

Court fees criminalize low-income defendants

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TAKEAWAYS

Fines and fees associated with legal-system involvement are common and often applied to defendants who have no reasonable ability to pay, extending legal-system involvement by criminalizing poverty.

In a randomized controlled trial of court-related fee relief for misdemeanor charges in Oklahoma County, Oklahoma, fee relief is not associated with new criminal charges, convictions, or jail bookings within 12 months.

Levying court-related debts on low-income defendants appeared to neither cause nor reduce new crime, with little financial benefit obtained by local government seeking collections.



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Court-related fines and fees often penalize low-income

defendants beyond their reasonable ability to pay.¹ Unpaid fines and fees accrue penalties which can extend court-system involvement—not for new crimes but simply for nonpayment. We see the extent to which low-income communities are surveilled and controlled as indicators of criminalized socio-economic inequality, where economically disadvantaged people are relegated to greater oversight and a lower status of citizenship, similar in many ways to people on probation and parole.² Court-related monetary sanctions create several types of burdens that amplify inequality within criminal justice systems. Extracting financial resources from low-income communities extends the reach of law enforcement in ways that have been characterized by legal-system researchers as exploitative and predatory,³ akin to “drawing blood from stones”⁴ (also see Page & Soss, this issue). In short, people facing chronic economic hardship are regularly penalized for their inability to pay criminal justice system fines and fees.

While a large body of research has examined the effects of prison incarceration on poverty and inequality,⁵ looking beyond imprisonment allows researchers to focus on aspects of the criminal justice system such as misdemeanor court processing and jail incarceration.⁶ Legal fines and fees have proliferated in both type and typical amounts since the 1980s.⁷ They can include punitive charges imposed for low-level offenses; fees charged for court costs, incarceration, and drug tests; and surcharges and penalties associated with unpaid legal debt.

Randomized controlled trial: Oklahoma County, Oklahoma

If legal financial obligations criminalize poverty, what would happen to criminal justice involvement if misdemeanor criminal defendants were relieved of legal debt? To answer this question, we developed a randomized controlled experiment where a group of misdemeanor court defendants in Oklahoma County, Oklahoma, were relieved of their legal debt and compared to a control group who faced the usual array of fines and fees.

A misdemeanor conviction in Oklahoma County can regularly involve over \$1,000 in court-related fees, often adding to previous legal debt for defendants. Individuals in our experimental treatment group (295 people) were relieved of all current and prior fines and court costs (relative to Oklahoma

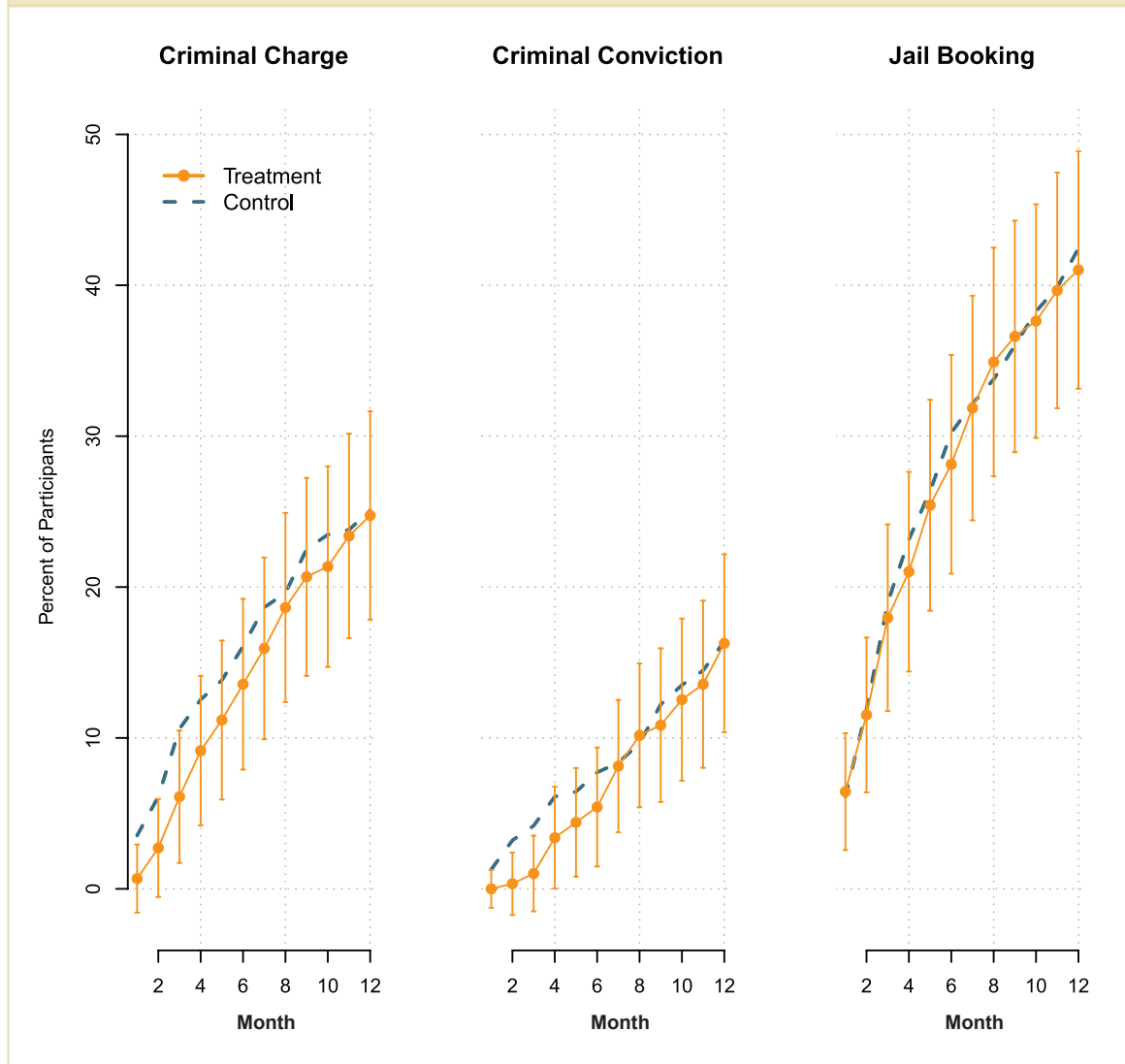
The growth of fines and fees widens the net of criminalization, a social phenomenon where elements of social life are defined as criminal through state-sponsored enforcement, surveillance, labeling, and punishment.

Jenness, V. (2004). Explaining criminalization: From demography and status politics to globalization and modernization. *Annual Review of Sociology*, 30, 147–171.

County only, not other jurisdictions), including probation and prosecution fees for current cases. With their permission, we tracked this group of study participants for twelve months and tallied all new criminal charges and convictions, new court actions, and debt payments.

The element of randomization increases our confidence in claims regarding the causal effects of fee relief on later criminal justice system involvement. If the accumulation of fines and fees generates ongoing contact with the criminal justice system, then we would expect to find fee relief associated with reduced police contact, court monitoring, and incarceration. Among participants in this study, those who experienced fee relief were significantly less likely to experience new criminal charges, and had a lower rate of new criminal convictions, in the subsequent three months after fees were paid; these participants were also no more likely than the control group (311 people) to have new legal system involvement after twelve months, as seen in Figure 1. Results suggest that fee relief can reduce crime among participants for several months but, after about 12 months, fee relief neither contributes to new crime nor does it appear to have a deterrent effect.

Figure 1. Mean levels of new criminal justice contact for treatment and control groups in the 12 months after randomization, Oklahoma County.

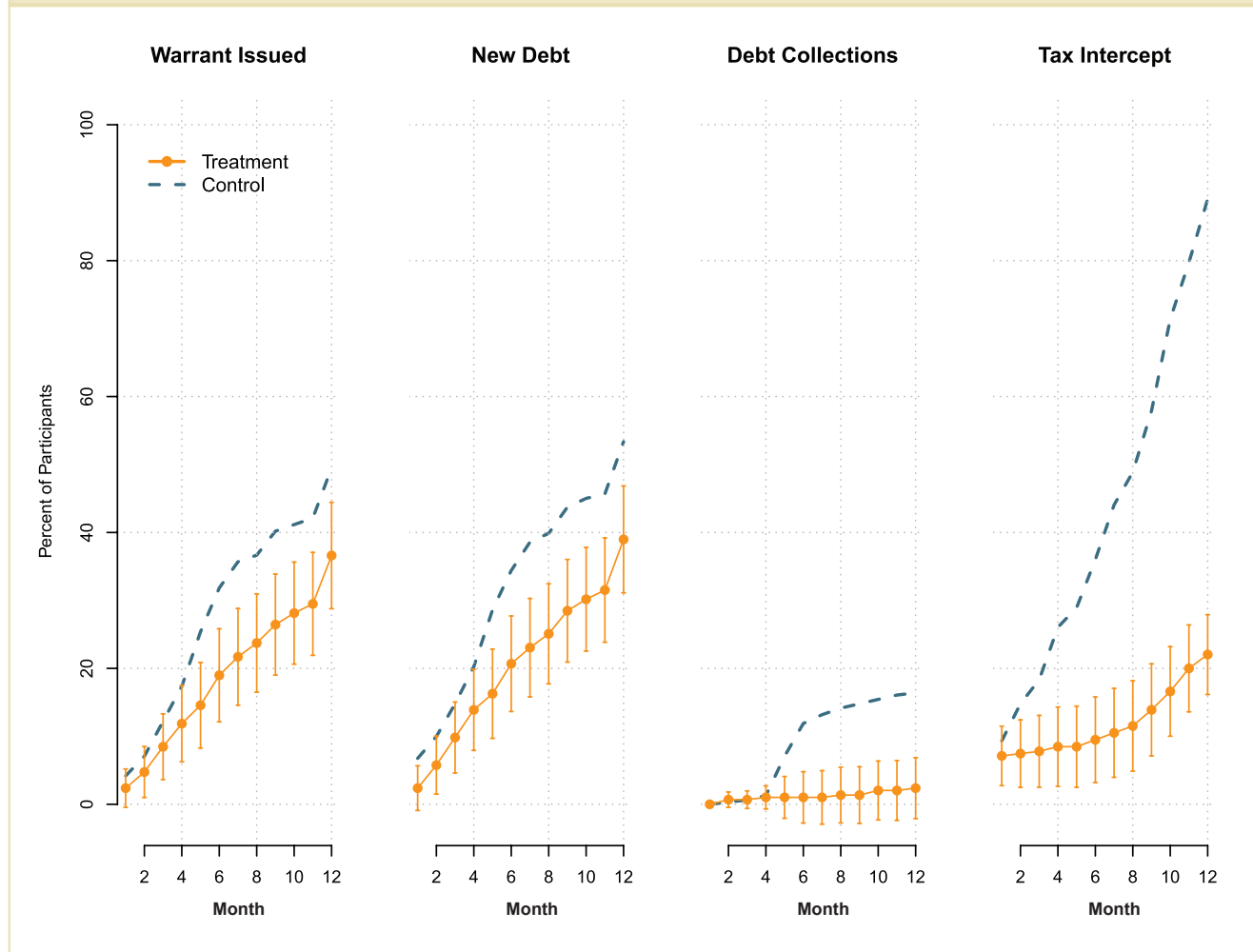


Source: Pager, D., Goldstein, R., Ho, H., & Western, B. (2022). Criminalizing poverty: The consequences of court fees in a randomized experiment. *American Sociological Review*, 87(3), 1-25. <https://doi.org/10.1177/000312242211075783>

Note: Ninety-five percent confidence intervals are indicated for the treatment group.

Fee relief did significantly reduce ongoing court involvement by generally eliminating court efforts to collect outstanding debt. Overall, the treatment group was much less likely than the control group to receive new warrants, be assessed new legal debt, have state tax refunds withheld, or see their cases referred to private debt collectors, as seen in Figure 2. On the other hand, individuals in the control group were more likely to make payments on their court fees but, because of the financial constraints most participants face, legal fee payments constituted only a small fraction of total debts owed. This suggests that extensive efforts at debt collection are largely ineffective in the court’s pursuit of recovering legal fees as a revenue stream for the court.

Figure 2. Mean levels of new court actions for treatment and control groups in the 12 months after randomization, Oklahoma County.



Source: Pager, D., Goldstein, R., Ho, H., & Western, B. (2022). Criminalizing poverty: The consequences of court fees in a randomized experiment. *American Sociological Review*, 87(3), 1-25. <https://doi.org/10.1177/00031224221075783>

Note: Ninety-five percent confidence intervals are indicated for the treatment group.

Defendants facing onerous legal fines and fees tend to also be enmeshed in financial and personal health challenges—criminal justice debt being just one potential source of social and financial stress. By pursuing debt collections among people unable to make payments, court systems can exacerbate rather than alleviate the conditions of systemic inequality. Unmet legal financial obligations can trigger further court actions including increased surveillance and interaction with court-related actors (e.g., probation officers). Poverty, housing instability, employment status, untreated mental illness, and substance abuse disorders can all disrupt regular payments for prior court debt. When legal debt accrues, courts can issue warrants, create payment plans, or initiate collections attempts through private

debt collectors.⁸ Efforts by courts to maintain oversight and extract payments can prolong system involvement, often surpassing a defendant's original sentence;⁹ for relatively low-level offenses (i.e., misdemeanors), coercive tactics can be proportionately large and extend system involvement for years.

Some limitations of this experiment include a relatively limited sample size of about 300 participants each in the treatment and control groups. As such, the statistical power of our analysis allowed us to detect relatively large effects, yet with a larger sample, more nuanced evidence may have emerged. Also, we were only able to alleviate fines and fees relative to Oklahoma County, not the local municipality (Oklahoma City) or other jurisdictions. Relief of all legal debts for participants may have produced stronger effects. Last, given our use of court administrative records, direct observation of participant behavior was not possible; while court records offer reliable measures in many respects, we do not consider aspects of fee relief on participants' sense of economic security or subjective well-being.

If legal financial obligations criminalize poverty, what would happen to criminal justice involvement if misdemeanor criminal defendants were relieved of legal debt?

Policy implications

Three potential routes for policy innovation emerged through this study. First, courts could significantly reduce debt collections efforts by court clerks through private debt collectors. The financial gain for courts is very low and aggressive debt collection efforts tend to do more harm than good in these circumstances.

Second, our evidence suggests that overall forgiveness of outstanding criminal justice fees (e.g., in California [CA AB-1869] and San Francisco [SF Ord. 131-18]) would have little to no effect—positive or negative—on recidivism or court finances. Fee forgiveness would, however, limit court supervision rooted in poverty and represent an effort to repair the negative effects of prior policy regarding monetary sanctions.

Third, abolishing user fees in criminal courts would have negligible effects on crime but would limit or eliminate expensive and ineffective cost-recovery efforts. Monetary sanctions are a complex system but there's little evidence they effectively reduce criminal justice involvement. Abolishing excessive court-related fines and fees would de-link criminalization and poverty in at least one sector of the U.S. criminal justice bureaucracy. ■

Devah Pager was the Peter and Isabel Malkin Professor of Public Policy and Professor of Sociology at Harvard University. Devah passed away before this research could be completed and this work is dedicated in her memory.

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⁸Based on Pager, D., Goldstein, R., Ho, H., & Western, B. (2022). Criminalizing poverty: The consequences of court fees in a randomized experiment. *American Sociological Review*, 87(3), 1–25. <https://doi.org/10.1177/00031224221075783>

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Type of analysis: Quantitative, randomized experiment

Data sources: Baseline survey, administrative court records, and county jail records in Oklahoma County, Oklahoma.

Sample definition: Individuals charged with a misdemeanor offense and represented by the Oklahoma County Public Defender's Office (excluding cases involving driving-under-the-influence and domestic violence, per DA's request).

Time frame: Study respondents recruited between September 2017 and January 2019, randomized through March 2019.

Limitations: Results are likely generalizable to other jurisdictions but may underestimate effects on criminal justice involvement for more punitive court systems.