Submitted: September 1, 2023

**Response from the Fines and Fees Justice Center**

to the Joint Call for Input on Decriminalization of homelessness and extreme poverty

from the Special Rapporteurs on the Right to Adequate Housing and on
Extreme Poverty and Human Rights

The [Fines and Fees Justice Center](https://finesandfeesjusticecenter.org) (FFJC) is a national center for advocacy, information, and collaboration on effective solutions to the unjust and harmful imposition and enforcement of court-related fines and fees in the United States. Our goal is to create a justice system that treats individuals fairly, ensures public safety and community prosperity, and is funded equitably. We work together with affected communities and justice system stakeholders to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices. FFJC respectfully submits this statement as part of the Special Rapporteurs’ Joint Call to illuminate how fine and fee policies and practices in the United States criminalize poverty, incarcerate debtors, exacerbate homelessness, and violate both domestic and international legal norms.

**Fines and Fees Are Out of Control in the United States and Tether Low-Income People to the Criminal Legal System.**

Throughout the United States, state and local courts impose stiff fines and fees on people convicted of criminal and civil offenses, including minor traffic and municipal code violations, misdemeanors, and felonies. Fines are monetary punishments imposed for violating the law. Fees (sometimes also known as costs, assessments, or surcharges) are supplemental charges imposed to fund the criminal legal system and other governmental services. Fees are intended to raise revenue outside of a larger, more transparent tax system. Because those who are drawn into the criminal legal systems in the United States are disproportionately people of color and lower-income wage earners, fees operate as a regressive tax system in which larger portions of money are taken from the people least capable of bearing the cost.[[1]](#footnote-1)

Although fines and fees may be different, people experience them as simply one large, often insurmountable, bill. The total amount of a person’s court debt can range from hundreds to thousands of dollars. For example, if a person receives a $35 USD speeding ticket in California, the courts will add $192 USD in fees, assessments, and surcharges.[[2]](#footnote-2) If that total is not paid on time, a late fee will be added. Depending on the county, that late fee can be as much as $300 USD.[[3]](#footnote-3) Ultimately, a simple speeding fine in California can increase by nearly 1500% (from $35 to $527) with the added fees. Separately, base fines themselves can be crippling. In Florida, for example, the mandatory fine for possession of four grams of fentanyl is $50,000 USD, in addition to seven years in prison.[[4]](#footnote-4) Even after being released from prison, the fine will result in a lifetime of debt and potential periods of reincarceration if the person is unable to pay.

Given the way these costs can grow exponentially, people who might not otherwise be classified as among the extremely poor are still being criminalized due to their lower income and lack of resources. Unlike private debt, public court debt is subject to judicial enforcement. If a person cannot afford to pay their fines and fees immediately, a cascade of harsh consequences ensues, including prolonged court involvement, probation supervision, and incarceration. Conversely, those who are wealthy enough to pay immediately often have few or no further obligations to the system, particularly in low-level cases.

Fines and fees have been an increasing burden in the United States for decades as state and local governments try to find new ways to balance their budgets. The issue became widely exposed in 2015, after police shot and killed Michael Brown, an unarmed Black man, in Ferguson, Missouri. Following public outrage, the United States Department of Justice launched an investigation into his killing and what led to it. The federal investigation revealed that Ferguson officials encouraged police to increase their enforcement of fine-based offenses as a tool to increase revenue for the city. By 2014, the city budget projected $2.63 million USD in revenue from cases in the municipal court.[[5]](#footnote-5) The Department of Justice ultimately concluded, “many officers appear to see some residents, especially those who live in Ferguson’s predominantly African-American neighborhoods, less as constituents to be protected than as potential offenders and sources of revenue.”[[6]](#footnote-6) This abuse led to increased friction between police and residents. Making matters worse, the municipal court did “not act as a neutral arbiter of the law or a check on unlawful police conduct. Instead, the court primarily use[d] its authority as a means to compel payment of fines and fees that advance the City’s financial interests.”[[7]](#footnote-7) These problems are not limited to Ferguson. Researchers have found similar local dependence on fines and fee revenue in cities and towns across the United States.[[8]](#footnote-8)

For a more detailed discussion of the history and impact of fines and fees in the United States, we have appended a copy of a law journal article written by one of FFJC’s co-executive directors, entitled [*The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*](https://repository.law.miami.edu/umrsjlr/vol11/iss1/3).[[9]](#footnote-9)

**The United States Still Incarcerates People Due to Their Poverty.**

The U.S. Supreme Court has repeatedly found it to be a violation of the U.S. Constitution to incarcerate someone for failing to pay court-imposed fines or fees unless the person has the means to pay and is willfully choosing not to.[[10]](#footnote-10) International human rights treaties similarly prohibit cruel, inhuman, or degrading treatment of individuals.[[11]](#footnote-11) Nevertheless, it is well documented that courts across the United States continue to jail people who are too poor to pay their court debt. Again, as an example, the U.S. government’s investigation into Ferguson found that, although jail time was too harsh a penalty for minor traffic infractions or municipal code violations, “Ferguson’s municipal court routinely issue[d] warrants for people to be arrested and incarcerated for failing to timely pay related fines and fees.”[[12]](#footnote-12)

In this respect, again, Ferguson was not unique. The problem is so pervasive that the Justice Department addressed the matter in an open letter to state and local courts in 2023, reminding them of the constitutional principles related to fines and fees and warning that those jurisdictions that do not comply may face enforcement lawsuits from the federal government. Nonetheless, courts continue to operate largely the same, sometimes with the blessing of state supreme courts.[[13]](#footnote-13)

Attached to this submission is a copy of a 2023 article written by FFJC’s Policy and Research Director for the American Bar Association’s *Human Rights Magazine*,[[14]](#footnote-14) [which outlines how incarceration for unpaid fines and fees continues to be a reality](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-issues-in-criminal-justice/why-are-we-still-sending-people-to-jail-for-being-poor/) and steps the United States can do to address it.

**Court-imposed Debt Contributes to Housing Instability in the United States, which in Turn Is Punished by More Fines and Fees.**

In May 2023, FFJC and the Wilson Center for Science and Justice at Duke University Law School released a report entitled [Debt Sentence: How Fines and Fees Hurt Working Families](https://finesandfeesjusticecenter.org/content/uploads/2023/05/Debt_Sentence_FFJC-Wilson-Center-May-2023.pdf).[[15]](#footnote-15) It analyzed the results from a first-ever national survey of U.S. residents and their experiences with fines and fees in the legal system. We found that one in three adults in the U.S. had received fines or fees related to traffic, criminal, juvenile, or municipal court involvement in the previous ten years. Among those respondents with court-imposed financial obligations, we found that 27% reported a housing hardship related to their fine or fee debt. Of the people reporting a housing hardship, more than two-thirds (67%) fell behind on rent or mortgage payments during their period of court indebtedness, with more than one-third having their utilities turned off (37%) or forced to leave their current living situation (34%), which sometimes led to becoming homeless. More than one in twenty (6%) were already experiencing homelessness before the fines or fees were initially imposed. Housing consequences impacted Black respondents at a higher rate than any other race, mirroring racially disproportionate impacts across the U.S. legal system. Beyond housing concerns, the study also found that 35% of those reporting fine or fee debt said that it impacted their ability to obtain food; 19% said it impacted their employment; and 14% identified difficulty accessing healthcare, among other areas of hardship.

Being without shelter in the United States can be a very expensive situation. For example, in the nation’s capital, lawmakers have criminalized basic survival for people experiencing homelessness. Panhandling, sleeping on a sidewalk or in a building entrance, and public urination are all criminal offenses that carry up to $500 in fines and 90 days in jail.[[16]](#footnote-16) Fortunately, courts in some parts of the United States have begun to rule that laws or practices that unfairly punish homeless populations may not stand. In the Ninth Circuit, which covers much of the Western United States and the Pacific territories, the federal court of appeal has repeatedly ruled that it is a violation of the U.S. Constitution’s prohibition on cruel and unusual punishment for local governments to punish people for sleeping outside or taking steps to protect themselves from the elements when the government provides no other alternatives.[[17]](#footnote-17) These cases, however, are specific to anti-camping and anti-sleeping statutes, leaving many other laws that disproportionately target those experiencing homelessness unaddressed. Unfortunately, federal and state courts outside the Ninth Circuit have not imposed similar protections against criminalizing homelessness.

**Conclusion**

Fine and fee debt is a serious human rights issue in the United States. Criminal and civil systems, where ability to pay and incarceration determinations are made, operate at the local level, resulting in dozens of different statewide approaches and thousands of local policies and procedures operating independently. Without uniform solutions at higher levels, how severely people are punished for their poverty will continue to be a question of geography, not justice. The Fines and Fees Justice Center welcomes any further questions, meetings, or engagements with the Special Rapporteurs that may be helpful in clarifying the human rights concerns of fines and fees in the United States. Please do not hesitate to reach out at any time.

Respectfully submitted,



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1. Kate O’Neill, Ian Kennedy, & Alexes Harris, *Debtors’ Blocks: How Monetary Sanctions Make Between-neighborhood Racial and Economic Inequalities Worse*, Sage Journals (November 2021), available at <https://journals.sagepub.com/doi/10.1177/23326492211057817>; Michael W. Sances & Hye Young You*, Who Pays for Government? Descriptive Representation and Exploitative Revenue Sources*, The Journal of Politics

Volume 79, Number 3, University of Chicago Press (July 2017), available at <https://www.journals.uchicago.edu/doi/abs/10.1086/691354>. [↑](#footnote-ref-1)
2. Superior Court of California, Orange County, “How is Your Fine Determined?”, Orange County Court website, last accessed 30 August 2023, available at <https://www.occourts.org/media/pdf/SB1407.pdf>. [↑](#footnote-ref-2)
3. Superior Court of California, Santa Clara County, “What is a Civil Assessment?”, Santa Clara Court website, last accessed 30 August 2023, available at <https://www.scscourt.org/self_help/traffic/citation_types/fta_ftp.shtml>. [↑](#footnote-ref-3)
4. Fla. Stat. 893.135(4)(b)(I), available at <http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&amp;URL=0800-0899/0893/Sections/0893.135.html>. [↑](#footnote-ref-4)
5. United States Dept. of Justice, *Investigation of the Ferguson Police Department*, Civil Rights Division (March 4, 2015) at 8, available at <https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf>. [↑](#footnote-ref-5)
6. Ibid. at 2. [↑](#footnote-ref-6)
7. Ibid. at 3. [↑](#footnote-ref-7)
8. Aravind Boddupalli & Livia Mucciolo, Following the Money on Fines and Fees, the Urban Institute (January 2022), available at <https://www.urban.org/research/publication/following-money-fines-and-fees>. [↑](#footnote-ref-8)
9. Lisa Foster, “The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States,” 11 *U.* *Miami Race & Soc. Just. L. Rev*. 1 (2020), available at: <https://repository.law.miami.edu/umrsjlr/vol11/iss1/3>. [↑](#footnote-ref-9)
10. Bearden v. Georgia, 461 U.S. 660 (1983); Tate v. Short, 401 U.S. 395 (1971); Williams v. Illinois, 399 U.S. 235 (1970). [↑](#footnote-ref-10)
11. *See, e.g.,* International Covenant on Civil and Political Rights, Article 7; European Convention on Human Rights, Article 3; American Convention on Human Rights, Article 5(2); African Charter on Human and Peoples’ Rights, Article 5; Convention on the Rights of the Child, Article 37(a). [↑](#footnote-ref-11)
12. Ferguson report, at 3. [↑](#footnote-ref-12)
13. See, for example, Commonwealth v. Lopez, 280 A.3d 887 (Pa. 2022) (in which the Pennsylvania Supreme Court refused to consider the federal constitutional challenges to imposing unpayable fines and fees on individuals, instead upholding the practice based solely on state rules). [↑](#footnote-ref-13)
14. Tim Curry, “Why Are We Still Sending People to Jail for Being Poor? It's Time to Truly Abolish Debtors' Prisons,” the American Bar Association, *Human Rights Magazine*, Vol. 48, No. 3: Economic Issues in Criminal Justice (April 12, 2023), available online at <https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-issues-in-criminal-justice/why-are-we-still-sending-people-to-jail-for-being-poor/>. [↑](#footnote-ref-14)
15. Fines & Fees Justice Center and Wilson Center for Science and Justice, *Debt Sentence: How Fines And Fees Hurt Working Families* (May 24, 2023) available online at <https://finesandfeesjusticecenter.org/articles/debt-sentence-how-fines-and-fees-hurt-working-families/>. [↑](#footnote-ref-15)
16. DC Code [§§ 22-2301 through 22-2306](https://code.dccouncil.gov/us/dc/council/code/titles/22/chapters/23), prohibiting panhandling; [22-1307](https://code.dccouncil.gov/us/dc/council/code/sections/22-1307), prohibiting crowding, obstructing, or incommoding (i.e. blocking) public spaces; [22-1321(e)](https://code.dccouncil.gov/us/dc/council/code/sections/22-1321), prohibiting urinating in public as disorderly conduct; and [22-3571.01](https://code.dccouncil.gov/us/dc/council/code/sections/22-3571.01), setting a fine of up to $500 for any offense punishable by up to 90 days in prison. Full texts of these statutes are appended to this submission. [↑](#footnote-ref-16)
17. Martin v. Boise, 920 F.3d 584 (9th Cir. 2019); Johnson v. Grants Pass, 50 F.4th 787 (9th Cir. 2022), rehearing denied July 5, 2023. [↑](#footnote-ref-17)