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THE BROAD SCOPE AND VARIATION OF MONETARY SANCTIONS:
Evidence From Eight States

Sarah Shannon, Beth M. Huebner, Alexes Harris, Karin Martin, Mary Pattillo, Becky Pettit, Bryan Sykes, and Christopher Uggen

Abstract

Monetary sanctions have long been a part of the U.S. criminal justice system but have received increasing attention from the public as well as legal scholars and social science research in recent years. This essay describes initial findings from the Multi-State Study of Monetary Sanctions, a multi-method study designed to build on the prior research on legal financial obligations (LFOs) by examining the multi-tiered systems of monetary sanctions operating within eight states representing key regions of the United States (California, Georgia, Illinois, Minnesota, Missouri, New York, Texas and Washington). Our research explores the constantly changing legal environment and documents how the law is practiced on the ground. We expand on prior research by engaging a large and diverse group of people who owe legal debt and criminal justice stakeholders. We augment these data with systematic court observations across different jurisdiction sizes and court levels. In doing so, we fill important gaps in the current understanding of U.S. systems of monetary and provide findings that can be used for guiding policy.

About the Authors

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Introduction

Monetary sanctions have long been a part of the U.S. criminal justice system, but there is a burgeoning body of legal scholarship and social science research that has identified legal financial obligations (LFOs) as a key feature of hidden forms of inequality and social control. There has been unprecedented growth in the pervasiveness and scope of LFOs,[1] and the potentially predatory nature of LFOs was highlighted prominently by the Department of Justice.[2]

Researchers have found that LFOs can be conceptualized variably as a dimension of punishment and a source of revenue. Scholars have raised questions about how LFOs affect poverty, racial and socioeconomic inequality, and the fair and efficient administration of justice.[3]

1. April D. Fernandes et al., *Monetary Sanctions: A Review of Revenue Generation, Legal Challenges, and Reform*, 15 ANN. REV. L. & SOC. SCI. 397, 397–402 (2019); Brittany Friedman & Mary Pattillo, *Statutory Inequality: The Logics of Monetary Sanctions in State Law*, 5 RSF 173, 173–78 (2019); Karin D. Martin et al., *Monetary Sanctions: Legal Financial Obligations in US Systems of Justice*, 1 ANN. REV. CRIMINOLOGY 471, 472 (2018); ALICIA BANNON ET AL., BRENNAN CTR. FOR JUSTICE, CRIMINAL JUSTICE DEBT: A BARRIER TO REENTRY 4 (2010), https://www.brennancenter.org/sites/default/files/2019-08/Report_Criminal-Justice-Debt-%20A-Barrier-Reentry.pdf [https://perma.cc/T66F-XN7C].
2. CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 2 (2015).
3. *See* Katherine Beckett & Alexes Harris, *On Cash and Conviction: Monetary Sanctions as Misguided Policy*, 10 CRIMINOLOGY & PUB. POL'Y 509 (2011); *see also*

The research broadly suggests that for individuals who do not have the financial means to comply with financial sanctions, LFOs can widen the net and intensify the entanglements with the criminal justice system. Even small criminal justice debts can have enduring consequences.[4] In particular, failure to comply with sanctions can have broad implications for felon disenfranchisement,[5] driver's licensing,[6] and institutional and community corrections.[7] The scope of sanctions continues to widen, particularly with the use of private agencies to collect debt and enforce conditions of the sentence.[8]

This project, entitled the Multi-State Study of Monetary Sanctions, was designed to build on the emerging research conducted on LFOs. The goal is to examine the multi-tiered systems of monetary sanctions operating within multiple states representing key regions of the United States (California, Georgia, Illinois, Minnesota, Missouri, New York, Texas and Washington).[9] Like several studies of this type, we explore the ever-changing legal environment in these states. Importantly, we document how the law is practiced on the ground and with what effect. Unique to this project, we engage a large and diverse group of individuals with legal debt and criminal justice stakeholders, and we augment these data with lengthy, systematic court observations. This multi-method study was designed to fill important gaps in understanding the systems of monetary sanctions across the United States and has the potential to provide data that can be used for guiding policy.

I. Study Design

We began this endeavor by outlining the policies within each state that guide the sentencing, monitoring and collection of monetary sanctions. Each state team documented state and local LFO policies and

Alexes Harris et al., *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 Am. J. Soc. 1753 (2010); *see also* Alexes Harris, A Pound of Flesh: Monetary Sanctions as Punishment for the Poor (2016).

4. Nathan W. Link, *Criminal Justice Debt During the Prisoner Reintegration Process: Who Has It and How Much?*, 46 Crim. Just. & Behav. 154, 157–59 (2019).
5. Beth Colgan, *Wealth-Based Penal Disenfranchisement*, 72 Vand. L. Rev. 55, 59, 65–70 (2019).
6. Martin et al., *supra* note 1, at 475; Bannon et al., *supra* note 1, at 24–25.
7. *See* Paul Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 Stan. L. Rev. 711 (2017); *see also* Ebony Ruhland, *It's All about the Money: An Exploration of Probation Fees*, Corrections (Jan. 8, 2019), https://doi.org/10.1080/23774657.2018.1564635; Breanne Pleggenkuhle, *The Financial Cost of a Criminal Conviction: Context and Consequences*, 45 Crim. Just. & Behav. 121, 121–25 (2018).
8. Alexes Harris et al., *Justice "Cost Points": Examination of Privatization Within Public Systems of Justice*, 18 Criminology & Pub. Pol'y 343, 344–51 (2019).
9. Alexes Harris et al., Multi-State Study of Monetary Sanctions, Monetary Sanctions in the Criminal Justice System (2017), http://www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf [https://perma.cc/TBW8-43TZ].

practices. In 2016, we conducted interviews with people who owed or paid LFOs (total = 510). In 2017 and 2018, we conducted interviews with court decisionmakers (total = 436), including judges, prosecutors, defense attorneys, court clerks, and probation officers. We also conducted court observations, approximately 200 hours per site, of sentencing and noncompliance hearings within selected jurisdictions in the study states. Efforts were made in each state to observe courts and interview individuals and court actors in rural, suburban, and urban jurisdictions to better reflect the implementation of law across diverse communities and criminal justice systems in the state. During the court observations, we took detailed handwritten field notes and completed standardized court observation sheets that detailed court hearing types, amounts sentenced, and defendant characteristics.

The focus of this research is the application of the law at the state level by court officials and the perceptions of the process by those sentenced to monetary sanctions. The United States lacks a single coherent set of laws, policies, or principles governing the imposition and enforcement of LFOs. Much like other aspects of the criminal justice system, from policing to the imposition of custodial sentences, the policies and practices governing LFOs are set by federal, state, and local governing and administrative bodies. Even the terminology used to describe LFOs varies across jurisdictions. This work captures some of the variability in the imposition of the law regarding monetary sanctions and provides some initial policy suggestions based on these findings.

A. *Theme 1: The Process of Punishment Is Not Transparent*

The results of the study overall show that LFOs are routinely imposed for misdemeanor and felony cases.[10] The process of punishment, however, is opaque in some jurisdictions. Many litigants reported that they did not know how much they owed. Even when states and municipalities made this information easily available, those sentenced to LFOs were not told where to look or even that they had outstanding debts. Defendants also reported confusion with the court process in general. Court observations revealed that defendants often showed up at the wrong time or place, and guidance from courtroom officials was often not readily available. None of the states studied had a central state repository where information on the total amount owed could be found. However, in the superior court in Washington, clerks send payment reminders every three months that included detailed information on the LFOs due, and a similar notification procedure was followed in the lower courts in the state. Georgia's Department of Community Supervision maintains an automated LFO information system, but this database does not capture contacts or LFOs from lower courts. In Illinois, many county courts have searchable online databases where defendants can see how

10. *Id.*

much they owe, and Missouri maintains a similar system, although very few defendants knew about this resource or had regular Internet access.

Many defendants expressed confusion about how their LFOs had been calculated or how much they had left to pay. One person from Washington commented, "I don't know how they come up with their calculations, but I don't think they're right." We noted in our observations that the full extent of defendants' LFOs are not always obvious at the time of sentencing. Some judges tell defendants to see the court clerks for the total amounts of LFOs, and most judges do not include probation or treatment fees in their final calculations.

The collection of monetary sanctions also varies within states and communities. Individuals assessed monetary sanctions most often pay the court directly, either in person to the court clerk or through an online payment system; however, the courts collect payments in other ways, as well. In several municipal and state courts, individuals who are not able to pay for LFOs outright are required to attend payment dockets or status review hearings. During these hearings, judges review payments and question defendants who have not paid at all or kept up with the requisite payment schedule. In Texas, the researchers observed the practice of defendants making a "down payment" on LFOs—say $75—and then having a payment plan of $25 a month. A similar system was observed in the municipal courts in Missouri. In many states, if individuals did not comply in a timely manner, the sanction could be transferred to private collections or, in New York and Illinois, could be converted to a civil judgement.

There was little standardization across the states of the assessment of defendants' ability to pay. All states maintained legal language that allowed for an ability to pay assessment, but, in practice, the process of determining indigence varied widely. In California, some judges relied on presentence investigation reports to provide context on the litigant's financial capabilities; in other states, judges used information on public benefits (WIC, Medicaid) to determine ability to pay. In Georgia and Washington, some court actors used the application for public defender representation as a de facto ability to pay assessment. A judge in Washington described the process they used to assess indigence:

> I have what they call a bench card, which is a standard series of questions that I ask. "Are you on SSI? Are you on supplemental nutrition assistance? SNAP, food stamps? Are you employed? Do you have any savings or assets?" The answer almost without exception is, "I don't have a job, I don't have any assets." Not every defendant is on public assistance, but almost all of them are statutorily indigent by law.

Two states—New York and Washington—had statues in place that disallowed waiver of certain costs, regardless of an indigence assessment. In New York, surcharges cannot be waived. Statutes in Washington impose mandatory fees in superior court including the victim penalty

assessment ($500 for a felony or $250 for a gross misdemeanor) and a DNA collection fee ($200 if DNA has not been previously collected from the individual).

B. *Theme 2: The Process of Punishment Varies Widely by Type of Court and Jurisdiction*

Observations of lower courts across the eight states found substantial variation in the types and scope of costs that could be imposed. In felony courts, LFOs were either statutorily imposed or were negotiated within statutory guidelines as part of a sentencing or plea agreement. Litigants could also face additional costs and fees not always apparent during sentencing, particularly in some lower courts and for specific types of cases (i.e., DUI, domestic assault). The use of private probation, court-ordered treatment, and electronic monitoring programs, for example, were also more prevalent in these systems, and all required the defendant to pay additional fees. However, we observed that these costs were not always discussed in open court.

Costs for treatment and electronic monitoring are separate from statutory court fees and costs. They often must be paid directly to the service provider in order to be in compliance with the sentence. In California, for example, it is commonplace to have defendants and probationers show that they have sought treatment for substance abuse, domestic violence, anger management, parenting classes, or other court-ordered services that infringe upon their ability to pay other fines and fees. In Washington and Illinois, probation fees could be waived in some circumstances, but the states' statutes require that individuals pay all of the costs related to court-ordered private treatment programs. Judges in Minnesota agreed that even when they did all that could be done to reduce monetary sanctions, the state surcharge and supervision fees increased the burden on an indigent person. Both defendants and judges in Minnesota saw additional fees for items such as Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelets as particularly burdensome.

Several municipal and circuit courts also use private probation for misdemeanor convictions. Observations in Missouri and Georgia suggest that private probation companies charge higher fees than traditional state run probation. In Missouri, the private probation system is reserved for individuals sentenced for misdemeanor or ordinance violations. A public defender commented on the judge's common practice of sentencing defendants to private probation:

> We have a judge in this county who is well known for using this private correctional service relentlessly. And I just watched a girl today plead guilty to possession of marijuana, without a lawyer, and it is misdemeanor possession—a $500 fine. She ends up with two years of supervised probation at $50 a month, 20 hours community service, and $100 to the law enforcement restitution fund.

In sum, at both the misdemeanor and felony levels, we encountered substantial variation in the types and amounts of LFOs imposed as well as whether and how these costs are communicated to defendants at sentencing. We observed this variation not only *between* the states in our study but also *within* states; sentencing practices and LFO amounts frequently differed by local jurisdiction and even by court or courtroom within the same jurisdiction.

C. *Theme 3: Noncompliance Can Result in Large Total Financial Obligations and Extralegal Consequences*

Respondents who were not able to pay faced additional consequences, including protracted involvement in the criminal legal system. Stress was a common refrain among participants, and many participants had to make choices as to what to pay, as they struggled to pay for their homes, buy needed medications, and support their families. When asked how much he had paid on his LFOs, one defendant in Washington commented:

> I haven't paid off anything. Yeah, I haven't honestly. That's the other thing I've been slacking on, but it's like the only reason it's like that is because I don't have extra money to be paying hundreds of dollars on fines. I have rent. I have a fiancé to take care of. I take care of my mom and my grandma. There's so much responsibility on my shoulders.

Participants also reported challenges in accessing the courts. Court is traditionally held during the day, and many defendants reported challenges getting time off from work. Difficulty in finding reliable transportation was also a common theme. If individuals miss court, the judge has the ability to issue a failure to appear warrant, which was commonplace in many states. A failure to appear charge can be associated with an additional fine and can extend and deepen the consequences of the original charge.

There are a number of consequences of nonpayment or failure to comply with court orders. Respondents described negative longterm consequences to their financial status resulting from their inability to pay their monetary sanctions. Among the multitude of problems, interviewees most commonly mentioned bad credit but also listed barriers to opening savings and checking accounts, loan denials, bankruptcy, fear of filing taxes, and insurance denials.

There are also legal ramifications for failure to pay. Several states, including Missouri, Minnesota, Illinois, and Georgia, suspend driver's licenses as punishment for nonpayment of court debt. One Minnesota judge commented on the practice of suspending driver's licenses:

> I really think we should rethink the policy of taking driver's license away for nonpayment of fine. I just think that creates so much flouting of the law, because let's be real; somebody doesn't pay their fine, they'll get a notice, if they get the notice to their last address on their

> driver's license, that says, "You can't drive anymore." We're creating a system where it's a small breach of the law, so I should just drive, and if I get caught, I'll probably get fined and won't go to jail, and then I'll have more fines, and then it's a snowball effect. And then good luck going down to the local DMV and trying to get your license back.

These sentiments were echoed by many others and reflect the longterm potential consequences of small contacts and failure to comply with the criminal justice system.

As a result of their interactions with the system, many respondents reported a deep cynicism toward the criminal justice system. Many expressed frustration with and distrust of representatives of the criminal justice system. Some commented that they had been sentenced to what they called "insurmountable debt" and had limited resources to repay it. Individuals felt that they were forced to comply with the system but were not protected and instead overtly ostracized, what Monica C. Bell deems legal estrangement.[11]

D. *Theme 4: States' Data Collection and Court Actors' Participation Varies Substantially*

The original goal for collecting quantitative data was to gain access to automated, statewide case processing data in each of the eight states that would allow for the analysis of fiscal penalties imposed at the felony, misdemeanor, and juvenile court levels (pooled across the eight states for a comparison). Each team pursued access to such data and only two states were able to acquire data sets that fit the original criteria. Our Minnesota and Washington teams obtained statewide data covering all court types (e.g., felony, misdemeanor), all cases, and over multiple years. These data sets include exact dollar amounts and detailed information on types of LFOs (e.g., fines, fees, surcharges, and restitution), as well as amounts ordered and balances owed. At the other end of the spectrum, New York does not collect or maintain sufficient data statewide for accurately tracking the assessment and payment of monetary sanctions.

The other six states fell somewhere in between these extremes. Researchers in Illinois and Texas were able to obtain data that met most of our original criteria but lacked some specificity. In California, the data sets obtained are missing actual dollar amounts of LFOs. Our teams in Georgia and Missouri obtained data but with more substantial limitations. In Georgia, for example, there is no centralized collection of case-level court data in the state. We were able to obtain a cross-sectional data set of all individuals on felony probation supervision as of December 31, 2018 from the Georgia Department of Community Supervision. There are significant limitations in these data, and they do not provide any information on misdemeanor cases in Georgia. In Missouri, we were

11. Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 Yale L.J. 2054, 2057, 2066–68 (2017).

only able to obtain data from the city of St. Louis. Statewide court data in Missouri is collected, but data on monetary sanctions assessed are not documented in this data set.

In some cases, bureaucratic complexity and outsourcing data collection to private entities in our study states make it very difficult to identify and analyze data within the judicial branch. In several of our study states, private companies provide courtroom management software. In some ways, the data have been privatized, thereby privileging those companies in securing collections contracts. Further, in some jurisdictions in our states, public officials lack the skills, capacities, or access to analyze or make available the data that we requested. As a result, such data might exist but are not easily accessible for research. The challenges we encountered in collecting comparable quantitative data sets across all of our study states reveal a significant barrier to answering basic questions about the scope and functioning of these systems of monetary sanctions.

We also had mixed results across the states in recruiting some subsets of criminal justice decision makers for our qualitative interviews. Our original goal was to interview a set number of actors in each of five decision maker categories: defense attorneys, prosecutors, judges, clerks and probation officers. Among the groups we interviewed, prosecutors and probation departments stand out as being most reluctant or inaccessible. This resistance and the particular sites of resistance within each state are instructive and provide insight into the structure and bureaucratic rules present in many criminal justice organizations. The reasons for lack of participation might span multiple concerns, including system overload, lack of time, lack of interest, lack of trust of researchers, or concerns about public opinion on these issues.[12] In some cases, a longer period of study might have facilitated further interviews. Many court actors manage heavy caseloads and might have eventually found time to meet with us. In several jurisdictions, individual court actors expressed interest or willingness to speak with us but were blocked from doing so by general counsel or supervisors. For example, in one jurisdiction we were told that we could not interview probation officers without applying for a costly ($3000) state-level intuitional review board process. Regardless of the reasons for nonparticipation, these obstacles limited our data collection and, in some cases, highlight the lack of willingness of some court actors to share information about systems of monetary sanctions in their states.

12. For example, elected court actors, like judges and prosecutors, may have been less willing to speak with us despite our assurances of confidentiality out of concern over public exposure. In addition, actors may be concerned about litigation, particularly if their jurisdictions have been under public scrutiny and/or faced litigation over justice-related issues in recent years. Other jurisdictions maintained strict bureaucratic guidelines that made access to some agency staff very difficult. These agencies instituted numerous approval points that would be possible to tackle if time and resources were plenty, but were not able to be addressed during period of time for the study.

II. Policy Implications

We suggest several key areas of policy change and practice that could help address and ameliorate some of the problems people face when sentenced to monetary sanctions.

A. *Standard Definition of Indigence, Ability to Pay Assessment Processes, and Full Waivers of all Costs*

First, we encourage leaders and state legislators to outline and mandate in statute or court rule how courts must conduct "ability-to-pay" hearings and assess indigence.[13] All states in the study had some legal language on indigence, but the process of indicating indigence and the assessment of ability to pay varied widely. In addition, scholars and practitioners should work to develop best practices for the assessment of indigence that can be easily applied in the court and are not onerous for individuals. Individuals should also be given the right to have indigence reconsidered if an individual's ability to pay changes during the course of the case.

We recommend that courts *do not impose monetary sanctions on people who are identified as indigent*, including mandatory fines, fees, and surcharges that traditionally could not be waived. Indigence hearings and associated waivers should also be extended to costs mandated as a part of a treatment program or community supervision. These costs typically must be paid before the sentence can be completed and are not considered in ability-to-pay hearings. State statute should allow waiver of all costs, including treatment and supervision costs that are often not documented at the time of sentencing and, in many states, are frequently assessed by private contractors. These additional costs can be sizable and impede an individual's ability to comply fully with the terms of their sentence. Several states, including Washington, California, Missouri, and Illinois, have reformed the sentencing of fines and fees, but each of these reforms still leaves substantial costs to be paid, particularly if the individual is mandated to attend a treatment class or has court-ordered supervision.

A proper assessment of the ability to pay provides greater equality to this system of punishment. The growth of monetary sanctions has led to "statutory inequality," as laws are enacted against a fictional citizen who is financially capable without an ability-to-pay assessment being mandated. Further, individuals who are not able to pay can suffer poverty penalties that can increase and extend the punishment.[14] Scholars have called for a return to day fines, which calibrate monetary penalties to the severity of the offense and the financial means of the defendant.[15]

13. *See generally State Bans on Debtors' Prisons and Criminal Justice Debt*, 129 Harv. L. Rev. 1024, 1030–31 (2016).
14. Beth A. Colgan, *Reviving the Excessive Fines Clause*, 277 Cal. L. Rev. 277, 286–95 (2014).
15. Methods vary, but typically day fines are assessed in two steps: (1) determining

There is some evidence that day fines can provide a more transparent mode of punishment and reduce the different de facto penalties felt by individuals of different financial groups; however, more research on this form of sanctioning is needed.[16]

B. *Remove Additional Sanctions for Failure to Pay*

We suggest policy makers *decouple unpaid debt from criminal justice consequences*. Individuals who are not able to pay LFOs should not face subsequent criminal consequences such as incarceration, extended court supervision, or probation revocation or unsatisfactory termination. This should also include halting the practice of routine suspension of driver's licenses for nonpayment of court costs or child support.[17] Policymakers should streamline the process for driver's license reinstatement for those who have had their licenses suspended, and implement amnesty programs. Courts should not be able to extend the term of supervision solely for the collection of monetary sanctions. Courts should also reconsider the imposition of additional fees and/or incarceration for failure to report. There is emerging evidence to suggest that court reminders (especially via email or text)[18] and related programs may help facilitate court attendance and reduce failure to appear and related sanctions.[19]

C. *Expand Court Transparency and Access*

We encourage the development of statewide continuing education programs on monetary sanction law and practices. We observed a great deal of misunderstandings and misapplications of the law by court officials, as well as a lack of information provided to those sentenced to

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the number of days that the fine will be imposed, which depends on the severity of the offense, and (2) assessing the financial situation of the defendant in order to set the daily unit (e.g., dollar amount) for the fine. The number of days multiplied by the daily unit produces the total fine amount.

16. *See* Elena Kantorowicz-Reznichenko, *Day Fines: Reviving the Idea and Reversing the (Costly) Punitve Trend*, 55 Am. Crim. L. Rev. 333, 370–71 (2018).
17. Fernandes et al., *supra* note 1, at 408–410; Martin et al., *supra* note 1, at 475–76.
18. Courts should explore innovative and dynamic ways of communicating with individuals that consider changes in address and potential differences in access to communication modalities. There is some evidence that texts and emails may be effective, yet some defendants may also lack access to these technologies.
19. Celina Cuevas et al., *Criminal and Civil Summons Court Appearance: Predictors of Timely Response to Summonses for Lower-Level Offenses in New York City*, Criminology, Crim. Just., L. and Soc'y 1, 17–20 (2019), https://ccjls.scholasticahq.com/article/9906-criminal-and-civil-summons-court-appearance-predictors-of-timely-response-to-summonses-for-lower-level-offenses-in-new-york-city [https://perma.cc/C8H8-72FM]; Brice Cooke et al., Univ. of Chi. Crime Lab, Using Behavioral Science to Improve Criminal Justice Outcomes (2018), https://urbanlabs.uchicago.edu/attachments/3b31252760b28d3b44ad1a8d964d0f1e9128af34/store/9c86b123e3b00a5da58318f438a6e787dd01d66d0efad54d66aa232a6473/I42-954_NYCSummonsPaper_Final_Mar2018.pdf [https://perma.cc/32FZ-G87K].

monetary sanctions. This was not surprising given the constantly changing legal landscape with new policies and state supreme court decisions. These educational campaigns should share information about opportunities for relief for people who owe court debt—especially in states that have revised their statutes and eliminated such costs as interest and surcharges—and describe how judges can waive or reduce economic sanctions for indigence.

Information on court procedures and defendants' rights, particularly in terms of indigence, should be read at the outset of the court session and should be reiterated for each defendant at the time of sentencing. A total accounting of all potential costs of the case should be provided before a plea agreement can be made. Ideally, this information would also be provided in writing in a legible format. This information should include transparent documentation on the procedures for issuing summonses and warrants, the use of bail money toward LFOs, and transferring cases to collection agencies. All information brochures should be made available in multiple languages.

D. *Develop and Maintain Accessible Court Data and Access Procedures*

Courts should mandate detailed, ongoing data collection on economic sanctions. Courts and related stakeholders should be encouraged to develop forward-facing recordkeeping systems that allow individuals to review and pay all financial costs. Websites and other public communication materials should document how to make payments and be readily distributed at courthouses and probation offices and mailed with court bills. Programs like the American Bar Association's Access to Justice Initiative may help in this effort by facilitating greater coordination and communication between multiple justice system stakeholders with the goal of increasing access to justice and broader systems reform.[20] Scholars and policymakers should, however, be careful to protect the nature of data sharing and availability. Data on monetary sanctions, including amount owed and paid, should not be shared on an open-access website or other public portal, as data on criminal sanctions can further mark an individual and have longterm effects on employment and lead to subsequent contact with the criminal justice system.[21]

At the same time, court data should be systematically collected, maintained, and made available to bona fide research organizations and

20. Mary Lavery Flynn, Am. Bar Assoc., Access to Justice Comissions: Increasing Effectiveness Through Adequate Staffing and Funding (2018), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_commission_report.authcheckdam.pdf [https://perma.cc/G5U5-8Y7V].

21. Sarah Esther Lageson, *Crime Data, the Internet, and Free Speech: An Evolving Legal Consciousness*, 51 Law & Soc'y Rev. 8, 8–9 (2017); Sarah Brayne, *Big Data Surveillance: The Case of Policing*, 82 Am. Soc. Rev. 977, 1001–03 (2017).

institutions.[22] Between and within our states, we have had unequal access to types, levels, and amounts of data. This includes de-identified individual-level case data regarding amounts of fines and fees sentenced, paid, and outstanding. Data of this type can be used by researchers and agencies to craft responsive public policy. The outcomes of our research suggest the broader need for data infrastructure in many states, as many communities do not have the financial abilities to routinely update data systems. Big data projects may assist in these efforts, but there is little standardization in the manner in which data are collected or even defined in this arena.

Conclusion

In summary, this study provides new insight into the imposition of LFOs in several states. Several key themes emerge including: the lack of transparent processes in implementing this form of punishment, the wide variation in practices and policies across jurisdictions (even within states), and the ways that noncompliance deepens legal entanglements and collateral consequences. Finally, our initial policy recommendations highlight the need for greater ability to waive monetary sanctions, a more consistent application of "ability to pay" assessments, decoupling LFOs from other criminal justice sanctions, better education and communication about policies, and improved data collection. The difficulties we encountered in some phases of our data collection efforts are notable and instructive for scholars and policymakers alike. In particular, these challenges highlight gaps in states' collections of critical quantitative data in systematic and transparent ways, as well as lack of accessibility to key court actors. Like other work of this type, this study raises concerns over the proportionality and legal function of LFOs.

22. Mikaela Rabinowitz et al., Stanford Criminal Justice Ctr., The California Criminal Justice Data Gap (2019), https://www-cdn.law.stanford.edu/wp-content/uploads/2019/04/SCJC-DatagapReport_v07.pdf [https://perma.cc/A222-99G8].