



THE FINANCIAL JUSTICE PROJECT SAN FRANCISCO

BACKGROUND DOCUMENT ON POTENTIAL COLLABORATION BETWEEN MAYOR'S BUDGET OFFICE AND THE FINANCIAL JUSTICE PROJECT

July 21st, 2017

OVERVIEW

This document provides background information for the San Francisco Mayor's Budget Office to partner with the Financial Justice Project to:

- 1) Conduct a fine and fee review.
- 2) Explore the possibility of integrating a "fine and fee equity test" into the budgeting process
- 3) Provide feedback and guidance over the coming months as we develop a standardized ability to pay process to ensure fines and fees do not place an inequitable burden on low-income San Franciscans.

We look forward to working with you. Please let us know if you need more information or if anything in this document is confusing. We'll schedule a follow up meeting for the second half of August.

I. BACKGROUND

GOALS FOR THIS WORK

The Financial Justice Project seeks to assess and reform fees and fines that may hit low income San Franciscans particularly hard. National research and our own investigation show that fines and fees can inadvertently punish people for being poor, and that harsh consequences can result when people are unable to pay. The fines and fees often prevent, rather than propel, people from achieving the goals government programs set out for them. Furthermore, these fees and fines may be problematic sources of revenue for departments when relatively few people are able to pay them¹.

The goal of the proposed fee and fine review and potential "equity test" is to provide policy makers in San Francisco with a framework to quantify and evaluate revenue collection mechanisms that may undermine larger policy goals of equity and fairness, and provide clear policy alternatives. The analysis would specifically note any fee or fine where collection and enforcement has a disparate impact on low-income communities and communities of color.

The analysis would be used to inform possible policy changes, such as:

¹ *Fines, Fees, and Bail*. Council of Economic Advisers Issue Brief. Pages 1,3,4,9

- Developing an ability to pay determination to “right size” penalties for low income people
- Considering non-Monetary/restorative Penalties
- Reforming collections practices to lower costs of collection, improve compliance and reduce unintended consequences (ie affecting credit or record) that can create barriers to employment and housing

The Financial Justice team has been actively researching these reform approaches with outside academics, practitioners, and funders, and beginning to explore potential pilot opportunities for San Francisco.

OVERALL CONCLUSIONS AND RECOMMENDATIONS OF THE FINES AND FEES TASK FORCE:

As you know, The Financial Justice Project convened a **Fines and Fees Task Force** of City and County Departments, the Courts, and community groups to explore the problem and develop recommendations for reform. Our recommendations are detailed in this [report](#) and [executive summary](#). There is also extensive background information on our Financial Justice Project [webpage](#). We started our research through extensive interviews with people from community organizations and social workers to identify the biggest fine and fee “pain points” for people in our community. The thrust of the recommendations we developed are to, when possible, 1) right size fines and fees for low income people, base them on ability to pay and a sliding scale; 2) make alternative to payment possible (to satisfy fine by performing community service; or 3) if you are struggling with homelessness or a youth who got a fine or fee, that you could satisfy the fine by getting help for challenges you may be facing (i.e. x hours of counseling, addiction services etc. Our goals were NOT to get rid of consequences, but make sure the consequence fits the offense and doesn’t hit lower income people harder. Furthermore, there is emerging research that basing fines and fees on ability to pay can actually increase overall revenue that is brought in.

II. PROPOSED FINE AND FEE REVIEW

To produce an analysis that uses data to inform which fees and fines could be considered for reform, the Financial Justice team has been interviewing key stakeholders to identify fees and fines of concern in the community, and compiling data from public sources and directly from departments.

	Sep	Oct	Nov	Dec	Jan
Literature / Media / Public Data Review					
Interviews with key stakeholders, public task force meetings					
Develop research questions / framework for analysis					
Create list of key departments and fees and fines to focus on					
Review budget documents, fee schedules, department website					
Request clarifying information from departments					
Meet with departments to review / refine analysis					

DEPARTMENTS WE'VE REACHED OUT TO:

Based on the priorities expressed by academics, legal services agencies, community advocates and department staff, the focus has been on the fees and fines in the following departments: Adult Probation, Municipal Transportation Agency, Police Department, Sheriff, Child Support Services, Superior Courts and District Attorney.

DATA POINTS COLLECTED:

The information we collected is in an attached excel spreadsheet.

Base \$ Fine/Fee	First Year, FY 14-15, 15-16, 16-17
Late Fees Imposed	1 st Notice / 2 nd Notice / Interest
# Issued	FY 14-15, 15-16, 16-17
Revenue Generated	FY 14-15, 15-16, 16-17
Collection Rate	FY 14-15, 15-16, 16-17
Cost of collection	
Payment Options	
Alternatives to monetary payment	
Appeals Processes	
Escalation for nonpayment	

DATA SOURCES:

- Mayor’s Budget Book
- Budget Forms 2A/2B,
- SF Open Data Revenue reports
- Reports and data available on departmental websites
- Prior audits from the Budget and Legislative Analyst and CON
- Department responses to data requests

WHAT WE HEARD BACK FROM DEPARTMENTS:

Since October, our team has worked diligently to collect information from available sources, and follow up with departments directly when that information wasn’t available or clear. Even with this effort, there are many holes in the data collection, particularly as it relates to outstanding revenue and computing the cost of collection for a fee or fine. We believe that many departments may need assistance to understand their outstanding revenue and calculate their costs of collection.

Of the departments we reached out to, the SF MTA provided the most complete information. Adult Probation, and DA were responsive, but they had limited information on their very few fines and fees. We did not hear back from the police. With the Sheriff's Department and Child Support Services, they have been very collaborative in partnering with us to resolve inequities in their system of bail and child support debt owed to the government, respectively, but we have not been focused on individual fines and fees.

Your help in collecting and analyzing this information would be very helpful. Please let us know what other information you need from us.

III. PROPOSED FINES AND FEES EQUITY TEST

Below we describe how a Fines and Fees Equity Test could be integrated into the City's annual or biannual budget process. The Equity Test would provide policy makers, departments, and the public with a framework to evaluate fines and fees, their potential for disparate impact on low-income communities, and/or communities of color, their efficiency as a revenue source, and propose alternative remedies.

WHY:

Research shows that a growing number of government programs levy fees and fines on their residents, partly to generate revenue to balance public budgets. Community advocates state that there is often an insidious unintended impact of this practice---to push people further into poverty. Poor people and people of color are often hit the hardest. These financial penalties can make government a driver of inequality, not an equalizer. Research shows that fines and fees can often be an inefficient source of revenue. They can be "high pain" (hard for low income people to pay) but "low gain" (bring in very little revenue in comparison to the cost of collections).

HOW:

The Equity Test would be a required component of a Department's annual or biannual budget submission, as well as for each submission for a new fee, fine, or financial penalty to the Board of Supervisors.

It would provide the Mayor's Office, The Board of Supervisors and the public with a mechanism to evaluate revenue collection mechanisms that may undermine larger policy goals of equity and fairness, and provide clear policy alternatives.

Currently, when a City Department proposes a new fee, they are required to submit a cost-recovery analysis that details the anticipated revenue, as well as the cost of collection. The fee must be created as an Ordinance, and passed by the Board of Supervisors. Typically, new fees are created during the Budget approval process, and heard by the Budget and Finance Committee of the Board of Supervisors. The Board relies on the cost-recovery analysis, and any additional analysis provided by the Budget and Legislative Analyst's Office.

Under the Equity Test, Departments would annually report out on the following questions for every fine, fee, financial penalty, and ticket:

- 1) What is the policy intent of the fee/fine?
- 2) How is the fee or fine collected/enforced?
- 3) What are the penalties for nonpayment or late payment?

- 4) Does assessment/payment consider Ability to Pay? Y/N
- 5) Is there a non-monetary alternative payment (ie Community Service)? Y/N
- 6) How many people were assessed the fine or fee?
- 7) How much revenue was collected? What is the unit cost?
- 8) How much revenue is delinquent / outstanding?
- 9) How much was spent on enforcement and collections?

The Board would designate an entity (ie Controller, Budget Analyst, Treasurer) to analyze department submissions and to issue a report for review during the annual or biannual Budget hearings. The report would note any fee or fine where:

- Revenue collected does not appear to justify the cost of collection and enforcement
- Delinquent revenue is significant when compared to revenue collected
- Collection and enforcement has a disparate impact on low-income communities

In addition, the report would note opportunities for reform/alternative remedies through exploring the following questions when evaluating fees and fines:

1) Is it Effective?

What is the goal of the fine or fee? Does charging a fine or fee move us toward that goal?

2) Is it Fair?

Should the population receiving the fine or fee be paying for government services? Does the punishment fit the infraction? Does a one size fits all fee or fine make sense? Would reducing or eliminating the fee or fine make a difference in the life of the person receiving it?

3) Is it Equitable?

Does it hit some people harder than others? Does it exacerbate existing racial and socioeconomic disparities? Can the overall population receiving it pay it?

4) Is it Efficient?

How much are we spending to collect this fee or fine? Are we spending more to collect the fine than we are taking in?

5) Is it sustainable?

Is implementing the fine or fee a good use of county resources? Or could those resources be deployed in higher value ways?

WHEN: We would potentially work to integrate this tool into the upcoming budget season

We would welcome your collaboration to explore if and how to develop and implement the fine and fee equity test.

Once again, please let us know if you need further information and thank you again for your offer to partner with us.