

# Washington Fines and Fees Reform Case Study

## Why Does this Work Matter

This case study was prepared by Judge David Keenan of the Superior Court of Washington for King County. Judge David Keenan has served on the Superior Court since 2017. Previously, Judge Keenan worked in civil litigation at a global law firm and before that spent nearly 15 years as a federal law enforcement agent. Today, Judge Keenan serves on the Washington Supreme Court's Access to Justice Board and the Court's Minority and Justice Commission. Judge Keenan went through the juvenile criminal legal system as a young man before dropping out of high school and earning his GED, growing up in poverty in Seattle. Judge Keenan channels his experiences into legal financial obligations reform and other access to justice efforts.

## Judge Keenan shares this story...



I was 8 years old when legal financial obligations (LFOs) entered my life. I was riding in a car with a family member in 1978 when we were pulled over for expired license tabs, the driver had a warrant for unpaid debt in a criminal case, they were arrested, and I waited in tears in the police station to be picked up. Decades later, I have the privilege to work with many wonderful partners on LFO reform as a state trial court judge. In this work, we've learned the importance of coalition-building, gathering data to make the reform case to law and policy makers, working for reform in steps over time, and of considering the diverse needs of the many groups impacted by LFOs.

**Washington's work reflects many of the Task Force Principles.**

## Stakeholder Involvement

Washington knew LFO reform required building a coalition. The number of stakeholders and varying interests complicate LFO reform and call for broad relationship building. There are crime victims relying on LFO-funded victim services and restitution, court clerks that sometimes look to LFOs to fund a portion of their work, judicial officers imposing LFOs to provide some measure of accountability, and defendants saddled with what Washington State Legislative Representative Tarra Simmons—who went from addiction and incarceration to being a lawyer and elected official—calls a life sentence, one dollar at a time.

Given the number of people, organizations, and interests involved, the Washington State Supreme Court’s Minority and Justice Commission assembled an [LFO Stakeholder Consortium](#) to bring people together at one table to consider reform. Comprised of judges, crime victim advocates, prosecutors, criminal defense attorneys, civil legal aid attorneys, and many others in the community, the LFO Stakeholder Consortium secured a [Price of Justice](#) grant from the Department of Justice to begin this important work. This early investment in coalition building continues to pay dividends years later as we work toward LFO reform

### **Principle 1.1. Purpose of Courts.**

The purpose of courts is to be a forum for the fair and just resolution of disputes, and in doing so to preserve the rule of law and protect individual rights and liberties. States and political subdivisions should establish courts as part of the judiciary and the judicial branch shall be an impartial, independent, and coequal branch of government. It should be made explicit in authority providing for courts at all levels that, while they have authority to impose Legal Financial Obligations and collect the revenues derived from them, they are not established to be a revenue-generating arm of any branch of government -- executive, legislative, or judicial.

### **Principle 1.4. Access to Courts.**

All court proceedings should be open to the public, subject to clearly articulated legal exceptions. Access to court proceedings should be open, as permissible, and administered in a way that maximizes access to the courts, promotes timely resolution, and enhances public trust and confidence in judicial officers and the judicial process. Judicial branch leaders should increase access to the courts in whatever manner possible, including providing language access services and accommodations for court users with disabilities and providing flexibility in hours of service and through the use of technology innovations, e.g., online dispute resolution where appropriate, electronic payment of fines and costs, online case scheduling and rescheduling, and e-mail, text messages, or other electronic reminder notices of court proceedings

## Data Collection and Infrastructure

Washington lacks a unified court system, making gathering LFO data from state and local courts very challenging. We knew that if we were going to make the case for LFO reform, we needed this data for law and policy makers. Washington was able to use the LFO expertise of [Professor Alexes Harris](#), whose work in the LFO field is nationally recognized. Professor Harris was able to contribute substantial data and analysis to the LFO reform field, for example looking at nearly 20 years of monetary sanctions in the [Seattle Municipal Court](#).

In addition to academia, it was important to involve government in gathering LFO data. In 2021, the Washington Legislature directed the Washington State Institute for Public Policy (WSIPP) to assess LFO practices [around the United States](#) and eventually issue [a final report](#) concerning LFOs in the state of Washington. WSIPP's reporting helped begin to answer key questions in particular about where LFO payments go once they enter government coffers, helping stakeholders to consider the best way to reform the system and serve the many interests involved. Similarly, the Washington State Center for Court Research later conducted additional LFO analysis, [reporting that work](#) to the Washington Legislature. With this and other data, LFO reform stakeholders have been able to come to legislators, policy makers, and community stakeholders with concrete proposals for change.

### Principle 3.2. Financial Data.

All courts should demonstrate transparency and accountability in their collection of fines, fees, costs, surcharges, assessments, and restitution, through the collection and reporting of financial data and the dates of all case dispositions to the state's court of last resort or administrative office of the courts. This reporting of financial information should be in addition to any reporting required by state or local authority.

## Reforms Focused on Ability to Pay

Given estimates that outstanding LFO debt in Washington [exceeded \\$2 billion](#) across hundreds of thousands of cases in the state's 39 counties, the Washington coalition focused on pursuing incremental reform in multiple ways, over time.

Reform was spurred in part by the Washington Supreme Court's 2015 decision in [State v. Blazina](#), holding that judges must conduct individualized ability-to-pay assessments when imposing discretionary LFOs. On the heels of *Blazina*, in 2017, the Washington Legislature passed [House Bill 1783](#). This legislation was important, and yet restrained. Rather than trying to restructure the entire statewide LFO regime, House Bill 1783 did two important things. First, the Bill eliminated Washington's onerous 12 percent interest rate on non-restitution LFOs. Second, the Bill prohibited judicial officers from imposing non-restitution LFOs on individuals who the court determined could not afford to pay, giving statutory life to the Washington Supreme Court's *Blazina* holding. House Bill 1783 kicked off a series of LFO reform bills going through to the present day.

### **Principle 2.3. Statewide Ability to Pay Policies.**

States should have statewide policies that set standards and provide for processes courts should follow when doing the following: assessing a person's ability to pay; granting a waiver or reduction of payment amounts; authorizing the use of a payment plan; and using alternatives to payment or incarceration. States should eliminate the use of Legal Financial Obligations in juvenile cases.

### **Principle 6.8. Interest.**

Courts should not charge interest on payment plans entered into by a defendant, respondent, or probationer.

## Reform Related to Restitution

In 2022, stakeholders came together to address other important areas of LFO reform, specifically around incarceration and restitution. In [House Bill 1412](#), the Washington Legislature allowed currently incarcerated individuals to seek LFO relief, where LFOs can present significant barriers to individuals reentering the community from a period of incarceration. Significantly, House Bill 1412 gave judicial officers discretion to not impose the statutory 12-percent interest rate on restitution, provided the judicial officer solicits input from the victim. The bill also allowed judicial officers to decline to order restitution in some cases where the restitution was to be paid to an insurer rather than, for example, and individual crime victim. Building on the success of House Bill 1873, House Bill 1412 continued Washington's LFO reform efforts.

## Eliminating Mandatory Fees and Replacing Revenue

Washington LFO reform took a significant step in 2023 with [the passage of House Bill 1169](#), which tackled core LFOs in state trial courts. Significantly, House Bill 1169 eliminated and means-tested two LFOs imposed in nearly every felony case in Washington. The bill eliminated a mandatory \$100 DNA collection fee entirely, replacing that fee with dedicated funding. The bill also prohibited judicial officers from imposing a \$500 previously-mandatory crime victim penalty in cases where the court determined that the defendant is unable to pay. This last piece was significant, because the crime victim penalty funds were used to fund important victim services in court cases. However, because those funds relied on the ability of defendants—the majority of whom are low-income—to pay, the amount of funds for these services varied over time. House Bill 1169 replaced the mandatory crime victim penalty with a means-tested penalty and, importantly, dedicated state funding for vital victim services.

### **Principle 1.5. Court Funding and Legal Financial Obligations.**

Courts should be entirely and sufficiently funded from general governmental revenue sources to enable them to fulfill their mandate. Core court functions should not be supported by revenues generated from Legal Financial Obligations. Under no circumstances should judicial performance be measured by, or judicial compensation be related to, a judge's or a court's performance in generating revenue. A judge's decision to impose a Legal Financial Obligation should be unrelated to the goal of generating revenue. Revenue generated from the imposition of a Legal Financial Obligation should not be used for salaries or benefits of judicial branch officials or operations, including judges, prosecutors, defense attorneys, and court staff, nor should such funds be used to evaluate the performance of judges or other court officials.

### **Principle 6.9. Restitution.**

Courts should examine restitution practices and work with legislatures when necessary to address restitution statutes. Courts should also develop relationships with crime victim reparation funding sources to identify means of compensation for crime victims that do not rely solely on restitution from defendants. Courts may also look to restorative justice options, when appropriate, to develop non-monetary restitution solutions.

## Juvenile Reform

Most recently, in 2023 and 2024, LFO stakeholders shifted their focus to juveniles. First, in 2023 (also in House Bill 1169), the Washington Legislature eliminated non-restitution LFOs in all juvenile criminal sentences. But given that there were still over \$100 million in outstanding juvenile LFOs in cases around Washington, in 2024 the Washington Legislature passed [Senate Bill 5974](#), which requires court clerks to zero out all non-restitution LFOs in every juvenile case to ensure that this uncollectable debt does not haunt young people later in life.

### **Principle 6.10 Eliminate Legal Financial Obligations in Juvenile Cases.**

States should eliminate the use of Legal Financial Obligations, including fines and probation costs, in juvenile cases.

### **Principle 2.3. Statewide Ability to Pay Policies.**

States should have statewide policies that set standards and provide for processes courts should follow when doing the following: assessing a person's ability to pay; granting a waiver or reduction of payment amounts; authorizing the use of a payment plan; and using alternatives to payment or incarceration. States should eliminate the use of Legal Financial Obligations in juvenile cases.

## Identifying and Addressing Disproportionate Impact of LFOs

Washington's LFO stakeholders used data to consider how LFOs impact different groups in different ways. For example, in 2021, the Washington Supreme Court's Gender and Justice Commission issued a comprehensive report on several important topics, [2021: How Gender and Race Affect Justice Now](#). In that more than 1,000-page study, Judge Keenan authored [the LFO chapter](#), looking at how LFOs impact women in particular. Relatedly, Washington is fortunate to be home to two groups who highlight LFO impacts on the formerly incarcerated. The organization [Civil Survival](#) helps the formerly incarcerated navigate their complex post-incarceration civil legal needs, including around LFOs. And the organization [Living with Conviction](#) focuses specifically on LFOs for the formerly incarcerated. Living With Conviction even [has a portal](#) for assisting individuals with petitioning for LFO relief, which highlights the importance of technology in LFO reform.

Through these efforts over a period of years, Washington's LFO stakeholders have learned that reform cannot necessarily happen immediately or comprehensively, but instead through coalition building, data gathering, and consensus.

### **Principle 4.1. Disparate Impact and Collateral Consequences of Current Practices.**

Courts should adopt policies and follow practices that promote fairness and equal treatment. Courts should acknowledge that their fines, fees, and bail practices may have a disparate impact on the poor and on racial and ethnic minorities and their communities.