Supervision Fees: State Policies and Practice

Paul Peterson
Legal Intern, Juneau Alaska City Prosecutor's Office[1]

CHARGING FEES FOR supervision-related costs has a long history. Michigan and Colorado began charging probation fees in the 1930s, but by 1980 only 10 states had joined them.[2] During the 1980s, however, the use of fees expanded rapidly, partially spurred on by the so-called "taxpayer revolt" of the late 1970s. By 1986 the number of states that charged supervision fees had jumped to 24, rising to at least 40 by 1997.[3] While this growth and the revenue that accompanied it pales in comparison to the overall increase in criminal justice costs, which, not including the cost of arrest, prosecution, and general costs to victims, jumped "from $9,000,000,000 in 1982, to $59,600,000,000 in 2002,"[4] the rise of supervision fees presents a compelling narrative that is crucial to understanding how to make them more effective.

Before continuing further, however, we must distinguish among the three main types of criminal justice financial obligations imposed on offenders: restitution, fines, and fees. Restitution is repayment to the victim for the loss the victim suffered, while fines are meant to punish the offender and deter others from committing such crimes. Fees on the other hand are not meant as punishment; instead their purpose is to defray administrative costs, such as the cost of prison haircuts or the salaries of probation officers. By "supervision fees" in this article I refer collectively to probation, parole, and other types of supervision, but not to fees incurred during incarceration.

Policies on supervision fees across the country are geared almost exclusively toward raising revenue and generally give local departments a high degree of discretion to institute and collect fees as they see fit. The patchwork of policies has proved an obstacle to national data on how much is being collected, and local departments vary greatly in claims of success. On one end of the spectrum are claims from probation departments in some jurisdictions of "becoming financially self-sufficient through the collection of supervision fees."[5] On the other end are reports that fees inhibit supervisory work and that "going after overdue fees is less cost-effective than just eating the costs."[6] Unfortunately, most data on the subject is limited in scope and dated. As one recent study said, "even though fees are imposed as a revenue-generating measure, none of the fifteen [states with the highest prison population] had a statewide process for tracking the costs of collection," nor did any of them have "any kind of process for measuring the impact of criminal justice debt and related collection practices on former offenders, their families, or their communities."[7]

More importantly, however, all information on the subject suffers from one fundamental flaw: the failure to distinguish between supervisees at a high risk of unsuccessful reentry (including recidivists, parolees coming off of long prison terms, and the chronically unemployed) and low-risk supervisees (such as many of those convicted of drunk-driving or possession of marijuana). All of the studies on supervision fees are policy-oriented and incorrectly use the experience of one group to generalize to the other without acknowledging the differences between them. Claims of successful supervisory fee programs are inflated by the cost-effectiveness of collecting fees from low-risk supervisees, while claims that fees are an obstacle to reentry and not worth the trouble of collecting are inflated by the experiences of high-risk supervisees. This distinction is especially important for parolees in light of Congressional findings accompanying the Second Chance Act:

> [B]etween 15 percent and 27 percent of prisoners expect to go to homeless shelters upon release from prison....Fifty-seven percent of Federal and 70 percent of State inmates used drugs regularly before going to prison... over one-third of all jail inmates have some physical or mental disability...70 percent of all prisoners function at the lowest literacy levels....[and] 1 year after

[1] The views expressed in this article are those of the author and do not necessarily reflect the views of the Juneau Alaska City Prosecutor's Office.

[2] Christopher Baird et al., Projecting Probation Fee Revenues: A Revenue Projection Model for Agencies Based on Local Policies and Demographic Data 2 (National Council on Crime and Delinquency, Midwest Office 1986).

[3] LIS, Inc., Fees Paid by Jail Inmates: Findings From the Nation's Largest Jails (U.S. Department of Justice, National Institute of Corrections 1997); Fahy Mullaney, Economic Sanctions in Community Corrections 2 (U.S. Department of Justice, National Institute of Corrections 1988).

[4] Second Chance Act of 2007, Pub. L. No. 110–199, 2008 H.R. 1593 (2008) (Codified as amended in scattered sections of 42 U.S.C. and 18 U.S.C.).

[5] Olson & Ramker, *Crime Does Not Pay, but Criminals May: Factors Influencing the Imposition and Collection of Probation Fees*, 22 Just. Sys. J. 29, 30 (2001).

[6] Butterfield, *Many Local Officials Now Make Inmates Pay Their Own Way*, New York Times, Aug. 13, 2004, at A1.

[7] Alicia Bannon et al., Criminal Justice Debt: A Barrier to Reentry 10 (Brennan Center for Justice 2010).

release, up to 60 percent of former inmates are not employed.[8]

In addition to being oversimplified, the issue of supervision fees has been unduly politicized because of their general public popularity; thus, issues of philosophy and effectiveness have largely been glossed over. At their best, supervision fees can raise significant revenues in a time when austerity measures threaten many people's standard of living and may help instill a greater sense of responsibility and accountability in offenders. At their worst they can increase the tax burden through collection costs and increased incarceration for failure to pay, and undercut the fragile road to reentry.

This article will first track the national policy narrative that accompanied the explosive adoption of supervision fees since the 1980s, then suggest areas for reevaluation and reform.

National Policy Narrative

In the 1980s the growth in supervision fees was "unplanned...created and imposed without any policy foundation."[9] A few limited studies were conducted toward the end of the decade, but for the most part they focused on pointing out potential issues and compiling different subjective opinions about fees. In 1990, however, a publication of the National Institute of Justice entitled "Recovering Correctional Costs Through Offender Fees," by Dale Parent, started to set a new tone for policymakers.[10] Though policies from state to state still vary, the influence of Parent's recommendations can be seen in almost every jurisdiction. The next major event in the narrative was a less formal, more evocative article co-authored by Parent in 1993, in which he cited examples of counties that managed to raise substantial revenues from supervision fees—some counties even reported making a profit—and set out revised recommendations on aggressive collection methods based on those experiences. The figures upon which this 1993 study was based are problematic, but they helped influence most states to adopt Parent's suggestions. The next stage of the policy narrative marks a major shift from Parent's number-centered approach, but as yet it has had little impact on revising state laws. The first major work of this stage is a 2007 report from the Council of State Governments Justice Center recommending, contrary to Parent, that successful reentry, child welfare payments, and restitution be prioritized over fees.[11] The Second Chance Act of 2007 further bolstered this de-emphasis on fee collection by focusing on recidivism prevention, reentry success, and the promotion of family stability throughout the criminal justice system.[12] Finally, a 2010 report by the Brennan Center for Justice, a non-partisan public policy law institute at New York University School of Law, presents the most complete research of any study on the topic and criticizes the supervisory fee system.[13] While these recent developments show signs of influencing state policies, they are only beginning to have an impact.[14] Each of these stages of the policy narrative will be analyzed in more detail below, beginning with the Parent stage.

The Parent Stage

Parent's 1990 study was sponsored by the National Institute of Justice and made 9 recommendations:

1. "Maximize Correctional Agencies' Incentives to Collect," because making correctional institutions directly benefit from fees tends to increase revenue collection rates.
2. "Emphasize Supervision and Room and Board [Prison] Fees," because they can easily be applied to a large number of offenders.
3. "Levy Fees on Large Numbers of Offenders," and make fee waivers very difficult to obtain by making fees mandatory.
4. "Do Not Consider Fee Issues in Setting Length of Supervision," to avoid unnecessary extension of supervision.
5. "Avoid Low Supervision Fees," because "it costs about as much to collect a $10 fee as it does to collect a $40 fee....Therefore, raising the average fee levied is the fastest way to increase total revenue." (This counters a finding from 1986 that the optimal rate is $15–$17.[15])
6. "Establish Cost-Effective Fee Waiver Procedures," primarily by assigning the maximum fee level at sentencing and then allowing supervisees to submit financial information required for waivers later, unless presentence financial reports are already available. The Brennan Center report quoted below has shown that in practice this often leads to the indefinite postponement of a full waiver process and spiraling debt.
7. "Give Fees High Priority in the Imposition and Collection of Court-Ordered Obligations." Here Parent argues that if fee collection is not a high priority, then "officials may want to abandon fees altogether and thus avoid the additional costs of their collection."
8. "Develop Certain and Credible Responses for Non-Payment." Here the report emphasizes the necessity of prompt and increasingly severe consequences. It suggests that a second missed payment "should prompt a complete review of the offender's financial condition," a third missed payment should prompt an administrative hearing where officials may move to waive the fee, and subsequent missed payments trigger a tightening of the conditions of probation through curfews, community service, or even revoking probation altogether. Parent does not address the fact that these measures would raise the cost of supervision or consider the question of whether they would increase payment rates. Before Parent's study, the vast majority of financial reviews were conducted *prior to* setting the fee amount, but Parent does not address this option.[16]
9. "Provide Effective Management Information on Fee Collection" by increasing computerization and basing supervision officers' employee evaluations on "how well they perform fee collection duties."

In contrast to his 1990 study, Parent's 1993 article is an opinion piece arguing that strong incentive programs had led to outstanding success rates for supervision fees in Texas counties and elsewhere, including Yakima County, Washington, which in just a few years had "become completely self-supporting through probation fees—and even make[s] a 'profit.'"[17] While the article argued that this outstanding success was a product of well-designed

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[8] Second Chance Act, *supra* note 3. *See also* Federal Interagency Reentry Council, "Reentry Facts," http://www.nationalreentryresourcecenter.org/facts (Last visited May 16, 2012).

[9] Mullaney, *supra* note 2.

[10] Dale Parent, Recovering Correctional Costs Through Offender Fees (U.S. Department of Justice, National Institute of Justice 1990).

[11] Rachel McLean & Michael Thompson, Repaying Debts (Council of State Governments Justice Center 2007).

[12] Second Chance Act, *supra* note 3.

[13] Bannon, *supra* note 6.

[14] *See, e.g.*, Special Commission to Study the Feasibility of Establishing Inmate Fees, Inmate Fees as a Source of Revenue: Review of Challenges (Executive Office of Public Safety and Security 2011).

[15] Baird, *supra* note 1, at 12–13.

[16] *Id* at 17. *See also* Mullaney, *supra* note 2, at14.

[17] Finn & Parent, *Texas Collects Substantial Revenues From Probation Fees*, 57 Fed. Probation 17, 17 (1993).

incentives, such incentives also encourage exaggeration and inaccuracy; in addition, the numbers Parent cited were abnormally large due to what were then novel crackdowns on drunk driving. First we will turn to the incentives and best practices recommended, and then to problems of accurate reporting.

The incentives are designed with a baseline assumption that “despite the common perception of the criminal as penniless and unemployable, most offenders on probation who have committed misdemeanors—and even many felony offenders—can afford reasonable monthly supervision fees.”[18] This assumption paints with an inappropriately broad brush, blurring the essential distinction between high- and low-risk supervisees, and presumably is the justification for Parent’s omission from the article of less quantifiable costs like recidivism rates and the effects on families. Instead, the article focused on incentives created by the Texas legislature, best practices by local probation departments, and the wider benefits of supervision fees.

It identified three incentives created by the legislature, the most important of which “was to allow departments to carry forward into the next fiscal year a portion of the supervision fees [when] they take in more money than they spend.”[19] The second incentive was that local probation departments were given broad individual discretion in how to spend fee revenues, and the third was that the “Texas Legislature has made sure that probation departments can collect enough revenue from fees to cover—and substantially exceed—the staffing costs necessary to collect the money.”[20] These incentives were created without oversight or an audit system, and Parent makes clear that the easiest way to benefit from these incentives is simply to prioritize fees at the expense of fines and restitution. He reports that “since 1974, judges in Jefferson County (as well as many other counties in Texas) have generally ordered that payments be credited first to supervision fees and only then to other court-ordered financial obligations.”[21]

Regarding local best practices, the article concentrated on Jefferson County, Texas, where “supervisors consider fee collection performance heavily in evaluating performance among officers....In another Texas county, a supervisor reported he posts his officers’ collection rates every month on a bulletin board to stimulate competition among officers to achieve a favorable performance record.”[22] A similar competition board is used to pressure judges to uphold a strong no-waiver policy:

> [E]very month he [an administrator] issues a report that shows how often each judge in the county waived payments and how much in arrears each judge’s probationers have been. The administrator believes that, because judges are sensitive to how they perform compared to their peers, the report encourages them to impose fees more often and take stronger enforcement actions against probationers who are in arrears than they might otherwise be inclined to do.[23]

Furthermore, the strong no-waiver policy demands that except in the most extreme cases, waivers are only granted after months of inability to pay.[24] The article also endorses a strict enforcement of payment program, including the possibility of jail time for willful nonpayment.[25]

In addition, in this article Parent argues that collecting fees does not detract from casework, because probation officers “eventually realize that they are not just collecting bills; by enforcing fee payments they are benefiting the probationer.”[26] Furthermore, he recommends that fees should always be “the first topic of discussion” and “casework can be addressed only in the remaining time.” Sometimes probation officers have to spend “the entire office visit motivating offenders to make their payments,” but Parent sees such visits as productive and appropriate.[27]

There are a number of problems with Parent’s conclusions. While these incentives and recommendations can conceivably increase revenues, there is insufficient evidence to conclude that they are responsible for the counties’ success. The increase in fee amounts coupled with ballooning caseloads from a crackdown on drunk driving could explain the revenue success independently of the stringent incentives. Indeed, the study admits that the success of Yakima County, the most successful county cited, “is due in large measure to increased caseloads, which rose almost 50 percent...many of these new probationers are individuals charged with drunk driving who can usually afford to pay.”[28]

A more fundamental problem with the research, however, is that the incentives, coupled with the lack of oversight, are likely to cause reporting errors or an excessive emphasis on fees. For example, in 2008 Jefferson County, Texas (the same county whose statistics Parent used to justify many of his 1993 conclusions) reported collecting the equivalent of half of their budget from fees (over 3.6 million dollars), but did not report collecting any revenue from fines; in addition, almost one-third of the fee revenue came from a women’s center, presumably collected as nominal room and board costs.[29] Furthermore, an independent “Management and Performance Review of County Government Operations” for the county said in 2005 that “In recent years, their [the adult probation office, among others] efforts to collect unpaid fees and fines have proven ineffective. The county should seek free assistance from the state’s Office of Court Administration, which can train county staff in the collection of fees and fines and provide ongoing support for this function.”[30] A more serious instance of problems emerged in a 1998 audit in Arizona, which found that in the absence of oversight mechanisms, county probation departments were grossly overestimating the number of supervisees to inflate their budgets while at the same time mismanaging fee revenues so that millions of dollars were not fully used.[31] Such instances cast doubt on the idea that aggressive fee incentives can perform as a financial silver bullet for states.

The Post-Parent Stage

Council of State Governments Report

Parent’s recommendations were the preeminent policy standards throughout the country until the Council of State Governments set out six national policy recommendations in 2007.

[18] *Id.*

[19] *Id.*

[20] *Id.* at 18.

[21] *Id.*

[22] *Id.*

[23] *Id.* at 19.

[24] *Id.* at 19.

[25] *Id.*

[26] *Id.* at 20.

[27] *Id.*

[28] *Id.* at 21.

[29] *Id.* at 20; Jefferson County Auditors Office, “Comprehensive Annual Financial Report for the Fiscal Year Ended September 30, 2008,” 76, 86 http://www.co.jefferson.tx.us/auditing/cafr/cafr_2008.pdf (last visited May 16, 2012).

[30] MGT of America, Management and Performance Review of County Government Operations in Jefferson County, Texas ES-4 (Government of Jefferson County, Texas 2005).

[31] Norton, *Performance Audit: Supreme Court’s Administrative Office of the Courts, Adult Services Division*, 1998 State of Arizona Office of the Auditor General 1, 1.

These recommendations aimed to standardize collection methods and ensure that child support was prioritized first, then restitution, and that no other fines or fees should inhibit the collection of those preeminent forms of debt. The report made a number of other important recommendations, particularly:[32]

- Tailoring the total sum of criminal justice debt to individual defendants;
- Taking into account "documentation from the individual of his or her past, present, and future earnings, assets, debts, job skills, educational level, health issues, and disabilities;"
- Making a single agency responsible for managing collections;
- Capping the percentage of an individual's assets that can be seized;
- Calculating a realistic payment schedule; and
- Instituting a "range of sanctions and incentives" for compliance that deemphasizes intensified supervision or revocation, though still retaining them as options, and endorses the use of in-depth financial assessments and mandatory budget classes.

Second Chance Act

Based on findings of the great difficulties that offenders face in reentry, Congress designed the Second Chance Act of 2007 "to break the cycle of criminal recidivism...to rebuild ties between offenders and their families...to promote stable families and communities... to encourage the development and support of...substance abuse treatment, alternatives to incarceration, and comprehensive reentry services...[and] to assist offenders reentering the community from incarceration to establish a self-sustaining and law-abiding life."[33] Relating specifically to supervision, the act requires a review of the process by which violations of supervision are adjudicated and the implementation of "the use of graduated, community-based sanctions for minor and technical violations of parole, probation, or supervision (specifically those violations that are not otherwise, and independently, a violation of law)."[34] This recommendation of graduated, community-based sanctions differs from the automatic and aggressive sanctions advocated by Parent. Furthermore, the Act requires the development and implementation of "procedures to identify *efficiently* and *effectively* those violators of...supervision...who should be returned to prisons, jails, or juvenile facilities and those who should receive other penalties based on defined, graduated sanctions."[35] Given the high cost of jail time, revoking probation for delinquency on fees can be seen as very inefficient and also ineffective, because of the damage to the supervisee's employability. Overall, the Second Chance Act promotes individualized review and the prevention of recidivism over the cost-effectiveness of criminal justice debt.

Brennan Center for Justice Report

This report is based on the most comprehensive data, comparing policies, interviews, and statistics from the 15 states with the highest incarceration rate, and much of this data focuses on the less quantifiable costs involved in fee collection. However, it is wholly concerned with barriers to reentry from prison and does not offer any insights into the effects of supervision fees on low-risk offenders. The report also deals with all criminal justice debt, not just supervisory fees. It found that debilitative sanctions, such as revoking driver's licenses, arrests, and incarceration, were overused and applied to people who qualify for waivers.[36] It also found that waivers were only granted to a fraction of those eligible.[37] Furthermore, it cited the highly problematic use of private companies to collect debts.[38] The collection fees, which are usually charged directly to the supervisee without figuring into any official records, "can rival the fine," and collection methods can be very harsh and intimidating without any oversight mechanism.[39]

No state legislatures have responded to this post-Parent policy shift by revising their statutes. However, Massachusetts recently conducted a feasibility report on criminal justice fees that could presage changes in supervision fees policies.[40] The report was a reaction to a 2010 Massachusetts Supreme Court case that invalidated one county's daily room and board, GED testing, and other fee programs.[41] The programs were invalidated because the sheriff had exceeded his authority to impose fees by going beyond the cap set by the county commissioner, but the opinion also found that since the implementation of the fees, "the number of indigent inmates has increased," and somewhat opaquely rejected the argument that the fees "will 'assist [inmates] in preparing for their transition back [into the community].'"[42] A little over a year later, however, the Massachusetts Supreme Court upheld a number of other fees, which it characterized as "valid regulatory fees," as opposed to a tax. These fees included a monthly probation fee, an annual sex offender registry fee, and a $110 DNA collection fee.[43]

Recommendations

All discussion of fees, their collection, and their effects on budgets and offenders is hampered by a paucity of well-designed studies and thus a lack of reliable data. First and foremost, before jurisdictions can decide whether supervision fees are a good idea and, if so, at what level they should be set and how administered, we need comprehensive studies of all relevant factors, particularly effects on child care and restitution payments, success rates of reentry, the entirety of collection costs, and the proximate cause of arrests or jail time needs. If it turns out that supervision fees are in fact a good idea, then at least four factors should be considered by jurisdictions in designing supervision fees that strike the proper balance between long-term goals, individual and social needs, and revenue creation:

1. Setting proper priorities;
2. Using individualized and well-adapted collection methods;
3. Instituting proper oversight mechanisms; and
4. Implementing well-designed types of fees.

Furthermore, these factors need to be informed by the crucial difference between high-risk and low-risk supervisees.

Priorities

Most states leave it up to local departments to decide which type of debt takes priority, and usually there are incentives to make fees the top priority. However, prioritizing fees

[32] Rachel McLean & Michael Thompson, Repaying Debts 17 (Council of State Governments Justice Center 2007).

[33] Second Chance Act, *supra* note 3.

[34] *Id.*

[35] *Id.* Emphasis added.

[36] Bannon, *supra* note 6, at 3.

[37] *Id.* at 10.

[38] *Id.* at 17.

[39] Liptak, *Debt to Society Is Least of Costs For Ex-Convicts*, New York Times, Feb. 23, 2006, at A1.

[40] Special Commission to Study the Feasibility of Establishing Inmate Fees, Inmate Fees as a Source of Revenue: Review of Challenges (Executive Office of Public Safety and Security 2011).

[41] Souza v. Sheriff of Bristol County, 455 Mass. 573, 576, 918 N.E.2d 823, 825 (2010).

[42] *Id.*

[43] Doe v. Sex Offender Registry Bd., 459 Mass. 603, 947 N.E.2d 9 (2011).

over other types of debt is inconsistent with the Second Chance Act, counterproductive toward long-term goals, and has not been proven to increase overall criminal justice debt collection rates. The Council of State Governments recommends that debt be prioritized as follows:[44]

1. Child care payments, which reduce the severe burden on families and help break destructive cycles;
2. Restitution, which augments an overall sense of justice in society that is valuable for rehabilitation;
3. Fines, and
4. Fees.

While proponents of a fees-first approach claim that fees have rehabilitative value, the only reason stated is the regularity of making payments and an awareness of the consequences of their actions.[45] Furthermore, such proponents assume without objective support that fees are more rehabilitative than any other type of debt.

There is also the administrative side of priorities; unrealistic expectations about the revenue potential or reliability of fees should be avoided. For the first few years after fees were introduced more broadly in the 1980s, there appeared to be numerous simple ways to increase fee revenue, from instituting different types of fees to sending out automatic payment reminders. Because of this, many states set high collection goals and strong incentives to accelerate the increase of revenue growth, including putting fee revenue toward probation officer salary. But time has shown that fee revenue is more fickle than anticipated, especially because of the disproportionate amount of revenue that comes from DUIs and the current volatility of the job market.[46] Common responses to the fickleness of fee revenue are to make it nearly impossible for offenders to get a waiver, institute a high monthly fee rate, and collect fees at the expense of other types of debt. But these measures are ill-suited to the problem. It would be better for all concerned if fees were individualized to each supervisee and revenue targets (if any) were realistic and updated at least annually.

Collection Methods

In 1994 Virginia abolished the monthly parole supervision fee and instead adopted a one-time fee determined at sentencing. Though this change greatly limited the revenue potential of fees, Virginia justified the move because otherwise the fees were "a huge hassle to collect."[47] Around the same time as Virginia's switch, almost every other state legislature, in an effort to raise revenue, doubled or tripled the monthly fee, made the maximum fee rates mandatory, and allowed waivers only in extreme cases after months of documented inability to pay. Beyond these measures, legislatures gave counties broad discretion in collection methods. Popular methods included using automated billings and reminders, graduated and increasingly severe sanctions for nonpayment, and in some cases hiring new employees to collect fees. In more recent years, counties have used independent collection companies that collect their costs from supervisees in addition to fees. Generally, low-risk supervisees do not require collection methods beyond reminder letters, while high-risk supervisees often require harsher collection methods.

Incarceration and private collection companies, the two harshest collection methods, are very problematic. Incarceration is so much more costly than supervision that only a few days in prison expends a disproportionate amount of fee revenue, and it may also decrease the likelihood of successful reentry. Furthermore, whether a threat of incarceration has a positive effect on collection rates is unclear and has yet to be thoroughly studied. Private collection companies, on the other hand, grossly inflate the costs to offenders. Companies in Georgia, for example, charge $30 or $40 per month, a cost that can rival the payment collected.[48] Beyond these two methods, some studies, including those conducted by the Brennan Center for Justice, claim that even seemingly mundane collection methods can adversely affect supervisees in significant, though less measurable ways.[49] For example, frequent automated letters might produce enough anxiety to undercut the confidence supervisees need to succeed.

Some research suggests that the best way to balance the promotion of successful reentry with efficient fee collection is to abolish mandatory fees and nearly impossible waivers and give more latitude to judges to tailor fees to individual supervisees. A study from Wyoming in the mid-1980s showed that individualized fees had a higher collection rate even with very lax collection methods, and fees clumped together with other types of debt also had higher collection rates.[50] Such less-aggressive tactics have been mostly ignored since the early 1990s, but they should be explored more thoroughly as cheaper options that are also likely to be more conducive to successful reentry.

Oversight

Counties have been given great discretion over almost all aspects of fees. These mini-laboratories of democracy might be a good place from which to find the best approach to fees, but a lack of oversight and useful record-keeping has hindered such discovery. Nearly all of the studies cited in this research are based on mere opinion surveys or telephone interviews that are not supported by sufficiently detailed records to conclusively determine how effective particular fee types or collection methods are. Furthermore, the aggressive incentives in place in many counties also serve as incentives to exaggerate and be non-transparent. Oversight is also needed to coordinate collection methods, which are often split up among different departments with insufficient communication between them.

Fee Types

Giving different guidelines for different types of fees may be an effective way to balance the two objectives of raising revenue and promoting successful reentry. The most common types of fees are monthly fees, fees for drug or similar tests, and fees for GPS tracking devices. A report about the most effective prison inmate fees found that fees related to work privileges were most effective, and the key to their effectiveness seems to be the quid pro quo arrangement relating to the inmate as an individual.[51] Similar quid pro quo arrange-

[44] McLean & Thompson, *supra* note 30, at 33–34.

[45] *See e.g.* Finn & Parent, *supra* note 16, at 20.

[46] *See* Minnesota Department of Corrections. *Supervision Fees: 2005 Report to the Legislature*, 2005 Minnesota Department of Corrections 1.

[47] Bannon, *supra* note 6, at 31. Virginia does retain other types of supervision fees. *See also* Morgan, *Research Note: A Study of Probation and Parole Supervision Fee Collection in Alabama*, 20 Criminal Justice Review, 44 (1995) (describing a similar attitude toward fee collection among most parole and probation officers in Alabama).

[48] Liptak, *supra* note 29.

[49] *See* Bannon, *supra* note 6, at 11; Rebekah Diller et al., Maryland's Parole Supervision Fee: A Barrier to Reentry (Brennan Center for Justice 2009).

[50] Green, *supra* note 15.

[51] Barbara Krauth et al., Fees Paid by Jail Inmates: Fee Categories, Revenues, and Management Perspectives in a Sample of U.S. Jails 36–37 (U.S. Department of Justice, National Institute of Corrections 2005).

ments can be effective in supervisory fees, for example, fees related to a woman's shelter, a breathalyzer ignition, a GED program, a drug treatment center, or a work program where successful completion could reduce the period of supervision. However, such arrangements raise potential Equal Protection issues under the Fourteenth Amendment.

The advent of the Second Chance Act and ongoing research about evidence-based efforts to reduce recidivism and encourage successful reentry seem likely to prompt changes sooner or later. Thus despite severe budget constrictions affecting states and counties, the years ahead are likely to see expanded efforts to design fees that maximize the balance between revenue generation and successful reentry.