

Memorandum

To: Criminal Justice & Law Enforcement Subcommittee
From: Gus Tupper, UC Berkeley Policy Advocacy Clinic
Re: Materials for Subcommittee Meeting on Dec 2, 2020
Date: November 30, 2020

Utah has made significant reforms to its juvenile system, starting with HB 239 in 2017—a first-of-its-kind bill in the US. HB 239 was intended to reduce the “significant racial disparity in court response to delinquent behaviors” and, among other measures, capped monetary sanctions. To meet the worthy goals of HB 239, Utah should eliminate juvenile fines and fees that undermine family relationships, increase recidivism while decreasing crime solving, and are an inefficient source of revenue.

The following materials provide some context for the December 2, 2020 Subcommittee (16 pages):

1. Utah Juvenile Fines & Fees (2020, 2 pages)

Utah Juvenile Defender Attorneys, summarizing issues with juvenile fines & fees and the nationwide movement against them.

2. Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County (2019 Executive Summary, 2 pages)

Juvenile Law Center on how fines & fees weaken family ties and strain relationships.

3. Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders (2016 Abstract, 1 page)

Criminologists Piquero & Jennings finding fines & fees increase youth recidivism.

4. Exploitative Revenues, Law Enforcement, and the Quality of Government Service (2016 abstract and introduction, 2 pages)

Researchers finding reliance on fine & fee revenue correlates to lower crime closure rates.

5. Debtor’s Prison for Kids: The High Cost of Fines and Fees in the Juvenile Justice System (2016 Executive Summary, 3 pages)

Juvenile Law Center, documenting the widespread practice of charging fines & fees.

6. Law Enforcement Leaders: Ensuring Justice and Public Safety (2020, 2 pages)

Association of sheriffs, police chiefs, and prosecutors backing elimination of fines & fees.

7. Resolution Addressing Fines, Fees, and Costs in Juvenile Courts (2018, 3 pages)

National Council of Juvenile and Family Court Judges, backing reduction of fines & fees.

8. Making Families Pay: The Harmful, Unlawful, and Costly Practice of Charging Juvenile Administrative Fees in California (2017 Executive Summary, 3 pages)

UC Berkeley Policy Advocacy Clinic, on how fees harm families and impair rehabilitation.



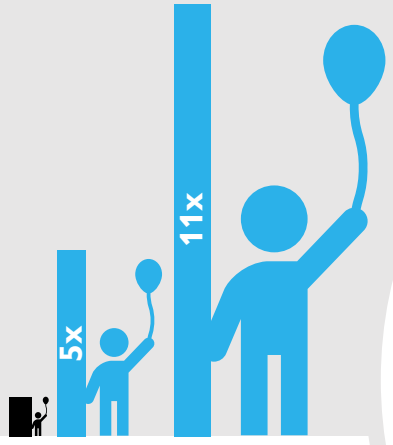
UJDA End Juvenile Fines & Fees in Utah



Fines & fees are discriminatory

Utah's Black youth are 5x more likely to be arrested and 11x more likely to be incarcerated than White youth.¹

Overrepresentation at every stage of the juvenile system mean that fines & fees fall disproportionately on youth of color.²



Many studies have shown that fines & fees increase recidivism,⁵ "interfere with a juvenile's ability to reenter society after a conviction,"⁶ and do not deter law breaking.⁷

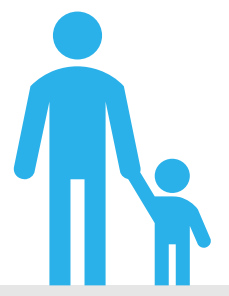


Fines & fees hurt families

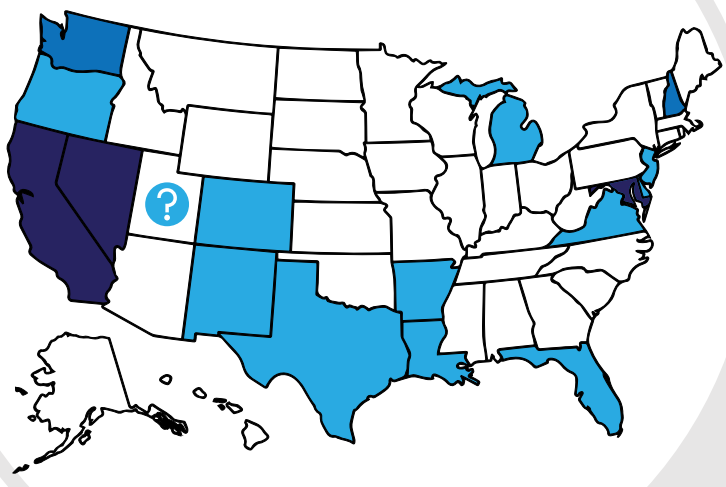
University of Wisconsin researchers found that court debt makes parents anxious and angry with their children.

Youths said working to pay off fines & fees leaves them less time with their siblings.³

Poor children and their families bear the brunt of these costs.⁴



NJ abolished fines.
NV & CA ended fees.
MD stopped charging both.



11 other states are working to end fines & fees in 2021.

Fees net little revenue

Colorado spends \$0.77 to collect every \$1 in fees.⁸ Counties in California and New Mexico spent more money to collect fees than they were able to take from families.⁹



Fines & fees increase law violations

Utah should listen to prominent local and national organizations and eliminate juvenile fines & fees.

References

1. Utah Commission on Criminal and Juvenile Justice, *Racial and Ethnic Disparities in Utah's Juvenile Justice System* (last accessed Oct. 13, 2020),
2. Jessica Feierman et al., *Debtors' Prison for Kids? The High Cost of Fines and Fees in the Juvenile System*, JUVENILE LAW CENTER (2016), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>.
3. Leslie Paik & Chiara Packard, *Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI*, JUVENILE LAW CENTER. (2019), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>.
4. Feierman et al., *Debtors' Prison for Kids*.
5. Tamar R. Birckhead, *The New Peonage*, 72 WASHINGTON & LEE LAW REVIEW 1595 (2015).
6. Stacy Hoskins Haynes et al., *Juvenile Economic Sanctions: An Analysis of Their Imposition, Payment, and Effect on Recidivism*, 13 CRIMINOLOGY & PUBLIC POLICY 31, 37–38 (2014).
7. Barry R. Ruback & Mark H. Bergstrom, *Economic Sanctions in Criminal Justice Purposes, Effects, and Implications*, 33 CRIMINAL JUSTICE & BEHAVIOR 242 (2006).
8. Colorado Juvenile Defender Center, *Memorandum to Colorado State Senator Pete Lee; Colorado State Representative Leslie Herod, 1* (Jan. 16, 2020), <https://berkeley.box.com/s/rbkzimqoybvikpa1vkkcpz92mrh23gia>.
9. UC Berkeley Policy Advocacy Clinic, *Making Families Pay*, 18 (2017), <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Making-Families-Pay.pdf>; Brennan Center For Justice, *The Steep Costs of Criminal Justice Fees and Fines* 5 (2019), https://www.brennancenter.org/sites/default/files/2020-07/2019_10_Fees%26Fines_Final.pdf.

Executive Summary

National attention has recently turned towards fines and fees in the criminal justice system and the ways in which these legal financial obligations further exacerbate poverty and racial inequality. People involved in the justice system across the country often face many challenges due to their involvement in court, including burdensome fees. Many families find it difficult to pay these bills, leading to a cycle of debt and financial struggle. Most of this attention to fines and fees, however, has focused on the adult system, whereas little attention has been given to parents and youth involved in the juvenile justice system who face similar financial obligations. Charges to youth who commit crimes are complicated by the fact that youth often do not have the financial means to pay. Parents are often left with the financial burden of these fines and fees even though they did not commit any crime.

This report presents selected findings from a study on fines and fees in the juvenile justice system in Dane County, Wisconsin as part of an on-going collaborative project with Juvenile Law Center. Drawing on interviews with 20 parents and their children conducted in July-September 2018, we explore how parents and youth experience and perceive fines and fees. Drawing on 10 additional interviews of victims eligible for restitution for crimes committed by youth, we also explore victims' experiences with restitution and their views on this particular financial obligation for youth. Parents in Dane County can face many different charges for their child's involvement in court, ranging from \$130/night for stays in the Juvenile Detention Center^a to \$240 for a Public Defender in a misdemeanor case. Of the parents we interviewed, the average amount of money charged is \$1,796. Youth can also be charged up to a maximum of \$1,000 for victim restitution.

This report focuses not only on the specific fines and fees and respective amounts that parents and youth are asked to pay, but also the impact of Legal Financial Obligations (LFOs) on their family life. Our research reveals that these charges impose a significant financial burden on families. We also explore how participants view potential and actual alternatives to LFOs.

In the following pages, we bring forward the voices of youth, parents, and victims to share their experiences. Here, we summarize two main findings that emerged in these interviews:

1. **Impact of Fines and Fees on Family Life:** The stories families tell of their experiences with LFOs illustrate the negative impact of these financial bills, which can outweigh any potential of them to instill responsibility in youth. The LFOs have significant negative impact on family life, in material and emotional ways. Parents discuss the psychological toll of these LFOs and the resulting impact on the quality of their relationships with their youths. They also talk about the overall impact on their household, including their other children. In addition to this effect on their family dynamics, families discussed the financial and nonfinancial consequences for not paying LFOs. Those included the state seizing their tax refunds, sending their bill to collections, suspending driver's licenses, as well as

^a This particular fee has recently been abolished as of January 2019. There is a pending bill to make this change retroactive.

increased justice involvement for the youth and potential new court involvement for the parents.

2. **Viable Alternatives to Restitution:** Through private nonprofit agencies, youth in Dane County sometimes have the option of doing community service to start paying for the restitution they owe to victims. While interview participants generally supported community service as an alternative to paying restitution, they also expressed concerns about the types and number of hours of community service needed to complete this process. Moreover, their views on other alternatives, such as writing a letter of apology or meeting with the victim of the crime, were mixed.

Given these findings, we recommend two policy reforms:

1. Abolish all fines and fees


Our findings support other research that advocates for abolishing all fines and fees in the juvenile justice system. There is no therapeutic or deterrent effect of these fines and fees, nor do they teach youths responsibility. Moreover, the youths often have no reasonable way to pay these fines; their parents are not able to do so either. The LFOs also have significant material and emotional impacts on the family, affecting their interpersonal dynamics and household stability.

2. Revise how community service is used as an alternative to restitution

Even with the caps to restitution amounts, the process of paying restitution can be quite complicated. As such, it would be wise to reconsider the ways that the youths can work off restitution. Any option considered should also recognize the non-financial impacts of the crime on the victims.

In sum, there is much more to the story than simply saying families are not paying LFOs because they cannot afford it or that offering alternatives like community service or letters of apology would be viable options. To truly reform this system requires more careful attention to how each local jurisdiction imposes the LFOs and how families and victims experience that process.

Research Note: Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders

Youth Violence and Juvenile Justice
1-16
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Alex R. Piquero¹ and Wesley G. Jennings²

Abstract

Although the use of financial penalties is pervasive in the justice system, there has been limited (and mostly dated) empirical research that has investigated the effect of financial costs incurred by juvenile offenders and the extent to which such costs relate to the likelihood of recidivism and reintegration into society. This study uses data from a large cohort of adolescent offenders to examine how demographics and case characteristics relate to financial penalties imposed by the justice system and the degree to which such monetary penalties are related to recidivism in a 2-year follow-up. Results suggest that financial penalties increase the likelihood of recidivism. Study limitations and directions for future research are also discussed.

Keywords

juveniles, delinquency, recidivism, restitution, costs, fines, fees

There are a wide range of criminal punishments available to judges and juries when it comes to sanctioning an offender for their transgression(s), the most common of which is probation, with other options including imprisonment and other community correction alternatives (boot camps, intensive supervision, etc.; see Morris & Tonry, 1990). One type of punishment that is also used is that of a fine, a punishment that has been around for several centuries (e.g., Beccaria, 1764/1986; Ruback & Bergstrom, 2006). One would suspect, then, that knowledge about the effect of fines on subsequent reoffending, or recidivism, would be as commonplace as are recidivism-based investigations for the more widely used punishments. Unfortunately, with a few exceptions (Albrecht & Johnson, 1980; Glaser & Gordon, 1988; MacDonald, Greene, & Worzella, 1992) that is not the case, as much of the research surrounding fines has been administrative or process based (cf. Hillsman,

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Exploitative Revenues, Law Enforcement, and the Quality of Government Service

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Rebecca Goldstein¹, Michael W. Sances²,
and Hye Young You³

Abstract

A growing body of evidence indicates that local police departments are being used to provide revenue for municipalities by imposing and collecting fees, fines, and asset forfeitures. We examine whether revenue collection activities compromise the criminal investigation functions of local police departments. We find that police departments in cities that collect a greater share of their revenue from fees solve violent and property crimes at significantly lower rates. The effect on violent crime clearance is more salient in smaller cities where police officers' assignments tend not to be highly specialized. We find that this relationship is robust to a variety of empirical strategies, including instrumenting for fines revenue using commuting time. Our results suggest that institutional changes—such as decreasing municipal government reliance on fines and fees for revenue—are important for changing police behavior and improving the provision of public safety.

Keywords

policing, local public finance, law enforcement and public safety, crime

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Recent high-profile tensions between Black citizens and police officers in the United States have led to protests and calls for reforms. The ensuing popular and scholarly discussion of inequality in police practices has been focused, for the most part, on individual police officers' implicit bias or lack of appropriate training.¹ Comparatively less attention has been paid to police departments' institutional structures and incentives, even though these characteristics have been shown to significantly influence police behavior (Fung 2003; Kantor, Kitchens, and Pawlowski 2017; Luna 2003; Maguire and Uchida 2000; Willis, Mastrofski, and Weisburd 2007).

One aspect of recent criticism of police departments has been centered on the aggressive imposition and collection of fees, fines, and civilly forfeited assets (Harris, Evans, and Beckett 2010). The Department of Justice's (DOJ) investigation of the Ferguson, Missouri, police department revealed that a key driver of the behavior of the Ferguson police was the desire to generate municipal revenue by issuing traffic tickets and imposing fees.² Scholarly evidence indicates the practices unearthed in Ferguson are by no means unique. Census of Governments data from 2012 show that about 80% of American cities with law enforcement institutions derive at least some revenue from fees, fines, and asset forfeitures, with about 6% of cities collecting more than 10% of their revenues this way in 2012 (Sances and You 2017). Implementing this practice requires close coordination between governing bodies, such as mayors and city councils, and local police forces, as the DOJ's Ferguson report vividly describes.³

If police agencies keep a substantial fraction of revenues from fines and fees, they could be augmenting their own budgets through fee and fine enforcement. In practice, revenue from fines and fees is typically contributed directly to the municipal budget, not the police budget, meaning that direct financial incentives for police departments to collect revenue may be weak. But police forces are also the agents of local governments: Local police chiefs are appointed by the city executive (mayor or city manager), and must respond to city politicians (Chaney and Saltzstein 1998; Ostrom and Whitaker 1973; Williams 1984; Wilson 1968). This means that the police in some cities are under significant pressure from city authorities to raise city funds. Given that local police offices have limited resources, and that police officers have broad discretion to focus on any of a wide variety of activities (Brown 1981; Lipsky 1980; Wilson 1968), a focus on revenue-generating activities may distract police departments from their primary duty of providing public safety. Although political scientists know little about how police departments respond to institutional incentives (Gottschalk 2008), a recent study shows that police officers are highly responsive to managerial directives (Mummolo 2018), which suggests that at least in some cases, political pressure on police leadership can translate into officer behavior.

DEBTORS' PRISON FOR KIDS?

The High Cost of Fines and Fees in the Juvenile Justice System

By Jessica Feierman with Naomi Goldstein, Emily Haney-Caron and Jaymes Fairfax Columbo

EXECUTIVE SUMMARY

While much is now known about the financial burdens imposed on individuals and families by the assessment of costs, fines, fees, and restitution in the adult criminal justice system, there has been scant attention paid to this issue in the juvenile justice system. To address this gap, with the support of the Laura and John Arnold Foundation, Juvenile Law Center : 1) reviewed statutes in all 50 states and the District of Columbia to assess the legal framework for financial obligations placed on youth in the juvenile justice system and their families; 2) conducted a national survey of lawyers, other professionals, adults with previous juvenile justice involvement, and families to collect information about local practices;¹ 3) interviewed attorneys and young adults who had experiences with the juvenile justice system to further understand how cost of justice issues play out in practice; and 4) solicited a study by criminologists Alex Piquero and Wesley Jennings, who examined the connection between costs and recidivism, and the implications for racial disparities in the juvenile justice system.

As in the criminal justice system, the imposition of costs and fees in the juvenile justice system is widespread across the country. Approximately one million youth appear in juvenile court each year. Costs, fees, fines, or restitution are imposed in every state. **These financial penalties increase recidivism, push impoverished young people deeper into the juvenile justice system, exacerbate racial disparities in the juvenile justice system, and heighten economic and emotional distress for families already struggling financially.**

The chart below identifies the types of financial obligations imposed and the results of our statutory review and stakeholder survey. In some cases, costs are imposed locally even when there is no applicable state statute. In a forthcoming report, we will consider the additional costs that are imposed when indigent youth are required to pay for counsel.

¹ We received responses from 183 individuals in 41 states; in each of these states, respondents reported the imposition of costs, fines, fees or restitution, and harms to youth or families as a result.

NATIONAL OVERVIEW OF COSTS IMPOSED

TYPE OF COST	STATES WITH A STATUTE AUTHORIZING OR REQUIRING THE COST	STATES WITH PRACTICE OF IMPOSING COSTS (BASED ON SURVEY RESULTS FROM 41 STATES)
Court costs	25	28
Evaluation and Testing	32	26
Probation and Supervision	21	18
Diversion	22	26
Cost of Care	47	31
Fines	43	29
Expungement	11	20
Restitution	50+DC	All

The inability to pay costs, fines, fees, or restitution often results in harsh legal consequences and contributes to financial stress and family tension. In the 41 states with survey respondents, participants widely affirmed that youth experience these consequences for failure to pay:

- Case remained open longer (33 states²)
- Youth was sent to juvenile justice placement (26 states)
- Youth remained in juvenile placement longer than he/she otherwise would have (26 states)
- Additional court visits, leading to missed school or missed work (34 states)
- Inability to get records expunged (24 states)
- Civil judgment imposed (25 states)
- Formal petition filed for failure to pay diversion costs (15 states)

Additionally, respondents in 31 states reported that families took on debt in order to pay their juvenile justice-related financial obligations.

² For each consequence, at least one survey respondent in this many states reported the designated consequence. More often, numerous respondents in each state reported the designated consequence.

Our statutory research also revealed significant consequences that we had not posed as survey questions, but which we believe are also widely imposed and require further study. These include:

- Probation extended
- Probation revoked
- Driver's license revoked, suspended, or child barred from applying for license
- Arrest warrants issued
- Child deprived of needed treatment
- Youth or parents held in civil or criminal contempt
- Interest fees, collection fees, or other additional fees or fines for failure to pay

Until now, almost no empirical research has investigated the effect of financial costs imposed on juvenile offenders and the extent to which such costs contribute to recidivism or their potential impact on racial disparities in the juvenile justice system. Criminologists Alex Piquero and Wesley Jennings used data from a cohort of 1,167 adolescent offenders in Allegheny County, Pennsylvania to examine 1) how demographics and case characteristics relate to financial penalties imposed by the justice system and 2) the degree to which such monetary penalties are related to recidivism in a two-year follow-up.

Their analysis showed that financial penalties in general—and the sheer amount of financial penalties in particular—significantly increased the likelihood of recidivism, even after controlling for relevant demographics and case characteristics. They also concluded that owing costs upon case closing is significantly related to recidivism. Their analysis suggests that cost and fee policies may contribute to racial disparities in the juvenile justice system as children of color are more likely to owe costs upon case closing relative to their white peers. Moreover, 94% of youth in their sample—over 1,000 youth in just one county—owed costs, fines, fees, or restitution.

While this report focuses on a problem—the imposition of costs on youth and families who cannot afford to pay—it also highlights solutions and identifies jurisdictions that are changing their local or state policies to ensure that the youth are not punished for poverty.



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

Ensuring Justice and Public Safety

Federal Criminal Justice Priorities
for 2020 and Beyond

Foreword by **Ronal W. Serpas** and **Taryn A. Merkl** PUBLISHED APRIL 15, 2020

likely to graduate from high school¹⁰³ and face diminished opportunities in the labor market, limiting their future earning potential and further increasing their likelihood of recidivism.¹⁰⁴

Since 2002, however, federal funding for juvenile justice programs — including grant funding through the Juvenile Justice Delinquency Prevention Act (JJDP), which is the primary federal support for state, local, and tribal juvenile justice — has declined from \$565 million to \$320 million.¹⁰⁵ Congress and the administration should fund the JJDP and other juvenile justice initiatives to the fullest extent authorized under current law and increase funding in future years. Additionally, Juvenile Accountability Block Grants, which were phased out in 2014, should be reinstated to encourage states to design juvenile justice programs around the goals of diversion and rehabilitation.¹⁰⁶

III. End the Practice of Imposing Criminal Justice Debt on Youth

Justice-involved youth, many of whom are from low-income households, often bear significant monetary burdens associated with the court system. This includes fees and fines imposed as a result of court proceedings, probation, and rehabilitation programs.¹⁰⁷

Imposing fines on juveniles wastes scarce law enforcement resources while trapping children in poverty and increasing their recidivism risk.

In at least seven states, when youth fail to pay costs, they can be charged with probation violations and thereafter incarcerated, even if they pose no threat to public safety.¹⁰⁸ Consequently, these youth and their families are not only pushed into significant amounts of inescapable debt, but youth are often pushed further into the justice system for inability to pay.¹⁰⁹

Policies that impose fines on juveniles risk wasting scarce law enforcement resources, while also having long-lasting effects, as they can trap children in poverty and increase their risk of recidivism.¹¹⁰ States should take action now to stop this practice, as New Jersey just did.¹¹¹ To encourage states that fail to act, the administration and Congress should champion a bill that incentivizes states to eliminate juvenile justice fees and fines on youth and their families.

For example, the Eliminating Debtors' Prison for Kids Act of 2019 would offer grant funding for community-based and rehabilitative services to states that specifically eliminate fees in their juvenile justice systems.¹¹² If passed, the bill would reduce unnecessary juvenile incarceration and the impoverishing effect of the juvenile justice system on youth.

IV. Provide National Leadership on Juvenile Justice Through OJJDP

States should undertake meaningful juvenile justice reform, but needed change is less likely without monetary and technical resources from the federal government. Historically, the OJJDP has served as Congress's primary lever to distribute juvenile justice support to the states. The OJJDP was established in 1974 to provide training, technical assistance, and research to state, local, and tribal juvenile justice programs.¹¹³

In addition, the OJJDP is responsible for administering JJDP grants. Considering there is a 94 percent participation rate in JJDP grant programs among state, local, and tribal juvenile justice systems, the OJJDP is the federal government's best tool to implement lasting national reforms.¹¹⁴

RESOLUTION ADDRESSING FINES, FEES, AND COSTS IN JUVENILE COURTS

WHEREAS, NCJFCJ recognizes that each child under court jurisdiction is unique, valued and entitled to individualized attention; and

WHEREAS, juvenile and family court judges are responsible for ensuring the safety and well-being of children under court jurisdiction while holding them accountable in developmentally appropriate ways; and

WHEREAS, several hundred thousand delinquency cases are handled by juvenile and family courts annually; and

WHEREAS, juvenile and family court judges routinely impose financial obligations on youth and their families for court-related activities including appointment of counsel fees, bail, diversion and treatment program fees, community supervision and placement fees, court costs, and restitution, frequently without consideration for each individual youth's ability to pay; and

WHEREAS, the court's financial gains as a result of the collection of fines, fees, and costs are often diminished when accounting for the administrative costs associated with collection efforts; and

WHEREAS, the failure to pay can result in serious and long-term consequences for youth and families including further penetration into the juvenile justice system, increased recidivism, difficulty engaging in education and employment opportunities, civil judgements resulting in wage garnishments, exacerbation of existing racial and ethnic disparities and increased financial burdens for impoverished families, all for reasons unrelated to public safety and counterproductive to the rehabilitative aims of the juvenile court; and

WHEREAS, impoverished youth and families may face harsher consequences than their affluent peers because of their inability to pay; and

WHEREAS, numerous professional organizations including the American Bar Association, National Juvenile Defender Center, the Juvenile Law Center, and Conference of Chief Justices/Conference of State Court Administrators have recognized the negative consequences of imposing fines and fees without regard for one's ability to pay and issued guidance on the imposition of juvenile justice related fines, fees, and costs; and

WHEREAS, a growing number of state and local jurisdictions have reduced or eliminated various fines, fees, or costs in consideration of the impact of these financial burdens on youth and families; and

WHEREAS, juvenile and family court judges are uniquely positioned to reduce or eliminate the hardships associated with fines, fees, and costs; and

NOW, THEREFORE, BE IT RESOLVED:

The NCJFCJ recognizes the critical role of the judge and judicial leadership as it applies to the imposition of juvenile court fines, fees, and costs.

The NCJFCJ encourages courts to work towards reducing and eliminating fines, fees, and costs by considering a youth and their family's ability to pay prior to imposing such financial obligations.

The NCJFCJ believes that the core functions necessary for our nation's juvenile courts to meet their rehabilitative goals should be fully funded by governmental revenue and not by revenue generated by fines, fees, and costs. Revenue generated from fines, fees, and costs should never be used for salaries or benefits of official judicial branch employees or operations nor should the revenue be used to evaluate the performance of such employees.

The NCJFCJ encourages courts to presume youth indigent when making decisions regarding the imposition of fines, fees, and costs if the youth was previously determined indigent for the purpose of securing attorney representation.

The NCJFCJ recommends that no court should detain or order youth to out-of-home placement or extend community supervision solely because of lack of payment of fines, fees, or costs.

The NCJFCJ recognizes that court fines, fees, and costs may have a disproportionate impact on poor communities and racial or ethnic minorities and supports the adoption of court policies and practices that promote fairness and equal treatment for all youth and their families.

The NCJFCJ recommends juvenile and family courts collect detailed data on the imposition and collection of fines, fees, and costs, study their effects on youth, families, and courts and demonstrate transparency by making data publicly available.

The NCJFCJ supports the imposition of reasonable restitution after considering a youth's ability to pay and encourages courts to provide opportunities for youth to repay restitution through meaningful community service.

The NCJFCJ supports the use of payment plans in those cases in which fines, costs, or fees are levied.

The NCJFCJ supports continued education for judges and court staff related to constitutional, legal and procedural principles of imposing fines, fees, and costs on youth and their families.

MAKING FAMILIES PAY

THE HARMFUL, UNLAWFUL, AND COSTLY PRACTICE OF
CHARGING JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA



MARCH 2017

BerkeleyLaw
UNIVERSITY OF CALIFORNIA

Policy Advocacy Clinic

EXECUTIVE SUMMARY

IN THE WAKE OF TRAGEDIES in cities like Ferguson, Missouri, national attention is focused on the regressive and racially discriminatory practice of charging fines and fees to people in the criminal justice system. People of color are overrepresented at every stage in the criminal justice system, even when controlling for alleged criminal behavior. Racially disproportionate treatment in the system leaves people of color with significantly more criminal justice debt, including burdensome administrative fees.

While regressive and discriminatory criminal justice fees have been described and critiqued in the adult system, the issue has received very little attention in the juvenile system. Nevertheless, families with youth in the juvenile system are charged similar fees, which significantly undermine the system's rehabilitative goals. The harmful practice of charging poor people for their interaction with the criminal justice system is not limited to places like Ferguson, Missouri. California, too, makes families pay for their children's involvement in the juvenile system.

This report presents findings about the practice of assessing and collecting administrative fees from families with youth in the California juvenile system. We use the term "administrative fees" to describe the charges imposed by local jurisdictions on families for their child's involvement in the juvenile system. State law permits counties to charge administrative fees for legal representation, detention, and probation, but only to families with the ability to pay. Most counties in California charge these administrative fees, imposing millions of dollars of debt on families with youth in the juvenile system.

Our research over the last three years reveals that juvenile administrative fees undermine the rehabilitative purpose of the juvenile system. Counties charge these fees to families already struggling to maintain economic and social stability. Fee debt becomes a civil judgment upon assessment. If families do not pay the fees, counties refer the debt to the state Franchise Tax Board, which garnishes parents' wages and intercepts their tax refunds. Under state law, these fees are meant to help protect the fiscal integrity of counties. They are not supposed to be retributive (to punish the family), rehabilitative (to help the youth) or restorative (to repay victims).

This report details our findings on juvenile fees in California, but we summarize them here:

HARMFUL: Juvenile administrative fees cause financial hardship to families, weaken family ties, and undermine family reunification. Because Black and Latino youth are overrepresented and overpunished relative to White youth in the juvenile system, families of color bear a disproportionate burden of the fees. Criminologists recently found that juvenile debt correlates with a greater likelihood of recidi-

vism, even after controlling for case characteristics and youth demographics. These negative outcomes from fees undermine the rehabilitative purpose of the juvenile system.

UNLAWFUL: Some counties charge juvenile administrative fees to families in violation of state law, including fees that are not authorized in the juvenile setting, fees that exceed statutory maximums, and fees for youth who are found not guilty. Some counties violate federal law by charging families to feed their children while seeking reimbursement for the same meals from national breakfast and lunch programs. Further, counties engage in fee practices that may violate the state Constitution by depriving families of due process of law through inadequate ability to pay determinations and by denying families equal protection of the law in charging certain fees.

COSTLY: Counties are authorized to charge families for juvenile administrative fees to pay for the care and supervision of their children. Yet counties net little revenue from the fees. Because of the high costs and low returns associated with trying to collect fees from low-income families, most of the fee revenue pays for collection activities, not for the care and supervision of youth. Further, the fee debt can cause families to spend less on positive social goods, such as education and preventative health-care, which imposes long term costs on families, communities, and society by prolonging and exacerbating poverty.

Based on our findings, fixing the system is not an option. Charging administrative fees to families with youth in the juvenile system does not serve rehabilitative purposes. Other mechanisms in the system punish youth for their mistakes and address the needs of victims. Further, we did not find a single county in which fee practices were both fair and cost-effective. Counties either improperly charge low-income families and net little revenue, or they fairly assess families' inability to pay and net even less. Counties that have recently considered the overall harm, lawfulness, and costs of juvenile administrative fees have all ended the practice.

In light of our findings, we make the following recommendations to policymakers:

RECOMMENDATIONS

1. To end their harmful impact on youth and families, the state should repeal laws that permit the assessment and collection of juvenile administrative fees.
2. To redress unlawful practices, counties should reimburse families for all payments they made on improperly charged juvenile administrative fees.
3. To understand the consequences of costly practices like juvenile administrative fees, the state and counties should collect and maintain better data in the juvenile system.