

MOTION BY SUPERVISORS HILDA L. SOLIS
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Eliminating Los Angeles County Criminal System Administrative Fees

California law currently allows counties to charge administrative fees to people in the criminal justice system, which are imposed by judges upon conviction of a defendant. While the fees are not supposed to be punitive or restorative but are simply supposed to help counties recoup costs without being excessive or unfair, they can quickly add up to thousands of dollars for a single person, and become due while a person is incarcerated and upon their release. The vast majority of people against whom these fees are levied qualify as indigent to obtain representation by the public defender system, and as such individuals are often forced to exhaust all of their resources to pay these fees, at a critical point in time when individuals are attempting to secure housing, employment, education, and support their families, therefore negatively impacting public safety and stability for all communities.

A 2019 Brennan Center report found, however, that these fees are an ineffective source of government revenue because counties are spending a high proportion of their fee and fine revenue on collection and enforcement costs, rather than on efforts to improve public safety. (The Brennan Center for Justice, *The Steep Costs of Criminal*

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Justice Fines and Fees, November 21, 2019.) Consistent with these findings, in Los Angeles County, these fines and fees also present a burden to the County. The County expends resources and funding to collect the fines and fees from our highest need population, but only receives an average of four percent of the total assessed each year.

This Board has taken bold steps to move away from a purely punitive criminal justice system model that negatively impacts public safety, towards a “care first, jail last” model, which prioritizes the health, well-being, and resource needs of individuals to achieve increased stability and public safety for all of Los Angeles County’s communities. Eliminating the County’s criminal system administrative fees is the next step in implementing the Board’s vision by enhancing the economic stability of low-income communities and communities of color. Therefore, the Board should eliminate the fines and fees that are within their discretion because of the detrimental impact these costs have on the wellbeing of individuals attempting to reenter society, and because the County does not meaningfully benefit from the collection.

Fines and fees in California are some of the highest in the country because of additional fees that are tacked on to the base fine. (Office of the Treasurer & Tax Collector, City and County of San Francisco, *San Francisco Fines & Fees Task Force: Initial Findings and Recommendations*, May 2017.) For example, the base fine for a stop sign violation infraction was \$35 in 2017. However, after additional fees are imposed, the total fine becomes \$238. Similarly, the base fine for a misdemeanor DUI was \$390, but the total amount owed was \$2,024 after additional fines and fees were added. (Legislative Analyst’s Office, *Overview of Criminal Fine and Fee System*,

February 2017.) It even costs money to complete volunteer hours. In Los Angeles County, community service referral agencies charge between \$20 and \$300 depending on the number of community service hours assigned. (Chief Executive Office, *Report Back on Addressing Fines and Fees Associated with Criminal Justice System Involvement*, December 13, 2019.) Importantly, Los Angeles County residents who have been impacted by these fees have shared that the most expensive fees were most often for Probation supervision, reaching as much as \$5,800 for an individual case.

These high costs are imposed on low-income communities and people of color who are overrepresented in the criminal justice system. Many individuals are forced to choose between paying the fees or paying for necessities like rent, groceries, transportation, and medical care. This financial burden impacts housing stability, employment, education opportunities, and mental and physical health. The Let's Get Free LA Coalition outlined some of the negative consequences their members experienced because of fines and fees in their report. The report describes that a person's inability to keep up with criminal system fees can lead to additional court hearings, additional fees, bench warrants, and sometimes incarceration. Members also experienced: barriers to obtaining a car, apartment, or employment because of damaged credit scores; the need to resort to illegal activities as a means of making money; being forced to take out loans and pawning or selling personal items; and needing to volunteer for medical trials just to pay these debts. Further, outstanding criminal system debt can make people ineligible for record-clearing, and negative impacts from the fines and fees can remain even after convictions are expunged. (*Costs*

of Injustice: How Criminal System Fees are Hurting Los Angeles County Families, September 2019.)

The burden to pay the fines and fees also falls beyond the justice-involved individual and extends to their families. In 2015, a Ella Baker Center for Human Rights report found that in 63% of the cases they reviewed, families bore the cost of criminal system-related fees, and that in 83% of those cases, the family members responsible for paying were women. The Ella Baker Center also found that one in five of these families took out loans to cover their payments. (The Ella Baker Center for Human Rights, *The True Cost of Incarceration on Families*, September 2015.) Court fines and fees create insurmountable barriers to reentry for many individuals and their families.

At the urging of and in collaboration with community advocates, youth, system impacted people, and community members, over the past several years, the Board has focused on reducing financial barriers for justice involved individuals. In 2009, the Probation Department stopped collecting fees charged to parents or guardians for the incarceration of their children. In 2017, the Board voted to eliminate the \$50 registration fee that was required prior to receiving services from the Public Defender, the Alternate Public Defender, or court-appointed counsel. (Supervisors Sheila Kuehl and Mark Ridley-Thomas, *Eliminating Registration Fees*, June 6, 2017.) Building upon this history, the Board voted in 2018 to discontinue the collection and forgive the \$89 million in outstanding debt for fees assessed for youth detained in Probation custody. (Supervisors Hilda L. Solis and Janice Hahn, *Discontinuing Collection of Outstanding Juvenile Detention Fees*, October 9, 2018.)

Eliminating fines and fees for adults is the next logical step towards removing financial barriers to successful reentry. Los Angeles County is not alone in taking this step. San Francisco County ended criminal and administrative fees and discharged \$32 million in debts in June 2018, and Alameda County did the same, discharging \$26 million in debts in November 2018. Additionally, in 2018, California Senate Bill 144 was introduced to eliminate most of the criminal system fees imposed by the state. Senate Bill 144 became a two-year bill, so it will continue in the legislative process this year. (Senator Holly J. Mitchell, *SB 144 Families Over Fees Act*, March 2019.)

On April 16, 2019, the Board directed the Chief Executive Office (CEO) in consultation with relevant departments to report back with a detailed report of the fines, fees, and penalties levied against adults in the criminal justice system. (Supervisors Hilda L. Solis and Sheila Kuehl, *Addressing Fines and Fees Associated with Criminal Justice System Involvement*, April 16, 2019.) The report back on December 13, 2019 found that the County experiences little or no fiscal gain from the criminal fines and fees. Since 2014, Court assessments averaged \$121 million each year, but only an average of \$11.4 million was collected. That is nine percent of the total amount assessed. The County received an average of \$4.5 million, which is four percent of the total. The current outstanding balance of fines, fees, and restitution is \$1.8 billion over the last 50 years, including \$379 million for active cases, \$207 million for inactive cases, and \$1.2 billion for closed cases. Further, these numbers do not account for the cost to the County of attempting to collect these fines and fees, which is disproportionate to the low rate of collection. The County expends a significant amount of resources attempting to collect the fees with little success.

Not all fines and fees are within the discretion of the Board to discharge. However, there are four categories of fees that the Board could discharge. These include fees collected and retained by the County,¹ fees collected by the County but partially allocated to a non-County entity,² fees allowed by County Code,³ and discretionary fees that are not collected by the County.⁴

Criminal system administrative fees pose significant obstacles to reentry. These fees force individuals to make impossible choices between making payments on their debts or paying for critical needs like food, education, child care, housing, and health insurance, which can help individuals, their families, and communities achieve stability and thrive. The County does not receive a significant profit from the fines and fees because only an average of nine percent of the total amount of fees is collected and only four percent is received by the County. The costs of collection far outweigh the benefits of imposition. In order to further the Board's goal of "care first, jail last" and to

¹ Penal Code § 1001.15 (Felony diversion fee), Penal Code § 1001.16 (Misdemeanor diversion fee), Penal Code § 1203.1 (Administrative fee for collection of victim restitution by county), Penal Code § 1203.1b (Reasonable costs of probation services), Penal Code § 1208.2 (Work furlough, electronic monitoring and county parole administration and application fees), Penal Code § 1210.1(a) (Contribution to cost of placement in drug treatment program), Government Code § 71386(d) (Returned/bad check charge where costs incurred by county), and Vehicle Code § 15630 (Community education training program).

² Penal Code § 1463.14 (Additional penalty for reimbursement of cost for drug/alcohol chemical testing) and Government Code § 76000.5 (Emergency medical services).

³ Penal Code § 1203.41 (Reimbursement for county cost for petition to set aside verdict or plea).

⁴ Penal Code § 597.3 (Cost of animal ordinance class to the local agency), Penal Code § 1203.018 (Pretrial electronic monitoring program administrative fee), Penal Code § 1203.1a (reimbursement for Probation's costs of removing offender from custody), Penal Code § 1203.9 (Jurisdictional transfer fee), Penal Code § 1209 (Administrative fee for supervision using electronic monitoring), Penal Code § 2085.5 (Administrative fee for debt collection during incarceration), Penal Code § 4011.1 (Reimbursement for youth medical care), Penal Code § 4011.2 (County inmate medical visit copayment), Penal Code § 4018.6 (Reimbursement for Probation's costs of removing offender from custody), Penal Code § 4024.2 (Work release program administrative fee), Government Code § 6157 (Charge for returned/back checks tendered for payment of license, permit, or fees), Government Code § 29550 (Reimbursement of county expenses associated with booking persons arrested by employees of city, special districts, or schools), Vehicle Code § 42008.8 (Infraction amnesty program fee to help recover administrative costs), and Vehicle Code § 40508.5 (Automated warrant fee).

take the next step towards removing unreasonable financial barriers for low-income communities and people of color, the Board should eliminate all criminal fines and fees within its jurisdiction.

WE, THEREFORE, MOVE that the Board of Supervisors:

1) Direct the Probation Department with the Treasurer and Tax Collector, the Chief Executive Office, the Auditor-Controller, County Counsel, and other relevant departments to:

A. Immediately discontinue the collection or acceptance of payment for all discretionary fees that are collected and retained by the County, which fall within the Los Angeles County Board of Supervisor's authority to suspend, including but not limited to those identified above;

B. Discharge and/or release any balance of outstanding debt based on the discretionary fees that fall within the Los Angeles County Board of Supervisor's authority to suspend, including but not limited to those identified above, by:

- i. Filing satisfaction of judgments with the court for court judgments, where applicable;
- ii. Filing releases of liens with the Los Angeles County Recorder for judgment liens, where applicable;
- iii. Amending the County Code;

- iv. Creating a referral, complaint, and investigation process to ensure debt collection agencies cease collections of past debt and individuals' credit ratings are restored;
 - v. Taking all other legal action as needed to discharge and/or release debts for these fees.
 - C. Develop and implement a notification protocol to clients, former clients, the Public Defender, the Alternate Public Defender, the indigent panel, and other related entities to ensure that individuals cease payment as soon as possible; and
 - D. Provide a quarterly report back on:
 - i. The progress of discontinuing fee collection and releasing or discharging outstanding debt until completed; and
 - ii. The progress of reducing the reliance of County Departments on criminal system administrative fees without negatively affecting a department's operating budget or the County's overall financial position, including identifying opportunities to reduce expenses, reductions in expenses related to collections, and alternative revenue sources.
- 2) Direct the Chief Executive Office through the Legislative Affairs Division, in collaboration with County Counsel, to prepare and submit a five-signature letter to the Governor, Senators Holly Mitchell, Robert Hertzberg, and Nancy Skinner,

and the County's legislative delegation in support of Senate Bill 144.

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