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# The High Price of Using Justice Fines and Fees to Fund Government in Washington State

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## Summary

Fines and fees are a harmful and inequitable way to raise revenues for government. For the governments that profit, the revenues are modest. For the people forced to pay these fines and fees, however, criminal justice debt can cause severe and destabilizing harms.<sup>1</sup> A typical felony conviction can cost thousands of dollars.<sup>2</sup> And when someone charged cannot afford to pay, they face additional financial penalties, the loss of their driving privileges, and even time in jail. Yet for all of this harm, Washington courts and criminal justice agencies remain wedded to this toxic scheme of revenue generation.

## Introduction

Fines and fees are routinely imposed throughout the criminal legal process, from arrest and booking to sentencing and incarceration. Fines, which are monetary sanctions imposed at conviction, are meant to be punitive and to deter subsequent unlawful behavior. Fees, on the other hand, exist solely to raise money for the government. Regardless of their separate purposes, however, fines and fees both end up in the same monetary pool, becoming state and local revenue used to fund criminal legal system and other government operations.

Fines and fees are expensive—easily adding up to thousands of dollars of wealth extracted from each impacted person—and have the power to destabilize the lives of everyday people, their families, and their communities.<sup>3</sup> In Washington, outstanding court debt can lead to additional fees, driver’s license suspension, arrest, and even jail time. People who are impacted by fines and fees risk becoming ensnared in a never-ending cycle of criminal legal system involvement and compounding court debt, and these people tend to be Black or brown and have low incomes.

This research brief explores the use of fines and fees in Washington State and seeks to answer two questions: (1) What is the impact of fines and fees on Washingtonians, and (2) how much do municipalities, counties, and the state collect in fines and fees? To answer these questions, researchers from the Vera Institute of Justice (Vera) collected and analyzed budget data from the state, county, city, and town governments of Washington for fiscal year 2018 (see “Methods” on page 14 for more information).

## Vera’s Findings

### What is the impact of fines and fees on Washingtonians?

Washingtonians are charged a range of fines and fees at all stages of the criminal legal system. Taken together, they have a significant impact on every person arrested and/or convicted of a crime.

## What are the common fines and fees in Washington State?

Washington governments receive revenues from fines, conviction fees, service fees, and jail and prison fees. Each corresponds to a different touchpoint in the criminal legal system.

### Fines

Fines are penalties imposed upon conviction for a criminal offense. Fines typically serve as an alternative to a prison or jail sentence, but under Washington law they can also be imposed *in addition* to a custodial sentence.<sup>4</sup> Fine amounts can be as high as \$50,000, depending on the court and offense type.<sup>5</sup> Although some fines are mandatory, judges wield considerable discretion in setting the amount of others.<sup>6</sup> For example, the range for alcohol- and drug-related offenses is \$350 to \$5,000.<sup>7</sup>

### Conviction fees

In addition to a fine and/or custodial sentence, people are also charged multiple fees at conviction. These fees exist solely to raise revenue for services provided by courts and other legal system agencies.

Washington has a handful of statutorily set, mandatory fees, which are automatically imposed regardless of the nature of the offense and whether or not the person has the ability to pay them.<sup>8</sup> These include the following:

- A **victim penalty assessment** in the amount of \$250 for misdemeanor convictions or \$500 for felony convictions, to support programs for people who witness or are harmed by crimes.<sup>9</sup>
- A **\$100 DNA collection fee**, part of which funds the state's DNA database and the remainder of which is used to offset costs for the DNA collection agency.<sup>10</sup> DNA samples are collected from all people upon conviction in Washington, unless a sample has already been collected during a previous encounter with the criminal legal system, in which case no fee is assessed.<sup>11</sup>

Other mandatory fees are imposed based on the nature of the offense. Examples include special fees for certain alcohol violations, which can cost up to \$250, and an additional assessment for domestic violence cases in the amount of \$100–115.<sup>12</sup> All told, conviction fees alone can cost hundreds of dollars at a minimum and quickly sum to thousands of dollars.

### Service fees

Courts can also charge several discretionary fees for accessing specific criminal legal system services. In some cases, people are required to pay a \$350 fee to obtain court-appointed counsel, and in Pierce County (Tacoma), the cost is even higher, at \$450.<sup>13</sup> Vera estimates that during fiscal year 2018, at least 9,250 people paid a fee to access assigned counsel.<sup>14</sup> People can also be charged a range of fees for programs that allow them to avoid jail time, a practice that raises considerable equity concerns for those who are unable to pay. Judges can levy fees of up to \$150

on people participating in court-ordered treatment and monitoring programs.<sup>15</sup> Washingtonians can also be made to pay a \$250 fee to access diversion opportunities, a \$150 fee in order to participate in pre-trial supervision, and a \$100 monthly fee for probation.<sup>16</sup> Courts may also charge people \$100 for the preparation of their own arrest warrant if they fail to show up for a court appearance or pay their legal financial obligations.<sup>17</sup> Some counties also charge additional fees for electronic monitoring, which can add up to hundreds or even thousands of dollars.

### **Jail and prison fees**

In Washington, people can be charged for the cost of their own incarceration. The state's criminal code empowers the court to require that people pay up to \$50 per day to cover the costs of prison incarceration and up to \$100 per day for jail incarceration.<sup>18</sup> During fiscal year 2018, Vera estimates that the daily jail fee was charged at least 67,877 times.<sup>19</sup> Assuming each person who paid this fee spent about a month in jail (a common length of stay) would mean that approximately 2,263 people were impacted. Additionally, while in jail or prison, people can incur extra fees, including those for being booked into the jail; making telephone calls; markups on commissary items purchased in the jail or prison, such as food and hygiene items; accessing medical services; and participating in work release programs.<sup>20</sup>

### **Cost points**

System-involved people also face a host of other fees, commonly called “cost points,” throughout their case processing and punishment.<sup>21</sup> These cost points include fees paid to private companies that contract with the government, including private collectors of legal financial obligations, bail bondspeople, and private corrections vendors. These costs are widespread throughout the system and warrant consideration during calculations of fines and fees levied against people facing convictions; however, analysis of cost points is beyond the scope of the current report, which focuses only on criminal justice fines and fees revenues received by governments. Thus, data related to revenues received by private companies was not collected or analyzed and is not included in the calculations presented here.

### **What are the penalties and other consequences for unpaid criminal legal debt?**

Like many states, Washington uses several methods to enforce payment of legal financial obligations (LFOs). The most common method for enforcement is driver's license suspension.<sup>22</sup> However, some jurisdictions charge additional financial penalties for non-payment of traffic tickets, and others turn over sought-after court debt to private collections agencies, which have the ability to add extra fees and surcharges to the outstanding balance.<sup>23</sup>

Washington's courts are empowered to issue a warrant of arrest to compel appearance and payment, and, perversely, Washingtonians can be charged \$100 for the cost of this warrant.<sup>24</sup> Vera approximates that as many as 3,852 people paid this warrant fee during fiscal year 2018.<sup>25</sup> The state's criminal code permits incarceration as a tool for enforcing payment, and

although jail is meant to be reserved for people who willfully refuse to pay, a study has found that courts often lock people up for simply being too poor to pay.<sup>26</sup>

### **Debt-based driver's license suspensions and "DWLS3"**

In Washington State, a person's license is automatically suspended when they fail to pay the cost of a moving violation or are unable to appear in court to respond to the alleged violation.<sup>27</sup> In some cases, the person receiving the ticket has as little as 15 days to respond before having their driving privileges suspended.<sup>28</sup> Of course, many people with a suspended license continue to drive because they have no other means to commute to work, take their children to school, or perform other necessary daily tasks.

Driving with a suspended license is considered a criminal offense in the state of Washington, charged as "Driving While License Suspended in the Third Degree" (DWLS3).<sup>29</sup> It is the least serious crime for driving with a suspended license because it involves no threat to road safety; rather, the driver simply could not afford to pay their LFOs. DWLS3 is the most frequently charged crime in Washington State, impacting tens of thousands of Washingtonians per year and demonstrating the immense scale of fines and fees charged across the state.<sup>30</sup> Between 1994, when the automatic suspension law was first enacted, and 2015, almost 900,000 people were convicted of DWLS3.<sup>31</sup>

Given the widespread impact and the excessive punishment of a DWLS3 conviction, local advocates are calling for an end to all debt-based driver's license suspensions.<sup>32</sup> Advocates are also pushing to remove DWLS3 from the criminal code and reinvest savings into programs and initiatives that actually make Washington's roads safer.<sup>33</sup>

Of course, there are other, less visible consequences associated with criminal justice fines and fees, primarily the debt burden shouldered by people without the means to pay. When people cannot afford the costs of their LFOs, they might seek help from their families or wider communities, thereby extending the reach of the financial burden.<sup>34</sup> Other times, people with no way to pay off their fines and fees remain in debt, limiting their ability to attain housing, employment, and access to credit, all of which decrease the likelihood that they will ever be able to settle their criminal justice debt.<sup>35</sup>

## **Who is harmed by these practices?**

The financial and other burdens that fines and fees place on people can be insurmountable, and they are not borne equally by all Washingtonians—these burdens hit low-income communities of color the hardest.<sup>36</sup>

The disproportionate involvement of people of color in the American criminal legal system is well-documented, and Washington is no exception. The state arrests, charges, convicts, and incarcerates Black, brown, and indigenous people at disproportionately high rates.<sup>37</sup> Although Black people make up only 5 percent of the state's total population, they represent 18 percent of the state's incarcerated population.<sup>38</sup> Native American people account for 2 percent of Washington's total population but 5 percent of all people in Washington's jails and prisons.<sup>39</sup>

Vera investigated data corresponding with traffic stops conducted by Washington State Patrol.<sup>40</sup> Researchers found that Black drivers are stopped by law enforcement at a disproportionate rate and, when stopped, are more likely to be issued a citation than let off with a warning as compared to their white counterparts. Relative to the percent of Washington's population they make up, Black drivers are 1.6 times more likely to be stopped than white drivers.<sup>41</sup> When stopped, Black drivers are 3 percent more likely to receive a citation instead of a warning as compared to white drivers.<sup>42</sup> Because fines and fees originate from police contact—often through these very types of citations—and are charged throughout the course of legal system involvement, Black and brown people are more likely to be negatively impacted by them.

Other researchers have found that in Pierce County, Washington, Black and Native American residents are more likely to be charged higher fine and fee amounts than their white peers for the same offense categories.<sup>43</sup> In Seattle, people of color have a higher likelihood of being charged with the crime of driving with a license suspended due to non-payment.<sup>44</sup> In Washington, suspension or revocation of one's driver's license is just one of many possible consequences for unpaid court debt.<sup>45</sup> Another consequence is jail time, and a 2020 report showed that Black people are more likely to be incarcerated following an unpaid Seattle Municipal Court fine or fee than any other racial or ethnic group.<sup>46</sup>

The impact of these costly fines and fees can be especially devastating for people with low incomes. Research has found that as many as three-quarters of people charged with felonies in Washington are indigent.<sup>49</sup> As outlined in her research and written testimony to the state Legislature, Alexes Harris—a leading scholar on the topic of monetary sanctions—found that about 70 percent of people are not able to pay statutorily set, mandatory fees assigned at conviction.<sup>50</sup> She also determined that people owe an average of \$854 in victim penalty assessment fees alone.<sup>51</sup>

A typical bill for a felony conviction, costing \$2,540, can easily overwhelm the budget of a low-income earner.<sup>52</sup> In 2018, a person working full-time at the Washington minimum wage earned \$23,920.<sup>53</sup> With this household income, paying for a typical felony case would use up more than one month's pretax income. When low-wage workers are already making far below the amount of money they need for basic necessities, fines and fees can be devastating.

**\$1,993**

Approximate monthly income for a person earning minimum wage in Washington State

**\$2,540**

Typical total charge for a felony conviction in Washington State

**Washington's outstanding court debt is staggeringly high**

The Fines and Fees Justice Center recently conducted a national study of criminal justice debt.<sup>54</sup> Of the states where data about outstanding court debt was made available, Washington had the highest per capita debt at \$426.<sup>55</sup> The national average among states with comprehensive court debt data is \$204.<sup>56</sup> Washington's total debt for cases adjudicated in the state's municipal, district, and superior courts for the years 2000–2014 is \$2.5 billion.<sup>57</sup> To collectively pay off this balance as a state, each adult resident would owe \$426.<sup>58</sup>

## How much do governments collect in criminal justice fines and fees revenue?

Vera identified at least \$267.8 million in fines and fees revenue that funded criminal justice and other agency budgets at the state, county, and municipal levels during fiscal year 2018. As demonstrated in Figure 1 below, researchers collected fines and fees revenue information at the municipal, county, and state levels. The sample was composed of 100 municipalities and the 34 counties for which budget reports were publicly available.<sup>59</sup> At the state level, researchers were able to identify only the amount of fines and fees revenue deposited into the general fund. See the “Methods” section on page 14 for more details.

Figure 1

## Total fines and fees collections disaggregated by jurisdictional level (fiscal year 2018)

Jurisdictional level	Revenue amount
Municipalities (sample of 100)	\$103,281,203
Counties	\$90,225,748
State (general fund share)	\$74,298,000

### Assessments versus collections

*Assessments* are the amounts of fines and fees that are imposed by courts and other criminal justice agencies. *Collections* are the amounts that are ultimately paid and serve as revenue for governments. This distinction is important because assessments can and often do surpass collections, demonstrating that many of the people assessed fines and fees are the ones who can least afford them.<sup>60</sup> In Washington, only about 23.8 percent of all LFOs are paid statewide.<sup>61</sup>

Many court actors do not expect all criminal justice debt to actually be paid, considering that many of the people impacted are incarcerated (and therefore earning little to no income), indigent, or both.<sup>62</sup> Because the \$267.8 million figure Vera calculated corresponds with collections rather than assessments, it is likely that the attempted wealth extraction is even higher.

### How does government collect and profit from these revenues?

#### Washington courts

There are five types of courts in Washington, with three that routinely levy fines and fees on offenders.<sup>63</sup> Each of the 39 counties in the state houses a superior court, which is a court of general jurisdiction, and a district court, which is a court of limited jurisdiction. Superior courts see a wide variety of criminal, civil, family, and probate cases, whereas district courts hear primarily misdemeanors and traffic violations.<sup>64</sup> Additionally, many of Washington's cities and towns have municipal courts, which are also courts of limited jurisdiction.<sup>65</sup> Municipal courts have authority over traffic and misdemeanor cases that originate within city limits, as well as local ordinance violations.<sup>66</sup>

## Revenue flow

State and local governments rely on a continuous stream of people in the criminal legal system paying fines and fees to fund some of their budget. The reliance on this revenue can create perverse incentives where agencies remain wedded to this scheme of wealth extraction.

Not all fines and fees revenue is used to fund the criminal legal system. Washington relies on people caught in the system to provide some funding to a number of basic functions of government. The beneficiaries of fines and fees collected by courts and other criminal justice agencies, along with their permissible uses, are statutorily determined and vary depending on the type of legal financial obligation. Generally speaking, however, not all money is kept by the collecting agency or entity. Rather, some of the funds must be remitted to the state treasurer or other agencies to carry out court functions or other general government purposes.<sup>68</sup>

### Example of revenue disbursement from a standard traffic ticket

Money paid to the state is often a combination of fines (which are distributed proportionally) and fees (which are earmarked for specific funds). For example, revenues from a standard \$139 traffic ticket would be distributed as follows:<sup>69</sup>

For a \$139 ticket, the base fine amount is \$48.<sup>70</sup> Washington's criminal code outlines that, on top of this base fine, municipal courts apply additional fees, called "public safety and education assessments" (PSEA), that are calculated using the total ticket amount and base penalty figure.<sup>71</sup> For a \$139 ticket with a base penalty of \$48, those additional fees would be \$28, bringing the total to \$76.

This \$76 is distributed as follows:<sup>72</sup>

- \$39.48 is deposited into the collecting municipality's current expense or general fund;
- \$0.71 is used to fund local crime victim programs;<sup>73</sup>
- \$18.91 is sent to the state's public safety and education assessment 1 (PSEA 1) account, which is a sub-account of the state's general fund;<sup>74</sup> and
- \$16.90 is sent to the state general fund's PSEA 2 sub-account, 50 percent of which is appropriated to the Administrative Office of the Courts (AOC) to fund district court judge and municipal court judge salaries, and the remaining half of which is used to fund administrative court operations.<sup>75</sup>

In addition to the \$76 base penalty and fees, the following fees are automatically imposed:<sup>76</sup>

- A **\$10 auto-theft prevention account fee**, which is deposited into the state’s auto-theft prevention authority account to support activities relating to motor vehicle theft;<sup>77</sup>
- A **five-dollar trauma fee**, which is used to fund the state’s trauma care system;<sup>78</sup>
- A **five-dollar traumatic brain injury account fee**, which supports the activities outlined in the statewide traumatic brain injury comprehensive plan;<sup>79</sup>
- A **\$20 legislative assessment fee**, of which \$7.68 is deposited into the local current expense fund, \$0.14 is put toward local crime victim programs, and the remaining \$12.18 is transferred to the state general fund’s PSEA 1 sub-account;<sup>80</sup> and
- A **\$23 fee for the judicial information services account**, which funds maintenance for the judiciary’s information system.<sup>81</sup>

### **How much do governments collect in fines and fees revenue?**

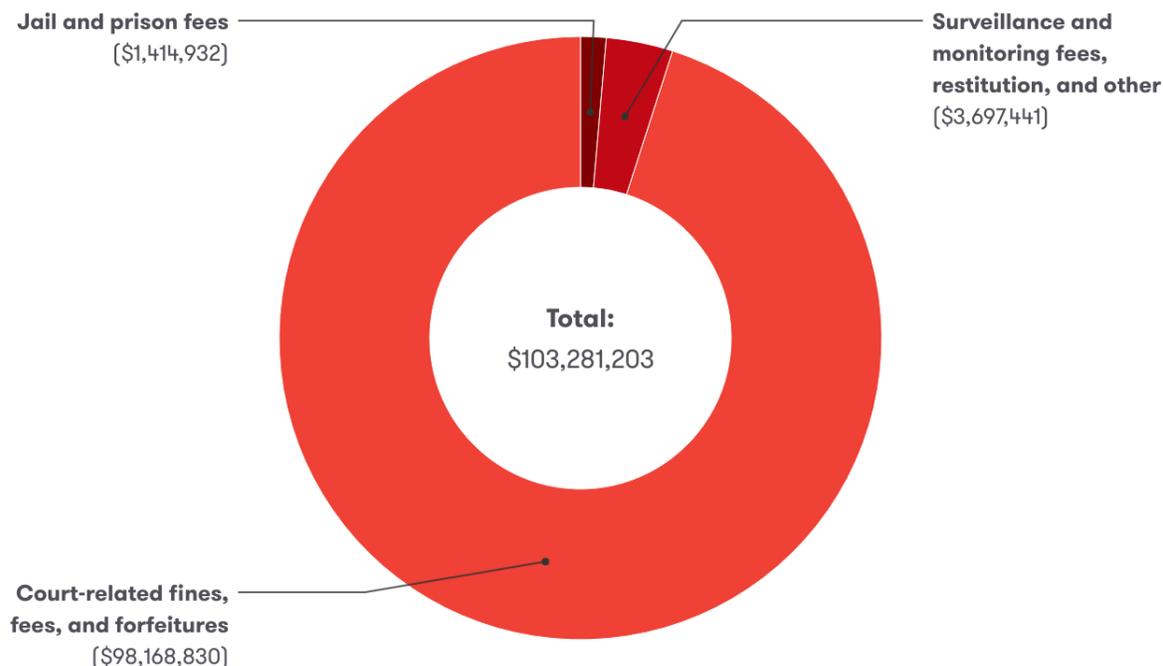
Independent of fines and fees revenue, Washington municipalities and counties already receive funding from the state government to support criminal legal system services.<sup>82</sup> Allocation is based on the jurisdiction’s crime rate, population, and court filings.<sup>83</sup> Separately, Washington collects and allocates additional funding from fines and fees in various ways across municipal, county, and state-level governments.

### **Municipalities**

There are 281 cities and towns in Washington State. Vera collected fines and fees revenue data for a sample of 100 of these municipalities, out of which 75 reported clear fines and fees revenue. For these 75 cities and towns, fines and fees brought in \$103 million in revenue during fiscal year 2018. The majority of this revenue came from court fines and fees, especially through traffic-related cases. Figure 2 below shows the breakdown of these revenues by type.

Figure 2

### Municipality fines and fees revenue broken down by category (fiscal year 2018)



The median municipality received \$283,947 in fines and fees revenue, or \$14 per capita. Fines and fees composed no more than 6 percent of any city’s or town’s total budget, and at least one municipality reported no fine and fee revenue at all. In the median municipality, fines and fees revenue made up less than 0.5 percent of the overall budget.

The City of Seattle brought in the most in fines and fees money, at \$51 per capita or \$35.9 million total, accounting for more than one-third of all fines and fees received by the municipalities for which Vera collected revenue data. Most of these revenues corresponded with court fines, the majority of which were charged to people with parking violations and the remainder of which were related to road intersection and school zone photo enforcement. These revenues were deposited primarily into the city’s general fund, where they can be used for virtually any government purpose. Seattle’s Department of Transportation received a smaller portion of these revenues, which it uses to partially fund improvements to pedestrian walkways and school safety.

On a per capita basis, the small town of Colton, with a population of 446 residents, collected the most in fines and fees revenue at \$758 per capita. Most of this money came from traffic and parking violations.

Three municipalities relied on fines and fees to fund 5 percent or more of their total budgets: Lakewood, Federal Way, and Renton. Each of these places is among Washington's 20 largest cities.<sup>84</sup> Lakewood is in Pierce County, and Federal Way and Renton are both in King County. All three cities have above-average shares of residents of color.<sup>85</sup> Lakewood brought in \$2.3 million in fines and fees revenues through traffic fines and fees, nuisance abatement penalties, and asset forfeitures. Federal Way received \$8.3 million, with 85 percent corresponding with traffic fines and fees. Renton received \$12.2 million, with 65 percent corresponding with traffic fines and fees.

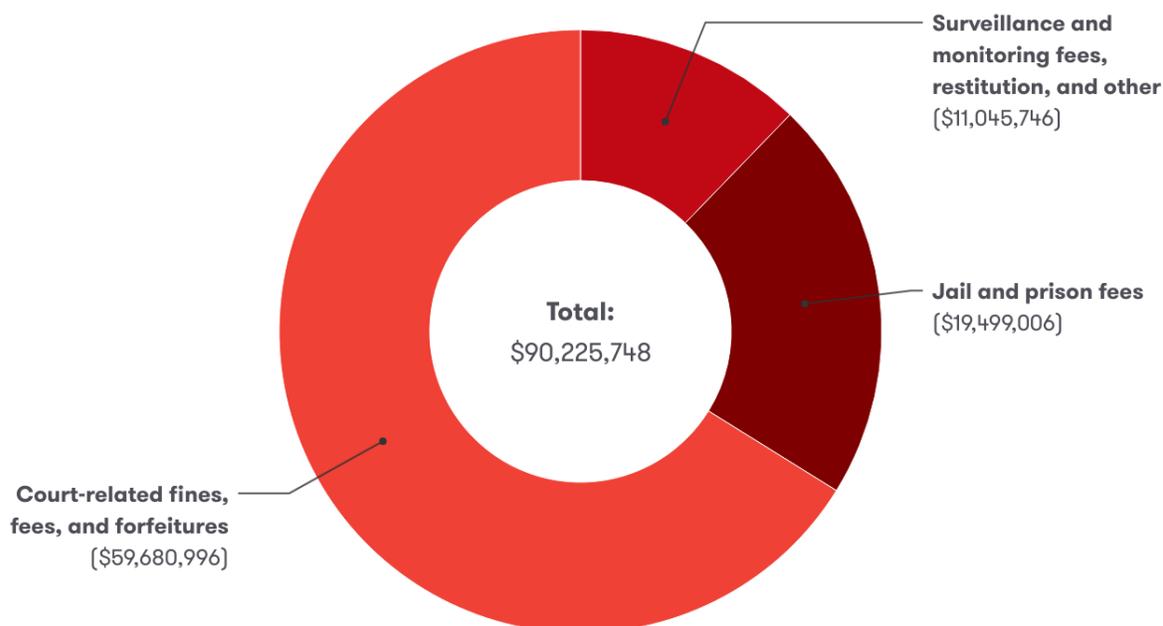
### **Counties**

Washington has 39 counties, out of which 34 have publicly available budget data that Vera collected. Kittitas County's public budget report was highly aggregated, such that researchers could not discern revenue line items corresponding to criminal justice fines and fees. For Washington's 33 counties with detailed budget information during fiscal year 2018, researchers identified more than \$90 million in criminal justice fines and fees revenue received.

Figure 3 on page 12 shows the breakdown of these revenues by type. Nearly two-thirds of these revenues were derived from court-related fines, fees, and forfeitures. Twenty-two percent corresponded with fees paid by people in county jails. The remainder comprised restitution monies and fees paid by people participating in surveillance and monitoring programs, such as probation and pre-trial diversion. During fiscal year 2018, the median county in Washington received \$1.5 million in fines and fees revenue, or \$17 per capita. Fines and fees composed no more than 9 percent of any county's total budget, and in the median county, fines and fees revenue made up 1.26 percent of the overall budget.

Figure 3

### County fines and fees revenue broken down by category (fiscal year 2018)



Pierce County (Tacoma) brought in the most fines and fees revenue, at more than \$11 million. Pierce County District Court received almost two-thirds of this revenue. The remainder was received by the county detention center and went to fund welfare programs for people incarcerated in the jail. On a per capita basis, it was Lincoln County, one of Washington’s smaller counties with a population of just more than 10,000 people, that brought in the most fines and fees money, at \$74 per resident.<sup>86</sup> More than half of this revenue corresponded with fines and fees collected by Lincoln County District Court for traffic infractions. Fines and fees revenue composed 9 percent of Lincoln County’s total combined resources.

Besides Lincoln County, only two other counties relied on fines and fees to fund 5 percent or more of their total budgets: Cowlitz and Benton Counties.<sup>87</sup> Cowlitz County, a poorer, majority-white county, brought in more than \$4 million in fines and fees revenue, 42 percent of which corresponded with the \$100 daily fee paid by people detained in the county’s jail. Cowlitz County paid for 3 percent of its annual budget through this \$100 fee on people in jail. Benton County, which has a large population of residents of color, brought in more than \$7 million in fines and fees revenue. The majority of this revenue comprised conviction-related fines and fees.

## State

Vera identified \$74 million in court fines, fees, and forfeitures that were deposited into the state's general fund during fiscal year 2018. These revenues correspond with the share of all fines and conviction-related fees across superior courts and courts of limited jurisdiction that are remitted to the state. General fund monies may be used for virtually any government purpose and are not limited to funding the justice system alone. Washington's general fund does, however, include several sub-accounts that can be earmarked for particular purposes. For example, revenues corresponding with the state general fund's PSEA 2 sub-account are intended to be used for supporting judge salaries and court operations.

## Conclusion

Researchers identified at least \$267.8 million in criminal justice fines and fees revenue that supported Washington's state and local budgets in 2018. A substantial share of this revenue came from fines and fees associated with criminal cases and penalties for traffic or parking tickets, and courts were the largest beneficiary of these revenues.

Fines and fees are especially harmful to people with low incomes, forcing them to choose between paying fines and fees at the expense of other basic necessities, or not paying and risking further fees, driver's license suspension, arrest, and even jail time. Further, research suggests that these impacts fall most harshly on Black and brown Washingtonians, in particular. Yet, for all the harms caused, fines and fees generate very little income for the government, amounting to just more than one-third of 1 percent of the state's total resources, or 0.68 percent of the total budget in the median jurisdiction.<sup>88</sup> The system expends significant resources to collect LFOs, and collections are modest when considering the outstanding debt. For all of these reasons, Washington should reexamine its commitment to upholding this problematic system of wealth extraction.

## Principles for change

Many governments around the country are reconsidering their use of harmful fines and fees collections. Vera suggests several principles for reform as more governments take on the necessary work to revise and eliminate these practices:

- People who already struggle to afford meeting their basic needs should not be made financially worse off by a case in the criminal legal system. Governments should eliminate all criminal legal fees (both mandatory and discretionary) and proactively ensure that all people with incomes below a threshold—such as the local living wage—are not financially harmed by fines. These changes should be made retroactive to apply to people currently struggling to afford criminal justice debt.

- No one should face the loss of a driver’s license or other infringements on their civic life because of fines and fees. Although Washington recently passed legislation that addresses the driver’s license suspension issue, the new law still permits some debt-based license suspensions.<sup>89</sup> Washington also recently passed a bill restoring voting rights for people on parole with unpaid court debt, but there is more to be done.<sup>90</sup>
- Until the state eliminates these harmful fines and fees, money collected from them should be used in ways that serve the people most negatively impacted by the criminal legal system. At a minimum, this money should be returned to the general fund, instead of to the budgets of the entities responsible for collecting the funds. Washington State already redirects a share of fines, fees, and forfeitures to state, county, and municipal general funds.
- State and local governments should prevent the collection of LFOs through the garnishment of government transfer income, including social security disability insurance and stimulus payments under the American Rescue Plan Act.<sup>91</sup>
- Governments should provide clear and transparent data on the amounts of fines and fees assessed and collected and aggregated data on the demographics of the people who are charged fines and fees. This data should be made available to the public.

### Methods

There is no single data source that compiles revenue from fines and fees for all governments in the state. To develop as comprehensive a portrait as possible, Vera relied on several data sources.

**Cities and towns:** Of Washington’s 281 cities and towns, Vera collected data for a representative sample of 100 municipalities. Researchers divided the list of municipalities into five strata based on population size: the first four correspond with quartiles ranging from fewest residents to most, excluding the 20 largest cities in Washington. The fifth strata comprised these 20 cities. Researchers collected budget information for 20 municipalities in each stratum. Although researchers reviewed budget information for a total of 100 places, only 75 clearly reported revenues corresponding with criminal justice fines, fees, surcharges, tickets, and forfeitures. Because only 100 out of the 281 municipalities are represented in Vera’s dataset, the \$103 million total of these revenues does not represent the whole of the fines and fees revenue for Washington cities during fiscal year 2018.

**Counties:** Vera attempted to review the budget documents for all 39 counties in the state. However, only 34 of the 39 counties have publicly available budget reports, and only 33 clearly reported criminal justice fines or fees revenue. Because

only 34 out of the 39 counties are represented in Vera's dataset, the \$90 million figure does not represent the whole of the fines and fees revenue for Washington counties during fiscal year 2018.

**State:** It is not possible to disaggregate which specific revenues correspond with criminal legal system fines and fees based on the way that the state reports revenues in its annual audit and budget reports. As a result, researchers relied solely on the State Economic and Revenue Forecast Council's monthly Economic & Revenue Updates for state-level fines and fees revenue figures. These monthly reports capture only the amount of criminal justice fines, fees, surcharges, and forfeitures that are deposited into the state general fund. Therefore, the \$74 million figure is likely an underestimate.

**Combined state and local expenditures:** The U.S. Census Bureau reported that during fiscal year 2018, the most recent year census data was available, Washington's combined state and local direct general expenditures were \$78.6 billion.<sup>92</sup>

**State patrol and police traffic and pedestrian stops:** Stanford University's Open Policing Project makes standardized police pedestrian and traffic stop data available for download. The Washington State Patrol dataset includes variables for the date and location of a given traffic stop, the driver's race, and the outcome of the stop (e.g., citation or warning). Researchers used data corresponding with traffic stops during 2018.

## Endnotes

- 1 See, for example, Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (New York: Russell Sage Foundation, 2016); and Alexes Harris, Heather Evans, and Katherine Beckett, "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States," *American Journal of Sociology* 115, no. 6 (2010), 1753-99, <https://perma.cc/V6DM-TV8E>.
- 2 Harris, Evans, and Beckett, "Blood from Stones," 2010, 1765 (table 1).
- 3 American Civil Liberties Union of Washington (ACLU of Washington) and Columbia Legal Services, *Modern-Day Debtors' Prisons: The Ways Court-Imposed Debts Punish People for Being Poor* (Seattle, WA: ACLU of Washington, 2014), 3, <https://perma.cc/9EQF-984N>.
- 4 Revised code of Washington (RCW) 9A.20.021, "Maximum Sentences for Crimes Committed July 1, 1984, and after," amended and reenacted July 24, 2015. The Revised Code of Washington (RCW) is the compilation of all permanent laws currently in force in the state enacted by the Legislature, and signed by the Governor, or enacted via the initiative process. It does not include temporary laws such as appropriations acts. The official version of the RCW is published by the Statute Law Committee and the Code Reviser. The online version of the RCW is updated twice a year. All references to the RCW in this report are to the 2020 Revised Code of Washington, archived at <https://leg.wa.gov/CodeReviser/RCWArchive/Pages/2020RCWArchive.aspx>.
- 5 Ibid.
- 6 Alexes Harris, Beth Huebner, Karin Martin, et al., *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* (New York: Arnold Ventures, 2017), 11, <https://perma.cc/D9A8-X6Q4>.
- 7 RCW 46.61.5055.
- 8 Alexes Harris and Tyler Smith, "Multi State Study of Monetary Sanctions: Annual Deliverable to Arnold Ventures" (unpublished paper prepared for Arnold Ventures, New York, September 1, 2019), on file with Vera; Washington State Supreme Court, Minority and Justice Commission, *WA State Superior Courts: 2018 Reference Guide on Legal Financial*

*Obligations (LFOs)* (Olympia, WA: Washington State Supreme Court, 2018), <https://perma.cc/4RNC-KFST>.

9 RCW 7.68.035.

10 RCW 43.43.7541.

11 Ibid.

12 For information about fees for certain alcohol violations, see RCW 46.61.5054. For information about fees for domestic violence cases, see RCW 10.99.080.

13 Harris, Huebner, Martin, et al., *Monetary Sanctions in the Criminal Justice System*, 2017, 230.

Alexes Harris, "Barriers to Success: Financial Obligations" (PowerPoint titled "Legal Financial Obligations," presented at *Reentry: Do We Really Care About People Succeeding After Prison?* Washington State Minority & Justice Commission symposium, Olympia, WA, May 28, 2015), symposium archived at <https://www.tvw.org/watch/?eventID=2015051109> and speaker slides at <https://perma.cc/JKF6-E3DJ>.

14 According to municipal and county budget reports collected by Vera, the jurisdictions sampled received a combined \$3,237,887.51 in assigned counsel fee revenues. This amount of money could pay the typical assigned counsel fee of \$350 just more than 9,251 times.

15 RCW 10.01.160.

16 RCW 10.01.160; and RCW 10.64.120.

17 RCW 10.01.160. Harris and Smith, "Multi State Study of Monetary Sanctions," 2019.

18 RCW 10.01.160 and RCW 9.94A.760.

19 According to budget reports, counties received a combined \$6,787,718.10 in jail room and board fees. Assuming that jails charged the maximum \$100 per day, Vera estimates this fee was paid 67,877 times.

20 See, for example, Stephen Raher, *The Company Store: A Deeper Look at Prison Commissaries* (Northampton, MA: Prison Policy Initiative, 2018), <https://perma.cc/UQJ4-KRDU>.

21 Alexes Harris, Tyler Smith, and Emmi Obara, *Justice "cost points": Examination of Privatization within Public Systems of Justice*, May 12, 2019, <https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12442>.

22 RCW 46.20.289. It is the most common method of enforcement because it is a statutorily mandated response, and suspended drivers represent approximately one-third of the prosecutorial caseload in the state. Senate Bill Report, WA SB 5226 (February 4, 2021), 4, <https://perma.cc/74T8-EFND>.

23 Harris and Smith, "Multi State Study of Monetary Sanctions," 2019. In Washington, courts of limited jurisdiction such as municipal courts or traffic courts turn over criminal justice debt to collections agencies once the allotted time for a person to respond has passed. RCW 19.16.500.

24 RCW 10.01.180; and RCW 10.01.160.

25 According to municipal and county budget reports, the jurisdictions sampled received a combined \$385,219 in warrant fee revenues. Given that the cost of a bench warrant is \$100, Vera estimates that this fee was paid 3,852 times. One person can incur multiple bench warrants—and therefore multiple bench warrant fees—so this does not necessarily mean that 3,852 individual people paid this fee in 2018.

26 RCW 10.01.180; and ACLU of Washington and Columbia Legal Services, *Modern-Day Debtors' Prisons*, 2014, 9 ("If an individual fails to make the monthly payments, the clerk then negotiates 'pay or stay' agreements, where individuals agree to pay a particular amount or serve jail time. Again, these agreements are 'agreed' to without the assistance of counsel and are sometimes entered into without court inquiry into an individual's financial circumstances. They also unfairly contain findings that non-payment is willful. An individual who cannot pay the ordered amount is almost invariably incarcerated.").

27 RCW 10.01.180.

28 Evan Walker and Andy Nicholas, "Lawmakers Must Change Unjust Driver's License Suspension Policies," Washington State Budget and Policy Center, November 30, 2020, <https://budgetandpolicy.org/schmudget/lawmakers-must-change-unjust-drivers-license-suspension-policies>.

- 29 RCW 46.20.342. ACLU of Washington, *Driven to Fail: The High Cost of Washington's Most Ineffective Crime – DWLS III* (Seattle, WA: ACLU of Washington, 2017), 5, <https://perma.cc/UG8U-29QB>.
- 30 ACLU of Washington, *Driven to Fail*, 2017, 4; and Walker and Nicholas, "Change Unjust Suspension Policies," 2018.
- 31 ACLU of Washington, *Driven to Fail*, 2017, 8.
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- 34 Saneta deVuono-powell, Chris Schweidler, Alicia Walters, and Azadeh Zohrabi, *Who Pays? The True Cost of Incarceration on Families* (Oakland, CA: Ella Baker Center, Forward Together, Research Action Design, 2015), <https://perma.cc/E7XD-J4U9>.
- 35 Douglas Evans, *The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration* (New York: John Jay College of Criminal Justice, 2014), <https://perma.cc/P9S7-7XP6>.
- 36 Low-income communities, communities of color, and other communities with high barriers to political participation are more likely to be heavily policed and to be assessed fines. See, for example, Foster Cook, *The Burden of Criminal Justice Debt in Alabama* (Birmingham, AL: TASC: Jefferson County's Community Corrections Program, 2014), 23, <https://perma.cc/2SVS-JU32>. See also: Steven Mello, "Speed Trap or Poverty Trap? Fines, Fees, and Financial Wellbeing," unpublished report, 2018, <https://perma.cc/9N5A-3PY8>;

Beth A. Colgan, "Beyond Graduation: Economic Sanctions and Structural Reform," *Duke Law Journal* 69, no. 7 (2020), 1529-1583, <https://perma.cc/25XN-48ER>; Barry R. Ruback, Stacy N. Hoskins, Alison C. Cares, and Ben Feldmeyer, "Perception and Payment of Economic Sanctions: A Survey of Offenders," *Federal Probation* 73, no. 3 (2006), <https://perma.cc/J4T3-JM3U>; and Frank Edwards and Alexes Harris, "An Analysis of Court Imposed Monetary Sanctions in Seattle Municipal Courts, 2000-2017" (report prepared for The City of Seattle, Office for Civil Rights, July 28, 2020), 6, 10, 18-28, <https://perma.cc/3RRD-PCR5>; Harris and Smith, "Multi State Study of Monetary Sanctions," 2019.

37 Vera Institute of Justice, *Incarceration Trends in Washington* (New York: Vera Institute of Justice, 2019), 2, <https://perma.cc/ZV4W-P66F>; Prison Policy Initiative, "Washington State profile," <https://www.prisonpolicy.org/profiles/WA.html>; Alexes Harris, "Racial Disproportionality in the Criminal Justice System" (presentation prepared for the City of Seattle, 2013), <https://perma.cc/98BP-S88K>; and Task Force On Race and the Criminal Justice System, "Preliminary Report on Race and Washington's Criminal Justice System," *Seattle University Law Review* 35 (2012), 623-671, <https://perma.cc/23XL-VQWT>.

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46 RCW 10.01.180; and Edwards and Harris, "Monetary Sanctions in Seattle Municipal Courts," 2020, 6.

47 Yolaine Menyard, Chidinma Ume, Elizabeth DeWolf, and Reagan Daly, *Price of Justice: Challenging the Future of Fines and Fees* (New York: Center for Court Innovation, 2020), 8, <https://perma.cc/H8S4-C7TU>.

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## **Credits**

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An electronic version of this report is posted on Vera's website at <http://www.vera.org/the-high-price-of-using-justice-fines-and-fees-to-fund-government>.

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