

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

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Attorney General

OPINION	:	No. 83-611
	:	
of	:	<u>NOVEMBER 17, 1983</u>
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THE HONORABLE CHAUNCEY L. VEATCH III, DIRECTOR,
DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS, has requested an opinion on
the following question:

Must \$50 of a fine imposed for a violation of Vehicle Code section 23103,
23104, 23152 or 23153 be paid into a special account for the county's alcoholism program
when such fine is collected by a county probation officer as a condition of probation or as
part of the terms of probation?

CONCLUSION

A fine imposed for a violation of Vehicle Code section 23103, 23104, 23152
or 23153 is not subject to a \$50 charge, payable to the county's alcoholism program, when
such fine is collected by a county probation officer as a condition of probation or as part of
the terms of probation.

ANALYSIS

Penal Code section 1463¹ provides in part as follows:

"Except as otherwise specifically provided by law:

"(1) Deposit and Distribution. All fines and forfeitures including Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated. . . ."

The statute then describes the manner in which the moneys so deposited shall be distributed. (See 65 Ops.Cal.Atty.Gen. 618, 619-622.)

The Legislature has enacted certain specific exceptions to the distribution provisions of section 1463, including section 1463.16²:

"Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars (\$50) for each conviction of a violation of section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs must be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

¹ Unless otherwise indicated, all statutory references are to provisions of the Penal Code.

² An amendment, effective January 1, 1984, is not material to our discussion. (Stats. 1983, ch. 140, § 1.)

"It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

"Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement. The State Department of Alcohol and Drug Programs may charge a fee to offset costs of certification of programs."

The Vehicle Code sections referred to cover the crimes of reckless driving (\$145 to \$500 fine), reckless driving with bodily injury (\$220 to \$500 fine), driving under the influence of alcohol or drugs (\$390 to \$500 fine, first conviction) and driving under the influence of alcohol and drugs causing death or bodily injury (\$390 to \$1,000 fine, first conviction).

We are asked whether all fines collected for violations of the above Vehicle Code provisions are subject to the \$50 charge set forth in section 1463.16.

Section 1463 requires that Vehicle Code fines collected in municipal and justice courts "shall, as soon as practicable after receipt thereof, be deposited with the county treasurer" The only qualification is contained in the language "except as otherwise specifically provided by law." It is argued that a fine when collected by a county probation officer pursuant to a condition or a term of probation does not fall within section 1463 and, although collected for a violation of Vehicle Code section 23103, 23104, 23152 or 23153, \$50 thereof need not be disbursed by the county treasurer to the county alcoholism program under section 1463.16. This contention is based upon section 1203.1 which states in part:

"Any other provision of law to the contrary notwithstanding, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county."

In 28 Ops.Cal.Atty.Gen. 275 (1956) we concluded that section 1203.1 is an exception to section 1463. In that opinion we stated at page 276:

"Section 1463 expressly provides that it does not apply where the disposition of fines is otherwise specifically provided for. Section 1203.1

specifically provides that fines collected by County Probation Officers as a condition of the granting of probation or as a part of the terms of probation are to be paid into the county treasury and placed in the general fund *for the use and benefit of the county*. Therefore, section 1203.1, and not section 1463, controls the disposition of such fines." (Emphasis in original.)

We discern no reason for changing or modifying our earlier opinion. Since its issuance in 1956 the Legislature has left the effect of that opinion untouched. As stated in *California Correctional Officers' Assn. v. Board of Administration* (1978) 76 Cal.App. 3d 786, 794:

"Opinions of the Attorney General are entitled to great weight as an administrative construction of a statute. (*Cristmat, Inc. v. County of Los Angeles* (1971) 15 Cal.App.3d 590, 595 [93 Cal.Rptr. 325]; *Stribling's Nurseries, Inc. v. County of Merced* (1965) 232 Cal.App.2d 759, 763 [43 Cal.Rptr. 211]; *Meyer v. Board of Trustees* (1961) 195 Cal.App.2d 420, 431-432 [15 Cal.Rptr. 717].) 'It must be presumed that the aforesaid interpretation [of the Attorney General] has come to the attention of the Legislature, and if it were contrary to the legislative intent that some corrective measure would have been adopted in the course of many enactments on the subject in the meantime.' (*Id.* at p.432; see also *Southwest Explor. Co. v. County of Orange* (1955) 44 Cal.2d 549, 544 [283 P.2d 257].)"

Both section 1463 and section 1203.1 have been amended numerous times since 1956, but have not been amended to change the impact of our opinion.

Indeed, our conclusion is fortified by the subsequent enactment and reenactment of section 1463.16. (Stats. 1980, ch. 661, § 1; Stats. 1982, ch. 51, § 11; Stats. 1983, ch. 140, § 1.) That statute specifically refers to the "moneys deposited with the county treasurer pursuant to Section 1463" and to no other moneys. This phraseology is used in many of the other exceptions to the distribution scheme of section 1463. (See §§ 1463.2, 1463.4, 1463.5a, subd. (2), 1463.6, 1463.10, 1463.11, 1463.12, 1463.13, 1463.14 and 1463.19.) Such precise language discloses a legislative intent that only the fines actually collected in the municipal and justice courts under section 1463, and not under any other provision of law, are subject to the \$50 charge specified in section 1463.16.

Probation officers are county officers. (*Superior Court v. Civil Service Commission* (1968) 257 Cal.App.2d 632, 634; 53 Ops.Cal.Atty.Gen. 7, 8 (1970).) By section 1203.1 the Legislature has directed that fines collected by them "in any of the courts of this state, as a condition of the granting of probation, or as the part of terms of probation"

go to the general fund of the county for the use and benefit of the county.³ This specific statute controls over the general provisions of section 1463. (Code of Civ. Proc., § 1859; *In re Williamson* (1954) 43 Cal.2d 651, 654.)

Accordingly, we conclude that a fine imposed for a violation of Vehicle Code section 23103, 23104, 23152 or 23153 is not subject to a \$50 charge, payable to the county alcoholism program, when such fine is collected by a county probation officer as a condition of probation or as part of the terms of probation.

³ Our opinion does not preclude a county from making a distribution of \$50, or of any amount, from the general fund to the county alcoholism program.