



The Community Corrections Fines & Fees Study

Policy Recommendations

Ebony L. Ruhland, PhD

Kelly L. Mitchell, JD

Amber Petkus, MA

Miriam Northcutt Bohmert, PhD

Michelle Ying, PhD

Julia Laskorunsky, PhD



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Community Corrections Fines & Fees Policy Implications

Through the Community Corrections Fines and Fees (CCFF) study, we learned a great deal about how monetary sanctions operate in Community Corrections. This report offers recommendations based on the multi-state, mixed methods study findings. The recommendations are developed from the following:

- The administrative court and supervision data.
- Surveys of supervision officers.
- Interviews with individuals on community supervision.

As the administrative state reports highlighted, some findings differed across states. Yet, the recommendations for this report are based on where results were similar or consistent across the states. The recommendations focus on policy and practical recommendations for courts and community supervision departments to consider for improving the administration, collections, and enforcement of monetary sanctions. We highlight the CCFF finding and then offer recommendations to address the finding.

Most of the community supervision sites in the CCFF study relied on fines and fees to fund various elements of the departmental functions. Yet ultimately if some monetary sanctions could be eliminated, it could potentially increase some individuals' success on community supervision. At the same time, we recognize courts and departmental challenges with identifying other revenue sources to make up for the financial differences generated from fines and fees. Therefore, our recommendations focus on modifications that could be implemented that could significantly improve current policies and practices.

CCFF Finding:

Most of the agencies profiled in this study garnered significant funding from fines and fees imposed on individuals on probation and parole. This funding could create a situation where supervision agencies need more people on their caseloads to sustain their budgets. This can result in outcomes, such as being reluctant to utilize early discharge for those who are successful on probation and parole.

Recommendation:

A better model is to decouple fines and fees from directly funding community supervision. In this model, the supervision department would not be responsible for collecting the financial sanctions. We suggest this go to another unit that is not responsible for supervision services.

CCFF Finding:

This study has shown that monetary sanctions are punitive and can result in sanctions such as extending the probation term when people cannot pay them. This may be warranted for fines, which are imposed as part of the sentence and therefore as punishment. But it goes beyond the purpose of fees, which is often to provide funding for services. Thus, people who receive sanctions for being unable to pay the costs associated with being on probation and parole are essentially having their punishment increased simply for having poor financial circumstances.

Recommendation:

All laws imposing sanctions for nonpayment should be amended to remove the possibility of sanctions for a person unable to pay the debt. This would require holding hearings to determine the ability to pay and strictly requiring waiver of those fees when a person cannot pay the debt.

CCFF Finding:

Many states had several different types of court and supervision fees. In addition, there were so many fees that could be ordered in some states that it was difficult to track.

Recommendation:

Review and eliminate categories of fees that are not commonly used or generate little revenue. Additionally, costs that do not directly provide some benefit to supervision or court operations should be eliminated (i.e., fees that go into general funds or to specialty causes).

CCFF Finding:

Most states reported that there are waiver processes in place to address the inability to pay. However, states like Indiana and Virginia said that waivers are granted inconsistently. In Virginia, the interviews showed that many on probation never knew waiver was an option.

Recommendation:

Thus, states should institute routine procedures for assessing a person's ability to pay and require a waiver (rather than leave it to the court or agency's discretion) when they are indigent.

CCFF Finding:

In most jurisdictions, people who could pay their fines and fees had better outcomes than those who did not. This could suggest that people who could pay also had more stability in their life and were better able to cope with the various requirements of probation or parole. In contrast, people who could not pay their fines and fees may have had more instability, which affected their ability to complete supervision requirements successfully. Several other factors could have also driven the difference. For example, people who could not pay fees may not have been able to access the programming required by their conditions, and this could have escalated to a probation or parole violation for failure to complete requirements. Additionally, people who could not pay fees likely experienced additional sanctions, contributing to their instability. This multifaceted finding leads to a couple of recommendations.

Recommendations:

- *Payment of fines and fees should not be a condition of probation or parole because:*

- *It disadvantages those who are indigent, making it harder for them to complete their supervision term.*
- *If the PO is the person collecting the fines and fees or trying to enforce the payment condition, it creates a point of tension in the PO-probationer relationship, especially for people who are unable to pay but do not want to admit to that fact for fear that they will be violated or revoked.*
 - *Even if fines and fees are a condition of probation or parole, officers should not be charged with their collection because, as stated above, that interferes with their ability to establish a relationship with the person and creates a perverse incentive for them to keep people on probation who are able to consistently pay their fees, especially those that directly fund the supervision agency.*
- *Probation or parole should never be extended for nonpayment of fines and fees. For fines, one could argue that since the fine is part of the punishment, the debt needs to be satisfied, and extending the supervision terms allows for the satisfaction of that debt. But if a person cannot pay due to indigency, then the punishment is unconstitutional. An extension of the supervision term does not make sense for fees because the fee is merely to raise funds for supervision. Extending the time unnecessarily increases the cost of supervision, creating a "Catch 22" where more government expense is being made simply to collect a debt to pay for the original government expense. Instead, if the person cannot pay, the debt should be waived.*

CCFF Finding:

When waivers or ability-to-pay assessments are conducted, it is often done so using informal assessments. Such as looking at one's employment status or if they had dependents. These informal assessments were also not ongoing.

Recommendation:

Standardized ability to pay assessments should be developed. This will ensure greater consistency among officers and more accurate measures that determine if individuals have the means to pay. Given the transient nature of the population, it is also suggested the ability to pay assessments be conducted annually at a minimum or when an individual has difficulty making payments.

CCFF Finding:

In each jurisdiction in this study, people on probation and parole appeared to have a

significant amount of unpaid debt. As a result, some agencies (like Texas) may be expending more money to collect that debt than it may be worth.

Recommendation:

If agencies reduced their reliance on fees to fund their budgets, they could likely also reduce their expenses by eliminating those efforts aimed at collections.