

# THE JEFFERSON COUNTY EQUITABLE FINES AND FEES PROJECT

## Preliminary Findings on Fairness and Efficacy

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Every year, courts impose millions of dollars in legal financial obligations (LFOs) on people who are adjudicated guilty of traffic violations, misdemeanors, and felonies. Legal financial obligations fall into three broad categories: fines, which are intended to punish and deter unlawful behavior; fees, which are usually associated with some cost of using the criminal justice system; and restitution charges, which are intended to compensate victims for financial losses incurred as the result of a crime.

There is surprisingly little evidence that LFOs deter criminal conduct or enhance public safety. In fact, recent research indicates that excessive fines and fees erode community trust in law enforcement, exacerbate hardships faced by individuals and families, undermine public safety, and saddle community members with debt that many will never be able to pay.<sup>1</sup> The collateral consequences of unpaid LFOs extend beyond the individuals against whom they are assessed, as low-income families often consider extreme measures, including forgoing necessities such as food and rent or taking on high-cost loans, to satisfy their outstanding balances.

The number and variety of legal financial obligations levied in jurisdictions across the country has increased enormously in recent decades, leading to an increased reliance of counties and municipalities on LFOs as a component of annual budgets.<sup>2</sup> In Alabama, revenue from LFOs is expected to fund a host of entities including municipal governments, special projects, and the General Fund, which distributes monies across government agencies.<sup>3</sup> The imposition of

increasing amounts of debt on people with criminal convictions without assessment of their ability to pay has led to predictable results: Courts struggle to collect what is owed, while debtors remain in a cycle of debt, warrants, and psychological distress that may follow them for the rest of their lives.<sup>4</sup>

These themes are widespread and common across the United States wherever LFO debt follows convictions. The Jefferson County Equitable Fines and Fees (JEFF) Project examines how these themes play out in Jefferson County, Alabama. The JEFF Project is a research–practice partnership among MDRC, the Alabama Appleseed Center for Law and Justice, the University of Alabama at Birmingham, and the Tenth Judicial Circuit Court of Alabama.

While it is widely acknowledged that having LFO debt can undermine people’s financial security and damage their economic prospects, much less is known about the mechanisms by which this debt accumulates, the social context in which it occurs, and the demographics and payment behaviors of LFO debtors. The JEFF Project examines these factors using longitudinal, case-level data to support development and implementation of mitigation strategies for the negative effects of LFO practices in Jefferson County. This brief presents early results from analysis of the quantitative data collected. Findings highlight inequities in how LFOs are assessed and distributed and the inefficacy of LFOs as a revenue source.

## Methods

The JEFF Project uses a mixed-methods approach to examine the LFO landscape in Jefferson County, relying on five years (2014–2019) of administrative data provided by Alabama’s Administrative Office of Courts in addition to interviews and focus groups with local decision makers and directly affected individuals. The case-level data set includes all felony and misdemeanor cases that resulted in the imposition of LFOs, yielding a sample of over 8,000 cases. These data were merged with 2010 U.S. Census data to introduce characteristics including socioeconomic status, educational attainment, and demographic information at the census-tract level. This merging allowed the research team to develop an empirical profile of the debt burden and its geographic distribution.

To contextualize and aid in the interpretation of the quantitative analysis, the JEFF Project researchers collected the perspectives of various legal system actors and service providers through semistructured interviews and focus groups. These efforts were designed to uncover the complexities of LFO assessment and collection and to gather information concerning remediation methods.

## Sample Characteristics

The sample includes 6,547 people and 8,221 cases total. Most individuals in the sample had one case; the maximum number of cases per individual was eight.

## Race

While Jefferson County is 44 percent Black, the data sample for the JEFF Project is 66 percent Black. The overrepresentation of Black individuals in the sample is consistent with research in Alabama and nationally showing unjustifiably higher rates of charges and convictions for common offences among Black people compared with White people.<sup>5</sup>

## Economic Status

Defendants in criminal court are entitled to counsel regardless of their ability to pay. As a rule, people who are found indigent in Jefferson County receive counsel from the Jefferson County Public Defender. Seventy-one percent of individuals in the sample were represented by the Jefferson County Public Defender, a status used by the researchers as a proxy for indigence. Of these, 70 percent were Black and 30 percent were White. The overrepresentation of Black people in the sample, and among those who were deemed indigent, may be due to longstanding differential access to economic resources and opportunities along racial lines in Jefferson County.<sup>6</sup>

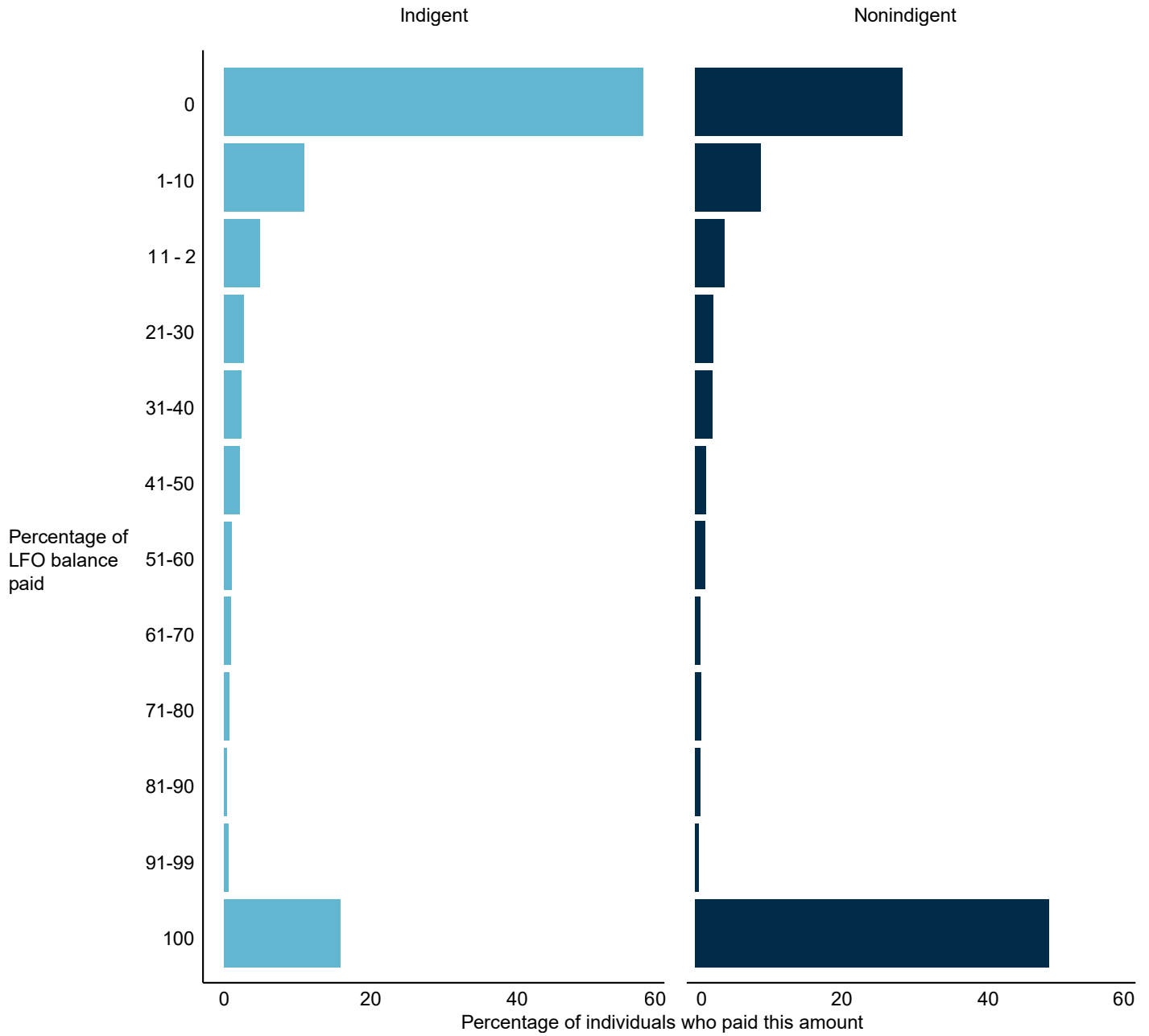
## Findings

The JEFF Project's exploratory work has yielded valuable insights regarding the fairness and efficacy of state and county LFO assessment and administrative court practices and debt distribution. Highlights from these early findings are summarized below, and include a pattern of racially and economically disparate debt burden, low overall compliance with LFOs, and limited collections resulting from additional financial sanctions such as late fees.

### Inequities in Debt Burden

- Indigent individuals (individuals whom the court determined could not afford private representation) were assessed higher financial penalties across all charges. As shown in Figure 1, they paid less toward their LFO debt than nonindigent individuals.
- While the average outstanding LFO balance for both Black and White individuals exceeded \$900 per person, Black defendants—who were also more likely to be indigent—were assessed, on average, higher LFOs than their White counterparts for the same charges.
- A primary contributor to the assessment disparity between Black and White individuals was the assessment of a 30 percent fee, the D999 collections fee, on individuals with accounts in arrears for 90 or more days.
- The finding that individuals who were Black and indigent were more likely to default on their LFOs and thus incur the collections fee may be attributed to the differential access to economic resources along racial lines in Jefferson County.<sup>7</sup> This finding explains why LFO debt has accumulated and is concentrated in areas with more Black residents and those with low incomes.

**Figure 1. Percentages of LFO Balances Paid by Indigent and Nonindigent Individuals**



SOURCE: MDRC calculations based on 2014-2019 data provided by Alabama's Administrative Office of Courts.

NOTES: LFO = legal financial obligations.

The sample contains information on indigence for 5,702 individuals. Of those, 4,666 were identified by the court as indigent (unable to pay for private legal representation); 1,036 were identified as nonindigent.

## Inefficacy of LFOs in Generating Expected Revenue

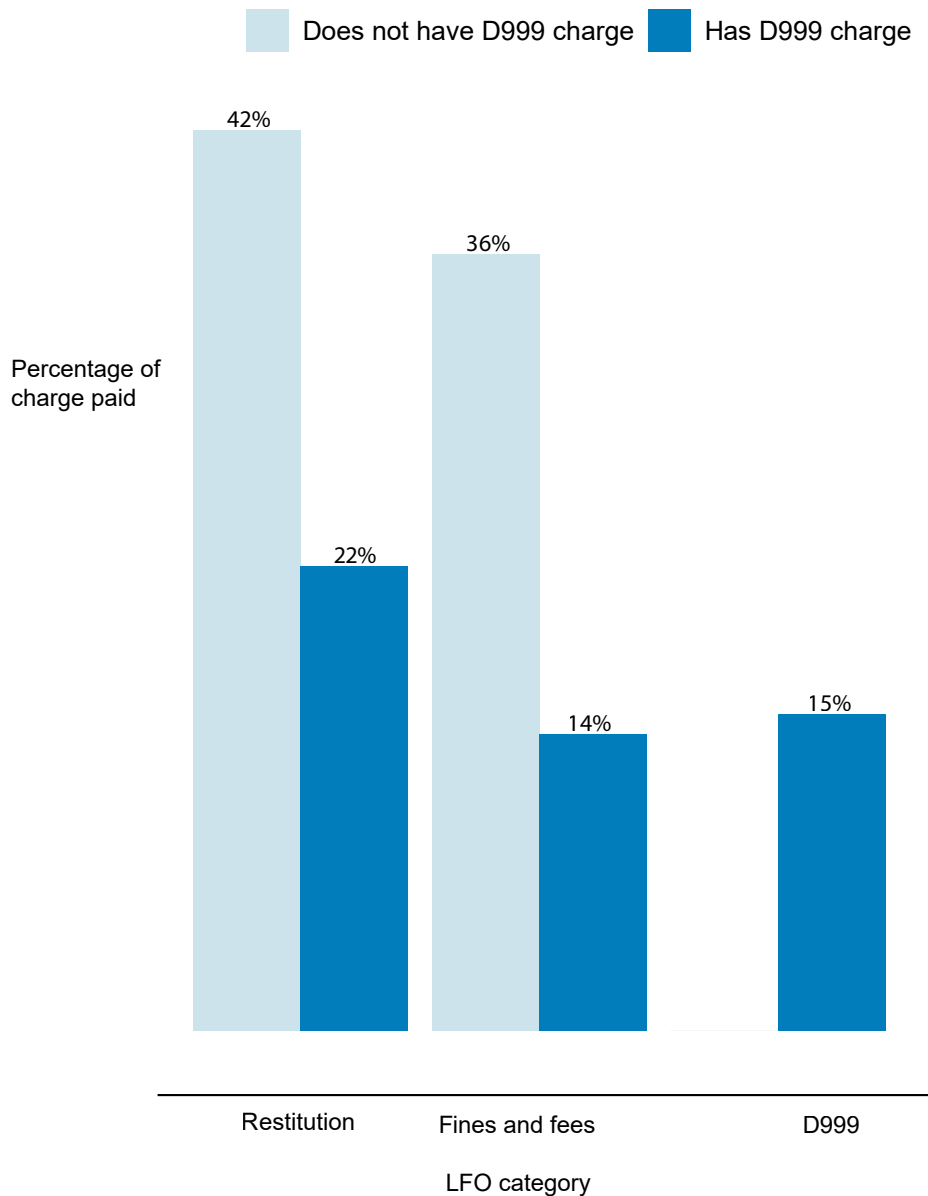
- Most individuals did not satisfy their LFO balances over the five-year term of the sample. In fact, most paid nothing toward their balances, with a small subset of individuals making full or partial payments.
- Among individuals who did pay some amount toward their LFO balances, individuals with lower balances paid more on average, indicating that owing more debt does not correlate with paying more money.
- A priority disbursement schedule created by Alabama's Administrative Office of Courts dictates that payment must first be made to the district attorney's and clerk's offices before other eligible accounts are funded. As such, individuals with LFO debt, even those who make payments, are often unable to reduce their principal debt, while restitution often goes unpaid, because D999 charges must be paid first.
- In practice, because so many people give up paying before they have satisfied their LFO balances, most entities who are meant to receive revenue generated by LFOs never receive all they are owed. Unless a judge orders restitution to be paid earlier than the default, victims who are owed restitution pursuant to the harm caused by the unlawful behavior that underlies LFO revenue are the last to receive payments, if they ever do.
- Although the D999 collections fee is commonly referred to as a restitution recovery fee, it does not in fact correlate with increased likelihood of collecting restitution. As Figure 2 shows, in cases where a collections fee was imposed, less restitution was collected than in cases where the collections fee was not imposed.

## Conclusion

The JEFF Project's preliminary analyses indicate LFOs in Jefferson County are inequitably distributed along racial lines and are ineffective in generating expected revenue. The vast majority of LFOs go uncollected, despite their potential to carry the additional financial penalty of the D999 collections fee, and the burden of this penalty is concentrated in low-income neighborhoods of color. The inability to collect leaves important public entities underfunded and reliant on small and unpredictable payments from financially insecure individuals. Additionally, under the default priority system, crime victims are often the last to be compensated, a little-known fact even among experienced system actors.

Early discussions with practice partners and other regional stakeholders confirm the importance of these findings from the perspectives of both the court and community advocates and have identified opportunities to develop interventions collaboratively to mitigate the negative effects of LFO debt. Stakeholders expressed support for a multipronged approach to reduce both the reliance on LFOs to support critical public services and the disproportionate debt burden on Black residents with low incomes in the county. Accordingly, Tenth Judicial Circuit system actors are exploring a series of prac-

**Figure 2. Comparing Average LFO Payment by Individuals with Restitution Charges**



SOURCE: MDRC calculations based on 2014-2019 data provided by Alabama’s Administrative Office of Courts.

NOTES: LFO = legal financial obligations; D999 = collections charge applied to LFOs not paid within 90 days.

The sample includes only people who have at least one restitution charge, sample size = 998. Of the 998, 656 also have at least one D999 charge.

tice changes to reduce LFO debt assigned at the time of sentencing while remaining compliant with the court’s mandates. Additionally, adjustments to the default disbursement system to make victim compensation the first priority and to limit the effect of compounding LFO debt have emerged as possible state-level remediation strategies.

The research team anticipates that future findings from the JEFF Project will point to concrete pilot strategies for mitigating the negative effects of LFO debt on constituents and the justice system more broadly. These policy and practice adjustments may prove particularly relevant for similarly resource-constrained counties across Alabama that follow comparable administrative protocols and statutes. Additionally, as the challenges created by imposing debt on people convicted of crimes to fund basic public services, including courts and law enforcement, are a matter of national concern, the JEFF Project is well positioned to yield findings that jurisdictions across the country can put into use.

## Notes and References

- 1 Alabama Appleseed, "Under Pressure: How Fines and Fees Hurt People, Undermine Public Safety, and Drive Alabama's Racial Wealth Divide" (website: <https://alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>, 2018); Rebecca Goldstein, Michael W. Sances, and Hye Young You, "Exploitative Revenues, Law Enforcement, and the Quality of Government Service," *Urban Affairs Review* 56, 1 (2018): 5–31. <https://doi.org/10.1177/1078087418791775>.
- 2 White House Council of Economic Advisors, *Issue Brief: Fines, Fees, and Bail: Payments in the Criminal Justice System That Disproportionately Impact the Poor* (Washington, DC: White House Council of Economic Advisors, 2015). [https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf).
- 3 Alabama Appleseed (2018).
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- 5 Alabama Appleseed (2018); Dayna Bowen Matthew and Richard V. Reeves, "Trump Won White Voters, but Serious Inequities Remain for Black Americans" (website: <https://www.brookings.edu/articles/trump-won-white-voters-but-serious-inequities-remain-for-black-americans>, 2017).
- 6 *John H. Merrill et al. v. Evan Milligan et al.; John H. Merrill et al. v. Evan Milligan et al.*, Brief amicus curiae of the Central Alabama Fair Housing Center, the Fair Housing Center of Northern Alabama, and the Center for Fair Housing (website: <https://www.reلمانlaw.com/assets/htmldocuments/Milligan%20Amicus%20Brief.pdf>, 2022).
- 7 Brief amicus curiae of the Central Alabama Fair Housing Center, the Fair Housing Center of Northern Alabama, and the Center for Fair Housing (2022).

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