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Firm Contributes to Report on Access to Justice

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June 28, 2021 – HHR assisted in a pro bono capacity Fordham Law School’s National Center for Access to Justice (NCAJ) on a groundbreaking research initiative measuring the financial costs of criminal punishments across the U.S. that culminated in a recently released “Fines and Fees Index.”

The index, published on May 18 – a week before the one-year anniversary of the killing of George Floyd by a police officer – is a first-of-its-kind measurement of the performance of all 50 states and Washington, D.C. against a comprehensive set of 17 standards for ensuring fines and fees are applied in a fair and equitable manner.

It is an extension of NCAJ’s Justice Index – first made public in 2014 and updated last month – which ranks states on their adoption of selected best policies for ensuring access to justice.

According to findings from the index, jurisdictions across the U.S. impose various fines as punishment for offenses, but also impose fees and other assessments in an effort to shift the financial costs of the justice system away from taxpayers. Many fines and fees are imposed without any effort to assess a person’s ability to pay, leading to incarceration or other sanctions merely for being unable to pay. Some of these punishments exacerbate the poverty that prevents people from paying in the first place.

“Fines and fees are the ugly underbelly of the justice system, because state and local governments saddle the most marginalized people in our society with punishments they can’t afford,” Chris Albin-Lackey, NCAJ legal and policy director, said in a statement featured on Forbes.com. “Millions of low-income people get trapped in the justice system simply because they cannot afford fines and fees, and no U.S. state currently earns a passing grade for how it approaches this important issue.”

In March 2020, NCAJ enlisted the services of HHR to help research the laws and policies of every U.S. state to determine whether they have the 17 policies – which represent NCAJ’s vision of a minimally rights-respecting approach to monetary sanctions – in place.

The HHR team was tasked with assessing the extent to which laws and regulations in Washington, D.C. and each of the 50 states creating fines and fees with respect to court and administrative proceedings act as barriers to access to justice. This included a deep dive into fees for incarceration or supervision, criminal consequences for failing to pay any fines or fees, exceptions to fees based on the defendants' inability to pay, and the availability of data regarding fines and fees. The team's work involved extensive follow-up with state and local officials.

NCAJ used this information, consisting of thousands of data points, to give each state a score on a scale of 0-100 that reflects its overall performance. Washington State, while still earning what can be characterized as a failing grade of 54, had the best score despite its many shortcomings, including harsh punishments for people who struggle to pay their court debts. Wyoming recorded the nation's lowest score of 3.

"Over the course of many months, the Hughes Hubbard team carried out painstaking legal research across the entire country with rigor and creativity," the NCAJ wrote in its report outlining the project's methodology and guiding principles. "The task proved even larger and more difficult than we initially anticipated, and the final product would not have been possible without the Hughes Hubbard team's generosity, patience and dedication."

The index, [also featured in a Law.com article](#), is expected to be a high-profile resource and advocacy tool for reformers, courts and policymakers across the country.

Jim Kobak, who sits on the NCAJ board, brought the matter to HHR. Vilia Hayes led the team, which also included Dustin Smith, Valerie Cahan, Elizabeth Zhou, Sabine Tribié, Carolyn Harbus, Justin Taylor and Doron Magen.

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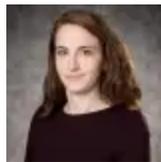
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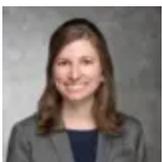
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