



**Bay Mills Indian Community**  
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## MEMORANDUM

TO: Phyllis Kinney, Tribal Court Administrator  
Denise Parish, Tribal Court Clerk

FROM: Bryan Newland, Chief Judge

RE: ***Guidance for the Collection of Costs, Fines and Judgments***

DATE: January 13, 2015

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I am writing to provide you guidance in your efforts to collect costs, fines, and judgments imposed upon defendants in criminal matters, and civil matters in which the Bay Mills Indian Community is a party.

The Court often imposes fines upon defendants as part of their sentence, and generally requires defendants to cover certain costs related to their arrest, incarceration, and drug testing. The Court may also require some defendants to pay restitution in criminal cases where their actions have caused damage or harm to other individuals.

The Court recognizes that the imposition of costs, fines, and judgments on defendants poses an enormous financial challenge for some individuals who come before the Court. While the Court does seek to hold people accountable for their actions, it does not wish to set them up for failure and a return trip to court and/or jail. As a matter of general policy, the Bay Mills Indian Community will not criminalize poverty and chronic unemployment – provided that those individuals required to pay court costs, fines, and judgments undertake a good faith effort to meet their obligations.

Under BMIC Tribal Code § 106, you are authorized to “collect fees, fines, costs, and other monies associated with Tribal Court proceedings.” The following guidelines shall apply to your collection efforts. Please note that these guidelines do not apply to payments made for restitution, or payments in civil cases between private individuals.

1. **Payment Schedule** – The Court will undertake its best efforts to include deadlines in its orders, by which defendants must make their payments to the Court. To the extent that any Court orders do not specify a payment deadline or schedule, you are authorized to work with each defendant to establish a reasonable payment schedule for costs, fines, and judgments.
2. **Limitation on Payments** – Unless otherwise ordered by the Court, no payment schedule should require any defendant to pay the Court more than ten percent (10%) if his/her average monthly income. You may request that a defendant provide verification of his or her income through appropriate means.
3. **Good Faith Efforts** – Defendants shall be required to undertake a good faith effort to pay court ordered costs, fines, and judgments. In working with individuals to establish a payment schedule, you should consider the extent to which those individuals have made a good faith effort to satisfy their obligations.
4. **Extinguishment of Obligations** – Only the Court, through an appropriate order, may extinguish an individual's obligation to pay costs, fines, and judgments. Individuals may not rely upon statements made by individual members of the Court's staff, individual law enforcement officers, or individual members of the Bay Mills Indian Community Executive Council to avoid their responsibility to pay court-ordered costs, fines, and judgments.

No sooner than 10 years after the entrance of an order requiring the payment of costs, fines, or a judgment, a defendant may request that the Court extinguish any outstanding balances. In granting or denying such a request, the Court shall consider that individual's payment history and whether the individual has made a good faith effort to make payments.<sup>1</sup>

This memorandum is issued pursuant to my authority as the Chief Judge of the Bay Mills Indian Community Tribal Court, and shall expire upon the completion of my term of office.

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<sup>1</sup> This is consistent with BMIC Tribal Code § 404, which limits the enforcement of money judgments to a period of ten years.