

Penalty Assessments

A Review of Their Use As A Financing Mechanism

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Introduction

Introduction

In 1986 the Legislature adopted Senate Concurrent Resolution 53 (SCR 53), which required the Legislative Analyst to study various aspects of penalty assessments and the programs which these assessments fund. Penalty assessments are levied on nearly all fines, penalties, and forfeitures imposed and collected by the court system for criminal offenses, including violations of the Vehicle Code. Penalty assessments can range from \$7 to \$13.50 for every \$10 of fine, forfeiture or penalty imposed by the court, depending on the county in which the court is located. Funds generated by penalty assessments finance programs ranging from driver training to indemnification of crime victims and county criminal justice facility construction.

Specifically, SCR 53 requires the Legislative Analyst to conduct a study of penalty assessments which:

- Compares the "sources" of penalty assessment revenues to the "benefits" gained from these funds.
- Recommends other stable revenue sources to finance programs currently funded by penalty assessments.

In addition, SCR 53 requires the Legislative Analyst to perform this study in conjunction with an advisory committee consisting of representatives of local government, law enforcement, court personnel, motor clubs, and other appropriate user groups. The members of this advisory committee are listed in Appendix I.

This report constitutes our response to the study requirements of SCR 53.

Organization of the Report

The remainder of this report is divided into three chapters.

Chapter I presents general background information on penalty assessments. Specifically, the chapter outlines the historical development of penalty assessments, defines them for purposes of this report, and describes how they are levied, collected, and distributed.

Chapter II discusses the sources and benefits of penalty assessments. Specifically, this chapter reviews the data available on the fines, penalties and forfeitures which generate penalty assessments. In addition, the chapter discusses the relationship between the underlying offenses which generate penalty assessment revenues and the programs which are financed by them. Finally, it ad-

dresses the question of how this relationship should be structured and makes a related recommendation.

Chapter III discusses some of the problems of increased reliance on penalty assessments to finance state and local government programs. It also discusses alternatives to the current financing system.

Appendix I lists the members of the SCR 53 advisory committee.

Appendix II provides additional background information on the funds which receive revenues from penalty assessments and the programs which are financed by the assessments.

Acknowledgments

The Legislative Analyst's Office gratefully acknowledges the assistance of the SCR 53 advisory committee and the State Controller's Office in providing various background information and fiscal data used in the report.

This report was prepared by Andrew Meyers and Craig Cornett, under the supervision of Cheryl Stewart. Secretarial services were provided by Lynn Kiehn and Victoria Albert, and the report was formatted for publication by Suki O'Kane. ♦

Executive Summary

Executive Summary

This report compares the sources of penalty assessment revenues to the benefits generated by these funds, discusses briefly some of the advantages and disadvantages of increased reliance on penalty assessments as a financing mechanism, and examines alternate sources of financing available to programs currently funded by penalty assessments.

The principal findings of this report are summarized as follows:

- Penalty assessment revenue is collected from persons who violate Penal and Vehicle Code provisions. These revenues generally are used to finance law enforcement activities, victims' services and driver safety programs.

While data limitations significantly restricted our ability to make more specific source-benefit comparisons, our estimates suggest that penalty assessment revenues generated by vehicle-related offenses exceed vehicle-related expenditures from this source. For the most part, we were unable to draw conclusions about the link between other penalty assessment sources and benefits.

- The reliance upon statutory percentages to distribute penalty assessment reve-

nue to various programs may result in an inefficient allocation of the state's financial resources which, in turn, may restrict the ability of certain programs to fulfill their legislative mandates. Further, the present system limits the Legislature's ability to oversee and set priorities for the expenditure of state funds.

Accordingly, we recommend that legislation be enacted to (1) eliminate the percentage allocation requirements, and (2) transfer penalty assessment revenue to the General Fund for allocation to programs on the basis of a review of program needs through the annual budget process. Due to constitutional restrictions, however, we recommend that penalty assessment revenue generated from fish and game violations be transferred directly to the Fish and Game Preservation Fund.

- There are both advantages and disadvantages to the continued use and expansion of penalty assessments as a financing mechanism. Penalty assessments generate significant annual revenue. They are not levied on the general taxpayer, rather, they are imposed on the law violator. Furthermore, appropriations made from this source are not sub-

ject to the state's constitutional appropriations limit.

On the other hand, there is some evidence that penalty assessments may be approaching a maximum revenue generating level. There is also a possibility that further assessment rate increases could exacerbate the difficulties of projecting penalty assessment revenues, result in an unintended transfer of revenues to the state that have traditionally been available to local governments, lead to an increase in the already burgeoning county jail population, result in increased fine and assessment default

rates and further complicate court accounting records.

These are all factors for the Legislature to take into account when considering an increased reliance on penalty assessments as a revenue source in the future.

- Through our review we were unable to identify any viable new revenue sources that have (1) a direct relationship to programs currently funded from penalty assessments, (2) the potential to generate sufficient funds to support these programs, and (3) the stability to be effective revenue sources over time. ❖

Chapter I

Chapter I

Background of Penalty Assessments

This chapter provides background information on the system of penalty assessments levied in California. Specifically, it outlines the historical development of penalty assess-

ments, defines them for purposes of this report, and describes how they are levied, collected, and distributed.

Development of Penalty Assessments

Penalty assessments were established more than 30 years ago. Chapter 1877, Statutes of 1953, set the penalty assessment "rate" at \$1 for every \$20 of basic fine, or fraction thereof, for most Vehicle Code violations. For example, a \$60 dollar fine generated a penalty assessment of \$3, for a total fine and assessment of \$63. Money collected from this original penalty assessment was remitted by the courts via the counties to the state for deposit in the General Fund. The General Fund, in turn, reimbursed the State School Fund which financed the driver education programs of local school districts.

Since 1953, the penalty assessment rate, the types of offenses subject to the assessments, and the number of programs financed by them have increased significantly. Although the basic structure for collection and distribution of penalty assessments has remained

unchanged since 1980, the Legislature has continued to increase both the penalty assessment rate and the number and types of programs which are financed by these assessments.

A good example of the complexity of the current assessment system is provided by Vehicle Code Section 23152, which makes it a crime to operate a vehicle under the influence of alcohol or drugs. Persons convicted and fined for a violation of this code section are subject to a maximum base fine of \$1,000. When total assessments are added to the base fine, however, persons could actually be required to pay as much as \$2,510. This amount includes the base fine of \$1,000, various state and local penalty assessments totaling \$1,350, and \$160 in other fines used to support various programs, such as alcohol abuse and drug prevention programs.¹

¹ Throughout this report we have assumed that the provisions of Chapter 1082, Statutes of 1987, that allowed specified counties to increase penalty assessments for courthouse and criminal justice facility construction funds are in effect. The provisions of this measure, which were to take effect on January 1, 1988, were chaptered out in error by Chapter 1239, Statutes of 1987. At the time this report was prepared, legislation was being drafted to correct this technical error.

Definition of Penalty Assessments

The term penalty assessment often is applied broadly to a multitude of special charges levied by courts in addition to basic fines and forfeitures. In our judgment, a review of all these special charges would go beyond the mandate of SCR 53 and the timeframe it establishes. Accordingly, we have confined our discussion to those assessments which are imposed on fines and forfeitures generally, rather than those which are imposed on fines and forfeitures levied for specific types of offenses. Using this guideline, this report will focus on penalty assessments which are generated either by the "basic" penalty assessment rate of \$7 for every \$10 of fine, or fraction thereof, and the additional penalty assessments of up to \$6.50 for every \$10 of fine, or fraction thereof, that counties may elect to levy on fines imposed for offenses generally. These assessments are described in more detail later in this chapter.

Generally, the penalty assessments which we focus on in this report are levied under the authority of Penal Code Sections 1464, 1465, or Government Code Section 76000. These statutes require that penalty assessments be levied on "every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration offenses by pedestrians or bicyclists."

As discussed in detail below, penalty assessments are collected by courts and either are remitted via the counties to the state to finance various state and local assistance programs, or are retained by the counties in special funds.²

Collection and Distribution of Penalty Assessments

The penalty assessments which are the subject of this report may be divided into two categories—those assessed at the basic rate established by Penal Code Section 1464, and those which may be imposed at county option pursuant to Section 76000 of the Government Code and Section 1465 of the Penal Code. An overview of the collection and distribution of penalty assessments is presented in Chart 1. As illustrated, each of these categories of assessments is collected and distributed in a different way. Each path and the programs funded are discussed below.

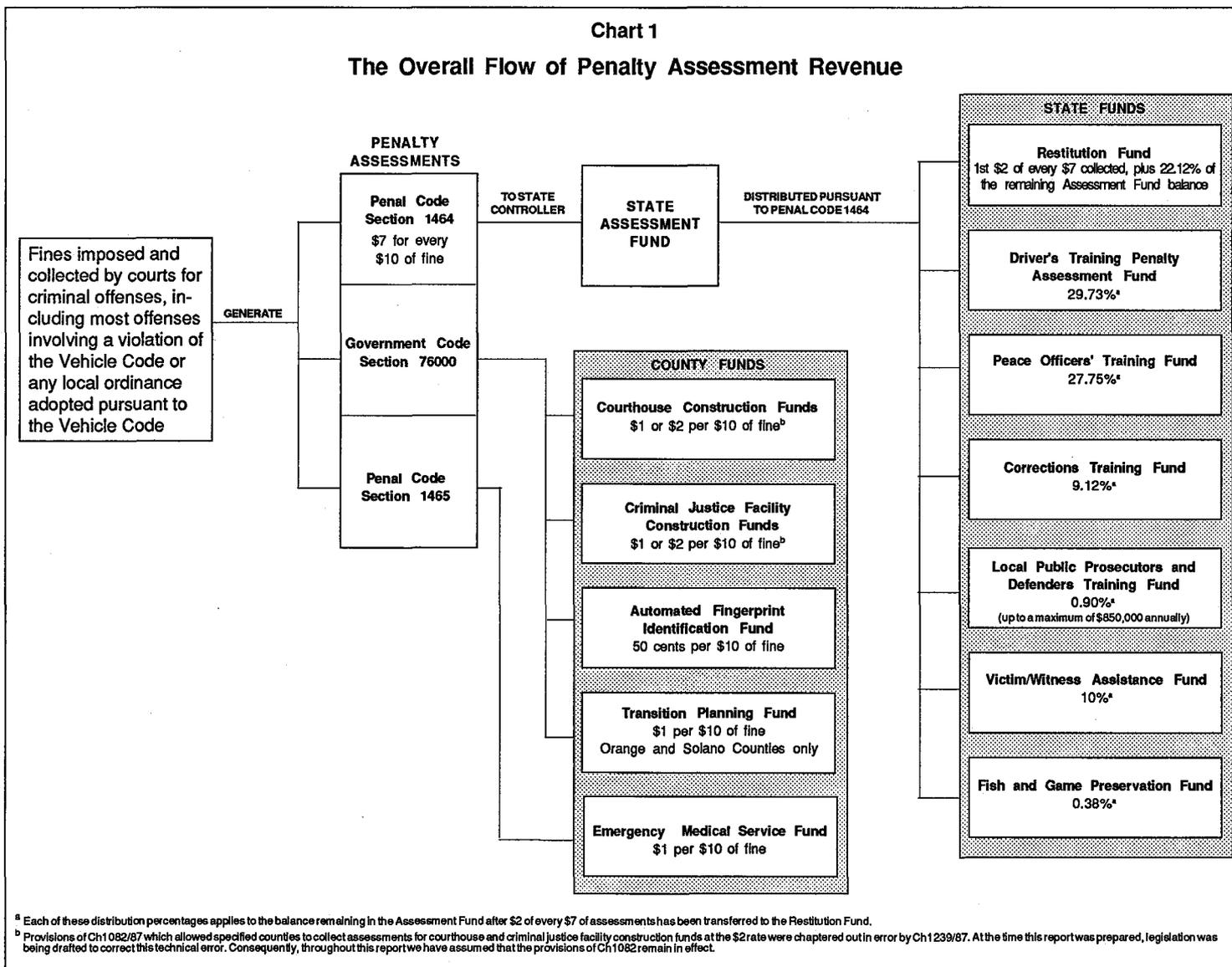
Section 1464 Assessments. Penal Code Section 1464 requires that a penalty assessment equal to \$7 for every \$10 of fine, or fraction thereof, be levied on each fine, penalty or forfeiture imposed and collected by the

courts for criminal offenses, including most offenses involving a violation of the Vehicle Code. Funds collected from these assessments are transmitted by the clerk of the court to the county treasury, where they are in turn remitted to the State Treasury for deposit in the Assessment Fund.

Pursuant to a formula established by Penal Code Section 1464, money deposited in the state Assessment Fund is allocated to seven separate state funds. Chapters 1214 and 1232, Statutes of 1987, provide that the first \$2 of every \$7 collected in penalty assessments, plus 22.12 percent of all remaining assessment revenue be transferred into the state Restitution Fund. The remaining balance is then distributed to six other funds, according to percentages specified in Penal Code Sec-

² In contrast, the money generated by the *fines* and *forfeitures* which generate penalty assessments traditionally has been retained by cities and counties. This traditional distribution of fine and forfeiture money was altered significantly by the Trial Court Funding Act of 1985, which was made operative by Chapter 1211, Statutes of 1987. Under this act, counties electing to participate in the trial court funding program must remit most of their revenues from these sources to the state. In return, the state will provide substantial block grants to help the counties finance the trial court system. For a further discussion of Ch 1211/87, please see Legislative Analyst's Office Report #88-3, *The Trial Court Funding Program: Financial Implications*.

Chart 1
The Overall Flow of Penalty Assessment Revenue



^a Each of these distribution percentages applies to the balance remaining in the Assessment Fund after \$2 of every \$7 of assessments has been transferred to the Restitution Fund.

^b Provisions of Ch1082/87 which allowed specified counties to collect assessments for courthouse and criminal justice facility construction funds at the \$2 rate were chaptered out in error by Ch1239/87. At the time this report was prepared, legislation was being drafted to correct this technical error. Consequently, throughout this report we have assumed that the provisions of Ch1082 remain in effect.

tion 1464. Table 1 displays the seven funds, the agencies which administer the funds, the

statutory allocation percentages, and the most recent actual amounts allocated.

Table 1
Summary of Distributions to State Funds from the Assessment Fund

Fund	Administering Agency	Statutory Allocation ^a	Revenue (in thousands)			
			1984-85	1985-86	1986-87	1987-88 (est.) ^b
Restitution	Board of Control	22.12%	\$26,752	\$27,933	\$26,583	\$39,251
Driver Training Penalty Assessment	Department of Education	29.73	35,245	37,043	35,433	38,487
Peace Officers' Training	Commission on Peace Officer Standards and Training	27.75	32,882	34,576	33,034	35,924
Corrections Training	Board of Corrections	9.12	10,807	11,364	10,874	11,806
Local Public Prosecutors and Public Defenders Training	Office of Criminal Justice Planning	0.90 ^c	509	750	850	850
Victim-Witness Assistance	Office of Criminal Justice Planning	10.00	11,670	12,460	11,918	12,946
Fish and Game Preservation	Department of Fish and Game	0.38	450	474	452	492
Total Distributed		100.00%	\$118,315	\$124,600	\$119,144	\$139,756

^a Under the current formula (Ch 1214/87), each of these percentages applies to the balance remaining in the Assessment Fund after \$2 of every \$7 of assessments deposited has been transferred to the Restitution Fund. Prior to the effective date of this legislation, Assessment Fund distributions were based on the same percentage allocations, but the percentages were applied to the Assessment Fund balance prior to any transfer to the Restitution Fund. Percentages in 1984-85 varied slightly.

^b Source: 1988-89 Governor's Budget.

^c The Local Public Prosecutors and Public Defenders Training Fund receives 0.90% of the funds distributed up to a maximum annual amount of \$850,000. Any balance in excess of \$850,000 is transferred to the Restitution Fund.

Section 76000 and 1465 Assessments. Sections 76000 of the Government Code and 1465 of the Penal Code allow specified counties to impose up to five separate penalty assessments in addition to the basic penalty assessment stipulated by Penal Code Section 1464. These additional penalty assessments range from 50 cents to \$2 for every \$10 in fine, or fraction thereof, and are imposed for the same offenses specified in Penal Code Section 1464.

Money collected from these assessments is deposited in special funds which generally are administered by the counties. The money

is used to finance county costs for courthouse and criminal justice facility construction, criminal justice facility transition planning, emergency medical services and automated fingerprint equipment. Table 2 details the code sections which authorize these assessments, the purpose of the assessments, and the rates at which the assessments are collected.

Appendix II provides more detailed descriptions of each of the state and local funds which receive revenues from penalty assessments. ♦

**Table 2
County Funds Which Receive Revenues From Penalty Assessments**

FUND NAME — DESCRIPTION	AUTHORIZING CODE SECTION	ASSESSMENT LEVEL PER \$10 OF FINE
COURTHOUSE CONSTRUCTION FUNDS		
Robbins Courthouse Construction Fund — Used for courthouse construction within specified areas of Los Angeles County	Government Code 76001 ^a	\$1
San Francisco Courthouse Temporary Construction Fund — Used by the City and County of San Francisco for the acquisition, rehabilitation, construction or financing of courtroom buildings.	Government Code 76002 ^a	\$1
Courthouse Temporary Construction Fund — For specified counties, used for the acquisition, rehabilitation, construction, and financing of courtroom buildings or, in certain counties, criminal justice automated information systems or juvenile justice rehabilitation facilities.	Government Code 76005 ^a	\$1
Courthouse Temporary Construction Fund — For specified counties, used to acquire, rehabilitate, construct or finance courtroom buildings.	Government Code 76006 ^b	\$1 or \$2
COUNTY CRIMINAL JUSTICE FACILITY TEMPORARY CONSTRUCTION FUND		
Used for construction, expansion, improvement, operation or maintenance of criminal justice and court facilities, and for improvement of criminal justice automated information systems.	Government Code 76004 ^b	\$1 or \$2
COUNTY AUTOMATED FINGERPRINT IDENTIFICATION FUND		
Used for the purchase, replacement, lease, operation and maintenance of automated fingerprint equipment.	Government Code 76009 ^a	\$0.50
COUNTY TRANSITION PLANNING TRUST FUND		
For Orange and Solano counties, used for county criminal justice facility transition planning.	Government Code 76008 ^a	\$1
EMERGENCY MEDICAL SERVICES FUND		
Used for specified emergency medical services.	Penal Code 1465	\$1
<p>^a Available only to specified counties.</p> <p>^b Most counties may collect \$1. Provisions of Ch 1082/87 which allowed specified counties to collect assessments for county construction funds at the \$2 rate were chaptered out in error by Ch 1239/87. At the time this report was prepared, legislation was being drafted to correct this technical error. Consequently, throughout this report we have assumed that the provisions of Chapter 1082 remain in effect.</p>		

Chapter II

Chapter II

Sources and Benefits of Penalty Assessments

In this chapter, we consider both the underlying offenses, or "sources," which generate penalty assessments and the nature of the programs which benefit from these assessments. After examining the relation-

ship which exists between these "sources and benefits" as SCR 53 requires, we address the question of how this relationship should be structured, and make a related recommendation.

The Underlying Sources of Penalty Assessment Revenue

This section briefly discusses the available data on the fines, penalties and forfeitures which generate penalty assessments, the limitations of these data for purposes of our study and, finally, the sources of penalty assessments that we have been able to identify.

Existing Data on Fine, Penalty and Forfeiture Collections. In accounting for penalty assessments and underlying fines, penalties and forfeitures, court clerks and, in turn, county auditors, maintain detailed records of payment. However, our review finds that the organization of these records is oriented towards ensuring that proceeds from fines, penalties and forfeitures are *distributed* into proper city, county, and state funds. Generally, court clerks do not record the amount of money collected for specific types of offenses.

In other words, a particular statute may specify that a fine imposed pursuant to that statute should be distributed to three different county funds. Court records likely would

reflect the amounts distributed to the three funds, but would not identify the dollars generated by the particular offense.

Given the multitude of offenses which specify how fine proceeds are to be distributed, the accounting task faced by court clerks is substantial. The task is further complicated by the fact that fine proceeds generally must be allocated among cities and counties, and these distributions may be altered on the basis of the jurisdiction in which the offense occurred and the classification (e.g., sheriff, police, highway patrol, etc.) of the law enforcement personnel involved.

Once compiled, county auditors annually submit to the State Controller the total amounts which the county, and cities within the county, collect for fines, penalties and forfeitures. However, in accordance with the Controller's instructions, this information is transmitted to the Controller in a highly summarized fashion. Table 3 summarizes the statewide data received by the Controller for the years 1983-84 through 1985-86.

Table 3
Statewide Fine, Penalty and Forfeiture Collections^a
1983-84 through 1985-86
(dollars in thousands)

	1983-84			1984-85			1985-86		
	Cities	Counties	Total	Cities	Counties	Total	Cities	Counties	Total
Vehicle Code	\$153,771	\$95,855	\$249,626	\$152,963	\$98,130	\$251,093	\$153,723	\$98,275	\$251,999
Other Court Fines	—	90,011	90,011	—	—	—	—	—	—
Forfeitures and Penalties	—	22,004	22,004	—	48,436	48,436	—	52,352	52,352
Superior Court	—	—	—	—	7,191	7,191	—	4,778	4,778
Justice Court	—	—	—	—	2,396	2,396	—	2,466	2,466
Municipal Court	—	—	—	—	62,860	62,860	—	66,627	66,627
Other Fines and Forfeitures	50,327	—	50,327	55,855	—	55,855	71,850	—	71,850
Totals	\$204,098	\$207,871	\$411,969	\$208,818	\$219,014	\$427,832	\$225,573	\$224,498	\$450,072
Percent of Total Annual Collections	49.5%	50.5%	100.0%	48.8%	51.2%	100.0%	50.1%	49.9%	100.0%

^a Source: State Controller. Detail may not add to totals due to rounding.

Limitations of the Data. While the information compiled by the Controller is the best available summary of fine, penalty and forfeiture funds collected statewide, it has significant limitations in its usefulness for this study. Besides the fact that the data reveal little about the nature of the offenses which generated the funds shown, the data also contain a substantial amount of collections which do *not* generate penalty assessments. For example, the data include probably in excess of \$100 million in collections from parking fines, and local assessment revenue for courthouse and criminal justice facility construction funds. State penalty assessments are not imposed on these fines and local assessments. As a result, it is not possible to estimate the percentage of penalty assessment revenues which are generated by the collection categories contained in Table 3 from the Controller's data alone.

In addition, our review of the Controller's data indicates that there are significant inconsistencies in the categories used by local entities to report collections. For example, we noted a significant amount of parking fine collections being reported incorrectly under Vehicle Code violations. Again, this type of

data error reduces the usefulness of the Controller's numbers for purposes of this report.

Accordingly, given the manner in which court clerks account for collections, and the restrictive nature of the State Controller's data regarding fine, penalty and forfeiture collections, it is difficult, if not impossible within the resource constraints of this study, to determine the exact nature of the offenses, or sources, which generate penalty assessments.

The Sources We Can Identify. Despite the restrictive nature of the collection data available, there are limited categories of sources of penalty assessment revenue which we can identify. Because certain categories of offenses generate data specific to those offenses, we can make rough estimates regarding the penalty assessment dollars associated with those offenses. Specifically, we can make approximations of the amount of penalty assessments generated by Vehicle Code violations, Fish and Game Code violations, and all other offenses combined.

Vehicle Code Violations. Fine, penalty and forfeiture collections for Vehicle Code viola-

tions generally are identifiable in records maintained by court clerks and county auditors. We reviewed available data from several counties and, based on that review, we estimate that approximately 70 to 80 percent of the fines, penalties and forfeitures which generate penalty assessments statewide represent Vehicle Code violations. Thus, roughly \$127 million in penalty assessments collected statewide during 1985-86 were related to Vehicle Code offenses. (Table 4 shows this amount and its allocation between state and local funds.)

Fish and Game Code Violations. Article 16, Section 9, of the State Constitution specifies that "money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto." Because of this constitutional requirement, the State Controller's Office, in conjunction with court clerks, maintains a record of the amount of penalty assessments generated by Fish and Game Code

violations. Based on a review of these records, we estimate that in 1985-86 Fish and Game Code violations generated approximately \$230,000 in penalty assessment revenues.

Other Violations. Penalty assessment revenue generated by "other violations" is simply the difference between the total amount of penalty assessments collected and the sum of penalty assessments attributed to the two categories above. Assessments on nonvehicle criminal fines, etc., account for the major portion of the "other" category.

Using the categories described above, Table 4 summarizes our estimates of the sources of penalty assessment revenue for 1985-86. We emphasize that the categorical allocations displayed are *estimates* which we believe are reasonable. The data available simply do not make it possible to make a precise allocation of penalty assessment revenue to the source categories noted.

Table 4
Summary of the Estimated Allocation of Penalty Assessment Revenues by Source
1985-86
(dollars in thousands)

Type of Offense	State Assessment Fund	County Funds ^a	Total Penalty Assessment Revenue
Vehicle	\$93,450	\$33,750	\$127,200
Fish and Game	170	60	230
Other	30,980	11,190	42,170
Totals	\$124,600	\$45,000	\$169,600

^a Includes estimates of revenues deposited in courthouse and criminal justice facility construction funds because other county funds which may receive revenues from penalty assessments were only recently established.

Distribution of Penalty Assessment Benefits

As discussed in Chapter I, penalty assessments support a wide variety of programs at the state and local level. Although it is difficult to categorize the "benefits" of penalty assessments, the Legislature has generally chosen to finance certain types of programs

with penalty assessment revenues. These programs can be broadly categorized as programs that train and support law enforcement, programs that provide assistance to victims of crime, and programs that are aimed at improving driver safety. Appendix

II provides a more detailed description of each of these programs.

Programs to Train and Support Law Enforcement. Programs designed to train and support the activities of law enforcement agencies are the primary beneficiaries of penalty assessments. The following training programs administered by the state are included in this category: peace officer, corrections, local public prosecutors and defenders, and fish and game. Local criminal justice programs benefiting from optional penalty assessments imposed by counties include the courthouse and criminal justice facilities temporary construction programs. The state programs in this category received \$47.2 million in 1985-86, while the local programs received approximately \$45 million.

Victims' Service Programs. The second major category of programs benefiting from penalty assessments are those that provide services to victims of crime. These programs

include the Board of Control's Citizens' Indemnification Program (funded by the Restitution Fund) and the Office of Criminal Justice Planning's Victim/Witness Assistance Program. These programs received approximately \$40.4 million in 1985-86.

Programs to Improve Driver Safety. The third major category of programs that benefit from penalty assessments are those designed to improve driver safety. The Driver Training Penalty Assessment Fund, which supports this program, received \$37 million in 1985-86, although only \$19.5 million was spent on the program in that year due to statutory limitations on the level of state reimbursement for local training costs. As discussed in more detail in Appendix II, these statutory reimbursement limitations have resulted in only about one-half of the funds available in the fund being appropriated for the program in recent years.

Comparison of Penalty Assessment Sources and Benefits

As demonstrated by the foregoing discussion, the identified categories of offenses which generate penalty assessments do not tie directly to the general categories of programs which benefit from penalty assessments. Thus, a direct comparison of penalty assessment dollars generated by particular categories of offenses to similar categories of program beneficiaries essentially is not possible.

It is possible, however, to make some general statements about the penalty assessment source-benefit relationship. As Table 4 shows, for example, violations of the Vehicle Code represent the major source of penalty assessment revenue. It is also clear that penalty assessments provide support for many different programs which have some link to violations of the Vehicle Code. The Driver

Training Penalty Assessment Fund, for example, which supports a program designed to improve driver training and prevent Vehicle Code violations, received more than \$37 million in 1985-86.

In addition, law enforcement training programs, such as those funded by the Peace Officer and Corrections Training Funds, have a link to the Vehicle Code, since peace officers frequently are required to deal with traffic violators and local corrections officers provide custody services for persons sent to jail for driving under the influence of alcohol or drugs. The Restitution Fund which provides benefits to victims of crime, has a more indirect link because it includes some (probably a minority of) cases which are vehicle-related offenses.

The "other category," which consists primarily of assessments on nonvehicle criminal fines, also has a link to law enforcement training and assistance to victims of crimes. Information, however, is not available which would enable us to make a more refined comparison between the types of offenses which produce the revenues and the uses of these funds.

In addition, we know that during 1985-86, approximately \$230,000 in penalty assessment revenues were generated by fish and game violations, while the Fish and Game Preservation Fund was allocated \$474,000 during this same period. These data indicate that fish and game programs have recently received a larger allocation of penalty assessment revenue than fish and game violations generate.

How Should the Source/Benefit Relationship for Penalty Assessments Be Structured?

Original Intent. Originally, legislative intent regarding the use of penalty assessments seemed to center on the concept of an "abuser fee," the idea that those individuals who break or abuse certain laws should help finance programs related to these violations. In this initial framework, it appears that assessments financed only programs which were related directly to the nature of the offense generating the assessment.

Specifically, the original penalty assessment of \$1 for every \$20 of fine was levied only on fines imposed for Vehicle Code offenses, and proceeds from this assessment were devoted entirely to financing driver education programs. In 1959, the Legislature appears to have used similar logic when it expanded the category of offenses subject to penalty assessments to include non-Vehicle Code criminal offenses. In this case, funds generated by assessments on non-Vehicle Code criminal offenses financed the programs of the Commission on Peace Officer Standards and Training.

More Recent Developments. However, over time, this relationship between the source of fines and benefiting programs has become blurred. Distinctions between which kinds of offenses generate penalty assessments generally are no longer tracked by local government officials or the State

Controller's Office, and the list of benefiting agencies has been expanded to include such programs as public prosecutor and public defender training, correctional officer training and rape crisis centers. Today, the intent of the Legislature appears to be that penalty assessment revenues should be allocated to law enforcement, victims' services, and driver training programs in general, regardless of the source which generated the assessment.

Problems with the Current Distribution of Penalty Assessments. Although penalty assessments are currently viewed as a general revenue generating mechanism, instead of a financing vehicle which charges specific violators to fund a specific program, a large part of this funding mechanism has retained a very specific allocation formula. *Revenues deposited in the state Assessment Fund are distributed to the special funds which support the programs strictly on the basis of a statutory formula, not an annual evaluation of program need.* The practice of distributing penalty assessment revenues according to statutory percentages has, in turn, created certain resource allocation problems or inefficiencies. These problems or inefficiencies are demonstrated by the various deficit and surplus conditions which arise in penalty assessment financed funds.

Examples of these surplus and deficit conditions can be seen by examining the recent status of the Corrections Training Fund and the Restitution Fund. In the past few years, the Corrections Training Fund received Assessment Fund allocations which exceeded annual program expenditures by a substantial portion. Between 1983-84 and 1985-86, on a cumulative basis, fund revenues exceeded program disbursements by approximately \$3.4 million, or 11 percent.

On the other hand, the Restitution Fund recently experienced significant program revenue shortfalls. As previously discussed, the Restitution Fund finances the Board of Control's Citizen Indemnification program. During legislative hearings on the 1987 Budget Bill, it was estimated that the Restitution Fund would experience a 1987-88 fiscal year deficit of \$11 million to \$16 million due to a projected 20 percent annual growth rate in victim claims. This resulted in the enactment of Chapters 1214 and 1232, Statutes of 1987, which increased the basic penalty assessment rate from \$5 to \$7 for every \$10 of fine, with the proceeds from the additional \$2 allocated directly to the Restitution Fund.

As these examples indicate, distribution of penalty assessment resources based strictly on statutory percentages can result in resource allocations which do not accurately reflect program needs. In turn, resource allocations which are not reflective of program need may restrict significantly the ability of a program to fulfill its legislative mandate.

Recommendation. In order to ensure that resources generated by penalty assessments are allocated on a basis consistent with program need, *we recommend that legislation be enacted to eliminate Penal Code Section 1464's percentage allocation requirements for penalty assessment revenues. Instead, we recommend that penalty assessment revenues be transferred to the General Fund for*

legislative allocation to programs on the basis of an annual review of program needs during the budget process. However, because of the constitutional requirement that revenue collected from fish and game violations be used only for fish and game activities, we recommend that assessments derived from this source be transmitted directly to the Fish and Game Preservation Fund, for allocation during the budget process.

The present system of maintaining penalty assessment revenues in a special fund dedicated for specific purposes limits the ability of the Legislature to oversee and set priorities for the expenditure of all state funds. Instead of funding programs based on need, the law provides that funds be distributed to programs based on the amount of penalty assessment revenues available within established statutory allocation formulas. In our judgment, revenue allocations from the General Fund that are based on annual reviews of program need would assist the Legislature in making efficient resource allocation decisions and ensure that fluctuations in penalty assessment revenues would not directly affect each program's expenditure level.

In addition, funding programs from the General Fund would provide further assurance that funding levels for individual programs reflect current legislative priorities by allowing the programs financed from penalty assessments to compete for funding with other state programs, such as education, health, and welfare.

Finally, the approach which we recommend for allocating penalty assessment revenues on the basis of program need rather than a statutory allocation formula is consistent with the trend toward using penalty assessments as a more general revenue generating mechanism instead of as a vehicle for financing specific programs. ♦

Chapter III

Chapter III

Alternate Sources of Funding

The penalty assessment concept has a number of commendable features. It generates a substantial amount of money—exceeding \$100 million annually in recent years. It is imposed on a limited group of citizens—the law violator—instead of the general taxpayer, and in that sense may be viewed as an “abuser fee.” Moreover, these revenues are not subject to the state’s appropriations limit (Article XIII B of the State Constitution) because they are considered “nontax” reve-

nues. Thus, they offer the Legislature greater fiscal flexibility than do general tax revenues.

However, as noted in Chapter II, we believe that the statutory formula for allocating these revenues has resulted in the distribution of funds in ways that do not always reflect program needs or legislative priorities. In this chapter we discuss some additional drawbacks and then, pursuant to the requirements of SCR 53, we discuss alternatives to the current financing system.

Problems with Penalty Assessment Financing

First, it has become very difficult to project the rate of growth in penalty assessment revenues in recent years. Revenues regularly have fallen short of the levels that would be expected, given the level of penalty assessments specified in statute and historical collection experience. For example, the Governor’s Budget projected that penalty assessment revenues would total \$135.1 million in 1986-87, while actual penalty assessments generated during that year totaled only \$119.1 million. A revenue shortfall of this magnitude—\$16 million, or 12 percent—can produce significant problems for programs financed entirely by penalty assessment funds. Furthermore, between 1985-86 and 1986-87, annual revenues generated for

the state Assessment Fund actually *decreased* by approximately \$5.5 million, or 4.4 percent.

There are a number of possible explanations for the recent unpredictability of penalty assessment revenues. Some suggest that this revenue source is approaching its maximum or peak revenue generating capacity. This would occur to the extent that judges compensate for assessment rate increases by reducing fines, so that the “total bill” (fine plus penalty assessment) for guilty parties remains constant. Others suggest that an increasing percentage of persons required by courts to pay fines and assessments are “working-off” their debt by spending time in county jail because of their inability or unwillingness to pay the fines and assessments.

Finally, some suggest that increased fines and assessments have resulted in an increased rate of default by guilty parties.

While the data needed to verify these explanations for revenue decreases do not appear to be available, if the suggestions are accurate there are a series of unintended consequences. First, to the extent that judges reduce base fines as penalty assessments increase, there could be a corresponding effect on the distribution of fine and penalty assessment revenue among city, county, and the state governments. This is because base fine revenues are distributed to cities and counties, whereas most penalty assessments go to

the state. For example, for a particular offense, a judge may wish to impose a "target" total fine and assessment of \$220. Table 5 demonstrates the effect on state and local fine revenues when the basic penalty assessment rate is increased from \$5 to \$7, and the target fine and assessment total is held constant at \$220. As the table shows, in order to achieve this result, the base fine has to be reduced by \$16 in order for the total fine and assessment to remain at \$220. The side effects are that local revenues are reduced by \$16 whereas state assessment revenues increase by an equal amount.

Table 5
Example of Local/State Revenue Transfer Resulting From Increasing Penalty Assessments While Holding Constant Total Payments from Convicted Parties

	Target Level of Fine and Assessment	Penalty Assessment Revenue To State	Local Fine Revenue
Penalty Assessment at \$5 for every \$10	\$220	\$75	\$145
Penalty Assessment at \$7 for every \$10	\$220	\$91	\$129
Revenue Gain/Loss		\$16	-\$16
Percent Gain/Loss		21.3%	-11.0%

Second, to the extent that persons elect to spend time in jail rather than pay a fine and assessment, local governments face particular problems because they not only lose fine revenue, but also must incur the costs of jailing the offenders. Furthermore, such a trend would exacerbate an already serious problem of overcrowding in local correctional facilities.

Finally, to the extent that higher penalty assessment rates lead to increased default rates, this would not only reduce the revenue collection rate, but could also have the more subtle effect of fostering disregard for the court system.

The difficulty of predicting penalty assessment revenue in general, and predicting the effect of specific increases in penalty assess-

ment rates on revenue collections in particular is further complicated by the previously cited Trial Court Funding Program, Ch 1211/87. A matter of potential concern is how counties electing to participate in this program will maintain their fine and forfeiture collection efforts, since these revenues will now be transferred to the state in exchange for block grants supporting the trial court system. Any change in the level of fines collected will impact net state costs for this program.

Another drawback of the current penalty assessment system—accounting for these revenues—emerges as the Legislature places increased reliance on penalty assessments as a way to finance various government programs. The imposition of new penalty assessments, particularly those which are devoted to specific county funds, further complicates

a court accounting system which is already burdensome in its complexity. The addition of other "special" penalty assessments to finance specific programs, such as the recently authorized 50 cent increase in assessment levels for county automated fingerprint identification activities, the \$1 increase for emergency medical services, and a \$1 increase for county criminal justice facility transition planning needs, only accentuates this burden.

Finally, as penalty assessment rates increase, the role of the court system becomes somewhat that of a tax collector. The Judicial Council has expressed concern with this trend, and is particularly concerned by the concept of imposing assessments which support court facilities (courthouse construction funds). The Judicial Council wishes to avoid creating the impression that judges may "personally" benefit from the imposition of any fine or assessment.

Alternative Revenue Sources for Program Funding

SCR 53 also asked us to explore "...other stable revenue sources from which various penalty assessment programs may be funded...." In carrying out this requirement, we attempted to identify viable new revenue sources which have: (1) a direct relationship to programs currently funded from penalty assessments, (2) the potential to produce sufficient funds to support these programs, and (3) the stability to be effective revenue sources over time. In our view, these three characteristics are necessary in order to have a substitute revenue source which is either equal or superior to the existing penalty assessment mechanism.

After a review of a number of alternative revenue sources, we found that we were unable to identify any new revenue sources that meet our criteria for a viable alternative to penalty assessment funding. While several

suggestions were made by members of our advisory panel, in essence they advocated a redirection of funds from other existing programs. That type of substitution, in our view, would not be a viable solution.

In Chapter II of this report, we recommended that all of these statutorily imposed penalty assessments (excluding those imposed on fish and game fines) be deposited directly into the state's General Fund, and that the existing percentage allocations to the various penalty assessment programs be abolished. If the Legislature adopts this recommendation, then it will have the flexibility to determine spending priorities among these various programs without being restricted by the arbitrary limits on the funding allocations to individual special funds.

Summary

As a financing tool, penalty assessments display both positive and negative characteristics. Penalty assessments generate significant annual revenues, but they are not levied on the general taxpayer. Furthermore, appropriations made from this source are not subject to the state's constitutional appropriations limit.

On the other hand, there is some evidence that the penalty assessment structure may be approaching its maximum revenue-generating potential. There is a possibility that further increases in the assessment rate could exacerbate problems of projecting penalty assessment revenues, result in an unintended transfer of revenues to the state that tradition-

ally have been available to local governments, lead to an increase in the already burgeoning county jail population, increase fine and assessment default rates, and further complicate court accounting records. In our judgment, these factors should be weighed carefully when considering any future increases in penalty assessments.

To the extent that the state continues to use penalty assessments as a mechanism for financing various state and local government programs, however, we recommend that

legislation be enacted to modify the current allocation system. Specifically, we recommend eliminating the current statutory allocation formula, and transferring the revenues instead to the General Fund for allocation to programs on the basis of an annual review of program needs through the budget process. In our view, this approach would assist the Legislature in making efficient resource allocation decisions and ensure that fluctuations in penalty assessment revenues do not directly affect program expenditure levels. ♦

Appendix I

**Appendix I
SCR 53 Advisory Committee Members**

NAME	TITLE/ORGANIZATION
Virgil Anderson	Manager Governmental Affairs California State Automobile Association
Steve Birdlebough	Attorney Judicial Council
Norman Boehm	Executive Director Commission on Peace Officer Standards and Training
John Dougherty	District Attorney Sacramento County
Kenneth J. Emanuels	Executive Director League of California Cities
Fred English	Supervisor Driver Education and Training, Los Angeles Unified School District
Al Flor	Clerk-Administrator Stockton Municipal Court
Richard Foreman	Assistant Sheriff Los Angeles County Sheriff's Department
Patty Giggins	Executive Director Los Angeles Commission on Assaults Against Women
Leonard Grimes	Assistant Director Department of General Services
Al Howenstein	Executive Director Office of Criminal Justice Planning
Norma Phillips Lammers	Executive Director Board of Corrections
Phil McGraw	Vice President Academy of Defensive Driving
Jack L. Skillicorn	Auditor-Controller Monterey County
Pat Valladao	Consultant Department of Education Driver Training

Appendix II

Appendix II

Programs Financed By Penalty Assessments

This section describes each of the programs which benefit from penalty assessment revenue, and details how the funds are used by the programs. As previously illustrated in Chart 1, penalty assessment revenue is distributed to seven different state funds which

support various state and local assistance programs. In addition, current law allows local governments the option to collect additional penalty assessment revenue to finance five specific local activities.

State Programs Funded With Penalty Assessment Revenue

Restitution Fund. In addition to the \$2 allocated directly to the Restitution Fund, the fund also receives 22.12 percent of the remaining penalty assessment revenue. The purpose of this fund is to finance the Citizens Indemnification program or "Victims of Crime" program, which is administered by the Board of Control. This program pays claims of citizens or their dependents who are injured or suffer financial hardship as a result of crimes of violence, or who sustain damage or injury while performing acts which benefit the public. The claims are heard by the board under the Victims of Crime Act and the Good Samaritan Act.

Penalty assessments generated \$26.6 million to the Restitution Fund in 1986-87 (the latest year in which actual data are available) and are expected to generate \$39.3 million in 1987-88. Contributions from penalty assessments account for 77 percent of the total \$34.6 million in revenue to the fund in 1986-87.

Other sources of revenue include penalties on felony convictions and civil and criminal law violation restitution assessments.

According to the Board of Control, the program provides reimbursement for out-of-pocket medical expenses, funeral and burial costs, wage or support losses, and rehabilitation services on behalf of individuals who sustain injury or death due to a crime. The program does not pay non-economic (or "pain and suffering") damages. Current law specifies that the maximum award under the program is \$46,000. The average award in 1986-87 was less than \$3,000.

Victim/Witness Assistance Fund. The Victim/Witness Assistance Fund receives 10 percent of penalty assessment revenues to support grant programs that provide assistance to local victim/witness assistance and rape crisis centers. The program is administered by the Office of Criminal Justice Planning (OCJP).

The Victim/Witness Assistance Fund received \$11.9 million in 1986-87 and is projected to receive \$12.9 million in 1987-88 from penalty assessments. Penalty assessments and the income from surplus money investments are the only sources of revenue to this fund.

Victim/witness assistance and rape crisis centers, which are located throughout the state, provide victims of crime with information on victim's rights, court procedures, and counseling. According to OCJP staff, grants from the fund provide nearly all of the state support for the victim/witness assistance centers and about 25 percent of the support for local rape crisis centers. Staff advise that some local governments provide matching funds or in-kind services to support the programs at the local level. Centers also accept private contributions from foundations and organizations, such as the United Way.

Driver Training Penalty Assessment Fund. The Driver Training Penalty Assessment Fund receives 29.73 percent of assessment revenue to support the driver training program. This program, administered by the State Department of Education (SDE), authorizes school districts to provide driver education through both a laboratory component (behind-the-wheel training) and a classroom component. Pursuant to the Education Code, districts offering the laboratory driver training component are reimbursed for their actual costs in the prior fiscal year, up to a maximum of \$80 per nonhandicapped pupil and \$247 per handicapped pupil. In addition, school districts receive reimbursement for the cost of replacing vehicles and simulators that are used exclusively in the laboratory phase of the program.

This fund received \$35.4 million from penalty assessments in 1986-87 and is expected to receive \$38.5 million in 1987-88. Penalty assessments are the only source of revenue to this fund.

According to SDE staff, approximately 99 percent of the state's high school districts participate in the program. Staff advise that new rules and regulations concerning program requirements and competency-based driver training programs that were adopted in September 1987 will increase the per pupil cost to approximately \$110 for nonhandicapped pupils. Consequently, any costs above the \$80 per pupil limitation may have to be absorbed by other apportionment funds available to school districts.

Because of the statutory reimbursement limitation, only about one-half of the funds available in the Driver Training Penalty Assessment Fund have been appropriated for the driver training program in recent years. Provisions in the annual Budget Act have required that the unencumbered balance of the fund be transferred to the General Fund surplus at the end of each year. For example, although the fund is projected to receive almost \$38.5 million in 1987-88, only \$20.1 million was appropriated for driver training in the 1987 Budget Act. The remaining balance will be transferred to the General Fund on June 30, 1988.

Peace Officers' Training Fund. The Peace Officers' Training Fund receives 27.75 percent of penalty assessment revenue. This fund provides total support for the activities of the Commission on Peace Officer Standards and Training (POST), which is responsible for raising the level of professional competence of local law enforcement agencies through establishing recruitment and training standards and providing management counseling. POST reimburses local law enforcement agencies for peace officer training costs, including per diem, travel, tuition, and participants' salaries.

Penalty assessment revenue generated \$33 million to the fund in 1986-87 and is projected to generate \$35.9 million in 1987-88. Penalty assessments will provide about 98 percent of

the \$33.8 million in revenues accruing to the fund in 1986-87. The remaining two percent in revenues includes revenue from surplus money investments, sale of documents, and miscellaneous services to the public.

Commission staff advise that available revenues cover about 100 percent of the costs of local peace officer training for per diem, travel, and tuition, and a portion of the participants' salaries. Local governments are responsible for paying all remaining costs. Although salary reimbursement rates have been budgeted at 40 to 60 percent since 1982-83, POST has been able to reimburse local governments at a higher rate because additional moneys have been available in the fund at the end of each fiscal year. The 1987 Budget Act provides that POST may reimburse local governments for 100 percent of participant salaries if sufficient revenues are received in the fund.

Corrections Training Fund. The Corrections Training Fund receives 9.12 percent of penalty assessment revenues to support the Board of Corrections' standards and training program. Under this program, the board establishes minimum standards for recruiting, selecting, and training local corrections and probation officers, and assists local governments through grants provided from the fund.

The Corrections Training Fund received \$10.9 million in 1986-87 and is projected to receive \$11.8 million in 1987-88. Penalty assessments are the sole revenue source for the fund.

Grants from the fund are made to local law enforcement agencies based on a formula that accounts for the number of local corrections and probation officers being trained and the level of training required under the Board of Corrections' minimum standards. According to board staff, local governments may use the money in a variety of ways, such as to support training staff in their own train-

ing units, pay tuition for training courses approved by the board, or substitute for staff in local jails who are being trained. Grants range from \$500 to \$750 per trainee. The board advises that actual costs to local governments for training vary widely, from \$1,450 to \$6,200 per trainee. The costs that are not financed under the program are borne totally by the counties.

Local Public Prosecutors and Public Defenders Training Fund. Under Penal Code Section 1464, the Local Public Prosecutors and Public Defenders Training Fund (LPPDPTF) receives 0.90 percent of penalty assessment revenues, up to \$850,000 annually. The remainder in excess of \$850,000 is transferred to the Restitution Fund. The LPPDPTF supports the public prosecutor and public defender legal training program, which provides statewide programs of education, training, and research for local prosecutors and public defenders. The program is administered by OCJP. Penalty assessments and income from surplus money investments are the only sources of revenue to this fund.

The OCJP staff advise that this is the only state training program available for local prosecutors and public defenders. Staff estimate that the program provides training for about 65 percent of eligible local personnel, and indicate that other training opportunities are provided by local governments and statewide prosecutor and public defender organizations.

Fish and Game Preservation Fund. The Fish and Game Preservation Fund, which was established for protection and propagation of fish and game in California, receives the smallest percentage of assessment revenue of the seven funds — 0.38 percent. Penal Code Section 1464 specifies that the funds derived from this assessment shall be used for the education or training of employees of the Department of Fish and Game.

Penalty assessment revenues provided

\$452,000 to the fund in 1986-87, and are projected to provide \$492,000 in 1987-88. This amount represents a small portion of the total revenues to the Fish and Game Preservation Fund. The fund received \$62 million from 15

different sources in 1986-87. Thus, penalty assessments account for less than one percent of the total revenues to the fund. The major source of revenue to the fund is fees from general fish and game licenses.

Local Programs That May Be Funded With Penalty Assessment Revenue at County Option

As indicated in Chapter I, current law allows local governments to collect additional penalty assessment revenues to support several other programs at the local level.

County Courthouse Temporary Construction Funds. Various sections of the Government Code allow counties to establish a Courthouse Temporary Construction Fund in order to acquire, rehabilitate, or construct courtrooms or other buildings necessary to operate the courts.

For those counties electing to establish such a fund, the current assessment is \$1 or \$2 for every \$10 of fine, or fraction thereof, collected by the courts. Counties authorized to collect an assessment at the \$2 rate (see discussion of Section 76000 assessments in Chapter I) also are authorized to levy a surcharge of \$1.50 on all fines for parking violations. For a parking violation filed in a county court, the counties deposit \$1.50 into their courthouse funds whether or not the court collects the fine and surcharge. For each parking violation not filed in a county court, the counties deposit \$1.50 into their courthouse funds after the fine and surcharge are collected by a city or other agency in the counties.

The most recent information available on the number of counties that collect this assessment is contained in a 1984 report by the Auditor General. According to that report, at that time 36 counties had established a Courthouse Temporary Construction Fund. Table

6 lists those counties and the revenue generated by both assessments and surcharges to the funds through May 1984.

Counties use a variety of sources to fund courthouse construction, including county general fund moneys and proceeds from the sale of bonds. In addition, Chapter 1211, Statutes of 1987, established a Trial Court Improvement Fund and provided that it receive a General Fund appropriation of \$20 million annually for court improvement projects at the local level. Chapter 1211 specified that up to \$10 million of the annual appropriation could be used for construction of local court facilities.

County Criminal Justice Facility Temporary Construction Funds. Current law also allows counties to establish a County Criminal Justice Facility Temporary Construction Fund for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice or court facilities and for improvement of criminal justice automated information systems. The law permits San Bernardino County to use the fund for juvenile justice rehabilitation facilities as well. Criminal justice facilities include jails, detention facilities, juvenile halls, and courts.

For counties making the election, the amount of assessment on fines for criminal offenses is the same as the assessment for the courthouse fund: \$1 or \$2 for every \$10 of fine

Table 6
Courthouse Temporary Construction Funds
Summary of Revenues, Expenditures, and Fund Balances (Unaudited)
January 1, 1982 through May 31, 1984

COUNTY	REVENUES	EXPENDITURES	FUND BALANCES
Alameda ^a	\$273,531	--	\$273,531
Amador	3,567	--	3,567
Butte	9,905	--	9,905
Calaveras	2,772	--	2,772
Contra Costa	140,528	\$15,171	125,357
Fresno	45,394	15,881	29,513
Humboldt	20,666	--	20,666
Kern	131,407	--	131,407
Kings	23,604	--	23,604
Lake	5,161	--	5,161
Los Angeles ^a	33,432,000	8,820,000	24,612,000
Marin	83,969	--	83,969
Mariposa	846	--	846
Mono	5,732	--	5,732
Monterey	61,491	--	61,491
Napa	5	--	5
Nevada	1,859	--	1,859
Orange	404,825	--	404,825
Placer	16,245	--	16,245
Riverside	186,320	--	186,320
Sacramento	95,999	--	95,999
San Bernadino	115,712	--	115,712
San Diego	241,325	7,500	233,825
San Francisco	427,362	--	427,362
San Joaquin	6,433	--	6,433
Santa Barbara	90,624	--	90,624
Santa Clara	49,482	--	49,482
Shasta	13,906	--	13,906
Siskiyou	31	--	31
Solano	33,384	--	33,384
Sonoma	20,308	--	20,308
Stanislaus	44,459	--	44,459
Trinity	1,184	--	1,184
Tulare	76,022	--	76,022
Yolo	1,750	--	1,750
Yuba	6,502	--	6,502
Totals	\$36,074,310	\$8,858,552	\$27,215,758

^a Source: Auditor General, A Review of County Construction Funds for Courthouses and Criminal Justice Facilities, 1984. According to the Auditor General, these counties' revenues and fund balances may be slightly overstated because they deposited into their courthouse funds and criminal justice funds money that should have been remitted to the state.

or fraction thereof, collected by the courts. Counties that establish both funds can collect a separate assessment for each fund. The amount deposited into the fund for parking violations differs slightly: \$1 for each parking violation filed in a county court and \$1.50 for each surcharge collected by a city or other agency in the county. Counties that establish both funds can collect a separate surcharge for each fund.

The most recent information available on the number of counties that collect this assessment is contained in the same 1984 Auditor General's report mentioned above. According to that report, at that time 54 counties had established a County Criminal Justice Facility Temporary Construction Fund. Table 7 lists those counties and the revenue generated by both assessments and surcharges to the funds through May 1984.

Unlike the situation with respect to courthouse construction, the state has provided counties with sizeable sums of money in recent years for construction of local criminal justice facilities. Since 1985, the state has provided more than \$1 billion to counties from three state bond measures and a General Fund appropriation for jail design and construction. In addition, one of the bond measures set aside \$20 million for design and construction of local juvenile facilities.

The bond measures generally provide that the state pay for 75 percent of the costs of constructing new facilities with a 25 percent match from counties. Local governments use a variety of sources, including general county revenues and county bond funds, to support the 25 percent requirement and the costs that are not covered by the bond measures. The Board of Corrections, which administers the state bond funds, advises that penalty assessment revenue collected in County Criminal Justice Facility Temporary Construction Funds may also be used to meet the match requirement.

County Automated Fingerprint Identification Fund. Chapter 1239, Statutes of 1987, allows counties to establish County Automated Fingerprint Identification Funds for the purchase, lease, operation (including personnel and related costs), and maintenance of automated fingerprint equipment and the replacement of existing automated fingerprint equipment. Counties that establish the fund may collect an additional penalty assessment of 50 cents for each \$10 fine or fraction thereof, to generate revenues for this fund.

Because the legislation authorizing counties to create these funds did not take effect until January 1, 1988, it is not known how many counties will choose to establish these funds.

The Legislature also has provided direct funding to local governments for the purchase of automated fingerprint equipment. Specifically, Ch 1234/85 appropriated \$7 million and the 1986 Budget Act appropriated an additional \$5.5 million for local agencies to purchase equipment needed to access the Department of Justice's California Identification System (CAL-ID). Local governments also use their own funds for this purpose.

Emergency Medical Services Fund. Chapter 1240, Statutes of 1987, allows counties to establish Emergency Medical Service Funds. Chapter 1240 requires two-thirds of the money in each fund to be used to reimburse physicians for a percentage of the losses they incur in providing emergency medical services. One-third of the money in each fund is to be used for other emergency medical services as determined by the county. Counties that establish the fund may collect an additional penalty assessment of \$1 for each \$10 in fine, or fraction thereof, to generate revenues for this fund.

Table 7
County Criminal Justice Facility Temporary Construction Fund
Summary of Revenues, Expenditures, and Fund Balances (Unaudited)
January 1, 1982 through May 31, 1984

COUNTY	REVENUES	EXPENDITURES	FUND BALANCES
Alameda ^a	\$4,070,635	\$2,493,816	\$1,576,819
Alpine	3,111	--	3,111
Amador	44,609	22,352	22,257
Butte	119,171	60,000	59,171
Calaveras	39,951	5,447	34,504
Colusa	73,792	10,937	62,855
Contra Costa	1,376,871	888,462	488,409
Del Norte	24,658	15,810	8,848
El Dorado	230,580	--	230,580
Fresno	1,002,825	522,144	480,681
Glenn	74,606	--	74,606
Humboldt	285,802	44,849	240,953
Imperial	291,288	8,590	282,698
Inyo	64,070	--	64,070
Kern	1,379,794	995,947	383,847
Kings	170,132	--	170,132
Lake	71,736	68,869	2,867
Los Angeles ^a	24,060,000	8,660,000	15,400,000
Madera	159,644	--	159,644
Marin	890,149	368,848	521,301
Mariposa	10,023	--	10,023
Mendocino	134,878	14,891	119,987
Merced	199,344	--	199,344
Mono	40,358	--	40,358
Monterey	1,297,651	630,000	667,651
Napa	104,248	--	104,248
Nevada	279,759	1,877	277,882
Orange	6,837,634	207,537	6,630,097
Placer	288,127	42,642	245,485
Plumas	24,496	--	24,496
Riverside	1,858,846	417,705	1,441,141
Sacramento	1,867,533	1,735,865	131,668
San Bernadino	1,701,304	--	1,701,304
San Diego	4,697,412	2,028,674	2,668,738
San Joaquin	707,506	--	707,506
San Luis Obispo	290,719	--	290,719
San Mateo	2,213,407	2,502,033	-288,626
Santa Barbara	795,112	249,310	545,802
Santa Clara	3,492,046	3,137,396	354,650
Santa Cruz	739,169	185,017	554,152
Shasta	222,927	219,300	3,627
Sierra	8,760	2,140	6,620
Siskiyou	118,221	--	118,221
Solano	546,264	350,873	195,391
Sonoma	128,227	--	128,227
Stanislaus	234,643	5,220	229,423
Sutter	40,445	12,447	27,998
Tehama	127,077	20,000	107,077
Trinity	12,612	--	12,612
Tulare	574,329	116,406	457,923
Tuolumne	23,369	--	23,369
Ventura	858,926	--	858,926
Yolo	44,977	17,030	27,947
Yuba	35,247	20,000	15,247
Totals	\$64,989,020	\$26,082,434	\$39,195,212

^a Source: Auditor General, A Review of County Construction Funds for Courthouses and Criminal Justice Facilities, 1984. According to the Auditor General, these counties' revenues and fund balances may be slightly overstated because they deposited into their courthouse funds and criminal justice funds money that should have been remitted to the state.

Because the legislation authorizing counties to create these funds did not take effect until January 1, 1988, it is not known how many counties will choose to establish funds.

County Transition Planning Trust Fund. Chapter 300, Statutes of 1987, allows Solano and Orange counties to establish Transition Planning Trust Funds to finance county

criminal justice facility transition planning needs. In Solano and Orange counties, the fund may collect an additional penalty assessment of \$1 for each \$10 in fine, or fraction thereof, to generate revenues.

Although this legislation took effect in July 1987, no data were available on these funds at the time this report was prepared. ♦