

The Price of Justice Grant Program: Addressing the Overuse of Justice Fines and Fees

The U.S. Department of Justice’s Bureau of Justice Assistance (BJA) launched an initiative in 2016 called “The Price of Justice: Rethinking the Consequences of Justice Fines and Fees” to address an issue of growing national concern: the appropriate role and limits of fines and fees in the justice system. Through a highly competitive process, BJA selected five states—California, Louisiana, Missouri, Texas, and Washington State—to receive grants of approximately \$500,000 each to engage in reform and to act as innovation laboratories. Over a 3-year period, these five states will receive technical assistance from the Center for Court Innovation, the City University of New York’s Institute for State and Local Governance, the National Association of Counties, and the Center for Family Policy and Practice to develop innovative alternatives to justice fines and fees.



Background

The criminal justice system seeks to hold those who commit crimes accountable and recognize the harm done to victims. What role should fees and fines play in this process?

Fines and fees—also known as “legal financial obligations”—are imposed at every stage of the criminal justice system by a variety of agencies. They are particularly prevalent in low-level cases. Defendants may be charged court fines, along with fees for their public defender, probation and parole supervision, drug and alcohol-abuse treatment, DNA sampling, electronic monitoring, and even their trial.

Yet many of the individuals arrested and charged, or convicted of crimes do not have the means to pay—and few (if any) alternatives to fines and fees exist. For defendants in poverty, nonpayment can lead to future arrests, incarceration, revocation of a driver’s license, and challenges in obtaining or maintaining employment. Despite the U.S. Supreme Court decision that prohibits governments from “punishing a person for his poverty,”¹ defendants who are unable to pay their fines and fees are often charged additional collection fees and surcharges with high interest rates. This kind of long-term legal debt destabilizes the lives of low-income people and their families, and, by extension, their communities.

Imposing fines and fees against defendants who cannot afford them can trap people in cycles of poverty, perpetuate existing racial and socioeconomic inequalities, and compromise the integrity of the criminal justice system.

Complicating matters is the reality that many government agencies depend on the revenue

generated by fines and fees to fund core operational expenses or programs and services that would otherwise be unavailable. Further, many jurisdictions do not have a clear sense of the scope of fines and fees imposed and collected in their own backyards. And so the practice continues, day after day, with no inquiry into the appropriateness or the long-term impact on public trust in justice or the lives of justice-involved people and their families.

The Price of Justice Initiative Grantees

Price of Justice grantees will set out to:

- Implement fair and effective policies and practices related to fines and fees
- Increase collaboration and data sharing among criminal justice agencies regarding the imposition, collection, use and tracking of fines and fees
- Develop or enhance alternatives to fines and fees
- Eliminate unnecessary incarceration for nonpayment of fines and fees

The Price of Justice grantees will also learn from each other and eventually serve as models for other states wishing to reform their use of fines and fees. Each grantee faces similar though distinct challenges, and will undertake projects to address those challenges.

The Judicial Council of California

Problem: California is excessively reliant on fines and fees to fund basic court operations and other important government programs. Defendants in California are allowed to serve time in jail as a way to satisfy fines and fees, contributing to increased incarceration.

Proposed Solution: The Judicial Council of California will take a collaborative, data-informed approach to address the impact of fines and fees on low-income individuals. This will include establishing a working group, analyzing jail populations, and developing a tool to calculate how much defendants can afford to pay. In 3 years, the Judicial Council aims to increase collaboration among justice system partners regarding fines and

fees, understand how often people are put in jail for failure to pay, and address the unequal impact of fines and fees on low-income individuals.

Louisiana Supreme Court

Problem: Louisiana has the highest incarceration rate per capita in the nation.² Within the incarcerated population in the state, many individuals are held for failure to pay, despite their indigence. Additionally, there are inconsistent collection practices for fines and fees across judicial districts in the state. Where data on fines and fees do exist, reforms have not yet been tested or implemented.

Proposed Solution: The Louisiana Supreme Court will increase transparency by creating a publicly available database listing all fines and fees with which defendants and incarcerated individuals may be charged and an administrative data system to track those fines and fees that is searchable by individual and date of payment. The project will also develop Louisiana-specific statewide best practices and support for local courts to implement those best practices. By educating and engaging local courts, clerks, sheriffs, and other justice system stakeholders, the Louisiana Supreme Court aims to increase collaboration and data sharing. It will also develop alternative consequences for unpaid fines and fees that will promote rehabilitation.

Texas Office of Court Administration

Problem: In Texas, justice-involved individuals who are unable to pay their fines and fees are legally allowed to participate in alternatives to justice debt, including community service, work programs, electronic monitoring and tutoring programs. Yet courts rarely make use of these options. Judges and court staff report difficulty in determining litigants' ability to pay and linking those who cannot pay with appropriate alternatives.

Proposed Solution: The Texas Office of Court Administration plans to develop a series of products, including a tool to calculate ability to pay, an online program to link individuals

without the ability to pay to alternative community service options, and an educational curriculum for judges and court personnel. The Office of Court Administration estimates that it will be able to serve more than one million defendants through this project.

Missouri Office of State Courts Administration

Problem: Following the death of Michael Brown, the U.S. Department of Justice published an investigative report identifying serious shortcomings in the Ferguson court system, including policies and practices aimed to maximize revenue rather than public safety. One of the most significant issues was the requirement that all individuals who could not pay their fines and fees must appear in court. This is particularly difficult for low-income individuals who are impacted by challenges in transportation, child care and employment – along with the lack of clarity around municipal court procedures.

Proposed Solution: By increasing opportunities to resolve citations for minor violations without appearing in court, the Missouri Office of State Courts Administration intends to increase transparency and access to justice while reducing the number of summonses, warrants, and fees issued for failure to appear. The project will establish a strategic working group and create automated systems to facilitate out-of-court resolutions and match individuals with appropriate alternatives.

Washington State Minority and Justice Commission

Problem: Although criminal justice stakeholders across Washington recognize the problematic nature of fines and fees, the state is faced with a number of institutional challenges that make reform difficult. Because Washington has a non-unified court system, there are big differences in the ways that counties, cities, and judges impose and enforce fines and fees. Serious shortcomings in data collection make it difficult to identify the effects of these varied practices. The need for reform is particularly urgent given

that Washington State has a high proportion of indigent defendants (80-90 percent), severe debt burdens—including one of the highest interest rates of criminal debts in the nation, 12 percent per year from the date of judgment—and fines and fees ordered by state superior courts that do not expire until the debt is paid in full.

Proposed Solution: The Washington State Minority and Justice Commission intends to encourage criminal justice stakeholders to work together to compile data that will support recommendations for changes in legislation, court rules, and practices relating to the assessment and enforcement of fines and fees that have a disproportionate impact on low-income individuals. Towards this end, the commission plans to establish a working group, conduct a statewide study of fines and fees, and develop a tool to calculate defendants' ability to pay.

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For More Information:

<http://www.courtinnovation.org/jail-reduction>

Endnotes

1. *Bearden v. Georgia*, 641 U.S. 660 (1983).
2. E. Ann Carson and Elizabeth Anderson, "Prisoners in 2015," Bureau of Justice Statistics (2016): 8, accessed February 28, 2017, <https://www.bjs.gov/content/pub/pdf/p15.pdf>.

This project was supported by Grant No. 2016-ZB-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.