

MAKING FAMILIES PAY

THE HARMFUL, UNLAWFUL, AND COSTLY PRACTICE OF
CHARGING JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA



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We dedicate this report to families with youth in the California juvenile system.

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EXECUTIVE SUMMARY

IN THE WAKE OF TRAGEDIES in cities like Ferguson, Missouri, national attention is focused on the regressive and racially discriminatory practice of charging fines and fees to people in the criminal justice system. People of color are overrepresented at every stage in the criminal justice system, even when controlling for alleged criminal behavior. Racially disproportionate treatment in the system leaves people of color with significantly more criminal justice debt, including burdensome administrative fees.

While regressive and discriminatory criminal justice fees have been described and critiqued in the adult system, the issue has received very little attention in the juvenile system. Nevertheless, families with youth in the juvenile system are charged similar fees, which significantly undermine the system's rehabilitative goals. The harmful practice of charging poor people for their interaction with the criminal justice system is not limited to places like Ferguson, Missouri. California, too, makes families pay for their children's involvement in the juvenile system.

This report presents findings about the practice of assessing and collecting administrative fees from families with youth in the California juvenile system. We use the term "administrative fees" to describe the charges imposed by local jurisdictions on families for their child's involvement in the juvenile system. State law permits counties to charge administrative fees for legal representation, detention, and probation, but only to families with the ability to pay. Most counties in California charge these administrative fees, imposing millions of dollars of debt on families with youth in the juvenile system.

Our research over the last three years reveals that juvenile administrative fees undermine the rehabilitative purpose of the juvenile system. Counties charge these fees to families already struggling to maintain economic and social stability. Fee debt becomes a civil judgment upon assessment. If families do not pay the fees, counties refer the debt to the state Franchise Tax Board, which garnishes parents' wages and intercepts their tax refunds. Under state law, these fees are meant to help protect the fiscal integrity of counties. They are not supposed to be retributive (to punish the family), rehabilitative (to help the youth) or restorative (to repay victims).

This report details our findings on juvenile fees in California, but we summarize them here:

HARMFUL: Juvenile administrative fees cause financial hardship to families, weaken family ties, and undermine family reunification. Because Black and Latino youth are overrepresented and overpunished relative to White youth in the juvenile system, families of color bear a disproportionate burden of the fees. Criminologists recently found that juvenile debt correlates with a greater likelihood of recidi-

vism, even after controlling for case characteristics and youth demographics. These negative outcomes from fees undermine the rehabilitative purpose of the juvenile system.

UNLAWFUL: Some counties charge juvenile administrative fees to families in violation of state law, including fees that are not authorized in the juvenile setting, fees that exceed statutory maximums, and fees for youth who are found not guilty. Some counties violate federal law by charging families to feed their children while seeking reimbursement for the same meals from national breakfast and lunch programs. Further, counties engage in fee practices that may violate the state Constitution by depriving families of due process of law through inadequate ability to pay determinations and by denying families equal protection of the law in charging certain fees.

COSTLY: Counties are authorized to charge families for juvenile administrative fees to pay for the care and supervision of their children. Yet counties net little revenue from the fees. Because of the high costs and low returns associated with trying to collect fees from low-income families, most of the fee revenue pays for collection activities, not for the care and supervision of youth. Further, the fee debt can cause families to spend less on positive social goods, such as education and preventative health-care, which imposes long term costs on families, communities, and society by prolonging and exacerbating poverty.

Based on our findings, fixing the system is not an option. Charging administrative fees to families with youth in the juvenile system does not serve rehabilitative purposes. Other mechanisms in the system punish youth for their mistakes and address the needs of victims. Further, we did not find a single county in which fee practices were both fair and cost-effective. Counties either improperly charge low-income families and net little revenue, or they fairly assess families' inability to pay and net even less. Counties that have recently considered the overall harm, lawfulness, and costs of juvenile administrative fees have all ended the practice.

In light of our findings, we make the following recommendations to policymakers:

RECOMMENDATIONS

1. To end their harmful impact on youth and families, the state should repeal laws that permit the assessment and collection of juvenile administrative fees.
2. To redress unlawful practices, counties should reimburse families for all payments they made on improperly charged juvenile administrative fees.
3. To understand the consequences of costly practices like juvenile administrative fees, the state and counties should collect and maintain better data in the juvenile system.

INTRODUCTION

Orange County billed Maria Rivera \$16,372 for her son’s detention and lawyer.⁷ Ms. Rivera sold her home to pay the county more than \$9,500.⁸ When the county pursued the balance of the debt, Ms. Rivera filed for bankruptcy.⁹ Even after bankruptcy, Orange County continued to pursue the debt until a federal court ordered the county to stop.¹⁰

Contra Costa County billed Mariana Cuevas over \$10,000 for her son’s detention, even after all charges against him were dropped.¹¹ A housecleaner struggling to make ends meet, Ms. Cuevas made payments when she could.¹² Although the county eventually reduced the debt, Ms. Cuevas noted, “still they wanted to blame him for something he never did.”¹³

Sally Stokes was billed more than \$1,000 for her granddaughter’s detention in Los Angeles County.¹⁴ Living on Social Security benefits, Ms. Stokes could not afford to make payments.¹⁵ The County spent nearly \$13,000 to pursue the debt, or more than ten times the debt itself.¹⁶ Ms. Stokes observed: “They were trying to take blood from a turnip.”¹⁷

THESE ARE JUST A FEW EXAMPLES of the harmful, unlawful, and costly practice of charging administrative fees to families with youth in the juvenile system. State law authorizes these little-known fees, and county probation departments assess and collect them. The fees fall heavily on vulnerable families, especially low-income families of color, and they undermine the rehabilitative purpose of the juvenile system.

Each year, California counties place tens of thousands of youth in the juvenile system.¹⁸ More than 70 percent of system-involved youth are boys, and almost three-quarters of all youth in the system are between the ages of 15 and 17 (the remaining youth are age 14 and younger).¹⁹ More than seven in 10 youth in the California juvenile system are African American (53 percent) and Latino (19 percent); White youth make up just over 20 percent of the juvenile population.²⁰

The stated purpose of California’s juvenile system is to promote public safety by rehabilitating young people through training and treatment.²¹ When a young person enters the system, counties provide legal representation.²² Juvenile courts can order youth who are charged or found guilty of a crime to be detained, and they can require youth to comply with a range of probation conditions, including electronic monitoring and drug testing.²³ Such care and supervision are supposed to help the youth “be a law-abiding and productive member of his or her family and the community.”²⁴

State law also authorizes counties to charge parents and guardians administrative fees for their children’s legal representation, detention, and supervision.²⁵ By statute, these fees are intended to protect counties’ fiscal integrity.²⁶ To protect families against excessive fees, state law prohibits counties from imposing financial burdens on families without establishing their ability to pay.²⁷

Because these charges are unrelated to punishment or restitution, we call them “juvenile administrative fees.” Several counties in California have recently suspended or repealed the use of juvenile administrative fees (Alameda, Contra Costa, and Santa Clara), Los Angeles County suspended juvenile detention fee assessments, and San Francisco County has never charged such fees. However, most California counties still charge families juvenile administrative fees for some portion of their child’s involvement in the juvenile system.

Based on three years of research—including a survey of California’s Chief Probation Officers, Public Records Act requests, and interviews with families of youth in the juvenile system and local officials across the state—we present research findings about juvenile administrative fees in California. We provide a brief overview of juvenile administrative fees, including the legislative history, current state law, and county practices. We present our findings about how juvenile administrative fees are harmful to families, unlawfully assessed, and costly to society. We describe local efforts to end juvenile administrative fees in California and conclude with recommendations.

I. JUVENILE ADMINISTRATIVE FEES

CALIFORNIA STATUTES AUTHORIZE counties to charge families for their child’s legal representation, detention, and probation conditions in the juvenile system.²⁸ Although state law authorizes juvenile administrative fees, counties decide which fees to impose and in what amounts.²⁹ The fees we describe here are purely administrative in nature—by law, the fees are meant solely “to protect the fiscal integrity of the county.”³⁰ In this Section, we briefly describe the legislative history of juvenile administrative fees in California, current state law, and county fee practices.

A. LEGISLATIVE HISTORY

The California Legislature first authorized counties to charge families fees for detaining their children in 1961.³¹ Although the original motivation is unclear, some have suggested that counties were concerned about parents misusing detention facilities to supervise youth when they misbehaved.³² While we found no evidence of parents using the juvenile system in this way in California, by the end of the 1960s, the state authorized counties to charge families for providing a public defender to youth in the system and for probation supervision.³³

In response to rising juvenile caseloads and county fiscal concerns, lawmakers approved additional fees beginning in the 1980s.³⁴ In 1987, the Legislature authorized fees for drug testing,³⁵ and in 1992, it authorized fees for legal representation by non-public defenders.³⁶ In 1996, the Legislature permitted counties to charge families for additional probation conditions, including for the home supervision and electronic monitoring of youth.³⁷ Most recently, in 2001, the Legislature increased the maximum amount counties could charge families for detaining their children from \$15 to \$30 per day.³⁸

Although these laws all remain on the books, state and local lawmakers have recently begun to question the wisdom of charging juvenile administrative fees. In 2016, Alameda, Santa Clara, and Contra Costa Counties repealed or suspended juvenile fee assessment and collection.³⁹ Los Angeles County imposed a moratorium on juvenile detention fee assessments in 2009, and San Francisco County has never charged such fees.⁴⁰ In 2017, Senators Holly Mitchell and Ricardo Lara, along with nine co-authors, introduced Senate Bill 190 to repeal juvenile administrative fees statewide.⁴¹

B. CURRENT STATE LAW

California state law currently permits counties to charge juvenile administrative fees to families for their children’s legal representation, detention, and probation conditions, including electronic

monitoring, supervision, and drug-testing.⁴² County Boards of Supervisors determine which fees to charge and in what amounts, which are typically established by local ordinance, resolution, or practice. State law limits some fees, such as the detention fee, to the actual costs incurred up to a statutory maximum.⁴³

State law prohibits counties from charging fees without determining a family's ability to pay.⁴⁴ By law, counties may designate financial evaluation officers (FEOs) to conduct such determinations.⁴⁵ At sentencing (referred to as "disposition" in the juvenile context), the juvenile court judge must order a parent or guardian who is liable for fees "to appear before the county FEO for a financial evaluation of ability to pay."⁴⁶ In evaluating ability to pay, the FEO and the court are required to consider the family's income, obligations, and dependents.⁴⁷

If families do not meet with a FEO after having been given proper notice to do so, the FEO can assess full costs, regardless of a family's ability to pay.⁴⁸ Whether or not a family meets with an FEO, the FEO then petitions the juvenile court for an order "requiring the person to pay that sum to the County or the court in a manner that is reasonable and compatible with the person's financial ability to pay."⁴⁹ Families have the right to dispute the ability to pay determination in juvenile court, including the right to representation by appointed counsel at such a hearing.⁵⁰

Once ordered by a judge, juvenile administrative fees become a civil judgment enforceable against the parent or guardian.⁵¹ Unpaid fees are subject to collection like any other civil judgment, except that judgments for criminal justice debt are enforceable and can be reported by credit agencies indefinitely.⁵² If families fail to repay their debt in full or make agreed-upon payments on time, the county can refer the debt to the state Franchise Tax Board, which can intercept tax refunds and garnish wages until the debt is paid off.⁵³

C. COUNTY PRACTICES

Although state law authorizes counties to assess and collect juvenile administrative fees, they are not required to do so. To map juvenile fee practices across the state, we surveyed California's Chief Probation Officers in all 58 counties.⁵⁴ We verified survey responses through publicly available data and follow-up with counties. We also updated survey responses based on subsequent developments in several counties.⁵⁵ In total, we have at least some information about juvenile administrative fees in every county.

As we describe next, most California counties charge one or more juvenile administrative fees. The fee burden on families varies by county depending on the amounts they charge and the duration of detention and probation-related conditions they impose on youth. As noted above and described in more detail below, several counties have recently repealed or suspended juvenile fee assessment and collection.

1. More than 9 in 10 California counties charge juvenile administrative fees

Although fee types and amounts vary by jurisdiction, 54 of California's 58 counties currently charge families one or more juvenile administrative fees: 49 counties charge families for juvenile detention, 36 charge families for legal counsel, 28 charge families for electronic monitoring, 24 charge families for probation supervision, 16 charge families for drug testing and eight charge families for investigation reports (Figure 1).⁵⁶

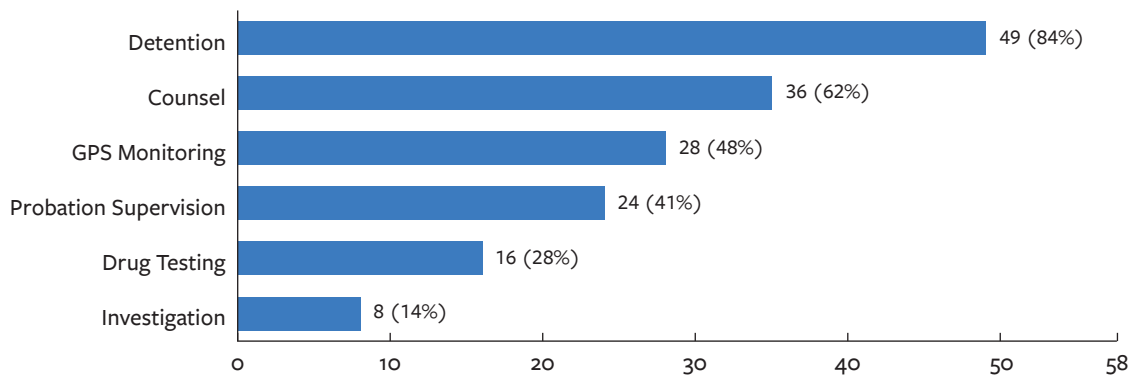


Figure 1: Number of California’s 58 Counties that Charge Juvenile Administrative Fees

Two counties—Madera and Mariposa—report charging all six fees, and 11 counties only charge one fee (usually detention). The majority of jurisdictions (42 counties) charge two or more fees, with three being the most common number of fees (16 counties). *See Appendix A for a list of the fees that each county charges.*

2. Fee amounts and family burdens vary by county

Fee amounts and their burden on families vary by county. Counties charge different fees for different items. For example, juvenile hall fees range from \$3.18 in Lake County to \$40 per day in San Luis Obispo County.⁵⁷ Electronic monitoring fees can also vary widely, with assessments ranging from \$3.50 per day in Mono County to \$30 per day in Yolo County.⁵⁸

Similarly, detention and probation conditions vary by case. Some youth are detained and placed on all possible probation conditions—such as electronic monitoring and drug testing—while others may only be detained.⁵⁹ Average probation conditions are especially difficult to estimate because most counties either do not systematically track such information or did not provide the data. The only reliable statewide data are length of stays in juvenile halls, which average about 25 days across California.⁶⁰

To depict relative fee burdens in California’s 15 most populous counties, we compare charges to a family with a young person represented by a public defender (assuming 2 hours of work) and sentenced to the statewide average period of detention in juvenile hall (25 days) and a common set of probation conditions, including electronic monitoring (50 days), probation supervision (17 months), and periodic drug testing (8 times) (Table 1).⁶¹ *See Appendix B for a comparison of fee charges in California’s 58 counties.*

Counties charge varying amounts for each fee type, resulting in very different burdens on families. The potential fee burden on families ranges from hundreds to thousands of dollars per case, and differs by a factor of more than 10 between the county with the lowest charges (San Bernardino) and the county with the highest charges (Sacramento). *See Appendix C for a comparison of the average length of stay in juvenile hall facilities and the related detention fees in California counties.*

County	TOTAL	Juvenile Hall	Public Defender	Electronic Monitoring	Probation Supervision	Drug Testing
<i>Average terms</i>		<i>25 days</i>	<i>Per case + 2 hours</i>	<i>50 days</i>	<i>17 months</i>	<i>8 times</i>
Sacramento	\$5,640	\$18.40/day	\$318.00+	\$24.00/day	\$206.00/mo.	\$20.00/test
San Diego	\$2,150	\$30.00/day	-	\$28.00/day	-	-
Kern	\$1,850	\$29.00/day	-	\$25.00 + \$22.00/day	-	-
Ventura	\$1,735	\$33.00/day	\$150.00-300.00 + \$158.75/hour	\$75.00 + \$7.50/day	-	-
Orange	\$1,372	\$23.90/day	\$245.00 + \$220.00/hour	-	-	\$11.30/test
San Mateo	\$1,150	\$30.00/day	\$220.00+	\$8.00/day	-	-
Fresno	\$1,148	\$19.00/day	\$73.00+	\$11.00/day	\$50.00 once	
Riverside	\$1,039	\$30.00/day	\$50 + \$119.51/hour	-	-	-
San Joaquin	\$972	\$31.12/day	\$125.00-175.00	-	-	-
San Bernardino	\$563	\$20.53/day	\$50	-	-	-
Los Angeles	\$50	Suspended	\$50	-	-	-
Alameda	\$0	Repealed	Repealed	Repealed	Repealed	Repealed
Santa Clara	\$0	Repealed	Repealed	Repealed	-	-
Contra Costa	\$0	Suspended	-	Suspended	-	-
San Francisco	\$0	-	-	-	-	-

Table 1: Juvenile Administrative Fees for a Youth Serving Common Probation Conditions in California’s Fifteen Largest Counties by Population

3. Some counties do not charge juvenile administrative fees

While most California counties charge juvenile administrative fees, as noted in Table 1, five counties do not charge the fees:⁶²

- Alameda County repealed the assessment and collection of all fees in 2016.⁶³
- Contra Costa County suspended the assessment and collection of all fees in 2016.⁶⁴
- Los Angeles County suspended the assessment of all detention fees in 2009.⁶⁵
- San Francisco County has never charged such fees.⁶⁶
- Santa Clara County repealed the assessment and collection of all fees in January 2017.⁶⁷

We describe the fee reforms in these counties in more detail in Section III below.

II. RESEARCH FINDINGS

AS DESCRIBED ABOVE, most California counties charge administrative fees to families with youth in the juvenile system. The fees are authorized by state law, set by county Boards of Supervisors, and administered by local probation and collection departments. Counties are required to evaluate families' ability to pay the fees, and the fees are supposed to help protect counties fiscal integrity.

Based on our research of juvenile administrative fee practices in California, we have found that the fees are *harmful* to youth and families, undermining the rehabilitative purpose of the juvenile system. In addition, fee practices are sometimes *unlawful*, as counties charge fees that violate state or federal law and/or fail to conduct an ability to pay process that meets legal requirements. Finally, the fee system is *costly*. Because most families cannot afford to pay the fees, counties collect a small percentage of what they charge, most of which pays for collection activity and not to support youth. The fees also generate additional collateral consequences for families, communities, and society.

In this Section, we present our findings about these aspects of juvenile administrative fees in California. We include examples from individual counties for illustrative purposes, but our research suggests that juvenile administrative fee practices are harmful, unlawful, and costly across California. In fact, we have yet to find a county with a fee regime that advances the rehabilitative goals of the juvenile system, is operated consistent with legal requirements, and recoups significant revenue to support youth.

A. JUVENILE ADMINISTRATIVE FEES HARM VULNERABLE FAMILIES

The goal of California's juvenile system is to promote public safety by rehabilitating young people through training and treatment.⁶⁸ Our findings suggest that juvenile administrative fees undermine the purpose of the system by harming vulnerable families. Because youth of color are disproportionately arrested, detained, and punished in the juvenile system, fee amounts are especially burdensome for families of color. In fact, recent evidence suggests that such fees may increase recidivism among youth.

1. Fees harm low-income youth and their families

Through a series of interviews with youth and their families conducted by the clinic and others, we repeatedly heard stories about ways in which juvenile administrative fees impose significant harms on the large number of families in the system who cannot afford to pay them.⁶⁹ These harms frustrate the rehabilitative purpose of California's juvenile system. The fees create hardship for families forced to

choose between paying for necessities and paying the county, they weaken ties between youth and their parents by adding more stress to family relationships, and they undermine family reunification.

a. Fees create financial hardship for families

Under state law, counties that assess juvenile administrative fees are required “to protect persons against whom the county seeks to impose liability from excessive charges.”⁷⁰ Counties do not gather or maintain socio-economic data on youth and their families in the juvenile system, but evidence suggests that most of them are low-income.⁷¹ We found that counties charge fees to families who are unable to pay—we discuss below how the ability to pay process is flawed in many counties. As a result, families struggle as they must choose between paying fees to the county and meeting their basic necessities such as food, rent, and utilities.⁷²

For example, the Orange County Probation Department charged Maria Rivera more than \$16,000 for her son’s detention and legal costs.⁷³ An unemployed single mother, Ms. Rivera received only a Social Security check for her youngest son and child support from her son’s non-custodial father.⁷⁴ The county never formally determined Ms. Rivera’s ability to pay, so it charged her the maximum fees allowed under law.⁷⁵ Given her limited resources, Ms. Rivera made small payments when she could.⁷⁶

When the debts and collection activity became overwhelming, Ms. Rivera sold her home in an effort to reimburse the county.⁷⁷ With the proceeds of the sale, she paid the county more than \$9,500. Still in debt to the county for another \$9,900—an amount the county could not explain, since she had already paid well over half of what she was charged—Ms. Rivera filed for bankruptcy.⁷⁸ Even after a bankruptcy court discharged the debt, the Orange County Probation Department pursued payment on the grounds that juvenile administrative fees were not dischargeable in bankruptcy (i.e., she still owed the money to the county).⁷⁹

The U.S. Court of Appeals for the 9th Circuit eventually held that Ms. Rivera’s juvenile fee debt was legally discharged in bankruptcy, ending the county’s collection activity.⁸⁰ In the meantime, Ms. Rivera lost her home because of the juvenile fee debt. Ms. Rivera’s story is not unique. As of November 2016, Orange County reported outstanding juvenile fee debt from 44 families who were either in bankruptcy proceedings or had recently exited bankruptcy.⁸¹

b. Fees weaken family ties

The California juvenile system is supposed to “preserve and strengthen the minor’s family ties.”⁸² Our research has shown that charging juvenile administrative fees weakens family relationships. Many families already have challenging relationships due to their child’s involvement in the juvenile system, and adding a financial burden can amplify feelings of anger or resentment.

Michael Gonzalez was incarcerated by Los Angeles County at a youth camp in Calabasas. He said that he worried about the fee bills every day:

My mom works two jobs to raise me and my sister. It caused a lot of tension and arguments. My rebellion is costing them; that doesn’t seem fair to me. I want to go home, but this money is stressing everybody, and I know it will make it hard to go back with my family.⁸³

In Alameda County, a father described how fees stemming from his son’s detention strained their relationship:

*They (the fees) don't do anything besides make it more difficult for families to take care of each other. What will I do if they garnish my wages? Will that make me a better father? Will that make me a better person? No. It will make me more angry at my son.*⁸⁴

c. Fees undermine family reunification

California law further states that “reunification of the minor with his or her family shall be a primary objective of the juvenile system.”⁸⁵ However, we found that juvenile administrative fees create negative incentives for youth and their families. Rather than supporting family reunification, parental liability for juvenile fees pulls families apart.

Loretta Wells, a 54-year-old Master Sergeant on leave from the U.S. Army, assumed guardianship of her three grandchildren after the death of her daughter two years ago. As she observed, “These children have been through a world of hurt and I’m not going to just leave them on their own.”⁸⁶ Unfortunately, when her grandson got into fight with other boys, he was placed in juvenile hall in Alameda County, and she received a large fee bill.⁸⁷

Unable to pay any additional bills on her income of \$368 per month, Ms. Wells asked the financial evaluation officer what would happen if she was not her grandson’s guardian.⁸⁸ The officer told her that if her grandson “didn’t have a guardian and was purely a ward of the court, then the state would have to pay for all the fees.”⁸⁹ To deal with the unbearable debt, Ms. Wells considered relinquishing custody of her grandson to the county. If that was her only option, “then that’s how we’re going to do it,” she said.⁹⁰

In another instance, Alameda County charged J.M.’s family hundreds of dollars for time that he spent in juvenile facilities.⁹¹ J.M.’s mother paid off about half of the debt, but she struggled when her monthly income dropped below the poverty level.⁹² Distressed by the financial impact of his actions on the family, J.M. considered running away from home and living on the streets—in effect, becoming homeless—in the hope that his mother would be relieved of the fee burden.⁹³

As a member of the Los Angeles County Commission on Human Relations observed prior to the county moratorium on detention fees:

*If the stated goals of Probation are to rebuild lives and provide for healthier and safer communities, how do the incredibly harsh billing practices, that contribute to so much family stress and conflict, match with those goals?*⁹⁴

2. Fees disproportionately harm families of color

Data suggest that juvenile administrative fees disproportionately harm families of color. Because of discrimination against them at every stage of the process, youth of color are significantly overrepresented in the juvenile system relative to White youth, even when controlling for underlying charges.⁹⁵ And because counties punish youth of color more frequently and harshly, their families are liable for higher fee burdens.

a. Youth of color are overrepresented and overpunished in the juvenile system

In California, Black and Latino youth are punished more often and more severely at every stage of the juvenile system.⁹⁶ Counties do not maintain data that permit a full assessment of the extent to which these racial disparities are related to the underlying seriousness of the crimes for which youth are

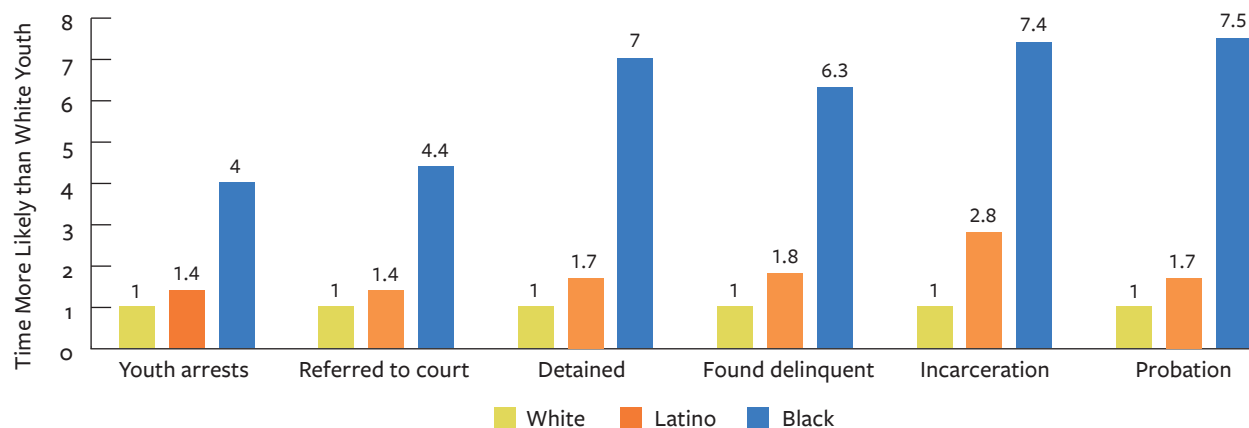


Figure 2: Racial Disparity in California’s Juvenile System, 2014

punished. However, evidence on youth interaction with the juvenile system suggests that the differences are due in substantial part to racial bias.⁹⁷

In fact, racial or ethnic disparities accumulate as youth move through the system (Figure 2).⁹⁸ According to the most recent data from the state, Black youth in California are four times more likely to be arrested than White youth but over seven times more likely to be detained, incarcerated, and put on probation.⁹⁹ Latino youth are almost twice as likely as White youth to be detained and put on probation, and they are almost three times as likely to be incarcerated.¹⁰⁰ See Appendix D for details on detention rates and disparities for White, Latino, and Black youth.

Beyond the disparate arrest, detention, and probation figures, youth of color are punished more harshly than White youth. For example, in Alameda County—the only county from which we received any data on probation conditions by race and ethnicity—Black youth serve longer probation terms than White youth. In a one-month snapshot from 2013, the average Black youth served 25 days in juvenile hall, 22 months on probation supervision, and 34 days on electronic monitoring.¹⁰¹ The corresponding numbers for White youth were 11 days in juvenile hall, 10 months on probation supervision, and 21 days on electronic monitoring.¹⁰² Although the county did not provide additional data about their cases, Black youth were being punished with average probation sanctions that were at least 50 percent longer than—and in some cases more than twice the length of—sanctions imposed on White youth.

b. Families of color are disproportionately liable for juvenile fees

Because youth of color are punished more frequently and harshly in the juvenile system, Black and Latino families are liable for higher administrative fees. Most juvenile administrative fees are assessed according to the duration of sanctions. Although Alameda County recently repealed all of its juvenile administrative fees, the following table summarizes the disparate fee liability by race and ethnicity for families of youth serving average probation conditions (Table 2).

As depicted in Table 2, the family of a Black youth serving average probation conditions was liable for more than double the juvenile administrative fees (\$3,438) as the family of a White youth serving average probation conditions (\$1,637). The family of a Latino youth serving average probation conditions was liable for more than one and a half times the fees (\$2,563) as the family of a White youth serving av-

Race and Ethnicity	Total Fee Liability	Average Probation Conditions			
		Juvenile Hall (days)	Probation Supervision (months)	Electronic Monitoring (days)	Drug Testing (tests)
		\$25.29/day	\$90.00/mo.	\$15.00/day	\$28.68/test
Black	\$3,438	25	22	34	11
Latino	\$2,563	24	14	33	7
Asian	\$2,269	7	12	56	6
White	\$1,637	11	10	21	5
Other	\$1,192	4	6	31	3

Table 2: Average Juvenile Probation Conditions and Fees by Race and Ethnicity in Alameda County, 2013

average probation conditions (\$1,637).¹⁰³ And the families of Asian youth serving average probation conditions were liable for greater fees (\$2,269) than their White counterparts (\$1,637), mostly due to much longer time spent on electronic monitoring.¹⁰⁴

As the Alameda County Board of Supervisors noted in adopting a 2016 moratorium on the fees prior to repealing them fully later that year:

*Youth of color are disproportionality [sic] impacted by the imposition of fees. According to Alameda County Probation Department data youth of color are overrepresented in the system and, on average, serve longer probation terms than their white counterparts. This means that youth of color, and their families, have a heavier financial burden. These fees are unfair and unrealistic given the adverse economic conditions faced by families with youth in the juvenile system.*¹⁰⁵

3. Fees may increase recidivism

Recent research suggests that juvenile administrative fees may increase the likelihood of youth recidivism.¹⁰⁶ In the most rigorous study to date, criminologists measured financial penalties (fines, fees, and restitution) imposed on youth and their families in Allegheny County, Pennsylvania and found that such debt correlated with a greater likelihood of recidivism.¹⁰⁷ Though the data did not permit researchers to establish a causal relationship between fees and recidivism, the correlations between the two held even after controlling for case characteristics and youth demographics.¹⁰⁸

Consistent with the Alameda County data reported above, the Pennsylvania study also found that families of color were almost twice as likely as White families to have fine, fee, and restitution debt upon their child’s case closing: 29.1% of the families of youth of color still had debt upon case closing, compared to only 15.6% of the families of White youth.¹⁰⁹ Thus, families of color are harmed not only by the greater likelihood and amount of fee debt, but also by the likelihood that it will lead to recidivism.¹¹⁰

In California, graduate students at the U.C. Berkeley School of Public Policy conducted an economic analysis of the juvenile fee regime in Alameda County. The research team did not have access to case-specific recidivism data. However, based on existing literature on recidivism and poverty, they found that eliminating juvenile administrative fees could reduce the criminogenic (recidivism) effect of the fees.¹¹¹

In fully repealing its ordinance to assess and collect fees in early 2017, the Santa Clara County Board of Supervisors noted:

[R]esearch has proven that financial penalties do not reduce recidivism among the juvenile population. Instead the imposition of fees, heightens racial disparities in the juvenile justice system as most affected are low-income youth of color.¹¹²

B. COUNTIES UNLAWFULLY ASSESS AND COLLECT SOME JUVENILE FEES

Counties that choose to assess and collect juvenile administrative fees must do so in accordance with relevant state and federal law. In our research, we have identified a number of unlawful fee policies and practices. First, some counties charge fees that violate state law, including charging families of youth found not guilty. Second, by charging families for breakfast and lunch while seeking reimbursement at the “free meal” rate from school nutrition programs, counties appear to be violating federal law. Finally, by failing properly to assess families’ ability to pay and by charging families for electronic monitoring and probation supervision, counties are engaged in fee practices that are likely unconstitutional.

1. Counties charge fees not permitted by state law

As described above, state law authorizes, but does not require, counties to charge juvenile administrative fees. Based on our research, some counties charge types of fees or fee amounts that exceed their statutory authority. Although we were not able to verify the fee type, amount, and process in all 58 counties, we provide examples below of counties that are charging fees for investigation reports not permitted by state law, detention fees that exceed the statutory maximum, and fees to the families of youth later found not guilty.

a. Counties charge unlawful investigation fees

California law does not authorize counties to charge families fees for their children’s investigation reports. Although state statute allows counties to charge fees for the reasonable cost of a preplea or presentence investigation and report, this provision applies only to adults who are convicted of an offense.¹¹³ There is no separate provision in the Welfare and Institutions Code that authorizes investigation report fees in juvenile court. In other words, counties are not authorized to charge families of youth in the juvenile system for investigation reports that are authorized in the adult system.¹¹⁴

In response to our survey of the Chief Probation Officers of California, 11 counties initially reported that they charged families of youth in the juvenile system an investigation report fee.¹¹⁵ Upon further research, some of these counties only charge such fees to adults, not youth.¹¹⁶ However, Alameda County charged \$250 per case for probation investigation until 2016 when it repealed all juvenile administrative fees. According to their fee schedules, Mariposa and Solano Counties charges families \$300 and \$1,200 respectively per case for disposition and investigation reports.¹¹⁷

ANY COUNTY THAT CHARGES A FEE TO FAMILIES FOR A JUVENILE INVESTIGATION REPORT IS DOING SO IN VIOLATION OF STATE LAW.

b. Counties charge detention fees that exceed the statutory maximum

State law limits detention fees to actual costs “not to exceed a combined maximum cost of thirty dollars (\$30) per day.”¹¹⁸ The fees are limited to the “reasonable costs of support of the minor” to cover “food and food preparation, clothing, personal supplies, and medical expenses.”¹¹⁹ The maximum allowable fees are adjusted every three years based on changes in the California Consumer Price Index.¹²⁰ The maximum daily detention fee was adjusted in January 2015 to \$31.69 per day.¹²¹

Based on a review of fee schedules and records, at least two counties charge in excess of the statutory maximum of \$31.69 per day. San Luis Obispo County charges \$40.00 per day and Ventura County charges \$33.00 per day.¹²² We are unable to verify that all other counties are in compliance with the statutory maximum of \$31.69 per day.

ANY COUNTY THAT CHARGES MORE THAN \$31.69 PER DAY TO FAMILIES FOR JUVENILE DETENTION IS DOING SO IN VIOLATION OF STATE LAW.

c. Counties charge fees to families of youth found not guilty

State law allows counties to charge families fees for the reasonable costs of detention.¹²³ However, the statute limits the circumstances under which a county may charge detention fees to those in which “the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or the minor agrees to a program of supervision. . . .”¹²⁴ Read with existing case law and prohibitions against charging families for the preventive detention of their children, counties may not charge fees to families of youth whose charges are dropped, whose cases are dismissed, or who are found not guilty.¹²⁵

We found California counties that charge fees to families for time youth spent in detention even when they are later found not guilty. Prior to its 2009 moratorium on detention fees, Los Angeles County billed families after youth were acquitted of all charges.¹²⁶ Prior to its 2016 fee moratorium, the Contra Costa County Probation Department charged families for time youth spent in pretrial detention whose petitions were ultimately not sustained.¹²⁷ In Humboldt County, for example, fees are assessed “at the minor’s detention or arraignment hearing,” suggesting that parents of youth may be charged before petitions filed against their children have been adjudicated or sustained.¹²⁸

ANY COUNTY THAT CHARGES FEES TO FAMILIES WITH YOUTH WHO ARE FOUND NOT GUILTY OF ANY CRIME IS DOING SO IN VIOLATION OF STATE LAW.

2. Counties charge fees that may violate federal law

California counties receive reimbursement from national nutrition programs to provide free or reduced price meals to youth in the juvenile system.¹²⁹ The U.S. Department of Agriculture and the California Department of Education administer the School Breakfast Program (SBP) and the National School Lunch Program (NSLP).¹³⁰ Youth who are residents of juvenile detention facilities are categorically eligible for free breakfast and lunch.¹³¹ A free meal is “a meal for which neither the child nor any member of his family pays or is required to work” in the facility.¹³²

We found that at least 17 counties in California accept federal funding for meals provided to youth in their juvenile detention facilities *and* charge parents and guardians daily detention fees, which include reimbursement for food and food preparation.¹³³ For example, in San Joaquin County, “all youth

under the care and custody of the Court and are eligible for full NSLP benefits.”¹³⁴ Yet, San Joaquin County charges families a daily juvenile detention rate that includes food, food preparation, clothing, personal supplies, and medical services.¹³⁵ Since federal regulations require participating schools and facilities to serve free meals to all eligible youth, any costs associated with breakfast and lunch cannot be charged to parents and guardians.¹³⁶

ANY COUNTY THAT CHARGES DETENTION FEES TO FAMILIES FOR MEALS PROVIDED TO YOUTH WHILE RECEIVING NATIONAL NUTRITION PROGRAM FUNDING IS DOING SO IN VIOLATION OF FEDERAL LAW.

3. Counties charge fees that violate the Constitution

The U.S. and California Constitutions prohibit the state and other public entities from depriving people of life, liberty, or property without due process of law or from denying any person equal protection of the law.¹³⁷ Counties deprive families with youth in the juvenile system of due process of law through a flawed ability to pay evaluation. Counties also deny families equal protection of the laws by singling them out to pay fees that are for the benefit of society as a whole.

a. A flawed ability to pay evaluation deprives families of due process

State law requires counties to conduct an ability to pay evaluation before charging families juvenile administrative fees.¹³⁸ The ability to pay process is supposed to protect low-income families from excessive fees.¹³⁹ Financial Evaluation Officers (FEOs) in each county are tasked with determining each family’s ability to pay fees, taking into consideration “the family’s income, the necessary obligations of the family, and the number of persons dependent upon this income.”¹⁴⁰ At a minimum, due process of law requires notice and a meaningful opportunity to be heard by an impartial decision maker.¹⁴¹

We found little evidence that existing ability to pay determinations conducted by FEOs meet basic due process requirements.¹⁴² From interviews with families and other stakeholders in the juvenile system, it is clear that many people do not receive sufficient notice about the fees or the opportunity to be heard by an FEO. In addition, of the 52 Chief Probation Officers who responded to our survey, only 28 reported that they have a standardized process for determining a family’s ability to pay juvenile fees.¹⁴³ In other words, almost half of all responding counties (24 of 52)—comprising more than 40 percent of all California counties (24 of 58)—assess families’ ability to pay on an ad hoc basis.

Many FEOs work for county collection agencies, not probation departments. Collection agencies do not share probation’s rehabilitative purpose, which presents a conflict of interest when evaluating ability to pay. Alameda County acknowledged that it had no written standards or guidelines upon which its FEOs performed ability to pay evaluations as employees of the county collection agency.¹⁴⁴ Rather, all existing policies appeared to be communicated verbally to and among FEOs.¹⁴⁵ One Alameda County FEO reported making decisions based on her assessment of whether the parents were lying.¹⁴⁶ The FEO said it was possible to tell when parents were lying by their clothing, such as “mom’s handbag” and how they act.¹⁴⁷

In a March 2016 memo from Alameda County Supervisors Richard Valle and Keith Carson recommending the suspension of fees, they acknowledged:

The County does not know how many families received fee reductions or waivers based on inability to pay or how many families are billed in full. The County keeps no data on families charged and cannot demonstrate that families who cannot pay have not been charged. In short, there is no data that confirms that only families who can pay have been assessed fees.¹⁴⁸

ANY COUNTY MAKING ABILITY TO PAY EVALUATIONS WITHOUT PROPER NOTICE AND OPPORTUNITY TO BE HEARD BY AN IMPARTIAL DECISION MAKER IS DEPRIVING FAMILIES OF DUE PROCESS OF LAW.

b. Probation supervision and electronic monitoring fees violate equal protection

In California, state courts have held that equal protection principles “require that the state limit its parental charges to those reflective of the parents’ own primary duty of support, and not seek to pass on public costs of incarceration, treatment, supervision, and rehabilitation.”¹⁴⁹ In other words, parents of youth in the juvenile system cannot be singled out to pay costs that are intended to benefit society generally.

Although probation supervision and electronic monitoring are not “preexisting obligations of parents,” and therefore fall outside the parental duty of support, the California Legislature authorized counties to charge families for both items in 1996.¹⁵⁰ The Legislature did so in spite of a Senate Committee analysis which concluded that such fees may violate constitutional equal protection principles. As the committee analyst noted, “[b]y imposing financial responsibility on parents or other responsible persons for costs undertaken for the protection of society or the rehabilitation of the minor, this bill may violate constitutional guarantees of equal protection.”¹⁵¹

Thirty-three counties in California report charging juvenile administrative fees for probation supervision, home supervision, electronic monitoring or some combination thereof.¹⁵² Probation supervision and electronic monitoring are not a preexisting obligation of a parent or guardian but are undertaken for the protection of society.

ANY COUNTY THAT CHARGES FEES TO FAMILIES FOR THE PROBATION SUPERVISION, HOME SUPERVISION, OR ELECTRONIC MONITORING OF YOUTH IS LIKELY DENYING THEM EQUAL PROTECTION OF THE LAWS.

C. JUVENILE ADMINISTRATIVE FEES ARE COSTLY

Counties are authorized by the state Legislature to charge juvenile administrative fees to protect their fiscal integrity.¹⁵³ We found that counties generate little net revenue from charging fees to families with youth in the juvenile system, because most families cannot afford to pay them.¹⁵⁴ Further, county fee revenue pays mostly for assessment and collection activity itself, not to support youth. Finally, the fees generate costly collateral consequences for families, communities, and society.

1. Counties collect little net revenue from the fees

In authorizing counties to charge and collect juvenile administrative fees, the California Legislature intended “to protect the fiscal integrity of the county,” that is, to help pay for the care and supervision of youth.¹⁵⁵ However, counties collect a small percentage of the fees they charge. In fact, after tak-

ing into account the amount of juvenile fee debt collected and the time and resources spent trying to collect such fees annually, most counties generate little net revenue from the fees.

Counties annually charge families tens of millions of dollars in juvenile administrative fees. However, most counties recover a relatively small proportion of what they charge families each year and over time. For example, Sacramento County collected only \$191,000 of the \$1.1 million dollars it charged families for juvenile detention in fiscal year 2014–15, or 16.9 percent.¹⁵⁶ Such low return rates are not a result of lax county collection efforts. Although California counties are not required to maintain data on the socio-economic status of youth in the juvenile system, most system-involved youth come from low-income families who cannot afford to pay such fees.¹⁵⁷

Counties spend significant time and resources trying to collect juvenile fees from families. Counties maintain staffing and infrastructure to administer the juvenile fee assessment and collection process, which entails fiscal obligations such as salaries, benefits, and non-personnel costs. In their probation department or collection agency, counties that charge fees must employ financial evaluation officers to conduct ability to pay evaluations. The expenses add up quickly.

For example, in fiscal year 2014–15, Orange County spent over \$1.7 million to employ 23 individuals to collect just over \$2 million in juvenile administrative fees.¹⁵⁸ The county netted \$371,347, which represents a tiny fraction (less than 0.0068 percent) of its almost \$5.4 billion annual budget.¹⁵⁹ In Santa Clara County—which experienced a net loss in 2014–15, spending \$450,000 to collect only \$400,000—Supervisors noted the futility of pursuing fees from low-income families when implementing its July 2016 moratorium:

There’s a lot of numbers in here in terms of cost but also in terms of significant dollar amounts and collectibles that are probably not really collectibles or receivables.¹⁶⁰

2. Fee revenue pays mostly for collection activity, not support for youth

State law requires counties “[to] limit the charges it seeks to impose to the reasonable costs of support of the minor.”¹⁶¹ However, a considerable percentage of fee revenue funds assessment and collection activities, not support of youth. In four of the five counties for which we have revenue and cost data, more than half of all funds received pay for assessment and collection (Table 3).

Santa Clara County spent more money trying to collect fees than it recovered, and recently ended the practice. In Alameda and Contra Costa Counties, which have also since ended the fees, more than half of all fee revenue paid for collection activity and not support for youth. In Sacramento County,

County	Revenue	Collection Costs (% of Revenue)	Youth Support (% of Revenue)
Alameda	\$419,830	59.77%	40.23%
Contra Costa	\$430,926	67.38%	32.62%
Orange	\$2,071,347	82.07%	17.93%
Sacramento	\$682,636	32.53%	67.47%
Santa Clara	\$399,228	112.72%	-12.72%

Table 3: Fees for Collection Activity and for Youth, FY 2014–15

more than 30 percent of the fee revenue pays for collection activity. Orange County spends more than 80 percent of its fee revenue on collections; in other words, more than four of every five dollars in fee revenue from Orange County families pays for collecting fee revenue from other families with youth in the juvenile system.

Across these five counties, more than 70 percent of all fee revenue pays to collect money from families, not to support youth in the juvenile system. As Contra Costa County Supervisor Karen Mitchoff remarked during a public hearing on juvenile administrative fees in her county:

These fees are supposed to be feeding and housing young people. This is funding a unit to collect money and not even benefiting juvenile hall as stated in the purpose of Welfare and Institutions Code.¹⁶²

3. Fees generate costly collateral consequences for families, communities, and society

The Legislature's intent in authorizing juvenile administrative fees was to protect the fiscal integrity of counties, protect families against excessive fees, ensure reasonable uniformity throughout the state, and limit liability to those who can afford to pay.¹⁶³ As described above, county fee policies and practices fail to achieve each of these aims. But we have also found that the juvenile fee regime generates costly collateral consequences for families, communities, and society.

A 2016 benefit-cost analysis found that eliminating fees in Alameda County alone would result in a net financial benefit to society of \$192,000 annually or more than \$5.5 million in perpetuity (present value) due to state and local administrative savings and the reduction of labor market harms and wage garnishment.¹⁶⁴ As noted above, juvenile fee debt may increase recidivism, but it can also cause families to spend less on positive goods, such as education and preventative healthcare. Crowding out such spending on these positive goods with juvenile administrative fee debt imposes harm over time, prolonging or exacerbating poverty and generating costs to families, communities and society.

As San Francisco County Chief Probation Officer Allan Nance explained when describing why his department does not charge juvenile administrative fees:

We believe that the goals and objectives of our juvenile justice system are being met without the need for fees imposed on those individuals and families that can least afford to pay them. One might argue that [our] successes are attributable to the fact that we did not create additional hardships and stressors for these families that would serve as additional barriers to their success.¹⁶⁵

III. FEE REFORMS

THERE IS GROWING RECOGNITION of the harmful, unlawful, and costly impact of charging fees to families with youth in the juvenile system. California counties have begun to end the assessment and collection of juvenile administrative fees. A California federal appeals court recently admonished Orange County for aggressively pursuing payment on a debt that forced a mother to sell her home and declare bankruptcy. And national voices have encouraged state and local jurisdictions to rethink the fees. In this Section, we outline recent fee reforms and rising calls for policymakers to end harmful fee practices.

A. CALIFORNIA COUNTIES ARE ENDING JUVENILE ADMINISTRATIVE FEES

In the last 12 months, the Boards of Supervisors in Alameda, Contra Costa, and Santa Clara Counties have carefully examined their juvenile administrative fee policies and practices, and they have each voted unanimously to repeal or suspend the assessment and collection of all fees. Los Angeles County, in the wake of revelations about high harm to families and costly collection practices, imposed a moratorium on the assessment of all juvenile detention fees in 2009. San Francisco County has never charged administrative fees to families on the grounds that they undermine the rehabilitative purpose of the juvenile system.

1. Alameda County repealed juvenile administrative fees in 2016

*Imposing this kind of debt on families induces economic and familial instability, which undermines the rehabilitative purpose of the juvenile justice system.*¹⁶⁶

—KEITH CARSON AND RICHARD VALLE, ALAMEDA COUNTY SUPERVISORS

In July 2016, Alameda County became the first county in California to repeal in full the assessment and collection of juvenile fees.¹⁶⁷ The Board of Supervisors unanimously voted to end one of the most extensive fee schemes in the state, which included \$25.29 per day for juvenile detention, \$90 per month for probation supervision, \$15 per day for electronic monitoring, \$28.68 per drug test, \$250 per day for juvenile investigation, and \$300 for legal representation.¹⁶⁸ In fiscal year 2014–15, the county received less than \$200,000 in net revenue from the fees.¹⁶⁹

Even Departments that were affected by the repeal applauded the Board of Supervisors. According to Alameda County Chief Public Defender Brendon Woods, whose office stood to lose tens of thousands of dollars in annual revenue due to the repeal, “The Board of Supervisors deserves tremendous credit for recognizing that an existing county policy was harming families, and taking swift action to correct the problem.”¹⁷⁰ The repeal relieved over 2,900 families of more than \$2 million of outstanding debt.¹⁷¹

2. Contra Costa County suspended juvenile administrative fees in 2016

*The purpose of our juvenile justice system is to promote public safety by rehabilitating young people, but the fee was counterproductive to this purpose. It harmed families already struggling to maintain stability, while providing little revenue to training and treatment programs that benefit youth.*¹⁷²

—JOHN GIOIA, CONTRA COSTA COUNTY SUPERVISOR

In November 2016, the Contra Costa County Board of Supervisors unanimously approved a resolution to impose a moratorium on the assessment and collection of fees.¹⁷³ Prior to the moratorium, Contra Costa County charged families \$30 per day for juvenile detention and \$17 per day for electronic monitoring.¹⁷⁴ Notably, the County also charged families of youth who were held in detention and later found not guilty.¹⁷⁵

The Board was persuaded to act after considering the harm to families, the potential liability to the county of charging unlawful fees, and the small net revenue for youth care and supervision. The moratorium provided immediate relief to almost 6,900 families with more than \$8.5 million in outstanding debt dating back to the early 1990s.¹⁷⁶ The Probation Department and County Administrator’s Office is scheduled to report back to the Board of Supervisors about the implementation of the moratorium and plans for a repeal before May 31, 2017.¹⁷⁷

3. Los Angeles County stopped assessing juvenile detention fees in 2009

*The county does not appear to have made the effort to discern who can afford to pay and who cannot.*¹⁷⁸

—ZEV YAROSLAVSKY, LOS ANGELES COUNTY SUPERVISOR

The Los Angeles County Chief Probation Officer declared a moratorium on juvenile detention fee assessments in March 2009 after pressure from the Youth Justice Coalition and a series of articles by the Los Angeles Times reporting excessive fee amounts and aggressive collection tactics.¹⁷⁹ Prior to the moratorium, the county charged \$11.94 per day for probation camp and \$23.63 per day for juvenile hall.¹⁸⁰ In 2008, the county spent \$812,000 on a team of five collection officers, and \$56,000 on a Texas-based collections agency to recover just over ten percent of the \$23.6 million it charged families in 2008.¹⁸¹

Felicia Cotton, L.A. Probation Department Deputy Chief of Juvenile Institutions, said that the leadership in her department supported the decision to end detention assessments, acknowledging that families often come to the juvenile system in crisis and the fees only compound their stress.¹⁸² Deputy Chief Cotton also said that the County had not terminated employees or reduced services as a result of the moratorium.¹⁸³ Since 2009, neither the Board of Supervisors nor the Probation Department has sought

to reinstate the fees; however, the county still charges registration fees (\$50 per case) for representation by counsel.¹⁸⁴

4. San Francisco County has never charged juvenile administrative fees

*We feel strongly that the policy [of not charging juvenile administrative fees] makes good fiscal sense and is solidly aligned with our youth rehabilitation and public safety objectives.*¹⁸⁵

—ALLEN NANCE, SAN FRANCISCO COUNTY CHIEF PROBATION OFFICER

San Francisco County has never charged juvenile administrative fees. During the recent economic recession—when many Boards of Supervisors increased juvenile administrative fees in an effort to increase revenue—the San Francisco Board of Supervisors tabled a proposal to enact a sliding juvenile fee scale.¹⁸⁶ The county’s position is that the fees are unfair and unrealistic given the adverse economic conditions faced by families with system-involved youth.¹⁸⁷ In 2015, the Chief Probation Officer credited the county’s no-fee policy for contributing to its success in reducing delinquency referrals by 50% and detentions by 43% over the prior six years.¹⁸⁸

5. Santa Clara County repealed juvenile administrative fees in 2017

*It is in the best interest of the County to adopt this resolution in an effort to address and potentially reduce the disproportionate representation of youth of color within our juvenile justice system.*¹⁸⁹

—SANTA CLARA COUNTY RESOLUTION

In January 2017, the Santa Clara County Board of Supervisors unanimously repealed its ordinances that authorized the assessment and collection of juvenile administrative fees.¹⁹⁰ Prior to a 2016 fee moratorium that led to the repeal, Santa Clara County charged families \$30 per day for juvenile detention, \$14 per day for electronic monitoring, and \$280 per hour for legal representation.¹⁹¹ In fiscal year 2014-15, the county spent almost \$450,000 to collect less than \$400,000 from families.¹⁹² In fact, approximately 43 percent of the fees were found to be “uncollectible due to unsuccessful outreach, low financial means of the debtor, or other circumstances, such as incarceration.”¹⁹³

In its repeal resolution, the Board acknowledged that many low-income families were forced “to choose between basic necessities” and paying fees.¹⁹⁴ Further, the Board noted that youth of color were most affected by these fees and fines as they “are nearly two times as likely to live in poverty compared to white families.”¹⁹⁵ The repeal relieved over 8,000 families of more than \$7.5 million in outstanding debt.¹⁹⁶

B. A FEDERAL COURT CRITICIZED JUVENILE ADMINISTRATIVE FEE PRACTICES IN CALIFORNIA

In addition to county lawmakers, courts have also started to cast a critical gaze on juvenile administrative fee practices. We described Orange County’s pursuit of more than \$16,000 from Maria Rivera, even after she sold her home, paid more than \$9,500, and declared bankruptcy. After the debt was initially discharged by a bankruptcy court, the Orange County Probation Department refused to relent, arguing that the debt was not dischargeable in bankruptcy.¹⁹⁷

During the hearing on the case before the U.S. Court of Appeals for the 9th Circuit, the three-judge panel was incredulous at the county's aggressive efforts to collect money from a mother who had been forced to sell her home because of juvenile fee debt.¹⁹⁸ In holding that the debt was legally dischargeable in bankruptcy, effectively ending the county's collection activity, the Court admonished the Orange County Probation Department for continuing to pursue payment:

Not only does such a policy unfairly conscript the poorest members of society to bear the costs of public institutions, operating "as a regressive tax," but it takes advantage of people when they are at their most vulnerable, essentially imposing "a tax upon distress." Moreover, experience shows that the practice undermines the credibility of government and the perceived integrity of the legal process.

Section 903 [of the California Welfare & Institutions Code] permits the County to impose debts on the parents of children detained in juvenile hall, but it does not require it to do so. Like so much else, it is a matter of the County's discretion whether to send the parent a bill in the first place, and a matter of further discretion whether to persist in collecting the debt when that parent's circumstances change for the worse. We would hope that in the future the County will exercise its discretion in a way that protects the best interests of minors and the society they will join as adults, instead of following a directly opposite and harmful course.¹⁹⁹

C. NATIONAL VOICES ARE CALLING FOR AN END TO JUVENILE ADMINISTRATIVE FEES

California counties and courts are not alone in raising concerns about juvenile administrative fees. The country's leading non-profit law firm for youth issued a report in 2016 about the harmful impact of fines and fees in the juvenile system. In the wake of that report—and a policy brief we published about the issue in Alameda County—the New York Times called for an end to juvenile administrative fees nationally. In early 2017, the Obama Administration's outgoing Department of Justice issued an advisory cautioning local jurisdictions about unlawful juvenile fee practices and the burdens they impose on vulnerable families.

1. A National Report Identified the Scope of Juvenile Administrative Fees

The Juvenile Law Center reviewed laws and practices on fines, fees, and restitution imposed on youth involved in the juvenile system and their families in all 50 states and the District of Columbia. They also conducted a national survey of attorneys and youth and their families about their experience with the juvenile system and the costs they faced. In September 2016, the Center released its findings in a national report, *DEBTOR'S PRISON FOR KIDS? THE HIGH COST OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM*.²⁰⁰

The report found that nearly every state in the country allows juvenile courts to impose fees on youth and their families for things like probation, representation by counsel, incarceration, and restitution.²⁰¹ For example, 47 states authorize fees for the cost of care, 21 authorize fees for probation and supervision, and 32 authorize fees for evaluation and testing.²⁰² The report found that these fees may increase recidivism, push impoverished young people deeper into the juvenile system, exacerbate existing racial disparities in the juvenile system, and heighten economic and emotional distress for families who may already be struggling financially.²⁰³

The report closed by highlighting solutions and jurisdictions taking on change in policies to ensure that youth are not punished for being poor.²⁰⁴ One such jurisdiction was Alameda County in the wake of its fee repeal.²⁰⁵ The report concluded that: “Counties and states across the country should consider a similar approach [to Alameda County]—eliminating harmful costs, fines, and fees.”²⁰⁶

2. The Obama Justice Department Cautioned Against Imposing Fees on Youth

In December 2015, the U.S. Department of Justice (DOJ) held a two-day convening to discuss fines and fees in courts across the country.²⁰⁷ In conjunction with the convening, the White House Council of Economic Advisors released an issue brief on the topic.²⁰⁸ In September 2016, the DOJ held a follow-up convening on criminal justice debt, including a panel on juvenile fines and fees.²⁰⁹

Just a week before President Barack Obama left office, the DOJ issued a formal ADVISORY TO RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEPARTMENT OF JUSTICE ON LEVYING FINES AND FEES ON JUVENILES. The advisory was meant to remind state and local jurisdictions about the statutory and constitutional rights of youth in the juvenile system regarding fines and fees, including special non-discrimination protections that apply to programs, such as county probation departments, that receive federal financial assistance. The advisory was also concerned about the undue hardship of imposing additional financial obligations on youth and their families in the juvenile system:

*One overriding difference between the juvenile justice system and the criminal justice system is the former’s primary focus on rehabilitation. Before courts impose fines and fees on juveniles—even on those rare juveniles who might be able to pay—they should consider whether such financial burdens serve rehabilitation. In many cases, fines and fees will be more punitive than rehabilitative, and they may in fact present an impediment to other rehabilitative steps, such as employment and education.*²¹⁰

3. National Media Call Attention to the Harm of Juvenile Administrative Fees

In September 2016, The New York Times ran a front-page story about the impact of juvenile fees on a family in Florida.²¹¹ The story emphasized the ways fines and fees can trap poor families. Imposing fees on families is counterproductive and draws youth, particularly youth of color, deeper into juvenile system.²¹²

Shortly thereafter, the editorial board cited local fee reform efforts in California in calling for an end to juvenile administrative fees nationwide:

A recent study in Alameda County, Calif., found that juveniles in its justice system were charged, on average, about \$2,000, or two months’ salary for a single parent earning the federal minimum wage. Yet after the county paid the costs associated with collecting those fees, it netted almost no revenue.

*To their credit, Alameda County officials saw the folly of a system that harmed a lot of people and produced no discernible public benefit. Last March, the county Board of Supervisors put an immediate moratorium on all administrative court fees in juvenile cases. In July, the board voted to repeal those fees permanently. Counties across the country would be wise to follow suit.*²¹³

In December 2016, The New Yorker published a piece about the long-term costs of imposing fines and fees on youth in the juvenile system.²¹⁴ The article noted that jurisdictions and individuals are beginning to recognize that fees are part of a larger problem with our juvenile system, which punishes youth rather than helping them.²¹⁵ In March 2017, the Washington Post ran a front-page story about juvenile fees, including coverage of reform efforts in California.²¹⁶

IV. RECOMMENDATIONS

IN LIGHT OF STATE LAW, our research findings, and the reforms already underway in California, we make the following three recommendations:

- (1) to end their harmful impact on youth and families, the state should repeal laws that permit the assessment and collection of juvenile administrative fees;
- (2) to redress unlawful practices, counties should reimburse families for all payments they made on improperly charged juvenile administrative fees; and
- (3) to understand the consequences of costly practices like juvenile administrative fees, the state and counties should collect and maintain better data in the juvenile system.

A. CALIFORNIA SHOULD END ALL JUVENILE ADMINISTRATIVE FEES

To stop their harmful impact on youth and families, California should repeal all juvenile administrative fees. On the assessment side, a repeal requires amending and striking relevant state statutes that currently authorize counties to charge fees for juvenile detention (in halls, ranches, and camps), probation supervision, electronic monitoring, drug testing, and legal representation by public defenders and court-appointed counsel. A forward-looking repeal would protect California families from further harm and would end unlawful and costly fee practices.

Fee repeal should also include retrospective provisions to end the collection of all outstanding juvenile administrative fee debt, including vacating existing fee judgments imposed pursuant to the repealed and amended statutes. Extrapolating from reliable figures provided by several counties, many tens of thousands of low income California families with youth in the juvenile system are laboring under millions of dollars in fee judgments, some of which were unlawfully imposed. Counties that recently ended the fees have found it difficult if not impossible to determine whether families were properly charged; all counties should stop collecting existing debt.

Fortunately, the Legislature and the Governor can act quickly to end the assessment and collection of juvenile administrative fees. As noted above, in January 2017, California Senators Holly Mitchell and Ricardo Lara—with nine co-authors—introduced Senate Bill 190 to repeal the fees statewide.²¹⁷ Senate Bill 190 would amend relevant state laws relating to the assessment and collection of juvenile fees.²¹⁸ The bill would also render the balance of any court-ordered debt imposed pursuant to these sections “unenforceable and uncollectable” and would vacate the portion of any court judgment imposing those costs.²¹⁹

B. COUNTIES SHOULD REIMBURSE FAMILIES FOR PAYMENTS MADE FOR UNLAWFULLY CHARGED FEES

To redress unlawful practices, counties should reimburse families for all payments they made on improperly charged juvenile administrative fees. Beyond ending current fee assessment and collection, counties should account for amounts that families have already paid, including the types of fees charged and whether the counties had adequate procedures in place to evaluate families' ability to pay. Counties that have reviewed their fee practices in recent years have not been able to verify that they charged only lawful fees to families with the ability to pay them.

Counties should therefore refund to families all payments they made for fees charged in violation of:

STATE LAW (families who paid fees that exceeded the statutory maximum, investigation report fees for youth not tried as adults, and fees for youth found not guilty);

FEDERAL STATUTES (families who paid detention fees that included the cost of food or food preparation in counties that receive federal meal assistance for detained youth);

DUE PROCESS (families who paid fees without being evaluated for their ability to pay, including being given sufficient notice and a hearing by an impartial decision maker); and

EQUAL PROTECTION (families who paid fees for electronic monitoring, probation supervision, or other fees for the protection of society and not for the support of youth).

At least one California jurisdiction has undertaken the process of refunding improperly charged juvenile administrative fees. After suspending all fee assessment and collection in October 2016, Contra Costa County recently reviewed almost 5,500 accounts established during the last four years.²²⁰ Of the 1,652 accounts on which families made payments, the Probation Department identified 224 accounts involving a youth whose petition was not sustained (found not guilty).²²¹ The county is now working to locate the families of the exonerated youth to refund the payments on those accounts, which totaled \$58,172.²²²

C. THE STATE AND COUNTIES SHOULD COLLECT BETTER DATA ON YOUTH IN THE JUVENILE SYSTEM

To understand the consequences of costly practices like juvenile administrative fees, the state and counties should collect and maintain better data on youth in the system. State law requires the California Department of Justice (DOJ) to compile data from local law enforcement agencies, county probation departments, and Superior Courts.²²³ The state DOJ issues an annual report that “provides insight into the juvenile justice process by reporting the number of arrests, referrals to probation departments, petitions filed, and dispositions for juveniles tried in juvenile and adult courts.”²²⁴ The department is required to interpret and present the information so “that it may be of value in guiding the policies of the Legislature” and decision-makers in the juvenile system.²²⁵

We found that the state and counties do not collect key information necessary to guide informed policymaking in the juvenile system. In particular, counties do not gather statistics on juvenile system cases and outcomes by race, ethnicity, and socio-economic status.²²⁶ The harm and cost of juvenile administrative fees went largely unscrutinized, for example, because most counties did not track data that

would have readily revealed the problem with such practices, including their disparate impact on families of color. With the passage of Senate Bill 190, the need for data on the impact of fees would no longer be necessary, but the need for better data on youth in the juvenile system remains critical.

Our recommendation for better data collection is consistent with recommendations to the Legislature by the California Juvenile Justice Work Group (JJDWG), which was established by state law in 2014.²²⁷ The JJDWG reports that “California has allowed its juvenile data systems to fall into a pattern of long-term decline” and describes the “chronic failure of the state to invest in system upgrades, compromising the ability to assess system and program performance and to support state and local policy and program development.”²²⁸ The JJDWG recommends improving data collection and reporting of caseloads, performance, and outcomes in California’s juvenile system, including disaggregating data by race and ethnicity.²²⁹

Without better data, the state and counties cannot assess whether current programs and practices advance rehabilitative and public safety goals. Administrative fees may not be the only practice that needs to change. Counties impose a range of other financial obligations on youth and their families, including restitution and restitution fines, without regard to ability to pay or consideration of other consequences. In addition, county juvenile electronic monitoring and drug testing practices vary widely, with no apparent consideration of their impact on caseloads, performance, or outcomes for youth, families, and society.²³⁰ Counties should collect and maintain such data to inform sound policy choices and best practices.

CONCLUSION

THE CALIFORNIA LEGISLATURE clearly stated its intent when authorizing counties to charge juvenile administrative fees. The fees are meant “to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay.”²³¹ Unfortunately, our research has found that juvenile administrative fees fail to serve these purposes and are harmful, unlawful, and costly.

To continue to lead on criminal and juvenile justice reform, the California Legislature and the Governor should end the assessment and collection of all juvenile administrative fees. Further, counties should reimburse families for improperly charged fees. Finally, the state and counties should collect better data to inform policymaking and best practices. Such reforms will advance the rehabilitative and public safety goals of the juvenile system while mitigating the negative collateral consequences on individuals, families, and society.

APPENDICES

A. JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA COUNTIES BY TYPE AND NUMBER

County	Juvenile Hall	Public Defender	Electronic Monitoring	Probation Supervision	Drug Testing	Investigation Report	Fees Charged
Alameda							0
Alpine ^o	•						1
Amador	•						1
Butte		•					1
Calaveras	•						1
Colusa	•	•			•		3
Contra Costa							0
Del Norte	•						1
El Dorado	•	•					2
Fresno	•	•	•				3
Glenn ^o	•		•	•	•		4
Humboldt	•		•	•	•		4
Imperial ^o	•	•					2
Inyo	•	•	•	•			4
Kern	•		•				2
Kings	•	•		•			3
Lake	•	•	•	•			4
Lassen	•	•	•				3
Los Angeles		•					1
Madera	•	•	•	•	•	•	6
Marin	•		•	•			3
Mariposa	•	•	•	•	•	•	6
Mendocino	•	•		•	•		4
Merced	•	•	•				3
Modoc	•						1
Mono	•		•	•			3
Monterey	•		•	•	•	•	5
Napa	•	•					2
Nevada	•	•	•	•	•		5

County	Juvenile Hall	Public Defender	Electronic Monitoring	Probation Supervision	Drug Testing	Investigation Report	Fees Charged
Orange	•	•			•		3
Placer	•						1
Plumas	•		•				2
Riverside	•	•				•	3
Sacramento	•	•	•	•	•		5
San Benito	•	•	•	•			4
San Bernardino	•	•				•	3
San Diego	•		•				2
San Francisco							0
San Joaquin	•	•					2
San Luis Obispo	•	•	•	•	•		5
San Mateo	•	•	•				3
Santa Barbara	•	•					2
Santa Clara							0
Santa Cruz	•	•	•				3
Shasta		•	•				2
Sierra ^o	•						1
Siskiyou	•	•	•		•		4
Solano	•	•	•	•		•	5
Sonoma		•		•	•		3
Stanislaus	•	•		•			3
Sutter	•						1
Tehama	•	•			•	•	4
Trinity	•	•		•	•	•	5
Tulare	•	•	•	•	•		5
Tuolumne ^o			•	•			2
Ventura	•	•	•				3
Yolo	•	•	•	•			4
Yuba ^o	•						1
Total by Type	49	36	28	24	16	8	2.74

^o Based on fee schedule only (did not respond to our survey of the Chief Probation Officers of California).

B. JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA COUNTIES BY AMOUNT

County	Juvenile Hall	Public Defender	Electronic Monitoring	Probation Supervision	Drug Testing	Investigation Report
Alameda						
Alpine	Paid by Youth Offender Block Grant					
Amador	\$15/day					
Butte		\$150/case				
Calaveras	\$15/day					
Colusa	\$15/day	No data			\$252 flat fee if condition of probation	
Contra Costa						
Del Norte	\$12/day					
El Dorado	\$15/day	\$50/case				
Fresno	\$19/day	\$73+/case	\$11/day			
Glenn	\$10/day		\$25 + \$20/day	\$25/mo.	\$15/test	
Humboldt	\$30/day		\$6.40- \$8.60/day	Up to \$122/ mo. for EM supervision; \$100 flat probation supervision	\$5/test	
Imperial	\$11.52/day	\$25/case				
Inyo	\$15/day	\$36.50/hour	Paid by Youth Offender Block Grant, may pay \$1/day	Based on Probation Officer hourly rate (\$18.82/hour)		
Kern	\$29/day		\$25 + \$22/day			
Kings	\$25/day	No data		\$20/mo.		
Lake	\$3.18/day	\$31/hour	\$6.50/day	\$20/mo.		
Lassen	\$15/day	\$150/case	\$134 + \$10/day			
Los Angeles		\$50/case				
Madera	\$22.90/day	\$25/case + \$75/hour	"reasonable costs"	\$50 flat rate	\$12.50/test	No data
Marin	\$30/day		\$50 + \$10/day	\$150/mo.		
Mariposa	\$30/day	No data	\$100 + \$15/day	\$20/mo.	\$10/test	\$300/report
Mendocino	\$30/day	\$50/case + \$80/hour		\$25/mo.	\$29/test	
Merced	\$4.72/day	\$60/case	\$4.90/day			
Modoc	Contracts w/ other counties					
Mono	\$30/mo.		\$3.50- \$9.75/day	\$20/mo. or \$240/year		
Monterey	\$29/day		\$14/day	\$25/mo.	\$32/test	No data
Napa	\$25/day	\$25+/case				
Nevada	\$26/day	\$400/case	\$15/day	\$10/mo.	\$65/referral	
Orange	\$23.90/day	\$245/case + \$220/hour			\$11.30/test	

County	Juvenile Hall	Public Defender	Electronic Monitoring	Probation Supervision	Drug Testing	Investigation Report
Placer	\$30/day					
Plumas	\$10/day		\$10/day			
Riverside	\$30/day	\$50 + \$119.51/hour				No data
Sacramento	\$18.40/day	\$318+/case	\$24/day	\$206/mo.	\$20/test	
San Benito	\$20/day	\$300/case	up to \$10/day	\$20/mo.		
San Bernardino	\$20.53/day	\$50/case				No data
San Diego	\$30/day		\$28/day			
San Francisco						
San Joaquin	\$31.89/day	\$125- 175/case				
San Luis Obispo	\$40/day	\$25/case	\$60 + \$12/day	\$46/mo.	\$55/test	
San Mateo	\$30/day	\$220/case	\$8/day			
Santa Barbara	\$29.28/day	\$90/hour				
Santa Clara						
Santa Cruz	\$30/day	\$50/case	\$10/day			
Shasta		\$60/hour	\$24/day			
Sierra	\$23/day					
Siskiyou	\$15/day	\$25/case	\$40 + \$12.50/day		\$9-\$24/test	
Solano	\$30/day	\$25/case	\$23.00/day	\$150/mo.		\$1,200/report
Sonoma		\$25/case		\$132.30 once	\$8.20/test	
Stanislaus	\$24.41/day	\$30/hour		\$50-100		
Sutter	\$15/day					
Tehama	\$5-10/day	\$60/hour			\$50/test	No data
Trinity	\$15/day	\$70/hour		\$10/mo.	\$10/test	No data
Tulare	\$19/day	\$50/case	\$30+ \$2.16/day + \$12/day	High risk \$50/mo., informal \$60/case, limited \$10/mo.	\$20/test	
Tuolumne			\$40.25 + \$17/day	\$35/mo.		
Ventura	\$33/day	\$150-300 + \$158.75/hour	\$75 + \$7.50/day			
Yolo	\$30/day	\$25/case + \$125/hour	\$30/day; \$18/day GPS fee	\$30/mo.		
Yuba	\$15/day					

C. DETENTION FEES IN CALIFORNIA COUNTIES BY AVERAGE STAYS IN JUVENILE HALL, 2015

County	Average Length of Stay (days)*	Daily Fee	Average Fees
Alameda	35.50	\$0.00	\$0.00
Butte	31.93	\$0.00	\$957.75
Contra Costa	36.65	\$0.00	\$0.00
Del Norte	18.24	\$12.00	\$218.85
El Dorado	31.25	\$15.00	\$468.75
Fresno	37.50	\$19.00	\$712.50
Glenn	22.96	\$10.00	\$229.58
Humboldt	24.09	\$30.00	\$722.63
Imperial	10.25	\$11.52	\$118.08
Inyo	26.01	\$15.00	\$390.11
Kern	21.23	\$29.00	\$615.53
Kings	31.89	\$25.00	\$797.16
Lake	26.95	\$3.18	\$85.70
Lassen	22.75	\$15.00	\$341.25
Los Angeles	24.25	\$0.00	\$0.00
Madera	23.00	\$22.90	\$526.70
Marin	15.46	\$30.00	\$463.73
Mariposa	1.36	\$30.00	\$40.73
Mendocino	41.90	\$30.00	\$1,257.00
Merced	19.93	\$4.72	\$94.05
Monterey	20.00	\$29.00	\$580.00
Napa	24.75	\$25.36	\$627.66
Nevada	33.63	\$26.00	\$874.25
Orange	20.23	\$23.90	\$483.38
Placer	24.40	\$30.00	\$731.85
Riverside	25.85	\$30.00	\$775.50
Sacramento	31.68	\$18.40	\$582.91
San Benito	21.60	\$20.00	\$432.00
San Bernardino	32.73	\$20.53	\$671.84
San Diego	30.00	\$30.00	\$900.00
San Francisco	30.58	\$0.00	\$0.00
San Joaquin	31.75	\$31.12	\$988.06
San Luis Obispo	23.55	\$40.00	\$942.00
San Mateo	35.75	\$30.00	\$1,072.50
Santa Barbara	25.35	\$29.28	\$742.25
Santa Clara	34.50	\$0.00	\$0.00
Santa Cruz	18.43	\$30.00	\$552.75
Shasta	18.25	\$0.00	\$0.00
Siskiyou	28.42	\$15.00	\$426.26
Solano	40.17	\$30.00	\$1,204.95
Sonoma	46.00	\$0.00	\$0.00
Stanislaus	32.65	\$24.41	\$797.05
Tehama	27.48	\$5-10.00	\$137.40-274.80

County	Average Length of Stay (days)*	Daily Fee	Average Fees
Trinity	0.00	\$15.00	\$0.00
Tulare	23.38	\$19.50	\$455.91
Tuolumne	0.00	0.00	\$0.00
Ventura	17.75	\$33.00	\$585.75
Yolo	25.75	\$30.00	\$772.58
Yuba	30.50	\$15.00	\$457.50

*rounded to nearest one-hundredth of a day

D. RACIAL DISPARITY IN DETENTION RATES IN CALIFORNIA COUNTIES, 2015

County	Youth Population (10–17)	# of Youth Admitted	Overall Detention Rate for Youth (per 1,000)	Rate for White Youth (per 1,000)	Rate for Black Youth (per 1,000)	Times more Likely for Black Youth than White Youth	Rate for Latino Youth (per 1,000)	Times more Likely for Latino Youth than White Youth
Alameda	150,549	689	4.6	1.2	22.7	18.5	4.3	3.5
Alpine	No data	No data	No data	No data	No data	No data	No data	No data
Amador	2,710	5	1.8	0.5	0	0	5.3	10.2
Butte	20,446	98	4.8	3.8	19.2	5	8.2	2.1
Calaveras	3,995	14	3.5	4.1	25.6	6.3	0	0
Colusa	2,745	11	4	1.4	0	0	4.2	2.9
Contra Costa	121,638	492	4	1.3	21	15.7	4	3
Del Norte	2,467	0	0	0	0	0	0	0
El Dorado	19,150	42	2.2	2.1	19	8.8	2.8	1.3
Fresno	119,873	1,181	9.9	6	48.9	8.1	9.5	1.6
Glenn	3,409	37	10.9	13.9	0	0	7	0.5
Humboldt	11,707	126	10.8	11.5	54.1	4.7	11.7	1
Imperial	23,114	240	10.4	8.3	62.5	7.5	10.3	1.2
Inyo	1,663	18	10.8	2.7	200	73	0	0
Kern	109,831	847	7.7	6.5	40.5	6.2	6.3	1
Kings	16,631	378	22.7	20.4	94.2	4.6	21	1
Lake	5,993	19	3.2	4.7	0	0	0	0
Lassen	2,495	0	0	0	0	0	0	0
Los Angeles	1,019,316	3,294	3.2	0.9	15.8	17.3	2.9	3.1
Madera	18,675	38	2	0.9	11.6	12.8	2.3	2.5
Marin	24,740	0	0	0	0	0	0	0
Mariposa	1,347	3	2.2	3	0	0	0	0
Mendocino	8,466	175	20.7	16.3	133.3	8.2	21.5	1.3
Merced	35,417	278	7.8	2.7	18.1	6.6	10	3.6
Modoc	814	9	11.1	12.4	166.7	13.5	0	0
Mono	1,251	2	1.6	1.8	0	0	1.6	0.9
Monterey	46,318	264	5.7	3.4	13.4	3.9	6.5	1.9
Napa	14,343	159	11.1	5.9	59.6	10.1	15.5	2.6
Nevada	8,433	0	0	0	0	0	0	0
Orange	327,999	1,139	3.5	1.1	15.9	14.7	6.1	5.6
Placer	41,928	4	0.1	0.1	2	27.7	0.1	1.5
Plumas	1,477	7	4.7	5.4	0	0	0	0
Riverside	278,525	340	1.2	0.7	5.4	7.4	1.1	1.4
Sacramento	158,470	250	1.6	0.8	7.7	10.2	1.4	1.8
San Benito	7,563	51	6.7	3.2	0	0	8.7	2.7
San Bernardino	252,590	1,776	7	5.6	34.2	6.1	5	0.9
San Diego	314,826	309	1	0.7	4.9	7.2	1	1.5
San Francisco	44,352	365	8.2	2.1	67.2	32.5	7.4	3.6

County	Youth Population (10–17)	# of Youth Admitted	Overall Detention Rate for Youth (per 1,000)	Rate for White Youth (per 1,000)	Rate for Black Youth (per 1,000)	Times more Likely for Black Youth than White Youth	Rate for Latino Youth (per 1,000)	Times more Likely for Latino Youth than White Youth
San Joaquin	89,719	415	4.6	4	24.3	6.1	3.6	0.9
San Luis Obispo	22,453	129	5.7	5.6	33.3	6	6.2	1.1
San Mateo	71,716	486	6.8	2.4	45.6	18.8	12.7	5.2
Santa Barbara	42,572	761	17.9	8.3	72.1	8.7	22.9	2.8
Santa Clara	193,441	1,009	5.2	1.9	29.1	15.2	10.8	5.6
Santa Cruz	24,586	203	8.3	4.1	54.9	13.6	11.8	2.9
Shasta	17,417	305	17.5	19.5	170.5	8.8	6.8	0.3
Sierra	229	No data	No data	No data	No data	No data	No data	No data
Siskiyou	4,131	33	8	6.9	58.8	8.6	1.3	0.2
Solano	45,524	478	10.5	7.4	38.5	5.2	7.6	1
Sonoma	48,018	439	9.1	7.4	44.4	6	10.9	1.5
Stanislaus	64,594	488	7.6	4.4	39.9	9.1	8.6	2
Sutter	11,453	67	5.8	5.8	22.7	3.9	8.1	1.4
Tehama	7,059	135	19.1	23.9	107.1	4.5	11.9	0.5
Trinity	1,046	4	3.8	5.2	0	0	0	0
Tulare	62,297	148	2.4	1.5	10.8	7.3	2.6	1.7
Tuolumne	4,156	14	3.4	3.9	32.3	8.4	0	0
Ventura	92,375	607	6.6	3.6	20.5	5.7	9.4	2.6
Yolo	19,922	137	6.9	2.8	26.9	9.5	11.3	4
Yuba	9,140	75	8.2	8	67.4	8.4	6.6	0.8

NOTES

- 1 U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf (describing how the municipal court practice of imposing system-related fines and fees on the residents of Ferguson, Missouri exacerbates existing racial injustice in the community).
- 2 Robert D. Crutchfield, April Fernandes & Jorge Martinez, *Racial and Ethnic Disparity and Criminal Justice: How Much Is Too Much*, 100 J. CRIM. L. & CRIMINOLOGY 903 (2010) (reviewing studies and research examining racial and ethnic disparities in the criminal justice system and affirming that such disparities exist in both our criminal and juvenile systems); NAT'L COUNCIL ON CRIME & DELINQUENCY, AND JUSTICE FOR SOME: DIFFERENTIAL TREATMENT OF YOUTH OF COLOR IN THE JUSTICE SYSTEM (2007), http://www.nccdglobal.org/sites/default/files/publication_pdf/justice-for-some.pdf (discussing the disproportionate representation of racial and ethnic minorities in the juvenile system).
- 3 Alexes Harris, Heather Evans & Katherine Beckett, *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AM. J. SOC. 1753 (2010) (analyzing federal and state court data on the imposition of monetary sanctions and finding that legal indebtedness is “substantial[ly] relative to expected earnings[, . . . and] reproduces disadvantage by reducing family income, by limiting access to opportunities and resources, and by increasing the likelihood of ongoing criminal justice involvement.”); ALEXES HARRIS, A POUND OF FLESH: MONETARY SANCTIONS AS A PUNISHMENT FOR THE POOR (2016); ABBY SHAFROTH & LARRY SCHWARTZOL, HARVARD LAW SCH. CRIMINAL JUSTICE POLICY PROGRAM, NAT'L CONSUMER LAW CTR., CONFRONTING CRIMINAL JUSTICE DEBT: THE URGENT NEED FOR COMPREHENSIVE REFORM (2016), <http://cjpp.law.harvard.edu/assets/Confronting-Criminal-Justice-Debt-The-Urgent-Need-for-Comprehensive-Reform.pdf>.
- 4 REBEKAH DILLER, ALICIA BANNON & MITALI NAGRECHA, N.Y. UNIV. SCH. OF LAW, BRENNAN CTR. FOR JUSTICE, CRIMINAL JUSTICE DEBT: A BARRIER TO REENTRY (2010), <https://www.brennancenter.org/publication/criminal-justice-debt-barrier-reentry> (examining the imposition of “user fees” on adults with criminal convictions).
- 5 JESSICA FEIERMAN, NAOMI GOLDSTEIN, EMILY HANEY-CARON & JAYMES FAIRFAX COLUMBO, JUVENILE LAW CTR., DEBTOR'S PRISON FOR KIDS? THE HIGH COST OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM (2016), <http://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>.
- 6 California counties impose a high amount of criminal justice debt generally, even in jurisdictions like San Francisco. José Cisneros, *San Francisco Has Become a Predatory Government*, S.F. CHRON. (Nov. 28, 2016),

<http://www.sfchronicle.com/opinion/openforum/article/San-Francisco-has-become-a-predatory-government-10641316.php>.

- 7 Rivera v. Orange Cty. Prob. Dep't, 832 F.3d 1103, 1105 n.1 (9th Cir. 2016).
- 8 Notice of Motion and Motion for Order To Show Cause Why the Orange Cty. Prob. Dep't Should Not Be Held in Contempt for Violation of the Discharge Injunction; Memorandum of Points and Auths.; Declarations of Maria G. Rivera and Emma Elizabeth A. Gonzalez at 13-14 (declaration of debtor Maria G. Rivera), *In re Rivera*, No. 8:11-bk-22793-TA (Bankr. C.D. Cal. Sept. 16, 2013), *aff'd sub nom.* Rivera v. Orange Cty. Prob. Dep't (*In re Rivera*), 511 B.R. 643 (B.A.P. 2014), *rev'd*, 832 F.3d 1103 (9th Cir. 2016) [hereinafter Rivera Decl.].
- 9 *Id.*
- 10 *Rivera*, 832 F.3d at 1111.
- 11 Eli Hager, *Your Child's Been Sent to Jail. And Then Comes the Bill.*, THE WASH. POST (Mar. 2, 2017), <http://wapo.st/2lzpbZ5>.
- 12 Ms. Cuevas paid about \$50 per month toward her fee bill. *Id.*
- 13 Sukey Lewis, *Will California Counties Rethink Charging Parents Fees for Locked up Kids?*, KQED NEWS (Oct. 24, 2016), <https://ww2.kqed.org/news/2016/10/24/many-california-counties-charge-parents-high-fees-while-kids-are-locked-up/>.
- 14 Molly Hennessy-Fiske, *County Spent \$13,000 to Chase \$1,004*, L.A. TIMES (Mar. 4, 2009), <http://articles.latimes.com/2009/mar/04/local/me-probation-fees4>.
- 15 Celeste Fremon, *Charging Poor Parents for Law Breaking Children*, WITNESS L.A. (Mar. 6, 2009), <http://witnessla.com/charging-poor-parents-for-lawbreaking-children/>.
- 16 Hennessy-Fiske, *supra* note 14.
- 17 *Id.*
- 18 In 2015, 71,923 youth were arrested and 86,539 were referred to county probation departments in California (youth can be referred without being arrested). CAL. DEP'T OF JUSTICE, JUVENILE JUSTICE IN CALIFORNIA (2015), <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/jj15/jj15.pdf>.
- 19 *Id.* 51,693 male youths and 20,230 female youths were arrested in California in 2015. *Id.* 983 youth under age 12; 17,459 youth ages 12-14; and 53,480 youth ages 15-17 were arrested in California in 2015.
- 20 *Id.* 13,434 Black youth; 38,379 Latino youth; and 15,929 White youth were arrested in California in 2015.
- 21 CAL. WELF. & INST. CODE § 1700 (West 2016) ("The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.").
- 22 CAL. WELF. & INST. CODE § 903.1 (West 2016) (describing liability for public defender and court-appointed attorney services).
- 23 Many youth in the juvenile system spend time in juvenile hall, either immediately upon arrest, as part of their disposition or for short periods as punishment for probation violations. See Kate Weisburd, *Monitoring Youth: The Collision of Rights and Rehabilitation*, 101 IOWA L. REV. 297, 320-21 (2015); Soraya Shockley, *Unlocked: From Probation to Incarceration*, YOUTH RADIO (July 28, 2015), <https://youthradio.org/journalism/juvenile-justice/>

unlocked-from-probation-to-incarceration/ (describing the emergence of probation as an alternative to detention and the risks associated with various probation conditions).

- 24 CAL. WELF. & INST. CODE § 202(b) (West 2016).
- 25 Cal. Welf. & Inst. Code § 729.9 (West 2016) (describing liability for cost of drug and substance abuse testing); CAL. WELF. & INST. CODE § 903 (West 2016) (describing liability for the cost of support while in detention); WELF. & INST. § 903.1 (describing liability for public defender and court-appointed attorney services); CAL. WELF. & INST. CODE § 903.2 (West 2016) (describing liability for probation supervision and electronic surveillance).
- 26 WELF. & INST. § 903(c).
- 27 *Id.*, CAL. WELF. & INST. CODE § 903.45 (West 2016).
- 28 WELF. & INST. § 729.9; WELF. & INST. § 903; WELF. & INST. § 903.1; WELF. & INST. § 903.2.
- 29 WELF. & INST. CODE § 902 (West 2016).
- 30 WELF. & INST. § 903(c).
- 31 1961 Cal. Stat. 3499, § 2.
- 32 Molly Hennessy-Fiske, *L.A. County Probation Department Suspends Aggressive Billing of Guardians*, L.A. TIMES (Feb. 14, 2009), <http://articles.latimes.com/2009/feb/14/local/me-probation-fees14> (“Although it sounds like a tough-guy law to make families pay, it actually was meant to prevent probation from becoming a baby-sitting service,” [Director of Commonweal Juvenile Justice Program David] Steinhart said.”).
- 33 1965 Cal. Stat. 4535 (authorizing fees for home supervision and electronic monitoring); 1968 Cal. Stat. 2334 (authorizing fees for representation by a public defender).
- 34 1996 Cal. Stat. 2453. The Assembly Committee on Public Safety analysis stated that: “As a result of prior legislative actions, counties have seen their funds greatly reduced. Compounded by a growth in juvenile crime, county probation departments are experiencing great financial difficulties. This bill would allow counties to recover costs associated with home supervision of juveniles. The costs of juvenile crime and the dire financial status of counties and probation departments are what prompted this legislation.” Cal. Bill Analysis, S.B. 1734 Assem. (July 2, 1996).
- 35 1987 Cal. Stat. 2778.
- 36 1992 Cal. Stat. 1712. In 2009, the Legislature authorized an increase in the maximum registration fee charged to families for court-appointed legal representation from \$25 to \$50. A.B. 1035, 2011–12 Reg. Sess. (Cal. 2011).
- 37 1996 Cal. Stat. 2453.
- 38 2001 Cal. Stat. 4038. The amount is adjusted every three years to reflect the percentage change in the calendar year annual average of the California Consumer Price Index. CAL. WELF. & INST. CODE § 903(c)(1) (West 2016).
- 39 ALAMEDA COUNTY, CAL., ORDINANCE NO. 35 (2016) [hereinafter ALAMEDA CTY. REPEAL], http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_07_12_16/GENERAL%20ADMINISTRATION/Regular%20Calendar/CAO_Auditor_Probation_PUBDEF_236774.pdf (codified at Alameda County Admin. Ordinance Code § 2.42.190); SANTA CLARA CTY., CAL., RES. NO. 110 (2016) [hereinafter SANTA CLARA CTY. MORATORIUM] (enacted), http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=82241 (follow “Resolution – Juvenile Fee Moratorium” to download undated resolution printout); CONTRA COSTA CTY.,
- 40 MAKING FAMILIES PAY

CAL., RES. NO. 606 (2016) [hereinafter CONTRA COSTA CTY. MORATORIUM] (enacted), http://64.166.146.245/docs/2016/BOS/20161025_813/27510%5FBO%5FJUVENILE%20FEES%20CHARGED%20BY%20THE%20PROBATION%20DEPARTMENT%20Epdf.

- 40 Memorandum from Robert B. Taylor, L.A. Cty. Chief Probation Officer, to Don Knabe, Gloria Molina, Mark Ridley-Thomas, Zev Yaroslavsky, and Michael D. Antonovich, L.A. Cty. Supervisors (Mar. 31, 2009) [hereinafter L.A. Cty. Prob. Dep’t Moratorium], <http://file.lacounty.gov/SDSInter/bos/supdocs/48284.pdf> (on Probation Department Moratorium on Collection of Support Costs for Incarcerated Minors); email from Allen Nance, S.F. Cty. Chief Prob. Officer, to Policy Advocacy Clinic (Apr. 18, 2015, 15:22 PST) [hereinafter S.F. Chief Nance Email] (on file with authors).
- 41 S. 190, 2017–2018 Reg. Sess. (Cal. 2017). Co-authors include Senators Atkins, Beall, Bradford, Hertzberg, McGuire, Monning, Skinner, Wieckowski, and Wiener. In the 2015–16 legislative session, Senator Mitchell introduced SB 941, which passed the Public Safety Committee with bipartisan support but was held in the suspense file in the Appropriations Committee. The Legislature later eliminated an analogous fee for juvenile record sealing. S. 504, 2015–2016 Reg. Sess. (Cal. 2015) (codified at WELF. & INST. § 1203.45).
- 42 CAL. WELF. & INST. CODE § 729.9 (West 2016); WELF. & INST. § 903 (West 2010); CAL. WELF. & INST. CODE § 903.1 (West 2016); CAL. WELF. & INST. CODE § 903.2 (West 2016).
- 43 WELF. & INST. § 903(c) (limiting the detention fee to “actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of thirty dollars (\$30) per day). For other fees, monthly or daily charges are “not to exceed cost for care, support, and maintenance of minor persons placed or detained in or omitted to any institution by order of a juvenile court, the cost of delinquency-related legal services referred to by Section 903.1, the cost of probation supervision referred to by Section 903.2, and the cost of sealing records in county or local agency custody referred to by Section 903.3 . . . [as] determined by the board of supervisors.” CAL. WELF. & INST. CODE § 904 (West 2016).
- 44 CAL. WELF. & INST. CODE § 903.45(a) (West 2016).
- 45 *Id.*
- 46 *Id.* Since fees are effectively ordered at the disposition of each case, families may be charged fees at multiple points during their children’s involvement in the system. It is often difficult for families to distinguish among fee debt and between fee debt and restitution or other fines included in the same bill.
- 47 WELF. & INST. § 903.45(b) (“In evaluating a person’s ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family’s income, the necessary obligations of the family, and the number of persons dependent upon this income.”).
- 48 *Id.* (“Proper notice to the person shall contain all of the following: (1) That the person has a right to a statement of the costs as soon as it is available. (2) The person’s procedural rights under Section 27755 of the Government Code. (3) The time limit within which the person’s appearance is required. (4) A warning that if the person fails to appear before the county financial evaluation officer, the officer will recommend that the court order the person to pay the costs in full.”).
- 49 *Id.*
- 50 *Id.* (“The person shall have the right to be represented by counsel, and, when the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or

part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county or court, depending on which entity incurred the expense, in a manner in which the court believes reasonable and compatible with the person's financial ability.") Additionally, a family may petition the court to modify or vacate a judgment based on a change in circumstances relating to ability to pay. WELF. & INST. § 903.45(c).

- 51 *Id.* § 903.45(d) ("Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.").
- 52 Civil judgments in California are generally enforceable for 10 years. CAL. CIV. PROC. CODE § 683.020(a)-(c) (West 2009). However, state law exempts court-ordered "fines, forfeitures, penalties, fees, or assessments" from the 10-year limit on enforcement. CAL. PEN. CODE § 1214(e) (West 2015). Judgments can be reported to credit reporting agencies for seven years, or as long as the judgment is enforceable. 15 U.S.C. § 1681c(a)(2) (2012) ("Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.").
- 53 Through its Interagency Intercept Collection Program, the Franchise Tax Board (FTB) intercepts personal income tax refunds, lottery winnings, and unclaimed property disbursements. State of Cal. Franchise Tax Bd., *Interagency Intercept Collection Program*, https://www.ftb.ca.gov/individuals/Interagency_Intercept_Collections/index.shtml?WT.mc_id=AboutUs_IIC (last visited Feb. 6, 2017). Through its Court-Ordered Debt Program, the FTB can garnish wages (up to 25% of disposable earnings for each pay period). State of Cal. Franchise Tax Bd., *Court-Ordered Debt (COD)—Frequently Asked Questions (Debtor)*, https://www.ftb.ca.gov/online/Court_Ordered_Debt/faq_debtor.shtml (last visited Feb. 6, 2017). Once referred to the Franchise Tax Board, the debt can accrue interest. CAL. REV. AND TAX CODE § 19280 (West 2015 & Supp. 2017).
- 54 Policy Advocacy Clinic at Berkeley Law, California Juvenile Fees Survey of Chief Probation Officers (2015) [hereinafter Juvenile Fees Survey] (unpublished survey) (on file with authors) (surveying county Chief Probation Officers with the assistance of the Chief Probation Officers of California regarding juvenile administrative fee assessment and collection practices). Responses were adjusted for post-survey changes in county fee practices.
- 55 Despite multiple attempts, we did not receive survey responses from the following counties: Alpine, Glenn, Imperial, Mono, Sierra, and Tuolumne. It is important to note that county responses are self-reported. In some cases, what was reported by respondents does not correspond with county practice. For example, Sacramento County indicated it charged an investigation report fee to juveniles, but the county does not actually charge such a fee.
- 56 Juvenile Fees Survey, *supra* note 54. We conducted additional research and collected county fee schedules to compile this information. Where survey responses and publicly available or acquired fee schedules differ, we rely on information reported in fee schedules. All survey and fee schedule information have been adjusted for actions by California counties through March 3, 2017.
- 57 Telephone Interview with Wendy Mondfrans, Senior Deputy Prob. Officer, Lake Cty. (Jan. 31, 2017). San Luis Obispo Cty. Prob. Dep't, *Juvenile Hall FAQs*, http://www.slocounty.ca.gov/San_Luis_Obispo_Probation_Department/Juvenile_Hall/Juvenile_Hall_FAQs.htm (last visited Mar. 2, 2017).
- 58 Many counties also charge set-up costs, which are generally flat one-time fees, in addition to per day fees. Mono Cty., *Fee Schedule* (June 19, 2013) (on file with authors); Yolo County, *Current Master Fee Schedule* (Nov. 1, 2016), <http://www.yolocounty.org/home/showdocument?id=7499>.

- 59 See Andrew Horwitz, *Coercion, Pop-Psychology, and Judicial Moralizing: Some Proposals for Curbing Judicial Abuse of Probation Conditions*, 57 WASH. & LEE L. REV. 75, 80-81 (2000) (describing wide discretion afforded to courts in imposing probation conditions); Cecelia Klingele, *Rethinking the Use of Community Supervision*, 103 J. CRIM. L. & CRIMINOLOGY 1015, 1044 (2013) (observing that “[w]hile often reasonable when considered individually, in the aggregate, the sheer number of requirements imposes a nearly impossible burden on many offenders.”).
- 60 The average length of stay in juvenile hall facilities ranged from a little over one day in Mariposa County to 46 days in Sonoma County. Data received from the W. Haywood Burns Institute, www.data.burnsinstitute.org.
- 61 We use the average length of stay in juvenile hall across the state according to the most recent available data. Data received from the W. Haywood Burns Institute, www.data.burnsinstitute.org. The public defender fees are per case in each county. Very few counties provided us with the average length of probation conditions. We estimate the average electronic monitoring terms from a one-month snapshot in 2013 in Alameda County (35 days per youth) and a three-month period in 2016 in Contra Costa County (65 days per youth). ALAMEDA CTY. PROB. DEP’T, A LOOK INTO PROBATION MONTHLY REPORT (July 2013), <https://www.acgov.org/probation/documents/July2013Report.pdf>; email from Danielle Fokkemma, Chief of Admin. Servs., Contra Costa Cty. Prob. Dep’t, to Policy Advocacy Clinic (Oct. 18, 2016 10:30AM PST) (on file with authors). We estimate the average probation supervision term at 17 months based on a one-month snapshot in 2013 in Alameda County. ALAMEDA CTY. PROB. DEP’T, *supra*. We estimate the average number of drug tests based on consultation with public defenders who indicated that drug testing generally occurred once every other month while on probation supervision. Because we were unable to obtain reliable data from all counties, this table does not include charges for investigation fees. All figures are based on reported or publicly available fee schedules. In instances where counties reported information that contradicted publicly available fee schedules or resolutions by Boards of Supervisors, we used the publicly available data.
- 62 Butte County stopped charging its \$30 Juvenile Hall fee to families who have youth detained in the facility in March 2017.
- 63 ALAMEDA CTY. REPEAL, *supra* note 39.
- 64 CONTRA COSTA CTY. MORATORIUM, *supra* note 39.
- 65 L.A. Cty. Prob. Dep’t Moratorium, *supra* note 40.
- 66 S.F. Chief Nance Email, *supra* note 40 (“We believe that the goals and objectives of our juvenile justice system are being made without the need for fees imposed on those individuals and families that can least afford to pay them. . . . [W]e feel strongly that the policy (of not charging fees) makes good fiscal sense and is solidly aligned with our youth rehabilitation and public safety objectives.”).
- 67 SANTA CLARA CTY., CAL., RES. NO. 6 (2017) [hereinafter SANTA CLARA CTY. REPEAL] (enacted), http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=84679.
- 68 CAL. WELF. & INST. CODE § 202(a) (West 2016).
- 69 In addition to the interviews we conducted and reference in the report, other sources include published accounts by juvenile justice organizations and media outlets.
- 70 CAL. WELF. & INST. CODE § 903(c) (West 2016).
- 71 H. Ted Rubin, *Impoverished Youth and the Juvenile Court: A Call for Pre-Court Diversion*, 16 JUV. JUST. UPDATE 2 (Dec.–Jan. 2011) (noting that juvenile courts are considered courts of the poor and that juvenile courts

in wealthier jurisdictions are rare); Tamar R. Birkhead, *Delinquent by Reason of Poverty*, 38 WASH. U. J.L. & POL'Y 53 (2012) (arguing that emphasis on family need when adjudicating delinquency has a disproportionate effect on low-income children); JUSTICE FOR FAMILIES, *FAMILIES UNLOCKING FUTURES: SOLUTIONS TO THE CRISIS IN JUVENILE JUSTICE* 13, 28 (2012) (finding youth involved with the juvenile justice system found that more than 50% came from families earning less than \$25,000 per year, and that roughly 1 in 5 of these families spent over \$1,000 per month on juvenile justice costs).

72 U.S. DEP'T OF JUSTICE, OFFICE FOR CIVIL RIGHTS, ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEPARTMENT OF JUSTICE ON LEVYING FINES AND FEES ON JUVENILES (2017) [hereinafter ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE], <https://ojp.gov/about/ocr/pdfs/AdvisoryJuvFinesFees.pdf> (“Families burdened by these obligations may face a difficult choice, either paying juvenile justice debts or paying for food, clothing, shelter, or other necessities. The cost of fines and fees may foreclose educational opportunities for system-involved youth or other family members. When children and their families are unable to pay fines and fees, the children often suffer escalating negative consequences from the justice system that may follow them well into adulthood.”).

73 Rivera Decl., *supra* note 8.

74 *Id.* In practice, it appears as though counties often only charge fees to the custodial parent. The extent to which non-custodial parents are held responsible for such debt is unclear, though Humboldt County has a written policy of pursuing fee payments from non-custodial parents. Humboldt Cty. Prob. Dep't Revenue Recovery Div., *Juvenile Assessment Process* (Apr. 1, 2016) [hereinafter Humboldt Cty. Prob. Juvenile Assessment Process] (on file with authors) (“Each parent, if not living in the same household, are individually noticed and assessed for their ability to reimburse costs to the county. Therefore, the determination of ability to reimburse by each parent cannot exceed 50% of all costs that may be incurred. However, if parents live together, up to 100% of costs may be assessed.”).

75 Orange County Probation Department's Supplemental Brief in Opposition to Order to Show Cause; and Declaration of Marjorie Taylor in Support of Thereof at 12-13 (supplemental brief of creditor Orange County Probation Department), *In re Rivera*, No. 8:11-bk-22793-TA (Bankr. C.D. Cal. Sept. 16, 2013), *aff'd sub nom.* *Rivera v. Orange Cty. Prob. Dep't (In re Rivera)*, 511 B.R. 643 (B.A.P. 2014), *rev'd*, 832 F.3d 1103 (9th Cir. 2016).

76 Rivera Decl., *supra* note 8, at 5.

77 *Id.*

78 In total, Ms. Rivera was billed \$16,372. When she sold her home, Ms. Rivera paid \$9,508 to the Probation Department and believed it would decrease the amount owed to \$6,864. However, the Probation Department alleged that she still owed \$9,905. The county was unable to explain the financial discrepancy in court. *Rivera*, 832 F.3d at 1105, n.1.

79 Notice of Motion and Motion for Order to Show Cause Why the Orange Cty. Prob. Dep't Should Not Be Held in Contempt for Violation of the Discharge Injunction; Memorandum of Points and Auths.; Declarations of Maria G. Rivera and EmmaElizabeth A. Gonzalez at 4 (motion for order to show cause of debtor Maria G. Rivera), *In re Rivera*, No. 8:11-bk-22793-TA (Bankr. C.D. Cal. Sept. 16, 2013), *aff'd sub nom.* *Rivera v. Orange Cty. Prob. Dep't (In re Rivera)*, 511 B.R. 643 (B.A.P. 2014), *rev'd*, 832 F.3d 1103 (9th Cir. 2016).

80 *Rivera*, 832 F.3d 1103.

81 Telephone Interview with Bryan Prieto, Deputy Chief Prob. Officer of Orange Cty. (Dec. 1, 2016).

- 82 CAL. WELF. & INST. CODE § 202(a) (West 2016).
- 83 YOUTH JUSTICE COAL., GETTING PAID: THE BILLS COLLECTED BY THE LOS ANGELES COUNTY DEPARTMENT OF PROBATION PUT YOUTH AT RISK AND IMPOVERISH FAMILIES (2009), <http://www.youth4justice.org/wp-content/uploads/2012/12/GettingPaidReportYJC.pdf>.
- 84 Interview with R.P. in Alameda County, Cal. (Mar. 17, 2015) (on file with authors).
- 85 CAL. WELF. & INST. § 202(a).
- 86 Interview with grandmother of a child in the Alameda County juvenile system (Apr. 13, 2015) (on file with authors).
- 87 *Id.*
- 88 *Id.*
- 89 *Id.*
- 90 *Id.*
- 91 Interview with youth in the Alameda County juvenile system (July 2, 2015) (on file with authors).
- 92 *Id.*
- 93 *Id.*
- 94 YOUTH JUSTICE COAL., *supra* note 83, at 4.
- 95 NAT'L COUNCIL ON CRIME & DELINQUENCY, *supra* note 2.
- 96 Data received from the W. Haywood Burns Institute, www.data.burnsinstitute.org.
- 97 JESSICA SHORT & CHRISTY SHARP, CHILD WELFARE LEAGUE OF AMERICA, DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE JUSTICE SYSTEM (2005), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.603.9203&rep=rep1&type=pdf> (stating that institutional racial bias in the juvenile justice system is one reason for disproportionate minority contact in the juvenile system).
- 98 NAT'L COUNCIL ON CRIME & DELINQUENCY, *supra* note 2; *see also* SHORT & SHARP, *supra* note 97 (stating that overrepresentation of youth of color in detention and on probation are often “a product of actions that occur at earlier points in the juvenile justice system.”).
- 99 Data received from the W. Haywood Burns Institute, www.data.burnsinstitute.org.
- 100 *Id.*
- 101 ALAMEDA CTY. PROB. DEP'T, *supra* note 61.
- 102 *Id.*
- 103 The figures in the table exclude the flat investigation and public defender/court-appointed counsel fees that apply to all youth.
- 104 *See also* Weisburd, *supra* note 23 (electronic monitoring has numerous detrimental effects, including prolonged time spent on probation as a result of violations of monitoring requirements).
- 105 Memorandum from Richard Valle & Keith Carson, Alameda Cty. Supervisors to Alameda Cty. Bd. of Supervisors (Mar. 16, 2016) [hereinafter Alameda Cty. Moratorium Proposal Memorandum], http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_03_29_16/PUBLIC%20PROTECTION/

Regular%20Calendar/Supervisor%20Valle_Supervisor%20Carson_229888.pdf (Adopt a Resolution Suspending the Assessment and Collection of Juvenile Probation Fees and the Juvenile Public Defender Fee for All Alameda County Residents).

- 106 Alex R. Piquero & Wesley G. Jennings, Research Note, *Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, YOUTH VIOLENCE & JUV. JUST. (2016); Tamar R. Birckhead, *The New Peonage*, 72 WASH. & LEE L. REV. 1595 (2015) (describing how mandatory fees for youth in the juvenile court system can create insurmountable fee burdens, increasing the likelihood of youth recidivating); Stacy Hoskins Haynes et al., *Juvenile Economic Sanctions: An Analysis of Their Imposition, Payment, and Effect on Recidivism*, 13 CRIMINOLOGY & PUB. POL’Y 31, 37–38 (2014) (describing studies showing that the burdens of economic sanctions “might interfere with a juvenile’s ability to reenter society successfully after a conviction, thereby increasing the risk of recidivism”); R. Barry Ruback, *The Benefits and Costs of Economic Sanctions: Considering the Victim, the Offender, and Society*, 99 MINN. L. REV. 1779, 1796, 1811–12 (2015) (describing how the imposition of economic sanctions increases the likelihood of recidivism for all offenders). Research also suggests that administrative fees are unlikely to have a general deterrent effect. See Barry R. Ruback & Mark H. Bergstrom, *Economic Sanctions in Criminal Justice Purposes, Effects, and Implications*, 33 CRIM. JUST. & BEHAV. 242–273 (2006), <http://cjb.sagepub.com/content/33/2/242.full.pdf> (concluding that the lack of deterrence effect from economic sanctions is due to the relatively low size of economic sanctions and lack of adjustment according to the nature of individual crimes).
- 107 Piquero & Jennings, *supra* note 106.
- 108 *Id.* at 10.
- 109 *Id.* at 7.
- 110 *Id.* at 10.
- 111 Some people who are assessed fees, including parents or guardians in this instance, may turn to crime to finance their payment of the fees. Ezra Cohn, Debbie Mayer, Caitlin O’Neil, Khalia Parish & Jenny van der Heyde, *An Economic Analysis of Charging Administrative Fees to Justice-Involved Youth 2–3* (2016) (unpublished manuscript) (on file with authors) (“All people are prone to making suboptimal decisions in various circumstances, and chronic poverty is one such circumstance, due to the adverse effects of stress on executive functioning,” citing SENDHIL MULLAINATHAN & ELДАР SHAFIR, SCARCITY: WHY HAVING SO LITTLE MEANS SO MUCH (2013)).
- 112 SANTA CLARA CTY. REPEAL, *supra* note 67.
- 113 CAL. PENAL CODE § 1203.1a (West 2015). The relevant statute applies only to cases “in which a defendant is convicted of an offense.” *Id.* In California, “convicted of an offense” is a term of art that refers to adults—by law, youth adjudicated delinquent “shall not be deemed a conviction of a crime for any purpose.” CAL. WELF. & INST. CODE § 203 (West 2016).
- 114 A study commissioned by Sacramento County reached a similar conclusion, finding that “State law does not provide the County the authority to charge user fees for specified reports (Juvenile Pre-Sentence Investigation).” MAXIMUS, SACRAMENTO COUNTY PROBATION DEPARTMENT USER FEE STUDY 8 (2005) (on file with author).
- 115 These counties included Alameda, Monterey, Madera, Mariposa, Merced, Riverside, Sacramento, San Bernardino, Solano, Tehama, and Trinity. Juvenile Fees Survey, *supra* note 54.

- 116 For example, though Monterey and Sacramento counties reported that they charge investigation report fees, upon further research, we found that neither county actually charges such fees.
- 117 Mariposa Cty. Bd. of Supervisors, Agenda Action Form CH-9 (Dec. 15, 2009); Solano Cty., Fee Schedule (May 29, 2015) (on file with authors). Solano County cites section 54985(a) of the California Government Code for authorization of this fee. However, the Government Code only authorizes fees that are “otherwise authorized to be levied by another provision of law.” CAL. GOV. CODE § 54985(a) (West 2010). A fee for juvenile investigation or disposition reports is not otherwise authorized under another provision of California law.
- 118 CAL. WELF. & INST. CODE § 903(c)(1) (West 2016) (“The maximum cost of thirty dollars (\$30) per day shall be adjusted every third year beginning January 1, 2012, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.”).
- 119 WELF. & INST. § 903(c).
- 120 WELF. & INST. § 903(c)(1).
- 121 The California Consumer Price Index, All Urban Consumers on January 2012 was 232.930. In January 2015, it was 246.055. See CAL. DEP’T OF INDUS. RELATIONS, CALIFORNIA CONSUMER PRICE INDEX (1955–2016), <http://www.dir.ca.gov/OPRL/CPI/EntireCCPI.PDF> (last visited Mar. 5, 2017).
- 122 San Luis Obispo Cty., Fee Schedule (Mar. 11, 2015) (on file with authors); Ventura Cty., Fee Schedule (Sept. 24, 2015) (on file with authors).
- 123 WELF. & INST. § 903.
- 124 WELF. & INST. § 903(a).
- 125 *In re Gregory K.*, 106 Cal.App.3d 164, 169 (1980) (holding that when evidence fails to establish that a minor committed a crime, any detention of that minor serves only the purposes of society, and that requiring parents to pay for such detention violates the parent’s due process rights); WELF. & INST. § 903(b) (“The county shall . . . exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor.”).
- 126 YOUTH JUSTICE COAL., *supra* note 83, at 5.
- 127 For example, M.C., an Antioch resident, was charged for her 16-year-old son’s detention even after all charges were dropped against him. Lewis, *supra* note 13.
- 128 See Humboldt Cty. Prob. Juvenile Assessment Process, *supra* note 74.
- 129 Authorized by the Child Nutrition Act of 1966 (as amended through PL. 111–296, effective Dec. 13, 2010), the School Breakfast Program is a federally assisted meal program that provides free or reduced price breakfasts to children through 18 years of age. Authorized by the National School Lunch Act (as amended through P.L. 113–79, enacted Feb. 7, 2014), the National School Lunch Program is a federally assisted meal program that provides low-cost or free lunches to children enrolled in participating schools.
- 130 *National School Lunch Program*, CAL. DEP’T OF EDUC., <http://www.cde.ca.gov/ls/nu/sn/nslp.asp> (last visited Feb. 21, 2017).
- 131 7 C.F.R. § 245.3 (2011) (“When a child is not a member of a family (as defined in § 245.2), the child shall be considered a family of one.”). For the purposes of the National School Lunch Act, youth in juvenile detention facilities (or residential childcare institutions) are “considered a household of one.” USDA FOOD &

NUTRITION SERVICES, CHILD NUTRITION PROGRAMS, ELIGIBILITY MANUAL FOR SCHOOL MEALS: DETERMINING AND VERIFYING ELIGIBILITY SCHOOL YEAR 2016–2017 at 20 (2016), <https://www.fns.usda.gov/sites/default/files/cn/EligibilityManualFinal.pdf>. Juvenile detention facilities are allowed to submit an application for each child in their care or use an eligibility documentation sheet for all children residing in the facility, and the income-eligibility of those children is not individually verified, as is required of other facilities. *See id.* In the school context, children from families with incomes at or below 130% of the poverty level are eligible for free meals, and those with incomes between 130% and 185% of the poverty level are eligible for reduced-price meals. Child Nutrition Programs: Income Eligibility Guidelines, 81 Fed. Reg. 15,501 (Mar. 23, 2016).

- 132** 7 C.F.R. § 245.2 (2013).
- 133** Forty-five of 58 counties responded to a 2016 Public Records Act request filed by the Western Center on Law and Poverty about federal funding for meals in their detention facilities. The 17 counties that reported receiving federal funding for meals provided to youth in juvenile facilities included: Fresno, Humboldt, Imperial, Kern, Kings, Napa, Placer, Riverside, San Bernardino, San Joaquin, Santa Barbara, Santa Cruz, Shasta, Solano, Tulare, Ventura, and Yolo. The remaining counties either did not respond to the request or did not clarify whether they received federal funding for meals in their juvenile detention centers. Nine counties (Amador, Calaveras, Mariposa, Modoc, Mono, San Benito, Sierra, Sutter, and Tuolumne) do not have juvenile hall facilities or contract with other counties for use of their facilities.
- 134** San Joaquin Cty., Food Service Plan (Mar. 22, 2016) (on file with authors).
- 135** We found very few counties that itemize detention costs since the Legislature ended the requirement to do so in 1992. 1992 Cal. Stats. 177. San Joaquin County itemizes costs, but not at a sufficient level of detail—such as distinguishing food and food preparation costs by meal types—to determine whether it is violating federal law.
- 136** *See* 7 C.F.R. § 210.9(b)(7) (2016); *Davis v. Robinson*, 346 F.Supp. 847, 857 (1972) (quoting H.R. REP. NO. 91-1032 (1970) (stating it is “the intent that free lunches be provided for the poorest of the poor and under no circumstances shall those unable to pay be charged for their lunches.”)).
- 137** CAL. CONST. art. I, § 7(a) (“A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. . . .”); U.S. CONST. amend. XIV, §1.
- 138** CAL. WELF. & INST. CODE § 903.45 (West 2016).
- 139** CAL. WELF. & INST. CODE § 903(c) (West 2016).
- 140** WELF. & INST. § 903.45(b). Research conducted by the Samuelson Law, Technology, and Public Policy Clinic shows that in some cases private contractors who profit from electronic monitoring programs are conducting ability to pay determinations for youth assigned to electronic monitoring. *See* Christina Koningisor & Catherine Crump, *Electronic Monitoring Programs in the Juvenile Justice System* (forthcoming 2017) (on file with author).
- 141** *See* *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972) (noting that the “central meaning of procedural due process” is the “right to notice and an opportunity to be heard . . . at a meaningful time and in a meaningful manner”); *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970) (holding that procedural due process requires an impartial decisionmaker). In addition to due process concerns, we found some counties utilize ability to pay standards that are at odds with statutory requirements. For example, Sacramento County assesses families’ ability to pay public defender and drug testing fees on an “all or none” basis without additional ability to pay reductions or waivers; “[i]f the [parent debtor] has an ability to pay \$1.00 the entire amount is billed.” The drug testing

fee is only charged to the minor, not his or her parents or guardians. Ability to pay is based on whether “[t]he minor is not so seriously disabled that they would be unable to perform any type of work to earn money, such as odd jobs [or] [c]ircumstances are so extenuating that there is no reasonable expectation that the minor could pay.” *CTY. OF SACRAMENTO DEPT. OF REV. RECOVERY, COLLECTOR DESK MANUAL 18* (on file with authors).

- 142 Our findings bear out concerns raised when the California Legislature allowed counties to grant financial evaluation officers the authority to conduct ability to pay determinations in 1985. 1985 Cal. Stat. 5458, Senate Floor Analysis (S.B. 1252) (on file with authors). The American Civil Liberties Union opposed the bill, stating that such ability to pay determinations “are legal determinations and due process requires that they be made by a court, not a county bureaucrat.” *Id.* at 4.
- 143 Twenty respondents stated that their counties do not have standardized criteria. Juvenile Fees Survey, *supra* note 54.
- 144 Email from Patricia McFadden, Principal Auditor, Alameda Cty. Cent. Collections Agency, to Policy Advocacy Clinic (Dec. 2, 2015, 15:30 PST) (on file with authors).
- 145 Interview with Alameda Cty. Cent. Collections Agency Assistant Auditor-Controller Kevin Hing, Div. Chief Matthew Yankee, Principal Auditor Patricia McFadden, and Collection Supervisor Jacalyn Richardson (Nov. 3, 2015).
- 146 Interview with Alameda Cty. Fin. Hearing Officer (Oct. 21, 2013).
- 147 *Id.*
- 148 Alameda Cty. Moratorium Proposal Memorandum, *supra* note 105.
- 149 *County of Los Angeles v. Ralph V.*, 48 Cal.App.4th 1840, 1847 (1996) (citing *In re Jerald C.* 36 Cal.3d 1. (1984), and *County of San Mateo v. Dell J., Sr.*, 46 Cal. 3d 1236 (1988)). In 1986, a California Court of Appeal held that fees for probation supervision and home supervision of a minor could not be assessed to a parent because such court-ordered supervision is for the protection of society and such costs cannot be shifted to relatives without denying them equal protection under the law. *In re Nathaniel Z.*, 187 Cal. App. 3d 1132 (1986).
- 150 Under current state law, a family may be held “liable for the cost to the county of the probation supervision, home supervision, or electronic surveillance of the minor, pursuant to the order of the juvenile court, by the probation officer.” CAL. WELF. & INST. CODE § 903.2 (West 2016).
- 151 Cal. Senate Committee on Criminal Procedure Bill Analysis (S.B. 1734), 5 (1996), http://www.leginfo.ca.gov/pub/95-96/bill/sen/sb_1701-1750/sb_1734_cfa_960222_151459_sen_comm.html.
- 152 Juvenile Fees Survey, *supra* note 54.
- 153 CAL. WELF. & INST. CODE § 903(c) (West 2016).
- 154 In response to Public Records Act requests, six counties provided juvenile administrative fee data by fiscal year (July 1 to June 30) from 2010 to 2015. The data was often internally inconsistent and challenging to interpret, even after consultation with local Collection and Probation officials. For example, the data is often recorded not by youth or family, but by account, or by category of fee assessment—making it difficult to determine how many families are charged and how much each family is able to pay. Nevertheless, we were able to identify common trends across the counties regarding the revenue they collect from juvenile administrative fees.
- 155 WELF. & INST § 903(c).

- 156 Sacramento Cty. Prob. Dep't, AR-Recap by Fac. Code FY2014-15 (on file with authors). As a result of low recovery rates, approximately \$21.2 million in fees remain outstanding in the county. *Id.*
- 157 *See, e.g.*, Rubin, *supra* note 71 (noting that juvenile courts are considered courts of the poor and that juvenile courts in wealthier jurisdictions are rare); Birkhead, *supra* note 71 (arguing that emphasis on family need when adjudicating delinquency has a disproportionate effect on low-income children); JUSTICE FOR FAMILIES, *supra* note 71 (finding that youth involved with the juvenile justice system found that more than 50% came from families earning less than \$25,000 per year, and that roughly 1 in 5 of these families spent over \$1,000 per month on juvenile justice costs).
- 158 Orange Cty., Probation Financials (Jan. 15, 2016) [hereinafter Orange Cty. Probation Financials] (on file with authors). Orange County employs 16 Collection Officers, four Supervising Collection Officers, two clerks and one Collections Manager assigned to address juvenile case matters. The collection officer positions devote 100% of their time to juvenile collections matters, while one of the four supervisors devotes 100% of their time. The remaining positions devote anywhere from 20-80% of their time addressing juvenile case(s) collections matters. Email from Bryan Prieto, Deputy Chief Prob. Officer of Orange County, to Policy Advocacy Clinic (Dec. 7, 2016, 5:31PM PST).
- 159 Orange Cty. Probation Financials, *supra* note 158; ORANGE CTY., FY 2014-15 Annual Budget at 21 (2014), http://bos.ocgov.com/finance/2015FN/charts_frm.htm.
- 160 *Plan for the Repeal of Juvenile Administrative Fees: Meeting on Office of the County Executive Rep. No. 84353 Before the Board of Supervisors, Children, Seniors & Families Comm.* (Santa Clara County, Cal. Dec. 15, 2016) [hereinafter Santa Clara Cty. Hearing on Report No. 84353], http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=SplitView&MeetingID=7309&MediaPosition=2291.027&ID=84353&CssClass= (transcript at 1:36 PM).
- 161 CAL. WELF. & INST. CODE § 903(b) (West 2016).
- 162 *Contra Costa County Board of Supervisors Meeting*, CONTRA COSTA CTY., CAL., at D6 (Oct. 25, 2016), http://contra-costa.granicus.com/MediaPlayer.php?publish_id=2a9ed1db-9bod-11e6-9380-00219ba2f017 (video recording of meeting).
- 163 WELF. & INST. § 903(c).
- 164 Cohn et al., *supra* note 111. In the analysis, researchers ran the economic model 1,000 times and never showed a net societal loss from eliminating fees. *Id.* at 1.
- 165 S.F. Chief Nance Email, *supra* note 40.
- 166 Alameda Cty. Moratorium Proposal Memorandum, *supra* note 105.
- 167 ALAMEDA CTY. REPEAL, *supra* note 39.
- 168 Alameda Cty. Moratorium Proposal Memorandum, *supra* note 105.
- 169 *Id.*
- 170 Press Release, East Bay Cmty. Law Ctr., Alameda County Halts Juvenile Probation Fees (Apr. 7, 2016), <https://ebclc.org/in-the-news/alameda-county-halts-juvenile-probation-fees/>.
- 171 Interview with Kevin Hing, Assistant Auditor-Controller, Alameda County Auditor-Controller Agency (Mar. 31, 2016).

- 172 Press Release, Reentry Solutions Grp., Contra Costa County Probation Collections Unit Begins Notifying Parents /Guardians of a New Moratorium on Juvenile Probation Fees (Nov. 1, 2016), http://reentrysolutions-group.org/meeting_materials/Press_release_and_moratorium_letters_10-28-16_english_and_spanish.pdf.
- 173 CONTRA COSTA CTY. MORATORIUM, *supra* note 39.
- 174 *Id.*
- 175 Lewis, *supra* note 13.
- 176 Contra Costa Cty., Probation Collections Unit, Outstanding Balances (June 30, 2016), http://64.166.146.245/docs/2016/PBP/20160926_851/27183%5FPCU%20outstanding%20balances%2Epdf.
- 177 CONTRA COSTA CTY. MORATORIUM, *supra* note 39.
- 178 Molly Hennessy-Fiske, *L.A. County Probation Department suspends aggressive billing of guardians*, L.A. TIMES (Mar. 24, 2009), <http://articles.latimes.com/2009/feb/14/local/me-probation-fees14>; Hennessy-Fiske, *supra* note 32.
- 179 L.A. Cty. Prob. Dep't Moratorium, *supra* note 40.
- 180 Hennessy-Fiske, *supra* note 14 (“Chief Probation Officer Robert Taylor has said that he expects billing to resume and has circulated a proposal to increase daily charges—now \$11.94 for camps, \$23.63 for halls—by about 24%.”).
- 181 Hennessy-Fiske, *supra* note 32.
- 182 Telephone interview with Felicia Cotton, L.A. Prob. Dep't Deputy Chief of Juv. Insts. (Nov. 1, 2014). The moratorium only applied to new assessments; families who had entered into payment plans before February 16, 2009 were not covered; L.A. Cty. Prob. Dep't Moratorium, *supra* note 40.
- 183 Molly Hennessy-Fiske, *L.A. County Probation Officials Define Billing Moratorium*, L.A. TIMES (Apr. 1, 2009) <http://articles.latimes.com/2009/apr/01/local/me-probation-fees1>.
- 184 LOS ANGELES CTY. CAL., RES. TO INCREASE REGISTRATION FEES FOR A MINOR WHO IS REPRESENTED BY THE PUBLIC DEFENDER, ALTERNATE PUBLIC DEFENDER, OR OTHER COURT-APPOINTED COUNSEL IN JUVENILE DELINQUENCY COURT (2011)(enacted), <http://file.lacounty.gov/SDSInter/bos/supdocs/64642.pdf>.
- 184 S.F. Chief Nance Email, *supra* note 40.
- 186 S.F. City & County, Proposed Ordinance, Juvenile Probation Department-Daily Fee at Juvenile Hall and Log Cabin Ranch (June 25, 2009), <https://sfgov.legistar.com/LegislationDetail.aspx?ID=483686&GUID=09C53DEA-4619-4A48-9AD5-16557011FDE1&Options=ID%7cText%7c&Search=090709> (tabled proposal to establish daily fees for juvenile hall and ranch).
- 187 S.F. Chief Nance Email, *supra* note 40.
- 188 *Id.*
- 189 SANTA CLARA CTY. MORATORIUM, *supra* note 39.
- 190 SANTA CLARA CTY. REPEAL, *supra* note 67. Six months earlier, the Board had instituted a moratorium on the fees. SANTA CLARA CTY. MORATORIUM, *supra* note 39.
- 191 SANTA CLARA CTY. REPEAL, *supra* note 67 (follow “Resolution” link for the adopted text).
- 192 *Id.*

- 193 SANTA CLARA CTY. REPEAL, *supra* note 67.
- 194 *Id.*
- 195 SANTA CLARA CTY. MORATORIUM, *supra* note 39.
- 196 *Santa Clara Cty. Hearing on Report No. 84353*, *supra* note 160 (click “Juv Admin Fees-Printout #84353 12-15-16” to download the report); SANTA CLARA COUNTY REPEAL, *supra* note 67.
- 197 *Rivera v. Orange Cty. Prob. Dep’t*, 832 F.3d 1103 (9th Cir. 2016).
- 198 See U.S. Court of Appeals for the Ninth Circuit, 14-60044 *Maria Rivera v. Orange County Probation Dept.* (June 6, 2016), https://www.youtube.com/watch?v=M_mOKQL-UBg (video of oral argument).
- 199 *Rivera v. Orange Cty. Prob. Dep’t*, 832 F.3d 1103, 1112 (9th Cir. 2016). In a footnote to a sentence encouraging Orange County to exercise its discretion to protect youth and society, the Court observed, “Earlier this year, the Alameda County Board of Supervisors voted to end the collection of juvenile probation fees under [section] 903 [of the California Welfare and Institutions Code], noting that “it is in the interest of the County, of young people involved in the juvenile justice system and their families, and of the larger community that the County repeal the . . . juvenile probation fees.” *Id.* at 1112 n.11.
- 200 FEIERMAN et al., *supra* note 5.
- 201 *Id.*
- 202 *Id.*
- 203 *Id.* at 6–8.
- 204 *Id.* at 9.
- 205 ALAMEDA CTY. REPEAL, *supra* note 39.
- 206 FEIERMAN et al., *supra* note 5.
- 207 See U.S. DEP’T OF JUSTICE, FACT SHEET ON WHITE HOUSE AND JUSTICE DEPARTMENT CONVENING—A CYCLE OF INCARCERATION: PRISON, DEBT AND BAIL PRACTICES (2015), <https://www.justice.gov/opa/pr/fact-sheet-white-house-and-justice-department-convening-cycle-incarceration-prison-debt-and>.
- 208 EXEC. OFFICE OF THE PRESIDENT, COUNCIL OF ECON. ADVISORS, ISSUE BRIEF, FINES FEES, AND BAIL: PAYMENTS IN THE CRIMINAL JUSTICE SYSTEM THAT DISPROPORTIONATELY IMPACT THE POOR (2015), http://nacmconference.org/wp-content/uploads/2014/01/1215_cea_fine_fee_bail_issue_brief.pdf.
- 209 See U.S. Dep’t of Justice, Bureau of Justice Assistance, Office of Justice Assistance, BJA’s Justice Today (Sept. 2016), https://www.bja.gov/JusticeToday/Sept_2016_newsletter.html (The Bureau of Justice Assistance hosted a meeting, “Progress and Promise: Momentum in the Reform of Justice Debt and Bail Practices,” of legal professionals, academics, advocates, and others.).
- 210 ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE, *supra* note 72.
- 211 Erick Eckholm, *Court Costs Entrap Nonwhite, Poor Juvenile Offenders*, N.Y. TIMES, Aug. 31, 2016, https://www.nytimes.com/2016/09/01/us/court-costs-entrap-nonwhite-poor-juvenile-offenders.html?_r=1.
- 212 *Id.*
- 213 Editorial Bd., *The Injustice of Making Kids Pay*, N.Y. TIMES, Sept. 5, 2016, https://www.nytimes.com/2016/09/05/opinion/the-injustice-of-making-kids-pay.html?_r=3.

- 214 Eric Markowitz, *The Long-Term Costs of Fining Juvenile Offenders*, NEW YORKER, Dec. 24, 2016, <http://www.newyorker.com/business/currency/the-long-term-costs-of-fining-juvenile-offenders>.
- 215 *Id.*
- 216 Hager, *supra* note 11.
- 217 S. 190, 2017–2018 Reg. Sess. (Cal. 2017).
- 218 *Id.*
- 219 *Id.*
- 220 Email from Todd Billeci, Contra Costa Cty. Prob. Officer to Policy Advocacy Clinic (Mar. 7, 2017, 9:27 AM PST) (on file with authors).
- 221 *Id.* Officer Billeci noted that, “It looks like there are a few accounts for the same family but most are unique accounts.” *Id.*
- 222 *Id.* Email from Rebecca Brown, Reentry Solutions Group to Policy Advocacy Clinic (Mar. 6, 2017, 5:14 PM PST) (on file with authors).
- 223 CAL. PENAL CODE §§ 13010–13012.5 (West 2015) (setting forth the state DOJ’s duty to collect and report specified data in the juvenile system); CAL. WELF. & INST. CODE § 285 (West 2016) (requiring probation officers to “make periodic reports to the Attorney General at those times and in the manner prescribed by the Attorney General. . .”).
- 224 CAL. DEP’T OF JUSTICE, *supra* note 18, at i.
- 225 CAL. PENAL CODE § 13012(e) (West 2015).
- 226 The state DOJ is required to gather information that includes the “personal and social characteristics” of youth in the juvenile system. CAL. PENAL CODE § 13012(b) (West 2015). The agency is also required to document the “administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system.” CAL. PENAL CODE § 13012(c) (West 2015).
- 227 The Juvenile Justice Data Working Group was mandated by the enactment of Assembly Bill 1468. A.B. 1468, 2013–14 Reg. Sess. (Cal. 2014).
- 228 JUVENILE JUSTICE DATA WORKING GRP., REBUILDING CALIFORNIA’S JUVENILE JUSTICE DATA SYSTEM: RECOMMENDATIONS TO IMPROVE DATA COLLECTION, PERFORMANCE MEASURES AND OUTCOMES FOR CALIFORNIA YOUTH 1, 51 (2016), <http://www.bscc.ca.gov/downloads/JJDWG%20Report%20FINAL%201-11-16.pdf>.
- 229 *Id.* at 36. More recent legislation requires the Board of State and Community Corrections to develop recommendations on best practices and standardization for counties on how to disaggregate juvenile system data by race and ethnicity. A.B. 1998, 2015–16 Reg. Sess. (Cal. 2016). The recommendations should include requiring such disaggregated data on the: (1) number of youth on each post-dispositional probation caseload type and program, including informal probation; (2) average length of time on probation, and the success rates of youth on probation; (3) probation terms and conditions, including electronic monitoring, and drug tests; and (4) rates of probation violation by type.
- 230 *See* Koningisor & Crump, *supra* note 140.
- 231 CAL. WELF. & INST. CODE § 903.45 (West 2016).



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