

## Long harm of the law: Monetary sanctions and their symbiotic harms

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### TAKEAWAYS

Monetary sanctions include a wide array of fines and fees associated with legal-system involvement, the negative financial implications of which easily spread through broader social networks.

Family members often pay for system-involved individuals' legal fines and fees, stretching already-thin household budgets to do so.

Court actors such as probation officers are known to use coercive tactics to pressure family members to pay legal fines and fees, amounting to state-sanctioned extortion.



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### The United States is often considered an individualistic society.<sup>1</sup>

This generalization overlooks the ways that individuals are deeply embedded within social networks and often rely on those networks to move through the challenges life presents. The criminal justice system also tends to view justice-involved individuals as singular, or atomistic, disconnected from networks of family and friends.<sup>2</sup> However, stressors experienced by system-involved individuals—including financial stressors—are often shared by family members. Negative financial impacts from system involvement radiate through kinship networks, affecting family and friends “who have no warrant out for their own arrest, face no criminal charges, and receive no sentence for confinement,” yet are subject to “conditions very similar to those of people charged with or convicted of a criminal offense.”<sup>3</sup>

Symbiotic harms are the unintended negative effects of legal-system involvement on extended family.<sup>4</sup> We focus here on the effects of monetary sanctions—also called legal financial obligations (LFOs)—and how friends and family of system-involved individuals are burdened by the financial stress of various legal-system fines and fees. Though we use the word family, it is important to recognize the broad nature of kinship ties as including siblings, parents, in-laws, spouses, grandparents, children, close friends, and nonmarried partners.

“Alone among modern punishments,” legal-system fines and fees “effectively dispense with the requirement that the offender bear the burden of the penalty,” write researchers Julia Quilter and Russell Hogg.<sup>5</sup> As a sort of transferrable reprimand, LFOs are unique in that the criminal legal system is generally unconcerned about who endures the punishment of accrued fines and fees.<sup>6</sup> For example, people convicted of criminal offenses—but not their family members—can be electronically surveilled, perform community service, attend driving courses, and serve jail or probation time. Yet family members can and do often pay the legal debts of system-involved individuals. This effectively shifts the financial burden within families, many of which already face significant economic hardships.<sup>7</sup>

Drawing on evidence from a series of semi-structured interviews conducted between 2016 and 2018 at multiple sites across Georgia and Missouri, we find that family members are often coerced into paying their relatives' court-related fines and fees. Monetary sanctions act as both direct and indirect punishment for justice-involved individuals and their families, tending to increase economic hardship, social-emotional distress, and interpersonal conflict within family networks. Below, we focus on how families pay, how court actors (e.g., probation officers, attorneys, etc.) leverage social networks to extract LFO payments, and how these dynamics contribute to interpersonal and familial conflict.

### How families pay

Families provide support to system-involved relatives in many ways. Direct financial support involves money given by friends or relatives to pay fines and fees. Indirect support may include help

with housing, child care, transportation, or help paying other bills. Mothers, grandmothers, sisters, and partners often provide significant support for their (mostly) male court-involved kin.<sup>8</sup> Women tend to also provide the most financial support to formerly incarcerated people during reentry.<sup>9</sup>

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Paying a relative's monetary sanctions can add further distress to families facing financial precarity. Strategies for acquiring money can be complex and burdensome. These strategies involve various degrees of risk and might include pawning material possessions or car titles, using retirement funds and tax refunds, or creating repayment plans in the hopes of future remuneration.<sup>10</sup> Borrowing money from others or relying on credit cards to manage LFO payments essentially "converts the public obligation into a private contractual one, a private debt."<sup>11</sup> Using credit cards may solve a short-term problem but high interest rates, among other risks, can create a spiral of long-term challenges, including problems with housing or auto loans and other financial concerns.

### Leveraging social networks to extract payment

Family members often pay their relatives' fines and fees under pressure from court actors such as probation officers.<sup>12</sup> Interviews with probation officers demonstrate the frequent use of pressure, direct or implied, to leverage the resources of family members in collecting legal debts. Family members feel pressured to pay under threats of force (such as incarceration of the system-involved individual), and often face significant power imbalances in their dealings with probation officers or others.

One probation officer, a White male, explained in our interviews how he placed people under arrest when they could not pay their LFOs as a way to pressure family members into paying up:

I think if anything... back when I started, we were a little more harsh on fee payments and fine payments and other payments, and in fact, very quickly to get yourself into some trouble as an offender would be to get 90 days or more behind, so I think about \$90 at that time . . . and we'll occasionally have little pushes from parole folks, you know, 'Let's get all these people that are behind on fees, and lock them up and let the family come and pay that fee off and that can be their money to get out of jail.'

Such coercion amounts to little more than state-sanctioned extortion, as researchers Mary Pattillo and Gabriela Kirk argue,<sup>13</sup> and act as an enduring feature—not simply a past practice—of fine and fee collection strategies. While Pattillo and Kirk have discussed how court actors apply pressure directly to people assessed with legal debts, we find it commonplace for family members to also be deliberately targeted by parole and probation officers to recoup monetary sanctions. For example, one probation officer described using the threat of incarceration when calling family members: "...listen, Jane here is telling me she can't make these payments, I'm very concerned 'cause I'm [going to] take her back before the court and [if] she don't comply, I don't know what the court's gonna do here."

Leveraging kinship networks to collect fines and fees creates and exacerbates many harms against families. Aside from amplifying economic hardship, coercion can also intensify emotional distress and add strain to often tenuous or fractured social relationships. Specifically, we find that monetary sanctions harm families by causing interpersonal conflict and that collections officials leverage such conflict in seeking payments.

### Instigating conflict

Some evidence suggests that pursuing collections for legal fines and fees sometimes relies on generating or exacerbating preexisting conflict between family members. Young men “on the run” may be pursued through contact with family members, making partners and mothers prime targets of coercion by law enforcement.<sup>14</sup> Conflict within a family or kinship network can often increase when limited household funds are reallocated to pay bail bonds or other fines and fees. Ripple effects of both social strain and economic precarity result.

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Through direct and indirect contact with the criminal legal system, families are often harmed, facing financial precarity, decreased mental and physical health, and strained personal relationships.

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According to one prosecutor, “It’s not uncommon for family members to be involved in the payment of fines . . . . It wouldn’t surprise me if there’s some intrafamily conflict that results from a family member lending . . . money.” This can be especially true in cases of posting bond, a form of support that can avert a jail stay with the promise of payment if the defendant does not show up for a court date. Those who abscond from their court appearance leave family members on the hook, often incurring more debt and fracturing social ties. Despite the power that probation officers wield, we find family members trying to exert some degree of agency, a form of protection against the damaging effects of monetary sanctions.<sup>15</sup>

### Paths forward

Explosive growth in mass incarceration over the second half of the 20th century, and a distinct decline in state and federal prison populations in the past decade—a 28% drop, from about 500 inmates per 100,000 U.S. residents in 2010 to 358 per 100,000 U.S. residents in 2020<sup>16</sup>— gets a lot of attention. But legal fines and fees, sometimes used as an alternative to incarceration, have received relatively less consideration. The symbiotic harms of legal financial obligations permeate social structures far beyond prison systems and can result from, among other things, arrest, trial, and community sanctions.<sup>17</sup> We add monetary sanctions to this list.

Drawing on nearly 250 semi-structured interviews in Georgia and Missouri (see Table 1 for demographic characteristics), we find evidence that family members—particularly women—are routinely coerced by officers of the court to pay their relatives’ legal debts. When families cannot pay, system-involved persons are often threatened with force, such as incarceration. Pressures to find the money to pay legal debts can result in dubious or risky methods for generating quick cash, as well as deep distress and fractured social ties within kinship networks. When limited household resources are used to make court payments, other bills may go unpaid. This creates ripple effects of economic hardship that can take years to stabilize, if ever, and perpetuate and amplify systemic racial and economic inequalities in the United States.

**Table 1. Interview sample of people with debt and court actors in Georgia and Missouri, by demographic characteristics**

Demographic Characteristics	People with Debt (N = 140)	Percentage of People with Debt	Court Actors (N = 96)	Percentage of Court Actors
<b>State</b>				
Georgia	60	42.86	50	52.08
Missouri	80	57.14	46	47.92
<b>Age</b>				
18–29	46	32.86	3	3.13
30–39	40	28.57	22	22.92
40–49	29	20.71	11	11.46
50–59	23	16.43	28	29.17
60–69	1	0.71	9	9.38
70–79	1	0.71	3	3.13
No response	0	0.00	20	20.83
<b>Race</b>				
White	60	42.86	81	84.38
Black	66	47.14	11	11.46
Bi- or multiracial	5	3.57	1	1.04
Other	9	6.43	2	2.08
No response	0	0.00	1	1.04
<b>Gender</b>				
Man	92	65.71	45	46.88
Woman	47	33.57	40	41.67
Transgender	1	0.71	0	0.00
No response	0	0	11	11.46
<b>Marital status</b>				
Never married	74	52.86	–	–
Living with partner	17	12.14	–	–
Married	22	15.71	–	–
Separated-divorced	23	16.43	–	–
Widowed	4	2.86	–	–
<b>Employment status</b>				
Employed	59	42.14	–	–
Unemployed	81	57.86	–	–
<b>Conviction type</b>				
Felony	40	28.57	–	–
Misdemeanor	22	15.71	–	–
Both	70	50.00	–	–
No response	8	5.71	–	–
<b>Job title</b>				
Judge	–	–	30	31.25
Prosecutor	–	–	10	10.42
Defense attorney	–	–	18	18.75
Court clerk	–	–	15	15.63
Probation officer	–	–	23	23.96

**Source:** Authors' calculations.

To curb the real and existing harm of legal debt on family networks, we first suggest eliminating legal penalties for nonpayment. This would reduce coercive tactics used by court actors against family members and reduce the significant distress such tactics cause. We also recommend devising clear guidelines for assessing defendants' ability to pay (decoupled from the financial information of family members) and eliminating the garnishment of commissary accounts and prison wages. More ambitiously, we suggest

substantially reducing, if not entirely eliminating, the scope of fines and fees, especially for traffic violations. Ideally, this would be accompanied by a reduction in the use of LFOs to raise revenue and reduced reliance on private, profit-motivated agencies for debt collection.<sup>18</sup> ■

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<sup>1</sup>Based on: Boches, D. J., Martin, B. T., Giuffres, A., Sanchez, A., Sutherland, A. L., & Shannon, S. K. S. (2022). Monetary sanctions and symbiotic harms. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 8(2), 98–115. <https://doi.org/10.7758/RSF.2022.8.2.05>

<sup>2</sup>Comfort, M. (2007). Punishment beyond the legal offender. *Annual Review of Law and Social Science*, 3(1), 271–296. <https://doi.org/10.1146/annurev.lawsocsci.3.081806.112829>

<sup>3</sup>Comfort, (2007), p. 275.

<sup>4</sup>Condry, R. & Minson, S. (2020). Conceptualizing the effects of imprisonment on families: Collateral consequences, secondary punishment, or symbiotic harms? *Theoretical Criminology*, 25(4), 540–558. First published online January 28, 2020. <https://doi.org/10.1177/1362480619897078>

<sup>5</sup>Quilter, J. & Hogg, R. G. (2018). The hidden punitiveness of fines. *International Journal for Crime, Justice, and Social Democracy*, 7(3), 10–40. Quote from p. 15. <https://doi.org/10.5204/ijcjsd.v7i3.512>

<sup>6</sup>O'Malley, P. (2013). Monetized Justice: Money and punishment in consumer societies. In *The Sage Handbook of Punishment and Society*, J. Simon & R. Sparks (Eds.). London: Sage Publications; Quilter & Hogg, (2018). The hidden punitiveness of fines. *International Journal for Crime, Justice, and Social Democracy*, 7(3), p. 15. <https://www.crimejusticejournal.com/article/view/914>

<sup>7</sup>Katzenstein, M. F. & Waller, M. R. (2015). Taxing the poor: Incarceration, poverty, governance, and the seizure of family resources. *Perspectives in Politics*, 13(3), 638–656. <https://doi.org/10.1017/S153759271500122X>

<sup>8</sup>O'Neill, K., Smith, T., & Kennedy, I. (2022). County dependence on monetary sanctions: Implications for women's incarceration. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 8(2), 157–172. <https://www.rsjournal.org/content/8/2/157>

<sup>9</sup>Western, B., Braga, A. A., Davis, J., & Sirois, C. (2015). Stress and hardship after prison. *American Journal of Sociology*, 120(5), 1512–1547. <https://www.journals.uchicago.edu/doi/10.1086/681301>

<sup>10</sup>deVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Oakland, CA: Ella Baker Center for Human Rights, Forward Together, and Research Action Design. <https://ellabakercenter.org/wp-content/uploads/2022/09/Who-Pays-FINAL.pdf>

<sup>11</sup>Quilter & Hogg, (2018), p. 15.

**Type of analysis:** Qualitative

**Data source:** Sub-set of data from the Multi-State Study of Monetary Sanctions\*

**Type of data:** Semi-structured interviews

**Sample definition:** Interview subjects included 140 people with legal debt and 96 court actors (i.e., judges, attorneys, clerks, and probation officers) in Georgia and Missouri.

**Time frame:** 2016 to 2018

**Limitations:** No family members of justice-involved individuals were interviewed. Sample focused on cases where justice-involved individuals had trouble paying their legal debt. As such, sample does not capture those who could afford to pay debts and thus avoid future court involvement. Data from court actors is limited due to some prosecutors' reluctance to participate.

\*Harris, A., Pattillo, M. & Sykes, B. L. (2022). Studying the system of monetary sanctions. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 8(2), 1–33. <https://doi.org/10.7758/RSF.2022.8.2.01>

<sup>12</sup>Piak, L. & Packard, C. (2019, Nov.). *Impact of juvenile justice fines and fees on family life: Case study in Dane County, WI*. Houston, TX: Arnold Ventures. <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>

<sup>13</sup>Pattillo, M. & Kirk, G. (2020). Pay unto Caesar: Breaches of justice in the monetary sanctions regime. *UCLA Criminal Justice Law Review*, 4(1), 66–70. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8232883/>

<sup>14</sup>Goffman, A. (2014). *On the Run: Fugitive life in an American city*. Chicago: University of Chicago Press.

<sup>15</sup>Condry & Minson, (2020), p. 12.

<sup>16</sup>Carson, A.E. (2021, Dec.). *Prisoners in 2020 – Statistical tables*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 302776. <https://bjs.ojp.gov/content/pub/pdf/p2ost.pdf>

<sup>17</sup>Condry & Minson, (2020), p. 2.

<sup>18</sup>Friedman, B., Harris, A., Huebner, B. M., Martin, K. D., Pettit, B., Shannon, S. K. S., & Sykes, B. L. (2022). What is wrong with monetary sanctions? Directions for policy, practice, and research. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 8(1), 221–243. <https://www.rsfjournal.org/content/8/1/221>

## Research to Watch

### Racial Health Disparities and Managing the Stress of Legal Debt

Being assessed monetary sanctions (i.e., criminal justice fines and fees) is stressful for justice-involved individuals. Legal debt exacerbates family conflict, makes it difficult to secure stable housing, and hinders people’s ability to find and keep work. Not surprisingly, the stress associated with fines and fees can negatively impact health, such as anxiety and depression. With that said, access to certain psychosocial resources, such as family support and a perception of control over one’s life, can buffer the negative health consequences of legal debt. These resources, however, are not evenly distributed across social groups. As a result, in future research, we anticipate exploring the psychosocial resources that people rely on when managing the stress associated with being assessed court-ordered fines and fees, and whether there are any racial differences in the use of these resources. Our data come from 54 semi-structured interviews with Black and White people in Georgia who were assessed criminal legal debt. This research is important as it will provide better understandings of how contact with the criminal justice system contributes to racial health disparities.

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