

# Probationers' Domestic Violence Payments

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

### REPORT NUMBER 2011-121, ISSUED SEPTEMBER 2012

This report concludes that improved processes for managing and distributing payments collected from individuals convicted of crimes of domestic violence and sentenced to probation (probationers) 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.

In the report, the California State Auditor (state auditor) made the following recommendations to Los Angeles County, the Los Angeles County Superior Court (Los Angeles Court), Sacramento County, San Diego County, the San Diego County Superior Court (San Diego Court), Santa Clara County, and the Legislature. The state auditor's determination regarding the current status of recommendations is based on the entities' responses to the state auditor as of November 2012.

#### **Recommendation 1.1.a—See pages 24—28 of the audit report for information on the related finding.**

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

#### ***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012, to clarify these matters. However, shortly after our audit report was issued, Chapter 511, Statutes of 2012 (Assembly Bill 2094), was enacted. Among other things, it increases the minimum payment from \$400 to \$500. Further, if the court reduces or waives the payment at its discretion, the court is required to state the reason on the record.

#### **Recommendation 1.1.b—See pages 25—28 of the audit report for information on the related finding.**

To ensure consistent assessment, collection, and allocation of domestic violence payments, the Legislature should consider clarifying whether collections that belong in the *other reimbursable costs* category should be prorated among all assessments in that category.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

**Recommendation 1.1.c—See pages 28 and 29 of the audit report for information on the related finding.**

To ensure consistent assessment, collection, and allocation of domestic violence payments, the Legislature should consider clarifying whether collections entities have the authority to continue pursuing collection of domestic violence payments once an individual's term of probation expires.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

**Recommendation 1.1.d—See pages 29—31 of the audit report for information on the related finding.**

To ensure consistent assessment, collection, and allocation of domestic violence payments, the Legislature should consider clarifying whether allowable administrative costs apply to all funds in a county's special fund.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

**Recommendation 1.1.e—See pages 29—31 of the audit report for information on the related finding.**

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

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

**Recommendation 1.2—See pages 20 and 21 of the audit report for information on the related finding.**

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.

***San Diego Court's Action: Partially implemented.***

San Diego Court indicated that court administration discussed the audit findings with the court's judicial leadership. According to San Diego Court, the San Diego criminal justice community has approached the problem of domestic violence collaboratively over the years and has consistently urged the court to treat the completion of the mandatory counseling and treatment as a priority. Further, it explained that the prosecution and defense routinely agree to use a financial incentive-based approach to help ensure the defendant's timely completion of the 52-week Domestic Violence Recovery Program. It indicated that due to the audit findings, San Diego Court is now aware of the conflict that this plea-bargained, or agreed-upon, approach has created, especially in light of the effort to increase collection of the domestic violence fund fees. According to San Diego Court, its judicial leadership has indicated that it will embark on an effort to address the issues with its criminal justice partners, which are both the prosecution and defense bar.

**Recommendation 1.3.a—See pages 21—23 of the audit report for information on the related finding.**

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 include on the orders issued at sentencing the breakdown of all fines and fees owed.

***San Diego Court's Action: Pending.***

According to San Diego Court, staff are working to amend its change-of-plea form to list each fee and fine and to include a space for the amount of each. The court expects to have the changes approved and implemented by January 2013.

**Recommendation 1.3.b—See pages 21—23 of the audit report for information on the related finding.**

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 use the guidelines in place at the time of sentencing for those convicted of domestic violence crimes when it establishes accounts for payments.

***San Diego Court's Action: Partially implemented.***

San Diego Court indicated that accounting staff, who open accounts receivable, are now opening accounts on domestic violence cases at the time of sentencing, even if the fines have been stayed pending completion of a program, rather than waiting until the fines and fees become due. According to San Diego Court, the accounting staff are using current sentencing guidelines to ensure proper allocation of fines and fees. Further, San Diego Court explained that for older cases on which the fines and fees were stayed and an account has not yet been opened, staff are opening the accounts receivable as the stays are lifted and the fines and fees become due. It is working to create tools for staff to clearly show the proper allocations for the applicable sentencing dates. San Diego Court expects that full implementation will be complete no later than January 2013.

**Recommendation 2.1—See page 41 of the audit report for information on the related finding.**

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.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

**Recommendation 2.2—See pages 35—38 of the audit report for information on the related finding.**

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

***Santa Clara County's Action: Partially implemented.***

Santa Clara County developed a process for annually distributing funds to domestic violence shelters, which includes an annual Request for Statements of Qualifications to certify any domestic violence shelter providers to receive funding for the next fiscal year. According to Santa Clara County, the fund distribution will be based on a formula that has been developed by the county with input from the shelter providers. Santa Clara County indicated that it will begin using this process for funds distributed during fiscal year 2013–14.

**Recommendation 2.3.a—See pages 38 and 39 of the audit report for information on the related finding.**

Sacramento County should finalize work with the State Controller's Office on correcting the county's overpayment of domestic violence funds to the State.

***Sacramento County's Action: Fully implemented.***

Sacramento County stated that it had completed the corrections to its distributions for the full three-year period, excluding the eight months in 2010 where there were no overpayments. It indicated that the final corrections totaled \$45,036 for these years. Sacramento County made the adjustments during its July 2012 and August 2012 distributions to the State.

**Recommendation 2.3.b—See pages 38 and 39 of the audit report for information on the related finding.**

Sacramento County should implement the process developed for reviewing statutes that affect domestic violence payment collection and distribution practices in order to prevent overpayment of domestic violence funds in the future.

***Sacramento County's Action: Fully implemented.***

Sacramento County established a policy for reviewing statutes that affect domestic violence payment collection and distribution practices. This policy requires Sacramento County to review all statutes related to the distribution of fines each December using the State of California's Legislative Information Web site.

**Recommendation 2.4.a—See pages 39—41 of the audit report for information on the related finding.**

Los Angeles County, San Diego County, San Diego Court, and Santa Clara County should determine the magnitude of the misdirected domestic violence funds.

***Los Angeles County's Action: Fully implemented.***

Los Angeles County determined that its Probation Department overdistributed \$12,620 to the county for the period January through August 2010 and overdistributed \$883 to the State from August 2010 through June 2012. These adjustments net to a total of \$11,737 that it overpaid the county.

***San Diego County's Action: Fully implemented.***

San Diego County indicated that it reviewed and reconciled its records for all distributed funds and calculated that it underpaid the State \$4,300.

***San Diego Court's Action: Fully implemented.***

San Diego Court stated that it reviewed the domestic violence fund revenue distributions for the four court divisions with particular emphasis placed on distributions beginning in January 2010 and going forward since the audit report noted discrepancies within the central division during this period. After the review, San Diego Court calculated an overall net overpayment of \$203 to the State for the period January 2010 through October 2012 for all four divisions.

***Santa Clara County's Action: Partially implemented.***

According to Santa Clara County, its Department of Revenue is currently testing programming changes necessary to correct the 482 cases that make up the overpayment to the State. Santa Clara County anticipated these changes would be ready by the end of November 2012.

**Recommendation 2.4.b—See pages 39—41 of the audit report for information on the related finding.**

Los Angeles County, San Diego County, San Diego Court, and Santa Clara County should consult with the State Controller's Office to determine what action should be taken to correct the domestic violence funds that were misdirected in prior fiscal years.

***Los Angeles County's Action: Fully implemented.***

In October 2012 Los Angeles County submitted an adjustment of the \$11,737 that it overpaid the county.

***San Diego County's Action: Fully implemented.***

San Diego County offset county collections received in its regular disbursements in July, August, and September 2012 to adjust for the \$4,300 that it underpaid the State.

***San Diego Court's Action: Pending.***

San Diego Court indicated that its accounting staff will make an adjustment in December 2012 to correct the net overpayment to the State.

***Santa Clara County's Action: Partially implemented.***

Santa Clara County indicated it has contacted the State Controller's Office and will correct the prior distributions once it completes its testing of necessary programming changes.

**Recommendation 2.4.c—See pages 39—41 of the audit report for information on the related finding.**

Los Angeles County, San Diego County, San Diego Court, and Santa Clara County should improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.

***Los Angeles County's Action: Partially implemented.***

Los Angeles County indicated that its Probation Department will monitor the State Controller's Office's Web site monthly for updates to the Trial Court Manual and Distribution guidelines. However, although monitoring changes to statutes posted by the State Controller's Office is a valuable tool for identifying any relevant changes, this source may not be updated consistently. As a result, Los Angeles County could miss important statutory changes. We would expect Los Angeles County to develop a process to monitor the statutes itself to identify any relevant changes.

***San Diego County's Action: Partially implemented.***

San Diego County stated that it revised its accounting procedures following the completion of the audit to ensure compliance with statutes. It plans to have revised comprehensive procedures with a targeted completion date of March 2013 for all accounting processes that are affected by court ordered debt, including the domestic violence payment. San Diego County also plans to establish a compliance unit by the end of January 2013. This unit will be responsible for regular and ongoing monitoring of procedures and for ensuring that all legislative changes are reflected in the procedures.

***San Diego Court's Action: Partially implemented.***

According to San Diego Court, its accounting staff will continue to work with the court legislative analyst and Administrative Office of the Courts' staff to keep abreast of legislative changes impacting revenue distributions. San Diego Court anticipates that legislative updates can be added as an agenda item on future Accounting Committee meetings.

***Santa Clara County's Action: Partially implemented.***

Santa Clara County explained that it, together with the Santa Clara Superior Court, has formed a Legislation Review Committee. The members of the committee are to monitor new legislation and discuss changes to departmental procedures. Santa Clara County stated this will include information on the change of the amount collected from \$400 to \$500 effective January 1, 2013, due to the recent passage of Assembly Bill 2094 by the Legislature.

**Recommendation 2.5.a—See page 40 of the audit report for information on the related finding.**

Los Angeles Court should finalize the correction of the court's misdirected domestic violence funds.

***Los Angeles Court's Action: Fully implemented.***

Los Angeles Court stated that it has finalized and completed correction of its misdirected funds on the March 2012 and July 2012 monthly revenue distribution of funds to the State. Documentation from the Los Angeles Court indicated that it made an adjustment for \$7,289 that it overpaid the State.

**Recommendation 2.5.b—See page 40 of the audit report for information on the related finding.**

Los Angeles Court should improve protocols for reviewing statutes that affect collection and distribution practices so that future changes can be acted upon.

***Los Angeles Court's Action: Fully implemented.***

Los Angeles Court established a checklist to ensure that all areas affecting revenue distribution are changed consistently throughout the cashiering and revenue distribution systems.

**Recommendation 2.6—See pages 41—43 of the audit report for information on the related finding.**

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.

***Sacramento County's Action: Fully implemented.***

Sacramento County obtained its board of supervisors' approval in November 2012 to increase its contracted spending for shelter services by more than \$400,000 to provide additional domestic violence services and crisis intervention through June 2014. Further, it obtained approval to issue a Request for Interest for an additional \$100,000 to contract with providers of domestic violence services to underserved populations.

**Recommendation 2.7—See pages 41—44 of the audit report for information on the related finding.**

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.

***Sacramento County's Action: No action taken.***

➡ Sacramento County did not respond to this recommendation.

***San Diego County's Action: Partially implemented.***

San Diego County indicated that it will conduct an annual review of the balance in the fund and compare it with the rate of incoming funds quarterly. According to San Diego County, this process will be implemented in November 2012 and calculations will be made retroactively for the first quarter.

***Santa Clara County's Action: Fully implemented.***

Santa Clara County developed a formula for distributing funds annually to the local domestic violence shelters based on the funds available in the domestic violence trust fund. Use of this formula will require that Santa Clara County determine the balance of its funds.

