

# Webinar: DOJ Fines and Fees Guidance

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# Today's Speakers



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# Today's Goals and Agenda

Help advocates digest  
the new DOJ guidance

Review constitutional  
issues related to fines  
and fees

Discuss specific  
protections granted

Outline next steps for  
advocates

## AGENDA:

- Background and context
- General talking points
- Overview of constitutional issues
- Specific protections granted
- Call to action for advocates
- Q&A



# General talking points

01

## **We Should Eliminate Unjust Imposition**

“Eliminating the unjust imposition of fines and fees is one of the most expeditious ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, reduce racial disparities in the administration of justice, and ensure greater justice for all.”

02

## **Fines and Fees Undermine Goals**

“In many cases, unaffordable fines and fees undermine rehabilitation and successful reentry and increase recidivism for adults and minors.”

03

## **Failure to Comply May Result in Enforcement**

“Failure to comply with the constitutional and legal requirements described in this letter might expose jurisdictions to civil enforcement actions by the Department.”





# Background and context

## Advocacy

Advocacy to Obama administration urged DOJ to address fees and fines in juvenile system

Advocacy to Biden administration pushed for stronger protections in light of recent state reforms and U.S. Supreme Court holding in *Timbs v. Indiana*

## Original DOJ Letter

Highlighted constitutional concerns with juvenile fees and fines

Urged careful consideration of discrimination in juvenile fees and fines, offered technical assistance

Almost immediately repealed by Attorney General Sessions in the Trump Administration

## Revised DOJ Letter

Addresses youth and adults

Establishes stronger protections, including a presumption of indigence for youth



# Constitutional **issues**

**How does the constitution address the issue of fines and fees for youth?**

## Constitutional Amendments

The 8th amendment: Juvenile fees and fines may violate the Eighth Amendment's Excessive Fines Clause.

The 14th amendment: Juvenile counsel fees violate the Fourteenth Amendment's Due Process and Equal Protection Clauses.

## Montgomery v. Louisiana

The U.S. Supreme Court in *Montgomery v. Louisiana* made plain that the Constitution demands unique protections for youth in the justice system due to “children's ‘diminished culpability and greater prospects for reform.’”





Jurisdictions should presume that children and youth are indigent and unable to pay fines and fees.

The imposition of any fine or fee on youth has the potential to be an excessive and unreasonable burden in violation of the 8th Amendment

Predicating access to counsel on payment of fees by youth or parents seriously risks unconstitutional denial of counsel.

Any alternatives to fees, such as community service, should not interfere with a child's schooling, vocational training, treatment, or services

## Specific **Guidance on Youth**





# Next steps **for advocates**

- **Attend DFJ enforcement webinar**
  - **Date and time TBD**
- **Flag guidance in your jurisdictions**

What's coming next from the DOJ?



- Best practices guide (Office for Access to Justice)

# Questions?

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