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MARYLAND'S PAROLE  
SUPERVISION FEE:  
A BARRIER TO REENTRY

Rebekah Diller, Judith Greene, and Michelle Jacobs

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## EXECUTIVE SUMMARY

In this report, we conclude that billing individuals on parole \$40 per month for their supervision is a penny-wise, pound-foolish policy that undercuts the State of Maryland's commitment to promoting the reentry of people into society after prison. Implemented nearly two decades ago during a national wave of new supervision fees, the Maryland policy was intended to raise extra revenue for general state functions. However, our research shows that the fee is largely uncollectible due to the dire financial situation in which parolees find themselves and that the paper debt it creates does more harm than good. Moreover, the imposition of the fee is out of step with Maryland's move toward supervision policies that protect the public by promoting the ability of parolees to reenter society successfully.

To assess the impact and operation of the fee, we examined data from the Maryland Division of Parole and Probation ("DPP"), spoke with DPP personnel, reentry service providers and parolees, and reviewed the literature detailing the challenges of reentry. From this research emerges a portrait of a population ill-equipped to subsidize state coffers. Many on parole are struggling at the most basic levels. They face significant challenges finding housing and employment and reestablishing family and community ties.

In fact, when it enacted the fee, the Legislature, too, was aware that individuals on parole would be unable to afford the fee and, accordingly, created categorical exemptions. Yet, the Legislature vested the Parole Commission, a body with which parolees have little ongoing contact, rather than the Division of Parole and Probation, whose Supervision Agents meet regularly with parolees, with the exclusive authority to grant exemptions. The Parole Commission imposes the fee routinely, without conducting evaluations of whether parolees should receive exemptions. As a result of this practice, and of the cumbersome process for securing exemptions after parole has begun, Maryland rarely grants exemptions to parolees even though most parolees are likely eligible.

When exemptions are not granted, as is overwhelmingly the case, the fees accrue as debt owed by persons on parole. Individuals who cannot pay receive automatically generated letters from DPP that threaten them with parole revocations (although parole is almost never revoked solely for failure to pay the fee). At the end of a parole term, the paper debt is transferred from the Division of Parole and Probation to the state's Central Collection Unit ("CCU"), which continues the dunning process – in some cases, seeking civil judgments that mar credit reports – and which adds a one-time 17 percent surcharge onto the underlying debt.

Parole Supervision Agents, reentry service providers and individuals on parole agree that the strain of owing money that cannot be paid and the repeated receipt of threatening letters undermine efforts to reenter society successfully. The supervision fee debt is often just one of many

financial obligations that parolees accrue during prison and parole in Maryland. Others include back child support, drug and alcohol testing charges, and fees for participation in drug treatment and other programs.

Because it hinders reentry goals by burdening parolees with debt they are unable to pay, we recommend abolishing the parole supervision fee, a step Virginia took in 1994. Although it raises a small amount of revenue – \$334,752 in fiscal year 2008 – the fiscal benefit is outweighed by the risk that the fee contributes to recidivism, and thereby results in higher incarceration costs. The fee is out of step with Maryland’s shift toward supervision policies that promote reentry and is a distraction from the crime-prevention mission of the Division of Parole and Probation. In the alternative, we recommend improving the way the fee is implemented to ensure that exemptions are approved where due. Our key findings and recommendations are set forth below.

## KEY FINDINGS

**1. When it authorized the fee in 1991, the Legislature knew that most parolees would be unable to afford the fee, and therefore built in exemptions.** The Legislature created a set of exemptions for individuals who were unemployed, disabled, obtaining job training, contending with family obligations and undue hardship, or enduring other extenuating circumstances.

**2. Most parolees are, in fact, unemployed and unable to afford the fee.** Only one-quarter are employed full-time when parole begins. Only one-third are employed full-time when their parole term ends.

**3. The system for granting exemptions is broken.** Although these exemptions are “on the books” and most parolees would qualify for one, they are not generally used. The fee is routinely imposed on the vast majority of parolees who are not employed full-time and therefore unable to pay.

**4. On average, parolees are ordered to pay \$743 in supervision fees over the course of their parole terms.** Many are ordered to pay other sums as part of parole, such as fees for drug and alcohol testing and community service. Many also have unpaid child support debt.

**5. Only 17 percent of the supervision fees assessed are collected by the end of parole.** Nine out of 10 individuals have outstanding supervision fee debt when parole ends. In 75 percent of the cases, the debt was turned over by the Division of Parole and Probation to the Maryland Central Collection Unit to pursue collection.



**6. Revenue generated by the supervision fee is not dedicated to financing parole supervision.** Instead, it is diverted to the state's general revenue fund, from which it is used to finance any Maryland state government function.

**7. Dunning by the Division of Parole and Probation and by the Central Collection Unit pressures individuals, undermines reentry, and is out-of-step with Maryland's effort to reduce recidivism.** Fee collection pulls parole agents away from more important duties such as helping parolees find jobs.

## RECOMMENDATIONS

We recommend that the four state bodies administering the parole supervision fee in Maryland – the Legislature, Parole Commission, Division of Parole and Probation, and Central Collection Unit – take the following steps to fix Maryland's parole supervision fee:

### *Legislature:*

- **Abolish the parole supervision fee outright.** The Maryland Legislature should abolish the supervision fee outright in light of the inability of most parolees to afford it, the limited revenue it raises, and the detrimental effect it has on reentry. This is the path that Virginia chose in 1994 after finding that its parole supervision fee undermined correctional goals and was too difficult to collect.

**In the alternative,** the Legislature should:

- **Implement a sliding scale fee tailored to an individual's financial circumstances.** Those parolees who can pay more should pay more. Those who are able to pay very little or nothing should have their obligations adjusted accordingly.

- **Ensure that the obligation to pay the fee does not commence until a Division of Parole and Probation agent has done an initial assessment of the parolee's circumstances.** The DPP is better positioned than the Parole Commission to evaluate an individual's ability to afford the fees and make payment.

### *Parole Commission:*

- **Evaluate exemptions up front.** Even without a legislative change, the Parole Commission should conduct front-end evaluation of whether parolees should be considered exempt based

on disability, enrollment in job training and other educational programs, family obligations combined with undue hardship, and other extenuating circumstances.<sup>1</sup>

***Division of Parole and Probation:***

• **Direct parole agents to help individuals apply for exemptions.** Even without a legislative change, the DPP should reverse current policy, and direct agents to help supervisees apply for exemptions, effectuating the Legislature’s goal of ensuring that qualified individuals receive exemptions.

***Central Collection Unit:***

• **Eliminate the 17 percent surcharge added to parole supervision fee debt.** Even without a legislative change, the CCU should eliminate the 17 percent surcharge that automatically enlarges supervision fee debt solely because the parolee was unable to afford the fee during parole. This undercuts reentry and is bad policy.

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1 An up-front assessment also would be desirable for the first, and most common, exemption ground—unemployment. However, the current statute contemplates such an exemption later in the parole term “after the supervisee has diligently attempted but has been unable to obtain employment ...” MD. CODE ANN. CORR. SERVS. § 7-702(d)(1) (2008).

## I. INTRODUCTION

Given the increasing use of economic sanctions by state governments, people entering the criminal justice system are unlikely to leave it without incurring new debt. For example, Maryland law authorizes charges for everything from an individual's initial arrest, to the costs of a constitutionally mandated public defender, to the costs of the individual's supervision on probation or parole.<sup>1</sup>

Most of these charges are unrelated to the criminal system's putative goals of punishment, deterrence, incapacitation, and rehabilitation. Instead, they are designed to subsidize state budgets. This growing category of debt – created by fees levied to generate revenue – is distinct from fines and restitution, the two more traditional categories of criminal justice-related “legal financial obligations,” or “LFOs.” Fines are the traditional monetary penalty, usually based on the severity of crime, imposed to punish an individual.<sup>2</sup> Restitution, a court-ordered payment by the offender to compensate the victim for financial loss resulting from the crime,<sup>3</sup> is rooted in a restorative justice approach that emphasizes repairing the harm of criminal behavior.

Revenue-generating “fees,” on the other hand, are assessed not for any criminal justice purpose, but rather to fund state budgets. They are imposed on a largely indigent population, rather than on the general tax-paying populace. And, they are imposed without regard to their impact on the ability of persons convicted of a crime to reenter society after completing court-mandated punishment. The parole supervision fee in Maryland – a monthly obligation of \$40 that totals of hundreds of dollars over the course of the parole term – is just such a charge.

Enacted in 1991, the Maryland parole supervision fee law was part of an understandably popular trend to charge persons convicted of crimes for the costs of their punishment. By 1990, 26 states had implemented probation fees and parole fees.<sup>4</sup> Prompted by increasing costs, reduction of resources, and increased public support for shifting costs to offenders, states increasingly turned to fees not to further penological policy, but rather to raise revenue.<sup>5</sup> Revenue enhancement was the parole supervision law's primary goal, too. As the Maryland Attorney General stated, “[t]he legislative history files reflect that the primary concern of the General Assembly in enacting the bills was to develop a new source of revenue in difficult economic times.”<sup>6</sup> Although the fee is connected to the individual's parole status, the revenue generated by the fee does not finance the parolee's supervision and, instead, is deposited in the state's general fund, where it is used to finance general state operations.<sup>7</sup>

Nearly two decades after the enactment of the supervision fee, there is a growing awareness of the substantial barriers that persons leaving prison face when they attempt to reenter society. A body of research – much of which has focused on the Baltimore area – has confirmed that persons leaving prison face significant hurdles in obtaining employment, housing and other social

services.<sup>8</sup> Many individuals also face financial burdens from staggering child support arrears, drug and alcohol testing fees, and, in some cases, fees for participation in drug treatment and other programs that are conditions of their parole. In short, the parolees from whom the state seeks to subsidize its coffers are often struggling to get by at the most basic levels.

At the same time, there is a growing recognition among policy-makers and the public at large that criminal justice policy needs to promote successful reentry in order to prevent recidivism, protect public safety, and reduce ballooning costs borne by taxpayers for imprisonment. Governor Martin O'Malley has recognized the need to take "concrete steps to make sure offenders who have served their debt to society have the tools and resources they need to re-enter society."<sup>9</sup> Each year the Maryland Division of Corrections ("DOC") releases approximately 15,000 prisoners back into the community.<sup>10</sup> Currently 51 percent of those released are reconvicted and return to custody (either for a new offense or for revocation of probation or parole) within three years.<sup>11</sup>

In response to these high recidivism rates, the Maryland Department of Public Safety & Correctional Services ("DPSCS") has put renewed emphasis on promoting successful reentry.<sup>12</sup> In keeping with this focus, DPSCS's Division of Parole and Probation ("DPP") pioneered a model of supervision to enable people leaving prison to reenter the community and succeed.<sup>13</sup> Titled, "Proactive Community Supervision," the approach relies on individualized assessments to identify risks and needs of each ex-offender. Drug and alcohol treatment, mental health treatment, educational assistance, and job skills training are provided, as appropriate. DPP has cut supervision agents' caseloads so they can spend more time in the supervisees' communities, working one-on-one with supervisees and building relationships with their families, friends and neighbors.<sup>14</sup> This model has proven successful, reducing re-arrest rates and technical parole violations by 42 percent and 20 percent, respectively. It has demonstrated that such programs can effectively slow or stop the "revolving door" to prison.<sup>15</sup>

The parole supervision fee – which most believe does not further a rehabilitative purpose – is out of step with these innovations that have made Maryland a leader in advancing effective supervision and reentry approaches. Given the massive unemployment rates among parolees, the substantial financial hardships they face, and the undermining effect of new fee debt, this report urges elimination of the parole supervision fee as a revenue source in Maryland. We hope that Maryland policy-makers will reevaluate the wisdom of imposing the fee obligation in light of the findings set forth below. Although this report is confined to Maryland's particular experience with the parole supervision fee, we believe it will prove useful to other communities attracted to the short-term solution of new criminal justice fee debt when budgets are tight.

## II. METHODOLOGY

To examine the impact of the parole supervision fee on people reentering their home communities from prison, we examined data obtained from the Maryland Division of Parole and Probation for all 7,524 parole supervision cases that were closed (*i.e.*, the parole supervision term was completed, or parole supervision was revoked, etc.) by the DPP between July 1, 2006 and June 30, 2007.<sup>16</sup> Because most people released from prison in Maryland are placed “on parole,”<sup>17</sup> the data is reflective of the population returning home from prison in general.

To further illuminate the impact of the fee, we interviewed 20 people currently reentering society after having been incarcerated. To ensure a free exchange, interviewees were assured that their names would remain confidential. We also interviewed 20 reentry service providers and public defenders. Finally, a focus group of supervision agents drawn from DPP district offices from across the state helped us to understand DPP policies and operational practices from the perspective of those who administer them “in real time.” Those parole agents were speaking for themselves and not as conveyers of official DPP policy. Top managers at the DPP provided a wealth of additional insights about a raft of complex issues.

This report also builds on the work of other reentry advocates and criminal justice experts, who have drawn attention to imposition of financial penalties and obligations on those convicted of crimes.<sup>18</sup>

## III. MOST PAROLEES IN MARYLAND ARE UNABLE TO PAY THE SUPERVISION FEE

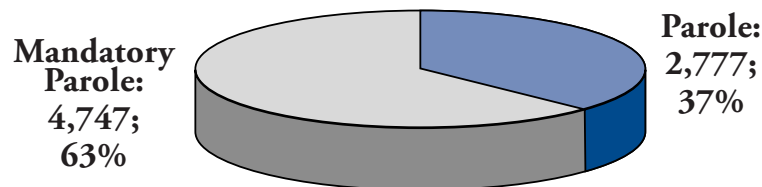
Most people released from prison face hurdles to obtaining personal and financial stability in the community, and few are equipped to comply with legal financial obligations such as the supervision fee. In our interviews, parole agents, defenders and reentry service providers all identified a similar list of the obstacles that people face at reentry: 1) insufficient job and training opportunities that would allow the returning person to earn a living wage; 2) lack of affordable and appropriate housing; 3) lack of support services, including mental health services as well as other forms of health treatment; and 4) lack of adequate drug treatment facilities. All of these factors combine to make payment of the supervision fee extremely difficult, if not impossible, for most parolees.

### A. Profiles of persons on parole in Maryland.

There are two types of parole in Maryland. The first type, which comprised thirty-seven percent of the cases in our data sample (and is referred to below simply as “parole”) involves the discretionary and conditional release of people into the community following a Parole Commission

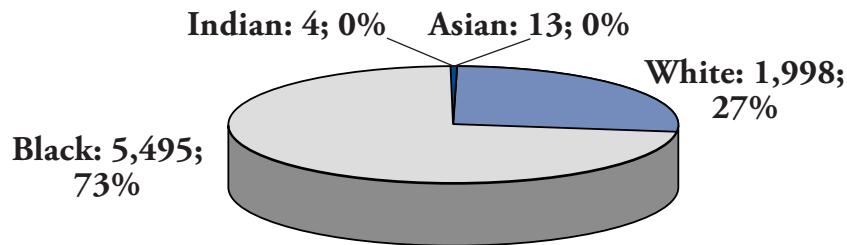
hearing that considers such factors as the circumstances surrounding the crime, behavior while incarcerated, societal compatibility and attitude, and others. The second type, which comprised 63 percent of our cases (and is referred to below as “mandatory parole”) involves people released into the community before the end of their sentences as a result of sentence reduction credits for good behavior and other factors.<sup>19</sup>

### Type of Post-prison Supervision



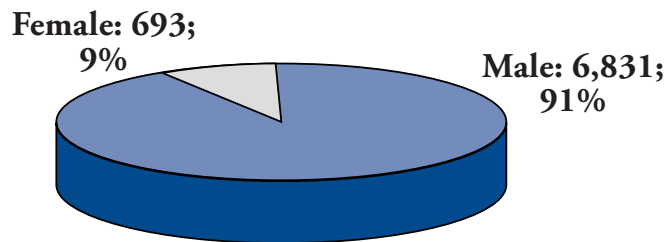
The majority of all parole cases involved Black men. The median age at release was 35. Most cases involved people who were not married. Almost half (47 percent) of the cases involved parolees who had been sentenced in Baltimore City, and another 11 percent were sentenced in Baltimore County.

### Race of Parolees



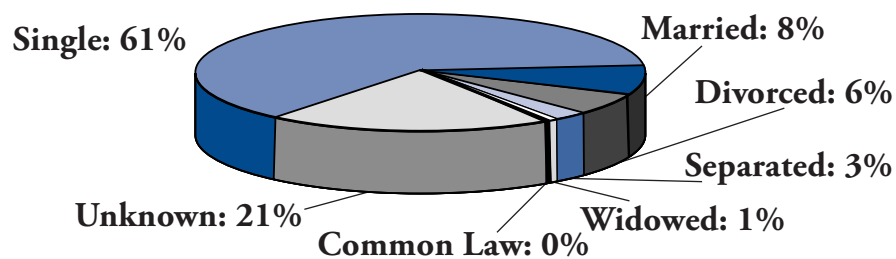
Of those on parole, 91 percent were male and 9 percent were female.

### Sex of Parolees



Most were unmarried.

### Marital Status of Parolees

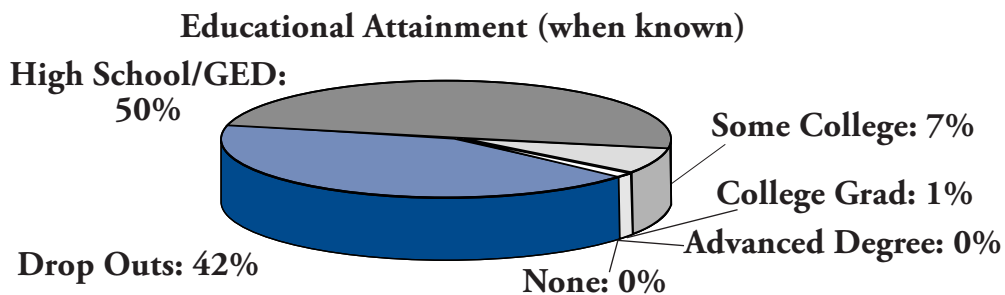


**B. Parolees return from prison ill-prepared to obtain employment and resume stable lives.**

An extensive study by the Urban Institute of those returning from prison to Baltimore City found that most people left prison with few financial resources beyond “gate money.” The median amount of money on hand was reported to be just \$40. During the first few months back home, a majority was dependent on financial support from family members, and 80 percent were living with family.<sup>20</sup> More than one third had one or more dependants relying on *them* for financial support. Thirty-nine percent reported child-support obligations four to six months after release.<sup>21</sup>

Most return quite ill-prepared for entry into the labor market, the Urban Institute found. Most of Maryland’s ex-prisoners lacked stable pre-prison employment histories.<sup>22</sup> Just 13 percent had been able to improve their level of educational attainment while incarcerated. Fewer than a quarter had been able to participate in a job-training program while in prison.<sup>23</sup> Most people returning to Baltimore reported some drug (78 percent) or alcohol use (61 percent) prior to prison. More than 40 percent reported daily heroin use.<sup>24</sup>

The data we obtained from the DPP indicate that while almost half of parole cases involved people who had graduated from high school or obtained a GED, very few had gone beyond that level of educational attainment to acquire the skills required to qualify for a job with good pay and benefits in today’s economy. Of the sample, 42 percent had dropped out prior to completing high school.



Many people in reentry whom we interviewed said that they had found it difficult to obtain reliable long-term employment. They often reported securing low-wage jobs where employment lasted four to six months, but said that finding sustainable work was difficult because of lack of skills, low levels of education, felony records, and gaps in employment history that frequently come with bouts of incarceration or extended periods of drug addiction.

Parole agents are well-aware of the labor market barriers.

*Most parolees don't want to go back to prison, but they need to find employers who will hire them. All the system does is re-convict them. The felony conviction is a cap on job opportunities.*

— Parole Agent

*We need to look at the population's obstacles. The felony charge right there is a huge obstacle for the parolee because he can't get a job. I try to get them federally bonded, but the hardest thing for them is to become employable and get a job.*

— Parole Agent

On top of the difficulty finding employment, those released from Maryland's prisons also face barriers to obtaining housing. The Public Housing Authority in Baltimore takes account of criminal history in considering applicants for affordable housing, and maintains an outright bar against those convicted of drug-related and violent crimes.<sup>25</sup>

*The majority of people give addresses to their mothers' houses when they leave jail, or give addresses for housing projects that they can't live in anymore [because of their conviction]. Most of the time there's no home, or plan for a job.*

— Parole Agent

A person returning may or may not have a support network to help with the transition back to society. If a formal reentry program is not ordered by the Parole Commission, it is up to the individual to make effective use of resources in the community. That is a difficult task for some. Initial efforts to locate and effectively use resources can be unsuccessful, making it impossible for the returning person to meet daily needs.

*My family passed while I was inside. I have no family out here. I got out in November 2007 after fifteen years ... I've been here [Goodwill] three weeks. I do a little on my own. I don't want to go back in [the] street.*

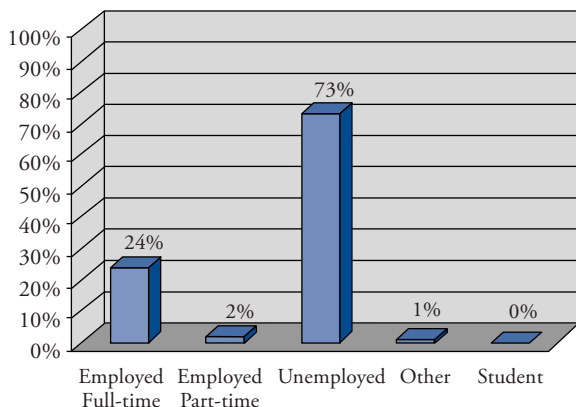
— Goodwill Client

### **C. The vast majority of parolees are unemployed.**

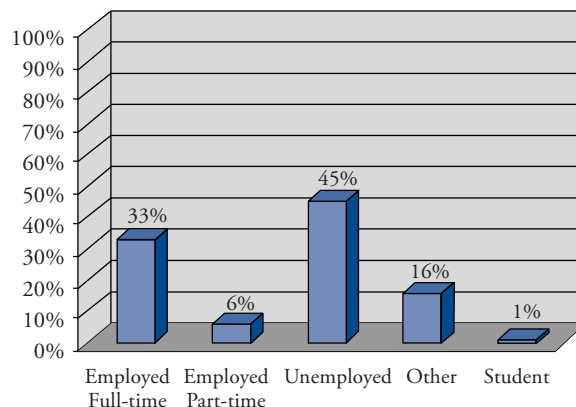
It is not surprising, then, that the data show that most people returning to their communities after serving a prison sentence are unemployed. Overall, less than one-quarter of parole cases involved people who had secured full-time employment as they began parole supervision. As the second pair of charts shows, Blacks were more likely to be unemployed than Whites. Employment status showed improvement (especially for Whites) over the course of parole, yet by the time the cases were closed, just one-third of parolees had obtained full-time employment.<sup>26</sup>



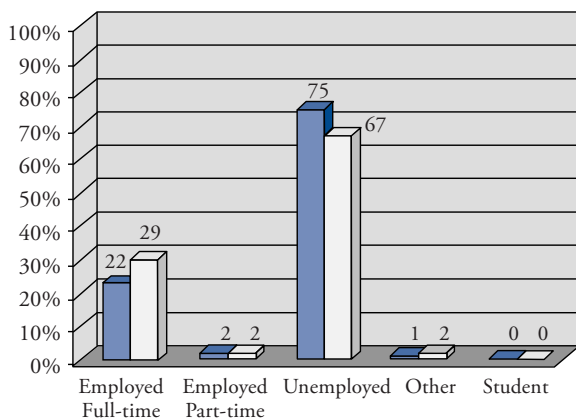
**Overall Employment Status at Case Activation**



**Overall Employment Status at Case Close**

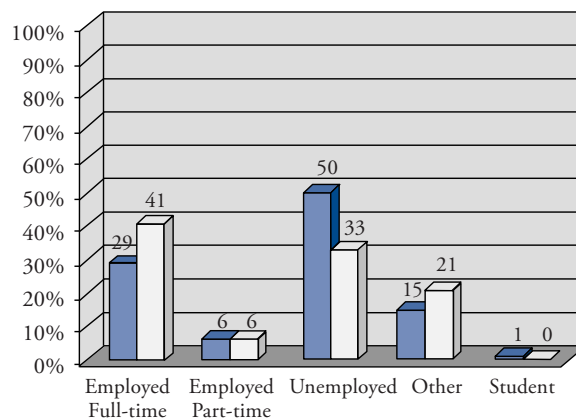


**Employment Status at Case Activation by Race**



■ Black  
□ White

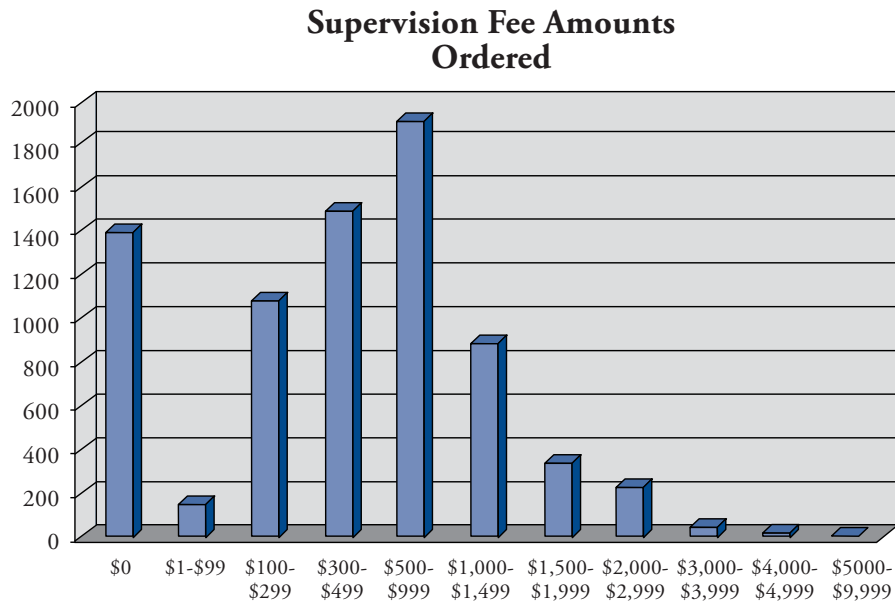
**Employment Status at Case Close by Race**



Even for those parolees who do find work, financial resources are thin. Although the DPP dataset we studied did not include information about the types of jobs these parolees secured, nor about the wages or benefits that they received, the Urban Institute found that the median hourly wage received by the people interviewed in Baltimore was just \$8.<sup>27</sup> For a single adult living in Baltimore City, the average monthly cost of living, including housing, food, transportation, health care, miscellaneous expenses, and taxes totals \$1,881.<sup>28</sup> Working full-time at \$8 an hour would allow a person to earn \$1,280 a month, falling more than \$600 below a self-sufficiency level.

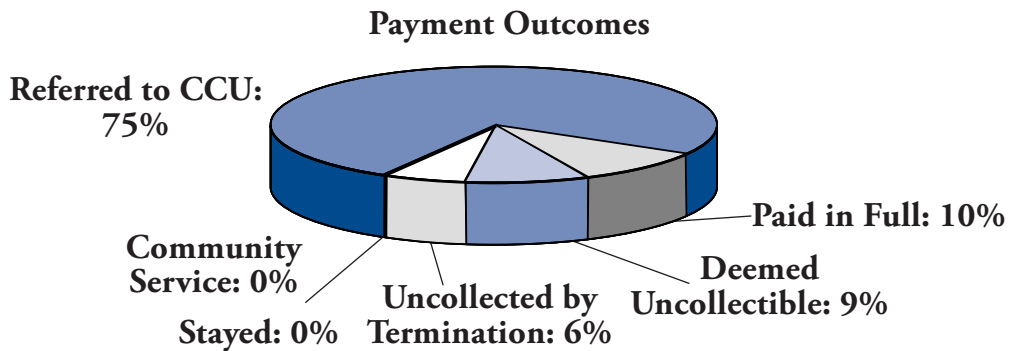
**D. The majority of parolees accumulate substantial debt as a result of their inability to pay the fee.**

The parole supervision fee is imposed as a monthly obligation, rather than as a single lump sum at case activation.<sup>29</sup> Therefore, the total sum for a particular individual will be the product of the number of months the person is under supervision multiplied by the standard monthly fee amount (\$40).<sup>30</sup> For the parolees whose cases we analyzed, supervision fees ranged from \$5 to \$5,600. The mean amount was \$743 and the median was \$560.<sup>31</sup>



In light of the circumstances in which most parolees find themselves, it is not surprising that nine out of ten people on parole will have failed to pay the full amount of supervision fee debt when they exit the parole system.

Thus, of the total amount of supervision fees ordered in our sample, only 17 percent, or \$752,838, was collected. In the overwhelming majority – 75 percent – of cases, the accumulated outstanding fee debt was turned over to the Central Collection Unit (“CCU”) of the Maryland Department of Budget and Management, which, as is described below, uses civil legal means to demand payment.<sup>32</sup>



Payment outcomes are somewhat associated with employment status at case activation. Thus, cases involving people who were fully employed at case activation were more likely to result in full payment of legal financial obligations,<sup>33</sup> with 13 percent making payment in full. For individuals employed part-time, or who were unemployed, only 8 percent made payment in full.

### Payment Outcomes and Employment Status at Case Activation

|                                       | Employed<br>Full-time | Employed<br>Part-time | Unemployed | Other | Student | Grand<br>Total |
|---------------------------------------|-----------------------|-----------------------|------------|-------|---------|----------------|
| <b>Paid in Full</b>                   | 13%                   | 8%                    | 8%         | 32%   | 43%     | 10%            |
| <b>Deemed Uncollectible</b>           | 7%                    | 6%                    | 9%         | 4%    | 0%      | 9%             |
| <b>Uncollected by<br/>Termination</b> | 4%                    | 1%                    | 4%         | 9%    | 0%      | 4%             |
| <b>Stayed</b>                         | 0%                    | 1%                    | 0%         | 0%    | 0%      | 0%             |
| <b>Community Service</b>              | 0%                    | 0%                    | 0%         | 0%    | 0%      | 0%             |
| <b>Referred to the CCU</b>            | 75%                   | 84%                   | 78%        | 55%   | 57%     | 77%            |

Payment outcomes are more strongly associated with employment status at case closing. Cases involving people with full-time employment were significantly more likely to result in payments of \$100 or more than cases involving the unemployed.

### Supervision Fee Amounts Paid and Employment Status at Case Closing

|                        | Employed<br>Full-time | Employed<br>Part-time | Unemployed | Other | Student | Grand<br>Total |
|------------------------|-----------------------|-----------------------|------------|-------|---------|----------------|
| <b>\$0</b>             | 53%                   | 68%                   | 82%        | 76%   | 79%     | 71%            |
| <b>\$1-\$99</b>        | 9%                    | 11%                   | 8%         | 9%    | 5%      | 9%             |
| <b>\$100-\$299</b>     | 13%                   | 10%                   | 6%         | 8%    | 8%      | 9%             |
| <b>\$300-\$499</b>     | 9%                    | 6%                    | 2%         | 4%    | 5%      | 5%             |
| <b>\$500-\$999</b>     | 9%                    | 3%                    | 1%         | 2%    | 3%      | 4%             |
| <b>\$1,000-\$1,499</b> | 3%                    | 1%                    | 0%         | 1%    | 0%      | 1%             |
| <b>\$1,500-\$1,999</b> | 2%                    | 0%                    | 0%         | 1%    | 0%      | 1%             |
| <b>\$2,000-\$2,999</b> | 1%                    | 0%                    | 0%         | 0%    | 0%      | 1%             |
| <b>\$3,000-\$3,999</b> | 0%                    | 0%                    | 0%         | 0%    | 0%      | 0%             |

Payment outcomes appear to be somewhat associated with race. Cases involving Whites were somewhat more likely to result in full payment than cases involving Blacks, but the great majority of cases for both racial groups resulted in unpaid obligations being referred to the Central Collection Unit. Given their low rates of employment relative to Whites, it is not surprising that payment outcomes were lower for Blacks.<sup>34</sup>

### Payment Outcomes and Race

|                                   | White | Black |
|-----------------------------------|-------|-------|
| <b>Paid in Full</b>               | 17%   | 7%    |
| <b>Deemed Uncollectible</b>       | 8%    | 10%   |
| <b>Uncollected by Termination</b> | 6%    | 6%    |
| <b>Stayed</b>                     | 0%    | 0%    |
| <b>Community Service</b>          | 0%    | 0%    |
| <b>Referred to the CCU</b>        | 68%   | 77%   |

In fiscal year 2008, the DPP and the CCU collected only \$334,752 in parole supervision fee revenue, adding a negligible sum to state funds.

#### **E. The parole supervision fee is just one of a multiple of financial obligations.**

The recurring parole supervision fee is often not the sole monetary burden that parolees face on their return from prison. Many have additional financial obligations, most notably child support, which in many instances continues to accrue during incarceration and can total tens of thousands of dollars. A 2005 University of Maryland study found that there were 17,214 child support cases in Maryland with incarcerated parents or previously incarcerated parents. The average arrears owed for each incarcerated parent was \$15,933 and average arrears for parolees was \$13,472.<sup>35</sup>

Many parolees find themselves obliged to participate in treatment on an “out-patient” or residential/halfway house basis or in other programs – many of which charge fees for services – as a condition of their parole. The added costs are collected directly by the treatment program staff, not by the DPP, and information about these fees was not included in the data we received from the DPP. However, supervision agents reported that non-payment of program fees and related costs can cause their clients to be terminated from program participation, which could lead – in turn – to revocation of parole.

*Lots of programs push people out for nonpayment, even if they are doing well on the program.*

— Parole Agent

*These programs won't let the person back in because of nonpayment, so it looks like the person is violating their parole conditions even when they're doing well.*

— Parole Agent

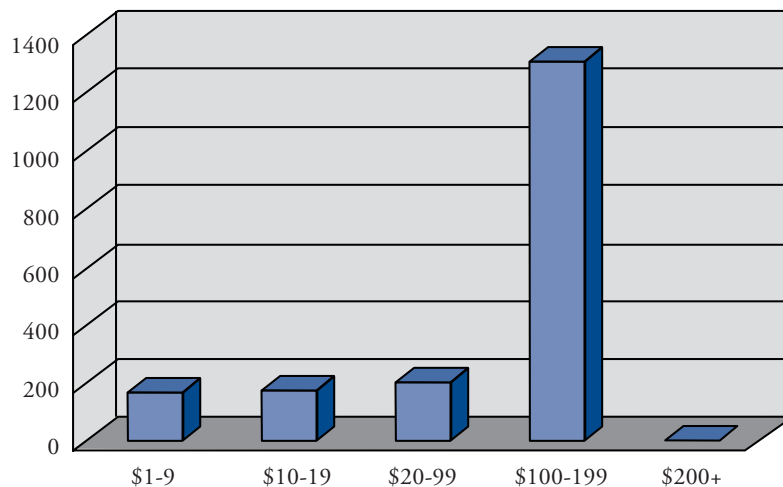
For those enrolled in residential programs, there may be extended periods of time when employment is not permitted and thus the parolee cannot earn money. When employment is finally allowed, program fees are deducted from the person's wages, and can result in the withholding of a portion of forced savings, leaving very little cash for covering costs of transportation to work, support for family members or to pay bills and other financial obligations.

*When you come in, it's free [the program], then it's a give back. Once you get employed they take a percentage. If you make \$100: 50 percent goes into savings, 25 percent to Marian House and 25 percent in your pocket. I work cleaning a treatment facility and bring home a check every two weeks for \$198 and I was getting \$48 every two weeks for myself.*

— Marian House Participant

In addition, if an individual was convicted of a drug offense, or has a history of drug use or addiction, he or she may be obliged to pay for urine testing. A parole agent may require such drug or alcohol testing if he or she believes that a parolee is "slipping back" to a substance abuse habit. DPP data show that testing fees were ordered in 25 percent of the parole supervision cases.<sup>36</sup> For drug testing by schedule, there is a one-time flat fee of \$100. The fee for a random drug test is \$6. The standard testing fee amount for alcohol testing is \$1 per month. According to the data provided by the DPP, total testing fee amounts imposed ranged from \$4 to \$1,280. The mean average amount was \$91, but the median was \$120. The total amount of testing fees ordered in these 1,867 cases was \$170,756.

### Testing Fee Amounts Ordered



People in reentry told us that some individuals are ordered to submit to urine testing as often as two or three times a week in the period immediately following release. Some of those interviewed said that individuals from Baltimore City were ordered to undergo urinalysis even if the criminal charges had nothing to do with drugs or drug addiction.

Additional program fees and costs may also be entailed if the DPP requires participation in domestic violence counseling or anger management. Sex offenders, in particular, may be ordered to pay fees for polygraph tests. Community service programs also charge admission fees. We found in our interviews that the parole supervision fee, in combination with other “program” fees, can quickly add up to as much as \$200 per month. Parolees, parole agents, and others, said that the combined burden can be overwhelming.

Maryland law also authorizes the imposition of other fees related to criminal court proceedings. Defendants who seek the services of the “free” public defender are charged a \$50 application fee.<sup>37</sup> Restitution may be ordered if, among other reasons, property was stolen or damaged, if the victim suffered monetary losses or incurred certain expenses, or if the government incurred certain expenses.<sup>38</sup>

However, restitution, along with certain other court fees, may be waived up-front by judges if the defendant is indigent.<sup>39</sup> This process stands in marked contrast to the process for imposing the parole supervision fee, in which there is no up-front evaluation of ability to pay and therefore extremely limited use of exemptions for unemployment and other causes. The DPP data show that only a small fraction of parolees in Maryland, less than one percent, owe fees and/or restitution stemming from the underlying criminal court proceedings.

As Maryland Circuit Court Judge Allen Schwait explained, the imposition of court fees is often viewed as an exercise in futility:

*In my court I handle major felonies cases. With a population such as I see before me, imposition of monetary penalties does no good to anyone. During plea bargaining defense counsel routinely ask me to waive all fines, supervision fees,<sup>40</sup> and court costs and I have no problem doing that. Imposition of such items doesn't enter into my consideration at sentencing because I know that they would not be paid. Restitution may be something else, because where there is an aggrieved victim the prosecutor will generally ask for something to be ordered. I may accept, but frankly, will do so knowing that by and large it's an exercise in futility — which troubles me, because I know that this raises an expectation for the victim that is very likely to be disappointed.*

## IV. THE PAROLE SUPERVISION FEE UNDERCUTS REENTRY EFFORTS

Most of the parole agents and reentry professionals whom we interviewed believe that the parole supervision fee undermines their efforts to assist persons on parole in their transition to life outside prison. Many of the parolees we interviewed spoke of the undermining effect that constant dunning has on their efforts to get back on their feet.

### A. Persistent threats of parole revocation undercut reentry prospects.

Whenever a parolee fails to pay his or her monthly fee, the DPP sends letters (relying on an automated computer program) that threaten parole revocation. The letters warn that “failure to comply or pay as indicated will cause your case to be referred for a summons or warrant.”

The dunning practice is routine, even though the DPP’s practice generally is not to seek actual revocation of parole based solely on non-payment of the parole supervision fee. DPP practice is consistent with constitutional limitations on fee collection. Were the DPP to seek revocation for failure to pay the supervision fee, it would have to demonstrate before the Parole Commission that the failure to pay was willful and not a result of the parolee’s indigency.<sup>41</sup> When the DPP seeks revocation of parole for other reasons, it takes failure to pay the supervision fee into consideration, but failure to pay the fee is not used as a cause for seeking revocation.<sup>42</sup>

While revocation of parole is unlikely, the paper debt for failure to pay continues to accrue over the parole period. Many parolees said that the pressure of constant dunning letters that threaten revocation cause stress that undercuts prospects for successful reentry. One reentry professional explained that the DPP’s computer-generated dunning letters pose a constant threat, and that the frustration created among his clients sometimes pushes some over the edge, to re-offend.

*You’re walking around with pressure. The threat you are receiving is putting you under pressure and the pressure is making you live a miserable life. Just the threat of having a warrant is hard.*

— Client at Goodwill

*I have a drug-related offense. I’m on parole until March 2009. Right now I’m in a residential treatment program, and you can’t work while you are in there. I get a letter saying I have to pay these costs. They keep shooting letters at you. It makes you depressed and it can mess around and make you use. But I’ve learned that’s not the way. I can’t get bus fare to see my parole officer. The bus costs \$3.50 twice a month and then I have urinalysis every week. Some people have it twice a week or even*

*three times. You need bus fare for each of those times and the urinalysis fee. If you get in a job program they want you to train, so you're not getting paid, so you have to manage to live without getting paid. Even your family doesn't want to take care of a grown man. It can drive some one into the street just to make ends meet. Then you get violated.*

— Narrative of “Tom”

*I had three cases. I couldn't pay the money. The agent started calling me to say come and see them. They would call during the job time. I told them I couldn't right now, I'm working and they would say, “It's your responsibility. Keep the job and go to jail or come and see me.” My appointments were between 9am and 1pm. I didn't go. I had to work. They did come and lock me up.*

— Client at Goodwill

*It's stressful. You come home with three felonies and are faced with a large fee. You have a felony and you're trying to find a job with felonies. I owed \$3200 got it down to \$2000 and haven't paid a penny since. My other bills are lacking. I'm faced with violation of parole. I don't want to go back.*

— Marian House Participant

In our conversations with parole agents, reentry workers and people under parole supervision, we were advised repeatedly that parole agents often “waive” payment of supervision fees. However, during the course of the study it became apparent that the word “waive” was being used to refer to an agent telling someone not to worry about the payment obligation at a particular moment in time. Because this does not constitute actual legal waiver, the unpaid parole supervision fees continue to accrue as debt, and the DPP continues to issue automatic dunning notices advising parolees of the failure to pay and warning that the failure will trigger a summons or warrant for arrest. As noted above, substantial sums may accrue.

Some parolees report having returned to crime to pay their past debts. While it is impossible to know just how often this occurs, given average costs of almost \$32,000 for a year in prison,<sup>43</sup> even if the supervision fee had a role in just 11 parolees returning to prison for a year, the costs to the state would surpass the \$334,752 raised by the fee in fiscal 2008.

*It feels like we are being penalized twice. Incarceration is supposed to rehabilitate you. But, people are out here doing stuff in the streets just to pay the fees. It's very stressful. If I hadn't been in the program I would have been out there selling drugs to get the money. The first time I came out I owed \$3600 paid it down to \$500 before I went back in. I sold drugs to get the money and then went back to prison.*

— Marian House Participant



*I'm on parole to 2011. They give you the whole fee, \$2000. People who are on the street will just try to find a way to pay.... I went back to boosting [stealing] before because they threatened to lock me up. I was thinking "I just did time in prison, does that count for anything." ...It's a little discouraging to get out and owe \$2000 right away.*

— *Marian House Participant*

Although parolees possess limited financial resources, as noted above, the DPP is more aggressive in pursuing collection of the restitution obligations ordered as a condition of parole. If the parolee's restitution arrearage reaches the amount of four monthly restitution payments, the agent must request a summons or subpoena to bring the parolee back to the sentencing court for a violation hearing and to notify the victim to whom restitution is owed. If parolees owing restitution are employed, their wages may be garnished. Interviews with public defenders and reentry specialists confirmed that the DPP will seek parole revocation for failure to pay restitution.

## **B. Transfer to the Central Collection Unit adds more debt and mars credit reports.**

At the end of the parole term, the DPP routinely refers to the Central Collection Unit any unpaid debt owed by parolees that exceeds a threshold amount of \$30.<sup>44</sup> A division of Maryland's Department of Budget and Management, the CCU is charged with collecting delinquent debt owed to the state.

When debt accounts are transferred by the DPP to the CCU, the amount of debt is substantially increased. The CCU adds an automatic one-time 17 percent charge for "collection costs" on top of the outstanding debt amount.<sup>45</sup>

The CCU then sends two initial notices at 30-day intervals to debtors' homes or places of employment informing them that they must either establish payment plans to repay outstanding balances or face the collection methods employed by the CCU.<sup>46</sup> Without a response, additional dunning letters from the CCU follow, as the collection process moves forward, with each letter offering fewer outs to the debtor even if the individual's financial circumstances remain unchanged.

Beyond the letters, the collection method used by the CCU depends on the amount of debt and on the types of assets, if any, held by the individual. If the total debt is less than \$750, as is often the case with parole supervision fee debt, the CCU relies on the automated Tax Refund Intercept Program ("TRIP"), which intercepts state income tax refunds every year until the entire debt, plus the 17 percent CCU surcharge, is paid. According to a CCU manager, the CCU generally does not report debt referred from the DPP to credit agencies.

If the debt is \$750 or more and if the debtor has attachable assets, the Attorney General of the State of Maryland files a civil action in state court to secure a civil judgment against the debtor. Once a civil judgment is obtained, the state can enforce it through wage garnishment and property liens.<sup>47</sup> Additionally, as civil judgments enter the public record, they are routinely discovered by credit reporting agencies and incorporated into individuals' credit reports.

For an individual pursuing reentry into society, the inclusion of an adverse judgment for debt is a significant event, sometimes further compromising a credit report that is already shaky, and sometimes damaging a credit report that was previously clean. It can increase the level of difficulty in acquiring a stable post-release home, make more difficult the challenge of obtaining affordable housing, prompt utility companies to require large deposits for basic services such as electric, gas and telephone, and increase the cost of car insurance. It may be a source of significant additional stress.

*I'm trying to get into the Habitat program now, where I can get my own house. I passed everything last year except the income qualification. I had A-1 credit but I didn't earn enough money. During parole the agent told me not to worry about the fee. I finished my parole in March 2007. No one said anything to me about the balance of the fees for supervision. In June 2007 I got a phone call from a collection agency saying I owe \$2800. They said it's from the \$40 a month I was supposed to pay. Now, they want me to pay \$150 a month and it's on my credit report. They took my tax return. Now I have income but I have the credit report problem, so that's a hardship for me. My fear is that the credit report will stop me. It's hindering my advancement in society. I'm really struggling to pay the \$150.*

— Marian House Participant

### **C. Fee collection is at odds with the mission of parole.**

There was wide agreement among parole agents and reentry professionals that most individuals were unable to afford the supervision fee, and that the creation of supervision fee debt places a significant burden on individuals ill-equipped to handle it. The financial burden can also give the individual a sense that the system is not interested in having him or her succeed; that punishment just continues in a new form after time in prison has been served.

*The fee payment plan puts them into debt right away. The first thing they do when they get out of jail is visit the parole agent and hear about the total debt (the monthly fee times length of supervision). So already they feel like a failure. That first payment is due on day one.*

— Parole Agent

A number of parole agents also believed that the task of collecting revenue-enhancing fees is inconsistent with their crime-prevention mission of ensuring that supervisees obtain the support they need to avoid offending again. Some parole agents believe the supervision fee should be eliminated, explaining that it does not advance parole supervision, in contrast to the legal financial obligation of restitution, which they see as benefiting the victim of a crime and performing a restorative function for those convicted.

*I really want agents to get out of money collection. That would free so much time [for more important priorities].*

— Parole Agent

*I don't want to be a bill collector – if the person has a drug problem it's more important to get them counseling and to stay out of trouble with police.*

— Parole Agent

*Instead of supervisory fees for indigent people, I'd like to see them go to a day program where their time is accounted for, to ensure they're doing something constructive with their time.*

— Parole Agent

*I think it's a big deal for these parolees just to make it crime-free and they should be rewarded, not punished at the end of their supervision with the fee and the 17 percent CCU interest.*

— Parole Agent

The parole agents in our focus group recognized that many individuals were unable to afford fee payments, and frequently mentioned the importance of granting exemptions, but some believed that the fee obligation could promote responsibility, particularly for the subset of individuals able to afford payment.

*As a supervision agent, I often feel that the fee is standing in the way of parolees. ...But I feel torn about the fees because, on the one hand, many people have no job prospects or skills – yet paying the fee can help them learn responsibility. And I do know some who have the income to pay.*

— Parole Agent

*I know people who have the money to pay and still get the fee waived, while others who are very poor must pay – that's unfair. I think they should keep the fee to start, and if there's a hardship, then the agent should start the process to get it waived.<sup>48</sup>*

*This would require an extra report by the agent but it also might keep the opportunities to collect that exist, and be more fair. I know of people who have been in jail for a while but have a good job skill and can pay the fee.*

— Parole Agent

*I think the fee should be imposed – it reminds the parolee that he has to pay fees and bills. I would only revoke for willful nonpayment. For example, I had a parolee who is a contractor -- working and paying child support, but not the fee -- so I violated him. I think the fee is an incentive.*

— Parole Agent

Most of the parole agents we interviewed believed that individualized determinations of ability to pay would improve administration of the parole supervision fee. Most agreed that evaluating the financial situation of each parolee would help provide a basis for setting realistic payment goals. A sliding scale system was seen as useful, as was the idea of developing specific policies to grant discretionary “waivers” for good cause (such as waiving the fee if a parolee has child support payment obligations, or allowing a “grace period” without fees for the first six to twelve months while parolees work to build a stable, crime-free life in the community). Some objected, however, that income verification and investigation of circumstances would take too much time from busy agents.

Some think that investigation of financial circumstances under the current system before imposing supervision fees would be advisable.

*The Commission could look into working with the parole case managers inside the jailhouse before people are released.*

— Parole Agent

Several other jurisdictions have recognized that individualized determinations, scaled to ability to pay, improve payment outcomes. For example, as part of its move toward increased use of “day fines” in lieu of confinement, Pennsylvania’s Commission on Sentencing has recommended scaling the amount of fines imposed to an individual’s ability to pay.<sup>49</sup> A pilot program in Maricopa County, Arizona, also found that consolidating all legal financial obligations into one payment plan, scaled to an individual’s ability to pay, improved collection rates.<sup>50</sup>

#### **D. The Virginia experience: abolishing the fee.**

Many of the concerns of the Maryland supervision agents in our focus group echo conclusions that Virginia, too, reached in the mid-1990s regarding its supervision fee. In 1994, Virginia abolished its parole supervision fee, which had proved to be a “nightmare” for parole officers to collect. In the

pre-1994 system, Virginia parole officers were required to collect a \$30 per month supervision fee, revenue from which was deposited into the state's general fund, as is the case in Maryland.<sup>51</sup>

The fee proved to be “a huge hassle to collect,” according to a Virginia corrections official.<sup>52</sup> In addition to the problems inherent in requiring parole officers to be fee collectors, the associated administrative and accounting tasks made collection by the Department of Corrections too burdensome relative to the small amount of revenue generated by the fee.<sup>53</sup> Some within the Department, including parole officers, objected to the fee and to the parole officers' role in the collections process, not only because of the administrative challenges, but also because collection undermined their other duties: “Parole officers are not loan sharks,” stated Walter Pulliam, Chief of Operations in Virginia's Division of Community Corrections.<sup>54</sup>

Virginia no longer charges an ongoing fee for post-release supervision. Instead, a single flat fee is levied at the time of sentencing against persons convicted of a crime, and is then collected by the court clerk. This fee is meant to finance a range of adjudicative and corrections-related costs, including the costs of post-release supervision, warrants, courthouse maintenance, and witness expenses.<sup>55</sup> The fee amount ranges from \$61 for certain misdemeanor convictions to \$350 for felony convictions, and the amount ultimately collected is distributed, in percentages fixed by statute, to funds associated with the various court and corrections costs.<sup>56</sup> While post-release supervision is one of the items the flat fee is meant to cover, any revenue distributed under the heading of “supervision” is returned to the state's general fund.<sup>57</sup> It is unclear how this court-imposed obligation affects indigent defendants.

## V. EXEMPTIONS

Many of the problems with the parole supervision fee could be prevented if the exemptions that the Legislature intended were actually used. Fully appreciating the goal of raising revenue from the fee, the Legislature nevertheless recognized explicitly that many parolees would not be in a position financially to pay the fee. The General Assembly predicted at the time of the fee's adoption that only 60 percent of persons on parole would be employed and that only 25 percent of that group – or 15 percent of the total parolee population – could actually pay the fee.<sup>58</sup> Thus, it created exemptions for individuals unable to afford payment.<sup>59</sup>

But the exemptions, while on the books and clearly intended by the Legislature to offer relief to parolees unable to pay, are rarely used in practice. As a result, numerous parolees incur substantial debt from a fee from which they would be exempt if the process worked as intended.

## A. The Parole Commission has exclusive authority to grant exemptions.

The Parole Commission has exclusive authority to eliminate or reduce the supervision fee for any of the following five reasons:

- the supervisee is unable, despite diligent attempts, to find a job that enables him or her to afford the fee;
- the supervisee is enrolled in school or a job training program;
- the supervisee is responsible for the support of dependents and paying the fee would constitute an undue hardship; or
- “other extenuating circumstances” exist.<sup>60</sup>

In contrast, while the very same exemptions apply to drug and alcohol testing fees, the statute confers authority on the DPP to grant exemptions to those fees directly, without requiring approval by the Parole Commission.<sup>61</sup>

Although the Legislature anticipated that most parolees would be unable to pay and created exemptions for them,<sup>62</sup> the continued allocation to the Parole Commission of exclusive exemp-

The **Maryland Parole Commission** determines whether inmates serving sentences of at least six months are eligible for release under supervision. Its decisions are made through hearings in which parole is granted based partly on the following factors: i) the circumstances surrounding the crime, ii) behavior while incarcerated, iii) societal compatibility and attitude, iv) mental, physical and moral qualifications, and v) intended plans for employment and housing upon release. Aside from rehearings, which are held when parole is not granted at a first hearing, the Parole Commission does not have a continuing relationship with inmates or parolees.

The **Division of Parole and Probation**, through 700 locally based agents, supervises persons serving sentences outside of state and local correctional facilities through regular meetings with and monitoring of offenders. A small portion of DPP agents work as investigators for the Parole Commission and other criminal justice agencies, gathering information on individuals for pre-sentence and pre-parole reports.

tion authority makes it difficult for individuals ever to extinguish their obligation to pay.

Up-front exemptions are almost never granted due both to the way the underlying law is written and to the practice of the Parole Commission. Some of the exemptions authorized under current law – such as those for “disability” and for “family obligations combined with undue hardship” – may be granted at the moment parole commences. Yet even though parolees might qualify for some of the enumerated

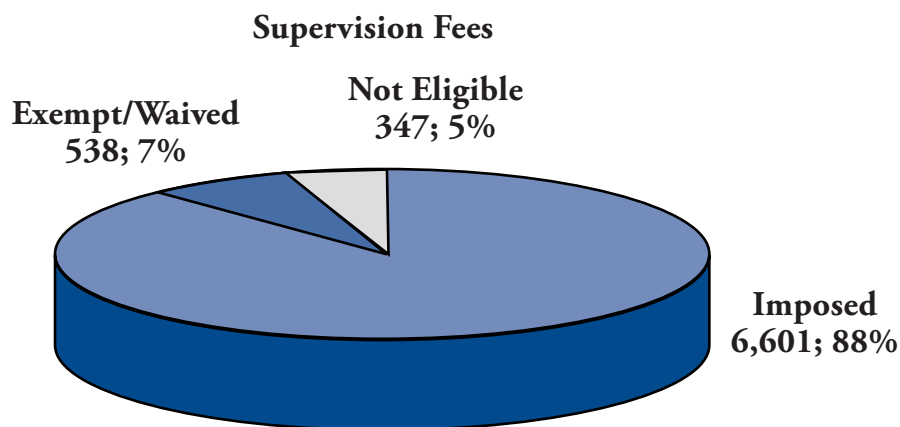
exemptions when parole begins, the practice of the Parole Commission is to impose the fee automatically and not make an up-front assessment of whether an individual is entitled to an exemption.

In contrast, the most widely applicable exemption – for unemployment – is only available later in the parole term, after the supervisee has made diligent attempts to find a job.<sup>63</sup> However, once parole is under way, the Parole Commission is, as an operational matter, unaware of the individual’s ongoing financial situation. To obtain a formal exemption, a parolee would have to seek legal help or proceed *pro se* in front of the commission. DPP parole agents, who do maintain regular contact with the individual, are largely cut out of the process. Nonetheless, parole agents with whom we spoke described an informal practice in which some agents assist individuals with requests to the Parole Commission for exemptions. DPP policy, however, is formally to forbid such assistance, according to a senior official. If a parolee asks his agent for an exemption, the parole agent is supposed to inform him or her “that the Division is without authority to exempt the offender from the payment obligation” and “[m]ay advise the offender to consult with legal counsel regarding requesting an exemption from the court or Parole Commission.”<sup>64</sup>

This DPP policy would appear to foreclose the one route by which parolees actually obtain exemptions. When we interviewed a member of the Parole Commission, he told us that he could not recall ever seeing an application for a fee exemption presented directly by a parolee or parolee’s lawyer. In contrast, he did say that, on occasion, he receives letters from parole agents asking for waivers, often because a parolee is unable to work and is receiving disability benefits. He grants these requests, which are infrequent.

## **B. The fee is imposed with few exemptions.**

As a result of the parole supervision fee law, and of Parole Commission and DPP practice, exemptions are rarely granted and a fee that all concerned know is unpayable is nonetheless repeatedly imposed on most parolees.



Thus, it is unsurprising that an individual’s employment status when parole begins (*i.e.*, when a parole case “is activated”) appears not to have any effect on whether the parole supervision fee is imposed. Cases involving people who are unemployed are just as likely to have fees imposed as those involving people with full-time jobs.<sup>65</sup>

## Imposition of Supervision Fees and Employment Status at Case Activation

|                           | Imposed | Exempt/Waived | Not Eligible |
|---------------------------|---------|---------------|--------------|
| <b>Employed Full-time</b> | 88%     | 8%            | 4%           |
| <b>Employed Part-time</b> | 95%     | 2%            | 3%           |
| <b>Unemployed</b>         | 89%     | 7%            | 4%           |
| <b>Other</b>              | 83%     | 8%            | 9%           |
| <b>Student</b>            | 75%     | 13%           | 13%          |
| <b>Grand Total</b>        | 88%     | 7%            | 5%           |

## VI. RECOMMENDATIONS

In light of the detrimental effect that the parole supervision fee has on parolees, the many factors that impede individuals' reentry from prison into society, and the widespread inability of individuals to pay, this report raises serious questions about the continued use of the parole supervision fee as a revenue source in Maryland. In keeping with suggestions made by many reentry professionals, parole personnel and formerly incarcerated persons on parole, we recommend that the each of the four state bodies that administer the supervision fee take the following steps.

### *Legislature:*

- **Abolish the parole supervision fee outright.** The Maryland Legislature should abolish the supervision fee outright in light of the inability of most parolees to afford it, the limited revenue it raises, and the detrimental effect it has on reentry. This is the path that Virginia chose in 1994 after finding that its parole supervision fee undermined correctional goals and was too difficult to collect.

**In the alternative,** the Legislature should:

- **Implement a sliding scale fee tailored to an individual's financial circumstances.** Those parolees who can pay more should pay more. Those who are able to pay very little or nothing should have their obligations adjusted accordingly.
- **Ensure that the obligation to pay the fee does not commence until a Division of Parole and Probation agent has done an initial assessment of the parolee's circumstances.** The DPP is better positioned than the Parole Commission to evaluate an individual's ability to afford the fees and make payment.



***Parole Commission:***

- **Evaluate exemptions up front.** Even without a legislative change, the Parole Commission should conduct front-end evaluation of whether parolees should be considered exempt based on disability, enrollment in job training and other educational programs, family obligations combined with undue hardship, and other extenuating circumstances.<sup>66</sup>

***Division of Parole and Probation:***

- **Direct parole agents to help individuals apply for exemptions.** Even without a legislative change, the DPP should reverse current policy, and direct agents to help supervisees apply for exemptions, effectuating the Legislature's goal of ensuring that qualified individuals receive exemptions.

***Central Collection Unit:***

- **Eliminate the 17 percent surcharge added to parole supervision fee debt.** Even without a legislative change, the CCU should eliminate the 17 percent surcharge that automatically enlarges supervision fee debt solely because the parolee was unable to afford the fee during parole. This undercuts reentry and is bad policy.

## APPENDIX: TEXT OF THE MARYLAND PAROLE SUPERVISION LAW

### **Maryland Code Annotated, Correctional Services § 7-702. Fees**

(a) In this section, “supervisee” means an individual supervised by the Division of Parole and Probation for the Commission.

(b) Unless a supervisee is exempted by the Commission under subsection (d) of this section, the Commission shall assess a monthly fee of \$40 as a condition of supervision for each supervisee.

(c) (1) The fee assessed under subsection (b) of this section shall be paid to the Division of Parole and Probation.

(2) The Division of Parole and Probation shall pay all money collected under this section into the General Fund of the State.

(d) The Commission may exempt a supervisee wholly or partly from the fee assessed under subsection (b) of this section if:

(1) the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;

(2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment; and

(ii) the institution in which the supervisee is enrolled supplies certification of student status to the Commission;

(3) the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the Commission accepts or orders;

(4) the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or

(5) other extenuating circumstances exist.

(e) The fee assessed under subsection (b) of this section is in addition to court costs and fines.

- (f)
  - (1) If a supervisee does not comply with the fee requirement:
    - (i) the Division of Parole and Probation shall notify the Commission; and
    - (ii) the Commission may revoke parole or mandatory supervision.
  - (2) The Commission shall conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation of the fee requirement.
  - (3) At a hearing under this subsection, the Commission may consider:
    - (i) any material change in the supervisee's financial status;
    - (ii) good faith efforts of the supervisee to pay the fee; and
    - (iii) alternative means to assure payment of the fee before the period of supervision ends.
- (g)
  - (1) In addition to the fee assessed under subsection (b) of this section, the Division of Parole and Probation may require a supervisee to pay for drug or alcohol abuse testing that the Commission orders.
  - (2) If a supervisee fails to pay for drug or alcohol abuse testing as required by the Division of Parole and Probation, the Commission may revoke parole or mandatory supervision.
  - (3) If the Division of Parole and Probation determines that any of the criteria specified in subsection (d) of this section are applicable, the Division may exempt a supervisee wholly or partly from a payment for drug or alcohol abuse testing.
- (h) The Division of Parole and Probation shall:
  - (1) adopt guidelines for collecting the supervision fee;
  - (2) adopt guidelines for collecting the cost of drug and alcohol abuse testing; and
  - (3) investigate requests for an exemption from payment if the Commission requests an investigation.
- (i) The Division of Parole and Probation shall:
  - (1) keep records of all payments by each supervisee; and
  - (2) report delinquencies to the Commission.

## ENDNOTES

- 1 See MD. CODE ANN., CTS. & JUD. PROC. § 7-402(a), (b) (2008) (authorizing sheriff to collect \$40 for taking someone into custody); MD. CODE ANN., ART. 27A § 7(c) (requiring defendants to reimburse the state for public defender services unless the defendant does not have the ability to make such reimbursement); MD. CODE ANN., CORR. SERVS § 7-702 (probation and parole supervision fees).
- 2 For example, assault in the second degree may be punished under Maryland law by a fine of up to \$5,000. MD. CODE ANN., CRIM. LAW § 3-203(c)(3) (2008). In addition to any other costs required by law, convicted defendants will also be required to pay \$45 in circuit court, MD. CODE ANN., CTS. & JUD. PROC. § 7-409(b) (2008), or \$35 in district court, *Id.* § 7-409(c), plus another \$3 in any court (even when the defendant waived the right to trial), *Id.* § 7-409(d). These assessments, like most Maryland court costs, may be waived for indigency. *Id.* § 7-405.
- 3 MD. CODE ANN., CRIM. PROC. § 11-603 (2008).
- 4 Kathryn Morgan, *A Study of Probation and Parole Supervision Fee Collection in Alabama*, 20 CRIM. JUST. REV. 44, 44 (1995).
- 5 DALE PARENT, NAT'L INST OF JUST., RECOVERING CORRECTIONAL COSTS THROUGH OFFENDER FEES 1 (1990).
- 6 Letter from J. Joseph Curran, Jr., Attorney General of Maryland, to Donald Shaefer, Governor of Maryland (Apr. 29, 1991).
- 7 MD. CODE ANN., CORR. SERVS. § 7-702(c)(2) (2008).
- 8 See, e.g., CHRISTY VISHER ET AL., URB. INST., BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME (Mar. 2004), available at [http://www.urban.org/UploadedPDF/310946\\_BaltimorePrisoners.pdf](http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf); CHRISTY VISHER ET AL., URB. INST., RETURNING HOME: UNDERSTANDING THE CHALLENGES OF PRISONER REENTRY (Jan. 2004), available at [http://www.urban.org/uploadedPDF/410974\\_ReturningHome\\_MD.pdf](http://www.urban.org/uploadedPDF/410974_ReturningHome_MD.pdf).
- 9 Press Release, Maryland Governor Martin O'Malley (August 29, 2007), available at <http://www.governor.md.gov/pressreleases/070829.html>.
- 10 Maryland Department of Public Safety & Correctional Services, Reentry Goals and Priorities, <http://www.dpccs.maryland.gov/rehabservs/reentry.shtml>.
- 11 Maryland Department of Public Safety & Correctional Services, Rehabilitation Services, <http://www.dpccs.maryland.gov/rehabservs/>.
- 12 *Id.*
- 13 Maryland Department of Public Safety & Correctional Services, Proactive Community Supervision (PCS), <http://www.dpccs.state.md.us/rehabservs/dpp/pcs.shtml>.
- 14 *Id.*
- 15 Faye S. Taxman, *No Illusions: Offender and Organizational Change in Maryland's Proactive Community Supervision Efforts*, 7 CRIMINOLOGY & PUB. POL'Y 2 (2008).
- 16 The 2007 fiscal year ran from July 1, 2006 through June 30, 2007. DPP's electronic data files represent 7,524 individual cases, not individual parolees. A parole case is normally "closed" when the parolee reaches the end of his or her prison sentence (i.e., the person has served the remainder of their sentence under supervision after having been released from prison, either at the discretion of the parole board, or after receiving certain diminution credits). Other reasons for closing a case include revocation for violation of parole conditions or commission of crime; reversal of the conviction on appeal; commutation of the sentence; case transfer out of state; or death. It is possible that a few individuals had more than one case closing during the period. All cases that were closed during the period were included in the analysis; the findings do not represent a "sample" of cases.

- 17 A much smaller number of people are under probation supervision after being released from prison. Parole differs from probation in that it is the discretionary and conditional release of a prisoner into the community by the Parole Commission prior to the completion of his or her sentence, allowing the offender to serve the remainder of the original sentence under supervision. In contrast, probation supervision is ordered by a judge at the point of conviction and is a sentence releasing a person convicted of a crime into the community or a treatment facility either instead of, or after a period of, incarceration.
- 18 See, e.g., Alan Rosenthal & Marsha Weissman, Justice Strategies, *Sentencing for Dollars: The Financial Consequences of a Criminal Conviction* (Feb. 2007), available at <http://www.communityalternatives.org/pdfs/financial%20consequences.pdf> (documenting growing use of financial penalties in New York); RACHEL L. McLEAN & MICHAEL D. THOMPSON, COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, *REPAYING DEBTS* (Working Paper, 2007), available at [http://tools.reentrypolicy.org/repaying\\_debts/](http://tools.reentrypolicy.org/repaying_debts/) (making policy recommendations to rationalize the collection of debts from the formerly incarcerated); RHODE ISLAND FAMILY LIFE CENTER, *COURT DEBT AND RELATED INCARCERATION IN RHODE ISLAND FROM 2005 THROUGH 2007* 4 (Apr. 2008), available at <http://www.ri-familylifecenter.org/pagetool/reports/CourtDebt.pdf>. (analyzing the cost of Rhode Island's incarceration of individuals for court debt, finding that in 13% of cases the incarcerations cost the state more than the amount owed by the individuals); David Weisburd et. al., *The Miracle of the Cells: An Experimental Study of Interventions to Increase Payment of Court-Ordered Financial Obligations*, 7 CRIMINOLOGY & PUB. POL'Y 9 (2008) (studying the effect of an increased threat of possible incarceration on the collection of fees from New Jersey probationers). For an earlier study on the reform of a financial penalty system in one Arizona county, see Susan Turner & Judith Greene, *The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County*, 21 JUST. SYS. J. 1 (1999-2000).
- 19 Under Maryland law most prisoners have an initial parole hearing when they have served about one quarter of their total prison sentence. Some prisoners receive a hearing before the 25 percent mark; those convicted after 1994 of certain violent crimes must serve 50 percent of the full term before receiving a hearing. See Md. Code Regs. §§ 12.08.01.17(1), (3) (West 2008). If a prisoner is not granted parole release, he or she may still be entitled to certain sentence reduction credits (e.g., for good behavior or performance of institutional assignments) that effect a "diminution" of their term of confinement. See Md. Code Ann. Corr. Servs. §§ 3-701 to 3-711 (West 2008); Md. Code Regs. § 12.08.01.13. Calculation of a prisoner's "diminution credits" determines the date when a prisoner is eligible for release to mandatory parole supervision. See Md. Code Ann. Corr. Servs. § 7-501; Md. Code Regs. § 12.08.01.13.
- 20 CHRISTY VISHER ET AL., URB. INST., *BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME* 5-6 (Mar. 2004), [http://www.urban.org/UploadedPDF/310946\\_BaltimorePrisoners.pdf](http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf).
- 21 CHRISTY VISHER ET AL., URB. INST., *RETURNING HOME: UNDERSTANDING THE CHALLENGES OF PRISONER REENTRY* 55-56 (Jan. 2004), [http://www.urban.org/uploadedPDF/410974\\_Returning-Home\\_MD.pdf](http://www.urban.org/uploadedPDF/410974_Returning-Home_MD.pdf).
- 22 *Id.* at 35.
- 23 *Id.* at 36-40.
- 24 VISHER ET AL., *supra* note 20, at 6-7.
- 25 NANCY G. LAVIGNE & VERA KACHNOWSKI WITH JEREMY TRAVIS, REBECCA NASER, & CHRISTY VISHER, URBAN JUSTICE INSTITUTE, *A PORTRAIT OF PRISONER REENTRY IN MARYLAND* 63 (Mar. 2003), [http://www.urban.org/UploadedPDF/410655\\_MDPorraitReentry.pdf](http://www.urban.org/UploadedPDF/410655_MDPorraitReentry.pdf).
- 26 People who are released from prison are instructed that they must report to a parole office in the community within 48 hours, at which time their parole case is "activated." If they do not report as required, parole officials will "activate" their parole case as soon as they receive a file of records about the parolee from the Department of Corrections. A parole case is normally "closed" when the parolee reaches the end of their prison sentence (i.e., the parolee has served the remainder of the

sentence under supervision after having been released from prison, either at the discretion of the parole board, or after receiving certain diminution credits. Other reasons for closing a case include revocation for violation of parole conditions or commission of crime; reversal of the conviction on appeal; commutation of the sentence; case transfer out of state; or death.

- 27 CHRISTY VISHNER ET AL., *supra* note 21, at 50.
- 28 DIANA PEARCE & JENNIFER BROOKS, THE SELF-SUFFICIENCY STANDARD FOR MARYLAND 9 (Dec. 2001), *available at* <http://www.wowonline.org/ourprograms/fess/state-resources/SSS/The%20Self-Sufficiency%20Standard%20for%20Maryland.pdf>. Monthly costs adjusted for inflation to 2007 dollars using the Bureau of Labor Statistics “Inflation Calculator,” *available at* <http://data.bls.gov/cgi-bin/cpicalc.pl>.
- 29 A lump sum projecting the total parole supervision fee *is* calculated at case activation, but the actual amount a parolee is legally obligated to pay cannot be determined until the end of the supervision term, since cases may terminate before the expected expiration date (e.g., if parole is revoked).
- 30 While an expected fee amount is calculated up front based on an estimate of the length of the supervision, if a parolee exits earlier (e.g. if they are revoked) the fee for the months not served is not legally “imposed.” The actual total amount of the fee is not known until the person exits supervision – the figures here are not based on the initial estimation.
- 31 The total amount of parole supervision fees ordered in our sample’s cases was \$4,556,130.
- 32 The data on payment outcomes also include payment of restitution, fines, and court-imposed fees. However, these other categories of legal financial obligations were imposed so rarely in this parolee sample that the data can be said to reflect fairly the rates of payment of just the parole supervision fee.
- 33 Again, this data also includes rates of payment for rarely imposed restitution, fines, and court fees.
- 34 Again, the number of cases involving people classified as Indian and Asian is too small (two and 12, respectively) for the apparent employment advantages shown here to be meaningful.
- 35 Pamela C. Ovwigho, Catherine E. Born and Correne Saunders, Intersection of Incarceration and Child Support: A Snapshot of Maryland’s Caseload, University of Maryland School of Social Work, July 2005.
- 36 DPP officials say that the parole board does not order drug testing as a routine condition of parole. A requirement of testing is more likely to be imposed by a parole agent when a parolee’s behavior suggests that drug abuse may be an issue. Additionally, a parolee who participates in a substance abuse treatment program may be tested as part of the therapeutic regimen, but those fees would not be reflected here.
- 37 MD. CODE ANN., CORR. SERVS. §14.06.03.07(B) (2008).
- 38 MD. CODE. ANN., CRIM. PROC. §11-603(a).
- 39 *See* MD. CODE ANN., CRIM. LAW § 3-203(c)(3) (2008) (authorizing courts to waive fees and surcharges); MD. CODE. ANN., CRIM. PROC. § 11-605(a) (authorizing the court to waive the imposition of restitution). If the court decides not to issue a judgment of restitution it must state on the record its reasons for doing so. *Id.* § 11-605(b).
- 40 Under Maryland law, a judge may grant an exemption to the probation, but not parole, supervision fee. *See* CRIM. PROC. § 6-226(d).
- 41 *See Bearden v. Georgia*, 461 U.S. 660, 668-75 (1983) (holding that probation cannot be revoked for failure to pay fine unless court first performs inquiry into reasons and that only when “alternative measures are not adequate to meet the State’s interests in punishment and deterrence may the court imprison a probationer who has made sufficient bona fide efforts to pay”); *Turner v. State*, 307 Md. 618, 626 (1986) (“a defendant may not be imprisoned solely for failure to pay a fine where his failure

to pay arose from his indigency”).

- 42 However, for one category of parolees – sex offenders – revocation for failure to pay the parole supervision fee is more common, according to lawyers interviewed. In this instance, parole is sometimes revoked for failure to pay because parole agents see revocation as a way to reduce risk of continued offending, and are unable to prove any violation other than a failure to pay the parole supervision fee.
- 43 American Correctional Association. “2007 Directory of Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities.” White Plains, MD: Automated Graphics Systems, 2007. p. 18
- 44 Maryland law instructs agencies to write off accounts with a value of less than \$30 each month after obtaining the approval of the Abatement Committee of the CCU. MD. CODE REGS. §§ 17.01.01.05 (2007).
- 45 MD. CODE REGS. 17.01.01.07 (2007).
- 46 Telephone Interview with Roderick Morant, Delinquent Accounts/Loan Manager, Department of Management and Budget, Office of the Secretary, Central Collection Unit (July 29, 2008).
- 47 Telephone Interview with Roderick Morant, Delinquent Accounts/Loan Manager, Department of Management and Budget, Office of the Secretary, Central Collection Unit (July 2, 2008).
- 48 Although agents on occasion assist supervisees with the exemption process, official DPP policy prohibits them from providing such assistance.
- 49 PENNSYLVANIA COMMISSION ON SENTENCING, PROPOSED REVISIONS TO SENTENCING GUIDELINES 3 (2008), *available at* <http://pcs.la.psu.edu/2008%20Public%20Hearings%20-%20Proposed%20Revisions/PCS.GuidelineRevisions.Intro.PublicHearings.01052008.pdf>.
- 50 Susan Turner and Judith Greene, *The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County*, *The Justice System Journal* 21.1 (1999).
- 51 VA ST §53.1-150 (1994)
- 52 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009).
- 53 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009); Interview with Richard Crossen, Virginia Department of Corrections, Community Corrections Manager (Jan. 12, 2009).
- 54 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009).
- 55 *See, e.g.*, VA. CODE ANN. § 17.1-275.1.
- 56 *See* VA. CODE ANN. §§ 17.1-275.1; 17.1-275.2; 17.1-275.7; 17.1-275.8; 16.1-69.48:1(B) and (C) (2009). In addition to any other costs required by law, convicted defendants will also be required to pay \$100 in circuit court. *See* VA. CODE ANN. §§ 17.1-275.1; 17.1-275.2; 17.1-275.7; 17.1-275.8; 16.1-69.48:1 (2009).
- 57 *See id.*
- 58 William R. Miles, Supervising Analyst, Department of Fiscal Services, Division of Fiscal Research, Maryland General Assembly, FISCAL NOTE REVISED HB 198 2 (1991).
- 59 *See* MD. CODE ANN., CORR. SERVS. § 7-702(d) (2008) (listing five grounds for exemption).
- 60 MD. CODE ANN., CORR. SERVS. § 7-702(d) (2008). A full copy of the statute is reprinted in the Appendix.
- 61 *See* MD. CODE ANN., CORR. SERVS. § 7-702(g)(3) (2008).

- 62 *See* William R. Miles, Supervising Analyst, Department of Fiscal Services, Division of Fiscal Research, Maryland General Assembly, FISCAL NOTE REVISED HB 198 2 (1991)
- 63 MD.CODE ANN., CTS. & JUD. PROC. § 7-405 (2008).
- 64 DPP Supervision and Monitoring Manual, Chapter 7, Section 07: Collection of Offender Payment Obligations (draft dated February 2007).
- 65 Students appear more likely to have their fee waived, or to be deemed not eligible for a fee, but just eight cases involved students, too small a number for a confident funding.
- 66 An up-front assessment also would be desirable for the first, and most common, exemption ground—unemployment. However, the current statute contemplates such an exemption later in the parole term “after the supervisee has diligently attempted but has been unable to obtain employment ...” MD. CODE ANN., CORR. SERVS. § 7-702(d)(1) (2008).



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