

Legal Financial
Obligations (LFOs) as
fees and user charges:
legal analysis of taxes,
fees, and user charges
jurisprudence

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What are legal financial obligations?

- **Legal financial obligations:** sum of fines, fees, restitution, and other court costs that one is sentenced throughout interaction with legal system. Can also include non-criminal tickets/fines.
- **Fines:** monetary amounts people have to pay based on specific criminal offenses and are punitive in nature
- **Fees:** monetary amounts people have to pay while interacting with the criminal legal system. Includes DNA testing, jury trials, public defenders, etc.
- **Restitution:** monetary amount that a person has to pay specifically for damages caused to another person or entity (insurance company or government agency)



Legal financial obligations as Punishment

- Mandatory Fines or Penalties, Restitution, and Assessments
- People “must pay for their crime”

Legal financial obligations as Revenue

- Expansion of the criminal punishment system
- Limited options of raising revenue
- Fees, other court costs, costs while incarcerated



Case Study: Washington State Taxes, Fees, and User Charges

- Developed state jurisprudence of taxes, fees, and user charges
- Hillis Homes v. Snohomish County (1982); Teter v. Clark County (1985)
- Covell v. Seattle (1995)
- City of Snoqualmie v. Constantine (2016)
- “Taxes vs. Fees: A Curious Confusion” by Hugh Spitzer
- Revenue raising, spending, user protections



Taxes*

- **Raised:** Property, Income, Excise
- **Spent:** Any governmental purpose
- **Protections:** Tax rate limits, uniformity on who pays and what rate is, other specific controls



*Based on Hugh Spitzer's "Taxes v. Fees: A Curious Confusion" definitions and analysis.

Fees*

- **Raised:** Permits, Licensing, Inspection
- **Spent:** Pay for costs of government providing service or activity
- **Protections:** Fee cannot be above the determined cost of processing licensing or inspection and enforcement



*Based on Hugh Spitzer's "Taxes v. Fees: A Curious Confusion" definitions and analysis.

User Charges*

- **Raised:** Electric and water, connection, sewer and garbage, storm water utility
- **Spent:** Pay for providing services/commodity/facilities/activities, pay for services that offset the cost of any negative externalities
- **Protections:** Customers must be treated uniformly according to use/service, charge may not exceed allocable share of cost



*Based on Hugh Spitzer's "Taxes v. Fees: A Curious Confusion" definitions and analysis.

LFOs are Fees and User Charges

- **Raised:** Specific fees, assessments, and charges
- **Spent:** County and State general funds and back to specific departments for services
- **Protections:** Ability to pay determination
- **Issue:** If LFO money is collected and goes to general funds and specific fund accounts, are LFOs taxes, fees, and user charges?



Applying non-criminal fees and user charges law to criminal fines and fees

- Flow of criminal fines and fees money received is not clear and does not reflect non-criminal fees and user charge characteristics
- With low state funding for courts in WA, funds for different court and legal services relies on criminal fines and fees
- Fines and fees structure is obscure and unclear from people paying to clerks collecting – opposite of non-criminal fees and user charges
 - Example: Recent WA state supreme court State v. Blake decision in providing refunds for paid LFOs on unconstitutional simple possession law



Structural issues of LFO revenue raising

Since these assessments are happening in the criminal punishment system:

- This structure is unregulated/unstandardized (due to judicial discretion)
- Inherently regressive
- Rooted in punishment
- Discriminatory (geographical disparities, race, and low to no incomes)
- Does not reliably generate revenue



Eliminate criminal legal system fee structure

- In WA (and other states), more money is spent to collect than is received as revenue
- Piecemeal structure of raising revenue – “Broken budget model”
- Applying taxes, fees, and user charge jurisprudence to criminal fines and fees would disrupt structure
- More progressive tax structures for municipalities/counties, greater transfers from state to locales
- ***We can use state tax law and jurisprudence to change & eliminate fines and fees structures***
- ***This current structure perpetuates debt and continues the inequities of the criminal legal system***