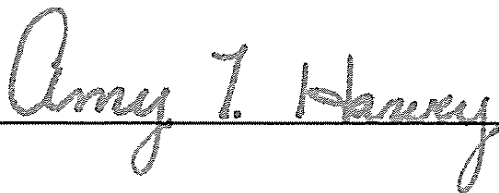


I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2020-01-22/R-12) adopted as amended by the Chapel Hill Town Council on January 22, 2020.

This the 23rd day of January, 2020.



**Amy T. Harvey
Deputy Town Clerk**



A RESOLUTION TO ESTABLISH THE CHAPEL HILL CRIMINAL JUSTICE DEBT PROGRAM (2020-01-22/R-12)

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.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that \$20,000 be identified to establish the Town of Chapel Hill Criminal Justice Debt Program as described in the program proposal provided in the January 22, 2020 meeting materials.

BE IT FURTHER RESOLVED by the Council that a Criminal Justice Debt Program Advisory Committee be established to advise staff on final eligibility criteria, meet quarterly to review applications and make recommendations on awards after staff have screened applications against eligibility criteria, to review program data and make recommendations to Council on future plans and to provide information to applicants about other resources for debt relief, where appropriate.

BE IT FURTHER RESOLVED that the charter membership of the Criminal Justice Debt Program Advisory Committee composed of ten members provided by the following organizations: Community Empowerment Fund (CEF), IFC, 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), Orange County Clerk of Court's Office, Victims' advocate organization (possibly law enforcement, OCRC, Compass Center, etc.). The Committee members will serve for one year from the inaugural meeting.

BE IT FURTHER RESOLVED that Crisis Unit staff will serve as the staff support for this committee and will assist in the development of a report back to Council in approximately six months.

This the 22ND day of January, 2020.

Revised Memorandum- January 22, 2020

Town of Chapel Hill Fund for Criminal Justice Debt

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 **Fund for Criminal Justice Debt** 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 Police Department's Crisis Unit, with support from an advisory committee made up of representatives from the criminal justice and indigent services provider community in Orange County. The initial request is for \$20,000 for a one-year pilot program, with six-month and one-year report-outs to Council to assess efficacy, future funding and structure.

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 piloting the creation of a new fund 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 Police Department 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 pilot will be 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 three social workers and two counselors who routinely interact with those involved in and impacted by the criminal justice system. The 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 collaborate with them to verify the existence and amount of criminal justice-related debt and ability to pay. Therefore, the CHPD Crisis Unit staff are ideally placed to be the "face" of the Fund, taking the lead to identify eligible beneficiaries and disperse funds. The Crisis Unit will administer the program, establish procedures and application materials, screen applications for eligibility, and facilitate Advisory Committee meetings. The Crisis Unit will also report on program outcomes to Council after six months of operation and the end of the one-year pilot phase.

Because the 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 Orange County court matters but could also include fees owed to the NC Department of Motor Vehicles (NCDMV).

While the 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 Crisis Unit. To minimize staff time required to support the Fund, payments will be made no more than twice during the pilot period and recipients will be limited to the Clerk of Court and NCDMV.

Program Eligibility

The following eligibility criteria will be applied:

- Resident of Chapel Hill
- Meets court indigency standards
- Not currently incarcerated
- Has outstanding criminal justice or traffic fees or costs from Orange County or NCDMV
- 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.

Individuals convicted of violent felonies¹ will not be eligible for the fund. An individual will only be eligible to receive assistance from the fund once every three years.

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 include the formation of a ten-member advisory committee 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, OCRC, Compass Center, etc.)

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

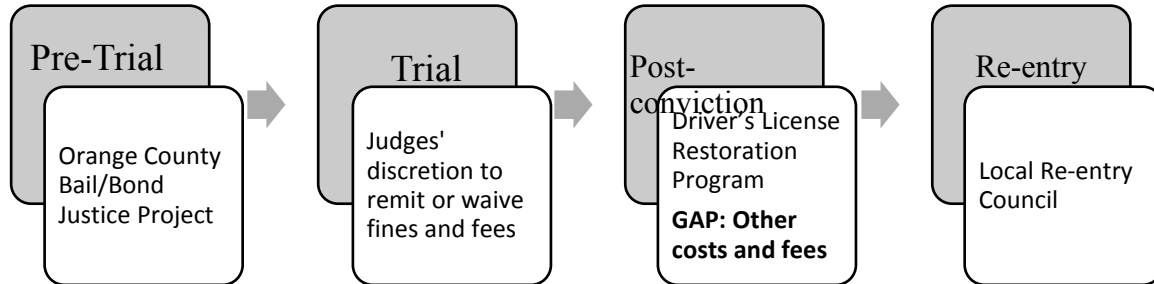
- assist the Police Crisis Unit in finalizing the Fund eligibility criteria
- meet quarterly to review applications and recommend participants for the Fund
- provide information to applicants about other resources for debt relief, where appropriate
- respond to programming questions as they arise, such 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

¹ An offense that is defined as a felony by statute and includes an act that causes or intends to cause physical injury (or the fear of physical injury) to another person.

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 Fund for Criminal Justice Debt would fill 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 will also help to refer eligible community members to these other services.

NEXT STEPS

We request \$20,000 for a one-year pilot of this program starting in FY19/20 with a report-out to Council after six months of implementation and again at the end of the pilot, so that it can be considered for future funding, if there is continued interest. For the report-outs, the Police Crisis Unit will develop Program evaluation metrics, in consultation with the Advisory Committee, and

produce data based on Town of Chapel Hill Human Services Program practices and 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.

At the six-month and one-year report-out, staff will report on the program metrics. Options for continued funding will be discussed at both report-outs, as well, with the goal of avoiding gaps and getting into the regular annual funding cycle starting with FY22, should Council wish to continue funding the program beyond the pilot.

A secondary term goal of this initiative is to bring the issue of the disparate impact on the poor of court costs and fees to a wider audience. Along with serving as a pilot program for the Town, we also see it as a demonstration project that, if successful, could spur action on the part of other municipalities. There is a growing recognition of this injustice at the state and national levels, with increasing interest in taking local action. At the six month report to Council, we will initiate a discussion as to how we can use the lessons of this pilot to both expand the partnership and leverage additional local resources moving forward, and also how to document and share the model for dissemination with other municipalities.