



TOWN OF CHAPEL HILL

Town Hall
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Legislation Details (With Text)

File #: [20-0070] **Version:** 1 **Name:**

Type: Discussion Item **Status:** Passed

File created: 1/16/2020 **In control:** Town Council

On agenda: 1/22/2020 **Final action:** 1/22/2020

Title: Consider Establishing Town of Chapel Hill Fund for Criminal Justice Debt.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Presentation, 2. Council Questions with Staff Response, 3. Emails from the Public, 4. A RESOLUTION TO ESTABLISH THE CHAPEL HILL CRIMINAL JUSTICE DEBT PROGRAM (2020-01-22/R-12)

Date	Ver.	Action By	Action	Result
1/22/2020	1	Town Council	adopted	Pass

Consider Establishing Town of Chapel Hill Fund for Criminal Justice Debt.

Staff:

Beth Vazquez, Police Crisis Unit
Megan Johnson, Police Crisis Unit Supervisor
Chris Blue, Chief of Police & Exec. Dir. for Community Safety

Department:

Police Department

ITEM OVERVIEW

The Town Council requested that staff introduce information for discussion as Council considers establishing a Criminal Justice Debt Relief Fund.

- Court fines and fees have a disparate impact on the poor.
- Town of Chapel Hill receives revenues from court fines and fees.
- Chapel Hill values being a welcoming community with a place for everyone; the imposition of these fines and fees creates 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** would provide criminal justice-related debt relief to indigent members of the community who are taking steps to successfully reintegrate into the community but whose ability to do so is hampered by this debt.
- The initial request is for \$20,000 for a pilot program, to be followed by a report out to Council to assess future funding and structure.

DECISION POINTS

1. Consider establishing Town of Chapel Hill Fund for Criminal Justice Debt.
2. Approve composition and role of members to the Criminal Justice Debt Fund Advisory Committee.

PROJECT OVERVIEW AND 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 impact of court fines and fees imposed on the poor is a serious problem in North Carolina. 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 court fines and fees burden poor defendants 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. Fines and fees 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, particularly court fines and fees, 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, the Town receives a financial benefit through legislatively mandated fines and fees collected on all cases that are heard in Chapel Hill. These fees go into our General Fund and amount approximately \$25,000 annually, although this varies from year to year. 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](#) <<https://www.acluofnorthcarolina.org/en/AtAllCosts>> is another useful resource on this issue.

Proposal

We propose piloting the creation of a new fund to assist those in our community who are impacted by criminal justice-related debt and who 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.

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. However, there are some 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 fines in Orange County traffic matters. Statewide, approximately 350,000 North Carolinians have long-term suspensions based on unpaid traffic court costs alone and the average debt is estimated at \$500 per person.

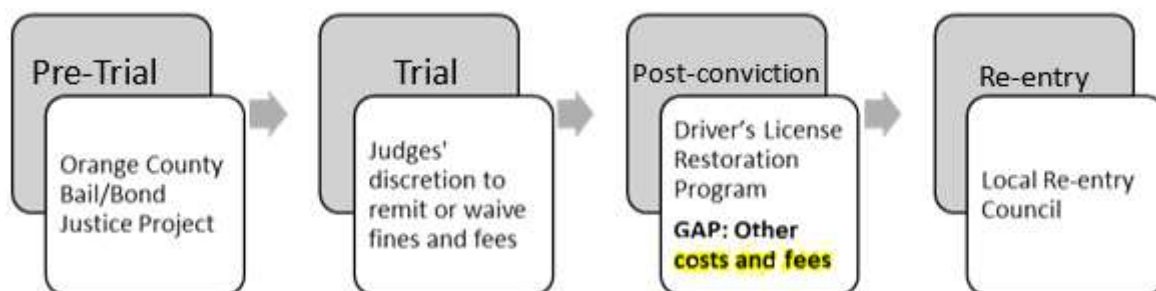
Per Nichol and Hunt, "data from North Carolina, while scant, indicates that fees easily reach hundreds of dollars for even small traffic infractions and misdemeanors. Court costs snowball when defendants are unable to pay the full debt amount on time and all at once. Late fees, installment payment fees, 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 to work with the advisory committee member organizations to

gather additional data, as feasible.

Filling a Gap

We are fortunate to live in a county where local government, 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 address this 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 with post-conviction debt from fines, fees and costs.
- Trial: Judges have discretion to waive or remit fees, fines, and costs.
- Post-conviction: **Orange County Driver's License Restoration Program** - assists people who are 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.

Proposed Program Structure and Eligibility Criteria

The following eligibility criteria are proposed:

- Resident of Chapel Hill
- Meets court indigency standards
- Not currently incarcerated
- Has outstanding criminal justice or traffic debt from Orange County inclusive of deferred prosecutions
- 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 felonies are ineligible for the program.

Creation of an Advisory Committee

The program will include the formation of an eight-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 invited to appoint (1) representative to the Advisory Committee:

- 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.)

Proposed Advisory Committee Charge

- Finalize the Fund eligibility criteria
- Meet quarterly to review applications and recommend participants for the Fund
- 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 on future plans
- Provide information to applicants about other resources for debt relief, where appropriate

Staff Support

The Chapel Hill Police Department (CHPD) currently houses a robust and effective Crisis Unit, staffed by five Masters-level clinicians 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 provide a staff liaison to the Advisory Committee and will screen applications for eligibility.

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 fines and fees incurred in Orange County court matters but could also include fees owed to the Department of Motor Vehicles (DMV).

The Crisis Unit will serve as a liaison to the advisory committee throughout the nomination process. Participants can be nominated by any community group or can even self-nominate. All applicants to the program will be vetted by the Crisis Unit to ensure they meet the program criteria. 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 DMV.

NEXT STEPS:

We request \$20,000 to pilot this program starting in FY20 with a report out to Council after 6 months of implementation so that it can be considered for future funding, if there is continued interest. Program metrics will be finalized with the advisory committee but would likely include 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.)

A secondary term goal of this initiative is to bring the issue of the disparate impact on the poor of court fines 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.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Megan Johnson, Police Crisis Unit Supervisor

RECOMMENDATION: That the Council consider establishing a Criminal Justice Debt Relief Fund.