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# Laffer’s Day in Court: The Revenue Effects of Criminal Justice Fees and Fines

Based on BFI Working Paper No. 2023-137, “[Laffer’s Day in Court: The Revenue Effects of Criminal Justice Fees and Fines](#),” by Evan K. Rose, University of Chicago; and Samuel Norris, University of British Columbia

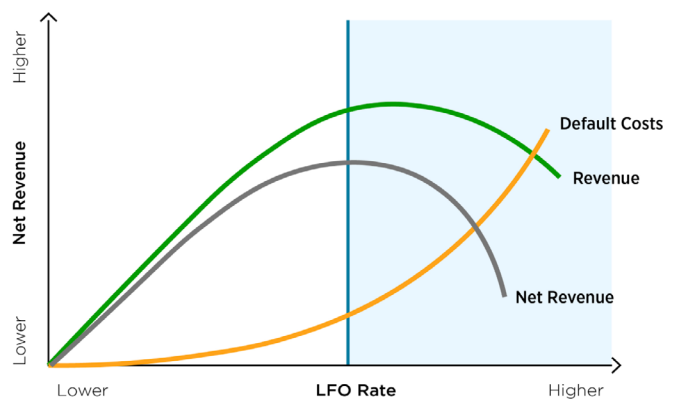
For a small subset of criminal defendants, often those who are poor, Black, and charged with felonies, court fines are set so high that reducing them could **increase** revenue. Decreasing court fines for the average defendant, however, would come at substantial cost to governments.

If the government taxed income at 0%, it would collect no revenue. Economic theorists argue that if income were taxed at 100%, then the government would also collect no revenue, because people would be disincentivized from working. Within economics, the field of optimal taxation aims to better understand the tradeoffs between tax rates and government revenues, a relationship often depicted by a figure called a “Laffer Curve.” If taxes are so high that the government is on the “wrong” side of the Laffer curve, reducing tax rates can increase revenues.

In this paper, the authors use study these tradeoffs for a very particular form of taxation: the fines and fees that courts levy on convicted criminal defendants. These taxes, often dubbed legal financial obligations, or LFOs, are levied both to raise money to fund the justice system and to deter crime. As they have become more pervasive, so too have concerns about whether they fulfill their intended aims. Evidence suggests that LFOs may have little deterrence effects and that default rates are high, implying the government collects limited revenue. In some cases LFOs may be set so high that courts are on the “wrong” side of the Laffer curve and

decreasing them would increase payment and revenues. Even if the impacts on gross revenue are small, the costs of defaults—which include both time spent by court administrators and the impacts of punishments for nonpayment, such as driver’s license suspensions—may outweigh the revenue raised.

**Figure 1** • The Laffer Curve for Legal Financial Obligations (LFOs)



The authors take these ideas to administrative court records from three Florida counties. In each jurisdiction, they obtain data on criminal charges, LFOs levied and—more unusually—payments made. They also merge these records to detailed credit report data. They use the combined data to identify how many—and what type—of defendants tend to be on the wrong side of the LFO Laffer curve. They find the following:

- Thirty nine percent of defendants in felony cases have predicted LFO payment rates that are below 20%. At this level, to increase revenue a 10% decrease in LFOs would be needed to increase payment rates by 2 percentage points. In contrast, only 3.1% of misdemeanor and criminal traffic defendants have payment rates below 20%.
- Surprisingly, incorporating credit report data has little impact on these estimates, increasing the share of predicted payment rates below 20% by less than 2 percentage points for each case type. This suggests that even with sophisticated methods and data, courts are unlikely to be able to identify non-payers ex-ante except among the relatively small share of the overall caseload charged with the most serious crimes.
- Most defendants in criminal traffic and misdemeanor cases do not change their payment behavior in response to changes in LFOs. Given the high payment rates for this group, this means reductions in LFOs would decrease revenue substantially. A \$1 decrease in LFOs for all such defendants would reduce revenue by 62 cents, on average. In contrast, a \$1 decrease for felony defendants would decrease revenue by only 13 cents on average. Most strikingly, decreasing LFOs would *increase* revenue for an identifiable 31% of felony defendants, suggesting substantial scope for targeted decreases.
- Defendants for whom decreasing LFOs would increase revenue are disproportionately Black and poor, are much more likely to have been

charged with a felony, and have higher LFOs and substantially lower payment rates than other defendants. Reducing LFOs for these defendants would therefore both increase revenues and improve equity in the allocation of criminal justice debt.

- Despite these observable differences, broad-based LFO reductions targeting these demographic subgroups, such as eliminating the \$50 charge felony defendants pay to apply for a public defender, would still reduce revenue. Instead, profitably decreasing LFOs requires more detailed tailoring of LFOs to individual defendants' ability to pay.

Are the fees, fines, and other legal financial obligations faced by a typical criminal defendant so large that courts would be better off lowering them? This analysis suggests the answer to this question is generally no. Many defendants, particularly those charged with traffic or misdemeanor offenses, are more likely to pay their LFOs than not. As a result, LFOs raise substantial revenues for local governments and decreasing them across the board would come at a steep cost. This result helps rationalize courts' increasing reliance on LFOs to fund their operations over the past few decades, particularly in Florida, the jurisdiction studied here.

Despite the revenue costs of decreasing LFOs, local governments may still wish to do so for other reasons not considered in the authors' paper. LFOs may be inferior to available alternatives, such as sales and property taxes. Concerns about discrimination in earlier parts of the criminal justice pipeline, such as at arrest, may also motivate placing less overall burden on criminal defendants, including through the imposition of hefty LFOs. These results suggest these arguments may be more compelling motivations for reform than the basic failure of LFOs to deliver revenues to the institutions that impose them.

## READ THE WORKING PAPER

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