



Agenda

PUBLIC PROTECTION COMMITTEE

November 4, 2019

10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor John Gioia, Chair
Supervisor Federal D. Glover, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. APPROVE Record of Action from the September 30, 2019 meeting. **(Page 3)**
4. CONSIDER accepting an update on the implementation of the moratorium on the collection of certain criminal justice fees assessed by the County and provide direction to staff regarding next steps. **(Paul Reyes, Committee Staff) (Page 6)**
5. The next meeting is currently scheduled for December 2, 2019.
6. Adjourn

The Public Protection Committee will provide reasonable accommodations for persons with disabilities planning to attend Public Protection Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Public Protection Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Paul Reyes, Committee Staff
Phone (925) 335-1096, Fax (925) 646-1353
paul.reyes@cao.cccounty.us

Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB	Assembly Bill	HIPAA	Health Insurance Portability and Accountability Act
ABAG	Association of Bay Area Governments	HIV	Human Immunodeficiency Syndrome
ACA	Assembly Constitutional Amendment	HOV	High Occupancy Vehicle
ADA	Americans with Disabilities Act of 1990	HR	Human Resources
AFSCME	American Federation of State County and Municipal Employees	HUD	United States Department of Housing and Urban Development
AICP	American Institute of Certified Planners	Inc.	Incorporated
AIDS	Acquired Immunodeficiency Syndrome	IOC	Internal Operations Committee
ALUC	Airport Land Use Commission	ISO	Industrial Safety Ordinance
AOD	Alcohol and Other Drugs	JPA	Joint (exercise of) Powers Authority or Agreement
BAAQMD	Bay Area Air Quality Management District	Lamorinda	Lafayette-Moraga-Orinda Area
BART	Bay Area Rapid Transit District	LAFCo	Local Agency Formation Commission
BCDC	Bay Conservation & Development Commission	LLC	Limited Liability Company
BGO	Better Government Ordinance	LLP	Limited Liability Partnership
BOS	Board of Supervisors	Local 1	Public Employees Union Local 1
CALTRANS	California Department of Transportation	LVN	Licensed Vocational Nurse
CalWIN	California Works Information Network	MAC	Municipal Advisory Council
CalWORKS	California Work Opportunity and Responsibility to Kids	MBE	Minority Business Enterprise
CAER	Community Awareness Emergency Response	M.D.	Medical Doctor
CAO	County Administrative Officer or Office	M.F.T.	Marriage and Family Therapist
CCCFPD	(ConFire) Contra Costa County Fire Protection District	MIS	Management Information System
CCHP	Contra Costa Health Plan	MOE	Maintenance of Effort
CCTA	Contra Costa Transportation Authority	MOU	Memorandum of Understanding
CDBG	Community Development Block Grant	MTC	Metropolitan Transportation Commission
CEQA	California Environmental Quality Act	NACo	National Association of Counties
CIO	Chief Information Officer	OB-GYN	Obstetrics and Gynecology
COLA	Cost of living adjustment	O.D.	Doctor of Optometry
ConFire	(CCCFPD) Contra Costa County Fire Protection District	OES-EOC	Office of Emergency Services-Emergency Operations Center
CPA	Certified Public Accountant	OSHA	Occupational Safety and Health Administration
CPI	Consumer Price Index	Psy.D.	Doctor of Psychology
CSA	County Service Area	RDA	Redevelopment Agency
CSAC	California State Association of Counties	RFI	Request For Information
CTC	California Transportation Commission	RFP	Request For Proposal
dba	doing business as	RFQ	Request For Qualifications
EBMUD	East Bay Municipal Utility District	RN	Registered Nurse
ECCFPD	East Contra Costa Fire Protection District	SB	Senate Bill
ECCRPC	East Contra Costa Regional Planning Commission	SBE	Small Business Enterprise
EIR	Environmental Impact Report	SRVRPC	San Ramon Valley Regional Planning Commission
EIS	Environmental Impact Statement	SWAT	Southwest Area Transportation Committee
EMCC	Emergency Medical Care Committee	TRANSPAC	Transportation Partnership & Cooperation (Central)
EMS	Emergency Medical Services	TRANSPLAN	Transportation Planning Committee (East County)
EPSDT	State Early Periodic Screening, Diagnosis and Treatment Program (Mental Health)	TRE or TTE	Trustee
et al.	et alii (and others)	TWIC	Transportation, Water and Infrastructure Committee
FAA	Federal Aviation Administration	VA	Department of Veterans Affairs
FEMA	Federal Emergency Management Agency	vs.	versus (against)
F&HS	Family and Human Services Committee	WAN	Wide Area Network
First 5	First Five Children and Families Commission (Proposition 10)	WBE	Women Business Enterprise
FTE	Full Time Equivalent	WCCTAC	West Contra Costa Transportation Advisory Committee
FY	Fiscal Year		
GHAD	Geologic Hazard Abatement District		
GIS	Geographic Information System		
HCD	(State Dept of) Housing & Community Development		
HHS	Department of Health and Human Services		



Contra Costa County Board of Supervisors

Subcommittee Report

PUBLIC PROTECTION COMMITTEE

3.

Meeting Date: 11/04/2019
Subject: RECORD OF ACTION - September 30, 2019
Submitted For: David Twa, County Administrator
Department: County Administrator
Referral No.: N/A
Referral Name: RECORD OF ACTION - September 30, 2019
Presenter: Paul Reyes, Committee Staff **Contact:** Paul Reyes, (925) 335-1096

Referral History:

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting.

Referral Update:

Attached for the Committee's consideration is the Record of Action for the Committee's September 30, 2019 meeting.

Recommendation(s)/Next Step(s):

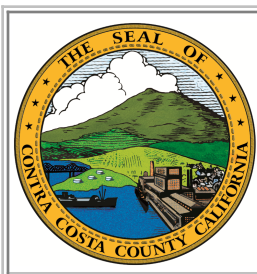
APPROVE Record of Action from the September 30, 2019 meeting.

Fiscal Impact (if any):

No fiscal impact. This item is informational only.

Attachments

Record of Action - September 30, 2019



PUBLIC PROTECTION COMMITTEE

RECORD OF ACTION FOR
September 30, 2019

Supervisor John Gioia, Chair
Supervisor Federal D. Glover, Vice Chair

1. Introductions

Convene - 9:01 am

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No public comment.

3. APPROVE Record of Action from the July 1, 2019 meeting.

Approved as presented.

4.
 1. CONSIDER applications submitted to the Clerk of the Board for the vacant seats on the Juvenile Justice Coordinating Council (JJCC).
 2. INTERVIEW applicants for the two (2) vacant seats on the JJCC: Nonprofit Community-Based Organization Seats #1 and #2.
 3. CONSIDER making nominations to the Board of Supervisors at their October 8, 2019 meeting to fill the two vacancies on the JJCC in the Nonprofit Community-Based Organizations Seats #1 and #2.
 4. PROVIDE any additional direction to staff regarding the establishment of the Juvenile Justice Coordinating Council.

Approved as presented, with staff directed to forward to the Board of Supervisors the recommendation to appoint Rebecca Oriol and Claire Bromberry to the nonprofit community based organization seats of the Juvenile Justice Coordinating Council.

5.
 1. ACCEPT an update on the implementation of a moratorium on the collection and assessment of certain criminal justice fees assessed by the County; and
 2. PROVIDE direction to staff on next steps.

Approved as presented, with the following direction provided to staff:
1. County Administrator's Office (CAO) to assemble a small workgroup of justice system partners to look into the available data.
2. Staff will return to the PPC with additional information on criminal justice fee processes and relevant data.

6. PROVIDE direction to staff regarding the recruitment process for a victims' representative seat on the Contra Costa County Community Corrections Partnership (CCP).

The Committee directed staff to proceed with the 6-week application period timeline.

7. The next meeting is currently scheduled for November 4, 2019.
8. Adjourn

Adjourned.

For Additional Information Contact:

Paul Reyes, Committee Staff
Phone (925) 335-1096, Fax (925) 646-1353
paul.reyes@cao.cccounty.us



Contra Costa County Board of Supervisors

Subcommittee Report

PUBLIC PROTECTION COMMITTEE

4.

Meeting Date: 11/04/2019
Subject: Criminal Justice Fees
Department: County Administrator
Referral No.: N/A
Referral Name: Criminal Justice Fees
Presenter: Paul Reyes, Committee Staff **Contact:** Paul Reyes, 925-335-1096

Referral History:

On February 26, 2019, the Board of Supervisors referred to the Public Protection Committee the topic of criminal justice system fees charged to individuals and a review the current programs, policies and practices related to criminal justice fees. A copy of the referral is included as Attachment A.

On April 1, 2019, the Public Protection Committee considered an introductory report on the issue of criminal justice fees assessed in the County. During that meeting, it was noted that momentum to end criminal fees is growing in the state and individual counties have begun to view criminal justice fees as ineffective and have taken steps to eliminate them. In 2017, the County of Los Angeles eliminated its public defender registration fee. In May 2018, San Francisco eliminated all criminal administrative fees under its control, freeing over 21,000 people of more than \$32,000,000 in outstanding criminal administrative fees and surcharges. Most recently, in December 2018, the Alameda County Board of Supervisors voted to eliminate a host of county-imposed criminal fees. The board voted to eliminate \$26,000,000 in fees for tens of thousands of Alameda County residents. A copy of the Alameda County Board of Supervisors approved ordinance is included as Attachment B.

With the passage of Senate Bill 190 in 2017, the State of California eliminated juvenile justice fees in all counties. In January 2019, Senate Bill (SB) 144 was introduced by Sen. Holly Mitchell and would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees. At the time of the April PPC meeting there had been discussion at the state level about the proposed elimination of specific fees – the probation fee, the public defender fee, and work furlough fee.

Also during the April PPC, general arguments in favor or against continuing criminal justice fees were discussed. It was also noted that analysis of adult criminal justice fees had proven to be complicated. State law dictates a very complex process for the distribution of fine and fee revenue. Per a recent Legislative Analyst's Office report, state law currently contains at least 215 distinct code sections specifying how individual fines and fees are to be distributed to state and local funds, including additional requirements for when payments are not made in full.

The report provided at the April PPC meeting focused on those fees that had been positively identified as being local and discretionary fees (i.e. not mandated by California law), specifically Probation Fees, Public Defender Fees, and Sheriff Custody Alternative Facility Fees. Further research and analysis will be needed on other fines and fees collected by the Contra Costa Superior Court of California (Court) and remitted to the County.

The April staff report included the following information on Probation, Public Defender, and work furlough fees:

Probation Fees

Probation Report Fee - In 2009, the Board of Supervisors adopted Ordinance 2009-28 authorizing the Probation Department to charge a fee of \$176 for the cost of generating a probation report to the Court. This is one-time fee.

Cost of Probation Fee - In 2010, the Board of Supervisors adopted Resolution No. 2010/262 to increase the monthly Cost of Probation Fee from \$50 per month to \$75 per month (average daily cost of \$2.50).

Probation Drug Testing Fee – The Probation Department currently charges \$10 per month (average daily cost of \$0.33) for drug testing.

Probation Dept. Drug Diversion Fee – The Probation Department currently receives approximately \$1,000 per year from this fee.

All adults that have been ordered to formal Probation, which includes mandatory supervision, and ordered to pay Probation fees, drug testing fees and/or the cost of their court report shall be assessed for their ability to pay said fees. The ability-to-pay determination is sent to the Court. The Court will order the amount the probationer is required to pay and refer the probationer to the Court Collections Unit for collection.

The following table illustrates the total amount of probation fees a probationer could hypothetically be charged. This is assuming the probation is placed on 3 years of probation and requires monthly drug testing. Over 3 years, a probationer could be charged up to \$3,236 for probation.

Example Probationer	Cost	# of Months	Total
Supervision	\$75/month	36	2,700
Drug Testing	\$10/month	36	360
Report Fee	\$176 one-time	n/a	176
Total Cost of Probation			3,236

Cost of Collection and Revenue

The following table shows the actual and estimated cost of collection and revenue for FY 17/18 and FY 18/19, respectively. The Probation fee revenue is used to offset the salaries of adult Deputy Probation Officers.

Fee	FY 17/18		Estimated FY 18/19	
	Collection Cost	Revenue	Collection Cost	Revenue
Probation Dept. Drug Diversion Fee (PC 1001.9)	143	1,249	10	1,000
Cost of Probation Fee	91,957	475,573	82,000	444,000
Probation Cost of Drug Test Fee (PC 1203.1(ab))	12,332	60,638	12,000	61,000
Probation Report Fee (PC 1203.1(b))	4,554	27,333	5,000	30,000
Total	108,986	564,793	99,010	536,000

Public Defender Fees

Penal Code 987.81 authorizes the Court to consider and make a determination of the defendant's ability to pay all or a portion of the costs of legal assistance provided through the public defender or private counsel appointed by the court and may order the defendant to pay all or a part of the cost.

Adults charged with capital or homicide cases may have to pay fees ordered by the court at the conclusion of the case to reimburse the County for the cost of outside counsel. The defendant is referred to the Contra Costa Superior Court Collections Unit by the judge who orders the amount to be paid. The Court makes a determination as to how much, if any, of the ordered amount the person can afford to pay. This determination is made on a sliding scale based upon the person's financial resources. The Office of the Public Defender is not involved in the determination of, or collection of fees.

Cost of Collection and Revenue

The following table shows the actual and estimated cost of collection and revenue for FY 17/18 and FY 18/19, respectively. The Public Defender Fee revenue is used to offset cost of County trial court function, specifically costs associated with capital cases.

Fee	FY 17/18		Projected FY 18/19	
	Collection Cost	Revenue	Collection Cost	Revenue
Public Defender Fee	1,849	26,100	-	121,000

Sheriff Office Custody Alternative Facility Program Fees

In 2009, the Board of Supervisors approved Resolution No. 2009/435 setting the fees for the Office of the Sheriff custody alternative programs. The current fees for the Custody Alternative Facility programs are provided below.

Fee	Cost
Electronic Home Detention and Alcohol Monitoring:	
Application fee	\$125.00 one-time
Electronic Home Monitoring Only	\$20.00 per day
Alcohol Monitoring Only	\$20.00 per day
Electronic Home Monitoring and Alcohol Monitoring	\$23.50 per day
Urinalysis Test	\$6.00 per test
Work Alternative Program:	
Application fee	\$125.00 one-time
Daily Fee	\$16.00 per day

Ability to Pay Process

The current Custody Alternative Facility (CAF) procedure provides for the CAF participant to be completely enrolled in a CAF program prior to discussing fees or ability to pay. Participants review and complete the personal budget with their assigned CAF Specialist. The participant will then request a reduction/waiver of fees based on their stated ability to pay. A CAF Sergeant will review and approve the Personal Budget form. A participant's inability to pay all or a portion of any fee(s) will not preclude them from being enrolled or completing any program offered by the Custody Alternative Facility.

Process of Collections

CAF fees are collected after the participant is enrolled in a CAF program. Fees can be paid in the manner which is most appropriate for the participant. Participants can pay their total program fees at one time or over a pre-determined length of time. There is no process established to collect payment from participants who complete the program, but do not pay. A participant's ability to successfully complete a CAF programs is not impacted by lack of payment.

Future Plan for CAF Electronic Home Detention and Work Alternative Programs

CAF is currently working with representatives from the Office of Re-Entry and Justice, the Public Defender's Office, and Reentry Solutions Group to present updated Ability to Pay forms.

Revenue

The following table shows the actual and estimated revenue for FY 17/18 and FY 18/19, respectively. The CAF Fee revenue is used to offset program costs.

Program	FY 17/18	Projected FY 18/19
Work Alternative Program	443,055	423,000
Electronic Home Detention	568,541	12,000

Total	1,011,596	435,000
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The PPC accepted the introductory report and directed staff to perform further research on other fees that are collected or remitted to the County and to report back to the Committee with staff's findings.

On July 1, 2019, the Public Protection Committee accepted an a follow-up report on this issue which included a review of a wider range of criminal justice fees, including those that are mandated by state legislation. This update included the following information on criminal justice fees and SB 144.

Criminal Justice Fees

The Legislative Analyst's Office (LAO) provided a report titled "Overview of State Criminal Fines and Fees and Probation Fees. The report provide background information regarding both cirminal fines and fees and probation fees. This includes an explanation of how cimrinal fines and fees are assessed. A copy of the LAO report is included as Attachment C.

Upon the request of the Committee, the analysis of the County's criminal justice fees was expanded beyond the fees charged for Probation, indigent defense, and alternatives-to-incarceration fees. Attachment D summaries the fee analysis performed by staff which includes: fee description, relevant code section, authority, ability-to-pay provision, funded County program or function, and revenue collected.

Senate Bill 144

As of July 1, 2019, SB 144 had passed through the California Senate and was in the California Assembly. SB 144 is set to be heard on July 9th in the Assembly Public Safety Committee. SB 144 is currently opposed by Calfiornia State Association of Counties, Urban Counties of California, Rural County Representatives of California, and the Chief Probation Officers of California. These organizations' opposition is not based on the underlying policy conversation regarding lessening the financial burden associated with fines and fees levied on adults in the criminal justice system, but is based on the fiscal implications and the request for the addition of a sustainable funding source to ensure this does not inadvertently impact the core services, programs and efforts to promote the rehabilitation of offenders. A copy of the amended SB 144 can be found here:

http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201920200SB144&version=20190SB14497AMD

During the July meeting, the Public Protection Committee considered a number of concerns revolving around adult criminal justice fees, including significant concern brought up regarding the ability-to-pay process. The majority of criminal fees include provisions that allow for either a waiver or reduction of the fee based on one's ability to pay. The Public Protection Committee voted unanimously to refer to the full Board of Supervisors a temporary moratorium on the assessment and collection of criminal justice fees currently authorized by the Contra Costa County Board of Supervisors.

On September 17, 2019, the Board of Supervisors considered adopting Resolution No. 2019/522 to place a moratorium on the assessment and collection of certain criminal justice fees. The Board of Supervisors approved the moratorium and directed the Public Protection Committee to gather additiional data about criminal justice fees in Contra Costa County and to return to the Board of Supervisors before the end of the year. A copy of the Resolution is attached for reference (Attachment E).

Following the adoption of the moratorium by the Board of Supervisors, the County Administrator's Office had notified the Sheriff's Office, the Probation Department, and the Superior Court of this moratorium on the assessment and collection of the applicable criminal justice fees.

Referral Update:

On September 30, 2019, the Public Protection Committee accepted an update on the implementation of the moratorium on the collection of adult criminal justice fee. The Committee directed staff to assemble a small work group to identify and provide to the Committee any additional available and relevant data.

A workgroup was assembled and met twice in October 2019. As a result of the work performed by this workgroup and staff, an update on criminal justice fees has been compiled and attached (See Attachment F). This update includes information on the San Francisco Financial Justice Project, the abiltity-to-pay process of Probation and the Sheriff's Office, local data on race/income, pending data collection efforts, and an update on the Superior Court implementation of the moratorium. Additionally, Reentry Solutions Group has provided a Report on Criminal Justice Fees in Contra Costa which provides additional information on the San Francisco Financial Justice Project, the local research process, and local/national research (see Attachment G).

Recommendation(s)/Next Step(s):

1. ACCEPT an update on the implementation of a moratorium on the collection and assessment of certain criminal justice fees assessed by the County; and
2. PROVIDE direction to staff on next steps.

Fiscal Impact (if any):

No immediate fiscal impact.

Attachments

Attachment A - BOS Referral - Criminal Justice Fees

Attachment B - Alameda County Ordinance Eliminating Fees

Attachment C - LAO Report

Attachment D - Adult Fee Analysis

Attachment E - Resolution No. 2019/522

Attachment F - Update on Criminal Justice Fees

Attachment G - RSG Report on CJ Fees In Contra Costa



Contra
Costa
County

To: Board of Supervisors
From: PUBLIC PROTECTION COMMITTEE
Date: February 26, 2019
Subject: Criminal Justice Fees

RECOMMENDATION(S):

REFER to the Public Protection Committee the issue of criminal justice system fees charged to individuals.

FISCAL IMPACT:

No fiscal impact. This action refers the issue of justice system fees to the Public Protection Committee.

BACKGROUND:

Existing law allows the County to impose various criminal justice fees for the cost of administering the criminal justice system. This referral is being requested to review the current programs, policies and practices related to criminal justice fees.

CONSEQUENCE OF NEGATIVE ACTION:

The issue will not be referred to the Public Protection Committee for review.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/26/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

ABSENT: Diane Burgis, District III Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 26, 2019

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Paul Reyes,
925-335-1096

AN ORDINANCE AMENDING SECTION 2.42.190 OF THE ADMINISTRATIVE CODE TO ELIMINATE PROBATION FEES; REPEALING RESOLUTION 2011-142 REGARDING PUBLIC DEFENDER/CONFLICT COUNSEL FEES FOR REPRESENTATION OF INDIGENT ADULTS; AND ELIMINATING SHERIFF'S WORK ALTERNATIVE PROGRAM ADMINISTRATIVE AND ATTENDANCE FEES.

WHEREAS, criminal justice financial obligations like probation supervision and investigation fees, indigent defense fees, and fees associated with work release programs, can have long-term effects that can undermine successful societal reentry goals of the formerly-incarcerated, such as attaining stable housing, transportation, and employment; and

WHEREAS, this Board of Supervisors recognizes that criminal justice debt levied against low-income or indigent adults compromises key principles of fairness in the administration of justice in a democratic society and engenders deep distrust of the criminal justice system among those overburdened by such debt; and

WHEREAS, California Penal Code section 1203.1b authorizes but does not require a county to recover the actual costs for probation services in lieu of incarceration; and

WHEREAS, County of Alameda Administrative Code section 2.42.190 establishes probation department fees; and

WHEREAS, California Penal Code sections 987.5 and 987.8 authorizes but does not require the assessment of fees to cover the costs of appointed counsel; and

WHEREAS, the Board of Supervisors most recently authorized Indigent Defense Fees in Resolution 2011-142; and

WHEREAS, California Penal Code section 4024.2 authorizes but does not require a board of supervisors to assess an administrative fee on inmates of the county jail for costs associated with a county's work release program; and

WHEREAS, the Board of Supervisors has approved the Alameda County Sheriff's Office Sheriff Work Alternative Program (SWAP) and set administrative and attendance fees for participation in that Program; and

WHEREAS, the Board of Supervisors finds that it is in the best interest of the County, justice-involved adults, and the larger community to repeal the above-named adult fees; and

WHEREAS, it is also in the best interests of the County and the community that the Auditor-Controller be authorized to write-off all accounts receivable balances and close the associated fee accounts;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Section 2.42.190 of the County of Alameda Administrative Code is hereby amended to read as follows:

2.42.190 Probation Department fees.

Notwithstanding any prior County ordinance or resolution of the Board of Supervisors to permit assessment of probation fees and costs under California Penal Code section 1203.1b, neither the Probation Department nor any other County agency shall assess fees for probation services, or any other fees or costs authorized by Penal Code section 1203.1b.

SECTION II

The Public Defender schedule of fees authorized by this Board in Resolution No. 2011-142 on May 10, 2011 is hereby repealed.

SECTION III

The Sheriff's Office Alternative Work Program (SWAP) administrative fee and attendance fee, authorized by this Board by resolution as permitted by Penal Code section 4024.2 is repealed. Neither the Sheriff's Office or any other County agency shall assess SWAP administration or attendance fees.

SECTION IV

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 4th day of December, 2018, by the following called vote:

AYES: Supervisors Carson, Haggerty, Miley & President Chan

NOES: None

EXCUSED: Supervisor Valle



President of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors,

By: R. Bailey
Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: K. Scott Dickey
K. Scott Dickey
Assistant County Counsel

FEBRUARY 5, 2019

Overview of State Criminal Fines and Fees and Probation Fees

PRESENTED TO:

Assembly Committee on Public Safety
Hon. Reginald Byron Jones-Sawyer, Sr.



LEGISLATIVE ANALYST'S OFFICE

Introduction

In this handout, we provide background information responding to common questions regarding both criminal fines and fees and probation fees.

- ***Criminal Fines and Fees.*** During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations).
- ***Probation Fees.*** State law authorizes counties to levy fees on probationers to cover probation-related costs. For example, a probationer who is subject to electronic monitoring—such as being required to wear a Global Positioning System (GPS) unit on his or her ankle—can be charged for its costs.



How Are Criminal Fines and Fees Assessed?

Various Fines and Fees Substantially Add to Base Fines

As of January 1, 2019

	How Charge is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
Standard Fines and Fees			
Base Fine	Depends on violation	\$35	\$390
State Penalty Assessment	\$10 for every \$10 of a base fine ^a	40	390
County Penalty Assessment	\$7 for every \$10 of a base fine ^a	28	273
Court Construction Penalty Assessment	\$5 for every \$10 of a base fine ^a	20	195
Proposition 69 DNA Penalty Assessment	\$1 for every \$10 of a base fine ^a	4	39
DNA Identification Fund Penalty Assessment	\$4 for every \$10 of a base fine ^a	16	156
EMS Penalty Assessment	\$2 for every \$10 of a base fine ^a	8	78
EMAT Penalty Assessment	\$4 per conviction	4	4
State Surcharge	20% of base fine	7	78
Court Operations Assessment	\$40 per conviction	40	40
Conviction Assessment Fee	\$35 per infraction conviction and \$30 per felony or misdemeanor conviction	35	30
Night Court Fee	\$1 per fine and fee imposed	1	1
Restitution Fine	\$150 minimum per misdemeanor conviction and \$300 minimum per felony conviction	—	150
Subtotals		(\$238)	(\$1,824)
Examples of Additional Fines and Fees That Could Apply			
DUI Lab Test Penalty Assessment	Actual costs up to \$50 for specif- ic violations	—	\$50
Alcohol Education Penalty Assessment	Up to \$50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to \$100	—	100
Subtotals		(—)	(\$200)
Totals		\$238	\$2,024

^a The base fine is rounded up to the nearest \$10 to calculate these additional charges. For example, the \$35 base fine for a failure to stop would be rounded up to \$40.
DUI = Driving Under Influence; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.

The total amount owed by an individual begins with a base fine set in state law for each criminal offense. State law then requires courts to add certain charges to this fine. On a limited basis, counties and courts can levy additional charges depending on the specific violations and other factors. Statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.



How Have Fine and Fee Levels Changed Over Time?

Total Fine and Fee Level for Stop Sign Violation Has Increased Significantly Since 2005 ^a			
	Stop Sign Violation (Infraction)		
	2005	2019	Change
Base Fine	\$35	\$35	
State Penalty Assessment	40	40	—
County Penalty Assessment	28	28	—
Court Construction Penalty Assessment	20	20	—
Proposition 69 DNA Penalty Assessment	4	4	—
DNA Identification Fund Penalty Assessment	—	16	\$16
EMS Penalty Assessment	—	8	8
EMAT Penalty Assessment	—	4	4
State Surcharge	7	7	—
Court Operations Fee	20	40	20
Conviction Assessment Fee	—	35	35
Night Court Fee	1	1	—
Totals	\$155	\$238	\$83

^a Depending on the specific violation and other factors, additional county or state assessments may apply.
EMS = Emergency Medical Services and EMAT = Emergency Medical Air Transportation

Total Fine and Fee Levels Have Increased Significantly. Since 2005, the number and size of charges added to the base fine have increased significantly—resulting in increases in the total amount owed by individuals convicted of criminal offenses. As shown in the above figure, the total penalty for a stop sign violation has increased by 54 percent since 2005.

Fine and Fee Levels Set to Serve Multiple Purposes. The state has enacted various fines and fees for various purposes. Some (such as the base fine) are generally tied to the seriousness of the crime. Others (such as the DNA assessments) were enacted to generate revenue to fund specific activities. Finally, some fines and fees were enacted to help offset state or local costs for providing particular services to individuals paying the specific charge.



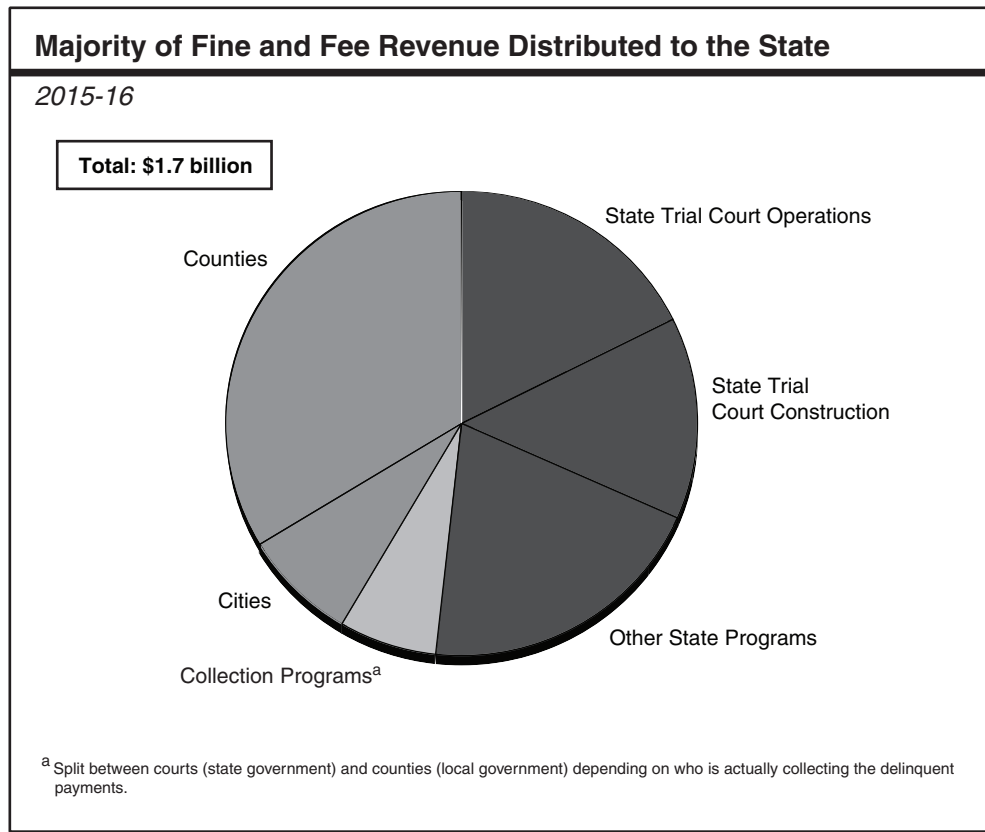
How Is Fine and Fee Revenue Distributed?

Numerous Funds Eligible to Receive Fine and Fee Revenue. Over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some of these funds receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently.

Complex Process for Distributing Fine and Fee Revenue. State law (and county resolutions for certain local charges) dictate a very complex process for the distribution of fine and fee revenue. State law currently contains at least 215 distinct code sections specifying how individual fines and fees are to be distributed to state and local funds, including additional requirements for when payments are not made in full. In order to comply with these requirements, collection programs must carefully track, distribute, and record the revenue they collect.



Who Benefits From Fine and Fee Revenue?



State Receives Majority of Revenue. According to available data compiled by the State Controller's Office and the judicial branch, we estimate that a total of \$1.7 billion in fine and fee revenue was distributed to state and local governments in 2015-16. (This is the most recent data that we have analyzed.) As shown in the figure, the state received \$881 million (or roughly half) of this revenue. Of this amount, roughly 60 percent went to support trial court operations and construction.

Local Governments Receive Most of Remaining Revenue. We estimate that local governments received \$707 million (or 42 percent) of the total amount distributed in 2015-16. Of this amount, about 80 percent went to the counties.



Who Benefits From Fine and Fee Revenue?

(Continued)

Collection Programs Receive Share of Revenue. Collection programs received \$114 million (or 7 percent) of the total amount distributed in 2015-16 for their operational costs related to the collection of delinquent payments. These funds are split between state trial courts and counties depending on which entity incurred the costs.



How Are Probation Fees Assessed?

Examples of Probation Fees for Selected Counties			
Fee	San Luis Obispo County	San Diego County	Butte County
GPS monitoring (daily)	\$12	\$9	\$5 to \$7
Supervision fees (monthly)	\$76	\$17 to \$176	\$164
Installment fee (one time) ^a	\$75	\$75	—
Transfer between counties (one time)	\$148	—	\$392
Court mandated reports (per report)	—	Up to \$1,433	Up to \$1,077
Drug testing fee (per test)	\$55	—	\$32
Probation violation (per event)	—	—	\$109

^a Fee charged in exchange for allowing probationers to pay their other fees on an installment plan
GPS = Global Position System.

Fee Levels Vary Between and Within Counties. The above figure shows certain probation fees charged by three selected counties. As shown, the number, type, and level of probation fees varies significantly by county and the specific fee levied. We note that in addition to probation fees, probationers could also be required to pay other government fines and fees, such as the criminal fines and fees assessed by trial courts.

Ability to Pay Can Impact Fees Levied. Some probation fees can be adjusted based on a probationer's ability to pay. In addition, some counties have policies stating that inability to pay shall not prevent a probationer from receiving services such as supervision and electronic monitoring.



What Is the Total Amount of Probation Fees That Probationers Are Charged?

Hypothetical Examples of Probation Fees Charged for Three Selected Counties

Estimates Over a Three-Year Period

Probationer	San Luis Obispo County	San Diego County	Butte County
Low supervision and fees ^a	\$3,000	\$2,000	\$1,000
High supervision and fees ^b	18,000	18,000	16,000

^a On probation for a misdemeanor, has one pre-sentence report, is on the lowest level of active supervision, and is on an installment plan, which allows the probationer to pay fees on an installment basis

^b On probation for a felony, has one pre-sentence report, is on the highest level of active supervision, is on GPS monitoring, receives random drug testing once a month, committed one felony probation violation, and is on an installment plan

Fees Owed Can Vary Substantially Between Probationers. The figure above provides hypothetical examples of the total probation fees that two probationers might be charged over a three-year period. These examples are intended to demonstrate the magnitude of (1) the fees a probationer can owe and (2) the difference between fee levels for similar probationers in different counties.

Level of Supervision Significantly Impacts Fee Amounts. A probationer on low-level supervision (such as someone convicted for a misdemeanor) is generally charged fewer fees compared to a probationer on high-level supervision (such as someone convicted of a felony) who must also follow certain other requirements (such as being on GPS monitoring and receiving random drug tests on a regular basis).



Court Collected Fees:

Court Fee Description	Code Section	Authority	Ability to Pay Written in Statute	Funded Program	FY 17/18 Revenue	FY 18/19 Est. Revenue
Alcohol Prevention Fee APPA	PC 1463.25	State	None specified.	Alcohol & Other Drugs - SB920 Alcohol Education Program	\$ 78,328	\$ 73,800
10% Fee	PC 1203.1 (I)	County	None specified.	Trial Court Programs	\$ 75,246	\$ 82,800
California Fingerprint ID Penalty	GC 76102	County	None specified.	Automated Fingerprint ID	\$ 170,986	\$ 174,300
Domestic Violence Fee	PC 1203.097(a)5	State	Ability to pay determination by the court.	Domestic Violence Victim Assistance	\$ 32,269	\$ 40,200
Booking Fee	GC 29550.1	County	None specified.	Sheriff Central Admin	\$ 39,464	\$ 42,300
Adult DA Diversion Fee	PC 1001.16	State	Ability to pay determination by the court.	Trial Court Programs	\$ 111,085	\$ 117,400
Drug Diversion Fee	PC 1211(c)(3)	County	Fee exemptions available.	Trial Court Programs		
Alcohol Test Fee	PC 1463.14	County	Ability to pay determination required.	Sheriff - General Lab	\$ 129,975	\$ 123,600
C.A.P. Fee	PC 1463.16	County	None specified.	Combined with Alcohol Test Fee		
B&P 7028.2 (Compliance Against Unlicensed Contractors)	BPC 7028.2	State	None specified.	SLESF-Criminal Prosecution	\$ 373	\$ 900
DNA Penalty Fee	GC 76104.6	State	Hardship determination by the court.	DNA Identification Fund	\$ 235,130	\$ 237,400
CITE Fee	PC 1463.07	State	Ability to pay determination by the court.	Trial Court Programs	\$ 458,755.86	\$ 462,000
Own Recognizance Fee	PC 1463.07	State	Ability to pay determination by the court.	Trial Court Programs		
Drug Program Fee	H&S 11372.7	State	Ability to pay determination by the court.	Criminalistics Lab Fund	\$ 15,314	\$ 14,000
Probation Drug Diversion Fee	PC 1001.9	N/A	N/A	Probation - Adult	\$ 1,273	\$ 1,200
Probation Supervision Fee	PC 1203.1b	County	Ability to pay determination by the court.	Probation - Adult	\$ 488,374	\$ 452,600
Probation Drug Test Fee	PC 1203.1ab	County	Ability to pay determination required.	Probation - Adult	\$ 65,921	\$ 61,400
Probation Report Fee PC	PC 1203.1b	County	Ability to pay determination by the court.	Probation - Adult	\$ 27,995	\$ 28,700
Alcohol/Drug Assessment Fee	PC 1463.13	County	Ability to pay determination by the court.	Alcohol & Other Drugs - SB921 Drug Abuse Ed	\$ 207,529	\$ 194,300
Public Defense Fee	PC 987.81	County	Ability to pay determination by the court.	Trial Court Programs	\$ 28,499	\$ 118,200
Total					\$ 2,166,517	\$ 2,225,100

* Revenue amounts for CITE and OR Fees are combined with Traffic School Fees (VC 42007) when remitted from the Court.

Sheriff Collected Fees:

CAF Fee	Code Section	Authority	Ability to Pay Written in Statute	Funded Program	FY 17/18 Revenue	FY 18/19 Est. Revenue
Work Alternative	PC 4024.2	County	Ability to pay program admin. fee.	Custody Alternative Facility	443,055	363,000
Electronic Home Detention/Alcohol Monitoring	PC 1203.016	County	Ability to pay program admin. fee pay.	Custody Alternative Facility	568,541	38,000
Total					1,011,596	401,000

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 09/17/2019 by the following vote:

AYE: ☒ 3 **John Gioia**
Diane Burgis
Federal D. Glover

NO: ☒ 2 **Candace Andersen**
Karen Mitchoff

ABSENT: ☒

ABSTAIN: ☒

RECUSE: ☒



Resolution No. 2019/522

IN THE MATTER OF a proposed moratorium on the assessment and pursuit of collection of certain adult criminal justice fees.

WHEREAS, criminal justice financial obligations, such as fees for probation, indigent defense, and work release programs, can have long-term effects that can undermine successful societal reentry goals of the formerly-incarcerated, such as attaining stable housing, transportation, and employment.

WHEREAS, criminal justice debt levied against low income or indigent adults compromises key principles of fairness in the administration of justice in a democratic society and engenders deep distrust of the criminal justice system among those overburdened by such debt.

WHEREAS, according to a report by the Ella Baker Center for Human Rights, the average debt incurred for court-ordered fines and fees line was roughly equal to the annual income for low-income respondents.

WHEREAS, a national survey of formerly incarcerated people found that families often bear the burden of fees.

WHEREAS, on July 21, 1994, Contra Costa County Board of Supervisors approved a resolution pursuant to California Penal Code § 1203.1 to charge up to a ten percent fee ("10% Fee") of the amount of restitution ordered by the Superior Court.

WHEREAS, Contra Costa County is currently authorized by Resolution No. 88/565 and California Government Code § 76102 to establish a County Automated Fingerprint Identification Fund in Contra Costa County and to charge a fifty cent (\$0.50) assessment ("California Fingerprint ID Penalty") for each \$10 fine, penalty, or forfeiture imposed and collected by the Superior Court for all criminal offense and certain violations of the Vehicle Code for the purpose of assisting the County in the establishment and maintenance of adequate fingerprint facilities and suspect booking identification facilities.

WHEREAS, Contra Costa County is currently authorized by Ordinance No. 2011-13 and California Government Code § 29550 to recover any criminal justice administration fee ("Booking Fee") imposed by the County from the arrested person if the person is convicted of any criminal offense related to the arrest.

WHEREAS, Contra Costa County is currently authorized by California Penal Code § 1211 and resolution approved by the Board of Supervisors on July 21, 1994 to charge a fee ("Drug Diversion fee") for the administrative and laboratory analysis costs incurred in processing a drug diversion case.

WHEREAS, Contra Costa County is currently authorized by Resolution No. 88/28 and California Penal Code § 1463.14 and § 1463.16 to charge two separate \$50 assessments (the "Alcohol Test fee" and "C.A.P. fee") on defendants convicted of violating California Vehicle Code § 23152 or § 23153 (driving a motor vehicle under the influence of alcohol or drugs).

WHEREAS, on September 14, 1995, the Contra Costa County Board of Supervisors authorized a Probation Drug Diversion administrative fee ("Probation Department Drug Diversion fee") for the Probation Department's processing of clients into a drug diversion program pursuant to Penal Code § 1001.15.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Resolution No. 2010/262 and Penal Code § 1203.1b to charge a Probation Supervision Fee ("Cost of Probation fee") to recover the cost of probation supervision.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Penal Code § 1203.1ab to charge a

Probation Drug Test fee ("Probation Drug Testing fee") to recover the cost of drug testing required as a condition of one's probation.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Ordinance 2009-28 and Penal Code § 1203.1b and § 1203.7 to charge a Probation Report Fee ("Probation Report Fee") to recover the cost to conduct a preplea investigation of a criminal defendant and prepare a preplea report.

WHEREAS, Contra Costa County is currently authorized by Resolution 99/347 and Penal Code § 1463.13 to charge an Alcohol and Drug Assessment Fee ("Alcohol and Drug Assessment Fee") to recover the cost of providing community substance abuse services for those convicted of driving under the influence.

WHEREAS, Contra Costa County is currently authorized by Penal Code § 987.81 to charge Public Defender Fees ("Public Defender Fees") to recover the cost of court appointed counsel.

WHEREAS, the Contra Costa County Office of the Sheriff is currently authorized by Resolution 2008/303 and Penal Code § 4024.2 and § 1203.016 to charge fees to participate in the Custody Alternative Program to recover the cost of administering the program.

WHEREAS, the Board of Supervisors referred to the Public Protection Committee the matter of whether the County should continue to assess and collect certain adult criminal justice fees in light of the financial hardship and social impact of such fees on individuals and their families.

WHEREAS, the Public Protection Committee received testimony from the community expressing concern that these fees are assessed without a consistent ability-to-pay determination.

WHEREAS, the Board of Supervisors finds that it is in the best interest of the County, justice-involved adults, and the larger community to place a moratorium on the assessment and collection of the above-named adult fees.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Effective September 17, 2019, and until further action by the Board of Supervisors, the Office of the Sheriff's authority to assess Custody Alternative Facility program fees is temporarily suspended. In addition, the Office of the Sheriff will not pursue collection of such fees on existing accounts.
2. Effective September 17, 2019, and until further action by the Board of Supervisors, the Probation Department's authority to assess and collect the following fees is temporarily suspended: Probation Report Fee, Cost of Probation fee, Probation Drug Testing fee, and Probation Department Drug Diversion fee. In addition, the Probation Department will not pursue collection of such fees on existing accounts.
3. Effective September 17, 2019, and until further action by the Board of Supervisors, Contra Costa County will temporarily suspend the assessment and collection of the following fees: 10% Fee, California Fingerprint ID Penalty, Booking Fee (collected from arrestee), Drug Diversion fee, Alcohol Test fee, C.A.P. fee, Alcohol and Drug Assessment Fee, and Public Defender Fees.
4. The County Administrator will notify the Superior Court of this moratorium on the assessment and collection of the above adult criminal justice fees that are collected by the Superior Court. This includes a moratorium on the collection of such fees on existing accounts.
5. The County Administrator will report back to the Board of Supervisors on this matter on or before December 31, 2019.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 17, 2019

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Jami Napier
By: Jami Napier, Deputy



Contact: Paul Reyes, 925-335-1096

cc: Robert Campbell, Auditor-Controller



November 4th Update on Criminal Justice Fees

1. Introduction

In September 2019, Contra Costa County Board of Supervisors (Board) voted to impose a moratorium on the use of locally imposed criminal justice fees, becoming only the third county in the nation to end or suspend such fees. The Board also referred the matter of criminal justice fees to the Public Protection Committee (PPC), requesting that the PPC attempt to identify and provide to the Board additional available and relevant data.

On September 30, 2019, the Public Protection Committee accepted an update on the implementation of the moratorium on the collection of adult criminal justice fee. The PPC directed staff to assemble a small work group to identify and provide to the PPC any additional available and relevant data.

2. San Francisco Financial Justice Project

In late 2016, the San Francisco Board of Supervisors called for the creation of the Financial Justice Project within the Office of The Treasurer and Tax Collector to assess and reform how fines and fees impact low-income San Franciscans and people of color. The Board of Supervisors also initiated a Fines and Fees Task Force, composed of staff from city and county departments and community organization representatives. The Task Force was directed to study the impact of fines, fees, tickets, and various financial penalties that disproportionately impact low-income San Franciscans, and propose reforms. The Board of Supervisors directed the newly-created Financial Justice Project to staff the Task Force. Since its creation, the Financial Justice Project has had two full-time staff members, including a Director and a Program Manager.

For approximately one year, the Fines and Fees Task Force held seven meetings researching and discussing the impact of fines and fees on the San Francisco community. The Fines and Fees Task Force was supported by funding partners, including the Citi Community Development and the Walter & Elise Haas Fund. In October of 2017, the Financial Justice Project released a report on the Task Force's findings. The report proposed several recommendations including implementing an ability to pay system for court fees, reducing reliance on quality of life crime fines, and decreasing the rate of suspending driver's licenses.

On February 6, 2018, the SF Board of Supervisors President London Breed announced she was introducing legislation to eliminate all criminal justice administrative fees authorized by local government. In April of 2018, the Financial Justice Project released a report detailing the impact of criminal justice administrative fees on the community, which it states was part of a yearlong collaborative process.

In the report, the Financial Justice Project found that there was approximately \$32.7 million in outstanding debt, owed by around 21,000 people. The majority of outstanding debt was for Probation-related fees. The report estimated that the elimination of fees would result in at least \$1 million in decreased annual revenue. An evaluation of the Public Defender's Clean Slate Program was conducted, which showed most of their clients were living in extreme poverty. The preparation of the Criminal



Justice Administrative Fees analysis report was supported by multiple funding partners, including The San Francisco Foundation, the Lauren and John Arnold Foundation, and the Walter & Elise Haas Fund.

In June of 2018, legislation eliminating the local administered fees was unanimously passed with support from the San Francisco Board of Supervisors, the Chief of Probation, District Attorney, Public Defender, and the Sheriff. The ordinance was scheduled to become effective and operative 30 days later on July 1, 2018.

While the fees included in the legislation are authorized by the county, they are collected by the San Francisco Superior Court. Because the courts are independently governed, the San Francisco Board of Supervisors does not have the authority to direct the court to clear judgments they have issued in the past. To resolve this issue, the Public Defender's Office, the District Attorney's Office, and the Financial Justice Project worked to submit a petition to the court to clear all of the debt associated with the fees included in the legislation, along with a list of associated account numbers. The UC Berkeley Law School Public Advocacy Clinic assisted with the process of collecting information on outstanding debt. Two months later, in August of 2018, the San Francisco Superior Court announced they eliminated more than \$32.7 million in outstanding debt stemming from these fees.

3. Contra Costa County Processes

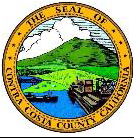
Each agency that assesses and/or collects adult criminal justice fees– the Probation Department, the Office of the Sheriff, and the Superior Court- is governed by a different set of internal policies and practices. Each of these will be laid out in the following sections: (1) Probation Department, (2) Sheriff's Office, and (3) the Superior Court of California, County of Contra Costa (Court).

a. Probation Department

In January 2018, the Probation Department updated their ability-to-pay determination process. All adults that have been ordered to formal Probation, which includes mandatory supervision, and ordered to pay Probation fees, drug testing fees and/or the cost of their court report are assessed for their ability to pay said fees.

Below is an outline of the Probation's Department's fee assessment process:

1. Once the probationer has been out of custody for three (3) months, or if the probationer was sentenced from out of custody, the Deputy Probation Officer (DPO) will provide him or her with the Application for Financial Evaluation.
2. The probationer is instructed to complete the evaluation form and return it to the DPO within 20 business days or sooner. If the probationer fails to return the completed evaluation or returns an incomplete evaluation form, the DPO will give the probationer a warning that the evaluation needs to be completed within 10 business days or the amount of fees will be set at the maximum allowed.
3. Once the probationer returns the completed the application, the DPO will send the application and the order for Probation to the Probation Account Clerk who will review the application and determine the probationer's ability to pay based on net income and Probation's Fee Reduction schedule.



4. Once this determination has been made, the Probation Account Clerk will respond to the DPO with the total amount the probationer is able to pay over the duration of their time on Probation.
5. Upon receipt of the determination of the probationer's ability to pay, the DPO reviews the ability to pay determination with the probationer and the probationer has the option to agree to the amount, or requesting a hearing.
6. If the probationer agrees to the determined amount, the DPO prepares and sends the Determination of Ability to Pay memo to the Court along with a copy of the Ability to Pay Determination/Waiver/Instructions. The DPO also informs the probationer that in the event of changed financial circumstances, the probationer may request an updated Ability to Pay review or may request that the Court modify or vacate an existing court judgement for payment of fees.
7. If the probationer disagrees with the amount determined by the Probation Department. The DPO will contact the court clerk and calendar a hearing. The DPO will notify the probationer of the hearing date, time and location. The Defense Attorney and the District Attorney shall be notified and provided copies of all documents provided to the Court, including the Determination of Ability to Pay Memo, the Application for Financial Evaluation, the Ability to Pay Determination/Waiver/ Instructions and any other supporting documentation.

b. Office of the Sheriff

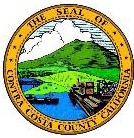
The Office of the Sheriff is responsible for the administration of Custody Alternative Facility (CAF) programs, which includes Work Alternative Program (WAP), Electronic Home Detention (EHD)/Alcohol Monitoring (SCRAM), and County Parole. Assessment and collection of fees is the responsibility of the Office of the Sheriff. With respect to WAP, PC 4024.2(c) authorizes the county's board of supervisors to "prescribe reasonable rules and regulations under which a work release program is operated." With respect to EHD, PC 1203.016(d)(1) specifies that the rules, regulations, and administrative policy of the Electronic Home Detention Program shall be written and reviewed on an annual basis by the County Board of Supervisors and the Correctional Administrator. The Board of Supervisors last conducted an annual review of the policies and procedures of the Custody Alternative Facilities programs in 2010.

Ability to Pay Process:

The CAF procedure provides for the CAF participant to be completely enrolled in a CAF program prior to discussing fees or ability to pay. Participants review and complete the personal budget form with their assigned CAF Specialist. The participant will then request a reduction/waiver of fees based on their stated ability to pay. A CAF Sergeant will review and approve the Personal Budget form. A participant's inability to pay all or a portion of any fee(s) will not preclude them from being enrolled or completing any program offered by the Custody Alternative Facility.

Process of Collections:

CAF fees are collected after the participant is enrolled in a CAF program. Fees can be paid in the manner which is most appropriate for the participant. Participants can pay their total program fees at one time or over a pre-determined length of time. There is no process established to collect payment from



participants who complete the program, but do not pay. A participant's ability to successfully complete a CAF programs is not impacted by lack of payment.

Percentage of participants who pay fees:

It is difficult to approximate the percentage of individuals who pay fees because we do not maintain statistics. Approximately 50% of CAF participants pay all or some of their assessed fees.

CAF Workgroup:

The Office of the Sheriff has worked with representatives from the Office of Reentry and Justice, the Public Defender's Office, and Reentry Solutions Group to review the CAF policies and procedures, including updating the Ability-to-Pay forms.

Work Alternative Program Fees by County:

In September 2018, Alameda Sheriff's Office provided a presentation on their Sheriff's Work Alternative Program¹. Included in that presentation was a cost comparison of Work Alternative Programs amongst twelve different counties (see Figure 1). Contra Costa County

Figure 1. Work Alternative Cost Comparison

COUNTY	DAILY COST	ADMIN FEE
Alameda County	\$12.00	\$65.00
Butte County	\$7.00	\$75.00
Contra Costa County	\$16.00	\$125.00
El Dorado County	\$20.00	\$40.00
Fresno County	\$10.00	\$60.00
Marin County	\$12.00	35.00
Mendocino County	\$10.00	\$35.00
San Francisco County	\$20.00	\$100.00
San Joaquin County	\$10.00 (or 1 hour gross wage, whichever is greater)	\$75.00
San Luis Obispo County	\$14.00	\$75.00
Santa Clara County	Based on hours of work, not a daily rate	N/A
Tulare County	\$7.00	\$75.00

¹ Sheriff's Work Alternative Program (SWAP) Presentation, Alameda County Sheriff's Office, September 13, 2018



c. Superior Court

The Court currently collects and distributes 8 of the 13 fees and assessments identified in the moratorium. As the Court relies on legacy case management systems to collect and distribute criminal fines and fees, significant resources and time will be needed to update its legacy systems and procedures to fully implement the County's moratorium. The Court estimates \$63,570 as the administrative cost to implement the moratorium and waiting for further direction from the County. The Court has stressed that once these fees are waived or suspended, they cannot later be re-imposed if the temporary moratorium is lifted. This would require a write-off of existing debt.

Below is a summary of further analysis performed by the County Administrator's Office that was aided by additional information from the Superior Court (See Figure 2). This summarizes the Courts responsibility for the imposition and collection of the referenced fees and the level of implementation of the moratorium.

Figure 2. Summary of Court Fees

<i>Name of Fee/Assessment</i>	<i>Case Type(s) Affected</i>	<i>Court Imposed</i>	<i>Court Collected</i>	<i>Continued Collection</i>	<i>Continued Imposition</i>	<i># of Accounts</i>	<i>Balance</i>
10% Fee	Criminal	Y	Y	Pending	N		
CA Fingerprint ID Penalty	Criminal & Traffic	Y	Y	N/A	Y		
Booking Fee	Criminal	Y	Y	N	N	3,684	\$901,092
Drug Diversion Fee	Criminal	Y	Y	Pending	N		
Alcohol Test Fee	Criminal (DUI & Reckless)	N	N	N/A	N/A		
CAP Fee	Criminal (DUI & Reckless)	N	N	N/A	N/A		
Probation Drug Diversion Fee	Criminal	Y	Y	Pending	N		
Cost of Probation	Criminal	N	Y	Pending	N		
Probation Drug Test Fee	Criminal	N	Y	Pending	N		
Probation Report Fee	Criminal	N	Y	Pending	N		
Alcohol and Drug Assessment Fee	Criminal	N	N	N/A	N/A		
Public Defender Fee	Criminal	N	Y	Pending	N	25,240	\$5.54 million



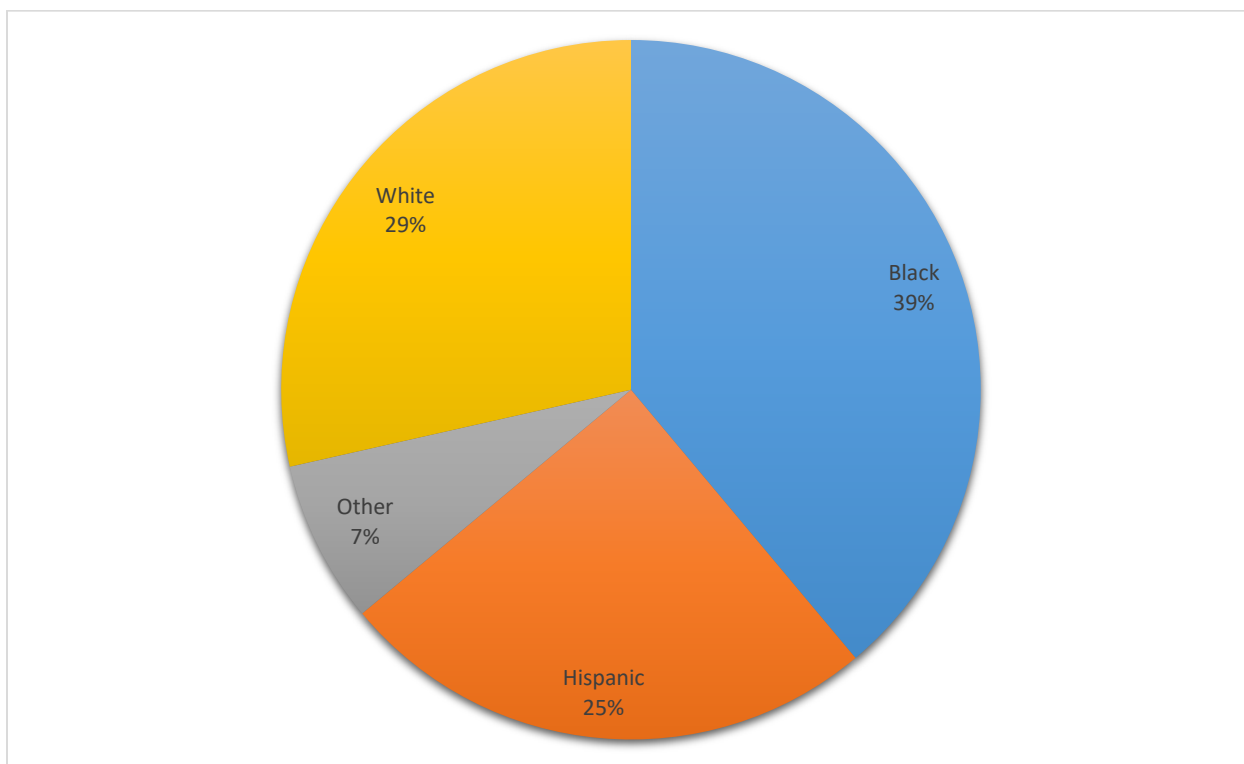
4. Available Data

In addition to the body of evidence and contra costa county implications, included in Reentry Solutions Group's Report on Criminal Justice Fees in Contra Costa, there was limited data provided by the Sheriff's Office and the Probation Departments on race and income levels.

a. Racial Demographics

Based on a snapshot of the demographics of individuals in custody as of October 25, 2019, approximately 39% were Black (see Figure 3). Within Contra Costa County, approximately 8.5% of the population is Black or African American.²

Figure 3. Racial Demographic –In-custody Adults as of October 25, 2019



Source: Contra Costa County Office of the Sheriff

According to data from the State of California DOJ CJS, in both 2013 and 2014, Blacks were more likely to be arrested than individuals from any other racial/ethnic group in every city except one in Contra Costa County. While the specific rate of the disparity varied by city the disparity tended to be higher in cities with smaller black populations (see Appendix B for more information). Across the County, Black adults were more than 3 times more likely to be arrested than adults from any other racial/ethnic group,

² 2018 American Community Survey, ACS DEMOGRAPHIC AND HOUSING ESTIMATES, https://data.census.gov/cedsci/table?q=contra%20costa%20&hidePreview=false&table=DP05&tid=ACSDP1Y2018.DP05&g=0500000US06013&vintage=2018&layer=county&cid=DP05_0001E&lastDisplayedRow=93



and Black youth were more than 7 times more likely to be arrested than youth from any other racial/ethnic group.³

b. Income Demographics

The Probation Department reviewed 115 cases from March 2018 to March 2018 and found that approximately 88% had income levels up to 200% of the federal poverty guideline and received a fee reduction or waiver, whereas approximately 12% were charged the full amount (See Figure 4).

Probation Fee Reduction Schedule has been included below (See Figure 5.) For reference, the estimated median household income in Contra Costa is approximately \$64,300 for nonfamily households and \$114,000 for family households.⁴

Figure 4. Probation Fee Reduction Sample (March 2018 - March 2019)

Accounts	% of Total	Federal Poverty Level	Fee Reduction
79	69%	At or Below 100%	100%
5	4%	Up to 125%	80%
3	3%	Up to 150%	60%
11	10%	Up to 175%	40%
3	3%	Up to 200%	20%
14	12%	Above 200%	0%
115	100%		

³ Racial Justice Task Force Final Report,
http://64.166.146.245/docs/2018/BOS/20180724_1121/34430_FINAL%20CCCC-RJTF_BoS-memo_20180710_STC.pdf

⁴ 2018 American Community Survey 1-Year Estimates
https://data.census.gov/cedsci/table?q=contra%20costa%20county%20income&hidePreview=false&table=DP03&tid=ACSDP1Y2018.DP03&t=Income%20and%20Earnings&g=0500000US06013&vintage=2018&layer=county&cid=DPO3_0001E&lastDisplayedRow=105



Figure 5. Contra Costa County Probation Fee Reduction Schedule

Contra Costa County Probation Fee Reduction						
Poverty Level*	At or Below 100%	125%	150%	175%	200%	Above 200%
Number Dependent on Income	Fee Waived	80% Discount	60% Discount	40% Discount	20% Discount	No Discount
1	\$0-\$12,060	\$12,061-\$15,075	\$15,076-\$18,090	\$18,091-\$21,105	\$21,106-\$24,120	\$24,121+
2	\$0-\$16,240	\$16,241-\$20,300	\$20,301-\$24,360	\$24,361-\$28,420	\$28,421-\$32,480	\$32,481+
3	\$0-\$20,420	\$20,421-\$25,525	\$25,526-\$30,630	\$30,631-\$35,735	\$35,736-\$40,840	\$40,841+
4	\$0-\$24,600	\$24,601-\$30,750	\$30,751-\$36,900	\$36,901-\$43,050	\$43,051-\$49,200	\$49,201+
5	\$0-\$28,780	\$28,781-\$35,975	\$35,976-\$43,170	\$43,171-\$50,365	\$50,366-\$57,560	\$57,561+
6	\$0-\$32,960	\$32,961-\$41,200	\$41,201-\$49,440	\$49,441-\$57,680	\$57,681-\$65,920	\$65,921+
7	\$0-\$37,140	\$37,141-\$46,425	\$46,426-\$55,710	\$55,711-\$64,995	\$64,996-\$74,280	\$74,281+
8	\$0-\$41,320	\$41,321-\$51,650	\$51,651-\$61,980	\$61,981-\$72,310	\$72,311-\$82,640	\$82,641+

* Based on [2017 Federal Poverty Guidelines](#)

* Fee reduction is applied to net (after-tax) income

c. Pending Data

The Probation Department is currently reviewing case files to determine what percentage of probationers were represented by a Public Defender. The Public Defender's Office is currently reviewing Clean Slate cases to provide further information on income demographics.



advancing social justice through collective impact

Report on Criminal Justice Fees in Contra Costa

Prepared by Rebecca Brown, Member, Contra Costa County Criminal Justice Fees Work Group
Presented to the Public Protection Committee of the Contra Costa County Board of Supervisors
November 4, 2019

Note: All documents referenced in this report are available upon request.

“We found it difficult to access the data we needed to understand the basics of fines and fees and how they impact individuals, as well as our city and county bottom lines.

After working diligently with various city and county departments to better understand their fines and fees, we realized that most cities and counties, including San Francisco, lack answers to basic questions, such as how many people receive various fines, fees, tickets; collection and delinquency rates, penalties for nonpayment as well as the cost of collection to the city and county.”¹

San Francisco Financial Justice Project

1. Context

In Contra Costa County, attention to the use of administrative fees in the adult criminal justice system was preceded by the County’s decision to end such fees in the juvenile justice system. In October 2016, the Board of Supervisors unanimously voted to impose a moratorium on such fees, which they followed with another unanimous vote in October 2017, permanently repealing these juvenile fees.^{2,3} In the aftermath of these historic votes, Contra Costa went on to become the first county in the nation to identify and reimburse families who had been unlawfully charged such fees.⁴

This interest in juvenile fee reform - both locally and statewide - dovetailed with increasing public attention to the use of similar fees in the adult criminal justice system. Across California, demand has been growing to remedy the disproportionately punitive consequences of money-based sanctions.

In July 2018, the Board of Supervisors of the City and County of San Francisco - with the support of the San Francisco Chief of Probation, District Attorney, Public Defender, Sheriff, and more than a dozen community organizations - unanimously passed an ordinance to end its adult criminal justice fees, thus eliminating more than \$32.7 million in outstanding debt levied against more than 21,000 people. In November 2018, Alameda County also voted to eliminate their county-controlled criminal justice fees.

In January 2019, Senators Mitchell and Hertzberg introduced Senate Bill 144 (SB144), to substantially amend or end the use of state and local justice fees; it has been turned into a two-year bill and will be considered in the 2020 legislative session.

In September 2019, Contra Costa County voted to impose a moratorium on the use of locally imposed criminal justice fees, becoming only the third county in the nation to end or suspend such fees.

2. San Francisco Financial Justice Project

In late 2016, the City and County of San Francisco established the Financial Justice Project (FJP), housed in the Office of the Treasurer. San Francisco is the first city in the nation to launch such an entity to assess and reform fines, fees, and financial penalties that disproportionately impact low-income people, communities of color, people struggling with homelessness, and people exiting the criminal justice system.⁵

The FJP is directed by Anne Stuldreher, MBA, who was previously a Senior Program Manager for The California Endowment, Senior Policy Fellow for New America, and Senior Policy Advisor for Governor Arnold Schwarzenegger. The FJP is managed by Christa Brown, who previously served as Director of the SparkPoint Initiative for the United Way of the Bay Area and who holds a Master's in Public Administration from the Goldman School of Public Policy at the University of California, Berkeley.

Over the course of its first two years, the FJP convened and facilitated the work of a Fines and Fees Task Force comprised of community members, ten governmental departments, and the courts. With the support of FJP, the Task Force examined best practices, reviewed evidence related to the use and impact of monetary sanctions, and received expert testimony, while the FJP worked with the Budget Office to conduct an audit of San Francisco's fines and fees. At the conclusion of its work, the Task Force recommended 40 reforms to both policy and process.⁶

In late 2018, San Francisco's Financial Justice Project issued a new report, *Criminal Justice Administrative Fees: High Pain for People, Low Gain for Government*.⁷ Subtitled *A Call to Action for California Counties*, the report called on all counties in the state of California to undertake substantial reforms.

3. Summary of Local Research Process

In Contra Costa County, much of the original research and analysis into the county's criminal justice fees was undertaken by Reentry Solutions Group (RSG), working in primary partnership with the UC Berkeley School of Law Policy Advocacy Clinic (UCB), along with other local stakeholders.

In December 2017, RSG requested that the Office of the Sheriff establish a work group to remedy the County's failure to comply with California state statutes regarding the policies and procedures for Electronic Monitoring in Lieu of Bail (California Penal Code 1203.018(e)); Home Detention in Lieu of Confinement (PC 1203.016(b) and 1203.016(d)(1)); and Work Release in Lieu of Confinement (PC 4024.2(c)).

In response to this request, in January 2018 the Office of the Sheriff approved a Work Group proposal submitted by RSG, and a Work Group was formed, comprising representatives of the Sheriff's Office along with Donté Blue, Deputy Director of the County's Office of Reentry and Justice; Ellen McDonnell, Chief Assistant Public Defender; and Rebecca Brown, Director of RSG.

Over the past 20 months, this Work Group has made incremental progress, and the Sheriff's Office has largely suspended the use of application or administrative fees for the programs delegated to its administration by the Board of Supervisors. However, new policies have not yet been drafted, reviewed, or approved by the Board of Supervisors, and the County remains out of compliance with state law.

In October 2018, in partnership with local Contra Costa stakeholders, UCB submitted a Public Records Act Request to Sharon Anderson, County Counsel for Contra Costa County, seeking information on "how Contra Costa County assesses and collects fees against adults...in the criminal justice system." In response to this request, Contra Costa County provided a seven (7) page document that included, in its totality, a cover letter, two administrative forms, and one Administrative Bulletin. In the document's cover letter, Chief Assistant County Administrator Tim Ewell wrote, "We have reviewed the remainder of your request," deemed it "overly broad," and requested greater specificity.

In November 2018, through a series of emails between UCB and Mr. Ewell, Contra Costa County provided four web addresses that link to webpages offering summary information and various Fee Schedules used by the Office of the Sheriff: Civil Unit fees, Records Unit fees, Custody Alternative Facility fees, and Coroner's Division fees. It should be noted that three of these web sources do not pertain to criminal justice fees, and that the one that does - for fees related to the Custody Alternative Facility (CAF), operated by the Sheriff's Office as authorized by the Board of Supervisors - the link simply connects to the CAF handbook, which is substantially out of date.

In sum: Contra Costa County provided no administrative data that would have allowed analysis of the County's use of criminal justice fees.

In October 2018, again in partnership with local stakeholders, UCB similarly submitted a Public Records Act Request for fee-related judicial records to Matthew Kitson, Public Information Officer of the Superior Court of California, Contra Costa County. In his response of November 2018, Mr. Kitson wrote that the Court:

- "does not maintain any non-adjudicative 'records relating to the demographics of adults in the justice system'" and has "no records responsive" to this request;
- "does not track the aggregate number of adults who are assessed and/or charged fees annually [and has] no responsive records";
- "does not track the total amount of adult fees assessed per year, reduced or waived due to inability to pay per year, and/or total amount currently owed [and] no responsive records exist";
- has "no aggregated data concerning" adjudicative records pertaining to individual cases
- "keeps no data or records specifically 'relating to the amount spent on collecting adult fees' although "the monthly Financial Report spreadsheets may contain relevant information."

However, to his response Mr. Kitson attached a 362-page PDF document containing hundreds of pages of scanned financial accounting and tracking spreadsheets used by the Court in its role as financial administrator for state and local justice-related fees. It should be noted that these data do not provide information related to individual cases, and the document contained no individual or identifying information. Instead, this document provides a month-by-month financial detail of the funds associated with each criminal justice fee collected by the Court as authorized by either state statutes or local ordinances.

In November and December 2018, on behalf of a coalition of stakeholders, Rebecca Brown, Director of RSG, conducted extensive analysis of the data embedded in this document. From it, she produced a comprehensive, month-by-month, item-by-item categorical report on every criminal justice fee collected and distributed by the Courts on Contra Costa County's behalf in each month throughout from July 2017 through June 2018. Capturing all the Contra Costa County data provided in the Court's document, this analysis included line-by-line accounting for each fee type, recording Non-delinquent Receipts, Delinquent Receipts, and Net Revenue Distribution, among other data.

In December 2018, Ms. Brown, along with Carson Whitelemons from UCB, engaged in a telephone interview with Mr. Kitson and Fae Li, Financial Services Director for the Superior Court, to seek additional information about the document provided by the Court. During this interview, Ms. Li explained various administrative processes as they relate to the tracking, accounting, and distribution of such fees, and the production of the Court's financial reports. She also discussed the contract with the Court's debt collector, Linebarger Goggan Blair & Sampson, LLP (Linebarger). It may be of interest that Linebarger is the subject of multiple class action lawsuits across the United States.^{8,9,10,11}

In December 2018, Ms. Brown obtained a copy of, and closely reviewed, Linebarger's Master Agreement for Collection Services, which is a contract between Linebarger and the Judicial Council/Administrative Office of the Courts, effective as of January 1, 2014. Although neither California's 58 counties nor its 58 Superior Courts is required to enter into this Master Agreement, both Contra Costa County and the Superior Court of Contra Costa County are named as Participating Entities in this Agreement.

The Agreement contains provisions for Obligation (Section 2.2), Non-Exclusivity (Section 2.3), Franchise Tax Board Transfer Services (Section 3.7), Termination for Convenience (Section 4.2), and Termination for Cause (Section 4.3).

The Statement of Work that accompanies the Master Agreement obligates Linebarger to provide a "list of old cases...annually, or as specified by the Participating Entity. The Participating Entity may request a list of cases...[to] determine eligibility for discharge." Section 1.5.1 requires Linebarger to "supply an account payment history for each Account on the Participating Entity's request."

The Fee Schedule that accompanies the Agreement reveals that the bulk of Linebarger's commissions range from 18% to 25% of all debt collected. The commission percentage rises with the age of the debt, with the maximum percentage charged against debt that is two years old or more.

In February 2019, Ms. Brown disseminated the results of her financial and administrative analyses of Contra Costa County's justice fees and the Linebarger contract (along with her analysis of the

Contra Costa County DA's civil asset forfeiture practices) at a public meeting of Reentry Solutions Group. Entitled *What the Numbers Tell Us: Money and Justice in Contra Costa County*, this public presentation was also immediately published on RSG's website.¹²

In February 2019, the Board of Supervisors formally referred the matter of criminal justice fees to the Board's Public Protection Committee (PPC). In its meetings in April and July 2019, the PPC reviewed information provided by RSG and by staff of the CAO, heard public testimony, and considered potential options for action. At its July meeting, the PPC determined to recommend to the Board of Supervisors that it enact a moratorium on adult criminal justice fees heretofore authorized or imposed by Contra Costa County.

On September 17, 2019, the Board of Supervisors considered this recommendation, voted to authorize a moratorium, and referred the matter of criminal justice fees to continuing attention by the PPC, requesting that the PPC attempt to identify and provide to the BOS additional available and relevant data. In response to the September 2019 request by the BOS, Rebecca Brown has drafted this report for submission to the PPC to advance its research and for consideration at its meeting on November 4, 2019. (It is our understanding that the County Administrator's Office is preparing a summary report on the policies and administrative practices of relevant Contra Costa agencies; we encourage the PPC and the Board to review that summary.)

On October 21, 2019, the Superior Court of California, County of Contra Costa (Court), provided a letter to the CAO regarding administrative measures related to implementing the moratorium. In the letter, the Court estimates \$63,570 as the administrative cost to implement the moratorium. Although in the letter the Court acknowledges its difficulties in providing specific dollar amounts related to any of the outstanding fee amounts, three points of interest are mentioned:

- In terms of public defense fees (which, it should be noted, do not contribute to the budget of the Public Defender), it has identified 25,240 accounts with a balance of approximately \$5.54 million in collections with Linebarger, and it has notified Linebarger to suspend collections on these accounts.
- In terms of booking fees, which may be ordered in the amount of \$564, it has identified 3,684 accounts with a balance of \$901,092, and it has notified Linebarger to suspend collections on these accounts.
- In terms of probation fees – which, by RSG's analysis, represent 54% of the revenues generated by criminal justice fees in Contra Costa in the year studied – the Court has not yet been able to identify the total amount of unpaid debt and it has not yet suspended collections on such fees, pending an administrative revision to its vendor data system.

4. A Body of Evidence

Local and national research has widely and consistently shown that criminal justice fees are harmful, that they undermine successful reentry, and that they increase the chance of recidivism. For those who are convicted in criminal court, fees for probation supervision, drug and alcohol testing, representation by a public defender and non-custodial sentencing options are assessed in addition to

other costs and can quickly add up to thousands of dollars. In Contra Costa County, an individual with a three-year term of supervised probation is assessed \$2,700 in Probation supervision fees alone.

Research shows that the vast majority of people charged such costs cannot afford to pay them and that counties typically net very little or even lose revenue after accounting for collections costs.¹³ Fees make reentry harder, hurting credit scores, making it harder for people to find housing or open a bank account, and discouraging people from seeking formal employment out of fear that their wages will be garnished, bank accounts levied, or tax refunds intercepted.”¹⁴

National research is unanimous on this point: Given the endemic racial bias present throughout our justice systems, administrative fees are disproportionately imposed on communities of color, who are further disproportionately likely to have difficulty paying them. In California, close to half of Black and Latinx families struggle to put food on the table and pay for housing.¹⁵ And research has found that the burden of such fees is typically felt by family members; in a national survey by the Ella Baker Center for Human Rights, 63% of respondents reported that family members were primarily responsible for covering conviction-related costs, and 83% of those paying such costs are women. Nearly half also reported that their families could not afford to pay these fines and fees, and 1 in 5 families across income levels reported that they had to take out a loan to cover conviction-related costs.¹⁶

It should be noted that a report released in May 2019 by the Board of Governors of the Federal Reserve System drives home the devastating havoc that can result from costs such as criminal justice fees. *Entitled Report on the Economic Well-Being of U.S. Households in 2018*, the report found that “many adults are financially vulnerable and would have difficulty handling an emergency expense as small as \$400.”¹⁷ The study found that 17% of adults are forced to leave some bills unpaid each month, while another 12% said that an additional expense of \$400 would leave them unable to meet their basic needs. A full 42% of people who have no college education would be pushed into financial hardship by such an expense, with an even higher percentage of African Americans (58%) affected in this way. Even for African Americans with some college or an associate’s degree find significant harm; 46% report that they would not be able to pay their monthly bills if hit with an additional \$400 expense. And rather than constituting a one-time expense, criminal justice fees tend to recur - probation fees, drug testing fees, and partial payment fees all accrue month after month.

5. Contra Costa County Implications

According to the American Bar Association, the vast majority of people accused in criminal courts are considered indigent, unable to afford their own attorney and eligible therefore for the constitutional protections for public defense. The ABA estimates that 85 to 95 percent of people accused of crimes cannot afford their own lawyer;¹⁸ however, Contra Costa County collects no local data on this point.

Data provided by the Contra Costa County Office of the Sheriff can serve as a sufficient proxy for the racial implications of our local criminal justice system; according to the Office of the Sheriff, 71% of people currently incarcerated in our county jails are people of color.¹⁹

In Contra Costa County, the Probation Department, the Sheriff's Office, and the Courts are authorized to impose local criminal justice fees. Each of these entities is governed by a different set of internal policies and practices with regard to the fees in question, and our research suggests that Contra Costa County has thus far failed to develop consistent, transparent, or equitable practices; has not engaged in meaningful oversight or analyses of the implementation and impacts of these fees; and indeed both expanded and increased these fees in the immediate aftermath of the economic recession of 2007-2009, a time when unemployment was at near record levels and millions of families across the nation found themselves bankrupt, foreclosed on, evicted, and out of work.²⁰

6. Summary

The policy implications from national and local research are clear: "We should end the practice of assessing criminal administrative fees. Eliminating administrative fees will allow formerly incarcerated people to devote their limited resources to critical needs like food, education, housing and health insurance. Repealing criminal fees will also result in improved employment prospects for formerly incarcerated people and put more money in the pockets of economically insecure families, aiding successful reentry and reducing California's recidivism rate."²¹

Contra Costa County is not unique in its past practices with criminal justice fees, and there is a way forward. By establishing a governmental entity to recognize and begin to redress this endemic American reality, the Financial Justice Project in San Francisco has been a trailblazer, but the research conducted in Contra Costa County is equally uncommon; we know of no other county in California in which non-governmental agencies have undertaken this level of detailed local analysis. And of course, as the third county in the nation to end or suspend such fees, Contra Costa County now stands as one of the leading lights committed to such opportunities for change.

¹ https://drive.google.com/file/d/1gUo96d0ldfa6qdFj5QhGY-cdI61MZ_9q/view

²

http://64.166.146.245/agenda_publish.cfm?dsp=agm&seq=27510&rev=0&id=&form_type=AG_MEMO&beg_meet_mth=10&beg_meetyr=2016&end_meetmth=10&end_meetyr=2016&mt=ALL&sstr=juvenile&dept=ALL&hartkeywods=&sortby=f.form_num,%20f.rev_num&fp=ADVSRCH&StartRow=1

³ http://reentrysolutionsgroup.org/meeting_materials/Press_release_and_moratorium_letters_10-28-16_english_and_spanish.pdf

⁴ <https://www.themarshallproject.org/2018/01/07/the-check-is-in-the-mail-for-real>

⁵ <https://sftreasurer.org/sites/default/files/2019-08/Overview%20of%20the%20Financial%20Justice%20Project%202012.11.18.pdf>

⁶ https://drive.google.com/file/d/1gUo96d0ldfa6qdFj5QhGY-cdI61MZ_9q/view, including: Eliminate all criminal justice administrative fees charged by the City and County of San Francisco. allow lower-income people non-monetary options to clear their Quality of Life citations, reduce or waive fees related to parking tickets and other citations for lower-income people, adopt court reforms to substantially reduce the cost of state-imposed traffic fines and fees for lower-income people, reduce the city's steep towing and "boot" fees for lower-income San Franciscans, develop a pilot program to relieve parents of debt paid to the government instead of to child support payments, reduce use of money bail

⁷ http://test-sfttx.pantheonsite.io/sites/default/files/2019-09/Hig%20Pain%20Low%20Gain%20FINAL_04-24-2019.pdf

⁸ <https://texasmonitor.org/lawsuit-against-collection-firm-raises-questions-on-tax-judgments/>

⁹ http://www.abajournal.com/news/article/debt_collection_law_firm_to_pay_3.4m_to_settle_class_action/

¹⁰ <https://www.classaction.org/media/guerra-v-miami-dade.pdf>

¹¹ http://www.hoysettlement.com/media/2115094/stipulation_of_class_action_settlement.pdf

¹² http://reentrysolutionsgroup.org/meeting_materials/2_26_19_RSGFinalV2.pdf

¹³ East Bay Community Law Center, *Pay or Prey* (2018); Berkeley Law Public Advocacy Clinic, *Making Families Pay* (2017).

¹⁴ <https://ebclc.org/cadebtjustice/policy-platform/>

¹⁵ Insight Center for Community Economic Development, *Cost of Being Californian* (2018).

¹⁶ Ella Baker Center, *Who Pays? The True Cost of Incarceration on Families* (2015).

¹⁷ <https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf>

¹⁸ Laurence A . Benner, *Eliminating Excessive Public Defender Workloads*, 2011 A .B .A, Criminal Justice Vol . 2, [https://www.americanbar.org/content/dam/aba/publications/criminal_justice_magazine/cjsu11_benner.authcheckdam .pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_magazine/cjsu11_benner.authcheckdam.pdf).

¹⁹ Assistant Sheriff Mathew Schuler, email communication to Rebecca Brown, October 25, 2019.

²⁰ Contra Costa County Resolutions No. 2010/251, 2010/252, 2010/253, 2010/262. Originally research into bureaucratic and administrative history in Contra Costa County, produced by Reentry Solutions Group in February 2018, unpublished and available upon request.

²¹ <https://ebclc.org/cadebtjustice/policy-platform/>