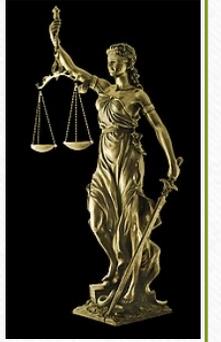


Criminal Justice Reform

Related to Financial Penalties Assessed by Courts at Sentencing
Mandatory Fines, Fees, Assessments and Penalties

PUBLIC POLICY
CAROL CUADRADO
SPRING 2023 CA





Criminal Justice System

Current Public Policy: Purpose & Use of LFOs

- New Jersey statutorily imposes mandatory fines, fees, assessments, and penalties at the time of sentencing given the offense.
- These “Legal Financial Obligations” known as LFOs are a form of monetary punishment for infractions, misdemeanors, or felonies.
- LFOs are intended to be used more as an alternative to incarceration and for less serious crimes
- LFOs are meant to deter crime, punish offenders, and compensate victims for losses.
- LFOs are also used for the court’s operational cost, court activities, supervision or incarceration.





Criminal Justice System Public Policy Problem Intent and Failures



Policy Intent

- Creates equity with fixed penalties given the offense
- Deter Crime
- Reform and rehabilitate
- Reduce mass incarceration
- Punish Offenders
- Compensate victims
- Pay for the operational cost of the criminal justice system

Policy Outcome

- Fixed penalties w/o considering ability to pay, creates inequities & disproportionately affect people of color and with low-income
- Contributes to recidivism
- Creates barriers to successful reentry after an offense
- Leads to violation of parole, and civil judgments
- Perpetuates systemic involvement; increased mass incarceration
- Forces individuals and families further into poverty
- Small percent of fees collected; Collection costs higher
- Defendant's subjected to limited housing, employment & transportation opportunities, unable to pay for food or rent, apply for mortgages or student loans, negative impact on credit





Excess vs. Deficit



Excess

- Excessive mandatory LFOs; fixed penalties per offense, incarceration, and/or supervision
- Increase in LFOs due to the operational cost of the Criminal Justice System
- In 2019, NJ Imposed over \$1 million in LFOs
- NJ's Office of Public Defender represents over 90% of these criminal cases

Deficit

- No consideration for a defendant's income or ability to pay
- States already collect a small amount of LFOs; which creates more disparities between middle-class or white counterparts that are able to pay vs. people of color, or with low-income
- NJ collected only 20.58%; the cost of hiring a collection agency or salaries to complete collection tasks can be higher
- People eligible for representation by a Public Defender are usually below the 200% federal poverty level and eligible for public assistance programs
- Overall, penalties fail to rehabilitate, reform, decrease incarceration, or keep up with the rising cost of the criminal justice system – in part due to the revolving door these policies have created



Criminal Justice System

Systemic Effects of the Public Problem

- Court Backlog (courts may already be strained due to judicial vacancies caused by retiring judges, in addition to recurring cases due to LFO debts)
- Increased crime rate (violating the law to pay for LFOs and avoid incarceration)
- More victims at risk of criminalization
- Crowded jails, especially during the recent COVID-19 public health emergency
- Increased number of correctional officers vs. street patrols to prevent crime
- Increased cost to taxpayers for additional correctional facilities, supervision, and subcontractors (supplies, food, maintenance, etc.,)



Criminal Justice System Stakeholders Influencing Public Policy

- Policymakers



- Administrative Office of the Courts (AOC)



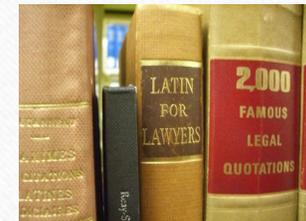
- Judges



- Prosecutors



- Office of Public Defender



- Law Enforcement Officials



- Taxpayers/Citizens





Criminal Justice System Reform Proposed Public Policy Changes



- Eliminate all mandatory “Legal Financial Obligations” known as LFOs for individuals represented by a Public Defender that are already deemed eligible for their services and who do not have the ability to pay for private legal representation
- Impose LFOs based on ability to pay rather than per offense, as in current statute
- Apply LFOs per indictment and not per individual offense(s), which currently increases the financial obligation of individuals in contact with the court system
- Governor and legislators can appropriate funds as needed, as part of the annual budget process, to the Victim Witness Compensation Board and the Domestic Violence Victim Fund, among other types of funds that may be affected by the new policy initiatives



Outcomes Matrix

Alternatives	Impact to State	Impact to Citizen	Stakeholder Support Needed
<p>Eliminate all LFOs for Clients represented by Office of Public Defender (OPD)</p> <p>Most non-paying clients are represented by OPD because they cannot afford private attorneys; OPD represents 95% of non-paying clients; most are below 200% federal poverty level</p>	<ul style="list-style-type: none"> • State eliminates ALL LFOs to OPD clients • Eliminate debt collection • Loss of annual collection to General Fund • Loss of annual income to OPD (staff) • State allocate funding for operational cost (unless reduction of staff and collection cost balances budget) • Eliminate cost to hire collection agency • Eliminate cost staff salary & fringe benefits • Reduce court backlog of LFO debt hearings • Reduce mass incarceration • Eliminate/Reduce correctional facilities • Re-allocate correction officers & clerks • Lower crime rate/safer streets • Reduce contractor costs • Stakeholders prioritize other cases • Reduce disproportionate incarceration • Reduce systemic involvement 	<ul style="list-style-type: none"> • Prevent debt (high LFOs) • Prevent liens; affects credit score • Prevent automatic loss of tax refund • Prevent parole violation and civil judgments • Prevent time off: work/school • Avoid incarceration (loss of job, housing, unable to pay child support) • Retain driver's license • Eliminates recidivism • Cost-saving measure for taxpayers (reduce/eliminate correctional facilities, salary, and fringe benefits, sub-contractors (food, supplies, maintenance), etc., • Increase chances of reform and financial independence • Eliminate racial injustice, systemic inequities affecting people of color or low-income unable to pay LFOs 	<ul style="list-style-type: none"> • Legislature • Governor • OPD • Administrative Office of the Courts



Outcomes Matrix (continued)

Impose LFOs per ability to pay

Most non-paying clients are represented by OPD because they cannot afford private attorneys; OPD represents 95% of non-paying clients; most are below 200% federal poverty level

- **LFOs imposed on some clients**
- **Responsibility to collect debt**
- **Annual allocated to General Fund (reduced)**
- **Allocation to OPD (reduced)**
- **Allocation to court operational cost (reduced)**
- **Retain collection agency**
- **Increased crime/fewer officers on the street**
- **Increased Recidivism (revolving door)**
- **Retain OPD staff**
- **Court backlog (indetermined)**
- **OPD, Prosecutor, law enforcement hours (indetermined)**
- **Keep facilities, supervision, maintenance**

- **Pay LFOs assigned; Accumulate debt**
- **Subject to liens placed by the state; affects credit scores and purchases**
- **Automatic loss of tax refund**
- **Subject to violation of parole and civil judgments**
- **Time off from work and/or school to attend court hearings**
- **Subject to incarceration; loss of income, transportation, housing, ability to pay child support, etc;**
- **Subject to losing driver's license (passport if child support isn't paid)**
- **Increased Recidivism (revolving door)**
- **Taxpayer cost burden (facilities, supervision, maintenance)**

- **Legislature**
- **Governor**
- **OPD**
- **Administrative Office of the Courts**



Outcomes Matrix (final)

Impose LFOs per indictment (not per offense)

Most non-paying clients are represented by OPD because they cannot afford private attorneys; OPD represents 95% of non-paying clients; most are below 200% federal poverty level

- **LFOs imposed to ALL clients**
- **Responsibility to collect debt**
- **Annual allocated to General Fund (reduced)**
- **Allocation to OPD (reduced)**
- **Allocation to court operational cost (reduced)**
- **Retain collection agency**
- **Retain OPD staff**
- **Court backlog**
- **OPD, Prosecutor, law enforcement hours**
- **Keep facilities, supervision, maintenance**

- **Pay fixed court LFOs ONLY**
- **Reduce cost per each offense**
- **Pay LFOs; accumulate debt**
- **Subject to liens affects credit**
- **Automatic loss of tax refund**
- **Subject to violation of parole and civil judgments**
- **Time off from work/ school**
- **Subject to incarceration; loss of income, transportation, housing, ability to pay child support, etc;**
- **Subject to losing driver's license (passport if child support isn't paid)**
- **Increased Recidivism (revolving door)**
- **Taxpayer cost burden (facilities, supervision, maintenance)**

- **Legislature**
- **Governor**
- **OPD**
- **Administrative Office of the Courts**

