



# Court Costs Break Down

What are they, why do I have to pay them, and where do they go?

BY **CARSON R. GUY**

**M**ost people have “earned” a speeding ticket at one point in their lives. And whether you decided to take defensive driving or plead guilty (only because you didn’t want to deal with it, right?) or fought the ticket and lost, you’re familiar with court costs and fines.

We’ll deal with fines first. When you get caught speeding and force the criminal justice system to hold you accountable for your absolutely *grievous* breach of societal morals, part of your punishment is usually financial in nature. That is, the judge is telling you not to do what you did because every time you do, you will be hit where it really hurts—your wallet.

Court costs, on the other hand, are fees typically taxed to a losing party.<sup>1</sup> They are not punitive, and they exist to allow the government to recoup, at least in part, the expenditure of resources associated with a criminal case.<sup>2</sup> (I say “in part” because—let’s be serious—executing a warrant surely costs more than \$50. ... But I digress.) This includes everything from a \$133 consolidated court cost assessed for a felony conviction<sup>3</sup> to the \$50 fee a law enforcement agency can collect when it executes a warrant as part of a defendant’s case. These fees are also used to defray other costs of the judiciary and the criminal justice system, including funding indigent defense, although they are not directly related to a person’s conviction.

The rationale for assessing court costs is pretty simple: By definition, criminals are least-cost choice avoiders, and when they make irresponsible decisions to break the law, they should be responsible for the costs of those choices.<sup>4</sup> That is, if that hooligan had never broken the law because he or she chose not to speed—a choice that would likely cost nothing (barring some sort of emergency or an exceedingly high opportunity cost)—the criminal justice system would not have spent any resources on him or her. So, within the dictates of fairness, that hooligan should reimburse the superfluous expenditure of those limited resources.

Court costs are not a new phenomenon; they’re as old as the First Legislature of the Republic of Texas, and the statutory framework it enacted is in many ways still in use today almost 180 years later.<sup>5</sup> But, over time, the road map laid out by the Republic has become more complex due to intervening legislatures tinkering with the system. This fiddling usually takes the form of increasing pre-existing fees or authorizing new ones,<sup>6</sup> but no Legislature has comprehensively reexamined the statutory system.

As a consequence of using a statutory system that is closing in on two centuries old, we are left with a complex morass of statutes that, at times, can seem virtually impossible to decipher. This in turn creates confusion for defendants and the people who assess court costs. For these reasons, the 83rd Legislature tasked the Texas Office of Court Administration with examining the necessity of current court costs. The OCA determined that a number of court costs have no apparent purpose, criticized a “troublesome trend” of using court costs to fund programs outside of the judiciary, and concluded that “making changes to the court fee and cost structure is a monumental task that will require significant resources and input from state and local officials.”<sup>7</sup>

Although court costs can be complicated, they help fund a number of programs. The Texas Indigent Defense Commission provides financial support for indigent defense using

the Fair Defense Account, which had \$64.1 million in revenue sources during the 2014-2015 biennium. Court costs were the biggest source of those revenues at 65.4 percent, or \$41.9 million.<sup>8</sup> The commission awards grants for various purposes, including reimbursing a county's extraordinary expenses for providing indigent defense services, supporting multicounty indigent defense programs like the Regional Public Defender for Capital Cases, and funding programs to address specific county needs such as a mental-health defender program. Additionally, the commission supplements the funding of innocence projects operated by public law schools in the state.

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The Texas Court of Criminal Appeals, using the Judicial Court and Personnel Training Fund, provides grants for continuing legal education for judges, prosecutors, and defense attorneys (and their personnel) who regularly represent indigent defendants in criminal matters (including public defenders).<sup>9</sup> During the 2014-2015 biennium, the fund's revenues reached \$18.5 million. One source of those funds, the consolidated court cost fee, accounts for nearly 97.5 percent of revenues, or more than \$18 million. The remaining 2.5 percent of revenues comes from certain fees collected by appellate court clerks.<sup>10</sup> The fund also supports grants to organizations that provide innocence training for law enforcement officers, law students, and other participants. The court estimates that, in fiscal year 2015, the money it disbursed enabled 21,500 people to receive continuing education training.

Another important program made possible by court costs is the Crime Victims' Compensation Program, which is administered by the Office of the Texas Attorney General. Like the Judicial Court and Personnel Training Fund, the Compensation Program receives consolidated court cost revenues collected by the state, but it gets a heftier 37.63 percent of those fees, which in fiscal year 2013 amounted to about \$70.25 million. The program uses those revenues to reimburse out-of-pocket expenses of violent-crime victims and to provide financial assistance for crime-related expenses, such as medical care and counseling.

Here's the bottom line: No one likes paying fees, but the next time you get a speeding ticket and pay that \$130 for "court costs" on top of your fine, take comfort in the fact that the money you're paying is *probably* funding some well-planned and important projects that benefit our communities. **TBJ**

## Notes

1. A few fees can be assessed regardless of conviction or acquittal. For example, a peace officer is entitled to 29 cents per mile traveled for conveying a convicted prisoner to the county jail, conveying a prisoner arrested on a warrant or capias in another county to the court or jail of the county, or traveling to execute various processes such as summoning a witness. Compare TEX. CODE CRIM. PROC. art. 102.011(a) (authorizing the assessment of court costs for services of a peace officer upon conviction), with *id.* 102.011(b) (authorizing the imposition of court costs for services performed by a peace officer even if the defendant is not convicted).
  2. *Weir v. State*, 278 S.W.3d 364, 366 (Tex. Crim. App. 2009).
  3. The State's portion of revenue from this fee is 90 percent, and that funds 14 services, functions, and organizations:
    - (1) abused children's counseling [0.0088 percent];
    - (2) crime stoppers assistance [0.2581 percent];
    - (3) breath alcohol testing [0.5507 percent];
    - (4) Bill Blackwood Law Enforcement Management Institute of Texas [2.1683 percent];
    - (5) law enforcement officers standards and education [5.0034 percent];
    - (6) comprehensive rehabilitation [9.8218 percent];
    - (7) law enforcement and custodial officer supplemental retirement fund [11.1426 percent];
    - (8) criminal justice planning [12.5537 percent];
    - (9) Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University [1.2090 percent] [now called the Texas Juvenile Crime Prevention Center and the School of Juvenile Justice and Psychology];
    - (10) compensation to victims of crime fund [37.6338 percent];
    - (11) emergency radio infrastructure account [5.5904 percent];
    - (12) judicial and court personnel training fund [4.8362 percent];
    - (13) Correctional Management Institute of Texas and Criminal Justice Center account [1.2090 percent]; and
    - (14) Fair Defense Account [8.0143 percent].
- Texas Office of Court Administration, Study of the Necessity of Certain Court Costs and Fees in Texas (Sept. 1, 2014) [hereinafter *Court Cost Study*].
4. See *Palsgraf v. Long Island R.R.*, 162 N.E. 99 (N.Y. 1928).
  5. See Act approved Dec. 19, 1836, 1st Cong., R.S., § 1, 1836 Repub. Tex. Laws 135-141, reprinted in 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 1195-2001 (Austin, Gammel Book Co. 1898) (an act establishing fees of office) [hereinafter *Gammel*]. Since the First Legislature of the Republic, the number of statutes dealing with court costs has vastly increased. They can now be found in many of the Texas statutory codes, including the Code of Criminal Procedure, the Human Resources Code, the Government Code, the Local Government Code, the Transportation Code, and even the Parks and Wildlife Code.
  6. In 1836, a sheriff could collect \$1 for committing or releasing a prisoner and 50 cents for summoning a witness. Now, 179 years later, they can collect \$5 for committing or releasing a prisoner and \$5 to summon a witness. An example of a new court cost is the collection of a DNA fee for specified offenses in the amounts of \$50 or \$250.
  7. OCA, *Court Cost Study* at 6.
  8. In addition to the revenue sources already discussed, in fiscal year 2013 the commission's appropriation included a one-time \$15 million disbursement of unexpended funds in the Fair Defense Account.
  9. See generally TEX. GOV'T CODE chp. 56; see *id.* § 56.004 (allocation of funds).
  10. TEX. GOV'T CODE § 51.207.



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