



Policy Report

May 2022

EEU

Economic Evaluation Unit

NONJUDICIAL ADJUSTMENT JUVENILE FINANCIAL SANCTIONS

A Guide For Policy and Reform for Pretrial Diversion in Utah's Juvenile Justice System

by Nathan Kunz¹ and Sheena Yoon²

¹ Economic Evaluation Unit — University of Utah and Department of Economics — UCLA

² Economic Evaluation Unit — University of Utah

TABLE OF CONTENTS

| | |
|--|-----------|
| Introduction | 2 |
| Section 1: Literature Review on National Practices | 3 |
| Section 1.1: The Costs and Benefits of Different Financial Sanctions | |
| Section 1.2: Recent Developments in Financial Sanction Legislation | |
| Section 2: Fine Models | 7 |
| Section 2.1: Potential Fine Models | |
| Section 3: Utah NJA Policies and Data Trends | 10 |
| Section 3.1: Utah NJA Policy Overview | |
| Section 3.2: Interview Findings | |
| Section 3.3: NJA Data Trends | |
| Section 4: Conclusion and Policy Recommendations | 30 |
| References | 32 |
| Appendix | 33 |
| Figure A1: Fiscal Analysis of Target Counties | |
| 1) Annotated Bibliography Table | |
| 2) Matrix of Selected Regions Diversion Programs and NJA Practices | |
| 3) Court's Accounting Manual for the NJA Fund | |
| 4) Court's Accounting Manual for the RESTA fund policy. | |
| 5) Interview Questions | |
| 6) Fines and Fees Matrix | |

Executive Summary

This study, *Nonjudicial Adjustments Juvenile Financial Sanctions: A Guide for Policy and Reform for Pretrial Diversion in Utah's Juvenile Justice System*, is designed to be a resource for the Utah Juvenile Court (UJC) and Juvenile Justice Oversight Committee (JJOC) to support ongoing and future policy decision making for youth and their communities in Utah. Given the goal of promoting the best possible outcomes for youth, families, and communities—this study aims to equip UJC and JJOC with a range of policy options based on the greater literature of theories, practices, and empirical findings of financial sanctions (i.e., fines, fees, and restitution) that support equitable and effective juvenile justice nationwide.

This report also highlights specific insights into Utah's policy impact on relevant stakeholders involved in the NJA process through a statewide interview process of juvenile justice system stakeholders representing each judicial district in Utah. These two major components of the report combined with the statistical analysis of the data elements provided by the Juvenile Courts and JJOC, illustrate what NJAs look like across the state, how it impacts different juvenile populations, where certain disparities lie across the state, and how system stakeholders experience the NJA process differently. Overall, we find that NJAs serve a positive role for mitigating contact with the justice system. However, the extent to which economic sanctions serve the goal of rehabilitation within the NJA process is mixed. These empirical findings, highlighted nationwide and within Utah, is intended to serve as an informative guide to best discern which policy options would be most appropriate for Utah's youth, families, and communities.

Key Findings:

- Interview findings support NJAs as an effective preventative tool for recidivism, however to what extent fines and fees serve a rehabilitative role was varied.
- The role of fines having a rehabilitative role for youth was particularly heterogeneous given that not all youth paid or worked to pay off the fine as many parents took on the financial burden instead.
- Despite not finding evidence for differences in recidivism or success rates for youth paying restitution in Utah, the evidence in the literature was mixed. Some found small positive effects for youth who paid restitution, and others none at all.
- This report recommends that relying on financial sanctions on youth is an unsustainable source of revenue to fund victim restitution accounts and is not an equitable source of revenue.
- Additional policy recommendations for this report also include the authorization of alternatives to financial sanctions, making data available on the revenue and collection of fees, making guidelines transparent for all stakeholders on the schedules of fines/fees, and making alternative options to fines/fees transparent for those who can not pay (Brett & Nagrecha 2019).

Study Limitations

For Section 3.3 Data Trends of this report, the data used for analysis was provided by the Juvenile Courts and JJOC. This data is limited for certain demographic groups due to a low number of observations available, however they have been included. This report highlights this limitation for readers to be carefully aware of making interpretations of these values.

Study Disclaimer

Any commentary presented in this report does not represent the Juvenile Court's view or position of the Utah State Courts.

Introduction

The passage of House Bill 239 sought to ensure the best possible outcomes for youth, families, and communities. Existing research and data compelled policymakers to move toward nonjudicial adjustments (NJAs) to address delinquent behavior in low-risk youth. NJAs fall under the wider umbrella of Juvenile Diversion programs, as they are commonly known in most states. Data from the Federal Office of Juvenile Justice Delinquency and Prevention indicates informal programs processed nearly 44% of all juvenile cases. These programs are characterized by a shared goal to address youth behavior informally within the community as a restorative practice while diverting them away from court proceedings and out-of-home placements.

Policymakers balance many different challenges when deciding how to structure a diversion program. Deciding how to use financial sanctions is a key part of this process. For some, sanctions play a key role in the rehabilitative process, and policymakers hope the payment of fines and penalties will reduce future recidivism among youth. As a part of these programs, youth may need supervision and access to resources for rehabilitation. Fees help fund these activities, and participation is often contingent on the payment of these fees. Youth may also be required to pay restitution to affected community members, which creates a natural tension between the interests of the youth and the victim.

Policymakers have a variety of approaches to balance the interests of different stakeholders including that of youth, their families, victims, and juvenile justice staff. Therefore we see significant heterogeneity in the application of financial sanctions across the United States. Whether a sanction is mandatory, has maximum or minimum financial sanction amounts, or discretion among decision-makers varies. Evidence on the impacts of these variations on youth outcomes remains limited.

The primary goals of this review are to lend background research to help answer two important questions. First, deciding whether Utah's sliding fee scales and maximum financial penalties for NJAs under H.B. 239 are the best for our state. Policymakers have raised concerns about the fairness of basing financial sanctions off of family income. Others point

out how a sliding scale may help relieve a potentially disproportionate burden placed on poorer families by financial sanctions. Still another concern is funding for victim restitution, where a sliding scale may severely restrict the ability of victims to be made whole and the state's ability to fund accounts meant to support victims. This concern also similarly applies to funding rehabilitative programs for affected youth which relies on court fines and fees as a source of revenue. The latest introduced senate bill, S.B. 120 (Juvenile Justice Amendments 2022), challenges these current practices of juvenile fines in court cases by proposing the elimination of these fines and fees given the disproportionate burden of these fees and its rehabilitative purposes.

In order to address these concerns, this review importantly highlights 3 important key themes underlying this first question (whether Utah's current policy is best for the state) which includes: 1) What are the consequences of equity, including both socio-economic and race/ethnicity, of fines and fees for youth? 2) What purpose should fines ultimately have? And are these outcomes tangibly attainable as evidenced by the literature and research? And lastly, 3) To what extent is it fiscally sustainable to rely on fines/fees to fund victim restitution accounts?

The second question concerns how discretion should best be applied by probation officers when determining when or if a financial sanction is appropriate. Following the passage of HB 239, the Juvenile court adopted an internal policy that required all youths who received an NJA to also receive a financial sanction. This policy has been redesigned in the intervening time, but questions remain about where discretion may still be applied in different cases and as each youth's situation evolves. This question is addressed in Section 3.2 which covers the thematic findings of interviews conducted with Chief Probation Officers across Utah and the data trends findings from the NJA data provided by the Juvenile Courts in Section 3.3.

As Utah has increasingly sought to move towards restorative practices to address risk factors for juvenile delinquency, this report seeks to provide information that will best promote the ability of Utah's policymakers to craft policies that will benefit the youth, their families, and the community. This entails evaluating current research and policy on its ability

to sustainably reduce recidivism, increase access to appropriate resources, promote equity among youth across the system, and make victims whole whenever possible.

Section 1: Literature Review of National Practices

Section 1.1: The Costs and Benefits of Different Financial Sanctions

Financial, or economic, sanctions have long played a key role in the juvenile and criminal justice system. Different types of financial sanctions cover a range of purposes, however fines, fees, and restitution are the most common types of financial sanctions. Economic sanctions can be classified under one or several of these types depending on their purpose and implementation.

Often, states will impose sanctions by statute. Statutes often describe when and how financial sanctions may be used in a wide variety of circumstances, including during the diversion process. Researchers have built a picture of financial sanctions in the juvenile justice system using statutory differences between states.

Fines

Fines are a common feature of the legal system at nearly every level. A fine is a monetary sanction imposed as part of an agreement or disposition. Fines may either constitute an entire sentence or be imposed in addition to other measures, such as community service, or detention in the formal justice system (Brett and Nagrecha, 2019). Fines are generally seen as a logical alternative to costly services or removal from a community, imposed to deter future delinquent behavior.

The popularity of fines, however, does not seem to extend into most diversion programs defined by statutes around the United States. Utah is the only

state that explicitly calls for fines to be included as part of a general juvenile diversion agreement.¹ That being said, some states, such as Wisconsin and New Hampshire, impose hefty penalties of up to \$1,000.00 and even confinement if youth fail to comply with the terms set out their respective diversion agreements.² Additionally, Illinois allows the payment of monies associated with drug court (a type of diversion) which includes fines, fees, and restitution.³

Fees and Surcharges

Youth and families who have become involved in the juvenile justice system are often required to pay a fee before or during participation in a diversion program or nonjudicial adjustment. Fees may be assessed for particular court functions, supervision, or to cover the cost of activities required under the terms of an agreement. Fees may also be associated with paying off another financial sanction, such as for taking part in a payment plan (Brett & Nagrecha, 2019).

A fee in the context of the juvenile court system is characterized by its primary function as a funding mechanism for programs or as payment for participation in a program required as part of a diversion agreement. The situation of youth, their family, or the severity of an offense has no bearing on whether a fee is ordered. Neither are fees linked to a juvenile's impact on the victim impact or community more broadly.

On a national scale, fees and surcharges remain common in some form, although their requirements, amounts, and implementation vary widely by state. Currently, twenty states impose costs related to participation in a juvenile justice program (or treatments required under a diversion agreement) on juveniles or their families (Feirman et al. 2016). Within this group, many states only require payment for certain types of offenses such as drugs, domestic abuse, and sex crimes⁴. While still relatively common, there is little research related to the costliness of such

1 See Utah Code §80-6-304.

2 See Wis. Stat. Ann. § 938.245(7)(b) and N.H. Rev. Stat. Ann. § 169-B:2-a.

3 See 705 Ill. Comp. Stat. Ann. 410/25.

4 A few examples. For internet-related sex offenses, the state of New Jersey requires parents or guardians to bear the cost of participation in remedial education or counseling. This is based on ability to pay. N.J. Stat. Ann. § 2A:4A-71.1(a). The state of Oklahoma allows court orders for costs associated with its drug court program. Okla. Stat. Ann. tit. 10A, § 2-2-509. However youth may not be denied based on inability to pay. Okla. Stat. Ann. tit. 10A, § 2-2-507.

programs.

Many states may have a fee for participation required or allowed up to some maximum value. The requirements span a wide range of values, with states such as Mississippi, and West Virginia allowing a maximum fee of \$5.00 for participation in a diversion program⁵. One-time fees for participation may range as high as \$50.00⁶. Other Jurisdictions have opted for a monthly fee structure, requiring youth to pay monthly for the duration of their participation in the program. Juveniles and families living in these states can expect to pay monthly fees between \$5.00 and \$20.00⁷.

Restitution

The purpose of restitution among financial sanctions is unique, however, evidence of its effectiveness for reducing recidivism is somewhat mixed. A 2017 meta-analysis of restorative justice literature found no evidence linking the imposition of restitution to changes in recidivism (Wilson, Olagher and, Kimbrell, 2017). Another important study found adults who pay more towards restitution are less likely to re-offend (Ruback et al., 2018). This result falls in line with earlier more limited studies on juveniles that found paying restitution is associated with lower recidivism rates (Farrington and Welsh, 2005; Roy, 1995; Shichor and Binder, 1982). One study concluded that the percentage of restitution paid was the most important predictor of recidivism. This leads the authors to posit that courts should consider ability to pay when assessing restitution (Ervin and Schneider, 1990; Jacobs and Moore, 1994).

Every state juvenile code has a provision on restitution, and some states may even mandate restitution (Feirman et al. 2016). For diversion programs specifically, restitution may be described as the second-most common type of financial sanction behind fees. Of the twenty-one states with statutes describing the types of financial sanctions allowed

in a diversion agreement, five name restitution as a possible financial sanction for some type of juvenile diversion program (Feirman et al. 2016).

Unfortunately, it is not clear from these statutes exactly how restitution in these agreements is structured. Wisconsin statutes impose a maximum of \$5,000 on restitution as part of deferred prosecution, based on the offender or their family's ability to pay.⁸ For children under the age of 14, a deferred prosecution agreement cannot require youth to pay more than \$250.00 in total restitution.⁹ Utah is the only other state with any language addressing the amount of restitution allowed in statute.

Financial Sanctions, Recidivism, and Equity

Unfortunately, evidence supporting the value of fines as a deterrent is limited. Financial penalties may indeed entail a wide array of adverse consequences, such as continued reoffending due to a lack of employment and other monetary concerns. One of the most recent and comprehensive studies of its kind, published in 2017, found a higher likelihood of recidivism within two years based on the sheer amounts of costs imposed on juveniles, even after controlling for demographic and case characteristics. The number of costs left unpaid upon closure was also positively associated with recidivism (Piquero and Jennings, 2017; Ruback et. al, 2018). While studies like these are inherently limited, the findings highlight the possibly counterproductive role of financial sanctions as a behavioral deterrent.

Moreover, the policy and practices surrounding financial sanctions have tended to exacerbate existing economic and racial disparities. For example, poor youth are more likely to fail to pay all the costs associated with becoming involved in the justice system. As such, for example, these youth are more likely to be charged with probation violations for failure to pay costs (Birckhead, 2012). The costs associated with fines and fees also tend to fall disproportionately on youth of color (Campos-Bui, 2017). Higher fines for

5 See Miss. Code. Ann. § 43-21-753 and W.Va. Code Ann. § 49-4-716(g).

6 The state of Arizona currently requires parents to pay a fee of up to \$50.00 according to their ability to pay. Ariz. Rev. Stat. Ann. § 8-321(N).

7 Indiana asks monthly fees between \$5.00 and \$15.00. Ind. Code Ann. § 31-32-16-9. Oklahoma requires a mandatory fee of \$20.00 for parents of youth in Juvenile Drug Court. Okla. Stat. Ann. tit. 10A, § 2-2-509. Arkansas allows juvenile probation officers to charge parents a fee of up to \$20.00 according to their ability to pay. Ark. Code Ann. § 9-27-323(i)(1)-(2).

8 See Wis. Stat. Ann. § 938.245(7)(b).

9 See Wis. Stat. § 938.245(2)(a)5.c.

youth of color falls follow a broad pattern of harsher treatment at every stage of the justice system even after controlling for whether the offense was drug, property, public order, or person-related (Nat'l Council on Crime & Delinquency, 2007). In their repeal of its ordinances to collect fees in 2017, the Santa Clara County Board of Supervisors noted, “[R]esearch has proven that financial penalties do not reduce recidivism among the juvenile population. Instead, the imposition of fees heightens racial disparities in the juvenile justice system as most affected are low-income youth of color.”

A popular approach (Acton, 1996; Brank and Weisz, 2004) is for parents to elect or be obligated to bear responsibility for their child’s financial sanctions (Haynes et al., 2014). Such practices may exacerbate the challenges of young offenders’ families who overwhelmingly come from poorer economic backgrounds (Hil, 1996). Parental payment of monetary sanctions also undermines any goal of instilling a sense of personal responsibility for the youth, and consequentially diminishes their effectiveness as a rehabilitative tool (Maute, 1995; Weinstein, 1990). These findings from the literature also similarly match with the findings found across Utah discussed in Section 3.

Financial Sanctions for Revenue Generation

There remains significant concern around the financial sustainability of programs in the juvenile justice system. Many programs lean heavily on fees collected from offenders to fund operations. While evidence of the effectiveness of financial sanctions as a funding mechanism for juvenile programs is limited, new findings cast doubt on financial sanctions as a responsible fiscal tool for program funding.

In one of the most comprehensive studies of its kind spanning ten counties and three states, researchers investigated the efficiency of fees and fines as a source of government revenue. Below is a figure from the Brennan Center detailing the collections and assessments from each state and county. Their fiscal analysis identifies the cost to courts and criminal justice agencies of assessing and collecting criminal fines and fees and then subtracts those costs from the revenues collected in each jurisdiction. On average the jurisdictions included in the study spent \$0.41 for every dollar collected over the period, with 66% of debts ultimately being collected (Menendez et. al. 2019).

The amount spent collecting fines and fees is 121 times greater than the \$0.34 spent per every one-hundred dollars by the internal revenue services to collect taxes in 2017 (Kautter et. al. 2017). The authors of the paper noted their figures of the costs of collection almost certainly underestimate the true cost after accounting for the collateral consequences for those who struggle or ultimately fail to pay their sanctions and are pushed deeper into the justice system (Menendez et. al. 2019). For Utah in the 2021 fiscal year, the collected amount of court-ordered juvenile fees and fines amounted to \$134,000.

The wide gaps in efficiency between sources of revenue come in part from the substantial costs associated with imposing and collecting financial sanctions. Counties must maintain staff and infrastructure to administer the assessment and collection process. A probation department for example may employ financial evaluation officers who conduct the ability to pay evaluations. In one case, Orange County spent over \$1.7 million to employ 23 individuals to collect just over \$2 million in juvenile administrative fees (Campos-Bui, 2017). An economic analysis in Alameda County, CA, found that the elimination of juvenile administrative fees would result in a net benefit to society of \$192,000 annually and \$5.5 million permanently (Cohn et al., 2016). The following quote from the *Advisory to Recipients of Financial Assistance from the U.S. Department of Justice* regarding fines and fees for youth underscores the fundamental starting point of what purpose fines and fees should ultimately serve (Page 28, Cohn et al., 2016):

“One overriding difference between the juvenile justice system and the criminal justice system is the former’s primary focus on rehabilitation. Before courts impose fines and fees on juveniles—even on those rare juveniles who might be able to pay—they should consider whether such financial burdens serve rehabilitation. In many cases, fines and fees will be more punitive than rehabilitative, and they may in fact present an impediment to other rehabilitative steps, such as employment and education.”

Section 1.2: Recent Developments in Financial Sanction Legislation

In light of recent developments, lawmakers in many states have taken steps to realign public policy with evolving public opinion and new evidence. In 2019, legislators in Nevada passed AB 439 in a unanimous vote. The bill eliminated nearly all fines and fees charged to juveniles and their families involved in the justice system. In 2018, California passed SB 190, eliminating nearly all juvenile court fines and fees. Similar bills have also been passed in at least five other states, where the range of possible financial sanctions for juveniles has been greatly reduced or eliminated.¹⁰ Currently, 12 states across the country have enacted reforms in the past five years to eliminate harmful fines, fees and costs for youth and their families ([Fines Fee Justice Center](#)). In the past year alone, in 2021, 6 states (Texas, Louisiana, Virginia, New Mexico, Colorado, and Oregon) passed reforms to end juvenile fees. In 2021, at least 13 other states have also considered introducing similar reforms including AR, AZ, DE, FL, IN, LA, MI, NJ, NM, OR, PA, VA and WY (Fines Fee Justice Center 2021). Table 1 below lists the latest bills passed to reform financial sanction legislation for youth and their families.

Table 1: List of States with Recent Financial Sanction Reform Legislation

| State | Bill | Change |
|------------|--|--|
| California | SB 190, 2018 Title: Juveniles | Eliminated almost all juvenile court administrative fees. |
| Colorado | HB 21 - 1315, 2021 Title: Concerning Eliminating Certain Monetary Amounts a Juvenile in the Justice System is Required to Pay | Eliminated a range of costs and fees that youth and their families were required to pay. Moreover, this bill discharged outstanding juvenile fee debt. |

| | | |
|---------------|---|--|
| Florida | HB 257, 2021 (bill introduced not yet passed) Title: An Act Relating to the Elimination of Court-related Financial Obligations for Juveniles | |
| Louisiana | HB 216, 2021 | Eliminated all fees for youth under age 18 in both juvenile and adult systems. This included fees for care and treatment, representation counsel, and probation supervision. |
| Maryland | HB 36, 2020 | Eliminated most fines and fees charged to families of system-involved. |
| Nevada | AB 439, 2019 | Eliminated all fines and fees and making all previously imposed fees and fines unenforceable and uncollectable and vacating any judgment that imposed such fees and fines. |
| New Hampshire | HB 1162, 2020 | Eliminated costs of services and child support imposed on parents of youth in the justice system. |
| New Jersey | SB 48, 2019 | Eliminated all fines and financial penalties. |
| New Mexico | HB 183, 2021 | Eliminated all juvenile fees and fines including fees of up to \$100 for marijuana possession and the nonrefundable "application fee" for a public defender. |
| Oregon | SB 422, SB 817, 2021 | Eliminated all juvenile fines and fees. All unpaid fees and fines are discharged on January 1, 2022, but restitution obligations remain. |
| Ohio | Bench Card, The Supreme Court of Ohio and the Ohio Judicial System ¹¹ | Instructs judges to presume young people are unable to pay fines and fees. |

¹⁰ See: S 48, 218th Legislature (NJ, 2019). https://www.njleg.state.nj.us/2018/Bills/S0500/48_11.HTM

¹¹ [Collection of Fines and Fees in Juvenile Courts \(ohio.gov\)](#)

| | | |
|------------|----------------|--|
| Texas | SB 41, 2021 | Eliminated some juvenile fees including fees for court-ordered treatment, out-of-home placements, graffiti eradication, diversion, DNA testing, teen court, teen dating violence court, drug education, and alcohol awareness. |
| Washington | Year Act, 2015 | Eliminated numerous juvenile diversion fees, court costs, appellate courts, adjudication fees, and certain fines. |

The most recently passed House Bill in Colorado (listed above in Table #1) serves as a notable example for Utah given the state's neighboring qualities in geography and demographics. As one example of the latest legislations passed reforming juvenile justice fines and fees, Colorado's House Bill outlines below the purpose of fines and fees in their state with the following legislative declaration in Section 1 of HB21-1315:

(b) Juvenile system fees disproportionately harm youth of color and their families. In Colorado, youth of color are arrested more often than White youth, detained at more than twice the rate of White youth, and incarcerated at more than four times the rate of White youth.

(c) Fees and costs disproportionately harm rural youth and their families. Colorado judicial branch data shows that courts in rural counties assess higher amounts of fees per case than the statewide average.

(d) Fees serve no public safety function; they are intended only to generate revenue for government. Research shows that fees may instead undermine public safety by increasing the likelihood of recidivism among youth.

(e) Youth and their families face harsh consequences for unpaid fees, undermining rehabilitation and following youth well into adulthood;

(f) Colorado's judicial branch serves all Coloradans, and administrative costs should not be borne by indigent youth of color and their families;

(g) Fees should not follow a person who was a child at the time of an alleged offense, even if the person is over the age of eighteen at the time of adjudication, or if the case of the person is directly filed in district court or transferred from the juvenile court to the district court; and

(h) To serve Colorado's juvenile system goals of community safety, rehabilitation, and restorative justice, juvenile fees must be repealed.

Section 2: Fine Models

Section 2.1: Potential Fine Models

While many jurisdictions have opted to restrict or end the use of juvenile financial sanctions, others have sought the help of alternative models to assign economic sanctions fairly and consistently. In this section, we discuss several of the most popular models, as well as their associated weaknesses. Each model assumes a structure based on an individual's ability to pay. Most, if not all, fine models were initially developed for application in cases involving adults. The section below relies heavily on best practices described in Colgan (2019) and this section includes several suggestions on how each model should be modified when applied to the youth.

Base Income

A model for fines that depends on an individual's ability to pay must-have tools for identifying income. While simple, in theory, the decision of whether to include family/household income complicates base income calculations. Several studies in recent years have indicated the placing of financial burdens on families places serious strain on the already fractious family ties typical of youth offenders (Campos-Bui et al., 2017; Selbin 2016; Hutchinson, Parada, and Smandych, 2009). Therefore it is difficult to recommend such structures as being in the best interest of youth.

Depending on what income streams are included, the process for setting base income is relatively straightforward. Most of the time, sources of income will be easily identifiable, nearly always coming from employment or public benefits. Expected future swings upward and downward may also be accounted for in this step.

Oftentimes we may find youth lack employment or any readily identifiable source of income. Imputing a base income, often minimum wage is one approach to these cases. The implicit expectation is that youth is able to find successful employment and is able ultimately pay down the debt. Of course, such a solution may exacerbate the struggles youth may already face when it comes to falling behind in school

or making paying off such a debt impossible during economic downturns when job opportunities are scarce. Therefore, we recommend considering alternative sanctions, such as community service, for youth with no income.

Deductions

One cannot get a full picture of a youth or their family's financial situation without accounting for certain unique factors. These include the amounts necessary for self-support, family support, and where they lie in the income distribution. Some jurisdictions that have piloted programs have opted for flat percentage reductions for each of these factors. It's also important to allow some flexibility within these rules for special circumstances such as medical expenses, student debt, and certain family emergencies.



Fine Structures

Flat Reduction of Penalties:

This fine structure model applies a flat reduction to the financial penalty when a person's net income minus a given set of deductions falls below a certain threshold. The superior court of San Francisco has one example of such a program. Individuals who have household incomes below 250% of the federal poverty line and those who receive means-tested public benefits qualify to have their traffic fines and fees reduced by 80%.

The advantage of a flat reduction approach is its ease of implementation. The downside is that it offers no relief for individuals who fall just outside the cutoff. The financial need of those who fall outside this line may be just as great, or more, depending on their circumstance. As such flat reductions are advised only in cases where the potential fine amounts are relatively small.

Sliding Scale of Penalties:

The sliding scale model is an extension of the flat-reduction approach. On a sliding scale, smaller incomes are assigned progressively larger percentage reductions to the overall sanction amount. The sanctions are assessed in two stages, where an initial fine amount is set and then a sliding scale reduction is applied.

The advantage of sliding scales is that it avoids the arbitrary and abrupt switch in a fine amount of a flat-reduction approach. It can also, therefore, be applied to high dollar value sanctions and allow for a greater reflection of the ability to pay as well as the seriousness of the offense. The final cost imposed may be vulnerable to inconsistency depending on how court officers are instructed to calculate the base fine before a sliding scale is applied.

The Day-Fines Model:

This model assigns several units to a given violation based on its level of severity. The amount of a fine is then found by multiplying those penalty units by the adjusted daily income of the person being fined. For example, if a person's adjusted daily income was found to be \$20 a day and the number of penalty units for an offense was two, then the fine amount would be \$40.

The assignment of penalty units for a given violation can be done by first ranking all offenses eligible for diversion by severity. This process may be helped along by previous rules that implicitly assign severity by a fine amount (for example a crime with a potential fine of \$1000 is more serious than one with \$100).

Table 2: Comparison of Fine Structure Models

| Sliding Scale | Flat reduction | Day Fines |
|---|---|---|
| PROS: <ul style="list-style-type: none">• More Granular Relief• Simple implementation• Sliding reduction from the original sanction amount | PROS: <ul style="list-style-type: none">• Simple Implementation• Low cost | PROS: <ul style="list-style-type: none">• Granular relief for families• Ensures consistency across cases• Simple calculation |
| CONS: Vulnerable to inconsistent base fines | CONS: No relief for those outside of the cutoff | CONS: Time-consuming initial implementation |

Some caution is warranted with each of these models laid out in Table 2. It is possible in some areas for graduated sanctions to be paired with another non-graduated sanction (a flat fee for example). The combination of these types of sanctions may turn an otherwise reasonable sanction into a heavy burden. As such, graduation should be applied to all potential financial sanctions.

The offender, of course, is only one potential party to an incident. We should also consider the victim. Ideally, restitution should be prioritized over all other money collected. In many cases, however, the amount required to make a victim whole may be greater than a juvenile’s ability to pay. Critics of restitution have also raised the point that emphasizing its role could instill false hope in victims if they expect full compensation from young, disadvantaged offenders (Roach, 2002).

Most, if not all states, have central restitution funds that seek to bridge the gap between an offender’s payment and the victim being made whole. These funds are often sustained by the payment of economic sanctions in cases where there is no victim or where the amount paid exceeded what was owed in restitution. Then the remainder is diverted to the restitution fund. Unfortunately, restitution funds are often made unsustainable in cases where sanction monies are diverted fully or in part for other uses.

For an extended list of studies covering literature on the national landscape of NJA including that of fines, fees, restitution, and community service, refer to **Appendix #A1** where a full annotated bibliography is provided. **Appendix #A1** also lists studies referenced above for the range of fine models.

Appendix #A2 also provides a matrix of selected regions highlighting their diversion program, type of sanction model, fee structure, fine structure, restitution structure, and more.

Section 3: Utah NJA Policies and Data Trends

Section 3.1: Utah NJA Policy Overview

Summary of NJA Policy & Guidelines

Currently the Nonjudicial Adjustment Account (Legal Authorization: [UCA 78A-6-210](#)) is established within the general fund which relies on the revenue generated from financial penalties collected under Subsection 78A-6-602(8)(a). The maximum financial penalty is set at \$250¹² for eligible juvenile youth who enter an NJA agreement. All revenue collected through this penalty is deposited in the NJA account. The funds from the NJA account are authorized to be used for expenditures related to juvenile compensatory services, victim restitution, and diversion programs. Utah's [Senate Bill 120](#) recently outlined a fiscal estimate revenue loss of [\\$616,000](#) from the NJA account starting 2024 if the bill were to be enacted. Court fees are not to exceed \$50 for youth.

Funds used for restitution are requested from the administrative office of the courts (AOC). AOC issues a check to be deposited into the restitution "side" of the RESTA account. For more information on how funds are disbursed refer to **Appendix #A3: [Court's Accounting Manual for the NJA Fund](#)** and refer to **Appendix #A4: [Court's Accounting Manual for the RESTA fund policy](#)**. Under [Utah Code Ann. § 78A-6-1113](#), restitution for property damage is set to not exceed \$2,000 or \$5,000 for gang-related incidents. Additionally, the court may waive part or all of the liability for damages by a parent or legal guardian for (a) good cause or (b) parent or guardian made reasonable effort to restrain the wrongful conduct and reported the conduct to the property owner involved or the law enforcement agency after the parent or guardian knew of the minor's unlawful act ([Utah Code Ann. § 78A-6-1113](#)).

Summary of NJA Process

The NJA process starts with a youth's arrest where law enforcement are able to complete a referral form or citation to juvenile court or refer youth to receiving centers, mobile crisis outreach teams, youth courts,

restorative justice programs, or any other community-based resource. A youth is required to be offered an NJA if they are charged with a low status offense, infraction, or nonexempt misdemeanor. The youth must also be evaluated as a low or moderate risk by the pre-screen risk assessment. Youths who are moderate risk and have been charged with a certain class A misdemeanor have the option to receive an NJA. The probation department also has the discretion to proceed with an NJA on high risk youth, however they also have the option to send it to the prosecutor for review.

If the youth fails to receive an NJA or declines a prosecutor reviews the case and decides whether to dismiss the referral or file a petition. A prosecutor may not file a referral unless the minor does not qualify for an NJA, the minor declines an NJA, the minor fails to substantially comply with the NJA conditions, the minor fails to respond, or the charges are exceptions. Moreover, acceptance of an NJA offer may not be predicated on the admission of guilt and youth cannot be denied an NJA due to the inability to pay financial penalties. (The statutory requirements for NJAs can be found under [Utah Statute 80-6-304](#))

Stakeholders in the NJA Process include the following:

- The arrested minor
- **Law Enforcement** including peace officers, public officials of the state/city/county/town. Law enforcement makes the initial referral to the juvenile court within 10 days of a minor's arrest or within 72 hours if the child is taken to a detention facility.
- The **Probation Department** makes a preliminary inquiry to determine if the child is eligible to enter into a written consent agreement with the probation department for the nonjudicial adjustment. If the minor is a child, the minor's parent, guardian, or custodian is included in the agreement.
- **Prosecutors:** In some cases (outlined below) the probation department may request a prosecutorial review of the case. The prosecutor

¹² At the beginning of this study the maximum amount was set at \$250, however it is currently set at \$72.50 (effective December 1, 2020) which was a policy adjustment made before the completion of this study.

decides whether to dismiss the referral or file a petition with the court.

- **Court:** If a prosecutor files a petition in court, the court may refer the case to the probation department for another offer of NJA
- **Victims:** As listed in the police report, the victim is mailed a Victim Impact and Restitution Statement. Restitution may be included as part of the NJA. Juvenile courts may also provide: court/victim coordinators, victim and offender mediation, or a work restitution program

Charges of NJA:

An NJA is offered by the court if the minor:

- Is referred with a misdemeanor, infraction or status offense
- Has no more than two prior adjudications; and
- Has no more than three prior unsuccessful NJA attempts
- Except for specified exceptions, the probation department may offer an NJA to any other minor who does not meet the explicit criteria

(Note: an NJA or adjudication means an action based on a single episode of conduct)

Exceptions that require prosecutorial review include:

- Driving under the influence
- Reckless endangerment creating a substantial risk of death or bodily injury
- Negligent homicide
- Sexual battery
- Possession of a dangerous weapon, firearm, or short-barrelled shotgun on or about school premises
- Possession of a firearm
- If the minor has a current suspended order for custody

And for youth charged with a sexual offense under 76-5-401.3 are not eligible for NJA or referral to youth court. Lastly, any high risk youth, regardless of the incident level, may be referred to the prosecutor. Moderate risk may be referred if the incident is a Class A against a person or other miscellaneous provisions under 76-9-7.

Restitution:

In regards to restitution, the victim is responsible to provide to the division upon request identification, invoices, bills, receipts, and other evidence of injury, loss of earnings and out of pocket loss. They will also provide documentation and evidence of reimbursement from insurance companies or government groups/agencies. The inability to do so shall result in the probation determining restitution based on the best information available.

Conditions of an NJA:

- The NJA of a case may include:
- A financial penalty of not more than \$250 to the juvenile court
- Payment of victim restitution
- Community or compensatory service
- Counseling or treatment
- Attendance at substance abuse or disorder programs
- Compliance with specified restrictions on activities and associations
- Victim-offender mediation if requested by the victim
- Other reasonable actions that are in the interest of the child, community, and victim

Fees, fines, and restitution are assessed based upon the ability of the minor's family to pay as determined by a statewide sliding scale. Failure to pay a fine may not serve as the basis of a petition if the minor has substantially complied with the other conditions in the NJA agreement. If a youth fails to comply substantially with the conditions agreed upon in the NJA the prosecutor may dismiss the case, refer the case back to the probation department for a new attempt at NJA or file a petition with the court.

Section 3.2: Interview Findings

In collaboration with the Utah Criminal Justice Center (UCJC), semi-structured interviews were conducted in Spring 2021 covering a range of questions regarding the NJA process, juvenile fee structure, challenges faced in the NJA process, recidivism, and other challenges faced by stakeholders involved. The full list of questions asked in the interviews are available in **Appendix #A5**. The semi-structured interviews

were conducted across a range of 8 courts and judicial districts represented by their respective Chief Probation Officers (CPOs). For the purposes of this study, the interview focused on the following five questions to better understand the NJA process and its associated challenges but also addresses the general findings from the full interview list of questions.

- *How are youth typically informed of the possible sanctions they face?*
- *Are victims typically made whole through restitution when damages are incurred?*
- *Do victims usually provide documentation for damages?*
- *What is the process for paying the different types of financial sanctions a youth may face?*
- *When youth fail to substantially comply with an NJA agreement, how do prosecutors typically decide to proceed?*

In total, 13 semi-structured interviews were conducted highlighting the questions above. Below are the general findings from the interviews listed under a common theme that arose in the interviews and with a particularly focus on themes related to fines and fees. These findings include common themes but also unique findings that highlight challenges faced by CPOs, youth, and their families. Select anonymized direct quotes are also included to underscore the findings from the interviews conducted

Financial Burden

In regards to who faces the financial burden of NJA fines, most CPOs emphasized that the burden would vary on either the parent or the youth given the full 90 days to make payments. One CPO in a rural area stated that as the fines were bigger towards the top end of \$250 then the parents will pay for it whereas if it is around \$50 on the lower end, then the family is more inclined to have the youth pay for it: *"I think the parent is more inclined to say, you know what, you can come up with fifty dollars going around the neighborhood and doing yard work or finding a job and getting it done."* Many other CPOs highlighted that often the financial burden lies on the parents and even more so if the parent income is on the higher end. For example, one CPO stated: *"I would say most times it's a parent that is paying when I say most times I would say it's more than 50 percent."*

Consistency

CPOs highlighted how consistency is managed via consistent NJA paperwork which helps maintain a consistent direction for probation officers regarding NJAs, however there is room for inconsistency particularly surrounding a youth's incentives given their unique circumstances. For example, the CPO mentioned the consistent reliance on NJA paperwork, on page 5, to determine what is successful completion. This CPO stated: *"So the types of incentives aren't consistent. But the application, I would say because of the documents, they are at least guided consistently. And then that has to do a lot with the coaching that takes place from one district to the next and the follow up on file reviews that a supervisor or chief is doing."*

Another CPO highlighted internal cultural/generational differences when it came to how sanctions are applied: *"So unfortunately, we're not all being applied consistently. For instance, I have one probation officer who they're going to sanction is house arrest like it's like consistently applied house arrest, even for kids who are just out doing whatever they want all the time anyway. Like house arrest is not an effective sanction for kids like that. So let's give him something a little more meaningful. But others, I think maybe have them write a paper or something or do some kind of essay or assignment for a sanction that's maybe a little less intrusive and not like straight to house arrest. [It] is like one of those advanced sanctions that should be given out for if you've tried a bunch of other things. So I'm working with my people to get more consistent with sanctions incentives. I think sometimes they don't realize maybe when they have incentivized the youth, whether it's giving them verbal praise or, you know, talking about how awesome they're doing a treatment or, you know, things like that. So I have a lot of veteran probation staff who have been here for twenty, twenty five years. Sometimes [they] have difficulty remembering what we can do instead of what they can't do anymore. So I'm working with them to try to, you know, break some of that thinking. And just because we used to lock kids up in detention for anything doesn't mean it was right. And we shouldn't be frustrated that we can't do that anymore because it wasn't doing them any good anyway."*

Discretion: Adjustments and Referrals

The biggest area for discretion for probation officers is found in the adjustments made for youth. Many CPOs

emphasized trying to be as accommodating as possible given the youth's circumstances. For instance, if there is a financial barrier for them then they would convert it into hours. One CPO stated: *"So if the probation officer feels like there's a need to deviate [...] We're going to accommodate that. And sometimes it's just a simple matter of giving a service instead of fines. Just because they're sixteen or seventeen doesn't mean it needs to be a fine. We can just give officers hours, not a big deal. And in community service, we can be flexible as far as crediting that too."*

In regards to the discretion on referrals, this also varied by probation officers and their departments. While it was commonly stated that there is a reliance on the District Attorney's office for higher-level offenses (requiring greater screening) as provided by the NJA guidelines, not all high-risk youth were noted to be referred immediately for all probation departments. Some POs showed greater discretion when it comes to whether a youth should be petitioned. However most CPOs closely follow the outlined NJA policy and guidelines from Section 3.1. For example, high-risk youth (sometimes moderate) are sent over to prosecutors when they have a referral for a Class A misdemeanor where Probation Departments seek the direction of the District Attorney. But whenever possible, the goal is to keep youth diverted. Many stated that the default decision is to leave the case at the non-judicial level, but if the case is more complex a supervisory meeting takes place to discuss the history of the youth's case, ability to succeed, and their unique barriers. Then by taking in a multitude of factors including the input from the family and youth, the chief and the probation officer would come to a determination. One CPO highlighted how the different jurisdictions can influence the NJA process: *"Some areas I think have different relationships with prosecutors and attorneys that may put pressure for things to be handled in a different way. Judges in different districts sometimes have different expectations as far as cases are managed. And there's some influence there sometimes but it really shouldn't affect the NJA process. But I think it can and it sometimes does"*

Success:

Many CPOs stated the significance of not only family support and a support network for youth to succeed, but also their active involvement in making sure youth

succeed. One CPO stated how parent involvement matters: *"We're hitting about 50 percent on the orientation of parents attending that base. So, you know, outcomes are better when the parents are involved, but that's a difficult part. They're too busy. They got a lot going on, multiple kids, things like that."*

Youth having substantial access to a range of resources to support their needs in their proximal area was also stated as an important factor for success. Additionally, it was highlighted how probation officers themselves serve an important role in motivating the success of youth: *"Youth that have a probation officer that is more engaging versus somebody that's kind of focused on meeting criteria,[...] and willing to work with them, I think youth are a little more likely to be successful. But there also is the tendency that we have to to be probation officers, you know, and and we're trying to really dispel and change that that mantra, so that we're looking at becoming more of agents of change and so youth have a better chance of success."*

Many CPOs also highlighted their flexibility to help youth succeed even when faced with challenges. One CPO stated regarding youth struggling to succeed: *"Let's find something else that's going to still give you the intervention that you need, but that's also going to be a benefit. So there's still some options available. Even when we get to that point, we're still going to try to explore options rather than just considering an unsuccessful right off the bat. [...] It's not like you have to attend one hundred percent of the appointments and you have to hit every single one of these milestones to be successful in this intervention. A lot of times there's kind of a gray area, but in most cases I would say that you need to certainly attend the majority of the appointments."* CPOs consistently stated the definition of success based on the 75% compliance rule, but how that was applied was often brought up to vary and with greater room for interpretation.

Rural Disparities

One CPO stated how the inconsistencies of the NJA process are more tied to geographic areas depending on how remote the area is. The scarcity of resources in rural areas was also brought up as a unique challenge for youth who are often with much less access to resources to meet their needs. One CPO mentioned that in less urban areas of their jurisdiction they are often left to rely on probation officers for treatment: *"But once you get beyond those kind of somewhat*

urban metropolitan [...] a few resources that way. I think they are limited and so they have the reliance upon probation officers to impose treatment and to provide those types of things is far more needed."

However, one of the CPOs representing a rural region highlighted ways the lack of resources is addressed for the youth they serve: *"We do have what we call an RFP fund. Which just means that we can help pay for any treatment as long as the family is indigent, they don't have Medicaid, they don't have the funds available to to pay for the treatment. We can help provide that. And we do have one of our local counseling centers here in [X] that they will actually work off of the sliding scale as well."*

Cultural Barriers

One of the most unique findings from the interviews were regarding the cultural barriers some probation departments had faced. While meeting the translational needs of the youth and their families was not a particular challenge, the way the criminal justice system works and what it means to families of different cultural backgrounds were met with misunderstandings. Often the severity was overestimated by families of unique cultural backgrounds. One CPO highlighted: *"I think families that are not of our American culture or generational wise raised here in America, that they tend to just want to take care of everything, whether they're guilty or not guilty. You know what I mean? They're just OK, this is what I got to do. Just tell me and they take care of it. I think that their willingness to participate is to avoid going deeper to court. [...] We've had a lot of experience with overlooking their cultural needs and the diversity needs. And so hopefully we're doing better at addressing that."*

Another CPO stated how conceptually "probation" was a barrier for understanding as well: *"One of our one of our chiefs is actually Spanish speaking. And he actually said that "probation" isn't even a word in their language. [...] Which is very interesting if we're saying you can meet with this probation officer, they don't see a difference between law enforcement and probation. And so basically this letter is telling them to come see a law enforcement officer and they really probably have had some negative experiences with law enforcement and that [have] distrust within their community."* Another CPO representing a diverse area also stated this cultural barrier: *"A lot of this is also feedback. I've gotten a lot from my probation officers*

and also on my work with our ED committee on the word probation doesn't translate in some languages. And so they actually see us as police officers. And that's the wrong mentality. We're not police officers, we're really court services workers, and that's what we really are. I think the word probation actually has a negative connotation. And like I said, it doesn't translate in some languages. And so I know in Spanish it doesn't. And that's a large population that we have. That's their primary language or their secondary language."

Restitution and Victims

When it came to restitution, mediation was often mentioned as an invaluable resource in cases of disputes regarding restitutions. It was noted as particularly useful for unique cases when there was a dispute and it involved high amounts of money.

In regards to the interview question on whether victims were made whole, the responses from CPOs stated how often they are not but also whether victims are made whole varies on the type of crime. If the crime is more financial in nature than victims are made whole more easily such as property damage where the price point is settled on during mediation or a restitution hearing. One CPO stated: *"I would say it's probably pretty low, probably, you know, 20 percent. And the reason for that is typically we'll just say, for example, that an insurance deductible is five hundred dollars. A lot of these kids in our area live in poverty, and so the most they're going to be paying is two hundred and fifty dollars based on the sliding scale. And so then that victim has to recoup that other two hundred and fifty dollars to make it to their deductible. And sometimes they don't even want to use their insurance. Sometimes they just want that whole fourteen hundred dollars to be paid by the youth just so they don't have to go through their insurance. So I would say that is pretty low as far as the victim being made whole."* Another CPO stated: *"I think there are a number of victims that come away shortchanged and they've lost some value to it, whether it's property or whether it's to their health or whether they're coming away, even though the law is written to try to help protect victims. I think there are some things that statutorily are not as helpful. And so that's hard for victims to understand if they lose a thousand dollars."* Another CPO similarly addressed this issue for victims but also addressed that in regards to restitution: *"The reality is, is that's not what our system is designed for, is to recoup all*

that loss. These are kids they can't pay."

However restitution was stated to be often prioritized in NJA and whether a case is petitioned as one CPO stated that: *"If they're not not compliant with restitution. We will screen those with the county attorney, and that is, you know, that is a major reason for things being petitioned as far as treatment goes."* The sliding scale was indicated as a reason for why victims are often unable to be made whole financially.

Other Challenges for NJA: Law Enforcement and Probation Staff

In an interview with a CPO covering a metropolitan region, it was brought up that charges are being elevated or allegations are being elevated to circumvent the NJ process by law enforcement: *"In fact, we see that more. And I would say in years past, we saw a whole lot more where the officers would really just kind of stack the charges. But it seems to be that the intent in those situations is to circumvent the nontraditional process. Maybe this kid has enough charges. It'll go straight to the DA's office for reputation or maybe enhance charge. Maybe they'll write him up for even sometimes we see it where they read for like a felony level offense."* This CPO stated a reason why this problem arises is related to misunderstandings by law enforcement: *"Just generally, though, there are a lot of misunderstandings and misconceptions among law enforcement as far as what we do and how cases are dealt with. And we see that in our interactions with them. We'll get police officers calling us, wanting us to do certain things with the case. They find out that the youth is on probation, so they call the probation officer, maybe some things to happen and probation. He doesn't have the ability to make those things happen sometimes."* This was also potentially tied to the lack of training of law enforcement on the NJA process: *"But to my knowledge, they're not really reaching out to us to receive any training. We have done training with school resource officers, though, throughout our district."*

Another CPO echoed similar frustrations by law enforcement despite reductions in recidivism due to the NJA process: *"But now we have some real tools and some real guidelines set up that those kids that needed to be diverted, that maybe just one time they were going to do it again [...] So I'm hopeful that it's working on the kids. But on the other end, I think sometimes waiting for those to get those successful*

non-judicials, that can be quite frustrating for the police when the kid is coming back on the same charge with the same drug problem. And those cases can get frustrating. But overall, I think yeah, I think the recidivism is definitely reduced."

With the inclusion of high-risk cases for the NJA process, it was brought up that often probation staff struggle with a new burden that was not dealt with before: *"And significant amount of what occurs is now in the lap of probation, all these charges that we have not dealt with previously and now we're dealing with and where we're determining in a sense, based on a sliding scale, based on level of offense, community service, our fees and interventions where we would just make recommendations. And I think the burden now is on probation, [on whether to] not make or make recommendations, but that being part of the NJ process has been a difficult part for probation. And that's where I think the probation officer struggles because they [used to] put the ownership on the judge where now they're taking that ownership of that piece, which I think is a difficult thing for them to kind of understand."*

Overall, nearly all CPOs supported the positive benefits of NJAs and its benefits in reducing recidivism for youth. However, the challenges ranged depending on the unique needs and barriers faced in their jurisdictions.

Section 3.3: NJA Data Trends

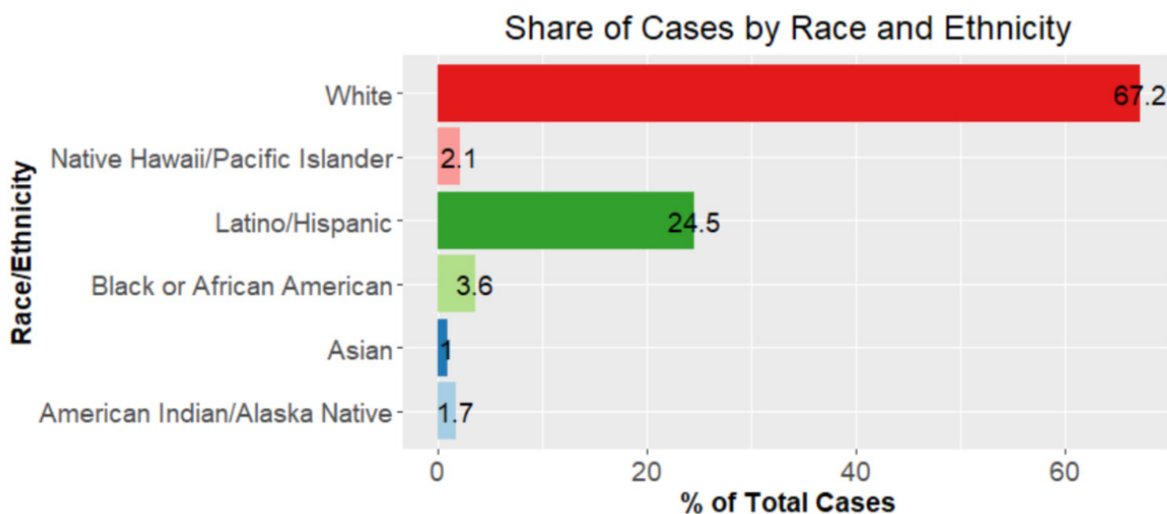
For this section of the report, Utah's Administrative Office of the Courts provided raw data on juvenile NJA including Incident, Demographic, Outcome/Closure, Petition, Fines/Hours data for each juvenile case number covering the time period of 2018 to 2020. Using this raw data, this section discusses how this data was cleaned, formatted, and tabulated for important categories created for analysis for this report. Below are data categories created from the data including 1) Juvenile Cases and Incidents, 2) Case Severity, 3) Fines, 4) Restitution, 5) Community Service, 6) Outcomes, 7) Recidivism, and 8) Sanctions, Recidivism, and Outcomes. Each subsection of the data categories includes a brief discussion on the data trends following each figure and map created for the category. The interactive version of this section of the report can be found at the [following link](#), we recommend using the interactive version of the report to better engage with the data trends discussed

throughout this section of the report.

Limitations: While they have been included in the plot, sample sizes were particularly small for Asian youth required to pay restitution ($n = 4$), American Indian/Alaska Native ($n = 20$), and Native Hawaii/Pacific Islander ($n = 17$), so these numbers may be unreliable for analysis.

1. Juvenile Cases and Incidents

Figure 1: Share of Cases by Race and Ethnicity



The data used for this section contains demographic information on nearly 20,000 nonjudicial adjustment cases between 2018 and 2020. The trends found in this data closely mirror trends found in other areas and adult populations in Utah and nationwide. Figure 1 above illustrates the share of cases disaggregated by race and ethnicity in six categories of American Indian/Alaska Native, Asian, Black/African American, Latino/Hispanic, Native Hawaii/Pacific Islander, and White. At over 67%, the vast majority of cases are accounted for by White youth, followed by Latino/Hispanic youth. Other groups make up the remaining (just over 8%) of cases.

Figure 2: Share of Cases by Gender

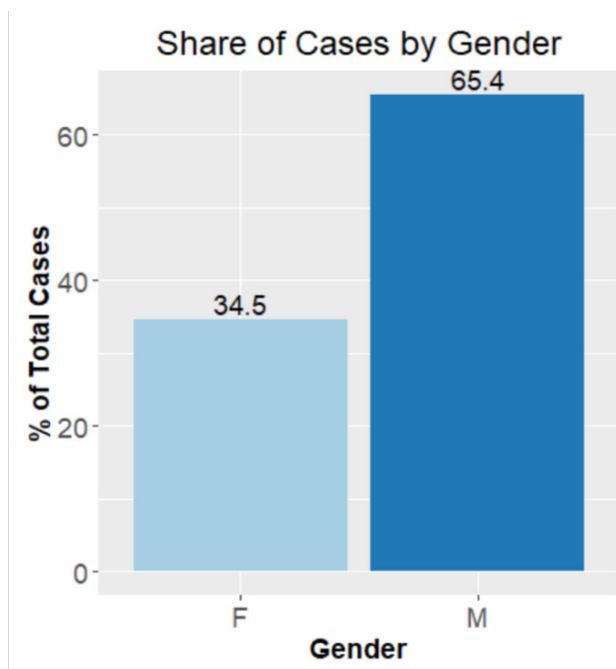
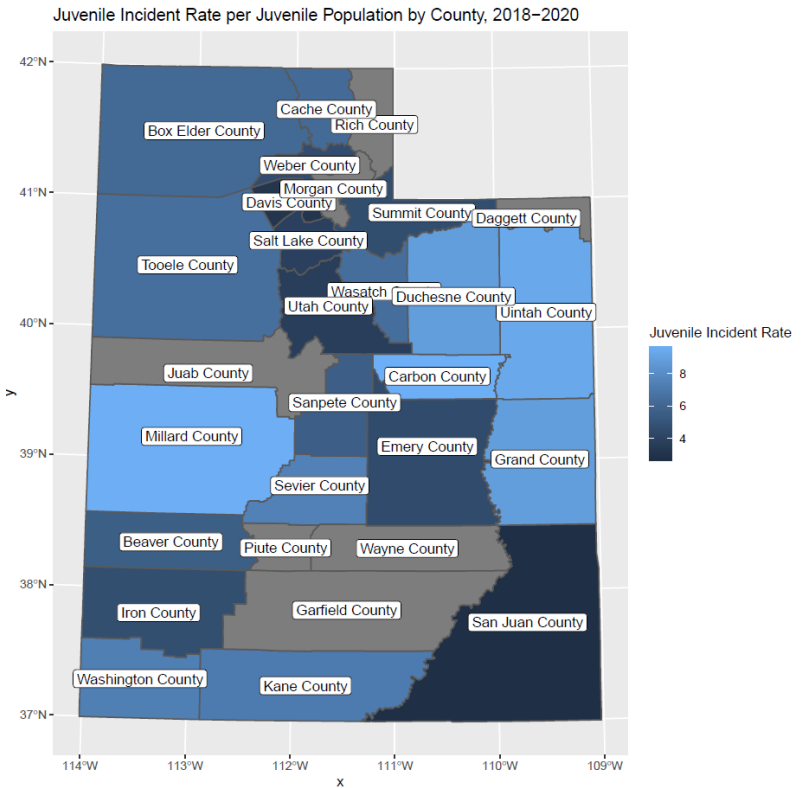
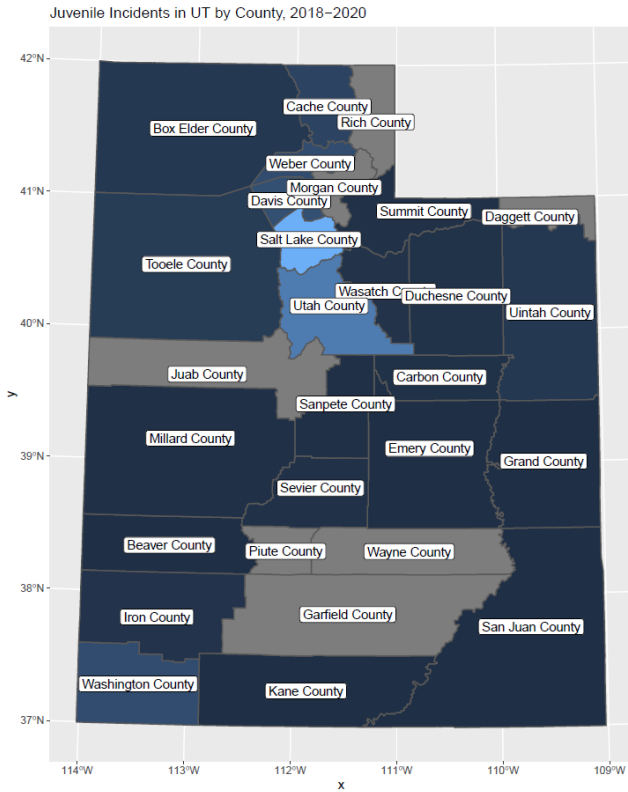


Figure 2 illustrates the share of juvenile cases disaggregated by gender. The figure illustrate that male juvenile youth were much more likely, more than double, to receive an NJA than female juvenile youth.

Map 1: Juvenile Incidents by County

Map 2: Juvenile Incident Rate by County



Map 1 illustrates the total amount of incidents between 2018 and 2020 aggregated by each county across Utah.¹³ Each incident resulting in a non-judicial adjustment is included in this calculation. Map 1 illustrates an unsurprising trend of the maximum number of incidents located in Salt Lake County (11,764) and Utah County (7,666) and the minimum number of incidents in more rural counties such as San Juan County (119). However, when the incident rate variable is created by dividing the total incident count by the juvenile population (under age 18 population, Census 2019) in each county the trend is drastically reversed. While Map 1 illustrates a high incident bias in more populous counties, Map 2 illustrates that there is a higher rate of incidents per juvenile population in more Rural/Non-Metropolitan counties across Utah. A higher rate within a county means that per the respective juvenile population of that county, the proportion of juvenile incidents reported is higher. Carbon (9.6%), Millard (9.6%), and Uintah (9.3%) County have the highest incident rates reaching over 9 percent which is a stark contrast to the lowest incident rates at under 4 percent for Salt Lake (3.8%), Utah (3.7%), and San Juan County (2.6%). The data trends of Map 2 illustrate a unique urban/rural disparity for the juvenile incident rates across Utah.

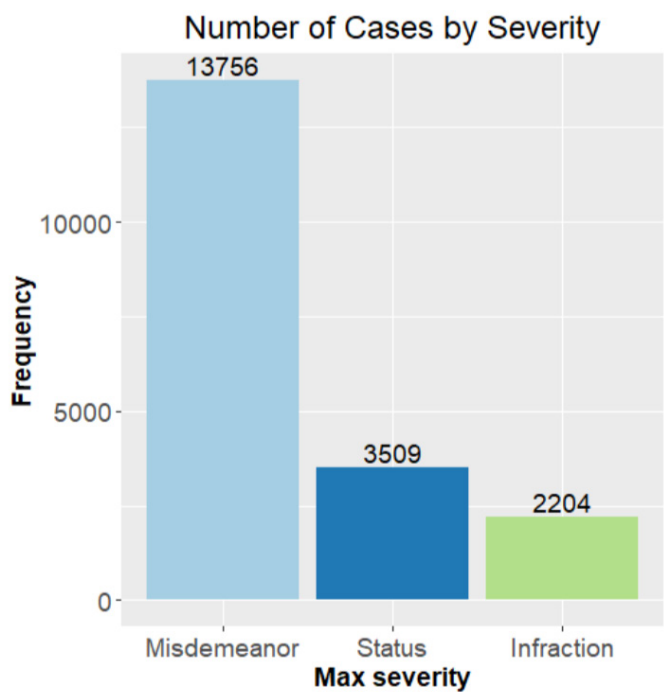
Why there is a higher rate of juvenile incidents across more non-metropolitan counties is an important question to address to resolve any spatial inequalities youth may face who have contact with the system and other sources of disparities related to risk factors. A comparative study of risk factors across rural and urban communities by (Blackmon, et al. 2016) revealed that rural youth faced increased odds of juvenile justice contact than that of their urban counterparts, controlling for demographic, behavioral, and school-related variables. One of the potential explanations of this increased odds for rural youth may be due to how behavioral risk factors differ geo-spatially. A study by (Nelson, et al. 2010) demonstrated that risk factors related to school and family more

¹³ This does not represent each juvenile case but the total amount of incidents as there were many cases with multiple different incidents associated with it. For cases that had more than one geographic location associated with it (approximately 216), these cases were dropped.

strongly predicted problems in rural areas whereas risk factors related to personal and peers were a stronger predictor in urban areas. Another potential explanation could be the punitive disparity between urban and rural areas. A legal study by (Romero 2020) discusses how justice reforms are more likely to reach communities in larger jurisdictions whereas smaller communities are left behind from the benefits of these reforms.

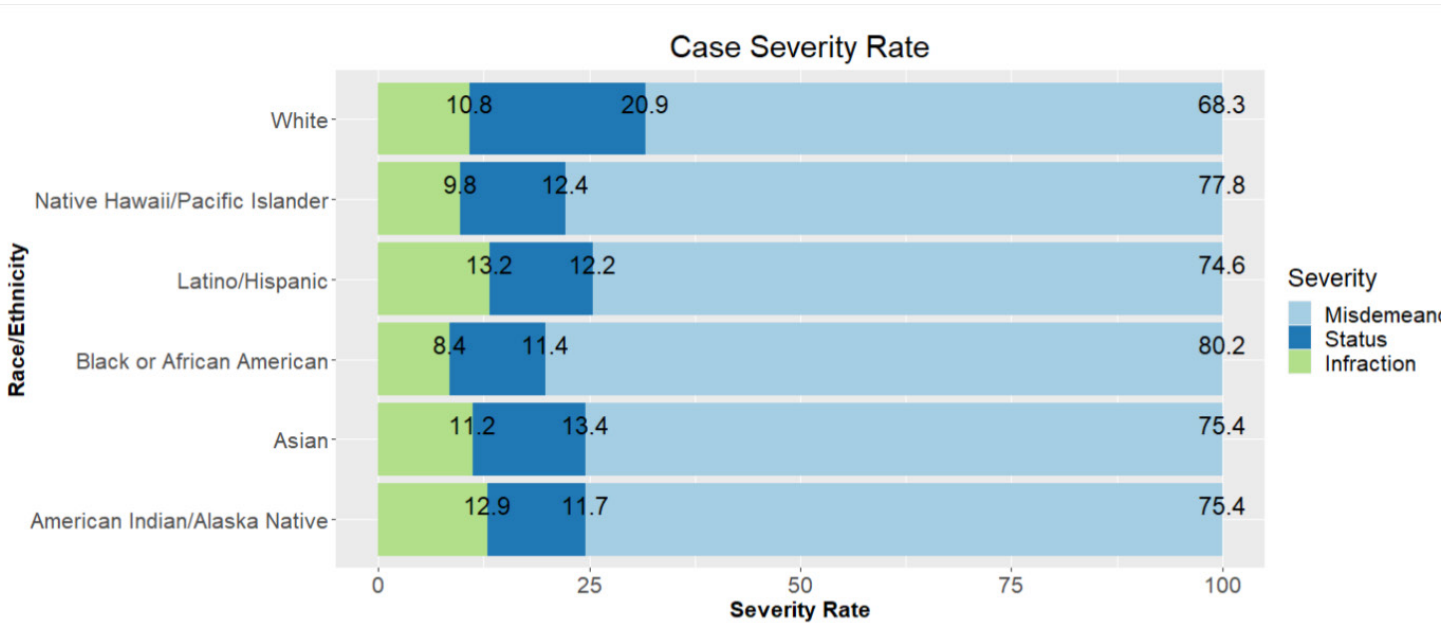
2. Case Severity

Figure 3: Cases by Severity



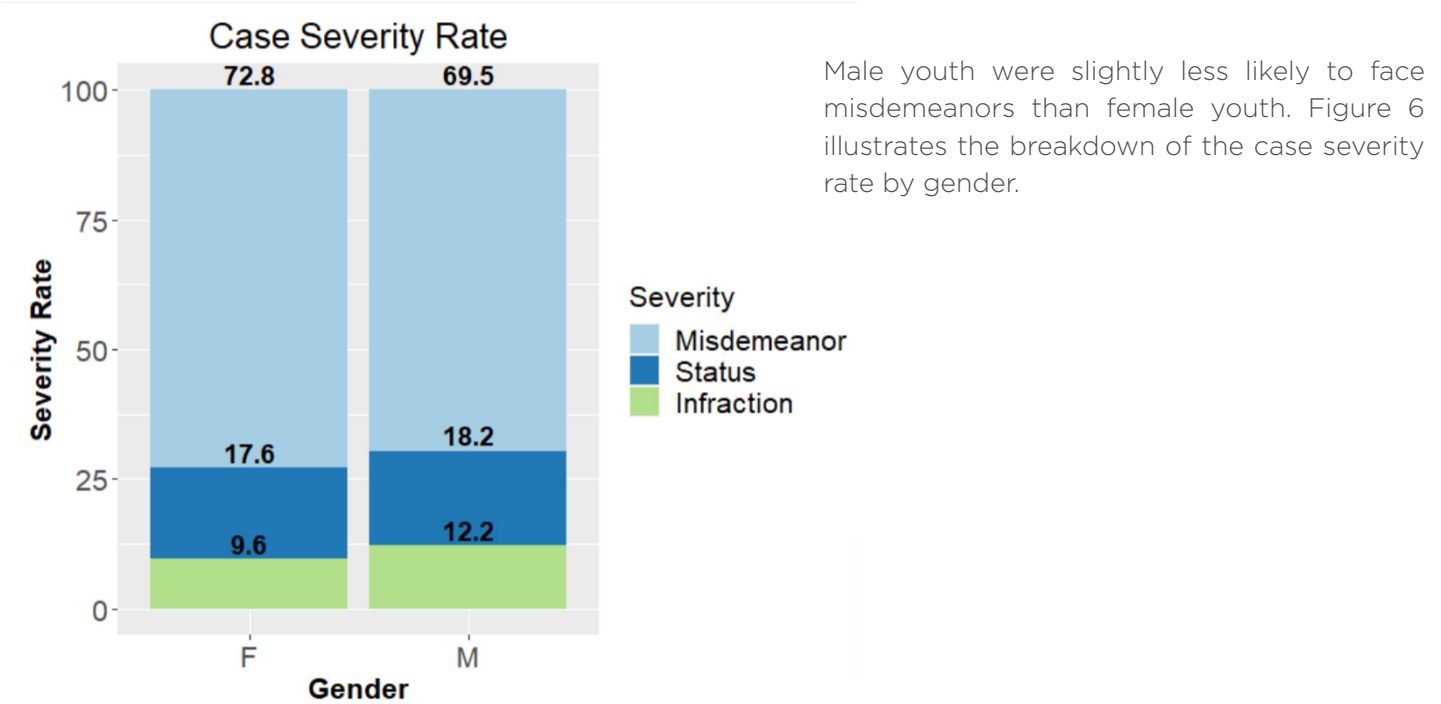
Youth may be given an NJA for offenses of many different types and severity levels. Additionally, a youth involved in any given case could be associated with multiple incidents of differing severity. We label the maximum severity of each case as the most severe type of offense associated with each case. Figure 3 breaks down the number of cases associated with each severity level between 2019 and 2020. The most common offense under this definition is a Misdemeanor, followed by Status Offenses and Infractions. While it is technically possible for youth with felony offenses to receive an NJA, these cases are extremely rare and excluded from the analysis.

Figure 4: Cases Severity Rate by Race and Ethnicity



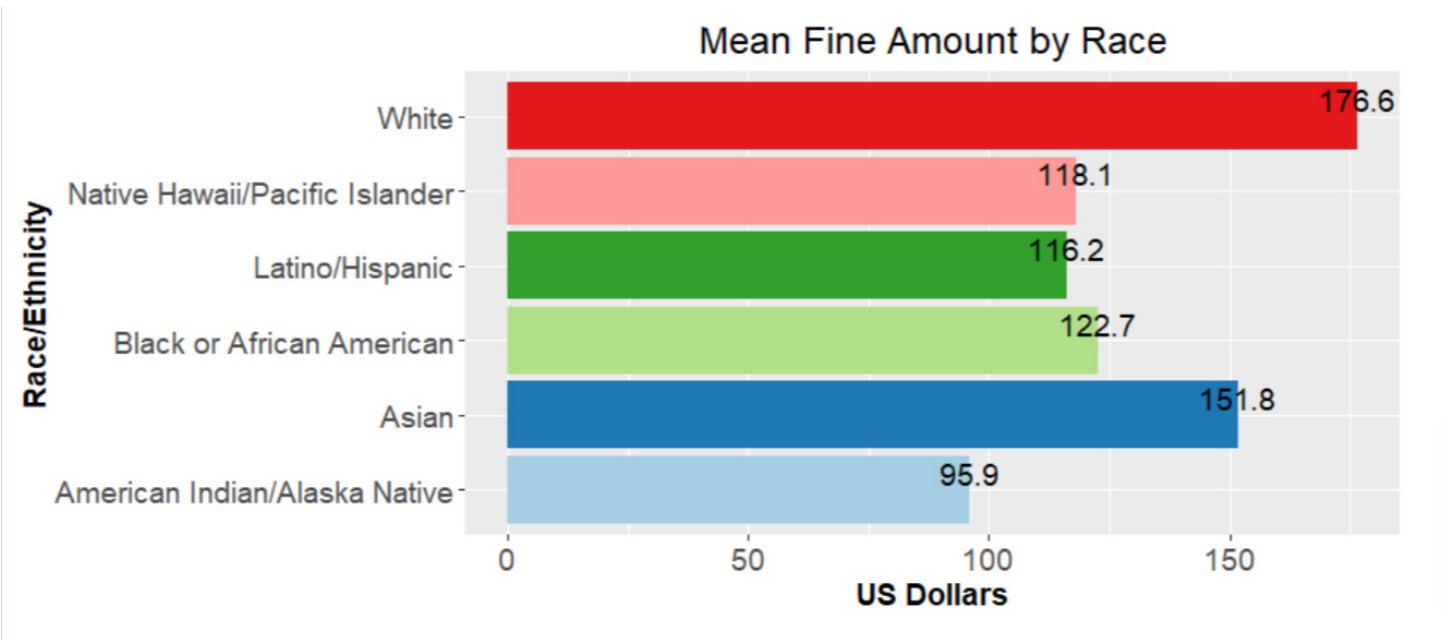
Similar to other states, the recorded severity level for cases varied demographically. Youth who are Black/African American and Native Hawaii/Pacific Islander were significantly more likely than other youth to face misdemeanors when they receive an NJA. Figure 4 illustrates the percentage of cases for the three most common types of offenses, Misdemeanor being the most serious.

Figure 5: Cases Severity Rate by Gender



3. Fines

Figure 6: Mean Fine Amount by Race and Ethnicity



Fines ended up being the most common type of financial sanction imposed on youth between 2018-2020. Over 77% of all cases during the period had a fine included as a condition for nonjudicial adjustment. The mean fine amount across all youth, including those who received zero fine, was \$157.36. The average fine amount, excluding zero amount fines, was \$204.35. Sanctions are assigned per episode of conduct that is closely related in time and objective. As such, it is possible for the sanction amounts for a single case to exceed the maximum fine amount of \$250 if multiple episodes were identified for a given case.

Under the sliding scale system, fine amounts are determined by income level. As such, we expect higher-income groups to receive larger fines than lower-income groups. According to data released by the Salt Lake County Health Department, White and Asian groups had the highest median household incomes at \$93,156 and \$91,008 respectively in 2022. The lowest median households were observed among American Indian/Alaskan Native (\$69,310) and Black/African American (\$46,070) households. Figure 6 shows the mean fine amount across all cases broken down by race/ethnicity.

Under the sliding scale system, White and Asian youth tend to receive the largest fines. Conversely, the smallest fines were given to American Indian/Alaska Native, Native Hawaii/Pacific Islander and Latino/Hispanic youth. This may suggest that the sliding scale system has been effective in not exacerbating socio-economic and racial disparities where previously families of color have been disproportionately liable for juvenile fees (Campos-Bui 2017).

Figure 7: Mean Fine Amount by Gender

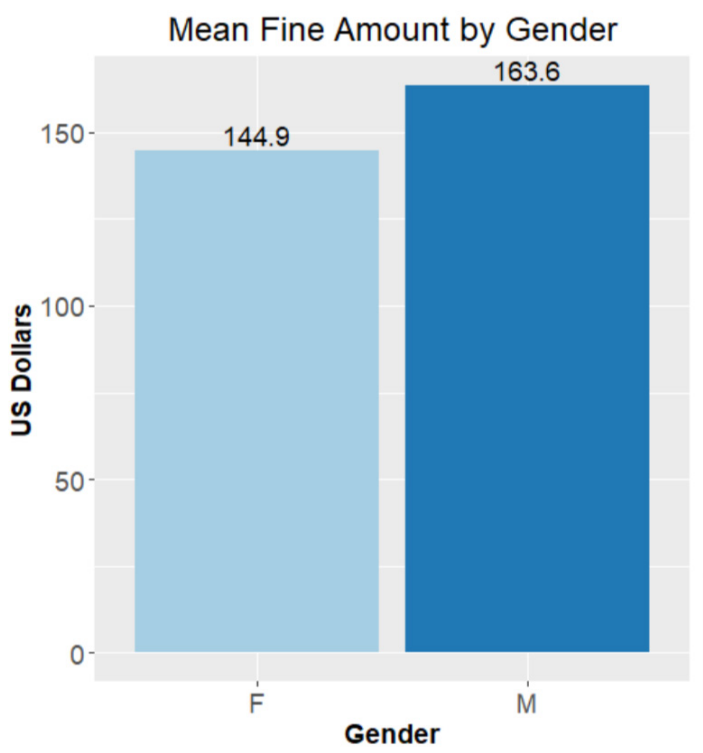
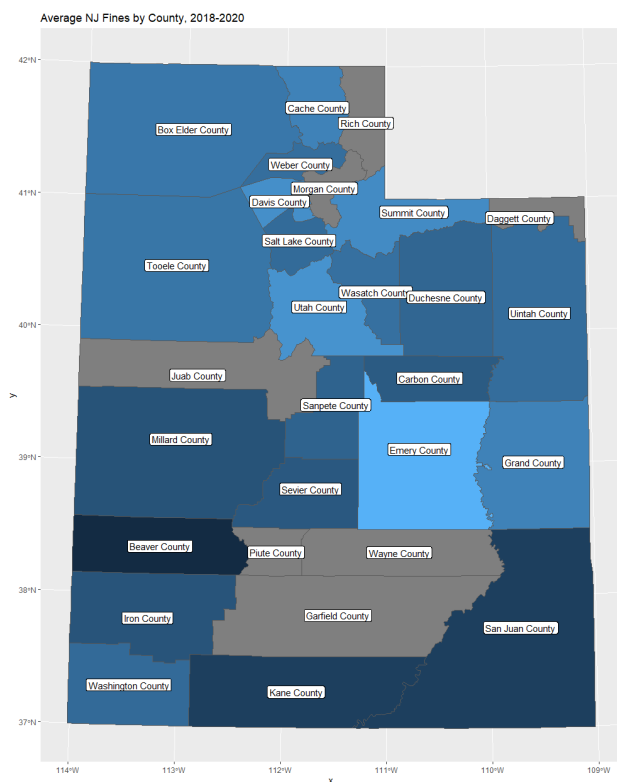
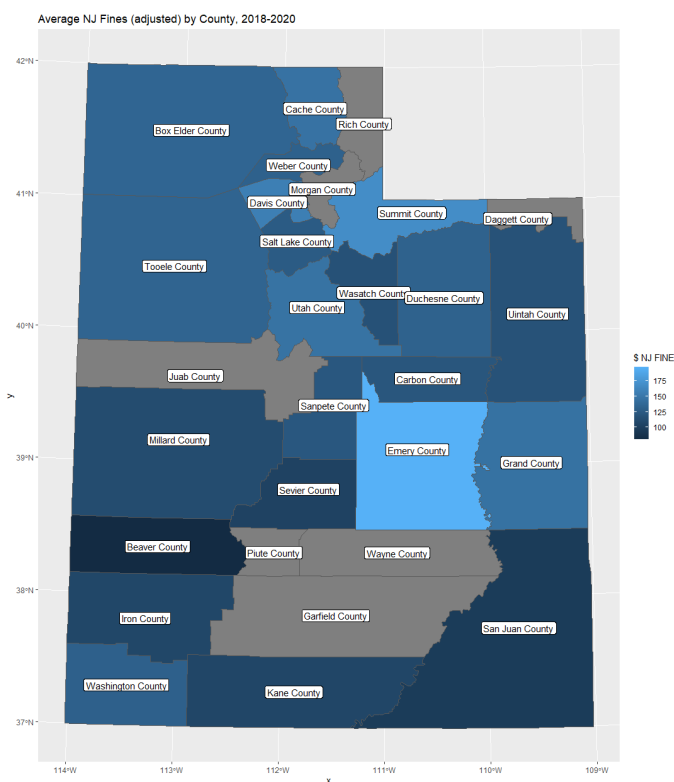


Figure 7 illustrates the mean fine amounts broken down by gender. Male youth tended to receive higher fines. A possible reason for this may be that male youth on average have 2.08 incidents associated with each case, compared to 1.83 for female youth. If each of these incidents is sometimes associated with more than one episode, then youth may be given sanctions for each episode, as per the current NJA guidelines. This may ultimately result in the higher financial sanction amounts seen for males.

Map 3: Average Fines by County



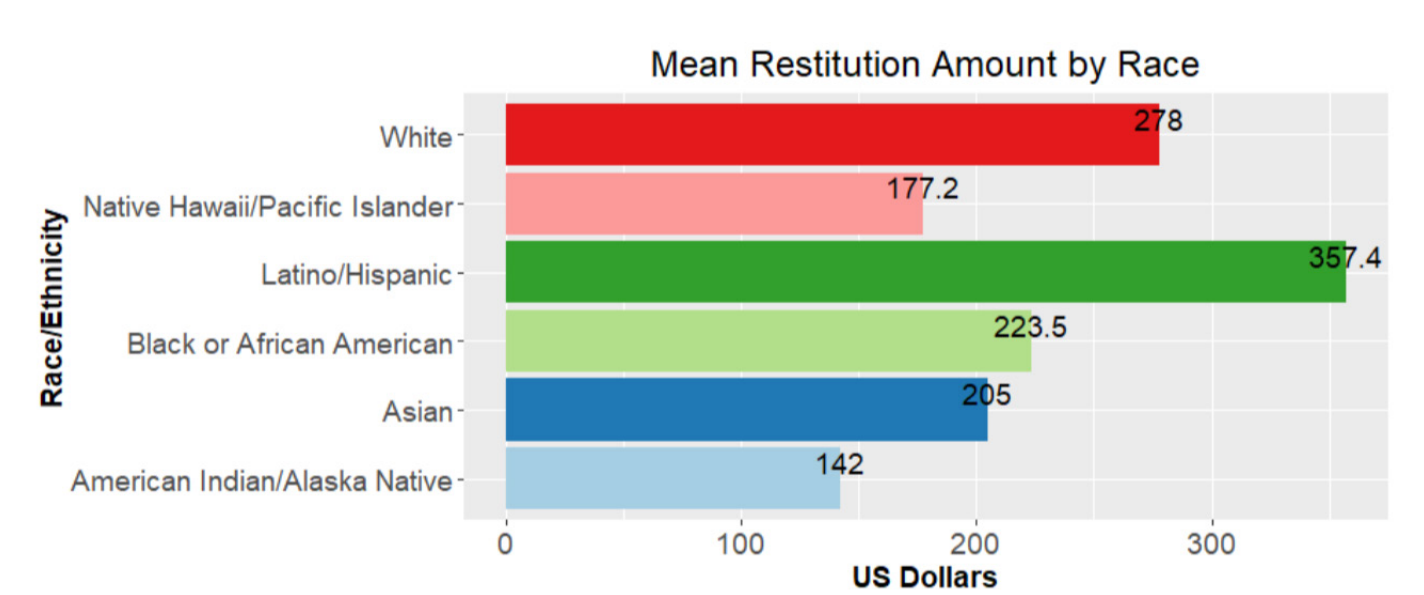
Map 4: Average Fines (adjusted) by County



Map 3 illustrates the average NJA fines for each county's total case counts spanning across 2018-2020. While each juvenile case could be associated with multiple sanctions that were applied at different times, the total amounts are aggregated for each case number. Map 4 illustrates the average NJA fines for each county after they were adjusted for the relevant cases. Map 3 illustrates a varying range of average fines across Utah as the top highest average fines are found in Emery County with \$207, Utah County of \$181, and Davis County of \$177. The lowest average fines are found in Kane County with \$103, San Juan County with \$102, and Beaver County with \$82. This means on average a juvenile case faces a fee amount of \$207 in Emery County while a juvenile case faces a fee amount of \$82 in Beaver County which is less than half the amount faced in Emery County. Map 4 shows similar trends as Map 3 even after adjustments were made for NJ fines. Why there is a disparity in the average amount of fines faced in these areas is also an important question to address why there are disparities in how the fine amounts are administered and adjusted for juvenile cases.

4. Restitution

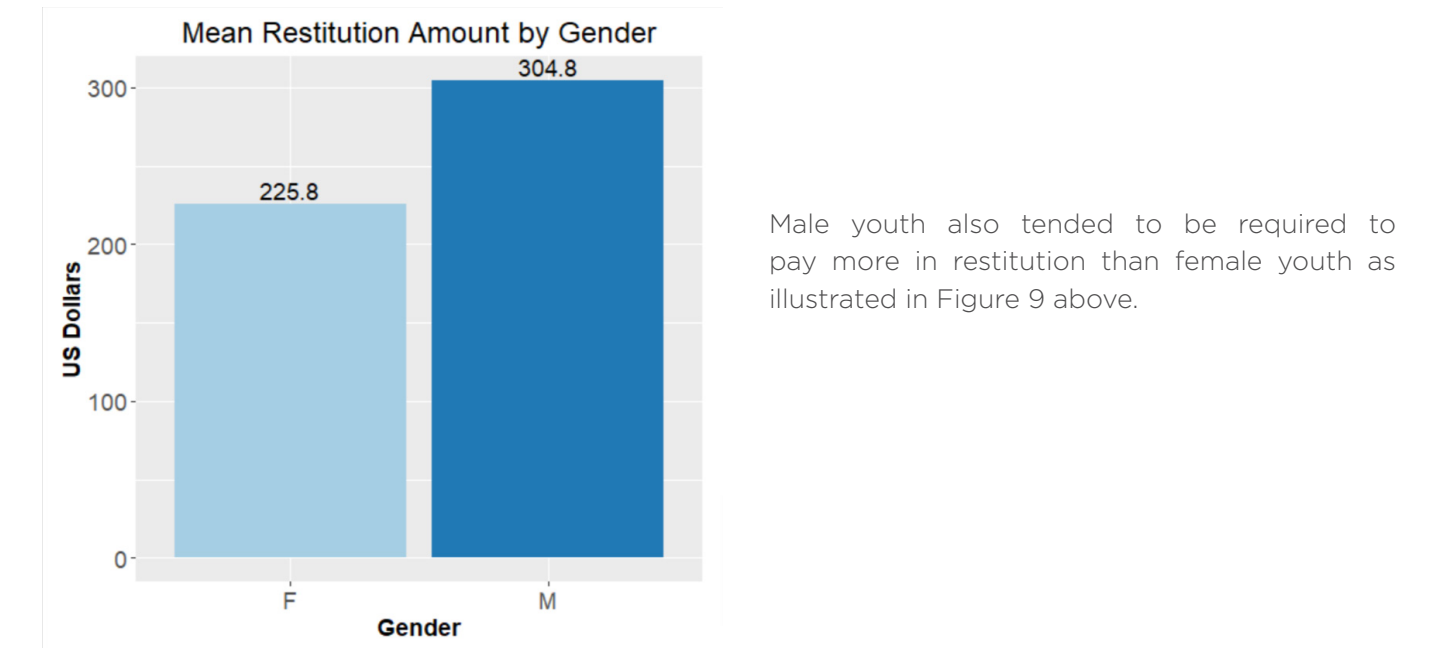
Figure 8: Mean Restitution Amount by Race and Ethnicity



Restitution was the least common sanction required as a part of an NJA agreement. The number of cases in the data where youth were required to pay restitution was 1,154. This amount is much smaller in comparison to over 11,150 youth who were given fines as a part of their NJA agreement. The mean amount of restitution required to be paid by youth who received restitution as a part of their NJA was \$286.77 during 2018 and 2020.

The average amount of restitution by race and ethnicity is somewhat different than what we see in fines. Latino/Hispanic juvenile youth were typically required to pay the most in restitution, followed by White and Black or African American youth. This may reflect the youth and their families' ability to pay. The full demographic breakdown of restitution is shown in Figure 8. While they have been included in the plot, sample sizes were particularly small for Asian youth required to pay restitution (n = 4), American Indian/Alaska Native (n = 20), and Native Hawaii/Pacific Islander (n = 17), so these numbers may be unreliable for analysis.

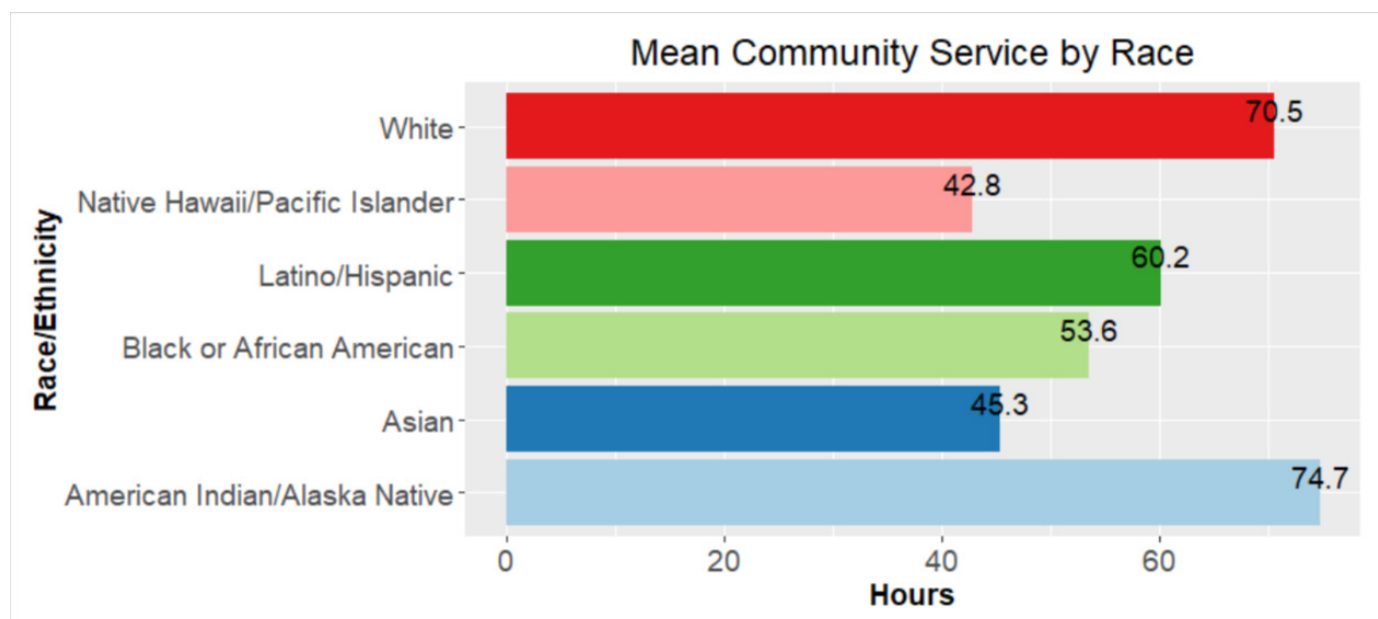
Figure 9: Mean Restitution Amount by Gender



Male youth also tended to be required to pay more in restitution than female youth as illustrated in Figure 9 above.

5. Community Service

Figure 10: Mean Community Service by Race and Ethnicity

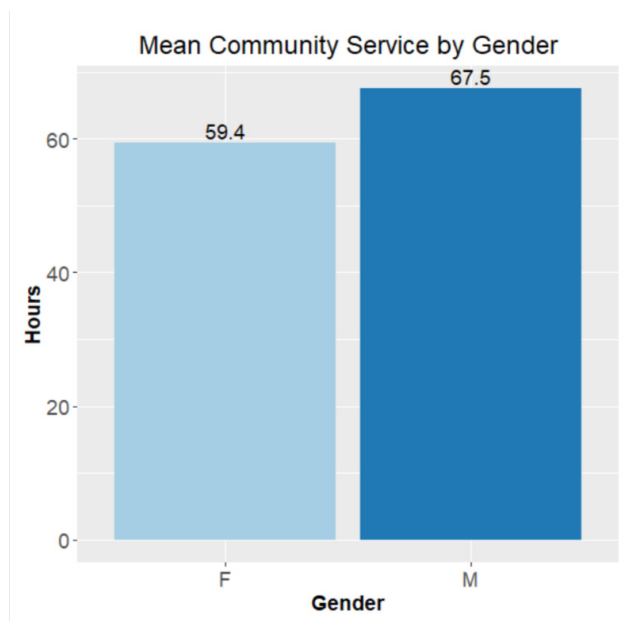


Compared to the number required to pay fines, the number of youth who were given community service as a requirement in their NJA was also small at 1,579. This may be partly due to a presumption that a fine would be assessed for offenders older than 16, which is the median age of youth who receive an NJA. For cases where community service is required, the mean amount of community service assessed is 65 hours.

Current guidance for probation officers allocates the number of required hours by the severity of an offense. That being said, except for cases where a youth is below the poverty line, probation officers have discretion to assess fines or community service based on what they believe would be more appropriate. As such, we expected to see lower income groups being given more community service hours relative to other groups.

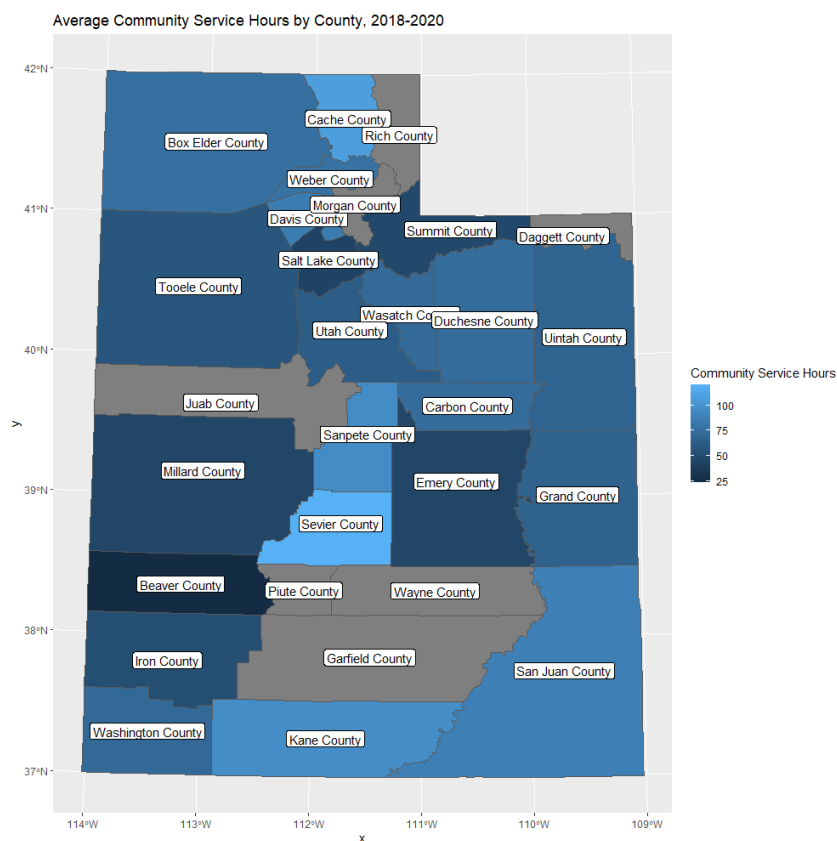
Figure 10 shows the average number of hours assessed in cases where community service is required by race and ethnicity. Interestingly, American Indian/Alaska Native, White, and Latino/Hispanic youth have the largest number of community hours ordered on average. We were not able to identify the expected pattern where lower income groups tended to be assigned a higher number of community service hours. That being said, cases where community service is required are relatively rare for most groups. All groups except for Latino/Hispanic and White youth had less than 100 such cases. The number of cases where Asian youths were required to complete community service was just 15.

Figure 11: Mean Community Service by Gender



The number of hours assessed on average for male and female juvenile youth is shown on Figure 11. Male youth were assessed nearly 8 more hours on average compared to female juvenile youth.

Map 5: Average Community Service Hours by County

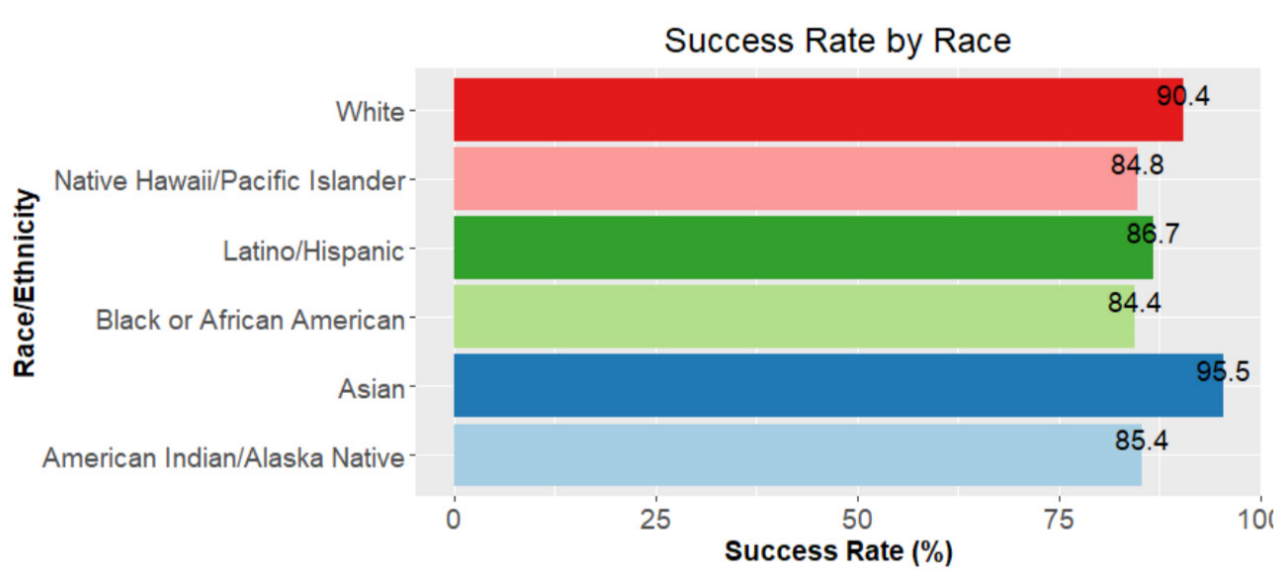


Map 5 represents the average community service hours administered as a non-judicial adjustment for juvenile cases by county. The average community service hours captures the average hours of community service hours among the juvenile population that were assigned NJA community service hours. This average amount reflects the average amount among those who were assigned any (> 0) community service hours (a sub-population of total cases) as an NJA by county. Map 5 illustrates varying trends in the amounts of community service hours

ordered particularly in Sevier, Cache, and Kane County at 120.4, 107.5, and 96 hours respectively representing the highest average number of hours. Whereas the lowest average number of hours is located in Beaver, Salt Lake, and Emery County at 23.3, 42.9, and 44.8 hours respectively. The trends of Map 5 mirrors different but also similar varying trends from the previously outlined maps for Incidents and Fines. Interestingly, while the highest average fine amount is found in Emery County, this county also has one of the lowest average number of community service hours ordered for juvenile cases. This may suggest that counties with higher average fine amounts may tend to order less community service hours for juvenile cases and vice versa. But this may also vary due to case severity, age, and other demographic factors unique to juvenile cases in each county.

6. Outcomes

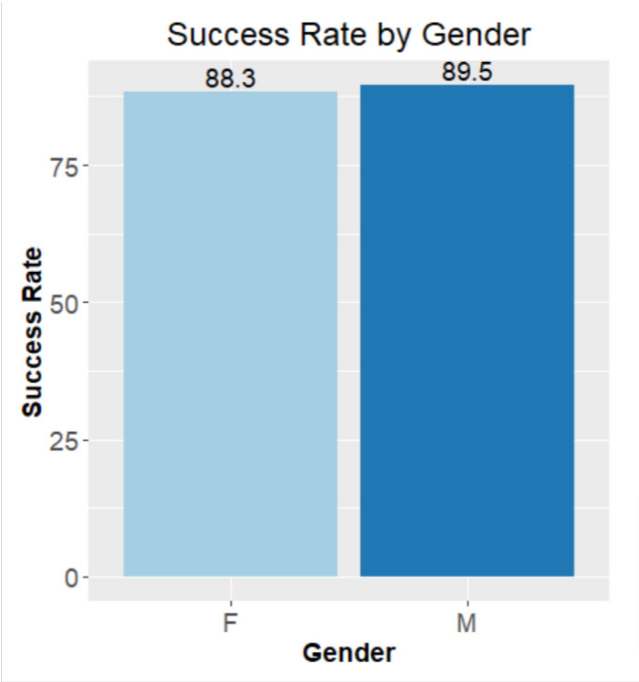
Figure 12: Outcome Success Rate by Race and Ethnicity



A successful nonjudicial adjustment occurs when youth have completed 100% of the terms and conditions of the NJA or modified NJA if any changes were made. Anything less than 100% completion is marked as unsuccessful. Note that youth may be able to “substantially comply” with the terms of their NJA, and thus avoid petition, while still ultimately being unsuccessful in completing 100% of the terms of their agreement. The vast majority of NJA agreements (89%) between 2018-2020 were recorded as a “success”. This is likely both because youth tend to complete the terms of their agreement and that probation officers are able to adjust the terms of an NJA as an incentive or if the circumstances of the youth change.

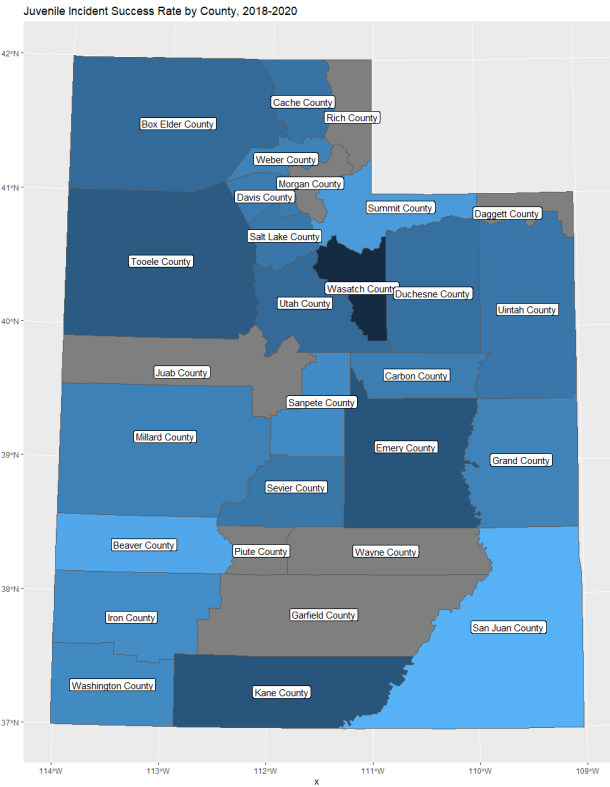
Figure 12 shows success rates by race and ethnicity. Youth who are Black/African American, American Indian/Alaska Native, or Native Hawaii/Pacific Islander tend to have the lowest success rates. Asian youth had the highest percentage of successful cases.

Figure 13: Outcome Success Rate by Gender

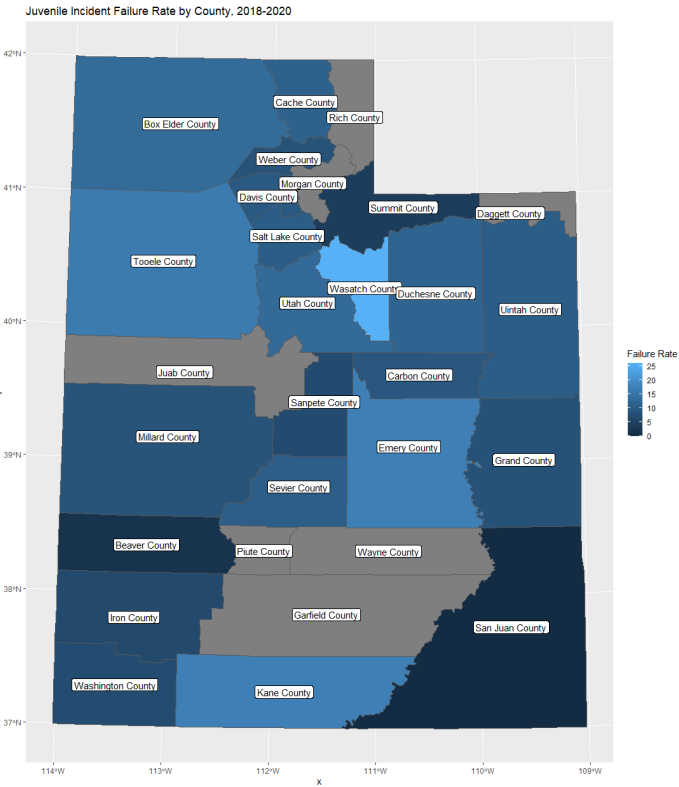


Interestingly, there was only a small difference in the success rates of male and female juvenile youth as visualized in Figure 13. It is worth noting that female youth in the court system have a more severe history and as a result, less likely to receive an NJA than male youth in the system.

Map 6: Incident Success Rate by County



Map 7: Incident Failure Rate by County



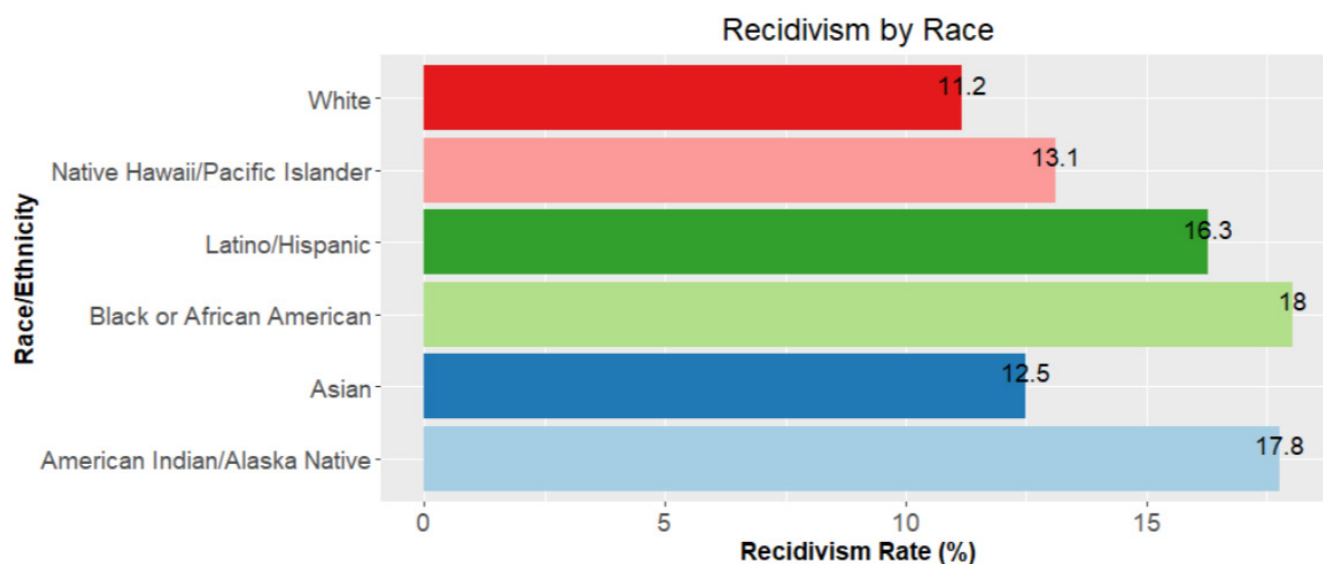
Map 6 illustrates the Incident Success rate by county and Map 7 illustrates the Incident Failure rate by county. These rates were created by coding each case where any one of the incidents were marked as “unsuccessful” then the entire case is coded as unsuccessful. Each incident had its own associated outcome. The lowest

Incident Success Rate is found in Wasatch, Emery and Kane County, which is mirrored in the highest Incident Failure Rate in these counties at 26 (Wasatch), 17.2 (Emery), and 17.1 (Kane) percent.

7. Recidivism

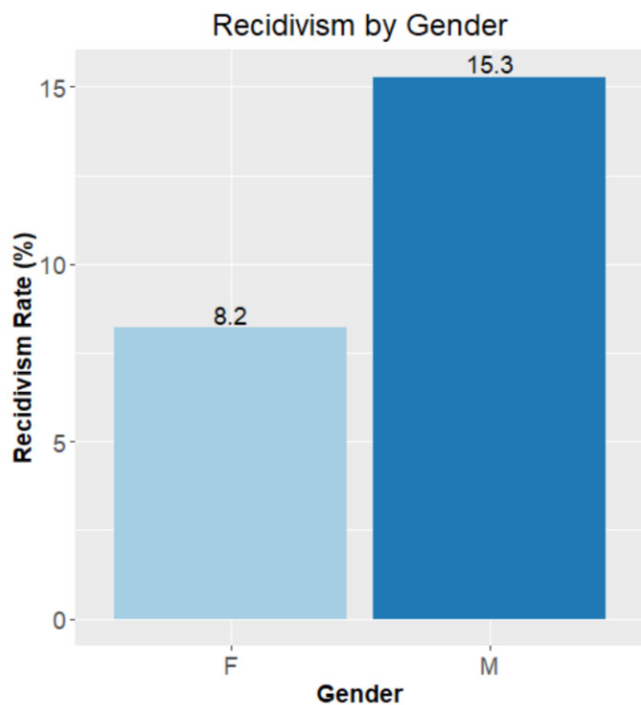
Recidivism is particularly difficult to estimate for youth over a period of just a few years. For the purposes of this investigation, recidivism is defined as whether a youth received a petition before the end of their NJA. The obvious limitation of this method is that we will not be able to capture time when youth reoffended after they are no longer tracked during the relatively short window provided by the duration of the NJA.

Figure 14: Recidivism Rate by Race and Ethnicity



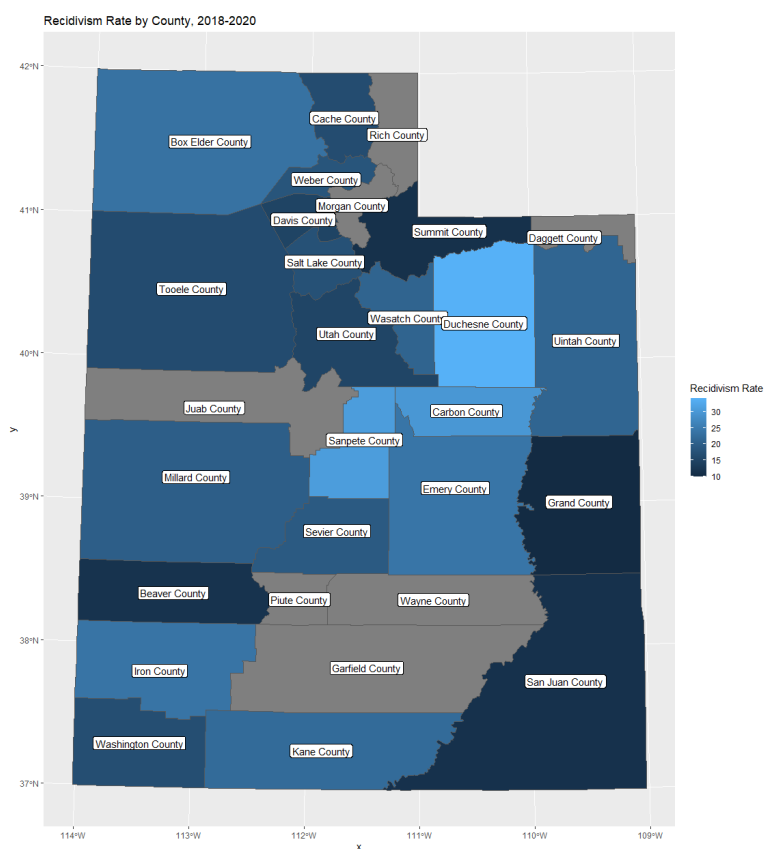
That being said, several interesting patterns did emerge from this data. Asian and White youth have the lowest rates of recidivism. Black/African American youth and American Indian/Alaskan Native Youth had the the highest rates of recidivism at 18%. Additionally, Latino/Hispanic youth had a recidivism rate of 16%. Paired with with lower case success rates for youth who are Black/African American, American Indian/Alaska Native, Latino/Hispanic, or Native Hawaii/Pacific Islanders, high recidivism may suggest that racial and ethnic minority youth have less access to resources and opportunities to successfully meet their NJA requirements.

Figure 15: Recidivism Rate by Gender



Another substantial gap was the difference in recidivism for male and female youth as shown in figure 15. Over 65% of all NJAs involved a male youth, but male youth were a part of nearly 78% of all cases where recidivism was identified.

Map 8: Recidivism Rate by County



Map 8 illustrates the Recidivism rate by county. Recidivism in the case of the NJA data was coded as whether a case had a petition within the NJ time frame then it would be coded as recidivated. Map 8 illustrates a wide

range of values in the Recidivism rate as the highest rates are found in Duchesne (34%), Sanpete (30.8%), Carbon (29.8%) and Emery (24%) county. The lowest rate of recidivism is found in Grand (10%), Summit (11.2%), and San Juan (11.3%) county. Salt Lake County on the other hand takes an approximate median value of 17.4%.

8. Sanctions, Recidivism, and Outcomes

Figure 16: Fines v.s. Outcome

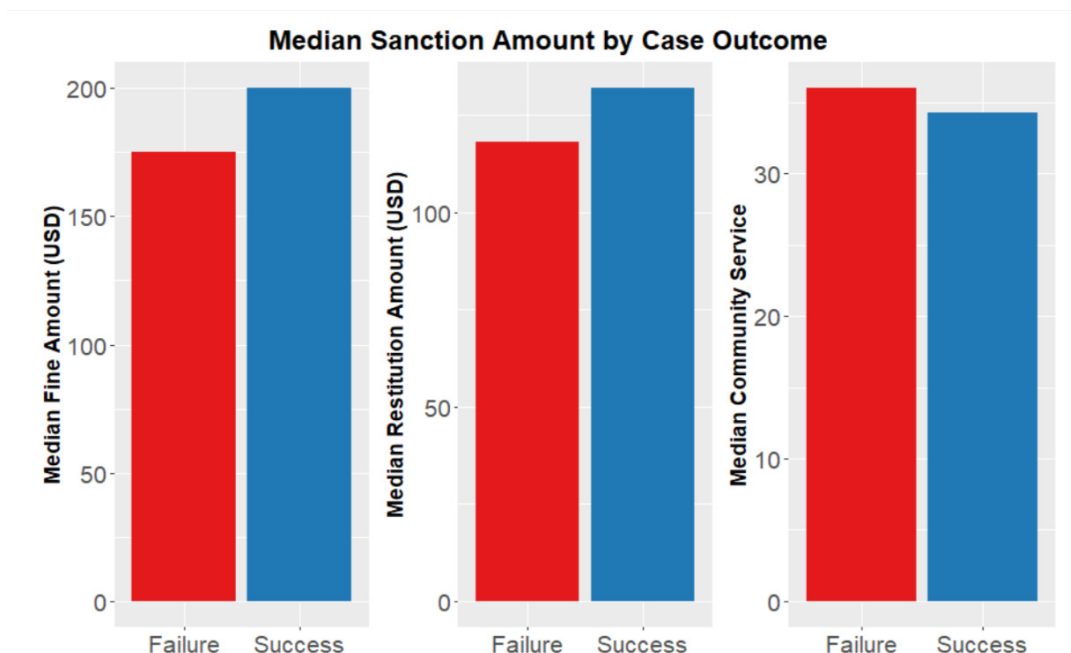
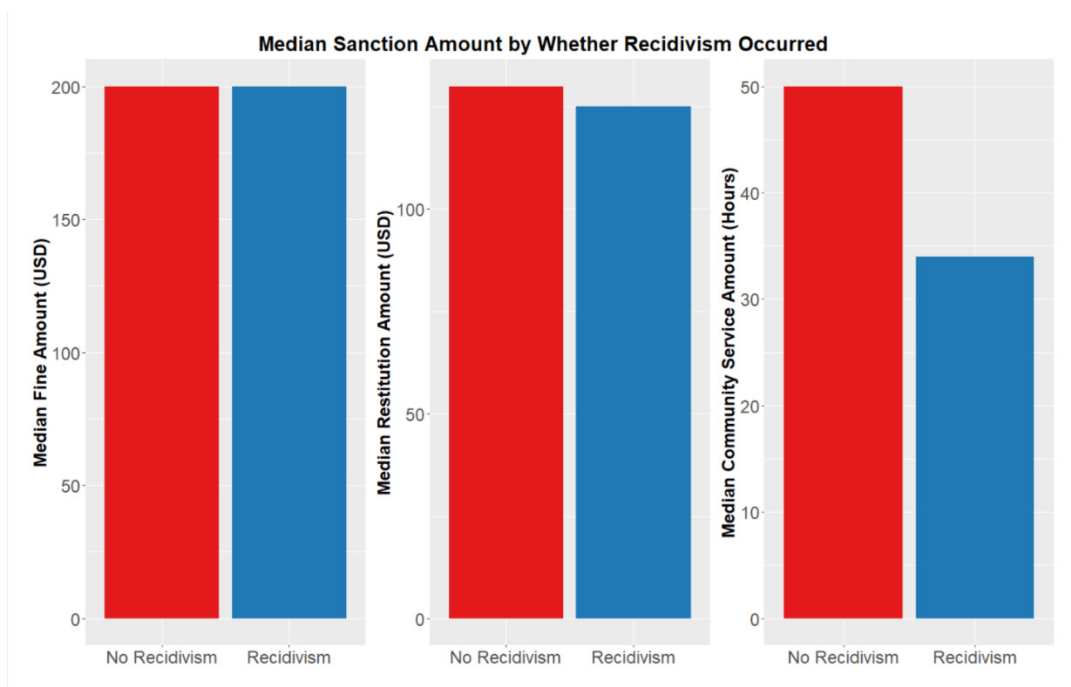


Figure 17: Fines v.s. Recidivism



An important question regarding these sanctions is whether or not there are any clear differences between the outcomes of youth and the sanctions they received. Two primary outcomes of interest are whether a youth successfully completed their NJA and recidivism. Figures 16 and 17 below plot recidivism and outcome

against the amounts assessed for fines, restitution, and community service. Before plotting, several large outliers were removed. The removal of these outliers does not change the result. Additionally, cases were only included where more than 0 dollars or hours were assessed for a given sanction.

On a descriptive level, little difference between groups is seen between the sanctions assessed for youth who did not successfully complete their NJA or who were identified as having recidivated. While national evidence shows mixed findings on fines/fees, some suggest that they can be harmful on recidivism outcomes. Hence, their merit in Utah should be further evaluated carefully.

Section 4: Conclusion & Policy Recommendations

The findings of this report aim to support policymakers with not only substantial background on the overall research of fines, fees, and restitution nationwide but also with specific insights regarding Utah's policy impact on all stakeholders involved in the NJA Process. The first section of this report highlights the range of studies illustrating the limitations of fines supporting youth rehabilitation and reducing recidivism significantly. The literature introduced in this section further highlights the potential harm punitive fines and fees can have on exacerbating disparities related to race and ethnicity and economic status. Resulting from the latest evidence and evolving public opinion on fines and fees, Section 1.2 presents the latest developments in policy reform on financial sanctions including 12 states with various legislation addressing the elimination of some or all financial sanctions. This section is intended to help policymakers compare the range of policy options to reform NJA in Utah in conjunction with Section 2 which provides a range of financial sanction models for policymakers to compare as a menu of options while also considering the drawbacks of each in regard to equity and the impact on youth outcomes.

Overall, this report finds that NJAs serve a positive role for mitigating youth contact with the system. Interview findings support NJA as an effective preventative tool for recidivism, however to what extent fines and fees serve a rehabilitative role was varied. The role of fines having a rehabilitative role for youth was particularly

heterogeneous given that not all youth paid or worked to pay off the fine as many parents took on the financial burden instead. Section 3.3 of the NJA data trends analysis also presented little evidence supporting a positive rehabilitative effect preventing future reoffending by youth who were given sanctions.

Despite not finding evidence for differences in recidivism or success rates for youth paying restitution in Utah, the evidence in the literature was mixed. Some found small positive effects for youth who paid restitution, and others none at all. Additionally, many jurisdictions across the country struggle to fully reimburse victims. This is also true in Utah, where relying on fines to support restitution was not consistently found to be substantial enough to make victims whole across the interviews conducted. Thus, this report recommends that relying on financial sanctions on youth is an unsustainable source of revenue to fund victim restitution accounts and is not an equitable source of revenue. The literature further supports the policy recommendation that policymakers should supplement their restitution accounts with funding from state budgets.

Additional policy recommendations also include the authorization of alternatives to financial sanctions, making data available on the revenue and collection of fees, making guidelines transparent for all stakeholders on the schedules of fines/fees, and making alternative options to fines/fees transparent for those who can not pay (Brett & Nagrecha 2019). Making data available on the revenue and collection of fees is particularly important to assess whether collection of financial sanctions is fiscally sustainable. As Section 1 discussed, oftentimes the collection of fines/fees came at a net loss or minimal net gain (see Figure 1 of Appendix). This net loss/net gain figure is difficult to ascertain in Utah. Although most youth will complete payment, youth who do not may still be substantially compliant if they complete the remaining terms of their NJA. As such, probation officers do not place an emphasis on collection and there is little information on the actual costs of collection. Making NJA guidelines transparent across language and cultural barriers is also imperative to address the concerns of racial and ethnic disparities.

Alternatives to financial sanctions should also be considered proportionate and considerate of the youth's life demands. If for example community service is the alternative, relevant staff should consider the

youth’s time allocation in regards to school, work, transportation needs, and household responsibilities. Staff should also provide a clear definition of what qualifies as community service so that all youth are able to access it equally with the consideration of race and ethnicity, gender, and cultural background (Brett & Nagrecha 2019). Furthermore, the interview findings from CPOs across Utah confirm that flexibility and responsiveness is often prioritized for youth who are unable to pay fines. Aligned with this positive and supportive trend for youth, the following figure below presents an additional useful guideline on proportionately enforcing financial sanctions.

| PROPORTIONATE ENFORCEMENT OF FINANCIAL SANCTIONS | | | | | |
|--|---|-------------------|--|--|---|
| USE | Administrative processes to monitor repayment that are noninvasive and nonpunitive | Reminder programs | Open channels of communication to the courts so people can notify judges of difficulty with payments before default occurs | Ongoing review of people’s ability to pay on the judge’s initiation – and waiver or closure of the case when appropriate | Simple and understandable educational materials and other creative means of conveying information about the enforcement |
| LIMIT | Orders to show cause to secure appearance before less invasive measures are attempted | | Civil debt collection mechanisms | | |
| PROHIBIT | Warrants to secure appearance or payment | | Driver’s license suspension or revocation for nonpayment | Incarceration for nonpayment | |

Source: ([Brett & Nagrecha 2019](#))

And lastly, this report strives to re-emphasize the significance of what the purpose of financial sanctions should ultimately serve for youth across Utah and nationwide (Page 28, Cohn et al., 2016):

“One overriding difference between the juvenile justice system and the criminal justice system is the former’s primary focus on rehabilitation. Before courts impose fines and fees on juveniles—even on those rare juveniles who might be able to pay—they should consider whether such financial burdens serve rehabilitation. In many cases, fines and fees will be more punitive than rehabilitative, and they may in fact present an impediment to other rehabilitative steps, such as employment and education.”

Acknowledgments

We would like to thank the Utah Juvenile Court (Neira Siaperas, Tiffany Pew, and Zerina Ocanovic) and CCJJ (Sofia Nyström and Van Nguyen) for the data support, helpful feedback, and expertise in preparing this report.

References

- Acton, R. B. (1996). Gubernatorial initiatives and rhetoric of juvenile justice reform. *JL & Pol'y*, 5, 277.
- Birckhead, T. R. (2012). Delinquent by reason of poverty. *Wash. UJL & Pol'y*, 38, 53.
- Brank, E. M., & Weisz, V. (2004). Paying for the crimes of their children: Public support of parental responsibility. *Journal of Criminal Justice*, 32(5), 465-475.
- Bret J. Blackmon, Samuel B. Robison, and Judith L. F. Rhodes. Examining the Influence of Risk Factors Across Rural and Urban Communities. *Journal of the Society for Social Work and Research* 2016 7:4, 615-638
- Brett, S., & Nagrecha, M. (2019). Proportionate financial sanctions: Policy prescriptions for judicial reform. *Criminal Justice Policy Program*, Harvard Law School.
- Campos-Bui, Stephanie, Jeffrey Selbin, Hamza Jaka, Tim Kline, Ahmed Lavalais, Alynia Phillips, and Abby Ridley-Kerr. "Making families pay: The harmful, unlawful, and costly practice of charging juvenile administrative fees in California." *UC Berkeley Public Law Research Paper* (2017).
- Cohn, E., Mayer, D., Parish, K., & Heyde, J. van der. (2016). (rep.). *An Economic Analysis of Charging Administrative Fees to Justice-Involved Youth*.
- Ervin, L., & Schneider, A. (1990). Explaining the effects of restitution on offenders: Results from a national experiment in juvenile courts. *Criminal justice, restitution, and reconciliation*, 183-206.
- Farrington, D. P., & Welsh, B. C. (2005). Randomized experiments in criminology: What have we learned in the last two decades? *Journal of Experimental Criminology*, 1(1), 9-38.
- Feierman, J., Goldstein, N., Haney-Caron, E., & Columbo, J. F. (2016). Debtors' prison for kids? The high cost of fines and fees in the juvenile justice system. *Juvenile Law Center*.
- Haynes, S. H., Cares, A. C., & Ruback, R. B. (2014). Juvenile economic sanctions: An analysis of their imposition, payment, and effect on recidivism. *Criminology & Public Policy*, 13(1), 31-60.
- Hil, R. (1996). Counting the cost: juvenile crime, parents and restitution. *Just Policy: A Journal of Australian Social Policy*, (8), 11-19.
- Hutchinson, T. C., Parada, G., & Smandych, R. (2009). "Show me a bad kid and I'll show you a lousy parent": making parents responsible for youth crime in Australian and Canadian contexts. *Australasian Canadian Studies*, 26(2), 49-86.
- Jacobs, S., & Moore, D. C. (1994). Successful restitution as a predictor of juvenile recidivism. *Juvenile and Family Court Journal*, 45(1), 3-14.
- Kaplan, A., Lavalais, A., Kline, T., Le, J., Draznin-Nagy, R., Rodríguez, I., ... & Selbin, J. (2016). High pain, no gain: How juvenile administrative fees harm low-income families in Alameda County, California.
- Kautter, D. J., Herndon, B. D., Johnson, B. W., Paris, D. P., & Kei, W. K. (2017). (rep.). *Internal Revenue Service Data Book*. Washington, DC: Department of the Treasury.
- Maybell Romero, Rural Spaces, Communities of Color, and the Progressive Prosecutor, 110 *J. Crim. L. & Criminology* 803 (2020). <https://scholarlycommons.law.northwestern.edu/jclc/vol110/iss4/5>
- Maute, M. L. (1994). New Jersey takes aim at gun violence by minors: Parental criminal liability. *Rutgers LJ*, 26, 431.
- National Council on Crime and Delinquency, & United States of America. (2007). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*.
- National Council on Crime and Delinquency, & United States of America. (2007). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*.
- Nelson, D. M., Coleman, D., & Corcoran, K. (2010). Emotional and behavior problems in urban and rural adjudicated males: Differences in risk and protective factors. *Victims and Offenders*, 5, 120-129. <http://dx.doi.org/10.1080/15564881003640710>
- Piquero, A. R., & Jennings, W. G. (2017). Research note: Justice system-imposed financial penalties increase the likelihood of recidivism in a sample of adolescent offenders. *Youth Violence and Juvenile Justice*, 15(3), 325-340.
- Roach, K. (2002). The role of crime victims under the Youth Criminal Justice Act. *Alta. L. Rev.*, 40, 965.
- Roy, S. (1995). Juvenile restitution and recidivism in a midwestern county. *Fed. Probation*, 59, 55.
- Ruback, R. B., Knoth, L. K., Gladfelter, A. S., & Lantz, B. (2018). Restitution payment and recidivism: An experimental analysis. *Criminology & Public Policy*, 17(4), 789-813.
- Salt Lake County Health Department. (2022, March). 2022 Demographics. *Healthy Salt Lake*. Retrieved from <https://www.healthysaltlake.org/index>.

Appendix

Figure A1

Fiscal Analysis of Target Counties in Texas (2017), New Mexico (2016), and Florida (2017)

Thousands of dollars

| | TEXAS | | | | NEW MEXICO | | | FLORIDA | | | RANGE | |
|--|----------|----------|----------|--------|------------|----------|---------|---------|------------|---------|--------|----------|
| Total Fees and Fines Assessed | Travis | El Paso | Jim Hogg | Marion | Bernalillo | Santa Fe | Socorro | Leon | Miami-Dade | Madison | Low | High |
| Total Assessments | \$38,006 | \$14,109 | N/A | N/A | \$4,170 | \$1,138 | \$207 | \$1,148 | \$10,143 | \$257 | \$207 | \$38,006 |
| Waivers/Adjustments | \$1,176 | \$308 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | \$308 | \$1,176 |
| Community Service Credits | \$561 | \$83 | N/A | N/A | \$84 | \$55 | \$2 | \$44 | \$12 | \$1 | \$1 | \$561 |
| Jail Credits | \$6,958 | \$3,140 | N/A | N/A | \$1,448 | \$214 | \$76 | \$0 | \$0 | \$0 | \$0 | \$6,958 |
| Conversions to Liens | N/A | N/A | N/A | N/A | N/A | N/A | N/A | \$0 | \$0 | \$54 | \$0 | \$54 |
| Other Credits | \$0 | \$0 | N/A | N/A | \$661 | \$83 | \$10 | \$20 | \$0 | \$6 | \$0 | \$661 |
| Total Adjustments | \$8,694 | \$3,532 | N/A | N/A | \$2,193 | \$352 | \$88 | \$64 | \$12 | \$61 | \$12 | \$8,694 |
| Net Amounts Owed | \$29,312 | \$10,577 | N/A | N/A | \$1,977 | \$787 | \$120 | \$1,084 | \$10,131 | \$196 | \$120 | \$29,312 |
| Revenue Collected | | | | | | | | | | | | |
| Collections | \$26,929 | \$8,132 | \$237 | \$366 | \$1,862 | \$724 | \$119 | \$858 | \$7,978 | \$174 | \$119 | \$26,929 |
| Collections as a Percentage of Assessments | 71% | 58% | N/A | N/A | 45% | 64% | 58% | 75% | 79% | 68% | 45% | 79% |
| Cost to Levy and Collect | | | | | | | | | | | | |
| In-Court Costs | \$3,186 | \$68 | \$10 | \$29 | \$40 | \$54 | \$14 | \$31 | \$267 | N/A | \$10 | \$3,186 |
| Collections Unit Costs | \$1,610 | \$733 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | \$733 | \$1,610 |
| Jail Costs | \$4,627 | \$2,917 | N/A | N/A | \$2,138 | \$239 | \$81 | N/A | N/A | N/A | \$81 | \$4,627 |
| Other Costs | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | \$0 | \$0 |
| Total Costs | \$9,423 | \$3,718 | \$10 | \$29 | \$2,178 | \$294 | \$96 | N/A | N/A | N/A | \$10 | \$9,423 |
| Costs as a Percentage of Collections | 35% | 46% | 4% | 8% | 117% | 41% | 80% | N/A | N/A | N/A | 4% | 117% |
| Net Gain (Revenue Minus Cost) | \$17,506 | \$4,414 | \$227 | \$336 | -\$316 | \$430 | \$24 | N/A | N/A | N/A | -\$316 | \$17,506 |

Sources: New Mexico Judicial Information Division; Texas Collection Improvement Program; Florida Court Clerks & Comptrollers; Brennan Center calculations.

Source: [The Steep Costs of Criminal Justice Fees and Fines](#) (Menendez et al. 2019)

A1) Annotated Bibliography Table

| Article | Description |
|--|--|
| Brett, Sharon, and Mitali Nagrecha. "Proportionate Financial Sanctions: Policy Prescriptions for Judicial Reform." Criminal Justice Policy Program, Harvard Law School (2019). | Harvard's CJPP proposes court jurisdictions implement the following changes: Eliminate all revenue-raising fees and surcharges (fund through tax revenue instead) If fines are imposed as a sentence for an offense, set them at a level that people can afford (proportionate to financial circumstance and crime severity), consider proportionate alternatives to fines, and to decouple probation and fine payment monitoring. |
| Feierman, Jessica, Naomi Goldstein, Emily Haney-Caron, and Jaymes F. Columbo. "Debtors' prison for kids? The high cost of fines and fees in the juvenile justice system." Juvenile Law Center (2016) | This paper takes a deep look at the nationwide state of fines, fees, and restitution nationwide. It describes specifically how these are used as tools for NJA-type programs. |
| Colgan, Beth. "Addressing Modern Debtors' Prisons with Graduated Economic Sanctions that Depend on Ability to Pay." Policy Proposal 4 (2019). | <p>This paper from The Hamilton Project, proposes policy solutions on the creation of a system of graduating economic sanctions according to a person's ability to pay, and designed to meet the criminal justice goals of sentencing equality and crime reduction, while also improving outcomes for people and their families who would otherwise carry unmanageable criminal debt. The first proposal offers a solution to establishing objective criteria to evaluate a person's financial condition. The second proposal offers three methods of applying this determination to financial conditions: a day fines model, a flat reduction in fines, and a sliding scale approach. This should be applied to all forms of economic sanction including restitution and fees.</p> <p>This paper also features a section discussing considerations for people who are wealthy, and the implications this has for financial penalties. Under their model, the inclusion of business income, rental income, dividends, royalties, pension or retirement income, and so forth could be included as measures of income in addition to employment. The relevance to juveniles for this is questionable, however, given that the paper advocates that lawmakers should exclude family income for juveniles altogether, as placing fiscal burdens on youth who are adjudicated delinquent can have serious negative consequences (see Camposbui 2017; Selby 2016).</p> <p>The paper acknowledges that the potential removal of a financial cap raises the possibility that those with very high incomes could face startlingly large financial penalties. As a result, such measures may be politically unpalatable by some who view this result as unfair. In such a setting it may be necessary for lawmakers to (as is the case in Utah's HB 239) set maximum financial penalties. The risk is whether imposing a cap would insufficiently deter those with a greater ability to pay.</p> |
| Walsh, Tamara. "Juvenile economic sanctions: A logical alternative." Criminology & Pub. Pol'y 13 (2014): 69. | Presents several arguments against the rehabilitative, restorative, and deterrent effects of economic sanctions on young people. An essential point raised was that most cases of nonpayment do not stem from flagrant refusal, but rather a lack of means. For further reading, the paper also presents additional evidence (from other studies against the idea of imposing monetary sanctions on families rather than holding children chiefly responsible. |

| | |
|---|--|
| <p>Haynes, Stacy Hoskins, Alison C. Cares, and R. Barry Ruback. "Juvenile economic sanctions: An analysis of their imposition, payment, and effect on recidivism." <i>Criminology & Public Policy</i> 13, no. 1 (2014): 31-60.</p> | <p>The study confirms results from other studies that higher proportions of payment of restitution reduces recidivism, but adds other types of sanctions as well. The authors were not able to separate the effects of different economic sanction types. Given the particular importance of restitution in previous literature, however, the authors suggest separating payments for fines and fees from restitution.</p> |
| <p>Ruback, R. Barry, Lauren K. Knoth, Andrew S. Gladfelter, and Brendan Lantz. "Restitution payment and recidivism: An experimental analysis." <i>Criminology & Public Policy</i> 17, no. 4 (2018): 789-813.</p> | <p>Examined the recidivism of offenders who were delinquent in paying restitution and who had participated in a prior experiment testing whether monthly letters increase restitution payment. Their findings reveal that although recidivists and nonrecidivists did not differ significantly in the amount of restitution owed, nonrecidivists were more likely to have paid something toward the restitution owed, as well as more likely to have made a higher number of total payments. This confirms results from other studies indicating a link between payment of restitution and less recidivism.</p> |
| <p>Piquero, Alex R., and Wesley G. Jennings. "Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders." <i>Youth Violence and Juvenile Justice</i> 15, no. 3 (July 2017): 325-40. doi:10.1177/1541204016669213.</p> | <p>Analyzed data on the demographic characteristics and dispositions of a 2013 cohort of 1,167 youth from Allegheny County, PA. The authors followed up two years later on this cohort to observe recidivism. Their results indicate that the total amount of fines, fees and restitution imposed at adjudication as well as whether the youth owed money when the case closed were likely to increase the rate of recidivism. Interestingly, neither fines and fees or restitution alone were significant predictors of recidivism (a possible indication that overly burdensome costs are harmful?). An important note is the lack of important variables such as family characteristics and socioeconomic data, as well as educational attainment.</p> |
| <p>Schwalbe, Craig S., Robin E. Gearing, Michael J. MacKenzie, Kathryn B. Brewer, and Rawan Ibrahim. "A meta-analysis of experimental studies of diversion programs for juvenile offenders." <i>Clinical psychology review</i> 32, no. 1 (2012): 26-33.</p> | <p>Presents a meta-analysis of existing experimental studies on diversion programs. The researchers found mixed results, with recidivism being reported as the most common outcome. They broke the programs reviewed down into five categories: case management/brokered services only, individually oriented treatment provided by the program with or without case management, family-based treatment provided by the program with or without case management, youth court, and restorative justice. Other program characteristics included were eligibility criteria, intervention setting (justice or community agency, and university/hospital clinic). The last characteristic included was the implementation quality, which factors in whether the program utilized a manual, researcher involvement, and fidelity monitoring.</p> <p>Researchers found a non-significant effect on recidivism programs for all program types except family treatment. Restorative justice programs with active researcher involvement, however, did lead to statistically significant reductions in recidivism.</p> |
| <p>Wong, Jennifer S, Bouchard, Jessica, Gravel, Jason, Bouchard, Martin, and Morselli, Carlo. "Can At-Risk Youth Be Diverted From Crime?: A Meta-Analysis of Restorative Diversion Programs." <i>Criminal Justice and Behavior</i> 43, no. 10 (2016): 1310-329.</p> | <p>Presents a meta-analysis of existing experimental literature on restorative justice diversion programs. The researchers broadly define RJ programs as those operating under the principles of offenders taking responsibility for their actions, repairing harm between parties, and often requirements for compensation/community service. The report found RJ programs to be generally effective at reducing recidivism. They warn, however, that due to the weakness of the literature and a lack of detail about treatment characteristics, more study is necessary.</p> |

| | |
|---|--|
| <p>Polinsky, A. Mitchell, and Steven Shavell. "The Optimal Tradeoff between the Probability and Magnitude of Fines." <i>The American Economic Review</i> 69, no. 5 (1979): 880-91. Accessed April 24, 2020. www.jstor.org/stable/1813654.</p> | <p>Presents a theoretical model of decision making of individuals engaging in externality creating activities that face a given probability of having some magnitude of fine imposed upon them. This paper proposes an inverse relationship between risk aversion and wealth, which implies a flat fine scheme (or even capped in our case where the fine becomes effectively flat beyond \$250) would be less likely to discourage wealthy individuals from engaging in illicit activity.</p> |
| <p>Gneezy, Uri, and Aldo Rustichini. "A fine is a price." <i>The Journal of Legal Studies</i> 29, no. 1 (2000): 1-17.</p> | <p>Presents a field study where a group of 10 day-care centers was randomly divided into treatment groups. The treated group imposed fines on parents who arrived late to pick up children, there was no fine beforehand. After the fine was imposed, the number of late-coming parents increased significantly, and once the fine was removed parents continued to arrive late in high numbers. This study calls into question previous theoretical work claiming a one-way deterrent relationship with economic sanctions. It also raises the question of whether setting fines too low could have counterproductive effects.</p> |
| <p>Goncalves, Felipe, and Steven Mello. "Does the punishment fit the crime? speeding fines and recidivism." <i>Speeding Fines and Recidivism</i> (October 27, 2017) (2017).</p> | <p>Estimates the causal effect of harsher speeding punishments on recidivism. The authors estimate that drivers who receive more lenient fines are over 25% more likely to receive an additional speeding ticket in the following year. They also find these drivers are 14% more likely to be involved in a car accident.</p> <p>This paper seems to confirm the results of the theory that higher fines tend to deter criminal behavior. Another way to interpret this result is that recidivism decreases as fines as a proportion of wealth rises. However, it could also be true that drivers who receive higher fines amounts and are close to the cutoff to contest are more sensitive to the deterrent effects of fines.</p> |
| <p>Pinsker, Joe. "Finland, home of the \$103,000 speeding ticket." <i>Atlantic.com</i> (2015).</p> | <p>This article highlights the case of Finland, which utilizes the day-fines system. "Finland's system for calculating fines is relatively simple: It starts with an estimate of the amount of spending money a Finn has for one day, and then divides that by two—the resulting number is considered a reasonable amount of spending money to deprive the offender of." This led to a famous case of a \$103,000 speeding fine of a Nokia executive for going 45 in a 40 zone.</p> |

| | |
|--|--|
| <p>Campos-Bui, Stephanie, Jeffrey Selbin, Hamza Jaka, Tim Kline, Ahmed Lavalais, Alynia Phillips, and Abby Ridley-Kerr. "Making families pay: The harmful, unlawful, and costly practice of charging juvenile administrative fees in California." UC Berkeley Public Law Research Paper (2017).</p> | <p>This report contains evidence from several studies by the researchers on the harmful effects of local jurisdictions imposing economic sanctions on families for their child's involvement in the juvenile system. From a series of interviews of youth and their families, the researchers found repeated cases where poor families were burdened with severe financial hardships as they struggled to pay for the economic and legal costs associated with involvement in the juvenile system. They also found economic sanctions strained the already fractious family relationships typically associated with youth involved in the justice system. Additionally, the researchers were faced with cases where parents were forced to relinquish custody of their child to the county and children who felt compelled to run away from home in hopes to relieve the burden they had placed on their families.</p> <p>The authors also found in their fiscal analysis of a sample of California counties that counties generate little net revenue from charging fees to families with youth in the Juvenile System. For example, for the \$1.1 million dollars charged in fees to families in Sacramento County for Juvenile Detention, only \$191,000, or 16.9%. Orange County alone spent \$1.7 million on employees to collect \$2 million in JJ fees.</p> <p>Even more interesting, in the sample of counties for which the authors had data, four of five spent more than half of all funds received to pay for assessment and collection. Across all five counties, more than 70% of all fee revenue pays to collect money from families.</p> |
| <p>Menendez, Matthew, and Lauren-Brooke Eisen. "The Steep Costs of Criminal Justice Fees and Fines." Brennan Center for Justice. (2019).</p> | <p>Details the costs associated with the imposition of criminal justice fines and fees in a sample of 10 counties in Texas, New Mexico and Florida. Their fiscal analysis identifies the cost to courts and criminal justice agencies of assessing and collecting criminal fines and fees and then subtracts those costs from the revenues collected in each jurisdiction. The authors found across all counties studied, 66 percent of debts assessed were eventually collected. On average, the jurisdictions in this report spent more than \$0.41 for every dollar collected over the period studied, although they note this estimate is likely low given the lack of key data on additional costs. In this context, it's important to note how this performance compares to other avenues of revenue generation. In 2017, the IRS spent just \$0.34 for every hundred dollars in taxes collected. Texas alone spends just \$.031 for every hundred dollars of taxes collected, and New Mexico spends \$0.91 for every hundred dollars.</p> |
| <p>Zatz, Noah, Tia Koonse, Theresa Zhen, Lucero Herrera, Han Lu, Steven Shafer, and Blake Valenta. "Get to work or go to jail: Workplace rights under threat." Report published by UCLA Institute for Research on Labor and Employment, UCLA Labor Center, A New Way of Life Reentry Project (March 2016). (With Tia Koonse, UCLA Labor Center, Theresa Zhen, A New Way of Life Reentry Project, et. al.) (2016): 16-24.</p> | <p>This paper raises several concerns about the imposition of community service on individuals. One example of such a concern is the option provided by courts to pay down criminal debt by providing free labor through community service programs. Often, debt reduction comes at a rate lower than the minimum wage per hour of work. The work is performed at a broad range of state agencies and nonprofits. Additionally, workers performing court-ordered community service are not employees and hence are not entitled to employment protections such as worker's compensation in the place of injury, the right to organize, and shelter against discrimination. There is also the threat that unpaid community service workers may function to replace existing workers and degrade working conditions for paid employees by exposing them to the downward pressures of a competing unpaid group of workers.</p> |

| | |
|---|--|
| <p>“Confronting Criminal Justice Debt: A Guide for Policy Reform.” Criminal Justice Policy Program at Harvard Law School. Accessed September 2016. http://cjpp.law.harvard.edu/publications/confrontingcjdebt.</p> | <p>Advocates the use of community service as an alternative to monetary sanctions but warns replacing one vice for another. The imposition of excessive community service for indigent persons, especially those with disabilities, strict work schedules, and family obligations may make community service unrealistic. Giving defendants credit for engaging in drug or mental health treatment, waiving fines and fees, and finding alternative sanctions could serve as remedies in these cases.</p> <p>As such the authors present several suggestions for designing community service programs. These include focusing on the rehabilitative rather than punitive value of work, valuing hours at or above minimum wage, considering safety, providing transportation, and not allowing community service to unduly interfere with other obligations.</p> |
| <p>Picard, Sarah, Sarah Picard, Jennifer Tallon, and Dana Kralstein. “Court-Ordered Community Service: A National Perspective.” Center for Court Innovation, November 1, 2019. https://www.courtinnovation.org/publications/community-service.</p> | <p>This paper presents the results of a nationwide survey of courts on typical practices in the implementation of community service orders. They have several key findings. The first is that most courts view community service as an appropriate alternative form of payment for court fines and fees or as a means to reduce their imposition. The authors also found community service was being applied in a diverse array of cases, including for felonies.</p> <p>The authors also investigated defendant access to community service mandates. Although many courts did not respond to this section of the survey (possibly due to limited information about defendants at a sentencing) among those who did respond, they found some patterns. Some classes of defendants were viewed as particularly appropriate to receive community service orders, including those involving first-time offenders, youth, those working or in school, and those with stable community ties.</p> |

A2) Matrix of Selected Regions Diversion Programs and NJA Practices

| Region | Diversion Program | Sanction Model | Fee | Fee Discretion | Fine | Fine Discretion |
|------------------|--|----------------------------|-------|----------------|-------|-----------------|
| UT | Nonjudicial Adjustment | Sliding Scale | \$50 | Yes | \$250 | Yes |
| NH | Juvenile Court Diversion Program | | Yes | No | | |
| NJ | Stationhouse Adjustment | Ability to pay (Fees) | Yes* | No | No | No |
| PA | Informal Adjustment | Reasonable | Yes | Yes | | |
| WV | Prepetition Diversion | Flat Fee | \$5 | No | | |
| SC | Juvenile Diversion | NA | Yes | Yes | | |
| MI | Juvenile Diversion | | Yes | Yes | | |
| PA | Informal Adjustment | Reasonable | Yes | Yes | | |
| WA | Diversion Program | Ability to pay | \$30* | Yes | No | No |
| CA | Diversion | | | | | |
| Pima County, AZ | Fees | | | | | |
| Pinal County, AZ | Diversion | | | | | |
| OH | | Bench Card | | | | |
| Dane County, WI | | Link | | | | |
| IN | Informal Adjustment | | \$15* | Yes | | |
| IL | Continuance under supervision* | Ability to pay | \$25 | No | | |

| | | | | | | |
|----|--------------------------------------|-------------------|---------|-----|-----|-----|
| WI | Deferred Prosecution | Ability to pay | Yes* | Yes | | |
| IA | Informal Adjustment | | | | | |
| NA | | Sliding Fee Scale | Yes | Yes | | |
| OK | Informal Adjustment | | Yes | Yes | | |
| AR | Juvenile Diversion | Ability to Pay | \$20.00 | Yes | | |
| MI | Teen Court | | \$5.00 | Yes | | |
| LA | Informal Adjustment | | Yes | Yes | | |
| TX | Teen Court | | \$10* | Yes | | |
| AZ | Diversion | Ability to pay | \$50 | Yes | Yes | Yes |
| MT | Informal Proceeding | Ability to pay | Yes | Yes | | |

| Region | Restitution | Restitution Discretion | Community Service | Community Service Discretion | Decision | Penalty for nonpayment |
|------------------|---------------------|------------------------|---------------------|------------------------------|---|------------------------|
| UT | Yes | Yes | 34 | Yes | Probation Department | None |
| NH | | | | | Court, Probation Officer, Law Enforcement | Yes |
| NJ | Yes | Yes | Yes | Yes | Law Enforcement | NA |
| PA | Yes | Yes | Yes | Yes | Probation Officer | Yes |
| WV | | | Yes | Yes | Prosecutor | Yes |
| SC | Yes | Yes | Yes | Yes | | None |
| MI | | | Yes | Yes | Law Enforcement, Court | Yes |
| PA | Yes | Yes | | | Probation Officer | NA |
| WA | Yes | Yes | 150 | Yes | | |
| CA | Yes | | | | Law enforcement | |
| Pima County, AZ | | | | | | |
| Pinal County, AZ | | | | | | |
| OH | | | | | | |
| Dane County, WI | | | | | | |
| IN | | | Yes | Yes | Court | Yes |
| IL | Yes | Yes | | | Court | NA |

| | | | | | | |
|-----------|--------|-----|-----|-----|----------------------|---------|
| WI | \$5000 | Yes | Yes | Yes | Intake worker | \$1,000 |
| IA | Yes | Yes | Yes | Yes | Intake Officer | NA |
| NA | Yes | Yes | Yes | Yes | County Attorney | No |
| OK | Yes | Yes | Yes | Yes | Intake officer | Yes |
| AR | | | | | Prosecuting Attorney | |
| MI | Yes | Yes | 112 | Yes | NA | Yes |
| LA | | | | | Prosecuting Attorney | |
| TX | | | | | | |
| AZ | Yes | Yes | Yes | Yes | Probation officer | Yes |
| MT | Yes | Yes | Yes | Yes | Probation officer | Yes |

A3) [Court's Accounting Manual for the NJA Fund](#)

A4) [Court's Accounting Manual for the RESTA fund policy](#)

A5) [Interview Questions](#)

A6) [Fines and Fees Matrix](#)



Economic Evaluation Unit



Department of
ECONOMICS
THE UNIVERSITY OF UTAH