Discharge from Accountability

Superior Court of California

County of Inyo

What is Discharge from Accountability?

- A Comprehensive Collection Program is required to engage in various activities and functions designed to enhance collection efforts pursuant to PC § 1463.007
- Each Superior Court and County is jointly required to report to the Judicial Council the performance and Best Practices of the cooperative Superior Court and County Collection Program pursuant to PC § 1463.010
- The Judicial Council's Approved Collections Best Practices includes: "*Establish a process for handling the discharge of accountability for uncollectible court-ordered debt.*"

What is Discharge from Accountability?

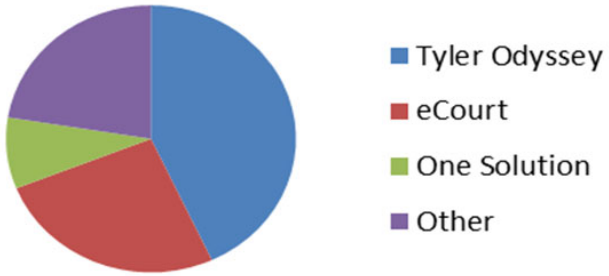
- Discharge from Accountability of the collecting entity from any further responsibility for collecting the discharged debt.
  - Recognizes that some debt is uncollectible.
  - Responsible collecting entity is relieved from any further responsibility for collecting the discharged debt.
- NOT Discharged from liability. The individual is still liable for payment of any amount owed to the court.

Why discharge debt?

- The data is reported in the Annual Collections Report to provide an accurate depiction of Uncollectable Debt in order to report a better representation of Outstanding Court Ordered Debt.
  - Increase in Recovery and Success Rates
- To stop devoting resources to pursuing old, uncollectible debt.

State-wide Stats (per 04/2019 stats)

- 74.1% of Programs (43 of 58) are performed by Court vs. 25.9% by County
- Case Management Systems by percentage used:



- Of the 58 programs, 18 have not established a discharge from accountability process.
  - Collectively, the 18 programs hold 22% or $2.3 billion of the outstanding balance.
  - Collectively, the 40 participating programs have discharged $1.3 billion in uncollectable debt.

Inyo Court Results

- Average annual amount discharged each fiscal year from 12/13-17/18 (does not include 16/17- zero data year): $240,629
- Current fiscal year amount discharged: $584,131.36

Case Type:	Amount:	Count
Non-Traffic Infraction	31,414.37	56
Traffic Infraction	182,682.03	302
Criminal Traffic	231,578.71	168
Criminal Misdemeanor	78,718.73	135
Criminal Felony	28,565.27	30
Mixed Case types (merged accounts)	31,172.25	13
	584,131.36	**704**

- Increased Accuracy reflected on reports
- Increased Success Rate reported to the legislature
- Focus on Collectable Accounts

How to Discharge

- Government Codes pertaining to the rules of Discharge from Accountability outline the precise requirements necessary to correctly Discharge Debt
  - GC § 25257 – 25259.95

Planning Stage

- Identify who the stakeholders are:
  - Presiding Judge
  - CEO and Management Team
  - Court Staff (Collections Team & Court Clerks)
  - County Liaisons

- Planing and Implementation
  - Statutes
  - Court/County Relationship & Written Agreements
  - Year End Report Requirements
  - CMS process (existing system vs programming changes)

Planning Stage continued..

- Set Timeline and Assign Tasks
  - Kickoff meeting and/or written notice and request from imput from Stakeholders
  - Creating Written Procedures & Regulating Documents
  - CMS Programming and Reports
  - Calculating the cost of collections (determining the amount that is “too small”)

Written Procedures

- Inyo Court developed three Procedures for Discharge from Accountability:
  - **High level Court Procedure** to establish the approval of the program, includes purpose, statute compliance, oversight, process, and notification to Public and County compliance.
  - **Management Procedures** to provide clear directive on how to manage process and work flow, process audited internal applications for qualifying cases, create and process General Order granting discharge from accountability, and procedures for final step after General Order is approved, including reporting and record retention.
  - **Clerk Procedures** to provide clear directive on how to perform reviews & process internal applications for qualifying cases, and procedures for final step after General Order is approved.

Implementation

- Inyo Court Enhanced Collection Program & Discharge from Accountability process were established in FY 2012-2013
- Enhanced Collections Unit:
  - 2012-2018: Fiscal Manager and one part-time clerk
  - 2018-present: Fiscal Manager and four shared Court Clerks
- Codes were created to be used to identify:
  - Cases likely qualify for discharge (for extraction review reports)
  - Cases that have been Discharged from Accountability by a signed General Order
- Timeframe for processing established to a 1-2 month period per each fiscal year

Annual Discharge Process - overview

- Flagging case throughout the year for annual review
- Review & approval process (internal application)
- Create and Submit General Order
- Public Posting of Order
- Notice of the Order provided to County
- Reporting the value of debt on the Collections Reporting Template
  - New discharged amounts
  - Payments on prior discharged amounts

Annual Discharge Process - details

- Inyo Court aims to complete the Discharge process in 1-2 months in the third quarter of each fiscal year
- Fiscal Manager creates a review list based on codes and parameters in each Case/Account (extracts data from CMS to Excel)
- List is divided among Enhanced Collection Clerks for review of each account: correct amount? Eligible? No activity?
- Data is gathered on eligible cases/accounts per statute requirements and added to the Excel extraction list
- Excel report is used to create an internal application per case/account via Mail Merge
- Each Application is audited and approved
- The Excel list of approved cases is formatted and added as an attachment to the General Order
- The General Order is reviewed and signed by the Presiding Judge for final approval
- The General Order is provided to the County for notice, and is posted on our website for at least three weeks
- Record retention for Application process, General Order, and online posting is performed per statute

Eligibility Review - *GC § 25258*

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

1. The balance is too small to justify the cost of collection, the likelihood of collection does not warrant the expense involved, or the amount has been otherwise lawfully compromised or adjusted.
2. All reasonable collection efforts have been performed, such as:
   a) Letters requesting payment, in accordance with collection standards.
   b) Attempts at legal action, such as bank and wage attachments, when, employment and assets are known.
   c) Filing of abstracts against current and future acquisition of real property.
   d) At least five years for infraction citations or ten years for criminal cases have elapsed from the due date or conviction date.
   e) The debtor is deceased and it appears that the estate does not have sufficient assets.
   f) The fines and/or fees has been referred to an external collection agency, including, but not limited to, a contracted delinquent collections vendor, the Franchise Tax Board-Court Ordered Debt program, and/or the Franchise Tax Board-Interagency Intercept Collection program, and their collection efforts have been unsuccessful.
3. Any other fact warranting the discharge.

Annual Discharge Process – Annual Report

Reporting the value of discharged debt on the Annual Collections Reporting Template

- New discharged amounts
  - Amounts should only be recorded under the Court Program rows (or County if Collections is performed by County); and not the other agencies as those agencies do not discharge debt.

    Col. H: Discharge from Accountability All cases discharged are Prior Delinquent cases; therefore, Col. H always equals $0 unless discharge is for new delinquent $$

    Col. S: Discharge from Accountability Record the amount of current fiscal year's Approved Discharged from Accountability amount. Only the new amount being discharged is to be reported here because prior years are already removed in the Beginning Balance
- Payments on prior discharged amounts:
  - The "*Value of Cases Beginning Balance*" (prior year's ending balance) does not include prior years' discharged amounts
  - If payments are received on prior years' discharged amounts, they are included in "Gross Revenue Collected" Col. Z Row 20*
  - **THEREFORE**: **payments received on prior discharged amounts need to be also manually added to the "Value of Cases Referred…"** Col. M Row 20*

*assumes Collections Program is performed by Court

Keys to Success

- Consistent Schedule/timeframe for every year
- Short window open for annual process
- Annual communication with key stakeholders in process
- Standard Report to identify cases for review
- Written Discharge Policies and Procedures
- Reference General Order case number in each discharged account
- Re-visit statutes, process, and procedures on an on-going basis – there is always room for improvement!

Final Word

- First time discharging can be daunting due to the large number of cases and amount. Set a timeline and do what you can!
- Focus on the benefits of discharging uncollectable debt.
- Know your resources:
  - Statutes
  - Other Courts
  - JC Collections Unit
  - Collections Unit Website: https://www.courts.ca.gov/partners/455.htm
    - Discharge from Accountability Information Sheet
    - Application Sample
    - Sample Report

Questions??

Thank you!!

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