# An Analysis of Community Supervision Fines and Fees in Virginia


**Julia Laskorunsky, PhD**

**Lily Hanrath, PhD**

**University of Minnesota – Robina Institute of Criminal Law & Criminal Justice**


Arnold Ventures

CCFF Community Corrections Fines and Fees Study

## Acknowledgements

This study was conducted as part of the Community Corrections Fines and Fees project which is generously funded by Arnold Ventures.

We want to thank Paula Harpster, Criminal Justice Program Coordinator for the Virginia Department of Criminal Justice Services, for supporting this project, helping to secure access to data, and providing feedback on our findings. We also want to thank the 35 agency directors who agreed to participate in the study, allowing us to gather data on PO practices and to recruit participation from individuals on probation.

We also express appreciation to the rest of the CCFF project team for serving as a sounding board for our ideas and providing feedback on this report. We want to thank Ryan Steel for his research assistance for the survey portion of the project.

Finally, while we hope the findings from this study are useful to our agency and funding partners, the views and opinions expressed in this report do not necessarily reflect the views of Arnold Ventures or the Virginia Department of Criminal Justice Services.

# Table of Contents

## Executive Summary

This report examines the prevalence and amount of supervision fees assessed to misdemeanor probation clients in Virginia and how the assessment of fees impact success on probation. <u>We find that supervision fees are prevalent, but inconsistent across the state of Virginia</u>. As agencies have full discretion over whether to charge a fee, and some discretion on the fee amount and waiver practices, there is wide variation in the practices of different agencies. This variation is also present in the budgets of individual agencies. Several agencies were significantly reliant on fees to fund their operations, while about a third took in no money from fees.

Unsurprisingly, the most powerful predictor for fee assessment and fee amounts was the agency. Whether someone is charged a fee or not, and how much that fee is, has more to do with what agency an individual is supervised by than anything else. However, even when the effect of agency was controlled for, <u>we find that Hispanic clients are less likely to receive a full fee waiver,</u> which may indicate that this group has barriers to waiver approval.

<u>We also find that the assessment of a fee and a larger fee amount is related to successful probation completion</u>. Individuals in this group are less likely to receive a technical violation or abscond, but they are no less likely to be revoked for a new offense than individuals who have no fees. <u>We conclude that this is because individuals who receive full or partial waivers – and thus no or a smaller supervision fee – have a more difficult time complying with conditions of probation</u>. In essence a waiver functions as a risk indicator for successful completion of probation, in that individuals who receive a fee waiver are also likely to experience financial and resource-based barriers to complete the requirements of probation successfully.

Finally, even though clients cannot be violated for nonpayment alone, nonpayment strongly predicted supervision failure. While we are not able to uncover the direct mechanism between this connection, we discuss several possible explanations. For example, this association could be because individuals who are revoked for a new offense do not go back to pay their outstanding supervision fee, or that non-paying individuals receive less “grace” from POs when it comes to violations. Ultimately, we posit – again – that having financial resources increases both the ability of individuals to pay their criminal justice debt and keep up with the conditions of their probation. Individuals can be violated for not going to court ordered treatment – such as classes, therapy, or programs – which can cost hundreds of dollars; require access to transportation and childcare; and do not have a standardized waiver process. Local probation leadership and Virginia policy makers should consider how to minimize the barriers to successful probation completion for individuals that may have trouble doing so due to lack of financial resources.

# Introduction

According to the Fines and Fees Justice Center (FFJC), 48 states allow probation departments to set supervision fees (Brett, Khoshkhoo, & Nagrecha, 2020). These fees range from $10 to as high as $600 over a single probation term. They are charged to cover the cost of being on supervision; and are separate from other financial obligations, such as court costs, fines, restitution payments, and payment made for court mandated treatment. Often, the monitoring and collection of these fees is overseen by individual probation departments who set their own policies regarding collection. Substantial differences in the cost of supervision fees, the process for waiving fees for indigent probationers, and the response to non-payment can exist even within the same state system. In fact, we know very little about what costs are being required of individuals on probation across the U.S. and who is required to pay them.

While supervision costs are often lower than courts costs, court fines, and restitution, it is important to note that they are often applied on top of an already significant monetary burden connected with a conviction. This can exacerbate the financial burden of probation, complicating re-integration and rehabilitation efforts. In some cases, non-payment of probation fees can directly result in a probation violation or be turned into a civil judgment. However, in many jurisdictions, probation fees serve as a significant source of revenue, allowing departments to provide services to probationers. Thus, agencies are not able to remove these fees without losing a substantial portion of their operating budget.

This report examines the fines and fees in Virginia that are given to individuals on misdemeanor probation. It is part of a larger multi-state, mixed-methods project examining fines and fees in community corrections and how they impact success on supervision. In this report, we will focus on supervision fees. We will explore how demographics and geographical differences predict the assessment of these fees and examine whether fee assessment and payment are related to completion of probation. First, we discuss the policy background on fines and fees in the state of Virginia.

## The Landscape of Fines and Fees in Virginia

Virginia has 37 separate community-based probation agencies overseeing individuals on misdemeanor probation. They serve as an alternative to jail for persons convicted of certain misdemeanors or non-violent felonies for which the sentence would be 12 month or less in jail. Felony probation is overseen by the Virginia Department of Corrections. According to internal documents (*Report on Local Probation Agencies – FY 2019*), during fiscal year 2019, local probation agencies received 25,709 supervision placements with an average length of stay of 249 days. In 2019, 11% percent of probationers were revoked for a new arrest for a jailable criminal offense or conviction and 23% were returned to court for a technical violation. Two-thirds had a successful case closure - having complied with all conditions of probation, including not committing any new crimes and completing court ordered conditions.

Community probation agencies are located across the state and serve 128 of 133 localities in Virginia (counties and independent cities). The budget of each agency is made up of funds from state appropriations, funding from the locality served, and, in some instances, a Supervision and Program Fee (supervision fee) charged to individuals on probation. All local agencies in Virginia are overseen by the Virginia Department of Criminal Justice Services (DCJS), which provides yearly funding to each agency and monitors compliance in fee collection practices.

## Supervision and Program Fee

The primary role of local probation agencies is to monitor court ordered conditions of probation and connect probationers to services. Some agencies charge what is a called a

Supervision and Program Fee (supervision fee). This is a fee that covers the cost of being on probation. Yet, despite its name, does not generally cover classes, programs, or therapy that a supervisee is required to take. Classes, therapy groups, or programs are given either by order of the court, or by their probation agent, and are paid directly to those providers. At the agency level, agency leadership chooses whether to collect the supervision fee from clients and how much the fee is, as long as it is within limits set by state statute ($175 max). About a third of agencies do not collect any type of supervision fee. This creates intra-agency variation in Virginia regarding whether the fee is charged and how much the fee is.

On an individual level, probation officers also have the option to waive or reduce fees; or offer community service in lieu of fee payment. This is what is referred to as a full or partial financial waiver. We spoke to three agency directors about their waiver processes. All of them stated that POs initiate an ability to pay assessment at the intake appointment. Individuals qualify for a waiver if they receive any kind of public assistance, such as food stamps or disability. Some agencies choose to completely waive the fee if a person qualifies, while in others, a waiver reduces the cost of the fee. Thus, within agencies that charge fees, there is also variation in which clients receive the fee and the fee amount.

Supervision fees in Virginia are smaller than many other states; they cannot exceed $150 for the first six months of supervision, with an additional $25 allowed after six months. Overall, supervision fees are not allowed to go above $175 during a probation term. Clients are told about this one-time fee at their intake appointment. They are required to pay it before the end of their probation term.

The supervision fee collection process is monitored and controlled by local administrative and fiscal agents. It is required that probation agencies keep a record of all supervision fees and payments and that receipts are provided to the client as well as included in the client's file. Fees can be collected by money order, cashier check, or personal check, but cash is not accepted. Clients may also complete the payment of fees on an installment plan rather than pay a lump sum.

All fees collected can be used "solely for the expansion and development of the agency or to supplant local operating costs of the agency" (VDCJS, *Guideline No.1: Supervision and Intervention Fee*). This can be widely interpreted to mean that the fee can be used for anything directly related to running the agency. Agencies are expected to use up their fee budget every year for agency operations. Those that carry over their fee budget from year to year are told by the DCJS to reduce their fee collection.

**Court Fines and Fees**

Everyone who is convicted of an offense in Virginia pays some court fees. These can range from $80 for a misdemeanor to $370 for a felony, with additional costs for being appointed a public defender. Individuals may also be fined or ordered to pay restitution for a victim's medical expenses, property damage, or loss. Fines for misdemeanors don't generally exceed $500, however, there are no limits on what restitution costs may be. Probation agencies are not required to keep track of court costs and payments; thus our study does not examine this debt.

**Programming Costs**

Finally, clients are expected to pay for court ordered or probation ordered treatment, assessment, and programming services. Because these fees are paid to outside vendors, we do not have administrative data on what percentage of clients are assessed class and treatment fees or how much is assessed per clients. Our qualitative interviews showed that most people were ordered to pay for at least one class. This ranged from a single two-hour shoplifting class for $30 to 24 weekly anger management classes at $25 each. Some individuals were ordered to meet with a therapist weekly or bi-weekly, with co-pays around $40. In some instances, the court would order an assessment rather than a treatment. For example, an individual would pay $60 to be assessed for substance abuse issues and then, depending on the assessment, would be required to participate in substance abuse treatment at an additional cost. In many cases, individuals would have a combination of these costs. All individuals interviewed stated that they were required to pay for classes and treatment services each time they received them, could not participate in treatment or attend classes without payment, and that there was no waiver offered to them for these costs. However, given that interviews were conducted in two sites, we cannot generalize this process for all agencies. Additional research on this topic is crucial to understanding the entirety of the monetary cost associated with probation in Virginia.

**Consequences for Nonpayment of Fines and Fees**

Virginia has strict rules limiting the direct consequences of unpaid fines or fees. Probation officers are not allowed to file a violation for non-payment of fees alone. Furthermore, probation terms cannot be extended due to unpaid fines, fees, or court costs, except for restitution (Virginia Rev. Statute § 19.2-305.C). If a person has a balance at the end of their probation, some local agencies will send that balance to a state-run agency that has the power to garnish a person's state tax return. Other agencies simply let the debt remain in place. We did not encounter any agencies that submitted the debt to a private collection agency or sought civil judgments for nonpayment. However, a small percentage (5%) of POs in our 2020 survey of Virginia local probation noted that unpaid debts get turned into civil judgements, so we hesitate to rule this option out completely.

For unpaid restitution, the court may revoke a suspended probation sentence or extend probation for noncompliance to follow a restitution order; or, alternatively, confine the defendant for contempt for up to 60 days (§ 19.2-305.1.F-E). A judgment will be entered against the defendant for any unpaid balances, which could result in a lien against the individual's property. Unpaid balances are also assessed interest and reported to the Commonwealth's Attorney's Office and Department of Taxation for debt collection. This could include wage and tax return garnishing. Up until 2019, the VA Department of Motor Vehicles also suspended licenses for non-payment (§ 19.2-349).

## Research Questions

Our study is organized around three central research questions. First, what percentage of individuals are assessed a supervision fee across local probation agencies in Virginia and what are the amounts of those fees? Second**,** what is the total agency revenue collected from monetary sanctions annually? What proportion of agency's budgets are funded by clients' monetary sanctions? Third, in agencies with fees, are certain people more likely to get a fee based on demographics or case characteristics? Fourth**,** how do fees impact successful completion of probation? Specifically, are clients who are assessed more in fees and/or have greater nonpayment of fees more likely to receive an unsuccessful case closure?

## Methods

### Data Collection

***Data Files and Data Transfer*.** Data was pulled from the Pretrial and Community Corrections Case Management Information System (PTCC) and includes all misdemeanor probation terms in the state of Virginia from July 1, 2011 to June 30, 2019. The PTCC is an electronic system that includes administrative files on all clients. It is mainly used by probation officers for case management. These files were transferred into Excel and then Stata where they were cleaned and recoded. Measures used in the model come from five different files that were cleaned and merged together based on case ID, placement ID, and the date the client was first active. These files include two files on demographics, one on criminal charges, one on the fines and fees given and collected, and one that included case closure information.

***Data Recoding and Cleaning Decisions*.** Multiple checks were done to ensure the data was properly formatted and merged and all data represented the same person at the same point in time. However, as criminal charges are recorded at a different point in the system, this variable has some missingness by county (particularly Rockingham) and some charges were from a different date (<1% had the wrong date). Models were run with and without charges to ensure accuracy and no differences were found in the outcomes. Other than the variable for criminal charges, there was little missingness on any independent variable (<1%). Due to this, missingness was handled through case wise deletion rather than imputation.

### Sampling Procedures and Sample Size

Our sample is everyone who began community probation in Virginia from July 1, 2011 to June 30, 2019. This is a whole population sample with the exclusion of two agencies (out of 37) who chose not to participate in the study.[1] There are a total of 222,577 individuals in the sample obtained from 35 probation agencies. However, the models have case samples ranging from 147,654 to 211,048 because of dropped cases due to either missing key demographics or criminal charges, perfect prediction (by agency), or because the individual does not fit the criteria of the regression (for instance, if they do not have a fine or fee).

[1] Lynchburg and Frederick Community Corrections chose not to participate in the study and thus did not provide administrative data.

***Multiple Placements.*** About 14% (30,984) of individuals in our sample had more than one agency placement – meaning that they were overseen by more than one probation agency during their probation term. This can happen if someone moves and their probation case gets transferred to a different agency. Unfortunately, it is unclear whether these subsequent placements represent the individual still being on active probation or, alternatively, if they reflect that their account is still open because they continue to make payments. Many of these additional placements occur well after one year has passed. While it is possible for misdemeanor probation to be extended past a year, in our data, the longest time period between placements is eight years; and we think it is unlikely that this represents a single probation term. As such, we are cautious about including more than one placement in our analyses. Thus, the models in this report look only at the supervision and interventions fee that was given and paid during the first agency placement an individual had in our sample.

Including a measure of subsequent placements in the models indicates that those with two or more placements are less likely to have supervision fees during their first active placement and less likely to pay them off. However, this may be because of differences in the demographic makeup of those with subsequent placements or their disproportionate distribution by county rather than because of additional costs not being accounted for. Individuals with more than one placement are more likely to be male, younger in age, have less education, and less likely to have been married. These individuals are perhaps given fees less often in general due to lower ability to pay them. Less than 1,000 people were given any fine or fee during a new placement within a year of placement that did not previously have one given during their first placement. Therefore, we believe that these individuals will have minimal influence on the models for who was given a fine or fee. From the data it is also difficult to see what fees and payments are new in subsequent placements and what are simply copied over from the first placement. This likely adds some error to our payment models. However, payment models were run excluding those with more than one placement and minimal differences were found in the size, direction, and level of significance of the results.

## Measures

***Dependent Variables.*** This study considered three supervision fee related outcomes; whether a supervision fee was assessed, how much the fee was, and whether or not the fee was paid during the first placement. Our main outcome of interest is successful case closure. Successful case closure occurs when an individual reaches the end of their probation term without receiving a probation revocation due to a new arrest, a technical violation, or a failure to appear in court (i.e. absconsion). Successful case closures can occur even if there is remaining debt, as Virginia statute prohibits extending probation due to unpaid debt.

The models on successful completion use data from 2011-2018, as there was not yet information on completion for those who began probation in 2019. Fees assigned and fee amounts are based on totals indicated at the end of the first placement and may have accumulated over the course of the probation term or been assigned at any point during.

***Demographic Variables.*** We examined five key demographic characteristics that may have a relationship to fines and fees, according to the literature. All demographics were captured at the beginning of the first active probation placement in the dataset. Variables include gender, race and ethnicity, education, age, and marital status. Race and ethnicity includes six categories: non-Hispanic White, Black, Asian, Native American, Hispanic, and other. Education was collapsed into five categories; less than a high school degree, a high school degree or GED, some college, a college or associates degree, and some graduate education or graduate degree. Marital status includes five categories as well: single, married, divorced, separated, and widowed. While it would have been useful, the administrative data we worked with did not have measures for employment or income.

***Other Variables.*** Along with demographics, we included three other variables in our models. First, the year when the individual was first active on probation in the dataset to account for historical variation in assessment and payment patterns. Second, the county of the probation agency to account for variation in practices and policies between individual agencies. And, third, the conviction offense for which the individual was serving probation. Criminal offenses were collapsed into 8 categories and all categories with more than 2% of the sample were included, as well as the charge of "supervision violation" since that was especially relevant. Categories of offenses include; person crimes, property crimes, narcotics (drug possession and sales), driving under the influence (DUIs), other alcohol offenses (e.g. selling alcohol without a license or providing alcohol to a minor), traffic offenses, supervision violations, and a catch all category for infrequent types of offenses ("other"). About 5% of people had multiple charges listed that were in different offense categories for the same probation term. When this happened, we picked the first criminal charge listed.

**Analytical Strategy**

The findings are broken into two sections: descriptive statistics and inferential statistics. Descriptive statistics include cross tabulations on all the independent and dependent variables included in the models. Also shown are tables looking at county differences both from the PTCC dataset and from a separate dataset on departmental budgets. Two types of multinomial models are used in the inferential statistics section. First, logistic regressions were used to test binary outcomes such as use of fees and whether fees were paid. Second, an Ordinal Least Squares

(OLS) regression is used to look at fee amount. The OLS regression should be viewed with caution as the outcome variable (supervision fee amount) tended to cluster at different amounts and is, therefore, not a normal distribution. While normal distribution is not a requirement of an OLS regression, it does make comparisons difficult as certain variables might relate to a wide difference in amounts rather than a gradual increase.

# Findings

## Descriptive Statistics

Table 1 presents the demographics for the analysis sample. The sample is about two thirds male and one third female. The biggest race/ethnic groups are White (52%) and Black (39%) individuals. Almost half of all individuals have a high school degree or GED; and almost a quarter have some college. The large majority (70%) of the sample has never been married. Finally, the average age in the sample is about 35, but this is partially due to some outliers skewing the data. A more accurate midpoint is the mode which is 27 years old. Looking at criminal charges, narcotic crimes and crimes against persons are the most frequent charges, with property charges also being common.

**Table 1**
*Demographics*

| | Frequency | Percent |
|---|---|---|
| **Total** | 222,577 | 100% |
| **Gender** | | |
| Male | 148,028 | 67% |
| Female | 74,548 | 33% |
| Missing | 1 | <1% |
| **Race** | | |
| White | 116,772 | 52% |
| Black | 86,170 | 39% |
| Asian | 3,286 | 1% |
| Hispanic | 12,482 | 6% |
| Native American | 264 | <1% |
| Other | 2,289 | 1% |
| Missing | 1,314 | 1% |

‘

| | | |
|---|---|---|
| **Education** | | |
| Less than High School Degree | 42,457 | 19% |
| High School Degree or GED | 108,353 | 49% |
| Some College | 51,887 | 23% |
| College or Trade School Degree | 17,178 | 8% |
| Graduate Education | 2,690 | 1% |
| Missing | 12 | <1% |
| **Marital Status** | | |
| Never Married | 155,541 | 70% |
| Married | 34,223 | 15% |
| Divorced | 17,016 | 8% |
| Separated | 13,965 | 6% |
| Widowed | 1,827 | 1% |
| Missing | 5 | <1% |
| **Age** | Mean: 35.38 SD: 11.68 | Mode: 27 |
| **Conviction Offense** | | |
| Person Crimes | 53,146 | 24% |
| Property Crimes | 46,248 | 21% |
| Narcotics | 55,711 | 25% |
| DUI | 8,154 | 4% |
| Other Alcohol Offense | 13,670 | 6% |
| Traffic Offense | 13,605 | 6% |
| Supervision Violation | 1,903 | 1% |
| Other | 20,910 | 9% |
| Missing | 9,230 | 4% |

**Supervision Fees**

As shown in Table 2, 70% of individuals in our sample had a supervision fee given during their first placement. Fee amounts were widely distributed, with the largest group being $50 or less. The most common fee amounts were $100 and $150, which both occurred in 15% of cases with a supervision fee. About half (48%) of supervision fees were completely unpaid by the end of the first active placement, with 5% being partially paid and 45% being fully paid. In about 1% of the cases, fees appeared to be over paid. It is unclear whether this is due to an administrative error where an individual overpaid, or due to errors in the data. These cases were removed from some multinomial models as will be indicated.

| **Table 2**<br>*Supervision Fee Frequency, Fee Amount and Payment for People who Were Assessed a Fee* | | |
|---|---|---|
| | **Frequency** | **Percent** |
| **Supervision Fee** | | |
| No | 66,356 | 30% |
| Yes | 156,219 | 70% |
| Total | 222,575 | 100% |
| **Fee Amount** *(if Fee Assessed)* | | |
| $1-$50 | 63,595 | 41% |
| $51-$100 | 46,074 | 29% |
| $101-$150 | 44,083 | 28% |
| $151-$175 | 2,157 | 1% |
| >$175 | 310 | <1% |
| Total | 156,219 | 100% |
| **Payment of Fee** *(if Fee Assessed)* | | |
| Supervision Fee Unpaid | 75,555 | 48% |
| Supervision Fee Partially Paid | 7,229 | 5% |
| Supervision Fee Fully Paid | 72,047 | 46% |
| Supervision Fee Over Paid | 1,388 | <1% |
| Total | 156,219 | 100% |

### Agency Use of Supervision Fees

The factor that had the strongest relationship as to whether a supervision fee was assessed, paid, and the fee amount was the agency. Table 3 shows what percentage of cases were administered a fee by locality and shown from least frequent to most frequent. Nine agencies indicated that they do not collect fees which is supported by the data (i.e. they are the first nine listed). The small percentage of clients with fees in these agencies are likely transfers from other agencies. Virginia Beach and Westmoreland also no longer collect fees as of 2018 and 2020, respectively. Twenty-six agencies in our data collect a supervision fee from their clients. These agencies charge a fee from 27% to 99% of their clients. This variation is present due to the variation in waiver practices. In some agencies individuals who are approved for a waiver are not assessed a fee. In other agencies, a waiver reduces the cost of the fee – thus almost all clients still receive a fee. Thirteen of the 35 agencies collect fees from almost all (90% or more) of their clients.

There is a wide range in the amount of full repayment between fee charging agencies, from 0% to 74%. Furthermore, within each agency, the fee amount charged varies from an average of $38 to $145. This variation occurs for two reasons. First, agencies set the amount for their fee, as long as the initial amount is $150 or less. Second, some agencies grant partial waivers to some clients – meaning clients receive a reduce fee.

**Table 3**
*Supervision Fee Use, Payment, and Amount by Locality*

| Locality | Percent of Clients with a Fee | Percent of Fees Paid in Full | Mean Fee Amount[2] |
|---|---|---|---|
| **Total** | 68% | 46% | $88 |
| Accomack[1] | 0% | - | - |
| Halifax[1] | <1% | - | - |
| Fairfax[1] | <1% | - | - |
| Mecklenburg[1] | <1% | - | - |
| Fauquier[1] | 1% | - | - |
| Portsmouth[1] | 1% | - | - |
| Arlington[1] | 1% | - | - |
| Alexandria[1] | 1% | - | - |
| Norfolk[1] | 4% | - | - |
| Gloucester | 27% | 0% | $70 |
| Staunton | 50% | 25% | $101 |
| Loudoun | 56% | 74% | $75 |
| Westmoreland[3] | 65% | 33% | $145 |
| Virginia Beach[4] | 70% | 35% | $45 |
| Pulaski | 77% | 50% | $44 |
| Salem | 78% | 57% | $107 |
| Albemarle | 79% | 61% | $68 |
| Richmond | 81% | 38% | $75 |
| Prince William | 85% | 52% | $117 |
| Wise | 85% | 62% | $47 |
| Petersburg | 87% | 26% | $111 |
| Greensville | 89% | 64% | $120 |
| Hanover | 90% | 69% | $59 |
| Chesterfield | 93% | 31% | $125 |
| Henrico | 94% | 53% | $129 |
| Prince George | 95% | 40% | $135 |

| | | | |
|---|---|---|---|
| Prince Edward | 95% | 65% | $93 |
| Culpeper | 96% | 36% | $66 |
| James City | 96% | 61% | $67 |
| Rockingham | 96% | 58% | $118 |
| Fredericksburg | 97% | 31% | $94 |
| Chesapeake | 97% | 36% | $105 |
| Tazewell | 98% | 66% | $46 |
| Hampton | 99% | 39% | $38 |
| Suffolk | 99% | 32% | $100 |

*Notes:*
*[1] These counties do not collect fees*
*[2] Mean fee amounts examine instances where a fee greater than $0 was charged, and excludes agencies that don't charge fees.*
*[3] This county stopped collecting fees in 2020*
*[4] This county stopped collecting fees in 2018*

Table 4 examines 2020 budget data for all 37 VA community probation agencies. In 2020, local probation agencies in Virginia collected $1,633,895 in supervision fees from their clients. However, the collection amounts varied by agency. About one third of agencies do not collect a supervision fee. Half collect between 1-10% of their budget. Eight agencies use fees for over 10% of their budget. Chesapeake, Frederick, and Staunton all use fees for around a third of their yearly budget. This indicates that the impact of supervision fees on operations varies from place to place.

**Table 4**
*Departmental Revenue Sources in 2020*

| Locality | Fees | General Fund Request | Local funds | Overall Funds | Fees as % of Budget |
|---|---|---|---|---|---|
| **Total** | $1,633,895 | $14,075,643 | $9,745,789 | $25,565,340 | 7% |
| Accomack | $0 | $96,452 | $59,770 | $156,222 | 0% |
| Albemarle | $22,945 | $500,521 | $45,000 | $596,792 | 4% |
| Alexandria | $0 | $258,943 | $93,750 | $352,693 | 0% |
| Arlington | $0 | $190,061 | $273,834 | $463,895 | 0% |
| Chesapeake | $102,068 | $162,291 | $18,867 | $283,226 | 36% |
| Chesterfield | $90,000 | $800,107 | $513,388 | $1,403,495 | 6% |
| Culpeper | $10,000 | $262,698 | $342,779 | $615,477 | 2% |
| Fairfax | $0 | $323,334 | $2,783,075 | $3,106,409 | 0% |
| Fauquier | $0 | $278,207 | $412,494 | $690,701 | 0% |

| | | | | | |
|---|---|---|---|---|---|
| Frederick[1] | $124,121 | $246,954 | $0 | $371,075 | 33% |
| Fredericksburg | $60,000 | $442,158 | $342,277 | $844,435 | 7% |
| Gloucester | $10,618 | $203,176 | $71,769 | $285,563 | 4% |
| Greensville | $12,100 | $172,018 | $0 | $184,118 | 7% |
| Halifax | $0 | $343,229 | $0 | $343,229 | 0% |
| Hampton | $116,785 | $1,074,126 | $52,520 | $1,243,431 | 9% |
| Hanover | $24,500 | $179,231 | $26,153 | $229,884 | 11% |
| Henrico | $150,559 | $593,045 | $222,439 | $966,043 | 16% |
| James City | $21,951 | $553,788 | $191,967 | $767,706 | 3% |
| Loudoun | $159,500 | $366,642 | $1,597,225 | $2,123,367 | 8% |
| Lynchburg[1] | $11,647 | $194,362 | $0 | $206,009 | 6% |
| Mecklenburg | $0 | $277,694 | $11,544 | $289,238 | 0% |
| Norfolk | $0 | $623,618 | $91,790 | $715,408 | 0% |
| Petersburg | $41,256 | $185,669 | $0 | $226,925 | 18% |
| Portsmouth | $0 | $245,280 | $1,911 | $247,191 | 0% |
| Prince Edward | $120,910 | $475,752 | $26,449 | $623,111 | 19% |
| Prince George | $20,000 | $347,832 | $143,019 | $510,851 | 4% |
| Prince William | $132,931 | $695,307 | $1,325,521 | $2,153,759 | 6% |
| Pulaski | $19,660 | $512,783 | $0 | $532,443 | 4% |
| Richmond | $40,097 | $437,060 | $394,054 | $871,211 | 5% |
| Rockingham | $30,000 | $241,615 | $0 | $271,615 | 11% |
| Salem | $57,792 | $515,912 | $0 | $573,704 | 10% |
| Staunton | $189,455 | $369,154 | $61,710 | $620,319 | 31% |
| Suffolk | $30,000 | $226,298 | $167,709 | $424,007 | 7% |
| Tazewell | $5,000 | $141,107 | $0 | $146,107 | 3% |
| Virginia Beach | $0 | $647,391 | $464,575 | $1,111,966 | 0% |
| Westmoreland | $0 | $228,590 | $10,200 | $238,790 | 0% |
| Wise | $30,000 | $663,238 | $0 | $774,925 | 4% |

*Note:*
*[1] Declined to provide administrative data.*

**Fee Administration and Waiver Practices**

In agencies that do charge fees (X=26), Table 5 shows that there are small demographic differences in who is given a full waiver.[2] On average, about 85% of individuals that are overseen by fee administering agencies are given a fee. This means that, on average, 15% are

[2] This table excludes counties that don't use fees, as well as Virginia Beach since it had a change part way through the data collection period.

being given a full waiver. There appears to be only small differences in the administration of fees by gender and marital status. There are also small differences in fee administration by education, although a larger percentage of individuals with a graduate school education receive a waiver. Looking at crime categories, individuals with a narcotics crime had the highest percentage of fees charged, while those with a supervision violation had the lowest percentage (90% and 77%, respectively). This means individuals with narcotics crimes were the least likely to receive a waiver. Looking at race differences, Black, Hispanic, and Native American clients were slightly more likely to receive a probation fee than White and Asian clients. Or to put it another way, amongst agencies that charged fees, a higher percentage of White and Asian clients got a full fee waiver approved.

We do not have data on why waivers were approved. However, the standard procedure is that waivers are given to individual who receive any kind of public assistance, as long as they are able to provide documentation showing that they qualify. We are also unable to identify when a partial waiver was given, as opposed to a full waiver. However, the analysis in Tables 7 and 8 examines the fee amounts.

**Table 5**
*Fees Administered by Demographics in Counties with Fees*

| | Fees Administered | |
|---|---|---|
| | **Frequency** | **Percent** |
| **Total** | 148,783 | 85% |
| **Gender** | | |
| Male | 98,163 | 85% |
| Female | 50,620 | 84% |
| Missing | - | - |
| **Race** | | |
| White | 78,434 | 83% |
| Black | 58,279 | 88% |
| Asian | 1,691 | 79% |
| Hispanic | 7,772 | 84% |
| Native American | 172 | 86% |
| Other | 1,480 | 83% |

| | | |
|---|---|---|
| Missing | 0 | 0% |
| **Education** | | |
| Less than High School Degree | 28,387 | 84% |
| High School Degree or GED | 72,504 | 85% |
| Some College | 35,418 | 87% |
| College or Trade School Degree | 10,991 | 85% |
| Graduate Education | 1,475 | 78% |
| Missing | 8 | - |
| **Marital Status** | | |
| Never Married | 104,400 | 86% |
| Married | 22,494 | 84% |
| Divorced | 11,224 | 83% |
| Separated | 9,415 | 84% |
| Widowed | 1,248 | 82% |
| Missing | 2 | - |
| **Age** | - | - |
| **Conviction Offense** | | |
| Person Crimes | 36,160 | 86% |
| Property Crimes | 30,773 | 82% |
| Narcotics | 40,020 | 90% |
| DUI | 4,747 | 85% |
| Other Alcohol Offense | 9,103 | 87% |
| Traffic Offense | 8,436 | 85% |
| Supervision Violation | 1,071 | 77% |
| Other | 13,339 | 79% |
| Missing | 5,134 | - |

**Fee Assessment Differences by Demographics and Case Level Differences**

To test how demographics and geographical area related to the assessment of supervision fees, we ran a series of logistic regression models testing the likelihood of supervision fees being assessed, controlling for the effect of other relevant factors. All multivariate models include the variables; gender, race, education level, age, marital status, conviction offense, year probation was started, and agency. Some agencies were dropped out of various models due either to missingness or perfect prediction as indicated at the bottom of each table. Rockingham in particular was not included in any model as there was no information on criminal charges for any case. Models were run without criminal charges and showed no meaningful difference in direction, odds, or significance.

**Supervision Fees Use, Amount, and Payment**

Examining fee charging agencies, the following two models compare individual clients' odds of having a supervision fee and what the fee amount is. The nine agencies that do not use fees (as indicated in Table 3) were not included in these models (Tables 6-7). A small number of cases (<1%) were removed for having payment amounts and no fee indicated. Some counties were dropped in different analyses due to missingness.

Table 6 shows the effect of demographics and case related characteristics on the odds of receiving a fee, controlling for agency level effects. Women and older clients had slightly lower odds of receiving a fee and individuals who are married and had more education had slightly higher odds of receiving a fee. Black clients had slightly lower odds of receiving a fee than White clients, while Hispanic clients had slightly higher odds. Individuals with persons, narcotics, and alcohol offenses – especially DUIs – have higher odds of being administered a fee, compared to individuals with property crimes, controlling for all included variables. Individuals with a supervision violation had lower odds of being administered a fee. Looking at the year someone started probation, we see individuals were more likely to get a supervision fee up until 2017 and then less likely since then. Finally, agency variables showed the largest effect sizes – meaning that the factor that predicted most whether someone received a fee or not was the agency they were overseen by. For example, compared to Staunton, which provides full waivers for about half their clients, being overseen by Hampton – which only grants partial waivers – means a client has 9,951% higher odds of receiving a fee, controlling for the effect of included variables.

**Table 6**
*Logistic Regression Model Predicting Supervision Fee Assessment with Case and Individual Level Characteristics*

| Variable | Odds Ratio | Standard Error |
|---|---|---|
| **Gender** *(Ref. Male)* | | |
| Female | .89*** | .01 |
| **Race** *(Ref. White)* | | |
| Black | .86*** | .02 |
| Asian | 1.05 | .07 |
| Hispanic | 1.16*** | .04 |
| Native American | .94 | .20 |
| Other | .84* | .06 |
| **Education** *(Ref. High School Degree)* | | |
| Less than HS | .95* | .02 |
| Some College | 1.22*** | .03 |
| College Degree | 1.21*** | .04 |
| Graduate Education | 1.32*** | .09 |
| **Age** | .99*** | .00 |
| **Marital Status** *(Ref. Single)* | | |
| Married | 1.15*** | .03 |
| Divorced | 1.03 | .03 |
| Separated | 1.03 | .03 |
| Widowed | 1.09 | .09 |
| **Conviction Offense** *(Ref. Property Crime)* | | |
| Persons Crime | 1.35*** | .03 |
| Narcotics | 1.72*** | .04 |
| DUI | 4.95*** | .24 |
| Other Alcohol Off. | 1.69*** | .06 |
| Traffic Off. | 1.06 | .04 |
| Supervision Violation | .65*** | .05 |
| Other | .76*** | .02 |
| **Year** *(Ref. 2011)* | | |
| 2012 | 1.34*** | .04 |
| 2013 | 1.55*** | .05 |
| 2014 | 1.80*** | .06 |
| 2015 | 2.82*** | .10 |
| 2016 | 2.74*** | .10 |
| 2017 | 1.80*** | .06 |
| 2018 | 1.38*** | .05 |
| 2019 | 1.22*** | .05 |
| **Agency** *(Ref. Staunton)* | | |
| Albemarle | 4.06*** | .17 |
| Chesapeake | 34.29*** | 3.51 |
| Chesterfield | 13.65*** | .61 |
| Culpeper | 24.79*** | 2.32 |
| Fredericksburg | 30.42*** | 2.02 |
| Gloucester | .32*** | .02 |
| Greensville | 10.33*** | .99 |
| Hampton | 109.51*** | 9.52 |
| Hanover | 8.72*** | .53 |

| | | |
|---|---|---|
| Henrico | 26.49*** | 1.50 |
| James City | 25.83*** | 1.75 |
| Loudoun | .80*** | .03 |
| Petersburg | 10.18*** | .72 |
| Prince Edward | 28.40*** | 2.27 |
| Prince George | 18.78*** | 1.80 |
| Prince William | 5.52*** | .22 |
| Pulaski | 3.97*** | .16 |
| Richmond | 6.54*** | .30 |
| Salem | 3.77*** | .16 |
| Tazewell | 318.28*** | 88.93 |
| Virginia Beach | 49.98*** | 11.38 |
| Westmoreland | 2.01*** | .07 |
| Wise | 1.92*** | .12 |
| **Constant** | .70*** | .03 |

*Notes:*
[1] *N=174,477*
[2] *Rockingham not included due to missingness on criminal charge.*
[3] *Cases that indicate no fee, but more than zero payment are excluded.*
[4] *Counties with no fees that were removed from this model.*
*****$p$<.05; **$p$<.01; ***$p$<.001

Table 7 shows the differences in fee amounts amongst people who received a fee, using an OLS regression. The differences in fee amounts emerge due to two reasons: 1) inter-agency variation in how much the supervision fee is and 2) intra-agency variation in who is given a partial waiver. This shows that despite some differences in who is more likely to get a fee, the differences in fee amounts for those who got them are generally only a few dollars when you control for the agency. A few notable patterns stand out. First, while Table 6 indicates cases with DUIs have slightly higher odds of receiving a fee, this table also shows the fee is around $12 less than property crime cases. Second, fees have steadily increased over time – increasing by $2.50 in 2012 to $21.38 in 2019, compared to 2011. Again, the largest differences in fee amounts are between agencies. For example, compared to Staunton, which charged an average fee of $101, Hampton charges almost $61 less, equalizing the differences due to the makeup of the probation population.

**Table 7**
*Differences in Fee Amounts Assessed by Client Demographics and Case Level Characteristics*

| Variable | Coefficient | Robust SE |
|---|---|---|
| **Gender** *(Ref. Male)* | | |
| Female | -4.58*** | .18 |
| **Race** *(Ref. White)* | | |
| Black | -1.77*** | .20 |
| Asian | 3.20*** | .78 |
| Hispanic | 3.86*** | .42 |
| Native American | -4.31 | 2.41 |
| Other | .75 | .83 |
| **Education** *(Ref. High School Degree)* | | |
| Less than HS | -1.65*** | .22 |
| Some College | -.18 | .21 |
| College Degree | .35 | .33 |
| Graduate Education | 2.11* | .83 |
| **Age** | -.09*** | .01 |
| **Marital Status** *(Ref. Single)* | | |
| Married | 1.57*** | .25 |
| Divorced | -.59 | .33 |
| Separated | -.66 | .34 |
| Widowed | .59 | .87 |
| **Conviction Offense** *(Ref. Property Crime)* | | |
| Persons Crime | 3.14*** | .25 |
| Narcotics | 1.83*** | .26 |
| DUI | -12.19*** | .51 |
| Other Alcohol Off. | .79* | .39 |
| Traffic Off. | -3.2***9 | .37 |
| Supervision Violation | -4.15*** | .93 |
| Other | -.56 | .33 |
| **Year** *(Ref. 2011)* | | |
| 2012 | 2.50*** | .36 |
| 2013 | 7.91*** | .36 |
| 2014 | 8.67*** | .37 |
| 2015 | 11.14*** | .37 |
| 2016 | 11.25*** | .38 |
| 2017 | 13.17*** | .40 |
| 2018 | 16.19*** | .42 |
| 2019 | 21.38*** | .51 |
| **County** *(Ref. Staunton)* | | |
| Albemarle | -33.25*** | .77 |
| Chesapeake | 4.48*** | .80 |
| Chesterfield | 25.62*** | .67 |
| Culpeper | -31.97*** | .67 |
| Fredericksburg | -6.52*** | .61 |
| Gloucester | -29.93*** | 1.08 |
| Greensville | 21.05*** | 1.46 |
| Hampton | -60.81*** | .59 |
| Hanover | -42.25*** | .76 |
| Henrico | 29.30*** | .70 |

| | | |
|---|---|---|
| James City | -33.10*** | .67 |
| Loudoun | -21.20*** | .68 |
| Petersburg | 12.55*** | .93 |
| Prince Edward | -5.18*** | .83 |
| Prince George | 35.50*** | .86 |
| Prince William | 16.17*** | .76 |
| Pulaski | -54.81*** | .61 |
| Richmond | -23.11*** | .73 |
| Salem | 8.60 | .71 |
| Tazewell | -.21*** | .60 |
| Virginia Beach | -54.21*** | .76 |
| Westmoreland | -53.29*** | .59 |
| Wise | 47.00*** | .77 |
| **Constant** | 94.44*** | .74 |

*Notes:*
*[1] N=149,345*
*[2] Rockingham not included due to missingness on criminal charge.*
*[3] Cases where a fee was over $175 are excluded. Individuals who have a payment above the fee amount are excluded.*
*[4] Counties with no fees that were removed from this model.*
**p<.05; **p<.01; ***p<.001*

**Supervision Fees and Successful Completion of Probation**

Our last set of models (Table 8) looks at successful case closure and how it might relate to having a supervision fee, the fee amount, and fee payment. This model only includes cases from 2011 to 2018, as case closure information on 2019 cases was unavailable. Unsuccessful case closure occurs when an individual has been revoked on probation for a new charge, has absconded and a warrant is issued for them, and/or they have received a technical violation. Other outcomes such as death, transfers, or medical related release were excluded from this sample. Model 1 in Table 8 includes all cases and examines the effect of having a fee on successful probation closure,[3] while Model 2 examines the effect of the fee amount on successful case closure and includes only cases from counties that charge fees. Model 3 looks at whether full repayment of the fee is associated with successful case closure and includes only cases with

[3] Model 1 was run with and without the counties that do not use supervision fees and no substantial differences were found.

a supervision fee (in counties that use fees). All the available demographic, case level, and agency variables are controlled for.

Model 1 indicates that individuals who have a supervision fee have 47% higher odds of successful probation completion, compared to individuals who did not have one. Because this model uses the whole sample, individuals in the no fee group are either being supervised by an agency that does not use fees, or they received a full waiver. Model 2 indicates that individuals with higher fees are more likely to finish probation successfully. For every $10 increase in fees, an individual has 3% higher odds of finishing probation successfully. Model 3 indicates that individuals who pay off their supervision fee have substantially higher odds (520%) of successfully completing supervision compared to individuals who received a fee but did not pay it off. While probation cannot be violated or extended based on fees alone, this model indicates that success in paying off fees relates to overall success on probation.

**Table 8**
*Odds of Successful Case Closure by Having Fees, Fee Amount and Fee Payment*

| Variable | Model 1: Fee Assessed (Whole Sample) | | Model 2: Fee Amount Assessed (Fee Charging Agencies Only) | | Model 3: Fee Payment (Cases with Fees Only) | |
|---|---|---|---|---|---|---|
| | **Odds Ratio** | **Standard Error** | **Odds Ratio** | **Standard Error** | **Odds Ratio** | **Standard Error** |
| **Has Fee** | 1.47*** | .03 | | | | |
| **Fee Amount** *(multiples of $10)* | | | 1.03*** | .00 | | |
| **Paid Fee in Full** | | | | | 6.20*** | .11 |
| **Gender** *(Ref. Male)* | | | | | | |
| Female | 1.34*** | .02 | 1.36*** | .02 | 1.43*** | .02 |
| **Race** *(Ref. White)* | | | | | | |
| Black | .75*** | .01 | .76*** | .01 | .93*** | .02 |
| Asian | 1.94*** | .13 | 1.95*** | .16 | 1.66*** | .15 |
| Hispanic | 1.40*** | .04 | 1.43*** | .05 | 1.32*** | .05 |
| Native American | 1.20 | .23 | 1.16 | .23 | 1.27 | .29 |
| Other | 1.25** | .08 | 1.25*** | .09 | 1.19* | .10 |
| **Education** *(Ref. High School Degree)* | | | | | | |
| Less than HS | .71*** | .01 | .71*** | .01 | .79*** | .02 |
| Some College | 1.55*** | .03 | 1.57*** | .03 | 1.45*** | .03 |

| | | | | | | |
|---|---|---|---|---|---|---|
| College Degree | 1.79*** | .05 | 1.85*** | .06 | 1.65*** | .06 |
| Graduate Education | 2.50*** | .22 | 2.53*** | .26 | 2.37*** | .30 |
| **Age** | 1.02*** | .00 | 1.02*** | .00 | 1.02*** | .00 |
| **Marital Status** | | | | | | |
| *(Ref. Single)* | | | | | | |
| Married | 1.40*** | .03 | 1.38*** | .03 | 1.31*** | .04 |
| Divorced | .84*** | .02 | .82*** | .02 | .84*** | .03 |
| Separated | .90*** | .02 | .90*** | .03 | .95 | .03 |
| Widowed | .71*** | .05 | .70*** | .05 | .71*** | .06 |
| **Conviction Offense** | | | | | | |
| *(Ref. Property Crime)* | | | | | | |
| Persons Crime | .96* | .02 | .94*** | .02 | .95* | .02 |
| Narcotics | .71*** | .01 | .72*** | .01 | .64*** | .01 |
| DUI | 2.62*** | .14 | 2.04*** | .12 | 1.63*** | .11 |
| Other Alcohol Offense | 1.29*** | .04 | 1.30*** | .04 | 1.16*** | .04 |
| Traffic Off. | 1.22*** | .04 | 1.40*** | .05 | 1.37*** | .05 |
| Supervision Violation | .40*** | .02 | .41*** | .03 | .48*** | .04 |
| Other | .99 | .02 | .99 | .03 | 1.05 | .03 |
| **Year** *(Ref. 2011)* | | | | | | |
| 2012 | 1.02 | .02 | 1.03 | .03 | 1.04 | .03 |
| 2013 | 1.03 | .03 | 1.01 | .03 | 1.07* | .03 |
| 2014 | 1.07** | .03 | 1.02 | .03 | 1.14*** | .04 |
| 2015 | 1.10*** | .03 | 1.05 | .03 | 1.16*** | .04 |
| 2016 | 1.07* | .03 | 1.02 | .03 | 1.09** | .04 |
| 2017 | 1.55*** | .04 | 1.45*** | .04 | 1.62*** | .06 |
| 2018 | 24.85*** | 1.85 | 23.01*** | 1.87 | 27.21*** | 2.54 |
| **County** *(Ref. Staunton)* | | | | | | |
| Accomack[4] | 2.26*** | .30 | - | - | - | - |
| Albemarle | .80*** | .04 | .86*** | .04 | .47*** | .03 |
| Alexandria[4] | 1.92*** | .18 | - | - | - | - |
| Arlington[4] | .41*** | .09 | - | - | - | - |
| Chesapeake | .70*** | .04 | .71*** | .04 | .55*** | .04 |
| Chesterfield | .72*** | .03 | .69*** | .03 | .64*** | .04 |
| Culpeper | .53*** | .03 | .58*** | .04 | .43*** | .03 |
| Fairfax[4] | .85** | .04 | - | | - | - |
| Fauquier[4] | .73*** | .04 | - | | - | - |
| Fredericksburg | .68*** | .03 | .71*** | .04 | .59*** | .04 |
| Gloucester | 1.02 | .07 | .99 | .06 | .94 | .11 |
| Greensville | 1.12 | .10 | 1.08 | .10 | .49*** | .05 |
| Halifax[4] | .97 | .06 | | | - | - |
| Hampton | .46*** | .02 | .56*** | .03 | .34*** | .02 |
| Hanover | .77*** | .05 | .88** | .05 | .30*** | .02 |
| Henrico | .63*** | .03 | .60*** | .03 | .37*** | .03 |
| James City | .57*** | .03 | .64*** | .03 | .28*** | .02 |
| Loudoun | 1.01 | .05 | 1.03 | .05 | .56*** | .05 |
| Mecklenburg[4] | 1.67*** | .14 | - | - | - | - |
| Norfolk[4] | .69*** | .04 | - | - | - | - |
| Petersburg | .83** | .06 | .81*** | .06 | .69*** | .06 |
| Portsmouth[4] | .95 | .07 | | | - | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| Prince Edward | 1.22** | .07 | 1.28*** | .08 | .59*** | .05 |
| Prince George | .67*** | .05 | .62*** | .04 | .49*** | .04 |
| Prince William | .74*** | .04 | .72*** | .03 | .55*** | .04 |
| Pulaski | 1.45*** | .08 | 1.69*** | .09 | .98 | .07 |
| Richmond | .51*** | .03 | .55*** | .03 | .37*** | .03 |
| Salem | .93 | .05 | .92 | .05 | .51*** | .04 |
| Suffolk | .74*** | .04 | .77*** | .05 | .64*** | .05 |
| Tazewell | .60*** | .05 | .73*** | .07 | .29*** | .03 |
| Virginia Beach | .40*** | .02 | .47*** | .02 | .32*** | .02 |
| Westmoreland | .82* | .06 | .74*** | .06 | .71** | .08 |
| Wise | .55*** | .03 | .64*** | .03 | .28*** | .02 |
| **Constant** | 11.38*** | .071 | .48*** | .081 | .38*** | .11 |

*Notes:*
[1] *N=162,907 for model 1; N=135,909 for model 2; N=116,256 for model 3 with just those with supervision fees.*
[2] *Rockingham not included due to missingness on criminal charge.*
[3] *Cases where a fee was over $175 or where there was no fee, but a payment is excluded from the second model.*
[4] *Counties with no fees that were removed from Models 2 and 3.*
*****p<.05; **p<.01; ***p<.00

The above models show a consistent effect of fees assessment on successful probation completion – individuals with fees and individuals with higher fees were more likely to successfully finish out probation. Individuals may finish probation unsuccessfully due to either a technical violation, a revocation due to an arrest for a new crime, or an absconcion. We ran separate regressions (not shown) to examine whether fee assessment was associated with either of these three outcomes. We found that individuals who were assessed a fee were less likely to receive a technical violation or abscond when compared to individuals who were not assessed a fee. However, they were no more likely to be revoked for a new crime. This shows that the association between fee assessment and successful case closure is not due to a difference in new offending. Individuals with a fee are just as likely to offend as individuals without a fee, controlling for available demographics, case, and agency-based factors.

Model 3 above shows that fee payment is strongly associated with successful case closure. When we separated out the unsuccessful completion variable, we found that individuals who were more likely to pay off their fees were substantially less likely to abscond, receive a technical violation, and be revoked for a new crime (regressions not shown). Thus, successful payment of fees predicts success in multiple areas of probation.

## Summary and Discussion

In this report, we examined supervision fee patterns in Virginia both between localities and individuals. Agency based decision-making is the most powerful influence on the use of supervision fees, supervision fee amounts, and supervision fee payment. This variation results in some disparities by geographical region which is compounded by disparity between individuals within the locality served. Localities may be differentially compelled to use fees based on the needs of their clients, political pressure, or economic necessity. It is important to consider whether a system wherein the main deciding factor for whether someone received a fee and the amount of the fee is based mainly on geography is justified.

### Supervision Fee Differences by Locality

In Virginia, like in many other states, agencies collect probation fees in order to supplement their operating budget. Looking at fee practices in 2020, 11 out of 37 local probation agencies did not employ supervision fees at all, while fee charging agencies varied greatly in the average fee amounts from a low of $36 to a high of $145. POs have the ability to waive the collection of supervision fees for clients for whom this fee would be a hardship, which results in a reduction or elimination of the fee. The purpose of the waiver system is to focus fee collections on individuals who can realistically pay them. However, our study shows that the biggest factor for determining whether an individual received a supervision fee in the state of Virginia, and how much the fee was, was the agency that oversaw their probation. This was true even when our sample excluded individuals who were overseen by “no fee” agencies. This is due to variation in fee waiver practices. In some fee charging counties, the only waiver offered is a fee reduction, not elimination. Thus, the likelihood of receiving a fee was almost 100% in these counties. In counties that do offer full waivers, the percentages of waiver approvals varied widely. Our models show that even when we control for the effect of demographics and other case level characteristics, the agency has the biggest impact on fee assessment and amount.

These differences are of potential concern in practice because most people on probation have little control over which agency they are supervised by. Residing in an area that is overseen by an agency that does not offer full waivers or has a low waiver rate substantially increases the likelihood of fee assessment. This means that whether someone is charged a fee or not, and how much that fee is, has more to do with where that person happens to live than anything else. For individuals who have less ability to pay the fee, whether they receive the fee or not is mainly a matter of chance. If they are convicted in a location that charges a fee and/or has a low waiver grant rate, they will likely be assessed one, and vice versa.

There were also substantial differences in how much agency funding was garnered from supervision fees on a yearly basis. The majority (16) of fee collecting agencies received supervision fees that totaled less than 10% of their budget in 2020. However, some agencies were very dependent on fees. For example, three agencies had a third of their operating budget come from the supervision fees. These differences underscore an uncomfortable reality about the utility of these fees. While the fees often serve as an added hardship for individuals on probation, in many agencies these fees are critical to funding the operations of the agency. One could imagine that the 16 agencies who take in less than 10% of their budget from fees could stop fee collection without reducing the number of staff or services offered, while it would be near impossible for an agency to lose a third of their budget without it significantly impacting their operations. For the elimination of fees to become reality, budgets at some local agencies would need to be supplemented by other revenue.

To explore this point, we examined whether the probation population of agencies that charged fees looked different than the probation population of those that did not (Appendix A: Supplemental Analysis). It is possible that less affluent counties who are unable to rely on local government funding would need to rely on fees to supplement agency operations. However, we found little support for this assumption. Comparing localities that did not collect fees during the research period to those who did showed few meaningful differences in probationer demographics. Fee collecting localities had a larger proportion of White probationers and a slightly smaller proportion of Hispanic and Black probationers. They also had slightly more individuals serving terms for narcotics offenses. There were no meaningful differences based on marital status or education. It is unclear how much demographics played into an agency's decisions to charge or not charge a fee.

**Supervision Fee Assessment by Demographics and Case Level Characteristics**

According to the 2019 American Communities Survey, the median household income of the White population in Virginia was $45.0K, while the median income for the Black population and Hispanic population was $28.0K and $25.8K, respectively. Based on these income estimates, we would assume a higher percentage of Black and Hispanic clients would be given a full waiver. Our findings only partially support this. Not controlling for other factors, a slightly higher percentage of Black and Native American clients were assessed a fee compared to White and Asian clients. However, once we controlled for the effect of other demographics and case level factors, Black clients were less likely to receive the fee than White clients, while Hispanic clients were more likely. This means that while a slightly higher percentage of Black clients receive a fee, this difference is driven by factors other than race.

Hispanics were more likely to receive a fee than White clients, when controlling for other important characteristics. It's unclear why this would be the case. Probation departments should consider whether these differences in fee assessment are the result of legitimate differences in ability to pay (i.e. Hispanic clients have a higher ability to pay that White clients), or if these differences are due to Hispanic clients falling through the cracks in regards to being legitimately assessed for waivers. For example, it is possible that Hispanic clients are less likely to be on public assistance despite having lower household incomes; or that a language barrier prevents some from providing the necessary forms to approve the waiver. It would be important to assess if Spanish-speaking clients are understanding the terms of their probation, including the steps necessary for a waiver approval.

Education and marital status act as proxy measures of economic and general life stability. We would assume that married individuals and more educated individuals would be more likely to be assessed a fee. Our findings indicate that these measures do relate to higher odds of getting a fee. Individuals with higher levels of education and married individuals had similar rates of supervision fee administration, but higher odds controlling for other factors. This indicates that agencies are more likely to fully waive fees for individuals who are less educated and unmarried, and likely less able to afford a fee. This suggests that within agencies that charge a fee, POs are using their power to waive fees to target individuals who are less likely able to pay.

The use, amount, and payment of supervision fees have changed significantly in Virginia from 2011 to 2019. From 2011 through 2016, the odds of receiving a supervision fee for anyone starting probation increased from year to year. From 2017 through 2019, the likelihood of receiving a fee declined. Despite a decline in the proportion of individuals who received a supervision fee, fee amounts have continued to increase over time, increasing by about $21 from 2011 to 2019. So, while more individuals are being given no fee at all, those who are given fees tend to have higher fees.

Whether an individual was assessed a fee and the fee amount differed by offense type. Individuals with person and narcotic offenses both have higher odds of incurring supervision fees compared to individuals with property offenses. This may be due to the fact that POs are less likely to waive fees for more serious offenses (i.e. persons offenses), and/or to waive fees for individuals who are required to utilize a significant amount of services and programming (i.e. narcotics offenses). However, most striking is the change in odds from property crime to DUIs: people with DUIs have 469% higher odds of getting a supervision fee compared to individuals with property offenses. Previous literature has shown that this offense group generally looks different than other types of offenders. Individuals convicted of DUI are generally of higher socio-economic status and do not have previous convictions. They are also often required to take a number of classes prior to getting their driver's license back. Thus, it is less likely that someone with a DUI would need a waiver.

**Supervision Fees and Successful Completion of Probation**

Our analysis shows that people on misdemeanor probation in Virginia have 47% higher odds of successfully completing probation if they have a supervision fee, compared to individuals who do not; and that individuals with higher fees are also more likely to successfully finish probation. In other words, fee assessment predicts successful completion of probation. This could be due to several reason. First, it may indicate that receiving a fee has some sort of positive influence on completion. Some agencies charge a fee or a higher fee for individuals who utilize more agency services. Thus, these services may have a positive effect on probation completion. While this explanation is possible, we find it unlikely, because most of the court-ordered or PO-ordered classes, programs, therapy groups, or assessments are provided by outside vendors who charger their own fees. Thus, it is not clear that people who are charged a fee, or a higher fee amount, actually get more services. A second explanation is that POs may view individuals who receive waivers differently, which may affect how they respond to other behaviors. POs have a significant amount of discretion when it comes to filing violations, particularly for technical violations. Since waivers indicate indigent status, biases against poor people or people on public assistance could lead some POs to provide less grace to these individuals.

A third explanation is that individuals with fees and individuals with higher fees – that is, individuals who do not qualify for financial waivers - have unobserved characteristics that are positively correlated with successful probation completion. In particular, these individuals have more resources to keep up with the technical and administrative aspects of probation. This explanation is supported by our last set of analysis which shows that fee assessment is associated with lower absconcion and technical violations, but not new offenses.

Individuals are given full or partial fee waivers if they can document receiving public assistance, such as receiving food stamps, housing assistance, or disability benefits. Thus, this group is lower in socio-economic status, more likely to have issues with housing, and more likely to have a disability. Staying on top of probation requirements – such as showing up for appointments and paying for court-ordered treatment – requires resources that these individuals may not have. As outlined in the introduction, most clients are expected to complete classes, programs, and therapy; or conduct an assessment to determine if they need services as part of their probation requirements. The costs of these services vary, but they can easily cost hundreds of dollars over the probation term. POs do not have the authority to waive fees for these services, because they are paid to outside vendors. While it is possible some vendors have waiver programs, no POs or agency directors we spoke with could identify any. In our interviews with individuals on probation who were given a supervision fee waiver, we did not encounter any who were then waived the cost of classes or programs.

Outside of the direct costs of these services, probation conditions such as meeting with their PO, coming in for a random drug test, or completing their community service, present a unique burden to individuals who may not have access to a car or money for childcare. Being unable to complete any of these conditions – regardless of the reason – puts individuals at risk for a violation. Thus, it is likely that fee waivers are functioning as a de facto risk assessment for successful probation completion. Individuals who get a waiver are at higher risk for receiving a technical violation or absconding; thus ending probation unsuccessfully. However, it should be noted that this group poses no higher public safety risk. Their rate of revocation for a new offense is similar to individuals with fees.

We also found that full payment of the supervision fee increased the odds of successful probation completion by 520%. These individuals were less likely to abscond, receive a technical, and be revoked for a new crime. POs in Virginia are not able to violate individuals or extend probation for non-payment. Thus, the correlation between nonpayment and unsuccessful completion works through a different mechanism. We discuss a few possible explanations.

First, because individuals are not required to pay the fee immediately, many delay payment until the end of their term. Individuals who are violated – either due to a technical or a new crime – may be sent to jail or prison; thus, they are taken off probation before paying the fee. While some pay the fee even after they are revoked, there are likely considerable barriers that reduce the chances of this happening, such as incarceration. Second, it is likely that individuals who are able to pay the fee have unobserved characteristics that make it more likely that they finish probation successfully, such as employment, access to transportation, or family assistance. As discussed in the preceding paragraph, having the resources to keep up with the administrative aspects of probation reduces the likelihood of a technical violation or absconcion. Third, individuals who receive a fee, but do not pay it – even if it is due to unaffordability – may be viewed by POs as uncooperative, which could color their perception of other potentially violating behaviors. Thus, they may be quicker to file a technical violation for these individuals. Further research uncovering the mechanism between non-payment and unsuccessful case closure would be illuminating.

## Limitations and Future Directions

This project is one of the first to delve into probation related fees and how they relate to successful completion of probation. There are limitations to our study that should be considered when interpreting our findings. Our hope is that this study inspires future research where these limitations can be addressed.

The first major limitation of this study is that we utilized probation agency data, without linking it up to court data. Due to this, we lacked information on court costs, restitution, and fines because these are all collected directly by the court. Therefore, it is unclear how much the total monetary burden of probation is for individual in our study. Based on policy review, these costs can vary substantially and are difficult or impossible to waive, and thus could present a serious financial burden to individuals on probation. Future research should attempt to cross-reference court and probation data.

A second limitation of the data is that some individuals have multiple placements as a result of a transfer from one agency to another. We are less confident in the actual fees and payments of these individuals as some systems appear to transfer the full amount owed and/or paid to the new placement, while other systems start anew with recording amounts owed and paid at each location. As such, it is not easily discernible what amounts in subsequent placements represent new costs and new payments versus transferred costs. As discussed in the methods section, attempts to control for this did not appear to result in meaningful differences in the multivariate models. Nonetheless, it is possible that we are underestimating fees and payments for people who have moved between agencies.

A third limitation is that, along with transfers, it is difficult to identify which individuals are actually getting waivers or alternative payment models. We know from policy that some agencies reduce the fee amount for indigent probationers or allow for community service instead of fee payment. We assume individuals who have no fee recorded at a fee using agency are getting a full fee waiver, but we cannot identify partial fee waivers or alternative payment plans. Knowing this would create a more complete picture of fee assessment and payment in Virginia. Future research should attempt to identify all waivers – including partial ones and explore whether they are being given to the people who need them the most.

A final limitation of our study is that we are unable to identify the mechanism between fee assessment, its payment, and probation outcomes. While our model shows a higher rate of successful case closure associated with fee assessment, fee amount, and fee payment, we don’t know whether this is due to receiving more services, or because non-waived individuals have an easier time keeping up with the terms of their probation.

## Policy Implications and Conclusion

The due process and equal protection clauses of the Fourteenth Amendment prohibit states from "punishing a person for his poverty." The interpretation of this rule has varied widely across American criminal justice systems. In most states, individuals still face punishment for nonpayment of criminal justice debt – essentially criminalizing poverty. Comparatively, Virginia's misdemeanor probation system has several safeguards that protect individuals from consequences as a result of inability to pay. First, supervision fees in Virginia are not excessive and some agencies choose not to collect them at all. Second, the established waiver process – as designed - provides full or partial relief to individuals who are on public assistance. Third, most agencies do not seek to turn outstanding supervision fee debt into a civil judgment against the client. Fourth, and perhaps most importantly, individuals cannot be violated or have their probation be extended for nonpayment alone. However, additional safeguards could be put into place in order to avoid shifting the responsibility of funding a probation system to individuals that are less economically advantaged than the general population.

Fee waivers play an important role in the fee assessment process because they allow individuals for whom the fee would be a hardship to opt out of paying. In theory, this allows for fee collection to be aimed at individuals who can afford it. However, the waiver process is only as good as its implementation. Our examination of the administrative data suggests that it is unlikely that waiver practices are being conducted consistently across fee charging agencies. First, the percentage of full waivers varies dramatically across agencies. Second, Hispanics – an ethnic group that has a lower-than-average household income – is the least likely to get a full waiver. The survey we conducted with VA community corrections officers in 2020 also flags this issue. Almost 70% of POs from fee charging agencies said that they never, or almost never, request financial waivers for their clients.

VDCJS should consider completing a waiver audit in order to determine whether the differences in waiver rates across agencies are due to differences in the makeup of the probation population or due to differences in waiver practices. Since the waiver process is directed mainly by POs, the audit should determine if and where individuals are falling through the cracks. Is a financial assessment conducted every time? Are individuals told they qualify for a waiver? Are the requirements for proof being explained properly? Finally, agency leadership should consider whether partial waivers still pose a financial hardship to some clients.

It is clear that the supervision fee is just one of many costs associated with misdemeanor probation in Virginia. This study was not able to link court data to probation data, which future research should do in order to determine how much additional debt the fee represents. However, payments for classes, treatment programs, and therapy sessions that individuals on probation are required to attend also represent a significant cost for probationers, yet there is no systematic collection of this data. VDCJS and agency leadership should determine how much individuals are paying for these services, what happens when individuals cannot pay, and what kind of affordability issues this raises for individuals. The latter part is particularly important, given the lack of clarity around waiver practices for these services.

VDCJS and local agencies should also consider why individuals who qualify for waivers have a harder time successfully completing probation. While this study was able to show an association between fee assessment, fee amount, and successful completion, it is unclear what mechanism is causing this association. If individuals are not successfully completing probation because they are receiving technical violations due to financial and resource barriers, the path to successful probation completion should be reconsidered. For example, if the waiver process assumes individuals on public assistance are not able to afford a one-time supervision fee, they are unlikely to be able to afford paying for participation in ongoing classes or programs. Given that individuals are court-ordered treatment, putting individuals at risk for a violation due to the inability to pay for treatment is not conducive to the goals of probation supervision.

We conclude with a final suggestion for further research. In order to determine whether ability to pay for treatment is hampering treatment attendance and successful case closure, VDCJS and agency leadership should consider conducting a pilot study that tests the effect of full waivers for treatment costs. Individuals with required treatment costs could be randomized into a test group in which their costs of treatment are completely covered, or into the "probation as usual" control group where they would still be responsible for payment. A comparison of both groups would show whether covering the costs of treatment improves probation outcomes. While there may be significant costs associated with paying for treatment on behalf of probationers, in theory, these costs could be offset by the savings from reduced violations, revocation, and probation term extensions due to non-compliance.

## References


Brett, S., Khoshkhoo, N., & Nagrecha, M. (2020). *Paying on Probation: How Financial Sanctions Intersect with Probation to Target, Trap, and Punish People Who Cannot Pay*. Criminal Justice Policy Program, Harvard Law School.

Virginia Department of Criminal Justice Services. *Guideline No.1: Supervision and Intervention Fee*. Revised 2006. Richmond, VA. Downloaded from https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/correctional-services/forms/ccca-psa-guideline-1-supervision-and-intervention-fees.pdf

*Requiring fines.* Virginia Rev. Criminal Code. § 19.2-305. (2021). https://law.lis.virginia.gov/vacode/title19.2/chapter18/section19.2-305/

*Responsibility for collections*. Virginia Rev. Criminal Code. § 19.2-349. (2021). https://law.lis.virginia.gov/vacode/19.2-349/

*Restitution for property damage or loss*. Virginia Rev. Criminal Code. § 19.2-305.1 (2021). https://law.lis.virginia.gov/vacode/title19.2/chapter18/section19.2-305.1/

*Report on Local Probation Agencies – FY 2019*. (2020) Internal document to Virginia Department of Criminal Justice Services. Richmond, VA.

# Appendix A: Supplemental Analysis

**Table A-1**
*Demographics in Agencies with No Fees versus Agencies with Fees*

| | No Fee Agencies | | Fee Agencies | |
|---|---|---|---|---|
| | **Frequency** | **Percent** | **Frequency** | **Percent** |
| **Total** | 37593 | 100% | 175,042 | 100% |
| **Gender** | | | | |
| Male | 26,121 | 69% | 114,990 | 66% |
| Female | 11,472 | 31% | 60,051 | 34% |
| Missing | 0 | 0% | 1 | <1% |
| **Race** | | | | |
| White | 17,044 | 45% | 94,347 | 54% |
| Black | 16,206 | 43% | 66,109 | 38% |
| Asian | 984 | 3% | 2,133 | 1% |
| Hispanic | 2,925 | 8% | 9,264 | 5% |
| Native American | 30 | <1% | 201 | <1% |
| Other | 302 | 1% | 1,788 | 1% |
| Missing | 102 | <1% | 1,200 | <1% |
| **Education** | | | | |
| Less than High School Degree | 7,183 | 19% | 33,817 | 19% |
| High School Degree or GED | 17,151 | 46% | 85,462 | 49% |
| Some College | 9,059 | 24% | 40,935 | 23% |
| College or Trade School Degree | 3,458 | 9% | 12,939 | 7% |
| Graduate Education | 741 | 2% | 1,879 | 1% |
| Missing | 1 | <1% | 10 | <1% |
| **Marital Status** | | | | |
| Never Married | 26,619 | 71% | 121,856 | 70% |
| Married | 5,922 | 16% | 26,882 | 15% |
| Divorced | 2,686 | 7% | 13,552 | 8% |
| Separated | 2,100 | 6% | 11,232 | 6% |
| Widowed | 266 | 1% | 1,515 | 1% |
| Missing | 0 | 0% | 5 | <1% |
| **Age** | Mean: 36.30 Mode: 27 SD: 12.06 | | Mean: 35.35 Mode: 27 SD: 11.64 | |
| **Conviction Offense** | | | | |
| Person Crimes | 8,229 | 22% | 41,930 | 24% |
| Property Crimes | 7,826 | 21% | 37,589 | 21% |
| Narcotics | 7,618 | 20% | 44,307 | 25% |
| DUI | 2,533 | 7% | 5,577 | 3% |
| Other Alcohol Offense | 2,029 | 5% | 10,433 | 6% |
| Traffic Offense | 3,467 | 9% | 9,963 | 6% |
| Supervision Violation | 347 | 1% | 1,393 | 1% |
| Other | 3,491 | 9% | 16,801 | 10% |
| Missing | 2,053 | 5% | 7,049 | 4% |