



How Reliance on Fees and Charges to Fund U.S. Criminal Justice Weakens Public Faith in Poor Communities

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In the United States, the judicial system relies heavily on fines, court-user fees, surcharges, assessments, interest, and collection and per-payment fees to fund everything from local law enforcement departments to county jails. Even some municipal services not connected to law enforcement are paid for by fines and fees imposed on citizens accused of breaking the law.

What are these charges? All states allow for the imposition of fines on convicted defendants. Associated fees can include charges related to the processing of warrants, criminal lab costs, court and prosecution time, and expenses incurred by juries and witnesses. Other commonly imposed charges include fees for the use of a public defender, court costs for paperwork and filing fees, probation supervision fees, and the cost of incarceration itself.

It may seem to make sense to fund the courts with fees paid by accused people, but since the majority of the accused have low income, the model quickly breaks down. Accused people who cannot pay charges in full rack up debt – and if enough fees remain unpaid, they can be incarcerated. In essence, such indebted defendants are jailed for being too poor to pay.

Extra-Legal Consequences for Those Who Cannot Pay

In the current judicial system, monetary sanctions are often imposed with no regard to people's ability to pay – even homeless people are saddled with these charges, as are people struggling with mental illness and drug and alcohol addictions. Recent cases suggest that even victims of domestic violence can be charged fees if they decide not to help with the prosecution of their abusers. What is more, many jurisdictions charge interest on all fiscal penalties and also impose annual collection surcharges.

Fines and fees are not only imposed on serious law violators, but on people who are guilty of little more than traffic violations. Many people who make contact with U.S. systems of justice are already poor, unemployed, and under-educated; for them fiscal penalties become a permanent punishment via crushing debt, poor credit, and re-incarceration for unpaid fees.

The state of California, for example, imposes a 20 percent surcharge on all traffic tickets, an additional 100 percent State Penalty Assessment surcharge, a 90 percent County Penalty Assessment surcharge, a 50 percent State Court Construction surcharge, and a surcharge of 40 percent called a "DNA Identification Fund Penalty Assessment." On top of such charges, non-payment of traffic tickets frequently results in license suspension and, eventually, full revocation for a fixed period of time. Driving with a suspended license can result in incarceration, particularly for those living and driving in communities that are heavily surveilled by police.

This two-tiered system of justice, where some law violators have to pay impossibly high fees, charges, and penalties – leads to a loss of faith in the police and criminal justice. Low-income communities and people of color are especially hard hit and likely to lose faith in the system. The imposition of so many extra monetary sanctions to fund criminal justice helps make the U.S. system an illegitimate enterprise in the eyes of poor communities.

Toward a Truly Equitable System

Entrenched dependence on fees and charges to fund the justice system creates barriers to needed improvements. Monetary sanctions employed by states and local jurisdictions have supported mass

conviction and incarceration for more than forty years. In this period the United States has seen a *500 percent* increase in the number of people living behind bars. States need to stop shifting the cost of justice to the clients of justice, and should instead search for ways to reduce their criminal justice budgets by creating a realistic system of punishment for the poor, and prioritizing public safety.

- States need to eliminate all non-restitution fines, fees, surcharges, assessments, and interest and collection charges in state superior criminal courts.
- Sanctions should punish poor defendants who are guilty of offenses but allow them to be held accountable without building massive debts they cannot pay. For example, traffic fines and municipal-level citations could be subject to a “Day Fine” system in which fines are calculated so they are proportional to the average daily wage of the defendant prior to arrest and increase with severity depending on the nature of the convicted offense.
- States should prioritize deterrence of crime rather than just punishments for crimes already committed. Social programs that assist people with education, employment, housing, food, and treatment for substance abuse are proven methods of alleviating the causes of crime.
- Judicial resources should be allocated primarily to secure public safety, with emphasis on serious violent offenses. Decriminalizing low-impact offenses like the recreational use of marijuana can allow law enforcement to concentrate resources on more serious threats. What is more, marijuana legalization has allowed states like Washington and Colorado to generate millions in sales tax revenues.

Policy changes along these lines could create realistic reforms in U.S. judicial systems. Law breakers could be held accountable in realistic ways, while support is provided to head off potential offenses and prevent repeat infractions by low-level offenders. Such measures would both better protect the public and help to build faith in law enforcement in low-income and minority communities.

“Follow the money” is always wise advice when researchers want to better understand the workings and pathologies of key institutions. Finding better ways to finance the U.S. justice system would do a great deal to make that system work well for everyone in America. By implementing much-needed changes to arrangements over-reliant on unfair and unrealistic fees and charges imposed on often-impoorished defendants, the United States could move toward a more efficient, effective and ethical system of justice for all.

Read more in Alexis Harris, *A Pound of Flesh: Monetary Sanctions as a Punishment for the Poor* (Russell Sage, 2016).