

# **SAN BERNARDINO COUNTY**

Audit Report

## **COURT REVENUES**

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



**JOHN CHIANG**  
California State Controller

November 2009



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

November 25, 2009

The Honorable Larry Walker  
Auditor/Controller/Recorder  
San Bernardino County  
222 W. Hospitality Lane, 4<sup>th</sup> Floor  
San Bernardino, CA 92414-0018

Tressa Kentner  
Court Executive Officer  
San Bernardino Superior Court  
171 W. Third Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92415-0302

Dear Mr. Walker and Ms. Kentner:

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

Our audit disclosed that the county underremitted \$7,364,440 in court revenues to the State Treasurer as follows:

- The county overremitted 50% excess of qualified fines, fees, and penalties by \$88,857.
- The county underremitted collection program revenues of criminal cases by \$4,693,176.
- The county underremitted fines and penalties by \$10,634.
- The county underremitted collection program revenues of traffic cases by \$154,868.
- The court underremitted collection program revenues of traffic cases by \$271,954.
- The court underremitted penalties from traffic violator school cases by \$2,322,665.

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

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an informal audit review process to resolve a dispute of facts. To request a review, the county should submit, in writing, within 60 days after receiving the final report, a request for a review, along with supporting documents and information pertinent to the disputed issue(s), to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter to Steve Fujimori, Acting Chief, Special Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, CA 95250-5874.

The Honorable Larry Walker  
Tressa Kentner

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November 25, 2009

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

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/sk

cc: Annette Kerber

Assistant Treasurer/Tax Collector/Public Administrator  
San Bernardino County  
Frank Tang, Senior Budget Analyst  
Judicial Council of California  
Julie Nauman, Executive Officer  
Victim Compensation and Government Claims Board  
Greg Jolivette  
Legislative Analyst's Office  
Richard J. Chivaro  
Chief Counsel  
State Controller'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 San Bernardino County for the period of July 1, 2001, through June 30, 2006.

Our audit disclosed that the county underremitted \$7,364,440 in court revenues to the State Treasurer as follows:

- The county overremitted 50% excess of qualified fines, fees, and penalties by \$88,857.
- The county underremitted collection program revenues of criminal cases by \$4,693,176.
- The county underremitted fines and penalties by \$10,634.
- The county underremitted collection program revenues of traffic cases by \$154,868.
- The court underremitted collection program revenues of traffic cases by \$271,954.
- The court underremitted penalty from traffic violator school cases by \$2,322,665.

## 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, Treasurer-Tax Collector, 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 this performance audit in accordance with 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**

San Bernardino County underremitted \$7,364,439 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 29, 2003, with the exception of underremitted fines and penalties (Finding 3).

**Views of  
Responsible  
Officials**

We issued a draft audit report on January 9, 2009. Howard M. Ochi, CPA, Chief Deputy Auditor, responded by letter dated February 3, 2009 (Attachment A), disagreeing with the audit results of Findings 2 and 4. Further, Tressa S. Kentner, Court Executive Officer, responded by a letter dated February 4, 2009 (Attachment B), disagreeing with Finding 6.

**Restricted Use**

This report is solely for the information and use of San Bernardino County, the San Bernardino 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

November 25, 2009

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

Description	Account Title <sup>1</sup>	California Code <sup>2</sup>	Fiscal Year					Total	Reference <sup>3</sup>
			2001-02	2002-03	2003-04	2004-05	2005-06		
<b>County</b>									
Overremitted 50% excess of specified fines, fees, and penalties	Trail Court Improvement Fund	GC §77205	\$ (4,867)	\$ (41,509)	\$ 267,571	\$ (131,449)	\$ (178,603)	\$ (88,857)	Finding 1
Underremitted collection program revenues	Penalty Fund	PC §1464	283,190	346,952	360,501	390,118	367,155	1,747,916	Finding 2
	Trial Court Improvement Fund	PC §1202.4	414,825	446,758	327,336	430,107	532,192	2,151,218	Finding 2
	Trial Court Improvement Fund	GC §68090.8	31,486	37,031	35,854	42,269	43,062	189,702	Finding 2
	Victim Indemnity Fund	PC §1463.18	18,543	17,093	7,689	16,182	18,169	77,676	Finding 2
	Court Facilities Construction Fund	GC §70372(a)	—	—	24,803	109,972	127,704	262,479	Finding 2
	General Fund	PC §1465.7	—	—	61,211	125,686	28,095	214,992	Finding 2
	General Fund	PC §1463.22(c)	30	10	67	7	33	147	Finding 2
	Trial Court Trust Fund	PC §1465.8	—	—	2,618	21,123	25,305	49,046	Finding 2
Subtotals			748,074	847,844	820,079	1,135,464	1,141,715	4,693,176	
Underremitted fines and penalties	Penalty Fund	PC §1464	4,998	3,190	1,595	638	213	10,634	Finding 3
Underremitted collection program revenues	Penalty Fund	PC §1464	—	—	—	—	78,870	78,870	Finding 4
	DNA Identification Fund	GC §76104.5	—	—	—	—	2,538	2,538	Finding 4
	General Fund	PC §1465.7	—	—	—	—	25,457	25,457	Finding 4
	Trial Court Trust Fund	PC §1465.8	—	—	—	—	26,763	26,763	Finding 4
	General Fund	PC §1463.22(c)	—	—	—	—	2,173	2,173	Finding 4
	General Fund	PC §1463.22(b)	—	—	—	—	649	649	Finding 4
	General Fund	VC §40611	—	—	—	—	280	280	Finding 4
	General Fund	PC §1464(b)	—	—	—	—	108	108	Finding 4
	Court Facilities Construction Fund	GC §70372(a)	—	—	—	—	18,030	18,030	Finding 4
Subtotals			—	—	—	—	154,868	154,868	
Totals, County			748,205	809,525	1,089,245	1,004,653	1,118,193	4,769,821	

**Schedule 1 (continued)**

Description	Account Title <sup>1</sup>	California Code <sup>2</sup>	Fiscal Year					Total	Reference <sup>3</sup>
			2001-02	2002-03	2003-04	2004-05	2005-06		
<b>Superior Court</b>									
Underremitted collection program revenues	Penalty Fund	PC §1464	—	—	—	—	142,546	142,546	Finding 4
	DNA Identification Fund	GC §76104.5	—	—	—	—	5,741	5,741	Finding 4
	Trial Court Improvement Fund	GC §68090.8	—	—	—	—	14,022	14,022	Finding 4
	Court Facilities Construction Fund	GC §70372 (a)	—	—	—	—	50,798	50,798	Finding 4
	General Fund	PC §1465.7	—	—	—	—	58,847	58,847	Finding 4
Subtotals			—	—	—	—	271,954	271,954	
Underremitted penalties from traffic violator school cases	Court Facilities Construction Fund	GC § 70372 (a)	—	—	463,901	763,729	1,095,035	2,322,665	Finding 5
Totals, Superior Court			—	—	463,901	763,729	1,366,989	2,594,619	
Net amount underpaid (overpaid) to the State Treasurer			\$ 748,205	\$ 809,525	\$1,553,146	\$1,768,382	\$2,485,182	\$7,364,440	

<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> GC=Government Code, PC=Penal Code, VC=Vehicle Code

<sup>3</sup> See the Findings and Recommendations section.

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Trust Fund  
July 1, 2002, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ 218	\$ 1,760	\$ 4,339
August	—	—	218	1,760	4,339
September	—	—	218	1,760	4,339
October	—	—	218	1,760	4,339
November	—	—	218	1,760	4,339
December	—	—	218	1,760	4,339
January	—	—	218	1,760	4,339
February	—	—	218	1,760	4,339
March	—	—	218	1,760	4,339
April	—	—	218	1,760	4,339
May	—	—	218	1,760	4,339
June	—	—	220	1,763	4,339
Total underremittances to the State Treasurer	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 2,618</u>	<u>\$ 21,123</u>	<u>\$ 52,068</u>

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  
Trial Court Improvement Fund  
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ 37,192	\$ 40,315	\$ 30,265	\$ 39,364	\$ 49,106
August	37,192	40,315	30,265	39,364	49,106
September	37,192	40,315	30,265	39,364	49,106
October	37,192	40,315	30,265	39,364	49,106
November	37,192	40,315	30,265	39,364	49,106
December	37,192	40,315	30,265	39,364	49,106
January	37,192	40,315	30,265	39,364	49,106
February	37,192	40,315	30,265	39,364	49,106
March	37,192	40,315	30,265	39,364	49,106
April	37,192	40,315	30,265	39,364	49,106
May	37,192	40,315	30,265	39,364	49,106
June <sup>1</sup>	37,332	(1,185)	297,846	(92,077)	(129,493)
Total underremittances to the State Treasurer	<u>\$ 441,444</u>	<u>\$ 442,280</u>	<u>\$ 630,761</u>	<u>\$ 340,927</u>	<u>\$ 410,673</u>

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.

<sup>1</sup> Includes maintenance-of-effort underremittances (Finding 1) as follows:

Fiscal Year				
2001-02	2002-03	2003-04	2004-05	2005-06
<u>\$ (4,867)</u>	<u>\$ (41,509)</u>	<u>\$ 267,571</u>	<u>\$ (131,449)</u>	<u>\$ (178,603)</u>

**Schedule 4—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ 40,725	\$ 72,808	\$ 107,630
August	—	—	40,725	72,808	107,630
September	—	—	40,725	72,808	107,630
October	—	—	40,725	72,808	107,630
November	—	—	40,725	72,808	107,630
December	—	—	40,725	72,808	107,630
January	—	—	40,725	72,808	107,630
February	—	—	40,725	72,808	107,630
March	—	—	40,725	72,808	107,630
April	—	—	40,725	72,808	107,630
May	—	—	40,725	72,808	107,630
June	—	—	40,729	72,813	107,637
Total underremittances to the State Treasurer	\$ —	\$ —	\$ 488,704	\$ 873,701	\$ 1,291,567

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 5—  
Summary of Overremittances by Month  
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ —	\$ —	\$ —
August	4,867	41,509	—	131,449	178,603
September	—	—	—	—	—
October	—	—	—	—	—
November	—	—	—	—	—
December	—	—	—	—	—
January	—	—	—	—	—
February	—	—	—	—	—
March	—	—	—	—	—
April	—	—	—	—	—
May	—	—	—	—	—
June	—	—	—	—	—
Total underremittances to the State Treasurer	<u>\$ 4,867</u>	<u>\$ 41,508</u>	<u>\$ —</u>	<u>\$ 131,449</u>	<u>\$ 178,603</u>

# Findings and Recommendations

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

The County Auditor-Controller's Office overremitted by \$88,857 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.

Per Government code (GC) section 77201(b)(2), the county, for its base revenue obligation, is required to remit \$8,163,193 for FY 2001-02 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 improper computations occurred because of the following, attributable to the county:

- Under Penal Code section 1463.11, the red-light violation distributions of \$95,594 should not have been included in the computations as Penal Code section 1463.001 fines; this resulted in an overremittance.
- The qualified accounts from the County Central Collections Department totaling \$1,168,112, as noted in the narrative of Finding 2, resulted in an underremittance.
- The qualified accounts from the County Central Collections Department fee variance account totaling \$21,414, as noted in the narrative of Finding 3, resulted in an overremittance.
- The qualified accounts from the County Central Collections Department totaling \$55,338, as noted in the narrative of Finding 4, resulted in an underremittance.
- The prior period adjustments made by the County Auditor's Office from the traffic violator school due the emergency medical services account understated the computations for FY 2003-04 by \$548,921 and resulted in an underremittance.
- The traffic violator school-related computations due the emergency medical services account overstated the computations by \$332,717 in FY 2001-02, and \$216,204 in FY 2002-03, which resulted in an overremittance.

The improper computations occurred because of the following conditions attributable to the superior court:

- The superior court did not properly distribute revenue from the Traffic Violator School cases during the period of January 1, 2004 through June 30, 2006, as noted in the narrative of Finding 5. Additionally, the court did not deduct the \$2 applicable to the county traffic school

courthouse construction funds solely from the county 23% traffic violator school fees account during the period. This condition overstated the county 77% traffic violator school account fees by \$1,197,518 when conducting the computations, and resulted in an overremittance.

- The superior court, as noted in the narrative of Finding 4, inequitably distributed collection program operating costs from its comprehensive court collections program. The inequitable distribution understated the computations by \$129,565, and resulted in an underremittance.

The qualified revenues reported for FY 2001-02 were \$15,101,502. The excess, above the base of \$8,163,193, is \$6,938,309. This amount should be divided equally between the county and the State, resulting in \$3,469,155 excess due the State. The county has remitted a previous payment of \$3,474,022, causing an overremittance of \$4,867.

The qualified revenues reported for FY 2002-03 were \$16,670,762. The excess, above the base of \$8,163,193, is \$8,507,569. This amount should be divided equally between the county and the State, resulting in \$4,253,785 excess due the State. The county has remitted a previous payment of \$4,295,294, causing an overremittance of \$41,509.

The qualified revenues reported for FY 2003-04 were \$18,610,890. The excess, above the base of \$8,163,193, is \$10,447,697. This amount should be divided equally between the county and the State, resulting in 5,223,849 excess due the State. The county has remitted a previous payment of \$4,956,278, causing an underremittance of \$267,571.

The qualified revenues reported for FY 2004-05 were \$18,085,055. The excess, above the base of \$8,163,193, is \$9,921,862. This amount should be divided equally between the county and the State, resulting in \$4,960,931 excess due the State. The county has remitted a previous payment of \$5,092,380, causing an overremittance of \$131,449.

The qualified revenues reported for FY 2005-06 were \$19,607,208. The excess, above the base of \$8,163,193, is \$11,444,015. This amount should be divided equally between the county and the State, resulting in \$5,722,007 excess due the State. The county has remitted a previous payment of \$5,900,610, causing an overremittance of \$178,603.

The over- and underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2001-02	\$ (4,867)
FY 2002-03	(41,509)
FY 2003-04	267,571
FY 2004-05	(131,449)
FY 2005-06	(178,603)
County General Fund	88,857

### Recommendation

The county should reduce remittances by \$88,857 to the State Treasurer and report on the remittance advice form (TC-31) a decrease to the Trial Court Improvement Fund–Government Code section 77205. The county should also make the corresponding account adjustments.

### County's Response

We do not dispute the finding that overremittances occurred arising from the treatment of red light violation fines (Finding 1) and the distribution of traffic violator school collections (Finding 5). Since the computation of the total overremittance is affected by other findings, the actual amount will be determined when the audit is finalized.

The following corrective actions have been or will be taken:

1. The Court has modified its distribution system to segregate red-light violation distribution for collections after January 1, 2009.
2. For years beginning with FY 2008-09, the County will revise its 50/50 Excess Split Revenue computation to exclude red-light violation distributions.
3. Finding 1 includes the net overremittance of 50/50 Excess Split Revenues for the audit period. For later years:
  - a. The County has taken a credit for the overremittance of 50/50 Excess Split Revenue amounts for the post-audit period FY 2006-07 that resulted from the fact that the Court incorrectly distributed traffic violator school collections (Finding 5). The Court provided information to the County that allowed us to correctly exclude these revenues in its 50/50 Excess Split Revenue remittance for FY 2007-08.
  - b. The County will take credits in the future for the overremittance of 50/50 amounts related to red-light violations for fiscal years 2006-07 and 2007-08.

### SCO's Comment

The county does not dispute the finding and the finding did not impact the court. The county has taken and will be taking corrective action to address the finding.

The finding remains unchanged.

**FINDING 2—  
Collection program  
operating costs not  
properly identified and  
inequitably distributed  
by the County Central  
Collections Department  
for Criminal and  
Probation cases**

The county's Central Collections Department did not equitably distribute operating costs, totaling \$9,547,381 during the period of July 2001 through June 2006, from the county's comprehensive collection program delinquent collections for criminal and probation cases. The department determined the eligible program operating costs, and allocated the operating costs based on both current and delinquent monthly revenue collections. The operating costs should only be allocated based on delinquent monthly revenue collections, and their corresponding delinquent qualifying accounts.

In addition, the department did not allocate the operating costs to fees. Fees and restitution orders are not eligible for collection in a comprehensive collection program unless the fee or restitution order is associated with the underlying fine and forfeiture originally due and payable on an account for collection in a comprehensive collection program. If efforts were made to collect delinquent fees associated with the program, then the fees require operating cost allocations. Furthermore, Senate Bill (SB) 246 was passed and became effective on January 1, 2005. SB 246 changed the language of Penal Code (PC) section 1463.007 to include fees.

Penal Code section 1463.007 allows a county collecting entity, which implemented a comprehensive collection program that satisfies specific statutory requirements, to deduct program operating costs from program revenue collections. This section further allows a county collecting entity to distribute those amounts to the county treasury prior to distribution of those revenues to the state, court, county, and cities. The program must have a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operational costs.

The SCO's Comprehensive Collection Program Accounting Guidelines, dated May 1997, and revised June 2006, declares that cost recovery in the program is limited to the revenues collected from the accounts in the program. Therefore, any revenue collected from accounts that qualify for a comprehensive collection program may be deposited in the court or county treasury, and costs may be recovered before revenues are distributed to other governmental entities or programs. Consequently, the court or county must be able to distinguish revenues collected from qualifying accounts and their related costs separately from those accounts that do not meet the statutory requirements for collection in a comprehensive collection program. Estimated percentages are not an allowable method of substantiating the time an employee spends performing qualifying collections. The collections in excess of the related supportable operating costs are required to be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until qualifying revenues are available to fully recover those eligible costs. The victims' restitution orders cannot be reduced and are not part of revenues that can be used for cost recovery.

The department did not adhere to the SCO's Comprehensive Collection Program Accounting Guidelines.

Due to the program nonconformance with Penal Code section 1463.007 and the SCO's Comprehensive Collection Program Accounting Guidelines, the entire collection enhancement operating costs for the period July 2001 through June 2006 should not be eligible for offset against state, court, cities, and county revenues.

The inappropriate distributions had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Accounts:	
State Penalty Fund	\$ 1,747,916
State Restitution Fund-PC §1202.4	2,151,218
State Indemnity Fund-PC §1463.18	77,676
State Trial Court Improvement Fund-GC §68090.8	189,702
State General Fund-PC §1465.7	214,992
State General Fund-PC §1463.22(c)	147
State Court Security Fee-PC §1465.8	49,046
State Court Facilities Construction Fund-GC §70372(a)	262,479
Federal Account:	
Bureau of Land Management	143
County Accounts:	
25% Fines Account	136,691
75% Fines-County Arrest	183,612
75% Fines-City Arrest	235,393
Failure to Appear	883
Alcohol and Drug Prevention	493,534
Administrative Assessment	60,414
AIDS Education	7,721
Automated Fingerprint Identification	125,084
Blood Alcohol Test	248,762
Crime Lab	76,267
Penalty 30% Share	749,107
Criminal Justice Facilities Construction	625,012
Emergency Medical Services	500,317
Temporary Construction Fund	426,649
Health and Safety	12,071
Marshall	2,980
Marshall Warrants	1,021
Financial Responsibility-PC §1463.22(a)	150
Serious Habitual Offenders	501
Crime Prevention	1,930
County General Fund	(9,547,381)
Court Account:	
Night Court	6,711

Account Title	Understated/ (Overstated)
City Accounts:	
Adelanto	11,964
Apple Valley	24,526
Barstow	8,730
Big Bear	28,997
Chino	10,199
Colton	1,550
Fontana	158,102
Hesperia	55,673
Highland	929
Montclair	59,526
Needles	38,085
Ontario	146,463
Rancho Cucamonga	181,784
Redlands	2,373
Rialto	40,934
San Bernardino	19,640
Twentynine Palms	187
Upland	69,228
Victorville	99,373
Yucaipa	989

#### Recommendation

The county should remit to the State Treasurer \$4,693,176 and report on the remittance advice (TC-31) increases of \$4,693,176 per the above-noted state accounts. The county should also make the corresponding account adjustments.

Additionally, the county comprehensive collection program operating costs need to be identified, matched, and offset against the program revenues. The operating costs should be allocated only to the delinquent accounts for which collections were made. The delinquent fees collected and associated with the program require operating cost allocations.

Furthermore, a reallocation should be made from July 2006, through the time period the system is corrected.

#### County's Response

Before we respond to each of the findings, we wish to make a comment on the manner in which the audit was conducted, particularly as it affects Findings 2 and 4. These findings relate to the method used by San Bernardino County and the Court to distribute receipts net of eligible delinquent collection costs. The findings are that distributions did not comply with State revenue distribution procedures. Specifically, eligible costs must be offset against delinquent revenues, then distributed. This method has been used for many years and was in fact in place when the last audit was conducted for the period July 1, 1996 through June 30, 2000. However, no finding was issued in that audit nor were we ever advised that our distribution method was in violation of law or policy and should be changed. We were understandably surprised to be told after the recent audit that we were out of compliance and had been for at least 10 years. We were more surprised

to find that the State auditor intended to disallow all program costs, especially since the auditor who conducted the most recent audit also conducted the previous audit.

This finding has three recommendations:

1. Disallow and distribute 100% of eligible program costs for the audit period;
2. Modify the distribution system to track delinquent and current revenues separately; offset eligible program costs only against delinquent revenues; and
3. Reallocate receipts from July 1, 2006 to the date the system is corrected so that costs are offset only against delinquent revenues.

**Recommendation 1:** The County disagrees with Recommendation 1 which disallows all eligible program costs. We request that the recommendation be removed from the finding. The County originally established a program that included both current and delinquent accounts. As long as the account paid according to the terms of the court order, activity was limited to the receipting of payments. Once the account became 60 days delinquent, collection activity was initiated. The program did allow the County to “identify and collect fines and forfeitures” meeting the stated requirements. As such, the County tracked the cost of collecting delinquent accounts separate from current accounts and deducted only those costs “from any revenue collected”. This practice was in place during the last State audit and was not referenced as a finding at that time.

Nevertheless, the County recognizes that current practices require us to segregate current and delinquent revenues and to offset eligible costs only against delinquent revenues. **Attachment 1 (“Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies”)** shows the breakdown of total revenues for each year of the audit, segregating current and delinquent collections. The County can provide additional support for these amounts if necessary. It is important to note that there was sufficient delinquent revenue from which to deduct costs. Total delinquent revenues during this time period was approximately \$27 million, far exceeding program costs of approximately \$9 million.

**Recommendations 2 and 3:** The County recognizes that revisions to Penal Code 1463.007 along with the Judicial Council’s “Guidelines and Standards for Cost Recovery” (2006) attempt to clarify that revenue from delinquent accounts is to be tracked separately and costs are to be deducted only from delinquent revenue. As a result, the County has put into place a mechanism to track revenue from delinquent accounts separately from revenue received from current accounts. Effective March 2008, the cost of collecting delinquent accounts is now deducted only from revenue collected on delinquent accounts.

The County, therefore, has implemented Recommendation 2 effective March 2008. The County further agrees to implement Recommendation 3 to reallocate receipts from July 1, 2006 up to the date the system was modified.

### SCO's Comment

The county's assertion that the SCO auditor did not advise the county in the prior audit that the distribution methods utilized by the county were out of compliance is not an accurate statement. Granted the audit report did not include a finding to that effect; however, this was due to the circumstances during the prior audit.

During the prior audit for the period of July 1, 1996, through June 30, 2001, we noted that the county/court was using only one comprehensive collection program. The county was solely responsible for the comprehensive collection program. The SCO auditor noted deficiencies in the program which were not in accordance with Penal Code section 1463.007. Specifically we noted problems with the usage of the Fee Variance FVR account, and cities cost allocations that were based on an arbitrary 10% of collections. This was due to a contractual agreement between the county and the cities. The audit report did include monetary and procedural recommendations to the county to correct the noted deficiencies.

During the current audit for the period of July 1, 2001, through June 30, 2006, the circumstances and county's operations were much different. We noted that the county was utilizing three comprehensive collections programs, as follows:

1. The comprehensive collection program maintained by the county's Central Collections Department for criminal and probation cases (Finding 2) was determined to be out of compliance with Penal Code section 1463.007. The current program was not exactly the same program as in the prior audit period. The SCO auditor was not made aware that the program expenditures were allocated to both non-delinquent and delinquent collections. There is no authority that would allow the county to allocate expenditures to current revenue collections.
2. The comprehensive collection program maintained by the county's Central Collections Department and the Superior Court for traffic cases (Finding 4) that commenced during FY 2005-06 was determined to be out of compliance with Penal Code section 1463.007. This particular program was not utilized during the prior audit period.
3. The comprehensive collection program maintained by the Superior Court and titled Compliance Unit Cost was determined to be in compliance with Penal Code section 1463.007. This program commenced during FY 2005-06 and was not in utilized during the prior audit period.

Due to the fact that the county and court maintained three different comprehensive collections programs, we performed a more detailed review to gain a better understanding of each program and to determine

compliance with Penal Code section 1463.007. As stated above, we noted that two of the three programs were not in compliance with the Penal Code.

The major deficiencies regarding the county's Central Collections Department comprehensive collections program for criminal and probation cases (Finding 2) are as follows:

- Attachment 1 shows a summary of program expenditures allocated to total delinquent revenue collections by fiscal year and not by qualifying accounts. Penal Code section 1463.007 mandates that this program be a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operating cost. Additionally, Chapter 5: Revenue Distribution, from the California State Controller's Manual of Accounting and Audit Guidelines for Trial Courts denotes that net revenues available for distribution should be allocated equitably to those accounts to which collections were made, and net revenues collected should be equitably prorated to each distribution component of the account. Further, it is necessary to provide adequate detail information and documentation that supports the application of the summary program expenditures in the attachment to the qualifying accounts. Without the required detail, we cannot ascertain the accuracy and adequacy of county's response.
- Effective January 1, 2005, the program expenditures must be allocated to fees. The county did not allocate expenditures to fees.

The county needs to redistribute the program expenditures to the program delinquent revenue collections. Additionally, effective January 1, 2005, the expenditures must also be allocated to fees.

The department provided a schedule identifying the delinquent revenue collections by fiscal year but did not provide a comparison of delinquent revenues to expenditures on a monthly basis or a redistribution of program expenditures to the delinquent revenue collections. The department needs to re-adjust all the inappropriate distributions made to the various state, county, and city accounts and perform the correct account distributions on allocations based solely on the delinquent revenue collections of the qualifying accounts. Additionally, the re-adjustments to the accounts must include allocations to fees effective January 1, 2005.

The department stated that it can provide additional information if necessary. The department needs to submit documentation comparing delinquent revenues to delinquent expenditures on a monthly basis and the allocation of the expenditures to the delinquent revenues by qualifying accounts. The inappropriate account expenditures distributions and subsequent recordings need to be cancelled and the correct expenditures allocations should then be applied to and recorded among the qualifying accounts.

The finding remains unchanged.

**FINDING 3—  
Underremitted  
fines and penalties  
(Central Collections  
Department)**

As noted in our prior audit, the Central Collections Department incorrectly distributed base fines and penalties for cases where the total ordered bail did not equal the designated amount on the automated system distribution chart. For those cases, the variance between total bail and the distribution chart is distributed as a Penal Code section 1463.001 fine subject to county arrest. The account is titled Fee Variance. This results in county fines being overstated, city fines being understated, and penalties being understated. The allowable 2% automated accounting and case processing fee was properly deducted.

Penal Code section 1463.004(a) states that, when an automated case processing system requires percentages, calculations may be employed to establish the components of total fines or forfeitures, provided the aggregate monthly distributions resulting from the calculations are the same as would be produced by strict observance of the statutory provisions.

Failure to properly distribute the fee variance was noted in the SCO audit for the period of July 1, 1996, through June 30, 2001. The department has established procedures to reduce the distributions made to the fee variance account for current cases.

The inappropriate distribution to the fee variance account had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Penalty Fund	\$ 10,634
City Fine Revenue Accounts:	
Adelanto	141
Barstow	123
Colton	514
Redlands	439
Fontana	889
Chino	679
Chino Hills	228
Yucaipa	108
Loma Linda	120
Montclair	308
Ontario	1,304
Apple Valley	142
Hesperia	307
Rancho Cucamonga	507
San Bernardino	1,372
Upland	738
Victorville	324
Rialto	306
Highland	120
Yucca Valley	127

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
County Accounts:	
County Penalty Assessment-30%	4,559
County Criminal Justice Facilities Fund	3,800
County Temporary Construction Fund	3,041
County Automated Fingerprint Fund	760
County Emergency Medical Fund	3,041
County Arrest Fines	(34,631)

### Recommendation

The county should remit \$10,633 to the State Treasurer and report on the remittance advice (TC-31) an increase of \$10,634 to the state penalty fund. The county should also make the corresponding account adjustments.

The fee variance is an ineligible account and should be deleted from the department chart of accounts.

### County's Response

The County implemented the procedural changes referenced in this finding in 2003. We do not dispute the finding but we request that the recommendation be waived due to immateriality and the excessive cost that would be required to comply. As required by the last audit, effective March 2003, the County changed procedures and no longer uses the Fee Variance (FVR) account. Instead, the County has implemented a process using calculations to determine the proper components of fines, etc. meeting the statutory provisions.

### SCO's Comment

The county agrees with the finding but states that the monetary amount should not be redistributed based on materiality.

We consider the \$34,631 overpayment to the County Arrest Fines account as material.

The finding remains unchanged.

**FINDING 4—  
Inequitably distributed  
collection program  
operating costs and  
collections received not  
identified for traffic  
cases**

The San Bernardino Superior Court and the San Bernardino County Central Collections Department did not identify the delinquent collections of \$4,456,438 by qualifying accounts during FY 2005-06 for traffic cases. The court and the county agreed to establish a program for delinquent collections with corresponding disallowances from the accounts of both commissions and eligible program operating costs. There was no written contract agreement for delinquent collections of traffic cases between the court and the county during the period. The collections were not matched to the program-eligible operating costs of \$1,349,697 on a consolidated basis and/or a monthly basis.

Subsequently, the San Bernardino Superior Court adjusted \$750,320 during FY 2005-06 from the accounts. The adjustments were allocated based on a general formula derived from prior period delinquent and non-delinquent collections. A comprehensive collections program requires allocations of eligible operating costs to be made based solely on the delinquent qualifying account collections. The adjustment is ineligible and will be redistributed to the accounts.

Additionally, the county deducted commissions of \$891,298 from the collections. Commissions are ineligible under the program. The county classified all of the collections as commissions under an account titled FPN commission, and applied 20% to the collections to derive the commission. The county is unable to identify the collections by qualifying accounts. The court presented to the SCO a query of payments taken on delinquent cases for the period of October 2005 through June 2006, and 93 sample cases were judgmentally selected from the query to derive a redistribution of the county commissions to the accounts.

Furthermore, the court recorded commissions totaling \$521,642 due the county. We were unable to attest the rationale for the variances between the county recorded commissions to the court-recorded commissions. There were additional immaterial unidentifiable collections totaling \$16,976 throughout the period. The unidentified collections were classified as the difference in monthly totals between the court's Offense Tracking System and the county's Colombia Ultimate Business System.

A system of deducting commissions with the remaining balance subject to allocations leads to inequitable distribution of the program operating costs and such allocation system is ineligible.

Penal Code section 1463.007 allows a court collecting entity, which implemented a Comprehensive Court Collection Program that satisfies specific statutory requirements, to deduct program operating costs from program revenue collections. This section further allows a court collecting entity to distribute those amounts to the county treasury prior to distribution of those revenues to the state, court, county, and cities. The program must have a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operational costs.

The SCO's Comprehensive Collection Program Accounting Guidelines, states that cost recovery in the program is limited to the revenues collected from the accounts in the program. Therefore, any revenue collected from accounts that qualify for a comprehensive collection program may be deposited in the court account or county treasury, and costs may be recovered before revenues are distributed to other governmental entities or programs. Consequently, the court or county must be able to distinguish between revenues collected from qualifying accounts, and their related costs, separately from those accounts that do not meet the statutory requirements for collection in a comprehensive collection program. The collections in excess of the related supportable operating costs are required to be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until qualifying revenues are available to fully recover those eligible costs. Eligible operating costs of a comprehensive collection program may include, but are not limited to: salaries, wages, benefits, services and supplies, contractual collection costs, and indirect costs allocable to collection activities of a comprehensive collection program.

Due to program nonconformance with Penal Code section 1463.007 and the SCO's Comprehensive Collection Program Accounting Guidelines, the program is ineligible, and the court and county adjustments and deductions offsets against state, court, cities, and county revenues are inappropriate.

The inappropriate court distributions had the following effect:

Account Title	Understated/ (Overstated)
State Accounts:	
State Penalty Fund	\$ 142,546
DNA Identification Fund–GC §76104.5	5,741
State Trial Court Improvement Fund–GC §68090.8	14,022
State General Fund–PC §1465.7	58,847
State Court Facilities Construction Fund–GC §70372(a)	50,798
County Accounts:	
Emergency Medical Services Fund	40,808
Penalty 30% Share	61,103
County Vehicle Fines	91,283
Automated Fingerprint Identification	10,195
DNA Identification Fund–GC §76104.6	2,471
Criminal Justice Facilities Construction	52,657
Temporary Construction Fund	42,478
Civil Assessment	53,371
Court Account:	
PC §1463.007 Cost Adjustment	(750,320)
City Accounts:	
Adelanto	1,029
Apple Valley	1,724
Barstow	1,079

Account Title	Understated/ (Overstated)
City Accounts: (continued)	
Big Bear	930
Chino	12,574
Chino Hills	3,856
Colton	8,234
Fontana	13,491
Grand Terrace	1,525
Hesperia	2,232
Highland	1,922
Loma Linda	1,848
Montclair	6,907
Needles	496
Ontario	7,762
Rancho Cucamonga	9,114
Redlands	3,782
Rialto	3,596
San Bernardino	16,479
Twentynine Palms	806
Upland	16,157
Victorville	4,390
Yucaipa	2,790
Yucca Valley	1,277

The inappropriate county commission distributions had the following effect:

Account Title	Understated/ (Overstated)
State Accounts:	
State Penalty Fund–70% Share	\$ 78,870
DNA Identification Fund–GC §76104.5–70% Share	2,538
State General Fund–PC §1465.7	25,457
State Court Security Fee–PC §1465.8	26,763
State General Fund–PC §1465.22(c)	2,173
State Proof of Correction	280
State General Fund–PC §1463.22(b)	649
State Traumatic Brain Injury–PC §1464(b)	108
State Court Facilities Construction Fund–GC §70372(a)	18,030
County Accounts:	
Emergency Medical Services Fund	23,158
Penalty 30% Share	33,801
County Vehicle Fines	20,121
Automated Fingerprint Identification	5,625
DNA Identification Fund–GC §76104.5–30% Share	1,087
Criminal Justice Facilities Construction	28,277
Temporary Construction Fund	20,952
Civil Assessment	410,169
Administration Assessment–Priors	19,721
Abstract–Criminal–Traffic	15,102
County Air Quality	2,133
Installment Fee	10,729
Fee–Installment Central Collections	20,758
Fee–Legal Central Collection	4,634

Account Title	Understated/ (Overstated)
County Accounts: (continued)	
Fee–Marshall Central Collection	16,318
Traffic Violator School	7,157
Uninsured Motorist–PC §1463.22(a)	3,808
Traffic Violator School–\$24 fee	3,152
County Commission	(891,298)
Court Accounts:	
Bad Check Fee	1,481
Night Court	1,822
City and District Accounts:	
California Traffic Safety District	657
Chino	4,237
Colton	5,590
Fontana	18,705
Highland	3,950
Loma Linda	7,092
Ontario	12,705
Rancho Cucamonga	2,537
Redlands	1,437
Rialto	3,551
San Bernardino	3,967
South Coast Air Quality District	2,133
Upland	18,590
Victorville	1,230
Yucaipa	44

### Recommendation

The court should remit to the State Treasurer \$271,954 and report on the remittance advice (TC-31) increases of \$271,954 per the above-noted state accounts. The county should also remit to the State Treasurer \$154,868 and report on the remittance advice (TC-31) increases of \$154,868 per the above-noted state accounts. The court and the county should also make the corresponding account adjustments. A reallocation should be made from July 2006, through the time period the system is corrected.

Additionally, the court and the county should implement procedures to identify the delinquent collections by qualifying accounts. The operating costs then should be allocated to the delinquent qualifying accounts. The current court and county program of commissions with the remaining operating cost balance subject to allocations is ineligible and should be discontinued.

Furthermore, the unidentifiable collections between the court's Office Tracking System and the county's California Ultimate Business System need to be identified, reconciled, and distributed in a timely manner.

### County's Response

Finding 4 includes two recommendations that pertain to the County:

1. \$891,298 recorded as "commission" revenue to the County should be disallowed and distributed to recipient agencies.
2. The unidentifiable collections between the Court's Office Tracking System and the County's California Ultimate Business system need to be reconciled and distributed in a timely manner.

Finding 4 also includes one recommendation that applies only to the Court, although the wording refers to both the Court and the County. That recommendation echoes Finding 2 and requires that the Court and the County identify current and delinquent collections by qualifying accounts and offset costs only against delinquent accounts.

Since all County traffic collections are for delinquent accounts this recommendation does not apply to the County. The County remitted revenues on delinquent traffic accounts to the Court and the Court distributed all traffic revenues, current and delinquent. The Court will separately respond to this part of Finding 4.

**Recommendation 1:** The County disagrees with Recommendation 1. The County did not take a commission in addition to actual costs as suggested in the finding. With two exceptions, the County offset actual costs but continued to break it out on revenue transfers to the Court as COMMISSION and PC 1463.007 COST ADJ (**Attachment 2— "Summary of Revenue and Cost for Traffic Collections July 2005 through June 2006"**). The exceptions are for the months of February and March 2006 when actual costs were less than the computed commission. The difference between actual program cost for FY 2005-06 and revenues recorded by Central Collections is \$10,652, an immaterial amount that would be costly and difficult to identify and distribute. The County requests that this recommendation be removed from Finding 4.

**Recommendation 2:** In respect to the "unidentifiable collections between the Court and the County", this was the result of unreconciled timing differences. To correct this, procedures were put in place as of February 2006 to reconcile these discrepancies on a timely basis. The total net undistributed revenue for July 2005 through January 2006 is \$16,975.13 and, as stated in Finding 4, is immaterial. Because of immateriality and the excessive cost that would be required to research and distribute this amount, we request that the State waive any requirement to identify and redistribute these revenues.

### Court's Response

When AB139 was enacted, our court had no mechanism to accurately separate the delinquent payments from the current payments in our case management system. In addition, the County of San Bernardino, Central Collections Department, began remitting only the net delinquent collections to the Court, after recovering their costs from the revenue received. Therefore, the Court had no choice but to develop a reasonable method to allocate the County's costs against the delinquent revenue until such time as the Court's case management system could be updated to provide this information. From October 2005 to January 2006, we utilized the same methodology that was developed by a State

Controller's Office auditor, from a previous State Revenue audit, where differences were allocated based on a formula to spread revenue over all qualifying agency accounts. This was the most reasonable and cost effective method we had to allocate these costs.

Then in February 2006, we received additional information from a study conducted by Shasta Superior Court, whereby collection costs were allocated against monthly gross revenue. The study showed immaterial differences between the current and delinquent payment allocations for all qualifying agency accounts. This appeared to be a more reasonable approach than our first method of allocation and we implemented this methodology from February 2006 to August 2006.

During this time, the Court partnered with the Riverside Superior Court and was able to develop a new approach for querying the delinquent payments from our case management system. This new methodology was implemented in September 2006 and we continue to allocate collection costs against delinquent revenue only, on a monthly basis, based on these queries for delinquent payments.

The allocation we performed was reasonable, based on the circumstances stated above. Reallocation of any amount would be immaterial and cost prohibitive to perform the re-allocation.

#### SCO's Comment

See statements regarding the county's Central Collections Department and the Superior Court comprehensive collections programs under Finding 2.

The specific issues regarding the county's Central Collections Department and the Superior Court comprehensive collections program for traffic cases are as follows:

- The department and the court need to identify the delinquent collections by qualifying accounts. Attachment 2 does not identify delinquent collections by qualifying accounts.
- The program-eligible operating costs must be matched and allocated to the program delinquent collections by qualifying accounts. The county is not in compliance with Penal Code section 1463.007 because it used a fixed 20% commission (Attachment 3) instead of actual costs matched, and qualifying accounts.

The department and/or the court need to identify the revenue collections by qualifying accounts and allocate the program eligible operating costs.

The department provided a schedule identifying the delinquent revenue collections by month in totals and not by qualifying accounts and no redistribution of eligible operating costs to the qualifying accounts was presented.

The court stated that they use an allocation methodology previously used by the state auditor in the prior audit. The state auditor previously used a methodology in the prior audit to redistribute the Fee Variance (FVR)

account which dealt with both current and non-current fines and was an account solely relating to automated systems monetary rounding of calculations and percentages. The comprehensive collections program has specific requirements such as allocations only to delinquent non-current collections. A general methodology formula designated to redistribute the prior audit period Fee Variance FVR account distributions is not proper for usage in distributing collection program expenditures.

The finding remains unchanged.

**FINDING 5—  
Underremitted  
penalties from  
traffic violator  
school cases**

The San Bernardino Superior Court did not properly distribute Traffic Violator School cases for the period of January 2004 through June 2006. There was no distribution to the State Court Facilities Construction Fund as required by Vehicle Code section 42007. Furthermore, Government Code section 77205 requires that the \$2 distribution to the County Construction Funds be deducted solely from the county 23% traffic violator school fee account. The incorrect distributions understated the penalties, and overstated the county’s 77% traffic violator school fee account, and the county 23% traffic violator school fee account. The error was due to improper computerized distribution formulas for traffic violator school cases.

Effective January 1, 2004, for all traffic school violations, Vehicle Code section 42007 requires the San Bernardino Superior Court to include a \$3.00 penalty for every fine, penalty, or forfeiture imposed and collected to be deposited in the State Court Facilities Construction Fund per Government Code section 70372(a).

The inappropriate distributions for traffic violator school fees affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance-of-Effort formula pursuant to Government Code section 77205. In addition, the inappropriate distributions from the penalties had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund–GC §70372(a)	\$ 2,322,665
County Traffic Violator School Account	(2,322,665)

Recommendation

The county should remit \$2,322,665 to the State Treasurer and report on the remittance advice (TC-31) an increase of \$2,322,665 to the State Court Facilities Construction Fund–Government Code section 70372(a). The court should also make the corresponding account adjustments. Additionally, a reallocation should be made from July 2006, through the time period the system is corrected.

The court should revise the traffic violator school distribution formulas for conformance with the required Vehicle Code section 42007 distributions. Furthermore, the court and the county should review the formulas for compliance with Government Code section 77205 computations.

#### County's Response

We do not dispute this finding. The following corrective actions were taken:

1. The Court corrected its distribution for collections after June 1, 2008 (also please see action #5 below).
2. To correct the distribution for the audit period, on August 14, 2008 we remitted \$2,322,665 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0561 (Attachment 4)** as recommended in this finding.
3. To correct the distribution for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we remitted \$1,265,979.51 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0562 (Attachment 5)**.
4. To correct the 50/50 Excess Split Revenues remittance for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we submitted **TC-31 36 0560 (Attachment 6)** to report \$6,130,521.70 in FY 2007-08 50/50 Excess Split revenues.
5. To correctly report remittance for the post-audit period July 1, 2007 through May 31, 2008, on August 14, 2008 we remitted \$1,332,268.08 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0563 (Attachment 7)**. (This TC-31 erroneously noted that the correction was for the period 7/2007 through 6/2008. It should have stated that the correction was for the period 7/2007 through 5/2008. June 2008 collections were correctly remitted with our routine monthly **TC-31 36 0558 – Attachment 8**).

#### Court's Response

The San Bernardino Superior Court concurs with this finding and we have adjusted our accounts accordingly. The County of San Bernardino transferred the underremitted collections, in the amount of \$2,322,665.00, to the state on August 14, 2008. In addition, all Traffic Violator School revenue, collected for the State Court Facilities Construction Fund, has been reallocated, pursuant to this finding, for collections from July 2006 thru May 2008. The County of San Bernardino adjusted their state remittance for this as well on August 14, 2008. Beginning in June 2008, we are calculating this distribution manually, on a monthly basis, until we can revise the Court Case Management System to calculate this properly.

#### SCO's Comment

The county and the court concur with the finding and have remitted questioned amounts to the State Treasurer.

**FINDING 6—  
Underremitted  
evidence of financial  
responsibility fines**

The Superior Court did not make the required distributions to the County General Fund, the State General Fund, and the State Transportation Fund for evidence-of-financial-responsibility fines for the audit period. The Court performs the distributions based on collections and not on convictions. The court personnel indicated they were not aware of the statutory changes and requirements affecting the distribution of evidence-of-responsibility fines.

A \$30.50 fee on each conviction of a proof-of-financial-responsibility-violation identified under Penal Code section 16028 is required to be distributed per conviction in this 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 make the required distributions causes the distributions to not be made in a timely manner to the State and the county evidence-of-financial responsibility accounts. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should establish formal procedures to ensure that evidence-of-responsibility fines are correctly distributed in accordance with statutory requirements in a timely manner.

Court's Response

The San Bernardino Superior Court **has** made all required distributions to the County General Fund, the State General Fund and the State Transportation Fund for evidence of financial responsibility fines for the audit period. The language in PC 1463.22 on which the State Controller's Office relies is descriptive and not the operative language of the statute. The statute reads, "Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) *for each conviction* ... shall be deposited by the county treasurer in a special account..." The language of subsection (b) differs only in that "three dollars (\$3)" has been substituted for "seventeen dollars and fifty cents (\$17.50)". Subsection (c) is also similar; requiring that, "ten dollars (\$10) *upon the conviction of* or upon the forfeiture of bail from .... shall be deposited by the county treasurer in a special account..". The use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

SCO's Comment

The court states that the use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

Penal Code sections 1463.22 (a)(b)(c), and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts clearly designate that the distributions should be made for fines assessed upon conviction.

The finding remains unchanged.

**FINDING 7—  
Incorrect distribution  
priority on Driving  
Under the Influence  
Cases**

The court prorated collections on driving-under-the-influence (DUI) cases in a manner that inappropriately gave a distribution priority to various fines, penalties, and fees over the distributions to the State Victim Indemnity Fund. The first \$20 of fines collected on DUI cases needs to be distributed to the State Victim Indemnity Fund in accordance with Penal Code section 1463.18. Failure to make the required priority distribution causes distributions to the State Victim Indemnity Fund to be understated when an account becomes delinquent and unpaid. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts. The error occurred because the formulas on the court's management information system (MIS) did not designate the proper distribution priorities.

Effective September 30, 2002, 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

The State Victim Indemnity Fund distributions have a priority under Category 3.

Recommendation

The court should revise the MIS formulas on distribution priorities for DUI cases.

Court's Response

The San Bernardino Superior Court concurs with this finding and we have revised the distribution priorities in the Court Case Management System to reflect an additional priority level for the State Victim Indemnity Fund, pursuant to PC 1463.18, effective June 25, 2008.

SCO's Comment

The court agrees with this finding.

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

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## AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

**AUDITOR/CONTROLLER** • 222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830  
**RECORDER • COUNTY CLERK** • 222 West Hospitality Lane, First Floor  
San Bernardino, CA 92415-0022 • (909) 387-8306 • Fax (909) 386-9050

**LARRY WALKER**  
Auditor/Controller-Recorder  
County Clerk

**ELIZABETH A. STARBUCK, CGFM**  
Assistant Auditor/Controller-Recorder  
Assistant County Clerk

February 4, 2009

Mr. Greg Brummels  
Local Government Audit Bureau  
Division of Audits  
State Controller's Office  
3301 "C" Street, Suite 712  
Sacramento, CA 95816

Dear Mr. Brummels:

We are in receipt of the draft audit report of the San Bernardino County Court Revenues for the period from July 1, 2001 through June 30, 2006. We have reviewed the audit report and have compiled our comments to each finding that applies to the San Bernardino County offices of the Treasurer-Tax Collector and Auditor/Controller-Recorder. The San Bernardino Court will respond to the audit report in a separate letter.

Before we respond to each of the findings, we wish to make a comment on the manner in which the audit was conducted, particularly as it affects Findings 2 and 4. These findings relate to the method used by San Bernardino County and the Court to distribute receipts net of eligible delinquent collection costs. The findings are that distributions did not comply with State revenue distribution procedures. Specifically, eligible costs must be offset against delinquent revenues, then distributed and gross current revenues must be separately tracked and distributed. Until recently the County and the Court offset eligible costs against total revenues and distributed the net amount. This method has been used for many years and was in fact in place when the last audit was conducted for the period July 1, 1996 through June 30, 2000. However, no finding was issued in that audit nor were we ever advised that our distribution method was in violation of law or policy and should be changed. We were understandably surprised to be told after the recent audit that we were out of compliance and had been for at least 10 years. We were more surprised to find that the State auditor intended to disallow all program costs, especially since the auditor who conducted the most recent audit also conducted the previous audit. When asked, the auditor agreed that the distribution had been out of compliance during the previous audit period and that he had decided not to make a finding. Had we been made aware that our distribution methodology was noncompliant and that a future audit could include findings on this subject, we might have been able to implement a new methodology during the audit period and might have been in compliance years sooner.

With regard to specific findings, the County Offices of the Auditor/Controller-Recorder and Treasurer/Tax Collector have reviewed the report and offer the following comments:

**FINDING 1—Overremitted excess of qualified fines, fees, and penalties.**

We do not dispute the finding that overremittances occurred arising from the treatment of red light violation fines (Finding 1) and the distribution of traffic violator school collections (Finding 5). Since the computation of the total overremittance is affected by other findings, the actual amount will be determined when the audit is finalized.

The following corrective actions have been or will be taken:

1. The Court has modified its distribution system to segregate red-light violation distributions for collections after January 1, 2009.
2. For years beginning with FY 2008-09, the County will revise its 50/50 Excess Split Revenue computation to exclude red-light violation distributions.
3. Finding 1 includes the net overremittance of 50/50 Excess Split Revenues for the audit period. For later years:
  - a. The County has taken a credit for the overremittance of 50/50 Excess Split Revenue amounts for the post-audit period FY 2006-07 that resulted from the fact that the Court incorrectly distributed traffic violator school collections (Finding 5). The Court provided information to the County that allowed us to correctly exclude these revenues in its 50/50 Excess Split Revenue remittance for FY 2007-08.
  - b. The County will take credits in the future for the overremittance of 50/50 amounts related to red-light violations for fiscal years 2006-07 and 2007-08

**FINDING 2 – Collection program operating costs not properly identified and inequitably distributed by the County Central Collections Department for Criminal and Probation cases.**

This finding has three recommendations:

1. Disallow and distribute 100% of eligible program costs for the audit period;
2. Modify the distribution system to track delinquent and current revenues separately; offset eligible program costs only against delinquent revenues; and
3. Reallocate receipts from July 1, 2006 to the date the system is corrected so that costs are offset only against delinquent revenues.

**Recommendations 2 and 3:** The County recognizes that revisions to Penal Code 1463.007 along with the Judicial Council's "Guidelines and Standards for Cost Recovery" (2006) attempt to clarify that revenue from delinquent accounts is to be tracked separately and costs are to be deducted only from delinquent revenue. As a result, the County has put into place a mechanism to track revenue from delinquent accounts separately from revenue received from current accounts. Effective March

Ltr/Greg Brummels  
February 3, 2009  
Page 3

2008, the cost of collecting delinquent accounts is now deducted only from revenue collected on delinquent accounts.

The County, therefore, has implemented Recommendation 2 effective March 2008. The County further agrees to implement Recommendation 3 to reallocate receipts from July 1, 2006 up to the date the system was modified.

**Recommendation 1:** The County disagrees with Recommendation 1 which disallows all eligible program costs. We request that the recommendation be removed from the finding. The County originally established a program that included both current and delinquent accounts. As long as the account paid according to the terms of the court order, activity was limited to the receipting of payments. Once the account became 60 days delinquent, collection activity was initiated. This program did allow the County to "identify and collect fines and forfeitures" meeting the stated requirements. As such, the County tracked the cost of collecting delinquent accounts separate from current accounts and deducted only those costs "from any revenue collected". This practice was in place during the last State audit and was not referenced as a finding at that time.

Nevertheless, the County recognizes that current practices require us to segregate current and delinquent revenues and to offset eligible costs only against delinquent revenues. **Attachment 1 ("Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies")** shows the breakdown of total revenues for each year of the audit, segregating current and delinquent collections. The County can provide additional support for these amounts if necessary. It is important to note that there was sufficient delinquent revenue from which to deduct costs. Total delinquent revenue during this time period was approximately \$27 million, far exceeding program costs of approximately \$9 million.

### **FINDING 3 – Underremitted fines and penalties (Central Collections Department)**

The County implemented the procedural changes referenced in this finding in 2003. We do not dispute the finding but we request that the recommendation be waived due to immateriality and the excessive cost that would be required to comply. As required by the last audit, effective March 2003, the County changed procedures and no longer uses the Fee Variance (FVR) account. Instead, the County has implemented a process using calculations to determine the proper components of fines, etc. meeting the statutory provisions.

Finding 3 stems from accounts set up prior to March 2003 using the old FVR account to manage orders that did not fall within the bail schedule amounts. It has become economically impractical to attempt to go back and correct these cases. As of January 22, 2009, the County still has 1,182 cases with a total outstanding balance of \$7,684.94 in the FVR bucket. The cost to manually adjust 1,182 cases would exceed the balance remaining in the FVR bucket. In addition, there has been a steady decline in revenue collected from the FVR bucket. In fact, in Fiscal Year 05/06, the total amount collected was merely \$213.00.

Based on the fact that as of March 2003, the County modified their procedures and discontinued the use of the Fee Variance account, that to go back and correct the final existing cases that have the FVR account would be cost prohibitive, and that the total amount of revenue collected in the FVR bucket has become immaterial, the County believes the recommendation should be waived and that the County should be allowed to continue their program on a go-forward basis.

**FINDING 4 – Inequitably distributed collection program operating costs and collections received not identified for traffic cases.**

Finding 4 includes two recommendations that pertain to the County:

1. \$891,298 recorded as "commission" revenue to the County should be disallowed and distributed to recipient agencies.
2. The unidentifiable collections between the Court's Office Tracking System and the County's California Ultimate Business system need to be reconciled and distributed in a timely manner.

Finding 4 also includes one recommendation that applies only to the Court, although the wording refers to both the Court and the County. That recommendation echoes Finding 2 and requires that the Court and the County identify current and delinquent collections by qualifying accounts and offset costs only against delinquent accounts.

Since all County traffic collections are for delinquent accounts this recommendation does not apply to the County. The County remitted revenues on delinquent traffic accounts to the Court and the Court distributed all traffic revenues, current and delinquent. The Court will separately respond to this part of Finding 4.

**Recommendation 1:** The County disagrees with Recommendation 1. The County did not take a commission in addition to actual costs as suggested in the finding. With two exceptions, the County offset actual costs but continued to break it out on revenue transfers to the Court as COMMISSION and PC 1463.007 COST ADJ (**Attachment 2— "Summary of Revenue and Cost for Traffic Collections July 2005 through June 2006"**). The exceptions are for the months of February and March 2006 when actual costs were less than the computed commission. The difference between actual program cost for FY 2005-06 and revenues recorded by Central Collections is \$10,652, an immaterial amount that would be costly and difficult to identify and distribute. The County requests that this recommendation be removed from Finding 4.

**Background:** On September 21, 1999 the County and Court entered into a contract for the collection of delinquent traffic infractions for the period January 1, 2000 through December 31, 2004. The contract was subsequently amended twice to extend the contract term to February 28, 2005 and then to June 30, 2005 (**Attachment 3, Contract 99-905**). The County and Court failed to reach agreement on negotiation of contract

terms prior to expiration of the contract and the Court discontinued assignment of cases to County for collections as of June 30, 2005.

SB940 requires an MOU between the Superior Court and the County to enter into an enhanced collection program. Upon expiration of our contract, no MOU existed. Furthermore, SB940 requires each Superior Court and County to develop a cooperative plan to implement a comprehensive collection program and report to the Judicial Council on the effectiveness of collections. PC 1463.010 provides in part: In the event a Court and County are unwilling or unable to enter into a cooperative plan pursuant to this section, the Court or the County may request the continuation of negotiations with mediation assistance as mutually agreed upon and provided by the Administrative Office of the Courts (AOC) and the California Association of Counties (CSAC).

Since a cooperative agreement had not been reached, the County continued to honor the terms of the expired contract. The County continued collections of existing accounts and continued to negotiate with the Court. A new contract was eventually entered into on August 15, 2006. Since the County acted reasonably and in good faith during the negotiation period, we request that this recommendation be removed.

**Recommendation 2:** In respect to the "unidentifiable collections between the Court and the County", this was the result of unreconciled timing differences. To correct this, procedures were put in place as of February 2006 to reconcile these discrepancies on a timely basis. The total net undistributed revenue for July 2005 through January 2006 is \$16,975.13 and, as stated in Finding 4, is immaterial. Because of immateriality and the excessive cost that would be required to research and distribute this amount, we request that the State waive any requirement to identify and redistribute these revenues.

**FINDING 5—Underremitted penalties from traffic violator school cases.**

We do not dispute this finding. The following corrective actions were taken:

1. The Court corrected its distribution for collections after June 1, 2008 (also please see action #5 below).
2. To correct the distribution for the audit period, on August 14, 2008 we remitted \$2,322,665 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0561 (Attachment 4)** as recommended in this finding. The Court and County followed these steps to correct the distribution:
  - a. On August 13, 2008 the County transferred \$2,322,665 from the County General Fund to the Court's clearing account to allow the Court to correct its revenue distribution.
  - b. On August 13, 2008, the Court then transferred \$2,322,665 from their clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.

- c. The County then remitted \$2,322,665 to the State on **TC-31 number 36 0561** as stated above.
3. To correct the distribution for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we remitted \$1,265,979.51 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0562 (Attachment 5)**. The Court and County followed these steps to correct the distribution:
  - a. On August 13, 2008, the County transferred \$1,265,979.51 from the County general fund to the Court's clearing account to allow the Court to correct its revenue distribution.
  - b. On August 13, 2008, the Court then transferred \$1,265,979.51 from its clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.
  - c. The County then remitted \$1,265,979.51 to the State on **TC-31 number 36 0562** as stated above.
4. To correct the 50/50 Excess Split Revenues remittance for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we submitted **TC-31 36 0560 (Attachment 6)** to report \$6,130,521.70 in FY 2007-08 50/50 Excess Split revenues. We reported corrections to the County's FY 2006-07 50/50 remittance as follows:
  - a. We took a \$487,402.11 credit arising from the Courts incorrect distribution of traffic violator school cases cited in this finding (per VC 42007).
  - b. We also reported an additional \$62,784.26 for the underremittance arising from our previous exclusion of the \$2 county construction funds as cited in this finding (per GC 77205)
5. To correctly report remittances for the post-audit period July 1, 2007 through May, 31, 2008, on August 14, 2008 we remitted \$1,332,268.08 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0563 (Attachment 7)**. (This TC-31 erroneously noted that the correction was for the period 7/2007 through 6/2008. It should have stated that the correction was for the period 7/2007 through 5/2008. June 2008 collections were correctly remitted with our routine monthly **TC-31 36 0558 - Attachment 8**). The Court and County followed these steps to correct the distribution:
  - a. On August 13, 2008, the County transferred \$1,332,268.08 from the County general fund to the Court's clearing account, to allow the Court to correct its revenue distribution.
  - b. On August 13, 2008, the Court then transferred \$1,332,268.08 from its clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.
  - c. The County then remitted \$1,332,268.08 to the State on **TC-31 number 36 0563**, as stated above.

Ltr/Greg Brummels  
February 3, 2009  
Page 7

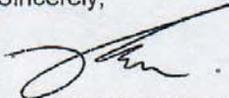
**FINDING 6 – Underremitted evidence of financial responsibility fines.**

**FINDING 7 – Incorrect distribution priority on Driving Under the Influence Cases**

Findings 6 and 7 apply only to the Court so the County will not respond. The Court will respond separately to these findings.

If you have any questions please contact Kathleen Kirkhofer at 909-386-8877.

Sincerely,



**HOWARD M. OCHI, CPA**  
Chief Deputy Auditor

HMO:mah

cc: Gary McBride, County Administrative Office  
Trudy Raymundo, County Administrative Office  
Monique Amis, County Administrative Office  
Annette Kerber, Treasurer/Tax Collector  
Bruce Robert, Treasurer/Tax Collector  
Oscar Valdez, Treasurer/Tax Collector  
Yvonne Pritchard, Superior Court  
Julie Underwood, Superior Court  
Kathleen Kirkhofer, Auditor/Controller-Recorder

San Bernardino County  
 Treasurer-Tax Collector/Central Collections  
 State Audit on Court Revenues  
 Date Prepared: January 28, 2009

**Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies**

	FY 01/02		FY 02/03		FY 03/04		FY 04/05		FY 05/06		Total	
	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current
Total Revenue	6,049,134.92	154,450.70	6,285,322.42	488,322.83	6,399,693.03	1,618,057.00	7,973,735.98	2,175,131.83	5,972,050.27	1,304,291.01	32,579,298.52	5,741,453.37
Delinquent/Current Revenue	5,894,694.22	154,450.70	5,765,799.59	488,322.83	4,781,526.93	1,618,057.00	5,798,005.15	2,175,131.83	4,567,759.28	1,304,291.01	26,638,355.15	5,741,453.37
Total Costs **	1,519,942.84	—	1,689,949.53	—	1,912,150.47	—	2,319,171.35	—	2,263,568.45	—	9,700,782.84	—
Net Delinquent/Current Revenue	4,374,741.29	154,450.70	4,105,850.06	488,322.83	2,869,356.46	1,618,057.00	3,479,433.80	2,175,131.83	2,304,190.71	1,304,291.01	17,137,572.31	5,741,453.37
Total Disbursements	4,533,181.88	—	4,595,372.89	—	4,487,413.48	—	5,654,655.63	—	3,800,481.72	—	22,879,025.68	—

\*\* Total Costs represent the cost of collection activity only on delinquent accounts. These costs are shown to be calculated from revenues collected only on delinquent accounts.

Please Note: The audit report lists total costs of \$9,547,981. This was based on the original calculation of costs, although records show this number to be \$9,570,664 (a difference of \$22,683). However, there were several adjustments to cost in FY 01/02, 02/03 and 03/04 bringing total cost to \$9,700,783. Supporting schedules are available for review.

San Bernardino County  
 Treasurer: Tax Collector/Central Collections  
 State Audit on Court Revenues  
 Date Prepared: February 1, 2009

Summary Of Revenue and Cost for Traffic Collections July 2005 through June 2006

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
<b>Total Collections</b>													
Cash Paid to Collections	358,298.00	328,047.31	223,967.57	245,141.72	185,390.13	212,055.64	248,405.60	326,091.59	597,747.11	192,892.03	400,903.72	216,028.65	3,534,769.07
Cash Paid to Court	70,648.30	78,245.91	76,541.84	94,575.15	65,042.86	47,114.10	89,494.75	133,118.48	143,158.65	84,915.39	109,124.77	86,072.65	1,080,050.55
Total Collections	428,946.30	406,293.22	300,509.41	339,716.87	250,432.99	259,169.74	337,900.35	459,210.07	740,905.66	277,807.42	510,028.49	305,101.30	4,614,819.62
<b>Cost vs Commission</b>													
Commissions (per Court)	80,201.78	78,913.16	59,044.08	66,472.34	48,675.89	45,802.15	65,256.62	89,339.04	142,199.65	53,035.45	98,554.53	59,704.96	891,296.65
Total Cost of Collection	123,782.00	184,369.00	139,100.00	92,369.00	92,524.00	100,163.00	107,177.00	87,537.00	133,300.00	81,556.00	100,867.00	90,241.00	1,339,095.00
Total Cost Exceeding Commission	43,580.22	105,455.84	80,055.92	25,926.66	43,848.11	50,260.85	41,920.38	0.00	0.00	28,520.55	2,312.47	36,536.04	433,447.04
<b>Total Cost Claimed (Greater of Cost or Commission)</b>	123,782.00	184,369.00	139,100.00	92,369.00	92,524.00	100,163.00	107,177.00	89,339.04	142,199.65	81,556.00	100,867.00	96,241.00	1,349,746.69
<b>Transfer to Court</b>													
Cash Paid to Collections	358,298.00	328,047.31	223,967.57	245,141.72	185,390.13	212,055.64	248,405.60	326,091.59	597,747.11	192,892.03	400,903.72	216,028.65	3,534,769.07
Less: Commission	80,201.78	78,913.16	59,044.08	66,472.34	48,675.89	45,802.15	65,256.62	89,339.04	142,199.65	53,035.45	98,554.53	59,704.96	891,296.65
Less: PC 1483.007 COST ADJ (Cost Exceeding Commission)	0.00	0.00	0.00	0.00	43,848.11	50,260.85	41,920.38	0.00	0.00	28,520.55	2,312.47	36,536.04	203,308.40
Less: Prior Period COST ADJ	0.00	0.00	0.00	177,913.01	77,135.93	0.00	0.00	0.00	0.00	0.00	0.00	0.00	255,048.94
Less: Installment Fees	7,066.24	5,015.31	3,979.50	2,697.54	2,526.00	2,374.00	2,625.50	3,899.38	7,269.91	3,309.86	4,790.80	2,881.09	48,405.13
Less: Legal Fees	1,160.93	1,282.64	695.61	854.33	838.51	1,133.89	1,483.68	1,743.80	3,624.69	1,551.16	2,071.51	2,039.53	19,080.28
Less: Marshal Fees	4,171.85	4,829.41	2,440.84	3,121.68	3,155.85	4,076.17	5,362.45	6,162.08	12,187.71	4,869.47	7,777.50	5,288.71	63,343.73
Less: NSF Fees	563.71	423.86	212.00	447.75	247.50	188.62	257.53	506.37	691.72	283.53	514.00	360.46	4,057.15
Unidentifiable Collections	(8,719.54)	(5,231.03)	(3,862.50)	6,334.93	1,284.88	16,889.06	10,279.33	0.00	0.00	0.00	0.00	0.00	16,975.13
Distribution to Courts	256,413.94	232,551.90	153,733.04	0.00	10,247.52	121,009.02	141,778.77	224,450.92	431,773.43	101,021.91	284,292.91	109,207.86	2,088,471.22

Traffic infractions are assigned to Central Collections once they are 10 days delinquent. Therefore, cost may be offset against ALL revenue collected under this program. In every month, there was sufficient delinquent revenue to cover monthly costs.

During this timeframe, costs were determined to be the greater of actual cost or commission. In February and March, commission was taken. In all other months, total cost was taken. In July, August and September, only commission was taken. However, effective October, prior period adjustments were made to recoup total cost exceeding commission as follows:

Prior Period Cost Offset in October was \$177,913.01, \$43,960.22 from July, \$105,485.84 from August, and \$28,846.85 for partial September  
 Prior Period Cost Offset in November was \$77,135.93, \$51,208.87 balance from September and \$25,926.66 for October.

Unidentifiable Collections from July through January were due to unreconciled timing differences. The total unidentifiable collections is \$16,975.13.

PLEASE NOTE THE FOLLOWING IMMATERIAL DISCREPANCIES WITH THE AUDIT REPORT:

Total Collections: The audit report list total collections of \$4,456,438. Central Collections reports collections of \$4,614,820.

Total Cost: The audit report list total costs of \$1,349,697. Central Collections reports total costs of \$1,349,747.

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

Central Collections; TTX; Courts;  
Agree 99-905

September 21, 1999

FROM: **RICHARD LARSEN**  
Treasurer-Tax Collector

SUBJECT: **COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS**

RECOMMENDATION:

1. Approve Collection Services Agreement between the County of San Bernardino and San Bernardino Trial Courts for collections of delinquent traffic fines, forfeitures and assessments
2. Authorize the addition of 10 Collections Officers, one (1) Supervising Collections Officer, two (2) Fiscal Clerk II's, one (1) Accountant II and one (1) Collections Clerk, subject to classification review
3. Approve the following personnel actions:
  - a. Establish the position of Assistant Director of Collections, Exempt, Benefit Group C, and approve range 76 as a Minute Order Amendment to the Salary Ordinance.
  - b. Authorize addition of Position 71703, Assistant Director of Collections Delete position 00342 when vacant
  - c. Read title only of proposed amendment to Ordinance 1904 placing Assistant Director of Collections, position no 71703 into the Unclassified Service; waive reading of entire text and continue to Tuesday, September 28, 1999 at 10:00 a m for adoption
  - d. Delete the classification of Chief of Collections when vacant
4. Authorize an increase of \$575,945 In expenditures and revenues in the Treasurer's budget for FY 1999-2000, as detailed in the Financial Section below (four votes required).

BACKGROUND INFORMATION: AB 233 (1997), which became effective January 1, 1998, fundamentally changed court system funding in California. Funding for courts is now provided primarily from the State Trial Court Trust Fund, which consists of monies from the State General Fund, civil filing fee revenue and a fixed contribution from each county. The fixed contribution from counties is based on court expenses paid and revenues received during Fiscal Year 1994/95

Page 1 of 3 pages

cc: Treasurer/Tax Collector-Mathers w/agree  
Court Admin -Kentner w/agree  
Auditor w/agree  
SBD w/agree.  
Human Res -Musselman (4)  
Central Payroll  
SBPEA  
CAO-Clay/Gomez  
Co Counsel-Stafford/Hartzell  
File w/agree

hw

Rev 07/97

Record of Action of the Board of Supervisors  
AGREEMENT 99-905

**APPROVE REGS # 1, 2, 3 a, b & d & 4 &  
CONTINUE ORDINANCE TO TUES., 9/28/99  
@ 10 A.M. FOR FINAL ADOPTION**

BOARD OF SUPERVISORS  
COUNTY OF SAN BERNARDINO

MOTION	SECOND	MOVE	NAY	AYE	AYE
	2			4	5

EARLENE SPROAT, CLERK OF THE BOARD

BY *[Signature]*

DATE: September 24, 1999

Attachment 3  
Page 1 of 14

**BOARD OF SUPERVISORS**  
**COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS**  
September 21, 1999  
Page 2

AB 233 also contained certain incentives for counties and the courts to place greater emphasis on the collection of court-imposed fines and fees, and specifically delinquent traffic fines. For example, generally any fines collected by the courts which exceed the amount of monies the County is required to contribute to the State Trial Court Trust Fund will be split equally between the County and State. Additionally, certain costs, including those for a "comprehensive collection program", may be deducted from the baseline amount remitted by the County to the State.

In light of these changes, the County Administrative Office and officials from the Superior Courts agreed to the need for a study that would examine current methods and procedures used by the courts for collection of civil and traffic fines. This study, approved by the Board of Supervisors last year, revealed that there are significant increased civil and traffic fine revenues that may be realized through enhanced collection efforts and greater coordination between certain court and county functions. Additionally, there are other efficiencies that can be achieved by the courts contracting with the County for collection services, which will benefit both the County and courts. These include the automation of judicial orders for probationary accounts, the use of remittance processing to reduce the courts' staffing needs and generation of additional service fees.

Since the completion of the study, the courts and county have negotiated the specifics of the implementation of the main recommendation of the study, the transfer of collection responsibilities from the courts which have used an outside collection agency to the county's Central Collections Department. The proposed Collections Service Agreement will provide for the transfer of delinquent traffic fine collections, which currently amounts to \$35 million in accounts receivables annually, to the county. Based on Central Collections' demonstrated performance in the area of judicial collections, increased use of technology and reduced commission costs realized through the use of county forces, the study estimated that an additional \$5 million in fine collections will be collected annually through this plan. Of this amount, the county has estimated that roughly \$3 million in annual revenues will be retained by the courts and county (with the remainder going to the State and other local agencies).

To effect this transfer, the County's Central Collections Department will need to increase its staffing of collection officers and associated support staff. These positions will be hired in phases as accounts are received from the courts. Additionally, a new position of Assistant Director of Collections is being requested, as part of a reorganization of the Central Collections Department. This new position will supervise all functions of the department including the accounting and cashiering functions. This position will also oversee the new indigent defense fee program and collections for other outside agencies, such as booking fee collections for cities, which is currently being negotiated. The previous position of Chief of Collections will be deleted. All of these costs will be borne through the commission rate of 20% charged by the county to each jurisdiction receiving traffic fines, as provided by this agreement and allowed by State law. Thus, there is no net cost to the county for these staffing costs, nor do these costs affect the estimated \$3 million in additional annual collections to the county and courts.

The agreement also requires that a minimum of 25% of the local (County) share of excess fine and forfeiture revenue as defined in Government Code Section 77205 shall be deposited into an interest bearing fund designated for courthouse facilities. These monies could then be used to offset any future debt service for court construction. The remainder of any enhanced revenues would be retained by the County as discretionary revenue.

9/21/99 lw #59

**BOARD OF SUPERVISORS**  
**COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS**  
September 21, 1999  
Page 3

The agreement has been approved by the Superior Courts' Joint Administrative Committee (JAC) and signed by the courts' Presiding Judge. The term of the agreement runs through December 31, 2004. Prior to this date, either party may request modification to the agreement or may terminate the agreement. In the case of termination of the contract, the additional collection officer positions and support staff requested in this action would be terminated unless collection contracts have been secured with other agencies during this time; or in some cases, the positions may be used to supplement existing State-reimbursed collection staff, if workloads warrant this.

FLSA Status of New Class: Exempt

**REVIEW BY OTHERS:** The proposed actions have been reviewed by the County Administrative Office (Valerie Clay and Art Gomez, 8/31/99), Human Resources (Christine Ure and Janna Ramos, 9/2/99) and County Counsel (Dawn Stafford, 9/2/99). Deputy County Counsel W Andrew Hartzell prepared the ordinance.

**FINANCIAL IMPACT:** There is no net cost to the county resulting from these actions. All additional staff and associated costs will be funded through the commission rate charged by the department back to participating jurisdictions and the State. The increased traffic fine and forfeiture revenue generated by the transfer of collection responsibilities to Central Collections is non-departmental revenue available to fund discretionary programs of the County.

The following increases to appropriations and revenues are required to Central Collections' budget:

AAA-TCC-CRT	Regular Salaries	1010	\$261,475
AAA-TCC-CRT	Retirement-General	1110	\$ 12,043
AAA-TCC-CRT	Indemnification	1135	\$ 10,110
AAA-TCC-CRT	Social Security	1225	\$ 3,789
AAA-TCC-CRT	Workers Compensation	1235	\$ 1,585
AAA-TCC-CRT	Cafeteria Plan/Other	1310	\$ 34,321
AAA-TCC-CRT	Special Dept Expense	2135	\$ 70,519
AAA-TCC-CRT	Postage-Direct	2310	\$102,640
AAA-TCC-CRT	Temporary Help	2335	\$ 21,008
AAA-TCC-CRT	Other Professional Svcs	2445	\$ 58,475
AAA-TCC-CRT	Collection Fees	9610	\$575,945

SUPERVISORIAL DISTRICT(S): All

PRESENTER: RICHARD N LARSEN

**\*\*Testimony is taken.**

9/21/99 lw #59

Attachment 3  
Page 3 of 14

FOR COUNTY USE ONLY



County of San Bernardino  
F A S

CONTRACT TRANSMITTAL

E	<input checked="" type="checkbox"/>	New	Vendor Code		SC	Dept	A	Contract Number <b>99-905</b>		
M	<input type="checkbox"/>	Change						Contractor's License No		
X	<input type="checkbox"/>	Cancel						Amount of Contract		
County Department			TREASURER-TAX COLLECTOR		Dept	Orgn	N/A			
					TCC	CRT	Contractor's License No			
County Department Contract Representative			MARK MATHERS		387-6372		Amount of Contract			
Fund	Dept	Organization	Appr	Obj/Rev Source	Activity	GRC/PROJ/JOB Number				
N/A	N/A	N/A	N/A	N/A	N/A	N/A				
Commodity Code					Estimated Payment Total by Fiscal Year					
Project Name					FY	Amount	I/D	FY	Amount	I/D
Court Collections Agreement										

CONTRACTOR Superior Courts of the County of San Bernardino

Birth Date \_\_\_\_\_ Federal ID No. or Social Security No \_\_\_\_\_

Contractor's Representative Tressa Kentner, Court Executive Officer

Address 172 W. Third St., 2<sup>nd</sup> Floor, San Bernardino, CA Phone 387-6401

Nature of Contract: *(Briefly describe the general terms of the contract)*

Collection Services Agreement between the County of San Bernardino and Superior Courts for collection of delinquent traffic fines, forfeitures and assessments for the period from January 1, 2000 through December 31, 2004

*(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)*

Approved as to Legal Form <u>[Signature]</u> County Council Date <u>9/2/99</u>	Reviewed as to Affirmative Action N/A Date _____	Reviewed for Processing Agency Administrator/CAO Date _____
---	--	---

**COLLECTION SERVICES AGREEMENT  
BETWEEN THE  
COUNTY OF SAN BERNARDINO AND  
SAN BERNARDINO SUPERIOR COURTS**

This agreement is entered into this 14<sup>th</sup> day of September, 1999, between the County of San Bernardino (hereinafter "County") and the Superior Courts of San Bernardino County (hereinafter "Courts") In consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. **TERM** This Agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Courts' Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through December 31, 2004.
2. **SCOPE** County agrees to provide services for the collection of delinquent traffic fines, forfeitures and civil assessments arising from violations of Vehicle Code §40508(a) and (b) for the Courts. Such collections shall include collections of the original bail amount plus any penalty assessments, civil assessments and all other revenues relating to a Failure to Appear (FTA) or Failure to Pay (FTP).
3. **COMPENSATION:** County agrees to accept and the Courts agree to pay a commission sum of twenty percent (20%) of the total value of the account for monies actually collected. Such commission shall be remitted via two funding sources. For accounts which meet the State's criteria under Penal Code §1463 007, the County shall deduct all eligible costs from any revenues collected prior to making any distribution of revenues to other governmental entities required by any other provision of law. For the County's costs that do not meet such criteria, these costs shall be deducted from civil assessment fees collected by the County on a monthly basis. In no event, however, shall the total commission charged by the County, via these two funding sources, exceed twenty percent (20%).

The County agrees that a minimum of 25% of the local (County) share of excess fine and forfeiture revenue as defined in Government Code Section 77205 shall be deposited into an interest bearing fund designated for courthouse facilities. It is the intent of the Courts and the County to develop collaborative plans for the projects funded from the above referenced fund. Additionally, the Courts shall review projects and make recommendations to the Board of Supervisors prior to projects being funded from these reserved revenues.

4. **COMMUNICATION:** It is the intention of the Court that all collection procedures be conducted in a lawful manner with due regard for the integrity of the Court's orders and respect for the legal rights of each defendant. The Courts shall also strive to adopt uniform procedures throughout the Courts as it relates to collection issues.

To meet that end, the Courts and County shall form a Collections Oversight Committee, which shall meet periodically to define standards and provide direction to the County regarding the collection of delinquent traffic fines, related civil assessments, and restitution.

on traffic infractions. The Collections Oversight Committee shall consist of three Judges appointed by the Presiding Judge, a representative of Court Administration, a representative of Probation and a representative of County Collections. The Committee reserves approval authority over procedures established by County Collections for implementing court-related collections related to delinquent traffic fine collections. However, any changes in procedures that would reduce revenues or increase costs will be reached by unanimity of the Collections Oversight Committee members. If unanimity is not reached, each side has the right to terminate this contract as described in Section 15.

5. **REPORTS** County shall provide the Courts with its standard reports. Additional reports may be provided to the Courts as available and as requested by the Courts.
6. **COURTS' RESPONSIBILITIES**: The Courts shall appoint a liaison person for administrative matters related to collections. The Courts shall also appoint court coordinators for contact at each participating court. The Courts will forward via automation all appropriate accounts to County upon the account becoming delinquent. The Courts will endeavor to provide information on delinquent accounts to the County within seven (7) days of delinquency.
7. **COUNTY'S ADDITIONAL RESPONSIBILITIES** County will prepare and mail all ten-day delinquency notices. Those accounts requesting a hearing before a judicial officer shall be referred to the Courts.
8. **COLLECTION ACTIVITY AND TECHNIQUES**: Upon the assignment of an account, County will engage in only those collection activities as permitted by law and in accordance with the criteria for a comprehensive collections program as defined by Penal Code §1463 007. The County shall be allowed to use any and all collection techniques or procedures permissible by law. These activities shall include wage garnishments, participation in the Franchise Tax Board's collections programs and the reporting of delinquent accounts to credit bureaus. The County may arrange installment payment plans based upon the debtors' current income and ability to pay.
9. **RECORD RETENTION AND INSPECTION**: County agrees that the Courts shall have the right to examine, inspect or audit any transaction or activity on its accounts which have been assigned to County without advance notice.
10. **AUTOMATION**: The County's estimated staffing requirements and attendant compensation necessary to implement this Agreement are predicated on the understanding that all case information for accounts will be electronically transmitted to the County, without any manual intervention required by the County. The Courts shall endeavor to provide the electronic transfer of the following data: (1) all current cases managed by GC Services, (2) cases held by the Court but not yet assigned to GC Services, (3) all new cases received by the Courts after the effective date of this Agreement, (4) all modified cases, (5) all inactive cases that the County requests to work, and (6) any other relevant case data required by the County except as prohibited by statute. The automation of the transmission of collection data for new FTA and FTP cases to the Central Collections' collection systems shall be completed by the effective date of this Agreement. The cost of re-programming the Courts' systems to facilitate this transfer will be paid either as a cost of a comprehensive collections program or by civil assessment monies.

- 11 **PROGRAM ENHANCEMENTS** County and Courts agree that it is in the best interest of both parties to continue to improve the collections program through enhancements to current operations. Enhancements potentially include the installation of new equipment and implementations to systems and procedures designed to enhance collections or customer service to clients
- 12 **TRANSITION**: It is agreed that the Courts should be reimbursed via a per transaction fee for at-the-window FTA and FTP payments collected by court personnel. During the transition period prior to January 1, 2000, the Courts and County will meet to set the level of this fee.
- 13 **OTHER CHANGES AND AMENDMENTS**: The parties to this agreement reserve the right to modify, change or amend the provisions of this agreement as may become necessary. Any revisions must be in writing, negotiated and mutually agreed upon between the parties. If, after one (1) year of the effective date of this Agreement and upon June 30 of each succeeding fiscal year, the County is not able to recoup its costs of collection, as shown by an audit of the County Auditor, the commission rate shall be adjusted, after the County and the Courts have met, to adequately compensate County for its actual costs
- 14 **CHANGES DUE TO LAW**. The County and Courts agree that any changes to the law related to the collection of traffic fines enacted since the effective date of this Agreement will necessitate the renegotiation of all or parts of this Agreement related thereto
- 15 **TERMINATION** Either party may terminate this Agreement by providing written notice ninety (90) days prior to the end of the County's fiscal year. Upon receipt of said notice, the contract will then terminate at the end of the County's fiscal year in which the notice was given.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this 2nd day of September 1999

COUNTY OF SAN BERNARDINO  
("County")

SUPERIOR COURTS OF CALIFORNIA,  
COUNTY OF SAN BERNARDINO  
("Courts")

By: Jon D. Mikels  
Jon D. Mikels, Chairman

By: [Signature]  
Date: 8/30/99

Date: SEP 21 1999 Agree. 99-905

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD.

EARLENE SPROAT  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By: [Signature]  
Deputy  
SAN BERNARDINO COUNTY



REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION

December 21, 2004

FROM: RICHARD N. LARSEN  
Treasurer-Tax Collector

SUBJECT: AMENDMENT TO CONTRACT NO. 99-905 WITH SUPERIOR COURT OF  
CALIFORNIA, COUNTY OF SAN BERNARDINO

RECOMMENDATIONS: Approve Amendment No. 2 to Contract No. 99-905 with the Superior Court of California, County of San Bernardino to extend the term of the current contract from December 31, 2004 to February 28, 2005 for the collection of delinquent traffic fines, forfeitures and assessments

BACKGROUND INFORMATION: On September 21, 1999, the Board of Supervisors approved Contract No. 99-905 between the Superior Court of California, County of San Bernardino and the Treasurer-Tax Collector's office from January 1, 2000 through December 31, 2004. Under the terms of this agreement, the Central Collections division of the Treasurer-Tax Collector's office collects delinquent traffic fines, forfeitures and assessments for the Superior Court of California, County of San Bernardino.

The Treasurer-Tax Collector and Superior Court are currently negotiating a new agreement for the services. Approval of this amendment will allow staff sufficient time to prepare and negotiate a new contract while continuing to provide the services.

REVIEW BY OTHERS: The proposed action was reviewed and approved as to form by County Counsel (Paul St John, Deputy County Counsel, 387-5437) on December 9, 2004; and the County Administrative Office (Tracy Lindsay, Administrative Analyst, 387-4659) on December 9, 2004.

FINANCIAL IMPACT: There is no net cost to the County resulting from this action.

COST REDUCTION REVIEW: The County Administrative Office has reviewed this agenda item and concurs with the Department's proposal since the collection services provided bring in revenue for the county.

SUPERVISORIAL DISTRICT(S): All

PRESENTER: Richard N. Larsen, Treasurer-Tax Collector, 387-6383

cc: Treasurer/Tax Collector-Cline w/agreement  
Court Admin -Kentner w/agree  
c/o Treasurer/Tax Collector  
Auditor-Valdez w/agree  
IDS w/agreement  
Risk Management  
Treasurer/Tax Coll.-Larsen  
Co Counsel-St John  
CAO Lindsay  
File w/agreement

mll

Rev 0797

Record of Action of the Board of Supervisors  
AGREEMENT NO. 99-905 A-2  
APPROVED (CONSENT CALENDAR)  
BOARD OF SUPERVISORS  
COUNTY OF SAN BERNARDINO

MOTION	1	2	3	4	5
	MOVE	CONSENT	AYE	AYE	SECOND

J. RENEE BASTAN, CLERK OF THE BOARD  
BY *[Signature]*  
DATED: December 21, 2004





County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	SC	Dept	A	Contract Number 99-905 A-2	
County Department Treasurer-Tax Collector		Dept	Orgn	Contractor's License No		
County Department Contract Representative Rocky Cline		TTC	CRT	Total Contract Amount		
		Telephone 387-5615				
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
Fund AAA	Dept TTC	Organization CRT	Appr	Obj/Rev Source 9810	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Project Name Collections Agreement				Estimated Payment Total by Fiscal Year		
				FY	Amount	YD
				FY	Amount	YD
				FY	Amount	YD

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name  
Superior Court of California, County of San Bernardino hereinafter called Court

Address  
172 W. Third St., 2<sup>nd</sup> Floor

San Bernardino, CA.

Telephone  
387-6401 Federal ID No. or Social Security No

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth services to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and standards, if any.)

Second Amendment to Contract No. 99-905

Contract No 99-905 is hereby amended by extending the term of the contract through February 28, 2005, as follows:

- 1 TERM: This agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Court's Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through February 28, 2005

Except as amended, all other terms and conditions of this contract remain as stated therein

Auditor/Controller-Recorder Use Only

Contract Database	S: I: FAS
Input Date	Keyed By

COUNTY OF SAN BERNARDINO

Dennis Hansberger  
Dennis Hansberger, Chairman, Board of Supervisors

Dated: DEC 21 2004

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD OF SUPERVISORS

By Mary Ann Garcia  
Clerk of the Board of Supervisors  
San Bernardino County, California



Approved as to Legal Form Paul St... Reviewed by Contract Compliance

County Counsel

Date Dec. 14, 2004

Date

Superior Court of California, County of San Bernardino  
(Print or type name of corporation, company, contractor, etc.)

By Peter Norell  
(Authorized signature - sign in blue ink)

Name Honorable Peter Norell  
(Print or type name of person signing contract)

Title Presiding Judge  
(Print or Type)

Dated: DEC 13 2004

Address 172 W. Third St., 2<sup>nd</sup> Floor  
San Bernardino, CA

Presented to BOS for Signature

Annita Kerdes  
Department Head

Date 12/14/04

**Auditor/Controller-Recorder Use Only**

Print Contract Date	Print Date	Print Name

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

March 29, 2005

**FROM:** RICHARD N. LARSEN  
Treasurer-Tax Collector/Public Administrator

**SUBJECT:** AMENDMENT TO CONTRACT NO. 99-905 WITH SUPERIOR COURT OF SAN BERNARDINO COUNTY

**RECOMMENDATIONS:** Approve Amendment No. 3 to Contract No. 99-905 with the Superior Court of San Bernardino County to extend the term of the current contract from February 28, 2005 to June 30, 2005 for the collection of delinquent traffic fines, forfeitures and assessments

**BACKGROUND INFORMATION:** On September 21, 1999 the Board of Supervisors approved Contract No 99-905 between the Superior Court of San Bernardino County and the Treasurer-Tax Collector's office for a term of three years, from January 1, 2000 through December 31, 2004. Then on December 21, 2004 the Board of Supervisors approved an amendment to that agreement to extend the term to February 28, 2005 for preparation of a new contract. The Treasurer-Tax Collector and Superior Court are currently negotiating a new agreement for the services. Approval of this amendment will allow staff sufficient time to prepare and negotiate a new contract while continuing to provide the services

Under the terms of this agreement, the Central Collections division of the Treasurer-Tax Collector's office collects delinquent traffic fines, forfeitures and assessments for the Superior Court of San Bernardino County

**REVIEW BY OTHERS:** The proposed action was reviewed and approved as to form by County Counsel (Paul St. John, Deputy County Counsel, 387-5437) on March 16, 2005; and the County Administrative Office (Tracy Lindsay, Administrative Analyst, 387-4659) on March 17, 2005

**FINANCIAL IMPACT:** Approval of the extended term of this contract will allow us to maintain the current revenue stream in traffic collections

**COST REDUCTION REVIEW:** The County Administrative Office has reviewed this agenda item and concurs with the Department's proposal since the collection services provided bring in revenue for the county

**SUPERVISORIAL DISTRICT(S):** All

**PRESENTER:** Richard N Larsen, Treasurer-Tax Collector/Public Administrator, 387-6383

cc: T-T/C-Cline w/ agree  
Contractor c/o Dept w/ agree  
IDS w/ agree  
Auditor-Valdez w/ agree  
Risk Management  
T-T/C-Larsen  
County Counsel-St John  
CAO-Lindsay  
File w/ agree

jrh

Record of Action of the Board of Supervisors  
Agreement No. 99-905 A-3

APPROVED (CONSENT CALENDAR)  
BOARD OF SUPERVISORS  
COUNTY OF SAN BERNARDINO

MOTION	ABSENT	AYE	SECOND	ABSENT	MOVE
	1	2	3	4	5

J. RENEE BASTIAN, CLERK OF THE BOARD  
BY *[Signature]*  
DATED: March 29, 2005

Rev 07/97

ITEM 039

Attachment 3  
Page 12 of 14



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	SC	Dept	A	Contract Number 99-905 A-3	
County Department Treasurer-Tax Collector			Dept TTC	Orgn CRT	Contractor's License No	
County Department Contract Representative Rocky Cline			Telephone 387-5815		Total Contract Amount	
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
Fund AAA	Dept TTC	Organization CRT	Appr	Obj/Rev Source 9010	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Project Name Collections Agreement			Estimated Payment Total by Fiscal Year			
			FY	Amount	I/D	

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name Superior Court of San Bernardino County hereinafter called Courts

Address 172 W. Third St, 2<sup>nd</sup> Floor

San Bernardino, CA.

Telephone 387-6401 Federal ID No. or Social Security No \_\_\_\_\_

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications and addenda, if any.)

Third Amendment to Contract No. 99-905

Contract No 99-905 is hereby amended by extending the term of the contract through June 30, 2005, as follows:

- 1 TERM: This agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Courts' Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through June 30, 2005

Except as amended, all other terms and conditions of this contract remain as stated therein

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Page \_\_\_ of \_\_\_

COUNTY OF SAN BERNARDINO

*[Signature]*  
Bill Deshaies, Chairman, Board of Supervisors  
Paul Biams, Vice Chairman

Dated: \_\_\_\_\_

SIGNED AND CERTIFIED TRUE COPY OF THIS DOCUMENT BY BEING PLACED TO THE CHAIRMAN OF THE BOARD OF SUPERVISORS COUNTY OF SAN BERNARDINO

By: *[Signature]*  
J. [Name] Board of Supervisors  
County of San Bernardino



Superior Court of San Bernardino County  
(Print or type name of competition, company, contractor etc.)

By: *[Signature]*  
(Authorized signature - sign in blue ink)

Name: Honorable Peter Norell  
(Print or type name of person signing contract)

Title: Presiding Judge

Dated: 3/22/05  
(Print or Type)

Address: 172 W. Third St., 2<sup>nd</sup> Floor  
San Bernardino, CA

Approved as to Legal Form  
*[Signature]*  
County Counsel  
Date: 3/21/05

Reviewed by Contract Compliance  
Date: \_\_\_\_\_

Presented to BCS for Signature  
*[Signature]*  
Department Head  
Date: 3-21-05

Auditor/Controller-Recorder Use Only	
Contract Database	B.P.A.S.
Input Date	Keyed By

Page \_\_\_ of \_\_\_





CO#	MONTH

ATTACHMENT NUMBER
<b>CO 36 0560</b>

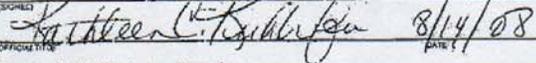
**REPORT TO STATE CONTROLLER OF REMITTANCE TO STATE TREASURER - TC-31**

COUNTY NAME - NUMBER: San Bernardino - 36  
 COLLECTIONS FOR THE MONTH OF (Mo / Yr): July 2007 / June 2008

STATE CONTROLLER'S USE ONLY							AMOUNT	CC	CODE SECTION & DESCRIPTION
FUND	AGENCY	FY	REV / DIBJ	REV / DIBJ	REV / DIBJ	REV / DIBJ			
0 0 0 1	0 2 5 0			1 8 1 4 0 3				General Fund - Penal Code 1465 7; AB 3000 - 20% surcharge on criminal fines.	
0 0 0 1	0 8 2 0			1 3 1 5 0 0				General Fund - Health & Safety 11372 5 - Criminalistics Lab Fee; Health & Safety 11502 - State Fines	
0 0 0 1	9 9 9 0			1 3 0 9 0 1				General Fund - Penal Code 290 3 - First Conviction	
0 0 0 1	9 9 9 0			1 3 0 9 0 2				General Fund - Penal Code 290 3 - Second & Subsequent Convictions	
0 0 0 1	9 9 9 0			1 6 0 5 0 0				General Fund - Health & Safety 11489 - Asset Forfeitures (24%)	
0 0 0 1	9 9 9 0			1 6 4 0 0 0				General Fund - Penal Code 1463 22(c) - Uninsured Motorists (\$10 Conviction)	
0 0 0 1	9 9 9 0			1 6 4 2 0 1				General Fund - Vehicle Code 40225(d)	
0 0 0 1	9 9 9 0			1 6 4 3 0 1				General Fund - Health & Safety 106257 - State penalty on lead abatement fines	
0 0 4 4	2 7 4 0			1 6 4 0 0 0				Motor Vehicle Account - Penal Code 1453 22(b) - Uninsured motorists (\$3 conviction)	
0 1 0 2	3 5 4 0			1 2 5 2 0 0				State Fire Marshall Lic/Cert Fund - Health & Safety 12105 - Explosive Permit Fees	
0 1 5 9	0 2 5 0			1 6 4 6 0 2				Trial Court Improvement Fund - Government Code 68090 8 - 2% Automation	
0 1 5 9	0 2 5 0			1 6 4 6 0 3		6,130,521.70		Trial Court Improvement Fund - GC 77205 - 50% Excess	
0 2 0 0	3 6 0 0			1 2 5 6 0 0				Fish & Game Preservation Fund - Fish & Game 711 4 - Environmental Document Filing Fees	
0 2 0 0	3 6 0 0			1 3 1 0 0 0				Fish & Game Preservation Fund - Fish & Game 13003 - Fish & Game Preservation Fund	
0 2 0 0	3 6 0 0			1 3 1 3 0 0				Fish & Game Preservation Fund - Fish & Game 12021 13006 - Secret Witness Program	
0 2 1 4	1 8 7 0			1 3 0 8 0 0				Restitution Fund - Penal Code 1202 4 W&I 730 6	
0 2 1 4	1 8 7 0			1 3 0 8 0 3				Restitution Fund - Penal Code 1001 90 - Diversion Restitution Fee	
0 2 1 4	1 8 7 0			1 3 0 8 0 6				Restitution Fund - Penal Code 1202 44 - Conditional Sentence Restitution Fines	
0 2 1 4	1 8 7 0			1 6 4 4 0 0				Restitution Fund - Penal Code 1463 18 - DUI Fines	
						(487,402.11)		FY07 Over payment of Trial Court Improvement Fund - GC 77205 (Code Section VC 42007 / GC70372)	
						62,784.26		FY07 Under payment of Trial Court Improvement Fund - GC 77205 (Code Section VC 42007)	

**TOTAL** **5,705,903.85**

TO STATE CONTROLLER: I hereby certify that the foregoing report, as it relates to the agency I represent, is a correct statement of the State's share of collections deposited for the month stated above in accordance with Section 68101 of the Government Code. Remittance has been made to the State Treasurer.

 OFFICIAL TITLE: <u>Deputy Auditor/Controller - Recorder</u> CONTACT PERSON: <u>Brenda Peña</u> PHONE: <u>(909) 386-8931</u> ADDRESS: <u>222 W. Hospitality Lane, San Bernardino, CA 92415-0018</u>	DATE: <u>8/14/08</u> EMAIL ADDRESS: <u>bpeña@acr.sbcounty.gov</u>
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STATE TREASURER'S ENDORSEMENT

STATE OF CALIF. RECEIVED

CC#	MONTH

REMITTANCE ADVISE NUMBER
<b>CO 36 0563</b>

**REPORT TO STATE CONTROLLER OF REMITTANCE TO STATE TREASURER - TC-31**

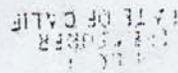
COUNTY NAME - NUMBER: San Bernardino - 36

COLLECTIONS FOR THE MONTH OF (Mo / Yr): Audit Finding follow up correction for 07/07 thru 06/08

STATE CONTROLLER'S USE ONLY				REV / OBJ	AMOUNT	AC	CODE SECTION & DESCRIPTION
FUND	AGENCY	FY					
0 2 6 8	8 1 2 0			1 2 5 6 0 0			Peace Officer's Training Fund - Health & Safety 103690(b)
0 4 5 5	3 9 6 0			1 6 4 3 0 0			Hazardous Substance Subaccount - Health & Safety 25189
0 5 8 7	0 2 5 0			1 6 1 4 0 0			Family Law Trust Fund - H&S Code 103625(c), FC 1852 - Marriage Record Fees
0 6 4 1	0 8 2 0			2 9 9 5 0 0			Domestic Violence Restraining Order Reimbursement Fund - Penal Code 1203.097
0 6 4 2	4 2 6 5			1 3 1 7 0 0			Domestic Violence Training and Education Fund - Penal Code 1203.097
0 7 6 7	1 1 1 0			1 3 1 7 0 0			Pharmacy Board Contingent Fund - Business & Professions Code 4238-4414
0 9 0 3	0 6 9 0			2 3 7 5 0 0			State Penalty Fund - Penal Code 1464
0 9 0 3	0 6 9 0			2 3 7 5 0 2			State Penalty Fund - Vehicle Code 40611 State Penalty Fund - Proof of Correction
0 9 0 3	0 6 9 0			2 3 7 5 0 3			State Penalty Fund - Penal Code 1464 - Fish & Game Assessment
0 9 3 2	0 2 5 0			1 3 1 7 0 5			Trial Court Trust Fund - GC 77201 3 (a)(1) Expenditure Base - Effective July 1, 2006
0 9 3 2	0 2 5 0			1 6 4 6 0 1			Trial Court Trust Fund - GC 77201 3 (a)(2) Revenue Base - Effective July 1, 2006
0 9 3 2	0 2 5 0			1 6 4 7 6 2			Trial Court Trust Fund - GC 68085 6 - Undesignated Fees MOE
0 9 3 2	0 2 5 0			1 6 4 7 4 3			Trial Court Trust Fund - PC 1465 8 - Court Security Fee
3 0 1 6	0 8 2 0			1 3 1 7 0 0			Missing Persons DNA Database Fund - Penal Code 14251(b)
3 0 3 7	0 2 5 0			1 6 4 8 0 1	1,332,268.08		State Court Facilities Construction Fund - GC 70372(a) - Penalty on criminal fines - 7/2007 through 6/2008
3 0 6 6	0 2 5 0			1 3 1 7 0 6			Court Facilities Trust Fund - GC 70353 - Court Facilities MOE
3 0 8 6	0 8 2 0			1 6 4 3 0 0			DNA Identification Fund (Prop 69) - GC 76104 6
3 1 2 0	3 5 4 0			1 6 4 6 0 0			State Fire Marshall Fireworks Enforcement and Disposal Fund - Health & Safety 12728
<b>TOTAL</b>					<b>1,332,268.08</b>		

TO STATE CONTROLLER: I hereby certify that the foregoing report, as it relates to the agency I represent, is a correct statement of the State's share of collections deposited for the month stated above in accordance with Section 68101 of the Government Code. Remittance has been made to the State Treasurer.

<i>Katherine Kuhlberg</i> 8/8/08	
OFFICIAL TITLE	DATE
Deputy Auditor/Controller-Recorder	
CONTACT PERSON	
Brenda Peña	
PHONE	E-MAIL ADDRESS
(909) 386-8931	bpeña@acr.sbcounty.gov
ADDRESS	
222 W. Hospitality Lane, San Bernardino, CA 92415-0018	

STATE TREASURER'S ENDORSEMENT

JUL 10 2008 STATE OF CALIF. TREASURER'S OFFICE SACRAMENTO, CALIF.

CO# MONTH  
36 06

REMITTANCE ADVISE NUMBER  
**CO36 0558**

REPORT TO STATE CONTROLLER OF REMITTANCE TO STATE TREASURER - TC-31

COUNTY NAME - NUMBER: San Bernardino - 36  
COLLECTIONS FOR THE MONTH OF (Mo/Yr): June / 2008

FUND	AGENCY	FY	REV / OBJ	AMOUNT	SN	CODE SECTION & DESCRIPTION
0 2 6 8	8 1 2 0	2 0 0 7	1 2 5 6 0 0	1,198.00		Peace Officers Training Fund - Health & Safety 103880(b)
0 5 5 7	3 9 6 0	2 0 0 7	1 6 4 3 0 0			Hazardous Substance Subaccount - Health & Safety 25189
0 5 8 7	0 2 5 0	2 0 0 7	1 6 1 4 0 0	6,310.80		Family Law Trust Fund - H&S Code 103825(c) FC 1852 - Marriage Record Fees
0 6 4 1	0 8 2 0	2 0 0 7	2 9 9 5 0 0	4,504.56		Domestic Violence Restraining Order Reimbursement Fund - Penal Code 1203.097
0 6 4 2	4 2 6 5	2 0 0 7	1 3 1 7 0 0	4,504.56		Domestic Violence Training and Education Fund - Penal Code 1203.097
0 7 6 7	1 1 1 0	2 0 0 7	1 3 1 7 0 0			Pharmacy Board Contingent Fund - Business & Professions Code 4236-4414
0 9 0 3	0 6 9 0	2 0 0 7	2 3 7 5 0 0	755,177.59		State Penalty Fund - Penal Code 1464
0 9 0 3	0 6 9 0	2 0 0 7	2 3 7 5 0 2	16,831.86		State Penalty Fund - Vehicle Code 40611 State Penalty Fund - Proof of Correction
0 9 0 3	0 6 9 0	2 0 0 7	2 3 7 5 0 3	1,132.36		State Penalty Fund - Penal Code 1464 - Fish & Game Assessment
0 9 3 2	0 2 5 0	2 0 0 7	1 3 1 7 0 5			Trial Court Trust Fund - GC 77201 1(b)(1) Expenditure Base - Effective July 1, 1998
0 9 3 2	0 2 5 0	2 0 0 7	1 6 4 6 0 1			Trial Court Trust Fund - GC 77201 1(b)(2) Revenue Base - Effective July 1, 1998
0 9 3 2	0 2 5 0	2 0 0 7	1 6 4 7 6 2			Trial Court Trust Fund - GC 68085 6 - Undesignated Fees MOE
0 9 3 2	0 2 5 0	2 0 0 7	1 6 4 7 4 3	357,386.20		Trial Court Trust Fund - PC 1485 8 - Court Security Fee
3 0 1 6	0 8 2 0	2 0 0 7	1 3 1 7 0 0	967.10		Missing Persons DNA Database Fund - Penal Code 14251(b)
3 0 3 7	0 2 5 0	2 0 0 7	1 6 4 8 0 1	431,008.04		State Court Facilities Construction Fund - GC 70372(a) - Penalty on criminal fines
3 0 6 6	0 2 5 0	2 0 0 7	1 3 1 7 0 6			Court Facilities Trust Fund - GC 70353 - Court Facilities MOE
3 0 8 6	0 8 2 0	2 0 0 7	1 6 4 3 0 0			DNA Identification Fund (Prop 69) - GC 76104 6
3 0 8 6	0 8 2 0	2 0 0 7	1 6 4 3 0 2			DNA Identification Fund Penalty - GC 76104 7
<b>TOTAL</b>				<b>1,579,021.07</b>		

TO STATE CONTROLLER: I hereby certify that the foregoing report as it relates to the agency I represent is a correct statement of the State's share of collections deposited for the month stated above in accordance with Section 08101 of the Government Code. Remittance has been made to the State Treasurer.

Signature: *Kathleen C. Kullback* 8/11/08  
 OFFICIAL TITLE: Deputy Auditor/Controller-Recorder  
 COUNTY: San Bernardino  
 NAME: Eric Patrick  
 PHONE: (909) 386-9001  
 EMAIL ADDRESS: epatrick@acr.sbcounty.gov  
 ADDRESS: 222 W. Hospitality Lane, San Bernardino, CA 92415-0018

STATE TREASURER'S ENDORSEMENT

STATE OF CALIF.

**Attachment B—  
Court’s Response to  
Draft Audit Report**

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DRAFT



**Superior Court of California  
County of San Bernardino**

**Tressa S. Kentner**  
Court Executive Officer

303 West Third Street, Fourth Floor  
San Bernardino, CA 92415-0302

(909) 382-3531  
Fax: (909) 382-7680

February 4, 2009

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

Re: State Controller's Office audit of Court revenues for the period of July 1, 2001 thru  
June 30, 2006

Dear Mr. Mar:

The Superior Court of California, County of San Bernardino, has reviewed the State Controller's Office draft report covering revenues for the period of July 1, 2001 through June 30, 2006. With respect to those audit findings, we offer the following response:

**Finding 1** – The Superior Court of California and the County of San Bernardino are separate entities. Since the County prepares the remittances to the State, they will respond to this finding.

**Finding 2** – The Superior Court of California and the County of San Bernardino are separate entities. Since the Central Collections Department is part of the County, the County will respond to this finding.

**Finding 3** – The Superior Court of California and the County of San Bernardino are separate entities. Since the Central Collections Department is part of the County, the County will respond to this finding.

**Finding 4** – The County of San Bernardino does not concur with this finding and will be responding accordingly. We hereby request clarification on this finding based on the County's response. The Court will act in accordance with the resolution of this matter; however, we do offer the following response related to this finding:

When AB139 was enacted, our court had no mechanism to accurately separate the delinquent payments from the current payments in our case management system. In addition, the County of

San Bernardino, Central Collections Department, began remitting only the net delinquent collections to the Court, after recovering their costs from the revenue received. Therefore, the Court had no choice but to develop a reasonable method to allocate the County's costs against the delinquent revenue until such time as the Court's case management system could be updated to provide this information. From October 2005 to January 2006, we utilized the same methodology that was developed by a State Controller's Office auditor, from a previous State Revenue audit, where differences were allocated based on a formula to spread revenue over all qualifying agency accounts. This was the most reasonable and cost effective method we had to allocate these costs.

Then in February 2006, we received additional information from a study conducted by Shasta Superior Court, whereby collection costs were allocated against monthly gross revenue. The study showed immaterial differences between the current and delinquent payment allocations for all qualifying agency accounts. This appeared to be a more reasonable approach than our first method of allocation and we implemented this methodology from February 2006 to August 2006.

During this time, the Court partnered with the Riverside Superior Court and was able to develop a new approach for querying the delinquent payments from our case management system. This new methodology was implemented in September 2006 and we continue to allocate collection costs against delinquent revenue only, on a monthly basis, based on these queries for delinquent payments.

The allocation we performed was reasonable, based on the circumstances stated above. Re-allocation of any amount would be immaterial and cost prohibitive to perform the re-allocation.

**Finding 5** – The San Bernardino Superior Court concurs with this finding and we have adjusted our accounts accordingly. The County of San Bernardino transferred the underremitted collections, in the amount of \$2,322,665.00, to the state on August 14, 2008. In addition, all Traffic Violator School revenue, collected for the State Court Facilities Construction Fund, has been reallocated, pursuant to this finding, for collections from July 2006 thru May 2008. The County of San Bernardino adjusted their state remittance for this as well on August 14, 2008. Beginning in June 2008, we are calculating this distribution manually, on a monthly basis, until we can revise the Court Case Management System to calculate this properly.

**Finding 6** – The San Bernardino Superior Court **has** made all required distributions to the County General Fund, the State General Fund and the State Transportation Fund for evidence of financial responsibility fines for the audit period. The language in PC 1463.22 on which the State Controller's Office relies is descriptive and not the operative language of the statute. The statute reads, "Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) *for each conviction* ... shall be deposited by the county treasurer in a special account..." The language of subsection (b) differs only in that "three dollars (\$3)" has been substituted for "seventeen dollars and fifty cents (\$17.50)". Subsection (c) is also similar; requiring that, "ten dollars (\$10) *upon the conviction of*, or upon the forfeiture of bail from.... shall be deposited by the county treasurer in a special account..." The use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

PC1463.001 states "...all fines and forfeitures imposed **and collected**.....shall as soon as practicable **after receipt thereof**, be deposited with the county treasurer..." Rules of statutory

Mr. Steven Mar  
February 4, 2009  
Page Three

construction provide that specific language in one statute prevails over the general language of another. The provision of PC 1463.001 allowing deposit "as soon as practicable" is more specific than the language of PC 1463.22 and therefore determinative.

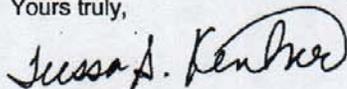
In addition, VC16029(e)(2) states, "Notwithstanding any other provision of law...the court may direct that the fine and penalty assessments be paid within a limited time or in installments on specified dates." Effectively, the specific language of "Notwithstanding any other provision of law" means that in the event of any conflict between PC 16029 and another penal code section, PC 16029 is the determinative statute.

Upon receipt of payment for the imposed fine, the distribution is made in a timely manner to the appropriate agencies. Convictions and collection of revenue are not synonymous, and the Court is unable to advance money it doesn't have until payments are actually received. The Court believes the State Controller's Office has misinterpreted the meaning of the law and we have referred this matter to the Administrative Office of the Courts.

**Finding 7** – The San Bernardino Superior Court concurs with this finding and we have revised the distribution priorities in the Court Case Management System to reflect an additional priority level for the State Victim Indemnity Fund, pursuant to PC 1463.18, effective June 25, 2008.

Should you desire any additional information, please do not hesitate to contact me.

Yours truly,



Tressa S. Kentner  
Court Executive Officer

2-5-09

e-mailed copy to Kathy Kerkhoper, Harold Ochi, and  
Judy Raymonds. - SB

construction provide that specific language in one is another. The provision of PC 1463.001 allowing de specific than the language of PC 1463.22 and therel

In addition, VC16029(e)(2) states, "Notwithstanding direct that the fine and penalty assessments be paid specified dates." Effectively, the specific language of law" means that in the event of any conflict between PC 16029 is the determinative statute.

Upon receipt of payment for the imposed fine, the dis appropriate agencies. Convictions and collection of re is unable to advance money it doesn't have until payn... are actually received. The Court believes the State Controller's Office has misinterpreted the meaning of the law and we have referred this matter to the Administrative Office of the Courts.

**Finding 7** – The San Bernardino Superior Court concurs with this finding and we have revised the distribution priorities in the Court Case Management System to reflect an additional priority level for the State Victim Indemnity Fund, pursuant to PC 1463.18, effective June 25, 2008.

Should you desire any additional information, please do not hesitate to contact me.

Yours truly,

Tressa S. Kentner  
Court Executive Officer

2-5-09

e-mailed copy to Kathy Kerkhoper, Harold Velin, and  
Judy Raymond. - SRS

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02/05/2009

Sent To Steven Mar, State Controller's Off.  
Street, Apt. No. or PO Box No. P.O. Box 442850  
City, State Sacramento, CA 94250-5874

US Form 3839, August 2008 See Reverse for Instructions

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874**

**<http://www.sco.ca.gov>**