

New York's Ferguson Problem

How the state's racist fee system punishes poverty, lacks transparency, and is overdue for reform



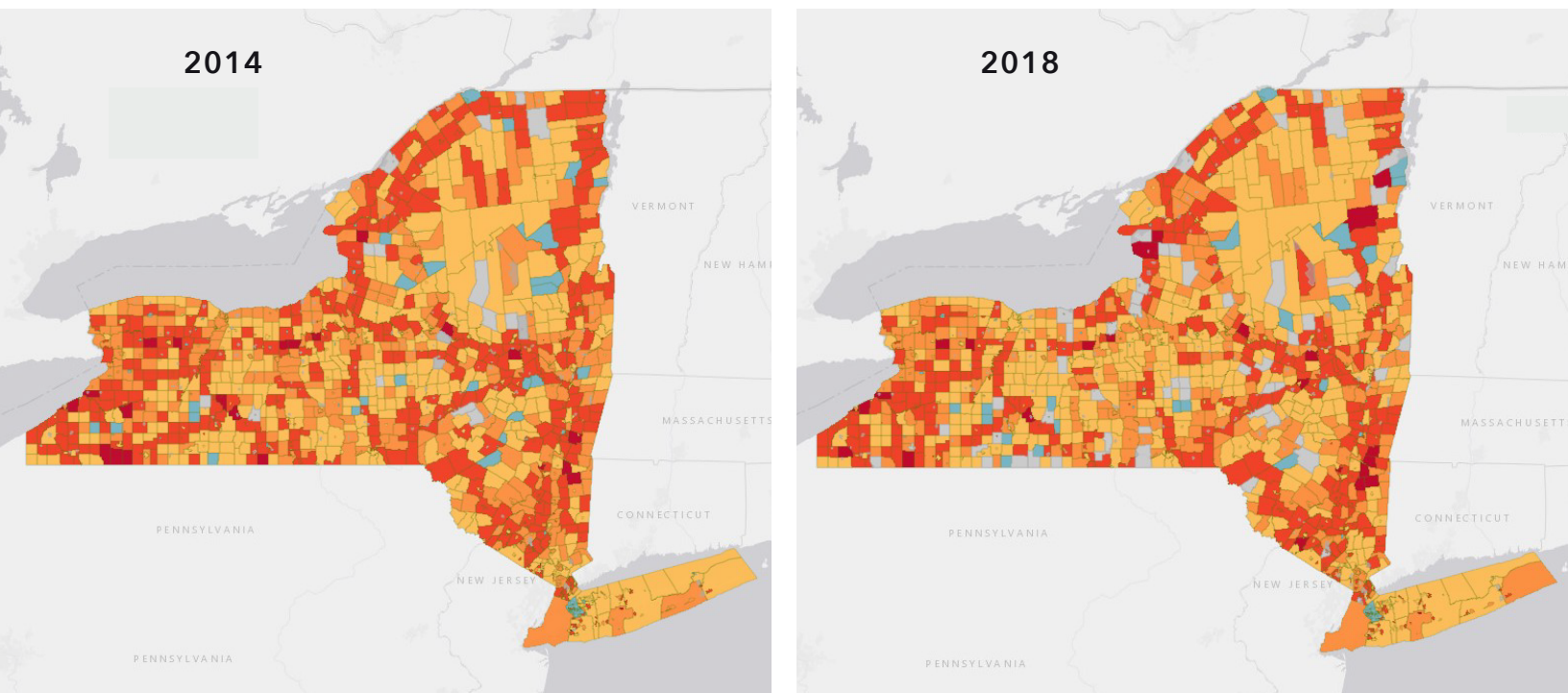
INTRODUCTION

After police in Ferguson, Missouri, killed Michael Brown in 2014, a U.S. Department of Justice (DOJ) investigation uncovered a pattern of racially discriminatory policing incentivized by the city's dependence on the criminal legal system to raise money.¹ The DOJ found that the City of Ferguson stopped, cited, and arrested Black people at starkly disproportionate rates,² and then used warrants and jail time to coerce individuals into paying fines and fees. This pattern of enforcement, shaped by the goal of generating revenue, resulted in systemic constitutional violations, serious harm to community members, and "deep mistrust between parts of the community and the police department."³ The Ferguson budget data showed that the city generated around 12.5 percent of revenue through fines and fees in 2010 and 2011. The city budgeted to collect over 23 percent of its revenue through fines and fees in 2015.⁴

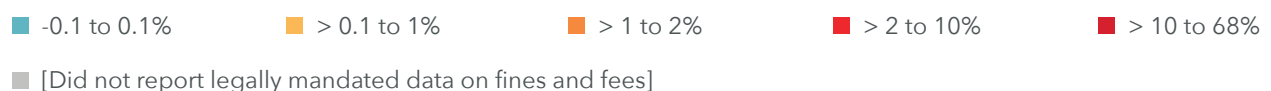
Today, in New York, the reliance on fines and fees as a revenue source is equally troubling. **A national study found that 34 New York localities are about as reliant, if not more reliant, on fines and fees revenue as Ferguson was during the period investigated.** In a dozen New York localities, the share of revenue generated from fines and fees is over 20 percent.⁵ Racial disparities across the state mirror many of the DOJ's findings in Ferguson. Police acting as armed debt collectors⁶ risk Black and Brown⁷ lives and extract wealth from New York's poorest communities.⁸ The COVID-19 pandemic and resulting financial crisis only intensify the negative racial, economic, and health impacts⁹ of policing in pursuit of revenue.

Ferguson served as a cautionary tale. Several jurisdictions across the country quickly reformed or eliminated the use of fines and fees.¹⁰ Yet, five years later, New York continues to depend on this toxic revenue source. This is New York's Ferguson problem.

New York's Ferguson Problem: Reliance on Fines and Fees Revenue Across the State, Before and After the Ferguson Report



Locality's percentage of total revenue collected from fines and fees



This paper explains the urgent need to end New York's reliance on fines and fees revenue by ending legal system fees—beginning with the elimination of the mandatory surcharge, a fee attached to every conviction including traffic tickets. Courts across the state do not waive or reduce these fees, regardless of one's ability to pay. The result is a regressive, racialized tax that systematically punishes poverty and promotes unaccountable state and local government.

OVERVIEW OF NEW YORK'S ESCALATING FEE PROBLEM

Paralleling the rise of mass incarceration over the last four decades, policy changes, austerity measures, and increased policing expanded the use of fines and fees in the U.S.¹¹ New York repeatedly increased its fines and fees in line with national trends (see Appendix A for details).

New York's fines and fees vary in their application and purpose: Fines are supposed to punish and discourage people from breaking the law. Most come from building or traffic violations for routine issues, such as driving with a broken taillight. Fees serve solely to generate government revenue (see

Appendix B for details). They are often automatic administrative charges, like Public Safety fees attached to traffic tickets or surcharges for convictions. The government should rely on neither to balance its budget. Doing so is a fiscal policy failure, undermining fairness, transparency, and accountability.

New York's fees are a regressive tax.

Disproportionately levied on low-income people and Black and Brown New Yorkers, fees use local police and the court system as tax collectors to raise revenue for state, county, and city funds (see Appendix C for details).¹² The harsh consequences of not paying fees and surcharges creates a two-tiered punishment system. A wealthy person paying a \$175 surcharge for a misdemeanor conviction may face a minor inconvenience, while an indigent person might lose nearly half of their available emergency savings¹³ or else face debt, a civil judgement, or jail time for nonpayment. Though New York may have a legitimate interest in using taxes to fund public systems, fees are an unfair and unreliable fiscal policy.

The mandatory surcharge is the top contributor to this problem.

This automatic charge attaches to every conviction.¹⁴ A single fee can be hundreds of dollars, but payment plans are largely unavailable—and judges do not waive or reduce the surcharge based on inability to pay (see Appendices A and D for details).¹⁵ Depending on the underlying offense, those unable to pay the surcharge may face bench warrants, arrests, incarceration, driver's license suspensions,¹⁶ and civil judgments (legally-enforceable debts that can impede access to credit, housing, and employment, as well as create a public record even for an otherwise sealed case).¹⁷ For people behind bars, up to half of the funds in their commissary accounts are garnished to pay surcharges before the remaining funds can be used to meet their basic needs. These harms are often borne by Black and Brown people, who are targeted by law enforcement and stopped, arrested, convicted, and punished at higher rates.¹⁸ Thus the burden of the mandatory surcharge falls disproportionately on Black and Brown people across the state.

Government revenue from fees is unaccountable.

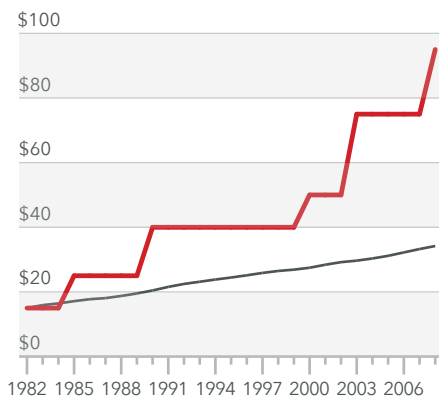
New York does not keep legally mandated records on how the government assesses, collects, and distributes revenue from individual fees, including the mandatory surcharge. New York also fails to maintain data reporting infrastructure to track the amounts imposed and collected for specific fees, including the mandatory surcharge and associated revenue spending (see Appendix G for more information on the limits of these data and the authors' collection efforts). Any legislator seeking to reform fines and fees will ask how much each reform would realistically cost—information the state makes impossible to obtain.

The New York Legislature has repeatedly increased fees.

Fees, such as the mandatory surcharge, should not exist, let alone be increased. But data show New

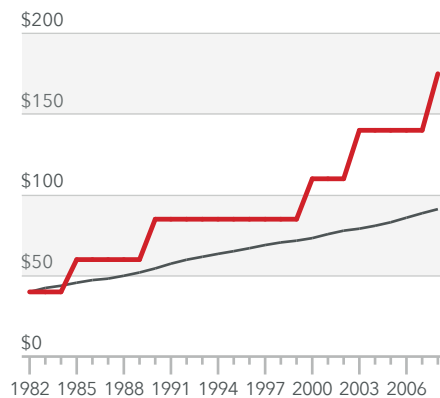
York has not only increased fees over time, but also made certain fees less affordable and a much greater financial burden. Since the creation of the mandatory surcharge in the 1980s, the surcharge for violations has increased 178 percent more than the expected inflation-adjusted amount.¹⁹ For misdemeanors and felonies, the surcharge increased 92 percent and 75 percent, respectively, relative to the inflation-adjusted amount. The Legislature also removed an important release valve for people unable to pay: until 1995, judges had the discretion to reduce or waive surcharges (see Appendix A for more details on this legislative history).

New York Legislators Repeatedly Raised Mandatory Surcharge Amounts



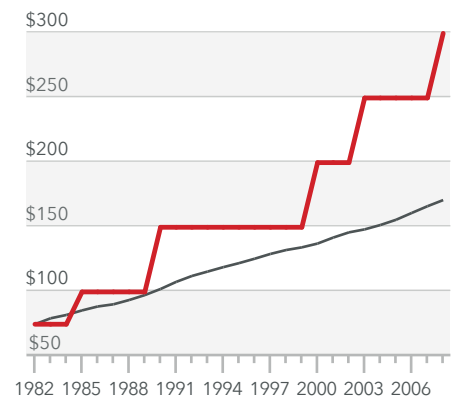
■ Violations Surcharge
■ Expected Inflation-Adjusted Amount

By 2008, the violation surcharge was 178% higher than the expected inflation-adjusted amount



■ Misdemeanor Surcharge
■ Expected Inflation-Adjusted Amount

By 2008, the misdemeanor surcharge was 92% higher than the expected inflation-adjusted amount



■ Felony Surcharge
■ Expected Inflation-Adjusted Amount

By 2008, the felony surcharge was 75% higher than the expected inflation-adjusted amount

New York's legislature created our Ferguson problem. It is up to them to fix it.

Although the impact of fees and criminal debt may not have been fully understood in the decades prior to the Ferguson Report, today, the problem—and its solution—are clear. In a 2019 committee report, the New York City Bar Association said of mandatory court fees: "Given that the aims of the criminal justice system are in no way advanced by these mandatory surcharges and fees, and that the revenue does not enhance the court budget, the Legislature should simply abolish them."²⁰

THE RACIST IMPACT OF NEW YORK'S FEES

When New York imposes fees for court cases and convictions, it charges a racialized tax and creates dangerous circumstances that put Black and Brown people at risk of police violence. The historical

origins of this practice date back to the Black Codes of the Jim Crow era.²¹ During the COVID-19 pandemic, policing for profit is even more of a threat to community safety and well-being.

New York police and court data do not capture the impact of fines and fees by race and ethnicity; however, the targeting of Black and Latinx New Yorkers by the criminal legal system is evident at every step of the process. Relative to their share of the population,²² the rates of stops, arrests, convictions, and sentences are all higher for Black and Latinx New Yorkers. These rates demonstrate how these same communities bear the corresponding burden of fees.

Stops and Searches:

New York City data show racial disparities in stop and search practices.²³ In 2019, Black people were six times more likely to be subject to “Stop, Question, and Frisk” (SQF) compared to white people. These disparities are also evident in arrests and summonses after SQFs: Black people were about six times more likely to be arrested and almost nine times more likely to be issued summonses after SQFs than white people.²⁴ A lack of data makes it impossible to measure inequities at the state level. However, in response to a request from the Stanford Open Policing Project, New York State Police provided nine years of traffic stop data. An analysis of seven counties reveals that Black and Latinx drivers are consistently stopped at higher rates relative to their share of the county’s population.²⁵ This suggests such racial inequality exists at the local level across the state and is driven not by “racial differences in driving-related behavior,” but exists because “police are overly suspicious of lower-income Black drivers and adopt a lower stopping threshold for them.”²⁶

Arrests:

Despite representing only 14 percent of the New York population, Black people made up 38 percent of all arrests in 2018. Likewise, although representing just 19 percent of the population, Hispanic people made up 24 percent of all arrests.²⁷

Convictions:

32 percent of people convicted of misdemeanor offenses in 2018 were Black, while 21 percent were Hispanic. These disparities are more pronounced for more serious convictions—Black people made up 42 percent of felony convictions, and Hispanic people made up 23 percent of felony convictions.²⁸

Sentences:

Finally, Black people are more likely to be sentenced to prison, compared to their share of the population. In 2018, Black people made up 48 percent of prison sentences, Hispanic people made up 22 percent, and white people made up 28 percent. Black people were nearly two times more likely to receive a prison sentence than their white counterparts.²⁹

In addition to the consequences of these documented disparities, which translate to disproportionate

taxing of Black and Brown communities through the mandatory surcharge, fee-driven policing targeting Black and Brown people puts lives at risk of police violence.³⁰ Even a routine traffic stop can quickly turn deadly, and, as seen in Ferguson, the more a locality relies on fines and fees, the more frequent these stops will take place to generate desired revenue. Numerous examples of this exist across the country. A police officer, who led his department in issuing the highest number of traffic stops and citations over a 12-month period, killed Samuel DuBose after stopping him for a missing front license plate.³¹ Police stopped Philando Castile 46 times and issued him over 85 violations, almost exclusively for non-moving offenses. Though half the violations were dismissed, the remaining violations cost Mr. Castile over \$6,000. Police shot and killed him during the 47th stop.³² These killings are just two instances of police violence that stems from the government using law enforcement to generate revenue and collect fines and fees.

These fines and fees practices also harm the same communities overburdened by the COVID-19 pandemic and economic crisis, putting lives and livelihoods at additional risk. The COVID-19 pandemic worsens the severe consequences of racially discriminatory policing and makes reform more urgent now than ever. Not only do Black and Brown people face COVID-19 mortality rates over three times higher than white people,³³ additional policing, court hearings, and potential incarceration for non-payment all heighten the risk of infection and community spread.

Finally, though fees have always placed an outsized burden on Black and Brown people due to the racial wealth gap and limited emergency funds, new evidence seems to indicate that this gap is growing due to the impact of rising unemployment, disparate access to Unemployment Insurance, lopsided work-from-home and essential worker policies, and other financial pressures tied to an impending recession.³⁴

FEES PUNISH POVERTY

Fees are financial shocks, often levied on those least able to pay—and they affect every person in New York convicted of an offense, as well as their families, friends, and communities. Moreover, there are almost no laws in New York that protect people from the imposition of fees they cannot afford in a standardized way. A recent survey of New York defense attorneys shows that nearly 65 percent of local courts “rarely” or “never” take into account a person’s ability to pay before issuing a warrant for a missed payment.³⁵

Fees have significant consequences for people. They impact everything from housing stability to emotional well-being to relationships with family and friends.³⁶

40 percent of U.S. households do not have \$400 to spare without borrowing money or selling possessions.³⁷ Now, COVID-19 has worsened U.S. households’ financial hardships. With unemployment rates in New York close to 16 percent through the summer of 2020,³⁸ low-income people and, in particular, low-income Black and Brown people, cannot afford the additional financial stress of fees.

Measuring the impact of fees is exceedingly difficult due to a lack of data.

Measuring the precise impact of fees on New Yorkers—in terms of both the amounts paid and the debt accumulated—is exceedingly difficult due to the state’s failure to collect data, even where it is legally mandated to do so. Though statewide data are unavailable, reports from New York City and the New York Justice Courts provide some statistics: In 2019, New York City’s criminal courts imposed over \$10 million in surcharges, but collected just over \$3 million (30 percent). New York City Supreme Courts imposed nearly \$4 million and collected about \$611,000 (16 percent).³⁹ In 2018, over 1,200 Justice Courts, which cover a select group of cases in New York’s towns and villages, took in approximately \$248 million in fines and fees.⁴⁰ No data are available regarding the amount initially imposed, what percentage of that was collected, or the cost of collection.⁴¹ Furthermore, no central database shows how many individuals across the state are impacted by fines, fees, and resulting court debt and other consequences imposed on those who cannot afford to pay.⁴²

The imposition of fees creates a cycle of punishment and poverty.

For far too many New Yorkers, these costs compound the long-lasting consequences of a conviction. People with convictions often face barriers to jobs, housing, and government benefits, making repayment even more difficult.⁴³ Even for low-level violations, nonpayment of fees can lead to a public court record and court debt that stays on the books for twenty years. Worse, some localities routinely arrest and incarcerate people who are unable to pay, violating the constitutional guarantees of due process, equal protection, and the bar on excessive fines.⁴⁴

Finally, on top of these consequences, fees harm the finances, health, and safety of households, families, friends, and communities (see Appendix F). For example, women often end up paying fines and fees on behalf of their loved ones, adding gender justice concerns to racial and economic injustices.⁴⁵ And reliance on fees erodes public safety: “police departments in cities that collect a greater share of their revenue from fees solve violent and property crimes at significantly lower rates.”⁴⁶

BAD FISCAL POLICY & UNACCOUNTABLE GOVERNMENT

New York’s fiscal policy and reporting on fines and fees lack fundamental transparency. Now more than ever, accountability in government funding is a crucial justice issue. Calls by advocates across the country to alter how police and court systems are funded must be paired with a commitment to ending the punitive, regressive, and unaccountable funding source of fees.⁴⁷

New York does not transparently report statewide imposition and collection of fines and fees, allowing it to overlook the harms associated with this revenue source.

The New York Office of the State Comptroller is one of the few state entities to provide regular reporting on court debt revenue, but it covers only the over 1,200 Justice Courts in towns and villages around the state. The Justice Court Fund requires the Justice Courts to file monthly reports on the

disposition of collected revenue. However, the reporting does not list revenue by type of fine or fee and, instead, provides only a lump sum of what is collected. Furthermore, collections are reported as part of the year in which they are collected, so what is imposed or assessed versus what is collected is unknown. More detailed information may exist in individual courts, including critical data like numbers of civil judgments entered and people incarcerated for nonpayment, but those reporting forms are not made routinely available to the public. The New York State Office of Court Administration only provides data on imposed and collected surcharges in New York City (see Appendix G for more details on data limitations).

Without transparent and detailed reporting across the state, the public—and their elected officials—remain unaware of how many individuals are assessed fines, fees, and surcharges, and the associated debt burden and legal consequences.

New York does not provide additional access to surcharge data, even if specifically requested.

New York law requires courts to report mandatory surcharge data to the Division of Criminal Justice Services (DCJS).⁴⁸ Since January 2020, legislators and advocates have repeatedly attempted to obtain this reporting, but no data are available. Attempts to get disposition and collection data from DCJS, the Office of the State Comptroller, and the Division of the Budget were unsuccessful, and each entity confirmed they do not collect these data.

New York's reporting system limitations are a barrier to transparency.

The state's legacy IT systems cannot disaggregate revenue data by type for the over 1,200 Justice Courts tracked by the Office of the State Comptroller. Collected amounts of fines, fees, and surcharges are reported as lump sums. Despite their willingness to assist, state agency staff said they could not fulfill more specific requests.

New York provides almost no information on how revenue is redistributed and for what purpose.

According to the Office of the State Comptroller, the majority of the state's share of revenue collected by the Justice Courts is distributed to the General Fund; the rest goes into eleven Special Revenue Funds.⁴⁹ While many of these funds support worthy programs, most have nothing to do with individual convictions. The only information available shows that the state revenue goes to general government expenses. New Yorkers deserve basic fairness, transparency, and accountability from their government. These goals are directly at odds with relying on fees for revenue.

POLICY RECOMENDATIONS

New York's predatory court fines and fees put Black and Brown lives in danger. They trap New Yorkers in inescapable debt. They allow our governments to avoid accountability for choosing this dangerous revenue source. No New Yorker should be at risk of losing their job, their license or their freedom just

because they can't afford a fine or fee. In a fair society, there can be no price on justice.

New York state can no longer be allowed to systematically extract money from the state's most vulnerable communities to fund local governments and courts. The following policy recommendations will help us end dangerous and predatory fines and fees while we work towards more equitable means of funding government.

1. End predatory legal system fees. These fees are extra costs added to every conviction in New York. Their sole purpose is to generate revenue for state and local governments. New York should immediately abolish all criminal and traffic fees and surcharges, including:

Mandatory surcharges

The mandatory surcharge is a fee attached to every conviction—even traffic tickets. Courts do not waive or assess one's ability to pay this fee. Mandatory surcharge fees can amount to hundreds of dollars—and fall disproportionately on Black and Brown New Yorkers. If you cannot afford to pay the mandatory surcharge, you can be jailed for nonpayment, subjected to a civil judgment with long-term negative effects on access to housing and employment, or be forced to pay off the surcharge via garnishment from your meager jail or prison wages.

Parole fees

People recently released from prisons who are on parole supervision are required to pay a monthly fee. This fee often creates another obstacle to reintegration as people look for work to re-establish their livelihood and wellbeing. Parole fees disproportionately impact people of color. In 2018, Black and Latinx people made up 52.5 percent of those on parole,⁵⁰ despite representing only one-third of New York's population.⁵¹

Probation fees

In many counties, people on probation are often made to pay probation fees or "monthly supervision fees," even though people on probation are much more likely to be low-income than those who aren't. Failure to pay probation fees can result in a longer probation sentence, loss of your driver's license, enrollment in a mandatory work program, or incarceration.

DNA Databank Fee

New Yorkers who are convicted of a misdemeanor or felony are required to pay a DNA Databank fee, purportedly to pay for the costs of adding their DNA sample to New York's DNA Databank. However, the state requires people to pay this fee even if they have already provided a DNA sample and paid the accompanying fee on a prior case.

2. End commissary garnishment for court debt.

People behind bars have accounts they use to buy basic necessities, but the funds in these accounts are taken out to pay for any fines and fees that they owe—even if the money is deposited by their family. Studies show that in 63% of cases, family members were primarily responsible for court costs associated with a conviction. Of the family members responsible for these costs, 83 percent were women.⁵²

3. End arrest and incarceration for nonpayment of fines and fees.

In New York, if people don't pay their fines and fees, they may face a warrant for their arrest. They can be incarcerated while they wait to see a judge, and can even be sentenced to up to a year in jail for nonpayment.

4. End mandatory minimum fines.

Convictions sometimes come with a minimum fine amount regardless of the person's income. This means the same fine will be easy for a wealthy person to afford, while devastating a low-income person. Fines should be fair.

5. Transparently report all fines and fees imposed and collected within the legal system.

These data should include geographic and demographic data, as well as the cost of collection and how any revenue is spent. The only way to make sure our government is fair and effective is for us to have accurate and accessible reporting.

ACKNOWLEDGEMENTS

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APPENDICES

Appendix A: Legislative History

New York legislative history shows repeated increases in fees and surcharges. Table 1 and Table 2 outline the legal history for two automatic fees associated with convictions and sentences through 2013: the mandatory surcharge and the crime victim assistance fee.⁵³ Although surcharges also apply to vehicle and traffic law (VTL), the following tables do not include a full accounting of VTL.

The Mandatory Surcharge (N.Y. Penal Law § 60.35), originally called the “mandatory penalty assessment,” became effective on May 12, 1982.

Table 1. Mandatory Surcharge Legislative History

| Date Effective | Updated Charges | Citation |
|----------------|---|------------------------------|
| May 12, 1982 | Surcharges fixed at \$75 for a felony conviction, \$40 for a misdemeanor conviction, and \$15 for a violation conviction. | L.1982, c. 55 |
| April 1, 1983 | Surcharges and fees added to all fines for traffic violations; fixed at \$75 for a felony conviction, \$40 for a misdemeanor conviction, and \$15 for a violation conviction. | N.Y. Veh. & Traf. Law § 1809 |
| May 17, 1985 | Surcharges increased to \$100 for a felony conviction, \$60 for a misdemeanor conviction, and \$25 for a violation conviction. | L.1984, c. 59 |
| May 25, 1990 | Surcharges increased to \$150 for a felony, \$85 for a misdemeanor, and \$40 for a violation. | L.1990, c. 190, § 319 |

| | | |
|-------------------|---|---|
| 1995 | The New York Legislature passes the Sentencing Reform Act of 1995, barring judges from waiving surcharges associated with a conviction: "under no circumstances shall the mandatory surcharge or the crime victim assistance fee be waived." | Sentencing Reform Act of 1995, 1995 Sess. Law News of N.Y. Ch. 3 (S. 5281, A. 7991) |
| January 1, 1998 | Statute amended to institute a \$5 increase in the amount of the surcharge levied for a conviction for a misdemeanor or violation in a Justice Court. The purpose of the legislation was to offset an increased cost to the State in reimbursements to these town and village courts for certain functions. | Penal Law § 60.35(9). L. 1997, c. 452; Legislative Memorandum for Senate 898 |
| April 1, 2000 | Surcharges increased to \$200 for a felony, \$110 for a misdemeanor, and \$50 for a violation. | L.2000, c. 57, pt. L, § 1 |
| November 11, 2003 | Surcharges increased to \$250 for a felony, \$140 for a misdemeanor, and \$75 for a violation. | L.2003, c. 62 |
| July 1, 2008 | Surcharges increased to \$300 for a felony, \$175 for a misdemeanor, and \$95 for a violation. | L.2008, c. 56 |
| July 26, 2013 | Mandatory Surcharge for Certain Parking Violations (1809-aa) added, imposing a \$25 mandatory surcharge for convictions for violations of VTL 1200-02 | L.2013, c. 55, pt. C, § 7 |

In 1989, the New York Legislature provided that, in addition to the mandatory surcharge, a crime victim assistance fee would be levied at the time of sentence. L.1989, c. 62. The Crime Victim Assistance Fee (N.Y. Penal Law § 60.35) became effective on April 19, 1989.

Table 2. Crime Victim Assistance Fee Legislative History

| Date Effective | Updated Charges | Citation |
|----------------|-----------------|-------------------------|
| April 19, 1989 | Set at \$2 | L.1989, c. 62, § 101(e) |
| June 12, 1991 | Raised to \$5 | L.1991, c. 166 |

| | | |
|-------------------|--|---|
| 1995 | The New York Legislature passes the Sentencing Reform Act of 1995, barring judges from waiving surcharges associated with a conviction: “under no circumstances shall the mandatory surcharge or the crime victim assistance fee be waived.” | Sentencing Reform Act of 1995, 1995 Sess. Law News of N.Y. Ch. 3 (S. 5281, A. 7991) |
| May 15, 2000 | Raised to \$10 (Note: The law specified that it was effective on April 1, 2000, but the Governor signed it into law on May 15, 2000) | L.2000, c. 57 |
| November 11, 2003 | Raised to \$20 | L.2003, c.62 |
| July 1, 2008 | Raised to \$25 | L.2008, c. 56 |

Appendix B: Rationales for Fees

The idea that surcharges will serve as a fair user fee on the criminal courts is old, inaccurate, and shifts the burden of funding a public service—the courts—onto those disproportionately and unfairly targeted for criminal punishment.⁵⁴ Moreover, often this revenue goes into general funds that are allocated to purposes unrelated to the underlying offense of the person paying. A 2016 opinion by the New York Court of Appeals highlights this common, but inaccurate, framing of the justification for fees like the mandatory surcharge (*People v. Jones* 2016):

“...the fees imposed under Penal Law § 60.35 are related to the ‘State’s legitimate interest in raising revenues’ (*People v. Barnes*, 62 NY2d 702, 703 [1984])” and the mandatory surcharge “is paid to the State to shift costs of providing services to victims of crime from “law abiding taxpayers and toward those who commit crimes”” (*People v. Quinones*, 95 NY2d 349, 352 [2000], quoting Mem of State Executive Dept, 1983 McKinney’s Session Laws of NY, at 2356, and citing Penal Law § 60.35 [3]; State Finance Law § 97-bb; *Barnes*, 62 NY2d 702).”

Penal Law section 60.35, creating the mandatory surcharge, was originally enacted as part of a massive revenue-raising bill meant to “avert the loss of an estimated \$100 million in State tax revenues.”⁵⁵

Subsequent increases to the surcharge have followed similar rationales. The 1997 bill jacket describes the addition of \$5 to the mandatory surcharge, to be retained by local government, as a way of defraying the costs of operating local courts—which had not been sufficiently funded by State legislative appropriations. The bill jacket noted that the basis of the surcharge was to provide that those who violated the law and imposed the financial burden of operating the local courts ought to bear some of that burden, rather than the real property owner who bears the greatest financial burden

of maintaining local government costs including police protection and court maintenance.⁵⁶

If the legal system is to be a public good that benefits us all, then it must be funded by us all. The idea that New York State should finance the criminal legal system with fees must be retired, especially considering that these fees are regressive in their application, often do not fund the intended government function, and are costly to collect.⁵⁷

Appendix C: Courts as Revenue Centers

New York underfunds local governments in ways that incentivize their reliance on fines and fees for revenue, which they collect using their police and court systems. This practice creates a serious conflict of interest, potentially violating New Yorkers' due process rights to a fair tribunal and even exposing the state to civil liability.⁵⁸ New York localities collect an enormous amount of funds this way. For example, available data shows that in 2018, over 1,200 Justice Courts in towns and villages across the state collected approximately \$248 million in fine and fee revenue.⁵⁹ Of the \$248 million collected in 2018, \$111,215,037 was disbursed to the state; \$8,116,525 was disbursed to the counties, and \$129,345,629 was disbursed to the local jurisdictions.⁶⁰ According to a 2010 report on the Justice Court Fund by the New York Office of the State Comptroller, 90 percent of collected revenue was derived from fines, fees, and surcharges imposed under the Vehicle and Traffic Law.⁶¹

Comparing Justice Court revenue collections from 2014 with collections from 2018⁶² showed that 489 courts, roughly 41 percent, reported an increase in collections in 2018 when compared with 2014,⁶³ with an average increase of 59 percent in collected revenue among these courts.⁶⁴ 510 courts saw increases in the share of collected revenue distributed back to the locality, with an average increase of 63 percent among these courts. 70 of these courts (14 percent) saw a 100 percent or greater increase in the share of revenue distributed back to the locality.⁶⁵ Towns and villages located on Long Island, in the Hudson Valley, and in Western New York were heavily represented among these courts. The state's share of the collected revenues has been fairly consistent for all examined years. A review of these courts noted that these funds are often a "critical source of funding...to support local budgets for police protection, sanitation, road maintenance and other key municipal functions."⁶⁶

Appendix D: Summary of Common New York Criminal and Traffic Fees

Table 3 provides information on the type and amount of common New York Criminal and Traffic Fees. This list is somewhat based on a 2017 legal review of fines and fees statutes in nine states. The report found 120 statutes pertaining to fines and fees in New York.⁶⁷

Table 3. List of New York State Court Fees

| Statute | Brief Description | Amount Charged |
|-----------------------------------|---|--|
| PENAL LAW § 60.35(1)(a)(i) | Felony surcharge | \$300 |
| PENAL LAW § 60.35(1)(a)(ii) | Misdemeanor surcharge | \$175 |
| PENAL LAW § 60.35(1)(a)(i) | Violation surcharge | \$95 |
| PENAL LAW § 60.35(10) | Proceeding in town or village court surcharge | \$5 |
| PENAL LAW § 60.27(8) | Designated surcharge to collecting agency for the collection and administration of restitution | 5-10% of restitution depending on restitution and cost of collection |
| EXECUTIVE LAW § 257-c | Fee for probation supervision in DWI cases | \$30/month |
| CORRECTION LAW § 168-b | Fee for making certain changes to sex offender registry (e.g., change of address) | \$10 |
| VEH. & TRAF. LAW § 1809(1)(a) | VEH. & TRAF. LAW Article 9 infraction surcharge; \$5 CVAf for Article 9 traffic infractions | \$25 |
| VEH. & TRAF. LAW § 1809(1)(b) | Crime victim assistance fee for felony or misdemeanor convictions under VEH. & TRAF. LAW § 1192 | \$25 |
| VEH. & TRAF. LAW § 1809(1)(b)(i) | VEH. & TRAF. LAW § 1192 DWI felony | \$300 |
| VEH. & TRAF. LAW § 1809(1)(b)(ii) | VEH. & TRAF. LAW § 1192 DWI misdemeanor | \$175 |
| VEH. & TRAF. LAW § 1809-c | Additional surcharge for conviction under VEH. & TRAF. LAW § 1192 | \$25 |
| VEH. & TRAF. LAW § 1809-e(1)(b) | Additional surcharge for conviction under VEH. & TRAF. LAW § 1192 | \$175 |

| | | |
|---------------------------------|--|---------|
| VEH. & TRAF. LAW § 1809(1)(c) | Mandatory surcharge for selected VEH. & TRAF. LAW offenses | \$55 |
| VEH. & TRAF. LAW § 1809(9) | Proceeding in town or village court surcharge | \$5 |
| VEH. & TRAF. LAW § 1809-a | Surcharge required in certain cities for parking, stopping, and standing violations [Repealed effective September 1, 2021] | \$15 |
| VEH. & TRAF. LAW § 1809-aa | Surcharge for certain parking violations | \$25 |
| VEH. & TRAF. LAW § 1809-b | Surcharge for certain violations related to handicapped parking spaces | \$30 |
| VEH. & TRAF. LAW § 1809-d | Surcharge for violation of maximum speed limits in highway construction or maintenance work areas | \$50 |
| VEH. & TRAF. LAW § 1809-e(1)(a) | Additional surcharge for certain VEH. & TRAF. LAW violations | \$28 |
| VEH. & TRAF. LAW § 1809-e(1)(b) | Additional surcharge for conviction under VEH. & TRAF. LAW § 1192 | \$175 |
| PENAL LAW § 60.35(1)(a)(i) | Felony crime victim assistance fee | \$25 |
| PENAL LAW § 60.35(1)(a)(ii) | Misdemeanor crime victim assistance fee | \$25 |
| PENAL LAW § 60.35(1)(a)(iii) | Violation crime victim assistance fee | \$25 |
| PENAL LAW § 60.35(1)(a)(iv) | Sex offender registration fee | \$50 |
| PENAL LAW § 60.35(1)(a)(v) | DNA databank fee applicable to all felonies and most misdemeanors, regardless if the state already has the person's DNA sample on file | \$50 |
| PENAL LAW § 60.35(1)(b) | Supplemental sex offender victim fee for specified offenses | \$1,000 |

| | | |
|-----------------------------------|--|----------------|
| CORRECTION LAW § 189(2) | Incarceration fee to “defray the costs of incarceration” | Up to \$1/week |
| VEH. & TRAF. LAW § 1809(1)(c) | Crime victim assistance fee for selected VEH. & TRAF. LAW offenses | \$5 |
| VEH. & TRAF. LAW § 503(2)(h) | Termination of license revocation fee; application for re-issuance | \$100 |
| VEH. & TRAF. LAW § 503(2)(i) | Termination of driving privileges for nonresident; fee for reinstatement of privileges | \$25 |
| VEH. & TRAF. LAW § 503(2)(j) | Termination of license suspension fee | \$50 |
| VEH. & TRAF. LAW § 503(2)(j) | Termination of license suspension fee – alcohol related offense | \$100 |
| VEH. & TRAF. LAW § 503(2)(j-1)(i) | Termination of license suspension fee; suspension due to failure to appear or failure to pay | \$70 |

A note on local fees:

Local fees, though outside the scope of this paper, are an essential contributor to New York’s Ferguson problem. Buffalo and Long Island recently created new local traffic conviction fees that typically add at least \$100 to existing fines and surcharges, exacerbating New York’s Ferguson problem in those localities.⁶⁸ Meanwhile, localities throughout the state continue to impose an array of unauthorized probation fees, even though state law only permits them to impose a Driving While Intoxicated probation fee of \$30 per month, according to guidance from the state Attorney General.

Appendix E: Racial Disparities in Stops

In 2019, the New York Police Department conducted 13,251 “Stop, Question, and Frisks” (SQFs). While 60 percent of the people stopped for SQFs were Black and 29 percent of those stopped for SQFs were Hispanic, white people accounted for only nine percent of those subjected to SQFs. Racial disparities are also evident in the identities of those arrested and those issued summonses incident to SQFs: Of the 4,126 SQF arrests made in 2019, Black people accounted for 58 percent, Hispanic people accounted for 29.9079 percent, and white people accounted for 10 percent of arrests. Of the

338 SQF summonses issued in 2019, Black people accounted for 65 percent, Hispanic people accounted for 24 percent, and white people accounted for only seven percent of persons issued summonses.

In response to the Stanford Open Policing Project's request for traffic stop data, the New York State Police provided limited information regarding 7,962,169 traffic stops conducted between December 2009 and December 2017.⁶⁹ Table 4 summarizes the data from 2017 across seven counties compared to the relevant 2017 population data.⁷⁰

Table 4. New York County Traffic Stop Data in 2017

| Albany County | % of population | % of total stops |
|----------------------|------------------------|-------------------------|
| White drivers | 71.80% | 66.20% |
| Black drivers | 12.10% | 20.50% |
| Hispanic drivers | 6.00% | 5.80% |
| Broome County | % of population | % of total stops |
| White drivers | 84.00% | 68.80% |
| Black drivers | 5.10% | 14.30% |
| Hispanic drivers | 4.00% | 6.00% |
| Erie County | % of population | % of total stops |
| White drivers | 75.30% | 71.20% |
| Black drivers | 12.70% | 17.00% |
| Hispanic drivers | 5.50% | 3.80% |

| Monroe County | % of population | % of total stops |
|------------------------|------------------------|-------------------------|
| White drivers | 70.30% | 53.60% |
| Black drivers | 14.40% | 31.40% |
| Hispanic drivers | 8.80% | 10.60% |
| Nassau County | % of population | % of total stops |
| White drivers | 59.60% | 36.90% |
| Black drivers | 11.10% | 24.60% |
| Hispanic drivers | 17.20% | 17.90% |
| Onondaga County | % of population | % of total stops |
| White drivers | 76.50% | 70.80% |
| Black drivers | 11.00% | 19.80% |
| Hispanic drivers | 4.90% | 3.60% |
| Suffolk County | % of population | % of total stops |
| White drivers | 67.10% | 48.80% |
| Black drivers | 7.40% | 14.80% |
| Hispanic drivers | 19.50% | 27.40% |

Appendix F: Cost to Communities

With such limited data available in New York, the authors turned to other states and broader surveys to describe the impact of fines and fees on communities. Two recent studies highlight how an individual's

struggle with fines and fees can influence the rest of their community by destabilizing housing, employment, and social relationships:

A survey of 980 Alabamians (including 879 people who owed money themselves and 101 people who were paying a debt for others) found that 83 percent of people gave up necessities like rent, food, medical bills, car payments, and child support to pay down their court debt, 38 percent admitted to committing a crime to pay, and 66 percent received money or food assistance from a faith-based charity that they would not have had to request if it were not for their court debt. Black women made up the largest proportion of people paying a debt for other people.⁷¹

Another recent study interviews 380 people across eight states who are paying fines and fees (37 interviewees live in New York). Preliminary analyses indicate that these individuals struggled to navigate the legal process of paying the amounts owed and often lean on family for both social and economic support. Like in Alabama, the interviewees reported challenges balancing housing and employment while paying their debt. Many said that fines and fees affected their social relationships and caused long-term financial strain.⁷²

Appendix G: New York's Limited Data and the Authors' Collection Efforts

The authors of this paper began their data collection efforts in January of 2020, starting with outreach to the New York State Legislature. In addition to the contact with the legislature and various committees and Senate and Assembly offices, the lead researchers for the coalition, the Fiscal Policy Institute, also contacted the New York State Division of Criminal Justice Services (DCJS), the Office of Court Administration - New York Unified Court (OCA), the New York Office of the State Comptroller (OSC), the New York State Department of Taxation and Finance (DTF), and the New York State Division of Budget (DOB) in attempts to obtain data and reporting relating to the state's mandatory surcharge, other fees, and fines. As of July 2020, only the limited data presented in this report was received regarding the imposition and/or collection of the mandatory surcharge. The lack of complete and transparent reporting of all imposition, collection, and disposition of the mandatory surcharge and other fee revenue suggests that government decision-making about these fees suffers from persistent data gaps, which makes the individual and community impact of fees challenging to assess and simultaneously raises questions about fiscal policy intentions. It is also in violation of New York reporting requirements.⁷³

The complete 2019 New York City surcharge data is publicly available. The full data referenced in this paper is provided in Table 5. Across all five boroughs, there were 81,493 surcharges imposed through the criminal courts; 2,482 through summonses; and 99,306 through the Supreme Courts. Surcharges were not necessarily imposed in the year they were collected.

Table 5. Surcharges Imposed and Collected in New York City by County

| County | Criminal Surcharges, Imposed | Criminal Surcharges, Collected | Summons Surcharges, Imposed | Summons Surcharges, Collected | Supreme Surcharges, Imposed | Supreme Surcharges, Collected |
|----------|------------------------------|--------------------------------|-----------------------------|-------------------------------|-----------------------------|-------------------------------|
| Bronx | \$1,855,795 | \$464,815 | \$16,198 | \$13,408 | \$2,585,309 | \$573,008 |
| Kings | \$1,971,900 | \$651,407 | \$50,412 | \$36,174 | \$2,803,434 | \$871,804 |
| New York | \$3,038,428 | \$581,300 | \$51,189 | \$16,134 | \$4,456,073 | \$756,231 |
| Queens | \$2,597,338 | \$1,137,366 | \$50,352 | \$47,151 | \$3,397,490 | \$1,357,300 |
| Richmond | \$647,725 | \$220,653 | \$40,209 | \$33,113 | \$880,017 | \$253,766 |
| Totals | \$10,111,186 | \$3,055,541 | \$208,360 | \$145,980 | \$14,122,323 | \$3,812,109 |

Source: New York State Unified Court System, NYC Criminal & Supreme Court Fines, Fees, & Surcharges on Arrest & Summons Cases by County and Court, 2019

ENDNOTES

¹ United States Department of Justice Civil Rights Division, The Ferguson Report: Department of Justice investigation of the Ferguson Police Department (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

² “Despite making up 67 percent of the population, African Americans accounted for 85 percent of FPD’s [the Ferguson Police Department’s] traffic stops, 90 percent of FPD’s citations, and 93 percent of FPD’s arrests from 2012 to 2014.” (U.S. DOJ, The Ferguson Report (2015): 4)

³ “Ferguson’s law enforcement practices are shaped by the City’s focus on revenue rather than by public safety needs. This emphasis on revenue has compromised the institutional character of Ferguson’s police department, contributing to a pattern of unconstitutional policing...Over time, Ferguson’s police and municipal court practices have sown deep mistrust between parts of the community and the police department, undermining law enforcement legitimacy among African Americans in particular.” (U.S. DOJ, The Ferguson Report (2015): 2)

⁴ The DOJ reports the precise amounts of fines and fees revenue collected relative to the budget for two years: 2010 and 2011. For 2012 to 2015, the report notes projected budget amounts and shows a steep increase in the expected revenue from fines and fees. (U.S. DOJ, The Ferguson Report (2015): 9-10)

⁵ 34 localities raise 10 percent or more of their revenue through fines and fees; 12 localities raise 20 percent or more of their revenue through fines and fees. Mike Maciag, “Local Government Fine Revenues By State,”

Governing, September, 2019,

<https://www.governing.com/gov-data/other/local-governments-high-fine-revenues-by-state.html>

⁶ Ariel Nelson, Wingo Smith, and Leah Nelson, "Why the Police Shouldn't Be Armed Debt Collectors," *Governing*, July 31, 2020, <https://www.governing.com/now/Why-the-Police-Shouldnt-Be-Armed-Debt-Collectors.html>

⁷ This paper uses "Black" and "Brown" to acknowledge the unique and diverse racial identities and histories of Black and Brown people living in America. The authors make an exception when data sources use the terms Hispanic or Latino to track the language used in the source. Latino is adjusted to Latinx, despite the limitations of the term, to be more gender-inclusive.

⁸ Mike Maciag, "Addicted to Fines," *Governing*, September, 2019,

<https://www.governing.com/topics/finance/gov-addicted-to-fines.html>. See also, Board of Governors of the Federal Reserve System, "Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020," The Federal Reserve (May 2020),

<https://www.federalreserve.gov/publications/files/2019-report-economic-well-being-us-households-202005.pdf>

⁹ Limited data make it difficult to fully understand the COVID-19 health risks faced by those arrested, summoned to court, and potentially jailed for a nonpayment. However, a growing body of research suggests that the virus has taken a high toll on people in U.S. courts, jails, and prisons. One of the more comprehensive studies on the rates of COVID-19 infections in prisons was published in July 2020 and finds that "The COVID-19 case rate for [people in prison] was 5.5 times higher than the US population case rate of 587 per 100,000. The crude COVID-19 death rate in [people in prison] was 39 deaths per 100,000 [people in prison], which was higher than the US population rate of 29 deaths per 100,000...adjusted death rate in the prison population was 3.0 times higher than would be expected if the age and sex distributions of the US and prison populations were equal." Brendan Saloner et al., "COVID-19 Cases and Deaths in Federal and State Prisons," *JAMA* 324, no. 6 (August 11, 2020): 602-3, <https://doi.org/10.1001/jama.2020.12528>. Data tracking the ongoing crisis documents infections continuing to rise rapidly in jails and prisons across the U.S. For example, see: "Coronavirus in the U.S.: Latest Map and Case Count," *The New York Times*, accessed August 24, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html#clusters>.

¹⁰ Following the release of the Ferguson Report in 2015, advocates and policymakers worked to enact concrete fines and fees reform. In 2016, Harvard Law School released a policy reform guide ("Confronting Criminal Justice Debt: A Guide for Policy Reform," Harvard Law School (September 2016), <http://cjpp.law.harvard.edu/assets/Confronting-Crim-Justice-Debt-Guide-to-Policy-Reform-FINAL.pdf>). In 2018, California became the first state to abolish all administrative fees in juvenile delinquency cases (California SB 190); Illinois passed a bill prohibiting courts from denying a petition to seal or expunge a criminal record simply because the individual has unpaid court debt (Illinois HB 5341); and Michigan abolished its driver responsibility fees (Michigan Public Acts 43-50). For more on fee reforms following the publication of the Ferguson Report, see "The Clearinghouse," Fines and Fees Justice Center, accessed August 24, 2020, <https://finesandfeesjusticecenter.org/clearinghouse>.

¹¹ Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*, American Sociological Association's Rose Series in Sociology (New York: Russell Sage Foundation, 2016).

¹² Notably, New York outpaces other states in its per capita revenue through fines and forfeitures. A review of nine states found that New York raised the highest amount per capita (\$110) ahead of California (\$68), Illinois (\$60), Texas (\$60), Georgia (\$57), Washington (\$42), North Carolina (\$41), Missouri (\$38), and Minnesota (\$20). Alexes Harris et al., "Monetary Sanctions in the Criminal Justice System," Laura and John Arnold Foundation (April 2017): 17-8, <http://www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf>.

¹³ "Report on the Economic Well-Being of U.S. Households in 2018 - May 2019," U.S. Federal Reserve (May 2019), accessed August 24, 2020, <https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm>.

¹⁴ According to state law, mandatory surcharges, except for those collected in a town or village justice court, are deposited into the Criminal Justice Improvement Account (CJIA). The CJIA funds programs for crime survivors and witnesses, and some restitution. Mandatory surcharges from towns and villages are deposited in the State's General Fund. Additional details regarding the General Fund and Town and Village Justice Courts are discussed in this paper's section, "Bad Fiscal Policy and Unaccountable Government." (For more information on fund allocations, reference New York State Penal Law, §60.35; New York State Finance Law, §97-BB; and New York State Vehicle and Traffic Law, §1809.)

¹⁵ C.P.L. 420.35(2) bars courts from waiving the surcharge and ending this practice across the state calls for legislative reform. Although C.P.L. 420.35(1) applies C.P.L. 420.10(5) to the mandatory surcharge, and C.P.L. 420.10(5) requires a judge to resentence a defendant who is unable to pay a fine to alter the terms, reduce the amount owed, or remove the fine from the sentence, the surcharge is routinely applied as mandatory and not waivable in New York. While legal scholars may note potential constitutional arguments against this practice, functionally, the surcharge remains mandatory. See *People v. Duenas*, 30 Cal. App. 5th 1157 (2019) for a recent California case examining the constitutional issue.

¹⁶ In July 2020, the New York legislature passed the Driver's License Suspension Reform Act, backed by the Driven by Justice Coalition, to end this practice. The legislation requires a signature from Governor Cuomo to become law. "Press Release: NY Legislature Sends Driver's License Suspension Reform Bill to Gov. Cuomo's Desk," Fines and Fees Justice Center, July 22, 2020, <https://finesandfeesjusticecenter.org/2020/07/22/press-release-ny-legislature-sends-drivers-license-suspension-reform-bill-to-gov-cuomos-desk/>.

¹⁷ Denise Kronstadt et al., "Fines and Fees and Jail Time in New York Town and Village Justice Courts: The Unseen Violation of Constitutional and State Law," The Fund for Modern Courts (April 2019), <http://moderncourts.org/wp-content/uploads/2019/04/Fines-and-Fees-and-Jail-Time-in-New-York-Town-and-Village-Justice-Courts-The-Unseen-Violation-of-Constitutional-and-State-Law.pdf>.

¹⁸ See data presented in this paper's section, "The Racist Impact of New York's Fees."

¹⁹ Data based on the legislative history collected in the appendices of this paper and data from the Consumer Price Index for relevant dates. Organization for Economic Co-operation and Development, "Consumer Price Index: Total All Items for the United States [CPALTT01USA659N]," FRED, Federal Reserve Bank of St. Louis, retrieved on July 7, 2020, <https://fred.stlouisfed.org/series/CPALTT01USA659N>.

²⁰ "Committee Report: New York Should Re-Examine Mandatory Court Fees Imposed on Individuals Convicted of Criminal Offenses and Violations," New York City Bar Association (May 9, 2019): 3, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/new-york-should-re-examine-mandatory-court-fees>.

²¹ The use of monetary sanctions in the United States can be traced back to the Black Codes imposed by Southern states following the Civil War. The Codes targeted newly freed Black people with vaguely defined and low-level offenses punishable by fines, which could either be paid or worked off during a period of incarceration. For more on the use of Black Codes to extract wealth from communities of color and maintain the racial hierarchy, see both Justice Ginsburg's opinion for the Court and Justice Thomas's concurring opinion in *Timbs v. Indiana*, 586 U.S. ____ (2019), construing the Excessive Fines Clause.

²² In 2018, Black people accounted for 14 percent of New York's population, Hispanic or Latinx people for 19 percent of the population, and white people for 56 percent of the population. (Note: Estimates for Black and white populations exclude those who identify as Hispanic or Latinx.) "ACS Demographic and Housing Estimates, 5-Year Estimates Data Profile," U.S. Census Bureau (2018), retrieved from <https://data.census.gov/cedsci/table?d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP05&tid=ACS DP5Y2018.DP05&g=0400000US36>.

²³ In 2018, Black people accounted for 22 percent of the New York City population, Hispanic or Latinx people accounted for 29 percent of the population, and white people accounted for 32 percent of the population. (Note: Estimates for Black and white alone, excluding Hispanic or Latinx.) "ACS Demographic and Housing Estimates, 5-Year Estimates Data Profile," U.S. Census Bureau (2018), retrieved from https://data.census.gov/cedsci/table?d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP05&tid=ACS DP5Y2018.DP05&g=0400000US36_1600000US3651000&hidePreview=true.

²⁴ Data available at "NYPD Quarterly Reports," New York City American Civil Liberties Union, accessed August 24, 2020, <https://www.nyclu.org/en/nypd-quarterly-reports>.

²⁵ The New York State Police provided limited information regarding 7,962,169 traffic stops they conducted between December 2009 and December 2017. Data and more details available "Findings," The Stanford Open Policing Project, accessed August 24, 2020, <https://openpolicing.stanford.edu/findings/>.

²⁶ Racial disparities in traffic stops are a pervasive problem throughout the U.S. Indeed, in a recent study designed to study the consequences of driver's license suspensions for nonpayment of traffic fines, researchers analyzed traffic tickets issued in Marion County, Indiana and concluded that "police officers have lower stop thresholds for Black drivers who look a certain way or live in certain neighborhoods." The researchers noted that "analyses fail to produce evidence that Black drivers violate traffic laws or engage in other driving behavior that make them more likely to incur traffic tickets," and thus "there is a significant probability [Black drivers] will be the subject of an investigatory stop, regardless of their driving activity." Sian Mughan and Joanna Carroll, "Escaping the Long Arm of the Law? Racial Disparities in the Effect of Failure-to-Pay License Suspension," SSRN Electronic Journal (2020): 25-7, <https://doi.org/10.2139/ssrn.3631885>.

²⁷ "NYS Arrest and Prison Sentences," New York State Division of Criminal Justice Services (2018), retrieved from <https://www.criminaljustice.ny.gov/crimnet/ojsa/comparison-population-arrests-prison-demographics/2018%20Population%20Arrests%20Prison%20by%20Race.pdf>.

²⁸ "NYS Adult Arrests Disposed by Race/Ethnicity," New York State Division of Criminal Justice Services (2018), retrieved from <https://www.criminaljustice.ny.gov/crimnet/ojsa/dispositions-adult-arrest-demographics/2018/NYS.pdf>.

²⁹ "NYS Arrest and Prison Sentences," New York State Division of Criminal Justice Services (2018), retrieved from <https://www.criminaljustice.ny.gov/crimnet/ojsa/comparison-population-arrests-prison-demographics/2018%20Population%20Arrests%20Prison%20by%20Race.pdf>.

³⁰ Eric Morkowitz, "The Link Between Money and Aggressive Policing," The New Yorker, August 11, 2016, <https://www.newyorker.com/news/news-desk/the-link-between-money-and-aggressive-policing>.

³¹ Exiger, "Final Report for the Comprehensive Review of the University of Cincinnati Police Department," University of Cincinnati Office of Safety and Reform, June 1, 2016, <https://www.uc.edu/content/dam/refresh/publicsafety-62/docs/reform/exiger-report.pdf>.

³² Eyder Peralta and Cheryl Corley, "The Driving Life And Death Of Philando Castile," National Public Radio, July 15, 2016, <https://www.npr.org/sections/thetwo-way/2016/07/15/485835272/the-driving-life-and-death-of-philando-castile>.

- ³³ "The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.," American Public Media Research Lab, August 18, 2020, <https://www.apmresearchlab.org/covid/deaths-by-race>.
- ³⁴ Darrick Hamilton et al., "White Supremacy as Pre-existing Condition: Eight Solutions to Ensure Economic Recovery Reduces the Racial Wealth Divide," Institute for Policy Studies (June 2019), <https://ips-dc.org/wp-content/uploads/2020/06/RWD2020-June19-Final.pdf>.
- ³⁵ The survey collected data from attorneys working in Justice Courts located in 57 New York counties. More details at Kronstadt et al., "Fines and Fees and Jail Time," The Fund for Modern Courts (April 2019).
- ³⁶ For examples, see Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*, American Sociological Association's Rose Series in Sociology (New York: Russell Sage Foundation, 2016); Matthew Desmond, *Evicted: Poverty and Profit in the American City*, First Edition (New York: Crown Publishers, 2016); Kathryn Edin and H. Luke Shaefer, *\$2.00 a Day: Living on Almost Nothing in America*, 2016; and Steven Mello, "Speed Trap or Poverty Trap? Fines, Fees, and Financial Wellbeing," November 14, 2018, <https://mello.github.io/files/jmp.pdf>.
- ³⁷ "Report on the Economic Well-Being of U.S. Households," U.S. Federal Reserve, last modified May 28, 2019.
- ³⁸ "Press Release: NYS Economy Added 244,200 Private Sector Jobs in July 2020," New York State Department of Labor, August 20, 2020, <https://labor.ny.gov/stats/pressreleases/pruistat.shtm>.
- ³⁹ Data provided upon request by New York State Office of Court Administration. Mandatory surcharges for summonses are inclusive of corporations and individuals. Collections represent what was collected for that year regardless of when the mandatory surcharge was imposed.
- ⁴⁰ "Justice Court Fund - Town and Village Court Revenue Report 2018 Calendar Year - All Counties," New York Office of the State Comptroller, accessed August 24, 2020, <http://www1.osc.state.ny.us/localgov/jc/jcf-town-and-village-revenue-report.cfm>.
- ⁴¹ Matthew Menendez et al., "The Steep Costs of Criminal Justice Fees," Brennan Center for Justice (November 2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.
- ⁴² These data are difficult to obtain. No national datasets provide a count of people with fees or other court-related debt. Research in some states provides a sense of the broad impact of fines and fees across populations. For example, one in twelve adults in North Carolina have unpaid court debt according to a recently released study ("The Explosion of Unpaid Criminal Fines and Fees in North Carolina," Duke Law (April 2020): 3, <https://sites.law.duke.edu/justsciencelab/wp-content/uploads/sites/5/2020/04/CSJ-Criminal-Fines-and-Fees-in-N-C-v.7.pdf>). In New York, proxy indicators can be used to begin to understand the impact. For example, traffic convictions are the most common sources of mandatory surcharges; 2017 New York State Department of Motor Vehicle Conviction data document over 1.4 million traffic convictions. (Data retrieved from New York Department of Motor Vehicles, New York Open Data, accessed March 2020, [https://data.ny.gov/browse?Dataset-Information_Agency=Motor+Vehicles%2C+Department+of; convictions recorded from traffic tickets issued to motorists for violations of NYS Vehicle & Traffic Law \(VTL\), Thruway Rules and Regulations, Tax Law, Transportation Law, Parks and Recreation Regulations, Local New York City Traffic Ordinances, and NYS Penal Law.](https://data.ny.gov/browse?Dataset-Information_Agency=Motor+Vehicles%2C+Department+of; convictions recorded from traffic tickets issued to motorists for violations of NYS Vehicle & Traffic Law (VTL), Thruway Rules and Regulations, Tax Law, Transportation Law, Parks and Recreation Regulations, Local New York City Traffic Ordinances, and NYS Penal Law.))
- ⁴³ "Collateral Consequences Inventory," Justice Center, accessed August 24, 2020, [https://niccc.csgjusticecenter.org/database/results/?title=&jurisdiction=204&consequence_category=234%2C31%2C239&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; RJ Vogt, "Have A Criminal Record? COVID-19 Relief May Be Out Of Reach," Law 360, May 3, 2020, <https://www.law360.com/articles/1269641/have-a-criminal-record-covid-19-relief-may-be-out-of-reach>.](https://niccc.csgjusticecenter.org/database/results/?title=&jurisdiction=204&consequence_category=234%2C31%2C239&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; RJ Vogt,)

- ⁴⁴ Griffin v. Illinois, 351 U.S. 12 (1956); Bearden v. Georgia, 461 U.S. 660 (1983); People v. Montero, 124 Misc. 2d 1020 (N.Y. App. Div. 2d Dep't 1984).
- ⁴⁵ Saneta deVuono-powell et al., "Who Pays? The True Cost of Incarceration on Families," Ella Baker Center, Forward Together, Research Action Design (2015), <http://whopaysreport.org/>
- ⁴⁶ Rebecca Goldstein, Michael W. Sances, and Hye Young You, "Exploitative Revenues, Law Enforcement, and the Quality of Government Service," Urban Affairs Review 56, no. 1 (January 2020): 5-31, <https://doi.org/10.1177/1078087418791775>.
- ⁴⁷ For more on the relationship between fees and the police divestment movement see "Fines, Fees and Police Divestment: Statement and Policy Recommendations," Fines and Fees Justice Center, August 4, 2020, <https://finesandfeesjusticecenter.org/2020/08/04/fines-fees-and-police-divestment-statement-and-policy-recommendations/>.
- ⁴⁸ New York Consolidated Laws, Criminal Procedure, Section 420.35(3): Fines, Restitution, and Reparation <https://www.nysenate.gov/legislation/laws/CPL/420.35>.
- ⁴⁹ The eleven funds are Conservation Fund, Marine Resources Account, Boating Noise Level Enforcement Fund, I Love NY Waterways Boat Safety Fund, Snowmobile Trail Development and Maintenance Fund, Criminal Justice Improvement Account, Uninsured Employers' Fund, Highway Construction/Maintenance Safety Fund, Patron Services Account, Commercial Vehicle Safety Program Fund, and the Indigent Legal Services Fund.
- ⁵⁰ David Weprin et al., "2018 Annual Report Standing," The State of New York Assembly Committee on Correction (2018), https://nyassembly.gov/write/upload/postings/2019/pdfs/20190319_0085751.pdf.
- ⁵¹ "ACS Demographic and Housing Estimates, 5-Year Estimates Data Profile," U.S. Census Bureau (2018), retrieved from <https://data.census.gov/cedsci/table?d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP05&tid=ACSDP5Y2018.DP05&g=0400000US36>.
- ⁵² Saneta deVuono-powell et al., "Who Pays? The True Cost of Incarceration on Families," Ella Baker Center, Forward Together, Research Action Design (2015), <http://whopaysreport.org/>
- ⁵³ Data obtained through William Donnino, Practice Commentary, McKinney's NY Penal Law § 60.35.
- ⁵⁴ See *Timbs v. Indiana*, 586 U.S. ____ (2019).
- ⁵⁵ Legislative Memo in Support, Bill Jacket, L. 1982, ch. 55, at 6.
- ⁵⁶ See New York Bill Jacket, 1997 S.B. 898, Ch. 452.
- ⁵⁷ Menendez et al., "The Steep Costs of Criminal Justice Fees," Brennan Center (November 2019).
- ⁵⁸ See *Caliste v. Cantrell*, Civil Action No. 17-6197 Section "L" (5) (E.D. La. 2020); and *Brucker v. City of Doraville*, 391 F. Supp. 3d 1207 (N.D. Ga. 2019).
- ⁵⁹ Michelle Breidenbach, "How much do town, village courts in NY state collect in traffic and other fines?," Syracuse, May 22, 2019, <https://www.syracuse.com/crime/2019/05/how-much-do-town-village-courts-in-ny-state-collect-in-traffic-and-other-fines.html>.
- ⁶⁰ "Justice Court Fund - Town and Village Court Revenue Report 2018 Calendar Year - All Counties," New York Office of the State Comptroller, accessed August 24, 2020, <http://www1.osc.state.ny.us/localgov/jc/jcf-town-and-village-revenue-report.cfm>.

⁶¹ "Report on the Justice Court Fund," New York Office of the State Comptroller (August 2010), <https://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2019-02/justicecourtreport2010.pdf>.

⁶² 1,205 Justice Courts had complete reporting available for both 2014 and 2018.

⁶³ Only those courts reporting increases at or above 3 percent were counted as having revenue increases.

⁶⁴ The Fiscal Policy Institute analysis of Justice Court Fund Town and Village Revenue Report data from the Office of the State Comptroller. Data retrieved from "Justice Court Fund - Town and Village Court Revenue Report 2018 Calendar Year - All Counties," New York Office of the State Comptroller, accessed August 24, 2020, <http://www1.osc.state.ny.us/localgov/jc/jcf-town-and-village-revenue-report.cfm>.

⁶⁵ Ibid.

⁶⁶ Kronstadt et al., "Fines and Fees and Jail Time," *The Fund for Modern Courts* (April 2019): 2.

⁶⁷ An asterisk (*) notes statutes that, as of 2017, had sections or subsections that were set to expire.

⁶⁸ "Applicable Fees," Nassau County New York, accessed August 24, 2020, <https://www.nassaucountyny.gov/2798/Applicable-Fees>; "Applicable Fees," City of Buffalo, accessed August 24, 2020, <https://www.buffalony.gov/faq.aspx?qid=195>.

⁶⁹ As discussed in the paper, New York law does not mandate the collection and analysis of traffic stop data.

⁷⁰ Sources: Emma Pierson et al., "A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States," *Stanford Computational Policy Lab* (2019), <https://openpolicing.stanford.edu/data/>; and DataUSA, <https://datausa.io>, accessed December 31, 2019.

⁷¹ Alabama Appleseed et al., "Under Pressure: How Fines and Fees Hurt People, Undermine Public Safety, and Drive Alabama's Racial Wealth Divide," *Alabama Appleseed* (2018), <https://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>.

⁷² Preliminary findings reported in Alexes Harris et al., "United States Systems of Justice, Poverty and the Consequences of Non-Payment of Monetary Sanctions: Interviews from California, Georgia, Illinois, Minnesota, Missouri, Texas, New York, and Washington," *Multi-State Study of Monetary Sanctions* (November 2017), <http://www.monetarysanctions.org/wp-content/uploads/2018/01/Monetary-Sanctions-2nd-Year-Report.pdf>.

⁷³ NY Criminal Procedure Law § 420.35 (2012)

