

County of Solano
Office of the Auditor-Controller



**Audit of the Probation Department's Books and Accounts
Juvenile Trust Fund
Juvenile Ward Welfare Fund**

For the Fiscal Years Ending June 30, 2015 and 2014

May 24, 2016

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Report No. 2015_31

**Audit of Probation Department's Books and Accounts
Juvenile Trust Fund
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INTRODUCTION

Pursuant to Division 2, Chapter 2, §275 (b) of the Welfare and Institutions Code, we conducted an audit of the books and accounts of the Probation Department Juvenile Trust Fund and Juvenile Ward Welfare Fund.

OBJECTIVE

Our objective was to evaluate the Probation Department's books and accounts for the Juvenile Trust Fund and Juvenile Ward Welfare Fund for fiscal years ending June 30, 2015 and 2014. Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* as developed by the Institute of Internal Auditors.

BACKGROUND

The mission of the Solano County Probation Department (Probation) is to serve and protect the community by conducting investigations for the Court, holding offenders accountable, enforcing court orders, supporting victim restoration, facilitating rehabilitation of offenders and providing safe, secure, effective, and proven detention and treatment programs. During Fiscal Year (FY) 2014/15, Probation was allocated 214.50 FTE positions with a budget of \$36.8 million. Of this, one FTE is assigned for juvenile account collections (Collection Staff).

Probation has four divisions: Adult, Juvenile, Juvenile Institutions, and Administrative, Fiscal and Support. The Adult Division serves as an arm of the Superior Court and employs Probation Officers to investigate and supervise adult offenders through various probation programs. The Juvenile Division serves as an arm of the Juvenile and Superior Courts and its Probation Officers provide investigation and supervision services for juvenile offenders through various probation programs. Juvenile Probation Officers also recommend appropriate disposition for juvenile offenders while seeking to preserve and enhance the family unit. The Administrative, Fiscal and Support Division provide support services to the divisions, including the juvenile detention facility.

Probation operates one juvenile detention facility which has a capacity of 125 beds. The juvenile detention facility also houses *New Foundations*, a 30-bed unit with focuses on family reunification and drug and alcohol abuse intervention and *The Challenge Academy*, a 20-bed unit that focuses on preparing youth for family reunification and re-entry into the community. The juvenile detention facility provides in-house services such counselling, tutoring program, aggression replacement training, and crossroad life skills/cognitive training program.

Probation has the fiduciary responsibilities for a variety of monies derived from fines, fees, penalty assessments, restitution payments to victims, and charges for services provided. Welfare and Institutions Code §276 authorizes probation to receive such monies and direct disbursements on behalf of juveniles on probation and/or housed in juvenile facilities. Monies received for fines, fees, penalties, restitutions, and charges for services are deposited into the Probation Trust Fund (Fund 247).

For the period of July 2013 through June 2015, accounts receivable activity for juvenile facilities fees, fines, and restitution was as follows:

	Receivable for Juvenile Facilities Fee, Juvenile Restitution and Restitution Fines
Accounts Receivable - 7/1/2013	\$ 6,954,849
Add/Less:	
Juvenile Client Billed	4,347,143
Collections	(1,315,479)
Accounts Receivable - 6/30/2015	\$ 10,445,516

NOTE: Of the approximate \$10.4 million receivable, approximately \$650,000 is a receivable for juvenile restitution and \$9.8 million is a receivable related to juvenile facilities fees and juvenile restitution fines. Of the approximate \$9.8 million, \$5.5 million is considered “pending” by Probation. See the below paragraph and page 10 of this Report for a discussion of “pending” accounts.

Probation uses CUBS (Columbia Ultimate Business System) software to manage its billing and collection transactions. Probation creates an account in CUBS after receipt of a court order requiring a restitution payment or after receiving an invoice for juvenile fees¹. A notice is then mailed to the client². Probation can only pursue account collection activities after the parent(s) or guardian is determined to have the ability to pay. An ability to pay is determined from a financial evaluation performed by Probation collection staff. Accounts that have not been subjected to a financial evaluation are recorded in CUBS as “pending.”

Payments for restitution, fines and/or fees can be made through the kiosk located in the Probation office, online³, toll-free phone, and mail. Accounts remain recorded in CUBS until written off. The aging of the accounts as of June 30, 2015 is as follows:

	Number of Accounts	Account Value
Accounts Less Than 1 Year Old	719	\$ 1,562,408
Accounts Over 1 Year But Less Than 3 Years Old	1,243	2,545,085
Accounts Over 3 Years But Less Than 10 Years Old	3,653	5,990,413
Accounts Over 10 Years Old	333	347,610
	5,948	\$ 10,445,516

Probation also provides youths housed at the juvenile detention facility access to a telephone. Probation contracted with *Global Tel*Link* to install, manage, operate, and maintain the telephones. For each call, Probation receives a commission from *Global Tel*Link*. Commissions received are deposited in the Ward Welfare Fund (Fund 035) pursuant to Welfare and Institution Code §873 (d). The fund is used by the Chief Probation Officer primarily for the benefit, education, and welfare of the wards and detainees confined within the juvenile hall or other county facilities. Revenues and expenditures of Fund 035 for fiscal years ending June 30, 2015 and 2014 were as follows:

¹ Juvenile fees include juvenile hall fees, public defender’s fee, electronic monitoring fees, and supervision fees.

² The notice includes a copy of the court disposition, citation to appear for a financial evaluation, and proof of personal service.

³ Online payment is administered by *TouchPay Payment System*.

	FY 14/15	FY 13/14
Revenues	\$ 15,778	\$ 14,272
Expenditures	\$ 8,138	\$ 8,707

Any funds not needed for the welfare of the confined wards and detainees may be expended by the Chief Probation Officer at his sole discretion for the maintenance of County juvenile facilities.⁴

SCOPE and METHODOLOGY

Division 2, Chapter 2, §275(b) of the Welfare and Institutions Code requires an audit of the books and accounts relating to juvenile cases. Although Probation oversees both adult and juvenile cases, we limited our review to juvenile cases. As such, we reviewed the Probation Trust Fund (Fund 247) and the Ward Welfare Fund (Fund 035). Our review focused on Probation’s internal controls over cash receipts, disbursements, its policies and procedures, and client intake processes in place for juveniles during the fiscal years ended June 30, 2015 and 2014. In addition, we reviewed disbursements made from the Ward Welfare Fund to ensure monies were used for the benefit of the minors.

Our audit methodology included inquiries, observations, determining compliance with certain laws/regulations, and testing the books and accounts of Probation relating to the collection and disbursement of juvenile fees, penalties, fines, and victim’s restitution.

In any system of internal controls inherent limitations exist which may result in errors or irregularities occurring and not being detected. Limitations may include, but are not limited to, resource constraints, management override, and circumvention of internal controls by collusion. Further, projection of any evaluation of the internal controls to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies and procedures. Accordingly, our review would not necessarily disclose all weaknesses in the operating procedures, accounting practices, and compliance with County policy.

CONCLUSION

Probation’s internal controls over its juvenile books and accounts relating to cash handling, billing, and collection do not appear adequate to ensure management’s goals and objectives are accomplished in accordance with Chapter 2, §275(a) of the Welfare and Institutions Code. This is primarily due to one FTE assigned to collect approximately \$10.4 million in accounts receivable. Our audit disclosed certain areas where improvement is needed. Specifically, we determined:

1. A comprehensive written collection policy should be created and quality control reviews of collections activities should be performed.
2. The process of evaluating a client’s ability to pay should be formalized.
3. Several collection processes should be enhanced to increase the effectiveness of overall Probation collection activities. Specifically, collecting on accounts nearing the statute of limitations, collecting accounts with court-ordered judgments, managing accounts with signed stipulations, and not writing off all accounts of clients who filed for bankruptcy.

⁴ Pursuant to Welfare and Institution Code §873(e).

4. Increased controls over client cash payments at the Vallejo branch should be implemented.

We also determined disbursements from the Ward Welfare Fund were properly made for the benefit of the minors in accordance with Welfare and Institutions Code §873.

The following pages provide a detailed description of the opportunities for improvements and the related recommendations. These recommendations should assist Probation in improving internal controls over its collection activities of juvenile accounts.

The department's responses to the recommendations and a brief summary of the plan for corrective action (Attachment A) are included in the accompanying schedule of opportunities for improvements and recommendations.

The Internal Audit Division thanks the Probation Department for their time, assistance, and cooperation extended to us during the review.

Audit of Probation Department's Books and Accounts (Juvenile Trust Fund & Juvenile Ward Welfare Fund)
OPPORTUNITIES FOR IMPROVEMENTS & RECOMMENDATIONS

A. Establish a Comprehensive Set of Written Policies for Collection Activities

1. Probation does not have a comprehensive written set of policies for account collection activities. Instead, collection staff relies on a financial evaluation guideline dated June 2012 and desk manuals showing the collection process.

An effective collection program includes comprehensive collection policies, procedures, and guidelines. The procedures should be clear, concise, and accessible by staff. The policy should include processes from the establishment of the accounts receivable to procedures for handling disputes. It should also include the process for monitoring the effectiveness of collection activities, such as the order of priority of collection efforts and filing deadlines. Further, procedures for documenting quality control reviews such as a periodic review of delinquent accounts in CUBS to detect potential inefficiencies in collection activity should be included as part of the comprehensive collection policies and procedures.

Even though the financial evaluation guideline helps the collection staff in determining a client's ability to pay, it does not provide objective criteria to be used as a basis in determining that ability to pay. The lack of a comprehensive collection policy may cause confusion as to the necessary collection activities to perform.

Recommendation:

Develop a comprehensive written set of policies for account collection activities.

Management Response:

See Attachment A

B. Evaluating the Client's Ability to Pay

1. Determining the Clients Gross Income

Prior to initiating collection efforts on a client account, Probation evaluates whether the client has the ability to pay juvenile fees. Probation relies on a financial evaluation form to guide its efforts in this process. If it is determined the client does not have the ability to pay, the account is written-off and no collection efforts are undertaken. As of June 30, 2015, accounts written off due to a client not having the ability to pay were approximately \$92,000.

We sampled eleven accounts and reviewed the financial evaluation forms for each account to determine the sufficiency of actions taken in determining a client's ability to pay. We noted the following deficiencies during our review:

- Vacation and sick pay were not included in the gross income calculation for two of the eleven accounts we sampled. Failing to include vacation and sick pay results in a lower gross income figure. As a result, the collection staff may inappropriately conclude a client does not have the ability to pay.
- On one of the accounts we sampled, a boyfriend of the client was included as a dependent even though the boyfriend was not identified as a person living with the client on the *Minor*

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OPPORTUNITIES FOR IMPROVEMENTS & RECOMMENDATIONS

and Family Assessment Form. Additionally, two of the accounts we sampled did not include the income of a stepfather or an adoptive father even though they lived with the client.

Pursuant to Welfare and Institution Code §903.45, when evaluating a person's ability to pay juvenile fees, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of person's dependent upon this income.

Wages are defined as money or other value received by an employee as compensation for labor or services performed⁵. Under California law, earned vacation time is considered wages and vacation time is earned, or vests, as labor is performed. As a result, vacation pay and sick pay should be included when calculating a client's gross income.

Due to the lack of written policies and procedures for determining who is included as a dependent for purposes of the financial evaluation, the collection staff may inappropriately determine a client does not have the ability to pay.

Recommendation:

Include all sources of income when determining a client's ability to pay. Probation should establish a written policy regarding its process for determining a client's ability to pay so decisions as to whether a client has such an ability are made according to objective criteria.

Management Response:

See Attachment A

2. Reassess the Client's Ability to Pay

When evaluating whether a client has the ability to pay juvenile fees, it is sometimes found a client is either unemployed or receiving income from a temporary source. In this situation, often the client is determined to not have the ability to pay and the account is written off.

If a client has little or no income due to temporary unemployment, the collection staff should inform the client to contact Probation again within 3 months to re-assess their employment situation⁶. This has not been happening. Based on our inquiries of the Administrative Services Manager, the caseload volume of the collection staff is so large she does not have time to perform a re-evaluation. Additionally, it is Probation's experience, that the likelihood of a client returning for the re-evaluation is remote. However, writing off an account without attempting to perform a re-assessment limits the County of the opportunity to collect the debt.

Recommendations:

1. The collection staff should request clients contact Probation after 3 months for a re-evaluation. If the client does not initiate contact, Probation should contact the client about

⁵ CA Labor Code §200(a).

⁶ Source: Probation Financial Evaluation Guideline dated June 1, 2012.

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- the re-evaluation. If the client does not cooperate, file a Court petition to require the client to appear before the collection staff.
2. Enhance CUBS to include automated notifications for accounts needing to be re-evaluated.

Management Response:
See Attachment A

C. Billings and Collections

1. Accounts Should be Monitored for Timely Collection Efforts

Accounts are created in CUBS after Probation receives a court order for payment of restitution or an invoice for juvenile fees⁷. A notice is mailed to clients after the account is created.

Probation does not use a method, such as reviewing an aging of receivables report, to monitor accounts nearing the statute of limitations. The statute of limitation is three years⁸ for collection of juvenile fees⁹. Once accounts pass this timeframe without collection activity, the probability of collection is minimal.

As of June 30, 2015, Probation was owed amounts beyond the statute of limitation period totaling approximately \$3.3 million. This amount includes charges for institutional care and support of the juvenile, electronic monitoring fees, and home supervision fees.

Currently, Probation employs one collection staff member for managing the collection of over 5,500 accounts¹⁰. This results in accounts not actively being pursued and ultimately may deprive the County of collecting the debt as delinquent accounts may pass the statute of limitation.

Recommendations:

1. Consider activating the aging of receivables module in CUBS to help monitor past due accounts. Aging the accounts will help the collection staff stay on top of past due accounts. Additionally, Probation should consider making enhancements to CUBS, such as adding automated notifications for accounts nearing the statute of limitations; or
2. Probation should seek a computerized accounts receivable software option to allow it to create an aging of receivables report.

Management Response:
See Attachment A

⁷ Accounts are under the name of the minor for restitution/restitution fines and under the name of the parent or guardian for juvenile fees.

⁸ See Cal. C. Civ. Proc. § 338.

⁹ However, Probation may extend the collection timeframe and allow for other collection options for 10 years if it obtains a judgment on the delinquent fees.

¹⁰ As of June 30, 2015.

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2. Enhance Collection Efforts on Accounts by Seeking a Court-Ordered Judgment

Probation can enhance its ability to collect outstanding amounts owed by seeking a court-ordered judgment against clients. This action allows Probation to file an abstract of judgment or request a tax intercept of California state income tax against the client. An abstract of judgment is a collection tool that is a public written record of a judgment, filed with the County Recorder, which creates a lien on any real property owned or later acquired in the County by the client. This action provides the County with a mechanism to collect amounts owed.

We sampled five accounts with a court ordered judgment. An abstract of judgment was not filed on any of the accounts. Additionally, none of the accounts were referred to the Franchise Tax Board in an attempt to intercept any state tax refunds.

Probation represents it has not pursued filing an abstract of judgment against some clients due to limited staffing. Enhancing collection efforts in this area may increase the County's ability to collect outstanding accounts.

Recommendations:

1. Pursue additional collection efforts such as filing an abstract of judgment; or
2. Refer accounts to the Franchise Tax Board for potential tax refund intercept; or
3. Consider participating in the State of California's Court-Ordered Debt Program which collects unpaid fines, state or local penalties, bail, forfeitures, restitution fines and orders, vehicle code violations or any other amounts upon a person for criminal offenses.

Management Response:

See Attachment A

3. Work to Resolve Outstanding "Pending" Accounts

Parents, legal guardians, and other persons liable for the support of the minor may be liable for various financial obligations associated with probation, such as fines and fees for services rendered by County agencies.

Probation may request to order the appearance of the parent, guardian, or other person responsible for the minor before the County financial evaluation officer¹¹ for a financial evaluation of his or her ability to pay the costs assessed¹². If the county financial evaluation officer determines a person has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum of money to the county or court, depending on which entity incurred the expense.

Probation did not consistently perform follow-up procedures (such as contacting client for financial evaluation) on accounts under pending status. We sampled ten accounts for our

¹¹ A Probation Department Collection Officer serves this function.

¹² Pursuant to Welfare and Institution Code §903.45.

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review of the client billing process and noted the collection staff did not consistently initiate contact with the client. Two of the ten accounts sampled did not have any activity since the accounts were initially established in CUBS. Additionally, none of the ten accounts were subjected to financial evaluation and the client did not sign a stipulation¹³. As of June 30, 2015, there has not been any collection activity on the ten accounts we sampled for an average of ten months.¹⁴

Probation has one collection staff member for its juvenile accounts. This limits their collection efforts. Accounts that have not been subjected to a financial evaluation are recorded in CUBS as "pending." While an account is in "pending" status there are no collection activities. As of June 30, 2015, the total outstanding accounts, including those that have not been subjected to a financial evaluation, is over 5,500¹⁵ and the amount of the juvenile facilities fees recorded in a "pending" status totals \$5.5 million.

Probation can only pursue account collections if the parent or guardian is determined to have the ability to pay. Therefore, failure to perform the financial evaluation deprives Probation of the opportunity to initiate collection efforts and may result in the County being unable to collect amounts owed it.

Recommendation:

In cases where the client refuses to appear before the financial evaluation officer or refuses to sign stipulation, Probation should petition the court to require the client to appear before the County financial evaluation officer.

Management Response:

See Attachment A

4. File Signed Stipulations with the Court

The Collection Officer seeks to have clients sign a stipulation form as an acknowledgement of his/her commitment to pay amounts owed the County for Probation services¹⁶. After signing the form, if the client fails to pay his/her obligations per the agreement, then the County may file the stipulation in court for purposes of seeking a civil judgment against the client for the agreement amount owed the County.

We reviewed 5 accounts with a signed stipulation. None of the stipulations were filed with the court after the client defaulted. Although the signed stipulation may allow Probation to pursue collection activities beyond the statute of limitations, it still must be filed with the court to be effective. Additionally, our review of the accounts with a signed stipulation disclosed 3

¹³ A stipulation is a legal acknowledgement made between opposing parties concerning a certain fact or facts.

¹⁴ Collection activity for accounts under "pending" status includes sending notices to the client requiring him/her to appear before a financial evaluation officer.

¹⁵ This figure does not include Restitution that is payable to the victim and/or the State of California. Such accounts are managed by the individual Probation Officers.

¹⁶ The client is not required to sign the stipulation when requested by the Collection Officer.

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out of the 5 accounts we sampled did not have any recent collection activity. The most recent activity was on April 2014.

Probation is not timely in making the necessary court filings for obtaining judgments on defaulted accounts with signed stipulations. Failure to obtain a court ordered judgment on accounts with signed stipulations limits the collection of delinquent accounts.

Recommendation:

Generate a report of all defaulted accounts with signed stipulations. Notify clients in writing about the default. If the client does not respond, file a civil judgment against him/her within the statute of limitation period.

Management Response:

See Attachment A

5. Continue Collection Activities on Clients Who File for Bankruptcy

Probation has been writing off the costs of care, support, and maintenance of minors held in custody at juvenile hall of those whose parents/guardians filed for bankruptcy protection.

Charges for the costs of food, clothing, medical and personal supplies, up to \$30 per day, are considered domestic support obligations pursuant to federal law¹⁷. These County juvenile justice expenses are considered non-dischargeable debts¹⁸. Writing-off non-dischargeable debts deprives the County of potential collecting amounts owed.

We sampled five accounts. Upon receipt of a bankruptcy filing by the client, Probation ceased collection activities on all five accounts. For FY 14/15 and FY 13/14, Probation wrote off approximately \$44,000 of unpaid fees for the care, support, and maintenance of minors while incarcerated at a juvenile detention facility.

Recommendation:

Probation should seek to collect the costs related to the care, support, and maintenance of the incarcerated minor even if the parent/guardian files for bankruptcy.

Management Response:

See Attachment A

¹⁷ See 11 U.S.C. §523(a)(5).

¹⁸ See *Rivera v. Orange County Probation Department*, No. 13-1476 (BAP 9th Cir. June 4, 2014).

Audit of Probation Department's Books and Accounts (Juvenile Trust Fund & Juvenile Ward Welfare Fund)
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D. Cash Handling Procedures

1. Secure Cash Payments at the Probation branch in Vallejo

There are various manners Probation clients make payments on their accounts. One way is by making an in-person payment at a Probation office. A client may make a payment by using either the kiosk machine or by placing a payment in an envelope and depositing the envelope into a locked payment drop box (box). Clients choosing to use the box can make such payments with cash or a check.

We observed payment activities at the Probation office in Vallejo¹⁹. At this office, the box is located in the cashier's area. The key to the box was kept inside an unlocked drawer of the cashier and was in plain view during the time of our visit. As a result, the key to open the box and access to the contents (including cash) is accessible by any staff member.

Since any staff member has access to the key needed to open the box, there is a risk a staff member could open the box and misappropriate cash collections. Therefore, collections could be misappropriated by a single employee without detection. Proper internal controls require cash received from clients to be properly recorded and safeguarded.

Recommendations:

1. Remove the key to the payment drop box from the Vallejo office and place it in the custody of Billings and Collections staff in Fairfield; or
2. Install a payment kiosk at the Vallejo office and discontinue the use of the payment drop box.

Management Response:

See Attachment A

¹⁹ Note: only the Vallejo branch office offers a payment drop box.



COUNTY OF SOLANO PROBATION DEPARTMENT

Christopher Hansen
Chief Probation Officer

Donna L. Robinson
Chief Deputy Probation Officer

Date: June 1, 2016

To: Kirk Starkey, Certified Public Accountant
Deputy Auditor-Controller
Internal Audit Services

From: Christopher Hansen, Chief Probation Officer

Cc: Lennette Maniaul, Administrative Service Manager
Simona Padilla-Scholtens, Auditor-Controller

Subject: Management Response to the Audit of the Probation Department's Books and Accounts
(Juvenile Trust Fund and Juvenile Ward Welfare Fund)

The Probation Department would like to thank the Auditor's Office for the work performed, and appreciate the recommendations outlined below. The Audit report provided valuable insight in regards to the Department's collection processes. The Department is actively pursuing other solutions and approaches to improve collection efforts. As a part of the collection procedures, the Department collects restitution for crime victims in additions to fines and fees imposed by the Court. The collection and processing of restitution takes precedence over other fees (Assembly Bill 3000). The Department's efforts are geared toward prioritizing collection efforts focusing on victim restitution followed by court fines and fees.

As noted in the below narrative, the Department agrees that additional efforts are needed to ensure collection processes and activities are efficient and effective. The Department will need to collaborate with other agencies such as the Auditor-Controller's Office, County Administrator's Office, County Counsel and the Solano Courts in order to better address the issues identified in the report, and enhance collection activities.

The Department's responses to the audit recommendations are as follows:

Findings and Recommendations:

A. Establish a Comprehensive Set of Written Policies and Procedures for Collection Activities

1. Probation does not have a comprehensive written set of policies and procedures for account collection activities. Instead, collection staff relies on a financial evaluation guideline dated June 2012 and a desk manual showing the collection process.

An effective collection program includes comprehensive collection policies, procedures, and guidelines. The procedures should be clear, concise, and accessible by staff. The policy should include processes from the establishment of the accounts receivable to procedures for handling disputes. It should also include the process for monitoring the effectiveness of collection activities, such as the order of priority of collection efforts and filing deadlines. Further, procedures for documenting quality control reviews such as a periodic review of delinquent

accounts in CUBS to detect potential inefficiencies in collection activity should be included as part of the comprehensive collection policies and procedures.

Even though the financial evaluation guideline helps the collection staff in determining a client's ability to pay, it does not provide objective criteria to be used as a basis in determining that ability to pay. In addition, the desk manual only provides the procedure for processing payments received through postal mail, *TouchPay*, and the drop box. It does not provide procedures for other collection activities such as sending notices to clients and managing client's disputes. The lack of a comprehensive collection policy may cause confusion as to the necessary collection activities to perform.

Recommendation:

Develop a comprehensive written set of policy and procedures for account collection activities.

Management Response:

The Department agrees with the audit recommendation to develop and implement a comprehensive written set of policies and procedures for account collection activities. The Department recognizes the importance of well-written and up-to-date policies and procedures to provide employees with an understanding of their roles and responsibilities, and guidance on how to address uncommon issues or situations. The Department will initiate the below plan as follows:

- Evaluate current policies and procedures and convert existing guidelines, manuals, and reference guides into a comprehensive manual, which will be maintained in a binder in the Billing and Collections Unit and stored on the Department's internal database (network server) in order to be easily accessible to staff.
- Action plan shall be completed by October 1, 2016.
- Person in charge of action plan: Administrative Service Manager

B. Evaluating the Client's Ability to Pay

1. Determining the Clients Gross Income

Prior to initiating collection efforts on a client account, Probation evaluates whether the client has the ability to pay juvenile fees. Probation relies on a financial evaluation form to guide its efforts in this process. If it is determined the client does not have the ability to pay, the account is written-off and no collection efforts are undertaken. As of June 30, 2015, accounts written off due to a client not having the ability to pay were approximately \$92,000.

We sampled eleven accounts and reviewed the financial evaluation forms for each account to determine the sufficiency of actions taken in determining a client's ability to pay. We noted the following deficiencies during our review:

- Vacation and sick pay were not included in the gross income calculation for two of the eleven accounts we sampled. Failing to include vacation and sick pay results in a lower gross income figure. As a result, the collection staff may inappropriately conclude a client does not have the ability to pay.
- On one of the accounts we sampled, a boyfriend of the client was included as a dependent even though the boyfriend was not identified as a person living with the client on the *Minor and Family Assessment Form*. Additionally, two of the accounts we sampled did not include the income of a stepfather or an adoptive father even though they lived with the client.

Pursuant to Welfare and Institution Code §903.45, when evaluating a person's ability to pay juvenile fees, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of person's dependent upon this income.

Wages are defined as money or other value received by an employee as compensation for labor or services performed¹. Under California law, earned vacation time is considered wages and vacation time is earned, or vests, as labor is performed. As a result, vacation pay and sick pay should be included when calculating a client's gross income.

Due to the lack of written policies and procedures for determining who is included as a dependent for purposes of the financial evaluation, the collection staff may inappropriately determine a client does not have the ability to pay.

Recommendations:

1. Include all sources of income when determining a client's ability to pay. Probation should establish a written policy regarding its process for determining a client's ability to pay so decisions as to whether a client has such ability are made according to objective criteria.

Management Response:

The Department agrees with the Audit recommendation. Upon meeting with staff, it was determined that the findings were isolated incidents due to clients refusing to include the stepfather or adoptive father's income. On a day to day basis, the collections staff make decisions based on the situation and client's response to questions asked regarding income. Each client's case is unique and oftentimes requires a sensitive approach. The Department will initiate the below plan as follows:

- Evaluate current policies and procedures and develop a more comprehensive written set of policies and procedures for account collection activities to include detail processes for determining clients' ability to pay. The policy and procedure will be maintained in a binder in the Billing and Collections Unit and stored in the Department's internal database (network server) to be easily accessible to staff.
- Action plan shall be completed by October 1, 2016.
- Person in charge of action plan: Administrative Service Manager

2. Reassess the Client's Ability to Pay

When evaluating whether a client has the ability to pay juvenile fees, it is sometimes found a client is either unemployed or receiving income from a temporary source. In this situation, often the client is determined to not have the ability to pay and the account is written off.

If a client has little or no income due to temporary unemployment, the collection staff is supposed to inform the client to contact Probation again within 3 months to re-assess their employment situation. This has not been happening. Based on our inquiries of the Administrative Services Manager, the caseload volume of the collection staff is so large she does not have time to perform a re-evaluation. Additionally, it is Probation's experience, that the likelihood of a client returning for the re-evaluation is remote. However, writing off an account without attempting to perform a re-assessment limits the County of the opportunity to collect the debt.

¹ CA Labor Code §200(a).

Recommendations:

1. The collection staff should request clients contact Probation after 3 months for a re-evaluation. If the client does not initiate contact, Probation should contact the client about the re-evaluation. If the client does not cooperate, file a Court petition to require the client to appear before the collection staff.
2. Enhance CUBS to include automated notifications for accounts needing to be re-evaluated.

Management Response:

The Department agrees with the audit recommendation. Prior to the Auditor's review, the Department identified the need to evaluate the collections process. The Department hired an outside consultant to evaluate current practices and procedures. As a result of the consultant's review, the Department is in the process of restructuring the Support Services Division in order to ensure effectiveness and efficiency of operations. The Department will initiate the below plan as follows:

- Review options to enhance collection efforts to include outsourcing and increasing efforts to conduct financial evaluations and file court petitions.
- Initiate contact with CUBS to get quotes and a proposal to enhance the system.
- Action plan shall be completed by December 31, 2016.
- Person in charge of action plan: Administrative Service Manager

C. Billings and Collections

1. Accounts Should be Monitored for Timely Collection Efforts

Accounts are created in CUBS after Probation receives a court order for payment of restitution or an invoice for juvenile fees². A notice is mailed to clients after the account is created.

Probation does not use a method, such as reviewing an aging of receivables report, to monitor accounts nearing the statute of limitations. The statute of limitation is three years³ for collection of juvenile fees⁴. Once accounts pass this timeframe without collection activity, the probability of collection is minimal.

As of June 30, 2015, Probation was owed amounts beyond the statute of limitation period totaling approximately \$3.3 million. This amount includes charges for institutional care and support of the juvenile, electronic monitoring fees, and home supervision fees.

Currently, Probation employs one collection staff member for managing the collection of over 5,500 accounts⁵. This results in accounts not actively being pursued and ultimately may deprive the County of collecting the debt as delinquent accounts may pass the statute of limitation.

Recommendations:

1. Consider activating the aging of receivables module in CUBS to help monitor past due accounts. Aging the accounts will help the collection staff stay on top of past due accounts.

² Accounts are under the name of the minor for restitution/restitution fines and under the name of the parent or guardian for juvenile fees.

³ See Cal. C. Civ. Proc. § 338.

⁴ However, Probation may extend the collection timeframe and allow for other collection options for 10 years if it obtains a judgment on the delinquent fees.

⁵ As of June 30, 2015.

- Additionally, Probation should consider making enhancements to CUBS, such as adding automated notifications for accounts nearing the statute of limitations; or
2. Probation should seek a computerized accounts receivable software option to allow it to create an aging of receivables report.

Management Response:

The Department agrees with the audit recommendation. As noted above, the Department identified the need to evaluate the collections process, and hired an outside consultant to evaluate current practices and procedures. As a result of the review, the Department is in the process of restructuring the Support Services Division in order to ensure effectiveness and efficiency of operations. The Department will initiate the below plan as follows:

- Review options to enhance collection efforts including outsourcing and prioritizing tasks to manage approximately 5,500 accounts.
- Initiate contact with CUBS to obtain quotes and proposal to enhance the system to include aging of receivable reports and adding notification for accounts nearing the statute of limitations.
- Corrective action plan shall be completed by December 31, 2016.
- Person in charge of action plan: Administrative Service Manager

2. Enhance Collection Efforts on Accounts by Seeking a Court-Ordered Judgment

Probation can enhance its ability to collect outstanding amounts owed by seeking a court-ordered judgment against clients. This action allows Probation to file an abstract of judgment or request a tax intercept of California state income tax against the client. An abstract of judgment is a collection tool that is a public written record of a judgment, filed with the County Recorder, which creates a lien on any real property owned or later acquired in the County by the client. This action provides the County with a mechanism to collect amounts owed.

We sampled five accounts with a court ordered judgment. An abstract of judgment was not filed on any of the accounts. Additionally, none of the accounts were referred to the Franchise Tax Board in an attempt to intercept any state tax refunds.

Probation represents it has not pursued filing an abstract of judgment against some clients due to limited staffing. Enhancing collection efforts in this area may increase the County's ability to collect outstanding accounts.

Recommendations:

1. Pursue additional collection efforts such as filing an abstract of judgment; or
2. Refer accounts to the Franchise Tax Board for potential tax refund intercept; or
3. Consider participating in the State of California's Court-Ordered Debt Program which collects unpaid fines, state or local penalties, bail, forfeitures, restitution fines and orders, vehicle code violations or any other amounts upon a person for criminal offenses.

Management Response:

The Department agrees with the audit recommendation. As noted above, the Department identified the need to evaluate the collections process, and hired an outside consultant to evaluate current practices and procedures. As a result of the review, the Department is in the process of restructuring the Support Services Division in order to ensure effectiveness and efficiency of operations. The Department will initiate the below plan as follows:

- Review options to enhance collection efforts to include outsourcing and filing an abstract of judgment. The Department has utilized Credit Bureau Associates to refer past due accounts for

collections, and the State Franchise Tax Board for the Tax Intercept program. The Department will continue to explore other collection agencies to enhance collection efforts.

- Seek assistance and support from Solano Courts to allow the Department to take cases for civil judgement. The Department had taken cases to Court to seek court-ordered judgments in previous years, but encountered some challenges with the Courts due to the number of cases being referred. The Department will need the Court's support to implement the recommendations provided by the ACO.
- Action plan shall be completed by December 31, 2016.
- Person in charge of action plan: Administrative Service Manager

3. Work to Resolve Outstanding "Pending" Accounts

Parents, legal guardians, and other persons liable for the support of the minor may be liable for various financial obligations associated with probation, such as fines and fees for services rendered by County agencies.

Probation may request to order the appearance of the parent, guardian, or other person responsible for the minor before the County financial evaluation officer⁶ for a financial evaluation of his or her ability to pay the costs assessed⁷. If the county financial evaluation officer determines a person has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum of money to the county or court, depending on which entity incurred the expense.

Probation did not consistently perform follow-up procedures (such as contacting client for financial evaluation) on accounts under pending status. We sampled ten accounts for our review of the client billing process and noted the collection staff did not consistently initiate contact with the client. Two of the ten accounts sampled did not have any activity since the accounts were initially established in CUBS. Additionally, none of the ten accounts were subjected to financial evaluation and the client did not sign a stipulation⁸. As of June 30, 2015, there has not been any collection activity on the ten accounts we sampled for an average of ten months.⁹

Probation has one collection staff member for its juvenile accounts. This limits their collection efforts. Accounts that have not been subjected to a financial evaluation are recorded in CUBS as "pending." While an account is in "pending" status there are no collection activities¹⁰. As of June 30, 2015, the total outstanding accounts, including those that have not been subjected to a financial evaluation, is over 5,500¹¹ and the amount of the juvenile facilities fees recorded in a "pending" status totals \$5.5 million.

Probation can only pursue account collections if the parent or guardian is determined to have the ability to pay. Therefore, failure to perform the financial evaluation deprives Probation of the opportunity to initiate collection efforts and may result in the County being unable to collect amounts owed.

⁶ A Probation Department Collection Officer serves this function.

⁷ Pursuant to Welfare and Institution Code §903.45.

⁸ A stipulation is a legal acknowledgement made between opposing parties concerning a certain fact or facts.

⁹ Collection activity for accounts under "pending" status includes sending notices to the client requiring him/her to appear before a financial evaluation officer.

¹⁰ However, Probation does attempt to contact the client to sign a stipulation and/or report for a financial evaluation.

¹¹ This figure does not include Restitution that is payable to the victim and/or the State of California. Such accounts are managed by the individual Probation Officers.

Recommendation:

In cases where the client refuses to appear before the financial evaluation officer or refuses to sign stipulation, Probation should petition the court to require the client to appear before the County financial evaluation officer.

Management Response:

The Department agrees with the audit recommendation. As noted above, the Department identified the need to evaluate the collections process, and hired an outside consultant to evaluate current practices and procedures. As a result of the review, the Department is in the process of restructuring the Support Services Division in order to ensure effectiveness and efficiency of operations. The Department will initiate the below plan as follows:

- Review options to enhance collection efforts to include outsourcing and filing petitions to the court to require clients' appearance before the County Financial Evaluation Officer.
- Seek assistance and support for the Solano Courts to allow the Department to file petitions to require clients' appearance before the County Financial Evaluation Officer.
- Action plan shall be completed by December 31, 2016.
- Person in charge of action plan: Administrative Service Manager

2. File Signed Stipulations with the Court

The Collection Officer seeks to have clients sign a stipulation form as an acknowledgement of his/her commitment to pay amounts owed the County for Probation services¹². After signing the form, if the client fails to pay his/her obligations per the agreement, then the County may file the stipulation in court for purposes of seeking a civil judgment against the client for the agreement amount owed the County.

We reviewed 5 accounts with a signed stipulation. None of the stipulations were filed with the court after the client defaulted. Although the signed stipulation may allow Probation to pursue collection activities beyond the statute of limitations, it still must be filed with the court to be effective. Additionally, our review of the accounts with a signed stipulation disclosed 3 out of the 5 accounts we sampled did not have any recent collection activity. The most recent activity was on April 2014.

Probation is not timely in making the necessary court filings for obtaining judgments on defaulted accounts with signed stipulations. Failure to obtain a court ordered judgment on accounts with signed stipulations limits the collection of delinquent accounts.

Recommendation:

Generate a report of all defaulted accounts with signed stipulations. Notify clients in writing about the default. If the client does not respond, file a civil judgment against him/her within the statute of limitation period.

Management Response:

The Department agrees with the audit recommendation. As noted above, the Department identified the need to evaluate the collections process, and hired an outside consultant to evaluate current practices and procedures. As a result of the review, the Department is in the process of restructuring the Support

¹² The client is not required to sign the stipulation when requested by the Collection Officer.

Services Division in order to ensure effectiveness and efficiency of operations. The Department will initiate the below plan as follows:

- Review options to enhance collection efforts to include outsourcing and following up on unresponsive clients and filing petitions with the Court to obtain civil judgments.
- Seek assistance and support from the Solano Courts to allow the Department to take cases for civil judgement. The Department will need the Court's support to implement the recommendation.
- Initiate contact with CUBS to enhance the system to generate reports of defaulted accounts with signed stipulations.
- Corrective action plan shall be completed by December 31, 2016.
- Person in charge of corrective action: Administrative Service Manager

3. Continue Collection Activities on Clients Who File for Bankruptcy

Probation has been writing off the costs of care, support, and maintenance of minors held in custody at juvenile hall of those whose parents/guardians filed for bankruptcy protection.

Charges for the costs of food, clothing, medical and personal supplies, up to \$30 per day, are considered domestic support obligations pursuant to federal law¹³. These County juvenile justice expenses are considered non-dischargeable debts¹⁴. Writing-off non-dischargeable debts deprives the County of potential collecting amounts owed.

We sampled five accounts. Upon receipt of a bankruptcy filing by the client, Probation ceased collection activities on all five accounts. For FY 14/15 and FY 13/14, Probation wrote off approximately \$44,000 of unpaid fees for the care, support, and maintenance of minors while incarcerated at a juvenile detention facility.

Recommendation:

Probation should seek to collect the costs related to the care, support, and maintenance of the incarcerated minor even if the parent/guardian files for bankruptcy.

Management Response:

The Department agrees with the Audit recommendation. The Department contacted County Counsel on May 27, 2016 and received an opinion related to cases involving bankruptcy. The Department will initiate the below plan as follows:

- Seek assistance from County Counsel on how to properly pursue clients that filed for bankruptcy.
- Action plan shall be completed by August 1, 2016.
- Person in charge of corrective action: Administrative Service Manager

D. Cash Handling Procedures

Secure Cash Payments at the Probation branch in Vallejo

There are various manners Probation clients make payments on their accounts. One way is by making an in-person payment at a Probation office. A client may make a payment by using either the kiosk machine or by placing a payment in an envelope and depositing the envelope into a

¹³ See 11 U.S.C. §523(a)(5).

¹⁴ See *Rivera v. Orange County Probation Department*, No. 13-1476 (BAP 9th Cir. June 4, 2014).

locked payment drop box (box). Clients choosing to use the box can make such payments with cash or a check.

We observed payment activities at the Probation office in Vallejo¹⁵. At this office, the box is located in the cashier's area. The key to the box was kept inside an unlocked drawer of the cashier and was in plain view during the time of our visit. As a result, the key to open the box and access to the contents (including cash) is accessible by any staff member.

Since any staff member has access to the key needed to open the box, there is a risk a staff member could open the box and misappropriate cash collections. Therefore, collections could be misappropriated by a single employee without detection. Proper internal controls require cash received from clients to be properly recorded and safeguarded.

Recommendations:

1. Remove the key to the payment drop box from the Vallejo office and place it in the custody of Billings and Collections staff in Fairfield; or
2. Install a payment kiosk at the Vallejo office and discontinue the use of the payment drop box.

Management Response:

The Department implemented the first recommendation proposed by removing the key to the payment drop box from the Vallejo office and placing it in the custody of the Billings and Collections staff in the Fairfield office.

Unfortunately, regarding the second recommendation, the Department could not implement the installation of a payment kiosk in the Vallejo office in order to discontinue the use of the payment drop box. Although the kiosk machines are no cost to the County, the vendor requires a minimum collection amount in order to install additional kiosk machines. The Vallejo office does not generate the amount needed to meet the minimum collection requirements.

Conclusion:

As noted throughout the responses, the Department recognizes the need to review current collection practices and enhance collection efforts. By completing a comprehensive manual outlining procedures, coupled with review other options such as outsourcing and collaborating with other county agencies and departments, the Department is confident areas noted in the Audit report will be corrected.

For additional information, the Department is closely monitoring Senate Bill (SB) 941 which could impact juvenile collection processes. This legislation was authored by State Senator Holly Mitchell, on March 29, 2016, and the passage of SB 941 would repeal the assessment of administrative fees against families of juveniles who have been detained or placed on probation. Currently, the Alameda County Board of Supervisors unanimously voted to impose an immediate moratorium on all fees charged to parents and guardians with children in the juvenile justice system. The moratorium offered immediate relief to more than 2,900 families with outstanding debt and shielded thousands of families from future financial hardship who pass through the Alameda County Juvenile Court. In addition, San Francisco County does not charge juvenile fees under the principle that imposing fees to families who have limited financial resources creates an additional hardship. A copy of SB941 is attached for reference, in addition to the review from the Support Services Division which references the Collections Unit.

¹⁵ Note: only the Vallejo branch office offers a payment drop box.