

Legal Financial Obligations

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Outline

I. Monetary Sanctions in Washington State

- What are they?
- Varying sentence and recoupment rates

II. Consequences of Monetary Sanctions

- Long term legal debt
- Court monitoring
- Incarceration
- Stunted lives
- Frustration and emotional strain

Monetary Sanctions in Washington

Mandatory

- Victim Penalty Assessment (VPA) \$500/\$250
- DNA \$100

Example “Optional” Costs

- Court costs (\$200)
- Costs related to warrant (\$100)
- Department of Assigned Council (e.g. Pierce County \$450)
- Fee for requesting a jury trial (\$125/\$250)
- Incarceration costs (up to \$100 per day jail/ \$50 per day prison)

Fees

- 12% interest
- \$100 Annual collections surcharge
- Per payment fees

County-Level Differences,
Example of King County J & S Form

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
 Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(2), sets forth those circumstances in attached Appendix E.
 Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
 Date to be set.
 Defendant waives presence at future restitution hearing(s).
 Restitution is not ordered.

* Defendant shall pay Victim Penalty Assessment pursuant to RCW 7.68.035 in the amount of \$500.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____ Court costs; Court costs are waived; (RCW 9.94A.030, 10.01.160)
(b) \$100 DNA collection fee; DNA fee waived (RCW 43.43.754)(crimes committed after 7/1/02);
(c) \$ _____ Recoupment for attorney's fees to King County Public Defense Programs;
 Recoupment is waived (RCW 9.94A.030);
(d) \$ _____ Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA;
 VUCSA fine waived (RCW 69.50.430);
(e) \$ _____ King County Interlocal Drug Fund; Drug Fund payment is waived;
(RCW 9.94A.030)
(f) \$ _____ State Crime Laboratory Fee; Laboratory fee waived (RCW 43.43.690);
(g) \$ _____ Incarceration costs; Incarceration costs waived (RCW 9.94A.760(2));
(h) \$ _____ Other costs for: _____

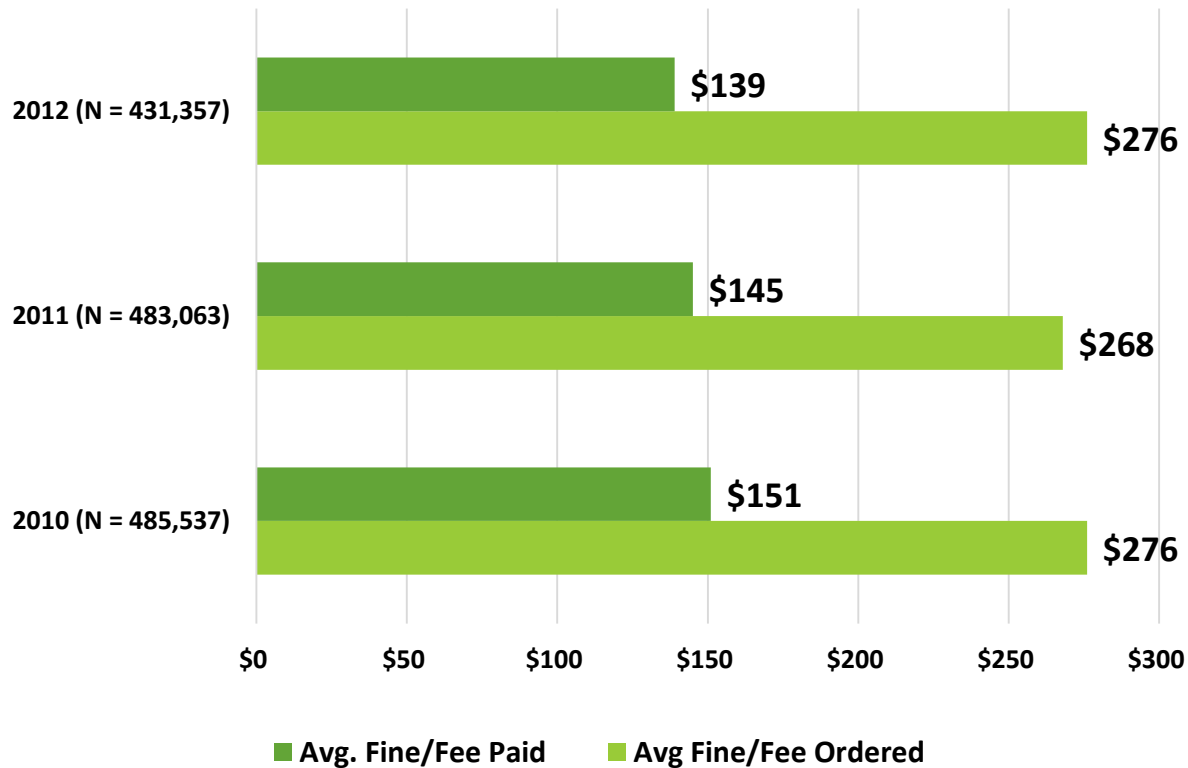
4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 1669.42 The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$200 per month; On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.

Court Clerk's trust fees are waived.

Interest is waived except with respect to restitution.

Table 1. Washington Municipal Courts, Fines and Fees Ordered and Paid, 2010-2012.

Average Fine/Fee Amounts Ordered and Paid



Percent of Fine/Fee Paid

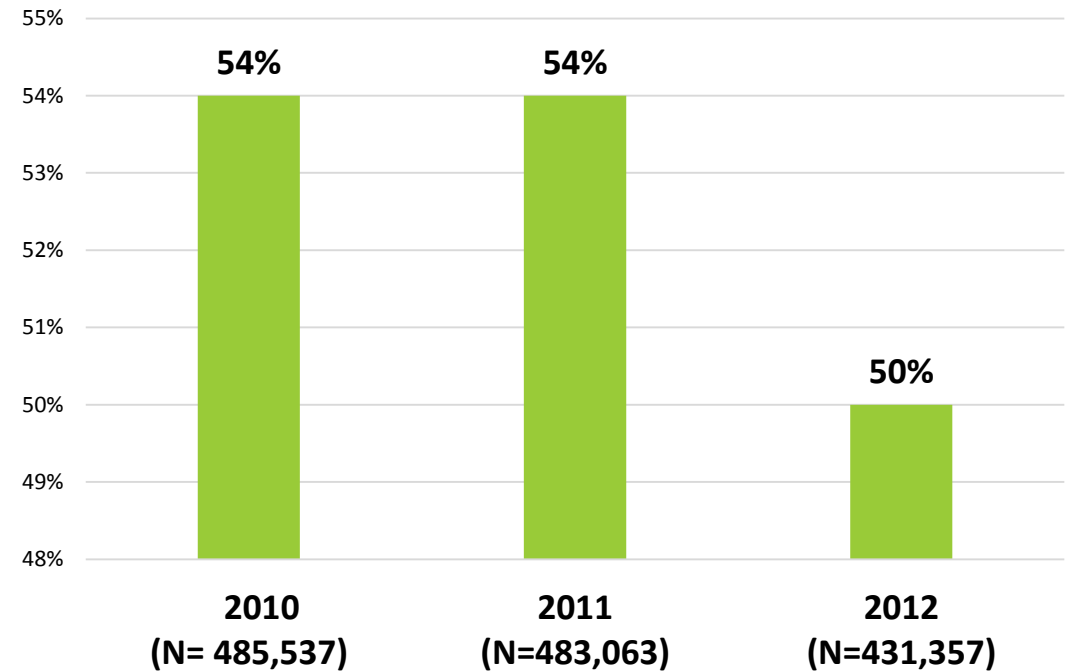
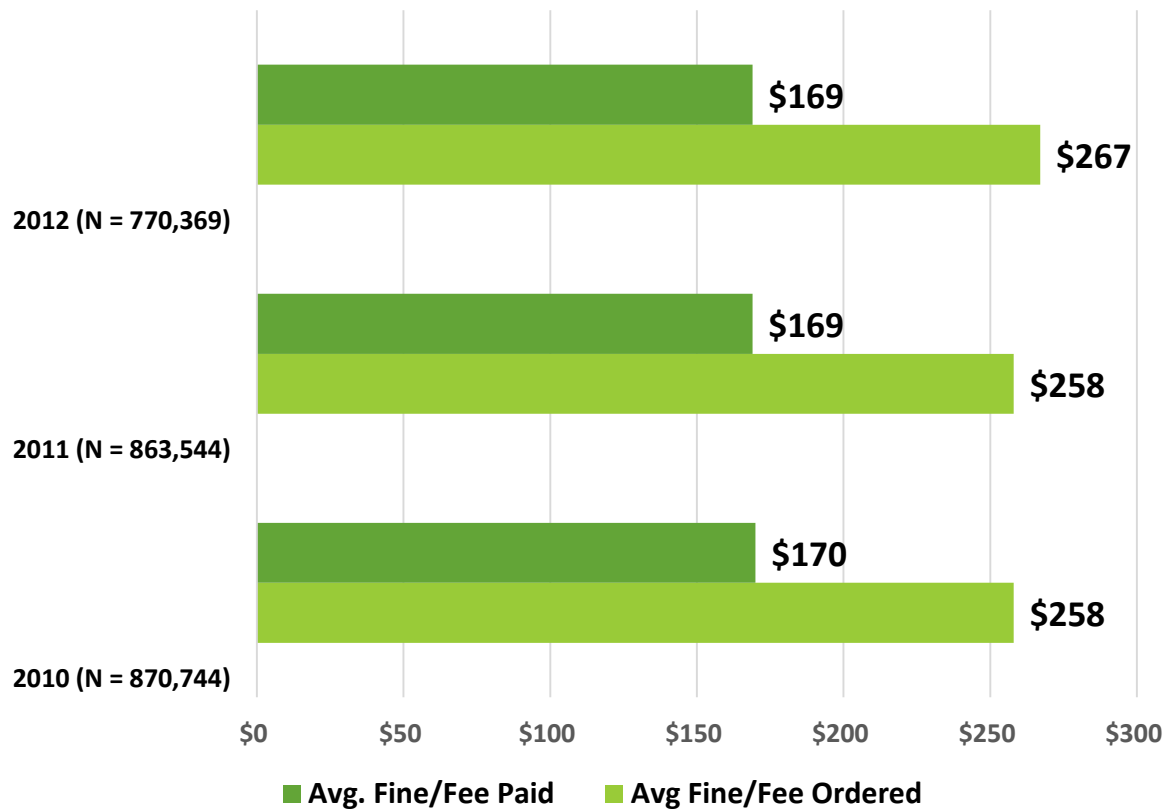


Table 2. Washington District Courts, Fines and Fees Ordered and Paid, 2010-2012.

Average Fine/Fee Amounts Ordered and Paid



Percent of Fine/Fee Paid

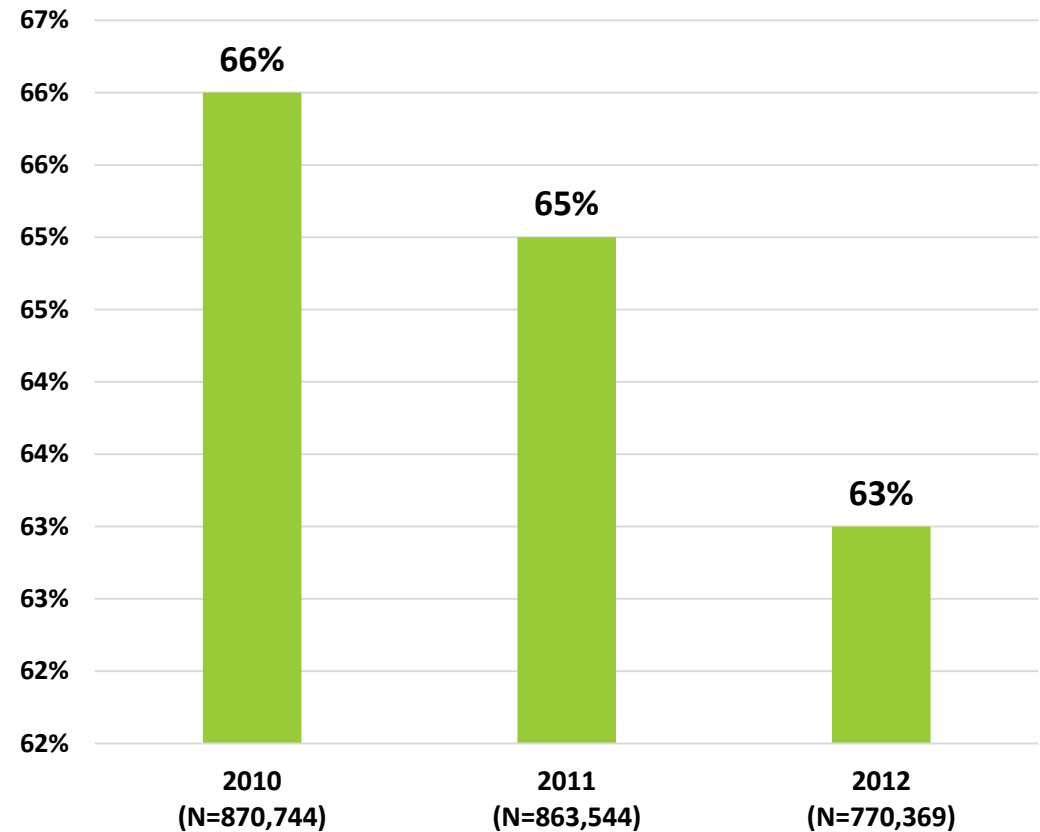
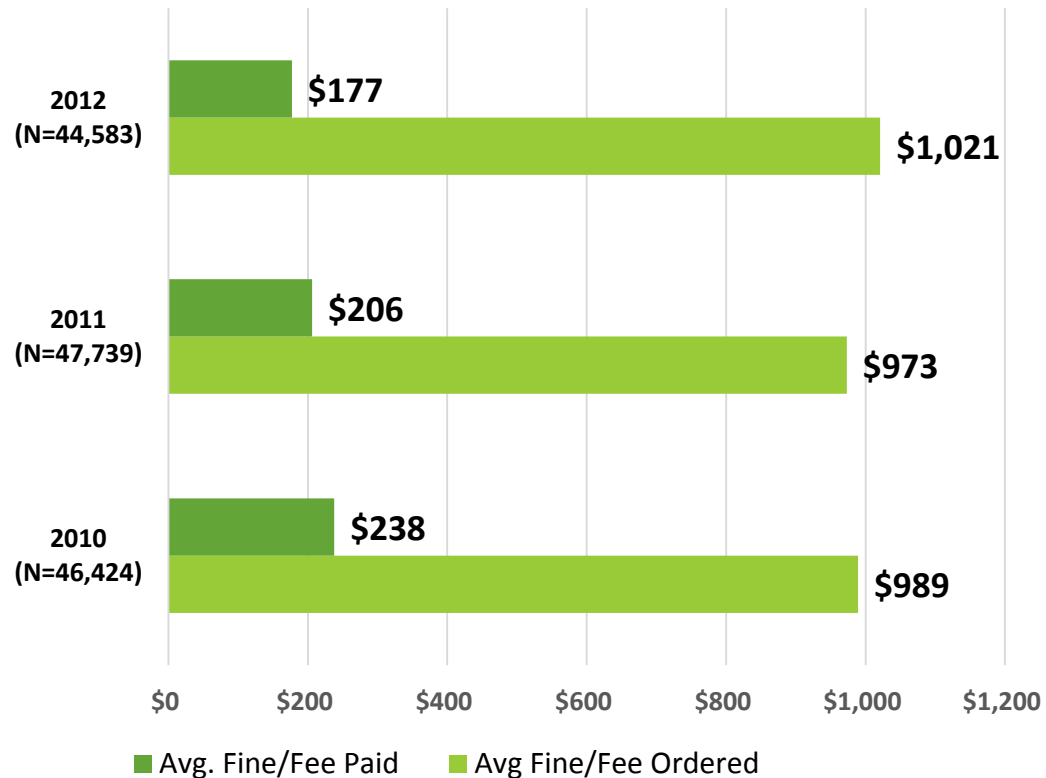


Table 3. Washington Superior Courts, Fines and Fees Ordered and Paid, 2010-2012.

Average Fine/Fee Amounts Ordered and Paid



Percent of Fine/Fee Paid

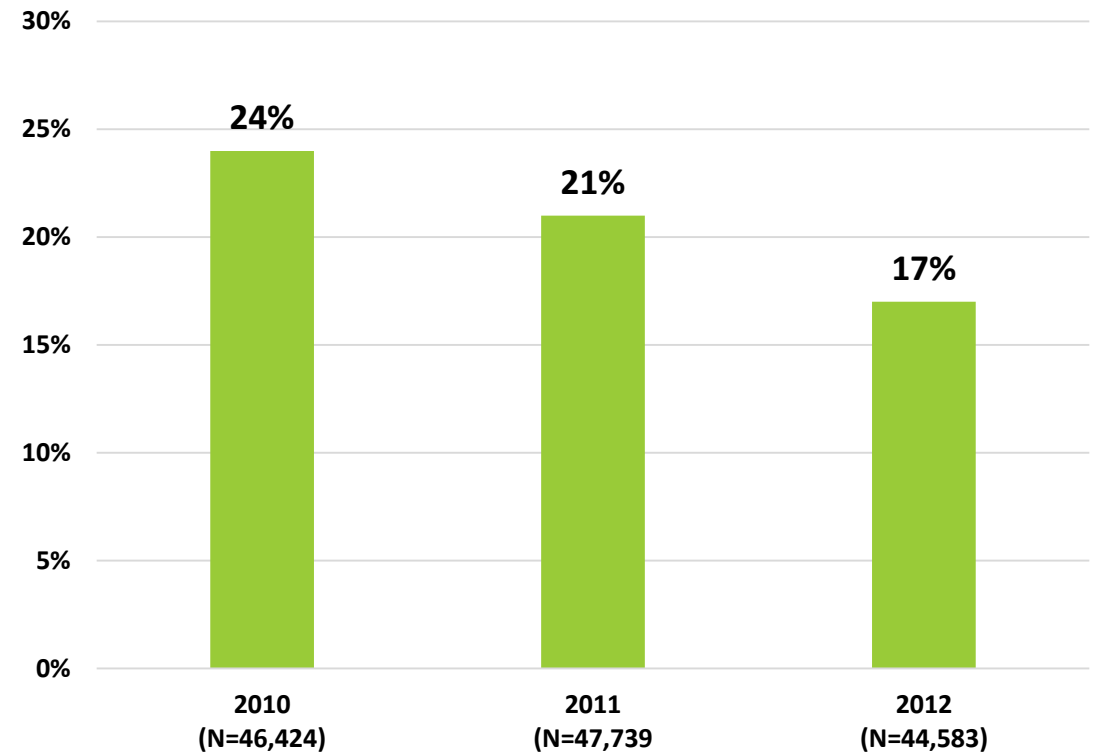


Table 4. Summary of Average Fines and Fees Sentenced,
Washington State, 2010-2012.

	Average # of Cases per year	Average Amount Ordered	Average Amount Paid	% Paid
Municipal	466,652	\$273	\$145	53%

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Washington State, 2010-2012.

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Municipal	466,652	\$273	\$145	53%
District	834,885	\$261	\$169	65%

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Municipal	466,652	\$273	\$145	53%
District	834,885	\$261	\$169	65%
Superior	46,249	\$995	\$207	21%

Table 5. Summary of Average Total Annual Fines and Fees Sentenced, Washington State, 2010-2012.

	Ordered Annual Average	Paid Annual Average
Municipal	\$128 million	\$68 million
District	\$218 million	\$141 million
Superior	\$46 million	\$9.5 million

Table 5. Summary of Average Total Annual Fines and Fees Sentenced, Washington State, 2010-2012.

	Ordered Annual Average	Paid Annual Average	Unpaid Annual Average	Average Amount Paid per Case
Municipal	\$128 million	\$68 million	\$60 million	\$145
District	\$218 million	\$141 million	\$77 million	\$169
Superior	\$46 million	\$9.5 million	\$36.5 million	\$207

Consequences of Monetary Sanctions

Table 6. Example of Three-Year Accrual of Charges related to Average Fine/Fee Ordered in Superior Court (\$995)

	Principal Ordered Less \$20 monthly payment	Running Interest + Annual Surcharge	Total Debt
Sentencing Day Jan, 2010	\$995		\$995
Owe Jan 2011 (year1)	\$755	\$104 + \$100	\$959
Owe Jan 2012 (year 2)	\$515	\$179 + \$200	\$894
Owe Jan 2013 (year 3)	\$275	\$222 + \$300	\$797
3-Year Difference	(Paid \$720)		15

*\$995 Is the Average fine/fee ordered in Washington State Superior Courts between 2010-2012. Total Debt includes 12% simple interest and \$100 annual surcharge. Interest does not accrue on interest nor surcharge.

Constant Court Supervision

Required regular court appearance

Varies by county

- Some courts have specific LFO courts with monthly appearances
- Others do not require appearances as long as minimum payments are received
- Some send any unpaid debt to collections agencies w/ additional fees:
 - 17.1% add-on fee to principal
 - \$15 account set-up fee
 - Monthly fees ranging from \$4.75-\$11.25

Legal Consequences for Missing Payments

“Willful” non-payers (*Bearden v. Georgia 1983*)

- Courts determine ability to pay and “willful” non-payment
 - Conspicuous spending (manicure, tattoos, smoking)
 - Reliance on friends and family for loans
 - Illicit income (“under table” employment, begging)
- Non-payment is a violation of court orders

Warrants

- Fear of incarceration, arrest, spend time in jail

Incarceration

- Sanction for contempt – 60 days per violation
- Some district courts apply a per day credit towards debt for each day spent in jail

Stunted Lives and Emotional Stress



- Strain on family and friendship networks
- Negative impact on positive identity of self
- Frustration, Anger, Disappointment



Conclusion

- A large number of people are sentenced to monetary sanctions across Washington State
- Generates a large amount of money
- Also generates a large amount of debt
- Creates negative consequences and barriers for re-entry
 - Continual court monitoring
 - Incarceration
 - Stunted lives
 - Emotional stress

Summary of Recommendations

1. Impose a moratorium on non-restitution LFOs
2. Restructure sentencing process
3. Prohibit the use of incarceration as a sanction for non-payment related court violations
4. Eliminate interest, collection and payment surcharges attached to LFOs
5. Require detailed county-level yearly reporting of LFO process
6. Create a statewide LFO taskforce