

Fines, Fees, and Driver's License Suspensions

Criminal Justice Coordinating Council Meeting

May 10, 2022

Decriminalization of Poverty: Review and Reform Fines, Fees and Drivers' License Revocation

Anti-Poverty Douglas County Community Health Plan (CHP)
<https://dashboards.mysidewalk.com/healthiertogether>

Convened by the Douglas County Coalition on Human Services

Overall Content for Community Health Plan to Reduce Poverty in DGCO

Overall goal statement or Issue statement:

The goal of the anti-poverty workgroup is to foster an equitable Douglas County economy by implementing systems based solutions to reduce local poverty and discrimination and to expand access to opportunities so all can participate, prosper, and reach their full potential.

Overall objective (s):

By 2023, create policy, system, and environmental changes that results in an environment in which the percentage of BIPOC children living in poverty does not increase.

To reduce disparities and optimize equity...

The following populations will be prioritized in strategies to reduce poverty:

- Black/African American families with children under 18
- Indigenous/Native American/Alaskan Native families with children under 18
- Latinx/Hispanic families with children under 18
- Asian Pacific Islander with children under 18
- Middle Eastern and North African with children under 18
- Justice-involved/formerly incarcerated residents
- Single-parent, female-headed households
- Community members at 100% or below FPL

The plan was influenced and shaped through the following community engagement strategies:

- Community survey on solutions to poverty
- Focus groups with centered populations (Family Promise, Healthy Dads)
- Focus groups with residents with lived experience

Priority focus areas include:

- Children & Childcare
- Decriminalization of poverty
- Jobs

Developmental Priorities:

- Transportation
- Data dashboard

Poverty Focus Area Content: Decriminalization of Poverty

Related Objective(s): Reduce the incarceration of Black and American Indian/Alaska Native residents

Data sources: local jail booking data, Bureau of Justice Statistics, Northeastern University study

- Annual arrest data with charging data
- Annual incarceration rate
- Annual average length of stay

Planned Strategy 1: Establish a uniform criminal justice reporting resource for law enforcement contacts, bookings, charging and dispositions by race and other demographic indicators.

Planned Strategy 2: Review and reform fines, fees and drivers licenses revocation.

Planned Strategy 3: Expand holistic, low to no cost community resource navigation for BIPOC that is client-centered with a focus on advocacy and engagement of multisector organizations, utilizing interdisciplinary models of legal and non-legal services to meet client needs.

Planned Strategy 2:

Review and reform fines, fees and drivers licenses revocation

Action Steps for Strategy 2	Who is responsible?	By when will it be complete?	What resources or supports are needed?
Review discretionary authority of state and local judges	Douglas County & City of Lawrence	Second or third quarter of 2022 -Warrants issued for fines and fees	Support from Douglas County and City of Lawrence elected and appointed officials.
Develop local strategies, administrative measures, and policies that eliminate revocation of driver's license due to traffic debt and assist individuals in restorative actions utilizing new revenue sources	Douglas County Criminal Justice Coordinating Council (CJCC) new Financial Justice Workgroup; community members with lived experience; Municipal courts for cities -Fix it ticket -Plain language in tickets and public information	Second quarter 2022	Commitment from CJCC membership and elected officials; potential consulting or research fees, particularly to engage with community members with lived experiences and BIPOC identity.

Action Steps for Strategy 2	Who is responsible?	By when will it be complete?	What resources or supports are needed?
Implementation (including policies and procedures) of a sliding fee scale for municipal and county fines and fees, including payment plans, and ability to pay	Douglas County and City of Lawrence	First quarter 2023	Financial resources will be needed to replace existing revenues generated by current fine/fee structures.
Alternative compliance models, prioritizing community investment over imprisonment, as a strategy for ensuring public safety & counterbalancing disproportionate contact, including but not limited to automatic expungement	District Attorney, CJCC Alternatives to Incarceration – Research Work Group, Douglas County Criminal Justice Services, community members with lived experience	Second or third quarter of 2022	Commitment from elected officials and CJCC agencies and departments; potential consulting or research fees, particularly to engage with community members with lived experiences and BIPOC identity.

Action Steps for Strategy 2	Who is responsible?	By when will it be complete?	What resources or supports are needed?
Identify key measures and data contributors (fines, fees, driver's license revocations) impacting BIPOC	CJCC Racial Disparities Work Group	First quarter of 2022	Potential consulting or research fees, particularly to engage with community members with lived experiences and BIPOC identity.
Expand opportunities for BIPOC to access alternatives to court appearances that rely on transportation, and explore alternative transportation models	Douglas County and City of Lawrence	Second quarter of 2022	Financial resources will be needed to fund potential solutions (staffing, equipment, etc.)

Fines and Fees in Lawrence Municipal Court and Douglas County District Court

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Types of legal financial obligations

Type	Financial obligation related to:
Fines	Offense (e.g., \$110 for speeding 15 mph over the limit)
Fees/costs	Court processing and collection (e.g., \$63 for Municipal Court infractions, \$108 for District Court traffic violations)
Restitution	Direct payment to victim (e.g., for medical bills)
Surcharge	Calculated as percent of the principal legal financial obligation (e.g., 25% for Municipal and District Court debt sent to collections)

Municipal Court fees

- Court costs for each infraction – **\$63**
 - \$23.50 is mandated by state law, and Lawrence has a charter ordinance allowing for additional costs of \$39.50, see K.S.A. 12-4116 and 12-4117
- Fee if bench warrant is issued – **\$50**
 - Set by the City of Lawrence
- Driver's license reinstatement fee – **\$122**
 - In accordance with K.S.A. 08-2110b
- Fee when unpaid court debt is submitted to a collection agency – **25% of the total amount due**
 - The fee is kept by the collection agency
- Expungement fee – **\$100**
 - Not mandated, but allowed by K.S.A. 12-4516
- Cash bond is sometimes set at the amount of fines/fees that would be owed if convicted.

District Court fees

- Court costs/docket fees
 - Traffic violation – **\$108**
 - Felony case – **\$193**
 - Misdemeanor case – **\$158**
 - Civil cases: limited actions **\$54 - \$120**, small claims **\$47.50 - \$67.50**, domestic **\$195**
- Fee for reinstatement of driver's license – **\$122**
 - In accordance with K.S.A. 08-2110b
- Fee when unpaid court debt is collected by the Court Trustee's Office – **25% of the amount collected**
- Monthly fee when child support is collected by the Court Trustee's Office – **5% of the monthly obligation**
 - This is the fee in non-Title IV-D cases
 - Each party pays half. So if the monthly obligation is \$500, the total fee is \$25 and each party pays \$12.50 per month.
- Filing fee to appeal
 - To appeal a Municipal Court conviction to District Court – **\$94.50**
 - To appeal a District Court conviction to the Appellate Courts – **\$155**

Analysis of total amount due in Municipal Court for people in jail

- The sample includes all 28 people held in jail on 4/18/22 on at least one Municipal Court case. Most are in jail primarily for District Court cases.
- The total amount includes all fines, fees, and restitution owed in current and past cases.
- The total amount ranges from \$0 to \$9,384. Only one person owes \$0.
- Average amount due: **\$2,556**. Median amount due: **\$1,698**.
- About half (53%) of the amount owed by all people has been submitted to collections.

Per-charge amount due in Municipal Court

- 4,715 *charges* were adjudicated in Municipal Court in 2021 with a finding of either guilty or diverted and which fines/fees were assessed.
 - A person can have multiple charges and multiple cases.
- The average fine/fee assessed per charge: **\$220.**
- The median fine/fee assessed per charge: **\$143.**

Municipal Court cases sent to collections

- In 2021, 429 cases were sent to collections, totaling \$192,022 in fines and fees.
- Mean amount: \$447. Median amount: \$338.
- Contributors to higher amounts include:
 - 1st DUI conviction – mandatory minimum fine of \$750
 - 2nd DUI conviction – mandatory minimum fine of \$1,250
 - 2nd no insurance conviction – mandatory minimum fine of \$800
 - 3rd and subsequent driving while suspended (DWS) convictions – mandatory minimum fine of \$1,500.
 - Amounts due from DUIs, 2nd no insurance, and 3rd DWS convictions make up 18% of the total submitted to collections.
- 40% of the cases submitted to collections in 2021 were a result of the warrant purge process.

Analysis of total amount due in District Court for people in jail

- The sample includes all 154 people held in jail on 5/2/22 on at least one District Court case.
- The total amount includes all fines, fees, and restitution owed in current and past cases.
- The total amount ranges from \$0 to \$122,939.
- Average amount due: **\$2,774**. Median amount due: **\$265**.

Combined amount in Municipal and District Court

- For all 21 people held in jail on 4/18/22 on at least one Municipal Court case and one District Court case.
- The combined amount includes all fines, fees, restitution, and costs in both courts.
- Average combined amount: **\$3,132**. Median combined amount: **\$3,090**.

How much can low-income defendants afford to pay?

- 40% of Americans would struggle to cover an unexpected expense of \$400 (Federal Reserve, 2018).
 - They would need to borrow, sell something, put it on a credit card and pay it off over time, or not be able to pay it.
- One traffic fine averaging \$190 for a low-income driver is associated with an increase of \$75 in unpaid debt in collections (Mello, 2021).
 - Based on a study of all traffic citations in Florida from 2011 to 2015 linked to credit report data.
 - The debt in collections is from sources other than the traffic fine.

Waiving fines/fees due to inability to pay

- According to the Kansas Supreme Court decision in *State v. Robinson*, District Courts must take into account the defendant's ability to pay in criminal and civil cases.
- How often are fines/fees waived?
- In 2021, 76 expungement applications were submitted to Municipal Court. Financial affidavits were submitted with 13 applications, with the \$100 fee waived for them.
- Financial affidavits are used more often with expungement applications than in other situations.

Programs and services provided without cost to defendants

Program/service
Electronic monitoring and house arrest
Pretrial release program monitoring
Services received in Drug Court and Behavioral Health Court (e.g., mental health and substance use treatment)
Youth supervision (e.g., probation, diversion) and youth programs (e.g., Parent Project, Strengthening Families, Decision Points, Crossroads)
Strengthening Families and Smart Recovery classes for adult probation clients
Bus passes for Criminal Justice Services clients

Situations when a driver's license can be suspended

- Failure to pay fines for traffic and other violations after 30-day notice deadline
- Failure to appear in Municipal Court
- Certain violations including minor in possession (30-day suspension) and second offense transporting open container (one-year suspension)
- Kansas statute on suspension of driver's licenses:
http://www.ksrevisor.org/statutes/chapters/ch08/008_021_0010.html

Drivers with suspended licenses in Douglas County

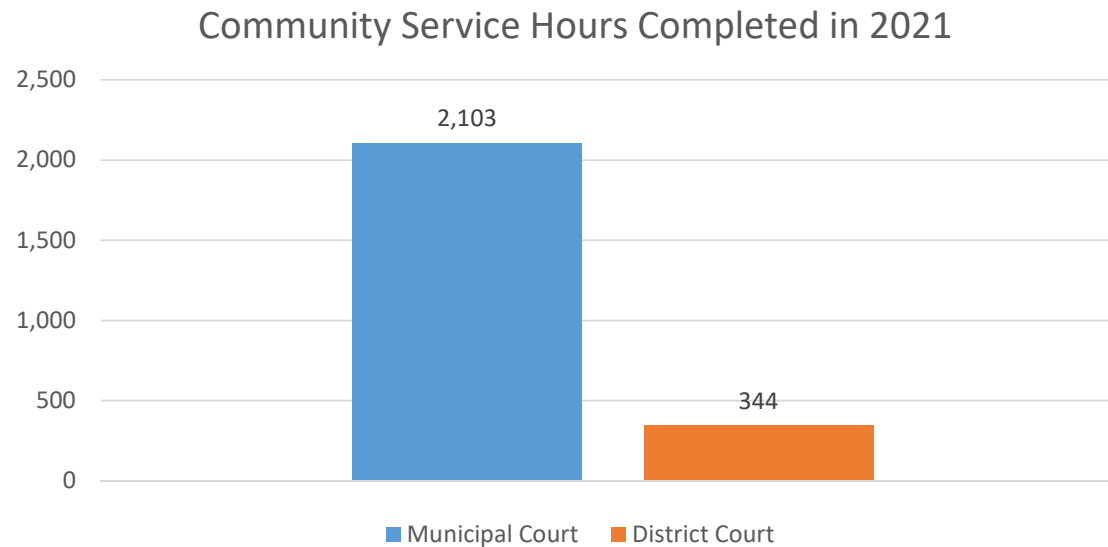
	Number	Percent
Suspended due to unpaid traffic citations	2,738	54%
Suspended due to no insurance	1,903	37%
Total drivers with withdrawn driving privileges	5,109	100%

Source: Kansas Department of Revenue, Division of Vehicles, data request fulfilled on January 5, 2022. Counts of drivers suspended for reasons besides unpaid traffic citations and no insurance are not listed. Drivers can be suspended for multiple reasons.

By comparison, Douglas County has 96,316 adults, according to the 2020 Census.

Community service

- Defendants can complete community service instead of paying off court debt
- Rate of compensation to work off court debt
 - Municipal Court: \$10/hour
 - District Court: \$7/hour



Assessments and Classes

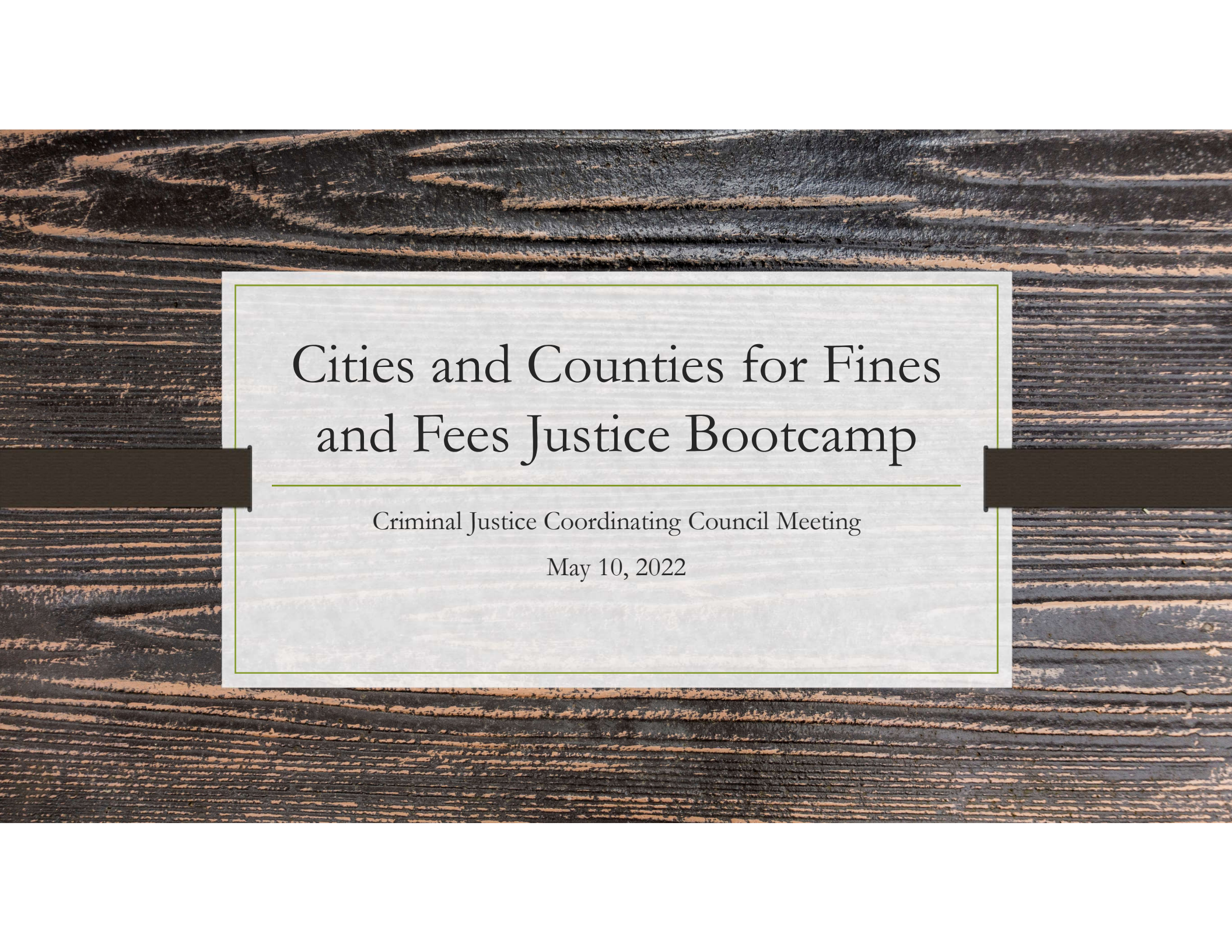
- Drug and alcohol assessment – **\$150**
 - Required for most drug- and alcohol-related cases in District and Municipal Court, including to apply for diversion in many drug- and alcohol cases
- Domestic violence assessment – **\$175**
 - Required in almost all domestic violence cases in District and Municipal Court
- Batterers Intervention Program – **\$25 per class**

Probation

- Monthly supervision fee – **\$25 per month**
- Drug screen fee – **\$20 per negative screen, \$35 per positive screen**

Remaining questions

- How many people are ordered to pay fines or fees each year in Municipal Court and District Court?
- What is the average amount of fines and fees owed per person (not in jail)?
- Do fines and fees disproportionately impact people of color?
- Can the financial affidavit be utilized more regularly?
- Which fees can be reduced? Who has the authority to reduce them?



Cities and Counties for Fines and Fees Justice Bootcamp

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Stated Rationale for Fines and Fees

01

PUNISH WRONG
DOING

02

HOLD PEOPLE
ACCOUNTABILITY

03

CORRECT
BEHAVIOR

04

INCREASE
PUBLIC SAFETY

Realities of Fines and Fees

- Criminalizes poverty
 - Nationally most people who owe fines and fees are indigent
 - 85% percent of adults charged with felonies in Kansas are indigent and qualify for appointed attorneys (BIDS)
 - 7 in 10 people in Alabama paying off outstanding court debt are indigent (Alabama Appleseed 2018)
- Fines and fees do not accomplish their stated goals when people cannot afford to pay
- Enforcement can be susceptible to biases
 - Fines and fees disproportionately impact people of color
- Real reason of fines and fees is to collect money
 - Nearly half of local governments now receive more than 20% of their revenue through the imposition of fines and court costs (O'Neill Hayes and Barnhorst 2020)
 - Fines and fees are designed to punish offenders and generate revenue for legal systems that may operate on limited budgets (Evans, 2014)
 - EX: In Brookside, AL, 49% of the Municipal budget is paid for by fines and fees

Consequences of Owing Court Debt

- Alabama Appleseed survey of 1,000 people paying off court debt
 - 83% gave up basic necessities to pay fines
 - 38% said they committed at least 1 crime to get money to pay fines
 - 22% who only owed debt from traffic offenses committed a crime to pay fines
 - Almost 1/2 had gone to jail for failure to pay court debt
 - 45% had their driver's licenses suspended due to non-payment

Driver's License Suspensions Are Counterproductive

- License suspensions do not increase payments, only poverty. Study of people with traffic violations in the Compliance Assistance Program in Phoenix:
 - Between 28% and 53% lost a job due to their license being suspended
 - \$35,000 estimated lost income due to suspension
- 22 states have curbed or ended license suspensions for nonpayment (Policy Link)

High Cost of Collections

- A Brennan Institute study found that many jurisdictions spend over a dollar to collect every dollar of revenue from fines and fees.
- An estimated 10 million people owe more than \$50 billion in debt resulting from their involvement in the criminal justice system (Evans 2014)
- Due to the resources required, cost of collecting outstanding debt is usually higher than the money it generates (Evans 2014)
 - Example: Oklahoma City only managed to collect only 5% of debt sent to collections.
- Places additional burdens on criminal justice employees who are often tasked with debt monitoring, collection and issuing punishments for failure to pay (Patel and Philip 2012)

Rethinking Fines and Fees

- Assume no Ability To Pay (ATP) when obvious: homeless, minor, just out of jail, recipient of SSI or food stamps
 - Use HUD standard to assess ATP.
 - Set up a payment plan that is >2% of monthly income.
 - If payment is made 12 times in 15 months, fine is forgiven
 - No payment required until out of jail for 6 months.
 - 8th amendment to the US Constitution prohibits imposing excessive fines.

Alternatives to Fines and Fees

- Give vouchers to fix things like broken taillights instead of fines.
- Offer social services like rehab and mental health treatment instead of citations.
- Community service can include counseling, mentorship, GED, job training in addition to volunteering
- Seek out and listen to people with lived experiences to find other alternatives that actually increase public safety and reflect the values of the community.
- Develop a reform plan that includes all the above.

Sources

- Cities and Counties Fines and Fees Justice Boot Camp:
<https://eventee.co/en/e/cities-and-counties-for-fine-and-fee-justice-bootcamp-12156>
- Evans 2014: <https://jjrec.files.wordpress.com/2014/08/debtpenalty.pdf>
- O'Neill Hayes and Barnhorst 2020:
<https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/>
- Alabama Appleseed 2018: <https://www.alabamaappleseed.org/underpressure/>