

THE PRESENCE OF JUSTICE

Should States Charge Low-Income Residents Less for Traffic Tickets?

California's steep penalties help generate funding for government programs. But they've come with an additional cost.

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JUSTIN SULLIVAN / GETTY IMAGES

Losing the right to drive in December upended Latrice Harry's life. She'd been pulled over by police six months before, and after failing to pay an initial ticket—she says she got it for not being able to quickly find proof of insurance among her belongings—the debt

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kept accumulating. By her telling, a series of errors in the local court—being told she couldn't protest the ticket immediately, delays in its processing, all notices being sent to a very old address—added up to a \$1,400 penalty and the suspension of her license.

Without it, she lost her job. Harry, a 55-year-old black woman from Vallejo, California, worked for \$1,900 a month as an in-home care provider for three elderly clients, whom she drove to doctor's appointments and on errands. The loss of reliable transportation also limited her contact with her children, including a son still recovering from a near-fatal motorcycle accident and living some 45 minutes away. "I started having anxiety, depression," Harry said. "I didn't know what way to turn."

The threat of driver's-license suspension to compel violators to pay traffic fines has long been viewed as an essential tool. Harry's home of California is one of 29 states to use it, according to Lauren-Brooke Eisen, senior counsel at the left-leaning Brennan Center for Justice. But the size of the fines levied has ballooned in recent decades, as lawmakers came to use them as a regular source of revenue for government programs.

In California, increased attention on how this punishment disproportionately affects low-income residents has led lawmakers there to consider mitigating penalties, starting with a bill now working its way through the state Senate. Indeed, when it comes to low-income Californians, revoking licenses would seem to do more to keep them in a cycle of poverty than encourage them to pay debts they cannot afford. Yet lawmakers are finding that disentangling

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this revenue from the state's spending is complicated, as the bill's opponents argue it funds valuable initiatives.

Proponents of reform argue that issuing steep fines and fees for minor infractions isn't good fiscal policy, beyond what they see as inherent ethical concerns. Last year, Californians owed the state \$9.7 billion in traffic debt. As a recent budget summary from Governor Jerry Brown notes: "There does not appear to be a strong connection between suspending someone's [driver's] license and collecting their fine or penalty." In Harry's case, the state never did get her money: On a tip from a debt collector, she found her way to a grant-funded community court that helps low-income residents take care of tickets. A judge there appeared to find her case credible—that she'd had proof of insurance in her car during the traffic stop—and ruled that Harry didn't have to pay the debt and reinstated her license.

Between 2006 and 2015, there were over four million Californians, or 17 percent of the state's adults, with licenses suspended because they did not pay citation fines and fees. Seventy-eight percent of Californians regularly drive to work, a share that's about 10 percent lower than the national average. The state's traffic-ticket costs, however, are among the country's highest, according to a report released last week by the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, a legal-aid group. A comprehensive national comparison is difficult because nearly half of states do not have a uniform fee structure; what is charged varies by locality or court. But this report shows that among those with statewide regulations, California ranks at or near the top for every type of traffic citation.

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California's high rates stem from its steep "add-on fees," which are earmarked for the State Penalty Fund and used in part to finance programs. For example, a \$100 ticket for running a red light becomes \$490 once the fees are taken into account. If a person fails to pay on time or misses a court appearance, the debt jumps to \$815. Other states also pad tickets with these extras, but most do so at a much lower cost. Sticking with the red-light example, Oregon charges the next highest fine, at \$260. The average cost for this citation in states with a uniform fee structure is \$154, less than a third of what California charges.

Compounding concerns about the financial burden on low-income Californians is a civil-rights one: Though the report doesn't include comprehensive numbers on rates of traffic stops by race, it points to small studies performed in Fresno, San Diego, and Sacramento that show higher rates of African Americans and Latinos being pulled over for small traffic violations.

The legislation that the state legislature is weighing, Senate Bill 185, would take "the biggest step towards reform that any state has taken" when it comes to traffic fines, said Elisa Della-Piana, legal director at LCCR. The bill is essentially an extension and expansion of an amnesty program for low-income Californians that Brown instated in 2015. The original program, which expired last month, eased old traffic-ticket debt: Any incurred before 2013 was reduced by 50 percent to 80 percent, depending on household income. People who can afford to pay tickets generally do off the bat, and debt notoriously becomes harder to collect as it ages. Though a poor person who once ran a red light is no more a threat behind the wheel than a wealthy one who did the same, the former bears the biggest brunt of the current system.

Brown's program was an attempt to clear the docket and allow people who'd had their licenses suspended to drive again. Newer debt wasn't reduced and neither were fines, but debtors could get on payment plans ensuring they paid no more than 5 percent of their family's monthly income per month. (Harry had taken steps to enroll before trying the community court.)

The new legislation goes even further: eliminating license suspension as a penalty for accruing traffic-ticket debt and reducing base fines by 80 percent. It also retains the payment-plan mechanism. The bill easily passed through the state Transportation and Housing Committee, as well as Public Safety, and is currently in Appropriations.

Brown's original amnesty program wasn't instituted in a vacuum. Rather, it followed a high-profile scandal halfway across the country about government's use of fines. In March 2015, the Department of Justice issued a scathing report on Ferguson, Missouri, where the year before a police officer shot and killed 18-year-old Michael Brown. In its investigation of local police practices there, department officials discovered that the city deliberately generated funds by regularly imposing costly penalties on citizens for minor infractions—blurring the line between law enforcement and fiscal agencies.

As Walter Johnson wrote in this magazine: “[T]he cash-starved municipality relies on its cops and its courts to extract millions in fines and fees from its poorest residents, issuing thousands of citations each year. Those tickets plug a financial hole created by the ways in which the city, the county, and the state have chosen to apportion the costs of public services.” The Justice Department

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reported that police practices were guided “by the city’s focus on revenue rather than by public safety needs” and that “many officers appear to see some residents, especially those who live in Ferguson’s predominantly African American neighborhoods, less as constituents to be protected than as potential offenders and sources of revenue.”

Governor Brown, a Democrat, came to see his state’s traffic-ticket system as an iteration of the same problem. Two months after the Ferguson report’s release, he referred to the financial precariousness of low-income Californians with ticket debt as a “hellhole of desperation.” Brown’s comment echoed existent concerns about the system: that even with billions evidently uncollected, the government was profiting off its more financially vulnerable residents, just as a different government had just outside St. Louis.

But even opponents of the new legislation who are sympathetic to the systemic problems balk at the potential loss of revenue. That loss fuels one of the more common arguments against decreasing fines and sanctions: California’s already cash-strapped court system will buckle without this source of income, and other government programs where the money is funneled will hurt, too.

Perhaps unexpectedly, state officials have been frank about how crucial fines are to government operations. When the Senate bill was introduced in January, California Supreme Court Chief Justice Tani Cantil-Sakauye said that she worried it would impede the courts’ ability to collect about \$2 billion annually: “Sixty percent or over goes to state and local government programs—all worthy programs.” In California, 16 of them receive financing from the

State Penalty Fund, the largest of the state's coffers that siphon revenue from criminal fines and fees, according to a recent [report](#) by the state Legislative Analyst Office. They include rape crisis centers, certification courses for police officers, and traumatic brain-injury rehabilitation services. This coming fiscal year, a total of \$94 million is expected to be deposited into the fund. Representatives contacted for specific programs, some of which are overseen by local police departments, could not be reached for comment.

Law-enforcement agencies echo Cantil-Sakauye's concerns. Designing an appropriate punishment should involve both the need for accountability and the "critical programs that rely on those resources to exist," Ed Medrano, president of the California Police Chiefs Association, wrote in a statement.

Under current law, it is not mandatory for California courts to suspend driver's licenses as an incentive to pay—and a punishment for failure to do so. Recently, a few have voluntarily ceased the practice citing the effect on low-income residents. The first was San Francisco County Superior Court in November 2015. Yet removing the penalty does appear to have taken a toll on the court's traffic collections, and thus the State Penalty Fund. The court collected 23 percent less from July to December 2016 than it did during the same period a year earlier, according to information provided by the court.

The law's supporters, like the Brennan Center's Eisen, say efficiency at generating revenue is beside the point. "From a public-policy standpoint it's unjust," she said. "What we're doing is criminalizing poverty." Yet LCCR's report suggests there may be an

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economic argument to be made for the Senate’s bill. It alleges the state may be able to collect more money when people are charged amounts that they can reasonably handle. Its analysis of all court-ordered collections during California’s two-year amnesty period under Brown showed low-income residents on payment plans scaled to household income paid their dues at rates 2.5 times higher than people who were mandated to pay a flat fee. There was a two-fold effect: As of December, the most recent numbers available, over 200,000 Californians had regained driving privileges, and the state collected over \$35.5 million.

“Courts are more likely to collect more money and from more people, if they give people fines they can afford to pay,” Della-Piana said. “That’s what we want people to realize.” The question for any officials on the fence about the Senate’s bill might be this: Given how it would lower fines substantially and remove the driver’s license incentive, can it come close to producing a similar result? In Latrice Harry’s case, her fine crept up to \$500 below her monthly take-home pay from work. Though she was later absolved, had she gotten on a payment plan instead, perhaps she would have paid some of the fines instead of nothing at all.

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