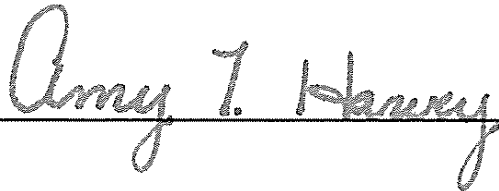


**I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2021-02-24/R-9) adopted as amended by the Chapel Hill Town Council on February 24, 2021.**

**This the 12<sup>th</sup> day of March, 2021.**

  
A handwritten signature in cursive script that reads "Amy T. Harvey". The signature is written over a solid horizontal line.

**Amy T. Harvey  
Deputy Town Clerk**



**A RESOLUTION TO ESTABLISH THE CHAPEL HILL CRIMINAL JUSTICE DEBT PROGRAM (2021-02-24/R-9)**

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 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 that an applicant can only apply once every three years be revised in order to expand the opportunities for the Program to more fully achieve its stated purpose.

BE IT FURTHER RESOLVED by the Council that expansion of program eligibility to allow the program to pay debts for residents that are due outside of Orange County.

BE IT FURTHER RESOLVED by the Council that modification of eligibility requirements be made to allow community members to apply to the Program regardless of criminal history and grant the Board the discretion to review these circumstances and determine whether funds should be granted.

This the 24<sup>th</sup> day of February, 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 (2019) 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 **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.

### 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.

## Chapel Hill Criminal Justice Debt Program: Advisory Committee Recommendations and Associated Guidelines

### Program 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.

#### 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 Carrboro.
- 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, Community Empowerment Fund, Inter-Faith Council, Criminal Justice Resource Department 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, Orange County Rape Crisis Center, 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.

## Introduction

This following has been drafted and approved by unanimous vote of the Chapel Hill Criminal Justice Debt Program (hereafter "Program") Advisory Committee. It contains descriptions of the four recommendations for changes to the Program's policies that were presented to the Chapel Hill Town Council on January 6, 2021, and adopted on February 24, 2021.

## Social Justice and Equity Context

In presenting these recommendations and the guidelines that accompany them, the Advisory Committee wishes to begin by reiterating the lens of social justice and equity through which it strives to operate. The Resolution to establish this Program began by stating the following:

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 is a racial equity issue; and  
 WHEREAS, the proposed 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.<sup>1</sup>

The Committee presents these recommendations as an acknowledgment of these statements upon which the Program was established. Each of these recommendations provides the Committee with improved tools to combat the inequity and racism implicit in the criminal justice system, so that the Program can best fulfill its purpose and provide an invaluable resource to as many Chapel Hill residents as possible. The Committee further strives to accomplish these goals by utilizing a trauma-informed lens and the understanding that a person who has committed crimes is more than just a "criminal"—rather,

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<sup>1</sup> A Resolution to Establish the Chapel Hill Criminal Justice Debt Program, January 22, 2020.

they are a person who has likely experienced trauma through the criminal justice system, and now strives to move on from that involvement with the system.

## Guidelines for Implementation

### 1. Expansion to Carrboro Residents

- a. The money contributed to the Program by the Town of Carrboro would be managed by the Chapel Hill Business Management Department, and applications would still be processed in the same manner.
- b. The Advising Committee would add a Carrboro representative, or designate an existing member as the Carrboro representative if there is a Carrboro resident currently on the Committee.
- c. The program was allotted \$20,000 for the one-year pilot and has currently used \$3,741 of program funds towards Chapel Hill residents. Carrboro will contribute \$7,500 to the program to be managed by Town of Chapel Hill.

### 2. Request exceptions to the restriction preventing an applicant from applying more than once in a three-year period.

- a. Detailed records would be maintained for each applicant indicating date of application, whether the original application was approved, and whether the application had been flagged for a potential additional application within a three-year period.
- b. The exceptions include: Applicants fitting the following scenarios would be allowed to submit additional applications within a three-year period:
  - i. When new Program parameters are put in place that would have resulted in additional support to previous applicants such as a previous applicant who has court debt outside of Orange County, but who did not have the option upon first application to seek assistance with that debt.
  - ii. When costs and fees associated with the same request are stretched out over a period of time such as applicants who have a license suspension requiring DMV Hearing(s), but who are not eligible to apply for a hearing at the time of first application to the Program.
  - iii. Applicants who owe both fines and court costs on a charge in a jurisdiction where partial payments are not allowed by the Clerk of Court, when the applicant cannot afford to pay their fine at the time of application. Applicant would be allowed to reapply for assistance with that charge only, once they were able to pay the fine.
  - iv. At Advisory Committee's Discretion: Review of applicants who have previously been assisted by the Program, but who are subsequently convicted of a traffic violation, the non-payment of which threatens to suspend the person's license. The Committee may review the severity of the offense and whether there is a pattern of endangering public safety. This evaluation would be weighed against the knowledge that one previous instance of assistance from the Program is not enough to change a person's financial situation, and loss of a license only furthers financial difficulties. Program participants would be eligible for this discretionary review up to three times in a three-year period and only traffic offenses are eligible.

- v. At Advisory Committee's Discretion: Review of applicants who, at the time of initial Program application, had pending court matters that have since been resolved and for which the person now owes money they cannot afford to pay.

**3. Modification of eligibility requirements to allow community members to apply to the Program regardless of criminal history**

- a. The Advisory Committee applies the following guidelines to applicant reviews with a criminal history:
  - i. The Program will not provide funding for any cost or fee associated with a violent felony conviction.
  - ii. In order for a person who has been convicted of a violent felony to be considered for program assistance with a non-related issue, the violent felony conviction must be at least 5 years old.

**4. Expansion of eligibility to allow the Program to pay debts for Chapel Hill residents that are due outside of Orange County**

- a. Management of disbursed funds will not change if this recommendation is approved by Council.
- b. The practice of seeking confirmation of applicant's identity and the amount(s) due will also stay the same, with this information being verified for all jurisdictions—for any out-of-state jurisdiction, payment will be sent with a letter containing a request for a receipt along with a stamped, self-addressed envelope.

**5. 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.

Established by [\(2020-01-22/R-12\)](#), Amended by (2020-02-24/R-9), and [\(2020-02-24/O-1\)](#)