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Court costs, fines, fees: New approach needed now

By Steven E. Art, Matthew McClellan Daniels, Erika M. Washington and Malcolm C. Rich

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Court fines, fees and costs have a harmful impact on individuals, communities and our justice system. Recently, the Collaboration for Justice — the joint social justice effort of [Chicago Appleseed Fund for Justice](#) and the [Chicago Council of Lawyers](#) — released a [report](#) detailing the impact and legality of court fines, fees and costs and the Illinois Statutory Court Fee Task Force, staffed by the [Administrative Office of the Illinois Courts](#), released a report calling for a statutory fix.

The Collaboration for Justice report details how, in recent years, Illinois has shifted many of the administrative costs of its criminal justice system from traditional sources of revenue to the backs of low-income and indigent defendants — subjecting individuals to a cycle of indebtedness, criminal proceedings and increased jail time and inevitably costing the court more in administration and enforcement than is collected.

The [report](#), along with a chart of mandatory and discretionary court costs, fines and fees and the [executive summary](#) are available on our website, [chicagoappleseed.org](#), under the Criminal Justice Program tab.

The new mode of shifting costs to defendants who are unable to pay leads to the imposition of additional fines and fees, a prolonged probation period, an inescapable cycle of court hearings and jail time, all of which create obstacles to successful reintegration as a productive citizen. Fines can reach amounts of \$25,000 or \$50,000; even routine misdemeanors can carry fines of \$2,500 or more.

Even where the maximum is not imposed, the cumulative “stacking” of fines, fees and costs against a defendant may result in total sums far exceeding ability to pay, particularly if an individual is unemployed, underemployed or a working parent supporting a family on minimum wage. Currently, there is no limit on the quantity or amount that can be stacked together and imposed for a single offense.

In a system where 75 percent of defendants charged with misdemeanors and 80 percent of felony-charged defendants are indigent and entitled to court appointed counsel, this is not only unconscionable, it is unsustainable.

With at least 90 different fines, fees and costs imposed by Illinois criminal courts, the current system is unmanageable, disjointed and inefficient. The systemwide administrative expense — incurred through hours that judges, lawyers and court staff spend to litigate and collect fines, fees and costs; administer extensions of

court supervision and probation services; and incarcerate more people for a lengthier period of time — outpaces the revenue actually collected.

Indeed, many fines, fees and costs are never collected and those that are collected are recovered through a tremendous waste of government resources yielding a net economic loss to the court.

Because the scheme is so opaque, judges are not always aware of their authority to waive fines, fees and costs as conditions of probation for indigent defendants. Nor do they necessarily know the extent of the state and federal constitutional limitations on the imposition of fines, fees and costs.

Illinois law does not require trial courts to impose payment of fines, fees and costs as a condition of probation or conditional discharge. Rather, it is within the trial court's discretion to require payment of fines, fees and costs as a condition of release.

Even payment of "mandatory" fines need not be a condition of probation or conditional discharge, in the judge's discretion. Importantly, if payment is not a condition of probation or conditional discharge, then the period of probation or conditional discharge cannot be extended based upon a failure to pay.

Permitting indigent defendants to complete their probation or conditional discharge successfully without being held back by debts would allow those defendants to put their past offenses behind them, focus on successfully reintegrating into society and become productive members of the community.

Reform is needed. Imposing fines, fees and costs on indigent and poor defendants amounts to a regressive tax on those least able to pay. It destroys lives and communities and contributes to the over-incarceration of the poor. It is neither feasible nor just to shunt the costs of administering our courts onto those who have a right to defend themselves, however, lack the means to do so. Such a system violates the U.S. and Illinois Constitutions, Illinois case law and the core Illinois legal principle — consistent for nearly 200 years — that indigent litigants should not have to pay for their right to have their day in court.

The task force and the Collaboration for Justice are working together along with other legal and community organizations to bring about needed reforms in the form of legislation, the adoption of an Illinois Supreme Court rule and the increasing use of judicial discretion to waive these costs.

Change is needed now.

Steven E. Art, Loevy & Loevy; Matthew McClellan Daniels, Law Offices of Chicago-Kent College of Law; Erika M. Washington, Criminal Division, Cook County Circuit Court; and Malcolm C. Rich, Whitted, Takiff & Hansen LLC

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