



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

May 15, 2017

VIA CERTIFIED MAIL

The Honorable Kevin R. Culhane
Presiding Judge
Sacramento Superior Court
720 9th Street
Sacramento, California 95814

The Honorable Don Nottoli
Chair
Sacramento County Board of Supervisors
700 H Street, Suite 1450
Sacramento, California 95814

Re: *Compliance Review of Sacramento County, California
and the Sacramento Superior Court* (16-OCR-2156)

Judge Culhane and Supervisor Nottoli:

I write to inform you that the Office for Civil Rights (OCR) within the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is administratively closing the above-captioned Compliance Review. The OCR initiated this Compliance Review to examine whether the assessment and collection of costs, fees, and fines against juvenile justice system-involved youth by Sacramento County (the County) and the Sacramento Superior Court (the Court) (collectively, the Respondents) discriminated on the basis of race, national origin, or age. Since that time, the County has voluntarily taken steps to eliminate the assessment and collection of costs, fees, and fines against juvenile justice system-involved youth. Similarly, the Court has memorialized its guiding policy of assessing only the minimum juvenile justice-related fines mandated by California state law.

The OCR is responsible for ensuring that recipients of financial assistance from the Office of Community Oriented Policing Services, the Office on Violence Against Women, and the OJP comply with applicable federal civil rights laws, including Title VI of the Civil Rights Act of 1964 (Title VI), and its implementing regulations;¹ the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), and its implementing regulations;² and the Age Discrimination Act of 1975 (Age Act), and its implementing regulations.³ These laws prohibit entities that receive federal financial assistance from discriminating against individuals in the administration of their programs based on race, color, national

¹ 42 U.S.C. § 2000d (2012); 28 C.F.R. §§ 42.101-.112 (2016).

² 42 U.S.C. § 3789d; 28 C.F.R. §§ 42.201-.215.

³ 42 U.S.C. § 6102; 28 C.F.R. §§ 42.700-.736.

origin, sex, religion, or age. Because the Respondents receive federal financial assistance that is subject to the civil rights requirements of Title VI, the Safe Streets Act, and the Age Act, the OCR has jurisdiction to review their compliance with these statutes and their implementing regulations.⁴ Under these statutes and regulations, an entity's policies and practices for assessing and collecting juvenile justice system-related fees and fines can result in unlawful discrimination in multiple ways, including when juveniles are intentionally subject to different treatment on account of their race, ethnicity, or age, or when an entity utilizes a method of administration that has the effect of discriminating, such as enforcing nonessential policies that are neutral on their face.⁵

On April 11, 2017, the Sacramento County Board of Supervisors (the Board) endorsed Resolution No. 2017-0171, which directs the County's Chief Probation Officer, Public Defender, and Conflict Criminal Defender to stop assessing and collecting fees associated with juvenile detention, supervision, drug testing, electronic monitoring, and representation in delinquency proceedings.⁶ Additionally, the Resolution authorizes and directs the County to forgive existing debt from juvenile justice system-related fees and fines, in an amount not to exceed 23.2 million dollars. Resolution No. 2017-0171, in effect, nullifies the juvenile justice fees approved by the Board in 2005,⁷ and assessed by the County since, as well as the juvenile delinquency legal defense fees.

As the County's Probation Department, Public Defender, and Department of Revenue Recovery noted in their memorandum to the Board, which recommended approval of Resolution No. 2017-0171, because minority and economically disadvantaged youth are overrepresented in the County's juvenile justice

⁴ The County receives multiple open OJP awards, including Sacramento County, FY 2016 Sacramento Sheriff's Dep't SMART Policing Homelessness Initiative, Bureau of Justice Assistance (BJA) Project No. 2016-WY-BX-0001, (Oct. 1, 2016 - Sept. 30, 2019) (award for \$700,000.00); Sacramento County, FY 2016 Justice Assistance Grant Program, BJA Project No. 2015-DJ-BX-0437, (Oct. 1, 2015 - Sept. 30, 2019) (award for \$241,650.00); and Sacramento County, FY 2015 Sacramento PREA Program: Demonstration Project to Establish a "Zero Tolerance" Culture, BJA Project No. 2015-RP-BX-0001, (Oct. 1, 2015 - Sept. 30, 2017) (award for \$500,000.00). The Court is the recipient of one open OJP award, Sacramento Superior Court, FY 2014 Veterans Treatment Court Initiative, BJA, 2014-DC-BX-0003, (Oct. 1, 2014 - Sept. 30, 2017) (award for \$350,000.00).

⁵ 28 C.F.R. §§ 42.104(a)-(b), .702, and .710-14.

⁶ Sacramento, Cal., Resolution No. 2017-0171 to Authorize the Elimination of Fees Associated with the Care of Detained Youth, Juvenile Services and Delinquency Proceedings (April 11, 2017); *see* <https://web.archive.org/web/20170510175513/http://www.agendagnet.sacounty.net/sirepub/mtgviewer.aspx?meetid=11999&doctype=agenda&itemid=404785> (follow "Item 6: Authorize The Elimination And Write-Off Of Fees Associated With The Care Of Detained Youth, Juvenile Services And Delinquency Proceedings (Probation)" hyperlink; then open document "RES - Elimination of Juvenile Fees.docx").

⁷ Sacramento, Cal., Resolution No. 2005-1490 to Authorize the Probation Department to Collect Additional Fees and Increase Existing Fees Associated With Care and Maintenance and Probation Services (Dec. 13, 2005). The County stopped charging some of the juvenile justice system-related costs, fees, and fines approved in 2005 prior to the 2017 passage of Resolution No. 2017-0171. The County stopped assessing daily fees for youth confined in the Sacramento Boys Ranch and the Warren E. Thornton Youth Center when it closed these facilities. The County also stopped assessing fees for "Juvenile Record Sealing" after the California legislature amended the Welfare and Institutions Code during the 2013-14 legislative session. After this amendment, the County interprets the current state law to require automatic record sealing for nearly all juvenile offenders and, thus, stopped charging the associated fee that was previously approved by the Board. *See* CAL. WELFARE AND INSTS. CODE §§ 782, 786 (West 2017).

system, “[e]ven a consistent application of juvenile fees is [] disproportionate in its effect”⁸ These County agencies also noted that recent research suggests that juvenile fees can exacerbate family stress, destabilize relationships, and worsen juvenile recidivism outcomes.⁹ Further, the OCR notes that the Board’s passage of Resolution No. 2017-0171 conforms with the obligations and recommendations addressed in the DOJ’s *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles*.¹⁰

The Court also recently took action related to juvenile justice system-related fines. On May 3, 2017, Presiding Judge Culhane issued Standing Order No. SSC-17-4 (Standing Order), which memorialized the Court’s current practice that, consistent with state law maintaining judicial discretion, “the guiding policy of the Sacramento Superior Court is that judicial officers presiding over juvenile justice cases shall impose costs, fees, and fines at the statutory minimum”¹¹ The Court will discuss the Standing Order during both the May 16, 2017, meeting of the Juvenile Delinquency Court judicial officers, and the May 18, 2017, meeting of all Sacramento Superior Court judicial officers. Additionally, the Court is recommending that Juvenile Delinquency Court judicial officers incorporate the Standing Order into their Benchbooks.

The OCR is administratively closing our Compliance Review of the Respondents’ practice of assessing and collecting juvenile justice system-related costs, fees, and fines based on the Respondents’ recent actions, as set forth above. The Board’s approval of Resolution No. 2017-0171 effectively ends the County’s practice of assessing and collecting these fines and the Court’s recent action confirms that its imposition of juvenile justice system-related fines should be limited to those mandated by state law. The OCR has made no civil rights compliance determinations about the Respondents’ systems for assessing and collecting juvenile justice system-related costs, fees, and fines.¹²

The OCR’s administrative closure of this Compliance Review is limited to the specific facts of this matter and does not preclude the DOJ from taking additional appropriate action to evaluate the Respondents’ compliance with any laws that the DOJ enforces. Additionally, the OCR’s closure of this Compliance Review does not affect the Respondents’ continuing obligation to comply with all applicable federal laws and regulations.

Both the County and the Court should notify the OCR within thirty (30) days if either withdraws the aforementioned actions or otherwise institutes its own new juvenile justice-related costs, fees, or fines.

⁸ Memorandum from Probation Department, Public Defender, and Department of Revenue Recovery to the Sacramento County Board of Supervisors (April 11, 2017), <https://web.archive.org/web/20170510175513/http://www.agendanet.saccounty.net/sirepub/mtgviewer.aspx?meetid=11999&doctype=agenda&itemid=404785> (follow “Item 6: Authorize The Elimination And Write-Off Of Fees Associated With The Care Of Detained Youth, Juvenile Services And Delinquency Proceedings (Probation)” hyperlink; then open document “BDL - Elimination of Juvenile Fees.docx”).

⁹ *Id.*

¹⁰ DOJ, ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEPARTMENT OF JUSTICE ON LEVYING FINES AND FEES ON JUVENILES (2017), https://web.archive.org/save/_embed/https://ojp.gov/about/ocr/pdfs/AdvisoryJuvFinesFees.pdf.

¹¹ Sacramento Super. Ct., Standing Order No. SSC-17-4, Policy for Imposition of Assessments and Collection of Costs, Fees, and Fines Against Youth (May 3, 2017), <https://web.archive.org/web/20170510195336/https://www.saccourt.ca.gov/general/standing-orders/docs/ssc-17-4.pdf>.

¹² The Respondents took their recent actions prior to providing a complete response to the OCR’s investigative Data Request.

Under the Freedom of Information Act, the OCR may need to release, upon request, this letter and other documents related to the Compliance Review. If the OCR receives such a request, we will seek to protect, to the extent provided by law, personal information which, if released, could constitute an unwarranted invasion of privacy.

We appreciate your cooperation throughout the Compliance Review. This letter is a public document that the OCR will post on its website. If you have any questions about this letter or the Compliance Review, please contact Rachel Glickman, at Rachel.Glickman@usdoj.gov; Benjamin Hernandez-Stern, at Benjamin.Hernandez-Stern@ojp.usdoj.gov; or Heather M. Moss, at Heather.Moss@usdoj.gov.

Sincerely,

X 

Michael L. Alston

Director

Signed by: MICHAEL ALSTON

cc: The Honorable Lloyd Connelly
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