
Cutting the Poor a Break

San Francisco pioneers a program to reduce the fees and fines that keep people from succeeding.

BY REBECCA NATHANSON

During the year she spent in the Orange County jail in Southern California, Amika Mota wrote letters to her oldest kids, aged fourteen and eleven. That wasn't an option for her six-year-old—she needed to hear her mother's voice.

So once a month, the former midwife called her children, who were then living in the Bay Area with Mota's father.

She had fifteen minutes for these calls; the kids would set a timer to make sure they each got five. It was 2008 and, despite having been in and out of the criminal justice system, Mota had never before been away from her children for such a long time. But each fifteen-minute phone call cost at least \$15, so once a month was all Mota and her family could afford.

After county jail, Mota served a seven-year prison sentence for vehicular manslaughter, for killing a man after running a red light while high on meth. When she got out, she owed \$12,000 in restitution and had been charged about \$4,000 in other costs. Until she paid, she could not return to the Bay Area to reunite with her children.

"One of the requirements for getting an out-of-county transfer was that a certain amount of your fines and fees had to have been paid off already," Mota explains in an interview in the Oakland office of the Young Women's Freedom Center, where she now

serves as policy director. "At that point, I was panicking, thinking I wasn't going to be able to get to my kids."

Mota, however, was lucky. She managed to borrow the money and headed north to her children.

The Young Women's Freedom Center is a leadership and advocacy organization for women, trans, and gender non-conforming people. It works with a population disproportionately affected by the criminal justice system and the financial burden it puts on all who come in contact with it. A 2015 report found that 83 percent of family members responsible for care and visitation costs for an incarcerated person are women.

"Every single one of us is dealing with this stuff," Mota says. "We know what it looks like to be dealing with these systems that continue to trip us up when we're trying to get on our feet."

So a few years ago, when Mota's group was approached by the Financial Justice Project of the San Francisco Treasurer's Office to join its campaign to eliminate fees on phone calls and end markups on commissary items in San Francisco County jails, it



Amika Mota of the Young Women's Freedom Center.

was a no-brainer. “All of us are individually impacted by this,” she says. “We know the story. And then when we hear the movement is happening, it’s like, ‘Yes!’”

It is an issue that gains more urgency in view of the COVID-19 pandemic, which is impacting poor people and communities disproportionately, even as it requires a new level of civic sacrifice and engagement from citizens throughout the land. In this time of global crisis, saddling the poor with onerous debt is the last thing that will help anyone.

IN 2015, when the U.S. Department of Justice Civil Rights Division released its report on Ferguson, Missouri, after the police shooting of Michael Brown, Anne Stuhldreher was working at the California Endowment, an organization focused on improving health.

The report found that fines and fees comprised the city of Ferguson’s second-greatest revenue source. Stuhldreher approached her connections to grassroots organizations in California. “I started asking them: ‘Is this happening in California or San Francisco? Please tell me that it’s not happening.’”

It was. “People would get out [of jail] and get this bill for thousands of dollars, and I just was flabbergasted,” Stuhldreher relates. “I started seeing this pattern all over the state: courts suspending people’s driver’s licenses when they couldn’t pay traffic tickets, money bail, people getting their cars towed and not being able to get them back.”

Stuhldreher, who had previously worked in the governor’s office, approached City Treasurer José Cisneros. The Financial Justice Project—a two-woman operation tucked into a corner in the treasurer’s office—was the fruit of their conversation. Since creating the project in 2016, Stuhldreher and project manager Christa Brown have worked with a web of community organizations and city departments to eliminate or reform many of the charges that, taken together, work to keep low-income communities in debt at every turn.

The project’s accomplishments are manifold: It has eliminated criminal justice administrative fees and canceled \$32.7 million in debt owed by 21,000 people; ended fees on calls from county jails and markups on items in jail stores; cut or eliminated car-towing fees for low-income people; cleared 88,000 holds on driver’s licenses for people who missed traffic court; forgiven overdue library fines and waived \$1.5 million in debt from overdue books; allowed free entry to museums for people with a public benefits card; launched payment plans and community service options for low-income people who receive parking citations; and created a new ability-to-pay process with the city’s



Anne Stuhldreher,
director of the Financial
Justice Project.

traffic court to allow low-income people to apply for discounts.

The difference between fees, which aim to recoup costs, and fines, which are punitive monetary sanctions, can get lost when one is handed a bill with multiple line items that total in the thousands. A sample 2017 bill received by someone in the San Francisco Public Defender’s Clean Slate program lists probation costs, a restitution fine, a booking fee, and a court operations assessment, among many other charges. The total comes to \$5,020. The largest item—and a feature on most bills of this type—is \$1,800 for probation.

Stuhldreher’s general operating principle is to eliminate fees and make fines income-based.

“These fees, they weren’t meant to be an additional layer of punishment, but they are,” she explains, speaking in the treasurer’s office at City Hall while, just outside, a newly married couple poses for pictures at the top of a regal staircase. The fines hold people back but most go unpaid: “The collection rate on the largest fee, the probation fee, was just 9 percent.”

Of course, these efforts to cut fees and fines have not come without costs, nor have they always been easy sells to the courts or city departments. “If we’re talking about a reduction of thousands, or likely tens of thousands, or possibly even hundreds of thousands of dollars, which typically would go to cover the costs of running their department and providing valuable services, naturally they’d be crazy not to be concerned about that,” says Cisneros. But the project has worked closely with the mayor’s budget office to make losses more manageable.

The Financial Justice Project has no ability to make changes—it can merely bring the relevant stakeholders together, compile research, and present compelling arguments. “A lot of [the success] is due to just opening up that conversation the right way: not being

Left: Juthaporn Chaloeicheep.
Right: Willard Birts Jr.



accusatory, not being insulting, not being blaming, but rather saying, 'We probably have the power to fix this because it's our organization that is controlling it,' " says Cisneros. "And we've seen, more often than not, people are interested in doing that."

JUTHAPORN CHALOEICHEEP has spent a lot of time around San Francisco's City Hall. Homeless and addicted to drugs for about fifteen years, she slept in the Tenderloin, the downtown neighborhood next to the government building.

Born in Thailand, Chaloeicheep moved to the Bay Area with her family when she was a child; her relatives ran Thai restaurants. She claims San Francisco is the only place where a person could survive without money for as long as she did, thanks to an array of social services and nonprofits. She was even able to drastically reduce the \$20,000 she owed in restitution after a jail stay, and transition into stable housing.

Chaloeicheep now lives in a one-bedroom apartment in the Tenderloin with her four-year-old son and is on track to graduate from San Francisco State University with a degree in liberal studies this spring. These days, her time around City Hall has a different feel.

"I'm speaking on behalf of the other homeless people and drug addicts," she says, during an interview at an outdoor cafe near City Hall. "It feels good to be able to be part of something bigger than yourself."

It has also proven effective: Providing space for people directly impacted by fines and fees to share their stories with officials who have decision-making



power has been one of the Financial Justice Project's best tactics in convincing others to adopt its suggestions.

The building where Chaloeicheep lives is run by Community Housing Partnership, a San Francisco-based group that houses formerly homeless people and provides supportive services. The Financial Justice Project contacted the group early on, looking for impacted people. The partnership became a member of a coalition called Debt Free SF, which began working with Stuhldreher at the outset of the project.

"It can get very wonky on the legislative end, but someone tells their story and officials who are drowning in paperwork can better understand the magnitude of the issue," says Javier Bremond, an organizer with Community Housing Partnership.

The effort to reduce fines and fees on the poor has drawn vital energy from community organizations and activists throughout the state, especially in Los Angeles, where officials discharged nearly \$90 million in juvenile justice system fees. The results have been tangible, particularly for people leaving jail or prison.

Willard Birts Jr., sixty-two, is an organizer with All of Us or None, a grassroots organizing project that does legal and policy advocacy and is part of the Debt Free SF coalition. Birts, following a complicated legal battle and a long history of incarceration, had to pay \$25 a day for a court-ordered ankle GPS device; after a year, it totaled more than \$10,000, which on top of multiple bail payments brought his bill closer to \$20,000, which he ended up having to pay in full.

"It's all a game to keep you in debt," he says, sitting under a large black banner in the organization's Oakland office. "So I commend San Francisco."

WORD OF SAN FRANCISCO'S reforms has spread throughout California, inspiring a state bill to eliminate criminal justice fees and the creation of a national Fines and Fees Justice Center and a National League of Cities program focused on this issue. There are campaigns to adopt similar measures in numerous other cities and states: Chicago ended driver's license suspensions for unpaid parking tickets; New York City eliminated fees on jail phone calls; and in the juvenile justice system, New Jersey stopped using fines as penalties and Nevada ended the use of fees. The Fines and Fees Justice Center is currently working to end driver's license suspensions and eliminate court fees in Florida and New York State.

Stuhldreher considers the Financial Justice Project to be a replicable template, noting the frequent calls she receives from other curious cities. "There is a methodology to this that I think starts with listening to community groups and people who see this problem up close," she says. That prompts some key questions: "What is the purpose of this fine or fee? Who is getting it? What happens when they can't pay?"

From there, Stuhldreher usually applies her standard prescription: eliminate fees that predominantly hit low-income people and scale fines proportionally to income. "We also think hard about non-monetary alternatives," she adds.

Research shows that courts often misuse ability-to-pay processes, when they exist at all, and still charge people with fines and fees they clearly cannot pay. Some argue that fines can be an alternative to incarceration; others say unrealistically high fines remain too punitive and that abolition is the only way forward.

A 2017 report from the Policy Advocacy Clinic at the University of California, Berkeley, School of Law looked at the impact of fees on the juvenile justice system. Students interviewed financial evaluation officers in Alameda County, which includes Berkeley and Oakland, and asked the officers how they make determinations about what a family can afford. One officer based her decision on whether she thought the child's mother was lying. The student followed up: How can you tell? The officer said she could tell by "mom's handbag."

"So that was what due process looked like and ability to pay looked like in Alameda County, one of the bluest counties in one of the bluest states in the country," says Jeffrey Selbin, director of the Policy Advocacy Clinic and clinical professor of law at UC Berkeley.

A September 2019 report from the Criminal Justice Policy Program at Harvard Law School suggests an alternative found in some European countries: day fines. Under this system, courts and legislatures assign a certain number of "units" to every offense, corresponding to its severity. The individual is then assessed a cost per unit based on ability to pay. This process is applied to everyone, which explains how a Finnish businessman ended up getting a \$58,000 bill for a speeding ticket in 2015.

In the United States, however, the context is more complicated.

"Fines are never going to be an appropriate solution for somebody who's homeless and has no money."

"As opposed to Europe, we have tremendous income inequality in this country, and we have people who really can't afford to pay anything," notes Joanna Weiss, co-founder and co-director of the Fines and Fees Justice Center. "So there also have to be alternative ways that we hold people accountable and deter behaviors we as a society don't want when fines aren't appropriate. Fines are never going to be an appropriate solution for somebody who's homeless and has no money."

But while the minutiae of fines and fees may bring out varied opinions, the new approach has generated a surprising level of popular and public support. Most of the opposition met by the Financial Justice Project has stemmed from budgetary concerns, not political disagreements.

There was, of course, some of the latter—most frequently in regard to public safety and accountability—but support for reform has also come from surprising corners, including a supportive resolution from the American Legislative Exchange Council (ALEC) and an article by the Texas Public Policy Foundation, a conservative think tank.

"Everybody's concerned about safety," says Mota at the Young Women's Freedom Center office. She wishes people thought through how criminal justice charges impact communities in this regard.

"There's this saying: 'We're all coming home. We'll be your neighbors one day. We will be living next to you, working next to you,'" she says. "And I think it's a public safety benefit to have people really have some economic opportunity when they come home and not carry this incredible burden." ♦