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Juvenile justice reform is a key topic for Wyoming's Joint Judiciary interim committee and for the Wyoming Supreme Court. With attention focused on improving outcomes for young people and saving money, the time is right to reevaluate the way courts treat kids.

Eliminating juvenile fines and fees, as well as detention fees charged to parents, furthers the rehabilitative mission of Wyoming's juvenile courts. Monetary sanctions disproportionately impact rural youth, low-income youth, and youth of color. Furthermore, they weaken family ties, increase system involvement, and are inefficient revenue streams—there is no evidence that they support any juvenile court goal. Judges, legislators, and other decision-makers are taking notice. Since 2015, juvenile fines and fees have been reduced or eliminated in 23 states, including Utah, South Dakota, and Nevada.

1. Juvenile Fines and Fees in Wyoming (2021)

Summarizing issues with juvenile fines & fees in Wyoming and nationwide.

2. Debtor's Prison for Kids: The High Cost of Fines and Fees in the Juvenile Justice System (2016 Executive Summary)

Juvenile Law Center, documenting the harms caused by fines & fees.

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

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

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

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

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

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

6. Law Enforcement Leaders: Juvenile Justice Reform Principles (2021)

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

7. Kaua'i County Policy Eliminating Juvenile Fines & Fees (2021)

Prosecuting Attorney ordering his office not to pursue discretionary juvenile fines & fees.

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

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

JUVENILE FINES & FEES IN WYOMING

A HARMFUL & INEFFECTIVE SYSTEM

Wyoming is one of a dwindling number of states that charges youth and families **fees for court** and high **finances as punishment**.

Youth and parents can be charged for services, including, but not limited to:

- Appointment of counsel
- Probation supervision
- Detention
- Diversion

Judges and other decision makers should use their discretion to **eliminate fees and reduce or eliminate fines** wherever possible.



FINES AND FEES HARM YOUTH, FAMILIES, AND COMMUNITIES



FINES AND FEES ARE INEFFECTIVE AND COSTLY TO ADMINISTER

FEES HARM YOUTH, FAMILIES, AND COMMUNITIES

- Juvenile fines and fees **fall more often on rural families**, and exacerbate economic inequality.
- **Failure to pay carries harsh consequences**, like jail, wage garnishment, and huge private collection fees.
- Monetary sanctions have been shown to **increase stress** and **weaken family ties**.

Nationwide, **youth of color are charged fines and fees at a disproportionate rate**. In Wyoming, families of color are much more likely to face high fees for detention :



4X

Native youth are 4x more likely to be **detained**



4+X

Black youth are 4.3x more likely to be placed **out of home**

"When the court took my son, not only did they take the child support his father paid me, they forced me to pay more support - even after he came home. They billed my insurance, too!" -Wyoming Mom

FEES ARE INEFFECTIVE AND COSTLY TO ADMINISTER

- **Monetary sanctions push children deeper into the system** by preventing them from completing probation and unnecessarily extending court contact.
- There is a **strong link between high fines and fees and future arrest and incarceration**, undermining the goals of juvenile justice in Wyoming.

- Findings in other states show **localities often spend more on collection than they generate in revenue**.
- Police in **jurisdictions that rely more heavily on fee revenue solve serious crime at a lower rate** because their time is wasted collecting state revenue.

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.

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

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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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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.

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

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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.



BACKGROUND

On any given day in 2019, there were an estimated 48,000 juveniles confined due to juvenile or criminal justice system involvement.¹ That same year, there were nearly 700,000 juvenile arrests.² Involvement in criminal and juvenile justice systems causes children lasting harm that can limit their potential to thrive in adulthood. When justice-involved children are not offered alternatives such as restorative justice, or do not receive rehabilitative support such as community treatment, they are at higher risk of school dropout, substance abuse disorders, and future offending.³ These harms are not experienced equally — with Black youth 5.8 times, Native youth 2.5 times, and Hispanic youth 1.7 times more likely than white youths to be incarcerated and to experience resulting collateral consequences.⁴

The reflexive use of punitive sanctions against youth does not promote public safety in the long run.⁵ Study after study has proven what common sense has long shown: children's neurological and developmental immaturity often leads to poor decision-making.⁶ Providing children with trauma-informed, developmentally appropriate responses to offending can improve their sense of security and connection to their communities. The data bears this out: while juvenile incarceration has fallen 66 percent nationwide from 2008 to 2018, we have also seen a 65 percent decline in youth crime over that same period.⁷ We can reduce unnecessary youth incarceration and crime at the same time.

RECOMMENDATIONS

RECOMMENDATION 1: RAISE THE AGES OF CRIMINAL AND JUVENILE COURT RESPONSIBILITY AND STOP AUTOMATIC TRANSFERS OF YOUTH TO THE ADULT CRIMINAL JUSTICE SYSTEM

The prosecution and incarceration of juveniles as adults fails to meet their developmental needs, adversely affecting youth rehabilitation.⁸ As many in law enforcement have recognized, states should raise the age of criminal responsibility to 18, end automatic transfers of youth to adult court, and raise the minimum age of juvenile court jurisdiction to at least 14, consistent with international norms.⁹

Despite the national trend of raising the age of criminal responsibility to 18, three states have yet to do so.¹⁰ In addition, most states have laws that allow or require prosecutors to automatically transfer

children to adult courts for more serious offenses and under certain conditions.¹¹ In many states, children as young as 13 and 14 can be automatically tried as adults.¹² However, these automatic transfer laws are both ineffective at reducing crime and harmful to rehabilitative goals. Juveniles who are prosecuted as adults are more likely to recidivate, commit more serious new offenses upon release, and reoffend more quickly than youth processed through the juvenile justice system.¹³ Further, trying young people as adults fails to account for their evolving capacities and can limit chances for rehabilitation.¹⁴ Such practices undermine extensive scientific research showing that adolescents tend to make poor decisions because they are cognitively less able to regulate their behavior and

¹ Wendy Sawyer, *Youth Confinement: The Whole Pie*, Prison Policy Initiative, 2019, <https://www.prisonpolicy.org/reports/youth2019.html>.

² *Juvenile Arrests*, OJJDP Statistical Briefing Book, accessed January 14, 2021, <https://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2019&text=yes>.

³ Barry Holman and Jason Ziedenberg, *The Dangers of Detention*, Justice Policy Institute, 2006.

⁴ Vincent Schiraldi, *Can We Eliminate the Youth Prison (And What Should We Replace It With?)*, The Square One Project, 2020, 19.

⁵ Lawrence W. Sherman et al., *Preventing Crime: What Works, What Doesn't, What's Promising*, National Institute of Justice, 1998; "Statement on Ending Youth Prisons," Youth Correctional Leaders for Justice, July 20, 2020.

⁶ Staci A. Gruber and Deborah A. Yurgelun-Todd, "Neurobiology and the Law: A Role in Juvenile Justice," *Ohio St. J. Crim. Law* 3 (2005): 321, 330; *21 Principles for the 21st Century Prosecutor*, Brennan Center for Justice, 2018.

⁷ Schiraldi, *supra* note 4, at 11.

⁸ Ian Lambie and Isabel Randell, "The Impact of Incarceration on Juvenile Offenders," *Clinical Psychol. Rev.* 3 (2013): 448, 450–55.

⁹ National Sheriffs' Association, National Sheriffs' Association Resolution on Youth Tried as Adults (2018); Major Cities Chiefs Association, Policy Statement: Youth in the Adult Criminal Justice System (2017); *Raise the Minimum Age for Trying Children in Juvenile Court*, National Juvenile Justice Network, 2020.

¹⁰ Rachel Marshall, *Removing Youth from Adult Jails: A 50-State Scan of Pretrial Detention Laws for Youth Transferred to the Adult System*, Campaign for Youth Justice, 2019, 9 (Georgia, Wisconsin, and Texas have yet to do so); Daniel Nichanian, "As Michigan Raises the Age, Advocates Vow to Press for More Change," *The Appeal*, November 14, 2019 (Michigan raised the age in 2019).

¹¹ Anne Teigen, "Juvenile Age of Jurisdiction and Transfer to Adult Court Laws," *National Conference of State Legislatures*, July 1, 2020.

¹² Jeree Thomas et al., *Raising the Floor*, Campaign for Youth Justice, 2019, 12.

¹³ Robert Hahn et al., *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*, Center for Disease Control and Prevention, 2007.

¹⁴ See Lambie, *supra* note 8, at 450 (noting that involvement in sensation-seeking and risk-taking behaviors peaks during adolescence).

that youth neurological development continues until around 25 years of age.¹⁵

RECOMMENDATION 2: REDUCE RELIANCE ON INCARCERATION AND INVEST IN PREVENTION AND COMMUNITY-BASED TREATMENT

Incarcerated juveniles experience disproportionate rates of mental illness and a higher risk of self-harm.¹⁶ Further, juvenile detention disrupts psychological development and youths' capability to "age out" of delinquency.¹⁷ As a result, incarcerated youth are more likely to recidivate than those placed in community-based rehabilitation and probation programs.¹⁸ Incarcerated youth are also less likely to graduate from high school and face diminished job opportunities, limiting their future earning potential and further increasing their likelihood of recidivism.¹⁹ States should design juvenile justice systems around the goals of diversion and rehabilitation — with the ultimate aim of closing youth prisons, as has been called for by dozens of current and former correctional leaders of youth justice agencies.²⁰

RECOMMENDATION 3: PROVIDE COUNSELING, MEDICAL CARE, AND APPROPRIATE PROGRAMMING TO INCARCERATED YOUTH

Psychological research demonstrates how important it is for states to reduce juvenile incarceration, which can severely exacerbate youth's existing mental health problems.²¹ However, when incarceration is necessary for public safety, correctional facilities must create and maintain conditions that protect youth. Youth incarcerated in adult facilities face disproportionate rates of chronic physical and mental health conditions, mortality, suicide, and violence, as well as physical,

sexual, and psychological abuse.²² Even worse, young people placed in solitary confinement — still common in certain states — face severe, sometimes irreversible, psychological damage.²³ And juveniles in adult facilities typically do not have access to the same rehabilitative services as should be available in juvenile systems. To achieve full rehabilitation, it is critical that young people receive educational, mental health, and substance abuse resources tailored to their needs. Youth should only be housed in adult facilities or in solitary confinement as a last resort.

RECOMMENDATION 4: STOP CHARGING YOUTH CRIMINAL JUSTICE FEES AND FINES

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.²⁴ In at least 26 states, when juveniles fail to pay these costs, they can be incarcerated, even if they pose no threat to public safety.²⁵ Consequently, young people are pushed into inescapable debt, and often pushed further into the justice system for inability to pay.²⁶ As a general rule, children are financially dependent and unable to pay criminal justice fees and fines. They should not be saddled with criminal justice debt or incarceration because their parents cannot afford to pay it. These unfair policies risk wasting scarce law enforcement resources, and also have long-lasting effects — they trap children in poverty and increase their risk of recidivism.²⁷ As New Jersey did in 2020, states should eliminate the practice of imposing juvenile justice fees and fines on youth.²⁸

Juvenile justice policies must reflect the reality that children have unique needs. State, local, and tribal juvenile justice systems should rely less on incarceration and more on providing developmentally appropriate responses in order to advance both juvenile rehabilitation and community public safety goals.

¹⁵ See Gruber and Yurgelun-Todd, *supra* note 6, 321, 330 (“[Adolescents] may make poor decisions because they are cognitively less able to select behavioral strategies associated with self-regulation.”); see also Brennan Center for Justice, *supra* note 6 (neurological development continues until around the age of 25).

¹⁶ Lee A. Underwood and Aryssa Washington, “Mental Illness and Juvenile Offenders,” *Int’l J. of Env. Res. & Pub. Health* 13 (2016): 2–3.

¹⁷ Richard A. Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation, 2011, 9–15.

¹⁸ Edward Mulvey, *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, U.S. Department of Justice.

¹⁹ Anna Aizer and Joseph Doyle, *What is the Long-Term Impact of Incarcerating Juveniles*, Vox CEPR Policy Portal, July 16, 2013; Richard B. Freeman, *Crime and the Employment of Disadvantaged Youths*, National Bureau of Economic Res. 3875, 1991.

²⁰ “Statement on Ending Youth Prisons,” Youth Correctional Leaders for Justice. To aid in the development of better programs for youth, states may apply for grants through the federal Juvenile Justice Delinquency Prevention Act, 34 U.S.C.A. § 11102 (2018).

²¹ Linda A. Teplin et al., “Prevalence, Comorbidity, and Continuity of Psychiatric Disorders in a 15-Year Longitudinal Study of Youths Involved in the Juvenile Justice System.” *JAMA Pediatrics*, 2021.

²² Celia Harris et al., *Juvenile Injustice: Charging Youth as Adults is Ineffective, Biased, and Harmful*, Human Impact Partners, 2017.

²³ Andrew B. Clark, “Juvenile Solitary Confinement as a Form of Child Abuse,” *J. Am. Acad. Psychiatry* 45 (2017): 350–357.

²⁴ Jessica Feierman, *Debtors’ Prison for Kids?*, Juvenile Law Center, 2016, 9.

²⁵ Feierman, *supra* note 24, at 10, 23.

²⁶ Feierman, *supra* note 24, at 3.

²⁷ Feierman, *supra* note 24, at 4; see Eli Hager, “Punishing Kids With Years of Debt,” *The Marshall Project*, June 11, 2019; Alex R. Piquero & Wesley G. Jennings, “Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders,” *Youth Violence & Juv. Just.* 15 (2017): 325–340.

²⁸ See S. 48, 218 Leg. (N.J. 2020).

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MEMORANDUM

To: All Deputy Prosecuting Attorneys
From: Justin Kollar
Date: June 29, 2021
Re: Juvenile Monetary Sanctions

Introduction

Juvenile monetary sanctions harm families—disproportionately Native families and families of color— and generate little or no revenue for local government. Fees are designed only to generate revenue, while fines are intended to punish. Neither are evidence-based practices for rehabilitating, deterring, or even punishing youth. This policy formalizes the Kaua'i County Office of the Prosecuting Attorney's longstanding practice of declining to seek these sanctions for youth and their families.

I. **Juvenile fees and fines are harmful and racially discriminatory.**

Fees and fines undermine the financial and emotional wellbeing of families, and disproportionately burden youth and families of color.¹ The debt from fees and fines strains family budgets and relationships, while adversely affecting the mental health of youth and their family members— parents are forced to choose between paying the court and meeting basic needs.² These economic burdens also correlate to increased recidivism and push youth deeper into the legal system.³

¹ See POLICY ADVOCACY CLINIC, BERKELEY LAW, UNIVERSITY OF CALIFORNIA, MAKING FAMILIES PAY: THE HARMFUL, UNLAWFUL, AND COSTLY PRACTICE OF CHARGING JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA (2017), <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Making-Families-Pay.pdf>.

² LESLIE PAIK & CHIARA PACKARD, IMPACT OF JUVENILE JUSTICE FINES AND FEES ON FAMILY LIFE: CASE STUDY IN DANE COUNTY, WI (2019), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>.

³ Alex R. Piquero & Wesley G. Jennings, Research Note, *Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 325

Furthermore, fees and fines disproportionately harm Black and Native youth and other youth of color, as well as low-income youth and families.⁴ Native Hawaiian youth, particularly, are overrepresented at every stage of the delinquency process, and thus exposed to more fees and fines.⁵ Ability-to-pay processes are insufficient to address racial inequity, and may even deepen it.⁶ Lastly, monetary sanctions crush families who are unable to pay and merely inconvenience those who have the means, creating a two-tiered system based on income.⁷

II. Fees and fines serve no governmental interest and undermine public trust.

Fees and fines serve no purpose for the government and undermine many of the goals of the Prosecuting Attorney's office. In addition to increasing recidivism, juvenile fees, and fines in other parts of the country have been shown to net little revenue for courts—some schemes cost more to administer than they bring in.⁸ Current research into adolescent

(2016), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-criminology-study-2016.pdf>; JESSICA FEIERMAN ET AL., JUVENILE LAW CENTER, DEBTORS' PRISON FOR KIDS? THE HIGH COST OF FINES AND FEES IN THE JUVENILE SYSTEM (2016), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>.

⁴ See Alex R. Piquero, *Disproportionate Minority Contact*, 18 JUV. JUST. 59, 59-61 (2008) (discussing disproportionate punishments, including monetary sanctions, for youth of color in state juvenile systems); FRANK EDWARDS & ALEXES HARRIS, AN ANALYSIS OF COURT IMPOSED MONETARY SANCTIONS IN SEATTLE MUNICIPAL COURTS, 2000-2017 (2020), <https://www.seattle.gov/Documents/Departments/CivilRights/SMC%20Monetary%20Sanctions%20Report%207.28.2020%20FINAL.pdf> (finding that, in Seattle, court debt falls most heavily on people of color); see also Rep. Leslie Herod, *Eliminating juvenile-justice fees means better justice for juveniles*, COLO. SUN (May 23, 2021) <https://coloradosun.com/2021/05/23/eliminating-juvenile-justice-fees-opinion/> (showing rural youth in Colorado were charged more juvenile fees than urban youth).

⁵ *United States of Disparities: National Map: Hawaii*, Burns Inst., <https://usdata.burnsinstitute.org/decision-points/12/hawaii#comparison=2&placement=1&rac=2,3,4,5,6&offenses=5,2,8,1,9,11,10&odc=0&dmp=1&dmp-comparison=2&dmp-decisions=2,3,4,6,5,7,10,8,9&dmp-county=-1&dmp-races=1,2,3,4,7,5,6&dmp-year=2014> (last visited Apr. 16, 2021).

⁶ Theresa Zhen, (Color)Blind Reform: How Ability-to-Pay Determinations Are Inadequate to Transform a Racialized System of Penal Debt, 43 N.Y.U. REV. L. & SOC. CHANGE 177 (2019).

⁷ See, e.g., Board of Governors of the Federal Reserve System, Report on the Economic Well-Being of U.S. Households in 2018, Washington, DC: Federal Reserve Board, 2019, <https://www.federalreserve.gov/publications/report-economic-well-being-us-households.htm> (according to the Federal Reserve, 40% of Americans could not afford a \$400 emergency expense).

⁸ See MAKING FAMILIES PAY, supra note 1 at 18; OR. DEPT OF JUST., DIV. OF CHILD SUPPORT, CHILD SUPPORT INFORMATION RELATED TO OREGON YOUTH AUTHORITY 5 (2020), <https://berkeley.box.com/s/5mgugtq1ritzrvj86rylezbfin5yt9an> (showing that the Oregon Division of Child Support spent \$866,000 to collect \$864,000 in juvenile fees in 2019).

development shows that fines are not an effective deterrent, and monetary sanctions have never been an evidence-based method of addressing youthful misconduct.⁹

Pursuing fees and fines strains relationships between the community and government. In jurisdictions where law enforcement pursues monetary sanctions aggressively, police have been shown to close more serious cases at a lower rate.¹⁰ Such low clearance rates, as well as high fee and fine burdens, reduce public trust in police and in government as a whole.¹¹ Funding the judiciary on the backs of poor people further undermines public trust by creating a clear conflict between judges' interest in court budgets and the impartial administration of justice.¹²

III. **Where Hawai`i law does not require this office to pursue fees and fines, we will not.**

The Office of the Prosecuting Attorney shall not seek to impose any discretionary fees and fines and shall object if the Court or any other party seeks to impose them. Most of the juvenile fees and fines authorized in the Hawai`i Revised Statutes are discretionary, meaning that prosecuting attorneys need not seek to impose them.

⁹ Psychosocial maturation processes (e.g., impulse control, future orientation, resistance to peer influence, etc.) develop well into young adulthood. This ongoing development weakens fully mature logical reasoning abilities of adolescents and results in higher vulnerability for engaging in risk-taking behaviors. See OFFICE OF JUVENILE JUST. & DELINQ. PREV., *Studying Deterrence Among High-Risk Adolescents* (2015), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/248617.pdf>.

¹⁰ See Rebecca Goldstein et al., *Exploitative Revenues, Law Enforcement and the Quality of Government Service* 3-4 (2017), http://www.law.nyu.edu/sites/default/files/upload_documents/YOU_policing.pdf; see also Alicia Bannon et al., Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry* 30 (2010), <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf> (pursuing fines and fees redirects probation officers from other duties).

¹¹ See generally U.S. DEP'T OF JUST., CIV. RTS. DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 15 (2015) [hereinafter FERGUSON REPORT], https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

¹² See *People v. Cameron*, 504 Mich. 927, 929 N.W.2d 785, 786 (2019) (CJ McCormack, concurring in denial of certiorari) ("No matter how neutral and detached a judge may be, the burden of taxing criminal defendants to finance the operations of his court, coupled with the intense pressures from local funding units (and perhaps even from the electorate), could create at least the appearance of impropriety. Assigning judges to play tax collector erodes confidence in the judiciary and may seriously jeopardize a defendant's right to a neutral and detached magistrate."); *Cain v. White*, (5th Cir 2019) (finding that directing fines and fees into a general revenue fund created an unavoidable conflict of interest for judges).

However, this policy does not affect mandatory fees, such as the Driver Education Assessment fee, or mandatory fines such as e-smoking, curfew, and dancehall fines.¹³ The Office of the Prosecuting Attorney cannot decline to pursue fees and fines required by statute. Deputy Prosecuting Attorneys may refer to this memo and any of the research contained herein when objecting to the imposition of discretionary fees and fines.

Conclusion

For the reasons listed above, the Office of the Kaua'i County Prosecuting Attorney shall not seek to impose discretionary fees and fines in juvenile delinquency proceedings and shall object to their imposition unless there is a compelling reason to request them and supervisory approval has been obtained. This policy only formalizes the established practice of this office, and recognizes that common sense, economic reality, and decency demand that we not attempt to fund the system on the backs of poor children and vulnerable families. This policy shall take effect immediately.

¹³ Haw. Rev. Stats. 286G-3; 712-1258; 577-18; 577-24; 577-34.

MAKING FAMILIES PAY

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



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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.