

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



828

FROM: Executive Office

SUBMITTAL DATE:
November 4, 2009

SUBJECT: Discharge of Accountability

RECOMMENDED MOTION: That the Board of Supervisors approve the Discharge of Accountability proposed by the Superior Court of California, County of Riverside.

BACKGROUND: The Superior Court collects fines and fees on behalf of the County of Riverside. Each month the court then sends collections to the Auditor-Controller for distribution. In some cases collecting the fees is a daunting task. The court's Special Collections Unit has access to a variety of information sources and can determine an individual's ability to pay as well as the amount that can be paid if monthly payments are appropriate. There are times however when it is virtually impossible to collect the fines and/or fees ordered. Government Code §25257 provides the Board with the ability to discharge the court's accountability to collect a fee or penalty if the amount to be collected is too small to justify the cost of collection, the likelihood of collection

continued

Departmental Concurrence


Elizabeth J. Olson, Sr. Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/10

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Gary M. Christmas

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: | **District:** all | **Agenda Number:**

3.35

Background continued

doesn't warrant the expense involved, or the amount thereof has lawfully been adjusted or compromised. The code then outlines the procedures for the discharge of accountability. The Superior Court has requested that the Board of Supervisors approve the policy the court has developed for instances when fine and fee accountability will be discharged.

The court is committed to collecting ordered fines and established fees. Toward this end and prior to discharging accountability individual debts will also be submitted to a collection process utilizing information from departments within state government including the Franchise Tax Board and the Department of Motor Vehicles. In addition to collection efforts by the court and state agencies the court also uses, an external collections agency, information from state or local licensing boards, and credit reporting agencies. The court will continue to aggressively recover all fines and fees levied against those convicted.

The Superior Court and the Executive Office have prepared an Administrative Policy Memorandum outlining the policy for determining that a fine/fee/penalty cannot be collected and establishing an annual accounting and reporting process so that the Board will have a clear picture of any uncollectable funds. The policy follows as Exhibit A.

Exhibit A
Superior Court of California
County of Riverside

Administrative Policy Memorandum Financial Services - #A.10.29	Date Issued: February 11, 2009 Supercedes APM dated July 3, 2008	Page: 1 of 4
Reference: Government Code §§ 25257-25259.5; Penal Code § 1463.010 (c)		
Subject: Discharge of Accountability	Approved by: /s/ Sherri R. Carter, Court Executive Officer	

- 1.0 Purpose
To establish procedures for requesting amounts to be discharged based on the authority of Government Code §§ 25257-25259.5.

NOTE: Discharge from accountability does not constitute a release of any person from liability for payment of any amount due.

- 2.0 Background
Delinquencies will be diligently pursued by the court's Enhanced Collections Division (ECD) through many methods, including but not limited to license holds and civil judgments, collaborative collection efforts with the State's Franchise Tax Board by offsetting tax refunds and lottery winnings, the State's Court Ordered Debt Collections Unit that pursues delinquent court orders after ECD has attempted to collect, and/or a private collection agency.

Enhanced collections division staff will review cases throughout their daily workload and refer potential discharge cases to the appropriate desk for review. Quarterly reports will be generated that identify cases that have no collection activity and may qualify for discharge.

Using the criteria set forth by statute, all reasonable internal and external efforts must be exhausted before an amount can be considered for discharge.

- 3.0 Policy
A fine or fee balance can only qualify for discharge when one or more of the following is true:

- 3.1 The balance is too small to justify the cost of collection (GC § 25257). For purposes of this policy, cases with a balance of \$10.00 or less are considered too small to justify the cost of collection.

- 3.2 The likelihood of collection does not warrant the expense involved (GC § 25257).
- 3.3 The amount has been otherwise lawfully compromised or adjusted (GC § 25257).
- 3.4 Insufficient data exists to locate the debtor.
- 3.5 At least five years have elapsed from the due date or conviction date.
- 3.6 The debtor is deceased and the court is unable to locate assets.
- 3.7 The following reasonable collection efforts have been performed:
 - 3.7.1 Letters requesting payment, in accordance with collection standards.
 - 3.7.2 Attempts at legal action, such as bank and wage attachments, when employment and assets are known.
 - 3.7.3 Making inquiries to credit bureaus on delinquent accounts.
 - 3.7.4 Filing of abstracts against current and future acquisition of real property.
 - 3.7.5 Return of accounts to the court for issuance of warrants, as needed.
 - 3.7.6 Requests for violation of probation hearings, as needed.
 - 3.7.7 The fine or fee has been referred to an external collection agency and their collection efforts have been unsuccessful.

4.0 Prior to Discharging

Prior to the discharge of accountability, in most instances debts should be submitted to any entities performing enhanced collection processes for the time frames contractually agreed to, as applicable. These agencies may include, but are not limited to, the following:

- 4.1 Franchise Tax Board intercept and collection programs.
- 4.2 External collection agency.
- 4.3 State or local licensing boards.
- 4.4 Department of Motor Vehicles.
- 4.5 Credit reporting agencies.

5.0 Annual Submission

Debts meeting all requirements for discharge of accountability must be submitted at least annually to the Riverside County Board of Supervisors for final approval (GC § 25257).

6.0 Application
An application for a discharge from accountability must comply with all of the requirements of Government Code § 25258.

7.0 Discharge Cases - Categorization
Under existing law, courts and counties are required to maintain the collection program that was in place on January 1, 1996, and Judicial Council guidelines provide that each court and county must establish a committee to coordinate enhanced collections and compliance. The Enhanced Collections and Compliance Coordination Committee (ECCCC) fulfills this mandate and is comprised of the following members: court enhanced collections manager, court financial officer, and assigned principal management analyst with the County Executive Office.

Cases to be discharged must be categorized into one of the following standard groups:

7.1 Unable to locate debtor and/or assets.

7.2 Debtor is deceased and the court is unable to locate assets.

7.3 Debtor without ability to pay.

7.4 At least five years have elapsed from the due date or conviction date.

7.5 Cases with balances of \$10.00 or less where the cost of collection would exceed the amount collected.

7.6 Settlement.

7.7 Incarcerated in prison.

NOTE: Incarceration in a local jail does not qualify a case for discharge.

7.8 Assets that cannot be substantiated or are legally without merit.

8.0 Approval
Cases to be discharged shall be processed as outlined in the procedure below and in accordance with Government Code §§ 25257 – 25259.5.

8.1 Discharge disclosure must comply with all statutes relating to disclosure.

9.0 Record Retention
Dockets and other documentation concerning debt shall not be destroyed under any record retention policy until such time as authorized by statute.

10.0 Discharging Fees/Fines

After careful review of cases meeting the criteria set forth above, ECD supervisors may discharge fines/fees. The ECD manager may implement informal review procedures to approve the discharge of fines/fees as recommended by ECD supervisors, at his/her discretion.

10.1 The ECD manager may require the following documentation from ECD supervisors prior to discharge, at his/her discretion:

10.1.1 Documentation to support the original balance.

10.1.2 Account history.

10.1.3 The amount recommended for discharge.

10.1.4 Documentation of collection attempts.

11.0 Reporting

At the end of each fiscal year the CUBS Technician shall print a report that totals the amounts discharged. The report shall be forwarded to the Court Executive Officer and Court Financial Officer. This report will be distributed to the County Executive Office for informational purposes.