



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

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MAR 13 2006
ADMINISTRATIVE OFFICE
OF THE COURTS (SAC)

WILLIAM C. VICKREY
Administrative Director of the Courts

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Chief Deputy Director

March 1, 2006

Ms. Diane F. Boyer-Vine
Legislative Counsel
State of California
State Capitol, Room 3021
Sacramento, California 95814

Mr. Gregory P. Schmidt
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

RE: Judicial Council Collaborative Court-County Working Group on
Enhanced Collections Report

Dear Ms. Boyer-Vine, Mr. Schmidt and Mr. Wilson:

Attached is the report of the Judicial Council of California prepared pursuant to Penal Code section 1463.010.

Senate Bill 940 (Escutia), Stats. 2003, Ch. 275, required the Judicial Council to, among other directives, establish a collaborative court-county working group and adopt guidelines and standards for a comprehensive collections program. The legislation also requires each superior

March 1, 2006

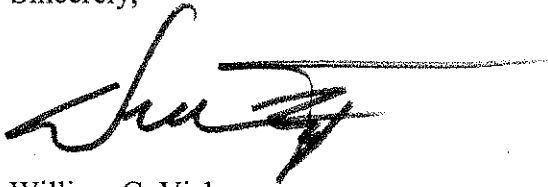
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court and county to develop a cooperative plan to implement these guidelines and to jointly report to the Judicial Council, and that the Judicial Council report to the Legislature, as appropriate, on the effectiveness of this program.

The Collaborative Court-County Working Group on Enhanced Collections consists of representatives from the judicial branch, the California State Association of Counties, the State Controller's Office, the Victim Compensation and Government Claims Board, the Franchise Tax Board, the California Department of Corrections, the California Youth Authority. The Judicial Council approved guidelines and standards, developed by the working group, for use by courts and counties as a road map in the development or enhancement of a collection program. This attached report elaborates on the initial effectiveness and progress of the working group.

If you have any questions related to this report, please contact Eraina Ortega, Manager, Administrative Office of the Courts (AOC), Office of Governmental Affairs at 916-323-3121.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Vickrey', with a horizontal line drawn through it.

William C. Vickrey
Administrative Director of the Courts

Attachment

cc: Mr. Drew Liebert, Chief Counsel, Assembly Judiciary Committee
Mr. Gene Wong, Chief Counsel, Senate Judiciary Committee
Mr. Ronald G. Overholt, Chief Deputy Director, AOC
Ms. Sheila Calabro, Regional Administrative Director, AOC
Ms. Kathleen Howard, Director, Office of Governmental Affairs
Mr. Gary Kitajo, Judicial Administration Librarian, AOC

Judicial Council Report to Legislature on Enhanced Collections

The California State Legislature passed Senate Bill 940 ([Escutia] Stats. 2003, ch. 275), in response to a growing concern at both the state and national levels about the lack of compliance in paying court fines and fees. An emphasis on uncollected fines became a priority for the California judiciary in January 2003, when the Conference of Chief Justices adopted a resolution that called attention to the importance of collection efforts on delinquent court-ordered fines and fees.

Chief Justice Ronald M. George, in his State of the Judiciary Address to the Joint Session of the State Legislature on March 23, 2004, said, “Statewide, we continue to work to improve the collection of fines, fees, and penalties imposed by the courts—not merely to increase revenue to the state but, just as importantly, to enhance respect for the rule of law.”

Requirements of the Legislation

Among other directives, SB 940 required the Judicial Council to establish a collaborative court-county working group on collections; to adopt guidelines for a comprehensive program to collect fees, fines, forfeitures, penalties, and assessments imposed by the courts; and to report to the Legislature on the effectiveness of current statewide collection efforts, as appropriate. The bill also authorized the Judicial Council to establish standard collection agreements.

Actions Taken as a Result of SB 940

The Collaborative Court-County Working Group on Enhanced Collections was established in 2003 to develop guidelines and make recommendations for consideration by the Judicial Council. The working group's membership consists of eight members appointed by the California State Association of Counties, four court executives, two judges, two employees of the Administrative Office of the Courts (AOC), and representatives from the California Franchise Tax Board, Victim Compensation and Government Claims Board, Youth Authority, Department of Corrections, and State Controller's Office.

The working group was charged with surveying courts and counties regarding current collection efforts and evaluating a variety of methods to enhance future collections, including referring accounts to private agencies for collection, developing a strategy for court and county cooperation when discussing collection plans, consulting with groups other than courts and counties that are affected by collection programs, and evaluating and making recommendations to the Judicial Council regarding current and future collection methods.

The working group's most significant accomplishments thus far are the adoption of guidelines and standards for the development of an enhanced-collection program, the creation of a standard collection-reporting template to monitor the progress of collection programs, and the awarding of statewide enhanced-collection contracts that became effective in 2005. Other priorities that the working group and the AOC's Enhanced

Collections Unit have pursued include education and training workshops; a database tool to help judicial officers in sentencing relating to fines, fees, and assessments; promotion of collaboration between courts and counties; and exploration of the viability of expanding effective practices in collections-related areas, such as fee waivers and court-ordered sanctions.

Effective practices in collections. In August 2004, the Judicial Council adopted standards and guidelines and approved the definition of delinquent accounts/payments for use by courts and counties in the development or enhancement of a collection program. Trial courts were directed, in collaboration with their counties, (1) to establish countywide enhanced-collection and compliance-coordination committees and (2) to enter into written memoranda of understanding (MOUs). The council also adopted standards for discharge of accountability in compliance with Government Code section 25258, which defines the process for discharging uncollectible court-ordered debt.

Comprehensive collection program. The Judicial Council sponsored Senate Bill 246 ([Escutia] Stats. 2004, ch. 380), which amended Penal Code section 1463.007, adding 3 new components that courts and counties may use to qualify for a comprehensive collection program. These elements, along with 14 others listed in section 1463.007, are considered primary components of a successful collection program. A court or county that meets the requirements of at least 10 of these 17 components may deduct the costs of operating a collection program before distributing the revenues to other entities.

The working group also created, for approval by the Judicial Council, proposed guidelines and standards for cost recovery under Penal Code 1463.007, which includes instructions, a glossary of terms, and a template with calculations. A recommended indirect-cost rate worksheet with instructions and examples is in development for use by trial courts.

Further areas of collections. The working group has identified collection procedures for appellate and trial court sanctions and is developing collection protocols and options for use by those courts. Acceptance of debit/credit cards, deferral of payment on discretionary fee waiver applications in civil and family law cases, and subsequent recovery of deferred court fees and costs through a collection program are all being considered for recommendation to the council. Recommendations will also include revised Judicial Council forms and possible legislative changes, as well as the development of processes by which deferred fees can be recovered when a litigant whose fees have been waived obtains a judgment or a settlement. The Enhanced Collections Unit has looked at the expanded components listed in Penal Code section 1463.007 in an effort to provide courts and counties with a more comprehensive list of effective collection practices.

Franchise Tax Board's debt collection program. Senate Bill 246 ([Escutia] Stats. 2004, ch. 380) removed the sunset date of the Franchise Tax Board's Court-Ordered Debt (FTB-COD) collection program. Since January 2004, 9 additional courts and counties have begun participating in the FTB-COD, bringing the total to 36 courts or counties.

With increased participation and more effective collections, the rates charged by FTB for collections have dropped significantly, from 15 percent to 9 percent for the current calendar year. Interest in participation in the program has grown, and the FTB continues to work on expanding the availability of this program.

Collaborative effort. The collaboration between courts and counties is essential to the success of the collections effort statewide. A standard template for MOUs between courts and counties that addresses enhanced-collection programs has been created, approved, and disseminated to requesting courts and counties. This template helps to facilitate the completion of agreements between courts and counties regarding their collaborative collection programs. In addition, the Collaborative Court-County Working Group has reviewed action plans submitted and has sent completed evaluation plans to the courts and counties, with recommendations as well as reference information and material on how they can enhance their collection programs. This enables courts and counties to evaluate their current programs in relation to the established statewide guidelines and effective practices.

Statewide collection contracts. To facilitate the effective use of private agency resources, the Administrative Office of the Courts awarded contracts to four private collection agencies for use by courts and counties; they became effective January 1, 2005. Each contract has two parts. Part 1 addresses current outstanding fees and fines, while part 2 focuses on the collection of accounts that are hard to collect or about to be discharged. Part 2 permits courts and counties to turn over accounts in which all possible

collection efforts have been made and cases are about to be discharged from accountability.

Training and technical assistance. The working group and Enhanced Collections Unit is developing training resources and workshops, to be presented in 2006, that will cover specific topics in the arena of court collections. Collaborative enhanced-collection workshops were held throughout the state in 2004 for court and county teams. Additional presentations were made to county auditor-controllers, county probation officers, the California Revenue Officers Association, and the California State Association of Counties. Presentations on the rule of law and trust and confidence in the courts, as well as demonstrations of the fine and fee assessment tools, were made at the New Judge Orientation seminar, at a joint meeting of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, at the Cow County Institute, and at the Traffic Adjudication Workshop.

The working group developed and released a Microsoft Excel spreadsheet to give judicial officers and court staff access to both mandatory and discretionary fine, fee, and assessment data for selected infraction, misdemeanor, and felony violations across multiple code sections. A Microsoft Access-based program that will replace the Excel spreadsheet is being reviewed by judges and staff of the superior courts. The database enhances the usability, presentation, and speed of access to information previously provided in the Excel-based program.

In developing ways to help courts and counties execute the directives of Penal Code sections 1463.010 and 1463.007, the working group has identified 24 subject-matter experts, covering 15 collection-specific areas of expertise, to assist courts and counties with implementing or enhancing their collection programs.

Tracking and accountability. A reporting template was created and approved by the Judicial Council that details specific caseload and value information by collection program, as well as descriptions of the collection program and qualifying criteria for a comprehensive collection program under Penal Code section 1463.007. Trial courts, in collaboration with their counties, were required to report to the Judicial Council, on December 1, 2004, their beginning balances as of July 1, 2004, for fiscal year 2004–2005.

In addition to legislatively mandated requirements that courts and counties submit year-end reports, the Judicial Council has directed trial courts to submit, in collaboration with their counties, midyear reports on the first weekday in March of each year. The first midyear report, for fiscal year 2004–2005, was due on March 1, 2005. Legislatively mandated year-end reports are required to be submitted by the first weekday in October, and the fiscal year 2004–2005 year-end reports were due on October 3, 2005.

Through the efforts of the working group, its subcommittees, and the Enhanced Collections Unit, courts and counties alike are making progress in implementing and improving their collection programs. Measuring the impact of this progress is a challenge

because, under Government Code 77003 and rule 810 of the Rules of Court, collections enhancement is *not* included as a court operation and remains a county responsibility. In contrast to the Judicial Council, which has developed and approved collections guidelines and standards for trial courts, each county operates its collection program independently, without statewide coordination. In some instances this prevents the AOC from collecting all the necessary information, and in some cases this structure (as it currently exists) inhibits progress between courts and counties at the local level, which can thwart statewide efforts.

Reporting the Results of Actions Taken

Joint collections reports for the 2004–2005 fiscal year were received from all but 6 of the 58 courts and counties. These reports were aggregated based on the council's standard collection report, which is required jointly from each court and county once a year. Although extensive revenue data that tracks outstanding court-ordered debt on an aggregate statewide basis is not yet available because of the recent nature of the legislation, the information and data collected focus on key points, needs, and encouraging trends both statewide and individually among the courts and counties. On an individual basis, it is evident that some courts and counties have made significant improvements in their collection efforts, with especially notable increases in the amount of civil assessments collected, while some have successfully employed the Franchise Tax Board's Court-Ordered Debt collection program. As effective practices in comprehensive collection programs and methods in capturing reporting data improve and become more

widespread, it is anticipated that increasing success will also be noted in measuring the data.

Overall, revenue collected in the areas of infraction, misdemeanor, and felony fines, fees, and assessments has increased by 27 percent in fiscal year 2004–2005 over the previous year. The distribution of this revenue directly benefits the following: state, county, and city general funds; victim restitution programs, including provision of assistance to the victims of crimes; victim witness-assistance funds; emergency medical services; DNA identification systems; county alcohol and drug abuse programs in schools and communities; criminal laboratory analysis; training of peace officers, local prosecutors, and public defenders; law enforcement agencies; and state, county, and city prevention and rehabilitation programs, as well as numerous other programs.

A total of 29 courts or counties and the California Victim Compensation and Government Claims Board have also shown an increase in revenue collected by the FTB-COD collection program. In fiscal year 2003–2004, the program collected \$38.7 million. The following fiscal year, it collected \$63.4 million, a 64 percent increase.

Civil assessment revenues reported in fiscal year 2003–2004 totaled \$70.2 million. The following year, \$87.8 million in civil assessments was reported statewide, with over half the courts reporting increases. Statewide, this represents an almost 25 percent increase in collected civil assessment revenues.

Next Steps

Even with the significant strides made since SB 940 was enacted, the Judicial Council recognizes that future success will require continued progress. Accordingly, the council has approved additional proposals for sponsored legislation in 2006 that would do the following:

- Establish a task force on criminal court-ordered debt that will make recommendations for simplifying California's criminal court-ordered debt assessment, collection, and distribution system and will address issues such as priority of payments, cost recovery practices under Penal Code 1463.007, and the expansion of comprehensive collection programs
- Reduce the minimum fine required by the Franchise Tax Board's Court-Ordered Debt collection program from \$250 to \$100
- Expand the FTB-COD collection program to include collections for registration, pedestrian, and bicycle violations
- Allow a bail forfeiture process that would enable courts to accept timely payments through a clerical process rather than the current process, which requires a defendant to appear in court and plead guilty in order to request installment payments

- Expand the use of enhanced-collection programs, as defined in Penal Code section 1463.007, to allow the programs to collect public defender fees, booking fees, and other criminal justice-related fees

The Collaborative Court-County Working Group on Enhanced Collections has been extended through June 2006. The working group and the Enhanced Collections Unit continue to focus on helping courts and counties develop and implement comprehensive collection programs statewide, with an emphasis on developing and providing education and training, making information available on effective practices, and exploring additional areas of court-ordered debt that are appropriate for collection programs. The Administrative Office of the Courts' Enhanced Collections Unit will continue its role of assisting courts and counties to develop and enhance their collection programs.