



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 26, 2011

Title	Agenda Item Type
Collections: Amnesty Program Guidelines	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	August 26, 2011
Recommended by	Date of Report
Margie Borjon-Miller, Acting Regional Administrative Director, Southern Regional Office	August 9, 2011
Jessica Sanora, Senior Manager, Enhanced Collections Unit	Contact Jessica Sanora, 818-558-3068 jessica.sanora@jud.ca.gov

Executive Summary

The Administrative Office of the Courts' Enhanced Collections Unit recommends that the Judicial Council approve two alternate sets of amnesty program guidelines to be used by statewide court and county collection programs: one for Vehicle and non-Vehicle Code infractions and one that includes specified misdemeanor violations, should the legislation extending the amnesty program in this manner get enacted and become effective on or before January 1, 2012. The Infraction Amnesty Program Guidelines are based on current Vehicle Code section 42008.7 and Assembly Bill 1358 (Fuentes), which amends Vehicle Code section 42008.7 to include specified Vehicle Code misdemeanor violations and is currently pending in the Legislature.

Recommendation

The Enhanced Collections Unit recommends that the Judicial Council:

1. Adopt the Infraction Amnesty Program Guidelines implementing Vehicle Code section 42008.7 (Attachment A) and direct each superior court to collaborate with its county to implement the one-time mandatory infraction amnesty program effective January 1 through June 30, 2012, for bail and fines meeting the eligibility requirements;
2. Adopt the draft Amnesty Program Guidelines (Attachment B) and direct each superior court to collaborate with its county to implement the one-time amnesty program for Vehicle and non-Vehicle Code infractions and specified misdemeanor violations. These guidelines will replace the Infraction Amnesty Program Guidelines and become effective if AB 1358 is enacted and becomes effective on or before January 1, 2012; and
3. Direct each court and county collection program to consider using an amnesty master agreement vendor for the collection of eligible amnesty cases (Attachment C).

Previous Council Action

On April 29, 2010, the Policy Coordination and Liaison Committee (PCLC) acted on behalf of the council to cosponsor legislation that created the infraction amnesty program. In October 2010 the collections package for improving the collection of court-ordered debt, including the infraction amnesty program, was enacted.

Rationale for Recommendation

Vehicle Code section 42008.7 requires that the Judicial Council adopt guidelines for the amnesty program no later than November 1, 2011. The Infraction Amnesty Program Guidelines are based on Vehicle Code section 42008.7 and are to be used by courts and counties when conducting the program.

AB 1358, if enacted, will amend Vehicle Code section 42008.7 to also create, on the same time line, and subject to the same requirements, an optional amnesty program, upon agreement by the court and county, for certain misdemeanors. The adoption of this legislation would require the Judicial Council to adopt revised guidelines that replace the Infraction Amnesty Program Guidelines. It may not be known until October whether AB 1358 is enacted, to be effective on or before January 1, 2012. Seeking adoption of revised guidelines at that time might not provide sufficient time for courts and counties to prepare to implement the amnesty program. Adoption of two alternate sets of guidelines at this time would be the most effective means to ensure that courts and counties are provided maximum time to plan for implementation of the amnesty program. The guidelines adopted under AB 1358 include both infractions and misdemeanors. While further amendments are not anticipated at this time, any changes to the legislation will be reflected in the guidelines.

Statewide agreements for the collection of amnesty payments were entered into to assist courts and counties that either currently do not have, or wish to amend, a participation agreement or contract with a private vendor for the collection of delinquent court-ordered debt.

Comments, Alternatives Considered, and Policy Implications

Amnesty guidelines were circulated for public comment to all presiding judges, court executive officers, county administrative officers, and court and county collections staff. Based on the comments received, the guidelines were modified to clarify that the Franchise Tax Board's Court-Ordered Debt program is not participating in the statewide amnesty program. A chart summarizing the comments is attached at pages 4–14.

No other alternatives were considered. Statute requires the implementation of a mandatory, statewide, one-time amnesty program. These guidelines simply implement the statutory requirements.

Implementation Requirements, Costs, and Operational Impacts

Government entities (not including the Franchise Tax Board) responsible for the collection of delinquent court-ordered debt are statutorily obligated to implement the amnesty program.

Under Vehicle Code section 42008.7, courts and counties will be allowed to recover operating costs incurred under the amnesty program.

Case management and accounting system limitations may have an operational impact on the collection and distribution of revenue under the amnesty program. Court and county collection programs may be further affected by staff shortages and statewide budget reductions.

Relevant Strategic Plan Goals and Operational Plan Objectives

These guidelines support Operational Plan Goal III, Objective 4, as it pertains to upholding the integrity of court orders, by improving the collection of fines, fees, and forfeitures statewide.

Attachments

1. Chart of comments, at pages 4–14
2. Attachment A: Infraction Amnesty Program Guidelines
3. Attachment B: Amnesty Program Guidelines
4. Attachment C: Amnesty Program Vendor Contact List

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
1.	Marita Ford, Senior Management Analyst Superior Court of Riverside County	AM	<p>What if a court determines their system will not be able to distribute the 50% in a pro-rata manner, pursuant to AB 3000 priorities (at all - or without significant output of labor and cost)?</p> <p>Should cases submitted to the Franchise Tax Board for tax intercept be recalled as well?</p> <p>If a defendant has monies paid through tax intercept after the 1/09 date, does that count toward a payment and make the litigant ineligible under the guidelines, even though the payment was not made “voluntarily”?</p> <p>If staff is hired prior to January 2012 to perform work necessary to implement the program (e.g., matching or linking defendants so all cases are packaged together for determination of eligibility under the program), will those costs be reimbursable?</p>	<p>Disagree. AB 3000 applies to installment payment distribution and is not applicable to the amnesty program.</p> <p>Yes, this was discussed with the formal working group and it was decided that this should be decided on a court-by-court, county-by-county basis.</p> <p>Vehicle Code section 42008.7 indicates that violations are only eligible for amnesty if certain requirements are met, including the “due date for payment of the fine or bail was on or before January 1, 2009.” Therefore, in order for a case to be eligible for amnesty, payment must have been received and/or posted on or before January 1, 2009.</p> <p>As long as the costs are recovered within the same fiscal year and tasks performed are directly associated to the amnesty program.</p>

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
			<p>The guidelines state that any unreimbursed costs for operating the program (excluding capital expenditures) may be deducted from the revenues collected under the Amnesty Program. Can that include the cost of clerical staff collecting payments and performing data entry, the accounting staff receiving the funds and distributing the monies, those preparing the reports, and the individuals involved in planning and administering the program? In other words, staff not normally eligible for reimbursement under Penal Code 1463.007.</p> <p>Can fees charged by the system vendor to modify the database so the program can be implemented be reimbursed under the program?</p> <p>If a defendant has a warrant and goes into court to have it dismissed (after January 2009), will the case be eligible for amnesty under the guidelines? If the warrant is dismissed prior to January 2009, we assume they would be eligible (all other criteria met).</p>	<p>The existing Cost Recovery Guidelines, as it pertains to determining operating costs and revenue distribution, should be considered and applied to the amnesty program.</p> <p>As long as the costs are recovered within the same fiscal year, not a capital costs and are directly associated to the amnesty program</p> <p>If the warrant has been dismissed prior to June 30, 2012, and the defendant meets all other eligibility requirements, the case is eligible for amnesty.</p>

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
			<p>The mandatory and optional programs both include charges of Vehicle Code section 40508(a) and (b) and Penal Code 853.7. Are other, less popular, warrant charges also included, such as: Fish & Game 12020, Vehicle Code 40616, and Health Safety 665?</p>	<p>If Assembly Bill 1358 is enacted, only the mandatory amnesty program will include charges of Vehicle Code section 40508 (a) and (b) and Penal Code section 853.7, added to an underlying infraction vehicle or non-vehicle code violation. Other warrant charges cannot be included in the amnesty program, as a case with an outstanding warrant is deemed ineligible.</p>
2.	<p>Valerie Ralph, Operations Manager – Traffic Division Superior Court of Monterey County</p>	NI	<p>Modify Section VI to read:</p> <p>b. Violations are eligible for amnesty only if each of the following requirements is met:</p> <ol style="list-style-type: none"> 1. The violation is an infraction filed with the court. 2. The due date for payment of the bail or fine was on or before January 1, 2009. This includes cases where the original due date was on or before 1-1-09 and an agreement was entered into between the Court and the Defendant to establish a payment plan and the payment plan pushes the due date beyond 1-1-09. <p>Example 1: Original due date was 12-18-2008, defendant establishes a payment plan where the first payment due date was 1-15-2009.</p> <p>Example 2: Original due date was 3-10-2007 and the defendant established a payment plan and has been making monthly payments and there is still a balance due after 1-1-09.</p>	<p>Disagree. Vehicle Code section 42008.7 indicates that violations are only eligible for amnesty if certain requirements are met, including the “due date for payment of the fine or bail was on or before January 1, 2009.” Therefore, in order for a case to be eligible for amnesty, payment must have been received and/or posted on or before January 1, 2009. While we understand there are cases where a payment plan may have extended the payment due date beyond January 1, 2009, the recommended change is inconsistent with the amnesty statute.</p>

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Amnesty Program Guidelines**

	Commentator	Position	Comment	Response
			<p>Comment 1: It seems unjust to not allow people who have been making payments (trying to do the right thing) not be allowed to participate in this amnesty program because their payment plan went beyond 1-1-09.</p> <p>Comment 2: Capital expenditures should be reimbursed since participating courts and counties do not have to comply with Penal Code 1463.007 to recover costs (under section “Program Costs”). Thus PC 1463.007 does not really guide the reimbursement process.</p> <p>Reasoning: Some courts and/or counties may have to make system changes in order to comply with the program that may include capital expenditures.</p> <p>Comments for Proposed Amnesty Guidelines:</p> <p>Comment 1: Exclude all misdemeanors with the exception of VC12500 (a) as most courts deem these as ‘wobblers.’ To include criminal misdemeanors opens up another set up complications with cases on probation, collection agencies, etc. Most court/county collection agencies will be contracting with a third party vendor to collect on criminal uncollectible debt.</p>	<p>Comment 1: While we understand that some defendants may not be eligible to participate in the amnesty program, the statute was written with the intent of continuing collection efforts on cases that are less than three years old.</p> <p>Comment 2: Pursuant to Vehicle Code section 42008.7, capital expenditures are not eligible for reimbursement. The reference to the Cost Recovery Guidelines was included to provide samples of distribution and cost allocations.</p> <p>Comment 1: Assembly Bill 1358, pending enactment, excludes misdemeanor violations of Vehicle Code sections 23103, 23104, 23105, 23152, 23153, and parking violations. The bill currently allows courts and counties to establish local programs for the collection of specified eligible misdemeanor cases.</p>

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
3.	SHARYL SWAIN, Court Compliance Manager, Superior Court of San Bernardino County	AM	<p>The guidelines seem to incorporate the legislative requirements; however additional clarification may be needed to address the “entities responsible for implementation” portion of the amnesty program. The way that it is stated could be interpreted as each entity that collects the debt is responsible for implementing a separate program. This could be problematic as it relates to Courts with an existing MOU that allows for joint collections.</p> <p>It should be stated that the local court in accordance with Judicial Counsel Guidelines has the right to define the scope of the amnesty program and that any entity responsible for collections shall implement the program accordingly unless otherwise agreed in writing.</p>	As indicated in Vehicle Code section 42008.7 (b), a one-time amnesty program for fines and bail meeting the eligibility requirements set forth in subdivision (d) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities (not including the Franchise Tax Board) that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Penal Code section 1463.010.
4.	Christopher B. Hicks, Court-Ordered Debt Collection Program, California Franchise Tax Board	A	<p>The Franchise Tax Board Court-Ordered Debt Collection Program agrees with the proposed changes and provides additional comments for purposes of clarification.</p> <p>For the Bill (AB 1358): (e) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.</p>	Disagree. A change at this late date may not be able to make it into the proposed legislative language. The comment will be included in the Amnesty Program Guidelines.

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Amnesty Program Guidelines**

	Commentator	Position	Comment	Response
			<p>Renumber the remaining sections of 42008.7 to reflect the insertion of the new section 42008.7(c)</p> <p>FTB COMMENT: Insert 42008.7(c): As used in this section “government entities that are responsible for the collection of delinquent court-ordered debt” <u>does not include the Franchise Tax Board.</u></p> <p>FTB collects court-ordered debt pursuant to RTC 19280. By inserting the language above would clarify/make certain that we are not considered a government entity within the expressed context. Therefore, we recommend AOC amend the language in the current process. The bill is in the Senate Appropriations suspense file.</p>	<p>Agree. The guidelines will be changed to indicate that the Franchise Tax Board’s Court-Ordered Debt (FTB-COD) program is not to be included as a government agency responsible for the collection of amnesty payments.</p>

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Amnesty Program Guidelines**

	Commentator	Position	Comment	Response
			<p>For the Guidelines:</p> <p>CURRENTLY READS:</p> <p>FRANCHISE TAX BOARD Because of its current system limitations and inability to separate cases by violation type, the Franchise Tax Board Court-Ordered Debt Program (FTB-COD) cannot participate fully in the infraction amnesty program. It is recommended that collection programs recall an amnesty-eligible case from the FTB-COD only after the 50 percent payment has been made. Over 40 court and county collection programs refer cases to the FTB-COD for the collection of delinquent court-ordered debt. The FTB_COD has identified more than 55,000 infraction, misdemeanor, and felony cases that have been referred to it with a due date prior to January 1.</p>	<p>Agree. The suggestions will be incorporated into the guidelines with minor modifications.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
			<p>FTB COMMENT: Change the paragraph titled Franchise Tax Board to read:</p> <p>Because of its current system limitations, the inability to separate cases by violation type, determine the age of the debt, and the lack of access to information regarding outstanding warrants or restitution of any particular amnesty applicant in the county, the Franchise Tax Board Court-Ordered Debt Program (FTB-COD) cannot participate fully in either the amnesty program or the amnesty infraction program. It is recommended that collection programs recall all amnesty eligible cases from the FTB-COD as soon as amnesty is requested, or, if no formal request is made, any payment for the amnesty amount is received at the court or county. Over 60 court and county collection programs refer cases to the FTB-COD for the collection of delinquent court-ordered debt. The FTB-COD has identified more than 55,000 infraction, misdemeanor, and felony cases that have been referred with a due date prior to January 1, 2009.</p>	<p>Disagree. Because of the FTB-COD program, current system limitations, inability to separate cases by type, or determine age of debt and eligibility, therefore collection programs may be unable to withdraw cases until they are fully paid.</p>

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Amnesty Program Guidelines**

	Commentator	Position	Comment	Response
			<p>Payment Processing</p> <p>CURRENTLY READS:</p> <p>a. Payment under the amnesty program can be made by cash, cashier’s checks, money order, or credit card. Personal checks may be accepted, although it is recommended that Department of Motor Vehicle (DMV) holds or suspensions be released after the personal checks clear.</p> <p>FTB COMMENT: Should specify where or to whom the payment is made (see <i>Franchise Tax Board</i>). Also, if the client waits for the personal check to clear, when do they “Withdraw” the case from COD? Depending on when COD is notified of “Withdrawal” could affect payments en-route or in clearing in relation to being considered an overpayment or regular payment.</p> <p>The process is further complicated if the client waits for the personal check to clear and/or waits after the 50 percent payment has been made to recall an amnesty eligible case from FTB-COD. Payments en-route to COD, in clearing in COD, or on distribution schedules not yet processed by the SCO or the client could result in an overpayment. Preferably, eligible cases would be identified and “Withdrawn” as soon as possible to help prevent an over collection. Cases could always be “re-activated” if the debtor did not fulfill the amnesty payment.</p>	<p>The guidelines recommend that payments made by personal check should be withheld until cleared, for the purpose of controlling the release of DMV holds and suspensions. This does not affect the recommended process for the withdrawal of cases from the FTB-COD program.</p> <p>Agree. The suggestions will be incorporated into the guidelines with minor modifications.</p>

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
5.	Vivian Bowen, Chief Financial Officer Superior Court of Stanislaus County	NI	<p>We have identified approximately 5K cases that are with FTB or third party vendor (FTP's) that qualify under the amnesty program. It would be very difficult and time consuming to apply the 50% payment to those cases where we have received monies and distributed based on priorities. We would have to prepare adjustments for each and every case. How will courts handle these types of cases?</p> <p>Our current FTB contract requires us to fill out a form for every case recalled. Will statewide contract be amended and will court still have to pay 15% to FTB on those cases?</p> <p>Reporting requirements: Is it possible for county and court to submit separate reports based on their collections?</p>	<p>For accounts where a partial payment has been made and distributed based on Penal Code section 1203.1(d) priorities, the remaining balance collected under the infraction amnesty program, at the reduced rate of 50 percent, must be distributed pro rata among only the state and local government funds that did not receive their share of the revenues, in accordance with California State Controller's <i>Manual of Accounting and Audit Guidelines for Trial Courts</i>.</p> <p>The Enhanced Collection Unit will be providing Webinar training where information will be shared by courts and counties on their procedures for handling amnesty payments.</p> <p>Programs may need to go online and fill out a form to recall a case. According to the Franchise Tax Board Court Ordered Debt Program Standard Agreement, a court or county will have to pay the 15% commission on cases where the FTB has initiated collection efforts. However, if it is the amnesty program that prompted the payment, the 15% commission will not be paid to the Franchise Tax Board-COD program.</p> <p>Yes, courts and counties may submit separate reports based on their collections.</p>

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Amnesty Program Guidelines

	Commentator	Position	Comment	Response
6.	Shelley Piech, Assistant Treasurer-Tax Collector Tuolumne County Revenue Recovery	NI	<p>Does the County Administrative fee, under PC1205d, get paid under the unreimbursed costs of operating the program?</p> <p>How do the Booking and Release fees get paid?</p> <p>If an Amnesty payment is accepted and it is later discovered there is a warrant, can the payment be applied as a partial payment with the remainder of the balance still due?</p> <p>Who is paying the costs of advertising this program?</p>	<p>All fees included as part of the outstanding balance will be collected and distributed at 50 percent.</p> <p>The booking and release fees will get paid at 50% as part of the outstanding balance.</p> <p>If an amnesty payment is made and it is later determined that case was not eligible due to an outstanding warrant or victim restitution the payment should be applied as a partial payment. The defendant should be notified in writing of the due date for remaining balance, as it would be subject to further collection activity.</p> <p>If local advertising is required, each court and county will pay for the advertising expenses. Cost will be recovered through revenues collected under the amnesty program. The Enhanced Collection unit in conjunction with other AOC Divisions will be meeting to determine if statewide advertising can be done.</p>



Infraction Amnesty Program Guidelines

AS MANDATED BY VEHICLE CODE
SECTION 42008.7



JUDICIAL COUNCIL
OF CALIFORNIA

**Amnesty Program Guidelines
as Mandated by Vehicle Code Section 42008.7**

August 26, 2011



JUDICIAL COUNCIL
OF CALIFORNIA

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INFRACTION AMNESTY PROGRAM GUIDELINES

I. Program Authority

In October 2010, Senate Bill 857 (Stats. 2010, ch. 720) added section 42008.7 to the Vehicle Code (Attachment A). The statute authorizes and sets the general guidelines for a one-time mandatory infraction amnesty program in each county for bail and fines meeting the eligibility requirements. The section requires that the infraction amnesty program be implemented in accordance with guidelines adopted by the Judicial Council.

These infraction amnesty program guidelines may not address every situation involving a collection program's implementation. Courts and counties should consider the intent of the infraction amnesty program when developing local policies and procedures for their infraction amnesty program.

II. Purpose of Amnesty Program

The purpose of the one-time infraction amnesty program is to provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have been unable to pay an infraction bail or fine. The infraction amnesty program will provide increased revenue at a time when revenue is scarce by encouraging payment of old debt that has remained unpaid and allow court and county collection programs to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

III. Court and County Participation

Unless agreed otherwise by the court and the county in writing, the government entities (*does not include the Franchise Tax Board*) that are responsible for the collection of delinquent court-ordered debt under Penal Code section 1463.010(b) will be responsible for implementation of the infraction amnesty program. Juvenile traffic infractions are included in the infraction amnesty program.

IV. Program Costs

Any unreimbursed costs of operating the infraction amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the infraction amnesty program by the court or county collection program that incurred the expense. To recover costs under the infraction amnesty program, a collection program does not have to be comprehensive, as defined in Penal Code section 1463.007.

Refer to the Judicial Council's *Cost Recovery Guidelines and Standards*, available at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> or <http://www2.courtinfo.ca.gov/collections/>

INFRACTION AMNESTY PROGRAM GUIDELINES

V. Amnesty Period

The one-time infraction amnesty program will operate from January 1, 2012, through June 30, 2012.

VI. Eligibility

- a. All adult and juvenile vehicle and non vehicle infraction violations where a delinquent bail or fine was due on or before January 1, 2009, are eligible for the infraction amnesty program. Under Vehicle Code section 42008.7, the terms “bail” and “fine” refer to the total bail amount or fine balance due in connection with a specific Vehicle Code or non-Vehicle Code infraction.
- b. Violations are eligible for amnesty only if each of the following requirements is met:
 1. The violation is an infraction filed with the court.
 2. The due date for payment of the bail or fine was on or before January 1, 2009.
 - A failure-to-appear case is eligible for amnesty *if* the case is currently on failure-to-appear status and the appearance date was on or before January 1, 2009.
 - A failure-to-pay case is eligible for amnesty *if* the fine due date *and* last payment made on an installment plan or accounts receivable were on or before January 1, 2009.
 3. The defendant does not owe victim restitution on any case within the county.
 4. The defendant has no outstanding misdemeanor or felony warrants within the county.
- c. To qualify, the defendant must pay 50 percent of the delinquent bail amount or fine balance in full satisfaction of the debt under the infraction amnesty program and meet all requirements listed above in section b. A defendant is not required to apply in writing or request amnesty in order for the violation to be eligible. Amnesty is granted at the time an eligible defendant makes payment.

VII. Payment Processing

Vehicle Code section 42008.7 requires that each infraction amnesty program accept, in full satisfaction of any eligible bail or fine, 50 percent of the bail amount or fine balance. The remaining 50 percent of the bail amount or fine balance is to be suspended or adjusted to zero in the court and/or county records.

- a. Payment under the infraction amnesty program can be made by cash, cashier’s check, money order, or credit card. Personal checks may be accepted, although it is recommended that Department of Motor Vehicle holds or suspensions be released *after* the personal check clears.

INFRACTION AMNESTY PROGRAM GUIDELINES

- b. Payment under the infraction amnesty program must be made in one lump sum.
- c. The calculation of the fine, fees, penalties, and assessments on eligible violations will be calculated in the same manner as delinquent cases based on the collecting entity's current policies and procedures.
- d. The total amount of revenue collected under the infraction amnesty program will be deposited in the county treasury and/or the account established under Government Code section 77009.
- e. The program must maintain a separate accounting of all revenues collected and operating costs expended under the infraction amnesty program.
- f. No criminal action on the eligible case may be brought against a person after payment of a delinquent bail amount or fine balance paid under the infraction amnesty program.

VIII. Department of Motor Vehicles (DMV) Abstract

Upon payment, a court will notify the DMV as required by law.

IX. Reporting Requirements

Each court or county collection program will jointly file a report with the Judicial Council, in a format approved by the Judicial Council, no later than September 30, 2012 (Attachment B).

The report must include monthly information related to the number of cases resolved, the amount of money collected, and the operating costs of the infraction amnesty program. Reports may be submitted electronically to the Enhanced Collections Unit at collections@jud.ca.gov or faxed to 818-558-3112.

X. Distribution

Revenue collected under the infraction amnesty program will be distributed on a pro rata basis based on the distribution guidelines for the applicable year designated in Appendix C of the State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts* and applicable law, without regard to the priorities listed in Penal Code section 1203.1(d). The State Controller's manual and the State Controller's Office *Assembly Bill 3000 Court Surcharge Distribution Guidelines* are available at www.sco.ca.gov/Files-ARD-Local/LocRep/Appendix_C_v22edited.pdf and www.sco.ca.gov/Files-ARD-Local/acctng_guidelines_ab3000guidelines.pdf.

For accounts where a partial payment has been made and distributed based on Penal Code section 1203.1(d) priorities, the remaining balance collected under the infraction amnesty program, at the reduced rate of 50 percent, must be distributed pro rata among only the state and local government funds that did not receive their share of the revenues, in accordance with the California State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts*.

INFRACTION AMNESTY PROGRAM GUIDELINES

For example, an account with an outstanding fine of \$475 is set up on installment payments. The defendant made two payments of \$100 each before defaulting on the payment plan in October 2008. Of the \$200 paid, \$24 was distributed to the second priority and \$176 to the third priority. Because only 50 percent of the remaining \$575 (\$275 balance plus \$300 civil assessment) is eligible for amnesty, upon receipt of a \$287.50 payment, the funds must be distributed pro rata between the remaining items in priorities 3 and 4. Eligible operating costs, including commission fees, are prorated as usual among all funds, prior to the final distribution.

Refer to the Judicial Council's *Cost Recovery Guidelines and Standards* available at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> or <http://www2.courtinfo.ca.gov/collections/>

XI. Infraction Amnesty Program Action Plan

The Administrative Office of the Courts' Enhanced Collections Unit will:

- Develop and distribute the infraction amnesty program guidelines, as approved by the Judicial Council, to court and county collecting entities no later than November 1, 2011;
- Assist, upon request, with the coordination of statewide and local media campaigns;
- Assist, upon request, with the distribution of advertising materials for the court and county collection programs and justice partners; and
- Report infraction amnesty program-related information to the Judicial Council for inclusion in the required report to the Legislature.

Courts and Counties

Courts and counties should collaborate in developing local policies and procedures for the implementation of the infraction amnesty program authorized under Vehicle Code section 42008.7. In order for the infraction amnesty program to be implemented successfully, each court and county should develop a joint process for:

- Accepting and posting payments made through the infraction amnesty program;
- Maintaining separate accounting of all revenues collected under the infraction amnesty program;
- Upon contact by defendant, determining eligibility on individual cases based on criteria established in Vehicle Code section 42008.7;
- Tracking and reporting monthly operating costs;
- Tracking and reporting the monthly number of cases resolved;
- Tracking and reporting the monthly revenue collected under the infraction amnesty program; and
- Tracking and reporting recovered costs.

INFRACTION AMNESTY PROGRAM GUIDELINES

The court and county should consider developing a joint procedure for:

- Distributing advertising materials to justice partners and private collection vendors;
- Designating staff at each court or county satellite location to process all amnesty payments received by mail or in person;
- If cost effective, contracting with a amnesty vendor or amending an existing participation agreement with a vendor under the collections master agreement or revising an existing contract or agreement with any other collections vendor to help meet the requirements of the infraction amnesty program; and
- If cost effective, identifying cases eligible for amnesty and mailing information in writing (amnesty notice or postcard) about the infraction amnesty program to those debtors for whom a valid address is available.

Private Vendor

A private vendor's responsibility as it pertains to the collection of amnesty-eligible cases is outlined in the amnesty master agreement and in each individual Participation Agreement.

The Amnesty Master Agreements will be posted in Serranus at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and the Enhanced Collections external website at <http://www2.courtinfo.ca.gov/collections/>

Franchise Tax Board

Because of its current system limitations and inability to separate cases by violation type, determine the age of the debt, and the lack of access to information regarding outstanding warrants or restitution of any particular amnesty applicant in the county, the Franchise Tax Board Court-Ordered Debt Program (FTB-COD) cannot participate fully in the infraction amnesty program. It is recommended that collection programs recall an amnesty-eligible case from the FTB-COD as soon as an amnesty payment is made. The FTB-COD has identified more than 55,000 infraction, misdemeanor, and felony cases with a due date prior to January 1, 2009.

The withdrawal of amnesty eligible cases from the Franchise Tax Board's Interagency Intercept Collections program should be decided on a court-by-court, county-by-county, basis.

XII. Example Calculations

Please be advised that each of the examples that follow is a tool for calculating total fine and penalty assessments and is not intended to calculate distribution of amounts received. Courts and counties are responsible for inputting local information, and the Administrative Office of the Courts assumes no liability for the failure of this information to be included.

The examples provided are for illustrative purposes only and do not contain all possible fines, fees, penalties, or assessments eligible for the amnesty program under Vehicle Code section 42008.7.

INFRACTION AMNESTY PROGRAM GUIDELINES

Example 1: Failure to appear; charge is a single Vehicle Code infraction violation with one prior violation

Example 2: Failure to appear; charge is a single Vehicle Code infraction violation by a juvenile filed in Adult Traffic Court

Example 3: Failure to pay; charge is a single non-Vehicle Code infraction violation

Example 4: Failure to pay, multiple Vehicle Code infraction violations

Example 1: Failure to Appear; Single Vehicle Code Infraction Violation With One Prior*

Factors:

1. Violation is an infraction under Vehicle Code section 22349(a), *Speeding 1–15 MPH over 65 MPH Limit*, plus one prior conviction of Vehicle Code section 22349.
2. Traffic citation was issued on March 2, 2005; appearance/payment due date was April 7, 2005.
3. Defendant failed to appear and account became delinquent on July 28, 2005.
4. Additional fees include prior conviction monitoring and civil assessment for failure to appear.
5. Total amount of \$415 is eligible for amnesty. The \$207.50 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base bail of \$25, plus 1 prior (\$10 added)	\$35.00	\$17.50
State surcharge, 20% of base, per Pen. Code, § 1465.7	\$7.00	\$3.50
State penalty assessment (PA) ¹ , \$10 on every \$10, per Pen. Code, § 1464.4(a)	\$40.00	\$20.00
County PA, \$7 on every \$10, per Gov. Code, § 76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 of every \$10, per Gov. Code § 76000	\$20.00	\$10.00
DNA PA, \$1 for every \$10, per Gov. Code, § 76104.6	\$4.00	\$2.00
Administrative fee (prior record), per Veh. Code, § 40508.6	\$10.00	\$5.00
Night court; Veh. Code, § 42006	\$1.00	\$0.50
Court security fee, \$20, per Pen. Code, § 1465.8	\$20.00	\$10.00
Civil assessment, up to \$250, per Pen. Code, § 1214.1 ²	\$250.00	\$125.00
Total bail amount due	\$415.00	\$207.50

*Fine, fees, and penalty assessments based on *2005 Uniform Bail and Penalty Schedules*.

¹ Penalty assessment (courthouse construction) amount may differ between counties; please verify for each example.

² Civil assessment increase from \$250 up to \$300 effective July 19, 2005 (Assembly Bill 139; Stats. 2005, ch 74).

INFRACTION AMNESTY PROGRAM GUIDELINES

Example 2: Failure to Appear; Single Vehicle Code Infraction Violation by a Juvenile Filed in Adult Traffic Court*

Factors:

1. Violation is an infraction under Vehicle Code section 22108, *Signal Required Before Turning or Changing Lanes*.
2. Traffic citation was issued on January 5, 2006; appearance/payment due date was February 6, 2006.
3. Juvenile does not appear.
4. Additional fees include civil assessment for failure to appear.
5. Total balance amount of \$434 is eligible for amnesty. The \$217 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base fine	\$35.00	\$17.50
State surcharge, 20% of base, per PC §1465.7	\$7.00	\$3.50
State PA, \$10 on every \$10, per PC §1464.4(a)	\$40.00	\$20.00
County PA, \$7 on every \$10, per GC §76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 of every \$10, per GC §76000	\$20.00	\$10.00
DNA PA, \$1 for every \$10, per GC §76104.6	\$4.00	\$2.00
Civil Assessment up to \$300, per PC §1214.1 ³	\$300.00	\$150.00
Total bail amount due	\$434.00	\$217.00

* Fine, fees, and penalty assessments based on *2006 Uniform Bail and Penalty Schedules*.

³ SB 676 (effective January 2010) amended Penal Code section 1205(d); dropped the \$35 maximum and changed to actual cost. The accounts receivable fee of up to \$30 remained the same.

INFRACTION AMNESTY PROGRAM GUIDELINES

Example 3: Failure to Pay; Single Non-Vehicle Code Infraction Violation*

Factors:

1. Violation is a non-Vehicle Code infraction of Parks and Recreation section 4312(e), *No Dogs or Cats in Area Unless on a Leash*.
2. Citation was issued on September 10, 2007; payment/appearance due date was October 12, 2007.
3. Defendant appears and fine of \$190 is imposed; accounts receivable with due date of March 10, 2008 was established. Payment is not made and account became delinquent on March 11, 2008.
4. Additional fees include civil assessment for failure to pay and court security and accounts receivable fee
5. Total fine balance of \$540 is eligible for amnesty. The \$270 should be distributed pro rata to all funds as appropriate.

Non-Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base fine	\$50.00	\$25.00
State surcharge, 20% of base; Pen. Code, §1465.7	\$10.00	\$5.00
State PA, \$10 on every \$10; Pen. Code, §1464.4(a)	\$50.00	\$25.00
County PA, \$7 on every \$10; Gov. Code, §76000(a)(e), \$7 of \$10	\$35.00	\$17.50
Court PA, \$5 of every \$10; Gov. Code, § 76000,	\$25.00	\$12.50
EMS PA, \$2 for every \$10; Gov. Code, § 76000.5 ⁴	\$10.00	\$5.00
DNA PA, \$2 for every \$10; Gov. Code, § 76104.6 and 76104.7 ⁵	\$10.00	\$5.00
Civil assessment, up to \$300; Pen. Code, §1214.1	\$300.00	\$150.00
Court security fee, \$20; PC §1465.8	\$20.00	\$10.00
Accounts receivable fee; PC §1205(d)	\$30.00	\$15.00
Total fine balance due	\$540.00	\$270.00

*Fine, fees, and penalty assessments based on 2007 *Uniform Bail and Penalty Schedules*.

⁴ EMS “additional” penalty assessment, under Government Code section 76000.5, if approved by board of supervisors.

⁵ DNA penalty assessment, additional \$1 for every \$10, under Government Code section 76104.7.

INFRACTION AMNESTY PROGRAM GUIDELINES

Example 4: Failure to Pay; Multiple Vehicle Code Infraction Violations*

Factors

1. Charge is multiple Vehicle Code infractions:
 - Vehicle Code section 21453(a), *Red-Signal Vehicle Responsibility*;
 - Vehicle Code section, 22108 *Signal Required Before Turning or Changing Lanes*; and
 - Vehicle Code section 24252(a), *Maintenance of Lamps and Devices Required*.
2. Citation was issued on February 4, 2008; payment/appearance due date was March 10, 2008.
3. Defendant appears and a fine is imposed. Defendant agrees to installment payment plan of \$30 per month; a total of \$0 is paid.
4. Additional fees include civil assessment for failure to pay and court security and installment payment fees.
5. Total fine balance eligible for amnesty is \$1003. The \$501.50 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base fine, first violation (VC§ 21453(a))	\$100.00	\$50.00
Base fine, second violation (VC§ 22108)—Correctable	\$35.00	\$17.50
Base fine, third violation (VC §24252(a))	\$25.00	\$12.50
Subtotal base bail	\$160.00	\$80.00
State surcharge, 20% of base; Pen. Code, §1465.7	\$32.00	\$16.00
State PA, \$10 for every \$10; Pen. Code, § 1464.4(a)	\$160.00	\$80.00
County PA, \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$112.00	\$56.00
Court PA, \$5 of every \$10; Gov. Code, § 76000	\$80.00	\$40.00
DNA PA, \$2 for every \$10; Gov. Code, §76104.6 and 76104.7	\$32.00	\$16.00
EMS PA, \$2 for every \$10; Gov. Code, §76000.5	\$32.00	\$16.00
Court security fee, \$20; Pen. Code, §1465.8	\$60.00	\$30.00
Installment payment plan fee; Pen. Code, § 1205(d)	\$35.00	\$17.50
Civil assessment, up to \$300; Pen. Code, §1214.1	\$300.00	\$150.00
Total fine balance due	\$1003.00	\$501.50

*Fine, fees, and penalty assessments based on *2008 Uniform Bail and Penalty Schedules*.

INFRACTION AMNESTY PROGRAM GUIDELINES

Vehicle Code Section 42008.7

42008.7. (a) The State of California continues to face a fiscal and economic crisis affecting the state budget and the overall state economy. In light of this crisis, a one-time infraction amnesty program would do the following:

(1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they are financially unable to pay traffic bail or fines.

(2) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.

(3) Allow courts and counties to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

(b) A one-time amnesty program for fines and bail meeting the eligibility requirements set forth in subdivision (d) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.

(c) As used in this section, the term "fine" or "bail" refers to the total amounts due in connection with a specific violation, which include, but are not limited to, the following:

(1) Base fine or bail, as established by court order, by statute, or by the court's bail schedule.

(2) Penalty assessments imposed pursuant to Section 1464 of the Penal Code and Sections 76000, 70372, 76104.6, 76104.7, and 76000.5 of the Government Code.

(3) Civil assessment imposed pursuant to Section 1214.1 of the Penal Code.

(4) State surcharge imposed pursuant to Section 1465.7 of the Penal Code.

(5) Court security fee imposed pursuant to Section 1465.8 of the Penal Code.

(d) Violations are only eligible for amnesty if all of the following requirements are met:

(1) The violation is an infraction violation filed with the court.

(2) The due date for payment of the fine or bail was on or before January 1, 2009.

(3) The defendant does not owe victim restitution on any case within the county.

(4) There are no outstanding misdemeanor or felony warrants for the defendant within the county.

(e) Each amnesty program shall accept, in full satisfaction of any eligible fine or bail, 50 percent of the fine or bail amount, as defined in subdivision (c) of this section. Payment of a fine or bail under an amnesty program implemented pursuant to this section shall be accepted beginning January 1, 2012, and ending June 30, 2012. The Judicial Council shall adopt guidelines for the amnesty program no later than November 1, 2011, and each program shall be conducted in accordance with Judicial Council guidelines.

(f) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.

(g) The total amount of funds collected under the amnesty program shall as soon as practical after receipt thereof be deposited in the county treasury or the account established under Section 77009 of the Government Code. Any

INFRACTION AMNESTY PROGRAM GUIDELINES

unreimbursed costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or the county that incurred the expense of operating the program. Notwithstanding Section 1203.1d of the Penal Code, the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed pursuant to Section 1462.5 of the Penal Code.

(h) Each court or county implementing an amnesty program shall file, not later than September 30, 2012, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Notwithstanding Section 10231.5 of the Government Code, on or before December 31, 2012, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.

Infraction Amnesty Program Collections Report
January 1, 2012, through June 30, 2012
Court/County: _____

	Number of Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
January				
February				
March				
April				
May				
June				
TOTAL	\$0	\$0	\$0	\$0

Completed by: _____

Name: _____

Title: _____

Phone No.: _____

E-mail: _____



Amnesty Program Guidelines

AS MANDATED BY VEHICLE CODE
SECTION 42008.7



JUDICIAL COUNCIL
OF CALIFORNIA

DRAFT

**Amnesty Program Guidelines
as Mandated by Vehicle Code Section 42008.7**

August 26, 2011



**JUDICIAL COUNCIL
OF CALIFORNIA**

Administrative Office of the Courts
Enhanced Collections Unit
Southern Regional Office
2255 North Ontario Street, Suite 200
Burbank, California 91504-3188
818-558-3221
www.courts.ca.gov

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Printed on recycled and recyclable paper

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Amnesty Program Guidelines

Program Authority

In October 2010, Senate Bill 857 (Stats. 2010, ch. 720) added section 42008.7 to the Vehicle Code (Attachment A). The statute authorizes and sets the general guidelines for a one-time mandatory infraction amnesty program in each county for bail and fines meeting the eligibility requirements.

If enacted, Assembly Bill 1358 (Stats. 2011, ch. __) would amend Vehicle Code section 42008.7 to add a one-time amnesty program for specified Vehicle Code misdemeanor violations to the mandatory infraction amnesty program, as established by SB 857).

The statute requires that the amnesty program be implemented in accordance with guidelines adopted by the Judicial Council. The Amnesty Program Guidelines may not address every situation involving a collection program's implementation. Courts and counties should consider the intent of the amnesty programs when developing local policies and procedures for their programs.

Purpose of the Amnesty Program

The purpose of the one-time amnesty program is to provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have been unable to pay an infraction or misdemeanor bail or fine. The amnesty program will provide increased revenue at a time when revenue is scarce by encouraging payment of old debt that has remained unpaid and will allow court and county collection programs to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

Court and County Participation

Unless agreed to otherwise by the court and the county in writing, the government entities (*does not include the Franchise Tax Board*) responsible for the collection of delinquent court-ordered debt under Penal Code section 1463.010(b) will be responsible for implementation of the amnesty program regarding that debt. Juvenile traffic infractions are included in the amnesty program.

The court and county *will* implement an amnesty program to include infractions with a misdemeanor violation added to an underlying infraction violation under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7.

The court and county *may* jointly agree to extend the one-time amnesty program to bail and fines imposed for a misdemeanor violation of the Vehicle Code. The amnesty program does not apply

Amnesty Program Guidelines

to parking violations and violations of Vehicle Code sections 23103, 23104, 23105, 23152, or 23153.

Program Costs

Any unreimbursed costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or county collection program that incurred the expense of operating the program. To recover costs under the amnesty program, a collection program does not have to be comprehensive, per Penal Code section 1463.007.

Refer to the Judicial Council's *Guidelines and Standards for Cost Recovery*, available at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and <http://www2.courtinfo.ca.gov/collections/>

Amnesty Period

The one-time amnesty program shall operate from January 1, 2012, through June 30, 2012.

Eligibility

All adult and juvenile Vehicle Code and non-Vehicle Code infraction violations and adult Vehicle Code misdemeanor violations with specified exceptions are eligible for the amnesty program. Cases where a delinquent bail or fine payment was due on or before January 1, 2009, are eligible for the amnesty program. Under Vehicle Code section 42008.7, the terms "bail" and "fine" refer to the total bail amount or fine balance due in connection with a specific Vehicle Code and/or non-Vehicle Code infraction and misdemeanor violations.

Mandatory Amnesty Program

The mandatory amnesty program includes all traffic and non traffic infraction violations, including those where a misdemeanor under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7 has been added.

Violations are eligible for the mandatory amnesty program only if each of the following requirements is met:

1. The violation is an infraction violation filed with the court and/or a violation of Vehicle Code section 40508(a) or (b) or a violation of Penal Code section 853.7 added to the underlying infraction violation.
2. The due date for payment of the bail or fine was on or before January 1, 2009.
 - A failure to appear case is eligible for amnesty *if* the case is currently on failure to appear status and the appearance date was on or before January 1, 2009.
 - A failure to pay case is eligible for amnesty *if* the fine due date *and* last payment made on an installment plan or accounts receivable was on or before January 1, 2009.

Amnesty Program Guidelines

3. The defendant does not owe victim restitution on any case within the county.
4. There are no outstanding misdemeanors or felony warrants for the defendant within the county, except for misdemeanor warrants for misdemeanor violations authorized by the court under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7.

To qualify, the defendant must pay 50 percent of the delinquent bail amount or fine balance in full satisfaction of the debt under the amnesty program and meet all requirements 1 through 4 listed above. A defendant is not required to apply in writing or request amnesty in order for the violation to be eligible. Amnesty is granted at the time an eligible defendant makes payment.

Optional Amnesty Program

The optional amnesty program includes all Vehicle Code misdemeanor violations, with the exception of parking violations and violations of Vehicle Code sections 23103, 23104, 23105, 23152, and 23153.

Violations are eligible for the optional amnesty program only if each of the following requirements is met:

1. The court and the county agree to extend the amnesty program to misdemeanor violations of the Vehicle Code.
2. The due date for payment of the bail or fine was on or before January 1, 2009.
 - A failure to appear case is eligible for amnesty *if* the case is currently on failure to appear status and the appearance date was on or before January 1, 2009.
 - A failure to pay case is eligible for amnesty *if* the fine due date *and* last payment made on an installment plan or accounts receivable was on or before January 1, 2009.
3. The defendant does not owe victim restitution on any case within the county.
4. There are no outstanding misdemeanors or felony warrants for the defendant within the county, except for misdemeanor warrants issued for misdemeanor violations authorized by the court to be included in the amnesty program.

Payment Processing

Vehicle Code section 42008.7 requires that each amnesty program accept, in full satisfaction of any eligible bail or fine, 50 percent of the bail amount or fine balance. The remaining 50 percent is to be suspended or adjusted to zero in the court and/or county records.

- a. Payment under the amnesty program can be made by cash, cashier's check, money order, or credit card. Personal checks may be accepted, although it is recommended that the Department of Motor Vehicle (DMV) holds or suspensions be released *after* the personal checks clear.
- b. Payment under the amnesty program must be made in one lump sum.

Amnesty Program Guidelines

- c. The calculation of the fine, fees, penalties, and assessments on eligible violations will be calculated in the same manner as in delinquent cases based on the collecting entity's current policies and procedures.
- d. The total amount of revenue collected under the amnesty program will be deposited in the county treasury and/or the account established under Government Code section 77009.
- e. The program must maintain a separate accounting of all revenues collected and operating costs expended under the amnesty program.
- f. No criminal action on the eligible case may be brought against a person after payment of a delinquent bail amount or fine balance under the amnesty program.

DMV Notification

Upon payment, a court should notify the DMV as required by law.

Reporting Requirements

Each court or county collection program will jointly file a report with the Judicial Council, in a format approved by the Judicial Council, no later than September 30, 2012 (Attachment B).

The report must include monthly data on the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Reports may be submitted electronically to the Enhanced Collections Unit at collections@jud.ca.gov or faxed to 818-558-3112.

Distribution

Refer to the Judicial Council's *Guidelines and Standards for Cost Recovery*, available at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and <http://www2.courtinfo.ca.gov/collections/>

Revenue collected under the amnesty program will be distributed pro rata based on the distribution guidelines for the applicable year designated in Appendix C of the State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts* and applicable law, without regard to the priorities listed in Penal Code section 1203.1(d). The State Controller's manual and *Assembly Bill 3000 Court Surcharge Distribution Guidelines* are available at www.sco.ca.gov/Files-ARD-Local/LocRep/Appendix_C_v22edited.pdf and www.sco.ca.gov/Files-ARD-Local/acctng_guidelines_ab3000guidelines.pdf.

For accounts where a partial payment has been made and distributed based on Penal Code section 1203.1(d) priorities, the remaining balance collected under the amnesty program, at the reduced rate of 50 percent, must be distributed pro rata among only the state and local government funds that did not receive their share of the revenues, in accordance with the California State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts*.

Amnesty Program Guidelines

For example, an account with an outstanding fine of \$475 is set up on installment payments. The defendant made two payments of \$100 each before defaulting on the payment plan in October 2008. Of the \$200 paid, \$24 was distributed to the second priority and \$176 to the third priority. Because only 50 percent of the remaining \$575 (\$275 balance plus \$300 civil assessment) is eligible for amnesty, upon receipt of a \$287.50 payment, the funds must be distributed pro rata between the remaining items in priorities 3 and 4. Eligible operating costs, including commission fees, are prorated as usual among all funds before the final distribution.

Refer to the Judicial Council's *Guidelines and Standards for Cost Recovery*, available at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and <http://www2.courtinfo.ca.gov/collections/>

Amnesty Program Action Plan

The Administrative Office of the Courts' Enhanced Collections Unit will:

- Develop and distribute the Amnesty Program Guidelines, as approved by the Judicial Council, to court and county collecting entities no later than November 1, 2011;
- Assist, on request, with the coordination of statewide and local media campaigns;
- Assist, on request, with the distribution of advertising materials for court and county collection programs and justice partners; and
- Report amnesty program information to the Judicial Council for inclusion in the required report to the Legislature.

Mandatory Amnesty Program

Courts and counties should collaborate on developing local policies and procedures for the implementation of the mandatory amnesty program authorized under Vehicle Code section 42008.7. In order for the amnesty program to be implemented successfully, each court and county should develop a joint process for:

- Accepting and posting payments made through the amnesty program;
- Maintaining separate accounting of all revenues collected under the amnesty program;
- Upon contact by defendant, determining eligibility on individual cases based on criteria established in Vehicle Code section 42008.7;
- Tracking and reporting monthly operating costs;
- Tracking and reporting the monthly number of cases resolved;
- Tracking and reporting the monthly revenue collected under the amnesty program; and
- Tracking and reporting recovered costs.

The court and county should also consider developing a joint procedure for:

- Distributing advertising materials to justice partners and private collection vendors;

Amnesty Program Guidelines

- Designating staff at each court or county satellite location to process all amnesty payments received by mail or in person;
- If cost effective, contracting with an amnesty vendor or amending an existing participation agreement with a vendor under the Collections Master Agreement—or revising an existing contract or agreement with any other collections vendor—to help meet the requirements of the amnesty program; and
- If cost effective, identifying cases eligible for amnesty and mailing information in writing (amnesty notice or postcard) about the amnesty program to those debtors for which a valid address is available.

Optional Amnesty Program

Local policies and procedures for the implementation of the optional amnesty program authorized under Vehicle Code section 42008.7 should be developed. At a minimum, the court and county should collaborate on:

- Accepting and posting payments made through the amnesty program;
- Maintaining separate accounting of all revenues collected under the amnesty program;
- Upon contact by defendant, determining eligibility of individual cases based on criteria established in Vehicle Code section 42008.7;
- Tracking and reporting monthly operating costs;
- Tracking and reporting the monthly number of cases resolved;
- Tracking and reporting the monthly revenue collected under the amnesty program; and
- Tracking and reporting recovered costs.

Courts and counties should obtain appropriate authorization and consider developing an amnesty program that includes:

- Eligible probation cases where a defendant is currently on probation and has met all terms and conditions, except for full payment of outstanding fines
- Eligible probation cases where probation has lapsed or expired and outstanding fines remain unpaid.

Private Vendor

The responsibility of a private vendor as it pertains to the collection of amnesty-eligible cases is outlined in the amnesty master agreement and in each individual Participation Agreement.

The Master Agreements will be posted on Serranus at

<http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and the Enhanced Collections external website at <http://www2.courtinfo.ca.gov/collections/>

Franchise Tax Board

Because of its current system limitations and inability to separate cases by violation type, determine the age of the debt, and the lack of access to information regarding outstanding

Amnesty Program Guidelines

warrants or restitution of any particular amnesty applicant in the county, the Franchise Tax Board Court-Ordered Debt Program (FTB-COD) cannot participate fully in the infraction amnesty program. It is recommended that collection programs recall an amnesty-eligible case from the FTB-COD as soon as an amnesty payment is made. The FTB-COD has identified more than 55,000 infraction, misdemeanor, and felony cases with a due date prior to January 1, 2009.

The withdrawal of amnesty eligible cases from the Franchise Tax Board's Interagency Intercept Collections program should be decided on a court by court, county by county, basis.

Example Calculations

Please be advised that each of the examples that follow is a tool for calculating total fine and penalty assessments and is not intended to calculate distribution of amounts received. Courts and counties are responsible for inputting local information, and the Administrative Office of the Courts assumes no liability for the failure of this information to be included.

The examples provided are for illustrative purposes only and do not contain all possible fines, fees, penalties, or assessments eligible for the amnesty program under Vehicle Code section 42008.7.

- Example 1: Failure to appear; single Vehicle Code infraction violation with one prior violation
- Example 2: Failure to appear; single Vehicle Code infraction violation by a juvenile filed in Adult Traffic Court
- Example 3: Failure to pay; single non-Vehicle Code infraction violation
- Example 4: Failure to pay; multiple Vehicle Code infraction violations
- Example 5: Failure to pay; multiple Vehicle Code misdemeanor violations
- Example 6: Failure to pay; single Vehicle Code misdemeanor violation
- Example 7: Failure to pay; single Vehicle Code misdemeanor violation
- Example 8: Failure to appear; single Vehicle Code infraction violation with added misdemeanor under Vehicle Code section 40508(a)

Amnesty Program Guidelines

Example 1: Failure to Appear; Single Vehicle Code Infraction Violation With One Prior Violation*

Factors:

1. Violation is an infraction under Vehicle Code section 22349(a), *Speeding 1–15 MPH over 65 MPH Limit*, plus one prior conviction of Vehicle Code section 22349.
2. Traffic citation was issued on March 2, 2005; appearance/payment due date was April 7, 2005.
3. Defendant failed to appear and account became delinquent on July 28, 2005.
4. Additional fees include prior conviction monitoring and civil assessment for failure to appear.
5. Total amount of \$415 is eligible for amnesty. The \$207.50 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Amnesty Program: 50% Due
Base bail of \$25, plus 1 prior (\$10 added)	\$35.00	\$17.50
State surcharge, 20% of base; Pen. Code, § 1465.7	\$7.00	\$3.50
State penalty assessment (PA), \$10 for every \$10; Pen. Code, § 1464.4(a)	\$40.00	\$20.00
County PA, \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 for every \$10; Gov. Code, § 76000 [†]	\$20.00	\$10.00
DNA PA, \$1 for every \$10; Gov. Code, § 76104.6	\$4.00	\$2.00
Administrative fee (prior record); Veh. Code, § 40508.6	\$10.00	\$5.00
Night court; Veh. Code, §42006	\$1.00	\$0.50
Court security fee, \$20; Pen. Code, § 1465.8	\$20.00	\$10.00
Civil assessment, up to \$250; Pen. Code, § 1214.1 [‡]	\$250.00	\$125.00
Total bail amount due	\$415.00	\$207.50

* Fine, fees, and penalty assessments based on 2005 Uniform Bail and Penalty Schedules.

[†] Penalty assessment (courthouse construction) amount may differ between counties; please verify for each example.

[‡] Civil assessment increase from \$250 up to \$300 effective July 19, 2005 (Assembly Bill 139; Stats. 2005, ch 74).

Amnesty Program Guidelines

Example 2: Failure to Appear; Single Vehicle Code Infraction Violation by a Juvenile Filed in Adult Traffic Court *

Factors:

1. Violation is an infraction under Vehicle Code section 22108, *Signal Required Before Turning or Changing Lanes*.
2. Traffic citation was issued on January 5, 2006; appearance/payment due date was February 6, 2006.
3. Juvenile does not appear.
4. Additional fees include civil assessment for failure to appear.
5. Total balance amount of \$434 is eligible for amnesty. The \$217 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Amnesty Program: 50% Due
Base fine	\$35.00	\$17.50
State surcharge, 20% of base; Pen. Code, §1465.7	\$7.00	\$3.50
State PA, \$10 on every \$10; Pen. Code, §1464.4(a)	\$40.00	\$20.00
County PA, \$7 on every \$10; Gov. Code, §76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 of every \$10; Gov. Code, §76000	\$20.00	\$10.00
DNA PA, \$1 for every \$10; Gov. Code, §76104.6	\$4.00	\$2.00
Civil Assessment up to \$300; Pen. Code, §1214.1 [†]	\$300.00	\$150.00
Total bail amount due	\$434.00	\$217.00

* Fine, fees, and penalty assessments based on 2006 Uniform Bail and Penalty Schedules.

Amnesty Program Guidelines

Example 3: Failure to Pay; Single Non-Vehicle Code Infraction Violation*

Factors:

1. Violation is a non-Vehicle Code infraction of Parks and Recreation section 4312(e), *No Dogs or Cats in Area Unless on a Leash*.
2. Citation was issued on September 10, 2007; payment/appearance due date was October 12, 2007.
3. Defendant appeared and fine of \$190 was imposed; accounts receivable with due date of March 10, 2008 was established. Payment was not made and account became delinquent on March 11, 2008.
4. Additional fees include civil assessment for failure to pay and court security and accounts receivable fees.
5. Total fine balance of \$540 is eligible for amnesty. The \$270 should be distributed pro rata to all funds as appropriate.

Non-Vehicle Code Infraction	Original Amount Due	Amnesty Program: 50% Due
Base fine	\$50.00	\$25.00
State surcharge, 20% of base; Pen. Code, § 1465.7	\$10.00	\$5.00
State PA, \$10 for every \$10; Pen. Code, § 1464.4(a)	\$50.00	\$25.00
County PA, \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$35.00	\$17.50
Court PA, \$5 for every \$10; Gov. Code, § 76000	\$25.00	\$12.50
EMS PA, \$2 for every \$10; Gov. Code, § 76000.5 [†]	\$10.00	\$5.00
DNA PA, \$2 for every \$10; Gov. Code, §§ 76104.6–76104.7 [‡]	\$10.00	\$5.00
Civil assessment, up to \$300; Pen. Code, § 1214.1	\$300.00	\$150.00
Court security fee, \$20; Pen. Code, § 1465.8	\$20.00	\$10.00
Accounts receivable fee; Pen. Code, § 1205(d)	\$30.00	\$15.00
Total fine balance due	\$540.00	\$270.00

* Fine, fees, and penalty assessments based on 2007 Uniform Bail and Penalty Schedules.

[†] Maddie Emergency Medical Services Fund (EMS) additional penalty assessment, under Gov. Code, § 76000.5, if approved by board of supervisors.

[‡] DNA penalty assessment, additional \$1 for every \$10, under Gov. Code § 76104.7.

Amnesty Program Guidelines

Example 4: Failure to Pay; Multiple Vehicle Code Infraction Violations*

Factors:

1. Charge is a violation of multiple Vehicle Code infractions:
 - Vehicle Code section 21453(a), *“Red” Signal—Vehicular Responsibilities*
 - Vehicle Code section 22108, *Signal Required Before Turning or Changing Lanes*
 - Vehicle Code section 24252(a), *Maintenance of Lamps and Devices Required*
2. Citation was issued on February 4, 2008; payment/appearance due date was March 10, 2008.
3. Defendant appears and a fine is imposed. Defendant agrees to installment payment plan of \$30 per month; a total of \$0 is paid.
4. Additional fees include civil assessment for failure to pay and court security and installment payment fees.
5. Total fine balance eligible for amnesty is \$1003. The \$501.50 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Amnesty Program: 50% Due
Base fine	\$100.00	\$50.00
Second violation, Veh. Code, §22108—Correctable	\$35.00	\$17.50
Third violation, Veh. Code, §24252(a)	\$25.00	\$12.50
Subtotal base bail	\$160.00	\$80.00
State surcharge, 20% of base; Pen. Code, §1465.7	\$32.00	\$16.00
State PA, \$10 for every \$10; Pen. Code, §1464.4(a)	\$160.00	\$80.00
County PA, \$7 for every \$10; Gov. Code, §76000(a)(e)	\$112.00	\$56.00
Court PA, \$5 of every \$10; Gov. Code, §76000	\$80.00	\$40.00
DNA PA, \$2 for every \$10; Gov. Code, §76104.6 and 76104.7	\$32.00	\$16.00
EMS PA, \$2 for every \$10; Gov. Code, § 76000.5	\$32.00	\$16.00
Court security fee, \$20; Pen. Code, §1465.8	\$60.00	\$30.00
Installment payment plan fee; Pen. Code, §1205(d)	\$35.00	\$17.50
Civil assessment up to \$300; Pen. Code, § 1214.1	\$300.00	\$150.00
Total fine balance due	\$1,003.00	\$501.50

* Fine, fees, and penalty assessments based on 2008 Uniform Bail and Penalty Schedules.

Amnesty Program Guidelines

Example 5: Failure to Pay, Multiple Vehicle Code Misdemeanor Violation[†]

Factors:

- Charge is a violation of multiple Vehicle Code misdemeanors:
 - 23109(a), *Engaging in Speed Contests Prohibited*
 - 23109(d), *Placing Barricades or Obstructions Prohibited*
- Case was filed with the court on September 6, 2005; appearance date was set for October 11, 2005. Defendant appeared, and a fine of \$1,650 was imposed.
- Defendant agreed to \$60/month payment plan but made only six payments. Defendant complied with the mandatory 40 hours of community service.
- Additional fees include civil assessment for failure to pay, court security and installment payment fee.
- Total balance amount of \$1,575 is eligible for amnesty. The \$787.50 should be distributed pro rata to all funds or items that have not received their portion of revenues collected.

Vehicle Code Misdemeanor	Original Amount Due	Payment Priority Distributed	Fine Priority Balance Remaining	Amnesty Program: 50% Due
Base fine, Veh. Code, § 23109(a)	\$360.00	\$61.93	\$298.07	\$149.04
Base fine; Veh. Code, § 23109(d)	\$100.00	\$17.20	\$82.80	\$41.40
Subtotal base fine	\$460.00	\$79.13	\$380.87	\$190.44
State surcharge, 20% of base; Pen. Code, § 1465.7	\$92.00	\$92.00	\$0.00	\$0.00
State PA, \$10 for every \$10; Pen. Code, § 1464.4(a)	\$460.00	\$79.13	\$380.87	\$190.44
County PA., \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$322.00	\$55.39	\$266.61	\$133.31
Court PA \$5 for every \$10; Gov. Code, § 76000	\$230.00	\$39.56	\$190.44	\$95.22
DNA PA., \$1 of every \$10; Gov. Code, § 76104.6	\$46.00	\$7.91	\$38.09	\$19.04
Court security fee, \$20; Pen. Code, § 1465.8	\$40.00	\$6.88	\$33.12	\$16.56
Installment payment plan fee; Pen. Code, § 1205(d) [‡]	\$35.00	\$0.00	\$35.00	\$17.50
Total of original amount due	\$1,685.00	\$0.00	\$1325.00	\$662.50
Total of installment payments made	\$0.00	\$360.00	\$0.00	\$0.00
Unpaid balance	\$1,325.00	\$0.00	\$0.00	\$0.00
Civil assessment up to \$300; Pen. Code, § 1214.1 [§]	\$250.00	\$0.00	\$250.00	\$125.00
Total fine balance due	\$1,575.00	\$0.00	\$1,575.50	\$787.50

[†] Fine, fees, and penalty assessments based on 2005 Uniform Bail and Penalty Schedules.

[‡] Sen. Bill 676 (Stats. 2009, ch. 606; effective January 2010) amended Pen. Code, § 1205(d): dropped the \$35 maximum and changed to actual cost. The accounts receivable fee of up to \$30 remained the same.

[§] Civil assessment increase from \$250 up to \$300 effective July 19, 2005 (Assem. Bill 139; Stats. 2005, ch. 74).

Amnesty Program Guidelines

Example 6: Failure to Pay, Single Vehicle Code Misdemeanor Violation*

Factors:

1. Violation is a misdemeanor under Vehicle Code section 20002(a), *Hit and Run–Property Damage*.
2. Case was filed with the court on January 5, 2006; appearance date was set for February 6, 2006.
3. Defendant appeared and was sentenced to four months in county jail, and a fine was imposed, but defendant failed to pay.
4. Additional fees include civil assessment for failure to pay.
5. Total balance amount due of \$3,820 is eligible for amnesty. The \$1,910 should be distributed pro rata to all funds as appropriate.

Vehicle Code Misdemeanor	Original Amount Due	Amnesty Program: 50% Due
Base fine; Veh. Code, § 20002 (a)	\$1,000.00	\$500.00
State surcharge, 20% of base; Pen. Code, § 1465.7	\$200.00	\$100.00
State PA., \$10 for every \$10; Pen. Code, § 1464.4(a)	\$1,000.00	\$500.00
County PA., \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$700.00	\$350.00
Court PA., \$5 for every \$10; Gov. Code, § 76000	\$500.00	\$250.00
DNA PA, \$1 for every \$10; Gov. Code, § 76104.6	\$100.00	\$50.00
Court security fee, \$20; Pen. Code, § 1465.8	\$20.00	\$10.00
Civil assessment, up to \$300; Pen. Code, § 1214.1	\$300.00	\$150.00
Total fine balance due	\$3,820.00	\$1,910.00

* Fine, fees, and penalty assessments based on 2006 Uniform Bail and Penalty Schedules.

Amnesty Program Guidelines

Example 7: Failure to Pay, Single Vehicle Code Misdemeanor Violation*

Factors:

1. Violation is a misdemeanor under Vehicle Code section 14601(a), *Driving While Suspended or Revoked*.
2. Case was filed with the court on September 10, 2007; appearance date was set for October 12, 2007.
3. Defendant appeared, and a fine of \$1,140 was imposed; at the defendant's request an accounts receivable was set up for March 10, 2008. Payment was not made, and account is delinquent.
4. Additional fees include court security and accounts receivable fee.
5. Total fine balance of \$1,190 is eligible for amnesty. The \$595.00 should be distributed pro rata to all funds as appropriate.

Vehicle Code Misdemeanor	Original Amount Due	Amnesty Program: 50% Due
Base fine	\$300.00	\$150.00
State surcharge, 20% of base; Pen. Code, § 1465.7	\$60.00	\$30.00
State PA., \$10 for every \$10; Pen. Code, § 1464.4(a)	\$300.00	\$150.00
County PA., \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$210.00	\$105.00
Court PA, \$5 for every \$10; Gov. Code, § 76000	\$150.00	\$75.00
EMS PA., \$2 for every \$10; Gov. Code, § 76000.5 [†]	\$60.00	\$30.00
DNA PA., \$2 for every \$10; Gov. Code, §§ 76104.6–76104.7 [‡]	\$60.00	\$30.00
Court security fee, \$20; Pen. Code, § 1465.8	\$20.00	\$10.00
Accounts receivable fee; Pen. Code, § 1205(d)	\$30.00	\$15.00
Total fine balance due	\$1,190.00	\$595.00

* Fine, fees, and penalty assessments based on *2007 Uniform Bail and Penalty Schedules*.

[†] EMS additional penalty assessment, under Gov. Code, § 76000.5, if approved by board of supervisors.

[‡] DNA penalty assessment, additional \$1 for every \$10, under Gov. Code, § 76104.7.

Amnesty Program Guidelines

Example 8: Failure to Appear, Single Vehicle Code Infraction Violation With Added Vehicle Code Section 40508(a) Misdemeanor*

Factors:

1. Violation is an infraction under Vehicle Code section 21453(a), *Red-Signal Vehicle Responsibility*.
2. Citation was issued on February 4, 2008; payment/appearance date set for March 10, 2008.
3. Defendant fails to appear and a charge under Vehicle Code section 40508(a) is added as a misdemeanor.
4. Additional fees include civil assessment for failure to appear and court security.
5. Total fine balance eligible for amnesty is \$880. The \$440 should be distributed pro rata to all funds as appropriate.

Vehicle Code Infraction with Misdemeanor	Original Amount Due	Amnesty Program: 50% Due
Base bail; Veh. Code, § 21453(a)	\$100.00	\$50.00
Additional charge; Veh. Code, § 40508 (a)	\$50.00	\$25.00
Total base bail	\$150.00	\$75.00
State surcharge, 20% of base; Pen. Code, § 1465.7	\$30.00	\$15.00
State PA, \$10 for every \$10; Pen. Code, § 1464.4(a)	\$150.00	\$75.00
County PA., \$7 for every \$10; Gov. Code, § 76000(a)(e)	\$105.00	\$52.50
Court PA \$5 for every \$10; Gov. Code, § 76000	\$75.00	\$37.50
DNA PA., \$2 for every \$10; Gov. Code, §§ 76104.6–76104.7	\$30.00	\$15.00
EMS PA., \$2 for every \$10; Gov. Code, § 76000.5	\$20.00	\$10.00
Court security fee, \$20; Pen. Code, § 1465.8	\$20.00	\$10.00
Civil assessment up to \$300; Pen. Code § 1214.1	\$300.00	\$150.00
Total bail amount due	\$880.00	\$440.00

* Fine, fees, and penalty assessments based on 2008 Uniform Bail and Penalty Schedules.

Amnesty Program Guidelines

Vehicle Code Section 42008.7

To be Inserted Upon Enactment

DRAFT

Amnesty Program Collections Report
January 1, 2012, through June 30, 2012
Court/County: _____

Mandatory Amnesty Program				
	No. Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
January				
February				
March				
April				
May				
June				
TOTAL	\$0	\$0	\$0	\$0

Optional Amnesty Program				
	No. Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
January				
February				
March				
April				
May				
June				
TOTAL	\$0	\$0	\$0	\$0

Completed by: _____

Name: _____

Title: _____

Phone No.: _____

Email _____

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