

Fines and Fees

Statement of Principles



We envision a legal system free from monetary sanctions that punish poverty or compound racial disparities. Because public safety and the fair administration of justice are public goods, “user fees” should be eliminated; fines for violating the law should be equitably assessed and collected; juvenile fines and fees should be eliminated; and governments should fund the justice system through general revenue.

In 2014, Michael Brown’s killing in Ferguson, Missouri served as a national wake-up call for reform. The resulting activism, advocacy, and journalism revealed Ferguson’s broken, corrupt, and biased system of municipal government intent on maximizing revenue from vulnerable individuals, families, and communities at the expense of public safety. Following these revelations, stakeholders across the country examined practices in their own communities and found many of the same dynamics at play: excessive and unaffordable fines and fees for too many that result in profound injustice, exacerbating poverty and racial disparities, undermining public safety, and weakening trust in government and the rule of law.

OUR APPROACH TO FINES AND FEES

Since 2015, Arnold Ventures has invested in a growing community of researchers, advocates, and reformers, both inside and outside of government, to reform fines and fees. Together with our partners, we conduct research to understand the problem, support strategic litigation that challenges the criminalization of poverty, and advocate for research-informed reforms to policies and practices.

Our approach is grounded in the U.S. Constitution’s protection against *excessive fines* and the guarantees of *due process* and *equal protection*. We are also guided by the notion that *public safety is a public good, and that government, especially the justice system, should operate fairly and for the benefit of all*. And finally, we believe that any monetary sanctions should not function to *punish poverty or compound racial disparities*. From these premises, we embrace the principles laid out in this statement, which guide our efforts to reform the imposition and collection of fines and fees. Despite the complexity, pervasiveness, and seriousness of the problems described here, we are heartened by the many recent changes to policy and practice won through litigation and advocacy. Policymakers and advocates are taking on these challenges and making strides; our aim is to support and accelerate these efforts in the years to come. Ultimately, we hope that these principles can be used to guide the development of policies tailored to the specifics of a state or local jurisdiction.

DEFINITIONS

Fines refer to financial obligations levied by government to *punish* a range of offenses, from traffic infractions and civil citations to convictions for misdemeanor and felony crimes. Fine amounts are mandated by law or may be left to judicial discretion up to a stated maximum. Judges may also order convicted individuals to pay *restitution* to the government or the harmed party as part of their sentence.

Fees or actual *costs* are charges imposed to “reimburse” the legal system and raise general revenue or pay for other government services or functions. Individuals may be assessed fees for the cost of a court-appointed attorney, “room and board” and other costs of incarceration, probation supervision, pretrial diversion or supervision, GPS monitoring, drug testing, treatment, and many other costs. Individuals may also be assessed *surcharges*, a flat fee or percentage added to fines and fees, to generate revenue for government functions or actual *costs* associated with their case. This document refers to these collectively as fees, and to total amounts owed as *court debt*.

These definitions imply a clarity of purpose and usage that in practice is less distinct. In reality, all monies taken in by government, except restitution in some cases, is revenue, all with the potential to create incentives to over-police and over-punish.

Constitutional protections are largely illusory; in practice, courts and other system actors violate these protections routinely.

BACKGROUND

The impact of court fines and fees on individuals, families, and communities across the country is vast. Although the true economic and social burdens of these penalties are unknown, research demonstrates that millions of Americans owe billions of dollars in court debt, including fines, fees, and restitution.¹

By any measure, these debts can be staggering. For example, in one county in Washington in 2014, the average amount of court debt owed was \$4,713, and in Alabama, the median amount owed for people convicted of a felony is about \$4,000.² In some jurisdictions, the fine can be dwarfed by associated fees and surcharges. A 2018 Illinois study found that in one county, a \$150 fine for a first-time conviction for driving while intoxicated could yield up to \$2,022 in associated state-mandated court fees and local add-ons.³ Many jurisdictions also assess monetary penalties and interest for late payments, charge a fee to set up or make payments on a payment plan, or impose onerous collection costs on those who fall behind on payments.

These burdens are not felt equally. Four in 10 people in the U.S. do not have \$400 available in case of an emergency,⁴ and so these debts are high relative to earnings and, unsurprisingly, unaffordable for many in this country. People and communities of color are hit especially hard. Black and Latinx individuals are more likely to have interactions with the criminal justice system that result in monetary sanctions—to be stopped by police and get a ticket rather than a warning;⁵ to live in communities targeted for traffic enforcement;⁶ to receive higher fines and fees than their white counterparts;⁷ to be convicted and incarcerated more frequently than white defendants; and to be sentenced to longer and harsher punishments.⁸ One study found that cities with higher proportions of black residents collect up to three times more in criminal justice revenues than cities with fewer black residents.⁹

Unequal wealth and income stemming from historical policies and practices of economic exclusion mean that Black and Latinx individuals are more likely to struggle to discharge their debt, resulting in higher payments due to poverty penalties like interest and payment plan fees; financial instability; higher rates of warrants, arrests, and incarceration for failure to pay;

depressed credit ratings; related consequences such as inability to vote or seal or expunge a criminal record due to unpaid fines and fees;¹⁰ and more lastingly, persistent poverty across generations.¹¹ These compounding punishments contribute to intractable income inequality and marginalization of already struggling communities—making the poor poorer, denying them the vote, and forcing people to decide whether to risk arrest by driving to work or school or stay in the shadows.

A \$150 FINE IN ILLINOIS CAN YIELD \$2,022 IN FEES.

It wasn't always this bad—over time, jurisdictions have increased the magnitude of many monetary sanctions and broadened the range of civil and criminal offenses for which money may be used as a sanction.¹² Many factors have contributed to the historic growth in the number and size of fines and fees for both the criminal and civil systems.¹³ One of the dynamics at play is increasingly harsh sentences and a broader scope of what is considered criminal, sometimes referred to as punitive excess. In the 1980s and 1990s, a number of states adopted more punitive criminal justice legislation in a political climate that rewarded punitive responses to rising crime.¹⁴ Both state and local governments experienced dramatic increases in the costs associated with administering the criminal legal system. State prison incarceration rates have increased fourfold since the 1970s,¹⁵ despite declining rates of crime and arrests; although recent years have witnessed meaningful declines, incarceration rates remain historically high.¹⁶ Every instance of incarceration increases other criminal justice costs as well, including law enforcement, court, and supervision costs.

At the same time, states restricted the ability of state and local governments to raise revenue,¹⁷ and the Great Recession of 2008

precipitated a crisis of public financing for core government functions. Jurisdictions turned to fees assessed on defendants and their families to bridge the gap—those who often can least afford more debt.¹⁸ More research is needed to understand precisely how the financial health or distress of governments influences regimes of monetary sanctions, but one thing is clear: the status quo violates basic fairness and offends democratic values.

The legal framework in which this regime operates is well developed and provides important protections for poor people experiencing harmful government debt collection practices. The U.S. Supreme Court has prohibited excessive fines¹⁹ and outlawed jailing people solely because they are too poor to pay a fine or fee.²⁰ Incarceration for nonpayment is permitted only when a court has determined that a person could afford to pay the fine or fee but willfully refused to do so. And one court's reliance on revenue generated from fines and fees has been found to create an unconstitutional conflict of interest.²¹ However, these protections are largely illusory; in practice, courts and other system actors violate these protections routinely.²²

The use of fees in the criminal justice arena can create perverse incentives and opportunities for abuse. A report issued by the U.S. Department of Justice in the wake of Michael Brown's killing found that the city of Ferguson emphasized revenue collection over public safety, effectively expanding the size of its police force by directing officers to raise revenue through the imposition of fines and fees.²³ The report further found that while the city was 67 percent black, black residents accounted for 85 percent of traffic stops, 90 percent of citations, and 93 percent of arrests. Selective enforcement, as practiced in Ferguson, is problematic on its face. But the relative lack of political power of those required to pay makes it difficult to check this practice. In Ferguson and beyond, activists and organizers have focused on building power as a critical step to prevent abuses; it also requires vigilance and careful discussion and definition of which activities should be sanctioned in the first place.

In 2016, state and local governments took in a total of **\$16.7 BILLION** IN REVENUE via fines, fees, and forfeits—approximately 0.5% of total revenues for state and local governments in 2016.²⁴

Some jurisdictions rely heavily on fines and fees to support government operations. Ferguson regularly planned for fees to make up 12% to 23% of its budget,²⁵ and Doraville, Georgia, anticipated between 17% and 30% of its annual budget to come from fines and fees.²⁶

The costs and relative inefficiency of fees and fines as a revenue source are often hidden or discounted. The Brennan Center for Justice found that, across 10 counties in Florida, New Mexico, and Texas, fines and fees are a highly inefficient revenue source.²⁷ Further, this study and other efforts find that collection rates are low: few assessed fines and fees are eventually collected. Setting financial penalties too high at the outset for many of those subject to fines and fees virtually ensures that receipts will be low. This is one reason, among others, that user fees should not be considered a sustainable source of revenue to fund justice system operations or other government services.

The following pages outline our assessment of the key problems caused by fines and fees and the principles we embrace in advancing transformational reform.

The DOJ found that while the city of Ferguson was 67 percent black, black residents accounted for 85 percent of traffic stops, 90 percent of citations, and 93 percent of arrests.

Problem 1. *Jurisdictions that rely on fines and fees have an incentive to maximize revenue, which comes at the expense of public safety and trust, and disproportionately harms Black and Latinx communities.*

Fines and fees create perverse incentives that lead to the imposition of significant legal burdens on the poorest people who are least able to defend themselves via legal representation or political power.²⁸ The imperative to collect enough revenue to support critical functions and, in some cases, pay the salaries of officials within the system is a clear conflict of interest that has led to the abuse of power and the subordination of public safety to institutional considerations.²⁹

Externalizing public safety costs to people in the system can also lead to over-enforcement and misalignment of resources by system actors. Because some of the costs of the system are paid by the “users,” practitioners may be less likely to weigh the costs against the benefits of particular interventions, and jurisdictions may be less likely to analyze whether these practices should be funded at all. For instance, fees for electronic monitoring or drug testing borne by individuals on supervision could prompt probation officials to use more electronic monitoring or drug testing than necessary or beneficial. And when these functions are outsourced, they may enrich private actors, leading to further potential and incentive for abuse.

Going one step further, fee-based funding for programs that have no nexus to a person’s involvement with the justice system defies logic. For example, in California, local jurisdictions are authorized to collect fees to support emergency medical services, emergency medical air transportation, and children’s health care.³⁰ These sorts of funding mechanisms subvert the ideal of a democratic and accountable budgeting process.

We believe that public safety and the fair administration of justice are public goods, and that the government agencies and officials who aim to increase safety—including police and the judiciary—should work for the benefit of all community members. These costs, therefore, should be shared by all.

There is a place for user fees in the provision of some public services—for example, business licenses or construction permits—where an individual or organization has chosen to incur a cost that can reasonably be allocated to their activities and where the benefit will accrue primarily to them. But governments are raising revenue via user fees to fund functions that broadly benefit society, like community safety, to avoid raising taxes.³¹ This is effectively a form of regressive taxation, where the burden is borne by those who are often unable to pay, instead of being distributed fairly across the community.

Principles

- Courts, justice system functions, and other government functions should be funded adequately by the government from general revenue.
- Fees, surcharges, and costs imposed in connection with law violations should be eliminated.
- Money generated from fines should flow to the state’s general fund, and agencies and jurisdictions should not be allowed to control expenditures deriving from fines or receive a proportional share of collections, reducing the incentive to maximize revenue.

Problem 2. *Courts often order fines and fees without accounting for a person’s financial circumstances, resulting in a “two-tiered” system of justice.*

Those with means are able to pay their bill and walk away, but those without bear an economic hardship out of proportion to the seriousness of the offense. State laws often mandate fines and fees and specify amounts to be imposed.³² This hampers a court’s ability to tailor sanctions to an individual’s financial circumstances, leading courts to impose unrealistic sums in some instances.

When financial punishments are left to the discretion of a court, most state laws do not require judges to consider ability to pay when deciding fine and fee amounts.³³ And even if they do, unclear procedures, biases, and lack of accountability mechanisms mean that courts often fail to conduct meaningful inquiries into ability to pay.³³ This can and does result in unaffordable fines: many families live within a few hundred dollars of poverty, yet total amounts of court debt can easily reach thousands of dollars. This state of affairs arguably violates the constitutional protection against excessive fines, rooted historically in the principle of *salvo contentemento*—that no fine should be so severe that it prevents someone from earning a living or supporting a family.³⁵ Courts rarely adopt this commonsense approach, however. The experiences of people involved in the system and their advocates show that fines that are proportional to the offense and affordable to the person are the exception.

In addition, fines that are excessive may undermine financial penalties as an effective accountability measure: people facing unaffordable court debt report feeling overwhelmed and a sense of futility, and may give up altogether on attempting to satisfy these judgments.³⁶

Some advocates and scholars propose abolishing fines, arguing that an ability-to-pay approach requires invasive inquiries into people's finances that will inevitably rely on biased assumptions and reproduce the disproportionate harms of the legal system.³⁷ Further, fines can create the same incentives as fees to maximize revenue.³⁸ However, the pervasive use of fines and the current lack of scalable, non-carceral alternatives lead us to embrace proportional fines.

We believe fines can serve as a fair and just punishment if the amounts imposed do not undermine financial stability and if they are calibrated to the seriousness of the offense. We aim to support research and policy work that explores how to design and implement equitable fines and unpacks the individual, systems, and society-level outcomes of proportional approaches.


Principles

- Fines can serve as an appropriate punishment if they are proportional to the offense's severity and take into consideration individual and family financial circumstances. Fines are proportional if they are affordable and time-limited (payable over a reasonable period of time).
- Fines should not be used as a means to generate revenue. Enacting this principle would call for careful consideration of which behaviors that we as a society deem worth the cost and burden of equal enforcement.
- Fines should not undermine a person's financial stability, and so courts should consider the reasonableness of the amount imposed at sentencing and throughout enforcement, ensuring that a person is able to retain resources to meet familial obligations and living expenses.
- Reasonable and proportional alternatives should be available in cases where a fine would undermine financial stability.
- Neither the amount nor whether to impose fines should be mandatory; courts should have discretion to waive them entirely, reduce them, or order an alternative sanction.

Problem 3. Efforts to collect fines and fees can increase interactions with the justice system, exacerbate racial disparities, deepen economic inequality, infringe on basic civil rights, and impose myriad other negative consequences.

When people are unable to pay debts owed to courts and other justice agencies, they face a cascade of consequences that may include additional fees,³⁹ driver's license suspension,⁴⁰ arrest,⁴¹ jail (despite U.S. Supreme Court precedent to the contrary),⁴² extension of time on probation or parole,⁴³ and voter disenfranchisement.⁴⁴ These penalties can lead to other

harms, like job loss, housing instability or homelessness, lost income, wage garnishment, and depressed credit ratings. These penalties can also increase the overall costs of the criminal justice system that result from extended incarceration and probation.



The economic burden for individuals goes beyond the cost of the sanctions themselves. Unaffordable economic sanctions can and do lead to perpetual punishment, forcing people into cycles of incarceration and poverty. One study found that the financial strain of traffic fines is magnified among the lowest earners due to increased delinquencies, collections, license suspensions that interfere with employment, and other

consequences.⁴⁵ The cumulative and compounding effect of sanctions is particularly pernicious for people on the lowest rung of the economic ladder. Penalties like the loss of voting rights or ability to successfully clear one's record can hinder the ability to participate fully in one's community, effectively marginalizing and further isolating those in poverty.

Principles

- Inability to pay should not result in warrants, arrests, extension of probation and parole, or incarceration.
 - Driver's licenses, occupational licenses, voting, and expungement should not be conditioned on payment of court debt.
-

Problem 4. *Fines and fees are particularly harmful in the juvenile justice system.*

All 50 states authorize courts to impose monetary sanctions on children and/or their families for one or more of the following: confinement, treatment, counsel, diversion, court operation costs, expungement fees, court-ordered examinations or assessments, probation fees, fines, or restitution.⁴⁶ Although the extent of the impact is unknown, the experience of California may be illustrative of some of the impacts on children and their families. In 2017, the California legislature passed Senate Bill 190 to eliminate juvenile fees, but did not require counties to end collection of previously assessed fees. The University of California, Berkeley Policy Advocacy Clinic estimated that hundreds of thousands of families were still being pursued for more than \$374 million in previously assessed juvenile fees.⁴⁷ (Since the law's enactment, 36 of California's 58 counties have now discharged or ended collection of more than \$237 million—much of it unlikely to be collected—relieving this burden from

hundreds of thousands of families.⁴⁸)

These sorts of burdens are inconsistent with the legal definition of childhood. Children are deemed legally incompetent to enter into contracts of any kind, including taking on debt, and are not permitted to work, with limited exceptions. Debt imposed on children and their families is also inconsistent with our societal notions of childhood and the developing capacities of children. Juvenile courts have moved away from punitive approaches to ones that support positive youth development,⁴⁹ and fines and fees are counterproductive to those ends. And finally, holding youth responsible for court debt is in conflict with recent scientific findings that children are different from adults, and undergo significant changes in emotional, physical, developmental, and cognitive capacities during their transition to adulthood.

More often than not, monetary obligations placed on juveniles are borne by their families—either as a practical or legal matter. This in turn can compound the harms to children, who rely on their families for stable and consistent support. Stories of families forced to make unconscionable choices between paying rent, forgoing legal representation, buying food, and paying a child's legal debt highlight just how pernicious these fines and fees can be.⁵⁰

Principles

- All fines and fees for juvenile offenses should be eliminated.
 - Any alternative sanctions should be developmentally appropriate and designed to ensure that the involvement of youth in the juvenile justice system is not unduly prolonged and does not result in incarceration.
-



LOOKING AHEAD

Although these problems are deeply entrenched and complex, some promising developments are on the forefront. Advances brought about by litigation, legislation, advocacy, and research have broadened the frame of what is considered possible and what success could look like. With these principles in mind, we will work in the coming years with partners on the following priority areas:

- Develop and advance *policies consistent with these principles* at the state and local level that comprehensively reform the system, most immediately to eliminate juvenile fines and fees and suspension of driver’s licenses for nonpayment, and more broadly to develop policies that prevent abusive revenue generation; ensure individualized, proportional fines; and eliminate penalties for late or missed payments⁵¹
- Support *research* consistent with the foregoing principles to better understand the impacts of fines and fees on individuals, families, and communities; unpack the incentives and conflicts of interest inherent in the system; explore the effects of fine and fee reforms on revenue and compliance; and identify indicators of problem jurisdictions
- Continue to *litigate*, reinvigorating and further developing legal protections against criminalization of poverty, especially to define “excessive” fines in the wake of *Timbs v. Indiana*
- Pilot and evaluate alternatives, such as *proportional economic sanctions and community service*
- Develop thinking and research on the role of *restitution* in a system of monetary sanctions
- Create *guidelines for reasonableness* of overall amounts owed and of payment plans, learning from other sectors about affordability, and develop tools to assist jurisdictions in implementing them
- Identify and disseminate strategies for state and local governments to *transition from user fees to other revenue sources*, learning from California, Nevada, San Francisco County, Alameda County, Contra Costa County, Shelby County, and a growing number of other governments and partners who have taken steps to eliminate or reduce reliance on user fees

ENDNOTES

1. McLean, R., Thompson, M. (2007). Repaying Debts. Council of State Governments Justice Center (11 states average \$178 million per state in uncollected court costs, fines, fees, and restitution); Harris, Alexes and Frank Edwards. (2018). “Legal Debt, Monetary Sanctions and Inequality.” Oxford Research Encyclopedia of Criminology and Criminal Justice. Harris, A., Edwards, F. (2018) <http://oxfordre.com/criminology/view/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-228?print=pdf>; U.S. Department of Justice Office of the Inspector General (2015). “Review of the Debt Collection Program of the United States Attorneys’ Offices (in 2014, people with federal criminal convictions had more than \$100 billion in outstanding criminal debt); Harris. A. A Pound of Flesh: Monetary Sanctions as Punishment for the Poor (2016) (123,198 people in Alexander County, Washington in 2014 owed \$740,716,759); Meredith, M. & Morse, M. (2017). Discretionary Disenfranchisement: The Case of Legal Financial Obligations, 46 J. Leg. Stud. 309 (in Ala); University of California Berkeley Policy Advocacy Clinic. Making Families Pay (2017) (juvenile debt in California before reform was over \$375,000,000 for tens of thousands of families).
2. Harris. A. A Pound of Flesh: Monetary Sanctions as Punishment for the Poor (2016); Meredith, M. & Morse, M. (2017). Discretionary Disenfranchisement: The Case of Legal Financial Obligations, 46 J. Leg. Stud. 309.

3. Gleicher, L. & DeLong, C. (2018). "The Cost of Justice: The Impact of Criminal Justice Financial Obligations on Individuals and Families." Chicago, IL: Illinois Criminal Justice Authority. Retrieved from <http://www.icjia.state.il.us/articles/the-cost-of-justice-the-impact-of-criminal-justice-financial-obligations-on-individuals-and-families>.
4. Federal Reserve (2018). Report on the Well-Being of U.S. Households in 2017. Retrieved from <https://www.federalreserve.gov/publications/2018-economic-well-being-of-us-households-in-2017-preface.htm>.
5. Pierson, E., et al. (2019). A large-scale analysis of racial disparities in police stops across the United States. Stanford Computational Policy Lab. Stanford, CA. Retrieved from <https://Sharad.com/papers/100M-stops.pdf>.
6. Sanchez, M. and S. Kambhampati. (2018, February 27). Driven into Debt: How Chicago Ticket Debt Sends Black Motorists Into Bankruptcy. ProPublica Illinois. Retrieved from <https://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/>.
7. Beckett, K., Harris, A., & Evans H. (2008). The Assessment and Consequences of Legal Financial Obligations in Washington State. Research Report, Washington State Minority and Justice Commission, Washington State Supreme Court; Berkeley Law Policy Advocacy Clinic, University of California (March 2017). Making Families Pay: The Harmful Unlawful, and Costly Practice of Charging Juvenile Administrative Fees in California. Berkeley, CA. Retrieved from <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Making-Families-Pay.pdf>.
8. United States Sentencing Commission (2017, November 14). Demographic Differences in Sentencing: an Update to the 2012 Booker Report. Retrieved from https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171114_Demographics.pdf.
9. Sances, M. W., & You, H. Y. (2017). Who Pays for Government? Descriptive Representation and Exploitative Revenue Sources. The Journal of Politics, 79(3), 1090–1094. doi:10.1086/691354.
10. Meredith, M. & Morse, M. (2017). Discretionary Disenfranchisement: The Case of Legal Financial Obligations, 46 J. Leg. Stud. 309.
11. Chetty, R. et al., (2018). Race and Economic Opportunity in the United States: An Intergenerational Perspective.
12. Anderson, E., Hurt, A. & Shapiro, J. (2014). State by State Court Fees. National Public Radio. Retrieved from <https://www.npr.org/2014/05/19/312455680/state-by-state-court-fees> (noting that 48 states increased civil and/or criminal fees since 2010).
13. Martin, K., Smith, S., & Still, W. Shackled to Debt: Criminal Justice Financial Obligations and the Barriers to Re-Entry They Create. New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2017. NCJ 249976, Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/249976.pdf>; Harris, A., Huebner B., Martin, K., Pattillo, M., Pettit, B., Shannon, S., Sykes, B., Uggen, C., & Fernandes, A. (April 2017). Monetary Sanctions in the Criminal Justice System: A Review of Law and Policy in California, Georgia, Illinois, Minnesota, Missouri, New York, North Carolina, Texas, and Washington: 11-16. Laura and John Arnold Foundation. Retrieved from www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf.
14. National Research Council (2014). The Growth of Incarceration in the United States: Exploring Causes and Consequences. Committee on Causes and Consequences of High Rates of Incarceration, J. Travis, B. Western, and S. Redburn, Editors. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.
15. Carson, E.A. and Mulako-Wangota, J. Bureau of Justice Statistics, Corrections Statistical Analysis Tool. Prisoners Under the Jurisdiction of State or Federal Correctional Authorities, December 31, 1978-2016. Generated using the Corrections Statistical Analysis Tool (CSAT) - Prisoners at www.bjs.gov (March 9, 2019).
16. Pfaff, J. (2017). Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform. (New York: Basic Books.); Vera Institute of Justice, Incarceration Trends Datatool. Retrieved from trends.vera.org.

17. Council for Economic Advisors, Fines, Fees, and Bail 3 (Issue Brief Dec. 2015); Martin, K. et al., Harvard Kennedy School & Nat'l Inst. of Justice, Shackled to Debt: Criminal Justice Financial Obligations and the Barriers to Re-entry They Create 4 (Jan. 2017); Center for Budget Policies and Priorities, State Limits on Property Taxes Hamstring Local Services and Should Be Relaxed or Repealed (July 2018), available at <https://www.cbpp.org/research/state-budget-and-tax/state-limits-on-property-taxes-hamstring-local-services-and-should-be>. Further examples include Colorado, where voters approved a constitutional amendment in 1992 that requires voter approval for tax increases but not fee increases; and Missouri, where voters adopted the Hancock Amendment in 1980, which similarly restricts the ability of the state and localities to raise taxes without voter approval, but not fees.
18. Council of Economic Advisers (December 2015). Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor. Retrieved from https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf.
19. *Timbs v. Indiana*, 586 U.S. ___ (2019).
20. *Bearden v. Georgia*, 461 U.S. 660 (1982); *Tate v. Short*, 401 U.S. 395 (1971).
21. *Cain v. New Orleans City*, 2:15-cv-04479-SSV-JCW (E.D. La. Aug. 2, 2018). Retrieved from <https://www.clearinghouse.net/chDocs/public/CJ-LA-0011-0034.pdf>, affirmed by 937 F.3d 446 (5th Cir. 2019).
22. Lawyers' Committee on Civil Rights Under Law (2019). Enforcing Poverty: Oklahoma's Reliance on Fines & Fees. Retrieved from <https://lawyerscommittee.org/enforcing-poverty-oklahomas-reliance-on-fines-fees/>; Lawyers' Committee on Civil Rights Under Law (2019). Too Poor To Pay- How Arkansas's Offender Funded Justice System Drives Poverty & Mass Incarceration. Retrieved from <https://lawyerscommittee.org/too-poor-to-pay-how-arkansas-offender-funded-justice-system-drives-poverty-mass-incarceration/>; Nusrat Choudhury, American Civil Liberties Union (2016). Written Statement of the American Civil Liberties Union Before the United States Commission on Civil Rights, Hearing On Municipal Policing and Courts: A Search for Justice or a Quest for Revenue. Retrieved from <https://www.aclu.org/hearing-statement/aclu-statement-us-commission-civil-rights-hearing-municipal-policing-and-courts>.
23. Investigation of the Ferguson Police Department, U.S. Department of Justice, Civil Rights Division (Mar. 2015), available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.
24. U.S. Census Bureau, "Annual Survey of State and Local Government Finances" (2016). Retrieved from <https://www.census.gov/programs-surveys/gov-finances.html>. The Survey reports fines, fees, and forfeits as one aggregate number and does not provide breakouts of these revenue types. Forfeits are defined as "forfeits of deposits held for performance guarantees or against loss or damage (such as forfeited bail and collateral)".
25. Investigation of the Ferguson Police Department, U.S. Department of Justice, Civil Rights Division (Mar. 2015), available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.
26. Carpenter, D., Sweetland, K., & McDonald, J. (2019). The Price of Taxation by Citation: Case Studies of Three Georgia Cities That Rely Heavily on Fines and Fees. Institute for Justice.
27. Menendez, M., Crowley, M., Eisen, L., & Atchison, N. (2019). The Steep Costs of Criminal Justice Fines and Fees. Brennan Center for Justice at New York University School of Law. Retrieved from https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf
28. Investigation of the Ferguson Police Department, U.S. Department of Justice, Civil Rights Division (Mar. 2015), available at https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.
29. *Cain v. New Orleans City*, 2:15-cv-04479-SSV-JCW (E.D. La. Aug. 2, 2018). Retrieved from <https://www.clearinghouse.net/chDocs/public/CJ-LA-0011-0034.pdf>.
30. California Gov. Code §76000.5, §76000.10 (2018).

31. Ebel, R.D. & Wang, Y., Using User Charges to Pay for Infrastructure Services by Type of U.S. Government, in Financing Infrastructure, Who Should Pay? (Richard Bird & Enid Slack, eds., 2017).
32. E.g., University of North Carolina School of Government, Criminal Monetary Obligations Bench Card: <https://nccriminallaw.sog.unc.edu/wp-content/uploads/2018/08/2018-07-31-20180094-Monetary-Obligations-Card%E2%80%9393for-proofing.pdf>; New York City Bar Committee on Criminal Justice Operations, Committee on Corrections and Community Reentry, Committee on Criminal Courts and the Task Force on Mass Incarceration, “New York Should Re-Examine Mandatory Court Fees Imposed on Individuals Convicted of Criminal Offenses and Violations,”
33. *Bearden v. Georgia*, 461 U.S. 660 (1983). Constitutional law requires consideration of ability to pay only prior to jailing for failure to pay. Legal scholars and leading litigators speculate that the February 2019 U.S. Supreme Court decision in *Timbs v. Indiana* (586 U.S. __ (2019)) may alter the legal landscape, requiring ability to pay at sentencing; however the import of the decision for court practice is as yet undefined.
34. E.g., Lawyers’ Committee for Civil Rights Under Law (2019). Enforcing Poverty: Oklahoma’s Reliance on Fines & Fees.
35. *Timbs v. Indiana* (586 U.S. __ (2019)); Bullock, S. & Sibilla, N. (2019). The Supreme Court Resuscitates the Eighth Amendment, *The Atlantic*. Retrieved from <https://www.theatlantic.com/ideas/archive/2019/03/unanimous-supreme-court-decision-policing-profit/584506/>; McLean, N.M. (2013). Livelihood, Ability to Pay, and the Original Meaning of the Excessive Fines Clause, 40 *Hastings Const. L.Q.* 833.
36. Alabama Appleseed Center for Law and Justice. (October 2018). Under Pressure: How Fines and Fees Hurt people, Undermine Public Safety, and Drive Alabama’s Racial Wealth Divide. Retrieved from www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf; New York Times Magazine, “How Cities Make Money by Fining the Poor,” January 8, 2019. Retrieved from <https://www.nytimes.com/2019/01/08/magazine/cities-fine-poor-jail.html>.
37. Zhen, Theresa. (May 2019). (Color)Blind Reform: How Ability-to-Pay Determinations Are Inadequate to Transform a Racialized System of Penal Debt. 43 *NYU Rev. L. & Soc. Change* 175–222.
38. *Ibid.*
39. Harris, A., Huebner B., Martin, K., Pattillo, M., Pettit, B., Shannon, S., Sykes, B., Uggen, C., & Fernandes, A. (April 2017). Monetary Sanctions in the Criminal Justice System: A Review of Law and Policy in California, Georgia, Illinois, Minnesota, Missouri, New York, North Carolina, Texas, and Washington: 11-16. Laura and John Arnold Foundation. Retrieved from www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf.
40. Moyer, J.W. “More Than 7 Million People May Have Lost Driver’s Licenses Because of Traffic Debt.” *Washington Post*, May 19, 2018. Retrieved from https://www.washingtonpost.com/local/public-safety/more-than-7-million-people-may-have-lost-drivers-licenses-because-of-traffic-debt/2018/05/19/97678c08-5785-11e8-b656-a5f8c2a9295d_story.html?utm_term=.e549da80be53; Salas, M. & Cioffi, A. (2018). Driven by Debt: A State-by-State Analysis of Driver’s License Suspension Laws for Failure to Pay Court Debt. Legal Aid Justice Center; <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>; see also *Robinson v. Purkey*, No. 3:17-cv-01263, 2018 WL 5786236 (M.D. Tenn. Nov .5, 2018). Retrieved from <https://www.clearinghouse.net/chDocs/public/CJ-TN-0010-0005.pdf>; *Thomas v. Haslam*, 329 F.Supp.3d 475 (M.D. Tenn. 2018). Retrieved from <https://www.clearinghouse.net/chDocs/public/CJ-TN-0008-0003.pdf>.
41. Bannon, A., Nagrecha, M., & Diller, R. (2010). Criminal Justice Debt: A Barrier to Reentry: 8-11. Brennan Center for Justice. Retrieved from <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>; Investigation of the Ferguson Police Department, U.S. Department of Justice, Civil Rights Division (Mar. 2015). Retrieved from https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf; Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (2018). Not Just A Ferguson Problem: How Traffic Courts Drive Inequality in California. Retrieved from <https://www.lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.8.15.pdf>.



42. Harris, A., Huebner B., Martin, K., Pattillo, M., Pettit, B., Shannon, S., Sykes, B., Uggen, C., & Fernandes, A. (April 2017). Monetary Sanctions in the Criminal Justice System: A Review of Law and Policy in California, Georgia, Illinois, Minnesota, Missouri, New York, North Carolina, Texas, and Washington: 11-16. Laura and John Arnold Foundation. Retrieved from www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf; American Civil Liberties Union (2014). In for a Penny: The Rise of America's New Debtors' Prisons. Retrieved from <https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons>; Brown v. Lexington County, South Carolina, et al., 3:17-cv-01426-MBS-SVH, Complaint Doc. 41 (Jan. 23, 2019).
43. Harris, A., Huebner B., Martin, K., Pattillo, M., Pettit, B., Shannon, S., Sykes, B., Uggen, C., & Fernandes, A. (April 2017). Monetary Sanctions in the Criminal Justice System: A Review of Law and Policy in California, Georgia, Illinois, Minnesota, Missouri, New York, North Carolina, Texas, and Washington. Laura and John Arnold Foundation. Retrieved from www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf.
44. Colgan, B.A. (2019). Wealth-Based Penal Disenfranchisement, 72 Vanderbilt L. Rev. 55; Meredith, M. & Morse, M. (2017). Discretionary Disenfranchisement: The Case of Legal Financial Obligations, 46 J. Leg. Stud. 309 (2017); Colgan, B.A. "Fines, Fees, and Forfeitures" in Reforming Criminal Justice – Volume 4: Punishment, Incarceration, and Release 209 (Erik Luna ed. 2017). Retrieved from http://academyforjustice.org/wp-content/uploads/2017/10/11_Criminal_Justice_Reform_Vol_4_Fines-Fees-and-Forfeitures.pdf.
45. Mello, S. (2018). Speed Trap or Poverty Trap? Fines, Fees, and Financial Well-Being, Retrieved from <https://mello.github.io/files/jmp.pdf>.
46. Juvenile Law Center (2016). Debtors' Prison for Kids: The High Cost of Fines and Fees in the Juvenile Justice System. Retrieved from <https://debtorsprison.jlc.org/#!/map>.
47. UC Berkeley Policy Advocacy Clinic (Oct. 2019). Fee Abolition and the Promise of Debt-Free Justice for Young People and Their Families in California: A Status Report on Implementation of Senate Bill 190. Retrieved from https://www.law.berkeley.edu/wp-content/uploads/2019/10/SB-190-Implementation-Report11_10_31_19.pdf; Campos-Bui, S. & Selbin, J. "State Counties Must Relieve Youths, Families of Juvenile Fees," The Daily Californian (Dec. 2, 2018). Retrieved from <http://www.dailycal.org/2018/11/30/state-counties-must-relieve-youths-families-of-juvenile-fees/>.
48. Ibid.
49. Office of Juvenile Justice and Delinquency Prevention, "Organization & Administration of Delinquency Services" (2016). Retrieved from https://www.ojjdp.gov/ojstatbb/structure_process/qa04205.asp?qaDate=2016.
50. National Juvenile Defender Center. (2018). Arizona: Bringing Gault Home: An Assessment of Access to and Quality of Juvenile Defense Counsel. Retrieved from <https://njdc.info/wp-content/uploads/2018/09/Arizona-Assessment-NJDC.pdf>; Feerman, J. (2016). Debtors Prison for Kids, Juvenile Law Center: 10. Retrieved from <https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons>.
51. In developing policies consistent with these principles, it is our view that policymakers should forgive outstanding debt when fines or fees are repealed, so that people who bear burdens imposed prior to reform can benefit from policy decisions that aim to advance the values of fairness, effectiveness, and racial justice.