Update on CCJ/COSCA National Task Force on Fines, Fees, and Bail Practices

NACM Midyear Conference
Portland, Oregon
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Scott Griffith – Austin, Texas
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Session Overview

National Task Force

- Background and Context
- Action and Engagement
- Deliverables and Resources
- Principles in Practice
Importance of Professional Development

Judicial systems that offer education to judges and court personnel are making a statement about the importance of knowledge and information in evolving the skills, abilities, and aptitudes of its members. Each and every education opportunity ... is an avenue for educators to express the values they hold about the role of courts in society.

Educators as change leaders should ask three fundamental questions:
What world do we want to live in? What role can the court play in creating and sustaining that world? How do we get there together?

-Maureen Connor, PhD – Michigan State University, for the National Association of State Judicial Educators
Background & Context

- Ferguson, Missouri and the rise of legal financial obligations as a matter of justice system reform
- Court leaders as reform leaders
- Reform challenges
Task Force Survey: The landscape of court organization and administration

- Creating and disbanding local courts
- Courts as revenue generators for other units of government
- Separation of powers issues
- Courts of record
- Court data issues
- Source of legal financial obligations
- Managing collections practices
2015 Key Findings
• Belief in unequal justice are deep-seated and real
• Race impacts perceptions of fairness; less than one-third of African Americans believe courts provide equal justice
• *Procedural fairness is a strength of the court system*

2016 Key Findings
• Voters want judges focused on fairness and ethics, not fines and fees
• There is strong distaste for “Debtors’ Prisons,” and strong support for alternatives to incarceration for those unable to pay legal financial obligation
• *Procedural fairness is a hallmark of the court system*
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Top national state court leadership associations launch National Task Force on Fines, Fees and Bail Practices
Action and Engagement

Task Force Workgroups

- Access to Justice and Fairness
- Transparency, Governance, and Structural Reform
- Accountability, Judicial Performance & Qualifications, and Oversight
- Task Force Resource Center
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Deliverables and Resources

Resources intended to assist state courts promote the fair and efficient enforcement of the law and to ensure that no citizen is denied access to the justice system based on race, culture, or lack of economic resources.
Deliverables and Resources

**Task Force Products**

The National Task Force created tools to help courts improve, such as a benchmark, a Bearden v. Georgia infographic, model language documents, etc.

**CCJ and COSCA Policy Papers**

Over the past 15 years COSCA/CCJ have developed policy papers on a variety of important issues, including four papers in the past 5 years relating to fines, fees, and bail practices.

**State Reports and Resources**

This interactive map provides information on which states have studies or reports, ability to pay standards, pilot programs or initiatives, or other information related to fines, fees and bail practices.

**National Reports**

Many government and non-profit organizations have examined and published reports regarding the issues related to fines, fees, and bail practices.

**Juvenile Reports**

The issues surrounding fines, fees, and bail practices effect juveniles involved in the justice system, as shown by various reports.

**International Reports and Resources**

These reports discuss how other countries approach the issues surrounding fines, fees, and bail practices.
Deliverables and Resources

- Task Force Products
- COSCA Policy Papers
- State Reports and Resources
- National Reports
- Grant-Funded National Initiatives
- International Reports and Resources
- Juvenile Reports
Deliverables and Resources

- **Task Force Products**
  - COSCA Policy Papers
  - State Reports and Resources
  - National Reports
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  - International Reports and Resources
  - Juvenile Reports

- **A Brief Guide to the Work of the National Task Force**
- **Lawful Collection of Legal Financial Obligations: A Bench Card for Judges**
- **Model Political Subdivision Court Registration Act and Registration Form**
- **Sample Language for Model Uniform Citation**
- **Sample Court Rule: Washington State Rule on Recording of Limited Jurisdictions’ Proceedings**
- **Coming Soon: Principles for Fines, Fees and Bail Practices**
State courts are dynamic institutions, and the manner in which they administer justice must regularly be assessed and continually improved. Whether the demands placed on courts relate to funding, changing socioeconomic factors, or shifting public demands, judges and court leaders must be responsive to the issues facing their communities and be accountable for the manner in which they function.
Deliverables and Resources

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- The End of Debtors’ Prisons: Effective Court Policies for Successful Compliance with Legal Financial Obligations (2016)
- Evidence-Based Pretrial Release (2012)
- Courts Are Not Revenue Centers (2011)
Deliverables and Resources

- Task Force Products
- COSCA Policy Papers
- **State Reports and Resources**
  - National Reports
  - Grant-Funded National Initiatives
  - International Reports and Resources
  - Juvenile Reports
- State-level tools and activities
  - studies and reports
  - pilot programs
  - ability-to-pay standards
  - laws and/or court rules setting fines, fees and bail practices
  - grant-funded projects
  - recent litigation related to fines, fees, or bail practices
Actions taken by the states on fines, fees and bail practices

Which state activities are you interested in exploring?

- States whose collection of fines and fees has been the subject of studies and reports
- States that have pilot programs or initiatives in place
- States that have developed ability-to-pay standards
- States that have changed laws and/or court rules setting fines, fees and bail practices
- States that have received grants related to fines, fees and bail practices
- States that have recent litigation related to fines, fees and bail practices
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Research and policy-oriented reports
- U.S. Department of Justice
- Harvard Kennedy School of Government
- Vera Institute of Justice
- Criminal Justice Policy Program at Harvard Law School
- American Bar Association
- Brennan Center for Justice
- Council of State Governments
- Juvenile Law Center
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- American Civil Liberties Union
- Brennan Center for Justice and Texas Public Policy Foundation
- Criminal Justice Program at Harvard Law School
- Dream Corps
- Southern Poverty Law Center
- University of California Los Angeles School of Law, Professor Beth Colgan
- University of Washington, Dr. Alexes Harris
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

ESTABLISHING THE TASK FORCE ON FAIR JUSTICE FOR ALL: COURT-ORDERED FINES, PENALTIES, FEES, AND PRETRIAL RELEASE POLICIES AND APPOINTMENT OF MEMBERS

Our ideal of “justice for all” means that people should not be disparately punished because they are poor. While everyone should face consequences for violating the law, criminal fines and civil penalties should not themselves promote a cycle of poverty by imposing excessive amounts or unduly restricting people’s ability to be gainfully employed.

To promote these goals, practices in Arizona’s courts should reflect these principles:

1. People should not be jailed pending the disposition of charges merely because they are poor. Release decisions and conditions should protect public safety and ensure the defendant’s appearance at future proceedings.

2. Article 2, Section 18 of Arizona’s Constitution provides that “There shall be no imprisonment for debt, except in cases of fraud.” Consistent with this constitutional provision, people should not be jailed for failing to pay fines or other court-assessed financial sanctions for reasons beyond their control.

3. Court practices should help people comply with their court-imposed obligations, for example, by effectively alerting people to appearance dates, allowing deferred payment of fines, and allowing community service as an alternative to financial sanctions.

4. Sanctions such as fees and fines should be imposed in a manner that promotes, rather than impedes, compliance with the law, economic opportunity, and family stability.
Collection Improvement Program

The Office of Court Administration's (OCA) Collection Improvement Program (CIP) uses a set of principles and processes designed to assist cities and counties with collecting court costs, fees, and fines assessed against persons convicted of (or placed on deferred adjudication or deferred disposition for) misdemeanor or felony charges when they are not prepared to pay all court costs, fees, and fines, at the time of assessment and when time to pay is requested.

Amended Rules Effective January 1, 2017

On August 19, 2016, the Texas Judicial Council approved amendments to the rules that govern the implementation and operation of programs operated by counties and municipalities to improve the collection of court costs, fees, and fines (Title 1, Chapter 175, Texas Administrative Code). The primary goal of the amendments is to provide procedures that will help defendants comply with court ordered costs, fines and fees without imposing undue hardship on defendants and their dependents.

The amended rules go into effect on January 1, 2017. Additional information and resources on the implementation of the rules are available on the CIP Rules page. For more information about these changes, contact your CIP Technical Support Regional Collections Specialist.
Reengineering in Action: The Vermont Commission on Judicial Operation

- A participatory and principled process
- A data driven approach
- The role of technology
Concerns Raised During this Study:

- Some fees and costs have no stated statutory purpose

- Court fees and costs collected from users of the court system are oftentimes used to fund programs outside of and unrelated to the judiciary

- Many court fees and costs are collected for a purpose but not dedicated or restricted to be used exclusively for that purpose
La. R.S. 13:62
No law to provide for a new court cost or fee or to increase an existing court cost or fee shall be enacted unless first submitted to the Judicial Council for review and recommendation to the legislature as to whether the court cost or fee is reasonably related to the operation of the courts or court system.
Judges team up for Courting Justice ‘listening tour’
Principles in Practice

CORE

Leadership
Strategic Planning
Court Governance

Vision
Principle
Practice

Public Trust and Confidence
Purposes and Responsibilities

Caseflow and Workflow
Operations Management
Public Relations
Educational Development
Workforce Management
Ethics
Budget and Fiscal Management
Accountability and Court Performance
Principles in Practice: NCSC CourTools Measure 7

- Original Measure 7 – Collection of Monetary Penalties
- New Measure 7a – Ensuring Fairness in Legal Financial Obligations
- New Measure 7b – Management of Legal Financial Obligations
- New Measure 7c – Fair Practices for Legal Financial Obligations
Principles in Practice

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