

## Probationers' Domestic Violence Payments

Improved Processes for Managing and Distributing  
These Payments Could Increase Support for  
Local Shelters

September 2012 Report 2011-121



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September 6, 2012

2011-121

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor (state auditor) presents this audit report concerning payments collected from individuals convicted of crimes of domestic violence and sentenced to probation (probationers). The majority of these payments are used to support local domestic violence programs that are shelter-based (local shelters).

This report concludes that improved processes for managing and distributing these payments could increase support for local shelters. Our review of 135 domestic violence cases in four California counties—Los Angeles, Sacramento, San Diego, and Santa Clara—over a four-year period revealed that individual courts and county agencies use varying methods for collecting the payments required of probationers. Of the cases we evaluated, many of the amounts initially assessed against probationers were not collected, although collections in some counties were higher than others. Moreover, our review of the distribution of funds from the payments identified several issues that reduced the amount of funding available to local shelters. Specifically, Santa Clara County had a fund balance that grew to \$715,000 in undistributed domestic violence funds. Sacramento County accumulated a large balance equivalent to 20 months of disbursements. Further, counties and courts inaccurately distributed the state and county shares of their domestic violence funds leading them, in some instances, to misdirect funds that they should have distributed to local shelters. When county agencies and courts do not collect or distribute all available domestic violence funds, local shelters may not be able to provide as many services to victims of domestic violence as they otherwise would. Finally, we identified several other issues that can affect these payments and that may require legislative clarification.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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## Summary

### Results in Brief

Our review of 135 domestic violence cases in four California counties—Los Angeles, Sacramento, San Diego, and Santa Clara—revealed that individual courts and county agencies use varying methods for collecting the payments made by individuals convicted of crimes of domestic violence and sentenced to probation (probationers).<sup>1</sup> The Superior Court of California's courts and their respective counties are responsible collectively for collecting and disbursing these domestic violence payments, the majority of which help support the work of local domestic violence programs that are shelter-based (local shelters). Of the 135 cases over the four-year period we evaluated, many of the amounts initially assessed against probationers were not collected although collections in some counties were higher than others. Moreover, our review of the distribution of funds from the payments identified several issues that reduced the amount of funding available to local shelters. Specifically, Santa Clara County had a fund balance that grew to \$715,000 in undistributed domestic violence funds. Sacramento County accumulated a large balance equivalent to 20 months of disbursements. Further, counties and courts inaccurately distributed the state and county shares of their domestic violence funds, which led them, in some instances, to misdirect funds that they should have directed to local shelters. When county agencies and courts do not collect or distribute all available domestic violence funds, local shelters may not be able to provide as many services to victims of domestic violence as they otherwise would.

In expressing its strong intent to support local shelters throughout California and thus to support victims of domestic violence, the Legislature declared that the State has a present, growing need to develop innovative strategies and services to reduce the trauma of domestic violence. To help meet this need, the Legislature passed legislation establishing a funding stream derived from domestic violence payments by probationers. State law requires that each of these individuals make a minimum payment of \$400 as one of many terms and conditions of his or her probation. However, state law specifies that a court may waive this payment if the court determines that the probationer has an inability to pay.

Our audit indicated that several factors could have affected the success in collecting probationers' domestic violence payments, including the economy's effect on probationers' ability to pay and

<sup>1</sup> Domestic violence crimes involve the physical or sexual abuse of any victim who has a certain relationship—as defined by state law—with the perpetrator.

### Audit Highlights . . .

*Our audit of the payments used to support domestic violence programs at Los Angeles, Sacramento, San Diego, and Santa Clara counties over a four-year period highlighted the following:*

» *Individual courts and county agencies use varying methods for collecting the payments made by individuals convicted of domestic violence crimes and sentenced to probation.*

- *Each county had a high level of uncollected payments for the cases we selected and varying methods for collecting the payments.*
  - *Of the 135 cases over a four-year period we evaluated, many of the amounts initially assessed were not collected.*
  - *Some counties had higher collection rates than others—collections in Los Angeles County averaged 57 percent of the amounts owed while collections in San Diego County were only 12 percent.*
  - *Some specific practices in the San Diego County Superior Court likely contributed to its low collection rates—judges reduced (between 25 percent and 43 percent) the amounts assessed for a reason other than inability to pay.*
- » *Several issues can affect the collection of payments and the availability of funds for local shelters.*
- *Courts differ in their interpretations of whether the payments are actually fines or fees, which can influence the circumstances under which payments can be waived or reduced.*

- *Counties are permitted by state law to offset their collections with other costs—such as administrative expenses—thus reducing the amounts available for local shelters.*
- *Santa Clara County did not distribute its domestic violence funds in compliance with state law resulting in a balance that grew to \$715,000 in undistributed domestic violence funds.*
- *Counties and courts distributed inaccurately the state and county shares of domestic violence funds.*

other payment priorities established by state law. However, we were unable to correlate specific collections mechanisms with successful collection rates. For the four counties we reviewed, even the entities responsible for collecting the payments vary: In Sacramento and Santa Clara counties, designated county agencies collect domestic violence payments; in Los Angeles and San Diego counties, the individual courts and designated county agencies collect payments from probationers. During the four years under review, each county had a high level of uncollected payments for the cases we selected, but some counties had higher collection rates than others. For example, the four-year average for collections in Los Angeles County totaled 57 percent of the amounts that its probationers owed, while collections in San Diego County averaged only 12 percent of payments owed during the same time period.

Although we could not link the collections methods of these counties and courts with their collection rates, we noted some specific practices in the San Diego County Superior Court (San Diego Court) that likely contributed to its low collection rates. For example, for certain cases we reviewed, judges reduced the amounts assessed for a reason other than inability to pay. For the cases we reviewed, this practice resulted in the reduction of payments from between 25 percent to 43 percent of the assessed amount.

While we were investigating the reasons for variances in the collection rates and collections practices, we identified several other issues that can affect the collection of the payments and that may require legislative clarification. For example, courts differ in their interpretations of whether the payments are actually fines or fees. Although these differences have not affected the amounts assessed, confusion surrounding whether the payments are fees or fines can influence the circumstances under which payments can be waived or reduced. Further, state law does not explicitly state how to apply partial payments across different fine and fee priorities, and we noted inconsistencies during our review. This lack of clarity may have resulted in fewer resources for local shelters.

We reviewed six entities responsible for collections (collections entities) and learned that five prorate the payments they receive across different priorities. Los Angeles County Superior Court (Los Angeles Court) does not prorate payments because it lacks an automated system that would make such prorating possible. Instead, Los Angeles Court allocates the money collected from a probationer to the individual's domestic violence payment owed after collecting most of the other fines and fees the probationer owes. Although this practice may be lawful, it limits the funds allocated towards domestic violence programs.

We also noted that counties are permitted by state law to offset their collections with other costs, thus reducing the amounts available for local shelters. For example, to cover some administrative expenses, such as selecting and monitoring the local shelters with which they contract, some counties have deducted administrative costs from the revenue collected from domestic violence payments. Further, our review revealed differences in how counties have interpreted state law when computing such expenses. Legislative clarification would help to ensure that counties compute these costs in the manner that the Legislature intends.

According to current state law, once probationers remit their payments, each county is required to deposit two-thirds of the payments into a domestic violence special fund (special fund) dedicated to supporting local shelters. Collections entities are to remit the remaining one-third of the payments to the State. However, Santa Clara County did not distribute its domestic violence funds in compliance with state law, and this noncompliance resulted in a balance that grew to \$715,000 in undistributed domestic violence funds. Instead of providing this funding to local shelters for their unrestricted use, Santa Clara County funded an advocate for domestic violence victims, who was located at one of its county offices, to provide referrals to local services, to act as a liaison between the probation officers and victims, and to advocate for victims as they moved through the judicial process. Subsequently, in March 2012 Santa Clara County disbursed the accumulated funds to four local shelters. Sacramento County also amassed in its domestic violence account a large balance equivalent to 20 months of disbursements for its contracted local shelter.

Finally, we identified other issues that reduced the resources available to local shelters. Specifically, counties and courts distributed inaccurately the state and county shares of domestic violence funds, and these incorrect distributions led them, in some instances, to misdirect funds that they should have distributed to local shelters. For example, we estimate that Sacramento County misdirected approximately \$94,000 to the State because it missed a key change in legislation that adjusted the percentages of domestic violence funds that the State and the counties were to receive. When counties and courts do not distribute domestic violence funds accurately, and when counties do not disburse all available funds to local shelters, the shelters cannot provide as many services to victims of domestic violence as they otherwise might.



### Recommendations

The Legislature should consider clarifying the following with regard to domestic violence payments:

- Whether it intends for the payment to be a fine or a fee.
- Whether collections entities should prorate payments across different priorities.
- How counties should calculate allowable administrative costs.

San Diego Court should establish procedures to ensure that courts do not reduce domestic violence payments for reasons other than probationers' inability to pay.

Santa Clara County should implement a process to distribute funds regularly to local shelters.

Sacramento County should increase its contracted spending for shelter services so that it reduces the balance of its special fund to a level that is reasonable considering the needs of the fund.

Counties and courts that misdirected domestic violence funds should correct these errors and prevent incorrect distributions from occurring in the future.

### Agency Comments

The counties and courts generally outlined steps they have taken or will take to implement the recommendations directed to each of them. However, San Diego Court states that its court administration is not in a position to implement one recommendation related to the waiving and reducing of domestic violence payments.

# Introduction

## Background

In expressing its strong intent to support local domestic violence programs that are shelter-based (local shelters) throughout California, the Legislature declared that there was a present and growing need to develop innovative strategies and services to reduce the trauma of domestic violence. To help accomplish this goal, the Legislature resolved to support projects throughout the State that would assist victims of domestic violence by offering them undisclosed and secure locations that were open 24 hours a day with trained staff so that victims could escape their destructive environments. One way the Legislature supports these victims is by establishing a funding stream through payments made by individuals convicted of crimes of domestic violence and sentenced to probation (probationers). Our audit focused on the collection and disbursement of these domestic violence payments.

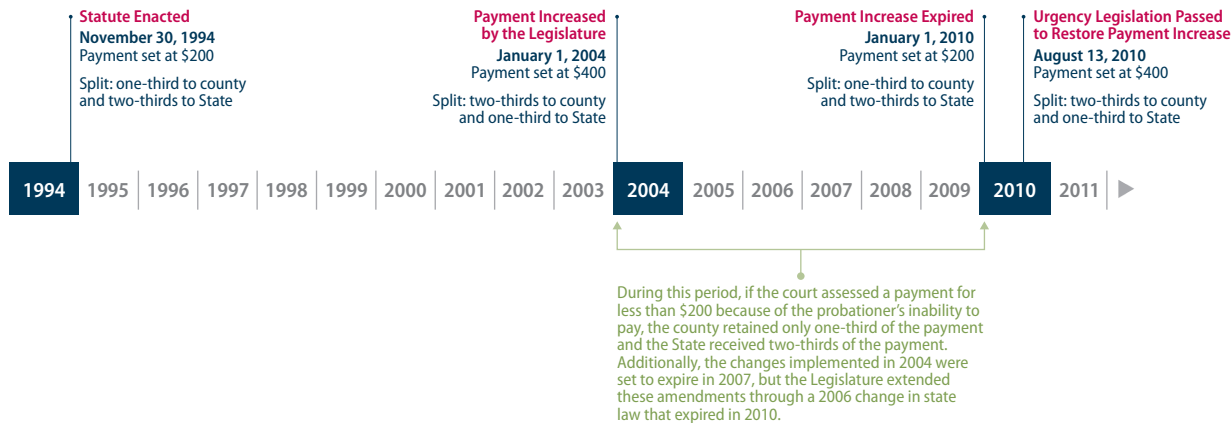
State law requires individuals who are convicted of domestic violence crimes and sentenced to probation to make a minimum payment of \$400 as one of many terms and conditions of their probation. Domestic violence crimes involve the physical or sexual abuse of any victim who has a certain relationship with the perpetrator, as described in the text box. State law specifies that a court can reduce or waive a payment for a domestic violence crime if the court determines that the probationer has an inability to pay. Once the probationers remit their payments, each county is required to deposit a portion of the payments into a domestic violence special fund (special fund) dedicated to supporting local shelters. The other portion of the payments is split evenly between two state accounts. The California Department of Justice administers one account for the reimbursement of law enforcement or other criminal justice agencies for state-mandated local costs resulting from notification requirements related to domestic violence cases, and the California Department of Public Health administers the other account for a statewide training and education program to increase public awareness of domestic violence. Since the statute establishing the payment was enacted in 1994, the Legislature has amended it several times. These amendments have altered the amount of the payment as well as its relative distribution to state and county accounts, as Figure 1 on the following page describes.

### Persons Who Can Qualify as Victims of Domestic Violence

- A spouse or former spouse of the perpetrator.
- A person who regularly resides in the perpetrator's household, or a person who formerly did so.
- A person who has or who had a dating or engagement relationship with the perpetrator.
- A person with whom the perpetrator has had a child.
- A child of the perpetrator.
- Any other person related to a perpetrator through blood or marriage.

Sources: California Family Code, Section 6211, and California Penal Code, Section 6209.

**Figure 1**  
Evolution of the California Statute Requiring the Domestic Violence Payment



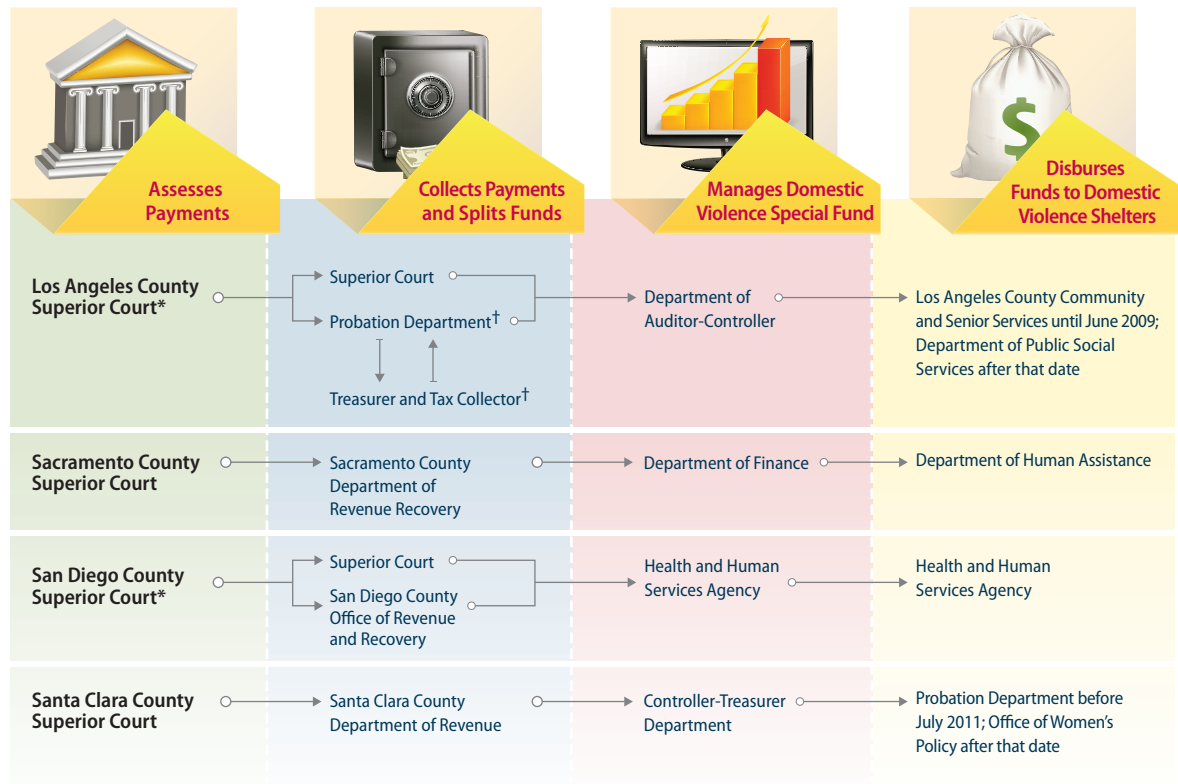
Sources: Chapter 28, Statutes of 1994; Chapter 431, Statutes of 2003; Chapter 476, Statutes of 2006; and Chapter 132, Statutes of 2010.

As of mid-August 2012, the Legislature passed, and sent to the governor for his signature, a bill that would change the law that requires the domestic violence payment. This bill would increase the minimum payment from \$400 to \$500. The bill also would require that if the court reduces or waives the payment, it state the reason on the record. Currently, the requirement is only for the reduction or waiver of the payment to occur after a hearing in court on the record.

### Collection of Domestic Violence Payments

State law does not specify the entity responsible for collecting domestic violence payments at the county level. Thus, the entities responsible for collections (collections entities) in each county can vary. In the four counties we reviewed, we identified two general structures for collecting payments. As Figure 2 depicts, two different entities collect the payments in both Los Angeles and San Diego counties. In each of these counties, the superior court collects payments for individuals on *summary probation*—or probation in which an individual reports to the court rather than a probation officer—which typically applies to misdemeanor convictions. Additionally, a county department—Los Angeles County Probation Department (Los Angeles Probation) or San Diego County Office of Revenue and Recovery (San Diego Revenue)—collects payments for individuals on *formal probation*, or individuals assigned to a probation officer with the county probation department. These individuals are typically convicted of felonies. In contrast, Sacramento and Santa Clara counties collect the payments on behalf of their superior courts.

**Figure 2**  
**Entities Responsible for Assessing, Collecting, Managing, and Disbursing Domestic Violence Payments**



Sources: Interviews with key officials and supporting documentation.

\* If an individual is sentenced to summary probation—or probation in which an individual reports to the court rather than a probation officer—the superior court is responsible for collecting the probationer’s payments. Such sentences occur for misdemeanor convictions. If an individual is sentenced to formal probation—or probation supervised by an assigned probation officer—the Los Angeles County Probation Department (Los Angeles Probation) or the San Diego County Office of Revenue and Recovery is responsible for collecting the probationer’s payments. Such sentences usually occur for felony convictions.

† The Los Angeles County Treasurer and Tax Collector only receives payments. Los Angeles Probation is responsible for account setup and collections monitoring.

In addition to having their own collections structures, the collections entities also have varying processes for collecting the debts ordered by the courts. For example, the Los Angeles County Superior Court (Los Angeles Court) locations we reviewed rely primarily on the judicial function of monitoring a probationer’s adherence to his or her terms and conditions of probation to collect delinquent debts, whereas Los Angeles Probation uses telephone calls and letters to the probationer in its attempts to collect. Probation violation proceedings are not Los Angeles Probation’s primary collections mechanism; however, according to its collections procedures, Los Angeles Probation may request such proceedings if a probationer fails to maintain established payment plans or does not fulfill his or her total financial obligation within 120 days of expiration of the probation.

In contrast, the Santa Clara County Department of Revenue (Santa Clara Revenue) believes that if the only outstanding conditions of probation are unpaid fees, including domestic violence payments, the court may not reprimand the probationer because unpaid fees by themselves are not a probation violation. Instead, Santa Clara Revenue uses a number of formal mechanisms to enforce a probationer's obligation to pay. For example, Santa Clara Revenue takes steps to garnish the probationer's wages or refers the delinquent account to the Franchise Tax Board to intercept other sources of income, such as tax refunds and lottery winnings. Table 1 shows the different collections mechanisms used by the collections entities we reviewed.

**Table 1**  
**Collections Procedures Employed by Collections Entities Handling Domestic Violence Payments in Four Counties**

COLLECTIONS PROCEDURES	LOS ANGELES COUNTY			SACRAMENTO COUNTY	SAN DIEGO COUNTY	SANTA CLARA COUNTY	
	VAN NUYS COURT COLLECTIONS	LONG BEACH COURT COLLECTIONS	PROBATION DEPARTMENT	DEPARTMENT OF REVENUE RECOVERY	CENTRAL DIVISION COURT COLLECTIONS	OFFICE OF REVENUE AND RECOVERY	DEPARTMENT OF REVENUE
Relies on judicial oversight to enforce collections	✓	✓	✗	✗	✗	✗	✗
Conducts telephone calls, issues letters, or both	✓*	✓*	✓	✓	✓*	✓	✓
Uses the following formal collections mechanisms:							
Initiates wage garnishment (internal collectors)	✗	✗	✗	✗ <sup>†</sup>	✗	✗	✓
Refers accounts to Franchise Tax Board's court-ordered debt program	✗	✗	✗	✓	✗	✓	✓
Refers accounts to Franchise Tax Board's tax-intercept program	✗	✗	✗ <sup>‡</sup>	✓	✗	✓	✓
Refers accounts to private third-party collection agencies	✓	✓	✗	✗	✓	✗	✓
Deadline after which the entities responsible for collections (collections entities) begin employing collections mechanisms to collect on delinquent accounts	30 days after missed due date*	30 days after missed due date*	60 days after missed due date	5 to 7 days after missed due date	30 days after missed due date*	30 days after missed due date	30 days after missed due date

Sources: Interviews with key officials and analyses of related documentation at the different collections entities.

Note: Multiple court locations exist in Los Angeles and San Diego counties. See the Introduction's Scope and Methodology section for information about how we selected specific locations for our audit.

✓ = Uses procedure.

✗ = Does not use procedure.

\* The letters sent by the Los Angeles County and San Diego County court locations we reviewed are delinquency notices, which discuss sending individuals' accounts to collection agencies if payments are not made. The time frames shown as deadlines correspond to the time frames when the courts sent the accounts to the collection agencies.

† Although it can initiate wage garnishments on occasion, the Sacramento County Department of Revenue Recovery generally does not do so, as we explain on page 9.

‡ As the Appendix discusses, the Los Angeles County Probation Department previously sent delinquent accounts to the tax-intercept program, but it stopped this practice in 2009.

All six collections entities make telephone calls or issue letters as a means of attempting to collect outstanding payments. These mechanisms are in most cases prerequisites for employing more

formal collections mechanisms. The extent to which collections entities use all formal collections mechanisms available to them differ. For instance, Santa Clara Revenue's process calls for it to use all available formal mechanisms to collect payments, whereas Los Angeles Probation currently does not employ any of these formal measures. The collections entities also vary in how they apply the mechanisms. For example, Santa Clara Revenue is the only collections entity that routinely initiates wage garnishments. Some collections entities refer delinquent accounts to the Franchise Tax Board's court-ordered debt program. For instance, Sacramento Department of Revenue Recovery (Sacramento Revenue) explained that generally it does not initiate wage garnishments because doing so is costly; it determined that it is more cost-effective to refer the case to the Franchise Tax Board's court-ordered debt program, which executes the wage garnishments.

Some collections entities use third-party collections to collect on delinquent accounts. Although three of the reviewed collections entities do not currently use third-party collections for domestic violence payments, two of them are considering using this approach. Los Angeles Probation indicated that it is looking into obtaining a contract for third-party collections. Although San Diego Revenue believes that its internal collections results are satisfactory, its director explained that it is currently evaluating partnering with a third-party collection agency to supplement internal efforts and further enhance its collections outcomes.

Further, collections entities use different deadlines to guide when they begin employing strategies to collect on delinquent accounts. For instance, Los Angeles Probation's process is to flag an account as delinquent if probationers do not pay the amount due after 60 days and refer the account to its internal collections. In contrast, between five and seven days after a probationer's missed payment, Sacramento Revenue's process is to begin calling the individual using an automated dialing service.

### **Distribution of Domestic Violence Payments**

Different entities are responsible for accounting for and distributing the payments collected, as Figure 2 indicates. Once the collections entities collect the payments, the money is deposited into special funds, and then other county departments are responsible for distributing the money. The Appendix describes the collection and disbursement processes for each county. The statute that established the payments for individuals convicted of domestic violence and sentenced to probation also describes how the payments should be spent. Specifically, as previously explained, the collections entities send a portion of these payments to the State and the remainder is

deposited in their respective county's special fund. The statute indicates that the payments deposited in this special fund should be spent for the same purposes as marriage license fees the county collects—to support local shelters.<sup>2</sup> The Legislature directed counties

### Services That Local Shelters Must Provide to Be Eligible for Funding

- Shelter that is available to domestic violence victims 24 hours a day, seven days a week.
- A telephone hotline for crisis calls that is available 24 hours a day, seven days a week.
- Temporary housing and food facilities.
- Psychological support and peer counseling for victims of domestic violence.
- Referrals to existing services in the community.
- A drop-in center to assist victims of domestic violence who need support services.
- Arrangements for school-age children to continue their education during their stay at the domestic violence shelter.
- Emergency transportation as feasible.

Source: California Welfare and Institutions Code, Section 18294.

to distribute these payments to local shelters that meet all the criteria listed in the text box. These payments are one of a variety of funding sources that local shelters receive. Counties, along with private companies and foundations, contribute other funding to local shelters. The state and federal governments also provide funding. For example, the California Emergency Management Agency, United States Department of Justice, and the United States Department of Health and Human Services provide funding for domestic violence programs.

In three of the four counties we reviewed, counties deposit both the domestic violence payments collected from probationers and the marriage license fees into the same fund, as authorized by state law. Because counties are instructed to spend the funds for the same purpose, those counties do not track the domestic violence payments separately from the marriage license fees. The exception is Santa Clara County, which created a separate special fund during our four-year audit period specifically for the domestic violence

payments. Unlike the county collections entities that share an accounting system with the entities responsible for managing the special funds, the Los Angeles and San Diego courts—because they are responsible for collecting some of the payments—have to transfer the payments to the counties. For selected months we reviewed, we noted that the courts we reviewed were remitting the payments to the county monthly and that the amounts remitted were appropriate.

During our four-year audit period, three of these four counties used these funds to contract with local shelters to provide services to victims of domestic violence. Los Angeles County disburses funds to 19 local shelters, Sacramento County to one local shelter, and San Diego County to four local shelters. During the same period, Santa Clara County did not distribute funds to local shelters in accordance with state law, a situation we discuss in Chapter 2. Generally, the contractors invoice the counties monthly for services provided, although some contractors submit invoices less frequently.

<sup>2</sup> State law dictates that when marriage licenses are issued, \$23 of each fee paid shall be collected by the county clerk for deposit into the county's special fund.

State law requires these contractors to report annually on the services they provide to victims of domestic violence. Counties may contract with local shelters for different types of services, and thus contractors may report different types of data. Table 2 reflects the number of individuals receiving three common types of services.

**Table 2**  
**Number of Individuals Served by Local Domestic Violence Shelters in Three Counties We Reviewed**

COUNTY	YEAR/FISCAL YEAR	EMERGENCY HOUSING	HOTLINE CALLS	REFERRALS
Los Angeles*	2007 <sup>†</sup>	NA	NA	NA
	2008	6,910	24,417	7,823
	2009	5,220	23,306	15,368
	2010	5,434	23,036	12,079
	2011	4,891	15,500	8,788
Sacramento	2007–08	403	4,511	10,784
	2008–09	486	9,961	23,389
	2009–10 <sup>‡</sup>	499	6,789	NA
	2010–11	268	12,394	4,082
San Diego <sup>§</sup>	2007–08	NA	4,240	NA
	2008–09	NA	4,952	NA
	2009–10	NA	5,833	NA
	2010–11	NA	6,355	NA

Sources: Contractor reports from Los Angeles County Department of Public Social Services and the Sacramento County Department of Human Assistance. Summary data from Los Angeles County Community and Senior Services and San Diego County Health and Human Services Agency.

Note: These figures may count one individual more than once because she or he might receive all three services or receive the same service multiple times in one reporting period.

NA = Not available.

\* Los Angeles County received reports from local shelters for the calendar year. Thus, we present the five calendar years that relate to our four-year audit period. The other counties received annual reports from local shelters for the fiscal year.

<sup>†</sup> Los Angeles County was unable to provide reports for 2007.

<sup>‡</sup> Reporting from Sacramento County's local shelter was limited in fiscal year 2009–10 because of staff turnover.

<sup>§</sup> State law requires counties to distribute funds to local shelters that provide certain services; however, it does not require counties to fund specific types of services. The annual reports in San Diego County are focused on certain services for which the county contracts and that are not specifically emergency housing or referrals. As a result, data were not available for these categories.

### Scope and Methodology

We conducted this audit at the direction of the Joint Legislative Audit Committee (audit committee), which asked us to audit the payments used to support domestic violence programs that are received



from individuals granted probation for crimes of domestic violence. The audit committee approved the audit objectives listed in Table 3. To address these objectives, we selected Los Angeles, Sacramento, San Diego, and Santa Clara counties for review. We selected these counties based on a number of factors, including geographic location, entities responsible for collections, amount of domestic violence payments remitted to the State, and number of calls related to domestic violence. Specifically, we chose two northern California counties—Sacramento and Santa Clara—in which the county has sole responsibility for collections, and we selected two southern California counties—Los Angeles and San Diego—in which the superior court and the county are each responsible for certain types of collections. Within Los Angeles County Superior Court, which has multiple courthouses, we chose to review one court in which judges heard domestic violence cases along with other criminal matters (Van Nuys Courthouse) and one court with an assigned courtroom for domestic violence cases (Long Beach). In San Diego County, we selected the superior court’s central division because among the superior court’s four divisions, it generated the largest portion of domestic violence payment revenues for the county.

**Table 3**  
**Methods of Addressing Audit Objectives**

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed relevant laws, regulations, and other background materials.
2 For a sample of four counties, to the extent possible, obtain the following information for each year in the most recent four-year period: <ul style="list-style-type: none"> <li>a. Total amount of payment revenue collected.</li> <li>b. Determine whether revenue from payments collected from individuals granted probation for crimes of domestic violence (Penal Code, Section 1203.097(a)) is separately tracked for accounting purposes.</li> <li>c. Beginning and ending balances of the account and the special fund.</li> </ul>	<ul style="list-style-type: none"> <li>• Interviewed key staff at each county to identify how they document the total revenue collected from domestic violence payments.</li> <li>• Obtained and analyzed accounting records at each county that demonstrate the total amount of revenue collected from domestic violence payments for fiscal years 2007–08 through 2010–11.</li> </ul> <ul style="list-style-type: none"> <li>• Interviewed key staff at each county.</li> <li>• Obtained documentation to determine the extent to which the counties tracked domestic violence payments from assessment through distribution to local shelters.</li> </ul> <ul style="list-style-type: none"> <li>• Interviewed key staff at each county to identify the funds and accounts in which the payments were deposited.</li> <li>• Obtained accounting records reflecting beginning and ending special fund balances for these funds for fiscal years 2007–08 through 2010–11 for three of the counties, and a transaction report for Sacramento County. Sacramento County deposits domestic violence payment revenue into a larger countywide fund. As a result, we calculated the beginning and ending cash balances in Sacramento County using the beginning balance provided by the county for fiscal year 2007–08 and deposits into and payments out of the account.</li> <li>• Inquired about any significant changes or large balances.</li> </ul>

AUDIT OBJECTIVE	METHOD
d. Amount of revenue from payment collections transferred to domestic violence programs. Identify recipients of this funding that are not domestic violence programs, if any.	<ul style="list-style-type: none"> <li>• Interviewed key staff at each county to determine the process by which the funds were transferred from the county to local shelters.</li> <li>• Obtained and documented accounting records in each county for fiscal years 2007–08 through 2010–11, demonstrating the annual amounts transferred to local shelters.</li> <li>• Inquired about and documented key information regarding distributions to recipients other than local shelters.</li> <li>• Assessed the appropriateness of administrative charges and other amounts deducted from the revenue collected.</li> </ul>
e. The number of individuals served by the local shelters receiving funding from the probation payments.	Obtained annual reports and other related information from Los Angeles, Sacramento, and San Diego counties for each of the recipients of domestic violence funding regarding persons assisted for the four years of our audit period.
f. Determine how long the counties are holding these funds before transferring them to the local shelters.	<ul style="list-style-type: none"> <li>• Interviewed key staff at each county.</li> <li>• Obtained documentation to determine the counties' process for transferring funds to the local shelters and the amount of time funds were held between their collection and their distribution.</li> <li>• For Santa Clara County, determined why it did not transfer funds to its local shelters.</li> </ul>
g. Determine if the counties' use of these funds complies with statutory requirements.	<ul style="list-style-type: none"> <li>• Interviewed key staff at each county to identify the process by which counties selected the local shelters to receive domestic violence funds.</li> <li>• Obtained and analyzed documentation of the counties' selection processes to determine if the funds were being used in compliance with statutory requirements.</li> </ul>
3 For a sample of courts in the counties selected, assess the extent to which each court has an adequate process for handling the domestic violence payments by determining the following for each year in the most recent four-year period:	<ul style="list-style-type: none"> <li>• In each county reviewed, we attempted to obtain 32 cases, eight from each fiscal year of our audit period. We selected the cases so that there was representation of each entity collecting on the assessments, such as the courts and county entities responsible for collections (collections entities), in each year reviewed. Due to a data issue identified in Table 4, we increased to 40 the number of cases selected for Santa Clara County. We selected only 31 cases for Los Angeles County because we were unable to identify a final felony case. In Santa Clara County, we chose the files electronically. Due to the challenges experienced in doing so, we manually selected the files from their storage areas in the other three counties.</li> </ul>
a. Whether the counties receive all necessary information related to the payments from the courts.	<ul style="list-style-type: none"> <li>• Interviewed key staff at each county to understand their process for communicating all information related to the payments necessary for collections from the courts.</li> <li>• For the counties only, using the cases selected, we compared the orders issued at sentencing from the court records with documentation from the counties' collections systems to ensure the county received the information necessary for collections to proceed. We limited this objective to the counties because those were the only collections entities where data were transferred from the court.</li> </ul>
b. The frequency of complete payments by probationers.	Using the cases selected in objective 3a, reviewed collections accounting records to determine whether the accounts were paid in full, and the amount remitted if not paid in full.
c. The extent to which mechanisms exist to enforce payments and the effectiveness of those mechanisms.	<ul style="list-style-type: none"> <li>• Interviewed key staff at each collections entity and reviewed related documentation to determine its collections process and the mechanisms available to enforce payments.</li> <li>• Using the cases selected, we determined the extent to which the mechanisms were used and focused our review of an entity's compliance with its established deadlines on when the entity began its initial collections efforts.</li> </ul>
d. The extent to which the courts are completely and accurately remitting payments.	<ul style="list-style-type: none"> <li>• For the Los Angeles and San Diego superior courts only, we interviewed key staff to understand how the court transmits payments to the county and how the county accounts for the transferred funds. We limited this objective to these courts because they were the only collections entities that had to remit payments to the county. The remaining collections entities are county departments, and thus the funds were already in the county system.</li> <li>• Reviewed the amount of payments collected by the courts and reconciled those collections to the deposits into each county's special fund.</li> </ul>

AUDIT OBJECTIVE	METHOD
e. How long the courts are holding these funds before transferring them to the counties.	<ul style="list-style-type: none"> <li>For the Los Angeles and San Diego superior courts, we interviewed key staff to understand how the court transfers the payments to the county and determined how much time passes between each step in the remittance process.</li> <li>Reviewed collections and deposit information to determine the length of time between payments received and transfer of funds to the counties.</li> </ul>
4. Review and assess any other issues that are significant to the domestic violence payments.	<ul style="list-style-type: none"> <li>Interviewed key staff at each county and obtained associated documentation to determine the county's process for transferring funds to the State and to the county's domestic violence special fund.</li> <li>Reviewed the distribution of revenues from domestic violence payments to the State and to the county.</li> </ul>

Sources: The California State Auditor's analysis of the Joint Legislative Audit Committee request number 2011-121, planning documents, and analysis of information and documentation identified in the column titled *Method*.

### Assessment of Data Reliability

In performing this audit, we relied upon various electronic data files from the 13 systems listed in Table 4. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer-processed information. However, we did not perform accuracy and completeness testing on the data because of the large number of systems from which we collected the data and because this audit is a one-time review of the data from these systems. As a result, we determined that the data have undetermined reliability for the purposes listed in Table 4. Nevertheless, we present these data, as they represent the best available source of information.

**Table 4**  
**Methods to Assess Data Reliability**

SYSTEM OWNER	INFORMATION SYSTEM	PURPOSE	METHODS AND RESULTS	CONCLUSION
Los Angeles County	<ul style="list-style-type: none"> <li>Revenue Plus Collection System</li> <li>Electronic Countywide Accounting and Purchasing System (eCAPS)*</li> </ul>	<ol style="list-style-type: none"> <li>To identify the amounts of domestic violence probation payments owed and collected in each of the four counties for fiscal years 2007–08 through 2010–11.</li> <li>To calculate by entity responsible for collections (collections entity) the cost recovery amounts for collections for fiscal years 2007–08 through 2010–11.</li> <li>To identify by collections entity the total revenue collected for fiscal years 2007–08 through 2010–11.</li> </ol>	<p>To gain some assurance that the amounts owed were recorded accurately in the counties' collections systems, we compared the sentencing orders from the court records to data in the collections systems. Three counties' collections systems had entered accurately the payment amounts owed. However, in the collections system of the Los Angeles County Probation Department (Los Angeles Probation), we found an error in one of the nine felonies we tested. Specifically, Los Angeles Probation relies on the Los Angeles Court's TCIS to identify probationers' amounts owed. In this instance, a clerical error made by the court caused the omission of the amount owed. Further, because we compared the orders issued at sentencing and the data entered into the collections system as part of our testing to ensure that counties receive all necessary information related to the payments from the courts, we limited this review to the counties, as we previously describe in Table 3.</p>	Undetermined reliability for the purposes of this audit.
Los Angeles County Superior Court (Los Angeles Court)	<ul style="list-style-type: none"> <li>Payment Revenue Distribution System (PRD)†</li> <li>Trial Court Information System (TCIS)‡</li> <li>Financial Reporting System (FRS)‡</li> </ul>			
Sacramento County	Debt Management and Collection System			
San Diego County	Revenue Plus Collection System			
San Diego County Superior Court	Financial Management System			
Santa Clara County	Revenue Plus Collection System			

SYSTEM OWNER	INFORMATION SYSTEM	PURPOSE	METHODS AND RESULTS	CONCLUSION
Los Angeles County	eCAPS	4. To calculate by county disbursements from domestic violence special funds (special funds) for domestic violence programs for fiscal years 2007–08 through 2010–11.	As part of our audit procedures to determine the amounts that counties distributed to shelters, we verified disbursements from the special funds in Sacramento and San Diego counties. Because their accounting records did not clearly reflect disbursements to specific contractors, we reviewed invoices to gain assurance that these disbursements were accurate. In Los Angeles and Santa Clara counties, we did not need to perform this additional testing because the counties' accounting records clearly identified disbursements by specific contractor.	Undetermined reliability for the purposes of this audit.
Sacramento County	Comprehensive Online Management Personnel and Accounting System for Sacramento County (COMPASS) <sup>§</sup>			
San Diego County	E-Business Suite Financials			
Santa Clara County	Accounting System and Procurement (ASAP) <sup>§</sup>			
		5. To calculate by county the ending fund balances for special funds for fiscal years 2007–08 through 2010–11.		
		6. To calculate by county the administrative costs claimed from special funds for fiscal years 2007–08 through 2010–11.		
Santa Clara County	Criminal Justice Information Control System (CJIC)	7. To make a selection of domestic violence cases sentenced between July 1, 2007, and June 30, 2011, that required domestic violence payments.	To obtain some assurance as to the completeness of the data extracted from CJIC, we reviewed the extract source code prepared by Santa Clara County. The results of our review revealed that Santa Clara County did not provide the full population of domestic violence cases sentenced during fiscal years 2007–08 through 2010–11 that required domestic violence payments. Subsequently, Santa Clara County provided us a second extract that included the missing domestic violence cases. We made our selection of domestic violence cases from these two extracts.	Undetermined reliability for the purposes of this audit.

Sources: The California State Auditor's analysis of various documents, interviews, and data obtained from the entities listed in the table.

\* We used eCAPS to identify Los Angeles Court's total revenue collected because Los Angeles County maintains an aggregate total of deposits from various court locations. We did not use eCAPS for purposes 1 and 2.

† We did not use PRD and TCIS for purposes 2 and 3.

‡ We did not use FRS for purpose 1.

§ We did not use COMPASS and ASAP for purpose 6.

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## Chapter 1

### VARYING PROCESSES FOR HANDLING DOMESTIC VIOLENCE PAYMENTS AFFECT THE AVAILABILITY OF FUNDS FOR LOCAL SHELTERS

#### Chapter Summary

The collection and allocation of payments by individuals convicted of crimes of domestic violence and sentenced to probation (probationers) vary across the four counties we reviewed. Our review of 135 domestic violence cases for a four-year period—fiscal years 2007–08 through 2010–11—revealed that a large amount of initial assessments were not collected. Because state law requires a significant portion of the payments collected be distributed to local domestic violence programs that are shelter-based (local shelters), uncollected payments represent missed opportunities to provide increased services. Although there were large amounts of uncollected payments in each county, collections in some counties were higher than others. For example, collections in Los Angeles County totaled 57 percent of the amounts assessed, while collections in San Diego County were only 12 percent. Although we noted a number of factors that could have affected the collections efforts, such as the economy and other payment priorities established by state law, we were unable to correlate the differing collections mechanisms we reviewed with successful collections. Nevertheless, we noted some specific practices in the San Diego County Superior Court (San Diego Court) that likely contributed to its low collection rates. For example, for certain cases we reviewed, judges often reduced the amounts assessed for a reason other than inability to pay, namely successful completion of a batterer intervention program. Further, San Diego Court does not clearly identify the amount of each fine and fee it orders.

While we were investigating the reasons for variances in the collection rates and collections practices, we identified several areas needing legislative clarification that may influence the collection of the payments. For example, courts differ in their interpretations of whether the payments are actually fines or fees, and these differences can influence the circumstances under which the courts can waive or reduce the payments. Further, state law does not state explicitly how to apply partial payments across different fine and fee priorities, and we noted inconsistencies during our review. This lack of clarity may have resulted in the availability of fewer resources for local shelters. Finally, we noted that counties may offset their collections with other costs, reducing the amount available for local shelters. For example, some counties have deducted costs from their county domestic violence special fund (special fund) for

certain administrative expenses, such as selecting and monitoring the local shelters with which they contract. However, we noted differences in how counties interpreted state law when computing such expenses. Legislative clarification would help to ensure that counties are computing these costs in the manner that the Legislature intends.

### **Some Entities Collected Higher Percentages of Assessments Than Others**

Our review of 135 domestic violence cases handled over the four-year period in the four counties revealed that entities responsible for collections (collections entities) did not collect a large amount of initial assessments. State law requires local jurisdictions to assess and collect domestic violence payments and distribute revenue from these payments to state and local domestic violence program funds, with a portion of the program funds supporting local shelters. Although uncollected payments were large in each county, collection rates in some counties were higher than others. As shown in Table 5, the four-year average for collections in Los Angeles County totaled 57 percent for the cases we reviewed, and average collections in Santa Clara and Sacramento counties ranged from 29 percent to 31 percent. The average collection rate in San Diego County was 12 percent, the lowest percentage of payments collected.

*The four-year average collection rate for initial assessments in domestic violence cases in San Diego County was 12 percent, the lowest percentage of payments collected for the counties we reviewed.*

In addition, all four counties had a large number of cases where no payments had been made, but some had more than others. For example, the collections entities we reviewed in San Diego County collected no payments for 24 cases, or 75 percent, of the 32 cases we tested. For the eight cases for which the collections entities in San Diego County collected some payments, the entities collected only one payment in full. By comparison, the collections entities we reviewed in Los Angeles County collected no payments on about one-third of the 31 cases we tested. For the 20 cases in which they collected some payments, the collections entities in Los Angeles County collected 15 in full. Because of the relatively low rate of collections of payments in the four counties, fewer resources are available for local shelters to provide services to victims of domestic violence.

Certain factors also affect the collections efforts in multiple counties. For example, although state law permits judges to consider the probationer's ability to make the domestic violence payment when assessing what is due, economic factors likely affect collections. For example, San Diego Court's central division court operations manager and Los Angeles Superior Court's (Los Angeles Court) finance administrator for revenue management speculated that the downturn in the economy has affected their ability to collect payments. Further, the Judicial Council of California noted unemployment and the economy as factors contributing to the difficulty of collecting delinquent court-ordered debt in its December 2011 report to the Legislature titled

*Statewide Collection of Court-Ordered Debt for Fiscal Year 2010–11* (December 2011 report). Without the economic downturn, probationers might have had more disposable income with which to make payments, and collections entities might have seen higher collection rates. In addition, courts assess other types of payments in addition to the domestic violence payment, and state law mandates that probationers make payments to other payment categories, such as victim restitution, before collections entities may allocate any money towards domestic violence payments. This provision of state law affects domestic violence payments if individuals make partial payments insufficient to cover all their outstanding debts.

**Table 5**  
**Collections of Probationers’ Payments for Selected Domestic Violence Cases**  
**Fiscal Years 2007–08 Through 2010–11**

FISCAL YEAR	COUNTY	INITIAL AMOUNT OF ASSESSMENTS DUE	TOTAL AMOUNT COLLECTED	PERCENTAGE OF ASSESSMENTS COLLECTED	DOMESTIC VIOLENCE CASES TESTED	CASES PAID IN FULL	PERCENTAGE OF CASES PAID IN FULL	CASES WITHOUT PAYMENTS	PERCENTAGE OF CASES WITHOUT PAYMENTS
2007–08	Los Angeles	\$3,600	\$2,556	71%	9	5	56%	2	22%
	Sacramento	3,200	1,685	53	8	4	50	3	38
	San Diego	3,200	360	11	8	0	0	5	63
	Santa Clara	2,800	1,608	57	10	5	50	4	40
2008–09	Los Angeles	3,200	1,529	48	8	3	38	4	50
	Sacramento	3,200	1,500	47	8	2	25	2	25
	San Diego	3,200	817	26	8	1	13	5	63
	Santa Clara	2,200	766	35	10	2	20	3	30
2009–10	Los Angeles	3,000	1,165	39	8	3	38	4	50
	Sacramento	3,200	578	18	8	1	13	5	63
	San Diego	3,200	190	6	8	0	0	7	88
	Santa Clara	3,400	919	27	10	1	10	7	70
2010–11	Los Angeles	2,200	1,622	74*	6	4	67	1	17
	Sacramento	3,200	163	5	8	0	0	6	75
	San Diego	2,800	181	6	8	0	0	7	88
	Santa Clara	3,600	137	4	10	0	0	9	90
Totals for All Fiscal Years	Los Angeles	\$12,000	\$6,872	57%	31	15	48%	11	35%
	Sacramento	12,800	3,926	31	32	7	22	16	50
	San Diego	12,400	1,548	12	32	1	3	24	75
	Santa Clara	12,000	3,430	29	40	8	20	23	58

Source: The California State Auditor’s analysis of selected case files and related documentation. See Table 4 in the Introduction regarding the reliability of the data.

Note: The Scope and Methodology section describes the reasons behind differences in the numbers of items we tested at each entity responsible for collections. Further, the results presented for Los Angeles and San Diego counties include the results of our testing of the court locations we identified in Table 1.

\* Although the data suggest that Los Angeles County collected a higher percentage of its assessments in fiscal year 2010–11 than it did during the two previous fiscal years, these percentages should be viewed with caution because we tested a smaller number of cases in fiscal year 2010–11. Staff for the county and for the two court locations we reviewed did not indicate any changes in processes that would account for this difference in the collection rates.



*Except in the case of a practice occurring at San Diego Court that likely contributed to the lower level of collections in that county, we were unable to draw any correlations between collection rates and the collections mechanisms.*

Another factor affecting the ability to collect payments is that the court can revoke probation. Once the court does so, the conditions of probation, including any fines and fees owed, are eliminated. In the four counties, the court revoked probation in six of the 32 cases we reviewed in San Diego County, five of the 31 cases we reviewed in Los Angeles County, and one of the 40 cases we reviewed in Santa Clara County. For these particular probation revocations, the court generally took this action between eight months to two years after the payments were imposed at sentencing.

Our case review indicated that the collections entities generally used the mechanisms we describe in the Introduction and began their initial collections efforts in accordance with established deadlines. However, except in the case of a practice occurring at San Diego Court (discussed in the next section) that likely contributed to the lower level of collections in that county, we were unable to draw any correlations between collection rates and the collections mechanisms.<sup>3</sup>

### **For Reasons Other Than Probationers' Inability to Pay, Some Courts Waive or Reduce Domestic Violence Payments**

Although state law specifies that assessed domestic violence payments may be reduced or waived if the court finds that the defendant has an inability to pay, judges in one of the counties reduced or waived the payment for other reasons, such as the probationer's successful completion of batterer intervention programs. This practice results in fewer resources being available for domestic violence programs. Additionally, we noted single instances of waivers for reasons other than inability to pay in two of the other counties.

In San Diego County, of the probationers in the 16 misdemeanor cases that we reviewed at San Diego Court's central division, eight had completed batterer intervention programs. For each of those eight cases, the court reduced domestic violence payments, and the reductions ranged from 25 percent to 43 percent.<sup>4</sup> The batterer intervention programs are designed to stop domestic violence through such services as counseling and educational programming. State law requires courts to impose attendance in such a program at sentencing along with other mandated conditions of probation, such as the domestic violence payment. According to the central division's court operations manager, judges generally allow individuals convicted of misdemeanors to delay

<sup>3</sup> Similarly, in its December 2011 report, which looked at court-ordered debt in general rather than domestic violence payments in isolation, the Judicial Council of California determined that it could not make any direct correlations between a given collection practice and the revenue collected.

<sup>4</sup> As discussed in the next section, the court records the assessed fines and fees as one total amount. The reductions are made to the total and then prorated across all individual amounts assessed, including the domestic violence payment.

payment of their fines and fees until they complete their batterer intervention programs. Since batterer intervention programs must last at least 52 weeks and it takes time for the probationer to enroll in a program, the court may delay collecting payments towards fines and fees for more than one year. In the cases we reviewed, upon successful completion of batterer intervention programs, judges reduced the total amount owed, including a reduction of the domestic violence payment.

In addition, for the remaining eight misdemeanor cases we reviewed at the central division, San Diego Court did not expect the probationers to make any payments. Specifically, in five cases, individuals did not comply with the probationary terms, and judges revoked probation and assessed jail time instead. Since the judges delayed payment of fines and fees pending completion of a batterer intervention program and revoked probation before these individuals completed the programs, the individuals were never required to make payments towards the fines and fees. In one additional case, the judge waived all fines and fees to credit the defendant for time served in jail. For the two remaining cases, the individuals were still in the process of completing their batterer intervention programs, so they were not yet required to make payments towards the fines and fees. Because the judge reduced the fines and fees on all cases we reviewed in which probationers completed the batterer intervention programs, we expect that judges will reduce the fines and fees if these two probationers complete their batterer intervention programs. When we asked the court operations manager about the practice of reducing assessed amounts because of completing the batterer intervention program, he told us that court staff were not in the position to comment on the issue as it identifies actions the judges take in the courtroom and addresses sentencing practices. Nevertheless, when the court waives or reduces payments, fewer resources are available to assist victims of domestic violence in San Diego County.

Finally, we noted one instance that occurred in two of the other counties where the judge waived payments for a reason other than the probationer's inability to pay. Specifically, for one of the 22 misdemeanor cases we reviewed in Los Angeles County, the court reduced all fines and fees in exchange for the individual's time served in jail. Similarly, for one of the 40 cases we reviewed in Santa Clara County, the court waived the payment by giving the probationer credit for time served in jail.

### **San Diego Court Does Not Record Clearly the Amounts of Payments Assessed**

San Diego Court follows policies that may result in the collection of incorrect payment amounts and that may affect the amount of payments distributed to shelters. Specifically, San Diego Court

*In the cases we reviewed at San Diego Court, upon successful completion of batterer intervention programs, judges reduced the total amount owed, including a reduction of the domestic violence payment.*

developed guidelines—a compilation of recommended sentences for common offenses (sentencing guidelines)—to aid judges and court clerks in the sentencing of misdemeanors and such infractions as traffic offenses.<sup>5</sup> In an effort to ensure courtwide consistency in the pronouncement of judgments, these guidelines recommend that judges announce court-ordered fines and fees as a total amount. Further, these guidelines state that court clerks need only record court-ordered fines and fees as a total amount on the probationer's official order issued at sentencing rather than record the individual amount of each assessed fine or fee. These sentencing guidelines provide a breakdown of the fines and fees that make up the total amount for the purposes of setting up payment accounts for misdemeanor convictions in the court's collection-tracking system—Financial Management System (FMS). For example, according to the sentencing guidelines in place during early 2009, the standard sentence for a domestic violence case was \$704, which included \$400 for the domestic violence payment and the remaining \$304 for other specified fine and fee categories (\$20 court security, \$30 criminal conviction assessment fee, \$100 restitution fund fine, and \$154 criminal justice administration fee, also known as a *booking fee*). In this example, the amount recorded as the assessed fines and fees was \$704, with no further breakdown included.

The sentencing guidelines indicate that the domestic violence payment should be \$400; however, of the eight misdemeanor cases we reviewed from the central division that had been entered into FMS, four cases had assessed amounts less than \$400. Specifically, according to the central division's court operations manager, delays commonly occur between when the judge imposes the payments and when central division accounting sets up the payments in FMS. He explained that until the judges indicate that the probationer is expected to begin paying his or her court-ordered debt following completion of the batterer intervention program, central division accounting staff do not set up the account in FMS. As a result, the accounting staff may use different sentencing guidelines to set up the account than were in place at the time of sentencing. For example, in two of the four cases we reviewed, individuals were sentenced in 2009 when the court security fee was \$20 and ordered to begin making payments after October 2010 when the court security fee was increased to \$40. Because the accounts were not set up in FMS until after October 2010, the accounting staff applied \$40 of the total amount to the court security fee. According to the court operations manager, when the central division's accounting staff enter accounts into FMS, they establish all other fines and fees

<sup>5</sup> This policy applies to the misdemeanor cases we reviewed. According to the central division's court operations manager, there are typically more misdemeanor cases filed than felony domestic violence cases. For the felony cases we reviewed, the judges and court clerks clearly enumerated the amount of each fine and fee.

first and the remaining amount is set up as the assessed domestic violence payment. In these instances, probationers might be required to pay less for the domestic violence payment than the judge intended.

Additionally, this practice also resulted in assessed amounts greater than \$400. Of the central division's eight misdemeanor cases we reviewed that appeared in FMS, two cases had amounts greater than \$400. The total amounts recorded on the orders issued at sentencing reflected fines and fees that might not be applicable. Specifically, according to the sentencing guidelines, part of the standard fines and fees, as previously discussed, require probationers to pay booking fees to reimburse agencies for the cost of booking them into jail. However, defendants might be arrested but not booked and therefore would not have actually incurred corresponding fees. Regardless, the practice of imposing a standard total amount that included such a fee resulted in the probationer being charged the fee. According to the court operations manager, when the San Diego Court's central division accounting staff set up the account in FMS, they recognized instances in which they should not establish booking fees because the court records lacked booking numbers. Because the court assessed a total sum that included a booking fee and accounting staff did not set up a booking fee, excess funds resulted. He indicated that the central division's practice was to set up the excess funds as part of the domestic violence payment due. According to its sentencing guidelines, San Diego Court records fines and fees in total amounts to ensure courtwide consistency in the pronouncement of judgments. However, recording a total amount of assessed fines and fees may have resulted in some probationers paying fines and fees in excess of what the judge intended. Subsequently, the central division corrected its practice of establishing the excess funds as part of the domestic violence payment due. However, with regard to addressing the condition that resulted in assessed amounts that were less than \$400, the court operations manager indicated that he is looking into the practice of using different sentencing guidelines when setting up accounts than were in place at the time of sentencing and will work to resolve the issue.

*The practice of imposing a standard total amount that included booking fees to reimburse agencies for the cost of booking them into jail resulted in the probationer being charged the fee even when it was not incurred.*

### **Counties and Courts Differ in Their Interpretations of Certain Statutory Provisions That Relate to Domestic Violence Payments**

Our review of the four counties revealed that entities vary in their interpretations of certain provisions of state law that relate to the assessment, collection, and allocation of domestic violence payments. Primarily, these entities differ in whether they view the domestic violence payment as a fine or fee. In addition, these entities vary in their interpretations of state law that address how

installment payments should be prioritized. Certain practices may lead to these entities shortchanging the domestic violence programs funded by domestic violence payments.

### ***Courts Vary in Their Interpretations of Whether Domestic Violence Payments Are Fines or Fees***

Although state law refers to the domestic violence payment as a fee in one instance, the courts we reviewed differ about whether to interpret the payment as a *fine* or a *fee*. In the world of criminal justice, the terms fine and fee have distinct meanings. A *fine* is designed to be punitive, and in many cases the amount imposed by the court corresponds to the seriousness of the offense. An example of a fine is the restitution fine associated with convictions, which can vary in amount, depending on the seriousness of the offense and other relevant factors. In contrast, a *fee* is a payment that a defendant may be ordered to pay upon conviction as a condition of probation, and courts do not consider a fee punitive or punishing. In fact, the amount of the fee typically does not vary depending on the severity or nature of the crime to which it pertains. The money generated by the payment of a fee typically supports some activity or regulatory program. One example of a fee is the court security fee imposed on every criminal offense, which supports the cost of court security during criminal trials.

We asked the court executives in the four counties whether their courts viewed the domestic violence payment as a fine or fee. In response, Los Angeles Court's executive officer pointed to a court case that he believed indicated the payment was punitive for certain purposes. A conclusion that the payment is punitive is consistent with an interpretation that the payment is a fine. However, he indicated that the application of law is ultimately an independent determination made by the judicial officer in imposing conditions of probation. In contrast, referring to the term's use in state law to support their views, the courts in Santa Clara and San Diego counties consider the payments to be fees. San Diego Court also directed us to a California Attorney General's opinion as support for its view. The court in Sacramento chose not to comment on whether the domestic violence payment falls under either category, explaining that this question relies on legal interpretation and must be decided by each individual judge.

***Constitutional law prohibits a sentencing court from imposing a fine on a criminal defendant that is more severe than called for by the law on the date the offense was committed.***

The distinction between a fine and fee is important when it comes to criminal sentencing. Constitutional law prohibits a sentencing court from imposing a fine on a criminal defendant that is more severe than called for by the law on the date the offense was committed. Therefore, when imposing a fine, the court must take into account the date of the offense and what the law called for at that time in terms of the fine. For

example, if a criminal defendant commits a crime on January 1, 2005, and later the Legislature enacts a law imposing a fine on individuals who are convicted of that same crime, the court cannot retroactively impose the new fine on that defendant. In contrast, when imposing a fee, the court has no such limitation in retroactive application, and the court may impose a fee on a criminal defendant even if the law calling for that fee was not in place when the offense was committed.

Alternatively, in some instances, courts have treated the domestic violence payment as a fine during the term of probation. As discussed earlier, state law specifies that courts may reduce or waive the domestic violence payment for inability to pay. However, a separate provision in state law related to fines provides that courts may waive a fine for time served in jail. We noted for the cases we reviewed that San Diego Court, despite its view that the domestic violence payment is a fee, routinely reduced payments for probationers who had completed batterer intervention programs, as we discussed in a previous section. Further, we noted one instance each in three counties, including San Diego County, where the court waived the domestic violence payment for jail time. Reducing or waiving the amount of a payment in this manner is generally consistent with the treatment of a fine, not a fee. Additionally, as we explain later in this chapter, the San Diego Office of Revenue and Recovery (San Diego Revenue) relies on a provision in state law concerning fines to limit its collections efforts once the probationer's term of probation ends. Increased clarity in state law about whether courts should apply rules associated with fines or fees could help all of California's courts and counties impose, waive, and collect the domestic violence payment consistently.

### ***Collections Entities Have Inconsistently Allocated Probationers' Installment Payments***

Varying interpretations of state law also exist as to how collections entities should allocate installment payments. Although state law allows defendants to pay court-ordered debt in installments, according to the payment priority categories that the text box lists, the law does not explicitly state the category in which the domestic violence payment falls or whether collections entities are to allocate payments proportionally within the *other reimbursable costs* category. Three of the six collections entities we reviewed—Los Angeles County Probation Department (Los Angeles Probation), Sacramento County Department of Revenue Recovery (Sacramento Revenue), and San Diego Revenue—consider domestic violence payments to be part

#### **Priorities for Allocating Domestic Violence Payments**

When probationers make installment payments on their outstanding debt, counties are to apply those payments to the following categories, which appear in their order of priority:

1. Victim restitution.
2. The state surcharge for deposit into the State's General Fund.
3. Fines, penalty assessments, and restitution fines not allocated to victims. Entities are to make payments in proportion to the total amount for all of these items.
4. Any other reimbursable costs.

Source: [California Penal Code, Section 1203.1d.](#)

**The court executive at Los Angeles Court pointed out a court case that he believes indicates the payment is punitive for certain purposes, a view that is consistent with an interpretation that the payment is a fine, yet places the payment in the other reimbursable costs category when considering collection priorities.**

of the *finer and penalty assessments* category, while two of the remaining three collections entities—Los Angeles Court and Santa Clara County—consider these payments to be part of the *other reimbursable costs* category.<sup>6</sup> Finally, San Diego Court generally does not distinguish between categories when applying installment payments.

The collections entities provided differing rationales for placing the domestic violence payment in the *finer and penalty assessments* category or in the *other reimbursable costs* category. For example, Sacramento Revenue considers the domestic violence payment to be a fine and therefore places it within *finer and penalty assessments*. As discussed previously, the court executive at Los Angeles Court pointed out a court case that he believes indicates the payment is punitive for certain purposes, a view that is consistent with an interpretation that the payment is a fine. However, Los Angeles Court places the payment in the *other reimbursable costs* category when considering collection priorities. Los Angeles Court's revenue management finance administrator (finance administrator) indicated that since state law allocates part of the domestic violence payment for deposit in the Domestic Violence Restraining Order Reimbursement Fund, the domestic violence payment qualifies as a reimbursement within the *other reimbursable costs* category. Los Angeles Court also received confirmation from the State Controller's Office in 2008 that the domestic violence payment belongs in the *other reimbursable costs* category. The finance administrator further clarified that during our four-year audit period, Los Angeles Court placed \$200 of the domestic violence payment in an additional category after *other reimbursable costs*. As the Introduction explains, the domestic violence payment decreased to \$200 and then returned to \$400 in 2010. The finance administrator commented that Los Angeles Court viewed this \$200 increase as an additional amount that only was paid after *other reimbursable costs* were paid in full. Los Angeles Court based its view on certain language that was in state law during our audit period.

In addition, although state law explicitly requires prorating installment payments only for the *finer and penalty assessments* category, most of the collections entities we reviewed indicated they apply payments proportionally regardless of whether the domestic violence payment falls within *finer and penalty assessments* or within *other reimbursable costs*. By applying payments proportionally, all but one of the collections entities ensure that recipients of the different

<sup>6</sup> Although Los Angeles Probation treated the payments as *finer and penalty assessments*, its collections manager informed us in July 2012 that this categorization was an error. Instead, she believes that the payments should be collected as *other reimbursable costs*. She reached this determination after we asked questions during the audit. The collections manager stated that she has begun the process of changing the priority of these payments to be consistent with the collection of *other reimbursable costs*.

fund categories receive an equitable share of any partial payments. In contrast, Los Angeles Court applies payments by paying off and closing each individual fine or fee before moving to the next fine or fee on the list. Although Los Angeles Court's method may be lawful, it does not ensure the same equitable application of the payments. For example, if the first item in the *other reimbursable costs* category was a citation processing fee and the second item was the domestic violence payment, Los Angeles Court would allocate all revenue to the citation processing fee and only allocate revenue to the domestic violence payment once the citation processing fee had been fully satisfied. Consequently, fines and fees lower on the list would receive revenue only after fines and fees higher on the list had been paid in full. Los Angeles Court's placement of the domestic violence payment on the list varied over our four-year audit period, but on the most recent list issued during that period, the first \$200 of the domestic violence payment appears last in the *other reimbursable costs* category, and the remaining \$200 is listed first in the additional category. According to the finance administrator, Los Angeles Court placed the two amounts together so the cashiers would collect the entire \$400 amount and not be confused that there were two \$200 amounts, one within the *other reimbursable costs* category and the other in an additional category.<sup>7</sup>

A primary reason that Los Angeles Court does not prorate payments throughout priority categories is that it does not have a mechanism available to do so easily. Unlike the other collections entities that use a computer-based collections system, Los Angeles Court uses a paper-based cashiering system. When cashiers collect payments, they write down the total payment amount on a cashier slip and apply the revenue among the outstanding fines and fees by hand. If Los Angeles Court were to prorate payments, cashiers would have to perform manual calculations. The calculations would first require the cashier to determine the percentage of each fine or fee in relation to the amount owed for the entire category. The cashier would then have to divide the payment received from the defendant according to these percentages and add those amounts to each individual fine and fee within the category. To prevent its cashiers from having to perform these calculations by hand for each payment, Los Angeles Court instead uses the aforementioned methodology for applying payments. Los Angeles Court's practice of placing the domestic violence payment at or near the bottom of the *other reimbursable costs* category without the ability to apply installment payments proportionally limits the funds allocated towards domestic violence programs, such as local shelters.

***Although Los Angeles Court's method may be lawful, it does not ensure the same equitable application of the payments.***

<sup>7</sup> The language in state law that Los Angeles Court used as its basis for placing the remaining \$200 in an additional category expired in January 2012. Although Los Angeles Court no longer uses an additional category, it still places the domestic violence payment near the bottom of the *other reimbursable costs* category.



Finally, as mentioned previously, San Diego Court generally does not distinguish between categories when applying installment payments. Specifically, instead of establishing payment categories, San Diego Court prorates installment payments across *state surcharge, fines and penalty assessments*, and *other reimbursable costs* categories. San Diego Court indicated that its collections system currently does not have the capability to establish multiple payment categories. Although this practice is inconsistent with the priority order established in state law, it reflects San Diego Court's attempt to equitably apply installment payments given its constraints.

### **Collections Entities' Opinions Differ About the Extent to Which They Can Pursue Collections After Probation Expires**

*Among the six collections entities we reviewed, four believe that they can pursue collections efforts once probation expires, while two—responsible for collecting on felony cases—believe that the expiration of probation limits collections efforts.*

Although state law specifies that the domestic violence payment is a term and condition of probation, collections entities have different opinions about whether the expiration of probation limits further collections efforts. Thus, legislative clarification may also be beneficial in this area so that local shelters receive more funds to assist victims of domestic violence. Among the six collections entities we reviewed, four believe that they can pursue collections efforts once probation expires. However, two collections entities responsible for collecting on the felony cases we reviewed—San Diego Revenue and Los Angeles Probation—believe that the expiration of probation limits collections efforts. Specifically, San Diego Revenue believes that the order issued at sentencing, which contains the assessed fines and fees due, permits collections but restricts collections efforts after the term of probation expires. The director of San Diego Revenue explained that depending on the specific circumstances, once probation expires, staff may continue collections attempts but may no longer compel payments through involuntary means, such as the tax-intercept program, unless the involuntary effort started during the term of probation. San Diego Revenue also believes that it must discontinue all collections efforts unless otherwise directed by the court if an individual's probation has not yet expired but the court terminates probation instead—perhaps because the probationer fulfilled all other terms and conditions—or if the court revokes probation. Of the three felony cases we reviewed in San Diego County for which it was pursuing collections when probation expired, it stopped collections efforts on two cases because probation had expired and it continued collections efforts on the third case.

The director of San Diego Revenue cited a provision of state law that permits fine collection during probation and allows enforcement of any remaining balance at the end of probation in the same manner as a judgment in a civil action. The director believes this section of state law limits collections to the term of probation unless the court issues a civil judgment to collect. To avoid the

limitation once probation ends, San Diego Revenue is considering developing a new process to obtain civil judgments that permit continued collections efforts.

Unlike San Diego Revenue, which ceases some collections efforts once probation expires, Los Angeles Probation informed us that it stops all collections efforts at the expiration of the probationary term. Los Angeles Probation believes that it has jurisdiction over a probationer only during the term of probation, and this restriction also means that it loses the authority to collect court-ordered fines and fees after probation ends. If the length of time that collections entities can collect the payment is limited, then the ability for those entities to collect the total amount of the assessed payments is hindered. Los Angeles Probation stopped collecting on the one felony case we reviewed that had payments outstanding when probation expired. By restricting collections efforts when probation expires, counties may have lost out on revenue that would have otherwise benefitted domestic violence programs, such as local shelters.

*Unlike San Diego Revenue, which ceases some collections efforts once probation expires, Los Angeles Probation informed us that it stops all collections efforts at the expiration of the probationary term.*

### **Counties Have Varying Interpretations of the Statute That Applies to Claims for Administrative Costs**

County practices related to claiming administrative costs can also affect the amount of funds available to distribute to local shelters, and our review noted that counties are claiming administrative costs in varying ways that point to a need for legislative clarification. State law allows counties to claim administrative costs associated with a portion of their special fund. The law requires that counties not spend more than 8 percent of the funds to pay for the administrative costs associated with their special fund, for monitoring domestic violence shelters, and for meeting other administrative requirements. According to our legal counsel, a strict reading of the law's provisions, based on generally accepted rules of statutory construction, suggests that only 8 percent of the *marriage license fee portion* of the special fund—as opposed to 8 percent of the entire fund—can be used for administrative costs. Under this reading, the law would not permit counties to base their administrative costs on the revenues from the domestic violence payments deposited in the special fund. We believe that despite this somewhat technical interpretation, the Legislature may have intended the allowable administrative costs to apply to all funds and not just to the marriage license fees.

Although we believe that a strict reading of the statute indicates that counties can claim administrative costs only for the marriage license fee portion of their special fund, two counties claiming administrative costs during the period under review interpreted state law to include administrative costs based on the entire special fund.

However, the counties differed in the types of balances they used in their computations. Table 6 shows the extent to which counties claimed these costs. The two counties that claimed administrative costs—Los Angeles and San Diego—had different interpretations of what value to use as “the funds” to which the statute refers. For fiscal years 2007–08 and 2008–09, Los Angeles County calculated its allowable administrative costs by estimating revenues, or deposits, for its special fund and then computing 8 percent of those deposits. The county estimated revenues because it claimed administrative costs before year-end deposit information became available. As Table 6 shows, Los Angeles County claimed slightly more than 8 percent for its administrative costs during the first two fiscal years we reviewed because it overestimated its special fund revenues. The department that overestimated the allowable administrative costs—Los Angeles County Community and Senior Services—no longer distributes the special fund. Further, the department that took over the responsibility for distributing funds for the subsequent two fiscal years—the Department of Public Social Services—did not claim administrative costs for those years. According to staff at the Department of Public Social Services, Los Angeles County absorbed the administrative costs within its county funds because it had reduced special fund revenues and because it tried to allocate as much funding as possible to the local shelters.

**Table 6**  
**The Percentages of Costs That the Four Counties Claimed for Administering Their Domestic Violence Special Funds**

FISCAL YEAR	LOS ANGELES COUNTY*	SACRAMENTO COUNTY	SAN DIEGO COUNTY†	SANTA CLARA COUNTY‡
2007–08	8.36%	0%	3.50%	0%
2008–09	8.06	0	6.67	0
2009–10	0	0	4.66	0
2010–11	0	0	0	0

Sources: Accounting records provided by the Los Angeles County Department of Auditor-Controller, the Sacramento County Department of Human Assistance, the San Diego County Health and Human Services Agency, the Santa Clara County Probation Department, and the Santa Clara County Office of Women’s Policy. See Table 4 in the Introduction regarding the data’s reliability.

\* These values are based on total deposits in the county’s domestic violence special fund (special fund) from both domestic violence payments and marriage license fee revenues.

† These values are based on cash balances of the special fund, which includes both domestic violence payments and marriage license fee revenues.

‡ After the period we audited, Santa Clara County made a one-time distribution to spend the special fund balance, and it claimed administrative costs.

In contrast to Los Angeles County, San Diego County calculated its allowable administrative costs by determining the cash balance available in its special fund and computing 8 percent

of that balance. This approach provided a higher amount of allowable costs than had the county based its computation on deposits. For example, for fiscal year 2008–09, a calculation based on the deposits in its special fund would have led to allowable administrative costs of around \$61,000 while the cash balance computation produced allowable costs of over \$125,000. That year, San Diego County claimed almost \$105,000, which was less than the total administrative costs that it considered to be allowable. A San Diego County finance officer told us that the county did not claim administrative costs for fiscal year 2010–11 in an effort to supplement its special fund with available local funding so that it could maximize the program. When state law is not sufficiently clear as to how counties are to calculate allowable administrative costs, the law can contribute to inconsistent practices and may lead to situations in which counties claim administrative costs in a manner not intended by the Legislature.

The two other counties we reviewed did not claim any administrative costs during our four-year audit period. Santa Clara County did not claim administrative costs until after its March 2012 distribution of funds. We discuss this distribution in Chapter 2. The fiscal officer of the Santa Clara County Probation Department (Santa Clara Probation), which was in charge of the funds during those four years, told us that Santa Clara Probation did not charge administrative fees because it was not its practice to charge administrative costs on the funds that it administers. Similarly, Sacramento County did not claim administrative costs, but for a different reason. According to the chief financial officer for Sacramento County's Department of Human Assistance, the department believes that it should use available funds to provide services to victims of domestic violence, and because the costs of administering this program are small, it has not requested reimbursement for these costs from the special fund.

### **Sacramento County Retained a Large Percentage of Revenue to Recover Its Collections Costs, but the Amounts Retained Have Declined Over Four Years**

Although all of the collections entities we reviewed also deducted their costs of collecting on delinquent accounts from probationers' payments, Sacramento Revenue retained a significantly higher percentage of its revenues than did the collections entities in the other three counties, as Table 7 on the following page shows. Under a state law unrelated to the domestic violence payment law, courts and counties can deduct most of their costs, excluding capital expenditures, for collecting money on delinquent accounts before the counties and courts distribute revenues to other governmental entities. For its domestic violence cases, Sacramento County retained an average of 34 percent of the payments collected over

*Sacramento County's Department of Human Assistance believes that it should use available funds to provide services to victims of domestic violence and, because the costs of administering this program are small, it has not requested reimbursement for these costs from the special fund.*

the four years, with a high of 61 percent in fiscal year 2007–08. In contrast, no other collections entity retained more than 15 percent of their collections in any one year. When a county claims high percentages of its revenues for collections, fewer resources are available to local shelters to provide services to victims of domestic violence.

**Table 7**  
**Four Counties' Cost Recovery for Their Collection of Domestic Violence Payments**  
(Dollars in Thousands)

FISCAL YEAR	LOS ANGELES COUNTY				SACRAMENTO COUNTY		SAN DIEGO COUNTY				SANTA CLARA COUNTY	
	SUPERIOR COURT		PROBATION DEPARTMENT		DEPARTMENT OF REVENUE RECOVERY		SUPERIOR COURT		OFFICE OF REVENUE AND RECOVERY		DEPARTMENT OF REVENUE	
	REVENUE	AMOUNT RETAINED*	REVENUE	AMOUNT RETAINED	REVENUE	AMOUNT RETAINED	REVENUE	AMOUNT RETAINED	REVENUE	AMOUNT RETAINED	REVENUE	AMOUNT RETAINED
2007–08	\$1,229	\$6.3	\$90	\$6.8	\$74	\$45	\$255	\$2.5	\$22	\$3.0	\$256	Not available <sup>†</sup>
2008–09	1,144	6.7	84	6.9	89	30	201	1.8	24	3.0	211	\$21
2009–10	1,082	6.5	83	10.0	85	21	176	1.4	21	2.8	169	24
2010–11	1,005	5.9	76	10.5	72	14	154	1.3	16	2.4	142	16
Total percentage of revenue retained	1%		10%		34%		1%		13%		12% <sup>‡</sup>	

Sources: Accounting records from Los Angeles County Superior Court (Los Angeles Court), the Los Angeles County Probation Department, the Sacramento County Department of Revenue Recovery, San Diego County Superior Court, the San Diego County Office of Revenue and Recovery, and the Santa Clara County Department of Revenue (Santa Clara Revenue). See Table 4 in the Introduction regarding the reliability of the data.

\* The *Amount Retained* column primarily reflects estimates for fees that the Los Angeles Court is charged to allow probationers to make payments by credit cards, although the value also includes a small amount of actual costs for collecting delinquent accounts. We computed the estimated portion of these costs using averages based on the fees for one month at the two court locations reviewed.

† Santa Clara Revenue did not provide the amount of funds retained to cover its costs of collections for fiscal year 2007–08 because the data for that year were not readily accessible.

‡ This value is based on the three years of data available.

Sacramento Revenue's cost recovery rate declined significantly over the period we reviewed because of a reported change in how Sacramento Revenue allocates the cost of its collections program to the revenues it collects and a downsizing of its operations. Sacramento Revenue, and the other collections entities we reviewed, collect fines and fees assessed in criminal and traffic cases. According to Sacramento Revenue's fiscal manager, before November 2008 Sacramento Revenue retained all of the costs of collecting delinquent accounts for both traffic and criminal cases from the revenues from criminal cases only, including the domestic violence payments. This practice contributed to the 61 percent cost recovery rate identified in fiscal year 2007–08. Further, the director of Sacramento Revenue explained that in response to clarifying information from the Administrative Office of the Courts,

Sacramento Revenue revised its process to allocate the costs of its collections procedures to the revenue received on both criminal and traffic accounts. As a result, the cost recovery rate declined to 34 percent in fiscal year 2008–09.

Sacramento County's cost recovery rate decreased further the following two years, and Sacramento Revenue's cost recovery rate was 19 percent by fiscal year 2010–11. Sacramento Revenue's fiscal manager explained that county budget reductions caused Sacramento Revenue to move to a different building to reduce overhead costs and to reduce staffing as well as associated equipment and supply costs. These changes affected the cost of collections because the collections process included the lower level of expenses. With these reductions, Sacramento Revenue's recovery rate was more in line with those of some of the other collections entities we reviewed. Specifically, its rate for fiscal year 2010–11 is only a little higher than San Diego Revenue's rate of 15 percent and Los Angeles Probation's rate of 14 percent for the same year.

### Recommendations

To ensure consistent assessment, collection, and allocation of domestic violence payments, the Legislature should consider clarifying the following:

- Whether it intends for the domestic violence payment to be a fine or a fee and, similarly, whether collections entities should allocate the domestic violence payment to the payment priority category known as *finer and penalty assessments* or whether the payments belong in the *other reimbursable costs* category.
- Whether collections that belong in the *other reimbursable costs* category should be prorated among all assessments in that category.
- Whether collections entities have the authority to continue pursuing collection of domestic violence payments once an individual's term of probation expires.
- Whether allowable administrative costs apply to all funds in a county's special fund.
- How counties should calculate allowable administrative costs. Specifically, the Legislature should indicate whether counties should base their calculations on the balance of the special fund or deposits into that fund.

San Diego Court should ensure that procedures are in place so that courts do not reduce or waive domestic violence payments for reasons other than a probationer's inability to pay.

To ensure that it is accurately setting up accounts and to ensure that probationers are not paying more fines and fees than are applicable, San Diego Court should take these steps:

- Include on the orders issued at sentencing the breakdown of all fines and fees owed.
- Use the guidelines in place at the time of sentencing for those convicted of domestic violence crimes when it establishes accounts for payment.

## Chapter 2

### **SOME COUNTIES HAVE SHORTCHANGED THEIR LOCAL SHELTERS BY FAILING TO DISBURSE FUNDS AND BY OVERPAYING THE STATE**

#### **Chapter Summary**

Our review of the distribution of funds from the collection of domestic violence payments in four counties identified several issues that reduced the resources available to local domestic violence programs that are shelter-based (local shelters). Specifically, Santa Clara County did not comply with state law when distributing its domestic violence funds, resulting in a balance that grew to \$715,000. Instead of providing money to local shelters for their unrestricted use, Santa Clara County funded an advocate for domestic violence victims (advocate), who was located at one of its county offices, to provide referrals to local services, to act as a liaison between the probation officers and victims, and to advocate for victims as they move through the judicial process. Sacramento County also amassed in its domestic violence account a large balance equivalent to 20 months of disbursements for its contracted shelter. Finally, counties and courts distributed inaccurately the state and county shares of their domestic violence funds, and these errors led them, in some instances, to misdirect to the State funds that those counties should have distributed to local shelters. When counties do not disburse available funds to local shelters, the shelters cannot provide as many services to victims of domestic violence as they might otherwise supply.

#### **Santa Clara County Did Not Disburse Domestic Violence Payments in Accordance With State Law**

Three of the four counties we reviewed disbursed their domestic violence funds to local shelters for shelter services. In contrast, Santa Clara County did not. If Santa Clara County had disbursed the funds it had accumulated, local shelters could have provided more services to the county's victims of domestic violence. State law requires counties to provide these funds for the unrestricted use of their local shelters as long as the shelters meet certain criteria specified in law, as described in the Introduction. Los Angeles County, San Diego County, and Sacramento County disbursed funds to local shelters, as required by state law. We reviewed the qualification processes that the three counties used to select the local shelters with which they contracted and found these processes were generally consistent with the requirements specified in the law. Los Angeles County disbursed more than \$8 million in unrestricted



funds to 19 local shelters between fiscal years 2007–08 and 2010–11. Sacramento County funded a single local shelter during the period under review, resulting in \$784,000 in funds disbursed during our four-year audit period. San Diego County disbursed more than \$3.5 million to four local shelters within its county. Unlike the other three counties, Santa Clara County disbursed \$188,000 in restricted funds to a single local shelter to support an advocate housed at one of the county’s offices. Table 8 shows the four counties’ disbursements.

**Table 8**  
**Four Counties’ Special Fund Disbursements for Domestic Violence Shelters**  
**(In Thousands)**

FISCAL YEAR	LOS ANGELES COUNTY	SACRAMENTO COUNTY	SAN DIEGO COUNTY	SANTA CLARA COUNTY*
2007–08	\$1,879	\$142	\$866	\$25
2008–09	2,063	142	663	52
2009–10	2,052	250	815	56
2010–11	2,034	250	1,174	55
<b>Totals</b>	<b>\$8,028</b>	<b>\$784</b>	<b>\$3,518</b>	<b>\$188</b>

Sources: Accounting records from the Los Angeles County Department of Auditor-Controller, the Sacramento County Department of Human Assistance, the San Diego County Health and Human Services Agency, and the Santa Clara County Probation Department. See Table 4 in the Introduction regarding the reliability of the data.

Note: Beginning in fiscal year 2008–09, Santa Clara County segregated the domestic violence payments from its marriage license fees, so these domestic violence disbursements relate only to the payments. Disbursements by the remaining three counties draw from both the domestic violence payments and marriage license fee revenues.

\* Santa Clara County’s disbursements supported an advocate for domestic violence victims. Santa Clara County disbursed the accumulated funds to local shelters for their services in March 2012, after the period we audited.

Santa Clara County did not distribute funds in accordance with state law, which resulted in a domestic violence special fund (special fund) balance that grew to \$715,000 by fiscal year 2010–11 and that could have been distributed to local shelters. Although Santa Clara County disbursed some funds to a local shelter, it restricted the use of those funds to pay for an advocate for domestic violence victims housed at a county office to provide services to victims whose abusers were on probation with the county instead of making those funds available to a local shelter without restriction. The advocate provided referrals to local shelters and associated programs, acted as a liaison between probation officers and victims, accompanied victims to court, and provided advocacy and support as they moved through the system. According to the executive administrative services manager (manager) at the Santa Clara County Probation Department (Santa Clara Probation), Santa Clara County initially created this position in 2001 with support from the county’s general fund.

The manager further indicated that Santa Clara Probation was not aware of the funds or its authority over them from the time of their creation in 1995 until fiscal year 2004–05. In that fiscal year, county staff determined that Santa Clara Probation could pay for the advocate using domestic violence funds rather than county general funds, and Santa Clara Probation did so, but only for one year. Beginning in fiscal year 2007–08, Santa Clara Probation again resumed its funding of the advocate through domestic violence funds, instead of using county general funds. Over our four-year audit period, Santa Clara Probation distributed about \$188,000 in funds to pay for the advocate. Aside from these funds, Santa Clara County did not disburse any other money out of the special fund through fiscal year 2010–11. The clear intent of the law is to support local shelters that have an emergency or transitional shelter component and to make those funds available on a timely basis.

Santa Clara County discovered the fund balance beginning in 2010 through budget reviews, resulting in an evaluation to determine which of the county's departments should have authority over the funds. In September 2010 a board of supervisors committee requested a review of all funds within its public safety and justice departments, of which Santa Clara Probation is one. Then, in December 2010, when the results of the review were presented at a subsequent committee meeting, a representative from a local shelter requested that the committee allow domestic violence experts to submit options for disbursing the funds. As a result, the committee requested that the chief probation officer provide a spending plan for those funds. According to the manager at Santa Clara Probation, the chief probation officer then discussed the fund balance and appropriateness of the funds being located in Santa Clara Probation. According to documentation related to a board of supervisors meeting, Santa Clara Probation recommended the board transfer authority of the special fund to Santa Clara County's Office of Women's Policy, which already had a strong working relationship with local shelters. Consequently, in May 2011, the board of supervisors transferred authority over the special fund from Santa Clara Probation to the Office of Women's Policy effective July 2011. The advocate position was discontinued upon the transfer of authority over the funds to the Office of Women's Policy. The acting assistant county counsel informed us that the county determined that it was appropriate to discontinue the funding for the advocate position in order to more fully address the intent of the statute.

The large fund balance and the failure to allocate these funds to a local shelter without restriction, as required by state law, centered on two related causes. First, the manager at Santa Clara Probation asserts that it did not spend the funds because county staff previously determined that the funds could only be used to pay for

***Over our four-year audit period, Santa Clara Probation distributed about \$188,000 in funds to pay for an advocate rather than to support local shelters that have an emergency or transitional shelter component.***

*Although Santa Clara County's failure to disburse domestic violence funds in accordance with state law prevented local shelters from providing more services to victims, it has taken steps to correct the problem.*

the advocate. The manager told us that in 2004 staff reviewed the funds available and the limitations on their usage and determined that the only allowable use was to pay for the advocate. Second, the manager indicated that Santa Clara Probation was unaware that such a large fund balance had amassed in the special fund because of the county staff's determination that the only allowable use was for the advocate, its management did not feel it was prudent to use staff resources to continue monitoring the growing fund balance. Although Santa Clara Probation had become aware of the special fund balance during a fund transfer in 2008, it did not address the amount of available resources in the special fund at that time.

Although Santa Clara County's failure to disburse domestic violence funds in accordance with state law prevented local shelters from providing more services to victims, it has taken steps to correct the problem. Specifically, after the Office of Women's Policy assumed responsibility for the special fund, it developed a one-time process to distribute the accumulated funds to four local shelters. The Office of Women's Policy disbursed the funds in March 2012. According to the director of the Office of Women's Policy, as of July 2012, the county is in the process of developing guidelines for annual distributions of the amount in the special fund in the future.

### **Counties and Courts Have Not Distributed Accurately the State and County Shares of Their Domestic Violence Funds**

All the counties and courts we reviewed inaccurately distributed the state and county shares of their domestic violence funds although the nature and timing of the errors differed in several instances. As we describe in the Introduction, state law dictates the distribution of revenues from domestic violence payments to the State and counties. For much of our four-year audit period, state law required one-third of the domestic violence funds be distributed to the State and two-thirds be retained by counties in their special fund for subsequent distribution to local shelters.<sup>8</sup> However, errors by these counties and courts in some instances led them to overpay the State and underpay their special fund. When counties overpay the State, fewer resources are available to local shelters to provide services to victims of domestic violence. We also noted some instances in which the State was underpaid, but to a lesser extent.

In the case of Sacramento County, its Department of Revenue Recovery (Sacramento Revenue) erroneously distributed two-thirds of the domestic violence funds to state accounts

<sup>8</sup> Our audit period was from July 1, 2007, through June 30, 2011. As shown in Figure 1 in the Introduction, under certain circumstances, such as for a seven-and-a-half month period during 2010, the required distribution was two-thirds to the State and one-third to the counties.

and retained one-third in its special fund for eight years. As it was gathering information to respond to our requests during the audit, Sacramento Revenue discovered that it had overpaid domestic violence funds to the State since 2004. We estimate that the amount that Sacramento County overpaid the State over the eight-year period—and thus made unavailable to local shelters—is approximately \$94,000.

Because it lacked a process to check regularly for any changes in the relevant statutes that affect its operations, Sacramento Revenue missed two changes in statute that altered the distribution percentages. State law increased the domestic violence assessment from \$200 to \$400 in 2004 and altered the distribution of the payments so that two-thirds was to be deposited in each county's special fund, rather than one-third as was the case previously. State law accordingly decreased the distribution to the State from two-thirds of the payments to one-third. However, Sacramento County did not make corresponding adjustments to its distributions of domestic violence payments received. Similarly, Sacramento County did not adjust its percentages in August 2010 when state law restored the required distribution of two-thirds to the county and one-third to the State after a seven-and-a-half month period in which the required distribution was one-third to the county and two-thirds to the State. Subsequently, Sacramento County corrected the incorrect distributions for fiscal year 2011–12 as well as the spreadsheet it uses to calculate distributions going forward. According to the fiscal manager at Sacramento Revenue, the county consulted with the State Controller's Office and was advised that corrections of past distributions could be made for up to three years. The fiscal manager also told us that Sacramento Revenue has instituted an annual statute monitoring process in response to the discovery of incorrect distributions of domestic violence payments. Specifically, the fiscal manager noted that in December of each year, before new statutes take effect on January 1, Sacramento Revenue will review each statute associated with the court assessments it collects for changes that affect its operations.

We noted other errors resulting in overpayments to the State. Santa Clara County's Department of Revenue (Santa Clara Revenue) overpaid domestic violence funds to the State on some cases because of missing a change in state law. Specifically, for cases assessed a \$400 domestic violence payment from January 1, 2007, through December 31, 2009, one-third of the revenues collected was deposited into the county's special fund rather than two-thirds as specified in state law.<sup>9</sup> According to Santa Clara Revenue's fiscal officer, county

*We estimate that the amount that Sacramento County overpaid the State over the eight-year period—and thus made unavailable to local shelters—is approximately \$94,000.*

<sup>9</sup> Because Santa Clara Revenue based its distributions on the statute in effect at the time of sentencing as we discuss later, the distribution of payments for each probationer could be different. As a result, we were unable to estimate the amount of Santa Clara Revenue's distribution error.

staff inadvertently missed a change in state law in 2006, which caused staff to miscode the collections system responsible for directing revenues to the appropriate state and county accounts. When state law was amended to increase the payment and alter the distribution of the payment in 2004, it required that the amendments would expire beginning in 2007. In 2006 a subsequent change in state law extended this expiration to 2010 instead.

The Los Angeles Superior Court (Los Angeles Court) improperly distributed the revenue from its third-party collections entity after mid-August 2010. The Los Angeles Court distributed two-thirds of domestic violence payment revenue to the State after this time rather than one-third as required by state law. When we brought this to the attention of Los Angeles Court, it provided documentation that indicated that the amount of the misdirected funds through June 2011 was about \$4,000 and that it had corrected the error in March 2012. Further, Los Angeles Court estimates that it misdirected an additional \$3,000 to the State after June 2011, which it planned, as of early August 2012, to correct on its report for the previous month.

We also noted errors that resulted in net overpayments to the counties. The San Diego Superior Court (San Diego Court) inappropriately distributed revenues to the State and county in 2010 and part of 2011. San Diego Court's central division distributed two-thirds of domestic violence payment revenues to the county from January 2010 through mid-August 2010, when state law at the time required only one-third to be distributed to the county. Further, it distributed one-third of revenues to the county from October 2010 through February 2011 after this provision had been replaced so that two-thirds were to be distributed to the county. We estimate that the errors resulted in a net overpayment to the county's special fund of \$8,000.

San Diego County's Office of Revenue and Recovery (San Diego Revenue) overpaid domestic violence funds to the State for some cases and overpaid funds to the county on others. Specifically, for domestic violence payment accounts of \$400 that received payments from June 2008 through August 2008, San Diego Revenue directed the payments so that one-third of them were deposited into the county's special fund rather than two-thirds as specified in state law. Additionally, San Diego Revenue distributed two-thirds of collections to the county's special fund, rather than one-third as specified in state law, from October 2008 through December 2009 for cases assessed a \$200 payment. Finally, San Diego Revenue distributed two-thirds of collections to the special fund rather than one-third as specified in state law, from January 2010 through mid-August 2010. After that date, we did not identify additional distribution problems. We estimate that these errors resulted in a net overpayment to the county's special fund of \$4,000.

Further, the Los Angeles County Department of Probation (Los Angeles Probation) inappropriately distributed revenues to the State and county, beginning in 2010. For domestic violence payment accounts of \$400 from January 2010 through mid-August 2010, Los Angeles Probation distributed one-third of revenues to the State, when state law at the time required the distribution to be two-thirds of revenues. Conversely, for domestic violence payment accounts of \$200 from mid-August 2010 to the present, Los Angeles Probation distributed only one-third of revenues to the special fund instead of the required two-thirds. We were unable to estimate the value of these errors and therefore could not determine if there was a net underpayment or overpayment to the State.

Finally, during our review of the processes used by entities responsible for collections (collections entities) to distribute revenues to the State and county, we noted differences in the methods that the collections entities used for calculating the distribution percentages. One collections entity—Santa Clara Revenue—bases its percentages on the statutes in effect on the dates the probationer receives his or her sentence. For example, a probationer may have received his or her sentence in December 2009, when the statute required the payment to be at least \$400 and when the distribution was two-thirds to the county and one-third to the State. If the probationer then made a payment in February 2010, when the required distribution was reversed, that collections entity would distribute the funds in accordance with the statute in effect at the time of sentencing. Conversely, the collections entities in the other three counties base their distributions on the date the probationer actually makes a payment. Thus, they would not take into consideration the distribution requirements at the date of sentencing. Whether collections entities use the statutes in effect at the defendant's date of sentencing or the date that the probationer makes a payment matters when the distribution percentages change in state law, as they have in the past. Because collections entities use different practices in calculating the distribution percentages, the Legislature may want to clarify its intent as to whether collections entities should base their distribution percentages on the statutes in effect at the date of sentencing or on those that applied on the date that the probationer makes the payment.

*The Legislature may want to clarify its intent as to whether collections entities should base the distribution percentages on the statutes in effect at the date of sentencing or on those that applied on the date that the probationer makes the payment.*

### **Sacramento County's Balance for Its Domestic Violence Funds Is Excessive Compared to Its Annual Disbursements**

All of the counties we reviewed maintain some level of reserves in their special funds; however, as Table 9 on the following page indicates, Sacramento County maintained a large balance in relation to its disbursements to its contracted local shelter. Specifically, in fiscal year 2010–11, Sacramento County reported an ending domestic violence account balance of \$418,000 with disbursements

of \$250,000, or the equivalent of 20 months of disbursements related to its contract with the local shelter.<sup>10</sup> According to the chief financial officer for Sacramento County's Department of Human Assistance (Human Assistance), which is responsible for disbursing funds to the local shelter with which it contracts, the balance amassed because Human Assistance was not aware additional funds were available. This level was high when compared with those in Los Angeles and San Diego counties, which had four and six months of reserves, respectively, at the end of the four-year audit period. Although we identified a significantly higher special fund balance in Santa Clara County, which is discussed in greater detail at the beginning of this chapter, it disbursed that balance in March 2012.

**Table 9**  
**Ending Fund Balances for Selected Counties' Domestic Violence Special Funds for Fiscal Years 2007–08 Through 2010–11 and Annual Disbursements and Relative Reserves as of June 30, 2011**  
**(Dollars in Thousands)**

COUNTY*	FISCAL YEAR				2010–11 DISBURSEMENTS	MONTHS OF RESERVES (FROM ENDING BALANCE FOR FISCAL YEAR 2010–11)
	2007–08	2008–09	2009–10	2010–11		
Los Angeles	\$1,120	\$1,071	\$886	\$752	\$2,034	4
Sacramento <sup>†</sup>	436	520	469	418	250	20
San Diego	1,325	1,338	1,150	626	1,174	6
Santa Clara	893	706	715	715	55	156 <sup>‡</sup>

Sources: Accounting records from the Los Angeles County Department of Auditor-Controller, Sacramento County Department of Finance, San Diego County Health and Human Services Agency, and Santa Clara County Probation Department. See Table 4 in the Introduction regarding the reliability of the data.

\* Only fund balances for fiscal years 2008–09 through 2010–11 and disbursement information from Santa Clara County are exclusively related to the domestic violence payments. All other balance and disbursement values reflect the combination of the domestic violence payments and the marriage license fees, as discussed in the Introduction.

<sup>†</sup> Balances for Sacramento County represent cash balances of the domestic violence payments in its Law Enforcement Trust Fund. The values for other counties are fund balances that reflect all assets and liabilities. This was presented differently from the other counties because the funds are part of a larger trust fund, as discussed in this chapter.

<sup>‡</sup> As we described earlier in this chapter, Santa Clara County amassed a large fund balance because it failed to disburse domestic violence funds to its local shelters. That balance is reflected here. However, subsequent to the end of our audit period, Santa Clara County disbursed the accumulated funds in March 2012.

Human Assistance was unaware of these funds because of a lack of communication between county departments. Human Assistance indicated that it only recently learned of the amount of domestic violence funds available from the county's department of finance,

<sup>10</sup> According to its finance director, Sacramento County deposits domestic violence payment revenue into the Law Enforcement Trust Fund, which also accounts for other types of receipts. We refer to the deposited domestic violence payments within this fund as the *domestic violence account*.

the department that provides financial and administrative services within Sacramento County. According to the county's finance director, when Sacramento Revenue began depositing domestic violence payment revenues in the domestic violence account, Human Assistance was not aware of the presence of those funds. According to the chief financial officer for Human Assistance, the county's department of finance notified Human Assistance in March 2012 that it had access to additional funds.

The finance director told us that the county's department of finance monitors the Law Enforcement Trust Fund in total but does not monitor individual accounts within the fund, such as the domestic violence account. The director indicated that, under the county's decentralized process, county departments are responsible for monitoring these accounts. The director noted that the existing structure, with multiple departments using the Law Enforcement Trust Fund, has led to fragmented authority and accountability.

Although the finance director indicated that the county has taken several steps to address the lack of clear authority over these accounts in the last several years, she acknowledged that it has not implemented further analysis and streamlining of the Law Enforcement Trust Fund because of its size and complexity. The county's department of finance does not currently have an estimate of when or if this fund will be systematically analyzed and reorganized.

Periodic monitoring by counties of their special fund is important to ensure that they are maximizing the impact of domestic violence funds. Two of the other counties we reviewed indicated that they have processes in place to monitor their respective fund balance. Los Angeles County stated that it has a process for monitoring its funds and ensuring that it spends the maximum amount of funds possible. According to an administrative services manager at Los Angeles County's Department of Public Social Services, at each awarding cycle, which is composed of multiple years, it performs an analysis of past and current revenue trends and amounts, and projects future revenue. The manager noted that it then monitors revenues monthly and compares that with the projections to determine if contract adjustments are necessary.

Similarly, San Diego County stated that it has a process to monitor its funds. The finance officer for its Health and Human Services Agency (Human Services) noted that it performs several actions related to monitoring and ensuring it does not accumulate excessive balances. He explained that Human Services projected how much revenue would be available for contracts and administrative expenses for the five-year contract period. He also noted that it performs analyses of average receipts to determine if there is sufficient funding for contract obligations each year. Lastly, he

*Periodic monitoring by counties of their special fund is important to ensure that they are maximizing the impact of domestic violence funds.*



identified that Human Services evaluates the rate of incoming funds and disbursements to minimize the balance in its funds as part of the annual budget process. Nevertheless, we noted that for the first three years of our four-year audit period, San Diego County reported balances in its special fund that equaled 16 to 21 months of disbursements. Although it increased its disbursements in the fourth year—fiscal year 2010–11—and thus reduced its fund balance to a level that was equivalent to six months of disbursements, the large balances for most of our four-year audit period point to a need for more consistent monitoring.

Finally, as discussed previously, Santa Clara County did not monitor its special fund over time and was unaware of its growing fund balance. Now that the funds are with the county's Office of Women's Policy, that office is in the process of developing a monitoring program as part of its efforts to establish guidelines for annual distributions of the funds in its special fund.

### Recommendations

The Legislature should consider clarifying whether it intends for collections entities to base the percentage of domestic violence payment revenue distributed to the State and county on statutes in effect at the time of sentencing or at the time the probationer makes a payment.

Santa Clara County should implement a process to distribute funds regularly to domestic violence shelters.

Sacramento County should take the following steps to correct the past overpayment of domestic violence funds to the State and prevent this error from occurring in the future:

- Finalize work with the State Controller's Office on correcting the county's overpayments to the State.
- Implement the process developed for reviewing statutes that affect domestic violence payment collection and distribution practices.

Los Angeles County, San Diego County, San Diego Court, and Santa Clara County should take the following steps to correct the past misdirection of domestic violence funds and prevent these errors from occurring in the future:

- Determine the magnitude of the misdirected funds.

- Consult with the State Controller's Office to determine what action should be taken to correct the funds that were misdirected in prior fiscal years.
- Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.

Los Angeles Court should take the following steps to correct the past misdirection of domestic violence funds and prevent this error from occurring in the future:

- Finalize the correction of the misdirected funds.
- Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.

Sacramento County should increase its contracted spending for shelter services so that it reduces the balance of its special fund down to a level that is reasonable considering the needs of the fund.

To ensure that they are maximizing the impact of domestic violence funds, Sacramento, San Diego, and Santa Clara counties should periodically monitor their special funds.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

Date: September 6, 2012

Staff: Karen L. McKenna, CPA, Audit Principal  
Meghann K. Stedman, MPPA  
Jim Adams, MPP  
Rachel Rappaport

Legal Counsel: Donna Neville, Associate Chief Counsel

IT Audit Support: Benjamin Ward, CISA, ACDA  
Grant Volk

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

## Appendix

### **SUMMARY OF FOUR COUNTIES' PROCESSES FOR COLLECTING DOMESTIC VIOLENCE PAYMENTS FROM PROBATIONERS AND THEN DISBURSING THOSE FUNDS**

Each of the four counties we reviewed—Los Angeles, Sacramento, San Diego, and Santa Clara—has different processes for collecting and disbursing the payments from individuals convicted of crimes of domestic violence and sentenced to probation (probationers). The following sections summarize each county's processes.

#### **Los Angeles County**

In Los Angeles County, two entities are responsible for collecting domestic violence payments from probationers: the Los Angeles County Probation Department (Los Angeles Probation) and the Los Angeles County Superior Court (Los Angeles Court). Specifically, Los Angeles Probation collects payments for cases involving formal probation—or probation supervised by a probation officer—which are typically felony convictions. On the other hand, Los Angeles Court collects payments for cases involving summary probation—or probation in which an individual reports to the court rather than a probation officer—which are typically misdemeanor convictions. Los Angeles Probation can set up an installment plan over the term of probation depending upon the probationer's needs. If the probationer does not pay the amount due after 60 days, Los Angeles Probation flags the account as delinquent and refers the account to its internal collectors. Los Angeles Probation sends letters and contacts the probationer by telephone, and according to its procedures, it may request a probation violation proceeding if the probationer fails to maintain established payment plans or does not fulfill the total financial obligation within 120 days before the probation expires. Los Angeles Probation does not send accounts to the Franchise Tax Board's court-ordered debt program or initiate wage garnishments, and it stopped sending accounts to the Franchise Tax Board's tax-intercept program in 2009 because, according to its collections manager, Los Angeles Probation's collections system could not be programmed to prevent the payments from being applied to debt that is not ordered by the court. Although Los Angeles Probation does not currently use third-party collections, it is considering the possibility of doing so.

In contrast, our review of two of Los Angeles Court's courthouses—Long Beach and Van Nuys—found that the court enforces payments primarily with judicial oversight. The court monitors the terms of probation on summary probation cases, and the court continues reviewing cases until the probationer satisfies the terms

of probation. Court staff send cases to a third-party collection agency but only if the probationer has satisfied all other terms of probation except for making the domestic violence payment and paying any other fees.

Once Los Angeles Probation and Los Angeles Court collect the payments, they transfer the revenues to the county auditor-controller for deposit into the county's domestic violence special fund (special fund). This special fund also includes the county registrar-recorder's deposits from marriage license fees. The auditor-controller then makes the funds available for another county department to disburse the funds to domestic violence programs that are shelter-based (local shelters). During the four-year audit period, two collections entities disbursed the domestic violence funds to local shelters. Los Angeles County Community and Senior Services (Community and Senior Services) administered the funds for fiscal years 2007–08 and 2008–09, and the Department of Public Social Services administered the funds during fiscal years 2009–10 and 2010–11.

In Los Angeles County's most recent contracting process, Community and Senior Services disbursed funds to 19 local shelters that it selected through a qualifications process as directed by state law. This process resulted in annual contracts for a five-year period. Community and Senior Services took an administrative fee for its role in disbursing the funds. These disbursements were generally made through a monthly invoicing process.

### **Sacramento County**

In Sacramento County, the Department of Revenue Recovery (Sacramento Revenue) is responsible for collecting the domestic violence payments imposed by a superior court judge. It employs several collections processes to obtain the payments. Sacramento Revenue can set up an installment plan depending upon the probationer's needs. Between five and seven days after a missed due date, Sacramento Revenue's process is to initiate a collections call. Once an account reaches 90 days of delinquency, Sacramento Revenue's process is to refer the account to the Franchise Tax Board's tax-intercept and court-ordered debt programs. Sacramento Revenue does not generally initiate wage garnishments nor does it send accounts to third-party collection agencies.

Once Sacramento Revenue collects the payments, it deposits the money into its Law Enforcement Trust Fund. Sacramento County's Department of Human Assistance (Human Assistance) is responsible for disbursing domestic violence funds to local shelters. Human Assistance contracts with one local shelter to provide

services to victims of domestic violence. It selected the local shelter using a qualifications process as directed by state law. Human Assistance disburses funds to the local shelter monthly through an invoicing process.

### **San Diego County**

In San Diego County, two entities are responsible for collecting domestic violence payments from probationers: the county Office of Revenue and Recovery (San Diego Revenue) and the San Diego Superior Court (San Diego Court) through its four regional divisions. Specifically, San Diego Revenue collects payments for cases on formal probation—probation supervised by a probation officer—which are typically felony convictions. On the other hand, the San Diego Court’s divisions collect payments for cases on summary probation—or probation in which an individual reports to the court rather than a probation officer—which are typically misdemeanor convictions.

San Diego Revenue can implement an installment plan over the term of probation as directed by the court. San Diego Revenue’s process is to start its collections procedures if the probationer’s payments are not received within 30 days of the due date. Collections procedures include collections calls and letters and sending cases to the Franchise Tax Board’s tax-intercept and court-ordered debt programs. It does not send accounts to third-party collection agencies, but it is currently evaluating partnering with one in the future.

Our review of cases at one of San Diego Court’s regional divisions—the central division—found that it delays payments towards fines and fees on misdemeanor cases while individuals complete batterer intervention programs. Once the individual completes the program, the court requires payment on outstanding debts, including the amount owed for the domestic violence payment. If the individual does not make a payment within 30 days following the due date, the account will appear on a delinquent list that is generated by the accounting department at least monthly. Accounting staff refer cases on the list to a third-party collection agency for further collection efforts.

Once they receive payments, both San Diego Revenue and San Diego Court deposit the money into the county’s special fund, managed by the county’s Health and Human Service Agency (Human Services). Human Services is also responsible for disbursing the funds to local shelters. During our four-year audit period, Human Services contracted with four local shelters to provide services to victims of domestic violence; it selected these shelters using a qualifications

process as directed by state law. Human Services retained administrative costs from domestic violence payments for the first three years of our four-year audit period.

### **Santa Clara County**

In Santa Clara County, the Department of Revenue (Santa Clara Revenue) is responsible for collecting the payment amounts imposed by judges. Santa Clara Revenue can set up installment plans over the term of probation. Accounts are considered delinquent 30 days after missed payments. Santa Clara Revenue staff call probationers to initiate payments and also initiate wage garnishments. Further, Santa Clara Revenue refers accounts to the Franchise Tax Board's tax-intercept and court-ordered debt programs as well as to a private third-party collections entity.

During the four-year period under review, Santa Clara County's Probation Department (Santa Clara Probation) was the agency responsible for administering and disbursing domestic violence funds to local shelters. Santa Clara Probation did not disburse funds to local shelters in accordance with state law, as we discuss in Chapter 2. In May 2011 Santa Clara County's board of supervisors transferred the responsibility over these funds to the Office of Women's Policy effective July 2011. Since that time, the Office of Women's Policy has executed a qualifications process and in March 2012 it awarded contracts to four local shelters to provide services to victims of domestic violence. According to its director, as of July 2012, it is also in the process of developing guidelines for annual distributions of the amount in the special fund.

*(Agency comments provided as text only.)*

County of Los Angeles  
Probation Department  
9150 East Imperial Highway  
Downey, California 90242

August 17, 2012

Elaine M. Howle\*  
State Auditor  
555 Capitol Mall, Ste. 300  
Sacramento, California 95814

RE: **AUDIT OF DOMESTIC VIOLENCE PROGRAMS –  
LOS ANGELES COUNTY PROBATION DEPARTMENT**

Dear Ms. Howle:

Your letter dated August 13, 2012, to Chief Executive Officer, William T. Fujioka, has been referred to the Los Angeles County Probation Department for response.

We will be responding to the three recommendations contained in the draft "Excerpts from Introduction" document (blue binder).

We agree with the findings of the audit and more specifically our comments to the three recommendations are as follows:

- "Determine the magnitude of the misdirected funds."

Response: We estimate the amount of the funds to be approximately \$12,000. The Probation Department will reimburse the State for this amount in the near future. We have taken the necessary steps to prevent the misdirection of funds in the future.

- "Consult with the State Controller's Office to determine what action should be taken to correct the funds that were misdirected in prior fiscal years."

Response: We will confirm with the State Controller's Office that the corrective action plan we have instituted will prevent future occurrence of misdirected funds.

①

- "Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon."

Response: We will work to improve protocols for reviewing statutes that affect collection and distribution practices.

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\* California State Auditor's comment appears on page 53.



Please contact me if you have any questions or require additional information, or your staff may contact Reaver Bingham, Deputy Chief, Adult Field/Placement Services Division, at (562) 940-2513.

Sincerely,

*(Signed by: Reaver Bingham for)*

JERRY E. POWERS  
Chief Probation Officer

## Comment

### **CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE COUNTY OF LOS ANGELES**

To provide clarity and perspective, we are commenting on the County of Los Angeles's (Los Angeles County) response to our audit. The number below corresponds to the number we have placed in the margin of Los Angeles County's response.

Los Angeles County indicated that it will confirm with the State Controller's Office that the corrective action plan the Los Angeles County Probation Department instituted will prevent future occurrence of misdirected funds. However, Los Angeles County's response does not address correcting the past misdirection of funds, which is the focus of our recommendation.

①

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*(Agency comments provided as text only.)*

Superior Court of California  
County of Los Angeles  
111 North Hill Street  
Los Angeles, CA 90012-3014

August 16, 2012

Elaine M. Howle, State Auditor  
California State Auditor Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Enclosed is our response to the Domestic Violence Draft Audit Report dated August 13, 2012 covering the Fiscal Years 2007 through 2011.

Recommendations for Los Angeles Superior Court:

- Finalize the correction of the misdirected funds.
- Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.

Court Response:

The Los Angeles Superior Court agrees with the recommendations and has finalized and completed correction of misdirected funds on the March 2012 and July 2012 monthly revenue distribution reports. In addition, to improve protocols for reviewing statutes related to revenue distribution practices in the future, we have established a checklist to ensure that all the areas affecting revenue distribution are changed consistently throughout the cashiering and revenue distribution systems.

If you have any questions, please contact Debbie SooHoo of my staff at [dsoohoo@lasuperiorcourt.org](mailto:dsoohoo@lasuperiorcourt.org) or (213) 974-6091.

Very truly yours,

*(Signed by: John A. Clarke)*

John A. Clarke  
Executive Officer/Clerk

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*(Agency comments provided as text only.)*

County of Sacramento  
Department of Finance  
700 H Street, Room 3650  
Sacramento, California 95814

August 20, 2012

Elaine M. Howle, State Auditor\*  
555 Capital Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Enclosed please find the County of Sacramento's response to your office's audit of the probationers' domestic violence payments.

Should you have any questions regarding the response, please do not hesitate to contact me at 874-7248.

Sincerely,

*(Signed by: Julie Valverde)*

Julie Valverde  
Director of Finance

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\* California State Auditor's comments appear on page 61.

## County of Sacramento Response to Audit of Probationers' Domestic Violence Payments

### Department of Revenue Recovery (DRR) Audit Response

Excerpt from Collection of Domestic Violence Payments:  
No response necessary.

Excerpt from Table-Collections Procedures Employed by Collection Entities Handling Domestic Violence Payments:  
No response necessary.

Excerpt from section related to collections:  
No response necessary.

Excerpt related to the application of payment plan installments to domestic violence payment accounts:  
DRR includes the domestic violence fees in the fines and penalty assessments priority category as it does not fall into any of the other three categories, specifically, it is not a reimbursable cost as no cost has been incurred to be reimbursed.

Excerpt related to collection entities' ability to pursue collections after an offenders' probations expire:  
Sacramento Revenue continues to pursue collections after an offenders' probation expires based on Penal Code 1203(j), which states in part: Any order made pursuant to this subdivision . . . may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

Excerpt related to recovering costs for collecting delinquent accounts:  
In addition to the report indicating the average costs of 34 percent for the audit period and the highest of 61 percent, it does not state the low of 19 percent occurs in the most recent year of the audit.

①

Excerpt from Table – Cost Recovery for collection of Domestic Violence Payments:  
In addition to the stated reasons for the reduced cost recovery over the audit period, significant automation improvements have contributed to the reduced costs.

### Excerpts from Chapter 2

Excerpt related to distribution of the state and county shares of the domestic violence payments:  
DRR's methodology of calculating the distribution percentages based on the date the probationer actually made the payment is a result of findings in a 2003 State audit of Sacramento County's court revenues citing Penal Code Section 1464.8, which requires that when an allocation and distribution of fines, forfeitures, penalties or fees collected in criminal cases is made, the allocation and distribution of any payment shall be based upon the law in effect during the accounting period when the payment is made.

②

**Recommendation:**

Finalize work with State Controller's Office on correcting the county's overpayments to the State:

In August 2012, DRR has completed the corrections to distribution for the full three-year period, excluding the 8 months in 2010 where there were no overpayments. The final corrections total \$46,535.76 for prior fiscal years.

**Department of Human Assistance's response to the recommendation contained on page 18 of the audit report:**

③

**Recommendation:**

Sacramento County should increase its contracted spending for shelter services so that it reduces the balance of its special fund down to a level that is reasonable considering the needs of the fund.

To ensure it is maximizing the impact of domestic violence funds, Sacramento County should periodically monitor its special fund.

**Response:**

The Sacramento Department of Human Assistance (DHA), as the County Department responsible for disbursing funds to local domestic violence shelters, is analyzing the existing balance of the special fund to strategize reducing the balance to a reasonable level. The strategy will include a short and long term solution that assesses the needs of the community and the inventory of resources for domestic violence services available. Once the service needs/resource inventory is complete, DHA will solicit responses from local area domestic violence shelter, ascertain that the shelter meets the eligibility criteria as stated in California Welfare and Institutions Code, Section 18294, and initiate agreements with those shelters to provide services in this community.



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## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COUNTY OF SACRAMENTO

To provide clarity and perspective, we are commenting on the County of Sacramento's (Sacramento County) response to our audit. The numbers below correspond to the numbers we have placed in the margin of Sacramento County's response.

Sacramento County is incorrect. On page 33 of the audit report, we indicate that Sacramento County's Department of Revenue Recovery's cost recovery rate was 19 percent by fiscal year 2010–11. Table 7 in that report section clearly shows that fiscal year 2010–11 was the most recent year of the four years reviewed.

①

Sacramento County shared this 2003 audit report on court revenues and the related finding, which focused on court automation fees, with us during the course of our audit. The language in California Penal Code, Section 1464.8, is permissive rather than required in that it states that the allocation and distribution of any payment *may* be based upon the law in effect during the accounting period when the payment is made. We did not recommend that Sacramento County use a method other than the one that it is using. Rather, the point we are making on page 41 concerns the differences we noted in the methods that the entities responsible for collections used for calculating the distributions and the circumstance under which the differences matter.

②

When preparing our audit report for publication, page numbers shifted. Therefore, the page number that Sacramento County cites in its response does not correspond to the page number in our final report.

③

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*(Agency comments provided as text only.)*

County of San Diego  
Public Safety Group  
1600 Pacific Highway, Room 205  
San Diego, CA 92101

August 17, 2012

Elaine M. Howle  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

The County of San Diego has prepared the enclosed response to the Bureau of State Audits draft report 2011-121, currently untitled, related to domestic violence probation payments.

The County of San Diego appreciates the opportunity to provide the Bureau of State Audits with a response to the draft report.

#### Recommendation

*San Diego County should take the following steps to correct the past misdirection of domestic violence funds and prevent these errors from occurring in the future:*

- *Determine the magnitude of the misdirected funds.*
- *Consult with the State Controller's Office to determine what action should be taken to correct the funds that were misdirected in prior fiscal years.*
- *Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.*

The County of San Diego, Office of Revenue and Recovery (referred to as San Diego Revenue in the report), agrees with the recommendation from the Bureau of State Audits to correct the past misdirection of domestic violence funds and prevent these errors from occurring in the future. We continuously seek to improve our process. We will consult with the State Controller's Office on correcting the error and improve protocols for identifying and reviewing changes to statutes that affect our collection and distribution practices.

County of San Diego Response to Draft Report – Bureau of State Audits Draft Report 2011-121  
Domestic Violence Probation Payments  
August 17, 2012

Recommendation

*To ensure that it is maximizing the impact of domestic violence funds, San Diego County should periodically monitor its special fund.*

The County of San Diego, Health and Human Services Agency (referred to as Human Services in the report) agrees with the recommendation.

To implement the recommendation and to maximize the impact of the domestic violence funds Human Services will do an annual review of the balance in the fund and compare it with the rate of incoming funds. The intent of this review is to ensure that the fund balance reserve is no greater than six to nine months of reserves at any given time.

If you have any questions regarding the information above, please contact Dorothy Thrush, Public Safety Group Finance Director (619) 531-4599.

Sincerely,

*(Signed by: Ron Lane)*

RON LANE, Deputy Chief Administrative Officer  
Public Safety Group

*(Agency comments provided as text only.)*

Superior Court of California  
County of San Diego  
Post Office Box 122724  
San Diego, California 92112-2724

August 17, 2012

EMAILED & FEDEXED

Elaine M. Howle, State Auditor\*  
California State Auditor  
Bureau of State Audits  
**Attn: Tanya Elkins**  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

**Re: Superior Court of California, County of San Diego – Response to  
Draft Audit Report**

Dear Ms. Howle:

In response to your August 13, 2012 letter to me, this is the San Diego Superior Court's written response to the recommendations in the draft audit report your office performed as requested by the Joint Legislative Audit Committee.

Enclosed with this cover letter is the attachment response to the recommendations in the draft audit report, and the CD as requested (which contains a copy of this cover letter and the attachment). The cover letter and attachment have also been e-mailed to Meghann Stedman.

Please call me if you have any questions or concerns.

Sincerely,

*(Signed by: Michael M. Roddy)*

**MICHAEL M. RODDY**  
Executive Officer

Enclosure

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\* California State Auditor's comment appears on page 69.

## ATTACHMENT

Superior Court of California

County of San Diego

Response to California State Auditor, Bureau of State Audits – August 13, 2012 Request

August 17, 2012

## RECOMMENDATIONS

San Diego Court should ensure that procedures are in place so that courts do not reduce or waive domestic violence payments for reasons other than probationers' inability to pay.

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Judges are independently elected officials and have the discretion to impose a sentence that they deem to be appropriate for the offense. Court administration is not in a position to establish procedures to ensure that domestic violence payments are not reduced or waived for reasons other than inability to pay. The court has established Sentencing Guidelines, which include a recommended fine amount and also include information about each fine and fee and whether they can legally be reduced for reasons other than inability to pay.

To ensure that it is accurately setting up accounts and that probationers are not paying more fines and fees than are applicable, San Diego Court should take these steps:

- **Include on the orders issued at sentencing the breakdown of all fines and fees owed.**

San Diego will explore alternatives to delineate fine/fee amounts including amending the Domestic Violence Change of Plea (COP) form to list each fee/fine and include a space for the amount of each, which will then be completed at the time of sentencing. The COP is part of the court's order, and is signed by the judge, attorney(s) and defendant.

- **Use the guidelines in place at the time of sentencing for those convicted of domestic violence crimes when it establishes accounts for payment.**

In order to ensure that accounts receivable for domestic violence cases are established utilizing relevant fine and fee amounts at the time of sentencing, San Diego Court accounting staff will open accounts receivable for domestic violence cases at the time of sentencing, using the breakdown provided on the COP form, or the current sentencing guidelines, rather than waiting for the release of any fine payment stay/suspension.

**ATTACHMENT**

Superior Court of California

County of San Diego

Response to California State Auditor, Bureau of State Audits – August 13, 2012 Request

August 17, 2012

**RECOMMENDATIONS**

San Diego Court should take the following steps to correct the past misdirection of domestic violence funds and prevent these errors from occurring in the future:

- **Determine the magnitude of misdirected funds.**

San Diego Court accounting staff will review courtwide domestic violence fund revenue distributions from July 2007 through the most current period to determine the overall level of misdirected domestic violence fund revenue, if any.

- **Consult with the State Controller’s Office to determine what action should be taken to correct the funds that were misdirected in prior fiscal years.**

Once a determination is made regarding the level of misdirected domestic violence fund revenue on a courtwide basis, San Diego Court accounting staff will contact and work with the State Controller’s Office to determine what action to take to correct the distributions, if necessary.

- **Improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.**

San Diego Court accounting staff will continue to work with the Administrative Office of the Courts as well as Court’s legislative analyst to ensure that legislative changes impacting revenue collection and distribution are reviewed and evaluated as well as implemented timely and accurately.



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## Comment

### **CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

To provide clarity and perspective, we are commenting on the Superior Court of California, County of San Diego's (San Diego Court) response to our audit. The number below corresponds to the number we have placed in the margin of San Diego Court's response.

We recognize that the San Diego Court administration is not in a position to establish procedures unilaterally that affect sentencing practices. However, as discussed at our exit conference, we would expect the court administration to discuss our report findings with the court's judicial officers and work together to establish procedures so that the San Diego Court can ensure that domestic violence payments are not reduced or waived for reasons other than inability to pay.

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*(Agency comments provided as text only.)*

County of Santa Clara  
Office of the County Executive  
70 West Hedding Street, 11<sup>th</sup> Floor  
San Jose, CA 95110

August 17, 2012

Elaine M. Howle, California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Ste. 300  
Sacramento, CA 95814

Dear Ms. Howle,

The County of Santa Clara submits the following response to the report recommendations from the audit requested by the Joint Legislative Audit Committee related to probationers' domestic violence payments.

***Recommendation 1: Santa Clara County should implement a process to distribute funds to domestic violence shelters regularly.***

County Response: In March 2012, the Board of Supervisors approved a process for immediate disbursement of funds related to probationers' domestic violence payments. Annually, this process will include a Request for Statement of Qualifications (RFSQ) issued within six months before the end of the fiscal year to qualify shelters to receive the funding in the next fiscal year. Fund distribution will be based on a formula that has been developed by the County and is consistent with state statute.

***Recommendation 2: Santa Clara County should take the following steps to correct the past misdirection of domestic violence funds and prevent these errors from occurring in the future.***

***1) Determine the magnitude of the correction needed to past distributions***

County Response: The County's Department of Revenue has already reviewed all accounts affected and has made corrections to 2,245 cases that have had no collections. We have determined that on 482 cases with collections, the estimated over-disbursed amount to SCO is no more than \$20,000.

***2) Contact State Controller to determine procedures for correcting the prior distributions.***

The County's Department of Revenue has initiated preliminary contact by phone to identify points of contact for follow up. Pending the public release of the report, the Department will move forward with next steps to address this issue.

*3) Develop procedures to improve DOR's ability to monitor future legislative changes.*

The County's Department of Revenue has formed a committee to review legislative changes, and is working closely with the Santa Clara Superior Court to ensure that legislative changes are incorporated into our procedures in a timely and accurate manner.

*Recommendation 3: To ensure that it is maximizing the impact of domestic violence funds, Santa Clara County should periodically monitor its special funds.*

The County's Office of Women's Policy will administer and monitor the funds, as well as perform annual site visits to the shelter-based providers and will report annually to the County's Board of Supervisors regarding fund uses, site visits, and domestic violence issues.

Sincerely,

*(Signed by: Jeffrey V. Smith)*

Jeffrey V. Smith, County Executive

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Little Hoover Commission  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press