

**The Effects of Ferguson  
and the Future of Fines and Court Costs in Texas**  
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**I. Ferguson Revisited**

- A. “The Ferguson Effect”
  - 1. Defined
  - 2. Effect on Law Enforcement
  - 3. Effect on Highway Safety
    - Traffic Safety in Texas
  
- B. The Proper Role of Local Courts and the Focus of Ferguson
  - 1. Broken Windows Theory
  - 2. Incidental Revenue versus Culture of Revenue Maximization
  - 3. Focus Questions
    - Does Your Court Impose Substantial and Unnecessary Barriers to Challenge or Resolve a Case?
    - How Does Your Court React to Missed Payments or Appearances?
  
- C. A Different Kind of “Ferguson Effect”
  - 1. A National Blueprint for Reform: Forward Through Ferguson (September 2015)
    - Key Recommendations
      - Shift from Criminal Enforcement to Civil Enforcement
      - Ending Arrest for “Low Level” “Minor Offenses”
    - 2. Criminal Justice Reform: A Stool with Four Legs
    - 3. Rise of the Modern Definition of “Debtors’ Prisons”

**II. Meanwhile in Texas**

- A. How to Reconcile
  - 1. Texas is not a “Debtors’ Prison” State
  - 2. Yet, Municipal Courts are Accused of Jailing Poor without Considering Ability to Pay/Alternatives
  
- B. Rededicating Local Courts to Procedural Fairness and Upholding the Rule of Law
  - 1. Tate v. Short (1971) - Alternative Means
  - 2. Bearden v. Georgia (1983) - Willful Refusal and Bona Fide Efforts
  
- C. The Important Distinction Between “Fines” and “Costs”
  - 1. Legally, They are Not the Same
  - 2. At What Costs?
    - State and Local Government Dependence on Fines and Costs
    - Public Perception: Lack of Public Confidence
    - The Compassionate Enforcement of Laws and Healthier Cities

## D. State Developments

### 1. Assessing Needs

A Call to Judicial Action - *Check!*

The Role of Judicial and Public Education - *Check!*

Collaboration on Public Policy in Texas

Better Tools for Determining Indigence – *Maybe!*

Expand the Meaning of “Alternative Means” for Indigent Defendants and Access to Community Service

Broaden the Use of “Show Cause” Hearings

Eliminate Time Payment Fees

Stop State Programs that Hinder

DPS’s Driver’s Responsibility Program

OCA’s Collection Improvement Program

### 2. The 85th Texas Legislature (2017)

HB 3167 - Collection Improvement Program

SB 413 - Uncollectible Court Costs in Collin County

HB 351/SB 1913 - Fines, Fees, and Costs

Notice of Possible Alternative to Full Payment

Presumption of Personal Bond for Arrests

Notice Before FTA Warrant

“Safe Harbor” to Arrest

Show Cause Hearing Before Capias Pro Fine Issuance

Credit Increased from Minimum of \$50 to \$100 per 24 Hours

– Jail Credit

– Community Service

Community Service Expanded in Scope

DPS OmniBase Program Indigence Presumption

## III. Perils to Progress

A. Misinformation & Sweeping Generalizations

B. Inverse Discrimination

C. Trivializing Public Safety and Quality of Life Offenses

D. Conflating Legal Financial Obligations with Consumer Debt

## IV. Finding Balance

*Procedural Fairness* balanced with *The Rule of Law*

*Compassion* balanced with *Compliance*

*Judicial Independence* balanced with *Judicial Accountability*