

Congress of the United States
House of Representatives
Washington, DC 20515

The Honorable Merrick B. Garland
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

I applaud the Department of Justice's renewed focus on juvenile justice issues. The last ten years have been a watershed in how our nation approaches juvenile rehabilitation and accountability. States across the country have recognized the many costs that the juvenile justice system unnecessarily imposes and have eliminated or reduced the burden fines and fees have on juveniles and their families. Yet the Department of Justice, once on the vanguard of this movement, has failed to reclaim its leadership role. The Department should strive to reduce the impact fines and fees have on juveniles. In pursuit of this goal, I ask you to update and immediately reissue the 2017 *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles*.

In the Advisory, the Department reminded all DOJ federal grantees of their constitutional and statutory responsibilities related to collecting fines and fees from youth involved with the juvenile justice system. Jointly issued by its Office for Access to Justice and the Office for Civil Rights at the Office of Justice Programs, the formal advisory went further by connecting potential abuses with the use of fines and fees levied against youth in juvenile courts to the Department's enforcement authority against recipients of DOJ funds.

The Advisory made five primary recommendations related to youth fines and fees:

1. Juvenile justice agencies should presume that young people are unable to pay fines and fees and only impose them after an affirmative showing of ability to pay.
2. Before juvenile justice agencies punish youth for failing to pay, they must first determine ability to pay, considering factors particularly applicable to youth.

3. Juvenile justice agencies should not condition entry into a diversion program or another alternative to adjudication on the payment of a fee if the youth or the youth's family is unable to pay the fee.
4. Juvenile justice agencies should collect data on race, national origin, sex, and disability to determine whether the imposition of fines and fees has an unlawful disparate impact on juveniles or their families.
5. Juvenile justice agencies should consider whether the imposition or enforcement of fines and fees in any particular case comports with the rehabilitative goals of the juvenile justice system.

Since the Advisory was issued, the evidence has become even more clear that fines and fees have a disparate impact on racial and ethnic minorities. In many instances, it costs jurisdictions more to levy and collect these fines and fees than the fines and fees bring in. States and localities have repealed some or all juvenile fines and fees on the premise that these measures generate little or no net revenue, undermine rehabilitation, and increase recidivism. The Department must move beyond its 2017 recommendations and urge states to abolish juvenile fines and fees. The renewed guidance should also underscore the emerging research regarding the constitutionality of juvenile fines and fees. Specifically, fees for court-appointed counsel for youth violate the Fourteenth Amendment's Due Process and Equal Protection Clauses, and juvenile fines and fees likely violate the Eighth Amendment's Excessive Fines Clause. Finally, any updated guidance should directly address racial disparities in justice system involvement and the link to fines and fees.

We designed our juvenile justice system to be rehabilitative. However, subjecting young people and their families to costly fines and fees impedes this ultimate goal. Updating and reissuing the 2017 Advisory would be a critical first step for the Department of Justice to reclaim the mantle of leadership and ensure that the juvenile justice system better helps young people reach their potential and become productive members of their communities.

Sincerely,



Mary Gay Scanlon

Member of Congress