

**RECOMMENDATIONS
OF THE LOUISIANA COMMISSION
ON
JUSTICE SYSTEM FUNDING**

To The

LOUISIANA STATE LEGISLATURE

In Response To

**HOUSE CONCURRENT RESOLUTION NO. 87
OF THE 2019 REGULAR LEGISLATIVE SESSION**



FEBRUARY 1, 2020

**LOUISIANA COMMISSION ON JUSTICE
SYSTEM FUNDING
RECOMMENDATIONS TO THE LEGISLATURE**

For The

2020 LEGISLATIVE SESSION

1. The Commission should be reconstituted with an expanded mandate to examine criminal fines, fees, and costs assessed in all courts, including but not limited to mayor's courts, municipal courts, city courts, parish courts, and district courts.
2. The legislature should require uniform reporting by all those that assess, collect, or receive revenue from pre or post-adjudication costs, fines, and fees, what costs, fines, and fees are assessed, how they are collected and disbursed, and how much is spent on collecting.

EXHIBIT I

WILL OF THE COMMISSION

Of

POSSIBLE AREAS OF LEGISLATION TO CARRY OUT THE COMMISSION RECOMMENDATIONS AND FOR USE BY THE RECONSTITUTED COMMISSION

a. The Commission should be reconstituted with an expanded mandate to examine criminal fines, fees, and costs assessed in all courts, including but not limited to mayor's courts, municipal courts, city courts, parish courts, and district courts and should develop recommendations relative to:

- i. Developing definitions for the various types of legal financial obligations, the court system, and core/essential court functions;
- ii. Determining the amount needed from state and local general revenue funds that would enable courts to substantially reduce reliance on self-generated revenue;
- iii. Identifying fees and costs that can be eliminated, beginning with self-generated funds assessed by the courts;
- iv. Creating a system for collecting, disbursing, and tracking collected amounts, including partial payments; and
- v. Proposing statutory safeguards that ensure adequate court funding and limit the use of self-generated funds to cover essential court functions;
- vi. Expanding Commission membership to include a limited jurisdiction court judge and up to two members of local government.

b. The legislature should require uniform reporting by all those that assess, collect, or receive revenue from pre or post-adjudication costs, fines, and fees, what costs, fines, and fees are

assessed, how they are collected and disbursed, and how much is spent on collecting. Additionally, the legislation should:

- i. Include an immediate reporting requirement to allow for a reconstituted Commission to determine the amount of funding needed to replace user fees;
- ii. Create an ongoing annual reporting requirement to ensure transparency and accountability around the assessment and use of fines and fees;
- iii. Include enforcement mechanisms to incentivize compliance;
- iv. The uniform reporting should include, but not be limited to, amounts assessed or imposed, amounts collected, amounts outstanding, and amounts disbursed;
- v. The legislative auditor should develop Agreed-Upon Procedures (AUPs) to provide for uniform reporting from all agencies required to report.

EXHIBIT II

REPORT DISCUSSED BY THE COMMITTEE

On

JANUARY 30, 2020

INTRODUCTION

The Louisiana Legislature passed House Concurrent Resolution 87 during the 2019 regular legislative session. A copy of the resolution is attached as Exhibit A. The resolution created the Louisiana Commission on Justice System Funding and tasked the Commission as follows:

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the creation of the Louisiana Commission on Justice System Funding to study current financial obligations of criminal defendants and how those financial obligations are used to fund and subsidize core functions of the Louisiana court system, and to study and determine optimal methods of supporting and funding the Louisiana court system in a way that would allow for the implementation of changes made in Act No. 260 of the 2017 Regular Session of the Legislature¹.

The Commission was to hold its first meeting prior to September 1, 2019, and present its initial findings and recommendations to the governor and legislature no later than February 1, 2020. In accordance with its provisions, the chair of the commission created by the resolution, the Louisiana Commission on Justice System Funding, requested identification of the designees from the entities listed in the resolution and convened the Commission with the following members, listed in order and numbered as in the resolution:

- (1) Rep. Tanner Magee, the author of Act No. 260 of the 2017 Regular Session of the Legislature, co-chair of the commission.
- (2) Ms. Leslie Chambers, designee of the governor.
- (3) Chief Justice Bernette J. Johnson, the chief justice of the Louisiana Supreme Court.
- (4) Rep. Blake Miguez, designee of the speaker of the House of Representatives.
- (5) Sen. Rick Ward, designee of the president of the Senate.
- (6) Rep. Sherman Mack, the chair of the House Committee on Administration of Criminal Justice.
- (7) Rep. Joseph A. Marino, III, designee of the chair of the House Committee on Judiciary.
- (8) Sen. Gary Smith, the chair of the Senate Committee on Judiciary B.
- (9) Sen. Dan Claitor, the chair of the Senate Committee on Judiciary C.
- (10) Ms. Molly Lancaster, designee of the attorney general.
- (11) Ms. Natalie Laborde, designee of the secretary of the Department of Public Safety and Corrections.

¹ HCR 87 of 2019, pg. 3.

(12) Mr. Rick McGimsey, a representative from the division of administration appointed by the commissioner of administration and co-chair of the commission.

(13) The president of the Louisiana Sheriffs' Association or his designee – none.

(14) Mr. Richard Berger, a probation and parole officer appointed by the Louisiana Probation and Parole Association.

(15) Mr. Bo Duhe and Mr. Loren Lampert, two district attorneys appointed by the president of the Louisiana District Attorneys Association.

(16) Ms. Lindsay Blouin, a public defender appointed by the State Public Defender Board.

(17) Judge Lori Landry, appointed by the chief justice of the Louisiana Supreme Court and Judge Glenn Ansardi, appointed by the Louisiana District Judges Association.

(18) Ms. Debbie Hudnall, the president of the Louisiana Clerks of Court Association.

(19) Ms. Dayna Andry and Mr. Norris Henderson, representatives from Louisianans for Prison Alternatives.

(20) Ms. Renee Amar and Mr. Scott Peyton, representatives from the Louisiana Smart on Crime Coalition.

Meetings of the Commission were conducted on the following dates:

August 29, 2019

September 12, 2019

October 10, 2019

November 14, 2019

January 9, 2020,

January 30, 2020

As provided in the resolution, the division of administration and the office of the judicial administrator of the Louisiana Supreme Court provided administrative assistance and staffing to the commission to assist it in conducting its meetings and accomplishing its duties.

A quorum of Commission members attended each of the meetings. The minutes of each meeting are attached as Exhibit B. The meetings were recorded and the video recording is available on the legislative website.

The Commission heard presentations from the Louisiana Supreme Court, the Louisiana Legislative Auditor, the Louisiana Public Defender Board, and the National Center for State Courts. Written materials from those presentations and any other written materials reviewed by the Commission are attached as Exhibits C and D.

As provided in the resolution, the Commission prepared its initial findings and recommendations. Those recommendations and findings are submitted as part of this report.

INITIAL FINDINGS AND RECOMMENDATIONS
OF
THE LOUISIANA COMMISSION ON JUSTICE SYSTEM FUNDING

I. Commission Background

The Louisiana Justice System Funding Commission was established by House Concurrent Resolution 87 in 2019 to research and recommend ways to fund the court system while allowing Act 260 to be implemented. Act 260 (HB 249) is one of the ten bills that make up Louisiana’s 2017 Reinvestment Initiative (JRI) reforms. Signed into law in 2017, the package of bills was designed to steer people convicted of less serious crimes from prison, strengthen alternatives to incarceration, reduce prison terms for those who can be safely supervised in the community, and to remove barriers to successful reentry. Act 260 intends to ensure that criminal justice fines and fees do not become a barrier to successful reentry by determining a person’s ability to pay, creating a payment plan that people can comply with, creating incentives for consistent payments, and differentiating inability to pay vs. a choice not to pay.²

Act 260 was to be effective on August 1, 2018. However, during the 2018 legislative session the effective date was delayed by one year to August 1, 2019. The effective date was pushed back once again in 2019, the bill has been repeatedly delayed due to concerns about how the courts will be funded if they can’t collect fines and fees that are a major source of their funding.

II. Commission Findings

The Commission hereby finds that:

- a. Courts are a basic civic function that should be funded primarily from general government revenue sources

Courts are a fundamental institution of governance and democracy. Criminal courts are tasked with the vital duty of protecting public safety. The public reasonably expects courts to adjudicate cases impartially, and for the criminal justice system to prioritize enforcing laws for the good of public safety, rather than revenue generation. However, as discussed below, the current system in Louisiana compromises these values by relying substantially on fines and fees to fund the local

² Louisiana Department of Public Safety & Corrections Louisiana Commission on Law Enforcement: Louisiana’s Justice Reinvestment Reforms First Annual Performance Report, (June 2018), http://gov.louisiana.gov/assets/docs/JRI/LA_JRI_Annual_Report_FINAL.PDF

courts. Courts should be funded primarily from general revenue, not from user fines and fees. As the Council of State Court Administrators has stated, “It is as illogical to expect the judiciary to be self-supporting through user fees as it would be to expect the executive or legislative branches of government to be funded through user fees.”³

b. Louisiana’s court system is overly reliant on fines and user fees

Louisiana has a tiered court funding system in which state appropriations vary by court level. While state appropriations cover the majority of appellate court funding, at the district court level the state covers only judges’ salaries and benefits, travel, and some office expenses. At the city and parish courts level, the state appropriation covers only a portion of judges’ salaries.⁴

As a result, district, parish, and city courts rely heavily on a combination of self-generated court costs and local government support to finance court operations. In the case of district courts, the parish Clerk’s office maintains the records of district court proceedings, providing services to the courts including document processing, case management software, and clerks to staff and preserve court proceedings. These services are covered entirely by user fees as the Clerk does not receive any state funding.

The parish government contributes at varying levels and is typically responsible for the court building (which may house other parish government offices) and its maintenance. Security services and collection services may be provided by the sheriff or other law enforcement agency and are partly supported by user fees assessed by the courts. Prosecutors and public defenders are funded by a combination of self-generated funds, user fees assessed by the courts, and state appropriations separate from the appropriation for the judiciary. These agencies’ reliance on such funding raises its own concerns about their incentives to serve the public. For instance, the state public defender board collects a \$45 “special cost” that is assessed only if their client is found guilty—significantly undermining public trust in the agency.⁵

Beyond these contributions, or in the absence of them, much of the responsibility for managing and funding daily court operations (including misdemeanor probation) falls to each district court’s administrators and judges. In an estimate using audits submitted to the Legislative Auditor in 2018, self-generated funds covered 51% of district court expenditures.

As with district courts, the parish and/or city government contributes to city and parish courts at varying levels and are typically responsible for the court building, which may also house other local government offices. However, city and parish courts receive less state funding and also entirely fund clerk operations (city courts only) as well as misdemeanor probation. As a result, city and parish courts rely more heavily than district courts on self-generated funds; 71% of their

³ Conference of State Court Administrators, 2011-2012 Policy Paper: Courts Are Not Revenue Centers, available at <https://www.csgjusticecenter.org%2Fwp-content%2Fuploads%2F2013%2F07%2F2011-12-COSCA-report.pdf&usg=AOvVaw302466SdyHgs-4YcUOSNvk>

⁴ Act 60 of 2019 and previous years’ legislation to appropriate funds to defray the expenses of the Louisiana Judiciary

⁵ La. R.S. 15:168(B); ⁵ Presentation to the Commission of the Louisiana Public Defender Board, November 14, 2019.

2018 expenditures were covered by self-generated funds according to estimates based on Legislative audits.

- c. Additionally, local governments rely significantly on fines assessed by local courts, thereby exacerbating the problem of an overreliance on fines and fees.

While the lack of state funding forces judicial system stakeholders to rely on user fees or “court costs,” the flow of fine revenue to local government agencies creates a separate structural problem. At the district court level, fine revenue is generally placed in a criminal court fund that is shared by the sheriff, court, and district attorney. At the city, parish, and mayor’s courts, fine revenue usually goes to either the local government general fund or the parish general fund and can become an important source of funding.⁶

While Louisiana is not the only state wherein both state and local government agencies generate revenue through court fines and fees, it assesses more in total fines per adult resident than nearly every other state. According to research based on recent Louisiana audits, 21 localities in Louisiana have assessed over \$500 in fines and fees per adult resident.⁷ In addition, more localities in Louisiana receive over half of their general revenue from court fines, forfeitures, and fees than in any other state.⁸

Of the 80 localities nationwide that draw more than half of their revenue from fines, fees and restitution, 25 were in Louisiana.⁹ To illustrate: a recent survey found that Georgetown, LA was the most reliant on fines and fees of all localities nationally. This small town of just 500 residents collected \$500,000 in fines, which accounted for 92% of its general revenue. In 2017 Fenton, LA, a town of fewer than four hundred people¹⁰, collected \$1.2 million in fines which accounted for 91% of its general fund revenue for that year.¹¹ These numbers illustrate the enormous financial burden that Louisiana’s user-funded justice system places on its citizens.

- d. The current system is an ineffective and unreliable source of funding

Louisiana’s current method of funding its courts through the collection of fines and fees is ineffective. It does not allocate funding based on the actual needs of the court.¹² Rather, funding is dependent on the ability of that jurisdiction to generate revenue from fines and fees.

⁶ La. R.S. 15:571.11(A)(2); La. R. S. 13:2563.16; La. R.S. 13:2562.8.

⁷ Governing: The States and Localities, Local Government Fine Revenues By State, available at <https://www.governing.com/gov-data/other/local-governments-high-fine-revenues-by-state.html>.

⁸ Governing: The States and Localities, Local Government Fine Revenues By State, available at <https://www.governing.com/gov-data/other/local-governments-high-fine-revenues-by-state.html>.

⁹ Governing: The States and Localities, Local Government Fine Revenues By State, available at <https://www.governing.com/gov-data/other/local-governments-high-fine-revenues-by-state.html>.

¹⁰ 2010 Census, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkml>.

¹¹ Id

¹² See Brennan Center, The Steep Costs of Criminal Justice Fees and Fines, November 21, 2019, 6. Available at https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf.

Further, the costs of collecting these fines and fees is disproportionate to, and sometimes greater than, the revenue that is ultimately collected. In some states, localities spend roughly 121 times what the IRS spends to collect taxes, and some localities spend more money to collect than they take in.¹³ Localities that jail people who are unable to pay fees and fines spend up to 115 percent of the amount collected and generate no revenue in return.¹⁴ In 2015, the City of New Orleans spent \$6.4 million to detain people jailed solely because they couldn't pay and collected just \$4.5 million in fines and fees—spending \$1.9 million more than it collected.¹⁵

In addition, analyses of fines and fees may significantly underestimate the true cost of collection, as they may not take into account the web of collateral consequences faced by people who are unable to pay, and also do not take into account the burden on court and law enforcement resources that must devote time to enforcing fines and fees on those who can't pay. To illustrate, many courts require multiple additional appearances by defendants simply to pay outstanding fines or fees, each of which draws upon the time and resources of judges and court staff that could otherwise be deployed on active cases.¹⁶

Despite the immense cost and effort expended to collect fines and fees, they are an unpredictable source of funding. “A substantial portion of fees and fines is never collected and is likely uncollectable, meaning that these assessments are an unreliable source of government revenue that will always come up short.”¹⁷

Moreover, fines and fees can vary greatly year-to-year, leaving court and other agency administrators at the whim of the number of traffic tickets written, crimes committed, and people able to pay in any given year.¹⁸

e. The current system lacks accountability and transparency

The Commission's attempts to investigate and understand the current state of court funding has revealed a lack of basic information about how fines and fees are assessed, collected, and disbursed. The Legislative Auditor, who was tasked with surveying several district courts, reported that there is no standardized system for tracking how much money is collected in fines versus user fees, how such moneys are disbursed between the various agencies that receive

¹³ For example, one New Mexico county spent \$1.17 to collect every dollar raised through fines. In Texas, criminal courts spent \$27.4 million on collection activities, including paying the salaries, benefits, and operating costs of approximately 750 employees. See Brennan Center, *The Steep Costs of Criminal Justice Fees and Fines*, November 21, 2019, 5, 9, 26. Available at https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf.

¹⁴ https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf at 5.

¹⁵ Vera Institute of Justice, *Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans*, January 2017, available at <https://www.vera.org/publications/past-due-costs-consequences-charging-for-justice-new-orleans>.

¹⁶ Presentation to the Commission of the Louisiana Public Defender Board, November 14, 2019.

¹⁷ Brennan Center, *The Steep Costs of Criminal Justice Fees and Fines*, November 21, 2019, 10. Available at https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf.

¹⁸ Case filings fluctuate and have been decreasing statewide since at least 2013. See Louisiana Supreme Court Annual reports. The reports are available at http://www.lasc.org/press_room/annual_reports/default.asp.

these funds, and what resources are spent on collection. Indeed, in many cases the legislative auditor could not discern which fees each court assessed. This extreme level of opacity creates conditions ripe for abuse.¹⁹

f. The current system harms vulnerable communities

Funding courts through fines and fees entrenches poverty and racial disparities. The 2017 Congressionally-mandated U.S. Commission on Civil Rights reported that some municipalities target poor communities of color, jailing those who are unable to pay fines and fees and undermining public confidence in the judicial system.²⁰ In 2012, the 50 U.S. cities with the highest percentage of revenue coming from fines and fees had African American populations five times greater than the national average.²¹

Moreover, it is not just those who are charged and convicted who suffer. Family members and friends are frequently impacted by this system. For example, middle-aged African American women were the most likely to contribute to paying other people's court debts.²²

The Louisiana legislature addressed these problems when it passed Act 260 in 2017, which sought "to ensure that criminal justice fines and fees do not become a barrier to successful reentry by determining a person's ability to pay . . ." and evidenced widespread political support for change. Specifically, Act 260 of 2017 requires the judge to consider, prior to ordering the imposition or enforcement of any financial obligations "whether payment in full of the aggregate amount of all the financial obligations to be imposed upon the defendant would cause substantial financial hardship **to the defendant or his dependents.**"²³

g. The current system jeopardizes public safety

Relying on fines and fees as a funding source fundamentally compromises the criminal justice system's ability to deliver on its primary mandate: to protect the public. A 2018 study revealed

¹⁹ For example, in Fenton, LA, the legislative auditor found that thousands of dollars in cash payments for traffic citations had never been deposited into the Village's back account, and that this failure went unnoticed because the Village "did not have adequate written policies and procedures for the collection of traffic citation fines." Louisiana Legislative Auditor, Village of Fenton, July 5, 2018, available at:

[https://www.la.gov/PublicReports.nsf/88EEC6BA30F64D34862582BE0078DF03/\\$FILE/000199C6.pdf](https://www.la.gov/PublicReports.nsf/88EEC6BA30F64D34862582BE0078DF03/$FILE/000199C6.pdf). The New Orleans Inspector General similarly discovered that the traffic court had directed \$1.3 million from traffic tickets to its judicial expense fund that should have been payable to other agencies, including the public defender. E.R. Quatrevaux, Office of Inspector Gen., City of New Orleans, Assessment of New Orleans' System of City Courts And Performance Review of New Orleans Traffic Court 22 (2011).

²⁰ U.S. Commission on Civil Rights, Targeted Fines and Fees Against Communities of Color, Sept. 2017. Available at https://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf.

²¹ Jessica Brand, The Appeal, How Fines and Fees Criminalize Poverty: Explained, July 16, 2018. Available at <https://theappeal.org/fines-and-fees-explained-bf4e05d188bf/>.

²² Alabama Appleseed, Under Pressure: How fines and fees hurt people, undermine public safety, and drive Alabama's racial wealth divide, 2. Available at <http://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>

²³ Act 260 of 2017, pg. 3 line 1.

an inverse relationship between municipal reliance on fee revenue and the rates at which police departments solve violent and property crimes; cities with a relatively larger reliance on fee revenue had a significantly lower clearance rate.²⁴ Another 2018 study in Alabama found that 38% of people polled admitted to committing a new crime to pay off unaffordable court debt. These crimes commonly included selling drugs, stealing, and sex work. In 30% of these cases, the person's only previous offense had been traffic or misdemeanor violations.²⁵

Ronal Serpas, a former chief of police in Louisiana, has stated that emphasizing the collection of fines and fees makes police less effective at their jobs: "The police end up losing the connectivity to get information to solve problems in the community."²⁶ In other words, a user-funded system makes the state less safe.

h. The U.S. Constitution requires an end to the current system

Not only is Louisiana's user-funded justice system bad public policy, it has also been found unconstitutional. The Fifth Circuit in two recent decisions affirmed that the funding structure in the Orleans Parish Criminal District Court violates Due Process because it creates a temptation for judges to forego their duty to adjudicate cases impartially. *Caliste v. Cantrell*, 937 F.3d 525, 532 (5th Cir. 2019); *Cain v. White*, 937 F.3d 446, 449 (5th Cir. 2019). The court generates "essential court funds" necessary to pay for court personnel, insurance, and everyday office expenses only when a defendant is found (or pleads) guilty or purchases a bail bond. *Caliste*, 937 F.3d at 532. This funding structure, the court found, "pushes beyond what due process allows." *Id.*

New Orleans is not alone. Courts across Louisiana similarly rely on bail and conviction fees. *See, e.g.*, La. Stat. Ann. § 22:822 (authorizing a 2 percent fee on bond premiums allocated, in part, to the "judicial court fund or its equivalent"); La. Stat. Ann. § T. 13, Ch. 4, Pt. VI (creating judicial expense funds through Louisiana's criminal district courts). And jurisdictions across the State have already been subject to costly litigation over court funding and the assessment of fines and costs on indigent defendants. *See, e.g.*, *Roberts v. Black*, No. 2:16-cv-11024 (E.D. La., filed June 21, 2016); *Snow v. Lambert*, No. 3:15-cv-00567 (M.D. La., filed April 20, 2016). More litigation is likely unless the Legislature addresses the constitutional violations built into the criminal justice system's funding structure.

i. Other states are moving towards state appropriations to fund their court systems

²⁴ Rebecca Goldstein, Michael W. Sances, and Hye Young You, Exploitative Revenues, Law Enforcement, and the Quality of Government Service, *Urban Affairs Review*, available at <https://journals.sagepub.com/doi/abs/10.1177/1078087418791775>

²⁵ Alabama Appleseed, Under Pressure: How fines and fees hurt people, undermine public safety, and drive Alabama's racial wealth divide, 31. Available at <http://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>

²⁶ Governing: The States and Localities, Addicted to Fines – Small towns in much of the country are dangerous dependent on punitive fines and fees, September 2019, available at <https://www.governing.com/topics/finance/gov-addicted-to-fines.html>.

Dr. William Raftery, a Senior Knowledge and Information Specialist for the National Center for State Courts, stated in a Commission presentation that the best practice for court funding is to use general tax revenues to pay for core court functions, rather than user fees.²⁷

Since the 1970s the trend in court funding by the states for the state courts has been to transition from local funding to complete or near-complete state funding. This trend was in response to the issues that arose from local funding practices: need for local fiscal relief, local inadequacy or unpredictability of revenue, and a sense of unequal justice across the state. To illustrate the trend, Dr. Raftery noted that in 1975 there were 18 states that funded their courts similarly to Louisiana; today, Louisiana is one of only eight states that still do so.

Dr. Raftery discussed the experiences other states, including Alabama, Florida, Michigan, and Kentucky that have shifted toward increased general fund spending for the court system. He also noted that before changing the court funding system, basic terms such as “court,” “judicial,” and “core court functions” must be defined, as the decision on which agencies to include in the funding system determines the amount of funding needed.

III. Commission Recommendations for the 2020 Legislative Session

- a. The Commission should be reconstituted with an expanded mandate to examine criminal fines, fees, and costs assessed in all courts, and should develop recommendations relative to:
 - i. Developing definitions for the various types of legal financial obligations, the court system, and core/essential court functions;
 - ii. Determining the amount needed from state general revenue funds that would enable courts to substantially reduce reliance on self-generated revenue;
 - iii. Identifying fees and costs that can be eliminated, beginning with self-generated funds assessed by the courts;
 - iv. Creating a system for collecting, disbursing, and tracking collected amounts, including partial payments; and
 - v. Proposing statutory safeguards that ensure adequate court funding and limit the use of self-generated funds to cover essential court functions.

²⁷ See also the National Task Force on Fines, Fees, and Bail Practices, *Principles on Fines, Fees, and Bail Practices*, <https://www.ncsc.org/~media/Files/PDF/Topics/Fines%20and%20Fees/Principles%201%2017%2019.ashx>; Conference of State Court Administrators, 2011-2012 Policy Paper: Courts Are Not Revenue Centers, available at <https://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtsAreNotRevenueCenters-Final.ashx>; Principles of Judicial Administration, National Center for State Courts, Principle 25 (Commentary), available at <https://www.ncsc.org/~media/Files/PDF/Information%20and%20Resources/Budget%20Resource%20Center/Judicial%20Administration%20Report%209-20-12.ashx>.

b. The legislature should require uniform reporting by all those that assess, collect, or receive revenue from pre or post-adjudication costs, fines, and fees, what costs, fines, and fees are assessed, how they are collected and disbursed, and how much is spent on collecting. Additionally, the legislation should

- i. Include an immediate reporting requirement to allow for a reconstituted Commission to determine the amount of funding needed to replace user fees;
- ii. Create an ongoing annual reporting requirement to ensure transparency and accountability around the assessment and use of fines and fees;
- iii. Include enforcement mechanisms to incentivize compliance.

IV. Summary

It is evident to the Commission that Louisiana's judicial system funding is fraught with constitutional issues that must be addressed by the legislature in the current term. The legislature is mandated to remove the financial handcuffs from the district and municipal court judges that has forced them into conflicts of interest. Further, the legislature must rework the current system that is overly reliant on fines and fees.

The current system unfairly incentivizes local jurisdictions to focus on debt collection instead of focusing on recidivism reduction and restitution to victims. Finally, the current system is void of basic notions of transparency and ripe for potential fraud from bad actors. The legislature must make strides to establish accountability metrics so the general public can inform itself of how money is spent throughout the entire judicial system.

EXHIBIT A:
HOUSE CONCURRENT RESOLUTION 87 OF 2019

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 87

BY REPRESENTATIVE MAGEE

A CONCURRENT RESOLUTION

To authorize and direct the creation of the Louisiana Commission on Justice System

Funding to study and determine optimal methods of supporting and funding the Louisiana court system in a way that would allow for the implementation of changes made in Act No. 260 of the 2017 Regular Session of the Legislature.

WHEREAS, the purpose of imposing financial obligations on a person who is convicted of a criminal offense is to hold the offender accountable for his actions, to compensate victims for any pecuniary loss or costs incurred in connection with a criminal prosecution, to defray the cost of court operations, and to provide services to offenders and victims; and

WHEREAS, imposition of these financial obligations, including fines, fees, restitution, and court costs, in excess of what a person can reasonably pay undermine the primary purpose of the criminal justice system which is to deter criminal behavior and encourage compliance with the law; and

WHEREAS, persons released from incarceration or on community supervision often carry thousands of dollars in financial obligations related to their conviction including fines, fees, court costs, and restitution; and the current structure for imposition and collection of these financial obligations has left thousands of individuals in significant debt, has created an insurmountable barrier to the individual's successful reentry into society, and threatens the goals of the criminal justice system to enhance public safety and support victims; and

WHEREAS, large financial obligations for individuals who are attempting to successfully reenter society create problems, not only for the individual, but also for victims of crime and society in general; and

WHEREAS, studies have shown that, on average, persons who are sentenced to probation will end their period of supervision owing large amounts of restitution to victims,

and the person's ability to pay this restitution suffers, due in large part to the obligation of paying other court-related fines, fees, and costs that are not directed to victims; and

WHEREAS, studies have shown large government-ordered financial obligations such as fines, fees, and other costs can create instability with housing, food, and child support payments, and can also lead individuals back to obtaining resources by illegal means, creating more crime and less public safety; and

WHEREAS, in 2017, the Louisiana Legislature took a significant step in reforming current financial obligations with the passage of Act No. 260 of the 2017 Regular Session of the Legislature; and

WHEREAS, with regard to the financial obligations of criminal offenders, Act No. 260 does all of the following:

(1) Requires a court to determine if the aggregate amount of all financial obligations imposed upon a defendant would cause substantial financial hardship to the defendant or those who depend upon the defendant.

(2) Authorizes the court to waive financial obligations or order a payment plan if financial hardship is found, creating an incentive to pay financial obligations.

(3) Requires half of any monthly payment to go toward victim restitution.

(4) Disallows the use of jail or revocation of a person's driver's license as punishment unless it is determined that the individual is able but has willfully refused to pay; and

WHEREAS, the changes made by Act No. 260 of the 2017 Regular Session help to ensure that criminal justice financial obligations do not become a significant barrier to successful reentry while ensuring victims of crime are a focus of repayment; and

WHEREAS, in 2018, Act Nos. 137 and 668 delayed the effective date of these changes due to concerns regarding the impact of the implementation of Act No. 260 of the 2017 Regular Session on the Louisiana criminal justice system; and

WHEREAS, a significant portion of Louisiana's criminal justice system is funded through fines, fees, restitution, and other court costs, to be paid by defendants and those convicted of criminal offenses; and

WHEREAS, relying on the financial obligations of persons convicted of criminal offenses to significantly fund Louisiana's criminal justice system creates an unnecessary and perverse incentive; and

WHEREAS, the criminal justice system is a core function of government and should be appropriately funded by the legislature; and

WHEREAS, Louisiana does not currently have a means to uniformly or systematically track where criminal fines, fees, and court costs are directed, nor does Louisiana track the extent to which the criminal justice system in each parish is funded by financial obligations of criminal defendants; and

WHEREAS, it would be beneficial to the people of this state to have more openness and transparency when it comes to the sources of funding of Louisiana court systems and to have a court system funded through a means that provides stability and fairness.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the creation of the Louisiana Commission on Justice System Funding to study current financial obligations of criminal defendants and how those financial obligations are used to fund and subsidize core functions of the Louisiana court system, and to study and determine optimal methods of supporting and funding the Louisiana court system in a way that would allow for the implementation of changes made in Act No. 260 of the 2017 Regular Session of the Legislature.

BE IT FURTHER RESOLVED that the commission shall be composed of the following members:

- (1) The author of Act No. 260 of the 2017 Regular Session of the Legislature, who shall serve as co-chair of the commission.
- (2) The governor or his designee.
- (3) The chief justice of the Louisiana Supreme Court or her designee.
- (4) The speaker of the House of Representatives or his designee.
- (5) The president of the Senate or his designee.
- (6) The chair of the House Committee on Administration of Criminal Justice.
- (7) The chair of the House Committee on Judiciary.
- (8) The chair of the Senate Committee on Judiciary B.
- (9) The chair of the Senate Committee on Judiciary C.

(10) The attorney general or his designee.

(11) The secretary of the Department of Public Safety and Corrections or his designee.

(12) A representative from the division of administration appointed by the commissioner of administration. This representative shall serve as co-chair of the commission.

(13) The president of the Louisiana Sheriffs' Association or his designee.

(14) A probation and parole officer appointed by the Louisiana Probation and Parole Association.

(15) Two district attorneys appointed by the president of the Louisiana District Attorneys Association.

(16) A public defender appointed by the State Public Defender Board.

(17) Two district court judges, one appointed by the chief justice of the Louisiana Supreme Court and one appointed by the Louisiana District Judges Association.

(18) The president of the Louisiana Clerks of Court Association or his designee.

(19) Two representatives from Louisianans for Prison Alternatives.

(20) Two representatives from the Louisiana Smart on Crime Coalition.

BE IT FURTHER RESOLVED that a majority of the membership of the commission shall constitute a quorum and shall meet at the call of the chairperson, or upon an affirmative vote of a majority of the commission members. All members shall be notified in writing of all meetings at least five days before the date on which a meeting of the commission is scheduled.

BE IT FURTHER RESOLVED that meetings of the commission shall take place at the Louisiana State Capitol and the first meeting of the commission shall take place no later than September 1, 2019.

BE IT FURTHER RESOLVED that the duties of the commission shall include but not be limited to all of the following:

(1) Track the history of methods of funding the Louisiana court system.

(2) Estimate the extent to which the Louisiana court system is funded through funds received from the collection of fines, fees, restitution, and other court costs.

(3) Estimate the cost of a court system that is fully funded by state and local governments.

(4) Research, study, and recommend alternative methods of funding the Louisiana court system.

(5) Recommend a comprehensive plan for the implementation of the changes provided in Act No. 260 of the 2017 Regular Session of the Legislature.

(6) Determine the resources and training court systems will need in implementing and complying with Act No. 260 of the 2017 Regular Session of the Legislature.

(7) Determine the appropriate entity, or recommend the establishment of a new entity, to provide oversight and track budget impacts of the implementation of Act No. 260 of the 2017 Regular Session of the Legislature and to recommend changes as needed.

(8) Collect necessary data to accomplish these purposes as set forth in this Resolution.

BE IT FURTHER RESOLVED that the commission may request and collect relevant and necessary data and information to accomplish its purposes from state and local government entities including at least five judicial district court systems throughout the state that, to the extent possible, represent the geographic diversity of this state and diversity in population of the parishes served by the judicial district court system.

BE IT FURTHER RESOLVED that the entities and court systems from which such information and data is requested may, to the extent feasible, provide such information and data to the commission at no cost.

BE IT FURTHER RESOLVED that the commission shall request and secure qualified technical assistance and support through the establishment of an academic partnership or from public or private stakeholders and entities with qualified expertise in the commission's focus areas.

BE IT FURTHER RESOLVED that the division of administration and the office of the judicial administrator of the Louisiana Supreme Court shall provide administrative assistance and staffing as may be necessary in order to enable the commission to conduct its meetings and accomplish its duties.

BE IT FURTHER RESOLVED that the commission shall provide a report of its initial findings and recommendations to the governor and the Legislature of Louisiana no

later than February 1, 2020, and any further reports or recommendations thereafter as requested by the governor, the legislature, or advised by the commission.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to each of the commission members and the appointing entities provided in this Resolution.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

EXHIBIT B:

COMMISSION ON LOUISIANA JUSTICE SYSTEM FUNDING MEETING MINUTES

LOUISIANA COMMISSION OF JUSTICE SYSTEM FUNDING
MINUTES
August 29, 2019
Louisiana State Capitol
900 North Third Street
Baton Rouge, LA

Representative Magee called the meeting to order and gave background information on the Commission.

Members that were present introduced themselves. They were:

- Richard Berger- Louisiana Probation and Parole Association
- Bo Duhey- District Attorney, 16th JDC
- Loren Lampert- Executive Director, Louisiana District Attorneys Association
- Ivy Wang- Louisianans for Prison Alternatives
- Glenn Ansardi- Louisiana District Judges Association
- Bernette Johnson- Louisiana Supreme Court
- Rick McGimsey- Commissioner of Administration designee
- Leslie Chambers- Governor's Office designee
- Renee Amar- Louisiana Smart on Crime Coalition
- Scott Peyton- Louisiana Smart on Crime Coalition
- Senator Rick Ward- Senate President designee
- Molly Lancaster- Attorney General designee

Chairman Magee suggested that the commission meet once a month. Judge Ansardi made a motion that the commission meet once a month. It was seconded. There were no objections and the motion passed unanimously.

Chairman Magee moved that the commission adopt the same rules that the House and the Senate use to conduct their committee meetings. It was seconded. There were no objections and the motion passed unanimously.

Chairman Magee moved to meet the second Thursday of every month. It was seconded. There were no objections and the motion passed unanimously.

Justice Johnson moved to have Julia Spear and her staff with the Supreme Court provide staffing needs to the Commission. There were no objections and the motion passed unanimously.

Julia Spear and Rose Wilson with the Louisiana Supreme Court gave a presentation on The Price of Justice.

Representative Blake Miguez arrived during the presentation and introduced himself as the representative for the Speaker of the House.

Chairman Magee asked for any public comment. There was none.

A motion to adjourn was made. Hearing no objections the meeting was adjourned.

LOUISIANA COMMISSION OF JUSTICE SYSTEM FUNDING MINUTES

October 10, 2019

11:00 a.m.

Louisiana State Capitol

900 North Third Street

Baton Rouge, LA

I. Call to Order

Representative Joe Marino acted as Chairman in Representative Magee's absence.

He asked the members to introduce themselves. They were:

- Scott Peyton- Louisiana Smart on Crime Coalition
- Renee Amar- Louisiana Smart on Crime Coalition
- Glenn Ansardi- Louisiana District Judges Association
- Rick McGimsey- Commissioner of Administration designee
- Leslie Chambers- Governor's Office designee
- Jimmy Leblanc- Department of Public Safety
- Richard Berger- Louisiana Probation and Parole Association
- Lindsay Blouin- Public Defender Board
- Bo Duhey- District Attorney, 16th JDC
- Loren Lampert- Executive Director, Louisiana District Attorneys Association
- Will Harrell- Louisianans for Prison Alternatives
- Dayna Andry- Vera and Ending Money Injustice
- Debbie Hudnell- Louisiana Clerks of Court Association

II. Approval of Minutes

Chairman Marino noted that there were no written minutes from the first meeting.

III. Presentation by Louisiana Legislative Auditors Office

Bradley Cryer and Judy Detweller gave a presentation on audits that were conducted in regards to court funding.

IV. Approval of Outside Staffing Organization

Chairman Marino moved to address the approval of outside staffing at the next meeting. Vice-Chairman McGimsey seconded the motion. There were no objections and the motion passed unanimously.

V. Public Comments

Chairman Marino opened the floor for public comment.

LOUISIANA COMMISSION OF JUSTICE SYSTEM FUNDING MINUTES

Richard Pitman, Interim State Public Defender for the Louisiana Public Defender Board addressed questions that were asked during the presentation by the Legislative Auditor's office. Judge Ansardi made a motion that the Public Defender's Office and other entities that rely on fines, fees and costs be notified of the next meeting and invited to make a presentation. Chairman Marino seconded the motion. There were no objections and the motion passed unanimously.

Chairman Marino asked Julia Spear to speak on behalf of the Supreme Court. She provided an update in regards to actions occurring within her office that are pertinent to the Commission.

Mr. Harrell suggested that the Commission hear from individuals that have consistently paid fines and fees. Chairman Marino said that he would pass the request along to Representative Magee.

Ms. Andry suggested that money could be saved elsewhere by changes made to court funding due to people being arrested and jailed for failure to pay court fees.

Chairman Marino stated that the next meeting will be November 14.

VI. Adjournment.

Vice-Chairman McGimsey moved to adjourn the meeting. Chairman Marino seconded. Hearing no objection Chairman Marino adjourned the meeting.

LOUISIANA COMMISSION OF JUSTICE SYSTEM FUNDING MINUTES

November 14, 2019

11:00 a.m.

Louisiana State Capitol

900 North Third Street

Baton Rouge, LA

I. Call to Order

Chairman Tanner Magee called the meeting to order at 11:05 a.m.

Roll was called.

Members Present: Chairman Tanner Magee, Representative Joseph Marino, Senator Dan Claitor, Mr. Pete Freeman, Mr. Rick McGimsey, Mr. Richard Berger, Mr. Bo Duhe, Mr. Loren Lampert, Ms. Lindsay Bouin, Judge Glen Ansardi, Ms. Debbie Hudnall, Ms. Dayna Andry, Mr. Will Harrell, Mr. Daniel Erspamer, Mr. Scott Peyton.

II. Approval of Minutes

Mr. McGimsey made a motion to approve the minutes from the August 29, 2019 and October 10, 2019 meetings. There were no objections and the motion passed unanimously.

III. Presentation by Joe Marino

Representative Marino and Ms. Julia Spear of the Louisiana Supreme Court gave a presentation and answered questions on information they obtained while attending the National Conference of State Legislators Consortium on Fines and Fees.

IV. Louisiana Public Defender Board Presentation by Lindsay Blouin

Lindsay Blouin of the Louisiana Public Defender Board gave a presentation on how fines, fees and court costs impact the public defense funding system.

Representative Blake Migues arrived during the presentation.

V. Louisiana Legislative Auditors Office Update

Ms. Spear and Rose Wilson of the Louisiana Supreme Court provided an update on the information their office provided the Louisiana Legislative Auditor.

Ms. Spear also acknowledged and thanked Yolaine Menyard with the Center for Court Innovation for attending the meeting.

LOUISIANA COMMISSION OF JUSTICE SYSTEM FUNDING MINUTES

V. Public Comments

Chairman Magee opened the floor for public comment.

Judge Roy Cascio spoke in regards to Act 260 and whether it applies to traffic citations and misdemeanors.

Reverend Alexis Anderson, a member of the East Baton Rouge Parish Prison Reform Coalition, spoke on behalf of the Coalition on issues they believe should be brought to the attention of the commission.

Ms. Sarah Whittington with the Justice and Accountability Center of Louisiana discussed how fines, fees and court costs affect their clients. Mr. Troy Morgan, a client of theirs, spoke about his experience with criminal fines and fees.

Mr. Derwyn Bunton, Chief Public Defender for Orleans Parish, spoke by request of Mr. Harrell.

VI. Adjournment.

Mr. McGimsey moved to adjourn the meeting. Hearing no objection Chairman Magee adjourned the meeting at 12:53 p.m.

EXHIBIT C:

PRESENTATIONS BY


THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONS, DIVISION OF PROBATION AND PAROLE

THE LOUISIANA PUBLIC DEFENDER BOARD

THE LOUISIANA SUPREME COURT


THE NATIONAL CENTER FOR STATE COURTS

PRESENTATION
BY
THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY &
CORRECTIONS
DIVISION OF PROBATION AND PAROLE



1


Louisiana Probation and Parole



2

Supreme Court Ruling

- In 1983, The United States Supreme Court ruled in *Bearden vs. Georgia* that the Court cannot imprison a person for not paying a fee or fine. The person in question could have paid it but "willfully" chose not to do so.
- Failure to pay fees is not a violation that is addressed on the Probation and Parole Sanctioning Matrix and cannot solely be the bases for revocation. It may be added to the list of violations should the offender appear before the governing authority for other violations.




3

Article 900 Code of Criminal Procedure

(6) (b) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined by R.S. 15:541, and who has been determined by the court to have committed a technical violation of his probation, shall be required to serve, without diminution of sentence, as follows:

- (i) For a first technical violation, not more than fifteen days.
- (ii) For a second technical violation, not more than thirty days.
- (iii) For a third or subsequent technical violation, not more than forty-five days.
- (iv) For a fourth or subsequent violation, the court may order that the probation be revoked, in accordance with Subparagraph (5) of this Paragraph.
- (v) For custodial substance abuse treatment programs, not more than ninety days.



4


Article 900 Code of Criminal Procedure

(6)(d) A "technical violation", as used in this Paragraph, means any violation except it shall not include any of the following:

- (i) An allegation of a criminal act that is subsequently proven to be a felony.
- (ii) An allegation of a criminal act that is subsequently proven to be an intentional misdemeanor directly affecting the person.
- (iii) An allegation of a criminal act that is subsequently proven to be a violation of a protective order, pursuant to R.S. 14:79, issued against the offender to protect a family member or household member as defined by R.S. 14:35.3, or dating partner as defined by R.S. 46:2151.
- (iv) Being in possession of a firearm or other prohibited weapon.
- (v) Absconding from the jurisdiction of the court.

5


- Troy Morgan
- Sentenced on 10/11/2016 – 10 Years DOC, Suspended 5 Years Probation
- Arrested 1/23/2017 - Appeared 2/17/2017 – Ordered defendant to complete Day Reporting Center – Dismissed Rule
- Revocation Hearing 7/27/2017 – Completed 90 days – Returned to Probation
- Committed new charges 6/14/2017 – Illegal Possession of Burglary Tools, Contributing to the Delinquency of a Juvenile and Criminal Conspiracy to Commit Theft. Other violations included failure to report, failure to participate in the Day Reporting Center as ordered by the Court.



6

Community Service Work


- The governing authority may allow the offender to complete community service work in lieu of paying monthly fees to Probation and Parole.



7

Type of Collection Accounts


❖ Restitution	❖ Supervision Fees
❖ LCLE Victim Reparation Fund	❖ Processing Fee
❖ Court Cost	❖ Compact Transfer Fee
❖ Fines	❖ Pre-Sentence Investigation Fee
❖ District Attorney Fees	❖ Clemency Investigation Fee
❖ Indigent Defender Fund	❖ 10% Assessment Fee
❖ LCLE Drug Abuse Fund	❖ Sex offender Technology Fee
❖ Filing Fees	❖ Transportation Fund
	❖ Infectious Disease



8

DOC 744804
Offense: Possession With Intent to Distribute Marijuana
Probation: 3 years Supervision Period: 6/10/19 – 6/10/22

Account Type	Monthly Amount	Total Due	Paid
Processing Fee		\$65.00	\$0
Supervision Fee	\$60.00		\$3.07
10% Assessment		\$396.05	\$0
Parish SO Fine		\$2,510.00	\$67.98
JDC DA		\$700.00	\$16.85
City Police		\$200.00	\$6.62
Indigent Defender		\$450.00	\$20.32
JDC Expense		\$100.00	\$7.16
Total		\$4,421.05	\$122.00



9

Questions?

PRESENTATION
BY
THE LOUISIANA PUBLIC DEFENDER BOARD

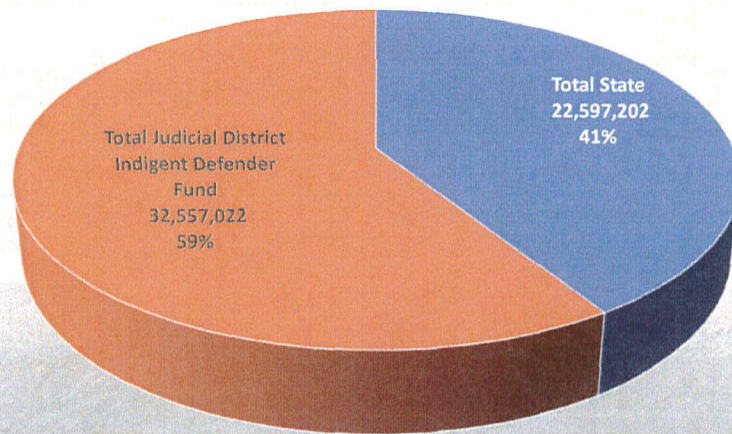
LOUISIANA PUBLIC DEFENDER BOARD

Lindsay Blouin, JD
First Assistant District Defender
19th Judicial District Public Defenders' Office

Presentation to the
Louisiana Commission on Justice System Funding
November 14, 2019
Baton Rouge

District Revenue Sources Statewide

FY19 Total Revenues by Revenue Source



State Appropriated Funding

Statutory Authority	Statutory Dedication	FY 19 LPDB EOB
R.S. 15:167	Public Defender Fund	\$35,068,794
R.S. 15:185.5	Indigent Parent Representation Program Fund	\$979,680
CCrP 926.1	DNA Testing Post-Conviction Relief for Indigents Fund	\$28,500

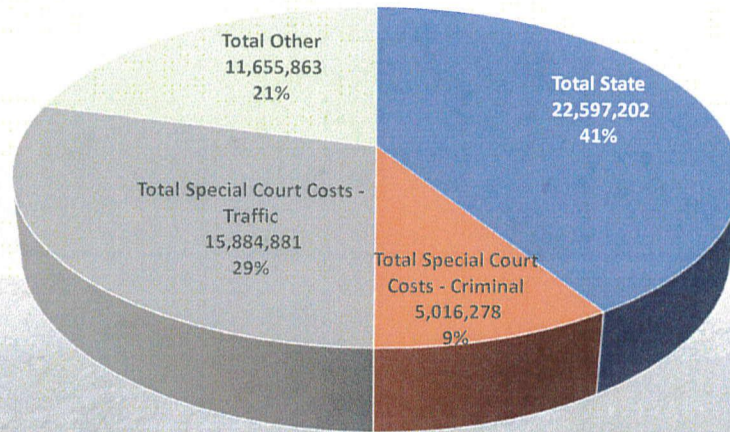
Note: Statutory dedications can not be commingled.

Judicial District Indigent Defender Fund

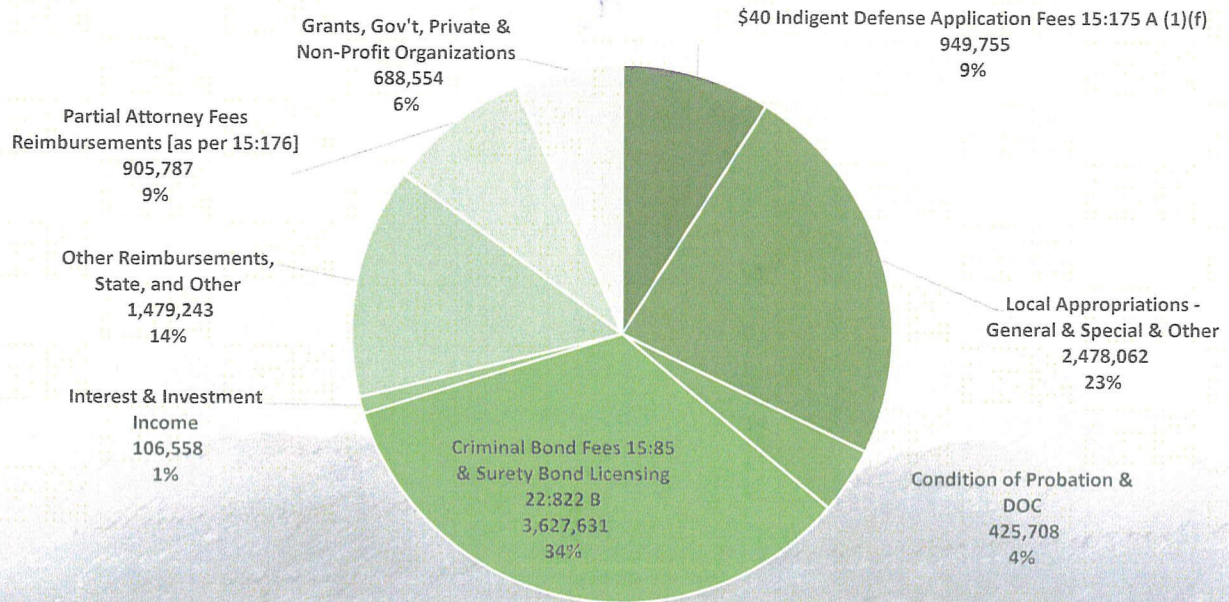
Statutory Authority	Revenue Stream
R.S. 15:168(B)	Special Costs (\$45)
R.S. 33:441	Mayor's Court
R.S. 15:175	Application Fee
R.S. 15:176	Partial Reimbursement
R.S. 15:571.11	Bond Forfeiture
R.S. 15:85.1	Posting of Criminal Bond
R.S. 22:822	Commercial Surety Bonds

District Revenue Sources Statewide

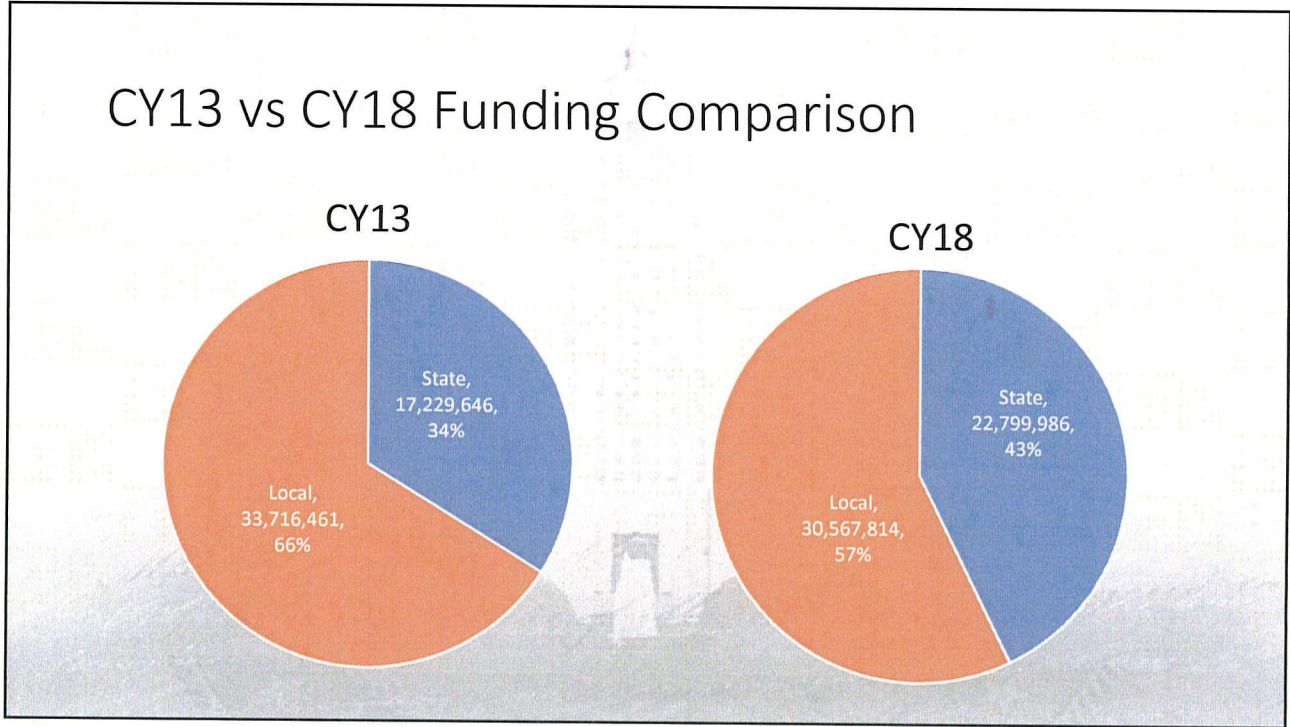
FY19 Total Revenues by Revenue Source



Detail: "Other" Sources of Revenue in FY19



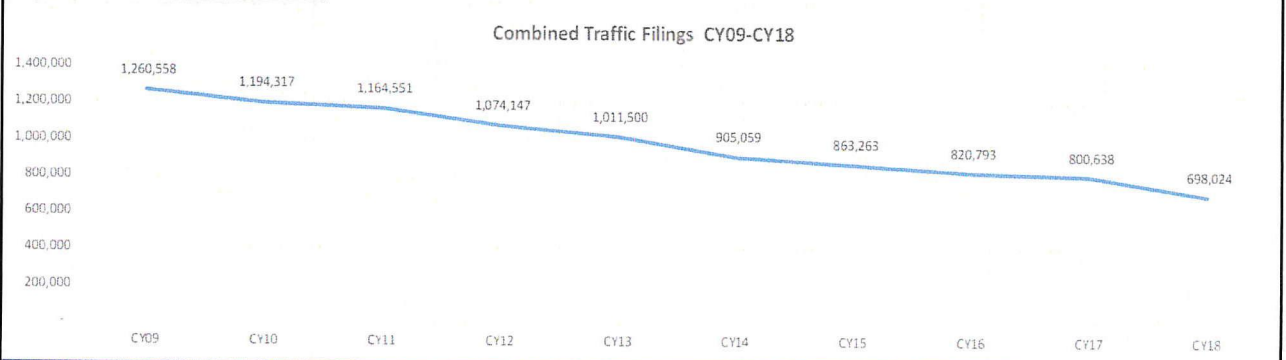
CY13 vs CY18 Funding Comparison



LASC ANNUAL REPORTS SINCE 2009 SHOW A 45% DECREASE IN DISTRICT COURT TRAFFIC FILING

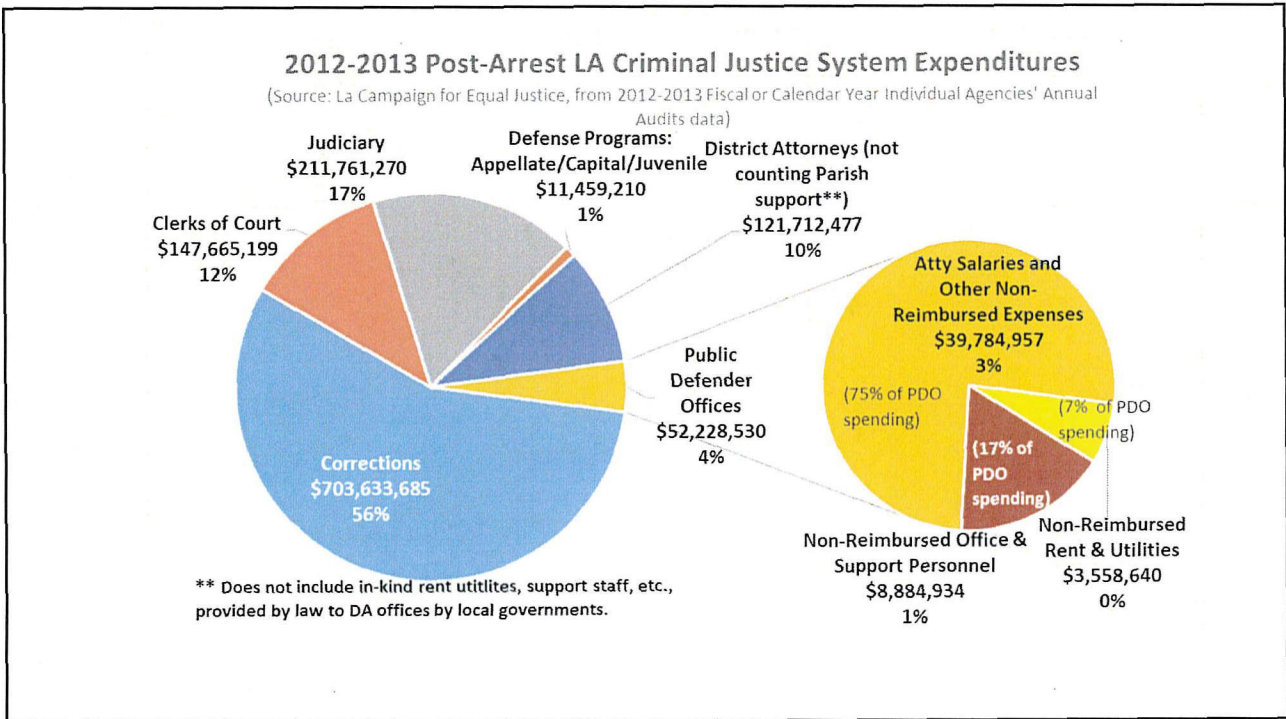
PDO	District & City Court Filings										
	Traffic										
88	CY09	CY10	CY11	CY12	CY13	CY14	CY15	CY16	CY17	CY18	
	1,260,558	1,194,317	1,164,551	1,074,147	1,011,500	905,059	863,263	820,793	800,638	698,024	

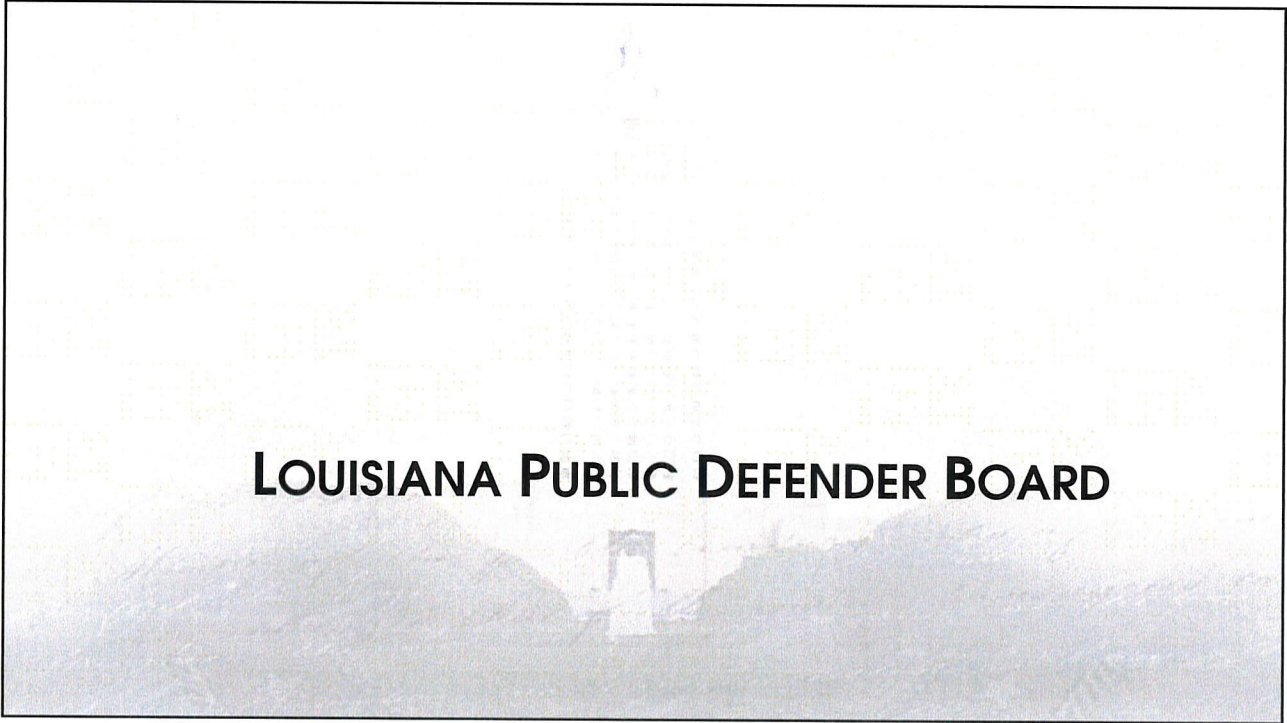
Percentage Change from 2009 to 2018: -45%





241,919





PRESENTATIONS
BY
THE LOUISIANA SUPREME COURT

THE PRICE OF JUSTICE GRANT

LOUISIANA

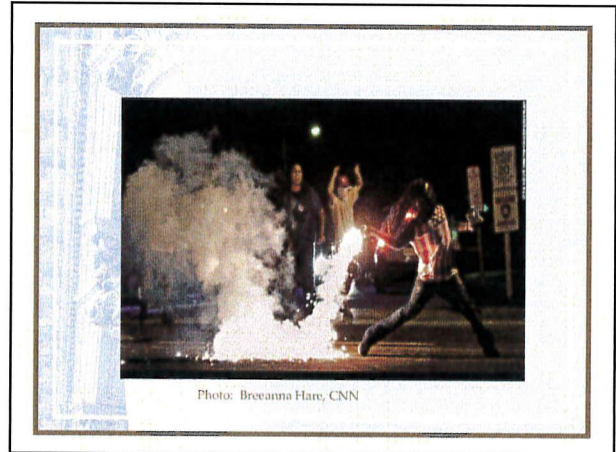


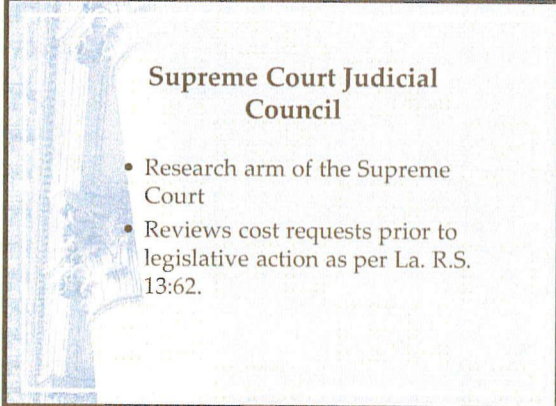
Photo: Breanna Hare, CNN

"Ferguson has allowed its focus on revenue generation to fundamentally compromise the role of Ferguson's municipal court. The municipal court does not act as a neutral arbiter of the law or a check on unlawful police conduct. Instead, the court primarily uses its judicial authority as the means to compel the payment of fines and fees that advance the City's financial interests.

This has led to court practices that violate the Fourteenth Amendment's due process and equal protection requirements. The court's practices also impose unnecessary harm, overwhelmingly on African-American individuals, and run counter to public safety."

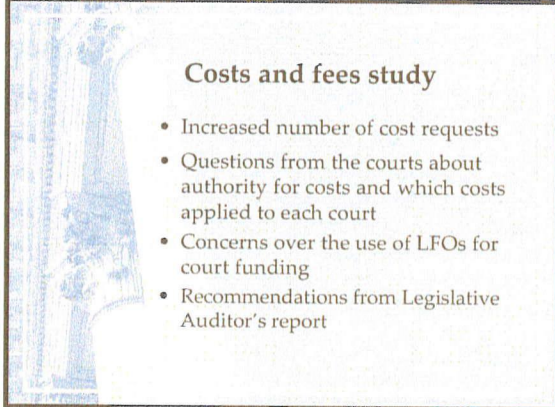
Investigation of the Ferguson Police Department, pg. 3.

- ### The Price of Justice Initiative
- Dear Colleague letter
 - Resource guide
 - Support for National Task Force
 - \$2.5 million grant program



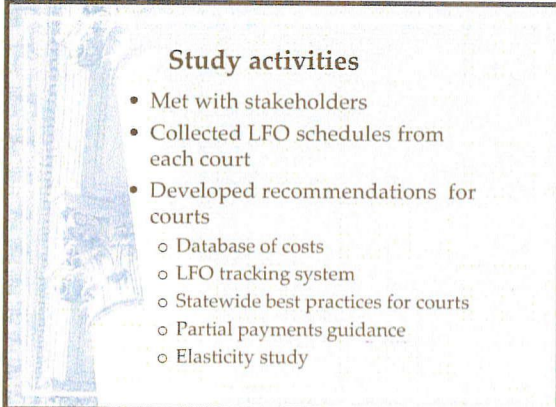
Supreme Court Judicial Council

- Research arm of the Supreme Court
- Reviews cost requests prior to legislative action as per La. R.S. 13:62.



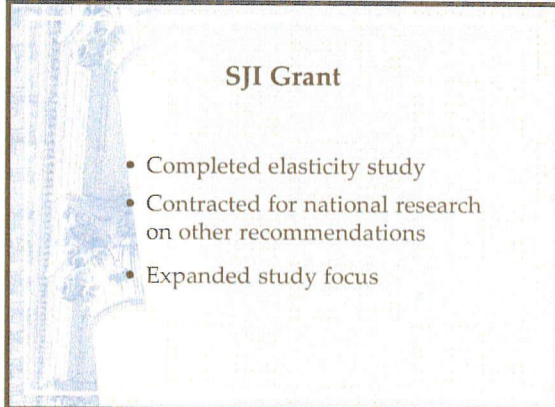
Costs and fees study

- Increased number of cost requests
- Questions from the courts about authority for costs and which costs applied to each court
- Concerns over the use of LFOs for court funding
- Recommendations from Legislative Auditor's report



Study activities

- Met with stakeholders
- Collected LFO schedules from each court
- Developed recommendations for courts
 - Database of costs
 - LFO tracking system
 - Statewide best practices for courts
 - Partial payments guidance
 - Elasticity study



SJI Grant

- Completed elasticity study
- Contracted for national research on other recommendations
- Expanded study focus

Price of Justice: Rethinking the Consequences of Justice Fines and Fees

Goal: to encourage and disseminate best practices for coordinated and appropriate justice system responses to justice-involved individuals' inability to pay fines, fees, and related charges, including eliminating unnecessary and unconstitutional confinement.

Price of Justice: Rethinking the Consequences of Justice Fines and Fees; objectives

- Increase corrections costs saved or avoided by reducing unnecessary confinement.
- Support the use of data analysis upon which fair and effective policies and practices related to LFOs can be based.
- Promote and increase collaboration and data sharing across agencies regarding assessment, collection, prioritization, and tracking of LFOs.
- Support tailored alternatives to fines, fees and costs that promote, rather than undermine, rehabilitation, reintegration, and community trust.

Price of Justice, Louisiana

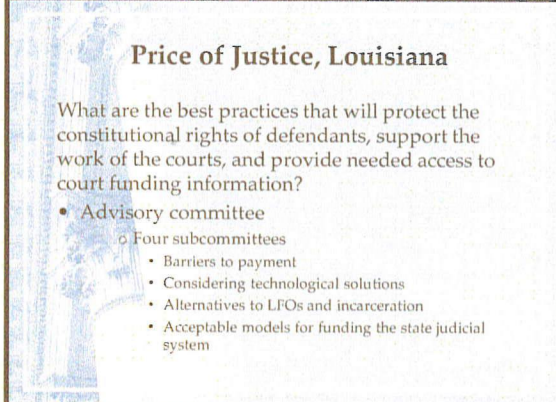
Are the courts assessing LFOs accurately?

- Creation of a statewide court cost database
 - Statutory guidance for judicial administrators
 - Transparent court costs for criminal defendants

Price of Justice, Louisiana

How can technology improve outcomes for the courts?

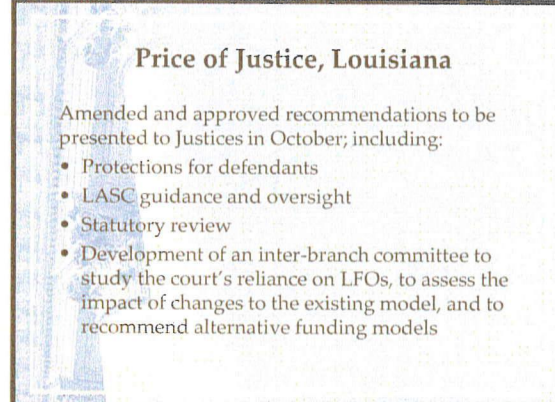
- Pilot efforts in city courts
 - Text notifications
 - Case management for compliance officers
- Pilot effort in 23rd JDC
 - Arrest on warrant notification
 - Automated LFO form



Price of Justice, Louisiana

What are the best practices that will protect the constitutional rights of defendants, support the work of the courts, and provide needed access to court funding information?

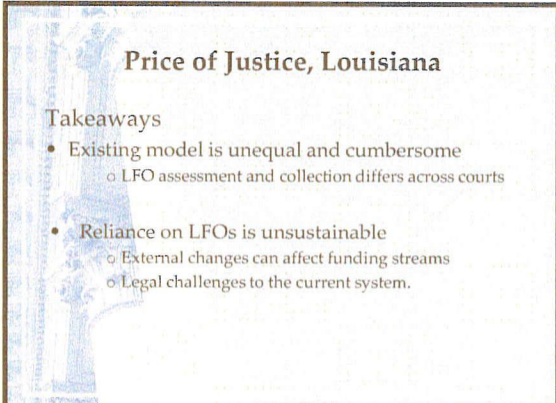
- Advisory committee
 - Four subcommittees
 - Barriers to payment
 - Considering technological solutions
 - Alternatives to LFOs and incarceration
 - Acceptable models for funding the state judicial system



Price of Justice, Louisiana

Amended and approved recommendations to be presented to Justices in October; including:

- Protections for defendants
- LASC guidance and oversight
- Statutory review
- Development of an inter-branch committee to study the court's reliance on LFOs, to assess the impact of changes to the existing model, and to recommend alternative funding models



Price of Justice, Louisiana

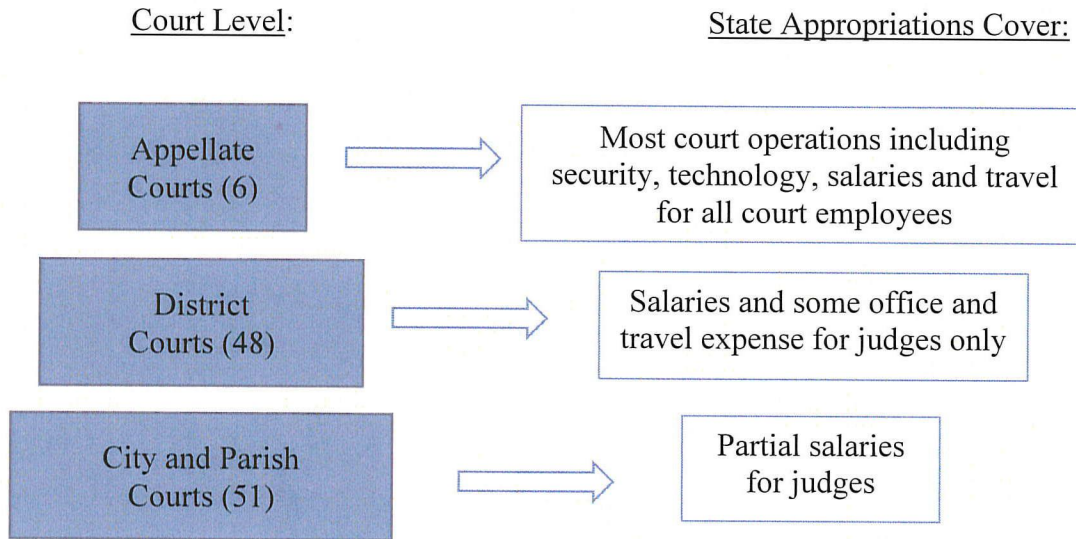
Takeaways

- Existing model is unequal and cumbersome
 - LFO assessment and collection differs across courts
- Reliance on LFOs is unsustainable
 - External changes can affect funding streams
 - Legal challenges to the current system.

Snapshot of Louisiana Funding

State-appropriated funds for the judicial branch in 2018-2019 was \$173,164,713; equal to .51% of the state budget.¹ Louisiana ranks 36th out of 42 states in the amount of state appropriation for the judicial system. The average judicial appropriation is equal to 1.4% of the state budget.²

Louisiana has a tiered funding system in which state appropriations vary by court level.



As a result of the state’s tiered funding structure, district and city courts rely heavily on a combination of self-generated court costs and local government support to finance court operations. Since each court has a unique arrangement with local governance and reports revenue and expenditures differently, determining the total amount spent on the courts is difficult; however, court audits submitted to the Legislative Auditor in 2018 provide information on the amounts received and managed by the courts.

A review of these audits by Louisiana Supreme Court staff indicate that district, city, and parish courts rely heavily on self-generated funds to cover court operations not currently covered by state appropriation.³

	Self-generated Funds	Court Expenditures	Percentage of Expenditures
District Courts	\$28,200,000	\$55,400,000	50.9%
City and Parish Courts	\$17,000,000	\$24,000,000	70.8%
Totals	\$45,200,000	\$79,400,000	56.9%

¹ http://www.lasc.org/about_the_court/budgets/2018-19_Budget_2018_AR.pdf


² <http://data.ncsc.org>; most data was submitted in 2016 so may be outdated. In 2016, the Louisiana judiciary received .63% of the state budget. At .63%, Louisiana was 36th out of 42 states. Eight states did not submit data.

³ Review of audits included all district courts and 47 city and parish courts. Inclusion of local, state, and grant contributions differ across courts. Additionally, some courts include civil fees in their self-generated totals.

PRESENTATION
BY
DR.WILLIAM RAFTERY,
NATIONAL CENTER FOR STATE COURTS

Court Budgeting in the United States

William E. Raftery, PhD
Sr. KIS Analyst
National Center for State Courts
wraftery@ncsc.org



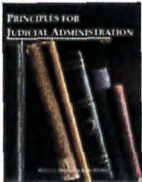
www.ncsc.org

Overview

- Principles for Judicial Administration
- Definitional: What Are “Courts”?
- State vs. Local Responsibility
- Source: General Revenue vs. Other
- Roles of The Other Branches
- Roles Within The Branch
- Audit and Financial Management

Principles for Judicial Administration

- Developed based on best practices observed over the past 50 years
 - Governance Principles
 - Decision-Making and Case Administration Principles
 - Court Funding Principles



What Are “Courts”?

- Alabama Amendment 328 (1973)
 - Adequate and reasonable appropriations shall be made by the legislature for the entire unified judicial system, exclusive of probate courts and municipal courts.

What Are "Courts"?

- Florida Revision 7 (1998)
 - Funding for the state courts system, state attorneys' offices, public defenders' offices, and court-appointed counsel, except as otherwise provided in subsection (c), shall be provided from state revenues appropriated by general law.

What Are "Courts"?

- Need to define "Courts", "Judicial", and "Core-Court Functions"
 - Example: Probation is within the Alabama judicial branch/court employees but Florida executive
 - Example: Is the Clerk of the Court an employee of the Court, or elected?

What Are "Courts"?

- Do "courts" include limited jurisdiction local courts for some purposes, but not others?
- Do "courts" include prosecutors and public defenders?

State vs. Local Responsibility

- Local justice administered and funded locally
- Reform efforts in 1920-1970s
- 1970s forward: transition to complete or near-complete state funding

State vs. Local Responsibility

- Barr (1975)
 - Limited State Funding (appellate + AOC)
 - Itemized State Funding
 - Mixed General State Funding
 - General State Funding

State vs. Local Responsibility

- Barr's 1975 "Limited State Funding": 18 states
- Today: 8 (Arizona, Georgia, Louisiana, Mississippi, Ohio, Texas, Washington, West Virginia)
 - Other 10: Mixed General State Funding or General State Funding

State vs. Local Responsibility

- Why the shift? Carlson et. al. (2008) local fiscal relief, local inadequacy or unpredictability of revenue, sense of unequal justice across the state
- Adequate + Stable + Equitable

State vs. Local Responsibility

- How?
 - Restructuring of the entire judiciary
 - Phase-in (Arkansas = 20+ years, Kentucky 3-4 years, Michigan considering)
 - Constitutional Amendment (Alabama, Florida)
 - Higher vs. Lower "Courts" (Alabama vs. Arkansas)

Source: General Revenue vs. Other

- Best Practice: General Revenue Fund
- Principle 25 (commentary) "Courts are a core function of government and as such should be primarily funded by general tax revenues."

Source: General Revenue vs. Other

- Creation of "Trial Court" Funds have had mixed results
 - Alabama: expected \$25 million, received \$5
 - Florida: decline in foreclosure filings
 - Michigan: considering, but with cautions
 - Fund is controlled at the state level

Source: General Revenue vs. Other

- "Court" fees/surcharges that have nothing to do with the courts
- Accounting Failures

Source: General Revenue vs. Other

- Percent of State-Funding Derived From State General Revenue Funding
 - Alabama – 78%
 - Florida – 83%
 - Kentucky – 88%
 - North Carolina – 99%

Roles of The Other Branches

- Judiciary As Bragency
- Role of Executive Branch
- Treatment By Legislature
- Constitutional Language
- Inherent Powers Lawsuits

Roles of The Other Branches

- Principle 21: Courts should be funded so that cases can be resolved in accordance with recognized time standards by judicial officers and court staff functioning in accordance with adopted workload standards.

Roles of The Other Branches

- Principle 24: Courts should be funded at a level that allows their core dispute resolution functions to be resolved by applying the appropriate dispositional alternative.

Roles of The Other Branches

- Principle 19: Judicial Branch leadership should have the authority to allocate resources with a minimum of legislative and executive branch controls including budgets that have a minimal number of line items.

Roles of The Other Branches

- Kentucky Judiciary's Operating Budget
 - 4 lines: Court Operation and Administration, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and the state's Judiciary Retirement System.
 - Broad allocation of authority, denial of intrusion by the executive branch once appropriated, and the ability to move funds between the line items.

Roles of The Other Branches

- Alabama trial court budget lines ("Unified Judicial System")
 - 4 lines: Court Operations, Administrative Services, Drug Court, Juvenile Probation Officer Services, and the Alabama Sentencing Commission.

Roles of The Other Branches

- Audit And Oversight: Principle 20
 - Judicial Branch leadership should administer funds in accordance with sound, accepted financial management practices.
 - To ensure transparency and accountability in financial operations, the courts should undergo regular internal and external fiscal audits in accordance with state or local requirements.

Roles of The Other Branches

- Principle 18: Judicial Branch budget requests should be considered by legislative bodies as submitted by the Judicial Branch.

Roles Within The Branch

- Principle 16: Judicial Branch leadership should make budget requests based solely upon demonstrated need supported by appropriate business justification, including the use of workload assessment models and the application of appropriate performance measures.

Roles Within The Branch

- Trial Court Budget Commission
- Centralized Budgeting
- Budget Requests and/or Trial Court Funds Based on Workload Assessments
- Accounting Practices

Roles Within The Branch

- "Who Speaks For The Judiciary?"
 - Supreme Court
 - Chief Justice
 - Judicial Council

Audit and Financial Management

- Principle 15: The court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization.

Audit and Financial Management

- Audit And Oversight: Principle 20
 - Judicial Branch leadership should administer funds in accordance with sound, accepted financial management practices.
 - To ensure transparency and accountability in financial operations, the courts should undergo regular internal and external fiscal audits in accordance with state or local requirements.

Audit and Financial Management

- How Much Does A State Spend On Its Courts?
 - State Appropriation (easy)
 - Local Appropriation (hard-to-unknown)
- How Is The Money Spent/Controlled?
 - Minimum Accounting Standards
 - Standardized Accounting and/or Reporting

Court Budgeting in the United States

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EXHIBIT D:

OTHER DOCUMENTS REVIEWED BY THE COMMISSION

DRAFT COURT RULE REGARDING THE DISTRIBUTION OF
PARTIAL PAYMENTS OF COSTS, FINES, AND FEES

DRAFT COURT RULE - DISBURSEMENT OF PARTIAL PAYMENTS

When a person has been convicted, pleaded guilty or no contest, or forfeited bond in a criminal matter and has been assessed fines, costs, fees, and/or restitution; and that person makes less than full payment of the assessed fees, fines, costs, and/or restitution; and when no other agency is collecting restitution separately, each payment should be distributed as follows:

1. The collecting agency should disburse not less than one-half of each payment by a defendant to restitution before paying any portion of any other assessed fine, forfeiture, cost, or other fee.
2. The other one-half of each payment should be divided among the other assessed costs in the proportion of each fine, forfeiture, cost, or fee to the total amount assessed, excluding restitution.

Funds collected for all costs, fines, and fees should be distributed no later than the 10th of the month following the month they are received. Should the funds collected for a payee in a partial payment be less than \$5.00, the funds may be held until the amount owed to the payee is more than \$5.00 or for a maximum of three months, whichever comes first. After three months the funds should be disbursed to the payee, regardless of the amount of the funds collected.

Distribution example. This is only an example; the payees and fine amounts are not based on actual statutes

PAYEE	AMOUNT ASSESSED	% OF TOTAL PAYMENT EXCLUDING RESTITUTION (WHICH IS ALWAYS 50%)	1ST PARTIAL PAYMENT (\$100)	2ND PARTIAL PAYMENT (\$50)	3RD PARTIAL PAYMENT (\$70)	4TH PARTIAL PAYMENT (\$200)	5TH PARTIAL PAYMENT (\$80)	TOTAL PAID TO EACH PAYEE
Restitution - 50% of each payment until fully paid	\$200		\$50 (\$150 left to pay)	\$25 (\$125 left to pay)	\$35 (\$90 left to pay)	\$90 (RESTITUTION FULLY PAID)	\$0	\$200
Judicial Expense Fund	\$50	16.67%	\$8.33	\$4.17	\$5.83	\$18.33	\$13.33	\$50.00
Indigent Defense	\$45	15.00%	\$7.50	\$3.75	\$5.25	\$16.50	\$12.00	\$45.00
District Attorney	\$20	6.67%	\$3.33	\$1.67	\$2.33	\$7.33	\$5.33	\$20.00
DARE	\$50	16.67%	\$8.33	\$4.17	\$5.83	\$18.33	\$13.33	\$50.00
Spinal Cord Fund	\$35	11.67%	\$5.83	\$2.92	\$4.08	\$12.83	\$9.33	\$35.00
Costs of Prosecution	\$100	33.33%	\$16.67	\$8.33	\$11.67	\$36.67	\$26.67	\$100.00
TOTAL ASSESSED/PAID	\$500	100.00%	\$100.00	\$50.00	\$70.00	\$200.00	\$80.00	\$500.00