

DALLAS COUNTY, TEXAS: LESSONS LEARNED IN REDUCING FINES AND FEES IN THE CRIMINAL JUSTICE SYSTEM

In counties nationwide, financial obligations are placed on individuals as part of their involvement in the local justice system, from a citation issued in lieu of arrest to costs associated with court-mandated treatment after release. While these financial penalties often appear to be minor, in reality, they can place a major—sometimes insurmountable—burden on the people on whom they are assessed. This brief will detail how fines and fees are typically used in county justice systems, identify reasons for which these financial penalties may be more harmful than helpful and highlight successful alternative strategies being implemented in communities across the country.

What are Fines and Fees?

The term “fines and fees” generally includes financial obligations placed on an individual during the course of his or her involvement with the criminal justice system.

These can include:

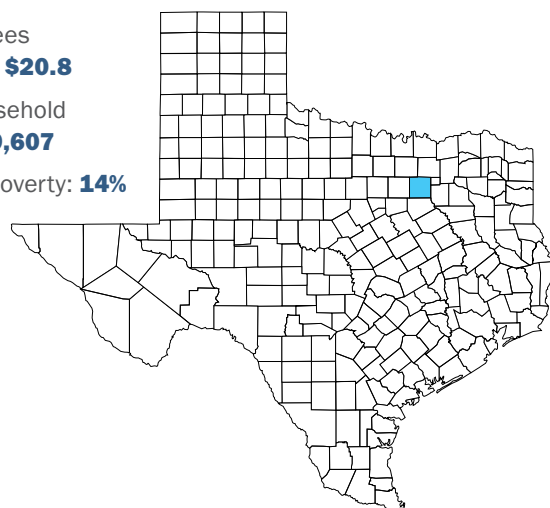
- Offense-related fines, such as a ticket for a parking violation or minor traffic offense
- Fees related to criminal justice costs, such as payment for a day in jail or for the use of a public defender
- Fines imposed as a penalty for conviction
- Collection costs, interest or other penalties that accrue on late or missed payments of a fine or fee (**NACO, 2019**)

Dallas County, Texas

Fines and Fees paid (2018): **\$20.8**

Median household income: **\$59,607**

Persons in poverty: **14%**



Background

Dallas County is the second most populous county in Texas and home to more than 2.3 million residents. In March 2019, the PFM Center for Justice & Safety Finance selected Dallas County as one of three sites to participate in its **Fines and Fee Initiative**, a technical assistance initiative – supported by Arnold Ventures – that helps local jurisdictions in their efforts to eliminate or reduce reliance on fines and fees to fund criminal justice operations. Dallas County was selected based on the county's executive-level support, commitment to reform, feasibility of affecting change and data availability.

Cities and counties across the U.S. have become more reliant on fines and fees to generate revenue in recent years.¹ While individual fees may be as little as a few dollars, city, county and state governments have created a complex system of fines and fees, layering one on top of the other, until total financial obligations related to convictions can reach thousands of dollars. Across the country, approximately 10 million Americans owe more than \$50 billion in fines and fees.² While these debts are substantial, research suggests that fines and fees are both an inefficient source of revenue and do not increase public safety.³ The average county only raises enough revenue through collection of fines and fees to cover 7 percent of its police and judicial expenditures.⁴ To relieve the financial hardship on residents and reduce the administrative and financial burden on counties, counties can take steps to reduce fines and fees through collaboration and the contract authority afforded to them.

County and State Authority over Fines and Fees in Texas

Fines and fees in Dallas County are largely established in Texas statute, a primary obstacle to county efforts to engage in meaningful reform.⁵ Fines and fees are imposed by elected judicial court judges in the county's two criminal courts: fines related to felony convictions are primarily assessed in the Dallas County Criminal District Courts and fines related to misdemeanor convictions are primarily assessed in Dallas County Criminal Courts. Each Texas county hosts a Commissioners Court, a legislative, non-judicial elected body of four commissioners and one County Judge, all elected to a four-year term. The Dallas County Commissioners Court is led by presiding officer County Judge Clay Jenkins. This body has limited authority to establish fee amounts; however, like other county executive offices, the Commissioners Court has broad authority over contracts with vendors responsible for collecting fines and fees on the county's behalf. This authority, paired with the Commissioners Court's ability to partner with other entities within the state, positions the Court well to lead and participate in related reform efforts.

In 2018, defendants and probationers in Dallas County paid

approximately \$20.8 million in fines and fees to the District Courts, County Courts and Justice of the Peace (JP) Courts.⁶ The county collected these fines and fees through a variety of mechanisms; for example, Texas statute imposes a mandatory consolidated fee for all criminal convictions. Other fees assessed in Dallas County include:

- Probation and associated fees (e.g., electronic monitoring, drug and alcohol testing);
- Participation fees for specialty courts and vendor fees for court-ordered programs/monitoring;
- Justice of the Peace Courts fines and fees for traffic offenses, driver license suspensions and Class C misdemeanors; and
- Sheriff fees for inmate account deposits, goods and services.

2018 FINE AND FEE REVENUE BY ASSESSING ENTITY⁷

ASSESSING ENTITY	FEES (\$)	FINES (\$)	TOTAL (\$)
County and District Courts	14,110,954	2,835,307	16,946,261
JP Courts	431,171	3,076,620	3,507,790
County Courts Only	290,471	0	290,471
Transaction Fees Collected by All Courts	76,162	n/a	76,162
Unknown	910	0	910
Total	14,909,668	5,911,927	20,821,594

All fees assessed by courts in Dallas County are assigned an exact value, a range or a minimum value. In some instances, statute gives the local government the authority to establish an amount up to a maximum value. While most fees are mandatory, 12 are assessed at the discretion of judges, a transaction fee is assessed at the discretion of the clerks, and the county can allow third-party collections agencies to collect an additional fee. Additional fees related to participation in some specialty court and diversion programs are set by judicial court judges and Dallas County officials.⁸

Fines in Dallas County are assessed within an allowable range that is dependent on the level of offense and may accompany a jail or prison sentence. Judicial court judges have discretion to determine the fine amount and sentence within a wide range, particularly for more serious offenses.

Despite counties' limited authority over fines and fees in Texas, Dallas County has made several reforms to various parts of its justice system.

ALLOWABLE FINE RANGE IN DALLAS COUNTY⁹

OFFENSE CLASS	ALLOWABLE FINE	ALLOWABLE SENTENCE
Class A Misdemeanor	≤ \$4,000	< 1 year
Class B Misdemeanor	≤ \$2,000	≤ 180 days
Class C Misdemeanor	≤ \$500	None
Third Degree Felony	≤ \$10,000	2 ≤ 10 years
Second Degree Felony	≤ \$10,000	2 ≤ 20 years
First Degree Felony	≤ \$10,000	5 ≤ 99 years

In addition to the fines and fees created in state statute, Dallas County contracts with third-party vendors that directly charge fees to defendants under agreements with the county. These vendors charge fees for services like drug testing, classes or programs (e.g., anger management, outpatient treatment), electronic monitoring, Ignition Lock, in-jail phone calls and in-jail medical services. Vendor contracts may contain revenue-sharing agreements in which a percentage of fee revenue is returned to the county.¹⁰

The Texas State Legislature has made efforts to modify statutes related to fines and fees across the state after identifying a need to strengthen procedures in criminal cases and allow justices and judges more flexibility to hold defendants accountable. In 2017, the Legislature passed **S.B. 1913** and **H.B. 351**, which limit criminal judicial authority to issue arrest warrants because of non-payment of fines and fees.¹¹ Additionally, these bills provide judicial officers the flexibility to tailor sentences to prevent undue hardship on defendants and reduce the impact of fines and fees. However, defendants with limited financial means can still accumulate significant debt through the courts, probation and monitoring and programs that are ordered as a condition of probation or alternatives to incarceration.¹²

Fines and Fees Reform in Dallas County

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Reducing Truancy Court Fines and Fees

Though Dallas County's fines and fees initiative is focused on the adult system, the county's journey with addressing fines and fees began with its juvenile justice system and local school district. In 2013, Dallas County reduced fines and fees in its Truancy Court. The Truancy Court, which reports to County Judge Clay Jenkins, previously imposed fines and fees on parents found to be in violation of truancy-related matters (e.g., the maximum fine for Failure to Attend School was \$500). In an effort to address the burdens these fines and fees caused, Dallas County implemented a tiered system of fines and fees for Failure to Attend School and Parent Contributing to Non-Attendance cases.¹³ According to County Judge Clay Jenkins, the momentum gained addressing fines and fees in its juvenile system helped stakeholders consider reforms in the adult system.

Assessing Impact in Dallas County

In the adult system, Dallas County began its reforms by assessing the effects of fines and fees on the Dallas County community. The assessment found that for many county residents, fines and fees had a large financial impact on the families of defendants as they are often the ones that bore the costs of fees associated with phone calls, license reinstatement, bail, etc.¹⁴ Additionally, the assessment found that for fees that resulted in a suspended license, the removal of the license did not have a deterrent effect on driving. According to County Judge Clay Jenkins, this is because individuals who are assessed fees and eventually have their licenses suspended still have to use transportation to maintain their jobs to be able to pay their fines and/or fees.¹⁵ Because many people who have fines and fees imposed on them have limited, if any, income, they often have to make choices about paying their outstanding criminal justice debt or paying for other essentials, such as rent or child care. Failure to pay criminal justice debt can result in difficulty in obtaining credit or employment, leading to a cycle of poverty.¹⁶

Reducing Jail Phone Call Costs

Despite lacking direct authority to eliminate or reduce fines and fees in the county, Dallas County does have wide ranging contract negotiating authority. The county can choose to directly fund its vendors for diversion, monitoring and in-detention services like medical care, commissary deposits and communications, rather than pass those costs onto defendants. For example, in February 2020, the Commissioners Court renegotiated its contract for jail phone calls after receiving feedback from relatives of individuals

incarcerated in the Dallas County Detention Center who were forced to choose between supporting themselves financially or taking phone calls from relatives in the detention center. Under the previous contract, the families of people placed in the jail paid approximately \$4.1 million each year for phone calls and the county received 60 percent of the total jail phone call revenue.¹⁷ Despite estimations that the county would lose approximately \$2.5 million in annual revenue, the Commissioners Court renegotiated the contract to keep families connected and relieve the financial stress of phone calls. The county's contract now has the lowest per-minute cost rate in the country. The county's leadership on its jail phone contract serves as a good model for efforts to reduce the impact of fines and fees through negotiating authority.

Collaborating with the Judiciary and the District Attorney

In addition to renegotiating contracts with vendors, the Dallas County Commissioners Court has worked with the judiciary and Dallas County District Attorney's Office (DA) to proactively reduce the effect of fines and fees during sentencing. The Commissioners Court partnered with the DA to identify areas in which fines and fees could be reduced or eliminated in court proceedings. The DA, for their part, has asked its prosecutors not to recommend fines and fees and has encouraged judges to not levy certain fines and fees. In addition, data on the amount of fines and fees assessed is now available from each judge; the Commissioners Court and the Criminal Justice Advisory Board can use this information in the future to better engage judges in their efforts to reduce or eliminate fines and fees.¹⁸

Developing Political Support

Politically, there is bi-partisan support to eliminate fines and fees in Dallas County; but this has not always been the case. There was reluctance within the county to address fines and fees until the county worked with the Texas State Legislature to reduce the Omni reimbursement fee across the state—a license reinstatement fee charged to indigent defendants. The fee, named after the vendor that operates the failure to appear/failure to pay database, Omnibase, can entangle defendants in additional fines and fees, warrants and jail time.¹⁹ The work with the Texas State Legislature to reduce the Omni fee revealed the impact of the fee on Dallas County residents—over 70,000 people in the Dallas area had their licenses revoked as a result of the Omni fee in 2018.²⁰ Dallas County's work with the Texas State Legislature to reduce the fee and the revelation it produced about the impact of fines and fees in Dallas County helped build political support for continued reform. Since the Omni fee work, county stakeholders have made efforts to consider how other fines and fees initiatives can be implemented in Dallas County.²¹

Developing Community Support

Dallas County leaders have a history of engaging the area faith community, judges, local universities, law schools and think tanks in its criminal justice reform efforts. Those long-standing relationships laid the groundwork for the Dallas County Commissioners Court's efforts to educate the public on this issue and build support for fines and fees reform.

To continue building support, the Commissioners Court is reaching beyond its traditional networks and is seeking support from the local business community. "The local chamber of commerce and other business leaders in Dallas County are a great source of untapped potential to support fines and fees reform work in Dallas County," notes County Judge Clay Jenkins. With their previous support on the county's "Ban the Box" initiative and the reality that fines and fees create barriers to employment, the business community has potential to be a strong ally on this issue.²²

State Reforms

Dallas County's work on criminal justice reform is ongoing, but many of the fines and fees reforms that have been proposed require state legislation.²³ Judge Jenkins and the Commissioners Court are continuing to support state legislation to increase the discretion judicial court judges have in imposing fines and fees and are working with think tanks and evaluation partners to demonstrate how fines and fees impact county residents. Through the work with PFM's Center for Justice & Safety Finance, Dallas County has received several recommendations on what the State of Texas can do to support Dallas County's fines and fees reform and measure impact for scalable solutions. One such recommendation suggests allowing Dallas County to pilot a day fine system—a scaled approach of fines and fees that considers a defendant's income and offense severity to determine an appropriate financial penalty. In a day fine system, offenses are assigned points that equate to the number of days of income a defendant will be required to pay. The more serious an offense, the more days of income a defendant will have to pay. The pilot of a day fine system would generate information policymakers could use to consider changes in state statute.²⁴

Addressing Monetary Impact

Reducing the impact of fines and fees will have a large fiscal impact on Dallas County. Of the nearly \$21 million collected from 69 fines and fees in 2018, the county retained over 70 percent (nearly \$15 million), pursuant to Texas statute which allows the county and state to split revenue from nine different fees. To offset the loss of revenue, with the exception of probation supervision fees, the county would need to identify \$6.2 million in new revenue or savings.²⁵ Judge Jenkins contends, however, that despite any immediate lost revenue from fines and fees reform,

the county stands to avoid significant costs related to collecting fines and fees and incarcerating those who do not pay.²⁶

Dallas County directly bears the costs of collecting fines and fees. Regardless of the amount of a fine or fee, the county has a set amount that it pays for collecting fines and fees through multiple county offices. In 2018, the Dallas County and District Clerks Offices spent \$1.6 million to collect \$6.2 million in court-imposed fines and fees (exempting probation supervision fees which are collected by the Community Supervision and Corrections Department and fines and fees assessed in Justice of the Peace Courts). Each year since 2015, the amount collected by the two offices has decreased, while the cost of collections has increased. If the dollars expended to collect revenue from the County Courts were reduced by 30 percent through a merger or reassignment of responsibilities, the county could save an estimated \$325,000 annually.²⁷

Incarceration costs associated with the failure to pay fines and fees also negatively impacts the county budget. It costs Dallas County \$60 per person per day to house individuals in the local jail. When failure to pay fines and fees results in jail time, the county incurs this cost without a guarantee that the fine levied will be collected.²⁸ The incarceration of those individuals also contributes to the average daily population and average length of stay in the local jail, which enhances jail operating costs. Dallas County spends nearly \$130 million annually on detention costs, including inmate transportation. Overall spending on detention in Dallas County has increased 4.2 percent since 2016, including a 10.8 percent increase in jail medical costs.²⁹ Focused efforts to reduce inmate length of stay can produce savings of up to \$12 million annually or nearly double the revenue impact of the proposed elimination of fine and fee revenue.³⁰

Dallas County expects to reinvest the savings from fines and fees reform back into its criminal justice system to reduce recidivism, improve treatment delivery and to continue to address disparities within the system.³¹

Sustaining Fine and Fee Reform in Times of Lost Revenue

Continuing efforts to reduce the impact of fines and fees during the COVID-19 pandemic has posed challenges for Dallas County. The loss of revenue because of the pandemic has threatened to impede Dallas County's progress on fines and fees reform, but the expected long-term savings of fines and fees reform and improvement to public safety continue to be a driving factor for change in Dallas County. Additionally, according to County Judge Clay Jenkins, "Dallas County has maintained its double triple A bond rating throughout the pandemic, which allowed Dallas county to provide tax relief to Dallas County citizens and spend an extra 5 million dollars on mental health during the pandemic. So, the Dallas County Commissioners Court is confident that significant fines and fees reform can still be achieved during the COVID-19 pandemic."³²

Fines and fees reform is expected to have a long-term fiscal impact in Dallas County and the Commissioners Court is committed to improving public safety and individual outcomes this work. As part of the PFM Fines and Fees Initiative, Commissioners in Dallas County have acknowledged the burdens that fines and fees create for individuals and the negative effect it has on public safety. Per County Judge Clay Jenkins, "The Dallas County Commissioners Court realizes the correlation between poverty and opportunity and understands that a lack of resources and a requirement to pay fines and fees can lead to poor decision-making and recidivism."³³

Even when counties have limited authority over court fines and fees, they can still take steps to reduce fines and fees through collaboration and the contract authority afforded to them. Although Dallas County's fines and fees reform is ongoing, the county's willingness to change and the allies it has to support change can help serve as a blueprint of what counties can do to achieve a fairer and more equitable criminal justice system.

Endnotes

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