



Metro Council

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## G. Consent Resolutions and Resolutions

### 1. [RS2021-932](#)

A resolution establishing the certified tax rate in the General Services District, and declaring the amount of the certified rate for the Urban Services District, pursuant to the provision of Tennessee Code Annotated § 67-5-1701, et seq.

#### Analysis

This resolution, as substituted, establishes the certified tax rate of the Metropolitan Government. State law requires that once the county reappraisal program is completed, a tax rate be set that will provide the same amount of revenue for the county that was levied during the previous year based on the old assessment values and tax levy, because a government may not realize greater revenue by means of a reappraisal program.

The purpose of the reappraisal program is to ensure that property assessments are “equalized” by having all property appraised at the same time. The present certified tax rate for the GSD is \$3.788 per \$100 of assessed value and \$0.433 for the USD, for a total combined rate in the USD of \$4.221. The new certified tax rate to be approved by this resolution will be lowered to \$2.953 in the GSD and \$0.335 in the USD, for a combined rate of \$3.288.

**Sponsors:** Toombs

### 2. [RS2021-950](#)

A resolution approving the property at 4601 Ashland City Highway to be used for a waste transfer facility.

#### Analysis

This resolution approves property located at 4601 Ashland City Highway to be used as a waste transfer station. Nashville Waste Solutions, LLC, has filed a request for a special exception with the Metro board of zoning appeals (BZA) to use this property for a waste transfer station. The Metropolitan Zoning Code requires the council to approve the location by adoption of a resolution before the BZA can act on the request. The council has 60 days from the date the request was submitted to act on this resolution or it is deemed approved. This request was submitted to the council office and district councilmember on May 4, 2021.

There was a companion piece of legislation for this project (Ordinance No. BL2021-744, which

was withdrawn at the June 1 Council meeting) that would have approved the proposed facility under the state Jackson Law (Tenn. Code Ann. §68-211-701, *et seq.*). The proposed facility would process, shred, and sort incoming municipal solid waste and construction and demolition waste to recycle the ferrous and non-ferrous metals, and then to compress and wrap the residual waste into bales. Section 17.16.210 of the Metro Code provides that all loading, unloading, compacting, sorting, processing, or storage associated with a waste transfer shall take place within a completely enclosed building, which would apply to this facility.

**Sponsors:** Hall

3. [\*\*RS2021-974\*\*](#)

A resolution approving an agreement between CSX Transportation and The Metropolitan Government of Nashville and Davidson County, acting by and through its Department of Public Works, for payment to CSXT for costs incurred due to maintenance and repairs of four (4) bridges over CSXT 1) Jefferson Street, 2) Hamilton Avenue, 3) Eastland Avenue, 4) Sidco Drive, CSX OP No. TN0707.

Analysis

This resolution approves an agreement between CSX Transportation (CSXT) and the Metro Department of Public Works. Under the agreement, Metro will pay CSXT an estimated \$106,946 for costs incurred due to maintenance and repairs of four bridges over CSXT for Jefferson Street, Hamilton Avenue, Eastland Avenue, and Sidco Drive.

Agreements between Metro and CSX Transportation can be approved by resolution pursuant to Ordinance No. O98-1393.

**Sponsors:** Toombs, Nash, Withers, Welsch, Sledge, OConnell and Taylor

4. [\*\*RS2021-985\*\*](#)

A resolution adopting a new pay plan for the general employees of the Metropolitan Government of Nashville and Davidson County, excluding employees of the Board of Health, Board of Education, and the Police and Fire Departments, effective July 1, 2021.

Analysis

This resolution is the pay plan for the general Metropolitan Government employees to take effect July 1, 2021. The primary effect of this resolution would be to continue the pay plan, restore increment pay, provide a 2% cost-of-living-adjustment (COLA), and provide for the possibility of merit pay increases for open range employees. Step increases known as "increments" are pay increases for certain employment classifications on a six month, one year, eighteen month, or two year interval, depending upon the position. Under this proposed pay plan, step increases would be provided effective July 1, 2021, instead of when the step would otherwise be due based upon service since increments were not funded last year. In addition to step increases, the equivalent of an additional 3% merit pay increase would be available for open range employees that do not receive increments. The amount of individual raises for open range employees are determined by department heads. The pay plan contemplates that

open range employees are to be paid based upon merit, not length of service.

The general government pay plan also increases the pay table for Park Police to match the corresponding equivalent ranks in the Metro Police Department. The pay plan also includes the following new positions that are the subject matter of Ordinance No. BL2021-740:

- Transportation Chief Engineer/Assistant Director
- Transportation Director
- Planning Deputy Executive Director
- Safety Administrator
- Veterans Service Supervisor

The Civil Service Commission recommended an additional step increase and an additional 1% open range funding for employees. However, the Director of Finance and Mayor, exercising their authority under Section 12.10 of the Metro Charter, removed the additional step and open range increases.

Per section 12.10 of the Charter, pay plans may not be amended by the Council except by making uniform modifications of all employment grades (because the relationship between pay grades must remain the same under the Charter). The pay plan amendments submitted by this resolution have been approved by the Civil Service Commission, Finance Director, and the Mayor.

**Sponsors:** Toombs, Rutherford and Hurt

**5. [RS2021-986](#)**

A resolution adopting a new pay plan for employees of the Metropolitan Board of Health, effective July 1, 2021.

**Analysis**

This resolution is the pay plan for the employees of the Board of Health to take effect July 1, 2021. The Health Department has its own pay plan because Section 10.107 of the Metro Charter provides that the Board of Health shall constitute a civil service board with respect to the Health employees. The primary effect of this resolution would be to continue the pay plan, restore increment pay, provide a 2% cost-of-living-adjustment (COLA), and provide for the possibility of merit pay increases for open range employees. Step increases known as “increments” are pay increases for certain employment classifications on a six month, one year, eighteen month, or two year interval, depending upon the position. Under this proposed pay plan, step increases would be provided effective July 1, 2021, instead of when the step would otherwise be due based upon service since increments were not funded last year. In addition to step increases, the equivalent of an additional 3% merit pay increase would be available for open range employees (who do not receive increments). The amount of individual raises for open range employees are determined by department heads. The pay plan contemplates that open range employees are to be paid based upon merit, not length of service.

Per section 12.10 of the Metropolitan Charter, pay plans may not be amended by the Council

except by making uniform modifications of all employment grades (because the relationship between pay grades must remain the same under the Charter). The pay plan amendments submitted by this resolution have been approved by the Finance Director, the Board of Health, and the Mayor.

**Sponsors:** Toombs, Rutherford, Taylor and Hurt

6. [RS2021-987](#)

A resolution adopting a new pay plan for employees of the Metropolitan Departments of Police and Fire, effective July 1, 2021.

Analysis

This resolution is the pay plan for the Police and Fire departments to take effect July 1, 2021. The primary effect of this resolution would be to continue the pay plan, restore increment pay, provide a 2% cost-of-living-adjustment (COLA), and provide for the possibility of merit pay increases for open range employees. Step increases known as “increments” are pay increases for certain employment classifications on a six month, one year, eighteen month, or two year interval, depending upon the position. Under this proposed pay plan, step increases would be provided effective July 1, 2021, instead of when the step would otherwise be due based upon service since increments were not funded last year. In addition to step increases, the equivalent of an additional 3% merit pay increase would be available for open range employees that do not receive increments. The amount of individual raises for open range employees are determined by department heads. The pay plan contemplates that open range employees are to be paid based upon merit, not length of service.

The police and fire pay plan also makes some grade change adjustments for various positions for recruiting and retention purposes, and removes certain classifications no longer needed.

The Civil Service Commission recommended an additional step increase and an additional 1% open range funding for employees. However, the Director of Finance and Mayor, exercising their authority under Section 12.10 of the Metro Charter, removed the additional step and open range increases.

Per section 12.10 of the Charter, pay plans may not be amended by the Council except by making uniform modifications of all employment grades (because the relationship between pay grades must remain the same under the Charter). The pay plan amendments submitted by this resolution have been approved by the Civil Service Commission, Finance Director, and the Mayor.

**Sponsors:** Toombs, Rutherford, Gamble and Hurt

7. [RS2021-988](#)

A resolution repealing the additional privilege tax on litigation applied to criminal cases as established in Resolution No. RS2008-490.

Analysis

This resolution repeals the court security litigation tax. This tax was approved by RS2008-490 in accordance with a 2008 state law that allowed counties, upon adoption of a resolution by a 2/3 majority vote of the county legislative body, to levy a privilege tax not to exceed \$25.00 on litigation in all civil and criminal matters to be used exclusively for the purposes of court security. The Council set the amount of the tax in 2008 at \$15.00 per case for all civil and criminal cases initiated in general sessions court, criminal court, circuit court, and chancery court.

A 2020 fee study prepared for Metro by PFM's Center for Justice & Safety Finance recommended that the Council eliminate this fee to ease the financial burden on criminal defendants, many of whom lack the ability to pay such fines and fees. This study is attached to the end of this analysis.

**Sponsors:** Toombs, Sledge and Hurt

8. [\*\*RS2021-989\*\*](#)

A resolution repealing Resolution Nos. R84-128 pertaining to the assessment and collection of a fee to defray the costs of representing indigent defendants.

**Analysis**

This resolution repeals Resolution No. R84-128 pertaining to the indigent defense fee. Tenn. Code Ann. § 40-14-210 authorizes the Metropolitan Government, upon approval by a 2/3 vote of the Council, to collect a fee in the amount of \$12.50 for the purpose of defraying the costs of legal representation and support services provided indigent defendants in criminal proceedings. The Council approved this fee in 1984, and it has been collected on every felony and misdemeanor criminal case since then.

A 2020 fee study prepared for Metro by PFM's Center for Justice & Safety Finance recommended that the Council eliminate this fee to ease the financial burden on criminal defendants, many of whom lack the ability to pay such fines and fees. This study is attached to the end of this analysis.

**Sponsors:** Toombs, Sledge and Hurt

9. [\*\*RS2021-990\*\*](#)

A resolution accepting a Parental Assistance Court grant from the Tennessee Department of Human Services to the Metropolitan Government, acting by and through the Davidson County Juvenile Court, for additional staff to provide opportunities for and meet the needs of eligible low-income families who have a court ordered child support obligation.

**Analysis**

This resolution accepts a Parental Assistance Court grant from the Tennessee Department of Human Resources to the Davidson County Juvenile Court for additional staff to provide opportunities for and meet the needs of eligible low-income families who have a court ordered child support obligation. The grant award is not to exceed \$295,653 and a required local cash match of \$152,307. The term of the contract begins July 1, 2021 and ends June 30, 2022.

**Sponsors:** Toombs and Welsch

10. [RS2021-991](#)

Resolution authorizing the extension of the Metropolitan Government's water and sewer revenue commercial paper program and the amendment of the terms of the credit facility related thereto.

Analysis

This resolution extends the duration of Metro's water and sewer extendable commercial paper program. Resolution No. RS2018-1254 authorized the issuance and sale of revenue bond anticipation notes not to exceed \$200 million in the form of extendable commercial paper for the short term financing of water and sewer capital projects. State Street Bank and Trust Company has served as the credit facility for these notes. The maximum duration of the notes is 270 days.

The current program is scheduled to expire on July 10, 2021. This resolution simply extends the program through March 31, 2022, and authorizes the execution of a new fee letter. The facility fee is tied to Metro's bond rating, and the fee to be paid during the extension period (0.42%) will be slightly lower than the previous fee (0.44%).

**Sponsors:** Toombs

11. [RS2021-992](#)

A resolution to amend Ordinance No. BL2021-615 to authorize The Metropolitan Government of Nashville and Davidson County to add phasing and to modify the acceptance of new public sanitary sewer main, sanitary sewer manholes and easements, for three properties located at 7150 and 7154 Nolensville Road and Nolensville Road (unnumbered) in Williamson County (MWS Project No. 20-SL-69 and Proposal No. 2020M-108ES-002).

Analysis

This resolution amends Ordinance No. BL2021-615 to add phasing and to modify the acceptance of new public sanitary main, sanitary sewer manholes, and easements for three properties located at 7150 and 7154 Nolensville Road and Nolensville Road unnumbered.

This resolution would make various changes in order to phase this development, making the amended proposal Phase 1. It would reduce the amount of sanitary sewer main accepted from 2,746 to 1,352 linear feet. The number of sanitary sewer manholes and easements accepted would be reduced from 15 to nine.

This has been approved by the Planning Commission.

*Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Metro Water Services*

**Sponsors:** Murphy and Nash

12. [RS2021-993](#)

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A resolution approving the appropriation of \$471,239 of income in the Capitol Mall Urban Development Action Grant (UDAG) to the Metropolitan Development and Housing Agency (MDHA) for the construction of affordable housing at Envision Cayce.

Analysis

This resolution appropriates \$471,239 of income from Capitol Mall urban development action grant (UDAG) repayments to be used for the Envision Cayce development. The UDAG program is a federal program whereby funds are loaned to developers and repaid to the Metropolitan development and housing agency (MDHA) instead of the federal government. MDHA is required by federal law to use the UDAG loan repayments in the “pocket of poverty” areas of the Metropolitan Government. UDAG repayments can be used under the capitol mall redevelopment plan for affordable housing activities and economic development activities.

These funds will be applied toward the construction costs for the Envision Cayce development currently underway.

**Sponsors:** Withers, Suara, Toombs and Welsch

13. [RS2021-994](#)

A resolution accepting a grant from the Tennessee Department of Health to the Metropolitan Government, acting by and through the Metropolitan Board of Health, to provide the Community Health Access and Navigation in Tennessee (CHANT) Program to deliver comprehensive care coordination services to eligible families and children.

Analysis

This resolution accepts a grant from the Tennessee Department of Health to the Metro Board of Health to provide the Community Health Access and Navigation in Tennessee (CHANT) Program to deliver comprehensive care coordination services to eligible families and children. The grant awarded is an amount not to exceed \$1,944,100 with no local cash match required. The grant period begins July 1, 2021 and ends June 30, 2022. The state is authorized to extend the term of the grant no longer than 180 days beyond the expiration date under the same terms and conditions of the grant contract.

**Sponsors:** Toombs, Taylor and Welsch

14. [RS2021-995](#)

A resolution approving amendment one to a contract by and between the Metropolitan Government, acting by and through the Metropolitan Board of Health, and the Tennessee Department of Health for Arbovirus Testing of mosquito samples for West Nile Virus.

Analysis

This resolution approves Amendment One to a contract between the Metropolitan Board of Health and the Tennessee Department of Health for arbovirus testing of mosquito samples for West Nile Virus. The original agreement was approved by Resolution No. RS2022-422. Under that agreement, the state tests mosquito samples collected by Metro for West Nile Virus, St. Louis Encephalitis Virus, and Flanders Virus. Metro pays \$2,200 to test an average of 802

mosquito pools.

The resolution under consideration approves an extension of the contract term for one year, from February 28, 2021 to February 28, 2022. It also increases the contract amount to \$10,000 in the 2022 Fiscal Year.

**Sponsors:** Toombs, Taylor and Welsch

**15. [RS2021-996](#)**

A resolution approving amendment one to a grant from the U.S. Environmental Protection Agency to the Metropolitan Government, acting by and through the Metropolitan Board of Health, for the ongoing collection of data on ambient air concentrations for fine particulate matter in Nashville, Tennessee.

**Analysis**

This resolution approves Amendment One to a grant from the U.S. Environmental Protection Agency (EPA) to the Metropolitan Board of Health for the ongoing collection of data on ambient air concentrations for fine particulate matter in Nashville. The original agreement was approved by Resolution No. RS2020-681. This is a routine grant and the Metro Health Department is responsible for air quality monitoring in Nashville and Davidson County on behalf of the EPA. The term of the grant began April 1, 2020 and ends March 31, 2022.

The amendment increases the amount of the grant by \$130,000, for a new total of \$260,000.

**Sponsors:** Toombs, Taylor, Welsch, Hancock and Hurt

**16. [RS2021-997](#)**

A resolution accepting a grant from the Friends of Metro Animal Care and Control to the Metropolitan Government, acting by and through the Metropolitan Board of Health, to provide emergency medical care to animals at Metro Animal Care and Control.

**Analysis**

This resolution accepts a grant from the Friends of Metro Animal Care and Control to the Metropolitan Board of Health to provide emergency medical care to animals at Metro Animal Care and Control (MACC). The grant amount is not to exceed \$2,500 with no local cash match required.

**Sponsors:** Toombs, Taylor and Bradford

**17. [RS2021-998](#)**

A resolution approving a Partners in Protection Shelter Program Participation Agreement for Discounts between the Metropolitan Government, acting by and through the Metropolitan Board of Health, and Boehringer Ingelheim Animal Health USA, Inc. to offer discounted vaccines and medicines for shelter animals at Metro Animal Care and Control.

**Analysis**

This resolution approves a Protection Shelter Program Participation Agreement for Discounts



between the Metropolitan Board of Health and Boehringer Ingelheim Animal Health USA, Inc. to offer discounted vaccines and medicines for shelter animals at Metro Animal Care and Control.

Pursuant to the agreement, Metro Animal Care & Control would receive "Tier 1 Discount Percentages". This includes between 25% and 65% off of certain vaccine prices and between 6% and 25% off of other types of medication for animals. The discount list for products is attached to the resolution. The term of this agreement is April 18, 2021 through January 31, 2022.

**Sponsors:** Toombs, Taylor, Welsch and Bradford

18. [RS2021-999](#)

A resolution to approve a Memorandum of Understanding (MOU) between the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Metropolitan Nashville Police Department (MNPd), Metropolitan Nashville Fire Department (MNFD), and Tennessee Bureau of Investigation (TBI) as it relates to the Metro Nashville Arson & Explosives Task Force (MNAETF), which is a collective coordination of resources and assets to investigate the criminal misuse of fire and explosives in Nashville and surrounding areas.

Analysis

This resolution approves a memorandum of understanding among the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Tennessee Bureau of Investigation (TBI), the Metro Police Department, and the Fire Department for an arson and explosives task force. The purpose of the task force is to investigate crimes involving fire, arsons, and explosives in Davidson County. The ATF special agent in charge will have control over all operations of the task force. Each agency agrees to assign at least two task force officers. All task force officers must undergo a security clearance and background investigation by the ATF. The MOU includes provisions regarding the sharing of information, which must be solely for criminal investigation purposes. Each participating agency will pay the costs of its employees associated with the task force. ATF may separately reimburse overtime subject to availability of funds, but this MOU does not require any such funding. Any agency may withdraw from participation in the task force with 90 days written notice.

Tenn. Code Ann. § 12-9-104 authorizes the Metropolitan Government to enter into agreements with the state and federal governments for cooperative projects by resolution approved by the Council.

**Sponsors:** Gamble

19. [RS2021-1000](#)

A resolution to approve a Memorandum of Understanding ("MOU") entered into by and between the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and the Metropolitan Nashville Police Department ("MNPd") as it relates to The Investigative Team Addressing Neighborhood Shootings ("T.I.T.A.N.S.") and Violent Crime Reduction Task Force to implement an effective and sustainable, intelligence driven strategy to reduce gun related violence in the Nashville Metropolitan area.

Analysis

This resolution approves a memorandum of understanding between the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Metro Nashville Police Department (MNP) for The Investigative Team Addressing Neighborhood Shootings (T.I.T.A.N.S.) and a violent crime reduction task force. The purpose of the task force is to investigate and prosecute firearms trafficking and gun violence. This agreement sets forth the duties and responsibilities of the parties regarding participation in the task force including information sharing and investigative methods. The ATF special agent in charge will have control over all operations of the task force. The ATF will assign six special agents to the task force, and MNP will assign eight officers for at least two years.

All task force officers must undergo a security clearance and background investigation by the ATF. The MOU includes provisions regarding the sharing of information, which must be solely for criminal investigation purposes. Each participating agency will pay the costs of its employees associated with the task force. ATF may separately reimburse overtime subject to availability of funds, but this MOU does not require any such funding. Either agency may withdraw from participation in the task force with 90 days written notice.

**Sponsors:** Gamble and Hurt

**20.** [RS2021-1001](#)

A resolution accepting a grant from the Tennessee Department of Finance and Administration, acting by and through the Office of Criminal Justice Programs, to the Metropolitan Government, acting by and through the Metropolitan Nashville Police Department, to reimburse costs associated with the response to the Christmas Day Bombing on Second Avenue.

Analysis

This resolution accepts a state grant in the amount of \$1,301,955 to reimburse costs incurred by the Metro Nashville Police Department in responding to the 2020 Christmas Day bombing. These costs include the regular and overtime personnel costs for site security and investigation. There is no associated local match for this grant.

**Sponsors:** Toombs and Gamble

**21.** [RS2021-1002](#)

A resolution approving an application for a Project Safe Neighborhood (PSN) grant from the State of Tennessee, Department of Finance and Administration, to the Metropolitan Government, acting by and through the Metropolitan Nashville Police Department, to reduce gun violence in Nashville.

Analysis

This resolution approves an application for a Project Safe Neighborhood (PSN) grant from the Tennessee Department of Finance and Administration to the Metropolitan Nashville Police Department to reduce gun violence in Nashville. This application is for a \$143,732 grant and would be used to pay for overtime and equipment to investigate violent gun crimes in targeted

areas for enhanced prosecution.

**Sponsors:** Toombs, Gamble and Hancock

**22. [RS2021-1003](#)**

A resolution accepting a grant from the Tennessee Emergency Management Agency to the Metropolitan Government, acting by and through the Office of Emergency Management, to provide resources to procure items, training and/or equipment for hazardous materials (hazmat) preparedness.

**Analysis**

This resolution accepts a grant from the Tennessee Emergency Management Agency to the Office of Emergency Management to provide resources to procure items, training, and/or equipment for hazardous materials (hazmat) preparedness. The grant is an award not to exceed \$189,760 with a required local cash match of \$47,440. The grant term begins October 1, 2020 and ends June 30, 2022.

**Sponsors:** Toombs and Gamble

**I. [Bills on Second Reading](#)**

**36. [BL2021-593](#)**

An ordinance amending Chapter 9.30 of the Metropolitan Code to restrict construction noise.

**Analysis**

This ordinance, as substituted, amends Chapter 9.30 of the Metro Code to further restrict construction noise in residential areas. Currently, Section 9.30.010 of the Metro Code, which was amended on December 15, 2020, prohibits noise related to construction located within or adjoining a residential zone district between the hours 8:00pm and 6:00am during the months of June, July, and August and between 7:00pm and 7:00am during the rest of the year. This ordinance would limit construction noise between the hours of 8:00pm and 8:00am throughout the year.

**Sponsors:** Lee, Hausser, Taylor and Styles

**39. [BL2021-727](#)**

An ordinance declaring surplus and approving the disposition of a parcel of real property known as 0 American Road (Map/Parcel No. 09011004700) (Proposal No. 2021M-003PR-001).

**Analysis**

This ordinance declares a 1.08 acre unbuildable parcel of property located on American Road to be surplus, and authorizes the sale of the property to the owner of one of the 10 adjacent tracts who offers the highest price. Metro Water Services has determined that it no longer needs this property. Metro's standard practice regarding unbuildable surplus lots is to sell them to an adjacent property owner. The proceeds of the sale will be credited to the Metro General Fund.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: The appraised value for the parcel of land is \$1,500 according to the Property Assessor's website.*

**Sponsors:** Roberts, Toombs, Murphy and Nash

**40. [BL2021-743](#)**

An ordinance approving a purchase and sale agreement between the Metropolitan Government and Piedmont Natural Gas Company, Inc., for a parcel of property and improvements located at 800 Second Avenue North. (Proposal No. 2021M-007PR-001).

**Analysis**

This ordinance authorizes the sale of a 4.49-acre parcel property located at 800 Second Avenue North back to Piedmont Natural Gas Company for the purchase price of \$4,239,000. Metro purchased this property from Piedmont in 1989 for \$1,946,442, and it has most recently been used by Metro as office space, though the property was used for the production of natural gas prior to Metro acquiring it. Metro's environmental consultant estimates that it would cost approximately \$24,000,000 to remediate the property as a result of the prior gas plant operations in order to develop the property. While the appraised value of the property is \$17,500,000, the appraisal does not take into consideration the environmental issues with the property, and the sum of the remediation cost and purchase price exceeds the appraised value. Copies of both the appraisal and the remediation cost breakdown are included as attachments with the legislation.

The closing must take place by December 31, 2022.

**Sponsors:** OConnell, Toombs and Murphy

**41. [BL2021-753](#)**

An ordinance amending Chapter 2.40 of the Metropolitan Code to transfer the Employee Safety Program from the Department of Law to the Department of Human Resources.

**Analysis**

This ordinance shifts the employee safety program from the Department of Law to Metro Human Resources (HR). The employee safety division was created by BL2006-1232 to oversee the central employee safety program for Metro. The responsibilities of the division of employee safety include working with departments to develop safety plans, maintaining required safety records, and investigating injury-on-duty (IOD) claims for purposes of determining the cause of the injury and preventing such injuries in the future. Funding for this division was removed during the recession-era budget cuts. The responsibility was then delegated to Metro HR, but no funding for the division has been provided through FY2021. A 2017 audit conducted by the Metro Internal Auditor recommended enhancements to the employee safety program, but the operational recommendations have not been implemented

due to a lack of adequate funding.

The Mayor's proposed FY2022 operating budget does include \$253,500 for the employee safety division as part of Metro HR. This ordinance, and the associated budget funding, would enable Metro to further implement the previous audit recommendations.

**Sponsors:** Rutherford

**42. [BL2021-754](#)**

An ordinance to amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County by abandoning a portion of Ohio Avenue right-of-way and easement. (Proposal Number 2021M-005AB-001).

**Analysis**

This ordinance abandons a portion of Ohio Avenue excess right-of-way between Centennial Boulevard and 60th Avenue N. This abandonment has been requested by Dale and Associates. This ordinance also abandons the existing utility easements. Metro Public Works has determined there is no future need for this portion of right-of-way and all abutting property owners have consented to the abandonment.

Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Roberts, Murphy, Nash and OConnell

**43. [BL2021-755](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon an existing drainage easement rights, for property located at 338 East Trinity Lane (Proposal No. 2021M-038ES-001).

**Analysis**

This ordinance abandons a drainage easement for property located at 338 East Trinity Lane. This easement is no longer needed by Metro Water Services. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Parker, Murphy and Nash

**44. [BL2021-756](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon a portion of easement rights located at 5649 Obrien Avenue, Obrien Avenue (unnumbered), and 5806 and 5808 Charlotte Pike, formerly Alley # 1520 (Proposal No. 2021M-044ES-001).

Analysis

This ordinance abandons water and sewer easement rights that were retained in 1967 for four properties located on Obrien Avenue and Charlotte Pike. These easements are no longer needed by Metro Water Services. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Roberts, Murphy and Nash

**45. [BL2021-757](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to negotiate and accept a permanent easement for the Litton Avenue Stormwater Improvement Project for property located at 1305 Litton Avenue, (Project No. 21-SWC-273 and Proposal No. 2021M-042ES-001).

Analysis

This ordinance authorizes the negotiation and acquisition of a permanent easement on property located at 1305 Litton Avenue. This easement is needed for a stormwater project. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Metro Water Services*

**Sponsors:** Benedict, Murphy and Nash

**46. [BL2021-758](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to negotiate and accept a permanent easement for the McGavock Pike Stormwater Improvement Project for four properties located at 1107, 1109, 1111 McGavock Pike and 3104 Gallatin Pike, (Project No. 21-SWC-274 and Proposal No. 2021M-043ES-001).

Analysis

This ordinance authorizes the negotiation and acquisition of a permanent easement for properties located at 3104 Gallatin Pike, and 1107, 1109, and 1111 McGavock Pike. These easements are needed for a stormwater project. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note:*

**Sponsors:** Benedict, Murphy and Nash

**47. [BL2021-759](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to negotiate and accept permanent easements for the Scott Avenue Stormwater Improvement Project for two properties located at 2926 and 2928A Scott Avenue, (Project No. 21-SWC-275 and Proposal No. 2021M-045ES-001).

**Analysis**

This ordinance authorizes the negotiation and acquisition of a permanent easement for properties located at 2926 and 2928A Scott Avenue. These easements are needed for a stormwater project. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note:*

**Sponsors:** Benedict, Murphy and Nash

**48. [BL2021-760](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon existing public sanitary sewer force main and easements, and to accept new sanitary sewer force main and easements, for three properties located at 4309, 4331 and 4335 Maxwell Road, also known as Heritage Landing Force Main Relocation (MWS Project No. 21-SL-67 and Proposal No. 2021M-035ES-001).

**Analysis**

This ordinance abandons existing six inch sanitary sewer main and easements, and accepts replacement sewer main and easements for properties located at 4309, 4331, and 4335 Maxwell Road. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Lee, Murphy and Nash

**49. [BL2021-761](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to accept new public sanitary sewer and water mains, sanitary sewer manhole, fire hydrant assembly and easements, for property located at 1011 Lady Nashville Drive, also known as Heritage Hills Apartments, (MWS Project No. 21-SL-80 and 21-WL-34 and Proposal No.

2021M-041ES-001).

Analysis

This ordinance accepts new eight inch sewer main, eight inch water main, six in water main, one sewer manhole, one fire hydrant assembly and associated easements for property located at 1011 Lady Nashville Drive for the Heritage Hills Apartments development. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Hagar, Murphy and Nash

**50. [BL2021-762](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to accept new sanitary sewer and water mains, sanitary sewer manholes, fire hydrant assemblies and easements, for two properties located at 6944 Nolensville Pike and 7236 Old Burkitt Road, also know as Old Burkitt Road Mixed Use Development (MWS Project Nos. 20-SL-313 and 20-WL-159 and Proposal No. 2021M-039ES-001).

Analysis

This ordinance accepts new sewer main, new water main, nine sewer manholes, three fire hydrant assemblies, and associated easements for properties located at 6944 Nolensville Pike and 7236 Old Burkitt Road as part of a new mixed-use development. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note:*

**Sponsors:** Rutherford, Murphy and Nash

**51. [BL2021-781](#)**

An ordinance amending Title 3 of the Metropolitan Code relative to medical care benefits for pensioners.

Analysis

This ordinance amends Title 3 of the Metro Code to provide that effective January 1, 2023, a Group Medicare Advantage plan will be the only option for retiree medical benefits when the pensioner and their dependents are Medicare eligible. This ordinance, which comes as a recommendation from the Study & Formulating Committee and the Benefit Board, is a significant step toward addressing Metro's unfunded Other Post-Employment Benefits (OPEB) liability. OPEB pertains to benefits an employee receives upon retirement, such as health, dental, and drug coverage. Metro has historically operated on a "pay-as-you-go" basis for



pensioner health benefits. This means that the Council appropriates the funds in the annual operating budget to cover Metro's portion of the health costs for that year. It is estimated that Metro's current unfunded OPEB liability is \$4.3 billion.

As a point of clarification, OPEB liability is unrelated to Metro's pension liability. Metro's pension fund has historically been very well managed, and is funded at 93%, which is an extremely high percentage for a city plan.

OPEB liability is not an issue Nashville is facing alone. According to a February 2021 report from the Reason Foundation, state and local governments have a collective \$1.2 trillion OPEB liability. A city's OPEB liability is important because it must be reflected in their financial audit, which is used by the bond rating agencies. This ordinance shifting retirees to a Group Medicare Advantage plan would reduce Metro's OPEB liability by \$1.1 billion and would save Metro approximately \$17 million per year in current operating costs for the medical plans.

Metro Human Resources has provided a Q&A sheet to the Council pertaining to this change. A copy of the Q&A sheet is attached to this analysis. The information provided by Metro HR states that the Medicare Advantage plan will result in significantly lower health insurance premiums for retirees, and that the vast majority of retirees (98+%) would not have to change medical providers. Of the roughly two percent remaining, they may not have to change providers if the provider accepts Medicare and agrees to bill Metro's insurer (currently Humana).

Additional benefits of the plan noted by Metro HR include no annual deductible, 100% coverage for hospital care, and no out-of-pocket maximum before the plan will pay.

**Sponsors:** Toombs

## J.

### Bills on Third Reading

#### 52. [BL2019-4](#)

An ordinance amending Chapter 6.04 of the Metropolitan Code of laws to prohibit aerial advertising.

#### Analysis

This ordinance, as amended, amends Chapter 6.04 of the Metropolitan Code of Laws to prohibit aerial advertising. Under this proposed Section 6.04.030, aircraft or other self-propelled or buoyant airborne object could not display any sign or advertising device. "Sign" or "advertising device" would be defined to include "a poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol or any other form of advertising sign or device." This prohibition would not apply to the display of an identifying mark or trade name affixed to the exterior of the body of an aircraft, any advertisements solely visible within the interior of an aircraft, or an advertisement placed on or attached to any ground, building or structure (which would instead be governed by other applicable law).

Additionally, the ordinance relocates existing provisions of Chapter 6.04 regarding the exemptions of various Metropolitan Government departments and agencies from provisions of the Chapter. The “conflict of provisions” section in Section 6.04.060 will be updated to reflect the relocation of these provisions. The term “advertising device” will be added to existing language within Chapter 6.04 for consistency with the new Section 6.04.030.

A similar ordinance from Honolulu, Hawaii has been upheld by the Ninth Circuit Court of Appeals as not being preempted by federal law and not in violation of the First Amendment to the United States Constitution.

**Sponsors:** Sledge

**53. [BL2021-728](#)**

An ordinance to amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County, by renaming a portion of Blake Drive from Sunnywood Drive to the dead end to “Sweet Oak Court”. (Proposal Number 2021M-003SR-001).

Analysis

This ordinance renames a portion of Blake Drive between Sunnywood Drive and the cul-de-sac as “Sweet Oak Court.” This street renaming request was submitted by the Department of Emergency Services because there are two different roadways with the name Blake Drive that are no longer proposed to connect, which could result in emergency services delays.

This name change has been approved by the Planning Commission and the Emergency Communications District Board. The required historic report has been received and is available as an attachment to the ordinance.

**Sponsors:** Rutherford, Murphy, Nash and OConnell

**54. [BL2021-736](#)**

A bill to be entitled: The Budget Ordinance of the Metropolitan Government of Nashville and Davidson County, Tennessee for Fiscal Year 2022.

Analysis

This ordinance is the operating budget of the Metropolitan Government for FY22. The budget filed by the Mayor provides for the following proposed funding:

- General Services District General Fund \$1,135,502,800
- General Services District Schools Fund \$1,014,661,600
- General Services District General Debt Service Fund \$225,074,700
- General Services District Schools Debt Service Fund \$115,942,200

TOTAL GENERAL SERVICES DISTRICT BUDGET \$2,491,181,300

- Urban Services District General Fund \$140,407,200

- Urban Services District General Debt Service Fund \$19,053,700

TOTAL URBAN SERVICES DISTRICT BUDGET \$159,460,900

TOTAL OPERATING BUDGET \$2,646,580,300

The substitute budget adopted by the Council for FY21 is \$2,466,262,200. The mayor's proposed budget represents an overall increase of \$180,318,100 (7.3%).

The budget would not appropriate any funds from the unreserved fund balances of the primary budgetary funds. Rather, Metro would retain much healthier cash reserves of \$306.4 million. Metro's established policy is to maintain a fund balance equal to or greater than 5% for each of the six budgetary funds, the GSD General Fund, USD General Fund, and General Purpose School Operations Fund, as well as the three related primary debt service funds. The mayor's proposed budget is projected to result in the following fund balance percentages by June 30, 2022:

- General Services District General Fund 12.7%
- General Services District Debt Service Fund 10%
- General Services District Schools Operations Fund 9.4%
- Schools Debt Service Fund 36%
- Urban Services District General Fund 6.4%
- Urban Services District Debt Service Fund 12.1%

The current FY21 property tax rate for the GSD is \$3.788 per \$100 of assessed value. The current rate for the USD is \$0.433, giving a combined rate of \$4.221. Resolution No. RS2021-932, which will be back before the Council on June 15, would adopt revised property tax rates due to this year's reassessment. Per the requirements of Tenn. Code Ann. § 67-5-1701, the certified property tax rates must be set so as to produce the same ad valorem revenue for Metro as was levied during the previous year, exclusive of new construction, improvements, and deletions. The new certified property tax rates will be \$2.953 in the GSD and \$0.335 in the USD, for a combined rate of \$3.288.

Even with the reduction in the certified rates, growth is expected to generate new property taxes in the amount of \$47.8 million over the budgeted FY21 revenue. Since the impact of COVID-19 on Metro's sales taxes has not been as great as feared, largely because of the influx of federal stimulus funds, the proposed FY22 budget includes an increase of \$102.5 million in local option sales tax revenues. The budget also includes expected revenue increases from grants and other non-tax revenues in the amount of \$18.6 million.

The budget also accounts for some expected revenue reductions, specifically the loss of the \$35 million payment from the Convention Center Authority due to the impact of COVID-19 on their revenues, a loss of \$6.9 million as a result of the elimination of the Hall Income Tax, and other revenue decreases in the amount of \$14.7 million.

The proposed budget includes an increase of \$32.2 million for pay plan improvements. All employees would receive a 2% cost-of-living raise on July 1, 2021. In addition, funding is included for increment increases for all eligible employees and funding for 3% open-range pay increases, all of which would be effective on July 1, 2021. The department heads have the discretion to determine the actual raises to be given to each open-range employee. The purpose of this additional open-range funding is to provide the equivalent of a step increment for open-range employees who are otherwise ineligible for increments. The budget also includes an increase in the employee health insurance match costs from \$56,455,500 to \$58,162,800.

The Mayor's budget includes a \$13.8 million increase for equipment and building repairs. This is the equivalent of setting aside 5% of the GSD general fund revenue for this purpose, as opposed to the 4% required by the Charter. This should help Metro address some deferred maintenance and equipment needs that have not been able to be funded previously.

The largest investment in the Mayor's proposed budget is for Metro Nashville Public Schools. This includes an \$80.45 million increase in the amount of local funding for schools. While the Board of Education has the final say in how the appropriation for schools is spent, the Mayor's proposed budget does fully fund the budget approved by the Board.

The budget includes funding for a number of improvement requests submitted by various departments. This includes a \$24.5 million increase for WeGo, \$9 million for Fire and EMS operations, and \$10.5 million for the Police Department, which includes the operational funding for the new southeast precinct. Other departmental improvements include:

- Codes Administration: \$1.1 million for additional inspectors and other personnel
- General Services: \$500,000 for two new sustainability positions and shifting four positions from capital funding to operating
- Health Department: \$1.25 million for an expanded partnership with Mental Health Co-op
- Human Resources: \$253,000 for the creation of an employee safety division
- Law: \$307,000 for three new attorney positions
- Libraries: \$835,000 for program staffing
- Mayor's Office: \$116,000 for a capital performance manager position
- Parks: \$2.7 million for a variety of new positions
- Planning Department: \$1.3 million for a variety of new positions
- Public Works: \$6 million, including \$3 million for the new transportation division

The Hospital Authority would receive a subsidy from the general fund of \$49,560,000, an increase of \$6,447,900 over the FY21 budget. The subsidy for Bordeaux Long Term Care has been eliminated due to the closure of the facility. The subsidy for the Knowles Home assisted living facility remains flat at \$2,000,000.

The Barnes Fund for Affordable Housing will receive \$12.5 million as part of the continuing commitment for affordable housing.

The budget ordinance is amendable on third reading. Section 6.06 of the Metro Charter requires the Council to adopt a substitute operating budget no later than June 30th. Otherwise, the budget as originally submitted by the Mayor becomes the budget by operation of law.

**Sponsors:** Toombs

**55. [BL2021-737](#)**

An ordinance establishing the tax levy in the General Services District for the fiscal year 2021-2022, and declaring the amount required for the annual operating budget of the Urban Services District, pursuant to section 6.07 of the Metropolitan Charter.

**Analysis**

This ordinance approves the property tax levy for FY22. Section 6.07 of the Metropolitan Charter provides that the Council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds that budget. The property tax rate proposed by the Mayor is being decreased from \$3.788 to \$2.953 in the General Services District (GSD) and \$0.433 to \$0.335 in the Urban Services District (USD), for a combined rate of \$3.288. This tax levy rate is projected to be sufficient to fully fund the FY22 operating budget, and is a tax rate reduction to assure compliance with state law providing that total property tax revenues are not increased solely as a result of this year's reassessment of real property values.

The tax levy is amendable on third reading.

**Sponsors:** Toombs

**56. [BL2021-738](#)**

An ordinance amending Title 4 of the Metropolitan Code regarding source selection, contract formation, and the authority to debar or suspend.

**Analysis**

This ordinance, as substituted, amends the Metro procurement code to require past audit findings to be included as part of the scoring for requests for proposals (RFPs), and to update the provisions pertaining to suspension and debarment. The procurement code allows for the use of RFPs instead of sealed bids (which are based solely on price) when the Purchasing Agent determines it is in Metro's best interest to do so. The code provides that each RFP is to state the specific evaluation factors, but offers no guidance as to what those factors should include.

This ordinance amends Section 4.12.020 of the Code to provide that the Procurement Standards Board is to adopt regulations to require an offeror's prior Metro audit findings and previous contract noncompliance to be included in the scoring for the RFP. This would include an offeror's failure to furnish required documentation justifying billing under a previously-awarded contract.

This ordinance, as substituted, also modifies the suspension and debarment provisions in the

Procurement Code. The Code currently grants the authority to the Purchasing Agent to suspend a contractor up to three months or debar them for a period not to exceed three years for conviction of certain criminal offenses, or for the violation of contract provisions or ethical standards. This ordinance would extend the maximum suspension period from three months to twelve months, and would add a provision stating that a “violation of contract provisions” includes a willful failure to perform in accordance with the terms of the contract, a documented past history of a failure to perform, or a failure to cooperate to correct performance issues or document billing.

The substitute ordinance also adds language addressing a recent state law (Pub. Ch. 234) preempting Metro from attempting to prevent or restrict a contractor from bidding on a project unless the contractor has been found to have committed a willful violation of federal or state law. The substitute incorporates this new state law language into the Procurement Code.

**Sponsors:** Henderson, Suara, OConnell, Johnston, Sepulveda, Bradford, Styles, Benedict, Welsch, Taylor, Evans and Syracuse

**57. [BL2021-739](#)**

An ordinance to provide for the designation of public property within specified areas of downtown Nashville as a temporary “Special Event Zone” during the time period beginning at nine o’clock (9:00) p.m. on July 2, 2021, and ending at eleven fifty-nine (11:59) p.m. on July 5, 2021, relative to the use of these areas in conjunction with the 2021 July 4th Celebration and related activities and events.

**Analysis**

This ordinance approves a temporary “Special Event Zone” for the downtown area, in conjunction with the 2021 July 4th Celebration scheduled July 2 to 5, 2021. A map of the Special Event Zone areas established under this ordinance is attached to this analysis. Activity restrictions within the Special Event Zone would begin at 9:00 p.m. on Friday, July 2, 2021, and end at 11:59 p.m. on Monday, July 5, 2021. Activities on public property or in the public right-of-way within the Special Event Zone are regulated as follows:

- The sale of any food, beverages, goods, or merchandise would be prohibited, unless street vendors obtain a “Special Event Zone” permit from the Nashville Convention and Visitors Corporation (CVC) in order to sell within the geographic area listed above.
- Alcoholic beverages provided, served, or sold from any temporary outdoor would be prohibited, except as authorized.
- The sale or distribution of merchandise pertaining to the July 4th Celebration, where it is apparent on its face that the merchandise is not licensed by CVC, would be prohibited.
- No tents or membrane structures of any kind would be permitted, except as authorized by CVC or Metro for public safety purposes.
- The construction, placement, occupation, or use of any temporary structure would be prohibited except those sanctioned and authorized by the CVC.
- The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned and

authorized by CVC would be prohibited, except within any Public Participation Area.

- Vehicles would be allowed only as directed by Metropolitan Nashville Police.
- No shared urban mobility devices, as defined by Metropolitan Code of Laws Section 12.62.010, would be permitted within the Special Event Zone.
- No handguns, rifles, or firearms would be permitted. (Tennessee Code Annotated § 39-17-1359)
- No knives, swords, or other fighting devices would be permitted.
- No fireworks, firecrackers, or explosive devices of any type would be permitted, except exhibitions permitted by CVC.
- The Special Event Zone would be a “no fly zone.”

This ordinance requires at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area would allow for the reasonable expression by the public in a manner that is not disruptive to the July 4th Celebration, activities, and events.

*Fiscal Note: This ordinance places restrictions on the activities that would be allowed to take place within the special event zone during the July 4th Celebration. However, no additional Metro personnel or overtime would be required just for the enforcement of these restrictions.*

**Sponsors:** OConnell

**58. [BL2021-740](#)**

An ordinance creating the positions of Transportation Chief Engineer/Assistant Director, Transportation Director, Planning Deputy Executive Director, Safety Administrator, and Veterans Service Supervisor.

**Analysis**

This ordinance creates five new positions within the Metropolitan Government. Section 12.10 of the Metropolitan Charter provides that newly created positions within the Metropolitan Government must be approved by ordinance.

The Civil Service Commission, upon the recommendation of the Director of Human Resources, has created the following new positions:

- Transportation Chief Engineer/Assistant Director
- Transportation Director
- Planning Deputy Executive Director
- Safety Administrator
- Veterans Service Supervisor

A job description for each is attached to the ordinance.

**Sponsors:** Toombs, Rutherford, Murphy and Nash

**59. [BL2021-741](#)**

An ordinance approving the sale of approximately 536 square feet of remnant property adjacent to 11th Avenue North. (Proposal No. 2021M-008PR-001)

Analysis

This ordinance approves the sale of a 536 square-foot remnant of property to Highwoods Realty Limited Partnership for the amount of \$25,000. This is a small portion of 11th Avenue North right-of-way that is no longer needed by Metro due to the reconfiguration of the right-of-way in connection with development of the parcel at 1101 Church Street. It has been determined that there is no real commercial value of this property to Metro.

The proceeds of the sale will be credited to the Metro General Fund.

This ordinance has been approved by the Planning Commission.

**Sponsors:** OConnell, Toombs and Murphy

**60. [BL2021-742](#)**

An ordinance declaring a parcel of property owned by the Metropolitan Government of Nashville and Davidson County located at Brick Church Pike, unnumbered, Map/Parcel No. 06000007000, to be surplus, authorizing the sale of the property to Habitat for Humanity for the purpose of constructing affordable housing, and accepting the transfer of property for use as a park (Proposal No. 2021M-009PR-001).

Analysis

This ordinance, as substituted, declares as surplus and approves the sale of an 11.3 acre parcel of property owned by Metro located at 0 Brick Church Pike to Habitat for Humanity for the construction of 26 new affordable homes. The Metropolitan Nashville Board of Public Education has determined that this parcel is no longer needed for any school purpose. The property is adjacent to a larger undisturbed parcel.

The appraised value of this property is \$1,209,500. Habitat for Humanity has agreed to pay \$584,615 for the property, and has agreed to construct a six acre park to be deeded back to Metro when completed, as well as improvements to Parkwood Ballpark located at 3020 Aldrich Lane. The park will include useable active park space with walking trails and other amenities. Habitat for Humanity estimates that the value of the park and improvements it will be making is \$638,900, which combined with the purchase price, exceeds the appraised value of the property.

The ordinance will require a deed restriction requiring that six acres of park property be deeded back to Metro and that the remaining property be used for the construction of 26 new affordable homes.

The proceeds from the sale of the property is to be credited to Metropolitan Schools Capital Fund.

An appraisal report is included as an attachment to the ordinance in accordance with Section 2.24.225 of the Metro Code.

**Sponsors:** Toombs, Allen and Suara



**61. [BL2021-745](#)**

An ordinance to amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County, by renaming a portion of McGavock Pike to “Aerospace Way”, from Murfreesboro Pike to a dead end. (Proposal Number 2021M-004SR-001).

Analysis

This ordinance renames McGavock Pike between Murfreesboro Pike and a dead end at Briley Parkway as “Aerospace Way”. There are several different roadways with the name McGavock Pike that do not connect, which poses a safety concern and can cause emergency service delays.

This name change has been approved by the Planning Commission and the Emergency Communications District Board. The required historic report has been received and is available as an attachment to the ordinance.

**Sponsors:** Bradford, Murphy, Nash, OConnell and Benedict

**62. [BL2021-746](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon an existing fire hydrant assembly and easement, and to accept a new fire hydrant assembly and easement, for property located at 2000 Church Street (MWS Project No. 20-WL-115 and Proposal No. 2021M-033ES-001).

Analysis

This ordinance abandons a fire hydrant assembly and easement, and accepts a replacement fire hydrant assembly and easement for property located at 2000 Church Street. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Taylor, Murphy and Nash

**63. [BL2021-747](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon existing sanitary sewer main, a sanitary sewer manhole and easements, and to accept new sanitary sewer and water mains, sanitary sewer manholes, fire hydrant assemblies and easements, for property located at Wild Oaks Court (unnumbered), also known as Ridgeview Phase 2 (MWS Project Nos. 18-SL-61 and 18-WL-61 and Proposal No. 2021M-032ES-001).

Analysis

This ordinance abandons approximately 500 linear feet of existing eight inch sanitary sewer main, and accepts approximately 1,500 linear feet of new eight inch sanitary sewer main, 950 feet of new eight inch water main, 10 sewer manholes, and two fire hydrant assemblies along with the associated easements for property located at Wild Oaks Court, unnumbered, which is Phase 2 of the Ridgeview subdivision. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Styles, Murphy and Nash

**64. [BL2021-748](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to accept new sanitary sewer and water mains, sanitary sewer manholes, fire hydrant assemblies and easements, for three properties located at 2127 Buena Vista Pike and Goodrich Avenue (unnumbered), also known as Goodrich Townhomes (MWS Project Nos. 20-SL-267 and 20-WL-131 and Proposal No. 2021M-034ES-001).

Analysis

This ordinance accepts new water and sewer mains, manholes, fire hydrant assemblies, and associated easements for the Goodrich Townhomes development located at Buena Vista Pike and Goodrich Avenue. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Toombs, Murphy and Nash

**65. [BL2021-749](#)**

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon existing combination sewer main, sanitary sewer main and easements, and to accept new combination sewer main, sanitary sewer main, combination sewer manholes/inlets, sanitary sewer manholes and easements, for three properties located on Edgehill Avenue, also known as Edgehill Townhomes (MWS Project No. 20-SL-196 and Proposal No. 2021M-036ES-001).

Analysis

This ordinance abandons combination and sanitary sewer mains, and accepts replacement combination and sewer mains, manholes, and easements for three properties located on Edgehill Avenue as part of the Edgehill Townhomes development. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** OConnell, Murphy and Nash

66. [BL2021-750](#)

An ordinance authorizing The Metropolitan Government of Nashville and Davidson County to abandon existing stormwater easement rights for property located 4001 Harding Pike (Proposal No. 2021M-037ES-001).

Analysis

This ordinance abandons stormwater easement rights for property located at 4001 Harding Pike. Metro Water Services has determined there is no longer any need for the easements. Future amendments to this ordinance may be approved by resolution.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: There is no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.*

**Sponsors:** Murphy and Nash

67. [BL2021-752](#)

An ordinance adopting the 2021-2022 through 2026-2027 Capital Improvements Budget for The Metropolitan Government of Nashville and Davidson County as the official Capital Improvements Budget of The Metropolitan Government of Nashville and Davidson County for Fiscal Year 2021-2022.

Analysis

This ordinance adopts the Capital Improvements Budget (CIB) for fiscal year 2021-2022 through 2026-2027. A [link](#) [https://www.nashville.gov/Portals/0/SiteContent/Planning/docs/CIB/2022/FY22\\_CIB\\_MayDraft.pdf](https://www.nashville.gov/Portals/0/SiteContent/Planning/docs/CIB/2022/FY22_CIB_MayDraft.pdf) to the CIB is posted on the Council's webpage. The CIB is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the Council, except in the case of a public emergency.

Section 6.13 of the Metropolitan Charter provides: "The mayor shall submit the capital improvements budget to the council not later than May 15th and shall recommend those

projects to be undertaken during the ensuing fiscal year and the method of financing them, noting the impact on the debt structure of the Metropolitan Government, and shall include in the appropriate current operating budget any projects to be financed from current revenues for the ensuing fiscal year.”

Pursuant to Section 11.504(k) of the Charter, the Metropolitan Planning Commission reviewed capital improvement project requests submitted by Metro departments, boards, commissions and agencies, evaluated the overall needs of the community, and recommended to the Mayor a CIB budget for fiscal year 2021-2022, including a program of proposed expenditures for the ensuing five years. The Charter requires the Council to adopt the CIB no later than June 15 of each year.

The CIB is amendable on third and final reading. Once adopted, any future amendments to the CIB would need to be approved by the Planning Commission, recommended by the Mayor, and then adopted by resolution of the Council receiving at least 27 affirmative votes.

**Sponsors:** Toombs and Murphy

## Metro's Medicare Advantage Plan as Only Choice for Metro Retirees with Medicare

### Summary:

The Study & Formulating Committee's Final Report in February 2021 recommended to make the Medicare Advantage plan be the only choice for health insurance offered by Metro to retirees with Medicare and whose covered dependents also have Medicare.

This recommendation was approved by the Metro Benefit Board on May 4, 2021 with the effective date of this change to be January 1, 2023.

The reason for this recommendation is to provide Metro retirees with a platinum Medicare Advantage plan with a significantly lower monthly premium and the same or better benefits than Metro's other two medical plans (PPO and Choice Fund), and allows them to continue to see their same provider (see Q&A-1 below for more on the providers).

Financially, Metro's \$4.3 billion unfunded OPEB\* liability will be **reduced by \$1.1 billion** and Metro will save approximately **\$17 million per year in current operating costs** for its medical plans. This makes the recommendation a win-win-win for Metro retirees, the Metro government and taxpayers.

### Questions and Answers

**Q&A-1. Will Metro retirees with Medicare who are in Metro's PPO or Choice Fund plans have to change medical providers (doctors/ hospitals/ etc.) upon enrollment into Metro's Medicare Advantage plan?**

**Answer:** *If the change occurred today, **98%** of the retirees in Metro's PPO and Choice Fund plans **would NOT have to change** medical providers. For the remaining 2%, it does not mean they would have to change medical providers. The remaining providers have not submitted a claim to the current insurer, Humana, in the last 12 months so it is unknown if they would be willing to bill Humana directly. However, even if the medical provider would not agree to bill Humana directly, the Metro retiree could still see that medical provider and would file a claim directly with Humana for reimbursement and receive in-network benefits.*

**Q&A-2: Is Metro's Medicare Advantage plan the same as other "off the street" Medicare Advantage plans?**

\*OPEB stands for Other Post-employment Benefits and includes the medical, dental and life insurance benefits provided by Metro to retirees and their eligible dependents

**Answer:** *No, it is not. Metro's Medicare Advantage plan is a platinum plan with a customized plan design dictated by the Metro Employee Benefit Board; therefore, a comparison of the plan's benefits and Metro retirees' satisfaction cannot be made against the plan benefits and satisfaction of people enrolled in an "off the street" commercial/ standard Medicare Advantage plan.*

*Some of the custom features of Metro's Medicare Advantage plan include:*

- o Same cost to the member whether the provider is in-network or out-of-network*
- o Members can see any provider – in or out of network - as long as they accept Medicare and agree to bill the current Insurer of Metro's plan (no network or referral)*
- o No annual deductible*
- o \$10 office visits*
- o 100% coverage for most preventive care*
- o 100% coverage for hospital care*
- o Lower copays on brand name drugs than Metro's PPO or Choice Fund plans*

**Q&A-3: What are Medicare Advantage plans and how are they funded?**

**Answer:** *Medicare Advantage Plans are "all in one" health plan alternatives to original Medicare that are provided by approved private insurance companies, and paid for with:*

- a) Federal funding - Private insurance companies receive a "set" amount of federal Medicare funding for providing Part A and Part B coverage through Medicare Advantage plans. Each insurance company is approved and contracted by Medicare and must follow the rules and fulfill guidelines for coverage as established by the Federal government/ CMS.*
- b) Member premiums – Metro retirees' premiums are shared by Metro and the retiree. (For retirees hired before 2013, Metro pays 75% of the cost of the member premiums.)*
- c) Member copays and deductibles. – Metro's customized Medicare Advantage plan has a ZERO deductible and the same or lower copays as Metro's PPO plan. (Metro's Choice Fund is a high deductible health plan, does not have copays, and does not contribute to the HRA fund for those members with Medicare Parts A and B.)*

**Q&A-4: How does Metro's PPO plan work for Metro retirees with Medicare?**

**Answer:** *Metro's PPO plan is a secondary payer to Medicare which means after Medicare pays 80% of a claim, Metro's PPO plan will not pay anything until the member has*

met the PPO Plan's annual out-of-pocket maximum (which is \$1,000 if enrolled in Single coverage and \$2,000 if enrolled in Family coverage.)

*This is different from Metro retirees in Metro's Medicare Advantage plan. Since the Medicare Advantage plan is a replacement for Medicare, the member does not have to meet the out-of-pocket maximum before the plan will pay, so the Metro Medicare Advantage plan will pay starting the first day of each calendar year.*

**Q&A-5: Does Metro's Medicare Advantage plan contain the same coverage as the Original Medicare program?**

**Answer:** *Yes, it does. In addition, insurers of Medicare Advantage typically include supplemental benefits that are not in Original Medicare. Examples of supplemental benefits include dental care, vision care, hearing aid allowances, and gym memberships.*

**Q&A-6: Are Medicare Advantage Plans popular?**

**Answer:** *Yes, they are the leading solution for Medicare-eligible retirees nationally. The majority of employers who still provide group medical coverage to retirees have moved to Group Medicare Advantage plans. The Congressional Budget Office projects that 47% of all Medicare enrollees will be in Medicare Advantage plans by 2029.*

**Q&A-7: What percentage of Metro retirees are currently enrolled in Metro's Medicare Advantage plan?**

**Answer:** *Currently, 40% of Metro's retirees with Medicare are enrolled in this plan, and Metro HR receives great feedback about the satisfaction in benefits and coverage. Members often wish they had enrolled sooner as they've saved considerable amounts in premiums and claims.*

**Q&A-8: I understand Humana is the insurer for Metro's Medicare Advantage plan and I am not sure my doctor likes them. Are they as well regarded as other medical providers like Blue Cross Blue Shield and Cigna?**

**Answer:** *Yes, Humana is the current insurer of Metro's Medicare Advantage plan, and they were selected based on their proposal to Metro during the last bidding process for Metro's Medicare Advantage plan. Humana is one of the leading, national insurers in the Medicare Advantage industry and the Metro retirees in the Medicare Advantage plan insured by Humana have experienced low premiums and high*

*satisfaction. Currently, Humana has the largest network of providers of any Medicare Advantage plan in the U.S.*

*Metro's Procurement Division will issue a Request for Proposal (RFP) later this year to all registered insurance companies. This RFP will be for all three of Metro's medical plans (the PPO, Choice Fund and Medicare Advantage plan) to select an insurer for each of them for a January 1, 2023 effective date. The selection of the vendors for Metro's three plans will be based on the best proposal in terms of provider network, pricing, and ability to meet the detailed expectations and performance measures set by Metro and the Benefit Board.*



Reducing Reliance on Criminal  
**FINES & FEES**

October 2020

PREPARED FOR



PFM's Center for Justice & Safety Finance  
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# INTRODUCTION

A 1992 Department of Justice study noted that “[F]ines, as a method of criminal punishment, are as old as the system of criminal justice.”<sup>1</sup> In fact, there are multiple references to fines as a form of punishment in both the Old and New Testaments. Fees, where individuals make payments for specific services from government, are a slightly newer phenomenon. But fees have become ubiquitous as a means of supporting government services at all levels of government in the United States.

Fines and fees are assessed at every point in the criminal justice system, from citation or arrest through post-conviction supervision, and are collected by courts and multiple criminal justice agencies. While individual fees may be as little as a few dollars, city, county and state governments have created a complex system of fines and fees, layering one on top of the other, until total financial obligations related to a conviction may reach thousands of dollars. Distribution of the collected dollars is as complex as their assessment – each fine and fee is distributed according to statute, ordinance, or policy. Revenue from fines and fees could be directed to a specific function or special fund or could go to the government general fund: some fines and fees go to local government, some to state government and some to both. The result of this complex system is that most governments do not know the total number and dollars of fines and fees assessed, collected, and distributed in their criminal justice system.

A 2015 White House study estimated that tens of millions of individuals in the U.S. have been assessed fines or fees as part of the punishment for a criminal offense.<sup>2</sup>

***The usage of fines and fees as punishment has increased significantly; in 1986, 12 percent of incarcerated individuals owed fines, but in 2004, that had increased to 37 percent (66 percent owed both fines and fees).<sup>3</sup>***

In the United States, fines and fees are frequently assessed on defendants without considering whether, or how much, defendants can pay. As a result, the current system of generating revenue through fines and fees from the criminal justice system has increasingly raised concerns about inequitable outcomes based on defendants’ wealth. Since criminal defendants are more likely to have lower income than the population as a whole, there are concerns about the regressive nature of these sources of revenue. Moreover, there are often civil and criminal implications for people who do not pay assessed fines and fees: non-payment can impact everything from future employment to limitations on liberty. As a result, criminal justice fees, in particular, have become a form of a “poor tax” – where criminal defendants are punished as much for their socio-economic status as for their criminal offense.

<sup>1</sup> <https://www.ncjrs.gov/pdffiles1/Digitization/136611NCJRS.pdf> at p. lii.

<sup>2</sup> “Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor,” Council on Economic Advisors (Dec. 2015), 3.

<sup>3</sup> “Fines, Fees, and Bail,” Council on Economic Advisors.

Beyond the issue of equity, reliance on fines and fees from the criminal justice system may result in unintended negative outcomes that come at a high cost. Some early research suggests that defendants with outstanding criminal justice debt may be more likely to offend again. In some cases, individuals who fail to pay fines and fees may be incarcerated as punishment for non-payment. To the extent that outstanding debt limits economic opportunity, it may increase the need for public assistance and reduce the ability to generate taxable income. ***In other words, reliance on fines and fees as a source of revenue may be pennywise, yet pound foolish.***

There can also be impacts on the fairness of the criminal justice system itself. A 2015 Department of Justice study of Ferguson, Missouri outlined a compelling case of police abuse, including evidence of intentional discrimination against African American residents. The report's core finding, however, was that the goal of revenue collection from fines and fees had perverted the justice system: investigators concluded that "law enforcement practices are shaped by the City's focus on revenue rather than by public safety needs."

Some local governments are demonstrating the feasibility of reducing or eliminating reliance on fine and fee revenue from the criminal justice system. Some, like San Francisco and Alameda County in California have eliminated all fees that fall under the jurisdiction of local government. Others, like New Orleans, Louisiana, have eliminated fees within the juvenile justice system. Finally, many other cities and counties have eliminated specific fines or fees.

Nashville-Davidson County, Tennessee (Metro Nashville) is one such example, eliminating its \$44/day jail fee and \$35 pretrial release fee in 2018, launching "Steering Clear," a cross-departmental driver's license diversion program to reduce caseload, arrests and fines, and creating a Compliance Division in the Office of the Criminal Court Clerk that helps identify defendants unable to pay so judges may make an indigency determination more quickly.

This report focuses on how Metro Nashville can take the next steps toward reducing and eventually eliminating its reliance on fines and fees from the criminal justice system as a source of revenue for local government. In it, we detail the current use of fines and fees in the Nashville-Davidson County criminal justice system, the amount of revenue actually collected and what it is used for, and propose a plan for how the County can act to reduce fines and fees and offset any budgetary impacts.

## **PROJECT DESCRIPTION**

Nashville-Davidson County (Metro Nashville) is the second most populous county in Tennessee with a population of just over 690,000 residents<sup>4</sup> As of 2017, approximately 15 percent of Metro residents were living in poverty. Metro is a consolidated city-county government and is led by a Metropolitan Council and an elected Mayor who leads Metro on a day to day basis. Metro also has several other county-level elected officials, including the District Attorney General, members of the Judiciary, the Criminal Court Clerk, and the Sheriff.

<sup>4</sup> Annual Estimates of the Resident Population: April 1 to July 1, 2018, U.S. Census Bureau.

In March 2019, Metro applied for technical assistance from PFM's Center for Justice & Safety Finance to further the County's goal of cultivating economic prosperity by reducing or eliminating the fines and fees under the County's jurisdiction. Through a \$1.2 million grant from Arnold Ventures (previously the Laura and John Arnold Foundation), PFM is providing support to counties that seek to reduce their reliance on criminal fines and fees.

In its application, Metro noted that "[M]any Davidson County residents face significant barriers to accessing financial tools or escaping cycles of debt. These barriers disproportionately affect low- and moderate- income communities and communities of color...Criminal justice debt burdens many low-income residents and prevents successful re-entry to society."

After a national outreach and application process, PFM selected Nashville-Davidson County, Tennessee, Ramsey County, Minnesota, and Dallas County, Texas based on each county's executive-level support, commitment to reform, feasibility of effecting change, interest from its criminal justice system, and availability of data.

This report on fines and fees in Nashville-Davidson County was developed in three steps:

- 1** Determine the County's current system of assessing and collecting fines and fees, and identify the state and local laws that govern their use.
- 2** Assess the revenue and cost impact of the current system.
- 3** Develop a plan to phase out the use of fines and fees, including a set of alternative revenue sources, potential cost savings, and a detailed implementation plan.

**In our work, we were guided by the following questions:**

- What outcomes does the County hope to achieve through a reduction in reliance on fines and fees?
- What are the total revenues to the County that come from current use of fines and fees, and which departments receive a portion of the funds?
- What are the direct costs of collecting that revenue (e.g. court staff, contractors)?
- What are the indirect costs of collecting the revenue (e.g. police, sheriff, jail beds)?
- What is the financial impact on the community?
- Other than lost revenue, what are the obstacles to reducing or eliminating reliance on fines and fees?

The analysis and recommendations herein consider solely the fines and fees that are assessed through the criminal justice system, including fees charged by third party vendors for monitoring and supervision and goods and services accessed in Metro detention facilities. The project excludes all costs and penalties associated with the juvenile justice system, restitution, child support, civil fees, and municipal fees and fines (e.g. building permits and parking violations).

# METHODOLOGY

This report's findings and recommendations were developed after analysis of data and documents from Metro Nashville departments, interviews with department heads and discussions with stakeholders in the criminal justice system. The PFM team met with an advisory group convened in June 2019 and held a series of follow up conversations with senior leadership in Metro and with the State of Tennessee.

Specifically, the PFM team reviewed data and documents provided by the Criminal Court Clerk, General Sessions Probation, the Sheriff's Office, the Finance Department and the Criminal Justice Planning Department. In addition, the Tennessee Administrative Office of the Courts and State Department of Corrections provided valuable information and assistance. Among other things, the PFM team requested the dollar amount assessed, collected, and waived for each fine and fee assessed by a criminal justice entity and related vendors from FY 2014 through FY 2018.

The PFM team conducted interviews and follow up conversations with these departments, the District Attorney General, judges and court administrators in General Sessions and the Criminal Court, the Public Defender, the Law Department, Nashville Police Department, Project Return, Community Corrections, and community stakeholders. In June 2019, the PFM team also led a roundtable discussion with eleven reentry clients from Project Return, men and women with varying lengths of sentences who owed fines and fees.

Some data that we sought during our review was not available. Of particular note for the computation of fines and fees, we could not determine the amount of revenue directly collected by vendors (e.g. in the jail, and for testing and electronic monitoring). While some revenue collected by the Circuit Court for traffic offenses might otherwise be included in our review, the Court was unable to disaggregate revenue from traffic convictions and parking tickets (which, as noted above, is not a part of our review). As a result, the total impact of criminal justice fines and fees in Nashville may be even higher than what is reported here.

The PFM team began its work with the County in June 2019, but a number of factors have affected the timing and development of this Plan. These changes will likely impact the estimate of fiscal estimates related to changes in fine and fee revenue. While the data has likely changed in the short term, the order of magnitude of impact in the long term is likely to be similar.

- **There was a change in Mayoral leadership in Nashville in September 2019.** The Cooper Administration engaged early on the issue of fines and fees and worked closely with the PFM team to ensure that work on the Plan continued post-transition.
- **The combination of the tornadoes and the COVID-19 pandemic** understandably limited the availability of certain data and key staff members to engage in work on the Plan.
- **Nashville suffered significant economic losses as a result of the COVID-19 pandemic** leading to the need for significant changes in the City budget as part of the FY 2021 budget process.

# PREVALENCE OF FINES & FEES

While often discussed in tandem, fines and fees are assessed for different purposes.

**Fines are instituted as a means of punishing and deterring illegal activity.** The amount is often specific to the category of charge, such as drug offenses, or level of offense, such as a traffic citation, misdemeanor, or felony. Although fines are considered a punishment, they are often assessed on top of other punishments, such as incarceration or probation.

**Fees are a means to recoup or offset costs, and often supplement other revenue sources, such as tax dollars.** The Government Finance Officers Association notes that “[W]hen certain services provided especially benefit a particular group, then governments should consider charges and fees on the direct recipients of those that receive benefits from such services.”<sup>5</sup> Another way to think of fees is as user charges. In the context of fees for service within the criminal justice system, this often means imposing fees on individuals who do not voluntarily avail themselves of a certain service (e.g. jail, probation).

Fines and fees have seen increasing use by state and local governments as a revenue source as they confront growing demands for services at the same time there is a political reluctance to raise revenue through taxes. For example, at the city level, the 2018 annual National League of Cities report on fiscal conditions noted that “[A]s has been the case for much of the past two decades, the most common action taken to boost city revenues, regardless of broader economic trends, has been to increase fees charged for services.”<sup>6</sup> A similar 2019 analysis found that 43 percent of cities had increased the level of fees and 26 percent had increased the number of all types of fees in the past year.<sup>7</sup> The ability of most local government to raise revenue through new taxes or tax increases is also frequently constrained by state law; states have imposed caps on property tax increases and new taxes frequently require state legislation.

*“[A]s has been the case for much of the past two decades, the most common action taken to boost city revenues, regardless of broader economic trends, has been to increase fees charged for services.”*

- National League of Cities

Courts are frequently the primary assessor of criminal justice fines and fees, but they may be assessed at every point from citation or arrest through post-disposition supervision. Courts, criminal justice departments (e.g. probation supervision fees, jail booking fees), vendors (e.g. electronic monitoring, jail phone calls, drug testing), and community-based organizations (e.g. substance use assessments, anger management counseling) all may collect fine or fee revenue, sometimes both. The count of fees outnumbers the number of fines in most jurisdictions and can range from \$1 to several hundred dollars each; they may be assessed one time, or they may recur daily or monthly throughout participation in a program or alternative to detention.

<sup>5</sup> <https://gfoa.org/establishing-government-charges-and-fees>

<sup>6</sup> [https://www.nlc.org/sites/default/files/2018-09/City%20Fiscal%20Conditions%202018\\_WEB.pdf](https://www.nlc.org/sites/default/files/2018-09/City%20Fiscal%20Conditions%202018_WEB.pdf)

<sup>7</sup> [https://www.nlc.org/sites/default/files/2019-10/CS\\_Fiscal%20Conditions%202019Web%20final.pdf](https://www.nlc.org/sites/default/files/2019-10/CS_Fiscal%20Conditions%202019Web%20final.pdf)

# METRO NASHVILLE'S SYSTEM OF FINES & FEES

In Metro Nashville, most fines and fees are imposed upon conviction in General Sessions Court and Criminal Court. Additional fees are assessed throughout the term of probation and some are assessed by vendors on defendants detained in the County jail (and their families and friends) to access goods and services. Fines and fees are subsequently collected by the Criminal Court Clerk, General Sessions Probation, the Sheriff, Tennessee Department of Corrections, and vendors.

This section details all the points at which fines and fees are assessed on individuals charged with a misdemeanor or felony offense. It also describes how fines and fees are collected, and the options available for defendants unable to pay the amount assessed on them within the required time frame.

## Assessment of Fines and Fees

In Nashville-Davidson County, misdemeanor cases are adjudicated by the General Sessions Court and felony cases are adjudicated by the Criminal Court. Both courts have state statutory authority to impose a variety of fines and fees.

Statutory language determines the amount of fines and fees that can be imposed by stating an exact value, providing a range or setting a statutory maximum. In some cases, the exact amount of a fee created under state law is set at the discretion of the county-level government.

While statutes defining specific offenses may have provisions related to maximum fines, generally Section 40-35-111 of the Tennessee Code Annotated details maximum fines by type of offense:<sup>8</sup>

- Class A felonies may result in a fine of up to \$50,000
- Class B felonies may result in a fine of up to \$25,000
- Class C felonies may result in a fine of up to \$10,000
- Class D felonies may result in a fine of up to \$5,000
- Class E felonies may result in a fine of up to \$3,000
  
- Class A misdemeanors may result in fine of up to \$2,500
- Class B misdemeanors may result in a fine of up to \$500
- Class C misdemeanors may result in a fine of up to \$50

Again, individual offenses may carry fine provisions that are different from these general provisions. For example, under Section 39-13-102 of the Tennessee Code Annotated, a simple assault is a Class A misdemeanor, but carries a maximum fine of \$15,000.

In Tennessee, judges have considerable discretion in imposing fines. In most cases, there is no statutory requirement of a minimum fine. Based on multiple interviews, fines appear to only be imposed when there is a mandate. As a result, and as discussed in detail below, fine revenue in Metro is less than one-seventh the amount of revenue collected in fees.

<sup>8</sup> Offenses committed by corporations are treated separately by statute and allow for higher fine maximums.



While fines vary by offense under state law, the amount of fees that can be imposed in a criminal case is fairly uniform depending upon whether a case is in General Sessions Court or Criminal Court. The following chart details the different fees that can be imposed at conviction in every case in both courts: there are some additional fees that can be imposed in specific cases involving offenses related to drugs or alcohol use.

Fee Name	General Sessions Fee Amount (\$)	Criminal Court Fee Amount (\$)
Clerk Flat Fee	62.00	300.00
Victim Assistance Assessment	45.00	45.00
Arrest Fee	40.00	40.00
County Litigation Tax – Conviction	29.50	29.50
Criminal Injuries Compensation Fund (CICF)	26.50	26.50
State Litigation Tax	23.75	23.75
Courthouse Security Tax	15.00	15.00
Public Defender Fee	12.50	12.50
County Litigation Tax - Jail Construction	5.00	5.00
Clerk Data Entry Fee	4.00	4.00
Victim Notification Fund	3.00	3.00
Attorney Reimbursement Tax	2.75	2.75
Sheriff Data Entry Fee	2.00	2.00
Driver Education Tax	2.00	2.00
Fingerprinting Tax	1.00	1.00
<b>Total</b>	<b>274.00</b>	<b>512.00</b>

Fees upon conviction in both courts may also vary based on specifics of the case. If there has been a pretrial diversion, then no taxes are assessed. In some cases, DUI and Safety Education costs of \$140 can be ordered by the judge. In the event of continuances in a case, there are additional fees of \$5 for every continuance and \$2 for court security. There may also be additional fees for subpoenas in cases and the amount of fee is determined by the method of delivery.

Fees are set by statute, but judges appear to have discretion to waive some or all fees based on the inability to pay. General Sessions judges typically use federal poverty guidelines as the threshold for determining inability to pay, while Criminal Court judges rely on their own discretion. Some judges require a motion and hearing and an in-court appearance.

In FY 2018, General Sessions and Criminal Court judges waived 56 percent of assessed fines and fees, up from 34 percent in FY 2015. Criminal Court judges waived \$10.3 million in fines and fees in FY 2018. Compared to \$1.3 million in FY 2015.

Even before a defendant is convicted of an offense, they may face fees related to booking and time spent in the County jail. The Sheriff imposes an inmate processing fee for each booking: the fee varies from year to year based on the cost of clothing and initial issuance of basic sanitary items. In 2019, the fee was \$15 per admission. Jail inmates – including those being held pre-trial and pre-conviction – are also charged for phone calls, video visitation and commissary items. Inmates pay medical fees, with charges ranging from \$3 - \$9 per medical visit.

Upon conviction, defendants may also pay additional fees to the Sheriff – if they are incarcerated – or to General Sessions Probation, State Probation or Community Corrections. For convicted offenders in the County jail, there may be additional charges for work release (\$10 per day) and various fees if they participate in the day reporting program.

Convicted misdemeanants sentenced to probation are under the supervision of **General Sessions Probation**, an agency of Metro. The maximum term for General Sessions Probation is 365 days: 23 percent of probationers are under supervision for six months or less and the remaining 77 percent are under supervision for six months to one year. Metro Council has approved a monthly supervision fee of \$33 per month, or nearly \$400 for a one-year probation sentence. These probationers pay additional fees to vendors for electronic monitoring and drug/alcohol testing, if so ordered by the sentencing judge or probation officer.

Defendants who are sentenced to probation for a felony charge are supervised by the Tennessee Department of Corrections (DOC), or what is locally termed “**State Probation.**”

***Probationers reporting to the DOC pay a supervision fee of \$45 per month for the duration of probation or \$1,855 for the average nearly three-and-a-half year probation sentence in Tennessee.***

Unlike General Sessions Probation, probationers supervised by the DOC do not pay additional fees for monitoring and testing related to probation.

**Community Corrections** is an alternative sentence available to some defendants convicted in Criminal Court. Supervision is intended to last for one year, but offenders may continue to be supervised by the State Probation at the end of the year. Defendants who are supervised by Community Corrections pay a monthly fee of \$45 for the duration of supervision or \$540 for one year. These participants may also pay additional fees for electronic monitoring (\$7 per day) and drug/alcohol testing.

A complete list of all fines and fees, including which entity assesses each is available in Appendix A.

## **Process to Collect Fines and Fees**

The Criminal Court Clerk is responsible for collecting more than 70 percent of all criminal justice fines and fees in Metro Nashville. The Clerk collects fine and fee revenue on behalf of both the General Sessions Court and the Criminal Court.

The Clerk attempts to collect fines and fees from defendants at the time of disposition. For those who do not pay upon disposition, the Clerk will send an initial notification as well as 30 day, 45 day and 90 day notifications. Defendants can pay outstanding amounts on an installment plan, but a one-time \$15 fee is imposed – starting on the day after disposition. There is a state penalty imposed

on delinquent litigation taxes of ten percent beginning 45 days after disposition. There is a similar County penalty as well.

For longer term debts, the Clerk utilizes a third-party collections agent. The last contract ended in November 2018. Since then, Metro has selected two vendors to manage collections, Automated Collections Services, Inc. and Municipal Services Bureau, and as of March 2020, Metro was on-boarding the new vendors. The Clerk will use Municipal Services Bureau to do its collections; most debt will be sent to the vendor for collections six months post-conviction. People with outstanding debt will pay a 17.5 percent fee to the collections agency on top of their owed costs.

In 2017, the Clerk created a Compliance Division – repurposing existing staff that had previously been dedicated to collections. Conceptually, the shift in staff and structure reflects a collective effort to eliminate criminal justice debt for defendants who lack the means of payment.

The Clerk's initial efforts focus on helping defendants who can make limited payments enter into payment plans. Among other things, the Clerk seeks to prioritize allocation of payments made by a defendant on those cases where collection may soon be assigned to a third party. Prior to successful litigation that now limits the ability to suspend driver's licenses for non-payment of fines and fees, the Clerk also prioritized payments to avoid the suspension.

If a defendant cannot afford a payment plan, the Clerk will seek a court day to waive payment for indigency. In General Sessions Court, one judge regularly holds hearings post-conviction to determine indigency and waive payment of fees.

The Clerk also recoups assessed fees from bail payments after a defendant makes required appearances: this practice is now the subject of litigation being brought by the ACLU.

Fees owed to the **Sheriff** are taken out of cash that inmates may have at the time of booking and any funds deposited into inmate accounts during detention. Any outstanding balance is maintained over time and, if the defendant is booked in the jail again in the future, cash on hand at booking will be applied toward the balance.

Misdemeanor probationers pay their probation supervision fees directly to **General Sessions Probation**. For outstanding fees owed at the completion of a probation term, the Director identifies which individuals have been deemed indigent in General Sessions Court and refers the remaining probationers to one of Metro's collections vendors.

**DOC** collects State Probation fees through a vendor. There are additional collection fees imposed on all payment methods other than money orders. State Probation will set fees at a maximum of \$45 per month based upon income level and hardship factors, according to statute. The fees are separated into three funds: supervision, diversion, and Criminal Injuries Compensation.

**Community Corrections** will collect fees directly, but only through money orders. Those fees are then sent directly to the Criminal Court (in other counties, it can be to the Circuit Court as the trial court) for deposit. In cases where there is non-payment, Community Corrections will give a verbal warning and then a written warning to the defendant. If there is continued non-payment, Community Corrections may bring a warrant to a judge. Judges usually do not sign warrants if non-payment is the only area of non-compliance; where the warrant is signed, the defendant is arrested, and a court date is set. If a judge declines to sign the warrant, Community Corrections will set up a status date in front of the judge, and interviewees suggested the judges frequently will waive the fees at that point.

# IMPACT OF THE CURRENT SYSTEM OF FINES & FEES

The way the criminal justice system responds to defendants who don't pay their fines and fees differs across jurisdictions. Many jurisdictions use the authority of the criminal justice system to compel defendants to make payment on their fines and fees. This can include post-disposition court hearings, probation violations or extended probation terms, and jail time.

For many years, Metro Nashville penalized defendants who did not pay their fines and fees. In recent years, while judges in General Sessions and Criminal Court have the ability to jail defendants for non-payment of fines and fees, or more specifically for failure to appear at hearings related to non-payment, multiple people and departments stated in interviews that it happens very infrequently (data was not available to confirm or deny). However, historically, defendants with outstanding fines and fees were subject to having their driver licenses suspended. Subsequently, individuals could – and in many cases would – be arrested and jailed for driving without a license. Under Tennessee law, driving with a revoked license can be punished with up to six months in jail and a \$500 fine for a first offense, and up to a year in jail and a \$2,500 fine for each subsequent offense.

In a 2018 decision, a Federal Court Judge held that the process of suspending driver licenses for unpaid fines and fees violated the 14th Amendment. The case stemmed from a challenge by two Nashville residents to the Tennessee law allowing for driver license suspensions for unpaid court debt. The court held that "the lack of an indigence exception has resulted in numerous poor Tennesseans with suspensions that they cannot overcome. This led to "both constitutional and material injuries" that "are, or are likely to be, irreparable." Since the ruling, Metro has ceased suspending driver licenses for non-payment of fines and fees.

In describing its effort to eliminate administrative fees in the criminal justice system, San Francisco uses the term "High Pain, Low Gain."<sup>9</sup> For most city, county, and state governments, fine and fee revenue represents a relatively small percentage of all revenue collected, but the accumulation of outstanding debt on individuals and their families weighs heavily as they struggle to make payments.

**"In many cases, offenders' total debt burdens overwhelm their abilities to pay while establishing minimally secure financial lives for themselves and their families. The widespread practice in American law is to impose economic penalties with uncertain chances of collection and with insufficient concern for their long-term impact on offender reintegration, recidivism, and public safety."<sup>10</sup>**

A series of indicia demonstrate that criminal defendants – especially those that are eventually incarcerated – are disproportionately poor. A 2018 Brookings Institution study found that among individuals age 18-64 who were sentenced to at least 1 year in prison, approximately 80 percent were unemployed in the year before incarceration.<sup>11</sup>

<sup>9</sup> "Criminal Justice Administrative Fees: High Pain for People, Low Pain for Government," *The Financial Justice Project, Office of the Treasurer & Tax Collector, City and County of San Francisco*, (April 24, 2019).

<sup>10</sup> Kevin R. Reitz, "The Economic Rehabilitation of Offenders: Recommendations of the Model Penal Code (Second)," *Minnesota Law Review*, 99:1735 (2015), 1738-1739.

<sup>11</sup> [https://www.brookings.edu/wp-content/uploads/2018/03/es\\_20180314\\_looneyincarceration\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf)

A 2000 Justice Department study – the most recent national analysis – found that two-thirds of all defendants in the 100 largest counties were indigent and represented by appointed counsel.<sup>12</sup> In one state (Texas), FY 2019 data indicate that 76 percent of felony cases and 47 percent of misdemeanor cases had appointed counsel.<sup>13</sup>

While Metro has taken steps to minimize criminalization of non-payment, defendants with limited financial means can still accumulate significant debt through the courts, probation, and monitoring and programs that are ordered as a condition of probation or alternatives to incarceration. This debt weighs heavily on defendants and their families who may not be aware that the system’s response to non-payment has changed and fear repercussions.

Criminal justice debt impacts defendants long after their case has concluded. While the Criminal Court Clerk and Finance Department were not able to provide the total amount of outstanding debt among defendants in its criminal justice system, among cases with fines and fees completely paid off, it took defendants, on average, four years to complete payment. In Nashville, payment of fines and fees may be a condition of probation. Thus, non-payment could result in a violation, although it is rarely, if ever, used by judges. Under Tennessee law, convicted felons are ineligible to vote until they have satisfied payment on all fines and fees. Where a defendant is indigent, it is difficult to get a hearing to waive fees: there is a backlog to get on the “indigency docket,” and it may require defendants to take unpaid time off from work, as well as incur expenses related to transportation or child care.

These findings are consistent with what we heard about the impact of fines and fees from formerly incarcerated individuals in a local reentry program who participated in a roundtable discussion. Their experiences with reentry and paying off fines and fees differed drastically depending on the level of external support they had from friends and family. Additionally, they pointed to the importance of the reentry organization they were engaged with because otherwise, they said, they would have no idea how to request relief from their judges and reduce their total debt. One participant talked about his surprise when he learned upon release that he owed \$23,000 in fines and fees:

***“I was released from prison and found out I owed more than \$20,000 in fines and fees. I had just paid my debt to society in prison – why did I still owe?”***

<sup>12</sup> <https://www.bjs.gov/content/pub/pdf/idslc99.pdf>

<sup>13</sup> [www.tidc.texas.gov](http://www.tidc.texas.gov)

# FISCAL IMPACT OF FINES & FEES

In FY 2018, based on the available data, approximately \$8.5 million in criminal justice fines and fees were collected from defendants and inmates in Metro Nashville by the Criminal Court Clerk (for fines and fees in both General Sessions and District courts), General Sessions Probation, State Probation and the Sheriff. Just over fifty percent of revenue was collected from fines and fees assessed in General Sessions Court (\$4.4 million), compared to just \$1.6 million in revenue from the Criminal Court. Most of the revenue is derived from fees, with only \$1.15 million was collected from fines.

Appendix B provides the amount collected from each fine and fee for the period 2014 through 2018.

## FY 2018 FINE AND FEE REVENUE BY ASSESSING ENTITY

Assessing Entity	FY 2018 Revenue (\$)			% of Revenue
	Fines	Fees	Total	
General Sessions Court	729,885	3,669,165	4,399,050	52.0
Criminal Court	420,685	1,189,879	1,610,564	19.0
State Probation (All Fees)	n/a	1,038,665	1,038,665	12.3
General Sessions Probation (Supervision Fee only)	n/a	707,432	707,432	8.4
Sheriff's Office	n/a	627,652	627,652	7.4
Community Corrections	n/a	79,963	79,963	0.9
<b>Total</b>	<b>1,150,570</b>	<b>7,312,756</b>	<b>8,463,326</b>	<b>100</b>

## Fine and Fee Collections by Receiving Entity

The majority of fine and fee revenue collected through the Metro Nashville criminal justice system is retained locally. In FY 2018, of the \$8.5 million collected, 68 percent (\$5.8 million) went to Metro – either into the General Fund or for a designated purpose.

## FY 2018 FINE AND FEE REVENUE BY RECEIVING ENTITY

Revenue Recipient	Sheriff's Office	FY 2018 Revenue (\$)						% of Revenue
		General Sessions	GS Probation	Criminal Court	Comm. Correct	State Probation	Total	
Clerk Fees/ Commission	0	1,269,455	0	317,175	0	0	1,586,630	18.7
Metro General Fund	627,652	1,003,177	0	450,260	0	0	2,082,980	24.6
Metro Special Fund or Specified Purpose	0	967,356	707,432	416,956	0	0	2,091,744	24.7
Metro Revenue Subtotal	627,652	3,239,987	707,432	1,184,391	0	0	5,761,354	68.1
State General Fund	0	438,060	0	284,383	79,963	1,038,665	1,841,071	21.8
State Special Fund or Specified Purpose	0	708,372	0	135,900	0	0	844,272	10.0
Satellite Cities	0	11,557	0	5,798	0	0	17,355	0.2
University Police	0	1,073	0	92	0	0	1,165	0.0
<b>Total</b>	<b>627,652</b>	<b>4,399,050</b>	<b>707,432</b>	<b>1,610,564</b>	<b>79,963</b>	<b>1,038,665</b>	<b>8,463,326</b>	<b>100</b>

The Criminal Court Clerk retained nearly \$1.6 million from fees and a five percent commission, which equaled to nearly 19 percent of all collected revenue in FY 2018. Clerk fees and commissions are established by State statute and comprise nearly 26 percent of the Clerk's General Fund budget.

State Probation collected just over \$1 million in probation supervision fees and Community Corrections collected \$80,000 in supervision fees, but none of that revenue went to Metro.

Metro received nearly \$2.1 million from fines and fees that was sent to a special revenue fund or otherwise have a designated purpose.

- Revenue from General Sessions Probation (\$707,342) was used to supplement funding to that department.
- Among fines and fees assessed in General Sessions Court, nearly \$300,000 is generated by arrest fees and supplements funding to the Nashville Police Department, \$126,000 is used to defray the costs of public defender representation, and just over \$100,000 is dedicated to the Victim's Assistance Program. All other dedicated purposes receive less than \$100,000 each from fines and fees.
- In Criminal Court, \$110,000 is dedicated to the District Attorney for the prosecution of drug offenses and economic crimes, and just over \$100,000 is dedicated to the Court's Drug Enforcement Fund. All other dedicated purposes receive less than \$100,000 each from fines and fees.

It is important to note that while this report relies upon FY 2018 actual data, the amount that Metro collects – or receives – today is likely lower. In late 2018, Metro Council eliminated a \$44/day jail fee levied against misdemeanor arrestees. The Sheriff also eliminated a \$35 fee that was assessed on first time offenders released on their own recognizance through his pretrial program in recognition that inability to pay was keeping some eligible defendants in jail. These two fees accounted for just over \$520,000 in FY 2018 revenue – out of the \$627,652 in General Fund revenue attributed to Sheriff fees.

### Fine and Fee Collections by Authorizing Entity

Tennessee statute authorizes and sets the value for 74 percent of fines and fees collected in Metro Nashville.

Fees imposed by Metro Council generated \$2.2 million in revenue in FY 2018. General Sessions Probation fees were the largest source of fee revenue authorized by Metro Council, accounting for 32 percent of \$2.2 million. The second largest fee, the jail fee, was already eliminated in 2018; this fee generated 20 percent of revenue from Metro Council authorized fees. The Sheriff’s Office assesses other fees that comprise another eight percent. The remaining 40 percent are fees authorized by State law, but the value is set by Metro Council.

#### FY 2018 FINE AND FEE REVENUE BY AUTHORIZING ENTITY

Authorization	Total Collections (\$)	Share of Total Collections (%)
Metro Ordinance	652,554	7.7
State Statute w/ Local Discretion	1,587,316	18.8
<i>Local Authority</i>	<i>2,239,870</i>	<i>26.5</i>
State Statute (No Local Discretion)	6,223,456	73.5
<b>Total</b>	<b>8,463,326</b>	<b>100.0</b>

### Cost of Collections

There are direct and indirect costs of Metro Nashville’s system of fines and fees. The primary direct costs are personnel costs and materials: staff who receive payments and monitor the status of debt, and materials needed to send notifications of non-payment, such as postage and paper.

The Criminal Court Clerk is the primary department that collects fines and fees for Criminal and General Sessions Court. The department has 19 employees who spend at least a portion of their time on activities related to collecting fines and fees. The Clerk assisted in assessing time allocations for collection for each of the staff members. Based on these time allocations, there are 11.1 FTEs dedicated to fine and fee collection.



The individual salaries for these employees range from \$35,000 to \$48,000. Benefits costs were calculated using a factor of 19.99 percent for Pension and Taxes and healthcare was applied at a cost of \$12,600 per employee. Based on the fully loaded cost for these FTEs and their percentage allocations, the total cost for these personnel dedicated to fine and fee collections is \$678,174. The only operating cost that the Clerk's Office provided was for postage, because it sends notifications for outstanding debt at 30, 45 and 90 days. The FY18 cost for postage was \$45,764. Thus, the estimated combined total direct cost for fine and fee collections is \$723,938.<sup>14</sup> Appendix C provides the personnel costs and estimated time spent on collections for each relevant position in the Clerk's office.

Similar data on collection cost was not available for either General Sessions Probation or the Sheriff, but both departments reported they do not employ staff who dedicate their time to collecting fees. State Probation and Community Corrections are both state funded and receive no local funding.

There may also be other indirect costs of the current system of fines and fees. Many jurisdictions use the authority of the criminal justice system to compel defendants to make payment on their fines and fees. These levers often include post-disposition court hearings, probation violations or extended suspended sentences, and jail time.

The PFM team was told that Nashville judges rarely jail defendants for failure to pay fines and fees, nor do they issue warrants for failure to appear at indigency hearings held post-sentencing. Additionally, Nashville no longer suspends driver licenses for failure to pay fines and fees.

Although Nashville has limited its use of certain penalties for non-payment, which limits associated indirect costs, there are costs associated with defendants who are unable to pay their fines and fees. In FY 2018, 1,211 hearings were held to consider a defendant's indigency and reconsider fines and fees. Another 586 were scheduled, but the defendant failed to appear. While a per-hearing cost is not available, each hearing requires staff resources from the judiciary and Clerk staff.

It is possible that individuals who struggle to pay fines and fees have a higher rate of recidivism, which would impose an indirect cost on nearly every criminal justice department. There is relatively little research on the impact of criminal justice debt on recidivism. The only significant study to date found that when controlling for other factors, recidivism rates for juveniles were higher for juveniles with criminal justice debt than for juveniles without debt.<sup>15</sup>

<sup>14</sup> The actual cost of collection is likely higher. This allocation of Clerk resources does not account for the portion of management time and other staff that provide centralized services.

<sup>15</sup> Alex R. Piquero and Wesley G. Jennings. "Research Note: Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders." *Youth Violence and Juvenile Justice* 15, no. 3 (July 2017): 325–40.

# Obstacles to Reducing and Eliminating Fine & Fee Revenue

Metro Nashville has demonstrated both a willingness and an ability to reduce its reliance on fine and fee revenue. Metro Council can independently act to reduce fee revenue, but significant reductions in fines and fees requires support and action from the judiciary and the State. There are, however, obstacles to both.

While some stakeholders in the criminal justice system see fines and fees as a component of holding criminal defendants accountable, the greater concern was over what would happen to programs that are directly funded by criminal justice fine and fee revenue. This concern will be directly addressed in our recommendations on how lost revenue can be offset.

## Recommended Actions to Reduce Reliance on Fines & Fees

The PFM team has identified specific steps that Metro Council, judges, other criminal justice agencies, and the State can take to reduce reliance on fines and fees as a source of revenue.

- Metro Council can eliminate the General Sessions Probation Fee;
- Metro Council can eliminate seven court fees set by the county-level government;
- The Criminal Court Clerk can eliminate the \$15 late fee placed on outstanding debt;
- The Sheriff can eliminate fees for booking, work release, and supervision;
- Judges, the Clerk, and the District Attorney General can work together to sooner identify those unable to pay and maximize discretion; and
- Metro Council, judges and the State can work together to designate Nashville as a pilot jurisdiction for a program to scale fines and fees based on ability to pay (i.e. “day fines”).

## Metro Council and Sheriff’s Actions to Reduce Fees

If FY 2019 and FY 2020 revenue for existing sources were to remain constant from FY 2018, the gross revenue generated for Metro Nashville would be \$5.2 million. If Metro Council, the Criminal Court Clerk, and the Sheriff’s Office eliminated the fees under their direct control, the impact on revenue in future years is a reduction of \$1.6 million, all of which is currently collected by Metro. This estimate includes a commensurate reduction in commission that the Clerk receives on court-assessed fees (5 percent) and taxes (6.75 percent). The impact of these actions is summarized in the following table.

Fee Name	Fee Value (\$)	FY 2018 Revenue (\$)	Impact on Clerk Commission (\$)	Total Impact (\$)
<b>Metro Council Actions</b>				
ADAPT Participation Fee	20/month	24,902	1,245	26,147
Blood Alcohol Conc. (BAC) Fee	50	3,208	160	3,368
County Litigation Tax - Jail Construction	5	31,707	2,140	33,847
County Litigation Tax - Victim Offender Mediation	2	9,738	657	10,395
Courthouse Security Tax	15	84,263	5,477	89,740
Public Defender Fee	12.50	139,195	6,960	146,155
Victim Assistance Assessment Tax	45	158,857	10,723	169,580
General Sessions Probation Fee	33/month	707,432	0	707,432
<i>Metro Council Subtotal</i>		<b>1,159,303</b>	<b>27,362</b>	<b>1,186,664</b>
<b>Clerk's Actions</b>				
Late Payment Fee	\$15	\$61,174	0	\$61,174
<i>Clerk Subtotal</i>		<b>\$61,174</b>	<b>0</b>	<b>\$61,174</b>
<b>Sheriff Actions</b>				
Inmate Processing Fee	15/booking	88,326	0	88,326
Work Release Fee	10/day	16,647	0	16,647
Supervision Fee	Varies	257,711	0	257,711
<i>Sheriff Subtotal</i>		<b>362,684</b>	<b>0</b>	<b>362,684</b>
<b>Total</b>		<b>1,583,161</b>	<b>27,362</b>	<b>1,610,522</b>

## Increase Fine and Fee Waivers

The Mayor, the District Attorney General, and the Public Defender can work with individual members of the judiciary to proactively evaluate more cases where indigency may warrant waiver of fines and fees. This effort should focus specifically on General Sessions Court. The Criminal Court Clerk and the courts can provide a summary of all costs to defendants at sentencing rather than follow up by mail to reduce non-payment due to lack of notice.

## State Legislation for a Day Fine Pilot

Metro Nashville can be an advocate for additional reform at the state level, focused specifically on assessing fines and fees in a way that considers the ability to pay in a consistent manner.

Day fines are one approach to scaling criminal justice financial penalties based on ability to pay. The approach considers a defendant's income and the severity of their offense to determine

an appropriate financial penalty. Offenses are assigned points that equate to the number of days of income a defendant will be required to pay. The more serious an offense, the more days of income a defendant will have to pay. For example, a defendant who makes \$100,000 may pay a maximum fine and fee total of \$548 for a certain offense, whereas a defendant earning \$12,760 may pay a maximum fine and fee total of \$69.

Ideally, this scaled approach would apply to all fines and fees. The State could designate Metro as a pilot jurisdiction and allow all fines and fees to be scaled under the model. Metro, the judiciary, and the Criminal Court Clerk would need to work closely together to create an appropriate scale, set the criteria for determining ability to pay, and set up the tracking and payment systems needed to align with the scaled approach.

In pursuing the concept of day fines, the State and Metro should also consider working with a local university or another research institution to quantify the long-term criminal justice impacts of fines and fees on residents by measuring recidivism rates among indigent defendants assessed fines and fees compared to those with financial means (or no fines and fees). The financial impact of continued involvement in the criminal justice system should be factored into ongoing cost benefit analyses of eliminating or scaling additional fines and fees.

## Plan to Offset Revenue Impact of Fine & Fee Recommendations

To fully offset all criminal justice fine and fee revenue (including those under control of the State), Metro Nashville would need to identify offsets of \$5.2 million. To offset the revenue impacts of just the recommendations under direct control of Metro, there would be a need to find \$1.6 million in annual revenue or savings.

Generally, plans to offset the potential loss of revenue due to elimination of criminal justice fine and fee revenue have three components.

- 1 Some savings are potentially available due to reduction in the cost of collections.**  
In Metro, this would primarily focus on reductions in the collections activity of the Criminal Court Clerk.
- 2 Some savings may be available through changes in programs or services that are directly funded by fine and fee revenue.**  
This approach is applicable in Metro, particularly with respect to General Sessions Probation.
- 3 Metro may be able to absorb some of the loss of revenue if it can identify other related savings in the criminal justice system or new sources of revenue.**

As a start, we would recommend that Metro begin by reducing those fees under its direct control and that can be substantially offset by a reduction in the cost of collections and changes in programs that are currently funded by fine and fee revenue. This would be a prudent approach given the current fiscal stress faced by Metro as a result of the COVID-19 pandemic. It would result

given the current fiscal stress faced by Metro as a result of the COVID-19 pandemic. It would result in the elimination all the fees locally imposed by Metro Council and waiver of late payment fees (just less than \$1.3 million).

During the course of FY 2021, we also recommend that the Mayor work with the Sheriff to identify an additional \$1 million in annual savings – this would allow the Sheriff to eliminate fees under its control and offset the full annual cost of all locally imposed fees under control of Metro.

### **Savings Option:**

#### Reduce Compliance Staffing at the Criminal Court Clerk = \$72,393

With a reduction in fees to be collected, there could be a commensurate reduction in staffing in the Criminal Court Clerk's office. The savings, however, are limited for several reasons.

First, even if Metro Council were to adopt all of the recommended reductions in court fees subject to local control, that would account for only \$450,000 out of the approximately \$6 million in revenue that the Clerk is responsible for collecting in fines and fees from the General Sessions and Criminal Courts.

Second, it is not clear that the reduction in the amount to be collected would result in a reduction in the amount of effort and time needed to make the collections. The number of defendants owing fines and fees – and subject to collection efforts – would not change. In effect, the Clerk would have the same number of clients, but they would owe less. Further, implementation of the day fines approach could require the same level of staff currently dedicated to collections if Nashville opts to verify income or track changes in income post-disposition.

Third, even if Metro Nashville were successful in eliminating all fees and fines that it receives through the courts (including those controlled by state statute), there would still be fee and fine revenue that the Clerk collects on behalf of the state.

Finally, as noted above, the Clerk has already repurposed its Collections staff to focus more on Compliance – and to actively assist defendants who cannot pay in efforts to reduce or eliminate their court debt.

Nevertheless, some savings in the Clerk's office is probably achievable – with additional savings available if there is a change in the structure of fines and fees that better aligns the imposition of both with the ability to pay. **As a first step, the Clerk and the City Finance Department should work to identify the equivalent of a ten percent savings in the existing costs attributable to collections – or \$72,393 per year.** It is likely that this could be achieved through attrition.

### **Savings Option:**

#### Reduce Probation Headcount = \$563,664

The proposed elimination of the General Sessions Probation fee should prompt a review of its current level of funding.

Between FY 2014 and FY 2019, the number of individuals on General Sessions Probation has declined by approximately one-quarter -- from an average daily caseload of 6,000 in FY 2014 to

approximately 4,500 in FY 2019. During a similar period, the office's budgeted staff increased from 27 probation officers in FY 2014 to 32 in FY 2020. While some of the increase in the number of probation officers is the result of additional assignments to specialty courts and an increase in pretrial supervision responsibilities, the average caseload in FY 2019 was 99 probationers per officer compared to 250 probationers per officer in FY 2012.

Reducing probation caseloads could be justified if it results in a reduction in recidivism among probationers. When asked about whether this has been the impact, General Sessions Probation indicated that they do not maintain any reliable data on recidivism. In fact, a meaningful reduction in recidivism related to the reduction in caseload seems unlikely. General Sessions Probation officers supervise misdemeanants with probation terms of no longer than 11 months and 29 days and rely primarily on remote supervision, using email and phone calls to keep in touch with probationers to limit costs associated with parking downtown.

Given the department's headcount and method of supervision, General Sessions Probation could likely eliminate eight probation officer positions without a negative impact on public safety. According to Finance Department data, the average total cost of a Probation Officer position in FY 2020 is \$70,458. **Elimination of eight positions would reduce cost by \$563,664 annually.** This reduction could be achieved immediately through reassignment or phased-in through attrition.

## **Savings Option:**

### **Reduce the Cost of Incarceration = Up to \$12 million**

While criminal justice fines and fees generated \$8.5 million in revenue in FY 2018 (\$5.8 million for Metro Nashville), the costs of the criminal justice system in Metro are far greater. Part of the offset to the loss of that revenue could come from reductions in cost in the criminal justice system. In FY 2020, the General Fund cost of the criminal justice system in Metro is nearly \$347 million – or 35 percent of the total General Fund budget (excluding Nashville Public Schools).

The costliest element of the criminal justice system is the Nashville Metro Police Department, with an annual budget of more than \$200 million. The next most costly department within the criminal justice system is the Sheriff's Office with a budget of approximately \$76.3 million.

Within the budget of the Sheriff's Office, approximately \$38.6 million is directly attributable to the cost of local incarceration, excluding costs for federal inmates and TDOC backup. Until recently, the Sheriff's Office managed four jail facilities (Davidson CDC, Davidson HDC, Davidson MCC and Davidson ORC) and a private contractor operated a fifth, Metro-Davidson Detention Facility (MDF). Today, three of the four facilities operated by the Sheriff have closed, a new building (Davidson DDC) has come online, and the private contractor operating MDF has terminated its contract. As of early October 2020, the Sheriff's Office manages MDF, the private facility, in addition to DDC, MCC (female inmates were moved from CDF to MCC), and CDM. These significant infrastructure changes make this an apt time to evaluate costs and identify savings.

These facilities hold local inmates – both convicted misdemeanants and pre-trial felons and misdemeanants – and inmates that are the responsibility of the federal and state governments. Metro is responsible for the cost of holding local inmates, while the state and federal government reimburse Metro for the cost of holding state or federal prisoners.

The FY 2020 annual cost of the private jail provider contract was budgeted at approximately \$17 million, much of which was funded through State revenue for housing locally sentenced felons: as of December 2019, two-thirds of MDF inmates were locally sentenced felons. Thus, in sum, the current total local annual cost of incarceration in Metro is at least \$44 million, which includes one-third of costs associated with MDF inmates.

**Metro has already been successful in dramatically reducing incarceration levels, but there remain opportunities to do more.** Point in time data from the Tennessee Department of Corrections (TDOC) shows that, between July 2013 and July 2019, the number of local inmates (excluding locally sentenced felons, federal/other jurisdiction inmates, and TDOC back-up) declined from 2,066 to 1,252 (39.4 percent). The decline is largely the result of a nearly fifty percent reduction in the number of convicted misdemeanants – from 546 on July 31, 2013 to 278 on July 31, 2019. The number of pre-trial inmates in jail also declined, but at a much lower rate – going from 1,150 in July 2013 to 974 in July 2019: pre-trial felons declined from 966 to 839 and pre-trial misdemeanants declined from 184 to 135.

The jail population has declined even further in 2020, likely due, in part, to policy decisions made in response to COVID-19. As of August 31, 2020, there were 943 local inmates in the jail. There have been significant reductions in the misdemeanor populations just discussed; on the same date in August, there were 104 convicted misdemeanants and 76 pre-trial misdemeanants in the jail.

If Nashville can sustain reductions in its jail population, it should achieve significant long-term savings. Although there may be costs associated with alternatives to detention or sentencing, those costs are less than incarceration. The cost per inmate per day in locally operated facilities was reported at \$103, though this sum appears to be several years old and the actual sum may be greater. This Plan provides a means for Metro and the Sheriff to achieve those savings:

- Maintain its reduced jail population through bail reform and alternatives to incarceration;
- Fully recognize operational efficiencies that can be achieved from moving to the new facility; and
- Phase reductions in staffing and immediate reductions in other costs (e.g. inmate health and food service) resulting from population decline.

The key to the continued reduction in local jail population is to reduce both the number of defendants being held in jail pre-trial and the number of convicted misdemeanants who are incarcerated. The following provide preliminary approaches to do so that may warrant the County’s additional analysis and consideration.

Potential Savings from Reduced Incarceration	Preliminary Estimated Annual Impact (\$)
Bail Reform	\$2.4 million - \$8.0 million
<i>Pretrial Misdemeanants</i>	<i>\$1.0 million - \$3.4 million</i>
<i>Pretrial Felons</i>	<i>\$1.4 million - \$4.6 million</i>
Alternatives to Incarceration	Up to \$3.6 million
Operational Efficiency (estimated at 5% reduction in operating costs)	\$2.0 million

## **Bail Reform:**

In recent years, county governments across the nation have increasingly looked to reform the use of pre-trial detention and to enhance equity in criminal justice systems – including in Davidson County, through the Sheriff’s Office’s pre-trial release program for low-risk individuals, among other actions.

Other counties have demonstrated the impact of effective bail reform on jail population. For example, in Cook County, Illinois, bail reform – in concert with other criminal justice system actions during a multi-year period – resulted in a 42 percent reduction in jail population over a five-year period of time.<sup>16</sup> The County’s bail reform took effect in September 2017. In the 15-months after adoption of bail reform, the felony-related focus of the County’s bail reform more than doubled the number of defendants released with personal bonds. Among those granted bail with a monetary amount, the median bond amount was one-fifth of the pre-bail reform bond amount. The percentage of defendants not released (“no bond” decisions) increased by 8 times (to nearly 7.2 percent of all cases) as a result of the bail reform mandate that, if an individual poses a danger to a person or the community, pre-trial detention should result as opposed to a higher bond amount.

**Cook County estimates that the 42 percent decrease in jail population saved the County millions of dollars – perhaps more than \$60 million (at an average daily cost per inmate of \$143) in the first calendar year.**

In Metro, defendants released pre-trial are typically only released on a bond and those released typically have higher bail amounts. Among Metro defendants released in 2019, 53 percent were released on bond compared to 37 percent through pre-trial release: the percentage of those released through a bond actually increased from 46 percent in 2018. In the case of defendants released in 2018, 79 percent of felons obtained release through a surety bond compared to 43 percent of misdemeanants.

In Metro, only one percent of felons and six percent of misdemeanants were released on their own recognizance – a no cost, common form of release in other jurisdictions. For context, in 2018, New York City released 72 percent of defendants on recognizance. Money bail – or bond in lieu thereof – was set in just 23 percent of all criminal cases in 2018: Additionally, money bail was set in 13 percent of misdemeanor cases, 40 percent of non-violent felonies, and 62 percent of violent felonies.<sup>17</sup> More than a decade earlier, a national study of pre-trial release of felony defendants in state courts in the 75 largest counties found that, among those released, 32 percent were released on personal recognizance.

In Metro, the 2018 average bond amount set for those charged with a felony who did not post bond was \$38,685; for those who did post a type of bond, the average bond was \$10,994. Those charged with a felony who did not post bond spent, on average, 33.2 days in jail. At a cost of at least \$103 per inmate per day, the average cost to Metro for such an individual’s inability to post bond was \$3,419.60.

<sup>16</sup><http://www.cookcountycourt.org/Portals/0/Statistics/Bail%20Reform/Bail%20Reform%20Report%20FINAL%20-%20%20Published%2005.9.19.pdf>

<sup>17</sup> Aubrey Fox and Stephen Koppel, Pre-Trial Release without Money: New York City, 1987 – 2018, New York City Criminal Justice Agency, March 2019



In 2018, the average bond amount set for those charged with a misdemeanor who did not post bond was \$1,407; for those who did post a type of bond, the average bond was \$1,863. Those charged with a misdemeanor who did not post bond spent, on average, 2.6 days in jail. At a cost of at least \$103 per inmate per day, the average cost to Metro for such an individual's inability to post bond was \$267.80.

Reducing reliance on cash bail would limit the degree to which a defendant's financial circumstances determine whether he or she is incarcerated; it could also reduce jail population and save taxpayer dollars.

One place to start might be misdemeanants being held pre-trial. The County's data indicates that the 2019 ADP for this population was 91.<sup>18</sup> Given the District Attorney's recent announcement that he will no longer prosecute low level possession of marijuana, these savings may be immediately available. At a cost of \$103 per inmate per day, detained misdemeanants costs Metro \$3.4 million annually.

The entirety of the \$3.4 million sum may not be recoverable. Reductions in personnel cost would require the ability to close off actual units in a jail. But there would be savings in costs for medical care – which Metro pays on a per inmate per day basis – and food – where the contract similarly is based on a per inmate per day cost.

According to data from the Sheriff's Office, the daily average cost of inmate health care is \$25.91. Under the contract for meals, the daily cost per inmate is \$4.83. Thus, at a minimum, eliminating all pre-trial misdemeanants from Metro jails through bail reform would provide \$1.0 million in annual savings. This figure could be affected by the fact that some pre-trial misdemeanants are currently in MDF – a privately-operated facility where per inmate costs may be different. But, any downward projection in cost savings would likely be offset by the fact that at least some personnel savings could likely be achieved with the reduction of 91 inmates.

Moreover, bail reform need not be limited to the pre-trial release of misdemeanants. A comprehensive approach to bail reform, including a risk-based assessment could reduce felony jail population as well. For example, based on the County's 2019 ADP data, there were, on average, 815 felony defendants being held pre-trial. Dialogue with the County and a review of prior point-in-time top charge data suggest that this population includes a meaningful number of individuals who are being held on charges related to the possession or sale of drugs or non-violent offenses – preliminary estimates suggest that it could be between 15 percent and 25 percent of pre-trial detainees. Bail reform may include releasing felony defendants charged with such offenses. At \$103 per inmate per day, a preliminary estimate of the annual cost to detain individuals with such charges is at least \$4.6 million.

As with the pre-trial misdemeanor population, the entirety of the \$4.6 million sum may not be recoverable. Reductions in personnel cost would require the ability to close off actual units in a jail. At a bare minimum, there would be savings in costs for medical care and food that could generate at least \$1.4 million in reduced costs.

<sup>18</sup> However, for context, as of December 31, 2019, there were 138 pretrial misdemeanor detainees in Metro facilities -- including 35 in MDF.

## ***Alternatives to Incarceration:***

Metro should also continue to explore opportunities to reduce the number of misdemeanants that are convicted and sentenced to jail time. By definition, most misdemeanants are not convicted of serious offenses and frequently are not convicted of violent offenses: many are in jail for violations of probation. Their length of stay is relatively short – an average of 66 days – with little time for any sort of rehabilitation.

As of July 31, 2019, Davidson County had 3.4 convicted misdemeanants in jail per 10,000 residents. This was less than Hamilton County (8.4), but significantly more than either Knox County (1.4) or Shelby County (2.6). By expanding opportunities for alternatives to incarceration, Metro could further reduce its convicted misdemeanor population to the same rate as Knox County – resulting in a population reduction of approximately 130 inmates.

Alternative to incarceration programs may cost as much as \$10,000 per year, but – even at a high-end rate of \$10,000 for the average annual participant cost, the potential net savings could be \$3.6 million or more.

## ***Jail Staffing:***

Even if the jail population were to remain unchanged, there may be opportunities to reduce the cost of incarceration through more efficient staffing of Metro jails.

In FY 2019 (and continued in FY 2020), correctional staffing was reduced – with the number of correctional officers/trainees declining from 413 to 313: yet this reduction in staffing seems to have been offset, almost position by position, with the creation of 99 new security officer positions. Security officers, however, provide non-jail security.

In recent years, the County's total inmate population decreased by more than 1,000 inmates – of which 797 (76.9 percent) were in DCSO facilities (as opposed to MDF) – some of which is likely related to temporary transition of female inmates to MDF during construction of the new jail facility.

The new jail is scheduled to open in 2020. As the Sheriff's Office's new facilities come online, Finance should work with the Sheriff to identify the most efficient manner to ensure staff, inmate, and public safety, while minimizing cost and incarceration. The Sheriff's Office has noted that the new facilities will have a state of the art design. Improved design and improved inmate supervision combined with historic population reductions should allow for staffing reductions. Additionally, a detailed review of the inside and outside security needs, staffing allocation, and cost of alternative service provision could provide opportunities to adjust staffing, achieve savings, and ensure a constant level of security and safety.

At a budgeted cost of \$38.9 million for non-MDF County-supervised inmates, every one percent in staffing and operational savings and operational efficiency generates nearly \$390,000 in savings. Just a five percent increase in staffing and operational efficiency would generate nearly \$2.0 million in annually recurring savings.

## ***Combining Approaches:***

The most impactful approach may result from the County exploring the opportunity to pursue more than one of the above strategies. The above, preliminary strategies combine to total an estimated \$13.6 million in savings and population reduction of more than 340 inmates. The preceding preliminary strategies should result in the ability to meaningfully reduce jail units; however, the inmate reduction impact on DCSO's ability to reduce personnel and operational costs may result in some overlap and, as a result, the entirety of the \$13.6 million may not be achievable. Though, to be clear, the preliminary analysis suggests that a significant portion thereof could be achievable. Additional data and analysis would be required to confirm and refine.<sup>19</sup> Preliminarily, an annual savings range of \$8.0 million to \$12.0 million may be a reasonable target to seek upon full implementation.

Additionally, over coming years, if the County can sufficiently reduce its population in a manner such that it can completely close or consolidate jail facilities, it could also explore the cost/benefits associated with private operation of the MDF facility as well as the associated sum of state revenue dedicated to this purpose.

<sup>19</sup> Additionally, if the County takes a subset of the preceding actions, a smaller population reduction and corresponding personnel savings may result.

## Appendix A: Complete List of Fines and Fees

Fine or Fee Name	Fine / Fee	Assessing Entity	Funds Destination
Arrest Fee - Alcoholic Beverage Commission	Fee	General Sessions Court	State (General Fund)
Arrest Fee - Lakewood	Fee	General Sessions Court	Satellite Cities
Arrest Fee - TN Department of Conservation	Fee	General Sessions Court	State (Dedicated Purpose)
Arrest Fee - TN Department of Safety	Fee	General Sessions Court	State (Dedicated Purpose)
Arrest Fee - TWRA	Fee	General Sessions Court	State (Dedicated Purpose)
County Litigation Tax - Victim Offender Mediation	Fee	General Sessions Court	Metro (Dedicated Purpose)
Drug Fines - Belle Meade	Fine	General Sessions Court	Satellite Cities
Drug Fines - Berry Hill	Fine	General Sessions Court	Satellite Cities
DUI Interlock	Fee	General Sessions Court	State (General Fund)
Finance & Taxation Fines	Fine	General Sessions Court	State (General Fund)
General Sessions Probation Fee	Fee	General Sessions Court	State (General Fund)
Impaired Drivers Trust Fund & Traumatic Brain Injury Fund	Fee	General Sessions Court	State (Dedicated Purpose)
Interpreter Refund to Clerk	Fee	General Sessions Court	Clerk Fees/Commission
Judicial Education Tax	Fee	General Sessions Court	State (Dedicated Purpose)
Judicial Salary Tax	Fee	General Sessions Court	State (General Fund)
Metro Transportation Refund Prisoner Travel	Fee	General Sessions Court	Metro (Dedicated Purpose)
Moving Violation Tax	Fee	General Sessions Court	State (General Fund)
Pre-Trial Services Fees	Fee	General Sessions Court	Metro (General Fund)
Probation Fees (collected by Clerk)	Fee	General Sessions Court	Metro (Dedicated Purpose)
TN Department of Conservation - Fines	Fine	General Sessions Court	State (Dedicated Purpose)
TN Department of Safety - Fines	Fine	General Sessions Court	State (Dedicated Purpose)
TWRA - Fines	Fine	General Sessions Court	State (Dedicated Purpose)
ADAPT Participation Fee	Fee	Criminal Court	Metro (Dedicated Purpose)
County Expense Tax (Misdemeanor)	Fee	Criminal Court	Metro (General Fund)
CSA - CICF	Fee	Criminal Court	State (Dedicated Purpose)
Drug Fines - Metro Drug Task Force	Fine	Criminal Court	Metro (Dedicated Purpose)
DUI Dedicated Fund - Probate	Fee	Criminal Court	Metro (General Fund)
DUI Fines - THP	Fine	Criminal Court	State (Dedicated Purpose)
DUI School Fees	Fee	Criminal Court	Metro (Dedicated Purpose)
Ignition Interlock Fee	Fee	Criminal Court	State (General Fund)

<b>Fine or Fee Name</b>	<b>Fine / Fee</b>	<b>Assessing Entity</b>	<b>Funds Destination</b>
Impaired Drivers Trust Fund	Fee	Criminal Court	State (Dedicated Purpose)
Lower Court Data Entry Fees	Fee	Criminal Court	Metro (General Fund)
Lower Court Fees	Fee	Criminal Court	Metro (General Fund)
Metro Transportation Reimbursement Prisoner Travel	Fee	Criminal Court	Metro (Dedicated Purpose)
Out of County Sheriff	Fee	Criminal Court	Satellite Cities
Pre-Trial Diversion	Fee	Criminal Court	Metro (General Fund)
Sheriff Travel	Fee	Criminal Court	Metro (Dedicated Purpose)
State Refund of Costs	Fee	Criminal Court	State (General Fund)
TN Dept of Safety - THP	Fee	Criminal Court	State (Dedicated Purpose)
TN Dept of Safety Fines & Final Forfeits	Fine	Criminal Court	State (Dedicated Purpose)
Traumatic Brain Injury Fund	Fee	Criminal Court	State (Dedicated Purpose)
Arrest Data Entry Fee	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Arrest Fee - Belle Meade	Fee	General Sessions & Criminal Court	Satellite Cities
Arrest Fee - Berry Hill	Fee	General Sessions & Criminal Court	Satellite Cities
Arrest Fee - Goodlettsville	Fee	General Sessions & Criminal Court	Satellite Cities
Arrest Fee - MPD	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Arrest Fee - TSU	Fee	General Sessions & Criminal Court	University Police
Arrest Fee - Vanderbilt	Fee	General Sessions & Criminal Court	University Police
Attorney Reimbursement Tax	Fee	General Sessions & Criminal Court	State (General Fund)
BAT Fee	Fee	General Sessions & Criminal Court	State (General Fund)
Blood Alcohol Content (BAC) Fee - MPD	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Blood Alcohol Content (BAC) Fee - Satellite Cities	Fee	General Sessions & Criminal Court	Satellite Cities
CICF	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
Clerk Commission	Fee	General Sessions & Criminal Court	Clerk Fees/Commission
Clerk Court Security	Fee	General Sessions & Criminal Court	Metro (General Fund)
Clerk Data Entry	Fee	General Sessions & Criminal Court	Clerk Fees/Commission
Clerk Dedicated Fund	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)

<b>Fine or Fee Name</b>	<b>Fine / Fee</b>	<b>Assessing Entity</b>	<b>Funds Destination</b>
Clerk Fees	Fee	General Sessions & Criminal Court	Clerk Fees/Commission
Clerk Veterans Fund	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
Clerk Victim Assistance Assessment	Fee	General Sessions & Criminal Court	Clerk Fees/Commission
County Fines & Final Forfeits	Fine	General Sessions & Criminal Court	Metro (General Fund)
County Late Penalty	Fee	General Sessions & Criminal Court	Metro (General Fund)
County Litigation Tax	Fee	General Sessions & Criminal Court	Metro (General Fund)
County Litigation Tax - Jail Construction	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Courthouse Security Tax	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Drivers Education Tax	Fee	General Sessions & Criminal Court	State (General Fund)
Drug Alcohol & Drug Addiction Fee	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
Drug Dedicated Fund	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Drug Fines - County General Fund	Fine	General Sessions & Criminal Court	Metro (General Fund)
Drug Fines - County State Trial Courts Fund	Fine	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Drug Fines - Goodlettsville	Fine	General Sessions & Criminal Court	Satellite Cities
Drug Testing Fee	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
DUI Alcohol & Drug Addiction Fund	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
DUI Dedicated Fund	Fee	General Sessions & Criminal Court	Metro (General Fund)
DUI Fines - Belle Meade	Fine	General Sessions & Criminal Court	Satellite Cities
DUI Fines - Berry Hill	Fine	General Sessions & Criminal Court	Satellite Cities
DUI Fines - Goodlettsville	Fine	General Sessions & Criminal Court	Satellite Cities
DUI Fines & Final Forfeits	Fine	General Sessions & Criminal Court	Metro (General Fund)
DWI Fines	Fine	General Sessions & Criminal Court	State (Dedicated Purpose)
Expungement Fund	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
FECPA (Fraud & Economic Crimes Prevention Act)	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)

<b>Fine or Fee Name</b>	<b>Fine / Fee</b>	<b>Assessing Entity</b>	<b>Funds Destination</b>
Fingerprint Tax	Fee	General Sessions & Criminal Court	State (General Fund)
Jail Fee	Fee	General Sessions & Criminal Court	Metro (General Fund)
Metro Warrants Division Prisoner Travel	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Public Defender Fee	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Reckless Driving Dedicated Fund	Fine	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Reckless Endangerment Dedicated Fund	Fine	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Sheriff Data Entry Fee	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Sheriff Fee	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
State Late Penalty	Fee	General Sessions & Criminal Court	State (General Fund)
State Litigation Tax	Fee	General Sessions & Criminal Court	State (General Fund)
TBI Expungement Fee 40-32-101(G)	Fee	General Sessions & Criminal Court	State (General Fund)
TBI Expungement Fee 40-35-313	Fee	General Sessions & Criminal Court	State (General Fund)
TBI Lab Fee	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
Unclaimed Property	Fee	General Sessions & Criminal Court	Metro (General Fund)
Veterans Drug Dedicated Fund	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Victim Assistance Assessment Tax	Fee	General Sessions & Criminal Court	Metro (Dedicated Purpose)
Victim Notification Fund Tax	Fee	General Sessions & Criminal Court	State (Dedicated Purpose)
DUI and Safety Education	Fee	Sheriff's Office	Metro (General Fund)
Inmate Processing Fee	Fee	Sheriff's Office	Metro (General Fund)
Medical Co-Pays	Fee	Sheriff's Office	Metro (General Fund)
Pretrial Release	Fee	Sheriff's Office	Metro (General Fund)
Supervision Fees	Fee	Sheriff's Office	Metro (General Fund)
Work Release/Inmate Room and Board	Fee	Sheriff's Office	Metro (General Fund)
General Sessions Probation Fee	Fee	General Sessions Probation	Metro (General Fund)
Community Corrections Supervision Fee	Fee	Community Corrections/ Criminal Court	State (General Fund)
State Probation Fees	Fee	TN Department of Corrections	State General Fund

## Appendix B: Fine & Fee Collections FY 2014 – FY 2018

Fine or Fee Name	Assessing Department	Fiscal Year Collections (\$)				
		2014	2015	2016	2017	2018
Arrest Fee - Alcoholic Beverage Commission	General Sessions Court	450	855	622	530	738
Arrest Fee - Lakewood	General Sessions Court	315	0	0	0	0
Arrest Fee - TN Department of Conservation	General Sessions Court	1,082	1,594	1,164	689	428
Arrest Fee - TN Department of Safety	General Sessions Court	24,416	13,642	16,540	15,383	20,491
Arrest Fee - TWRA	General Sessions Court	1,952	1,895	1,915	2,487	1,468
County Litigation Tax - Victim Offender Mediation	General Sessions Court	15,657	12,256	10,475	9,547	9,738
Drug Fines - Belle Meade	General Sessions Court	0	238	380	0	48
Drug Fines - Berry Hill	General Sessions Court	0	475	0	0	0
DUI Interlock	General Sessions Court	40,256	29,081	26,865	23,635	22,010
Finance & Taxation Fines	General Sessions Court	7,506	4,642	4,904	3,020	4,013
General Sessions Probation Fee	General Sessions Court	0	0	0	0	0
Impaired Drivers Trust Fund & Traumatic Brain Injury Fund	General Sessions Court	103,258	64,711	53,711	42,424	40,931
Interpreter Refund to Clerk	General Sessions Court	1,868	1,320	1,218	956	449
Judicial Education Tax	General Sessions Court	13,771	10,391	9,299	8,969	9,761
Judicial Salary Tax	General Sessions Court	29	22	34	37	24
Metro Transportation Refund Prisoner Travel	General Sessions Court	0	0	0	2,066	133
Moving Violation Tax	General Sessions Court	494	237	292	297	553
Pre-Trial Services Fees	General Sessions Court	60	0	33	0	46
Probation Fees (collected by Clerk)	General Sessions Court	61,482	52,026	53,169	42,954	39,654
TN Department of Conservation - Fines	General Sessions Court	2,291	3,795	2,752	1,436	938
TN Department of Safety - Fines	General Sessions Court	441,542	283,469	265,235	227,418	188,088
TWRA - Fines	General Sessions Court	3,912	2,984	3,093	2,988	1,932



Fine or Fee Name	Assessing Department	Fiscal Year Collections (\$)				
		2014	2015	2016	2017	2018
ADAPT Participation Fee	Criminal Court	50,742	42,078	35,061	33,660	24,902
County Expense Tax (Misdemeanor)	Criminal Court	2,974	2,765	2,636	2,350	2,043
CSA - CICF	Criminal Court	3,601	3,297	4,568	2,854	3,202
Drug Fines - Metro Drug Task Force	Criminal Court	405,096	665,783	821,840	15,069	98,197
DUI Dedicated Fund - Probate	Criminal Court	188	283	95	302	0
DUI Fines - THP	Criminal Court	0	0	0	95	114
DUI School Fees	Criminal Court	0	79	0	0	176
Ignition Interlock Fee	Criminal Court	7,393	6,162	5,891	5,495	3,861
Impaired Drivers Trust Fund	Criminal Court	1,151	958	985	906	716
Lower Court Data Entry Fees	Criminal Court	7,316	7,498	8,571	7,507	5,948
Lower Court Fees	Criminal Court	59,531	62,875	69,656	59,381	50,930
Metro Transportation Reimbursement Prisoner Travel	Criminal Court	2,135	4,205	1,298	971	1,870
Out of County Sheriff	Criminal Court	3	0	0	0	0
Pre-Trial Diversion	Criminal Court	360	668	1,221	179	111
Sheriff Travel	Criminal Court	88	0	0	66	33
State Refund of Costs	Criminal Court	192,842	223,016	227,861	177,610	175,525
TN Dept of Safety - THP	Criminal Court	539	76	105	69	6
TN Dept of Safety Fines & Final Forfeits	Criminal Court	29,059	243,144	8,102	12,698	16,208
Traumatic Brain Injury Fund	Criminal Court	5,482	3,932	3,382	3,286	2,514
Arrest Data Entry Fee	General Sessions & Criminal Court	2,153	31,710	33,232	28,656	25,040
Arrest Fee - Belle Meade	General Sessions & Criminal Court	1,003	1,308	1,256	1,359	800
Arrest Fee - Berry Hill	General Sessions & Criminal Court	756	778	547	502	500
Arrest Fee - Goodlettsville	General Sessions & Criminal Court	9,600	9,583	10,861	10,011	6,400
Arrest Fee - MPD	General Sessions & Criminal Court	33,752	436,494	433,115	379,721	313,384
Arrest Fee - TSU	General Sessions & Criminal Court	91	90	82	202	64
Arrest Fee - Vanderbilt	General Sessions & Criminal Court	2,173	2,461	2,738	2,055	1,101
Attorney Reimbursement Tax	General Sessions & Criminal Court	31,385	24,711	21,964	19,496	20,007
BAT Fee	General Sessions & Criminal Court	286,619	192,859	172,850	163,541	136,411
Blood Alcohol Content (BAC) Fee - MPD	General Sessions & Criminal Court	7,903	6,036	5,005	4,052	3,208

Fine or Fee Name	Assessing Department	Fiscal Year Collections (\$)				
		2014	2015	2016	2017	2018
Blood Alcohol Content (BAC) Fee - Satellite Cities	General Sessions & Criminal Court	300	116	387	438	28
CICF	General Sessions & Criminal Court	197,717	155,134	152,879	145,625	167,646
Clerk Commission	General Sessions & Criminal Court	386,895	375,646	360,168	286,329	273,140
Clerk Court Security	General Sessions & Criminal Court	45,332	41,613	42,712	39,091	33,019
Clerk Data Entry	General Sessions & Criminal Court	79,887	67,907	64,162	58,164	48,603
Clerk Dedicated Fund	General Sessions & Criminal Court	7,611	7,036	6,937	7,602	7,391
Clerk Fees	General Sessions & Criminal Court	2,103,077	1,720,831	1,568,587	1,442,375	1,254,480
Clerk Veterans Fund	General Sessions & Criminal Court	0	0	0	270	1,284
Clerk Victim Assistance Assessment	General Sessions & Criminal Court	12,982	11,572	10,877	10,072	9,958
County Fines & Final Forfeits	General Sessions & Criminal Court	148,182	176,230	133,914	168,833	144,214
County Late Penalty	General Sessions & Criminal Court	47,701	41,278	38,241	35,169	34,911
County Litigation Tax	General Sessions & Criminal Court	302,626	237,411	210,175	188,824	190,495
County Litigation Tax - Jail Construction	General Sessions & Criminal Court	51,437	40,678	36,085	32,081	31,707
Courthouse Security Tax	General Sessions & Criminal Court	140,026	106,855	95,654	85,587	84,263
Drivers Education Tax	General Sessions & Criminal Court	23,006	18,158	16,049	14,269	14,613
Drug Alcohol & Drug Addiction Fee	General Sessions & Criminal Court	15,558	16,761	18,734	15,177	11,494
Drug Dedicated Fund	General Sessions & Criminal Court	87,316	83,920	80,564	70,329	66,898
Drug Fines - County General Fund	General Sessions & Criminal Court	236,368	266,661	236,339	191,983	189,546
Drug Fines - County State Trial Courts Fund	General Sessions & Criminal Court	236,368	266,661	236,339	191,983	189,546
Drug Fines - Goodlettsville	General Sessions & Criminal Court	4,771	7,077	9,586	10,417	8,690
Drug Testing Fee	General Sessions & Criminal Court	292,579	282,379	259,121	228,420	209,646
DUI Alcohol & Drug Addiction Fund	General Sessions & Criminal Court	127,124	93,842	88,010	78,788	70,903
DUI Dedicated Fund	General Sessions & Criminal Court	123,797	95,063	84,758	77,669	71,138
DUI Fines - Belle Meade	General Sessions & Criminal Court	1,837	238	1,425	1,425	238
DUI Fines - Berry Hill	General Sessions & Criminal Court	238	0	1,187	0	0
DUI Fines - Goodlettsville	General Sessions & Criminal Court	7,618	8,832	11,005	11,174	652
DUI Fines & Final Forfeits	General Sessions & Criminal Court	411,633	359,497	319,307	278,370	278,064
DWI Fines	General Sessions & Criminal Court	4,683	4,111	3,430	1,756	1,920
Expungement Fund	General Sessions & Criminal Court	30,160	28,420	29,000	29,590	19,890
FECPA (Fraud & Economic Crimes Prevention Act)	General Sessions & Criminal Court	72,990	60,038	67,533	59,108	49,188
Fingerprint Tax	General Sessions & Criminal Court	11,225	8,771	7,740	6,904	7,015

Fine or Fee Name	Assessing Department	Fiscal Year Collections (\$)				
		2014	2015	2016	2017	2018
Jail Fee	General Sessions & Criminal Court	539,652	513,014	543,268	481,158	452,915
Metro Warrants Division Prisoner Travel	General Sessions & Criminal Court	1,623	2,927	3,330	3,204	3,024
Public Defender Fee	General Sessions & Criminal Court	235,357	195,027	193,629	169,211	139,195
Reckless Driving Dedicated Fund	General Sessions & Criminal Court	39,682	26,624	21,045	19,070	15,126
Reckless Endangerment Dedicated Fund	General Sessions & Criminal Court	9,651	10,478	11,004	15,118	13,037
Sheriff Data Entry Fee	General Sessions & Criminal Court	10,233	9,042	10,361	9,050	8,536
Sheriff Fee	General Sessions & Criminal Court	110,223	99,460	105,306	90,081	87,526
State Late Penalty	General Sessions & Criminal Court	34,122	29,683	27,792	25,591	25,369
State Litigation Tax	General Sessions & Criminal Court	283,748	221,140	195,213	173,884	183,172
TBI Expungement Fee 40-32-101(G)	General Sessions & Criminal Court	5,200	4,900	5,000	5,350	7,650
TBI Expungement Fee 40-35-313	General Sessions & Criminal Court	141,550	141,978	153,853	132,668	121,481
TBI Lab Fee	General Sessions & Criminal Court	60,252	53,602	55,507	52,032	48,541
Unclaimed Property	General Sessions & Criminal Court	308	113	301	194	58
Veterans Drug Dedicated Fund	General Sessions & Criminal Court	0	0	8,767	24,905	31,029
Victim Assistance Assessment Tax	General Sessions & Criminal Court	190,720	171,242	163,681	150,393	148,899
Victim Notification Fund Tax	General Sessions & Criminal Court	27,687	22,019	19,482	18,239	18,759
Inmate Processing Fee	Sheriff's Office	151,015	161,631	146,974	123,535	88,326
Medical Co-Pays	Sheriff's Office	21,694	23,337	28,479	24,608	21,920
Work Release/Inmate Room and Board	Sheriff's Office	40,683	30,845	21,158	12,923	16,647
Supervision Fees	Sheriff's Office	130,859	142,108	228,504	210,983	257,711
DUI and Safety Education	Sheriff's Office	369,600	290,727	262,727	203,341	173,482
Pretrial Release	Sheriff's Office	81,685	75,990	77,137	77,553	69,566
General Sessions Probation Fee	General Sessions Probation	1,217,085	1,115,429	947,400	871,148	707,432
Community Corrections Supervision Fee	Community Corrections/ Criminal Court	100,554	104,963	97,035	93,230	79,963
State Probation Fees	TN Department of Corrections	Unk	Unk	Unk	1,069,089	1,038,665
<b>Total</b>		<b>10,878,503</b>	<b>10,485,497</b>	<b>9,842,481</b>	<b>9,141,309</b>	<b>8,463,326</b>

## Appendix C: Analysis of Costs Related to the Collection of Fines and Fees in Criminal Court Clerk

Section	Position	Time Fine/ Fee Collection (%)	FTEs	FTE Cost (\$)
Bookkeeping	Deputy Criminal Ct Clerk 3	50	0.5	32,369
Bookkeeping	Deputy Criminal Ct Clerk 3	50	0.5	35,085
Bookkeeping	Deputy Criminal Ct Clerk 3	50	0.5	33,290
Cashiers	Deputy Criminal Ct Clerk 5	100	1	56,963
Cashiers	Deputy Criminal Ct Clerk 5	100	1	55,797
Cashiers	Deputy Criminal Ct Clerk 5	100	1	66,578
Compliance	Deputy Criminal Ct Clerk 3	100	1	60,566
Compliance	Deputy Criminal Ct Clerk 3	100	1	62,996
Compliance	Deputy Criminal Ct Clerk 3	100	1	60,748
Compliance	Deputy Criminal Ct Clerk 3	100	1	58,198
Compliance	Deputy Criminal Ct Clerk 5	100	1	59,336
Customer Information	Deputy Criminal Ct Clerk 4	20	0.2	14,069
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	11,393
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	11,393
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	13,513
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	10,921
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	10,921
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	11,393
Customer Information	Deputy Criminal Ct Clerk 5	20	0.2	12,648
<b>Total</b>			<b>11.1</b>	<b>678,174</b>

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