

VARIABILITY AND ETHNIC DISPARITY IN THE ASSESSMENT OF “LEGAL FINANCIAL OBLIGATIONS” IN WASHINGTON STATE COURTS

PROBLEM

Legal financial obligations (LFO) are now a common, though largely discretionary, supplement to prison, jail and probation sentences for people convicted of crimes in Washington State courts. Although fine and fee amounts are specified statutorily, judges have significant discretion in determining whether to impose many authorized fees and fines.¹ The evidence suggests that extra-legal factors, including ethnicity, significantly impact the assessment of fees and fines.

KEY POINTS

- **The assessment of fees and fines is highly variable even across cases involving identical charges and similarly situated defendants.** In 2004, the dollar value of assessed fees and fines ranged from a low of \$500 to a high of \$21,110 per felony conviction. Significant variation exists even among similar cases and similarly-situated offenders. For example, one first-time defendant convicted of delivery of methamphetamine in the first two months of 2004 was assessed \$610 in fees and fines; in a different county, another first-time defendant convicted of the same crime during the same time period was assessed \$6,710 in fees and fines.
- **Statistical analysis (including Ordinary Logistic Regression and Hierarchical Linear Modeling techniques) indicates that a number of extra-legal factors influence the assessment of fees and fines after controlling for offender and Sentencing Reform Act (SRA) offense score. In particular, Latino defendants receive significantly greater fees and fines than similarly situated non-Latino defendants.** In addition, drug offenders receive significantly greater fees and fines than non-drug offenders, and defendants convicted at trial receive significantly greater fees and fines than others.
- **The debt that accrues from the assessment of fees and fines is substantial relative to ex-offenders’ expected earnings and often consequential.** Defendants sentenced in the first two months of 2004 had been assessed an average of \$11,471 by the courts over their lifetime. Washington State currently charges 12% interest on unpaid LFOs. By 2008, these individuals still owed an average of \$10,840 in court debt. Ex-offenders who consistently pay \$50 a month will still possess legal debt after thirty years of regular monthly payments. Legal debt – and poor credit ratings – constrains opportunities and limits access to housing, education, and economic markets. Non-payment of legal debt may also trigger arrest and re-incarceration.
- **The fairness and wisdom of the laws authorizing the discretionary assessment of legal financial obligations need to be re-evaluated.**

LIST OF ENCLOSED MATERIALS

- Beckett, Katherine, Alexes Harris and Heather Evans. 2008. *The Assessment and Consequences of Legal Financial Obligations in Washington State*. Report commissioned by the Washington State Minority & Justice Commission.
- Harris, Alexes, Heather Evans and Katherine Beckett. 2010. "Drawing Blood from Stones: Monetary Sanctions, Punishment and Inequality in the Contemporary United States." *American Journal of Sociology* 115, 6: 1753-99.
- Harris, Alexes, Heather Evans and Katherine Beckett. In press. "Courtesy Stigma and Monetary Sanctions: Toward a Socio-Cultural Theory of Punishment." *American Sociological Review*.

¹ The DNA Collection Fee is mandatory for first-time offenders (RCW 43.43.690), and the Victim Penalty Assessment penalty is mandatory for all offenders for each conviction (RCW 7.68.035). Judges possess significant discretion in deciding whether to impose the remaining twenty-two fees and fines. Although some fees and fines may only be assessed in some kinds of cases, judges may or may not assess those fees and fines in eligible cases.