

**Fines, Fees, and Debt Collection -
Best Practices in Collecting Bail Judgements
National Resource Network - 311 for Cities**

In August 2015, a city submitted a request for assistance to the National Resource Network's 311 for Cities with a question about best practices pertaining to fine, fees and debt collection, with a specific focus on the feasibility of collecting bail judgements. The following write-up was researched, developed, and shared with the city by the Network to provide a summary of current thinking and best practices in this area.

Background Information Collected:

The City recently transitioned responsibility for collecting bail judgments from its Court system to its Department of Revenue. The City's Department of Revenue is attempting to ascertain the feasibility of collecting payments from proverbial "bail jumpers," many of whom may lack the resources to repay debts if successfully located. Given these limitations and others, the City sought best practices related to the collection of bail judgements that have been successfully implemented by other jurisdictions.

Analysis and Recommendations – Collections Best Practices

What are best practices to improve fine, fee, and debt collection processes that have been utilized in other jurisdictions?

Dallas County, Texas - Launched a [fine collection pilot program](#) in three criminal misdemeanor courts. The program showed positive results and, in 2005, the Texas Legislature subsequently mandated adoption of this model in the majority of county and municipal courts in the state. The Texas model includes the following as best practices:

- Staff dedicated exclusively to collection activities
- Expectation that all court costs, fees and fines are due at the time of sentencing or pleading
- Defendants unable to pay in full on the day of sentencing are required to apply for an extension of time
- Application information is verified and evaluated to establish an appropriate payment plan for the defendant
- Payment plans are usually strict (e.g. 50 percent of the total amount due must be paid within 48 hours; 80 percent within 30 days; and 100 percent within 60 days)
- Alternative enforcement options (e.g., community service) are available for those who do not qualify for a payment plan
- Defendants are closely monitored for compliance and action is taken promptly for non-compliance
- A county or city may contract for collection services on delinquent cases
- Application of statutorily permitted collection remedies, such as programs for non-renewal of driver's license or vehicle registration
- Issuance and service of warrants, as appropriate

Through the implementation of these recommendations, courts have been able to significantly increase collection rates. According to data from the Texas Office of Court Administration data from last decade, participating counties that adopted the model achieved, on average, five-year collection rate growth of 33 percent to 63 percent.

State of California - In 2004, the Judicial Council of California’s Administrative Office of the Courts enhanced its focus on the collection of delinquent court-ordered debts.¹ This concentrated effort produced a 27 percent increase in the amount of total revenue collected in infraction, misdemeanor, and felony cases. A portion of the increase may have been attributable to the dissemination of [27 best practices](#) for each court and/or county to utilize in pursuit of collections. While the best practices are somewhat specific to California, several provide overarching best practices for general collections activities, including:

- Establishing collections guidelines and standards as well as a definition of “delinquent accounts/payments” for use by collection programs;
- Creating pathways for private collection activities;
- Establishing interim software applications to provide judicial officers with computer access to mandatory and discretionary fines, fees, and assessment data for infractions and selected misdemeanor and felony violations.
- Allowing for payments via credit and debit cards
- Allowing for payments via the Internet
- Financial screening to determine ability to pay

State of Florida – In the state of Florida, a Best Practices Committee was appointed by the President of the Florida Association of Court Clerks to determine the most effective way to recover court costs, fines, fees and service charges. As a result of the [Committee’s review](#), the following best practices were developed:

- Work with the judiciary
 - Clerks should request that the judiciary communicate to the defendants and litigants that payment plans will be enforced.
- Solicit input from all parties potentially involved in collections
 - Sheriff’s Office, Judiciary, local attorneys, Department. of Corrections, Probation Department., State Attorney’s Office, and the County Attorney’s Office
- Create flexible payment plans
- Determine appropriate enforcement tools
- Flexibility to modify payment plans
- Use an account receivable system

What are recommended best practices to improve fine, fee, and debt collection processes?

National Center for State Courts (NCSC) - The following best practices were developed and published in a [NCSC report](#) detailing practices in fine and fee collections.² The report presents an analysis of judicial debt collection, based on work in 40 courts in 22 states. The analysis found three primary keys to successful collections activity:

- Adoption of a philosophy that active collection was necessary
- Decision to improve community perceptions that fines had to be paid
- Dedicated staff and resources to the collection effort

¹ https://www.victimsofcrime.org/docs/Report/2011_RestitutionReport_5-CaliforniaEnhancedCollections.pdf?sfvrsn=0

² John T. Matthias, Gwendolyn Lyford and Paul Gomez, Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, National Center for State Courts, 1996

Institute for Court Management - In 2004, the Institute for Court Management completed [a report](#) for the 47th District Court in Farmington, Michigan. The report included a series of best practices for collection techniques, including:

- Establish a payment program on the day of sentencing
- Reduce backlog of account receivables (or cleaning up old debts), including writing off uncollectible accounts
- Actively contact individuals via telephone or other personal means, with delinquent accounts to elicit payments
- Install a 24-hour drop box
- Install ATM machine in the courthouse
- Establish a contract with private vendor for collections activity
- Set up Internet-based payment availability
- Pursue the use of judicial court orders for prison accounts (if the defendant has been incarcerated a judicial order can be issued to deduct from the inmate’s account monies to pay the outstanding debt)
- Implement use of a voluntary income withholding form for defendants to complete when seeking extensions to meet payment obligations
- Provide judges with financial reports of the number, status, and age of pending receivables on a timely basis
- Use a collection agency that charges a fee on top of court costs, meaning that the collection agency charges its fee on top of the court costs instead of getting a percentage of the court costs

Vera Institute for Justice - The Vera Institute of Justice researched and found that the process for collecting fines in many European nations involved [personalized payment plans that were much more successful in recouping fines and debts](#) than many methods used in the United States. In Europe, courts seek to individualize fines for offenders based on their ability to pay.

In the U.S., fines have historically been set based on the severity of the offense. The problem is that a \$500 fine for an individual who earns \$100,000 annually is very different than for a defendant who earns \$10,000 a year. The European system of “day fines” – set based on the value of a day of offender wages – makes it more likely that offenders can afford to make required payments.³ This approach may provide a useful context for contemplating policies related to the collection of bail judgements.

Analysis and Collection Options – Case Studies Specific to Bail Judgements

Creation of Internal Capacity and Process Improvement

Dallas County, TX- In 2012, Dallas County, which was owed approximately \$35.8 million in unresolved bond forfeitures, created a task force to review the bail forfeiture processes and practices and make recommendations to enhance the process and outcomes. The task force [issued findings and a recommended series of changes](#), including:

- Not all bail forfeitures were the result of the defendant truly “absconding”, rather, a subset of defendants was – legitimately – either unaware of the Court date or had a valid reason for not

³ Justice Management Institute and Vera Institute of Justice, How to Use Structured Fines (Day Fines) As an Intermediate Sanction, Bureau of Justice Assistance, 1996.

being present as required.

- This finding led to support for the creation of a process to allow defendants to be located and made available to the Court before initiating forfeiture action.
- Collections related to those defendants who did abscond would be aided by a centralized IT system to support all processes relating to bail bonds, the creation of funding for dedicated staff to process and track bond forfeitures (bond forfeiture unit) within the District Attorney's office (DA's Office), standardizing processes across all courts.
- The new bond forfeiture unit was implemented and was expected to increase collections while becoming cost neutral over time.
- Other, smaller Texas counties that have implemented bail bond prosecution units have collected greater sums of bail judgment monies. It was expected that the County's bond forfeiture unit would be able to collect \$2 million per year in two-to-five years after implementation – approximately doubling the County's real dollar collection from FY2011.
- The report also found that the judiciary played a critical role in enhancing collections and that judicial involvement, communication, and education were a central component of successful collections.

Utilization of Private Collections

Northampton County, PA- In 2011, the County's Controller issued an [audit report on bail forfeitures](#) finding that, from 2006-2010, only \$27,000 was collected from the use of payment plans and there was a lack of internal controls and formal policies and procedures to collect bail judgments.

In 2012, Northampton County, with more than \$57.5 million in outstanding court fees, fines restitution and bail forfeitures dating to 1990 and no excess staff capacity, contracted with a third party to pursue recovery of outstanding sums. According to the County's Director of Court Services, after nearly 18 months, the collection agency collected more than \$73,000 in historical court fees, fines, and restitution payments. The County planned to turn over bail forfeitures to the contracted collections agency.⁴

It is questionable whether collection of \$73,000 on a base of \$57.5 million constitutes a fiscal and operational success. However, various factors – including age of debt, ability of defendants to pay, lack of government capacity to generate any revenue from outstanding debts, etc. – affect an assessment of whether or not the private collection engagement achieved desired goals and could be useful in other jurisdictions.

Regulatory and Policy Changes

Tarrant County, TX- In recent years, hundreds of bond forfeitures in Tarrant County, including for serious offenses, were delayed, dismissed or settled for a fraction of the total -- resulting in the County collecting less than \$1 million of the approximately \$5 million owed.

In an effort to [enhance collection of bail judgments](#), the County established a computer system that locks out delinquent bail bond agents on bail judgements, so these individuals/entities can no longer write bonds. The County bail bond board also received the power to suspend bond agent's ability to write bonds

⁴<http://csgjusticecenter.org/courts/media-clips/more-than-120-million-owed-in-court-costs-across-the-lehigh-valley/>. The news report also notes that neighboring Lehigh County performs court, fine, fee, and bail forfeiture collection activities using an in-house collections unit with seven employees, dedicated to tracking down owed costs. According to the report, this unit achieved greater revenue (in actual dollars) than similar sized counties in the Commonwealth – increasing its revenue collections – across all areas – by nearly \$1 million over a three-year period.

if the agent is delinquent on bail judgements. For instance, if the bondsman is suspended twice within 12 months, or for 30 straight days, the board can take disciplinary action, including revoking the agent's ability to write bonds.⁵

Despite the regulatory changes, the County continued to struggle to collect bail judgement debt; however, it is unclear whether the policies were ineffective or the management of the process was insufficient to achieve the desired outcomes.

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⁵ <http://www.star-telegram.com/news/special-reports/article3830904.html>