Research team tracks complex web of monetary sanctions in nine states

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The phrase "criminal justice system" may conjure images of courtrooms, juries and prison. But "when justice is doled out, it increasingly impacts the pocketbook," according to Alexes Harris, a professor of sociology at the University of Washington.

Harris leads a team of researchers at nine universities who are exploring the role of monetary sanctions in the criminal justice system. They recently completed a review of financial punishments in the laws of each of their home states. Based on their preliminary findings, the impact to a person's pocketbook depends largely on his or her location on a map.

"There is an extreme amount of variation—both between states and within states—on how, when and where monetary sanctions are imposed by court officials," said Harris. "It's a mess, and there are few guidelines and no national framework governing the use of monetary sanctions."

Monetary sanctions include fines, court fees, restitution, surcharges and even interest on unpaid sanctions. They are imposed for offenses ranging from traffic violations and misdemeanors to felony convictions. Though these types of financial punishments have a long history in the United States, state and local governments have been imposing monetary sanctions with increasing frequency over the past 30 years. The result is a national patchwork of financial punishments, which Harris and her team are working to map as part of a five-year grant from the Laura and John Arnold Foundation.

On April 20, 2017, the group released a detailed report of their first year's work, a comprehensive review of financial punishments, law and policy across nine states: California (Bryan Sykes), Georgia (Sarah Shannon), Illinois (Mary Pattillo), Minnesota (Chris Uggen), Missouri (Beth Huebner), New York (Karin Martin), North Carolina (April Fernandes), Texas (Becky Pettit) and Washington. These states account for more than one-third of the nation's 2.2 million incarcerated people. These nine states also are home to more than 40 percent of people in the U.S. who are under community-based supervision.

In general, the researchers found wide variation on the fine and fee amounts sentenced to rule breakers, the circumstances in which they're imposed and even when courts allow people to pay their financial obligations. But all nine states impose monetary sanctions on a routine basis. In some states, the fines are specific: Washington, North Carolina and Georgia have detailed lists of mandatory fees for each offense.

Usually, the offense, rather than the person's ability to pay, determines the amount of the monetary sanction. Harris and her colleagues found that judges and other officers of the court often have little leeway in imposing monetary sanctions. In Washington, judges can waive interest payments on certain fines once the principal has been paid. Missouri courts are advised to consider a person's ability to pay when imposing certain fines. But these are exceptions. In general, these sanctions cannot be revoked—only paid.

"There are few ways to find relief from a sanction once it has been imposed," said Harris.

The researchers also found variation among states and municipalities not just in the size of the monetary fines and the crimes for which they are imposed, but also the consequences for failure to pay. Though debtors' prisons have long been abolished, courts can still issue warrants for persistent non-payment or impose other penalties. Since people in the criminal justice system are more likely to be poor, the consequences for falling behind in payments can be far-reaching.

"In many states or jurisdictions, non-payment of any legal fine can lead to suspension of a driver's license, which can affect a person's ability to get to a job," said Harris. "In other states, persistent non-payment leads to a suspension of voting rights."

That variation stems from the absence of a national framework governing monetary sanctions, Harris said. But in 2016, the U.S. Department of Justice went so far as to issue a "Dear Colleague" letter on fines and fees. In 2015, Missouri's Ferguson Commission noted how monetary sanctions can contribute to inequality in the justice system. As these and other efforts draw attention to the disparate monetary sanction policies across states, they may prompt states to revisit those policies.

"On paper, monetary sanctions make sense. If you commit a crime—and are duly convicted—then you pay," said Harris. "But is it fair to set up a sanction that a person has no ability to pay? What is the true purpose of this punishment? These are the underlying issues states must ultimately confront as they consider reforms to monetary sanction laws and statutes."

Harris and her colleagues are building on this initial review by conducting analyses in nine states of fines and fees from state court data, observing court proceedings and interviewing court officers and debtors. Harris' previous work in "A Pound of Flesh: Monetary Sanctions as a Permanent Punishment" suggests that these sanctions have expanded as a result of another modern trend in the criminal justice system.

"Since the 1970s, there has been a massive, 500 percent increase in incarceration rates, and states have had to look for ways to fund that," said Harris. "And starting in the 1990s, states have created statutes to increase fines and fees or create new ones."

The national research team's endeavors will help resolve the details of monetary sanctions and how they differ among states. They will also examine, among other questions, the underlying question of why monetary sanctions have become such a prominent part of the modern criminal justice system nationally.

More information: Monetary Sanctions in the Criminal Justice

System: www.monetarysanctions.org/wp-c … gal-Review-Final.pdf

Provided by University of Washington