

Administration

CHAPTER V

ADMINISTRATION

A. ALLOCATION AND PRORATION

Code of Criminal Procedure, Article 103.0031 (*see Appendix – page 14*) provides that a county's governing body may enter into a contract with a private attorney or a public or private vendor for the provision of collection services for:

- (1) debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds (excluding commercial bail bonds), and restitution ordered paid by a court serving the county; or
- (2) amounts in cases in which the accused has failed to appear:
 - (A) as promised under Subchapter A, Chapter 543, Transportation Code, or other law;
 - (B) in compliance with a lawful written notice to appear issued under Article 14.06(b) or other law;
 - (C) in compliance with a lawful summons issued under Article 15.03(b) or other law; or
 - (D) in compliance with a lawful order of a court serving the county.

The county's governing body may authorize the addition of a collection fee in the amount of 30 percent on each of the items described in (1) and (2) above that is more than 60 days past due, and that has been referred for collection. However, the fee does not apply to a case that has been dismissed or to any amount that has been satisfied through jail credit or community service.

An item is considered more than 60 days past due if it remains unpaid on the 61st day after the following:

- with respect to items in (1) above, the date on which the debt, fine, fee, forfeited bond, or court cost must be paid in full as determined by the court; or
- with respect to items in (2) above, the date by which the accused promised to appear or was notified, summoned, or ordered to appear.

For cases described in (2) above, the 30 percent collection fee applies to:

- the amount to be paid that is communicated to the accused as acceptable to the court under its standard policy for resolution of the case, if the accused voluntarily agrees to pay that amount; or
- the amount ordered paid by the court after plea or trial.

If the court of original jurisdiction determines the defendant is indigent, has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs, then the defendant is not liable for the collection fee.

If a person pays an amount that is less than the aggregate total owed, the allocation to the comptroller, the county, and the private attorney or vendor is reduced proportionately.

The revisions made to Article 103.0031 by the 78th Legislature, Regular Session, in Senate Bill 782 were effective June 18, 2003. That bill provides that a county may enter into a contract for collection services for debts incurred as a result of offenses committed before June 18, 2003, but that the collection fee does not apply to those offenses.

Allocation and proration of court costs, fees, and fines collected by a private attorney or public or private vendor under a contract authorized by Code of Criminal Procedure, Article 103.0031, will be handled differently from the allocation and proration of all other collections of court costs, fees, and fines.

1. Amounts Collected in General (Not Under an Article 103.0031 Contract by a Private Attorney or Public or Private Vendor)

When the full amount of court costs, fees, and fine is paid at one time, allocating the payment among the various costs, fees, and fine is pretty straightforward. However, allocation can become more difficult when multiple payments are made on the same case. Counties must ensure that state court costs and fees are reported and remitted properly. To do so, they must follow the *Allocation Rule*.

a. Allocation Rule

Allocate amounts to court costs and fees first (both state and local) and then to fines (*see Attorney General Opinion GA-147, 2004*). That opinion provides in part:

... allocate monies received from a defendant first to pay costs and then to pay a fine. If the monies received do not cover all of the costs, then the monies must be allocated to costs on a pro rata basis.

The Time Payment Fee is treated like other court costs and fees when allocating and prorating. When the full amount owed by a defendant is not received, the Time Payment Fee takes precedence over fines and shares pro rata with other costs and fees.

b. Reporting and Remitting

State court costs and fees are reported and remitted on a calendar quarter basis (*see page V-12*). If the full amount of costs and fees is paid at one time, reporting and remitting is fairly simple. They are reported and remitted on the report covering the calendar quarter during which they were collected. For example, court costs and fees collected in March would be reported on the first quarter report covering January through March.

Multiple payments present more of a challenge. Assuming total court costs and fees (excluding the Time Payment Fee) for a case are \$204.00 and the fine is \$500.00, consider two examples. In example one, \$105.00 is received in February and \$105.00 is received in

March. Since the amount received is enough to cover all the court costs and fees (and even part of the fine), the state court costs and fees would be reported on the first quarter report covering January through March.

In example two, \$105.00 is received in March and \$105.00 is received in April. In this example, the state's share of the \$105.00 received in March would be reported on the first quarter report covering January through March and the state's share of the \$105.00 received in April would be reported on the second quarter report covering April through June.

c. Common Mistakes

Some counties make mistakes that result in underpayments to the state, while others make mistakes that result in overpayments. Keep in mind that underpayments (whether intentional or not), once detected, generally result in loss of the county's administrative fee (which is 10 percent for most costs and fees).

Four common mistakes made by counties in allocating and prorating court costs and fees are:

- 1) allocating payments to the fine first and then to court costs and fees;
- 2) allocating payments to state court costs and fees first, local court costs and fees second, and then to the fine;
- 3) allocating payments pro rata among court costs, fees, and the fine; and
- 4) not remitting timely (frequently as the result of holding payments until the full amount of the court costs, fees, and fine is paid before reporting and remitting state court costs and fees).

However, allocating payments by method 1), 2), or 3) above would be okay in a community supervision case if so ordered by the judge. See Attorney General Opinion DM-407, 1996.

For those counties that accept installment payments, one way to minimize the number of mistakes is to require that the first payment at least cover all court costs and fees. This makes it easy to know for which reporting period to report the costs/fees and prevents payments from having to be prorated.

d. Examples

Assume the defendant was convicted of a Class A misdemeanor, and judgment was entered on May 10. The offense occurred in 2006. The amount owed is:

- \$600.00 if the full amount is paid within 30 days after the date the judgment is entered (\$189.00 court costs and fees and \$411.00 fine)
- \$625.00 if any part is paid on or after the 31st day after the date the judgment is entered (\$214.00 court costs and fees, which includes the \$25.00 time payment fee, and \$411.00 fine)

Example 1 – Full Amount Paid in a Lump Sum – Upon Sentencing

Defendant pays the full amount of the court costs, fees, and fine, on May 10.

Allocation: \$189.00 to court costs and fees, \$411.00 to fine.

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Example 2 – Full Amount Paid in a Lump Sum – At a Later Date

Defendant pays the full amount of the court costs, fees, and fine within 30 days, on June 8.

Allocation: \$189.00 to court costs and fees; \$411.00 to fine.

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Example 3 – Full Amount Paid in Installments (All in the Same Quarter)

Defendant pays the full amount of the court costs, fees, and fine in two installments, \$312.50 on May 20 and \$312.50 on June 20. Since part of what is owed is paid on or after the 31st day after the date the judgment is entered, the \$25.00 Time Payment Fee is added.

Allocation:

May 20: \$312.50 received (\$189.00 applied to court costs and fees; \$123.50 applied to the fine).

June 20: \$312.50 received (\$25.00 applied to court costs and fees; \$287.50 applied to fine).

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Example 4 – Full Amount Paid in Installments (In Different Quarters)

Defendant pays the full amount of the court costs, fees, and fine in five \$125.00 installments, on the tenth of each month, beginning June 10. Since part of what is owed is paid on or after the 31st day after the date the judgment is entered, the \$25.00 Time Payment Fee is added.

Allocation:

- June 10: \$125.00 received (\$125.00 applied to court costs and fees; \$0.00 applied to fine).
- July 10: \$125.00 received (\$89.00 applied to court costs and fees; \$36.00 applied to fine).
- August 10: \$125.00 received (applied to fine).
- September 10: \$125.00 received (applied to fine).
- October 10: \$125.00 received (applied to fine).

Reporting and Remitting: The part paid in June is reported on the second quarter report covering the period April through June and the part paid in July is reported on the third quarter report covering the period July through September

STATE CRIMINAL COSTS AND FEES – COUNTY QUARTERLY REPORT
FOR THE **SECOND QUARTER** – APRIL THROUGH JUNE

amount collected = percentage to apply
total costs/fees to each cost/fee

<u>125.00</u>	=	58.41% to each	
214.00		cost/fee	
58.41%	x	83.00 CCC	= 48.48
58.41%	x	4.00 JRF	= 2.34
58.41%	x	4.00 JSF	= 2.34
58.41%	x	5.00 AF	= 2.92
58.41%	x	40.00 CF	= 23.36
58.41%	x	25.00 RMP	= 14.60
58.41%	x	25.00 FSP	= 14.60
58.41%	x	3.00 CHS	= 1.75
58.41%	x	25.00 TPF	= 14.61
<u>58.41%</u>	x	<u>214.00</u>	<u>= 125.00</u>

STATE CRIMINAL COSTS AND FEES – COUNTY QUARTERLY REPORT
FOR THE **THIRD QUARTER** – JULY THROUGH SEPTEMBER

Simply take the total amount for each fee and subtract the amount previously reported as follows:

CCC	(83.00 – 48.48)	=	34.52
JRF	(4.00 – 2.34)	=	1.66
JSF	(4.00 – 2.34)	=	1.66
AF	(5.00 – 2.92)	=	2.08
CF	(40.00 – 23.36)	=	16.64
RMP	(25.00 – 14.60)	=	10.40
FSP	(25.00 – 14.60)	=	10.40
CHS	(3.00 – 1.75)	=	1.25
TPF	(25.00 – 14.61)	=	10.39
<u>Total</u>	<u>(214.00 – 125.00)</u>	=	<u>89.00</u>

Example 5 – Full Amount Not Paid – One Payment Made (Costs and Fees Satisfied)

The only payment ever made by the defendant is \$200.00 on May 10. Since no part of what is owed is paid on or after the 31st day after the date the judgment is entered, the Time Payment Fee is not added.

Allocation: \$189.00 to court costs and fees; \$11.00 to fine.

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Example 6 – Full Amount Not Paid – One Payment Made (Costs and Fees Not Satisfied)

The only payment ever made by the defendant is \$50.00 on May 10. Since no part of what is owed is paid on or after the 31st day after the date the judgment is entered, the Time Payment Fee is not added.

Allocation: \$50.00 to court costs and fees; \$0.00 to fine.

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Proration: Since the full amount of court costs and fees was not collected, prorate the \$50.00 among all the court costs and fees using the following formula:

$$\frac{\text{amount collected}}{\text{total costs/fees}} = \text{percentage to apply to each cost/fee}$$

$$\frac{50.00}{189.00} = 26.455\% \text{ to each cost/fee}$$

26.455%	x	83.00 CCC	=	21.96
26.455%	x	4.00 JRF	=	1.06
26.455%	x	4.00 JSF	=	1.06
26.455%	x	5.00 AF	=	1.32
26.455%	x	40.00 CF	=	10.58
26.455%	x	25.00 RMP	=	6.61
26.455%	x	25.00 FSP	=	6.61
26.455%	x	3.00 CHS	=	.80
<u>26.455%</u>	<u>x</u>	<u>189.00</u>	<u>=</u>	<u>50.00</u>

Example 7 – Full Amount Not Paid – Multiple Payments Made (Costs and Fees Satisfied)

Defendant makes two installments, \$200.00 on May 15 and \$200.00 on June 15. Since part of what is owed is paid on or after the 31st day after the date the judgment is entered, the \$25.00 Time Payment Fee is added.

Allocation:

May 15: \$200.00 received (\$189.00 applied to court costs and fees; \$11.00 applied to fine).

June 15: \$200.00 received (\$25.00 applied to court costs and fees; \$175.00 applied to fine).

Reporting and Remitting: State court costs and fees are reported on the second quarter report covering the period April through June.

Example 8 – Full Amount Not Paid – Multiple Payments Made (Costs and Fees Not Satisfied)

Defendant makes two installments, \$75.00 on July 15 and \$75.00 on August 15. Since part of what is owed is paid on or after the 31st day after the date the judgment is entered, the \$25.00 Time Payment Fee is added.

Allocation:

July 15: \$75.00 received (\$75.00 applied to court costs and fees; \$0.00 to fine).

Aug. 15: \$75.00 received (\$75.00 applied to court costs and fees; \$0.00 to fine).

Reporting and Remitting: State court costs and fees are reported on the third quarter report covering the period July through September.

Proration: Since the full amount of court costs and fees was not collected, prorate the \$150.00 among all the court costs and fees using the following formula:

<u>amount collected</u>	=	percentage to apply
total costs/fees		to each cost/fee
<u>150.00</u>	=	70.09% to each
214.00		cost/fee
70.09%	x	83.00 CCC = 58.17
70.09%	x	4.00 JRF = 2.80
70.09%	x	4.00 JSF = 2.80
70.09%	x	5.00 AF = 3.50
70.09%	x	40.00 CF = 28.04
70.09%	x	25.00 RMP = 17.53
70.09%	x	25.00 FSP = 17.53
70.09%	x	3.00 CHS = 2.10
70.09%	x	25.00 TPF = 17.53
<u>70.09%</u>	<u>x</u>	<u>214.00 = 150.00</u>

Example 9 – Part Paid and Part Satisfied by Jail Time Credit

Defendant receives \$300.00 jail time credit and pays \$300.00 on May 15.

Allocation: \$189.00 to court costs and fees; \$111.00 to fine.

Reporting and Remitting: State court costs and fees are reported on the second quarter report, covering the period April through June.

Example 10 – Full Amount Satisfied by Community Service

Defendant receives \$600.00 credit for six days community service at \$100.00 a day.

Allocation: \$0.00 to court costs and fees; \$0.00 to fine.

Reporting and Remitting: Not applicable – nothing to report.

2. Amounts Collected Under an Article 103.0031 Collection Contract by a Private Attorney or Private Vendor

As indicated previously, allocation and proration of amounts collected by a private attorney or private vendor under a contract authorized by Code of Criminal Procedure, Article 103.0031, should be handled differently from the allocation and proration of other collections.

a. Allocation Requirement

If a person pays an amount that is less than the aggregate total owed (including the collection fee), allocations are reduced. The private attorney or vendor receives a proportionate share, and the comptroller and the county receive a proportionate share. Court costs and fees are satisfied first from the comptroller's and county's proportionate share.

b. Examples

Assume the defendant was convicted of a Class A misdemeanor. The commissioners court has entered into a contract with a private vendor in which the collection rate is 30 percent and the amount owed is over 60 days past due. The total amount owed by the defendant is:

Court costs and fees:	
- consolidated court cost	\$83.00
- jury reimbursement fee	4.00
- judicial support fee	4.00
- arrest fee	5.00
- warrant fee	50.00
- clerk's fee	40.00
- records management and preservation fee	25.00
- fee for services of prosecutor	25.00
- courthouse security	3.00
- time payment fee	<u>25.00</u>
Court costs and fees	264.00
Fine	<u>411.00</u>
Subtotal	675.00
Collection fee (\$675.00 x 30%)	<u>202.50</u>
Total	<u>\$877.50</u>

Example 1: A total of \$600.00 is received by the county.

Since the full amount of court costs and fees, fine, and collection fee was not received, first determine the amount to allocate to the collection fee, as follows:

$$\frac{\text{amount collected}}{\text{total amount due}} = \text{percentage to apply to the collection fee}$$

$$\frac{600.00}{877.50} = 68.376\%$$

Amount allocated to the collection fee:	
Total collection fee	\$202.50
Multiply by	x <u>.68376</u>
Amount allocated to the collection fee	<u>\$138.46</u>

Since the amount left after allocation to the collection fee is enough to cover all the court costs and fees, they are satisfied in full, and the balance is applied to the fine, as follows:

Total received	\$600.00
Less the amount allocated to the collection fee	- <u>138.46</u>
Amount left	461.54
Less the amount allocated to the court costs and fees	- <u>264.00</u>
Amount applied to the fine	<u>\$197.54</u>

Example 2: A total of \$250.00 is received by the county.

Since the full amount of the court costs and fees, fine, and collection fee was not received, first determine the amount to allocate to the collection fee, as follows:

$\frac{\text{amount collected}}{\text{total amount due}} = \text{percentage to apply to the collection fee}$

$$\frac{250.00}{877.50} = 28.49\%$$

Amount allocated to the collection fee:

Total collection fee	\$202.50
Multiply by	x <u>.2849</u>
Amount allocated to the collection fee	<u>\$57.69</u>

Since the amount left after allocation to the collection fee is not enough to cover all the court costs and fees, prorate the amount left among all the court costs and fees as follows:

Total received	\$250.00
Less the amount allocated to the collection fee	- <u>57.69</u>
Amount left	<u>\$192.31</u>

$\frac{\text{amount left}}{\text{total costs and fees}} = \text{percentage to apply to each cost and fee}$

$$\frac{192.31}{264.00} = 72.84\%$$

72.84%	x	83.00 CCC	=	60.46
72.84%	x	4.00 JRF	=	2.91
72.84%	x	4.00 JSF	=	2.91
72.84%	x	5.00 AF	=	3.64
72.84%	x	50.00 WF	=	36.42
72.84%	x	40.00 CF	=	29.14
72.84%	x	25.00 RMP	=	18.21
72.84%	x	25.00 FSP	=	18.21
72.84%	x	3.00 CHS	=	2.19
72.84%	x	25.00 TPF	=	18.22
<u>72.84%</u>	<u>x</u>	<u>264.00</u>	<u>=</u>	<u>192.31</u>

B. ACCOUNTING, REPORTING, AND REMITTING

Accounting, reporting, and remitting requirements are based on state law and sound financial administration.

1. In the County or District Clerk's Office

State court costs and fees are required by law to be accounted for separately. Most state court cost and fee laws have a provision exactly like or very similar to the following:

Consolidated Court Cost

Local Government Code, Section 133.054

(a) An officer or clerk collecting a fee shall keep a record of the money collected.

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State Traffic Fine

Transportation Code, Section 542.4031

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(c) An officer collecting a state traffic fine under this section in a case in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the municipal treasury.

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Local court costs and fees should also be accounted for separately. For some costs and fees, separate accounting is required by law, such as with the courthouse security fee. For this fee, the law requires a separate "fund." A separate fund simply means a self-balancing set of accounts. In other words, the Courthouse Security Fund has its own assets, liabilities, and equity accounts just like the county's General Fund. Although the law requires a separate fund, it does not require a separate bank account.

Courthouse Security Fee

Code of Criminal Procedure, Article 102.017

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(d) Except as provided by Subsection (d-1), the clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, as appropriate, for deposit in a fund to be known as the courthouse security **fund** or a fund to be known as the municipal court building

security fund, as appropriate. A fund designated by this subsection may be used only to finance security personnel for a district, county, justice, or municipal court, as appropriate, or to finance items when used for the purpose of providing security services for buildings housing a district, county, justice, or municipal court, as appropriate, including:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) signage;
- (8) confiscated weapon inventory and tracking systems;
- (9) locks, chains, alarms, or similar security devices;
- (10) the purchase or repair of bullet-proof glass; and
- (11) continuing education on security issues for court personnel and security personnel.

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For other costs and fees, even though not required by law, sound financial administration requires separate accounting. Consider the \$40 clerk's fee.

Clerk's Fee

Code of Criminal Procedure, Article 102.005(a)

A defendant convicted of an offense in a county court, a county court at law, or a district court shall pay for the services of the clerk of the court a fee of \$40.

For a cost such as this, sound financial administration requires separate accounting to determine possible budgetary impact. For example, if the Legislature decided to increase the cost from \$40 to \$50, separate accounting for the cost in the past would provide a basis for determining how much additional revenue to budget as a result of the increase. Separate accounting for a cost like this normally just means the ability to track the receipts – not to maintain a separate fund.

There should be a good audit trail for all monies received. The bookkeeping system used by a clerk's office, whether manual or automated, should show the following for each cost/fee:

- date received;
- amount received;
- from whom received;
- number of the receipt issued;

- when remitted; and
- to whom remitted.

If an office uses a manual bookkeeping system, one easy way to account for the costs and fees is to have a separate column for each cost/fee. For example, a receipts journal may be set up as follows:

- column 1: date received;
- column 2: from whom received;
- column 3: receipt number;
- column 4: total amount received; and
- columns 5, 6, 7, etc. (as many as are needed): individual columns for each cost/fee and other amounts that need to be accounted for separately.

In cases where the amount owed is satisfied by jail time or community service credit, there should be supporting documentation. For example, community service credit should be supported by documentation authorizing the service (signed by the judge) and documentation showing that the work was actually done (signed by an appropriate individual with the organization for which the community service work was done).

County and district clerks remit money to the county treasurer based on the requirements of Code of Criminal Procedure, Article 103.004, Local Government Code, Section 113.022, and county policy. A report should accompany the remittance showing exactly what the amount is comprised of. In other words, how much is turned in for each individual cost/fee, how much is for fines, etc. A receipt should always be obtained for the amount remitted. A separate bank account in a clerk's office is not required for state court costs and fees. In addition, state court costs and fees can be put in an interest-bearing account.

2. In the County Treasury

State court costs and fees are also required to be accounted for separately in the county treasury. Most state court cost and fee laws have a provision exactly like or very similar to the following:

Consolidated Court Cost
Local Government Code, Section 133.054

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(b) The treasurer shall keep a record of the money collected and on deposit in the treasury.

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State Traffic Fine

Transportation Code, Section 542.4031

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(e) The custodian of money in a municipal or county treasury may deposit money collected under this section in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

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Some local fees are required by law to be accounted for separately in the county treasury. As indicated previously, the courthouse security fee must go into a separate fund (self-balancing set of accounts).

Courthouse Security Fee

Code of Criminal Procedure, Article 102.017

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(d) Except as provided by Subsection (d-1), the clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, as appropriate, for deposit in a fund to be known as the courthouse security **fund** or a fund to be known as the municipal court building security fund, as appropriate. A fund designated by this subsection may be used only to finance the items

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Just like in a clerk's office, there must be a good audit trail in the treasury. The bookkeeping system used by the treasury, whether manual or automated, should show the following for each court cost/fee:

- date received;
- amount received;
- from whom received;
- number of the receipt issued;
- the period the funds received cover;
- when remitted;
- amount remitted; and
- to whom remitted.

A separate fund or bank account for state court costs and fees is not required in the treasury. Additionally, the bank account used can be interest-bearing.

Amounts due the state should be recorded as liabilities, rather than revenues. This is true whether the amounts are recorded in the general fund or some other fund.

Perhaps the best way to account for court costs and fees in the county treasurer's office is by using an agency fund. An agency fund is a self-balancing set of accounts used to account for assets held by a governmental unit as an agent for individuals, private organizations, other governmental units, and/or other funds. In this situation, the assets are held for another government (the state) and another fund (the general fund). When amounts are remitted to the state, the county's share (administrative fee) is transferred to the general fund. Purely local court costs and fees can go directly to the appropriate fund or through the agency fund.

The treasurer's office should always give a receipt when money is remitted.

3. To the State Comptroller

Counties are responsible for reporting on and remitting state court costs and fees. Most state court cost and fee laws have a provision exactly like or very similar to the following:

Consolidated Court Cost

Local Government Code, Section 133.056

(a) On the last day of the month following a calendar quarter, the treasurer shall report the criminal fees collected for the preceding calendar quarter.

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Consolidated Court Cost

Local Government Code, Section 133.058

(a) Except as otherwise provided by this section, a municipality or county may retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).

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State Traffic Fine

Transportation Code, Section 542.4031

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(e) The custodian of money in a municipal or county treasury may deposit money collected under this section in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.

(f) A municipality or county may retain five percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (e).

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There are two reports for reporting state court costs, fees, and fines:

- State Criminal Costs and Fees – County Quarterly Report; and
- Child Safety Seat and Seat Belt Violation Fines.

a. STATE CRIMINAL COSTS AND FEES – COUNTY QUARTERLY REPORT

Most state court costs and fees are reported on this report. Reports are due by the last day of the month following each calendar quarter.

<u>Quarter</u>	<u>Period Covered</u>	<u>Report Due By</u>
First	January – March	April 30
Second	April – June	July 31
Third	July – September	October 31
Fourth	October – December	January 31

The reporting cycle is **sometimes** altered during legislative years because of changes effective September 1. When that happens, reporting quarters are normally:

<u>Quarter</u>	<u>Period Covered</u>	<u>Report Due By</u>
First	January – March	April 30
Second	April – June	July 31
Third	July – August	October 31
Fourth	September – December	January 31

The Comptroller always notifies counties when a reporting change is going to take place.

The report form is mailed to each county before the end of each quarter – a little more than a month before it is due. The following pre-printed information is on the form:

- county identification number;
- county name and mailing address;
- due date of the report; and
- the period the report covers.

EXAMPLE

Anycounty, Texas is preparing the quarterly report for the second calendar quarter of 2006 (April – June). During that period, the county collected the following state court cost, fee, and fine amounts:

Bail bond fees	\$0.00
DNA testing fees	700.00
EMS trauma fund fees	1,200.00
Juvenile probation diversion fees	80.00
Jury reimbursement fees	1,000.00
State traffic fines	6,200.00
Peace officer fees	1,250.00
Failure to appear/pay fees	1,500.00
Judicial fund fees – constitutional county court	75.00
Judicial fund fees – statutory county court	630.00
Motor carrier weight violations	1,900.00
Time payment fees	3,400.00
Driving record fees	0.00
Judicial support fees	900.00
Other state court costs and fees:	
For offenses committed 1/1/04 forward	28,000.00
For offenses committed 9/1/01 through 12/31/03	2,700.00
For offenses committed 8/31/99 through 8/31/01	840.00
For offenses committed 9/1/97 through 8/30/99	510.00
For offenses committed 9/1/95 through 8/31/97	0.00
For offenses committed 9/1/91 through 8/31/95	<u>0.00</u>
Total	<u>\$50,885.00</u>

The Report Form

The part of the form where the amounts are reported looks similar to the following:

Description	Column 1 TOTAL COLLECTED (State court costs only)	Column 2 SERVICE FEE See Instructions	Column 3 AMOUNT DUE STATE (Col. 1 minus Col. 2)
SEE BACK FOR INSTRUCTIONS			

Section I: Reports for offenses committed:

1. 01-01-04 Forward	_____	_____	1. _____
2. 09-01-01 --- 12-31-03	_____	_____	2. _____
3. 08-31-99 --- 08-31-01	_____	_____	3. _____
4. 09-01-97 --- 08-30-99	_____	_____	4. _____
5. 09-01-95 --- 08-31-97	_____	_____	5. _____
6. 09-01-91 --- 08-31-95	_____	_____	6. _____
7. Bail Bond Fee (BB)	_____	_____	7. _____
8. DNA Testing Fee (DNA)	_____	_____	8. _____
9. EMS Trauma Fund (EMS)	_____	_____	9. _____
10. Juvenile Probation Diversion Fee (JPD)	_____	_____	10. _____
11. Jury Reimbursement Fee (JRF)	_____	_____	11. _____
12. State Traffic Fine (STF)	_____	_____	12. _____

Section II: As applicable:

13. Peace Officer Fees (Report 20% of fees from actions by state officers only)			13. _____
14. Failure to Appear/Pay Fees (FTA) (Report \$20 of the administrative fee)			14. _____
15. Judicial Fund – Constitutional County Court			15. _____
16. Judicial Fund – Statutory County Court			16. _____
17. Motor Carrier Weight Violation (MCW) (Report 50% of the fines collected)			17. _____
18. Time Payment Fees (TP) (Report 50% of the \$25 fee)			18. _____
19. Driving Records Fee (DRF) (Report 100% of fees collected)			19. _____
20. Judicial Support Fee (JSF)			20. _____
21. TOTAL DUE FOR THIS PERIOD (Total of Items 1 – 20 in column 3)			21. _____
22. TOTAL AMOUNT DUE AND PAYABLE (Same as Item 21)			22. _____

INSTRUCTIONS FOR COMPLETING STATE CRIMINAL COSTS AND FEES REPORT

This report must be filed by the due date even if no payment is due.
An amount or a zero (0) must be entered on all lines for columns 1 and 3

Column 2 – A service fee may be taken **only** when the payment is postmarked by the due date. A ten (10) percent service fee applies to items 1-11. A five (5) percent service fee applies to item 12 – State Traffic Fine.

Section 1 (Items 1–6) – Report in a “lump sum” amount, the total court costs collected, based on the date of the offense. Collections will be distributed to the various court costs in effect during each of these periods, based on historical data for that specific time period. *Note: Peace Officer fees, FTA, BB, EMS, DNA, JPD, and Time Payment fees should be reported where indicated.*

Item 7 – Bail Bond Fee (BB) – A \$15 fee is assessed on each surety posting a bail bond for an offense, other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure. The fee should not exceed \$30 for all bail bonds posted at one time by a surety company for an individual (Government Code, Section 42.258).

Item 8 – DNA Testing Fee (DNA) – For offenses committed on or after September 1, 2001 only. \$250 is due on the conviction of an offense listed in Government Code, Section 411.1471(a)(1) and \$50 is due on the conviction of an offense listed in Government Code, Section 411.1471(a)(3).

Item 9 – EMS Trauma Fund (EMS) – A \$100 fee is assessed on offenses in Chapter 49, Penal Code, except Sections 49.02 and 49.031, for offenses committed on or after January 1, 2004.

Item 10 – Juvenile Probation Diversion Fee (JPD) – A \$20 fee per disposition hearing held. Collected only if ordered by the court and the child, parent, or other person responsible for the child’s support is financially able to pay it. (Tex. Family Code Ann., Section 54.0411).

Item 11 – Juror Reimbursement Fee (JRF) – A \$4 court cost assessed on convictions of all offenses except pedestrian and parking of a motor vehicle (Code of Criminal Procedure, Article 102.0045, effective September 1, 2005).

Item 12 – State Traffic Fine (STF) – A \$30 court cost shall be assessed on the conviction of any offense under Transportation Code, Title 7, Subtitle C “Rules of the Road” (Transportation Code, Section 542.4031). *Note: State parking and pedestrian violations are included. Only a five (5) percent service fee is allowed on this fine.*

Section II: As applicable

Item 13 – Peace Officer Fees – Report 20 percent for actions by state officers only (Code of Criminal Procedure, Article 102.011).

Item 14 – Failure to appear/Pay fee (FTA) – A \$30 administrative fee shall be assessed on a failure to appear or pay or satisfy a judgment for certain violations (Transportation Code, Section 706.006) only if a county has contracted with the Department of Public Safety. Two-thirds (\$20) is sent to the state. One-third (\$10) is retained locally.

Item 15 – Judicial Fund, Constitutional County Court – A \$15 court cost shall be collected on each conviction of any criminal offense if the court is participating in the supplement salary program (Government Code, Sections 26.006, 51.703).

Item 16 – Judicial Fund, Statutory County Court – A \$15 court cost should be collected on each conviction of any criminal offense in statutory county court if the court is participating in the supplement salary program (Government Code, Section 51.702).

Item 17 – Motor Carrier Weight Violations (MCW) – Remit 50 percent of the fines collected on violations of Transportation Code, Section 621.506. Only the fines for Over Allowed Gross Weight single axle, tandem axle, or gross weight and Over Allowed Gross Weight-Zoned violations should be reported. For offenses committed on or after September 1, 1999, which occurred within 20 miles of an international border, the entire fine shall be deposited in the municipal or county treasury for the purpose of road maintenance.

Item 18 – Time Payment Fees (TP) – Report 50 percent of any portion of the \$25 fee collected from a person who pays any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Local Government Code, Section 133.103).

Item 19 – Driving Records Fee (DRF) – A \$10 fee assessed by the judge when he orders a driving record from DPS for deferred adjudication cases (Code of Criminal Procedure, Article 45.0511(c-1), effective January 1, 2006).

Item 20 – Judicial Support Fees (JSF) – A \$4 court cost assessed on conviction of all offenses except pedestrian or parking of a motor vehicle. Local jurisdiction retains \$.60 of each fee and remits \$3.40 to the state (Local Government Code, Section 133.105, effective December 1, 2005).

Completing the report with the amounts used in the example would result in the following:

Description	Column 1 TOTAL COLLECTED (State court costs only)	Column 2 SERVICE FEE See Instructions	Column 3 AMOUNT DUE STATE (Col. 1 minus Col. 2)
SEE BACK FOR INSTRUCTIONS			

Section I: Reports for offenses committed:

1. 01-01-04 Forward	28,000.00	2,800.00	1. 25,200.00
2. 09-01-01 --- 12-31-03	2,700.00	270.00	2. 2,430.00
3. 08-31-99 --- 08-31-01	840.00	84.00	3. 756.00
4. 09-01-97 --- 08-30-99	510.00	51.00	4. 459.00
5. 09-01-95 --- 08-31-97	0.00	0.00	5. 0.00
6. 09-01-91 --- 08-31-95	0.00	0.00	6. 0.00
7. Bail Bond Fee (BB)	0.00	0.00	7. 0.00
8. DNA Testing Fee (DNA)	700.00	70.00	8. 630.00
9. EMS Trauma Fund (EMS)	1,200.00	120.00	9. 1,080.00
10. Juvenile Probation Diversion Fee (JPD)	80.00	8.00	10. 72.00
11. Jury Reimbursement Fee (JRF)	1,000.00	100.00	11. 900.00
12. State Traffic Fine (STF)	6,200.00	310.00	12. 5,890.00

Section II: As applicable:

13. Peace Officer Fees (Report 20% of fees from actions by state officers only)			13. 250.00
14. Failure to Appear/Pay Fees (FTA) (Report \$20 of the administrative fee)			14. 1,000.00
15. Judicial Fund – Constitutional County Court			15. 75.00
16. Judicial Fund – Statutory County Court			16. 630.00
17. Motor Carrier Weight Violation (MCW) (Report 50% of the fines collected)			17. 950.00
18. Time Payment Fees (TP) (Report one-half of the \$25 fee)			18. 1,700.00
19. Driving Records Fee (DRF) (Report 100% of fees collected)			19. 0.00
20. Judicial Support Fees(JSF)			20. 765.00
21. TOTAL DUE FOR THIS PERIOD (Total of Items 1 – 20 in column 3)			21. 42,787.00
22. TOTAL AMOUNT DUE AND PAYABLE (Same as Item 21)			22. 42,787.00

If the amount remitted is less than what is reported, the amount remitted is allocated based on reported amounts. Counties should consider timely reporting and remitting a priority so the service fee can be retained.

b. CHILD SAFETY SEAT AND SEAT BELT VIOLATION FINES

Child passenger safety system and safety belt fines are reported annually. Reports and remittances are due by the last day of the month following the end of the county’s fiscal year.

The report form is mailed to each county before it is due. The following pre-printed information is on the form:

- county identification number;
- county name and mailing address;
- due date of the report; and
- the period the report covers.

EXAMPLE

Assume similar example information to that given in the discussion of child safety seat and seat belt violation fines in Chapter IV of this handbook (*see page IV-10*) as follows:

Anycounty’s fiscal year 2005 runs from October 1, 2004 through September 30, 2005. Total fines collected by Anycounty during fiscal year 2005 for Transportation Code, Sections 545.412 and 545.413(b) offenses totaled \$32,000.

The Report Form

The part of the form where the amounts are reported looks similar to the following:

- | | | | |
|----|---|----|-------|
| 1. | Total Amount of Fines Collected | 1. | _____ |
| 2. | Total Amount of Fines Due the State (<i>Multiply Item 1 by 50%</i>) | 2. | _____ |
| 3. | Total Amount of Payment (<i>Same as Item 2</i>) | 3. | _____ |

Completing the report with the amount used in the example would result in the following:

- | | | | |
|----|---|----|--------|
| 1. | Total Amount of Fines Collected | 1. | 32,000 |
| 2. | Total Amount of Fines Due the State (<i>Multiply Item 1 by 50%</i>) | 2. | 16,000 |
| 3. | Total Amount of Payment (<i>Same as Item 2</i>) | 3. | 16,000 |

4. Remitting Electronically

Some counties are required to remit court costs and fees to the state electronically. If \$100,000 or more in court costs and fees is remitted to the Comptroller in a state fiscal year (September through August), payments must be made by electronic funds transfer in the following calendar year.

Government Code, Section 404.095

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(b) If during the preceding state fiscal year a person paid a state agency a total of \$500,000 or more in a category of payments and the agency reasonably anticipates that during the current state fiscal year the person will pay the agency \$500,000 or more in a category of payments, the state agency shall require the person to transfer payment amounts due to the agency in that category, on or before the date the payment is due, by one of the means of electronic funds transfer approved by the treasurer. For the purposes of this section, each of the following is a separate category of payments to a state agency:

(1) fees:

-
-
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(c) A state agency by rule may require a person other than a person subject to Subsection (b) to transfer all payment amounts due in a category of payments to the agency on or before the date the payment is due by electronic funds transfer.

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Texas Administrative Code

Title 34, Public Finance

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter A. General Rules

§3.9 Electronic Filing of Returns and Reports; Electronic Transfer of Certain Payments by Certain Taxpayers

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(b) Electronic transfer of certain payments by certain taxpayers.

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(2) For payments that are due on or after January 1, 2002, the comptroller, pursuant to Tax Code §111.0625, shall require taxpayers who have paid the comptroller a total of \$100,000 or more in a single category of payments or taxes during the preceding state fiscal year to transfer all payment amounts in that category of payments or taxes to the comptroller by means of electronic funds transfer.

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(e) Notification of affected persons. The comptroller shall notify taxpayers who are affected by this section no less than 60 days before the first required electronic transmittal of report data or payment.

(f) A taxpayer who is required to electronically file report data may submit a written request to the comptroller for a waiver of the requirement.

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Approximately 173 counties remit state court costs and fees electronically. Some counties not required by law or administrative rule voluntarily remit electronically.

Even though remitting can be done electronically, reporting is still done manually.

Call the Comptroller for details and forms, at toll-free 1-800-531-5441, extension 33630.

C. AUDITS

Auditing is the examination of information and operations for mathematical accuracy, legality, and propriety. It is a process for determining whether all transactions are properly recorded in the accounts, and which are appropriately reflected in statements and reports.

1. State Audits

The Comptroller of Public Accounts is responsible for administering state court cost and fee laws. That responsibility includes audit authority to examine the books and records of a county to ensure that correct state court cost and fee amounts are properly assessed, collected, reported, and remitted.

a. BEING SELECTED FOR AN AUDIT

A state audit can result from one or more of the following:

- random selection;
- predetermined selection (meeting certain selection criteria – for example, county size);
- request from the county to be audited; or
- taxpayer complaint.

However, a taxpayer complaint or request from the county does not automatically result in an audit.

b. THE AUDIT

An auditor meets with the county before the audit starts to explain the process. Several factors can impact how long the audit takes. Those factors include county size, condition and volume of records, and the availability of computer records. At the conclusion of the on-site part of the audit, the auditor meets with the county to summarize the results and estimate any balance owed or refund amount. The county is notified of the final audit results after the audit report goes through the Comptroller's internal review process. Refunds are made when the audit shows the county overpaid. However, the county is sent a bill if they underpaid. The county can appeal if they disagree with the results. The audit usually covers a four-year period.

Items an auditor may examine include:

- citations;
- complaint forms;
- receipts;
- docket books;
- journals and ledgers;
- deposit records and reports;

- internal reports; and
- reports to the state.

c. COMMON MISTAKES

Common mistakes found by auditors that result in counties being billed include:

- allocating wrong amounts to court costs and fees;
- failing to properly implement legislative changes (*counties are responsible for timely implementing legislative changes*);
- failing to assess costs and fees when they should have been assessed; and
- improperly waiving costs and fees.

2. Local Audits

In addition to a possible state audit, counties should ensure that the county clerk's and the district clerk's office are audited locally. That would include both internal and external audits.

An internal audit is an audit done by someone who works for the organization being audited. For example, the audit performed by someone employed by the county is an internal audit. Audits performed by those not employed by the county are generally referred to as external (or outside) audits.

a. AUDIT OBJECTIVES

The broad purpose of auditing in a county or district clerk's office is to help ensure the integrity of the office's financial operations. Specific objectives are to help ensure that:

- the office has collected all the money owed;
- money collected was properly remitted to the appropriate party;
- property is properly managed;
- money and other property is properly accounted for, properly reported, and adequately safeguarded; and
- operations conform to laws, rules, and prescribed procedures.

Examining books and records to ensure that correct state court cost and fee amounts are properly assessed, collected, reported, and remitted fall within the above objectives.

Auditing cannot guarantee that collections, records, and reports are one hundred percent (100%) complete and correct. Auditing can, however, be a means for minimizing, and providing for early detection and correction of, material mistakes and irregularities.

In addition, a good internal audit function can result in lower operating costs, more efficient ways of getting things done, better service to the public, and less costly outside audits.

b. AUDIT REQUIREMENTS

State law requires many counties, but not all, to have outside audits (*see Local Government Code, Chapter 115*). The Comptroller recommends that all counties have an outside audit each year, even those not required by law to do so. County and district clerk's offices should be included in the audits. Citizens deserve an opinion from a qualified, independent source.

The law also requires internal audits of the county clerk's and the district clerk's office. In counties that have a county auditor, the law requires the county auditor to:

- Audit receipt books in criminal cases monthly (*see Code of Criminal Procedure, Article 103.011*);
- Examine reports made to the commissioners court about the collection of money (*see Local Government Code, Section 115.002*);
- Check the books and examine in detail the reports of the county tax assessor-collector, the county treasurer, and all other officers (*see Local Government Code, Section 115.002*);
- Examine the accounts, dockets, and records to determine if any money belonging to the county and in the possession of the county clerk or district clerk has not been accounted for and paid over according to law (*see Local Government Code, Section 115.901*); and
- Without advance notice, fully examine the accounts at least once each county fiscal year (*see Local Government Code, Section 115.0035*).

In counties that do not have a county auditor, the county treasurer must examine the accounts, dockets, and records to determine if any money belonging to the county and in the possession of the county clerk or district clerk has not been accounted for and paid over according to law (*see Local Government Code, Section 115.901*).

Audit work that should be done in a county or district clerk's office includes:

- conducting surprise cash counts;
- reviewing any bank reconciliations;
- accounting for all receipts;
- auditing receipts to determine whether proper amounts are collected, amounts are properly deposited/remitted, and correct bookkeeping methods are being utilized;
- confirming amounts paid (or the fact that nothing was paid) with defendants; and
- reviewing reports.

All of the above does not have to be done each quarter, but at least some of it should be done. Audit work that is periodically and consistently performed is a deterrent to wrongdoing.

c. GETTING READY FOR AN AUDIT

A county clerk or district clerk will often be notified when an internal audit will be conducted. Exceptions include the surprise audit required in Local Government Code, Section 115.901, and some audit procedures that are almost always done on a surprise basis, such as a cash count.

When an office is aware of an upcoming audit, steps should be taken to ensure that all information is available for inspection. Listed below are some of the items an auditor may wish to examine during the course of an audit:

- procedures manual, including any internal control procedures used in the office;
- bookkeeping system, including reports, ledgers and journals;
- docket books;
- monthly bank reconciliations for each bank account, including canceled checks and bank statements for the period covered by the audit;
- fixed assets assigned to the office;
- change funds, receipts (issued and unissued), and monies collected; and
- office files and related correspondence.

These items, along with any other useful information, should be well organized and easily accessible by the auditor. Office employees should make every effort to assist the auditor during the examination.

Auditors are not enemies of the office. In fact, it is good to be audited. Office employees should strive for the satisfaction that comes from getting a clean audit. In other words, knowing that for the most part, things are operating as they should. And in those instances where something is being done wrong, employees should want it brought to light as soon as possible.

If audits are not being done periodically, the county clerk or district clerk should request that they be conducted. Additionally, a new county clerk or district clerk should consider requesting an internal audit when starting the job to have an idea of what is being done right and to identify areas for improvement.