

# Justice and Safety over Profit: Fines and Fees Reform

**M**illions of Americans owe billions of dollars in debt from criminal justice fines and fees. This debilitating debt has far-reaching consequences, disproportionately affecting low-income communities and communities of color. Data from a number of jurisdictions show that collecting outstanding fines and fees is expensive and difficult, making them an inefficient and unreliable source of funding for the justice system. One thing that fines and fees are reliable for: creating perverse incentives and opportunities for abuse in our nation's court systems.

**\$16.7B**

in fines and forfeits collected  
by states and local jurisdictions  
in 2016<sup>1</sup>

**> 11M**

driver's licenses are  
currently suspended for  
unpaid fees and fines<sup>2</sup>

**41**

states allow courts to charge  
children and their families  
for legal counsel, even when  
these families are indigent<sup>3</sup>

1 U.S. Census Bureau (2016). Annual Survey of State and Local Government Finance

2 Free to Drive (2019). Too Poor to Drive: 6 Truths About Driver's License Suspension. <https://www.freetodrive.org/resources/#page-content>

3 Juvenile Law Center. (2018). The Price of Justice: The High Cost of "Free" Counsel for Youth in the Justice System. <https://jlc.org/sites/default/files/attachments/2018-07/Paying-For-Justice-2018FINAL.pdf>



**We envision a justice system supported by general fund revenue, not user fees; where monetary sanctions for adults are imposed equitably and juvenile fines and fees are eliminated entirely.**

## The Problems

**Justice systems that rely on fines and fees have an incentive to maximize revenue.** Criminal justice fees and surcharges create perverse incentives for officials to over-arrest, over-charge, and over-supervise the poorest people—those who are least able to defend themselves via legal representation or political power.<sup>4</sup>

**Courts often order fines, fees, and restitution without accounting for a person’s financial circumstances, resulting in a “two-tiered” system of justice.** Mandatory fines and fees are common in many states, meaning that courts cannot take ability to pay into account. This leads courts to require unrealistic payments in some instances. But even when financial punishments are left to the discretion of the court, most states do not require judges to consider ability to pay when deciding fine and fee amounts. This results in unaffordable payments: many families live within a few hundred dollars of poverty, yet total amounts of court debt can easily reach thousands of dollars.

**Efforts to collect fines and fees from those who cannot afford them can increase interactions with the justice system and exacerbate poverty.** People who are unable to pay debts owed to courts and other justice agencies face a cascade of consequences that may include additional fees, driver’s license suspension, arrest, jail, extension of time on probation or parole, and voter disenfranchisement.

**Imposing fines and fees on youth is uniquely harmful.** Children can’t enter into contracts and are not permitted to work, but all 50 states allow courts to charge them or their families for their confinement, probation, treatment, cost of counsel, diversion, court operations, expungement, court-ordered examinations or assessments, fines, or restitution. Charging children fines and fees undermines the rehabilitative aims of the juvenile justice system.

## Our Approach

**Public safety is a public good, and justice system costs should be borne by all, rather than “users” of the system.** Broadly speaking, courts and other justice system functions should be funded sustainably by the government from general revenue. All fees connected to law violations should be eliminated. Revenue from fines should flow to a state’s general fund, and agencies and jurisdictions should not control expenditures deriving from fines, removing the incentive to maximize revenue.

**Courts should consider ability to pay at sentencing in order to avoid undermining economic stability.** Fines can serve as an appropriate punishment for law violations if they are proportional to offense severity and take into consideration individual, family, and financial circumstances. Reasonable and proportional alternatives should be available in cases where a fine would undermine financial stability.

**Nonpayment should not lead to criminal punishments.** Warrants, arrests, extension of probation and parole, and incarceration should not result from nonpayment unless a person has a demonstrated ability to pay and willfully failed to do so. Likewise, driver’s licenses, occupational licenses, voting, and expungement should not be conditioned on payment of court debt.

**All fines and fees should be eliminated for youth and their families.** The juvenile justice system should be wholly focused on supporting children and their families to get back on track, and not engage in pernicious practices that undermine youth development.

<sup>4</sup> 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](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf)