



Penalty Assessment Funds

California's Traffic Penalties and Fees Provide Inconsistent Funding for State and County Programs and Have a Significant Financial Impact on Drivers

Report 2017-126

COMMITMENT
INTEGRITY
LEADERSHIP



CALIFORNIA STATE AUDITOR

621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814



916.445.0255 | TTY **916.445.0033**



For complaints of state employee misconduct,
contact us through the **Whistleblower Hotline:**

1.800.952.5665

Don't want to miss any of our reports? Subscribe to our email list at

auditor.ca.gov



April 26, 2018

2017-126

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 presents this audit report concerning the funds that the State and local governments receive from the penalties assessed pursuant to specified Government and Penal Code sections (penalties and fees).

This report concludes that California's current approach to funding state and county programs through penalties and fees from criminal and traffic violations has proven problematic both for the programs that rely on those funds and for drivers who receive costly citations. Specifically, penalties and fees intended to help pay for various programs were added to state law in a piecemeal fashion over time, and the resulting revenue has been inconsistent. Although these penalties and fees generate more than \$450 million annually for numerous state funds, the revenue is derived from penalty and fee amounts that do not appear to be based on the needs of the funded programs. Further, the revenue collected from penalties and fees is trending downward, creating challenges for many of the programs that rely on this revenue to provide services. For example, penalty and fee revenues for state funds have decreased by 14 percent to 25 percent over the last three years. Many of these funds rely on penalties for 50 percent or more of their annual revenue.

These penalties and fees also create a financial burden on drivers, particularly low-income individuals who may be unable to pay them. In fact, the cost of certain traffic offenses increase six-fold after the penalties and fees are included. Further, many of the penalties are paying for programs that are not directly related to the traffic offenses for which they are incurred. To address the problematic nature of the current funding approach, the Legislature would need to make public policy decisions about whether and to what extent to fund the programs currently receiving penalty and fee revenue. We provide recommendations of possible approaches to address the concerns we identified.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Selected Abbreviations Used in This Report

EMAT	emergency medical air transportation
LAO	Legislative Analyst's Office

Contents

Summary	1
Introduction	3
Audit Results	
No Systematic Strategy Guides the State’s Use of Penalties and Fees to Fund State and Local Programs, and the High Cost Has Burdened Drivers	15
Recommendations	25
Appendix	
Revenue, Expenditures, and Year-End Fund Balances of State and County Funds That Receive Penalty and Fee Revenue	27

Blank page inserted for reproduction purposes only.

Summary

Results in Brief

California's current approach to funding state and county programs through penalties and fees from criminal and traffic violations has proven problematic both for the programs that rely on those funds and for drivers who receive costly citations. Although our report focuses on traffic violations, the state laws that impose the various penalties and fees on traffic violations apply to all criminal violations as well. The State and the county entities we reviewed distributed the penalty and fee revenue to the appropriate funds during the months we reviewed, and they ultimately spent the money for allowable purposes; however, the State's approach lacks a systematic strategy. Specifically, penalties and fees intended to help pay for various programs were added to state law in a piecemeal fashion over time, and the resulting revenue has been inconsistent. These penalties and fees also create a financial burden for drivers, particularly low-income individuals who may miss payments and thus may face additional fines. The Legislature should reconsider the entire penalty and fee structure (criminal and traffic), decide whether to adjust or eliminate penalty and fee amounts, and whether to distribute the resulting revenue differently.

Although these penalties and fees currently generate more than \$450 million annually for numerous state funds, the revenue is derived from penalty and fee amounts that do not appear to be based on the needs of the programs. This makes it unclear whether the amount of revenue is sufficient to fund the service or program for which it is collected. Further, the revenue collected from penalties and fees is trending downward, creating challenges for many of the programs that rely on this revenue to provide services. For example, penalty and fee revenues for state funds have decreased by 14 percent to 25 percent over the last three years as the number of criminal cases filed has decreased and as more fines, penalties, and fees have gone unpaid.

Penalties and fees added to traffic fines have gone unpaid partially because they are a significant financial burden for the driving public, especially low-income individuals. Traffic infractions that carry a base fine of \$35 can cost an individual \$237 after penalties and fees are included. Until recently, those who did not pay their fines and penalties may also have had their licenses suspended. According to the Legislature, these penalties are regressive in that they are particularly harmful to individuals who can least afford to pay high fines.

Audit Highlights . . .

Our review of the revenue received from penalties and fees state laws impose on criminal and traffic violations highlighted the following:

- » *Penalties and fees intended to help pay for various programs were added to state law in a piecemeal fashion over time and revenue has been inconsistent.*
- » *Revenue generated is derived from penalty and fee amounts that do not appear to be based on the needs of the programs and is trending downward, creating a challenge for many of the programs that rely on this revenue.*
- » *Penalties and fees added to traffic fines have gone unpaid partially because they are a significant financial burden for the driving public, especially low-income individuals.*
- » *Many penalties are paying for programs that are not directly connected to the offense.*

In addition, many of the penalties are paying for programs that are not directly connected to the offense. While an individual cited for an offense, such as failing to stop at a stop sign, will pay some penalties that support court-related programs, he or she will also pay other penalties that fund emergency medical air transportation and DNA identification services, neither of which is related to the failure to stop except in very specific circumstances.

Pending legislation would address the significant costs to indigent individuals by requiring judges to reduce the amount those individuals must pay in certain cases. However, these changes could also further reduce revenue from penalties. Thus, additional action needs to be taken to address the State's approach of using penalty and fee revenue to fund programs.

Selected Recommendations

Legislature

To ensure consistent funding streams for state and county programs, the Legislature should consider whether, and to what extent, to fund the programs that currently receive penalty and fee revenue from criminal and traffic violations. The Legislature could adjust or eliminate individual penalties and fees by considering the following factors identified in our report:

- Revenue trends and reliability of penalties and fees as funding sources.
- The significant financial impact of penalties and fees on low-income individuals.
- How well aligned the uses of penalty and fee revenues are with the offenses that give rise to the penalty or fee.
- The seemingly arbitrary amount of the penalty or fee.

Introduction

Background

As an approach to generating revenue for state and county programs, the Legislature has established in several sections of state law numerous financial penalties and fees that are levied on criminal and public offenses, including violations of the Vehicle Code.¹ Violations of the Vehicle Code are also referred to as *traffic violations*. Our review focused on penalties and fees resulting from traffic violations—those penalties and fees that are added to traffic tickets.² However, the data for penalty and fee revenue that the State collects, and that we reviewed, are an aggregate of all criminal penalties and fees, including those added to traffic and nontraffic violations. These penalties and fees currently generate more than \$450 million annually. According to data available from the Judicial Council of California (Judicial Council), traffic cases comprised the large majority—approximately 82 percent on average—of all criminal case filings in the State from fiscal years 2014–15 through 2015–16.³ As such, we used the State’s penalty and fee data for our analysis.

An individual who receives a citation for a traffic violation is assessed an amount that consists of a base fine plus several penalties and fees, as defined in the text box. The base fine depends on the type of violation. Traffic violations fall into three categories: infractions, misdemeanors, and felonies. Traffic *infractions* are generally minor offenses not punishable by time in jail but by a base fine of up to \$100, and they include offenses such as speeding or failing to stop at a stop sign. State law requires the Judicial Council to establish a uniform traffic penalty schedule for all nonparking infractions of the Vehicle Code unless a judge in a particular case specifies a different penalty. Traffic *misdemeanors* are offenses punishable by imprisonment in a county jail, a base fine of up to \$1,000, or both. This type of violation includes driving under the influence of alcohol and/or drugs and reckless driving. Lastly, traffic *felonies* are generally serious offenses punishable by imprisonment, a base fine of no less than \$1,000 and up to \$10,000, or both. An example of a traffic felony is the failure of an individual to stop his or her vehicle after being involved in an accident resulting in injury or death to another person.

Definitions of Key Terms

Base Fine: A monetary sanction imposed in criminal cases as set forth in state law. The maximum base fine varies from violation to violation.

Penalty or Surcharge: An amount added to the base fine and imposed as part of the monetary punishment for a crime.

Fee or Assessment: An amount added to the base fine that is imposed for cost-recovery purposes, such as covering the cost of court operations in processing a case. Fees are intended to be used for specific purposes.

Source: Judicial Council’s 2016 white paper on the *Structure and Collection of Criminal Fines and Fees*.

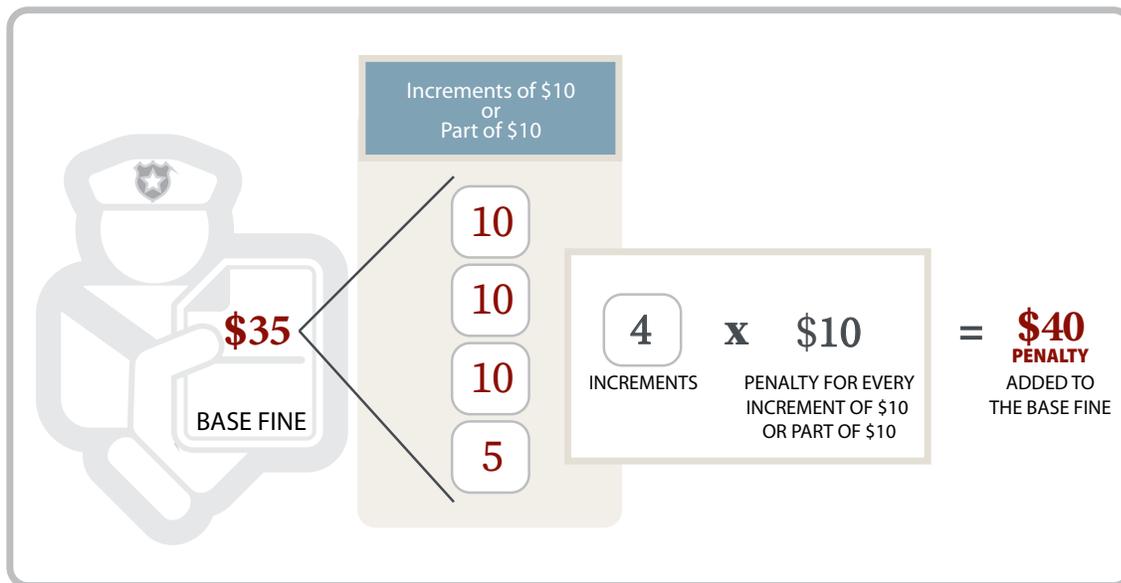
¹ We explain violations of the Vehicle Code in more detail in the Scope and Methodology section beginning on page 10.

² The penalties and fees that we reviewed are not imposed on parking tickets.

³ The Judicial Council incorporated traffic and nontraffic infractions into its data on criminal case filings.

In addition to the base fine, state law imposes further penalties, surcharges, and fees on individuals cited for traffic violations. Many of the penalties we reviewed are calculated as a certain dollar amount per every increment of \$10, or any part of \$10, of the base fine. Figure 1 shows an example calculation for a \$35 base fine and a penalty set at \$10. As Table 1 demonstrates, many penalties have amounts that range from \$1 to \$10 per \$10 of the base fine. Furthermore, the fees we reviewed are a set amount per conviction, and the state surcharge is calculated as a percentage of the total base fine used to calculate the state penalty.

Figure 1
Some Penalties Are Calculated Based on Increments of the Base Fine



Source: California State Auditor's analysis of state law.

Table 1 also identifies the administering agencies responsible for overseeing the spending of revenue from the funds associated with the penalties we reviewed, the code and section that established the penalty or fee, and the respective fund into which the penalty or fee must be deposited. These funds support various state and local government programs and services. For the \$7 county penalty, each county's board of supervisors has determined by resolution the proportion of the revenue to be deposited into specific county funds. The base fines are generally transferred to specific funds within the local jurisdiction where the violation occurred. We discuss the different types of programs that these funds help pay for in more detail later in this report.

Table 1
The Numerous Penalties and Fees Imposed on All Traffic Violations Are Distributed Into Many State and County Funds

PENALTY/FEE	FUND	ADMINISTERING AGENCY	CODE (IN EFFECT AS OF JUNE 26, 2017)	AMOUNT (\$)	
State Penalty*	State Penalty Fund	California Governor's Office of Emergency Services (Cal OES)	Penal Code (PC) 1464	\$10 for every \$10 or part of \$10	
ALL REVENUE FROM THE STATE PENALTY TRANSFERS TO THESE FUNDS	Fish and Game Preservation Fund	California Department of Fish and Wildlife	PC 1464 (f)(1)	0.33%	THESE PERCENTAGES ADD UP TO 100% OF THE \$10 STATE PENALTY
	Restitution Fund	California Victim Compensation Board	PC 1464 (f)(2)	32.02%	
	Peace Officers' Training Fund	Commission on Peace Officer Standards and Training	PC 1464 (f)(3)	23.99%	
	Driver Training Penalty Assessment Fund	California Department of Education	PC 1464 (f)(4)	25.70%	
	Corrections Training Fund	Board of State and Community Corrections	PC 1464(f)(5)	7.88%	
	Local Public Prosecutors and Public Defenders Training Fund	Cal OES	PC 1464(f)(6)	0.78% up to \$850,000	
	Victim-Witness Assistance Fund	Cal OES	PC 1464 (f)(7)	8.64%	
	Traumatic Brain Injury Fund	Department of Rehabilitation	PC 1464 (f)(8)(A)	0.66%	
	County Penalty	Various	County	Government Code (GC) 76000	
DNA Penalty (county)†	DNA Identification Fund (county)	County	GC 76104.6 (a)(1)	\$1 for every \$10 or part of \$10	
DNA Penalty (state)	DNA Identification Fund (state)	California Department of Justice (DOJ)	GC 76104.7 (a)	\$4 for every \$10 or part of \$10	
Emergency Medical Air Transportation (EMAT) Penalty	EMAT Act Fund	Department of Health Care Services	GC 76000.10 (c)(1)	\$4 per conviction	
Emergency Medical Services (EMS) Penalty	Maddy EMS Fund (county)	County	GC 76000.5	\$2 for every \$10 or part of \$10	
State Court Construction Penalty	Immediate and Critical Needs Account/ State Court Facilities Construction Fund	Judicial Council	GC 70372	\$5 for every \$10 or part of \$10	
Criminal Conviction Assessment	Immediate and Critical Needs Account	Judicial Council	GC 70373	\$30 per felony or misdemeanor/\$35 per infraction	
Court Operations Assessment	Trial Court Trust Fund	Judicial Council	PC 1465.8	\$40 per conviction	
State Surcharge	State General Fund	State	PC 1465.7	20% of base fine	

Source: State law.

* The State Penalty is split, with 30 percent retained by the county and 70 percent deposited in the State Penalty Fund. This fund is a pass-through fund for the funds listed beneath it in the table. Historically, the State Controller's Office (State Controller) has distributed the revenue based on the percentages stated in the law; however, recent legislation removed the previously required percentages. According to the Department of Finance (Finance), beginning June 27, 2017, applicable programs can spend directly out of the State Penalty Fund according to their authorized budget.

† Of the revenue collected for the county DNA Penalty, 75 percent is deposited in the county DNA Identification Fund and 25 percent is transferred to the State's DNA Identification Fund. All of the revenue collected for the state DNA Penalty is transferred to the State's DNA Identification Fund.

The penalties and fees have been added to state law over time, resulting in a significant total cost for each traffic violation. Table 2 shows the year when each penalty or fee was added to state law and the total cost of a violation as of that year. Currently, for example, an individual who is guilty of a traffic infraction with a base fine of \$35 could pay up to \$237 after all associated penalties and fees are added to the base fine. In fact, the total cost for a traffic infraction almost doubled from 2002 to 2010. It is also important to note that failure to pay all or any portion of a fine may result in an additional civil assessment of up to \$300. What is more, until state law changed in 2017, an individual's driver's license could be suspended for failure to pay a fine.

Table 2
Over Time, Penalties and Fees Have Significantly Increased the Cost of Traffic Violations

PENALTY	YEAR ADDED TO STATE LAW	AMOUNT (AS OF JUNE 26, 2017)	EXAMPLES OF TOTAL AMOUNTS OWED			
			INFRACTION*		MISDEMEANOR*	
			COST	TOTAL COST (AS OF YEAR IMPOSED)	COST	TOTAL COST (AS OF YEAR IMPOSED)
Base fine [†]			\$35		\$300	
State Penalty	1980	\$10 for every \$10 or part of \$10	40	\$75	300	\$600
County Penalty	1991	\$7 for every \$10 or part of \$10	28	103	210	810
State Court Construction Penalty	2002	\$5 for every \$10 or part of \$10	20	123	150	960
State Surcharge	2002	20% of base fine	7	130	60	1,020
Court Operations Assessment	2003	\$40 per conviction	40	170	40	1,060
DNA Penalty (county)	2004	\$1 for every \$10 or part of \$10	4	174	30	1,090
DNA Penalty (state)	2006	\$4 for every \$10 or part of \$10	16	190	120	1,210
EMS Penalty (county)	2006	\$2 for every \$10 or part of \$10	8	198	60	1,270
Criminal Conviction Assessment	2008	\$30 felony or misdemeanor/ \$35 infraction per conviction	35	233	30	1,300
EMAT Penalty	2010	\$4 per conviction	4	237	4	1,304

Sources: State law, legislative bill analyses, and the Judicial Council's Uniform Bail and Penalty schedules.

* An infraction is a minor violation, such as failing to stop at a stop sign (\$35). A misdemeanor is a more significant violation, such as driving with a suspended license (\$300).

† The examples in this table reflect base fines for a first conviction. The base fine for certain Vehicle Code violations increases by \$10 for each prior moving violation conviction within the past 36 months, so the base fine for an individual can be higher than the amounts shown.

Furthermore, counties can choose whether to levy certain penalties, so the total number and amount of penalties differs by county. For example, Sacramento County did not impose the \$2 EMS penalty for every \$10 increment or part of \$10 until January 2018, so a violation in Sacramento County occurring earlier than 2018 would

not have included this penalty while a violation in the counties of San Mateo, Merced, or Los Angeles would have included it. In addition, courts that conduct night or weekend sessions of the court can choose to impose a \$1 per case night or weekend court fee.

Research has shown that California's traffic fines are among the highest in the nation. For example, according to a May 2017 report published by the Lawyers' Committee for Civil Rights, California's \$490 total fine for a red-light violation is the highest amount of all the states. The Legislative Analyst's Office (LAO) came to a similar conclusion in 2016, finding that California's fines and fees associated with common traffic offenses were high compared to 33 other states that the LAO surveyed.

The State and County Entities That We Reviewed Have Distributed Penalty and Fee Revenue Appropriately

Several state and county entities have a role in collecting, distributing, and spending penalty and fee revenue. Although we did not review the collection processes, we verified that the collected amounts were distributed in the manner state law and county resolution require. As shown in Figure 2 on the following page, the general process starts when a county court collects penalty and fee revenue from traffic citations in its county.⁴ The court reports this revenue to the county's auditor-controller. The auditor-controller then distributes the county's portion of the money collected to relevant county funds and sends the State's portion to the State Controller.⁵ The State Controller distributes this money to different state funds as the law requires. Administering agencies then must ensure that the funds from penalties and fees are used appropriately.

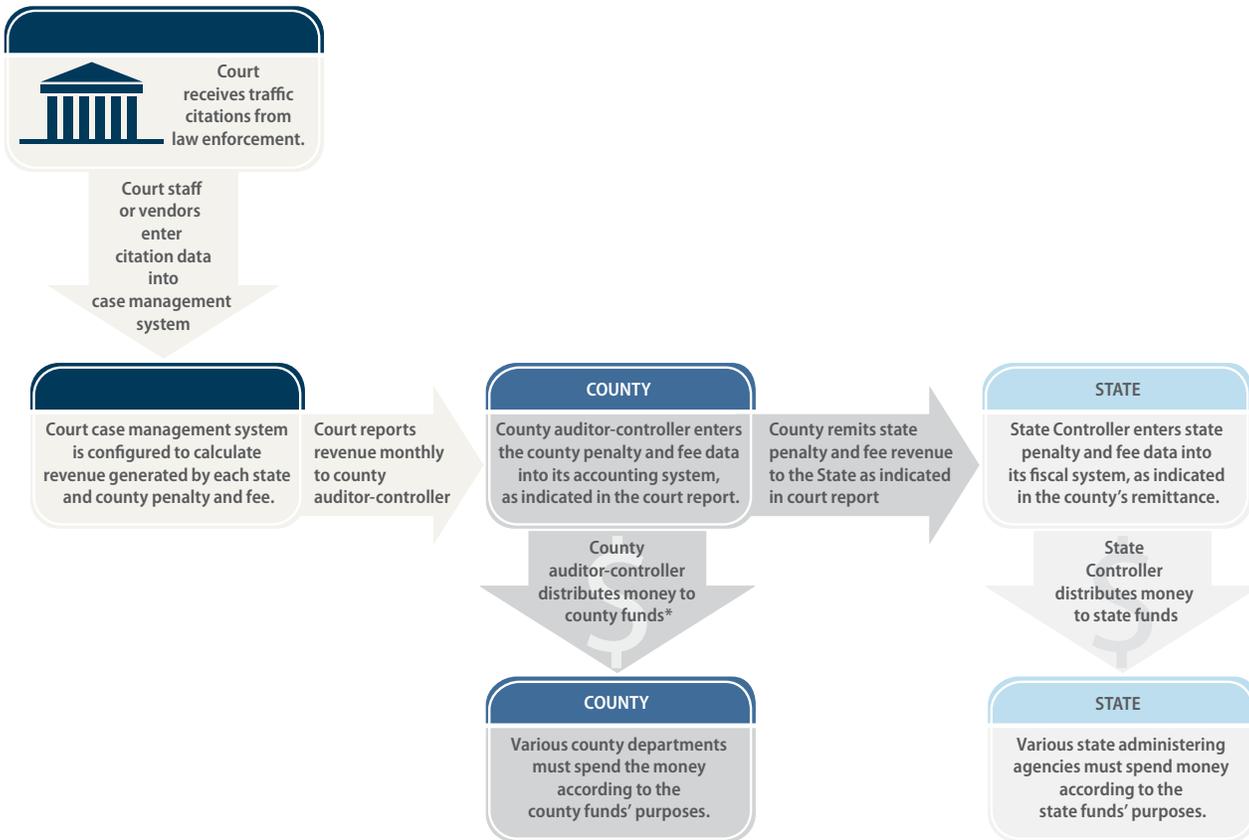
In reviewing the distribution of penalty and fee revenue from fiscal years 2014–15 through 2016–17, we examined the distribution and expenditure processes at four counties: Los Angeles, Merced, Sacramento, and San Mateo. We found that for the months we reviewed, county auditor-controllers had accurately distributed the revenue that the court reported collecting to the State and select county funds in the proportions required by state law and county resolution. We also reviewed the State Controller's disbursement process and examined how five state entities spent

⁴ Some courts use private collection agencies.

⁵ State law requires that before making any other required distribution, the county treasurer shall transmit 2 percent of all fines, penalties, and forfeitures collected in criminal cases into the State Trial Court Improvement and Modernization Fund to be used exclusively to pay the costs of automated systems of the trial courts, such as automated data collection through case management systems.

the penalty and fee revenue; we found that the State Controller appropriately distributed the revenue from the State Penalty Fund to other state funds. Our review of expenditures from several state and county funds that receive penalty and fee revenue found that state and county entities spent the penalty revenue for allowable purposes.

Figure 2
State and County Entities Distribute Penalty and Fee Revenue From Traffic Violations



Sources: Description of processes from staff at Los Angeles, Merced, and Sacramento counties' auditor-controller's offices, San Mateo County's County Manager's Office and county controller's staff, and the State Controller.

* In San Mateo County, the County Manager's Office distributes county penalty revenue to various county funds, while the county controller sends state penalty revenue to the State Controller.

State Entities Have Previously Identified Issues With the Distribution and Use of Penalties and Fees

Other state entities have previously raised concerns about the State's system of penalties and fees. The LAO issued a report in January 2016 that explained its concerns with the State's system, such as the difficulty the Legislature has in controlling the use of revenue from fines and fees. In addition, the LAO concluded that the existing system distributes revenue in a manner that is generally not based on program needs, which results in certain programs receiving more or less funding than needed. The report also stated that the complexity of the current distribution process makes it difficult to distribute revenue accurately and that complete and accurate data on collections and distributions were lacking. The LAO recommended that the Legislature reevaluate the overall structure of the fine and fee system and that it increase legislative control over the use of this revenue.

In an April 2016 white paper, the Judicial Council also noted the complex structure required to administer California's criminal fines and fees. It reported that the number of criminal case filings dropped overall from fiscal years 2005–06 through 2014–15, and it indicated that future collections may decline in the near term, according to these trends. In addition, the white paper discussed significant public policy issues the Judicial Council believes must be considered, such as the complexity of administering the current fine and fee system, the Legislature's role in deciding how to spend penalty revenue, and the overall significant increase in the total costs of violations. The Judicial Council recommended to the Legislature that any funding that is decreased or eliminated through a change to the current structure should be assessed for need and any resulting loss in revenue to the judicial branch and the trial courts be fully addressed. It also recommended that the overall structure of criminal fines and fees, including collection and distribution, be simplified.

The Legislature Has Acted to Revise the State's Approaches to Imposing and Distributing Penalty and Fee Revenue

To provide relief to individuals who are in violation of court orders because of unpaid traffic fines as well as to collect revenue by encouraging individuals to pay old unpaid fines, the Legislature established an amnesty program in 2015. From October 1, 2015, to April 3, 2017, the one-time program offered individuals with qualifying infractions and misdemeanors an opportunity to resolve delinquent debt that had been initially due on or before January 1, 2013. Depending on their income, these individuals were allowed to resolve their outstanding debts by paying

20 percent or 50 percent of the total amount due, including fines, fees, and penalties. The program also allowed driving privileges that had previously been suspended to be restored under certain conditions. More recently, legislation proposed in 2017 would require the court, in any case involving an infraction filed with the court, to determine whether the defendant is indigent. If the defendant can prove indigence through specified information, the court would then be required to reduce the base fine and associated fees by 80 percent and offer a payment plan option. This legislation is currently pending consideration in the Legislature.

The Legislature has also recently changed the way some penalty revenue is distributed to associated funds. Specifically, changes to state law removed the authority, and the previously required percentages, for distributing revenue from the State Penalty Fund to other state funds as shown earlier in Table 1 on page 5. Instead, according to Finance, beginning June 27, 2017, applicable programs can spend directly out of the State Penalty Fund according to their authorized budget. While this change may alter the specific allocations for the programs that receive funding from the State Penalty Fund, it does not revise the amount of the State Penalty, which is still \$10 for every increment of \$10, or part of \$10, of the base fine on all criminal and traffic violations.

Scope and Methodology

The Joint Legislative Audit Committee (Audit Committee) directed the California State Auditor (State Auditor) to review the funds that the State and local governments receive from the penalties assessed according to specified Government and Penal Code sections. Table 3 lists the objectives that the Audit Committee approved and the methods we used to address them.

Table 3
Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<ul style="list-style-type: none"> • Reviewed relevant laws, rules, guidelines, and policies related to penalties generated from traffic violations. We found that criminal violations, such as misdemeanors and felonies, may be punishable by imprisonment. Infractions are not punishable by imprisonment and are typically not considered criminal violations. However, in this report, we consider all violations of the Vehicle Code that constitute felonies, misdemeanors, or infractions as “criminal” violations and characterize all penalties, surcharges, fines, fees, and assessments imposed for violations of the Vehicle Code as “criminal.” • Interviewed key staff at the State Controller, the Judicial Council, county auditor-controllers’ offices, and local county departments. • Reviewed reports from the Judicial Council and the LAO on the subject of criminal fines and fees. • Identified penalties related to traffic violations by reviewing state law and the Judicial Council’s Uniform Bail and Penalty schedules. The penalties and fees we identified are listed in Table 1 on page 5.
<p>2 Identify the total revenue, expenditures, and fiscal year-end fund balances for each of the state funds that receive revenue from penalties for traffic violations from fiscal years 2014–15 through 2016–17.</p>	<ul style="list-style-type: none"> • Reviewed state law to identify the state funds that receive penalty and fee revenue. • Queried the State Controller’s fiscal system to determine total yearly cash collected (revenue) and cash disbursed (expenditures) for the funds identified. Also determined the revenue generated specifically from the penalties and fees listed in Table 1 and identified the year-end balances for those funds. • Identified trends in revenue, expenditures, and year-end balances. Interviewed staff at administering agencies to identify reasons for and impacts of these trends. • Interviewed State Controller staff to identify internal controls for processing counties’ remittances and reviewed its process for distributing the State Penalty Fund revenue to other funds.
<p>3 From a selection of four counties, identify the total revenue, total and types of expenditures, and fiscal year-end fund balances for each of the local funds that received revenue from traffic violation fines and fees from fiscal years 2014–15 through 2016–17.</p>	<p>To select four counties for review, we considered the following factors:</p> <ul style="list-style-type: none"> • The amount of penalty revenue generated in the county. • Representation of urban, suburban, and rural populations. • Population demographics such as ethnicity and median income to cover a range of socioeconomic levels. • The volume of traffic based on average daily miles traveled and major travel corridors. • The region of California in which the county is located. <p>Selected the counties of Los Angeles, Merced, Sacramento, and San Mateo and performed the following:</p> <ul style="list-style-type: none"> • Reviewed and analyzed data from each county’s auditor-controller’s office to determine annual revenues, expenditures, and year-end fund balances for county funds that receive penalty and fee revenue. We present the types of expenditures that are allowable from each of the funds in Table 7. • Interviewed staff at local administering agencies to identify reasons for trends in these amounts. • Reviewed internal controls each county put in place to ensure that revenue amounts distributed are accurate and complete as established in state law and county resolution. • Reviewed the configuration in the case management system at a superior court responsible for traffic violations in each county to verify that the system is configured with the penalty and fee amounts established in state law and county resolution. • Examined the processes used by each auditor-controller’s office for distributing the penalty and fee revenues. • Determined whether each auditor-controller distributed revenue completely by verifying that the total revenue received from the respective court was fully distributed to the required state and local funds for one month in each of the fiscal years from 2014–15 through 2016–17. Determined whether each county auditor-controller distributed revenue accurately by verifying that it distributed the correct revenue amounts (as determined by the court’s case management system) into selected funds as established in state law and county resolution.

AUDIT OBJECTIVE	METHOD
<p>4 Determine whether state agencies spent revenue from the penalties that state funds received from fiscal years 2014–15 through 2016–17 in accordance with the requirements and stated purposes of those funds.</p>	<ul style="list-style-type: none"> • Reviewed state law to identify the agencies responsible for administering the state funds that receive penalty and fee revenue. • Reviewed state law and the <i>Manual of State Funds</i> to identify the purpose and allowable uses of each state fund that receives penalty and fee revenue. • Selected five state funds to review by identifying the total revenue received, the percentage of the total revenue that was from penalties and fees, the fund's purpose and whether that purpose was related to traffic violations, and the administering agency. • Obtained expenditure data from the administering agencies for fiscal years 2014–15 through 2016–17 and selected five expenditures for testing to determine whether each expenditure was allowable. We did not perform completeness testing on these data because it would have been cost-prohibitive to collect supporting documents located throughout the State. • Reviewed each administering agency's design of internal controls over processing expenditures.
<p>5 Determine whether the four selected counties spent the revenue from the penalties that local governments received from fiscal years 2014–15 through 2016–17 in accordance with the requirements and stated purposes of those funds.</p>	<ul style="list-style-type: none"> • Selected four county funds to review by examining expenditure data obtained from each county and identifying the total revenue received, the fund's purpose, and the administering county department. • Identified the administering agency of each of the selected funds and interviewed staff to gain perspective on how the fund is managed, how expenditures are processed, and the controls in place to ensure that fund revenue is spent appropriately. • Selected five expenditures from each of the four funds for testing to determine whether each expenditure was allowable. We did not perform completeness testing on these data because it would have been cost-prohibitive to collect supporting documents for numerous county systems. • Reviewed each administering agency's design of internal controls over processing expenditures.
<p>6 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> • Determined whether the amount of each penalty was based on program needs by reviewing the electronically available legislative history and bill analyses for each penalty and fee. • Evaluated how well the purposes for which the penalty or fee can be used aligned with traffic violations. We reviewed the purposes of each fund that receives penalty revenue and assessed whether the purposes directly, indirectly, or do not align with the nature of traffic violations. • Analyzed the increase in total fines from traffic-related penalties and fees over time. • Interviewed key staff at Finance regarding the recent change in state law concerning the transfers from the State Penalty Fund.

Source: California State Auditor's analysis of the Audit Committee's audit request number 2017-126 and state law, and information and documentation identified in the column titled *Method*.

Assessment of Data Reliability

In performing this audit, we obtained electronic data from state and county entities' information systems. Table 4 describes the analyses we conducted using data from these information systems, our methods for testing, and the results of our assessments. Although these determinations may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations.

Table 4
Methods Used to Assess Data Reliability

INFORMATION SYSTEM	PURPOSE	METHOD AND RESULT	CONCLUSION
State Controller's fiscal system	To identify total revenue, expenditures, and year-end fund balances for state funds that received revenue from penalties for traffic violations from fiscal years 2014–15 through 2016–17.	We assessed the reliability of revenue, expenditures, and fund balances by reviewing the testing of the fiscal system's features and control environment performed as part of the State's financial audit.	Sufficiently reliable for the purposes of this audit.
Selected county auditor-controller and departmental accounting systems	To identify total revenue, expenditures, and year-end fund balances for county funds that received revenue from penalties for traffic violations from fiscal years 2014–15 through 2016–17.	<p>We performed electronic testing and data-set verification procedures for the funds we selected under objective 5 and did not identify any issues.</p> <p>We performed testing to verify that each county auditor-controller accurately deposited into the relevant county funds the penalty revenue collected for one month in each of the three fiscal years from 2014–15 through 2016–17. Some county funds receive other revenue that we did not test. We also did not test expenditure and fund balance data for accuracy or completeness because collecting supporting documents for numerous county systems would have been cost-prohibitive.</p>	<p>Undetermined reliability for the purposes of this audit.</p> <p>Although this determination may affect the precision of the numbers we present, there is sufficient evidence to support our findings and conclusions.</p>

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

Blank page inserted for reproduction purposes only.

Audit Results

No Systematic Strategy Guides the State's Use of Penalties and Fees to Fund State and Local Programs, and the High Cost Has Burdened Drivers

Penalties and fees were established as an approach to generating revenue for state and county programs. However, they have been added to state law in a piecemeal fashion over time, without any systematic strategy and with little documented analysis of the expected revenue and the amount needed to support the funded programs. This approach has led to problems both for many of the state and county programs that depend on the revenue and for the driving public.

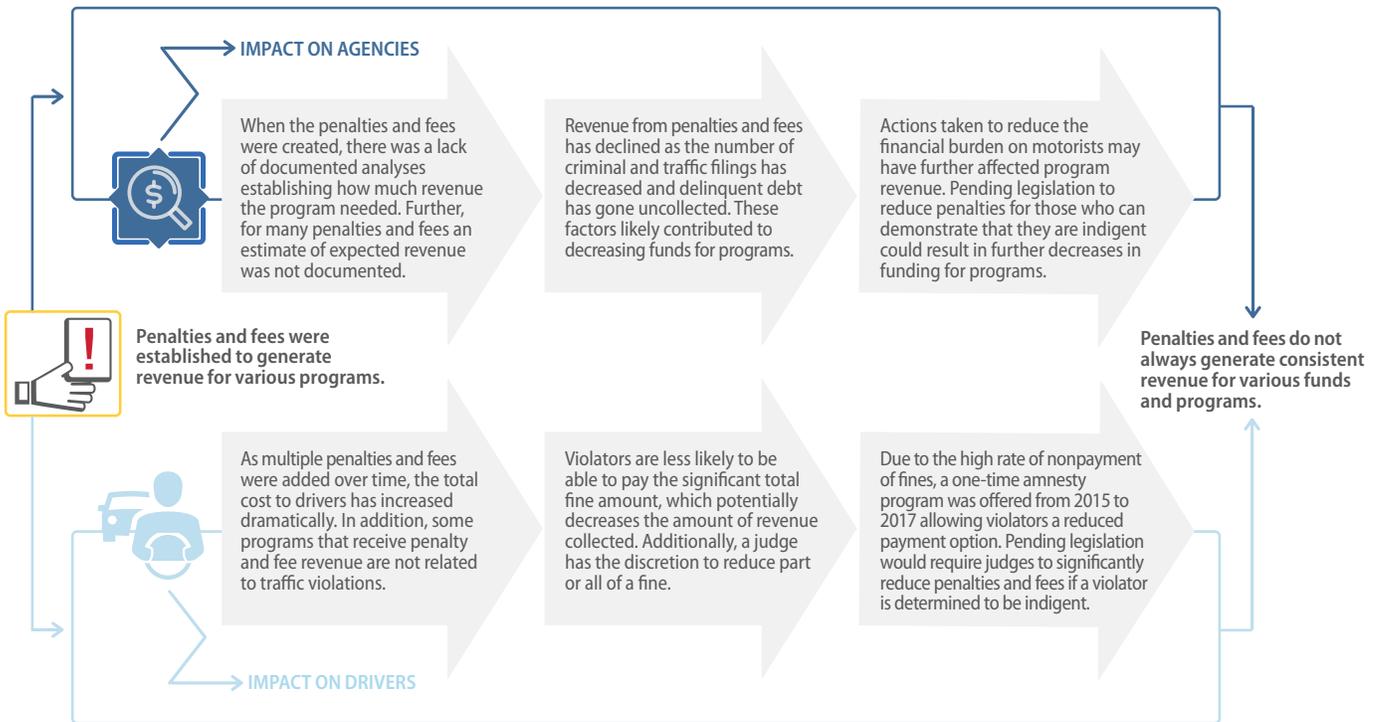
Unpaid penalties and fees, coupled with declining criminal case filings, likely have contributed to a decline in the revenue. This revenue decline has contributed negatively to many state and county fund balances and thus the sustainability of some of the related programs. At the same time, as additional penalties and fees have been added, the total cost to drivers has increased dramatically. Currently, the penalties and fees imposed increase the base fine more than six-fold for some violations. This cost increase has created a disproportionate financial burden for low-income drivers, causing some to not pay.

As discussed in the Introduction, the Legislature took action to provide relief, in part, to individuals in violation of court orders because of unpaid traffic fines by creating a one-time amnesty program. State law also currently allows judges the discretion to order individuals to pay reduced amounts based on their ability to pay. However, both of these attempts mirror the piecemeal nature of the penalties themselves, as one was temporary and the other lacked standardization. A more standardized method for mitigating costs to indigent drivers has been proposed in pending legislation that would require courts to reduce indigent individuals' base fines and associated fees by 80 percent. The progression of this funding approach is depicted in Figure 3 on the following page.

Also as discussed in the Introduction, many state entities, including the LAO and the Judicial Council, have identified issues with the current approach. In addition, both the Legislature and the Governor have expressed concern with using penalties to fund programs, and they have indicated an intent to stop doing so. For example, the Legislature found that reliance on penalties is a regressive financing mechanism that is particularly harmful to individuals who can least afford high fines, and therefore it intends to stop relying on this type of revenue to fund emergency medical air transportation services. The Governor has noted that costs

added to traffic tickets should be based on reasonable punishment, not on financing more of the State’s General Fund activities. Similarly, our review found several areas in which the practice of using penalties and fees as a significant revenue source is problematic. Table 5 presents a scorecard with a high-level overview of the factors we identified for consideration: whether estimates existed of the revenue that the penalties and fees were expected to generate, how revenue and fund balances are trending, and whether the funds’ uses align with the related traffic violations. We discuss each of these concerns in greater detail in the following sections.

Figure 3
The Current Approach of Generating Revenue From Penalties and Fees Is Problematic



Source: California State Auditor’s analysis of state law, financial data, and fund purposes.

Table 5
Funding State Programs Through Penalty and Fee Revenue Raises Concerns

PENALTY		WAS THERE AN ESTIMATE OF EXPECTED REVENUE FROM THE PENALTY?	ARE PENALTY REVENUES INCREASING?	IS THE FUND BALANCE INCREASING?	IS THE FUND PURPOSE ALIGNED WITH TRAFFIC VIOLATIONS?
State Penalty		No	No	NA	NA
ALL REVENUE FROM THE STATE PENALTY TRANSFERS TO THESE FUNDS	Fish and Game Preservation Fund	No	No	No	No
	Restitution Fund	No	No	Somewhat	Somewhat
	Peace Officers' Training Fund	No	No	No	Yes
	Driver Training Penalty Assessment Fund	No	No	Somewhat	Somewhat
	Corrections Training Fund	No	No	Somewhat	Somewhat
	Local Public Prosecutors and Public Defenders Training Fund	No	No	Somewhat	Somewhat
	Victim-Witness Assistance Fund	No	No	No	Somewhat
	Traumatic Brain Injury Fund	No	No	Somewhat	Somewhat
DNA Penalty (state)		No	No	No	Somewhat
EMAT Penalty		Yes	No	Somewhat	Somewhat
State Court Construction Penalty		Somewhat	No	Somewhat*	Yes
Criminal Conviction Assessment		Somewhat	No	Somewhat	Yes
Court Operations Assessment		No	No	Yes	Yes
State Surcharge		Yes	No	No	No

Sources: California State Auditor's analysis of revenue estimates in legislative bill analyses, revenue and fund balance data from the State Controller's fiscal system, and state law.

Note: This table only lists penalties that fund state programs. It does not include the penalties and fees that fund county programs, which are included in Table 1 on page 5.

NA = All revenue initially collected in the State Penalty Fund was then transferred to other state funds.

* Portions of the State Court Construction Penalty are deposited into both the Immediate and Critical Needs Account and the State Court Facilities Construction Fund, which are listed in Table 1.

- = Yes.
- = Somewhat.
- = No.

Traffic Penalty and Fee Amounts Do Not Appear to be Based on the Revenue Needs of the Funded Programs

As discussed in the Introduction, state law established the amounts of the penalties and fees imposed for traffic violations, with the intent of generating revenue for particular programs. However, we were unable to identify evidence that any of the set amounts were based on the needs of the funded program. Absent this information, the dollar amounts of many penalties and fees appear to be arbitrary. In addition, it is unclear for many of these penalties and fees if they were intended to provide all the revenue necessary to operate the respective programs or just to supplement other revenue sources.

We reviewed the electronically available legislative history and analyses of the bills and propositions that enacted these penalties and fees in law. Although some bill analyses noted the need for

more revenue, as Table 6 shows, only four of the seven state penalties and fees had documentation with revenue estimates. What is more, three of the four analyses do not make it clear whether the estimated revenue would meet the needs of the funded programs.

Table 6
Decreasing Revenue and Fluctuating Fund Balances Demonstrate That State Penalties and Fees Provide Inconsistent Levels of Funding
Fiscal Years 2014–15 Through 2016–17

PENALTY	ANNUAL PENALTY REVENUE ESTIMATE FROM BILL ANALYSIS (MILLIONS)	ACTUAL AVERAGE ANNUAL PENALTY REVENUE (MILLIONS)*	PERCENTAGE OF PENALTY REVENUE CHANGE FROM FISCAL YEAR 2014–15 TO 2016–17	FUND	FUND BALANCE FISCAL YEAR-END 2016–17 (MILLIONS)	PERCENTAGE OF FUND BALANCE CHANGE FROM FISCAL YEAR 2014–15 TO 2016–17	REVENUE SOURCES	
State Penalty	None	\$104.7	22% decrease	State Penalty Fund:	NA	NA	Single	
ALL REVENUE FROM THE STATE PENALTY TRANSFERS TO THESE FUNDS	Fish and Game Preservation Fund	NA	0.4	14% decrease	Fish and Game Preservation Fund	\$69.8	11% decrease	Multiple
	Restitution Fund	NA	33.6	24% decrease	Restitution Fund	99.7	Fluctuated	Multiple
	Peace Officers' Training Fund	NA	25.8	19% decrease	Peace Officers' Training Fund	5.0	74% decrease	Single
	Driver Training Penalty Assessment Fund	NA	26.9	24% decrease	Driver Training Penalty Assessment Fund	1.0	Fluctuated	Single
	Corrections Training Fund	NA	8.4	21% decrease	Corrections Training Fund	3.1	Fluctuated	Single
	Local Public Prosecutors and Public Defenders Training Fund	NA	0.8	14% decrease	Local Public Prosecutors and Public Defenders Training Fund	1.2	Fluctuated	Single
	Victim-Witness Assistance Fund	NA	9.0	24% decrease	Victim-Witness Assistance Fund	4.8	57% decrease	Single
	Traumatic Brain Injury Fund	NA	0.7	24% decrease	Traumatic Brain Injury Fund	0.4	Fluctuated	Single
	DNA Penalty (state)	None	60.8	20% decrease	DNA Identification Fund (state)	6.2	74% decrease	Single
	EMAT Penalty	\$26.0	7.7	19% decrease	EMAT Act Fund	2.1	Fluctuated	Single
State Court Construction Penalty†	60 to 80‡	96.0	24% decrease	State Court Facilities Construction Fund	411.0	11% decrease	Multiple	
Criminal Conviction Assessment	280‡	108.6	25% decrease	Immediate and Critical Needs Account	269.0	Fluctuated	Multiple	
Court Operations Assessment	None	125.4	24% decrease	Trial Court Trust Fund	173.5	130% increase	Multiple	
State Surcharge	45.8	41.9	20% decrease	General Fund	3,750.0	22% decrease	Multiple	

Sources: California State Auditor's analysis of revenue estimates in legislative bill analyses, and revenue and fund balance data from the State Controller's fiscal system.

Note: This table only lists penalties that fund state programs. It does not include the penalties and fees that fund county programs, which are included in Table 1 on page 5.

NA = All revenue initially collected in the State Penalty Fund was then transferred to other state funds.

* The data for penalty and fee revenue that the State collects are an aggregate of all criminal penalties and fees, including those added to traffic and nontraffic violations.

† Portions of the State Court Construction Penalty are deposited into both the Immediate and Critical Needs Account and the State Court Facilities Construction Fund.

‡ The estimate from the bill analysis was based on an aggregation of several penalties and fees that were included in a single bill, and not just for the penalty we are reviewing. The portion of the estimate attributable to the listed penalty was not specified.

Further, only two of the four analyses had estimates that were specific to the individual penalty. For example, a bill analysis for the EMAT Penalty documented a revenue estimate and the methodology used to calculate the estimate. In contrast, the other two included only an aggregate revenue estimate for multiple penalties and/or fees that were established at the same time in the same bill. For the other three penalties, there was no documented estimate of the revenue that the individual penalty would generate.

In addition, even the penalties that had estimates when established did not generate as much revenue as expected. For the two state penalties with specific estimates of expected revenue, we compared the electronically available estimates to the actual penalty revenue collected for the three fiscal years in our audit period and found that both collected less than was projected. Specifically, the EMAT Penalty collected \$7.7 million per year on average—less than a third of the expected \$26 million annually. The revenue from the state surcharge, which charges 20 percent on the base fine used to calculate the state penalty, has been declining and for fiscal year 2016–17 amounted to \$37.3 million, representing 81 percent of what was projected.

The Penalty and Fee Revenue Collected Is Trending Downward, Contributing to Declining Fund Balances for Many Programs

Revenue from penalties and fees has decreased over the past three fiscal years, demonstrating that this form of revenue is not consistently available for the programs that rely on it. Table 6 shows the trends in penalty revenue for the 15 state funds we reviewed. The amount of revenue these funds received from penalties decreased by amounts ranging from 14 percent to 25 percent overall from fiscal year 2014–15 to 2016–17. Many of these funds rely on penalties for 50 percent or more of their annual revenue.

Several state agencies indicated that the declining revenue from penalties and fees has led them to reduce, or to consider reducing, the services they fund. For example, the Commission on Peace Officer Standards and Training, which administers the Peace Officers' Training Fund, reduced the types of training it reimburses and the amount of funding it provides to some training programs. Table A.1 beginning on page 27 in the Appendix presents the total revenue from all sources, total revenue from penalties, and total expenditures for fiscal years 2014–15 through 2016–17 as well as the year-end balances for the state funds we reviewed.

Many other funds have balances that rose and fell inconsistently over the three years. Some balances fluctuated by 40 percent or more annually.

In addition, some state funds' balances declined from fiscal years 2014–15 through 2016–17 in part due to decreased penalty revenue, which is an unsustainable trend in the long term. For example, the state DNA Identification Fund's balance decreased by 74 percent, from \$23 million to \$6.2 million, and the Victim-Witness Assistance Fund's balance decreased by 57 percent, from \$11 million to \$4.8 million. Without reductions to expenses or increases in revenue, those funds will likely be depleted within three years.

On the other hand, some state funds that have multiple revenue sources have not consistently experienced decreasing fund balances. In particular, the Trial Court Trust Fund had an increasing fund balance over our audit period; it relies on the court operations assessment for less than 10 percent of its revenue. Further, many other funds have balances that rose and fell inconsistently over the three years. Some balances fluctuated by 40 percent or more annually.

Many of the county funds we reviewed that receive penalty revenue have also experienced declining revenue in the past three fiscal years, which has created an inconsistent revenue source for the associated programs. According to some county departments that manage these funds, they may begin or have already begun to use other funding sources, including their county general fund. Some do not have such plans and may face program reductions if revenue continues to decline.

Like the state funds, some of the county funds had fluctuating or declining balances over the three years, sometimes because of changes in expenditure amounts or declining revenues. Table A.2 beginning on page 30 in the Appendix presents the total revenue and total expenditures for fiscal years 2014–15 through 2016–17 as well as the year-end balances for the county funds we reviewed. Given these trends, counties should reevaluate how they allocate revenue from the county penalty as they take into consideration any future changes to penalties and fees the Legislature might make.

On the other hand, some of the county programs that receive funds from penalties and fees do not spend all the revenue they receive, which can lead to large fund balances. Each of the four counties we reviewed has at least one fund whose fiscal year 2016–17 balance was many times more than its annual expenditures for the three years we reviewed. For example, the Automated Fingerprint Identification Fund in Los Angeles County had a fiscal year 2016–17 fund balance of \$79 million and spent only about \$8 million each year. Similarly, Merced County's DNA Identification Fund had a balance of more than \$1 million as of the end of fiscal year 2016–17 and was growing by roughly \$100,000 each year, while average

yearly expenditures were less than \$10,000. This suggests that the penalty amount charged could be unnecessarily high for these counties, thus generating a surplus of revenue. Although the Los Angeles County Sheriff's Department asserted that it has several large projects upcoming that will spend down its fund balance, that balance has increased by more than \$1 million per year over the past three fiscal years. According to the Merced County Sheriff's Department the revenue deposited into its DNA Identification Fund is currently in excess of what the county can reasonably use, and it is considering other allowable uses for the fund.

One likely reason penalty revenue has declined is that the number of criminal cases filed has decreased. The offenses that the penalties and fees are levied upon are composed of criminal and public offenses, including traffic violations. According to data in the Judicial Council's 2017 *Court Statistics Report*, the total criminal case filings decreased overall between fiscal years 2008–09 and 2015–16. These data also show that traffic filings—the number of both misdemeanor and infraction traffic cases—decreased by 44 percent from fiscal years 2008–09 through 2015–16. According to the data, traffic cases made up more than 80 percent of the total criminal filings during that period. Thus, the decrease in traffic filings likely has had a significant effect on penalty revenue.

Another factor that appears to be contributing to the declining revenue is that many penalties are not being paid. This is demonstrated by the large amount of outstanding delinquent court-ordered debt, including traffic fines owed. According to the Judicial Council's 2017 *Report on the Statewide Collection of Delinquent Court-Ordered Debt*, such debt at the end of fiscal year 2016–17 was \$10 billion—a 3.6 percent increase over the previous year.⁶ The LAO, which reviewed California's criminal fines and fees, indicated in its 2016 report that much of this outstanding debt may be uncollectible, as the costs of collection may be greater than the amounts that would be collected. The Judicial Council also noted in a 2016 white paper that high dollar amounts for fines and fees can limit violators' ability to pay in full or in a timely manner, contributing to the amount that remains unpaid.

As described in the Introduction, a recent amnesty program in effect from October 1, 2015, through April 3, 2017, relieved some offenders from paying a portion of their outstanding debt. In the law creating the program, the Legislature declared that the program would provide increased revenue by encouraging payment of old fines that had remained unpaid. A Judicial

Another factor that appears to be contributing to the declining revenue is that many penalties are not being paid.

⁶ Penal Code section 1463.010 defines *court-ordered debt* as including court-ordered fees, fines, forfeitures, penalties, restitution, and assessments. This type of debt also includes the penalties that are the subject of this report.

Council report stated that the intent of the program included providing relief to individuals who faced significant cost barriers to paying court-ordered debt and generating revenue for the State Penalty Fund. However, that report also stated that, after costs of \$13.5 million to operate the program, only \$31.6 million was collected—a small fraction of the estimated \$2.6 billion in debts that were eligible for the program. The report also stated that 34 percent of individuals who started a payment plan under the amnesty program defaulted on their reduced amount due.

Although the amnesty program has ended, pending legislation has been introduced that would require courts in any case involving an infraction to identify indigent individuals and to reduce the amount they must pay. Previously established state law already allows judges the discretion to order defendants to pay reduced amounts. Although they offer relief to low-income defendants, both this existing option and the pending legislation to standardize reductions for indigent defendants can reduce the amount of penalty revenue generated and therefore contribute to the inconsistency of this revenue source.

Penalties and Fees Associated With Traffic Citations Have Increased Substantially, Increasing the Financial Burden on Drivers

As discussed in the Introduction and shown in Table 2 on page 6, the size and number of penalties and fees added to traffic fines can be substantial enough to affect individuals' ability to pay them, and they create disproportionate financial burdens on low-income individuals. Additionally, those penalties can seem unfair or incongruous because many of the funds pay for programs with indirect or no connection to the cited traffic violations. For these reasons, when establishing new penalties or revising California's fine and fee system, the Legislature should decide whether to consider individuals' ability to pay penalties and fees, and whether penalties and fees should pay only for programs and services with direct connections to the cited violations.

Offenses that carry a base fine of \$35 can cost an individual \$237 after the penalties and fees are included—a six-fold increase.

As shown in the Introduction, offenses that carry a base fine of \$35 can cost an individual \$237 after the penalties and fees are included—a six-fold increase. If an individual is cited for multiple offenses, such as failure to stop at a stop sign and failure to signal before turning—both of which carry a \$35 base fine—the base fines are added together and the penalties and fees are calculated on that total base fine. A driving under the influence offense incurs additional fees unique to that offense, such as an Alcohol Abuse Education and Prevention Penalty Assessment of up to \$50, so the \$390 base fine for a first offense could generate a total fine amount of approximately \$2,024. As a point of context, a 2017 report by the

Board of Governors of the Federal Reserve System found that only 56 percent of the U.S. households that responded to their survey could fairly easily handle a \$400 emergency expense; the remaining 44 percent indicated that they either could not pay or would have to borrow or sell something to do so.

In addition, others have indicated that any punitive effect of the penalties is experienced unevenly among offenders, because the penalties create a greater financial burden on low-income populations. In fact, legislation to extend the EMAT Penalty in 2015 stated that high fines and penalty assessments can perpetuate a cycle of poverty and inequality, given that individuals with lower incomes are more likely to miss payments and suffer the consequences. Formerly, failure to pay could have led to suspension of the driver's license and can still result in an extra assessment and the possibility of imprisonment. Other entities, including the U.S. Department of Justice, have noted this issue as well.

Additionally, the incongruity between a driver's violation and the purpose of the penalties and fees may create a negative perception for drivers and cause them to question the appropriateness of the penalties. Many of the penalties pay for activities not directly related to the traffic violation, as Table 7 on the following page shows. For example, failing to stop at a stop sign results in penalties that pay for various operations, including fish and game preservation and State General Fund uses, neither of which relates to that particular offense. Most of the other penalties pay for services that result from some, but not all, instances of a traffic violation and are therefore indirectly aligned. For example, the EMAT Penalty would directly relate only to a traffic violation that resulted in an injury requiring air transport to a hospital. In addition, the DNA Identification Penalty would directly relate only to a traffic incident that required law enforcement to collect and analyze DNA. Nevertheless, all traffic violations incur these penalties. Only four of the funds that receive penalty and fee revenue appear to be directly aligned with traffic violations; these funds support law enforcement training and court facilities and operations.

To address the problematic nature of the current approach, the Legislature would need to consider these issues and make public policy decisions about how, and to what extent, to fund the programs that currently receive penalty and fee revenue from criminal and traffic violations. We recognize the challenge of both providing sufficient revenue for these programs and levying reasonable amounts on drivers who break the law, and following we provide several recommendations of possible approaches to address the concerns we identified.

Formerly, failure to pay could have led to suspension of the driver's license and can still result in an extra assessment and the possibility of imprisonment.

Table 7
Most Penalties and Fees Are Used for Purposes Not Directly Related to Traffic Violations

FUND		SUMMARY OF ALLOWABLE FUND USES (AS OF JUNE 26, 2017)	ALIGNMENT WITH TRAFFIC VIOLATIONS
State Penalty Fund:		The State Penalty Fund money is transferred monthly into the 8 funds below.	NA
ALL REVENUE FROM THE STATE PENALTY TRANSFERS TO THESE FUNDS	Fish and Game Preservation Fund	Education or training of Department of Fish and Game employees.	None
	Restitution Fund	Compensation for those citizens (or their dependents) who are injured and suffer financial hardship as a result of a crime, or who sustain damage or injury while performing acts that benefit the State.	Indirect
	Peace Officers' Training Fund	Grants to local governments and districts for the selection and training of law enforcement officers.	Direct
	Driver Training Penalty Assessment Fund	Driver instruction within the State Department of Education, including costs of instruction in the operation of motor vehicles, and costs of replacing vehicles and simulators used in driver education programs.	Indirect*
	Corrections Training Fund	Development of appropriate corrections standards, training, and program evaluation.	Indirect
	Local Public Prosecutors and Public Defenders Training Fund	Statewide programs of education, training, and research for local public prosecutors and public defenders.	Indirect
	Victim-Witness Assistance Fund	Services to victims and witnesses of all types of crime.	Indirect
	Traumatic Brain Injury Fund	Services for adults with traumatic brain injury sustained after birth, including supported living, community reintegration, and vocational supportive services.	Indirect
DNA Identification Fund (County)		Reimbursement of local sheriff or law enforcement agencies' DNA-related administrative costs; procurement of equipment and software; and the collection, analysis, and storage of DNA specimens.	Indirect
DNA Identification Fund (State)		Operations of the DOJ forensic laboratories, including the implementation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act.	Indirect
Emergency Medical Air Transportation Act Fund		Offsetting and augmenting Medi-Cal reimbursements for EMAT services.	Indirect
Maddy EMS Fund (County)		Reimbursement of costs to physicians, surgeons, and hospitals for certain emergency medical services purposes.	Indirect
Immediate and Critical Needs Account		Planning, design, construction, rehabilitation, renovation, replacement, or acquisition of court facilities, and for the payment of leases or rentals of court facilities.	Direct
State Court Facilities Construction Fund		Planning, design, construction, rehabilitation, renovation, replacement, leasing, or financing of new court facilities.	Direct
Trial Court Trust Fund		Trial court operations, salaries and benefits of superior court judges, court interpreter services, assigned judge services, and local assistance grants.	Direct
State General Fund		It is the principal operating fund for the majority of governmental activities and consists of all money received in the Treasury that is not required by law to be credited to any other fund.	None
County Penalty		Counties can choose to transfer portions of this assessment to various funds with the following allowable uses: (1) courthouse construction, (2) criminal justice facilities construction, (3) automated fingerprint identification and digital image photographic suspect identification, (4) forensic laboratory, (5) emergency medical services, (6) DNA identification, and (7) other special purpose.	Generally Indirect

Sources: California State Auditor's analysis of fund purposes and state law.

Note: We deemed a fund purpose to align directly with a traffic violation if the violation would represent a cost to that fund. We deemed a fund purpose to align indirectly if only in certain circumstances the violation would represent a cost to that fund. For example, failing to stop at a stop sign would only result in a medical air transportation cost if someone was injured by the failure to stop. We deemed a fund purpose to not align if the violation would not represent a cost to that fund.

* During our audit period, the majority of the revenue deposited in the Driver Training Penalty Assessment Fund was transferred to other funds pursuant to Control Section 24.10 (b) of the annual Budget Act.

■ = Direct.

■ = Indirect.

■ = None.

Recommendations

Legislature

To ensure consistent funding streams for state and county programs, the Legislature should consider whether, and to what extent, to fund the programs that currently receive penalty and fee revenue from criminal and traffic violations. The Legislature could adjust or eliminate individual penalties and fees by considering the following factors identified in our report:

- Revenue trends and the reliability of penalties and fees as funding sources.
- The significant financial impact of penalties and fees on low-income individuals
- How well aligned the uses of penalty and fee revenues are with the offenses that give rise to the penalty or fee.
- The seemingly arbitrary amount of the penalty or fee.

To accomplish this, over the next two-year period the Legislature should review the penalties and fees and the programs that receive the penalty and fee revenue to determine the programs' needs. If the Legislature determines that a particular penalty or fee is not appropriate for generating revenue for a particular program, it should consider requiring the affected department to identify other funding sources or reduce the program's scope of services.

The Legislature should consider revising state law to redirect all or part of the penalty revenue to the State Penalty Fund and using the budget process to allocate funds to align with legislative priorities.

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 and Methodology 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: April 26, 2018

Staff: Nicholas Kolitsos, CPA, Audit Principal
Jordan Wright, CFE
Michelle J. Sanders
Wren Greaney
Yuhan Lu
Hunter Wang, CFE
Kevin Wedman
Sean Wiedeman, MBA

Legal Counsel: Mary K. Lundeen, Sr. Staff Counsel

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

Appendix

REVENUE, EXPENDITURES, AND YEAR-END FUND BALANCES OF STATE AND COUNTY FUNDS THAT RECEIVE PENALTY AND FEE REVENUE

The Audit Committee requested that the State Auditor identify the total revenue, expenditures, and fiscal year-end fund balances for each of the state funds that received revenue from penalties and fees for traffic violations in fiscal years 2014–15 through 2016–17. We present this information in Table A.1. Additionally, the Audit Committee requested that for a selection of four counties, we identify the total revenue, total and types of expenditures, and fiscal year-end fund balances for each of the local funds that received revenue from traffic violation penalties and fees in fiscal years 2014–15 through 2016–17. As described in the Introduction, we selected the counties of Los Angeles, Merced, Sacramento, and San Mateo for our analysis. We present the counties’ information in Table A.2 beginning on page 30.

Table A.1
Revenue, Expenditures, and Year-End Fund Balances for State Funds that Receive Penalty Revenue

FISCAL YEAR	FUND	REVENUE	EXPENDITURES	PENALTY REVENUE	% REVENUE MADE UP BY PENALTIES	REVENUE NET OF EXPENDITURES	YEAR-END FUND BALANCE*
2016–17	State Penalty Fund	\$94,788,274	\$94,788,274	\$92,475,546	97.6%	\$0	NA
2015–16		106,113,799	106,113,799	103,337,830	97.4%	0	NA
2014–15		121,378,008	121,378,008	118,147,899	97.3%	0	NA
Subtotals		\$322,280,081	\$322,280,081	\$313,961,275		\$0	
2016–17	Fish and Game Preservation Fund	\$98,447,952	\$115,705,568	\$400,279	0.4%	\$(17,257,616)	\$69,767,000
2015–16		97,125,170	105,776,803	423,636	0.4%	(8,651,633)	75,771,000
2014–15		92,658,414	103,585,716	464,779	0.5%	(10,927,302)	78,640,000
Subtotals		\$288,231,536	\$325,068,087	\$1,288,694		\$(36,836,551)	
2016–17	Restitution Fund	\$122,238,723	\$74,540,885	\$29,172,956	23.9%	\$47,697,838	\$99,702,000
2015–16		72,205,307	127,484,537	33,089,881	45.8%	(55,279,230)	49,110,000
2014–15		106,239,777	85,093,672	38,394,040	36.1%	21,146,105	105,556,000
Subtotals		\$300,683,807	\$287,119,094	\$100,656,877		\$13,564,713	
2016–17	Peace Officers’ Training Fund †	\$31,108,132	\$31,216,027	\$23,291,619	74.9%	\$(107,895)	\$4,991,000
2015–16		37,308,214	44,653,828	25,419,906	68.1%	(7,345,614)	16,499,000
2014–15		37,181,804	51,188,166	28,687,154	77.2%	(14,006,362)	19,359,000
Subtotals		\$105,598,150	\$127,058,021	\$77,398,679		\$(21,459,871)	
2016–17	Driver Training Penalty Assessment Fund	\$23,414,911	\$23,342,911	\$23,414,911	100.0%	\$71,999	\$1,001,000
2015–16		26,544,429	27,212,032	26,511,157	99.9%	(667,602)	457,000
2014–15		30,732,009	30,422,096	30,732,009	100.0%	309,913	1,175,000
Subtotals		\$80,691,349	\$80,977,039	\$80,658,077		\$(285,690)	

continued on next page...

FISCAL YEAR	FUND	REVENUE	EXPENDITURES	PENALTY REVENUE	% REVENUE MADE UP BY PENALTIES	REVENUE NET OF EXPENDITURES	YEAR-END FUND BALANCE*
2016-17	Corrections Training Fund†	\$17,347,886	\$24,256,465	\$7,490,038	43.2%	\$(6,908,579)	\$3,140,000
2015-16		18,078,591	12,239,960	8,274,400	45.8%	5,838,630	7,873,000
2014-15		19,223,091	21,513,895	9,422,896	49.0%	(2,290,805)	4,030,000
Subtotals		\$54,649,568	\$58,010,320	\$25,187,334		\$(3,360,754)	
2016-17	Local Public Prosecutors and Public Defenders Training Fund	\$717,252	\$842,409	\$710,659	99.1%	\$(125,157)	\$1,218,000
2015-16		749,215	856,862	745,362	99.5%	(107,647)	1,212,000
2014-15		830,805	858,473	828,124	99.7%	(27,668)	1,239,000
Subtotals		\$2,297,272	\$2,557,744	\$2,284,145		\$(260,472)	
2016-17	Victim-Witness Assistance Fund†	\$12,016,388	\$13,742,333	\$7,871,777	65.5%	\$(1,725,945)	\$4,829,000
2015-16		13,080,264	17,983,351	8,912,693	68.1%	(4,903,087)	6,837,000
2014-15		24,717,495	17,674,540	10,331,685	41.8%	7,042,955	11,196,000
Subtotals		\$49,814,147	\$49,400,224	\$27,116,155		\$413,923	
2016-17	Traumatic Brain Injury Fund†	\$1,105,093	\$896,734	\$601,327	54.4%	\$208,359	\$405,000
2015-16		1,308,606	919,412	680,843	52.0%	389,194	378,000
2014-15		789,242	837,983	789,242	100.0%	(48,741)	427,000
Subtotals		\$3,202,941	\$2,654,129	\$2,071,412		\$548,812	
2016-17	DNA Identification Fund	\$54,684,105	\$54,831,022	\$54,615,038	99.9%	\$(146,917)	\$6,158,000
2015-16		59,796,761	66,763,329	59,709,445	99.9%	(6,966,568)	10,353,000
2014-15		68,232,538	70,949,857	68,150,476	99.9%	(2,717,319)	23,375,000
Subtotals		\$182,713,404	\$192,544,208	\$182,474,959		\$(9,830,804)	
2016-17	EMAT Act Fund	\$6,975,872	\$8,116,230	\$6,934,162	99.4%	\$(1,140,358)	\$2,052,000
2015-16		7,690,958	11,672,088	7,661,377	99.6%	(3,981,130)	3,402,000
2014-15		8,595,056	16,860,911	8,543,270	99.4%	(8,265,855)	261,000
Subtotals		\$23,261,886	\$36,649,229	\$23,138,809		\$(13,387,343)	
2016-17	State Court Facilities Construction Fund	\$97,311,512	\$111,724,596	\$53,484,687	55.0%	\$(14,413,084)	\$411,008,000
2015-16		378,985,799	137,737,539	61,410,298	16.2%	241,248,260	430,281,000
2014-15		240,624,674	185,692,017	71,487,122	29.7%	54,932,657	461,540,000
Subtotals		\$716,921,985	\$435,154,152	\$186,382,107		\$281,767,833	
2016-17	Immediate and Critical Needs Account	\$236,922,203	\$252,114,327	\$123,335,902	52.1%	\$(15,192,124)	\$269,008,000
2015-16		234,339,883	169,070,503	139,990,985	59.7%	65,269,380	304,267,000
2014-15		261,095,304	190,297,184	164,178,464	62.9%	70,798,120	254,104,000
Subtotals		\$732,357,390	\$611,482,014	\$427,505,351		\$120,875,376	
2016-17	Trial Court Trust Fund	\$1,367,510,247	\$1,331,234,492	\$109,373,333	8.0%	\$36,275,755	\$173,477,000
2015-16		1,352,227,100	1,309,250,640	123,460,765	9.1%	42,976,460	78,338,000
2014-15		1,465,995,838	1,464,160,459	143,296,117	9.8%	1,835,379	75,512,000
Subtotals		\$4,185,733,185	\$4,104,645,591	\$376,130,215		\$81,087,594	

FISCAL YEAR	FUND	REVENUE	EXPENDITURES	PENALTY REVENUE	% REVENUE MADE UP BY PENALTIES	REVENUE NET OF EXPENDITURES	YEAR-END FUND BALANCE*
2016-17	State General Fund	\$122,605,426,496	\$126,858,946,528	37,260,126	0.03%	\$(4,253,520,032)	\$3,750,297,000
2015-16		120,413,915,840	123,585,483,191	41,652,214	0.03%	(3,171,567,351)	3,833,807,000
2014-15		116,388,676,316	115,847,671,224	46,745,059	0.04%	541,005,092	4,790,986,000
Subtotals		\$359,408,018,652	\$366,292,100,943	\$125,657,399		\$(6,884,082,291)	
2016-17 Total Penalty Revenue				477,956,814 ‡			

Source: California State Auditor's analysis of data from the State Controller's fiscal system.

Note: The data for penalty and fee revenue that the State collects are an aggregate of all criminal penalties and fees, including those added to traffic and nontraffic violations.

NA = All revenue initially collected in the State Penalty Fund was then transferred to other funds.

* Year-end fund balance includes transactions recognized in the fiscal year when they occurred, regardless of when cash was received or disbursed.

† Revenue deposited in the Driver Training Penalty Assessment Fund was transferred to the indicated funds pursuant to Control Section 24.10 (b) of the annual Budget Act.

‡ The fiscal year 2016-17 total penalty revenue amount does not include the State Penalty Fund to avoid double counting as it is a pass-through fund.

■ = Increased from year to year.

■ = Fluctuated from year to year.

■ = Decreased from year to year.

Table A.2
Revenues, Expenditures, and Fund Balances for County Funds That Receive Penalty Revenue

FISCAL YEAR	FUND	REVENUE	EXPENDITURES	REVENUE NET OF EXPENDITURES	YEAR-END FUND BALANCE
Sacramento County					
2016-17	Criminal Justice Facilities Construction Fund*	\$1,464,290	\$1,440,000	\$24,290	\$240,154
2015-16		1,672,978	1,740,000	(67,022)	215,864
2014-15		1,752,245	1,800,000	(47,755)	282,886
2016-17	Courthouse Construction Fund*	1,245,004	1,260,000	(14,996)	202,415
2015-16		1,417,680	1,300,000	117,680	217,412
2014-15		1,473,332	1,480,000	(6,668)	99,731
2016-17	DNA Identification Fund†	365,998	365,998	0	0
2015-16		428,484	428,484	0	0
2014-15		454,312	454,312	0	0
2016-17	Maddy EMS Fund	1,350,909	1,350,909	0	0
2015-16		1,533,284	1,533,284	0	0
2014-15		1,610,303	1,610,303	0	0
2016-17	Automated Fingerprint Identification Fund	220,214	157,298	62,916	1,992,103
2015-16		263,906	157,357	106,549	1,929,187
2014-15		326,143	114,790	211,353	1,822,638
Merced County					
2016-17	Automated Fingerprint Identification Fund	\$75,092	\$336,414	\$(261,322)	\$69,906
2015-16		75,002	0	75,002	331,228
2014-15		73,216	61,118	12,099	256,226
2016-17	Courthouse Construction Fund	342,611	340,452	2,159	52,971
2015-16		342,228	361,917	(19,689)	50,812
2014-15		339,790	340,468	(678)	70,501
2016-17	DNA Identification Fund	120,691	10,187	110,505	1,019,682
2015-16		115,316	18,927	96,390	909,177
2014-15		107,377	851	106,526	812,788
2016-17	Maddy EMS Fund	709,620	850,946	(141,326)	188,618
2015-16		730,193	743,060	(12,867)	329,944
2014-15		715,682	643,797	71,885	342,811
2016-17	Criminal Justice Facilities Construction Fund	345,307	0	345,307	437,737
2015-16		346,774	550,000	(203,226)	92,430
2014-15		345,253	550,000	(204,747)	295,656
San Mateo County					
2016-17	Courthouse Construction Fund	\$974,165	\$1,222,980	\$(248,815)	\$172,725
2015-16		979,591	1,376,103	(396,512)	421,541
2014-15		1,112,077	1,135,270	(23,193)	818,053
2016-17	Criminal Justice Facilities Construction Fund	940,146	1,100,000	(159,854)	1,504,465
2015-16		993,971	1,100,000	(106,029)	1,664,319
2014-15		1,118,987	1,100,000	18,987	1,770,348

FISCAL YEAR	FUND	REVENUE	EXPENDITURES	REVENUE NET OF EXPENDITURES	YEAR-END FUND BALANCE
2016-17	DNA Identification Fund	227,172	249,909	(22,737)	1,414,456
2015-16		250,937	379,634	(128,698)	1,437,193
2014-15		297,522	172,624	124,898	1,565,890
2016-17	Maddy EMS Fund *	1,702,450	1,805,861	(103,412)	2,302,481
2015-16		2,077,111	2,483,392	(406,281)	2,405,892
2014-15		2,342,824	2,545,308	(202,484)	2,812,173
2016-17	Automated Fingerprint Identification Fund*	948,661	951,249	(2,589)	214,313
2015-16		932,121	982,909	(50,788)	216,902
2014-15		965,930	1,266,709	(300,779)	267,690
Los Angeles County					
2016-17	Criminal Justice Facilities Construction Fund*	\$13,965,792	\$15,064,004	(\$1,098,212)	\$62,965,138
2015-16		15,238,925	6,961,071	8,277,854	64,063,350
2014-15		18,862,207	9,635,946	9,226,261	55,785,496
2016-17	Courthouse Construction Fund*	11,987,484	14,831,327	(2,843,843)	19,497,391
2015-16		13,256,053	20,803,070	(7,547,017)	22,341,235
2014-15		15,231,031	25,278,014	(10,046,983)	29,888,252
2016-17	DNA Identification Fund*	2,313,134	911,470	1,401,664	1,610,871
2015-16		2,751,495	4,876,603	(2,125,109)	209,208
2014-15		3,347,414	3,254,078	93,336	2,334,316
2016-17	Maddy EMS Fund*	16,245,138	16,409,480	(164,342)	1,245,518
2015-16		18,498,885	18,829,244	(330,359)	1,409,860
2014-15		22,958,580	23,111,372	(152,792)	1,740,219
2016-17	Health Services-Physicians Services Fund*	7,829,005	7,829,737	(732)	18,318
2015-16		8,907,712	8,888,693	19,020	19,050
2014-15		11,025,496	11,038,642	(13,146)	30
2016-17	Health Services-Hospital Services Fund*	4,518,586	9,489,552	(4,970,966)	5,301,575
2015-16		6,038,225	321,525	5,716,700	10,272,540
2014-15		7,956,885	5,928,292	2,028,593	4,555,841
2016-17	Automated Fingerprint Identification Fund*	10,656,298	8,516,082	2,140,216	79,470,913
2015-16		10,288,506	6,668,080	3,620,426	77,330,696
2014-15		10,532,056	9,056,483	1,475,573	73,710,270

Source: California State Auditor's analysis of data from county records.

Note: County funds may have other revenue in addition to penalties. The data for penalty and fee revenue that the counties collect are an aggregate of all criminal penalties and fees, including those added to traffic and nontraffic violations.

* Fund includes transactions recognized in the fiscal year when they occurred, regardless of when cash was received or disbursed.

† The Sacramento County DNA Identification Fund expenditures are split between the Sheriff's Department and the District Attorney's Office to reimburse a portion of their DNA-related expenditures.

■ = Increased from year to year.

■ = Fluctuated from year to year.

■ = Decreased from year to year.