

# **IF WE ONLY KNEW THE COST: Scratching the Surface on How Much it Costs to Assess and Collect Court Imposed Criminal Fees and Fines**

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## **About the Authors**

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## Introduction

Today, the United States currently holds approximately 2.1 million people behind bars, taking the prize as the world's biggest jailer.<sup>1</sup> Partly due to rising crime rates in the 1980s, state and federal policymakers enacted laws that dramatically increased sentences for a slew of crimes in addition to codifying new criminal laws. America chose to combat its crime problem with punitive policies such as Three-Strikes laws, "truth-in-sentencing" laws, which required people behind bars to serve at least 85 percent of their sentences before becoming eligible for parole, mandatory minimum sentencing, and otherwise curtailing parole. Between the years 1990 and 2014, incarceration rates increased by 61 percent.<sup>2</sup> Soon, criminal justice costs began to eat up more and more of states' general budgets. From 1986 to 2013, the share of state general fund dollars going to corrections purposes rose from 4.7 percent to 7 percent nationally.<sup>3</sup> As of 2014, four states (Arizona, Michigan, Oregon, and Vermont) spent over 11 percent of their general fund on corrections.<sup>4</sup> Unable to afford these costs through appropriations, courts began to rely on monetary fees and fines charged to the so-called "users" of the judiciary.<sup>5</sup> In just two of many examples, Florida and Kentucky increased court fees to address their state's fiscal crises.<sup>6</sup>

Although frequently referred to interchangeably, fees and fines are distinct penalties. Fines are imposed upon conviction, and they are intended to serve the purposes of deterrence and punishment. Criminal fees, in contrast, are intended to raise revenue and shift the costs of the criminal justice system from taxpayers to the "users" of courts. Often, they are automatically imposed and bear no relation to the offense committed.

1. Peter Wagner & Wendy Sawyer, *Mass Incarceration: The Whole Pie 2018*, PRISON POLY INITIATIVE (Mar. 14, 2018), <https://www.prisonpolicy.org/reports/pie2018.html> [<https://perma.cc/FZ87-R9F3>]; *Highest to Lowest—Prison Population Total*, World Prison Brief (Oct. 29, 2019), [http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All) [<https://perma.cc/LN5Y-QFYF>].
2. See Robyn L. Cohen, *Prisoners in 1990*, U.S. DEP'T OF JUST., BUREAU OF JUSTICE STATISTICS (1991), <https://www.bjs.gov/content/pub/pdf/p90.pdf> [<https://perma.cc/4B8A-H8YL>]; E. Ann Carson, *Prisoners in 2014*, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS (2015), <https://www.bjs.gov/content/pub/pdf/p14.pdf> [<https://perma.cc/UN4Q-69QW>].
3. Michael Mitchell & Michael Leachman, *Changing Priorities: State Criminal Justice Reforms and Investments in Education*, CTR. ON BUDGET & POLY PRIORITIES (Oct. 28, 2014), [https://www.cbpp.org/research/changing-priorities-state-criminal-justice-reforms-and-investments-in-education#\\_ftnref24](https://www.cbpp.org/research/changing-priorities-state-criminal-justice-reforms-and-investments-in-education#_ftnref24) [<https://perma.cc/SE7U-RKM3>].
4. *Id.*
5. Matthew Shaer, *How Cities Make Money by Fining the Poor*, N.Y. TIMES MAG. (Jan. 8, 2019), <https://www.nytimes.com/2019/01/08/magazine/cities-fine-poor-jail.html> [<https://perma.cc/CGH8-FFUU>].
6. Rebekah Diller, *Court Fees As Revenue?*, BRENNAN CTR. FOR JUST. (July 30, 2008), <https://www.brennancenter.org/our-work/analysis-opinion/court-fees-revenue> [<https://perma.cc/9CRE-RZWL>].

Many states are expanding the types of offenses that trigger fines, as well as increasing the fees charged defendants. The American criminal justice system continues to expand, even as state governments fail to adequately fund their courts through appropriations of tax revenue.

The imposition of criminal fees and fines, and the accumulation of criminal justice debt is a growing issue across the country. The reliance on fees and fines comes at a cost—to indigent defendants who cannot pay, to the families of defendants who often pay the fees, and to taxpayers who bear expensive enforcement costs disproportionate to any corresponding benefit.

Revelations that cities like Ferguson, Missouri, collect millions in fees from poor citizens sparked a national debate in 2014 about predatory and regressive policies targeting vulnerable communities.<sup>7</sup> The city relied on rising municipal court fines to make up 20 percent of its \$12 million operating budget in fiscal year 2013.<sup>8</sup> The New York Times noted that the Department of Justice report investigating Ferguson’s practice found that “internal emails show city officials pushing for more tickets and fines.”<sup>9</sup> But Ferguson is not alone. As detailed in our report, fee and fine assessments in each of the states we studied amount to significant costs for the people who pass through the criminal justice system, many of whom are poor.

This increase in fees and fines has exacted a steep human cost. Individual amounts may be small, but they can quickly add up, meaning indigent people may face hundreds or thousands of dollars in accumulated debt that they are unable to pay. In 2019, according to the Federal Reserve, 40 percent of Americans could not afford an unexpected \$400 expense.<sup>10</sup> In the wake of the ongoing COVID-19 pandemic, the percentage is surely larger. While “debtors’ prisons” have been declared unconstitutional, many states still incarcerate people for failure to pay criminal justice debt. And even when failure to pay is not an explicit charge, jail sentences are handed down for failure to appear or failure to comply—infractions that often stem from failure to pay.

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7. Joseph Shapiro, *In Ferguson, Court Fines And Fees Fuel Anger*, NAT’L PUB. RADIO (Aug. 25, 2014), <https://www.npr.org/2014/08/25/343143937/in-ferguson-court-fines-and-fees-fuel-anger> [<https://perma.cc/8VSVX-ZBYY>].
  8. U.S. DEP’T OF JUST. CIV. RIGHTS DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 9 (Mar. 4, 2015), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) [<https://perma.cc/PP28-HS3T>].
  9. Matt Apuzzo & John Eligon, *Ferguson Police Tainted by Bias, Justice Department Says*, N.Y. TIMES (Mar. 4, 2015), <https://www.nytimes.com/2015/03/05/us/us-calls-on-ferguson-to-overhaul-criminal-justice-system.html>.
  10. REPORT ON THE ECONOMIC WELL BEING OF U.S. HOUSEHOLDS IN 2018, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (2018), <https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm> [<https://perma.cc/5CYU-3D7X>] (last visited Apr. 13, 2020).

Unpaid criminal justice debt translates into life altering penalties such as: driver's license suspensions, longer periods of time on probation or parole, voter disenfranchisement, and even reincarceration, creating a new pathway to jail or prison. For example, in 43 states, driver's license suspensions are authorized or mandated for failure to pay.<sup>11</sup> License suspension can make finding or keeping a job hard, sometimes impossible. Driving on a suspended license can lead to additional fees and fines, along with incarceration. Additionally, in many states, voter disenfranchisement can be imposed on a discretionary basis or can be a requirement of the criminal justice system. Thirty states continue to disenfranchise voters on the basis of wealth by requiring payment of all legal financial obligations for voting rights restoration, according to a report from the Campaign Legal Center and the Civil Rights Clinic at Georgetown University Law Center.<sup>12</sup> This is effectively a modern-day poll tax, despite the Twentieth Amendment's promise of the right to vote without such a tax.<sup>13</sup> Perhaps most consequentially, in almost all 50 states, formerly incarcerated people may be reincarcerated if they are found to be willfully delinquent in payments. The U.S. Supreme Court has held that imprisonment for unpaid fees or fines without a hearing to determine ability to pay is unconstitutional.<sup>14</sup> If courts find that a defendant is unable to pay, they are required to consider alternatives such as deferrals, payment plans, community service, and waivers. Unfortunately, in practice, many courts fail to make these financial determinations.<sup>15</sup>

Given the detrimental impact that fees and fines have on low-income and marginalized communities, we set out to learn more about what how much it costs agencies to assess and collect these fees. Our findings are detailed in a report entitled, "The Steep Costs of of Criminal Justice Fees and Fines," the culmination of research in three states—Florida, New Mexico, and Texas—and ten diverse counties.<sup>16</sup> For the last few years, we spent time court-watching; speaking to court clerks, judges,

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11. Mario Salas & Angela Ciolfi, *Driven by Dollars: A State-By-State Analysis of Driver's License Suspension Laws for Failure to Pay Court Debt*, 2 LEGAL AID JUST. CTR. (2017), <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>.
  12. CAMPAIGN LEGAL CTR. & CIV. RIGHTS CLINIC AT GEO. LAW, CAN'T PAY, CAN'T VOTE: A NATIONAL SURVEY ON THE MODERN POLL TAX (Campaign Legal Ctr. 2019), [https://campaignlegal.org/sites/default/files/2019-07/CLC\\_CPCV\\_Report\\_Final\\_0.pdf](https://campaignlegal.org/sites/default/files/2019-07/CLC_CPCV_Report_Final_0.pdf).
  13. *Id.*
  14. *Bearden v. Georgia*, 461 U.S. 660 (1983).
  15. *Settlement Requires L.A. Superior Court to Consider Drivers' Inability to Pay Traffic Fines*, ACLU S. CAL., (Oct. 8, 2018), <https://www.aclusocal.org/en/press-releases/settlement-requires-la-superior-court-consider-drivers-inability-pay-traffic-fines>.
  16. MATTHEW MENENDEZ, MICHAEL CROWLEY, LAUREN-BROOKE EISEN, & NOAH ATCHISON, THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES (Brennan Ctr. for Just. 2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

public defenders, prosecutors, defendants, and police; and we surveyed prosecutors and other law enforcement officials to learn more about how much time they spend on fees and fines issues. This research revealed that most jurisdictions are not aware of how costly it is to assess and collect court-imposed fees and fines.

## **I. Brennan Center Research**

What surprised us in attempting to collect this information is just how hard it was to gather this data. Our goal was to determine the full cost to taxpayers of court-imposed criminal fee and fine enforcement. While fees and fines are an issue across multiple levels of criminal courts, the project focused on misdemeanor courts in ten counties, collecting some data for both misdemeanor and felony courts statewide in all three states.

We employed a variety of methods for collecting data including practitioner surveys, court-watching, review of public budgets, data sets made available by state administrative offices of courts, as well as data published by other organizations.

We sent surveys (often via statewide public agencies) to judges, prosecutors, public defenders, court clerks, DMV employees who suspend licenses, police and sheriff's departments who arrest people for failure to pay, probation and parole offices that participate in collections, court budget and finance officers, and state tax agencies that collect fees and fines through offsets to tax refunds. To give a sense of the magnitude of the attempted surveys, the authors distributed surveys to more than 3,000 members of the Texas justice system. In New Mexico, surveys went to more than 200 members of the state judiciary, as well as court clerks and public defenders. While some surveys were completed and returned by email and others were completed online, there were not enough useable responses to incorporate the data into meaningful cost estimates.

We also spoke with members of the judiciary and state administrative offices of courts in other states. With limited exceptions, courts and judicial agencies we spoke to do not track the cost of judicial proceedings involving fees and fines or the cost of collecting them. Likely, this is the case in most states.

We found one state that attempted to collect cost information for court collection units. The Texas Office of Court Administration administered a Collection Improvement Program (CIP) for several years. The program required reporting on staffing and costs of court collection units for larger cities and counties, approximately 72 percent of the state by population. Unfortunately, the program was discontinued by the state legislature effective September 2019.

But enforcement of fees and fines reaches well beyond the courtroom. Police and sheriff's departments incur costs for warrants issued for failure to pay. Public defenders charge time for advising their clients on these financial penalties. County jails and detention lockups incur costs for those jailed for nonpayment. Probation and parole officers in some

cases are collections agents and in others are charged with reminding their clients of the need to pay these financial obligations. State departments of motor vehicles (DMVs) incur costs where license holds and suspensions are issued for failure to pay. State tax agencies, often required to offset tax returns for such amounts owed, also accept a portion of the cost of collection.

The complexity and opaqueness of this web of interconnected criminal fee and fine enforcement activity is underscored by the fact that the costs of enforcement take place at multiple levels of government. Depending on the state and the organization of the judiciary, the courts may be funded by municipal, county, or state government. Law enforcement costs are almost exclusively local ones, while sometimes showing up on the books of states through state police agencies or assistance doled out to local police. Jailing costs are usually local, appearing in the budgets of municipalities and counties. Public defenders as well as community supervision may be a local or a state expense, depending on the location. The expenses of tax agencies and DMVs are exclusively state ones. This network of public agencies working at all levels of government complicates piecing together a true accounting for the total costs of fee and fine compliance.

We found that no one—again, with the limited exception of court collection cost reporting in Texas—tracks the costs that may appear on local, county, or state budgets for criminal fee and fine enforcement. As a consequence, no one—no courts, no local or state agency—tracks and reports on the costs to taxpayers for collecting these court-imposed legal financial obligations. When costs are not understood in public programs, it leads to inefficiencies and distortions.

Our team visited study jurisdictions to observe court proceedings for up to a week, although court watching was feasible only in seven of the counties as some largely rural counties only had part-time courts that were not in session during staff visits. These court observations were used to gauge time spent on fee and fine matters for in-court cost estimates. Over the course of this study, we observed over 1000 cases across sixteen different courts in seven counties.

We also made use of public budget data and supplemented it with information about salaries from “open data” or “sunshine” portals administered by public agencies and private organizations.<sup>17</sup> Coupled with court-watching, salary and benefits data were used to estimate in-court costs.

The Texas Office of Court Administration and New Mexico’s Administrative Office of the Courts made available nonpublic datasets providing criminal fee and fine data for several years, including amounts assessed by courts, amounts paid, sums waived or credited, and unpaid

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17. See, e.g., NEW MEXICO SUNSHINE PORTAL (<https://www.sunshineportalnm.com>) and TEXAS TRIBUNE’S GOVERNMENT SALARIES EXPLORER (<https://salaries.texastribune.org>).

balances. For Texas, the data covered criminal courts ranging from justice of the peace courts, to municipal and county courts, through district courts for about 72 percent of the populated state. The Texas data also included some limited information about court collection costs. New Mexico was able to provide data for state-funded magistrate and district criminal courts, as well as the Bernalillo Metropolitan Court in Albuquerque. However, the state was not able to provide any data for municipal courts. Florida's Clerks and Comptroller's Association, a nonprofit charged with collecting and reporting on statewide criminal fees and fines, publishes much of the same data for Florida on its website.<sup>18</sup>

The data we obtained included several years of criminal fee and fine assessments, waivers, credits—amounts issued for community service or as jail credits—and collections for courts in each of ten counties, as well as statewide for Florida, New Mexico, and much of Texas. Estimates computed from these data included cumulative unpaid balances for several years.

Costs for in-court proceedings (in-court costs) involving criminal fees and fines were obtained from court-watching coupled with salary data from “open data” and “sunshine” portals, supplemented with benefits data from budgets and other sources.

Court collection unit costs, including full time equivalent employees as well as salaries and benefits were obtained for some Texas courts based on data provided by the Texas Office of Court Administration.

Jailing costs for New Mexico and Texas were derived from jail credits reported in the respective administrative office of courts' datasets.<sup>19</sup> To obtain jailing costs, jail credits were coupled with information on average daily jail cost data obtained from U.S. Marshal's local agreements, the Vera Institute, and data shared by the Texas Office of Court Administration.

Despite our finding much useful data, piecing together a complete picture of costs proved an obstacle, as much of the data sought is neither recorded nor tracked, including:

1. Out-of-court costs for judges, prosecutors, and public defenders on matters involving criminal fees and fines.
2. Costs for law enforcement warrant enforcement and driver's license suspension.
3. Compliance activity for fees and fines involving probation and parole departments.
4. Costs of private collection agency contracts.
5. Costs for driver's license suspension or holds placed for nonpayment incurred by state DMVs.
6. State tax agency costs for withholding unpaid fees and fines from tax refunds.

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18. Data were collected from reports found at FLORIDA CLERKS AND COMPTROLLER'S ASSOCIATION (<https://www.flclerks.com/page/PublicDocuments>). During the Brennan Center research project, much of the Florida Clerks and Comptroller's data were removed from this website for reasons unknown.

19. Florida does not jail for nonpayment.

Our attempted use of surveys to elicit estimates of time spent on criminal fees and fines also failed to generate enough useful information. For reported legal and other reasons, each police and sheriff's department contacted declined to be interviewed about their respective costs.

Despite the significant data gaps in our attempted research, and in part because of them, we found:

*Lack of data about the costs of criminal fee and fine enforcement is a real, verified problem.* The failure to record, track, and report on the cost of criminal fee and fine enforcement perpetuates overly “rosy” views of the extent to which they produce revenue. As states consider how to pay for courts, law enforcement, and other activities, and whether—in the quest for additional revenue—fees and fines should be raised, it is critical that cost be considered.

*Criminal fees and fines are tremendously inefficient for generation of revenue, and as a means of funding courts and other priorities.* When compared to the collection costs incurred by state tax agencies, as much as 99 percent of the resources spent on criminal fee and fine compliance appear to be effectively squandered. The resulting misspending is a tremendous inefficiency as states and localities seek ways to improve funding for justice-related functions.

*Misspending on fee and fine enforcement distorts the activities of courts, law enforcement, and other justice agencies because it comes at the expense of public safety.* Collections and other compliance activities takes time away from police and sheriffs' responses to 911 calls.<sup>20</sup> It leads to delays or rushed court proceedings for more serious crimes. It also limits working with probationers and parolees to help them make a better start. True public safety efforts get short shrift when courts and local justice agencies become collections agencies.

*Jailing people for unpaid fees and fines is by far the most expensive method of enforcing collections and generates little to no revenue—making it highly ineffective.* Jailing is so costly that in counties the Brennan Center researched, it consumes in some cases as much as 115 percent of the fees and fines assessed. Jailing is particularly counterproductive not only because incarceration is extremely costly to jurisdictions, but also because it diminishes a person's ability to pay outstanding fees.

*Despite a responsibility to determine the ability to pay in imposing criminal fees and fines, courts in the jurisdictions researched spend little time at this.* Based on watching more than 1000 court proceedings in seven jurisdictions, we found that judges rarely hold ability-to-pay hearings. For many people involved in the justice system, the fees and fines assessed create an impossible burden, sometimes compromising the ability to pay for other living expenses or the care of families. Continuing to engage in compliance activities for years after a court-imposed debt goes unpaid squanders justice-system resources and compromises the lives of those affected.

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20. Rebecca Goldstein et al., *Exploitative Revenues, Law Enforcement, and the Quality of Government Service*, 56 URBAN AFFAIRS REV. 5 (2020).

*Unpaid and largely uncollectible fees and fines are accumulating in every jurisdiction we investigated.* Statewide for Florida, New Mexico, and Texas, \$1.9 billion in unpaid criminal fees and fines have accumulated between 2012 and 2018 alone. Accumulating unpaid court debt becomes a problem both for the courts and justice system partners charged with compliance, but also for the many who are unable to pay these sums. Little is known about the scope of such debt nationally—apart from the research on these three states—except for California, which has accumulated a reported \$12.3 billion in unpaid fees and fines through 2016.<sup>21</sup>

We were able to document that jurisdictions we investigated spend on average at least \$0.41 for every dollar collected from criminal fees and fines while state tax agencies are much more cost-effective producers of revenue. For example, New Mexico spends \$0.95 to collect every *hundred* dollars of state tax revenue, Florida spends \$0.76, and Texas spends just \$0.31.<sup>22</sup> But the problem is not just efficiency loss. Misdirecting justice system resources to fee and fine enforcement is concerning because it comes at the expense of resources that could be spent on public safety. To the extent that courts and public safety agencies spend time on fee and fine enforcement, it takes time away from responding to 911 calls, leads to delays or rushed court proceedings for more serious crimes, and limits working with probationers and parolees to help them make a better start.

We found that, considering only time spent in court by government employees and the costs of jailing, the costs of collecting fee and fine revenue consumes nearly 100 times more resources than collecting revenue through general taxation.<sup>23</sup> And this does not include the myriad out of court costs described previously. Fee and fine collection, which focuses disproportionately on those least able to pay, is a massively inefficient way to fund the courts, the criminal justice system, and (in some states) wholly unrelated government programs. And the system is not working. Our study found that many jurisdictions are spending inordinate amounts of money to incarcerate people who could not pay their debts, while collecting no revenue in the process, and making it more difficult for those people to

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21. See ANITA LEE, OFF. LEGISLATIVE ANALYST, THE 2017–18 BUDGET: GOVERNOR’S CRIMINAL FINE AND FEE PROPOSALS, <https://lao.ca.gov/reports/2017/3600/Criminal-Fine-Fee-030317.pdf>.
  22. Figures were computed using data from respective online state budgets, including *Florida Governor’s Budget*, <http://fightingforfloridasfuturebudget.com/web%20forms/Budget/BudgetService.aspx?rid1=327712&rid2=298905&ai=73000000&title=REVENUE&sf=0>; *New Mexico Sunshine Portal*, <https://ssp2.sunshineportalnm.com/#budget>; and Texas Comptroller of Public Accounts, *Budget Lookup Tools: Agency Budget vs. Actual Expenditures*, <https://comptroller.texas.gov/transparency/budget/tools.php>, and state tax collection data reported at United States Census Bureau, *Annual Survey of State Government Tax Collections*, 2017, <https://www.census.gov/data/tables/2017/econ/stc/2017-annual.html>.
  23. Matthew Menendez, Michael Crowley, Lauren-Brooke Eisen, & Noah Atchison, *The Steep Costs of Criminal Justice Fees and Fines*, BRENNAN CTR. FOR JUST. (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

live and work. Courts are spending little to no time determining whether people can afford to pay fees and fines. Accordingly, because these charges are imposed indiscriminately, we found that in every single jurisdiction we studied, large and increasing amounts of unpaid fee and fine debt continue to accumulate. Yet, much of the cost of criminal fee and fine compliance is undocumented, untracked, and unknown. Brennan Center research on this has only touched the tip of the iceberg.

## II. Other Recent Research Offers Tantalizing Clues About Costs

In addition to the recent Brennan Center report, other organizations have published research shedding light on the costs of relying on fees and fines for revenue and the serious consequences for impacted individuals. These reports consistently conclude that fees and fines frequently have devastating impacts on individuals, families, and entire communities. While a few studies have attempted to measure the costs of collection by various governmental entities, much work remains to be done to demonstrate the stark inefficiency of fees and fines as a means of collecting revenue.

In 2015, the Ella Baker Center for Human Rights published *Who Pays? The True Cost of Incarceration on Families*.<sup>24</sup> This report, a collaboration of a number of public interest organizations, found that approximately half of families surveyed could not afford the fees, fines, and other costs of conviction. More than two-thirds of the formerly incarcerated individuals surveyed remained unemployed or underemployed five years after being released. About two-thirds of families surveyed were unable to meet basic needs for their family due the costs of an incarcerated family member. In most cases, the families of those incarcerated bore the costs of fees and fines, and more than three quarters of those primarily responsible were women. The costs of incarceration, disruption of family continuity, and the stigma and isolation of incarceration were found to have severe negative impacts on impacted families and entire communities.

Alexes Harris, professor of sociology at the University of Washington, has researched and published extensively, examining the harms of fees and fines and how they disproportionately impact disadvantaged populations.<sup>25</sup> Professor Harris' work in Washington State documented the myriad fees and fines imposed on individuals with misdemeanor or felony convictions, and explained the frequent longterm consequences for many who are unable to pay. Professor Harris, along with other experts, is also conducting a five-year, multistate study investigating the consequences faced by those who are unable to pay fees and fines.<sup>26</sup> This

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24. SANETA DE VUONO-POWELL ET AL., *THE TRUE COST OF INCARCERATION ON FAMILIES 7–9* (2015), <https://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>.

25. ALEXES HARRIS, *A POUND OF FLESH: MONETARY SANCTIONS AS PUNISHMENT FOR THE POOR* (2016).

26. ALEXES HARRIS ET AL., *UNITED STATES SYSTEMS OF JUSTICE, POVERTY, AND THE*

work, based on hundreds of interviews with people facing fees and fines, concluded that many individuals burdened with fee and fine debt faced serious difficulty navigating the legal process, and that the impacts differed based on their ability to pay fees and fines.

The Policy Advocacy Clinic at U.C. Berkeley studied the imposition of fees in the Alameda County, California juvenile criminal system, concluding that these fees are harmful to families—weakening family ties and impeding family reunification.<sup>27</sup> They found repeated illegal practices, including the imposition of fees not authorized by law, fees assessed beyond statutory limits, and fees for juveniles who are found not guilty. The study further found that the system is costly, collecting “little net revenue because of the high costs and low returns associated with trying to collect fees from low-income families.”<sup>28</sup> The study found that across five California Counties, “more than 70 percent of all fee revenue pays to collect money from families, not support youth in the juvenile system.”<sup>29</sup> In Santa Clara county, the study found that the costs of collection represented more than 112 percent of revenue brought in.<sup>30</sup>

In 2016, San Francisco launched The Financial Justice Project, a groundbreaking effort to consider the impact of fees, fines, and financial penalties on its residents.<sup>31</sup> Led by The Office of the San Francisco Treasurer, this project has worked with assorted city and county agencies, community groups, and the courts to assess and reform fees and fines. This task force produced a report detailing the impact of fees and fines in San Francisco, including the disproportionate impact on communities of color, including a set of recommendations for reform.<sup>32</sup> The Financial Justice Project’s work has resulted in a set of reforms including eliminating many fees, reducing fines for low-income people, and forgiving significant amounts of unpaid fee and fine debt.

In 2017, the Vera Institute of Justice published a deeply researched study into the costs and revenues associated with fees, fines, and bail in

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CONSEQUENCES OF NON-PAYMENT OF MONETARY SANCTIONS: INTERVIEWS FROM CALIFORNIA, GEORGIA, ILLINOIS, MINNESOTA, MISSOURI, TEXAS, NEW YORK, AND WASHINGTON, (2017), <http://www.monetarysanctions.org/wp-content/uploads/2018/01/Monetary-Sanctions-2nd-Year-Report.pdf>.

27. BERKELEY LAW POLY ADVOCACY CLINIC, 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>.
28. *Id.* at 2.
29. *Id.* at 19.
30. *Id.* at 18.
31. See OFF. TREASURER & TAX COLLECTOR, CITY AND CTY. S.F., *The Financial Justice Project*, <https://sftreasurer.org/financial-justice-project> (last visited Feb. 9, 2020).
32. See OFF. TREASURER & TAX COLLECTOR, CITY AND CTY. S.F., *San Francisco Fees & Fines Task Force: Initial Findings and Recommendations* (2019), <https://sftreasurer.org/sites/default/files/FINAL%20Fines%20and%20Fees%20Task%20Force%20Recommendations.pdf>.

New Orleans.<sup>33</sup> Similar to the Brennan Center’s study, Vera found that the costs of incarcerating people unable to pay their court-imposed debts were considerable. Including bail along with fees and fines, Vera reported that in 2015, New Orleans spent \$6.4 million, while collecting only \$4.5 million in revenue. The report also found that private commercial bond agents took in three times more revenue than the government collected. Vera’s findings, like other studies of court-imposed costs, found a disproportionate impact on black individuals and families.

In August 2019, *Governing Magazine* published a study examining the extent to which cities and towns rely on fees and fines as a source of revenue.<sup>34</sup> The *Governing* “Addicted to Fines” study found that in nearly 600 jurisdictions, court revenues accounted for more than 10 percent of general fund revenue.<sup>35</sup> In more than 700 jurisdictions, reported revenues exceeded \$100 for every adult resident, and in 363 jurisdictions the amount was more than \$200.<sup>36</sup> The study also found that poor jurisdictions were frequently more reliant on fees and fines, and that at least 124 jurisdictions took in more than \$500 per capita from traffic offenses imposed on out-of-towners.

### Conclusion

More and better data collection is needed to determine the full cost of relying on fees and fines as a source of revenue. Researchers will need to assess the costs incurred by the numerous public employees across many agencies that are diverting time from their core functions to focus on collecting revenue. More research could also shed light on the disproportionate impact of fees and fines on marginalized communities. Existing research shows that economically disadvantaged communities and communities of color are policed at greater rates than affluent and white communities.<sup>37</sup> Because of our research, we now know that the huge cost of collecting criminal fees and fines appears cost ineffective and unwarranted. But we don’t know the entire cost or the full scope of the economic burden faced by those shouldering the burden of fees and fines.

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33. Mathilde Laisne et al., *Past Due: Examining the Cost and Consequences of Charging for Justice in New Orleans 20–21*, VERA INST. JUST. (2017), <https://www.vera.org/downloads/publications/past-due-costs-consequences-charging-for-justice-new-orleans.pdf>.

34. Mike Maciag, *Addicted to Fines*, GOVERNING (Aug. 21, 2019), <https://www.governing.com/topics/finance/fine-fee-revenues-special-report.html>.

35. *Id.*

36. *Id.*

37. See, e.g., Frank R. Baumgartner & Derek Andrew Epp, *What 20 Million Traffic Stops Reveal About Policing and Race in America*, SCHOLARS STRATEGY NETWORK (June 1, 2018), <https://scholars.org/brief/what-20-million-traffic-stops-reveal-about-policing-and-race-america>; see also LYNN LANGTON & MATTHEW DUROSE, U.S. DEP’T OF JUST., BUREAU JUST. STAT., NCJ242937, POLICE BEHAVIOR DURING TRAFFIC AND STREET STOPS, 2011 (2016), <https://www.bjs.gov/content/pub/pdf/pbtss11.pdf>.