

# STANISLAUS COUNTY

Audit Report

## COURT REVENUES

*July 1, 2001, through June 30, 2006*



**JOHN CHIANG**  
California State Controller

May 2008



**JOHN CHIANG**  
**California State Controller**

May 30, 2008

The Honorable Larry D. Haugh  
Auditor-Controller  
County of Stanislaus  
1010 10<sup>th</sup> Street, Suite 5100  
Modesto, CA 95354

Michael Tozzi  
Court Executive Officer  
Stanislaus County Superior Court  
800 11<sup>th</sup> Street, Room 100  
Modesto, CA 95354

Dear Mr. Haugh and Mr. Tozzi:

The State Controller's Office audited Stanislaus County's court revenues for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$91,239 in court revenues to the State Treasurer because it:

- Underremitted the 50% of excess qualified revenues by \$171,079;
- Overremitted the State Penalty Fund by \$389,339;
- Overremitted the State Court Automation Fee by \$29,802;
- Underremitted the 20% State Surcharge by \$11,056;
- Underremitted the State Domestic Violence Fee by \$8,482;
- Underremitted the State Court Facility Construction Fund by \$320,132; and
- Overremitted the State DNA Identification Fund by \$369.

**Once the county has paid the underremitted Trial Court Improvement Fund, and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts and bill the county accordingly, in accordance with Government Code sections 68085, 70353, and 70377.**

If you have any questions, please contact Steven Mar, Chief, Special Audits Bureau, at (916) 324-7226.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/sk

The Honorable Larry D. Haugh  
Michael Tozzi

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May 30, 2008

cc: John A. Judnick, Manager, Internal Audit Unit  
    Judicial Council of California  
Karen McGagin, Executive Officer  
    Victim Compensation and Government Claims Board  
Renee Renwick, Deputy Director  
    Administration Division  
    Department of Fish and Game  
Greg Jolivette  
    Legislative Analyst's Office

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# Audit Report

## Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Stanislaus County for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$91,239 in court revenues to the State Treasurer because it:

- Underremitted the 50% of excess qualified revenues by \$171,079;
- Overremitted the State Penalty Fund by \$389,339;
- Overremitted the State Court Automation Fee by \$29,802;
- Underremitted the 20% State Surcharge by \$11,056;
- Underremitted the State Domestic Violence Fee by \$8,482;
- Underremitted the State Court Facility Construction Fund by \$320,132; and
- Overremitted State DNA Identification Fund by \$369.

## Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

Government Code section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. Government Code section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, Government Code section 12410 provides the State Controller with general audit authority to ensure that state funds are properly safeguarded.

## Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2001, through June 30, 2006. We did not review the timeliness of any remittances the county may be required to make under Government Code sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Probation Department, Revenue and Recovery Department, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

We conducted our audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States. We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

## **Conclusion**

Stanislaus County underremitted \$91,239 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

## **Follow-Up on Prior Audit Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued July 2003, with the exception of incorrect distribution of TVS fees-Court and incorrect distribution of Red Light Violations-County Collection, as discussed in the Findings and Recommendations section of this report.

**Views of  
Responsible  
Officials**

We issued a draft audit report dated December 14, 2007. Larry Haugh, Auditor-Controller, and Kery Brasil, Senior Accountant for the Superior Court, agreed with our audit findings and recommendations by telephone on May 1, 2008.

Additionally, Larry Haugh responded to our draft audit report with a letter dated February 25, 2008, (Attachment) questioning the 18% rate per annum for penalties on the underremitted amounts. We concur with the county and eliminated reference to the 18% rate since the rate has been reduced for final audit reports issued after January 1, 2008, pursuant to Government Code section 68085.

**Restricted Use**

This report is solely for the information and use of Stanislaus County, the Stanislaus County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

May 30, 2008

**Schedule 1—  
Summary of Audit Findings by Fiscal Year  
July 1, 2001, through June 30, 2006**

Description	Account Title <sup>1</sup>	Code Section	Fiscal Year					Total	Reference <sup>2</sup>
			2001-02	2002-03	2003-04	2004-05	2005-06		
<b>County</b>									
Underremitted 50% excess of specified codes	State Trial Court Improvement Fund	GC §77205	\$133,564	\$159,305	\$ (27,078)	\$ (44,415)	\$ (50,297)	\$ 171,079	Finding 1
<b>Court</b>									
Incorrect distribution of TVS violation cases	State Penalty Fund	PC §1464	(174,179)	(208,250)	—	—	—	(382,429)	Finding 2
	2% State Court Automation Fee	GC §68090.8	(13,725)	(16,409)	—	—	—	(30,134)	Finding 2
	County General Fund		—	—	—	—	—	—	
	County Penalty Fund		—	—	—	—	—	—	
Underremitted State Court Facilities penalty from TVS violation cases	State Court Facility Construction Fund	GC §70372	—	—	66,705	111,559	125,615	303,879	Finding 3
	County TVS Fund		—	—	—	—	—	—	
<b>Probation</b>									
Underremitted 20% State Surcharge and State Court Facilities Construction Fund	20% State Surcharge	PC §1465.7	—	821	2,980	3,126	4,129	11,056	Finding 4
	State Court Facility Construction Fund	GC §70372	—	1,207	4,382	4,595	6,069	16,253	Finding 4
	2% State Court Automation Fee	GC §68090.8	—	25	89	94	124	332	Finding 4
	State Penalty Fund	PC §1464	—	(513)	(1,863)	(1,954)	(2,580)	(6,910)	Finding 4
	State DNA Identification Fund	GC §76104.6	—	—	—	—	(369)	(369)	Finding 4
	County General Fund		—	—	—	—	—	—	
Underremitted State Domestic Violence Fee	State Domestic Violence Restraining Order	PC §1203.097	818	693	995	983	752	4,241	Finding 5
	State Domestic Violence Training and Education	PC §1203.097	818	693	995	983	752	4,241	Finding 5
Net amount underpaid (overpaid) to the State Treasurer			<u>\$ (52,704)</u>	<u>\$ (62,428)</u>	<u>\$ 47,205</u>	<u>\$ 74,971</u>	<u>\$ 84,195</u>	<u>\$ 91,239</u>	

<sup>1</sup> The identification of state revenue account titles should be used to ensure proper recording when preparing the remittance advice (TC-31) to the State Treasurer.

<sup>2</sup> See the Findings and Recommendations section.

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Improvement Fund  
July 1, 2001, through June 30, 2006**

<u>Month</u>	<u>Fiscal Year</u>	
	<u>2002-03</u>	<u>2003-04</u>
July	\$ —	\$ —
August	133,564	159,305
September	—	—
October	—	—
November	—	—
December	—	—
January	—	—
February	—	—
March	—	—
April	—	—
May	—	—
June	—	—
<b>Total underremittances to the State Treasurer</b>	<b><u>\$ 133,564</u></b>	<b><u>\$ 159,305</u></b>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 3—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2001, through June 30, 2006**

Month	Fiscal Year			
	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ 5,923	\$ 9,674	\$ 10,970
August	—	5,924	9,680	10,974
September	—	5,924	9,680	10,974
October	—	5,924	9,680	10,974
November	—	5,924	9,680	10,974
December	—	5,924	9,680	10,974
January	201	5,924	9,680	10,974
February	201	5,924	9,680	10,974
March	201	5,924	9,680	10,974
April	201	5,924	9,680	10,974
May	201	5,924	9,680	10,974
June	202	5,924	9,680	10,974
Total underremittances to the State Treasurer	\$ 1,207	\$ 71,087	\$ 116,154	\$ 131,684

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 4—  
Summary of Overremittances by Month  
July 1, 2001, through June 30, 2006**

<u>Month</u>	Fiscal Year		
	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>
July	\$ —	\$ —	\$ —
August	(27,078)	(44,415)	(50,297)
September	—	—	—
October	—	—	—
November	—	—	—
December	—	—	—
January	—	—	—
February	—	—	—
March	—	—	—
April	—	—	—
May	—	—	—
June	—	—	—
Total overremittances to the State Treasurer	<u>\$ (27,078)</u>	<u>\$ (44,415)</u>	<u>\$ (50,297)</u>

# Findings and Recommendations

## **FINDING 1— Underremitted excess of qualified fines, fees, and penalties**

The County Auditor-Controller's Office underremitted by \$171,079 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five fiscal year (FY) period of July 1, 2001, through June 30, 2006.

Government Code section 77201(b)(2) requires Stanislaus County, for its base revenue obligation, to remit \$1,855,169 for FY 1998-99 and each fiscal year thereafter. In addition, Government Code section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred as a result of the following conditions:

- As stated in Finding 2, the State Penalty Fund, 2% State Automation Fee, County Penalty Fund, and county base fine were overremitted by \$1,506,692. As a result, \$586,510 should be included in the maintenance-of-effort (MOE) formula.
- As stated in Finding 3, the State Court Facility Construction Fund was underremitted by \$303,879. As a result, \$233,987 should not be included in the MOE formula.
- As stated in Finding 4, the 20% State surcharge and State Court Facility Construction Fund was underremitted by \$20,475. As a result, \$10,749 should not be included in the MOE formula.

The qualified revenues reported for FY 2001-02 were \$2,683,392. The excess, above the base of \$1,855,169, is \$828,223. This amount should be divided equally between the county and the State, resulting in \$414,111 excess due the State. The county remitted a previous payment of \$280,547, causing an underremittance of \$133,564.

The qualified revenues reported for FY 2002-03 were \$3,190,137. The excess, above the base of \$1,855,169, is \$1,334,968. This amount should be divided equally between the county and the State, resulting in \$667,484 excess due the State. The county remitted a previous payment of \$508,179, causing an underremittance of \$159,305.

The qualified revenues reported for FY 2003-04 were \$3,662,801. The excess, above the base of \$1,855,169, is \$1,807,632. This amount should be divided equally between the county and the State, resulting in \$903,816 excess due the State. The county remitted a previous payment of \$930,894, causing an overremittance of \$27,078.

The qualified revenues reported for FY 2004-05 were \$3,492,263. The excess, above the base of \$1,855,169, is \$1,637,094. This amount should be divided equally between the county and the State, resulting in \$818,547 excess due the State. The county remitted a previous payment of \$862,962, causing an overremittance of \$44,415.

The qualified revenues reported for FY 2005-06 were \$3,792,850. The excess, above the base of \$1,855,169, is \$1,937,681. This amount should be divided equally between the county and the State, resulting in \$968,841 excess due the State. The county remitted a previous payment of \$1,019,138, causing an overremittance of \$50,297.

The over-and underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–Government Code §77205:	
FY 2001-02	\$ 133,564
FY 2002-03	159,305
FY 2003-04	(27,078)
FY 2004-05	(44,415)
FY 2005-06	(50,297)
County General Fund	(171,079)

**Recommendation**

The county should remit \$171,079 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–Government Code section 77205. The county should also make the corresponding account adjustments.

**FINDING 2—  
Incorrect distribution  
of TVS fees–Court**

This finding is a repeat of a prior-year audit report finding.

The Stanislaus County Superior Court inappropriately distributed Traffic Violator School (TVS) fees in a manner similar to county and city base fine distributions that include deductions for state and county penalties from FY 2001-02 through FY 2002-03. Court staff stated that they had corrected the distribution error since July 2003 when they received the prior-year audit report. However, they did not change the TVS distribution retroactively since the beginning of FY 2001-02.

Effective July 1, 1998, Vehicle Code section 42007 requires a reduction to the cities for city base fines before distributing the remainder of the Traffic Violator School fees to the county general fund. Vehicle Code section 42007 does not allow a deduction of the 2% State Court Automation Fee. Vehicle Code section 42007.3 requires the city base fines should be derived from a multiple of the total base fine and not the total bail.

The inappropriate distribution of TVS fees affects the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205.

In addition, failure to make the required distribution had the following effects:

Account Title	Understated/ (Overstated)
State Penalty Fund–Penal Code §1464	\$ (382,429)
2% State Court Automation Fee–Government Code §68090.8	(30,134)
County General Fund	796,468
County Penalty Fund	(274,218)
County Emergency Medical Service Fund	(109,687)

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$412,563 and report on the remittance advice from (TC-31) decreases of \$382,429 to the State Penalty Fund and \$30,134 to the State Court Automation Fee. The county should also make the corresponding account adjustments.

**FINDING 3—  
Underremitted State  
Court Facility  
Construction Fund from  
TVS violations–Court**

The Stanislaus County Superior Court did not distribute the State Court Facility Construction Fund from TVS violation cases from January 2004 through June 2006. The State Court Facility Construction Fund was underremitted. The court staff indicated that the required distribution was inadvertently overlooked.

Government Code section 70372 requires that a state court facility construction fund be levied in an amount equal to \$5 for every \$10 or fraction thereof, upon every criminal fine or forfeiture when penalties are imposed. Prior to an agreement between the county and Judicial Council (State) for responsibility for courthouse construction and maintenance, the penalties remitted to the State are reduced by the difference, if any, between the \$5 and the amount of the local penalty remitted to the local courthouse construction fund pursuant to Government Code section 761000.

Effective January 1, 2004, for all traffic school violations, Vehicle Code section 42007 requires that the amount of the fee that is attributable to Government Code section 70372 be transferred to the State Court Construction Penalty Fund.

Failure to properly distribute TVS fees affected the revenues reported to the State Trial Court Improvement Fund under the maintenance-of-effort formula (see Finding 1).

Additionally, the incorrect distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund	\$ 303,879
County General Fund	(303,879)

Recommendation

The county should remit \$303,879 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$303,879 to the State Court Facility Construction Fund. The court should make redistribution for the period of July 2006 through the date on which the current system is revised.

**FINDING 4—  
Underremitted the 20%  
State Surcharge and  
State Court Facility  
Construction Fund—  
Probation Department**

The Stanislaus County Probation Department did not appropriately report the 20% State Surcharge and \$3 State Court Facility Construction Fund since January 2003. The 20% State Surcharge, State Court Facility Construction Fund, and the 2% State Court Automation Fee were underremitted. The errors occurred because the department inadvertently overlooked the required distribution.

Penal Code section 1465.7 requires a 20% State Surcharge on all criminal base fines that are used to calculate the state penalty assessment, as specified in Penal Code section 1464.

Government Code section 70372 requires that a State Court Facility Construction Fund be levied in an amount equal to \$5 for every \$10 or fraction thereof, upon every criminal fine, or forfeiture when penalties are imposed. Prior to an agreement between the county and Judicial Council (State) for responsibility for courthouse construction and maintenance, the penalties remitted to the State are reduced by the difference, if any, between the \$5 and the amount of the local penalty remitted to the local courthouse construction fund pursuant to Government Code section 761000.

Government Code section 68090.8 requires that a 2% Automation Fee should be deducted from all fines, penalties, and forfeitures. Government Code section 70372 states that State Court Facility Construction Fund should be treated the same as the other penalty assessment, such that the 2% State Court Automation Fee is applicable.

Failure to properly implement the required distributions affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1).

Additionally, the incorrect distribution had the following effects:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Court Facility Construction Fund	\$ 16,253
20% State Surcharge	11,056
2% State Court Automation Fee	332
State Penalty Fund	(6,910)
State DNA Identification Fund	(369)
County General Fund	(12,834)
County Court House Construction Fund	(3,580)
County Jail House Construction Fund	(1,974)
County Emergency Medical Services Fund	(1,974)

Recommendation

The county should remit \$27,641 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$16,253 to State Court Facility Construction Fund, \$11,056 to the 20% State Surcharge, and \$332 to the 2% State Court Automation Fee, and decreases of \$6,910 to the State Penalty Fund and \$369 to the State DNA Identification Fund. The county should also make the corresponding account adjustments. The Stanislaus County Probation Department should make redistribution for the period of July 2006 through the date on which the current system is revised.

**FINDING 5—  
Underremitted State  
Domestic Violence Fee—  
Probation Department**

The Stanislaus County Probation Department incorrectly distributed Domestic Violence Fees. All collected Domestic Violence Fees were deposited into the County Diversion Program Fund. As a result, the State Domestic Violence Fees were underremitted from July 2001 through June 2006. The error occurred because the department inadvertently overlooked the required distribution.

Penal Code section 1203.097 requires that 1/3 of Domestic Violence Fees (minimum \$133 per defendant) be split evenly between the State Domestic Violence Restraining Order Fund and State Domestic Violence Training and Education Fund.

The incorrect distribution had the following effects:

Account Title	Understated/ (Overstated)
State Domestic Violence Restraining Order Fund— Penal Code §1203.097	\$ 4,241
State Domestic Violence Training and Education Fund— Penal Code §1203.097	4,241
County Diversion Program Fund	(8,482)

Recommendation

The county should remit \$8,482 to the State Treasurer and report on the remittance advice form (TC-31) increases of \$4,241 to State Domestic Violence Restraining Order Fund and \$4,241 to State Domestic Violence Training and Education Fund. The Probation Department should make a redistribution for the period of July 2006 through the date on which the current system is revised.

**FINDING 6—  
Failure to implement  
distribution for Red-  
Light Violations—  
County Collection  
Department**

This finding is a repeat of a prior-year audit report finding.

The Stanislaus County Collection Department (Revenue and Recovery Division) imposed fines for red-light offenses without implementing the statutory changes for county and city-related red-light offenses for the period of January 2001 through June 2006. Effective January 1, 1998, after deducting the allowable 2% Court Automation Fee, 30% of the total bail (including state and local penalties) should be posted to the county or city General Fund in which the offenses occurred, and the balance

(70%) should be distributed pursuant to Penal Code sections 1463.001, 1464, and Government Code section 76000. Collections personnel stated that they did not receive a prior-year audit and, therefore, they were not aware of the statutory requirements affecting the specific distribution of fines for red-light offenses.

Effective July 1, 1998, when a defendant attends traffic violator school pursuant to Vehicle Code section 42007 on a city arrest, the city will receive the same portion of the base fine that would have been allotted to it if the defendant had not attended traffic violator school.

Penal Code section 1463.11 requires that 30% of red-light violations be distributed to the county or city general fund in which the offense occurred. In addition, if the red-light violation is referred to traffic school, Vehicle Code section 42001 requires that 30% of the traffic violator fee to be distributed to the county or city where the offense occurred.

Failure to accurately distribute on a timely basis city fines for traffic violator school and red-light offenses causes an understatement of revenues to cities and an overstatement of revenues to the county and state. We did not measure the dollar effect, as we did not consider it cost effective to do so because of the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Stanislaus County Collection Department should implement procedures to make the specific distributions for fines for red-light offenses to comply with statutory requirements. Until the department's accounting system can provide an adequate distribution of fines for red-light violations, a manual redistribution should be made for the period of July 2006 through the date on which the current system is revised.

#### **FINDING 7— Incorrect distribution of evidence-of-financial- responsibility fees— County Collection Department**

The Stanislaus County Collection Department did not make the required distributions to the State General Fund and State Transportation Fund for evidence-of-financial-responsibility fees for the period of July 2001 through June 2006. The errors occurred because the department inadvertently overlooked the required distribution.

A \$30.50 fee on each conviction of an evidence-of-financial-responsibility violation identified under Penal Code section 16028 must be distributed, per conviction, in the following manner: \$17.50 to the County General Fund pursuant to Penal Code section 1463.22(a), \$10 to the State General Fund pursuant to Penal Code section 1463.22(c), and \$3 to the State Transportation Fund pursuant to Penal Code section 1463.22(b).

Failure to properly distribute the evidence-of-financial-responsibility fees causes the county and city General Fund to be overstated and both State General Fund and State Transportation Fund to be understated. We did not measure the dollar effect, as it did not appear to be material and

because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Stanislaus County Collections Department should implement procedures to make the specific distributions for evidence-of-financial-responsibility fees to comply with statutory requirements. A manual redistribution should be made for the period of July 2006 and subsequent periods until the current system is revised.

#### **FINDING 8— Underremitted Secret Witness Program fee— Court**

The State Fish and Game Preservation Fund was underremitted from July 2001 through June 2006. The error occurred because the judges did not impose a \$15 Secret Witness Program fee for Fish and Game Code violations in which the defendant fails to produce a fishing license in court.

Fish and Game Code section 12021 requires that a \$15 additional penalty be added to any Fish and Game Code violations related to the display of a fishing license. It should be distributed to the State Fish and Game Preservation Fund to support the State's Secret Witness Program.

Failure to impose the \$15 Secret Witness Program fee for Fish and Game Code violations causes the State Fish and Game Preservation Fund to be understated. We did not measure the dollar effect, as it did not appear to be material.

#### Recommendation

The Stanislaus County Superior Court administrator should inform the judges of assessment requirements for violations of Fish and Game Code section 7145.

#### **FINDING 9— Failure to implement distribution priority— Probation Department**

The Stanislaus County Probation Department did not prioritize its installment payments. The 20% State Surcharge should have distribution priority over any fines, penalties, restitution fines, and other reimbursable costs. Probation Department staff indicated that they inadvertently overlooked the new statute regarding the changes in the collection sequence.

Penal Code section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution Orders to victims
2. 20% State Surcharge
3. Fines, penalty assessments, and restitution fines
4. Other reimbursable costs

Any administration fees should be included within Category 4, Other Reimbursable Costs.

Failure to make the required priority distribution causes distributions to the State and county to be inaccurately stated. We did not measure the dollar effect, as it did not appear to be material, and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Stanislaus County Probation Department should establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under Penal Code section 1203.1d.

### **FINDING 10— Inappropriate distribution priority- County Collection Department**

The Stanislaus County Revenue and Recovery Department did not properly prioritize its installment payments. Court administrative fees were collected as Category 3 instead of as Category 4. Revenue and Recovery Department staff indicated that they inadvertently overlooked the required collection sequence.

Penal Code section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution Orders to victims
2. 20% State Surcharge
3. Fines, penalty assessments, and restitution fines
4. Other reimbursable costs

Any administration fees should be included within Category 4, other reimbursable costs.

Failure to make the required priority distribution causes distributions to the state and county to be inaccurately stated. We did not measure the dollar effect, as it did not appear to be material, and because doing so would not be cost effective due to the difficulty in identifying and redistributing the various accounts.

#### Recommendation

The Stanislaus County Revenue and Recovery Department should establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under Penal Code section 1203.1d.

**Attachment—  
County Auditor-Controller's Response  
to Draft Audit Report**

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**AUDITOR-CONTROLLER**

**Larry D. Haugh**  
Auditor - Controller

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February 25, 2008

Steven Mar, Chief  
Local Government Audits Bureau  
State Controller's Office, Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874

**SUBJECT: DRAFT AUDIT REPORT – COURT REVENUES**

We are in receipt of the draft audit report of Court Revenues for fiscal years July 1, 2001, through June 30, 2006. Based on our phone conversation, it is our understanding that the paragraph referencing interest penalties bolded at the bottom of the cover letter dated December 14, 2007 will be deleted prior to delivery of the final audit document. This change was required due to the final audit not being issued prior to January 1, 2008, and that any interest penalties that might apply will be subject to the new provisions of GC 68085.

We appreciate your time in responding to our questions previously by phone. Please don't hesitate to call, if you anticipate additional changes to the final audit document.

LARRY D. HAUGH  
AUDITOR-CONTROLLER

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