,000 annually	ORR	County Departments
Overhead Cost	County Cost Allocation Plan	Prorated % of ORR overhead costs	ORR	County Departments
Admin Fee	PEN	Varies based on the type of the court-ordered fine and Restitution	ORR	Debtor
FTB COD Fee	FTB COD Agreement	15% of the amount collected	FTB	ORR
FTB IIC Fee	FTB IIC Agreement	For calendar year 2018, \$1.80 per successful offset	FTB	ORR
IRS Fee	IRS Agreement	82.5% of the amount collected	IRS	HHSA

### **Audit Scope & Limitations**

The scope of the audit focused on delinquent account follow-up, application of payments received, fees charged, controls over cash receipts, accounts receivable set up and collection, implementation of new legislation, maximization of debt collection and user access rights.

This audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing prescribed by the Institute of Internal Auditors as required by California Government Code, §1236.

### **Methodology**

The audit was performed using the following methods:

- Reviewed applicable laws, regulations, and ORR policies.
- Interviewed key personnel on policies, procedures, and processes relevant to the areas being reviewed.
- Assessed the risks to achieving ORR's key objectives independently and in coordination with ORR management.
- Conducted specific audit procedures (e.g., interviews, document inspection, recalculation, and data analytics) on the following processes:
  - Implementation of new laws and regulations
  - Cancellation of delinquent accounts
  - Fees charged to County departments and debtors
  - Fees paid to the collection programs
  - Account opening and set up in RPCS
  - Application of collection payments received
  - Controls over cash receipts
  - RPCS user access rights
  - Third-party debt referrals
  - Interest charged to debtors

## AUDIT RESULTS

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### Summary

Within the scope of the audit, ORR's management controls need improvement to ensure the effectiveness of operations. Opportunities for improvement exist in the following areas: delinquent account follow-up; application of payments received, determination of fees charged for services provided, internal controls over cash receipts, accounts receivable set up and collection, calculation of interest, maximization of debt collection, and administration of system user rights. Specific opportunities to further strengthen current controls and effectiveness in these areas are presented in the findings and related recommendations below.

### Finding I:

#### Priority of Victim Restitution Payments

California Penal Code (PEN) §1203.1d stipulates that any amounts collected by the FTB are to be applied to victim restitution prior to the payment of other debts. Additionally, the signed court orders specify that all payments received from the debtor are to be applied to victim restitution before any other debt listed in the account.

A judgmental sample of 30 payments received during FY 2017-18 was reviewed to determine whether payments were accurately applied to debtor accounts. This sample included 10 payments received via the FTB COD program. We found that three of the 10 payments collected through the FTB COD were applied to fees prior to victim restitution.

ORR does not submit the victim restitution portion of the debtor's account to FTB COD for collection because the FTB charges a 15% fee of the amount collected as an administration fee. Since court orders specify the amount that victims are entitled to receive as restitution, ORR has determined that the FTB 15% administration fee charge cannot be passed to the victim. Therefore, only other debts listed in the debtor's account such as, probation supervision charges, attorney fees and other fees, are submitted to the FTB for collection with the 15% related cost paid by the recipient department.

The application of collections received to other debts prior to victim restitution results in non-compliance with PEN §1203.1d as well as signed court orders.

### Recommendation:

In order to ensure compliance with County requirements, laws and regulations regarding priority of payments received, ORR should:

1. Develop and formalize a process for referral of victim restitution accounts to the FTB. The following should be addressed during the development of the process:
  - a) Revenue and Taxation Code (RTC) 19280(a)(1)(C) allows a victim to choose their preference of a collection agency, including the FTB, if desired. The process should inform victims of this option to allow them to choose this option.

- b) Explore the possibility of pursuing legislation to authorize adding the FTB administrative fee to the debtor's balance.

## Finding II:

### Backlog of Outstanding Victim Trust Accounts

CA Government Code (GC) §50050 states that:

At the expiration of the three-year period, money representing restitution collected on behalf of victims shall be deposited into the Restitution Fund or used by the local agency for purposes of victim services. If a local agency elects to use the money for purposes of victim services, the local agency shall first document that it has made a reasonable effort to locate and notify the victim to whom the restitution is owed.

According to the California Victim Compensation Board, the State Restitution Fund uses the funding to assist victims of crime.

The Victim Trust Account report as of August 22, 2018 was comprised of 7,857 existing accounts with a total balance of \$1,600,658. From the total number of existing accounts, there were 3,181 victim accounts with last payment dates aged three years or greater with a balance of \$513,423. See Table 2 below for an illustration of the breakdown of existing accounts:

**Table 2. Existing Victim Trust Accounts as of 8/22/18**

Last Payment Date / Amount	No. of Accounts	Total \$ Amount
3 Yrs. or greater / \$500 or greater	196	\$218,141
3 Yrs. or greater / Less than \$500	2,985	\$295,282
<b>Total Accounts w/ Payment Dates 3 Yrs. or Older</b>	<b>3,181</b>	<b>\$513,423</b>
Less than 3 Yrs.	4,676	\$1,087,235
<b>Total of All Accounts</b>	<b>7,857</b>	<b>\$1,600,658</b>

The victims for accounts with last payment dates that are over three years old have not been located and the related account balances have not been transferred to the State Restitution Fund or used for victim services, as required by State law. As such, not transferring outstanding balances to the State Restitution Fund or the ORR Victim Services Trust Fund to be utilized for victim services, results in non-compliance with GC §50050.

According to ORR management, they have limited resources to skip trace victims and ensure sufficient due diligence before these accounts can be transferred to the State Restitution Fund or used for victim services. Furthermore, ORR management stated that identifying accurate data on victims of crime continues to be a challenge which they continue to work with client departments to address.

Additionally, procedures that specify when victim trust fund accounts can be escheated to ORR Victim Services or transferred to the State Restitution Fund were in draft format and had not yet been finalized by ORR.

**Recommendation:** In order to reduce the backlog of outstanding accounts and free up resources to ensure timely skip tracing of victims, ORR should:

1. Conduct a one-time clean-up of existing accounts by doing the following:
  - a) Identify existing victim trust accounts with last payment dates greater than three years with a balance of less than \$500.<sup>3</sup>
  - b) Transfer these balances to the State Restitution Fund.

By referring these accounts to the State Restitution Fund, ORR will be able to reduce their backlog in accounts by approximately 94%, which will enable them to focus resources on remaining and future outstanding victim trust accounts.

2. Identify accounts with last payment dates greater than three years with a balance of \$500 or greater and perform, and document, at least three skip tracing attempts to locate the victim during the next year.
3. At the end of the year period, if ORR is unable to locate the victim, begin the process to escheat the victim's account balance to the ORR Victim Services Trust Fund and/or the State Restitution Fund.
4. Develop and formalize a plan to utilize the ORR Victim Services Trust Fund to provide services to victims.
5. Establish a process for client departments to obtain agreement from the victims, or objection from the victims, to share their information with ORR for the purpose of collection and disbursement of restitution as authorized by PEN §1203c (d).
6. Formalize procedures that specify when reasonable efforts to locate and notify the victim have been made, and related victim trust accounts should be escheated to ORR Victim Services or transferred to the State Restitution Fund.

**Finding III: Incorrect Calculation of Interest in RPCS**

PEN §1214.5 provides the following guidelines when applying interest to debtor accounts:

- (a) In any case in which the defendant is ordered to pay more than fifty dollars (\$50) in restitution as a condition of probation, the court may, as an additional condition of probation since the court

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<sup>3</sup> OAAS selected "less than \$500" as the threshold amount to conduct the clean up because outstanding accounts for over 3 years with a balance of less than \$500 represent approximately 94% (2,985) of the total outstanding accounts for over 3 years (3,181) (see Table 2).



determines that the defendant has the ability to pay, as defined in subdivision (e) of Section 1203.1b, order the defendant to pay interest at the rate of 10 percent per annum on the principal amount remaining unsatisfied. (b) (1) Except as provided in paragraph (2), interest commences to accrue on the date of entry of the judgment or order. (2) Unless the judgment or order otherwise provides, if restitution is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

We reviewed a sample of eight debtor accounts to which interest was charged during the FY 2017-18 and noted that interest was calculated incorrectly. Three victim restitution accounts were undercharged by approximately 10%.

The calculation error is due to an "arrears percentage" formula that is applied to the interest calculation in RPCS for Victim Restitution accounts. The formula reduces the interest charged to a debtor by approximately 10%. According to ORR management, this "arrears percentage" was programmed into RPCS during the initial set up many years ago but they are unaware as to its purpose.

Since the "arrears percentage" formula is programmed into RPCS, interest is being undercharged to all Victim Restitution accounts by approximately 10%. As of April 30, 2018, there were 6,677 Victim Restitution accounts with an outstanding balance.

**Recommendation:** To ensure interest is calculated and applied to debtor accounts correctly ORR should:

1. Work with the system vendor to remove the "arrears percentage" formula from the interest rate calculation in RPCS.

**Finding IV: ORR Fees Lack Consistency**

Fees charged to client departments are not applied consistently. Specifically:

- Some departments are charged a 35% collection fee while collection costs for other departments are recovered through the Countywide Cost Allocation Plan. However, there is no documented criteria as to when each method will be utilized.
- The 35% collection fee is not substantiated by relevant data, such as the administrative cost to collect on an account and is instead, based on historical precedent.
- Sections 92 (h) and 92 (i) of the Admin Code authorize ORR to provide services based on agreements with County departments or State or court agencies. However, many of the agreements between ORR and client departments which include, Letters of Agreement, Memorandums of Agreement and Memorandums of Understanding, are either outdated or obsolete with the oldest agreement dated

November 8, 1993. Additionally, for some departments, there are no documented agreements.

According to ORR management, fees are based on historical precedent and have remained the same over the years. As such, departments may be incorrectly charged for collection services.

**Recommendation:** ORR should take the following steps to ensure that fees charged accurately reflect the cost of collection:

1. Develop specific criteria that outlines fee collection methods and how they should be used.
2. For departments for which a specific fee will be charged, perform a cost study to determine the costs of collection. Use the cost study results to determine the fee and document it in each respective agreement.
3. Document the agreed upon fee collection method with each department in a signed agreement.

**Finding V:**

**Maximization of Debt Collections**

As of April 30, 2018 ORR had approximately \$420M in outstanding accounts, of which \$239.2M was overdue.<sup>4</sup> Table 3 below illustrates an analysis of collectable and past due accounts:

**Table 3. Past Due Account Totals (Dollars in Millions)**

31-60 Days	61-90 Days	91-120 Days	Over 120 Days	Total
\$3M	\$2M	\$2.7M	\$231.5M	\$239.2M

ORR entered into a contract with a third-party collection agency on January 1, 2013. This contract remained in effect until December 31, 2018. We found that, in FY 2014-15, ORR referred one batch of accounts totaling \$803,695 for collection since contract inception. Table 4 below summarizes the amount of debt referred to the agency and the collections received by the agency on behalf of debtors:

**Table 4. Referrals to 3<sup>rd</sup> Party Collection Agency**

Fiscal Year	Amount Referred	Amount Collected
2013-2014	\$0	\$0
2014-2015	\$803,695	\$1,223
2015-2016	\$0	\$0
2016-2017	\$0	\$0
2017-2018	\$0	\$0
2018-2019	\$0	\$0

<sup>4</sup> The \$420M in outstanding accounts is comprised of \$180.8M pending/not yet due, and \$239.2M overdue.

ORR indicated that the low collection rate could be attributable to the fact that accounts referred were considered difficult to collect and had already been worked by ORR prior to being referred. Therefore, substantial collections were not expected.

According to ORR management, they were hesitant to refer additional accounts for collection because the agency collected less than 1% and as such proved to not be an effective method of collection.

Considering that delinquent outstanding accounts total approximately \$239.2M, an opportunity exists to enhance overall collections by referring additional accounts to a third-party collection agency in cases where ORR has already exhausted their collection efforts.

According to the Admin Code, Section 92, ORR will provide professional collections and revenue recovery services which will serve all levels of County Government to maximize the recovery of monies due and owing.

By underutilizing all available collection opportunities, ORR is not maximizing their recovery efforts in accordance with County policy.

**Recommendation:** To maximize all available collection opportunities, ORR should:

1. Utilize established County procurement process to identify and contract with a third-party collection agency to maximize all available collection opportunities.

**Finding VI:**

**Uncollectable Delinquent Debt**

We tested a sample of 30 accounts that were delinquent for more than 120 days as of April 30, 2018 and remained open in the RPCS system. We identified four accounts for which no activity had been recorded, no payments had been received, and no successful contact had been made for over three years. See Table 5:

**Table 5. Delinquent Accounts Identified**

Account No.	Account Type	Orig. Delin. Date	Total \$ Amount
*****33	IHSS Overpayment	4/16/2014	\$124,120.68
*****24	Child Development Overpayment	3/12/2014	\$37,775.87
*****41	CalWORKs Overpayment	9/13/2013	\$4,423.90
****75	CalWORKs Overpayment	10/31/1997	\$2,339.44

While ORR performs a review of delinquent accounts before the end of each fiscal year for placement into inactive status, the review does not identify all uncollectable accounts that should be inactive. Currently, the criteria used to review delinquent accounts is based on management discretion.

Uncollectable delinquent debt that remains open in the RPCS system could result in an inefficient use of ORR resources in their collection attempts.

Further, the value of total outstanding accounts reported by ORR is overstated as uncollectable accounts are included in this total, and ORR performance measures are negatively affected as this would result in a lower collection percentage.

Best practices to identify uncollectable accounts includes utilizing aging reports as a key tool for collection management and performance evaluation. Such a report shows the breakdown of debt according to account age relative to the due date. The report can be used to analyze the probability of collections for accounts within a certain date range.

**Recommendation:** In order to identify and close all uncollectable delinquent debt, ORR should:

1. Develop a process with specific criteria to evaluate delinquent accounts and identify those that should be closed. The process should include, but not be limited to:
  - a) Utilizing an aging report to analyze collection rates for delinquent debts.
  - b) Identifying time frames for which the probability of collection for each type of outstanding debt has diminished significantly.
  - c) Utilizing the time frames identified as criteria for when delinquent debt will be cancelled.

**Finding VII: Clean Up of RPCS Accounts**

An aged trial balance, dated as of April 30, 2018 for outstanding debtor accounts had 491 accounts with a balance of \$0.01. These accounts had been outstanding for over 120 days. We researched five of these accounts and found that they were not linked to a victim trust account balance; therefore, there would be no reason for these accounts to remain open in RPCS.

According to ORR management, when data was converted from SMART (legacy collection system) to RPCS in 2005, accounts with a \$0 balance on the debtor side but with an outstanding victim trust account balance would not convert to RPCS. The solution was to post a \$0.01 balance to the debtor side so that the accounts would convert to RPCS.

Since these accounts are no longer active, account status is not accurately reflected in RPCS. According to California Government Code 26205.1, a County officer is allowed to destroy records that are not expressly required to be filed or preserved.

**Recommendation:** In order to promote efficiency of operations, ORR should:

1. Close unnecessary accounts in the system by cleaning up \$0.01 debtor accounts with no victim trust account balance that remain open.

**Finding VIII:****Daily Cash Reconciliations Not Reviewed by Supervisor**

We reviewed 10 daily cash reconciliations to determine the adequacy of the procedures used, and noted that they are not reviewed for accuracy and approved by a supervisor.

While ORR has documented procedures for the reconciliation process, they do not outline the review and approval process. In the absence of an adequate review, the reconciliation may be performed incorrectly resulting in an increased risk that errors or fraud can go undetected.

Principle 16 of the Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control Integrated Framework advises that an organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.

**Recommendation**

To strengthen the internal controls over cash reconciliation procedures, ORR should:

1. Implement a review process to ensure daily cash reconciliations are prepared correctly.
2. Ensure the individual performing the review of reconciliations, documents their name, date of the review, and the results of the review.

**Finding IX:****RPCS Not Conducive to Productivity**

Board of Supervisors Policy A-111 states that the major goal of the County information systems solutions is to improve the efficiency and effectiveness of service delivery or organizational operation of the County, its departments, offices and agencies. To this end, proposed County information systems should:

- Improve the collection, processing, distribution/communication, or management of public or organizational data/information in any media;
- Improve the use of County resources including data/information, services, personnel, facilities, equipment, material or supplies;
- Enable efficient delivery of services to citizens online not inline whenever possible.

However, based on reviews performed and discussions with ORR staff, we noted multiple instances where limitations in RPCS prevent staff from operating at maximum efficiency.

Due to the system's lack of flexibility and adequate technical support, ORR staff rely on manual processes or workarounds to perform various tasks, including reconciliations and monthly distributions. RPCS cannot generate reports of total amounts referred to FTB and IRS intercept programs, or reliable Trust Balance and Accounts Receivable Reports.

The vendor has been unable to perform modifications needed to comply with Federal and State CalWorks and CalFresh requirements applicable to CDSS. Further, system limitations prevent ORR from implementing best practices and IT controls such as establishing role-based user access, or access logs for reviewing and detecting errors and segregation of duties issues, as well as archiving account information.

**Recommendation:** In order to promote efficiency of operations, ORR should:

1. Utilize established County procurement process to identify and contract with a system vendor to replace or upgrade RPCS.

**Finding X:**

**Unnecessary RPCS User Access & Ineffective Review of Access**

ORR conducts a quarterly review of RPCS user access; however, this review is not functioning as intended as two instances of improper user access were not identified during the review. Specifically:

- An RPCS user account was set up for an IT vendor to provide maintenance and software support services for a business analytics project conducted a few years ago.
- The ORR Director is an RPCS user who has complete access to the RPCS system.

According to ORR management, the project which required the access is currently inactive but may return in the future. Therefore, the account was left active. Additionally, the ORR Director may periodically need to review accounts or retrieve data. As such, full access has been granted to the ORR Director.

Unnecessary user access to RPCS increases the likelihood of improper access to the system which results in an increased risk of errors or fraud.

County Administrative Manual 0400-03 specifies that users shall be given access to County information systems based on least privileges required to perform their job functions. Furthermore, Principle 11 of the COSO Framework states that an organization should select and develop general control activities over technology to support the achievement of objectives which includes relevant security management process control activities.

**Recommendation:** ORR should take the following steps to ensure that appropriate access is maintained for RPCS users:

1. Perform an analysis to determine the appropriate level of user access for the Director in accordance with County Administrative Manual 0400-03. Modify the Director's RPCS user access as necessary.
2. Remove the IT vendor access.
3. Develop or update written procedures for the review of RPCS user access to include:

- a) Removing access for inactive users and change levels of access if needed.
- b) Retaining all data and communication produced during the review for documentation purposes.

Office of Audits & Advisory Services

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VALUE

**DEPARTMENT'S RESPONSE**  
(OFFICE OF REVENUE AND RECOVERY)





# County of San Diego

**TRACY DRAGER**  
AUDITOR AND CONTROLLER

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**LESHAY SHAW**  
REVENUE AND RECOVERY DIRECTOR

April 10, 2020

RECEIVED

APR 10 2020

OFFICE OF AUDITS &  
ADVISORY SERVICES

TO: Juan R. Perez  
Chief of Audits

FROM: LeShay M. Shaw, Revenue and Recovery Director  
Office of Revenue and Recovery

## DEPARTMENT RESPONSE TO AUDIT RECOMMENDATIONS: OFFICE OF REVENUE AND RECOVERY PERFORMANCE AUDIT

### **Finding I: Priority of Victim Restitution Payments**

**OAAS Recommendation:** In order to ensure compliance with County requirements, laws and regulations regarding priority of payments received, ORR should:

1. Develop and formalize a process for referral of victim restitution accounts to the Franchise Tax Board (FTB). The following should be addressed during the development of the process:
  - a) Revenue and Taxation Code (RTC) 19280(a)(1)(C) allows a victim to choose their preference of a collection agency, including the FTB, if desired. The process should inform victims of this option to allow them to choose this option.
  - b) Explore the possibility of pursuing legislation to authorize adding the FTB administrative fee to the debtor's balance.

### **Action Plan: Agree.**

The Office of Revenue and Recovery uses a variety of collection methods for each type of debtor account in our portfolio. Victim restitution cases are submitted to the FTB Interagency program and are included in our calling and mailing campaigns. In fiscal year 17/18 and 18/19 ORR collected \$2.3 million and \$2.5 million dollars respectively for victims of crimes.

To ensure compliance with County requirements, laws and regulations, ORR will use existing criteria to refer delinquent victim restitution accounts to the FTB-COD. This process will be initiated if a victim selects this type of collection with the understanding that their distribution amount will be offset by the FTB Administrative Fee.

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To ensure compliance while implementing the changes proposed in the previous page:

1. ORR has temporarily withdrawn court ordered debt accounts from the FTB-COD program for debtors who also have outstanding victim restitution balances while system modifications are made to begin sending this type of account to the FTB COD program. This action will ensure compliance with payment priority requirements. ORR will continue to pursue all other available collection methods on these accounts during this time.
2. ORR created a victim "FTB COD Consent" Letter that includes information designed to assist the victim in understanding their options when it comes to the collection of their restitution, including the preference of a collection agency and associated administrative fee for when selecting the FTB COD collection program and started mailing in April.
3. ORR contacted the Office of Strategy and Intergovernmental Affairs (OSIA) to explore the possibility of legislation authorizing the addition of the FTB COD administrative fee to the debtor's balance and was advised to include in our August 2020 legislative proposal.

**Planned Completion Date:** Completed

**Contact Information for Implementation:** Rick Cacha  
Manager, Auditor and Controller

**Finding II: Backlog of Outstanding Victim Trust Accounts**

**OAAS Recommendation:** In order to reduce the backlog of outstanding accounts and free up resources to ensure timely skip tracing of victims, ORR should:

1. Conduct a one-time clean-up of existing accounts by doing the following:
  - a) Identify existing victim trust accounts with last payment dates greater than three years with a balance of less than \$500.
  - b) Transfer these balances to the State Restitution Fund.

By referring these accounts to the State Restitution Fund, ORR will be able to reduce their backlog in accounts by approximately 94%, which will enable them to focus resources on remaining and future outstanding victim trust accounts.

2. Identify accounts with last payment dates greater than three years with a balance of \$500 or greater and perform, and document, at least three skip tracing attempts to locate the victim during the next year.
3. At the end of the year period, if ORR is unable to locate the victim, begin the process to escheat the victim's account balance to the ORR Victim Services Trust Fund and/or the State Restitution Fund.
4. Develop and formalize a plan to utilize the ORR Victim Services Trust Fund to provide services to victims.

**Department Response to Audit Recommendations: Office of Revenue and Recovery**  
**Performance Audit**  
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**April 10, 2020**

5. Establish a process for client departments to obtain agreement from the victims, or objection from the victims, to share their information with ORR for the purpose of collection and disbursement of restitution as authorized by PEN §1203c (d).
6. Formalize procedures that specify when reasonable efforts to locate and notify the victim have been made, and related victim trust accounts should be escheated to ORR Victim Services or transferred to the State Restitution Fund.

**Action Plan: Agree.**

Locating and paying victim restitution is a priority for ORR. Over the last 3 years ORR has disbursed over \$8.3 million to victims of crimes.

ORR has performed the recommended clean up and has reduced the number of accounts that are over 3 years to 0. ORR has identified all accounts that meet the criteria for escheatment and is in the process of escheating those funds.

ORR continues to work with our partner departments to identify and locate victims who are owed funds; and to add language on their pamphlets and contact sheets disclosing that victim information will be shared with ORR for the purpose of collection and disbursement of restitution.

ORR has formalized the Victim Services Trust Fund policy which documents the procedure for escheating victim restitution money to the Victim Services Trust Fund and/or the State Restitution Fund. The procedure provides a description of "reasonable efforts" and contains guidelines as to how the Victim Trust Fund can be utilized for victim services. This policy also requires an annual communication with partner departments to discuss current year needs and uses of the amounts available in the Victim Services Trust Fund.

**Planned Completion Date:** December 31, 2020

**Contact Information for Implementation:** Diana Eid-Chammas  
Manager, Auditor and Controller

**Finding III: Incorrect Calculation of Interest in RPCS**

**OAAS Recommendation:** To ensure interest is calculated and applied to debtor accounts correctly ORR should:

1. Work with system vendor to remove the "arrear percentage" formula from the interest rate calculation in RPCS.

**Action Plan: Agree.**

ORR is working with our case management vendor to correct the interest rate calculation in RPCS and make corrections to interest balances.

**Department Response to Audit Recommendations: Office of Revenue and Recovery****Performance Audit****Page Four****April 10, 2020****Planned Completion Date:** July 31, 2020**Contact Information for Implementation:** Diana Eid-Chammas  
Manager, Auditor and Controller**Finding IV: ORR Fees Lack Consistency Fees**

Fees charged to client departments are not applied consistently.

**OAAS Recommendation:** ORR should take the following steps to ensure that fees charged accurately reflect the cost of collection:

1. Develop specific criteria that outlines fee collection methods and how they should be used.
2. For departments for which a specific fee will be charged, perform a cost study to determine the costs of collection. Use the cost study results to determine the fee and document it in each respective agreement.
3. Document the agreed upon fee collection method with each department in a signed agreement.

**Action Plan:** Agree.

ORR currently charges client departments in one of three ways: A-87, flat fee, percentage of collections. There is currently one department that is charged via A-87, which is the Road Fund. The Road fund is a non-general fund department with a separate funding source. As such, the use of A-87 is appropriate to ensure full cost recovery. The remaining client departments are general fund and therefore, using actual costs would most likely result in a redistribution of general purpose revenue from the department to ORR or vice versa; which is an inefficient way to manage the budget annually, due to the inability to accurately project what collections will be in a given year.

In 2016, the Office Revenue and Recovery performed a cost study to comply with a separate Audit Report No. A11-004. ORR calculated the cost of collections as a percentage of amounts collected for each department charged the ORR administrative fee. The average actual rate was over 62%. Therefore, no client department is being overcharged when using the fees charged today.

Client departments are advised of the administrative fee charged at the initial new business meeting with ORR and at the time the MOU is/was executed. Furthermore, ORR provides a monthly report on client collections with a breakdown of the monthly distribution in Oracle to client departments and the corresponding ORR administrative fee.

ORR will evaluate the need for updated fees and/or MOU's with client departments.

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**Planned Completion Date:** December 31, 2020

**Contact Information for Implementation:** LeShay Shaw  
Revenue and Recovery Director

**Finding V: Maximization of Debt Collections**

**OAAS Recommendation:** To maximize all available collection opportunities, ORR should:

1. Utilize established County procurement process to identify, and contract with, a third-party collection agency to maximize all available collection opportunities.

**Action Plan:** Agree.

The type of receivables referred to ORR are challenging to collect as a result of a number of factors including the age of the account, economic conditions, and the customer's willingness or inability to pay. Many of our customers are long-term unemployed, underemployed, and/or receiving some form of government assistance (social security, disability, aid) which may result in an account becoming delinquent for a significant period of time.

ORR uses a number of tools to generate additional collections. We partner with the Franchise Tax Board Court-Ordered Debt Program, Franchise Tax Board Interagency Offset Program, California Department of Social Services Tax Intercept Program, and the Treasury Offset Program for qualifying accounts.

In 2013, the Telephone Consumer Protection Act (TCPA) imposed more stringent requirements on collection agencies resulting from an increase in consumer complaints and lawsuits received by the agency. Between 2010 and 2012, consumer complaints about calls to wireless phones doubled to an average of over 10,000 complaints per month. During the fourth quarter of 2012, the Federal Trade Commission (FTC) received more than 200,000 complaints about illegal robocalls each month.

Due to complaints and lawsuits filed by the Consumer Financial Protection Bureau (CFPB) against the parent company of the collection agency that ORR was utilizing at that time, ORR did not renew the contract with the third-party collection agency. Further, out of an abundance of caution, ORR decided not to use the P3 collection agencies that were available per the State's *Master Agreement for Collection Services for Court Ordered and Other Debt (MSA)* to mitigate risk and potential liability of up to \$1,500 per phone call if a consumer can show that TCPA requirements were violated knowingly and willfully.

The State has since entered a new MSA effective for a 5-year term beginning January 1, 2019 and expiring on December 31, 2023 which includes a list of agencies that can be contracted with for court ordered debt collection.

ORR is working with the Department of Purchasing and Contracting to select and negotiate a contract with one of the State approved contractors or another third-party collection agency.



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**Planned Completion Date:** August 30, 2020

**Contact Information for Implementation:** LeShay Shaw  
Revenue and Recovery Director

**Finding VI: Uncollectable Delinquent Debt**

**OAAS Recommendation:** In order to identify and close all uncollectable delinquent debt, ORR should:

1. Develop a process with specific criteria to evaluate delinquent accounts and identify those that should be closed. The process should include, but not limited to:
  - a) Utilizing an aging report to analyze collection rates for delinquent debts.
  - b) Identifying time frames for which the probability of collection for each type of outstanding debt has diminished significantly.
  - c) Utilizing the timeframes identified as criteria for when delinquent debt will be cancelled.

**Action Plan:** Agree.

ORR agrees that we should follow specific criteria to evaluate delinquent accounts and identify those that should be closed. ORR has an established process, which has been followed consistently for many years. The documented business process was reviewed and edited October 11, 2019. The process includes running reports on a periodic basis that identify accounts that meet the criteria for closing, such as statute of limitations, expiration of probation and expiration of judgment. Staff then evaluates the report to determine whether there has been recent payment activity or contact. If none, these accounts are closed, with the following exception:

- There has been a system limitation for accounts that have multiple responsible parties. The process for closing this type of account is time consuming, because the account must first be unlinked which until recently was a 26-step process.

The RPCS vendor has recently made improvements to the system that makes this process easier. In this case, all of the accounts mentioned in the finding have been unlinked and closed.

ORR does not agree that utilizing aging reports and collection rates as an indicator of uncollectability is the best method for the types of accounts that ORR collects. These accounts tend to become more collectable as time passes and because ORR places liens and judgements on many of these accounts, they can be collected over a period of 10 years or more.

**Planned Completion Date:** Completed.

**Contact Information for Implementation:** Rick Cacha  
Manager, Auditor and Controller

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**Finding VII: Clean Up of RPCS Accounts**

**OAAS Recommendation:** In order to promote efficiency of operations, ORR should:

1. Close unnecessary accounts in the system by cleaning up \$0.01 debtor accounts with no victim restitution trust account balance that remain open.

**Action Plan:** Agree.

ORR has completed the recommended action by reducing to \$0 all debtor accounts with \$0.01 outstanding balances and no corresponding victim trust balances.

**Planned Completion Date:** Completed

**Contact Information for Implementation:** Diana Eid-Chammas  
Manager, Auditor and Controller

**Finding VIII: Daily Cash Reconciliations Not Reviewed by Supervisor**

**OAAS Recommendation:** To strengthen the internal controls over cash reconciliations procedures, ORR should:

1. Implement a review process to ensure daily cash reconciliations are prepared correctly.
2. Ensure the individual performing the review of reconciliations, documents their name, date of the review, and the results of the review.

**Action Plan:** Agree.

The daily cash reconciliation process now includes a review process by the supervisor who signs and dates the report and notates any discrepancies.

**Planned Completion Date:** Completed

**Contact Information for Implementation:** Diana Eid-Chammas  
Manager, Auditor and Controller

**Finding IX: RPCS Not Conducive to Productivity**

**OAAS Recommendation:** In order to promote efficiency of operations, ORR should:

1. Utilize established County procurement process to identify and contract with a system vendor to replace or upgrade RPCS.

**Action Plan:** Agree.

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ORR is working with the RPCS Vendor on a project to upgrade the system. This is a two phased project; the first phase involves migrating the system to new servers and the second phase will be to upgrade the system to a newer version. The first phase of the project is complete, and the second phase will be completed in fiscal year 20/21. We anticipate that the upgrade will resolve many of the productivity issues and provide additional functionality that our current RPCS version does not have.

**Planned Completion Date:** June 30, 2021

**Contact Information for Implementation:** LeShay Shaw  
Revenue and Recovery Director

**Finding X: Unnecessary RPCS User Access & Ineffective Review of Access**

**OAAS Recommendation:** ORR should take the following steps to ensure that appropriate access is maintained for RPCS users:

1. Perform an analysis to determine the appropriate level of user access for the Director in accordance with County Administrative Manual 0400-03. Modify the Director's RPCS user access as necessary.
2. Remove the IT vendor access.
3. Develop or update written procedures for the review of the RPCS user access to include:
  - a) Removing access for inactive users and change levels of access if needed.
  - b) Retaining all data and communication produced during the review for documentation purposes.

**Action Plan:** Agree.

An analysis was performed to ensure the appropriate level of user access has been granted for all users including the Director.

The IT vendor access has been terminated.

ORR has implemented the Comprehensive Access Tracking (CAT) process in which all requests for system access are centralized and processed through the CAT Access Request form. This process requires two signatures authorizing and approving the request. The forms are retained for audit purposes. Quarterly, the RPCS Access Report is reviewed to ensure there is no improper access to the system and that staff has the minimum privileges required to perform their job functions.



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**Planned Completion Date:** Completed.

**Contact Information for Implementation:** Diana Eid-Chammas  
Manager, Auditor and Controller

If you have any questions, please contact me at (858) 637-5861.



**LESHAY M. SHAW, Revenue and Recovery Director  
Office of Revenue and Recovery**

**ORR:LS:lc**

**Enclosure**

**c: Tracy Drager, Auditor and Controller**