



February 4, 2014

The Honorable Richard Porter
Clallam County District Court
223 E. 4th St, Ste. 10
Port Angeles, WA 98362-3015

Re: Legal Financial Obligations Report

Dear Judge Porter:

For the past several years, the ACLU of Washington (ACLU) and Columbia Legal Services (CLS) have worked to address the negative consequences that legal financial obligations (LFOs) have on low-income persons convicted of crimes in Washington State. Through our work we have discovered that LFOs and their consequences disproportionately impact the poor and serve as a major barrier to successful rehabilitation and community reentry.

This summer, the ACLU and CLS launched an investigation into court processes for collection of LFOs. While the focus of this investigation was statewide, we gave additional attention to four counties that have been regularly referenced by individuals contacting our organizations: Benton County, Clallam County, Clark County, and Thurston County. Staff attorneys observed “pay or appear” calendars in superior and district courts, spoke to local attorneys and individuals who owed LFOs, and reviewed court records. The results of this investigation are documented in our report “Modern Day Debtors’ Prisons: The Ways Court-Imposed Debts Punish People for Being Poor.” A copy of the report, which will be released on February 10th, 2014, is enclosed.

We have serious concerns that, statewide, discretionary LFOs are too often imposed on the indigent without considering their ability to pay, that interest and collections fees make it virtually impossible for poor people to pay off court-imposed debt, and that court collections processes penalize the poor more harshly than the rich. We encourage the court to take steps to ensure that discretionary LFOs, particularly court costs, are not imposed on those without the ability to pay.

We also have concerns with some features of the Clallam County District Court collections process. In our observation, no attorneys represented the State or the

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defendant at the pay or appear calendar. Instead, the Court questioned each defendant on the reasons for non-payment, and then determined whether to excuse the individual or hold him or her in custody for a later hearing. Defendants appearing at the calendar were not advised that they could be incarcerated if they were unable to prove that they lacked the ability to pay fines. Moreover, it was unclear whether the court used a form or other means to assess an individual's financial circumstances.

We are also concerned about the lack of alternatives for indigent individuals who are unable to pay their LFOs. In our observations, the court did not consider waiving LFOs (including discretionary court costs) on account of manifest hardship, even though several individuals explained to the Court that their only income was disability benefits or needs-based public assistance. And while the court rightfully did not sanction those individuals, it continues to compel their presence on a monthly basis rather than consider waiver. We also understand that the Court recently suspended its community service program; therefore, individuals who do not have the means to pay have no alternative but to "appear" and explain their indigence regularly or face sanction.

We encourage Clallam County to adopt policies to limit barriers to successful reentry, such as limiting the imposition of discretionary costs, tailoring payment amounts and schedules to defendant's financial circumstances, considering waiver or alternative payments, and prohibiting the inclusion of public benefits in the determination of income that can be used for payments.

We would appreciate the opportunity to meet and discuss these issues with you. We hope to work together to ensure that the process for imposing and collecting LFOs in Clallam County is fully compliant with state law and the constitution, and does not impose harsher burdens on the poor. Please feel free to contact either the ACLU's Vanessa Hernandez at (206) 624-2184, vhernandez@aclu-wa.org, or CLS' Nick Allen at (206) 464-0838 ext. 131, nick.allen@columbialegal.org.

Sincerely,



Vanessa Torres Hernandez
Staff Attorney
ACLU of Washington Foundation



Nick Allen
Staff Attorney
Columbia Legal Services

Enclosure: LFO Report

cc: Mr. William Payne, Clallam County Prosecuting Attorney
Mr. Harry Gasnick, Clallam County Public Defender