



FEEES FOR PROBATION SERVICES

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## EXECUTIVE SUMMARY

### A Synopsis of Viewpoints: Positions For and Against Fees

#### Positions For Fees

The tremendous fiscal constraints placed on probation agencies over the last decade are not likely to ease in the foreseeable future. Agencies, therefore, will be forced to tap non-traditional sources of revenue in order to maintain existing services or provide new services that would not otherwise be funded. Fees generate additional revenue that can supplement the funding base and avoid dependency on a single source of funding. They represent a proactive approach propelling probation toward self sufficiency, reducing dependence on tax-generated budget appropriations. Fees can be one element of an overall strategy of organizational survival, contributing financial support to the funding source and enhancing agency credibility. In taking advantage of a potential source of revenue, an agency can enhance political and community support and have increased leverage with the funding source at budget time.

Philosophically, it is appropriate that recipients pay for probation services, provided that a systematic, equitable approach is implemented to cover assessment and collection procedures. Theoretically, it is a sound practice for offenders to pay for services. Fees help develop probationer accountability and responsibility and can aid in restoring self esteem. When incorporated into a case plan, fees provide an entre to financial counseling and an opportunity to help probationers budget appropriately,

Generally, fees can be incorporated into existing collection procedures (e.g., fines, restitution) and, thus, create little additional workload.

Expecting offenders to pay a portion of the cost of supervision is good public policy, strongly supported by public opinion. User fees are simply a reality in many areas, and no legal impediments to fees for probation services exist.

In sum, fees can help an agency provide adequate services to probationers and enhance credibility with funding sources and the general public. In a small way, fees can assist in making crime unprofitable. Fees reduce the cost of probation to the community and can have a positive impact on the probationer's rehabilitation.

#### Positions Against Fees

Charging user fees to involuntary clients is incompatible philosophically with the mission of probation. Probation services should be government supported and in fact are a responsibility of government. Fees also represent double

taxation: The assessment of a user fee is, in reality, payment for services already supported by general taxes paid by probationers.

In general, fees have been forced on probation by legislatures and county boards, not adopted voluntarily by probation administrators who know that fees can open the door to a host of problems. Even in states with enabling legislation, the use of fee sanctions is not necessarily widespread. The assessment of a fee implies a sanction for non-payment, as fees must be enforced if they are to have any meaning to officers and offenders. Since many probationers are indigent or have a limited ability to pay, the potential exists for creating additional sanctions requiring violation of probation and sentences imposed solely for non-payment of fees. The added stress caused by inability to pay may cause probationers to miss appointments, thus negating any positive effect of supervision and sometimes resulting in revocation for failure to comply with the conditions of probation. While these revocations are for "failure to report", the reporting failure is related to an inability to handle the fee sanctions. When otherwise crime-free probationers are revoked, an unnecessary overload is created for probation staff, courts, jails, and prisons that are already operating at the limits of their resources. Agencies must also realistically evaluate the ability of probationers to pay mandated financial sanctions. Court costs, fines and restitution are frequent assessments and the addition of service fees is an unrealistic and improper addition.

There is also a question of equity if payments are not enforced. Financially able probationers will pay a greater proportion of fees than others, making punishment dependent on economic status.

Fees usually begin as a supplement to the budget, but often end up supplanting general tax revenues devoted to probation. Dependence on fees may shift an agency's mission toward self support. Collection of fees to support agency services can become the highest priority as collections are necessary to perpetuate the agency's existence. Consequently, treatment and surveillance activities decrease. There is also temptation to recommend longer terms of probation or extend terms until full payment is received to create a broader revenue base regardless of the relative needs or risk of the probationer.

Dependence on fees is akin to building a foundation on shifting sand. Revenues cannot be accurately projected when collection rates depend on a myriad of factors including fluctuations in the economy. An agency can quickly find itself in a deficit spending mode if actual collections do not match projections. The priority given restitution to victims may also be reduced. Emphasis is shifted from the provision of appropriate services to the offender and community to fee collection, dampening morale and reducing the professional

stature of staff. Simultaneously, fees can compound existing financial problems of the probationer by assessing yet another financial obligation.

The development and implementation costs of a fee system can outweigh its benefits. Fees become another condition of probation to enforce and the judiciary in many jurisdictions is ultimately unwilling to enforce fee orders.

Assessing fees for probation services is a practice that may lead funding bodies to expect an ever-increasing amount of agency-generated revenue to support probation activities. Once fees are instituted, their priority will increase over time and the basic mission of probation may be altered.



## CHAPTER 1

### INTRODUCTION

The practice of assessing user fees for probation services has expanded rapidly in recent years as many jurisdictions sought to develop alternative funding strategies in a time of increasing budget constraints. Considerable divergence of opinion and controversy exist regarding the concept of fees for probation services since the assessment of fees has significant implications for the mission, goals, and operation of probation in the United States.

The delivery of probation services takes many different forms throughout the country. In each locale, probation is fashioned by laws and policies reflecting the fiscal, political, and philosophical viewpoints of the state legislature, the county board, the judiciary district, administrative officers, and probation directors. Hence, it is not surprising that significant differences in policy and practices have emerged in the thousands of agencies operating throughout the country.

Nowhere are these differences more apparent than in policies and opinions regarding fees for probation services. During the course of this study, the intensity of feelings on fee activities quickly became evident. Some administrators adamantly oppose the idea of fee assessment as counterproductive to the mission of probation. To other probation administrators, fees have provided the means for continuing or developing programs central to fulfilling the mission of their agencies.

However, the views of probation administrators are of little consequence when fees are mandated by state legislatures or oversight agencies. Many probation agencies have been forced to make policy decisions regarding assessment, collection, imposition of sanctions for nonpayment, and use of fee revenue with a scarcity of available literature and no past history to provide guidance.

However, fees have not been thrust on all probation agencies that collect them. Recently, a growing number of agency directors have come to view fees as a viable source of revenue and a method for establishing some degree of financial self-sufficiency for their department. In some instances, revenues from fees have been specifically targeted to specialized programs designed to increase the supervision of offenders and thus enhance community safety. The relative absence of other funding sources for these programs as well as scarcity of funds for general operations have thrust fees into a more favorable light among administrators. Many now view fees simply as one of several sanctions that can be imposed by the justice system.

This paper begins with a brief examination of the history, issues, and trends of fees for probation services. In an effort to be of the greatest value to the field, this paper also examines possible strategies to support or prevent fees and focuses on an examination of policy and implementation options of the fee process.

## Historical Perspective

Prison inmates have historically been responsible for partially defraying the cost of their care, usually by providing labor for institution maintenance or public projects. Conversely, it has not been customary for most probation agencies to hold the probationer accountable for the costs of services rendered. The services of most probation agencies have been funded by general tax revenues at either the state or local government level.

In recent years, the so-called "taxpayer revolt" and subsequent changes in many funding formulas have resulted in a general expansion of the practice of charging user fees for government services. The user of the service, in this case the probationer, is assessed a fee for services rendered, which helps to offset the government's cost of providing the service. The intent of such programs is to shift the economic burden from the general public to the user of the service. However, in reality, the total cost of probation agency operations significantly exceeds the amount of fees that can realistically be collected. Currently, user fees may directly or indirectly represent a portion of an agency's revenue base, but taxes still provide the bulk of revenue for most probation agencies. User fees are simply a means for supplementing general appropriations and expanding the funding base for agency operations.

User fees for probation services began in the 1930s and 1940s in the states of Michigan and Colorado, and, by 1980, agencies in 10 states were assessing user fees for probation services. However, in the past five years, the practice of collecting user fees has gained more widespread acceptance and expanded rapidly. Today, probation agencies in 24 states are assessing fees for services and enabling legislation is pending in 5 additional states.

It is difficult to determine the exact number of agencies currently involved in fee activities. Probation services are delivered through state, county, city, and district agencies and, in some states, two or three governmental agencies provide probation services. In addition, fees are not collected by all agencies within states with enabling legislation. Typically, some probation agencies within a state collect fees and others do not.

Before 1980, user fees for probation services were generally synonymous with "supervision fees." More recently, however,

services subject to fee assessment have expanded significantly. Today, many agencies assess fees for "non supervision" services such as presentence investigations and reports, specific ancillary programs and, in some instances, juvenile probation services. Fees for services may now cover virtually any probation service provided to the courts, the community, or the offender.

The evidence clearly indicates that limited agency resources have driven the move toward increased use of fees. Nationwide, over the past decade, appropriations in most probation jurisdictions have been significantly reduced or have not kept pace with increases in workload. As a result, agencies have been forced to cut back services and/or search for alternative methods of funding to support operations. Many agencies have explored user fees as a potential method of revenue enhancement. Unless the trend toward decreased appropriations for probation is reversed, it is likely that utilization of fees for services will continue to increase.

### Probation's Current Perspective

To identify issues and collect information regarding fees for services, the National Council on Crime and Delinquency conducted an extensive survey of probation administrators and line officers. Survey questions focused on opinions and actual experiences with probation fees. In total, 1,000 questionnaires were mailed out. Over 200 probation administrators and nearly 400 line officers representing state, county, and district agencies from 46 states responded to the survey.

Of 207 agencies represented in the survey, 137 (66%) collect fees and 70 (34%) do not. As outlined in Table 1.1, 59% of both administrators and line staff supported the concept of fees for probation services. However, from Table 1.2, more officers than administrators tended to view fees as totally punitive by almost a two to one margin (34% to 19%). Overall, 68% of administrators and 51% of line staff thought fees had at least some rehabilitative value. Clearly, administrators view fees in a somewhat different light than officers. It is interesting that those closest to cases have a less positive view regarding the rehabilitative value of fees.

Table 1.3 compares views on fees by administrators from collecting and non-collecting agencies.

Most of the opposition to the concept of fees as well as skepticism regarding the correctional value of fee programs comes from administrators of agencies not collecting fees for services. Only 4.4% of managers of probation systems that collect fees stated they are opposed to the idea, while nearly 43% of their counterparts in non-collecting agencies opposed fees. Administrators of collecting agencies also had a much more positive view of the rehabilitative value of fees. Nearly 77%

indicated fees played a role in rehabilitation: only 52% of managers in non-collecting agencies held this position (10.1 percent rehabilitative plus 42.0% both punitive and rehabilitative). About half of the respondents from non-collecting departments stated that fees either were punitive only or had no particular value to correctional theory.

TABLE 1.1  
 PERCENTAGE SUPPORTING AND  
 OPPOSING CONCEPT OF SERVICE FEES

	Chief Administrator	Line Officer
Support Concept	59%	59%
Oppose Concept	17%	23%
Neutral Feelings	23%	18%
	(N = 215)	(N = 391)

TABLE 1.2  
 VALUE OF FEE ACTIVITIES

	Chief Administrator	Line Officer
Punitive Value	19%	34%
Rehabilitative Value	7%	5%
Both Punitive and Rehabilitative Value	61%	46%
Not Punitive or Rehabilitative	13%	15%
	(N = 215)	(N = 391)

TABLE 1.3  
ADMINISTRATORS' OPINIONS OF FEE PROGRAMS

	Agencies that Collect Fees	Agencies that Do Not Collect Fees
Value of Fees:		
Punitive Only	14.5%	24.6%
Rehabilitative	6.5%	10.1%
Both Punitive and Rehabilitative	70.3%	42.0%
Of No Value to Probationer	8.7%	23.2%
Generally Support Probation Fees	78.8%	17.1%
Generally Oppose Probation Fees	4.4%	42.9%
No Opinion on Fees	16.8%	40.0%

## CHAPTER 2

### MAJOR ISSUES IN PROBATION FEES

The recent emergence of probation fees as a possible means for increasing revenues to financially strained probation agencies has resulted in the need for a document that fully explores both the potential and realities of fee programs. Correctional administrators as well as legislators and county executives need to understand the issues surrounding fees, the costs and benefits of such programs, and the experiences of agencies that have pioneered the concept. With sufficient data, policymakers can make informed decisions regarding the "fit" of fee programs within the mission and philosophy of probation as well as operational choices regarding assessment, collection, enforcement, and distribution of fee income.

Four major issues were documented during NCCD's study of fees for services. Presented in question format, these are:

1. What is the revenue potential of a probation fee program?
2. What are the negative aspects of using fee-generated income to finance probation operations?
3. What are the effects of assessment and collection activities on traditional officer functions?
4. What is the potential impact of probation fees on other components of the correctional system?

Each of these issues is multifaceted, involving all of the complexities normally encountered in attempting to measure relationships between individuals, programs, and outcomes. Most fee programs are relatively new and because significant variances among programs abound, it is difficult to produce any definitive conclusions. However, sufficient data are available to provide insights into each issue and assist administrators when considering fee programs.

#### Revenue Potential

No probation system in the country is totally funded by fee revenue. However, in many instances, fees collected amount to more than 50% of an agency's budget. Ninety-five agencies responding to the NCCD survey provided data on overall budgets and the amount of fees collected annually. Fee revenue, presented as a percentage of total budget, ranged from less than 1% to 60.7%. In general, fees represented a greater proportion of total budgets for county based agencies. However, many of the state agencies that now collect fees have only recently initiated such programs, and revenues are expected to increase as collections become more a part of standard operating procedures.

A breakdown of fee collections in relation to agency budget is presented in Table 2.1.

TABLE 2.1  
SURVEY RESULTS  
FEES AS A PROPORTION OF AGENCY BUDGETS

Agency Type	Number Reporting	Percentage Of Total Budget
County Agencies*	88	21.4 %
• In Arizona	6	12.4 %
• In California	20	2.2 %
• In Indiana	19	20.9 %
• In Michigan	9	26.1 %
• In Texas	28	37.7 %
State Agencies	7	9.34%

\*Represents all counties; the subsequent breakdown is for states with six or more counties reporting.

Of the state agencies reporting, Florida and South Carolina collect the most fees when related to overall budgets (20.9% and 15% respectively). In total, Florida collected \$9.2 million in fiscal 1984-85, while fee collections amounted to \$1.5 million in South Carolina. Both of these states expect fee revenues to increase in the years ahead.

Texas Probation has had the most visible and successful fee program for decades. The amount collected by Texas Judicial Districts has risen steadily from \$11.5 million in 1980 to \$25.8 million in 1984, a 224% increase in just five years. The 28 Texas agencies reporting both total budgets and total collections indicated that fees, on the average, represent over 37% of their budgets. Comparisons of average costs of probation and total fees collected throughout Texas indicate that 28 agencies reporting are basically representative of the Texas experience.

While relating fees collected to total budgets does allow comparisons among agencies that vary significantly in size, one caution must be exercised in interpreting such statistics. Budgets obviously reflect the number of personnel employed in each agency, hence agencies supervising identical numbers of probationers often operate on very different budgets. As a

result, fee amounts collected per probationer may be quite similar, yet represent significantly different percentages of total agency expenditures. For example, if a Texas agency reduced average caseloads by 50% by hiring additional staff, the overall budget could double and fee revenues represent 18.5% rather than 37% of agency allocations.

In total, 104 agencies reported revenues from fees. Fees amounted to 20.33% of the total amount budgeted for probation, with average collections of over \$270,000 per agency. These statistics illustrate that fees can and often do produce substantial revenues. Revenues, however, represent only a part of the total picture. The various costs of such programs are addressed in the discussion of remaining issues.

### Negative Aspects of Fees

Despite the fact that user fees for government services have gained increased acceptance in recent years, cogent arguments remain against fees for probation services. The involuntary status of the probationer violates several assumptions generally associated with the economic theory behind user fees. A basic premise of the user fee concept is that the economic burden is placed on consumers who choose to use the service. In the case of probation, freedom of choice is removed. Nor do other economic bases for user fees (e.g., rationing a limited resource) apply to probation. Only one economic benefit is realized through fees for probation services -- the generation of revenue.

Harlow and Nelson (1982) articulately summed up some of the problems that can arise with probation fees:

"Lacking the quasi-market effects of a real user fee, the charge for supervision may have some undesirable effects. Without a direct connection between supply and demand for service, there could be a tendency to increase the number of people to whom supervision is 'supplied.' If probation were to become an even marginally profitable venture through what amounts to a fine on individuals supervised, it would hardly be surprising if the 'net' were to widen, taking in many who otherwise might have received no services,"\*

From the perspective of the probation administrator, other risks may be of greater importance. If funding bodies adopt the stance that probation can be partially self supporting, tax-generated appropriations may be reduced in proportion to the amount of fees collected. In such cases, fee revenues supplant, rather than supplement, general appropriations. As a result,

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\*Management Strategies for Probation in an Era of Limits, Nora Harlow and E. Kim Nelson. National Institute of Corrections, Washington, DC. March 1982, p. 68.



probation may be in a worse financial position, having to rely on an uncertain revenue base while dedicating its own internal resources to assessment, solicitation, collection, and accounting. Requiring offenders to "pay their own way" may be so politically attractive that the amount charged per individual is raised in subsequent budget cycles, without regard to the probationers' ability to pay. These increases could potentially push departments to a point of diminishing returns, where total revenues decline as the average amount ordered per individual increases. Experience does indeed indicate that fees tend to be raised over time. The total effect of these increases, however, has not been fully investigated to date.

Various departments have minimized some of these risks through participation in the development of fee legislation or by totally dedicating fee revenues to highly visible programs that enjoy public and legislative support. The latter strategy may even have a "spillover effect," enhancing the image of all of probation and leading to increases in general appropriations.

In total, it does not appear that fee collecting agencies have more resources at their disposal than non-collecting probation departments. In fact, the median caseload for departments that collect fees is significantly higher than for those without fees. The difference, however, is probably more related to other factors that affect funding - e.g., type of agency (state or county), historical commitment to social services, etc. Lack of resources and high caseloads in many jurisdictions existed before fees were initiated and, in most cases, were the primary driving force in decisions to establish fee programs. Agencies with relatively manageable caseloads may not have reached the point where fee revenue is a necessity for survival.

#### Impact on Officer Functions

Many probation managers have misgivings about fees, believing that collection activities will take time from more traditional tasks and contaminate the helping role of the probation officer. Some officers express similar concerns, worrying that collections (restitution, court costs, fees, child support, etc.) will take precedence over counseling and surveillance, significantly reducing the basic value of skills obtained through education and experience. Increased emphasis on collections will, in the view of many, ultimately result in decreased professionalism among probation staff.

Proponents argue that fees can be easily incorporated into existing collection procedures, taking little additional time from officers' schedules. Furthermore, fees fit nicely into case planning activities, providing a barometer for measuring changes in employment, income, and financial management. With proper implementation, fees, it is argued, should have little impact on

officer activities and should not adversely affect morale or professionalism.

Survey results tend to support the position that fee collection takes relatively little time and has minimal effect on officer professionalism. As indicated in Table 2.2, only one in four officers thought fee activities decreased professionalism. Fourteen percent stated that fees actually increased professionalism, while the majority (60%) saw no relationship between fees and professionalism. Administrators saw even fewer problems, with 83% stating either there was no relationship (60%) or that fees increased the professionalism of staff (23%).

TABLE 2.2  
EFFECT OF FEE ACTIVITIES ON  
"PROFESSIONALISM" OF PROBATION OFFICERS

	Chief Administrator	Line Officer
No Significant Effect	60%	60%
Decrease Professionalism	17%	26%
Increase Professionalism	23%	14%
	(N = 211)	(N = 387)

The amount of time required by fee activities does, as proponents claim, appear to be minimal. Most respondents estimated that fee activities took less than 10% of total time. Time studies conducted in 23 agencies by NCCD over the last three years confirm the accuracy of these estimates. Time devoted to all collection activities (including restitution) rarely amounted to more than 2% of officers' time. This does not mean, however, that fee systems can be implemented at a negligible cost. In most instances, other staff, generally clerks, are involved in the collection process. Tracking systems and an audit trail must be developed and maintained. If these systems are automated, hardware, software, and/or programming add to the costs of the collection process.

Time study information also proved useful in analyzing the impact of fees on officer time devoted to basic supervision activities. Data from 16 jurisdictions with similar supervision standards were used to compute averages for collecting and non-collecting agencies. The results are presented in Table 2.3.

The only discernible difference is that the agencies that collect fees averaged approximately 20 minutes less per month on maximum supervision probationers. Due to the small sample size (N's = 4 and 12), this difference is not statistically

significant. It could easily disappear as the sample is increased.\* Time spent on medium and minimum cases was virtually identical for both the collecting and non-collecting groups.

TABLE 2.3  
COMPARISON OF TIME STUDY RESULTS FROM  
FEE-COLLECTING AND NON-COLLECTING AGENCIES

Factor Compared	Fee Collecting Agencies	Non-Collecting Agencies
	N = 4	N = 12
Average Caseload	101	100
Average Time Devoted Maximum Cases*	1.75 hrs/mo.	2.08 hrs/mo.
Average Time Devoted Medium Cases*	1.13 hrs/mo.	1.13 hrs/mo.
Average Time Devoted Minimum Cases*	0.52 hrs/mo.	0.53 hrs/mo.

\*Only agencies with comparable standards of supervision were included in this analysis. Terms used to describe each supervision level varied somewhat among agencies (e.g., maximum or intensive). For terms used in this table, standards were:

Maximum	2 face-to-face contacts per month
Medium	1 face-to-face contact per month
Minimum	1 face-to-face contact per 3 months

In sum, fears that fee collection will adversely affect time devoted to probationers or decrease professionalism of officers seem generally unfounded. However, in a few instances (primarily municipal probation departments that supervise misdemeanants only), collection of fees has become the primary function of probation. In agencies supervising felons, management appears to have kept the role of fees in perspective and taken steps to minimize their effect on officers' time.

#### Impact of Fees on Other Components of Corrections

Too often criminal justice programs are implemented to benefit one component of the system without due consideration given to the potential impact on other sectors. This appears to

\*This sample was not randomly selected, but does appear fairly representative of probation agencies throughout the United States.

have happened with fees. To date, no definitive study has been made of sanctions used for non-payment or the relationship of fees to other offender behaviors such as "failure to report." Furthermore, many agencies have not developed policies explicit enough to ensure consistency among officers in dealing with non-payment of fees.

A recent study produced jointly by Rutgers University and NCCD documented considerable disparity in the use of sanctions among offices and officers of five jurisdictions.\* While non-payment of fees was not isolated as a separate violation, it was included in a single code representing non-payment of any financial obligation. Survey responses indicated considerable variance among agencies in sanctions usually imposed for non-payment. Officer actions ranged from a verbal warning to revocation. Sixteen percent indicated incarceration was the most likely course of action. Hence, at least the potential exists for fee programs to add to crowded court calendars, and crowded jails and prisons. Even a minimal increase in incarceration rates for non-payment would prove costly and could easily offset the revenue received from fees. As yet, there is little definitive evidence that fees are resulting in higher prison and jail populations. However, officials in some fee-collecting states are becoming concerned that this is indeed the case. In Texas, for example, 44% of Department of Corrections admissions are probation violators. Of these, 40% are for technical violations, many for failure to report; some administrators feel that an inability to pay fees leads to missed appointments and abscondings.

At this point, little is known about the relationship between fees, offender behavior, and sanctions imposed for non-payment. However, the need to address these issues will grow as the number of jurisdictions charging fees for services expands. Crowding in the nation's jails and prisons is so critical that all proposed programs should undergo an evaluation of their potential to increase crowding problems. A comprehensive study of the impact of probation fees on all segments of corrections should be conducted.

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\* The Use and Effectiveness of Sanction in Probation, Christopher Baird, Todd R. Clear and Patricia Harris. Rutgers University, 1985.

## CHAPTER 3

### POLICY OPTIONS FOR FEE OPERATIONS

The fee process can be separated into four distinct activities:

- 1) Assessment;
- 2) Collection;
- 3) Sanctions; and
- 4) Distribution/Use of Fee Revenue.

Each activity presents a variety of policy and implementation options, all of which can have significant impact on agency operations. This section will examine each of these areas and present options for policy and implementation based on a variety of agency experiences. The chapter concludes with a brief examination of strengths and weaknesses of existing fee systems as identified by agency administrators and line officers.

#### ASSESSMENT

What Probation Functions Should be Subject to a User Fee?

At one time, adult supervision fees were the only user fees assessed by probation agencies. Today, as illustrated in Table 3.1, user fees are assessed for adult and juvenile presentence reports, juvenile supervision, and a myriad of agency services such as drug/alcohol monitoring and treatment programs.

Enabling legislation or policy commonly defines the functions that may be subject to a user fee. Charging many different types of fees may generate more revenue, but can result in an overload of financial obligations for the probationer and increase the emphasis and time spent on fee collection in an agency.

Disagreement exists in the field regarding the relationship of fees for services and the quality of services provided. Some administrators feel that fees must reflect a certain quality of service, while others feel that fees simply offset administrative costs and have no relationship to quality. If a jurisdiction determines that fees are related to quality, then performance standards for service should be developed, implemented, and monitored to ensure that a proper minimum standard of service is provided. However, linking quality of service to fees may prompt serious questions of what constitutes appropriate service, resulting in legal challenges to fee systems.

TABLE 3.1  
STATES ASSESSING PROBATION FEES FOR SERVICES

States	Adult Investi- gations	Adult Super- vision	Juvenile Investi- gations	Juvenile Super- vision	Specific Programs
Alabama		X			
Arizona*		X			
California*	X	X	X	X	X
Colorado*		X			
Florida		X			
Georgia		X			
Idaho		X			
Indiana*	X	X	x	X	X
Kentucky		X			
Louisiana		X			
Michigan*	X	X			X
Mississippi		X			
Nevada		X			
New Mexico		X			
North Carolina		X			
Oklahoma		X			
Oregon		X			X
Pennsylvania* (Fayette Cty.Only)		X			
South Carolina		X			
South Dakota	X	X			
Tennessee		X			
Texas*	X	X	X	X	X
Virginia		X			
Washington		X			

\*County/District Probation

For this reason, most jurisdictions have determined that fees are an administrative cost and have avoided the quality-of-service issue. Obviously, the development and use of performance standards for all major probation functions represents progressive and sound management and should be encouraged. However, when strictly considering fee assessment, linking fees and quality of service should probably be avoided. Where a fee for supervision raises too many issues, other "user" fees could be considered. Fees for services that directly benefit the probationer, paid by those offenders utilizing the service, may be viewed as a more appropriate "user fee."

#### How Should Fee Amounts and Types be Determined?

Several options are available in setting fees for probation services. The type of fees selected depends somewhat on the correctional philosophy of the jurisdiction. Common methods include:

- Cost of supervision;
- Fees related to offense;
- Fees related to cost of specific programs;
- Ability to pay.

Fee amounts (or ranges that may be charged) are usually specified by enabling legislation. When legislation or policy provides any agency discretion in setting fees, probation agencies may take into account some or all of the above issues.

Experience clearly indicates that it is unrealistic to expect fee revenue to cover the entire cost of providing probation services. Typical supervision fees range from \$10 to \$50 per month, while adult presentence report fees range from \$75 to \$300 per report. Such fees may closely approximate (or even surpass) the average cost of probation, but collection rates seldom approach 100%. In fact, the overall average collection rate, based on survey results, appears to be about 60%.

As workload increases continue to outpace growth in agency budgets, many jurisdictions have raised monthly fees charged for probation services. However, there may be a point of diminishing returns (an inverse relationship between the amount assessed each individual and the total amount collected). Probationers able to pay \$10 per month may not be able (or willing) to pay \$25 and, as a result, total collections could decline as rates increase. Higher assessments could also result in more violations for failure to report, ultimately leading to revocations and thus resulting in a much greater cost to the criminal justice system.

Where fees are clearly viewed as a sanction (fine), they may be related to the seriousness of the offense. Differences in assessments are usually related to whether the crime is

categorized as a felony or misdemeanor, probably because misdemeanants and felons may come under the jurisdiction of different courts. Relating fees to a specific program is a more common practice. The strength of this approach is that fees and results can be readily related. These fees aid specific surveillance efforts (e.g., drug testing) and directly offset program costs. Such systems offer the opportunity for agencies to directly fund treatment programs, intensive supervision, or other special projects through fee revenue produced. The ability to fund these programs without increases in general appropriations can greatly enhance the image of Community Corrections. As noted earlier, the Georgia Intensive Probation Supervision program is an excellent example of a fee supported program that has improved the public's perception of the probation department.

Ability to pay is also an important consideration in many jurisdictions. In Florida, for example, if an individual's total annual income (less educational expenses) is less than \$3,900, fees may be waived. Minimum income required for a waiver is increased \$750 for each dependent. Hence, a probationer with four dependents could have fees waived if his/her total income is less than \$6,900 annually. Fee exemptions may also be granted for up to three months when a probationer is unemployed.

When fees are viewed primarily as an additional sanction, basing assessments on ability to pay clearly results in a situation where punishment is influenced by economic status. The burden of fees falls totally on probationers who are able to pay. However, the expectation of fees from poor and/or indigent offenders may result in additional problems for probation including:

- Reluctance of probationers to report to officers because they cannot pay the fees that are due.
- Increased violations and revocations based on non-payment or failure to report.
- Over-estimations of the amount of income that will be generated by a fee program.
- Reductions in other collections (restitution, court fees, etc.) that may be of greater consequence to the system.
- Extensions of the probation period based on non-payment, resulting in larger caseloads and possible reductions in important service and surveillance activities devoted to higher risk individuals.



Fee waiver guidelines raise the issue of changing economic conditions of probationers. When ability to pay is considered, the probation agency must have a method of assessing and evaluating probationers, ability to pay on an ongoing basis since economic conditions often change many times during several years of supervision, requiring staff time to investigate income and employment changes. Consequently, if ability to pay is considered, written guidelines are needed to properly determine and periodically reassess a probationer's financial situation.

Consideration of ability to pay or relating fees to the seriousness of the offense results in variable-rate fees that can be set anywhere along a continuum from zero to the maximum fee allowed. These "sliding scales" introduce some additional complexity, and the accounting system required may be somewhat more costly to probation.

A flat-rate fee is a constant dollar amount applied to all probationers receiving the service. Its advantages involve the relative ease of administration and avoidance of determining and re-determining ability to pay. While it may be perceived as equitable since it does not discriminate against financially able probationers, it can also create an unreasonable financial burden on those unable to pay. Generally, fees for supervision are paid monthly, over the entire supervision period. Hence, the amount paid is directly related to the length of time on probation. However, a few jurisdictions, such as Colorado, assess a standard supervision fee payable by all individuals regardless of length of time on probation. Thus, probationers under supervision for a few months or several years would pay an identical fee.

What is the role of the probation agency in the assessment process?

The degree of involvement in the assessment process varies widely among agencies. Since most fees are based on a sliding scale, probation agencies are often involved in investigating ability to pay and recommending a fee amount to the sentencing judge. However, in a few jurisdictions, fees are assessed within a range and the exact amount to be paid is determined by the probation agency. In effect, this transfers some authority to the probation agency and could, in turn, result in challenges to the decision process.

Administrators clearly prefer that probation's responsibility be limited to a recommendation to the court, with the judge responsible for setting the exact amount of the supervision fee. This method recognizes the judge's need for assistance in determining appropriate and reasonable fee schedules, but leaves the final decision with the courts.

The role of the probation agency in assessment is minimized or eliminated in systems utilizing flat rates without consideration of the offender's ability to pay. Under these systems, the court is not in need of investigative assistance and usually orders fees for services in every case.

If the probation agency is involved in the assessment process, a major decision involves use of personnel. As indicated in Table 3.2, most agencies use probation officers in investigating offender economic circumstances and recommending fees. However, some agencies use probation or collection department clerks to provide these services, which minimizes probation officer involvement. Personnel issues also surface in collection and sanction activities.

## COLLECTION

The responsibility for fee collection generally rests with the probation agency, but, in some instances, the Clerk of Courts retains responsibility for collections. In a few cases, probation has contracted with private agencies for collection services.

When probation agencies collect fees, probation retains control of the fee process, which provides greater flexibility in monitoring compliance and in handling violations. Because the probation officer maintains ongoing contact with the probationer and monitors the probationer's economic situation, he/she may be better able to analyze the offender's ability to pay as conditions change. Probation systems may also be better able to respond to probationers' individual circumstances and have the leverage necessary to ensure compliance.

A key factor in calculating the cost of fee collection is the extent to which the collection system can be incorporated into existing agency practices. If the probation agency is already collecting and tracking other collections such as restitution or fines, fees can often be incorporated into existing practices, often at minimal cost. However, if fee collection is a probation agency's first entry into financial collections, development and implementation can prove quite costly.

Regardless of whether fee collection is easily incorporated into existing practices or new procedures must be developed, some amount of additional staff time will be needed for collection and administrative functions. As indicated in Table 3.3, the vast majority of officers estimate that fee activities only comprise 0% to 10% of time available. As noted in an earlier section of this report, these survey results correspond well with available time study results.

TABLE 3.2  
 FEE ASSESSMENT AND COLLECTION PRACTICES  
 BY JOB TITLE AND FEE FUNCTION

Job Title	Fee Function				
	Initial Investigation of Ability to Pay	Recommendation of Fee Amount	Orders Fees	Solicits Payment of Fees	Collects Payment of Fees
Judge	20%	21%	90%	4%	0%
Probation Officer	57%	54%	5%	64%	26%
Probation Clerk	4%	2%	0%	15%	34%
Collections Department Clerk	6%	6%	2%	14%	27%
County/District Attorney	8%	12%	—	—	—
Other	6%	5%	3%	3%	16%
(N = 145 Agencies)					

Percentages exceed 100% due to one job title performing multiple functions.

TABLE 3.3

PERCENTAGE OF PROBATION OFFICER AND DEPARTMENT CLERKS  
TIME SPENT IN FEE ACTIVITIES

% of Time Available	% of Officers	% of Clerks
0 - 2%	21%	9%
3 - 5%	34%	22%
6 - 10%	29%	15%
11 - 15%	4%	7%
16 - 20%	3%	9%
21 - 25%	6%	3%
26 - 30%	1%	3%
31 - 35%	2%	2%
36 - 40%	—	6%
41 - 50%	—	14%
51 - 75%	—	4%
76 - 100%	—	6%

### Contracting for Collection

Brokering out collection responsibility to another agency (governmental or private) is a collection method utilized by a few probation departments. This approach to collections alleviates the "role conflict" issue and the unwanted label of "bill collector" for officers. Presumably, the time saved allows probation officers to more fully devote their energies to traditional services such as casework and supervision responsibilities. This approach eliminates the need for a probation agency tracking system and minimizes officer and clerk time in the fee process. Additionally, the contracting agency may have greater expertise in collection, which could result in increased revenues.

Contracting out the collection function has several potential pitfalls. It obviously provides less involvement with probationers and limits agency flexibility and control of the process. Close intra-agency cooperation and communication are necessary. Clear role definition, especially regarding non-

compliance, is required between agencies. For example, if all non-compliant probationers are referred back to the probation officer for violations and subsequent collection, the benefits of contracting out collections may be minimized.

When collections are brokered to a private agency, additional issues may surface including confidentiality, financial incentives, and methods of collection. As all administrators know, the use of confidential information by a private agency requires explicit guidelines.

The cost of contracting with a private agency, usually paid as a percentage of collections, may lead to lower net revenue for the probation agency unless such arrangements increase collections significantly. In fact, the cost of private agencies may prove prohibitive.

Appropriate methods of collection must be clearly understood to avoid legal liabilities and to maintain a positive image. Methods that may constitute harassment must be avoided. For example, late-night telephone calls, personal calls at places of employment, or calls to relatives are methods that may lead to higher collections but will significantly increase probationer resistance and may reflect poorly on the probation agency. Therefore, clear collection guidelines are essential.

Some fee systems blend probation agency and collection agency involvement. Under these systems, the probation agency may establish a payment plan and enforce fee collection, while the collection agency actually collects the money and tracks payments. Another approach is to contract out collections on delinquent accounts only. A common thread through all contracted or blended collection systems is the need for cooperation, clear guidelines, and effective communication.

#### The Relationship of Fees to Other Financial Obligations

Priority of fee collection is an important issue to administrators because probationers are often subject to several other types of financial obligations. When this occurs, what priority does the fee obligation have compared to restitution, fines, or other court-ordered financial payments? If the probationer has a limited ability to pay, which obligation is collected first? As shown in Table 3.4, about half of the fee-collecting agencies responding to the NCCD survey indicated that fees are a lower priority than restitution or fines. Only 10% of the agencies indicated that fees are a higher priority.

The rationale for lower priority is that scarce probationer dollars should first be distributed to victims and/or courts. Such an approach appears to be good public policy. Probation has, in recent years, become increasingly involved in victim compensation and to set fees as a higher priority could be a

public relations gaffe, alienating a strong constituent group that enjoys considerable public support.

The rationale used to explain a higher priority for fees is that they are crucial to the survival of the agency. Without a functioning probation department, restitution and other financial obligations would not be collected.

TABLE 3.4  
PRIORITY OF FEE ACTIVITIES TO  
RESTITUTION/FINE ACTIVITIES

	Chief Administrator	Line Officer
Higher Priority than Restitution/Fines	10%	11%
Same Priority as Restitution/Fines	40%	34%
Lower Priority than Restitution/Fines	50%	55%
	(N = 139)	(N = 365)

Many agencies have made no attempt to formally prioritize collection of financial obligations, while others indicate fees, restitution, and court costs are given equal priority. In practice, this is problematic since small amounts of money are often received from probationers with the officer or a clerk responsible for determining how these monies will be distributed. Without guidelines or priorities, agencies may encounter significant disparity in distribution among officers.

Another priority decision involves how fee collections "fit" with traditional agency services such as case planning, counselling, surveillance, etc. Each jurisdiction must decide how aggressively to pursue collection and how collections relate to traditional services.

#### Methods of Collection

Many different methods are used to collect fees, and some agencies make a clear distinction between solicitation and collection. For example, a probation officer may request payment, but then send the probationer to the appropriate work station where the actual transaction is handled by a clerk.

The most common method of soliciting payment is by probation officer advisement of payment due and the subsequent sending of "late payment" notices. Because "tracking" of payments has

proven difficult to monitor, some agencies have automated solicitation and collection methods. These systems send direct billings to the probationer and keep an accounting of all payments. In addition to increased efficiency, many agencies like the fact that automation impersonalizes the transaction and claim that consistent billing practices can result in better collection rates.

Whether tracking systems are established on a manual or automated basis, a clear audit trail is essential to protect officers, probationers, and the probation agency. Sloppy, inefficient accounting systems are open invitations for misuse of funds.

#### Use of Personnel in Collections

The issue of who handles fee payments is an important decision for probation agencies. Collection by a probation officer expands the traditional officer role to include handling money. The collection of fees by many individuals can create difficulties in accounting and increase chances of theft.

When collection is a centralized function, accounting problems are significantly reduced. Centralized collection also removes a task from the supervising officer, making his/her role a little less complex and, in some instances, less dangerous. In some large jurisdictions, officers have been robbed when they were known to collect and carry fee payments in the field. For this reason, the probation office appears to be the preferred place of payment by most agencies.

#### Types of Payments

Survey results identified four basic types of payments: cash, certified checks or money orders, personal checks, and credit cards. Cash payments are simple and require a minimum amount of processing, but provide a poor audit trail and increase the opportunity for theft. Cash is also difficult to handle and store, and may invite robbery or burglary.

Probation administrators identified certified checks or money orders as the preferred method of payment. They are easy to handle, provide a good audit trail, and are easily negotiable. This method of payment does require more processing time than cash and places more responsibility on probationers who must obtain money orders or certified checks.

Personal checks offer ease of payment, but frequently create processing delays due to lack of negotiability as a result of insufficient funds. In addition, many probationers do not have checking accounts, and therefore still must obtain money orders.

Credit cards are just beginning to be used in correctional systems. Some jails now accept credit cards for bail and,

theoretically, credit cards could provide an effective method of fee collection. However, credit cards may not be available to most probationers and an agency would have to pay a service fee for their use.

An ancillary method of "payment" is the use of community service work in lieu of monetary payment for indigent probationers. Some courts allow probation agencies to waive fees and instead impose and "collect" work hours when it is determined that a probationer does not have the ability to pay fees. Community service work by indigents may be clearly appropriate, but obviously does not directly generate revenue, which is the primary intent of fee programs.

#### SANCTIONS FOR FAILURE TO PAY

In all fee-collecting states, except California, fees are ordered by the sentencing court, usually as one of several conditions of probation. Fees are then enforced in the same manner as any other court-imposed condition. Possible penalties or sanctions are therefore the same as those used for other violations of probation, including prison or jail terms or other available criminal court penalties.

In California, enabling legislation prohibits criminal court penalties for failure to pay fees. Recourse for failure to pay fees is through a civil court process. Failure to pay does not constitute a violation of probation, and any civil court penalties that may be applied are not tied to the term of probation. A Civil Court process may require the use of fewer agency resources, but removes direct enforcement capabilities from probation.

Court action, whether civil or criminal, frequently can be a strong deterrent to non-payment. Such action lends increased credibility to fee systems, but can be time consuming for all involved. Moreover, court action in response to no-payment increases costs to the agency in terms of staff time. When cases are frequently taken back to court, the cost effectiveness of probation fees becomes questionable.

Criminal court sanctions for non-payment probably offer the greatest deterrent to fee-related violations. However, in times of critical overcrowding in courtrooms, jails, and prisons, the cost of such sanctions may outweigh the benefits realized. Prison or jail terms resulting from non-payment alone are considered by many opponents to be indefensible and, at a minimum, to represent an overreaction to the problem. However, proponents feel that court orders must be enforced to be meaningful; unenforced orders will not be taken seriously by probationers and create needless work for the agency.



Although incarceration is possible in all fee-collecting states except California, it is not the most likely penalty for failure to pay. The NCCD national survey revealed that incarceration was a most likely penalty in only 16% of 109 agencies reporting. Community service work orders or informal agency sanctions, including reprimands, were the most likely result of non-payment.

Agency or officer sanctions, instead of court sanctions, offers an expedient remedy for non-payment, and such action can become a constructive part of the supervision plan. Agency or officer sanctions maintain a degree of internal control over the probation population and allow flexibility in dealing with the unique circumstances of individual probationers. However, officer or agency sanctions for non-payment does carry the risk of uneven application within the agency and across jurisdictions, and may invite court challenges unless handled according to defined and legally supported standards.

Opponents of fees together with many fee supporters, are concerned that extension of probation for non-payment is a dangerous practice and may lead to a conflict of interest. The contention is that the desire for revenue may influence the extension decision and result in unnecessarily long terms of probation.

Guidelines are necessary to identify when and what type of sanctions should be imposed. Sanctions imposed at the discretion of the officer offer the greatest degree of flexibility in dealing with individual probationers, but may result in less consistency and create the possibility of arbitrary and capricious decisions by officers. The problems associated with officer discretion in the imposition of sanctions can be reduced through establishment of agency standards. Such standards limit officer flexibility to some extent, but improve consistency and accountability within the agency.

Sanctions that may be imposed for non-payment are delineated and defined in some jurisdictions by enabling legislation or court order. Sanctions established by legislation offer the greatest legal support, uniformity, and enforceability but reduce agency and officer discretion. Agencies operating under such systems face little risk of legal challenge, but may face operational problems caused by vague or inconsistent language in legislation governing agency practice.

Sanctions imposed according to court order also tend to increase judicial support in enforcement while reducing agency discretion. Further, a degree of legal protection is afforded the agency when court orders direct the timing or type of sanctions that may be imposed.

Fee-collecting agencies report that judicial support is one of the most crucial elements for success of a fee system. The

lack of judicial support was identified as a significant weakness by some agencies. Clearly, the credibility of the fee order is tied to the willingness to enforce the order and to impose whatever sanctions are deemed appropriate by the jurisdiction.

#### DISTRIBUTION AND USE OF FEE REVENUE

The primary reason for implementing a fee system for agency services is to expand the revenue base. The national survey revealed that 109 agencies collected almost \$30 million, an average of over \$270,000 per agency. Eighty-two percent of these agencies expected to collect more fees in the next fiscal year.

The basic options are disbursement to a "general fund," not directly accessible by the agency, disbursement to a "department fund" directly accessible by the agency, or a combination of the two. Table 3.5 presents agency responses regarding distribution of fee generated revenue. Forty-one percent of the responding agencies reported that fee revenues go directly to a general fund and are not directly accessible to the agencies. Forty-eight percent of the responding agencies place fee revenues in a department fund. There are different agency implications for each of these disbursement practices.

Disbursement into a non-accessible general fund may contribute to good relations with the funding source since fee collections contribute to the overall fiscal health of the jurisdiction. Under this arrangement, fees may be perceived as less self serving. The disadvantages of this disbursement approach are that the agency is not guaranteed use of the funds and must compete with non-revenue-generating departments for scarce fiscal resources. This may create a disincentive for collection by agency personnel who do not see a "payoff" for collection work and/or could result in lowering the priority given fee collection.

Disbursement directly to a department fund provides agency control and can create a climate for creativity for the use of revenue and a high incentive for collection. The probation agency may be viewed as more self sufficient. Disadvantages include a lack of administrative oversight that creates the potential for misuse of the funds, and the fact that funding bodies could reduce general appropriations making probation more reliant on an uncertain revenue base when revenues do not match projections. An ability to accurately project amounts of collection is essential. If collections do not match projections, the result could be a financial crisis for probation agencies. Table 3.6 presents survey results on the percentage of assessed fees actually collected by responding agencies.

The highest percentage of agencies collect only 61% to 80% of projected fees. Collection amounts greatly varied.

TABLE 3.5  
DISBURSEMENT OF COLLECTED SERVICE FEES

State		100% Into General Fund- Not Directly Accessible	100% Into Department- Fund Directly Accessible	Split Disbursement or Other
Alabama	(1) *	1		
Arizona	(4)	1	3	
California	(16)	11	2	3
Colorado	(1)	1		
Florida	(1)	1		
Georgia	(4)		4	
Indiana	(22)	7	13	2
Kentucky	(1)	1		
Louisiana	(1)	1		
Michigan	(14)	10		4
Mississippi	(1)		1	
Nevada	(1)		1	
New Mexico	(1)	1		
North Carolina	(1)	1		
Oklahoma	(1)		1	
Oregon	(3)	1	2	
South Carolina	(2)			2
South Dakota	(1)	1		
Tennessee	(1)	1		
Texas	(21)		21	
Virginia	(1)	1		
Washington	(1)	1		
Total	100%	41%	48%	11%

\*Denotes number of agency responses in each state.

TABLE 3.6

## PERCENTAGE OF FEE ASSESSMENTS COLLECTED

Fees Collected	Agency Responses
0 - 20%	7%
21 - 40%	5%
41 - 60%	23%
61 - 80%	36%
81 -100%	27%
(N = 98 Agencies)	

To avoid potential budget deficits, enabling legislation in a few jurisdictions specifically stipulates that fee revenue will supplement, not supplant, direct budget appropriations (e.g., Maricopa County, Arizona). This is a crucial distinction. Such language provides maximum benefit for the probation agency and allows fee revenue to be used for new programs, to hire additional staff to reduce agency workload, to train officers, etc.

Agencies with direct access to fee revenue must consider how fee collection fits within the total agency mission. Dependence on fee-generated revenue creates a danger of implicitly shifting the focus of agency activity from service delivery to fee collection. Indeed, some critics point to some agency policies that permit "bonus days off" for officers who collect fees above a designated baseline as indicative of such a shift. Agencies with direct access to fee revenue enjoy the greatest flexibility with opportunities for creativity and self sufficiency, but need to ensure that fee collection does not become an end in itself.

Some jurisdictions are limited by legislation or policy as to how fee revenue can be utilized. Restrictions are often program or item specific and create a degree of oversight and accountability.

In sum, options regarding distribution of funds should be carefully weighed. Input from lawmakers, judges, fiscal officers, probation officials, and other criminal justice officials may be desirable before formulating policy on the distribution and use of fee revenue.

## STRENGTHS AND WEAKNESSES OF EXISTING FEE SYSTEMS

Implementing a fee system requires sound planning and policy and procedure development. Agencies that simply adopt the policies and procedures of other jurisdictions frequently encounter significant implementation problems. Policies regarding assessment, collection, enforcement, and distribution must fit within the agency mission and goals, and new procedures should be incorporated as much as possible into existing procedures and practices.

The strengths and weaknesses of fee systems, according to survey respondents, centered on five general areas:

- 1) Judicial Support
- 2) Accounting and Recordkeeping
- 3) Flexibility in Assessment and Collection
- 4) Actual Collection Procedures
- 5) Disbursement of Fee Revenue.

Judicial support was cited by many administrators as the most crucial ingredient of a successful fee program. In jurisdictions where the judiciary is willing to impose sanctions for violation of fee orders, probation agencies indicated much greater satisfaction with their fee systems. Administrators stressed that the judiciary should be included in policy formulation, especially in the areas of assessment and sanctions for non-payment. Some agencies lacking judicial support indicated that fee orders became meaningless and staff incentive to collect fees declined as a result of the court's unwillingness to enforce fee orders.

Accounting and recordkeeping was another important factor in measuring relative satisfaction with a fee program. Agencies with accurate and efficient (often automated) billing and recordkeeping systems expressed the greatest degree of satisfaction, while other agencies indicated that accounting and recordkeeping was a significant weakness of their fee system.

Ineffective accounting procedures can have serious ramifications, ranging from loss of potential income and misallocation of officer time to fraud. Clearly, the ability of probation agencies to carefully monitor all financial transactions is essential to responsible management.

Flexibility in assessment and collection practices was considered critical by many officers and administrators. Rigid assessment and collection procedures that eliminate consideration of probationers' unique circumstances were seen as detrimental to the overall mission of probation. Flexibility is clearly needed but must be within well-defined parameters so that significant disparities in agency practice do not emerge. Monitoring, again,

is crucial to ensure that decisions regarding waivers falls within agency guidelines.

The issue of how fees are collected was also a significant factor in determining the relative satisfaction or dissatisfaction with probation fees. Generally, minimal probation officer involvement in the collection process provided the most satisfaction. Many agencies that use clerks or a separate department or agency to collect fees felt that this allowed officers more time for direct services to probationers and minimized role conflicts.

As might be expected, many agencies with direct access to fee revenue that supplemented rather than supplanted the agency budget felt this was a major strength and incentive for collection. Conversely, many agencies without direct access to fee revenue viewed the fee process as extra work without any direct benefit. However, a strong minority supported distribution to the general fund to avoid the potential pitfalls of direct dependence on fee revenue.

Tables 3.7 and 3.8 illustrate the problems and benefits of fee assessment. Few administrators (7%) indicated that they encountered major or unresolvable problems with their fee systems. A greater percentage of officers (17%) responding to the survey perceived major or unresolvable problems. In general, the level of satisfaction was much lower among officers than administrators. Over three times as many officers thought problems outweighed the benefits of their programs (37% v. 11%). The difference in perceptions is undoubtedly related to the primary responsibilities of each position. Officers tend to focus on the impact of fees on individual cases and the problems of role conflict. Administrators, on the other hand, are more cognizant of the effect of fee revenues on overall agency operations. Differences in survey results, perhaps more than anything else, indicate that these perspectives need to be shared. Better communication between officers and administrators could lead to better understanding of problems with fee systems. Interestingly, even with significantly different perspectives, the majority of chief administrators (89%) and line officers (63%) felt that the benefits of fees outweighed the problems in the process.

In sum, each policy option regarding fees has various risks and benefits that must be considered against the backdrop of agency mission, goals, and political realities. Careful planning is crucial to the success of the basic fee process of assessment, collection, sanctions, and distribution/use of fee revenue.

TABLE 3.7  
PROBLEMS IN FEE ACTIVITY PROCESS

	Chief Administrator	Line Officer
No Significant Problems	34%	8%
Minor Problems	36%	27%
Moderate Problems	23%	48%
Major Problems	3%	12%
Unresolvable Problems	4%	5%
	(N = 146)	(N = 377)

TABLE 3.8  
BENEFIT/PROBLEM ASSESSMENT

	Chief Administrator	Line Officer
Benefits Outweigh Problems	89%	63%
Problems Outweigh Benefits	11%	37%
	(N = 139)	(N = 374)

## CHAPTER 4

### STRATEGIES TO SUPPORT OR PREVENT FEES

While the majority of probation agencies in the United States do not collect fees for services, many jurisdictions are currently analyzing the potential of fees as a revenue source. As the number of fee programs increases, additional pressure will be exerted on agencies to consider fee programs.

Based on divergent philosophies, some are seeking ways to gain support for the concept of user fees while others are seeking to prevent fees from becoming a reality. Administrators who participated in the policy analysis workshop identified a variety of strategies to support or prevent fees. These strategies were discussed within the context that agency directors may, in fact, influence the design of user fee systems or prevent the adoption of fee systems within their jurisdiction.

This chapter presents a brief summary of basic supportive and preventative strategies that have been used by various probation departments. These strategies are not all inclusive and should be considered only as possible approaches that can be incorporated into an agency's overall plan. The utility of these strategies must be determined by each administrator based upon unique political and fiscal realities in their jurisdiction.

#### SUPPORTIVE STRATEGIES

##### Goal:

- To pass desirable enabling legislation or policy for fee assessment and collection.

##### Objectives:

- To develop and effectively utilize a constituency to influence legislation or policy.
- To influence the content, introduction, and passage of legislation or policy.

After enabling legislation or oversight policy has been written and introduced, it may be too late for significant input. Hence, supportive strategies should begin well in advance of the time formal legislation or policy is written. Ideally, the administrator should be involved in structuring the content of the legislation. Since enabling legislation or policy often drives operational decisions regarding assessment, collections, sanctions and use of revenue, the actual wording of the bill is critical to probation agencies. The degree of agency flexibility



allowed and the designated method of distribution of fee revenue are significant variables that require particular attention. For example, in Arizona, probation's involvement in the creation of the enabling legislation resulted in the requirement that fees could supplement but not supplant existing revenue. In Georgia, an even more proactive stance on fees was taken when an attorney general's opinion was requested regarding the Department's ability to collect fees without enabling legislation. After obtaining a positive response, Georgia Probation began charging supervision fees. The funds were used to fund an intensive supervision program that gained substantial public support and significantly altered the concept of intensive supervision throughout the nation.

Legislators and policy writers should guard against simply replicating the content of other states, legislation or policies. Fee programs should be tailored to meet the unique needs of each state. What works in one jurisdiction may not be as effective in others due to different structures in correctional systems and different fiscal and political realities.

Frequently the initial step taken to influence legislation is the formation of a task force of pertinent decisionmakers to solicit various perspectives on the fee issue. Task forces typically include judges, fiscal officers, legislative staff members, and a cross-section of correctional personnel. Generally, a position paper outlining the supportive arguments for fee collection is developed. In it, the task force identifies current methods of agency funding, other agencies, experiences with collections, and attempts to assess the impact of fees on budget requirements and correctional practices. Finally, recommendations for policy are developed. Data from successful programs in other jurisdictions are often incorporated to bolster support for user fees, and projections are developed to show potential fee revenues and program enhancements that such revenues would fund.

Task forces have also been used in many jurisdictions to draft the enabling legislation or oversight policy. A group that represents a cross-section of community perspectives is especially useful in assessing the relative merits of various courses of action. Evaluating a variety of issues and perspectives will strengthen the position of the agency when legislative negotiations begin.

As with any major agency change, identification and mobilization of a supportive constituency is important. Administrators need to evaluate their goals and determine what type of support is required. To obtain the desired legislative package, administrators may need to include key decisionmakers with whom they have had little previous interaction.

During the initial legislation or policy development, probation administrators can solicit input from their

constituency to review and recommend changes in content and wording. For example, assistance from key legislative staff may be necessary to structure the legislation in a manner that is politically and fiscally desirable. In sum, increased support and shared ownership of the product can only improve the chances of enactment.

An informed constituency can also influence the legislative process, as can the media and specific interest groups. The media should be used to publicize positions and provide editorial support. Potential interest groups and lobbyists that have a stake in supporting fees should be identified and their influence sought throughout the legislative process. Letters, telephone calls, and one-to-one meetings with legislators or legislative aides can have substantial impact. If possible, the governor's support should be sought and secured early to prevent a possible veto of legislation that is passed.

Even with advance planning, a number of operational decisions generally must be made after the legislation or policy is passed. Probation administrators should seek staff involvement in decisions on how the new legislation or policy will be implemented. Since policy decisions will have a substantial impact on agency operations, staff involvement and influence in the implementation process is a key element to success of a fee program.

## PREVENTION STRATEGIES

### Goal:

- To prevent user fee programs in probation.

### Objectives:

- To develop and utilize a constituency to influence legislation and policy.
- To block introduction and passage of legislation or policy.
- To develop alternatives.

As stated earlier in this report, positions against fees are generally based on philosophical as well as economic considerations. Philosophical arguments against user fees in probation cite issues of role conflict, the potential for widening the net and unnecessarily lengthening the period of probation. Economic arguments against fees are also complex. Rather than simply projecting revenue and costs, arguments against fees take into account revocation rates, incarceration costs, and total system impact. The ability to articulate these positions clearly and concisely is essential to success. In some

instances, jurisdictions should consider engaging a professional researcher and writer to assist with the development of a position paper and related materials.

Other than being more complex, prevention strategies generally parallel techniques used to establish support for fees. Efforts should begin before legislation is written and introduced. Hence, administrators need to carefully track developments in the legislature and quickly investigate any indications of interest in probation fee programs.

A thorough study of the total impact of fees in other jurisdictions may be especially useful. Selected comparisons of jurisdictions could be used to indicate that fees can erode other financial support for probation and lead to decreased service and increased incarcerations. Such analyses, however, must be done with caution as cause and effect are extremely difficult to establish.

One means of gathering and evaluating information is the formation of a task force. However, if the administrative strategy is to avoid fees and if the issue has not yet attracted public attention, care should be taken to avoid public attention. This is not to say that a task force concept could not be useful, only that the relative merits need to be evaluated.

A major argument in fee-collecting jurisdictions is the generation of additional revenue for the funding body. The support of funding sources is also a key to successfully preventing fee programs. To gain fiscal office support, the impact analysis needs to clearly show that the costs in dollars and time would outweigh the likely benefits. The impact analysis should explore costs of development and ongoing implementation, time needed for collection, the likely effect on rates of revocation and incarceration, and impact on the court workload. Philosophical and ethical perspectives may be part of an opposing position, but may carry little influence with fiscal offices or legislators interested in tapping new sources of revenue. A thorough cost-benefit analysis that shows costs potentially outweighing fee benefits, however, provides a solid foundation for a prevention effort.

Once fee legislation is introduced, the active involvement of constituency groups and political allies can greatly assist the prevention effort. The development of a broad base of opposition can be the most effective method of avoiding fees. If prevention efforts fail, it may be helpful to develop counter proposals to structure the assessment, collection, sanctions, and revenue components of an impending fee process in the most desirable way for the agency.

## CHAPTER 5

### CONCLUSION

The issue of fees for probation services elicits strong responses of both support and opposition from probation administrators and officers. Perspectives on fees are based on differing philosophies regarding the appropriate role of probation in society, and demonstrated operationally via differences in probation missions, goals, and service delivery systems throughout the United States. Probation agencies nationwide are typically involved in treatment, rehabilitation, investigation, surveillance and punishment. The degree of emphasis afforded each of these areas is dependent upon fiscal and political environments that influence hiring practices, job expectations, revocation practices and daily operations. Each jurisdiction must evaluate the concept of user fees based on its mission, goals, and political and fiscal realities.

In some jurisdictions, fees have indisputably enhanced probation services and made community sanctions a more viable alternative to incarceration. In other areas of the country, fees have been used effectively to maintain at least a minimal level of service when traditional funding sources have reduced their support of probation. Despite these obvious successes, much more needs to be known about the relationship of fees to criminal justice decision making and behavior of probationers before fees can be embraced as an effective economic strategy for probation as a whole.

The correctional system is often compared to a balloon; when squeezed at one end, it bulges in other areas. If fees affect revocation decisions and/or offender behavior, they could add pressure to one area of the "balloon." For example, if nonpayment of fees results in revocations in even a small percentage of cases, jails and prisons could face increased crowding. Given the high costs of incarceration and construction, even a small percentage increase in revocations could more than offset the economic benefits of a fee program. In addition to increased prison and jail populations, more court appearances, unnecessary extensions of probation terms, and widening of the probation net are possible consequences of fees, and all carry significant economic and social cost.

The corrections field needs to know more about the impact of fees on all aspects of the system. Do the benefits outweigh the total cost? What has been the effect of fee programs on jail and prison populations? Do fees result in longer probation terms, higher caseloads, and less surveillance/services to high-risk, high-need offenders? The large number of fee programs in existence today provides the opportunity to answer many of these questions. Therefore, it is recommended that granting agencies

consider funding a comprehensive research study of fees for services.

This paper identified and discussed the major issues surrounding probation fees as well as policy and procedure options available to agencies implementing user fee programs. In a real sense, this report shares the thoughts and experiences of probation administrators and staff from throughout the United States. Unquestionably, interest in probation fees as a revenue source has increased dramatically in the last ten years, and this trend will probably continue as competition for tax revenues remains intense. This document, coupled with additional agency specific investigation, will assist probation administrators in analyzing issues and determining the appropriate role of fees in their jurisdictions.

## NOTES

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