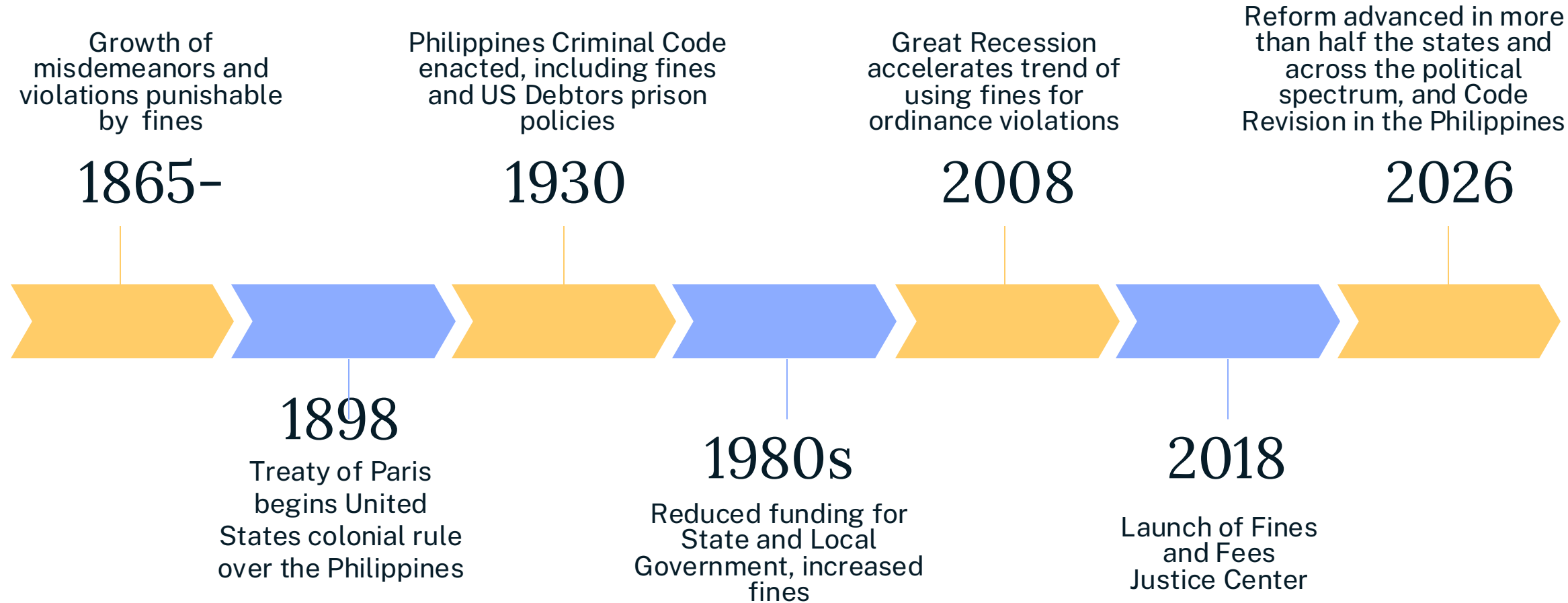

Lessons for the Philippines from Fines and Fees Reform in the United States

By: Joanna Weiss
Co-Executive Director
Fines and Fees Justice Center

Brief History of Fines and Fees





A CLOSER LOOK:

Ferguson, MO

- City planned to collect over 23% of revenue through fines and fees in 2015.
- Issued 23,000 warrants in a city of 21,000 residents.
- Police engaged in racially discriminatory policing to increase revenue through fines and fees.

Where else are fines
used to raise
revenue?

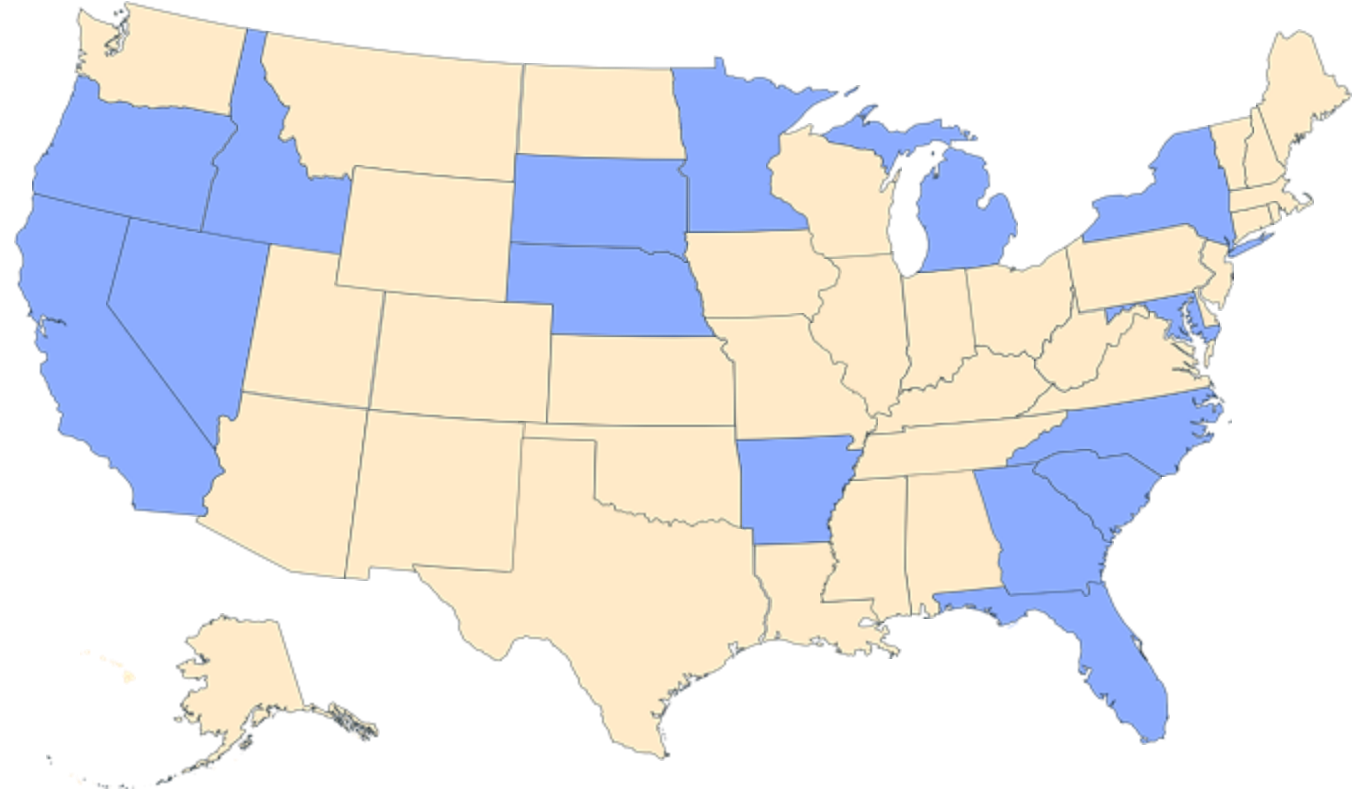
Jurisdictions with high reliance on fines and fees FY 2017-2018

600 JURISDICTIONS

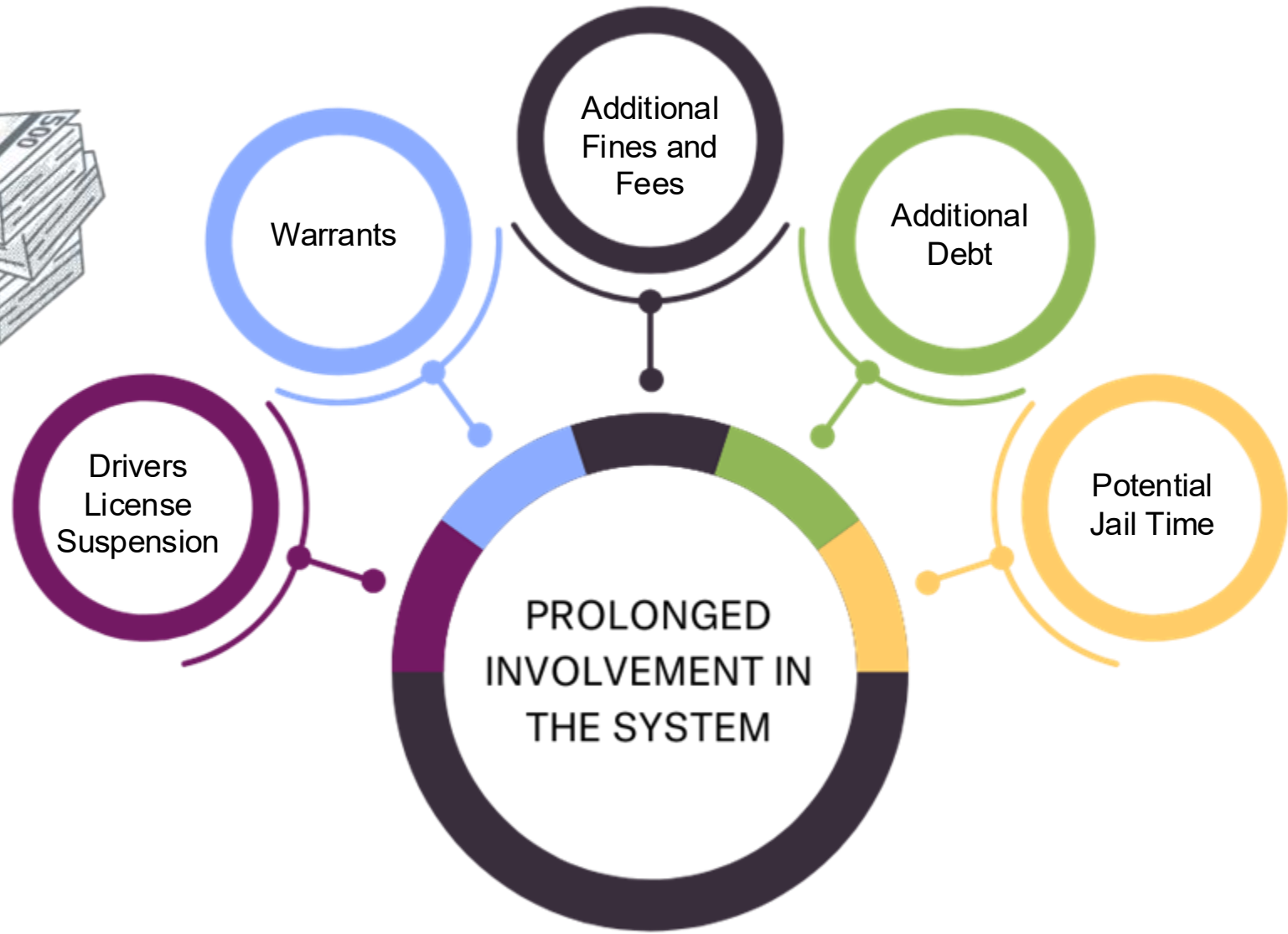
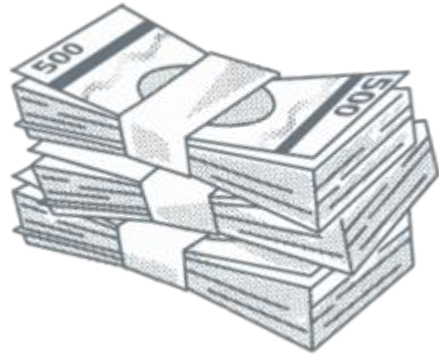
In 600 jurisdictions, fines account for **over 10% of general revenues**

284 JURISDICTIONS

In 284 of those 600 jurisdictions, fines account for **over 20% of revenue.**



What happens when you can't pay up?



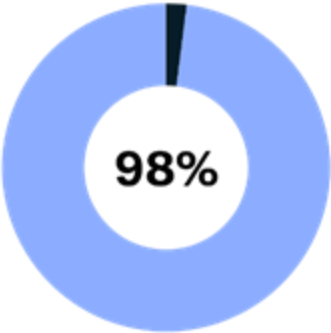
The impact of fines on families and communities

The Impacts of fines and fees are felt nationwide

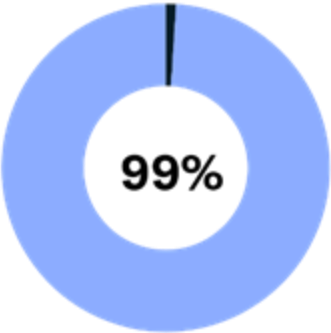


1 in 3 Americans have been directly impacted by fines or fees related to traffic, criminal, juvenile, or municipal court in the past 10 years

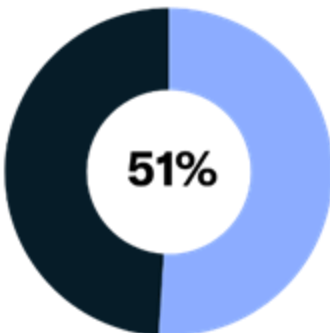
People ordered to pay fines and fees experience severe, destabilizing impacts:



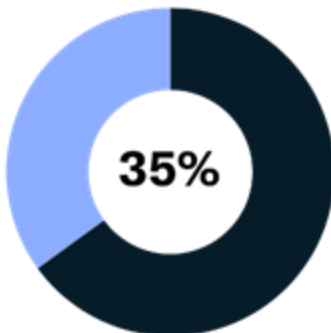
Reported that court debt affected their daily lives



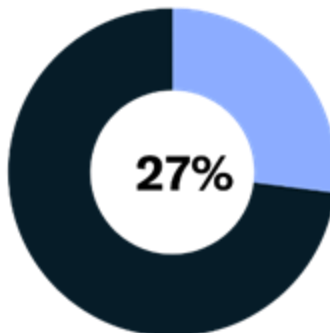
Of parents needed to cut back on at least one essential daily need



Of impacted people had to cut back on two or more essentials

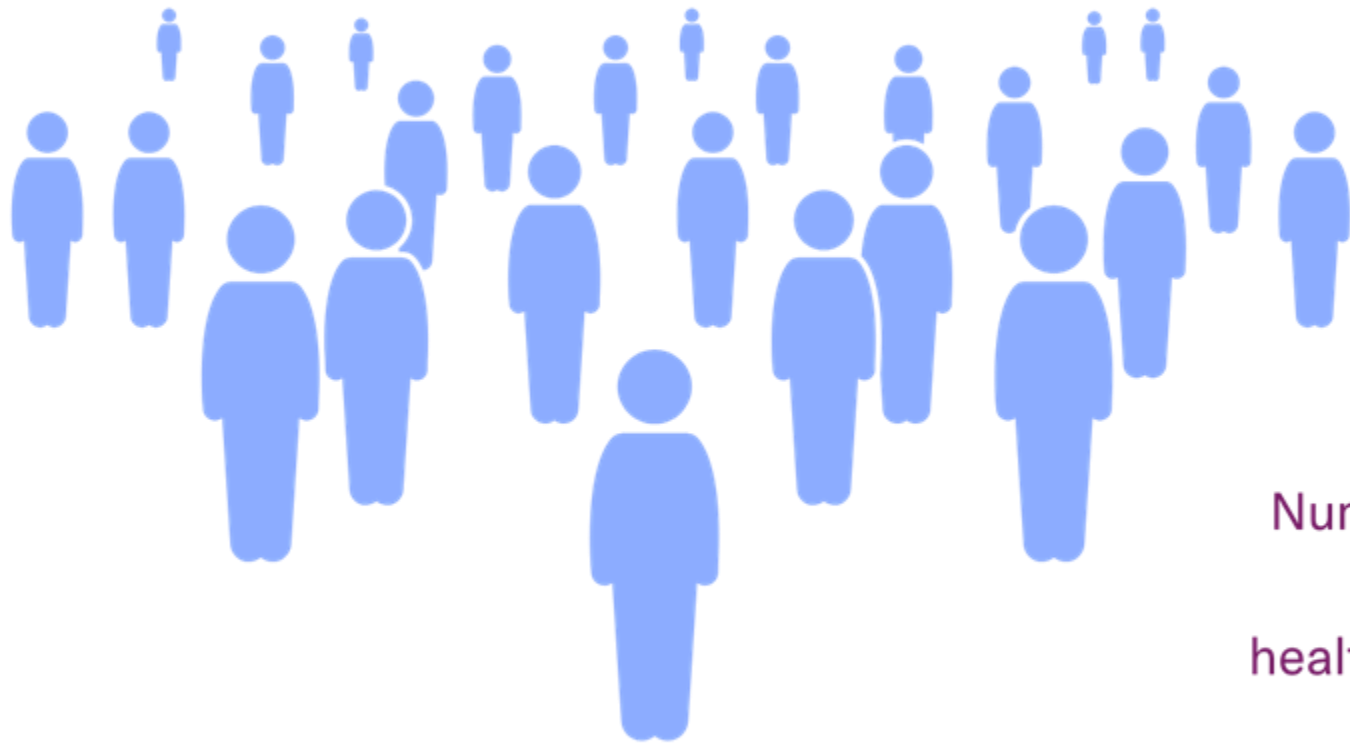


Of impacted people had challenges simply obtaining food



Reported housing hardship

Source: Debt Sentence: How Fines and Fees Hurt Working Families, 2023



ESTIMATED

17M

Number of households with children that likely experienced shortfalls in food, housing, healthcare, or other essentials because a parent was saddled with court debt.

Source: Debt Sentence: How Fines and Fees Hurt Working Families, 2023

Feed your family or fund the courts?

According to a 2018 Alabama Appleseed Survey:

- More than 8 in 10 people with court debt gave up necessities like rent, food, medical bills, car payments, and child support to pay their court debt.
- Approx. 45% lost their drivers licenses because they were unable to pay their court debt.
- Nearly 50% said they had been jailed for failure to pay court debt.

*Source: Report: Under Pressure, Alabama
Appleseed, 2018*

Fines and fees disproportionately impact marginalized communities

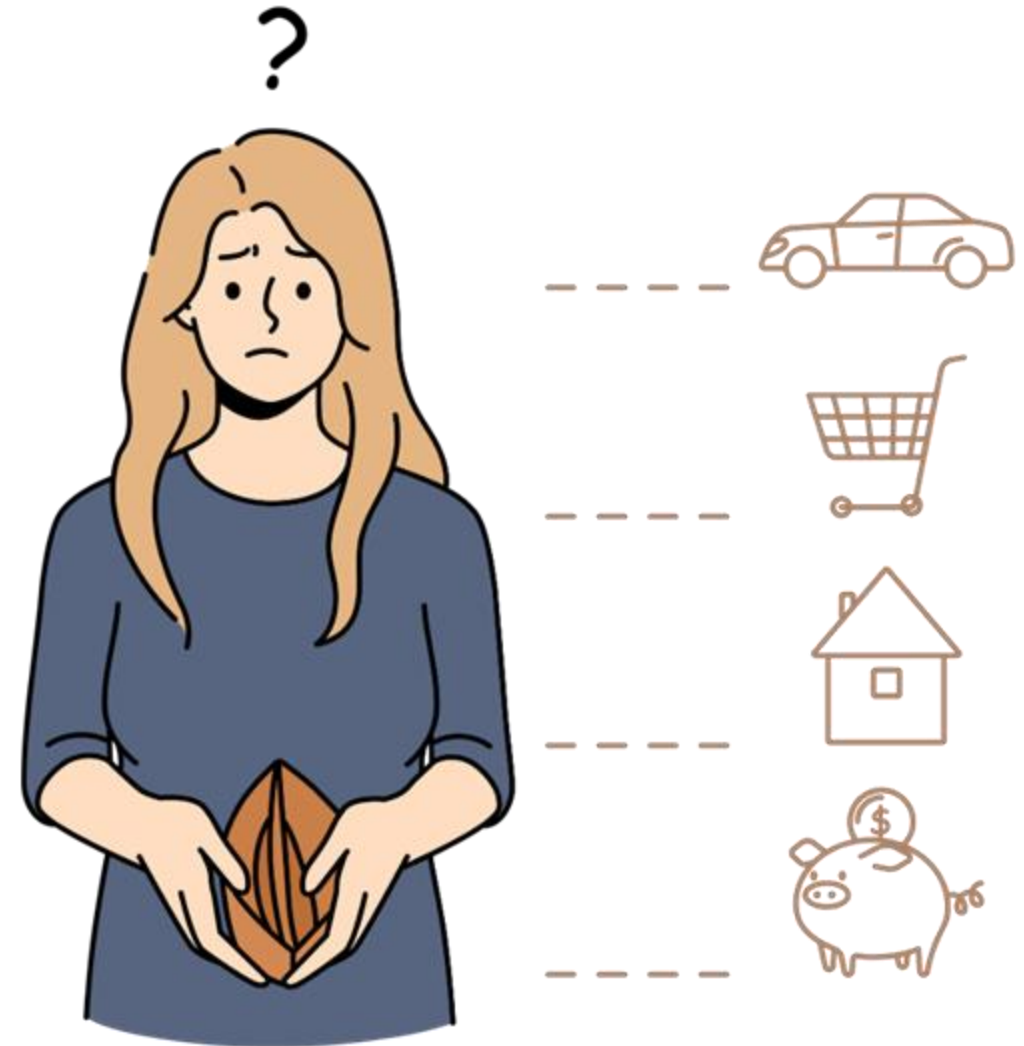
- People living in poor areas are also those most impacted by fines and fees
- Major racial disparities exist in traffic stops, citations, and arrests
- Wealth is extracted from entire families, especially women

Source: *Driving While Black and Latinx: Stops, Fines, Fees, and Unjust Debts, 2020; Who Pays? Trust Cost of Incarceration of Families, 2015*

Who pays?

- In 63% of cases, family members on the outside were primarily responsible for court-related costs associated with conviction. Of the family members primarily responsible for these costs, 83% were women
- Nearly 2 in 3 families (65%) with an incarcerated member were unable to meet their family's basic needs. More than 1 in 3 families went into debt to pay off fines and fees.
- Most people can not pay off their debt

Source: deVuono-powell et al., 2015



What happens when governments rely on fines?

Fines and fees — counterproductive economic policy

- Unreliable and inequitable funding source
- Cost of collection can outweigh the revenue generated
- Erodes trust in courts and law enforcement

**In New Mexico, counties spent at least 41 cents just to collect a single dollar of fine and fee revenue — that's 115 times more than the IRS spends to collect a dollar of income tax. Bernalillo County fairs worst of all, spending a whopping \$1.17 to collect a dollar.*



The policy subconsciously hopes for more crime. A good year in raising [fines revenue] is a year when the crime rate goes up; a bad year is when the crime rate goes down.

Success in raising [fines revenue] depends in large part on our failure to prevent crime.

Nevada Judges Association President, Stephen Dahl

Misusing law enforcement makes communities less safe

- Every 1% increase in revenue from fines and fees correlates with a 6.1% decrease in the violent crime clearance rate and an 8.3% decrease in the property crime clearance rate.
- According to Alabama Appleseed Survey, 38% of respondents admitted to committing at least one crime to help pay off their debt
- Imposition of fines caused increased likelihood of recidivism

Sources: Exploitative Revenues, Law Enforcement, and the Quality of Government Service, Goldstein, Sances, You, 2018; Alabama Appleseed Survey; The Noneconomics of Criminal Fines and Fees, Giles, 2021

Fines and fees: Negative impacts on public safety

Source: “Criminalizing Poverty: The Consequences of Court Fees in a Randomized Experiment” *American Sociological Review*, Sage Journals (February 2022)

→ **Fines and fees have no deterrent effect** (Source: [“Criminalizing Poverty: The Consequences of Court Fees in a Randomized Experiment”](#) *American Sociological Review*, Sage Journals (February 2022))

→ **Fines and fees prolong system involvement and are correlated with increased recidivism** (Source: Ostermann, Michael, Nathan Link, & Jordan Hyatt. [“Reframing the debate on legal financial obligations and crime: How accruing monetary sanctions impacts recidivism,”](#) *Criminology*, Vol. 62, Issue 2, 331-363 (May 2024))

→ **Fines and fees imposed on low-income individuals increase recidivism** (Source: *The Impact of Criminal Financial Sanctions: A Multi-State Analysis of Survey and Administrative Data*, Keith Finlay, Matthew Gross, Carl Lieberman, Elizabeth Luhand, and Michael Mueller-Smith, Aug 10th, 2023, National Bureau of Economic Research)

→ **Higher fines and fees imposed on youth correlate with higher recidivism** (Source: Alex Piquero, [Juvenile Justice Research to Policy and the Case of Fines](#))

How can we end the harms of fines?



SOLUTION 1:

Enforce the Existing Legal Protections

Constitutional Principles Relevant to the Assessment and Enforcement of Fines and Fees

	United States Constitution	Philippines Constitution
Excessive Fines/Cruel and Unusual Punishment	Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.	Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted.
Due Process	...nor shall any State deprive any person of life, liberty, or property, without due process of law	No person shall be deprived of life, liberty, or property without due process of law. No person shall be held to answer for a criminal offense without due process of law.
Equal Protection	...nor deny to any person within its jurisdiction the equal protection of the laws.	...nor shall any person be denied the equal protection of the laws

The Department of Justice Dear Colleague Letter

Excessive Fines

With respect to determining whether fines are excessive and a violation of the Eighth Amendment, “we recommend that courts also consider individuals’ economic circumstances when assessing fines and fees.” [5]

“When a person already cannot afford a basic need, such as housing, a fine or fee of any amount can be excessive in light of that person’s circumstances, and thus may not be appropriate even if legally permitted.” [5]

Unhoused individuals –who are unable to afford a place to live or sleep–are unlikely to be able to pay any fine or fee.” [5 fn.15]

Due Process and Equal Protection

The due process and equal protection principles of the Fourteenth Amendment prohibit “punishing a person for his poverty.”

State and local courts have an affirmative duty to determine an individual’s ability to pay and whether any nonpayment was willful before imposing incarceration as a consequence.

Courts should do ability to pay analyses before imposing adverse consequences for nonpayment. [8]

People “should not be required to complete extended terms or more burdensome terms of probation” due to an inability to pay. [8]

Key Litigation: Due Process/Equal Protection (14th Amendment)

Bearden v. Georgia, 461 U.S. 660, 671 (1983)

- The due process and equal protection principles of the Fourteenth Amendment prohibit “punishing a person for his poverty.”
- A sentencing court cannot properly revoke a defendant's probation for failure to pay a fine and make restitution, absent evidence and findings that he was somehow responsible for the failure or that alternative forms of punishment were inadequate to meet the State's interest in punishment.

Beck v. Elmore County, 489 P.3d 820 (Idaho 2021):

- A court is required to find probable cause that a failure to pay is presently *willful* before a warrant of attachment (a bench warrant) could be lawfully issued.
- Failure of the court to consider a defendant's ability to pay (at the point of default) violates the Fourteenth Amendment and fails to provide the court with sufficient evidence to assess willfulness of someone's nonpayment.

Key Litigation: Excessive Fines (8th Amendment)

Timbs v. Indiana, 139 S.Ct. 682 (2019)

- The Eighth Amendment excessive fines clause is incorporated by the Fourteenth Amendment and applies to states.
- Important dicta: Magna Carta required that economic sanctions “be proportioned to the wrong” and no larger than “his circumstances or personal estate will bear”). Quoting Blackstone

State v. Gibbons, 2024 MT 63 (Mont. March 2024)

- Both the U.S. and Montana Constitutions prohibit a statute that imposes a mandatory minimum fine without regard to the defendant’s ability to pay because it prevents a sentencing judge from considering “the offender’s resources and the nature of the burden created by the fine” as required by the prohibitions against excessive fines.

Recommendation 1:

Courts assess ability to pay before imposing any fines and never incarcerate for inability to pay



SOLUTION 2:

Eliminate Fines that Do Not Contribute to Public Safety

Review of Misdemeanor and Ordinance Codes

- Nevada decriminalized a wide range of low-level offenses so that sanctions can not include incarceration or warrants for non-payment
- Nevada legalized many low level violations that do not endanger public safety, or were not imposed equitably
- Other states are replicating this solution to reduce unnecessary incarceration and unnecessary fines

Lessons from Visit to Manila Jail

- Interview with 73 women incarcerated in a single dormitory in the Manila jail
- Nearly every woman owed fines ranging from 10,000-15,000P, and zero women surveyed were able to pay assessed fines. Each had fines converted to additional days incarcerated at 500P/day
- **If only half the people incarcerated in jails across the Philippines (approximately 60,000) owe the lower estimate of 10,000P in fines, we can expect to see:**
 - **60,000 people x 20 jail days= 1,200,000 days of jail stays, or 3,287 years of jail stays**
- Throughout this time, families must fund their loved ones' electricity, hygiene products, clothing and food allowances, even while their breadwinner may be incarcerated.
- Tax payers are funding this substantial jail time without any public safety benefit

Proposal to raise fines further

- New legislative proposal would raise fines for low level drug offenses to 40,000P
- Visit to Manila jail strongly suggested virtually no one can afford fines at their current levels.
- **If only half the people incarcerated in jails across the Philippines (approximately 60,000) were forced to convert 40,000P into additional jail days at 500p/day, that would lead to:**
 - **60,000 people x 80 additional days incarcerated =
4,800,000 jail days, or 13,150 years of additional jail time**
- Higher fines imposed on people who overwhelmingly can not afford them will increase jail population with no benefit to public safety.
- Assessing fines on people who can not afford them raises likelihood of recidivism

Recommendations:

Fines should only exist as an *alternative* sanction to incarceration, never an additional sanction.

Unaffordable fines lead to higher recidivism, so activities that do not harm public safety should be legalized.

Credit for any incarceration served before final adjudication should be credited to any existing fines.



SOLUTION 3:

**Ensure any Fines are Equitably
Imposed and Enforced**

Implementing Ability-to-Pay Assessments

- Before any fine is imposed, a person's ability to pay must be assessed
- Reasonable payment plans are necessary
- Community service offers an alternative to monetary sanctions

Source: FFJC Ability-to-Pay Guidance

FFJC Ability to Pay Guidance

- No defendant will be incarcerated solely because of their inability to pay any monetary assessment, including fines, fees, court costs, and restitution. All existing warrants for unpaid monetary assessments should be rescinded.
- Philippines Criminal Code: Art. 66, RPC – Courts fix fines based on mitigating/aggravating circumstances and the “wealth or means of the culprit”

Source: FFJC Ability-to-Pay Guidance

DETERMINING ABILITY TO PAY

STANDARD:

Fines and fees do not risk **undermining the defendant's ability to pay for life's necessities**, including housing, food, basic transportation, the care of children or other dependents, and medical treatment.

Any person who is **indigent**.

Ability-to-Pay Assessments Result in Better Compliance

TEXAS - Collections per case

- 6.7% increase in locally-retained court costs
- 7.3% increase in court costs remitted to the state
- Almost 30% decrease in warrants for failure to pay

CALIFORNIA

- As amount of fines and fees decreased, on-time compliance increased.

Source: FFJC Ability-to-Pay Guidance

PAYMENT PLANS

- 2% of monthly income
- No charge for payment plan.

COMMUNITY SERVICE

- Impose at the lesser of 30 hours in the aggregate for all offenses OR \$7.25/hour
 - No more than 12 hours/month
- Offer at least two options, including one that is sedentary and one on evenings and weekends
- Tailor community service to defendant.

Redefining Community Service

Texas Code of Criminal Procedure Sec. 43.09

The Court may order the defendant to perform community service . . . By attending:

- A work or job skills training program;
- A preparatory class for the high school equivalency exam;
- An alcohol or drug abuse program;
- A rehabilitation program;
- A counseling program, including a self-improvement program;
- A mentoring program, or
- Similar activity

(2) For:

- A government entity,
- A nonprofit organization, or
- An educational institution.

Source: FFJC Ability-to-Pay Guidance

Recommendations:

Assess ability to pay before any fine is imposed.

Offer reasonable payment plans at no additional cost.

Offer alternative sanctions that address criminogenic factors or serve the community.



SOLUTION 4: End Driver's License Restrictions Related to Court Debt

"I'm being treated like a criminal — my crime is driving to work." - Larry M.

Why End Debt-Based Driver's License Suspensions?

- Driving on a suspended license one of the most common criminal charges in states that suspend
- License suspensions undermine public safety.
- Driver's license suspensions cost people their livelihoods.
- Restoring drivers licenses increases employment, increases tax base and overall GDP, and improves public safety

Source: freetodrive.org

Where can you learn
more about fines and
fees policy?

RESOURCE:

FFJC's Clearinghouse

Digital library with 900+ article summaries of research, litigation, policy guidance, media and more related to fines and fees reform.

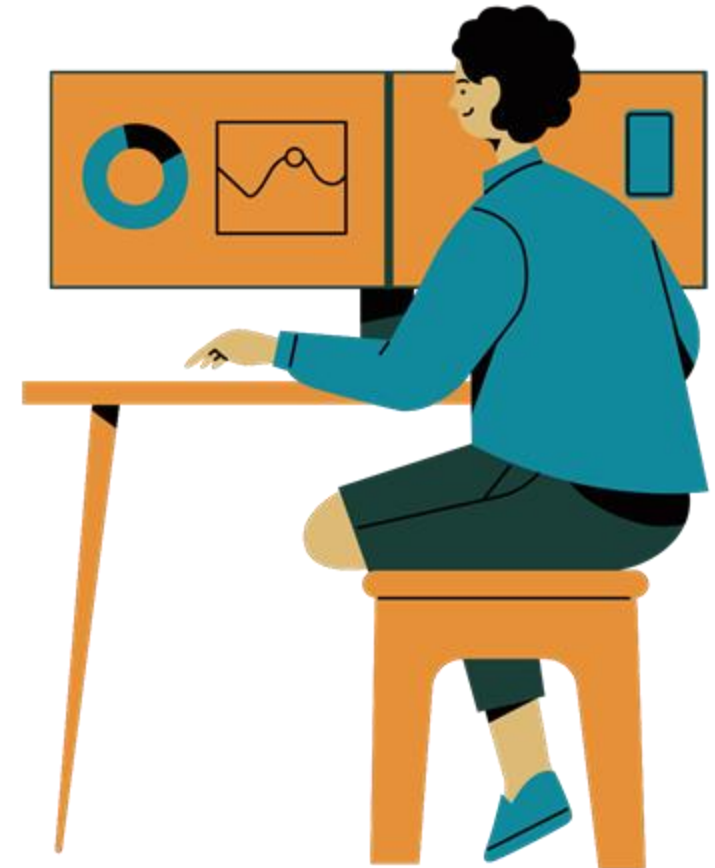
Get started: ffjc.us/clearinghouse



RESOURCE:

Research & Policy Guides

- Guidance on Ability to Pay, Payment Plans, and Using Community Service as an Alternative to Fines
- Local Reform Policy Guides
- Court Debt Research and Reports



Thank You