

**First Supplement to Memorandum 2023-04  
Selected Issues at the Intersection of Poverty and Criminal Law  
Panelist Materials**

Memorandum 2023-04 gave an overview of issues at the intersection of poverty and criminal law. This supplement presents and summarizes written submissions from panelists scheduled to appear before the Committee on June 23, 2023.

*Exhibit*

**Law Enforcement Assisted Diversion and Related Matters**

Brendan Cox, Director of Policing Strategies, LEAD National Support Bureau.....A

**Welfare Fraud and Related Matters**

Jeff Chorney, Deputy Public Defender, Alameda County.....B

Kamaria Henry, Managing Deputy District Attorney, Riverside County.....C

John Martire, President, California Welfare Fraud Investigators Association.....D

**Fines, Fees, and Other Monetary Sanctions**

Anita Lee, Principal Fiscal and Policy Analyst, California Legislative Analyst’s Office.....E

Lisa Foster, Director, Fines and Fees Justice Center.....F

**Discussion Panel 1:**

**Law Enforcement Assisted Diversion and Related Matters**

**Brendan Cox, Director of Policing Strategies, LEAD National Support Bureau**

Brendan Cox was a police officer in Albany, New York, for 23 years, retiring in 2017 as Chief of Police, and is currently Director of Policing Strategies at the LEAD National Support Bureau. Citing research that most people who have been arrested are mentally ill or drug dependent and are held for offenses that pose little risk to public safety, Mr. Cox asserts that jail is not an effective response to many crimes. He offers LEAD as an alternative to the traditional model and describes key aspects of LEAD including stakeholder collaboration and the use of harm reduction strategies.

**Discussion Panel 2:  
Welfare Fraud and Related Matters**

**Jeff Chorney, Deputy Public Defender, Alameda County**

Mr. Chorney's submission explains his view that the social costs of prosecuting welfare fraud outweigh any marginal benefits and that welfare fraud should be decriminalized. While many welfare fraud prosecutions in Alameda County are dismissed once the charged person agrees to repay the overpayment, the criminal process traumatizes some of society's most vulnerable people. And in Alameda County, welfare fraud prosecutions may be redundant because in most cases, an administrative process to collect the debt has already been completed — even though federal law is supposed to prevent both administrative and criminal proceedings against the same person. Mr. Chorney's submission includes several examples of documents used in welfare fraud prosecutions in his county to show the complexity of the process.

**Kamaria Henry, Managing Deputy District Attorney, Riverside County**

Ms. Henry presents a submission authored by her colleague at the Riverside District Attorney's Office, Managing Deputy District Attorney Chris Bouffard. The submission outlines the Office's charging process in cases of suspected welfare fraud, which includes focusing on cases with evidence of persistent fraud, with overpayments of thousands of dollars. According to an analysis performed by Mr. Bouffard, between March 2023 and May 2023, a total of 24 people reached a disposition in a welfare fraud case and 23 of the dispositions were misdemeanors. The average overpayment amount in these cases was \$7,164. Mr. Bouffard explains that the administrative process for addressing welfare fraud has several limitations, including little deterrent effect, and an inability to address organized crime.

**John Martire, President, California Welfare Fraud Investigators Association**

Mr. Martire describes public assistance fraud as a prevalent problem in California and describes the lack of data about the problem. According to Mr. Martire, it is appropriate for counties to exercise prosecutorial discretion differently, including by having different prosecution thresholds, for welfare fraud as some counties have less court congestion than others. Moreover, state and county systems are not equipped to transition to an entirely administrative process. Instead, the state should focus on fraud prevention during the intake process.

**Discussion Panel 3:  
Fines, Fees, and Other Monetary Sanctions**

**Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office**

Ms. Lee’s submission provides an overview of how criminal fines and fees are assessed, collected, and distributed in California. It summarizes recent recommendations made by the LAO to improve the state’s fine and fee system which include encouraging legislators to examine the purpose of the fine and fee system and to decide whether and how to incorporate ability-to-pay determinations into it. Ms. Lee highlights recent actions taken by the state to address declining fine and fee revenue and to reduce the impacts of fines and fees on people ordered to pay.

**Lisa Foster, Director, Fines and Fees Justice Center**

Lisa Foster is a former Superior Court judge in San Diego County, the former Director of the Office for Access to Justice at the United States Department of Justice, and the co-Executive Director of the Fines and Fees Justice Center. Ms. Foster explains that while California has been a leader in abolishing criminal legal fees, its remaining fines and fees rank among the highest in the country. Legal debt is disproportionately levied on low-income communities and leads to a cycle of poverty and punishment. Ms. Foster recommends that all assessments and surcharges, including the restitution fund fine and civil assessment, be eliminated. She recommends that fines only be issued if a court finds the person has the ability to pay, and that no fine be imposed when a person is sentenced to incarceration.

Respectfully submitted,

Thomas M. Nosewicz  
Legal Director

Rick Owen  
Senior Staff Counsel

Exhibit A

Brendan Cox

Director of Policing Strategies, LEAD National Support Bureau

## LEAD

After decades of an expensive, harmful, and ineffective War on Drugs, in recent years it's become widely accepted that we can't enforce our way out of the problems related to drug use and mental illness. Still, two-thirds of the people arrested in this country are mentally ill<sup>i</sup> or drug dependent,<sup>ii</sup> and more than 60% of people in jail custody are being held for offenses that pose little risk to public safety: low-level misdemeanors or infractions, such as drug possession, trespass, or disorderly conduct.<sup>iii</sup>

Jail isn't an effective response to these problems; in fact, jail is harmful. Studies show that being jailed even for a short time increases a person's risk of engaging in crime,<sup>iv</sup> decreases employment<sup>v</sup> and tax-related government benefits,<sup>vi</sup> increases homelessness,<sup>vii</sup> and exacerbates the racial disparities embedded into our society.<sup>viii</sup> For people with mental illness or substance use disorder, jail's effects are even more detrimental: they are taken off Medicaid, receive inadequate care in custody, are more likely to be sanctioned for rule infractions, are subjected to harsher sentences, and are disproportionately returned to jail.<sup>ix</sup> And the devastating intergenerational impact on children when their parents are jailed, even for short periods, is well-documented.<sup>x</sup> Throughout our criminal legal system — from arrest through prosecution and sentencing — pervasive racial disparities cannot be denied.<sup>xi</sup>

Further, questions about the role of police and policing in our communities, and of the racially disparate impact on our communities' long-standing overreliance on police to respond to every kind of social problem — from the smallest interpersonal frustration to devastating acts of violence — have gathered into a full-throated national debate.

But if the criminal legal system is not the proper venue to address the very real challenges posed by unmanaged behavioral illness, and given that inequitable law

enforcement in fact exacerbates racial inequities, it's also true that we cannot simply ignore the distressing realities of unmanaged behavioral illness so evident on our streets. Public intoxication, persistent trespass, open-air drug use, theft, overdose — these cannot be overlooked, and the people suffering with these challenges must not be swept into the corner, excoriated, or abandoned.

In 2011, a diverse group of stakeholders in Seattle, Washington, came together to develop a collective new strategy to create an effective and racially equitable alternative to repeated arrests and incarceration for people whose low-level unlawful conduct stems from unmet behavioral health needs. Together, this uncommon coalition — police, prosecutors, civil rights advocates, public defenders, political leaders, mental health and drug treatment agencies, housing organizations, service providers, businesses, and neighborhood leaders — launched what has proven to be a successful, replicable, and equitable new method to divert people away from punishment and toward care. They named it LEAD® — Law Enforcement Assisted Diversion, the nation's first pre-arrest, pre-booking alternative.

LEAD isn't a "program," any more than a police officer taking somebody to jail is a "program." Instead, LEAD is a robust and coordinated system of response that replaces the traditional pipeline of punishment with long-term, patient, non-coercive, and nonjudgmental care coordination. Unlike other forms of diversion, such as divert-to-treatment or drug courts, LEAD doesn't impose sanctions, establish deadlines, mandate behavior, or demand abstinence.

Instead, LEAD's approach is grounded in the evidence of what works best to support complex people with complex needs. As social science tells us, a person's readiness to change their detrimental behaviors follows no steady course. It can come slowly. It may suffer setbacks. It can be sparked by internal motivators. It's often two steps forward, one step back.

The criminal legal system isn't built for that. But LEAD is. LEAD's case managers offer trauma-informed, strength-based unconditional support, motivational interviewing techniques, and harm reduction practices to spark and nurture incremental progress, a fundamentally different approach than the usual benchmarks for success as defined by the criminal legal system, or by abstinence-only and clinical approaches.

Perhaps most importantly, LEAD's transformative impact for individuals and systems stems from doing both more — and less — than the systems it replaces: more partnership, more coordination, more access to care, more patience, more trust, and less coercion, less punishment, and less state control. Rather than either punishing people for their illnesses or turning a blind eye to the troubles on our streets, LEAD draws together into a collective effort the very stakeholders whose systems it seeks to transform.

One such transformation is the addition of a community referral system to LEAD known as Let Everyone Advance with Dignity in 2021. This was a direct response to de-centering police in the role of gatekeepers to providing community safety solutions in a public health response.

LEAD has taken hold in more than 85 jurisdictions around the United States and is soon to be launched internationally in South Africa and the United Kingdom. The LEAD Support Bureau provides technical assistance in all aspects of implementation and operation of LEAD.

*For more information:*

Brendan Cox, Director of Policing Strategies

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<sup>1</sup> National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Washington, DC, The National Academies Press, 2014.

ii Ibid.

iii Zhen Zeng, "Jail Inmates in 2017," Bulletin prepared at the request of the Department of Justice, Bureau of Justice Statistics, April 2019. <https://bjs.ojp.gov/content/pub/pdf/ji17.pdf>.

iv Todd R. Clear, "The Effects of High Imprisonment Rates on Communities," *Crime and Justice: Volume 37*, The University of Chicago Press Journals, 2008, 97 – 132. <https://doi.org/10.1086/522360>.

v Will Dobbie, Jacob Goldin, and Crystal S. Yang, "The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges," *American Economic Review*, Vol. 108, no. 2, 2018, 201 – 240. <https://doi.org/10.1257/aer.20161503>.

vi Alexi Jones and Wendy Sawyer, "Arrest, Release, Repeat: How police and jails are misused to respond to social problems," Prison Policy Initiative, August 2019. <https://www.prisonpolicy.org/reports/repeatarrests.html>.

vii Lucius Couloute, "Nowhere to Go: Homelessness among formerly incarcerated people," Prison Policy Initiative, August 2018. <https://www.prisonpolicy.org/reports/housing.html>.

viii Becky Pettit and Bryan Sykes, "State of the Union 2017: Incarceration." The Stanford Center on Poverty and Inequality. [https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-jails-measuring-the-taxpayer-cost-of-local-incarceration/legacy\\_downloads/price-of-jails-summary.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-jails-measuring-the-taxpayer-cost-of-local-incarceration/legacy_downloads/price-of-jails-summary.pdf).

ix Darrell Steinberg, David Mills, and Michael Romano, "When did prisons become acceptable mental healthcare facilities?" Stanford Law School, Three Strikes Project. [https://law.stanford.edu/index.php?webauth-document=child-page/632655/doc/slspublic/Report\\_v12.pdf](https://law.stanford.edu/index.php?webauth-document=child-page/632655/doc/slspublic/Report_v12.pdf).

x Nell Bernstein, *All Alone in the World: Children of the Incarcerated*, New York, The New Press, 2007.

xi "Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System," The Sentencing Project, April 19, 2018. <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

Exhibit B

Jeff Chorney

Deputy Public Defender, Alameda County

# WELFARE FRAUD 6/23/23 HEARING

**To: Committee on the Revision of the Penal Code**

**From: Jeff Chorney, Deputy Public Defender, Alameda County**

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## **Proposal**

Welfare fraud should be decriminalized in California. Subjecting some of our most vulnerable community members to the violence and dehumanization of the criminal justice system is immoral, expensive and unnecessary. There are already other, more effective ways for the government to recover overpayment of benefits.

## **Traumatizing the vulnerable**

The criminal courts involve the constant threat of state-sanctioned violence, so we must be thoughtful about who enters that system. We must weigh cost/benefits of the trauma that is inflicted by that violence and ask “Does this person belong here? Do we get a benefit from subjecting this person to this system?”

For welfare fraud cases, the answer is “no.” Mass incarceration has done enough damage to our communities. We should not be trying to put more poor, disproportionately brown and Black people in cages over small sums of government money.

California doesn’t need criminal prosecution to collect welfare debts because there is already a robust administrative system in place to accomplish that. By keeping these cases in criminal courts, California is creating resentment, animosity and confusion among some of the most vulnerable, marginalized members of our community.

My typical welfare fraud client is a Black single mother. She is embarrassed and ashamed to be on government aid. She and her family have been overpoliced; she may have male relatives in prison or on probation. Her housing is unstable. It’s tough to find work. Minimum wage will not pay the bills. She has no prior criminal record. She focuses on just getting her kids to school every day and feeding them when they come home.

After filling out dozens of pieces of paper to qualify for welfare, the county tells her she must look for work, she must earn money, but not too much or else she’ll lose her benefits. Maybe she finds work here and there and maybe she forgets to report the income immediately. She may be confused because she only has to report income if she earns over a certain amount every month and *that amount changes*.

Then she’s told by mail she’s been “overpaid” and she must pay it back. She thinks that’s wrong. She thought she told her worker about her temp job. She’s told she can request a hearing if she wants one.

Eventually, someone with a badge and gun on his hip shows up at her home with a digital recorder. He shows her the paperwork she filled out and asks whether she checked or failed to check certain boxes. Didn't she deal with this already with that other paper in the mail?

Eventually she's told she's being charged with a felony. That's more serious than a DUI or domestic violence or even disobeying a police officer. She has to go to court in Oakland. She goes through the metal detector. There are people with guns who search her and tell her where to go. She has to wait for the judge to call her case. The courtroom is packed. There are people chained to chairs. Others appear at a little window wearing colored jumpsuits. People accused of assault, rape and murder are there. There's crying, shouting, threats. Slammed doors. Punched tables.

Eventually the judge calls her case. Does she understand the charges? Does she want a public defender? She needs to return to court. She also needs to go to the jail for three hours to get her picture and fingerprints taken and assigned a number that will be used to identify her.

Her lawyer tries to explain what's going on, that it's from when she was on welfare two years ago. It's hard to listen because she's crying so hard. Are they going to take away her kids? The public defender says they can put her in a cage if she's convicted or even if she misses a court date. She can fight by going to trial. But even if she wins, she still has to pay back the money because the debt has already gone to Central Collections. What's the point of a trial?

### **How Alameda County prosecutes welfare fraud**

People can only receive welfare benefits in the form of cash and food stamps for themselves and their children when their income is below a certain threshold. The person periodically must report their income to the county to confirm they're still eligible for benefits.

When a person receives benefits to which she is not entitled, it's called "overpayment." This allegation is usually because the recipient or someone in her household has not properly reported income from working.

Prior to a case being criminally charged, the county prosecutes the debt using an administrative process for welfare overpayments. The person does not have the right to a lawyer but they can try to get non-profit legal aid to help. If they lose, the debt is referred to county Central Collections, which has a variety of tools to attempt to collect. By the time I meet them, most of my clients have lost the administrative process due to a failure to invoke their right to a hearing within the required time. (Please see attached **Exhibit A** for two examples of notices of administrative actions.)<sup>1</sup>

The county does not file criminal charges until after the administrative process is finished. **That means by the time they come to criminal court, the county already has the ability to collect on the same debt that is at issue in the criminal case.**

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<sup>1</sup> In addition to the administrative process, in Alameda county counsel also sometimes sues welfare recipients in small claims court to prosecute these same debts.

To criminally prosecute welfare fraud, our district attorney charges felony violations of Welfare and Institutions Code Section 10980(c) and sometimes also Penal Code Section 118, also known as perjury. (See attached **Exhibits B** and **C** for copies of those statutes.) When both are charged, the maximum punishment is three years, eight months incarceration, plus restitution. If perjury is not charged the max is three years. (See **Exhibit D** for redacted copies of three complaints and related probable cause declarations.)

In Alameda County, these cases usually resolve via plea bargain. The district attorney usually agrees to dismiss the criminal case as long as our client signs a confession of judgment, which creates a debt that is enforceable via civil court. (See **Exhibit E** for an example of a confession of judgement.) After that, it's up to Alameda County Central Collections to attempt to collect on that debt. **The debt created by the confession of judgment is the same as the debt at issue in the administrative overpayment process.**<sup>2</sup>

### **Counties are skirting federal law's prohibition on double prosecution of welfare debts**

Charging welfare recipients with felonies breeds distrust and contempt for the criminal justice system without an appreciable benefit. It also contributes to court congestion. These prosecutions are redundant. Even without filing charges, the government already has extraordinary administrative powers to recover any money it believes was fraudulently obtained.

The federal government actually has rules against pursuing people administratively and criminally for the same welfare fraud debt but Alameda and other counties have found a way around it.

According to federal law, a county cannot simultaneously pursue both administrative and criminal processes.<sup>3</sup> But those rules only apply to conduct defined as “intentional program violations,” or IPV. Federal regulations define IPV as when the recipient intentionally “[m]ade a false or misleading statement, or misrepresented, concealed or withheld facts.” That tracks almost exactly with California’s welfare fraud statute: “Whenever any person has, willfully and knowingly, with the intent to deceive, by means of false statement or representation, or by failing to disclose a material fact, or by impersonation or other fraudulent device, obtained or retained aid.”<sup>4</sup>

That means when there’s conduct defined as an IPV, the county is supposed to pick a venue to prosecute the debt – administrative or criminal. But counties have gotten around that rule by redefining the recipient’s conduct as an “inadvertent household error” – a mistake – instead of calling it an IPV, which would be fraud. That allows the county to prosecute the debt administratively and criminally.

But that’s disingenuous. The county should have to stick with only one definition, no matter the venue. If it believes it’s really fraud – as it says it does with a criminal complaint – then it should have to pick administrative or criminal. It should not be allowed to pursue both. The fact that this occurs should signal the Legislature that welfare fraud is broken. The best way to fix it is to decriminalize it.

<sup>2</sup> Due to a recent change by the Legislature, the confession of judgement is no longer available to resolve these cases.

<sup>3</sup> See Federal Code of Regulations Section 273.16.

<sup>4</sup> California Welfare and Institutions Code Section 10980(c)(1).

# Exhibit A

**NOTICE OF ACTION**  
CalWORKs Overpayment



STATE OF CALIFORNIA  
HEALTH AND HUMAN SERVICES AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

NOTICE DATE: [REDACTED]  
CASE NAME: [REDACTED]  
CASE # [REDACTED]  
WORKER NAME T. Stake  
WORKER # Y124  
TELEPHONE 510-268-5347  
ADDRESS: 7751 Edgewater Drive  
Oakland, CA. 94621-3013

[REDACTED]

Questions? Ask your worker.

**State Hearing:** If you think this action is wrong, you can ask for a hearing. The back of this page tells you how. Your benefits may not be changed if you ask for a hearing before this action takes place.

Claim #: [REDACTED]

You got too much cash aid. You were overpaid a total of \$5,551 from 02/2021 to 10/2021. The overpayment was:

- the county's fault
- your mistake
- you intentionally caused the overpayment.

Here's why:

Unreported earnings [REDACTED]  
[REDACTED] Earnings over HH Income reporting threshold

**WARNING:** If you think this overpayment is wrong, this is your last chance to ask for a hearing. The back of this page tells how. If you stay on aid, the County can collect an overpayment by lowering your monthly grant. If you go off aid before the overpayment is paid back, the County may take what you owe out of your state income tax refund or take other legal action to collect.

You do not have to use any Social Security or SSI benefits you get to repay this overpayment.

The next page(s) show how much cash aid you should have had for each month you were overpaid, the total amount you owe, and how much will be taken out of each month's cash aid amount.

M44-350A CW Grant Change - Overpayment Adjustment  
**Rules:** These rules apply. You may review them at your welfare office: MPP: 44-350.13, 44-352.4

Monthly Cash Aid Amount

Section A. Countable Income,

Month of

1. Self-Employment Income	....	\$0
2. Self-Employment Expenses:		
a. 40% Standard	....	
OR		
b. Actual	....	
3. Net Earnings from Self-Employment	.... =	\$0
4. Total Disability-Base Unearned Income (DBI) (Assistance Unit + Non-Assistance Unit Members)	....	
5. \$225 DBI Disregard (if Line 4 is greater than \$225)	.... -	\$0
6. Nonexempt Unearned Disability-Based Income	.... =	\$0
OR		
7. Unused DBI Disregard	.... =	\$225
8. Net Earnings from Self-Employment (from above)	.... +	\$0
9. Total Other Earned Income	.... +	
10. Unused Amount of \$225 (from Line 7) or \$112 (whichever is less)	.... -	\$225
11. Subtotal	.... =	\$0
12. Earned Income Disregard 50%	.... -	\$0
13. Subtotal	.... =	\$0
14. Nonexempt Unearned Disability-Base Income (from Line 6)	.... +	\$0
15. Subtotal	.... =	\$0
16 Other Nonexempt Income (Assistance Unit + Non-Assistance Unit members	.... =	
Net Countable Income	.... =	\$0

**Although the overpayment was caused by Client Error, based on All County Letter 21-85, the overpayment has been recorded and will be collected as an Administrative Error.**

STATE OF CALIFORNIA – HEALTH AND HUMAN SERVICES AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Your eligibility for public benefits could be affected by information contained in this letter. Your response may be required by a certain date. If you need additional help with this information, you can call your county worker. You have the right to ask for help in your own language. There is no cost for this help.

(English)

Su elegibilidad para recibir beneficios públicos podría ser afectada por la información contenida en esta carta. Su respuesta podría ser requerida antes de cierta fecha. Si necesita ayuda adicional con esta información, llame a su trabajador del condado. Tiene el derecho a pedir ayuda en su propio idioma. No hay ningún costo para esta ayuda.

(Spanish)

قد تتأثر أهليتك للحصول على المزايا العامة بالمعلومات الواردة في هذه الرسالة. قد يكون ذلك مطلوبًا بحلول تاريخ معين. إذا احتجت إلى مساعدة إضافية لفهم هذه المعلومات، فيمكنك الاتصال بمسؤول الملف في مقاطعةك. لديك الحق في طلب المساعدة بلغتك. لا توجد تكلفة مقابل هذه المساعدة.

(Arabic)

Այս նամակում արտաբնական սեռերը կարող են ազդել սեռական նպաստները ստանալու և Ձեր իրավունքները կարող են արտաբնական կարող է արտաբնական միջնակարգ ամուսնի վրա: Եթե Ձեզ այս սեռերը կարող են ներքին հետ կապված լրացուցիչ օգնություն է հարկավոր, կարող եք դիմել Ձեր վարչապետի արտաբնական: Դուք իրավունք ունեք Ձեր մայրենի լեզվով օգնություն ստանալու: Այդ ծառայությունն անվճար է:

(Armenian)

សិទ្ធិទទួលបានអត្ថប្រយោជន៍សាធារណៈរបស់អ្នក អាចត្រូវប៉ះពាល់ដោយសារព័ត៌មានដែលមាននៅក្នុងលិខិតនេះ។ ការឆ្លើយតបរបស់អ្នកចាំបាច់ត្រូវឱ្យបានតាមកាលកំណត់។ ប្រសិនបើអ្នកត្រូវការជំនួយបន្ថែម ទាក់ទងនឹងព័ត៌មាននេះ អ្នកអាចទូរសព្ទទៅកាន់បុគ្គលិកធ្វើការនៅក្នុងខោនធីរបស់អ្នក។ អ្នកមានសិទ្ធិស្នើសុំជំនួយជាភាសាកំណើតរបស់អ្នក។ ការផ្តល់ជំនួយនេះពុំមានគិតថ្លៃនោះទេ។

(Cambodian)

您的公共福利资格可能会受到本信中所含信息的影响。您可能需要在特定日期内作出回应。如果您需要有关此信息的其他帮助，您可以致电所在区县的工作人员。您有权使用母语请求帮助，并免费获取该类帮助。

(Chinese)

صلاحیت شما برای برخورداری از مزایای عمومی ممکن است با اطلاعات مندرج در این نامه تحت تأثیر قرار بگیرد. ممکن است تا تاریخ معینی ملزم به دادن پاسخ باشید. اگر به کمک بیشتری نیاز دارید، می توانید با مددکار کاتبی شان تماس بگیرید. شما حق دارید درخواست کنید که کمک به زبان خودتان ارائه شود. ارائه این کمک هزینه ای برای شما در بر ندارد.

(Farsi)

इस पत्र में दीये हुये जानकारी के कारण आपकी सार्वजनिक लाभों की योग्यता प्रभावित हो सकती है। एक निश्चित तिथि तक आपके उत्तर की आवश्यकता हो सकती है। यदि आपको इस जानकारी के सन्दर्भ में अतिरिक्त सहायता चाहिए तो अपने काउंटी कार्यकर्ता से संपर्क करें। आपको अपनी भाषा में सहायता की माँग करने का अधिकार है। इस सहायता के लिए कोई शुल्क नहीं लगता।

(Hindi)

Koj txoj kev pab los ntawm pej xeem cov kev pab cuam yuav cuam tshuam txog qhov muaj cai tau txais kev pab. Tej zaum koj yuav tsum teb rov qab mus raw li hnuv hais tseg. Yog koj tsis nkag siab cov ntaub ntawv no hu rau tus neeg pab lis hauj lwm hauv koj lub zos. Koj muaj txoj cai thov kev pab ua yog hais koj hom lus. Yuav tsis tau them nqi dab tsi rau qhov kev pab no.

(Hmong)

あなたの公的給付金の受領資格は、本文書に含まれる情報によって影響を及ぼされる可能性があります。回答を期限までに要請される可能性があります。本情報に関してさらに援助が必要な場合は、郡の職員にお電話にてお問い合わせください。言語支援サービスがご利用できません。このサービスは無料です。

(Japanese)

**CALFRESH OVERISSUANCE NOTICE  
FOR INADVERTENT HOUSEHOLD  
ERRORS (THE) ONLY**



**STATE OF CALIFORNIA  
HEALTH AND HUMAN SERVICES AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES**

Notice Date: September 10, 2019  
Case Name: [REDACTED]  
Case Number: [REDACTED]  
Worker Name: B. Tsang  
Worker Number: Y334  
Telephone: 510-891-5740  
Address: 7751 Edgewater Drive  
Oakland, CA. 94621-1939



Questions? Ask your Worker.

**State Hearing:** If you think this action is wrong, you can ask for a hearing unless you already had a hearing on the amount you owe. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

Claim ID #: [REDACTED]

Too Many CalFresh benefits were issued to:

- the household
- the household, whom you sponsored.

Here's why:

Unreported income of [REDACTED] from [REDACTED] Security Inc. Earnings were over the CalFresh Income Reporting Threshold (IRT) in 09/2016 and were not reported to the County within 10 days. Also, unreported income from [REDACTED] School District. Earnings were over the CalFresh IRT in 12/2016, 10/2017-12/2017, and 10/2018-12/2018 and were not reported to the County within 10 days. Lastly unreported income from [REDACTED] Properties. Earnings over the CalFresh IRT in 01/2019 and were not reported to the County within 10 days.

- The unreported earned income does not qualify for the 20% deduction.

You must repay the extra CalFresh benefits.

\$1,656 in extra CalFresh benefits were issued for the period **From Sep - 2016 Thru Jan - 2019.**

The household received \$1,732 in CalFresh benefits. The household should have received \$76 in CalFresh benefits.

\$1,656 (extra CalFresh benefits) is what you received minus what you should have received.

- This amount was reduced by \$0 because we owed the household benefits from past months or we received repayment of part of the amount owed. You now owe \$1,656.

**See how we figured the extra amount you got on the worksheet that came with this notice**

- You do not have to use any SSI benefits you get to pay this overissuance.
- You may ask for a hearing if you feel you received extra CalFresh because the County Welfare Dept. made a mistake.
- Collection will be from all adults in the household when the overissuance occurred.

**YOU MUST EITHER :**

Pay for the extra CalFresh benefits in full, or complete, sign and return the enclosed Repayment Agreement (CF 377.7C) form and pay as agreed.

**PROGRAM ACTIONS:**

- Your repayment agreement will be based on your current ability to pay as figured by the county. Any changes in your ability to pay may change your monthly payments.
- If you do not sign and return the agreement within 30 days after the date of this notice, the amount of CalFresh benefits you get will be reduced by \_\_\_\_\_ beginning \_\_\_\_\_
- If you do not repay, the county may use other ways of collecting the amount owed, such as through the courts, other collection agency methods and by a federal government collection action.
- If this error is later reviewed by the court or hearing and determined to be your fault, penalties will apply even if you agree to repay what you owe.
- If the claim becomes delinquent or the household is sued, you may be subject to additional processing charges or court costs.
- If you do not repay the amount owed, the county may take your state/federal income tax refund and/or ask the court to attach your wages or any property you own.

**WARNING:** If you believe this overissuance is wrong, this is your last chance to ask for a hearing. If you stay on CalFresh, the county can lower your CalFresh benefits to collect the overissuance. If you go off CalFresh before the overissuance is paid back, the county may take what you owe out of your income tax refund.

**Rules:** These rules apply: **MPP 63-801.21, Duarte v. Saenz**  
You may review them at your welfare office.

NOTICE OF PROPOSED ACTION  
GENERAL ASSISTANCE PROGRAM



NOTICE DATE: September 10, 2019  
CASE NAME: [REDACTED]  
CASE # [REDACTED]  
WORKER NAME B. Tsang  
WORKER # Y334  
TELEPHONE 510-891-5740  
ADDRESS: 7751 Edgewater Drive  
Oakland, CA. 94621-1939

Questions? Ask your worker.  
Si necesita una traduccion de eso, llame a su trabajador(a).

**State Hearing:** If you think this action is wrong, you can ask for a hearing. The back of the page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

Claim ID #: [REDACTED]

YOUR GENERAL ASSISTANCE GRANT WILL BE DECREASED FROM \_\_\_\_\_ TO \_\_\_\_\_  
EFFECTIVE \_\_\_\_\_ N/A \_\_\_\_\_ BECAUSE YOU WERE OVERPAID GENERAL ASSISTANCE FOR THE AMOUNT  
OF \$9,537.00 FOR THE MONTHS OF from: Jun-2015 thru Jun-2019

THE OVERPAYMENT WAS CAUSED DUE TO:

Unreported income of [REDACTED] from [REDACTED] for [REDACTED]  
[REDACTED] 06/2015-08/2015 and 10/2015-02/2016, [REDACTED] District 02/2016-07/2016,  
09/2016-12/2016, 03/2017, 08/2018-12/2018, and 02/2019-06/2019, [REDACTED] Security Inc 08/2016-  
09/2016, and [REDACTED] Properties 12/2018-02/2019. Earnings were not reported to the  
County within 10 days of receipt.

TO ADJUST THE OVERPAYMENT YOUR GENERAL ASSISTANCE GRANT WILL BE REDUCED BY \_\_\_\_\_ N/A \_\_\_\_\_ A  
MONTH FOR THE MONTHS OF \_\_\_\_\_ N/A \_\_\_\_\_ UNTIL N/A \_\_\_\_\_

YOU MAY USE YOUR EBT BALANCE TO REPAY THIS OVERPAYMENT

YOU ARE ALLOWED 15 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING. IF YOU ASK FOR A  
FAIR HEARING BEFORE THE EFFECTIVE DATE OF THE ACTION, YOUR AID MAY BE CONTINUED UNTIL THE FAIR  
HEARING.

RULES: THESE RULES APPLY. YOU MAY REVIEW THEM AT YOUR WELFARE OFFICE:  
GENERAL ASSISTANCE REGULATION SECTIONS: 9-5-5, 9-5-5.31, 9-5-5.51

GA DECREASE: OVERPAYMENT ADJUSTMENT

774-1

**CALFRESH REPAYMENT AGREEMENT  
FOR INADVERTENT HOUSEHOLD ERROR ONLY**

CASE NAME: [REDACTED]

CASE NUMBER: [REDACTED]

WORKER: **B. Tsang**, Y334

CLAIM NUMBER: [REDACTED]

NAME [REDACTED]

ADDRESS [REDACTED]

**TERMS AND CONDITIONS -**

You or a member of your household made a mistake.

You must repay extra CalFresh benefits by using one or more methods listed here:

1. Lump Sum Payment - You may repay in full the amount owed at one time with cash and/or CalFresh benefits
2. Benefit Reduction - If you are getting CalFresh benefits now, you may repay by having your household's benefits reduced for all or part of the amount owed. Repayment by this method will be 10% of your monthly benefit or \$10 each month, whichever is more.
3. Installments - You may repay the amount owed in monthly payments with cash and/or with CalFresh benefits.
4. Ordered Repayment

The court or Administrative Law Judge ordered that you repay as indicated below. These repayment terms cannot be changed by you or by the county.

If we have not already talked to you about the terms of this Agreement, or if you have any questions, call the welfare collector at 510-208-9900

After you complete and sign this agreement, return all copies to the county in the envelope provided. Do not send cash with this Agreement. When approved by the county, a signed copy of this Agreement will be sent to you.

**AGREEMENT**

I, \_\_\_\_\_, understand this Agreement is between me and ALAMEDA County because extra CalFresh benefits in the amount \$1,656 were issued. I agree to repay this amount by the method(s) checked below:

Lump Sum Payment

I will repay by a lump sum cash payment of \$ \_\_\_\_\_ due on \_\_\_\_\_

I will repay by a lump sum CalFresh benefit payment of \$ \_\_\_\_\_ due on \_\_\_\_\_

Benefit Reduction

I will repay by having my household's benefits reduced by \$ \_\_\_\_\_ each month, beginning \_\_\_\_\_

Installments

I will repay by monthly cash payments of \$ \_\_\_\_\_ due on the \_\_\_\_\_ day of each month beginning \_\_\_\_\_

I will repay by monthly CalFresh benefit payments of \$ \_\_\_\_\_ due on the \_\_\_\_\_ day of each month beginning \_\_\_\_\_

**I also understand and agree that:**

1. My repayment schedule is based on my current ability to pay as figured by the county. Any changes in my ability to pay may change my monthly payments.
2. If anything changes, I may ask the county to refigure the terms checked above.
3. If I do not pay as agreed and do not get a new payment schedule, the county may ask that the total amount owed be paid now.
4. If I do not pay as agreed and the county sues me to collect the amount owed, I may also be required to pay collection costs, attorney fees, and court costs.
5. If I do not pay, the county may take my state/federal income tax refund and/or ask the court to attach my wages or any property I own.
6. I will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.
7. If this inadvertent household error is later found to be an intentional program violation, penalties will apply even if I pay back what I owe.

Signature \_\_\_\_\_

Date \_\_\_\_\_

County \_\_\_\_\_

**To be completed by the county:**

The above signed Agreement has been accepted by \_\_\_\_\_ on \_\_\_\_\_  
for ALAMEDA County. Payments should be made at: Central Collections  
1221 Oak Street, Suite # 220  
Oakland, Ca 94612

(Signature of Authorized County Official)

**INFORMING NOTICE –  
REGARDING AN ACTION TAKEN  
ON YOUR CASE**

County: Alameda

Case Name: [REDACTED]

Case No. : [REDACTED] OTHER ID NO.

Worker Name: B. Tsang

Date: 9/10/2019

**This form provides information about the report from a credit reporting agency used to make changes to your case. A consumer credit report can verify employment, such as your wages, your salary, your hours worked or if and where you are employed. This report is a regulated by the Fair Credit Reporting Act.**

The action taken on your case is explained on the enclosed form: Overpayment NOA & Overissuance NOA  
Name of NOA, Etc., Used

*"The action being taken against you is based in part from information obtained from the Consumer Credit Report Agency listed below. This Agency did not make the decision to take this action against you and is not able to explain why the decision was made. You can obtain a free copy of information contained in your file if you make a request to the Agency within 60 days. You may dispute the accuracy or completeness of any information by contacting the Agency."*

<b>The information to make this change to your case was provided by:</b>	<b>THE WORK NUMBER/EQUIFAX</b> Name of Agency Providing Notice
<b>How can you obtain a copy of your employment verification report?</b>	By telephone: (800)-367-2884 Toll-Free Number By mail: 11432 LACKLAND ROAD, ST. LOUIS, MO, 63146 Address On the web: www.theworknumber.com Website Address
<b>What if there are mistakes in your consumer credit report?</b>	You have a right to dispute any inaccurate information in your consumer credit report. Under Federal law, you have the right to obtain a copy of your consumer credit report without charge for 60 days after you receive this notice. If you find mistakes in your consumer credit report, contact the consumer reporting agency. It is a good idea to check your consumer credit report to make sure the information is correct.
<b>How can you get more information about your employment verification report?</b>	For more information about consumer reports including this report, visit the Consumer Financial Protection Bureau's website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a>
<b>Please call your county worker if you have any questions about the information in this notice.</b>	County Worker Name: B. Tsang Telephone Number: 510-891-5740

# Exhibit B

West's Ann.Cal.Welf. & Inst.Code § 10980

§ 10980. Unlawful acts; penalties; exceptions to criminal prosecution for overpayment or overissuance of benefits

Effective: January 1, 2018

[Currentness](#)

(a) Any person who, willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact in order to obtain aid under the provisions of this division or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or to receive a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months, by a fine of not more than five hundred dollars (\$500), or by both imprisonment and fine.

(b) Any person who knowingly makes more than one application for aid under the provisions of this division with the intent of establishing multiple entitlements for any person for the same period or who makes an application for that aid for a fictitious or nonexistent person or by claiming a false identity for any person is guilty of a felony, punishable by imprisonment pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine; or by imprisonment in a county jail for a period of not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both imprisonment and fine.

(c) Whenever any person has, willfully and knowingly, with the intent to deceive, by means of false statement or representation, or by failing to disclose a material fact, or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto, the person obtaining this aid shall be punished as follows:

(1) If the total amount of the aid obtained or retained is nine hundred fifty dollars (\$950) or less, by imprisonment in a county jail for a period of not more than six months, by a fine of not more than five hundred dollars (\$500), or by both imprisonment and fine.

(2) If the total amount of the aid obtained or retained is more than nine hundred fifty dollars (\$950), by imprisonment pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine; or by imprisonment in a county jail for a period of not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Supplemental Nutrition Assistance Program in any manner not authorized by Chapter 10 (commencing with [Section 18900](#)) of Part 6 with the intent to defraud is guilty of a felony, punishable by imprisonment pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(e) Any person who counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Supplemental Nutrition Assistance Program or to receive CalFresh benefits or electronically transferred benefits in any manner not authorized by the former federal Food Stamp Act of 1964 ([Public Law 88-525](#)<sup>1</sup> and all amendments thereto) or the federal Food and Nutrition Act of 2008 ([7 U.S.C. Sec. 2011 et seq.](#)) or the federal regulations pursuant to the act is guilty of forgery.

(f) Any person who fraudulently appropriates CalFresh benefits, electronically transferred benefits, or authorizations to participate in the federal Supplemental Nutrition Assistance Program with which he or she has been entrusted pursuant to his or her duties as a public employee is guilty of embezzlement of public funds.

(g) Any person who knowingly uses, transfers, sells, purchases, or possesses CalFresh benefits, electronically transferred benefits, or authorizations to participate in the federal Supplemental Nutrition Assistance Program in any manner not authorized by Chapter 10 (commencing with [Section 18900](#)) of Part 6, or by the former federal Food Stamp Act of 1977 ([Public Law 95-113](#) and all amendments thereto) or the federal Food and Nutrition Act of 2008 ([7 U.S.C. Sec. 2011 et seq.](#)) (1) is guilty of a misdemeanor if the face value of the benefits or the authorizations to participate is nine hundred fifty dollars (\$950) or less, and shall be punished by imprisonment in a county jail for a period of not more than six months, by a fine of not more than five hundred dollars (\$500), or by both imprisonment and fine, or (2) is guilty of a felony if the face value of the CalFresh benefits or the authorizations to participate exceeds nine hundred fifty dollars (\$950), and shall be punished by imprisonment pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine, or by imprisonment in a county jail for a period of not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both imprisonment and fine.

(h)(1) If the violation of subdivision (f) or (g) is committed by means of an electronic transfer of benefits, in addition and consecutive to the penalties for the violation, or attempted violation, of those subdivisions, the court shall impose the following punishment:

(A) If the electronic transfer of benefits exceeds fifty thousand dollars (\$50,000), an additional term pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) of one year.

(B) If the electronic transfer of benefits exceeds one hundred fifty thousand dollars (\$150,000), an additional term pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) of two years.

(C) If the electronic transfer of benefits exceeds one million dollars (\$1,000,000), an additional term pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) of three years.

(D) If the electronic transfer of benefits exceeds two million five hundred thousand dollars (\$2,500,000), an additional term pursuant to [subdivision \(h\) of Section 1170 of the Penal Code](#) of four years.

(2) In any accusatory pleading involving multiple charges of violations of subdivision (f) or (g), or both, committed by means of an electronic transfer of benefits, the additional terms provided in paragraph (1) may be imposed if the aggregate losses to the victims from all violations exceed the amounts specified in this paragraph and arise from a common scheme or plan.

(i) A person who is punished by an additional term of imprisonment under another law for a violation of subdivision (f) or (g) shall not receive an additional term of imprisonment under subdivision (h).

(j)(1) A person shall not be subject to criminal prosecution, under this section or under any other law, for an overpayment or overissuance of benefits, obtained under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with [Section 11200](#)) of Part 3) or the CalFresh program (Chapter 10 (commencing with [Section 18900](#)) of Part 6), for any month in which the county human services agency was in receipt of any Income and Eligibility Verification System (IEVS) data match information indicating any potential for an overpayment or an overissuance and for which the county human services agency has not provided to the person a timely and adequate notice of action for the collection of the overpayment or the overissuance.

(2)(A) For purposes of paragraph (1), the county human services agency shall be deemed to be in receipt of IEVS data match information indicating any potential for an overpayment or an overissuance following 45 days from the date of the county human services agency's possession of that information.

(B) Notwithstanding subparagraph (A), if the county human services agency does not complete the required actions for an IEVS data match for a CalFresh or CalWORKs applicant or recipient within 45 days of receipt of information pursuant to [Section 272.8 of Title 7](#) of, or [Section 205.56 of Title 45 of, the Code of Federal Regulations](#), or their successors, but is authorized to exceed the 45-day period due to exceptions provided under those regulations or under any other federal law, the county human services agency shall be deemed, for purposes of paragraph (1), to be in receipt of IEVS data match information indicating any potential for an overpayment or an overissuance following the combined total of 45 days and the authorized delay from the date of the county human services agency's possession of that information.

# Exhibit C

West’s Ann.Cal.Penal Code § 118

§ 118. “Perjury” defined; evidence necessary to support conviction

Currentness

(a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

**Credits**

(Enacted in 1872. Amended by Stats.1955, c. 873, p. 1488, § 2; Stats.1957, c. 1612, p. 2959, § 2; Stats.1980, c. 889, p. 2790, § 3; Stats.1989, c. 897, § 13; Stats.1990, c. 950 (S.B.2681), § 2.)

West’s Ann. Cal. Penal Code § 118, CA PENAL § 118

Current with Ch. 1 of 2023-24 1st Ex.Sess, and urgency legislation through Ch. 9 of 2023 Reg.Sess. Some statute sections may be more current, see credits for details.

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End of Document

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# Exhibit D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA

NO. [REDACTED]

COMPLAINT

PFN: [REDACTED] CEN [REDACTED]

**FILED**  
ALAMEDA COUNTY  
3/6/2020 1:27:54 PM  
CLERK OF THE SUPERIOR COURT  
BY     ll      
Signed: 3/6/2020 01:54 PM  
DEPUTY

[REDACTED]

Defendant(s)

The undersigned, being sworn says, on information and belief, that [REDACTED] [REDACTED] did, in the County of Alameda, on or about **January 01, 2017 through August 15, 2017**, commit a FELONY, to wit: AID BY MISREPRESENTATION - OVER \$950, a violation of section 10980(c)(2) of the WELFARE AND INSTITUTIONS CODE of California, in that said defendant(s) did unlawfully and by means of false statements, representations, impersonation or other fraudulent device, obtain and retain aid for [REDACTED] (born in 1991) and [REDACTED] [REDACTED] (born in 2011), not in fact entitled thereto, in excess of nine hundred fifty dollars, to wit: \$3,958.

**SECOND COUNT**

The undersigned further deposes and says on information and belief, that said [REDACTED] did, in the County of Alameda, on or about **April 04, 2017**, commit a FELONY, to wit: PERJURY BY FALSE AFFIRMATION FOR AID, a violation of section 118(a) of the PENAL CODE of California, in that said defendant(s) being a person who testified, declared, deposed, and certified under oath and under penalty of perjury on an application for aid and medical assistance provided for in Welfare and Institutions Code Section 11054 that said defendant and applicant met the specific conditions of eligibility for said aid and medical assistance, did knowingly, and with intent to deceive, state as true on said application a material matter which he/she knew to be false, to wit: In her Eligibility Status Report, the Defendant stated that she did not get income from employment in the Report Month.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Subscribed and sworn to before me,  
Friday, March 6, 2020

This document was filed electronically in  
compliance with Penal Code section 959.1

  
ROBERT HARTMAN  
Deputy District Attorney  
State Bar #104513  
Alameda County, California

DA [REDACTED]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA

v.

[Redacted]

Defendant(s)

NO. [Redacted]

COMPLAINT

PFN: [Redacted]

CEN: [Redacted]

FILED  
ALAMEDA COUNTY  
2/18/2022 3:29:14 PM  
CLERK OF THE SUPERIOR COURT  
BY Robert Togni  
Signed: 2/18/2022 03:34 PM  
DEPUTY

The undersigned, being sworn says, on information and belief, that [Redacted] [Redacted] did, in the County of Alameda, on or about **June 01, 2020 through May 31, 2021**, commit a FELONY, to wit: AID BY MISREPRESENTATION - OVER \$950, a violation of section 10980(c)(2) of the WELFARE AND INSTITUTIONS CODE of California, in that said defendant(s) did unlawfully and by means of false statements, representations, impersonation or other fraudulent device, obtain and retain aid for [Redacted] [Redacted] not in fact entitled thereto, in excess of nine hundred fifty dollars, to wit: Six Thousand Five Hundred and Six Dollars (\$6,506.00).

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Subscribed and sworn to before me,  
Friday, February 18, 2022

This document was filed electronically in  
compliance with Penal Code section 959.1

JAMES MEEHAN  
ASSISTANT DA I-SENIOR DEPUTY DA I  
State Bar #124636  
Alameda County, California

DA 21W0976



# County of Alameda



## Request for Out of Custody Complaint Declaration of Probable Cause

Arrestee/Suspect [REDACTED]		DOB [REDACTED]	Sex F	PFN	
Race BLACK		[REDACTED]	[REDACTED]	[REDACTED]	
Arresting Agency ALAMEDA COUNTY DISTRICT ATTORNEY		Declarant Michael Garmon		Agency Phone (510) 272-6263	Agency Fax
Arrest Date	Arrest Time	Arrest Location			
Holds		Arrestee Home Address			
Charges/Violations WI 10980(C)(2) F(1 Counts)					

The subject of this investigation, [REDACTED], has been receiving public benefits through Alameda County Social Services (SSA). She has been receiving Cal Fresh (CF) benefits since 2020. [REDACTED] is P5 on this case.

SSA PID sent this case for review after discovering through IEVS-IFD reports that [REDACTED] had unreported income from East Bay Agency for Children, and [REDACTED] had unreported income from UPS and TrueBlue Inc. Those earnings caused an Over Issuance of \$6505 (CF) for the time period June 2020 to MAY 2021.

[REDACTED] did not report any of these [REDACTED] within 10 days of employment, as required by SSA rules and regulations. On [REDACTED] applications for benefits, [REDACTED] acknowledged with her signature receipt having been read or reading the rights and responsibilities given to her by SSA, one of which requires [REDACTED] to report any changes in her income within 10 days to SSA; however [REDACTED] failed to do so. In fact, [REDACTED] and [REDACTED] were both working for the aforementioned employers when [REDACTED] completed a May 2020 Benefits Carvin application; she denied having income at that time. Additionally, [REDACTED] never disclosed the UPS, TrueBlue, or East Bay Agency for Children income on any renewal or other required SSA document during the period of employment, having signed under penalty of perjury that all the information within the applications were true and correct. She completed a SAR 7 semi annual renewal form in November of 2020, again denying that there was household income. This was not true, as both she and [REDACTED] were working at that time.

I declare under penalty of perjury that the above information was obtained through official police channels and is contained in the above-mentioned police report. Executed in the County of Alameda, State of California. Identity and signature of declarant verified by CRIMS.

Date: 02/18/2022 11:09:06

Declarant: Michael Garmon

Badge: 1006

Reviewed and approved.

Date: 02/18/2022 11:10:53

Supervisor: Michael Garmon

Badge: 1006

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA

v.

[REDACTED]

Defendant(s)

NO. [REDACTED]

COMPLAINT

PFN: [REDACTED]

CEN: [REDACTED]

FILED  
ALAMEDA COUNTY  
1/9/2023 10:48:59 AM  
CLERK OF THE SUPERIOR COURT  
BY Philip Tapan  
Signed: 1/9/2023 01:52 PM  
DEPUTY

The undersigned, being sworn says, on information and belief, that [REDACTED] [REDACTED] did, in the County of Alameda, on or about **February 01, 2021 through October 31, 2021**, commit a FELONY, to wit: AID BY MISREPRESENTATION - OVER \$950, a violation of section 10980(c)(2) of the WELFARE AND INSTITUTIONS CODE of California, in that said defendant(s) did unlawfully and by means of false statements, representations, impersonation or other fraudulent device, obtain and retain aid for [REDACTED] [REDACTED] ([REDACTED]), not in fact entitled thereto, in excess of nine hundred fifty dollars, to wit: \$7,327.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Subscribed and sworn to before me,  
Monday, January 9, 2023

This document was filed electronically in  
compliance with Penal Code section 959.1

WARD WINKLOSKY  
DEPUTY DISTRICT ATTORNEY  
State Bar #248013  
Alameda County, California

DA 22W2595



# County of Alameda



## Request for Out of Custody Complaint Declaration of Probable Cause

Arrestee/Suspect [REDACTED]		DOB [REDACTED]	Sex F	PFN	
Race WHITE		CDL		Agency Report # [REDACTED]	
Arresting Agency ALAMEDA COUNTY DISTRICT ATTORNEY		Declarant David Pascoe		Agency Phone (510) 272-6263	Agency Fax
Arrest Date	Arrest Time	Arrest Location			
Holds		Arrestee Home Address 2424 90TH AV , #10 OAKLAND CA			
Charges/Violations WI 10980(C)(2) F(1 Counts)					

The subject of investigation [REDACTED] hereafter, [REDACTED] failed to report earnings from employer Allegis and Specialist Staffing. [REDACTED] boyfriend and father of her child, [REDACTED] was employed with Allegis and Specialist Staffing and failed to report earnings to Alameda County Social Services Agency, hereafter, SSA, as required to do so while [REDACTED] received public assistance benefits in the form of Cal Works and CalFresh Food Stamp benefits. This was during the periods between February 2021 through October 2021, creating an overpayment and over issuance of benefits paid to [REDACTED] in the amount of \$7,327.00. On each of [REDACTED] applications for benefits, [REDACTED] acknowledged with her signature receipt having been read or reading the rights and responsibilities given to her by SSA, certifying under penalty of perjury, that all information contained within the applications and statements to SSA are true and current, one of which requires her to report any changes in her income or residence within 10 days to SSA, however, [REDACTED] failed to do so.

The date of discovery for this period is on October 1, 2021.

I declare under penalty of perjury that the above information was obtained through official police channels and is contained in the above-mentioned police report. Executed in the County of Alameda, State of California. Identity and signature of declarant verified by CRIMS.

Date: 01/09/2023 09:19:11

Declarant: David Pascoe

Badge: 363

Reviewed and approved.

Date: 01/09/2023 09:19:22

Supervisor: David Pascoe

Badge: 363

# Exhibit E

1 DONNA R. ZIEGLER [142415]  
County Counsel  
2 JILL SAZAMA [214215]  
Deputy County Counsel  
3 OFFICE OF THE COUNTY COUNSEL  
COUNTY OF ALAMEDA  
4 1221 Oak Street, Suite 450  
Oakland, CA 94612-4296  
5 Tel: 510-272-6700  
6 Fax: 510-272-5020  
jill.sazama@acgov.org  
7

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF ALAMEDA  
11

12 COUNTY OF ALAMEDA, a body corporate  
and politic and a political subdivision of the  
13 State of California,

14 Plaintiff,

15 vs.

16 [REDACTED]  
17 Defendant.

No.: [REDACTED]

**STATEMENT AND DECLARATION  
FOR CONFESSION OF JUDGMENT  
(CCP §§ 1132-1134)**

18 The undersigned declares as follows:

19 I hereby confess judgment in favor of the County of Alameda, the plaintiff above-named, for  
20 the sum of six thousand, eight hundred and twenty-five dollars (\$6825) together with the costs to  
21 record said Confession of Judgment in the sum of forty-five dollars (\$45.00), for a total of six  
22 thousand, eight hundred and seventy dollars (\$6870). Entry of judgment against me may be made in  
23 the above total amount, less any payments and/or grant adjustments, if any, to date. I make this  
24 confession on the condition that no execution shall issue on the judgment as long as I pay a  
25 minimum of fifty dollars (\$50.00) per month by the 25<sup>th</sup> day of each month or by a grant adjustment  
26 as determined by the Department of Social Services under the applicable regulations, beginning the  
27 first day of ~~March~~<sup>May</sup>, 2022, and continuing thereafter upon the balance is paid. If I am in default  
28 thirty-one (31) days or more, the full amount becomes due and payable and execution may issue.

1 This Confession of Judgment is governed and controlled in all respects by California law,  
2 including Code of Civil Procedure section 664.6, and be enforceable in Alameda County Superior  
3 Court. In the event of a dispute relating to this Judgment, after dismissal of the matter, jurisdiction  
4 over the terms of the Judgment is retained by Alameda County Superior Court.

5 The Confession of Judgment is for a debt justly due from me to said County of Alameda,  
6 and/or a public agency therein, and arises from the facts alleged in the matter of the People of the  
7 State of California v. [REDACTED] Alameda County Superior Court docket [REDACTED] in  
8 which I received public assistance benefits from the County of Alameda, or a public agency therein,  
9 that I was not entitled to receive as a result of my submitting false written statements.

10 I have been advised by my attorney, Jeff Chorney, of my rights and defenses under the  
11 Confession of Judgment Procedure (see attached Certificate of Attorney).

12 I declare under penalty of perjury of the law of State of California that the foregoing is true  
13 and correct.

14 Dated this 15 day of March, 2022 in Hayward, California

15 Print Name

16 Signature:

17 Address

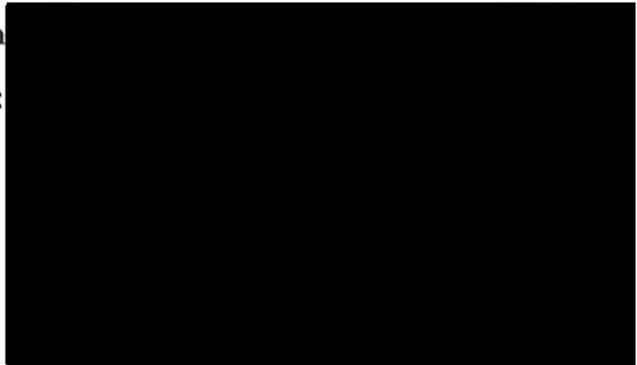
19 Phone

20 SSN

21 Employer's Name

22 Employer's Address

24 Employer's Phone



N/A



Exhibit C

Kamaria Henry

Managing Deputy District Attorney, Riverside County



OFFICE OF  
THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE

MICHAEL A. HESTRIN  
DISTRICT ATTORNEY

June 9, 2023

Rick Owen, *Esq.*  
Committee on Revision of the Penal Code  
c/o UC Davis School of Law  
400 Mrak Hall Drive  
Davis, California 95616

Re: California Welfare Fraud Reform

Dear Mr. Owen:

We much appreciate this opportunity to collaborate with the Committee on its consideration of welfare fraud reform. As you know, I will be away from the country on June 23, 2023, therefore Managing Deputy District Attorney Kamaria Henry will be attending the Zoom meeting and speaking in my stead. Ms. Henry will be fluent in the matters that I outline in this letter.

*The Anatomy of a Riverside County Welfare Fraud Investigation and Prosecution*

In Riverside County, cases are submitted for prosecution consideration by the Special Investigations Unit of the Riverside County Department of Social Services (DPSS). Our office maintains a full time Deputy District Attorney (DDA) dedicated to the consideration of charges. This DDA also “vertically”<sup>1</sup> prosecutes all welfare fraud cases existing in Riverside County.

When considering charges, the DDA has the discretion to send the case back to DPSS for further investigation, or to reject the case outright. Although prosecutors at a minimum must file charges on *probable cause* (Cal. Rules of Professional Conduct, rule 3.8, subd. (a)), our internal office policy requires that cases be filed only if the available evidence establishes guilt *beyond a reasonable doubt*. Moreover, we employ a “blind” charging review methodology, wherein our clerical staff redacts the suspect’s biographical information from the charging submission packet that the DDA reviews, in the interest of eliminating express or implied bias in charging.

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<sup>1</sup> In a “vertical” prosecution system, a DDA is responsible for all court appearances, from the initial arraignment, throughout the life of the case.

There are two charges emblematic of a welfare fraud prosecution. Welfare and Institutions Code section 10980 (usually referred to as “welfare fraud”) criminalizes false material<sup>2</sup> statements, provided they are made *willfully, knowingly, and with a specific intent to deceive*. Section 10980 adheres to the \$950 grand theft threshold, meaning that only a fraud exceeding a \$950 loss *might* be filed as a felony. Section 10980 is also a “wobbler,” meaning that a felony can be reduced to a misdemeanor, at the discretion of the prosecutor or the court. In cases where the false material statement was knowingly made under penalty of perjury, we might also charge perjury under Penal Code section 118. Perjury is an irreducible felony. (Pen. Code, § 126.)

We think it important to accentuate that we do not prosecute defendants who make “paperwork mistakes” or who “misspeak.” We instead focus our efforts on cases involving evidence of *persistent* fraud. For example, a viable case might involve a recipient concealing that they are working a side job, while submitting affirmative income denials to DPSS for months or years. It is therefore typical that a viable criminal case involves a loss in the many *thousands*, into the *tens of thousands* of dollars.

For those cases that we do prosecute, our primary goals are the payment of restitution, a readily achievable rehabilitation, and a criminal record expungement. *Rarely* does a welfare fraud case resolve as a felony.<sup>3</sup> This author reviewed our office’s welfare fraud case dispositions for the past three months (March through May), adding up to 24 total defendants:

- 23 defendants received a misdemeanor disposition.<sup>4</sup> There was one felony disposition.
- The total benefits stolen added up to \$143,287, the average being \$7,164 per case. The lowest loss was \$2,593, and the highest loss was \$15,511 (which, not coincidentally, represented the single felony disposition).
- 23 cases involved the intentional misrepresentation of household income. One case involved a non-custodial parent collecting benefits for an absent child. Beyond these recent cases, we also prosecute the misreporting of residents in the home, the “double dipping” of benefits elsewhere, the collection of benefits by recipients who do not reside in Riverside County, applications involving identity theft, and EBT card benefits theft.
- Of the above cases involving income misrepresentation, the secreted income was on average about \$30,000 per case, *for the cases where the total income withheld was readily available*. In the other cases, the “raw” income data made it clear that the income withheld would have likewise added up to substantial sums.

#### *Administrative Alternatives Are Useful, But Not a “Catch All” Substitute*

In our experience, the Riverside County DPSS has been proactive in implementing a program of preventative fraud through the Fraud Early Detection Unit. Even when a fraud is suspected to be actively ongoing, it is unlikely that the offender will be investigated, but rather informally counseled. Moreover, the strict criteria that our DPSS utilizes to redirect cases into the

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<sup>2</sup> A misrepresentation is “material” only if the representation directly impacts the determination of public assistance *eligibility*, or the *benefits amount* to be awarded.

<sup>3</sup> For those few welfare fraud cases that resolve as a felony, the criminal record expungement process allows for the later reduction of the case to a misdemeanor.

<sup>4</sup> Only in an unusual case would we decline to dismiss a felony perjury count in a disposition.

administrative system ensures that our office is only considering charges involving the more brazen of the criminal offenders.

In our view, the administrative process has limitations that make it inadequate to serve exclusively as an effective remedy to combat welfare fraud:

- The administrative process only addresses frauds flowing to a recipient offender. In cases where that the fraud enabled the flow of benefits to other people (*e.g.*, the recipient’s children or a parent), there is no administrative recourse.
- The fundamental nature of fraud is that the offender will design schemes that work to conceal fraud from detection and prosecution. The District Attorney is well versed in detecting current fraud techniques. We also employ discovery mechanisms (*e.g.*, judicial subpoenas and search warrants) that are unavailable in an administrative setting.
- If recipients understood that—at worst—they’d only be subjected to an administrative process demanding the “claw back” of illicit gains, there would be little disincentive to commit welfare fraud. Recipients commit welfare fraud because the system’s checks are few, and the likelihood of being held accountable is (correctly) perceived as remote.
- The administrative process will be unable to combat the theft of benefits by organized criminal enterprises. As the administration of benefits continues its migration to a paperless (and contactless) system, the potential for highly destructive schemes (*e.g.*, the type of rampant fraud experienced within COVID-era programs) will be great.
- Criminal convictions motivate fraud offenders to carefully reflect on their behaviors, to pay criminal restitution, and to pursue an expungement.
- The availability of criminal prosecution serves to validate the integrity of the system in the minds of politicians and taxpayers. Our welfare system benefits from a public perception of accountability.

We suspect that a great many recipients committing welfare fraud are being diverted into the administrative system, as a matter of restraint and a lack of investigative resources. We therefore do not believe that it is necessary or desirable to further erode the benefits that the criminal justice system offers: deeper investigations; a pronounced deterrence; an accelerated restitution recovery; and a perception of program integrity that flows from accountability.

Sincerely,

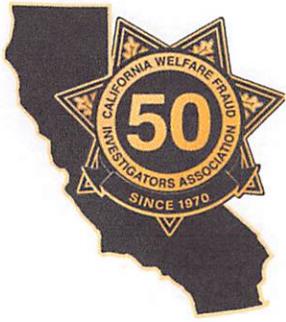


CHRIS S. BOUFFARD  
Managing Deputy District Attorney  
Financial Crimes – Welfare Fraud  
Riverside County, California

Exhibit D

John Martire

President, California Welfare Fraud Investigators Association



# CALIFORNIA WELFARE FRAUD INVESTIGATORS ASSOCIATION

P. O. BOX 272, Mentone, CA 92359  
(530) 957-4153  
[www.cwfia.org](http://www.cwfia.org)

June 6, 2023

## Executive Board Officers

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(559) 636-5410

Mr. Rick Owen  
Committee on Revision of the Penal Code  
c/o UC Davis School of Law  
400 Mark Hall Drive  
Davis, California 95616

Dear Mr. Owen:

I appreciate your time and conversation we had concerning welfare fraud reform as it relates to the California Penal Code. I look forward to discussing this issue with the committee on June 23, 2023.

By way of introduction, I am the President of the California Welfare Fraud Investigators Association (CWfia) and have served over 34 years as a sworn California Peace Officer. Our professional association represents welfare fraud investigators and fraud prevention staff throughout the State of California. For over 50 years CWfia has worked diligently to maintain program integrity throughout various public assistance programs. Our members are the "subject matter experts" in identifying, investigating, collecting evidence, and referring criminal complaints regarding Welfare Fraud and associated crimes to the District Attorney's offices.

In discussing some of the committee's concerns with you, I wanted to convey some information concerning the investigation and prosecution of public assistance fraud in California. Public assistance fraud is a specific intent crime. In order to convict someone for fraud, the investigation must show that the suspect specifically intended to commit a fraudulent act to obtain benefits they were not entitled to. Someone receiving aid who made a mistake, was not clear on a rule or regulation, or simply did not understand the complex rule requirements could not be charged with public assistance fraud.

Unfortunately, there is no statistic, either from the State of California or the Federal Government concerning the percentage of fraud committed within each program. In June of 2017, CWfia, through analysis of data collected by the California Department of Social Services, estimated the fraud rate was 30% to 34% in those

cases which were investigated. That said, due to the reduction of investigative staff throughout the state, investigators were only able to investigate approximately 18% of the cases forwarded for investigation. Clearly no data exists that can portray an accurate picture of exactly how large or small this issue is. To my knowledge no data exists showing any demographic makeup of those who commit public assistance fraud. CWFIA would strongly encourage the state determine the exact fraud rate and demographics on the commission of fraud.

In examining the complex issue of fraud, a “one size fits all” approach is clearly not the correct approach. Many cases include allegations of unreported income, inaccurate reporting of household composition, or misrepresenting material facts when applying for assistance. Additionally, the state is now faced with a large increase in Electronic Benefit Transaction (EBT card) fraud. Both the cash aid program (CalWORKS) and the Food Stamp program (SNAP) have been compromised to a tune of millions of dollars per month. The discretion on whether to prosecute a case or not continues to rest with each District Attorney in all 58 counties. Prosecutorial discretion and threshold limits exist for compensation of jurisdictional demographics. A small county that does not have a huge court burden may have low threshold limits while a large county like Los Angeles may (and do) set a limit around \$15,000. As diverse as our counties are, it is imperative that the decision whether to prosecute a case or not must continue to reside with each District Attorney.

In most counties, many investigation cases are not referred to the District Attorney. Most cases are handled via an administrative process. Disqualification Consent Agreements (DCA’s) and Administrative Disqualification Hearings (ADH) have been identified as best practices in handling fraud cases involving low loss, non-sophisticated fraud incidents. Some counties limit the Administrative Hearing process to cases involving unreported earnings, unreported child support (See the following link for specific ADH requirements: <https://www.cdss.ca.gov/Portals/9/ACL/2017/17-118.pdf?ver=2019-06-26-153202-180>).

Using the Administrative process exclusively will create additional time-consuming burdens for counties with minimal staffing. The Administrative hearing must be scheduled with the state Administrative Law Judge department and the decision rendered within 90 days. The current staffing within the state hearings department would not sufficiently support an “all Administrative process” only. Additionally, the ADH process only works with recipients still receiving aid. There are no penalties for someone who is no longer receiving aid.

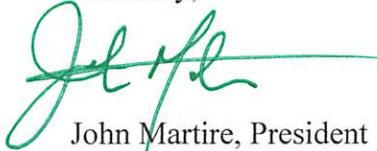
In recent years, that state has made great efforts to streamline the application process. The result has been a teeter-totter balancing act with the desire to reduce the application time while maintaining program integrity. In years past, we required applicants to view a video on what public assistance fraud is and how you can avoid it. During the face-to-face interviews, eligibility workers spent time reviewing each applicant’s “rights and responsibilities”, again providing an opportunity to help the applicant avoid fraud. Sadly, these practices have ended, and the applicant is left

with only a phone conversation to discuss their application. CWFIA is of the opinion that the prevention of fraudulent behavior is a more cost-effective effort than the investigation and prosecution of fraud criminally. All preventive measures should be afforded to each applicant during the intake process.

In closing, it is important to know that CWFIA supports the helping and feeding of our most vulnerable population. We do not want to see anyone go unhoused, unable to care for their children and family, and go hungry. However, we must remember these programs are provided by tax dollars; money derived from hard working citizens who demand their tax dollars be used in a prudent and accountable fashion. Investigators who pursue fraudulent activities are truly the stewards of the taxpayer dollar.

Again, thank you for your time and for reaching out to me for my viewpoint.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John Martire', with a long horizontal flourish extending to the right.

John Martire, President  
California Welfare Fraud Investigators Association

Exhibit E

Anita Lee

Principal Fiscal and Policy Analyst, California Legislative  
Analyst's Office

JUNE 23, 2023

# Overview of Criminal Fine and Fee System and Notable Related Actions

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PRESENTED TO: Committee on Revision of the Penal Code



LEGISLATIVE ANALYST'S OFFICE

## Overview of Handout

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- During court proceedings, trial courts typically levy fines and fees upon people convicted of criminal offenses (including traffic violations). These assessments are known collectively as criminal fines and fees.
- This handout provides an overview of how criminal fines and fees are assessed, collected, and distributed. It then summarizes recent LAO recommendations for improving the state's criminal fine and fee system. Finally, it discusses notable actions taken to address declines in criminal fine and fee revenue as well as to reduce impacts of the fines and fees upon people.



# Background

## How are Criminal Fines and Fees Assessed?

### Various Fines and Fees Substantially Add to Base Fines

As of January 1, 2023

	How Charge Is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
<b>Standard Fines and Fees</b>			
Base Fine	Depends on violation	\$35	\$390
State Penalty Assessment	\$10 for every \$10 <sup>a</sup>	40	390
County Penalty Assessment	\$7 for every \$10 <sup>a</sup>	28	273
Court Construction Penalty Assessment	\$5 for every \$10 <sup>a</sup>	20	195
Proposition 69 DNA Penalty Assessment	\$1 for every \$10 <sup>a</sup>	4	39
DNA ID Fund Penalty Assessment	\$4 for every \$10 <sup>a</sup>	16	156
EMS Penalty Assessment	\$2 for every \$10 <sup>a</sup>	8	78
State Surcharge	20% of base fine	7	78
Court Operations Assessment	\$40 per conviction	40	40
Conviction Assessment Fee	\$35 per infraction conviction and \$30 per felony or misdemeanor conviction	35	30
Night Court Fee	\$1 per fine and fee imposed	1	1
Restitution Fine	\$150 minimum per misdemeanor conviction and \$300 minimum per felony conviction	—	150
Subtotals		(\$234)	(\$1,820)
<b>Examples of Additional Fines and Fees That Could Apply</b>			
DUI Lab Test Penalty Assessment	Actual costs up to \$50 for specific violations	—	\$50
Alcohol Education Penalty Assessment	Up to \$50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to \$100	—	100
Subtotals		(—)	(\$200)
<b>Totals</b>		<b>\$234</b>	<b>\$2,020</b>

<sup>a</sup> The base fine is rounded up to the nearest \$10 to calculate these charges. For example, the \$35 base fine for a failure to stop would be rounded up to \$40.

DUI = Driving Under Influence; DNA ID Fund = DNA Identification Fund; and EMS = Emergency Medical Services.

- The total owed begins with a base fine set in statute for each criminal offense. State law then requires courts add certain charges. In some cases, counties and courts can levy additional charges depending on the specific violations and other factors. People may request courts adjust the amount owed based on their ability to pay. Statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.



# Background

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(Continued)

## How Are Fines and Fees Collected?

- **Counties and Courts Involved in Collection Process.** Counties are statutorily responsible for collecting fine and fee payments. However, some collection duties are often delegated back to the courts. As a result, collection programs may be operated by both courts and counties. Programs can collect the amount owed themselves as well as contract with private collection vendors or the Franchise Tax Board (FTB).
- **Various Collection Tools and Sanctions Employed.** Examples of collection tools include installment payment plans, monthly billing slips, or payment kiosks. Sanctions can apply when a person fails to pay the amount owed or appear in court without good cause 20 calendar days following notification of delinquency. Examples of sanctions include a civil assessment, wage garnishments, and bank levies.

## How Is Fine and Fee Revenue Distributed?

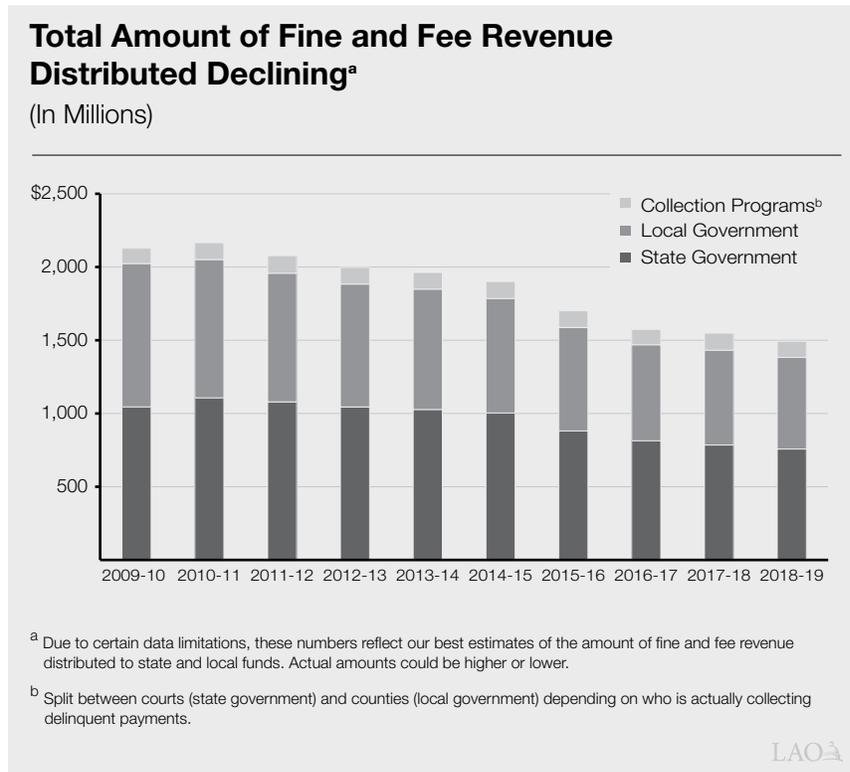
- **Numerous Funds Eligible to Receive Fine and Fee Revenue.** Over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some may only receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently.
- **Complex Process for Distributing Fine and Fee Revenue.** State law (and county resolutions for certain local charges) dictates a very complex process for the distribution of fine and fee revenue. State law currently contains over 200 distinct code sections specifying how individual fines and fees are to be distributed to numerous state and local funds, including additional requirements for when payments are not made in full. In order to comply with these requirements, collection programs must carefully track, distribute, and record the revenue they collect.



# Background

(Continued)

## Who Benefits From Fine and Fee Revenues?



- **State Receives Majority of Revenue Distributed.** We estimate that a total of \$1.5 billion in fine and fee revenue was distributed to state and local governments in 2018-19. (This is the most recent data that we have analyzed.) Of this amount, roughly half went to the state, 42 percent went to local governments, and the remainder offsets collection program costs related to collecting delinquent payments.
- **Amount Distributed Has Declined Over Time.** As shown in the figure, the total amount of fine and fee revenue distributed to state and local governments has steadily declined since 2010-11. This has resulted in the state taking various actions to address a number of state funds (and the programs they support) facing insolvency.



# LAO Recommendations to Improve Criminal Fine and Fee System

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## Evaluate Structure of Criminal Fine and Fee System

- ***What Should Be the Goals of the Criminal Fine and Fee System?*** A fine and fee system can service various purposes, such as deterring behavior or mitigating the negative effects of crime. Fines and fees should be set in a manner to reflect the intended goals.
- ***Should Ability to Pay Be Incorporated?*** There are various ways to incorporate ability to pay into the system. One way is to calculate fines and fees based on a person's ability to pay. Another option is to levy the same level of fines and fees on all people related to the same violation, but implement alternative methods for addressing the amount owed (such as through community service).
- ***What Should Be the Consequences for Failing to Pay?*** The Legislature will want to consider what consequences people should face when they fail to pay their fines and fees. The Legislature could also take action to help prevent people from becoming delinquent—such as by authorizing programs to offer a discount if people pay the amount owed in full.
- ***Should Fines and Fees Be Adjusted?*** The Legislature will want to decide whether and how fines and fees are adjusted in the future. For example, the levels could be regularly reevaluated or automatically adjusted (such as by using a statewide economic indicator).



# LAO Recommendations to Improve Criminal Fine and Fee System

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(Continued)

## Increase Legislative Control of Criminal Fine and Fee Expenditures

- ***Deposit Most Criminal Fine and Fee Revenue in the General Fund.*** Depositing nearly all fine and fee revenue into the state General Fund for subsequent legislative appropriation would increase oversight and ensure that funding is provided based on program workload and legislative priorities. Programs supported by such revenue would also no longer be disproportionately impacted by fluctuations in fine and fee revenue.
- ***Consolidate Most Fines and Fees.*** Consolidating most fines and fees into a single, statewide charge and removing the ability of trial courts and local governments to add charges would eliminate the need for the state's existing complex distribution model and make it easier for collection programs to track such revenue.
- ***Evaluate Existing Programs Supported by Criminal Fine and Fee Revenues.*** Reviewing each program currently supported by criminal fine and fee revenues will help the Legislature to determine whether the program is a statewide priority as well as to define its expectations on program service levels and the level of funding needed to meet those expectations.
- ***Mitigate Impacts on Local Governments.*** The Legislature will want to consider how to mitigate the fiscal impact any restructuring of fines and fees would have on local governments. We note counties often use their share of revenue to meet their required payments to the state for the support of trial court operations—currently about \$660 million annually.



# Notable Actions Taken to Address Declining Fine and Fee Revenue

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## Cost Shifts

- In the past several years, the state has shifted costs from various funds supported by fine and fee revenues to the General Fund or other funds in different ways. For example, some programs were shifted entirely to be supported by the General Fund. Other funds or programs are receiving General Fund backfills to maintain revenue and/or expenditure levels.

## Expenditure Reductions

- In the past several years, the state has directed certain state entities supported by fine and fee revenue to reduce expenditures. For example, the Commission on Peace Officer Standards and Training was required to reduce expenditures in certain years and the judicial branch temporarily halted a number of construction projects prior to 2018-19.

## Revenue Increases

- The state has also attempted to increase the amount of fine and fee revenue collected in different ways. For example, the 2017-18 budget package provided resources for FTB to increase its fine and fee revenue collection activities.

## Other Actions

- In 2017-18, the state eliminated statutory formulas dictating how criminal fine and fee revenues deposited into the State Penalty Fund are distributed. Instead, specific dollar amounts are now appropriated to specific programs in the annual budget based on state priorities.
- In 2021-22, the judicial branch's two construction accounts were consolidated in order to delay the need to address their insolvency.



# Notable Actions Taken to Reduce Impacts of Fines and Fees on People

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## Elimination of Certain Assessments

- ***Restitution Fines (Pending).*** The 2022-23 budget included intent language to eliminate restitution fines deposited in the Restitution Fund and to backfill the resulting revenue loss to the fund beginning in 2024-25. However, the language makes this action contingent on sufficient General Fund resources being available to support the changes in 2024-25.
- ***Emergency Medical Air Transportation (EMAT) Penalty Assessment.*** Under state law, authority to assess the EMAT penalty assessment (\$4 per conviction) expired as of January 2023. However, such assessments ordered prior to this date may continue to be collected and distributed through December 2023.
- ***Various Criminal Justice Fees.*** The 2021-22 budget package eliminated about 17 fees generally related to diversion programs as well as to the collection of restitution and other criminal assessments as of January 2022. It also provided \$50 million annually to counties from the General Fund to backfill lost revenue. Additionally, the 2022-23 budget provided \$10.3 million annually to the judicial branch from the General Fund to backfill their share of lost revenue.
- ***Various Administrative Fees.*** The 2020-21 budget package eliminated about 20 criminal justice administrative fees generally related to arrest and booking, indigent criminal defense, and alternative to incarceration programs (such as work release or electronic monitoring) as of July 2021. It also provided \$65 million annually to counties from the General Fund for five years beginning in 2021-22 to backfill lost revenue.



# Notable Actions Taken to Reduce Impacts of Fines and Fees on People

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(Continued)

## Sanction Reductions

- **Civil Assessment.** The 2022-23 budget package required civil assessment revenues be deposited into the state General Fund instead of a judicial branch special fund. It also changed state law to reduce the maximum amount of civil assessment that could be charged from \$300 to \$100. On net, these two changes required an ongoing \$67 million General Fund backfill to maintain trial court funding levels. Additionally, the budget package waived civil assessments owed prior to July 2022 and provided \$10 million one-time General Fund to backfill lost revenue.
- **Driver's License Holds and Suspensions.** The 2017-18 budget package eliminated collection programs' ability to use driver's license holds and suspensions as a collection sanction for people who fail to pay their criminal fines and fees.

## Online Adjudication and Ability to Pay

- The 2022-23 budget authorized the statewide use of an online adjudication tool for infractions and required all courts offer the ability-to-pay component of the tool by June 2024. It also provided an ongoing General Fund backfill for the expected revenue loss—estimated to total \$28.4 million annually beginning in 2024-25. This originally began as a pilot program authorized as part of the 2018-19 budget package.

## Traffic Amnesty Program

- The 2015-16 budget package authorized an 18-month traffic amnesty program for delinquent criminal fine and fee payments. Under the program, eligible people who began paying the amount they owed had their (1) civil assessments waived, (2) total amount owed reduced by 50 percent (80 percent for those who were low income), and (3) drivers' licenses reinstated (if previously suspended).



Exhibit F

Lisa Foster

Director, Fines and Fees Justice Center



**Committee on the Revision of the Penal Code**  
**June 23, 2023**  
**Written Submission of Fines and Fees Justice Center**  
**Lisa Foster and Joanna Weiss, Co-Executive Directors**

Fines and Fees Justice Center respectfully submits this testimony to the Committee as it considers fines and fees. Due in large part to the work of the [Debt Free Justice](#) coalition, California has been a leader in abolishing criminal justice fees imposed by counties, state agencies, and, to some extent, the courts. But the state has not touched any of the onerous fees imposed at conviction in traffic, misdemeanor and felony cases, nor has the state addressed fines in any meaningful way. Yet California has [among the highest conviction fines and fees in the country](#). Thus, we commend the Committee for addressing this critical issue.

Fines are monetary sanctions imposed as a penalty for violating the law. Fines have been imposed for centuries, originally, and throughout most of their history, as an alternative to incarceration. Today, under California law, fines are often imposed as the sole sanction for traffic violations and many misdemeanors. In misdemeanor and felony cases, however, they are often imposed in addition to a term of incarceration. When not proportionate to an individual's financial circumstances, fines can be overly burdensome for those with limited financial resources and often fail to achieve any deterrent effect or address the criminogenic factors that lead to violations of the law.<sup>1</sup>

The state also adds a wide range of fees - additional costs, assessments, and surcharges - on top of fines. For felony, misdemeanor and felony convictions, for example, at least 10 fees are added to the fine and used to fund over 20 separate unrelated programs and special projects, and [increase the cost of a conviction in a simple traffic case with a base fine of \\$100 to \\$490](#), or more when payments are missed or late. In contrast to fines, fees operate as a tax— they exist solely for the purpose of raising revenue to fund government programs and services, including in California, some justice system programs but also a host of unrelated government functions. Moreover, these fees are disproportionately levied on low-income communities and communities of color, making them the most regressive form of taxation.

Because fees and fines are typically imposed without regard to a defendant's ability to pay, jurisdictions have billions of dollars in unpaid court debt that they are unlikely to ever collect. For individuals and families, this unpaid debt can lead to a cycle of poverty and punishment with devastating collateral consequences. According to a 2019 report, [outstanding debt owed to California from the fines and fees imposed at conviction was equal to roughly \\$10 billion](#).

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<sup>1</sup> W. Critelli & R. F. Crawford. "Effectiveness of Court-ordered Punishment - Fines Versus No Punishment," *Criminal Justice and Behavior*, Volume: 7 Issue: 4 Dated: (December 1980) Pages: 465-470; Margaret A. Gordon & Daniel Glaser. "The Use and Effects of Financial Penalties in Municipal Courts," *Criminology* 29, (4), 651-676. 1991.

## Assessments and Surcharges

The [California Penal Code](#) mandates that judges assess a penalty assessment on every defendant convicted of a criminal offense, including traffic violations. The penalty assessment is equal to or greater than the fine imposed. The [Penal Code](#) also mandates the imposition of a state criminal surcharge equal to twenty percent (20%) of the fine; the surcharge goes directly to the state General Fund. In addition, the Government Code requires courts to impose several other assessments, including a court operations assessment, a conviction assessment, and a county fund assessment.<sup>2</sup> Finally, the Government Code allows counties to impose several additional surcharges and/or assessments.<sup>3</sup> According to the [Legislative Analyst's Office](#), fees on a simple traffic violation in California have increased 54% since 2005. When added together, these assessments are the highest in the

The revenue from these assessments and surcharges fund projects and services unrelated to the underlying criminal or vehicular offenses for which they are imposed and significantly increase the amount owed. For example, an individual convicted of a DUI and sentenced to pay a \$390 fine will pay at least an additional **\$1729** once the mandated assessments and surcharges are imposed: \$390 for the [State Penalty Assessment](#); \$273 for the [County Penalty Assessment](#), \$195 for the [State Court Construction Penalty Assessment](#), \$39 for the [DNA Penalty Assessment](#); \$156 for the Proposition 69 [DNA Identification Fund Penalty Assessment](#); \$78 for the [Emergency Medical Services \(EMS\) Penalty Assessment](#); \$78 for the [State Surcharge](#); \$40 for the [Court Operations Assessment](#); \$30 for the [Conviction Assessment Fee](#); and, a minimum of \$150 as a [Restitution Fine](#). When governments establish particular services and programs essential for the growth of safe, strong communities, they should be funded through general funds or other equitable revenue sources, not imposed as fees on those who can least afford them.

The Committee should recommend the elimination of all of the assessments and surcharges from the Penal Code and the Government Code.

## Restitution Fine

Where there is a victim harmed by a particular crime, the Penal Code requires that judges [order that the defendant pay restitution to the victim](#). In addition, **every** defendant convicted of a misdemeanor or felony must pay what California calls a restitution “fine” - even in cases where there is no victim - unless the judge makes findings on the record that there are compelling and extraordinary reasons not to do so. Inability to pay is explicitly not considered a compelling or extraordinary reason for not imposing at least the minimum restitution fine. For felony convictions, the restitution fine must be set between \$300 and \$10,000. For misdemeanors, the fee must be set between \$150 and \$1000. California law also mandates a restitution fine in [diversion cases](#), which, again, cannot be waived for inability to pay – meaning a person can be denied the benefits of a diversion program and forced to suffer the consequences of a criminal conviction simply because they are poor. [California has the highest threshold and maximum amount of victim compensation fees in the country.](#)

The revenue from the restitution fine goes to the Restitution Fund of the State Treasury, which supports victims services. Victim compensation and victim services are both critical government programs and should be fully and fairly funded by all taxpayers and should never depend on the

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<sup>2</sup> Cal.Govt Code §§ 42006; 70373; 70373; 76000; 7600.5; 76104.6; and, 76104.7;

<sup>3</sup> See. e.g. Cal. Govt Code §§ 76000.5.

assessment and collection of fines or fees; it is unfair, unreliable and unsustainable. The Committee should recommend that the restitution fine be eliminated.

## **Fines**

Fines imposed without regard for individual circumstances and financial means, are inherently inequitable, lack the proportionality [required under the Excessive Fines Clause of the 8th Amendment](#) to the United States Constitution and Article I, sec. 17 of the California Constitution, and are likely to go unpaid. This is especially true with respect to mandatory minimum fines. When fines go unpaid, they set off a cascade of potentially devastating financial and collateral consequences including the assessment of additional fees, wage garnishment, tax refund intercepts, arrest and jail.

With respect to fines, the Committee should recommend, first, that no fine be imposed unless the court conducts an ability-to-pay assessment at or before sentencing and determines that the person has the present ability to pay. [The ability-to-pay assessment must be conducted using uniform and consistent standards.](#)<sup>4</sup> Second, if a person is sentenced to a term of custody, no fine should be imposed unless the court makes findings on the record that the fine serves a particular penological purpose and the defendant has the present ability to pay the fine. Finally, all mandatory minimum fines should be eliminated from the Penal Code, so that judges have the discretion to craft an appropriate sentence for each individual defendant.

## **Civil Assessment**

When individuals do not appear in court or do not pay their fines on time, courts are authorized [by the Penal Code to impose a civil assessment](#). The civil assessment was recently reduced by the Legislature, but it remains at a hefty \$100. Again, like any other fine or fee, they are likely to have the most devastating impact on low-income communities and communities of color, especially given their function as a punishment for nonpayment. Civil assessments are also not likely to promote or encourage timely payments or appearances. According to a survey conducted by Debt Free California in 2021-2022, [68 percent of those surveyed were not able to afford to pay their civil assessment](#). Adding this tax to an amount an individual cannot afford to pay is a counterproductive response to inability to pay.

The Committee should recommend the elimination of the Civil Assessment from the Penal Code.

## **Conclusion**

On April 20, 2023, the United States Department of Justice (DOJ) issued a revised “Dear Colleague” letter addressing in detail the assessment and collection of fines and fees against both adults and juveniles. At the outset, the Department observes that “[e]liminating the unjust imposition of fines and fees is one of the most expeditious ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, reduce racial disparities in the administration of justice, and ensure greater justice for all.” We hope this Committee will recommend that all fees imposed at conviction be eliminated and that no fine be imposed unless the court determines that the person has the ability to pay it.

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<sup>4</sup> FFJC published guidance on how to equitably assess ability to pay. [https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC\\_Policy\\_Guidance\\_Ability\\_to\\_Pay\\_Payment\\_Plan\\_Community\\_Service\\_Final\\_2.pdf](https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC_Policy_Guidance_Ability_to_Pay_Payment_Plan_Community_Service_Final_2.pdf)