CALIFORNIA HIGHWAY PATROL

Report of Review

ACCOUNTING AND ADMINISTRATIVE PROCESSES AND PROCEDURES FOR COLLECTING DEBT DUE THE STATE

July 1, 2005, through June 30, 2008

JOHN CHIANG
California State Controller

April 2009

JOHN CHIANG
California State Controller

April 14, 2009

Max Santiago, Assistant Commissioner
Inspector General
California Highway Patrol
2555 First Avenue
Sacramento, CA 95818

Dear Mr. Santiago:

This report presents the results of the State Controller's Office (SCO) review of the California Highway Patrol's (CHP) administrative practices and procedures for accounting and collection of debt due the State. We conducted our review pursuant to Government Code section 12418, which stipulates that the State Controller shall direct and superintend the collection of all money due the State.

Our review disclosed the following:

- The CHP misclassified Driving Under the Influence (DUI) cost-recovery billings as contingent receivables rather than accounts receivables, and failed to record the billings as such in CalSTARS.
- The CHP does not have adequate controls in place to ensure accuracy, reliability, and completeness of the DUI cost-recovery billings.
- The maximum DUI cost-recovery billing was legislatively increased from $1,000 to $12,000 per case, but the increase was not implemented by the CHP for at least a year.
- The CHP's collection efforts and activities appear to be highly ineffective.
- A number of cases in which witness fees and DUI cost-recovery were not billed within established timeframes.

We provided a revised draft version of the report to CHP for review and response. The CHP's response is included in this report as Attachment A. In addition, we made comments on some of the issues raised in the CHP's response; these are included as Attachment B of the report.

If you have any questions, please contact Mike Spalj, Audit Manager, at (916) 324-6984.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB:wm

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Executive Summary

This report presents the results of the State Controller's Office (SCO) review of the California Highway Patrol (CHP) administrative practices and procedures for accounting and collecting debt due the State from Driving Under the Influence (DUI) cost recovery billings, reimbursable witness expenses, reimbursable services, and payroll accounts receivable for the three fiscal years ended June 30, 2008. Our review was initiated to ensure that the CHP has adequate processes and procedures to account for and collect moneys due the State. Under Government Code section 12418, the State Controller is to direct and superintend the collection of all money due the State.

Our review has identified the following concerns:

- The CHP inappropriately classified the DUI cost recovery billings as contingent receivables. Because the CHP is not properly recording the billings in the CALSTARS Accounting System as accounts receivables, the CHP is understating the account balances. Moreover, this practice allows the CHP to internally ignore potentially millions of dollars in uncollected debts without review by the SCO, the State Department of Justice (DOJ), and the Victims' Compensation and Government Claims Board (VCGCB).

- The CHP has inadequate controls in place to ensure the accuracy, reliability, and completeness of the DUI cost-recovery billings. Under the CHP's current process, each of the 102 CHP field offices is responsible for keeping DUI activity logs and submitting reports to the CHP headquarters. However, the controls in place are not adequate to provide the necessary checks and balances to ensure that the field offices report the data accurately and completely. This is a serious internal control weakness because any one of the field offices could inadvertently misreport or not report the data without headquarters' knowledge.

- In 2004, the Legislature enacted a statute (Chapter 51, Statutes of 2004) that increased the maximum DUI cost-recovery amount from $1,000 to $12,000 per case. Although the statute became effective January 1, 2005, the CHP's accounting office did not implement this significant change in the recoverable limit and continued to bill under the assumption that the maximum recovery amount was only $1,000. The CHP did not implement this change until 2006. Therefore, for more than one year, the CHP was billing $1,000 on cases for which it was legally entitled to bill up to $12,000.

- The CHP's collection efforts and activities appear to be highly ineffective. Our review found that, in most cases, the CHP did send out three collection letters as required in the *State Administrative Manual* (SAM). However, when the collection letters did not result in payments, the CHP did not prepare analyses to determine the most cost-beneficial or cost-effective action to pursue under the specific circumstances.

- The CHP's billings for witness fees and DUI cost recovery were late in a number of cases. Field offices are not adhering to the formal policies and procedures for submitting the necessary information within the established time frames.

Recommendations

The CHP should:

- Discontinue the practice of treating DUI cost recovery billings as contingent receivables and record such billings in its CALSTARS Accounting System.

- Enact appropriate control measures to ensure that DUI cost-recovery billings are properly recorded in the accounting records and easily accessible to management.

- Develop appropriate policies and procedures to ensure that the billing data generated by field offices are accurate, complete, and timely.

- Consider sponsoring legislation for greater leverage in its collection efforts, such as assessing interest or penalties on delinquent payments.

- Carefully and continuously assess and monitor the effectiveness of the private collection agency to determine whether its efforts are adequate to address the CHP's needs.

- Consider additional measures to increase its collection efforts and activities, including establishing a collection unit at headquarters and/or contracting with other state departments, such as the Franchise Tax Board, to collect debts.

Review Report

Introduction

The State Controller's Office (SCO) conducted a review of the California Highway Patrol's accounting and administrative practices and procedures for collection of debt due the State from Driving Under the Influence (DUI) cost-recovery billings, reimbursable witness expenses, reimbursable services, and payroll accounts receivable. We conducted our review pursuant to Government Code section 12418, which stipulates that the State Controller shall direct and superintend the collection of all money due the State.

Background of the California Highway Patrol (CHP)

The California Highway Patrol (CHP) is a statewide law enforcement organization. The mission of the CHP is to provide the highest level of safety, service, and security to the people of California.

The CHP is divided into two major operations, Staff and Field. Each is lead by an Assistant Commissioner. Staff Operations consists mainly of administrative type activities (i.e., risk management, general counsel, personnel management, information management, and administrative services). Field Operations mainly consists of CHP enforcement activities. Field Operations also includes air operations, state terrorism threat operations, and protective services.

Field Operations is divided into eight separate field divisions and 102 field offices located throughout the state.

CHP's Authority and Ability to Collect Debt

CHP has legal authority and the ability to collect debt based on the services it provides.

DUI Cost Recovery

Government Code sections 53150 through 53158 provides the CHP with authority to collect up to $12,000 for the reimbursement of a response costs associated with incidents caused by a driver under the influence of an alcoholic beverage and/or drug.

Government Code section 53150 states:

> Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

Under policies and procedures adopted by the CHP, the CHP is to recover DUI incident-related costs for alcohol and/or drugs based on the following criteria as cited in the Highway Patrol Manual (HPM) 11.1, Chapter 20, DUI Cost Recovery Program:

- An arrest was made for a violation of California Vehicle Code (CVC) sections 23152 or 23153, or a greater offense involving alcohol and/or drugs.
- The arrested party was determined by the investigating officer to have caused a response to an incident.
- In addition to the above, one of the following must also apply in order for the CHP to bill upon arrest:
  - Blood alcohol level of at least .08% or greater
  - A commercial driver driving a commercial vehicle with a blood alcohol level of at least .04% or greater
- A conviction for CVC sections 23152 or 23153, or greater offense <u>is required</u> when one of the following applies:
  - A blood alcohol concentration verifier test returns under .08
  - A chemical test is positive for drugs only
  - There is no supporting blood alcohol concentration test or drug test (i.e., refusal)

Reimbursable Witness Expenses

The CHP is reimbursed for costs incurred when its employees appear as witnesses before any court or tribunal as required by a subpoena. Government Code section 68097.1, et seq., provides that the State shall be reimbursed for the salaries and expenses of a state employee appearing before any court or tribunal in any civil action or proceeding in connection with a matter, event, or transaction perceived or investigated by him/her in his/her capacity as a member of the department.

Reimbursable Services

The CHP provides reimbursable services for the following functions and purposes:

- **Motion picture industry** (Government Code section 14998.7)—Use of traffic management services
- **Agricultural**—Traffic control services during the transportation of agricultural commodities
- **Local/state/federal governmental entities, individual, and corporation** (Vehicle Code section 2410.5)—Providing supplemental traffic and other law enforcement services
- **Extraordinary protective services** (Public Law 98-164)—Requests from FBI or the U.S. Department of the State to provide assistance including transportation, escort, and protective security for national, state, and foreign government officials and dignitaries

- **Training agreements**—Providing training courses to any external entity
- **Construction/maintenance zone**—Increasing the safety of motorists and construction/maintenance workers in state highway construction/maintenance project zones
- **Dignitary protection**—Providing protection to state constitutional officers (e.g., State Treasurer, State Controller)
- **Safety services**—Providing protective services such as security standby at meetings or hearings of various types, or bailiff services for the Courts of Appeal, etc.

Payroll Accounts Receivable

Government Code section 19838 requires reimbursement to the State of overpayments made to employees. These overpayments can arise from salary and travel advances or payroll warrants issued by the SCO. Departments will notify employees (in writing) of overpayments and provide them an opportunity to respond. The employee should be given the opportunity to satisfy the amount due by payment in cash, check, or payroll deduction. Departments should attempt to negotiate a repayment plan acceptable to both parties. Written notification of overpayment to the employee must be initiated within three years from the date of overpayment.

Scope, Objective, and Methodology

The scope of our review includes a review of CHP policies, processes, procedures, and practices relative to its accounting for and collection of debt from DUI cost recovery billings, reimbursable witness expenses, reimbursable services, and payroll accounts receivable for the three fiscal years ended June 30, 2008.

Our review objective was to determine whether the CHP properly performs, in a timely manner, the accounting and administrative processes and procedures necessary to promptly collect amounts it is owed. The objective included determining whether the CHP submitted to the SCO any requests for discharge from accountability of uncollectible accounts-receivable balances with appropriate documentation and review.

We performed the following procedures:

- Reviewed pertinent statutes, regulations, and written policies and procedures regarding the CHP as they relate to the accounting and collection of fines and restitution.
- Reviewed and analyzed relevant audit reports issued by the Bureau of State Audits, the Department of Finance, and the CHP's Internal Audit Unit.
- Reviewed and assessed the CHP's system of internal controls as they pertain to the accounting, tracking, and collection of DUI cost-recovery billings, reimbursable witness expenses, reimbursable services, and payroll accounts receivable.

- Reviewed and analyzed the billings for the above services, as well as the amounts recorded and collected.
- Interviewed CHP accounting staff.
- Performed tests of transactions to assess the effectiveness of controls relating to the recording and collection of different types of CHP billings.
- Selected a sample of different types of CHP billings in order to evaluate the accuracy and reliability of reported revenue and the balances reported as accounts receivables and to determine if proper recording had occurred.

Findings and Recommendations

FINDING 1—
The CHP misconstrued DUI cost-recovery billings as contingent receivables, thus understating its accounts receivable balances and circumventing state controls.

Since fiscal year (FY) 2004-05, the California Highway Patrol (CHP) has inappropriately classified the Driving Under the Influence (DUI) cost-recovery billings as contingent receivables. By classifying such billings as contingent receivables, the CHP is not recording these billings in the CALSTARS Accounting System as accounts receivable, thus understating the account balances. Moreover, this practice allows the CHP to overlook potentially millions of dollars in uncollected debts without review by the State Controller's Office (SCO), the State Department of Justice (DOJ), and the Victims' Compensation and Government Claims board (VCGCB).

The CHP apparently began classifying DUI cost-recovery billings as contingent receivables after the SCO denied $655,891 of the $721,640 in accounts receivable that the CHP requested be written off during FY 2003-04. Until then, the CHP was recording such billings as accounts receivable and submitting the requests for Discharge from Accountability to state control agencies for review pursuant to *State Administrative Manual* (SAM) requirements. Treating these billings as contingent receivables is contrary to SAM section 8776 requirements, which states, in part:

> . . . the difference between a contingent and valid accounts receivable is the uncertainty of the legal obligation. [SAM Section 8776.1]
>
> . . . a valid accounts receivable is a receivable which is due and payable and for which there is no apparent disagreement over the validity of the claim or the amount **at the time it was established** [emphasis added] . . . disputes arising after the receivable is established does not convert a valid receivable into a contingent receivable". [SAM Section 8776.2]

The legal obligation for the DUI billing is clear. The CHP has the authority pursuant to Government Code section 53150 through 53158 to pursue cost recoveries incurred in responding to alcohol- or drug-related traffic incidents. There were no apparent disagreements over the validity of the claims or the amounts at the time they were established. However, citing an e-mail dated November 18, 2003, the CHP asserted that the Department of Finance (DOF) authorized the treatment of DUI cost recovery billing as contingent receivables.

The text of the CHP e-mail to the DOF is as follows:

> By the way of this e-mail, CHP is requesting clarification on the "write-off" process for contingent receivables.
>
> The majority of **contingent receivables** that CHP attempts to collect on consist of invoices sent to persons who, while under the influence of alcohol and/or drugs, are involved in and are the cause of an accident. They are billed in accordance with Government Code Section 53130 through 53158 which authorizes the CHP, under the DUI Cost Recovery Program, to seek reimbursement for the full costs incurred in responding to alcohol or drug related traffic accidents (emphasis added).

> This type of billing is often contested and/or the validity of the claim is challenged. **These billings are not established as accounts receivable** due to uncertainty of the legal obligation and the likelihood of collecting the monies is "slim". Of the amount billed annually less then 30% is collected (emphasis added).
>
> What is the process to "write-off" the contingent receivable after every effort has failed and it is no longer cost effective to pursue?

The DOF's response to this request is as follows:

> Since this is not the typical write-off per SAM Section 8776.6, you will only need to reverse the entry that was made to create the contingent receivable.

The e-mail to the DOF makes it clear that the CHP has already decided to treat DUI cost-recovery billing as contingent receivables; it merely requests instruction on how to write off such receivables. DOF staff members informed us that the DOF's response to the CHP was strictly related to the procedures to "write off" contingent receivables, and was not meant to indicate whether the DUI cost-recovery billing should or could be considered contingent receivables. Therefore, the CHP's assertion that the DOF authorized the practice is invalid.

The improper practice of treating DUI cost recovery billings as contingent receivables has led to the following deficiencies:

- The CHP significantly understated accounts receivable balances in its formal accounting records and financial statement. The CHP did not record any DUI cost-recovery billings in CALSTARS, its formal accounting system; thus, it understated the recorded and reported balances. Because of questions over the accuracy and reliability of data maintained by the CHP (discussed below), we could not accurately determine the understated amount. However, according to its records, the CHP contracted with a private collection agency to collect DUI cost-recovery billings totaling $4.3 million in FY 2006-07 and $5.3 million in FY 2007-08. Therefore, the understated amount is at least $9.6 million over the two fiscal years.

- The CHP circumvented state controls by internally writing off accounts receivable rather than seeking approvals from outside State control agencies. State departments that wish to write off their accounts receivable are required to file a Request for Discharge From Accountability with the Victim Compensation and Government Claims Board (VCGCB) through the SCO and/or the Attorney General's Office (AGO). The VCGCB, the SCO, and the AGO evaluate the adequacy of a department's collection efforts before deciding whether the request should be approved or rejected. By treating DUI cost-recovery billings as contingent receivables instead of accounts receivable, the CHP, without outside approval, transferred any uncollected amounts into the archive section of the database, effectively writing off the accounts.

Moreover, the DUI cost recovery billings are not recorded in the CHP's formal (CALSTARS) accounting records; instead the CHP accounts for such billings in a DUI Cost Recovery System (DCRS), an access database system. CHP staff members have had considerable difficulties in generating reports showing how much has been billed and collected and the remaining balances. When CHP staff members did produce data, the accuracy and reliability of the data was questionable. Examples of problems noted during our review include:

- According to a report generated under the DCRS, the CHP had an outstanding DUI accounts receivables balance in excess of $16 million as of June 30, 2008, for amounts billed from January 1, 1997, through June 30, 2008. However, the CHP could not substantiate this balance through a listing or other documentation to show what the $16 million consisted of. Thus, the validity of the $16 million balance is highly questionable.

- The CHP provided us with four reports, generated by DCRS, of the DUI cost-recovery billings for two different time periods. Based on cursory reviews, we identified numerous discrepancies in these reports; these include:

  - Billings shown as $1,000 on the reports are in actuality between more than $1,000 to $12,000. In 2004, the Legislature adopted a statute (Chapter 51, Statutes of 2004) that increased the maximum amount of DUI recovery from $1,000 to $12,000. Despite the fact that the statute went into effect January 1, 2005, the DCRS report-writing program has not yet been updated. The reports provided to us show 666 billings and 1,853 billings at $1,000 for FY 2006-07 and FY 2007-08, respectively. In actuality, each of these billings could be significantly higher than $1,000.

  - Invoices should be in numeric order. However, in our review of two billing reports, we noted gaps in the numbering, suggesting that invoices may be missing from the reports. One example is the gap between invoice #100023 and invoice #100027, where three invoices were missing from the Invoice Billing Report generated by DCRS. Each invoice could represent up to $12,000 in billings; therefore, the reports could be understated by significant amounts.

  - In the payment reports, we noted invoices in which payment amounts were left "blank" (invoice #064883) or invoice amounts were "0" (invoice #108301). Due to the weakness of the DCRS report, we are unable to verify whether invoices were paid.

Without complete, accurate, and reliable reports showing the number and amounts of DUI recovery billings, the amounts collected, and the amounts still outstanding, CHP management's ability to track and monitor the effectiveness of its collection efforts is questionable.

FINDING 2—
The CHP has inadequate controls in place to ensure the accuracy, reliability, and completeness of DUI cost-recovery billings.

We found that the CHP's Administrative Services Division has inadequate controls in place to ensure the accuracy, reliability, and completeness of the DUI cost recovery billings. Under the CHP's current process, each of the 102 CHP field offices is responsible for keeping DUI activity logs and submitting reports to CHP headquarters. CHP headquarters prepares billings based on the reports (Form CHP 735, Incident Response Reimbursement Statement) submitted by the field offices. However, controls in place are not adequate to provide the necessary checks and balances to ensure that the field offices reported all the Forms CHP 735 data accurately and completely. This is a serious internal control weakness because any one of the field offices could inadvertently misreport or fail to report data without headquarters' knowledge.

Available data at the CHP shows that there are approximately 21,000 DUI-related accidents annually. For FY 2006-07 and FY 2007-08, the CHP issued approximately 6,800 and 12,000 DUI cost recovery billings, respectively. While not all accident cases meet the established criteria and result in cost recoveries, CHP headquarters has no means by which to determine the legitimacy of the cases not billed. As each case could potentially result in $12,000 in cost recovery under the Government Code, the sum of unreported DUI cost recovery cases in the CHP could be highly significant.

FINDING 3—
Poor communication resulted in significant underbilling of DUI cost recovery during 2005.

As noted under Finding 1, the Legislature in 2004 enacted a statute (Chapter 51, Statutes of 2004) that increased the maximum DUI cost recovery amount from $1,000 to $12,000 per case. Although the statute became effective January 1, 2005, the CHP's accounting office did not implement this significant change in the recoverable limit and continued to bill under the assumption that the maximum recovery amount of $1,000. The CHP did not implement the change until 2006. Therefore, for more than one year, the CHP was billing only $1,000 on cases for which it was legally entitled to bill as much as $12,000. Because of the deficiencies in the CHP's DUI Cost Recovery System as noted under Finding 1, we could not quantify the amount that was underbilled as a result of this error. However, the potential amount could have been in the millions of dollars.

FINDING 4—
The CHP's collection efforts and activities appear to be highly ineffective.

SAM section 8776.6 requires state departments to pursue collection by sending out three collection letters. SAM also provides that if the three collection letters are unsuccessful, departments must prepare an analysis to determine what additional effort should be made. The analysis should include a cost/benefit analysis of one or more collection action that includes offset procedures, court settlements, collection agencies, and sale of receivables.

Our review found that the CHP did, in most cases, send out the three collection letters as required by SAM. However, when the collection letters did not result in payments, the CHP did not prepare analyses to determine the most cost-beneficial or cost-effective action to pursue under the specific circumstances.

Instead, we found that:

- The CHP's policy is to write off any accounts receivable under $250 after three collection notices. Although the VCGCB has delegated to the CHP the authority to write off accounts receivables of less than $250, we believe the VCGCB expects the CHP to exercise this authority only after proper analyses showing that it is not cost beneficial to pursue the particular case. Instead, the CHP computer system writes off all such billings after three collection notices without any additional effort to assess the viability of collection. The amounts for Court Witness Fees and Miscellaneous Fees formally written off in this manner were $15,563 and $25,608 for FY 2006-07 and FY 2007-08, respectively. We understand the VCGCB is considering increasing the delegation limit from $250 to $500. If the CHP is granted such increased authority, the amount written off could increase substantially.

- As the CHP does not classify DUI cost recovery billings as valid accounts receivable, its system periodically transfers any billings under $250 from an active account to an archive account after three collection notices. The amounts of archived DUI cost recovery billings under $250 were $123,877 and $92,270 for FY 2006-07 and 2007-08, respectively. We found no evidence suggesting any effort by the CHP to collect archived accounts. Again, the amount of DUI cost recovery billings archived could increase significantly if the CHP's delegation is increased from $250 to $500.

- Except for accounts due from other governmental agencies, the CHP—without further analysis—referred all accounts receivable of $250 or more to a private collection agency. However, based on data provided by the CHP, the effort of the private collection agency appeared to yield dismal results for DUI cost-recovery billings. The results are as follows:

Number of DUI Invoices	Total Referred	Total Collected	Collection Rate
FY 2006-07			
7,123	$4,273,821	$274,850	6.4%
FY 2007-08			
7,848	$5,348,587	$356,387	6.7%

- The private collection agency efforts pertaining to Court Witness Fees and Miscellaneous Fees yielded much better results, as follows:

Number of Court Witness and Miscellaneous Fees	Total Referred	Total Collected	Collection Rate
FY 2006-07			
197	$492,938	$102,860	20.9%
FY 2007-08			
166	$407,629	$199,169	48.9%

Despite the overall low rate of collection, our review found no evidence suggesting that the CHP had made inquiries or analyses to determine the cause of the apparently low collection rate or whether there may be other

alternatives that would improve the effectiveness of the DUI cost-recovery collection effort. The CHP has made no apparent effort to review or monitor the activities of the collection agency. Moreover, citing voluminous data, the CHP staff stated that the CHP does not periodically reconcile the amounts and the number of accounts it has referred to the collection agency against the collection agency's records to ensure the completeness of transactions. As the CHP solely relies on the collection agency's records and reports, it does not have any control mechanism in place to preclude inadvertent omission of data by the collection agency, which in turn could lead to abuses.

The CHP apparently transferred to its archived account any amount deemed uncollectible by the private collection agency. The private collection agency annually generated a computerized listing of the outstanding accounts. The CHP would forward the listing to the Franchise Tax Board (FTB) for possible offset against any possible income tax refunds. According to the CHP's records, the FTB was able to collect through its offset process another $277,824 and $385,686, for FY 2006-07 and FY 2007-08, respectively. The remaining amounts, which amounted to millions of dollars annually, apparently were transferred to archived accounts without any further assessment of the viability of collection.

FINDING 5—
The CHP billings for witness fees and DUI cost recovery were late.

CHP billings for witness fees and DUI cost recovery were late in a number of cases. Field offices are not adhering to the formal policies and procedures for submitting the necessary information within the established time frames. We noted that three out of the ten billing packages were submitted from 82 to 168 days after the date the CHP officers appeared in court. Generally, it is more difficult to collect fees as time passes.

The Highway Patrol Manual (HPM) 11.1, Chapter 10, Subpoenas/ Subpoenas Duces Tecum Compliance Criminal/Civil Appearances: Paragraph 14(b)(1), states:

> The CHP 90 shall be prepared in duplicate. The original along with the related travel expense claim and subpoena (or copy thereof) shall be submitted to the Accounting Section **within 24 hours**. The duplicate shall be retained in the command file.

The HPM 11.1, Chapter 20, DUI Cost Recovery Program: Paragraph 4(b), requires that a completed form CHP 735, Incidents Response Reimbursement Statement, shall be forwarded to Fiscal Management Services, Reimbursable Services Unit within ten business days of the Blood Alcohol Concentration results date or the conviction date.

Additionally, our review of 735 Area Statistics reports from the fourth quarter of FY 2007-08 disclosed that area offices submitted numerous DUI Costs Recovery Services Packages at least 100 days after the blood alcohol concentration results were received or the DUI cases were convicted. For example, we noted that 30 of the 68 packages submitted by one field office were at least 100 days late.

RECOMMENDATIONS

The CHP should:

- Discontinue the practice of treating DUI cost recovery billings as contingent receivables and record such billings in its CALSTARS Accounting System.

- Enact appropriate control measures to ensure that DUI cost-recovery billings are properly recorded in the accounting records and areeasily accessible to management.

- Develop appropriate policies and procedures to ensure that the billing data generated by field offices are accurate, complete, and timely.

- Consider sponsoring legislation for greater leverage in its collection efforts, such as assessing interest or penalties on delinquent payments.

- Carefully and continuously assess and monitor the effectiveness of the private collection agency to determine whether its efforts are adequate to address the CHP's needs.

- Consider additional measures to increase its collection efforts and activities, including establishing a collection unit at headquarters and/or contracting with other state departments, such as the Franchise Tax Board, to collect debts.

Attachment A—
California Highway Patrol's
Response to Revised Draft Report

State of California—Business, Transportation and Housing Agency ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
P.O. Box 942898
Sacramento, CA 94298-0001
(916) 657-7152
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

February 10, 2009

File No.: 001.A13741.010

The Honorable John Chiang
California State Controller
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Dear State Controller Chiang:

The State Controller's Office (SCO) conducted a review of the California Highway Patrol's (CHP) reimbursable process. On January 26, 2009, the SCO issued their revised draft report called "Accounting and Administrative Processes and Procedures for Collection of Debt Due the State."

The following is the CHP's response to the SCO's revised draft report.

FINDING 1: The CHP misconstrued Driving Under the Influence (DUI) cost recovery billings as contingent receivables, thus understating its accounts receivable balances and circumventing state controls.

SCO Recommendation: Discontinue the practice of treating DUI cost recovery billings as contingent receivables and record such billings in its CALSTARS Accounting System.

Response: CHP concurs that DUI cost recovery billings should be classified as valid accounts receivables and will record them as such in CALSTARS.

However, the Department disagrees with the reviewers' observation regarding the validity of the accounts receivable balance in the DUI Cost Recovery System (DCRS) and the availability of documentation supporting that balance. At the time of the review, documentation was available to validate the accounts receivable balance. The SCO reviewers wanted the documentation in an electronic format. The documentation was not available electronically. However, the Department was willing to provide the SCO reviewers a printout of the documentation. Since the documentation was not available in the format requested by the SCO reviewers, it was not reviewed. The CHP has concerns with the SCO's labeling of the information (e.g., invoice numbers and amount of invoices) in the DCRS as "highly questionable" after the reviewers only conducted a cursory review. If the SCO reviewers had examined the available DCRS (1)

documentation and source documents, the issues raised would have been resolved. The CHP is in the process of developing additional reports for the DCRS that will show the number and amounts of DUI cost recovery billings, the amounts collected, and the amounts outstanding.

Addressing the specific concerns noted in the revised draft report:

- **The DCRS report showed numerous billings at $1,000 for FY 2006-07 and 2007-08 even though the maximum recovery billing was raised from $1,000 to $12,000 in 2005.** The actual billings within the database lists the correct amounts in accordance with the revised maximum billing amount, and these amounts are billed.
- **The CHP does not create invoices in numeric order.** The gap between invoice numbers noted in the revised draft report was caused by three closed invoices. This information was offered to the reviewers, but was not reflected in the draft revised report. (2)
- **Invoices in the DCRS report showed a blank or had a "0" for payment amounts.** This was caused by invoices being fully collected, but not transferred to the inactive files.

Documentation from DCRS to support the statements above is enclosed for review. (Enclosure #1)

FINDING 2: The CHP has inadequate controls in place to ensure the accuracy, reliability, and completeness of DUI cost recovery billings.

SCO Recommendation: Enact appropriate control measures to ensure that DUI cost recovery billings are properly recorded in the accounting records and easily accessible to management.

SCO Recommendation: Develop appropriate policies and procedures to ensure that the billing data generated by field offices are accurate, complete, and timely.

Response: The CHP disagrees with this finding. The CHP has a decentralized internal control system over its DUI cost recovery billing process. (Enclosure #2) Both CHP's uniformed and non-uniformed employees receive training in the DUI cost recovery process. The CHP has empowered the field command with primary oversight that requires several levels of review: (3)

- The arresting officer, who responds to the incident and arrests a driver for a DUI-related offense.
- The sergeant, who responds to the scene and assists with the incident command responsibilities.
- The court officer, who monitors the criminal prosecution of the arrestee and ensures the prompt processing of the DUI cost recovery billing.
- The multiple levels of managerial review to ensure accuracy and the processing of related paperwork.

As described, there are multiple checks and balances throughout the DUI cost recovery process both in the field commands and Administrative Services Division (ASD), and between the field commands and ASD. All DUI cost recovery billings are recorded in the DCRS and easily accessible to management. Additionally, headquarters sends to all field and Division offices quarterly reports listing the DUI cost recovery billings received, thereby assisting offices in the oversight of the billing accuracy, reliability, and completeness. If there is a discrepancy with the report, the field or Division offices will contact headquarters to provide clarification or additional information to reconcile the report.

Further, the CHP's internal control systems were audited by the Department of Finance in 2005 and by the CHP's internal auditors in 2007. Each group of auditors did not note weaknesses in this control system. From the audit periods covered by those audits to the present, the DUI cost recovery process has not changed. (4)

In addition, the revised draft report implies the CHP does not bill for several thousand DUI-related accidents annually. Not all DUI-related accidents qualify for billing under the DUI Cost Recovery Program. There are several reasons why a DUI-related incident may not qualify for the DUI Cost Recovery Program:

- The CHP officer is assisting an allied agency (e.g., police department or sheriff's department), and is not the agency authorized to invoice.
- The CHP officer discovers an accident which has not been reported.
- The investigating officer determines the driver is not the cause of the accident.
- The driver is not cited for a DUI-related offense (California Vehicle Code Sections 23152 or 23153) or a more serious DUI offense.
- The driver is not convicted for a DUI-related offense (California Vehicle Code Sections 23152 or 23153) or a more serious DUI offense.
- The driver's blood alcohol concentration is below the legal limit.

The revised draft report cites the CHP's 2006 statistic on number of DUI-related accidents. This same report shows over 2,700 DUI-related accidents where the driver had been determined not to be under the influence. This also demonstrates why the accidents do not qualify for DUI cost recovery billing.

Finding 3: Poor communication resulted in significant underbilling of DUI cost recovery during 2005.

SCO Recommendation: SCO did not provide any recommendation regarding this finding.

Response: The CHP agrees with the finding. At the time, the CHP's accounting office was unaware that new legislation passed. All new legislation enacted is now reviewed by the CHP's accounting office to make sure they are aware of any new legislation that will impact the CHP's programs.

Finding 4: CHP's collection efforts and activities appear to be highly ineffective.

SCO Recommendation: Consider sponsoring legislation for greater leverage in its collection efforts, such as assessing interest or penalties on delinquent payments.

SCO Recommendation: Carefully and continuously assess and monitor the effectiveness of the private collection agency to determine whether its efforts are adequate to address the CHP's needs.

Response: The CHP disagrees with this finding. The CHP's policies and practices follow State Administrative Manual (SAM) Section 8776.6. It appears the SCO reviewers expect the CHP to conduct a cost benefit analysis after collection activities have been performed. This is currently not a requirement in SAM; therefore, it has not been performed. (5)

The SCO's recommendation to pursue interest or penalties on delinquent payments is not a valid option. The threat of interest or penalties does not make an individual any more capable of paying the invoice than they were for the original dollar amount. This proposal would not increase revenues, it would do just the opposite, making the uncollectible accounts receivable balances even higher. If an invoice is uncollectible after the CHP, the collection agency, and the Franchise Tax Board (FTB) have all tried to collect, then it is a safe assumption the dollars will not be recovered through any further means. (6)

The SCO reviewers stated the CHP's collection rate is low. The CHP believes the collection rate is a reflection of the difficult nature involved in collecting on these particular receivables. In fact, as noted in the report, the CHP's collection rates have increased annually. It should be noted SAM does not set forth a minimum expected recovery rate on collections. In addition, the CHP only pays the collection agency a set percentage on those dollars recovered. (7)

Regarding the CHP's policy to write off accounts receivable under $250, Government Code Section 13943.2, provides that upon written authorization by the Victim Compensation and Government Claims Board, state departments may refrain from collecting amounts of $250 or less. Even with this authority, however, and contrary to the SCO's claim that "the CHP computer system writes off all such billings after three collection notices without any additional effort to assess the viability of collection," the CHP elects to send all valid accounts receivables over $25 to the FTB for offset. All accounts receivables are reviewed to assess the viability of collection. (8)

SCO Recommendation: Consider additional measures to increase its collection efforts and activities, including establishing a collection unit at headquarters and/or contracting with other state departments, such as the FTB, to collect debts.

Response: The CHP already utilizes two of the four actions recommended in SAM Section 8776.6, in the event that the three collections letters are unsuccessful. The CHP hired a

collection agency and uses the FTB for offsets because it was determined these are the most cost effective policies to be implemented. The CHP does not feel selling our accounts receivables or going to small claims court for these receivables would be cost effective. The Department is very proactive in its collection process.

Finding 5: The CHP billings for witness fees and DUI cost recovery were late.

SCO Recommendation: SCO did not provide any recommendation regarding this finding.

Response: The Department agrees with this finding and had previously implemented the following corrective actions:

- The Department's Fiscal Management Section (FMS) staff reviews the DUI cost recovery billings when received from a field office.
- FMS staff prepares quarterly reports of all DUI billings received and the average time taken to submit.
- FMS commander notifies the field office commanders and their respective Division commander quarterly of all DUI cost recovery billings and date of receipt.
- These reports are to assist Division and field commanders to identify and resolve late reporting.

In an effort to resolve the concern completely, the CHP continues to emphasize the importance of these departmental policies regularly.

We appreciate the opportunity to respond to the revised draft report. If you have any questions, or require further information, please contact Assistant Commissioner Max Santiago at (916) 657-7255.

Sincerely,

J. A. FARROW
Commissioner

Enclosures

Attachment B—
State Controller's Office Comments on California Highway Patrol's Response

We are providing the following comments on the California Highway Patrol's (CHP) response to our revised draft report. The comments below correspond to the numbers we placed in the margins of CHP's response.

(1) The CHP has mischaracterized our finding. Throughout the course of our audit, we repeatedly made requests to Administrative Service Division (ASD) staff and management for accounts receivable reports showing beginning balances, changes during the month, and ending balances to substantiate the accuracy of the database and to evaluate the overall effectiveness of collection efforts. Even though such a report should be readily available because the information is essential for the CHP management to manage and analyze its collection efforts, we have yet to receive any such report, "in any form – printed or electronic," substantiating the Driving Under the Influence (DUI) accounts receivable ending balance as of June 30, 2008. Instead, we were consistently informed during our review and at the meetings with CHP staff that the reports generated by the DCRS were not accurate; this raises questions as to how the CHP management could track and monitor its collection efforts.

This issue was also discussed extensively during the pre-exit conference meeting of January 8, 2009, with ASD management and staff and the CHP Office of Inspector General's management and staff. After the meeting, CHP staff provided two additional reports that purportedly validated the DUI ending accounts receivable balance as of June 30, 2008. The first report was a listing of all of the invoices billed for fiscal year (FY) 2005-06 through FY 2007-08, and the second report was a listing of all the archived invoices for the same time period. However, these two reports reflected only a listing of invoices and did not support the accounts receivable balances as of June 30, 2008.

The CHP stated in its response that it is in the process of developing additional reports for the DCRS. According to the CHP, the additional reports will show the number and amounts of DUI cost recovery billings, the amounts collected, and the amounts outstanding. In effect, the CHP is acknowledging that it does not have any of the reports available that we requested during our review, raising questions as to how the CHP could effectively track and monitor its collection efforts.

(2) The CHP's response further validated our finding that questioned the accuracy and reliability of reports generated by DCRS. The fact that some valid invoices were omitted from the "reports" and the collected invoices were not transferred to the inactive files would strongly suggest that the CHP could not rely on any reports generated by DCRS to make management and programmatic decisions.

(3) We disagree with CHP's assertion that it has adequate coverage and controls between the ASD and field offices. According to the CHP, the field offices are empowered with the primary responsibility and oversight over DUI activities that require several levels of review. Therefore, the ASD exclusively relies on what is reported by field offices without any assurances that the reported information is accurate, complete, and totally accounted for. While the decision to decentralize is a management prerogative, it must be accompanied by appropriate management control and oversight. We noted that there were approximately 21,000 DUI incidents per year; however, field offices reported to the ASD only approximately 6,800 incidents that resulted in DUI cost recovery billings during FY 2006-07. The CHP responded that over 2,700 DUI-related accidents were determined to be not billable. There is no documentation at ASD to account for the 11,500 remaining DUI incidents that were not billed, which strongly suggests the need for greater control and oversight by CHP headquarters.

(4) We believe the scope of audits performed by the Department of Finance (DOF) in 2005 and by CHP internal auditors in 2007 did not encompass an in-depth review of the CHP's collection system and processes. The fact that neither audit disclosed that the CHP misclassifies its DUI cost-recovery billings as contingent receivables would suggest that the scope of the DOF audit and the internal audit was limited.

(5) The CHP's policies and practices do not follow the requirements as specified in the State Administrative Manual (SAM). SAM section 8776.6 (Non-employee Accounts Receivable) states, in part:

> Collection Actions Review - If the three collection letters are unsuccessful, departments will prepare an analysis to determine what additional collection efforts should be made. The analysis should include a cost/benefit analysis of the collection actions. . . .

The CHP could not provide us with any evidential matter to show that it performed any type of a cost/benefit analysis regarding additional collection efforts. Therefore, the CHP is not adhering to the requirements of SAM with regard to performing cost/benefit analyses.

(6) Our recommendation to pursue interest or penalties on delinquent payments is a common and customary practice designed to provide greater incentive for voluntary compliance. In rejecting this recommendation without any empirical data or support to suggest that this approach is not feasible, the CHP has failed to identify and pursue other alternatives to provide it with greater leverage in its collection effort with respect to DUI cost recovery billings.

(7) As noted in the report, the DUI collection rate by the private collection agency in FY 2006-07 and FY 2007-08 was 6.4% and 6.7%, respectively. Despite this apparently dismal collection rate, the CHP continues to rely solely on the same collection agency and has not performed any inquiry, evaluation, or analysis of the adequacy of its collection efforts. Thus, the CHP's assertion that the collection rate is a reflection of the difficult nature of the billings is unsupported.

(8) It is our understanding that, effective in December 2007, the CHP changed its policy and started sending all outstanding accounts receivable over $25, with a Social Security Number, to the Franchise Tax Board (FTB) for offset. The CHP should also consider referring these accounts to private collection agencies for collection prior to the FTB offset requests.

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

http://www.sco.ca.gov

S09-PRS-900

Memorandum

Date: September 28, 2009

To: Office of the Assistant Commissioner, Inspector General

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Administrative Services Division

File No.: 070.A11898.A12369.1-0131

Subject: SIX MONTH STATUS REPORT FOR STATE CONTROLLERS OFFICE AUDIT REPORT OF REVIEW

Administrative Services Division has prepared responses to the findings resulting from the April, 2009 Report of Review of Accounting and Administrative Processes and Procedures for Collection of Debt Due to the State. The attached audit report reveals that all five findings have been completely addressed with each having a corrective action plan in place for remedy.

If you have any questions, or require further information, please contact Joan Parks, Fiscal Management Section commander, at (916) 375-2738.

L. A. Paolini

L. A. PAOLINI, Chief

cc: Office of the Assistant Commissioner, Staff

M. C. Santiago

Assistant Commissioner, Inspector General

ALL FINDINGS HAVE BEEN ADDRESSED. THIS IS A FINAL REPORT. 10-5-09

SIX MONTHS STATUS REPORT
STATE CONTROLLER'S OFFICE AUDIT REPORT
September 1, 2009

FINDING 1 – The CHP misconstrued DUI cost-recovery billings as contingent receivables, thus understating its accounts receivable balances and circumventing state controls. ***COMPLETED – FEBRUARY 2009.***

In February, the Department agreed with the State Controller's Office (SCO) recommendation to record DUI cost-recovery invoices as valid accounts receivables. At the end of each fiscal year, FMS will record the valid outstanding accounts receivables amount in CALSTARS and the amount will be reflected on the Department's year end financial statements.

FINDING 2 – The CHP has inadequate controls in place to ensure the accuracy, reliability, and completeness of DUI cost-recovery billings. ***COMPLETED – JULY 2009.***

All receivables currently in process will be subject to a 100 percent field inspection. The inspection's comprehensive review procedures are designed to further ensure the accuracy, reliability, and completeness of DUI cost-recovery billings.

FINDING 3 – Poor communication resulted in significant underbilling of DUI cost-recovery during 2005. ***COMPLETED – FEBRUARY 2009.***

The State Controller's Office did not provide any recommendation regarding this finding. All new legislation is now reviewed by FMS to ensure we are aware of any new legislation that will impact CHP programs or policies.

FINDING 4 – CHP's collection efforts and activities appear to be highly ineffective. ***COMPLETED – JULY 2009.***

The Department fully complies with State Administrative Manual regarding collection efforts and has implemented SCO suggestions by providing reasons accounts are deemed uncollectible and increasing the length of our collection agency contract to three years. The Department after further analysis has decided against submitting invoices of less than $250 to collections and Franchise Tax Board for offset, as it is not economically feasible. In addition, the Department has delegated authority from the Victim Compensation and Government Claims Board to write off invoices of less than $250.

FINDING 5 – The CHP billings for witness fees and DUI cost recovery were late.
COMPLETED – FEBRUARY 2009.

The Department agreed with this finding and has implemented the following corrective actions:

- FMS reviews the DUI cost recovery and witness fee billings when received from a field office.
- FMS prepares quarterly reports of all DUI billings received and the average time taken to submit.
- FMS commander notifies the field office commanders and their respective division commander quarterly of all DUI cost recovery and witness fee billings and date of receipt.
- These reports are to assist division and field commanders in identifying and resolving late reporting.