

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.

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 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, 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. It also contains guidelines for the implementation and management of the Program if these recommendations are approved by Town Council, in order to address questions and feedback presented by Council on January 6.

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.¹

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, 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.

Recommendations to Council

The following four recommendations to modify policies and operations of the Program were presented to Town Council on January 6, 2021:

- 1. Expansion to Carrboro Residents (Unanimous Committee Approval)**
 - a. This action would incorporate \$7,500 from the Town of Carrboro into the Program, for disbursement to Carrboro residents who apply.

- 2. Removal of the restriction preventing an applicant from applying more than once in a three-year period (Unanimous Committee Approval)**
 - a. The purpose of this recommendation is to fully actualize the goals of the Program, which aim to reduce Criminal Justice debt as well as Chapel Hill’s reliance on that debt as a source of income
 - b. The Program has received multiple applicants who are eligible for relief, but who cannot be fully restored with one instance of assistance: i.e., an applicant who needs to pay court costs and DMV fees and then have DMV Restoration Hearing(s) in order to restore his license. Program could cover court costs and DMV fees, but applicant must attend classes before he will be eligible to schedule Hearing. DMV Hearing costs \$225 for “pre-interview” and then \$425 for Hearing.
 - c. The Program also has applicants who have received assistance with Orange County court debt, but who also had court debt in other counties. If Council approves the Committee’s additional recommendation to expand eligibility to cover the out-of-county-debt of Chapel Hill residents, then future applicants will receive a benefit that past applicants were not offered. The Committee would wish for these applicants to have the opportunity to apply again.

- 3. Removal of the restriction preventing assistance to applicants who have been convicted of a violent felony (Unanimous Committee Approval)**
 - a. The Committee seeks the discretion to review applicants who have a violent felony on their record. Currently, an applicant with a violent felony is automatically barred from eligibility—the Committee feels that this automatic bar runs counter to the goals of rehabilitation and reentry that are integral to criminal justice system reform. With the discretion to review these applicants, the Committee can uphold the ideals of the Program while still maintaining a consideration for public safety concerns.

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

- b. The Program does not provide funds for court fines or restitution; the Committee believes that court costs should not hold someone back from successful rehabilitation and reentry if a discretionary review indicates assistance is appropriate.
- 4. Expansion of eligibility to allow the Program to pay debts for Chapel Hill residents that are due outside of Orange County (Unanimous Board Approval)**
- a. The Committee’s goal with this recommendation is to ensure that Chapel Hill residents do not remain trapped in cycles of court debt.
 - b. There is a noted need for this expansion both from applicants who have already come through the program, and, in higher numbers, in clients of Orange County Restoration Legal Counsel. There are many people who live and work in Chapel Hill but who owe debt outside of it.
 - c. If, for example, this debt causes a revocation of their driver’s license, the person will be driving in Chapel Hill and could be charged with a violation for doing so. This charge could then generate debt that the person owes to the Orange County Court. Through these cycles, debt in other counties still impacts Chapel Hill and its residents, and making this modification furthers the Program’s goal of minimizing reliance on court debt as a source of income.
 - d. The Committee has looked to the Blanchard Community Law Clinic, at Campbell University, as a model—the clinic operates a Debt Relief Fund available to residents of Raleigh, but which can pay court debt in any county across the state, as well as out of state when necessary. This Fund began in January 2020 with a grant of \$10,000. That amount was completely allocated to Raleigh residents by November 2020, and the Fund has since received a grant of \$25,000 to continue.

Guidelines for Implementation Should Recommendations be Approved

The Advisory Committee has developed these guidelines following feedback from Town Council at its January 6, 2021 meeting.

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. Enactment of the attached budget ordinance amendment for the General Fund would recognize and appropriate the \$7,500 for the Criminal Justice Debt Program.

2. Removal of 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. Applicants fitting the following scenarios would be allowed to submit additional applications within a three-year period:
 - i. *(Pending Approval of Recommendation 4)* 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. 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 seeks discretion to 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.
 - 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. Removal of the restriction preventing assistance to applicants who have been convicted of a violent felony

- a. The Advisory Committee seeks discretion to review Program applicants who have a violent felony conviction by analyzing the following factors:
 - i. Whether the applicant is seeking financial relief for the violent felony conviction, or for something different (i.e. a traffic ticket the suspends a license);
 - ii. Age of the felony conviction;
 - iii. Severity of the crime;
 - iv. Whether applicant was struggling with addiction or other mental health issue(s) that they have since been managing;
- b. For these applicants, the Chapel Hill Police Department Crisis Unit will conduct a detailed interview, where the applicant will have an opportunity to share additional information such as: efforts applicant has made toward restitution, rehabilitation and reentry; whether the applicant was a victim of domestic violence or other trauma; and work and education efforts since the crime occurred.

- 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.