



EXECUTIVE SUMMARY

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 this issue to the Public Protection Committee (PPC) to provide the Board with additional data and information.

It is important to distinguish the common types of monetary payments in the criminal justice system:

- **Administrative Fees** are imposed to offset the administrative costs of court activities, supervision, or incarceration.
- **Fines and restitution** are monetary punishments for infractions, misdemeanors or felonies. Fines and restitution are intended to deter crime, punish offenders, and compensate victims for losses.
- **Bail** is a bond payment for a defendant's release from jail prior to court proceedings, and the majority of a bail payment is returned to a defendant after case disposition. Bail payments are intended to incentivize defendants to appear at court and, in some cases, to reduce the criminal risk of returning a defendant to the community.

The moratorium affects only locally-imposed criminal justice administrative fees and excludes fines, restitution, bail and state-imposed administrative fees. Such administrative fees are imposed on individuals who have already faced other consequences for their crime. They have often served time in jail, paid other fines, or are paying victim restitution. The goals of these local criminal justice fees are to generate revenue to cover costs, not create an additional layer of punishment.

In regard to criminal justice fees in Contra Costa County, several key findings emerge:

- **From early 2018 through the present, substantial research and analysis into locally-imposed administrative fees was conducted** by Reentry Solutions Group (RSG) in partnership with UC Berkeley School of Law Policy Advocacy Clinic (UCB) and other stakeholders. This comprehensive process included the collection and analysis of all existing and relevant financial records provided by the Superior Court of Contra Costa County. In its scope and depth, this local process was commensurate with similar research undertaken by the City and County of San Francisco's Financial Justice Project.
- **Vast majority of criminal-justice involved individuals are indigent.** As a proxy method to determine the percentage of justice-involved people in Contra Costa who are legally indigent, the Contra Costa County Probation Department conducted a review of its records and found that 93% of probationers are represented by the Public Defender or the Alternate Defender's Office. A further review of Probation cases found that approximately 88% of Probationers had income levels below 200% of the federal poverty guideline.
- **Vast majority of criminal-justice involved individuals are people of color.** A snapshot report conducted in October 2019 by the Contra Costa County Office of the Sheriff found that 71% of the people incarcerated in Contra Costa County's jails are people of color.
- **Moratorium's implementation is incomplete, as the Court awaits further direction from the County.** The Court has largely stopped imposing locally-controlled fees on new cases, but it continues to collect and attempt to collect fees previously imposed. Due to limitations with the



Court's current data system the Court cannot fully implement the moratorium. Estimating the cost of such changes as \$63,750, the Court is awaiting the County's direction to undertake necessary data-system changes and incur these expenses on behalf of the County.

From our review of national research, our key findings include:

- **Criminal justice fees disproportionately harm the poor and people of color.** African Americans are more likely to be arrested than people from any other racial/ethnic group. Administrative fees are disproportionately imposed on communities of color, who are further disproportionately likely to have difficulty paying them. Demographic analysis confirms that in California, close to half of Black and Latinx families struggle to put food on the table and pay for housing.
- **Families bear the brunt of the financial costs of justice involvement.** A study by the Ella Baker Center found that family members, usually women, often pay criminal justice fines and fees on behalf of their loved ones.
- **Benefit of collecting these fees is outweighed by the cost of imposing them.** 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. Fees make reentry harder, hurt credit scores, make it harder for people to find housing or open a bank account, and discourage people from seeking formal employment out of fear that their wages will be garnished, bank accounts levied, or tax refunds intercepted.



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 (FJP) 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 FJP to staff the Task Force.

Since its creation, the FJP has had two full-time staff members, including a Director and a Program Manager. The FJP is directed by Anne Stuldreher, 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.

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 FJP released a report on the Task Force's findings. The report proposed 40 reforms of both policy and practice, 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, London Breed, the Mayor of San Francisco, 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, *Criminal Justice Administrative Fees: High Pain for People, Low Gain for Government*, detailing the impact of criminal justice administrative fees on the community.¹

In the report, the FJP found that approximately 21,000 people owed approximately \$32.7 million in outstanding debt. 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.

¹ http://test-sfttx.pantheonsite.io/sites/default/files/2019-09/Hig%20Pain%20Low%20Gain%20FINAL_04-24-2019.pdf



An evaluation of the Public Defender's Clean Slate Program showed that most of their clients were living in extreme poverty.

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 on July 1, 2018.

While the fees included in the legislation are authorized by the county, the San Francisco Superior Court serves as the financial administrator for collecting fees. Because the courts are independently governed, the San Francisco Board of Supervisors does not have the authority to direct the court to clear past judgments. 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 debts 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 had eliminated more than \$32.7 million in outstanding debt stemming from these fees.

3. SUMMARY OF LOCAL RESEARCH PROCESS

Similar research and analysis have been conducted in Contra Costa County over the past two years, largely by Reentry Solutions Group (RSG) in partnership with UC Berkeley School of Law Policy Advocacy Clinic (UCB) and other stakeholders, as follows:

In partnership with the Office of the Sheriff, the Public Defender's Office, and the Office of Reentry and Justice, RSG established a work group to improve the policies and procedures for Electronic Monitoring in Lieu of Bail, Home Detention in Lieu of Confinement, and Work Release in Lieu of Confinement. Over the past 20 months, the 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.

In October 2018, UCB submitted a public records request to County Counsel for Contra Costa County, seeking information on how the County "assesses and collects fees against adults...in the criminal justice system. In response to this request, Contra Costa County provided several procedural forms, with no further administrative data, policy documents, or analyses.

In October 2018, UCB submitted to the Superior Court a public records request for fee-related judicial records. The Court replied that it had no responsive records regarding the numbers, demographics, amounts imposed, fees waived, or cost of collections related to such fees. The Court did provide a 362-page PDF of 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, RSG's Director, Rebecca Brown, conducted an extensive analysis of the data embedded in this document. From it, Ms. Brown 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 and a law student from UCB's Policy Advocacy Clinic engaged in a telephone interview with the Court to seek additional information related to the financial data provided. Also in December, Ms. Brown obtained a copy of, and closely reviewed, the Master Agreement for Collection Services, which is a contract between the Court and its debt collector, Linebarger Goggan Blair and Sampson, LLP. The Fee Schedule that accompanies the Agreement reveals that the bulk of Linebarger's commissions range from 18-25% of all debt collected, with financial incentives to collect debt that is at least two years old.

In February 2019, RSG disseminated the results of the financial and administrative analyses of Contra Costa County's justice fees and the Linebarger contract (along with an analysis of the Contra Costa County DA's civil asset forfeiture practices) at a public meeting. Entitled *What the Numbers Tell Us: Money and Justice in Contra Costa County*, this public presentation was also published on RSG's website.²

4. 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 who have been ordered to formal Probation, which includes mandatory supervision, and who are ordered to pay Probation fees, drug testing fees and/or the cost of their various reports, should be assessed for their ability to pay said fees. However, the Chief Probation Officer has acknowledged that enforcement of this policy is inconsistent, and that requiring Deputy Probation Officers to engage in questions about money and fees is contrary to their mission of rehabilitation. The Probation's Department's official fee assessment process is as follows:

- 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) is to provide him or her with the Application for Financial Evaluation.
- 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 is to 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.
- Once the probationer returns the completed application, the DPO is to send the application and the order for Probation to the Probation Account Clerk to review the application and determine the probationer's ability to pay based on net income and Probation's Fee Reduction schedule.

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



- Once this determination has been made, the Probation Account Clerk is to respond to the DPO with the total amount the probationer is determined able to pay over the duration of their time on Probation.
- Upon receipt of the determination of the probationer's ability to pay, the DPO reviews the ability to pay determination with the probationer; the probationer has the option to agree to the amount or to request a hearing.
- 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.
- If the probationer disagrees with the amount determined by the Probation Department, the DPO is to contact the court clerk and calendar a hearing and to 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.

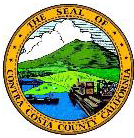
With respect to WAP, PC 4024.2(c) authorizes the county's board of supervisors to "prescribe reasonable rules and regulations under which a work release program is operated." With respect to EHD, PC 1203.016(d) (1) specifies that the rules, regulations, and administrative policy of the Electronic Home 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.

- Office of the Sheriff Ability to Pay Process

Beginning in mid-2018, the Office of the Sheriff revised its practices to assess and set application and daily fees for CAF. Under the new guidelines, CAF participants apply to and are enrolled in CAF prior to any discussion of fees or ability to pay. Upon enrollment, participants review and complete the personal budget form with their assigned CAF Specialist. The participant may request a reduction/waiver of fees based on their stated ability to pay. A CAF Sergeant is to review and approve the Personal Budget form. By statute, a participant's inability to pay all or a portion of any fee(s) shall not preclude them from being enrolled or completing any program offered by the Custody Alternative Facility.

- Office of the Sheriff Process of Collections

CAF fees are collected by CAF staff after participants are enrolled in CAF. 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. Because the Sheriff's Office has historically collected no data on assessments, collections, or ability to pay, it is not possible to provide accurate information regarding these considerations.

- Office of the Sheriff 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 develop Ability to Pay processes and forms.

- Cross-County Comparison: Work Alternative Program Fees

In September 2018, Alameda Sheriff's Office provided a presentation on their Sheriff's Work Alternative Program.³ Included in that presentation was a cost comparison of Work Alternative Programs among twelve different counties (see Figure 1). Contra Costa County's Administrative Fee for the Work Alternative Program was the highest amongst the county's included in this comparison.

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

- Superior Court

The Court currently collects and distributes eight of the 13 fees and assessments identified in the moratorium. In response to a request made by the County Administrator's Office, on October 21, 2019, the Superior Court of California, County of Contra Costa (Court) provided a letter summarizing the administrative/technological processes required to suspend collection of past-due fees, as directed by the moratorium.

Figure 2 summarizes the Court's role the imposition and collection of the referenced fees, along with the current status related to moratorium's implementation.

Figure 2. Summary of Court Fees

³ Sheriff's Work Alternative Program (SWAP) Presentation, Alameda County Sheriff's Office, September 13, 2018



Name of Fee/Assessment	Case Type(s) Affected	Court Imposed	Court Collected	Continued Collection	Continued Imposition
<i>10% Fee</i>	Criminal	Y	Y	Pending	N
<i>CA Fingerprint ID Penalty</i>	Criminal & Traffic	Y	Y	N/A	Y
<i>Booking Fee</i>	Criminal	Y	Y	N	N
<i>Drug Diversion Fee</i>	Criminal	Y	Y	Pending	N
<i>Alcohol Test Fee</i>	Criminal (DUI & Reckless)	N	N	N/A	N/A
<i>CAP Fee</i>	Criminal (DUI & Reckless)	N	N	N/A	N/A
<i>Probation Drug Diversion Fee</i>	Criminal	Y	Y	Pending	N
<i>Cost of Probation</i>	Criminal	N	Y	Pending	N
<i>Probation Drug Test Fee</i>	Criminal	N	Y	Pending	N
<i>Probation Report Fee</i>	Criminal	N	Y	Pending	N
<i>Alcohol and Drug Assessment Fee</i>	Criminal	N	N	N/A	N/A
<i>Public Defender Fee</i>	Criminal	N	Y	Pending	N

The Court's current data system is not sufficient to conduct the data analysis required to enact the moratorium; it estimates that the necessary modifications will cost an estimated \$63,750. The Court's letter also emphasized that the data system does not have the capacity to temporarily suspend fees for potential future reinstatement.

Given the cost of technological modifications and the inability to suspend (but not eliminate) unpaid debt, the Court requests further direction from the County.

In its letter, the Court reports that its current data system does not allow it to quantify the total unpaid amount for each fee type. However, its letter includes three points of interest:

- For public defense fees, the Court has identified 25,240 accounts with a balance of approximately \$5.54 million in collections with Linebarger. It has notified Linebarger to suspend collections on these accounts.
- For booking fees, the Court has identified 3,684 accounts with a balance of \$901,092. It has notified Linebarger to suspend collections on these accounts.
- For 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.



5. 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

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 (39% Black, 25% Latino, 7% Other)⁴ Given that approximately 8.8% of the population in Contra Costa County is Black,⁵ the per capita incarceration rate for African Americans in Contra Costa County is 4.4 times its overall representation in the larger population.⁶

According to data from the State of California DOJ CJSC, in both 2013 and 2014, African Americans were more likely to be arrested than individuals from any other racial/ethnic group in all but one city in Contra Costa County. While the specific rate of the disparity varied by city, the disparity tended to be higher in cities with smaller African American populations (see Appendix B for more information). Across the County, African American adults were more than three times more likely to be arrested than adults from any other racial/ethnic group, and African American youth were more than seven times more likely to be arrested than youth from any other racial/ethnic group.⁷

B. INCOME DEMOGRAPHICS

To assess indigency in the county's criminal justice system, the Probation Department conducted a review of 115 Probation cases from March 2018 to March 2019. It found that approximately 88% of Probationers had income levels below 200% of the federal poverty guideline (\$49,200 for a family of four). For reference, the median family income in Contra Costa is \$113,973.⁸

⁴ Contra Costa County Sheriff's Office, email communication to Rebecca Brown, October 25, 2019.

⁵ 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

⁷ Racial Justice Task Force Final Report, http://64.166.146.245/docs/2018/BOS/20180724_1121/34430_FINAL%20CCC-RJTF_BoS-memo_20180710_STC.pdf

⁸ 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=DP03_0001E&lastDisplayedRow=105



Figure 3. 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%		

Figure 4. 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

The Probation Department also reviewed 197 cases that were referred to the Probation Department for a probation report. Out of 197 cases, 184 cases were represented by the Public Defender or Alternate Defender Office, meaning that 93% of the people in this sample were legally considered indigent.

6. NATIONAL BODY OF RESEARCH

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.⁹ 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.”¹⁰

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.¹¹ 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.¹²

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 results 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.”¹³ 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.

According to the American Bar Association (ABA), 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; however, Contra Costa County collects no local data on this point.¹⁴

⁹ East Bay Community Law Center, Pay or Prey (2018); Berkeley Law Public Advocacy Clinic, Making Families Pay (2017).

¹⁰ <https://ebclc.org/cadebtjustice/policy-platform/>

¹¹ Insight Center for Community Economic Development, Cost of Being Californian (2018).

¹² Ella Baker Center, Who Pays? The True Cost of Incarceration on Families (2015).

¹³ <https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf>

¹⁴ 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.