

## WHERE THE MONEY GOES

### **Who gets the money Superior Court collects on fines and forfeitures?**

What happens to money received by a California court for traffic tickets? Three factors decide the ultimate distribution and destination of money collected by courts on fines and bail forfeitures:

1. the law enforcement agency issuing the citation:
2. the location of the violation, and:
3. the nature of the violation, such as Vehicle Code, Health and Safety Code, Penal Code, or Fish and Game Code.

While outside the scope of this article, some violations have “special” distributions. The intent here is to discuss only the most common distribution for most Kern County fines. This discussion is focused on County distributions only.

### **The law enforcement agency “City” or “County” Arrest**

The first determining factor when distributing a fine is whether the arrest is a “city” or “county” arrest. Generally if a county officer issues the citation, the fine is paid to the county. Likewise, if a city officer issues the citation, the fine is paid to the city employing the officer. If a California Highway Patrol (CHP) officer issues the citation, the location of the violation determines the distribution of the fine.

### **City/County Arrest– Defined**

If an officer who makes the arrest is employed by the city, it is a “city arrest.” It is also a “city arrest” if a CHP officer makes an arrest in a city, or when the sheriff makes an arrest in a city which contracts with the county for police services. Arrests made by deputy sheriffs in non-contract cities, or in the unincorporated parts of Kern County, are considered “county arrests.”

### **Violation Code**

The nature of the violation is another factor that determines the destination of the part of the payment that is the “fine.” Generally, fines for violations of the Vehicle Code go to motor vehicle/safety related accounts. Money collected for fines and forfeitures for other violations go mostly to “general” funds. Revenues deposited in motor vehicle accounts can be spent for traffic safety efforts.

### **Penalty Assessments**

A “penalty assessment” is added to each fine. By statute, California created the first penalty assessment in the late 1960’s. Over the years, the penalty assessment has increased to the point that it is now larger than the fine. Today, the penalty assessment in

Kern County averages more than 260% of the base fine. The penalty assessment is \$26 for each \$10 (or portion of \$10) fine. Therefore, for example, when a judge imposes a fine of \$100, the court must collect \$100 plus ten increments of the \$26 penalty assessment (\$260) for a total of \$360.

In Kern County, the \$26 penalty assessment is made up of five main sections, the \$10 state penalty (Penal Code 1464), the \$7 county penalty (Government Code 76000), the \$5 state court facilities penalty (Government Code 70372(a)), the 20% state surcharge (Penal Code 1465.7), and the \$2 penalty levied by the DNA Fingerprint, Unsolved Crime and Innocence Protection Act (GC 76104.6 and GC 76104.7).

### **Other Fees/Assessments**

Special fees are assessed in Vehicle Code violations as follows: Courts that conduct night court sessions collect an additional \$1 fee to Vehicle Code violations to help defray the added cost of providing night court sessions (Vehicle Code 42006). A \$10 “drivers license priors” fee (Vehicle Code 40508.6A) is collected on all vehicle code violations when there are prior vehicle code violations, to help defray the cost of recording and maintaining a record of the defendant’s prior convictions. Additionally, a \$30 court security fee is imposed on every conviction for a criminal offense, including traffic offenses (Penal Code 1465.8). A \$35 criminal conviction assessment is also added for every infraction and a \$30 criminal conviction assessment is added for every misdemeanor and felony (GC 70373).

All combined, Kern County Courts collect \$426 for a \$100 fine on a vehicle code infraction with no prior convictions.

### **In Summary:**

When the court imposes a \$100 base fine for a city arrest of a violation in the vehicle code, the court may collect a total of \$426: \$100 is allocated between the city and the county in accordance with Section 1463.002 of the Penal Code; \$260 to the various penalty assessments and fees as described above, \$30 to the state court security fund, \$35 to the criminal conviction assessment for infractions, and the final \$1 goes to the night court assessment. If there is a prior vehicle code violation, an additional \$10 penalty assessable base fine is added, as well as a \$10 administrative fee .

The minimum base fine per statute for a driving under the influence (DUI) conviction in California is \$390. After adding the penalty and special assessments (alcohol abuse program fee (Penal Code 1463.25), a restitution fee (Penal Code 1202.4), a court security fee (Penal Code 1465.8)), and a criminal conviction assessment (GC 70373), a person must pay \$1,614. The total is calculated as follows: Since there are 39 \$10 increments in \$390, penalty assessment is calculated at  $39 \times \$26 = \$1,014$ . The \$390 base fine, plus \$1,014 penalty assessment, \$50 alcohol abuse program fee, \$100 restitution fee, \$30 court security fee, and \$30 criminal conviction assessment come to a total of \$1,614.

This \$1,614 is the minimum DUI fine including penalty and special assessments for first-time offenders.

### **Allocation (Distribution) of Money Paid**

Actual distribution is more complicated than described so far. There are several layers of information that have to be considered when deciding who gets what. Determining whether an arrest is a city arrest or a county arrest is only the first step. Section 1463.002 of the California Penal Code sets the “base fine” distribution for California counties. One looks here to find the share of county or city arrest fines. The county share of city fines in Kern County is an average of approximately 15 percent. Each county has a different percentage for the county share of city fines. The discussion here is limited to Kern County. Details are different for other counties but the general construct is good for all California counties. Many “special” distributions represent exceptions to “standard” allocations discussed in this article. For example, there are special allocations for litter violations and drug related violations. For purposes of clarity (and brevity) we will mention exceptions only in passing.

### **Penalty Assessment Distribution**

The State of California mandates that courts collect penalty assessments in addition to every fine. If the court imposes fines on more than one violation on a case, the penalty assessment is calculated on the total of all fines on the case.

### **The \$10 State Penalty Assessment**

The State of California allocates 70% of the State penalty to the State Penalty Fund. The remaining 30% is deposited in the County General Fund to assist the County in their maintenance of effort contribution to the state for trial court operations. The State of California distributes the 70% allocation to several California programs or agencies. The following chart displays the distribution of the 70% allocated to the State Penalty Fund.

<b>FUND – 70% of State Penalty – Split</b>	<b>Percentage</b>
Restitution Fund	32.02%
Peace Officers’ Training	23.99%
Driver Training Penalty Assessment	25.70%
Corrections Training Fund	7.88%
Fish & Game Preservation Fund	0.33%
Local Public Prosecutors and Public Defenders Training Fund	0.78%
Victim – Witness Assistance Fund	8.64%
Traumatic Brain Injury Fund	0.66%
<b>Total State Penalty Distribution</b>	<b>100.00%</b>

## **The \$7 County Penalty Assessment**

The \$7 County Penalty Assessment is distributed in accordance with Section 76100 of the Government Code and is used to fund the criminal justice automated system, the automated fingerprint fund, and the emergency medical system fund.

## **Conclusions**

California, as part of its State Funding of trial court efforts, made important changes in January 1, 1998. Seventy-five (75) percent of county revenue, resulting from fines and forfeitures, is retained in the County General Fund to subsidize County obligations for trial court funding as mandated by Assembly Bill 233, the Trial Court Funding Act of 1997. In addition, before any distributions are made, two percent of all monies collected for fines and penalty assessments (including bail forfeitures) is allocated to the State's Trial Court Improvement Fund. Kern County's base fine distribution for a county arrest is as follows: 98% to the county and 2% to the State Trial Court Improvement Fund. Kern County's city distribution allocates approximately 83.3% to the cities, 14.7% to the county and 2% to the State Trial Court Improvement Fund.

California State Courts assess, collect and distribute legislatively mandated fines, fees and assessments for law enforcement and criminal justice related agencies and related programs.