

# High Pain, No Gain:

## How Juvenile Administrative Fees Harm Low-Income Families in Alameda County, California



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*Cover photo of the interior of Juvenile Hall in San Leandro, California  
(<http://www.henselphelps.com/projects/alameda-county-juvenile-justice-center1>).*

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## EXECUTIVE SUMMARY

National attention is focused on racial and economic discrimination in the criminal justice system.<sup>1</sup> People of color are overrepresented at every stage in the criminal justice system, even when controlling for alleged criminal behavior.<sup>2</sup> Racially disproportionate interaction with the criminal justice system leaves people of color with significantly more system-related debt.<sup>3</sup> While criminal justice debt has been described and condemned in the adult system, this issue has received virtually no attention in the juvenile system.<sup>4</sup> Nevertheless, youth and their families face similar financial burdens in the juvenile delinquency system—burdens that significantly undermine the rehabilitative goals of the juvenile system.

This report presents research findings about the practice in Alameda County, California, of assessing and collecting administrative fees against families with children involved in the juvenile system. State law permits counties to charge administrative fees in addition to court-ordered fines and restitution, but only against families with the ability to pay. Since 2009, when the Board of Supervisors increased juvenile administrative fees more than ten-fold, Alameda County has imposed millions of dollars of debt on families with youth in the juvenile system.

Our research reveals that juvenile administrative fees result in high pain to families. The County charges these fees to thousands of families who are already struggling to maintain economic and social stability, and the financial burden appears to fall most heavily on families of color. This debt becomes a civil judgment upon assessment, and if families do not pay the fees, the debt is referred to the Franchise Tax Board for wage garnishment, bank levy or tax intercept.

State law makes clear that the fees are meant to help counties recoup costs and are not supposed to be retributive (to punish the family), rehabilitative (to help the youth) or restorative (to repay victims). Although the fees are supposed to help counties recoup expenses, Alameda County's own data suggest that its net fiscal gain is minimal at best. We report in more detail below the following key findings about this high pain, no gain fee scheme:

- 1. Alameda County charges families of youth in the juvenile system some of the highest administrative fees in California.**
- 2. Alameda County does not administer a fair, consistent and lawful process for determining families' ability to pay juvenile administrative fees.**
- 3. Alameda County youth and families experience juvenile administrative fees as harmful and counterproductive to the rehabilitative purpose of the system.**
- 4. Alameda County does not benefit financially from juvenile administrative fees, because it is costly to assess and collect them against families who cannot afford to pay.**
- 5. Alameda County would realize a net benefit from ending the assessment and collection of juvenile administrative fees.**

## RECOMMENDATION

**The Alameda County Board of Supervisors should end the practice of assessing and collecting administrative fees against the families of youth in the juvenile system. The board of Supervisors should adopt an ordinance to repeal all juvenile administrative fees or place an immediate moratorium on their assessment and collection.**

## INTRODUCTION

### *Background*

In 2014, California juvenile courts placed more than 30,000 youth on formal probation.<sup>5</sup> The Alameda County Probation Department actively monitors over 2,000 youth in any given month.<sup>6</sup> In Alameda County, like across the state, youth of color are disproportionately represented in the juvenile system. For example, African Americans make up only 12% of the county's population but represent 50% of the juvenile probation population.<sup>7</sup>

The stated purpose of California's juvenile system is to promote public safety by rehabilitating young people through training and treatment.<sup>8</sup> When a young person enters the system, the county provides care and supervision intended to help the youth "be a law-abiding and productive member of his or her family and the community."<sup>9</sup> The majority of youth in the juvenile system spend some time on probation, and juvenile courts routinely order youth to comply with a range of probation conditions, including detention in Juvenile Hall, probation supervision, electronic monitoring and drug testing.<sup>10</sup>

State law authorizes counties to hold parents liable for many of the costs incurred in providing counsel, care and supervision to youth in the juvenile system in order to help counties recoup costs related to the support of the minor.<sup>11</sup> At the same time, state law also prohibits counties from imposing fiscal responsibility on families without the "ability to pay" in order to protect families against excessive fees.<sup>12</sup> Almost every county in California charges families juvenile administrative fees for at least some portion of their child's involvement in the system.<sup>13</sup>

Several years ago, lawyers and law students at the East Bay Community Law Center (EBCLC) started representing youth in juvenile court in Alameda County. Almost immediately, they observed that the parents and guardians of their clients were liable for administrative fees that could total several thousand dollars per family. Families often had no information about the difference between administrative fees and other financial charges such as fines and restitution or who owed what debt. Families also lacked knowledge about how to pay or contest the bills.

EBCLC represented parents in their individual cases and convened a working group of Alameda County juvenile justice advocates to address the growing concerns about juvenile administrative fee debt. On the working group's behalf, we began investigating juvenile administrative fee practices locally and across California. Our research for this report included:

1. Review of existing literature and publicly-available data, including from the California Attorney General's Office and County websites;
2. Analysis of California statutes that permit counties to charge juvenile administrative fees and local ordinances that specify how individual counties assess and collect the fees;
3. Survey of all 58 Chief Probation Officers in California to determine policies, procedures and practices regarding fees at the County level;
4. In-depth research, including Public Records Act requests, in ten high population counties to gather more detailed information about policies, procedures and practices; and
5. Interviews with families in the juvenile system, and public officials, senior management and line staff with direct knowledge of county practices in Alameda County.

### *Report Outline*

In Section I of this report, we provide an overview of the administrative fees that Alameda

County charges the families of youth in the juvenile system. The Alameda County Board of Supervisors increased the fees more than ten-fold in 2009. For the family of a youth with average probation conditions, fees have risen from less than \$250 to almost \$3,000.

In Section II, we present our findings about how juvenile administrative fees harm youth and their families in Alameda County. The current fee scheme affords sweeping discretion to County collections employees when charging families, with no accountability mechanisms and a disproportionate impact on low-income families of color.

In Section III, we provide data on the amount of juvenile administrative fees assessed and collected against families in Alameda County, including the costs associated with assessment and collection. Our findings, based on the County's own data, suggest that Alameda County nets little to no net revenue from charging juvenile administrative fees and would benefit from the elimination of juvenile administrative fees.

In Section IV, we put Alameda County's practices in a statewide context, which reveals that it charges some of the highest fees in California. In fact, San Francisco has never charged such fees, and Los Angeles placed a moratorium on fees in 2009 in response to community outcry about the harm to low-income youth of color and their families.

In Section V, we conclude with a recommendation that the Alameda County Board of Supervisors end—or at least temporarily suspend—the practice of assessing and collecting juvenile administrative fees. A fee repeal or moratorium will relieve a significant financial burden on thousands of low-income families at little or no financial cost to Alameda County.

\*\*\*

## **I. JUVENILE ADMINISTRATIVE FEES IN ALAMEDA COUNTY**

State law authorizes counties to charge families for costs incurred in the juvenile system.<sup>14</sup> Although state law authorizes such fees, individual counties decide what fees should be imposed and in what amounts.<sup>15</sup> 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.”<sup>16</sup> These juvenile administrative fees are not supposed to be retributive, rehabilitative or restorative.<sup>17</sup>

In Alameda County, the Board of Supervisors sets juvenile administrative fees by local ordinance or resolution, often at the recommendation of County departments. In this Section, we provide a brief overview of these fees, including the type and amount of fees, how the County assesses fees against families, and how it determines whether families can afford to pay the fees.

### **A. History of Juvenile Administrative Fees in Alameda County**

The Alameda County Board of Supervisors has authorized the assessment and collection of juvenile administrative fees since the late 1980s.<sup>18</sup> However, until 2009, Alameda County only charged fees for:

- (1) detention in Juvenile Hall (\$10.11 per day),
- (2) detention in Camp Sweeney (\$10.24 per day), and
- (3) representation by a lawyer (\$200 per case).<sup>19</sup>

In 2009, at the request of the Probation Department “in order to offset the increased cost of providing probation services,” the Board of Supervisors approved recommendations to increase the detention fees for Juvenile Hall (\$25.29/day) and Camp Sweeney (\$20.32/day) and approved

four new fees:

- (1) probation supervision (\$90.00/month),
- (2) electronic monitoring (\$15.00/day),
- (3) drug testing (\$28.86/test),<sup>20</sup> and
- (4) pre-charge investigations (one-time \$250).<sup>21</sup>

In 2011, at the request of the Office of the Public Defender in order to “expand opportunities for recoupment and ensure continuing revenue,” the Board of Supervisors increased the fee for public defender and court-appointed attorney representation to \$300.00 per case.<sup>22</sup>

Alameda County now charges families seven different juvenile administrative fees, which are listed in Table 1.<sup>23</sup>

**Table 1: Juvenile Administrative Fees in Alameda County<sup>24</sup>**

<b>Fee</b>	<b>Before 2009</b>	<b>After 2009</b>
<b>Juvenile Hall</b>	\$10.11/day	\$25.29/day
<b>Camp Sweeney</b>	\$10.24/day	\$20.32/day
<b>Public Defender/Court-Appointed Attorney</b>	\$200.00/case	\$300.00/case*
<b>Probation Supervision</b>	\$0.00	\$90.00/month
<b>Electronic Monitoring</b>	\$0.00	\$15.00/day
<b>Drug Testing</b>	\$0.00	\$28.68/test
<b>Investigation</b>	\$0.00	\$250.00/case

\*The Public Defender/Court-Appointed Attorney Fee was increased in 2011.

Like some counties in California, Alameda County adopted fee increases during a budget crisis. Based on interviews with various stakeholders involved in the process at that time, we found no evidence to suggest that anyone considered the impact of the fee increases on families with youth in the juvenile system. The sole motivating factor behind the 2009 and 2011 fee hikes appears to have been revenue generation.<sup>25</sup>

### **B. Assessment of Juvenile Administrative Fees in Alameda County**

While the Alameda County Board of Supervisors sets overall amounts with respect to juvenile administrative fees, the process of assessing and collecting fees is complex and involves multiple county actors. At the time of “disposition” in juvenile court, the judge imposes a sentence (most often a form of probation) and orders parents or guardians to see a Financial Hearing Officer (“FHO”) to answer questions concerning their financial ability to reimburse the County.<sup>26</sup> Though judges sometimes mention juvenile administrative fees earlier in the process, most families first learn about the fees when their children are formally punished.

Despite instructions from the judge, many families do not meet with the FHO. For example,

in the one quarter in fiscal year 2014-15 for which the County provided data, almost half of all families did not meet with an FHO after disposition.<sup>27</sup> One mother stated she did not go because she was distraught by the outcome of her son's disposition.<sup>28</sup> Another mother said she was confused and did not realize she had to go see a FHO.<sup>29</sup> As discussed further below, families who do not meet with the FHO can be charged the full amount of fees, regardless of their ability to pay.

### **C. Determining Ability to Pay Juvenile Administrative Fees in Alameda County**

Under state law, counties may not charge fees without determining a family's ability to pay. In Alameda County, this determination is delegated to the FHOs, who are employees of the County's Central Collections Agency.<sup>30</sup> State law says the FHO "shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income."<sup>31</sup> If families do not meet with a FHO after having been given proper notice to do so, the FHO "shall recommend to the court that the person be ordered to pay the full amount of the costs," regardless of a family's ability to pay.<sup>32</sup>

When a family meets with a FHO, the FHO evaluates the family's ability to pay and determines the amount owed and the terms of payment.<sup>33</sup> The FHO then petitions the 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."<sup>34</sup> State law permits families to dispute in court the outcome of a FHO ability to pay determination and to be represented by appointed counsel at that hearing.<sup>35</sup> Additionally, if a family's circumstances change, they have the right to have their ability to pay reassessed.<sup>36</sup>

However, very few families meeting with a FHO are represented by lawyers or other advocates.<sup>37</sup> Families often have a hard time differentiating the various legal financial obligations, including restitution, restitution fines and juvenile administrative fees. While families have the right to appeal FHO determinations, many families are not aware of this right or cannot assert it. The Juvenile Justice Center in San Leandro is not easily accessible by public transportation and many families must take off work or forgo employment opportunities to attend such hearings.

When the juvenile court judge approves the FHO petition for order of payment, the juvenile administrative fees become a civil judgment enforceable against the parents or guardians.<sup>38</sup> The FHO can no longer waive or reduce the fees. Only a judge can modify or vacate an existing judgment to change the ordered fee amounts. In other words, once established, juvenile administrative debt can follow a family for years.

Unpaid fees are subject to collection like any other civil judgment, even after juvenile court jurisdiction ends.<sup>39</sup> If families do not meet their monthly payment amounts or pay off their debt in full, their cases can be referred to the Franchise Tax Board ("FTB"). The FTB then garnishes their wages, levies their bank accounts and intercepts their tax receipts until the debt is paid off.<sup>40</sup>

## **II. HIGH PAIN THAT HARMS STRUGGLING FAMILIES**

The Alameda County Board of Supervisors increased juvenile administrative fees in 2009. In this Section, we present our findings about how these fees impact youth and their families. We describe in particular how the current assessment and collections practices—which grant wide discretion to employees of the Central Collections Agency with virtually no oversight or record-keeping—harm some of Alameda County's most vulnerable families and undermine the

rehabilitative purpose of juvenile system.

### **A. The Financial Burdens are High and Fall Especially Hard on Families of Color**

According to the most recent Alameda County Probation Department statistics, youth spend an average of 24 days in Juvenile Hall, 77 days in Camp Sweeney, 17 months on probation supervision and 33 days on electronic monitoring.<sup>41</sup> We estimate that youth are drug tested every other month while on probation supervision, for an average of eight times over 17 months.<sup>42</sup>

The juvenile administrative fees for a youth serving average probation conditions in Alameda County are listed in Table 2.<sup>43</sup> The \$250 pre-charge investigation fee and the \$300 public defender fee—one-time assessments for every new case—are not included below.

**Table 2: Juvenile Administrative Fees for Youth Serving Average Probation Conditions in Alameda County**

<b>Administrative Fee</b>	<b>Amount</b>	<b>Average</b>	<b>Total</b>
<b>Juvenile Hall</b>	\$25.29/day	24 days	\$606.96
<b>Supervision</b>	\$90.00/month	17 months	\$1,530.00
<b>Electronic Monitoring</b>	\$15.00/day	33 days	\$495.00
<b>Drug Testing</b>	\$28.68/test	8 tests	\$229.44
<b>TOTAL</b>			<b>\$2,861.40</b>

Comparing the overall fee burden before and after the 2009 increases—holding constant the most recent average probation conditions from the County—reveals the dramatic rise in juvenile administrative fees. Prior to the increases, the total fee burden on the family of a youth serving average probation conditions was \$243. As Table 2 above notes, the total fee burden on the same family after the increases is almost \$3,000. In effect, the Alameda County Board of Supervisors increased juvenile administrative fees on families more than ten-fold in 2009.<sup>44</sup>

Even these startling numbers mask significant disparities by race and ethnicity. Youth of color are overrepresented in every stage of the juvenile system.<sup>45</sup> For example, African-Americans make up 12 percent of the County population—fewer than 1 in 8 residents—but according to the County’s most recent statistics, they represent almost 70 percent of the youth detained in Juvenile Hall and 50 percent of the youth under probation supervision and on electronic monitoring.<sup>46</sup> In other words, African American youth are sentenced to probation at more than four times their numbers in the community (50-70 percent versus 12 percent).<sup>47</sup>

In addition to being sentenced more often to probation, African American youth serve longer probation conditions than white youth. For example, the average African American youth serves 25 days in Juvenile Hall, 22 months on probation supervision and 34 days on electronic monitoring.<sup>48</sup> The corresponding numbers for white youth are 11 days in Juvenile Hall, 10 months on probation supervision and 21 days on electronic monitoring.<sup>49</sup> As a result of the greater frequency and duration of average probation conditions, African American families are liable for significantly higher fees.

Average juvenile probation conditions, and the disparate fee amounts assessed by race as a result of disparate probation conditions, are listed in Table 3. Like the figures in Table 2, these averages are derived from the most recent figures available from the Alameda County Probation Department. The analysis shown in the table includes detention in Juvenile Hall, but not Camp Sweeney, and excludes the flat investigation and public defender/court-appointed counsel fees that apply to all youth.<sup>50</sup>

**Table 3: Average Juvenile Probation Conditions and Fees by Race in Alameda County**

Race	Total	Average Probation Conditions			
		Juvenile Hall (days)	Probation Supervision (months)	Electronic Monitoring (days)	Drug Testing (tests)
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

As Table 3 depicts, a family with an African American youth serving average probation conditions is liable for more than twice the juvenile administrative fees (\$3,438) as a family with a white youth serving average probation conditions (\$1,637).<sup>51</sup> Recall that African American youth are already overrepresented fourfold in the Alameda County juvenile system. In other words, African American families are doubly harmed by current practices—their children are overrepresented within the system, and they are liable for higher fees because of longer probation conditions.

The County does not maintain data that permits a full assessment of whether or not these racial disparities are related to the underlying seriousness of the crimes for which youth are punished. However, evidence from other parts of the criminal justice system suggests that the differences are at least in part the product of racial bias.<sup>52</sup> Given what we know about the juvenile system—the overrepresentation of youth of color and the disproportionate outcomes by race—the County should have the burden of showing that it is not operating its fee scheme in a way that exacerbates racial inequalities.

### **B. The Ability to Pay Determination is Deeply Flawed**

State law mandates an ability to pay determination in order to safeguard low-income youth and their families of all races from excessive fees. Accordingly, FHOs are supposed to evaluate who can afford to pay such fees and whose fees should be reduced or waived based on an inability to pay. Unfortunately, we found little evidence that the ability to pay determination in Alameda County is conducted fairly or consistently. In fact, the burden appears to be on low-income families to prove their *inability* to pay, with FHOs exercising wide discretion with

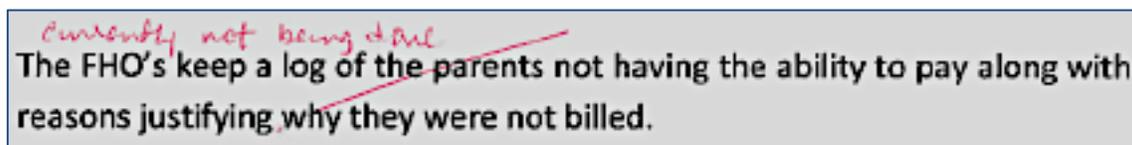
inadequate accountability measures in place to ensure compliance with state law.

In Alameda County, FHOs have full discretion to assess a family’s ability to pay juvenile administrative fees. By its own admission, the County has no written standards or guidelines upon which FHOs perform ability to pay evaluations.<sup>53</sup> Rather, all existing policies appear to be communicated verbally to and among FHOs.<sup>54</sup> Of the verbal policies purported to exist—such as not charging grandparents or families who receive public benefits—the county has no statistics, data or other evidence to show that the FHOs apply such policies fully, fairly or consistently.<sup>55</sup>

Early in our research, we interviewed the two FHOs in Alameda County. They both indicated that they have complete discretion to determine ability to pay and no formal guidance or training on making such determinations. Subjective factors weigh heavily in their decision-making—one FHO reported making decisions based solely on a parent’s statement unless the FHO suspects the parent is lying.<sup>56</sup> The FHO said it was possible to tell when people were lying based on their clothes (e.g., “mom’s handbag”) and how they act.<sup>57</sup>

State law requires that counties consider the family’s income, obligations and the number of dependents, but Alameda County provided no evidence that it considers these factors.<sup>58</sup> Per their job description, the FHOs are supposed to maintain “a log of all financial hearings and the disposition of each,” and provide “a record of all financial hearings and the outcome of each [...] with all documentation for each financial determination/assessment for the purpose of billing and collections.”<sup>59</sup> But in response to our 2015 Public Records Act request, the County acknowledged that such systematic record-keeping was “currently not being done” (see Figure 1).<sup>60</sup>

**Figure 1: Alameda County Response to Public Records Act Request about the Ability to Pay Process**



In fact, neither the Central Collections Agency nor the Probation Department regularly collects or maintains the most basic information about ability to pay determinations. In response to our records request, the Central Collections Agency provided figures from the third quarter of fiscal year 2015 for illustrative purposes.<sup>61</sup> According to the County, during that three-month period, 264 families met with FHOs and 234 did not meet with FHOs. Of those families that did not meet with the FHOs, 15 were charged fees *without* an ability to pay determination.<sup>62</sup> It is unclear what happened to the other 219 families who also did not meet with FHOs. The County could not tell us the number or percentage of families that had their fee assessments reduced or waived—irrespective of whether they met with an FHO—because they do not track this information.<sup>63</sup> In other words, Alameda County is unable to demonstrate that it is protecting low-income families from being charged excessive, unjust or unlawful fees.

### **C. High Fees Undermine Family Reunification and Stability**

As described above, Alameda County’s juvenile administrative fees are high and especially burdensome on families of color. Further, the County does not operate a fair and consistent fee assessment process that takes into consideration state-mandated factors when determining ability to pay. As a result of the high financial burden and a flawed ability to pay process, Alameda County’s policies and practices undermine family stability, and are thus counterproductive to the

rehabilitative purpose of the juvenile system.

Through a series of interviews with youth and their families over the last two years, we have repeatedly heard stories suggesting that juvenile administrative fees impose several significant harms on families without the ability to pay. First, the fees force families to choose between paying for necessities and paying the County. Second, the fees strain often already challenging relationships between youth and their parents. And third, the fees incentivize actions that are even more costly and harmful to the family and society.

### ***1. Family financial harm***

Juvenile administrative fees disrupt a family's financial stability. Although the County does not gather or maintain socio-economic data on youth and their families in the juvenile system, evidence from other sources suggests that they are disproportionately low-income.<sup>64</sup> As a result, many families must struggle to pay these fees as they must choose between paying the County or meeting basic necessities.

For example, we interviewed Frances Green, a single, self-employed mother from Oakland. Ms. Green was billed more than \$4,000 after the disposition of her 14-year-old son's case.<sup>65</sup> She did not meet with a FHO because she was too distraught, which resulted in an order of a civil judgment for the full amount. At first, the Central Collections Agency billed Ms. Green at a rate of \$75 per month. After she was late with one payment, the agency increased her monthly payment to more than \$300 per month.

Ms. Green subsequently requested a rehearing in front of a judge to negotiate her payment because she could not afford to pay based on her fluctuating income. While she was able to reduce her monthly payment to \$50 per month, no one told her that she could have requested a full reassessment of the fees so that they could be waived in full or in part based on her income and other financial obligations. Her son was recently sent to an out-of-state facility and she knows that she will soon be billed for his time there.

### ***2. Family relationship harm***

Charging juvenile administrative fees strains family relationships. Many families already have challenging relationships due to the involvement of their child in the juvenile system, and adding a financial burden only amplifies feelings of anger or resentment. This is contrary to the goal of the juvenile system in fostering family stability and the reintegration of a youth back into a household.<sup>66</sup>

For example, we interviewed a single father, Chris Miller, who lamented his experience with administrative fees and how they have impacted his relationship with his teenage son. Mr. Miller said that the fees created a strain between him and his son that only made it harder for him to take care of his child. Growing more and more distrustful of the system, he was troubled by the fact that the fees left his son feeling like people in the system did not care about him or how he performed in school—they only seemed to care if he paid the fees.<sup>67</sup>

### ***3. Societal harm***

Third, the juvenile administrative fee scheme creates perverse incentives for youth and their families.<sup>68</sup> Rather than bolstering ties within families, holding parents liable for administrative fees encourages family members to make harmful decisions.<sup>69</sup> We interviewed a grandmother who was charged detention fees for her grandson, over whom she had assumed guardianship after the death of her daughter.<sup>70</sup> When she contemplated how she was going to pay these fees on

her income of only \$400 per month, she considered relinquishing custody of her grandson to the County. In another instance, we interviewed a youth who was thinking of running away from home and living on the streets—becoming homeless—in the hope that his family would be relieved of the fee burden.<sup>71</sup>

### **III. LITTLE OR NO FISCAL GAIN FOR ALAMEDA COUNTY**

The California Legislature authorizes counties to charge juvenile administrative fees to protect their fiscal integrity—in other words, to recoup their costs for providing care, counsel and supervision to youth.<sup>72</sup> Yet data on the amount of fees assessed and collected against families with youth in the juvenile system strongly suggest that Alameda County’s net recoupment is small to nonexistent. In this Section, we discuss what the County has assessed and collected in juvenile administrative fees since 2010, how much the County spends annually on assessing and collecting fees, and the fiscal implications of this fee regime for the County.

#### **A. Alameda County Collects Minimal Revenue from Juvenile Administrative Fees**

In response to our Public Records Act request, the County provided juvenile administrative fee data by fiscal year (July 1 to June 30) from 2010 to 2015. The data was in places internally inconsistent and challenging to interpret, even after consultation with officials in the Central Collections Agency and the Probation Department. For example, the data is recorded not by youth or family, but by category of fee assessment, making it difficult to determine how many families are impacted and in what amounts. Nevertheless, we were able to reach the following conclusions about what the County assesses and collects in juvenile administrative fees.

During the last five fiscal years, the Central Collections Agency has charged Alameda County families more than \$3 million in juvenile administrative fees.<sup>73</sup> In the most recent fiscal year, 2014-15, the County charged hundreds of families more than \$475,000.<sup>74</sup> However, these numbers do not represent the full amount of charges. We did not include what the County assesses each year for public defender or court-appointed attorney fees, because the County did not provide information about what it collects in such fees.<sup>75</sup>

The average annual revenue from juvenile administrative fees—exclusive of the public defender and court-appointed attorney fees—is roughly \$400,000. In 2014-15, the Central Collections Agency reported collecting \$419,830.<sup>76</sup> Since the amount collected annually includes receipts from families ordered to pay fees in prior years, it is difficult to estimate what percentage of charged fees Alameda County has collected over time. According to the latest 2015 figures, the outstanding balanced owed by families exceeds \$1.5 million.<sup>77</sup>

#### **B. Alameda County Expend Significant Resources Assessing and Collecting Juvenile Administrative Fees**

As noted above, Alameda County collects approximately \$400,000 annually from families who are charged juvenile administrative fees. This figure, however, is gross receipts, and does not take into account the costs associated with assessing and collecting the fees. The County maintains staffing and infrastructure to administer the juvenile fee process, which entails fiscal obligations such as salaries, benefits and non-personnel expenses. The County does not track directly the costs associated with administering the fee regime, but we are able to make some estimates based on various data points.

The Central Collections Agency employs two Financial Hearing Officers who assess juvenile administrative fees and make ability to pay determinations. According to the County, both FHOs

spend 67 percent of their time on tasks related to these activities. The FHOs report directly to a supervisor who we estimate spends 20 percent of her time overseeing their fee-related activity.<sup>78</sup> The Agency also employs a Collection Enforcement Deputy who, according to the County, spends 90 percent of her time following up with families to try to collect fees.<sup>79</sup> She also has a direct supervisor, who we estimate spends 10 percent of her time on activity related to collecting juvenile administrative fees. The County reported additional minor costs related to these employees.

Table 4 summarizes these annual direct costs in the Central Collections Agency, which totaled more than \$250,000 in fiscal year 2014-15.

**Table 4: Central Collections Agency Expenditures on Assessment and Collection of Juvenile Administrative Fees in Alameda County, FY 2014-15**

One FHO (.67 FTE x \$93,417 annual salary and benefits) <sup>80</sup>	\$62,590.05
One FHO (.67 FTE x \$101,679 annual salary and benefits) <sup>81</sup>	\$68,124.97
Collection Enforcement Deputy II (.90 FTE x \$86,497 annual salary and benefits) <sup>82</sup>	\$77,847.46
FHO Supervisor (.20 FTE x \$134,227.42 annual salary and benefits) <sup>83</sup>	\$26,845.48
Collection Supervisor II (.10 FTE x \$125,000 estimated annual salary and benefits)	\$12,500.00
Annual daily costs for FHOs (2)	\$2,000.00
Annual daily costs for CED (1)	\$1,000.00
Annual office charges in Juvenile Justice Center—San Leandro	\$31.00
<b>TOTAL DIRECT COSTS, FISCAL YEAR 2014-15</b>	<b>\$250,938.96</b>

### C. Juvenile Administrative Fees Yield Little Net Financial Gain for Alameda County

The Alameda County Central Collections Agency spends a minimum of \$250,000 annually to assess and collect an average of \$400,000 in juvenile administrative fees. It is important to note that these expenses do not include a range of costs associated with personnel time and overhead in the Alameda County Probation Department or the Alameda County Superior Court. The Franchise Tax Board also bears additional collection related expenses that are not reflected here.<sup>84</sup>

Table 5 shows the annual net financial gain from the assessment and collection of juvenile administrative fees to Alameda County for the last four years.<sup>85</sup>

**Table 5: Net Financial Gain of Collecting Juvenile Administrative Fees to Alameda County, FY 2011-15**

	2011-12	2012-13	2013-14	2014-15
<b>Collected</b>	\$438,937	\$423,614	\$377,949	\$419,830
<b>Costs<sup>86</sup></b>	\$185,801	\$245,247	\$235,064	\$250,938
<b>Net to County</b>	\$253,136	\$178,367	\$142,885	\$168,892

Setting aside the harm to families, and even assuming net revenue of approximately \$150,000, it is helpful to consider this figure in light of Alameda County’s total budget of more than \$2.74 billion dollars.<sup>87</sup> Any net revenue the County receives from juvenile administrative fees is also a tiny percentage of the relevant departmental budgets.<sup>88</sup> Put simply, the assessment and collection of fees against the families of youth in the juvenile system yields little to no net financial gain to the County.<sup>89</sup>

It is important to note that “fixing” the existing system would very likely only make the fiscal picture worse. Instituting a fair and consistent ability to pay process would require additional personnel, training, supervision and case management, which would drive up costs. In addition, a meaningful ability to pay process will lower charges to families and further reduce revenue. Higher costs and lower revenue will almost certainly push an already fiscally questionable program into the red.

#### **IV. JUVENILE ADMINISTRATIVE FEE PRACTICES IN PEER COUNTIES**

Alameda County’s juvenile administrative fees harm low-income families with little or no fiscal benefit. But how do the fee policies and practices compare to other counties in California? In this section, we provide basic information on fee categories and amounts from several counties that are rough demographic peers to Alameda County, that is, other large, ethnically-diverse counties in California.

##### **A. Alameda County Has Some of the Highest Juvenile Administrative Fees in California**

In 2015, we surveyed all 58 Chief Probation Officers in California about juvenile administrative fee practices. We received responses from 52 counties.<sup>90</sup> Fees differ by jurisdiction, but 48 of 52 California counties report charging fees for detention in Juvenile Hall, 21 charge for probation supervision, 28 charge for electronic monitoring and 15 charge for drug testing. Of the fixed fees, 37 of 52 counties charge for public defenders and 11 charge for investigations.<sup>91</sup> Two counties—Los Angeles and San Francisco—do not assess and collect juvenile administrative fees. Alameda County is one of the few counties that charges families *all* of these fees.

To compare fees across counties, we held constant the juvenile probation conditions. That is, in an effort to compare apples to apples, we calculated the fees each county would charge a family with a youth serving the average probation conditions in Alameda County. Because of the limited availability of certain kinds of data from other counties, we only include fees in four categories: (1) Juvenile Hall, (2) probation supervision, (3) electronic monitoring and (4) drug testing. The analysis below does not include fees for public defenders or investigations.

Table 6 lists the fees that families of youth sentenced to the average probation conditions in Alameda County would be charged in California’s high-population counties, which were not available for all counties.

**Table 6: Juvenile Administrative Fees by County for a Youth Serving Average Probation Conditions in Alameda County<sup>92</sup>**

County	Total	Juvenile Hall (24 days)	Probation Supervision (17 months)	Electronic Monitoring (33 days)	Drug Testing (8 times) <sup>93</sup>
Sacramento	\$4,895	\$18.40/day	\$206/mo.	\$24.00/day	\$20.00/test
Santa Clara	\$3,052	\$30.00/day	\$110.00/mo.	\$14.00/day	N/A
Orange	\$2,994	\$23.90/day	\$136.78/mo.	N/A	\$11.91/test
Alameda	\$2,861	\$25.29/day	\$90.00/mo.	\$15.00/day	\$28.68/test
San Diego	\$1,859	\$30.00/day	\$67.00/mo.	N/A	N/A
Contra Costa	\$1,281	\$30.00/day	N/A	\$17.00/day	N/A
Ventura	\$1,115	\$33.00/day	N/A	\$75.00 + \$7.50/day	N/A
Fresno	\$997	\$19.00/day	\$50.00 once	\$11.00/day	\$16.00/test
Riverside	\$720	\$30.00/day	N/A	N/A	N/A
Stanislaus	\$636	\$24.41/day	\$50.00 once	N/A	N/A
San Bernardino	\$492	\$20.53/day	N/A	N/A	N/A
Sonoma	\$198	N/A	\$132.30 once	N/A	\$8.20/test
Los Angeles	\$0	N/A	N/A	N/A	N/A
San Francisco	\$0	N/A	N/A	N/A	N/A

**B. San Francisco County Has Never Charged Juvenile Administrative Fees**

As noted above, San Francisco County does not charge juvenile administrative fees. During the 2009 budget crisis—when the Alameda County Board of Supervisors increased juvenile administrative fees more than twelve-fold—the San Francisco Board of Supervisors tabled a proposal to enact a sliding juvenile fee scale.<sup>94</sup> San Francisco’s position is that the fees are unfair and unrealistic given the adverse economic conditions faced by families with youth in the juvenile system.<sup>95</sup>

In fact, the Chief Probation Officer of San Francisco County believes that the no-fee policy has contributed to the County’s success in reducing delinquency referrals by 50% and the Juvenile Hall population by 43% over the past six years:

“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. 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.”

—Allen Nance, San Francisco County Chief Probation Officer<sup>96</sup>

### **C. Los Angeles County Placed a Moratorium on Juvenile Administrative Fees**

Los Angeles County has the largest juvenile probation department in California. In 2008, advocates of families with youth in the juvenile system began reporting excessive fees and aggressive collection tactics. The Youth Justice Coalition issued a report documenting numerous instances of unfair practices that “put youth at risk and impoverish families.”<sup>97</sup> As County Supervisor Zev Yaroslavsky observed in response to the complaints from community members: “The County does not appear to have made the effort to discern who can afford to pay and who cannot.”<sup>98</sup>

In 2009—the same year that San Francisco County tabled a proposal to enact fees and Alameda County increased them more than ten-fold—the Los Angeles County Chief Probation Officer declared a moratorium on juvenile administrative fees.<sup>99</sup> L.A. Probation Department Deputy Chief of Juvenile Institutions, Felicia Cotton, said the decision to end billing practices was widely supported by leadership in Probation, acknowledging that families often arrive to the juvenile system in crisis and the fees only compound the stress and the strain.<sup>100</sup> Deputy Chief Cotton also said that the County has not terminated employees or reduced services because of the moratorium, and neither the Board of Supervisors nor the Probation Department has sought to reinstate the fees.<sup>101</sup>

## **V. RECOMMENDATION TO END JUVENILE ADMINISTRATIVE FEES**

In light of the high pain for families and the low financial gain for the County, we recommend that the Alameda County Board of Supervisors immediately end the assessment and collection of juvenile administrative fees. The Board should follow the lead of San Francisco County by repealing the fees, or it should place an immediate moratorium on the practice like Los Angeles County. In 2015, the Board repealed the juvenile record sealing fee; it should now end the practice of charging families all juvenile administrative fees.

### **A. Alameda County Should Repeal Juvenile Administrative Fees**

The Alameda County Board of Supervisors should adopt an ordinance to repeal juvenile administrative fees and to offer relief to those who have been charged fees. Specifically, Alameda County should amend Section 2.42.190 of the County Administrative Ordinance Code to abolish the authority to charge fees for juvenile detention (Juvenile Hall and Camp Sweeney), juvenile investigation and electronic monitoring. Additionally, the County should adopt a resolution that would end the assessment of fees for drug testing, probation supervision and representation by a public defender or court-appointed attorney.

In addition to ending the assessment of administrative fees, Alameda County should also ensure that families who have already been assessed fees are protected from further harm. The

County has charged youth and their families over \$3 million since 2010, and many hundreds of families still have outstanding debt totaling approximately \$1.5 million.<sup>102</sup> The Board of Supervisors should adopt a resolution to halt the collection of and acceptance of payment on juvenile administrative fee debt. Such a resolution should further instruct staff of the Central Collections Agency to petition the juvenile court to vacate existing civil judgments against families that were obtained without a meaningful process to establish their ability to pay.

### **B. Alameda County Should Institute a Moratorium on the Assessment and Collection of Juvenile Administrative Fees**

In the alternative to a full repeal, the Alameda County Board of Supervisors should impose an immediate and indefinite moratorium on the assessment and collection of juvenile administrative fees. With the Probation Department, the Office of the Public Defender and the Central Collections Agency, we have already gathered data, identified information gaps and performed a wide-ranging review of juvenile administrative fee practices in the County. A moratorium will allow for further study and review of practices and policies, including ways in which the County can ensure that lost revenue, if any, can be replaced by other funding to maintain important staffing and services.

Like under a full repeal, the moratorium must suspend both the assessment and the collection of juvenile administrative fees. Families previously charged under a process that did not fairly assess their ability to pay should not continue to be liable for such fees, especially while the County is actively considering the future of the policy.

### **C. Alameda County Can Lead as it Did On Juvenile Record Sealing Fees**

In 2015, the Alameda County Board of Supervisors repealed the juvenile record sealing fee.<sup>103</sup> In proposing to eliminate the record sealing fee, the Probation Department stated that “[a]lthough the fee is capped [by state law at \$150 per case] and is determined based on ‘ability to pay,’ it has created significant difficulty for young people, parents, and guardians having custody and control of juveniles that are unable to afford the record-sealing fee.”<sup>104</sup> The Probation Department also assured the Board that it would be able to absorb the cost of the lost revenue from the elimination of the juvenile record sealing fee.<sup>105</sup> In September 2015, the state followed Alameda County’s lead by enacting into law SB 504 (Lara), which eliminated the record sealing fee for youth under the age of 26 across California.<sup>106</sup>

As described in this report, juvenile administrative fees pose similar barriers to youth and their families. Fee debt causes immediate harm to vulnerable families and strains parent-child relationships. The debt can impact young people as they enter into adulthood by limiting their abilities to secure a job, education and housing.<sup>107</sup> The Alameda County Board of Supervisors has been at the forefront of criminal justice reform. It has the opportunity to lead once again by ending the assessment and collection of juvenile administrative fees.

## **CONCLUSION**

In authorizing counties to charge juvenile administrative fees, the California Legislature made its intent clear: to protect the fiscal integrity of the County, to protect families from excessive charges, to ensure reasonable uniformity throughout the state, and to ensure that liability is imposed only on families with the ability to pay.<sup>108</sup> Alameda County’s current fee scheme fails in each of these dimensions. The County charges some of the highest fees in the state, does not conduct a fair and consistent ability to pay determination and nets little or no revenue.

Charging families administrative fees also fails to advance the rehabilitative goals of the juvenile system. The juvenile system is supposed to provide for the protection and safety of youth, preserve family ties and foster family reunification and enable young people to become law-abiding and productive members of their families and communities.<sup>109</sup> Instead, Alameda County's fee scheme imposes economic hardship, creates family strain and erects significant reentry barriers for youth.

The Alameda County Board of Supervisors should end the regressive policy and practice of charging juvenile administrative fees. It should join other counties, like San Francisco and Los Angeles, by permanently repealing or immediately suspending the assessment and collection of these harmful fees. The Board took a similar leadership role last year by repealing the juvenile record sealing fee. By ending fees in Alameda County, thousands of families with youth in the juvenile system will benefit from a more progressive approach to criminal justice reform.

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## NOTES

<sup>1</sup> Jamal Hagler, *8 Facts You Should Know About the Criminal Justice System and People of Color*, CENTER FOR AMERICAN PROGRESS (Oct. 28, 2015), <https://www.americanprogress.org/issues/criminal-justice/news/2015/05/28/113436/8-facts-you-should-know-about-the-criminal-justice-system-and-people-of-color/> (summarizing multiple studies and datasets showing disproportionate negative affects of the criminal justice system on people of color).

<sup>2</sup> 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 justice and juvenile justice systems).

<sup>3</sup> Alexes Harris, Heather Evans & Katherine Beckett, *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AMER. JOURNAL OF SOCIOLOGY 1753 (2010) (analyzing federal and state court data on the imposition of monetary sanctions, and finding that legal indebtedness is “substantial 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.”); Joseph Shapiro, *As Court Fees Rise, The Poor Are Paying the Price*, NATIONAL PUBLIC RADIO (May 23, 2014), <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>.

<sup>4</sup> REBEKAH DILLER, ALICIA BANNON & MITALI NAGRECHA, N.Y.U. SCHOOL OF LAW, BRENNAN CENTER 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).

<sup>5</sup> CALIFORNIA DEPARTMENT OF JUSTICE, *JUVENILE JUSTICE IN CALIFORNIA* 14 (2014), <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/jj14/preface.pdf>.

<sup>6</sup> ALAMEDA COUNTY PROBATION DEPARTMENT, *A LOOK INTO PROBATION MONTHLY REPORT* 8 (July 2013), <https://www.acgov.org/probation/documents/July2013Report.pdf>.

<sup>7</sup> *Alameda County Quickfacts*, UNITED STATES CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/06/06001.html> (last visited Jan. 15, 2015); ALAMEDA COUNTY PROBATION DEPARTMENT, *A LOOK INTO PROBATION MONTHLY REPORT* 8 (July 2013), <https://www.acgov.org/probation/documents/July2013Report.pdf>.

<sup>8</sup> Cal. Welf. & Inst. Code § 1700 (“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.”).

<sup>9</sup> Cal. Welf. & Inst. Code § 202(b).

<sup>10</sup> Many youth in the juvenile system spend time in Juvenile Hall, either immediately upon arrest, as part of their disposition or for short stints as punishment for probation violations. See Kate Weisburd, *Monitoring Youth: The Collision of Rights and Rehabilitation*, 101 IOWA L. REV. 297, 320-21 (2015).

<sup>11</sup> Cal. Welf. & Inst. Code § 729.9 (describing liability for cost of drug and substance abuse testing); Cal. Welf. & Inst. Code §§ 902-914 (describing liability for the cost of care, support and maintenance of a ward (§ 902); public defender and court-appointed attorney services (§ 903.1); probation supervision and electronic surveillance (§ 903.2)).

<sup>12</sup> Cal. Welf. & Inst. Code § 903(c), 903.45.

<sup>13</sup> However, under state law, counties “shall limit the charges it seeks to impose to the reasonable cost of support of the minor and shall exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor.” Cal. Welf. & Inst. Code § 903(b). In theory, all charges—for detention, probation, etc.—are related to the rehabilitation of a young person by the very nature of their relation to the juvenile justice system. But the legality of these charges are not within the scope of this report.

<sup>14</sup> Cal. Welf. & Inst. Code § 729.9 (describing liability for cost of drug and substance abuse testing); Cal. Welf. & Inst. Code §§ 902-914 (describing liability for the cost of care, support and maintenance of a ward (§ 902); public defender and court-appointed attorney services (§ 903.1); probation supervision and electronic surveillance (§ 903.2)).

<sup>15</sup> Cal. Welf. & Inst. Code § 902.

<sup>16</sup> Cal. Welf. & Inst. Code § 903.

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<sup>17</sup> Within the juvenile system, separate measures exist to “hold youth responsible” for their mistakes—to punish them for committing crimes, to help them to rejoin their families and community, and to repay victims who have been harmed through restitution and restitution fines. Cal. Welf. & Inst. Code § 729.5.

<sup>18</sup> Letter from Mel Hing, former Alameda County Administrator, to Alameda County Board of Supervisors (Dec. 18, 1984) (on file with authors); Memorandum from Mary Ann Cabral, former Senior Administrative Services Officer, Alameda County Probation Department, Subject: Cost of Care – Juvenile Institutions (Jan. 19, 1989) (on file with authors) (these and subsequent documents were obtained through a Public Records Act request to the Alameda County Board of Supervisors, and are available upon request from the authors). Cal. Welf. & Inst. Code § 903 (2010) (originally enacted by Stats.1983, ch. 1135, § 3 (1983)). The California legislature enacted Welfare and Institutions Code section 903 in 1983, which gave counties the authority to charge parents and/or guardians for the reasonable costs of support for a minor placed in an institution pursuant to an order of the juvenile court.

<sup>19</sup> Alameda County Board of Supervisors Minute Order (Apr. 14, 2009) (on file with authors) (setting fee amounts); Memorandum from Donald H. Blevins, former Chief Probation Officer, to Alameda County Board of Supervisors, Subject: Adoption of Ordinance Amending Chapter 2.42 of Title 2 of the Administrative Code Revising Fee Schedule to Be Charged for Specified Adult and Juvenile Probation Services (Mar. 11, 2009) (on file with authors). Camp Sweeney is an Alameda County-run facility where youth can spend up to 6-9 months in detention.

<sup>20</sup> The drug testing fee was calculated based on the cost of the test (\$7.17) and the cost of running the test (\$21.51) for a total of \$28.68.

<sup>21</sup> Letter from Donald H. Blevins, former Alameda County Chief Probation Officer, to the Alameda County Board of Supervisors, Subject: Adoption of Ordinance Amending Chapter 2.42 of Title 2 of the Administrative Code by Amending Section 2.42.190 Relating to Assessing Probation Fees and Adoption of Resolution Determining an Additional Schedule of Probation Fees (Nov. 6, 2009); Alameda County Board Resolution 2009-468, Resolution Determining an Additional Schedule of Probation Department Fees (Dec. 21, 2009) (on file with authors) (approving supervision fee, electronic monitoring fee, and two separate drug testing fees). A \$150 record sealing fee was added at the same time, but was subsequently repealed by the County—and eventually the state—in 2015. *See infra* section V. C. for a discussion of the record sealing fee.

<sup>22</sup> Letter from Diane Bellas, former Alameda County Public Defender, to the Alameda County Board of Supervisors, Subject: Increase in Fees for Indigent Defense Services Provided by the Public Defender and Court-Appointed Counsel (Mar. 22, 2011); Alameda County Board of Supervisors Resolution, “Authorizing a New Fee Structure for Indigent Defense Services Provided by Public Defender and Court-Appointed Counsel,” (May 3, 2011), [http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_05\\_10\\_11/PUBLIC%20PROTECTION/Regular%20Calendar/Public\\_Defender\\_fees\\_for\\_indigent\\_defense.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_05_10_11/PUBLIC%20PROTECTION/Regular%20Calendar/Public_Defender_fees_for_indigent_defense.pdf) (last visited Feb. 10, 2016).

<sup>23</sup> *See* ALAMEDA COUNTY ADMINISTRATIVE CODE § 2.42.190 (fee schedule for Juvenile Hall, Camp Sweeney, GPS and investigations); Alameda County Board Resolution 2009-468, *supra* note 21 (fee schedule for juvenile probation supervision, electronic monitoring, and drug testing fees); Alameda County Board of Supervisors Resolution (2011), *supra* note 22 (authorizing increased public defender fee).

<sup>24</sup> *Id.*

<sup>25</sup> *See* Letter from Donald H. Blevins, *supra* note 21 (“The county cost of providing these services have increased significantly over the years and the following fees are needed to reflect the average cost of providing these services.”) The letter does not discuss fee collection costs to the county. *See also* Letter from Diane Bellas, *supra* note 22.

<sup>26</sup> Superior Court of California, County of Alameda Juvenile Court, “Court Order to Appear for Financial Evaluation” (2008) (redacted version on file with authors); Job Announcement, *Financial Hearing Officer*, COUNTY OF ALAMEDA, <https://www.jobaps.com/Alameda/sup/bulpreview.asp?R1=15&R2=1426&R3=01> (last visited on Jan. 24, 2016).

<sup>27</sup> Email from Kevin Hing, Assistant Auditor-Controller, Alameda County Central Collections Agency, to Stephanie Campos-Bui (Jan. 7, 2016, 14:10 PST) (on file with authors). Of the 498 families for whom the county provided information, 234 did not meet with a Financial Hearing Officer.

<sup>28</sup> Telephone interview with single mother of a child in the Alameda County juvenile system (Nov. 19, 2015).

<sup>29</sup> Interview with mother of a child in the Alameda County juvenile system (Mar. 12, 2015).

<sup>30</sup> Job Announcement, *Financial Hearing Officer*, COUNTY OF ALAMEDA, *supra* note 26; Memorandum from Mel Hing, past Alameda County Administrator, to Alameda County Board of Supervisors (Dec. 18, 1984) (on file with authors) (recommending delegation of parental financial liability decisions to the Central Collections Agency).

<sup>31</sup> Cal. Welf. & Inst. Code § 903.45(b).

<sup>32</sup> *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.

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(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.”).

<sup>33</sup> *Id.* Furthermore, if the juvenile court or the Financial Hearing Officer determines that payment of fees would frustrate reunification and support of the minor post-reunification, or if “the court finds that the repayment would be unjust under the circumstances of the case,” the court shall not order repayment.

<sup>34</sup> *Id.*

<sup>35</sup> Cal. Welf. & Inst. Code § 903.45.

<sup>36</sup> Cal. Welf. & Inst. Code § 903.45(c).

<sup>37</sup> *Id.* Families do not have a right to appointed counsel at the ability to pay evaluation with a Financial Hearing Officer. However, they do have a right to appointed counsel at a hearing to dispute a financial evaluation in front of a juvenile court judge, although in practice the presence of counsel in either setting is rare.

<sup>38</sup> Cal. Welf. & Inst. Code § 903.45(d).

<sup>39</sup> *Id.* (“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.”).

<sup>40</sup> Telephone interview with Kevin Hing, Alameda County Assistant Auditor-Controller, and Elizabeth Wei, Auditor-Associate (Jan. 12, 2016). Cases are referred to the Franchise Tax Board for wage garnishment after 90 days of delinquency. Cases are also referred to the Franchise Tax Board once a year for tax receipt intercept based on default. However, the Alameda County Central Collections Agency and its agents have wide discretion in referring cases to and taking cases back from the Franchise Tax Board depending on further discussion with individuals regarding ability to pay and changed circumstances. Wage garnishment due to administrative fees can be experienced as a decrease in wages by parents. As a result, some parents may reduce their work hours over time knowing that their wages will be garnished. Ezra Cohn, Debbie Mayer, Caitlin O’Neil, Khalia Parish & Jenny van der Heyde, “An Economic Analysis of Charging Administrative Fees to Justice-Involved Youth,” (Feb. 16, 2016) (on file with authors).

<sup>41</sup> *See generally* ALAMEDA COUNTY PROBATION DEPARTMENT, A LOOK INTO PROBATION MONTHLY REPORT, *supra* note 6. These figures are a one-month snapshot in July 2013, but represent the most recent data available from the County.

<sup>42</sup> Interview with Kate Weisburd, Director of Education, Justice, and Defense for Youth Practice at the East Bay Community Law Center (July 2, 2015).

<sup>43</sup> We only include four fees in this analysis as it allows for a comparison of administrative fees in California counties found later in this report.

<sup>44</sup> Because of the distribution of youth in services, the pre- and post-2009 difference in fee totals is likely less than the maximum possible represented here.

<sup>45</sup> Joshua Rovner, *Disproportionate Minority Contact in the Juvenile Justice System*, THE SENTENCING PROJECT (2014), [http://sentencingproject.org/doc/publications/jj\\_Disproportionate%20Minority%20Contact.pdf](http://sentencingproject.org/doc/publications/jj_Disproportionate%20Minority%20Contact.pdf) (examining Office of Juvenile Justice and Delinquency Prevention data, school discipline practices, and enforcement practices to show disparate impact on youth of color); Alex Piquero, *Disproportionate Minority Contact*, 18 THE FUTURE OF CHILDREN 59, 70 (2008), [http://futureofchildren.org/futureofchildren/publications/docs/18\\_02\\_04.pdf](http://futureofchildren.org/futureofchildren/publications/docs/18_02_04.pdf) (Using Office of Juvenile Justice and Delinquency Prevention (OJJDP) data to measure the disparity of contact with decision points in the system—including arrest, referral to juvenile court, detention, petitioning, transfer to criminal court, adjudication and out-of-home placement after adjudication—to show that African American youth were about 3.5-4.5 times more likely to interact with the system than white youth).

<sup>46</sup> ALAMEDA COUNTY PROBATION DEPARTMENT, A LOOK INTO PROBATION MONTHLY REPORT, *supra* note 6; *Alameda County Quickfacts*, UNITED STATES CENSUS BUREAU, *supra* note 7.

<sup>47</sup> African-Americans and Latinos are over represented in the criminal justice system, even when controlling for alleged criminal behavior. For example, in the school discipline context, there is no support in the research literature that disparities in school discipline are caused by racial/ethnic differences in behavior. Russell J. Skiba & Natasha T. Williams, *Are Black Kids Worse? Myths and Facts about Racial Differences in Behavior*, Equity Project at Indiana University (2014), [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior_031214.pdf).

<sup>48</sup> ALAMEDA COUNTY PROBATION DEPARTMENT, A LOOK INTO PROBATION MONTHLY REPORT, *supra* note 6.

<sup>49</sup> *Id.*

<sup>50</sup> We exclude Camp Sweeney for the purposes of comparing fees by race and ethnicity because few youth are placed in Camp Sweeney each year, and placement in Juvenile Hall and placement in Camp Sweeney are generally mutually exclusive, meaning youth usually only spend time in one or the other.

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<sup>51</sup> Additionally, based on disproportionately longer times on probation and various conditions, families with a Latino youth and families with an Asian youth are also charged more than families with a White youth, 57 percent and 39 percent more respectively.

<sup>52</sup> Robert D. Crutchfield, April Fernandes & Jorge Martinez, *Racial and Ethnic Disparity and Criminal Justice: How Much is Too Much*, 100 J. CRIM. L. & CRIMINOLOGY, *supra* note 2; Human Rights Watch, *Decades of Disparity: Drug Arrests and Race in the United States* (Mar. 2, 2009), <http://hrw.org/en/node/81110/> (presenting FBI arrest data that shows the extent and persistence of racial disparities in U.S. drug-law enforcement).

<sup>53</sup> Email from Patricia McFadden, Principal Auditor, Alameda County Central Collections Agency, to Alex Kaplan (Dec. 2, 2015, 15:30 PST) (on file with authors).

<sup>54</sup> Interview with Alameda County Central Collections Agency (Kevin Hing, Matthew Yankee, Patricia McFadden, and Jacalyn Richardson) (Nov. 3, 2015).

<sup>55</sup> *Id.*; interviews with families that have been charged fees (Mar. 17, 2015; Apr. 13, 2015).

<sup>56</sup> Interview with Alameda County Financial Hearing Officer (Oct. 21, 2013).

<sup>57</sup> *Id.*

<sup>58</sup> Email with Patricia McFadden, *supra* note 53.

<sup>59</sup> Job Announcement, *Financial Hearing Officer*, COUNTY OF ALAMEDA, *supra* note 26.

<sup>60</sup> Alameda County Central Collections Agency, “Juvenile Financial Hearing Process” (undated internal document, but handwritten notes indicate it is more recent than May 2011) (on file with authors).

<sup>61</sup> Telephone interview and email correspondence with Kevin Hing, Alameda County Assistant Auditor-Controller (Jan. 11, 2016).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Tamar R. Birckhead, *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); H. Ted Rubin, *Impoverished Youth and the Juvenile Court: A Call for Pre-Court Diversion*, 16 JUV. JUST. UPDATE 2 (Dec.-Jan. 2011) (stating that juvenile courts are considered courts of the poor and that juvenile courts in wealthier jurisdictions are rare).

<sup>65</sup> Telephone conversation with single mother of a child in the Alameda County juvenile system (Nov. 19, 2015), *supra* note 28. For the purposes of this report, we have used fictional names in order to protect the identity of the families and respect their wishes to have their stories presented in such a manner.

<sup>66</sup> Cal. Welf. & Inst. Code § 202(a).

<sup>67</sup> Interview with father of a child in the Alameda County juvenile system (Mar. 17, 2015) (on file with authors).

<sup>68</sup> Research also suggests that administrative fees may have a deterrence effect on some people and criminogenic effect on others. Although public knowledge of fees is low, it is possible that those who know about fees may be deterred from committing acts that would bring them into contact or back into contact with the juvenile justice system. See Ruback, R. Barry & Mark H. Bergstrom. “Economic Sanctions in Criminal Justice Purposes, Effects, and Implications.” *Criminal Justice and Behavior* 33, no. 2 (2006): 242–273, <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). However, it is also possible that fees may have a criminogenic effect—some people who are assessed fees may turn to crime to finance their payment of the fees. See Ezra Cohn, Debbie Mayer, Caitlin O’Neil, Khalia Parish & Jenny van der Heyde, “An Economic Analysis of Charging Administrative Fees to Justice-Involved Youth,” (Feb. 16, 2016) (on file with authors), *supra* note 40.

<sup>69</sup> Parents and guardians are held jointly and severally liable for juvenile administrative fees. Cal. Welf. & Inst. Code. §§ 903, 903.1, 903.2.

<sup>70</sup> Interview with grandmother of a child in the Alameda County juvenile system (Apr. 13, 2015) (on file with authors).

<sup>71</sup> Interview with youth in the Alameda County juvenile system (July 2, 2015) (on file with authors).

<sup>72</sup> Cal. Welf. & Inst. Code § 903(c).

<sup>73</sup> Alameda County fiscal records from Public Records Act request (on file with authors). The County provided data on juvenile administrative fees for the last five fiscal years, 2010-2015.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* For example, according to Central Collections Agency documents, in fiscal year 2013-14, 283 families were billed \$62,000 for the public defender and 201 families were billed \$40,000 for court-appointed attorneys.

<sup>76</sup> *Id.* This does not include collections for the public defender or court-appointed attorney fees as these numbers were not made available by the Central Collections Agency.

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<sup>77</sup> *Id.*

<sup>78</sup> Telephone interview with Kevin Hing, Alameda County Assistant Auditor-Controller (Dec. 21, 2015).

<sup>79</sup> Telephone interview and email correspondence with Kevin Hing, Alameda County Assistant Auditor-Controller (Jan. 11, 2016), *supra* note 61.

<sup>80</sup> “*Financial Hearing Officer*” *Search Results*, TRANSPARENT CALIFORNIA, <http://transparentcalifornia.com/salaries/search/?q=Financial+Hearing+Officer&y> (income for Financial Hearing Officer) (last visited Jan. 30, 2015).

<sup>81</sup> “*Financial Hearing Officer*” *Search Results*, TRANSPARENT CALIFORNIA, <http://transparentcalifornia.com/salaries/search/?q=Financial+Hearing+Officer&y> (income for Financial Hearing Officer) (last visited Jan. 30, 2015).

<sup>82</sup> “*Collection Enforcement Deputy II*” *Search Results*, TRANSPARENT CALIFORNIA, <http://transparentcalifornia.com/salaries/search/?q=Collection%20Enfrcemnt%20Depty%20II>, (income for Collection Enforcement Deputy II) (last visited Jan. 30, 2015).

<sup>83</sup> “*Collection Supervisor II*” *Search Results*, TRANSPARENT CALIFORNIA, <http://transparentcalifornia.com/salaries/search/?q=Collection%20Supervisor%20II>, (income for Collection Supervisor II) (last visited Jan. 30, 2015).

<sup>84</sup> The Alameda Central Collections Agency sends cases for wage garnishment and intercept of tax receipts and/or refunds to the Franchise Tax Board. The Franchise Tax Board keeps 15% in recoup fees on any monies collected on such cases, but we do not know if those fees cover their staff time and costs. Telephone interview and email correspondence with Kevin Hing, Alameda County Assistant Auditor-Controller (Jan. 11, 2016), *supra* note 61.

<sup>85</sup> Alameda County fiscal records from Public Records Act request (on file with authors), *supra* note 73.

<sup>86</sup> In order to accurately represent the annual cost to the County, we adjusted salaries and benefits of the financial hearing officers, the Collection Enforcement Deputy II, and the Collection Supervisor II for each year of employment (2011-2015).

<sup>87</sup> County of Alameda, Final Budget 2015-2016, ACGOV.ORG, <http://acgov.org/MS/OpenBudget/pdf/FY15-16/FY%2015-16%20Final%20Budget%20Book%20for%20Web%20and%20CD.pdf> (last visited Feb. 16, 2016).

<sup>88</sup> For example, the Probation Department’s 2015-16 juvenile services and facilities budget is \$74.3 million. For another point of comparison, in the 2015-16 fiscal year, the County appropriated more than \$51 million to increase the reserve fund. *Id.*

<sup>89</sup> Additionally, a 2015 study by students at the Goldman School of Public Policy concluded that a permanent elimination of juvenile administrative fees in Alameda County would bring \$5.5 million in benefits to society, approximately \$192,000 each year fees are not charged. Ezra Cohn, Debbie Mayer, Caitlin O’Neil, Khalia Parish & Jenny van der Heyde, “An Economic Analysis of Charging Administrative Fees to Justice-Involved Youth,” *supra* note 41.

<sup>90</sup> Despite multiple attempts, we did not receive survey responses from the following counties: Alpine, Glenn, Imperial, Mono, Sierra, and Tuolumne.

<sup>91</sup> The Policy Advocacy Clinic at Berkeley Law, California Juvenile Fees Survey (2015) (on file with authors) (surveying counties for administrative fee assessment and collection practices).

<sup>92</sup> *Id.* Data from San Diego, Ventura, Fresno, Stanislaus and Sonoma counties were self-reported from the survey of Chief Probation Officers and were not verified by Public Record Act requests; Sacramento, Santa Clara, Orange, Alameda, San Diego, Contra Costa, Riverside, San Bernardino and Los Angeles County responses to Public Record Act requests (on file with authors). San Francisco does not charge any administrative fees, *see* email from Allen Nance, San Francisco County Chief Probation Officer, (Apr. 18, 2015, 15:22 PST) (on file with authors). Los Angeles placed a moratorium on administrative fees in 2009, *see* letter from Robert B. Taylor, Los Angeles County Chief Probation Officer, to the Los Angeles County Board of Supervisors, Subject: Probation Department Moratorium on Collection of Support Costs for Incarcerated Minors (Mar. 31, 2009).

<sup>93</sup> The number of drug tests the average youth on probation in Alameda County undergoes is based on the experience of Kate Weisburd, Director of Education, Justice for Youth Clinic at the East Bay Community Law Center, who stated that on average a young person is given one drug test every other month. Thus, during an average 17-month probation term, a youth would be drug tested approximately eight times.

<sup>94</sup> Proposed Ordinance, City and County of San Francisco, “Juvenile Probation Department-Daily Fee at Juvenile Hall and Log Cabin Ranch” (June 26, 2009) (proposed ordinance to establish daily fees for Juvenile Hall and ranch), <https://sfgov.legistar.com/LegislationDetail.aspx?ID=483686&GUID=09C53DEA-4619-4A48-9AD5-16557011FDE1&Options=ID%7cText%7c&Search=090709> (last visited Jan. 31, 2016).

<sup>95</sup> Email from Allen Nance, San Francisco County Chief Probation Officer (Apr. 18, 2015, 15:22 PST) (on file with authors).

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<sup>96</sup> *Id.*

<sup>97</sup> *Getting Paid Report*, YOUTH JUSTICE COALITION (2009), <http://www.youth4justice.org/wp-content/uploads/2012/12/GettingPaidReportYJC.pdf>.

<sup>98</sup> Molly Hennessy-Fiske, *Probation Fees Allegedly Continue Despite Moratorium*, L.A. TIMES (Mar. 24, 2009), <http://articles.latimes.com/2009/mar/24/local/me-probation-fees24>; 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>.

<sup>99</sup> Memorandum from Los Angeles County Probation Department to Los Angeles County Board of Supervisors, “Probation Department Moratorium on Support Costs for Incarcerated Minors” (Mar. 31, 2009) (on file with authors).

<sup>100</sup> Telephone interview with Felicia Cotton, Los Angeles Probation Department Deputy Chief of Juvenile Institutions (Nov. 1, 2014).

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>102</sup> Alameda County fiscal records from Public Records Act request, *supra* note 73.

<sup>103</sup> Letter from LaDonna Harris, Alameda County Chief Probation Officer, to Alameda County Board of Supervisors, Subject: Adoption of Ordinance Amending Section 2.42.190 of the Administrative Ordinance Code to Repeal the Probation Fee for Sealing or Expunging Juvenile Court Records (March 25, 2015).

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> California Senate Bill No. 504 (2015) (enacted), [http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB504](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB504). *See also* Cal. Welf. & Inst. Code §§ 781, 903.3 (amended statutory language).

<sup>107</sup> Birkhead, *supra* note 64 (discussing how involvement in the juvenile court system can exacerbate problems for youth, especially with community members, police officers, teachers and future employers).

<sup>108</sup> Cal. Welf. & Inst. Code § 903.

<sup>109</sup> Cal. Welf. & Inst. Code § 202(a)-(b).