

**A RESOLUTION TO MODIFY THE CHAPEL HILL CRIMINAL JUSTICE DEBT PROGRAM  
(XXXX-XX-XX/R-#)**

WHEREAS, Court fees and costs have a disparate impact on the poor; and

WHEREAS, the Town of Chapel Hill receives approximately \$25,000 on average in revenues from court costs and fees each year; and

WHEREAS, these costs and fees create barriers to community members seeking to reintegrate into the community; and

WHEREAS, African-Americans are disproportionately represented in the criminal justice system due to historic and structural racism, making this a racial equity issue; and

WHEREAS, the Chapel Hill Criminal Justice Debt Program offers a small funding resource to eligible low-income individuals who have not been able to get court or other available debt relief from fees and costs imposed due to criminal justice or traffic court involvement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Program expand to include Carrboro Residents based on the provided MOU from Carrboro Town Council, which incorporates the addition of \$7,500 for disbursement to residents of Carrboro.

BE IT FURTHER RESOLVED by the Council that the restriction be removed that an applicant can only apply once every three years in order to prevent situations in which the Program might provide some help, but not enough for full restoration.

BE IT FURTHER RESOLVED by the Council that restriction be removed for applicants with a violent felony conviction and grant the Board the discretion to review these circumstances and determine whether funds should be granted.

This the XX day of XXXXXX, 2021.

## Town of Chapel Hill Criminal Justice Debt Program

### Summary

- Court fees and costs have a disparate impact on the poor. Chapel Hill's courthouse brings in funds to the Town from those fees.
- Chapel Hill values being a welcoming community with a place for everyone; the imposition of these fees and costs create significant barriers to justice-involved indigent community members seeking to reintegrate into the community.
- As with last year's support for a DACA assistance program, the Town Council has a proud history of championing social justice issues and using Town funds to help our residents address unfair systems. Because African Americans are disproportionately represented in the criminal justice system due to historic and structural racism in the US, this is also a racial equity issue.
- The proposed **Criminal Justice Debt Program** will provide criminal justice-related debt relief to indigent Chapel Hill residents who are taking steps to successfully reintegrate into the community but whose ability to do so is hampered by this debt. It will be administered by the Chapel Hill Police Crisis Unit, with support from an advisory board made up of representatives from the criminal justice and indigent services provider community in Orange County. .

### Background

"All across our state, thousands of North Carolinians are jailed every year because they can't afford to pay a fine. Our counties spend more than \$1,100 on every person that is jailed for their inability to pay. But, on average, they only owe \$500. That simply does not make sense. It is costly to the public and doesn't allow people to be out working. I know that several local jurisdictions have already taken steps to end this practice, and I look forward to seeing many others join them in that effort."

-NC Chief Justice Cheri Beasley, State of the Judiciary, June 22, 2019

The issue of court fines, fees and costs imposed on the poor has long been a serious problem in North Carolina that has now become a crisis. A recently released report by the North Carolina Poverty Research Fund at UNC, entitled "[Court Fines and Fees: Criminalizing Poverty in North Carolina](#)," by Gene Nichol and Heather Hunt, explains how North Carolina is, quite literally, criminalizing poverty through the imposition of fines, fees and costs that millions cannot afford. The disproportionate impact of court fines, fees and costs on the poor is well-documented. Per the report, court fines, fees and costs work in North Carolina to burden poor individuals and their families. Those unable to pay court costs risk triggering additional fees, revoked driver's licenses, probation violations and jail time, often for offenses too minor to warrant incarceration. Defendants unable to pay their fees are sanctioned in ways that make it

even harder for them to escape their criminal justice debt. For these North Carolinians, fines, fees and costs constitute an ongoing poverty trap. Fees and costs of even a few hundred dollars can present a substantial hurdle. National, state and local criminal justice reform advocates, academics, researchers and community members have identified **the criminalization of poverty, and particularly excessive court fees and costs as a pressing issue and are seeking ways to address its disproportionate impact.** Chapel Hill has an opportunity to join this effort.

Because we have a courthouse in Chapel Hill, we inadvertently participate in – and benefit financially from – this legislatively mandated costs and fees system by collecting a facility fee on all cases that are heard in the Chapel Hill courthouse. The amount collected averages about \$20,000 annually and can vary from year to year. In response to our concern about the impact these fees and costs have on those **defendants with no ability to pay**, this proposal to mitigate the impact on court-involved Chapel Hill residents and their families is presented for Council consideration.

The ACLU's [At All Costs: The Consequences of Rising Court Fines and Fees in North Carolina](#) is another useful resource on this issue.

## Proposed Plan

We propose continuing the Criminal Justice Debt Program to assist those in our community who are impacted by costs and fees and have incurred criminal justice-related debt they are unable to pay. We have engaged with Town and community partners, including the Chapel Hill Police Crisis Unit, the Orange County Criminal Justice Resource Department, the Clerk of Superior Court, and the Inter-Faith Council for Social Service (IFC) to develop a model for Council consideration that avoids duplication and fills an urgent gap in our community.

## The Impact on Orange County Residents

No one is currently collecting data in North Carolina at the county or municipal levels on unpaid criminal justice debt due to inability to pay, so the exact amount of debt or number of individuals impacted is difficult to quantify. However, there are some adjacent indicators that hint at the enormity of this problem in our community. For example, over 3,000 individuals have driver's license suspensions due to Failure to Pay from Orange County traffic matters. Statewide, approximately 350,000 North Carolinians have long-term suspensions based on unpaid traffic court costs alone. As stated above, the **average debt is estimated at approximately \$500 per person.**

Per Nichol and Hunt, "data from North Carolina, while scant, indicates that fees easily reach hundreds of dollars for even small traffic infractions and misdemeanors. Court costs snowball when defendants are unable to pay the full debt amount on time and all at once. Late fees, installment payment fees, collection fees, probation supervision fees and the like hook poor people in the same way payday loans do—by keeping defendants on a never-ending debt loop... **Poor households have to juggle food, shelter, medicine, transportation and other household necessities against fines and fees.**" A component of this program is to collect and document the level of need within Chapel Hill, based on application volume and size of debt,

and also working with the advisory committee member organizations and state and local agencies to gather additional data.

### Program structure

The Chapel Hill Police Department (CHPD) currently houses a robust and effective Crisis Unit, staffed by five Master's level clinicians who routinely interact with those involved in and impacted by the criminal justice system. The Police Crisis Unit staff already have an intake process in place through which they identify, among other information, a client's financial situation, and the Clerk of Court has indicated a willingness to continue collaboration with them to verify the existence and amount of criminal justice-related debt and ability to pay. Therefore, the Chapel Hill Police Crisis Unit staff are ideally placed to be the "face" of the Program, taking the lead to identify eligible beneficiaries and disperse funds. The Police Crisis Unit will continue administration of the program, maintain procedures and application materials, screen applications for eligibility, and facilitate Advisory Committee meetings. The Police Crisis Unit will continue to report program outcomes to Council at their request.

Because the Police Crisis Unit is part of the Town structure, funds will stay "in-house" with the Budget Office managing and tracking the funds, and making payments on behalf of participants to satisfy eligible criminal justice debt. This will likely primarily be to the Clerk of Court to pay outstanding post-conviction costs and fees incurred in court matters but could also include fees owed to the NC Department of Motor Vehicles (NCDMV).

While the Police Crisis Unit will take the lead, participants can be nominated by any community group or can even self-nominate. All applicants to the program will be vetted for eligibility by the Police Crisis Unit.

### Program Eligibility

The following eligibility criteria will be applied:

- Resident of Chapel Hill and to now also include Carrboro residents.
- Meets court indigency standards
- Not currently incarcerated
- Has outstanding criminal justice or traffic fees or costs
- Has demonstrated that he or she is on the road to stability; could be seeking services from CHPD Crisis Unit, CEF, IFC, CJRD or other local service provider (but not required)
- Other avenues for debt relief have already been pursued (e.g. driver's license restoration program)
- Assistance will have an immediate impact on the participant's stability or successful reentry into the community.

### Eligible Fees

- Post-conviction court fees and costs

- Deferred prosecution court fees and costs
- NCDMV license restoration fees

Fines and restitution payments imposed as part of sentencing will not be eligible for the fund.

#### Advisory Committee

The program will maintain a ten-member advisory board made up of representatives from the Orange County criminal justice and indigent service provider community. Each of the following service providers will be able to appoint one representative to the Advisory Committee:

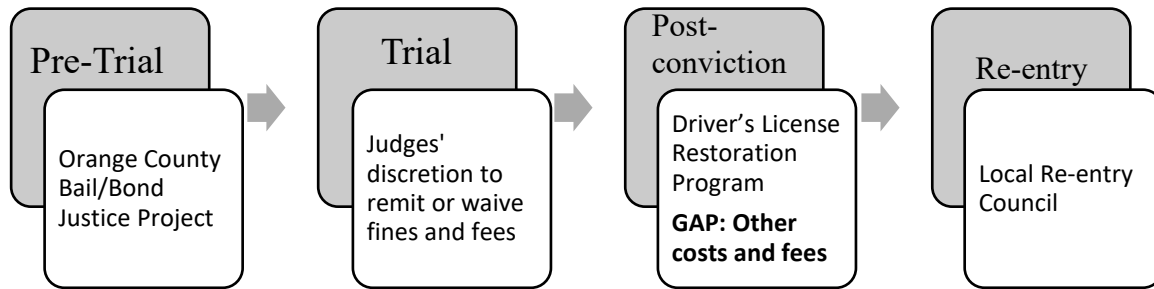
- Community Empowerment Fund (CEF)
- IFC
- Orange County Clerk of Court Office
- Re-entry Council Case Manager
- Restoration Program Legal Counsel
- Orange County Partnership to End Homelessness (OCPEH)
- NAACP Legal Redress Committee or Criminal Justice Committee member
- El Centro Hispano
- An impacted community member (could be the IFC or CEF seat)
- Victims' advocate organization (possibly law enforcement, OCRCC, Compass Center, etc.)

The role of the committee will be to do the following:

- meet monthly to review applications and recommend participants for the Program
- provide information to applicants about other resources for debt relief, where appropriate
- respond to programming questions as they arise, such as whether to have a funding cap and if so, how much
- review program data and make recommendations on improvements
- share recommendations to Council for future plans.

#### The Re-entry Continuum– filling a gap

We are fortunate to live in a county where local government, court stakeholders, community, and faith organizations are aware of and already working on many fronts to mitigate the disparate impact of the criminal justice system on the poor and to change the system altogether so that a need for this type of fund would no longer be needed in the future. Several programs are in place or are being established to help alleviate the worst monetary impacts throughout the criminal justice system lifecycle at pre-trial, during trial, and post-conviction:



- Pre-trial: **Orange County Bail/Bond Justice Project** led by Binkley Baptist Church is working to establish a bail fund that will assist people with bail and pretrial incarceration. It will not assist post-conviction debt from fees and costs.
- Trial: Judges have discretion to waive or remit fees and costs.
- Post-conviction: **Orange County Driver's License Restoration Program** – assists people unable to pay court costs related to traffic-related violations by asking judges to remit them for good cause.
- Re-entry: **Local Reentry Council** – assists formerly-incarcerated individuals with transportation, housing, employment training, work-related supplies, and childcare.

In addition, court stakeholders and the District Bar's Racial Justice Task Force are working to ensure best practices are in place to address ability to pay at the time of sentence or disposition. However, significant gaps still remain, and the Criminal Justice Debt Program fills an urgent one by assisting those unable to pay restoration, probation, or other fees and costs assessed as part of a traffic case or criminal case disposition. This program also helps refer eligible community members to these other services.

## NEXT STEPS

The Advisory Committee has made the following recommendations after reviewing program's ability to meet community needs:

1. Expansion to Carrboro Residents based on provided MOU from Carrboro Town Council, this would incorporate the addition of \$7,500 for disbursement to residents of Carrboro.

2. To remove the restriction that an applicant can only apply once every three years as this creates a situation where the Program might provide some help, but not enough for full restoration.
3. To remove the restriction on applicants with a violent felony conviction. Restriction prevents the Board from considering relevant factors such as age of conviction, circumstances of conviction, and applicant's efforts post-conviction. The Board seeks to have the discretion to review these circumstances and determine whether funds should be granted.
4. Possibility of making this ad hoc committee a Standing Board as the Committee believes in the potential for long-term positive impact on the Towns of Chapel Hill and Carrboro, and supports a shift to a more permanent structure as a Standing Board. The Committee seeks Council's guidance on when a formal request for this shift would be appropriate.
5. Possible future consideration by Council to allow the Program to pay debts due outside of Orange County as it is likely that, as the Program becomes more widely used, Chapel Hill and Carrboro residents with debts outside of Orange County will express interest in assistance. Our current Restoration Legal Counsel has encountered clients that would fall into this category, and the Board would like Council to consider this expansion of the Program's use.

The Police Crisis Unit will continue to tracking Program evaluation metrics, in consultation with the Advisory Committee, and produce data likely including the following:

- Number of applications received
- Number of community members served
- Amount of funding requested
- Amount of funding provided
- Types and amounts of debt held by applicants and participants
- Qualitative feedback on success of program, recommendation on continuation of program and any needed adjustments (structure, eligibility, funding level, etc.)
- An estimate of the Police resources required to administer the program
- A report on any other data provided by state, local, and nonprofit agencies that help to clarify the extent of the unmet need in Chapel Hill.